

Lately there has been discussion in local media about the status of the 28E agreement between the Rural Townships and the City of West Liberty. Many have noted that a resolution has been a long time coming, and there seem to be many questions as to why a suitable arrangement has been so delayed. For many months, and now years, the West Liberty Fire Department has been an active participant in the negotiation process, hoping to work with all parties to reach an agreement as quickly and smoothly as possible. Unfortunately, as recent events demonstrate, that outcome has not been achieved, and the Rural Township Trustees as well as volunteer members of the West Liberty and Rural Townships Fire & EMS Department now feel that it is time to speak out and correct the record on the many misstatements and untruths that others, namely the City, have allowed to be shared.

A first misconception that must be clarified is that there has been some recent hiccup in the ongoing negotiations that were intended to lead to a new agreement for an independent 28E Agency for Fire and EMS services. There has indeed been a major shakeup in that process, but it is not new; rather, it is the culmination of a long history of attacks, obstructions, delays and bad-faith dealings by the City, with which the WLFD and the rural Trustees have been facing since the beginning of this process. Thus, to best understand where circumstances are now, it's important to go back to past points in the process that will demonstrate this pattern. This recounting is long, but hopefully after reading community members will have a fuller understanding of the difficulties being faced, then and now, by the rural Trustees and volunteer fire department members and, perhaps more importantly, how this long and faulty process affects the quality and scope of service to everyone within the district.

I. For background, know that the WLFD is a 27-member, volunteer organization that provides fire protection and emergency medical service (EMS) to the city of West Liberty and, through an ongoing agreement, to surrounding rural townships. It works closely with neighboring fire departments across the county to ensure that all residents receive timely aid from properly trained personnel. WLFD operations are funded through a combination of sources, including tax revenue from the City of West Liberty, levies collected by the rural Trustees in the township areas within the region, and by grants, gifts, donations and fundraising conducted by the nonprofit WLFD association. EMS includes ambulance transport and paramedics; these are compensated positions that are covered by a combination of institutional funds, state monies and patient payments. Paramedic and ambulance transport wages and other payments to staff are paid through the City. As it is legally required to do, the City also provides workmens' compensation and liability coverage for all WLFD members and provides title to WLFD resources, including engines and other vehicles. It also serves as the fiscal agent for fire protection and EMS services, managing funds received and disbursed through the City's general fund.

In 2020, the City's then-interim City Manager, Elizabeth Hansen, tasked the Fire Chief, Kirt Sickels, to write up job descriptions for every position within the fire department, regardless of whether the position was a paid position or volunteer position. The Chief did as requested, submitting to Hansen written job descriptions for Fire Chief, EMS Coordinator, Lead Paramedic, Paramedic, and AEMT/EMT. He did not submit job descriptions for volunteers since these are

not positions that come with an employment contract. Indications were that Hansen then rejected the job descriptions and intended to convert the Chief to a full-time city employee position. When the WLFD questioned the reasons for this development and asked for a meeting with the City Manager, they were declined. Realizing that such a change would violate existing WLFD bylaws and eliminate the department's ability to select its own leadership, it voted down the changes as proposed by the City. Around this same period (January 2021) the FY19 City audit was released and indicated a number of adverse findings and financial issues. The WLFD began to review reported expenses for fire and EMS and discovered a significant number of miscoded/improperly reported/unapproved transactions; City leadership was also unwilling to discuss these findings and instead began to threaten the Fire Chief through a highly critical performance evaluation and, later in 2021, additional "grievances" alleging bullying behavior toward City staff, including then-City Clerk Lee Geertz. At no time would the City meet to discuss and explain these complaints, all of which were later determined to be unfounded. Even so, the City declined even after closure of the grievance cases to provide any information regarding the nature of the allegations.

At this same time in early 2021, the City also asserted that the 28E agreements under which the City, WLFD and Rural Trustees operate, as well as the City Fire ordinances, were all outdated, "out of compliance" and required revision. They also claimed that the Rural Trustees were not timely in their payments toward WLFD operating expenses, and publicly released misleading financial statements suggesting that the WLFD had a large and ongoing operational deficit—as large as half a million dollars in a single year. Naturally, the WLFD and Trustees reviewed the same information. They found that 1) the City had not filed the 28E agreements with the State of Iowa's Secretary of State office, even though they were required to do so; 2) that no payment had been received for the Trustees' portion of WLFD expenses because the City had not billed the Rural Trustees, as they were required to do, for more than 18 months; and 3) that the claimed deficits in WLFD accounts were not substantiated by the complete and detailed accounting of the WLFD itself. It was also discovered that the City was, on its own, creating a revised 28E agreement that would shift more power and control from the WLFD and Trustees and to the City, and within this document, was again attempting to redefine the Fire Chief position in a way that would subsume this role into City government and remove the bylaws that protect WLFD's ability to elect its own leadership.

This barrage of critical action and attitude from the City toward the WLFD understandably took the department and the Rural Trustees by surprise, and both groups immediately questioned and sought information that would be used to fully understand the nature of the City's issues and help to resolve them to everyone's satisfaction. To do so, however, there needed to be appropriate information-sharing and ongoing, open and neutral communication among all parties, but this did not occur because the City either ignored or denied requests to meet, share materials or seek consensus. Again, this was part of a continuing pattern of hostility, delay and obfuscation on the part of the City, and it soon led to much more dramatic complications.

II. Following City leadership's presentation of misleading financial statements suggesting the WLFD had been operating in significant deficit over the past five years, and the release of

the City's FY19 audit with significant findings, the Rural Trustees reiterated the importance of their having an equal say in decision making involving fire and EMS, recounting their legal responsibility to assure coverage for all rural residents, as well as ensure proper financial stewardship over the funds provided for fire protection and EMS services. They requested the City to provide a detailed financial statement on all transactions and accounts for the WLFD, along with an explanation of how the deficient findings in the City audit would be addressed prior to signing a revised 28E agreement. One of many requests occurred during a February 2021 meeting to discuss the proposed changes to the 28E agreement. To this day, that information has never been provided, and the City's refusal to do so is one basis for the Rural Trustees' lawsuit against the City, filed in summer 2021. Also during this period began the series of extensions of the original 28E agreements, needed to ensure continuation of fire and emergency services coverage for the West Liberty community. The WLFD volunteer members agreed to these extensions, knowing the dire consequences that any lapse in coverage would portend for residents; for their part, City leadership tried to weaponize this against the Rural Trustees and sought, in a letter dated March 31, 2021 to terminate the original 28E agreements, intending to pressure the Rural Trustees into signing the revised 28E agreement, even threatening to prevent the WLFD from providing service to the rural areas (something the WLFD insisted it would never allow). The unlawful nature of that action and the resulting violation of fiduciary duty is also alleged in the Trustees' lawsuit, which is still active, despite the City's attempts to have it dismissed by the court.

Throughout the fall and winter of 2021, the City fought with the WLFD over hiring and retention of emergency services personnel. The number of paramedics was dangerously few; several had resigned, citing ongoing issues with incorrect paychecks issued by the City and the general lack of respect they experienced in that process. The WLFD made many requests to replace the departed paramedics; City administrators and the City Council refused those requests, stating that they would first need to approve the positions and "understand the need" for the personnel. After three months of delay, the Council finally approved a portion of the positions at half the total hours requested by the WLFD; immediately after, however, City Clerk Geertz and City Manager David Haugland did not agree to the posting of these positions and delayed actual hiring further, claiming a need for new hiring processes. This is also the time when Geertz sought to file a previously mentioned grievance against the Fire Chief, stating that he created a "hostile work environment" with his "demands." Additional grievances were also filed against other WLFD officers and members (again, all such grievances were judged unfounded by an attorney hired by the City in April 2022).

It is unfortunate that the public safety concern caused by the lack of paramedics lasted for so long, especially when it would have been easily managed with timely action on the part of the City. Such stalling tactics and other hostile behaviors increased dramatically during this time, with members of the City Council (namely, Beranek, Zacarias, McFerren) vocally and publicly disparaging the WLFD and its leadership, voting to not approve the Chief's selection by the department, producing a letter stating a lack of confidence in the department and its leadership, and other obstructive actions. In April 2022, citing this type of continued harassment, micromanagement on the part of the City, arbitrary attacks and lack of transparency or goodwill,

WLFD sent a letter to the City, saying its members would resign effective May 2022 if circumstances did not improve. Later that month, the WLFD and Rural Trustees sent a copy of a Memorandum of Understanding (MOU) to the then-Mayor, Katie McCollough, requesting that the City join in efforts to develop a 28E agreement with equal representation among the three parties (WLFD, the Rural Trustees and the City); agree to transfer WLFD assets to the new 28E agency once established; and, once again, furnish the financial records necessary for a forensic accounting/audit to determine the historical accuracy of balances and transfers made by the City on behalf of the WLFD in its general fund. The MOU stated that, once the memorandum was signed by the City, the WLFD members would rescind their resignations and continue to volunteer.

Through April and May 2022, the City held several meetings, open and closed, to discuss the MOU. During this time they requested that the WLFD extend the resignation date to June, “as a show of good faith,” and the department complied. In May, the City announced that it would not sign the MOU and instead considered a letter of commitment asking all parties to continue to work together to resolve fire and EMS issues, and for the WLFD to continue service to the city. Yet, in their meetings, City leadership and City Council made it clear that they did not wish to proceed with negotiations toward an agreement; instead, they were actively investigating other options for fire and EMS service within the city limits, including hiring an assistant chief and contracting with the departments of other communities. The City’s request for good faith on the part of WLFD was once again answered by a one-sided, delayed and bad-faith response.

III. In June 2022, only when it became apparent that the City had no other option that would ensure fire and EMS protection in West Liberty, did the Council approve the letter of understanding (see *Index* article of 6/15/2022: <https://westlibertyindex.com/stories/negotiations-moved-forward.88356>). Even then, the vote was not unanimous, and over the next few months two council members and the mayor would resign (Beranek, Zacarias and Mayor McCullough). This is the time at which the 28E Task Force was formed, but also not without long and fraught discussion that made it clear that many members of the City Council did not want to work toward this goal (see *Index* article of 6/29/2022: <https://westlibertyindex.com/stories/committee-selected-despite-concerns.88516>) and that the City was still pursuing its efforts to sideline the Fire Chief by disallowing his service or that of his deputy on the Task Force.

Nevertheless, Task Force meetings began in July 2022 and continued through the fall of that year. As agreed, the six-member Task Force was composed of two voting members each from the City Council, the WLFD and the Rural Trustees, with the City Clerk serving as secretary and the Mayor and City Manager often in attendance as ex officio members. The charge of the Task Force is to consider the many needs and preparations involved in developing a new 28E Agency and to prepare a draft for review by all parties. As part of this process it was determined that review by an outside consultant may be helpful; one was identified by the City and reviewed the MOU as it existed in April 2022. That review held that there were several unresolved issues in the agreement that as then stated, would disadvantage the City; however, it was noted by others on the Task Force that the consultant had had little actual experience with

this particular form of 28E, and likely better alternatives could be found. The Task Force continued its work and drafted a plan for initial presentation to the City Council and Rural Trustees in early 2023.

As discussions of the draft continued through spring 2023, the City became more insistent on an outside consultant, finally stating that they would not move forward without a “professional” review. Task Force members identified a consultant with fire agency experience and a plan was made for consultation at a cost of \$7,800; however, the California-based consultant later declined to perform the review of the draft agreement, stating that the firm could only do so in the context of a much more extensive review. Without notifying the Task Force, City Manager Lee Geertz then contacted the consultant and discussed a possible review that would evaluate the WLFD, but not extend to the proposed Agency or the 28E agreement; this engagement was quoted at a cost of \$45,000-\$60,000, which, the City said, would be charged to the fire account. Task Force members from the WLFD and Trustees strenuously objected to this use of taxpayer dollars and refused to agree to contract for that study. Members representing WLFD and the rural Trustees instead suggested that the Task Force and City hear from leaders of the Solon Fire Department, which successfully operates under a similarly conceived 28E; this occurred in October 2023, but did not stop the City from making public suggestions that the WLFD and Trustees were not professional in their outlook due to their reluctance to work with a consultant. In reality, this was another example of the City injecting unnecessary delay and distraction into negotiations while attempting to paint the fire department as the obstacle.

In the last months of 2023, a draft of the new 28E agreement was being finalized and was passed to attorneys for the City and the Rural Trustees to review. The Task Force was awaiting word from the attorneys at this time and so did not hold regular meetings; the City, through then-Mayor Ethan Anderson, publicly expressed that a resolution was close to agreement by all parties. This pattern continued through early 2024, and on March 8th, Trustees’ attorney William Tharp met with the fire department to update the membership on the status of the agreement and negotiations. He was accompanied by newly inaugurated Mayor Mark Smith, who echoed Tharp’s comments and encouraged the department to continue to work with the City to get final details, appointments and other needs in place, so that the new agency would be operational as soon as the papers were signed.

IV. In spring 2024, the WLFD was of the belief that an agreement was imminent, based on indications from the Rural Township’s attorney and the public statements by City leaders. This optimism was soon tempered, as it received on May 16 an email from City Manager Geertz, requesting an urgent meeting of the Task Force, to discuss a recent communication by Attorney Tharp that, in her words, was “a deliberate attempt to malign our good faith efforts.” Attorney Tharp’s correspondence reportedly accused the City of reneging on its good faith agreement with the fire department, and, in an *Index* article written by the City and published on May 21st, the City denied this, stating that it had “always expressed the desire to resolve our differences,” was “committed and positive to amicably resolving the dispute [through] the steps that can be completely timely (sic) with both parties sharing communication and a resolution commitment for the greater good and safety of the communities being served.” On that same day, Geertz sent

an email to the Task Force with a copy of the revised 28E agreement attached and a note indicating that she and City Attorney Dan Morgan would be updating additional information regarding bonding to ensure that that information was current for use by the new 28E agency. It is important to note here that the date of this shared draft agreement was recorded as 12/8/23 and it covered fire suppression and EMS as part of the agreement.

The Task Force met on May 22nd and City representatives again raised the issue of Tharp's correspondence. Given that no WLFD or Trustee had viewed the correspondence, they were unable to comment. However, a letter from Mr. Tharp was published in the *Index* on May 28th, in which he characterized the agreement negotiations as unduly protracted over five years and, through repeated denial and cancellation of meetings, refusal to put information up for consideration on City Council agendas and other tactics, City leaders were deliberately "slow rolling" the resolution of the entire issue. In his letter, Mr. Tharp questioned why the City would choose such a strategy and suggested that other information was being withheld from decisionmakers. Still, on the 22nd, members of the Task Force had agreed to continue working toward finalization of the agreement.

It is worthwhile to note here that the lawsuit filed by the Rural Trustees against the City is still active and a trial date has been set for June 2025. Throughout the agreement negotiations process, it was a priority for the City for the Trustees to drop their litigation, and there was a mutual understanding that, once an agreement was concluded to the satisfaction of all parties and was signed and made official, that the Trustees would do so. On June 3rd, City Manager Geertz contacted the WLFD members of the Task Force to say that the City Council would meet the next day to discuss such a settlement agreement, with the expectation that the Council would proceed toward finalization of both it and the 28E agreement, and that action would hopefully encourage the Trustees to take steps toward ending the litigation. On June 6th, the same WLFD Task Force members requested an update on the June 4th meeting. The response stated that the Council reviewed the settlement materials but took no action, but appeared to have the understanding that the litigation settlement must be signed prior to the 28E agreement. The City stated that it would await communication from the Trustees' attorney on that matter.

A week later, WLFD members of the Task Force requested a Task Force meeting, with the purpose of meeting with attorneys to clarify and discuss loose ends on both the litigation settlement agreement and 28E agreement documents. City Manager Geertz replied with a message from Mayor Smith, which stated that the City Attorney would supply Attorney Tharp with updated copies prior to a meeting scheduled for July 24th.

At the July 24th meeting, City Manager Geertz distributed copies of the draft 28E agreement to Task Force members. The date on that document was June 25, 2024. This was the first shared copy of the document since that sent by Geertz in May, which was dated from December 2023. No WLFD or Trustee Task Force member had seen any revised document between May and this date in July and had been operating with the belief that the December version was the latest and that it was still under consideration by all parties.

The new document was dramatically different. It completely removed EMS from the 28E agreement and, consequently, from the proposed new agency. It changed the rights to terminate the agreement to belong solely to the City, denying the Trustees that same ability. And, it now stated that, if the City chose to terminate the agreement, it would retain 100 percent of all assets of the agency that are currently titled to the City, or have the right to sell them at auction.

Not one of these items was ever discussed with the WLFD or Trustees or their members of the Task Force before incorporation into the agreement. No justification or rationale for them was offered. These were changes made unilaterally and in secret by the City, and, in hindsight, are certainly consistent with past and more recent allegations that the City was not a reliable and open partner and would not act in the interests of all parties. It had, in fact, reneged on its good faith agreement.

V. Task Force members had many questions and objections to share at the July 24th meeting. Rural Trustees stated that they would not sign any agreement that did not include EMS service as part of the agency. City representatives stated that this particular change was made necessary to preserve licensing, uninterrupted processing of payments and other requirements for EMS, which could not be immediately transferred to the new agency; the fact that a phased approach to transitioning EMS services from the City to the Agency would be needed was understood by those in attendance, and it was decided to allow attorneys to continue to discuss how such a transfer could take place and clarify other items. The Task Force was set to reconvene on August 19th.

On August 8th, the Fire Chief requested an explanation of the above changes to the draft 28E agreement from the Mayor. In response, Mayor Smith had published both the Chief's letter and his reply in the August 22nd edition of *Index*. In his piece, Mayor Smith characterized the new entity as one providing fire service, and stated his concern that processes governing aspects of EMS, such as payroll and benefits for employees, had not been finalized, nor had expected leadership of the new agency; he concluded by saying that the City was not acting in bad faith. However, he did not address the specific and direct questions posed by the WLFD regarding how, why and by whom were any of these changes implemented without participation of the entire Task Force; the rationale behind changes to the articles within the 28E agreement regarding termination or possession of agency assets; and why the revised document was kept from Task Force members prior to the July 24th meeting. Nor did he address why the City believes that complete removal of EMS services from the agreement, rather than consideration of the originally intended phased transition approach, is in the best interests of its community members, and, importantly, how hiding this substantial change is not itself an act of bad faith.

These questions were also sent to City Manager Geertz on August 18th, with a request that they be placed on the Task Force meeting agenda then scheduled for August 19th. Also requested for that meeting was discussion and explanation of the supposed "phased approach" to transition fire and, following, EMS to the new agency, and addition of language to return the

Trustees' equal right to terminate the agreement and retain assets. The next day, City Manager Geertz sent a letter, on behalf of Mayor Smith, saying that the rationale for these items had been previously communicated and that it was "the City's firm position that it is not amenable to including ambulance/EMS in the 28E due to the significant financial, logistical and personnel concerns." Further, Geertz stated that the City will not meet with the Task Force unless the Rural Trustees accepted this position, and the City would receive a revised draft or counterproposal only to address fire services in the agency.

None of the agenda items requested by the WLFD Task Force members were addressed in that August 19th email, and the Task Force meeting planned for that day was not held. Since that time, there has been no move to reconvene the Task Force, but the City continues to maintain that it is a good-faith dealer, seeking only to ensure that EMS staff remain employed and fire and EMS services remain uninterrupted in the region. Apparently to the City, working in good faith means working in secret, deliberately withholding information from partners and providing disingenuous explanations and biased statements intended to mislead those partners and the public.

The WLFD has more than ably demonstrated its ability to manage fire and EMS for the district and with its mutual aid partners for many decades; there is no evidence or suggestion that such management could not simply transfer to the new agency as EMS licensure, certification and other regulatory matters are addressed. The only problem is the City's refusal to consider assisting with that process, and their reluctance to do so is coincident with a broader discussion of a possible future, countywide EMS service. Should the City retain complete control over EMS assets it could manage them as part of such a service; also, an agency agreement that gives the City the sole right to terminate and assume the assets of the fire service would similarly bring those resources under its control. Relinquishing control over these assets would lessen the City's worth, impacting its financial rating and its ability to borrow. But to allow WLFD assets to rest with the City, for whatever purpose, ignores the very fundamental fact that those resources exist and were paid for with funds from other sources: levies from the rural townships and the many grants, gifts and support received by the WLFD association. Those monies were never intended to accrue to the City's bottom line; they were paid, awarded and donated with the express intent of bettering the WLFD fire and EMS. This is the point at the heart of the Trustees' lawsuit against the City: these resources are jointly held, and there is a shared obligation to manage and safeguard them in ways that are transparent, efficient and committed for the good of the service. All partners should answer to the others on these points and maintain open cooperation.

But the City believes otherwise. It has spent nearly five years fighting to not release information and trying various means to exert more direct control over the WLFD, from attempting to convert it into a city department and ousting its Chief to now stripping it of a core function and the personnel, equipment and expertise it has built in EMS. It has also not been an effective steward of funds: throughout this time, the City has charged at least \$80,000 in its accrued legal and other fees to the fire budget over the last two to three years, money that otherwise could have been used to train new paramedics, replace expired firefighter gear or buy additional



safety equipment. And all the while, the City has maintained a degree of hostility toward the WLFD and the Rural Trustees; countless instances of ignored requests, canceled meetings, withheld documentation and outright misdirection have characterized their interactions through multiple administrations and changes in leadership.

The City's approach has resulted in little real progress, but it has been very effective in diverting time, resources and attention away from fire and rescue operations and demoralizing WLFD personnel. Another, more recent example may illustrate this point: earlier last month, the West Liberty & Rural Townships Fire & EMS Association received a very generous donation of equipment and furnishings from the West Liberty Community School District. These items came from the ELC building, which sat vacant as the school district was preparing for its sale, ultimately to the City of West Liberty. Prior to that transaction, however, the district offered these items to the WLFD and made arrangements for them to be picked up by WLFD personnel on behalf of the Association. The items were removed, and the Association, as it is required to do as a nonprofit corporation, provided a tax receipt accepting the donation and acknowledging the gift. Yet, when the City Manager learned of this transaction, she berated WLFD personnel for taking equipment without City permission, implied that their removal was theft and attempted to take actions in that direction, going so far as to demand the WLPD press felony theft charges against an EMS employee, the grounds for said charges of theft being her own blatant lies about the actions of the employee. Further, she insisted that the donation was made to the City, by virtue of the fire department being a part of city government. However, even upon receipt of an email that the donations were moved with express permission from school leaders, were directed to the Association and not to the City, and were correctly processed by the nonprofit Association, whose role is precisely to accept gifts on behalf of the department, the City Manager continues to criticize by stating that the WLFD is in error for allowing the Association to accept a gift that will RESIDE in a "city-owned structure" and that, if the donation is not formally accepted by the City Council it may bring unwanted attention to the City from the state auditor.

That sort of argument has never been raised with regard to any other donation made to the Association, which has processed hundreds of other contributions, material or otherwise, over the years and is not concerned with the possibility of official scrutiny of its books. That argument was also never raised when the City itself accepted countless donations of labor, supplies and equipment from area businesses during construction of the WLFD Fire and EMS building. The WLFD staff have asked for clarification, to understand if any rule or regulation has changed in order to make this step necessary. None has been provided. Rather, these actions appear to be a pretext to continue more of the same: attacking WLFD members—and now staff, of whom the City claims to be inherently concerned about protecting, yet has no qualms about attempting to prosecute them as a felon, diverting attention away from the core issues at hand. Further, it is now October, and there has been no meeting of the Task Force or dialog with City leaders since August 19th, only the City continuing to publicly question the ethics, transparency and intentions of the department. There is certainly no crime in accepting a kind and generous donation from our local schools and putting it to good use, along with those gifts so many others have given. This is just one more attempt to demean and deflect.

We do not believe that this is what the citizens of West Liberty want for their fire department, nor do we imagine that this is how others would wish to be treated by the City administration. If our situation resonates with you, and if you believe that the City must come back to the negotiating table in authentic good faith, please reach out to your City Council and City staff and tell them so. Also reach out to your WLFD and EMS members, who can provide first-hand perspective on these issues and their potential consequences for our community. The WLFD and Rural Trustees want this long standing issue resolved with respect, fairness and above all, with no loss of the safety and security that our services provide. Thank you for reading.