

**YAKIMA COUNTY FIRE PROTECTION DISTRICT 4  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
May 12, 2008**

The meeting convened at 1900 hours at East Valley Fire Station 40. Those present were Commissioners Joe Gendron, Les Riel and Dan McNulty. Others present were District Secretary Michelle Rosen, Deputy Chief Mike Riel, East Valley Fire District Personnel, and audience members.

Chairman Joe Gendron called the meeting to order and conducted the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Commissioner McNulty requested the following change: Executive Session, Item B should be clarified to read *Charges* against *Commissioner* McNulty. He stated that this was not a "letter" to the Board as it was only sent to two members of the Board. District Secretary Rosen noted that she followed district policy regarding the submission of the issue.

District Secretary Rosen requested that she and D.C. Riel be added to the agenda under Executive Session, as Item D per RCW 42.30.110 (g) to discuss personnel issues of the district.

Commissioner McNulty noted that he would not discuss the aforementioned matter in executive session, but rather in public.

Chairman Gendron also noted an addition to the Executive Session, Item C, discussion pertaining to Chief Gay per RCW 42.30.110 (g).

There being no other changes, the agenda was approved and Chairman Gendron continued the meeting.

**LIMITED OPEN PUBLIC INPUT FOR ITEMS NOT ON AGENDA – Three minute limit**

Chairman Gendron recognized Jackie Walker. Mrs. Walker read a prepared statement in the interest of time. In summary, she expressed her disappointment in the amount of time, money, and energy being spent on personnel issues. She felt that most of the issues could have been avoided had the Board had a clear, complete policy manual. She suggested that there is abuse of the rules that were put in place to protect people from abuse and implied that this is reverse harassment. Mrs. Walker questioned as to who decides if charges are valid and expressed her frustration that it appeared that it takes only two commissioners and an attorney to pass judgment and that the public is only kept informed if a decision was made. Mrs. Walker concluded by indicating that she had previously been receiving meeting agendas via email and now has been informed that she needs to submit an annual request to receive them. She questioned if the Board had voted on this new policy.

Chairman Gendron recognized Darryl Sybouts. Mr. Sybouts' comments were in response to a letter to the editor submitted by Mrs. Walker. He prefaced his remarks by noting that he has been a 20 year volunteer firefighter and 50 year resident of Valley. He noted that Mrs. Walker's letter inferred that the last five fire chiefs of the district had been fired and wished to provide her with the following additional clarifying information: Mr. Sybouts noted that Stan Hankins and Adrian Jacobs retired in December of 1997 with honors and temporary chief Richard Small was brought in to assist the Board of Commissioners with finding a new chief. He added that Moxee and Terrace Heights formed a fire district in the late 1940s, but essentially operated independently. After retirement, Moxee and Terrace Heights Districts became East Valley Fire Department, Yakima County Fire District No. 4. He suggested that there is an identity issue within the District -- Terrace Heights (Station 42) wants their own name and logo on the side of the trucks, and Moxee (Station 41) wants their own name and logo on the side of the trucks. He noted that both sides need to realize that this is not going to

happen – they are both part of the East Valley Fire Department. He implied that the City of Yakima may eventually annex some or all of Terrace Heights and when that happens, Station 42 will be absorbed into the City as it happened in the West Valley area and any potential chief in this area will be confronted with the growing pains of the East Valley Fire Department. Mr. Sybouts continued by pointing out that Chief Pat Sponceler rejoined the Hanford Fire Department and is now Captain. Chief Chris Orman chose to move on after five years to a larger department in California. Mr. Sybouts commented that Mr. Orman was upfront with the Board regarding his five year plan when he was initially hired. He noted that the whole Chief Warren Gay story has not yet been told and for those interested, the City of Lynden Fire Department had an article in the Bellingham Herald dated 1.11.06. He submitted that KIMA should research this issue further and stop their emotion based reporting and stick to the facts. He concluded by saying that the Firefighters, both full time and volunteers, are committed to the health and safety of the residents in the area and they will continue to protect them and their property by responding day and night to the needs of the district.

Noting that no additional audience members had signed up to speak, Chairman Gendron continued the meeting.

## **APPROVAL OF PREVIOUS MINUTES**

### **A. April 28, 2008 special meeting – approve or deny**

Commissioner Riel made a motion to approve the minutes of the special meeting on April 28. Commissioner McNulty seconded the motion. The Board was all in favor and the minutes were so approved.

### **B. April 28, 2008 regular meeting – approve or deny**

Commissioner McNulty made a motion to approve the minutes as submitted for the regular meeting on April 28. Commissioner Riel seconded the motion. The Board was all in favor and the minutes were so approved.

### **C. May 7, 2008 special meeting – approve or deny**

Commissioner Riel requested the following change under General discussion: *Commissioner Riel made a motion that we move* should be changed to read *Commissioner Riel made a motion to accept . . .* deleting the words *that we move*. With that correction, Commissioner Riel made a motion to accept the minutes of the May 7, 2008 special meeting. Commissioner McNulty seconded the motion. Chairman Gendron reiterated the above mentioned change and the minutes of the May 7, 2008 special meeting were so approved.

## **EDIT LIST APPROVAL**

### **Batch #251675, \$115,406.06 – approve or deny**

Chairman Gendron noted the raise in the month because of the grading project for \$53,000. Commissioner McNulty remarked that “legal services” was at 99% of the budgeted amount. Commissioner McNulty made a motion to accept Edit List Batch #251675 in the amount of \$115,406.06. Commissioner Riel seconded the motion. The Board was all in favor and the batch was so approved.

## **SECRETARY’S REPORT**

District Secretary Rosen noted that the Board’s packets included cash vouchers (county to county money transfers) and the Treasurer’s Financial Statement. Commissioner Riel mentioned that first half taxes were coming in and questioned if some of the \$456,000 was going to be rolled back into investments. D.C. Riel informed the Board that the Investment Reports will be forwarded to the Board at the next meeting in order to provide them with more complete, up-to-date information. Commissioner Riel expressed his appreciation for the new budget overview reports. He questioned District Secretary Rosen as to her comfort level with using the new Quickbooks program and the amount of assistance from D.C. Riel. She responded that she is performing the data entry and that it is an easy program to use. D.C. Riel added that it is a good check and balance program in combination with the county’s Cayenta system and provides them a more comprehensive breakdown in the district’s sub-categories. Chairman Gendron explained to the audience that QuickBooks Pro is being used by the District in order to provide a more detailed accounting of expenditures.

## **CORRESPONDENCE**

District Secretary Rosen noted that information regarding the Chelan conference was in the Board's packets. Commissioner Riel confirmed with District Secretary Rosen that they are registered to attend.

## **UNFINISHED BUSINESS**

Chairman Gendron prefaced the discussion by noting that these two items had been tabled two months ago.

### **A. Approval of Action Request 2008-07 Purchase of two (2) new command units**

Commissioner McNulty thanked D.C. Riel for the contract information he provided. He confirmed that the Expeditions had police packages. D.C. Riel confirmed that they did – the Tahoe was out of that realm and priced higher and was therefore out of the state bid. He added that if no action is taken at this time, the district would be subject to waiting until the next bid goes out and costs could be increased. Chairman Gendron updated the audience that one of the district's current command units is a 1998 and the other is a 2000 and both have over 100,000 miles and have had extensive work done on them. He added that these units are in the apparatus replacement plan and have been budgeted for in the current fiscal year.

Audience member Jackie Walker asked for the total cost of the units. Chairman Gendron responded that the total price per unit was \$45,000 after the installation of the light bar, lettering, graphics, and radio installation. Commissioner Riel requested the opportunity to speak to this matter. Chairman Gendron acknowledged the floor to Commissioner Riel. Commissioner Riel explained that these units were originally on a five year replacement schedule and are actually a couple of years past due of being replaced. He added that every year \$150,000 is contributed from the general fire fund to the apparatus replacement fund to continue to update equipment as needed as the committee makes a recommendation to the Board. The funds do not come out of the general budget, but rather the reserve money set aside for the apparatus replacement schedule from fire levy monies.

Commissioner Riel made a motion to accept Action Request 2008-07 purchase of two (2) command units.

Commissioner McNulty clarified that the units being replaced will be excessed out. B.C. Riel answered in the affirmative. Chairman Gendron added that the money received from that process will be added back into the apparatus replacement fund.

Commissioner McNulty seconded the motion. D.C. Riel asked if the Board wanted to utilize Heaverlo again to surplus the two units or go to a different format. Commissioner Riel expressed the desire to use a different format. Commissioner McNulty interjected that as a point of order there was still a motion on the floor. Commissioner Riel responded that there was a motion and a second and they were still under discussion on the motion. Commissioner McNulty noted that the discussion was now for surplus the units. Commissioner Riel amended his original motion to add the words "surplus the two the vehicles". Commissioner McNulty seconded the amended motion. Chairman Gendron asked for a vote on the amended motion. The motion was unanimously approved. Chairman Gendron stated that two action requests passed.

### **B. Approval of Action Request 2008-08 Purchase of one (1) support pick-up**

Chairman Gendron introduced the action request by stating that he had made inquiries to D.C. Riel and Lt. Lenseigne pertaining to this piece of equipment. He added that the unit is diesel and that personnel have had problems starting it, it has had injector problems, has over 160,000 miles on it, and is in the five year plan for replacement. Chairman Gendron indicated to audience member Kyle Jacobs that he had some discussion with D.C. Riel regarding putting a tank and booster line and a quick pack on the unit and discovered that this pick-up is used extensively for hauling items for the district and for snow plowing. Mr. Jacobs attempted to address Chairman Gendron, but was interrupted by Commissioner McNulty calling for a point of order, that Mr. Jacobs was not part of the Board, that the Board makes the decisions, and he could explain the issue at a later time. Mr. Jacobs stated that other audience members such as Mrs. Walker are allowed the opportunity to interject

comments and questions at any time. Chairman Gendron concluded by stating that the unit won't be purchased with a hose reel or tank.

Commissioner McNulty expressed his disapproval of the purchase of this unit as he feels it is not used enough and that the pick-up currently owned by the district is just fine.

Chairman Gendron added that he has not spoken that extensively with Lt. Lenseigne regarding how many specific issues the district has had with this unit, but that it was currently on the schedule to be replaced. He suggested that this item be tabled. Commissioner McNulty added that he thought the district had spent a lot of money to get the vehicle in shape. D.C. Riel commented that he didn't think any money had been spent on that truck and that it has not been updated. There was lengthy discussion between the Board and D.C. Riel regarding potential service issues regarding the vehicle and the frequency of it's use as Commissioner McNulty felt that it wasn't used that often, but D.C. Riel stated that it is used on almost every fire call to haul equipment and in addition, Commissioner Riel noted that it is used to push snow. Commissioner Riel asked what year the current pick up was. Lt. Lenseigne responded that it is a 1996. Commissioner Riel stated that the existing pick-up was slated for replacement a few years ago and was set aside at that time as well. He noted that the apparatus replacement committee has recommended to the Board that this vehicle be replaced and he concurs with the committee. He added that the District could save money by purchasing all three vehicles at once under state bid now rather than waiting for another year and paying more. Commissioner McNulty confirmed with D.C. Riel that the existing vehicle was purchased used. He indicated that he would be in favor of purchasing another used vehicle, but could not justify purchasing a new vehicle when it is not used on every call. Commissioner Riel suggested that there are other specialized pieces of equipment for specialized needs and reiterated that fact that the existing truck is 12 years old and that it is currently on the replacement schedule. By purchasing a used vehicle, Commissioner Riel felt that the District would be back in the same predicament in five to six years, whereas a new vehicle would be in service for 12 or 15 years. He suggested that the action request before the Board include the surplusing of the 1996 vehicle. D.C. Riel added that the vehicle proposing to be purchased is a gasoline vehicle versus diesel which is cheaper to purchase than another diesel. Commissioner Riel submitted a motion to accept Action Request 2008-08 purchase of one (1) support pick-up. There was no second to the motion. Chairman Gendron called for a vote on the motion. Commissioner Riel voted in the affirmative while Chairman Gendron and Commissioner McNulty dissented. Chairman Gendron noted that he wished to table the issue until he could gather more information regarding the cost of repairs to the existing vehicle and the possibility of purchasing a 2007 rather than a 2008.

## **NEW BUSINESS**

### **A. 2008-01, in the matter of transferring \$53,330.00 from Capital Project Fund to Fire Expense Fund – approve or deny**

Chairman Gendron explained that these funds were for the budgeted grading project. D.C. Riel clarified that this was a partial payment. Commissioner Riel reiterated that these funds were not coming out of the general fire levy, but rather the Capital Projects Reserve Fund and will be put back into the Fire Expense Fund 602041 and distributed to the contractor. Both District Secretary Rosen and D.C. Riel confirmed his statement. Commissioner Riel made a motion to adopt Resolution 2008-01. Commissioner McNulty seconded the motion and the motion carried unanimously.

## **COMMISSIONER'S REPORT**

Chairman Gendron turned the floor over to Commissioner Riel. Commissioner Riel submitted the Board's RSVP for the Yakima County Fire Commissioner's Association dinner meeting on May 15. Commissioner Riel also noted that he will be attending the EMS operations board meeting on May 13 in order to serve on the interviewing committee as a board member.

Commissioner McNulty reported that he attended a Tender-1 meeting last Friday and indicated that there will be some decisions made at the dinner. Commissioner Riel noted that he was unable to attend the meeting due to surgery, but that Tender-1 will be surplussed and the monies generated will be distributed back to the respective districts that invested in it. Commissioner McNulty confirmed the information and added that any monies that were put in this year will also be given back

to the respective districts. He also noted that the formula that had been previously discussed for determining the amounts to be given back to the districts may not be used. Since regular district business cannot be conducted at that meeting, Commissioner Riel wanted to make it clear that East Valley Fire District is in favor of taking the monies back instead of putting it back into the communication fund. Commissioner McNulty stated that it was determined at the last meeting that putting the money back into the communication fund was not an option.

There being not additional discussion, Chairman Gendron continued to the Executive Session portion of the meeting.

## **DEPARTMENT ACTIVITY REPORT**

### **ANNOUNCEMENTS**

#### **EXECUTIVE SESSION**

At 7:29 p.m., Chairman Gendron dismissed the Board into Executive Session to discuss Items A and B and per the amended agenda previously discussed and noted, Items C and D, for one (1) hour.

Audience member Jackie Walker noted a point of information with Chairman Gendron that Item B was going to be discussed in a public portion of the meeting. Commissioner McNulty confirmed that he wished to discuss Item B in the public portion of the meeting and did not want to discuss it in Executive Session.

The District's attorney, Brian Snure clarified that Commissioner McNulty had the right to discuss the charges in open session, but the Board also had the right if they so chose to evaluate the issue and discuss it in Executive Session either before or after the open session.

Commissioner Riel expressed his desire to discuss the issue in Executive Session as the Board had not yet had the opportunity to do so in order to determine if there is any warrant to the charges. Commissioner McNulty submitted that his understanding of his rights were that he could choose to discuss the charges in an open public meeting and did not have to take it into Executive Session. Mr. Snure clarified that as an individual, Mr. McNulty did not have to discuss it in Executive Session, but the Board has the right under the subsection to receive and evaluate charges in Executive Session, and then the affected individual, whether it be Mr. McNulty or another employee has a right to have an open public meeting on the charges.

- A. Public Records Litigation RCW 42.30.110 (1) (l)**
- B. Letter to the Board re: Dan McNulty RCW 42.30.110 (1) (f)**
- C. Discussion pertaining to Chief Gay RCW 42.30.110 (g)**
- D. Personnel issues of the District RCW 42.30.110 (g)**

Chairman Gendron called the meeting back to order at 8:30 p.m. and reported that no decisions had been made. He then turned the floor over to the District's attorney Brian Snure.

Pursuant to RCW 42.30.110 (1) (f), Mr. Snure explained that two charges had been filed against Commissioner Dan McNulty and per his request to have them discussed in an open public meeting, he read into record a letter submitted by District Secretary Rosen dated April 23, 2008 wherein she submitted that Commissioner McNulty leaked her confidential complaint against Chief Gay; thereby discriminating against her per district policy 2.4, 2.5.3 C, 2.5.4, 2.5.5, 2.5.6, 2.5.7, 2.5.8, and 2.5.9. Commissioner McNulty questioned why District Secretary felt that way. She explained that her confidential letter concerning Chief Gay was only given to the three board members and the day after it was discussed in Executive Session Chief Gay was on the news discussing new allegations that had been brought against him. Commissioner McNulty denied any wrong doing and that it was a "he said, she said" issue, but District Secretary was strong in her opinion that the information came from him as she witnessed him discussing district business after the meeting.

Mr. Snure read into record the second charge submitted by District Secretary Rosen dated April 29, 2008 wherein she submitted per RCW 49.46.100 that Commissioner McNulty displayed signs of retaliation against her for her submission of charges against the Chief by twice

voting against allowing her the opportunity to attend training conferences that are set forth in District Policy and the District Secretary job description. Commissioner McNulty denied laughing at the meeting in question and stated that his decision for voting against her attending both conferences was that he felt that due to the recent dismissal of Chief Gay, which he was against, the District Secretary should not be away from the office. He stated that the board is a democracy and he did not have to vote with the majority. District Secretary Rosen noted she understood that, but that his demeanor at the meeting in question was inappropriate and that all previous district secretaries have been approved to attend those conferences. Commissioner McNulty stated that he has always been against the secretary attending the conferences in question and that the only conference he voted against during that meeting was one that D.C. Riel asked for. Commissioner McNulty admitted to not even listening to any of the conversation immediately following the request made by D.C. Riel. Commissioner McNulty added that during the special meeting conference call on May 7, the Board needed the assistance of District Secretary Rosen, but that they had to wait because she was at a conference. District Secretary clarified that she had already returned from the conference by that date and that she had not been asked to attend that special meeting conference call. There was additional discussion between Commissioner McNulty and District Secretary Rosen resulting in District Secretary Rosen reading into record the Board's SOPs stating that the District Secretary will attend conferences and seminars necessary to fulfill the responsibilities of the position. Commissioner McNulty concluded by reiterating that he did not feel that she should be away from the office immediately after losing the Chief and he did not feel it was necessary to give an explanation at the time of his vote since the other two board members who voted in the affirmative did not have to provide an explanation. He stated that in the future, matters of this nature should be brought to the Board as a whole to work out and not involve the District's attorney. District Secretary Rosen responded that she followed district policy regarding the filing of this issue.

Audience member Jackie Walker called for a point of order from Chairman Gendron and questioned if there was going to be a decision regarding this issue. Chairman Gendron answered that the Board had discussed whether or not there should be an investigation regarding this issue, and it was determined that no outside investigation would be conducted at this time.

Mr. Snure wrapped up the discussion by noting that since both the hearing and discussion was held and that the Board did not intend to take any additional action, the matter was concluded and he expressed his hope that there would be more open communication in the future to avoid those types of issues.

Commissioner Riel addressed the matter of Chief Gay by making a motion to have the district's legal council give Chief Gay ninety (90) days notice that his employment agreement will terminate August 12, 2008, pursuant to paragraph six (6) of the Chief's employment agreement and that the Chief shall remain on administrative leave during this period. Chairman Gendron seconded the motion. Chairman Gendron called for a vote on the motion. Commissioner Riel and Chairman Gendron were in favor of the motion and Commissioner McNulty was opposed. By a majority vote of the Board, the motion passed. Commissioner Riel requested that Mr. Snure address the audience regarding the change from Chief's resignation to the issue currently before the Board.

Mr. Snure explained that when the Board previously accepted the Chief's resignation, it was with the stipulation that both sides could come to an agreement on a severance package. After weeks of negotiations, the board approved what it felt was an appropriate severance agreement, but the Chief decided that he did not want to sign it. In the absence of an agreement, the resignation and acceptance was not in effect; hence the Board's aforementioned announcement.

Commissioner Riel requested that Chairman Gendron dismiss the Board into executive session under RCW 42.30.110 (i) potential litigation. At 8:45 p.m., Chairman Gendron dismissed the Board into executive session for fifteen (15) minutes.

Chairman Gendron reconvened the meeting at 9:01 p.m. and reported that no decisions had been made.

Commissioner Riel made a motion to accept the press release before the Board entitled "Yakima County Fire District No. 4, May 12, 2008" as their official press release. Chairman Gendron seconded the motion and called for a vote. The Board was all in agreement of accepting the

press release before them. Commissioner Riel announced that copies will be provided to the audience at the conclusion of the meeting.

Mr. Snure noted to the audience that the Board recognizes there is a great deal of interest in what is occurring in the district and that the public needs to recognize that there is a threat of litigation against the district; and therefore, the press release is designed to explain the position of the Board as to the recent events involving the Chief and to recognize that the Chief has certain privacy interests. He informed the audience that under advice of legal council, this will be the only statement the Board will be issuing on this matter and the Board will be instructing district employees to respect the aforementioned press release as well until any matters of litigation have been addressed.

**GENERAL DISCUSSION – Limited between Board and Staff – NO PUBLIC INPUT**

D.C. Riel notified the Board that a grant check was received for \$1644 for medical supply purchases. He also provided the Board a written update on the grading project which is coming in under budget. In conclusion, D.C. Riel provided the Board with copies of letters previously written to American Propane by Chief Gay and Chris Orman, and submitted additional information regarding a recent meeting with American Propane to discuss the hazard risks that surround that type of facility.

**SIGNING OF DISTRICT DOCUMENTS**

District Secretary Rosen presented the documents to the Board for their signature.

**ADJOURNMENT**

There being no other business, Commissioner Riel entertained a motion to adjourn the meeting. Commissioner McNulty seconded the motion and the meeting was so adjourned at 9:08 p.m.

ATTEST:

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Chair of the Board

\_\_\_\_\_  
District Secretary

\_\_\_\_\_  
Vice-Chair of the Board

\_\_\_\_\_  
Commissioner