

Negotiating Fire Department Contracts in a Tough Economy

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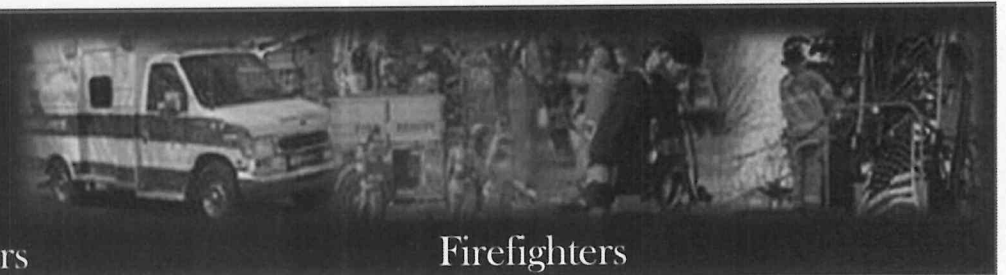
Pinsky Law Group, PLLC

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Attorneys

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Firefighters



Pinsky Law Group, PLLC

- Represents over 500 fire departments/fire districts/ambulance services throughout state.
- Represents numerous towns and villages involving their fire departments and ambulance services
- Hosts a radio show on legal issues: Fireengineering.com
- Lectures nationally at largest fire conferences
- Lectures at NYS Towns & NYCOM annual conferences
- Host annual fire law conference with 550+ attendees/firefighters
- Mostly: We are firefighters! 50+ years experience.
 - Assistant Fire Chief / President of Fire Company



The issues

- Towns with Fire Protection Districts must arrange for fire protection.
- Towns cannot have their own fire departments.
- Towns are forced to contract for fire protection or to form fire districts and cede control.
- Towns feel as if they are held hostage by the fire department or contracting entity.
- Fire protection district taxes are included in the “cap” and “freeze” limits.



Your problems

- You want to comply with the tax freeze.
- Towns are at the mercy of the service providers. You are forced to obtain fire protection.
- There are very few choices for fire protection. Proximity to the town and the need for rapid response times control your choices.
- You may not be an expert in fire protection. You may not know what should be in the budget.



Option 1: Get rid of the issue

- If the town forms a fire district, the fire district's taxes are not included in the "tax freeze" calculations.
- Upon requests from towns, Pinsky Law Group has been forming fire districts, even where there is no fire department within the district, in order to avoid the tax freeze issue.
- If there is a fire department within the (former) fire protection district, the fire district controls the budget and the fire department (N-PCL 1402).
- We do recognize that this is creating another municipality and may be viewed as "passing the buck".



Option 2: Town Law 184

- Permits a Town to contract for fire protection in a fire protection district.
- If a fire protection district is formed, the town **“shall”** arrange for fire protection.
- A town may contract with:
 - An independent fire company
 - A village
 - A fire district
 - A city



Tactics: Don't be bullied

- Villages, cities, or fire departments may threaten you to “accept the budget or lose fire protection”.
- Don't forget:
 - They need your money for the department to survive. If they do not, how much of their budget is truly a “need”.
 - Firefighters do not want to walk away from their public over this fight. The municipality may not control the firefighters' desire to protect their residents.
 - Your obligation is to provide a budget which fills all of their “needs”.
- The point: There is always room to negotiate.



Do not be bullies

- If you bully the fire department, the residents and the fire department have remedies.
- Town of Brighton: August 2012
- Town of Champion: December 2014
 - Fire Department successfully petitions residents to “dissolve the fire protection district”.
 - Vote succeeds.
 - Towns are required to create a new plan for fire protection.



Goals of Negotiation

- Obtain the best fire protection for the most reasonable price.
- Ensure the department has the proper operating budget.
- Provide for the “needs” of the fire department, and when feasible, some of the “wants”.
- Your problem:
 - How do you tell the difference between the “needs” and the “wants”? You are not experts.



The usual way of negotiation

- The fire department generally provides a number based upon last year's numbers with an x% increase.
 - This makes sense to the fire department, as costs increase every year.
- The fire department (or contracting entity) and the town negotiate over abstract numbers which have no real meaning.
- One or both of the two parties leave unhappy.



Change your objective

No relationship has ever survived where the parties fail to communicate (“marriage counseling 101”)

- Make the Town Board & Fire Department **PARTNERS** to:
 - Identify problems
 - Help tackle challenges
 - Help identify solutions
 - Assist with recruitment and retention
 - Trust us: Fire departments value the respect!



Let's make you an expert

- To control your budget, you have to understand the difference between “needs” and “wants” of the fire department.
 - You MUST provide their “needs”
 - You do not have to provide for their “wants”.
These can be paid for by fundraising or additional funding if you desire.
- Require the fire department to keep and provide a line item budget. Then you can see the exact costs.



Needs & Wants as Defined by P.L.G.

Needs: Defined as an item or expenditure:

- (a) which is required by law, regulation or contract; or
- (b) has a significant positive impact:
 - i. on the safety of the public or the firefighters; or
 - ii. the ability of the firefighters to provide essential fire protection;
 - iii. and the absence of which prevents providing fire protection in a safe or effective manner or violates a law or regulation.

Note that the answers may vary between departments.

Note, we used term “prevents” (the harder test) and not “inhibits”, a lower standard.

