

MINUTES
SPECIAL MEETING
OF THE
FT. MYERS BEACH BOARD OF FIRE COMMISSIONERS
TIME: 10:00 AM
DATE: March 31, 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, Chief Mike Becker, Assistant Chief Larry Evans, Finance Director Jane Thompson, Administrative Director Margaret Banyan, District members and members of the public.

Meeting called to order by Vice-Chairman Reckwerdt at 10:00 AM

Pledge of Allegiance

Moment of silence for our troops

Public Input on Agenda Items

FF Troy Mesick – District 3 stated there was concern with the economy that the District would not receive the cost savings they are getting with Kevin Keever and GreatWest if they choose another agent.

Other Business

- A. Health Care Insurance Agent Selection** – Chief Becker stated he should inform the Board there may be some affirmation violations based on recent discussions with one of the agents and staff administration.

Attorney Pringle stated he had no problem with the agent clarifying any communications with the staff that was discussed in regards to the affirmation.

Commissioner Morris requested to put a motion on the table to possibly make this discussion null and void. Commissioner Morris motioned to change the process and allow any agent to come back and tell the District what they can do for the District including the current agents and any other agents that would like to offer the District services. Commissioner Morris stated that the District would get a better price through making the process competitive.

Attorney Pringle restated that the motion presented by Commissioner Morris would be to reject all responses that have been received and re-advertise.

Commissioner Morris motioned to reject the current responses and re-advertise in an open competitive fashion. Commissioner Schmid seconded.

Vice-Chairman Reckwerdt stated the agents have already put time and effort into the process and also the coverage with GreatWest will end tomorrow, April 1, 2009. Vice-Chairman Reckwerdt asked if there would be any extension from GreatWest.

Chief Becker stated there is a method to continue with GreatWest with a cost associated. The agent of record would be responsible for negotiating the renewal cost with GreatWest.

Attorney Pringle clarified the reason for the RFP and RFQ. There is a two step process, the first being the selection of an agent and second, when an agent is selected, the agent will attempt to select and help the District to find the best pricing from the different insurance companies. Today's process is to select the agent and once an agent is selected then a RFP would go out to the insurance companies through the agent to get the best price with the same coverage. If an agent is selected today the agent will immediately contact GreatWest on behalf of the District to get the best price as the new agent until the RFP process goes through and the District determines the best insurance provider.

Commissioner Schmid reiterated Commissioner Morris' request to open the process to more agents and pricing from the agents.

Chief Becker stated the rates on based on the previous year and the exact cost cannot be known until year end. The agent selection should be based on what the agent can do for the District.

Commissioner Schmid stated his understanding is that the agent will base their price on the numbers from a year back or a month back and then add their percentage. Commissioner Schmid asked what percentage the District is paying today compared with what the agents are proposing today. If they need the figures then the figures should be supplied to the agents. Commissioner Schmid stated there is a motion on the table and he would like to see the motion go through.

Attorney Pringle stated that during communication with Dr. Banyan a shift in the process and modifications were made for the agent of record. Each agent cannot go to GreatWest and request a quote. The agent of record has to be named and then the request can be made based on a group quote.

Conversation continued between the Board and Administration.

Commissioner Morris stated the discussion is based on assumptions and from her experience other insurance companies will allow more than one agent to get quotes and come back with pricing and would like an expert if one is in attendance today to respond why it is not available to all agents.

Attorney Pringle stated that the Board could give each agent an opportunity to respond to the question.

Vice-Chairman Reckwerdt asked the agents to respond one at a time to the question.

Brown and Brown representative Sharon Gall – stated that GreatWest will only work with the agent of record, but they can go out and get competitive bids from other insurance companies.

Gulfshore – Dan Thompson reiterated Brown and Brown's response.

Gehring Group – Anna Maria – reiterated the other agency's response.

Oswald and Trip – Ken Hess – reiterated the other agency's response. Mr. Hess stated he would like to respond to the violation of the affirmation. Mr. Hess stated he apologized if anything he discussed with the District was misconstrued as a bribe for business. Mr. Hess reviewed his relationship with various local businesses and recent events they are involved with.

Keever and Associates – Kevin Keever asked to address the Board and review the history with the District.

Vice-Chairman Reckwerdt asked if this was permissible since he was not in the selection process.

Attorney Pringle stated the question was whether the process can be done as a pure competitive selection. Mr. Keever is an insurance expert, and to be fair to everyone the Board can hear from him as well regarding the question.

Mr. Keever reviewed his history with the District and other districts in the area. Based on the volume of business Keever and Associates does allows them to reduce the increase significantly for the District.

Commissioner Morris stated her previous motion will not work and requested to withdraw her motion. Commissioner Schmid seconded the motion.

Commissioner Morris motioned to stay with GreatWest and not go with another agent and hold off until next year.

Attorney Pringle restated the correct phrasing of the motion. The motion is to reject all the responses and remain with the current insurance agent. The Board does have the ability to reject all of the responses. The motion is a proper motion.

Motion approved 3 to 1:

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

Attorney Pringle restated the motion to reject all responses and stay with the current agent, passing 3 to 1.

B. Ambulance RFP – Chief Becker stated the Board requested repair documentation from the last meeting. Chief Becker reviewed the fleet repair cost of ambulance 31, approximately \$9,000.00, but down time has not been calculated. Chief Becker requested the Board to move the purchase forward and allow Attorney Pringle and him to negotiate with the vendor at a reduced cost.

Sec./Treasurer Goodacre motioned to move forward with the vendor's proposal to purchase the ambulance. Vice-Chairman Reckwerdt seconded.

Commissioner Schmid asked what the cost was proposed by the vendor.

Chief Becker stated the approximate cost was \$160,000.00 with \$11,000.00 or \$12,000.00 of questionable items. The other vendors were given opportunities to make substitutions in areas they could not replicate.

Sec./Treasurer Goodacre asked if the Ambulance Committee was present and if they could speak about the ambulance setup.

Chief Becker stated Troy Mesick is present and available to speak on the subject.

FF Mesick stated it is good practice and important to have the same setup on all ambulances if available. The box is the same as the others, just smaller. The only difference is the engine and the chassis.

Sec./Treasurer Goodacre asked what the lifespan of the vehicle would be.

Chief Becker stated the lifespan will be greater due to the usage.

Vice-Chairman Reckwerdt stated based on the Comprehensive Plan the life expectancy is three to four years which is overdue and the purchase of the ambulance has been in the budget since September 2008.

Chief Becker stated if the Board approved the purchase, he could guarantee the arrival before next season.

Commissioner Schmid stated the economic conditions could greatly affect the District and we should wait and see how the economy rebounds to make sure any negative affects do not cost firefighter jobs.

Vice-Chairman Reckwerdt stated the District has reserves to take care of the employees of the District and asked that the firefighters give input on the purchase.

FF Mesick stated he understands Commissioner Schmid's concern and that ALS is the key to transport to the hospital. The ambulance purchase is not a critical item based on the economy.

Commissioner Morris stated that in the future procurements should be reviewed to make sure the criteria is not too specific so more vendors could respond.

FF Mesick stated the normal process of the RFQ/RFP is created by the task force then goes out to the vendor and then the Attorney Pringle reviews. The last RFQ was very specific based on comments from the task force.

Conversation continued between the Board and the District regarding the purchase of the ambulance.

Attorney Pringle stated with regard for the competitive selection process the document is made up of two parts, the first is the RFQ and basic requirements, etc. The second piece is the specifications itself which can be very specific where some vendors may not be able to respond due to the specifications. When review such documents there is a cover page on the document saying "we have asked for specific items, however if the vendor cannot provide the specific kind of equipment and tell us what your replacement equipment would be". This gives the responders the ability to provide the District with alternative equipment.

The document itself gave the vendors the opportunity to provide alternative equipment.

Commissioner Morris asked if the Ambulance Committee reviewed the document.

Attorney Pringle stated the document came from the committee and he tried to eliminate certain specifics and apply alternative equipment if applicable. Some items were specific with no changes available.

Conversation continued between the Board and the District regarding the purchase of the ambulance.

Chief Becker asked that if the Board's direction is to not replace the truck, then he would like direction on when it will be replaced and what effect that would have on the community. There have been trucks with more than 100,000 miles in transit to the hospital that have been stranded due to mechanical failure. Chief Becker asked the Board to give him some direction if they choose to not purchase the new ambulance.

Vice-Chairman Reckwerdt asked Chief Becker what the other districts do.

Commissioner Schmid stated again the District should wait until September and look at the economic conditions before making the decision. The District should have a better understanding of the funds available at that time.

Chief Becker asked the Board their direction on when to park the truck.

Commissioner Schmid stated that based on a diesel engine, we should keep it in use for at least another year.

Commissioner Morris stated that diesel vehicles have a longer useful life and we should make sure we are doing the preventative maintenance to assure they operate to the maximum efficiency. Commissioner Morris stated that the other districts that purchase the vehicles continue to get use out of them. Commissioner Morris stated she would like to see what the average useful life is.

Attorney Pringle restated the motion to go forward with the purchase of the new vehicle.

Motioned failed 2 – 2.

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

- C. Replacement of Commissioner John Scanlon** – Attorney Pringle stated at the last meeting there was discussion about the Governor's office contacting Attorney Pringle through their legal counsel. The Governor issued the executive order temporarily suspending John Scanlon. The general council called and stated that the Governor was considering an appointment to fill the temporary vacancy and indicated that the Governor would like to the Board to consider names for consideration. There is a process for the Governor to appoint an individual which involves an application that needs to be completed. In addition to the application, the general council is asking if the Board has a preference who they would like to fill the temporary vacancy. The Governor asked the Board not to rank anyone, to only send recommendations.

Commissioner Morris asked if Attorney Pringle had the letter that went out asking for specifics.

Attorney Pringle stated the letter dealt with chapter 112.51, a topic that was discussed between Commissioner Morris and Attorney Pringle.

Commissioner Morris stated that after reviewing the chapters on vacancies, if the Governor's office wants the Board to suggest temporary assignment it should be in writing so the Board will know what the rules are.

Attorney Pringle stated that the letter asked about Florida Statutes 112.51 and if it applied to the Board and their situation. In addition to requesting an opinion the Board asks what process the Governor was going to use to fill the temporary vacancy created by the suspension of John Scanlon in a written response.

Attorney Pringle noted that the executive order and the general council direction stated it was for a temporary position. At the point of conclusion of the case, if Commissioner Scanlon is reinstated the Governor's office will also reinstate. If he is not reinstated, then the Board will have the opportunity to fill the vacancy until the next election.

Commissioner Schmid motioned that if there was any interest from an individual today that they be allowed to speak to the Board. Sec./Treasurer Goodacre seconded.

Conversation continued between the Board and the District.

Vice-Chairman Reckwerdt asked that if anyone had an interest in the temporary vacancy to please come forward.

Attorney Pringle stated at the last regular meeting Al Agathen and Martin Palijan communicated their interest in the temporary position. Attorney Pringle stated that the individuals have to fill out the form and send to the Governor's office for consideration. The Board can then say they support any or none of the interested parties.

Conversation continued between the Board and the District.

Attorney Pringle stated the Board can make any decision or not make one at all. Whatever the action is of the Board, Attorney Pringle will write a letter to the general council and the Governor will choose the process in which to fill the vacancy. This exercise is only an attempt to give the Governor an idea of what the Board's wishes are.

Commissioner Schmid requested to withdraw the motion. Sec./Treasurer Goodacre seconded.

Attorney Pringle stated that there has never been any communication from the Governor's office that this vacancy would be a permanently replaced. If there is a permanent vacancy it would be filled by this Board.

Commissioner Morris motioned to not fill the temporary position until the Board knows the status of John Scanlon. No second.

Commissioner Schmid motioned to establish a temporary replacement out of the four names that have been given to the Board. No second.

Vice-Chairman Reckwerdt motioned to let the Governor determine the temporary replacement based on the names from applications received. Sec./Treasurer Goodacre seconded.

Commissioner Morris asked if the motion could be modified to include after advertised anyone interested could fill out the application and then the Governor could decide.

Attorney Pringle stated the notice of today's meeting listed under item #3 discuss the replacement of Commissioner Scanlon.

Conversation continued between the Board and the District.

Attorney Pringle stated that all the Board can do is state what they would like to see the Governor do. The Governor can and may have already decided a replacement. Attorney Pringle noted the Board did not want to suggest that the Board is mandating his position.

Vice-Chairman restated his motion.

Commissioner Morris stated that it doesn't even ask if the person is a permanent resident on the application. It only states for you to give your address.

Attorney Pringle stated on page two of the application it references the residences addresses item #3 your address and item #4 all the places of your residences for the last five years.

Commissioner Morris noted that you could be a snow bird and still be considered.

Motion approved 3 to 1: Vice-Chairman Reckwerdt – Aye
 Sec./Treasurer Goodacre – Aye
 Commissioner Morris – Nay
 Commissioner Schmid – Aye

Commissioner Morris asked how someone could get a copy of the application.

Attorney Pringle stated they were online and he would leave the copies he has for anyone that wanted to get an application today.

D. Other Business - None

Public Input

Beach resident Flip Harby noted the website for the online application. www.flgov.com. Mr. Harby stated that the agent was rejected because it was six minutes late, it should have been disqualified.

Commissioner Morris stated the District did not select anyone; they are operating as “status quo”. Members of the audience disagreed.

Mr. Harby stated the proposal for the ambulances is not valid if it is past the date the proposal is valid. Mr. Harby stated if Mr. Scanlon successfully completes his intervention he will be reinstated; if not then the Governor will request the District to appoint a permanent replacement.

Beach resident David Saunders asked what that the dollar cost is of the new ambulance?

Chief Becker stated approximately \$159,000.00 with an approximate \$12,000.00 that could be adjusted off.

Mr. Saunders asked how many times a truck has been stuck because of mechanical failure with a patient.

Chief Becker stated it happened in 1996.

Mr. Saunders asked stated the temporary appointment for Commissioner should be published so the public is aware and they can respond if interested. Mr. Saunders stated the meetings are not as open as they should be.

Vice-Chairman Reckwerdt stated public input is public input and not question and answer.

Commissioner Morris asked Attorney Pringle to comment on the statement.

Attorney Pringle stated there is several ways that a member of the public can receive information. The primary source is through a public records request from administration. The Sunshine Law in Florida generally describes the meetings of elected officials where the public can attend and hear what happens and see the elected officials in action to assure the meetings are held outside of the public. The Sunshine Law does not mandate actions from the Board to answer questions from the public or requires interaction to occur. Attorney Pringle noted he has suggested in the past that public input be allowed prior to agenda items so input by the public may be heard so the elected officials could hear the statements of the public. That is why there is two public input times. In terms of a legal mandate for administration or elected officials to answer questions from the public there is none that requires that to occur. It is up to the chair to determine if interaction should occur.

Mr. Saunders asked if the public could not ask a member of the board why they voted a certain way for making decisions.

Attorney Pringle stated there is not a process in the public meeting where a member of the public could say point of order. The elected officials are the only ones that could request the decision on voting. There are also no secret ballots allowed.

Mr. Saunders noted in any level of government that he has been associated with anyone has the right to ask the elected official why they voted the way they did.

Attorney Pringle stated you can make the phone call and ask the question. Attorney Pringle stated that during public input anyone can ask the question, but the official can decline to answer. With regard to the elected official's response, they are not mandated to interact with the public. All communication should be directed through the chair. The procedures that are in place direct all responses through the chair.

Vice-Chairman Reckwerdt asked for adjournment

Commissioner Morris asked to give input.

Vice-Chairman Reckwerdt stated he asked for adjournment. . Sec./Treasurer Goodacre seconded.

Commissioner Morris stated an important point was brought up and asks if the Board would agree that if we let the Governor's office to appoint, that there be a timeframe and request that no decision be made for 10 days to two weeks to allow people to get their applications in to the Governor. Commissioner Morris asked Attorney Pringle to request this in his letter to the Governor.

Attorney Pringle stated that the request would be to go back into the agenda item and reopen it with the motion Commissioner Morris made to allow 10 days to two weeks before the Governor makes a decision to allow for interested parties to get their application in.

Vice-Chairman Reckwerdt asked if there was a second. Commissioner Schmid seconded.

Motioned failed 2 – 2.

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

Commissioner Morris asked why the Board was disagreeing with the timeframe.

Vice-Chairman Reckwerdt stated the item was advertised prior to the meeting.

Adjournment

Call for adjournment of meeting.

Meeting adjourned at 12:21 PM on March 31, 2009.