

To the Residents of Tobyhanna Township:

For the past several months, there have been many statements, questions and concerns regarding the new Tobyhanna Township Fire Ordinance #571 and the Tobyhanna Township Volunteer Fire Company (TTVFC). We, the Board of Supervisors, would like to provide some history ... and explain what the Ordinance actually states about the items most frequently questioned and criticized.

We would also like everyone to know that the ISO Rating for Tobyhanna Township has **NOT** changed since TTVFC has been out of service. ISO Ratings determine how well one's local fire department can protect your community and home. ISO ratings are used by homeowner's insurance companies to set rates. Many people have been blaming recently increased rates for their homeowner's policies on a change in our ISO rating. That is not true. You may want to contact your homeowner's insurance company to find out what caused your increased cost.

HISTORY

Several years ago, the Fire Commission* met with both Fire Companies, Tobyhanna Township Volunteer Fire Company (TTVFC) and Pocono Summit Volunteer Fire Company (PSVFC) regarding a New Memorandum of Understanding (MOU) spelling out what was expected of both Fire Companies, and what was expected and to be paid for by the Township. A draft was completed by both Companies and was awaiting approval when President Ed Tutrone of TTVFC approached the Township Solicitor after a Township meeting and stated that TTVFC will not sign the MOU unless ownership of the Blakeslee Fire Building is signed over to TTVFC. The Blakeslee Fire Building, located on Route 115, is owned and maintained using funds from the Taxpayers of Tobyhanna Township. This ownership demand by President Tutrone was rejected by the Board of Supervisors (BOS).

Since TTVFC refused to participate in the MOU process, the Supervisors asked the Fire Commission to produce a new Fire Ordinance. After several Fire Commission meetings, TTVFC sent a letter dated March 25, 2021 to the Board of Supervisors stating they would only participate in the drafting of a Fire Ordinance with the Board of Supervisors because, in an earlier meeting, President Tutrone and Chief Counterman stated that the Fire Commission has no authority to make changes. After no cooperation and participation from TTVFC,

the Board of Supervisors asked Solicitor Coleman, Tobyhanna Township's lawyer, to meet with both Fire Companies and draft a new Fire Ordinance (in lieu of the MOU) with their input. Solicitor Coleman met several times with both Fire Companies and then submitted a draft Fire Ordinance to the Board of Supervisors. The Board met several more times separately with both Fire Companies, and then received a notification from TTVFC that they would be bringing its attorney to the next Fire Ordinance meeting. PSVFC agreed with the draft Fire Ordinance, but TTVFC was still not in agreement with parts of the Ordinance. After several more meetings, the TTVFC presented its own version of the Fire Ordinance removing most of the certification and taxpayer funding requirements from the original draft. Those are essential items needed for accountability! The Board of Supervisors used some of TTVFC's changes, but not all. Then we placed the required advertising announcing the upcoming meeting to discuss the Fire Ordinance, and placed it on the BOS agenda for a vote.

On Aug 12, 2022, the Solicitor for the Township received a letter from the attorney for TTVFC stating that if the Fire Ordinance "is adopted in its present form the Fire Company will not agree to operate as the officially recognized fire company for the Township."

On Aug 15, 2022, the Fire Ordinance was passed by the Board of Supervisors and took effect within 5 business days. Per the letter submitted by TTVFC on Aug 12, they removed themselves from active Fire Service effective Aug 22, 2022.

LEGAL ACTION

Since TTVFC removed itself from operating in Tobyhanna Township effective Aug 22, 2022, the Township's Solicitor filed an injunction against TTVFC. There were three (3) main parts to the issued injunction:

- 1) Ownership of the Fire Apparatus
- 2) The return of any unused Taxpayer Funds
- 3) Setting a date for TTVFC to vacate both Emergency Buildings owned by the Taxpayers

The Judge read the injunction and sent the case to mediation. A hearing before the mediator produced no agreement, so the case was sent back to the Judge for a court date and hearing. Hearings were held on Dec 10 and Dec 20, 2022 in front of Judge Higgins. We are awaiting his decision.

WHY HAVE A FIRE ORDINANCE?

The Fire Ordinance is about Fire Tax Accountability for services rendered by both Fire Companies. This includes on-time Budget and Certification Requirements for all Fire Equipment and Apparatus. The Fire Ordinance requires all Fire Personnel to have at least the minimum required Certifications for the position they hold within the Fire Company.

This is not government overreach (as claimed by TTVFC). The Board of Supervisors believes these are reasonable requirements of all fire companies and personnel as part of the BOS' fiduciary duty to the Residents of Tobyhanna who pay a Fire Tax as part of the annual property tax.

MISUNDERSTANDINGS? HERE'S THE FACTS

√ **The Board of Supervisors will select the Fire Chiefs - FALSE**

The Fire Company selects its own Chiefs as long as the applicants meet minimum requirements.

Fire Ord §9-10. Election of Officers

(a)The members of the Fire Company are further authorized to elect from its membership such officers as may be provided in the bylaws of the Fire Company. The Board of Supervisors must be provided the qualifications and fire education and training of all members.

The public should be confident knowing that their Fire Chiefs have the experience AND certifications needed to manage a fire scene. Currently, the Assistant Chief, Ed Tutrone, does not have the minimum qualifications (Certifications) required for the position according to not only the Fire Ordinance, but also TTVFC's own Rules and Regulations.

√ **The Fire Company cannot apply for a loan without permission from the Board of Supervisors - BOTH TRUE AND FALSE**

The Fire Company can approve on its own all expenses or loans up to \$10,000. BOS approval is required for expenses over \$10,000.

Fire Ord §9-7. Control of equipment and funds

C. No capital expenditures over \$10,000 shall be made by the fire companies, which shall require its borrowing of money or the pledge of Township credit without the prior written submission and consent of the Board of Supervisors.

TTVFC took out a Fire Company loan in an amount exceeding \$1.3 million for a new Ladder Truck without the approval of the Board of Supervisors.

√ **TTVFC cannot respond to Mutual Aid calls to help other municipalities - FALSE**

The Fire Company may continue handling Mutual Aid calls per the Ordinance

Fire Ord §9-4. Authorized duties and permitted activities of fire company

D. The fire company is generally permitted to respond to calls and provide services to municipalities outside of the Township with which it maintains mutual response agreements.

TTVFC was misleading the public in its statement. They are allowed to respond to Mutual Aid calls.

Not allowed is to enter into a separate contract with another municipality, getting funds from them while using equipment, apparatus, fuel, insurance, etc. that were all paid for with Tobyhanna Township taxpayers' money. TTVFC entered such a contract with Coolbaugh Township, and never reimbursed the Township for the expenses attributed to the calls they answered and were paid directly to them by Coolbaugh.

Fire Ord §9-4. Authorized duties and permitted activities of fire company

H. The fire company may not enter into any agreement with municipalities or fire companies, other than mutual aid contracts, located outside of the

jurisdictional limits of Tobyhanna Township without written permission from the Tobyhanna Township Board of Supervisors.

NOTE: This is one of the conditions in the Ordinance that TTVFC refused to agree to.

√ TTVFC has claimed (and it remains on its website) that if the BOS determines that the Fire Company is not complying or found delinquent, they will "be fined a <sic> \$1000 a day and 30 days in jail until we do comply. Along with that they will appoint their own people to take over." - **FALSE**

The section that contains the penalties refers to the general public and NOT members of the Fire Company.

Fire Ord §9-13. Violations and penalties

Any person who shall violate any provisions of this Chapter 9, §9-6 shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$1,000. ... the defendant may be sentenced and committed to the county prison for a period not exceeding 30 days.

Fire Ord §9-6. Interference with fire-suppression forces.

A. Interference with volunteer fire company operations. In accordance with Pennsylvania Title 18 and this chapter, it shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any volunteer fire company emergency vehicle in any way or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any volunteer fire company operation.

WHAT WE LEARNED IN COURT

1) TTVFC was operating and answering EMS calls from 2018 until recently without a QRS (Quick Response Service) license issued by the PA Dept of Health. This license is required to respond to medical calls. Not having a QRS for more than 4 years put the Township and Residents at high risk for a liability lawsuit. TTVFC answered 124 calls during this time period, according to the Monroe County Control Center. At a recent Township meeting, President

Tutrone blamed a past member for the expired license and that he only recently found out. This past member took the stand at the hearing and testified that President Tutrone did know in 2018 that the QRS license was going to expire and it was noted in Daily Log Report #1136, which TTVFC would not produce.

2) TTVFC has filed incorrect and or incomplete tax forms for several years by not listing all the services paid for by the Taxpayers. They did not include all of the funding of its operations that was paid by the Township with Taxpayer funds, including utilities, gas, snow removal, etc.

3) TTVFC did not and would not produce any National Pro Board Certifications for its current Membership. Several months ago, Battalion 1, a consulting group, was hired by the BOS to survey the Township's Fire Companies' trucks, apparatus, certifications, number of firefighters that worked each fire, etc. The goal of the survey was to learn what the BOS could do to enhance fire services for the Township. PSVFC fully cooperated, answering all questions on the survey. TTVFC would not send all of the information requested, including each member's Certifications, number of fire fighters at each fire, etc. In its email response, the Fire Company stated that they do not keep individual certification records on file. This is in violation of its own procedures and of the Fire Ordinance.

NOTE: This is one of the conditions in the Ordinance that TTVFC refused to agree to.

4) TTVFC did not produce any bank records or cancelled checks to show or prove how much of its own funds (excluding Fire Tax Funds) they put towards the purchase of Fire Apparatus. This information is needed by the Court to determine ownership of the Apparatus.

5) TTVFC failed its annual Fire Relief Audit in 2021 because of incomplete and/or inaccurate record keeping.

6) TTVFC did not produce any documentation or records to prove its claim that they receive only 42% of its income from Taxpayer funds. The Township produced several documents showing all of the Taxpayer funds that went to TTVFC, totaling over 75% of the cost of the trucks (based on estimated value of \$3 million spent on fire trucks in the past 10 years).

IN CONCLUSION ...

Over the past 10 years, TTVFC has received over \$2,500,000 from the Taxpayers of Tobyhanna, plus an additional \$691,774 in Relief Funds from the State of Pennsylvania. The Board of Supervisors hopes the Public can now see how this entire process started, where we are today, and the reasons why there was a need for a new Fire Ordinance.

IT IS ALL ABOUT ACCOUNTABILITY. The BOS has a fiduciary responsibility to be certain all services within its control are operating safely (for employees, volunteers, contractors, and the community), upholding all standards/codes, and are financially prudent.

At a recent Township meeting, the President of TTVFC, Ed Tutrone, was asked, "Is it that the TTFVC could not follow the Fire Ordinance, or was it that the TTFVC just does not want to follow the Fire Ordinance?" Tutrone gave no answer. From what was testified, we learned that TTVFC does not follow all of its own Bylaws and Procedures ... so it makes sense that they would resist agreeing to the new Fire Ordinance, which basically matches TTVFC's own Procedures.

The Board of Supervisors encourages all Residents to read the Fire Ordinance (on Tobyhanna Township's website at <http://bit.ly/fireord>). Then YOU can determine if this Fire Ordinance is government overreach (as claimed by TTVFC) or responsible accountability of Taxpayer Funds used for Fire Protection for the Residents of Tobyhanna Township. The Board of Supervisors will continue to perform its fiduciary responsibilities to the public who elected them, and will continue to provide this Township with the best equipped and certified Emergency Services available.

Tobyhanna Township Board of Supervisors

* Fire Commission – Formed by the BOS approximately 5 years ago to act as a go-between for the Fire Companies and the BOS. The Fire Commission (comprised of 5 people: 2 Supervisors and 3 people from the Township) met with the Fire Companies, learn their needs regarding materials, funds, etc., and then the Commission would go to the BOS with those requests.