

**Upper Captiva Fire & Rescue District**

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***servicing the community with pride***

**BOARD OF COMMISSIONERS**

**REGULAR MEETING**

**20 February 2016**

COMMISSIONERS PRESENT: Zeke McDonald, Roy Wildeman, Tom Jenkins, Steve Sward, Bill Fry, Chief Bob Kinniry, and Deputy Chief Pepper.

ISLANDERS PRESENT: Bill Byrnes, Arthur Mason, Karen Sirabian, AJ LaVallie, and Sue Ann Cousar.

1) CALL TO ORDER: Chairman McDonald called the meeting to order at 10:00 AM.

2) Chair temporarily tabled the agenda without objection and moved directly to:

- Search Process for Fire Chief (Old Business 7J): Chair proposed that we eliminate the search process for a new Fire Chief and that we select Acting Chief Kinniry as our new Fire Chief, with a probationary period/initial contract through 30 September 2017. **Sward moved, Fry seconded. Vote was 4-1 (Wildeman opposed).**
- Chief Pepper's Schedule and Pay Update (Old Business 7L):
  - Wildeman proposed to convert Chief Pepper from 1/2 salary and 1/2 paid insurance to a part-time/hourly employee with a prorated insurance benefit (if Chief Pepper worked 0 hours in the pay period, he would pay 100% for his monthly insurance premiums; if he worked 2 shifts/week, he would pay 50%; and if he worked 4 shifts/week, he would pay 0%).
  - During preliminary discussion, Wildeman stated that he believed that the Fair Labor Standards Act provided an exception to fire services employing less than 5 employees a week, exempting the requirement to pay overtime for more than 53 hours/week.
  - Fry stated that he didn't believe the exception applied to UCFRD since technically we have 1 full-time and 50+ part-time employees, equating to 20+ employees to cover the 4 shifts/day each week. The risk of making this assumption on an ambiguous interpretation is that it would leave the District open to a complaint to the National Labor Relations Board and a requirement to retroactively provide overtime pay (and a possible fine), if the complaint went against the District.

- Fry also stated that the proposal accepted by the Board at the 30 January meeting (1/2 salary and 1/2 share of health insurance premiums) equated to about \$19.30/hour (or nearly the same as a Paramedic or Officer costs the District), so Wildeman's proposal would mean a nearly \$2.70/hour increase for Chief Pepper. And we should recognize that no part-time/hourly works more than 2 shifts/week (hourly workers are non-exempt under FLSA)
- Sward agreed that we would enter a murky area if we allow any hourly worker to work more than 48 hours each week, possibly requiring a legal opinion that he wouldn't want to request or pay for
- Jenkins asked Chief Kinniry if anyone is ever scheduled for more than 48 hours each week and Chief stated not on purpose (only happens if a replacement works an extra shift for a last-minute cancelation) and Chair stated that, in that case, the District should pay that person time-and-a-half overtime but every effort should be made to not let that happen
- **Wildeman moved** to convert Chief Pepper from 1/2 salary and 1/2 paid insurance to a part-time/hourly employee at \$22/hour, the same rate as Deputy Chief Higgins received, with a prorated insurance benefit (if Chief Pepper worked 0 hours in the pay period, he would pay 100% for his monthly insurance premiums; if he worked 2 shifts/week, he would pay 50%; and if he worked 4 shifts/week, he would pay 0%) and Fry **seconded**.
- Sward asked what duties Chief Pepper would have, would he be the senior officer on shift (when Chief Kinniry wasn't on shift) or would he be subordinate to a Shift Officer. Wildeman stated that, similar to Chief Higgins, Chief Pepper would be senior to everyone on shift except for Chief Kinniry. Chief Pepper stated that he would do whatever Chief Kinniry needed him to do in the future, that he would provide recommendations to Chief Kinniry but that Chief Kinniry would decide whether to accept suggestions or not. "Chief Kinniry has the final word." Chief Kinniry stated that he was concerned about the budget impacts of a hybrid salary/hourly rate and possible overtime pay and Chair stated that the question before the Board is that, after the half salary/insurance during the first half of February, to then convert Chief Pepper to the hourly rate that Chief Higgins had, with no plan to pay overtime.
- Fry stated that the \$19.30/hour, approved on 30 January, included 50% health insurance so increasing the hourly rate to \$22/hour plus 50% of insurance would make the equivalent hourly rate much higher. Sward stated that we are already running nearly 37% in pay & benefits, when we are 33% through the year, so paying Chief Pepper more would have a bigger impact on the budget. Fry stated that he thought it would be as much as \$10,000 more for the year if we continued to pay 50% of the insurance plus a higher hourly rate.
- Fry then stated that if Chief Pepper became responsible for his own insurance, the \$2.70/hour increase would be closer to \$3,000 more and easier to manage in the budget. Fry asked Chief Pepper if he had researched the Federal Marketplace for a family plan, since Chief Pepper would have a much smaller expected 2016 income. If his family taxable income is less than \$62,000, he could see an ACA tax subsidy that

- would make his new ACA policy about \$570/month or nearly \$300 less than what his share of our County policy currently is and the District wouldn't pay anything.
- Chief Pepper stated that he has already started the process with the Department of Veteran's Affairs for medical coverage (but DVA uses 2015 taxable income) and Fry stated that the Marketplace uses the expected 2016 income and suggested that he could do both concurrently; if the DVA approves coverage, he wouldn't have to keep or pay for the ACA policy but if DVA didn't provide a quick answer, starting the ACA application now would provide Chief Pepper with private insurance on 1 April.
  - Fry then proposed an amendment to Wildeman's motion to fully pay Chief Pepper's insurance premium from 16 February – 31 March 2016 but to end Chief Pepper's District-paid health insurance benefit on 31 March 2016.
  - Chair restated that the motion on the table is to convert Chief Pepper to part-time hourly at \$22/hour and fully pay his health insurance through 31 March. Public question was whether Chief Pepper would be allowed to sign up for ACA coverage now that the open season was over and Fry stated that, if someone loses insurance related to a job change, that is one of the exceptions to submit a new application for coverage outside of the open season window. Next public question was whether this discussion is a revisiting of the decision from the last meeting and Chair stated that yes, considering the change from 1/2 salary and insurance to part-time/hourly and fully paid insurance for 1-1/2 months is the new discussion. Next question was why the Board isn't providing any consideration for Chief Pepper's 24+ years of service and Chair stated that everything we have done since August has been in consideration of that. Chair called the vote and **all voted aye**.
  - Sward then asked if Chief Pepper is still repaying the \$516.35/pay period through 30 September, totaling \$8,261.67. Fry confirmed and also stated that the \$425/pay period collection that occurred from the 15 February paycheck would not be deducted from the 29 February, 15 March, or 31 March paychecks (but District-funded health insurance would end on 31 March). Fry will provide an update to Bookkeeper Lynch notifying her of the new pay decision.

### 3) MINUTES:

- Minutes of the 16 January regular meeting were reviewed; **Jenkins moved**, Sward **seconded**, and **all voted aye** to accept the minutes with corrections.
- Minutes of the 30 January special meeting were read; **Jenkins moved**, Wildeman **seconded**, and **all voted aye** to accept the minutes with corrections.

### 4) TREASURER'S REPORT: The current status of the accounts are:

- The ad valorem checking account had a 31 January ending balance of \$287,282.69, including deposits of \$58,344.72 of net tax revenues. Overall expenditures are at 47.5% (with 33.3% of the year completed).

- The Impact Fee account had a 31 January balance of \$6,651.63 (no deposits during January).
- As of 31 January, the Special Assessment checking account had \$141,313.08, after deposit of \$42,011.49 of net tax revenues. Overall expenditures are at 56.8% (with 33% of the year completed). We still show a \$16K accounts receivable from FY14 assessments not paid
- Fry stated that after excluding the current FY line of credit deposits and expensed payments (\$130K of current FY borrowing), our actual overall expenditure rate is 39% and is high primarily from the \$40K borrowed for the Special Assessment account last FY and paid off this FY. A budget reallocation/reduction will need to be made across selected Special Assessment accounts to finish the year in balance (otherwise, spending current budget allocations will cause the Special Assessment budget to overspend into deficit again in FY16, another repeat of FY15).
- Line of Credit: Sward asked if we now owed zero on the LOC and Wildeman confirmed that was true.
- Donations: The Friends of the Fire Department checking account had a balance of \$21,018.26 as of 31 January. \$18,140 in memorial donations for Don Beiermeister and the 3<sup>rd</sup> Annual Run/Walk have been deposited into the Ad Valorem checking account.
- **Sward moved** to accept the Treasurer's Report, Jenkins **seconded**, **all voted aye**.

5) CHIEF'S REPORT: Chief Kinniry thanked the Board for their selection of him as the new Fire Chief. Calls to date are 18 (3 marine related with no injuries; 2 fires, one on a renovation site and one a boat's ruptured oil line that generated smoke, rather than actual fire, in the Sound)

- Chiefs' Transition Process and Status: AOL email account has been transitioned and Deputy Chief Pepper's duties/responsibilities will be ironed out by the next monthly meeting.
- P-191 (500gpm pump) Status: Pump seized and team is still working to determine the problem:
  - No idea about cost or whether it can be repaired or needs to be replaced
  - The same mechanic working up the estimate for the T191 replacement will be on-island soon to evaluate what parts of the existing T191 can be re-used (and if our part-time firefighters that have maintenance expertise can't resolve, Chief Kinniry will have him look at it during the on-island visit)
  - The new military surplus pump, according to the data plate, will do 350-400gpm (it can't replace the 500gpm pump but could be a back-up; Fry reminded everyone that multiple, redundant backups require use of our scarce Repair & Maintenance budget)
- T191 Replacement Update:
  - Chief Kinniry is working with Division of Forestry (DoF) on what expenses are 50/50 grant eligible for the conversion of the new military truck to T191 replacement
  - Chief Kinniry is also working with the mechanic that DoF and other Lee County

departments use for maintenance of their former military vehicles to finalize costs for the conversion

- EZ-Go Mule:
  - Chief Kinniry stated that maintenance costs are continuing to increase and it may make sense to dispose rather than repair
  - Chief Kinniry is talking with the Sherriff's Office about their purchase of an electric cart for their use when on-island (and if we keep it in a bay out of the weather and maintain it, we could use it to become our general purpose runabout and not replace the EZ-Go)
- Lee County Chiefs' Meeting: Attended last week, making good contacts and updated them on our transition and they have offered to help Chief Kinniry in his new position
  - Mainland departments are having a Muscular Dystrophy Association "boot drive" to raise funds for MDA; we will see if we can participate this year on 18-20 April
- Marine Emergency Response Team (MERT):
  - Training event scheduled for 23-25 February; our part-time employees have been notified but we may not be able to participate (cost of paying for part-timers to participate and still staff 4 FFs/shift on-island vs benefit to UCFRD and the MERT program) but MERT does provide our mutual aid back-up when a major fire occurs on Upper Captiva; Chair asked if training is appropriate for our volunteers and the answer was no
  - Chief Kinniry told the MERT coordinators that our future responses would likely be limited outside of our usual response area (Redfish Pass/Captiva Pass, close in Gulf, and in the Sound for rescue and for medical response, the area increases to Cayo Costa and Useppa) but doing more than that for calls lasting 2-4 hours may put Upper Captiva at risk while our responders are off-island (Pine Island/Matlacha has the same budget/safety limitations for their MERT responses)
- Disposal of Old Crew Boat & Skiff:
  - M191 (Carolina Skiff): Will be advertised for bid with a minimum bid of \$1500 for both the hull (no motor) and trailer; the bids will be opened at the 19 March meeting
  - Old Crew Boat: Will be advertised for bid with a minimum bid of \$2500 for both the boat and trailer; the bids will be opened at the 19 March meeting
  - Chief Kinniry confirmed with Attorney Pritt that we can place a minimum bid requirement in the News-Press advertisement and, if the minimum is not met, we are free to dispose by private sale or via a website
- Certification Requirements as the New Chief: Chief Kinniry will be developing a list of requirements and costs, what has to be done this FY and what can be deferred until the FY17 budget is finalized
- Use of Bookkeeper for Office Administration: Chief Kinniry wants to use her for administrative support and Fry stated that her hourly rate is probably significantly higher than hiring an administrative assistant (and that there is no money in the FY16 budget for that). Using her contract for that would be an increased cost in Accounting & Audit. Public comment was that we should clearly understand how much that extra cost is for

using the bookkeeper for administration work. Wildeman stated that it was over \$20/hour.

- Radio Communications: Changes coming soon with new frequencies throughout the County that our radios don't currently support; they may be reprogrammable or they will require replacement

6) COMMISSION REPORTS:

A) Fry-2014 Special Assessment Update: No new payments but Fry intends to re-send bills to those 9 owners that paid their 2015 ad valorem taxes but still owe the District for their 2014 Special Assessment next week (there is no benefit to re-bill those that haven't paid their ad valorem taxes in the recent past):

Name	Island Address	Total	Status
BERNS MANAGEMENT LLC	4511 HIDDEN	\$1,748.79	Plan to rebill week of 22 Feb
FLORIDA BROTHERS LLC	4621 ORO PESOS	\$713.86	Plan to rebill week of 22 Feb
MANDELL AARON H 50% +	4471 PANAMA SHELL	\$639.61	Plan to rebill week of 22 Feb
GROSSINGER JEROME M + LEILA	4541 ORO PESOS	\$264.06	Plan to rebill week of 22 Feb
TSAKIRIDIS ANATASIOS + BAHRAMIS GUS J	4440 SCHOONER	\$225.91	Plan to rebill week of 22 Feb
LEON MIGUEL A	4440 SMUGGLERS	\$491.30	Plan to rebill week of 22 Feb
SLOCUM WILLIAM D JR + MARILYN	151 HUMMINGBIRD	\$503.95	Plan to rebill week of 22 Feb
DEVOY SALLY + HOWICK PATRICIA	12568 SOUTH BANKS	\$580.61	Plan to rebill week of 22 Feb
GRANT LYNDA A	12640 SOUTH BANKS	\$685.55	Plan to rebill week of 22 Feb
	<b>Subtotal for 9</b>	<b>\$5,853.64</b>	
CUNNINGHAM JOE	721 RUM	\$311.55	Delivered 16 Sep (2015 NOT Paid)
ZANGHI CHARLES JOHN	4460 OYSTER SHELL	\$221.86	Delivered 24 Aug (2015 NOT Paid)
FISCHER JAMES C + MAZZA SALVATORE	4521 BUTTERFLY SHELL	\$1,283.98	Delivered 24 Aug. CERT 13/14 & 2015 NOT Paid
MARMO VINCENT J + MARY JANE	4500 CUTLASS	\$767.41	Delivered 24 Aug 2015 NOT Paid
FISCHER JAMES C + SCHALL CAROLYN E	181 WHITE PELICAN	\$569.96	Delivered 24 Aug 2015 NOT Paid
ARANEDA EVELYN MARINA	4511 CUTLASS	\$235.48	Mailed Overseas 22 Aug 2015-Paid
NORTH CAPTIVA FISH CAMP LLC	11654 REDFISH SHORES	\$271.14	Unclaimed 5 Oct CERT 13/14 & 2015 NOT Paid
NORTH CAPTIVA FISH CAMP LLC	11650 REDFISH SHORES	\$279.49	Unclaimed 5 Oct CERT 13/14 & 2015 NOT Paid
LIBERTONE DANA + LIBERTONE LAURA	12520 SOUTH BANKS	\$808.36	Delivered 24 Aug CERT 14 & 2015 NOT Paid
HENKEL EVERETT III + HENKEL PENNY	12604 SOUTH BANKS	\$665.46	Delivered 24 Aug CERT 14 & 2015 NOT Paid
HERMANN G A + MYRL	12608 SOUTH BANKS	\$657.75	Delivered 26 Aug 2015 NOT Paid
ROSEN, RONALD	12616 SOUTH BANKS	\$651.36	Delivered 26 Aug 2015 NOT Paid
ROSEN, RONALD	12617 SOUTH BANKS	\$785.80	Delivered 26 Aug 2015 NOT Paid
LANZA MARK J TR	12649 SOUTH BANKS	\$2,067.39	Delivered 24 Aug CERT 13/14 & 2015 NOT Paid
<b>TOTAL UNPAID</b>		<b>\$15,430.63</b>	
<b>TOTAL PAID SINCE AUGUST 2015</b>		<b>\$ 2,617.30</b>	

B) Fry-Update on Proposed Policy for Employee Benefits:

- Board approved via a “sense of the Board” to process every existing and future (2016/2017) benefit of the employees at the 30 January Special Meeting
- Fry updated the approved list of benefits that were part of the 30 January Special Meeting minutes
- Chair thanked Fry for the work on clarifying and documenting our benefits

C) Fry-Draft 360 Review Documents for Chiefs: The 360 Review was a failure with only 3 completed reviews returned. The Board will have to decide on a future review and evaluation process by Summer 2016 (if the Board wants to do evaluations during the last calendar quarter).

D) Wildeman-Staff Housing Proposal: Once Chief Pepper converted to 2 shifts/week in January, Wildeman dropped all discussions with the SHC townhouse owner for a lease. Chief Kinniry still needs to resolve the issues with his landlord about filing a W2 or risk his rental payment reimbursements that the Board approved at the 30 January Special Meeting turning into taxable income to Chief Kinniry.

E) Jenkins-Fun Run/Walk Update: The last bill has been paid (\$72 this month) and the net gain was about \$8000 for the event. Chair and Board thanked Jenkins for his hard work in making the event a success.

## 7) OLD BUSINESS:

### A) Temporary Disability Insurance:

- Policy is now in place with Chief Kinniry paying for the first year by check (the payment will be added to his reimbursable expense report)
- The policy that the insurance company approved was the 90-day elimination (waiting) period rather than the requested 60-day waiting period and the premium was about \$2400

### B) 25<sup>th</sup> Anniversary Fire Station Open House/Cook-Out:

- 17 March is the tentative date and Chief Kinniry will begin working details, asking Chief Pepper to take the lead in organizing
- The new crew boat dedication (De Wave Meister) may occur at the same time, depending on availability of the Beiermeister family

C) Boat Committee Update: Chief Kinniry will restart the Boat Committee to again work a possible replacement of M192 (Contender) for a boat suitable for all of our marine missions (Contender works well for patient evacuation but not as well for South Banks

fire response or marine rescue)

- D) Disposal of Old Crew Boat & Skiff: Discussed during Chief's Report
- E) T191 Replacement Update: Discussed during Chief's Report
- F) Deputy Chief Higgins as Maintenance Chief:
- Chair stated that he believed the \$2400 payment in lieu of a retirement contribution that Chief Higgins used to purchase L191 (ladder/aerial spray) truck was FY15, not FY16; based on that, the District owes him \$800 for the 4 months in FY16, before he retired
  - Treasurer will confirm whether Chief Higgins was historically paid his retirement contribution in arrears or advance like Chiefs Pepper and Kinniry
  - Chief Kinniry has authority to decide when/how to use Chief Higgins for maintenance support going forward, now that the 1-3 month trial period is over
  - Chair also stated that Chief Higgins provided a "back of the envelope" estimate for the initial outfitting of the new crew boat that was low but that the amount billed was accurate and fair, even though it was higher than the estimate
- G) Pending Senate & House Bills: Letter for Representative Nunez was completed and forwarded electronically to all Commissioners by Acting Chief on 6 February, for Commissioners to make their desired changes. Fry stated that he would provide an updated information paper to the Commissioners, based on the House Analysis of HB745 (over 1000 special districts in the state affected by the proposed bill, requiring the ability to manipulate the financial data and create graphics that no County or City was required to do; see <http://www.flsenate.gov/Session/Bill/2016/0745/Analyses/h0745a.LGAS.PDF>).
- H) Reschedule April Commissioners' Meeting: The April monthly meeting has been rescheduled to 23 April
- I) Road/Easement Access: Chief Pepper provided Fry the NFPA 1, Fire Code, Florida 2010 Edition (Chapter 18) that states the requirements for Fire Lane access. Fry recommends that we task Attorney Pritt to create appropriate Resolution and Draft Code for Lee County Commission approval. After discussion by the Board, the decision was made to table without further action.
- J) Search Process for Fire Chief: Moved to the beginning of the meeting
- K) Proposed Contract for Acting Chief: Tabled until March meeting
- L) Chief Pepper's Schedule and Pay Update: Moved to the beginning of the meeting



8) NEW BUSINESS:

A) Budget Resolution-SA Reallocation:

- Reallocation of pay & benefits between the Special Assessment and Ad Valorem budgets (when paramedics or EMTs worked shifts normally assigned to Chief Pepper during October – December, about \$22K).
- Tabled until the March meeting when a mid-year review for both budgets will also be discussed

B) Budget Resolution-2014 SA Accounts Receivable:

- Adjustments required to 2014 Special Assessment Accounts Receivable (unpaid assessments) to adjust less than \$100 overpayments, underpayments, improperly billed townhouses.
- Tabled until the March meeting when a mid-year review for both budgets will also be discussed

9) PUBLIC COMMENT: Comments made throughout the meeting.

10) NEXT DATES: Regular Meetings on 19 March 2016 and 23 April 2016

11) ADJOURN – **Moved** by Fry, **seconded** by Jenkins; meeting adjourned at 12:45PM.

Respectfully submitted,

Bill Fry  
Secretary