

## MINUTES

Central Arizona Fire and Medical Authority  
Central Arizona Fire and Medical Authority Board of Directors  
CA Regular Meeting  
Monday, June 25, 2018, 5:00 pm - 6:00 pm  
Chino Valley Town Hall, 202 N. State Route 89, Chino Valley, Arizona

### In Attendance

Darlene Packard; Dave Dobbs; Dave Tharp; Jeff Wasowicz; Julie Pettit; Laura Mowrer; Matt Zurcher; Nicolas Cornelius; Scott A Freitag; Susanne Dixon

### NOTICE OF MEETING

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Central Arizona Fire and Medical Authority Board of Directors and the general public that the **Central Arizona Fire and Medical Authority** will hold a meeting open to the public on **Monday, June 25, 2018 at 5:00 p.m.** The meeting will be held at the **Chino Valley Town Hall, Council Chambers, 202 N. State Route 89, Chino Valley, Arizona.** The Board may vote to go into Executive Session on any agenda item, pursuant to A.R.S. §38-431.03(A)(3) for discussion and consultation for legal advice with Authority's Attorney on matters as set forth in the agenda item. The following topics and any variables thereto, will be subject to Board consideration, discussion, approval, or other action. All items are set for possible action.

1. CALL TO ORDER / ROLL CALL OF BOARD MEMBERS

**Chair Pettit called the Central Arizona Fire and Medical Authority Board meeting to order on June 25, 2018 at 5:25 p.m.**

2. PLEDGE OF ALLEGIANCE

**Chair Pettit led the Pledge of Allegiance.**

3. PRESENTATIONS

**Items were taken out of order.**

A. Special Presentation

**Assistant Fire Marshal Smith and Chief Freitag presented Fire Marshal Chase a surf board plaque in recognition of his 18 years of serving as a Fire Pal.**

B. Appreciation - BackBurner Restaurant

**Fire Marshal Chase informed the Board that Firefighter Dan Gnagey coordinated getting Bob Rendl's home painted while his son was recuperating in the hospital and BackBurner assisted with donating and grilling food for the event. We truly appreciate everyone's support.**

C. Appreciation - Sherwin-Williams

**Fire Marshal Chase stated that Sherwin-Williams provided half of the paint for Bob Rendl's home. We greatly appreciate all that helped. Bob's son is doing well and recovering.**

D. Lifesaving Award - Barbara Jezior

**Fire Marshal Chase explained that on March 21st Engine 50 responded to a call for a choking 1 year old. Barbara Jezior was next door and was alerted to the child choking. She was able to dislodge a grape from the child's airway, and the child was breathing upon arrival of Engine 50. We greatly appreciate individuals stepping up to help save lives. Fire Marshal Chase presented a Lifesaving Award to Barbara Jezior.**

**E. Chino Valley Town Council Report**

**Chino Valley Mayor Croft provided an overview of Chino Valley activities including that they and the City of Prescott are discussing Chino Valley purchasing the Prescott water system. Chino Valley continues to plan for fireworks, and they have hired an economic development project manager for business retention and recruitment. They want to create more jobs and increase services. They are voting on the approval of a \$24.7 mil budget; the Town is financially healthy. They are applying \$300,000 to PSPRS and are hoping to pay it off in 10 years.**

**Mayor Croft stated that Mike Best is planning the 50 year celebration of the incorporation of Chino Valley which happens in 2020. The next meeting is July 11th at the Community Center conference room. Contact the Town if you would like to be involved in planning the celebration. Chino Valley is considering a road tax increase in 2019. Mayor Croft thanked the Fire Authority for the service they provide.**

**Chief Freitag explained that Chief Cox has been appointed to the committee to assist with the 50 year celebration.**

**F. Board Members' Reports**

**i. Prescott Regional Communications (PRCC)**

**Director Wasowicz stated that the billing is in line with the budget. He confirmed that the quarterly chief's meeting are productive.**

**ii. Public Records Requests**

**Director Zurcher stated that there was nothing more to add - very routine.**

**iii. Legal Fees**

**Director Zurcher stated that there was nothing more to add - very routine.**

**iv. Labor / Management**

**Director Dobbs stated there was nothing new this month.**

**G. Letters from the Public**

**Chief Freitag explained that Mike Kontz's wife, Kathy, who works for ADOT worked very closely with Captain Niemynski to conduct training for ADOT. AZ Department of Health Services (DHS) and University of Arizona came to observe and U of A is also asking for training. More information will be provided as it is available. Chief Freitag stated that one of the letters is from ADOT for the outstanding training they received.**

**Chief Freitag received a nice letter from a family that lost a father and husband. The firefighters finished painting his home as the gentleman was almost done prior to being transported to the hospital. Chief Freitag thanked Chris Kuknyo for his radio comments in support of the firefighters.**

**H. Monthly Division Reports from the Fire Chief and staff in regard to current activities of the Fire Authority and the status and progress relating thereto**

**Chief Freitag explained that at the last meeting Directors Jacobs and Steele distributed inaccurate information; Chief Freitag addressed the majority of information**

in Board report. He clarified that he does not control what is placed on the agenda. Chief Freitag explained the definition of conflict of interest and stated that it is not possible for a conflict to exist for him or staff simply because they administer the business and the operations per the Authority agreement.

Chief Freitag stated that community members would like to have east-west connecting routes in the Viewpoint area. Supervisor Brown is holding a meeting this evening to discuss the matter; Fire Marshal Chase and Chief Polacek will be attending this meeting.

Chief Freitag will be attending the Fire Rescue International Conference in Dallas where he and the Golder Ranch Fire Chief will be presenting joint powers authority, consolidation, and merger information.

Chief Freitag stated that Nathan Rendl went to the station to thank the firefighters who helped him when he was hit and stopped by Administration to thank everyone for their support. He's still recovering, but doing well.

Chief Tharp added that he and many representatives from other agencies attended a PSPRS meeting in which members voiced their frustration with the unpredictable actuarials. He believes that many municipalities, state agencies, and special districts are trying to get a handle on their unfunded liability which seems to be a moving target. PSPRS's explanation was that it's sort of like a mortgage, but even if you pay it down, it will increase the next day. Chief Tharp explained that the next day following the meeting, the PSPRS Board voted to decrease their assumed earnings rate by a tenth of a percent, which means there will be a 2.5% increase in employer contribution rate; this affects every organization across the State.

Assistant Fire Marshal Smith informed the Board that we applied for grant through the International Association of Fire Chiefs in cooperation with the US Forest Service and were awarded the Ready, Set, Go Program Wildfire Mitigation Grant for \$10,000. The money will be used to provide financial assistance to communities that would like to do brush removal.

Chief Freitag stated that there is a new National Fire Protection Association (NFPA) Standard 3000 that addresses the active shooter issue; this was a joint project with fire and police. We are working with Prescott Valley Police, Prescott Police and Fire, and the local schools.

Chief Bliss reminded everyone of the wildland fire risk; monsoon is still out a couple of weeks and there is a ton of fuel.

#### 4. CALL TO THE PUBLIC

A.R.S. §38-431.01(H) states: A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

In accordance with A.R.S. §38-431.01(H) and as a matter of policy, the Central Arizona Fire and Medical Authority Board has decided to allow public comments as time permits. Therefore, those wishing to address the Board regarding an issue within the jurisdiction of this public body may do so in an orderly manner that includes completing a Call to the Public Form and submitting it to staff for the record. If a written statement is being read, please provide a copy to ensure it is entered into the record accurately. Individuals will be limited to speak for three (3) minutes and Call to the Public shall not exceed 30 minutes per meeting.

**Chair Pettit opened the meeting for public comment.**

**Myrna Leiberman voiced her concern of one attorney representing all three fire boards as it's a conflict of interest. She asked why Attorney Cornelius was being sued, who is suing him, and how much it's going to cost the taxpayers. She suggested since he's not an employee of the county, he's a contractor, fire him and hire three other attorneys to replace him.**

**Andrea Sansone, a resident of Pronghorn Ranch with a background in fire, police, and dispatch, voiced her concern of limited road access due to a chain across the connecting road between Viewpoint and Antelope Meadows. She attended the city counsel meeting on May 24th and addressed the issues. They stated that the road is not going to be open until Viewpoint and Pronghorn Ranch are both built out because it's inconvenient for people to have trucks go in and out of there. She believes at the very least the road needs to be paved; it becomes a mud pit with monsoons. Additionally, there are excess weeds in the area which is a fire hazard. She asked the Fire Board apply pressure to make this happen if they can. Ms. Sansone expressed appreciation to the fire personnel that recently responded and quickly knocked down the Viewpoint fire.**

**Director Zurcher informed the audience that there will be a Pronghorn Homeowner Association meeting on July 3rd at 6:30 pm at the clubhouse to discuss emergency routes, firewise, etc.**

**Debbie Williams voiced surprise that there was no public interest in the budget, and stated that obviously the Board is doing a great job. She read a Facebook post from a Prescott Valley staffer that praised the terrific job everyone did on the Viewpoint Fire. She thanked all CAFMA personnel and Chief Freitag.**

**Chris Kuknyo thanked Chief Freitag for bringing up the radio conversation; firefighters are doing a great job stopping these fires, and thanked Chief Freitag for the information presented at the joint meeting. Mr. Kuknyo stated that he tried to get a meeting with Chief through a Board member and the Board member said it wasn't going to happen. Mr. Kuknyo said that he had success with that in the past. He stated that PSPRS has to be fixed at the State level; he still thinks the Board should be doing more, but acknowledged the Chief is on it. Mr. Kuknyo said he didn't have much background information regarding paying legal fees for a contractor and asked if we provide legal fees for other contractors. He's looking forward to what will be said on that subject.**

**Mark Alpert voiced his understanding that legal fees will only be discussed in executive session. He believes if you are paying an outside contractor, it should be a public discussion.**

**Chair Pettit stated that the legal fee item is on the agenda.**

**Mr. Alpert stated that there is a conflict of interest, because he doesn't know how an attorney can give the Board independent legal advice regarding whether the Board should be paying his legal fees. He looks forward to hearing about the legal fees.**

## **5. CONSENT AGENDA**

All matters listed under consent agenda are considered to be routine by the Central Arizona Fire and Medical Authority Board and will be enacted by one motion. There will be no separate discussion on these items. Any item may be removed by a Board member and will be considered separately for motion, discussion and action.

- A. Approve Regular Session Minutes - May 24, 2018
- B. Approve Executive Session Minutes - May 24, 2018
- C. Approve General Fund Financial Statements
- D. Approve Fire Protection Agreements: Barraza, Fortner, South, Walters

**Motion to approve consent agenda as written on the published agenda.**

Move: Darlene Packard Second: Matt Zurcher Status: Passed

Yes: Dave Dobbs, Darlene Packard, Julie Pettit, Jeff Wasowicz, Matt Zurcher

6. VOTE TO GO INTO EXECUTIVE SESSION

- A. Legal Advice Pursuant to §38-431.03(A)(1) and §38-431.03(A)(3) Regarding Proposed Amendment to Agreement between Kendhammer & Partners, LLP and CYFD to Allow Reimbursement for Legal Fees and Costs Related to Responses to Administrative and/or Legal Action Against Nicolas Cornelius and Arising from Actions of Board Members

**Motion to adjourn into Executive Session at 6:08 p.m.**

Move: Matt Zurcher Second: Jeff Wasowicz Status: Passed

Yes: Dave Dobbs, Darlene Packard, Julie Pettit, Jeff Wasowicz, Matt Zurcher

7. OLD BUSINESS

**Chair Pettit reconvened into Public Session at 6:28 p.m.**

- A. Motion, Discussion, and Action Regarding Chief's Contract Term Regarding Indemnification – Clarify Direction Given to Staff for the May 24, 2018 Board Meeting Item 8.C. Including Dollar Amount of \$1,650

**Motion, Discussion, and Action Regarding Chief's Contract Term Regarding Indemnification – Clarify Direction Given to Staff for the May 24, 2018 Board Meeting Item 8.C. Including Dollar Amount of \$1,650.**

**Motion so moved.**

**Chair Pettit clarified that this has already been approved; however, the dollar amount of \$1,650 needed to be included in the public record.**

Move: Darlene Packard Second: Dave Dobbs Status: Passed

Yes: Dave Dobbs, Darlene Packard, Julie Pettit, Jeff Wasowicz, Matt Zurcher

8. NEW BUSINESS

- A. Discussion Regarding Proposed Amendment to Agreement between Kendhammer & Partners, LLP and CYFD to Allow Reimbursement for Legal Fees and Costs Related to Responses to Administrative and/or Legal Action against Nicolas Cornelius and Arising from Actions of Board Members

**Chair Pettit stated that way this item was worded was premature. We are not presenting a proposal for an amendment; we realized that there was no indemnification clause in the agreement which is standard business, and that will be taken under advisement on a future date. She made it clear that conflict of interest has been discussed numerous times at length when we first started with Central Yavapai and Chino Valley prior to CAFMA. Central Yavapai hired Attorney Cornelius and then he was hired by Chino Valley. It was decided that if a conflict arose, Chino Valley would be required to hire outside counsel and Attorney Cornelius would stay with Central Yavapai. This followed suit with CAFMA -- If there was a conflict with two or three parties, Central Yavapai would retain Attorney Cornelius and the other two agencies would seek outside counsel. From an administrative perspective, the Boards believed that would be suitable to move forward. Chair Pettit stated that a few months ago it was on the CYFD agenda to consider firing Attorney Cornelius. There was a majority vote to decline firing him and to retain his services. There was no proof of a**

conflict of interest. Chair Pettit stated that if there is a conflict of interest, the Board will review it. There is nothing further to deal with as there is no actual conflict of interest. The amendment to any contract for indemnification is premature, but we do need to consider an indemnification clause as it is customary contract law as well as create a procedure on how the Board would enact such indemnification. She asked staff to review that.

Chair Pettit asked Attorney Cornelius to address what preempted this for the public's benefit.

Attorney Cornelius advised that he has not been sued. He received a copy of letter that generated by Directors Jacobs and Steele suggesting there were multiple conflicts of interest and other false statements; the letter was reportedly sent to the Arizona State Bar. He stated that he has not heard from the State Bar; he has not been sued by anyone, nor has he received any correspondence from any other third party or agency. Attorney Cornelius stated that he does not have an indemnification provision in his contract. He stated that he's been in practice since 1991 and have never had this happen. He advised that every intergovernmental agreement (IGA) has an indemnification provision so that if there is some kind of lawsuit or action taken, there is a basis for seeking reimbursement for legal fees and costs. He stated that he does not have that in his retainer agreement and never has; he advised it's never come up before. He explained that in an instance where there is an elected Board and the majority of the Board feels that you are doing something wrong, they terminate you. He stated that he serves at the pleasure of the Fire Board. He further explained that he has never had a situation where a minority has tried to suggest that acts taken have resulted in a conflict of interest. He stated that he is not clear if Directors Jacobs and Steele understand the import of the suggestion; that means that all of the acts that were taken may in fact be inappropriate, notwithstanding that they were discussed in executive session and voted on in open meeting. There is a basis for talking about ratification and a series of things that arise from the suggestions that were made. Attorney Cornelius stated that after speaking with outside counsel, he advised the Board of these issues and advised the public of these issues. He advised the Board as to what their rights and responsibilities are and that they must retain outside third-party counsel to advise them in that regard. That was the basis for discussing that in executive session; it can't be discussed in open meeting until the Board is aware of their responsibilities.

Chair Pettit clarified that when any Board member is acting within the scope of their authority as elected officials they are covered by indemnification. It does not cover anything outside of the Board's scope. We will have the staff put something together. She asked for any other Board comments. Chair Pettit stated that the Board is serious about their job and they don't take these things lightly.

- B. Motion, Discussion, and Action Designating the Percentage of Vacation and Sick Leave Retirement Distributions being Placed into Post Employment Health Plan (PEHP) for Fiscal Year 2018-2019

**Motion, discussion and action designating the percentage of vacation and sick leave retirement distribution being placed into post employment health plan (PEHP) for Fiscal Year 2018-2019.**

Chief Tharp explained that this has to be approved annually by the Board because it is an employer sponsored tax deferred plan. The employees cannot choose how their sick leave and vacation contributions are paid out. Members were poll and they would like 100% of their sick leave and vacation paid into the PEHP account. This account helps to pay health premium costs.

**Motion to accept as read.**

Move: Darlene Packard Second: Matt Zurcher Status: Passed

Yes: Dave Dobbs, Darlene Packard, Julie Pettit, Jeff Wasowicz, Matt Zurcher

9. ADJOURNMENT

**Motion to adjourn meeting at 6:40 p.m.**

**Move: Matt Zurcher Second: Dave Dobbs Status: Passed**

**Yes: Dave Dobbs, Darlene Packard, Julie Pettit, Jeff Wasowicz, Matt Zurcher**

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**Clerk / Date**

**Signature indicating approval on next page**

**Signature Page For: 2018 06 25 CAFMA Regular Minutes-Approved.pdf - Central Arizona Fire and Medical Authority Board of Directors - CA Regular Meeting - 7/23/2018**

A handwritten signature in black ink, appearing to read "Darlene Packard". The signature is written in a cursive style with a large initial "D" and a distinct "P".

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Darlene Packard , Board Clerk      07/25/2018