

Tilton-Northfield Fire & EMS Commissioners' Meeting

Meeting Called By:	Commissioners	Date, Time:	March 7, 2012 at 17:30
Transcribed By:	Kathy Tobine	Place:	Tilton Town Hall, 257 Main Street, Tilton

Commissioner Auger called the meeting to order at 5:30 PM. He stated the agenda tonight is to clarify the issue around the Chief's residency requirements.

Present: Commissioner Paul Auger, Commissioner Pat Clark, Commissioner Tom Gallant, Chief Brad Ober, Deputy Chief Mike Robinson, and Administrative Assistant Kathy Tobine.

Present from the Tilton Board of Selectmen: Katherine Dawson, Patricia Constantino, Sandy Plessner and Joseph Jesseman.

Firefighters Present: Stephen Smith, Greg Michaud, Dan Leathers, Tim Joubert, Jonathan Powell, Tim Ames and David Hall.

Public Present: Kim Sowles, Jane Alden, Donnie Stevens, Albert LaPlante, Tina LaPlante, Elaine Grace, Iris Ianno, Jean Carrigan, Joe Plessner, Dennis Gaudette, Cindy Reinartz, Jim Clement, Peter Fogg, Cecile Robert, Bill Wilder, Gretchen Wilder, Deb Tessier and Becky Albert.

Residency Requirement

Commissioner Clark stated for purposes of this meeting he would like to make the following motion. He moved that they discuss matters at this meeting among the Commissioners, the Fire Chief and, if he shows up, the Deputy Fire Chief but not to take public comment at this time. Commissioner Auger seconded the motion. Discussion: Commissioner Clark stated the reason he does this is the topic has become very charged. He wants to keep the focus on the matter at hand and not get into a heated debate on residency at this time. He feels that the time to discuss residency with the public will be at the District Meeting on the night of March 19th. He just wants to cover these few things and then move on to the District Meeting on the 19th.

Commissioner Gallant stated he was not in favor of it. It would have failed for lack of a second had it been his option. They didn't have a residency requirement. He voted against it for the simple reason that you made a motion to establish a residency of 5½ miles from the Center Street Station and when he asked what that encompassed you had no idea. The record is clear that he was against voting for something that he knew nothing about. He has now clarified that. There is a colored map displayed and he has distributed to the other two Commissioners a map that includes the areas in pink that are the District and in orange which is the 5½ mile radius. That 5½ mile radius is such that you can live in a lot of areas of Sanbornton, Canterbury and so forth that you couldn't even remotely get back to the station in 20 minutes.

Catherine Dawson asked Commissioner Auger if any of the public would be allowed to enter discussion on the motion. Commissioner Auger agreed to allow her to speak. Catherine asked that since so many people turned out for this meeting if they would rethink their motion and allow timed input from the public as long as it pertains to topic at hand. Commissioner Auger doesn't want to get in the habit of having a discussion against them. Catherine Dawson stated they have the authority stop that kind of discussion but if somebody has some input that might add to their discussion or some information they might not have that may help you it would be a shame not to hear it. Commissioner Auger agreed to discussion on the motion.

Jon Powell doesn't think the motion is a good idea with so many people from public here tonight. Because the meeting was about this issue, they are here to discuss this issue. To make it so the public can't input really defeats the purpose of the entire meeting. The meeting on March 19th is not to

TNFD Commissioner's Meeting
March 7, 2012

discuss this issue but to vote on the warrant article. The meeting tonight is about this issue and should be discussed tonight by the people here.

Gretchen Wilder apologized for being late. She knows why the meeting was conducted tonight. She is here to listen. We are going to have a long, drawn out discussion at the District Meeting. This is a very small representation of Tilton and Northfield. We are going to beat dead horse on March 19th. She doesn't understand why they are having this meeting tonight. She plans on going the 19th to address the warrant article because that is the forum. Commissioner Auger agreed that this is a waste of time.

Cindy Reinartz stated this is not a waste of time. If it was, not all of these people would have come down here tonight to hear the pros and the cons. Those that didn't attend this meeting had every available means to come here. They all knew about it. They are here to open a discussion to help move this along. They are here in support of the Commissioners and the Chief, not one or the other.

Jon Powell called point of order. He asked if they think this meeting is a waste of time then why did the Commissioners call it. Commissioner Gallant stated it was requested by a Commissioner.

Catherine Dawson commented that at District Meeting versus this meeting issue. At the annual District Meeting it is registered voters that are allowed to partake of those type of discussions. Some people here might not be registered voters or residents of the District and, again, it would disenfranchise those people here. You do have the authority and position to control the discussion at this meeting. You can time it. You can limit it. You can curtail any conversation that does not pertain to the topic. To have all these people here that are willing to participate in your meeting, it would be a shame to disenfranchise them.

There being no further discussion, vote was taken. Commissioner Clark and Commissioner Auger for, Commissioner Gallant against. Motion passed to discuss matters at this meeting among the Commissioners, the Fire Chief and the Deputy Fire Chief but not to take public comment at this time

Commissioner Clark stated he wanted to go on record that he requested a non-public meeting under RSA 91A:3 II(c). The Chief, upon finding out that the meeting was called to discuss matters with him requested that the meeting be in public forum. He has that prerogative. That is why we are able to be here in the public. Since the meeting is in the public forum he chooses to limit his clarifications. He talked about clarifying residency requirements. He chooses to limit his clarifications about residency to less than what he originally intended as he doesn't feel comfortable discussing matters that he feels should be in a non-public at this time. He says that to honor the Chief and his position. That being said there are just a few clarifications he would like to discuss that have clearly been broadcast in the public either in newsprint, Commissioners meetings or discussions in public with the general public. Because of the pending warrant article regarding residency he wanted to be sure that the correct information was in front of the public. Here are the things he felt warranted clearing up. He will address them to the Chief.

Commissioner Clark stated that in the press, comments have been made that Chief Ober has not signed an employment contract. He asked him if that was right? Chief Ober replied that Commissioner Clark knows as well as he does that he has not signed an employment contract.

Commissioner Clark stated that he did sign a letter of conditional employment. Chief Ober stated that a letter of offer of employment is not a contract. Commissioner Clark stated that one of the conditions was moving into the District within 18 months. Chief Ober stated what it said was moving into the District which would then later be defined within 18 months. That definition was not defined until a year and two months later. Commissioner Clark agreed that the complete definition was not done until recently. But, the concept of moving into the District was something that was in that agreement which is something which you signed. Chief Ober agreed.

Commissioner Clark stated in the Commissioners meeting minutes there have been comments indicating that you would have to sell your house and you would be taking anywhere from a \$55,000 to \$60,000 loss. It has been stated that this is an upside down mortgage. He is not asking in a public forum to get into your personal numbers but could you define what that means to you, the upside down

TNFD Commissioner's Meeting
March 7, 2012

mortgage that you would have to take a hit for \$55,000 to \$60,000. Chief Ober stated he doesn't understand the question. Commissioner Clark stated he is asking them as Commissioners to waive the residency requirement because you would take a hit in the form of an upside down mortgage to the tune of \$55,000 to \$60,000. He is just asking for his definition of what an upside down mortgage is. Chief Ober stated he doesn't know how he can define that any better than what Commissioner Clark just said.

Commissioner Gallant stated that he didn't believe that it was ever indicated that he has an upside down mortgage. He thinks what was stated is that he is upside down on his property which means that he owes more or has more invested in it than what it's worth, then he is upside down. He may have, but it's not his recollection that he did.

Chief Ober stated the bottom line is that he can't sell the house for what is owed on it. Commissioner Clark asked Chief Ober if what he is saying is that his mortgage is higher than the market value of your property. Chief Ober stated yes.

Commissioner Clark stated the two other things is to determine the market value of his house he had a comparative market analysis done. The other way to find out what your house is worth is to list it with a real estate agent and having it not to sell below a certain amount. He asked Chief Ober if he had listed the house at all. Chief Ober replied he has not. Commissioner Clark stated the only other alternative he had that they discussed in a Commissioners meeting was to take a look at whether or not he might be interested in renting his house and then renting a house in the District.

Chief Ober stated he is not interested anymore in Commissioner Clark trying to figure out his financial situation and his mortgage situation. Commissioner Clark stated he fully understands that. Chief Ober disagreed because he keeps coming up with these ideas about rental. Commissioner Clark even suggested that he might be able to roll his current mortgage into a new mortgage. He offered to go with him to Franklin Savings Bank at one point. He is not interested in telling him any more information about that. Commissioner Clark stated he is exploring this stuff because he didn't get any feedback from the Chief. Chief Ober stated he has given them feedback, adequate feedback. He will tell them that the suggested sale price of his home which is the advertised price and they all know that is not what it is sold for, is extremely under what is owed. That is where it stops. He cannot afford to rent. He cannot afford to get into a new place because of that one reason. Commissioner Clark asked if that was off the table would he be willing to move into the District. Chief Ober replied if it was off the table there would be a for sale sign on it.

Commissioner Gallant stated that Paul had asked him that questions straight out in one of their meetings and he had replied absolutely. Just to clarify, in the conditional letter of employment it says "It is the expectation of this Board that within 18 months of accepting this position you will reside within the Fire District." It doesn't say you will. It says the expectation. It goes on to read "The exact boundaries will be discussed and decided upon in the near future. The 18 month period of time shall begin upon your confirmation as our new Chief."

Commissioner Clark stated that is all he had to ask. Chief Ober stated it is the same story. He hasn't changed it.

Commissioner Gallant stated that now the situation is such that in a very hurried manner Commissioner Clark proposed that the boundaries of the District by virtue of residency be defined as a 5½ mile radius from the Center Street Station. He gave us a list of 12 different points as to what could be accomplished by the Chief living close to the fire department. Commissioner Clark had been asked on a number of occasions by himself, the Chief and by others what was to be accomplished. He hangs his hat on a case which is the Town of Seabrook which went all the way to the Supreme Court and regurgitates basically the 12 points from that decision. He voted against this as he doesn't vote for anything he doesn't know what he is voting for. When this 5½ mile radius was brought up he asked where it came from. Commissioner Clark stated that is what Franklin uses. It has been said that Franklin is in the process of trying to get rid of that requirement. What is important is that two of the Commissioners voted to enact that 5½ mile radius for residency only for the Chief, not for other

members of the department. If we are going to enact a residency requirement it might be important for us to spend some time and analyze what made sense. Was it mileage or time? What has been done here is that everything outlined in pink is the District. The orange line is a 5½ mile radius from the station. The average response time we have for any of the staff including the Chief is 20 minutes. There are examples here where you could live up where Sant Bani is and still be within the 5½ mile radius. He challenged anybody to make it from Sant Bani to the station quicker than he can make it from the Chief's house to here. There are also two areas of the District where you wouldn't be able to live as they fall outside the 5½ mile radius. He believes that a mileage requirement is nothing they should be looking at. If they are going to be looking at a residency requirement they should be looking at response time. Having that information and then looking at those 12 points you can blow every one of those points right out of the water. Commissioner Gallant then requested the 12 reasons Commissioner Clark gave for wanting the Chief to live close to the Fire Department be entered into the record.

Reasons for wanting the Chief to live close to the Fire Dept.:

1. *Quicker emergency response time which enhances community safety*
2. *Improved performance due to a tangible stake in the community*
3. *Greater knowledge of the conditions of the community*
4. *Improved community attitudes toward the fire department employees*
5. *Reduced absenteeism*
6. *Increased presence can be an important element in the actual fire fighter function.*
7. *Our high incident rate, second only to Laconia in the Lakes Region increases the need for us to have increased response time in emergencies; residency affords that.*
8. *The increase in the population due to the fire district being a vacation destination area and of the huge increase due to our commercial base requires a need for elevated public safety concerns.*
9. *Because of heavy traffic, especially during the summer months, having the Chief nearby improve the likelihood that he will be able to respond faster.*
10. *The NH Supreme Court has found that having police and fire forces living within the borders of the town constitutional in the 1993 case of Seabrook Police Association v. Town of Seabrook. The above mentioned points were taken from that case.*
11. *The Supreme Court required that Seabrook make a compelling case for a residency requirement based on having a unique set of safety concerns. Seabrook has the nuclear power plant, a bridge that is the main thoroughfare into town, and a summertime vacation population that doubles their winter residency. Our fire district has similar unique conditions like our huge influx of people vacationing or using our exit 20 commercial establishments, the fact that we have a major gas plant on Route 4140, the existence of the Veterans Home, and beyond our public schools we have Tilton School and Spaulding Youth Center. Exit 20 is the crossroads off of Rt. 93; the gateway to the greater Laconia and Winnepesaukee area; a crossroad that increases traffic immensely.*
12. *The Seabrook case highlighted the fact that police and fire personnel have an inherent difference when compared to other municipal employees and the very presence in the community during off duty hours may be an important element of their police and fire function. This, the court found, outweighed the asserted interest of officers.*

Commissioner Auger stated one of the other things when he was in the process of electing somebody as Chief with residency. Our former Chief did not live here. We invested a lot of money in him and look at where he is today. He is not with us. That was one of the reasons why I wanted somebody to live in this community so it wouldn't happen again. We do invest a lot of money in whoever's position that is. Brad does a wonderful job for us. He is very pleased with what he does. That was one of the requirements. He is going to stand behind it 100% simply because of that reason. The Chief before Steve did live in this community. He still lives in this community.

Commissioner Gallant stated the point is that you can live up by Sant Bani school. Are you living in the community? Is that any different than living in Gilford? It isn't.

Commissioner Auger stated the thing is that if a position came up in his town, what's to stop him from taking that position. He would take it in a heartbeat. Commissioner Gallant stated that if he lived here

TNFD Commissioner's Meeting
March 7, 2012

and a position became available up there he might decide to go there. Commissioner Auger stated he might, he might be invested here.

Chief Ober asked Commissioner Auger if he was saying that if he and other employees lived in the town that they are not going to leave here. Commissioner Auger stated he didn't say that. He is saying that the chances might be greater that you would stay in this town versus the other town if you lived in the community. Chief Ober stated that he is confused on that. If somebody has an opportunity to take another position that benefits their career, maybe even a total different career path, they are going to do that wherever they live. It has nothing to do with where they live. That line of thinking is not accurate at all. Commissioner Auger stated look at what happened to the former Chief. Chief Ober stated look at what happened to the former Chief. He got a better offer. Commissioner Gallant stated he promised he would stay here for seven years and he made good on that promise. Chief Ober stated Commissioner Auger's line of thinking on that, with all due respect, is not appropriate. It is not what is happening in the fire service. It is certainly not what is happening in law enforcement. It is not even happening at town level government. If somebody has an opportunity to better their career, they are going to do that. If it means within their own department or company, they are going to do it there. If it means going to go to another agency, they are going to do it there. If they want to do it bad enough they will do what they have to do to move out of state for example. You know my situation.

Commissioner Auger stated he knows that. They brought it up that they are willing to work with him. Chief Ober stated it doesn't seem like it. Every month since then the rules keep changing. The rules have changed on a monthly basis.

Commissioner Clark asked what kind of rules Chief Ober was talking about other than the 5½ miles. Chief Ober replied a year and two months later that was nice to get in. That changed. Your attempt to have the vehicle stay in town. Your attempt to freeze his salary. Every month it is something different. He doesn't know what is going to happen next month.

Commissioner Clark stated the whole thing about those other conditions he made on the motion he made about the salary and the vehicle was that the key position they were talking about that was very important from the beginning, which was advertised with LGC when they went out to look for a new chief, was that whoever was hired would be a resident. That hadn't been met yet. We hadn't addressed that. We hadn't dealt with that. From historical reasons it was really important to deal with that. In the past it has been a real issue, for instance, to have the Chief drive the command vehicle to his house and back every day. That has been an issue in the Fire District. He felt that it needed to be taken care of before they blessed that. He didn't feel bad about him having a command vehicle and having that taken back and forth to his house every day if he lived a reasonable distance away so it would be here very fast if we had a catastrophe. Chief Ober stated in his plan he could live further away. Commissioner Clark stated he would have to look at that. Discussion ensued.

Commissioner Auger stated the other thing with him not living within a distance within the community, if it does pass, if you were to leave tomorrow there is nothing to say that somebody from Littleton, Concord, Manchester could be hired and they could go back and forth every day. Chief Ober stated don't hire them. Commissioner Auger stated Chief Ober could move on to something better and that could happen if they didn't have some type of stipulation. Chief Ober stated if they don't come to some kind of resolve on this it looks like he will have to. They know that as well as he does.

Commissioner Gallant made a motion to strike the 5½ mile radius residency requirement and in the ensuing months bringing them up to the 18 month period study the need for a residency requirement, if there is one, for the entire department. Commissioner Clark seconded the motion. Discussion: Commissioner Gallant stated it is clear that there are many areas in that 5½ mile radius that lend themselves to an extended amount of time to get back to the station. He doesn't believe a residency requirement should be called for unless it is called for the entire department. He also doesn't feel it is necessary or worthy for the current Chief. There were two commissioners for and one commissioner against a residency requirement because you limit your field. Commissioner Auger's comment of someone from Littleton, obviously someone is not going to commute back and forth from Littleton as that is not practical. Someone commuting back and forth from Concord, why not? Commissioner

TNFD Commissioner's Meeting
March 7, 2012

Auger asked if he was willing to set boundaries. Commissioner Gallant stated he is willing to be reasonable. There being no further discussion, vote was taken. Commissioner Gallant for, Commissioners Auger and Clark against. Motion failed.

Public Discussion

Text in italics is from members of the public who were not identified.

Donnie Stevens asked if he could ask a question. Commissioner Auger told him he could. Donnie suggested that they should make a rule where they grandfather the people in place. Give them whatever extension until you can resolve the issue. He talked with Franklin and they would like to do away with the 5½ mile radius and have a time thing. If you wait until the District Meeting and everything is all over when people have more time and resolve it so you can do something for everybody to make it reasonable. You obviously have people that live out of the District now. They would be grandfathered. Finally it would all come to play. Set up for what the rules are and have them be written rules so that when somebody leaves, the new guy would fall under the new rules. Commissioner Auger stated the 5½ miles was one issue that was brought up. We were going to come up with some ideas on how to do this. Donnie Stevens stated that is what he is suggesting. Come up with the rules and then settle this whole thing. As soon as all the meetings are over with, people should sit down with level heads and solve it.

Commissioner Gallant asked Commissioner Auger to clarify his last comment. Commissioner Auger stated he never brought up the 5½ miles. Commissioner Gallant stated he knows he didn't but he voted for it. Pat Consentino stated there was a motion made and passed. Commissioner Gallant stated that is correct and there was no discussion about they were going to be looking into other things. If you go back and read the minutes from that night he was irate at the fact that you would vote for it. When I asked what it encompassed you couldn't tell us. It made no sense then, nor does it make any now. When you put it on paper it makes even less sense.

A question was asked if one of the conditions of the job that the Chief is the only person to make any kind of decisions as to an emergency as a fire. Is he on duty 24 hours a day 7 days a week in that regard? Commissioner Auger replied that if he is available, yes. If he's available but if it's his day off doesn't he have a person under him who can take over the job if he is not there? Commissioner Auger stated he has officers that take that position. As in any job, when you are off duty you are off duty or is that not true if you are the fire chief. Commissioner Auger stated if he is off duty, he is off duty. You can't get him if he's not around. So when you go to a job and you have to be at the job at 7:00 AM on Monday morning, it doesn't matter where you live. You have to be there at 7:00 AM on Monday morning. So when the shift is over for the day and you are off duty, somebody else takes over. What does it matter where you live as long as you are on the job the hours you are supposed to be on the job? When it is an emergency they call him and say this is going on, get here. He can't get there if he is on vacation or someplace else, then what is the difference? You have CEOs that make \$250,000 a year and they don't live anywhere near their jobs because their jobs are all over the world. They are there when they need to be there. Commissioner Auger asked that if you applied for a job and it lists what your job qualifications were and you took that job then all of a sudden said well I don't want to do this for that reason. We want to change it. Would that be ethical? When he accepted the job it was not a real condition. It was a maybe condition. It was not defined as to where it was. Commissioner Auger responded that when they were in the hiring position that was part of the requirements; to live in the community, be a resident. That was part of the job requirements.

It was asked if that was legal.

Jane Alden asked if that was how it was advertised. Commissioner Auger stated he believed it was.

Catherine Dawson stated that is unconstitutional.

Gretchen Wilder stated that if you go on the website and goes back. She was at a meeting that it was being announced that Ober was going to get the job. She asked if he was going to live within the District. The meeting minutes are out there. They were approved. Commissioner Gallant said yes, the

TNFD Commissioner's Meeting
March 7, 2012

Chief is going to be required to live within the District. He is talking about the meeting minutes and discussion, she sent them to Commissioner Clark a couple weeks ago because she had heard all these stories. They are on the website if you want to back into November of 2010, the minutes are there. She believes the District was defined when he sat there and looked her straight in the eye and said yes he was going to live within the District. Now we are 14 to 16 months into this and we forget things and are having discussions. She can only go by the meeting minutes and her recollection and it matches what she asked.

Sandy Plessner stated the Chief has stated he is more than willing to live here. Circumstances are stopping that from happening. Why should anyone have to sell their property and take a huge loss. Commissioner Auger stated stop right there. They have discussed that with the Chief. They are willing to work with him.

Dennis Gaudette stated you mentioned that there is a lot of money that has been spent on the Chief. He is curious what it will cost to start up a new committee to search for a new Chief and then bring that new Chief up to all the training requirements that we would want. Commissioner Auger stated that the last Chief they had they spent a lot of money on him. He did a lot of traveling to different states. That was in his contract. Dennis Gaudette asked if he was with us seven years? Commissioner Auger replied yes. Dennis Gaudette stated he doesn't know what the life expectancy of a Chief is so we would have to start all over again. Commissioner Auger replied yes.

Jon Powell stated point of order to Gretchen Wilder's comment. Yes, you might have asked Tom a question. Yes, he might have given you an answer. Everybody has been wrong. Just because he said that to you does not mean that that is what the Chief signed on his conditional letter of employment or any possible contract. He was asked a question and he might have been wrong. Gretchen Wilder replied that he had the opportunity to look at that draft minutes. Jon Powell asked Gretchen Wilder if she had been asked a question and been wrong before. Gretchen Wilder replied yes, and she has to live by what the meeting minutes are. You go by a legal document. Jon Powell replied yes, it is a document of what was said, not what was signed.

Al LaPlante stated it was asked if you make this requirement for the Chief and everybody on the fire department, what happens to everybody that lives outside that 5.5. Are you going to get rid of them? Commissioner Clark stated they haven't discussed that. Al LaPlante stated it seems to him that they are pinning this on one guy. Going after him for some reason unknown to everybody in this room. Commissioner Clark stated it was advertised right up front. Hundreds of people took a look at that ad. Many people applied for it. They narrowed it down to three people. That was the requirement. He has a newspaper ad right there that states it clearly. He can make copies of that.

Chief Ober asked if circumstances never change for people. That is bottom line here. Commissioner Clark everything needs to be taken into consideration. Part of that is to gather clearly all the information surrounding the issue so they can make a valid decision. That is what they are trying to do. Chief Ober stated they are not going about it in a very nice manner. Commissioner Clark stated he wanted to have this in a non-public. Chief Ober stated when he left the January meeting he was to report back every other month or so to keep them apprised because the 18 months was coming up in June. Then February hit and all these rules started popping up that weren't even discussed in January. Commissioner Clark stated that had everything to do with the residency which was one of the conditions of hiring him. Chief Ober stated he finds it difficult to comply when something is put in place a year and two months after the fact. Commissioner Gallant asked how you can comply with something when you don't even know what the something is. Chief Ober stated the only reason he is asking for leniency here is because he cannot afford a loss. Commissioner Auger stated they would work with him. Chief Ober stated it doesn't sound like they working with him. Now you have this in place. Commissioner Auger stated they can't drag it on forever. You have your 18 months and who knows after that. He asked if we go years. Chief Ober stated he doesn't know what is reasonable. He does know the real estate market does not snap back at the snap of fingers. It is not going to be quick fix. He would like to stay here. He likes working here.

TNFD Commissioner's Meeting
March 7, 2012

It seems as though you are happy with what the Chief and what he has been doing. Commissioner Clark said all of them would say by and large he has done a very good job. Were there things we pointed out he could improve certainly. None of us walk on water. *You would either force him to move into the District and take a loss if he does or get rid of him and have to retrain somebody else at the District's tax dollars. This doesn't make sense to her. He's already gone through his training. He is doing well. How does this make any sense?* Commissioner Gallant stated that is the point Dennis was trying to make earlier when he asked how much it would cost to retrain another Chief. *It has to be a significant amount.* Commissioner Auger stated like he told them once before. They invested a lot of money in the previous Chief. Look where he is today. Chief Ober stated you had seven years out of him. The days of the 20 year chiefs are gone. That does not happen. This is why. Steve Carrier is good friend of his. He thinks that is disrespectful to say after seven years that you still hold a grudge he left. Commissioner Auger stated he wasn't holding a grudge. That isn't what he said. Chief Ober stated he thinks the fire chief should be here for 20, 30 years. The average career chief is now five to seven years. In some cases it is less. Sometimes it is longer. The days of the 10, 15, 20 year chiefs are not longer, particularly in a career setting.

Pat Constantino stated they sit there as Commissioners and say they have no problem with the job Brad is doing and he signed an agreement that said that the expectation of residency. That in 18 months he would reside in the area. The economy tanked. You are saying to us, as residents sitting here in the meeting, that you are willing to work with him. We haven't seen yet tonight. She is wondering what they are willing to work with him on that. To her it is a simple solution. Put an extension on this and came up with a solid plan for their definition of what defines the District that is for the better of the District and not just for the better of the Commissioners.

Commissioner Auger asked Chief Ober if they did not say they would work with him at the end of the 18 months. Chief Ober said yes, then they started changing the rules. Pat Consentino said saying that they are going to work with him and hearing what she is hearing with interactions between the two of you going on isn't working together. She can hear that. She can see that in the body language and the words. It is not working. The motion on January 15th to define the radius of 5½ miles clearly said to the Chief that you are not willing to work with him. Here you go. I'm going to define this right here and now. End of discussion. She sees that as a huge communication gap and that needs to be rectified before you go forward. We don't want to lose our Chief. She thinks he is an awesome Chief. To have to go through that whole training process over again and who knows who will follow if the Chief leaves, she doesn't want to go through that process. Her message to them as three Commissioners that hold this in their hands tonight is to appeal to them to extend this. Think about it. Get a committee together or due it yourselves, come up with a plan. Have a solid plan. The economy tanked. You don't want to expect anybody who works for them to have to move and take that much of a pay cut.

Commissioner Clark stated a couple of points. Above and beyond Brad what they were looking at over all was to take a hard look at residency. We didn't say all the firefighters had to move in. We weren't proposing a plan like that. It was clearly something that needed to happen. We were faced with having to hire a chief. The chief is the leader. He is the commander of the fire department. By RSAs once you hire him he is the Chief, quite frankly, forever because the only way he can be let go is for cause. One of the conditions in hiring a chief, whether it be Brad or other people that interviewed, was that they be a resident. One of the things they recognized was the economy tanked long before the Chief was hired. They had a 12 month probationary review period but they extended the residency 18 months. Mike Robinson said it best because it's going to be difficult during these times to work that kind of a thing out they should add some more time. It made sense. Why not go through the probationary period and if he is accepted at that point in time take a look at moving. Why move until you know for sure at the end of the year that you are going to be on board. So it made sense to do that. Shortly after the probationary period was done they wanted to add clarity as to what the residency meant. What it was defined as. Pat Consentino stated he came to them and said he needed some help. He can't afford to move right now. According to Commissioner Auger he is saying we are willing to work with you Brad. Then all of a sudden you make a motion that said he has to live within 5½ miles. That action tells me you are not willing to work with the Chief. Commissioner Clark stated

TNFD Commissioner's Meeting
March 7, 2012

that working is a two way street. There are things the Chief might be able to do as well that would be helpful. Pat Consentino stated in this situation they have tied his hands. He cannot work with you. She appealed to the Commissioners tonight that they work with the Chief extend the period.

Dave Fox stated he understands the Commissioners desire to have somebody be in the community and thinks that is logical. He understands Chief's situation and the tough economic times we are in. He would think it would be appropriate for the Commissioners to consider a two year extension to the agreement for things to be worked out.

Jon Powell stated the Commission said they spent some time gathering some information. He asked other than 5 ½ mile radius which clearly comes from the Franklin Fire Department and the case study from Seabrook, where was information gathered from. Why Seabrook? Commissioner Clark stated Seabrook is a 1993 Supreme Court case. The question came up from the Chief that it might not be constitutional to force anybody to live within the District. He went out and explored through legal counsel at LGC. They gave him the 1993 Supreme Court case in Seabrook. That case had to do with the Charter for the Town of Seabrook where both police and fire were required to live within the Town of Seabrook and they made a compelling argument for that. The police department wanted to challenge that so it did go all the way to the Supreme Court and the town won. The summary in the ruling was, in so many words, that yes there is a constitution that says people can live where they want to live but public safety trumps that. If you can make a compelling case in your community that public safety is important enough because of your circumstances, then you can do that. So that was a defining moment in terms of supporting what they were trying to do.

Jon Powell asked for their compelling argument as to how 5½ miles benefits the safety of the community. Commissioner Clark stated he was looking at 5½ miles versus 23 miles. He felt really strongly they needed to give something to the Chief. They said they would define something shortly. Right after the probationary period was the time to do that so he made that motion to things going so they would have something on the table. That doesn't mean they can't study things and try to tweak that. His original thought was to put a combination of time and mileage so you would get away from the situation that Sant Bani was going to take 15 minutes to get here and that is exceeding the time that was required to be helpful for public safety. That might be something they have to do is a combination of time and mileage. Jon Powell asked if it wouldn't be prudent to do the research before they make the decision. Commissioner Clark stated it would be great to have everything fall in line. It would be great to have the Chief not have an upside down mortgage. Jon Powell stated the Chief's personal finances are none of their business. They are none of his business. That is his business. Come up with more compelling argument. Commissioner Clark stated it is only part of their business in that he is asking them waive a requirement they had for employment. Jon Powell stated a requirement that you came up with with no research. You said so yourself. You didn't research it at all. You made a decision. You pulled a number from a neighboring community and a court case that is over 25 years old. The case is 25 years old and about Seabrook which has a nuclear power plant. We do not have a nuclear power plant. We have trained, qualified officers in town and Deputy Chief that already lives in town. This clearly, in his mind as a taxpayer, is nothing more than attack on the Chief. You say he is doing a great job, but. Commissioner Auger stated he is offended Jon would say something like that.

Catherine Dawson stated she read the Seabrook case. She really has a hard time comparing the Town of Seabrook to the Town of Tilton. It is unconstitutional to require somebody to live in the town. This decision did determine that Seabrook could basically because of the nuclear power plant in Seabrook. Also, because Seabrook on one side is fronted by the ocean. The safety concerns attendant to a small seacoast town as exasperated by the existence of a nuclear generation plant are public interests important enough to justify the restriction on the officers private rights. We don't have restrictions such as that. We don't have a nuclear power plant. We have plenty of ingress and egress out of these town boundaries. We don't have the ocean as a boundary. She isn't even sure how you can compare the Seabrook decision to the Town of Tilton. What she hears is they have put a 5.5 mile restriction on residency on one employee of the District. That really scares her. It sounds pretty litigious. It is pretty discriminatory and you are basing it on a decision that doesn't even compare to our community. She is really concerned.

TNFD Commissioner's Meeting
March 7, 2012

Commissioner Gallant stated just to clarify what you are saying because this is a matter of public record. It is a matter of their meeting of February 15th that was submitted by the proponent of the 5½ mile radius. He then read *"The Supreme Court required that Seabrook make a compelling case for a residency requirement based on having a unique set of safety concerns. This is exactly what you are saying. Seabrook has a nuclear power plant, a bridge that is the main thoroughfare into town and a summertime vacation population that doubles their winter residency. Our Fire District has similar unique conditions like our huge influx of people vacationing or using our Exit 20 commercial establishments. The fact that we have a major gas plant on Route 140, the existence of the Veterans home and beyond our public schools we have Tilton School and Spaulding Youth Center. Exit 20 is the crossroads off Route 93; the gateway to the greater Laconia and Winnepesaukee area and the crossroads that increases our population tremendously."* Commissioner Gallant stated that obviously he was trying to draw a corollary between Seabrook and us as it relates to the gas plant that is on Route 140.

Commissioner Clark stated very few communities have a nuclear power plant in their backyard but we do have compelling circumstances, conditions that are within our District. Looking at incidents, we are the second largest fire department within the mutual aid organization. We have a lot of calls. It has a lot to do with the influx of people coming off Exit 20 and into the box store area. He remembers back when Home Depot was doing the study to try to get their plans approved. They had to do the traffic study. It was like 25,000 people that passed that every day. At the time there were only 23,000 on 93 so we had more people coming through Route 3 and 11 than we did on 93. They are talking Seabrook in the summertime with a vacation population of their population doubling. We have about 8,500 people in our two communities and 25,000 coming in off of 93. It is like triple every day. Not just in the summertime but every day.

Catherine Dawson stated you also have to remember the Seabrook decision was talking about the police department. She would agree that those figures might be more extenuating if they were talking about the police department but we are talking about the Fire Chief. Commissioner Clark stated in that decision they mentioned the city charter being police and fire and it applied to both police and fire.

Dennis Gaudette stated having lived in Seabrook it is tough to correlate the two. The fact that there are only two ways in to Seabrook. During the summer those roads are blocked. We don't run into that same circumstance here. They have a nuclear power plant, closed roads due to traffic and so forth. He can understand why you might have to have officers living right in that community because you may not be able to get into that community on a busy Sunday when everybody is trying to evacuate the beach, evacuation plans and so forth. It is tough to correlate the two.

Jane Alden stated Commissioner Clark just proved a point they have been trying to make. When the study was done for Home Depot that there was more traffic on any given day going by Home Depot than there was on Route 93. So what you are saying is if Brad chose to move to Tilton and decided to live on the other side of Home Depot he would be in more trouble getting here than if he came down 93 because there is more traffic on that road than there is on 93. You just proved one of the points they have been trying to make. He would not have problems responding in time if it were necessary if he continued to live where he lives. He would probably have a great deal of difficulty, if those numbers you just quoted are correct, if decided to buy a house on the other side of Home Depot on the lake.

Deputy Robinson stated he has had the distinct honor of serving with six chiefs. He is working with one of the better ones right now. They set some goals, made some improvements. They are going down a good highway. He wants to stay on that highway with Chief Ober. They have a system and that system works very well. As Deputy Chief, he is not available during the day but is at night from 6:00 PM to 6:00 AM. He can tell you every time he has been to major incident he has turned around and there he is. The other morning there was an early morning fire. He was out of town and he heard our Chief arrive on scene at the same time as the fire truck from Belmont. After the decision of the 5½ mile limitation, he doesn't think it can be called residency as that does not cover all the borders of our community. It restricts him. He has been part of most of the meetings and the goal of the Board was a reasonable response time. He doesn't know what that is. There are benefits of having firefighters

TNFD Commissioner's Meeting
March 7, 2012

living close. If he could make a recommendation, this is something they can all sit down and work out. He has a willingness to move. Major corporations help them out. What the Chief is looking for is for the economy to recover. He and I can work through the extra few minutes it takes him to get there. Let's encourage people to live within a reasonable response area. We are on a pretty good highway. Let us continue to work on improving where we have been in the last year.

It was asked if there was going to be a public vote at the next meeting. She wants to have all her ducks in a row to vote for the Chief. Commissioner Gallant stated what they will be voting on is a warrant article that is in the annual report. The Town Report has a section that is strictly for the Fire District. If you look at the warrant, the wording there will open a discussion that night that surrounds residency. It was asked if there would be voting on it. Commissioner Gallant stated there will be. There will be a full discussion controlled by the Moderator then an up or down vote. That will be on the 19th.

Catherine Dawson thanked the Commissioners for allowing the public to speak.

The Commissioners were asked if they were going to discuss this stipulations for the Chief for the Chief to stay Chief, are you going to discuss the 5½ mile radius or the time restrictions before this meeting and put something else out rather than the 5½ mile radius. If that comes in at the meeting, they are not going to look too smart. It takes 15 to 20 minutes from Sant Bani and it takes 20 minutes from his home. They are going to be going; this doesn't make any sense. We don't know what the Commission is doing. It doesn't make any sense. Commissioner Gallant stated they don't have another meeting scheduled between now and then. So there won't be any talking about it. Commissioner Gallant stated there may be in coffee shops but there won't be in another meeting.

Deputy Robinson stated the part that scares him with the warrant article is that it is wide open. Will call firefighters be able to live anywhere? Catherine Dawson stated it can be amended. He is disappointed that it had to get to this level where it needed a warrant article; that they, as a department couldn't work the whole thing out.

Commissioner Clark stated the warrant article might not be legal. He asked if they had checked it with legal counsel at LGC. Catherine Dawson stated she had advice on the warrant article. A lot of warrant articles in the past years have been difficult to enforce. Definitely no matter how this goes, it is a message to the Commissioners from the legislative body that they represent. It is usurping the powers of the Commissioners that they could ignore. It is your legislative body letting you know how they feel. Commissioner Clark stated there is something very liberating about that. When you get beyond the rub of personalities and look at the overall policies they are trying to set in getting response times down and to craft that in some way. Could there be more discussions in the future. Inevitably there will be more discussions. A lot of the good ideas that came up tonight are going to be a part of that. That doesn't say that 5½ miles is cast in stone but it does give some direction so we are not saying its 30 miles or its 45 minutes or you can live in Boston. We are putting some definition on that that we said we would do shortly in the letter of conditional acceptance that he signed originally. None of this is out of the realm of possibilities in trying to figure something else. We have said repeatedly that we are open to working with the Chief. We think he is a fairly good Chief but we do need to be able to do that. Unfortunately time goes on. We have District Meeting coming up right now. He would hope that it doesn't pass but he hopes that the vote is strong enough one way or the other to give them some direction. You need to do that. You need to take feedback from the public and figure out what you are going to do with it. If you don't listen to the public, that is a big mistake. He thinks it is important to have that. Whether it is legal or not, it is important to have that discussion. He truly believes that is what District Meeting is all about. You can talk about these things. That is the opportunity in democracy to talk about it. It doesn't have to be a personality clash. It is getting all the cards on the table, discussion it and moving forward. He thinks it is healthy.

Pat Consentino stated wouldn't it be wonderful if the Commissioners sat down with the Chief and Deputy and came up with a solid plan and came to the District Meeting and said they have this solid plan. The people who came up with the warrant article would say look, have done their research, they have done their home work, they have plan in place. Let them go forward and do what they do. They tabled the warrant article and you go forward with the plan and everybody is happy. It is in the best

TNFD Commissioner's Meeting
March 7, 2012

interest of the District. That is what is important. You still have time to do that. Commissioner Clark stated there is very little time to do the kind of research that needs to be done to be well done. Pat Consentino stated she doesn't believe anybody here is asking them to make a decision. What they are asking you to do is put it on hold and do your research on it.

Jane Alden said define things like response time. You don't have a definition for response time. One's person's definition is one thing and somebody else's is another. Start with simple things like that.

Pat Consentino stated she sat in on the Commissioners meeting with Facilities Committee presentation. You have fine firefighters there who are doing excellent research. Let someone do that kind of research on response times. Put a committee together and go forward. In six months, a year, two years, whatever you decide, then come up with a plan. Put the 5½ miles on hold. Go forward with a solid plan to define and research because she agrees with some of what they are saying.

Joe Plessner stated he has a question with all the talk about a compelling reason to do this. He is not hearing a compelling reason as to where Brad lives relative to our fire department functions. Where is the compelling reason for such a drastic change to push him in to a corner where he is either going to lose a ton of money or go to work somewhere else. It seems like you are not going anywhere other than creating an issue to argue about. It doesn't seem to be an issue that has merit.

Sandy Plessner stated people in our community have nothing but praise about how quickly for our fire department getting there. Why are they willing to make this man leave town because they want to prove a point. She just doesn't see it. It gives her great peace of mind that they have such an excellent department in their communities. As far as their reference to Steve, even if Steve Currier had lived here and Gilford offered him a better position what makes you think he wouldn't have gone. He promised us he would stay seven years and he did. It wouldn't have mattered whether he lived here or there. If the opportunity came, he would have taken it. It is not fair to blame Brad or try to hold Brad to different set of circumstances because you think Steve left because he wasn't a resident.

Commissioner Auger stated he believes the former Chief before Brad was asked to move into this community and he did move into the community. Sandy Plessner asked if that made him a better Chief than what Brad is. Did it make him better than what Steve Currier was? Deputy Robinson stated Steve never lived in the community. Commissioner Auger stated he is not talking about Steve. He is talking about Bob Petrin. Sandy stated all she is saying is you had good Chief in Steve. You have a very good to excellent Chief in Brad Ober and to try and change that. He has been with District a long time. He has been here a lot of years. He knows our communities of Tilton and Northfield inside and out. We have all witnessed him doing things that were beyond what was just the job. It is very difficult to understand why you want to disrupt something that works so well. Commissioner Clark stated the two big things that keep coming up is that we are interested in improving response time and that is why the whole residency thing came up and was included in the job. The second thing was the Chief and what a good job he has done. We haven't said tonight that either one of those aren't things we can work on. We do plan on working on them. Sandy Plessner stated they made a motion before and voted on it. Commissioner Clark stated that is right. That is to give some definition to begin with and they can keep working on it. Sandy Plessner asked if they are saying in parts of our own communities in Northfield and Tilton where if there are any firefighters there they have to move out. Commissioner Clark stated he did not say that. Sandy Plessner said so it is only the Chief for now. Commissioner Clark said he didn't say that.

Peter Fogg stated what he heard from Commissioner Clark a few minutes ago is that there is enough time between now and the District Meeting to come up with a solid plan to go forward yet we are going forward with plan for 5½ miles which has little or no research behind it as to why we need 5½ miles. Commissioner Clark stated he set 5½ miles because it is used by Franklin. He talked with a surveyor and asked him if he could use his software to figure out exactly where the furthest distance from the fire station to the boundaries in Tilton and Northfield. The two corners that Tom shows were two the furthest points. He told me that was about a 5.3 mile radius from the fire station. Peter asked if the MRI didn't say 7 miles was the furthest distance from either of the stations. Commissioner Clark stated that is right and they are talking about roads. Roads turn and so forth. He is talking radius. Jane

TNFD Commissioner's Meeting
March 7, 2012

Alden stated a really curvy road in that radius would really slow somebody down. Peter Fogg stated it sounds like the cart is in front of the horse.

Elaine Grace asked that if they ever decide and it goes through to put another fire station on the other side of 93 what are they going to do? Put the 5 ½ mile radius from there. Putting the 5½ mile radius on really makes you susceptible to other problems when they come up. Commissioner Clark stated that was a good point.

Greg Michaud stated if the Commission spent as much time on figuring out how to retain good employees as they did trying to push one away that would do more for public safety. Commissioner Gallant stated point well taken.

Adjournment

Commissioner Gallant made a motion adjourn. Commissioner Clark seconded the motion. There being no discussion, vote was taken.

The meeting adjourned at 19:01.

Respectfully submitted,

Kathy Tobine
Administrative Assistant

Next Meeting Date, Time, Place: March 21, 2012 at 17:30. Meeting to be held at Winnisquam Regional High School, Media Center, 435 W Main Street, Tilton.