

TO: Board of Directors

FROM: Mary Dahl

RE: Proposed changes to By-Laws, Article II, Paragraph 5(D) – Agenda Item – March 30, 2022

DATE: March 24, 2022

I want to thank Board member Benequista for proposing the change to this section of the Board By-Laws related to how our Board evaluates the performance of the Fire Chief. His suggestions are good.

I took the step of running this by our human resources consultant, Brenda Tranchina, who is on retainer with the District for these kinds of matters. Specifically, I was interested in what employment law dictates regarding the use of the executive session and the Chief's option to forgo its confidentiality and have the review take place in open public session. Our current By Laws in this regard state:

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.

Employment law spells out the need for notice to the Chief of a pending performance evaluation and the offer of the option for executive session or public session. This is a practice we have assiduously held to.

Ms. Tranchina responded that carrying over the existing language would be recommended. She also stated that Pete's language does reduce the cumbersomeness of the existing process.

So, with that, I would like to offer that Pete's By-Laws amendment proposal be revised as follows:

*D. The Board shall schedule and conduct a review of the Fire Chief's performance annually. The review shall take into account all factors that are included in the Fire Chief's Employment Agreement, the Fire Chief's Job Description, and previous Board Directives. Documentation shall comprise those forms and formats currently in use by the TFD and provided to the Chief in advance. **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.** ~~The Board shall develop and document the review in Executive Session.~~ The Board shall approve the documented review in open meeting. Within one week, the Board Chairperson shall meet with the Chief in private to go over the evaluation, note the Chief's comments, obtain signature and provide a copy.*

The last point I wish to make is that this change in the By-Laws does not supersede the existing provisions in the current employment contract that we have with Chief Horvath. While this change in the By-Laws, if approved, will streamline the process, Chief Horvath does retain rights to the process in the contract as it may differ with this new language. As a practical matter, those differences are minimal.