

FIRE COUNSEL NOTES



“Odd and Ends”

By James S. Sinclair
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This article will address a variety of unrelated, but important, topics for fire protection district boards to consider as we come to the end of 2020.

“Fall Clean-up”

COVID-19 concerns have dominated the administration and operation of fire protection districts throughout the state since March. Because of this, some of the annual administrative requirements of districts may have been overlooked in the press of dealing with immediate issues involving the pandemic such as fire department personnel exposures to the virus, quarantines, meeting procedures, and maintaining operational readiness. For that reason, going back over the Calendar and Checklist for 2020 now is prudent to be sure all of the items listed for 2020 have been handled to date.

In particular, Boards need to be certain that they have completed or will timely complete the important **financial requirements** of the district including adoption, publication, and filing of the district’s annual **budget and appropriation** ordinance and completion of required **financial reports**. To date, the deadlines for these annually mandated administrative matters have not been excused or extended. This means that the budget and appropriation process is to be completed by no later than the end of the first quarter of the fiscal year and the financial reports must be completed within 180 days (AFR and, if required, audit) or 6 months (statement of receipts

and disbursements) after the end of the district’s fiscal year. Since the failure to meet these deadlines can seriously impact the district’s finances, Boards need to confirm that they have been completed or are on track to be completed by the applicable deadlines for the district.

There are a good many other items on the **Annual Calendar & Checklist** which should also be reviewed for completion before year’s end. In particular, take time to verify that the **Freedom of Information Act Officer and Open Meetings Act Officer** have been appointed or re-appointed, that this is documented in the minutes, and that they have taken the required training which has been documented in the district’s records.

Similarly, make certain that **Board appointments** were properly made for the year. Some County Boards and Commissions, like fire protection district boards ceased in person meetings due to the COVID-19 situation and it is quite possible that a trustee whose term ended this year was not reappointed or a replacement appointed if that trustee is leaving the board. This can call into question the incumbency of the board and, in some circumstances, call into question the validity of some action of the board. If a needed appointment or reappointment has not been made, now is the time to follow up on it with the appointing authority.

Beyond these important appointments, Boards should confirm that ongoing annual **compliance matters**

have been tended to during the year. This includes annual **IL OSHA** requirements such as equipment inspections, SCBA fit testing, and annual departmental training/training records. IL OSHA inspections are occurring during the pandemic and districts need to be prepared to show compliance if an inspection takes place. While the COVID-19 situation put a dent in training earlier in the year at the onset of the pandemic, an assessment should be made by the district regarding needed training and a plan developed to make up for lost training once the pandemic is past us. Such compliance steps should be documented in the Board’s meeting minutes.

“Grants”

Many districts have recently received federal Assistance to Firefighters grants or OSFM small equipment grants. Boards need to be certain that in the case of federal grants there is a procurement policy in place which will satisfy both the **federal grant procurement** requirements and the requirements of **Section 11k** of the Illinois Fire Protection District Act (70 ILCS 705/11k). The online grant agreement requirements in the FEMA award notification set out numerous requirements regarding procurement procedures which, like Section 11k, will require that competitive procurement methods be followed. Grants are subject to audit for compliance with these requirements and the failure to comply

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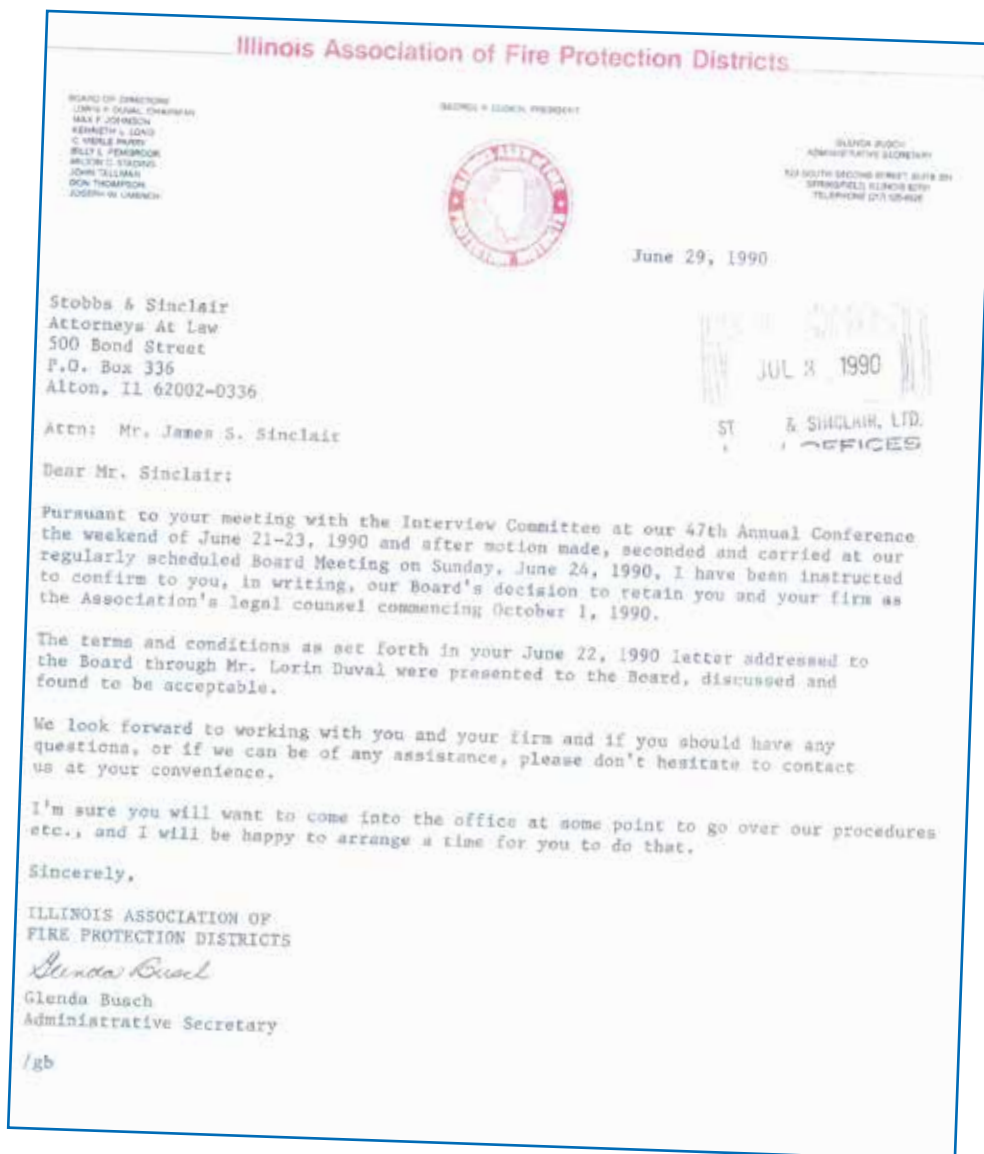
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with them could jeopardize the funding of the grant. Even though the district may have obtained a quote or proposal from a particular vendor in preparing the application for the state or federal grant, upon an award of that grant, the district cannot simply go back to that vendor and purchase without competitive procurement procedures being followed. Likewise, it is important to remember that the state law requirements of Section 11k and the federal grant procurement requirements both apply to a procurement under a federal grant award and the method used by the district in carrying out the procurement should meet the requirements of both. For federal grants, districts will need to be prepared to show that they have an adopted procurement policy that meets the FEMA requirements.

OMA & FOIA Matters

Districts need to be vigilant in their compliance with the Open Meetings Act and the Freedom of Information Act. While the multiple Executive Orders and the addition of a new **Section 7(e)** to the Open Meetings Act have allowed meetings of district boards to be held by videoconference ("virtually"), the procedures under the early Executive Orders and those under Section 7(e) are not exactly the same and it is important, if a virtual meeting approach is used, that the correct procedures be followed to avoid having a challenge to a board action being made and upheld upon review by the Public Access Counselor (PAC) in the Attorney General's Office or by a court. Insofar as the Freedom of Information Act is concerned, the timelines for reply to a request (generally, 5 business days), have not been relaxed and the failure to make a response (even if it is to take an additional 5 days to respond) in the first 5 business day time frame constitutes a denial which can be the basis for a complaint to the PAC or the courts. Several districts are receiving FOIA requests regarding emails/texts and financial records and they are being observed for OMA compliance regarding how their meetings are being conducted in light of the COVID situation or for other reasons.

IAFPD would like to acknowledge James S. Sinclair's 30th Anniversary with the IAFPD! Congratulations Jim!



"And A Look Ahead & Getting Ready for '21"

Several items still may need to be addressed before 2020 comes to an end.

The **annual tax levy** for the district must be filed by the last Tuesday in December (December 29, 2020 this year). COVID-19 has not resulted in any change in this critical deadline to date and it seems unlikely that there will be any sort of deferral for such filings since this would potentially disrupt the receipt of tax monies in 2021 which are needed by units of local government to operate.

Districts with **elected boards** need to be certain that the Board Secretary, as the district's "Local Election Official" under

the Election Code has taken the needed steps to prepare for trustee elections at the April 2021 Consolidated Election. Filing of nomination papers will be made in the December 14, 2020 to December 21, 2020 time period and arrangements must be made to handle the receipt and processing of nomination petitions and certification of names for the ballot to the County Clerk by the time limit for that step in January 2021. County Clerks should be contacted regarding these procedures if that has not already occurred.

Districts with full time career firefighters are required by **Article 4 of the**

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Pension Code to maintain a pension fund for those employees. Under legislation passed in 2019, the investments of all Article 4 funds are being consolidated at the state level and will be under the jurisdiction of a newly created entity, the **Illinois Fire Pension Investment Fund (IFPIF)**. The election of a governing board for that entity to replace the temporary appointed board is underway. It is critical that the presidents of boards of districts with an Article 4 pension fund participate in this election so that fire protection districts will obtain representation on the governing board of IFPIF since districts were not give a dedicated seat as were municipalities and the firefighters' union. Districts should be on the lookout for election materials which will be coming to the board president. Information about this especially important matter appears elsewhere in this issue of the Fire Call.

Also, with regard to **2021 election matters**, districts looking to put referenda questions such as annexation votes, PTELL, bond issue, new tax rate, or conversion to an elected board along with any other items requiring voter approval will need to plan now to place these matters on the **April 6, 2021 Consolidated Election** ballot. There will be only one election next year and any questions which a Board wants to place before district voters must be timely filed in January of 2021 to be on the April ballot. Steps need to be taken now to plan for such ballot issues or they will have to be deferred until 2022.

Districts which are incurring **COVID related expenses** need to maintain complete records of those expenses including overtime and PPE costs. While Federal legislation to aid units of local government like fire protection districts is in a state of flux at this time, it is important to monitor legislative developments as well as state actions with regard to such aid. The IAFFPD is participating in

a national effort by specialized units of local government to obtain assistance for COVID related costs and districts may be called on to contact their federal and state legislators at some point in connection with this effort.

Last, the **2021 Annual Calendar & Checklist** has been prepared and will be mailed by the Association staff to member districts this fall. It will also be posted on the Association website. When your district receives the Calendar & Checklist, take time, individually, and as a Board, to go over the list and prepare for next year's work. Now is the time! ■



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