

Board of Fire Commissioners

Greenfield Fire District
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April 17, 2008 Meeting with Bill Young

Meeting began at 10:10 am.

Present were: Commissioners B. Bishop, Kugler, Robarge, Spackmann; Bill Young, attorney, Secretary Petkus, Jay Farrell, Tyler Fire Equipment, A/C G. Gibbins, Captain G. Bullard.

The purpose of the meeting was to discuss different leasing options, legal issues associated with leasing, and NYS state law in regards to leasing.

Chairman Kugler asked Mr. Young to explain the procedure regarding different type of leasing.

Mr. Young explained that if the fire district enters into a true lease, it does not have to go through a referendum process. A true lease is one where you just give the vehicle back at the end of the lease term and walk away. Chairmen Kugler asked if you still have to go out for bid with a walk away lease. Mr. Young noted that does not require the bid process. Secretary Petkus clarified that with a walk away lease the Board has to pass a resolution but they don't have to go to bid or any kind of mandatory or permissive referendum; Mr. Young agreed and noted that you only have to go to permissive referendum when you are expending money from your reserve funds, which apparently the Board is not doing.

He further explained that the documents that were sent to him were actually an installment purchase contract, and one is an outright purchase, that was already signed. Jay Farrell noted he blew it; he should have had it changed to a lease. Mr. Young noted that you of course can enter into a purchase agreement, but if you don't have the money available then you have to go through a bond resolution, which is the mandatory referendum.

Mr. Young passed out a packet, which contains an opinion from the comptroller's office, with some additional information from Fire District Affairs, including an article from Richard Nolan, relative to installment purchase contracts.

Mr. Young reiterated that installment purchase contracts require a mandatory referendum, and in the rest of the documents, those talked about an installment purchase contract.

Jay Farrell noted the document that is sent out is just a basic one; Mr. Young noted that it stated "...master lease – purchase agreements...". Mr. Farrell noted that for a turn in lease it wouldn't be a purchase. Mr. Young noted that that was what this document says. He also noted various other language in the document that would not be necessary to be in there if this is a true lease.

Commissioner Spackmann noted that the idea of leasing has been going on for several months, and the concept of always leasing this particular truck, and that it is beneficial financially and to the firemen that this truck would be leased for 10 years and then to lease another aerial. So that is kind of where we are now and that we want to be able to lease it,

and try to decide what plan to go through with the Pierce Corporation. He agrees that some of the language needs to be taken out.

Commissioner B. Bishop added that the reason they did the turn in lease was because it was a lower yearly lease payment. Mr. Farrell noted that the turn in lease is a true lease unless you exercise the option to purchase that out at the end. Mr. Young noted that the payment schedule cannot be one that is reflective of the fact that at the end you pay for the full value of the vehicle. It really has to be like a true lease. He further explained that if a vehicle's fair market value is \$900,000.00, you can't take that amount and divide it by 120 payments and say that is the monthly payment – that is an installment purchase contract. If you took that \$900,000.00 and said at the end of 10 years it is going to have a fair market value of \$300,000.00, the lease payments should be something reflective of a \$600,000.00 deal.

Mr. Young also explained that in a true lease you cannot be tied into leasing another vehicle. Secretary Petkus asked for clarification on the turn in lease with the balloon payment at the end, and if they decide to walk away from that lease, as long as they are required to go into another lease, it has to go to a mandatory referendum. She also asked if they decided to purchase the vehicle at the end, did it need to go out to bid then as well. Mr. Young agreed, noting that that was a whole other process and explained that any time you are going to buy something that is more than \$10,000.00 on a public purchase you need to go through bid process.

Mr. Young asked if there were any reserve funds; Chairman Kugler explained that there is, but not enough to purchase the aerial. It was also noted that the money that needs to be put into the current truck to bring it up to snuff is about one year's lease payment, and they don't feel it's good business.

There was further discussion regarding the trucks, including the cost of a 2006 engine versus a 2007 engine because of EPA standards, stock units, demos, etc. Mr. Young also suggested looking at the used apparatus list in Firehouse Magazine or other similar magazines like that. Chairman Kugler noted that current aerial was purchased used and they learned a lesson from that. He also explained that the nice thing about the lease is all the warranties and service contracts are included. Mr. Farrell noted that the service agreements quoted were not figured into the lease because they were not sure which service contract they wanted. Commissioner Spackmann added that they had looked at used apparatus, but then they would have to retrofit and you are back at square one again.

Secretary Petkus asked if they decided to go with an installment purchase contract, at the end, does the terminology determined the type of referendum, whether you buy the truck for \$1.00, for X amount of dollars or fair market value. Mr. Young clarified that if you buy it out for \$1.00 it is an installment purchase contract and they are lease purchases.

Commissioner Robarge asked if they go for a straight lease where at the end they can turn it in, but decide they like the truck, can we buy it. Mr. Young explained that they could, but now you would have to go out to bid to buy a particular piece of apparatus with certain specs noted. If the money is there to purchase it, then it would only be a permissive referendum.

Mr. Young suggested if you are planning on going forward with this, that Pierce would have to provide another document for him to review; at this point he can't advise the Board to sign either of the documents, as one is a purchase agreement and the other is an installment purchase contract.

Secretary Petkus also asked Mr. Young that if the Board decides to go for a lease purchase and you have to go to mandatory referendum, do you do that before you enter into the lease or at the end when you go to purchase the apparatus. Mr. Young explained that you go to mandatory referendum before you enter into the lease purchase.

Commissioner Bishop noted on the walk away lease, there was the option to walk away at 60 and 84 months, and there are different payment levels. There was further discussion regarding the walk away proposal, and Mr. Young noted there was an interest built into the payments. He also explained that if you were to go out and borrow with your bond authority, you will probably find that you can borrow it cheaper. Commissioner Bishop said the problem is you can't get the votes to borrow. It was also noted that to set up a special reserve account needs a mandatory referendum as well.

Mr. Farrell then called Bob vanDernout from Oshkosh Capital, who spoke to Mr. Young regarding the lease agreement. Mr. Farrell said he understood it that the first 5 years would be a straight lease and a total walk away at that point, and then they have the option to opt out of it at the end of the 8th year and that 102 month payment of \$85,000.00 they would own it. Commissioner Spackmann then noted that the only way to do a straight lease with Pierce is 5 years and that's it. Mr. Farrell noted that was the way he understood it today, but not the night of the presentation.

There was further discussion about the five year walk away lease; Chairman Kugler noted that we are not doing the taxpayers a service because at the end of the lease, you pay more in the lease than what the truck is worth. Mr. Young noted that at the end of the five year lease, you would have spent almost $\frac{3}{4}$ of a million dollars, \$732,550.00. Mr. Young explained that he would go back and look at this again, and he will also talk to some people down at the comptroller's office, but he thinks this is still an installment purchase contract. He also noted that after spending $\frac{3}{4}$ of a million dollars on this truck, you are not going to walk away from it, and then you have to spend another \$240,000.00 on top of that; notwithstanding the problem we have with the taxpayers, this is a more expensive proposition.

Mr. Farrell asked Mr. Young about 109B for fire districts on referendums, the section in there it says permissive or mandatory – he would like to know which it is. Mr. Young noted that if you read through the opinion, you would have to go through a mandatory referendum in order to finance the installment purchase. Mr. Young noted that in his 20-30 years of doing this, and dealing with the Comptroller's office, they have taken the position and have come out with a formal opinion that it requires a mandatory referendum for an installment purchase contract.

Mr. Farrell also noted that the other thing to remember with the walk away lease is all of those pre-paid discounts that you get on a turn in lease or a lease purchase; they do not come off the front end, so we are paying the full amount on that. Mr. Young noted that in New York State, we are unique, and we have more laws pertaining to the fire service than other states, but this is the process we have to operate in.

Commissioner Spackmann asked if we did a five year walk away lease and then we decided we wanted to continue on with the other three installments, could we do a mandatory referendum at that time? Mr. Young said no, it is an installment purchase contract and if you are going to do this, you want to do it now. Even though there is no hook, the hook is you have made a very bad financial decision. Captain Bullard felt it wasn't any worse of a financial decision if it was a turn in lease, if you look at the numbers you are still paying big numbers for it. He also asked if you did a five year walk away, what is the truck worth at the end of the five years. Mr. Farrell said Bob had left a message, and if the District walked away at the end of

five years, then it is a straight lease, you have paid less than the value of the cost of the truck. He would take a stab at the price, and felt the value of the truck at the end of five years should be worth \$443,344.00. Total cost of the truck at that point would be \$1,175,844.00 for a vehicle that could have been purchased for \$869,328.00. Commissioner Spackmann noted that the problem is they cannot buy that truck today for that price because we don't have the money and the voters aren't going to approve it. Captain Bullard noted that if you had to purchase that same truck next year, it would add about another \$30,000.00 to the price, and Commissioner Spackmann added that you also have to add the projected cost of \$50,000 to fix 293 now. Mr. Farrell explained that if you were to purchase the truck and pre-pay $\frac{3}{4}$ of the truck, under state law, you have to have 25% reserve; it would reduce the cost of the truck to \$831,552.00. Can do just a chassis and aerial device pre-pay. Money (\$622,914.00) can also go into an escrow account at contract signing, which Pierce cannot spend, until the truck is done, but the carrying charge is taken off. Commissioner Bishop figured that there would be \$207,638.00 owed at the end, which essentially would wipe out the Equipment Reserve a year from today. That means you are starting with a zero balance again, and then wipes out the other options for the future trucks.

Miscellaneous:

Chairman Kugler asked if Mr. Young had heard from Tom Wutz regarding the money owed to the district in reference to the floods of 2006, and are we going to have to sue the State of New York to get our money? Mr. Young noted he had not heard back from him, but he is going to see him on May 1st and he will tell him that. Commissioner Spackmann explained that the suing is the process to be paid our money, but what we are trying to say is you told us one thing and we did what you told us, and now just give us our money.

Chairman Kugler explained that one of the companies wants to have a comedy night fundraiser, and the question that was posed to the Board, was could they bring their own bottle or alcohol to that party or should we not let them do it? Alcohol will not be provided, they would have to bring their own, and should it be allowed? Secretary Petkus noted that they also wanted to put something about that on the tickets. Mr. Young suggested they could put on the tickets "No beverages other than soft drinks will be provided". There is no sale of alcohol, it is not part of the ticket price, and he didn't think there was any liability on the part of the District.

Mr. Young reiterated again that the contract signed is a purchase agreement and cannot be executed. Chairman Kugler said he would send any contract done to him for review prior to signing. The Board thanked Mr. Young for attending the meeting; Mr. Young left at 11:25 am.

The meeting continued with Commissioner Spackmann noting that Commissioner Bishop is correct; it is the predicament that we are in, and yes we are going to spend more money no matter the choice, and that this is a fix, and part of that fix comes with a consequence.

Chairman Kugler felt that maybe we needed to look at the five year lease, and that they are all in agreement that you can't go out to a mandatory referendum. Commissioner Bishop said he was still not convinced that we need to lease these all the time, if we do our homework we can save money and pay for them, we just need to look at how we do business and put money aside and cut some things, and he has said this for the beginning, this is one time fix, to fix a situation that was let go for whatever reasons, but somebody wasn't doing their homework to prepare for the replacement of the ladder at the Avenue. And now it is at the point where it needs some pretty serious repairs of 293. Mr. Farrell said one thing he notices from an outside view, that it is not just this district that is in the fix they are in, every fire district and

every town and municipality in NYS that has got the growth that Greenfield has been experiencing, none of them planned for this growth spurt. Chairman Kugler then asked to go around the room to each Commissioner to give their thoughts:

Chairman Kugler:

- Felt this was a band aid fix;
- If we can take the five year walk away lease, with first payment due in April 2009, and prolong Greenfield's truck from January until March 2009 and pay for that from the reserve, then he is for it; it may push other trucks back a bit;
- Need to look at budget;
- Sell 293 privately and/or the Spartan, if possible and that money goes back into the ERF and if no more money goes into 293, the excess money from that goes back into the ERF as well.

Commissioner Robarge:

- Can't agree to a straight lease, understands the predicament we are in and on board for getting both trucks but we need to sit down and take a long hard look at the budget and start cutting line items to start saving;
- We have a truck with a new motor in it, \$50,000.00 to put down on the truck for repairs is small potatoes;
- Save some serious money to buy the trucks by reworking the budget;
- Need to take the radio system into account as well.

Commissioner Spackmann:

- Completely disagrees with Commissioner Robarge;
- Can cut the budget but it is not going to create enough money to purchase trucks;
- 293 is not worth the money for all the repairs;
- It is a rebuilt engine, not a new engine and there is a difference;
- 293 is operational, but not dependable;
- Need to prohibit this situation from ever happening again by looking toward the future;
- Doesn't want to drain the ERF;
- Need to take into consideration the increase cost of new trucks down the road;
- The more you push off other trucks the more expensive they become.
- Take the five year lease for 293, still not sure about how you address this from ever happening again, in his opinion it is still up in the air, good ideas going around like separate ER's for ladders, how it is funded, etc. His plan would be to do a separate ER account with \$50,000.00 in the account from the difference in the LOSAP money and replace 293 every 20 years hypothetically. 262 is still up in the air but would prefer not to pay for it outright because it will drain the ER. Lease purchase may be the only option and may have to go out to a vote.

Commissioner Bishop:

- This whole thing sucks;
- Can't lease both vehicles with a walk away lease, because of the financing;
- Can't believe he is going to say this, but he almost agrees with Don;
- 293 needs to be replaced, can't in good conscience put another band aid on a 20 year old truck that is not worth the amount to fix it – more irresponsible to the taxpayers, and he does not want people climbing on it and riding around in it and in the middle of a fire it let's go and something goes wrong with it;
- Go with the five year walk away with the caveat that we save up to purchase that vehicle at the end of the five year period;

- Also go through the process of buying Greenfield's truck by putting down the \$222,000.00 this year and having it ready to be delivered next year in March. Would need to go out to bid with a permissive referendum. Small possibility that it may not be a Pierce; this leaves us with very little in the equipment reserve.
- Starting next year there may need to be an increase in taxes that is at least in line with inflation or slightly above. Not increasing taxes each year is irresponsible.
- 293 is in service, but it is not reliable; he was at a drill a couple of weeks ago and it would only go in one direction. Commissioner Robarge felt it should not be in service then, but Commissioner Bishop felt it was not for them to decide, it was for the officers to decide.

Commissioner Robarge wanted it on the record that they are going to lease this truck for five years for some \$700,000.00. The leasing numbers were gone over once again: the five year lease is going to cost \$732,500.00. The value of the truck at the end of five years is \$443,344.00, for a total of \$1,175,844.00. It would cost approximately \$306,000.00 in interest.

Chairman Kugler felt that if they go for the five year straight lease, he wants 293 taken out of service now because the new truck would be delivered sometime in August or September. He would like the pump and ladder tests done on it and have the pump packing fixed on it and set it aside something else goes wrong and cost us more money. He already contacted the Chief to get in touch with the people who do the ladder testing. Commissioner Spackmann felt that before we take trucks out of service, it should be coordinated with the officers. When asked about it, Captain Bullard did not want to commit to anything without talking to the officers first. Commissioner Spackmann informed the Board that the aerial was going down to the burn house for a drill for FF1; it was already okayed by the Chief. A/C Gibbins explained that next Saturday they are taking it to the burn center for ladder operations; it would be set up to walk on but would not be running evolutions. There was concern that the more the truck is used the more the potential for break down.

There was also further number crunching regarding the two ladder trucks.

Commissioner Bishop asked A/C Gibbins if he was planning on getting rid of 262 before he received the replacement truck; A/C Gibbins said he was not expecting to get rid of it beforehand. A/C Gibbins also noted that since Greenfield's truck is going to be a build to order now, if they had to wait until next March to go and put this out to bid, it's not like they are replacing a ladder in Greenfield anyway. He is talking about delaying the delivery of the truck one more budget cycle, which Commissioner Bishop felt was an incredible compromise. If they are told by the board that they can't even consider replacing 262 until another year from now, then so be it, they are not going to all be happy but not everyone is going to be happy no matter what you do. They still have a truck in good condition, and if the finances are not there then that is the way it is.

Commissioner Robarge asked when the aerial was last inspected; Chairman Kugler noted it was a year ago. Commissioner Robarge noted for the record that it passed the last aerial inspection and it just passed NYS inspection.

Chairmen Kugler confirmed with Mr. Farrell that 293 could not be toward the five year walk away lease. He also confirmed that 293 and 262 could be traded in toward Greenfield's truck but they would be committed to trade in at the time of the contract signing. Pierce and Oshkosh Capital are currently working on rewording the contracts so it talks only about just leasing. Should be able to hold the truck until the workshop next Thursday, but after that they are going to need an answer.

Commissioner Spackmann felt they should sign for Greenfield' struck soon and go through the process of getting rid of 293, putting that down as a trade in on the purchase of 262, as he doesn't see why we would want to hold on to that. Mr. Farrell noted it was a 7-8 month build time from contract. He also explained that if they were to sign the contract on that truck and do a deferred delivery until end of February, first part of March till your tax roll came in, could that be done and hold pricing, and the answer is yes. What they would do is take contract, go through the engineering process but it would delay production time.

There was also discussion regarding pre-pay discounts on Greenfield's truck:

- Pre-pay discount if you were to buy up front (100% pre-pay) is \$25,879.00;
- Chassis only: \$11,624.00;
- Take the two trucks as trade in

Commissioner Spackmann, Bishop and Kugler were in agreement for going for a five year straight lease for Maple Avenue's truck, but Commissioner Robarge was against it; they did not want to make a resolution until the attorney reviewed the paperwork. Jay Farrell to work on the legal stuff regarding the paperwork; when it is complete, he will get it to Joyce, who will forward it to Bill Young for his review/approval.

Also went over the trade in values, as follows:

<u>Truck</u>	<u>Trade-In</u>	<u>Consignment \$</u>	<u>Retail Asking \$</u>
EL-293	\$60,000.00	\$85,000.00	\$125,000.00
ETA-262	25,000.00	45,000.00	75,000.00

Commissioner Spackmann noted that in the meantime they needed to make a plan regarding Maple avenue's aerial, including pump test and ladder test, and whether or not it should be taken out of service, but not until you talk to the officers. Captain Bullard said he would have to go back and talk to the officers about this, but he could probably get them to agree to it other than in the event if they had a structure fire where they had to use the truck, not running it to the mall, or every day, but just running it if we needed it for a structure fire within the district. Question arose as to where the sticker is from last year for the ladder test, because the sticker on it is from 2006.

Contract for Co #1 truck:

- Would be a build to order;
- Needs to go out to bid; question about whether it would be a 10 day bid or 30 day bid
- Pierce takes two trucks as trade in;
- Permissive referendum, as we would be paying for that truck.

Jay Farrell said he will have that paperwork going right away to get to Joyce, so she can forward it to Bill Young for review.

Meeting was adjourned at 12:35 pm.

Respectfully submitted,

Joyce A. Petkus
District Secretary