

Whatcom County Fire District #21
9408 Odell Street, Blaine, WA 98230
11:00 a.m.
August 18, 2022
Regular Board of Fire Commissioners Meeting

CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

Chairman Ansell called the regular Whatcom County Fire District #21 Board of Fire Commissioners meeting for July 19, 2022, to order at 11:01 a.m. at Station 61 – 9408 Odell Street, Blaine, WA 98230.

ROLL CALL

Attendees: Chairman Bruce Ansell; Vice-Chairman John Crawford; Commissioners Scott Fischer and Kimberly McMurray; Fire Chief Jason Van der Veen (*via Zoom*); Division Chief Shaun Ward; Deputy Fire Marshal Joel Nielsen; Attorney Richard Davis (*via phone*); Local 106NW Representative Scott Brown.

FIRE COMMISSIONER RECOGNITION

Former Commissioner Rich Bosman recognized Commissioner McPhail for his ten-plus years as a Fire Commissioner for North Whatcom Fire and Rescue. Commissioner McPhail resigned in July 2020.

Chairman Ansell recognized Commissioner Bosman for his twenty-plus years as a Fire Commissioner for North Whatcom Fire and Rescue. Commissioner Bosman resigned in July 2022.

The Board and Chief Van der Veen thanked both Commissioners for their dedication, vision, leadership, and commitment to the district and the community.

RECESS

Chairman Ansell recessed the meeting for 15 minutes at 11:12 a.m.

Chairman Ansell called the meeting back to order at 11:30 p.m.

LEGAL

Waiver of Attorney-Client Privilege and Attorney Work Product Regarding

Investigative Materials: Attorney Richard Davis joined the meeting via phone conference at 11:30 a.m. to discuss a grievance brought forth by the labor group surrounding a personnel investigation and subsequent public records request.

A workplace misconduct complaint had been received that led to contact with the attorney by the fire chief. The decision was made to engage an outside investigator to keep the firm and district separate from the investigation and allow for an outside perspective resulting in a more effective product.

The investigator provided a report to the district that included factual information and recommendations. The attorney's office received all the investigative materials. After discipline was allocated, the union filed a grievance opposing the discipline. "*A grievance is*

a timely written complaint by the grieving party concerning the interpretation or application.” In addition, the union filed an information records request to obtain a list of the witnesses along with the investigator’s written report and some prior investigative reports.

Richard Davis replied to the information request, and a list of witnesses was provided. Richard Davis noted that the investigative reports were considered an attorney work product and are part of the attorney-client privilege. The union’s legal counsel disagreed and was adamant about receiving all the requested information.

Richard Davis recommended that the Board approve a motion to release the information. He noted that there was no huge downside to releasing the report, although once waived, anyone could request the information via a public records request.

Chairman Ansell expressed his concerns regarding releasing the requested information, which included protecting those members who came forward and spoke with the investigator. The district has attempted to keep the investigation low-key, allowing members to feel comfortable coming forward. This motion may enable their statements to be reviewed in the future via a public records request.

Richard Davis stated that the public records request act has a provision that if the information requested includes information about specific witnesses, they could request to have their statements and/or names redacted. In addition, the district has affirmative steps to ensure that there are no repercussions or retaliation because of information provided by members during any investigation.

Chief Van der Veen added that there had been no actions taken up to this point to block the union during this process. Per the collective bargaining unit, any information regarding the investigation should be requested by the union before the imposition of discipline, which did not happen in this case. Information was requested after the time limit, which Chief Van der Veen extended to allow the union additional time in the process. He alerted all members who had been a part of the investigation that their names had been tied to a document that had been requested and that the district would protect them from retaliation to the best of their ability.

Chief Van der Veen voiced his concern about members who may not choose to come forward in the future and his intent to protect both the witnesses and the disciplined member.

Chief Van der Veen and Chairman Ansell are trying to do everything to keep specific information from being released except to the union, which wants to conduct its own investigation regarding the action taken.

Richard Davis did point out that it is common for the union to conduct its own investigation, specifically if discipline is involved. Other unwanted publicity may also be avoided by waiving the attorney-client privilege.

Attorney Richard Davis left the meeting at 12:00 p.m.

Chairman Ansell noted potential issues with concurrent investigations, including the slight variations to witness statements. The hope is that by releasing the information, they will see that the fire chief made the best non-partial decision with the knowledge collected and recommendations made by the external professional investigation.

The Board was allowed to review the investigative documents separately before the meeting.

Commissioner McMurray is adamant about protecting the members who provided information and is concerned about retaliation. Commissioner McMurray is in favor of allowing those members the opportunity to have their names and statement redacted before releasing information via any public records request.

Commissioner Fisher wants the district to be as open as possible and allow the union to review the requested information. Members should have the option to have their information redacted via other public records requests.

Vice-Chairman Crawford hopes that those members who provided statements understand they can have their information redacted in the event someone makes a public records request.

MOTION: Commissioner Fischer moved for the Board to waive the attorney-client privilege and attorney work product regarding the current request by labor for the particular investigative materials as recommended by Attorney Richard Davis. The motion was seconded by Vice-Chairman Crawford and approved 3-1. Commissioner McMurray opposed the motion.

Chairman Ansell called for a roll call vote.

Commissioner Fischer: Yes

Vice-Chairman Crawford: Yes

Chairman Ansell: Yes

Commissioner McMurray: No

NEW BUSINESS

Comcast Grant Partnership: Comcast Representative Vincent Buys presented a potential grant opportunity for the district to partner with Comcast to provide improved broadband services to approximately 1,283 homes in the Blaine, Ferndale, and Lynden areas. The estimated cost for the project is \$18 million. The estimated deadline to utilize any awarded funds is before December 31, 2025, although permitting could hold up the process. Comcast is also in discussions with other public entities in Washington State, including Fire District 1 (*Stevens County*) and Fire District 14 (*Acme/Kendall*), for opportunities in their areas.

To apply for the grant, the state legislature requires Comcast to partner with a public entity that would serve as the fund's manager and be responsible for reporting information to the state auditor. The county was also approached and chose not to participate since they currently partner with other entities, and Comcast does not have an open access network.

Vincent Buys noted that in the process of applying for the grant, a letter would be sent to all existing companies who provide the same services and could provide waivers to addresses they serve or are in the process of delivering service.

The ultimate goal is to provide services to underserved areas and people within the community who cannot access Wi-Fi, specifically for homes with school-aged children.

Chief Van der Veen expressed concerns regarding the workload on the already short-handed non-uniformed staff. Vincent Buys assured Chief Van der Veen that adding administrative funds for grant reporting and auditing could be built into the costs. The time commitment would be determined at a later date.

Chief Van der Veen pointed out that this is a unique opportunity for the underserved areas in the county to receive better internet and phone capabilities at an affordable cost. It would also be good publicity and name recognition for the district at Comcast's expense.

Further investigation on the part of Comcast is expected before a decision is made. In addition, legal counsel from both sides will need further discussions before any recommendations are presented.

Although no decision was requested, Chairman Ansell requested feedback from the Board.

The Board thanked Vincent Buys for his presentation and would require more concrete information before considering the idea.

Chief Van der Veen will update the Board as additional information is available.

APPROVAL OF CONSENT AGENDA

1. Meeting Minutes
 - a) July 19, 2022 – special
2. Staff Reports – Chiefs / Operations / Training / Technical Support
3. Financial Report
 - a) Total Revenue – July \$886,020.62
 - b) Total Expenditures – August \$914,047.12
4. Voucher / Payroll / Benefits
 - a) NWFR Employees Direct Deposit Payroll: \$415,188.48
 - b) Payroll Taxes Voucher: \$98,209.80
 - c) Benefits Voucher: \$230,425.73
 - d) Monthly Expenditure Voucher: \$145,735.08
 - e) Capital Projects Voucher: \$17,974.28
 - f) Volunteer Fund Voucher: \$6,513.75

MOTION: Vice-Chairman Crawford moved to approve the Consent Agenda as presented. The motion was seconded by Commissioner Fischer and approved 4-0.

FIRE COMMISSIONER MONTHLY REPORTS

Chairman Ansell met with Chief Van der Veen and Consultant Dave Ralston to discuss upcoming labor contract preparations. An initial meeting has been scheduled for Friday, September 2, 2022. The hope is to complete the contract before the current one expires on December 31, 2022.

Commissioner McMurray continues to check the Blaine City Council agenda for any topics pertinent to the district. Since Deputy Fire Marshal Nielsen routinely attends those meetings, he agreed to contact Commissioner McMurray if he believes additional Board attendance is needed.

IAFF LOCAL 106 MONTHLY REPORT

106NW Representative Scott Brown noted that the district recently hired four new firefighters and one lateral. Four are attending the North Bend Fire Academy, while the lateral is receiving additional training with B Shift.

Labor has prescheduled approximately one hundred (100) known overtimes for September. The numbers remain high due in part to current openings. Chairman Ansell noted that the district intends to begin another hiring process in January.

UNFINISHED BUSINESS

District 4 Annexation Update: Chief Van der Veen, Bellingham Fire Chief Hewitt, and one District 4 Fire Commissioner have agreed to organize three community meetings to let the citizens in those areas communicate their expectations of the fire district and, in turn, present a unified message regarding what their current levy rate affords them.

It is expected that the meetings will take place in October.

Chairman Ansell proposed drafting a letter to the District 4 Board reiterating that the current interlocal agreement for fire protection services will expire on December 31, 2022. Although it was noted during a previous work session that the NWFR Board would be amenable to two (2) six-month extensions if needed, Chairman Ansell has yet to receive any communications regarding how the District 4 Board plans to pay their bills, including the cost for fire protection services. The Board concurred and recommended adding a November 1, 2022, time limit to receive the information.

City of Blaine Development/Deputy Fire Marshal: A Special Board Meeting has been scheduled for Wednesday, September 7, 2022, with Attorney Jon Sitkin at 10:00 am. at Odell Station 61. The presentation will discuss the district's and City of Blaine's capital facilities plan and the possible increase to the mitigation fee schedule.

Deputy Fire Marshal Nielsen provided information regarding the public education plan for the upcoming school year now that COVID restrictions have been lessened. Crews are expected to visit classrooms to provide fire prevention and safety instruction. October is fire safety month, and the fire safety house will also be utilized at schools.

Development has shifted from the preplanning phase to inspections and plan reviews. Concurrency letters are being drafted following mitigation fee payments, allowing developers to receive the necessary permits to proceed with their projects. Considerable construction is currently in progress.

Chairman Ansell requested information regarding the mitigation fee schedule. Chief Van der Veen noted a discrepancy in the interpretation of townhomes (single-family vs. multi-family) between the district's capital facilities plan and the City of Blaine's. There is a significant cost difference in mitigation fees between the two types of dwellings. Aligning the two plans and how to proceed is expected to be discussed during the September special meeting.

Fire Commissioner Interview Process: Chairman Ansell noted that applications for the interim fire commissioner position closed on Wednesday, August 17, 2022. There are three applicants interested in the position.

The information has been disseminated to the interview panel for review.

The interview committee consisting of Vice-Chairman Crawford, Commissioner Kimberly McMurray, and Board Secretary Jennie Sand will schedule the interviews. The hope is to have a recommendation by the next Board Meeting.

Washington Surveying and Rating Bureau (WSRB): There have been no updates at this time.

NEW BUSINESS CONT.

Resolution 2022-08 Whatcom County EMS Levy Support: Chief Van der Veen noted that the attorney reviewed and approved the proposed resolution. The District 4 Board also approved the same resolution at their meeting. The Board approved a similar resolution for support of the 2016 EMS Levy.

It was noted that language was added to the County EMS Levy stating that if the agreed-upon levy rate creates a surplus of revenue, they reserve the right to reduce the rate by an unspecified amount.

Chairman Ansell expressed his concern regarding the added language, noting the repercussions of reducing the levy amount in the future. He is in favor of the \$.295 levy amount, knowing it will naturally degrade over time (dependent on property values) while maintaining the same service level. He does not favor a reduction by the Whatcom County Council after the first year for an undisclosed amount.

Chief Van der Veen concurred, stating that the initial agreed upon levy rate is needed to allow any surplus to be utilized in the last two years, specifically since the levy amount degrades over time. Without the surplus, the level of service may be compromised.

Vice-Chairman Crawford noted that, in his opinion, the recent turmoil shows poor leadership by the Whatcom County Council.

MOTION: Vice-Chairman Crawford moved to approve Resolution 2022-08 Whatcom County EMS Levy Support with the levy rate beginning at \$.295. The motion was seconded by Commissioner McMurray and approved 4-0.

Apparatus Update: Chief Ward provided an update regarding the new engine cost increases discussed during a previous meeting. Chief Ward reported that an engine is currently close to one million dollars to purchase.

The last bid received was \$840,000, which, by the time the district is ready to purchase, may increase by up to \$20,000. Companies are currently adjusting their prices monthly due in part to supply chain deficiencies.

The engine specs have been completed, and the revisions have been submitted. Final cost approval will be requested during the September meeting.

Whatcom County BLS Reimbursement: Chief Van der Veen stated that both districts have applied for their portion of the one-time BLS reimbursement from the County EMS Levy savings fund available to all the fire districts in the county. The funds are expected to be approved and dispersed sometime in October.

District 4: \$187,714
NWFR: \$697,958

The justification for receiving the funds includes staffing, equipment, medical supplies, and other costs directly associated with the district's operation and delivery of BLS services.

- Replacement of an aid unit in late 2022 and funding to order another in early 2023.
- Defensive tactics/personal protection training
- Ballistic PPE for an active shooter or violent events
- Unexpected budget increases for fuel and BLS supplies in 2022.
- Unexpected budget increases for overtime costs due to increased sick leave from Covid.

The estimated \$120,000 reimbursement for the stretcher load system, gurneys, and maintenance will be reimbursed using the same process.

CORRESPONDENCE

- From Brian Parfet, Local 106 re: Grievance error
- From Brian Parfet, Local 106 re: Grievance
- BLS Reimbursement Contract
- Northern Light Article re: County council approves 29.5 cent EMS levy rate for November ballot
- The Responder: District newsletter, August issue

ANNOUNCEMENTS

- **September Board Meeting Attendance Query:** All Commissioners in attendance are expected to attend the September 15 meeting at Odell Station 61.

AGENDA ITEMS FOR THE NEXT MEETING

- District 4 Communication Letter
- Deputy Fire Marshal Report
- Interim Fire Commissioner Recommendation
- Washington Survey and Rating Bureau (WSRB)
- Apparatus (new engine)

SIGNING OF DOCUMENTS

ADJOURNMENT

MOTION: There being no further business, Chairman Ansell moved to adjourn the meeting at 12:50 p.m. The motion was seconded by Vice-Chairman Crawford and approved 4-0.

Respectfully Submitted by:

Jennie Sand, Board Secretary

ATTEST:

Bruce Ansell, Chairman

John Crawford, Vice-Chairman

Scott Fischer, Commissioner

Kimberly McMurray, Commissioner

Jason Van der Veen, Fire Chief