

ESTES VALLEY FIRE PROTECTION DISTRICT

Agenda Statement- November 13, 2024

Agenda Item #4

Agenda Title:

Approval of Agenda

Submitted by:

Ryan Bross, President

Background Information:

N/A

Attachments:

Agenda

Minutes

Report

Resolution

Contract

Map

Letter

Other

Board Action Needed:

A motion to (approve, deny, modify) the Agenda for the November 13th, 2024 board meeting.

Ryan Bross Yes No

Brian Tseng Yes No

Mike Lewelling Yes No

Dave Hamrick Yes No

Chris Buser Yes No

ESTES VALLEY FIRE PROTECTION DISTRICT BOARD MEETING

November 13, 2024
Wednesday, 4:30 PM

AGENDA

1. CALL TO ORDER- President Ryan Bross
2. PLEDGE OF ALLEGIANCE- Chief Capo
3. ROLL CALL- Erika Goetz
4. APPROVAL OF AGENDA
5. CONFLICT OF INTEREST DISCLOSURES
6. PUBLIC COMMENT * Public comment is limited to 5 minutes per person.
7. APPROVAL OF MINUTES: meeting minutes from 10/30/2024
8. Presentations – 2025 Budget Presentation
9. REPORTS
 - a. Chief’s Report
 - b. Volunteer Captain Report
10. OLD BUSINESS
 - a. Strategic Plan
11. POLICY UPDATES
12. NEW BUSINESS
 - a. Fire Chief Contract
13. BOARD COMMENT

NEXT REGULARLY SCHEDULED MEETING: December 11th
14. ADJOURNMENT

The Mission of the Estes Valley Fire Protection District is to provide the citizens of and visitors to the Estes Valley with superior fire prevention, fire protection and emergency services in a safe and efficient manner.”

“The Mission of the Board of Directors of the Estes Valley Fire Protection District is to establish policy, goals, strategies and financial leadership that are the foundation for the long-term sustainability of the District.”

ESTES VALLEY FIRE PROTECTION DISTRICT

Agenda Statement- November 13, 2024

Agenda Item #7

Agenda Title:

Approval of Minutes

Submitted by:

Dave Hamrick, Secretary

Background Information:

N/A

Attachments:

___ Agenda

X Minutes

___ Report

___ Resolution

___ Contract

___ Map

___ Letter

___ Other

Board Action Needed:

A motion to (approve, deny, modify) the minutes from the 10/30/2024 board meeting at the 11/13/24 board meeting.

Ryan Bross Yes No

Brian Tseng Yes No

Mike Lewelling Yes No

Dave Hamrick Yes No

Chris Buser Yes No

RECORD OF PROCEEDINGS

Meeting Minutes of the Estes Valley Fire Protection District

October 30, 2024 4:30 p.m.

Dannels Fire Station, 901 N. St. Vrain Ave., Estes Park, CO 80517

Board: Dave Hamrick, Brian Tseng, Ryan Bross, Mike Lewelling, Chris Buser

Staff: Asst. Chief Jon Landkamer; Chief Paul Capo; Marinda Baxter; Lt. Shepard, Logan Lasley

Also Attending: Captain Rick Spear, Lt. Ron Bruchwalski, Patti Brown, Kyle Patterson (RMNP), Nathan Hallam (RMNP), Chad Lewis (RMNP) – stayed only for public comment
Linda Glesne (zoom for Executive Session only), Dakota Spence-Zurek (zoom for Executive Session only)

Absent: None

President Ryan Bross called the meeting to order at 4:30 p.m.

Chief Capo led the Pledge of Allegiance

Marinda Baxter performed roll call – all present with Brian Tseng & Mike Lewelling on Zoom

APPROVAL OF AGENDA

Moved by Ryan Bross and seconded by Dave Hamrick to approve the agenda with a modification. It was requested that the Executive Session be moved up in the itinerary to accommodate the time constraint of legal counsel. Motion carried unanimously.

CONFLICT OF INTEREST

None

PUBLIC COMMENT

Ron Bruchwalski prepared a statement:

“My name is Ron Bruchwalski and I'm a Lieutenant here at Estes Valley Fire Protection District. Anyone who knows me, knows I'm a man of few words. However, there's something I need to address; something I never thought I would have to and that would be my integrity and my character. The definition of integrity is an “adherence to moral and ethical principles, soundness in moral character and honesty”. The Fire Chief interview, which I participated in as a candidate, was three weeks ago today and honestly was the biggest mistake I've made since becoming a member of this department. To be clear, this has absolutely nothing to do with me not being selected. I never expected to be, but I've had a target on my back ever since, which I speculate is partially because of my strategic plan and being brutally honest when pressed to clarify answers. Several days after the interviews, a media article came out speaking about the selection process referencing an internal e-mail that was marked as confidential. I've been asked by several members of this department, from probationary members to senior members, if I was the one that leaked the email. When I first heard this, I was shocked and dumbfounded. Despite what everyone in this room thinks, I'm here to say, on public record, it was not me. I do not know who it was. I don't care to know. I find it not only appalling, but hurtful, that I would be accused of such a thing. For the past five years I've been nothing but dedicated to this department. The department which I love, or at least I did. Now I question my worth here. In the fire service, we talk about loyalty, commitment, respect, dedication, honesty and yes, integrity. Are these just words that we say because that's what's expected of us? Or are they words of personal character that we should each strive for? I hope it's the latter. When I was writing this, I had every intention of making this my resignation. I am not indispensable, and nobody is. This fire department has run for 117 years now and will continue whether I'm here or not. After receiving numerous words of encouragement from several members, I am not resigning. Why? Because I'm here for the community and my fellow firefighters. I would probably lay my life down for each and every person on this department. Even those that are not a fan of mine. Again, you may ask why? The answer is simple. It's called integrity. A trait I pride myself on and one that has never been questioned in my 62 years of being alive. I'm not here to convince you one way or another to change your opinion if I was the one who leaked the e-mail or not. I'm here to defend my character, not high school games and rumors. Thank you for your time and attention.”

Natham Hallam with RMNP spoke about prescribed burns that will be happening on Friday & Saturday around the Beaver Meadows Visitor Center area, weather permitting. Our department has been invited to send a staffed apparatus and would most likely be used for holding crews. They are looking to burn around 50 acres, and this would be the start of a 3–5-year plan.

APPROVAL OF MINUTES

Moved by Ryan Bross and seconded by Chris Buser to approve the meeting minutes from the 9/25/24 and 10/9/24 board meetings as written. Motion carried unanimously.

RECORD OF PROCEEDINGS

NEW BUSINESS –

Motion by Ryan Bross, seconded by Dave Hamrick to go into an executive session pursuant to Section 24-6-402(4)(b) C.R.S. for purpose of legal advice regarding notice of intent to file suit letter. Motion carried unanimously.

Entered executive session at 4:44 PM

Reentered open session at 6:09 PM

Notice to File Suit

Board members discussed wanting to be fiscally conservative. Volunteers and staff have been through a lot & dragging this matter out will prevent us from moving on. Promises were made during interviews that comments would remain confidential. Board members feel strongly in honoring that promise as well as protecting our staff. Legal defense fees could cost upwards of \$20k. According to legal counsel, the board operated in good faith.

Motion was made by Ryan Bross and seconded by Dave Hamrick to deny the request, keeping the executive session records confidential. Motion carried unanimously.

Fire Chief Contract

Negotiations are currently ongoing; no motion filed.

PRESENTATIONS

Projected expenses are down slightly from what was predicted last month, and actual expenses are up. Total expense remaining is down to 25%. We anticipate sales tax to be 1.2% below our 2024 budget. Correction from last meeting's presentation: Capital Lease Proceeds was a one-time revenue item from 2023, so \$81k was removed from the final budget. Discussed 1A funding and grant plans: CWDG, COSWAP, FR-WRM (WUI educator). Noteworthy – the positive going into capital reserves is lower than we've had in years past so this is something to keep an eye on.

REPORTS

Chief's Report –

Administrative Division:

Thanksgiving potluck (family dinner) is scheduled for November 12th. Please RSVP to Erika. The sign-up sheet for potluck is in the lounge.

Firefighter appreciation party at the Legion on November 9th.

Prevention Division:

Everyone attended the Fire Leadership Conference last week. There were great speakers. Lt. Sutherland & Chief Landkamer completed the Fire Marshal track and Lt. Shepard attended her 1st year of the Company Officer Track. State WUI code likely coming in 2025 – draft will come in February with expectation to be adopted in July. Departments won't be eligible for Federal grants unless adopted. Could possibly create a bigger burden for prevention division.

Logan Lasley has started in his new position.

Operations Division:

Calls: 676 YTD compared to 553 in 2023. Up by 123 - pretty significant increase
53 Firefighters; 47 of those are volunteers; 7 Auxiliary

Training Division:

Live fire training last night. Thank you to Captain Spear and other instructors.
Academy has 19 interiors & 21 exteriors.

Station & Apparatus:

Ladder 71 had final repairs completed today.
Waiting to hear back from dealership of new type 6
SCBA Air Compressors passed annual testing

Volunteer Captain Report – nothing to report at this time

Treasurer's Report – Reviewed September 2024 balance sheet(s) including, but not limited to governmental fund and schedule of capital assets, statement of revenues, expenditures, and changes in fund balance for general operations, operating reserve. Moved by Ryan Bross and seconded by Dave Hamrick to approve transactions listed in the Treasurer's report. Motion carried unanimously.

OLD BUSINESS

Strategic Plan – no update

POLICY UPDATES

#221 Social Media and Public Relations – 2nd Review

Board members wanted verification that this was reviewed by legal. Concerns over freedom of speech
Motion was not made to approve/deny.

RECORD OF PROCEEDINGS

BOARD COMMENT

Board members thanked the staff and volunteers for everything they are doing.

The next main board meeting will be on Wednesday, November 13th. Discussed possibly cancelling the November 27th meeting since this would be the day before Thanksgiving. Will discuss further.

Motion by Ryan Bross, seconded by Dave Hamrick to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 7:05 PM.

David Hamrick, Secretary

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ESTES VALLEY FIRE PROTECTION DISTRICT

Agenda Statement- November 13, 2024

Agenda Item #12-a

Agenda Title:

Fire Chief Contract

Submitted by:

Brian Tseng & Chris Buser

Background Information:

Attachments:

Agenda

Minutes

Report

Resolution

Contract

Map

Letter

Other

Board Action Needed:

A motion to (approve, deny, or modify) the fire chief contract for Paul Capo at the November 13, 2024 board meeting.

Ryan Bross Yes No

Brian Tseng Yes No

Mike Lewelling Yes No

Dave Hamrick Yes No

Chris Buser Yes No

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered into as of the date executed by and between the **ESTES VALLEY FIRE PROTECTION DISTRICT** (“District”), a quasi-municipal corporation and political subdivision of the State of Colorado, and **PAUL CAPO**, hereafter called the “Employee” or “Fire Chief”.

RECITALS

WHEREAS, the District previously appointed the Employee in an interim/acting role assuming the duties and responsibilities of fire chief pending Board of Directors selection process to promote the next Fire Chief, and during and before that interim appointment, the Employee was employed by the District as a regular employee pursuant to the general personnel policies of the District; and

WHEREAS, the Board of Directors of the District (the “Board”) has: (i) posted notice with the expected job duties and a range of possible wages to be paid to the successor Fire Chief; (ii) entered into a process set forth with the assistance of its professional consultants to interview candidates and evaluate and consider the promotion of one or more candidates; (iii) established a committee of the Board to enter into negotiations with a candidate or candidates for that purpose; and (iv) if mutual consent is reached with any candidate on terms, instructed the committee to prepare or have prepared an Agreement to be presented to the Board for final approval prior to the start date of the new employment; and

WHEREAS, the Board committee has successfully negotiated the terms of the Agreement with the Employee and finds them to be within the range posted by the Board, and to be fair and reasonable, and following the recommendation of the Board committee at the regular meeting of the Board held on November 13, 2024, the Board hereby approves the Agreement and the promotion of the Employee to the position of Fire Chief commencing November 17, 2024, by a vote of ___ in favor and ___ against.

NOW, THEREFORE, in consideration of the foregoing recitals, and the promises and covenants of the parties hereinafter set forth, they agree as follows:

AGREEMENT

A) **Employment/Transition.** The Employee is employed as the Fire Chief of the District, to perform the duties specified of the Fire Chief position, and to perform such other duties, functions and obligations consistent with the position of Fire Chief as the Board may assign from time to time. The Employee recognizes that both the immediate past fire chief and the predecessor fire chief from 2016-2022, will not be available to provide transition services to the Employee. The Employee shall take direction from the Board and utilize his background knowledge of the District, both from his interim appointment in the role and prior employment with the District, to assist in assuming the role of Fire Chief. The Employee covenants and agrees that he has the knowledge, skill and competence necessary to faithfully perform the duties of Fire Chief, to the best of his ability.

B) **Term.** Subject to the annual budget of the District in successive fiscal years and the good faith appropriation of funds related to the Fire Chief's duties hereunder, the initial term of the Agreement shall commence on **November __, 2024** to December 31, 2024, plus (5) additional fiscal years, terminating December 31, 2029 unless sooner terminated as provided in this Agreement (the "Initial Term"). The Initial Term may be extended upon the written agreement of the Parties. At least ninety (90) days prior to the end of the Initial Term, the parties shall negotiate in good faith to enter into a new Agreement, or to extend the employment without a set agreement thereafter. If, however, they are unable to reach agreement within a reasonable time, the Fire Chief's employment shall terminate as of the last date of the Initial Term.

C) **Base Compensation.** The Fire Chief's base compensation shall be \$165,000 per year, payable in bi-weekly installments, less withholding for state and federal taxes, retirement contributions, insurance and other applicable deductions. Effective on the first pay period in January 2025, the Fire Chief shall be entitled to receive the same annual cost-of-living-adjustment (COLA) increase to the base compensation applicable to all other employees of the District.

D) Additional Compensation. In addition to base compensation, and subject to continued satisfactory employment with the District, the District shall provide the following to the Fire Chief:

1) Standard employment benefits available to all District employees. This includes but is not limited to any paid benefits approved by the Board for the current year, such as retirement contributions, health care/dental benefits, vacation time, sick time, holidays, professional development, etc. As required by law, all accrued and unused vacation time will be paid out upon separation, regardless of the reason for separation. Terms and rates of accrual are defined in the District's policies and subject to updates.

2) Clothing Allowance: The District shall provide work uniforms and accessories to the Fire Chief as needed. If additional uniforms or accessories are required due to the new role in which the Employee will serve, such additional uniforms or accessories shall be as approved by the Board.

3) Vehicle: The District shall provide the Fire Chief with a staff car for use within the scope of the employment and pursuant to the terms of this Agreement during his tenure. The vehicle will be used by the Fire Chief for District business and for regularly commuting to and from home and the work station and at other times when the Fire Chief is subject to call back. Because the Fire Chief is expected to be available, the Fire Chief is allowed to use the vehicle for personal use so long as such use is within a reasonable response distance from the district (100 miles or less).

4) Performance Incentive Merit Bonus: The Board may, in its sole discretion, annually determine to offer a one-time performance incentive merit bonus each year the Agreement is in effect, based on the current year's performance and evaluation as provided herein. Such merit bonus shall not exceed 4% of the current base salary. The performance incentive merit bonus shall be paid in one installment at the end of the current fiscal year and shall be taxed as wages.

5) Professional Development/Educational Assistance. In accordance with District policy, the District shall budget and pay registration, travel, and per diem expenses of the Fire Chief for professional and official travel, meetings, and occasions deemed necessary or desirable to continue their professional development. The District will pay relevant membership expenses to professional associations which the Fire Chief deems necessary to maintain professional currency. This explicitly includes but is not limited to, the IAFC, Colorado State Fire Chiefs, and NFPA as desired. If the Employee desires to obtain additional education at a university or other similar program, the Employee must follow the District's general procedures and obtain advance approval from the Board.

E) Professional Objectives and Expectations.

1) Hours of Work. The Employee is expected to devote a minimum of forty hours per week to perform the administrative and executive duties assigned to the position. The parties recognize that the Fire Chief must devote a great deal of time outside normal office hours to District administration and emergency response activities, when required. The Fire Chief shall determine the hours of work so as to be available to the public on a predictable and regular basis (i.e. typically Monday through Friday) so as to accomplish the goals and tasks directed by the Board. The Fire Chief is entitled to flex their schedule, as they see fit, provided that such time does not interfere with the performance of the Fire Chief's duties. The Fire Chief is a salaried FLSA exempt employee and shall not be entitled to overtime compensation.

2) Civic Involvement. The District recognizes the desirability of representation in and before local and regional civic and other organizations. The Fire Chief is authorized, subject to Board approval, to become a member of such civic clubs or other organizations as they deem necessary or desirable in order to maintain awareness of community attitudes and ideas. The District shall pay all expenses for membership and participation in up to three such area organizations. These memberships shall be documented in the annual District budget and be subject to the approval of the Board.

3) Duties as Fire Chief. The Fire Chief shall be the Chief Executive Officer of the District and as such shall faithfully perform all duties of a chief executive, with due diligence and care, and as a fiduciary of the District. The Chief reports to the Board as a body. The Fire Chief is encouraged to take available opportunities to speak to private and public groups concerning the District, to be visible in the community, to generally promote the interests of the District in the Community, and to set an example in the community as an individual of high moral character and integrity.

4) Performance Evaluations. The Board shall meet with the Fire Chief at least once annually to establish performance goals and objectives and to evaluate his performance each year, typically December. The Fire Chief shall be responsible for scheduling the evaluation; however, the Board shall reasonably provide opportunity for such evaluation to occur with the Board as a whole during any regularly scheduled meeting, or at any time with a committee of no more than two directors chosen for this purpose. The Fire Chief shall be provided a written report of the final evaluation and a copy will be placed in his personnel file.

5) Essential Functions/Light Duty. The Fire Chief must maintain the ability to perform the essential functions, duties and responsibilities of Fire Chief outlined in the job description on an ongoing, uninterrupted basis. If injured, the Fire Chief may be eligible for light duty, subject to the reasonable approval of the Board and the Fire Chief's treating physician. Normally, the maximum time allowed in a light duty status will be three (3) months per incident, unless there remains reasonable ability to extend light duty based on the needs of the District, in the Board's sole discretion and determination.

6) Indemnification. The District shall defend, save harmless, and indemnify the Fire Chief against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the good faith performance and within the scope of his duties as Fire Chief, excluding willful violations of District policy or actions which would constitute "cause" for termination. The District may compromise and settle any such claim or suit and the amount of any settlement or judgment rendered thereon. Said indemnification shall extend beyond termination of employment,

and the otherwise expiration of this Agreement, to provide full and complete protection to the Fire Chief, by the District, as described herein, for any acts undertaken or committed in his capacity and within the scope of his duties as Fire Chief, regardless of whether the notice of filing of a lawsuit for such tort, claim, demand, or other legal action occurs during or following his employment with the District.

F) Termination. This Agreement may be terminated by any of the following:

- Mutual agreement by both parties;
- Disability that extends beyond the contract time period set forth in Section E, paragraph 5;
- Unilateral termination, without cause, by the Board upon compensation to Employee of 6 months' severance pay at current Employee rate, as well as 6 months' medical, dental, and vision benefits under the same terms provided to Employee at the time of unilateral termination by the Board;
- Unilateral termination by the Employee; and
- Termination for Cause as outlined in Section G.

G) Termination for Cause. The Fire Chief's employment may be terminated by the Board for "cause." If terminated for "cause," the Fire Chief shall be paid all earned compensation as well as accrued, unused, and owed benefits earned through the date of termination. This includes current monthly salary prorated to the date of termination, reimbursement of authorized unpaid expenses, and current salary equivalent for unused vacation accrued through the month of termination. In keeping with the principles of "cause," the following conduct will be agreed to create "cause" for termination:

1) Employee willfully and continuously fails or refuses to comply with their job duties or comply with the policies, standards, and regulations of the District as are established periodically by the Board for their performance or in a performance review. The determination as to whether Employee fails or refuses to comply with their job duties, policies, standards, regulations, and/or the terms of a performance

review will be made by a neutral third-party investigator using a preponderance of the evidence standard;

2) Employee is investigated, by a neutral third-party investigator, and, under a preponderance of the evidence standard, found to have committed an act that would rise to the level of a crime, including, but not limited to: an act of fraud, dishonesty, misappropriation of funds, intentional deception of the Board or other authority, embezzlement or other crimes, malfeasance in the performance of outlined duties, or misconduct reflecting poorly on the Fire Chief or the fire service in the rendering of the services on behalf of the District;¹

3) Fire Chief is investigated, by a neutral third-party investigator, and, under a preponderance of the evidence standard, found to have committed an act which violates District policies or procedures. In the event the Fire Chief is found, by a preponderance of the evidence standard, to have committed such an act, the Fire Chief may request a hearing before the Board on the issue of cause.

4) In the event the Fire Chief is found, under a preponderance of the evidence standard to have committed such an act, the Fire Chief may request a meeting before the Board to discuss the findings; and

5) In the event of a dismissal for cause hereunder, the Employee shall not be entitled to any severance pay, salary or benefits (except for payment of accrued but unused vacation, as described in Section D, paragraph 1) beyond the effective date of his termination of employment, and the District shall be relieved from further obligations under this Agreement.

I) Termination At Will: The Board acknowledges the Fire Chief is committing to the exclusive service to the District for the Initial Term, which prevents the Employee from considering any other formal employment. Therefore, in the event the Fire Chief's employment is terminated by the Board at-will, for convenience, and/or without due cause given, the Fire Chief shall be paid his then-current salary (1/12 annual) multiplied by 6 months (which is one month per fiscal

¹ The neutral third-party investigator is not and will not be a criminal investigator and will have no authority to assess whether Employee violated a criminal law.

year of the Initial Term), less withholding for taxes and medical/dental benefits the Fire Chief chooses to continue during the severance period.

J) Termination by Fire Chief. In the event the Fire Chief shall voluntarily cease employment for the District, through resignation or retirement, he shall strive to provide the District with at least 90 days written notice before such resignation or retirement. If notice is not able to be given due to circumstances beyond the Employee's control, such as death, illness or disability, the District will coordinate with the Employee's estate regarding wages or benefits owed or available.

K) Arm's Length Transaction. The Agreement has been prepared by the Board with assistance from the District's general legal counsel. Employee understands and agrees that neither the Board nor District counsel has provided personal counsel to the Employee to accept or reject any term or condition of the employment, and the Board and legal counsel to the District have entered into such negotiation on behalf of the District only. Employee has been advised that he has the right to obtain his own legal counsel to review the Agreement and to negotiate its terms.

L) Complete Agreement. This Agreement constitutes the full and complete agreement of the parties concerning the matters set forth herein. There are no other agreements, either verbal or in writing, between these parties, concerning the matters contained herein. All amendments, additions, or changes to this Agreement shall be in writing and signed by the parties hereto. To the extent any prior District rules, regulations, procedures, resolutions, or other agreements, are in conflict with the terms hereof, this agreement shall control and take precedence. Waiver by either party of any breach of any provision of this Agreement shall not operate nor be construed as a waiver of any subsequent breach nor a waiver of this provision.

M) Partial Invalidity. If any part of this Agreement is deemed to be legally invalid, the remainder of this Agreement shall nevertheless remain in full force and effect.

N) Cooperation of Parties. The parties shall strive at all times to cooperate with one another in good faith, and to deal with each other in a reasonable, professional, and fair manner, and in a spirit of harmony, so the terms and spirit of this Agreement may be given full force and effect. Any dispute as to the meaning of any of the terms herein shall be afforded opportunity to be freely discussed, but is not intended to allow for a hearing or other formal legal process or dispute resolution before formal action may be initiated by one or both parties.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement on the ___ day of _____.

ESTES VALLEY FIRE PROTECTION
DISTRICT

By

Ryan Bross, Chairperson

EMPLOYEE:

By:

Paul Capo