

**Upper Captiva Fire & Rescue District**

4511 Hodgepodge Lane

P.O. Box 322

Pineland, FL 33945

Phone: 239-472-8899 / Fax: 239-472-1582

Robert Kinniry, Chief: UpperCapFD@aol.com



*servicing the community with pride*

**BOARD OF COMMISSIONERS**

**REGULAR MEETING**

2 June 2017

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

ISLANDERS PRESENT: Jackie Byrnes, Sue Ann Cousar, Jo Ann Beiermeister, and Bill Byrnes.

1) CALL TO ORDER: Chairman McDonald called the meeting to order at 10:01 AM.

2) FY16 Annual Independent Audit: Chair set aside the agenda, without objection, for Jeff Brown, our independent auditor to present his findings:

- Statement of Net Position (page 8): Good numbers with a positive unrestricted cash reserve
- Balance Sheet (page 10): Cash basis (no capital) with accruals like payables, used for budgeting
- Statement of Revenues and Expenditures (page 12): Similar to Profit and Loss in a business, using a “modified accrual” accounting basis for government accounting
- Findings: No identified deficiencies; an overall positive and “clean” report
- **Fry moved** to accept the independent auditor’s report, **seconded** by Jenkins and **all voted aye**.

3) MINUTES: Minutes of the 19 May Regular Meeting were read; **Jenkins moved**, Sward **seconded**, and **all voted aye** to accept the minutes with corrections.

4) TREASURER’S REPORT: Tabled until 21 July meeting due to early June meeting

5) CHIEF’S REPORT:

- Calls Last Month: 51 (5 more calls since the last meeting), including a transport with the Contender
- M191 Contender: Maintenance completed, including cleaning the bottom of the boat and discovered need to have it repainted
- Hurricane Season: Officially started yesterday and Island plan is posted on the website
- 1988 Pierce Engine/Pumper: Awaiting estimate for work

- FEMA Grant for High Volume Pump (750 gallons per minute): No updated status
- Beach Campfire Patrols: On-going and, since patrols started, seems to have resolved without any calls or complaints but will suspend for the remainder of turtle season
- State Park Firebreak: Awaiting funding update from State
- The Board accepted the Chief's Report

6) COMMISSIONER REPORTS:

A) Sward-Legal Update: All settlement documents have been completed and awaiting receipt of the signed documents from the Insurer's Attorney and clearing of the check and now final/closed

B) LaVallie-Community Committee Update:

- **LaVallie moved** to reopen the topic to discuss costs for a legal opinion on the process to begin a new special assessment for pathway surface maintenance, **seconded** by Jenkins:
  - Sward and McDonald reminded the Board that we already have three legal opinions and McDonald discussed with Attorney Pringle that the District has the need to get fire and rescue equipment to an incident and that we have no responsibility to improve pathways for golf carts to operate
  - Jenkins stated that we took responsibility, along with the UCCA, to clear brush from the pathways and didn't worry about where the paths were supposed to be then and not sure why that is a worry for discussing surface maintenance
  - LaVallie stated that the condition of our pathways does inhibit our delivery of service and we should be identifying what our standard should be and that HB1717 that re-codified the District stated maintenance could be done and, if all that was envisioned in 2004 was trimming the pathways, the law should have stated only that. The roads will deteriorate over the coming rainy season and that will inhibit our ability to provide timely response on a medical or fire call and we should investigate whether we can legally implement pathway maintenance under our stated powers or not
  - Fry suggested that we will continue to restate our positions on this topic without coming to any resolution and the question should be called
  - Chair then called the question on whether to un-table this issue; **passed 3-2 (Sward and McDonald opposed)**.
- **Fry moved** that we allow LaVallie permission to contact Pritt & Pringle to ask for cost proposals to represent the District through 30 September 2017 on the legal issues related to a possible referendum and potential implementation of a pathway special assessment, **seconded** by Jenkins.
  - Sward again stated that we are in the process of getting a proposal from Attorney Pritt for representation starting next fiscal year, we should not fragment our representation among two different attorneys on different subjects, carving out this issue for Attorney Pringle is an inappropriate way to proceed and that we should wait until after 30 September to proceed

- Fry suggested that the question should be called
- Public Comment: There have been no negative comments heard but there are many questions that cannot be answered and, as elected officials, you have a duty to explore the legality and process for the District doing pathway surface maintenance
- Chief restated that, if our public wants us to do this, we need to investigate all aspects of this question, if we can legally accomplish the wishes of our constituents
- Chair called the question on the motion; **passed 4-1 (Sward opposed)**.

## 7) OLD BUSINESS:

### A) Legal Representation:

- Sward has discussed with Attorney Pritt and he has agreed to continue as our Attorney through 30 September and that he will have a proposal for a future retainer contract that isn't only hourly-rate based
- At the request of the Board, Sward will also ask Attorney Pringle to submit a proposal as well
- Board will make a decision on future representation after both proposals are received and discussed at a future meeting

### B) Officer Chain of Command/ Organization Chart: Tabled until July meeting

### C) FY18 Proposed Budget (Pay & Benefits):

- Fry reminded the Board that the written proposal from last meeting does not have a page 1 or page 2 yet since those are focused on revenues and we won't receive our final estimate of ad valorem valuations until 1 July; the next version of the presentation for the July meeting will include projected revenues and will update the individual budget lines, based on the Budget Amendment approved at the May meeting, and expenditures year-to-date through 30 June
- Chair asked Chief and Treasurer about Raises for the Chief in 2016 shown in the presentation and Fry stated:
  - Added \$2400 for District-paid temporary disability policy in January (non-taxable and no impact on the paycheck), effective immediately
  - Added 5 additional PTO days from 16-21 workdays/year with a value of \$2500-\$2700, effective 1 Oct 2016
  - Increased salary by \$2600 on contract approval in May 2016 to cover the additional taxes for the Chief's new housing allowance since he was unwilling to move to an SHC townhouse (instead of direct payment to a landlord), effective 1 June 2016 (and the District pays FICA and Workman's Comp on both the \$14,400 housing allowance plus the additional \$2,600 to cover taxes)
  - Increased salary by \$5000, effective 1 Oct 2016

- LaVallie stated that, as he understood it, reporting the housing allowance as taxable income and both the Chief and the District paying taxes on that is what is required, no matter what was done in the past
- Sward asked what former Chief Pepper's base salary was and Treasurer stated that it was \$68,540 but he did not receive the \$2,400 in temporary disability insurance coverage or the additional 5 days of PTO worth \$2,500 - \$2,700 in his past total compensation, so looked at that way, the difference in total compensation is less than \$3,540 between former Chief Pepper and Chief Kinniry
- Chair stated that Chief Pepper also received compensation for tasks and functions off-island that were official business and Fry reminded the Board that we also pay Chief Kinniry:
  - \$400/shift worked in excess of his 4 shifts/week, when a part-time firefighter cancels his shift at the last minute and a replacement cannot be found (about 5-7 shifts so far this FY totaling \$2,000 - \$2,800 in extra pay so far this year)
  - And the Board approved PTO accrual and a future cash-out benefit for unused PTO, once a specified level of PTO days are accrued (days that were "use or lose" in past years) where Chief Kinniry typically lost 5-8 days each year (worth \$2500 - \$4000)
- Sward confirmed that Chief's contract expires on 30 September 2017 and **Sward moved** that each Board member should complete a written assessment of Chief's performance and discuss that assessment with Chief before the July meeting, that each of us factor that performance into a decision on a salary increase, **seconded** by Fry.
  - LaVallie asked for a template and Fry committed to providing the last assessment forms that were used in December 2015 to Chief for forwarding, for use as an informal guide and Sward stated that each of us could use whatever format we preferred, as long as a written assessment is provided to Chief and discussed at the July meeting
  - Public Question: Will the Board conduct a peer review by the Officers and Fry stated that failed the last time and it would be too late to implement this by next month
  - **All voted aye**
- Chair commented that a fair comparison between former Chief Pepper and Chief Kinniry is also complicated since we no longer have an Assistant Chief and Fry stated that he had developed cost proposals for Chief Kinniry's review for a full-time hire (1 on/2 off or 2 on/4 off shift schedule, like other area Districts hire) for the last 2 years but Chief Kinniry didn't want to propose it; Fry will include those worksheets in the July presentation package update for Board discussion and decision.
- Chief stated that he is significantly underpaid compared to other Chiefs in other area Districts and prior salary increases were more cost of living adjustments to bring him to a fair level and Chair stated that Bookkeeper Lynch said that Chief is paid 30% less than Captains at adjoining districts and Fry reminded the Board that there is more than salary in a true comparison that doesn't address that other Districts have full-time/union employees, full time administrative personnel, and more than 1 fire station that are staffed by full-time firefighters

- Part-Time Firefighter Pay & Benefits:
  - Chair stated that the new Chain of Command/Additional Duties should have a financial impact with additional pay & benefits for those additional responsibilities
  - Fry stated that we already have 2 employees that we pay extra (CAPT Tyrell for govdeals.com sales and CAPT Givens for ALS Coordinator) where we pay the same hourly rate, not a different hourly rate for all of their other hours. The current spreadsheets don't include additional hours for 5+ additional people's additional duties but, if the numbers become large, the proposed COLA raises could be unaffordable since there isn't a bottomless pit of money available to spend
  - Chief proposed COLA raises for the part-time employees since they were promised raises 2 years ago, those raises were implemented in June 2015 without Board approval, and then the Board directed that those increases be rolled back in September 2015
  - Chair stated that we should not only pay for extra hours for additional duties but we should also pay a higher hourly rate for those designated officers that accept those additional duties for ALL work performed for the District
  - LaVallie asked whether this is a supply & demand issue where our part-time pay is too low and we can't fill our part-time positions
    - Chief stated that there are some employees that don't want extra duties, they just want to work their 24-hour shifts
    - Fry stated that pay rates are either just right or too high since we don't experience any personnel turbulence from folks quitting and, in fact, we just hired a paramedic qualified firefighter at the EMT rate that is \$2/hour less than a paramedic because we need EMTs (not paramedics)
    - Chair asked if we ever have two officers on the same shift and Chief said only when there is a last minute schedule cancelation but that would happen very infrequently
  - Jenkins stated that, if we aren't having staffing problems, why do we need to provide any raises or increases in compensation, especially since we don't want to get back into the habit of spending more than we can afford as in recent past years (LaVallie and Fry agreed)
  - Fry added that we need to always remember that we need to be judicious in our spending increases since, 7 years from now, when the Special Assessment expires, we will have to live within the Ad Valorem revenues or request a new referendum for a new Special Assessment, that at current spending levels we need \$280 million in total valuations and we only have about \$190 million this year
  - Chair stated that our goal should be 1-1/2 year's worth of reserves to cover future funding shortfalls and Fry said that would be over \$1.5 million in reserve
- Public Question: Didn't Chief Kinniry agree to his contract in May 2016 and, within 3 months, he asked for and received a \$5000 salary increase for 2017? Is there any consideration that it took 20+ years for former Chief Pepper to receive a \$68,540 salary and that Chief Kinniry is asking for a comparable total salary increase in less than 2 years? Chair stated that looking at the past salary increases from the base as Assistant Chief (2004-2015) makes the increases seem larger but he now has the responsibilities

of Chief of the District. Next question was what was the difference between former Chief Pepper's last salary and Chief Kinniry's current salary? Chair stated \$8000 less and Fry clarified it was about \$3000 less, minus \$5000+ in untaxed benefits of additional PTO days and paid temporary disability insurance that former Chief Pepper didn't receive.

D) Building Maintenance: Charis asked to add as Old Business for the July meeting

8) NEW BUSINESS:

A) FY16 Financial Audit Results: Discussed at the start of the meeting

B) Permission to Close the Special Assessment Checking Account: Treasurer asked for Board permission to close the separate Special Assessment checking account since we haven't used it since January, when we started payroll direct deposit, and our Independent Auditor is satisfied with Bookkeeper Lynch's "pooled cash" processes. **Fry moved** that we close the Special Assessment checking account as soon as possible, **seconded** by Jenkins, **all voted aye**.

9) PUBLIC COMMENT: There are rumors that owners on Gulf Lane intend to block the road with construction materials and equipment. Fry stated that if that does happen, Chief should submit a code violation complaint against both property owners on Gulf Lane, not just one of them, since both would be limiting access across the recorded easement. Next comment was that Code Enforcement has been out to the island this last week and is apparently citing property owners with piles of debris and cut vegetation that are fire hazards. On the old Road Commission, that group has been dissolved over 2 years and the work still needs to be done. Chief reminded everyone that roads used to be the responsibility of the Friends of the Fire Department, before the legislatively created fire district and UCCA were created.

10) NEXT DATE: Next Regular Meeting on Friday, 21 July 2017, beginning at 10 AM.

11) ADJOURN – **Moved by Fry, seconded** by Jenkins; meeting adjourned at 12:39 PM.

Respectfully submitted,

Bill Fry  
Secretary/Treasurer