

INDIAN HILLS FIRE PROTECTION DISTRICT

4476 Parmalee Gulch Rd.

P.O. Box 750

Indian Hills, CO 80454

Phone: 303-697-4568

BOARD SPECIAL MEETING MINUTES

Wednesday, April 3, 2013

The Minutes are intended to reflect the discussions that occurred and decisions that were made by the members; they are not intended to be a transcription of the meeting.

MEETING ATTENDED BY:

Fire Protection District Board Members: Paul Pettit — President; Marc Rosenberg — Secretary; Kelley Lehman — Treasurer; Ron Walton; Scott Kellar

Fire Department Members: Emery Carson — Chief

Non-Members: Anita Fritz — Bookkeeper; Karen Nelson — Recording Secretary

Guests: Raule Nemer and John Coaty, Toussaint, Nemer & Coaty

MEETING CALLED TO ORDER AT: 19:03 Hrs.

INTRODUCTIONS AND ANNOUNCEMENTS:

Mr. Pettit announced that this was a special meeting to discuss apparatus issues and community slash collection. He welcomed Ms. Nemer and Mr. Coaty, who were present to provide legal counsel.

APPARATUS ISSUES:

Fire Trucks Plus Breach of Contract

Ms. Nemer summarized that Mr. Batista had signed a contract to provide the District with a tanker and had failed to deliver. The contract provided for a set amount to be recovered plus interest and attorney's fees. Mr. Coaty explained the legal process, which involves filing a lawsuit in Jefferson County and serving Mr. Batista a summons and complaint based on breach of contract. Mr. Batista will have 49 days to answer via legal counsel. Failure to do so will result in a default judgment, Mr. Coaty said. However, since Mr. Batista's business is in California, domestication in the state of California may be required in order to collect.

Discussion followed about the costs associated with various stages of the legal process. Mr. Coaty estimated a cost to the District of approximately \$4,000 to get to the default judgment. A worst-case scenario if the case were to go so far as to appear before a jury would be \$50,000-60,000. A more likely cost to the District would be \$8,000-12,000, Mr. Coaty said.

Conversation moved to the potential criminality of Mr. Batista's acts. Ms. Nemer said that the matter was more likely civil, although Mr. Batista's criminal background and the possibility of other "victims" could be investigated. Discussion of Mr. Batista's possible assets followed. Ms. Nemer pointed out that if he has limited assets, a settlement may be in order. After lengthy conversation about the costs vs. benefits of filing suit, it was agreed that an asset search would be performed on Mr. Batista to help guide the District in legal decisions. Ms. Nemer stated that she would get bids for the asset search. Mr. Carson agreed to put a paper trail together to help Mr. Coaty prepare suit.

Mr. Kellar made a *motion* to authorize Toussaint, Nemer & Coaty to file a lawsuit against Fire Trucks Plus. Mr. Rosenberg seconded the motion, which passed unanimously.

Ms. Nemer explained that if the defendant answers the summons and complaint, there is a process that must be followed, including a series of disclosures. She said that the activities the Board sees from her firm may not always appear of benefit, but she explained that they are necessary.

Brief discussion followed on whether the budget needs to be amended to address legal costs. Ms. Nemer reminded that amendment is done only at the end of the year. It was agreed that the budget could be discussed at the next month's Board meeting.

Chassis Decision

Mr. Carson distributed a handout showing price comparisons on the chassis. Starting over and building a 2014 Mack chassis would cost roughly \$6,200 more than purchasing the already completed 2012 Mack chassis from TEC. Mr. Carson confirmed that the chassis at TEC is to spec except for one irrelevant feature and that a full warranty would be included. Shipping the completed chassis would cost approximately \$3,000, Mr. Carson added. After discussion, all agreed that purchasing the completed chassis from TEC was the best decision and would save the District some six months of build time.

Mr. Carson noted that he had sent tank and body specs to four different manufacturers and expected to have quotes back by mid-April. He estimated that the cost to finish the truck would be around \$90,000, with a timeline of two months to order materials plus six weeks to build once supplies are received.

Discussion followed about how to finance the chassis. Ms. Fritz suggested a lease agreement through Wells Fargo. Lengthy conversation followed about Wells Fargo options as well as other financing possibilities, with Ms. Fritz and Ms. Nemer providing guidance on the process. It was agreed that the District would notify TEC that it intended to purchase the chassis pending financing.

Mr. Walton made a *motion* to purchase the chassis from TEC contingent upon preliminary financial approval. Mr. Kellar seconded the motion, which passed unanimously.

COMMUNITY SLASH COLLECTION:

Conversation began with a discussion regarding liability issues and insurance options regarding slash collection. Ms. Nemer clarified that the District volunteers are already

covered via workers' compensation. An agreement would have to be reached with community members, she advised, on how much or how little the District would be liable. Ms. Nemer noted that she had prepared an IGA for a slash collection project and said that she would forward it.

Discussion moved to the logistics of the slash collection operation, namely whether community members would need to bring slash to a central location or the volunteers would migrate around the community collecting it. Ms. Lehman expressed concern that some neighborhoods are not ready to move forward yet. Mr. Rosenberg agreed.

Mr. Kellar presented the option of a mobile chipping service, which could travel through Fire Wise neighborhoods and is very affordable. He shared a brochure from the Coalition for the Upper South Platte explaining the service. Mr. Kellar agreed to get more information on the service. Another option raised would be placing dumpsters in each Fire Wise neighborhood to collect slash, with the District footing the bill for the dumpster rental. Board members then discussed costs and agreed that Mr. Roller's proposal was too expensive at this time. The budget is already stretched this year. The Board agreed to go back to the Indian Hills Fire Wise group with the various options that the District could support.

ADDITIONAL TOPIC:

Ms. Fritz shared that she had been notified that a full audit would be required this year. She said that she would have estimates to present at the next Board meeting. She also mentioned purchasing Gemsbok's audit training packet to help with the process.

MEETING ADJOURNED AT: 21:05

There being no more business to discuss, Mr. Walton made a *motion* to adjourn the meeting, which was seconded by Mr. Rosenberg and passed unanimously.

President:

Secretary:

MOTIONS MADE AND PASSED:

- To authorize Toussaint, Nemer & Coaty to file a lawsuit against Fire Trucks Plus. *Motion made by Mr. Kellar; seconded by Mr. Rosenberg; unanimous*
- To purchase the chassis from TEC contingent upon preliminary financial approval. *Motion made by Mr. Walton; seconded by Mr. Kellar; unanimous.*
- To adjourn the meeting. *Motion made by Mr. Walton; seconded by Mr. Rosenberg; unanimous.*