



**Loveland Fire Rescue Authority Board Meeting Minutes**  
**Wednesday, March 2016**  
**3070 W. 29<sup>th</sup> Street, Loveland**  
**1:30 p.m.**

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**Members Present:**

Board Chairman Jeff Swanty, Loveland Rural Fire Protection District  
Vice Chairman Cecil Gutierrez, City of Loveland Mayor  
Director Bill Cahill, Loveland City Manager  
Director John Fogle, City of Loveland Council Member  
Director Dave Legits, President of the Loveland Rural Fire Protection District

**Members Absent:**

None

**Staff Present:**

Loveland Rural Fire Protection District Board Secretary Greg White  
Fire Chief Mark Miller  
Division Chief Greg Ward  
Division Chief Ned Sparks  
Public Safety Administrative Director Renee Wheeler  
Business Services Coordinator Roylene Sterkel  
Emily Powell, Legal Counsel to LFRA

**Visitors:**

Loveland Rural Fire Protection District Board Vice-President Mike McKenna

**Call to Order:**

Chairman Swanty called the Loveland Fire Rescue Authority ("LFRA") Board meeting to order on the above date at 1:30 p.m.

**Public Comment:**

None

### **Consent Agenda:**

1. Consider a Motion to Approve the Minutes from the LFRA February 24, 2016 Regular Board Meeting.
2. Consider appointing Brendan Campbell to the Pension Committee.

Vice Chairman Gutierrez moved to approve the consent agenda. Director Legits seconded the motion and it carried unanimously.

### **Regular Agenda:**

#### **3. Consider Approval of the Hach-Western States Fee Waiver.**

The scheduled speaker for this item, Marcie Erion, did not attend the Board meeting and the City's Economic Development Department requested that the fee waiver not be considered by the Board.

Chief Miller raised the question as to whether the Board wants to see these type of fee waivers in the future. He has some concerns about LFRA waiving permit fees.

Chairman Swanty also expressed concerns, as any lost fee revenue would need to be made up in additional contributions from the City and the Loveland Rural Fire Protection District ("Rural District"), and the Rural District does not receive offsetting tangible monetary benefits from development within the City. Director Cahill said the question should be whether LFRA would make enough income from waiving the fee to make up the difference; that is, what is the direct return to LFRA? In his opinion, the Board may want to keep the door open for fee waivers only in special situations or circumstances. Director Fogle and Vice Chairman Gutierrez also expressed concerns as to how LFRA would benefit from waiving fees, and, since LFRA spans both the City's and Rural District's jurisdictions, which of those agencies would benefit and how would that be determined.

The Board did not take any action on this matter at this meeting.

#### **4. Consider Approval of a Recommendation for Due Process Disciplinary Action.**

Chief Miller reviewed the Board discussion regarding this issue at the February Board meeting.

Attorney Powell said that based on her experience in working with other fire protection districts and fire authorities, it is uncommon for the disciplinary process to have an appeals procedure following the Fire Chief's determination, because, unlike municipalities, there are no additional managers between the Fire Chief and the Board as the governing body. She also noted that an appeals procedure following the Fire Chief's determination is not legally required, and can cause personnel management

problems, including inconsistent disciplinary decisions, undermining of the Fire Chief's authority, and politicization of personnel matters. She said that, because they are public employees, LFRA's employees are entitled to receive due process before discipline is imposed, which means the employee receives prior notice that discipline is being considered, the basis for the possible discipline, and an opportunity to be heard by the Fire Chief by written statement, in-person meeting, or both, before the decision is made.

Vice Chairman Gutierrez reminded the Board that the City Manager is the final decision-maker in the City's disciplinary process. Director Cahill observed that all employees have right to pursue legal action after final disciplinary action, if they so choose.

Director Cahill made a motion directing Chief Staff to revise the current Administrative Regulation so that the Fire Chief is the final decision-maker in the disciplinary process, for Board review at the April meeting. Vice Chairman Gutierrez seconded the motion and it carried unanimously.

**5. Consider the Approval of a Resolution Establishing the Loveland Fire Rescue Authority Sworn Retirement Plan Retirement Committee as the Retirement Committee for the Loveland Fire Rescue Authority Non-Sworn Retirement Plan and the Loveland Fire Rescue Authority 457 Deferred Compensation Plan, and Establishing Governance Procedures and Duties and Responsibilities of the Retirement Committee.**

Attorney Powell presented the Resolution to the Board. Currently, LFRA has three retirement plans for paid personnel, but only the sworn personnel money purchase plan documents establish a Retirement Committee to administer the plan. The 457 plan and the non-sworn personnel money purchase plan documents do not establish a Retirement Committee to administer those plans. Proposed Resolution No. 065 establishes the sworn personnel money purchase plan Retirement Committee as the Retirement Committee for the non-sworn personnel money purchase plan and the 457 plan. It also establishes governance procedures and duties and responsibilities of the Retirement Committee. Copies of informational materials regarding the various retirement plans also were provided to the Board.

Director Fogle moved to approve Resolution No. 065 as written. Director Cahill seconded the motion and it passed unanimously.

**6. Consider Providing General Directions for Property Transition to LFRA.**

Attorney Powell presented a Power Point regarding the options the Board has in how it wants to accomplish the transfer of property and equipment to LFRA from the City and Rural District. This is the 2<sup>nd</sup> phase of the maturation process. The options she outlined were:

1. Long-term lease of both equipment and land/stations from the City and Rural District.
2. Transfer ownership of equipment to LFRA and continue to lease land/stations from the City and Rural District.
3. Transfer ownership of both equipment and land/stations to LFRA.

Battalion Chief Ward delivered a presentation on the current status of the fleet to provide context for a significant portion of the equipment to be transferred.

Attorney Powell indicated that it appears staff is favoring long-term leases of the land/stations and transfer of ownership of the equipment. If long-term leases are desired, Attorney Powell recommends the parties enter into a formal agreement establishing the lease relationship.

The Board discussed issues to be addressed in any long-term lease, including termination rights; maintenance, repair, and capital improvements; and utilities.

It was the general consensus of the Board that the best option would be to pursue long-term leases of the City's and Rural District's land/stations and to transfer of ownership of the City's and Rural District's equipment to LFRA, provided that LFRA has a satisfactory plan to fund the ongoing replacement of apparatus and other major capital equipment.

Attorney Powell will work with Chief Staff to prepare a sample lease agreement and appropriate equipment transfer document for Board review at its May meeting, as well as a proposed amendment to those provisions of the Establishing IGA addressing land/stations and equipment. The intent is to accomplish the property transfer by January 1, 2017.

Chief Miller advised the Board regarding a ground water monitoring issue at the Training Grounds. Chairman Swanty asked how issues of liability existing at the City's and/or Rural District's land/stations prior to entering into a long-term lease agreement would be handled. Attorney Powell stated that the lease agreements can address those issues.

## **7. Review Briefing Papers and Correspondence.**

Chief Miller said he would forgo a detailed synopsis of these items in the interest of time, and asked the Board whether they had any questions regarding the materials.

## **8. Any Other Business for Board Consideration.**

Chief Miller said there could be a Fire Code enforcement issue in the City's downtown area. He asked Division Chief Sparks to talk about the issues.

Division Chief Sparks reminded the Board of the issues with the Lincoln Hotel that were finally resolved. There are several other buildings in the downtown area that have similar issues with both Fire Code and the Building Code violations. Chief Miller said LFRA will

need legal counsel to address the issues. Chief Miller talked with LFRA's attorneys regarding using City Attorneys as special counsel, since that way LFRA and the City will be coordinated in dealing with both the Fire Code and Building Code issues. Chief Miller said an IGA for the Provision of Legal Services has been provided by the City for the Board to review.

Vice Chairman Gutierrez asked what some of the issues in the downtown area might be. Division Chief Sparks said there are many, but occupant safety is the main concern. Director Cahill asked if City staff will spend time dealing with the issues and if legal advice will be needed. Division Chief Sparks said legal advice will be needed. Director Cahill said right now there is no relationship between LFRA and the City Attorney's Office. He said that, pursuant to the proposed IGA for the Provision of Legal Services, the City Attorneys' Office would bill LFRA for the time its attorneys spend dealing directly with Fire Code issues.

The Board discussed proposed revisions to the IGA for the Provision of Legal Services, including the scope of services, time tracking, proportionate billing, and term and termination.

Director Fogle moved to approve the IGA for the Provision of Legal Services, subject to revision of the termination provision as discussed, and revision of the billing provision to specify that LFRA will be billed only for legal services actually provided to LFRA. Vice Chairman Gutierrez seconded the motion and it carried unanimously.

Chief Miller said that flights at the Loveland-Fort Collins airport will be starting back up on May 23<sup>rd</sup>, so the **City of Fort Collins'** payment under the IGA for shared funding of the Aircraft Rescue Firefighter position will be prorated and the City will pay approximately \$14,000. The parties are working on re-negotiation of the IGA.

The **annexation process at the Training Center** is moving forward.

Vice Chairman Gutierrez said the presentation that **Captain Gilbert** gave to City Council regarding transportation was very good.

No further items were discussed and Chairman Swanty adjourned the regular Board meeting at 4:10 p.m.

The foregoing minutes, having been approved by the Loveland Fire Rescue Authority Board of Directors, constitute the official minutes of the meeting held on the date stated above.