

# Lancaster County Council Public Safety Committee

Tuesday, June 23, 2015

**County Council Conference Room  
Council Administration Building  
100 N. Main Street  
Lancaster, SC 29720**

1. **Call to Order – Committee Chair Steve Harper** **8:00 a.m.**
2. **Approval of the agenda** *[deletions and additions of non-substantive matters]*
3. **Minutes of the April 21, 2015 meeting – pgs. 2-4**
4. **Chairman Comments**
5. **Citizens Comments**
6. **Discussion / Action Items**
  - a. County-paid Firefighters in Volunteer Fire Departments – John Weaver
  - b. Ordinance 1083 relating to the Indian Land Fire Protection District – Steve Willis – pgs. 5-42
  - c. Sign-on bonus for certified officers – Sheriff Faile – pg. 43
  - d. Public Safety Division structure – Larry McCullough
  - e. Report from Chairman Bundy regarding the Fire Commission Meeting
  - f. Coroner’s quarterly report – Mike Morris – pgs.44-45
7. **Adjournment**

*Anyone requiring special services to attend this meeting should contact 285-1565 at least  
24 hours in advance of this meeting.*

*Lancaster County Council Public Safety Committee agendas are posted at the Lancaster County  
Administration Building and are available on the Website: [www.mylancaster.org](http://www.mylancaster.org)*



Members of Lancaster County Council  
Public Safety Committee

Steve Harper District 5, Chairman  
Bob Bundy, District 3  
Larry McCullough, District 1

**Minutes of the Lancaster County Council Public Safety Committee Meeting**

101 N. Main Street, Lancaster, SC 29720

Monday, April 21, 2105  
8:00 a.m.

**DRAFT**

Council Members present were Steve Harper, Bob Bundy and Larry McCullough. Also present was Steve Willis, Debbie Hardin, various Department Heads and spectators. A quorum of the Lancaster County Public Safety Committee was present for the meeting.

The following press was notified of the meeting by e-mail or by fax in accordance with the Freedom of Information Act: Lancaster News, Kershaw News Era, The Rock Hill Herald, Fort Mill Times, Cable News 2, Channel 9 and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building the required length of time and on the county website.

**Approval of the agenda**

Larry McCullough moved to approve the agenda as written. Passed 3-0.

**Minutes of the March 17, 2015 meeting**

Larry McCullough moved to approve the minutes of the of the March 17, 2015 meeting. Passed 3-0.

**Citizens Comments**

There were no citizens that spoke.

**Discussion / Action Items**

***Proposed Special Purpose Tax District for enhanced public safety***

Sheriff Barry Faile discussed the attached proposal for a Special Purpose Tax District for Highway 75 North. Sheriff Faile discussed that he had given Council the five (5) year plan and that the additional staff requested in the plan will give the same level of service across the county. As Indian Land grows there is more man power needed and the Sheriff's Office can not do it currently with what we have. The Special Purpose Tax District will be for enhanced services for the Indian Land area that would include traffic enforcement, quicker response times, increase school presence,



and more visibility in the area. The Sheriff emphasized that he did not want Council to confuse the five (5) year plan and what is needed on the staffing level with the Special Purpose Tax District. The Sheriff requested that the Administration Committee make hiring deputies a priority so that service levels in the county can be maintained properly.

The Sheriff explained that the \$75 fee would generate approximately \$995,850. The Initial recurring annual cost would be \$975,012 and the one time equipment cost would be \$644,640.

Councilman Larry McCullough discussed that he, Brian Carnes, Steve Willis and Sheriff Faile have been working on this issue since day one. Part of the process is to create differentiated services for the Sheriff's District 1 (which would be Council Districts 1 and 7). The process that was initially discussed was as follows:

- Council approval to move forward with a referendum
- Referendum on a nonbinding ballot either with a special election or general election
- If favorable with the voters, it would come back to Council to create the district with a possible board

The Sheriff stated that he preferred a special election and that he would not need a board to administer the district. The Sheriff also discussed that the attorney had looked into the matter and that there would need to be a petition of at least 15% of the registered voters obtained. The Voter Registration office would need to verify the petition and then it would come to County Council to authorize the special election.

Councilman McCullough discussed the need to have the steps firmly laid out so that all involved will know what to expect. He also suggested that Mary Ann Hudson of Voter Registration be involved as well. John Weaver will have a resolution for the next meeting that will include the steps as requested.

Chris Nunnery of Public Safety Communications informed the Committee that adding more deputies will affect other departments. As call volumes increase, it will affect his department; arrest made will affect the Solicitors office, Magistrates office and the Public Defender's office.

MOTION was made by Larry McCullough to proceed with the Resolution which would include the steps that need to be taken. Passed 2-1. Bob Bundy opposed.

MOTION was made by Bob Bundy for the resolution to have a statement of support for partial funding for more deputies. SECONDED by Larry McCullough. Passed 3-0.

#### *Sentencing for community service*

**DRAFT**

Sheriff Faile explained that in order for inmates to be eligible for community service, the inmates must be sentenced and that there is a shortage of trustees eligible for this program.

### **Chairman Comments**

Chairman Harper discussed the need to change the standing meeting to the 2<sup>nd</sup> Tuesday of the month at 8:00 a.m. This will begin in June. The May meeting has been moved to May 5<sup>th</sup>.

### **Adjournment**

Larry McCullough moved to adjourn. Passed 3-0.

Respectfully Submitted:

Approved by the Public Safety Committee Meeting

Debbie C. Hardin  
Clerk to Council

\_\_\_\_\_  
Steve Harper, Chairman

**DRAFT**



## Agenda Item Summary

Ordinance # / Resolution#: N/A  
Contact Person / Sponsor: Steve Willis  
Department: Admin  
Date Requested to be on Agenda: June 23, 2015

**Issue for Consideration:**

Resolution of issues related to control of county fire service employees and duties and responsibilities of the Indian Land Fee Board.

**Points to Consider:**

The Indian Land Fee Board reimburses Lancaster County for expenses related to providing paid county employees to man their station during weekdays.

These employees are county employees per Title 4, Chapter 9 of the state code.

Per the County Code (sec. 14-22) the Fire Commission "...shall be to establish, recognize, coordinate and direct fire departments and the activities of fire departments in the county on a county level."

The County Council created the Indian Land Fire Protection District by Ordinance 1083. Section 6(A)(1) of the ordinance says the Commission shall operate the district. The term "operate" is not further defined. A large part of the ordinance deals with the fee and how it shall be used as opposed to areas controlled by the Fire Commission.

There is no written contract or agreement between Lancaster County and the Indian Land Fee District regarding the provision of personnel to the district. It has operated under the auspices of the Fire Commission with past departments.

**Funding and Liability Factors:**

Wage and fringe expenses related to the provision of personnel to Indian Land are reimbursed by the Fee District as part of their budget.

Lancaster County handles all training, supervision, payroll, and related functions as part of the overall fire service budget and does not bill the Fee District.

Insurance is provided the same as any other county employee.

**Council Options:**

There are a number of related ordinances and the actual duties and who has oversight needs to be clarified.

**Staff Recommendation:**

See next page.

**Committee Recommendation:**

To be determined.

**Staff Recommendations:**

We first need to determine if the Fee Board has any interest in assuming the employer role for the firefighters. If they desire to exercise control over duties, functions, procedures, etc. then they need to start the process of becoming the employer. This would be similar to what the Economic Development Corporation has done. If they decide they do not desire to do so then the Fire Service retains full authority over the employees while working. This is similar to how the Town of Kershaw and the Sheriff operate.

Once this has been determined, if the answer is to have County employees we need to craft an agreement for services that spells out responsibilities. It should also clarify that the Fee District is reimbursing the County for the service and has no employer duties and responsibilities per state law.

If the answer is to have Fee District employees then we need to start taking steps for them to assume this responsibility. It would have to be determined but at that point I would presume the Fee District would want to have a relationship with the Fire Commission similar to that of the City of Lancaster. They assume responsibility for all equipment, personnel, etc. and they would receive an outlay as does the City in lieu of having county provided services.

Again, depending upon how the Fee District desires to proceed, clarification of both the County Code regarding the responsibility of the Fire Commission and the ordinance creating the Fee District Commission will be needed. This will have to be handled by ordinance readings by Council.

In short, does the Fee District desire to be a funding entity, with operational decisions made elsewhere, or does it desire to operate a Fire District? That answer will determine how we proceed but the Commission needs to be aware that their responsibilities will increase significantly if they desire to operate as a Fire District versus being a funding entity.

**SECTION 4-9-660.** Authority of council and its members over county officers and employees.

Except for the purposes of inquiries and investigations, the council shall deal with county officers and employees who are subject to the direction and supervision of the county administrator solely through the administrator, and neither the council nor its members shall give orders or instructions to any such officers or employees.

HISTORY: 1962 Code Section 14-3745; 1975 (59) 692.

- **Sec. 14-22. - Purpose.**

The purpose of the fire commission shall be to establish, recognize, coordinate and direct fire departments and the activities of fire departments in the county on a county level. All matters related to fire protection shall first be submitted to the commission for consideration and may then be presented to council by the commission.

(Ord. No. 1033, § 1, 5-24-10)



- **Sec. 14-21. - Created.**

The fire commission as established by Act 1224 of 1970 is hereby abolished and there is hereby created as the successor of the commission the Lancaster County Fire Commission.

(Ord. No. 1033, § 1, 5-24-10)

- **Sec. 14-22. - Purpose.**

The purpose of the fire commission shall be to establish, recognize, coordinate and direct fire departments and the activities of fire departments in the county on a county level. All matters related to fire protection shall first be submitted to the commission for consideration and may then be presented to council by the commission.

(Ord. No. 1033, § 1, 5-24-10)

- **Sec. 14-25. - Duties.**

The fire commission shall:

- (1) Prepare annually an assessment of fire protection services in the county including a budget designed to meet those needs for presentation to council.
- (2) Recommend priorities of fire service needs and purchases.
- (3) Provide training and advisory services to volunteer fire departments.
- (4) Establish policies, standard operating guidelines rules and regulations for volunteer firefighter personnel and the use, up-keep and distribution of county equipment and fire-fighting resources.
- (5) In the event of an emergency or a change in need, assign equipment from one (1) or more community fire departments to assist in some other community.
- (6) Withdraw any county-owned equipment from any department that fails to meet the standards prescribed by the commission concerning facilities and equipment and to disapprove any purchase by a department not budgeted.
- (7) Act as a disciplinary board in relation to policies, standard operating guidelines, rules and regulations approved by the fire commission.

(Ord. No. 1033, § 1, 5-24-10)

STATE OF SOUTH CAROLINA )

COUNTY OF LANCASTER )

ORDINANCE NO. 1083

AN ORDINANCE

TO ESTABLISH THE INDIAN LAND FIRE PROTECTION DISTRICT; TO PROVIDE FUNDING FOR THE DISTRICT THROUGH THE IMPOSITION OF RATES AND CHARGES; TO EMPOWER THE COUNTY COUNCIL TO ISSUE GENERAL OBLIGATION BONDS OF THE COUNTY FOR THE DISTRICT; TO PROVIDE FOR THE ADMINISTRATION OF THE DISTRICT; AND TO REPEAL ORDINANCE NO. 714 (CREATING THE SUN CITY CAROLINA LAKES SPECIAL TAX DISTRICT), ORDINANCE NO. 734 (CREATING THE EDENMOOR SPECIAL TAX DISTRICT), ORDINANCE NO. 766 (CREATING THE BELAIR SPECIAL TAX DISTRICT) AND ORDINANCE NO. 865 (CREATING THE TURKEY POINT SPECIAL TAX DISTRICT).

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and Determinations.**

The Council finds and determines:

- (a) Lancaster County is a political subdivision of the State of South Carolina and possesses certain powers granted by the Constitution and general laws of the State.
- (b) Pursuant to Title 4, Chapter 19, Code of Laws of South Carolina 1976, as amended (the "Act"), the Council is vested with the power to establish, operate, and maintain a system of fire protection including the power to designate areas of the county where fire protection service may be furnished and to fund the services through the imposition of a schedule of rates and charges or the levy and collection of ad valorem taxes or both.
- (c) Section 6-1-330 of the Code of Laws of South Carolina 1976, as amended, authorizes the County, acting by and through the Council, to charge and collect service or user fees, subject to the following requirements: (i) the imposition of the uniform service charge must be accomplished by ordinance approved by a vote for adoption by a majority of the members of the entire Council, whether present or not; (ii) Council must provide public notice of the service or user fee being considered and hold a public hearing on the proposed service or user fee prior to final adoption; and (iii) revenue derived from the service or user fee to finance the provision of public services must be used to pay costs related to the provision of the service or program for which the service or user fee is paid.
- (d) Council approved on October 26, 2010, Resolution No. 737, providing for, among other things, a public hearing to be held on November 30, 2010, on the question of the establishment of the proposed fire protection district and submitting to the voters in the proposed district a non-binding advisory referendum to be held on January 18, 2011.
- (e) An overwhelming majority of the votes cast (1187 in favor, 86 opposed) in the non-binding advisory referendum held on January 18, 2011, were in favor of the establishment of the Indian Land Fire Protection District.
- (f) Council has provided all required public notices and conducted all required public hearings.

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OFFICE OF CLERK  
OF COURT  
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LANCASTER, SC

(g) The powers conferred upon Council by the Act include the power to issue general obligation bonds of the County, payable from rates and charges imposed within the district and, if the revenue from the rates and charges are insufficient to service the debt, then from an ad valorem tax levied to service the debt.

(h) Council has previously established special tax districts to provide enhanced fire protection services in portions of the Indian Land area, more specifically, in the Sun City Carolina Lakes, Turkey Point, Belair and Edenmoor communities.

(i) Establishing a fire protection district in the Indian Land area, coupled with abolishing the special tax districts, will provide a uniform level of service and funding for fire protection services throughout the Indian Land area.

(j) It is the purpose of this ordinance to establish, pursuant to the Act, a fire protection district for the Indian Land area.

(k) The establishment of the Indian Land Fire Protection District satisfies the requirements and conditions set forth in Section 4-19-10 and Section 4-19-20 of the Act.

## **Section 2. Establishment of Indian Land Fire Protection District.**

By this ordinance, Council establishes the Indian Land Fire Protection District (the "District") pursuant to the Act.

## **Section 3. Description of Area of Indian Land Fire Protection District.**

The area designated as the Indian Land Fire Protection District is the area bounded as follows:

The northern boundary of the Indian Land Fire Protection District is described as follows: Beginning at the point of the intersection of the boundary of Lancaster County and York County and the southern boundary line of the property now or formerly owned by Dennis Mac Wilkerson, TMS No. 0011-00-008-00, then generally eastward along the southern boundary line of the Wilkerson property and the following properties: (1) along the southern and then eastern boundary of the property now or formerly owned by Bobby R. & Alice M. Barbee, TMS No. 0010-00-044-03; (2) then along the eastern boundary of the property now or formerly owned by Timothy Wayne Wilkes, TMS No. 0010-00-044-08; (3) then along the eastern boundary of the property now or formerly owned by William D. & Brandy N. Hensley, TMS No. 0010-00-044-14; (4) then along the eastern boundary of the property now or formerly owned by Brent Campbell, TMS No. 0010-00-044-00; (5) then along the eastern boundary of the property now or formerly owned by Peter & Sandra Ovalle Gueldner, TMS No. 0010-00-044-16; (6) then along the southern boundary of the property now or formerly owned by Brian L. & Jullian Bute Hanson, TMS No. 0010-00-046-01; (7) then along the southern boundary of the property now or formerly owned by Longbrook, LLC, TMS No. 0010-00-045-08; (8) then along the southern and then eastern boundary of the property now or formerly owned by Longbrook, LLC, TMS No. 0010-00-045-07; (9) then along the southern boundary of the property now or formerly owned by Longbrooke, LLC, TMS No. 0010-00-045-04; (10) then along the southern boundary of the property now or formerly owned by M.R. Ross, TMS No. 0010-00-037-00 to the centerline of U.S. 521 (Charlotte Highway); (11) then south along the centerline of U.S. 521 (Charlotte Highway); (12) then crossing east on U.S. 521 (Charlotte Highway) at the point of the southern boundary of the property now or formerly owned by Jonathan L. & David L. Edwards, TMS No. 0010-00-029-00; (13) then along the southern and then eastern boundary of the property now or formerly owned by Jonathan L. & David L. Edwards, TMS No. 0010-00-029-00; (14) then along the southern boundary of the property now or formerly owned by Hans L. Lengers IX, LLC,



TMS No. 0010-00-025-00; (15) then along the southern boundary of the property now or formerly owned by Thomas Reid Merritt, TMS No. 0010-00-024-00 to the intersection of the centerline of Collins Road; (16) then northeasterly along the centerline of Collins Road to the intersection of the centerline of Henry Harris Road; (17) then southward along the centerline of Henry Harris Road to the intersection of the centerline of Stacy Howie Road; and (18) then generally northeast along the centerline of Stacy Howie Road to its intersection with the North Carolina state line.

The eastern boundary of the Indian Land Fire Protection District is described as follows: From the centerline of Stacy Howie Road and its intersection with the North Carolina state line, then going generally southward along the boundary of Lancaster County and the State of North Carolina to the point of its intersection with the center line of Niven Road.

The southern boundary of the Indian Land Fire Protection District is described as follows: From the centerline of Niven Road and its intersection with the North Carolina state line, (1) westward along the center line of Niven Road to its intersection with the centerline of U.S. 521 (Charlotte Highway); (2) then northwestward along the centerline of U.S. 521 (Charlotte Highway) to its intersection with the southeastern edge of the property now or formerly owned by Dianne Liles, TMS No. 0020-00-027.01; (3) then along the southern and then northwestern boundary of the property now or formerly owned by Dianne Liles, TMS No. 0020-00-027.01; (4) then along the southern boundary (crossing over the Southern Railroad and a portion of TMS No. 0020-00-051.00) of the property now or formerly owned by JMB Land Co. LLC, TMS No. 0020-00-050.00; (5) then along the southeastern boundary of the property now or formerly owned by Marshall Hinson, TMS No. 0019-00-019.00; (6) then along the southeastern and then southwestern boundary of the property now or formerly owned by Marshall Hinson, TMS No. 0019-00-018.00; (7) then along the southern boundary of the property (crossing over Griffin Road) now or formerly owned by Robert Maher, TMS No. 0019-00-022.05; (8) then southward along the eastern boundary of the property now or formerly owned by Willie and Donna Holder, TMS No. 0019-00-022.02; (9) then southward along the eastern boundary of the property now or formerly owned by Rickey Hubbard, TMS No. 0019-00-021.04; (10) then southward along the eastern boundary of the property now or formerly owned by Doyle McDonald, TMS No. 0019-00-021.05; (11) then along the eastern and then southern and then western boundaries of the property now or formerly owned by Olin Wilson, TMS No. 0019-00-041.00; (12) then along the western boundary of the property now or formerly owned by Nancy W. Tillman, TMS No. 0019-00-040.00; (13) then along the southwestern and then western boundary of the property now or formerly owned by James and Patricia Ogburn, TMS No. 0019-00-022.00; (14) then along the western boundary of the property now or formerly owned by Vijaya Reddy Trustee, TMS No. 0019-00-023.02; (15) then along the western boundary of the property now or formerly owned by Charles and Jerri Laney, TMS No. 0019-00-024.01; (16) then along the western boundary of the property now or formerly owned by Olin Wilson, TMS No. 0019-00-036.00; (17) then along the western boundary of the property now or formerly owned by Robert and Georgia Sherengo, TMS No. 0019-00-027.07; (18) then along the western boundary of the property now or formerly owned by Thomas and Linda Pickard, TMS No. 0019-00-027.09; (19) then along the southern boundary of the property now or formerly owned by Helen Davis, TMS No. 0019-00-035.00; (20) then along the southwestern and then northwestern boundary of the property now or formerly owned by Robert D. Wilson Sr. Trustee, TMS No. 0019-00-029.00; (21) then along the southwestern boundary of the property now or formerly owned by Mary Purvis and Elizabeth Martin, TMS No. 0019-00-027.01; (22) then along the southeastern boundary of the property now or formerly owned by Gordon and Linda Stegall, TMS No. 0019-00-030.06; (23) then along the southeastern boundary of the property now or formerly owned by Gordon and Linda Stegall, TMS No. 0019-00-030.00; (24) then along the southeastern boundary of the property now or formerly owned by W. Olin Nisbet Jr. Family, TMS No. 0019-00-030.05; (25) then southwest along the northwest side of Van Wyck Road until its intersection with property now or formerly owned by Family Center Inc., TMS No. 0019-00-033.00; (26) then along the northwestern boundary (crossing Van Wyck Road) of property now or formerly owned by Family Center Inc.; TMS No. 0019-00-033.00 (crossing back over

Van Wyck Road); (27) then along the southeastern boundary of the property now or formerly owned by James and Rachel Jackson, TMS No. 0019-00-030.02; (28) then along the southeastern boundary of the property now or formerly owned by Barbara Dandridge, TMS No. 0019-00-030.01; (29) then along the southeastern boundary (crossing over Van Wyck Road) of the property now or formerly owned by Macedonia Baptist Church, TMS No. 0019-00-031.00; and (30) then along the southern boundary of the property now or formerly owned by the W. Olin Nisbet Jr. Family, TMS No. 0019-00-001.00, to its intersection with the boundary of Lancaster County and York County.

The western boundary of the Indian Land Fire Protection District is described as follows: From the intersection of the southern boundary of the property now or formerly owned by the W. Olin Nisbet Jr. Family, TMS No. 0019-00-001.00, and the boundary of Lancaster County and York County, then going generally northward along the boundary of Lancaster County and York County to the point of beginning of the northern boundary of the Indian Land Fire Protection District.

#### **Section 4. Imposition of Rates and Charges.**

(A) Council shall annually provide for the imposition of rates and charges within the District for the purpose of funding permanent improvements and capital expenditures, including buildings, equipment and infrastructure as needed for fire protection and to pay directly or indirectly debt service on general obligation bonds, leases or other forms of indebtedness allowed by law. If the revenue from the rates and charges exceed the amount necessary for indebtedness purposes, then the excess revenue may be used for the operation and maintenance of the District.

(B)(1) There is imposed in the District an annual charge of seventy-five dollars (\$75.00) for each equivalent residential unit (ERU). For purposes of billing and collection, the annual charge shall be certified by the County Assessor to the County Auditor, to be placed on the respective County tax bills for the affected parcels, beginning with the fall 2011 tax bills, to be collected with and in the same manner as all other taxes and charges. The charge is a charge against and runs with the parcels of real property located in the District, as set forth herein. The ERU for specific properties shall be determined using the following conversion table:

##### **Land Use**

Single Family Detached Housing  
Multi-Family Housing  
All Uses Other than Single and Multi-Family

##### **Conversion Table**

One Dwelling Unit per ERU  
One Dwelling Unit per ERU  
One ERU for each 2500 square feet,  
or fraction thereof

No annual charge may be imposed on property unless the property has a structure on it. For new structures, imposition of the annual charge begins when a certificate of occupancy is issued and the structure becomes taxable for property tax purposes.

(2) Monies collected from the annual charge may be used only as provided in subsection (A) of this section. Revenues from the charge shall be deposited in a special fund, separate and distinct from all other funds of the County. Monies in the special fund may be expended only pursuant to appropriation by the Council and in accordance with the terms of this ordinance. Any unexpended balance in the special fund at the end of any fiscal year shall be carried forward into the next fiscal year and expended for the same purposes.

## **Section 5. General Obligation Bonds.**

Council is empowered to issue general obligation bonds of the county for the purpose of funding permanent improvements and capital expenditures, including buildings, equipment and infrastructure, as needed for fire protection in the District. The full faith, credit, and taxing power of the county must be irrevocably pledged to the repayment of the bonds. The general obligation bonds are payable from an ad valorem tax levied annually by the county auditor and collected by the county treasurer. It is the Council's intent that the annual ad valorem tax to be levied for the payment of the principal and interest on the general obligation bonds shall be reduced in each year by the amount of the revenue collected from the imposition of rates and charges in the District so that the levy of an ad valorem tax is necessary only when the revenues from the rates and charges are insufficient to pay principal and interest on the general obligation bonds.

## **Section 6. Administration of District.**

(A)(1) By passage of this ordinance, Council creates the Indian Land Fire Protection District Commission. The purpose of the commission is to operate the District. The commission consists of five members. Four of the five members shall be appointed by Council and these four members must reside within the District. The Fire Chief for the Indian Land Fire Department, or the designee of the Indian Land Fire Department, shall serve ex-officio and as a full voting member. The term of office for commission members is four years. Two of the four initial appointments, determined by Council by lot, shall have a term that ends on June 30, 2011 and the other two shall have a term that ends on June 30, 2013. All terms end on June 30. A person who has served two (2) consecutive terms on the commission is ineligible for appointment for an additional term unless a period of at least two (2) years has elapsed since the expiration of the person's last term; provided, however, upon a two-thirds vote of the Council members, a person may be reappointed to the commission notwithstanding the term limitation. Time served in filling a vacancy is not included in the term limitation. Members serve until their successors are appointed and qualified. Vacancies must be filled for the unexpired term in the same manner as the original appointment.

(2) A member of the commission who misses three consecutive meetings of the commission during any fiscal year or a total of five meetings in any fiscal year vacates the office to which the member is appointed. The vacancy in the office exists as of the end of the meeting missed by the member that triggers the vacancy and the vacancy shall be filled in the same manner as other vacancies. When a vacancy occurs pursuant to this item, the commission chair or the chief administrative officer of the commission shall notify the clerk to council in writing as soon as possible.

(3) Any member of the commission may be removed at anytime by Council for cause.

(B) All members serve without compensation, but may be reimbursed for actual expenses and mileage pursuant to county policy after approval by the commission chair and the county administrator.

(C) The commission of the Indian Land Fire Protection District shall organize itself by electing one of its members as chair and one as vice-chair whose terms must be for one year. The commission may provide for the election of any other officers it considers necessary.

(D) The commission shall meet at the call of the chair and at the times the chair or commission may determine. Meetings shall be held not less frequently than once each calendar quarter. Meetings of the commission shall be conducted in accordance with the Freedom of Information Act, codified as Title 30, Chapter 4 of the Code of Laws of South Carolina 1976, as amended.

(E) Within one (1) year of the member's appointment and at such other times as may be required by Council, the member shall attend a training session provided by the county on the topics of fiduciary duties, county fiscal and personnel policies, and other responsibilities and duties of a commission member.



(F) Annually, at the time designated by the Council, the commission shall submit to the Council an operating budget for the ensuing fiscal year adequate to fund the operation and programs of the commission.

(G) The expenditure of any funds by the commission is subject to the purchasing rules and financial procedures of the county as adopted by the Council. The commission shall designate a person on the commission to serve as liaison with the offices of the county administrator and county finance director to ensure compliance with these rules and procedures.

(H) The county shall include the commission in the annual independent audit of the financial records of the county.

(I) The commission is subject to the county's personnel policies including wage and salary guidelines.

**Section 7. Notice of Action.**

The County Administrator is authorized and directed to provide for the giving of notice of Council's action as required by Section 4-19-20(5) of the Act. The notice shall be substantially in the form of the notice attached to this ordinance as Exhibit A. The notice shall be published once a week for two successive weeks in a newspaper of general circulation within the County.

**Section 8. Repeal of Existing Special Tax Districts.**

Ordinance No. 714 (creating the Sun City Carolina Lakes Special Tax District), Ordinance No. 734 (establishing the Edenmoor Special Tax District), Ordinance No. 766 (establishing the Belair Special Tax District) and Ordinance No. 865 (establishing the Turkey Point Special Tax District) are repealed.

**Section 9. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 10. Conflicting Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 11. Effective Date.**

This ordinance is effective upon third reading.

SIGNATURES FOLLOW ON NEXT PAGE.

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AND IT IS SO ORDAINED, this 1<sup>st</sup> day of February, 2011.

LANCASTER COUNTY, SOUTH CAROLINA

  
Kathy G. Sistare, Chair, County Council

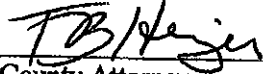
  
D.W. "Cotton" Cole, Secretary, County Council

ATTEST:

  
Debbie C. Hardin, Clerk to Council

First Reading:	January 4, 2011	PASSED
Second Reading:	January 25, 2011	PASSED
Public Hearing:	February 1, 2011	
Third Reading:	February 1, 2011	

Approved as to form:

  
County Attorney

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## Agenda Item Summary

Ordinance#/Resolution#: 1083 (Organizing ordinance Indian Land Fire Protection District)  
Contact Person/Sponsor: Jan Tacy, Chair  
Department: Indian Land Fire Protection District Commission  
Date Requested to be on Agenda: June 23, 2015, Public Safety Committee

### Issues for Consideration:

- **FLSA** -- Determine whether Lancaster County and ILFD are the same or different agencies. If they are the same agencies, determine to what extent career firefighters at ILFD are able to conduct administrative business during "on-duty" hours.
- **Leadership** -- Having one leader during the day and another for night, is problematic. A fire department should have a single line of command. Explore both short and long term options. Also, there is no written "contract."
- **Board** -- What is the purpose of the Board and what is our role in moving the fire department forward? Is it solely budgetary oversight or as a managerial board for the organization?
- **Communications** -- How can we improve communications between County Staff and the Board?

### Points to Consider:

- **FLSA**: If they are the same agency, all hours at the station are subject to FLSA overtime; if they are different agencies, then no overtime is required for "off the clock" hours (after-hour calls when responding as a volunteer at ILFD not as county ee). Right now we pay for just after-hour calls and nothing else. If all hours are considered work, then when "on duty", a small amount of administrative work could be allowed during "down" times.
- **Leadership** -- "Poorly managed 'dual' systems often become 'duel' systems that are destined to fail." Short-term, can IL come under the supervision of the county Captain and Lieutenant, and can we have a written contract for services from the county to the district? Long term, can we have a strategic planning task force of all stakeholders that will transition IL to a single line of command?
- **Board** -- Ordinance 1083 does not delineate the responsibility of the Board other than to "operate" the District, submit a budget, follow purchasing rules, be included in the County audit, and be subject to the County's personnel policies.
- **Communications** -- Numerous requests and promises for information have gone unfulfilled. We learn after the fact about personnel actions that affect the budget; we receive no monthly information about personnel; when salary increases were agreed upon, we received no information about the impact on the budget. There is no communication between County Staff and the Board.

### Funding and Liability Factors:

If a review of FLSA results in Lancaster County and IL being the same agencies, we will start paying additional overtime for all hours, including those spent at member meetings and training. Additional \$ have been put in the budget. If they are different agencies, we should stop paying overtime for after-hour calls answered as a volunteer. If we do not make this determination now, there may be liability for unpaid overtime in the future.

### Council Options:

- Designate the appropriate people to obtain answers to our questions, with reporting deadlines
- Do nothing

### Recommendation:

- Determine FLSA compliance and whether Lancaster and IL are the same or different agencies
- Reassign IL under supervision of the county Captain and Lieutenant
- Begin the process of writing a contract for services between the County and IL
- Consider a strategic plan task force of all stakeholders to transition IL to a single line of command
- Revise Ord 1083 to better delineate Board responsibilities.
- Improve communications between staff, the Board, and ILFD



## FLSA Compliance

### 1. Determine whether Lancaster County and ILFD are the same or different public agencies.

This is a question I have asked time and time again – first on May 30, 2011 when the Fire District first started, then again January 15, 2015 as a follow-up the January meeting when these issues were raised at the Board meeting, and numerous times since. Keep in mind that “volunteer” means uncompensated – if you cannot volunteer, your hours must be used in the calculation of overtime. #1 #2

#### Why is it significant?

“Section 3(e)(4)(A) of the FLSA, 29 U.S.C. § 203(e)(4)(A), permits public sector employees to volunteer their services to their employing public agency, assuming they provide their services for civic, charitable, or humanitarian reasons and there is no coercion or undue pressure on the employee, so long as they do not volunteer to provide the same type of services for which they are employed. The phrase “same type of services” means “similar or identical services.” <http://www.gpo.gov/fdsys/granule/CFR-2011-title29-vol3/CFR-2011-title29-vol3-sec553-103/content-detail.html> #3

**If they are the same agency, then ALL hours at the station are subject to FLSA overtime.**

“FLSA hours worked include not only “on the clock” hours worked, but also “off the clock” hours worked, so long as the employer “knows or has reason to believe” that the employee is performing this “extra” work and permits it to happen. The following may constitute compensable FLSA hours worked when performed during off the clock time: Care and maintenance of work equipment (e.g., arson dogs, trucks and engines, hoses, uniforms), work performed before or after regular shifts, job-related paperwork performed at home, job-related telephone calls from home, (most) training time.” ... and #4

“Employees may not “volunteer” to do similar work for the same employer without the time being counted as FLSA work time. Firefighters may not perform “additional” fire related activities for their employers without that time being included as hours worked for FLSA pay computation purposes.” <http://www.flsa.com/fire.html> #5

**If they are different agencies, then NO overtime is required for “off the clock” hours -- no overtime for after hour calls because firefighters would be responding as volunteers at ILFD not as County employees. If they are separate agencies, then no overtime is required.**

Right now we pay for “after hour” calls but not for any other activities like member meetings or training. Seems like we are picking and choosing what we want to pay for.

What constitutes the “same public agency?” I refer to the International Fire Chief Association ([www.iafc.org](http://www.iafc.org)) paper “Managing Volunteer Firefighters for FLSA Compliance”, Chapter 4: #6

#7, #8, #9,  
#10, #11

"Where they (Fire Commission) do not, and this is something they (ILFD) may want to consider, is with the City of Lancaster. There we make an annual financial contribution in lieu of services and the City coordinates with, but does not answer to, the Fire Commission. If that is the route they want to go we can work that out but it does raise issues I want to make sure that the Board is comfortable with before going too far. #7

1. They (Indian Land) would need to find a payroll service to handle that and the provision of benefits such as insurance. Like LCEDC, they will need to apply for an employee number with PEBA to qualify for state retirement and insurance.

2. The City owns and maintains their own apparatus. Do they desire to do the same? I am worried about insurance issues arising if we have non-county employees driving and operating county fire trucks. It may be able to be worked out but it could be an issue, depending on what the insurance folks say. If they want to own and maintain the trucks as the City FD does I would certainly recommend Council transfer ownership at no cost since they would be providing fire coverage in that area.

3. We would need to be clear that we plan to treat IL FD the same as City FD for lump sum payments, coordinating membership on the Commission, etc. but not pay for apparatus maintenance, etc." Sounds like the County would intend to treat Indian Land as a "separate public agency".

**2. If it is determined ILFD and the County are the same agencies, then determine to what extent career firefighters at the ILFD are able to conduct administrative business of ILFD during "on-duty" hours.**

It has been explained to the Board that paid firefighters are allowed to do "operational" activities for the Indian Land Fire Department but they are not allowed to do "administrative" activities. Yet nowhere in my research have I seen the terms "operational" and "administrative" when determining FLSA compliance. The determination seems to hinge only on whether they are providing the same or similar services and whether the two agencies are the same or different.

If it is determined that we are the same agency, and all hours are consider "work" including member meetings and training, then I think career firefighters should be allowed to do a certain amount of administrative work when time permits. The amount of administrative work should be under the threshold that would trigger an administrative/executive exemption. #8

#### Other Thoughts:

- #9 • Training time: "Most training time is work time. .... Training time need not be counted as work time only if ... it is "(c) not directly related to the employee's current job."
- #10 • Other firefighting activities
- #11 • Firefighter job description





Robert Tacy &lt;rtacy@gmail.com&gt;

## Personnel Status -- Volunteer or Paid -- OT or Not

3 messages

Robert Tacy &lt;rtacy@gmail.com&gt;

Mon, May 30, 2011 at 3:25 PM

To: Steve Willis <swillis@lanastercountysc.net>, David Freeman <gingerfreeman67@gmail.com>, Glyn Hasty <glyn.hasty@gmail.com>, Jan Tacy <rtacy@gmail.com>, John Ehrmanntraut <JJetraut@hotmail.com>, Joseph Pezzuti <OOJOEP@gmail.com>, Mike Magette <jmagette@lanastercountysc.net>, MORRIS L RUSSELL <mrussell@lanastercountysc.net>, Pat Latour <pmlat@earthlink.net>, Raymond Griffin <raymond.griffin@hp.com>, Raymond Griffin <rgriffin@comporium.net>, Thomas Pickard <tpickard@lanastercountysc.net>, Veronica Thompson <vctompson@lanastercountysc.net>, Larry McCullough <mccullough2008@comporium.net>

Hope everyone had a great Memorial Day holiday.

In an effort to clarify the personnel issues with regard to being FLSA complaint, I have done some research. The following three links provide first the law and then an opinion that is very similar to our situation (only it is in Louisiana). (Steve, at the end of this email, I have asked if McNair can give us an opinion.)

1. <http://www.dol.gov/elaws/esa/flsa/screen75.asp> e-laws - Fair Labor Standards Act Advisor, subject "Exemption."

Other FLSA Exemptions, mid-way down the page:

" Firefighters working in small (less than 5 firefighters) public fire departments - OT" (meaning exempt from overtime)

2. <http://law.justia.com/cfr/title29/29-3.1.1.1.28.2.96.3.html>  
Justia US Law,

"29 C.F.R. § 553.102 Employment by the same public agency. Title 29 - Labor

(a) Section 3(e)(4)(A)(ii) of the FLSA does not permit an individual to perform hours of volunteer service for a public agency when such hours involve the same type of services which the individual is employed to perform for the same public agency.

(b) Whether two agencies of the same State or local government constitute the same public agency can only be determined on a case-by-case basis. One factor that would support a conclusion that two agencies are separate is whether they are treated separately for statistical purposes in the Census of Governments issued by the Bureau of the Census, U.S. Department of Commerce."

3. <http://www.ag.state.la.us/Shared/ViewDoc.aspx?Type=4&Doc=19256> July 23, 2008 OPINION 08-0051

Two questions: "if a career firefighter employed by the fire district must be paid for responding to emergencies during "off duty" hours." and "whether a career firefighter employed by the fire district may serve as a volunteer firefighter during his off-duty hours" at the same station.

In reading the Opinion, the Judge uses both of the laws quoted in #1 and #2.

The answer is "yes" to a career firefighter employed by the fire district must be paid off duty hours. However, the Judge says on Page 4:

"29 USC 213(b)(20) provides a complete exemption from the overtime requirements of 29 USC 207 for public employees engaged in fire activities for workweeks in which the agency has fewer than five employees employed in such activities. ... If this exemption is applicable to your fire district, the district would be relieved





1 message

Cc: Steve Willis <[swillis@lanastercountvsc.net](mailto:swillis@lanastercountvsc.net)>

# 2

- <https://mail.google.com/mail/u/0/?ui=2&ik=33c2af1d61&view=ent&cat=Fire%20Commis> 1/15/2015



#3

## Wage and Hour Division, Labor

## § 553.104

public agency when such hours involve the same type of services which the individual is employed to perform for the same public agency.

(b) Whether two agencies of the same State or local government constitute the same public agency can only be determined on a case-by-case basis. One factor that would support a conclusion that two agencies are separate is whether they are treated separately for statistical purposes in the Census of Governments issued by the Bureau of the Census, U.S. Department of Commerce.

### § 553.103 "Same type of services" defined.

(a) The 1985 Amendments provide that employees may volunteer hours of service to their public employer or agency provided "such services are not the same type of services which the individual is employed to perform for such public agency." Employees may volunteer their services in one capacity or another without contemplation of pay for services rendered. The phrase "same type of services" means similar or identical services. In general, the Administrator will consider, but not as the only criteria, the duties and other factors contained in the definitions of the 3-digit categories of occupations in the *Dictionary of Occupational Titles* in determining whether the volunteer activities constitute the "same type of services" as the employment activities. Equally important in such a determination will be the consideration of all the facts and circumstances in a particular case, including whether the volunteer service is closely related to the actual duties performed by or responsibilities assigned to the employee.

(b) An example of an individual performing services which constitute the "same type of services" is a nurse employed by a State hospital who proposes to volunteer to perform nursing services at a State-operated health clinic which does not qualify as a separate public agency as discussed in § 553.102. Similarly, a firefighter cannot volunteer as a firefighter for the same public agency.

(c) Examples of volunteer services which do not constitute the "same

type of services" include: A city police officer who volunteers as a part-time referee in a basketball league sponsored by the city; an employee of the city parks department who serves as a volunteer city firefighter; and an office employee of a city hospital or other health care institution who volunteers to spend time with a disabled or elderly person in the same institution during off duty hours as an act of charity.

### § 553.104 Private individuals who volunteer services to public agencies.

(a) Individuals who are not employed in any capacity by State or local government agencies often donate hours of service to a public agency for civic or humanitarian reasons. Such individuals are considered volunteers and not employees of such public agencies if their hours of service are provided with no promise expectation, or receipt of compensation for the services rendered, except for reimbursement for expenses, reasonable benefits, and nominal fees, or a combination thereof, as discussed in § 553.106. There are no limitations or restrictions imposed by the FLSA on the types of services which private individuals may volunteer to perform for public agencies.

(b) Examples of services which might be performed on a volunteer basis when so motivated include helping out in a sheltered workshop or providing personal services to the sick or the elderly in hospitals or nursing homes; assisting in a school library or cafeteria; or driving a school bus to carry a football team or band on a trip. Similarly, individuals may volunteer as firefighters or auxiliary police, or volunteer to perform such tasks as working with retarded or handicapped children or disadvantaged youth, helping in youth programs as camp counselors, soliciting contributions or participating in civic or charitable benefit programs and volunteering other services needed to carry out charitable or educational programs.

[52 FR 2032, Jan. 16, 1987; 52 FR 2648, Jan. 23, 1987]



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#4

There is at least one court decision which has held that arson investigators employed at fire departments are not eligible for §7(k) pay as "employees in fire protection." Arson investigators may be eligible for § 7(k) pay as "employees in law enforcement activities," using the different thresholds permitted for these employees. (See, FLSA and Police Officers.) Some EMS employees may be eligible for §7(k) pay as employees in fire protection activities, however some EMS workers may be "40 hour week" employees. (See, FLSA and Paramedics.)

Private fire protection employers are not permitted to use the special §7(k) work periods, and employees of private fire companies must be paid FLSA overtime for all hours worked over 40 per week. A private fire company means a fire protection unit of private industry. A public sector fire company means that the employer is the government. Employees of "volunteer" fire departments probably count as public sector employees.

#### Hours Worked.

For FLSA purposes, "hours worked" means time when the employee is actually performing services for the employer. These are the only hours which must be included when determining if FLSA overtime is due. Thus, for example, "Kelly days" or other paid leave days do not count as hours worked for FLSA purposes. "Sleep time" and meal breaks may or may not count as FLSA hours worked, see below. FLSA overtime is due only when and to the extent that FLSA hours worked exceed the applicable FLSA overtime threshold -- 40 hours per week or whatever the applicable "chart" hours are for a 7(k) work period. So long as employees receive at least minimum wage for FLSA hours worked under the FLSA overtime threshold, there is generally no federal violation. "FLSA overtime" may therefore be different from "contract overtime."

FLSA hours worked include not only "on the clock" hours worked, but also "off the clock" hours worked, so long as the employer "knows or has reason to believe" that the employee is performing this "extra" work and permits it to happen. The following may constitute compensable FLSA hours worked when performed during off the clock time: Care and maintenance of work equipment (e.g., arson dogs, trucks and engines, hoses, uniforms), work performed before or after regular shifts, job-related paperwork performed at home, job-related telephone calls from home, (most) training time.

#4

#### Overtime Rate.

An employee's FLSA overtime rate should be calculated to include not only "base pay" but also various "wage augments" such as "longevity pay" and "shift differentials." These must be included only for calculating the employee's FLSA overtime rate, and need not be included for any other pay purposes.





#5

FLSA, require an employee to work pretty much when it wishes. The FLSA generally governs only how an employee must be paid for FLSA overtime worked during a work period. The employee's FLSA hours worked "vest" at the end of the last day of the work period. At that point, the total FLSA hours worked (during that work period) are added, and any FLSA hours worked over the FLSA threshold must be compensated as overtime. Overtime owed for FLSA hours worked during one work period may not be offset by "hours not worked" during some other work period. Note that local law, employment contracts, or collective bargaining agreements may independently restrict an employer from requiring schedule adjustments, irrespective of the FLSA.

#### Compensatory Time.

Government employers are permitted to pay some FLSA overtime with "comp. time" in lieu of cash wages. To be permitted to pay FLSA overtime with comp. time instead of cash, there must be an "agreement" with the employees before the FLSA overtime work is performed. If the employees are represented by a union, this agreement must be collectively bargained. If not, it may be a "condition of employment" (at least for new hires) or contained in individual agreements. Comp. time in lieu of cash wages for FLSA overtime must be paid at the appropriate FLSA overtime rate -- time and one-half. Employees must be permitted to use their accrued FLSA comp. time pretty much when they want to (on reasonable notice), but an employer may require an employee to "burn" accrued FLSA comp. time. An employer may not prohibit an employee from using accrued FLSA comp. time unless the time off would create a real disruption in operations. A desire by the employer to avoid having to call in another employee for shift coverage are not sufficient reasons to deny comp. time requests, as that is a financial reason and not an operational hardship.

The FLSA comp. time rules apply only to "FLSA comp. time." This is "time" awarded in lieu of cash wages for hours worked which would be required to be treated and paid as overtime under the FLSA. Some employers grant comp. time to employees for other purposes or on other schedules. The FLSA comp. time rules do not apply to this kind of comp. time.

#### "Moonlighting" and "Dual Employment."

Employees may not "volunteer" to do similar work for the same employer without the time being counted as FLSA work time. Firefighters may not perform "additional" fire related activities for their employers without that time being included as hours worked for FLSA pay computation purposes. Also, employees who work "two jobs" for the same employer must aggregate their total hours worked for FLSA pay purposes. For example, a fire fighter who works 40 hours as a firefighter and an additional 20 hours as an animal

#5

## CHAPTER 4.

#6

### DO TWO ENTITIES CONSTITUTE THE "SAME PUBLIC AGENCY"?

An individual who is a paid employee of a public agency cannot also be an unpaid volunteer for the same agency while performing the same type of services that he is employed to perform. DOL determines whether two entities constitute the "same public agency" on a case-by-case basis by examining whether the two entities:<sup>28</sup>

- Have separate payroll and retirement systems
- Have the authority to sue and be sued in their own name
- Have separate hiring and other employment practices
- Are treated separately under State law
- Are treated separately by the Census Bureau
- Have separate budget and funding authorities
- Have independent authority to make employment decisions
- Have authority to hire and compensate personnel
- Have limited integration and day-to-day control of operations over each other

#### SEPARATE PUBLIC AGENCY

If analysis of these factors indicates that the public agencies are separate entities, then an employee of one agency can volunteer to provide the same or similar services as performed in their regular employment for the separate agency.

#### SAME PUBLIC AGENCY

If analysis of these factors indicates that the public agencies are not separate entities, then an employee of one agency cannot volunteer to provide the same or similar services as performed for in their regular employment for the other entity. Such an arrangement would create a joint employment situation.

#### MUTUAL AID AGREEMENTS

DOL regulations state that an agreement between two agencies for mutual aid does not change the otherwise volunteer character of services performed by employees of such agencies.<sup>29</sup> For example: An individual employed as a paid firefighter with County A may volunteer as a firefighter with County B, where County A and County B have a mutual aid agreement (even though the firefighter may be called upon to respond to a call in County A while volunteering with County B).

<sup>28</sup> 29 C.F.R. § 553.102(b) (2006).. <sup>29</sup> Id. at § 553.105.

#7



Robert Tacy &lt;rtacy@gmail.com&gt;

**Fwd: Meeting at ILFD**

1 message

Larry McCullough &lt;mccullough2008@comporium.net&gt;

Mon, Mar 16, 2015 at 9:11 PM

To: Jan Tacy &lt;rtacy@gmail.com&gt;, Joe Pezzuti &lt;OOJOEP@gmail.com&gt;

Cc: Larry McCullough &lt;mccullough2008@comporium.net&gt;

I received this email from Willis today. Please use discretion in how you use/share it.

Thanks,

Larry McCullough

Sent from my iPhone

Begin forwarded message:

**From:** Steve Willis <swillis@lanastercountysc.net>

**Date:** March 16, 2015 at 3:25:49 PM EDT

**To:** "Larry McCullough (mccullough2008@comporium.net)"

<mccullough2008@comporium.net>, Brian Carnes <briancarnes@lanastercountysc.net>

**Subject:** Meeting at ILFD

Councilmen,

I know that you are scheduled to attend the meeting with the IL FD Fee Board later this week. Is there any information I can get for you prior to the meeting?

I know that the group wants to look at the Spartanburg model so they control employees. Katherine made clear that in Spartanburg those folks are not county employees and they provide no services such as insurance coverage for them. That sounds good to me but as we are winding down the hybrid ED employment issue I just want to make sure that we don't jump back into such an arrangement with the fire departments. If they are going to control the employees they will need to handle payroll, benefits, etc.

This is certainly a question for further discussion but I would ask if they want to look at just employment or other areas. If it is just employment, given our current ordinances I think we still have to work through the Fire Commission as they set standards for the fire service. Where they do not, and this is something they may want to consider, is with the City of Lancaster. There we

Separate  
a. 2. 3. 4. 5. 6. 7.  
#7  
over  
25

make an annual financial contribution in lieu of services and the City coordinates with, but does not answer to, the Fire Commission. If that is the route they want to go we can work that out but it does raise issues I want to make sure that the Board is comfortable with before going too far.

# 2  
continued

1. They would need to find a payroll service to handle that and the provision of benefits such as insurance. Like LCEDC, they will need to apply for an employee number with PEBA to qualify for state retirement and insurance.
2. The City owns and maintains their own apparatus. Do they desire to do the same? I am worried about insurance issues arising if we have non-county employees driving and operating county fire trucks. It may be able to be worked out but it could be an issue, depending on what the insurance folks say. If they want to own and maintain the trucks as the City FD does I would certainly recommend Council transfer ownership at no cost since they would be providing fire coverage in that area.
3. We would need to be clear that we plan to treat IL FD the same as City FD for lump sum payments, coordinating membership on the Commission, etc. but not pay for apparatus maintenance, etc.

I know the driver right now is they want control over the employees but moving in that direction could mean assuming some other expenses I am not sure they have considered. I just want to make sure they don't get blindsided if they decide to move in that direction.

Thanks,

Steve

Steve Willis, County Administrator

County of Lancaster

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#8

The rule provides that overtime exemption status is preserved for fire department employees who are paid according to a compensation scheme established by statute, ordinance, regulation, policy, or practice under which personal leave and sick leave are accrued and pay is docked for partial-day absences necessitated by injury, by illness, or for personal reasons when accrued leave is not used either because it has been exhausted, permission to use accrued leave has been denied or not requested, or the employee chooses to use leave without pay.<sup>9</sup>

It is critical to note here, however, that courts continue to disagree on whether the docking of pay and/or leave for absences of less than one day (partial-day absences) defeat the salary basis test.<sup>10</sup>

## DUTIES TEST

The "duties test" varies with the type of exemption claimed. To qualify for an "administrative" employee exemption for an employee earning more than \$250 per week, the department must apply a "short test," which requires that the employee must have as his primary duty "the performance of office or non-manual work directly related to management policies or general business operations of his employer or his employer's customers ... which includes work requiring the exercise of discretion and independent judgment."<sup>11</sup>

Where an employee earns less than \$250 per week, the duties test requires more, and one must then apply a "long test," which can be satisfied only if the employer can show that the employee (1) customarily and regularly exercises discretion and independent judgment; (2) either (a) regularly and directly assists a proprietor or another bona fide executive or administrative employee or (b) performs special assignments or specialized or technical work requiring special training, experience, or knowledge under only general supervision; and (3) devotes less than 20 percent of his time to activities that are not directly or closely related to his administrative duties.<sup>12</sup> A fire department employee who earns less than \$155 per week is not eligible for the administrative exemption.<sup>13</sup> This should not surface as a problem too often, as it should be rare for a "management"-level fire professional to make less than \$155 per week. #8

To qualify for the "executive" employee exemption, if the employee is paid more than \$250 per week, one again must apply the "short test" for duties, which requires that the



# 9

if it knows the employee is doing the work (or could have found out by looking), and lets the employee do it.

With only a few exceptions, all time an employee is required to be at the premises of the employer is work time. All regular shift time is work time. This includes "breaks" (if there are breaks), and "nonproductive" time (for example, time spent by a receptionist reading a novel while waiting for the phone to ring). In addition, all time spent by an employee performing work-related activities that the employer suffers or permits is work time, whether on premises or not and whether "required" or not. Work done "at home" or at a place other than the normal work site is work, and the time must be counted. "Voluntary" work is work, and the time must be counted. "Unauthorized" or "unapproved" work is work and must be counted (provided that the employer knows or should know it is being done and permits the employee to do it). It is the privilege and responsibility of the employer to "control the work" of its employees. If an employer does not wish an employee to perform work, it must prohibit the employee from doing so if it does not wish to include that work time in the required FLSA pay computations. An employer may not accept the benefit(s) of work performed by its nonexempt employees without counting the time in computing pay due under the FLSA. Important FLSA regulations on these points are at 29 CFR §§785.11, 785.12, and 785.13.

While all actual work time must be counted, only actual work time must be counted. "Time not worked" need not be included in computing FLSA pay due. Time not worked includes leave time (for whatever reason), even if leave time is considered "work time" for some other purpose (such as pension accruals, or "overtime" pay due under an employer policy or collective bargaining agreement). Time not worked may also include meal periods (if there are meal periods), whether paid or unpaid, if the employee is actually relieved of active duties during the meal period. For example, assume an employee's regular schedule is 5 shifts per week from 8:00 am to 5:00 pm, Monday through Friday, with an hour per shift for lunch. If the employee actually gets to "take lunch," and works the normal work week (no more, no less), s/he will have 40 hours of actual work time. If, however, the employee takes a vacation day on Thursday, s/he will have actually worked only 32 hours in that work week. If the employee takes Thursday off, but worked a double shift the previous Monday, s/he will have 40 total hours actually worked that work week (and no FLSA overtime pay is due). If the employee works the normal schedule, but works through lunch on Wednesday and Friday, s/he will have 42 hours actually worked in that work week (and will be owed 2 hours of FLSA overtime pay at time and one-half).

In addition to leave time and meal periods, other potential "time not worked" may include some travel time, and "sleep time." These are treated separately.

#### "Off the clock" work.

Many FLSA lawsuits have involved employers failing to include time spent by employees performing work activities outside of their normal shifts. Some employees, for example, may "come early" and start working before the official start time of their shifts. Such time counts as work time and must be included in FLSA pay computations, provided only that the employer knew or should have known that the employee was beginning work early (and, of course, to the extent that the employee spent pre-shift time actually performing work activities). Pre-shift "roll calls" are work time. Time spent setting up equipment before the official start time of a shift is work time. Some employees may similarly "stay late" after shifts performing work; this time must be counted as work time, as well. Time spent by an employee clearing equipment after the close of a shift is work time. Post-shift work time could also include time spent by an employee performing job-related activities "on the way home," as for example a secretary who drops off the day's mail at the post office or delivers some paperwork to a customer or supplier. Some employees take work home. That time may well be work time. Similarly, if an employee is contacted at home by telephone for work related reasons, the time spent is work time (and, of course, if an employee is "called back" to work, the time counts as work time).

#### Training time.

Most training time is work time. All training time is work time if it occurs during an employee's regular shift, or if it is required by the employer. Training time need not be counted as work time only if it (a) occurs outside of an employee's normal work schedule, (b) is truly voluntary (as in with neither direct nor indirect pressure on the employee to attend, and with no "come back" if the employee chooses not to attend), (c) not directly related to the employee's current job (i.e., the training is designed to qualify the employee to get a new job, and not to enhance the skills used by the employee on the existing job), and (d) the employee does no other work during the training.

#### Travel time.

There are some "grey areas" about when the FLSA requires travel time to be treated as working time. However, as a general rule, "home to work" and "work to home" travel time is not work time, and this is true even if the "commute" is longer than normal, to or from a different work site than normal, or the employee uses a company vehicle for the trips. This assumes that the employee is performing no other work activities while commuting. Time spent by an employee writing a report is work time, even if it happens to occur while the employee is riding on a bus (or airplane) to or from work. Travel time which is "all in a day's work" is work time. Usually, this means that travel time is work time if it occurs between when the employee first arrives at the first work site and before the employee leaves the last work site at the end of the work day. The first work site is the place where the employee first performs work activities. For example, an employee who travels to the office, picks up equipment, then goes to a work site to perform the day's activities is working from the time s/he first arrives at the office. Picking up the equipment needed to do the day's activities is the first work activity of the day, and therefore the office is the first work site of the day.

# 9



#10

THE UNIVERSITY of TENNESSEE  
INSTITUTE for PUBLIC SERVICE

COUNTY TECHNICAL ASSISTANCE SERVICE

## OVERVIEW of the FLSA RULES for FIREFIGHTERS

### Overview

The Federal Labor Standards Act (FLSA) sets basic minimum wage and overtime standards that cities and counties must comply with when paying personnel. FLSA allows for longer work periods than the traditional "40 hour" work week for public safety employees, often referred to as the "7(k)" exemption or the "tour of duty rules." In order to qualify, employees must be engaged in fire protection activities, or activities that are incidental or in conjunction with fire protection duties 80 percent or more of their time.

The section of federal law that addresses the 7k exemption for firefighters are found at 29 C.F.R. § 553.210. To be eligible for the exemption for fire protection employees, an employee must meet all of the following criteria:

- Be employed by an organized fire department or fire protection district;
- Have been trained to the extent legally required by statute or ordinance;
- Have the legal authority and responsibility to engage in the prevention, control, or extinguishment of a fire of any type; and,
- Perform activities that are required for, and are directly concerned with, the prevention, control or extinguishment of fires.

Firefighting activities also include such incidental non-firefighting functions as housekeeping, equipment maintenance, lecturing, attending community fire drills, and fire prevention inspections. Employees who satisfy the criteria listed above are considered fire protection employees regardless of their status as "trainee", "probationary", or "permanent," or of their particular specialty or job title (e.g., firefighter, engineer, fire inspector, lieutenant, etc.) The term may also include rescue and ambulance personnel (EMS) IF such personnel form an "integral part" of the city or county's fire protection activities. The ambulance personnel must be trained in firefighting procedures as outlined above and must respond on a regular basis to fires, natural disasters, and accidents. In many departments, the EMS employees do not qualify for the 7k exemption because the majority of their work involves transporting patients for medical reasons unrelated to fire or law enforcement activities.

#10

The exemption does not include agency employees who do not fight fires on a regular basis, such as dispatchers, maintenance and office personnel. The exemption also does not apply to "civilian" personnel that perform support activities of the fire department.

# Firefighter Job Description

*career*

*#11*

## General Definition of Work

The firefighter performs responsible service work in fire profession and prevention; does related work as required. Work is performed under the regular supervision of a company and/or shift commander.

## Typical Tasks

Responds to alarms, drives and operates equipment and related apparatus and assists in The suppression of fires, including rescue, advancing lines, entry, ventilation and salvage work, extrication and emergency medical care of victims.

Performs cleanup and overhaul work, establishes temporary utility services.

Assists in maintaining and repairing fire apparatus and equipment, and cleaning fire stations and grounds.

Checks fire hydrant flows.

Makes fire code inspections of business establishments and prepares pre-fire plans.

Responds to emergency and non-emergency calls, pumps out basements, inspects for gas leaks, secures vehicle accidents, inspects chimneys, etc.

Participates in continuing training and instruction programs by individual study of technical material and attendance at scheduled drills and classes.

Conducts station tours for the public, school, and community demonstrations and programs.

Backs up for dispatching personnel, monitors alarm boards, receives and transmits radio and telephone messages.

Performs related task as necessary.

## Knowledge, Skills and Abilities

General knowledge of elementary physics, chemistry and mechanics; general knowledge technical firefighting principles and techniques; and principles of hydraulics applied to fire suppression; general knowledge of the street system and physical layout of the city; general knowledge of emergency care methods, techniques and equipment; ability to understand and follow written and oral instructions; ability to establish and maintain cooperative relationships with fellow employees and the public; ability to keep simple records and prepare reports; possess a strong mechanical aptitude; ability to perform heavy manual labor; skill in operation of heavy emergency equipment.

## Leadership – Single Line of Command

Concerning leadership, fire management consultant Ray Crouch, Sr. stated:

“First, and foremost, let me say that there should always be one person held accountable for the success or failure of the fire department and that person should be the Fire Chief.” #1

[www.mtas.tennessee.edu/Knowledgebase.nsf/0/19B39A97AA571C5C85256AA800511DCA?](http://www.mtas.tennessee.edu/Knowledgebase.nsf/0/19B39A97AA571C5C85256AA800511DCA?OpenDocument)

[OpenDocument](#)

Unfortunately, that is not what we have. Leadership is determined by the time of the day, meaning the County’s senior paid firefighter is in charge during the day; and the ILFD Fire Chief is in charge after hours. This type of “dual” leadership has created many problems in perception:

- FLSA issues are more important than on-site leadership
- ILFD is not one organization but two
- Individuals in each group are valued differently and treated differently

### Current

We have what may be called a “dual” service delivery system, having both paid and volunteer firefighters. The Fire District “contracts” with the County to provide firefighters paid out of the Fire District’s budget; however, nothing is in writing. All instructions and guidelines have come verbally from the County; and communications between County management, the Board, and the firefighters (paid and volunteer) has been minimal.

We are close to fulfilling this quote:

“While some dual departments function successfully in the short term, their division makes issues between the two groups stand out even more. ... *Poorly managed ‘dual’ systems often become ‘duel’ systems that are destined to fail.*” International Association of Fire Chiefs entitled “*Lighting the Path of Evolution, Leading the Transition in Volunteer and Combination Fire Departments*” #2

**We need a single line of command.**

### Possible Short Term Solution

➤ ***Can we eliminate the rank structure of paid staff at the Indian Land Fire Department and allow the county Captain and Lieutenant’s to cover our department? This is already in place for the rest of the paid staff hired off the Safer Grant. This would eliminate the struggle we see constantly in Indian Land.***

- The County still has the supervisory control over the paid staff.
- The Fire Chief has the accountability for the fire department.
- If it is determined the County and ILFD are the same agency and we are paying staff for all of their time, there is no need to have an onsite supervisor to monitor FLSA compliance.

➤ ***Can we obtain a contract for services from the county in relation to the paid staff that addresses at a minimum:***

- Exactly what the County is providing to the Fire District.
- The responsibilities of each party.
- The agreed upon terms and cost.
- A single line of command.



## Long Term Solution

The current leadership structure is unsustainable – it cannot adapt to the increasing requirements on the fire department as Indian Land continues to grow and evolve. Now is the time to look ahead to the future and to what fire protection should look like in the Panhandle.

- ***We are asking the Public Safety Committee to set up a task force of stakeholders to take a second look at the current structure and to develop a strategic plan for the future – one that will result in a single line of command at the ILFD.***

Some guidelines from “*Lighting the Path of Evolution, Leading the Transition in Volunteer and Combination Fire Departments*”

- #3 • “The development of a strategic plan is an important aspect of the evolution process.”
- #4 • “When you develop a strategic plan, you must involve all the stakeholders if you hope to be successful.”
- #5 • “The transition from an all-volunteer department to a combination system works best when the system is developing through detailed communication and strategic planning, rather than blind evolution.” (We are currently in the blind evolution stage.)
- #6 • “One of the most controversial aspects of designing a combination system is establishing a clear line of authority and chain of command.”
- #7 • “No matter if the chief will be paid or volunteer, the local government must empower the chief officer to lead the system as a whole.”
- #8 • “Selecting a chief to lead a combination system is a delicate task. Leading a combination system should be approached as a specialty, and care should be taken to seek out candidates that have experience in this field. A qualified candidate should possess experience in dealing with both volunteer and paid personnel and have a leadership style that is conducive to conflict resolution and facilitation. Failure to select a candidate for chief with the appropriate experience and background can challenge the ability of the combination system to be successful. There is nothing that requires a chief in a combination system to be paid. The selection process for a chief in a combination system should not include term limits or an election, but should be based on common hiring practices. Equally dangerous is the philosophy that a chief from a fully career department automatically has the ability to motivate and supervise volunteers.” (ILFD would have to change its by-laws, at least a 3-month process, to appoint rather than vote on a chief.)

#1

This information is provided by the University of Tennessee  
Municipal Technical Advisory Service.

Title: Duties and Responsibilities of a Fire Chief  
Original Author: Wolf, Dennis  
Co-Author:  
Product Create Date: 11/02/2000  
Type: Report/Study

Text of Document: November 2, 2000

Dear Chief Atkins:

Thank you for your question regarding the organizational structure of a fire department. If I understand your question, you want to know, "What is the best organizational structure for a fire department in a city our size and what is the most efficient use of management staffing."

Your question could not come at a better time since I have just researched this question for a recent class that I taught. First, and foremost, let me say that there should always be one person held accountable for the success or failure of the fire department and that person should be the Fire Chief. Accountability in city government is extremely important. If the duties of the Fire Chief are spread to more than one person, the finger pointing and "blame game" will begin. This type of management structure should be avoided at all costs. The City of Paris does not want to roll back the calendar to 50 years ago.

The Fire Chief needs to work a traditional 40 hour business work week and be available to attend other functions related to the success of the fire department. These functions would be things like City Council meetings, planning and zoning meetings and seminars and meetings related to the fire department that are held during business hours. The Fire Chief should be a resident of your city and be in town most of the time. If you plan to hire a person from outside the community, you should have two major restrictions on them. (1) They must live in Paris and (2) They should not be allowed to have other employment except the job of Fire Chief. A Fire Chief with work and financial ties to another

volunteers. Casualties could be significant but the vast majority of the volunteer members, even though some may be skeptical and cautious, will be willing to work through the issues and contribute meaningfully to improve the department. The same dangers apply to paid personnel. Those who are unable to integrate effectively with volunteer firefighters will quickly become a liability to the system. They seldom last if the department leadership recognizes and addresses the issues.

Another common casualty of transition results from avoiding sensitive issues and dodging conflict. Some departments may deem themselves "combination" simply because they utilize both career and volunteer personnel, but closer examination may show they are organizations in which paid firefighters are segregated from volunteer firefighters and there is little cooperation and integration between the two. This type of system is best described as "dual" rather than combination. While some dual departments function successfully in the short term, their division makes issues between the two groups stand out even more, and they miss out on many of the advantages a combination system brings. Poorly managed "dual" systems often become "duel" systems that are destined to fail.

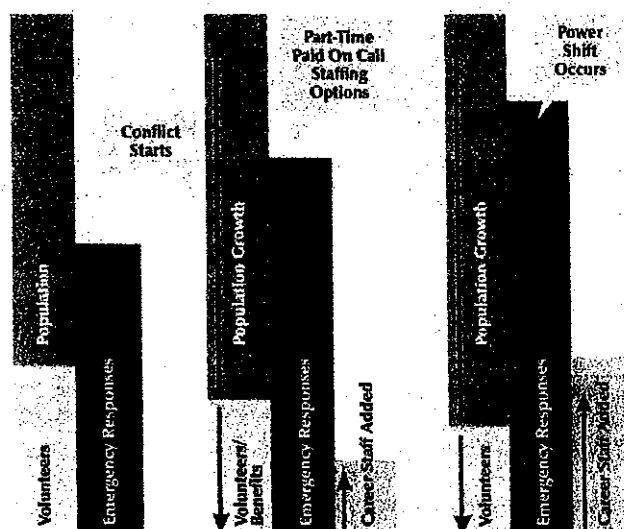
Some indicators of a dual system include:

- ❑ Volunteers operating in different quarters than paid staff.
- ❑ Volunteers riding on separate apparatus than paid staff.
- ❑ Separate rules and regulations used.
- ❑ One group receiving better equipment and apparatus than the other.
- ❑ Rank structures and supervision not integrated.
- ❑ No opportunity for social interaction.

Departments should work to ensure system fairness for all parties. Integrating personnel fosters relationships that help to sustain the system.

An effective indicator of transition casualties is the retention rate of the minority component of the organization. If the paid component of the organization is in the minority and the retention rates are less than two years, it is likely that issues exist that are driving these firefighters away. Likewise, if the volunteers serve as the minority and retention rates are declining, it is likely issues are present that have negative impacts on the organization. The key to avoiding these issues is to ensure that everyone fully understands the core values of the organization and is committed to its mission.

### Basic Design Models





#3 #4

In volunteer and combination systems other dashboards may be used to monitor performance and progress in other areas besides response. Other benchmarks include:

- Average volunteer retention rate.
- Average annual recruitment and associated demographics.
- Average call per volunteer.
- Various fund-raising data.
- Less government taxing support.
- Controlling the cost of recruiting, hiring and training new personnel.

Such information can be used to monitor the health of the organization based on what is deemed important by the stakeholders, but it isn't determined in a vacuum. It takes a plan.

## Strategic Planning

### What is a Strategic Plan?

The development of a strategic plan is an important aspect of the evolution process. Fire executives who adopt a strategic plan for transition are better able to predict and manage change successfully. Strategic planning for an evolving department requires a commitment from the department's leadership and members and also from elected officials and other leaders in the community. Developing a strategic plan without involving community partners and stakeholders lessens chances for success. ✓ #3

Fire chiefs, presidents, and elected officials are often so preoccupied with immediate issues that they lose sight of their ultimate goals. That's why a preparation of a strategic plan is a necessity. A plan is not a recipe for sure success, but without it a fire department is much more likely to fail. A sound plan should:

- Serve as a framework for decisions or for securing support/approval.
- Provide a basis for more detailed planning.
- Incorporate detailed plans that include timelines, assignments and evaluations.
- Explain the services provided to others in order to inform, motivate and involve.
- Assist bench marking and performance monitoring.
- Stimulate change and become the building block for next plan within established timelines.

Preparing a strategic plan involves a multi-step process addressing vision, mission, objectives, values, strategies, goals and programs. When you develop a strategic plan, you must involve all the stakeholders if you hope to be successful. ✓ #4

### The Vision

Your first step is to develop a realistic **Vision** for the department. Present it as a picture of the community and the department in three or more years' time, stated in terms of the department's likely growth and development.

### The Mission

Describe the nature of a fire department in terms of its **Mission**, which indicates the purpose. Some people confuse mission statements with value statements (see chart on next page)—the former should be very hard-nosed, while the latter can deal with "softer" issues surrounding the business.

### The Values

This element expresses the **Values** governing the operation of the department and its conduct or relationships with society at large, employees, local community and other stakeholders.

#5

### The Objectives

It is essential that you state the fire department's business **Objectives** in terms of the results it needs or wants to achieve in the medium and/or long terms. Objectives should relate to the expectations and requirements of all the major stakeholders, including employees, and should reflect the underlying reasons for operating the department.

### The Strategies

**Strategies** reflect the roles and guidelines by which the mission, objectives and the like may be achieved. They can be developed using a SWOT analysis to identify **strengths**, identify and resolve **weaknesses**, identify and exploit **opportunities**, and identify and avoid **threats**.

### The Goals

**Goals** are specific interim or ultimate time-based measurements to be achieved by implementing strategies in pursuit of the objectives. Goals should be quantifiable, consistent, realistic and achievable.

### The Programs

The final elements are the **Programs** that set out the implementation plans for the key strategies. These should cover resources, objectives, timescales, deadlines, budgets and performance targets.

Hard	Soft
What business is / does	Reason for existence
Primary products / services	Competitive advantages
Key processes and technologies	Unique / distinctive features
Main customer groups	Important philosophical / social issues
Primary markets / segments	Image, quality, style standards
Principal channels / outlets	Stakeholder concerns

## Designing a Combination System

The transition from an all-volunteer department to a combination system works best when the system is developing through detailed communication and strategic planning, rather than blind evolution. Many departments have evolved into an awkward conglomerate of resources with little thought given to system design and functionality and the long-term effects such a transition may have on the future of the organization. In many cases the evolution process is made more difficult by a lack of stable leadership. The revolving door process for selecting leaders within the volunteer fire service creates a difficult structure to overcome in developing long-range plans. In addition, the election of officers requires a constant political campaign, creating a significant strain on the organization's ability to evolve. This paper strongly recommends that the officers' selection process eliminates elections and focuses on credentialing with performance factors.

✓ #5

### Casualties of Transition

As departments approach the task of transitioning from an all-volunteer organization to another form of deployment, they need to be aware of a variety of pitfalls. It is common for such transitions to be emotionally charged events for those closely involved, and emotions often lead to serious mistakes. When emotions are allowed to overtake rationality, departments should expect some limited attrition of

#6 #7 |

A department should conduct a cost/benefit analysis during system design to determine which model will function most efficiently for its locality. System design needs to recognize that volunteer/paid-on-call personnel are paid only for work performed. Career firefighters are paid for the POTENTIAL to be used. This does not mean that one is better than the other but it implies that department managers need to clearly understand the differences between the two as they relate to cost.

Some of the benefits/risks of the common system designs include:

#### *All-Volunteer System*

- Reduced labor costs.
- High-volume staffing during major emergencies such as natural disasters. Such influxes of manpower may be contingent on employers allowing volunteer employees to leave work during such events.
- Volunteers are willing or able to take off work to assist.
- Salary cost avoidance, which can be diverted to essential equipment and apparatus.
- Unpredictable response from volunteer staff.
- Volunteer systems can be more challenging to coordinate because of intermittent or sporadic participation from various members.
- Can rely on individual response rather than system response to meet call load, thus resulting in unpredictable service levels.

#### *Combination System*

- Can consist of any combination of career, volunteer, paid-on-call and part-time personnel.
- Enhanced staffing deployment as combination systems can capitalize on both the stability of a paid system and the manpower of the volunteer system during a major emergency, providing greater depth for staffing.
- Salary cost avoidance, which can free funds for essential equipment and apparatus.
- True integration of available resources and distribution of talent resulting in greater efficiency.

#### *All-Paid System*

- Consistent staffing providing predictable service level.
- Expensive due to increased salary and benefits requirements.
- Can lack depth during major emergencies because once multiple shifts have been deployed in a major incident, few resources are left to cover other service demands.

Another vital consideration when designing a combination system is identification of the stakeholders in the department. These stakeholders may include volunteers, employees, the fire department's management, local government interests, citizens and even the news media. A group of stakeholders should be convened early in the process to identify the obstacles to change and the processes to be used for over coming them. The creation of a combination system can be challenging by its very nature and great care should be used to facilitate the change process.

#### **Establishing Authority**

One of the most controversial aspects of designing a combination system is establishing a clear line of authority and chain of command. Avoiding this challenge will breed animosity and mistrust over time, so it is critical that the lines be drawn early in the process. No matter if the chief will be paid or volunteer, the local government must empower the chief officer to lead the system as a whole. The local government – the “boss” – should be prepared to stand behind the chief as the transition progresses, even when political battles ensue, as they most likely will. Establishing local ordinances, resolutions or

✓ #6  
✓ #7

#8

regulations that clearly define the authority of the fire chief and empower the position holder to effectively lead the organization is vital to success in the combination system.

Selecting a chief to lead a combination system is a delicate task. Leading a combination system should be approached as a specialty, and care should be taken to seek out candidates that have experience in this field. A qualified candidate should possess experience in dealing with both volunteer and paid personnel and have a leadership style that is conducive to conflict resolution and facilitation. Failure to select a candidate for chief with the appropriate experience and background can challenge the ability of the combination system to be successful. There is nothing that requires a chief in a combination system to be paid. The selection process for a chief in a combination system should not include term limits or an election, but should be based on common hiring practices. Equally dangerous is the philosophy that a chief from a fully career department automatically has the ability to motivate and supervise volunteers.

#8

Subordinate officer selection can also be challenging. The selection of Assistant Chiefs and Deputy Chiefs should follow the same model outlined for the selection of the Chief. As captains, engine company officers, and other supervisory positions are created and people selected, the system's success is very much dependant on their enthusiasm and commitment to a combination system. They have to recognize and support the overall philosophy of a combination system and clearly understand their role in making it productive and successful. A promotional process should be in place that takes into account experience, education, service, testing and evaluation. Detrimental to this philosophy would be a career officer's inflated sense of rank based merely on wage compensation. Conversely, a volunteer officer's assumptions that the majority of "mopping up" duties are to be left to paid personnel defeats the cooperative nature essential to the mission of the department.

Substantial benefits can be derived from educating all the department members on the strengths and weaknesses of the system and clearly outlining the expectations of all the firefighters. It is important to ensure that career staff members understand they become informal leaders regardless of their rank because of their frequent exposure to emergency calls and the expertise they develop. Thus, every career firefighter is potentially a mentor who is expected to help others, including volunteers, capitalize on opportunities to improve, excel, and build confidence.

Local officials who believe that a system can always operate more cheaply have affected more than one well-organized and productive combination fire system. Sometimes their lack of knowledge about your department's history, the significant events that have formed it, its struggle for change, and the acceptance of its services by the public seem inconsequential when the time comes to balance budgets. Combination systems have a difficult challenge showing their cost effectiveness because there is no rebate of the monies saved or refund being returned to the funding entities.

It is imperative that local officials understand their obligation in this kind of system. Reducing the need for career positions saves the community substantial amounts of money that can be reinvested in other critical infrastructure. It is their responsibility to ensure that all firefighters have good equipment, apparatus, sufficient funds for overtime pay to allow career and volunteer members to train together, and capital to invest in new technology. Those issues make the system complete and they ensure that all the stakeholders have a vested interest in success.

#### **Communication & Policy Development**

Communication is essential in a successful combination system. The fire department leadership should constantly facilitate communication between paid and volunteer personnel and work tirelessly to manage information and dispel rumors. Leadership must constantly maintain open communications with elected officials and government authorities. Including stakeholders in the development of policies and procedures will help to develop ownership in the combination system and create transparency that will help avoid unnecessary conflicts. Both volunteer and paid members of the organization have special considerations that should be taken into account when developing policies. Time is often a major issue

## Definition of the Board Responsibilities and How to Improve Communications

State law states the administration of a fire protection district “may be operated as an administrative division of the county or the governing body may appoint a commission.” Lancaster County chose to appoint a commission. Ordinance 1083 created the Indian Land Fire Protection District Commission whose purpose “is **to operate** the District.” Specific instructions to the commission: #1

- Submit “a budget for the ensuing fiscal year adequate to fund the operation and programs of the commission”
- The “expenditure funds “is subject to the purchasing rules and financial procedures of the county”
- “The commission shall be included in the County’s annual audit”
- The commission is “subject to the county’s personnel policies including wage and salary guidelines”

None of these specific instructions include a definition of what it means to “**operate**” the District. #2

**That is what this Board is seeking – a clear definition of its responsibilities.**

- **What is the purpose of the Board and what is our role in moving the department forward? Is it solely budgetary oversight or as a Managerial Board for the organization?**

Preparing and monitoring the budget seems to be the main responsibility of the Board; however, 70% of the budget is related to personnel and benefits. The Board receives little to no communication regarding personnel from Fire Services and no input for the budget request. It is very difficult for the Board to monitor or prepare a reasonable budget when they are in the dark about personnel expenses.

- Are there any planned salary changes other than the county’s cost of living raise?
- Is overtime increasing?
- Do we need to plan for more/less part time employees?

Additionally, our budget responsibility is compromised when the Finance Department is able to reduce the budget based on their own analysis regardless of our explanations and Board approval of the amount requested.

- **We need a budget procedure where either Fire Service or Finance participates in the development of personnel numbers.**

The Board understands its primary responsibility is budgetary, rather than operational; however, due to the critical nature of the tasks performed by firefighters within our community, the Board’s feels its responsibilities concerning the ILFD must include the following:

- To communicate performance expectations for the organization
- To evaluate and support ongoing improvements
- To surface concerns of problems that may affect the organization and its performance
- To insure that the concerns that are surfaced are addressed
- To approve funding and provide support to insure success in the above areas

- **Can these responsibilities be incorporated into a revision of Ordinance 1083?**

## Communications have to improve

### ➤ **How can we improve communications between County Staff and the Fee Board?** **Numerous requests and promises for information have gone unfulfilled.**

- Can we receive notification of staff going home and using others to back fill slots due to illness, discipline, etc. that may impact the budget?
- Can the Board request someone be removed from our department as a staff person and replaced with another from the county? We realize that the members are county staff, however if we document issues with a staff member, will that person be re-assigned. What level of oversight do we really have?
- Can the Board have a monthly Personnel Report from the Director of Lancaster Fire Services reporting on just things as overtime, use of part time personnel, vacation time, work schedule, work activities, etc.?

Safety of our firefighters and the members of our community is our first concern and our top priority. That's why we are here. These issues need to be addressed. We must find a way to communicate with each other.



# 1

- (c) whether there must be levied within the proposed fire protection district ad valorem taxes for the operation and maintenance of it;
  - (d) whether there must be imposed rates and charges within the proposed fire protection district for the operation and maintenance of it; and
  - (e) whether the governing body is empowered to issue general obligation bonds of the county, payable from an ad valorem tax levied within the district, for the purpose of providing fire protection service in it.
- (3) The hearing must be conducted publicly and both proponents and opponents of the proposed action must be given full opportunity to be heard.

(4) Following the hearing, the governing body, by ordinance, may establish the fire protection district and, in order to provide for the operation and maintenance of it, authorize the levy of an annual ad valorem tax on all taxable property within the fire protection district or the imposition of rates and charges for fire protection services within the fire protection district, or both. The governing body shall specifically find by ordinance that the establishment of the fire protection district satisfies the requirements and conditions set forth in Section 4-19-10 and in this section. The governing body also shall provide for the administration of the fire protection district. The fire protection district may be operated as an administrative division of the county, or the governing body may appoint a commission consisting of three to seven members and provide for their duties and terms of office.

# 1

(5) The governing body shall give notice of its action by publishing it once a week for two successive weeks in a newspaper of general circulation within the county, which shall state:

- (a) the boundaries of the fire protection district;
  - (b) whether there must be levied within the proposed fire protection district ad valorem taxes for the operation and maintenance of it;
  - (c) whether there must be imposed rates and charges within the proposed fire protection district for the operation and maintenance of it; and
  - (d) whether the governing body is empowered to issue general obligation bonds of the county, payable from an ad valorem tax levied within the district for the purpose of providing fire protection service in it.
- (6) A person affected by the action of the governing body taken in accordance with this section, by action de novo instituted in the court of common pleas for the county, within twenty days following the last publication of the notice prescribed by item (5) of this section, but not afterwards, may challenge the action of the governing body.

HISTORY: 1962 Code Section 14-700.202; 1974 (58) 2681; 1984 Act No. 408, Section 2; 1992 Act No. 519, Section 3, eff thirty days after September 3, 1992.

#### SECTION 4-19-25. Creation of fire protection districts validated.

(A) All fire protection districts created pursuant to the provisions of Act 408 of 1984 or its predecessor as of the effective date of this section are declared to be validly created and constituted according to the terms of the resolution or ordinance pursuant to which created.

(B) The provisions of subsection (A) do not affect actions filed before the effective date of this section.

HISTORY: 1992 Act No. 519, Section 2, eff thirty days after September 3, 1992.

#### SECTION 4-19-30. Conditions precedent to issuance of bonds.

As a condition precedent to the issuance of any bonds under this chapter, the governing body shall provide for either:

- (a) The levy and collection of an annual ad valorem tax within the service areas where fire protection services will be furnished from the proceeds of the bonds to be issued which will be sufficient to provide for the payment of the principal and interest on the bonds to be issued; or
- (b) The imposition of rates and charges for the furnishing of fire protection services within each service area where fire protection services will be furnished from the proceeds of the bonds to be issued which will be sufficient to provide for the payment of the principal and interest on the bonds to be issued.

The finding by the governing body that one of these conditions precedent to the issuance of bonds hereunder has been met shall be conclusive.

HISTORY: 1962 Code Section 14-700.203; 1974 (58) 2681; 1984 Act No. 408, Section 2.

#### SECTION 4-19-40. No further action required for issuance of bonds.

No election is prescribed as a condition precedent to the issuance of bonds pursuant to this chapter, and no action other than that prescribed in this chapter need be taken to effect the issuance of the bonds herein authorized, nor is the governing body required to obtain the approval of any public agency to any action taken pursuant to the authorizations of this chapter, nor is the publication of any ordinance or resolution providing for the issuance of any bonds under this chapter required.

HISTORY: 1962 Code Section 14-700.218; 1974 (58) 2681; 1984 Act No. 408, Section 2.

#### SECTION 4-19-50. Power to issue bonds.

In order to provide a means by which a county may raise monies to establish, maintain, and operate a fire protection system as provided by this chapter and to purchase the necessary fire-fighting equipment and to construct, acquire, and build the necessary fire stations and acquire sites for the stations, the governing body of any county is empowered to issue as a single issue, or from time to time as several separate issues, general obligation bonds of the county, without the necessity of holding an election, to such extent as, on the occasion of the issuance of any such bonds, is permitted by the constitutional debt limitation applicable to the county.

HISTORY: 1962 Code Section 14-700.204; 1974 (58) 2681; 1984 Act No. 408, Section 2.

#### SECTION 4-19-60. Maturity of bonds.

All bonds issued pursuant to this chapter shall mature in such annual series or installments as the governing body shall prescribe, except that the first maturing bonds shall mature within three years from the date of the issue, and no bond shall mature later than thirty years from the date of issue.

HISTORY: 1962 Code Section 14-700.205; 1974 (58) 2681; 1984 Act No. 408, Section 2.

#### SECTION 4-19-70. Redemption of bonds.

Any bond issued pursuant to this chapter may be issued with a provision permitting its redemption prior to its stated maturity, at par and accrued interest, plus such redemption premium as may be prescribed by the governing body, but no bond is redeemable prior to its stated maturity unless it contains a statement to that effect. In the proceedings authorizing the issuance of such bonds, provision must be made specifying the manner of call and the notice thereof that must be given as to bonds redeemable prior to their stated maturities.

HISTORY: 1962 Code Section 14-700.206; 1974 (58) 2681; 1984 Act No. 408, Section 2.

#### SECTION 4-19-80. Form and negotiability of bonds; registration.

The bonds issued pursuant to this chapter must be in the form of negotiable coupon bonds, payable to bearer, but may be issued with the privilege to any holder of having them registered as to principal on the books of the county treasurer upon such conditions as the governing body may prescribe. Except when registered, all bonds issued pursuant to this chapter shall have all attributes of negotiable instruments under the law merchant and the Uniform Commercial Code. Provided, however, that any bonds issued under this chapter and purchased by the United States of America, or any agency or department thereof, may be in fully registered form as to both principal and interest and registered on the books of the county treasurer.



## Section 5. General Obligation Bonds.

Council is empowered to issue general obligation bonds of the county for the purpose of funding permanent improvements and capital expenditures, including buildings, equipment and infrastructure, as needed for fire protection in the District. The full faith, credit, and taxing power of the county must be irrevocably pledged to the repayment of the bonds. The general obligation bonds are payable from an ad valorem tax levied annually by the county auditor and collected by the county treasurer. It is the Council's intent that the annual ad valorem tax to be levied for the payment of the principal and interest on the general obligation bonds shall be reduced in each year by the amount of the revenue collected from the imposition of rates and charges in the District so that the levy of an ad valorem tax is necessary only when the revenues from the rates and charges are insufficient to pay principal and interest on the general obligation bonds.

## Section 6. Administration of District.

(A)(1) By passage of this ordinance, Council creates the Indian Land Fire Protection District Commission. The purpose of the commission is to operate the District. The commission consists of five members. Four of the five members shall be appointed by Council and these four members must reside within the District. The Fire Chief for the Indian Land Fire Department, or the designee of the Indian Land Fire Department, shall serve ex-officio and as a full voting member. The term of office for commission members is four years. Two of the four initial appointments, determined by Council by lot, shall have a term that ends on June 30, 2011 and the other two shall have a term that ends on June 30, 2013. All terms end on June 30. A person who has served two (2) consecutive terms on the commission is ineligible for appointment for an additional term unless a period of at least two (2) years has elapsed since the expiration of the person's last term; provided, however, upon a two-thirds vote of the Council members, a person may be reappointed to the commission notwithstanding the term limitation. Time served in filling a vacancy is not included in the term limitation. Members serve until their successors are appointed and qualified. Vacancies must be filled for the unexpired term in the same manner as the original appointment. #2

(2) A member of the commission who misses three consecutive meetings of the commission during any fiscal year or a total of five meetings in any fiscal year vacates the office to which the member is appointed. The vacancy in the office exists as of the end of the meeting missed by the member that triggers the vacancy and the vacancy shall be filled in the same manner as other vacancies. When a vacancy occurs pursuant to this item, the commission chair or the chief administrative officer of the commission shall notify the clerk to council in writing as soon as possible.

(3) Any member of the commission may be removed at anytime by Council for cause.

(B) All members serve without compensation, but may be reimbursed for actual expenses and mileage pursuant to county policy after approval by the commission chair and the county administrator.

(C) The commission of the Indian Land Fire Protection District shall organize itself by electing one of its members as chair and one as vice-chair whose terms must be for one year. The commission may provide for the election of any other officers it considers necessary.

(D) The commission shall meet at the call of the chair and at the times the chair or commission may determine. Meetings shall be held not less frequently than once each calendar quarter. Meetings of the commission shall be conducted in accordance with the Freedom of Information Act, codified as Title 30, Chapter 4 of the Code of Laws of South Carolina 1976, as amended.

(E) Within one (1) year of the member's appointment and at such other times as may be required by Council, the member shall attend a training session provided by the county on the topics of fiduciary duties, county fiscal and personnel policies, and other responsibilities and duties of a commission member.



## Agenda Item Summary

Ordinance # / Resolution#:

Contact Person / Sponsor: Sheriff Barry Faile

Department: Sheriff's Office

Date Requested to be on Agenda: 6/23/2015

### **Issue for Consideration:**

**The Sheriff's Office wants to offer a \$2500.00 sign-on bonus for certified officers. This will be paid to the officer when he/she completes the probationary period. The officer will have to agree to stay for a period of 1 year or pay a portion of the bonus back.**

### **Points to Consider:**

**This will encourage certified officers to look at our agency and consider moving here. This will cut down on the down time we have with officers we hire that have to be sent to the academy for training. When we do this, the officer will complete in-house training (FTO) and be released to work on their own.**

### **Funding and Liability Factors:**

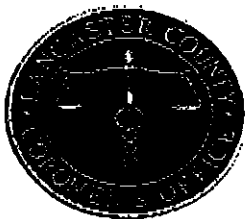
**These funds are in my budget and won't be any extra cost to the county. If the officer leaves before completing 1 year of service, he/she will have agreed to return a portion of the funds. The sign-on bonus equates to \$208.33/month. If the officer decides to leave within the year, he/she will reimburse the county the time remaining.**

### **Council Options:**

**By offering a sign-on bonus, we are looking to attract and retain trained officers, who can "hit the ground running". It takes up to a year in order to send a new hire (non-certified person) to the academy and get the officer completely trained. Otherwise, we will continue to not attract those candidates who are already trained and able to work immediately.**

### **Recommendation:**

**Recommend that we move forward with offering a \$2500.00 sign on bonus for certified officers.**



# Lancaster County

## Coroner's Office

### Quarterly Report for First Quarter 2015

*Department Head: Mike Morris, Coroner*

#### **Key Public Service Areas**

- Death Declarations
- Death Investigations
- Family Notifications
- Body Transports
- Autopsy Orders
- Toxicology Assessments
- Inquests
- Exhumations

#### **Critical Objectives**

- Effectively, efficiently, and accurately assess and determine manner and cause of death
- Establish and maintain a transport team to best serve needs of county
- Maintain a state of readiness for day to day operations as well as mass casualty events

#### **Scope of Agency Operations**

- Determine and certify the cause and manner of death for all cases deemed by SC law to fall under the coroner including Natural, Homicide, Suicide, Accident, and Undetermined. Includes all hospital deaths under 24 hours of admission or all transferred to another county that dies due to non-natural causes
- Scene investigation
- Authorize autopsies by licensed pathologists to aid in scientifically determining the cause of death
- Subpoena records for use in investigation of cause and manner of death
- Maintain records in a manner compliant with state and federal laws, i.e. HIPAA as well as the Freedom of Information Act.
- Notify families of death and explain process from notification to "case closed"
- Conduct investigations in a manner to draw conclusive results in cause and manner of death. Conduct extensive scene and other studies to aid pathologist in conclusive autopsy results
- Prepare court testimony as needed for criminal cases
- Prepare emergency plans for county for mass fatalities

#### **Performance Report**

Indicator	1st Quarter 2015	2015 YTD Mar	2014 YTD December
<b>Total Deaths</b>	132	132	495
<b>Total Homicides</b>	0	0	7
<b>Total Suicides</b>	3	3	8
<b>Total Accidents</b>	5	5	24
<b>Total Natural</b>	124	124	454
<b>Total Undetermined</b>	0	0	2
<b>Total Autopsies</b>	8	8	60
<b>Total Indigent Cases</b>	0	0	2
<b>Estimated Case Hours Expended</b>	1,763	1,763	5,850
<b>Total Case Costs</b>	\$106,881	\$106,881	\$361,206
<b>Estimated Revenue</b>	\$1,520	\$1,520	\$5,180
<b>Percent spent on Autopsies &amp; Toxicology (%)</b>	28.6%	28.6%	31.3%
<b>Estimated Transports</b>	40	40	175

## ***Summary of Findings for Q1 Calendar Year 2015 vs. 2014***

- ❖ Coroner calls in Lancaster County rose 26% in 2014 over the previous year and the volume in 2015 is starting off to be at least that level or higher. Calls are coming in multiples, span the county, and are beginning to take longer on the average.
- ❖ The two primary causes of death in Lancaster County are cardiac related and cancer with lung cancer being the highest contributor in cancer related deaths
- ❖ 2015 has started off with suicides and accidents being our driver of volume along with natural deaths.
- ❖ Those who died in this county were from:
  - Lancaster (91)
  - Fort Mill/Indian Land (15)
  - Kershaw/Heath Springs (21)
  - Other (5)
- ❖ Other snippets of information from the coroner's office:
  - Created pamphlet to be distributed to families that will provide key questions and answers as well as contact information.
  - Coroner's Office is actively working on accreditation through the International Association of Coroners and Medical Examiners (IAC&ME).
  - Two new vehicles were acquired and are being put in-service.
  - Updating policies and procedures manual and mass fatality emergency plan.
  - As people become more creative, populations grow, and the baby boomer deaths continue to rise, our dual call volumes will grow creating future needs for dual staff members to be involved at same time.
  - ~ 54% of calls resulted in cremation