

**Excelsior Fire District Board  
EFD Governing Board Meeting  
Wednesday, July 24, 2019**

**24100 Smithtown Road  
Shorewood, Minnesota  
6:00 P.M.**

## MINUTES

### **1. CALL TO ORDER**

Chair Jennings called the meeting to order at 6:30 P.M.

### **ROLL CALL**

Present: Excelsior Fire District (EFD) Boardmembers: Chair Jennings; Vice Chair Labadie; Boardmembers Erickson, Fletcher, and Miller.

Also present: Excelsior Fire District (EFD) Chief Mackey; Deephaven Administrator/EFD Fiscal Agent Young; Excelsior City Manager Luger; Shorewood City Administrator Lerud; Tonka Bay City Administrator Tingley; and, EFD Firefighter McCarthy.

Absent: None

### **2. APPROVAL OF AGENDA**

Chair Jennings noted a minor amendment to the Agenda, under Item 3 Approval of Meeting Minutes for May 29, 2019 it should be listed as “Regular” and not “Special”

**Labadie moved, Erickson seconded, approving the EFD Governing Board meeting agenda as amended. Motion passed 5/0.**

### **3. APPROVAL OF MINUTES**

#### **A. June 26, 2019, EFD Board Work Session Minutes**

Boardmember Fletcher noted his name on the last page should be “Fletcher” and not “Fleming”.

**Fletcher moved, Erickson seconded, approving the EFD Board Work Session Minutes of June 26, 2019, as amended. Motion passed 5/0.**

#### **B. May 29, 2019, EFD Board Regular Meeting Minutes**

Chair Jennings stated with regard to the Regular Meeting Minutes, page 4 it indicates “Chair Jennings was not aware of this.” He would be more comfortable to amend this to read “Chair Jennings stated he was not aware that Tonka Bay’s tax obligation would be lower relative to the previous tax year.” He noted on the same page, last paragraph of that same section, to amend “Chief Jennings” to “Chair Jennings.”

**Erickson moved, Labadie seconded, approving the EFD Board Regular Meeting Minutes of May 29, 2019, as amended. Motion passed 5/0.**

### **4. CONSENT AGENDA**

**EFD GOVERNING BOARD MEETING MINUTES**

**July 24, 2019**

**Page 2 of 8**

- A. Monthly Fire District Administrative Reports – June 2019**
  - i. Call Reports**
  - ii. Firefighter Activity**
  - iii. Firefighter Percentages**
  - iv. Inspection Reports**
- B. Report of the Operating Committee – May, 2019, and June, 2019**
- C. Treasurer’s Report**

**Fletcher moved, Erickson seconded, approving the motions contained on the consent agenda. Motion passed 5/0.**

**FIRE FIGHTER RELIEF FUND UPDATE**

Bruce Duncan, Relief Association President, updated the EFD Board on the Fire Fighter Relief Fund and presented the SC that is going to be filed.

**5. PRESENTATION OF THE PROPOSED EXCELSIOR FIRE DISTRICT BUDGET**

**A. Updated 2020 Proposal**

Chief Mackey noted at the last meeting there was discussion about adding in his employer health benefits, his dependents and the amount did change a little bit on the bottom, but the Municipal Contribution did not change and is still at 2.95, the fund balance percentage dropped down to 28.75%. He thought this was closer to 30% in the last budget and that was the only change made since the previous budget presentation.

Boardmember Fletcher thought this budget needed to be presented and approved by the cities. Boardmember Erickson indicated Deephaven has already approved it. He stated it is a Board vote to send it to the cities.

**Fletcher moved, Erickson seconded, to send the Operating and Capital Budgets to the cities as presented. Motion passed 5/0.**

**6. MATTERS FROM THE FLOOR**

There were no matters from the floor presented this evening.

**7. REPORT AGENDA**

**A. Fire Chief / Fire District Report**

Chief Mackey stated there is not anything to report.

Boardmember Fletcher thanked Chief Mackey for having the fire truck at Shorewood Manor Park because there were 40-50 little kids who were thrilled to see it.

## **EFD GOVERNING BOARD MEETING MINUTES**

**July 24, 2019**

**Page 3 of 8**

Boardmember Erickson indicated there was also a fire truck at the Deephaven Elementary just before the end of the school year and the kids go crazy. He thanked the Fire Chief for doing this and felt it was a big public relations boom when those happen.

Boardmember Labadie asked if the Fire Department has had many requests for National Night Out. Chief Mackey stated the Department gets those from the Police Department and has not yet seen the list.

### **8. UNFINISHED BUSINESS**

#### **A. Operating Committee Composition Question**

Chief Mackey stated this is regarding the question raised at Greenwood regarding having an Operating Committee representative. He noted he did send out the Attorney Response that spelled it out pretty well about each question posed to them by previous Chief Prillaman regarding some of the questions that were put out.

#### **B. Attorney Response**

Chief Mackey indicated the attorney response was pretty self-explanatory and unless there is a City Administrator, Clerk, Treasurer, or City Manager on the Operating Committee, it looked like Greenwood would not be able to have representation.

Chief Mackey stated the question was if the Operating Committee could function not in the Open Meeting Law if it was termed more of a staff meeting. The Attorney indicated it could not because the Operating Committee does not necessarily have any jurisdiction on personnel matters. If the Board would want to amend that process, the Board would have to change the scope of the Operating Committee almost completely and what its function is, approving the bills and pay, but nothing to influence the hiring or firing or personnel issues. That is one of the reasons the Committee wanted it to be a closed door meeting, in order to discuss some items not in an open environment. The Attorney indicated that would be more appropriate to be done one-on-one without a quorum, just taking advice from those different Administrators and working through that.

Chief Mackey stated there was a question about whether there would be a conflict of interest and the Attorney stated that based on the original question, it was not necessary or applicable. Boardmember Fletcher stated the Greenwood agenda for August would appoint Deb Kind as the Administrator of Greenwood, which is the role she essentially fills and she could then be on the Operating Committee.

Boardmember Erickson indicated Mayor Kind is still an elected official so he would want to run that past legal again. Boardmember Fletcher stated he could run it by legal again, but Minnesota law says a Mayor/Councilmember cannot be a full-time official in Statute 410.191 and Mayor Kind would not be full time. He stated the League of Minnesota Cities highlights the history of the City Administrator position is less defined than a clerk or manager so basically, if the Council appoints Mayor Kind as Administrator, there is not a conflict because she would not be a full-time employee, which would conflict with State Law.

Boardmember Labadie indicated Mayor Kind is still an elected official. Boardmember Fletcher indicated the Attorney criteria was that a City Administrator, Clerk, or Manager could be on the Operating Committee and Mayor Kind does the job essentially.

## EFD GOVERNING BOARD MEETING MINUTES

July 24, 2019

Page 4 of 8

Chair Jennings thought it was interesting the way it was worded that Mr. Young qualifies as *an* Ex-officio member but does not say *the* Ex-officio member. He thought the argument being made is because Mayor Kind serves as an Administrator as well that so she kind of wears both hats. Boardmember Fletcher stated that was correct, assuming at the Greenwood meeting that the Council appoints Mayor Kind as City Administrator.

Boardmember Miller stated he did not feel comfortable with the Board interpreting the legal interpretation of the lawyer. He suggested asking that specific question to legal to find out what the answer is. Boardmember Fletcher stated he would be amenable to bringing that question back to the attorney for an answer but wanted to make sure the Greenwood letter Mayor Kind wrote is included as a part of the information for the attorney to review in terms of the questions that were raised.

Boardmember Labadie agreed that all pieces of documentation should be put to the attorney with very specific questions requesting very specific answers to those questions. She stated unless the JPA is amended, they are setting precedent here with whatever is decided and that will go forward. She did not think it was the Board's decision. The attorney needs to interpret it, tell the Board, and the Board applies the attorney's interpretation, which is an interpretation of the law and the JPA.

Chief Mackey noted the attorney did read the letter from Mayor Kind and talked to him about it at length, but he did not take the time to respond to the letter. He just responded to the questions. Boardmember Fletcher stated the City of Greenwood would appreciate the attorney responding to the items in the letter, specifically.

Chair Jennings stated he would like to know if an appointed official could sit down on the Operating Committee. Boardmember Erickson asked if anyone who is elected can be considered an Ex-officio member. Boardmember Labadie stated that is the question. Boardmember Erickson asked if you hold an election certificate, can you be Ex-officio.

Chair Jennings considered this to be two separate items and the Board is addressing the first item right now. He noted that Mayor Kind is wearing two hats for the smaller municipality and the question is if that changes anything.

Boardmember Fletcher stated part of the reason why he would like a response to this is if there is a different interpretation of the Administrator in response to the Greenwood letter and about alternate members and implying that JPA was an elected official. Boardmember Erickson stated it was his understanding that when the Fire District was originally created, there was no Operating Committee and it was created later. He thought what also needs to be looked at is what is the role of the Operating Committee when it was created and the fact that it was non-elected officials and how does that play into this.

Boardmember Labadie thought it needed to be pointed out that as defined either the City Manager, which Greenwood does not have, or the City Clerk, which is serving two cities. The other option would be the City of Greenwood does have a City Clerk and could the City Clerk voice for two cities. Boardmember Erickson indicated that is what is happening now. Boardmember Labadie thought that needed to be laid out as well which is how it is set up now and how it has been running, and then define all of these other things. She thought the more information the Board gave the attorney, the clearer answer the attorney will be able to give them.

## **EFD GOVERNING BOARD MEETING MINUTES**

**July 24, 2019**

**Page 5 of 8**

Chief Jennings asked if Mayor Kind became the City Administrator of Greenwood, would Deephaven then no longer fill that role with those responsibilities and then shift over. Boardmember Fletcher indicated Deephaven has never served in that role and Boardmember Young is the City Clerk.

Boardmember Miller thought if Mayor Kind is given that title, then she meets the qualification. But he thought the other point that was brought up is whether the JPA actually forbids any elected official from being on the Operating Committee because obviously, there could be some different interests by the political person versus the administrative operating person. Boardmember Labadie noted the Board needs to make sure the attorney knows the whole history.

Chair Jennings stated the second question is the scope and structure of the Operating Committee itself. Based on what he read in the letter and previous meetings, it sounds like the Operating Committee provides integral advice when it comes to personnel matters, which probably does not make sense being public. He thought this should be opened up to the Board because any changes made or proposed or agreed upon would have to go back to all of the cities. According to the JPA, any changes would have to be unanimous across the cities as well.

Ms. Luger thought the question was not asked properly because she thought the question made it sound like they were trying to skirt the law by just changing the name of the Operating Committee, which was not the intent. Her attorney had said where they get into the open meeting law is that the Operating Committee is treated as Ex-officio Members of the Board. If they are not Ex-officio Members of the Board, then it is her understanding that they are not subject to the Open Meeting Law, which would make sense. It does not mean that they are now the Operating Committee for the Fire District, it is just four Administrators getting together for lunch and talking about whatever. She thought the heart of the question is if the Ex-officio role is eliminated from the Operating Committee, is it then subject to Open Meeting Law.

Boardmember Erickson thought Ms. Luger hit it on the head because Ex-officio votes and the people on the Operating Committee do not vote. Ms. Luger explained Ex-officios do not vote but as staff, they participate in discussion in a respectful staff way. Ex-officio would imply that staff and the official were on equal standing but do not vote.

Chair Jennings thought if that were the case, then the first question would need to be amended because originally it was "can you be both Ex-officio and elected" and if the Board were to potentially change the structure of the Operating Committee to be elected and Ex-officio, it would be elected versus staff. Ms. Luger thought the Operating Committee would still be defined as the titles that are listed in the JPA so would still give Greenwood the ability to have somebody, but it would eliminate the Ex-officio piece of it. She stated when she talked to their attorney about it, he seemed to think that was the clenching point because they are acting as Ex-officio members so if that is eliminated and have just staff members, it would not change the title, the role would change and would require a JPA amendment.

Boardmember Erickson thought there would need to be a long discussion on what the role of the Operating Committee is and what does the Board want it to be because it is not technically an HR group. But maybe the Board would want to add that to it. He thought there was a long discussion about the benefits, pros, cons, duties, functions of an Operating Committee and what does the Board want it to be going forward. Chair Jennings saw this a little differently and thought the Operating Committee has been fulfilling that role and operating for a period of time in a certain manner and because of what Greenwood brought to them, the Board is realizing that the Operating Committee is probably not operating within the scope as officially designed.

## **EFD GOVERNING BOARD MEETING MINUTES**

**July 24, 2019**

**Page 6 of 8**

Boardmember Erickson thought the Operating Committee could go into Closed Meeting status when discussing personnel issues. He thought that might be a good question to ask the attorney. Ms. Luger stated the letter talks about oversight of personnel responsibilities and the Operating Committee is not doing oversight and is another technicality. The Operating Committee advises the Fire Chief but does not make a final decision on personnel issues. This would be considered staff support to the Fire Chief. Boardmember Miller thought the precedent in that practice over time, since they have had an Operating Committee, is to operate as staff.

The Board discussed the role of the Operating Committee and its operation.

Chair Jennings reviewed with the Board the next steps and indicated a list of questions should be put together to provide to the attorney and also distribute that to the Board as a whole. The Board will then provide feedback individually to Chief Mackey and send the questions to the attorney. After the attorney responds, the Board will discuss this further and possibly amend the JPA.

### **C. Administration Position to Start in September**

Chief Mackey stated he was following up with the Administration position, what it will look like, how do they want to promote it, distribute it, and advertise for it. He noted the goal is to have someone in place by September 1, 2019 and he is hoping that can still be done. This has been worked on in the background while working on other things. He thought it was realistic to have something ready to post in a couple of weeks to be posted for at least a week and then have a process for someone to start by September 1<sup>st</sup>. He noted they would like the application to have some recommended requirements of EMR (Emergency Medical Responder) so they can at least run some medicals during the day but not be a full-fledged Fire Fighter. This would be a recommended qualification and something that the applicant can strive for. Most of it will be typical clerical work and records management but there would also be some succession planning for the different roles.

Boardmember Miller asked if this position would be included in the budget. Chief Mackey indicated it would be factored into the 2020 budget plan.

Boardmember Fletcher asked if the Board would need to authorize the hiring for this position. Chair Jennings thought it made sense.

**Fletcher moved, Labadie seconded, authorizing Chief Mackey to fill the part time Administrative position as recommended. Motion passed 5/0.**

## **9. NEW BUSINESS**

### **A. Proposed New Payment Plan**

Chief Mackey indicated this item came up at the Operating Committee level. He stated he talked to the Committee a little bit about how the EFD buys miscellaneous items all the way up to large purchases and the process that is in place. There are a lot of house accounts within the District with different vendors locally and it was stressed to keep it local and important for them to do that. Over time, the list of authorized buyers has gotten distorted. There are people on the list who no longer work here, people who work here that do not have access to them, and for them to buy a few things, it can be a several days project and not worth the amount of time spent to buy the item. What they are trying to do is centralize purchasing a little bit. He noted there are programs out there designed to get some rewards programs and cash back programs. This is one that came from Greg Lerud and the City of Shorewood

## **EFD GOVERNING BOARD MEETING MINUTES**

**July 24, 2019**

**Page 7 of 8**

and mimics a lot of what he was looking at. He had submitted the process in the packet and stated there would be credit cards distributed with authorized limits and thresholds.

Chief Mackey reviewed the new proposed payment plan with the Board and how it would work. He proposed closing the house accounts and go to the centralized payment process, which will be easier to track.

Chair Jennings stated this is something that has been done at his company and works well. Boardmember Erickson stated this is also being done with their clients and virtual payment, virtual credit card, and with the fees coming back. He agreed that this is the time to make the change.

The Board was in agreement with changing to the payment plan. Chief Mackey stated he would bring this back to the Board for formal approval.

### **B. Proposal for Additional Portable Radios**

Chief Mackey stated in his overhaul and audit of the Fire District, he found a couple of areas that stood out quite a bit. Personal radios, he felt, the EFD is light on, in trucks and in cars but are not accessible for people to have outside of that. Young Officers when listening to radio traffic whether at home or take them to work, they envelope the ideas of LUCARD and managing. He stated the officer starts to build in their mind how they would have responded to the call if they were there and listening to the good and bad and what happens is when they are out in everyday life they can respond quickly. They are working on their skills to be an instant commander.

Chief Mackey stated typically, Departments have radios for each person and not each spot because then the people are responsible for it, charging it, listening to it, operating it, and being efficient on it. The four-radio proposal is just for the Captains so they can have the radios with them all of the time and in route.

Chief Mackey stated the other piece is that right now when Hennepin goes into storm mode, they send out a page indicating they are going into storm mode which means the calls are only paged on the main and then the operator needs to go to a different channel to check in and do operations. They are identifying two different dispatchers because they are taking in so many calls. One person sits there and pages the information out to all the different departments and everybody else works and arrives and clears the calls on the different channels.

Chief Mackey noted once the officer realizes the benefit the radio is, they almost never leave home without it. He stated there are not even enough radios for all of the apparatus on the trucks but that could be added into inventory later. He understood this was expensive but is standard operations for most Departments.

Chief Mackey reviewed the cost of the radios with the Board.

Boardmember Erickson stated he was fine with having four radios for the Chief and if they want more for the other officers, why doesn't the Fire Departments keep the radios that go offline for them. Chief Mackey stated they could but the maintenance fees would go up because they are outside their lease, but this increase to everyone will not be as bad as the Board would think because the radios on the trucks can be removed and assigned to the officers. He noted this would not cover everyone, but he did not think there would be a big shortage.

**EFD GOVERNING BOARD MEETING MINUTES**

**July 24, 2019**

**Page 8 of 8**

Boardmember Miller thought they needed to talk about the budget portion of this.

The Board discussed how to pay for the four radios and where in the budget to take the funds from.

Boardmember Miller thought the entire Board felt these radios were needed but suggested putting them into the budget and keeping the contribution the same. Boardmember Erickson stated the only concern is the budget and contribution have already been approved and would have to go back before the Council at Deephaven. But as long as the contribution numbers for the cities do not change, he is okay with it. He suggested adding a line item to the 2020 budget for the radios but have the money come out of reserves.

**Fletcher moved, Erickson seconded, approving Chief Mackey to lease between four or five radios as he deems is appropriate going forward on a seven-year lease plan. Motion passed 5/0.**

Chief Mackey stated this will go a long way for the officers and he thinks they have been wanting this for a long time. He thanked the Board for this approval.

**10. NEXT MEETING**

**A. EFD Governing Board Meeting September 25, 2019, 6:30 P.M., Station 1**

**Chair Jennings noted the next regular EFD Governing Board Meeting is scheduled for 6:00 P.M. on September 25, 2019, at Station I.**

Boardmember Labadie stated the Shorewood Council would love it if Chief Mackey could come and talk to them at some point. He understood time will be scheduled with all of the cities but before that, he would like the Board to tell the cities how things are going with the transition.

Chief Mackey stated overall; he has been extremely impressed with a number of things. First of all, the support he has gotten from the Fire Department members and that there have not been any conflicts at all, especially the management staff, as they are eager to forge. He stated there is good perspective on the Board and this is a very unique job. He noted prepping for this position is hard because of the many aspects of the job but he is finally forging ahead, feels like he is caught up, and has started to identify some immediate gaps and how to move ahead with that.

**11. ADJOURNMENT**

**Erickson moved, Labadie seconded, Adjourning the EFD Governing Board Meeting of July 24, 2019, at 8:01 P.M. Motion passed 5/0.**