



**Yucca Fire District**  
12349 Frontage Rd., PO Box 327  
Yucca, Arizona 86438  
(928) 766-2300  
[www.yuccafire.com](http://www.yuccafire.com)

## **MINUTES OF REGULAR MEETING OF THE YUCCA FIRE DISTRICT GOVERNING BOARD**

The Governing Board of the Yucca Fire District met in regular session on May 16, 2022 at 8:00 a.m. The meeting was held at the Yucca Fire Station #1 located at 12349 Frontage Road, Yucca, AZ 96438. The Board may vote to go into executive session on any agenda item, pursuant to A.R.S. §38-431.03(A) (3) for legal advice with the District's attorney on matters as set forth in the agenda item. Board members or other participants may attend by telephonic conference. 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.

### **MINUTES**

#### **1. CALL TO ORDER.**

- Chairman Knowles called the meeting to order at approximately 8:00 a.m.

#### **2. ROLL CALL OF BOARD MEMBERS.**

- Clerk Kayla Carr, Director Jim Fox and Chairman Richard Knowles were present.

#### **3. PLEDGE OF ALLEGIANCE.**

- The Pledge of Allegiance was recited.

#### **4. APPROVAL OF MINUTES**

A. Regular Meeting Minutes of March 21, 2022

B. Special Meeting Minutes of March 31, 2022

- Comptroller Kindelberger noted a correction to be made on the March 31, 2022, minutes under 4a. The word 'not' was omitted in the statement 'we are listed on the account' it should read 'we are not listed on the account'.
  - Clerk Carr motioned to approve the minutes of March 21, 2022, as presented. Director Fox 2<sup>nd</sup>. All in favor, motion carried.
  - Clerk Carr motioned to approve the minutes of March 31, 2022, with the noted correction. Director Fox 2<sup>nd</sup>. All in favor, motion carried.

#### **5. REPORTS AND CORRESPONDENCE.**

A. March and April 2022 Operational Report. (Chief Cunningham)

- Chief Cunningham reported the call summary for March and April during the days the District was not staffed we had 1 EMS call, 6 fire calls (4-structure, 1-vehicle 1- train), 4- motor vehicle accidents and 2 service calls. Total of 13 calls, Golden Valley Fire responded on all 13 and Desert Hills Fire responded to 9. Due to Image Trend being down for maintenance I was unable to get the calls run by Yucca Fire.

B. Fire Chief's Report. *The governing body may not propose, discuss, deliberate or take legal action on this matter unless the specific matter is described in detail. Therefore, action taken as a result of the Chief's report will be limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date. (A.R.S. 38-431.02. K)*

- District properties
  - Computer server is out for repairs currently.
  - No other issues
- Equipment
  - All vehicles are in good working order
  - Working on updating our medical supplies. Cleaning out the medical cabinets.

- Projects in the Works
  - We had a volunteer recruitment meeting on April 30<sup>th</sup> which was spearheaded by Bruce Tennant and Director Jim Fox. We had a good turnout. We discussed things like application process, eligibility, training process depending on what volunteer role you apply for. There will be more information as it progresses.

**6. BUSINESS.** *Public wishing to speak on agenda items must complete a speaker card and present to the Board Clerk prior to the start of the meeting.*

A. Discussion and possible action regarding: Approval of the March and April 2022 financial reports. (Administration)

- Comptroller Kindelberger stated the March income was \$7,532.37, expenses \$19,661.28; April income \$35,452.22, expenses \$27,727.08. Bank balances ending April 30, 2022, warrant account \$188,656.67; payroll account \$6,006.66; petty cash \$23.00. Total cash on hand \$194,686.33.
  - Clerk Carr motioned the Board approve the March and April 2022 financials as presented. Director Fox 2<sup>nd</sup>. All in favor, motion carried.

B. Discussion and possible action regarding: Acceptance of offer to settle credit card debt with Wells Fargo Bank. (Administration)

- Comptroller Kindelberger stated that Wells Fargo has made a final offer to settle the \$15,086.99 credit card debt at a 70% reduction or \$4,526.10. I did ask Wells Fargo Bank if any disputes were filed against any of these charges for fraud, they stated that no disputes were filed within a timely manner. Staff's recommendation is to settle this debt. Chairman Knowles asked what dates this debt is from? Kindelberger stated that WFB sent all the statements from January 2016 to November 2019. These charges cover 3 cards, Edwin Cheser, Kathy Jenkins and Mike Schmidt. The last month charges were made was July of 2019. There was a lot of spending on these account for example, Kathy Jenkins charged \$126,059.31 in the 3 years she had a card, Mike Schmidt charged \$52,200.33. This was out of control spending; the board was not seeing these statements monthly as required. Even the 2016 audit made note that the board was not being given the correct financial documents. But the board had a fiduciary duty to ask to see these documents. Chairman Knowles stated that these charges are from the past and I feel we need to take care of it, hopefully it is the last of outstanding debts. Clerk Carr asked about the statement in the WFB letter about tax consequences that might result from this settlement. Comptroller Kindelberger stated that when a company writes off debt that they know they cannot collect, they can 1099 the recipient and they would have to claim it as income on their tax return. That does not apply to us since we do not file tax returns. But if we do not settle, they still have the option to sue us for the full amount of \$15,086.99. Chairman Knowles stated that if this District is going to move forward and be looked upon as a responsible organization, we have to get our credit back in order.
  - Clerk Carr motioned for the Governing Board to accept the offer from Wells Fargo Bank to settle the credit card debt in the amount of \$4,526.10. Director Fox 2<sup>nd</sup>. All in favor, motion carried.

C. Discussion and possible action regarding: Call for Election per A.R.S. §16-225(C); approval of resolution regarding same. (Administration)

- Comptroller Kindelberger stated that Yucca Fire District hereby notifies the registered voters that two vacancies will occur on the Board at the general election on November 8, 2022. Candidates can file petitions for these positions with the Elections Department starting on June 13, 2022 and ending on July 11, 2022. You will need a minimum of 5 petition signatures. Candidate packets are available here at the meeting or at the Elections Department. Last day to register to vote for this election is October 10, 2022. Chairman Knowles asked what happens if we don't have enough candidates. Kindelberger stated that if two or less candidates apply the Board of Supervisors will cancel the election for Yucca Fire and will seat those candidates to the Yucca Fire Board.
  - Clerk Carr motioned the Governing Board to approve the Call for Election and the Resolution. Director Fox 2<sup>nd</sup>. All in favor, motion carried.

- D. Discussion and possible action regarding: Renewal of IGA with Golden Valley Fire effective July 1, 2022, for the term of one year; approval of resolution regarding same. (Cunningham)
- Chief Cunningham stated that the last renewal was for only 6 months to align with the budget year. This renewal is \$38,365 annually, an increase of \$507.40 which reflects wage increases due to staff at Golden Valley Fire. Chairman Knowles clarified what Yucca Fire receives for the \$38,365 annually, Fire Chief, Fire Marshal, Comptroller, and her assistant. This is less money than we were paying for a Fire Chief. Golden Valley Fire has saved Yucca Fire, if it wasn't for them Yucca Fire would have been closed within weeks, we were running out of money.
    - Clerk Carr motioned the Governing Board to approve the IGA with Golden Valley Fire and the resolution. Director Fox 2<sup>nd</sup>. All in favor, motion carried.
- E. Discussion and possible action regarding: Approval of tentative budget for fiscal years 22/23 and 23/24. (Cunningham)
- Chief Cunningham stated we have two budgets to present due to an increase in the tax levy from 3.25% to 3.375%. Our revenue increase at the 3.25% is \$28k, at the 3.375% the increase is \$37K. The Chief reviewed both budgets with the Board and stated that most of the increase will be going into personnel costs so we can staff the station a couple more days a month. Chairman Knowles stated that this increase breaks down to .12 cents on every one hundred dollars, it is minimal. Clerk Carr stated that she has some citizens contact her concerned about the levy increase, I don't think they are aware the amount is very small. Either we increase taxes and get a couple more shifts per month or we keep it the same with the same staffing levels. Chairman Knowles feels it is worth it to add more days per month. Director Fox agreed with Knowles.
    - Chairman Knowles motioned the Governing Board to approve the tentative budget at the 3.375% tax levy. Clerk Carr 2<sup>nd</sup>. All in favor, motion carried.Comptroller Kindelberger added that the public hearing for the budget will be held on Monday, June 20<sup>th</sup> at 8:00 am for public input.
- F. Discussion only: Review Arizona Attorney General's letter dated April 14, 2022, in response to multiple complaints alleging that Yucca Fire District violated the Arizona Open Meeting Law. (Knowles)
- Chairman Knowles stated the complaints were as follows:
    1. Secret meetings related to a board vacancy held by former Board Members Karon Lamkin and Terry Underhill.  
Findings: Board Members Lamkin and Underhill violated the Open Meeting Law by holding secret, non-public meetings between March 31, 2020, and approximately April 2, 2020, to interview candidates for a Board vacancy.
    2. Discussions by a quorum of the Board after the September 3, 2020, meeting had been adjourned. (Board Members Knowles and Carr)  
Findings: Unable to substantiate a violation.
    3. Non-public meetings between Board Members Kayla Carr and Richard Knowles.  
Finding: Unable to substantiate a violation.We were first contacted in September 2019 about these complaints and the District supplied documents requested and Chairman Knowles and Clerk Carr submitted sworn statements. I would like the Attorney General's letter to be posted with the minutes of the meeting. Clerk Carr added that the letter also said, that even though the interviews of candidates was in violation the appointments occurred at a duly noticed public meeting and their appointments are not rendered null and void by the violations found.
    - No Action

G. Discussion only: Response to matters raised by the public during the Call to the Public at the meeting of March 21, 2022, relating to the following matters:

(1) Availability of Board meeting Minutes in digital format

*Minutes are on our website going back 2 years at Yuccafire.com. All other minutes are available by completing a records request, you may view at no cost, or .50 a page if you want a copy.*

(2) Rules that Govern the District Board.

*There are the by-laws which we had the staff put up on our website under the Fire Board tab. We have a copy here today for review. Fire Boards are governed by many Arizona Revised Statutes. Title 48-802 through 48-824 applies solely to Fire Districts. But there are many others that apply to Fire Districts. You can view them at azleg.gov.*

(3) Possibly expanding the Board from a 3-member Board to a 5-member Board.

*A.R.S. 48-803(A) sets the board size based on population of the Fire District. Populations under 4,000 the board may consist of three or five members. Also, A.R.S 48-803(H) states any fire district that levies more than \$500k in a fiscal year must be administered by a five-member board. The Board of Supervisors determines the size of each board. The Yucca Fire Board does not have the authority to make this change.*

(4) Frequency of Board meetings.

*A.R.S. 48-805-(A)(1)(a) states 'If a board consists of three members and the fire district levies less than \$500,000 annually, the board shall meet in July and at least every two months thereafter.' The By-Laws also states when meetings will be held under Section 2. The Board revised the by-laws at the August 17, 2021, meeting to change from monthly to every other month. The change was because the district did not have much to discuss on a monthly basis. Chairman Knowles added that the Fire District is running smoothly now, and the Board only sets policy and is in charge of finances, the Chief and the staff runs the operations of the Fire District. We don't need to be here every month and we can always call a special meeting if something comes up between meetings.*

(5) Use of Golden Valley Fire District for management services

*Golden Valley was the only District willing to help Yucca Fire. Yucca Fire had reached out to Rural Metro Fire for a bid for services and was told we did not have enough revenue for them to manage the district and would only offer a chief at \$80,000 per year. With Golden Valley Fire we are getting the services of four positions, Fire Chief, Fire Marshal, Comptroller and Administrative Assistant for \$38,365 per year. Yucca Fire was paying \$46,800 annual salary for just the Fire Chief in the past.*

(6) Golden Valley Fire not responding to calls in Yucca

*The IGA is for management only not operations. Golden Valley Fire's response falls under Mutual Aid and is based on availability.*

(7) Out of District services in Santa Fe development

*The fire department is responsible to the taxpayers of the fire district. Due to limited staffing, YFD cannot faithfully uphold services or service contracts to outside property owners and still be responsible to the taxpayers of the fire district.*

(8) Possible disposal of District building

*There have not been any discussions of selling any buildings. This is just a rumor on social media.*

(9) District future

*All fire districts rely on property tax to operate, therefore the amount of money we receive will dictate much of how this department operates in the future.*

(10) Past theft issues

*Mismanagement of district funds is the responsibility of the Board. At the time of the theft no financials or bank statements or credit card statements were being presented to the Board. The Board at that time should have demanded to see these documents. The Board failed to properly carry out their fiduciary duties.*

(11) District expenses and income

*Revenue for the District is mostly from taxes. The last two fiscal years we collected \$170k in taxes. Other income comes from the rental agreement with Yucca Food Bank for roughly \$3,000 per year.*

*Other income is fees collected, like burn permits, record request and out of district billings. FY 19/20 income was \$457,401; FY 20/21 was \$267,393. This fiscal year to date we have collected \$221,245. The district average monthly cost of operating for FY 19/20 was \$ 31,063; FY 20/21 was \$ 23,126. This fiscal year to date we are averaging \$15,584. Showing that we are getting our spending under control. Financials can be requested in a records request. The financials that the board received today are here for review by the citizens.*

(12) Staffing with volunteers

*Staffing with volunteers can be done through proper vetting and training.*

(13) Possible petition to change the District to a Volunteer Fire Department

*Volunteer fire departments are subject to the same rules and regulations as an organized district.*

*Therefore, the governing board would be responsible for putting a person in place who is capable of both operations and administrative duties.*

Chairman Knowles stated that there were no speaker cards completed to speak on any of these items.

- o No Action

**7. CALL TO THE PUBLIC.** *Consideration and discussion of comments and complaints from the public. Those wishing to address the Yucca Fire District Board need not request permission in advance. The Fire District Board is not permitted to discuss or take action on any item raised in the call to the public, unless the item is specifically noticed for discussion or legal action. However, individual Board members may be permitted to respond to criticism directed to them. Otherwise, the Board may direct that staff review the matter or that the matter be placed on a future agenda. The Fire District Board cannot discuss or take legal action on any issue raised during the Call to the Public that is not on the Agenda due to restrictions of the Open Meeting Law.*

- Bruce Tennant – I am the citizen working on Facebook to get volunteers for the Fire District. I handed out 40 applications and I have 14 here today to turn in. I had people who did not want to put their social security number on the application, I told them they can give to the Chief when he calls them for an interview. Comptroller Kindelberger stated that we don't need social security numbers for volunteers, it is on the applications for hiring purposes. Tennant: Most of these volunteers are for the water truck response. I thought the volunteer meeting was a success. There are about 8 volunteer that want to go through the fire fighting training. I wanted to know why the income for the FY 19/20 so much higher. Comptroller Kindelberger stated that it was due to the Prison Contract. Tennant: With all the building going on in Yucca should we be getting some of that money back? The Pilot got free taxes for 10 years. Chief Cunningham stated that he was not aware of any agreement to waive taxes for Pilot. We plan on collecting taxes from Pilot, it should be around \$20k to \$24k per year. Chairman Knowles added that the loss of the Prison contract was because it would cost Yucca Fire three times our budget to supply the staffing required to not get sued for not being able to fulfill our obligations of the contract. We would need to staff 4 people 24/7. That staffing level would cost \$500k per year. Their \$135k revenue would not cover that, it was a bad business move to sign that contract.
- Dale Kindelberger – There is a petition right now to get an initiative on the November ballot to raise the Arizona Sales tax by 1/10<sup>th</sup> of 1% to fund the 144 Fire Districts in Arizona. This could bring a lot of money to Yucca Fire. The city fire departments get city sales tax to help them operate. If you are a registered voter, I have the petition here if anyone would like to sign it. The sales tax increase if passed would amount to .01 cent for every ten dollars spent.

**8. ADJOURNMENT.**

- o Clerk Carr motioned to adjourn the meeting. Director Fox 2<sup>nd</sup>. All in favor, motion carried. Chairman Knowles adjourned the meeting at 8:41 a.m.

MINUTES prepared by: Mindy Kindelberger

Date: 05/16/2022

By: \_\_\_\_\_  
Board Clerk, Kayla Carr

Approved:



MARK BRNOVICH  
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL  
SOLICITOR GENERAL'S OFFICE  
GOVERNMENT ACCOUNTABILITY UNIT

KATHERINE JESSEN  
ASSISTANT ATTORNEY GENERAL  
PHONE No.: (602) 542-3333  
OMLETINFO@AZAG.GOV

April 14, 2022

Via Email & By Certified Mail, Return Receipt Requested

Yucca Fire District  
c/o William Whittington, District Attorney

Re: Open Meeting Complaint and the Yucca Fire District

Board Members and Mr. Whittington:

As you are aware, the Office of the Attorney General (the "Office") received multiple complaints alleging that the Yucca Fire District (the "Board") violated the Arizona Open Meeting Law (A.R.S. § 38-431 *et seq.*). The Office has received the Board's response to the allegations regarding: (1) secret meetings related to a Board vacancy held by former Board Members Karon Lamkin and Terry Underhill; (2) discussions by a quorum of the Board after the September 3, 2020 meeting had been adjourned; and (3) non-public meetings between Board Members Kayla Carr and Richard Knowles.

The Office has concluded its review and determined that former Board Members Lamkin and Underhill violated the Open Meeting Law by holding secret, non-public meetings between March 31, 2020, and approximately April 2, 2020 to interview candidates for a Board vacancy. The Office was unable to substantiate a violation in connection with the remaining allegations. The facts recited in this letter serve as a basis for this conclusion, but are not administrative findings of fact and are not made for purposes other than those set forth in A.R.S. § 38-431 *et seq.*

April 2020 Board Vacancy Matter

The complaints alleged that former Board Members Lamkin and Underhill conducted approximately five secret meetings between March 31, 2020, and approximately April 2, 2020. Specifically, the complaints alleged that Ms. Lamkin and Ms. Underhill conducted these five meetings in order to interview prospective candidates for a vacant Board position, and that these meetings were not noticed or agendaized as required under the Open Meeting Law.

Here, the Board's Response states that Ms. Lamkin and Ms. Underhill both participated in interviews of Board Members Carr and Knowles that violated the Open Meeting Law. Because the interviews occurred outside of a duly noticed public meeting, and involved a quorum of the Board, Ms. Lamkin and Ms. Underhill violated the Open Meeting Law. Importantly, while the interviews of Board Members Carr and Knowles violated the Open Meeting Law, both Ms. Carr's appointment and Mr. Knowles' appointment to the Board occurred at a duly noticed public meeting and their appointments are not rendered null and void by the violation found here.

#### Remaining Allegations

The remaining allegations contained in the complaints alleged that Board Members Carr and Knowles (1) violated the Open Meeting Law by discussing Board business after the September 3, 2020 meeting had been adjourned by former Board Chair Marilyn Shore; and (2) that sometime after the September 3, 2020, Board Members Carr and Knowles purportedly met outside of a duly noticed public meeting, and took legal action on various District personnel and administrative matters.

After reviewing the Board's response and supporting documents, including affidavits from Board Members Carr and Knowles, the Office is unable to substantiate a violation of the Open Meeting Law in connection with these allegations.

#### Remedy

To remedy this violation, the Office considered the readily available records documenting whether the Board has had any recent open meeting violations, the current Board Members' cooperation during the course of this investigation, and that Ms. Lamkin and Ms. Underhill caused the violation and no longer serve on the Board.

Having weighed these factors, and in order to resolve this matter, the Office requires no further action from the Board at this time, but has noted this occurrence as a violation, which will be considered in determining the response to any further Open Meeting Law violations by the Board and its current members.

This letter relates solely to the disposition of the aforementioned Open Meeting Law complaint; it is not a formal opinion of the Attorney General's Office and should not be cited as authority in other matters. This matter is now considered closed.



Katherine Jessen  
Assistant Attorney General  
Open Meeting Law Enforcement Team