

**FOOTHILL FIRE PROTECTION DISTRICT
SEPECIAL MEETING MINUTES
February 21, 2009**

Meeting called to order by Chairman, Gary West at 10:00 a.m.

1. Pledge of Allegiance

2. Roll Call

Directors Present: Ed Anderson, Ken Glissman, Jeff Palm, Ron Spradlin and Gary West.

Directors Absent: None.

Officers Present: Secretary Linda West

Officers Absent: Chief Mike Siligo

3. Public Comments

[It was noted that Director Palm was not present for the first part of the meeting.]

Dave Sant, Wallace, asked to clarify his remarks made at February regular meeting about Ordinance No. 2009-01; specifically, his use of the words “administrative citation” and “bail schedule.” The remarks were made with reference to the ordinance’s enforcement section. Administrative citation is nothing more than an invoice (bill) that would be generated by the District and bail refers to the schedule of fines for non-compliance. Another matter Sant asks the Board to consider entering into discussions of hiring its own attorney, which can best represent the District’s sole interest. While Sant realizes there are budget constraints, he suggests agendizing so that some strategic attention can be directed to starting this process for serious consideration.

Chairman West departed from the agenda to present an important memo dated 02/03/09 from the County Clerk – Recorder which was received 02/20/09 concerning the District’s participation in a mail-out ballot scheduled for August 25, 2009. (Attached) Chairman West stated that in order for the Board to consider this correspondence, a motion is required to add it to today’s agenda.

**Motion passed to add 2009 District Elections correspondence to the agenda.
(Anderson/Glissman – Approved 4 – 0 Absent – Palm)**

While the Board might have thought the District had agreed through County resolution several years back to be a participant in all mail ballot, this latest correspondence asked for a Board resolution to participate in the August 25, 2009, election otherwise FFPD would be participating in the general November 2009 election.

**Motion passed to allow the County Election Department's request for Resolution to participate in the August 25, 2009 all mail ballot election.
(Anderson/Glissman –Approved 4-0 Absent – Palm)**

Gary Caldwell, Valley Springs, inquired as to the cost comparisons of mail-in ballot versus polling stations. Chairman West did not have the exact figures, but it was recalled that all mail ballots were cheaper. Director Anderson stated that the costs savings were approximately one-third. The County's memo showed considerably more participants (25) sharing in the costs of an all mail ballot as compared to the participants (7) for poll station voting.

Director Spradlin recalled the mishap with the last ballot election and stated he thought it was in the District's best interest to request a preview of the ballot and mailing envelope. It was suggested that this request be made at the time the resolution is presented to the County.

It was suggested that the Chairman would also inquire with the Election Dept. as to approving a resolution that would automatically include the District for future all mail ballots or until the District provides written opt-out instructions to the Election Dept.

**Motion approved to solicit from the Election Department a proof of the all mail ballot and envelope.
(Anderson/Glissman –Approved 4-0 Absent – Palm)**

4. Legal Review of Ordinance 2009-01

Chairman West stated this special meeting was called as he had received a letter from County Counsel dated 02/12/09 regarding Ordinance 2009-01. (Attachment) The letter from Counsel David Sirias stated that he had serious legal reservations about the ordinance as it now stands and could put the District at risk of possible of law suits or even bankruptcy. Sirias pointed out the compliance with the Health & Safety Code section 13916 and that section's three non-negotiable provisions. Sirias feels that the nexus would not stand up in a court of law and the fees are illegal. County Counsel's letter further recommends three things: redraft an ordinance adopting the UFC/Cal-Fire Code; redraft a table of salaries and benefits for each paid position from which weighted salary and benefits per hour are extracted to constitute the Districts "data" for H.S. Section 13916; and, redraft a new fee ordinance under 13916 limited to those things the District can legally charge for. Once these redrafts are incorporated into a revised ordinance, County Counsel would be willing to review the ordinance again.

Chairman West, in a meeting with Sirias, thought he may have misconstrued the section dealing with residential "construction" that was setting off the red flags regarding the proper expenditures allowed for the fees taken in from this ordinance. Chairman West discussed this with Consultant Jan Lopez and decided that a second legal opinion may be warranted. Since the District is a member of CSDA, the Chairman contacted them for their "free" legal advice. CSDA provides only one hour free, and that after their cursory review an estimate will be provided for full review of the matter. Consultant Lopez's recommendation was to only send

the ordinance and not include County Counsel's letter, to allow CSDA to only see the clear picture of the ordinance as written. County Counsel's letter then would not cloud the issue and would represent CSDA's opinion of whether the ordinance can stand on its own as written. Following Consultant Lopez's opinion, only the ordinance was forward to CSDA. Chairman West is awaiting a response.

With this introduction, the following comments were made:

- Director Spradlin expressed concern about the additional costs since we have expended costs for the consultant and now possibly attorney fees.
- Director Anderson would only be in favor of a cap of \$500.00 for additional attorney fees.
- The Board consensus was that County Counsel's letter should have been included with the ordinance sent to CSDA. Chairman West reiterated that was his initial thought, but it could still be forwarded.
- Director Anderson stated that the District should not implement this ordinance until we have legal clarification.
- There was discussion on exactly what County Counsel was objecting to and how to correct valid points or clarify the ordinance's meaning to satisfy County Counsel. It was noted that Sirias' letter did have a recommendation, but it was up to the Board on how they were going to act on that recommendation.
- The general premise is that County Counsel has the best interests of the District at heart, has always given the District their legal opinion free of charge when asked and their opinions was generally well-respected.
- Gary Caldwell, Valley Springs, reiterated that the County terminated their plan check reviews to the fire districts thus this ordinance was the District's answer to filling that gap. The District's aim is to provide fair, impartial collection of fees for the developers' impact on the District. If Counsel was "misled" by the use of "construction," Caldwell suggested removing or renaming that term to clarify its meaning. Caldwell further pointed out that since Counsel's letter is now a part of the District and public record, the District needs to get it clarified (in writing) and all problem areas mitigated.
- Director Spradlin suggested that Consultant Jan Lopez make any ordinance adjustments to ease the issues brought up by County Counsel. It was noted that the Board can make changes to the ordinance by use of a resolution.
- Director Anderson stated that County Counsel does not have any authority to stop this ordinance; he is merely pointing out what he sees from a legal perspective. With this in mind, getting another opinion from CSDA, assuming reasonable costs would be incurred makes sense before amending the ordinance. The District should take advantage of our membership benefits with CSDA as we are trying to utilize the tax dollars in a prudent manner. It was noted that March 15th is the effective date of Ordinance 2009-01.

- Director Spradlin pointed out the prudent approach might be to continue using County Counsel by making changes as outlined in his letter rather than spending additional money.
- Dave Sant, Wallace, concurred with ordinance being sent to CSDA, but felt they should be given all the information (ordinance & County Counsel's letter) in order to do a complete review. Also, any additional money that may be required for Consultant Lopez's assistance should be allocated.
- Gary Caldwell, Valley Springs, restated the importance of the opinion letter from County Counsel, which may require some kind of rescission, amendment – whatever it takes to negate the possible detrimental scenarios that could be used in the future against the District.
- Director Spradlin reminded the Board of the good relationship with County Counsel and that the District needs to be convinced that they have clarity on the ordinance and what the District is doing. In essence, we need County Counsel's endorsement.
- Director Anderson suggested removing the residential construction section from the ordinance which might allow the ordinance to at least keep on track. With the ordinance changes done by resolution, it could allow for whatever changes of that particular section to be thoroughly addressed with no time constraints of the upcoming implementation date.
- Director Anderson stated that none of the Board has the legal expertise and he preferred sending County Counsel's letter to CSDA, and spending additional money for CSDA attorney fees if necessary, would be money well spent.
- Gary Caldwell, Valley Springs, reminded the Board that the legal opinions provided by County Counsel are free and suggests further discussions may be best to clarify the District's position against the contentious points in his letter, Caldwell agreed that whatever section was causing the legal issue may be best deferred if something is to get in place.
- Director Glissman suggested that the Board should act on both suggestions: (1) follow-up with CSDA providing the County Counsel letter, and (2) follow-up with County Counsel discussing possible misunderstandings and getting an additional letter on the matter. CSDA should proceed with a review based on all of our information.
- Gary Caldwell, Valley Springs, suggested providing County Counsel with a CD of the ordinance so if they are willing could use the Word 'Tracking Changes' feature that would exactly clarify their problem areas and be more expedient for possible resolution.
- Director Glissman stated that at the March 11th regular meeting the Board will be able to delay elements of the ordinance or suspend its implementation.
- Chairman West stated that County Counsel wants us to make the changes based on his comments contained in the letter and get back with them.

Motion FAILED to provide CSDA with a copy of County Counsel's letter dated 02/12/09 and authorize up to \$500.00 for attorney fees.

(Anderson/Glissman – Ayes – 2 Anderson/West; Nays – 2 Glissman/Spradlin; Absent - Palm)

[It was noted that Director Palm entered the meeting.]

**Motion passed to provide CSDA with a copy of County Counsel's letter dated 02/12/09.
(Glissman/Anderson – Approved 4 – 0 Abstain – Palm**

5. Policy & Job Description for New Hire

Chairman West made available copies of the job description he and the Fire Chief had drafted for review. (Attached) Director Spradlin stated he had received job descriptions for a similar position (usually titled secretary) from Ebbetts Pass and Waterloo fire districts. He also noted that our Policy 6360 had been completed for an Administrative Secretary to cover responsibilities mainly for the now discontinued responder fee program and general secretarial assistance to the fire chief. Our policy would need to be updated and Director Spradlin was proposing the Ebbetts Pass description, with minor changes, reflected most of the points of the Chairman and Fire Chief's job descriptions. (Attached)

Director Spradlin read the Scope of Employment (Ebbetts Pass). The discussion items included the following comments.

- Director Glissman agreed with its contents and that the Clerk would report to both the Board and the Fire Chief. He noted that the person needed to be bondable (add to Minimum Qualification section).
- Chairman West asked that under Duties & Responsibilities that #11 be stricken as the Fire Chief has delegated that responsibility to the Assistant Chief.
- There was concurrence on the typing speed of 50 WPM, with Director Spradlin requesting a typing certificate.
- Director Anderson complimented Director Spradlin for his investigative work with other districts in getting the information.
- Director Spradlin stated the interviews would be conducted by the Personnel Committee (Directors Spradlin & Glissman and the Fire Chief). It was stated that most likely 3-5 applicants would be pulled from those interviews for final selection by the full Board. Also invited, and if available to assist with this process, are Secretary Linda West and Director Spradlin's wife Lorraine. It was noted that Lorraine Spradlin's extensive interviewing experience with her employer would be very helpful to the Personnel Committee. It was noted that neither Linda West nor Lorraine Spradlin would be allowed to vote or otherwise rank the merits of the applicants during the interviews.
- Director Anderson expressed concern that confidentiality and compliance with the full HIPPA laws (Health Insurance Portability & Accountability Act) be included.
- Wayne Fry, Burson, expressed concern about the chain of command – specifically the section under the Scope of Employment section indicating that the Clerk would be under the direction of both the Fire Chief and the Board. His opinion is that the Clerk would be reporting to too many people and a direct supervisor needs to be designated.

- Director Glissman responded that the Board is the ultimate authority in all matters of the District.
- Dave Sant, Wallace, stated as he understands it, the Board is the employing authority, and this is the hiring of an employee, and the Fire Chief would be the supervisor of this employee. The Board is delegating the supervision of the Clerk to the Fire Chief. He stressed the need for the functions supervisor to be identified in the Scope of Employment.
- Director Anderson asked that under Scope of Employment that the order of “Under the discretion” be changed to Board of Directors (first) and Fire Chief (second) and any other mention of Fire Chief and Board of Directors.
- Director Palm restated that the Board is the hiring authority and any employees are hired by them, i.e., fire chief and the current secretary, treasurer/bookkeeper and payroll person.
- Director Glissman stated that evaluations would be the responsibility of the Personnel Committee, which includes the Fire Chief.
- Nancy Pizarz, Valley Springs, expressed concern on oversight of the Fire Chief and this new Clerk employee with regard to the District’s finances. Chairman West stated that as is currently done now, IRS reporting, tax preparation, payroll and routine financial-related matters are reviewed by the Chairman and/or Board. Also, there is an annual review of the outside auditors hired by the District.
- It was noted that the Fire Chief had a prior commitment and was unable to attend this meeting. His draft job description had been reviewed by the Board and was included as part of this process.
- Gary Caldwell received permission to visually expound on the blackboard the chain of commands – one for how the fire chief and his subordinates report to the Board and the second one that would now add the Clerk. (Attached) The second one shows the Board at the top, the Clerk reporting to the Board and the Fire Chief reporting to the Board. The use of the Clerk will be for both the Board and Fire Chief matters. Caldwell noted that the use of the title “Clerk” is a much better description of the position as a “clerk” has an umbrella of duties assigned. For the District’s these are delineated as three separate areas of responsibility: Board matters, financial/bookkeeping and Fire Chief duties as assigned.
- Caldwell inquired as to the hours and the presence of the Fire Chief when the Clerk is working. The Board had decided to let the Fire Chief and the hired Clerk clarify the hours, but the job is for 75 hours/month, part-time. The Fire Chief is considered to be the best person to set those hours. Once a schedule is finalized, it will be posted so visitors to the Station will know its hours of operation.
- Nancy Pizarz expressed concern that should the Clerk be under the supervision of the Fire Chief she may not feel comfortable in discussing issues of concern with the Board. She thought this may also be the case for firefighters. She was reassured that there is a grievance process in place and as long as the chain of command is followed, grievances can be addressed. Pizarz asked that the Clerk be flexible.

**Motion passed to change the District’s structural organization chart to reflect the Board, then the Clerk (reporting to the Board) then the Fire Chief.
(Anderson/Palm –Approved 5 – 0)**

Motion passed to approve the Fire District Clerk job position (modeled after Ebbetts Pass Fire Protection District) with the following changes:

- **Title changed to “Fire District Clerk”**
- **Effective Date: 02/21/09**
- **Under Scope of Employment:**
 - **Changed to show order changed to “Board of Directors and Fire Chief” in all instances.**
 - **To read: “Under the functional supervision of the Fire Chief...”**
- **Under Duties & Responsibilities:**
 - **Remove item 11;**
 - **Include “emails” to #4.**
- **bullet Minimum Qualifications/Knowledge/Skills/Experience:**
 - **Add: Bondable**
 - **Add: Maintain strict confidentiality**
 - **Add: Comply with HIPPA laws & regulations**

(Spradlin/Glissman –Approved 5 - 0)

6. Director Comments

None.

11. Adjournment

Meeting adjourned at approximately 12:05 p.m.

Approved by,

Submitted by,

Gary West
Chairman

Linda West
Secretary

Attachments

1. Memo & resolution request dated 02/13/09 from County Clerk-Recorder concerning election participation by all-mail ballot.
2. Letter dated 02/12/09 from County Counsel re Draft Ordinance No. 2009-01
3. Email dated 02/18/09 from Jan Lopez to CSDA re Draft Ordinance No. 2009-01
4. Ordinance No. 2009-01
5. Draft Job Description submitted by Fire Chief Mike Siligo
6. Draft Job Description submitted by Chairman West
7. Draft Job Description submitted by Director Spradlin
8. District Organization Chart amendment

District organization chart amendment:

