

**Upper Captiva Fire & Rescue District**

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*servicing the community with pride*

**BOARD OF COMMISSIONERS**

**REGULAR MEETING**

20 January 2017

COMMISSIONERS PRESENT: Zeke McDonald, Tom Jenkins, Steve Sward, Bill Fry, AJ LaVallie, and Chief Bob Kinniry.

ISLANDERS PRESENT: Jo Ann Beiermeister, Bill Byrnes (by phone), Sue Ann Cousar, Rick Fox, and Arthur Mason.

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

2) MINUTES: Minutes of the 16 December Regular Meeting were read; **LaVallie moved**, Jenkins **seconded**, and **all voted aye** to accept the minutes with corrections.

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

- Balance Sheet:
  - The total checking account cash balances across all 5 accounts and 3 funds (General, Special Assessment, and Impact Funds) was \$679,158.25 on 31 December and, after the County deposit Tuesday night of \$62,664.86, we had \$708,064.40 in the accounts as of last night. Remember that the detailed numbers on the reports that you have are accrued balances (after all payroll and payable checks were printed but not yet cashed or even mailed on 31 December)
  - The Ad Valorem checking account had a 31 December ending accrued balance of \$1,560.62
  - The new Ad Valorem Money Market Account had a 31 December ending accrued balance of \$635,780.65 (with interest of \$156.75)
  - The Friend's account had a 31 December ending balance of \$15,289.11 (with interest of \$5.78)
  - The Special Assessment checking account had a 31 December ending accrued balance of negative \$6,174.77 (but the cash balance of the account never fell below a positive \$6,472.48)
  - The Impact Fee account had a 31 December ending balance of \$8,085.36 (with interest of \$3.05)
  - Fry stated that there were no unexpected outstanding liabilities other than the usual transfers of expenses between the General Fund and Special Assessment Fund. Of special note is the large amount that the General Fund now owes the Special

Assessment, caused by the single money market account for all County deposits. That amount will remain large but shrink over the next 12 months, until new tax revenues start next November.

- Consolidated Income and Expense Report:
  - After the first quarter of the new FY, we are 25% through the year and have spent 19.22% of the budget. In our major spending categories, Pay & Benefits is at 24.33%, Operating Expenses at 19.38%, and Capital is at 0% (all below the straight line “glide path”).
  - For Revenues, we are at 64% collected through 31 December and that compares to 61% at the same time last year (about \$45,000 more in collections through the end of December compared to last year)
  - In answer to the Chair’s question about Subscriptions and Training costs, Bookkeeper Lynch ran the report, with the detailed lines, provided to the Board without questions.
  - We will discuss proposed budget adjustments, especially in the Special Assessment Fund, to deal with revenue losses from newly documented submerged properties that were assessed this year
- **Sward moved** to accept the Treasurer’s Report, LaVallie **seconded**, **all voted aye**.
- Sward congratulated Chief on his ability to tightly manage the budget, seconded by the entire Board

#### 4) CHIEF’S REPORT:

- Calls Last Year: 137 calls; 5% were fire-related, 72% were emergency medical calls, 4% hazardous conditions (such as electrical, propane leak, etc), 8% service calls (animal rescues, Sheriff’s calls, etc), 4% cancelled calls, 3% false alarms (911 misdials), and 1% severe weather conditions (rounding plus or minus is why the total doesn’t add up to 100% but that is all of the call categories)
- Calls Last Month: 5, including a LeeFlight evacuation; the patient provided a highly complementary letter
- Utility 192 (Formerly the Medical Mule): Warranty work completed on the engine and awaiting barging out from Pine Island; when it arrives on-island, we will pressure clean it, re-paint it, and treat it with the new rust preventative
- GovDeals.com Planned Sales: When U192 returns to full service, we will list the Club Cart and the old Skiff Tower
- 1988 Pierce Engine/Pumper: As a 28 year-old truck, mechanical issues are becoming a concern; our contract mechanic recommends replacing it.
  - Pine Island/Matlacha is willing to donate their reserve engine/pumper when they receive their 2 new engines in the next 4-6 weeks. Chief confirmed that the PI/M pumper will fit in the bay and that he would like to accept the donation, when it is made. Board agreed without comment, recognizing that there will likely be some maintenance requirements, plus painting and decaling, to put it into operation.
  - Chief stated that two minor repairs on the current engine/pumper need to be made in either case

- Chief proposed possible donation of our existing Engine/Pumper to Cayo Costa but the sense of the Board is that we should attempt to sell it and place the proceeds into a new Capital Reserve account for future replacement, since the “new” pumper might last only 5-10 years before major repairs or replacement would be required.
- Marine 191: Contender is in for maintenance, expecting a \$3,000 repair bill that is within the Repair & Maintenance budget, at this point.
  - Fry reminded the Board that he still believes that this is more boat than we need for the core missions of the District, with higher operating and maintenance costs than the skiff was, the longer we delay a decision about replacing/selling it, the less it is worth and the higher our sunk costs for operations and maintenance
  - Chair stated that, although he would have agreed a year ago, he now believes that this really is the best boat for South Banks response (although dockside rather than beachside response), patient evacuation, and marine lifesaving responses
  - LaVallie also stated that South Banks response was significantly improved when we put the new military 2-1/2 ton B-192 into service with 1000 gallons of water and, once we receive a 5 ton to replace T191, we will have the ability to move a significant amount of water and equipment through the Park to South Banks
- Chief’s FY17 Capital Spending Plan:
  - Garage Door Lift Mechanism (Door 3): About \$1,900 cost to replace already spent and this is the second door replaced of the 4 doors; we will likely be replacing the last two doors sooner rather than later
  - Skid-Mounted Pump with 70 Gallons of Water and 100’ of Hose: Commercially designed to go into the back of U192-type Polaris cargo beds for \$7,500 that would be used for small point fires (like small brush or golf cart fires); **Sward moved** to purchase the skid-mounted pump, **seconded** by Jenkins, **approved 4-1** (Fry against since it appears this is a “nice to have” where the capability doesn’t exist now and it isn’t replacing another piece of equipment)
  - 500’ of 1-1/2” Hose and 500’ of 2-3/4” Hose: Cost is \$3,500 for 1000’ of hose; **Fry moved** to purchase the 1,000’ of hose, **seconded** by Sward, **approved 5-0**
  - Metal Hose Rack: Cost is \$2,500; **Fry moved** to purchase the metal hose rack, **seconded** by Jenkins, **approved 4-1** (Sward against since he believed that a wooden 2x4 rack could be built for much cheaper cost)
  - Chief has permission to immediately purchase his proposed Top 3 Priorities
  - 5-Ton Military Truck Modifications: Estimate is \$5,000 but decision **deferred** until we receive the truck from the Division of Forestry
  - Office Remodel: Estimate is \$1,000; purchase **deferred** since details and cost not provided
  - FEMA Grant: Hope to hear a decision about the \$50,000 grant to replace the high-volume pump in the next few months; if that grant isn’t approved, we will need to buy a pump, replace the motor on the failed pump, or determine availability of a rental pump, since the military pump couldn’t be modified to meet our needs. Until we receive the Grant decision, we need to **defer** purchase (but Chief will look into possible rentals)

- Direct Payroll Deposit Update: Chief waiting on about 8 forms from part-time employees and we are on track to start with the 31 January payroll
- The Board accepted the Chief's Report

5) Chair asked Board consent to suspend the agenda and move to Old Business 6A (SHC Restaurant Special Assessment), without objection:

- Chair stated that Attorney Pritt has recommended that, since we are using the County Tax Collector to collect the Special Assessment and that, under new policy, they cannot collect from HOA Common Element properties this year, that we should exempt the Over the Water from the Special Assessment, as we have done the other two SHC Common Element properties. Chair read "Nevertheless, now that we are under the collection methods of 197.3632, we are more or less stuck with their conventions. In sum, if these are the facts, I recommend that the District not assess this year. This does not mean that the Safety Harbor owners will not have to pay a higher assessment next year. In fact, they may. Not even governmental entities escape ad valorem taxation for commercial ventures, which OTW likely is. (See *Treasure Coast Marina v. City of Fort Pierce*, Florida Supreme Court Case No. 16-1107, pending)."
- Fry stated that he didn't read Pritt's recommendation that way but instead that the assessment is allowed under Florida Law as a non-ad valorem assessment and that the Board has two options, based on the Tax Collector's policy to either exempt the Restaurant or generate a direct bill, the same way the entire Year 1 Special Assessment was billed and collected. Fry restated his concern about opening a floodgate of future petitions from other taxpayers for any reason, investing a great deal of time for this Board to sit as an "Equalization Board" to adjudicate those petitions, and second, taking any action that could later be viewed as capricious or arbitrary that puts at risk the entire \$447,400 Special Assessment in future years.
- SHC stated that they weren't concerned about the \$330, other than the principle of the charge since other Common Elements are exempted and that, if exempted this year, they would donate the payment anyway. OTW requested that we exempt them this year and they would reciprocate with an equivalent donation. SHC also suggested that a better solution for next year, if no permanent exemption is provided, was to allocate the future Restaurant assessment amount across the 87 SHC property owners, rather than billing SHC directly. Fry stated that creating an allocation to 87 owners would be more effort (and possibly more consultant labor cost) that would outstrip the benefit.
- Sward restated that, as an Vice President of Safety Harbor Club, he would continue to abstain from discussion and a vote on this issue
- **Fry moved** that we exempt the Over the Water Restaurant Common Element property, as prior Boards have already done for the other 2 SHC Common Elements, but the motion failed due to lack of a second; Chair asked that Fry accept a friendly amendment and Fry declined and suggested that the Chair make his own motion
- **Chair moved** that we exempt the SHC Restaurant Common Element property this year but that we allocate all three common element properties to the individual 87 SHC owners, **seconded** by Jenkins. During discussion, Fry highlighted to SHC that this

motion, if approved, would cause the 87 SHC owners to receive allocations for not just the Restaurant but also for the roads, office, pool, tennis courts, clubhouse, etc. SHC requested that the Board reconsider Fry's motion. **Chair amended** his motion to allocate only the Over the Water Common Element to the 87 SHC property owners and continue to exclude the other 2 Common Element properties, **seconded** by Jenkins, **approved 3-1 (Fry against, Sward abstained)**.

- Fry again restated that he read Pritt's opinion differently, read aloud and copied exactly: "I contacted my associate, Jennifer Nichols, who is familiar with this assessment (from collection letters in year one). She represents Condo and Homeowner Associations and is familiar with taxation of common area property. I also communicated with staff and a couple of board members (separately, of course). It was represented to the Board that OTW was a "membership only" private restaurant. However, I think that a "membership" is open to the general public at a nominal cost. That is a "fact" for the Board to consider. I am of the opinion that the OTW should be assessed as a restaurant if it is assessed through the HOA or the owners in Safety Harbor. Public or private status should not matter."

#### 6) COMMISSIONER REPORTS:

- A) LaVallie-Community Committee Update: Update on the road trimming project was tabled until the next meeting; the Board thanked Bill Byrnes and UCCA for their efforts in the jointly funded project. LaVallie stated that this latest project is really the End of only the Beginning; there still is a great deal of work to be done.
- B) Sward-Legal Update:
- Brantley (former Deputy Chief Pepper's attorney) has requested the District pay Pepper's share of the FICA tax of \$944 (plus the same amount for the District's share of the FICA tax) for the proposed "back pay" settlement.
  - Fry stated that, in addition to that amount, we pay our Workmen's Compensation against the entire District annual payroll and, since the "back wages" are added to that, there would be another 4.23% cost or about \$500 for additional Workmen's Compensation
  - Sward stated that he has already discussed this with Gladfelter's and that, rather than paying the settlement to the District to process a payroll check, they could do a Form 1099 for Miscellaneous Income, where the District wouldn't have any tax liability for the insurance settlement
  - Sward also stated that Gladfelter's have retained an attorney Rey Valesquez to handle this case and Brantley is now requesting more than \$12,000 to cover "back pay" and the taxes on that payment, as well as an additional statement in Pepper's District Personnel File that "he was fit for duty" until the date of his resignation on 1 November 2016.
  - Fry stated that the District received a statement from Pepper's doctor that he was physically fit to return to full firefighter duties, effective 15 December 2015 but that the

District was not qualified to render a medical opinion on his fitness for duty. LaVallie and Chair agreed that we could not make that kind of statement.

- Fry stated that at the 12 December 2015 meeting, when Pepper provided his doctor's statement that he was physically fit to return to duty, that Pepper asked to delay his return to duty until 1 January 2016, the Board agreed to the delay request, terminated Chief Kinniry's temporary appointment as Acting Chief effective 31 December 2015, and Pepper was scheduled for his usual 4 shifts/week starting on 1 January 2016. Pepper then worked less than 50% of his scheduled shifts during the next 2 weeks and, at the 16 January 2016 meeting, Pepper "stepped down" as the Chief of the District but requested to work up to 2 shifts/week until a new Chief was selected. At a Special Meeting of the Board on 30 January 2016, Pepper agreed to a salaried position at half of his prior 4 shifts/week salary, working at least 2 shifts/week plus 50% District-paid health insurance. Then, at the 20 February 2016 meeting, Pepper requested to convert to hourly immediately, working up to 48 hours/week and no District-paid health insurance after 31 March 2016. Based on all of that, the District doesn't need a dated resignation letter since the District has never maintained a Personnel File for Pepper; he never maintained one and the new Chief didn't create one.
- Sward stated that we have already committed to make a \$4,250 contribution to Pepper's retirement account and he told them that was our limit without additional money from the insurance claim
- Chair asked Sward whether there was an action for the Board at this meeting, and Sward confirmed no action was required at this point and that he would continue working with Gladfelter's and Velasquez on the settlement

C) Jenkins-Fun Run:

- Jenkins stated that the Fun Run was successful and that he thanked all of the folks that worked to make it a success
- Fry stated that the Fun Run had contributions and entry fees of \$14,285, expenses of \$3,588, for a net profit of \$10,697 or \$697 after the \$10,000 payment for road trimming
- Chair and Board thanked Jenkins for his hard work in making the event a financial success

D) Sward-Insurance Costs and Coverage Review: The \$1,000 appraisal was completed for the enhanced replacement cost coverage for the Station and Shed is \$894,000 (\$888,000 and \$6,000 respectively) and Chief will process that with our insurance agent, increasing that coverage from the current \$806,000. There will likely be a modest increase in the premium that will provide 100% replacement, if there was a catastrophic loss of the Station. **Sward moved** that we accept the appraisal and request an increase in our insurance coverage, **seconded** by Jenkins, **all voted aye**.

7) OLD BUSINESS:

A) FY17 Special Assessment for SHC Restaurant: Discussed earlier in the meeting

B) FY17 Special Assessment for C. Douglas Miller:

- Fry stated that the County Property Appraiser updated the Property's Classification to "RIVERS, LAKES, SUBMERGED LAND / 95" and that is one of our previously approved exempted categories from the Special Assessment
- **Fry moved** that we exempt this property and reduce the Special Assessment to \$0.00 and direct Chief to notify the State and County, **seconded** by LaVallie; **all voted aye**

8) NEW BUSINESS:

A) Election of Officers:

- Chairman: **LaVallie nominated** McDonald as Chairman, **seconded** by Jenkins, **all voted aye.**
- Vice-Chairman: **Sward nominated** Jenkins as Vice-Chairman, **seconded** by LaVallie, **all voted aye.**
- Secretary & Treasurer: **McDonald nominated** Fry as Secretary & Treasurer, **seconded** by Sward, **all voted aye.**

B) Budget Resolution 2017-01202017:

- Fry explained the basis for the recommended changes to both the General Fund and Special Assessment and answered questions and provided clarifications, as required
- Chair read the resolution aloud Budget Amendment 2017-001
- **Sward** moved that we approve the Resolution, **seconded** by LaVallie. **All voted aye.**

9) PUBLIC COMMENT: Comments made throughout the meeting.

10) NEXT DATE: Next Regular Meeting on Friday, 17 February 2017, beginning at 10 AM.

11) ADJOURN – **Moved by Fry, seconded** by Jenkins; meeting adjourned at 1:24 PM.

Respectfully submitted,

Bill Fry  
Secretary/Treasurer