



FIRE CHIEF
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MINUTES SEPTEMBER 29, 2017 EMERGENCY MEETING

Held at the Indian Shores Municipal Center
19305 Gulf Blvd., Indian Shores, FL 33785

SPECIAL MEETING CALLED TO ORDER AT 2:00 p.m. PLEDGE OF ALLEGIANCE

ROLL CALL: Commissioners answering roll call were Chair Joe Bruni, Vice Chair Lou Snelling, Commissioner Laura Martin, and Commissioner David Gardella. Secretary/Treasurer Larry Schear was excused. A quorum was present with Chair Joe Bruni presiding. Attorney Jeff Albinson, Interim Fire Chief John Mortellite, and Finance Director David Martin were also present.

ADDITIONS OR DELETIONS:

ACTION ITEMS:

17-23 Adoption of Amended Final Millage (Resolution 2017-12)

Discussion: Attorney Jeff Albinson first explained that if any member of the public would like to appeal any decisions made at this or any meeting, a verbatim transcript of the proceedings must be made. Attorney Albinson stated that a court reporter is present and any member of the public is welcome to request a transcript from him. Attorney Albinson then read Resolution 2017-12 in its entirety.

Attorney Albinson have some background as to why this Emergency Meeting is being held. He explained that Mr. Ed Hoofnagle sued the district over the ad valorem tax referendum, and the District is represented by Hill, Ward, Henderson in that case. Recently, the circuit court Judge St. Arnold issued an order granting the relief Mr. Hoofnagle requested, advising that the referendum was of no legal effect. Due to this taking place at a time when the TRIM notices had been printed and the wheels of the taxing authority had been set in motion, the District conducted research to determine how to proceed in regard to the court's order. The understanding at that time was that there was nothing that could be done, but pass the budget as it had already been in motion, with the understanding that the taxing authority would either hold that tax money in an account or release it to the District with instructions to hold it until either an appeal was decided, or it was decided not to appeal. It was later learned that this wasn't the only way to move forward. In the meantime, the Board's regular September meeting was rescheduled and the October meeting was at a date such that it was past the deadline to file a notice of appeal. On the District's behalf, Hill, Ward, Henderson filed a "placeholder" notice of appeal, with the understanding that it was filed only to meet the 30 day deadline but would be either approved or dismissed depending on the Board's decision at the October meeting. On September 27, 2017, the Board voted to adopt the millage rate, understanding all of the stipulations surrounding it. The day after this meeting, the County Attorney's Office, on behalf of Mr. Twitty's office, filed a motion with the court as an intervenor, seeking guidance from the court as to what they were supposed to do, which was different than the understanding the District had. Attorney Albinson then communicated directly with the County Attorney's Office, and the lawyer that filed the motion, Amanda Coffey, and described our understanding on the matter. She advised that the TRIM notice states that the Tax Collector can collect up to 00.50 mil, including 00.00 mil. She explained that the deadline to make a change was the end of business on October 3, 2017. Attorney Albinson communicated this information to the District, and it was determined that the District would need to convene an emergency meeting. This issue will also be on the regularly scheduled October meeting, so that the decision may be ratified or not. Ms. Coffey confirmed that their

concerns would be allayed if the District adopted a 00.00 millage rate. In the meantime, Judge St. Arnold had entered an order to not collect the tax. By the District adopting a 00.00 millage rate, it has not potentially waived any rights in regard to the appeal. Attorney Albinson also stated that he could not find a single lawyer in the state of Florida whom had ever had a situation in which there was a legal challenge to a referendum and the opinion came out so close in time to the TRIM notices and the budgeting process, so there is not any guidance on how to handle it. He also added that the budget cannot be amended at this meeting due to it being an Emergency Meeting, so the budget will go into effect October 1, but it can be amended at the first meeting in October. He then clarified that if the Board adopts the millage rate at 00.00, there will be no way for the District to ever get the income from that ad valorem tax, and no citizen will be taxed for any amount of money, for Fiscal Year 2017/2018. Attorney Albinson also clarified that there is no requirement for a second reading of a resolution. Additionally, if there was, the emergency situation would supersede that requirement.

REMARKS FROM THE AUDIENCE:

Tom Rask – [Did not state address] – Mr. Rask stated that members of the public are not required to have a verbatim record of the proceedings to appeal. He also stated that the court order that was issued this morning stated that the Property Appraiser shall not list on the 2017 tax roll the millage PSFRD adopted on September 27th, so therefore the District is not able to levy any millage rate. He stated that the resolution adopting the millage rate should be nullified. He stated that Ms. Coffey at the Property Appraiser began her work on Monday (September 25, 2017), and they set a trap for the District.

Nancy Obarski – 708 Beach Trail, Indian Rocks Beach – Mrs. Obarski stated that, due to the referendum having no legal effect, the fire district has no ability to levy an ad valorem tax of any millage. Mrs. Obarski distributed a legal opinion given to former Fire Chief D'Angelo by Manson, Bolves, Donaldson that discusses that the 1989 charter revision gives PSFRD the authority to levy an ad valorem tax contingent upon a referendum vote at the next general election, and the lawyer concluded that the required vote never took place. Mrs. Obarski agreed that no millage rate should be adopted and the previous resolution should be rescinded.

Jim Palamara – 102 15th Avenue, Indian Rocks Beach – Mr. Palamara questioned if this emergency meeting was legal. He stated that he had originally agreed with the passage of the 00.00 millage rate, but with the new information brought forward, he is reconsidering that. Mr. Palamara stated that he is in favor of a consolidated fire department of the beach communities, regardless of cost.

Jerry Newton – 438 Harbor Drive North, Indian Rocks Beach – Mr. Newton stated that the whole issue has been mishandled since the beginning. He discussed that everyone wants to support the fire department but at a more reasonable increase.

Kelly Cisarik – 448 Harbor Drive South, Indian Rocks Beach – Mrs. Cisarik inquired as to who authorized the appeal. Chair Joe Bruni stated that Hill, Ward, Henderson filed the appeal, approved by Interim Fire Chief, the District Attorney, and the Chair. Mrs. Cisarik stated that she could not find a resolution authorizing the legal fees associated with the Hoofnagle lawsuit.

John Pfanstiehl – 448 Harbor Drive South, Indian Rocks Beach – Mr. Pfanstiehl mentioned that earlier in the meeting it was stated that the law firms were not copied on the order filed earlier that day, but he confirmed that they were. Mr. Pfanstiehl urged the Board to cancel the appeal and then discuss it at the October meeting to formally make a decision.

Commissioner David Gardella asked Attorney Jeff Albinson to clarify the comments made about the legality of adopting the 00.00 millage rate. Attorney Albinson clarified that he is not a tax attorney, and the reference to the 00.00 millage rate came from his conversation with the County Attorney's Office. Attorney Albinson explained that he has currently been doing research and has concluded that the Board could likely make an amendment to rescind the

part of Resolution 2017-10 which established a millage rate and authorized the collection of a millage rate. Discussion ensued regarding verbiage changes in Resolution 2017-12.

The final suggested changes were as follows:

Title: Remove "ADOPTING AN AMENDED FINAL LEVYING OF AD VALOREM TAXES AT A 00.00 MILLAGE RATE FOR THE PINELLAS SUNCOAST FIRE & RESCUE DISTRICT FOR FISCAL YEAR 2017/2018" and replace with "RESCINDING IN PART RESOLUTION 2017-10"

Paragraph 2 (second "Whereas" clause): Remove "amend the adopted" and replace with "rescind" and following "Final Millage Rate" insert "set in Resolution 2017-10."

Paragraph 4 (fourth "Whereas" clause): Before the word "scheduled" insert "regularly."

SECTION 1: Remove "The FY 2017/2018 operating millage rate is and shall be 00.00 and there is no rolled back rate" and replace with "The Board hereby determines it necessary to rescind Resolution 2017-10 as is otherwise described herein."

SECTION 2: Remove the word "supersede" and replace with "rescind" and insert at the end of the sentence "as to any authority to set a millage rate and will revoke the millage rate described in Resolution 2017-10."

REMARKS FROM THE AUDIENCE:

Nancy Obarski - Mrs. Obarski inquired as to why the resolution was only being rescinded "in part." Attorney Albinson clarified that the resolution is being rescinded "in part" to rescind all parts relating to levying and collecting any millage rate; however, he does not want to rescind the entire resolution, as the District hasn't discussed this, as then the resolution would not exist.

Peter Sawchyn - Mr. Sawchyn inquired as to why the Commission voted on the budget if they were not trying to circumvent the judge's order; he also added that Attorney Albinson was not present at that meeting. Attorney Albinson stated that he discussed the reason for that question in the beginning of the meeting, being that the Board took the action that it did because of its understanding at that time. Secondly, Attorney Albinson stated that nobody expected there to be any issue and he was previously excused from the meeting, as he was at a personal event he could not change. Attorney Albinson confirmed that the Board has never undertaken any action for the purpose of circumventing the court's order and they have never been advised to circumvent the court's order.

A motion to adopt Resolution 2017-12, adopting the amended final millage as read with the suggested changes.

**MOTION: COMMISSIONER MARTIN SECOND: COMMISSIONER GARDELLA
All in favor, motion passed unanimously.**

There being no further business to come before the Board, the meeting was adjourned in due form at 2:58 p.m.

APPROVED:



Joseph V. Bruni, Chair Date Approved

ATTEST:



Kimberly G. Fugate, Executive Assistant