



REBECCA OTTO  
STATE AUDITOR

## STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

SUITE 500  
525 PARK STREET  
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)  
(651) 296-4755 (Fax)  
[state.auditor@state.mn.us](mailto:state.auditor@state.mn.us) (E-mail)  
1-800-627-3529 (Relay Service)

January 5, 2011

The Honorable Doug Meyer  
Fire Chief and City of Eitzen Council Member  
P.O. Box 154  
Eitzen, Minnesota 55931

Dear Mr. Meyer:

Thank you for discussing with me issues related to the Eitzen Fire District, also known as the Eitzen Fire Department. As we discussed, the Office of the State Auditor ("OSA") recommends that:

- Fire District funds should be handled, as far as practicable, the same as city and town funds;
- The Fire District's joint powers agreement should be reviewed and updated; and
- The current "Fire Fighters" financial account should be made into the General Fund for the Eitzen Fire Relief Association.

This letter will provide the Fire District with additional information on each of these recommendations in order to bring the Fire District into compliance with Minnesota law and to provide additional controls over Fire District and fundraising funds.

The City of Eitzen ("City"), the towns of Wilmington and Winnebago, Minnesota, and the townships of Waterloo and Union City, Iowa, entered into a joint powers agreement ("Agreement") on June 21, 1976, to provide for the joint purchase and use of fire-fighting equipment.<sup>1</sup> The Agreement created a Joint Advisory Fire Board ("Fire District Board") comprised of one member appointed by each of the governing bodies of the parties to the Agreement and the Fire Chief (or his appointee).<sup>2</sup> A copy of the Agreement is enclosed.

---

<sup>1</sup> See Minn. Stat. § 471.59, subd. 1 (two or more governmental units, including cities, towns, and other political subdivisions of another state, may enter into an agreement to jointly exercise any power similar or common to the contracting parties); Agreement Article I.

<sup>2</sup> Agreement, Article XII. Under the Agreement, the Fire District Board appoints the Fire Chief (Article XIV) and ratifies Relief Association benefit levels (Article XVII).

### **The Handling of Fire District/Department Funds**

Under the Agreement, the parties to the Agreement make payments to the Fire District Treasurer.<sup>3</sup> The Agreement requires the establishment of two funds: the Joint Purchase Fire Fund for the purchase of fire fighting equipment and a Joint Operating Fire Fund for operating expenses, including the storage, maintenance, operation depreciation, and insurance for the jointly-owned Fire Hall and equipment.<sup>4</sup> The Agreement authorizes the Fire District Treasurer to make disbursements from either Fund.<sup>5</sup>

A joint powers entity may disburse public funds.<sup>6</sup> However, under Minnesota law, the disbursement of those funds must “agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement.”<sup>7</sup> Similarly, contracts let and purchases made under the agreement must conform to the requirements applicable to contracts and purchases of any one of the parties to the agreement.<sup>8</sup> Joint powers entities must provide for “[s]trict accountability of all funds” and reports of all receipts and disbursements.<sup>9</sup>

More than one signature is required on checks issued by either Minnesota cities or towns.<sup>10</sup> These statutory requirements reflect an internal control measure designed to provide some assurance that more than one person has reviewed the proposed disbursement. Only the Fire District Treasurer’s signature is required on Fire District checks.

Claims against towns and cities in most circumstances must be paid only after the claims are itemized and approved by the governing body.<sup>11</sup> Neither the Fire District Board nor the governing bodies of the parties to the Agreement approve in advance all claims paid by the Fire District.

---

<sup>3</sup> Agreement, Articles IV and VII. The Agreement contains two Articles designated as “Article VIII” and no Article VII. The first “Article VIII” will be referred to in this letter as “Article VII.”

<sup>4</sup> Agreement, Article IV (Joint Purchase Fire Fund) and Articles VI and VII (Joint Operating Fire Fund).

<sup>5</sup> Agreement, Articles IV (disbursements by the Treasurer for equipment to be made as “ordered” by the parties to the Agreement or their authorized representatives) and VII (disbursements for operations to be made by the Treasurer, with quarterly accounting of receipts and disbursements provided to the Fire District Board and the parties to the Agreement).

<sup>6</sup> See Minn. Stat. § 471.59, subd. 3. As noted on page 3 of the enclosed LMC publication, an “advisory” joint powers board usually requires decisions to be ratified by the parties to the agreement.

<sup>7</sup> See Minn. Stat. § 471.59, subd. 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See, e.g., Minn. Stat. §§ 367.18 (town checks signed by town board chair, clerk, and treasurer); and 412.271, subs. 1 and 3 (city checks signed by mayor, clerk, and treasurer).

<sup>11</sup> See, e.g., Minn. Stat. §§ 367.18 (towns – accounts “audited and allowed” by the town board); 412.271, subd. 1 (cities – claims “audited and allowed” by the city council); and 471.38 (itemization of claims required for cities and towns).

Under Minnesota law, cities and towns must have audits performed and/or file financial statement reporting forms with the OSA. Similarly, a Minnesota law passed in 2008 requires “special districts,” such as the Fire District, to have an audit at least once every five years and to file a financial statement reporting form with the OSA for years when the special district is not audited.<sup>12</sup> A joint powers entity is not subject to the audit and reporting requirements if the entity is included as a component unit in the financial reports of a city or town.<sup>13</sup> It is the OSA’s understanding that the Fire District has not been audited, has not filed reporting forms with the OSA, and has not been included as a component unit in the financial reports of one of the parties to the Agreement.

The OSA recommends that the Fire District handle its funds in the same manner as Minnesota cities and towns, to the extent practicable, as required by Minnesota law. At a minimum, the OSA recommends that:<sup>14</sup>

- At least two signatures should be required on all Fire District checks.<sup>15</sup>
- Claims should be approved in advance of payment by the Fire District Board.<sup>16</sup>
- Audits of Fire District funds should be obtained at least once every five years, and reporting forms should be filed with the OSA for any year in which the Fire District is not audited. Alternatively, the Fire District could be included as a component unit in the financial reports of the City or one of the towns.

### **The Joint Powers Agreement**

According to its terms, the June 21, 1976, Agreement expired in five years, but could be renewed for an equal period of time by the City Council and the Town and Township Boards.<sup>17</sup> Although the Agreement authorized the Fire District Board to make recommendations for amendments and supplements to the Agreement,<sup>18</sup> the OSA

---

<sup>12</sup> See Minn. Stat. §§ 6.465, subd. 3 (definition of “special district”); 6.756, subd. 2(a) and 2(b); and 412.591, subd. 3 (b). If the special district’s total annual revenue is greater than a threshold amount, the special district is required to obtain an annual audit. If the special district’s total annual revenue is less than or equal to the threshold amount, an audit is required at least once every five years. The 2009 and 2008 threshold amounts were \$185,000 and \$187,000, respectively. The 2010 threshold amount will not be known until approximately the end of January 2011. It is the OSA’s understanding that the Fire District’s total annual revenue is less than the threshold amount.

<sup>13</sup> If a joint powers entity is included in a city’s or town’s financial report as a component unit, it would no longer fit the definition of a “special district.” See Minn. Stat. § 6.465, subd. 3.

<sup>14</sup> These recommendations assume the Fire District Board is authorized to approve claims. As discussed later in this letter, the OSA recommends that the Agreement be clarified on this matter.

<sup>15</sup> The OSA recommends that the checks be signed by the Fire District Treasurer and President.

<sup>16</sup> If it is not possible to defer payment of a claim based on contract until the next meeting, the claim should be reviewed and approved after-the-fact at the next Fire District Board meeting. See, e.g., Minn. Stat. § 412.271, subs. 4 and 6 (subdivision allowing for the immediate payment of claims based on contract followed by city council approval applies to independent city boards or commissions).

<sup>17</sup> Agreement, Article XIII.

<sup>18</sup> Agreement, Article XII.

understands that no new agreement has been written and approved by the parties to the Agreement.

Enclosed is a copy of a League of Minnesota Cities' ("LMC") publication on "Ten Things to Watch for When Entering Into Joint Powers Agreements."<sup>19</sup> As noted in the publication, older joint powers agreements may need revision because actual practice no longer follows the terms of the agreements or legal requirements may have changed. The LMC recommends that joint powers agreements be reviewed on a regular basis.<sup>20</sup>

The OSA recommends that the Agreement be reviewed and updated. While the OSA is unable to provide the Fire District with legal advice, the OSA recommends that, at a minimum, the Agreement be amended to:

- Clarify whether the Fire District Board is authorized to approve disbursements from the funds maintained by the Fire District. Alternatively, the Agreement could designate the City or one of the towns as the Fire District's fiscal agent. Under this alternative, the designated City or town would be in charge of the Fire District's funds, and disbursements of the funds would follow the same procedures as any other expenditure made by that entity.
- Require all disbursements to be approved by the Fire District Board (or the governing body of the designated fiscal agent).
- Require more than one signature on all checks disbursing Fire District funds.

### **The "Fire Fighters" Financial Account**

The OSA is aware of a "Fire Fighters" financial account that includes a checking account maintained at Eitzen State Bank. The Fire Chief informed the OSA that the account is comprised of fundraising monies, and is primarily used to buy clothing and to fund special events for the firefighters.<sup>21</sup> Only one signature is required on checks written on the Fire Fighters checking account.

The OSA recommends that the Fire Fighters account become the General Fund of the Eitzen Fire Relief Association ("Fire Relief"). This recommendation is consistent with the Fire Relief's By-Laws, which establish a Special Fund and a General Fund for the Fire Relief.<sup>22</sup> The funds would still be available for any purpose reasonably related to the

---

<sup>19</sup> The publication is also available on the LMC's website, [www.lmc.org](http://www.lmc.org).

<sup>20</sup> The Fire District may want to utilize the contract review service noted on page 5 of the LMC publication.

<sup>21</sup> The Fire Fighters account appears to also be used for other purposes. For example, the OSA was provided with a Fire Fighters check for \$1,320 dated April 9, 2007, signed by the Fire District's Treasurer, and made payable to the Eitzen Fire Relief Association.

<sup>22</sup> See Bylaws of the Eitzen Firemen's Relief Association ("Bylaws"), Article III, section 4, and Article V, section 1. The Fire Relief reports to the OSA that it only maintains a Special Fund. The OSA's recommendation is consistent with the Joint Powers Agreement's requirement that all donations and gifts

The Honorable Doug Meyer  
Eitzen Fire District  
January 5, 2011  
Page 5

welfare of the Fire Relief members, as authorized by the members.<sup>23</sup> However, the funds would be subject to the controls that have been established for the handling of Fire Relief monies.<sup>24</sup>

Further guidance on these issues is available in Statements of Position found on the OSA's website at: <http://www.osa.state.mn.us/default.aspx?page=statements>. Enclosed are copies of the OSA's Statements of Position on 1) Fire Department and Fire Relief Association Fundraisers and Donations; and 2) Fire Departments, Fire Relief Associations and Checking Accounts.

### **Conclusion**

The OSA has provided the Fire District with recommendations to bring the Fire District into compliance with Minnesota law and to provide additional controls over Fire District and fundraising funds. Please provide the OSA with a copy of any revised Joint Powers Agreement within 60 days of adoption.<sup>25</sup> In addition, please notify the OSA when the Fire Fighters account has been brought under the control of the Fire Relief.

If you have any questions about the issues discussed in this letter, please feel free to contact me at 651-297-5853, or via email at [Nancy.Bode@state.mn.us](mailto:Nancy.Bode@state.mn.us).

Sincerely,

*/s/ Nancy J. Bode*

Nancy J. Bode  
Assistant Legal Counsel

Enclosures

---

for fire calls and insurance refunds be assigned to the Fire Relief. *See* Agreement, Article IX. The OSA brought this issue to the Fire Relief's attention in 2007, but the issue has not been resolved.

<sup>23</sup> *See* Bylaws, Article V, section 1. *See also* Minn. Stat. §§ 424A.05; and 424A.06 (fire relief associations may spend general fund monies for any purpose authorized by their bylaws or articles of incorporation).

<sup>24</sup> *See, e.g.*, Bylaws, Article V, section 3 (two signatures required on checks; prior authorization by Fire Relief Board of Trustees required prior to disbursements).

<sup>25</sup> Special districts must file with the OSA, within 60 days of adoption, any document relating to the governance of the district, and any amendments to these documents. *See* Minn. Stat. § 6.756, subd. 1.

The Honorable Doug Meyer  
Eitzen Fire District  
January 5, 2011  
Page 6

cc (without enclosures):

The Honorable Dale Horn, Fire District President and  
Town of Winnebago Board Chair  
Mr. Marvin Ehlers, Fire District Treasurer  
Mr. Mark Staggemeyer, Fire Relief President  
Mr. Tim Paus, Fire Relief Treasurer  
Ms. Carolyn Gaustad, Fire Relief's Auditor  
The Honorable Jeff Adamson, City of Eitzen Mayor  
The Honorable Greg Myhre, Town of Wilmington Board Chair  
Ms. Rose Hennessy Allen, OSA's Pension Director