

North Lyon County Fire Protection District
195 East Main Street
Fernley, Nevada 89408
District Office (775) 575-3310 District Fax (775) 575-3314

MINUTES

Workshop

NORTH LYON COUNTY FIRE PROTECTION DISTRICT

August 5, 2021

1. Call to Order

The meeting was called to order by Chairman McCassie at 1611 hours. Directors present included Mike Callagy, Jr., Paul Murphy, and Harry Wheeler. Director McCaffrey was absent.

The Pledge of Allegiance was led by Paul Murphy.

A moment of silence followed.

2. Public Comment (No action will be taken on any subject during public participation until it has been properly placed on an Agenda for a subsequent meeting. Public comments are limited to 3 minutes.)

None.

3. Consent Agenda* (All matters listed under the consent agenda are considered routine and may be acted upon by the Board of North Lyon County Fire Protection District with one action, and without an extensive hearing. Any member of the Board or any citizen may request that an item be taken from the consent agenda, discussed, and acted upon separately during this meeting.)

3a. Review & Approval of Workshop Agenda

Director Wheeler made a motion to approve the Consent Agenda as presented.

Director Callagy seconded the motion.

The motion carried as follows: 4-0-1

McCassie	Aye	McCaffrey	Absent
Callagy, Jr.	Aye		
Murphy	Aye		
Wheeler	Aye		

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4. Impact Fee Training with the City of Fernley

City Attorney Brandi Jensen narrated a PowerPoint presentation that included 6-steps to define, create and utilize impact fees and said the only entity that has authorization to do impact fees is the City. Attorney Jensen read aloud, “an impact fee is defined by NRS 278B.050 as a charge imposed by a local government on new development to finance the costs of a capital improvement or facility expansion necessitated by and attributable to the new development. The term does not include a tax for the improvement of transportation imposed pursuant to NRS 278.710.” She continued by reading aloud the definition of NRS 278B.080 New Development as: “the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure which add or increases the number of service units, or any use or extension of use of land which increases the number of service units.” Attorney Jensen defined Capital Improvement’s as drainage projects, fire station projects, park projects, sanitary sewer projects, storm sewer projects, street projects and water projects; it must be done by resolution and a Capital Improvement Advisory Committee would have to be created. She said there are two types of committees: the City may use the Planning Commission if one member is a representative of real estate, development, or the building industry or if we don’t have that, a different Capital Improvement Advisory Committee would have to be created to make recommendations to the Council and spend the money. Attorney Jensen reviewed the role of the Advisory Committee, developing a service area, developing land use and population assumptions and the requirements of a public hearing which will give the governing body of the local government 30-days to approve or disapprove the land use assumptions. She continued in saying if the land use assumptions were approved, it would develop or cause to be developed a capital improvements plan (CIP) and, what that plan must include, namely Fire Station Project NRS 278B.045. Attorney Jensen went on to explain the periodic review requirements, development of the impact fees, and a public hearing to consider the adoption of the plan and the imposition of an impact fee and she explained what the imposition and purpose of impact fee cost could, or could not include, the conditions upon collection of impact fees, developer credits, possible refunds, financing costs and inflation.

Chairman McCassie asked if the study is started before or after the resolution is passed, to which Attorney Jensen said the City has a CIP although, it is not targeted toward impact fees. She said the City would have to re-do a CIP to show how it fits in the impact fees and it has to include certain requirements such as capacity and limits to justify impact fees; once the CIP is complete, the impact fees can then be determined. She said the CIP has to be reviewed every 3-years and because the City does the CIP the fire department would have to provide it with their project is.

Chairman McCassie inquired as to when the last review was done, to which Attorney Jensen said it has never been done as impact fees are not in place right now; these are the tools the City might use in the future. Attorney Jensen said the Chief asked her to make the presentation however, this is not the City’s plan; the City has not determined to go with impact fees at this time.

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She said this is information she provided staff for them to use to raise funds for the City of Fernley; part of the problem is so much new development coming in and not having the resources to pay for the infrastructure and costs it is going to cause.

Chairman McCassie said, “The City obviously already has impact fees for like parks, schools, stuff like that; is there an advantage for them to do, to adopt this and add more impact fees for them; or is this strictly we’re just doing it for the fire department.”

Attorney Jensen said, “You can only go to what the NRS-.”

Chairman McCassie interjected asking Attorney Jensen if the City already has impact fees to which she stated certain entities have impact fees, they do not. She said they collect fees for other agencies; the City of Fernley has not adopted direct impact fees based on infrastructure.

Chairman McCassie asked if there is a benefit to move forward and do the study and collect an impact fee for water and roads?

Attorney Jensen referred to the types of products for Fire Station in NRS 278B.045.

Chairman McCassie asked again if that would benefit the City.

Attorney Jensen said she is unable to speak on behalf of the City and what their policies are or if it is in their best interest; she can only speak to the legality of it. She said the benefit of it is that they could cover those costs and there are certain federally funded monies that are coming out that may pay for the eventual studies needed to complete the impact fee homework. Attorney Jensen said it is good for the City to know what the population is going to be and what the growth is going to be-even if you’re just guessing-it is better than getting blindsided and not having that information. She said it is good for the schools to know, and it is good for fire to know, and it is good for the City to know.

Director Murphy asked if the fire district do this work on behalf of the City even if the City doesn’t have the want to do it right now?

Attorney Jensen said the fire district wouldn’t be able to enact impact fees on its own without the City but there are three options: the fire district could do all impact fee studies and present it for the City to be done; the fire district could put together just their impact fee study research and present it to the City and the City could say for now we’re only adopting impact fees related to fire; the fire district can just wait for the City.

Director Murphy asked how the money comes to the fire district when it is being banked with the City to which Attorney Jensen said she has not gone to City Council yet; finance has not been brought in the loop as to how it would be processed.

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She said from what she has seen in the statute, it would have to be kept in a separate account and the fire district would have to submit for reimbursement.

Director Murphy asked if there are any local examples to which Attorney Jensen said the biggest is RTC; it is literally an impact fee with their own board and fees.

Attorney Jensen said there are impact fees in almost every jurisdiction, except Lyon County and the problem is getting it in before they bring in the development, which is why she is pushing as we start to develop quickly.

5. Discussion regarding agreement on Allocation of Opioid Recoveries and use of recovery proceeds to remediate the harms, impact, and risks caused by the opioid epidemic to the District and its residents.

Chairman McCassie went into closed session at 1645 for legal briefing regarding agreement on Allocation of Opioid Recoveries and use of recovery proceeds to remediate the harms, impact, and risks caused by the opioid epidemic to the District and its residents.

Chairman McCassie reopened the workshop at 1704.

6. Discussion regarding Chief Nicholl's Employment Contract

Attorney Jensen asked Chief Nicholl if he had been noticed according to Open Meeting Law to which Chief Nicholl affirmed.

Chief Nicholl referred to a red-lined copy of his proposed changes to the contract relevant to date, language, “obtain” to “retain”, deletion of additional year renewals, lettering, voluntary resignation, sick and vacation, salary, moving expense deletion and corrected Board Directors.

Director Murphy noted the salary increase is similar or average of other Chiefs in the area and asked if Chief Nicholl did a comparison to arrive at that number.

Chief Nicholl denied doing a national salary survey for the change saying he did an anecdotal study on what other Chiefs in the region are making now and his simple calculation of 4% per year. He said the existing contract allows for new wage negotiation every year, but when he was hired he agreed to a 3-year wage in order to prove himself to the Board and the community. He said he is now looking at a 2-year wage that will not be renegotiated in another year; it is a little less than Carson City, Truckee Meadows, and Reno.

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Director Wheeler referred to Page 3 of contract and asked Director Murphy if the Union receives the same benefits, to which Director Murphy said the question would have to be directed to a Union representative.

Chief Nicholl said that the Union gets vacation.

Director Murphy said his understanding is that Chief Nicholl donates half of his sick to the bank, to which Chief Nicholl affirmed. Director Murphy asked if there was a mechanism to front load the sick and annual, starting now, for when it is time for the District to pay.

Chief Nicholl said there is not a sick or vacation line-item in the budget; vacation is in the overtime budget; sick leave merits discussion as it can continue to build. He said right now, there is not something in place to dedicate funds into a separate account; that would be a question for accounting, to which Mrs. Miller said it could be done, it would just be a matter of finding the funding for it.

Chief Nicholl said he would have to look at the contract to see what the accrual rate is, to which Director Murphy clarified it as 8.5 hours per pay period for annual and 5.6 hours per pay period for sick.

Director Murphy said per the personnel manual, 40-hour employees can only carry 208 hours of sick.

Director Wheeler asked Chairman McCassie if the proposed contract looks in-line with the original to which Director Callagy noted the copy of the original in the Board Packet. Director Wheeler reiterated his inquiry to Chairman McCassie who affirmed.

Chief Nicholl referred to his current contract saying his calculations were mistakenly made according to the contract instead of the personnel manual.

Director Murphy said he is looking for the total max package number for severance so it will be readily payable, a mechanism like a form of personnel depreciation. He reiterated that only 208 hours may be banked and then all it is used it can be refilled; it would be a flat amount of 208 times whatever the amount is.

Chief Nicholl said it is to his own detriment to continue to donate to the sick bank and removing the cap should be explored as he will only be here three more years and that is all that will be banked in that time. He said he is a fixer and that is why he was hired; the removal of the caps is something he would have to explore.

Director Murphy asked Chief Nicholl what his hourly wage would be at the proposed \$168,000.00 per year to which Chief Nicholl said is \$80.77.

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Chief Nicholl said the simple math is the unused sick leave and vacation time (which are earned benefits) are what he wants to be able to take with him at the end.

Chairman McCassie said he feels Director Murphy is trying to prepare for the funds to be available at the end of Chief Nicholl's service to which Director Murphy affirmed.

Director Murphy said he is trying to avoid a similar situation in which the District had to spend unanticipated money in the same way; the District is tight and he would rather fund the severance up front, to which Chief Nicholl agreed that strategy is good, and similar to the principal of depreciation and calculating the known cost.

Chief Nicholl said once the amount is known, he can start to build into the budget a depreciation type of schedule for it.

Director Murphy said as the numbers stand in the current personnel manual, it would be \$16,790.00. He asked Chief Nicholl what he would like to do with the accrual rate and/or the ceiling; remove it entirely, raise it from 208-or is there a number he would like to part with? Director Murphy suggested four years banked since Chief Nicholl has been putting in half thus far, and if chooses not to continue, that would be enough to cover everything. He suggested putting away an amount each month for the next two years.

Chief Nicholl stated that would be for sick leave; vacation would be on top of that.

Director Murphy responded in saying whatever Chief Nicholl has remaining and inquired as to whether he takes vacations.

Chief Nicholl referred to the provision of the contract regarding work hours and said the only time he takes vacation are the non-working weekends, in addition to the past two Decembers when he took a week's worth of vacation while government is shut down, and he does not turn in any overtime when he dedicates more than 40-hours per week to the District. Chief Nicholl said the accrued amount over the five years at the highest rate, minus one month will be the vacation payout.

Mrs. Miller said it would be 208 hours with the cap.

Director Murphy suggested removing the cap to which Chief Nicholl said that verbiage can be changed in the contract and asked what the earning rate is for vacation, to which Director Murphy answered 168; \$25,394.50 per year without the cap and excluding back sick and vacation.

Chief Nicholl said at his current wage the vacation buyout would ballpark at \$60,000.00 and with sick leave approximately \$70,000.00.

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Director Murphy said the ballpark years' total, assuming the cap is removed and written into the contract, would not exceed \$100,000.00.

**Chairman McCassie recessed at 1725.
Chairman McCassie reopened at 1738.**

Chief Nicholl said the point is, sick and vacation are earned benefits and should belong to you, as it should for every employee. He said to make it as simple as possible, doing the calculations based on an agreeable wage, coming up with a figure, then negotiating that and then, including that as an earned benefit severance payable upon completion of the contract or separation is the simplest and cleanest. Chief Nicholl said that way, whatever sick and vacation I have earned doesn't matter; it still incentivizes me to give half of my sick leave to the sick leave bank and doesn't penalize me with a cap. He suggested the language that goes in with that earned benefit; an earned benefit guaranteed severance; do the math now, with a figure and lump sum and then figure out through the budgeting process how we do that. Chief Nicholl said the contractual obligations line item would need increased funding at the next budget cycle.

Chairman McCassie encouraged Chief Nicholl not to feel bad about asking for this as he always puts in the time.

Chief Nicholl said as egotistical as he can be, he would much rather not talk about what he gets as he still wants to give more to everyone, especially in a year without merit increases.

Director Murphy suggested said there are a few ways to do it as it is an earned benefit and you should still be able to use what you've got; if you get sick and you're still here and have to take time you don't want to burn through your severance.

Chief Nicholl said it would be easiest to identify a number based on five years and incorporate it into the existing line item for contractual obligations. He said we have to fund it for deferred compensation and other contractual obligations, education incentive, that sort of thing.

Director Murphy suggested \$15,000.00 per year for each year of service, being \$75,000.00 guaranteed after 5-years.

Attorney Jensen asked if it would be a flat rate versus calculating sick and vacation, to which Director Murphy affirmed it would be a separate benefit not coming out of the buyout of sick and annual. He suggested removing the buyout of sick and annual so accrual and usage can continue and add in a flat rate for each year of service specifically in this department of which the District would pay annually until 5-years are reached. Director Murphy said it would be less than renewing the ceiling on annual and combine the sick and annual accrual banks as dollar-for-dollar cash out.

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Attorney Jensen asked if it would be in addition to sick and annual leave to which Chief Nicholl said it would replace sick and annual.

Attorney Jensen said for clarification, the term of the contract would mean that Chief Nicholl would continue to accrue sick and annual and use it as though pursuant to the policy, but the cash out would be a structured exact fee rather than the accrued.

Director Murphy affirmed.

Chief Nicholl said he is comfortable with that; it would have to be retroactive to 2019, to which Director Murphy affirmed.

Attorney Jensen said for clarification from an HR perspective; he would be able to take all that leave in the meantime, to which Director Murphy said it would no longer factor into a cash out accrued banks as it is worded now.

Director Murphy said Chief Nicholl would still be able to donate time.

Chief Nicholl said he is comfortable with it as long as it is retroactive and that its separation agnostic. He said it is key that it is an earned benefit.

Chairman McCassie asked for further clarification, to which Chief Nicholl said if there was separation/termination for cause, he would lose everything.

Attorney Jensen said it is one thing to cap it and say you can make up to a certain amount per year, but when you replace sick and annual it becomes an extremely complicated HR issue. She said if he was terminated for cause, how much sick and annual would then be paid out? Attorney Jensen asked if a cap for sick and annual is being created, or are you trying to create a cap for severance package; two completely HR separate issues.

Director Murphy said he is not mixing them; the sick and annual will stay, and the accrual will stay the same, except we would remove the language that says we would cash out the current annual. He said, "The initial negotiation here was that we would include sick leave and that cash out, dollar for dollar for severance- but instead of going the route of all of these formulas, this would remain the way it is we would remove the ability to do any cash out on any accrued sick or annual and add another benefit for severance specifically."

Attorney Jensen referred to Chief Nicholl that he is adding benefit but creating a detriment at the same time and asked if he understood that.

Chief Nicholl affirmed his understanding and noted the allotted time for the Workshop had been exceeded. He asked if the language may be changed without a meeting.

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Director Murphy and Chairman McCassie both affirmed a meeting would be necessary.

Attorney Jensen asked if Chief Nicholl is appointed to which Mrs. Miller affirmed.

Chairman McCassie tabled the item.

7. Public Comment (No action will be taken on any subject during public participation until it has been properly placed on an Agenda for a subsequent meeting. Public comments are limited to 3 minutes.)

None.

8. Adjournment on or before 1745*

Chairman McCassie adjourned at 1748.

**NOTE(s): All items indicated by an asterisk (“*”) were Action Items.
A complete and detailed record of this meeting was recorded on Micro SD Recorder August 5, 2021.**

Respectfully Submitted by:

Stacey Rowling, Administrative Assistant
North Lyon County Fire Protection District

September 9, 2021

Date

Page 9 of 10

PEOPLE FIRST

North Lyon County Fire Protection District is an Equal Opportunity Employer

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Approval of Minutes

For Against Abstain Absent

Approved as Read

Approved with Corrections

Dan McCassie, Chairman
North Lyon County Fire Protection District

September 9, 2021

Date