



# The Fourword

Volume 36, Number 12

December 2008

President's Message:

## **Property Tax Credit Disabled Law Enforcement Officers or Rescue Workers Baltimore County Council Bill 109-08**

On November 3<sup>rd</sup>, 2008 the members of the Baltimore County Council unanimously approved a property tax credit for those officers who sustained work related injuries that forced them to retire on a medical disability.

This bill became possible for consideration after the enabling legislation, Senate Bill 481 passed unanimously in the State Senate and the House of Delegates during the 2008 regular session of the Maryland General Assembly.

This bill will provides recognition and assistance to those Baltimore County public safety employees who reside in Baltimore County and have been disabled as a result of their service. Losing the ability to continue employment in your selected profession, and being told you must explore other opportunities to provide for yourself and your family can be devastating to overcome. Passing this legislation has a much greater impact than financial assistance; it clearly states that the members of the Baltimore County Legislature recognize the sacrifice these individuals have endured.

The FOP thanks the members of the Baltimore County Council for their support of this legislation. I would also like to thank Past-President Tim Caslin for his assistance and testimony.

## **SUPERBOWL 5K Race**

To benefit the  
**Baltimore County Police Memorial Fund**

**Sunday February 1, 2009 Starting at 10:00 a.m.**

**CCBC Dundalk Campus ~ 7200 Sollers Point Road ~ Dundalk, MD 21222**

**YOU MAY ENTER ONLINE AT**

**WWW.CHARMCITYRUN.COM**



Representing the Professional Police Officers of Baltimore County



## *The Fourword*

### MEETING MINUTES

**November 2008**

**recorded by  
Dave Folderauer**

The November 2008 General Business Meeting was held on November 24, 2008 at F.O.P Lodge 4. President Weston called the meeting to order at 7:37 p.m. Chaplain Merkle led the invocation. President Weston led the Pledge of Allegiance.

### ROLL CALL OF OFFICERS

Brothers Bergin and R. Patterson were excused. Legal Advisor Mike Marshall was present. All other elected officers and board members were present.

### APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

A motion was made by Brother Grumbach to accept the minutes of the October 2008 General Membership Meeting. A second was made by Brother King. There was no discussion. The motion passed.

### ELECTION RESULTS

#### Board of Directors

(5 Elected) (\*Denotes winners)

*Ken Schubert	779
*Joe Caskey	696
*Pat Zito	650
*Ryan Massey	647
*Donna Patterson	595
Ryan Franks	489
Kathy Greenbeck	401

#### 59th Biennial National Conference

(22 Elected) (\*Denotes winners)

*Tim Caslin	745
*Dave Rose	718
*Steve Comegna	712
*John Cullum	687
*Jim Rommel	671
*Mike Cortes	660
*Bob Caskey	637
*Joe Folio	626
*Pat Zito	625

*Kathy Kraemer	613
*Joe Caskey	609
*Lou Lagna	602
*Mike DiCara	585
*Rick Bergin	582
*Donna Patterson	580
*Ryan Massey	578
*Al Meyer	572
*Tony DiCara	562
*Ray Patterson	554
*Dave Bennett	521
*John Cluster	510
*Ryan Franks	501
Scott Huff	463
Bill King	458
Kathy Greenbeck	453
Eric Brennan	446
Brandon Rogers	373
Rob Graff	301

### REPORTS OF OFFICERS

#### ~ PRESIDENT WESTON ~

- October 28 Attended the County Council Work Session in reference to the Property Tax Credit bill for Disabled Law Enforcement Officers. Attended the Law Enforcement Assistance Connection fundraiser.
- October 29 Addressed Officers In-Service Training, and attended the 5th Annual "Cop Out" at the Portside Pub.
- November 3 Attended a Negotiations Committee Meeting. Met with County Council Chairman, Kevin Kamenetz, and attended the County Council Legislative Session.
- November 4 Addressed the new Supervisors School, and attended the Retired Officer's Association Meeting.
- November 5 Addressed Officers In-Service Training.
- November 6 Met with Labor Attorney Jeff Gibbs.
- November 12 Attended the Pension Board of Trustees

### 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 <b>1<sup>st</sup> Vice President</b> <i>PC3 - Traffic</i> (410) 409-0293	David M. Rose <b>2<sup>nd</sup> Vice President</b> <i>F.O.P Lodge 4</i> (443) 956-2643
David J. Folderauer, Sr. <b>Lodge Secretary</b> <i>K9</i> (410) 382-2075	Robert W. Caskey <b>Treasurer</b> <i>CID-Robbery</i> (443) 956-2615
W. Donald Patterson <b>State Trustee</b> <i>Materials &amp; Facilities</i>	Richard J. Bergin <b>Sergeant at Arms</b> <i>PC3 - CDVIT</i>
Paul A. Merkle <b>Chaplain</b> <i>Retired</i>	L. Timothy Caslin <b>Past President</b> <i>Retired</i>

### EXECUTIVE BOARD of DIRECTORS

Kenneth F. Schubert <b>Chairman</b> <i>Employment</i> (410) 416-2800	James P. Rommel, Jr. <b>Vice Chairman</b> <i>K9</i> (717) 451-7117
Thomas G. Scally <i>CID - Arson</i> Donna Patterson <i>Planning &amp; Research</i> Mike DiCara <i>PC 12</i> Raymond J. Patterson <i>PC 12</i>	Louis J. Lagna <i>Retired</i> Patrick Zito <i>PC 7 - Traffic</i> Ryan Massey <i>Homicide</i> Tony DiCara <i>PC 12</i>

### LODGE STAFF

Larry Sibley—Office Manager  
Juanita Bouthner—Administrative Assistant  
Michele Preston—Administrative Assistant  
Regina Ecker—Administrative Assistant

### LEGAL ADVISORS

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

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

Michele Lynn Preston  
**Fourword Editor**

## LODGE 4 "FALLEN HEROES" MEMORIAL SCHOLARSHIP AWARDS

Applications for the Fall, 2009/Spring, 2010 scholarships are available now by contacting Lodge 4. Seven (7) \$3,000.00 awards are made each year.

Applications for these awards are open to the sons, daughters, adopted children, step-children or legally court-appointed wards, who are citizens of the United States. The applicant's parent or guardian shall have been an Active or Retired member in good standing of Baltimore County Lodge No. 4 for at least one (1) full year prior to the date of application for the current year scholarship awards. The applicant must be or will be a full-time student at a recognized college or university.

The deadline to return the completed application with required attachments is February 1, 2009.

- Meeting, a County Council Work Session, and a Spending Affordability Committee Meeting.
- November 13 Attended a Police Assistance and Relief Fund Committee Meeting, and attended a Policy Review Committee Meeting.
- November 14 Addressed Officer In-Service Training.
- November 17 Attended a Negotiations Committee Meeting, and the Executive Board of Directors Meeting.
- November 19 Addressed Officers In-Service Training, attended a meeting at with Major Burris and Colonel Kelly in reference to secondary employment.
- November 20 Attended the Executive Board of Directors Meeting with Chief Johnson.
- November 24 Attended a special meeting of the Executive Board of Directors, and the General Membership Meeting.
- ~ PAST PRESIDENT CASLIN ~
- October 28 Attended the County Council Work Session in reference to the Property Tax Credit bill for Disabled Law Enforcement Officers.
- November 3 Met with County Council Chairman, Kevin Kamenetz, and attended the County Council Legislative Session.
- November 17 Attended an Executive Board of Directors Meeting.
- November 24 Attended the General Membership Meeting.
- ~ 1<sup>st</sup> V. P. COMEGNA ~
- October 29 Attended the 5th Annual "Cop Out" at the Portside Pub.
- November 3 Attended a Negotiations Committee Meeting.
- November 17 Worked at the lodge office, completed our "Post General Election Campaign Finance Report, attended a Negotiations Committee Meeting, and the Executive Board of Directors Meeting.
- November 24 Worked at the lodge office, attended a special meeting of the Executive Board of Directors, and the General Membership Meeting.
- ~ 2<sup>nd</sup> V. P. ROSE ~
- October 28 Attended the County Council Work Session in reference to the Property Tax Credit bill for Disabled Law Enforcement Officers. Attended the Law Enforcement Assistance Connection fundraiser.
- October 29 Attended the 5th Annual "Cop Out" at the Portside Pub.
- October 31 Met with a member in reference to an involuntary transfer grievance.
- November 3 Attended a Negotiations Committee Meeting. Met with County Council Chairman, Kevin Kamenetz, and attended the County Council Legislative Session.
- November 4 Argued a Step 1 involuntary transfer grievance in front of Major Suther, addressed afternoon roll call at Precinct 12, and attended the Retired Officer's Association Meeting.
- November 6 Met with Labor Attorney Jeff Gibbs.
- November 14 Met with a member and the Commander of Personnel in reference to modified duty.
- November 17 Attended a Negotiations Committee Meeting and the Executive Board of Directors Meeting.
- November 19 Attended a meeting at with Major Burris and Colonel Kelly in reference to secondary employment.

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- November 20 Attended the Executive Board of Directors Meeting with Chief Johnson.
- November 24 Chaired a Legal Advisory Committee Meeting, attended a special meeting of the Executive Board of Director's, and attended the General Business Meeting.

### ~SECRETARY FOLDERAUER~

- November 3 Attended a Negotiations Committee Meeting.
- November 13 Attended a Policy Review Committee Meeting.
- November 17 Attended a Negotiations Committee Meeting, a Political Action Committee Meeting, and an Executive Board of Directors Meeting.
- November 20 Attended the Executive Board of Directors Meeting with Chief Johnson.
- November 24 Attended an Election Committee Meeting, a special meeting of the Executive Board of Directors, and the General Business Meeting.

### ~TREASURER CASKEY~

- October 29 Attended the 5th Annual "Cop Out" at the Portside Pub.
- November 17 Attended an Executive Board of Directors Meeting.
- November 24 Attended a special meeting of the Executive Board of Directors, and attended the General Business Meeting.

### ~TRUSTEE PATTERSON~

- October 29 Attended the 5th Annual "Cop Out" at the Portside Pub.
- November 17 Attended an Executive Board of Directors Meeting.

- November 24 Attended a special meeting of the Executive Board of Directors, and attended the General Business Meeting.

### ~EXECUTIVE BOARD OF DIRECTORS REPORT~

~ Kenny Schubert ~

- An Executive Board of Directors Meeting was held on November 17, 2008. The meeting was called to order at 5:00 p.m. Legal Advisor Mike Marshall was present. All elected officers and board members were present.
- 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

#### **BULL ROAST COMMITTEE**

~ Ken Schubert ~

- The Bull Roast will be held on March 29, 2009 at Tall Cedars Hall. The cost will be \$32.00.

#### **GRIEVANCE COMMITTEE**

~ Dave Rose ~

- On November 4, 2008 I argued a grievance at Step #1 in front of Major Suther for an officer involuntarily transferred out of the Tactical Unit. On November 19, 2008 I received the disposition from Major Suther stating, "Officer Lauer's request to be transferred back to the Tactical Unit without restrictions or limitations is DENIED." In supporting his decision, Major Suther cited non-preventable department crashes, not-sustained internal affairs cases (including one that is pending), and select quotes from wit-

nesses in those cases. He further states that "Their (supervisors) concerns being that what has up to now, have been largely confined to off duty events could very well occur in the workplace." It is noted, however, that "Officer Lauer's performance appraisals consistently indicate that he is an excellent tactical officer." The committee has made a recommendation to appeal the decision to step #2.

#### **LEGAL ADVISORY COMMITTEE**

~ Dave Rose ~

The committee met to discuss a request from Brother Lionel Weeks to fund his appeal of changes to the pension offset calculation without notification. The appeal is set to be heard on February 3, 2009 at the Board of Appeals. On April 24, 2008, The Baltimore County Employee Retirement System mailed a document to employees currently out on a disability pension. The document requested a statement of the pensioner's 2007 earnings. Each retiree is required to submit this statement of earnings by May 15 of each year following a disability retirement. An employee on a disability pension must report the previous year's earnings because, according to the Baltimore County Code Article 5, Section 5-1-227: "a disability pensioner may, without any reduction of his retirement allowance, earn an amount (hereinafter referred to as "earnings") equal to the rate of the annual compensation currently paid to persons in the

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same grade and step as the retiree was at the time of retirement, plus the amount equal of any longevity payments currently being paid for the length of service the retiree had at the time of his retirement. The rate of compensation (including longevity payments, if any) is hereinafter referred to as "base amount". Should such a retiree earn an amount that is greater than his base amount, the pension otherwise payable to him shall be reduced in the following manner: Earnings in excess of the rate of earnable compensation (including any applicable longevities) will result in a reduction of \$2.00 in pension benefits for each \$5.00 earned." The document further states "The term **"earnings"** as used herein shall mean income derived from wages, tips, other compensation (**as reported on Form W-2, Box 3, Social Security wages**) salaries, commissions and self employment. In all cases of doubt, the Board of Trustees shall decide what is and is not earnings. Brother Weeks submitted this statement as required, using the earnings stated in Box 3 of his Form W-2. On July 29, 2008 he received notice from the retirement office that his **"gross"** earnings for the past calendar year ending December 31, 2007 were in excess of his allowable base amount. As a result, his gross monthly benefit was reduced. Research into the Baltimore County Code, revealed the term "earnings" is not defined. Brother Weeks and his Attorney Virginia Barnhart addressed the committee. Mrs. Barnhart ad-

vised the committee members of her legal opinion and possible argument from the Administration. She also fielded several questions from the committee members. The members of the committee discussed several issues surrounding the case. A motion was made to **not** fund the case to the County Board of Appeals. The motion passed unanimously. The committee recommendation was presented to the Executive Board of Directors and the motion passed by a vote of 12 to 2 with 1 abstention. It is noted that should Brother Weeks continue his appeal to the County Board of Appeals and win, he is able to request a reimbursement of any legal fees from the Lodge.

- The Committee discussed an appeal to the Board of Appeals for Brother Matt Ackley. Brother Ackley was injured in the line of duty from an incident in August 2007 while arresting an armed suspect. As a result of that injury he developed Chronic Regional Pain Syndrome (CRPS). He was sent for medical evaluations by the County Administration to doctors of their choosing. Those evaluations resulted in determinations that his left arm is 100% disabled and his right hand is 30% disabled. Our current Memorandum of Understanding states in Appendix F Accidental Disability: "The full accident disability allowance under this subsection shall be an amount equal to sixty-six and two thirds percent (66-2/3%) of the member's average final compensation. Schedule of impairments: A seventy five percent (75%)

## Bereavements

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**FBI Agent Samuel Hicks**

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**Retired Brother**

**Donald J. Hansen**

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**Thomas G. Williams**

**Father of Brother**

**Mark R. Williams**

**and Father-in-law of  
Sister Mary T. Williams**

\*\*\*\*\*

**Virginia Doyle**

**Mother of Brother**

**Walter E. Doyle, 3rd  
and Mother-in-law of**

**Wendy Doyle**

\*\*\*\*\*

**Wallace Devereax**

**Grandfather of**

**Sister Christine Y. Sisk**

\*\*\*\*\*

**Rebecca Catlin**

**Mother of**

**Brother Andrew E. Catlin**

anatomical loss of the use of any one of the below or a fifty percent (50%) or more anatomical loss of each of two (2) or more of the below: or a one hundred (100%) percent or more anatomical loss of the use of any combination of the impairments listed below, if the loss is caused by the same accident or incident, and, as a result of the loss, the member's employment is involuntarily terminated: (1) Speech (2) Sight (3) Neck (4) Back (5) Vital Bodily Organ (6) A part of the central nervous system (7) Arm (8) Leg

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(9) Shoulder (10) Hearing (11) Mentally incapacitated whereby a member applies for and is granted a disability benefit under the Federal Old Age Survivor's and Disability Insurance Act. When the Pension Board of Trustees, headed by County Administrative Officer Fred Homan, voted on the percentage of disability pension, Bro. Ackley had provided medical documentation indicating he qualified for the higher percentage. Mr. Homan argued the fact that Bro. Ackley has not reached "maximum medical improvement" and the Administration will recall Bro. Ackley in 6 months and have him re-evaluated. If he has not made any improvement, the retirement system will back date any funds owed to him at that time. The Board then voted to award the reduced pension of 50% and re-evaluate him in 6 months. On the date of the vote Bro. Ackley's arm was 100% disabled and he qualifies for the 66 2/3% as stated in the Memorandum of Understanding. He should be awarded that amount. The County Code allows for retiree's on a disability pension to be re-evaluated once a year for the first five years after receiving the pension. The Administration could have awarded the higher percentage and would still have the availability under the County Code to re-evaluate him each year for five years. If there was considerable improvement in that time, the Board of Trustees can review the decision based on that information. A motion was made to fund the appeal to the

County Board of Appeals. The motion passed unanimously. The recommendation was presented to the Executive Board of Directors on November 24, 2008. The motion passed by a vote of 14 to 0 with 1 abstention.

We are continuing discussions with the Labor Commissioner over the Health and Safety Policy. President Weston and I met with or Attorney Jeff Gibbs to review the latest revision of the policy from the administration. We prepared a response and our thoughts on some language changes. We will schedule a meeting with the Labor Commissioner in an attempt to bring this matter to a conclusion.

### **NEGOTIATION COMMITTEE**

~ Cole Weston ~

Advised that the committee would be meeting with Baltimore County in December 2008 and January 2009. February 1, 2009 is the impasse date.

### **PENSION COMMITTEE**

~ Cole Weston ~

The Pension Board of Trustees met on November 12, 2008 and approved the following retirements for Baltimore County Employees. There were four (4) DROP/service/vested retirements, one (1) ordinary disability, one (1) accidental disability, and two (2) over-sixty work extensions approved.

President Weston was re-elected to serve an additional four year term as a trustee for the Baltimore County Employee's Retirement System.

### **POLICY REVIEW**

~ Dave Folderauer ~

- Advised that the policy changes under review by the Baltimore County Police Administration have consistently been provided to FOP Lodge 4 as enumerated in the Memorandum of Understanding. Any required meetings on policy changes have been productive in meeting the objectives of both organizations.

### **PRODUCTS & SERVICES COMMITTEE**

~ Tony DiCara ~

- Advised that the committee made a motion to allow Atlantic Federal Mortgage to conduct a direct mailing to our members. This motion passed unanimously.

### **NEW BUSINESS :**

- A motion was made by Chairman Schubert to oppose the repeal or modifications to the Death Penalty law. This motion passed unanimously.
- A motion was made by Brother Lagna to formulate a committee to look at the VFW Hall on Harford Road as an investment for FOP Lodge 4. This motion passed.
- A motion was made by Brother Lagna to reject any changes to the current merit system. This motion passed.

### **GOOD OF THE ORDER :**

- During the month of November the Lodge sent one (1) flower, two (2) fruit baskets, and six (6) sympathy cards to bereaving members. Five (5) donations were made in lieu of flowers (at family members request) in the name of a member or loved one.

## H.R. 218 Prevails in South Dakota Case

Chuck Canterbury, National President of the Fraternal Order of Police, was pleased, but not surprised, by news that charges were dismissed against four qualified law enforcement officers who were indicted for violating South Dakota's law against carrying concealed firearms during a visit to that State.

"Dismissal of the charges was absolutely the right decision," Canterbury said. "The judge's ruling correctly applied the Law Enforcement Officers' Safety Act, which is better known to FOP members as 'H.R. 218.'"

Four off-duty, active law enforcement officers, three Federal and one local, were charged for carrying concealed firearms while visiting a bar in Sturgis, South Dakota. The four were carrying lawfully under the provisions of the Federal Law Enforcement Officers' Safety Act (LEOSA), or 18 USC 926B, which exempts qualified active law enforcement officers from State and local prohibitions on the carriage of concealed firearms.

After examining the facts of the case, Judge Warren G. Harding of South Dakota's Fourth Judicial Circuit, dismissed the charges, writing that while "States retain the right to prohibit the possession of firearms on government property and the permit private persons and entities to prohibit the possession of firearms on government property, they cannot restrict qualified law enforcement officers in any other manner."

"The FOP fielded a lot of calls and emails from concerned members when the indictments were first announced, saying that the officers should not have been charged in the first place. Given the outcome, I agree with them," Canterbury said.

Initial news reports about the incident were complicated by a misstatement from a public information officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which suggested that the law had never taken effect. The FOP contacted ATF about the statement, which prompted a swift response in the form of a letter from W. Larry Fort, the Assistant Director for the Office of Public and Governmental Affairs, in which he apologized for the confusion and clarified the application of the law.

"In short, LEOSA is Federal law and qualified active and retired law enforcement officers may rely on it when traveling with their firearms," Canterbury said.

The January

**FOP Lodge 4  
GENERAL  
BUSINESS  
MEETING**

will be held on

**Monday,  
January 26, 2009  
7:30 p.m.**

at  
FOP Lodge 4  
9304 Harford Road

The February

**FOP Lodge 4  
GENERAL  
BUSINESS  
MEETING**

will be held on

**Monday,  
February 23, 2009  
7:30 p.m.**

at  
FOP Lodge 4  
9304 Harford Road