

Emergency Fire Commissioner Meeting September 10, 2010

Immokalee Fire Control Board Emergency Meeting September 10, 2010

The meeting was called to order by Chairman Lee at 6:30 PM. Present were Chairman Lee, Commissioners Terrie Aviles, Pam Brown, Joe Matthews and Edward Olesky, Fire Chief Scott Birge, Deputy Chief Raul Dimas, Jr., Fire Marshal Leo Rodgers, Attorney Kenneth Thompson, Ann Carver, Chelsea Crain, Jason Burr, Union President Tom Cunningham, firefighters and members of the public. The silent prayer was led by Chairman Lee.

These Minutes are a summary of the meeting. Any further information can be obtained by the tape.

- 1. Anonymous letter sent to Chairman Lee, Commissioners Brown and Matthews:** Commissioner Olesky stated that he had not been able to read the letter because there was not one sent to him. He asked the Board who had written the letter. Commissioner Aviles answered by stating they decided to remain anonymous. Chairman Lee also stated that he was unaware of who wrote the letter and also that if he did know he would not have said. He also added that it did not matter who wrote it and it only matters if the acquisitions made are true. Commissioner Olesky asked Chairman Lee why he could not have waited to bring the letter up at the Regular Board Meeting. Chairman Lee stated that as a Commissioner he has the obligation to make sure something is done about it. Commissioner Brown asked Attorney Kenneth Thompson to share the knowledge he has about the letter. Attorney Kenneth Thompson stated that he spoke with Chairman Lee the previous morning and he had asked him to review the letter. He informed the Board that once Chairman Lee received the letter it becomes a matter of public record and he recommended holding a Special Meeting so that all of the Board Members can be advised of the letter before it goes out to the public. He also stated that the allegations made in the letter are very serious and hopefully many of them would be able to be resolved during the meeting. Kenneth Thompson stated that the Board has a few ways to handle the situation. One is to have a preliminary investigation made by the onsite computer administrator, Jason Burr, and also the contracted computer administrator offsite. Jason Burr explained to the Board that all of the computers are password protected and the entire internet goes through a firewall. He stated that the firewall is set up to block any websites that are pornography or any websites that it considers pornography. Kenneth Thompson stated that when anonymous letters come to the Board it is recommended that the Board takes action immediately. He also stated that the other option would be to go completely offsite and hire a company that specializes in forensic reconstruction. He suggested the he did not think the Board needed to do that however; and in-house investigation would be appropriate. Commissioner Brown stated that she thinks it is the responsibility of the Board to come up with policies about the fire wall. Chief Birge stated that there is already a policy in place concerning proper use of the department computers and the department is currently in the process of reviewing and updating policies. Commissioner Matthews stated that the letter sounds like more than one person wrote the letter and also that it concerns more than just computer use, including misuse of department vehicles and ethics. Commissioner Matthews stated that the fire wall and policy would hold true to the computers that are in the department however; the laptops that can be brought home will not. He also said that if the Board decided to investigate the hard drive would need to be searched. Commissioner Brown asked for a copy of the policy 804 concerning proper computer usages. Chief Birge said a copy could be made, but the Commissioners received it when they were issued a copy of the policy manual. Commissioner Brown stated that while the Board is currently looking at the issue for a copy of it to be made to have in front of them. Chief Birge also informed the Board that when the policy manuals were issued, each employee

Emergency Fire Commissioner Meeting September 10, 2010

had to sign stating that he/she had received it. Commissioner Matthews asked Chief Birge if there has been any improper use of Department vehicles. Chief Birge stated to the Board that there has not. Commissioner Matthews made a motion to have the laptop to be handed over into custody of Jason Burr after the meeting for the investigation. Chairman Lee seconded the motion for discussion. Commissioner Brown stated that she was unaware of how much information the Chief has on the computer, but he is using it to create the budget to present at their next meeting. Commissioner Matthews stated that he would be able to transfer the information onto a flash drive and use another computer. Commissioner Matthews amended his motion to have an investigation on Chief's computer and random investigations on the computers throughout the department. Chairman Lee amended his second. Commissioner Brown asked if the Board had a right to see what he looks at on the computer at home. Kenneth Thompson stated that as long as the laptop belongs to the department the Board has a right to investigate. He also asked the Chief if the department has a whistleblower policy. Chief Birge stated that the Board does not. Commissioner Brown said to the Board that letter did not provide any evidence that the allegations are true. Commissioner Aviles agreed saying there were no specifics given. She agreed that they have a responsibility as a Board however; any decisions involving Chief Birge's reputation she would not be able to vote in due to only receiving the letter as she walked through the door. She told the Board that there should be a policy in place about actions to take if they were to somehow in the future receive a letter where the allegations are true. Commissioner Brown made a statement to the author of the letter saying that if they have a problem to see a Commissioner one on one to discuss it because the Board does not know what they are looking for because the allegations have no evidence. Chairman Lee stated that he called the Emergency Meeting because he did not want to act as an individual. He said that most people would have gone to the State Attorney's Office, but he preferred to act on the situation as a Board. Commissioner Matthews stated that he is not accusing the Chief of anything however he wants to look into the accusations. Commissioner Brown asked Jason Burr how long it would take to investigate the Chief's computer. Jason informed the Board it would take an estimated fifteen (15) minutes to search Chief's computer. Kenneth Thompson stated that he doubts there is a privacy expectation on an issued state computer and he suggested that he do further research on the matter before the investigation is completed. Commissioner Brown stated that since the Chief is aware of the letter if they wait on the investigation there is a possibility that the computer could be tampered with. Kenneth Thompson said that unless the hard drive is completely physically destroyed the information will be able to be pulled. He also made the point that there is a flaw in the department's computer security being that if someone walks away from their computer still logged in another person would be able to access information under the logged in user. Jason Burr acknowledged this point and agreed. Kenneth Thompson again said his recommendation is to do a preliminary investigation. He said that the investigation would address the concerns of the anonymous letter. He also expressed the belief that the letter was written by someone who is actively involved in the department. He does not believe it was done by a stranger. He had put the letter into a sealed envelope and handed it to Ann Carver. Commissioner Matthews again amended his motion to an investigation on Chief's computer and all department computers. Chairman Lee amended his second. Jason Burr stated that the Board would not find anything on the computers always connected to the server because the firewall will now allow it. Chairman Lee stated that if it is impossible to access those websites then they should not be afraid of anything. Commissioner Olesky said if it is a guarantee there is nothing to be found than why waste the time. Chairman Lee replied saying it is our duty to look into these issues. Commissioner Brown said it is the Board's duty to be more involved than they are right now. She stated that no one is looking at the policies or asking any questions involving them. Chairman Lee said that as far as he is concerned when the Chief was hired it is his job to run the department. He said that he is spending much more time at the department than he would like to. He agreed that the policies are something that should be in place, but he does not want to be more involved in the day to day business of the District. Commissioner

Emergency Fire Commissioner Meeting September 10, 2010

Brown asked Chairman Lee his view on what the Board members should do. Chairman Lee stated that the Board is there to observe and take the Chief's recommendation and to supervise the Chief, to adopt and pass policies and be held responsible for whatever the Chief does right or wrong. Commissioner Brown asked how the Board is to be held responsible when they have the Chief doing it all. She said the Board is responsible to the people of the District and to make sure the department is run financially responsible and the Chief is the only person the Board is connected to. The Board has to look at what the Chief is doing and to look at the policies and make sure they are correct or incorrect. Commissioner Matthews stated that he agrees in part. He stated that the policies and procedures should be brought to the Board by the Chief executive and the Board is there to review them. Chairman Lee called the motion into question. Chairman Lee and Commissioner Matthews voted yes. Commissioners Aviles, Brown and Olesky voted no. Motion failed. Commissioner Matthews made a motion to adjourn. Motion failed due to lack of a second. Commissioner Brown made a motion to do the preliminary investigation on Chief's computer and also have the offsite administrator come in and check the hard drive for evidence of things being erased. Chairman Lee seconded the motion for purpose of discussion because the advice the attorney gave to the Board. Commissioner Matthews stated that he would feel better if not only the Chief's computer was checked, but every computer the department has. Commissioner Brown amended her motion to have all of the computers checked by the administrator for any pornography. Commissioner Aviles seconded that motion. The motion was called into question. Chairman Lee, Commissioners Aviles, Brown and Matthews voted yes. Commissioner Olesky voted no. Motion carried. Commissioner Matthews made a motion to adjourn the meeting at 7:24PM. Commissioner Aviles seconded the motion. The vote was unanimous. Motion carried.