

LEGAL PITFALLS HANDOUT

Questions Board Trustees Should Ask

- Ask your fire chief to give you a tour of the fire station and describe the apparatus, what they do, when they go out on a call and what equipment you own.
- Ask how the fire department receives a call and the priority that is assigned to each call.
- Ask about the leading causes of injury and death of firefighters.
- Ask for and read all bylaws, policies, procedures and guidelines for the fire department.
- Get copies of the budgets and ask questions.
- Ask what laws and constitutional provisions you need to follow.
- Ask how Board meetings are publically posted, how public comment is incorporated into the decision making process and when you are supposed to “close” a public meeting.
- Ask about how the department recruits and retains volunteers.
- Ask how a trustee is to react when they receive a call from a member of the public, a volunteer or an employee.
- Ask for the department chain of command.
- Ask about insurance coverage.
- Ask about benefits.

Agreements

- Enter into written agreements signed by the parties
- Retain the agreements and file in multiple locations for future use
- Periodically review the agreements to see if they need to be revised.

Budgets

What do you anticipate doing in the upcoming year?

- Emergency responses
- Prevention and education programs
- Training
- Change in services or service level

What capital needs to be replaced or bought this year?

- Facility upgrades or replacement
- Equipment replacement
- Apparatus replacement

What resources do you need to accomplish what you want to do? For example:

- Personnel/Volunteer Incentives
- Administration – Bookkeeper
- Firefighting and EMS supplies

- Communications
- Apparatus operation, maintenance and upgrades
- Facilities operation, maintenance and upgrades
- New equipment or apparatus

Internal Controls

- Segregation of duties
- Two signatures on warrants
- Inventories
- Price checks and comparisons
- Review and approval of expenditures
- Policies – Credit card, grants, purchasing

Policies

- Anti-harassment, safe workplace and anti-discrimination
- Probationary period (one year?)
- Posting of positions (promotions)
- Discipline & grievance
- Compensation, benefits, insurance and employee classification
- Alcohol & drug-free workplace
- Cell phone and electronic device usage
- Social media guidelines
- Information security policies: computers, e-mail, and voicemail;
- Annual physicals

Board Policies

- Duties and Responsibilities of Officers/Trustees
- Compliance with Open Meeting Laws
- Public Participation
- Procedure for Hiring or Appointing a Fire Chief
- Code of Conduct, Ethics & Conflicts of Interest
- Purchasing
- Warrant Signatory Authority and Amounts
- Reimbursement for Actual Expenses
- Evaluations
- Credit Card Guidelines

Statutes

Montana Human Rights Act

49-1-102 Freedom from discrimination

49-2-303 Discrimination in employment

49-2-308 Discrimination by the state

49-3-201 Employment of state and local government personnel

49-3-205 Governmental services

Fire Protection

7-33-2001 Fire chief -- powers and duties

7-33-2101 et. seq. Rural Fire Districts

7-33-2201 et. seq. Rural Fire Protection

7-33-2301 et. seq. Fire Protection in Unincorporated Places

7-33-2401 et. seq. Fire Service Areas

Ethics and Conduct

2-2-105 Ethical Requirements for Public Officers and Public Employees

2-2-121 Rules of Conduct for Public Officers and Public Employees

Cases

Bull Lake Fire Dist. v. Lincoln County 2013 MT 342

Zunski v. Frenchtown Rural Fire Department Board of Trustees, 2013 MT 258.

Constitution

Article II Section 8 Right of participation.

Article II Section 9 Right to know.

Article II Section 10 Right of privacy.

Attorney General Opinions

46 Op. Att'y. Gen. No.8 (1995)

Resources

- CDC - Fire Fighter Fatality Investigation and Prevention Program
www.cdc.gov/niosh/fire
- National Fire Service Library
www.fireservicelibrary.com

- International Association of Fire Chiefs
www.iafc.org
- Law Office of Catherine Locke Dinwiddie, PLLC
Kate Dinwiddie
Katelawoffice@earthlink.net
406-577-2353

Example of Agenda

BULL THORN FIRE DISTRICT BOARD OF TRUSTEES PUBLIC MEETING

DATE: Thursday, October 4, 2018
TIME: 7:30 P.M.
PLACE: FIRE STATION, 845 Thorpe Road, Sidney
BY: Bull Thorn Fire District Board of Trustees

Call to Order and Roll

PUBLIC COMMENT

REGULAR AGENDA

1. Discussion and Decision on Warrants and Financial Report.
2. Approval of Minutes for Regular Board Meeting held on September 6, 2018.
3. Consideration of Fire Chief Report.
4. Discussion and Decision on the Adoption of Credit Card Usage Policy.
5. Discussion and Decision on Preliminary FY19 Budget.
6. Update from Engine 8-1 Replacement Committee.
7. Announcements.