

**JEFFREY R. SMITH**

Clerk to the Board



**November 19, 2013**

**EMERGENCY SERVICES DISTRICT  
MEETING MINUTES**

The Board of Commissioners of the Emergency Services District met in Regular Session at the County Commission Chambers, 1801 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, November 19, 2013. Present were Chairman Peter D. O'Bryan, Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, Bob Solari, and Tim Zorc. Also present were County Administrator Joseph A. Baird, County Attorney Dylan Reingold, and Deputy Clerk Maureen Gelfo.

Chairman O'Bryan called the meeting to order at 10:30 a.m.

*(Clerk's Note: This item was heard following Item 9.B., and is placed here for continuity).*

**15.A.1. CITY OF FELLSMERE FIRE MARSHAL'S OFFICE**

Director of Emergency Services John King recalled the August 20, 2013 Emergency Services District (ESD) meeting, at which he addressed the Board with his concerns about the City of Fellsmere (Fellsmere) establishing its own Fire Marshal's Office and conducting reviews and inspections that should fall solely under the responsibility of the unified District. He stated that in accordance with the ESD Board's directive, he and County Attorney Dylan Reingold had engaged in negotiations with corresponding staffs in Fellsmere, but no agreement was reached. He reiterated that his key concerns relate to who is legally responsible to administer the statutorily required Fire Marshal duties within Fellsmere, and who would hold ultimate liability if any mistakes of omission or commission occur. He requested that the Board approve the draft Resolution requesting that Fellsmere cease its Fire Marshal operations within 30 days, and also authorize the County Attorney to pursue the necessary legal remedies to maintain the jurisdictional powers of the District.

Attorney Reingold provided his legal interpretation that under the Florida Statutes 633.118, the Fire Marshal's Office is the responsibility and authority of the ESD District. He voiced support for Director King's appeal for the Board to approve the proposed Resolution supporting the ESD District as the provider of said services.

**City of Fellsmere Manager Jason Nunemaker** provided background on the establishment of Fellsmere's Fire Marshal's Office, emphasizing the elements of good faith that the City has exercised through various negotiations with the ESD District. He stressed the City's willingness to work things out cooperatively with the County, and advocated for the creation of an interlocal agreement that would address Director King's concerns while allowing Fellsmere to retain its Fire Marshal's Office.

A lengthy discussion ensued as individual Commissioners expressed support for continuing negotiations with Fellsmere.

Chairman O'Bryan suggested that it might be helpful to have a Fellsmere City Council Member and a County Commissioner join in the discussions, if the ESD and Fellsmere staffs reach an impasse.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Flescher, to direct the County Attorney and Emergency Services District staff to continue negotiating the issues pertaining to the Fellsmere's Fire Marshal's Office, in the hopes of reaching an agreement satisfactory to both parties.

Director King was concerned that the Fire Marshal/Fire Chief are not always protected by the sovereign immunity limits, and would be held personally liable should an error occur. He also spoke of the need to clarify who would be the ultimate authority in a dispute (such as that between a field inspector and plans reviewer), because under the current system, County Code delegates final authority to the Director of Emergency Services; whereas Fellsmere Code gives that power to the City Manager.

**City of Fellsmere Mayor Susan Adams**, affirmed that the County and Fellsmere would be able to work out an agreement that would take care of the liability issues through further negotiations.

Commissioner Flescher clarified that the elected officials would join in the discussions only if an amenable decision is not reached between the two parties.

**Bob Johnson**, Coral Wind Subdivision, noted that the ESD is a separate taxing district and asked the Board to be mindful of the taxing aspect of this issue, as discussions continue.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

There being no further business, the Chairman declared the Emergency Services District meeting adjourned at 10:52 a.m.

ATTEST:

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Jeffrey R. Smith,  
Clerk of the Circuit Court and Comptroller

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Peter D. O'Bryan, Chairman

*(Clerk's Note: These minutes were signed by the current Chairman at the time of the Board's approval).*

Minutes Approved: 03/18/2014

BCC/ESD/2013 Minutes