

SUNSIDES-PEARCE FIRE DISTRICT

SERVING RESIDENTS OF THE SUNSIDES-PEARCE FIRE DISTRICT,
AND NEIGHBORING COCHISE COUNTY

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Sunsides-Pearce Fire District
Governing Board of Directors
Special Meeting
December 6, 2012

I. **CALL TO ORDER:** The meeting was called to order at 4:00 PM by Chairman Roger Lance.

II. **ROLL CALL:** Board Members present were:

Chairman Roger Lance
Treasurer Cletus Frei
Member Candace Roll
Clerk Rebel Jones
Member Robert Fino

There were no conflicts of interest to declare.

III. NEW BUSINESS:

A. **REVIEW AND DISCUSS AGENDA ITEM 10-E FROM THE NOVEMBER 20, 2012 AGENDA AS TO THE REPAIRS TO ENGINE 305 PUMP LEAKS. DISCUSS AND VOTE ON DELAYING REPAIR.** Chairman Lance indicated that he had gone to the Station to review Engine 305 with Chief Petersen. Mr. Lance further indicated that the Engine pump was leaking. Mr. Lance and Chief Petersen informed the Public that the main effect the pump would be encounter would be drafting difficulties due to the air leaks. The pump can still build pressure with no problems. The drafting difficulties would occur when pumping from a static water source such as a pond. In the last three months the pump has only been used once. Mr. Lance indicated that until the Board had a chance to review the financials that he did not feel comfortable spending that kind of money on the repair. Mr. Lance would like to review the repair in another month or two after a review of the financials. It may be possible the Board may need the financial resources.

Mr. Jones asked the Chief how the Tender was set up for first response for structure fires as to the GPM output. Chief indicated that it would restrict their abilities strictly due to the GPM output. NFPA and OSHA recommend that you do not attempt an interior tact without having a pump with at least 1250 GPM. Tender 304's volume pump is pushing

400 and Tender 303's volume pump is pushing 250. Neither of the Tenders is set up for interior structure tact.

Mr. Frei inquired as to where Engine 305 was last used to draft and how it performed. Chief Petersen indicated that Engine 305 was used to draft from a static pond in Sunizona for a structure fire approximately one month ago. Chief Petersen indicated that the pump lost prime several times but it did complete the job. Mr. Frei further inquired as to what resources does the Department have to resupply the Engine when it is used on a fire and how many gallons does the Engine hold. Chief Petersen indicated that the Engine holds 500 gallons. The Tenders hold 2,000 gallons but if filled to maximum capacity peak close to 2,500 gallons. How many Tenders used depends on the size of the fire and the need for backup water supply. Mr. Frei then inquired as to the last time the Engine was pressure tested. Chief Petersen indicated it was last pressure tested in April and it passed, however it did not draft as well as it needed to be. Mr. Frei indicated that he feels that it needs to be repaired but agreed with Chairman Lance as to tabling the repair until the next General Meeting. Mr. Frei indicated that he spoke with the Company that was going to repair the Engine. He also felt that he may be in a position to help when the repairs were done.

Mr. Fino asked the Chief what his recommendation was. Chief indicated that it depended on the finances and that it was the Board's decision. Chief further indicated that he did not feel that any structures would be lost unless the pump had a catastrophic failure.

Mr. Frei inquired of the Chief if he felt that the truck would serve its purpose for the next 30 days. The Chief indicated that he felt pretty confident.

Motion. Mr. Frei made a Motion to delay the repairs of Engine 305 for a period of time with the stipulation that he would like to revisit this Agenda Item no later than February 5, 2013. **Second:** Mr. Jones Seconded the Motion. A vote was then had.

Vote: Chairman Lance, Mr. Frei and Mr. Jones voted in favor of the Motion. Mr. Fino and Ms. Roll voted against the Motion. Motion Carried.

B. DISCUSS PUBLIC RECORDS MANAGEMENT STATUTE ARS 41-151.14

(i) DISCUSS AND VOTE ON PUBLIC RECORDS ONLINE FOR PUBLIC ACCESS.

Mr. Lance stated that we had been researching this matter for a couple of weeks. Mr. Lance indicated the Agenda Item was referring to the Record Retention Statutes. He further indicated the Board had violations of the Statute that could incur a prison sentence. There are documents that are missing as well as documents that are not signed. Every 5 years the Board is to turn in a Report to the Phoenix Library where they have the archives for Fire District documents. We may have documents that may have been shredded. We may have legal documents without signatures. Many of our procedures are just photocopies of another department's procedures with no signatures.

Ms. Roll inquired as to what documents were not signed. Mr. Lance indicated the Bylaws were from 2008 with no revisions and no signatures. He further indicated that the Standard Operation of Procedures were from Drexell Fire Department and had no signature on them. Mr. Lance indicated that something had to be done with the documents to submit a report to Phoenix.

Mr. Frei inquired of Mr. Lance what his proposal was to solve the matter.

Mr. Fino inquired of Mr. Lance if what the State Director advised him to do and what was the solution the State Director gave to solve the matter.

Mr. Lance responded that he had pursued the matter with the State. He indicated that he had the Statutes which indicated what procedures had to be done as well as what documents needed to be kept.

Mr. Fino inquired of Mr. Lance if he had personally contacted the State Director. Mr. Lance responded that he had not personally contacted the State Director yet. He indicated that he had emails from the Department but did not have an assigned individual assigned to our Department. Mr. Fino then inquired if he had copies of the emails for the rest of the Board. Mr. Lance indicated he did not have any of the emails with him. Mr. Lance further indicated that the emails were not directed to him but to an individual he had doing research on the matter. Mr. Fino requested that copies of the emails be provided to him as well as the remaining members of the Board. Mr. Lance indicated that he would do so. Mr. Lance reiterated that the records had to be put into shape and that the Board needed a designated person to do that.

Mr. Frei indicated from his experience dealing with people in that position is that it is not their responsibility to give legal advice, legal accounts or legal direction. They can give direction or make suggestions and leave it to those who were elected. They accepted the responsibility to find out what needed to be done and then follow the guidelines set up by the State of Arizona. From his discussion they are not going to give legal counsel.

Mr. Fino indicated that he was not looking for legal counsel. He is looking for direction and utilizing his immense resources that we as a Board have. Mr. Frei indicated that the individual advised to get the matter together. Mr. Fino inquired of Mr. Frei if he had seen the letter.

Mr. Fino indicated that once again a member of the Public was disrupting the Board Meeting.

Mr. Fino inquired as to what the document was that a member of the Public had put on the table and further inquired as if it was on the Agenda. Mr. Lance indicated it was a document that pertained to the Agenda Item discussion. Mr. Fino indicated that as a Board it was not taking public information during the Board meeting. Mr. Frei indicated that the email Mr. Fino was requesting from Records Management was the item that was placed on the table by a member of the Public. Mr. Fino indicated that was not the method the Board used to obtain information. He further stated that he had requested it from the Chairperson and would like a written copy of it from the Chairperson. Mr.

Lance told Mr. Fino that he would provide him with a copy, in addition Mr. Lance indicated that the Board should welcome the information they need to perform their functions. Mr. Fino stated that the Board needed to follow the Statutes and Open Meeting Law. Mr. Fino requested a time frame of when he could obtain copies of the e-mails. Mr. Lance responded by saying probably tomorrow (being Friday) or the next day (being Saturday).

Ms. Roll inquired as to the Agenda Item referencing a Board Support Position and Agency. She asked what was meant by "Agency". Mr. Jones indicated that the "Agency" referred to the Board. Ms. Roll also indicated that the document she received as an attachment to the Agenda did not include the whole Statute. She inquired as to why she did not receive the whole statute as it is written on the website. She inquired as to why there were only a few referenced. Mr. Lance indicated that the ARS cover many categories that may contain 200 or 300 statutes. He only provided the Board Members with the Statute for the Items that the Board needs to control for the Phoenix Archive. Ms. Roll inquired how this was going to be done.

Mr. Fino indicated that we are a Special Fire District and that as a Special Fire District we differ from the rules of other State agencies. He inquired as if the District is included, as a special fire district, with these other state agencies. He feels that the Board needs to contact the State Director directly. He further inquired what items and documents did Phoenix need for the District to comply.

Mr. Frei responded by saying that due to the District handling the public tax monies, that the District would fall under this Statute regardless whether or not the District was required under this Statute. He further state that even if the District didn't fall, what would be the problem with documenting, maintaining, records, information, everything that they do for public review for their own protection. What would be the problem with maintaining that?

Mr. Fino responded by saying that he wanted to know if it was required or not. He further inquired if by doing so would violate any Statutes or violating any boundary. He wanted to find out for sure for himself, as well as for the Board, that they were legally bound to do it and not violating any rules or regulations or getting the Board in deeper trouble. He requested that the Board review the rules for Special Fire Districts. The Board needs to find out and contact the State Director firsthand. He further inquired why were members of the Board so opposed to doing that.

Mr. Lance read from the email which indicated that: "we do not have a designated record officer for SPFD". The Statue says that any legal entity or agency of the State does this. The District is a legal entity, we have elected Board Members. Mr. Fino indicated that the District is a Special Fire District and again stated to call the State Director prior to pursuing the matter. If the Board gets direct evidence that this matter needs to be done then the Board can do it. Mr. Fino requested that Mr. Lance call the State Director himself and then table the Agenda Item until the next meeting, being next Thursday (December 13).

Mr. Lance responded by saying the Statute stated in multiple places that we are a legal agency, that the Directors are voted in and that the Directors take an oath of office.

Mr. Fino stated he did not know if the District was a legal agency. He further stated that the District was a Special Fire District first.

Mr. Lance indicated that the Board should take a vote first to determine if the District had a problem or did not have a problem and that a Motion and a vote would be had.

Ms. Roll and Mr. Fino stated they did not know if the District had a problem. Mr. Fino further indicated that the Board could only vote on the Agenda Item to discuss and vote on the public records online for public access and discuss and vote on the need for public records update. The Agenda doesn't state that the Board will discuss and vote on if the District has a problem and it is outside the scope of the Agenda.

Motion: Mr. Frei made a Motion under Agenda Item 3 B (i) to have the public records posted online for public access. **Second:** Mr. Jones seconded the Motion. A discussion was had.

Ms. Roll inquired as to what the public records would include. Mr. Frei indicated public records consisted of everything that the Board does. Mr. Lance indicated that the public records would include everything that the Board does. The public records would include everything with the exception of an individual's social security number, address, personal information, bank accounts, check numbers, private or secure information.

Mr. Fino recommended that someone in a legal capacity be contacted to advise the Board what type of public record can exactly be posted on the website as to not violate a Personal Information Act and how to monitor it. A mistake could be made and could cost the community a lot of money.

Motion: Mr. Jones made a Motion to table the Agenda Item for posting public records online for public access.

Withdrawal of a Second on a Motion: Mr. Jones withdrew his second on the Motion made by Mr. Frei regarding having the public records posted online for public access. Mr. Frei indicated he did not have a problem withdrawing the Motion and tabling the Agenda Item to the December 13, 2012 Meeting for the purpose of clarifying of making sure that there would be no personal information that would violate any Statutes.

Ms. Roll inquired as to how this Agenda Item regarding having public records online falls in accordance with the Records Library in Phoenix. Mr. Lance indicated that it has to do the documents that the Library is concerned with and the public has a right to know. Ms. Roll then inquired as if there was a list that the Library gave the Board. Mr. Lance indicated that the Board is to provide the Library with a complete itemized list that we have in our records and then the Library will determine what they want to put in their Library and what the District should maintain and what the District can dispose of. Mr. Lance further indicated that the documents the District is creating are State records. Ms. Roll inquired as to how far back the Library was requesting documents. Mr. Lance

indicated that the District was to be turning in a five year period of documents. Mr. Lance indicated he went to the Station and requested documents and the documents he received were not official documents, they were only photocopies and not signed, in addition they were not original documents. Mr. Frei indicated that it was at the discretion of the Library what they keep and what they don't keep.

Mr. Fino indicated that there was a Motion on the floor. Mr. Frei denied there being Motion Mr. Fino indicated there was a Motion on the floor by Mr. Jones. Again Mr. Frei denied there being a Motion. Mr. Jones indicated that he withdrew his second and inquired of Mr. Frei if he withdrew his Motion. Mr. Frei indicated that he did or believed that he did.

Motion: Mr. Jones repeated his Motion to table the Agenda Item regarding posting public records online for public access to the December 13 Regular Meeting. **Second:** Ms. Roll. Further discussion was had. Ms. Roll inquired as if someone would be checking on the matter. Mr. Frei and Mr. Lance indicated they would get to that. A vote was then had.

Vote: All Board Members voted in favor of the Motion. Motion carried.

(ii) **DISCUSS AND VOTE ON NEED FOR PUBLIC RECORDS UPDATE.**

A discussion was had. Mr. Frei indicated that the Board needs to know what the status is within the District from day one to the present. Mr. Fino commented that Mr. Frei had a good comment but that it goes right along with the Item (i) under B.

Motion: Mr. Fino made a Motion that the matters under 3B be tabled until the next meeting on December 13, 2012. **Second:** Mr. Frei seconded the Motion with the exception that Item 3B(iv). Mr. Fino reiterated his Motion stating that all matters under 3B be tabled to give all Members the chance to contact the State Director and have the Director comment on all four items. Again Mr. Frei seconded the Motion.

Ms. Roll inquired as to Item 3B(iv). Mr. Lance indicated the Item was tabled. Mr. Frei indicated that Ms. Roll had a right to know what Item 3B(iv) was regarding and indicated he would clarify it. After hesitation, Mr. Frei indicated that he would not clarify it and reiterated that he seconded the Motion. Ms. Roll asked what Item 3B(iv) means. Mr. Lance indicated that with everything that is wrong with the records the Board needs someone in a position to be registered with the Library in Phoenix and to categorize all of the files, get them recorded, copied and sent to Phoenix to records control position. Mr. Frei indicated it was a Board Support Position considering all of the Board Members are busy. The Position would be called a Board Support Position and that person would report directly to the Board and that person would have all the powers of the Board without sitting on the Board. The position would take the oath of office and it would be a public records management, they would have access to all the records, seeing if their complete, and confirming the signatures. Mr. Lance indicated that he didn't believe the records had been gone through since day one and were not legal.

Mr. Fino made a comment that the discussion and voting would take place on December 13, 2012.

A vote was then had:

Vote: Mr. Frei, Mr. Fino, Mr. Lance and Mr. Jones voted in favor of the Motion. Ms. Roll voted against the Motion. Motion carried.

(iii) DISCUSS AND VOTE ON BOARD SUPPORT POSITION FOR PUBLIC RECORDS MANAGEMENT. Tabled to the December 13, 2012 Meeting.

(iv) DISCUSS AND VOTE ON FILLING BOARD SUPPORT POSITION. Tabled to the December 13, 2012 Meeting.

C. DISCUSS AND VOTE ON CHANGING THE CHOICE OF THE SPFD ATTORNEY FROM THE COUNTY ATTORNEY TO A PRIVATE “AFDA” ATTORNEY. A discussion was had. Mr. Lance indicated the purpose of the Agenda Item was due to the County Attorney not being up to date on the Arizona Fire District Association Statutes.

Mr. Fino made a comment that when the Board first started, they began with Donna Aversa and she was very knowledgeable and well versed, but it appeared to them that she didn't seem to have the time to handle the Board's situations. The Board became disappointed with the delays in addition to the costs associated with retaining her services. The Board then contacted the County Attorney and looked into their background and found them to be well educated as well as being much for cost effective and began utilizing their services. Mr. Fino requested the original copy of the letter sent to Ms. Aversa and a copy of her response. Mr. Lance indicated that they had not yet entered into any contractual talks with Ms. Aversa. Mr. Fino indicated that it appeared that they had pursuant to the material he had. Mr. Lance indicated that Chief Petersen pursued that. Mr. Frei asked the Chief how he contacted Ms. Aversa. Chief responded that he contacted her Thursday afternoon and let her know that it was on the Agenda regarding retaining her services. He inquired of her if anyone had been in contact with her. She indicated Mr. Lance had contacted her however she had not had talked with him yet. Chief asked her if she would put a form letter together for the District which she did. Mr. Fino inquired of Mr. Lance if he had contacted Ms. Aversa. Mr. Lance responded that he had left a message with her and that was the extent of the contact he had with her. The Chief and Mr. Lance were talking about the Agenda Item of retaining the AFDA attorney and that Chief Petersen contacted Ms. Aversa without Mr. Lance's request. Mr. Frei indicated that Chief Petersen did it as a courtesy to the Board and thanked him. Mr. Frei indicated it was just a general response letter and it was for information purposes only. Mr. Fino was concerned that it was under his impression that it had come from the Fire Board. Mr. Fino requested Ms. Aversa to send him a fee letter, which if she does he will share it with the Board. Ms. Roll inquired if the Board was going to talk with her and go forward and hire her. A discussion was had the costs associated with hiring Ms. Aversa.

Motion: Mr. Frei made a Motion to change from the County Attorney to Ms. Aversa on a trial basis. **Second:** Mr. Jones seconded the Motion. A vote was then had:

Vote: All the Board Members voted in favor of the Motion. Motion passed

D. DISCUSS AND VOTE ON THE NUMBER OF “AFDA” CONFERENCE ATTENDEES AND COSTS.

A discussion was had and Mr. Lance explained to the Public what an “AFDA” conference was. Mr. Lance indicated that Mr. Jones was the only Sunsites AFDA Certified Board Member. Mr. Lance indicated that the Board needed to know how many people wanted to attend the conference and how the fees were to be paid. Only the Members of the Board and the employees of the Fire District will have their fees paid by the Fire District. Mr. Frei made a comment that attendance with diligence and with dedication would be beneficial not only to the District but also to the individual. It will also assist with the questions the Board Members are having now. Mr. Frei indicated that he would be paying his own way to the conference and relieve the District of the financial burden. Mr. Fino made a comment regarding that the Tucson AFDA conference held in the Summer would benefit just as well and would save the District money unless an individual paid their own way. Mr. Frei indicated that it was imperative that the Board Members get into the classes as soon as possible to get as much knowledge and information. Mr. Lance indicated that AFDA does not teach the same classes as each conference and to obtain certification attendance at both conferences were needed. Mr. Jones made a comment that all Board Members should make every effort to attend. Ms. Roll inquired as to the Chief and the Admin attending the conference as well.

Motion: Mr. Fino made a Motion that any Board Member, Fire Chief or Secretary that would like to go to the AFDA conference be allowed to go. **Second:** Ms. Roll seconded the Motion.

Further discussion was had. Mr. Frei made a comment regarding extending the invitation to another individual they feel would be beneficial that their fees would be covered by the District as well. He further stated that one extra spot would need to be reserved and did not want to limit the number of individuals going. Mr. Frei wants to limit the money the District is spending right now and does not feel that the District is in a good financial situation. Mr. Fino indicated this expense had been already planned in the budget. Mr. Frei indicated that the budget was adopted by the old board. He further indicated that he had been reviewing it and that it was subject to review and subject to change and it was this Board’s discretion to do so. Ms. Roll inquired of Mr. Frei regarding attendance by an additional person. Mr. Frei responded by the previous conversation they had in Item B regarding if an individual was hired to assist the Board.

A vote was then had:

Vote: All Board Members voted in favor of the Motion. Motion Carried.

Motion: Mr. Frei made a Motion to adjourn. **Second:** Ms. Roll seconded the Motion.

Vote: All Board Members voted in favor. Motion Carried.

IV. **ADJOURN:** There being no further business, the meeting was adjourned at 5:20 p.m.

Respectfully submitted,
Jill Schultz

DRAFT