

**Upper Captiva Fire & Rescue District**

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*servicing the community with pride*

Robert Kinniry, Chief: UpperCapFD@aol.com

BOARD OF COMMISSIONERS

REGULAR MEETING

16 July 2016

COMMISSIONERS PRESENT: Zeke McDonald, Tom Jenkins, AJ LaVallie, Steve Sward (by phone), Bill Fry (by phone), Chief Bob Kinniry, and Ian Northon (for Bob Pritt).

ISLANDERS PRESENT: Roy Wildeman, Sue Ann Cousar, CAPT Givens, Unknown Caller (phone 239-229-4440), Bill Byrnes (by phone), and Arthur Mason (by phone).

1) CALL TO ORDER: Chairman McDonald called the meeting to order at 10:02 AM.

2) MINUTES: Minutes of the 18 June meeting were read; **Jenkins moved**, LaVallie **seconded**, and **all voted aye** to accept the minutes without correction.

3) Chair tabled the agenda without objection and moved Old Business (D) Inquiry Report forward:

- Northon provided background on his now closed informal inquiry of alleged statements by Deputy Chief Pepper made in mid-May (redacted report posted on the UCFRD website)
- Northon also provided a brief discussion of DC Pepper's settlement proposals received from his attorney, James Brantley (letter posted on the UCFRD website)
- Northon stated that Pritt had forwarded the Brantley letter to the District's insurance carrier
- Northon stated that there were a number of options for the Board going forward:
  - Authorize his firm to conduct negotiations with Brantley
  - Hire an expert in Labor Law to conduct negotiations with Brantley
  - Rely upon the District's insurance carrier for them to take whatever action they deem appropriate, based on the insurance policy
- Sward stated that if the Board took unilateral action, our insurance coverage could be potentially at risk and Chair agreed that the Board should not attempt to negotiate without the agreement of the insurance carrier
- Public comment was that the District should not treat this as a legal claim, that Pepper's decision to step down in January was a voluntary decision but that the Board should immediately enter into arbitration or mediation (whether formal or informal) and

- 40 negotiate a reasonable settlement or severance package with DC Pepper, in recognition  
41 of his 26 years of past faithful service and he deserves at least severance payment
- 42 • LaVallie asked whether we had the option of doing as the Public suggests and Sward  
43 stated that our reimbursement under the insurance policy could be at risk; Public then  
44 clarified that the Board could request permission from the insurance company to enter  
45 into settlement discussions and then still provide coverage
  - 46 • Jenkins stated that he agreed that we should wait for the insurance company to contact  
47 us until we take any further action
  - 48 • LaVallie stated that we really need to start with the insurance company
  - 49 • Fry asked whether the insurance company would accept and potentially pay our past  
50 legal bills or legal bills going forward but Northon stated that it is likely that legal costs  
51 going forward would definitely be covered but the inquiry itself might only be partially  
52 covered and Fry asked for confirmation that the 12 July Brantley letter had been  
53 forwarded to the insurance carrier and Northon stated that, in addition to the Brantley  
54 letter, the actual inquiry reports had been/will be sent to the insurance carrier this week  
55 or next
  - 56 • Kinniry stated that counsel has given the Board good advice and we should follow it  
57 rather than taking an action on our own, before the insurance company makes their  
58 decision
  - 59 • **Fry moved** that we file a claim with our insurance carrier for prior May, June, and July  
60 legal costs related to the inquiry and that neither the Chief, Board, or our attorney's take  
61 any further action until our insurance carrier makes a decision on how to proceed,  
62 **seconded** by Jenkins, **all voted aye.**
  - 63 • Chair thanked Northon for his inquiry efforts and his presentation. Fry asked whether it  
64 was appropriate for the Chair and a community representative like Roy Wildeman to  
65 coordinate a date when Chief Kinniry won't be present, to return his personal property.  
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67 4) TREASURER'S REPORT: The current status of the accounts are:

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- 69 • Balance Sheet:
    - 70 ○ The Ad Valorem checking account had a 30 June ending balance of \$267,089.35.
    - 71 ○ The Friend's account had a 30 June ending balance of \$15,277.55 (\$5.71 more than  
72 last month from interest).
    - 73 ○ The Impact Fee account had a 30 June ending balance of \$7,605.34 (an increase of  
74 \$2.79 from interest).
    - 75 ○ The Special Assessment Fund checking account had a 30 June ending balance of  
76 \$118,366.90.
    - 77 ○ Fry stated that there were no unexpected outstanding liabilities other than the usual  
78 transfers of expenses between the General Fund and Special Assessment Fund.
  - 79 • Consolidated Income and Expense Report:
    - 80 ○ Overall, in the Consolidated Budget, the District is 75.03% spent (and we are through  
81 75% of the year).

- 82           ○ We are exactly on track for spending in our major categories: Pay & Benefits was at  
83           73.48%, Operating Expenses was at 63.53%, and Capital Purchases was at 67.37% (all  
84           under our straight-line expectations of 75%). At the last meeting, Sward asked about  
85           Worker's Compensation expenses that are currently at 99.51% spent. All Workmen's  
86           Compensation payments have been made for this fiscal year and are under budget  
87           for the year.
- 88           ○ Fry also reported that he will propose a Budget Amendment as New Business that  
89           will adjust revenues and budgeted expense limits based on 30 June data, including  
90           the movement of funds inside the Capital Category for up to \$14,000 to purchase a  
91           new Utility Vehicle that was approved last month, among other adjustments.
- 92           ○ For overall tax collections, we are at 100% through 30 June and no major additions  
93           to revenue will occur for the rest of the year, other than the Division of Forestry  
94           Grant, up to \$2750 to reimburse repairs and modifications for our new military  
95           excess equipment, and possible excess equipment sales (hopefully at least \$5000 for  
96           the donated crew-boat's motor).
- 97           ○ Sward asked that, based on our current burn rate, when we will start using our Line  
98           of Credit and Fry stated that we should finish with a larger than budgeted reserve on  
99           30 September and Fry stated that the Chief should be congratulated for his execution  
100          of the budget this year and this will be the first time in 2 or 3 years where we have  
101          added to the reserve. Chair and Board added their congratulations to Chief.

- 102          ● **Jenkins moved** to accept the Treasurer's Report, LaVallie **seconded**, **all voted aye**.

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104 5) CHIEF'S REPORT: Calls to date are 86 (11 this month), one medical and one marine response  
105 (missing person)

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- 107          ● The total DoF grant-funded work is nearly done:
- 108           ○ B-191 (Brush Truck Replacement) Status: The DoF brush truck modifications have  
109           mostly been completed and the last of the plumbing work is waiting final parts for  
110           the truck and tank to be returned to the island this week.
- 111           ○ P-191 (500 gpm pump) Status: The military pump modifications are still in progress.
- 112          ● Boat Updates:
- 113           ○ Replacement Crew Boat: Service agreement with Bob & Annie's for every 100 hours  
114           (about quarterly), with the initial service costing \$1100 and estimate that the  
115           quarterly service should run about \$600
- 116           ○ Old Crew Boat Update: The old motor is listed for sale on [govdeals.com](http://govdeals.com) and the  
117           auction ends on Monday.
- 118          ● R-191 (Medical Mule) Replacement: Replacement utility vehicle has been ordered for a  
119           total cost of about \$12,500, the accessories and body from the current rescue vehicle  
120           will be moved to the new utility vehicle, and the old red Club cart will be listed for sale  
121           on govdeals.com.
- 122          ● LaVallie asked why Red's AOK Motors was taking so long and why we didn't have any  
123           leverage with them, with the risk to our islanders for not having the brush truck or back-  
124           up water pump returned to the island.

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- CAPT Givens presented a detailed report on the ALS program year to date, including patient dispositions and evacuations, with 1 by helicopter and 10 on the Contender, based on patient medical urgency and needs. About 1/3 of our medical calls are ALS and about 2/3 are BLS calls, with 5 fire responses and 3 false alarms. Sward asked about stability and turnover of our long-term staff and Chief responded that is going well and there have been no recent departures. Chair congratulated CAPT Givens, Chief Kinniry, and former Chief Pepper for their efforts in

133 6) COMMISSION REPORTS:

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135 A) Fry-2014 Special Assessment Update: No new payments this month but will create new

136 letters to rebill owners again before the August meeting.

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138 B) LaVallie-Community Committee Update: Committee hasn't met since last monthly fire

139 meeting but Chief has update on easements. Public complaint that the owner of 530 Gulf

140 Lane (at the corner of Bartlett Parkway) had placed new plantings that were encroaching on

141 the road easement but Chief confirmed, according to the owner's recent survey and placed

142 stakes, the plantings were 11' from the center of the road and was what the District would

143 like to see island-wide as a minimum from each property owner. The east side of Gulf Lane is

144 the actual property owner that has encroached on the road and has encroached for many

145 years. For example on Gulf Lane closer to Schooner, the Tade property plantings are on the

146 property line (covering the entire easement) and the Gabbard home itself is on the

147 easement, right on the property line. Chief also spoke with Gary Walker and Danny

148 Davenport, as two centers of influence, for their assistance with educating their buyers and

149 customers on what the easements actually are. Public question about access down

150 Nighthawk past the Toll property and both the Chair and Chief said it remains a problem.

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152 7) OLD BUSINESS:

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154 A) Staff Housing: Based on the question from LaVallie at the last meeting, Fry created a

155 worksheet of expected costs for the District to purchase staff housing. The assumptions are

156 that it would not be on the Station "campus" and that it would potentially require both Chief

157 and the District to pay higher taxes on the taxable value of the equivalent "market rent".

158 There were three tax questions that Fry posed to Pritt after the last meeting; 1) would the

159 District have to impute a "market rent" for District-owned off-campus staff housing, 2) would

160 we have to include that in the Chief's taxable income and then pay various taxes on that

161 "market rent", and 3) whether the District would have to have referendum approval to enter

162 into a "lease/purchase" agreement.

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- Fry's assumed costs include estimated Principal & Interest of 3% and 5%, that might be more or less than a monthly "Lease/Purchase" payment, the lost Fire District taxes, electricity, and insurance for Fire, Flood, and Wind for various purchase costs and interest rates. There is no estimate for annual maintenance costs. The bottom of the estimate shows currently available properties as of our last meeting.

- 169 • Fry hasn't received any answer from Pritt's tax specialist yet on the tax consequences  
170 of purchasing an "off-campus" house.
- 171 • LaVallie stated one advantage out of purchase is that financing rate would be locked  
172 and that the Chief probably currently pays a below market rate that might not last  
173 much longer. But based on the numbers, it seems an impossibility to actually do this.
- 174 • Chair stated that he believed that was true since this Board couldn't commit a future  
175 board to a long-term financing option without a referendum.
- 176 • Fry stated that there seemed to be three options left:
- 177 ○ Work towards increasing our reserves \$50+K/year to pay cash for Staff Housing,  
178 without a referendum, in 4-6 years
- 179 ○ Study the conversion of the existing meeting room and Chief's Office into a small,  
180 2BR efficiency apartment for part-time firefighter use and renovate the existing  
181 2BR apartment for Chief's Housing or convert it into a 1BR with office for the  
182 Chief. That would solve the housing issue, reduce taxes for both the District and  
183 the Chief, and would still meet Lee County Zoning officials' requirements of only  
184 ONE "caretaker family" living in the fire station. This potential solution would also  
185 require renting space at NCIC or SHC for our monthly meetings.
- 186 ○ Continue to raise the Chief's salary to pay ever higher rental rates and taxes on  
187 that new income, without any end in sight.
- 188 • Chair stated that, as he recalled, the District didn't have the cash to pay for the  
189 Hodgepodge house in 2012, that the house required major renovation to make it  
190 habitable, and determined it be unsuitable.
- 191 ○ Fry stated that he looked at the same house in 2014 for a potential rental  
192 property and didn't find it that unsuitable or needing major renovation.
- 193 ○ Fry stated that according to the prior year audits on the Auditor General website,  
194 there was \$259K in 2009, \$261K in 2010, and \$180K in 2011, so the cash did exist,  
195 although some of it was used for the Station Addition planning, then \$20K-\$30K  
196 or more each year to cover annual deficit spending.
- 197 • Sward asked that using the \$250K-\$300K mid-line, the cost would be \$38K/year or  
198 \$2700/month so what is the benefit of purchasing a house with reserve when we  
199 should just continue paying rent, even if it is double or triple the current rent.
- 200 • Chair stated that it was unreasonable not to have the meeting room, training room,  
201 and office for the Chief but Fry stated that the definition of unacceptable may be  
202 changing over time and discussing a \$3000/month rental over time should be equally  
203 unacceptable.
- 204 • LaVallie reminded everyone that the reason that he asked the question last month  
205 was the news that the Chief's current housing is now listed for sale and whether there  
206 was a Plan B, if the happened. Fry stated that was the reason for the discussion today  
207 but that the numbers weren't created for a decision today but food for thought.
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209 B) Changing Regular Meeting Days:

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- 211 • Fry provided the updated meeting proposal for next FY, shifting most meetings to

- 212           Fridays but keeping the September budget hearings on Saturdays at 10AM next year.
- 213           • Sward stated that he had a conflict for Friday 21 October and asked if the October
- 214           meeting could be moved to 29 October and Fry stated that he had a similar conflict and
- 215           that 29 October would work better for him to.
- 216           • Chair polled the Board and everyone agreed with Saturday, 29 October, Friday meetings
- 217           for November 2016 – August 2017, and September budget meetings remain on
- 218           Saturdays (9 & 16 September 2017).

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220           C) FY17 Pay & Benefits Worksheets: First, some good news, is that the final property

221           valuation increased by over \$4 million over last year, generating an estimated \$18K in

222           additional ad valorem revenue above the County estimate on 1 June. Fry proposed that the

223           focus today be limited to Pay & Benefits in FY17 since this category is roughly 70% of the

224           overall District budget. The key questions for the Board are whether we will approve changes

225           to the District Benefit Plan or provide Annual Raises and none are proposed by the Treasurer.

226           We did two raises for Chief Kinniry; one was about 6% annually that added about \$2800 for

227           Temporary Disability and an additional \$2600 in pay to cover tax costs for Chief Kinniry's new

228           cash housing allowance was another 5%. Included in the read-aheads were the current base-

229           line Pay & Benefits proposal for next year, a comparison of local Fire District pay and benefits,

230           and a table that shows past District raises with Federal Cost of Living (COLA) rates since 2004

231           that was originally prepared by the former Treasurer during last year's budget hearings.

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- 233           • Chair asked where the numbers came from for the ending year balances and Fry stated
- 234           from the approved annual audits filed on the state Auditor General's website. Chair
- 235           then stated that there were two reserves that we should have and don't 1) for an
- 236           operating reserve for the first 2-1/2 months before tax receipts are first deposited and
- 237           2) an emergency reserve. Fry agreed but also added a third reserve for Capital
- 238           purchases, based on the annual addition of depreciation expense that is shown in the
- 239           annual audits, used to purchase replacement equipment when the useful life of
- 240           equipment has been reached but we barely only have the first one after spending down
- 241           the only reserves since 2010.
- 242           • Sward asked about the overpayments to DC Pepper for insurance and pay that were
- 243           agreed to between Dec 2015 and Apr 2016 that would have been repaid by working
- 244           additional shifts and how the District would recover it. Fry stated that he didn't believe
- 245           it would be recovered at all.
- 246           • Chair stated that the \$2600 raise wasn't an actual raise but an assisted payment to
- 247           cover taxes for the new cash housing allowance so we haven't provided a raise to Chief
- 248           since he became Acting Chief nearly a year ago. Fry agreed about the \$2600 raise but
- 249           pointed out again that the Board did approve up to \$3200-\$3300 to pay for the new
- 250           temporary disability policy that actually was closer to \$2800 actually paid, so there
- 251           have been 2 raises, just not more cash in the Chief's pocket. Fry also pointed to the
- 252           very large raises in 2005, 2007, and 2009 that dramatically outstripped the cost of living
- 253           raises that might have been called for. Chair stated that was because of the woefully
- 254           inadequate compensation for our Chiefs and to bring them up to equity.

- 255 • Chair polled the Board for raise proposals for Chief:  
256 ○ LaVallie believed a nominal raise would be advisable but didn't have a magic number  
257 in mind but that a gesture should be made  
258 ○ Sward stated that he believed a \$3,000/year raise, a 7% increase, to \$58,000  
259 ○ Chair stated that a \$5,000/year was the number that he had in mind, making it  
260 \$60,000 for 2 reasons but it brings him up towards what we were paying the former  
261 Chief and going from Assistant Chief to Chief deserves a meaningful raise  
262 ○ Chief asked for \$10,000/year raise, taking him to just under \$4,000 per year less than  
263 Chief Pepper's last full year salary and he is still \$40,000/year below the  
264 Deputy/Acting Chief for Matlacha/Pine Island  
265 ○ Sward stated we just signed Chief's contract 2 months ago in the initial or  
266 probationary 18 month period and that might be the appropriate time to move to  
267 \$65,000 but not now and seems a bit aggressive.  
268 ○ Jenkins stated that he was stuck on the \$60,000 and would consider \$65,000 next  
269 year.
- 270 • Fry stated that he believes that Pepper was paid too much at \$68,540 and is not a good  
271 benchmark to cite and that three reasons to provide a raise for 1) as Chair stated to pay  
272 a living wage, 2) to be competitive to retain employees and 3) to hire a new employee  
273 where the going rates are higher but that none of those conditions appear to be in any  
274 of those circumstances. A \$65K base pay would increase the overall budget \$3300 over  
275 the worksheet amount using DC Pepper's former employee only insurance and a \$60K  
276 base pay would use up nearly half of the \$10K not being spent on DC Pepper's  
277 insurance.
- 278 • **Chair moved** to raise the Chief's salary by \$5,000 to \$60,000, **seconded** by Sward, and  
279 after discussion, **approved 4-1 (Fry opposed)**.
- 280 • Fry asked if there were any other changes proposed for Officers, Paramedics, or EMTs,  
281 the Chief stated that he had spoken with everyone and told them there would be no  
282 raises this year.
- 283 • Fry stated that amounts tentatively approved for pay and benefits for FY17 is \$402,675  
284 for General Fund (a decrease of \$40,933 from this FY) and \$347,350 (essentially the  
285 same as this year) for the Special Assessment Fund.

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287 D) Report on Staff Inquiry: Moved before the Treasurer's report.

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289 8) NEW BUSINESS:

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291 A) FY17 Special Assessment Methodology and Roll: **Jenkins moved** to accept the draft  
292 report and the date for the August Special Assessment hearing is scheduled for 10AM on 20  
293 August, **seconded** by Sward, **all voted aye**.

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295 B) Resolution for Millage Rate & Preliminary FY17 Budget Hearing: Chair read the resolution  
296 aloud, **Jenkins moved** to approve, **seconded** by LaVallie, and **all voted aye**.

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298 C) Resolution for Line of Credit Renewal: Chair read the resolution aloud, **LaVallie moved** to  
299 approve, **seconded** by Jenkins, and **all voted aye**.

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301 D) Resolution for FY16 Budget Amendment: Chair read the resolution aloud, **Jenkins moved**  
302 to approve, **seconded** by LaVallie, and **all voted aye**.

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304 9) PUBLIC COMMENT: Comments made throughout the meeting. Public proposal to not renew  
305 Chief's contract in September 2017, that the Board immediately begin negotiations with Chief  
306 Kinniry for a severance package and advertise for a new Chief of the District who is willing to  
307 purchase their own house rather than paying a housing allowance or the District purchasing a  
308 house for the Chief's use. Chair requested that a written proposal be sent to the Board for  
309 discussion at the August meeting.

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311 10) NEXT DATES: Special Assessment Budget Hearing and the next Regular Meeting are  
312 Saturday, 20 August 2016

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314 11) ADJOURN – **Moved by Fry, seconded** by Sward; meeting adjourned at 1:28 PM.

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316 Respectfully submitted,

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320 Bill Fry

321 Secretary/Treasurer