



The Fourword

Volume 41 Number 10

October 2013



LEGAL ADVISORY NEWS



Baltimore County Loan From Employees Retirement System Paid In Full!

See page 7

Court of Special Appeals Issues Decision in Employee Relations Act Case!

See page 4

Lodge 4 Election

The following FOP Lodge #4 line officers ran unopposed for re-election at the September General Membership meeting. They will serve on the Board from December 2013 through December 2015.

President Cole Weston
First Vice President Steve Comegna
Second Vice President Dave Rose
Secretary Dave Folderauer
Treasurer Bob Caskey
Chaplain Paul Merkle
State Trustee Don Patterson

The position of Sergeant-at-Arms and the five (5) Executive Board of Directors' positions will appear on a ballot, which will be mailed to your home.

All members are encouraged to vote!



Representing the Professional Police Officers of Baltimore County





MEETING MINUTES September 2013

- The September, 2013 General Business Meeting was held on September 23, 2013 at FOP Lodge 4. President Weston called the meeting to order at 7:30 p.m. Chaplain Merkle gave the invocation. President Weston led the Pledge of Allegiance.

ROLL CALL OF OFFICERS

- Secretary Folderauer and Past Present Caslin were on vacation. Brother Massey was working. Sister Kraemer was excused. All other elected officers and Board members were present. Legal advisor Mike Marshall was also in attendance.

APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

- A motion was made by Brother Speed to accept the minutes of the August, 2013 General Membership Meeting. A second was made by Brother Siedlecki. There was no discussion. The motion passed.

REPORTS OF OFFICERS

~ PRESIDENT WESTON ~

- August 28 Line of duty death of Police Officer First Class Jason Schneider.
- August 29, 30, and 31 Assisted the Schneider family, attended the viewing, and attended the funeral for Police Officer First

Class Jason Schneider.

- September 3 Attended the Baltimore County Retired Officers Association meeting.
- September 4, 5, and 6 Met with the Baltimore County administration and members of the Schneider family concerning county, state, and federal assistance.
- September 6 Met with a member concerning working conditions and assignments.
- September 9 Addressed the First Line Supervisor training class.
- September 10 Attended a meeting in Prince Georges County with the Attorney General and other F.O.P. leaders concerning his candidacy for Governor. Attended a critique of the agency responsibilities for the viewing and funeral for Police Officer First Class Jason Schneider. Attended a fundraiser for Delegate Eric Bromwell of the 8th legislative district.
- September 12 Attended the Police Assistance and Relief Fund meeting and a settlement conference in the Baltimore County Circuit Court for the Childress case.
- September 13 Presented the grievant position in the step two class action specialized assignment transfer grievance.
- September 16 Attended a meeting with a member over an involuntary transfer, a Political Action Committee meeting, and the FOP Executive Board of Directors meeting.
- September 19 Attended the Bi-monthly meeting between Chief Johnson, his bureau chiefs and members of the FOP Executive

LODGE 4 OFFICE

9304 Harford Road
Baltimore, Maryland 21234
Phone (410) 668-0004
FAX (410) 668-8126
Toll Free (888) 313-3501
www.foplodge4.org

ELECTED OFFICERS

Cole B. Weston
President
(443) 956-2679

Steven G. Comegna 1st Vice President <i>PC3 - Traffic</i> (410) 409-0293	David M. Rose 2nd Vice President <i>F.O.P. Lodge 4</i> (443) 956-2643
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David J. Folderauer, Sr. Lodge Secretary <i>PC 4 - IST</i> (410) 382-2075	Robert W. Caskey Treasurer <i>CID-Robbery</i> (443) 956-2615
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W. Donald Patterson State Trustee <i>PC12</i>	Anthony DiCara Sergeant at Arms <i>PC12</i>
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Paul A. Merkle Chaplain <i>Retired</i>	L. Timothy Caslin Past President <i>Retired</i>
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EXECUTIVE BOARD of DIRECTORS

Kenneth F. Schubert Chairman <i>Retired</i> (410) 416-2800	Mike DiCara Vice Chairman <i>PC 4</i>
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Thomas G. Scally <i>CID - Arson</i>	Lou Lagna <i>Retired</i>
Donna Patterson <i>PC12</i>	Patrick Zito <i>Retired</i>
James P. Rommel, Jr. <i>K9</i>	Ryan Massey <i>CID - Homicide</i>
Joe Caskey <i>CID - Homicide</i>	Kathy Kraemer <i>PC 6</i>

LODGE STAFF

Juanita Bouthner—Administrative Assistant
Nancy Skinner—Administrative Assistant

LEGAL ADVISORS

Schlachman, Belsky & Weiner, P.A.
Phone (410) 685-2022
IAS Cases Michael Marshall

The Fourword is the official monthly publication of Baltimore County Fraternal Order of Police Lodge 4.

Fourword Editor
Kathryn Greenbeck
Precinct 8

Board of Directors.

- September 23 Chaired the General Membership meeting.

~1st V. P. COMEGNA ~

- August 30 Attended the viewing for Brother Jason Schneider.
- September 5 Worked at the lodge office and completed the data entry for our July 2013 Campaign Finance deposit.
- September 14 Prepared / formatted our August 2013 Campaign Finance Deposit.
- September 16 Worked at the lodge office and attended meetings of the Negotiations Committee and the Political Action Committee. I also attended the Executive Board of Directors Meeting.
- September 19 Attended the bi-monthly meeting between Chief Johnson and the Executive Board of Directors.
- September 23 Worked at the lodge office at attended the General Business Meeting.

~2nd V.P. ROSE~

- August 28 Responded to the polling in precinct 1.
- August 29 Attended the viewing for Brother Jason Schneider.
- August 30 Attended the funeral for Brother Jason Schneider.
- September 2 Attended the Retired Officers' Association meeting.
- September 4 Addressed the in-service training class.
- September 9 Addressed the First Line Supervisor school.
- September 10 Attended the Pension Board of Trustees meeting.
- September 18 Met with 2 members to discuss pension issues.

- September 19 Attended the Executive Board of Directors meeting with Chief Johnson.
- September 23 Attended the General Business meeting.

~SECRETARY FOLDERAUER~

- August 30 Attended the viewing for Brother Jason Schneider.
- August 31 Attended the funeral for Brother Jason Schneider.
- September 16 Worked at the lodge office and attended meetings of the Negotiations Committee and the Political Action Committee. I also attended the Executive Board of Directors Meeting.
- September 19 Attended the bi-monthly meeting between Chief Johnson and the Executive Board of Directors.

~TRESURER CASKEY~

- September 6, 13, 24, 30 Worked at the lodge.
- September 16 Attended the Executive Board of Directors meet-

ing and a PAC meeting.

- September 23 Attended the general membership meeting and a Grievance Committee meeting.

EXECUTIVE BOARD OF DIRECTORS REPORT

~ Kenny Schubert~

- An Executive Board of Directors meeting was held on September 16, 2013. The meeting was called to order at 5:05 p.m. Second Vice President Rose, Brother Mike DiCara and Brother Massey were on vacation. Sister Kraemer was excused. All other elected officers and Board members were present. Legal counsel Mike Marshall was also in attendance.
- Motions that were made, after receiving a proper second, were discussed, voted upon, and appear in this issue under the appropriate committee reports.



REPORTS OF COMMITTEES

BY-LAWS COMMITTEE

~Lou Lagna~

- The new amendment to FOP Lodge 4's Constitution and By-Laws was read one final time and voted upon by the general membership. This amendment passed unanimously.

DONATION REVIEW COMMITTEE

~Paul Merkle~

- The Donation Review Committee met on September 16 and put forth the following motion:
- To donate \$500.00 toward the PCR Council fundraiser to benefit Officer Dan Kohhle and his family in their time of need. A benefit Bull Roast is being held on Sun Nov 3, 2013 at Tall Cedars.

GRIEVANCE COMMITTEE

~Dave Rose~

- The specialized assignment class action grievance was heard at step #2 on September 13, 2013. The grievance concerns placement of an officer in a position at the Police Academy as an instructor, who never participated in the application process and is not on the current or former list of candidates. The hearing officer, Colonel Burris denied the grievance on September 17, 2013. In his decision, he stated it was the Chief's authority to assign personnel at his discretion.
- A Grievance Committee meeting was held on September 23, 2013 to discuss appealing the grievance to step #3. The motion was made to appeal. There

★  **POLICE EMERALD SOCIETY OF BALTIMORE, MARYLAND**  ★

WANTED

ONE AND ALL FOR GREAT FOOD, DRINK, AND FUN

ANNUAL BULL & OYSTER ROAST

OYSTERS ON THE HALF SHELL • PIT BEEF, HAM, & TURKEY
FULL FOOD MENU WITH DESERTS
GUINNESS STOUT, DOMESTIC BEER & SODAS

SILENT AUCTIONS 50/50 RAFFLES
BIG SIX & PRIZE WHEELS
BASKET OF CHEER & DOOR PRIZES

BAGPIPERS * HONOR GUARD * DJ MUSIC BY DJ NICK PAROS

SATURDAY, NOVEMBER 16TH, 2013 7PM-12MID.

TICKETS
\$40 PER PERSON



TALL CEDARS HALL
2501 PUTTY HILL AVENUE
PARKVILLE, MARYLAND

FOR TICKETS PLEASE CALL PES PRESIDENT
JASON DIETSCH AT 410-365-2502
WWW.PESBALTIMORE.ORG

was a proper second and the motion passed.

- Brother Jim Rommel's grievance of his involuntary transfer from the K-9 unit is scheduled to be heard at step #1 in front of Colonel Evans on September 25, 2013.
- The Phil Crumbacker grievance was argued at step #3 on August 20, 2013 at the Office of Administrative Hearings. Briefs for both sides have been submitted. We are waiting for a decision.

LEGAL ADVISORY COMMITTEE

~Dave Rose~

- On August 22, 2013 we received a favorable decision from the Court of Special Appeals in the Employee Relations Act case against County Executive Jim Smith. In the opinion the court stated "the County Executive thwarted the clear purpose of the enabling legislation by submitting all

the arbitrated proposals; some of which required appropriations; some of which required legislation together with the proposals, to this court, which require neither. This was violative of the code provisions and a failure by the County Executive to do what is mandated.” The Court went on to state, “...then County Executive Jim Smith violated the Employee Relations Act when he submitted several Bills from an arbitration award to County Council. He was only required to submit those bills that “required an appropriation of funds or the enactment of legislation...the submission of provisions of the MOU to County Council that do not require the approval of County Council serves no legitimate purpose....Indeed it appears in the instant case the purpose of the County Executive’s decision to submit the provisions of the MOU that did not require the County Council’s approval was to secure a rejection by the Council, which did in fact occur as the subject of five bills.” The items awarded to FOP Lodge 4 in that arbitration hearing were as follows:

- Bereavement Leave- Step – brother/sister, brother/sister-in-law, spouse’s aunt/uncle
- Exempt Position – 3rd position, 2 hours from each member
- No furloughs
- Holiday pay- 4th of July for 2 paid days (President’s Day and Veteran’s Day)
- Hearing Board- Hearing board decision is final; Chief cannot increase punishment.
- On September 20, 2013 the FOP filed a Contempt Petition against Baltimore County, County Ex-

ecutive Kamenetz and Budget Director Keith Dorsey in the retiree subsidy case. The County has failed to obey the August 14, 2013 order of the Circuit Court by Judge Finifter which gave the County 20 days to comply. In the petition, the FOP is asking the Court to find all three to be in constructive civil contempt, issue a Writ of Mandamus commanding Baltimore County to obey the order of the court or impose a fine of \$1,000 per day until the County complies with the court.

The Complaint and Petition to Show Cause in the Megan Childress case for violations of several sections of the LEOBR had a settlement conference on September 12, 2013 in front of Judge Howe in Baltimore County Circuit Court. Judge Howe spoke to both parties in the case and no settlement was reached. There is no reschedule date for the show cause hearing.

The Petition to Show Cause in the Angela Avent case has been filed in Baltimore County Circuit Court. No hearing date has been scheduled.

The Brandt Bradford case was argued on April 4, 2013 at the Board of Appeals. Closing briefs have been submitted. We are still waiting for a decision.

The County has filed for a Request for a Writ of Certiorari with the Maryland Court of Appeals in the Absence Control Policy case. The request is just that, a request for the Court to take the case. It does not have to agree to hear the case. The County continues to maintain they do not have to select an arbitrator for the FOP’s unfair labor practice complaint as re-

Bereavements

Kcasson Waller
Mother of Brother
Derrick Waller

Roberta Strevig
Sister of Retired Brother
R. Kenneth Ziegler

David Kuciaski
Uncle of Brother
Bryan Dietsch

Susan Mackey
Mother of Brother
Wayne Jedlowski

Mary Balko
Mother-in-Law of Brother
Jason Keller

Charles V. Ray
Son of Retired Brother
Oscar (Frank) Ray

George Beard
Father-in-Law of Brother
Richard Prenger

quired by the County Code because they do not feel they have committed an unfair labor practice. Their argument has been unsuccessful at the Circuit Court level and was once again unsuccessful at the Court of Special Appeals. Both courts have said the code requires them to select an arbitrator to hear the complaint and that the arbitrator decides if an unfair labor practice was committed or not.

An Unfair Labor Practice Complaint against Baltimore County Executive Kamenetz for refusing to negotiate over the modified duty policy was drafted. It will be submitted to the Director of Human Resources George Gay.

MEMBERSHIP COMMITTEE

~Tom Scally~

- The committee brought 2 motions for the acceptance of two new associate members to the general membership:
- Mary Rita McCubbin, sponsored by Brother E.J. Hannig and Cheryl E. Mihalic, sponsored by Brother Don Bridges.
- The two motions were approved by the general membership unanimously.

PENSION COMMITTEE

~Dave Rose~

- At the August Pension Board of Trustees meeting, the Board approved 15 total retirements (1 police department)
- At the September Pension Board of Trustees meeting we approved 21 total retirements (6 police department).

POLITICAL ACTION COMMITTEE

~Steve Comegna~

- The PAC Committee met on Monday September 16, 2013. We presented the following motions to the Executive Board.
- To endorse Brother/State Delegate John Cluster (District # 8) is his 2014 re-election campaign
- To purchase a \$1000.00 Sponsorship to a fundraiser being held by Baltimore County Councilman David Marks (District # 5) on Thursday September 26, 2013
- To purchase two (2) tickets @ \$50.00 each to a fundraiser being held by State Delegate Michael Weir Jr. (District # 6) on Sunday October 06, 2013
- To purchase a \$250.00 ticket to a fundraiser being held by State

Senator Ed Kasemeyer (District # 12) on Thursday October 17, 2013.

To purchase a \$250.00 ticket to a fundraiser being held by State Senator Jim Brochin (District # 42) on Monday October 21, 2013.

To purchase a \$1000.00 sponsorship to a fundraiser being held by Baltimore County Councilman Tom Quirk (District # 1) on Tuesday October 22, 2013.

- The committee continued conversation about our endorsement process and an endorsement timetable for 2014's primary election.
- Each motion was approved by the Executive Board of Directors. Each motion was also approved by the general membership at the General Business Meeting.

GOOD OF THE ORDER

- During the month of September, FOP Lodge #4 sent five (5) cards and flower arrangements to bereaving members. One (1) donation was sent in lieu of flowers at the family's request. Six (6) thank you cards were received.
- Treasurer Bob Caskey advised members that there have been some issues with newly retired members getting their retirement badges in a timely manner. He is working with Lt. Martin to correct the problem.
- Brother John Cluster thanked members for their support after his knee surgery.
- Brother Mike DiCara advised members of the bull roast to benefit Brother Dan Kohnle and his wife on November 3 at Tall Cedars Hall from 1:00 pm until 6:00 pm.
- The meeting was adjourned at 8:41 pm.



Baltimore County PAYS BACK the Money it Took Out of the Employees' Retirement System

In July of 2012, the Baltimore County Administration sought approval from the Pension Board of Trustees to approve a loan of up to \$21.5 million in order to finance the costs of upgrading or replacing an existing transfer station and procuring and installing a single stream recyclables processing system at the Baltimore County Resource Recovery Facility.

There was great concern amongst our membership and other county employees that the County Administration was willing to use the Employees' Retirement System to fund Baltimore County capital projects.

Through a series of public information act requests, the F.O.P. was able to obtain documents concerning the terms and conditions of the loan. After consulting our legal counsel, the executive board of directors voted to file suit against the pension board of trustees for violating their duty of prudence and loyalty to the retirement system. On January 29, 2013, F.O.P. Lodge #4 filed suit in the Baltimore County Circuit Court against Fred Homan, Keith Dorsey, George Gay, Jim Johnson, Ed Adams, Joe Zerhusen, and Mike Day, the trustees who voted to allow the County Administration to borrow money from the pension fund.

On July 19, 2013, Judge Souder held a scheduling conference, setting a time line for the production of documents, depositions of trustees, and a court date of January 2014. The F.O.P. served the County with its Notice of Discovery and after the discovery responses were due, counsel for the F.O.P. made an inquiry regarding the status. The County responded by filing a motion to extend the time to respond to the discovery requests, and a motion for summary judgment based on the argument that the loan had been repaid in full, plus interest.

Through a sworn affidavit of Keith Dorsey, the Director of Budget and Finance, the F.O.P. learned that on August 15, 2013, the Baltimore County Employees' Retirement System received payment of \$13,659,260.25, constituting the principal and \$500,157.34 of accrued interest, to completely satisfy the debt owed by Baltimore County to the Employees' Retirement System pursuant to the Loan Agreement and Promissory Note dated December 12, 2012. This allowed the suit to be withdrawn.

This Baltimore County Executive should have realized the significance of his decision and the consequences for using the Employees' Retirement System as a bank account. If this Executive or any future Executive considers borrowing money from the Employees' Retirement System, F.O.P. Lodge #4 is well prepared to fight against it. Borrowing money from the Employees' Retirement System to fund capital projects is not an acceptable way to govern.

The original loan was approved for \$21.5 million to be paid back over 12 years by April of 2024. The county borrowed over 13 million from 12/12/12 to 7/30/13 and repaid the Employees Retirement System in full, plus interest, in the total amount of \$13,659,260.15 on August 15, 2013.

The November

**FOP Lodge 4
GENERAL
BUSINESS
MEETING**

will be held on

**Monday,
November 25, 2013
7:30 p.m.**

at
FOP Lodge 4
9304 Harford Road

The December

**FOP Lodge 4
GENERAL
BUSINESS
MEETING**

will be held on

**Monday,
December 23, 2013
7:30 p.m.**

at
FOP Lodge 4
9304 Harford Road