

BAYSHORE FIRE PROTECTION & RESCUE SERVICE DISTRICT  
MINUTES OF THE BOARD OF COMMISSIONERS MEETING  
May 11, 2021

**Meeting called to order** at 7:00 p.m. by Chairman Ducrou

**Invocation** – Commissioner Hansen

Commissioner Ducrou – Present  
Commissioner Hansen – Present  
Commissioner Mere - Present  
Commissioner Griffin – Present  
Commissioner Cook – Present  
Chief Larry Nisbet – Present  
Office Manager – Present  
Attorney Ian Mann – Absent

**Others Present:** DVP & some staff

**Public Input Agenda Items** – None

**Minutes** – Review and Acceptance of the minutes of the April 13, 2021 Board Meeting. Motion made by Commissioner Cook to accept the minutes. Commissioner Hansen seconded the motion. Chairman Ducrou calls for any discussion. Hearing none, he calls for any opposed and with none opposed, motion passed.

**Financial Reports** – Review and Acceptance of the Financials for March 2021. Motion made by Commissioner Mere to accept the financials. Commissioner Griffin seconded the motion. Chairman Ducrou calls for any discussion. Hearing none, he calls for any opposed and with none opposed, motion passed.

**Fire Marshal Report** – Chief Nisbet reads the Fire Marshal Report into the record. Then asks Captain Underwood to go over MW Horticulture. Captain Underwood advises MW has begun processing the debris again as of about a week ago and is removing the material offsite. He advises the County had filed an emergency injunction against both MW and the property owner in an effort to enable them to go in and remove the material themselves. He states as soon as that was filed MW and the property owner came to an agreement to allow MW back onto the site to do the removal. MW has secured the property and is again processing materials to get it offsite. They had a case management hearing yesterday and the judge threw out the emergency injunction and said the County need to refile that (due to some language issues). At this time MW does have equipment back on site and are in the process of removing material. They have stated it could take them up to a year to remove the product. He states he has expressed his concerns over that with the property owner and their attorney due to the constant smoke for the property owners and businesses who are suffering; and the County Attorney's office and the property owner's attorney are constantly getting calls on this. So, they are going to try to pressure them to accomplish the removal faster than a year and expressed that 6 months would be reasonable. We will see where it goes from here. Commissioner Mere asks if they have a location they are taking it to, or are they just trying to give it away. Chief Nisbet responds a little bit of both. Captain Underwood states the green waste they are obviously going to have to take to a location, that's what I told them I would like to see

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removed first because that's the biggest fire hazard. The piles that have already burnt, he has spoken with Mark who stated he found a pocket inside one of those piles he could fit his whole machine in. That's how bad and dangerous this property is/was. Hidden fires that were beneath the soil creating cavities. They did say they are only going to use dump trucks to get rid of it due to accessibility issues. Commissioner Mere asks if we have spoken to the property owners requesting they give access for the semis to help remove the debris, for a steady progress. Chief Nisbet states we'll have to see how that shakes out, that hasn't gone very well in the past. Chief Nisbet calls for further questions. Commissioner Ducrou asks if we are still having issues, are we going after the property owners now and leaving the business out of it? Chief Nisbet confirms we are putting both parties on the bill. Commissioner Ducrou asks if we should have both names on it that they can say "well, it's not for me it's for them". Chief Nisbet states per our attorney, yes. Office Manager state she has it set up with Minus Forty as the primary and MW Horticulture's original bills are set up as a job under the Minus Forty Company; that way Minus Forty is aware of all the billing that's out there for the property; the recent suppressions billed to them, as well as the MW Horticulture bills still showing on the statement as well; anything not yet paid that was performed on their property. Commissioner Griffin asks how much we have out there. Chief guesses close to \$30,000. What was originally billed to MW is now billing to Minus Forty. He moves on to the Administrative Report.

**Administrative Report** (attached) – Chief Nisbet reads the Administrative Report into the record. He adds to the report that there is some panic buying of fuel going on and advises the Board we refilled our storage tank this morning and we do have some strategic fuel reserves for emergency operations. Commissioner Mere asks if the legislation impacting special districts (Performance Audit) has been tabled for a year? Chief states we will have to budget for it in the 2022-2023 budget and we don't have the parameters yet. It did pass though it has not yet been signed by the Governor, but there are strong indications it will be. He states they also passed the \$1,000 bonus for first responders for COVID, though we have not received guidance on that either but it will most likely be handled as a reimbursement. Commissioner Ducrou calls for any other questions for the Chief. Hearing none, he calls for Union Petitions.

**Union Petitions** – Hearing none he calls for Old Business.

**Old Business** –

- **Chief's vehicle** – Captain Underwood states after research he has found there doesn't appear to be the \$3,000 difference between the Chevy and Ford vehicles as originally thought and Chevy has not provided pricing for 2022 and there are no 2021 Chevy's available. They are not producing any more 2021 Chevy Silverado 4WD. It will be a 2022 so we expect a 2.5% price increase which is just a guess, so that puts the Ford about \$300 cheaper. He concludes he believes the Ford F150 Police Responder will be the better vehicle because it is at the same price range and better built for responses in the brakes, suspension and computer. He proposes we go ahead and put in an order as there is no down payment required and there's no telling when the delivery will actually happen. They

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are saying at least 6-8 months. We just need to get in line. There are already orders in but they have not produced any 2021 F150 Responders yet. The other decision is color. He had them quoted in white but it should make no difference. Commissioner Mere asks how much we're talking. Captain Underwood responds "Good question. Sam Galloway is \$33,673 once we put in the light package, spray lining the bed with a spray liner, putting on a topper and a cargo glide, \$46,682 plus graphics so probably \$47-48,000. Commissioner Ducrou asks if the Chiefs have talked budget numbers, he knows we're getting Impact Fees money in that is allowing us to reimburse the general fund; he wonders about financing or how we are looking at paying for it. Captain Underwood states we can look at our options as we move into budget if the Board wishes to consider financing and if you decide not to move forward with the purchase, we can always let it go as the vehicle is in high demand and someone else will want it. Commissioner Mere moves to authorize the placing of the order for the new Chief's vehicle. Commissioner Hansen seconded the motion and with all in favor, motion passed. Commissioner Ducrou suggests the red as it will match our other vehicles. Commissioner Mere also says red. Captain Underwood agrees to order red. Chairman Ducrou calls for any other old business and hearing none calls for New Business.

**New Business –**

- **Physicals Reminder** – Chief Nisbet reminds Commissioner's physicals are May 28 and to get their bloodwork done if they haven't already.
- **Executive Session** – To be placed on agenda for June to prepare for July negotiations.
- **July Commissioner Meeting** – Chief Nisbet states we have cancelled the July meetings in the past as he is in Canada but his activities will not matter this year, so we are wondering about the July session. Commissioner Cook states he probably will not be here. Chairman Ducrou states we should keep it on the books unless something comes up. Commissioner Mere states we've already missed one this year. Chief Nisbet states he has a walk on item, with the promotion of William Lemieux, one of the items that has come up is he is currently being paid between the Probationary Captain salary and the Captain I salary. He's actually just shy of Captain I rate. Chief Nisbet states he has been discussing this situation with Chairman Ducrou and the DVP for the past couple weeks and they have talked a couple scenarios; one being taking the difference between Probationary and Captain I which is \$7,000 and dividing that in half, giving him \$3,500 and then when he comes off probation, he would get the other \$3,500. After looking at other contracts, Doug looked at a lot and Commissioner Ducrou looked at a lot, a lot of agencies, when this happens, do a 5% increase on the salary and then we can discuss anything further at the negotiation table. He is asking the board to authorize a 5% pay increase for William Lemieux for his probationary Captain rate and then allow Chief Underwood to discuss it further at the negotiation table, and we can discuss that further at the executive session in June. Commissioner Griffin asks what that 5% is going to put him at. Engineer Lemieux responds \$68 bucks a week. Commissioner Griffin was referring to the annual salary. Commissioner Ducrou states day one he'll be at \$74,146, 13.06% above starting pay for Captain and 2.05% above step one

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Captain. Commissioner Griffin asks so with the 5% he'll be in between... Commissioner Ducrou states, No, he'll be over the step one already. Commissioner Griffin asks if that is going to affect.... Chief Nisbet states he will still be below the other two Captains. Commissioner Griffin continues, "the tier or anything like that". Chief Nisbet states what is probably going to have to happen is we'll have to look at the payroll scale this year. We haven't made a whole lot of significant adjustments to that in a long period of time. Commissioner Ducrou states "don't say a long period of time; we made significant adjustments in 2018 and 2019." Chief Nisbet states he thinks it needs to be re-evaluated and done at the table. He adds, in talking to 1826, this is not uncommon. Chairman Ducrou asks if he wants a motion to adopt his (Chief Nisbet's) recommendation. Chief answers yes please. Chairman Ducrou calls for a motion to adopt. Commissioner Mere asks what Billy's length of service is. Billy responds 16 years in August. He also asks of the other Captain's years of service. They are 16 and 17. Chief Nisbet cautions him not to get into negotiations now. He agrees, he's just curious. Commissioner Ducrou states Billy will be 8% less than a 6-year Captain, and 10% less than a 14-year Captain. Commissioner Mere moves to give him the 5%. Commissioner Cook seconded the motion and with no discussion offered and none opposed, motion carried. With no further new business, Chairman Ducrou calls for Commissioner Items.

**Commissioner Items** – Hearing none from the other Commissioners, Commissioner Ducrou states he has one. Before he gets to that, discussion turns back to the prior discussion and states "when this was brought to my attention about the wage aspect, I went back to 2014 to try and see how we had addressed this once prior with an employee going from Firefighter to Engineer. We actually had language that addressed this in the contract, it came out when we changed from probation through step 5, to probation and only step 1 in each of the pay classifications that we have now. I listened to all the meeting tapes because I was trying to understand how we had gotten here, and at the time we dropped the step plan, and implemented a longevity plan and made some other changes to the contract, but;" he gets to his point he wanted to make. "The employees are on a 28-day FLSA cycle, which just means that if you call in sick within that 28 days you lose your ½ time for however many hours you work overtime, up to that same amount. The District has implemented a 2-week FLSA cycle, so they haven't followed the contract for how many years..." Chief Nisbet states from the beginning. Commissioner Ducrou asks if we know that for a fact. Chief Nisbet responds 100%. Commissioner Ducrou continues. "I brought it up to the Chief's attention because they weren't aware of it at the time, and Theresa's been very helpful, I've come in and asked a lot of questions and I wanted to build my computer calendar to understand their payroll, because a lot of this came about because we were signing checks before their pay cycle ended and I was trying to understand how signing something for something that hasn't happened, and how we got there and how that works and how to compare it with the FLSA cycle with the ½ time on the overtime; and that's when I found out they weren't necessarily jiving. I know the entire contract is up for negotiations this year, but I pointed out to Chief that it is something that was agreed to by both parties and it hasn't been utilized or used so we're still violating it every day that goes on now that we know about it. My personal direction to him was we should comply with the contract and if it comes out in negotiations, through both parties, it comes out in negotiations." Chief Nisbet states "I prefer to wait until we talk about it in executive session so we can lay it all out, so you all can see the contract language and

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everything, it's something that we've done since the beginning. The idea was, the language we got we got from downtown, or we're trying to figure out where we got the language from, I need to listen to some of the tapes, but we're talking about something that was negotiated 13 years ago. So, the intention was, we thought we were doing it correctly, the Union thought we were doing it correctly, the language I thought was just the FLSA language, because we've never really looked at it. So, I think waiting until we get to the executive session and the negotiations is really not going to make that much difference, because I think maybe we have more of a language issue right now, than a policy issue with the way that we do it. The way that we do it works. It's easier for the bookkeeper, it's easier for us to track. We did make a change in payroll, let me remind some of you, about 10 years ago, if you remember, we were always chasing you down trying to get you in here to sign checks because we were trying to pay overtime and everything in that 2-week period, if you can remember Commissioner Cook and Commissioner Hansen, so what we did was we took any adjustments to the pay, overtime, leave coverage, special duty pay, we moved out 2 weeks later, so that's where a little bit of that confusion has come in. We're talking 47 days before the new chief takes over. He's fully aware of it, we've had some discussion about it, I would like to do a little bit more research here, make sure that my recollection is correct, if I'm wrong, I'm wrong, but I believe our intent was to do it the way we're doing it. But I just don't have all those answers yet." Commissioner Ducrou states "Alright, I'm going to let it go." Commissioner Cook asks, "so that I understand, what would it change if we went to the 28 days?" Commissioner Ducrou states "it has probably cost the district thousands of dollars. It penalizes the employee if they call in sick. You can use sick time, vacation time, bereavement leave, all can count against your hours worked for FLSA. We said no, it's only going to be sick time. We're going to count your bereavement time, we're going to count your vacation time, as hours worked so it's not a ding against you, it was only for sick leave. But if you take a sick leave in a month, that first 24 hours of overtime you have would be at straight time. It adds up. A lot of departments started that way, but right now, I can't say that many of them are. Many of them have a shorter cycle, they're either a week cycle, they might be a two-week cycle, depending on what your shifts are. I had a 9-day cycle at the airport but we started out at 28 days. It was negotiated down, but it was specific in the contract as to what we got." He asks Commissioner Griffin what they had at the city, but he doesn't recall but believes it was only a week or two. Commissioner Cook states 28 days is a long time. Commissioner Ducrou states it is the maximum FLSA allows. Commissioner Hansen states the contract says 28 days but we've been doing two weeks? Commissioner Ducrou confirms. He adds, "I only bring it to your attention because it is in the contract, it's black and white. So, I'm doing my due diligence with it, so..." Commissioner Mere states "I'm not saying that it's not something that we need to address, but if we've been doing it wrong for 13 years, to change it now, will almost, it's not, if it were to get into a legal standpoint, they're going to argue the point we've been doing it wrong for 13 years. I think it's something we need to address in the new contract and abide how we're going to do it. But I think to try and re-invent it now, it is what it is, up to this point, let's fix it as we go forward." Commissioner Hansen asks if it's something we can get in print so we can see it, read it, and understand it? Not being from the fire service it's difficult to understand. Chief Nisbet states "Commissioners I will have it to you in the executive session at the June meeting." Captain Underwood states "Fire and Law Enforcement are the only two that are subject to up to 28 day, by law. It is

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unique, I've spent a lot of time studying it myself." Commissioner Hansen asks Commissioner Ducrou if it was his wish to discuss it in executive session or tonight, or... Commissioner Ducrou states, no, my first direction was we should follow what it says, but if we want to discuss it in executive session, I can explain to you why I had that position. I actually tried to get an executive session for tonight and was told it wouldn't be allowed, so, but I tried." Chairman Ducrou calls for any other Commissioner Items. Hearing None, he calls for any Public Input.

**Public Input – None** - Chairman Ducrou calls for any public input and hearing none, he calls for motion for Adjournment.

**Adjournment** – Commissioner Cook moves to adjourn. Commissioner Griffin seconds the motion and with none opposed meeting is adjourned 7:36p.m.