

**MEARS, SMITH, HOUSER & BOYLE, P.C.** Borough of Waynesboro

ATTORNEYS AT LAW  
127 NORTH MAIN STREET  
GREENSBURG, PA 15601-2403

[www.mshblaw.com](http://www.mshblaw.com)  
[khouser@mshblaw.com](mailto:khouser@mshblaw.com)  
[jcofflesh@mshblaw.com](mailto:jcofflesh@mshblaw.com)

TELEPHONE:  
(724) 832-8700

FACSIMILE:  
(724) 832-2245

BRANCH OFFICES:

801 LIGONIER ST, LATROBE PA 15650  
(724) 537-9036

ROUTE 259, BOLIVAR PA 15923  
(724) 676-5500

915 PITTSBURGH ST, SPRINGDALE PA 15144  
(724) 274-7337

THOMAS W. SMITH  
KIM ROSS HOUSER  
RICHARD F. BOYLE, JR.  
KENNETH FICERAI  
JON M. LEWIS  
MICHAEL D. LAZZARO  
MICHAEL S. RUSSELL  
JOSEPH F. NICOTERO  
SARAH REEB

OF COUNSEL: MARIA SPINA ALTOBELLI

SEPTEMBER 5, 2023

BOROUGH OF WAYNESBORO  
P O BOX 310  
55 E MAIN ST  
WAYNESBORO PA 17268

In Re: My Client: Waynesboro Volunteer Fire Department, Inc.  
a Pennsylvania Nonprofit Corporation

Dear Council:

I represent the Waynesboro Volunteer Fire Department. My client, being a 501(c)(3) Pennsylvania nonprofit, has for many decades provided services to many municipalities including Quincy Township, Washington Township, and Waynesboro Borough. My client's volunteers have done so with great honor and with passion to sustain its mission even with the Waynesboro Borough contributing very nominal amounts annually.

My client has passionately volunteered for the citizens of the Borough, the neighboring Township, and any others that called for help. Your Borough has taken unilateral actions to enact a career Fire Department control Ordinance without considering your Volunteer Fire Department and its Firefighters. It effectively appears to be an unconstitutional grab and control of their Fire Department and its assets. The Ordinance was a declaration that your Borough Council would rather be serviced by a career Fire Department with paid employees, Fire Department overtime, purchase all fire trucks, and pay for needed fire stations, firefighter trainings, firefighter certifications, pay for medical screening, civil service, etc. This is America. That was a very expensive choice by your Council. While the Volunteer Firefighters for many decades (and even to this day) love the citizens of Waynesboro and have dedicated their lives and their family lives to servicing them and the adjacent communities, your Ordinance was not necessary and included unnecessary indignities. As an example, the Ordinance makes every paid employee Firefighter a supervisor of every Volunteer Firefighter. This relates to both operational aspects of the fire service and also the station environment. It is sad the Borough photocopied a career Fire

Department Ordinance. Your Fire Chief's attitude was clear when he stated he was not interested in babysitting volunteers (including Junior Firefighters).

While this is the Borough's choice, there are also consequences to the Borough's choice. My client, the Waynesboro Volunteer Fire Department, being a Pennsylvania nonprofit corporation, has decided to not be affiliated with your dictatorial Borough municipal government after December 29, 2023, or sooner. By the enactment of the Ordinance, the Borough has killed my client's ability to inspire citizens to volunteer. As such, the Fire Department is choosing to be municipally re-aligned with the other municipality they serve. My client is formally giving the Borough Notice of the same. Upon recognition by the adjacent municipality (who my client has for many years provided the same service as was given to the Borough), the Fire Department Volunteer Firefighters shall be under their own Workers' Compensation. Please note that the Fire Department will continue to respond to Borough alarms as a 'mutual aid' responding Fire Department to your Borough. You selected the career Fire Chief leader (who really dislikes volunteers generally, and our volunteers specifically). We shall continue our charitable fire service efforts focusing on the portions of our existing Call Districts that appreciate our valued community services.

In addition, the Fire Department is also providing Notice that the Fire Department shall be relocating all of its titled assets to a location that fully services our Fire Department's operations. This should give the Borough plenty of time to re-align its operations configured around your paid Fire Department and their financial and resource needs. This also gives your Fire Chief several months to hire more paid staff.

It is unfortunate, but the Borough's choice was to follow the Chief's Fire Department's operational and policy positions that are clearly detrimental to the Volunteer Fire Service and the charitable mission of my client/Fire Department. Waynesboro Volunteer Fire Department Members will continue to serve their current Call Districts as it has over the many decades. If the December 29, 2023, deadline is a hardship, the Fire Department would be willing to sit and negotiate a fair rental agreement of a fire engine (including full insurance, indemnification, maintenance, and wear and tear). In short, you have empowered your Fire Chief to be the sole owner and dictator of the Borough Fire Service. We are de-recognizing your Borough. We see December 29, 2023, as our first day of freedom from your organizational control you created by Ordinance.

In near-term to prepare for detangling, the Fire Department will be returning all property Titled and owned by the Borough to the Borough on December 29, 2023. The Fire Department looks forward to the future when it can have a balanced and good working relationship with the Borough of Waynesboro. Unfortunately, the citizens of Waynesboro deserve better than Council's selected course of action. Waynesboro Volunteer Fire Department is over being treated as a 'take it or leave it' indentured servant. If you have a proposal to detangle sooner, we look forward to such a proposal. My client's actions are protected by U.S. Constitutional rights, the Pennsylvania Constitution, and the Pennsylvania Statutory rights applicable to charitable nonprofit corporations. All property owned by or affiliated with the Waynesboro Volunteer Fire Department will be returned to the Waynesboro Volunteer Fire Department on or before December 29, 2023.

Your Volunteer ethos and community feeling will change quickly. Obviously, the Borough feels that its citizens prefer to incur the true costs of career union paid firefighters.

Yours very truly,

MEARS, SMITH, HOUSER  
& BOYLE, P.C.



Kim Ross Houser

KRH:jlc

cc: Waynesboro Volunteer Fire Department, Inc.