

Fire Department & Emergency Services

Wisconsin Towns Association

District Meetings 2015

Presented by WTA Attorneys

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What we are covering today:

- Fire Protection:
 - Options for coverage, funding sources, volunteers, miscellaneous fire issues
- Briefly:
 - Ambulance service
 - Law Enforcement
 - Emergency Management

Fire Protection s. 60.55

The town board shall provide for fire protection for the town. Fire protection for the town, or any portion of the town, may be provided in any manner, including:

1. Town fire department.
2. Joint municipal department.
3. Contracting for service.
 - a. Public or private fire companies.
4. Creating a combined protective services department under s. 60.553.

Fire Protection s. 60.55

The town board may provide for the equipping, staffing, housing and maintenance of fire protection services.

- Board can make fire equipment purchases on its own.
- Town elector authorization is required for purchase of land & construction of buildings.

Fire Protection s. 60.55

FUNDING. The town board may:

- (a) Appropriate money to pay for fire protection in the town.
- (b) Charge property owners a fee for the cost of fire protection provided to their property under sub. (1) (a) according to a written schedule established by the town board.
 - Op. Atty. Gen. 1/2/15 on allowing special charge fees for general availability of service.
 - But then see s. 66.0602(2m)(b) on decreasing the levy due to certain fees.

Fire Protection s. 60.55

FUNDING. The town board may:

- (c) Levy taxes on the entire town to pay for fire protection.
- (d) Levy taxes on property served by a particular source of fire protection, to support the source of protection.
- Levy Limit exemption only for Joint Fire Departments at Consumer Price Index + 2%.
 - WTA Legislative Agenda to widen this.

Fire Protection s. 60.55

- Town department:
 - The department is a part of the town government.
 - The town owns the property and equipment.
 - The town board is ultimately in charge.
 - The town board may delegate authority.
 - Town may form a Board of Fire Commissioners per s. 62.13.

Fire Protection s. 60.55

- Joint municipal department:
 - Joint towns-only dept. may form a Board of Fire Commissioners per s. 62.13.
 - Joint town and city or village dept. may need to form a Board of Fire Commissioners per s. 62.13 if certain population thresholds are met.
 - The joint agreement and/or its bylaws determine the nature of what is agreed and governance.

Board of Commissioners s. 62.13

- Differences between town fire commission vs. joint fire commission.
- Members are to be citizens, not otherwise local officials.
- Board of Commissioners appoints fire chief.
- Board of Commissioners may suspend or remove a chief only for cause.
- Board also approves the chief's appointment of subordinates and their potential discipline.

Fire Protection s. 60.55

- Contracting for service.
 - Public or private entity.
 - Contract determines all factors:
 - Costs.
 - Governance input, if any.

2% Fire Dues Program

- Funded by fire insurance premiums.
- Returned to municipalities for 4 purposes:
 - Purchase fire protection equipment;
 - Fire prevention inspection and public fire education;
 - Training fire fighters and fire inspectors;
 - Fire fighters' pension funds or other special funds.
- Either spend yourself or arrange via agreement for someone else to use them.
- Info at:
<http://dsps.wi.gov/Default.aspx?Page=8ec15605-5b97-48e7-b4bf-26fe0357270c>

Fire Protection Miscellaneous

- Utility issue per s. 26.14(9)(b): only liable for intentional or negligent fires.
- Fireworks: copy of permits to municipal fire or law enforcement official at least 2 days prior to use. s. 167.10(3)(g).
- Fire Safety Regulations s. 60.555:
 - E.g., burn bans.
- Driveway ordinances:
 - Encourage standards to allow emergency vehicle access.

Fire Protection s. 60.557

- Reimbursement for Fire Calls on Highways:
 - Up to \$200 from county highways:
 - Need written proof that you first attempted to collect from the person's insurance company, and failing that the person too.
 - Up to \$500 from state and interstate highways:
 - “Even if the fire equipment is not used”;
 - Need written proof that you first attempted to collect from the person's insurance company, and failing that the person too.
 - Info and form here:
<http://www.dot.wisconsin.gov/localgov/aid/fire.htm>

Fire Protection

- Wis. Admin. Code Chapter SPS 330 (used to be COMM 30).
 - Applicable to public sector fire depts.
- Fire Prevention Coordinators:
 - Map and contact information:
<http://165.189.64.111/Documents/Industry%20Services/Maps/SBD-8841%20FirePrevCoordMap%20-%20R0113.pdf>

Ambulance Service s. 60.565

- The town board shall contract for or operate and maintain ambulance services unless such services are provided by another person.
- If the town board contracts for ambulance services, it may contract with one or more providers.
- The town board may determine and charge a reasonable fee for ambulance service provided under this section.
- The town board may purchase equipment for medical and other emergency calls.

Law Enforcement

- The County Sheriff can enforce town ordinances:
 - Op. Atty. Gen. 5/17/01;
 - Can't control whether they will though;
 - Consider contracting.
- Town Police Department s. 60.56:
 - Joint municipal police department;
 - Contract for services;
 - Protective services dept;
 - **May** establish Board of Police Commissioners. s. 60.57.

Emergency Management Wis. Ch. 323

- Wis. Stat. Section 323.14 for local governments:
 - Spend \$\$\$ on an emergency management program;
 - Can declare an emergency per s. 323.11;
 - Governor can also establish that there is an emergency in your area;
 - Emergency powers: “Whatever is necessary and expedient for the health, safety, protection, and welfare of persons & property...”;
 - Can bar all unnecessary vehicular and/or pedestrian traffic from highways;
 - If town board unable to meet, the town chair has these powers in the meantime.
- County Emergency Management Director.

Open Meetings Law s. 19.82

- How was the body created?
- If group is a governmental body--
 - Same rules apply as for any other public body.
- Governance type meetings are different than pure training exercises.

Public Records Law s. 19.32(1)

Nonprofit corporations providing health or safety services to and receiving over 50% of funds from a county or municipality are subject to the public records law.

- HIPAA: do NOT release medical history, condition, or emergency treatment of a patient.

“Volunteer” Status

- Volunteers who receive any payment for services are employees for purposes of payroll
- W-2 must be provided
- Payments for uniforms or cleaning of clothing are taxable unless the town has an “accountable plan” for reimbursement of expenses. (Under an accountable plan receipts and documentation of actual expenses must be provided to the town.)

Volunteers and Residency

Residency restrictions s. 66.0502:

- May require regular law enforcement, fire, or emergency personnel to live within 15 miles of municipality.
- But does exception does not apply to volunteer personnel.

“Volunteers” Holding Elective Office

- Being a volunteer fire fighter, EMT or 1st responder is compatible with holding elected town office under s. 66.0501(4):
 - Earnings, including fringe benefits, must total less than \$15,000 from volunteer activity.
 - Individuals may also earn an additional \$5,000 or \$15,000 as part-time town employees under s. 60.37(4), Wis. Stat.

Volunteer Fundraisers and Donations

- Only money held by wholly separate and independent organizations is not municipal money.
 - Is it really a formally organized entity?
 - No use of municipal officers or employees in their official capacities for administration?
 - Did donors give money to the municipality or to a separate organization?

Volunteer Fundraising

- Fire, EMT or 1st Responder Accounts s. 66.0608
 - The governing body of a municipality **may** enact an ordinance that allows volunteer control over an account.
- An ordinance may include any of the following limitations or requirements:
 - A limit on the type and amount of funds that may be deposited;
 - A limit on the amount of and/or purposes for withdrawals;
 - Reporting and audit requirements.
- Notwithstanding an ordinance it is still the municipality's money.

THE END

- Questions?