



Montgomery County Emergency Services District No. 10

DATE: March 18, 2021

THE BOARD OF COMMISSIONERS OF MONTGOMERY COUNTY EMERGENCY SERVICES DISTRICT NO. 10 (the "District") met in a regular session, open to the public, at the Magnolia Volunteer Fire Department, Station 181, 18215 Buddy Riley Blvd, Magnolia Texas 77354 on Thursday, March 18, 2021 at 12:00 p.m. inside the boundaries of the District.

AGENDA ITEM:

1. Call Meeting to order

At 12:06 p.m., Commissioner Smith called to order the Regular Meeting of the Montgomery County Emergency Services District No.10 (the "District") and the roll was called of the duly appointed officer's to-wit:

2. Roll Call, Pledge of Allegiance, Pledge of Texas and Invocation.

COMMISSIONER	BOARD POSITION	
Larry Smith	President	Present
Charles McDonald	Vice President	Present
Kelly Violette	Secretary/Treasurer	Absent
Heath Schultz	Assistant Secretary/Treasurer	Present
Jeffrey Cunningham	Board Member	Present

4 of 5 Commissioners were present thus constituting a quorum.

Also present were Magnolia Volunteer Fire Department ("MVFD" or "the Department") Interim Fire Chief Jeffrey Hevey, Assistant Chief of Finance and Administration Eloise Roberson, Assistant Chief of Operations Gary Pangarakis, Assistant Chief of Planning Rusty Griffith, Assistant Chief of Training and Safety Jason Herrman, Battalion Chief Adam Vulgamott, and Office Manager Rhonda Reinholz, Deputy Duane Burrell, Carol Morrison of Municipal Accounts, John Peeler of Coveler & Peeler, PC, members of the public Lesha Roberts, Erica Gonzalez, Sasha Serghini, Shannon Hoffart, Ken Hacker, and Community Impact Newspaper Reporter Anna Loft.

Commissioner Smith led the Board in the Pledge of Allegiance to the U.S. Flag.

Commissioner McDonald led the Pledge to the Texas Flag.

The Invocation was given by Commissioner Cunningham.

3. To receive public comment.

Lesha Roberts addressed the Board as a concerned citizen and wife of a Magnolia Firefighter. She expressed concern on several topics, including Elisa Noriega’s fire school status; Chuck Grant’s job status; the scope of the special counsel’s investigation.

Other members of the public that were in attendance did not address the Board.

4. To approve the Minutes of prior meeting(s).

Upon a motion duly made by Commissioner Cunningham and seconded by Commissioner Schultz, the Board unanimously approved two (2) sets of Minutes as presented: the District’s Regular Meeting held February 11, 2021 and the District’s Special Meeting held February 22, 2021, noting the current Board approves the minutes in order to comply with the Open Meetings Act requirements but has no knowledge to what actually happened at the meetings held on 2/11/21 and 2/22/21 as none of the current Board members were on the Board during those meetings. Staff and counsel noted that the current Board’s approval of the February minutes is based upon reliance on staff and counsel that the minutes accurately reflect the actions taken at those meetings.

The Board agreed to take items out of order as posted on the Agenda to address items #6 before addressing item #5.

6. To review and take action on granting exemptions for 2021.

Upon a motion duly made by Commissioner Cunningham and seconded by Commissioner McDonald, the Board unanimously adopted the Montgomery Central Appraisal District "Verification of Exemption" request for the year of 2021, approving exemptions for tax year 2021 as follows:

Homestead	\$	<u>0.00</u>
Over 65	\$	<u>50,000.00</u>
Disability	\$	<u>50,000.00</u>

A copy of the “Order Of The Board Of Emergency Services Commissioners Of Montgomery County Emergency Services District No. 10 Granting Exemptions For 2021” that was adopted and approved by a vote of 4 in favor and 0 against and is attached hereto as **EXHIBIT A** with Commissioners Cunningham, McDonald, Schultz, and Smith present and Commissioner Violette absent. Staff and counsel noted that these are the same exemptions granted for tax year 2020.

7. To receive and review the monthly ad valorem tax report.

Ms. Morrison presented the February 2021 Ad Valorem Tax Report. Discussion ensued on this topic where to no action was necessary.

5. To address financial matters including depositories, Investment Policy and investments, to receive Financial Reports from the District Bookkeeper and pay District bills.

Ms. Morrison presented the March 18, 2021 Bookkeeper’s Report including a listing of the disbursements presented, for the Board’s approval and signature. Discussion ensued on this topic where to Ms. Morrison noted that Municipal Accounts will determine the best option for the Frontier Bank CD maturing 4/13/2021.

Upon a motion duly made by Commissioner Schultz and seconded by Commissioner Cunningham, the Board unanimously approved the payment of district bills as presented in the Bookkeeper's Financial Report where to there were no additional checks.

The Board re-addressed this topic after item #28.

The Board was in agreement to authorize the Board President to execute the ADP Contract to process the ESD Employees Payroll that has been previously approved.

8. To receive the monthly sales tax report from the sales tax consultant.

The Board reviewed the March sales tax report prepared by Sales Revenue Inc.

9. To review and act on the payment of operations funding pursuant to budget and service agreement with the Magnolia Volunteer Fire Department ("MVFD" or "Department").

The Board was in agreement to address Items #9 and #13 together.

The Board reviewed the payment of Operation's Funding presented in the March 18, 2021 Bookkeeper's Report.

Assistant Chief Roberson presented the February 2021 GL, the February 2021 1st Quarter Rolling Budget, and the Department's 2019 Financial Audit.

Assistant Chief Roberson addressed the Board noting the re-allocation practice set in place by the previous Board.

Upon a motion duly made by Commissioner Schultz and seconded by Commissioner McDonald, the Board unanimously approved to continue the reallocation process by which unused funds are returned to the District on a quarterly basis by MVFD.

Upon a motion duly made by Commissioner Schultz and seconded by Commissioner McDonald, the Board unanimously approved the payment of Operation's Funding as presented in the March 18, 2021 Bookkeeper's Report which was check number 2567 in the amount of \$832,180.78 for Payroll Transfer 4/21 and check number 2568 in the amount of \$133,796.73 for Maintenance & Operations Transfer 4/21.

Ms. Roberson noted check numbers 2575, 2576, 2577 were reimbursements to the Department that were paid as a courtesy between District meetings:

2575 was paid to Texas Mutual was for the Worker's Compensation 2020 Audit noting that she facilitated and completed the Worker's Compensation Audit. Legal counsel noted the expense is an additional operations payment;

2576 was paid to Texas Truck Works for Front Bumpers for Boosters 182 and 185;

2577 was to QZIP for IT Services.

13. To receive a financial report from the MVFD.

This topic was addressed under item #9.

10. To review and act to approve the purchase, funding, financing and payment for capital assets, including vehicles, fire-fighting apparatus and equipment.

2021 Capital Payments include the following disbursements presented in the March 18, 2021 Bookkeeper Report:

- 2562 to Delta in the amount of \$25,180.00 for four (4) Thermal Camera Kits for the Rescue Truck;

- 2574 to Ultimate Lighting Solutions in the amount of \$9,264.80 for Emergency lighting for Booster 185;
- 2576 to Magnolia Volunteer Fire Department in the amount of \$3,950.00 for Front Bumpers for Boosters 182 and 185;

11. To receive a report and act as appropriate to revise District and/or Department current year operating and/or capital budgets pursuant to Department quarterly re-allocations and/or other matters.

Upon discussion of this topic no action was necessary.

12. To receive a report from Department regarding the good and welfare of the Fire Department and act on requests for equipment and expenses for the Department.

Fire Chief Jeffrey Hevey presented the Fire Chief's March 2021 Board Report with special mention to the Board about the following topics:

- Welcomed the ESD Board members to their first official full ESD meeting.
- This is my first report to the District and the Department.
- Chuck Grant will be back to work on Monday.
- The 2nd Rescue Boat purchase is placed on hold and will be revisited at the end of the year.
- There are items of significance that are not budgeted for 2021. We need to start replacing breathing apparatus which will take place over the next couple of years.
- Toured all Fire Stations with Assistant Chief Pangarakis.
- New Booster Truck 182 arrived and it is waiting to be placed into service.
- There is a spare Tanker and Booster that could be sold.
- Ladder 186 is at Station 181 awaiting electrical repairs.
- The replacement of two (2) Tankers and one (1) aerial ladder that Chief Vincent mentioned in the February report, are early in the process.
- We are still awaiting the most recent ISO evaluation.
- Held a Command Staff meeting with Administrative personnel on March 2nd and was able to gather good information. I intend to hold monthly Command Staff meetings.
- Held one-on-one meetings with Office Staff and Chief Office personnel during the week of March 8 and March 15.
- In the process of reviewing the District and Departments policies and procedures.
- Rescue Truck committee members will be at Pierce March 18 through 22 to inspect the truck. This is the last visit before the truck is completed.
- The Department is addressing the changes in COVID-19 procedures and how we deal with patients and members. Even though the State of Texas is relaxing the use of masks and opening more businesses, members responding to EMS calls will still be exposed to patients who potentially have the virus.
- I am currently using a Department vehicle to move around the District and to travel to and from my residence near Katy, Texas.
- I would like to address the commissioners in Executive Session to talk about personnel matters.

14. To review and take action on issues related to the District assuming direct provision of emergency services, including actions to employ firefighting staff, including action to provide notice of termination of Fire Services Contract to Magnolia Volunteer Fire Department and scheduling public meetings on this issue.

District's legal counsel John Peeler addressed the Board on several topics related to the potential transition to direct provider: regarding special counsel where to he noted that Adam Dietrich is special counsel, not a prosecutor; the District has authorized a cap of \$20,000.00 with an initial report before pursuing further investigation. He also summarized some issues relating to the District's role from the standpoint of becoming a direct employer in contract to the contractual relationship with the Department. Mr. Peeler recommended that

the Board provide notice to the MVFD that the multiyear contract not be renewed past December 31, 2021 in order for the District to begin the transition process.

Upon a motion duly made by Commissioner Schultz and seconded by Commissioner McDonald, the Board unanimously approved nonrenewal of the current contract under its terms and to give notice to the Department that the District is opting out of the contract renewal with the Department effective 1/1/22 by a vote of 4 in favor and 0 opposed.

Discussion ensued whereto legal counsel suggests conducting Town Hall style meetings in the May or June timeframe. The Board was in agreement to have blended town hall meetings for public and Department staff. Chief Griffith mentioned we should have a virtual option. Counsel asked the Board to let staff work on options for the meetings to present to the Board at the April meeting.

15. To review and take action on information technology (“IT”) matters, including engagement of consultants for the maintenance and improvement of IT infrastructure and resources.

Fire Chief Jeffrey Hevey gave a verbal update on this topic whereto discussion ensued and no action was necessary.

16. To review, discuss and take action on revisions or amendments to the District’s budget(s).

Upon discussion of this topic no action was necessary.

17. To review, discuss and act on the disposition of surplus and/or salvage property.

Fire Chief Jeffrey Hevey gave a verbal update on this topic. Discussion ensued whereto legal counsel explained the difference of surplus and salvage property to the Board and the process for disposing of same. No action was necessary.

18. To review and act on District/Department PPC/ISO ratings including engagement of consultant(s), review of recommendations and purchase of equipment.

Fire Chief Jeffrey Hevey and Assistant Chief Griffith gave a verbal update on this topic and also provided an explanation of the ISO Rating process whereto no action was necessary. Legal counsel also provided input on the insurance service and ISO Rating process. Fire Chief Hevey also discussed his desire to perform a response analysis of the area.

19. To receive a report and act on improvements, repairs, maintenance and construction of District facilities, including utilities, construction payments, engagement of architectural or engineering services and selection of contractors.

Fire Chief Jeffrey Hevey gave a verbal update noting there are some stations that will need special attention. Assistant Chief Griffith gave a verbal update on Station 181 roof issues noting, in summary we moved into this station in 2010 and we have been experienced ongoing intermittent roof leaks with this building. Long story short we ended up going into litigation which was a very long process. The Arbitration settlement was signed off on in January 2021.

Legal counsel explained his role to the Board on the roof litigation and summarized the process, noting that the prior Board engaged Cokinis Young law firm to lead the claim process against the builder which lead to a negotiated settlement. Legal counsel confirmed that Rimkus is involved with the repairs and will report back on the progress of the roof at the next meeting.

No action was necessary.

The meeting was recessed at 2:17 pm.

The meeting reconvened for regular business at 4:25 pm.

20. To meet in Closed Session, pursuant to Government Code §551.071 to consult with legal counsel regarding pending or contemplated litigation, settlement offers or on matters which require confidentiality under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas and Tax Code §323.3022 to discuss sales tax matters.

The Board entered into Closed Session at 2:17 pm and reconvened for regular business at 4:25 pm.

21. To meet in Closed Session pursuant to Government Code §551.072 to deliberate regarding real estate matters.

The Board entered into Closed Session at 2:17 pm and reconvened for regular business at 4:25 pm.

22. To meet in Closed Session pursuant to Government Code §551.074 to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or a charge against an officer or employee, including the District's administrative staff, executive staff and Fire Chief. Any employee the subject of review will be given the opportunity to request open meeting discussion of the matters if they are present at the meeting.

The Board entered into Closed Session at 2:17 pm and reconvened for regular business at 4:25 pm.

23. To meet in Closed Session pursuant to Government Code §551.089 to deliberate regarding security assessments or deployments relating to information resources technology, network security information, or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

The Board did not convene in Closed Session on this item.

24. To review and take action on matters related to lawsuits or claims, including potential settlement of same.

Upon discussion of this topic no action was necessary.

25. To review and take action on matters related to the District investigation of District and Department operations, personnel and fiscal matters.

Upon discussion of this topic no action was necessary.

26. To review and act on employment/personnel issues, including hiring, retention, compensation, benefits, scheduling, complaints and discipline of District employees, including administrative staff, executive staff and Fire Chief.

Upon a motion duly made by Commissioner Cunningham and seconded by Commissioner McDonald, the Board unanimously approved to hire Chief Hevey as the permanent Fire Chief as discussed in Closed Session.

27. To review and act on real estate matters, including but not limited to purchase, sale, lease, utilities, encumbrances and/or easements.

Legal counsel gave a verbal update of real estate matters.

Upon a motion duly made by Commissioner McDonald and seconded by Commissioner Schultz, the Board unanimously approved to exercise the option to cancel the contract during the feasibility period for the Dobbin Huffsmith property.

Commissioner Schultz will be abstaining from all discussions and actions on property near Station 182. Prior to Commissioner Schultz appointment he was in negotiations with the District's realtor for the purchase of a parcel next to existing Station 182. There are 2 parcels near Station 182 that the District is considering to purchase. Mr. Schultz is not participating in those discussions of those parcels during Closed Session and the document that he was just executing in front of Ms. Roberson, who is a notary, was his Conflict Of Interest Statement stating clearly that the District is considering purchasing real property from him noting that the negotiations were started before he was on the Board. The form CIS is now on file with the District and will be posted on the District's website. Commissioner Schultz will abstain from any and all discussion, deliberations and votes regarding the property near Station 182.

Upon a motion duly made by Commissioner Cunningham and seconded by Commissioner McDonald, the Board unanimously approved to authorize Thrower Law and Lisa Free-Martin to develop a contract for the two (2) properties near Station 182 per the terms discussed in Closed Session and to authorize the Board President or Vice-President in the absence of the President, to execute the contracts as soon as they become available from Thrower Law and Lisa Free-Martin by a vote of 3 to 0 in favor, with Commissioners Cunningham, McDonald, and Smith present, Commissioner Schultz abstained and Commissioner Violette absent.

28. To review and take action on matters related to COVID-19, including but not limited to meeting procedures, emergency expenditures and continuity of operations per Government Code §418.1101.


Upon discussion of this topic no action was necessary.

The Board agreed to take items out of order as posted on the Agenda to re-address item #5 before addressing item #29.

29. ADJOURNMENT

There being no further business to come before the Board, the Board unanimously agreed to adjourn the meeting at 4:42 pm.

Next regularly scheduled meeting will be on April 8, 2021 at 3:30 pm.



Larry Smith, President



Kelly Violette, Secretary

