

# FIRE COUNSEL NOTES



## Back to Basics # 1: It's Budget Time—Again! Do it Right!

By James S. Sinclair  
IAFPD Legal Counsel

Over the next several issues of the Fire Call, this column will focus on some specific areas of basic fire protection district administration with emphasis on the duties of Fire Protection District Boards of Trustees. For many readers, these articles will be a review (and for some admittedly unnecessary), but anecdotal observations and discussions with district trustees indicates that there are yet a good many trustees who may need a refresher on some of these fundamental topics. This article will look at the budget process. Future columns will cover tax levies, financial reporting, and procurement.

For most fire protection districts, spring is the time when they adopt the annual budget and appropriation ordinance ("the budget") for the district's fiscal year which typically will have a starting date of April 1, May 1, or June 1. While districts are free under the Municipal Budget Law (which is really misnamed since it does not apply to municipalities [cities and villages]), to set their fiscal (financial) year as they desire, traditionally, for most districts, the fiscal year begins in the spring or early summer. Regardless of when the fiscal year begins, however, the process is the same.

As a threshold matter, it is important to distinguish and appreciate the difference between the annual budget and appropriation and the tax levy. In simple terms, the budget plans and authorizes spending while the tax levy generates the funds for the spending by the district. These are two distinct legal procedures, and, even though both relate to the financial operation of the district,

it is important not to confuse them since doing so can lead to errors in one process or the other.

The Municipal Budget Law (50 ILCS 330/3) controls the budget and appropriation process and it is mandatory. As noted above, despite the name, this law does not apply to cities and villages (municipalities). Rather, it applies to units of local government which do not have a separate or different budget and appropriation procedure created by statute. Its steps are relatively straightforward and may be summarized as follows:

1. Adopt a Tentative Budget Ordinance
2. Post the Tentative Budget for at Least 30 Days for Public Inspection
3. Publish Notice of a Public Hearing on the Budget at Least 30 Days in Advance and give notice of posting of Tentative Budget for Public Inspection for at least 30 Days before final action
4. Hold the Public Hearing on the Budget
5. Adopt the Final Budget and Appropriation Ordinance
6. File the Final Budget and Appropriation Ordinance with the County Clerk(s)
7. Publish (or post) the Final Budget and Appropriation Ordinance in the newspaper

Each of these steps is required in order to have the proper authority to legally expend the funds of the District regardless of the source of those funds. If any one or more of the foregoing steps are not being followed by your district, steps should be taken to initiate compliance with them. It is the responsibility of the Board of Trustees of each fire protection district

to adopt the annual budget and appropriation ordinance on a timely basis. The Municipal Budget Law specifies that this process must be accomplished within the first quarter of the district's fiscal year. The first step in the process is the adoption of the "Tentative Budget" which is a preliminary enactment by the Board of Trustees that commences the budget process. Any of the figures used in the Tentative Budget may be altered prior to adoption of the "Final Budget and Appropriation Ordinance" which, for the most part, sets the district's spending in "stone" for the fiscal year to which it applies. There are a number of ways in which the Tentative Budget can be prepared. Some districts seek to make the Tentative Budget as close to the Final Budget as possible. Other districts simply adopt a Tentative Budget with essentially the same figures as the Final Budget for the year before. Either way is acceptable, however, the key is to schedule the time needed to take one approach or the other. Districts which want to prepare the Tentative Budget in essentially final form before it is acted on by the Board of Trustees will generally need to commence work on the budget prior to the end of the previous fiscal year. Why? Because waiting to work on the Tentative Budget at the beginning of the fiscal year using this approach often means that the district will not meet the statutory deadline for the required completion of the budget. The goal of all districts should generally be to adopt the Tentative Budget at the Board meeting held in the first month of the fiscal year or before. So, for a district

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with a fiscal year beginning on May 1, for example, the plan should be to adopt the Tentative Budget in one form or another at the May Board of Trustees meeting. If your district is not doing this, the Board needs to re-evaluate its procedures.

After the adoption of the Tentative Budget, it must be posted for at least 30 days prior to final adoption for "public inspection." This means that the Tentative Budget must be posted where the public can have access to examine it. For many districts this will mean posting on in outside display cabinet, a window or some other location where it can be easily accessed by the public on a 24/7 basis. If the district has a website which is maintained by a full time employee of the district, the Tentative Budget should be posted there also. If the district has a website which is not maintained by a full time district employee, it is still a good idea to post the Tentative Budget on the district website to show the public that the district's process is transparent.

Also, after adoption of the Tentative Budget, a public hearing on the budget must be scheduled and notice of the time, date, and place of the hearing must be published in the newspaper at least 30 days prior to the hearing. If a newspaper is published in the district, it should be used. If there is no newspaper published in the district, the statute allows publication to be made in a newspaper published in the county(ies) where the district is located. If neither of these requirements can be met, the law requires that the notice be posted in at least 5 locations in the district. Boards need to verify that the newspaper being used qualifies based on its location of publication. Note that even if there is a newspaper "in general circulation" in the district, it may not qualify if the newspaper is published from a location outside both the district and the county or counties where the district is located. With the diminution of newspapers available for publication of legal notices in many parts of the state, publishing the notice properly can be a challenge. Since an improper publication of the notice can be the basis

for a challenge to the action of the Board of Trustees in adopting the budget, it is prudent to verify that the newspaper selected qualifies. If in doubt, the safe course is to post the notice of hearing in 5 of the "most public" places in the district. If posting is used, publishing the notice in the "nonqualifying" newspaper is still a good idea. The notice should also inform the public of the posting of the Tentative Budget for public inspection prior to the hearing. It is critical to retain the certificate of the newspaper publisher which certifies the date of publication of the notice, and, if posting is used, there should be a record made of the dates and locations of the posting and it is a good idea to have that listing set out in the Board minutes of the meeting when the hearing on the Final Budget and Appropriation Ordinance occurs. The notice of posting and hearing should also be posted on any district website in the same manner as noted earlier regarding the Tentative Budget.

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At any time prior to adoption of the Final Budget, the Board of Trustees is free to change the figures in the budget and care should be taken to examine the actual expenditures for the previous year and to use that information as guide in preparing the new budget. The district treasurer should be tasked with assembling this information on a timely basis for the Board's review. If the treasurer cannot or will not do this, it may be time for a change in treasurer and/or the district's financial recordkeeping procedures. If this task is delegated to staff or fire officers to accomplish, they should likewise provide the Board with a breakdown of actual expenditures which correlates to the budget line items. If the financial recordkeeping is not in correlation with the budget line items, a change in one or the other should be made to facilitate the process.

The structure of the budget itself must include a statement of the beginning cash (all accounts, including designated reserves) held by the district at the start of the fiscal year; all anticipated sources of revenue; a breakdown by categories and types of expenditures (line items), and the expected ending cash balance at the close of the fiscal year. Expenditures which are supported by a particular revenue source such as a separate tax levy such as one for insurance or EMS, should generally be separated into different funds within the budget. Since the budget is prepared on a "cash" rather than an "accrual" basis, appropriations made in a budget for one fiscal year which are not expended, do not "carry over" to the next fiscal year and if there remains a need for a particular purpose, there should be a re-appropriation of that item in the next budget year.

A provision in the Property Tax Code (35 ILCS 200/18-50) requires the Final Budget to be filed with the county clerk of each county in which the district is located and the Final Budget must be published one time in a newspaper of general circulation published in the district or if there is no such newspaper, publication may be made in a newspaper of general circulation published in the

county(ies) where the district is located. This is a requirement not of the Municipal Budget Law, but rather, of Section 7 of the Illinois Fire Protection District Act (70 ILCS 705/7). If there is no such newspaper available, the Final Budget must be posted in 10 "public places" in the district. Again, because of the decline in newspapers published in the state, it is important to verify that the available newspaper meets the requirement, and, if not, that posting be used and a record of the dates and locations of posting be made and referenced in the Board minutes or by a certification of a Board officer or officers. Website posting of the Final Budget should occur in the same manner noted for the Notice of Hearing and Adoption discussed above.

Once the Final Budget and Appropriation Ordinance is adopted, the district's spending authority is then set "in stone" for the year. Any expenditure made must be attributed to a particular "line item" in the Budget. Why? Because spending money for any purpose not chargeable to a line item would be an "unappropriated" and, therefore, illegal expenditure of taxpayer money. Consequently, it is important for Boards to spend sufficient time in preparing the budget so that there is a sufficient appropriation for all of the expenditures in the year. For this reason, Board should consult with the Fire Chief and Officers regarding requested or anticipated expenditures prior to adoption of the Final Budget.

With two exceptions, spending is limited to the figures in the Final Budget. The first exception is the "line item" transfer. The Municipal Budget Law allows districts to transfer, by Board resolution, up to 10% of one line item to another line item in the budget. The second exception is the receipt of an unexpected federal or state grant during the year. In that case, a special "supplemental" budget can be adopted under the Public Works Finance Act (30 ILCS 370/1.1). If neither of these exceptions is available to handle spending for which there is no appropriation or an insufficient appropriation, the district will be required to adopt an Amended Final Budget and Appropriation Ordinance following all seven of the steps listed above.

An additional requirement when adopting the annual budget is that the

treasurer certify the estimated revenues of the district for the fiscal year. This certification is required by the Property Tax Code (35 ILCS 200/18-15). This can be done as part of the budget document or a separate certificate of compliance can be prepared and filed.

It is important to remember that, unlike a budget developed for a home, a business, or some other type of private organization, which can be adjusted throughout the year or even ignored altogether, a fire protection district budget is more than simply a "spending plan." The district budget is also a spending "authorization." Hence the term "appropriation." Unfortunately, some trustees carry over their private or business experience to the district budget which can lead to noncompliance with the state laws and potentially open the district to a challenge of an unbudgeted expenditure (735 ILCS 5/11-301) or a property tax objection. While the budget is a plan for spending, it is also an authorization for and a limiter of spending. By statute, it is intended to be an open and transparent process which gives the public complete information about the district's finances and the use of taxpayer funds.

Preparing the annual budget and appropriation ordinance for a fire protection district is one of the most important responsibilities of the Board of Trustees. Doing it properly is not "rocket science," but it does require a sufficient degree of diligence so that it is done correctly and on time each year. Trustees should avoid the temptation to delegate this task to the Fire Chief or other staff or to simply do the same budget year after year without any consideration being given to the actual spending of the district.

Questions about budgets and appropriations can be tricky and it is a good idea to confer with the district's legal counsel about them.

Readers who desire more information on this important process are directed to Chapter 3 of the *Handbook for Trustees of Illinois Fire Protection Districts* which contains a more detailed discussion of the budgeting process including budget problems and suggested procedures for the timely and effective adoption of the budget each year.

NEXT UP: The Tax Levy: How does it work? ■