

**MINUTES OF THE MEETING  
OF THE  
LIVERMORE-PLEASANTON FIRE DEPARTMENT  
JOINT POWERS AUTHORITY**

**May 18, 2000**

1. Call to Order and Roll Call

The meeting was called to order at 11:59 a.m. in Conference Room A, Livermore City Hall, 1052 South Livermore Avenue, Livermore.

Present: City of Livermore - Mayor Cathie Brown, Council Member Lorraine Dietrich, City Manager Jerry Peeler, Assistant City Attorney Gabrielle Whelan, City Clerk Alice Calvert; City of Pleasanton - Council Member Kay Ayala, Council Member Sharrell Michelotti, City Manager Deborah Acosta, City Attorney Michael Roush; Livermore-Pleasanton Fire Department - Fire Chief Stewart Gary, Administrative Manager Kerry Burns.

2. Meeting Open to Public

There were no speakers.

3. Consent Calendar

ON THE MOTION OF MEMBER MICHELOTTI, SECONDED BY MEMBER BROWN, AND CARRIED ON A 4-0 VOTE, THE CONSENT CALENDAR WAS APPROVED.

A. Consider LPPFD Personnel Rule Amendment - Discipline Appeals

Chief Gary presented the staff report and stated that there were minor clarifications to the personnel rules on discipline appeals.

B. Consider LPPFD - Local #1974 MOU Amendment - Grievance Adjustment Board Procedures

Chief Gary stated that the rules provide for a review board but no procedure for a hearing. The board would consist of two management appointees and two union appointees.

C. Receive the 1999 LPPFD Annual Report

Report received.

4. New Business

A. Consider FY 00/01 LFPD budget

Chief Gary reviewed the budget highlights. He explained that the JPA is considering an update to Year 2 of the budget, and it is a year off the Livermore cycle because it follows the Pleasanton cycle. The original two-year budget assumed joint replacement of light duty fleet vehicles but, due to technical liability problems, each City will acquire, maintain and own its own vehicles. The replacement of computers was moved to Year 1 of the budget and computers will be converted from MacIntosh to Windows. Next year's budget will restart computer replacement on a four-year schedule. Chief Gary reviewed other minor changes and clarifications including funds for training, records management, Hazmat consultation, firefighter recruitment expenses and nozzle conversion; increased plan checking hours in Livermore only; and GIS mapping which will also allow mapping of floor plans of schools, which will be shared with both Police Departments. The overall proposed increase for Year 2 is \$652,000. Ongoing items include capital improvement funds in Livermore to replace Fire Station 7, which would cost the same as retrofitting the building.

ON THE MOTION OF MEMBER MICHELOTTI, SECONDED BY MEMBER DIETRICH, AND CARRIED BY A 4-0 VOTE, THE FY 00/01 BUDGET WAS APPROVED.

B. Receive verbal update on hiring progress, injury leave and overstaffing

Chief Gary discussed impacts on current staffing resulting from injuries and said the department is down to one overstaff. He said there will probably be a negative head count in early 2001. Chief Gary provided an update on headquarters construction, public education advertising, and a pilot "Risk Watch" program in schools.

4.C. Consider clarification amendments to the JPA Agreement

Member Brown said Livermore citizens were assured, when the fire departments were consolidated, that they would essentially still have their own fire department and would still maintain the tight control they had. Livermore was not just contracting services from another agency. However, Livermore fire personnel basically became employees of the City of Pleasanton. She asked staff to address responsibility for liability issues and personnel issues. She said the JPA agreement provides the ability for the JPA to conduct labor negotiations, but management staff is under the City of Pleasanton.

Ms. Acosta said the JPA has control for negotiations, but the JPA board does not make final decisions. Final decisions are required by the City Councils.

Member Brown asked who sets the Fire Chief's salary. Ms. Acosta said the salary is set by both City Councils, through the JPA. Member Brown said that was not addressed in the agreement and it is not her understanding. Chief Gary said it is not addressed because, as both cities give management cost of living adjustments, City Managers Peeler and Acosta agree what those are for Fire Department management, consistent with what the two cities are doing.

Ms. Michelotti said there is a clause that says both City Councils have a closed session regarding this. Chief Gary said that was correct. Member Brown said she did not see a reference to Fire Department management.

Ms. Acosta said that could be made clearer.

Chief Gary said that the original bylaws stated that the Fire Chief is an at-will employee appointed by the two City Managers.

Member Brown said that sounds good as long as the two City Managers get along and stay with their respective cities, but right now Chief Gary falls under Pleasanton and gets Pleasanton's salary and benefits.

Chief Gary referred to the staff report and to page 6 of the redlined agreement and said they provide for joint Closed Sessions with both cities. If the JPA members feels they have stayed within the parameters given by the first closed session, then the JPA can approve changes. If not, the two cities can go back to joint closed session.

Mr. Roush said it contemplates an initial joint meeting. Another joint meeting may or may not be needed depending on what happens. Ultimately each Council has to approve the agreement.

Ms. Acosta suggested creating an Item 4 that would describe the how management - compensation is set.

Chief Gary discussed the Authority's ability to receive services or assets from the partner cities.

Mr. Roush stated that Section 5 (a) and (b) indicates the Authority can do certain things, such as contract, etc., but 4D is restrictive because it says the Authority is not intended to own any physical assets, operate facilities, etc. but may do so under authorization of both City Councils

Member Brown said she was comfortable with that.

Chief Gary said an appendix was added listing the administrative services provided by both cities and specifying the roles and responsibilities of both City Attorneys.

Member Brown noted that there is attorney-client privilege with the respective cities but Pleasanton will be the attorney for the Authority.

Mr. Roush said that, because the members of the Department are deemed City of Pleasanton employees, it made sense for his office to act as the attorney to whom those issues would be referred on a routine basis.

Member Brown asked how Risk Management works. Mr. Roush said it depends on the issue. Workers Compensation will come to Pleasanton July 1, 2000. Other liability

issues depends on the circumstances. If a Livermore fire truck is the primary claim, Livermore would handle the claim. If an employee does something, Pleasanton would handle it regardless of which city.

Chief Gary said the language requires concurrence on settlements by both City Attorneys' offices or by both City Councils if the matter is out of the City Attorneys' authority. In the case of a harassment issue, the two City Attorneys would review it and make recommendations to the JPA and both City Councils.

Ms. Whelan confirmed that Exhibit A, Section 2B requires the approval of both City Councils.

Member Michelotti asked if Mr. Roush would get City of Livermore input. Mr. Roush said he would. He noted that both cities are part of a pool sharing for risk management and participate in it and get an outside law firm involved in serious matters.

Member Michelotti said that, since personnel matters start and end with both Attorneys, the language should also state that it is with the consultation and advice of Livermore's Attorney.

Ms. Whelan noted that Livermore City Attorney Tom Curry was concerned that there was a conflict developing for the Livermore's Risk Manager because he was handling Workers Compensation for both cities and might have to argue that it was either Pleasanton's or Livermore's. Mr. Roush concurred and said that is why the language says that all personnel issues will be handled by Pleasanton.

Chief Gary said Item b states that approval of both cities is required for settlement of lawsuits. Member Brown said she is concerned that, up until the point Livermore is faced with saying yes or no to the settlement agreement, Livermore is not involved.

Member Brown said she is concerned that there would be a public perception that Livermore could not be involved in personnel issues because the employees are Pleasanton employees.

Mr. Roush suggesting adding language that the Pleasanton City Attorney would consult with the Livermore City Attorney in legal matters.

Member Dietrich asked why the fact that Livermore pays money to Pleasanton to pay employees makes them Pleasanton employees. Chief Gary said the consolidated budget is in a trust account that both Pleasanton and Livermore put money into. A legal entity must own the PERS contract. PERS said the City of Pleasanton, City of Livermore, or JPA could hold contract. The least expensive way was to have the City of Pleasanton contract become the PERS contract. If the JPA owned the employees, there would be related expenses that would eat up the rightsizing savings.

Ms. Acosta said the City of Pleasanton does not think of the employees as Pleasanton's employees and not Livermore's. If she received a call about employees, she would go to

the Livermore City Manager, just like she does now, because the issue would come to the JPA board and both City Councils. That will be institutionalized.

Member Brown said she sees the possibility of two future City Councils that are not getting along. Mr. Peeler said, at that point, the employees could become employees of the JPA. Member Brown said that would require four votes of the JPA.

Mr. Peeler said that, when there was consideration of moving employees to the JPA there was concern that the JPA was not a known entity and public perception would be that a new bureaucracy was being created that would not be locally responsible.

Mr. Roush said language would be added stating that the Pleasanton City Attorney would work in consultation with the Livermore City Attorney's Office.

Member Brown asked who has tort liability? Ms. Whelan said it depends on the primary cause of the claim. If a Livermore vehicle were involved, the City of Livermore would be responsible for processing the claim. If it were personnel-related, Pleasanton would assume administrative responsibility for handling the claim, but both would have liability, pursuant to the cost sharing agreement, if the claim were paid.

Member Brown asked if liability is shared for workers compensation. Mr. Roush said that, in the case of a harassment lawsuit, Pleasanton would handle the administrative part, financial responsibility would be shared based on the cost-sharing formula, and legal issues would be handled in consultation with the Livermore City Attorney.

Member Brown asked if both City Attorneys would be involved in the decision to choose an outside lawyer. Ms. Whelan suggested adding language to that effect.

Chief Gary noted that a proposed settlement would come before both City Councils in Closed Session. Member Brown said she's worried about the beginning of the process, not the end.

Mr. Roush discussed premiums paid to IRMA and noted exposure is more limited than it has been in the past.

Member Brown asked if term of office if a board member terminates needs to be specified. Ms. Whelan said the language could state that the members are the Mayor and one Council Member from each City and that alternates would be appointed. Member Brown said the existing language was okay.

The Board members concurred that the section related to term of office could be deleted.

Ms. Whelan said language regarding management compensation could be added to the redlined JPA, F2, page 7.

Mr. Roush said language that is the equivalent of the meet and confer procedure for management employees should be in the JPA. Language could be added related to firing as well as hiring.

Member Brown asked what would happen if Livermore wanted to look at another Chief and Pleasanton did not. Mr. Roush said language could be added to cover all situations, so that it is clear that both City Councils have to concur as to Fire management employees.

Member Brown said she would want to see that language before it moves forward.

ON THE MOTION OF MEMBER BROWN, SECONDED BY MEMBER MICHELOTTI, AND CARRIED ON A 4-0 VOTE, THE AUTHORITY APPROVED AMENDMENTS TO THE JPA AGREEMENT LANGUAGE, SUBJECT TO REVIEW OF FINAL LANGUAGE BY THE BOARD MEMBERS. IF ANY BOARD MEMBER HAS CONCERNS ABOUT HOW THE LANGUAGE READS, THE BOARD WILL RECONVENE FOR DISCUSSION. IF NOT, STAFF WILL TAKE THE LANGUAGE FORWARD TO THE RESPECTIVE CITY COUNCILS.

5. Closed Session – Personnel Matters
  - A. None
6. Matters Initiated – Board Members, JPA Counsel and Staff
  - None.
7. Adjournment – 1:10 p.m.



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Peggy L. Ezidro, Secretary of the JPA  
By Alice Calvert, City Clerk, City of Livermore