

TO: Fire Board Members

FROM: Mary Dahl

RE: Discussion and Possible Action To Waive Section D of the By Laws Requiring an Annual Chief Performance Evaluation for 2021

DATE: May 22, 2021

SUBJECT: Discussion and Possible Action To Waive Section D of the By Laws Requiring an Annual Chief Performance Evaluation for 2021

BACKGROUND: Subsequent to the Board's April meeting, Board member Benequista referred me to the Board By Laws relative to a Fire Chief's performance evaluation. The By Laws state that an annual evaluation is a "shall" and not a "may" and they go further to lay out a multi-step process for accomplishing this task. In contrast, the Board's contractual obligations with the current Chief carry the right of the Board to, at its discretion, perform a performance evaluation at any time up to and including an annual evaluation (see Appendix A attached for excerpted sections from both documents). The process spelled out in the employment contract has been the one used for the past two years.

DISCUSSION: Performance evaluations are important to the employee and the employer and should be undertaken on as regular a basis as necessary. The wording in the current employment contract, which was adopted by the Board, ensures this. When an employee is asking for additional compensation or enhanced duties or authority, a performance evaluation is necessary to provide the employee and employer with a basis for granting or denying those requests, as well as establishing expectations for future performance.

The language in the By Laws, which may have been borrowed from another source, represents a Board obligation of dubious value. It mandates an annual performance review, but does not provide for additional reviews at the Board's discretion, as the employment contract does. It also compels the Board to use its time and resources in a rather arduous process that far exceeds that which is reasonably necessary to protect employees' and employers' rights.

Plainly put, it takes a lot of work to do this. If conditions since a previous evaluation have not changed, if no additional compensation, duty or authority is being requested by either the employee or employer, and if both parties agree that an evaluation is not of value at the time, then proceeding with it would appear to be wasted time and effort. Having a mandate in the By Laws hampers the Board's ability to make this judgment call. I believe the Board should look at an overhaul of our By Laws relative to this provision.

In the meantime, I propose that we waive Section D of the By Laws for 2021.

SUGGESTED MOTION: I move to waive Section D of the By Laws relative to the Fire Chief annual performance review requirement this year.

APPENDIX A

Excerpt from By Laws:

D. The Board shall schedule and conduct a review of the Fire Chief's performance annually.

i. Prior to scheduling the Fire Chief's performance review, the Board shall establish the method and parameters of the performance review, taking into account, among any other factors, all requirements which may be contained in the Fire Chief's employment agreement, and the Fire Chief shall be provided written notice of the method and parameters of the performance review not less than 30 days prior to the Board's performance review.

ii. The Board shall conduct the Fire Chief's performance review in executive session in accordance with the relevant open meeting law statutes unless the Fire Chief requests it be conducted in open meeting.

iii. Within 30 days of the Board meeting at which time the Board conducted the Fire Chief's review, the Board shall prepare its preliminary written performance of the Fire Chief. Approval of the preliminary written performance shall be conducted in an open meeting.

iv. The Board shall provide the Fire Chief an opportunity to respond either in writing or orally to the Board's preliminary written performance review and shall provide the Fire Chief not less than 30 days to provide his or her response to the Board. (Note: The Fire Chief, in his or her sole discretion, may waive the right to respond and accept the preliminary written performance review in which case, the annual performance review process shall be complete.)

v. At the next regular meeting following the Fire Chief's response to the Board's preliminary performance review, the Board shall consider, at a properly called meeting, the Fire Chief's response and finalize its written performance review of the Fire Chief.

Excerpt from Employment Contract:

5. Performance Evaluation. The Fire District may review the Chief's performance at any time during the term of this Agreement, up to and including an annual performance review. Said review shall be in accordance with and taking into consideration the Chief's job description, the requirements of this Agreement and any other specific criteria reasonably established by the Board. The performance review shall be in a format and process developed and mutually agreed upon by the Fire District's Governing Board and the Chief. Said performance criteria may be amended from one year to the next as agreed upon by both parties. The performance review process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results.