

**East Naples Fire Control and Rescue District Board of Fire Commissioners Meeting  
January 13, 2009**

**I. MEETING OPENED**

Commissioner Cannon called to order the regular meeting of the East Naples Fire Control and Rescue District's Board of Fire Commissioners at 5:28 P. M. on January 12, 2009, at 4798 Davis Boulevard, Naples, Florida. Present were Commissioner Cannon, Commissioner Gibbons, Commissioner Davis, Commissioner Hughes, and Commissioner Boyer. Also present were Chief Dyer, Assistant Chief Potteiger, Deputy Chief Biondo, Deputy Chief Teague, Deputy Chief Bogert, Director Bishop, Captain Liford, Captain Shultz, Captain Leal, Mechanic Popiol, Fire Code Official Riley, FF Taylor, Lt. Ogden, FF Perez, Assistant Chief Sapp, Captain Birge, Battalion Chief Moyer, Lt. Nelson, DE Rasmussen, FF Forte, PIO Hill, Leo Davis, Chris Rasmussen, Celia, Jenevieve and Jade Forte, Ken Main II, Troy Hughes and Administrative Assistant Lucier.

A. Pledge of Allegiance

Commissioner Cannon opened the meeting with the Pledge of Allegiance.

B. Additions or Deletions to Agenda

Add the following:

- Treasury Report – Possibility of adding two Orion checking accounts
- New Business – Approval of the tentative schedule of the Board of Fire Commissioner meetings for the coming year

Commissioner Davis made a motion to approve the agenda with the above noted changes. Commissioner Gibbons seconded the motion and it passed unanimously.

C. Approval of Minutes of December 16, 2008 Meeting

Commissioner Boyer made a motion to approve the minutes of the December 16, 2008 meeting, Commissioner Hughes seconded the motion and it passed unanimously.

D. Treasurer's Report

Chief Dyer said the Treasurer's Report is as submitted.

Commissioner Davis made a motion to approve the Treasurer's Report, subject to audit. Commissioner Gibbons seconded the motion and it passed unanimously.

Tara requested approval to open two separate checking accounts at Orion bank. One account for the Sneaker Drive and one for the Car Seat program. The auditors suggested that the accounts be kept separate. It will be easier to track donations. They did not mandate having separate accounts. Commissioner Cannon spoke to the auditors. The decision is up to us. Any additional costs will be to buy checks. There are some hidden costs for an extra balance sheet to balance or an extra account to deposit into.

Commissioner Davis made a motion to open two new accounts at Orion Bank. One for the Sneaker Drive and one for the Car Seat program. Commissioner Hughes seconded the motion and it passed unanimously. However, the Board made a

motion at the December 16, 2008 meeting to open the two new accounts. It was seconded and passed unanimously. A motion was made for the motion makers to rescind their motion from this meeting. It passed unanimously.

E. Awards and Recognition

1. Best Engine Company – This year we opened up the competition to outside agencies; specifically Golden Gate Fire Department. The competition was held in December. A number of outstanding Engine Companies participated in the competition. The results were very close. Captain Leal presented the awards as follows:
  - 3<sup>rd</sup> place – Golden Gate FD: Eng 71, LT Nelson, DE Forte, DE Rasmussen
  - 2<sup>nd</sup> place – East Naples FD: LT Hoover, DE Azualda, FF Hofstetter, FF Cline
  - 1<sup>st</sup> place – East Naples FD: Eng 22, C shift; LT Ogden, DE Taylor, FF PerezThere will be a trophy presentation at a later date.
2. Mike Leal presented a plaque to Ken Main II from Gulf Shore Marina, for the use of his building, Naples Steel on 41, for our training and countywide training exercise.
3. Service Awards
  - 10 Year Engineer Mike Reeve
  - 20 Year Deputy Chief Nick Biondo

F. Reports

1. Fire Administration

a. Personnel

Chief Dyer reported that Mary Friday is on an extended vacation. Mary has about 4 months vacation and sick time accrued. She is attempting to move to Tennessee and retire during her time off. There is a possibility that Mary may be back to work in a like or same position if the move does not work out. Currently, her job responsibilities are being shared by other staff members.

After discussing the idea with a couple of the Board members, Chief Dyer would like to announce the position in a few days. Chief Dyer will call Mary before making the announcement just to reassure her.

Thomas Bryan was terminated last Monday, January 5, 2009. Chief Dyer lost confidence in his ability to continue to perform his job. Thomas asked if he could resign instead of being terminated from the district. Chief Dyer agreed that he could resign. There is no benefit or loss to the District. He is not eligible for any retiree or health insurance benefits. He did not have the time or service. He resigned from the district. He signed his paperwork last Thursday, January 8, 2009. He was given his final paycheck including payout for his vacation and sick time accrual. Today, he turned in a letter to Commissioner Cannon appealing his resignation.

Commissioner Cannon would like the Board to investigate the complaint. Commissioner Davis volunteered to investigate the complaint and report back to the Board at the next meeting. The Board is in agreement with this process.

Eric Clere is still out on workers compensation. His claims review for workers compensation last Friday went well. We have requested a utilization review on workman's compensation behalf. They will take his entire file; films, x-rays, records etc., and have a doctor review it. There is a conflict between the surgeon and the pain management doctor not releasing him for light duty. We are making progress.

b. Other

The next Steering Committee Meeting is January 22, 2009 at Station 45.

c. Public Comment

No comments were brought forward.

2. Administration: Assistant Chief

a. Shop (with fuel report)

Chief Potteiger's report is as submitted.

Nate is back and is released by workmans compensation. It is good to have Nate back. Jamie did a fantastic job while Nate was out.

Engine 20 & 22 need to go to Louisiana for repainting.

Red dye fuel is not allowed to be used in Special Districts. Only a municipality, county or school district can use the red dye fuel. Also, some of the vehicles should not be run with the red dye fuel. Veronica is looking into prices that Evans Oil charges.

b. Fire Code Official's Office (with fuel report)

Ed Riley reported the Fire Code report is as submitted. Reviews are down a little from last month. Reviews are on time.

The new vehicles for the Fire Code Official Office should arrive tomorrow. The Fire Code Official's Office is asking the Board approval to declare 2 vehicles surplus. They would like to put them out to bid with a minimum bid of \$3,500.00 each. The vehicles are:

- 2002 Ford Explorer
- 2003 Ford Escape

Commissioner Hughes made a motion to declare as surplus the 2002 Ford Explorer and the 2003 Ford Escape with a minimum bid of \$3500.00. Commissioner Boyer seconded the motion. The motion passed unanimously.

c. GRIT

No report was presented.

d. Other

The Board of Fire Commissioners meeting report format: The Board would like single side Agenda, and double side everything else.

3. Fire Prevention: Deputy Chief

Chief Biondo's report is as submitted. The Toy Drive this year was a great success. Everyone did an outstanding job. Only 4 people that signed up did not show up. It was the best year since Chief Biondo was involved in the Toy Store. He "Thanks" everyone that was involved and gave their support.

4. Support Services Report: Director

Tara's report is as submitted.

Tara did get over to the State Attorney's office and got an update to the prescription fraud case. There are now 5 felonies in the case. Between now and May, we should have more requests for information from the Assistant State Attorney. The pretrial starts May 13. Her trial date is May 20. We should hear from the Assistant Attorney's office or the investigative team on what dates are in question. We can then proceed with SIP and Restat, to get the records and meet with the employees to confirm or deny the prescriptions in question. Commissioner Boyer would like to get reimbursed from Dr. Seibert's office through her insurance. We should have been notified about the termination of one of her employees. Additionally, Dr Seibert should have changed her license number.

5. Training Report: Deputy Chief

Chief Teague's Training report is as submitted.

He also, would like to recognize Captain Leal for spearheading the Best Engine Company competition. He did an awesome job.

6. Fire Operations: Deputy Chief

Chief Bogert's report is as submitted. We ended out the year with 7,210 calls. Up a little from the previous year.

There were 11 structure fires this past month.

Also, he would like to thank Commissioner Gibbons for volunteering the use of Recon 21 to assist in the search for the missing Immokalee boy.

## II. OLD BUSINESS

### A. On-Going

Chief Dyer received a call from the person that is putting on the Ace Classic. He would like to have 2 or 3 people stationed at Treviso Bay, during the regular day in case of medical emergencies. This is a 7 day commitment. The question posed to the Board: Do we want to charge them or do it gratis for this service? After a brief discussion the Board would like to have the presence of an On-Duty engine with no charge to Treviso Bay/Ace Classic. Commissioner Boyer would like to see them donate/support our community programs; sneaker drive, toy drive, car seat program etc. Chief Dyer will investigate a donation in lieu of payment.

In the past there was a verbal directive from the Board. There was never a policy but a directive. Commissioner Cannon would like a policy drawn up.

B. Consolidation – Joint Meeting

Chief Dyer reported there was nothing new. He spoke with Chief Brown over the holidays. They have yet to schedule a meeting to discuss the consolidation or the COPCN with the attorneys. Chief Dyer will report back on this.

Commissioner Cannon along with Dr. Tober, has a one on one meeting with Commissioner Fiala, January 19, 2009.

C. SIP – Chief Bogert’s Grandchildren

Last month Chief Dyer reported there was an error with Deputy Chief Bogert’s grandson being included as a dependent on our health insurance. The investigation showed that Deputy Chief Bogert clearly indicated that the grandchild is the son of his minor dependent daughter. Who according to our plan is not eligible for coverage after 30 days from birth. Under direction from the Board, Chief Dyer contacted our attorney. The attorney advised us, that if the plan spells out the language specifically identifying who dependents are and who are not dependents, then we are pretty much covered. Chief Dyer’s recommendation to the Board is not to amend the policy to include grandchildren to the plan. Chief Dyer asked the Board if they want to keep the plan as is or amend the policy for the inclusion of grandchildren under these kinds of circumstances. Commissioners Davis, Gibbons, Boyer, Hughes and Cannon agreed to leave the policy as is.

D. Board of Fire Commissioners

Tara received proposals to replace the hedges in front of Station 20. The prices range from \$1200 - \$1800 for 3 gallon, 18” plants to \$2500 - \$3400 for 7 gallon, 3’ plants. The prices are for the total job; removal, disposal, site prep, planting and mulch. There will be approximately 82-99 Cocoa Plumb plants installed. There is a total of \$32,000.00 in the landscaping budget, with a \$3,000 or \$4,000 buffer.

Station 21 also needs landscaping updates. This station will be worked on next. Station 23 may need a new sprinkler system installed.

Tara recommends Renfro & Jackson, at \$2535.00 for the 7gallon, 99 plants, to replace the hedges and fix the front walkway at Station 20.

Commissioner Boyer made a motion to approve Renfro & Jackson for \$2535.00, with 99, 7gallon, 3’ plants for the hedge replacement. Commissioner Gibbons seconded the motion. It passed unanimously.

### III. NEW BUSINESS

A. Chapter 175 – Chief Potteiger

Chief Potteiger reported that in March the percentage in our payroll should have increased. We did not do that, therefore Chapter 175 is short \$48,000.00. The shortfall of \$ 48,000 stems from payroll changes, corrections and using 38.4% instead of the 41.79%. We will increase the percentage to 41.79% and pay the shortfall. Chief Potteiger explained that the District is required to make up any shortfall. Chief Potteiger would like a directive to get legal counsel to see what it would take to get everyone back in FRS. Chief Potteiger explained that the local believes the Stop-Start should be tied to negotiations. Management emphasized

that it is not. Chief Dyer explained that the local agreed to do the Stop-Start that will allow the district to essentially not have to spend \$659,000.00 based on the current actuarial study.

Attorney Sugarman of the 175 pension plan has drawn up a resolution to cover the District should there be a shortfall. Chief Dyer asked the local to bring him the resolution as soon as possible to make sure it states everything we want it to say. Commissioner Cannon questioned why we are relying on Attorney Sugarman. Attorney Sugarman is a labor and 175 pension board attorney. East Naples Fire needs to get their own attorney to look out for the District. Chief Potteiger will contact Jim Linn to explain to the Board exactly what rights the Board has to go into FRS. The Commissioners would like to set up a Special meeting with Jim Linn to direct and educate the Board. Chief Potteiger to get the dates lined up.

Commissioner Boyer requested to be put on record that last year we spent \$1,020,000.00 to make up the shortfall. This year \$659,000.00 at 15%. We do not know if we need to make it up yet. We are making up 1% added cost to the present retirement and we are going to put in \$48,188.00 a non budgeted item. We have approved a lobbyist fund to help change the law to buy back time in the Florida retirement. Unbudgeted funds need to stop.

Chief Potteiger explained the budget is set up for 41.79% so it is not unfunded. Chief Potteiger agrees that something needs to be done. Tallahassee is the solution. FASD needs to support us. Pott has his direction.

December 16, 2008, the day following the last Executive Session, Chief Dyer met with Local 2396 negotiators and presented our offer to them. They had a meeting a day or so later. Chief Dyer never heard anything officially from Local 2396. He met with President Nelmes informally a number of times over the holidays. President Nelmes asked a lot of questions regarding our proposal. We never received an official response saying they accepted or countered. Today was the first formal meeting after we gave our proposal to them in December. Chief Dyer thought the union would accept or decline the offer. Throughout, starting with the December 16<sup>th</sup> meeting, Chief Dyer explained there is no more flexibility. Any further negotiations after this would be conducted by a third party such as an attorney or someone else. At today's meeting, they spent approximately 2 hours; it could be called negotiations, it could be called trying to reason, or explaining to them some misconceptions or use of language that he felt was incorrect. The union came back with a counter proposal, not consistent with the Board's direction to him. Chief Dyer is not offering it up to them because that is not the direction the Board gave him.

Commissioner Cannon stated they have been negotiating for 20 months. Every offer has been turned down. No more negotiating or meetings with management. Commissioner Cannon with the Board's approval would like to hire Hall, Allen Norton and Blue. Chief Dyer did contact the attorney after the Board meeting in December. The Board would like to bring in the attorney when they have the special meeting.

Commissioner Davis made a motion to have \$48,188.00 put in the 175 pension. Commissioner Hughes seconded motion. There was a brief discussion as to the money coming out of the budget from the previous year. It was not used and put in the reserve this year. It is a budgeted item. There was a motion and a second. Motion passed unanimously.

B. Board Elections of Officers

Chairman: Commissioner Cannon, nominated by Commissioner Hughes, seconded by Commissioner Boyer.

Vice Chairman: Commissioner Hughes, nominated by Commissioner Gibbons, seconded by Commissioner Davis.

Secretary/Treasurer: Commissioner Boyer, nominated by Commissioner Cannon, seconded by Commissioner Davis.

Nominations passed unanimously.

C. Engineering Study – Lake Park Property

Chief Potteiger received two bids for the engineering study for the property at Lake Park and Route 41. Bid 1 came in at \$167,000.00 and Bid 2 came in at \$151,000.00. Chief Potteiger recommends going with Bid 2 from Hole Montes. The permit is good for 2 years. The study takes about 1 - 1 ½ years. The engineer study will enable them to get the STP, rezone, start filling and making improvements on the land with the permits to do so. Two lots are commercial and two are residential. Money will come out of impact fees.

We are still in negotiations on the 951 land. There is a meeting next week to trade 2 lots for ours. Mitigation credits buy swamp land as preserves.

Commissioner Boyer motioned to approve the bid of \$151,000.00 from Hole Montes for the engineering study. Commissioner Cannon seconded. A discussion followed. We would not have to pay impact fees right now. Filling in the land comes under the STP. The impact fees are for new construction. We still need a foundation, elevation and building plan. To get the STP we need to add an architectural fee for the building design and landscape architect. This is phase one.

Commissioners Cannon, Gibbons, and Boyer approve the motion to have Hole Montes start the engineering study for \$151,000.00. Commissioners Davis and Hughes are opposed. Motion passed by a three to two vote.

Chief Dyer reported the Sable Palm land swap may not be as doable as originally thought. The land we would like to swap with is agricultural and more valuable. Chief Dyer would like approval from the Board to begin searching for an existing structure to house all of Headquarters and is centrally located. Commissioner Boyer is in favor of looking for an existing building. Commissioner Boyer had to leave the rest of the meeting. Chief Dyer to investigate locations and report back to the Board.

D. Executive Summary 2009-01 Wind Abatement

Chief Potteiger requested approval of \$18,003.80 to purchase and install the wind abatement system at Station 21. EMS will contribute 20%, (\$4,293.00) of the original cost (\$22,296.80) towards the system. Station 21 is the remaining station that does not have the system.

Commissioner Davis made a motion to approve Executive Summary 2009-01 Wind Abatement System Station 21, with EMS paying \$4,293.00 of the total bill. Commissioner Hughes seconded the motion. The motion passed unanimously.

E. Future Site of The Fire Code Officials Office

Ed Riley requested approval from the Board to negotiate the purchase of the Wachovia Bank building on 2.75 acres at Radio Rd and Airport Rd. He will need an attorney to review the existing lease agreement with Wachovia bank. He would like to modify the building; replace existing glass windows with impact glass, install knee walls, shorten the windows, gutters etc. He would like to make a bid, contingent upon our attorney reviewing the documents, a contractor reviewing the building, and getting approval from all the districts. We need a 60-90 day due diligence period with the option of getting out at the end. Ed will bring this up at the next Fire Service Steering Committee meeting. The Fire Code Official's Office still has cash to buy and renovate the building. The asking price is \$850,000.00. Ed would like to offer \$800,000.00 with authorization to go as high as \$850,000.00. He is asking the Board to approve a \$50,000.00 refundable deposit.

Commissioner Hughes made a motion to start the process to purchase the building with an offer of \$800,000.00, with the flexibility of going to \$850,000.00 if need be, and a 60-90 day due diligence, with a \$50,000.00 refundable deposit. Commissioner Davis seconded the motion. Motion passed unanimously.

F. Board Meeting Dates

Tara requested approval of the tentative schedule. This will allow us to publish the regular monthly Board meeting dates in the paper at one time. This meets the requirements under Florida Statute 189.417. This should result in a cost savings to the District. In the event of a meeting change the district will put the announcement in the newspaper according to the Statue.

Commissioner Cannon made a motion to adopt the tentative schedule. Commissioner Davis seconded the motion. Motion passed unanimously.

G. Board of Fire Commissioners - Special Meeting with Attorneys

Chief Dyer and Chief Potteiger will check the availability of Attorney Jim Linn and an attorney from Hall, Allen, Norton and Blue and report back to the Board with the information.

#### IV. SUMMARY OF ASSIGNMENTS

**V. ADJOURNMENT**

Commissioner Cannon asked if we have a motion to adjourn. Commissioner Gibbons made a motion to adjourn. Commissioner Hughes seconded the motion and the meeting adjourned.

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Thomas G. Cannon

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Richard Gibbons

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Angela S. Davis

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Robert L. Hughes

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Robert A. Boyer

Date: February 10, 2009

Respectfully submitted by Veronica Lucier