

Divide Fire Protection District

Public Meeting of the Board of Directors
January 28th, 2025
6:00 P.M.

AGENDA

- 1) Call to Order – Roll Call
- 2) Pledge of Allegiance
- 3) Review and Approve Agenda
- 4) Review, Approve, and Sign Minutes of Prior Meetings
- 5) Public Comments
- 6) Current Topics
 - A) Board Vacancies
 - B) Policies/Handbook
 - i. CBI Audit Wording
 - ii. 5 Year Plan
 - iii. Board Policies
 - iv. Handbook Wording Updates
 1. Sick Leave Wording
 2. PTO/Holiday Policy
 3. Disciplinary Actions (employee vs volunteer)
 - C) Legal Counsel regarding altering existing contracts
- 7) Adjournment



DIVIDE FIRE PROTECTION DISTRICT

Board of Directors Meeting

Shoemaker Fire Station, 103 Cedar Mountain Road (Mail: PO Box 941), Divide Colorado, 80814
January 28th, 2025 at 6:00 p.m.

MINUTES OF THE REGULAR MEETING

1. Call to Order / Role Call

Board President Weatherill called to order the regular meeting of the Board of Directors of the Divide Fire Protection District (DFPD) at 6:00 p.m.

Director Lopez called roll with the following present:

Josh Weatherill – President
Steed Lopez – Vice President
Dennis Luttrell – Director

Fire Chief J.T. McLeod and District Administrator Diana Perkins were also present.

2. Pledge of Allegiance

3. Review and Approve Agenda

Motion by Director Luttrell to approve the agenda with the addition of Executive Session added immediately. Second by Director Lopez. The motion passed unanimously.

4. Executive Session – President Weatherill motioned to enter Executive Session at 6:03 p.m. for the purpose of receiving legal counsel as authorized by CRS 24-6-402(4)(b). Second by Director Lopez. The Executive Session ended at 6:30 p.m. and the regular meeting resumed at 6:35 p.m.

5. Review, Approve, and Sign Minutes of Prior Meetings

Motion by Director Lopez to approve the minutes of the previous month's regular meeting. Second by Director Luttrell. The motion passed unanimously.

6. Public Comment – Robin North was present and mentioned it was sometimes hard to hear all the board conversation.

7. Current Topics

- A. Board Vacancies** – Motion by Director Weatherill to accept the resignations of Allison Mosser and Mary Lynne Babiarz which were submitted by email as effective 1/24/2025. Second by Director Luttrell.

There were three individuals present interested in the position and Director Weatherill asked that they introduce themselves. Patty Franke, Jon Elliott, and Pete Atwater introduced themselves and their backgrounds to the board. Motion by Director Weatherill to appoint Pete Atwater to the board and to fulfill the position of Treasurer. Second by Director Lopez. The motion passed unanimously. Director Weatherill administered the oath of office to Atwater. The board agreed to wait before appointing another director after receiving some answers from legal counsel about any issues that might be caused by volunteers on the board, and how those issues should be handled. Director Lopez agreed to act as Secretary in the interim. Diana Perkins also pointed out that Allison Mosser was the President of the Pension Board. There would need to be a meeting of the Pension Board at the February meeting, where a new President would need to be appointed.

B. Policies / Handbook

i. CBI Audit Wording – Director Pete Atwater presented some wording necessary to add to the Handbook to complete the CBI Audit. CBI also requires a Local Agency Security Officer (LASO) be appointed to hold responsibility for certain security procedures. Motion by Director Luttrell to adopt the wording to add to the Handbook and to appoint Director Atwater as the board designated LASO. Second by Director Lopez. The motion passed unanimously.

ii. 5 Year Plan – Chief McLeod submitted a 5 Year Plan for review. There was discussion about the strengths/weaknesses assessments and one director mentioned he would like to see some goals defined to be able to measure the success of the plans. Diana Perkins mentioned that from an accounting perspective, having a budget projection for the capital and personnel plans, broken out by year, would be greatly helpful to have defined before budget season. Director Weatherill agreed that would be useful to the board. Chief McLeod will continue to make those adjustments.

Director Lopez also brought up the possible need for a service plan update with the change to a combination department.

iii. Board Policies – Director Lopez reviewed some initial adjustments needed and Diana Perkins will prepare those for review at the next meeting.

iv. Handbook Wording Updates

1. Sick Leave Wording (attached) – Motion by Director Lopez to adopt recommended wording to clearly define how much sick time can be used and that such time cannot be used to accrue more hours than usually scheduled. Second by Director Luttrell. The motion passed unanimously.
2. PTO/Holiday Policy (attached) – Motion by Director Luttrell to adopt the PTO/Holiday policies agreed upon. Second by Director Lopez. The motion passed unanimously.
3. Disciplinary Actions (employee vs volunteer) – tabled.

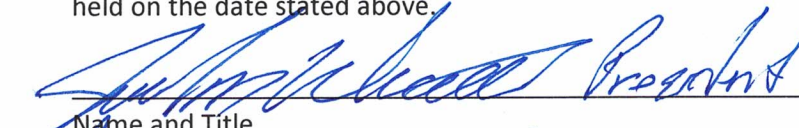

C. **Legal Counsel Regarding Altering Existing Contracts** – Covered under executive session. Any contracts such as the Fire Chief's would need to be completely updated if any changes were made. The board reported that there was no need to update offer letters which were not considered contracts. However, offer letters and job descriptions should be sent for legal review prior to the job offer being made. Diana Perkins confirmed with Chief that he would be letting the employees know about the change in Sick Leave/PTO policies that would affect them. Employees will also be notified of the updates in the Handbook when it is sent out to the department.

11. Adjournment

Motion by Director Lopez to adjourn the meeting. Second by Director Luttrell. The motion passed unanimously. The meeting was adjourned at 8:16 p.m. The next regular meeting will take place on Tuesday, February 4th, 2025, at 6 p.m.

APPROVAL

We attest that the foregoing minutes, which have been approved by the affirmative majority vote of the Board of Directors of the Divide Fire Protection District, are a true and accurate record of the meeting held on the date stated above.

 Name and Title	 Name and Title	<u>02, 11, 25</u> Date	<u>2, 11, 25</u> Date
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Handbook Changes Approved 1/28/25

Section 6.2.4

Overtime for all employees is based on actual hours worked. Time off taken for sick leave, vacation, holidays, or any leave of absence will not be considered hours worked for the purposes of overtime calculations. The Chief is authorized to grant exceptions to the provisions of this section and the granting of overtime pay, based upon any special circumstances that, in the opinion of the Chief, warrant the overtime pay.

~~The normal duty times for full time and part time fire personnel will be 7AM-5PM. This may adjust periodically for completing a duty or in emergency call backs. This could include Structure Fires, Wildland Fires, or Technical Reseue type responses.~~

Section 7.7

to a maximum of 48 hours of sick leave. Accrual for part-time employees begins upon commencement of employment and may be used as it accrues. Employees may carry over up to 48 hours of sick leave to the following calendar year but may not use or accrue more than 48 hours of sick leave in a year. Sick leave may not be used to accumulate more hours than the employee is scheduled to work during that pay period. All accrued but unused sick leave is forfeited upon termination of employment.

Section 7.9

7.9 Paid Vacation / PTO / Holiday Time for Employees

Full-time employees -will be paid for the following holidays for hours equivalent to their regularly scheduled shift: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas. Paid time off will not count toward any calculation for overtime.

-Vacation/PTO time may vary, and any such leave will be based on a written agreement with the District. Accrued vacation/PTO time may not exceed 80 hours, and the employee will cease to accrue any further hours until existing hours are used. Vacation/PTO will accrue at a per-period rate consistent with the agreed amount per year. The expected accrued time for the remainder of each calendar year will be accessible at the beginning of employment (for new employees) or at the beginning of the calendar year (for existing employees). Time will accrue as scheduled, and if there is a shortage of time upon termination of employment, the employee will have the shortage deducted from their final check. Any accrued but unused vacation / PTO ~~vacation hourstime~~ -will be paid upon termination of employment up to 80 hours. in accordance with Colorado law.

Plan/next steps for CBI Audit closure:

- Board to review/approve draft policy governing CHRI at 1/28/25 board meeting (attached).
- Board to designate a board member as Local Agency Security Officer (LASO) at 1/28/25 board meeting.
- Once LASO is named, CBI will be updated and access to the system will be granted by CBI to the LASO (timing tbd).
- Once access is granted, the LASO will complete the audit questionnaire thru the CBI portal (to be done no later than 2/15/25).

Divide Fire Protection District

Policy Governing Fingerprint-Based Criminal History Record Information (CHRI) Checks Made for Non-Criminal Justice Purposes

This policy is applicable to any fingerprint-based state and national criminal history record check made for non-criminal justice purposes and requested under federal authority and/or state statute authorizing such checks for licensing or employment purposes. Where such checks are allowable by law, the following practices and procedures will be followed.

I. Requesting CHRI Checks

Fingerprint-based CHRI checks will only be conducted as authorized by the FBI and CBI, in accordance with all applicable state and federal rules and regulations. If an applicant or employee is required to submit to a fingerprint-based state and national criminal history record check, they shall be informed of this requirement and instructed on how to comply with the law. Such instructions will include information on the procedure for submitting fingerprints. In addition, the applicant or employee will be provided with all information needed to successfully register for a fingerprinting appointment.

II. Acceptable Use

All CHRI is subject to strict state and federal rules and regulations. CHRI is used only for the official purpose for which it was requested, and CHRI cannot be shared with other entities for any purpose, including subsequent hiring determinations. All receiving entities are subject to audit by the Colorado Bureau of Investigations (CBI) and the FBI, and failure to comply with such rules and regulations could lead to sanctions. Furthermore, an entity can be charged with federal and state crimes for the willful unauthorized disclosure of CHRI.

III. Storage of CHRI

CHRI shall only be stored for extended periods of time when needed for the integrity and/or utility of an individual's personnel file. Administrative, technical and physical safeguards, which are in compliance with the most recent CBI and FBI Security Policy, have been implemented to ensure the security and confidentiality of CHRI. Each individual involved in the handling of CHRI is to familiarize himself/herself with these safeguards.

In addition to the above, each individual involved in the handling of CHRI will strictly adhere to the policy on the storage and destruction of CHRI.

IV. Retention of CHRI

Federal law prohibits the repurposing or dissemination of CHRI beyond its initial requested purpose. Once an individual's CHRI is received, it will be securely retained in internal agency documents for the following purposes only:

- Historical reference and/or comparison with future CHRI requests
- Dispute of the accuracy of the record
- Evidence for any subsequent proceedings based on information contained in the CHRI.

CHRI will be kept for the above purposes in:

V. Hard copy form in personnel files located in a locked filing cabinet located in a locked file room. CHRI will be maintained for one year. At the end of this period the CHRI will be disposed of according to the Disposal of Physical Media policy.

VI. CHRI Training

An informed review of a criminal record requires training. Accordingly, all personnel authorized to receive and/or review CHRI at Divide Fire Protection District will review and become familiar with the educational and relevant training materials regarding CHRI laws and regulations made available by the appropriate agencies.

In addition to the above, all personnel authorized to receive and or review CHRI must undergo Security Awareness Training on an annual basis. This training will be accomplished by using the training provided by CJIS Online.

VII. Adverse Decisions Based on CHRI

If inclined to make an adverse decision based on an individual's CHRI, Divide Fire Protection District will take the following steps prior to making a final adverse determination:

- Provide the individual the opportunity to complete or challenge the accuracy of his/her CHRI; and
- Provide the individual with information on the process for updating, changing, or correcting CHRI.

A final adverse decision based on an individual's CHRI will not be made until the individual has been afforded a reasonable time to correct or complete the CHRI.

VIII. Local Agency Security Officer

Each NCJA receiving CHRI is required to designate a Local Agency Security Officer (LASO). An individual designated as LASO is:

- An individual who will be considered part of the NCJA's "authorized personnel" group.
- An individual that has completed a fingerprint-based background check and been found appropriate to have access to CHRI.
- An individual directly involved in evaluating and individual's qualifications for employment and/or assignment.

The Divide Fire Protection District's LASO is {insert Board member name here}. The LASO is responsible for:

- Identifying who is using or accessing the CHRI and/or systems with access to CHRI.
- Ensuring that personnel security screening procedures are being followed as stated in this policy.
- Ensuring the approved and appropriate security measures are in place and working as expected.

When changes in the LASO appointment occur, Divide Fire Protection District shall notify CBI of the change.

IX. Personnel Security

All personnel requiring access to CHRI must be deemed "Authorized Personnel". The CBI will review and determine if access is appropriate. Access is denied if the individual has ever had a felony conviction, of any kind, no matter when it occurred. Access may be denied if the individual has one or more recent misdemeanor convictions.

In addition to the above, an individual believed to be a fugitive from justice, or having and arrest history without convictions, will be reviewed to determine if access to CHRI is appropriate. The CBI will take into consideration extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

Persons already having access to CHRI and who are subsequently arrested and/or convicted of a crime will:

- Have their access to CHRI suspended until the outcome of the arrest is determined and reviewed by CBI in order to determine if continued access is appropriate.
- Have their access suspended indefinitely if a conviction results in a felony of any kind.
- Have their access denied by the CBI where it is determined that access to the CHRI by the person would not be in the public's best interest.

All access to CHRI by support personnel, contractors, and custodial workers will be denied. If a need arises for such persons to be in an area(s) where CHRI is maintained or processed (at rest or in transit), they will be escorted by, or be under the supervision of, authorized personnel at all times while in these area(s).

Personnel Termination

The LASO shall terminate access to CHRI immediately upon notification of an individual's termination of employment.

Divide Fire Protection District's CHRI access termination process:

- Notification will be sent via email to the CBI.
- This is to be done within 24 hours of receiving notification of termination.
- All keys, email accounts, etc. will be obtained/disabled from the user within 24 hours.

X. Media Protection

All media containing CHRI is to be protected and secured at all times. The following is established and to be implemented to ensure the appropriate security, handling, transporting, and storing of CHRI media in all of its forms.

Physical Storage and Access

Physical CHRI media shall be securely stored within physically secured locations or controlled areas. Access to such media is restricted to authorized personnel only and shall be secured at all times when not in use or under the supervision of an authorized individual.

Physical CHRI media:

- Is to be stored within employee records when feasible or by itself when necessary.
- Is to be maintained within a lockable filing cabinet, drawer, closet, office, safe, vault or other secure container.

Media Storage and Access

Electronic CHRI media shall be securely stored within physically secured locations or controlled areas. Access to such media is restricted to authorized personnel only and shall be secured at all times when not in use or under the supervision of an authorized individual.

Electronic CHRI media:

- Is to be stored on secure servers within a physically secure location when feasible.

XI. Destruction of CHRI

Disposal of Physical Media

Once physical CHRI media (paper/hard copies) is determined to be no longer needed by the agency, it shall be destroyed and disposed of appropriately. Physical CHRI media shall be destroyed by shredding, cross-cut shredding, or incineration. The agency shall ensure such destruction is witnessed or carried out by authorized personnel.

- The LASO shall witness or conduct disposal.
- Cross-cut shredding will be the method of destruction used by the agency.

Media Sanitization and Disposal (Disposal of Electronic Media)

Once electronic CHRI media (data stored on computers) is determined to be no longer needed by the agency it shall be destroyed and disposed of appropriately.

If the computer/device that the CHRI data is stored on is no longer operational, the NJCA will physically destroy the device. Destruction of the device containing electronic CHRI will be completed and/or witnessed by authorized personnel within the agency.

XII. Incident and Disciplinary Response

The security of information and systems in general, and of CHRI in particular, is a top priority for Divide Fire Protection District. Therefore, we have established appropriate operational incident handling procedures for instances of an information security breach. It is each individual's responsibility to adhere to established security guidelines and policies and to be attentive to situations and incidents which pose risks to security. Furthermore, it is each individual's responsibility to immediately report potential or actual security incidents to minimize any breach of security or loss of information. The following security incident handling procedures must be followed by each individual:

- All incidents will be reported directly to the LASO.
- If any records were stolen, the incident will be reported to appropriate authorities.
- Once the cause of the breach has been determined, disciplinary measures will be taken in accordance with the disciplinary policy.

In addition to the above, the LASO shall report all security-related incidents to the CBI within 24 hours.

All agency personnel with access to FBI and/or CBI CHRI have a duty to protect the system and related systems from physical and environmental damage and are responsible for correct use, operation, care and maintenance of the information. All existing laws and Agency regulations and policies apply, including those that may apply to personal conduct. Misuse or failure to secure any information resources may result in temporary or permanent restriction of all privileges up to employment termination.

Divide Fire Protection District
PO Box 941
Divide, CO 80814

DIRECTOR'S OATH OF OFFICE
Divide Fire Protection District

I, Peter Atwater, will faithfully support the Constitution of the United States and of the State of Colorado, and the laws made pursuant thereto, and will faithfully perform the duties of the office of Director of the Divide Fire Protection District upon which I am about to enter.

Peter Atwater
Signature

State of Colorado
Teller County

Subscribed and sworn to before me this 28th day of January, 2025

[Signature]
President of the Board of Directors
Divide Fire Protection District

CC: District Court Clerk
DOLA (attach proof of bond)
County Clerk & Recorder
Ireland Stapleton

PTO / Holiday

Full-time employees will be paid for the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas. Paid time off will not count toward any calculation for overtime. Vacation time may vary, and any such leave will be based on a written agreement with the District. Accrued vacation time may not exceed 80 hours, and the employee will cease to accrue any further hours until existing hours are used. Any accrued but unused vacation hours will be paid upon termination of employment in accordance with Colorado law.

Since Michelle confirmed we are not subject Colorado Wage Act, the district should decide if it wants to pay out any unused PTO. Last line should be changed to: **Accrued unused PTO will not be paid out on separation from employment.** OR **Accrued unused PTO will be paid upon termination of employment up to X hours.**

We still have an issue with how PTO is awarded rather than accrued. We cap accrual at 80 hours but we are not defining how it is accrued. Instead it is awarded at the beginning of the year. An accrual method at 3.077 hours per pay period, at 26 pay periods, equals 80 hours. I recommend this language at a minimum with any new contracts for full-time employees.

If we change the existing personnel, that is a change for them because they would have to wait until they accrue more before taking it. One way around this is to have a policy where PTO accrues at that rate but becomes accessible at the beginning of the year. If the person stays a whole year, that's no problem. But if they took more than they had earned, they would be short. Some companies will claw that back from the last check, some don't. But at least it would be very clear what and when the hours were accumulating.

Here is some possible language:

Vacation time may vary, and any such leave will be based on a written agreement with the District. Accrued vacation time may not exceed 80 hours, and the employee will cease to accrue any further hours until existing hours are used. Any agreed vacation time will accrue at a per-period rate consistent with the agreed amount per year.

Vacation may only be used as it is accrued.

OR

The expected accrued vacation time for the remainder of each calendar year will be accessible at the beginning of employment (for new employees) or at the beginning of the calendar year (for existing employees). Vacation will accrue as scheduled, and if there is a shortage at the time of termination, the employee will have the shortage deducted from their final check.

Last Question: Holiday pay is how many hours? 8 hours? The same as a usual shift (12 or 14 hours)? Current policy:

Full-time employees will be paid for the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas.

Recommend adding either "for 8 hours each" or "for hours equivalent to their regularly scheduled shift"

Sick Leave

INFO #6B: Paid Leave under the Healthy Families and Workplaces Act (HFWA) p.3/8

Example 4: An employee earns 48 hours of accrued leave in a benefit year, and uses 8 of those hours during the year. This means that (A) 40 hours of unused, accrued leave “carry forward” and the employee can use these 40 hours in the next benefit year, and (B) the employee will continue to earn accrued leave, up to an additional 8 hours (for 48 hours total), during the benefit year. Another employee earns 48 hours of accrued leave in a benefit year, and uses none of those hours; so, 48 hours “roll over” for use in the next benefit year, and the employee doesn’t earn any more accrued leave during that year, because they have already been provided with 48 hours for the benefit year.

Current Wording

First line allows FT employees to have access to sick time right from their hire date. **Yes or no?**
Recommend adding red:

Full-time District employees earn 48 hours of paid sick leave per year prorated to their hire date. Part-time District employees earn paid sick leave at a rate of 1 hour of sick leave for every 30 hours worked, up to a maximum of 48 hours of sick leave. Accrual for part-time employees begins upon commencement of employment and may be used as it accrues. Employees may carry over up to 48 hours of sick leave to the following calendar year **but may not use or accrue more than 48 hours of sick time in a year**. All accrued but unused sick leave is forfeited upon termination of employment.

Also, recommend addition: **Sick time may not be used to accumulate more hours than the employee is scheduled to work during that pay period.**