

September 20, 2023

Kim Ross Houser, Esq.  
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127 North Main Street  
Greensburg, PA 15601-2403

RE: Waynesboro Volunteer Fire Department, Inc.

Dear Mr. Houser,

I serve as the solicitor to the Borough of Waynesboro. On September 8, 2023, Borough Council received your correspondence dated September 5, 2023. This follows the Borough learning of the Waynesboro Volunteer Fire Department, Inc.'s (the "VFD") intentions to separate from the Borough of Waynesboro through a press release. While the Borough appreciates that the VFD's intentions are no longer just rumor or innuendo, the Borough is troubled by the hyperbole, factual inaccuracies, and select statements devoid of context throughout the letter. Facts are stubborn things; regardless of the volume of the bluster, the length of the letter, or the number of social media posts, the facts cannot be altered. With that context, the Borough notes the following:

1. The Borough ordinance does not create a career only department.
  - a. The Ordinance expressly recognizes that the Waynesboro Volunteer Fire Department, Inc. is a part of the Waynesboro Fire Department.
  - b. The Ordinance incorporates administrative provisions for the paid personnel of the Fire Department and operational considerations department wide to improve operative efficiency and consistency.
  - c. The Ordinance recognizes that paid personnel are part of the Fire Department (and they have been for decades). As volunteer response continues its steady decline, the Borough must plan for additional personnel to ensure that apparatus and equipment are deployed. Paid personnel are a necessity, not a choice.
2. The Borough's ordinance is not unconstitutional. As you may be aware, municipal ordinances are presumed to be constitutional, and the burden is heavy for anyone who challenges the constitutionality of an ordinance. *Commonwealth v. Ebaugh*, 783 A.2d 846, 849 (Pa. Cmwlth. 2001). Other than a bald assertion, you offer no indicia of unconstitutionality. Volunteer fire companies act on behalf of the municipality.

*Commonwealth v. Barker*, 61 A. 253 (Pa. 1905). The Borough has the express statutory right to determine the means and extent of the provision of fire services within the Borough. 8 Pa.C.S.A. §1202(56).

3. The Borough has no desire to control the fire department or its assets. The Ordinance recognizes that VFD operates under its own constitution and bylaws. The Ordinance doesn't encroach into the administrative affairs of the VFD. In fact, in the past the Borough has requested that the VFD:
  - a. take administrative disciplinary action against members who have acted inappropriately at the firehouse and created potential liability for both the Borough and the VFD; and
  - b. maintain VFD assets and equipment in accordance with applicable safety standards in the interest of firefighter safety; and
  - c. provide records of training to ensure that only firefighters with the required level of safety training are actively responding; and
  - d. ensure that only firefighters who are covered under the vehicle liability policy are operating the apparatus; and
  - e. ensure that firefighter turn out gear is not functionally obsolete; and
  - f. ensure that life safety equipment fit properly and is maintained.

The volunteers are members of the VFD and the VFD should hold its members accountable meeting applicable administrative and safety standards. The Waynesboro Fire Department as a whole should ensure that NFPA and other applicable safety standards are followed; as firefighter safety should be one of the primary concerns of both parties.

4. VFD's volunteerism has steadily declined. According to the NFPA, more than a third of volunteers in small communities are over the age of 50. In 1987, only 15.9% were over the age of 50. Since 1970 the number of volunteer firefighters in Pennsylvania has dropped from 360,000 to fewer than 37,000 today. As training requirements have become more stringent and time-consuming and family dynamics have changed, recruitment has become even more difficult. Of the VFD's 344 members, only twenty-two have actively responded to fire calls (not including fire police or social members) this year (one of which is a junior member), and of those active members, less than half responded to more than 10 calls this year (2.6% of the membership responded to 10 or

more calls this year). The total number of calls through August for the Waynesboro Fire Department is 575. The decline in volunteerism isn't due to an Ordinance or an individual, it's culturally systemic. As you note, the VFD is a separate entity from the Borough. Recruitment and retention plans are within the administrative jurisdiction of the VFD. The Borough cannot recall any occasion where the VFD asked the Borough to participate in any volunteer recruitment initiatives. Unfortunately, due to the continued decline in volunteerism, the Borough is unable to rely on volunteers to provide emergency response within the Borough on a 24/7 basis.

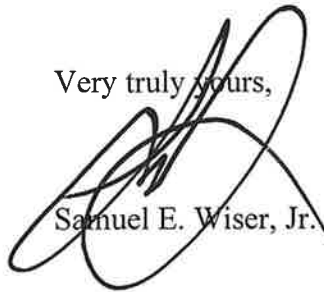
While the fire police have generally provided more active response (with eleven active members, all but one of which have responded to more than 10 service calls this year), they have also struggled to fill their ranks with volunteers. Despite these challenges, their level of response is commendable. But reliance on the current roster of fire police is also unsustainable, as the average age of their ranks continues to rise.

The safety of all firefighters, volunteer or career, is the Borough's primary concern. The Borough cannot turn a blind eye to life safety issues, regardless of whether bringing such issues to light causes offense. In retrospect, the Borough realizes that insufficient emphasis was placed on Department wide training and safety for many years. Such introspection may also serve the VFD well in an organizational analysis. The Borough recognizes that it has additional groundwork to do to improve its operational and safety standards and if those efforts result in the VFD's departure, the Borough can only hope that the VFD enforces policies and procedures that prioritize the safety of its members.

Yes, the VFD is a separate, non-profit entity, which is why the Borough felt it was important to memorialize in writing the relationship between the Borough and the VFD. The Borough and VFD discussed a Memorandum of Understanding for almost a year, with 10 negotiation sessions that resulted in a tentative agreement. The VFD certainly has the right to choose to no longer partner with the Borough as part of the Waynesboro Fire Department. The Borough of Waynesboro hopes that whatever endeavor that the VFD undertakes, that it does so while making the safety and wellbeing of their volunteer members the utmost priority. There are dedicated and passionate members of the VFD (like Allen Brake, who ran 122 calls so far this year). While apparatus and equipment can be replaced, there is no price that can be placed on life or health.

Hopefully all involved in this discussion remember that paid and volunteer personnel serve the same citizens and care deeply about public safety within the Borough and surrounding communities. Pride and passion should not displace civil discourse. Zealous advocacy doesn't require bombast. Regardless of whether the VFD is leaving or staying, the public and the parties are best served if discussions regarding the relationship, or dissolution thereof, are conducted in a professional manner. The Borough welcomes such dialogue.

Very truly yours,

A handwritten signature in black ink, appearing to read 'SEW', is written over the typed name 'Samuel E. Wiser, Jr.'.

Samuel E. Wiser, Jr.

SEW/ecm

cc: Borough of Waynesboro