

**Whatcom County Fire District #21
Station 12 – Bellingham
4142 Britton Loop, Bellingham WA 98226
1:00 pm
September 28, 2016
Special Board of Fire Commissioners Meeting**

CALL TO ORDER

Chairman Bosman called the special Whatcom County Fire District #21 Board of Fire Commissioners meeting for September 28, 2016 to order at 1:00 p.m. at Station 12 – 4142 Britton Loop, Bellingham, WA 98226.

PLEDGE OF ALLEGIENCE

ROLL CALL

Attendees: Chairman Rich Bosman; Vice-Chairman Larry McPhail; Fire Commissioners John Crawford and Bruce Ansell; Fire Chief William Pernet; Division Chief Henry Hollander; Training Captain Joe Noonchester; District Attorney Rich Davis.

Commissioner Dean Berkeley was excused from this meeting.

Chairman Bosman apologized to the Board for any inconvenience this meeting may have caused them. Chairman Bosman noted that this is a very busy time for the District with focus on the 2017 budget, hiring an assistant chief and labor negotiations. The items listed on the agenda are also taking up a lot of staff time and need to be addressed. Chairman Bosman noted that it is not pleasant to critically evaluate another Board member due to his actions when he is not at the meeting. Chairman Bosman made it clear that all Board members were advised of the meeting in the same manner; by telephone/voice mail and email.

Just prior to the meeting at 12:40 p.m., Commissioner Berkeley emailed Chief Pernet to notify him that he would be available to answer questions by phone if necessary. Due to Commissioner Berkeley's late notification, not enough time was available to set up alternative telecommunications.

NEW BUSINESS

- **Information / Update on Small Claims Court Compliant:** Chief Pernet provided background information regarding the current small claims court complaint filed by Commissioner Berkeley against the District for \$1,000.00 for equipment he claims that was not returned to him.

Dean Berkeley was a volunteer with the District from 2009-2012. He ran and was elected as a North Whatcom Fire and Rescue Fire Commissioner in 2014 with his term beginning in 2015. Former Fire Chief Ron Anderson briefed Chief Pernet on Dean Berkeley's claim that his personal equipment (*helmet, boots, flashlight,*

rescue wrench, small hand axe) had been collected by the District and he wanted it returned. Both Chief Anderson and Chief Hollander had done an extensive search for the equipment however, it had not been located.

In June 2015, Dean Berkeley contacted Chief Pernet and made another request for his personal equipment. Dean Berkeley was advised that a thorough search had already been completed. Another search was conducted at that time. In July 2015, prior to a Board meeting, Dean Berkeley presented Chief Pernet with internet pricing (\$892.85) and description information on his missing equipment. In August 2015, prior to the Board meeting, Dean Berkeley again approached Chief Pernet about his gear issue. Prior Chairman Bill Salter intervened and requested that Commissioner Berkeley drop the issue which he seemed to acknowledge at that time. In September 2015, following a Board meeting, Dean Berkeley again approached Chief Pernet stating that he needed to be reimbursed for his lost equipment. A conversation ensued about why the District would not reimburse him for the lost equipment, including his lack of documentation, District policy and the lapsed amount of time. Chief Pernet stated that the issue was treated the same way as any volunteer matter would be handled and the decision seemed agreeable to Dean Berkeley at the time.

In January 2016, Commissioner Berkeley sent an email to Chief Pernet asking yet again to be reimbursed for the missing equipment asserting that former Fire Chief Ron Anderson had stated that the District would pay for the missing equipment. Chief Pernet contacted Ron Anderson and discovered that at no time did he make the statement that the District would reimburse him for the missing equipment.

Following the email, Chief Pernet drafted a letter to Commissioner Berkeley outlining his history, separation as a volunteer, policy delineating that a volunteer has five working days to turn in any District gear and his official decision that he was not going to be reimbursed due to the circumstances, policies and amount of time spent that had elapsed. A copy of the letter was provided to the Fire Commissioners.

In February 2016, Chief Pernet received an email from Commissioner Berkeley stating that he was never separated from the District as a volunteer, he was issued substandard protective equipment and that he had gone on personal strike as a volunteer. He stated that he was, "*taking a stand and wants the cost of his gear reimbursed.*" Commissioner Berkeley further stated that he retired as a volunteer when he became a fire commissioner in 2014. Additionally, Commissioner Berkeley threatened legal action against North Whatcom Fire and Rescue.

On February 25, 2016, Chairman Bosman and Chief Pernet met with Commissioner Berkeley to discuss the issue. Chairman Bosman, acting with the authority of the Board, advised Commissioner Berkeley that after much discussion and no resolution forthcoming, the matter was now closed. Acting with

Board authority Chairman Bosman further directed Commissioner Berkeley not to contact the Fire Chief nor his staff any further regarding this matter. Chief Pernet and his staff were advised not to respond to any requests or inquiries from Commissioner Berkeley regarding this matter.

Chief Pernet noted that during the same meeting, Commissioner Berkeley stated that he still possessed some District issued equipment including a pager, helmet and boots. Chairman Bosman urged Commissioner Berkeley to return the District owned equipment.

On September 15, 2016, prior to the Board meeting, Chief Pernet was served a small claims lawsuit from Commissioner Berkeley against North Whatcom Fire and Rescue in the sum of \$1,000.00 to replace the missing equipment.

Chief Pernet stated that the issue is complicated by Commissioner Berkeley's inability to substantiate his claims. The District has no record of Commissioner Berkeley using his personal gear as a volunteer. The District has no responsibility for Commissioner Berkeley's personal items that were allegedly left at a station for over a year. No proof has been presented such as receipts that Commissioner Berkeley ever owned such gear. By policy, Commissioner Berkeley has five days from his separation to return any district issued gear which was not done. Undue time has been spent on this issue by the Board as well as the Fire chief and his staff. Chief Pernet noted that the issue may be interfering with Commissioner Berkeley's effectiveness as a commissioner.

According to District records, Commissioner Berkeley remains in possession of District equipment including a helmet, boots, pager, pager charger, jacket and firefighter badge. Chief Pernet noted that Commissioner Berkeley has verbally indicated that he will not return those items until he has been reimbursed for his equipment.

Chairman Bosman concurred with the timeline and history provided by Chief Pernet.

Chairman Bosman stated that the small claims court date has been scheduled for Thursday, November 3, 2016 at 9:00 a.m. District attorney Rich Davis noted that no attorneys are present during the proceedings however, witnesses can be called. Chief Pernet can represent the District at the proceedings and Rich Davis will be available to help with any preparations for the hearing. If the District receives an adverse judgment and makes the decision to appeal to a superior court, attorneys will then be involved.

There was discussion regarding the District's defenses to this action and possible counter claim for District equipment that has not been returned.

MOTION: Chairman Bosman moved to direct Chief Pernet to move forward and file a counter suit on behalf of the North Whatcom Fire and Rescue against Fire Commissioner Dean Berkeley for the return of District equipment. The motion was seconded by Vice-Chairman McPhail and approved 4-0.

Commissioner Ansell stated that North Whatcom Fire and Rescue is a great fire department full of amazing, talented people and it seems that Commissioner Berkeley is going out of his way to dampen that spirit. The District has a lot more important items and issues to deal with than having a fire commissioner constantly fight against the Board or the fire chief and his administrative staff. Commissioner Ansell is in full support of getting this issue settled while relaying the message that this type of behavior will not be tolerated.

- **Information on Commissioner Residency Question:** Chief Pernet provided information regarding a fire commissioner residency status. Chief Pernet pointed out the residency issue came up several months ago in July and does not coincide with the pending lawsuit. The concern is based on public comments made during a White Rock City Council Meeting.

Chief Pernet presented a video from the June 13, 2016 White Rock City Council Meeting where Commissioner Berkeley stated on record that he resides on Russell Avenue in Canada and works in the United States. Chief Pernet presented the information so the Fire Commissioners could form their own conclusions. A second video was not shown. In addition, Commissioner Berkeley had not been approved to attend the meeting on behalf of North Whatcom Fire and Rescue Board although he did submit a request for reimbursement.

Chief Pernet noted that this could be a potential issue for the Commission and the District. To become an elected fire commissioner in Whatcom County he / she must be a registered voter and must reside in the fire district. District Attorney Rich Davis noted that residency is a fluid term in Washington State but essentially a residence is where you vote, where you live and where you intend to reside. Chairman Bosman noted that as a taxpayer he would like an answer to the query.

District Attorney Rich Davis agreed and provided further information regarding potential concerns including Board decisions that were decided by Commissioner Berkley's vote and dispersal of public funds by way of fire commissioner stipends.

District Attorney Rich Davis noted that the next step would be to notify the Whatcom County Auditor's Office who will conduct an investigation and come to decision. Chairman Bosman reviewed the process which includes attending a hearing, presenting the evidence and receiving clarification and direction from the County Auditor. The Board will then be able to act and defend their position based on the Auditor's decision. District Attorney Rich Davis stated that the

Board could still make the decision to proceed to court for a declaratory judgement.

The Board discussed how each member had been tasked with attending certain community meetings and reporting back during monthly North Whatcom Fire and Rescue Fire Commissioner Meetings. Only those approved meetings could be submitted for reimbursement. Submitting for meetings that have not been preapproved will be rejected. Chairman Bosman noted that any instances where a Board members' stipend request is denied, the request is reviewed by the Chairman who notifies the Board member of his decision and rationale.

Commissioner Ansell requested information from District Attorney Rich Davis regarding consequences for submitting false reimbursement requests on a regular basis. District Attorney Rich Davis noted that the Board should contact the State Auditor's Office to ask for their direction.

MOTION: Vice-Chairman McPhail moved to direct Chairman Bosman and/or Chief Pernetto to contact the Whatcom County Auditor's Office regarding the Fire Commissioner Residency concern. The motion was seconded by Commissioner Ansell and approved 4-0.

MOTION: Commissioner Ansell moved to direct Chairman Bosman and/or Chief Pernetto to contact the State Auditor's Office for advice and direction on how to address the fraudulent Fire Commissioner payment requests. The motion was seconded by Vice-Chairman McPhail and approved 4-0.

PUBLIC COMMENT

- None

ADJOURNMENT

MOTION: There being no further business Vice-Chairman McPhail moved to adjourn the meeting at 1:40 p.m. The motion was seconded by Commissioner Crawford and approved 4-0.

Respectfully Submitted by:

Jennie Sand, Recording Secretary

ATTEST:

Rich Bosman, Chairman

Larry McPhail , Vice-Chairman

John Crawford, Commissioner

Bruce Ansell, Commissioner

Chief Pernet, Board Secretary