

Village of Tannersville

Date March 2, 2017
Time 5:30 PM
Location Tannersville Village Hall

Present: Lee McGunnigle, Mayor
Gregory Landers, Trustee
Brian Walsh, Trustee

Type of meeting: Joint Special Meeting

Robin Dumont, Village Clerk-
Treasurer
William Simon, Village Attorney

ABSENT: Christopher Hack, Trustee
Leigh McGunnigle, Trustee

Also Present: Darryl Legg, Town Supervisor, Dolph
Semenza, Town Councilman,
Raymond Legg, Town Councilman,
Tony Coiro, Town Councilman, Dave
Kukle, Town Councilman, Lara
Hamrah-Poladian, Secretary to the
Supervisor, Larry Gardner, Town
Attorney, Mark Hommel, Fire Chief,
Tannersville Fire Department, Mike
Lucey, Tannersville Fire Department,
Bob Blain, Tannersville Fire
Department, Scott Hosier,
Tannersville Fire Department, Bruce
Neal, Tannersville Fire Department

Minutes:

The Mayor opened the meeting with the Pledge of Allegiance.

The Mayor thanked everyone for coming and turned the floor over to the Tannersville Fire Department for a statement as to why they want to do this.

Mike Lucey stated that the Tannersville Fire Company did initiate the proposal to change our current set up to a proposed joint fire district with its own board of fire commissioners covering the same area. He stated that they would like to make a couple of points in connection to this. 1. We proposed to provide the same fire protection to the same area with the same equipment and the same personnel as they are doing now. There should be no change in fire protection services. 2. Their request does not arise out of any dissatisfaction with the Village of Tannersville. Our relation with the Village has been pleasant and cordial for years. Their intent is to improve the administrative circumstances of the fire company. They see 3 principal benefits coming from the transition to forming a joint fire district. 1. Having a board of fire commissioners would allow them to remove a great administrative burden from the chiefs who have inherited it. 2. Having a joint fire district as a taxing authority will relieve some of the budgeting requirements from the Village and in part for the Town. 3. The inclusion of all protective property under a single budgeting authority will spread the cost of fire protection more equitably among all properties protected – outside and inside of the Village. That is what moves them to ask for the boards' consideration of this. They are prepared to ask any questions they may have.

The Mayor stated that they certainly should state for the record that the service by the volunteers in this community have been exemplary over the years, and he thank them for their service.

Brad Pinsky, the attorney for the Fire Department, stated that the Town would lose the burden of the fire protection district as far as the 2% tax cap goes. The Fire District, would be neither on the Village's or the Towns' cap. The other benefit that they see is that everything will be accounted for, and you know its all being spent on fire department issues. The public can easily see what is spent on hose, what's spent on rents, trucks and its all very much there and there is no 'we are paying for a clerk here', but you know its 100% spent on fire protection. When there is a raise or lowering of taxes, you know its absolutely spent or taken from fire protection. When you have a board of fire commissioners that can make decisions, they get to focus on the fire department – they are not dealing with sewer issues, water issues, traffic issues, zoning issues, all of the other things that come before them in a night. They only deal with the fire issues so it gets a lot of attention. They are losing volunteers and the fire departments need a lot of help. It is a huge burden being a fire district – there are a ton of accountability rules, but the lawyers are here to help with that. They will be audited and make sure they will be accountable. There is a lot of accountability. Every time they want to buy a truck, they put it to public vote. If they want to have a reserve fund, it goes to a vote. The budget goes out to the public. There is so much accountability in the district. You are not really at cost, but taking cost out. Fire districts are good, they have a lot of benefits to them. They are a lot of work. He stated that he will answer any questions about the district. There are districts around [us]. He stated he would answer any questions and about the process.

William Simon, Attorney for the Village, stated that he felt this was a terrific idea and recommended it several times. He stated he did research on how the fire district was formed, and was against a wall because he was never sure as to what he was dealing with in terms of protection district, Village Fire Department, and this would certainly bring clarity to that whole situation and make our jobs a lot easier. However, the devil is in the details. It is his understanding that in order to form a joint fire district we would first have to dissolve whatever it is that we have in order to do that.

Mr. Pinsky stated that you don't need to do that anymore. They added some laws and to make things easier and it just converts. If you cant we will stick in a line that abolishes under 101020 of the Village Law that abolishes the fire department.

Mr. Simon stated that this is all subject to permissive referendum and these are the points he is trying to raise from a procedural point of view. Procedure is one thing we can overcome. The question is really the nuts and bolts of things. This building for example is owned by the Village of Tannersville.

Mr. Pinsky stated that he thinks you would work out a lease with them. .

Mr. Simon stated that he wanted to point out in order to be fair to the Village of Tannersville, there would have to be a lease arrangement at that point, unless the fire department is planning to build a new building. The second thing that would come into play would be who owns the equipment of the Village Fire Department. He remembers some research he had to do a few years ago when the department wanted to buy the old Mack and it was very hard to establish who owned what. The Village Board, and myself included represent the taxpayers of the Village of Tannersville even though I am only a resident of the Town, so equity had to be done to the Village tax payers as far as if they are in the ownership of any equipment then some sort of fair compensation has to be agreed upon for which the whole district will have to pay the members of the Village. We have discussed this with members of the fire department and they understand that these equities do have to have to be adjusted and he wanted both boards to know that as well that its not something that is him as the Village Attorney saying it is just the basic concept of fairness. If the Village owns the property, it has to be leased or sold to the new fire district. He asked Mr. Pinsky if he agreed with that.

Mr. Pinsky stated that he didn't think it had to be, but it has to be transferred someway or leased.

Mr. Simon said you have to do equity to the Village Taxpayers. He suggested that there should be some sort of compensation. There is some law that does say that a Village is not allowed to make a gift, but there may be some exceptions to fire departments but he would have to research that more.

Mr. Pinsky stated that when you look at the fire district creation statute, it says the Village has to transfer it. That is one of the things they have to decide. You would be taxing the same people to pay it back to the Village – so are they paying twice.

Mr. Simon stated that this is something the boards – at least the Village Board as we are not arguing that the Town owns anything – He wanted everyone to be aware of what these legalities are. Other than that he had nothing else to really say.

Town Councilman Semenza asked that with the equipment –it has already been paid for through the taxing of the fire district whether its inside or outside of the Village.

Mr. Simon stated that it is not a tax, it is a contractual payment. Town Councilman Semenza stated that when they tax the \$0.70/1000 to the tax base... Supervisor Legg stated that money goes directly to the Village and the Fire Company. Town Councilman Semenza stated that they are a pass through. It just passes through the town to the Village. The Village collects from both the inside and the outside of the Village. That money is used to buy the equipment for the fire department. That money comes from the tax base of both in and out. So that equipment is owned by the taxpayers. It should stay with the fire department. Because that is what it was collected for.

Mr. Pinsky stated that he knew there was a bond on one of the trucks. The bond would go with the transfer.

Town Councilman Semenza stated that any debt service would go to the fire department, but so would the equipment. As far as the building goes, it belongs to the Village. Supervisor Legg said to give a dollar for the fire truck.

Mr. Simon stated that there may be some technicality with respect to with the truck purchases in the past. The contract was to pay the Village a specific sum of money. It was not characterized as a tax and how you folks negotiated that amount is open to some discussion. He stated he thought what they were saying has some merit but what he is saying is the Village may take the position that the Village bought the equipment. It is something that has to be discussed – and he didn't think that they were going to resolve that particular issue this evening, until we can look at some numbers and see what was purchased and how the payment from the town was arrived at the contractual arrangement. If the understanding was that the town paid for the equipment, then it would be fair to turn the equipment over. The town has not paid for the fire house.

Supervisor Legg stated that the Town is just a conduit. All we do is just hand over the money.

Mr. Simon stated that in the past there has been some disagreement on how that figure was reached. In fact the money did not go up for several years from what he understands. If it was reached as a payment that was based on some budgetary consideration that included equipment purchases then maybe you were correct.

Mr. Pinsky stated that the money that comes into the Village goes into a bucket.

Town Councilman Semenza stated that there is a line item in the budget for Village fire protection so you know where the money comes and goes.

Mr. Simon stated that the amount that the Town paysSupervisor Legg stated that the Town does not pay anything. The Town pays nothing.

Mr. Simon stated that we have a contract that requires the Town...

Mike Lucey stated that they have looked back at a number of years in the sense of common sense equity. Assuming that the money that is paid by the taxpayers outside of the Village and the money that is paid by the taxpayers in the Village is used for the same purposes – buying equipment, buying fuel, heating the building – in other words – operating the fire department. Its true that over the years the balance has been slightly higher on the Village taxpayers.

Supervisor Legg stated that it is the opposite. If the Village paid the same rate per thousand as the outside district, and he is going from memory, as it gets convoluted with the Village of Hunter as it's the same thing. You would have a budget of \$135,000 per year The Village of Hunter would have a budget of over \$155,000. The town even raised it for the outside this year and gave them an extra \$40,000 for Scott Air Packs , but if you were taxed evenly you would have more budget per 1000.

The Mayor stated that we are going to agree to disagree because we are 1000% incorrect. You haven't looked at the numbers and how you came about this number, we went through these meetings and showed you. The purchase of the new truck, the Town has refused to raise the budge, refused to sign a new contract due to the 2% hike. In those recent years, the shortfall is about \$5,000 per year and that was not equitable between the rate that the Town was paying for the total fire budget as the people in the Village. That is just as of recent. That is crystal clear, bring in a CPA to do a forensic accounting and they will prove it to you 1000% percent. This year there is an operating budget of the fire department which is totally appropriate and that amount has been covered between the exact tax rate of the Village taxpayers and Protection District 1. This has been the first year there has been an exact number. Prior to my last coming back to the board, he didn't do a long long look at the assessment outside the Village and inside the Village to see what the equitable rate should be inside and outside the Village. That didn't happen so we went through a 5 year contract and now 3 years without a contract.

Supervisor Legg stated that [the Village] had a contract, but just didn't sign it.

The Mayor stated that we gave you a contract and [the Town] didn't sign it.

Mr. Simon stated that this meeting was to approve the creation of a joint fire district.

Supervisor Legg left momentarily.

The Mayor stated that we need definitive answers on the creation of this joint fire district and the assets of the current fire department and what is equitable. He just wanted to make sure that no one takes it the wrong way. This is not a stand of his, this is a stand with the Town Board clarity – which will be resolved if the district is formed. There will be equal taxation on everyone within that district. That is crystal clear and is positive. This is just a personal argument between the person who runs the budget in the Town and himself that it has not been equitable. If it's a minuscule amount then we wont bother about it any more. But perhaps we should research 10, 20 years that it has existed....

Town Councilman Semenza stated that whatever it is, it is over. It was rectified this year and [the Town] raised it. We have to move forward with these guys.

Mr. Simon stated that this is the solution to approve this.

Mr. Pinsky stated that if this issue remains on the table, then this will be delayed. If this is settled, then things can move forward.

Town Councilman Sememza stated that he sat with the Mayor and they created an equal amount of taxation in and out of the Village. That was approved and it's done. Now the district will present their budget to the Town board every year and we will move forward.

Mr. Pinsky stated that if you tax for an unequitable payment, you will be taxing the Village and Town residents and wasn't sure if they were going to like that.

The Mayor stated that it is a 60/40 split on assessment. So if the district had to purchase the equipment, 100% of that purchase would go to the Village and 60% of that would be paid by the people that are currently out of the Village.

Mr. Pinsky stated then the Village should credit the Village Residents.

Town Councilman Sememza stated that if it didn't come out of a line item in the Village's budget, then why should it go back in there. Mr. Simon asked where it would go.

Trustee Landers stated that he believed the taxpayers owned the trucks. Mr. Simon asked which taxpayers. Town Councilman Sememza stated both.

Trustee Landers stated that anyone who pays for fire protection owns these trucks – not the Village, not the Town – the taxpayers. He asked what would happen if this failed.

Mr. Pinsky stated that in the 20 years he has been doing this he has not seen one fail, and has done even more in the past 7 years. They would have to dissolve it under article 17a of the dissolution law. They would have to come up with a plan of what would happen – whether it goes back to the same scenario, or the town would have on big fire protection district with one tax rate or the fire department goes away. The state does not get involved. He hasn't seen one fail and they get special attention.

Trustee Landers stated that they tell us what they need and we vote on it.

The Mayor asked as a special district do they have more opportunities for funding and grants. That wasn't mentioned as a positive and he thought that would be at the head of the list.

Mr. Pinsky stated yes that was the case. They would be able to apply to the Assistance for Firefighters Grant which is the big federal funding out there. It is much easier when you aren't tied to the Village. If you were to apply for the Village, they look at all of your finances. When the district applies, it is only looking at their finances.

Mr. Pinsky stated that the process moving forward is we have to schedule a public hearing within 30 days. At the public hearing you will make a decision to form the district. The town will also have other documents to dissolve the fire protection district. That can be done at a single board meeting and does not have to be done at a joint board meeting. The only thing that would hold this up would be the equipment issue. If the district has to lease the bonded vehicle because he is told that it is not callable. They will pay it but they will have to pay it from cash on hand every year until paid off. But everything else they will have to be let know because they will have to come to a decision. You shouldn't have a public hearing if you haven't resolved it. He has prepared resolutions in the event the public hearing will be scheduled, it will just need to be filled in.

Mr. Simon asked if there was a committee on the fire department that was willing to meet to work out the discrepancies.

Mr. Lucey stated that there was a committee.

Mr. Simon stated that the committee should come up with a proposal as far as the rent and the equipment and what to do with it. The Village has not received any sort of proposal – physically what part of the building would be needed, how rent should be determined, .

Mr. Lucey stated that the assumption they have been working on is that the fire district would pay for rent in an amount similar to what has been budgeted in the past for maintenance in that space. Their unspoken assumption would be that the Village would transfer without any payment the equipment. The one truck has been discussed. 2 of them are so old they don't have any technical value. 25-1 will have some residual value. They would say that the Town have paid at least have of that.

Mr. Simon asked if they were saying they would pay for the upkeep of the existing fire department. He further asked if the State Comptroller would consider that a gift.

Mr. Pinsky stated that he didn't feel it would be considered a gift if they were paying fair market value of the rent.

Trustee Landers asked if the siren broke would they fix it. Mr. Pinsky replied yes. That would be part of the fire equipment. Trustee Landers asked if the bonded truck breaks down, who pays to have it fixed.

(Several people were talking over each other. Answer to trustee Landers question not clear.)

Mr. Simon stated that the Village would keep title to the truck until the bond is paid.

Mr. Lucey stated that they are trying to take the loan off of them to some extent and keep operating as they have. He did not anticipate walking into a pissing match and getting wet up to the knees.

Mr. Simons stated that it is all in the details.

Mr. Pinsky asked, pending a lease payment, could the equipment be transferred as is for no cost. There is a line in the statute that says its allowed. Mr. Simon asked to be supplied with that statute. The Village attorney does not get a vote on this matter. If he determines that its legal then that is the way it can happen. On the other hand if the Village board proposed something dissimilar than what is being proposed, then that is the way it goes.

Trustee Walsh stated that the coverage is not going to change and the service is not going to change other than the bonded truck. He feels it should be transferred.

Mr. Simon recommended that the board should discuss this at their next meeting.

Mr. Pinsky stated that we can call a public hearing and suggests not to do so until this is resolved.

Supervisor Legg suggested to hold the public hearing at the Mountaintop Library.

Mr. Simon stated that he is good for the 28th. The Mayor suggested to hold the public hearing on March 28th at 6:00 pm in the Tannersville Library.

Mr. Pinsky stated that in the resolutions prepared it has to be filled in the time and place for the hearing and that it needs to be posted in the paper, 5 places in the Village and 5 places in the Town.

The Mayor made a motion to pass resolution 6 of 2017 resolution regarding public hearing to consider the establishment of a joint fire district on Tuesday March, 28th, 2017 at 6:00 pm. Trustee Landers seconded. 3 in favor, motion carried.

Supervisor Legg made a motion to approve the resolution regarding public hearing to consider the establishment of a joint fire district on Tuesday March 28th, 2017 at 6:00pm. Town Councilman Semenza seconded. All in favor motion carried.

The Mayor made a motion to close the meeting. Trustee Landers seconded. 3 in favor, motion carried.