

The COMMUNIQUE

SUMMER 2013

A Publication of the Oregon Fire District Directors Association

DPSST

UPDATES ON **BUDGET**
AND **TRAINING**

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Communications
under the law**

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A publication of the Oregon Fire District Directors Association.

OREGON FIRE SERVICE CENTER
1284 Court Street NE
Salem, OR 97301
800-223-9708 • 503-378-0896
Fax: 503-364-9919
www.ofdda.com

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Roy Palmer (13)
President
CALAPOOIA RFPD

—OFDDA STAFF—
Genoa Ingram
Executive Director
PH: 503-378-0896 • F: 503-364-9919
genoa@ofdda.com

ADMINISTRATIVE SERVICES
Jessica Carpenter
PH: 503-378-0896 • F: 503-364-9919
jessica@ofdda.com

CONTRIBUTING WRITERS
Eriks Gabliks
Frank Stratton
David Sellers
Mark Kreutzer
Lauren Sommers
Carolyn Connelly



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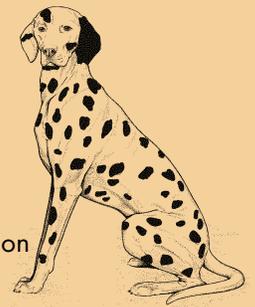
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Ken Raddle

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2013 BOARD OF DIRECTORS

ROY PALMER..... (13)

PRESIDENT
CALAPOOIA RFPD
250 S STATE ST.
SUTHERLIN, OR 97479
PH: 541-673-2100 • C: 541-580-8133
F: 541-672-8913

DON TROTTER..... (13)

1st VICE PRESIDENT
CLACKAMAS FIRE DISTRICT #1
11300 SE FULLER RD.
MILWAUKIE, OR 97222
PH: 503-659-5678
dstrotter@msn.com

DARRELL KING (13)

SECOND VICE PRESIDENT
CHARLESTON FIRE DISTRICT
91168 CAPE ARAGO HWY
COOS BAY, OR 97420
H: 541-888-3863 ¶C: 541-297-0408
DarrellEileen@frontier.com

BOB REEVES (13)

IMMEDIATE PAST PRESIDENT
HOODLAND FIRE DISTRICT #74
69634 E HWY 26
WELCHES, OR 97067
H: 503-622-3816 • C: 503-956-0801
F: 503-622-3125
oldreeves@msn.com

MARK KRUEZTER..... (13)

DIRECTOR – POSITION #4
COLUMBIA RIVER FIRE & RESCUE
270 COLUMBIA BLVD.
ST. HELENS, OR 97051
H503-366-7854 • C: 503-475-5496
mkreutzer@ados.net

ELDON MARCUM..... (14)

DIRECTOR – POSITION #2
STANFIELD RFPD
33101 STAGE GULCH RD.
STANFIELD, OR 97875
H; 541-449-3723
C: 541-571-1537
emarcum@msn.com

DENNIS ROGERS (13)

DIRECTOR, POSITION #5
SHERIDAN FIRE DISTRICT
24700 SW ROGERS ROAD
SHERIDAN, OR 97378
H: 971-240-4738 • C: 971-241-7138
ddrogers@onlinenw.com

DON THOMPSON..... (14)

DIRECTOR – POSITION #3
NORTHBAY RFPD
66341 NORTH BAY DRIVE
NORTH BEND, OR 07459
H: 541-756-0681 ¶C: 541-404-7180
F: 541-756-7979
don@dwfinc.us

CAROL SMITH (13)

DIRECTOR – POSITION #6
NORTH LINCOLN FIRE & RESCUE
PO BOX 200
LINCOLN CITY, OR 97367
W: 541-996-2233 • H: 541-994-3837
csboots@hotmail.com

STAFF

GENOA INGRAM

EXECUTIVE DIRECTOR
PH: 503 378-0896
TF: 800-223-9708 • F: 503-364-9919
genoa@ofdda.com

JESSICA CARPENTER

DIRECTOR OF OPERATIONS
PH: 503 378-0896
TF: 800-223-9708
F: 503-364-9919
jessica@ofdda.com

LAUREAL WILLIAMS

LOSAP
PH: 503-378-0896 • F: 503-364-9919
Laureal@ofdda.com

KEN JONES, LEGAL COUNSEL

SPEER HOYT JONES et al. PC
975 OAK ST SUITE 700
EUGENE OR 97401
W: 541-485-5151 • F: 541-485-5168
jkj@speerhojt.com

On Task and On Track *By Roy Palmer, 2013 OFDDA President*



Mid-way through the year, I am happy to report that OFDDA is on task and on track. In May I attended the OFCA Conference at Eagle Crest and was pleased by the spirit of camaraderie and cooperation expressed by the Chiefs; and with their support of OFDDA. The two associations are working closer than ever before, brought about largely due to our combined efforts before the Oregon legislature. OFCA, along with our other partners, continues to be extremely supportive of the upcoming First Annual Fire Service Conference in November, which is shaping up nicely.

Training for Directors will be offered in the areas of local budgeting law, employer/employee relations and the impact of new health care reforms on reimbursements, to name a few. In response to requests from rural Chiefs, OSHA training and the Chief's Toolbox will also be offered. The conference committee continues to work diligently to make this conference an excellent training opportunity for all attendees.

In the Spring edition of the Communiqué, I reported that the Fire Insurance Premium Tax (which represents 66 percent of the budget for the Office of State Fire Marshal along with DPSST's mobile training unit and other crucial programs) was expected to pass, although there were some negotiations to be held. I am happy to report that HB 2084 did indeed pass both houses of the legislature and was signed by the Governor on May 22. Following its passage, the OSFM telephoned OFDDA to thank us for our strong support.

The extension of the 75¢ tax to support 9-1-1 services is currently at a standstill in the Ways and Means committee. With the tax scheduled to sunset on December 1, 2013, the main point

of contention between telephone carriers and 9-1-1 supporters is whether to collect the tax on pre-paid phones at the time of purchase or through a formula based on volume. Currently, pre-paid phones do not pay the tax even though they are capable of accessing 9-1-1. As the number of land lines decreases in favor of cellular phones, including pre-paid devices, revenues to support 9-1-1 continue to shrink. At last report, the current 75¢ tax covers only 23 per cent of the cost to operate the 9-1-1 system, leaving fire districts and other local government entities to pick up the rest. As of this writing, negotiations are ongoing and we consider this bill a priority.

On May 28, the Speaker of the House announced that the requirement for committees to provide 48 hours notice prior to hearings was suspended. The legislature is now on 24 hour notice in preparation of concluding by the end of June. We feel that we have had some great successes in this legislative session.

Thank you again for the opportunity to serve as your President.

OVFA - NIKE EXECUTIVE FEATURED AT CONFERENCE VOLUNTEERS' CORNER



By David Sellers, OVFA President and volunteer with Nestucca Fire and Rescue

I want to personally invite your department to send as many representatives as you can to the 55th Annual

Training Conference sponsored by the Oregon Volunteer Firefighters Association and hosted by The Volunteer Firefighters Association (Boring/Clackamas), Boring Fire District #59, and Clackamas Fire District #1. This will be only the second time in many years that the Conference is in the metro area bringing many opportunities with light rail and shopping malls close by. Bring your family to enjoy attractions in the area such as shopping, movie theaters, the Clackamas Aquatic Center, Portland Zoo, OMSI, and many other exciting opportunities. Come early or plan to stay an extra day to enjoy all this area has to offer.

The OVFA Conference Committee and our host department have been working hard to put together a high quality conference of exciting classes that could make this one of the best ever. Classes this year include a water rescue class that lets attendees jump into the mighty Clackamas River and be rescued, an MCI class that will explore inside what took place at the Clackamas Town Center shooting incident and the tour bus crash in Eastern Oregon, along with our Extrication Classes and Rope Rescue that are always favorites. As always, we offer several options for classes including one, two, and four-day classes. If you can't make it for the full conference, consider joining us for a one or two-day class.

We are pleased to announce that Mike Yonker, Vice President of Nike Innovation will be our Keynote Speaker at the Friday night banquet. Mike joined Nike as the

Senior Director of Strategy/Finance, Footwear in 2007 to help optimize product creation, supply chain management and contract manufacturing operations to improve margin performance. In April 2011, he was promoted to Vice President, Nike Innovation with responsibility for footwear, apparel and equipment across design, and engineering, advanced materials, sustainability and sports research. We are confident that Mike will provide a sensational keynote that all that attends will benefit from. Not a volunteer firefighter? Consider joining us for the banquet Friday night to support the OVFA and enjoy our special Keynote. Contact our staff at 503-378-0896 to purchase banquet tickets. For more information on Conference details and to register, go to www.ovfa.org.

I am really looking forward to seeing each and every one of you at conference again this year!!



No Rate Increase for Fire Districts Participating in SDAO's Health Insurance Program

By Frank Stratton, Executive Director, SDAO

SDAO is pleased to announce that for the second year in a row fire district members will not have an increase to their health insurance rates. This has been a significant benefit to members as they have struggled with tight budgets and falling revenue.

So what does the future hold as Oregon launches the federally mandated health insurance exchange in January 1, 2014? Unfortunately it is still too early to be absolutely sure, but the pieces are starting to fall into place.

Following are some of the answers we are sure about:

- The SDAO employee benefit program will continue to offer the same medical options on and after 1/1/14 and the start of Cover Oregon.
- No entity has to obtain health coverage through Cover Oregon.
- Health insurance companies participating in the Cover Oregon exchange must file their plan designs and rates by 4/30/13. Until those plans and rates are approved we do not know the plan designs or the costs that will be available in Cover Oregon.
- We do not know yet how seasonal employees should be treated for health insurance.

- We do know that employees working 30 hours per week are considered full-time and must be included in the health plan.
- We do not know what the delayed (until late summer or early fall) letter notifying employees of the exchange is supposed to say.
- We do know that any discrimination like different premium payment methods for different people will not be tolerated and will subject a district to a \$100 per day fine.

The bottom line is that the ACA and the Cover Oregon exchange are evolving and many rules and regulations are yet to be clarified. Please be assured, however, that we will be monitoring the evolution daily and will keep members as informed as possible. If you have any questions, feel free to contact Chet Weichman at 800-599-2387 or chet@centuryins.com.



Report from Washington, D.C.

By Mark Kreutzer, NAEFO President



I recently attended the Congressional Fire Institute in Washington D.C. May 7-10. While back there I was able to meet with congressional members. We discussed the importance of full funding of the FIRE and SAFER Grants. It was important that they heard actual reports of local Fire Districts that received a grant that made a significant impact on their abilities to provide emergency services. I encourage your Districts to contact your state organizations when you receive a SAFER or FIRE Grant, and reinforce their impact it has on your ability to provide

critical services. This information should be relayed to your state's elected officials and your elected officials in Washington D.C. to show the importance of these grant programs.

We also discussed full funding for the USFA. The classes sponsored by the USFA are an important educational element to the Fire Service. The Volunteer Incentive Initiative and Fire Sprinkler Incentive was also discussed.

The CFSI dinner was well attended and the keynote speaker was Vice President Joe Biden. The Vice President has always been a champion of the fire service, and still maintains that passion today.

I would like to thank Eriks Gablicks, the Oregon DPSST Director, for donating a ticket so I could to attend the dinner.

I would like to encourage all elected officials to engage with their Fire Chiefs. It is vitally important that we are not only informed of local issues but also city, county, state

and federal issues that may impact our Fire Districts. Sit down with your Fire Chief and find out what is happening. Talk with neighboring fire districts and cities to see the similarities that the Fire Service faces today and how working together may be able to solve or minimize the impact.

The 2013 conference speakers are confirmed. Jack Snook will discuss the "New Now". Bill Webb will update the goings on in Washington D.C., and Mark Stevens will update us on the Affordable Health Care Act and the impact on Fire Service EMS. The date of the conference is Sept. 23-24 in Las Vegas, Nevada. Registration will be available online at www.naefo.org in the near future.

I encourage all elected fire officials to become a member of NAEFO. It is vital that as the representatives of our Districts, that we have a unified voice to better pursue the issues and needs of the Fire Service.

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"Loyal to Our Duty"

Budget & Training Updates

By Eriks Gabliks, Director

DPSST Update: IFSTA Essentials 6th Ed

DPSST recently mailed IFSTA Essentials 6th Edition Instructor kits to all fire agencies in Oregon. We have received a number of calls that the instructor disk is missing Chapter 6. DPSST contacted IFSTA and they have indicated that a production error resulted in Chapter 6 being embedded within Chapter 5 (within the PowerPoint Presentation). It was a glitch and it is an inconvenience but the entire program is on the disk-just in another section. For further clarification of this issue, feel free to contact Captain Mark Ayers, DPSST Fire Training Supervisor at mark.ayers@state.or.us or (503)378-2726.

SEQUESTRATION BUDGET CUTS WILL NOT IMPACT CURRENT 2012 ASSISTANCE TO FIREFIGHTER GRANT (AFG) APPLICATIONS OR AWARDS

Current 2012 awards and those issued in earlier years for the AFG, Staffing for Adequate Fire and Emergency Response (SAFER), and Fire Prevention and Safety Grant Programs will NOT be impacted by the anticipated sequestration budget cuts. In other words, the budget cuts will not impact the funding of AFG awards EMW-2012-XX, and earlier years. Furthermore, AFG applications now under consideration for award will not be affected by these cuts. However, we encourage all grantees to begin procurement procedures and spend their awarded funds in a timely manner. In his March 4, 2013, letter, David J. Kaufman, the Grant Programs Directorate's (GPD) Acting Assistant Administrator, stated that the sequestration budget cuts will affect FY 2013 grants but will not affect grants awarded in FY 2012 or previous fiscal years. The sequestration budget cuts will likely affect FY 2013 funding levels for all GPD grants, including AFG, subject to FEMA's final FY 2013 appropriation. But current AFG awards and applications now under consideration for award will not be affected by these cuts.

BPSST Fire Policy Committee Meeting Recap

The Fire Policy Committee of the Board on Public Safety Standards and Training met on February 27, 2013. Below is a recap of their actions. The FPC's next meeting is scheduled for May 22, 2013 at DPSST.

Agenda items of Interest:

- Revisions to OAR 259-009-0062 - NFPA 1003 Standard for Airport Fire Fighter Professional Qualifications
 - Approved to move forward for public comment
- Revocation/Denial Case Review for a firefighter from Jackson County
 - Fire Policy Committee voted not to revoke certification as incident occurred when person was in college, he took responsibility for his actions, has had no repeat incidents, good work history.

DPSST Fire Certification Task Forces Ready to Meet

DPSST has the following DPSST task forces scheduled to meet over the next two months to update current training and certification standards in place. and is looking for interested participants:

- NFPA 1035 - Standard for Fire and Life Safety Educator,
- NFPA Public Information Officer and Juvenile Firesetter, 2010 Edition
- Oregon Standard - Maritime Fire Service Operator
- Oregon Standard - Urban Search and Rescue

DPSST has been directed by our Fire Policy Committee to organize the task forces and review the standards and make recommendations that may impact Oregon Administrative Rules and the Oregon fire service. Additional information will be sent out on the Fire Bulletin listserve as the meetings are held and suggestions are made.

Free Web-Based Training for Mental Health Professionals Serving Firefighters

On March 1, 2013, the National Fallen Firefighters Foundation (NFFF) unveiled a comprehensive program and new approach to mental and behavioral health in the fire service. NFFF staff worked with the Medical University of South Carolina staff to prepare Web-based training program to train mental health professionals that are, or will be, serving career and volunteer fire service personnel. This program, called Helping-Heroes, is one of a number that have been created over the past five years by the NFFF in partnership with various national fire service organizations, with the assistance of the National Center for Posttraumatic Stress Disorder (NCPTSD), the National Crime Victims Research and Treatment Center (NCVRTC), and others.

Helping-Heroes provides a web-based (open access) training package designed to run on all popular software and hardware platforms. The program is divided into 10 training modules requiring approximately one hour each to complete, and an 11th component that will serve as a session-by-session toolkit guide. Helping-Heroes will reach the full spectrum of providers who now serve or may be called upon to serve firefighters and their families, and to provide them with easily accessible instruction that will enable them to apply the very best evidence-based techniques to the issues their fire service clients present. This training program is available without cost to the learner. Funding for Helping-Heroes was provided through DHS/FEMA's Grant Program Directorate for Assistance to Firefighters Grant Program - Fire Prevention and Safety Grants. This NFFF project, and the FREE web-based training tool (Helping-Heroes) for Mental Health Professionals serving Firefighters, were completed last week and are available online through the Everyone Goes Home website at <http://fhsi13.everyonegoeshome.com/>

2013 International Fire/EMS Safety and Health Week

The International Association of Fire Chiefs (IAFC) and the National Volunteer Fire Council (NVFC) are pleased to announce that the 2013 International Fire/EMS Safety and Health Week will be held the week of June 16-22, 2013. As in past years, Safety and Health Week 2013 will be a collaborative effort of the fire and emergency service involving the major organizations as part of the grassroots effort to promote the event and have a positive impact on all fire/EMS personnel. We invite you to participate again this year because your involvement is critical to Safety and Health Week's success. The theme for 2013, Saving Our Own: An Inside Job- This year's effort will capture the importance of responders looking out for their own and each other's mental and physical well-being. This year's tag line, Saving Our Own...An Inside Job, reflects the focus on the theme of behavioral health and the understanding that the most important factor in improving responder health and safety is other responders.



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Preserving Attorney-Client Communication – Under the Public Records Law

By Lauren A. Sommers, Local Government Law Group, PC

Districts often choose to task their attorney with overseeing investigations of complaints against the District and personnel investigations. This model allows the attorney to keep an eye on any legal issues related to the investigation and, where the investigator is acting at the direction of the attorney, ensures that investigation materials and the investigator's conclusions are attorney-client privileged documents that will remain confidential. At least that is the way things used to work. Nowadays Districts have to be a little more careful with their public statements if they want to ensure that investigation materials remain confidential.

In 2007, the Oregon Legislature amended the Public Records Act to add a new section ORS 192.502(9)(b), which provides that under a specific set of conditions, the attorney-client privilege may not apply to investigation materials.

Under ORS 192.502(9)(b), information that would otherwise be attorney-client privileged is not exempt from disclosure when it is:

1. Factual information;
 - a. Not otherwise exempt from disclosure;
 - b. Not compiled in preparation for litigation, arbitration, or an administrative proceeding that is likely to be initiated or has actually been initiated;
2. Compiled by or at the direction of an attorney;
3. As part of an investigation conducted on behalf of a public body;
4. In response to "information of possible wrongdoing by the public body"; and
5. The District has "made or authorized a public statement characterizing or partially disclosing the factual information."

For example, let's say a District receives complaints from a volunteer that a supervisor is harassing some of the volunteers. The District takes allegations of harassment seriously, no matter the source, so the attorney is contacted and asked to supervise an investigation of the complaints. The attorney (likely working with the District's insurance carrier) works with an investigator to investigate the complaints and create a recommendation, which is presented to the Board in executive session. As it turns out, the investigator could find nothing to substantiate the complaint, so after a discussion in executive session, the Board goes into open session and votes to take no further action on the matter.

At this point, the investigation materials are still confidential and protected by the attorney-client privilege. However, what if the Board wants to go farther than their "no further action" determination? If the Board were to make a public statement disclosing factual information from the investigation, it would likely trigger ORS 192.502(9)(b). If the District makes a public statement disclosing factual information from the investigation, all the investigation materials may become subject to disclosure.

It is worth noting that rather than releasing the report in its entirety, the Public Records Act allows the District to release a condensed version of the investigation report containing the significant facts from the report. However, even if the District releases the condensation, there is nothing to stop a requester from petitioning the District Attorney for the entire investigation report, and possibly other investigation materials as well.

The takeaway: If the District wants to maintain the confidentiality of the investigation materials the District should not make any public statement that discloses factual information from the investigation. The District can still make a statement to the press concerning the investigation, but it should simply inform the press that complaints were received, the complaints have been investigated, and the Board has determined that no further action is necessary.



Statutory Requirement Reminder

By Carolyn H. Connelly, Local Government Law Group, PC

I'd like to take this opportunity to remind you of several statutory requirements which arise around this time every year for local governments. First, budget season approaches. Remember to make a copy of the proposed budget available for public review immediately after the budget officer releases that document to the budget committee. Also, be sure to meet your publication requirements. Your district must publish notice of the first meeting at which the budget and budget message are provided. If you will not take comment or questions at that meeting, you must also publish notice of the first meeting where public comment will be allowed.

In thinking about your budget, consider planned projects as part of your projected expenditures and revenues. This level of planning will allow you to provide the requisite notice to the Bureau of Labor and Industries (BOLI) which sets forth a list of each public improvement your district plans to fund in the upcoming budget period. The required WH-118 form must be submitted at least 30 days prior to budget adoption, and can be obtained from BOLI. Along with describing the project, its location, and estimated costs, please indicate on the form whether your district plans on performing the construction itself or engaging a private contractor.

If your district annexed any new territory within the past year, be sure that these annexations are finalized and the proper forms filed with the Oregon Department of Revenue prior to March 31st. If not completed in this matter, your district will not receive the anticipated revenue due from those properties for the 2013-2014 tax year.

As a final reminder, for newly elected or even for those of you continuing board members, you are a member of a team. You have no special authority, except within a public meeting as a member of your governing body, or as delegated by district policy or specific board action. If you encounter legal issues, please contact your legal counsel early. Consistent with that old cliché, an ounce of prevention is worth a pound of cure, it is much more cost effective and efficient to consult legal counsel before a problem develops.

Lastly, we would like to take this opportunity to introduce you to Emily Jerome and welcome her to our Local Government Law Group. As a 17-year municipal attorney, Emily specializes in providing legal advice to local government clients. She will continue to focus on all aspects of government law, with an emphasis on land use, public meetings and records, and ordinance drafting.



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