

**Upper Captiva Fire & Rescue District**

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***servicing the community with pride***

**BOARD OF COMMISSIONERS**

**REGULAR MEETING**

**21 July 2017**

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

ISLANDERS PRESENT: Charlie Skinner, Deb Skinner, Patty Howick (by phone), Bill Byrnes (by phone), and Arthur Mason (by phone).

1) CALL TO ORDER: Chairman McDonald called the meeting to order at 10:05 AM.

2) Taxpayer Request for Refund of 2015 & 2016 Special Assessment Payments: Fry asked the Chair to suspend the agenda to allow Ms. Howick, a South Banks taxpayer, to speak concerning her previously paid 2015 and 2016 Fire Services Special Assessments. As a reminder to the Board, the Board approved a waiver of the unpaid 2014 special assessment at the May 2017 meeting, after the County declared her property as submerged/unbuildable in February 2017.

- Ms. Howick thanked the Board for the previous decision to forgive and cancel the unpaid 2014 special assessment and requested refund of the previously paid 2015 and 2016 assessments collected by the County, as part of her annual tax bill.
- Ms. Howick stated that it took over 1 year for the County to act upon her request to re-categorize her property, even though she believed that it was submerged the entire period of the special assessment and she asks for a refund of \$1,089.78, after the 4% early payment discount was taken (assessed \$592.05 in 2015 and \$543.14 in 2016, before discounts).
- Fry asked Ms. Howick to provide the Board with the background of why it took 2-1/2 years after the special assessment was first imposed to get the property re-categorized:
  - Ms. Howick stated that, in Oct 2014, she wrote a letter to Chief Pepper asking for relief and was told "not to worry about it"
  - Ms. Howick then paid the 2015 special assessment, as part of her annual tax bill from the County in Nov 2015 but received a bill from the District signed by Fry in Apr 2016 for the unpaid 2014 special assessment, stating that she had already paid the 2014 assessment, including interest
  - In Apr 2016, Fry told her that she still owed the 2014 assessment, the first year of a 10 year annual assessment, and what she paid in Nov 2015 was the 2015 assessment
  - Fry also told her that she needed to contact the County to request re-categorization from "Vacant/Residential" to "Submerged" and/or "Unbuildable" but that the

County gave her conflicting information between Apr 2016 and Feb 2017, when they finally re-categorized the property as “Submerged”

- Chair stated that the District had already spent that money in 2015 and 2016 and that we weren’t in the position to refund it
- Fry told Ms. Howick that every property pays a different amount, based on the gross square footage of improvements plus the square footage of land, charged roughly \$250/quarter acre, rather than on the ad valorem valuation. Second, every property on North Captiva Island receives fire protection and rescue services, even if the land is vacant and, arguably, un-cleared vacant land may pose a greater fire hazard to the community from a vegetation-fed fire, especially to the 400+ acres of state land between her property and the homes on Upper Captiva. Lastly, the Board did approve the equivalent of a \$500 “refund” by waiving the first year’s unpaid assessment, consistent with past procedure to refund or waive the most recent fee at the time of the re-categorization (she was billed for roughly \$1500 and paid roughly \$1000)
- Fry’s recommendation to the Board is that, even though we approved waiver of the unpaid 1<sup>st</sup> year’s assessment, we not approve refund of the 2015 or 2016 special assessments paid in prior years
- LaVallie asked whether, if the appeal and re-categorization had happened before subsequent assessments were approved and charged, the lost amount of the fees would have been re-allocated to every other property owner and the District would have still have received the revenue, even if Ms. Howick’s property was exempted as “Submerged”. Fry agreed that, if the property is categorized as submerged before the roll is approved, the property is exempted and the remaining properties receive a slightly higher allocation, keeping the overall revenue to the District from the fee the same, while a waiver after the roll is approved by the Board and collected by the County, the revenue is lost to the District. LaVallie stated that since the revenue can’t be recouped, he agrees with the Chair that the request should be disapproved based on timeliness.
- Ms. Howick stated that she would provide a more detailed written appeal to the Board, mailed to Chief Kinniry at the District’s address, at a future date and the Chair confirmed that the Board would re-evaluate her written appeal, after referring it for a legal review.

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

#### 4) TREASURER’S REPORT:

- Balance Sheet:
  - The Ad Valorem checking account had a 30 June ending accrued balance of \$4,902.30
  - The Ad Valorem Money Market Account had a 30 June ending accrued balance of \$561,796.87 (including \$267.24 in interest) plus a deposit of \$1,311.74 on 14 July
  - The Friend’s account had a 30 June ending balance of \$15,301.74 (an increase of \$6.98 in interest)

- The Special Assessment checking account was closed on 13 June, with \$4,999.98 transferred to the Ad Valorem checking account, after \$20 in “no activity” fees were refunded by the bank
- The Impact Fee account had a 30 June ending balance of \$2,218.38 (after an increase of \$2.49 in interest and after transferring \$7,295.00 to the General Fund to reimburse for the skid-mounted tank & pump unit, an Impact Fee eligible capital purchase)
- Fry stated that there were no unexpected outstanding liabilities other than the usual transfers of expenses between the General Fund and Special Assessment Fund. The 2014 Special Assessment accounts receivable is down to \$9,902.77, after two payments; one for 4541 Oro Pesos (\$264.06) and one for 4440 Smugglers (\$491.30) in delinquent Year 1 Special Assessments. There are 13 remaining unpaid assessments:

	Owner	Owes	STRAP	Site Address
1	WILMINGTON SAVINGS FUND SOCIET	\$1,748.79	<u>05-45-21-11-00000.0010</u>	4511 HIDDEN
2	TSAKIRIDIS ANATASIOS + BAHRAMIS GUS J	\$225.91	<u>05-45-21-17-00001.0170</u>	4440 SCHOONER
3	ARANEDA EVELYN MARINA	\$235.48	<u>05-45-21-17-00005.0060</u>	4511 CUTLASS
4	ZANGHI CHARLES JOHN	\$221.86	<u>05-45-21-07-00000.0050</u>	4460 OYSTER SHELL
5	FISCHER JAMES C + MAZZA SALVATORE	\$1,283.98	<u>05-45-21-08-00000.0300</u>	4521 BUTTERFLY SHELL
6	NORTH CAPTIVA FISH CAMP LLC	\$271.14	<u>09-45-21-01-00000.0540</u>	11654 REDFISH SHORES
7	NORTH CAPTIVA FISH CAMP LLC	\$279.49	<u>09-45-21-01-00000.0550</u>	11650 REDFISH SHORES
8	LIBERTONE DANA + LIBERTONE LAURA	\$808.36	<u>15-45-21-01-0000A.0330</u>	12520 SOUTH BANKS
9	HENKEL EVERETT III + HENKEL PENNY	\$665.46	<u>15-45-21-01-0000A.0120</u>	12604 SOUTH BANKS
10	HERMANN G A + MYRL	\$657.75	<u>15-45-21-01-0000A.0110</u>	12608 SOUTH BANKS
11	ROSEN, RONALD	\$651.36	<u>15-45-21-01-0000A.0090</u>	12616 SOUTH BANKS
12	ROSEN, RONALD	\$785.80	<u>15-45-21-01-0000B.0090</u>	12617 SOUTH BANKS
13	LANZA MARK J TR	\$2,067.39	<u>15-45-21-01-0000B.0010</u>	12649 SOUTH BANKS
		<b>\$9,902.77</b>		

- Consolidated Income and Expense Report:
  - Nine months into the new FY, we are 75% through the year and have spent 67.56% of the consolidated budget. In our major spending categories, Pay & Benefits is 71.24%, Operating Expenses is 63.87%, and Capital is 7.14%, all are well below the straight line “glide path” of 75%.
  - For Revenues, we are at 99.7% collected through 30 June (with only \$575 unpaid in General Fund and \$1761 unpaid in Special Assessments, less than \$2400 total).
- **LaVallie moved** to accept the June & July meetings’ Treasurer’s Reports, Jenkins **seconded, all voted aye.**

5) CHIEF’S REPORT:

- Calls Last Month: 67 to date (16 more calls since the last meeting)
- FEMA Grant for High Volume Pump (750 gallons per minute): No updated status
- GovDeals Sales: No updated status
- State Park Firebreak: No updated status; LaVallie will follow-up with Chad Lach

- 1988 Pierce Engine/Pumper:
  - The cost for preliminary repairs to get the engine ready for a pump test is estimated at \$2,500
  - If the pump test is successful, the Chief will recommend replacing the tires and rims for an estimated additional total cost of \$4,500 - \$5,500 (if required for our island)
  - If the pump test fails, the Chief will have a list of required repairs and costs
  - **Fry moved** to approve expenditure of Repair & Maintenance funds up to and including the pump test and, if the test is successful, approve replacing the tires and rims, if required, **seconded** by Sward, **all voted aye**
  - If the pump test fails, the Chief will update the Board at the next meeting for future options but replacing the engine will likely cost \$50,000+
- Crew Boat:
  - The boat motor is taking water in cylinders 1 & 5 and the cost to fix it would be more than the motor is worth and the replacement cost for a new motor would be about \$15,700
  - Fry confirmed with Bookkeeper Lynch that the initial purchase and installation would be a capital cost that would be allocated 50/50 between General Fund and Special Assessment or about \$7800/fund
  - Chief stated that, while the boat is out of the water, it would likely need the bottom repainted at a cost of \$600 - \$1000, which would be a Repair & Maintenance cost
  - **LaVallie moved** that we approve replacement of the crew boat motor, **seconded** by Jenkins, **all voted aye**.
- Station Generator Cover/Cowling:
  - After servicing was recently completed, the steel cowling/cover is rusted out and it will cost \$7000 to fabricate a new one, charged to Repair & Maintenance
  - Board directed the Chief to provide a written analysis of alternatives to repair the cowling at \$7000, identify the expected lifespan of our 13+ year-old generator, or purchase of a new 40kw generator at the August meeting
- Contender: Required repair of the trim and repainting the boat bottom for about \$2800 that will be charged to Repair & Maintenance was completed this month
- Station Maintenance:
  - The materials estimate is about \$2200, planned with firefighter labor
  - Chair asked whether any of that was going to be contracted out and whether the estimated costs included scaffolding, ladders, and other specialty construction equipment; Chief stated that it currently does not include rental of specialty equipment
  - Board directed the Chief to provide a written plan for all building repairs NLT the September meeting for a planned 1<sup>st</sup>/2<sup>nd</sup> Quarter FY18 project when weather is better
- Air Conditioning systems will be serviced next week and the service may identify the need for significant maintenance or replacement
- Volunteer Program: Working with Bill Byrnes to document the proposed new program, with a planned update at the September meeting

- The Board accepted the Chief's Report

## 6) COMMISSIONER REPORTS:

### A) Sward-Legal Representation:

- Chair updated the Board that Attorney Pritt resigned, effective 21 July 2017, and will assist with any transition required to another attorney
- Sward has contacted Attorney Pringle for a proposal on a retainer and/or hourly basis since he is an attorney in the Fort Myers area, representing other fire and municipal entities in the area
  - Pringle doesn't generally work on a retainer basis for his other clients but is willing to become the Board's attorney, with a current rate of \$225/hour
  - Asked whether he would demand to attend all District meetings or whether our current practice of selectively asking our attorney to attend meetings, as needed, and providing written guidance or assistance with drafting and/or reviewing resolutions before meetings was satisfactory and he indicated that he was amenable to that
  - Asked whether he had any conflicts of interest with other North Captiva Island clients and he stated that he hasn't represented an islander in many years and that he has no current clients on-island
  - That Pringle will submit a bill to the District for his prior and future work for the District for working with LaVallie, on the potential referendum question for a future special assessment for public pathways but that the 18/19 July letters from Pringle and Nabors, Giblin & Nickerson (NG&N) would be viewed as "requests for information" and not chargeable to the District
  - Sward will check with Pritt to see if he has any other local attorney recommendations for the Board
  - Sward recommends that we schedule a meeting with Pringle and any other potential attorney by the August, September or October meeting, before making a decision to hire a replacement attorney since Pritt has stated that he will assist in the transition and that he will likely provide legal advice until a replacement decision has been made by the Board
  - LaVallie and Jenkins would like an on-island meeting sooner rather than later while Sward, Chair, and Fry stated that there needn't be a rush to an August meeting
  - Chief suggested that Sward should ask Pritt whether we need to advertise and put out a request for bids as a government agency and Sward agreed to ask
  - Fry asked whether Pringle or any other prospective attorney would provide a Curriculum Vitae on schooling, certifications (if any), and any other current governmental clients, as well as some type of proposed written agreement with hourly rates, that we could use as part of our decision process
  - Board delegates to Sward permission to contact Pritt to:
    - Confirm that Pritt will continue to represent the District on an "as needed" basis as part of the transition to a new attorney

- Ask for any other recommendations for other local attorneys that he may see as qualified for our purposes
  - Ask whether we must competitively bid our legal services under Florida law
  - And that Sward will contact any qualified attorneys and provide those names and details at the August meeting
- B) LaVallie-Community Committee Update: The Commissioners received a written proposal and cost estimate from Pringle and his suggested co-counsel (NG&N) to study and provide a recommendation based in law for the District to implement a new special assessment for maintenance of privately-owned/public access pathways on the island and the legal steps required to proceed to referendum for voter approval. The key points to the proposal are that NG&N has expertise with helping other local Districts through the referendum process and the cost estimate was \$35K-\$40K for NG&N, divided into 3 discrete phases, plus some unknown costs for Pringle at \$225/hour.
- Public Comment: As a property owner in numerous rural areas, the Fire District seems to be the ideal method to solve our dangerous road conditions since he is not sure how to safely move a severely injured patient to the airfield for evacuation. Many of our owners are probably unaware of how bad our roads currently are and they get worse after rainy season starts. Both he and his wife are willing to do whatever it takes to help the District any way that they can and that they believe that many of their friends and neighbors are supportive of the Fire District continuing to look into the feasibility of the District maintaining our major roads, recognizing many roads on the north end especially are on the lowest part of the island and may not be easily or inexpensively fixed.
  - New Referendum Required: Chair asked the Board whether there was any thought by the individual commissioners to implement a separate, new special assessment without a new referendum and all 5 commissioners stated that they would not vote to implement a new special assessment fee without a new referendum.
  - Public Comment: Glad that the Board recognizes that, even if arguably legal to implement a new special assessment fee for pathway maintenance, it would be scandalous without a new referendum vote.
  - Nabors, Giblin & Nickerson (NG&N) Proposal: Fry stated that a major assumption in the NG&N proposal is that *"the District has or will obtain the necessary legal access to maintain and improve the private roadway easements located on Upper Captiva Island."* That assumption needs to be turned into either a fact or an arguably defensible position by Pringle before we approve the NG&N proposal and begin the steps toward referendum.
  - Chair recapped the Board's broad agreements:
    - The Board will not proceed with a new special assessment without first determining the legality to maintain and improve the privately-owned/public access pathway easements located on Upper Captiva Island

- The Board will then work toward a new referendum to put the question to the voters before implementing a new special assessment at some currently unknown future date
  - Chair stated that, if we don't piggy-back on a currently scheduled Lee County election that includes our District, the District must reimburse the County 100% of the mail ballot costs
  - And Fry stated that if we don't piggy-back on a scheduled election, it appears that we must apply to the Florida Secretary of State 120 days before the proposed ballot for approval, based on Florida Statute
  - And lastly, the next scheduled election that will include our voters will be the 28 August 2018 Primary Election
- Fry has three pending questions that Bookkeeper Lynch and/or Chief Kinniry will ask of the Lee County Tax Collector, hopefully before the August meeting:
  - Will the County list a separate special assessment line on the annual tax bills for pathway maintenance?
  - Does our existing resolution allow the County to accept and collect a separate assessment for any future special assessments or are we required to submit a new resolution asking for County collection?
  - Can the District submit a resolution for the County to collect a newly identified separate special assessment for pathway maintenance by 31 December 2017, before a special referendum is scheduled or passed, recognizing that the referendum might fail, a new assessment roll wouldn't be provided, and the collection might not occur?
- Sward stated that everyone needs to recognize that there is a large cost of \$40K - \$50K or more that the District will have to pay up front, out of the District's regular budget, to get to referendum:
  - Sward reminded everyone that if the referendum fails, that money will have been wasted
  - McDonald stated that those referendum costs are reimbursable from the new special assessment, if the referendum passes
  - But Fry stated that would mean that the entire proposed first-year assessment would be to pay the legal costs of the referendum, with nothing spent on pathway maintenance, if the Board decided to reimburse the General Fund for a successful referendum OR the first year assessment would be 2-3 times higher than initially proposed
  - Public Comment: Congratulations to the Board for having a coherent debate on a productive path ahead. The Board may want to ask the UCCA to conduct an online survey on the question of District-funded pathway maintenance, with a checkbox for respondents to identify whether they are a registered voter. Conducting a UCCA on-line survey would identify how high the risk would be for a failed referendum without blindly spending the \$40K-\$50K in referendum costs.

## 7) OLD BUSINESS:

- A) Legal Representation: Discussed during Commissioner Reports
- B) Officer Chain of Command/Organization Chart: Tabled until the August meeting
- C) Station Building Maintenance: Discussed during the Chief’s Report
- D) FY18 Proposed Budget (Pay & Benefits): Tabled until the August meeting

8) NEW BUSINESS:

- A) FY17 & FY18 Meeting Schedules: Tabled until the August meeting
- B) Resolution for Millage Rate & Preliminary FY18 Budget Hearing (Resolution 2017-072117(1)): Read in its entirety by Chair, **Sward moved** to adopt, **seconded** by Jenkins, **LaVallie voted aye, Jenkins vote aye, McDonald voted aye, Sward voted aye, and Fry voted aye** to adopt.
- C) Resolution for Line of Credit Renewal (Resolution 2017-072117(2)): Read in its entirety by Chair, **Sward moved** to adopt, **seconded** by Jenkins, **all voted aye** to adopt.
- D) Resolution for Budget Amendment 2017-003 (Resolution 2017-072117(3)): Read in its entirety by Chair, **Sward moved** to adopt, **seconded** by Jenkins, **all voted aye** to adopt.
- E) FY18 Special Assessment Methodology (First Draft): This is the first draft of the proposed FY18 (Year 4) Special Assessment Roll. Once any proposed changes to the roll are identified today, the final version will be provided at the August meeting for Board approval by resolution.
  - Fry’s Suggested Changes: There are a number of properties that were exempted last year and placed in various separate Groups. The County has updated the property classifications or ownership and we need to agree to move them from last year’s group to a different one this year:
    - There are 5 properties that were listed as Submerged (Group C) last year that have been reclassified to a new, previously unseen classification and Fry proposed changing their group this year. Changing from Group C (Submerged) to Group B (Docks) has no impact on the assessment. Changing from Group C to Group A will cost North Captiva Marina about \$500:

<u>NEW CLASSIFICATION/DOR CODE</u>	<u>OWNER NAME</u>	<u>STRAP</u>	<u>SIZE</u>	<u>GROUP</u>
MISCELLANEOUS RESIDENTIAL / 07	GEEWAX JOHN J	05452116000010020	0.01	From C to B
MISCELLANEOUS RESIDENTIAL / 07	MITCHELL TIMOTHY C SR &	05452116000010010	0.01	From C to B
MISCELLANEOUS RESIDENTIAL / 07	MITCHELL TIMOTHY C SR +	05452116000010030	0.01	From C to B
MISCELLANEOUS RESIDENTIAL / 07	THAIN JOHNTHAIN +	05452116000010040	0.02	From C to B
AIRPORTS, TERMINALS, PIERS / 20	NORTH CAPTIVA MARINA GROUP LLC	05452116000010000	0.51	From C to A



- **LaVallie moved** to accept the proposed changes of these 5 properties from Group C into Groups B & A as listed, **seconded by Jenkins, all voted aye.**
- There are 5 properties that were listed as Tax Exempt (Group D) last year that have either been reclassified or sold to new owners:
  - Fry proposed changing the Fouts property to Group C (Submerged) since it is currently listed as “SEWAGE DISPOSAL, WASTE / 96”, while Chair stated questioned whether it was buildable property; Fry will follow up with the Appraiser for verification
  - Fry proposed changing the Michigan State University properties to Group A (Assessed) since they weren’t exempted by the County and paid Ad Valorem taxes in 2015 and 2016. The change will cost MSU about \$400
  - Fry proposed changing the NCIC right-of-way property to Group A (Assessed) that will cost NCIC about \$250 (it is a taxed property on the ad valorem roll and all other unrecorded rights-of-way that every other property owner has is taxed)
  - Fry proposed changing the Toll property to Group A (Assessed) that will cost Toll about \$270 (purchased from Calusa Land Trust, previously tax exempt, but, according to the County Appraiser, it will be on the ad valorem roll this year)
  - **LaVallie moved** to accept the proposed changes of these 5 properties from Group D into Groups C & A as listed and, if the County re-categorizes the Fouts property, it can also be moved to A, **seconded by Jenkins, all voted aye.**

<u>NEW CLASSIFICATION/DOR CODE</u>	<u>OWNER NAME</u>	<u>STRAP</u>	<u>ACRE</u>	<u>GROUP</u>
SEWAGE DISPOSAL, WASTE / 96	FOUTS ALAN E	054521140000A0050	0.42	From D to C
VACANT RESIDENTIAL / 00	MICHIGAN STATE UNIVERSITY	324421020000C0030	0.20	From D to A
VACANT RESIDENTIAL / 00	MICHIGAN STATE UNIVERSITY	324421020000C0040	0.21	From D to A
RIGHT-OF-WAY / 94	NORTH CAPTIVA ISLAND CLUB INC	05452116000020000	0.25	From D to A
VACANT RESIDENTIAL / 00	TOLL ABEL & CATHERINE B	324421010000B0010	0.27	From D to A

- **Fry again moved** that we NOT exempt Salty Approach LLC from the Special Assessment but the motion died for lack of a second:
  - The property has been and remains on the ad valorem tax roll
  - The estimated cost to Salty Approach LLC would be about \$6900, reducing 690+ other owner’s assessments by about \$10/quarter-acre

F) Chief’s Performance Assessment: Commissioners were asked by Sward at the last meeting to provide written comments to Chief Kinniry and then have an oral discussion about his performance assessments before today’s meeting. To demonstrate the use forms for an Officer Peer Review of our Chiefs that was attempted 18+ months ago, Fry used the previously approved format and suggests the document be forwarded to the other Commissioners for illustrative purposes. All Commissioners recapped their oral assessments of Chief’s performance over the last 12 months.

- Based on the Board's assessment comments, **Sward moved** that the Board renew Chief Kinniry's contract for an additional year, through 30 September 2018, **seconded by** LaVallie, **all voted aye**.
- **McDonald moved** that the Board discuss Chief Kinniry's compensation for FY18 at the August Board meeting, **seconded by** LaVallie, **all voted aye**.

9) PUBLIC COMMENT: Comments made throughout the meeting.

10) NEXT DATE: Next Regular Meeting on Friday, 18 August 2017, beginning at 10 AM.

11) ADJOURN – **Moved by Jenkins, seconded** by Fry; meeting adjourned at 12:43 PM.

Respectfully submitted,

Bill Fry  
Secretary/Treasurer