

BAYSHORE FIRE PROTECTION & RESCUE SERVICE DISTRICT  
MINUTES OF THE BOARD OF COMMISSIONERS MEETING  
January 10, 2012

**Meeting called to order** at 7:01 p.m. by Chairman Ducrou

**Pledge of Allegiance**

**Invocation** – Moment of Silence

**Roll Call:** Commissioner Ducrou – Present  
Commissioner Hansen – Present (7:02)  
Commissioner Cook – Present  
Commissioner Griffin – Present  
Commissioner Klos – Present  
Chief Larry Nisbet - Present  
Office Manager - Theresa Sharp - Present  
Attorney Ian Mann –Present

**Others Present:** Some public

**Minutes** – Review and Acceptance of the minutes of the December 13, 2011 Board of Commissioners Meeting. Motion made by Commissioner Griffin to accept the minutes. Motion seconded by Commissioner Klos. Chairman Ducrou calls for questions or comments. With no questions or discussion and none opposed, motion carries.

**Financial Report:** Review & Acceptance of the December 2011 Financials. Commissioner Hansen motioned acceptance of the December financials. Commissioner Klos seconded the Motion. With no questions or discussion, and none opposed, motion carries.

**Admin/Ops/Fire Marshal's-Report** (attached) – Chief Nisbet reads Fire Marshal and Administrative Reports into the record (This Admin. Report included annual report of operations calls activities.) Chairman Ducrou calls for questions or discussion; hearing none he calls for petitions before the board.

**Petitions before the Board** – None

**Union Petitions/Discussions** – None

**Old Business – None**

- **Chief's Contract** – Chairman Ducrou notes he saw that we had discussed it some last month...Commissioner Hansen states that we are looking at beginning to negotiate this contract out, though it runs until October, in an effort to have it handled in March or April, prior to Bargaining Unit negotiations beginning in June, so that Chief Nisbet can negotiate that one. He adds that we had discussed Chairman Ducrou negotiating Chief's contract. Chairman Ducrou is agreeable to perform that activity. Chief Nisbet adds that he does not have a problem if the Board chooses to renew it early. Commissioner Hansen reminds that Chief had mentioned that a few details will need to be changed due to changes in certain laws. Chief confirms, the severance package needs to be remodeled to comply with the legislative changes. Chairman Ducrou states the only problem he has with early negotiation is that the District won't know what kind of money we will get, or lose, until June or later, since preliminary numbers aren't in until June and finals until July. He doesn't feel it would be fair to offer, or take away money when we don't know what our financial status is going to be. Chief, District's attorney, and Chairman Ducrou all agree that everything can be done that doesn't have a financial impact.

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Commissioner Hansen asks when Chief begins negotiating the Bargaining unit contract. Chief Nisbet responds that we usually begin in July after we get the final number, and we try to finish the end of August or first of September, before preliminary budget hearings. Commissioner Cook asks if we have to negotiate that every year. Chief Nisbet responds that the only opener this year is wages and benefits. DVP Lemieux explains that the last 2 years were full negotiations since we were uncertain as to what was going to happen. Commissioner Hansen clarifies that their intent was to get as much as possible behind us so that when we get numbers we can finish it out, and not have to do it all at that time; kind of give us a jump on it. Chairman Ducrou notes that the Bargaining unit negotiations ran until the last minute last year, since we don't get the health insurance quotes until the very last minute. Chief Nisbet agrees that is what usually drags it out. DVP Lemieux adds that we also met with so many more groups to try to get more options, that that too made it take longer. Chief states that the size of our group is why we have so little leverage and bargaining power. He states that if we were over 75 employees, we would have a little more negotiating power. DVP Lemieux repeats, emphasizing that we would only have *a little more* negotiating power. With all in agreement as to our situation there, Chairman Ducrou moves onto the next agenda item.

- **Commissioner Compensation** – Commissioner Klos opens that he had proposed last meeting that we reinstate the compensation of commissioners for the meetings that they attend. He adds that he feels that they take a lot of time out away from their families and jobs, that he feels they deserve the compensation; they come in on their days off, and stop in to sign checks; and he feels they deserve it, and since the budget looks good as reflected in the audit, he feels they deserve some sort of compensation. Commissioner Cook agrees they do. Chairman Ducrou states he feels that the position is worth more than the \$100 per month and statute allows payment up to \$500 per month, which a lot of districts do pay \$400 to \$500 per month, however, this District's carryover, was mostly due to the SAFER grant, and he points out the District has lost income since 2008. He continues that in his opinion, he is not in favor of reinstating the compensation until the District is in a break-even state. He understands that it eats fuel, and going to meetings is a pain, and travelling around is a pain, but he feels he signed up for it knowing what to expect. Commissioner Hansen asks what happens if we don't get the SAFER sustainment back this year. Chief Nisbet responds that we lose three people, that's pretty much it. He adds that we could gut the reserves; but that's the case. The following budget we would lose 3 more. Bluntly put, if we lose our SAFER grants, we lose half of our operations staff. Commissioner Hansen asks if we would use volunteer staff at that point. Chief Nisbet responds that they do not live in the District, he explains that he does not use his volunteers to replace his full time staffing, he uses it to enhance his staffing. He adds that they are a great asset and benefit us greatly, but he does not feel he can count on them every day; his full timers he can count on every day. He goes on to state that he is not worried that we won't get the grant, from conversations with Jennifer Stewart from IAFF, and the people at AFG, and he has already completed the narrative, he is just waiting on the guidance documents. He continues that one of the waivers (as mentioned in the administration report) are that the departments that are currently operating on the SAFER grant will get first shot at sustainment. He describes that the amount of money we get from the SAFER grant, in their eyes, we are more of a nuisance grant, we're one of those that is under \$500,000, they just want to get us through. But the end result is, if we lose our grants, we go down to six full time firefighter personnel. Commissioner Cook states that would be tough, he doesn't know how Chief is going to do that. Chief agrees, it would be bad, but says he has seen it happen. Commissioner Ducrou states we have seen that once before. Commissioner Cook recalls and agrees, it wasn't good then. Commissioner

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Ducrou agrees, it wasn't; and he adds that it's the same position he held when he was negotiating the contract; we are not in good times, we have money because we have been so successful in obtaining grants. When you look at the numbers, it's not taxable income, that keeps going backwards every year, we haven't even found the bottom yet. Commissioner Cook adds he doesn't feel we will this year either. Commissioner Ducrou states he certainly hopes we do, we have got to find the bottom. Chief Nisbet states he is getting mixed indications from downtown as to which way it's going to go on property values. He says some property values are going up. He adds that he was just speaking with Tim Fernandez, the Bonita Fire Marshal, who says they did 380 new construction permits in Bonita, but they do the plans review for a lot of the fire departments in the county; so there are indications that things are starting to come back in. He adds that, those they are starting to see are all commercial, so there are indications that there may be some life coming back into it. He goes on to say that if we get the construction at 75 and Bayshore, which we are starting to get information in on it, we are waiting on our first set of drawings to come in on the 180 room hotel, they're wanting to put in at the RaceTrac, that project alone, once it builds out, will give an additional \$140,000 into our budget, but it's got to build out. If we start going into the positive and start getting some new construction, I think we will start coming out of this in the next 12-18 months, he says. He adds that he doesn't feel we will be out of it, but we would be either at the plateau, or starting to slowly trickle up. He continues, if we rely on our current occupancies that we have now, and with the new legislature that they want to do with capping commercials at 5%, being realistic, that's going to pass, the save our homes at 3%, which is 78% of our properties, take the aggregate of the properties at 4%, in a banner year, our budget would go up 4% per year when we have dropped 43.7%; so you're talking 11 years for us to climb out to where this all started. Commissioner Ducrou adds, "to break even", "just to get to where we were in 2008". Chief Nisbet agrees that that is what he is saying. DVP Lemieux adds "that is with no new development"; Chief agrees, that is with no new development. DVP Lemieux continues to say that the news has reported several times that permitting is up tremendously in the county, but questions whether that will reflect when we get our numbers in June. Chief Nisbet responds that "we would not be seeing it in the next budget year. If it hasn't broken ground by the first of the year, we don't see it this next budget, and I'm talking the 2012-2013 budget." He continues, what we are sitting on now is what we have for the 2012-2013 budget year. Once they start breaking ground it's 12-18 months before we start seeing the tax dollars from it. What will help us on some aspects, is Impact Fees. We will get some substantial Impact fees, if they don't adjust those rates dramatically, to help offset some capital costs, because that is what they need to be used for. He concludes, the grant income is definitely saving us at this point. Commissioner Griffin asks when we are supposed to know about the SAFER grant. Chief replies he really doesn't expect to know anything until about July or August, since the guidance document has not been released yet; he continues, he received an e-mail on it today, so he expects he will probably see the guidance document come out this week, perhaps even tomorrow, they'll usually let us have it for about 10 days to 2 weeks, for us to look it over, then they will open up the application period for about 30 days, probably the last week of January until about the third week of February. He continues, then they get everything in, schedule all their peer reviews; peer reviews generally take 30-60 days, then they go back to FEMA who decides how they're going to disburse them, that's another 30-60 days, before you would start seeing the awards; I would say we would start seeing the awards sometime around June. Chief adds that one thing you see with SAFER that you don't with AFG, they'll do two awards cycles a week, with AFG they'll only do one. Chief recalls that with the 2<sup>nd</sup> SAFER, we got done with our application period and it was 3-4 weeks later we knew we had it. DVP Lemieux adds that they

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had also shut the first process down half way through as it was not working right, and they revamped it, and the second time it went straight through. He continues that we have information that supposedly it is supposed to be streamlined if you're coming to the end of a cycle, which we are, supposedly, it's a box check, which is supposed to make it faster. Chief Nisbet states that he and Walt Stevens the president from Local 1826, have been talking quite a bit with Jennifer Stewart, helping the other departments that are on SAFER get their narratives in and making sure that the people in DC who are making the decisions are aware of the impact this area continues to suffer. Commissioner Griffin asks when ours runs out. Chief Nisbet replies August 28<sup>th</sup>, but we have the guys budgeted until October 1<sup>st</sup>, so if we don't get it, October 1<sup>st</sup> were down three; unless something dramatic happens with the budget, that you all see something different. Commissioner Cook states, "going back to the compensation, he agrees, with both Eric's", he feels they deserve it, and when he hears, that it is felt that some of the firefighters wouldn't be for it, he doesn't know why not; but he understands that we haven't leveled off. Commissioner Ducrou states his position as he is not concerned with whether the bargaining unit agrees with it or not, his decision is not based on that, it is based on whether it is right or wrong. Chief states that it was his honest opinion that some guys might have a problem with it, and they may, but he will make it work in the budget if that is what the Board decides they wish to do. He commends the Board for their action in the first place; he felt it demonstrated leadership at a time when we were making wage cuts. Commissioner Cook says that shouldn't change just because they start taking it again, he confirms that they only suspended it. Chief Nisbet agrees it was only suspended. Commissioner Cook feels we should look at it again next budget year, we will know more then. DVP Lemieux offers that we know what that number is, its \$6,000 a year. Commissioner Cook agrees we know what that number is, but we will know what the Ad Valorem will be by then. Commissioner Hansen agrees we will have a better idea, and adds that if we take out the SAFER grant, we didn't have a carryover. DVP Lemieux adds that it was equivalent to the SAFER and the FRS adjustment. Commissioner Cook adds that FRS is projected to go up drastically, too. Chief Nisbet agrees that the FRS will be significant; that it will be right back up to where it was, or higher. Commissioner Cook states that was his thought on it, to revisit it with the new budget variables. He looks to Commissioner Hansen for his opinion. Commissioner Hansen states he agrees that they put their time in; but adds that he has been in for 16 years and when he ran, there was no money; never was any idea that there would be money. He agrees that they, as elected officials deserve it, but hate to take it until they see more money come in, he doesn't know that this is the time to do it, yet. Commissioner Cook states he agrees, that's why he feels we should wait to see what things look like when we are doing the budget. Chief Offers that he could build it into the budget and see how it works out. Commissioner Ducrou suggests we just table it until budget. Everyone is in agreement that it will be tabled until next budget. Chairman Ducrou calls for any other old business. CommissionerCook asks if the Impact Fee Schedule items were old business. Chief Nisbet responds to the affirmative and states that nothing more has transpired with that at this time. He expects that to go to public hearings sometime around March. Chief Nisbet adds that there are several in the fire chiefs and the smaller departments that are going to collectively go down and have their public opinion heard. He summarizes that they are not in disagreement with the county that some of the impact fees need to be adjusted, but states he was under the impression that the entire county was under 1 impact fee schedule, which he found out quickly, is not the case. He agrees some of it needs to be addressed, though he doesn't agree with the severity of some of the cuts they have proposed. He points out that the areas that would take the biggest hits are Tice, Alva, Bayshore, Fort Myers Shores, and North Fort Myers. He adds that these are the areas that need the impact fee money most.

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Commissioner Cook states that we also need the tax base too; one is a long term thing and the other is a lump sum of money. Chief agrees, however, Commissioner Cook continues, if it's a deal breaker, you wouldn't want to turn people away, because they don't want to pay for a ladder truck. Chief continues, offering an example; a big box store, they're talking \$800 per 1000 square feet, they want to take it down to like \$89 per thousand square feet, a drop of seventysome percent. Residentials, we get \$750 for a residential build, they want to reduce that down to two hundred something or three hundred something; a substantial impact. Hotels, and motels, he adds is one of the areas that concern him that they want to increase. Commercial, which is one of the biggest areas where they are complaining about impact fees, they only touched that minimally; 5%, but everything that affects the smaller districts, they cut drastically. Lets say I have a bunch of houses go up on highway 31, another Bonita Bay project goes in there, how do I protect them if I don't have the impact fees to put a fire station out there? Commissioner Cook says, no, but you still get the long term revenues. Chief agrees, he gets the long term revenue idea, but it's still going to take him five or ten years to get the revenue to build a fire house. Commissioner Cook agrees, but adds, you don't want that (impact fees) to be a deal breaker, that if it's going to cost them 1.6 million dollars, then they just won't want to do it. Chief reminds, that he's not saying not to reduce them, he just doesn't feel they should be cut so drastically. Commissioner Cook states that a lot of counties have suspended the impact fees, and he sites Hillsborough county, where he was just days before, and states that they were packed in the building dept., he's still waiting for a call back. Chief defends that our impact fees are the lowest in the state. He continues that our tax base is the second lowest in the state. So he is not buying it that it is expensive to come here. Commissioner Cook agrees. Chief continues, "if I don't have the infrastructure in place, and the whole idea of impact fees is to allow us to put the infrastructure in place, so that we can provide the level of protection; I want people to come in, and I want them to have the ability for that long term investment here, but I also want to have the ability to protect them, so that they live here long term". Commissioner Cook states he believes they did a study, and asks Chief if they didn't. Chief Nisbet states yes, they did, and the problem he has with that is that it contains statements like "if a fire station has a pumper fire truck that can squirt water, and has hose on it, then they can put out any fire in any building that's there". He states, that is verbatim stated in the study. He points out that 3 of the commissioners are or were firefighters, and they know very well, that not every truck is designed to fight in every type of occupancy. Commissioner Ducrou agrees with that statement. Commissioner Klos states Muse is a good example. Discussion is pretty much exhausted. Chief says that is all he has on that at this time, and he imagines we will have another board meeting before he goes up. Commissioner Ducrou asks if this is on the agenda of the Lee County Fire Chiefs Assn. Chief states there is no meeting in January. Commissioner Ducrou asks if they are all on vacation or something. Chief Nisbet states that many are at Fire Rescue East, while many are going to the FASD Legislative Day. Chairman Ducrou says ok, the board will wait to hear an update. He calls for any other old business. Hearing none, he calls for new business.

**New Business –**

- **Capital Bank Proposal for Certificates of Deposit** – Office Manager draws the Board's attention to the proposal from Capital Bank for CD's ranging from 18-60 months, and reiterates they are penalty free for early withdrawal, are available in whatever denominations the Board chooses, for whichever terms the Board chooses. She advises that the rates we currently have are still in decline and the yield on the current Money Market came through this past month at 0.19% with \$931,000 which earned only \$102.88 in interest. She offers that we usually always

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have money sitting in the bank that we can invest this way, and we can order small denominations in case we need to cash out any. Commissioner Cook asks for confirmation that this is where our money is now, with Capital Bank, so we wouldn't be changing banks. Office Manager confirms that is correct. Chief Nisbet suggests that since we have reserves, that we put \$200,000 into the CD's and leave the remaining reserves liquid, because we can cash them out at any time. Commissioner Cook asks what about half the reserves, is that too much? Commissioner Ducrou reiterates that there is no penalty for early withdrawal. Office manager confirms. Commissioner Ducrou asks if you have to withdraw everything or can you withdraw just a portion of it. Chief Nisbet states that is why we would do more than one CD, as when you liquidate it it is closed. We can stagger them in any amounts the Board chooses. Commissioner Ducrou asks then why not do it all? It is discussed that we would do all of the reserve amount, not all of the account balance or you would be cashing them out every pay period.

Commissioner Griffin asks what the guarantee is, are they (Capital Bank) FDIC insured? Chief responds they are on our list of Qualified Public Depositories (QPD), that is requisite for any of our funds. Commissioner Griffin asks what the insurance goes up to, \$100,000 or \$200,000 or what. Chief Nisbet explains that as a QPD all Public Funds are 100% insured. Office Manager notes that the rates quoted will fluctuate until we actually transmit the transfer to the bank, ordering the CD's and that the representative gets new rate sheets weekly, so the actual rate we receive may be slightly different once the CDs are orderd. Chairman Ducrou calls for a motion for direction. Commissioner Cook makes the motion to put \$400,000 of our reserves into \$50,000 certificates of deposit for the highest rate possible, since the certificates are no penalty for early withdrawal. Commissioner Klos seconded the motion. With no further discussion and none opposed, motion carries.

- **Renew Line of Credit** – Chief Nisbet offers if all commissioners are in agreement to renew the line of credit, he will read the Resolution into the record. Commissioner Griffin inquires as to the renewal fees involved. Office Manager states total fees are \$200. \$100 loan fee and \$100 doc prep. Chief Nisbet offers that the auditors confirmed that it was very adviseable for us to hold a line of credit for use in restricted circumstances. Commissioner Griffin also noted in the Tuscan Seminar that this was a resource highly advised to have available. Chief Nisbet notes that there are some districts locally that have not secured this resource and are now no longer able to secure one. Having satisfied the questions, Chairman Ducrou requests Chief read the Resolution 2012-01 into the record. Commissioner Griffin Motions to adopt the Resolution (with the changes from TIB Bank to Capital Bank). Commissioner Hansen seconded the motion. Chairman Ducrou calls for any further discussion and hearing none, calls for vote. Motion passed unanimously.

- **Chairman Ducrou adds to New Business** - With regard to the meeting he and Chief Nisbet attended with the joint fire district aspect, much was discussed with legislation coming out with the FASD and the Governor's jerking around the fire districts, with regard to the FRS rates being different for the different governments; it is Commissioner Ducrou's perception that they may be intending to use this ability to reduce the rate the state has to pay, in an effort to reduce their shortages, and shift the burden to the special districts. Chairman Ducrou has rearranged his schedule to permit him to attend legislative day in Tallahassee on January 17<sup>th</sup> & 18<sup>th</sup> in hopes of speaking to legislators in attempt to encourage them to stop jerking the fire districts around with legislation such as this. He notes that FASD has hired lobbyists for the first time, for the FASD, and he will bring back all the information he can for a meeting with them, since it is an election year, he anticipates it will be a rough road. He invites any input of concerns from the board members. He has volunteered his time to go and has made

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arrangements with his work to attend on behalf of the District. Commissioner Cook asks about gas money. Commissioner Griffin mentions per diem, commissioner Cook says anything, hotel...Commissioner Ducrou states the District has secured a hotel. Chief Nisbet states that we will give him the GSA rate for the per diem and gas mileage, and notes we have secured the Chairman a hotel room at the FASD rate, as Theresa will be up there at the same location for the Certified District Managers program and Legislative Day as well. Chief announces there won't be anyone here next week as of mid week as he too will be away; he will be at Fire Rescue East dealing with Grants, Mutual Aid and State reimbursements. Common consensus seems that the per diem and mileage if using POVs should apply. Commissioner Cook asks the District's attorney if he has heard anything more on the FRS thing or if we are just letting it go. Chief Nisbet states that that is an anthill the attorney has suggested we not kick. Commissioner Cook states since the attorney was sitting there, he thought he would bring it up. Chairman Ducrou states he doesn't want to kick it, but he hates to let it go for another year or two, and then have them say we owe another \$20,000 in penalties. Attorney Mann states we are well covered in our efforts to try and get someone to discuss whether there was a needed correction. He continues, that he has never believed from the beginning that if they ever responded, that we would ever be in the position of penalties, but rather in a position of maybe correcting a shortfall. Penalties are imposed when someone intentionally screws up, just short of criminal prosecution level of intent. This was an error that was brought to our attention, we have attempted to fix it, we have remedied from this point forward, if somebody decides in the future we need to make up a shortfall, there is no legitimate basis to say "we need to penalize you, because you didn't call us seven times, you stopped at six." Chairman Ducrou states that perhaps penalty is not the correct terminology, maybe interest, because other departments have had to pay the interest on this in the past, and he can not imagine why we would be any different, that is his fear. Attorney Mann states the first issue with it is we are probably one of the smallest districts around, and second, he doesn't know how much more we can possibly do to remedy the situation besides what we have already done, the situation has been cured from here forward, it will not occur on any new employees, and the employees that are the potential beneficiaries of trying to make up the loss are a handful at most. Chief Nisbet states that in actuality, 2 are current employees, and they both said they were ok with us just...Attorney Mann states that one of them would have to complain before anyone is going to want to take action. Chairman Ducrou confirms with the District's attorney that we have documentation of our efforts in writing, that we performed due diligence? District's Attorney agrees, we have. Attorney Mann states if we were talking 9 employees, he might be a little more concerned about it. Chief Nisbet states we have only six. The attorney states again that he does not feel it is something we have to concern ourselves with at this point, and if it ever comes to light again in the future, we are well covered in our efforts to resolve the matter. Chairman Ducrou is satisfied. DVP Lemieux states he is one of the two, and the other person, he feels it might only come up if he left the department for another department, then he feels they would do that, but he doesn't know if that's even a possibility or even something they are even anticipating. Commissioner Cook states he is sure it is not dead yet. Chief Nisbet states that that other employee would only receive about 8 months of benefit. Chairman Ducrou states he feels a bit better about that. He calls for any other new business, and hearing none, calls for Public Input.

**Public Input** – With None offered, Chairman Ducrou calls for motion to adjourn.

**Motion to Adjourn** – Commissioner Cook motions adjournment. Commissioner Hansen seconded the motion. With no discussion and no opposed, meeting is adjourned at 7:50pm.

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