

**Excelsior Fire District Board
EFD Governing Board Meeting
Tuesday, January 20, 2004**

**24100 Smithtown Rd.
EFD Training Room/EOC
5:30 P.M.**

MINUTES

1. CALL TO ORDER

Chair Love called the Board meeting to order at 5:30 P.M.

ROLL CALL

Present: Excelsior Fire District (EFD) Boardmembers: Chair Love; Boardmembers Bolles, Hill, and Skrede

Also: Excelsior Fire District Chief DuCharme and Firefighter Hoo

Also present: Deephaven Administrator Young, Excelsior Acting Administrator Johnson, and Shorewood Administrator Dawson

Absent: Tonka Bay Boardmember Baumann

2. AGENDA APPROVAL

Chair Love reviewed the Agenda for the meeting. Due to time constraints of the Boardmembers present, it was recommended to move Item 6 to follow Item 4, Item 8A through C to follow next, and Item 10a to follow sequentially. Also, it was recommended to pause this meeting at 6:10 P.M. to convene in Executive Session for the Fire Chief's personnel review, and then reconvene this EFD Board meeting should there be enough time remaining prior to the necessary departure of Boardmembers at 6:50 P.M.

Skrede moved, Hill seconded, approving the EFD Board Meeting Agenda as amended. Motion passed 5/0.

Note: The revised Agenda will be utilized throughout the rest of the minutes.

3. APPROVAL OF MINUTES

A. November 18, 2003

Skrede moved, Hill seconded, Approving the November 18, 2003, EFD Governing Board Meeting Minutes as presented. Motion passed 5/0.

B. December 16, 2003

Skrede moved, Hill seconded, Approving the December 16, 2003, EFD Governing Board Meeting Minutes as presented. Motion passed 5/0.

4. APPOINTMENT OF CHAIR AND VICE CHAIR

Chair Love opened the nominations for Chair of the EFD Governing Board at 5:38 P.M.

Hill moved, Bolles seconded, nominating Skrede as Chair of the EFD Governing Board.

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Chair Love called three times for other nominations, and seeing none, closed the nominations for Chair at 5:40 P.M.

Motion passed 5/0, with Love turning the gavel over to Skrede.

Chair Skrede opened the nominations for Vice Chair of the EFD Governing Board at 5:41 P.M.

Love moved, Bolles seconded, nominating Hill for Vice Chair of the EFD Governing Board.

Chair Skrede called three times for other nominations, and seeing none, closed the nominations for Vice Chair at 5:42 P.M.

Motion passed 5/0.

5. FACILITIES

A. East Side

Chief DuCharme stated the masonry wall construction had taken place at the East Side Facility, with wood framing to be constructed this week. He also noted there was a change order to be considered by the Board for a change in siding for the East Side facility. The change was from steel siding to Hardi-Plank siding in the amount of \$18,800.00.

Love moved, Hill seconded, Approving Change Order #8.001, in the amount of \$18,800.00.

Bolles questioned whether TSP One, Inc, the architectural firm representing the EFD, had studied the issue as the quote seemed high, and he was not able to discern an appropriate credit for the aluminum as it was not specified in the paperwork distributed to the Board. He then distributed a document detailing the roles, responsibilities, communications, and change order procedures for the construction of the Public Safety Facilities.

Mr. Ruehl, of TSP One, stated he would be happy to check on these figures for the Board, but noted the architects rely heavily on the construction manager for the project for this type of question. He also stated it would worth proceeding on the issue, and get material invoices later to find resolution.

Boardmember Bolles stated he would like to see a bit more information in the change orders including a net deduct for items such as this one.

Mr. Ruehl agreed, stating in cases like this facility the owners typically would rely heavily on the construction manager for the project, as they were continually involved in project cost. In cases where there was a general contractor, architects and an owner, it was typically the architects that were responsible for judging reasonableness of requirements for the project. He stated he had been relying heavily on Kraus-Anderson to provide information to the owner regarding costs, since generally speaking the owner was not too involved in the project.

In response to Boardmember Hill's question, Chair Skrede explained the cost of the siding was in line with what the City of Deephaven had been experiencing in the past in working with the siding. The siding was requested to complete the overall look of the East Side campus.

Chair Skrede also stated it would be possible for a report to be generated for future change orders by Kraus-Anderson that included an original cost of a product, the amount of change, and the net cost, along with a rudimentary quantity of an item purchased.

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Without objection of the seconder, the maker of the motion amended the motion to include Approval of Change Order #8.001, in the amount of \$18,800.00, subject to findings by the architects for reasonableness.

Chief DuCharme stated he would ask Kraus-Anderson to put the requested information into a change order document to include the net deduct as part of the cost process and distribute that information to the architects for review.

Motion passed 4/0.

Chief DuCharme stated Change Orders #12 and #13 had been distributed for consideration by the Board. He noted Change Order #12 had been requested due to a change in the size of the generator needed in relation to the size of the well pump. This change order was in the amount of \$18,643.00 in addition to the upgrade cost of \$992.00. Change Order #13 was requested due to a necessary change in circuit breakers and panels in the amount of \$1452.00.

Love moved, Hill seconded, Approving Change Orders #12 and #13, subject to findings by the architects for reasonableness. Motion passed 4/0.

B. West Side

Chief DuCharme stated the move to the West Side had been successful with the firefighters giving hundreds of hours to assist with the move. He noted systems were progressing appropriately toward completion.

C. Consideration of Construction Invoices

Chief DuCharme explained Boardmember Bolles had been concerned the allocations associated with Change Order #6 for the West Side facility had not been completed, and the allocations shown on the payment documentation signed off by the architects was incorrect. EDA Executive Director and Shorewood City Administrator Dawson stated the allocations had been tracked correctly on other documentation. Chief DuCharme stated this allocation could be available as part of next month's informational packet to the Board for the next EFD Governing Board meeting.

Hill moved, Love seconded, Approving Payment of an Invoice to Kraus Anderson in the amount of \$447,916.00, subject to the revised invoice submitted to Staff for permanent record keeping purposes. Motion passed 4/0.

Chief DuCharme stated there was an invoice submitted for work completed on the East Side facility in the amount of \$172,363.00. He also noted that Change Order #1 in the amount of \$19,262 had been received without documentation from Kraus-Anderson. He stated he would clarify this issue regarding Change Order #1 for the East Side facility.

Hill moved, Bolles seconded, Approving Payment of an Invoice to Kraus-Anderson in the amount of \$172,363.00, minus the amount of Change Order #1, and asking Kraus-Anderson not to provide lump sum totals for payment but present the amounts individually prior to the Board being invoiced on them.

Boardmember Bolles stated there was an accounting difference in the East Side documentation in comparison with West Side documentation, and he thought the General Conditions amount demonstrated for the East Side Facility should reflect the original General Conditions Budget amount of \$97,647.00.

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Chair Skrede noted the time of 6:10 P.M. had passed. The Board agreed to meet in an Executive Session Meeting for the Fire Chief Review on January 27, 2004, at 6:00 P.M. in the conference room in the upper level of the West Side Public Safety Facility. Following the Executive Session meeting, there would be a meeting to include any Agenda items not completed as of the adjournment of tonight's meeting.

Hill withdrew the motion.

Hill moved, Bolles seconded, Accepting Invoice and Recommending Payment of Bills to Kraus-Anderson in the amount of \$172,363.00, subject to the General Conditions Budget amount being revised to the original General Conditions Budget amount of \$97,647.00. Motion passed 4/0.

Chief DuCharme stated there had been invoices submitted for the West Side station from TSP One, Inc., in the amount of \$4,700.48, and for the East Side Station in the amount of \$2,957.11.

Boardmember Bolles stated he was consistently disappointed with the attention being given to the construction administration on the Public Safety Facilities project, and noted he was concerned that specific line items were not being examined as they should be.

Mr. Ruehl stated the review process negotiated was working, but it was quite difficult to get the exact dollar amounts requested due to the timing of the construction and the Governing Board meetings. He further stated the EFD Board had a construction manger on the job site to assist in this very matter. He stated TSP had attempted numerous times to respond to duties requested by the EFD Board, and had also met countless times to try to remedy areas of concern to no avail. He pledged to meet once again with Board representatives to find out what the issues of concern were and to remedy those issues to the best of his ability.

Boardmember Love stated these issues of dispute could go on indefinitely into the future, but he believed it was important to work with the system of checks and balances set forth in a process reviewed and approved by the Shorewood EDA to bring resolution to issues of concern. He noted the subcommittee reviewing issues of dispute with TSP had narrowed the amount disputed to approximately half of the original amount specified.

Love moved, Accepting Invoices and Recommending Payment of Bills to TSP One, Inc., in the amount of \$4,700.48 for the West Side Facility, and in the amount of \$2,957.11 for the East Side Facility, and to Structural Design Associates, Inc., in the amount of \$1,056.30 for the East Side Facility.

Boardmember Hill stated he did not think a formal change in process was warranted at this time, but, he, too, would like to see the discussion of disputed amounts related to the West Side Facility put to rest. He also encouraged all parties to provide better documentation and lines of communication regarding resolution of the disputed figures. He stated if consensus could not be reached on the specific line items then an opinion could be brought to the Governing Board to allow for resolution.

Mr. Ruehl stated meetings had taken place with letters following stating positions regarding issues disputed. He stated TSP had responded with additional documentation regarding change orders as requested. Further meetings had been called for resolution purposes with dispute still remaining. Explanations were again offered to questions asked, even after meetings were concluded. He stated he was not sure how to resolve these remaining issues of concern, and

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requested if specific issues were in dispute, he would like to see them in writing in order to proceed.

Hill seconded the motion on the floor.

Hill stated he was interested in fairness to all. As a result, he suggested items in dispute should be provided to TSP in writing, and he thought TSP should make reference in a letter to referred items to work through resolving the dispute. If there was no further movement on the disputed items, then the items should either be approved or sent to arbitration.

Mr. Ruehl stated items of dispute had been addressed before, and he questioned whether invoices were being held due to change orders. He stated if the Board wished to file negligence charges, then a claim needed to be submitted in writing.

Boardmember Hill noted payment of bills did not relinquish any ability to review the claim process and/or issues of dispute at a later time.

Motion passed 3/1, with Bolles dissenting.

Chair Skrede, Boardmember Bolles, Chief DuCharme, and representatives from TSP One, Inc., agreed to meet to document as many issues as possible to try to finalize and resolve issues of dispute. Boardmember Love suggested including Mayor Keller of Tonka Bay or Mayor Nagel of Greenwood in this meeting as well.

6. MATTERS FROM THE FLOOR

Mayor Keller from Tonka Bay stated Ed Bauman would be the representative from Tonka Bay to serve on the EFD Governing Board from here forward, with Bill LaBelle serving as his alternate.

Boardmember Bolles departed the meeting at 7:02 P.M.

Boardmember Love stated he believed it the role in any democracy to separate the majority opinion from the minority opinion. In order to do this, he believed it important that all members of the subcommittee involved in resolving disputed items previously continue to be involved in resolution.

Boardmember Hill stated he remained a bit unclear of items specifically remaining under dispute since he was not in attendance at the subcommittee meetings where these were discussed. He stated he believed items of concern should be documented and supporting documents gathered to allow TSP time to review. Then a Joint meeting should be called to decide whether items of dispute should be pursued or dropped. He thought TSP should provide documentation specifying where adjustments had been made to support their efforts in resolution as well.

Mayor Keller reviewed the history of the items in dispute and his attendance at meetings to resolve items of concern.

Mr. Ruehl expressed concern that responses had been given in writing to provide clarification to items of dispute raised by Boardmembers at previous meetings. He stated the project was under 2% of change orders, and his firm believed this to be a very responsible project. The next step in the process would include filing a claim if the Board was not satisfied with the process followed thus far. He then explained the process that would follow filing such a claim. He noted there were two disputed items that TSP had accepted responsibility for as part of the process. He noted the project had a contingency in place, the project was under budget, and he strongly believed his

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firm had performed under a standard of care that was utilized in the industry. He requested the Board help his firm to discern what should be done to bring resolution to these disputed items.

Boardmember Love stated it was important to follow a process so that all parties could be heard.

Mr. Ruehl requested disputed items and performance concerns be provided in writing. He noted the reputation of the firm was at stake, and he believed industry performance standards had been met. He further stated for someone to question his firm's performance gravely concerned him, and he believed efforts had been made to bring resolution to these issues.

Chair Skrede stated he believed the Board also wished to work through the items of concern with TSP to bring resolution to the disputed items in a timely manner.

The remainder of the items on the Agenda were moved to the January 27, 2004, EFD Executive Session Meeting Agenda with a Governing Board Meeting, including these items, to follow as part of that Agenda.

7. REPORT AGENDA

- A. Monthly District Review for December, 2003**
- B. Operating Committee Minutes of January 14, 2004**

8. FIRE CHIEF REPORT

- A. General Report**
- B. Relief Association- Update of Bylaws**
- C. Organization Report**

9. OTHER BUSINESS

10. NEXT EFD GOVERNING BOARD MEETING

The next EFD Governing Board Meeting was scheduled to take place on January 27, 2004, beginning at 6:00 P.M. in the Conference Room in the upper level of the West Side Public Safety Facility.

11. ADJOURNMENT

Hill moved, Love seconded, Adjourning the EFD Governing Board Meeting of January 20, 2003, at 7:19 P.M. Motion passed 3/0.

RESPECTFULLY SUBMITTED,

**Sally Keefe,
Recording Secretary**