

Firehouse Lawyer

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Joseph F. Quinn, Editor

Joseph F. Quinn is legal counsel to more than 35 fire districts and regional fire authorities in Pierce, King and other counties throughout the State of Washington.

His office is located at:

**10222 Bujacich Rd. NW
Gig Harbor, WA 98332
(in Gig Harbor Fire Dept's Station 50)**

Mailing Address:

**P.O.Box 65490
University Place, WA 98464**

Telephone: **253.858.3226**

Fax: **253.858.3221**

Email Joe at:

firelaw@comcast.net

Access this newsletter at:

www.Firehouselawyer.com

Another Successful Annual WFCFA Conference

Readers may have noticed that the *Firehouse Lawyer* is a bit late this month, as we usually aim for a publication date or deadline of the 15th of each month. Well, this month, with the timing of the annual conference of the Washington Fire Commissioners Association in Spokane, and the fact that this writer was one of the main presenters this year, I am sorry to say that the informal deadline was missed. But, what the heck, it IS still October and here is the monthly newsletter.

Having made my apologies, this newsletter is devoted to reporting what the lawyers were up to at the conference.

Starting on Wednesday, October 21st, the lawyers active on the Lawyers Committee met for three hours to discuss current topics of interest to those of us who devote substantial time in our law practices to fire service issues. This was our third annual confab and again it was well attended not only by interested lawyers but also by fire commissioners and others who enjoyed asking questions or offering observations pertinent to the legal topics being discussed. Special thanks go to Rich Davis, of the Bellingham firm of Chmelik, Sitkin & Davis, who got this group organized (can you say "herding cats") so that our discussion was positive and a good learning experience for all. Rich actually has applied to the Washington State Bar for approval of continuing legal education credits for the lawyer participants.

We started out with Jon Sitkin, a partner in the Chmelik firm, doing a presentation regarding the implications of recent litigation pertaining to the impacts of land use developments on fire districts. Jon did a fine job of explaining the "do's and don'ts" of such litigation. As many of you know, fire districts are not entitled to impact fees under the Growth Management Act, so that is a perennial legislative priority for WFCFA. In the meantime, many fire districts will continue to negotiate for or seek hearing examiner approval of voluntary mitigation agreements with developers, or even adopt "level of service contribution" resolutions to implement their capital facility programs. On the LOSC issue, Brian Snure, who serves as *of counsel* to my office, is quite familiar with such programs so either Jon or Brian would be a good advisor on such problems.

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Next up was yours truly, who explained the workings of the new statutes or amended statutes of interest to cities and fire districts surrounding the topic of “annexation by ordinance” or by interlocal agreement. The legislation was referred to as Engrossed Substitute Senate Bill 5808, and amended various sections of the statutes pertaining to annexations by cities. Since I covered that topic exactly the same way in the May 2009 issue of the *Firehouse Lawyer*, I just reiterated what was said about each statute in that writing. (In fact, I was accused of just reading what I wrote earlier rather than preparing my remarks specially for this august body of lawyers!)

Brian Snure followed by discussing issues relative to resident volunteer programs, which a few of our clients have established or maintained in recent years. This actually can present some fascinating tax issues and challenging audit questions. Michelle Losie, another fine attorney employed by the Bellingham firm mentioned above, covered the difficult topic of the “Workers Compensation and FMLA Overlap”. What seemed like a straightforward subject was converted by the lawyers into an intricate, complex labyrinth of state and federal statutes, which of course had the clients in the audience thinking of this as a “Full Employment for Lawyers” statutory scheme. By the end, I was ready to apologize to Michelle, for asking enough unanswerable questions to fill the twenty minutes allotted.

Frank Chmelik (that firm again) followed with a good discussion of the issues surrounding Fire Chief Employment Contracts. I was actually pleased to see the level of attorney agreement pertaining to advisable language to include in the contracts of Fire Chiefs. As with other topics, each attorney could share their particular experience with certain types of language of “at will”, “for cause”, “severance pay”, etc.

Finally, our convenor, Rich Davis (of Chmelik, Sitkin and Davis) did a follow-up visit to the topic of bidder responsibility criteria, which was covered in depth last year. Suffice it to say that public works proponents are still experimenting with the new laws allowing for specific listing of bidder responsibility criteria, and the book is still open on how that will help or hurt the efforts of owners and bidders.

In summary, I felt that the Lawyers Committee proved again what a great idea (kudos to Roger Ferris whose idea it was in the first place) it is to have those attorneys working hard for fire service clients get together once a year and share what is current in this area of the law. Special thanks to the Bellingham firm of Chmelik, Sitkin and Davis for sharing their obvious expertise with the rest of us.

The only change I heard suggested was that perhaps this lawyers committee meeting at future conferences could be better publicized or scheduled during the actual conference itself rather than the day before. Several commissioners told me they would have attended but it was held prior to their arrival or they just did not know about it. Let us hope that Roger Ferris reads the *Firehouse Lawyer* (doesn't everyone?).

REGIONAL COOPERATION AND REGIONAL FIRE AUTHORITY

Another major presentation at the WFCFA conference was “Regional Fire Authorities, Annexations, Mergers, What you Need to Know to Make the Right Decision”. This three-hour segment was presented by a five-member panel, consisting of attorneys Brian Snure and Joe Quinn (the *Firehouse Lawyer*), Bob Merritt, Dave Ralston, and Jim Walkowski. Thanks to Brian Snure it was possible to integrate into one PowerPoint the slides of three presenters, various plan provisions, and the experiences of three fire chiefs or consultants. It can be difficult to do a “lecture by committee” but the feedback I heard was entirely positive. My idea was to focus on the key issues faced by communities that have planned for and implemented the regional fire authority model. Specifically, I felt it would be a great learning experience to compare and contrast the actual plan sections or elements on key issues such as financing, governance, personnel, assets and liabilities. This segment also included Brian Snure's explanation of the SSB 5808 (see above) “annexation by ordinance” legislation, as it was felt that this too really is an issue of regional cooperation, as enacted into law. Special thanks must be given to Bob Merritt, former fire chief/now consultant, who worked on the plan for the Valley Regional Fire Authority—the first RFA in Washington—and continues

to consult with cities and fire districts on this topic. Also, kudos to Dave Ralston, the Chief of the South Whatcom Regional Fire Authority and Jim Walkowski, Chief of the Riverside Fire Authority in the Centralia area, who both shared their valuable experiences in connection with RFA's that include fire districts.

In short, we wanted to present this topic of regional cooperation a bit differently than it has ever been done before, and I think we succeeded. I will continue to advocate for presentations that encourage questions to be asked right away rather than holding them until the end. As I always say, "To me the digression is more fun than the lecture, even though I am the lecturer." My point is that we are there to answer your questions, not to talk about whatever our pet peeves are or what **we** may think is important. So do NOT hold all questions until the end!

FINANCING FIRE DISTRICTS IN A POST-RECESSION ECONOMY

Finally, on the Friday of conference week, Brian Snure and I presented this 90-minute segment on the property tax laws, as they intersect with declining real estate values and the rare phenomenon of deflation. We were trying to strike a balance between explaining the real basics of the ad valorem property tax levy laws and covering the more advanced questions in the minds of experienced fire commissioners and chiefs. I found Brian's slides on "Tax Levies 101" to be educational and also somewhat funny. (He does not seem like a stand up comic but does have a certain wry or dry sense of humor, right?) Hopefully, in that hour and a half we outlined a few possible ways to deal with the financial crisis, rather than just reiterating the "gloom and doom" of the obvious negative numbers reported by the news media.

CONCLUSION

I wanted to summarize our efforts at the annual conference for two reasons: First, for those who could not make it, or never go, I want you to see what you are missing by not attending the WFCA conference each year. While there were over 300 registrants, about 50 or

so were fire chiefs of other officials. There are many more than 250 fire commissioners in Washington. I urge those who missed it to find a way to go next year, when I believe it will be held in Pasco. Second, I wanted to thank Brian Snure, all the lawyers of the Chmelik firm and all presenters for their efforts. That included, by the way, another lawyer, Joe Marshall of the well known firm of Williams & Williams, who presented on Friday a segment relative to the public works laws and building fire stations.

We all enjoy lawyer jokes, but sometimes we just want to say we do appreciate the attorneys' efforts to make these ventures a success, even at the expense of their basic law practices, which inevitably suffer during these conferences away from the office. I know that I was tired by Saturday, so I cannot imagine how Brian Snure felt, as he not only presented on Wednesday, Thursday and Friday at the conference, but also he and his father, Clark Snure, delivered their usual private Snure Seminar to a large crowd on Wednesday evening.

So, another great conference! Next month—by the 15th of November—we will return to more scholarly pursuits and stick to articles of a legal nature in the *Firehouse Lawyer*. But for now, let's all be safe and enjoy preparing for the holidays and the ski season. I think we flew back right over Leavenworth and there was snow at about 6,000 feet or less.

DISCLAIMER

The Firehouse Lawyer newsletter is published for educational purposes only. Nothing herein shall create an attorney-client relationship between Joseph F. Quinn and the reader. Those needing legal advice are urged to contact an attorney licensed to practice in their jurisdiction of residence.