

MINUTES
REGULAR MONTHLY MEETING
OF THE
FT. MYERS BEACH BOARD OF FIRE COMMISSIONERS
TIME: 1:00 PM
DATE: January 20, 2009
PLACE: 3043 Estero Blvd., Station 31 Meeting Room
Fort Myers Beach, FL 33931

IN ATTENDANCE: Vice-Chairman Ted Reckwerdt, Sec./Treasurer Betty Goodacre, Commissioner Joe Schmid, Commissioner Carol Morris, Attorney Richard Pringle, Assistant Chief Larry Evans, Finance Director Jane Thompson, Administrative Director Margaret Banyan, IT Administrator Joe LaCroix, District members and members of the public.

Absent: Chief Mike Becker, Chairman John Scanlon

Meeting called to order by Vice-Chairman Reckwerdt at 1:00 PM

Pledge of Allegiance

Moment of silence for our troops

Vice-Chairman Reckwerdt turned the meeting over to Asst. Chief Evans.

Asst. Chief Evans recognized employees with years of service:

Ivan Bestrom	20 years
Pat Ahern	12 years
Tory Vagle	12 years
Todd Williamson	3 years
Tammy Peacock	1 year

Asst. Chief Evans stated yearly awards would be presented today.

Commissioner Morris called a point of order asking if the agenda sequence has been changed.

Vice-Chairman Reckwerdt replied yes the agenda order has been changed.

Attorney Pringle stated that the record should reflect the agenda published does not reflect the recognition item that Commissioner Morris is referring to, so anyone reviewing the agenda will not find it published.

Asst. Chief Evans stated the yearly awards are voted on by employees' peers for their outstanding service from the past year. Asst. Chief Evans reviewed some of the criteria. Awards were presented to the following:

Firefighter of the Year	FF Joe Devito
FF/ Paramedic of the Year	FF Troy Mesick
Officer of the Year	Battalion Chief Tom Grow
Civilian of the Year	Finance Director Jane Thompson
Community Service Award	CWO Glenn Gibson - US Coast Guard
	Lee County ESO – Capt. Matt Powell

Approval of Minutes

Vice-Chairman Reckwerdt requested approval of the amended November 18, 2008 regular monthly meeting minutes. Commissioner Schmid seconded.

Commissioner Morris requested the following changes in the November 18, 2008 minutes:

- 1) Draft Para 4 Page 7 – Commissioner Schmid asked how the Board could determine a process for evaluations. Commissioner Morris amended it to read: Commissioner Schmid asked that it be determined today how the Board could determine a process for evaluations.
- 2) Draft Para 12 Page 7 – Commissioner Morris asked if the contract is agreed upon today, the Board should agree upon the evaluation process. Commissioner Morris amended it to read: Commissioner Morris stated that if the contract is agreed upon today, the Board should agree upon the evaluation process.
- 3) Draft Para 8 Page 8 – Commissioner Morris stated the advantage is that you are not charged for a sewage fee every month if you have a separate meter. Commissioner Morris amended it to read: Commissioner Morris stated the advantage is that you are not charged for a sewage fee every month for irrigation water if you have a separate meter. Changes noted and will be updated on minutes.

Minutes approved unanimously 4 – 0.

Vice-Chairman Reckwerdt requested approval of the amended December 16, 2008 regular monthly meeting minutes. Commissioner Schmid seconded

Commissioner Schmid noted his name was spelled incorrectly throughout the minutes. Changes noted and will be updated on minutes.

Vice-Chairman Reckwerdt requested Sec./Treasurer Goodacre read the Treasurer's report.

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

Sec./Treasurer Goodacre reviewed the summary of bank and investment account activities for month ending December 31, 2008.

- A. Sec./Treasurer Goodacre asked for approval of department checks #034207 through #034351 for a total of \$249,585.31. Vice-Chairman Reckwerdt motioned to approve the department checks. Commissioner Schmid seconded.

Commissioner Morris asked why the statement of assets, liabilities and fund balance for Dec. 31, 2008 shows our buildings at 3 million dollars and that construction is in progress for Station 32.

Fin. Dir. Thompson stated the District had not moved into the building until January 12, 2009. Until possession has been taken and the Certificate of Occupancy received, the balance would not be reflected in the building value.

Department checks were approved unanimously 4 - 0.

- B.** Sec./Treasurer Goodacre asked for approval of capital projects fund checks #030084 through #030087 for a total of \$491,826.82. Commissioner Morris motioned to approve the department checks. Commissioner Schmid seconded.

CPF checks were approved unanimously 4 – 0.

Chief's Report

Asst. Chief Evans reviewed the Chief's Recommendations on the Chief's Report.

Attorney Report

Attorney Pringle stated before the Board was a Request for Qualifications (RFQ) related to the subject of an independent contractor to help the District evaluate health and life insurance coverage. If the RFQ is approved, the District can publish notice and get responses from independent contractors. Once the responses come in the District can evaluate and possibly hire an independent contractor to review the available insurance plans available to the District. The timeframe to complete this work is short due to an impending policy expiration.

Commissioner Morris asked if the RFQ was limited to the evaluation only and not insurance plans.

Attorney Pringle noted the goal is to hire an independent contractor to help evaluate the different plan proposals from different insurance agencies, compare the benefits and bring them to the Board so the Board can make a selection.

Commissioner Morris asked if this process has been done in the past or if it is new.

Attorney Pringle noted that in the past administration, and the insurance committee has selected contractors. The desire was to get an expert that could assist the District in evaluating independent contractors to evaluate the different plans available.

Commissioner Morris stated that there could be hundreds of plans available, but if they have not come in to bid, then we would not know what plans are available.

Attorney Pringle stated the goal was to get the independent contractor on board so they could help to write the Request for Proposals (RFP).

Vice-Chairman Reckwerdt asked if we would have to hire the independent contractor.

Attorney Pringle stated yes, they would be hired by the District.

Public Input on Agenda Items

No public input.

New Business

- A. Health Insurance RFQ** – Vice-Chairman Reckwerdt asked for a motion to approve the RFQ. Commissioner Schmid made the motion. Commissioner Morris seconded.

Commissioner Schmid stated that in the fourth paragraph where the date is, a time should be included so if any of the qualifiers would like to attend the meeting on Feb. 17, 2009 they will know what time to come.

Commissioner Morris asked if this is a normal timeframe or if we are being overly optimistic.

Attorney Pringle stated that the timeframe is aggressive, but there is time to respond to only the RFQ. The responders will only list their qualifications. If it was a combined RFQ and RFP, then there would be more time needed to get pricing.

Commissioner Morris asked if the District was going to have an RFP or just the RFQ.

Attorney Pringle stated once the board ranks the responders a contract will be negotiated with that individual to negotiate pricing. When the request from insurance companies is requested with their plans, then the pricing will be included.

Commissioner Morris asked why the District would not include how much it is going to cost the District.

Attorney Pringle stated that before the contract is finalized the District will know the cost. The District is only hiring the professional services covered under the 287.055 Florida Statute. Once the District states the work they want done, then they request the costs associated with the needs.

Commissioner Morris asked how the District would compare qualified responder's costs.

Attorney Pringle stated the District would not be able to compare; the only way would be to request both a RFQ and RFP.

Commissioner Morris asked if the District should get both at the same time.

Vice-Chairman Reckwerdt asked if the other District's are following the same procedure.

Attorney Pringle stated that coverages are becoming more detailed and the other districts may decide to do some kind of an evaluation, but to date, they are still going through administration and insurance committees.

Asst. Chief Evans stated that the administration wanted to get the Board's input on this important decision.

Attorney Pringle stated that there was a time when an individual (Josephine Christopher) was hired by the District to perform evaluations.

Commissioner Schmid asked if this motion was to include the RFQ and RFP.

Attorney Pringle stated that Commissioner Schmid could amend the motion since he made the motion.

Commissioner Schmid requested to amend the motion to include pricing in the request for qualifications. Commissioner Morris seconded.

Attorney Pringle stated the motion before the Board at this time is to authorize the release for a RFQ and RFP for an independent contractor to provide professional services to the District related to the selection of insurance policies and coverages for the District.

Motion passed unanimously 4 – 0.

- B. Ambulance Bill Write-Off** - Vice-Chairman Reckwerdt asked for a motion to approve the ambulance bill write-off. Commissioner Schmid made the motion. Vice-Chairman Reckwerdt seconded.

Vice-Chairman Reckwerdt stated that at a previous meeting Board voted by 3 to 2 that it (an ambulance bill write-off) is heard by the Board.

Commissioner Morris stated that it raises several questions. 1) The letter is unreadable and not written by the individual. The letter should come from the individual and not from someone else. 2) Three items look almost identical showing the individual has Medicare and Medicaide. Commissioner Morris asked if the transport was an emergency or a non-emergency. If it was not an emergency then it should be evaluated if the individual should be transported. The District should evaluate what the policy should be for this type of situation in the future. The situation is more detailed than just a request for a write-off. Commissioner Morris stated that the District should not make a decision until further research is done on the account.

Fin. Dir. Thompson stated that last year when the District contracted with PAC she went back to past minutes to determine the procedure for this claim. In the minutes it stated that any write-offs, other than contractual, would have to come before the Board.

Commissioner Morris asked how it came before the Board.

Fin. Dir. Thompson stated that the patient must not have insurance and after the billing company made several attempts to obtain information without progress, it was turned over to collections. Collections was not able to get it resolved so it came back to the District.

Commissioner Morris stated that on some of the invoices it stated he had Medicare and/or Medicaide.

Fin. Dir. Thompson stated she would attempt to get more information.

Commissioner Morris stated that based on his age, he should have some type of Medicare or Medicaide and asked if there was some way the District could assist him.

Admin. Dir. Banyan stated that the item was discussed between herself and Ms. Thompson and determined that administration should receive direction from the Board as to how much time and resources are to be spent on background research and what information should be considered.

Commissioner Morris stated she did not want to start a precedent that anyone that is destitute just writes in and it gets written off. Commissioner Morris stated she did not know what the District's policy and procedure was for determining if the call is an emergency with transport or non-emergency assistance.

Asst. Chief Evans stated that when the call comes in, the medic on the scene determines if it is an Advance Life Support (ALS) or Basic Life. Once the call status is determined, the decision is made

regarding whether the call is an emergency or not. If the medic determines the patient needs hospital treatment, they are transported.

Discussion continued among the Board and Administration.

Vice-Chairman Reckwerdt motioned to table the item until more information and research can be done. Sec./Treasurer Goodacre seconded. All agreed to table.

Reports from Union Representatives

FF Mesick noted that Station 32 is open and is very busy at this time of the year. The District may see Lee County EMS out on the beach as the season gets busy, due to the station units transporting patients.

Remarks from Commissioners

Commissioner Morris congratulated everyone who received recognition awards. Commissioner Morris noted that recently the Beach responded to a fire on Curlew which appeared not to be an emergency and was concerned with the cost due to the number of units that responded to the fire; including Bonita and Iona/McGregor Fire districts.

Asst. Chief Evans stated that the fire was on a two story piling home in the attic. The ladder truck and engine truck responded without the ambulance, which was out on another call. The call came in with smoke showing in the attic. Once the shift commander arrived and assessed the situation he determined additional manpower may be needed and mutual aid was called in. Asst. Chief Evans reviewed the necessary steps and manpower needed to contain and prevent further damage and also reviewed the need for backup. Asst. Chief Evans stated that on any structure fire, back up is called if needed. Both Bonita and Iona/McGregor call the District in the same situation.

Discussion continued between the Commissioners on the subject.

Commissioner Morris stated that it should be documented in the minutes when someone is absent and should note that if it is an excused or unexcused absence.

Commissioner Schmid congratulated everyone on their years of service. Commissioner Schmid asked that when we put in acronyms in the minutes note what it stands for one time and then continue with the acronym.

Sec./Treasurers Goodacre congratulated everyone on their years of service and everyone that received awards today.

Vice-Chairman Reckwerdt congratulated everyone on their years of service. Vice-Chairman Reckwerdt noted that Station33 is now open and operational; Station 32 will be fully operational by the end of the month and noted that it is good timing with the season coming on. Vice-Chairman Reckwerdt also wanted to wish the Chief a speedy recovery from surgery. Recognition of Captain Whiteside was noted for implementing new standards for training new employees. Also noted was the Toys for Tots contributions. Vice-Chairman Reckwerdt noted that he has not seen any follow-up from the District to "Ask a Firefighter" on input from the community.

Public Input

Beach resident Jim Stevens provided public input. Mr. Stevens stated that \$10,000,000.00 was noted in deposits and asked what the money was for.

Fin. Dir. Thompson reviewed the financial data and stated the funds are a bulk of monies that come in at the first of the year and are dispersed throughout the remaining year.

Mr. Stevens asked if the monies' was for the buildings.

Fin. Dir. Thompson stated no, that the buildings were paid for.

Mr. Stevens asked if there were no mortgages on the buildings.

Fin. Dir. Thompson stated that the debt service is being paid for over a number of years. Station 32 is paid for and Station 33 has a mortgage of 1.7 million, of which two principle payments have been made.

Beach resident Dick Warner provided public input. Mr. Warner noted that our country just changed over power today and it is a great thing. Mr. Warner stated that there was another issue that needed to be discussed regarding John Scanlon and his position with the District, in light of recent incidents. Mr. Warner requested that John Scanlon resign his position with the District and wishes him the best in the future.

Beach resident Pat Smith provided public input. Ms. Smith reiterated Mr. Warner's request for John Scanlon's resignation. Ms. Smith noted that some people may think it is "sour grapes," but she holds no animosity towards John. She continued that she believes that it sets a poor example for the young residents of the Beach who look up to our firefighters. Ms. Smith noted that the Union may also consider a call for his resignation due to their support of John during the election.

Beach resident Kathleen Cameron provided public input. Ms. Cameron lives on Curlew Street where the fire took place. She stated there was pandemonium during the fire and asked if there is only one fire hydrant on that street.

Asst. Chief Evans stated yes.

Ms. Cameron stated the hose ran all the way down the street and created a lot of problems due to the amount of equipment used. She noted that Mr. Gray (the owner of the home) stated he didn't think the amount of equipment was warranted.

Beach resident Al Agathen provided public input. Mr. Agathen noted he is a former firefighter from Wisconsin and would urge people to do research before criticizing the firefighter's decision to request backup, etc. He stated that this type of fire is one of the most dangerous and life threatening that firefighter's will ever fight. The most important question should be if they did the best to protect their personnel.

Vice-Chairman Reckwerdt turned the meeting over to Attorney Pringle to discuss the most recent incident with John Scanlon.

Attorney Pringle stated that the recent unfortunate events relating to Commissioner Scanlon was brought to his attention by Chief Becker. Attorney Pringle stated that after researching the matter it appears that Commissioner Scanlon is able to continue to act as a Commissioner. There are instances where a Board

could take action to remove a commissioner. That instance is limited to the situation where there are three consecutive unexcused absences. The Florida Statutes Chapter 191.005 could become a problem, as the meeting (today) is the first unexcused absence. There is also a provision for removal for other reasons, such as charges; however, the Board is not required to take any action at this time. If a conviction occurs of a felony under Section 191.005 sub-section 2, Commissioner Scanlon will no longer be a qualified elector and therefore will automatically be removed by law without the Board taking any action at that point. Attorney Pringle stated he also researched whether the Governor might remove a commissioner from a fire district board. Under Article 4 Section 7 of the Constitution there are references to the ability of the Governor and the Senate to remove certain public officers. Based on his research, this provision does not include the removal of a commissioner of an independent special fire district. It does include elected constitutional officers that are county officers. Attorney Pringle stated that he does not see where Commissioner Scanlon would fall under the definition of municipal officer which is the other category where the Governor can remove an official. Attorney Pringle put a phone call into the Governor's office (but has not had a return phone call yet) to receive conformation from the Governor's legal counsel. Specifically, Attorney Pringle would like to verify that Article 4 Section 7 of the Constitution would not apply in this instance. Attorney Pringle did contact the Attorney General's office and they indicated they would defer comment to the Governor's legal counsel. Attorney Pringle stated he has also looked at Chapter 112 of the Florida Statutes which pertains to elected officials generally. Chapter 112 has a provision, sub-section 152, where a Governor can suspend temporarily and permanently both a public officer. However, Attorney Pringle cannot find where this is relevant because the statute applies only if there is no other law that would apply to the circumstance. The Districts' instance Chapter 191.005 sub-section 2 does appear to apply. If Commissioner Scanlon resigns, then the Board will have a vacancy and the Board will consider the vacancy. If Commissioner Scanlon is convicted of a felony Section 191.005 sub-section 2, there will be an automatic removal and then the Board will have to consider the vacancy. At this time the Board does not seem to have the authority to remove a commissioner who is charged with a felony based on all the information gathered to date.

Beach resident Willis Beard provided public input. Mr. Beard stated if he were a member of the Board, he would be mad and would want to walk out. What would happen if the firefighters did the same? Mr. Beard stated he thinks the Board should make it happen now.

Commissioner Morris asked if the voters had any options.

Attorney Pringle stated that he did not find where a recall situation or method is allowed. The exception would be that anyone could contact the Governor's office at any time. In terms of a body of voters being able to initiate a recall process or another vote on the election; Attorney Pringle stated he does not believe it is allowed.

Adjournment

Call for adjournment of meeting.

Meeting adjourned at 2:08 PM on January 20, 2009.