

Upper Captiva Fire & Rescue District

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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

negotiate a reasonable settlement or severance package with DC Pepper, in recognition of his 26 years of past faithful service and he deserves at least severance payment

- LaVallie asked whether we had the option of doing as the Public suggests and Sward stated that our reimbursement under the insurance policy could be at risk; Public then clarified that the Board could request permission from the insurance company to enter into settlement discussions and then still provide coverage
- Jenkins stated that he agreed that we should wait for the insurance company to contact us until we take any further action
- LaVallie stated that we really need to start with the insurance company
- Fry asked whether the insurance company would accept and potentially pay our past legal bills or legal bills going forward but Northon stated that it is likely that legal costs going forward would definitely be covered but the inquiry itself might only be partially covered and Fry asked for confirmation that the 12 July Brantley letter had been forwarded to the insurance carrier and Northon stated that, in addition to the Brantley letter, the actual inquiry reports had been/will be sent to the insurance carrier this week or next
- Kinniry stated that counsel has given the Board good advice and we should follow it rather than taking an action on our own, before the insurance company makes their decision
- **Fry moved** that we file a claim with our insurance carrier for prior May, June, and July legal costs related to the inquiry and that neither the Chief, Board, or our attorney's take any further action until our insurance carrier makes a decision on how to proceed, **seconded** by Jenkins, **all voted aye**.
- Chair thanked Northon for his inquiry efforts and his presentation. Fry asked whether it was appropriate for the Chair and a community representative like Roy Wildeman to coordinate a date when Chief Kinniry won't be present, to return Chief Pepper's personal property.

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

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

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

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

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

- 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 the ALS program.

6) COMMISSION REPORTS:

A) Fry-2014 Special Assessment Update: No new payments this month but will create new letters to rebill owners again before the August meeting.

B) LaVallie-Community Committee Update: Committee hasn't met since last monthly fire meeting but Chief has update on easements. Public complaint that the owner of 530 Gulf Lane (at the corner of Bartlett Parkway) had placed new plantings that were encroaching on the road easement but Chief confirmed, according to the owner's recent survey and placed stakes, the plantings were 11' from the center of the road and was what the District would like to see island-wide as a minimum from each property owner. The east side of Gulf Lane is the actual property owner that has encroached on the road and has encroached for many years. For example on Gulf Lane closer to Schooner, the Tade property plantings are on the property line (covering the entire easement) and the Gabbard home itself is on the easement, right on the property line. Chief also spoke with Gary Walker and Danny Davenport, as two centers of influence, for their assistance with educating their buyers and customers on what the easements actually are. Public question about access down Nighthawk past the Toll property and both the Chair and Chief said it remains a problem.

7) OLD BUSINESS:

A) Staff Housing: Based on the question from LaVallie at the last meeting, Fry created a worksheet of expected costs for the District to purchase staff housing. The assumptions are that it would not be on the Station "campus" and that it would potentially require both Chief and the District to pay higher taxes on the taxable value of the equivalent "market rent". There were three tax questions that Fry posed to Pritt after the last meeting; 1) would the District have to impute a "market rent" for District-owned off-campus staff housing, 2) would we have to include that in the Chief's taxable income and then pay various taxes on that "market rent", and 3) whether the District would have to have referendum approval to enter into a "lease/purchase" agreement.

- 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.

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

B) Changing Regular Meeting Days:

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

C) FY17 Pay & Benefits Worksheets: First, some good news, is that the final property valuation increased by over \$4 million over last year, generating an estimated \$18K in additional ad valorem revenue above the County estimate on 1 June. Fry proposed that the focus today be limited to Pay & Benefits in FY17 since this category is roughly 70% of the overall District budget. The key questions for the Board are whether we will approve changes to the District Benefit Plan or provide Annual Raises and none are proposed by the Treasurer. We did two raises for Chief Kinniry; one was about 6% annually that added about \$2800 for Temporary Disability and an additional \$2600 in pay to cover tax costs for Chief Kinniry's new cash housing allowance was another 5%. Included in the read-aheads were the current base-line Pay & Benefits proposal for next year, a comparison of local Fire District pay and benefits, and a table that shows past District raises with Federal Cost of Living (COLA) rates since 2004 that was originally prepared by the former Treasurer during last year's budget hearings.

- Chair asked where the numbers came from for the ending year balances and Fry stated from the approved annual audits filed on the state Auditor General's website. Chair then stated that there were two reserves that we should have and don't 1) for an operating reserve for the first 2-1/2 months before tax receipts are first deposited and 2) an emergency reserve. Fry agreed but also added a third reserve for Capital purchases, based on the annual addition of depreciation expense that is shown in the annual audits, used to purchase replacement equipment when the useful life of equipment has been reached but we barely only have the first one after spending down the only reserves since 2010.
- Sward asked about the overpayments to DC Pepper for insurance and pay that were agreed to between Dec 2015 and Apr 2016 that would have been repaid by working additional shifts and how the District would recover it. Fry stated that he didn't believe it would be recovered at all.
- Chair stated that the \$2600 raise wasn't an actual raise for Chief Kinniry but an assisted payment to cover taxes for the new cash housing allowance so we haven't provided a raise to Chief since he became Acting Chief nearly a year ago. Fry agreed about the \$2600 raise but pointed out again that the Board did approve up to \$3200-\$3300 to pay for the new temporary disability policy that actually was closer to \$2800 actually paid, so there have been 2 raises, just not more cash in the Chief's pocket. Fry also pointed

to the very large raises in 2005, 2007, and 2009 that dramatically outstripped the cost of living raises that might have been called for. Chair stated that was because of the woefully inadequate compensation for our Chiefs and to bring them up to equity.

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

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

8) NEW BUSINESS:

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

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

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

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

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

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

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

Respectfully submitted,

Bill Fry
Secretary/Treasurer