

ASSOCIATION OF FIRE DISTRICTS OF THE STATE OF NEW YORK



Creating a Fire District

Steps in becoming or consolidating a Fire District

2018



Fire Districts - approximately 917 statewide – A political subdivision of the state located within one or more towns, with an elected governing body. A fire district is a public corporation established for the purpose of providing fire protection and responding to certain other emergencies. The New York State Constitution (Article X) recognizes that fire districts have certain characteristics of general purpose municipal corporations, such as powers to incur indebtedness and to require the levy of taxes. fire district is almost a completely autonomous political entity; it has its own elected governing body, its own administrative officers, and it must observe its own expenditure limitations. However, it is dependent upon the parent town or towns for its initial creation, extension, and dissolution.

Fire Protection Districts – a geographical area of a town which receives contract fire protection from another fire service entity. A town board can create a fire protection district, consolidate adjoining fire protection districts, alter the boundaries of a fire protection district, or dissolve a fire protection district on its own motion or by petition.

Fire Department - In cities and villages, fire protection is commonly provided by a municipal fire department, composed of career and/or volunteer firefighters.

Fire Companies - Fire companies are subunits of a fire department.

Not-For-Profit Fire Corporations - A special not-for-profit corporation formed to provide fire protection to a fire district, fire protection district or village under contract with the governing body and are under the control of the city, village, fire district or town authorities having control over fire protection in such areas [see Not for Profit Corporation Law §1402]

Joint Fire Districts - Joint fire districts are created by the town board(s) and the board(s) of trustees of a village(s).

Establishing a Fire Protection District

- Town Law Article 11 [Town Law §170]
- Review the area of the Town that is not located within an existing fire district or districts.
- The Town Board may decide to identify more than one fire protection district
- Find a fire protection provider to furnish fire protection, which may be a fire district, village, city or not-for-profit fire corporation
- Develop and execute a contract to provide fire protection within the specified area
 - When it comes to an independent provider such as a NFP, the Town must provide compensation coverage that makes the provider responsible for the safety of the town.
- The Town Board should be concerned with the provider's needs are in providing service to the fire protection district and if the provider is able to provide satisfactory service.
- Fire protection district contracts are normally reviewed annually for renewal.

Establishing a New Fire District According to Statute

Statutory requirements contained in Article 11 of Town Law to form a fire district

- You should seek legal counsel representation to execute the formation of the district
- New district must be OUTSIDE of any Village or City
- The expense of proceedings to form a fire district shall be borne by the Town.
- Any expense incurred by petitioners may be refunded from district funds once established, if a district is not established there can be no refunds.
- Initiation of a Fire District – getting started 2 possible pathways;
 - Path 1 – by petition of the persons who own 50% of the assessed valuation of the real property to be located in the proposed district.
 - Path 2 – Proceedings initiated by motion of the Town Board

- Once this gateway attained – prepare map by licensed engineer or surveyor to be presented with the Petition or motion of the Town Board defining the area of the proposed district.
- Exception: if a fire protection district or fire district contains land within the Adirondack Park, consent from the State Comptroller is required.
- The Town Board shall have commenced proceedings under the State Environmental Quality Review Act (SEQRA)
 - Normally a coordinated review
 - Usually takes approximately 35 days to complete a SEQRA review
 - Process needs to be complete before an order is made establishing the proposed District
- Next Step – give notice of a Public Hearing
 - Publish a Legal Notice one time in newspaper of general circulation in the area or the proposed district.
 - Not less than 10 days and not more than 20 days before the date of the Public Hearing
 - The notice of Public Hearing must be posted on the Town signboard not less than 10 days and not more than 20 days before the date of the Public Hearing or at other location as directed by the Town Board
 - The notice shall state the purpose of the hearing, the time, date and place where the hearing shall be held.
- At the Public Hearing
 - All interested parties may participate
 - Parties outside of the proposed district may express desire to be included in the new district
- Following the Public Hearing, the Town Board must make at least four (4) determinations;
 - 1. Is the petition properly executed and does it contain the signatures of the persons who own 50% of the assessed valuation of the real property to be located in the proposed district
 - 2. Will all of the properties and property owners located within the proposed fire district benefit by its creation
 - 3. Are all the properties and property owners who will benefit from the creation of a fire district be included in it
 - 4. Is it in the public interest to form the fire district
- If 1 and 2 have been met but 3 has only partially been met, a new public hearing shall be scheduled, published, posted and held on less than 15 days or more than 25 days after the first determination.
- If the Town Board finds that all four determinations have been met, it may adopt a resolution establishing a fire district.
 - Following adoption of such resolution the Town Clerk shall file a certified copy of the resolution in the office of the County Clerk in which the district is situated.
 - Upon filing with the County Clerk the resolution becomes presumptive evidence that all proceedings were regular and taken according to law. This presumption becomes final and conclusive unless a proceeding contesting the actions taken by the Town Board including the passage of the resolution is commenced within 30 days of the time of the recording with the County Clerk.
 - Within 10 days of the resolution a certified copy shall filed with the Office of the State Comptroller (OSC) in Albany.
 - At the same time submit a written application for permission to create the new Fire District with OSC.
 - The application shall be signed and sworn to by the Supervisor or other Officer of the Town to include a certified copy of the petition and an itemized state of the existing indebtedness of the Town.
 - Also a statement of the aggregate assessed valuation of the taxable real property located within the proposed district and if a petition was filed a statement of the proportion of the assessed valuation owned by the resident owners who signed the petition.
 - Five days after receiving the application OSC is to notify the Board of Supervisors or the County Legislature that such an application has been received after which this body has 15 days to file an objection.
 - While OSC is waiting for the 15 day objection period to expire, the Comptroller shall determine if the formation of the fire district is in the public's interest
 - The Comptroller must also determine if the cost of creating the district in its operation shall be an undue burden on the real property located within the district.

- Once the 15 day objection period expires, the Comptroller may make an order upon his determination granting or denying the creation of the district
 - The Comptroller must file one copy of his order with his Office and the other in the office of the Town Clerk where the proposed district is located.
- At the next meeting following the receipt of said order from the Comptroller, the Town Clerk shall present same to the Town Board.
- If approved by the State Comptroller the Town Board may adopt an order establishing the fire district.
 - Once the order is made the Town Clerk shall file a certified copy of the order with the County Clerk in which the fire district is located.
 - Once recorded with the County Clerk unless a proceeding to review such a determination to establish a district is brought within 30 days, then no further challenges can be made on the creation of the district.
- Within 10 days after the adoption of the final order by the Town Board, the Town Clerk shall file a certified copy of the order in the Office of the State Comptroller in Albany.

Once the Fire District is Established

- At this point the Town Board shall appoint five (5) fire district commissioners and a treasurer.
 - These persons will hold their respective offices until the 31st day of December next succeeding their appointment.
 - Each person appointed shall be notified by the Town Clerk as of their appointment and the time, date and location of the first meeting, and shall not be held more than 10 days after appointment.
- At the first organizational meeting;
 - The appointed treasurer shall preside until a chairman is chosen.
 - The treasurer is not a voting member of the Board.
 - The Board shall appoint a secretary who will hold office until the 31st day of December following the first election of Fire District Officers.
- The first election of Fire District Officers shall be held on the second Tuesday of December next succeeding the establishment of the Fire District. Thus the appointed commissioners serve one year prior to running for election.
 - At the first election commissioners will be chosen for terms ranging from one year to five years. The person with the most votes receives the five year term and so on.
 - Commissioners shall receive no compensation but a commissioner acting as the secretary may be compensated.
 - Fire District commissioners may not be the treasurer.
 - Fire District commissioners may not be the fire chief or assistant chief of the fire district.
 - At the first meeting
 - the bond of the Treasurer should be established
 - The official newspaper selected
 - A bank account opened and
 - The fire company of the district established
 - Call for nominations from the membership for the offices of Chief and Assistant chief
 - Other organizational matters would include consideration of the budget, securing apparatus and equipment and setting up a financial policy.
 - Fire District Treasurers and Secretaries shall take the constitutional Oath of Office and file same with the Town Clerk.

Establishing a Joint Fire District in Towns and Villages

Statutory requirements include Town Law Article 11A, §189a, 189b & 189c

The Town Board and the Village Board of Trustees may establish a Joint Fire District when it appears to be in the public's best interest, provided that all of the territory in the Joint Fire District is contiguous.

Steps to be taken per Town Law;

1. Board the Town and Village Boards shall hold a joint meeting within the territory of the proposed joint fire district for the purpose of proposing the establishment of the joint district.

2. If, at the joint meeting, it is decided by majority vote of each board to propose a joint fire district, the town and village boards must within thirty (30) days after the joint board meeting hold a joint public hearing.
3. Notice of the hearing must be;
 - a. Published at least once in a newspaper having a general circulation within the town and village.
 - b. Posted in five (5) conspicuous places within the area of the town outside of the village (posting on the district's website would qualify for one of the postings) and;
 - c. Post in five public conspicuous places in the village and;
 - d. Mail notices to members of the town and village boards.
4. The notice and posting must be accomplished at least ten (10) days before the joint public hearing.
 - a. The notice must contain a brief description of the boundaries of the proposed district and of the objects and purposes for which the district is proposed to be established and must specify the date, time and place of the hearing.
5. After the public hearing, if the town and village boards determine that the establishment of a joint fire district is in the best interest (subject to a permissive referendum 30 day notice and waiting period) then, by resolution adopted by a majority of each board, the joint fire district will be established. Upon establishing a joint fire district, the respective boards shall by local law dissolve the existing fire district or protection districts and establish and define the new joint fire district.
6. Once the joint fire district has been established, the property and affairs of the district shall be under the management and control of a board of fire commissioners which may have from three to seven members (normally five). The board of commissioners may be appointed by the Town and Village Boards in a joint session or may be elected in the manner provided in Article 11 § 175 of Town Law. The determination of whether the board of commissioners is appointed or elected is made during the joint board meeting by resolution adopted at the meeting for the establishment of the fire district.
7. What happens to the Apparatus or Buildings?
 Pursuant to Section 189-b. of the Town Law the board of trustees of a village or the commissioners of a fire district, all of the territory of which is embraced within the boundaries of a joint fire district established or extended pursuant to Article 11-A of the Town Law, may by resolution authorize the sale or transfer of a firehouse (including the plot of land on which the building or fire district is situated), fire apparatus and fire equipment owned by such village or by such fire district to said joint fire district with or without consideration and, upon such terms and conditions as to such board of trustees or board of fire commissioners may deem fitting or proper. So basically they can sell or give the assets of the village fire department to the newly formed or expanded joint fire district. If there is some indebtedness typically the newly formed fire district will have a referendum to enter into a bonded indebtedness to pay off whatever is owed on the property, equipment or apparatus to be transferred; if nothing is owed the village often will just transfer the property, equipment or apparatus.

Advantages of Forming a Fire District

- It's in the best interest of the residents to eliminate differing tax rates; rate is based on combined assessed valuation. All residents within the District will pay the same rate.
- Tax levies by the fire district will free up town or village property tax revenues
- Fire protection tax levy no longer applies to town or village real property tax cap
- Consistent and stable budget for the fire district will allow the department to implement long range planning and purchases.
- Eliminates the instability of funding from year to year due to annual negotiations with different jurisdictions which may be financially stressed due to the tax cap.
- Provides transparency as they operate under state laws and regulations for governance under the watchful eye of the Office of the State Comptroller.
- Provides for self governance, positive morale and a focal point of responsibility.
- District is an individual governmental entity, governed by state laws.
- Provides stable governance and management, not subject to the fiscal pressures of others
- Can concentrate on the sole mission the provision of fire protection.
- Village and Town politics removed from fire district governance and operations.
- The State has greater oversight over fire districts unlike village controlled departments or fire protection districts, there is increased accountability. That includes annual audits and a host of regulations laid out in state statute.

- All voters would have greater influence over fire protection spending by electing commissioners and voting on all debt incurred.
- If the Town reduces funding for contracted areas covered by a Village, the Village in turn may reduce service to the Town requiring the Town to find additional funding.
- Exposure for VFBL coverage is transferred to the fire district
- Budget accountability, separate from town or village, taxpayers see where money is going
- Fire Districts may establish taxpayer approved reserve funds.
- Districts save on interest costs by use of reserve funds for large purchases.
- Creates a legal mechanism for residents to participate in capital project referendums
- Creates a legal mechanism for residents to have equitable ownership of fire protection assets for which they fund.
- Operation of Districts is based in Statute, Town Law and General Municipal Law et al, which Boards must follow.
- Fire protection managed by local publicly elected officials who complete specialized training course and concentrate on providing one service to the community.

Negative Aspects of Forming a Fire District:

- *Perceived* loss of control, by Towns that Contract for fire protection.
- Opposition by local elected officials
- Differences in union contracts, wagers, retirement systems or benefits
- Turf wars
- Potential of loss of membership due to consolidation or elimination of station

Consolidation of two existing Fire Districts

General Municipal Law Article 17-A provides a unified process for the consolidation and dissolution of local government entities. The process is applicable to towns, villages, fire and fire protection districts, special improvement districts, other improvement districts created pursuant to Articles 11, 12, 12-a or 13 of Town Law, and other districts created by law. It excludes school districts, city districts, or special purpose districts created by counties under County Law. Under Article 17-A of General Municipal Law there are two different methods for local governments to consider: (1) Board-Initiated or (2) Citizen-Initiated.

The process for either consolidation or dissolution is the same. The following is a brief outline of the processes found in Article 17-A *Article 17-a of the General Municipal Law provides the mechanism for the Board of Fire Commissioners in a fire district to commence a dissolution of the fire district or to work with the governing boards of other districts to commence a consolidation process. The consolidation process would work as follows when Board initiated:*

- *Boards of the participating districts/ local governments adopt a joint consolidation agreement stating the essential terms of the consolidation plan.*
- *Boards make the joint consolidation agreement and a summary thereof available to the public within 5 business days of adoption.*
- *Boards publish the joint consolidation agreement and a summary on district websites (and on town and county websites if available).*
- *Boards publish a descriptive summary of the joint consolidation agreement one time per week for four weeks in the official newspaper and post the same in a public place during that period.*
- *Boards hold public hearing(s) together or separately between 35 and 90 days from the commencement of the process.*
- *Boards publish notice of the public hearing(s) in the official district newspaper at least 10 days but more than 20 days before the hearing and post notice on website, signboards, and submit same to town clerk(s) in the Town(s) in which the districts are located (and county clerk if they choose) for publication on their websites, signboards, bulletin boards, etc.*
- *After the hearing the boards may amend the plan, approve the final plan or reject the plan.*
- *If amended, the boards must perform the process for giving notice of the plan once again.*
- *If rejected the process ends.*
- *The final approved plan must be enacted within 180 days of final public hearing to consider plan.*
- *No voter approval is required (mandatory referendum requirement) for board initiated plans that relates to fire districts (mandatory referendum requirement applies when towns or villages are involved).*
- *Final plan/ joint consolidation agreement goes into effect on the date specified in the agreement/ final plan.*

Clearly, this is a technical and complicated process, but consolidating the two fire districts into one fire district is possible when both boards are in favor of it.

The Department of State also offers a grant program to assist with the local government consolidation projects. I have enclosed a document from its website on the grant program for your review. The grant program assists local governments with the costs that are associated with the process.

All grant opportunities are available at:

https://grantsgateway.ny.gov/IntelliGrants_NYSGG/module/nysgg/goportals.aspx. This online system allows for electronic submission of grant applications. **New York State requires that all applications are submitted through the Grant Opportunity Portal.** The Department of State will not accept applications mailed to the Agency.

BOARD-INITIATED REORGANIZATION

The statutory process, when initiated by the governing body of the participating local government entities, begins with a resolution by the governing bodies endorsing a proposed joint consolidation agreement or dissolution plan.

However, the process of reorganization may start many months before the statutory process begins. With a board initiated reorganization process the board(s) may conduct a study to determine the possible impacts associated with reorganization. As outlined in the previous section, by taking the time to study the impacts of reorganization, both the governing body and the public will be able to evaluate the impacts of reorganization before making the decision to reorganize.

Once a proposed joint consolidation agreement or dissolution plan is adopted by the local government entities involved, the board-initiated consolidation proceeds as follows:

Within 5 business days after the proposed joint consolidation agreement or proposed dissolution plan is adopted

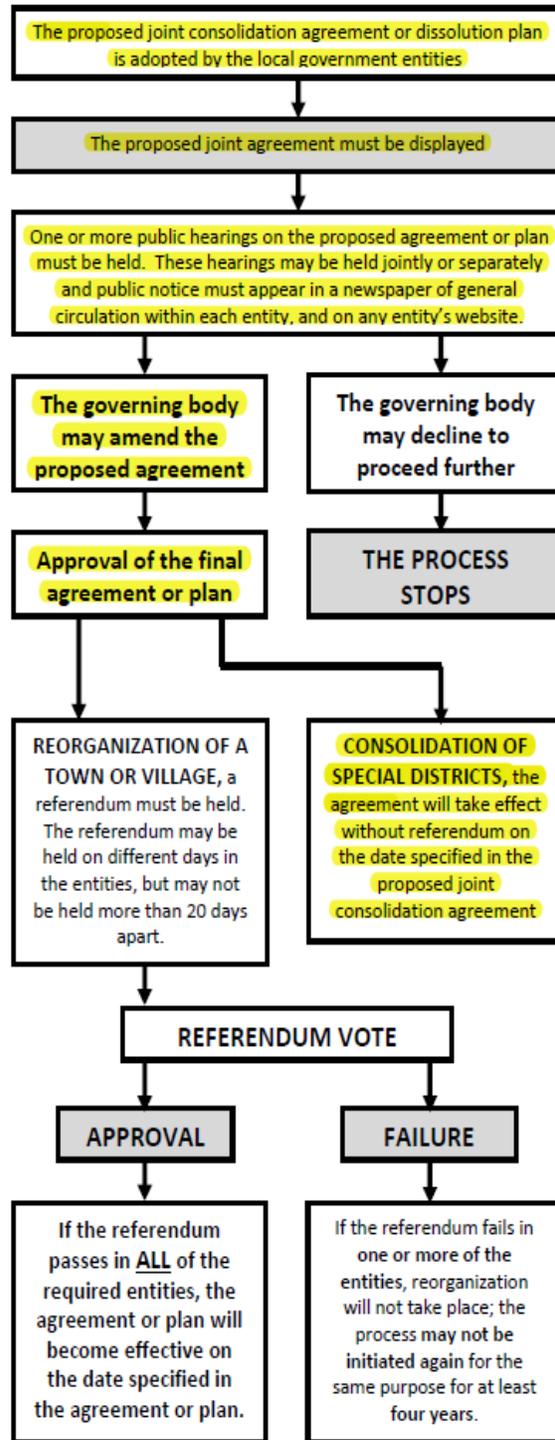
Within 35 to 90 days after the proposed joint consolidation agreement or proposed dissolution plan is adopted.

After the final hearing on the proposed joint consolidation agreement or proposed dissolution.

Within 180 days from the close of the last public hearing.

Within 60 to 90 days, or if a general election falls within such period, the referendum may be held at the general election.

Notice of the referendum is to be published at least once each week for four successive weeks prior to the referendum.



PREPARING FOR CONSOLIDATION OR DISSOLUTION OF A FIRE DISTRICT(S)

By Joseph Frank, Esq.

Reprinted from the October/November 2017 Fire District Affairs Newsletter

The Board of Fire Commissioners in a fire district and the Board of Trustees in a fire company must be prepared to address any movements that are started to consolidate or dissolve the local government structures that support their operation. Many years have passed since Chapter 74 of the Laws of 2009 named by its drafters as the "New N.Y. Government Reorganization and Citizen Empowerment Act" was enacted into law and became effective in March of 2010. The wave of consolidations and dissolutions that were hoped for by the framers of the legislation never occurred. The promise of chapter amendments to improve the format set for consolidation and dissolution of local governments was never delivered upon by the Legislature. In the fire service this new law eventually was referred to as the "Consolidation Law" although it pertains to consolidations and dissolutions. It is important to remember that it provides methods for both consolidating (merging local governments or local government services under a single entity) and dissolving (simply eliminating a local government entity) local government entities and structures.

Chapter 74 is now referred to as Article 17-a of the General Municipal Law. It provides for local governments to be consolidated or dissolved under a unified system by action of the local government's governing board, petition by the registered voters of the local government entity or the county by means of a county master plan to reorganize local governments/ local government services. Voters will be called upon to vote to approve a consolidation or dissolution determination in most instances. Consolidation and dissolution of local government structures is both a legal and political issue, but for purposes of Boards of Fire Commissioners and Boards of Trustees it is important to understand how the process works. If the members of a Board want to consolidate their fire district with another(s) district or receive a voter initiated petition for either objective, the Board members need to have a basic understanding of how the system works.

This is especially important today as the fiscal pressures on local governments and on providing fire protection and other emergency services in particular are causing some communities to explore reorganizations of their local governments in an effort to reduce costs and improve services. We are now several years into a system of paying for local government services under the burden of a real property tax cap applied to the budgeting process. This has also caused some towns and villages to look at reorganizations that shift the cost of financing fire protection and related emergency services off of their budget spreadsheet and their real property tax cap.

Of course, when those reorganizations involve the formation of a new joint fire district the procedure for forming the new joint district is found in Article 11-a of the Town Law. This article focuses on consolidations and dissolutions of local government structures under Article 17-a of the General Municipal Law.

In this process Board members have two roles. One is as elected officials of their fire districts with a duty to perform their role under state law. Board members in fire departments and companies perform their duties in accordance with the bylaws and rules of the fire department/company (Board of Trustees). All of these Board members are also residents and presumably registered voters in their communities and in that capacity entitled to have opinions about what the right course is for their community. When the consolidation and dissolution process has commenced, it is important for Board members to separate these roles and perform their duties as members of their respective boards

It is also important to remember that the resources of the fire district and the fire department are to be used to operate those entities for the public good and not to be used to advance political positions once a consolidation or dissolution process has been commenced. These resources can be used to set up any public elections that must be held and to keep the community advised of developments in the process, but they cannot be used to advance a position for or against a proposition that will be submitted to the voters.

However, in order to know how to address initiatives advanced under Article 17-a of the General Municipal Law, the Board members need to understand the duties and responsibilities that the new law assigns to them.

Consolidation or Dissolution Commenced by the County as Part of a County Master Plan

The role of your Board under a consolidation or dissolution commenced under Article 17-a of the General Municipal Law by the county as part of a countywide master plan would seem to be rather limited. The master plan will be developed by the county legislative body and submitted to the county voters at a general election. Thus, the county executive and legislative body will design the master plan and the voters will decide whether or not it will be approved.

We would hope that before any such master plan is proposed that the county officials would reach out to boards and officials of the fire districts and fire departments impacted in order to receive their input into the master plan proposed, but there is no provision in Article 17-a of the General Municipal Law that requires them to do so.

Board members and officials of the fire districts and fire departments impacted should certainly reach out to their elected representative(s) of that county legislative body that will approve the master plan in order to provide their input. They should also direct their firefighters and employees to make their voices heard on the topic.

Board members and officials of the fire districts and fire departments impacted should certainly reach out to their communities and provide them with information on the effects of such a consolidation or dissolution provided for in a countywide master plan.

However, they must stop short when it comes to using the resources of the fire district or fire department to advance a political position for or against the master plan.

Presumably, the fire district and fire department will be approached for information and records that will be needed by the county in order to develop its master plan. The law does not give your Board discretion as far as whether or not to provide the material. The material can be demanded through the FOIL process, and thus, it would appear to be better to cooperate in the production of the material needed to make an informed choice. There is also an argument for being cooperative in the sense that it is more likely to help your officials gain a seat at the table of public discussion with the county as it develops its master plan.

Fire districts and fire departments also need to reassess their involvement in cooperative programs at the county level that relate to public safety. Coordination of fire service activities in conjunction with your county government where the fire service is a participating partner will make it less likely that a county master plan will involve restructuring the fire service. Coordination of services and striving to provide all areas of the county with effective emergency services are the best methods that the fire service has to prevent this type of plan from moving forward without its input. There is no question that there are times in politics where officials at the county level will just decide on a policy to centralize and take over fire service operations at the county level regardless of the work and input of the fire service in the county, but the best way to avoid that type of movement to work together as fire districts and fire departments to continue to deliver quality inexpensive services to your community

Consolidation or Dissolution Commenced by Way of Citizen/ Registered Voter Petition

Under Article 17-a of the General Municipal Law a consolidation or dissolution process may be commenced by the citizens in your community through a petition process. The petition is filed with the town clerk and must be signed by 10% of registered voters or 5000 registered voters whichever is less (if there are 500 or fewer voters in district; the process will require signatures of 20% of the voters). The statutory scheme provides a format for the petition.

The New York State Department of State Division of Local Government Services provides materials on its website relative to local government reorganization at www.dos.ny.gov/lg/lge/dissolution.html. According to a list provided on its website the Division lists seventeen (17) villages that have dissolved and one village that has been created since Article 17-a of the General Municipal Law went into effect. It appears the one new village will also be dissolving. Of course, villages are more vulnerable to dissolution than fire districts because they provide basic services that are also provided at the town and county level. Generally, fire service is only provided at one level of government and eliminating a fire district requires a new government structure to be put in place to deliver the

services. Those website materials are available to assist citizen voters seeking to file a petition under Article 17-a of the General Municipal Law.

Yet, for fire district purposes it is important to recognize that the Board of Fire Commissioners does not pass on the sufficiency of a consolidation or dissolution petition. That task is assigned to the town clerk.

No role is assigned to the fire department. In a fire district all of the work will be done at the district level once the petition is approved by the town clerk. In a fire protection district the work will be done by the local governmental entities that contract with the fire department.

It is also important to recognize the inherent difference between a consolidation and a dissolution petition. A consolidation petition will mean that there will be parallel processes that are commenced in the various districts named to take part in the consolidation. If the voters vote "no" with regard to the consolidation petition at the election held in one of the districts listed in the petition, the petition fails for all.

On the other hand, if the petition relates to a dissolution only the district listed will matter. Once the petition is filed and the Board of Fire Commissioners is placed on notice of the petition and its approval by the town clerk, the Board must take certain steps. Of course, if the town clerk rejects the petition, no action is required by the Board.

The following are the steps the Board must take when the town clerk approves the petition and submits it to the Board of Fire Commissioners for action:

If approved by Town Clerk(s), the governing board of the entity to be consolidated or dissolved has 30 days to adopt a resolution setting the time and place for conduct of a mandatory referendum

- Election date must be 60 to 90 days from date of that resolution
- Election date must be on a Tuesday non holiday (Town Law §179 requirement for fire district special elections)
- Two or more units consolidating; elections cannot be more than
- 20 days apart in each unit to be consolidated
- Notice of election must be published in newspaper once per week for 4 consecutive weeks (also website, signboard, town clerk etc.)
- Question on ballot is simple "yes" or "no" on consolidation or dissolution
- Certificate of canvass (result) must be filed with district clerk, Secretary of State (NYS) and County Clerk
- If voters reject the consolidation or dissolution, there is a 4 year moratorium on a new submittal
- If approved, the governing board(s) must meet within 30 days to start the process of development of a reorganization plan
- Within 180 days of date of meeting the board must approve a reorganization plan
- Within five (5) business days of approving the plan it must be available to the public at the entity's clerk's office, on the entity website, and a summary of the plan must be published in the newspaper once per week for 4 consecutive weeks
- Governing board must hold public hearing(s) on the plan 35 to 90 days after it was approved
- Governing board must approve final plan within 60 days of last such hearing
- Make final plan available at entity office and on website
- Registered voters have 45 days to file petition to challenge the final plan
- Petition must have 25% of registered voters or 15,000 signatures whichever less
- If a proper petition is filed, another mandatory referendum must be held to determine if the final plan is approved
- If the governing board fails to act in this process and meet deadlines a CPLR Article 78 proceeding can be brought by petitioners to force action and appoint a court selected monitor

This is the basic process that the Board of Fire Commissioners will follow if a valid petition is filed with the town clerk and the voters vote to approve it at the mandatory referendum. The Board must take these steps. It does not have discretion in the process. It has a role to perform in the process even when that role requires the Board to design the new organizational and operational structure that will effectively eliminate the fire district and the Board of Fire Commissioners.

Again, we cannot emphasize enough that while district funds may be used to perform the duties that are assigned by statute to the Board in this process (meetings, hearings, elections, development of plans, etc.), the Board cannot spend district funds on a campaign to tell voters how to vote on the proposition or suggesting that voters reject the re-organizational plan. Funds can be used to publicize the process and keep the voters and residents informed throughout every stage of the process, but they cannot be used to advocate voting for or against a proposition.

Consolidation or Dissolution Commenced by the Governing Board (Boards of Fire Commissioners)

Article 17-a of the General Municipal Law also provides a mechanism for the Board of Fire Commissioners in a fire district to commence a dissolution of the fire district or to work with the governing boards of other districts to commence a consolidation process. The consolidation process would work as follows when board initiated: • Boards of the participating districts/ local governments adopt a joint consolidation agreement stating the essential terms of the consolidation plan

- Boards make the joint consolidation agreement and a summary thereof available to the public within 5 business days of adoption.
- Boards publish the joint consolidation agreement and a summary on district websites (and on town and county websites if available).
- Boards publish a descriptive summary of the joint consolidation agreement one time per week for four weeks in the official newspaper and post the same in a public place during that period.
- Boards to hold public hearing(s) together or separately between 35 and 90 days from the commencement of the process.
- Boards to publish notice of the public hearing(s) in the official district newspaper at least 10 but more than 20 days before the hearing and post notice on website, signboards, and submit same to town clerk (and county clerk if they choose) for publication on their websites, signboards, bulletin boards, etc.
- After the hearing the boards may amend the plan, approve the final plan or reject the plan.
- If amended, the boards must perform the process for giving notice of the plan once again.
- If rejected the process ends.
- Final approved plan must be enacted within 180 days of final hearing to consider plan.
- No voter approval (mandatory referendum requirement) for board initiated plan that relates to fire districts (mandatory referendum requirement applies when towns or villages are involved).
- Final plan/ joint consolidation agreement goes into effect on the date specified in the agreement/ final plan.

The Board initiated dissolution process proceeds along a similar track as the consolidation process with the exception that there are no partner districts and boards. It is simply the single Board of Fire Commissioners for the district that initiates a plan, puts the public on notice of the plan, holds hearings and makes a final determination. Again no voter approval is required for a fire district Board of Fire Commissioners initiated dissolution plan. The fire district is essentially dissolved at the end of the public hearing and Board determination process based upon the timetable set in the final approved plan for dissolution.

Summary

Article 17-a of the General Municipal Law imposes significant duties and responsibilities upon Boards of Fire Commissioners in the context of the consolidation and dissolution process. Despite the personal preferences of the Board, when it comes to a County master plan the Board has no real role. When it comes to a voter initiated petition process, again it is the voters who get to petition and decide and the Board is simply given the role of planning for its own and the fire district's demise.

On the other hand, when it comes to a Board initiated consolidation or dissolution the Board is given incredible power and authority. Subject only to publication requirements and the holding of hearings it can consolidate or dissolve the fire district at its pleasure. Consolidation does mean that the Board needs at least one partner district or entity, but the Board has incredible control.

It is interesting that the fire service has focused on the voter initiative and county master plan aspects of this legislation as the main dangers to the maintenance of current structures. However, it is important to remember that when it comes to voter initiatives and county master plans the local volunteer fire departments at least can use its voter base and campaign among its voters to have a voice in the process.

When it comes to Board of Fire Commissioners initiated consolidation or dissolution, there are no votes beyond the Board of Fire Commissioners' votes. If a sufficient number of fire commissioners in favor of consolidation or dissolution are elected in a fire district, the desires of the local fire department may not matter. The fire department's survival as the fire department in your community may not be considered as an issue each time you go to the polls to vote for a fire commissioner in December, but maybe it should.

RESOURCES

Download Available At: (copy and paste into your browser):

"How to" Consolidate Fire Protection in Fire Districts, Fire Protection Districts and Villages

www.dos.ny.gov/LG/publications/Fire_District_Consolidation.doc

Fire District Consolidation – New York State Department of State

https://www.dos.ny.gov/lg/publications/Fire_District_Consolidation_Brochure.pdf

Organizing for Fire Protection

http://www.gflrpc.org/uploads/3/1/9/1/31916115/fire_protection_nys_dos.pdf

North East Joint Fire District Evaluation of Operations Review of Current Operations and Recommendations for Change

<http://www.nejfd.org/files/news/292/CGR%20Study%20072215%20Final%20Approved%20Report.pdf>

Fire District Accounting and Reporting Manual (resource for Developing a Fire District Budget)

http://www.osc.state.ny.us/localgov/pubs/arm_fds.pdf