CIVIL SERVICE COMMISSION

Meeting Minutes
Tuesday, January 5, 2010
Room 301 - 3:30PM

Present:	Thomas Morelli, Chairman Patrick DeGrace Mike Pitts, Jr Geoffrey Dowse	Also in Attendance:	Darlene Drake, Human Resource Asst. Steve Stanczak, H. R. Director Frank Pacetti, City Administrator Alan Simonis, President ATU, L-998 Ron Iwen, Acting Transit Director Ron Piorkowski, Route Supervisor Bill Jordan Patricia Porter Theresa Boyd Gail Schwaiger

Commissioner Jack Rice was excused.

Item #1: **Call to order**

The meeting of the Civil Service Commission was called to order by Commission Chairman Thomas Morelli on Tuesday, January 5, 2010 at 3:35 PM.

Item #2: **Approval of the Minutes of the meeting of June 30, 2009**

A motion was made by Commissioner Pitts to approve the minutes of the June 30, 2009 meeting. Seconded by Commissioner DeGrace. Motion carried with Commissioner Dowse abstaining.

Item #3: **Citizen's Comments**

None

Item #4 **Grievance Heating: Grievance Appeal of Patricia Porter pursuant to L-998 collective bargaining agreement**

Steve Stanczak spoke on behalf of the City of Kenosha. He stated that the appeal by Patricia Porter relates to a written warning she received for a vehicle accident she was involved in on June 16, 2009. This is the 4th step appeal as provided for under the Local 998 contract.
The Kenosha Transit System Discipline Code for Bus Drivers was distributed to the Commissioners.
Mr. Stanczak indicated that the City does not believe Ms. Porter was negligent but rather careless and thus, the written warning discipline was applied for contributing to a preventable accident. The employee herself indicated that she didn't feel well which ultimately lead to the accident she was involved in causing $45,000 property damage and approximately $30,000 in personal injury claims pending. Mr. Stanczak further indicated that the employee has a responsibility for their own actions and could have utilized her sick days.
Steve further indicated that supervisors are trained to look for drug and or alcohol abuse and that supervisors can make a prudent observation based on this training.

Alan Simonis spoke on behalf of Local 998 and Patricia Porter. He indicated that Ms. Porter is a 15 year veteran who has never been written up before. He further stated the City contends she should have known she was ill and should have stayed home.. He further indicated that there is no way she would have known that she was going to pass out and no physician could have stated that either. She had only minor symptoms. He stated that Ms. Porter, as a seasoned driver, took preventative measures to keep the accident to a minimum. He also stated that Ms. Porter would never put her passengers at risk. Her experience and knowledge showed she tried to pull the bus over ultimately moving to the right striking the pole and sign preventing even more severe consequences.
Mr. Simonis stated that drivers are called by the City for tripper runs even if the employee is sick. They are not obligated to drive but are asked, which indicates that the City is allowing and requesting drivers to drive even if they are not 100%. If all employees are expected to stay home with any illness symptom, that would shut down any company.

Commissioner Dowse asked if Ms. Porter would have been written up if the accident had not occurred and how they determined that this accident was preventable. He also inquired about Ms. Porters' schedule.

Commissioner Morelli asked what the protocol is if a driver becomes ill in the middle of a route. Do they call for relief or continue their route until a replacement is received?

Ron Iwen indicated that the City would never tell a driver to continue to drive if they felt unable to continue. He also stated that Ms. Porter had been sick for 3-4 days prior to the accident. He further stated that when there are 15-20 individuals on a bus, drivers are held to higher standard and their CDLs are governed by the State of Wisconsin. Ultimately, Ms. Porter put people and equipment in danger. If the bus had gone over the embankment the consequences could have been much greater. Ultimately, the grievance was upheld at Step 1..

Bill Jordan indicated that employees continue their route until relieved and some times it does take time to find a replacement. Ms. Porters' illness had no symptoms as listed on the CDC influenza notice. She did not have a fever, her only symptom was being tired (a mild symptom) and nothing to indicate she would pass out.

The accident tape was viewed by those attending and narrated by Ron Piorkowski.

Ms. Porter indicated that her normal shift is from 6-10 and 2:20 to 7:30PM. She was diagnosed with influenza after the accident but also she needed testing for her gall bladder before returning to work. Ms. Porter also stated that she is cautious with medications due to the nature of her work. Ultimately, her information was submitted to the State Medical Review Board and they ok'd her to return to work.

Ms. Boyd spoke on Ms. Porters' behalf and indicated that she was unsure if her symptoms were allergies or a cold. Most drivers only utilize 2 days of sick time as after that a doctors slip is necessary. She also stated that the CDC influenza information was not received until October. She would not have thought to stay home. She further stated that even the supervisor reported to work ill and that he could have been put in as a driver at any time.

Mr. Pacetti indicated that he heard the grievance at the 3rd step and that two things lead him to uphold the grievance. There was a discripency regarding allergies which were never heard or documented by either side. He felt it was significant that in the process Ms. Porter testified that she had never had the flu or flu like symptoms. In a time period of national coverage and H1N1 prevention the focus was to stay home and get better. All accidents are preventable and drivers have a greater responsibility and should have taken herself off the route. Further, the warning was justified and will send a message to other employees. The City has a lucrative sick leave and sick days roll over – employees receive 12 days per year which allows employees a way to stay home and not put the public at risk. He further stated that Ms. Porter passed out. She indicated she had a strange feeling, and with that knowledge she should not have gotten into the bus which ultimately resulted in the property damage accident. Employees need to take preventative action for accidents not to occur.

Dispatcher Gail Schwaiger spoke and indicated that when she saw Ms. Porter the night before she was walking slow, her nose was red and she looked white. Pat had indicated to her that she didn't feel well.

Commissioner Pitts stated that by Ms. Porters own admission she was not feeling well and the doctor confirmed influenza after she was sent to the clinic.

A motion was made by Commissioner Pitts and seconded by Commissioner Dowse to convene into Executive Session at 4:30PM under authority of Chapter 19.85 (1)(a)(b)(c) of the Wisconsin Statutes.

City Administrator Pacetti had intended on staying during the Commissions Executive Session. Al Simonis insisted that Mr. Pacetti leave or that he also should be allowed to stay. Mr. Pacetti, out of courtesy to the Union, left the room but would be outside the door if a question arose.

A motion was made by Commissioner Pitts and seconded by Commissioner DeGrace to go back into open session at 4:50 PM.

The following motion was made by Commissioner DeGrace and seconded by Commissioner Dowse. To deny the Patricia Porter grievance and uphold the written warning received from the City of Kenosha. Motion carried unanimously.

Item #5: **Other Business**

None

A motion was made by Commissioner Pitts to adjourn the meeting at 4:55PM. Seconded by Commissioner DeGrace. Motion carried unanimously.

Next meeting date was scheduled for Tuesday, March 2, 2010 at 3:30 PM in Room 301

Respectfully submitted,

Thomas Morelli, Chairperson