

1 **NORTH LAKE TAHOE FIRE PROTECTION DISTRICT**
2 **BOARD OF DIRECTORS MEETING MINUTES**

3
4 **NOVEMBER 18, 2011**

5
6 **LOCATION:** 863 Tanager, Incline Village, Nevada.
7

8 **MEETING CALLED TO ORDER:** Chairman Chris Plastiras called the meeting
9 to order at 12:11 p.m.

10
11 **MEMBERS PRESENT:** Chris Plastiras, Chairman; Don Epstein, Vice-
12 Chairman; Gene Murrieta, Secretary-Treasurer; Dale Smith, Director Wayne
13 Fischer, Director and Vicki Baumann, Secretary.
14

15 **GUESTS PRESENT:** D.G. Menchetti, Legal Counsel; Mike Schwartz, NLTFPD;
16 Steve Alcorn, NLTFPD; Steve Baker, NLTFPD; Jay Euse, NLTFPD; Russ
17 Barnum, NLTFPD; Devon Reese, Shadek Reese Ltd.; Mary Walker, Financial
18 Consultant, Greg McKay, Resident and Kevin MacMillan, North Tahoe
19 Bonanza.
20

21 **APPROVAL OF AGENDA:** Director Smith made a motion to strike item
22 number two under New Business on today's agenda. Director Fischer
23 seconded the motion. Legal Counsel Menchetti said for the record, item
24 number two is Chief Brown's evaluation. He is not at today's meeting due to
25 the fact that is he is at the fire in Reno and as of noon today, is in charge of
26 the fire. He has the right to be here when the Board does his evaluation, so
27 it should be put off until he can be present. Chairman Plastiras called for
28 question. Ayes 5. Nays 0. Motion passed.
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30 **NRS 241.020 RE: PUBLIC COMMENT.** None.
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32 **APPROVAL OF MINUTES OF THE OCTOBER 19, 2011 BOARD OF**
33 **DIRECTORS MEETING.** Director Fischer made a motion to approve the
34 minutes of the October 19, 2011 meeting as published in the packet.
35 Director Epstein seconded the motion. Chairman Plastiras called for
36 question. Ayes 5. Nays 0. Motion passed.
37

38 **APPROVAL OF ACCOUNTS PAYABLE REPORT FOR OCTOBER 2011.**
39 Director Smith made a motion to approve the Accounts Payable Report for
40 October 2011. Director Fischer seconded the motion. Chairman Plastiras
41 called for question. Ayes 5. Nays 0. Motion passed.
42

43 **APPROVAL OF THE OCTOBER 2011 MONTHLY MANAGEMENT REPORT.**
44 Director Epstein made a motion to approve the October 2011 Monthly
45 Management Report. Director Fischer seconded the motion. Chairman
46 Plastiras called for question. Ayes 5. Nays 0. Motion passed.

1 **LEGAL COUNSEL REPORTS:** None.

2
3 **NEW BUSINESS:**

4 **1. Discussion for Possible Action to Accept the Fiscal Year 2010 –**
5 **2011 Audit from Kafoury/Armstrong.** Chairman Plastiras said Business
6 Manager Cary was making hard copies of the said report for the Board of
7 Directors and asked if they should wait until she returned with the reports.
8 Legal Counsel Menchetti said the report was emailed to the Board of
9 Directors. The Board has an obligation by the end of the month to accept
10 the report. Kafoury/Armstrong should have had it done in October, didn't.
11 They were to have it done in November, didn't and then they couldn't be
12 here for today's meeting. At some point, the Board has to look at the report
13 and if they are comfortable accept it and the comments in the report. If
14 there is anything they want to discuss, they can certainly do that. But he is
15 not sure they have much of an alternative as an entity but to accept the fact
16 your accountants have given you a report that says what it says. Chairman
17 Plastiras said hearing that is there a motion on the floor. Director Murrieta
18 made a motion to accept the report. Director Fischer seconded the motion.
19 Director Fischer said he would still like to have Kafoury/Armstrong attend
20 one of our earliest meetings so the Board could hear a verbal report from
21 them and be available for questions. Chairman Plastiras asked if the Board
22 would accept an amendment to the motion to include the Finding 11-1 on
23 page 50 of the report. Director Murrieta said yes. Legal Counsel Menchetti
24 said from an administrative point of view, the Board certainly has the right
25 and perhaps the obligation to inquire of the auditors any issues that you see
26 raised in their audit. The item being addressed here is the one issue that
27 they raise about how we do business. Other than that, he thinks the report
28 talks about being in compliance with the laws and statutes and that they
29 haven't done anything inappropriate. So it is the Boards decision as to how
30 they wish to go forward. Chairman Plastiras asked if there was any further
31 discussion. Hearing none, Chairman Plastiras called for question. Ayes 5.
32 Nays 0. Motion passed.

33
34 **2. Review, Discussion and Possible Action Regarding the Board of**
35 **Directors' Performance Evaluation of Fire Chief Michael D. Brown.**
36 Item to be discussed at a later time (See approval of agenda.)

37
38 **3. Discussion for Possible Action with Regard to the Washoe County**
39 **Treasurer Withholding Funds from North Lake Tahoe Fire Protection**
40 **District's Allocations of Property Tax Revenues.** Legal Counsel
41 Menchetti said as he indicated at a previous meeting, he wanted to meet
42 with Washoe County's Civil Deputy, David Creekman regarding this issue.
43 Legal Counsel Menchetti had this meeting earlier this week with him, the
44 Counsel for IVGID and Counsel for the Washoe County School District. They
45 talked about the legal issues that are out there. The County has a different
46 legal conclusion than we do. The issue before this Board is threefold. The

1 first issue is that the County Treasurer is now unilaterally withholding
2 revenue from distributions of taxes collected on behalf of this fire district;
3 sums that she is determining that are owed back to taxpayers. She is
4 figuring out interest amounts, our shares, etc. He can't speak to the
5 calculations and how they are done and thinks there is an issue even as to
6 that. What is happening now, is that Sharon every month doesn't know how
7 much money is coming from the County because depending upon how much
8 money the County has refunded to the taxpayers they withhold a part of
9 that from our monthly payment. The second issue is, as part of that sum
10 there was a lawsuit starting in 2002 going back to 2006 for a resolution.
11 The law provides for when someone prevails in a lawsuit as the tax revolt
12 people did they are entitled to get interest on the money that is owed to
13 them. So in this fact pattern, the part of the money that is being withheld
14 from the District is not only money that was perhaps incorrectly collected
15 but interest in that money. So the question then becomes, since the District
16 was not part of that lawsuit, you were not part of the decision to assess or to
17 refuse the challenge of the taxpayers or to resolve it or to accept the
18 Supreme Court's decision or to appeal it multiple times to the Supreme
19 Court should you then as an entity be charged with the interest portion of
20 that sum. That is the second question. The third question is should any of
21 that money be withheld from the District. Should you have the right as guys
22 that wear blue and fight fires and have to rely on those people who sit down
23 there behind their desks and whose sole job it is to assess properties and
24 collect taxes can we not as a fire district justifiably rely on the County to do
25 their job. Don't they have a fiduciary duty to us to do their job correctly?
26 And if they give us money to spend and we buy equipment, we plan; we
27 negotiate with the Union and the like on money that we are told is our
28 money. When they screw up should we have to pay any of that back? Or
29 should we say, look Court, we think that we are entitled to rely on the
30 actions of the County and if the money has been wrongly paid that is their
31 problem not our problem. So those are the issues that are out there.
32 Legal Counsel Menchetti asked if there were any questions. None were
33 asked. Legal Counsel Menchetti said we are to hoping to get the District
34 Attorney for the County to talk to the County Commissioners about the
35 interest issue. That vote was 3 to 2 to charge us the interest. Dave
36 Creekman said he would go back and see if the County had any interest in
37 readdressing the interest issue. Obviously, if that was resolved, Legal
38 Counsel Menchetti thinks a lot of this might be able to be worked out a lot
39 easier. The County Commissioners next meeting is either the 14th or 16th of
40 December. In the meantime, if there is a sense on this Board that we do
41 want to challenge what the County is doing, that you are not content with
42 the County withholding money the way they are doing it; then, his
43 recommendation to this Board would be authorize them to spend some
44 money on a nationwide scope to see what our legal remedies are and what
45 our legal theory should be. As he indicated in the attorney/client meeting,
46 he found some law that could be favorable to us; certainly not controlling

1 but enough that we need to look at what our options are. Remember
2 whatever this Board does it affects other taxpayers, our employees, how we
3 go forward as a District and our financial solvency. Director Fischer asked if
4 there is an amount of money that Legal Counsel was thinking of. Legal
5 Counsel Menchetti said he is thinking to authorize him to spend up to
6 \$15,000.00. That way he can do the research that needs to be done and
7 quantify for the Board, what the economics are in terms of winning and
8 losing, what the legal theories are, what the procedural processes would be,
9 so the Board could make a decision based on facts.

10 Director Fischer made a motion to authorize Legal Counsel Menchetti to
11 spend up to \$15,000.00 but not to exceed that amount to research legal
12 avenues based on law cases outside the State of Nevada that will be
13 applicable to our case and come back to the Board with a full report as to
14 what our options are. Director Smith seconded the motion. Director Smith
15 said he thinks the position the County has put us in is extremely tenuous.
16 They have had this issue that has carried on for seven or eight years and
17 they are turning around and looking for us to basically pay back a certain
18 amount of money in what will probably amount to a two year period. It has
19 certainly put the future and the stability of the District at risk and he is very
20 frustrated by that. Director Fischer seconded what Director Smith said.
21 Chairman Plastiras asked if there was any further discussion. Hearing none,
22 Chairman Plastiras called for question. Ayes 5. Nays 0. Motion passed.
23

24 **4. Discussion for Possible Action to Come to a Resolution of the Call**
25 **Back Pay Issue Which Involves Retired Employees as well as**
26 **Potential Retirees.** Business Manager Cary said the District has four
27 retired firefighters who believe that their retirement pay is less than what it
28 should have been because of call back that was reported by the District was
29 denied by PERS. These four firefighters believe that they should get more
30 from their retirement through their lifetime and the lifetime of their spouses.
31 Legal Counsel Menchetti said going back two or three meetings ago, a
32 demand was made by a Counsel on behalf of four or five at that time, since
33 that time a couple more were added bringing the total to six or seven people
34 involved. The demand, as Legal Counsel recalls, was for over \$500,000.00.
35 They wanted the District to pay the full value over the lifetime of these
36 retired folks today. We said that it didn't make an awful lot of sense.
37 Sharon has done some calculations that were given to the Board during the
38 attorney/client privilege meeting for your review and consideration. The
39 question Legal Counsel Menchetti has for the Board of Directors is how
40 would you like him to respond to those individuals in regards to the call back
41 pay issue. There is a statute that they are relying on that became effective
42 2009 and addresses this issue. The question is, is it retroactive or is it
43 prospective. Nobody knows the answer to that, at least as of this moment.
44 The Board might want to argue that it only applies after that date going
45 forward. PERS is, he believes, is in litigation on this issue with firefighters.
46 PERS is saying "oh no, not us. It is the employer's responsibility." So it is

1 not a simple matter. He thinks the District has a couple of things to
2 consider. One, you have a duty to be fair and honest with your employees
3 and do the right thing and make sure they get whatever they are entitled to
4 under the law. The question in this fact pattern is, we are not sure what
5 they are entitled to. Legal Counsel Menchetti is looking for some direction
6 from the Board of Directors as to how they would like him to go back to their
7 Counsel and respond to his request for \$500,000.00.

8 Director Smith said tell them we don't have \$500,000.00. Director Smith
9 said he agrees with Legal Counsel, we need to treat our employees fairly
10 with respect to what is right. What they are asking for here is not very clear
11 in his mind as to what is right. He would like to find some kind of common
12 ground that is considerably less than what the request is; that they all agree
13 going forward is the right thing to do. But he doesn't know what kind of
14 direction.

15 Director Fischer said he thinks, they, all as individuals agree with Director
16 Smith in the fact that we respect our employees, they are valued people.
17 But we all make personal mistakes; we all make corporate mistakes, Union
18 mistakes, that is just life. And sometimes we base our future decisions on
19 that erroneous information. His recommendation would be to have Legal
20 Counsel go back and try to settle this. He would like to see this settled
21 outside of court. He thinks it could be more prudent for all people involved
22 and maybe there is a settlement done outside of court.

23 Legal Counsel Menchetti said the consensus seems to be for him to go back
24 to Counsel for these folks using Sharon's numbers to see if we could find
25 some number that makes sense.

26 Director Epstein suggested they ask Legal Counsel Menchetti to go back and
27 see what kind of situation can be resolved amicably. Directors Smith and
28 Fischer concurred with that.

29 Director Murrieta said whatever we do; he would like to have a clear
30 understanding of where this ends. It seems to him that there could be no
31 end to this issue. He would like to have a clear understanding of where this
32 ends. Legal Counsel Menchetti said it seems to him that it is going to be
33 complicated matter. Legal Counsel Menchetti said he will go back to Counsel
34 with the numbers Sharon has provided and see if they if there is any
35 movement on their part and/or try to come to a resolution. We could also
36 get a mediator appointed to try and mediate the issue for us.

37
38 **5. Discussion for Possible Action in Regards to Holding a December**
39 **21, 2011 North Lake Tahoe Fire Protection District's Board of**
40 **Directors Meeting.**

41 Director Murrieta said with the absence of the auditors
42 and Chief's review, he thinks there should be a meeting. Chairman Plastiras
43 said he would like to request moving the meeting to December 14th, which
44 would be the second Wednesday of the month. Director Epstein said he
45 concurs with him as he will be out of town from December 19th forward.
46 Chairman Plastiras said as another alternative, if this Board so desires, they
could forgo the December meeting and hold it in January.

1 Director Epstein made a motion to move the December 21, 2011 North Lake
2 Tahoe Fire Protection District Board of Directors meeting to noon on
3 December 14th, with the same basic notification. Chairman Plastiras said
4 Legal Counsel Menchetti may not be available to attend the meeting on that
5 day, as he is in court and does not know when he would be available.

6 Director Murrieta asked if there was a better day for him. Legal Counsel
7 Menchetti said he is willing to do whatever the Board wants. Historically,
8 this Board has not met in December. If the only two issues you have are
9 these two issues, he would hate to have the Board set another meeting and
10 have our accountant folks say "by the way we can't come again anyway."

11 Chief Brown's evaluation is not time critical. Legal Counsel Menchetti
12 apologized and said Wednesday is typically a court day and he typically
13 keeps the third Wednesday open for the Board.

14 Director Epstein withdrew his motion.

15 Chairman Plastiras asked if it would be okay if, at his discretion, as we get
16 closer to that date make a decision if a meeting is necessary due to any
17 pressing issues, he would send out a memo to everybody checking for
18 availability. Directors Smith and Fischer agreed.

19
20 **OLD BUSINESS:** None.

21
22 **Board of Directors Questions/Comments:** None.

23
24 **Fire Chief Report:** Chairman Plastiras explained that Chief Brown was the
25 Incident Commander of the Caughlin Fire in Reno and thus unavailable to
26 attend today's meeting. Chief Schwartz had a report from Chief Brown. At
27 approximately 01:30 this morning, Chief Brown received a direct request
28 from the City of Reno Fire Chief Michael Hernandez for assistance with
29 management and suppression of the fire in the Caughlin Ranch area. The
30 District responded with Chief Brown, BC Sommers, Fuels Management
31 Officer Powning. We also sent a Type 1 Engine, Engine 13 and both the
32 Slide Mountain and Incline Hand Crews. At noon today, Chief Brown and the
33 Sierra Front Incident Management Team will resume responsibility of the
34 incident. The District remains fully staffed and operational and we are
35 prepared to provide additional resources if requested.

36 The District has had two retirements this month. Assistant Fire Marshal Pete
37 Mulvihill accepted a position as the State Fire Marshal; his last day with the
38 District was November 4th. Engineer Randy Robison retired from the District
39 as of November 14th. Staff is in the process of analyzing and preparing to
40 replace these positions if necessary.

41
42 **Fuels Division Chief Report:** Chief Szczurek was not present at today's
43 meeting.

44
45 **Business Manager Report:** Business Manager Cary had no report.

1 **Prevention Report:** No report.

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3 **Public Education/Information Officer Report:** No report.

4
5 **Battalion Chief Report:** Battalion Chief Schwartz had nothing additional to
6 report on.

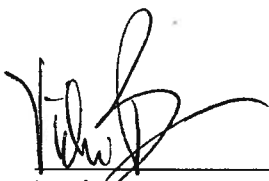
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8 **NRS 241.020 RE: PUBLIC COMMENT.** None.

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10 **Executive Session:** Chairman Plastiras recessed the regular session at
11 12:39 p.m. and moved into an Executive Session pursuant to NRS 288.220
12 to discuss matters with its Management Representative. The Board of
13 Directors and its Management Representatives entered the Executive session
14 at 12:39 p.m.

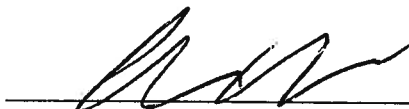
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16 Chairman Plastiras adjourned the Executive Session and reopened the
17 general session at 1:58 p.m.

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19 **Meeting Adjournment.** Director Murrieta made a motion to adjourn the
20 Board of Director's meeting. Director Epstein seconded the motion.
21 Chairman Plastiras called for question. Ayes 5. Nays 0. Motion passed.
22 Meeting adjourned at 1:59 p.m.

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Vicki Baumann, Secretary



Chris Plastiras, Chairman