

Spring Hill Fire Rescue  
Special Meeting  
November 7, 2001- 7:30 pm

**Present:** Chairman Kanner, Commissioner Andrews, Commissioner Hollander, Commissioner Martin, Assistant Chief Morrison, and Attorney Salzman

**Excused:** Chief Morgan, Commissioner Panozzo

**Call to Order**

Chairman Kanner called the Commission Meeting to order at 7:30 p.m.

**Invocation**

Commissioner Andrews gave the invocation.

**Pledge of Allegiance**

Chairman Kanner led the Pledge of Allegiance.

**Fire Chief's Retirement**

Chairman Kanner stated that he met with Chief Morgan last Friday and he requested that he turn in his badge as of midnight Friday, then he gave them his retirement as of November 15<sup>th</sup>, 2001. He discussed this situation with Attorney Salzman, and both felt they should get this situation over with as soon as possible. He turned it over to Attorney Salzman.

Attorney Salzman stated that he received a letter from the Chief's attorney, Dan Dwyer, who could not be present tonight, due to short notice. He said that the letter states that Chief Morgan tendered his resignation, on a letter which was dated November 2<sup>nd</sup>, 2001. It also stated that they would like to resolve all the matters surrounding his resignation. Chief authorized Attorney Dwyer to submit the settlement proposal. The letter had four points; one was that Chief Morgan will go on paid leave as of November 15<sup>th</sup>, 2001. The second point was that his annual leave and severance package will allow him to remain on the payroll with full benefits until on or about March 21<sup>st</sup>, 2002. The third point was that he had approximately 474 hours of accrued sick leave and is requesting that to the Board; point four was in exchange, his client has prepared to sign a resignation and a general release similar to the former Chief Donald Paterson, executed in May 1995. Those were the four points. The letter also stated that his client's schedule did not permit him to attend this meeting based on short notice. Therefore, Attorney Salzman will present the proposal to the Board for their consideration. The Board has a copy of the Management Benefit Package executed on July 3<sup>rd</sup>, 1995. In this package, the last paragraph number 14, talks about termination, not resignation. Upon termination, the Chief should receive up to three months of

severance pay subject to policies and procedures of the District. That is all the information that he has to present to the Board, he asked if they would like to discuss procedures? One thing that he did discuss with Chairman Kanner is the issue of whether or not the Board's vote tonight would take effect immediately. If it is based on obligations such as, if you were going to decide to accept his resignation, either next week or today, it really doesn't make much difference. He felt the Board should deal with the subject today and end this issue and move forward. In regards to the Management Benefit package, up to three months severance is allowed, subject to policies and procedures. He assumes that is taking into consideration vacation time or any other time that one would be entitled to under those three months. Based on how it was written, he recommends that if the Board is going to accept it, then they would pay that in a lump sum amount. Then there is an issue of a release, and the way that they are presenting their release is based on the four points that they brought out. A release would end any potential litigation. That is subject to allowing him to remain with full benefits until March 21<sup>st</sup>, 2002, and then paying accrued sick time. Then you will be keeping him on the books' for quite sometime with additional benefits. The Board has to consider this in making their determination.

Chairman Kanner asked if it would be an additional liability keeping him on the books?

Attorney Salzman stated absolutely, that would be an additional liability.

Chairman Kanner stated that in other words, they would be covering him under workers compensation and health insurance.

Attorney Salzman stated, full benefits means he would continue every benefit he is currently receiving.

Chairman Kanner stated there are two issues here. Should they make two separate votes one dealing with the resignation. Then decide what the Board wants to do?

Attorney Salzman stated that if the Board is willing to accept the resignation, either tonight or next week, he feels that should be done as a separate issue. That is unless the board wants to accept the proposal. If the Board does not want to accept his proposal then he suggests doing it in one vote. If you want to end the relationship and not continue with the benefits and keeping him on the books, then he suggests voting to accept the resignation tonight or next week and authorize whatever the Management Benefit package states. Then if the Board wishes he could speak to Chief's Attorney about whether or not we could have a reasonable resolution for an acceptable release.

Chairman Kanner passed the gavel to Commissioner Andrews.

### **Motion**

*Chairman Kanner made a motion to accept Chief Morgan's resignation effective immediately,*

*to include his severance package as written.*

*Commissioner Andrews seconded the motion*

*The motion carried (4-0).*

Attorney Salzman asked the Board if they want him to talk with the Attorney about trying to negotiate a release?

Commissioner Andrews asked if Counsel could explain the purpose of the release and what would normally be included?

Attorney Salzman stated that normally he would like to get a release only because that ends any potential litigation. He knows of no litigation against the Board or any individuals. However, anybody can sue for anything and we have to defend it despite cost. Normally, when you negotiate a release that will end that issue. He does not know what that is worth to the Board, but he would assume what that is worth to Chief Morgan. He states it in his letter through his Attorney, so he knows what he is asking for.

Chairman Kanner stated just for the record, we are talking somewhere around \$17,000, give or take for the sick leave.

Attorney Salzman stated that it is the Board's decision, he can contact the Attorney and say the Board has authorized him to discuss this matter. The Board is not willing to accept this total amount, but maybe we can come up with something more reasonable.

Chairman Kanner stated anybody can sue anybody for anything.

Attorney Salzman stated that they have a provision that they are covered for frivolous lawsuits. We hope that there are not too many.

Chairman Kanner stated this would be a frivolous lawsuit. He knows he did not do anything wrong and he is sure no one else on the Board did anything wrong, and it would be frivolous to shell out \$17,000 of taxpayers' money.

Commissioner Hollander asked to see the letter that was sent to the Attorney.

Chairman Kanner stated he would like to give the Board some history, while Commissioner Hollander reads the letter. In regards to the Management package, Chief Morgan would be the first Chief in the Fire Department to get a Management package with severance pay. Chief Morgan put this package together and brought it to the Board and we approved it.

Commissioner Andrews stated that we did have a package

Chairman Kanner stated that the package started when Chief Morgan was hired.

Commissioner Andrews stated before he came on he had a package.

Chairman Kanner stated around the same time he came.

Commissioner Andrews stated around the same time.

Chairman Kanner stated that he is trying to say that Chief Morgan negotiate this package himself. Nowhere in the package does it say to give him sick leave at the time he departs this Fire District. So why now are we looking to give him sick leave, why is he requesting it?

Commissioner Andrews stated that he would also like to point out in section 4.03 of our policies, Sub Section 6; it specifically states that employees can accumulate sick leave as previously stated. That means there was an amount of time given to each individual for sick leave. It also states that the District cannot pay out unused sick leave, upon employees termination. In the past, there has been exceptions made by the Board for some employees that were leaving employment due to grave issues. The Board may have granted some payment of sick time in the past. However, the Board took a very strong stance several months ago with the termination of an employee and vowed to not do that again. This was upheld once if not twice this year, of not paying out sick leave. They had not granted the normal employee who leaves under their own reasons sick time in the past. Our own policies allow upon termination, the paying out of up to but not more than 300 hours of vacation time, which he feels is appropriate. He does not believe the Chief has that much time currently. The Management package, in place allows the right to grant up to three months severance pay. The Chief has asked for this, so he believes they met the requirements of the policies and are being lenient by giving three months severance pay. He sees no argument. The policy is in black and white. The Chief himself, when they brought it up the last time regarding sick time, he argued the fact that it was an unfunded liability. The District did not continue doing that though the Board had granted it in the past. Following his own words, we are following what our policies call for. If he wants to come back and argue about it that is why we have Attorney Salzman.

Commissioner Hollander asked if the retirement/paid leave letter from the Chief dated November 2<sup>nd</sup>, is the most current letter?

Attorney Salzman sated that is the most current letter.

Commissioner Hollander stated he has a question for Counsel and would like to read something from the letter because he wants to make sure they are not missing something. They address the letter: Dear Fire Commissioners, after further thought I wish to make the following announcement regarding my retirement from Spring Hill Fire Rescue. Effective November 15<sup>th</sup>, 2001, at 08:00 I will go on paid leave. My accrued annual leave and severance package will allow me to remain on the payroll with full benefits until on or about March 21<sup>st</sup>, 2002. Payroll

will determine the exact date, etc. The question is that we voted to accept his retirement is that correct?

Attorney Salman stated that was correct.

Commissioner Hollander asked that based on the letter is there anything else that they have to vote on to stipulate that time element?

Attorney Salzman stated that since it is effective immediately, the Board may want to discuss and choose to do a second vote. He has been debating that if for some reason, the Chief feels that the Board's actions are not accepting his resignation, then the Board can consider it a termination. That would be the only other vote. It could come back to the Board at the next meeting, or the Board can do it tonight. It is up to the Board. In essence he tendered his own resignation subject to next week, the Board accepted it early. If he wants to say that is not my resignation, in essence you have a termination. It is just a question of whether or not he wants to go out as resigned. If these terms are not accepted, then the Board would choose to terminate him.

Chairman Kanner asked if he could amend his motion or is it too late?

Attorney Salzman stated he would suggest that the Board do a second motion; stating that if the Chief wants to withdraw his resignation based on the new information presented, the Board could consider this information. The only issue would be, obviously, is the one week of benefits that he would claim he is entitled to. He believes the reason why the Board is present tonight, is obviously, the issues that led up to his retirement were that the Board feels that they don't want the Chief functioning in the capacity of Chief. That is why the Board would accept it tonight and that's what the Board did in the earlier vote-- so, then the issue is, if you want to make a Motion and look at it as if the Chief wants to say that this is not what he proposed and he wants to withdraw his resignation, then you would take his actions as subject to termination and the Board would terminate him.

Chairman Kanner passed the gavel to Commissioner Andrews.

### **Motion**

***Chairman Kanner made a motion as Counsel stated, if Chief Morgan wishes to withdraw his resignation/retirement then he can consider this a termination.***

***Commissioner Hollander seconded the motion.***

***The motion carried (4-0).***

Attorney Salzman stated that it is his understanding from the direction of the Board that he should not negotiate anything per resignation, per release at this time. He will notify the Board if he is contacted further by the Chief's Attorney.

Chairman Kanner asked if the Board agrees with that?

The Board agreed.

### **Motion**

*Chairman Kanner stated that while Commissioner Andrews still has the gavel, he would like to make a motion that Assistant Chief Morrison will now be the interim Chief until further notice.*

*Commissioner Martin seconded the motion.*

*The motion carried (4-0).*

Commissioner Andrews stated regarding this issue, and this is not meant to be disrespectful to Chief Morrison what so ever, under these circumstances, he would just like to make sure that any issues of greater importance, other then ordinary daily business, be brought to the Chairman for consultation.

Chairman Kanner asked Chief Morrison if he had anything to say?

Assistant Chief Morrison stated no he does not.

Chairman Kanner asked if he accept his position?

Assistant Chief Morrison stated yes he does.

### **Comments of Commissioners**

Commissioner Martin had nothing to report

Commissioner Hollander had nothing to report.

Commissioner Andrews had nothing to report.

Chairman Kanner had nothing to report.

### **Open Forum**

Assistant Chief Morrison complimented Commissioner Andrews for bringing up the services for Harry Painter, Fire Police Member to be held Friday, November 9th, at 1:00 p.m. at Brewer Funeral Home and the Department Chaplin will be speaking. There will be an Engine and Rescue Unit there to pay last respects. Lt. Wilkens is in the hospital and doing much better and is hoping to be out of the hospital in a few days.

Bill Fagan, President of Spring Hill Civic Association and a citizen and resident of the Spring Hill Fire District spoke. He is a little confused, but would like to suggest a few things. First, he feels there should be an acknowledgment of a job well done in the past to Chief Morgan. It is true that he has made some errors in his judgement recently. He does agree on the decision for him to move on, and the Spring Hill Fire Rescue District move on, was well made. A couple of things he would like to question, do we or do we not have in place an employee policy for retirement or termination?

Attorney Salzman stated that there are policies for employees, but not upper Management.

Bill Fagan stated that he feels until there is a permanent policy manual, regarding all positions this situation will occur again. He would recommend to the Board to perhaps instruct Counsel Salzman, to look into this. Termination, pay, sick pay and extended leave should be addressed so no one puts the Board in this position again. In regards to arbitration, they do not look lightly on doing for one and not the other.

Attorney Salzman stated that in the past there has been exceptions the Board has looked at. Mostly, he believes, employees that have been covered under the collective bargaining agreement. You must understand this, the majority of the employees are under the bargaining agreement so we cannot put in any policy that would affect that unless the Union would agree. What is normally done, is do a contract for the Chiefs specifically which lays out every term, which would include what the severance would be, depending on whether it's for cause, or not for cause, what sick time — this should all be in there. He would recommend that the Board have a contract for whoever takes over that specifically spells all this out.

Bill Fagan stated with regards to the release, he recommends with this package already given to the Chief he should accept the package with a release.

### **Motion**

***Commissioner Andrews made a motion to adjourn the meeting.***

***Commissioner Martin seconded the motion***

***The motion to adjourn carried unanimously (4-0).***

Chairman Kanner adjourned the meeting at 7:55 p.m.

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Robert Kanner, Chairman

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Joan Chiofalo, Board Secretary

