

**Excelsior Fire District Board
EFD Governing Board Meeting
Wednesday, April 21, 2004**

**24100 Smithtown Rd.
EFD Training Room/EOC
6:00 P.M.**

MINUTES

1. CALL TO ORDER

Chair Skrede called the Board meeting to order at 6:00 P.M.

ROLL CALL

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

Also: Excelsior Fire District Chief DuCharme; Deputy Fire Chief George; and Firefighter Hoo

Also present: Excelsior Acting Administrator Johnson; Deephaven Administrator Young; Shorewood Administrator Dawson and Tonka Bay Administrator Irvine

Absent: None

2. AGENDA APPROVAL

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

3. APPROVAL OF MINUTES

A. March 17, 2004 EFD Board Meeting Minutes

Love moved, Bauman seconded, Approving the March 17, 2004, EFD Governing Board Meeting Minutes as amended on Page 1, Item 4, Paragraph 3, change "Boardmember Love questioned whether all" to "Boardmember Love reported all," and on Page 3, Item 6B, Paragraph 3, Sentence 2, change "Deephaven resident" to "Greenwood resident". Motion passed 5/0.

4. REPORT AGENDA

A. Monthly District Review for March , 2004

Chief DuCharme reviewed the Administrative Report, noting the report included a false alarms column that would allow tracking of duplicate calls for false alarms and would also provide notification to cities for regulatory review. He also reviewed the data call sheet for the Navarre station, and noted other cities were pursuing false alarms in much the same way the District had been doing in the recent past.

B. Operating Committee Minutes for April 14, 2004

Love moved, Bauman seconded, Approving the Report Agenda as presented. Motion passed 5/0.

5. MATTERS FROM THE FLOOR

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There were no matters from the floor presented this evening.

6. FIRE CHIEF REPORT

A. General Report

Chief DuCharme stated the Dance Committee would be working with the City of Shorewood and its planning process for approval of the annual Fire Relief Association Dance. He thanked members of the Dance Committee, specifically Keith Bunting, Peggy Cox, Ryan Frykus, Tom Fuxa, Dana George, Joe Lugowski, and Vickie Naverson for their efforts in bringing the dance to fruition.

Chief DuCharme went on to explain he met with Chair Skrede and Boardmember Hill regarding the 2005 Operating Budget and Capital Equipment Plan. Expectations of budget growth along with reasonable balances in Capital Accounts had been discussed. Further discussions included the useful life benchmarks for apparatus and impacts to future equipment and replacement schedules. Boardmember Hill stated, with regard to potential replacements for equipment, it might be prudent to have a utility truck at the East Side station as response times could be increased as well as providing additional manpower, when compared with operating an engine for similar purposes.

Boardmember Bolles complimented Chief DuCharme on the fiscal responsibility of retaining Engine 21 as a backup pumper for the fleet when considering equipment replacement.

Boardmember Hill stated it would also be prudent to review allocations every six months to determine how the proposed allocations related to events taking place in the District.

Chair Skrede explained when considering replacement of equipment it was important to consider the long-term effects of planning for such purchases and to be aware that purchase costs noted in the budget were "guesstimates" as well as the appropriate slotting of replacement times.

Boardmember Hill commented the Committee had moved away conceptually from having large amounts of money in the Capital Equipment fund for the cities. He noted leasing was always an option for consideration when purchasing equipment and reduction of a Capital Equipment fund did not mean the District was not without future purchase options.

Deputy Fire Chief George stated he understood the rationale behind the equipment replacement being discussed, but he also cautioned the Board about not having money present to purchase needed equipment and believed some consideration should be given to examining the potential for financial growth as it related to future equipment purchases.

Firefighter Hoo stated he believed it important to maintain flexibility in funding equipment replacement as sometimes making decisions solely on economics removed the practicality of purchases. He cited an example where a truck had appeared to be more economical for use within the District, but was not able to maneuver in City streets in the winter, thus, making the additional expense to purchase the truck a much better purchase in the long term.

Boardmember Love stated he appreciated the hard work put into planning for the budget; however, he wanted the firefighter's input on Operating budget and Equipment plan as well.

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Administrator Dawson stated the Operating Committee had also suggested the Capital Equipment Plan municipal contribution be set at a consistent amount rather than fluctuating each year. This would provide cities with better handling of finances year to year.

Fire Chief DuCharme went on to explain the selective paging system was being implemented between Hennepin County and the EFD. With regard to the East Side Station, he reported completion was anticipated in mid-May with occupancy in early June of this year. He also reported floor grates in the West Side Station were being redone to fit the abnormal openings. He stated he would provide additional information regarding the Navarre station's expenses and revenue, along with information regarding the Operating Budget and Capital Equipment Plan at the next EFD Board Meeting.

B. Organization Report

Chief DuCharme reported Deputy Chief George would be overseeing the District Chief position until such time as a replacement could be found. He also noted the leadership and management skills of Lee Berglund in his appointment to the position of Captain for Station 1 (West Side) and of John McKee in his appointment to the position of Captain for Station 2 (East Side), as well as for Matt Roscoe in his appointment to Lieutenant for Station 3 (Navarre Station).

Chief DuCharme also noted the entire fleet was in service, with no minor or major maintenance issues. He also noted, year-to-date, no days have been lost due to equipment being out of service.

7. FACILITIES

A. East Side

Chief DuCharme stated he had received a letter from the Hardy-Plank manufacturer, noting the manufacturer would warrant the produce as installed.

Boardmember Bolles thanked Chief DuCharme for following up on this issue, and stated he was concerned the earth beneath the generator pads for the East Side station were not compacted properly.

Deephaven Administrator Young reviewed a letter to the EFD, dated April 13, 2004, regarding contaminated soils invoices. He briefly reviewed the history of these invoices, noting the Deephaven City Council had reached two conclusions on the matter. First, the Council would be willing to contribute any reimbursement for the invoices to the EFD that was received through the City's insurance company or Hennepin County's Cleanup Grant Program or through the Minnesota Pollution Control Agency (MPCA) Petroleum Fund. He went on to explain the results of these efforts had been mixed to this point in time. It was the Council's second conclusion that the remaining costs for soil correction, over and above what was able to be obtained through the previous measures, were directly related to the construction of the East Side Station and were the sole responsibility of the EFD. This conclusion was based on the belief the contaminated soil was uncovered during the installation of the water main that was both directly related and essential to the construction of the East Side Station. Also the contaminated soil was nothing more than an unforeseen soil condition similar to the poor soil conditions found and corrected during the installation of the sewer main at the entrance to the City driveway. The letter also stated the Fire Board was made aware that there might have been unforeseen soil conditions in the proximity of the East Side Station due to the location of the former Sand/Salt shed and underground tanks that had been located at the southwest corner of the Shed. Additionally, the City of Deephaven was not given the opportunity to select contractors to correct the contaminated soil. Kraus-Anderson, with the assistance of Braun Intertec, Inc., made the final decision on

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which contractors to hire for this correction. Administrator Young stated, in conclusion, the Deephaven City Council believed the costs to correct the soil were directly related to the construction of the East Side Station and would never have been incurred without the construction of the station. They also believed the invoices should be paid directly from the construction funds designated for the East Side Station.

Chair Skrede stated this item should be considered as an action item for the Board this evening.

Boardmember Love stated, while the invoices did not include a great sum of money, he was concerned for the policy issues involved, and he wished to discuss this matter fully with the Shorewood City Council prior to taking action. He agreed the vendor should be paid, however, he believed a finding of bad soils was different in scope than contaminated soils, as typically the polluter of contaminated soils paid for the clean-up. While the soils should have been cleaned up regardless of responsibility, he stated, culpability should rest with the polluter for contaminated soils.

Chair Skrede stated a member of the Deephaven City Council questioned how the contractor doing the earthwork could not have recognized the contaminated soils until well into the project, and believed some responsibility should rest with that contractor as well as Kraus-Anderson who was responsible for overseeing the project as well.

Boardmember Bauman stated he agreed with Boardmember Love that the contaminated soils, once found, should have been cleaned up, but he also heard a second issue from other Boardmembers that questioned the equitability of the bill presented. He stated he saw the determination of how to proceed on this matter as a policy issue.

Boardmember Hill stated he was willing to challenge the equitability of the invoice in this case, however, he also believed Deephaven had a role in mitigating the expense for clean up. He stated the determination of how much of a role the City of Deephaven should pay could be handled at the Board level, and he did not agree with the idea that Deephaven should not have any other responsibilities toward clean up of the site.

Boardmember Bolles stated he believed the contractor should not be paid if this error was made by a non-licensed contractor. He also stated he believed the contractor doing the earthwork should have to bear the responsibility of 60 feet of watermain that was being invoiced in this case. He stated the underground tanks were removed in 1991 by an agency that no longer existed. He went on to state the licensing information for the agency removing the tanks could be investigated through the State, and while it was not a great deal of money, he believed the City of Deephaven should bear more of the responsibility for the cost of clean-up than designated in the letter discussed earlier.

Boardmember Hill stated he thought the responsibility of the cost of cleanup should be shared by many in this case.

Love moved, Hill seconded, Corresponding with vendors, as the EFD Board, to Justify and Refute Bill with clarification prior to payment of submitted invoices on this matter.

Boardmember Love stated he also wanted to know the process undertaken from the moment the soils were found to be contaminated, as well as if it was a correct process that was followed.

Boardmember Hill questioned why the contractor overseeing the project would hire a non-licensed sub-contractor to perform these duties.

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Motion passed 5/0.

Chief DuCharme briefly reviewed correspondence from Kraus-Anderson regarding the General Conditions for the project.

B. West Side

Shorewood Economic Development Authority Executive Director Dawson submitted a budget monitoring worksheet that reflected two approaches to the “general conditions” regarding construction of the two Public Safety Facilities for the South Lake Minnetonka Police Department and EFD. He noted these worksheets were being used for project management and were not intended for use as accounting documents.

C. Consideration of Construction Invoices

Chief DuCharme briefly reviewed the construction invoices. Boardmember Bolles requested an update on the change orders for the projects.

Discussion ensued regarding how best to handle payment of the invoices with outstanding change order information.

Love moved to Accept the Invoices and Pay the Bills. Motion failed for lack of a second.

Bolles moved, Love seconded, Accepting Invoices and Approving Payment to Kraus-Anderson in the amount of \$243,942.00 for the East Side Facility. Motion passed 5/0.

Hill moved, Bolles seconded, Withholding Payment of Remaining Invoices from TSP One, Inc., for further discussion on invoices presented.

Further discussion ensued regarding the process being utilized and progress to date regarding discussions being held with TSP One, Inc. Several clarifications were made regarding the process being followed.

With approval from the seconder, the maker of the motion withdrew his motion.

Love moved, Bauman seconded, Accepting the Invoices and Approving Payment to Kraus-Anderson in the amount of \$87,016 for the West Side Facility. Motion passed 5/0.

Chair Skrede stated it would be prudent to draft a letter outlining the process to be followed in resolving the issues of concern regarding outstanding change orders, as well as requesting written response from the service provider so that full clarity could be cast on issues remaining for resolution.

Hill moved, Bauman seconded, Directing Staff to Document Issues regarding Change Orders 1 through 6 with TSP One, Inc, in written form, and requesting a written response regarding each item before the May 19, 2004 EFD Board Meeting.

Discussion ensued regarding inclusion of Kraus-Anderson with regard to resolution of these issues.

Love moved to call the question. Motion passed 5/0.

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Chair Skrede directed staff to prepare a letter as discussed and email it to all members of the EFD prior to submission to TSP One.

Boardmember Bolles stated he thought Kraus-Anderson should be included in the process as they had been part of the situation that developed with regard to the change orders in question.

Love moved to adjourn. Motion failed for lack of a second.

Boardmember Hill stated he believed Kraus-Anderson should receive a copy of the letter to TSP One, Inc., regarding issues of concern. He stated invoices could still be paid without relinquishing the ability to pay in the future.

8. OTHER BUSINESS

No other business was presented.

9. NEXT EFD GOVERNING BOARD MEETING

The next EFD Governing Board Meeting was scheduled to take place on May 19, 2004, beginning at 6:00 P.M. in the Conference Room in the lower level of the West Side Public Safety Facility.

10. ADJOURNMENT

Bauman moved, Love seconded, Adjourning the EFD Governing Board Meeting of April 21, 2004, at 7:48 P.M. Motion passed 5/0.

RESPECTFULLY SUBMITTED,

Sally Keefe,

Recording Secretary