

## Tilton-Northfield Fire & EMS Commissioners' Meeting

Meeting Called By: Commissioners

Date, Time: 04/15/2020, 5:00 PM

Transcribed By: Kathy Tobine

Location: Telephonic

### Call to Order

Commissioner Auger called the meeting to order at 5:07 PM.

Commissioner Auger commented he does not have a copy of A Checklist To Ensure Meetings Are Compliant With The Right-to-Know Law During The State of Emergency with him.

Commissioner Cilley commented he has a copy with him and read the following:

#### **A Checklist To Ensure Meetings Are Compliant With The Right-to-Know Law During The State of Emergency**

On behalf of the Chair of the Board of Commissioners he finds that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

**a) *Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:***

We are utilizing a telephone conference for this electronic meeting.<sup>1</sup> All members of the Commission have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #1-855-887-3318 or 1-978-419-9741 and a password is not required, or by clicking on the following website address: <https://www.uberconference.com/lrmfa>.

**b) *Providing public notice of the necessary information for accessing the meeting:***

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting telephonically. Instructions have also been provided on the website of the Board of Commissioners at: [www.tnfd.org](http://www.tnfd.org).

**c) *Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:***

If anybody has a problem, please call 603-286-4781 or email at: [ktobine@tnfd.org](mailto:ktobine@tnfd.org).

**d) *Adjourning the meeting if the public is unable to access the meeting:***

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that **all votes** that are taken during this meeting shall be done by **roll call vote**.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law.

### Roll Call Attendance

Commissioners Paul Auger, present and alone; Eric Pyra, present and alone; and Jon Cilley, present and alone; Chief Michael W. Sitar, present and alone; Deputy Chief Timothy Joubert, present and alone; Admin. Assistant Kathy Tobine, present and alone

<b>Public Comment/Members of the District/Employees of the District</b>
There was no public comment.
<b>Correspondence</b>
There was no correspondence.
<b>Commissioners Report</b>
<u>Fire Station Committee</u> Commissioner Cilley reported they completed the Final Report last night. It was sent to Kathy today and forwarded to each Commissioner to review for their next meeting. Commissioner Auger made a motion to table the report until their May 5 <sup>th</sup> meeting. Commissioner Pyra seconded the motion. There being no discussion, roll call vote was taken.  Roll Call: Commissioner Auger: Yay Commissioner Cilley: Yay Commissioner Pyra: Yay  Motion passed.
<b>Old Business</b>
<u>Self-Contained Breathing Apparatus (SCBA) Purchase</u> Commissioner Auger made a motion that the Board of Fire Commissioners hereby authorize Chief Sitar to enter into a contract with Industrial Protection Services to purchase 26 SCBAs and associated equipment for the not to exceed amount of \$339,731 as approved by the Fire Commissioners and Budget Committee during the 2020 budget process. Line 740.191 of the Apparatus & Equipment Budget. Commissioner Pyra seconded the motion.  Discussion: Commissioner Cilley commented he is concerned about what is considered the associated equipment and cost. Chief Sitar replied it includes 26 SCBAs 5.5 with 45 minute capacity including 26 bottles they come with, 26 spare bottles, 44 face pieces, 12 spare harness assemblies, 3 fast attack RIT-Paks at the 5.5 45 minute duration, 2 pak trackers, 26 SIMS accountability systems, 2 carrying bags and the air compressor.  Commissioner Cilley asked if there were additional regulators or face masks being purchased. Chief Sitar replied no, only what was originally discussed during the budget process. He explained that he was going to forego asking for the additional regulators. He has discussed it with the SCBA representative. The design has changed and what happened previously cannot happen with the current design. Discussion ensued about the face pieces and extra SCBAs kept on the trucks.  Commissioner Cilley asked if DRA had been contacted. Chief Sitar replied we did. They referenced RSA 32:13 Contracts; Expenditures Prior to Meeting. We also checked with Attorney Sean Chandler. He reviewed what DRA issued and said the Commissioners should do that. He was more concerned with the safety of our firefighters and the liability the District would incur while using the SCBAs after their expiration date should something tragic happen to one of our employees. The District would be liable for any damages or death. We wouldn't be fined so much by the State, but the settlement to the heirs of any decedent would probably be in the millions of dollars. He didn't feel it was appropriate for the District to take on that liability.  Commissioner Auger wanted to know what would happen if they purchase the SCBAs and the District votes this down. Chief Sitar explained this was addressed in Attorney Chandler's reply. If the Commissioners approve this as a necessary purchase, it is a contract. Even if they vote it down, it will be funded. Commissioner Auger asked what happens if they vote this down and do not want to use that money to buy this. He is concerned because something like this happened years ago. It is still brought up today. That purchase was not major, this is a major thing. He understands it is a safety

thing. He doesn't want them to say you purchased this without our permission. Chief Sitar commented the worst thing that could happen is that if you run for reelection in the future, they may not vote for you.

Chief Sitar commented this SCBA purchase has been in our Capital Improvement Plan for 15 years. It has been discussed several times. It is not a secret. It has been a planned purchase. Due to unforeseen circumstances, we have not had our annual meeting to pass it. This is something we must have. If this is all we have, we will use them; but the District will assume the liability for anything that happens while any of our members are using them. Currently Scott Pak manufacturer and Industrial Protections Services are holding that liability. That liability, should someone be severely injured or die, is in the millions of dollars whereas the purchase of \$339,731 is much less. He commented that Attorney Chandler addressed that in his email and read the email: *Mike: I looked at the statute again. In the light of the exigent circumstances, which give rise to the necessity of this purchase prior to the annual district meeting, I believe that replacing the soon-to-be expired tanks is reasonable and therefore permissible under the statute. My advice to the commissioners is to immediately authorize the purchase in advance of the annual meeting to mitigate any risk of harm to a fire fighter in the interim period of time.*

Commissioner Auger commented that he wanted to make sure they had looked at all the options and covered all the bases. He doesn't want the Board to look stupid. He wants to be sure they do the right thing. He doesn't want people to come back at them and say they were put there to do a job and you did something behind out back. He doesn't want that. Chief Sitar commented he understands that. That is why he went to DRA and talked with our attorney. That's what your fallback is. We did this to protect the District and our firefighters. The Board is elected to make some hard decisions sometimes. Protecting the District from a terrible liability is part of what they are supposed to do. Part of his job is recommending how to do that. Commissioner Auger commented he just wanted to be sure that all the options had been looked at. He also asked if the Budget Committee has been approached regarding this purchase. Chief Sitar replied he has not approached them. He felt it was more prudent to go through the Board of Commissioners. Commissioner Auger commented there are people who will find fault no matter what they do. He just wants to do what is right for everybody.

Commissioner Pyra commented he has listened to the comments made. When the Chief emailed his memo out, he requested the Chief check with DRA. Spending \$339,771 versus millions of dollars in lawsuits and fines, it's a tough decision. With the safety of our firefighters and the liability issue, to err on the side of safety authorizing the purchase with the full complement of equipment is the right thing to do. Commissioner Auger commented he just wanted to be sure they had exhausted all their options. Commissioner Pyra replied that he didn't want to use the expression these are extraordinary times, but they don't have any history on what to do in this situation. It's tough, it's very tough.

Commissioner Cilley asked the Chief if DRA said yes, we can or yes, we should. Chief Sitar replied that DRA pointed us to the RSA that allows us to do this. Commissioner Cilley commented that the attorney said we should do this. He's recommending it. He's not saying we can do this. Chief Sitar commented the reason we have him is to give us his determination of the law when they do contracts. His determination is that it is something we should be doing and it's legal to do so.

Commissioner Cilley commented that Commissioner Auger had brought up if they had looked at all options. At the last meeting he had asked Chief Sitar to look for other manufacturers or testing facilities that could recertify the bottles. They got his memo of April 13<sup>th</sup> of the one facility. He asked Chief Sitar if he had reached out and found any other facilities. Chief Sitar replied he did not find any other facilities. What he did find was a letter from Scott saying they do not approve of the recertification of the cylinders and they will not cover them. When those cylinders get recertified, they change the DOT number on the bottle during the process. That DOT number is not in accordance with the DOT number that Scott uses for that SCBA and therefore nullifies any liability in Scott's eyes. NIOSH does not approve the use of those recertified bottles. In the end it is not a viable option. Commissioner Cilley asked Chief Sitar if what he is saying is that the recertification that Lawrence MA did violated everything and is no longer recertified. Chief Sitar replied yes, and they have all new SCBAs now. Chief Sitar explained that there is no company he is aware of that can recertify the bottles. Discussion ensued. Chief Sitar read the Luxfer section of the following:

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Further discussion ensued about District Meeting and the purchase of the air paks.

Commissioner Auger commented he wants the Board to understand that if they did use them and anybody got hurt or killed, it will not only fall on the Fire District. They can go after the Commissioners, the Chief, the Deputy. He wants to protect everyone. He wants what is right. If we have looked at everything and this is the only option, they have no choice.

Chief Sitar explained he talked with Primex about this in a phone conversation. It is questionable whether they would cover us using expired SCBAs, they probably would not cover this. Each case would be determined individually.

Commissioner Cilley commented he agrees with this. He is all about firefighter safety. They will do it. He told Chief Sitar that he when he is having phone conversations, it is highly recommended he get something in writing summarizing the conversation.

There being no further discussion, roll call vote was taken.

Roll Call: Commissioner Cilley: Yes  
Commissioner Pyra: Yes  
Commissioner Auger: Yes

Motion passed.

Meeting Minutes

April 6, 2020

Kathy asked the Board if they had an opportunity to review the minutes prior to tonight's meeting. Commissioners Auger and Pyra commented they had not. The Board agreed to address the minutes at their May 5<sup>th</sup> meeting as they all have not had a chance to review them.

Adjournment

Commissioner Auger made a motion to adjourn at 5:51 PM. Commissioner Pyra seconded the motion. There being no discussion, roll call vote was taken:

Roll Call: Commissioner Auger: Yay  
Commissioner Cilley: Yay  
Commissioner Pyra: Yay

Motion approved.

Meeting adjourned at 5:51 PM.

Respectfully submitted,

*Kathy Tobine*

Kathy Tobine  
Administrative Assistant

Next Meeting Date, Time, Place: 05/05/20 at 5:30 PM. Meeting to be held at Tilton Town Hall, Downstairs Meeting Room, 257 Main Street, Tilton.