

MINUTES
REGULAR MONTHLY MEETING
OF THE
FT. MYERS BEACH BOARD OF FIRE COMMISSIONERS
TIME: 1:00 PM
DATE: December 15, 2009
PLACE: 3043 Estero Blvd., Station 31 Meeting Room
Fort Myers Beach, FL 33931

IN ATTENDANCE: Chairman John Scanlon, Vice-Chairman Ted Reckwerdt, Sec./Treasurer Betty Goodacre, Commissioner Joe Schmid, Commissioner Carol Morris, Attorney Richard Pringle, Asst. Chief Darren White, Chief Mike Becker, Finance Director Jane Thompson, District members and members of the public.

Meeting called to order by Chairman Scanlon at 1:00 PM

Pledge of Allegiance

Moment of silence for our troops

Chairman Scanlon called for a motion to approve the November 17, 2009 regular monthly meeting minutes. Sec./Treasurer Goodacre motioned to approve the November regular monthly meeting minutes. Commissioner Schmid seconded.

Minutes were approved unanimously 5 – 0.

Chairman Scanlon requested Sec./Treasurer Goodacre read the Treasurer's report.

Sec./Treasurer Goodacre read the October 2009 Treasurer's Report for the record.

Sec./Treasurer Goodacre reviewed the summary of bank and investment account activities for month ending November 30, 2009.

- A. Sec./Treasurer Goodacre asked for approval of department checks #035479 through #035546 for a total of \$158,522.87 for November 2009. Vice-Chairman Reckwerdt motioned to approve the department checks. Chairman Scanlon seconded.
Department checks for November 2009 were approved unanimously 5 - 0.

Chief's Report

Chief Becker reviewed items on the Chief's Report and the Chief Recommendations for Agenda Items.

Commissioner Morris asked to understand more of the resignation of David Ellner – how long has he been an employee, how long a firefighter and why he resigned.

Chief Becker stated he would have to look up the years of service. Chief Becker stated he was under investigation through allegations that were at the administrative hearing level. Violence of the workplace and violations of policies were some of the accusations. The resignation was accepted by the Asst. Chief at the time. The Union has filed a grievance asking the District to rescind the resignation, but Labor council has advised management not to rescind the resignation.

Commissioner Morris asked if he is asking to rescind his resignation.

Chief Becker stated the Union is requesting management to rescind his resignation and continue the investigation.

Commissioner Morris asked if Ellner considered it a forced resignation.

Chief Becker stated again, labor council has advised management not to rescind the resignation. Labor council stated the District should not be in the position to rescind a resignation once it is accepted.

Communication continued between Commissioner Morris and Chief Becker.

Commissioner Morris asked if the Board could make a decision on this.

Attorney Pringle stated he was uneasy about the Board and management talking about the details of a grievance that has been filed without labor council clearing it first. The Board should not go into the details of an outside grievance filed. Attorney Pringle stated that since the grievance is in process the Board may have some restrictions on actions they can take during the grievance process. That is something that Attorney Hament could advise the Board on.

Commissioner Morris stated that she thought the Board had a right to make recommendations to the Chief.

Communication continued between the Commissioners.

Commissioner Morris stated she was not comfortable about the situation.

Attorney Report

Attorney Pringle announced the special meeting which is take place Thursday, December 17th at 10:00 AM at Station 31 which was published in the News-Press. Attorney Pringle stated the agenda items for the public.

Attorney Pringle stated this morning the BOCC approved the District to participate in the health and dental plan with the County which is an item on the agenda today. If the Board chooses to proceed to participate in the County's plan the Board will need to authorize the memorandum of understanding document with the County.

Attorney Pringle stated there is an agreement that is listed on the agenda under new business Item F. The agreement is a three way agreement between Foster and Foster, the VEBA trust and the District. Attorney Pringle stated that Foster and Foster notified him that they would provide the GASB45 compliance study as a part of the work they are doing for the VEBA trust. Attorney Pringle stated he has prepared an assignment of that contract since they are a separate entity and Foster and Foster's contract is with the trust and not the District. The assignment of the contract allows Foster and Foster to be in direct contract privities with the District to perform those services at no additional cost to the District. Also, if the Board approves the assignment of the contract, Item G would not have to be addressed. The Board could then reject all the responses and close that item on the agenda.

Attorney Pringle reviewed the process in which the Board will follow with the election of new officers.

Attorney Pringle noted that he has brought today the file on bylaws previously discussed by the Board, and is prepared to discuss the item once it is addressed on the agenda.

Public Input on Agenda Items

FF Troy Mesick DVP District 3 stated that he would update everyone on the Ellner topic at the end of the meeting when public input was allowed again. FF Mesick stated that the broker – Kevin Keever has attempted to communicate with the District sending an e-mail September 29 with three different options for the District to consider. FF Mesick stated he has given information on United to the Commissioner's today to review. The plan will save the District an additional \$125,000. FF Mesick stated he had a Union meeting last night and the group approved him to speak for them and United is the plan the Union wants to go with. FF Mesick stated it is fully insured so the District has control over it. Lehigh Acres has the same policy and likes it. With the AETNA plan the District loses the control of the policy. FF Mesick stated he has asked Kevin Keever to attend today to answer any questions the District may have.

Beach resident Pat Smith stated she had heard there was another health care plan and wondered why this insurance coverage was not on the table and asked the Board to consider all options available especially if they are less expensive. Ms. Smith asked if the United Health Care had a penalty clause if the District would drop. Ms. Smith stated it looked like ambulance write-offs are going down for the District and that is good news for the District and the Medical Officer should be commended for his hard work on the billing as well as anyone else that has been involved. Ms. Smith stated she was glad to see that the Chief's evaluation was on the agenda so the Board could do the review of the Chief while everything was fresh on the mind of the Board. Ms. Smith urged the Board to have some kind of guidelines for absences, etc. for the Board.

Beach resident Flip Harby welcomed Chief Becker back from administrative leave which he was on during the investigation. Mr. Harby asked for the cost of the investigation and requested someone from the District to respond to him if the costs are not readily available.

Chairman Scanlon stated that the cost was approximately \$12,000 for the investigator and approximately \$10,000 in other attorney fees and phone calls.

Mr. Harby stated that someone, especially the commissioners in favor of the investigation should be responsible for the fees that were paid to the attorneys. Mr. Harby stated that when the insurance bids were accepted by the District GreatWest was late and they should not have been accepted. The District was in violation of the bidding laws of the State of Florida when they accepted the late bid from GreatWest and it should have been a disqualified bid. Mr. Harby stated that the by-laws states that the Board has no input in regards to the daily operations of the District other than the Chief.

Lt. Reno stated that the United Healthcare plan sounds like a good idea if it can save the District more money. Lt. Reno stated that it is a slap in the face when the Chief talks about laying employees off. Several items can be looked at, take home cars and other items that could add up to savings without laying off employees.

Kevin Keever noted that the late submittal was not a GreatWest issue that it was his office that was late due to knee surgery, but again it was not GreatWest that was late. Mr. Keever stated when he looked at renewals last year he asked the underwriters to pool the whole group of firefighters and his whole group of business. Mr. Keever stated last year the District ran approximately \$200,000 less than last year's expected exposure number and this year the District is looking at approximately

\$145,000 under the maximum number. Mr. Keever noted that there are still claims outstanding that will need to be paid if the District chooses to get out of the contract with GreatWest. Mr. Keever stated there is a cap on the terminal for self funding programs. AETNA or United will not have a terminal clause because they are fully funded. Mr. Keever stated that last year he received an e-mail from Tammy Peacock stating that the Chief was requesting some options to look at reducing the healthcare costs. Mr. Keever stated he responded with different options and continued to negotiate with United based on the cost, and just recently e-mailed the Chief to see where the District stood. Mr. Keever stated he has negotiated on behalf of the District. The United rates are still in negotiations until the District can sign off on the questionnaire and return it to him, but those rates should not change.

Old Business

None.

New Business

- A. Approval of Assistant Chief Contract** – Chief Becker stated Attorney Hament has prepared the contract and asked the Board if they had any questions regarding the Assistant Chief contract.

Chairman Scanlon asked how this contract ranked in salary compared to other districts.

Chief Becker stated other districts range from \$137,000 to \$119,000. The Assistant Chief contract for the District is on the low end compared to surrounding districts.

Commissioner Morris asked what White's current salary was.

Chief Becker stated it is \$84,000.

Commissioner Morris noted that going from \$84,000 to \$120,000 the first year is high.

Chief Becker stated that the District's salaries are high. The District needs to stabilize the management team so they can go in and do the necessary work to adjust the infrastructure through collective bargaining to a salary range the District can afford. Chief Becker stated that if the Board reviews the list of salaries, it shows lieutenants and captains earning well over \$100,000. The District could look outside for a non-contracted employee with trends of a seven year general learning cycle. There are a lot of people under the collective bargaining agreement that has a lot of power and the Board should support the management team to help stabilize the effort to balance the budget and get costs in check. Chief Becker stated Darren White is a very credible candidate, he's a hard worker and competent to get the job done. Chief Becker stated there are a lot higher paid employees in the collective bargaining agreement than the Chief and Assistant Chief.

Vice-Chairman Reckwerdt stated that it is the Chief's job to hire and fire, and the Board's job to negotiate the contract. The Board should determine what to set the salary at and contract renewal timeframe for the Assistant Chief. Vice-Chairman Reckwerdt asked Attorney Pringle if the Board could set the salary and contract agreement dates.

Attorney Pringle stated the contract before the Board today is to approve or disapprove only. If the Board does not like the terms of the contract then they can give direction to the Chief on what is acceptable or not acceptable and bring it back to the Chief.

Sec./Treasurer Goodacre motioned to approve the contract for the Assistant Chief as presented today. Commissioner Schmid seconded.

Verbatim:

Chairman Scanlon we have a motion and a second. Is there are any other discussion or questions in regards to the contract for the Assistant Chief.

Vice-Chairman Reckwerdt – yes I do. It has in there for June 16, 2010 to June 15, 2013, that's a three year contract.

Chief Becker – yes sir.

Vice-Chairman Reckwerdt – I mean, the first year coming in like this I would rather see it as a one year contract instead of a three year contract and see how he does. He may not be happy with it, it may not work out. But still after one year I think we will know when he comes up again for a following contract we can give him a three year, but right now I do not vote in favor of a three year contract.

Commissioner Morris - I share your opinion on that Commissioner Reckwerdt and I have another problem okay. Maybe it's not my job as a commissioner to talk about who you put in to a position and who you don't. But, it is my job as a commissioner to say that I think your job Chief is to make sure that the men that work for you are physically fit. And I've got to tell you, I have sat here for three years and I've looked at a lot of your firefighters and I'm sorry you know if I'm personally insulting anybody but I'm not sure that I think they're physically fit. They're not in shape and I don't know what kinds of physical stuff that you put them through, but it seems to me that's something that you need to start doing. And so, you know it bothers me because even though you're a staff person and Assistant Chief White is a staff person, you still have to be ready to get on that truck and do everything, and when I saw the guys out there last week with all that heavy equipment and stuff that they have to put on and all the extra heat that they're carrying I want to feel comfortable as a commissioner that all the people there are physically fit.

Chairman Scanlon – Mam – excuse me - this has what to do with the contract?

Commissioner Morris – yes, because what I'm saying is my concern about putting somebody in as an Assistant Chief on a contract is that I don't think they're physically fit. So maybe it isn't my job okay, but I'm still going to make the point, because it is the Chief's job to make sure that that's true of people he puts into different positions. I mean it would seem to me if I were the Chief I would put somebody on probation until they were physically fit.

Vice-Chairman Reckwerdt – I see what you're getting at now.

Commissioner Morris See, so my point is that maybe it's not my job and I'm sorry if you may take it personally but I take it very personally but I feel very strongly that all the firefighters out there need to be in perfect physical condition because they're the ones that have to carry the people, that have to climb the ladders, and do all that hard work and it is hard. So, all I'm

saying is even though it is a staff position and you're a staff position you all need to be physically fit and I guess I would like to withhold the contract period until I guess this gets resolved but I do agree with Commissioner Reckwerdt on the one year.

Commissioner Reckwerdt – I want a one year to make sure that it works out right. I know him from the start of receiving e-mails and I talked to him for almost 45 minutes one day but still I feel that it's best to have a one-year contract to make sure next year if it works out real good, then we can go to a three year - that's my opinion.

Chief Becker I believe there is a probationary period in his current contract. I think we're going to know in six months whether or not the agreement works. Second I bring to your attention that one year from now if you look at the direction the district is going to be and what the collective bargaining agreement there's a lot of things that are going to be occurring in the timetable so it doesn't make sense from the longevity perspective. I believe Darren White is looking for is support to do this work that I am asking him to do so that's why we are asking you to look at a three year agreement. Again, not to say that what if the budget restraints and demand for decreases that I won't go to Darren and say that I need him to take a pay cut because that's what direction we will have to take. The terms of conditions spelled out in the next six months are going to determine if Darren stays on as assistant chief or if I send him back to prevention. I think the District has to count on my discretion to make that call in six months and exercise that position or not. Darren White himself may say I don't want to do this job, I want to go back to my position he has that right, similar to my first agreement I have. I think those concerns are addressed in the current agreement. You do have a six month timetable to work with. We look at the stability of the district as it's moving now and a lot of issues with the budget, we need to adjust collective bargaining, and we may have new members on this board. So, I think what Darren White is asking for with stability in his agreement is a fair request.

Secretary-Treasurer Goodacre section 19 in the terms spells out with the six month probationary. I see no reason that the Chief in six months could tell whether he can handle the job or whether Darren wants to quit himself and go back. I think a six month probationary period is ample.

Commissioner Morris I will tell you I will not support a three year contract and I would say that one possibility is just let him work without a contract for six months and then he can come back to us at that time. We will decide later based on what things are but I will not support a three year contract.

Secretary-Treasurer Goodacre would you work six months without a contract on the job?

Commissioner Morris sure I would if I wanted that job I sure would to show that I was the right person for it. I'd be happy to.....

Vice-Chairman Reckwerdt - We did, we had an assistant chief without a contract for a couple years, I remember that. Still it's not maybe the right thing, but I would just like to have as far as a one-year contract and then see - that's how I feel.

Chief Becker I also understand that there are some districts that do not have a contract with assistant chiefs but the employees that have retired from this district without a contract have provisions that allow the VEBA and other healthcare options and other provisions. I think that Darren White wants the assurance of having an agreement that allows the terms and

conditions of employment that every employee has with the exception of the civilian staff. So, I don't think we're asking for anything outside of this. So I think that a three-year agreement is looking out past the collective bargaining and will be a current position starting in June, which is looking out past the elections the Board is going to face and allows the District to have some stability. I'd really ask the Board to consider that as they make a final decision on this matter.

Secretary/Treasurer Goodacre call to question.

Chairman Scanlon – okay we have a first and second, we have a motion on the second. We've had time to discuss this. All in favor of approving Darren's contract as written in our packet say Aye:

*Chairman Scanlon – Aye
Sec./Treasurer Goodacre – Aye
Commissioner Schmid – Aye*

Anyone against say Nay:

*Commissioner Morris – Nay
Vice-Chairman Reckwerdt – Nay*

Chairman Scanlon: It gets approved 3 to 2.

B. Fire Commission Meeting Dates for 2010 - Chief Becker reviewed the commission dates for 2010.

Commissioner Scanlon motioned to keep the dates as the 3rd Tuesday of every month and the time of 1:00 PM. Sec./Treasurer Goodacre seconded.

Discussion continued between the Board on the time of the commission meetings.

Motion failed 1 to 4.

Commissioner Schmid – Nay
Commissioner Morris – Nay
Sec./Treasurer Goodacre – Nay
Vice-Chairman Reckwerdt - Nay
Chairman Scanlon – Aye

Sec./Treasurer Goodacre motioned to keep the same dates, but to change the meeting time to 7:00 PM. Commissioner Morris seconded.

Motion approved 4 to 1.

Commissioner Schmid – Aye
Commissioner Morris – Aye
Sec./Treasurer Goodacre – Aye
Vice-Chairman Reckwerdt - Aye
Chairman Scanlon – Nay

C. Nominate and Elect Officers of the Board of Fire Commissioners - Chairman Scanlon turned the agenda item over to Attorney Pringle.

Attorney Pringle opened the nomination for the office of chair.

Nominations/Elections for Chair of the Board of Commissioners

Commissioner Morris nominated by Commissioner Schmid. Commissioner Schmid nominated by Chairman Scanlon. Vote was taken.

Commissioner Morris

Commissioner Schmid – Aye
Commissioner Morris – Aye
Sec./Treasurer Goodacre – Nay
Vice-Chairman Reckwerdt - Aye
Chairman Scanlon – Nay

Commissioner Schmid

Sec./Treasurer Goodacre – Aye
Vice-Chairman Reckwerdt - Nay
Chairman Scanlon – Aye
Commissioner Schmid – Nay
Commissioner Morris – Nay

Commissioner Morris elected as Chair for the Board of Commissioners.

The election process was then turned over to Chairwoman Morris.

Nominations/Elections for Vice-Chair

Commissioner Schmid nominated by Commissioner Scanlon. Vice-Chairman Reckwerdt nominated by Commissioner Schmid. Vote was taken.

Commissioner Schmid

Commissioner Schmid – Nay
Chairwoman Morris– Aye
Sec./Treasurer Goodacre – Nay
Vice-Chairman Reckwerdt - Aye
Commissioner Scanlon – Aye

Vice-Chairman Reckwerdt

Sec./Treasurer Goodacre – Aye
Vice-Chairman Reckwerdt - Nay
Commissioner Scanlon – Nay
Commissioner Schmid – Nay
Chairwoman Morris– Aye

Commissioner Schmid elected as Vice-Chair for the Board of Commissioners.

Nominations/Elections for Secretary/Treasurer combined.

Sec./Treasurer Goodacre nominated by Commissioner Reckwerdt. Vote was taken.

Vice-Chairman Schmid – Aye
Chairwoman Morris– Aye
Sec./Treasurer Goodacre – Aye
Commissioner Reckwerdt - Aye
Commissioner Scanlon – Aye

Sec./Treasurer Goodacre re-elected as Sec./Treasurer for the Board of Commissioners

D. Switch from GreatWest Health Care to Lee County Plan – Commissioner Scanlon motioned to switch from the GreatWest Health Care plan to Lee County Plan. Sec./Treasurer Goodacre seconded.

Chief Becker stated management has prepared some handouts for the Board to review. The biggest concern the Board should consider is that the collective bargaining agreement binds us to a certain level of standard as defined by the collective bargaining agreement. There are several plans that are less expensive to the District, but they are not similar. The only logical switch without opening Article 17 is the switch to the Lee County plan which is similar in the levels of coverage.

Chairwoman Morris stated she was concerned if the union themselves are saying there is no problem moving to this other health plan (United) and it is similarly the same, she doesn't understand why article 17 is involved.

Chief Becker stated management has tried to negotiate article 17 without any success with the union.

Discussion continued between the Board and Chief Becker.

Commissioner Reckwerdt asked Kevin Keever the District Insurance Agent to discuss the plans on United, GreatWest and AETNA and give the Board some insight on the plans and which would be the best for the District. Commissioner Reckwerdt asked Mr. Keever if there was a mutual agreement between the Union and Kevin Keever.

Kevin Keever reviewed the plans.

Commissioner Reckwerdt asked Mr. Keever if the service is the same with the three insurance companies.

Kevin Keever all three are nationally recognized as some of the best carriers.

Commissioner Scanlon asked Mr. Keever what the expected savings with United would be next year versus the savings that is expected with AETNA.

Chief Becker stated that with an average increase of 7.7 percent, applied to both AETNA and GreatWest the savings would amount to approximately \$400,000.00

Mr. Keever stated no one has a projection at what future health care costs will be. Some of the increases are based on assumptions. Currently GreatWest is running under \$200,000 of the assumption with the claims that have come in.

Chairwoman Morris asked Mr. Keever if the plan came in under the maximum assumptions would there be any credits that could come back to the District.

Mr. Keever stated you would see that in your renewal.

Commissioner Scanlon asked if the District wouldn't benefit from being in a larger pool with the County.

Mr. Keever stated that a large pool could run bad with claims as well. Many districts can't afford the AETNA plan because they do not have a large family participation base.

Discussion continued between the Board and Mr. Keever.

Mr. Keever stated that GreatWest is looking at bringing down the rates in an early renewal with discounted rates as well as looking at Cigna's fully insured product which is the same as Iona/McGregor's plan.

Vice-Chairman Schmid asked if there is any administration cost with United.

Chief Becker stated that Lee County is fully staffed with an HR department to assist with health care which the District does not have. Chief Becker restated that the collective bargaining agreement binds both parties to a level of coverage and the Union's proposal with United does not have that. The Union could file a grievance that could possibly go all the way to arbitration if the plans are not similar. The open enrollment with AETNA will cease after this week, so it will not be an option after this week.

Chairwoman Morris stated that the CBA says "substantially different". If the Union says they are happy with the other plan, then the District should get a letter from the Union stating they will under no circumstance allow a grievance to be filed.

Commissioner Reckwerdt asked that the Union rep. respond to this issue.

FF Mesick – DVP District 3 – stated he held a Union meeting last night, took a vote and it was seconded and unanimously voted on and as a group they were happy to go with United health care. The plans are very similar. As a group, the Union would like a plan they can control and with AETNA the Union is tied. If it takes a letter, then FF Mesick on his word, will state it was approved that the Union will go with the United health care and he will have it typed out and put on letterhead.

DC Edge – DVP District 15 – stated they are in agreement and represent 100 percent of the membership between District 15 and Troy to go with United health care.

Finance Director Jane Thompson – stated she would like to review the numbers for the United health care plan. Jane Thompson stated that she backed the terminal clause out of the costs going with AETNA, and asked if the numbers with United include the terminal.

Kevin Keever stated the terminal is there no matter if the District goes with United or the County plan. The United plan is \$125,000.00 less than the County plan.

Commissioner Scanlon asked if the \$125,000.00 is before or after Mr. Keever is paid.

Kevin Keever stated he does not get paid by the District, he is paid by United. Mr. Keever stated that at Iona/McGregor they put in a health assessment program, at the agencies cost, to help identify issues to help keep claims down and he would be happy to put that in place for the Beach as well.

Commissioner Scanlon asked Attorney Pringle to comment on the legalities of switching to the United plan since it is not on the agenda based on the vote from the Union last night.

Attorney Pringle stated that the issue is the definition “substantially similar” and whether the plans being discussed are similar to the current plan the District has with GreatWest. Attorney Pringle stated that the vote of the DVP’s indicated they will say and there is unanimous support for the position that there will be no objection. If that is their position, they should put something in writing acknowledging the United plan as described does represent a substantially similar plan to the current insurance coverages and that as a result there will not be a basis for a grievance. The second part stating there would not be a basis for a grievance may be more than the DVP’s can say legally. The DVP’s can at a minimum say that both bargaining units agree that this is a substantially similar program and it should be in writing. A discussion of this item Thursday may allow it to happen prior to a decision being made.

Chairwoman Morris stated there is a vote on the table.

Sec./Treasure Goodacre withdrew her second.

Commissioner Scanlon rescinded his initial motion, stating that the two choices needed to be done by the first of the New Year.

Kevin Keever stated it did not have to be complete by the first of the year.

Chairwoman Morris motioned to put the item on the agenda for consideration at the special meeting Thursday. Commissioner Reckwerdt seconded.

Motion approved unanimously 5 – 0.

FF Mesick stated there was a form that was submitted to Darren White to be filled out so the United numbers would be confirmed which has not been submitted to date.

Chairwoman Morris stated the Board would need something in writing from District 3 and District 15 if they were going to consider the United plan.

FF Mesick stated he would have a letter on Thursday from both District 3 and District 15.

Vice-Chairman Schmid asked who the members of the insurance committee were.

FF Mesick stated the committee was made up of himself, DVP from 15 Tom Edge, FF Duncan, management staff (Asst. Chief Evans), Chief Becker, and retiree Brian Lundgren.

Vice-Chairman Schmid asked if one of the commissioners should be appointed to the committee.

Chairwoman Morris requested the item be put on the agenda for next month’s regular meeting.

- E. Ambulance Billing Request to Write Off** – Sec./Treasurer Goodacre noted the first write off did not have a dollar amount on it, just a reduction in the amount. Sec./Treasurer Goodacre motioned to write off the \$77.00 item. Vice-Chairman Schmid seconded.

Motion approved unanimously 5 – 0.

Chairwoman Morris asked what the charge would be for an ambulance transport.

Conversation continued between the Board on the customary charges for ambulance services.

Finance Director Jane Thompson stated the person transported lives out of town and did not want to go to the hospital. He only wanted to go to the clinic, but that is not the District’s protocol and the person does not have insurance.

Sec./Treasurer Goodacre asked if the District could send it back to our collections agency to see if they could get any further with the bill.

Conversation continued between the Board.

Commissioner Scanlon motioned to send the statement back to ADPI to negotiate the bill. Chairwoman Morris seconded.

Motion approved unanimously 5 – 0.

- F. Approval of Agreement Between VEBA Trust and FMBFCD** – Attorney Pringle stated it is the assignment of the contract rights from the VEBA trust to the District of the right to have Foster and Foster prepare the GASB45 compliance study at no additional cost.

Sec./Treasurer Goodacre motioned to approve the agreement between VEBA and FMBFCD. Commissioner Scanlon seconded.

Commissioner Scanlon asked Attorney Pringle if “there should be no additional cost” or if “there will be no cost”.

Attorney Pringle stated there would be no cost which Foster and Foster has indicated. If there is any out of pocket costs, that may be passed on to the District, but the work product efforts will not be charged.

Motion approved unanimously 5 – 0.

- G. RFP Responses for FMBFCD Actuarial Study** – Attorney Pringle stated that the Board does have to take action since the District did ask for responses. Action would need to be taken to close the RFP.

Sec./Treasurer Goodacre motioned to reject the responses. Commissioner Scanlon seconded.

Motion approved unanimously 5 – 0.

Attorney Pringle stated he would send a letter to the responders stating all responses have been rejected.

H. Performance Appraisal of the Fire Chief - Chairwoman Morris - *This was discussed at the last meeting. I believe, I thought we said that we were going to do it at the January meeting. I think that was my recollection that we were already more than over a year.*

Commissioner Scanlon - right because April was a year.

Chairwoman Morris— right, we went beyond the year.

Commissioner Reckwerdt - I believe that a motion was an evaluation instead of an appraisal.

Chairwoman Morris- well we said we were going to do the appraisal and then we would bring it up for further discussion that's why it's on the agenda. I will tell you I went back and read; I can't tell you now whether it was the statutes or it was something in the Florida statutes that clearly says again we should do a total appraisal. We can have each one do the appraisal; but at the session that we have whether it's the meeting in January or a separate meeting, that is when we sit down and we would openly discuss with the Chief the different appraisals and then figure out how we're going to put them together. You can do a simple thing like use a numbering system and add the five numbers up and divide by five or whatever you want to do. But, it's at that session that we should be able to have the open discussion. Some may say he's done a terrific job; some say he's done a terrible job; you sit and discuss and then everybody agrees that he did a pretty good job. That's the whole purpose of this. Is there any problem with having the appraisal as we said before in January?

Commissioner Reckwerdt - I thought we were going to ask him questions and then have him fill us in on what he's done; what we feel we need to ask him what he's done; so there's no doubt in my mind. That's why I have some questions here.

Chairwoman Morris— well, that's a good point. Would you like him to submit to us his "resume" of what he thinks he accomplished.

Commissioner Reckwerdt – I would rather ask the Chief some questions, yes or no questions, so he can fill in for the appraisal of the Chief how he conducted the last seven or eight months of the year. He could do that now, wait to the next meeting or do it Thursday, put it on there, question the Chief on his performance. That's all.

Commissioner Scanlon – I think it would be better if we had the appraisal and the question and answer thing all at once.

Chairwoman Morris - Okay, let me suggest something to you, since I've done a lot of appraisals in the past too. The Chief has a description of what he's supposed to be doing. Why not have him submit to all of us, his self assessment of how he did on each of those things that we told him he was to perform on. And then we will each go back, put together what we think and then come to the meeting.

Commissioner Scanlon – from the very same form.

Chairwoman Morris— absolutely, and I mean that's just a sort of suggestion for how this process could work; beneficial for him and for us.

Vice-Chairman Schmid - we do have the forms, so all we have to do is get the forms out, get a copy to the Chief, let him fill it out, and they can distribute it to us and we can have our blank

forms and we can either say yes, we agree with him or no. We do have the forms, everything is there.

Chairwoman Morris– but I would like to have it ahead of time I think.

Commissioner Reckwerdt – that’s why I asked to begin with because I had questions for the Chief on the Chief’s report, not on the agenda. When I saw this on the agenda, it seemed like a lot of questions I was going to ask him comes under the performance appraisal of the Fire Chief. How’s that going to work if I start asking him questions at the Chief Report and it falls in line of the performance appraisal of the Fire Chief. That’s why I didn’t understand why it was in there for this meeting. Are we going to ask questions of the Chief now or are we just going to set a time for appraisals next month.

Chairwoman Morris– now let me ask the next question since we’re still having open discussion here. Is this the kind of thing we should do at a separate session or as part of the January meeting?

Sec./Treasurer Goodacre – I would like to see it done at a separate session. It could go on for hours and people don’t want to sit through all this stuff. We have such a long agenda today, to start in on something like that today would be ridiculous. I would think it would be better if we had a special meeting sometime in January.

Chairwoman Morris– would someone like to make a motion?

Conversation continued between the Board.

Attorney Pringle – it should be done before the renewal date, before you start looking at wages and increases in wages and things like that. That was the idea, was the evaluation would occur prior to considering wage increases or adjustments in compensation.

Chairwoman Morris– we missed it and now we’re trying to catch up on it. I’m just asking the first question - do you want to do it at the regular meeting or do you want to do it at a separate meeting.

Commissioner Scanlon – I make a motion to review the Chief at a special meeting to be named later in January. Sec./Treasure Goodacre seconded.

Vice-Chairman Schmid – when we say evaluate you mean we will have our forms completed out.

Commissioner Reckwerdt – but can we add to the forms as we go along separate?

Chairwoman Morris– absolutely I think, but let’s hold off on that. All in favor?

Motion approved unanimously 5 – 0.

Chairwoman Morris– So we’re going to have a special meeting. The next thing we’ll decide is a date for doing that. We’re going to do that today too; you can decide it right now. But I want to get back to Ted’s point. I think what we ought to do is ask the Chief to fill out the form with what he’s done during this whole time period and provide a copy to each one of us so we have enough time to look at that and then make up our own evaluations to get ready to meet. So, give him two to three weeks whatever to do that and send a copy to us.

Conversation continued on the timeframe to provide the evaluation.

The Board discussed the timeframe for the Chief to have his evaluation completed and sent to the Board by Monday, January 4, 2010.

Commissioner Scanlon motioned to have the special meeting January 18, 2010 at 10:00 AM. Vice-Chairman Schmid seconded.

Motion approved unanimously 5 – 0.

Chairwoman Morris stated the Board would then come to the special meeting on January 18, 2010 with the individual appraisals and then come up with a total appraisal of the Chief after an open discussion. Chairwoman Morris noted that anything can be added to the appraisals if the Board chooses.

- I. **Fort Myers Beach Fire Control District By-Laws** – Chairwoman Morris noted that several months ago the Board agreed to go with the process being done by Margaret Banyan and asked where management was on a new set of rules and regulations.

Vice-Chairman Schmid noted that Flip Harby gave the Board a copy of the By-Laws and Margaret Banyan gave the Board a policy development procedure, but the Board has not taken any direction on which process to follow.

Conversation continued between the Board.

Chairwoman Morris stated the statutes say there is only one person needed to sign checks and if the Board would like to take it beyond the statutes it would be noted in the by-laws or rules and regulations.

Attorney Pringle stated there is a distinction between a set of by-laws and policies and it is related to the fact where by-laws has a collection of items in one document, and policies have separate items, and the process in which to follow that policy which could be amended when needed without affecting the by-laws. Attorney Pringle and Margaret Banyan discussed drafting policies to help with the operation and functioning of the Board. The Board has in the past adopted a meeting procedures policy which it follows today. There was a special meeting that was to take place to discuss policies and procedures.

Chairwoman Morris stated there should be one document stating the operating procedures for the Fort Myers Beach Fire Control District Commissioners and the individual policies within these procedures can be changed by a majority of the vote.

Chairwoman Morris asked how management was going to proceed with this task.

Chief Becker stated that the Board should let management know what policies they want drafted and if it does not take expertise, then it will be drafted by management. Chief Becker stated he would check with Iona/McGregor and to see what they utilize for their Board.

Conversation continued between the Board.

Sec./Treasurer Goodacre stated there is a set of by-laws which Flip Harby presented to the Board and this could be the basis on which the Board uses for direction. The Board could make changes to these by-laws if needed.

Attorney Pringle stated the plan was that Margaret was going to prepare them and then Attorney Pringle was going to review them.

Chairwoman Morris asked Chief Becker to pull some other district's by-laws and have Tammy put together a rough draft of them and present it to the Board so they can review at the January meeting.

Reports from Union Representatives

FF Mesick DVP District 3 stated the Ellner was on administrative leave for approximately eight weeks for violence in the workplace regarding an outside vendor. The Union was going to put in a grievance and go into arbitration and the day prior to the administrative meeting Ellner decided to resign due to remarks that Dr. Lemmons was going to get involved and would take Ellner's privileges away. FF Mesick stated he discussed this with Dr. Lemmons and he stated he did not communicate that information to anyone and that is why it is being grieved. FF Mesick stated the grievance is now in the Chief's hands and he can determine how to handle. FF Mesick stated the administration positions are filled rather quickly, but positions on the floor have not been filled. FF Mesick stated that Tate Sturtevant has been moved up to Paramedic and he has not been compensated for it, but administration has been given increases for additional responsibilities. FF Mesick stated that he has not been able to meet with Chief Becker since his return from leave, but hopes they can meet and work out some of the differences they have had. FF Mesick stated he had a large list of items that he will bring to the special meeting Thursday. FF Mesick noted several events the District is participating in throughout the holiday.

Communication continued between the Board, Chief Becker and FF Mesick regarding the Ellner case.

Remarks from Commissioners

Commissioner Scanlon – congratulated everyone on their years of service.

Commissioner Reckwerdt congratulated everyone on their years of service. Commissioner Reckwerdt stated he has several questions for the Chief and he is very unhappy with the District now. There have always been issues with administration employees. The Board did not hire the Chief to micromanage him, and the Board has a decision to be made to get the District back in shape. Commissioner Reckwerdt noted he has been going to the stations and they are still not manned properly.

Sec./Treasurer Goodacre – congratulated everyone on their years of service and hopes next year is better than last year and wishes everyone a Merry Christmas.

Vice-Chairman Schmid congratulated everyone on their years of service and Darren on his new assignment. Vice-Chairman Schmid stated he would like to see more harmony among the District and wishes everyone a Merry Christmas and Happy New Year.

Chairwoman Morris stated she would like to invite everyone to the special meeting to review the budget and see where cuts can be made on line items in the budget. Chairwoman Morris asked Chief Becker how many of the six firefighters that were laid off are back working.

Chief Becker stated there are three back at work.

Chairwoman Morris stated she was in the Little Caymans and saw their fire station which was attached to the airport and post office to save money. Chairwoman Morris congratulated everyone on their years of service and stated she would do her best to serve the District as the new chairwoman.

Public Input

Beach resident Al Agathen stated that the CERT team will have a class graduating this Thursday and with this class CERT now has over 100 members. Mr. Agathen thanked the Union, the Commissioners and everyone that showed their support for their fundraiser at the Yucatan and wished everyone a Merry Christmas and Happy New Year.

Beach resident Flip Harby stated that the bylaws were offered to Board over six months ago and the Board made no move on them. Mr. Harby stated that there is still a vendetta against the Chief.

Adjournment

Call for adjournment of meeting.

Meeting adjourned at 3:42 PM.