

EAST CLINTON FIRE DISTRICT

February 14, 2018

COMMISSIONERS MEETING - FINAL

Regular Meeting 7:30 PM

COMMISSIONERS IN ATTENDANCE:

Stephen Forschler, Chairman
Byron Calame
Kevin Russell
Robert Trzcinski
Arthur Weiland

ALSO IN ATTENDANCE:

Rod MacLeod, District Attorney
Robert Simon, Treasurer
James Passikoff, Accountant (Left at p.m.)
Karen Buechele, Secretary

Chairman Forschler explained to the public the process of reviewing the Vouchers and Financials.

CORRESPONDENCE:

- Association of Fire Districts of Dutchess County – next meeting will be Tuesday, March 27th at 7 p.m. at the East Fishkill Fire District Headquarter – Chairman Forschler will circulate to interested parties
- From Amica dated January 24, 2018 re: Ziter, looking for particulars of fire protection for address at 1316 Centre Road - Sent to Fire Department
- From Perma, Communications Survey 2018, please complete by February 28th – Given to Treasurer.
- Welsh Sanitation Service dated February, 2018, disposal fee going up by \$14.00 a month - Given to Treasurer
- Perma 2018 Annual Conference May 24 and 25 – Circulated to Commissioners
- Ford dated January 2018, 2005 F-350 Ford Truck, remedy for steering wheel and front wheel vibrations (barney vehicle) – Chairman Forschler read the letter
- MES Lawmen Supply Company dated February 1, 2018 – rescue tools/extrication tools due for required annual service – Given to Tim McCormack
- From Wilmington Trust for March 1, 2016 through December 31, 2017 – Statement of Account
- From Congress of the United States dated January 3, 2018 – grant program – Handed to Commissioner Trzcinski

- From RBC Wealth Management dated January 11, 2018 – Certificate of Investment Powers form to update signatures of authorized officers. Commissioners Forschler and Calame are the RBC contacts – they signed the documents and the Secretary witnessed their signature. The Secretary will send in to RBC.
- Pimco Income Fund Summary Prospectus dated July 28, 2017
- RBC – prospectus Blackrock FDS
- Verizon terms conditions and service contract – to the Secretary to file
- Insurance quote from All State – to Commissioner Trzcinski
- From Bank of Millbrook regarding collatorizing the accounts – to Treasurer Simon
- To the Department from the Bank of Green - Firefighter Challenge - no interest
- NFPA - Membership options – three options – engage, advance, or lead - Chairman Forschler said we usually go lead – to Treasurer Simon to prepare voucher for March
- Fire Engineering Renewal Notices for magazines – To Treasurer Simon to prepare voucher for March.

MINUTES:

Motion to accept the January 10, 2018 re-organizational minutes by Commissioner Weiland and seconded by Commissioner Calame with corrections as stated.

Commissioner Weiland	Aye	Commissioner Calame	Aye
Commissioner Trzcinski	Aye	Chairman Forschler	Aye
Commissioner Russell	Aye		

Motion carried 5-0

Motion to accept the January 10, 2018 regular meeting minutes as written by Commissioner Calame and seconded by Commissioner Weiland.

Commissioner Calame	Aye	Commissioner Weiland	Aye
Commissioner Russell	Aye	Chairman Forschler	Aye
Commissioner Trzcinski	Aye		

Motion carried 5-0

FINANCIALS:

Having reviewed the bills, a motion to pay the bills per the abstract dated as of February 14, 2018 made by Commissioner Trzcinski and seconded by Commissioner Russell.

A correction to Verizon bill was discussed.

Commissioner Calame	Aye	Commissioner Weiland	Aye
Commissioner Russell	Aye	Chairman Forschler	Aye
Commissioner Trzcinski	Aye		

Motion carried 5-0.

Mr. Passikoff said there are no balance sheet or P and I for January. There is a record of trial balances of bank statements. Chairman Forschler said he reviewed same and found them to be in order.

Motion to accept the trial balances of bank statements for the period ending on January 31, 2018 made by Commissioner Calame and seconded by Commissioner Russell.

Commissioner Weiland	Aye	Commissioner Calame	Aye
Commissioner Trzcinski	Aye	Chairman Forschler	Aye
Commissioner Russell	Aye		

Motion carried 5-0.

Mr. Passikoff said he is still working on the AUD which is the reason why there is no balance sheet. The payables will change the balance sheet but it does not change cash. The AUD is on target for submittal on February 28th. Mr. Passikoff will forward a pdf of the AUD and the receipt notice from NYS.

Chairman Forschler said he had concerns regarding the sales and excise tax exemption procedure. Mr. Passikoff said the District should obtain a letter from the NYS Dept. of Taxation and Finance, office of Sales Tax Exempt Organizations Unit in Albany. He has a copy and will forward to the Secretary so that a letter can be obtained for the District. Commissioner Trzcinski asked if that letter should be sent to all the District's vendors and suppliers. Mr. Passikoff said you can if you want to but he does not think it is necessary. They know they should not be collecting tax from a government entity. If the sales tax people do an audit, you may need it then but it can be supplied at that point.

Commissioner Weiland updated the Board on the independent audit RFP responses. He received an inquiry from Davis O'Conner. Eglit did not respond. Commissioner Weiland said he emailed Eglit and called at least five times. Commissioner Weiland opened the proposed from the EFPR group from Williamsville, NY from Douglas Zimmerman, CPA. They are replying to the possibility of doing the audit for five years starting at \$5,800. Commissioner Weiland said he reviewed the previous year's proposals and some details asked for in the RFP had not been supplied. Mr. Passikoff recommended the Board not use this firm based on past experience. There were no other proposals submitted. Davis O'Conner sent a letter of interest. It was clear in the RFP what the due date is. The Board discussed the next step if they are not happy with the response received. After some discussion, the Board decided to re-advertise and publish another RFP with a due date of March 14th. Commissioner Calame will call Victor Churchill to let them know there is an RFP if they want to respond and Commissioner Weiland will call Eglit again. Commissioner Weiland thinks Davis O'Conner has the RFP. Mr. Passikoff suggested they put out the RFP for a five year term to establish the long term relationship and save money for the District. The RFP should say it is for five years but the District has the option to pull out after each year. The Secretary will re-publish the legal notice and forward the updated RFP to

the Commissioners. The RFP will be updated to reflect a March 14th due date and a five year term with a pull out clause.

DEPARTMENT: Monthly calls: 13 Year to Date:

Six detectors were ordered as well as two lengths of 50 foot hose.

There is a battalion meeting on Thursday – six people are going. All nippers from last year are done and filed with homeland security.

Commissioner Trzcinski asked for confirmation that Karen Buechele and Robert Simon can attend the Commissioner’s class on February 24th. Donna will check on this.

Don Estes said they are doing the annual recertification and cold water rescue drill on February 22nd. All members who are certified in cold water rescue will get recertified through the company this year including mutual aid departments of West Clinton and Stanford. All commissioners are welcome and encouraged to come. They also use the EMS team.

FIRE POLICE: Edward Thompsett n/a

SUPPORT:

Maryann Thompsett said the rehab unit is being repaired in Kington.

Support gear was ordered for two members for the past two years and still has not come in. They are researching this further.

MEMBERSHIP: n/a

RESCUE:

Stephen Forschler Monthly calls: 18 Year to Date:

Chairman Forschler said out of 17 potential ambulance calls, 12 were responded to. We are resubmitting the paperwork for ambulance certification as the certification runs out in April. Chairman Forschler just signed the paperwork and the Secretary notarized. He will get it in the mail this week. There is a meeting on February 22 at the town hall with Dana Smith, Ray Oberly and the West Clinton Rescue Squad to discuss a cooperative venture relative to EMS response.

OLD BUSINESS:

- Generator – Commissioner Russell said the generator is supposed to be in at the end of the month. The temporary generator is still in place.

- Town of Washington – Chairman Forschler called Gary Cifferi and left a voice mail. There has been no check for 2017 or 2018 and no contract. He will follow through on that.
- Supplies for cleaner – The District has an account with Sams Club. Camille can purchase her own supplies and provide receipts for reimbursement. She would need the tax exempt letter as well. Commissioner Trzcinski said he will set up a communication with Camille. The District has cards at Sams – Mary Molloy redid them in November. Commissioner Trzcinski will ask Treasurer Simon.
- Mr. MacLeod advised the District to file a surety bond for the Treasurer and two signing Commissioners with the Town of Clinton. Commissioner Trzcinski has the application forms for himself and Commissioner Russell.

A motion was made by Commissioner Weiland and seconded by Commissioner Calame to empower Commissioners Trzcinski and Russell to take care of getting the surety bonds for a maximum of \$500,000.

Commissioner Weiland	Aye	Commissioner Calame	Aye
Commissioner Trzcinski	Aye	Chairman Forschler	Aye
Commissioner Russell	Aye		

Motion carried 5-0.

Commissioner Weiland said we have indemnity for actions if there are errors made by officers and commissioners. Commissioner Trzcinski said up to a million in writing. That is the D&O insurance. Mr. MacLeod said that is generally what districts have for D&O insurance. Commissioner Weiland said if there is a judgment for more than a million, the taxpayers would have to pay the difference.

NEW BUSINESS:

- There were some concerns voiced about Northern Dutchess being the official newspaper since it is a weekly paper. Commissioner Calame had some concerns about timing especially for a special meeting. Mr. MacLeod said a notice for a special meeting should be mailed or emailed to the official paper and posted in the post office, firehouse, town hall, the corner store, etc. The town does not have to put it on their website. There was no motion to change the official newspaper.
- Inspection dinner April 21st – Chairman Forschler said he had a conversation with the Department and stated the Board’s intention to do an inspection of the facility and equipment and thought April 14th would be a good day to do this. We will budget three hours with the district officers and commissioners. The election for the new district officers is April 5th and the swearing in is April 11th.

- Definition of active member from commissioners perspective – Chairman Forschler said his concern is safety. Any member who does not have a valid physical cannot and should not respond to a scene. Another issue is we are trying to incorporate into every drill, one a month, information that used to be covered on OSHA class, i.e. Ladders, firehouse safety, blood borne pathogens, sexual harassment. So, if an individual has not made at least half of the drills in a year’s time, there is no way we can consider that person current relative to OSHA requirements that they need for on scene safety. Mr. Ruffell asked about people who work evenings and can’t make the drills. Chief McCormack said we had people do an OSHA class here last year – sexual harassment was taught by an outside person – and it worked out fine. A six hour class here covers an individual for a year. Don Estes said there is a high number of people who did not make either the drills or the class. He said he would avail himself to people who cannot make the class or drills. Mr. Ruffell said his son works in a hospital and gets all that training but he was told he could not use it towards the fire district. Chairman Forschler said in order to respond to a scene, an individual must have a current physical and the OSHA training so that we can have reasonable certainty they can operate in a safe fashion. Those are the two minimum requirements that must be met or that individual cannot respond to a scene. Mr. Estes said if someone gets that training at their workplace and can produce a certificate of said training, that should meet the requirement for training. Stephanie Bonk asked when do you suspend an individual for not meeting the requirements? Chairman Forschler said the physical aspect can be answered right away – get the physical. We are soliciting feedback on the safety component. We can table this and let the chief staff come back with an answer. Mr. Estes said general safety with the OSHA component, firehouse safety, and blood borne pathogens is paramount. Commissioner Russell suggested someone come in to do that particular part of safety. Chief McCormack said Rich does come in to do OSHA and he will say where his other classes are so there is no excuse to miss that class – it is offered at other places at other times. People must be brought to task if they don’t go. Department officers will come back at the March meeting with recommendations. Commissioner Trzcinski said he is not sure members fully understand district policies overlay company policies for membership. The definition of active member should be codified. Mr. MacLeod said statutory district rules are paramount so how do you make sure everyone has read and understands the district policies. Some districts have a statement on their sign in sheet acknowledging the individual signing in has read and understands the district policies. Those policies then must be readily available. They are on the district website. Part of being an active firefighter is that you have to know the district policies. If you sign in for an alarm, you are acknowledging you understand district policies. Commissioner Weiland said commissioners should know the OSHA schedule and that the OSHA requirements are being fulfilled.

- The Oath of Office for Fire Police was administered by Judge Tompkins to Timothy C. Odell, Louis Zwecker, and James E. Ruffell and notarized by the Secretary who will send the oaths to the Town Clerk.
- Insurance – Treasurer Simon’s surety cost \$20 but will renew at \$518 which is the full price. The District will get a bill.
- Blue truck – Chairman Forschler said we need proof of ownership of the district and asked if there is a title. Commissioner Trzcinski said we have nothing. We can create something. We need insurance of the truck will be used for a parade, etc.
- Chairman Forschler has insurance cards. He said historically, they have been kept in the office but he thinks they should be kept in the vehicle.
- LOSAP – Commissioner Calame addressed the monthly benefit to qualifying members. In 2008 when the ECFD established a LOSAP, there was a provision that if the IRS code changed to permit a monthly benefit greater than the \$20 established in the plan, the monthly benefit would automatically be increased to \$30.00. The feeling of Ed Holihan of Penflex is that it’s clearly automatic so this has led to the question of how do we assess the financial impact. Mr. Holihan declined to provide some estimate of what it would mean to actuarial accrued liability over the years until we were 95% covered. At the moment, we are 75 % covered. We should find out our attorney’s advice as we look at what was an unexpected financial increase by the people on the board. Commissioner Calame asked Mr. MacLeod if there is anything that can be done about the increase. The Board made a decision in 2008 and while it may not be the wisest thing to happen now for the District, it’s here and has to be dealt with. Mr. MacLeod said the language of the 2008 resolution and the proposition does not provide for an automatic increase from \$20 per month to \$30 per month. The words “shall be” does not mean automatic – it means an action must be taken by the board to increase the benefit. He does not believe it has to go to referendum. It would require a board resolution to change to \$30.00. The board is now paying \$20 a month. If you change that you need to make a resolution. Commissioner Calame said he has seen where if something is adopted by referendum, it can only be changed by referendum. Mr. MacLeod said the Board adopted a referendum for payment of \$20 with an option to go to \$30 so that has been approved by the public. Shall does not mean automatic. The Board has to pass a resolution to go to \$30. If the resolution does not pass, the payment stays at \$20. The Board needs to take an action, either pass to increase to \$30 or pass to leave it at \$20 affirming where you are now. Commissioner Calame asked if we don’t make that move, if we are challenged would we prevail? Mr. MacLeod said you would be open to being challenged but it would be a coin toss to prevail.

Commissioner Calame asked what is the certainty of a referendum? If it is the feeling of the board that the increased benefit was not in best interest of the District and went to referendum, the authority of the referendum would be clear. The referendum would be modification of the existing 2008 board resolution that caused the initial referendum. Mr. MacLeod said you can always put something to vote for referendum. Is that less likely to be challenged? If the board decided to stay with \$20 a month payment, putting up a referendum for the public to vote on staying with \$20 would give you protection. Mr. MacLeod said someone could challenge that the increase should be automatic. The lawsuit would be whether shall be is automatic or not. Commissioner Calame said anything adopted by referendum can be changed in same manner. Mr. MacLeod said yes but not everything needs to go to a referendum. If the board wants to keep the payment at \$20 a month and you put that question to the public and the public approves, you achieved your goal. If the public says \$30 a month, then you have to do it.

Commissioner Calame suggested the board take time to consider this and address it at next month's meeting. Commissioner Calame said he would be prepared to move with resolutions that address the IRS code and maintaining the \$20.00. Mr. MacLeod said he will provide language for a motion and referendum. Chairman Forschler said Commissioner Calame is charged with coming back to the March meeting fully informed and with resolutions. If you think we need a referendum we need the language for that as well. Chairman Forschler will get the language from Mr. MacLeod on the resolution. He asked Commissioner Calame to send him an email by March 1st that states what you want the resolution to be and Mr. MacLeod will provide the appropriate language. Mr. MacLeod said the choices are to pass a resolution to increase to \$30, pass a resolution keeping the payment at \$20, pass a resolution to go to referendum as to whether it should go to \$30 or stay at \$20. Mr. MacLeod will attend the March meeting.

- LOSAP Record Keeper – There was discussion at the Company meeting about it being the Company's responsibility to provide LOSAP records to the District. Chairman Forschler said his opinion is the District still has the right to have its own LOSAP records keeper as a check and balance for LOSAP records. We appointed Karen as LOSAP records keeper for the District as it was in the past. He does not see any reason to change that. If the Company wants to appoint their own, so be it or if they want to use the District records keeper, so be it. Commissioner Trzcinski said we always have access to those sheets because the board has the right to audit. LOSAP sheets are in triplicate. If the company has its own, we ask you make a copy and give the board the original. Commissioner Calame said the original should be submitted with the annual report. There is no requirement for a monthly report to the board. Commissioner Calame said the district is not supposed to be involved; it is supposed to be a Company function.

Whoever keeps the records for the Company would need to affirm the records for the District are correct, certified and notarized, under penalty of perjury. Nothing prevents the District from requiring the Company to provide documentation over the course of the year. When the board has the authority to check the underlying data at the end of the year, why not let the Company manage and bring the numbers to the board. The Department has to get the roster straight and status cleared. The payoff is in the 50 points for everyone qualifying. If the Department does that and submits it to the board, that is what the law envisions and then the board is coming to it fresh. Chairman Forschler thinks it's a check and balance and that it's easier to have incremental reporting for the end of the year review. We have the ability to perform that check and balance. It would aid us in January to review LOSAP. The dialog is between the Company and the Board and Penflex gets the end results. Commissioner Calame said if there is a discrepancy, Company numbers prevail. If the District keeps numbers, it is for checks and balances. What is official is what the Company brings and if the board has questions, there may be some negotiating. The Company is responsible for providing records, the Board certifies the records and stands behind it when it gets sent to Penflex. Mr. MacLeod said the Department is required to keep the records and the Company posts for 30 days. Commissioner Calame said the numbers come from the Company and are reviewed by the board before posting. If the board challenges, the Company will carry that as they are certifying the records. Penflex says the entire report comes to the board and is reviewed by the board before they go up for the 30 days then they come to the board for certification. Mr. MacLeod said the board does not certify the results; it is the Department's responsibility to certify the results. He does not think there is a conflict of interest if the District employee tabulates the LOSAP. The Department would challenge the administrator. Things would be as they have been. Two signatures are required from the Company and two from the Board. It would be Penflex saying they want the Board to certify the numbers to protect Penflex. Penflex talks about approval at the board level after the notarized report is received from the Company. This needs to be solved by the March meeting.

- Company by-laws – The Secretary will check to see if the by-laws on file are every other page. If so, the District needs an updated copy of the Company by-laws.

Public Comment:

- Lynn Tompkins, Centre Road, said she is a tax payer and has been since 1971. As far as the exempt certificate, she suggests sending a copy of that sales exemption letter when you send your payment in to the vendor – that way, the vendor has it. As far as District policy, does everyone in the department have a copy? If not, you can put that note at the bottom of the sign in sheet but you should have a physical copy next do the sign in sheet so it is

readily available. As far as LOSAP and checks and balances, doesn't the company have to give the district copies of the sign in sheets for calls, training, etc. There was some additional discussion about the sign in sheets. Mr. Tompkins said West Clinton used to attend those day long sessions for OSHA – it is held in other places so if you miss a class, you can go elsewhere. Every member should have a list given to them of when and where OSHA classes will be held for the year. Jim Ruffell asked if the Board has the right to reject the numbers if the chief signs it. Mr. MacLeod said it is a legal document to the District. If the District chooses, they have the right to challenge and change those numbers. The right thing to do would be to talk to the person. The bottom line is the district forwards the information to Penflex so if they think the numbers are not correct, they could change them which would be a case by case situation. Commissioner Calame said the five members of this board are trustees of a pension plan which is a significant fiduciary responsibility.

Stephanie Bonk has questions on the balance sheet of December 31, 2017. There are errors under the expenses – transfer under reserved fines – what is debt service of 45,145.21, unknown category page 6 \$170,000 – none of the things listed are actually firematic equipment – medical expenses \$52,506 – don't think we spent that – tools are under medical supplies (according to Commissioner Trzcinski that has been changed). Ms. Bonk referred to correspondence in the December 13th minutes regarding the bonding for Macy Sherow which was directed to Commissioner Trzcinski to look into. Commissioner Trzcinski said we did not pay the full amount twice. It was transferred over to Mary Molloy. Ms. Bonk said there are three bonding payments in quick books. We paid bonding for Mary Molloy. Commissioner Trzcinski said we paid full bonding for one treasurer and it was transferred to Molloy. Ms. Bonk said under insurance, you have board bond insurance for the commissioners which covers all commissioners. It is not a surety. There is a bond Utica National holds. Commissioner Trzcinski will look into this.

Russ Bonk asked what the status is of the new fire house – is the committee prepared to start back up again. Chairman Forschler said that is one of the reasons we need to accomplish this inspection on April 14th so the current Board members understand the function of the equipment and the condition of the facility. Chairman Forschler said another issue relative to this is where the company is relative to the filings. The perception of the public will be greatly enhanced if and when the company decided to get current on those three documents. It is not a charitable organization without a 501C3. That is required before the 990 will be taken by the IRS. Donations made to the company on an income tax return are not deductible without a 501C3. Mr. MacLeod would need to see the letters of incorporation from 1931 but he does not think this impacts the district – the importance is with insurance.

Ms. Bonk said with regard to the meeting with Dana Smith, she suggested asking him why the county has not gone to mutual aid but go direct to paid service.

ADJOURN

A motion to adjourn the meeting at 10:07 p.m. was made by Commissioner Calame and seconded by Commissioner Russell.

Commissioner Calame	Aye	Commissioner Weiland	Aye
Commissioner Russell	Aye	Chairman Forschler	Aye
Commissioner Trzcinski	Aye		

Motion carried 5-0

The next meeting of the Board of Commissioners will be held on Wednesday, March 14, 2018.

Respectfully submitted,

Karen Buechele, Secretary
East Clinton Fire District