

St. Tammany Fire Protection District No. 1

Board of Commissioners

Regular Meeting Minutes June 21, 2022

The meeting was called to order at 6:11 p.m.

The prayer and pledge of allegiance were done.

ROLL CALL: Chairman Crowley and Commissioners Rich, Gay, McDowell and Powell were present.

OLD BUSINESS: Discussion and Consideration of Vote of Confidence/ No Confidence relating to Commissioner Larry Gay.

Chairman Crowley stated, that from a procedural standpoint, we have been using the term, “vote of confidence/ no confidence” to determine whether there is a need to petition the appointing authority for any consideration by actions that were taken. He requested that the Commissioners consider that the language is changed to reflect that; as a vote of confidence/no confidence could insinuate that the Board is taking some type of action.

Attorney Danenhower stated that the By-Laws indicate that the Board can seek the removal of a Commissioner for public misconduct, or wrongdoing, that casts a serious reflection on the individual, or the Board in general, that is contrary to acceptable standards of good conduct and/or morals. The procedure to do this is (1) compliance with constitutional due process (2) must have a majority of the Board to petition, in writing, the appointing authority requesting the removal of the Commissioner. The Board has already complied with constitutional due process in this matter; the Board scheduled a special meeting to discuss the issues with Commissioner Gay, and at his request, the meeting was rescheduled to May 16. On May 16, the meeting was held, at per Commissioner Gay’s request, in open forum, as opposed to executive session. Commissioner Gay was given the opportunity to be heard and present witnesses/evidence.

Attorney Danehower stated that if the Board feels that what it learned at the special hearing is enough to conclude that his behavior was public misconduct or wrongdoing that would cast a serious reflection on Commissioner Gay, or the Board, that is contrary to acceptable standards of good conduct and/or morals, than it can vote to petition the Parish Council (appointing authority) and request a removal action.

Commissioner Rich stated that he has not heard anything that clarifies the situation to him.

Chairman Crowley stated that there should be a discussion of confidence/no confidence to determine if there is a need to petition the appointing authority; it is not an attempt to remove someone. Commissioners Rich, Powell and McDowell agreed. It would then be up to the appointing authority to review and/or take action.

(Commissioner Gay abstained from the conversation).

NEW BUSINESS:

Pursuant to R.S. 42:23, personal recording devices are welcome in every meeting for Fire District No. 1; however, 1 they must remain and be maintained in the possession of the individual that brings the device to remove any liability from Fire District No. 1 of any unintentional or accidental mishaps with the device during any such meeting

Retirement: Brent Dupuis

Awards/ Recognition: Recognition Letter: Mark Cambre
Recognition Letter: U.S. Dept. of Justice

APPROVAL OF MINUTES

Commissioner Rich made a motion to approve the minutes of the May 17, 2022 minutes. Commissioner Powell seconded the motion. The motion carried unanimously.

1. Chief's Report

a) Significant Monthly Events

- COVID-19 Update – Chief Kaufmann stated that we have had a couple employees out, nothing significant. He further stated that we have put out an SGO and COVID employees are now considered on sick leave
- HB 854 and other legislation – Chief Kaufmann stated the he, Mark Waniewski and Chief's Ory and Moore are actively involved with this bill, which had a workers compensation exposure in excess of \$500K, if it had passed in its original language. He stated that they worked with LWCC and the state Union president and spoke in the House Chambers to present revisions to the bill which would be at no additional cost to the fire districts in Louisiana, when it comes to LWCC premiums. This bill covers a retiree, up to age 65, and provides coverage for 10 years after retirement for a cancer diagnosis.

Chief Kaufmann stated that the 10 year legislation for attending millage meetings at Koop Dr. has expired, due to the population increase. He stated that he had spoken with Senator Hewitt about keeping the hearing/vote in the respective districts and it ended back up at the Koop Dr. location.

Chief Kaufmann stated that there is legislation that would give each firefighter employed a State Supplemental check for \$1,200.; intended as a one- time occurrence.

- 2023 Budget- Chief Kaufmann stated that the administration is currently working on the budget proposals and will have a meeting with the committee in the next 30-45 days.
- Millage- Chief Kaufmann stated that we are already at 35 mills and he recommends to maintain that, and have a vote in July.
- ITEP (Industrial Tax Exemption Program) Project/ PILOT (payment in lieu of taxes) – Chief Kaufmann stated that while ITEP is ran by the government, PILOT is run by St. Tammany Economic Development District. Chief Kaufmann stated that the Fire Chief's Assoc. has worked by the Economic Development District to create a fire model when a tax exemption was put in place to get some funding to the fire districts.
- St. 11 – UPDATE – Chief Kaufmann stated that construction is progressing with an Oct. projected completion timeframe. There are still some delays in receiving materials.
- St. 19- UPDATE – Chief Kaufmann stated that we are working with the engineer due to having to get an exemption at the Fire Marshal's Office. He stated that we have also submitted the plans to the Fire Marshal. We will advertise once the Fire Marshal approves the project.

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- b) **Operations Reports** - Chief of Operations Bruno discussed the “Operations” report (May) which covers YTD call totals, Hydrants Inspected, NFIRS Incidents, Dollar Loss/ Dollar Save (by Station location), Average Response Time (by Station) and EMS Call Type and Number of Incidents.
- c) **Maintenance Report**- Chief of Operations Bruno discussed the “Maintenance” report (May) which covered preventative maintenances and major repairs performed.

Chief Kaufmann stated that the master mechanic has advised of his intent to retire in 2023. We have advertised for the position and intend to have hire someone to work alongside him for up to 6 months for transitioning.

- d) **Fire Prevention Report**- Chief of Fire Prevention Marquette discussed the monthly “Fire Prevention” report (May) which included Inspections, Public Fire Safety & Education Events, Investigations, and Economic Impact.
- e) **Training Report** – Chief of Training Bauer discussed the monthly “Training” report (May) which included Classes, Certifications and Revenues.
- f) **Communications Report** –Chief of Communications Parish discussed the monthly “Communications” report (May) which included call volume and statistics.
- g) **General Comments**

Commissioner Powell made a motion to accept the Chief’s report. Commissioner McDowell seconded the motion. The motion carried unanimously.

- 2) **SFFA (Slidell Firefighters Association)** – Union President Berns stated that the Citizen’s Academy will begin on Sept. 7.

3) PMI Report –

- a.) **Employee Benefits** - (none)
- b.) **Human Resources**

- 1) 2022-017: BOC Resolution (Approve Vote of Confidence/ No Confidence- BOC Commissioner) - POSTPONED

Commissioner Rich made a motion to bring up for discussion Resolution 2022-017, Relating to the Approval for a “Vote of Confidence/ No Confidence” for District No. 1. Commissioner Rich seconded the motion.

Chairman Crowley stated that the St. Tammany Parish Boards and Commissions book, Section 5, specifically states, “Board members are fiduciaries to their organizations. A fiduciary duty is defined as a heightened responsibility wherein a fiduciary is obligated to act strictly in the interest of the organization, not thinking of himself while making decisions for that organization. Every member of a board, district, or commission in St. Tammany Parish has a fiduciary duty to the organization he or she represents. Board members have a responsibility to oversee the internal controls of the organization and to “set the tone at the top” for the organization. Additionally, Section 4 of the By- Laws defines the process of following the specific agenda items and processes that have occurred over the past couple months. He further stated that the Board will make a vote and determine if a petition should be sent.

The floor was opened for public comment. There was no public comment.

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Attorney Danenhower stated that should there be a “vote of no confidence”, this will result in a petition to the Parish Council requesting an action of removal. This will detail the basis for the decision and request to be placed on the agenda. He stated that he has been asked to present the issues that have come to light. He further stated that Commissioner Gay denies any wrongdoing and all of the allegations.

- Commissioner Gay's actions may indicate that he used the Board attorney to assert allegations adverse to the Board; specifically, he may have used the Board attorney to assert that Commissioner Brackett intentionally committed wrongdoing by continuing to act as a Commissioner while in between selling his home and purchasing a new one in the district. Additionally, he may have used the Board's attorney to assert that the Board's actions, due to Commissioner Brackett's activity on the Board, were null ; particularly, the Board's vote to roll forward its millage. Commissioner Gay did not bring this issue to the Board, rather it appears he worked with Mr. Ingram and Eric Hessler. The Board became aware of the allegations on Dec. 16, 2021. According to Mr. Hessler, these allegations were raised by an anonymous client (we still do not have a positive identification on the anonymous person).

Prior to Dec. 16, 2021, Commissioner Gay and Mr. Ingram were communicating about Commissioner Brackett's removal, as early as Oct. 6, 2021. This evidence was presented by Commissioner Gay in his response to a public record request to Concerned Citizens of St. Tammany. Commissioner Gay has refused to disclose the details of those communications with the other members of the Board; although the Board has asserted that any attorney-client privilege that may be asserted, relating to Troy Ingram and the Board activity, would also be in favor of the Board, so disclosure would not waive any attorney-client privilege.

On Nov. 24, 2021, Commissioner Gay received a draft of the letter that ultimately was sent by Eric Hessler to President Cooper. Commissioner Gay did not disclose the letter to the Board, or disclose that any allegations were raised against Commissioner Brackett's continued participation on the Board, or a challenge to the millage.

On Dec. 2, 2021, Commissioner Gay received Eric Hessler's actual letter, via e-mail, that was sent to President Cooper; the same day it was sent my mail to President Cooper. The Board did not learn about the letter until 14 days later. Even after Chairman Crowley disclosed the allegations to the Board, Commissioner Gay did not disclose that he had previous communications; particularly from Eric Hessler regarding the allegations and providing the letter.

- Commissioner Gay's actions may indicate the he continued to work with Troy Ingram to undermine the efforts to reinstate Commissioner Brackett, after he recused himself from representing the Board. (Troy Ingram represented the Board, as its attorney, through the beginning of 2022).

On Dec. 22, 2021, Troy Ingram recused himself from representing the Board, relating to the issue of Commissioner Brackett's removal for a conflict of interest that he identified, regarding Commissioner Brackett's response to President Cooper. Commissioner Gay continued to communicate with Mr. Ingram, through Feb. 18, 2022, regarding Commissioner Brackett's removal. This was evidenced by Commissioner Gay's personal response to CCST's request for production of documents.

On Feb. 10, 2022, President Cooper officially replaced Commissioner Brackett. During the time between Dec. 22, 2021 and Feb. 10, 2022, Commissioner Gay had multiple communications with President Cooper. In the Special Meeting held on May 16, 2022, to address these issues and

provide an opportunity for Commissioner Gay to respond, Commissioner Gay admitted that he was pushing President Cooper to replace Commissioner Brackett, in part because he believed Commissioner Brackett disagreed with him, and he wanted someone who he thought would agree with him more on the Board. Commissioner Gay also said that he did it in part because Commissioner Brackett had voted to support a “vote of no confidence” for Mr. Ingram the prior year.

Commissioner Gay’s communications to President Cooper included

- 1) “send me a copy of the vacate letter, I need a source I can disclose”
- 2) “thanks, it was worth the wait” (sent the day after Commissioner Brackett was replaced)

- Chief Kaufmann raised concerns that Commissioner Gay retaliated against him in his evaluation

Commissioner Gay’s evaluations are disproportionately negative, compared to the other evaluations. At the time the evaluation was completed, Commissioner Gay had privileged communications with Mr. Ingram. Commissioner Gay denies retaliating, but he did admit that at least one reason he sought Commissioner Brackett’s removal was Commissioner Brackett’s “vote of no confidence” for Troy Ingram. Chief Kaufmann has raised concerns that the same retaliatory basis is the basis for his negative evaluation. Chief Kaufmann repeatedly requested meeting to review the evaluations; however Commissioner Gay has refused to meet with him.

- Commissioner Gay’s actions may indicate that he failed to act in good faith in representing the district.

CCST sent a public record request asking for all communications regarding the removal of Troy Brackett, or the appointment of Tracey Powell. Commissioner Gay identified responsive documents, which he withheld due to attorney-client privilege he has with Troy Ingram; the Board has an attorney-client privilege with Troy Ingram. At the special meeting, Commissioner Gay agreed to consider disclosing the texts, but later decided not to disclose them.

Attorney Danenhower stated that if Commissioner Gay is incorrect in his assertion of an attorney-client privilege that is personal between Mr. Ingram and himself, the district can be held liable. He further stated that if CCST continues to pursue this in court, and wins, the district may be held liable in solido with Commissioner Gay at least for CCST’s attorney’s fees and costs to produce the documents pursuant to the public records request. The initial concern from the Board was whether it was logical to conclude that any attorney-client privilege can exist regarding communications about Commissioner Brackett’s removal, two months before the Board knew of the challenge to Commissioner Brackett’s position, and certainly after Mr. Ingram had recused himself from representing the district after Commissioner Brackett’s removal. As such, the Board has concerns that if pursued, the Board will be held liable. In the event that Commissioner Gay knew of a challenge to Commissioner Brackett’s position, he had a fiduciary duty to advise the Board that actions were challenged. Commissioner Gay received a letter challenging the Board’s millage vote two months before President Cooper advised the Board.

At the special meeting, Commissioner Gay asserted that the Board often “rubber stamps” votes. When pressed on this question, and asked the number of times Commissioner Gay voted contrary to the other Board members, Commissioner Gay admitted that he usually “just goes with the majority”.

In the special meeting, Commissioner Gay stated that he attempted to persuade President Cooper

to replace Commissioner Brackett because he disagreed with the way Commissioner Brackett voted. Commissioner Gay admitted that he doesn't challenge the votes at the meeting, but he will work to remove Commissioners when they disagree with him.

Attorney Danenhower stated that those were the facts presented, and the question for this vote is whether or not it is decided to petition the Parish Council to request removal of Commissioner Gay. He stated that the standard for removal is not whether the conduct was illegal or criminal, but any public misconduct that would cast a serious reflection on the individual, or Board in general, that is contrary to the acceptable standards of good conduct and/or morals. Included in this is the breach of fiduciary duty that Chairman Crowley previously mentioned.

If it is believed that the actions meet the standard, than it can be voted to petition the Parish.

Commissioner Rich inquired as to whether if there is a "vote of no confidence" does it reduce the potential of a lawsuit from CCST, or any other organization? Attorney Danenhower stated that one of the defenses that would be raised is that we attempted to comply with the public records law.

(The floor was opened for public comment)

SFFA President Berns stated that some of the things done may, or may not, be against the law; however, the Union feels that the actions have been unethical. He stated that at St. Tammany Fire Dist. #1 we have a set of core values- Honor, Courage, Commitment, Compassion and Integrity- and each member, as well as the Board, is expected to live up to those core values. Mr. Berns stated that it's obvious that there has been collusion, in the SFFA's opinion. He stated that the continued refusal to surrender/share the public records with the Board, as the attorney-client privilege is extended to the Board, and if there's nothing to hide or evidence of wrong doing, all of this information should have been presented in a more open and upfront manner to rid any illusion of misconduct. He stated that with regards to Chief Kaufmann's evaluation, this is retaliatory for poor performance by a third party vendor and his refusal to meet with Chief Kaufmann shows retaliation.

SFFA President Berns stated that on behalf of the SFFA, they are requesting that Commissioner Gay do the honorable thing and resign, effective immediately.

Danielle Geddes, Present of the STFPD #1Women's Auxiliary, stated that we pride our department on a zero tolerance for retaliation; however, when you openly admit to retaliation (alleged) by giving the Chief a bad evaluation, when we have a zero tolerance she feels the Board should as well.

Commissioner Rich stated that he has worked with Commissioner Gay on two occasions, on what he thinks is important business 1) setting the evaluation standards for the Attorney 2) reviewing and revising the By-Laws. He stated that Commissioner Gay is meticulous and has good ideas. He further stated that it was evident that he had the interest of the department in the work done.

Commissioner Rich stated that he came to the meeting fully prepared to vote "confidence" for Commissioner Gay. He asked Commissioner Gay if he could say anything to the Board that would counter what the Attorney just presented.

Commissioner Gay stated, "I didn't come prepared to deal with a huge, or complete legal argument". He further stated that it was said that he worked with Eric Hessler and he denies that, as he has never seen or heard of him; he was sent an unsolicited e-mail, but has never had

anything to do with him.

Commissioner Gay stated that as far as the Chief's evaluation, a meeting was scheduled for last Thursday to review the evaluation and the meeting was cancelled by the Chief.

Commissioner Gay stated, "Mike, you do what you think is right". Commissioner Rich stated that he's asked Commissioner Gay several times to share information with the Board that would "put to rest" the allegations and it was clearly stated the Commissioner Gay felt he couldn't do that, and Commissioner Rich stated that he understands that, but it makes it really difficult for him to support Commissioner Gay.

Commissioner Powell stated her main concern it to move on and put this to rest. She stated that she knew nothing about any of this when she was appointed, as she has never met Commissioner Gay, who has always been very pleasant to her.

Commissioner Powell stated that she has seen enough, by far, to support a vote of "no confidence", and stated that anyone who is aggrieved by Commissioner Gays conduct can certainly contact the governing authority, personally, that appoints him if they feel the need; but she doesn't believe that it is the Board's place to continue to memorialize and create a record when we have no authority to remove Commissioner Gay should we desire to do so. However, she does believe the appointing authority should be aware of the events that transpired, as she would expect to be held accountable if she were in the same position. She further stated that our By-Laws dictate our jobs as Board members- we are the governing body for the District, whose purpose is to preserve property and life and it is correct that our By-Laws do not authorize the Board to take any action to remove a board member, but the Board has the right to send a petition which certainly Mr. Gay could have done if he truly had grave concerns about Mr. Bracket's suitability to serve.

Commissioner Powell stated that she is generally not a confrontational person and she wished this did not have to be put out in a public forum, as the Board may still have to work with Commissioner Gay after the dust settles but obviously, as a leader, not wanting things to be awkward is certainly not a reason not to vote your heart and voice your true opinions and beliefs.

Commissioner Powell stated that she is disheartened because the Board, and herself, personally extended the opportunity to Commissioner Gay to explain to the Board what was going on and to privately release the text messages that Commissioner Gay is now claiming a privilege over. Commissioner Gay accepted that invitation, but on an extraordinarily guarded basis, appearing with a court reporter and an attorney at his side, that he requested the Board to authorize payment for. She stated that at the Special meeting, Commissioner Gay voiced his intent to possibly cooperate and the vote was tabled, and postponed, based on anticipated disclosure of text messages. Commissioner Powell stated that she, personally, "went to bat to give it another shot" only to be told that no text messages would be disclosed, without any further explanation.

Commissioner Powell stated that CCST has filed a public records request regarding all communication regarding her appointment. Commissioner Gay is claiming a legal privilege that would apply to the entire Board, so it is beyond her understanding why Commissioner Gay would not at least show the text messages to the Board so that the Board can all decide together, as a Board, whether or not the Board wants to assert a privilege. She further stated that it is clear to her that whatever is in the text messages places Commissioner Gay in an adverse position to the Board, or there would be no reason Commissioner Gay would not disclose them. Although the Board has made no assertion of allegations of willful misconduct or gross negligence, obviously the Board can't assume facts and alleged things when the Board doesn't know. She stated that she finds it quite troubling that he received a courtesy copy of an anonymous letter voicing an intent to

remove a Board member and did not disclose it to the Board, making it seem obvious, to her, that Commissioner Gay actively participated behind the scenes to have a board member removed without discussing any of the reasons with the Board. She stated, "That's not how I do business and although obviously I can't draw any conclusions as far as misconduct regarding text messages I haven't seen, the whole situation is highly suspect, to say the least" and it calls into question (in her opinion) Commissioner Gay's reason for assisting in having Troy Brackett removed. She stated that if Commissioner Gay truly had a problem with Commissioner Brackett's qualifications or actions as a board member that would substantiate it, he should've brought it to everyone's attention and had a meaningful discussion, same goes for the Chiefs evaluations that he repeatedly refused to discuss until recently. She stated that Commissioner Gay has isolated himself in his choice to hire separate counsel and in his low evaluation scores of the Chief's, which do not appear to be supported by evidence.

Commissioner Powell stated that if this is how Commissioner Gay responds in the face of conduct and actions that he doesn't agree with, by either the Chief or another Board member, she cannot with a good heart believe that he would continue to be an asset to this board and she believes his service will continue to be a source of conflict and division to the Board and the District. She further stated that's why she cannot vote that she has confidence in Commissioner Gay's ability to continue to serve for the right reasons and making the right decisions for the Board, and the district as a whole, and she supports a petition to be submitted to the Council.

Commissioner McDowell stated that if he did not know Larry Gay, all of this would be unbelievable. He stated that he usually has an opinion on pretty much everything, and this one has been very difficult. He stated this has gone on way too long, cost too much money, and too much time and effort; therefore, he supports a "vote of no confidence".

Attorney Danenhower reiterated that a "vote of no confidence" would equate to a vote to petition to the Parish Council to request removal.

Chairman Crowley called for the vote.

Commissioner Gay: Abstain

Commissioner McDowell: No Confidence

Commissioner Powell: No Confidence

Commissioner Rich: No Confidence

The motion carried.

- c.) **Payroll** – (none)
- d.) **FRS (Firefighters Retirement System)** – (none)
- e.) **VFIS Special Risk Insurance & LWCC- HB 854 (Cancer Extension – Workers Compensation) & HB 523 (Retiree Major Medical Benefits)** – Mr. Waniewski stated that when Angela McGee reached out to him on HB 854, the Administration, in addition to Chief's Moore and Ory, were the only faces that the House and Senate were able to see that "won" this to a zero increase, unanimously.

Chairman Crowley personally thanked Mr. Waniewski (PMI Resources) for his commitment and the time put in to protect the interests of the District, with no additional charges.

Commissioner Rich made a motion to accept the PMI report. Commissioner Powell seconded the motion. The motion carried unanimously.

- 4) **Duplantier Hrapman Hogan & Maher, LLP-** Mrs. Gaudin discussed the May financial report.

Commissioner Powell made a motion to approve the May financial report. Commissioner Rich seconded the motion. The motion carried unanimously.

- 5) **Attorney's Report-** (Chad Danenhower) – Attorney Danenhower stated that he addressed one public records request.

Commissioner Rich made a motion to approve the Attorney report. Commissioner Powell seconded the motion. The motion carried unanimously.

6) Board of Commissioner Comments

- o BOC Action Items Review
 - By-Laws Review Update (Commissioners Gay and Rich) – Commissioners Rich and Gay reviewed and made some comments on the By-Laws and requested that the Board review the changes and submit any comments for final review/approval

Chief Kaufmann stated that he did review that changes that were sent; however with his family tragedy, he did not follow-up on completion of the project, and that is the same reason that he canceled the meeting with Commissioner Gay.
 - Succession Planning (Commissioner Gay) – to be incorporated into the By-Laws
- o Commissioner Powell stated that on July 30, there will be a “Wills for Heroes” event at the Training Academy.

Commissioner McDowell made a motion to adjourn. Commissioner Powell seconded the motion. The motion carried unanimously.

The meeting adjourned at 7:48 p.m.