

Upper Captiva Fire & Rescue District

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servicing the community with pride

Robert Kinniry, Chief: UpperCapFD@aol.com

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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

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

- 45 • Consolidated Income and Expense Report:
 - 46 ○ After the first quarter of the new FY, we are 25% through the year and have spent
 - 47 19.22% of the budget. In our major spending categories, Pay & Benefits is at 24.33%,
 - 48 Operating Expenses at 19.38%, and Capital is at 0% (all below the straight line “glide
 - 49 path”).
 - 50 ○ For Revenues, we are at 64% collected through 31 December and that compares to
 - 51 61% at the same time last year (about \$45,000 more in collections through the end
 - 52 of December compared to last year)
 - 53 ○ In answer to the Chair’s question about Subscriptions and Training costs, Bookkeeper
 - 54 Lynch ran the report, with the detailed lines, provided to the Board without
 - 55 questions.
 - 56 ○ We will discuss proposed budget adjustments, especially in the Special Assessment
 - 57 Fund, to deal with revenue losses from newly documented submerged properties
 - 58 that were assessed this year
- 59 • **Sward moved** to accept the Treasurer’s Report, LaVallie **seconded**, **all voted aye**.
- 60 • Sward congratulated Chief on his ability to tightly manage the budget, seconded by the
- 61 entire Board

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63 4) CHIEF’S REPORT:

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- 65 • Calls Last Year: 137 calls; 5% were fire-related, 72% were emergency medical calls, 4%
- 66 hazardous conditions (such as electrical, propane leak, etc), 8% service calls (animal
- 67 rescues, Sheriff’s calls, etc), 4% cancelled calls, 3% false alarms (911 misdials), and 1%
- 68 severe weather conditions (rounding plus or minus is why the total doesn’t add up to
- 69 100% but that is all of the call categories)
- 70 • Calls Last Month: 5, including a LeeFlight evacuation; the patient provided a highly
- 71 complementary letter
- 72 • Utility 192 (Formerly the Medical Mule): Warranty work completed on the engine and
- 73 awaiting barging out from Pine Island; when it arrives on-island, we will pressure clean
- 74 it, re-paint it, and treat it with the new rust preventative
- 75 • GovDeals.com Planned Sales: When U192 returns to full service, we will list the Club
- 76 Cart and the old Skiff Tower
- 77 • 1988 Pierce Engine/Pumper: As a 28 year-old truck, mechanical issues are becoming a
- 78 concern; our contract mechanic recommends replacing it.
 - 79 ○ Pine Island/Matlacha is willing to donate their reserve engine/pumper when they
 - 80 receive their 2 new engines in the next 4-6 weeks. Chief confirmed that the PI/M
 - 81 pumper will fit in the bay and that he would like to accept the donation, when it is
 - 82 made. Board agreed without comment, recognizing that there will likely be some
 - 83 maintenance requirements, plus painting and decaling, to put it into operation.
 - 84 ○ Chief stated that two minor repairs need to be made in either case

- 85 ○ Chief proposed possible donation of our existing Engine/Pumper to Cayo Costa but
86 the sense of the Board is that we should attempt to sell it and place the proceeds
87 into a new Capital Reserve account for future replacement, since the “new” pumper
88 might last only 5-10 years before major repairs or replacement would be required.
- 89 ● Marine 191: Contender is in for maintenance, expecting a \$3,000 repair bill that is
90 within the Repair & Maintenance budget, at this point.
- 91 ○ Fry reminded the Board that he still believes that this is more boat than we need for
92 the core missions of the District, with higher operating and maintenance costs than
93 the skiff was, the longer we delay a decision about replacing/selling it, the less it is
94 worth and the higher our sunk costs for operations and maintenance
- 95 ○ Chair stated that, although he would have agreed a year ago, he now believes that
96 this really is the best boat for South Banks response (although dockside rather than
97 beachside response), patient evacuation, and marine lifesaving responses
- 98 ○ LaVallie also stated that South Banks response was significantly improved when we
99 put the new military 2-1/2 ton B-192 into service with 1000 gallons of water and,
100 once we receive a 5 ton to replace T191, we will have the ability to move a significant
101 amount of water and equipment through the Park to South Banks
- 102 ● Chief’s FY17 Capital Spending Plan:
- 103 ○ Garage Door Lift Mechanism (Door 3): About \$1,900 cost to replace already spent
104 and this is the second door replaced of the 4 doors; we will likely be replacing the
105 last two doors sooner rather than later
- 106 ○ Skid-Mounted Pump with 70 Gallons of Water and 100’ of Hose: Commercially
107 designed to go into the back of U192-type Polaris cargo beds for \$7,500 that would
108 be used for small point fires (like small brush or golf cart fires); **Sward moved** to
109 purchase the skid-mounted pump, **seconded** by Jenkins, **approved 4-1** (Fry against
110 since it appears this is a “nice to have” where the capability doesn’t exist now and it
111 isn’t replacing another piece of equipment)
- 112 ○ 500’ of 1-1/2” Hose and 500’ of 2-3/4” Hose: Cost is \$3,500 for 1000’ of hose; **Fry**
113 **moved** to purchase the 1,000’ of hose, **seconded** by Sward, **approved 5-0**
- 114 ○ Metal Hose Rack: Cost is \$2,500; **Fry moved** to purchase the metal hose rack,
115 **seconded** by Jenkins, **approved 4-1** (Sward against since he believed that a wooden
116 2x4 rack could be built for much cheaper cost)
- 117 ○ Chief has permission to immediately purchase his proposed Top 3 Priorities
- 118 ○ 5-Ton Military Truck Modifications: Estimate is \$5,000 but decision **deferred** until we
119 receive the truck from the Division of Forestry
- 120 ○ Office Remodel: Estimate is \$1,000; purchase **deferred** since details and cost not
121 provided
- 122 ○ FEMA Grant: Hope to hear a decision about the \$50,000 grant to replace the high-
123 volume pump in the next few months; if that grant isn’t approved, we will need to
124 buy a pump, replace the motor on the failed pump, or determine availability of a
125 rental pump, since the military pump couldn’t be modified to meet our needs. Until
126 we receive the Grant decision, we need to **defer** purchase (but Chief will look into
127 possible rentals)

- 128 • Direct Payroll Deposit Update: Chief waiting on about 8 forms from part-time
- 129 employees and we are on track to start with the 31 January payroll
- 130 • The Board accepted the Chief's Report
- 131

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

- 134
- 135 • Chair stated that Attorney Pritt has recommended that, since we are using the County
- 136 Tax Collector to collect the Special Assessment and that, under new policy, they cannot
- 137 collect from HOA Common Element properties this year, that we should exempt the Over
- 138 the Water from the Special Assessment, as we have done the other two SHC Common
- 139 Element properties. Chair read "Nevertheless, now that we are under the collection
- 140 methods of 197.3632, we are more or less stuck with their conventions. In sum, if these
- 141 are the facts, I recommend that the District not assess this year. This does not mean that
- 142 the Safety Harbor owners will not have to pay a higher assessment next year. In fact, they
- 143 may. Not even governmental entities escape ad valorem taxation for commercial
- 144 ventures, which OTW likely is. (See *Treasure Coast Marina v. City of Fort Pierce*, Florida
- 145 Supreme Court Case No. 16-1107, pending)."
- 146 • Fry stated that he didn't read Pritt's recommendation that way but instead that the
- 147 assessment is allowed under Florida Law as a non-ad valorem assessment and that the
- 148 Board has two options, based on the Tax Collector's policy to either exempt the
- 149 Restaurant or generate a direct bill, the same way the entire Year 1 Special Assessment
- 150 was billed and collected. Fry restated his concern about opening a floodgate of future
- 151 petitions from other taxpayers for any reason, investing a great deal of time for this
- 152 Board to sit as an "Equalization Board" to adjudicate those petitions, and second, taking
- 153 any action that could later be viewed as capricious or arbitrary that puts at risk the
- 154 entire \$447,400 Special Assessment in future years.
- 155 • SHC stated that they weren't concerned about the \$330, other than the principle of the
- 156 charge since other Common Elements are exempted and that, if exempted this year,
- 157 they would donate the payment anyway. SHC requested that we exempt them this year
- 158 and they would reciprocate with an equivalent donation. SHC also suggested that a
- 159 better solution for next year, if no permanent exemption is provided, was to allocate the
- 160 future Restaurant assessment amount across the 87 SHC property owners, rather than
- 161 billing SHC directly. Fry stated that creating an allocation to 87 owners would be more
- 162 effort (and possibly more consultant labor cost) that would outstrip the benefit.
- 163 • Sward restated that, as an Vice President of Safety Harbor Club, he would continue to
- 164 abstain from discussion and a vote on this issue
- 165 • **Fry moved** that we exempt the Over the Water Restaurant Common Element property,
- 166 as prior Boards have already done for the other 2 SHC Common Elements, but the
- 167 motion failed due to lack of a second; Chair asked that Fry accept a friendly amendment
- 168 and Fry declined and suggested that the Chair make his own motion
- 169 • **Chair moved** that we exempt the SHC Restaurant Common Element property this year
- 170 but that we allocate all three common element properties to the individual 87 SHC

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

178 • Fry again restated that he read Pritt's opinion differently, read aloud and copied exactly:
179 "I contacted my associate, Jennifer Nichols, who is familiar with this assessment (from
180 collection letters in year one). She represents Condo and Homeowner Associations and
181 is familiar with taxation of common area property. I also communicated with staff and a
182 couple of board members (separately, of course). It was represented to the Board that
183 OTW was a "membership only" private restaurant. However, I think that a
184 "membership" is open to the general public at a nominal cost. That is a "fact" for the
185 Board to consider. I am of the opinion that the OTW should be assessed as a restaurant
186 if it is assessed through the HOA or the owners in Safety Harbor. Public or private status
187 should not matter."
188

189 6) COMMISSIONER REPORTS:
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191 A) LaVallie-Community Committee Update: Update on the road trimming project was
192 tabled until the next meeting; the Board thanked Bill Byrnes and UCCA for their efforts in
193 the jointly funded project. LaVallie stated that this latest project is really the End of only
194 the Beginning; there still is a great deal of work to be done.
195

196 B) Sward-Legal Update:
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- 198 • Brantley (former Chief Deputy Pepper's attorney) has requested the District pay Pepper's
199 share of the FICA tax of \$944 (plus the same amount for the District's share of the FICA
200 tax) for the proposed "back pay" settlement.
- 201 • Fry stated that, in addition to that amount, we pay our Workmen's Compensation
202 against the entire District annual payroll and, since the "back wages" are added to that,
203 so there would be another 4.23% cost or about \$500 for additional Workmen's
204 Compensation
- 205 • Sward stated that he has already discussed this with Gladfelter's and that, rather than
206 paying the settlement to the District to process a payroll check, they could do a Form
207 1099 for Miscellaneous Income, where the District wouldn't have any tax liability for the
208 insurance settlement
- 209 • Sward also stated that Gladfelter's have retained an attorney Rey Valesquez to handle
210 this case and Brantley is now requesting more than \$12,000 to cover "back pay" and the
211 taxes on that payment, as well as an additional statement in Pepper's District Personnel
212 File that "he was fit for duty" until the date of his resignation on 1 November 2016.

- 213 • Fry stated that the District received a statement from Pepper's doctor that he was
214 physically fit to return to full firefighter duties, effective 15 December 2015 but that the
215 District was not qualified to render a medical opinion on his fitness for duty. LaVallie
216 and Chair agreed that we could not make that kind of statement.
- 217 • Fry stated that at the 12 December 2015 meeting, when Pepper provided his doctor's
218 statement that he was physically fit to return to duty, that Pepper asked to delay his
219 return to duty until 1 January 2016, the Board agreed to the delay request, terminated
220 Chief Kinniry's temporary appointment as Acting Chief effective 31 December 2015, and
221 Pepper was scheduled for his usual 4 shifts/week starting on 1 January 2016. Pepper
222 then worked less than 50% of his scheduled shifts during the next 2 weeks and, at the 16
223 January 2016 meeting, Pepper "stepped down" as the Chief of the District but requested
224 to work up to 2 shifts/week until a new Chief was selected. At a Special Meeting of the
225 Board on 30 January 2016, Pepper agreed to a salaried position at half of his prior 4
226 shifts/week salary, working at least 2 shifts/week plus 50% District-paid health insurance
227 and then, at the 20 February 2016 meeting, Pepper requested to convert to hourly
228 immediately, working up to 48 hours/week and no District-paid health insurance after 31
229 March 2016. Based on all of that, the District doesn't need a dated resignation letter
230 since the District has never maintained a Personnel File for Pepper; he never maintained
231 one and the new Chief didn't create one.
- 232 • Sward stated that we have already committed to make a \$4,250 contribution to Pepper's
233 retirement account and he told them that was our limit without additional money from
234 the insurance claim
- 235 • Chair asked Sward whether there was an action for the Board at this meeting, and Sward
236 confirmed no action was required at this point and that he would continue working with
237 Gladfelter's and Velasquez on the settlement

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239 C) Jenkins-Fun Run:

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- 241 • Jenkins stated that the Fun Run was successful and that he thanked all of the folks that
242 worked to make it a success
- 243 • Fry stated that the Fun Run had contributions and entry fees of \$14,285, expenses of
244 \$3,588, for a net profit of \$10,697 or \$697 after the \$10,000 payment for road trimming
- 245 • Chair and Board thanked Jenkins for his hard work in making the event a financial
246 success

247

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

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256 7) OLD BUSINESS:

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

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260 B) FY17 Special Assessment for C. Douglas Miller:

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262 • Fry stated that the County Property Appraiser updated the Property's Classification to

263 "RIVERS, LAKES, SUBMERGED LAND / 95" and that is one of our previously approved

264 exempted categories from the Special Assessment

265 • **Fry moved** that we exempt this property and reduce the Special Assessment to \$0.00

266 and direct Chief to notify the State and County, **seconded** by LaVallie; **all voted aye**

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268 8) NEW BUSINESS:

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270 A) Election of Officers:

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272 • Chairman: **LaVallie nominated** McDonald as Chairman, **seconded** by Jenkins, **all voted**

273 **aye.**

274 • Vice-Chairman: **Sward nominated** Jenkins as Vice-Chairman, **seconded** by LaVallie, **all**

275 **voted aye.**

276 • Secretary & Treasurer: **McDonald nominated** Fry as Secretary & Treasurer, **seconded**

277 by Sward, **all voted aye.**

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279 B) Budget Resolution 2017-01202017:

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281 • Fry explained the basis for the recommended changes to both the General Fund and

282 Special Assessment and answered questions and provided clarifications, as required

283 • Chair read the resolution aloud Budget Amendment 2017-001

284 • **Sward** moved that we approve the Resolution, **seconded** by LaVallie. **All voted aye.**

285

286 9) PUBLIC COMMENT: Comments made throughout the meeting.

287

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

289

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

291

292 Respectfully submitted,

293

294

295

296 Bill Fry

297 Secretary/Treasurer