




OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan
County Executive

Charles W. Thompson, Jr.
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MEMORANDUM

TO: Gordon Aoyagi
Fire Administrator

FROM: Bernadette Lamson 
Associate County Attorney

DATE: March 4, 2004

RE: MCFRS Assigned Stations

This memorandum confirms our recent discussions concerning whether a County owned station (both land and building) may be assigned to MCFRS under Chapter 21's current language without entering into a memorandum of understanding with a local fire and rescue department (LFRD). Chapter 21 currently permits assignment of County stations to MCFRS with approval of the County Executive and the County Council. To properly assign the station, the master fire plan must provide for station assignment to the County.

Background/ Facts

Currently four new County fire stations are planned: Germantown East, Germantown West, Clarksburg, and Travilla. The LFRDs in these response areas are Germantown, Hyattstown, and Rockville, respectively. When the County builds a new fire house - owns the land and the building- the past practice has been to enter into an MOU for interior maintenance (*i.e.*, purchasing toilet paper, calling the plumber and replacing the rugs or appliances etc.) with an LFRD located within the new station's "response area". The MOUs provide for the LFRDs to receive a monthly allowance for interior maintenance. Section 21-10 of the Code directs FRC to establish response areas. FRC assigns stations, not LFRDs, to a response area.

Section 21-12 of the Code directs FRC to develop a master fire, rescue and emergency medical services plan. FRC forwards the master plan to the County Executive who forwards the plan with his comments to the County Council for approval by resolution. If FRC seeks to make a "significant amendment" to the master plan, it must conduct a public hearing. Assignment of a station would constitute a significant amendment to the master plan and require a public hearing.

The master plan dated October 18, 1994, sets forth the following language concerning station maintenance by the LFRDs:

The Commission believes that there should be more direct contact and coordination between the County Department of Facilities and Services and the corporations. This contact and coordination should be not only for major projects performed under the Capital Improvements Program, but also for ongoing maintenance. . . Where practical, agreement should be established with the corporations that provide for the Department of Facilities and Services to perform on-going maintenance and repair functions at the fire and rescue stations.

* * *

[FRC] should work with [DFRS] and the corporations to study alternatives for performing on-going maintenance and repair of the fire and rescue station facilities, including the benefits of *using agreements* between the corporations and the Department of Facilities and Services.

Every five years the master plan is reviewed and updated. On February 29, 2000, Council amended the master plan to provide for Hyattstown Volunteer Fire Department to be assigned the new Clarksburg station:

The amendment proposes the continued operation of Hyattstown Station 9, *assignment of the new Clarksburg station to the Hyattstown Volunteer Fire Department*, and redeployment of equipment from station 9 to the Clarksburg station.

To date, Rockville and Germantown have not been assigned interior maintenance responsibilities for the new Travilla and two Germantown stations.

Section 21-26 of the Code directs the master plan to assign stations and confirms that MCFRS may operate a County station:

(b) All apparatus and facilities purchased with tax funds after July 30, 1980, must be titled to the County and must be assigned in accordance with the adopted master fire, rescue, and emergency services plan.

* * *

(g) For purposes of operation, the Commission must assign fire stations when built or acquired to a local fire and rescue department or, *with the concurrence of the County Executive and County Council, to the Fire and Rescue Service. . .*

Read together, these provisions require stations to be assigned to either the County or an LFRD and the master plan must reflect this assignment. Since the County Executive comments on the master plan and the Council approves the master plan pursuant to § 21-12(b), this would constitute sufficient "concurrence" to "assign" a County station to MCFRS.

In discussing proposed language changes with you this morning, you wanted to assign County owned stations to MCFRS prospectively. If you desire to ensure that County owned stations are assigned to MCFRS, we suggest amending § 21-26 as follows:

(g) All apparatus and facilities purchased with tax funds after July 4, 2004 must be assigned to the Fire and Rescue Service. . .

We also discussed that new station development is funded through the capital budget and the County Council approves the capital budget by resolution. The Council approves the expenditures of funds for building each station and purchasing the necessary fire apparatus based on the project description form (PDF) submitted for each station. Currently, the PDFs for the two Germantown, Travilah and Clarksburg stations do not address station assignment. We suggest amending the current PDFs to assign the stations and the apparatus to MCFRS.