

MEMO

TO: WEST MAYFIELD BOROUGH COUNCIL

RE: FIRE DEPARTMENT

FROM: JOSEPH M. BUDICAK, ESQUIRE

DATE: APRIL 11, 2024

It has appeared to me that there is apparently a great deal of interest by Council and some members of the general public in regard to the relationship between the Borough and the Volunteer Fire Department.

While maybe everyone is not aware, it needs to be remembered that the Volunteer Fire Department is a separate entity unto itself, it is, I believe, a nonprofit organization. It is not owned or administered by the Borough. Obviously though, there are connections and some requirements.

The Borough Code has a limited number of references. Section 1202 lists all of the Borough's specific powers and in Section 1202 it does provide and give the power and authority to Borough Council to make sure that fire and/or emergency medical services are provided within the Borough by whatever means and to whatever extent as determined by Borough Council, including the appropriate financial assistance to that particular fire company. This means that you can give them financial assistance to whatever degree you see fit. It also states that Council is required to consult with such fire or emergency medical service providers to discuss their needs.

As stated, you can provide financial assistance to a particular fire department, and, any such organization receiving your funds must provide to the Borough an annual itemized listing of all expenditures of those particular funds before the Borough may consider budgeting any additional funding or continued funding to that organization. Simply stated, that means they have to account to you for how they spent whatever money was provided to them by the Borough.

However, it needs to be remembered that if the Volunteer Fire Department receives funds by other means such as donations, fundraisers, etc., they are not required to account to Borough Council for that money.

Also, there is nothing in the Borough Code that would give council the power to become involved in the administration or management of a Volunteer Fire Department.

In another part of Section 1202, it also provides that Council could directly purchase or contribute to the purchase of fire engines, fire apparatus, and necessary equipment. In other words, you are not simply giving them an amount of money for which they have to account to you, but you are providing for a specific item.

Also, in another statute it states that the Borough will expend public money to secure insurance or compensation for volunteer fireman killed or injured while in the line of duty. This, of course, would be

Worker's Compensation. Council does have the power to assign territory to a Volunteer Fire Department or paid fire department. That has been litigated and determined.

Related to fire departments but not dealing with appropriations or equipment there is a statute in 35 Pa. C.S.A. 79 A 02 that provides and authorizes you to give a tax credit to a member of a Volunteer Fire Department in your community. This can be done by Ordinance or Resolution and the individual in question will be entitled to a credit on their Borough tax liability for their home residence. Just want to make sure you are aware of this.