

**ISLAND COUNTY FIRE PROTECTION DISTRICT NO. 3
SPECIAL MEETING - BAYVIEW STATION
MONDAY, OCTOBER 14, 1991 - 10:00 A. M.**

Attendance: Tom Saunders, Chairman
Gary Gabelein, Commissioner
Ken McClellan, Commissioner
Bruce Klassen, Chief
Paul Busch, AC/TO
Scott Treggett
Mr. Peter Moote, Attorney-at-Law
Mr. Clark B. Snure, Attorney-at-Law

I. CALL TO ORDER

Chairman Saunders called the special meeting to order at 10:00 A. M. for public hearing of charges concerning suspended Battalion Chief Scott Treggett.

II. AGENDA APPROVAL

Chairman Saunders wanted litigation added to the agenda.

Purpose of meeting is hearing for Scott Treggett. Commissioner Gabelein moved to approve the agenda with the chairman's addition. Motion passed.

III. TREGGETT HEARING

Chairman Saunders turned the meeting over to Battalion Chief Treggett. Commissioner Gabelein wanted to add a few things into the record:

1) Enter the minutes of the ICFD #3 Commissioner's Meeting of January 23, 1991, which includes the motion to suspend Battalion Chief Scott Treggett as a matter of record.

2) Enter a letter from Battalion Chief Treggett dated January 25, 1991, where he requested a hearing.

3) Enter into the record Resolution 88-02 dated September 1988, approved by ICFD #3 Board of Commissioners (Ken McClellan, Gary Gabelein, and Tom Saunders).

4) Enter into the record the Island County Superior Court findings numbered 1 through 11 from Judge Hancock.

5) Enter into the record Resolution 80-03 (the blue book).

6) Enter into the record the tape and attendance record of a hearing in Olympia on March 25, 1991, on House Bill 1193.

Mr. Peter Moote introduced himself as the attorney of record for Battalion Chief Scott Treggett and would be assisting Chief Treggett in this proceeding. At this time Mr. Moote submitted a written Statement of Evidence and Argument.

Mr. Moote's opening remarks: Our position, and I don't think there is any question, is that this district is a municipal corporation. It's authorized under RCW and in essence is its own local government or governing body and as such we maintain that it requires procedural fair process to apply here. And also as such it requires there to be an objective and open minded judicial panel to listen to the testimony and make ruling. One of the foundation factors in our government is separation of powers, and I think that you'll see from the testimony and evidence we are going to propose here today that in fact this district is set up to abide by the requirements of separation of powers. And you will see the problems that arise when that rule is not followed. For instance, we have an executive branch which is the rule making body and this board of commissioners sits as a policy and rule making body. We have law enforcement or the executive branch and that is the separate entity that is instructed with the obligation of enforcing rules and regulations. We have the judicial branch which is a body that is required to sit open mindly and objectively to rule upon allege violations of rules or procedures. Now what has occurred here based on the charging document that has been provided and the procedure that is set up is that you folks act as a quasi-judicial body today. You're the judges of the allege charges or violations brought against Mr. Treggett. As such you cannot also be part of the executive branch or the charging branch. The branch that investigates, forms opinions as to whether or not to grant charges. In that regard we have a motion to disqualify Commissioner Saunders from hearing the charges presented hear. The charging document states specifically that on January 16, 1991, he believes that all the charges brought are true and correct and that makes Mr. Treggett a liability to this district and not an asset as such and recommends suspension. Those charges were never supplied to the disciplinary officer for this district as specifically set up to investigate such charges. Obtain facts, make findings, make recommendations to the commissioners. As such one cannot be subjected to being judge by their own accuser. You can't have someone sitting objectively who has already made their mind up. We don't have people who sit as police officer, prosecutors, rule makers, and judges all at the same time. That is one motion to disqualify Commissioner Saunders. And would ask that you rule on it before we get into an answer to the charges.

Secondly, we have a question as to residency. There is a requirement in this district, and in fact in

all such districts, that a commissioner be a resident. There is purpose and a reason behind that. It's because whoever sits here in this capacity has a lot of responsibility and that individual has to be responsible for their own community. You can't have major and serious decisions and be responsible to your community when you are not there. And looking prospectively from this point on an individual who is going to be leaving this area, if he has not done so already, doesn't have to worry about being answerable to the community for any decisions that are made. Commissioner Saunders should also respect that position and disqualify himself.

The last preliminary matter I have is a motion to dismiss these charges and immediately reinstate Mr. Treggett. And that is on a procedural basis. There was absolutely no notice provided to the board as a whole, one of the commissioners was not provided any notice of this suspension proceeding, there was no notice to the public, there was no notice to Scott Treggett. It was an action that seemed clearly and intentionally calculated to be brought up at a time when Commissioner McClellan would not be here. In fact knowing he would be departing early, I think it violates notice and proper procedures so violently that it should be revoked right now. And he should be reinstated without going any further with the proceedings.

Mr. Moote asked that the Board would make rulings on those motions before we go any further.

The Chair ruled, on advice of counsel, to take the information under advisement and would not make any ruling on any motions. (122)

Mr. Moote asked for specifications on the charges instead of summary conclusions.

The Chair stated that that had been decided by the Court. On advice of counsel, the Court ruled that the charges were sufficient.

Mr. Moote then provided a second set of answers. Commissioner Gabelein was given the original of the second set of expanded answers with signatures.

As a matter of public record, Commissioner McClellan "moved that the Commissioners of Island County Fire Protection District Number 3 "Rescind and Expunge" from the record their motion made at their regular meeting of January 23, 1991, that suspended Battalion Chief Scott Treggett."

Testimony: Two individuals were asked to present testimony by Mr. Peter Moote and details of testimony presented was recorded and the recording is available for examination.

First individual to be called by Mr. Moote was Mr. Ron Haworth, Fire Chief King County Fire District Number 10. (Most of Mr. Haworth's testimony can be found in the written statement of evidence and argument submitted by Mr. Moote). His presentation was recorded.

IV. EXECUTIVE SESSION

Chairman Saunders recessed for five minutes to call an Executive Session of the Board at 11:00 A.M. to reconvene in five minutes.

III. TREGGETT HEARING (continuation)

Hearing reconvened at 11:10 A. M. Chairman Saunders ruled that Mr. Moote could continue until Noon and the hearing would be suspended to give the Board time to read the responses that Mr. Moote had prepared. The chair ruled that Mr. Moote could continue presenting his hypothetical questions but the chair felt that the hypothetical questions are of little value and the answers from a hypothetical chief are of little value. We would rather deal with facts and the circumstances surrounding each incident rather than hypothetical.

Mr. Moote understands what the Board is going to do, but did not agree with it. Mr. Moote didn't think it was fair, but the Board could take whatever action they are going to take. We want you to understand that for the most part we are trying to figure out what you are talking about in these charges. Mr. Moote had never had to go to court and defend somebody against summary charges that didn't have any facts or specifics. In essence we are doing your work for you by trying to figure what incidents you are even talking about. We may answer questions and not have a clue that you are talking about a totally different event. If we are not on the right event that, you tell us if we are not on the right event.

Chairman Saunders responded that we would do that, and the chair also stated that your client knows about everyone of these points.

Mr. Moote continued presenting testimony from Chief Haworth (review tape recording).

The Chair interrupted Mr. Moote by asking Chief Haworth a question, "You understand that the problems presented to you are hypothetical they are not factual."

Chief Haworth responded, "I understand that."

Mr. Moote wanted to highlight this they are not made up facts I have already submitted to you written statements with signatures and the charge here that I received from you commissioners was that we would have fact. We were told the purpose of the public hearing is for Scott Treggett to present any written material or verbal testimony. **Any** (emphasis added) that he may wish the Board of Commissioners to consider in its review of his performance as a volunteer battalion chief for the District and respect of his future status with the District. Mr. Treggett may appear personally, may be represented by counsel, may present witnesses in his behalf, and may present any other materials he may wish the Board of Commissioners to consider.

Mr. Moote continued by recognizing the time constraints and obtaining as much evidence as we could. Under the Board's rules we have provided you with written materials as a factual basis. By calling these witnesses to testify to what they have put in writing will do two things. First, it will be partially cumulative and secondly will add additional facts and if the Board has any questions about whether or not we are working with the proper factual procedures it will be your opportunity to challenge those witnesses as well. If we go on from here and I can't call them and you don't ask them any questions, I think we have to move on from here under the presumption that everything that is in this document is correct unless it is otherwise been shown otherwise. We are not dealing with anything that anybody can put a grip on.

This is a factual basis within the rules of evidence submitted here and now I'm expanding upon that by someone who knows what rules and regulations should be.

The Chair interrupted Mr. Moote to recognize a member of the audience.

Audience Member (AM): "I don't know the procedure for general public to speak. I don't want to be out of order. Tom, you are sitting on the Board of Commissioners right?"

The Chair (TC): "Yes."

AM: "Do you reside on the Island?"

TC: "Yes."

AM: "Uhm, Do you have another residence also?"

TC: "Not yet."

AM: "Then was the newspaper mistaken?"

TC: "What newspaper?"

AM: "The Everett Herald."

TC: "Search me, I didn't read it."

AM: "Did you use to have State Farm Insurance?"

TC: "Did I? Yes."

AM: "That's all I wanted to know."

Mr. Moote continued to present Chief Haworth's testimony.

With 20 minutes remaining, Mr. Moote wanted to call another witnesses.

The Chair recognized Mr. Richard McClellan (RM);

RM: "I wish one of you commissioners could make a motion, do to the fact that you are the ones who are charging Mr. Treggett with the specific charges, to get somebody to sit and hear this for the commission. A qualified person. There is a direct conflict of interest. You can't charge somebody and then rule on the charges.

Commissioner Gabelein responded that these were not charges but were concerns brought to the Board and they were not addressed correctly or sufficiently. If someone doesn't do their job below us the only action we can take is to find out why.

Commissioner McClellan responded, "How can you suspend someone on concerns and not charges?"

The second individual called to testify was Mr. Bruce Klassen, Fire Chief Island County Protection District Number 3. His presentation was recorded too.

The Chair for the record asked Chief Klassen a couple of quick questions to clarify some of Mr. Moote's questions, "Bruce were you aware of any of these concerns prior to receiving this memo?"

Chief Klassen (CK), "I was aware of the, I'll call them concerns, I was not aware of those as charges."

TC: "Did you discipline Chief Treggett on any of these that you were aware of?"

CK: "I counseled him on some of them."

TC: "Is that documented anywhere?"

CK: "I said I counseled him on several of them, I don't know how many."

TC: "You did not document any of them?"

CK: "Did I put that in his file?"

TC: "Yea."

CK: "No!"

TC: "Did you investigate any of these?"

CK: "Any of these?"

TC: "Yes."

CK: "Did I investigate the charges that were handed to me? No."

The Chair when asked by several members of the audience when the hearing would reconvene ruled the hearing would not reconvene today. Several members of the audience objected to the ruling.

Mr. Clark Snure attorney for the Board responded, "there are so many references made to the material in this manual, the purpose of it now is to allow the Board to review the manual. In the Executive Session it was discussed about the advisability of the Board members having the opportunity to read through this material and then based on that the Board can decide what length of another public hearing to hold on this."

The Chair: The hearing will reconvene when the Board has had the opportunity to review the written material submitted by Mr. Moote.

Several members of the audience expressed **their** (emphasis added) opinion to the Board.

The Board's regular meeting will be at 2:00 P. M. and the special meeting adjourned at 12:21 P.M.

Secretary

M. D. "Mike" Carter, Interim District

Island County Fire District No. 3

Tom L. Saunders, Chairman

Gary R. Gabelein, Commissioner

Kenneth McClellan, Commissioner

**ISLAND COUNTY FIRE PROTECTION DISTRICT NO. 3
REGULAR MEETING - BAYVIEW STATION
MONDAY, OCTOBER 14, 1991 - 2:00 P. M.**

Attendance: Gary Gabelein, Commissioner
Ken McClellan, Commissioner
Bruce Klassen, Chief

I. CALL TO ORDER

It was announced by Commissioner Gary Gabelein that Commissioner Saunders was called out of town, and as vice-chairman Commissioner Gabelein called the continued regular meeting to order at 2:02 P. M.

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the Flag of the United States of America was lead by Commissioner McClellan.

III. APPROVAL OF AGENDA

Continued meeting cannot have any additions to the agenda. The agenda must be the same as the original meeting. Commissioner McClellan moved to approve the agenda. Motion passed.

IV. APPROVAL OF MINUTES

Commissioner McClellan moved to accept the minutes of September 10, 1991, regular meeting as written. Motion passed.

V. VISITORS COMMENTS

Mr. Richard McClellan spoke, and stated that he had written a letter on October 7, 1991, to the Chief to take a look at the insurance policy because the District is being attacked in District Court by the former district secretary and Mr. McClellan was concerned about our liability insurance coverage.

Mr. R. E. "Bob" McGinty, candidate for commissioner, delivered a report on his recent visit to

London, England, where he was asked to serve as a consultant to the London Fire Brigade.

VI. SECRETARY'S REPORT

A. Correspondence Received

The interim district secretary reported that the district had received several checks in the memory of Herbert Quentin.

B. Correspondence Sent

The interim district secretary listed thank you letters that were sent to those individuals who sent memorial checks for Herbert Quentin and an acknowledgement was also sent to Mrs. Quentin.

C. Miscellaneous Reports

The District is currently undergoing a state audit. He left a travel voucher and recommended we should use something to maintain records for travel. The Board directed the Chief to come up with recommendation on the use of a travel voucher for the District.

VII. FINANCE OFFICER'S REPORT

Commissioner Gabelein asked about the new assessors report.

VIII. CHIEF'S REPORT

The Chief submitted his report. As of October 18, 1991, Island County will not have a fire marshal. Duties performed by the fire marshal will be delegated to other individuals.

IX. COMMISSIONERS REPORT

A. Commissioner McClellan asked how the Board was going to pay the attorney's fee. His current bill is over \$1,900.00. Which fund will be used to pay the bill? Will our insurance carrier pay any of the bill? Who directed the attorney to contact the Employment Security Department regarding the termination of the previous district secretary? Discussion followed.

B. Commissioner Gabelein stated he would start on his list. First he asked about the Interlocal agreement that was passed by this Board several months ago has not been signed by this Board. Commissioner Gabelein would like to sign it at this time because we are holding up the

process on the Interlocal agreement.

C. The Bay Station. Discussion followed about renewing contracts. Chief was to find out about lapsed contracts.

D. Status of equipment from Firehorse. Commissioner Gabelein has reason to believe that the portable tanks have not been credited to this District. If the tanks have been resold or returned them I think the District should have a credit or we should be advised on how much money we were refunded by now.

E. Volunteer Relief and Pension Fund. Commissioner Gabelein reported that there are proposed changes coming down the road for volunteer firefighter Relief and Pension Fund, to the effect that it is going to double the amount that the district pays to have volunteers in the fund. The increase will have to pass the next legislative session. The Municipality Fee would increase from \$10.00 to \$30.00 per member and the member fee from \$20.00 to \$30.00. With this kind of increase it would be in the best interest of the District to provide an incentive to pay for those members who are dependable, active, and certified volunteers. All new firefighters should be informed of the opportunity to join the BVF Pension Fund at any time of the year.

F. Public Records. Commissioner Gabelein requested that the District direct the chief to write a letter to cover the liabilities of this district pertaining to RCW 42.17.310. Commissioner Gabelein would like the letter addressed to all members of the district advising them that unless the district has a letter in writing from an individual not to disclose his name in accordance with RCW 42.17.310. Motion passed.

G. Budget line item review. Discussion followed.

H. Commissioner Gabelein moved to have a special meeting on November 8, 1991, at 10:00 A. M. for continuing Scott Treggett's suspension hearing, an executive session, the regular November meeting, and a budget meeting. Motion passed.

I. District 2 tankers. Commissioner Gabelein reported he observed the new tankers in District 2.

J. Commissioner Gabelein recommended to the Board that no mileage reimbursement be allowed to paid staff as long as we have three running vehicles in this District. Commissioner McClellan asked does this include commissioners? Discussion followed.

K. Survey. Commissioner Gabelein submitted a summary of a survey he did in the last couple of months. Discussion followed. Commissioner McClellan asked what good is this survey? Commissioner McClellan stated that Commissioner Gabelein had wasted 45 minutes of his (Commissioner McClellan) time.

X. MISCELLANEOUS REPORTS

There were no miscellaneous reports.

XI. UNFINISHED BUSINESS

There was no unfinished business.

XII. EXECUTIVE SESSION

Commissioner Gabelein requested Executive Session prior to paying the bills. Board adjourned to Executive Session at 3:55 P. M.

Regular meeting reconvened at 4:15 P. M.

XIII. NEW BUSINESS

A. As a matter of Record Commissioner Gabelein attempted to reinstate suspended Battalion Chief Scott Treggett and the motion died.

B. Approval of vouchers - Commissioner McClellan moved to approve the vouchers in the amount of \$19,906.87 except the voucher to Clark Snure, the phone bill, and Commissioner Gabelein expenses be added to his payment voucher. Motion passed.

XIV. ANNOUNCEMENTS

No Announcements were made.

XIV. ADJOURNMENT

There being no further business to discuss, the meeting was adjourned at 4:23 P.M.

Secretary

M. D. "Mike" Carter, Interim District

Island County Fire District No. 3

Approved:

Tom L. Saunders, Chairman

Gary R. Gabelein, Commissioner

Kenneth G. McClellan, Commissioner

*Minutes are not official until approved at the next regular meeting.