

Grand Junction Rural Fire Protection District

Minutes of the Special Board Meeting

JUNE 29, 2004

I. CALL TO ORDER

The meeting was held in the Mesa Mall Community Room, 2424 US Hwy. 6 & 50 and was called to order by President Steve Grant at 6:30 p.m.

II. ROLL CALL – Board Members

Steve Grant, President; Vicki Felmlee, Vice President; Bob McCormick, Treasurer; Steve Gsell, Board Member; Tery Dixon, Board Member.

Others Present: Public; media; Larry Beckner, Attorney; and Rhonda Phillips, Scribe.

III. APPROVAL OF AGENDA

Vicki Felmlee made a motion to approve the agenda. Bob McCormick seconded the motion. Roll Call. All Ayes. Motion carried.

IV. PUBLIC COMMENTS AND COMMUNICATIONS

There was comment that some files were not saved properly on the website. Some files were with .wps file formats and should be .pdf. Vicki Felmlee will confirm that all documents are properly uploaded to the website. President Steve Grant suggested adding phone numbers and e-mail addresses into the online Board of Directors directory. Bob McCormick would prefer not to have his e-mail address published on the website. Public attendee Jack Campbell stated that he was very concerned that there little or no documentation in past minutes about OTC America, e.NVIZION or financial statements. John Borgen, public attendee, stated that the general consensus from a small group of people that he has spoken with regarding the lawsuit with the City was to drop the lawsuit. President Steve Grant explained that it isn't as simple as dropping the lawsuit but further discussion will be held later in this meeting. Public attendee Ann Duckett asked the board what has been expended in legal and professional fees. President Steve Grant explained that there is approximately \$36,000 in legal and professional fees incurred through Richard Westfall. Those fees have not been paid. There was \$10,000 incurred and paid from the investigative group. There is approximately \$30,000 from Mr. Cole that has not been paid. There is approximately \$6,000 incurred for Larry Beckner that has not been paid. Public attendee Ann Duckett suggested that Mr. Cole's bill not be paid without engaging in questions about the bill and investigation as to what work was done from the incurred bill.

V. DISCUSSION OF LITIGATION SUB-DISTRICT TAX COLLECTION

President Steve Grant asked Larry Beckner to give a historical perspective of where we are today with the sub-district tax collection. Larry Beckner explained that Mr. Cole's perspective is that the imposition of tax in 2002 and collected in 2003 was proper. Mr.

Beckner explained that there is a statutory provision under Title 31 that talked about the ability of a newly formed district to impose a tax. That section says that if a special district is not formed prior to May 1 and if the board of the district doesn't give proper notice to the assessors office of its desire to impose a tax for that year that the tax can not be collected for that year but has to be collected the following year. In this case, we have a sub-district that was not formed until after the November election and if it is deemed that this sub-district is a new district, as described in this Title 31 provision, there is no way that you can impose the tax for 2002 because the statute prohibits it. Mr. Cole's position is that that section doesn't apply because we didn't create a new district. What we did was create a sub-taxing district and that is not the same as creating a new district. The second issue is in the wording of the question that was submitted to the taxpayers that the tax be collected in the year 2003. The question is if you can impose a tax in the year 2003 that is for taxes that are actually for 2002. There is a question of the language of the ballot question that Westfall asked if we can collect tax for 2002 even though they are not collected until 2003. There is another issue that was raised regarding the Tabor Amendment. There is language in the Tabor Amendment that says that a tax can not be collected unless the residents give prior approval to the tax. The question then becomes if you have approval that is give in November 2002, is that prior approval for taxes that are paid for 2002 and not collected until 2003. Mr. Cole's position is that under those circumstances, that you can collect the tax for the year of the election. Mr. Beckner stated that this did not reflect his personal opinion based on his reading of the Tabor Amendment. President Steve Grant recommended making Mr. Beckner the attorney of record on the lawsuit with the city.

Bob McCormick made a motion that Larry Beckner become council of record in the tax collection litigation with the City. Vicki Felmlee seconded the motion. Roll Call. All Ayes. Motion carried.

Mr. Westfall will remain the attorney on OTC and e.NVIZION matters. President Steve Grant informed the board that the city has until the 1st of August to file an answer with the court. Larry Beckner informed the board that after the city has filed their answer the case becomes "at issue". The next step would be for the board to file for summary judgment and the city would then respond to the motion, and that motion for summary judgment addresses the underlying questions as to the legitimacy of the tax. Vicki Felmlee moved that the Board authorize Steve Grant to approach the City, at his convenience and in a time frame that is optimal considering the various judgments and filings, to discuss with the City potential options for either settlement or disposal or an agreement regarding the issue on the 2002 tax collection legalities. A discussion was held and it was determined that Larry Beckner should attend the meeting with President Steve Grant and the Mayor. Vicki Felmlee amended her motion to include President Steve Grant and Attorney Larry Beckner, to meet with the City regarding these issues. The motion was seconded by Bob McCormick. Roll Call. 3 Ayes and Tery Dixon abstained. Motion Carried.

VI: OTHER ITEMS

- A. Bylaws Committee: Vicki Felmlee announced that there are 5 volunteers for the bylaw committee. She has been collecting several examples of bylaws, templates, documents from Mr. Beckner, etc., in preparation for approval of the board to move forward with the committee. Vicki announced that the

committee would prepare a draft of the new bylaws and present them to the board at the second meeting in August.

Bob McCormick made a motion that a bylaw committee be appointed and authorized to prepare a draft set of bylaws/rules and regulations for the fire protection district to be presented to the board for approval as follows: Members to include Vicki Felmlee, Chairman, Steve Gsell, Jack Campbell and two others to be added when we get the names; to use the Beckner Model as a starting point in utilizing models from the Department of Local Affairs and the Special Districts Board Members Manual as primary resources; include organization internal controls as may be identified through Bruce Mills, CPA; a timeline of completion be presented at the regular meeting on July 27th; the committee use the services of the district's professionals, Larry Beckner and Bruce Mills as necessary to complete the task.

The final product may be more broad based and more inclusive than typical bylaws.

Vicki Felmlee seconded the motion. Vicki Felmlee said that she would like to see an amendment to the motion to say that the board will use all documents that are submitted and are available. Steve Grant suggested adding the words "and other resources the committee deems necessary" after the words "primary resources". Roll Call. All Ayes. Motion carried.

VII. ADJOURNMENT

Steve Gsell made a motion to adjourn the board of directors meeting. Bob McCormick seconded the motion. The meeting adjourned at 8:30 p.m.

APPROVED AND ADOPTED THE _____ DAY OF _____, 2004.

Stephen Grant, President

Attest: _____
Robert W. McCormick, Secretary