

**Upper Captiva Fire & Rescue District**

4511 Hodgepodge Lane  
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*servicing the community with pride*

Robert Kinniry, Chief: UpperCapFD@aol.com

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**BOARD OF COMMISSIONERS**

**REGULAR MEETING**

17 February 2017

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

ISLANDERS PRESENT: Erin LaVallie, Bill Byrnes, Hart Kelley, Joanna Drummond, and Sue Ann Cousar.

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

2) MINUTES: Minutes of the 20 January Regular Meeting were read; **LaVallie moved**, Jenkins **seconded**, and **all voted aye** to accept the minutes with corrections.

3) Secretary asked Board's consent to suspend the agenda, without objection, and move to Public Comment to hear:

- Proposal from Hart Kelley for Community Committee Update:
  - Kelley contacted the County Commission to determine whether there was any funding available for pathway maintenance and was told no but Melissa Geissler at Lee County Special Taxing Districts directed him to:
    - The County Attorney, who stated that a Municipal Services Taxing Unit could be established after submitting a petition signed by 50% of the **property owners**, plus 1, requesting an MSTU
    - Strayhorn & Strayhorn (Attorney Richard Pringle) for information about a non-ad valorem fee assessment which requires approval of 50% +1 of the **registered voters** in a referendum, since the recodification of the District (Chapter 2004-470, Laws of Florida) includes language allowing for District maintenance of pathways for fire emergency access
      - Pringle referred Kelley to Attorney Heather Encinosa with Nabors, Giblin & Nickerson in Tallahassee, who stated that a referendum approved special assessment was apparently allowed but that the District should, to the maximum extent possible, ensure that "it will not be opening itself to any sort of trespass or inverse condemnation claim"
      - Kelley stated that, with about 700 properties on the island, a fixed \$100 annual assessment per property would raise \$70,000/year for pathway maintenance

- 43                   • The key difference between a County-managed MSTU and a District-managed  
44                   non-ad valorem special assessment is that the money, priorities, and projects  
45                   would be managed by the District, instead of the County Commission  
46           ○ LaVallie then presented his issues on Easements, Roads and Brazilian Pepper  
47           eradication:  
48           ▪ He stated that with 12-15 new homes each year, in 7 years we could have 100+  
49           new homes and the problem just gets worse and we need to start working to fix  
50           it now  
51           ▪ Chair restated that we need an updated AG opinion that would support  
52           expenditure of District funds on pathway maintenance and Brazilian Pepper  
53           eradication without direct billing individual owners for work accomplished and  
54           placing a lien on properties when the owner doesn't immediately pay  
55           ▪ Fry stated that the District should not get into the business of direct-billing since  
56           we still have a small number of owners that are delinquent in paying Year 1 of  
57           the Fire Services Special Assessment and we don't want to get into a continuing  
58           requirement for direct-billing or imposing individual liens on properties  
59           ▪ Fry recommended that we have Pritt request a new written opinion from AG  
60           Bondi allowing the District to maintain the roads with taxpayer funds (without  
61           billing individual owners for that work) and, once a positive opinion is received,  
62           then brief the Board on the cost, timeline, and requirements for a referendum  
63           for a District-managed Road Maintenance Special Assessment and lastly develop  
64           and implement a Strategic Communications Plan to convince our voters to  
65           approve the referendum, leveraging other interested parties like the UCCA's and  
66           Kelley's various email lists, along with the Friends of the Fire Department  
67           ▪ LaVallie stated that he believed that the first step was identifying what we  
68           actually want to accomplish; Sward agreed that we need to know what we  
69           believe it will cost to accomplish what we want  
70           ▪ Board agreed that LaVallie would keep the lead on working with the Community  
71           Committee, including gathering data for a possible Special Meeting to brief the  
72           Board and make decisions  
73           ○ Enforcement of Easements:  
74           ▪ Chair then moved on to the Proposed Administrative Actions hand-out prepared  
75           by Fry, where the Chief would be directed to identify the most egregious  
76           violators of the pathway easements and begin oral discussions with those  
77           owners, then written notice to the owners, culminating in complaints to County  
78           Code Enforcement, County Manager, County Attorney, and the County  
79           Commission, if required.  
80           ▪ Fry stated that past efforts with Code Enforcement may not have been pressed to  
81           the ultimate decision makers, instead letting it drop when Code Enforcement  
82           says that it can't be done  
83           ▪ LaVallie stated that after working the latest road trimming project, he believes  
84           that 90% our meandering roads are within the easements (meandering north  
85           and south within the easement but still mostly within the easement)  
86           ▪ Sward stated that what was being overlooked was the willingness of the County  
87           to enforce the easements since they are private roads, especially since he isn't

- 88                   sure what the easements say on the deeds, and that the District might not have  
89                   standing to enforce the easements and that determination should be included in  
90                   a written legal opinion
- 91                   ▪ Sward was designated by the Board to make initial contact with Pritt to  
92                   determine how the District can enforce the easement boundaries and maintain  
93                   the pathways, with or without a pathway maintenance special assessment
  - 94                   ▪ Chair asked Chief and LaVallie to begin discussions with property owners  
95                   violating their easements and then escalate as required, in accordance with the  
96                   Proposed Administrative Procedures hand-out
- 97                   • Public asked whether the Chief could start a pre-sunset to dusk patrol of the beaches  
98                   during the Spring and Summer to eliminate campfires on the beach and the Board  
99                   agreed

100  
101 4) TREASURER'S REPORT: The current status of the financial accounts are:

- 102  
103                   • Balance Sheet:
  - 104                   ○ The Ad Valorem checking account had a 31 January ending accrued balance of  
105                   \$3,947.35
  - 106                   ○ The new Ad Valorem Money Market Account had a 31 January ending accrued  
107                   balance of \$600,782.23 (with interest of \$294.66)
  - 108                   ○ The Friend's account had a 31 January ending balance of \$15,289.11 (no change  
109                   from last month)
  - 110                   ○ The Special Assessment checking account had a 31 January ending accrued balance  
111                   of \$5,000.00
  - 112                   ○ The Impact Fee account had a 31 January ending balance of \$8,085.36 (no change  
113                   from last month)
  - 114                   ○ Fry stated that there were no unexpected outstanding liabilities other than the usual  
115                   transfers of expenses between the General Fund and Special Assessment Fund. Of  
116                   special note is the \$200,243.76 that the General Fund now owes the Special  
117                   Assessment, caused mainly by the single money market account for all County  
118                   deposits. That amount will remain large but continue to shrink over the next 11  
119                   months, until new tax revenues start next November.
- 120                   • Consolidated Income and Expense Report:
  - 121                   ○ Four months into the new FY, we are 33.3% through the year and have spent 30.87%  
122                   of the budget. In our major spending categories, Pay & Benefits is at 32.40%,  
123                   Operating Expenses at 30.43%, and Capital is still at 0% (all below the straight line  
124                   "glide path").
  - 125                   ○ For Revenues, we are at 70.6% collected through 31 January and that compares to  
126                   70.3% at the same time last year (about \$7,000 more in collections)
- 127                   • **LaVallie moved** to accept the Treasurer's Report, Jenkins **seconded**, **all voted aye**.

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129 5) CHIEF'S REPORT:

- 130  
131                   • Calls Last Month: 13, including a LeeFlight evacuation this morning

- 132 • Lee County 911 Dispatch will now include whatever information that the caller provides,  
133 including a house name or rental unit number (and that was done this morning)
- 134 • Utility 192 (Formerly the Medical Mule): Back on the island and was repainted and rust  
135 preventative was sprayed on the undercarriage ... looks brand new
- 136 • New Hose Rack: Received but still awaiting the new hose that was ordered
- 137 • 1988 Pierce Engine/Pumper:
  - 138 ○ Will defer all maintenance with pending receipt of the Pine Island/Matlacha pumper,  
139 expected within the next month since PI/M has just received their 2 new  
140 engine/pumpers
  - 141 ○ PI/M has already painted a “Thanks to Iona Fire District” and we will add a similar  
142 “Thanks to Pine Island/Matlacha Fire District” once we receive it
  - 143 ○ **Fry moved** that we list the engine/pumper on GovDeals.com with an appropriate  
144 reserve and that any proceeds be placed into a new Capital Reserve account for a  
145 future replacement, **seconded** by LaVallie, **all voted aye** but Board deferred the  
146 actual listing on GovDeals.com until we receive a decision on the grant request for a  
147 new high-volume pump, since the current engine has its own high-volume pump
- 148 • GovDeals.Com Listings: Plan on listing equipment before the next meeting to sell
  - 149 ○ Red Club Cart is now excess since U192 is back on-island
  - 150 ○ Green Ez-GO cart’s muffler just fell off and it will be listed and likely sold for only  
151 minimal value
  - 152 ○ Old Skiff Tower, that is now excess
- 153 • Station Fire/Smoke Alarm System: Been out of service for more than 2 years, was  
154 recently inspected and, although in overall good shape, a circuit board needs to be  
155 replaced; currently working on getting a repair estimate
- 156 • Marine 191: \$3,600 worth of service work completed and it is back in service
- 157 • High-Volume Fire Pump Rental: No suitable pumps were found to rent; the best was a  
158 800 GPM/40 PSI de-watering/trash pump that wouldn’t meet our requirements
- 159 • Firehouse Subs Donation on 22 February at the Veteran’s Parkway Shop: FF/P Deke  
160 applied for a FLIR Camera (night vision/infrared camera) that was approved, which can  
161 be used to see channel markers or victims in the water after dark, worth about \$3,400
- 162 • Direct Payroll Deposit Update: Two payrolls have been processed on 31 January and 15  
163 February, with only one reject that was resolved the next day; everything is working well
- 164 • The Board accepted the Chief’s Report

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166 6) COMMISSIONER REPORTS:

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168 A) LaVallie-Community Committee Update: Updated earlier in paragraph 3) above

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170 B) Sward-Legal Update:

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- 172 • Brantley (former Deputy Chief Pepper’s attorney) has requested the District pass a new  
173 resolution that states that “allegations regarding his mental health and overall fitness for  
174 duty as a firefighter be closed with the allegations having been determined as  
175 unfounded”.

- 176 • Fry stated that is asking the Board to make a medical determination that we are  
177 unqualified to do, while we have already passed a resolution in October “that the  
178 informal inquiry was closed without taking any further action on July 16<sup>th</sup>, 2016” at the  
179 October meeting  
180 • Sward will continue to work with Attorney Velasquez, Attorney Brantley, and Attorney  
181 Pritt to work on language that the Board can approve, without making any medical  
182 determination  
183

184 C) Update on First Year Special Assessment Delinquent Collections:  
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- 186 • Fry stated that the current accounts receivable from unpaid first year assessments is  
187 \$14,239.13 with two collections totaling \$1,189.50 (Slocum & Grant) since the Board  
188 was updated last February  
189 • Fry created new bills on 1 February that were mailed out to all of the owners of  
190 properties that are still delinquent, including these new owners:  
191 ○ NBC Investments LLC Purchased 17 Mar 2016 05-45-21-12-00000.0120 4621 ORO PESOS \$ 713.86  
192 ○ Wilmington Savings Fund Societ Foreclosure 22 Nov 2016 05-45-21-11-00000.0010 4511 HIDDEN \$1,748.79  
193 ○ Krinch Scott A Purchased 23 Dec 2016 05-45-21-17-00002.0330 4440 SMUGGLERS \$ 491.30  
194 ○ Bank of America Foreclosure 5 Jan 2017 05-45-21-12-00000.0040 4541 ORO PESOS \$ 264.06  
195 • Fry also provided the list of delinquent properties to real estate professionals on the  
196 Island, since collection should occur out of future sales as part of the closing processes,  
197 after discovering that 3 properties are currently in closing (and two others are for sale):  
198 ○ Fischer James C + Schall Carolyn Pending 32-44-21-01-0000D.0070 181 WHITE PELICAN \$ 569.96  
199 ○ Marmo Vincent J + Mary Jane Pending 05-45-21-17-00004.0090 4500 CUTLASS \$ 767.41  
200 ○ Mandell Aaron H 50% + Pending 05-45-21-09-00000.0340 4471 PANAMA SHELL \$ 639.61  
201 ○ Cunningham Joe For Sale 05-45-21-07-00000.0010 721 RUM \$ 311.55  
202 ○ Fischer James C + Mazza Salvatore For Sale 05-45-21-08-00000.0300 4521 BUTTERFLY SHE \$1,283.98  
203 • LaVallie asked whether there are liens on all of the properties that are delinquent on  
204 Year 1 of the Special Assessment and Fry stated that is what we understood from Pritt  
205 but it doesn’t appear that individual liens with specific amounts owed on the remaining  
206 accounts receivable are in place  
207 • Chair asked Sward to question Pritt to see if specific liens need to be filed on all 21 of the  
208 delinquent properties that are currently unpaid  
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210 D) Sward-Insurance Update:  
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- 212 • Increased the insurance on the new military truck to \$30,000, if we were required to  
213 replace it in an open, commercial market purchase, with only a minimal increase in  
214 overall cost of insurance premiums  
215 • \$5 Million Excess Liability Coverage: Current policy covers \$1 million in liability but  
216 additional excess/umbrella coverage would cost \$3,800 more per year; the Board  
217 declined to increase our coverage, leaving our current \$1 million coverage in place  
218 • \$10,000 Dishonesty/Embezzlement Coverage: To increase the limit, the District would  
219 have to implement 2-signatures on every check and the bank account would have to be  
220 reconciled monthly by someone that doesn’t sign the checks  
221 ○ Fry stated that we currently have 1-signature on each check and the bank account is  
222 reconciled monthly by Bookkeeper Lynch

- 223 ○ Fry reminded the Board that Chief certifies the invoice, the Bookkeeper matches the
- 224 invoice to the printed check, verifying that the invoice isn't a duplicate
- 225 ○ And a Commissioner verifies/signs the invoice and the check
- 226 ○ For Direct Deposit payroll, the Officer on Duty certifies that the FF worked the
- 227 reported hours on that shift, the Chief validates that the Officers and FFs were on
- 228 schedule for that shift, the Bookkeeper prepares the payroll file to transmit to the
- 229 bank for those amounts, and the Commissioner initials the timesheet, the payroll
- 230 listing and verifies the listing against the payroll voucher provided to the employee
- 231 ○ Sense of the Board is that our internal controls are adequate, that we would not add
- 232 a second signature to each check, and that we would not increase the \$10,000 policy
- 233

234 7) OLD BUSINESS:

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236 A) No Parking in Fire Lane Signs:

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- 238 ● **LaVallie moved** that the Board approve acquisition of 10 signs for initial placement at
- 239 the west ends of North Airport Ln, Seair Ln, Oro Pesos Ln, Hidden Ln, Hodgepodge Ln,
- 240 and Escondido Ln, placed in the center of each pathway, seconded by Jenkins, **all**
- 241 **voted aye.**
- 242 ● Public attendee stated that Bruce Bailey, the owner of Bailey Signs in Maine, has
- 243 agreed to provide signs at no cost to the UCCA and that he might agree to provide
- 244 them to the District, especially since his home is near the west end of Escondido Ln;
- 245 contact details will be provided to Chief by that attendee
- 246

247 B) Certificates of Thanks for Fun Run Donors: Chief and Jenkins will finalize those

248 certificates before the next meeting

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250 8) NEW BUSINESS:

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252 A) Draft Public Facility Report:

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- 254 ● Chair provided his file copy of the 2009 PFR, the last report that was apparently
- 255 submitted, even though the Department of Community Development had no previous
- 256 versions on file
- 257 ● Fry provided basic background about the draft report and asked Commissioners to
- 258 provide updates, proposed changes, and insertions to Chief by 2 March (2 weeks from
- 259 today) by section and/or paragraph in WORD and Fry would consolidate those
- 260 comments into a redlined draft for discussion and decision at the 17 March meeting
- 261 ● Fry highlighted what might be the most controversial recommendations in the draft
- 262 document:
- 263 ○ Funding (assumed \$5 million/year in increased ad valorem valuations) and expense
- 264 projections (assumed a 1% annual increase in costs) for the next 8 years, rather
- 265 than just 5 years, since that is when the Special Assessment expires, leaving a
- 266 \$300,000+ deficit in funding 4 FFs/day in FY25

- 267           ○ Draft proposal to reduce the millage rate from the 3.75 mil maximum, for the first  
268           time in 4+ years, leaving the Special Assessment at the \$447,400 (net) level  
269           ○ Draft proposal to eliminate the planned station addition from the plan, based on  
270           the failure of the first referendum in 2012  
271           ○ Chair also suggested addition of language for the need for State funding because of  
272           the large amount of their land in the District's boundaries, as well as a future Lee  
273           County Legislative Delegation request  
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275       B) Building Repair & Maintenance:

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- 277           • Chair asked all of the Commissioners to examine the building to identify what they
  - 278           would like to see done around the building
  - 279           • Fry suggested that Chief needed to identify all of the required work, identify the costs
  - 280           for materials, and whether it was within the capabilities of part-time staff
- 281

282       C) Attorney Brantley Request for Public Records:

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- 284           • Sward stated that the District has received another RPR for additional information, even
  - 285           though Brantley had not paid for the previous request after information was provided
  - 286           • Brantley stated that he would pay \$123.65 for the last request and the District will
  - 287           develop an estimate for labor (Attorney and/or Bookkeeper, but not Chief's labor) and
  - 288           costs to generate the response and that he must pay in advance
  - 289           • If Brantley's next initial payment is too high, the overpayment will be refunded but if
  - 290           the payment isn't sufficient, he'll be given an additional bill
  - 291           • Sward has confirmed with Pritt that the District can bill for RPRs and can request
  - 292           payment in advance for future requests
- 293

294       9) PUBLIC COMMENT: Comments made throughout the meeting. Public asked whether the  
295       District would pay 50% of the website subscription again this year, since the District and the  
296       UCCA are the only organizations still active; Board agreed. Public asked whether the District  
297       was happy with the new schedule of 3<sup>rd</sup> Friday for meetings and Chair stated that we have  
298       published the schedule in the News-Press for the entire year and it seems to be working well.  
299

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

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302       11) ADJOURN – **Moved by Fry, seconded** by LaVallie; meeting adjourned at 1:15 PM.

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304       Respectfully submitted,

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308       Bill Fry

309       Secretary/Treasurer