

BAYSHORE FIRE PROTECTION & RESCUE SERVICE DISTRICT
MINUTES OF THE BOARD OF COMMISSIONERS MEETING

March 10, 2020

Meeting called to order at 7:02 p.m. by Chairman Hansen

Invocation – Chairman Hansen

Commissioner Hansen – Present
Commissioner Griffin – Present
Commissioner Mere - Present
Commissioner Ducrou – Present (7:04)
Commissioner Cook – Excused
Chief Larry Nisbet – Present (7:04)
Office Manager – Present (7:02)
Attorney Ian Mann – Present

Others Present: Some Staff

Public Input Agenda Items – None

Minutes – Review and Acceptance of the minutes of the February 11, 2020 Board Meeting. Motion made by Commissioner Mere to accept the minutes. Commissioner Griffin seconded the motion. Chairman Hansen calls for any discussion. Hearing none, he calls for any opposed and with none opposed, motion passed.

Financial Report - Review & Acceptance of the February 2020 financials. Commissioner Mere moves to accept the February 2020 financials. Commissioner Griffin seconded the motion, for discussion. Chairman Hansen calls for discussion. Chairman Hansen asks if there's anything else. With no further questions or discussion offered, and none opposed, motion passed.

Fire Marshal and Administrative Reports (attached) – Chief Nisbet reads the Fire Marshal report into the record. He asks Captain Underwood to update on MW Horticulture. Captain Underwood acknowledges there are multiple cases involving MW Horticulture, not only with the county but also with the Dept. of Environmental Protection (DEP). He announces that on March 5th he and Chief Nisbet were both subpoenaed to testify on the DEP case. He states DEP has already withdrawn MW Horticulture's registration to operate, so there was an administrative hearing on DEP's side to enforce and uphold that withdrawal of their registration at which they requested Chief and Captain Underwood to testify. Chief was ultimately exempted as they weren't going on the Firehouse records and inspections; however, Captain Underwood was required to testify as the Fire Marshal regarding the investigation from the last fire as an expert witness to basically state why these fires are occurring. He states the bulk of his testimony stated the fires started by spontaneous combustion. He states we should hear something probably in the next 30 days as to whether DEP is going to be granted approval to withdraw their registration to operate as a yard waste facility. The Lee County case is still also pending; it is just delayed because MW has had their counsel withdraw on both the County and the DEP cases. They were granted withdrawal on the county case; but the DEP case judge had come all the way from Tallahassee and had not granted them permission to withdraw until after this hearing. They will now have to get new counsel for both cases. The last inspection, they did not have any notable

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violations on the fire code. We addressed a few issues with them to get cleaned up. They've obviously moved a lot of material off-site after the fire; they had no choice but to move the stuff, so there were minimal issues on the fire side; they do still have some notable issues with DEP and the county. Commissioner Hansen asks if they are allowed to take in product. Captain Underwood responds we had them shut down for about a week after the last fire, and we were enforcing the 100' set-back and making sure that the fire was completely out, with no smoldering areas creating hazards; so they were shut down for about a week after which there were no violations justifying continuance of a stop work order. Commissioner Hansen states he knew they were closed down and then he had received several calls the day before (this meeting) inquiring if they were allowed to be taking in debris as they were definitely allowing it in. Captain Underwood confirms they are allowed; they did however, advise us their plans were to cease all grinding and composting on site, and to adhere to act strictly as transfer station, which is the business activity they were originally permitted to perform. Captain Underwood states they say they are done fighting the process and they are going to be moving a significant amount of product off-site and return to a transfer station facility. Commissioner Mere asks if they made another payment in March. Office Manager states they are under Bankruptcy so we can't even press them. Chairman Hansen asks if there are any further questions for the Captain, and hearing none, Chief Nisbet reads the Administration Report into the record and offers a bit of additional information on the COVID-19 portion of his report due to the dynamic and fluid nature of it; he states additional guidance is coming out tomorrow, to where we're probably going to modify our response a little bit; where a patient with flu-like symptoms and there's no other distress, EMS is going to send a specialized unit trained in dealing with communicable diseases, to address them without fire response, but if there's any indication that it is a high-priority call patient (Delta or Echo), we will respond donned in protective equipment as appropriate. He continues the fire departments in Lee County are also working with Lee County Emergency Management to put in a resource request order with the state for additional N95 masks, gowns & eyewear. Everyone in the state is looking at some stuff, the problem is getting it, everything is on backorder. He reports as of now, we have no responders from EMS or Fire in quarantine while there have been evaluations post call but as of now, to his knowledge, there are no isolations. He returns to his report where he left off. He adds his application for the new station air machine did end up to be a micro-grant at less than \$50,000 because we didn't have to ask for a blast chamber as that was replaced about 2 years ago. He continues his report. And offers to answer questions. Chairman Hansen calls for any further questions and hearing none, he calls for Union Petitions.

Union Petitions – Hearing none Chairman Hansen calls for Old Business.

Old Business –

- **Fund Balance Policy** – Chief Nisbet directs the Board's attention to the Proposed Amended Fund Balance as included in the packets; the Reserves we've been discussing are on page 4 underlined for the make-up of the 90 days Reserves allotment. Commissioner Ducrou calls for the paragraph beneath the policy be stricken as the budget isn't even done by then. Office Manager explains that we actually amend the budget after fiscal year end and Chief Nisbet explains further of the amendment after the audit. Office Manager

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acknowledges it is an awkward statement that references 2 budgets (it is actually framed from State Statute and attempts to reflect our process) and offers to attempt to reconstruct it for easier reading. Commissioner Ducrou acknowledges then asks if the effective date should be off the 2019-2020 budget at the top of page 5. Chief Nisbet states we can but the core SOG was initially adopted back in 2008 and since revised. Commissioner Ducrou states he asks so that it is legal for the revision now. Commissioner Mere states due to the adoption and revision notes, it is appropriate the way it is. Commissioner Ducrou drops that discussion and states this should put our reserves (90 day) at \$401,080.91 (he has done the calculation). Commissioner Ducrou moves to adopt the policy. Commissioner Griffin seconded. Chairman Hansen calls for any further discussion and hearing none, calls for any opposed and hearing none, motion is passed.

Chairman Hansen calls for any other old business and hearing none, calls for new business.

New Business –

- **EMS Lease** – Chief Nisbet states he has approached Public Safety Director Ben Abes about the lease agreement that has not been adjusted since its inception and he came out and they met to discuss it. He continues that in the original agreement there is no Consumer Price Index (CPI) adjustment per year; so Mr. Abes looked at what that would be if it had been in place and that number would have been something a little over \$11,500 which is pretty-much in line with the other like-sized districts this end of town with their CPIs so he would like to continue to work on negotiations with them and states they are open to negotiate and they have expressed they would like to stay. They would like to get something in place before they strike their next budget with a stated CPI in the contract. Chief looks to the Board for direction on the CPI asking if they would like it to be what it actually is every year, regardless of whether that goes up or down or do they want to set a percentage. He states most of the set percentages he has seen were about 2% but there were years the CPI was as high as 3.5% and there have been a couple years where it had gone down. He states they have also asked us to go to a 90 day invoice instead of a 30 day invoice. They have also asked for a 90 day notice for termination instead of 30 days. He concludes he doesn't foresee any difficulty with them in this process and asks for direction. Chairman Hansen asks the Board for discussion regarding the CPI. Commissioner Ducrou states he would tell them 3% and that they are getting the place cheap. Commissioner Griffin asks which Districts we are comparing the lease to. Chief Nisbet states North Fort Myers, Tice, Pine Island. Chief Nisbet continues that all of the leases vary, some have assisted in the construction of the fire station, Tice being one of them, Boca Grande also, as well as Iona; but in others it is not. He states the average lease is between \$10,000 and \$15,000 until you get down to Bonita where they get \$115,000 for 3 units, and Cape Coral where it is a little over \$100,000 for he believes 5 units in their stations. Commissioner Griffin asks what they are paying us now. Chief Nisbet responds \$10,000. He states once this COVID-19 situation settles down he will probably set up another meeting. Chairman Hansen states so for the new contract it would be \$11,500. Chief Nisbet agrees and states that would be the base rate and whatever the CPI is for this year, would be added to the next payment. Commissioner Ducrou moves for acceptance to negotiate further with a 3% fixed CPI. Commissioner Mere asks when this whole process began. Chief Nisbet

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states 2010. Office Manager reads contract date 03/30/2010. Chairman Hansen calls for a second on the 3% fixed or another motion. Commissioner Griffin seconded the motion. Chairman Hansen calls for further discussion and hearing none, calls for opposed. He picks up on Commissioner Mere's reluctance and Commissioner Mere states he's not really opposed but feels he would like to see the base rate higher rather than having only increased \$1500 in 10 years. He states that equates to an increase of \$110 a month and any standard commercial lease would have gone up by more than \$110 month over a 10 year time period. He is fine with the CPI at 3% fixed, but our base should start off atleast at \$13,000 to kind of put us in the middle of the road where others are. Commissioner Ducrou agrees, he would love that, but believes it was arrived at by a historical CPI from that 10 year period. Chief Nisbet agrees, stating he showed Commissioner Ducrou the data and they were not treating us different than everyone else. Commissioner Hansen agrees and states that Chief will be negotiating it. Chief Nisbet agrees and states he also wants to increase the cap on the cost of repairs split from \$500 to \$1500. Chief proposes that we either go with the base rate and 3% CPI or higher base of \$13,000 and the adjustable CPI. Commissioner Mere states he doesn't mind the odds of the adjustable CPI when we're dealing with a percentage or two, over a ten year period I think we're going to be higher up than we are now, but... Chief state or you can allow m to negotiate that for you because I'm going to bring it back to you anyway. There's some discussion as to where it has gone and its performance. Chief Nisbet states the CPI is adjusted twice a year, in April and August, and they had asked him to use the August number, closer to the budget. Commissioner Ducrou states he feels the \$13,000 and 3% is fair for what they're getting and if they balk then we'll tack on the percentages they'll actually use. Chief adds that we also don't tack on utilities and some get utilities separated out but he doesn't know how they do that. Commissioner Mere states he would even be ok with the \$13,000 and 3% and leave the repairs cap at \$500 we'd actually be further ahead on the annual basis. Chairman Hansen restates where we would propose to be at \$13,000 and 3% CPI and to negotiate from there. The District's Attorney calls for clarification as there was an original motion and second and we now seem to be issuing verbal direction to the Chief to negotiate it. He states we either need to withdraw that motion or vote it down. Commissioner Ducrou withdraws his original motion.

- With no further discussion offered Chairman Hansen calls for any the next agenda item which is the acceptance of the 2018/2019 Fiscal Audit but as the Auditor was unable to make it to the meeting to present the findings, we'll table that until next meeting. There is some discussion as to the timing and how late we are. (While we are on the late side, we are actually ahead of last year as the timing is dependent upon the FRS calculations coming available. The audit is finished. It just needs to be presented and accepted. We have until the end of June to have accepted it and submit our AFR LOGGER.) Chairman Hansen calls for any other New Business. Commissioner Ducrou asks if we're going to amend the budget to reflect the new 90 day number. Chief Nisbet states we can do that. Commissioner Ducrou moves to increase the 3 Month reserve line item to reflect \$401,080.91 decreasing the unreserved line from \$152,180.41 to \$102,099.50. Chief Nisbet asks that at the same time we make any adjustment to match the audit if required. Chairman Hansen asks Commissioner Ducrou if that is acceptable,

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to which he agrees and also asks that we also add the line item for the vacation buy-back for Chief per his contract for his vacation and sick leave estimating that to be just under \$78,000 which he feels it is time to fund that. Chairman Hansen states those items will be included on the next agenda. Commissioner Ducrou states for history, we created the buy-back of vacation leave back when our staffing got so low that our staff taking vacations was costing us so much money in overtime so we tried to give the shift personnel the ability to buy time back and not use it and cost the overtime, but now that we've got the 3, we'll have to address the future needs of it, but it is something that since you have it, you'll have to fund it. Commissioner Mere asks if we have a cap. Commissioner Ducrou responds we do, they can buy back 2 weeks. There's no cap on accrual as it has no value after that. Chief Nisbet adds that the original plan was that as personnel approached retirement we would start funding it. Chairman Hansen asks if there is anything else new. Chief Nisbet states he was named 2019 Lee County Fire Chief of the Year. With no other New Business Chairman Hansen, calls for Chief Items.

Chief Items – None. Hearing none, Chairman Hansen calls for Commissioner Items.

Commissioner Items – Hearing none Chairman Hansen calls for Public Input

Public Input – None - Chairman Hansen calls for Motion to Adjourn

Adjournment – Commissioner Ducrou and Mere both move to adjourn. Commissioner Griffin seconds the motion and with none opposed meeting is adjourned 7:34p.m.