

Sample Resolution

**RESOLUTION ADOPTING A VOLUNTEER FIREFIGHTER
RECOGNITION BANQUET**

_____ County Fire Protection District No. _____

RESOLUTION NO. _____

WHEREAS, the Board of Fire Commissioners of _____ County Fire Protection District No. _____ is statutorily responsible for adopting proper policy and procedure; and,

WHEREAS, the Board of Fire Commissioners of _____ County Fire Protection District No. _____ recognizes the unselfish and dedicated efforts of the district's volunteer firefighters; and,

WHEREAS, the fire district has the authority, pursuant to Chapter 52.12 RCW, to enter into an agreement to establish and provide a volunteer firefighter recognition banquet;

NOW, THEREFORE BE IT RESOLVED, that _____ County Fire Protection District No. _____ does hereby enter into an agreement to provide an annual banquet for volunteer firefighters as authorized under RCW 52.12.031.

Adopted at a regular meeting of the Board of Fire Commissioners of _____ County Fire Protection District No. _____ on this _____ day of _____, 2_____.

Chairperson

Commissioner

Commissioner

ATTEST:

Secretary



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

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M E M O R A N D U M

June 6, 1994

TO: MORGAN JACOBSON, Assistant Director
Division of Audit

FROM: MARY JO DIAZ *MJD*
Assistant Attorney General

SUBJECT: FIRE DISTRICT ANNUAL VOLUNTEER BANQUET

You have requested the advice of the office concerning the authority of a fire district to provide an annual banquet for volunteer firefighters. Specifically, you have asked:

(1) Does a fire district have authority pursuant to chapter 52.12 RCW to enter into an agreement with a volunteer firefighter association to provide an annual banquet for volunteer firefighters?

Based upon the analysis set forth below, I am of the opinion that the fire commissioners do have such authority, but they must first establish the banquet as a volunteer benefit by resolution.

ANALYSIS

A fire protection district is a political subdivision of the state and is held to be a municipal corporation within the laws and constitution of the state. RCW 52.12.011. As a municipal corporation, a district possesses only those powers which have been expressly granted by statute, are necessarily implied in or incident to the express powers and are essential to the declared purposes and objects of the municipality. Christie v. Port of Olympia, 27 W.2d 534, 179 P.2d 294 (1947); Hite v. Public Utility District No. 2, 112 W.2d 456, 772 P.2d 481 (1989). If there is doubt as to whether the power is granted, it must be denied. King County Water Dist. No. 75 v. Port of Seattle, 63 W.App. 777, 822 P.2d 331 (1992), review denied, 119 W.2d 1002, 832 P.2d 487 (1992).

There is no express statutory authority for fire protection districts to provide for an annual banquet for volunteer firefighters. However, RCW 52.12.021 does grant fire districts the

ATTORNEY GENERAL OF WASHINGTON

Morgan Jacobson

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power "to appoint and employ the necessary officers, agents, and employees . . ." as well as "to do any and all lawful acts required and expedient to carry out the purpose of this title." By recognizing the services provided by the volunteers with an annual banquet, the district may ensure continued participation in the fire protection district by those firefighters. Therefore, the power to provide an annual banquet honoring the volunteer firefighters may be implied or is essential to the declared purposes of the district--the provision of fire prevention and fire suppression services. RCW 52.02.020.

Specifically, it is the board of fire commissioners that manages and conducts the business affairs of the district. RCW 52.14.100. Pursuant to that statute, the board has authority to make and execute all necessary contracts. However, the object of the contract must be one the district is authorized to perform. If the board establishes the annual banquet as a volunteer benefit by resolution, then the board may enter into an agreement with the firefighter association to provide that banquet to the volunteers. The contract should require that the funds be spent on the banquet and cover expenses for the firefighters only, not any other guests.

In conclusion, the fire district does have authority to enter into an agreement with a volunteer firefighters association to provide an annual banquet for volunteers, but the board of commissioners must first establish that volunteer benefit by resolution. The above represents my considered legal judgment on the question presented but is not an opinion of the Attorney General. Please feel free to contact me if you have any additional questions.

dmb

c: Lisa Tagman, 0031



Ken Eikenberry

ATTORNEY GENERAL OF WASHINGTON

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January 5, 1988

Jack F. Roberts
Chairman, Board of Commissioners
Snohomish County Fire Protection
District 25
P.O. Box 5106
Oso, WA 98223

Dear Sir:

Thank you for your recent letter asking several questions about recent communications from the Washington Fire Commissioners Association, which in turn related in part to comments I have made about fire districts and the permissible ways of honoring volunteer fire fighters. I had predicted that the letters would cause at least as much confusion as they cleared up, and it is nice to see predictions come true once in awhile.

The first and general answer is that fire districts should rely for legal advice upon their own legal counsel. We do not have direct authority to advise fire districts or fire district commissioners, and thus any comments I make are informal and unofficial. I also think it is a poor practice for fire districts to try to operate without legal advice, this being just one of many problem areas. Thus, if your district has retained legal counsel, by all means consult with him or her on these issues. If you have not retained counsel, retain one.

Having said that, I will attempt to clarify my earlier comments. The issue is the extent to which a fire district may adopt a policy of honoring volunteer fire fighters. So long as the district adopts its standards in advance (as opposed to making a decision at the end of a period), many possibilities are open, because of the district's inherent authority to compensate fire fighters, including "volunteer" fire fighters. Thus, so long as the policy were established in advance, the district could compensate its employees (including volunteers) by sums of money, by paying certain expenses (such as meals, lodging, or even travel), or by some system of awards or other symbols of recognition.

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Several districts have historically used an annual banquet as their way of honoring volunteers. My understanding is that, historically, most districts have not paid for this banquet with district funds, but rather have used private funds (raised in various ways), and this approach obviously is the safest both legally and politically. In my earlier comments however, I indicated that there was no inherent legal barrier to a district which wished to establish a policy of paying for such a banquet with district funds. Note that the absence of a legal barrier does not mean that such a practice would be a good policy or would be politically acceptable in all districts. As you point out, a banquet can be an expensive proposition for the taxpayers, and commissioners may well decide that, even though it may be legal to hold such a banquet at district expense for policy reasons, they will choose not to do so. As the letter you received from the Association pointed out, a practice of honoring volunteers by lavish banquets or with other expensive items could very well lead to a backlash, either district by district or statewide, leading to legislation. To summarize, a district can adopt a policy (always in advance) of honoring volunteers with banquets at district expense, but the legality of such a practice does not necessarily make it a good idea.

The same principles apply to trophies and other awards. Here again, the most prudent practice undoubtedly is to restrict such things to items of truly nominal value, such as certificates or inexpensive pins. To the extent that the trophies become more expensive, such as the jackets recommended in your district, or watches, or engraved silver platters, these become much more expensive propositions, and raise economic and political problems for the district. Again, there is nothing inherently illegal about giving a \$100 jacket rather than a \$1 certificate, but the political impact is significantly different. As with many other issues, good sense and good judgment are the most important factors in developing a policy.

In closing, I want to make a couple of extra points. First, whenever we were talking about volunteers, one of the issues is whether the volunteers have lost their volunteer status, with related issues concerning the possible taxability of any income or valuable items received in return for their services. I am not addressing those issues in this letter, and the district should carefully consider the possible impact of its policies upon the volunteer status and upon the tax status of district officers and employees.

Second, I have spoken throughout about the adoption of policies. For constitutional reasons, before a district can implement any policy of awards or other compensation for its

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volunteers, it must adopt an appropriate resolution, and it must do so before the volunteers do the work for which they are going to be rewarded. Thus, if the district plans to have a banquet (or to award jackets, or trophies of some other kind) at the end of 1988 for work done during 1988, now is the time to be adopting a resolution to that effect. If a district does so, the legal theory is that the volunteers throughout 1988 will be working not just for whatever small compensation and fringe benefits they are receiving, but also in the expectation that they will receive recognition in the form of a banquet, trophy, etc. at the end of the year. These items thus become matters to which they are legally entitled.

On the other hand, if a district were, say, on December 15, 1987, to decide to honor volunteers for the work done in 1987, never having adopted such a policy before, the volunteers in that district clearly have not been working in anticipation of such reward throughout the year. The recognition is therefore nothing more than a gift, or a form of additional compensation for services already rendered. Both gifts of public money and granting additional compensation for services already rendered are violations of the State Constitution (art. 8, § 7 and art. 2, § 25). Thus, it is important to get the timing for the adoption of your policy right, even though only we lawyers seem to understand why that should make a serious difference.

I hope this clarifies things somewhat, but I fully understand that these are not necessarily easy issues. Again, I would emphasize the need to use good judgment and good political sense as at least as important as your effort to stay within the letter of the law.

Very truly yours,



JAMES K. PHARRIS
Senior Assistant Attorney General
(206) 753-2536

JKP/psb

cc: Lee Reaves, Chief Examiner
Division of Municipal Corporations

✓ Pete Spiller, Executive Director
Washington Association of Fire Commissioners