

MINUTES
EAST NAPLES BOARD OF FIRE COMMISSIONERS MEETING
October 14, 2008

I. MEETING OPENED

Commissioner Cannon called the meeting to order at 5:33 P. M. Present were Commissioner Cannon, Commissioner Gibbons, Commissioner Davis, Commissioner Miller, and Commissioner Boyer. Also present were Chief Schank, Chief Dyer, Assistant Chief Potteiger, Deputy Chief Biondo, Deputy Chief Teague, Capt. Burkhardt, Capt. Liford, Capt. Leal, Lt. Packard, Lt. Nugent, Director Bishop, D/E Nelmes, CRO Speers, Mechanic Popiol, Benefits Coordinator Packard, A/A Grant, FCO Salvaggio, and E/A Friday.

A. Pledge of Allegiance

Commissioner Cannon opened the meeting with the Pledge of Allegiance.

B. Additions or Deletions to Agenda

Commissioner Davis made a motion to approve the agenda and Commissioner Gibbons seconded the motion. The motion passed unanimously.

C. Approval of Minutes of September 9, 2008
First Public Budget Hearing

Commissioner Davis made a motion to approve the minutes of the September 9, 2008 First Public Budget Hearing. Commissioner Gibbons seconded the motion and it passed unanimously.

D. Approval of Minutes of September 9, 2008 Meeting

Commissioner Boyer made a motion to approve the minutes of the September 9, 2008 meeting and Commissioner Miller seconded the motion. The motion passed unanimously.

E. Approval of Minutes of September 23, 2008
Final Public Budget Hearing

Commissioner Boyer made a motion to approve the minutes of the Final Public Budget Hearing held on September 23, 2008. Commissioner Miller seconded the motion and it passed unanimously.

F. Approval of Minutes of September 23, 2008 Special Meeting

Commissioner Davis made a motion to approve the minutes of the September 23, 2008 Special Meeting, Commissioner Gibbons seconded the motion and it passed unanimously.

G. Treasurer's Report

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

H. Awards and Recognition

Chief Dyer advised the Board that we have several promotions. Deputy Chief Bogert presented new badges to Todd Nugent who was promoted to Lieutenant and Kevin Nelmes who was promoted to Driver/Engineer effective October 1, 2008.

Chief Dyer said he would like to recognize a promotion for Michele Packard from Receptionist to Administrative Assistant.

Chief Dyer said Tara Bishop was promoted to Support Services Director.

Chief Dyer said we would also like to recognize the brand new Administrative Assistant to Support Services, Brenda Grant.

I. Reports

a. Personnel

Chief Dyer reported we still have Nate Behrens and Eric Clere out on workman's comp.

Brian Anderman is officially no longer employed by East Naples Fire Department. He is retired from the department and is pursuing a disability with the 175 retirement program. This was effective May 9, 2008. Brian is going to pursue the Workman's Comp Retraining Program to become a Physical Education Teacher.

Ray Kilmer returned to full duty on September 13, 2008.

Captain Liford is still on light duty.

John Obst continues to be on a leave of absence without pay.

b. Other

The Steering Committee Meeting is on October 23rd at Marco Island Station 50 at 6 P. M.

c. Public Comments

No comments were made.

2. Administration: Assistant Chief

a. Shop (with fuel report)

Pott said the fuel report is as outlined. He said he has been working with Finance as their IT person is installing the inventory interface and we are training on it.

Commissioner Boyer requested a fuel savings report for the next meeting.

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

Pott said he and the Fire Code Personnel looked at the new buildings next to the property the FCO's own and spoke with the realtor who wanted to know if we would be interested in buying or leasing something with a possible trade off on our property. Pott said when Ed gets back they will check on different ideas.

Commissioner Boyer asked if the permits have dropped due to the financial issues in our country and requested data on this for the next meeting.

c. GRIT

No report.

d. Other

Pott reported he received an email from Laura Dijon from Johnson Engineering regarding the possible negotiations for the two parcels of land versus our one and a meeting has been set for October 23rd with our attorney attending via telephone.

Commissioner Cannon asked if there was a Board member who would like to attend this meeting so that more than one would not show up. Commissioner Boyer said he would like to attend.

Pott requested an Executive Session regarding contract negotiations following the meeting and the Board agreed to the session.

Chief Dyer said in reference to the prescription drug issue, Tara has inquired with the Lee County Prosecutor's Office and they have referred us to an attorney. Chief Dyer gave the Board a copy of an Engagement Letter from the attorney's office regarding representation. This does not include going to court for or with us, it is to do legal research and background investigations on what our rights might be. The attorney's cost is \$400.00 an hour and then drops down to \$225.00, depending on who does the work. This law firm also routinely represents CVS Pharmacy so if there is litigation between the two we would have to do something different.

Commissioner Boyer said he does not see how we can enter an agreement when they are representing CVS. Commissioner Cannon said if we have a case against CVS we have to get another attorney. Commissioner Boyer said he is against going with this firm. Chief Dyer said we will keep checking with other firms to represent ENFD.

3. Fire Prevention: Deputy Chief

Deputy Chief Nick Biondo said his report is as submitted on pages 67 through 70. Fire Prevention Day in the mall was on Saturday and it went outstanding. We received donations for the Toy Drive Command. Nick thanked everyone for the help.

The power boat races are Oct. 31st, Nov. 1st, and Nov. 2nd at Sugden Park.

Nick said three out of four of his inspectors are still extremely busy. He is thinking of moving one inspector from new to existing. Plans have been down a little in number but Monday they were back up.

Nick reported the new Flea Market is open. All the vendors operate under one license. Commissioner Cannon said he is going to talk to the county regarding this.

4. Support Services Report: Director

Director Tara Bishop reported the PE room at Station 23 is completed. The washer/extractor for the bunker gear is operational at Station 22.

Tara said she wanted to thank Keith and Linda for helping with the interviews for the new A/A position.

5. Training Report: Deputy Chief

Deputy Chief Teague said his report is as submitted. We will be hosting the Dive/Rescue class on Oct. 27th through the 31st. People are coming from as far away as Maryland.

Commissioner Cannon asked for an update on the removal of the drugs. Chief Dyer advised that last Thursday he, Dr. Tober, Commissioner Hallas, Chief Brown, Jorge Aquilera, Dan Summers, Dan Bowman for EMS, one of the Lieutenants Mark Willis, Leo Ochs, and Captain Schultz attended a meeting regarding ALS and Dr. Tober's requirements for the training, etc. Dr. Tober, in a letter he issued last month, asked for about eight drugs to be removed. We finally received a

protocol change and the drugs he had asked to be removed in his letter did not match the protocol change. We received an inventory sheet on the medications from EMS that did not match either the letter or the protocol. Since the protocol was signed by Dr. Tober and the most defensible document that is the drug list we went with. We gave them the drugs back and invoiced them for approximately \$2,112.00 to recover our cost for removing them since we bought them on good faith that we would be using them. We have not heard anything from them as that just went out yesterday.

Commissioner Cannon asked where we are heading on the ALS and Chief Dyer said he feels Dr. Tober is trying to take us back to the barebones ALS Program which is kind of an intermediate ALS Program which is just a notch or two above BLS, or he may take us all the way back to BLS. He has publicly stated on a number of occasions that he doesn't think fire departments need to be in the ALS business, he thinks it is excessive and a waste of time, money, energy, etc. He doesn't really care what the rest of the state or country is doing in regards to fire based advanced life support services. Chief Dyer said it is his opinion that he is essentially trying to dismantle the program. He said it is apparent that Dr. Tober is trying to cause us to want to give up in frustration.

Commissioner Cannon said he doesn't know why we are throwing a half a million dollars a year to try and run ALS when we are being stymied.

Deputy Chief Keith Teague said Dr. Tober has sent by registered mail the exact same letter with different dates to Captain Andrea Schultz three times to Station 20.

Commissioner Cannon said Dr. Tober does not work for Jim Mudd, Leo Ochs, or Dan Summers. He now works for the Board of County Commissioners. Chief Dyer said Dr. Tober verbally stated, in front of Leo Ochs, that nothing has changed. Dr. Tober said he has changed his title, works for the County Commissioners, but is as much tied to EMS as he ever was.

Commissioner Boyer asked Keith for the numbers that he requested several months ago and Keith said he has them and tried to give them to him a couple of meetings ago but Commissioner Boyer wanted to buy him lunch. Commissioner Boyer said the numbers were not complete and Keith said they are not but the numbers he has that he pulled over the last ten weeks are about 80% accurate and that is the best we can do.

Driver/Engineer Kevin Nelmes said, in reference to the CEU's, Captain Schultz is not allowed to teach in the same fashion as she did when she worked for EMS. Kevin said EMS has downed one of their units in our District which puts a higher impact on us in terms of delivering ALS services to our citizens.

Commissioner Cannon said the Board has to be supplied with facts and he knows the commissioners well enough that he can show them these facts. He said he doesn't want to hear that Tober has a problem with North and East is being brought into it just because we are a fire district. He said to provide the Board with as many facts as possible and to provide the Board with the three different dated letters from Dr. Tober to Captain Schultz.

6. Fire Operations: Deputy Chief

Deputy Chief Eugene Bogert said his report is as submitted. He said the call volume is increasing. We are doing hydrant maintenance and hose testing.

II. OLD BUSINESS

A. On-Going

Chief Dyer advised the Board he needs their signatures on the PE workout equipment Executive Summary as we did not get those at the last meeting.

B. Job Description – Chief Dyer

Chief Dyer said he made the change on the Fire Chief's job description as requested by Commissioner Boyer.

Commissioner Davis made a motion to approve the job description for the Fire Chief with all the changes that are noted on the draft. Commissioner Gibbons seconded the motion. The motion passed unanimously.

Chief Dyer said in reference to the Fire Commissioner's job description the first chapter listed is the Enabling Act, just a general reference. Commissioner Boyer questioned the reference stating that one must be elected by the residents and Chief Dyer said he would add the phrase "or appointed by the Board of Fire Commissioners of the East Naples Fire Control and Rescue District".

Commissioner Davis made a motion to approve the job description for a Fire Commissioner with the amended sentence down at the bottom under requirements that was pointed out by Chief Dyer. Commissioner Gibbons seconded the motion. Commissioner Cannon said the language would be "or appointed by the Board of Fire Commissioners if a vacancy occurs". Commissioner Cannon stated we have a State Statute 191 that outlines the job description of a Fire Commissioner and we cannot supersede that with a policy written by us when the state has actually written the policy. Commissioner Cannon also questioned what normal business hours are.

The motion carried 4 to 1 with Commissioner Cannon opposing. He said his opposition is because he does not want to violate a State Statute which he feels we are doing. Commissioner Boyer asked for the vote to be readdressed by each individual. Commissioner Boyer said he is going to change his vote because of Commissioner Cannon's closing statement as he does not want to be in violation of a State Statute so his vote is no. Commissioner Miller said she would like this investigated to see if we would be in violation. Commissioner Davis said the Board needs to know where their boundaries are and this kind of gives the Board their boundaries so she voted yes. Commissioner Gibbons voted no. Commissioner Miller voted no.

C. Consolidation

Chief Dyer said there are no new reports on consolidation. Pott said a meeting was scheduled for last week on the RFP. He said he attended but unfortunately there were no Chief

Officers there so we really couldn't do anything with it. We are going to refer it to the Steering Committee Meeting.

Commissioner Boyer said he would like to be more informed on who the players are and why things are going the way they are going. He said, from what he understands, North Naples and Marco have a bill in front of the House of Representatives to make a Collier.....Chief Dyer said just North Naples and a bill is being drafted. Commissioner Boyer said the way government is supposed to be run, government should govern what they have been given to govern and when it is time for a change the people shall rise up and ask by petition or go to Commissioners' Meetings and ask for consolidation. It is not for the Districts to go out and change the rules and regulations on how we do business. If they do a consolidation and North Naples controls it, where did the people come up and ask? He feels North Naples Fire District's Chiefs and employees who represent their commission should be investigated to see if they are in violation of that part of the rules and regulations or ethics. Chief Dyer said North Naples wants to do this for whatever reason and the City of Marco wants to do it for whatever reason. He said he does not know where the City of Naples stands.

Keith said he was a part of the original committee to study this and felt that Commissioner Cannon was sincere in operating that committee. This committee was railroaded and he feels we need to take the position, in light of or in absence of a bonafied study that identifies whether it is good for us, that we are not for consolidation. Pott said the Steering Committee is tasked with developing an RFP to look at bringing a study down to answer the questions. The Board of County Commissioners asked for the consolidation with EMS and Tom's group is studying it. Keith said they are not studying it anymore. Pott said we have to go to the Steering Committee and tell them that East Naples doesn't want any part of it then because the Steering Committee thinks everybody is geared up for an RFP to bring somebody down to do a study. Commissioner Cannon said he thinks it is to see what it would cost to have an outside consultant and he doesn't know of any districts that can commit the money to it. EMS can get a grant for it but then it is controlled by EMS. Commissioner Cannon said, outside of the study, North took it upon themselves to write up a bill to create a Collier County Fire District. We have our

opportunity to speak on that bill at the Delegation Hearing in December.

Commissioner Cannon asked what our feasibility is of setting up a joint meeting with the commissioners of North Naples and Chief Dyer said it is very feasible and asked if there were certain dates. Commissioner Cannon said we need to do it before the Delegation Hearing. Chief Dyer said the purpose of the meeting is to talk about the pros and cons of consolidation and the legislation.

Commissioner Cannon said to write a letter to Chris Lombardo and he will sign it.

D. Grievance – Commissioner Cannon

Commissioner Cannon said it is the Board's job to try and determine whether when a Captain acts as a Deputy Chief, should they be compensated Deputy Chief's pay. We have that situation in Training; if Keith is gone the Captain in Training would step in and fill in as the Deputy Chief of Training. He said when the Deputy Chief of Operations is gone a Lieutenant moved into that seat. In neither of those incidents were the people compensated for the shift differential. Commissioner Cannon said he felt that when this job description was approved that the Captain would automatically move into Fire Marshal as per the job description. He said pay differential was not discussed when the job description was passed but it was in the job description that they shall or may serve in the capacity of Fire Marshal in his absence. Now it is up to the Board to deny the grievance and if Bill still doesn't agree with it, it would go to a Perc Hearing. Commissioner Cannon said Bill not only has his responsibilities of a Captain but also assumes the responsibilities of a Fire Marshal. In Bill's opinion it is an additional responsibility that he incurs when he is acting Fire Marshal.

Assistant Chief Potteiger said in the grievance hearing he had we don't move anybody up when the Ops Chief goes out and what he volunteers is that anything that needed to be done as a Chief's position one of us would fill in. If he didn't want to move up to that position, one of us would just fill in. Chief Dyer said, unlike the shifts where you have a Shift Commander, a Station Commander, and a Driver/Engineer that are required positions to be filled, people have to move

up. The Fire Prevention Bureau, the Training Bureau, and probably any other future positions that are not on shift but are union positions don't have the same necessary requirement. He said the only reason Bill would move up is so there is somebody in charge of the Fire Prevention Bureau and the only reason Mike or Andrea would move up is so somebody is in charge in Keith's absence. This does not require somebody to back-fill because one could take the very logical but irrational position that if Nick is gone Bill moves up; Bill is out of his position so one of the Lt. Inspectors moves up; one of the Lt. Inspectors is out of his position so one of the Inspector II's moves up and this is not required. The same would be true in the Training Division.

Commissioner Gibbons made a motion to deny the grievance and Commissioner Davis seconded the motion. The motion passed unanimously.

E. Board of Fire Commissioners
(Topics initiated by the Board)

Commissioner Boyer questioned the financial status of the 175 Retirement Plan. He said with major losses ENFD is financially responsible when they do their audits to make up the financial losses. He said we don't have any money budgeted to take another hit. He said we need to do the start/stop process to get some of the old expenses out of our way and need to think about dissolving the 175 and get back into FRS wherein we have a fixed rate and don't have to come up with the extra money if something happens with the finances in the future.

Pott said we will be discussing the start/stop in the Executive Session. Commissioner Cannon said technically the State Retirement is not fixed as they can change the rate at any time. He said he agrees with Commissioner Boyer on one aspect; to do away with the 175, pay whatever we can to get the 3% multiplier, but a lot of that work has to start with our state legislatures. He said, after November and we see who wins, we need to take the time to talk to David Rivera if he succeeds, we already know Tom Grady won, there are a number of other representatives who went unopposed and those are the ones we have to start hitting. We have to talk to them and see if we can't get some laws changed. He said Matt Hudson is the Chairman of the Delegation Hearing and that might be a good avenue to start.

Pott said they can fix the 2% buy-back without any loss to the FRS and would help us out tremendously. He said we have to hit the Special Districts also.

III. NEW BUSINESS

A. Survey for Lake Park Property – Chief Potteiger

Pott said in getting the bid together for the RFP for the engineering at Lake Park he found we don't have a survey for that property; we only have the plot plan. He said we need a survey to finish the RFP. The survey will cost between two and three thousand dollars and he said he has the price from one of the surveyors but needs to get two more. He asked the Board's permission to do that expenditure.

Commissioner Cannon made a motion to allocate funds up to \$3,000.00 for the survey of the Lake Park property. Commissioner Boyer seconded the motion and it passed four to one with Commissioner Davis opposing.

B. Open Sealed Bids for Shop's Air Conditioning

Pott said this is a budgeted item and is to relieve some of the heat in the shop. We are putting ten tons of air conditioning into the shop and with the budgeted amount we should have enough to cover insulating the bays with spray foam. Pott said two bids were received.

Commissioner Miller opened the first bid from United Mechanical Inc. in Ft. Myers in the amount of \$19,699.00. Commissioner Gibbons opened the second bid from Amsco in the amount of \$57,350.00. Commissioner Cannon instructed staff to review the bids and select the vendor.

C. Open Sealed Bids for Ladder 21

Commissioner Boyer opened a bid from 3M Fire Apparatus, LLC out of Tennessee and they bid \$43,561.00. Commissioner Cannon opened a bid from the Filer's Fire Department in Filer, Idaho \$45,100.00. Commissioner Davis opened a bid from Bradford Tri-County Marketing in Ft. Myers and they bid \$26,000.00.

Commissioner Davis made a motion to accept the highest bid for Ladder 21, Commissioner Gibbons seconded the motion and it passed unanimously.

D. Date for November Meeting

Commissioner Cannon said our regular meeting date conflicts with Veteran's Day. Chief Dyer said the county is observing Veteran's Day on Tuesday, November 11, 2008 versus Monday. Commissioner Cannon asked if Tuesday was good or does the Board want to change dates. He asked if the third Tuesday would be acceptable and the Board agreed on the third Tuesday in November.

E. Declare Equipment Surplus

Commissioner Cannon said the Board has a request to make the Minolta Copier surplus. Pott said that would be reference 09-0002 and was the old FPB copier that bit the dust.

Commissioner Boyer made a motion to declare the Minolta Copier surplus, Commissioner Davis seconded the motion and it passed unanimously.

Commissioner Cannon said we have a long list of equipment to be declared surplus. Pott said 09-0001 is a whole list of junk stuff, old Toshiba laptops that aren't any good, boots, gloves, and other items.

Commissioner Davis made a motion to surplus all the items listed on 09-0001 for surplus property. Commissioner Boyer seconded the motion and it passed unanimously.

F. Declare 1998 Ford Taurus Surplus

Pott said he drove this vehicle and it is no good so we would like to declare it surplus with a minimum bid of \$500.00.

Commissioner Davis made a motion to approve the 1998 Ford Taurus, known as the Turtle, surplus with a minimum bid of \$500.00. Commissioner Gibbons seconded the motion and it passed unanimously.

G. Board of Fire Commissioners
(Topics initiated by the Board)

Deputy Chief Biondo requested that Union Article 23.26 be discussed at the Executive Session.

IV. ADJOURNMENT

Commissioner Davis made a motion to adjourn. Commissioner Gibbons seconded the motion and the meeting adjourned.

Thomas G. Cannon

Richard Gibbons

Angela S. Davis

Karen M. Miller

Robert A. Boyer