

Rethinking Fire Service in Unincorporated Areas

By Lawrence Flynn

Fire service has come a long way since the days of ancient Rome when Marcus Crassus would arrive at the scene of a fire and offer to purchase properties in the fire's path for a big discount before putting it out. Rather than leaving fire service to greedy entrepreneurs, the General Assembly has long recognized fire protection as a "valuable and essential governmental service."¹

However, for a variety of historical and legal reasons, fire service in the unincorporated areas of South Carolina remains a patchwork of special purpose districts (SPDs), volunteer fire departments (VFDs), referendum-created county fire districts (Home Rule Districts) and county fire service areas (FSAs and together with Home Rule Districts, Fire Districts). The bad news is that this translates to surplusage, disjointed response, inconsistent service, and uneven tax rates. The good news is that counties are empowered to address these issues and solve some of these problems.

Consolidation as a Solution

As South Carolina grew and evolved, the General Assembly, counties, and cities established a hyper-localized fire service network to meet the needs of the day. At a point in the not-so-distant past, one Upstate county had as many as 44 separate fire providers (consisting of a mixture of FSAs, SPDs and municipal providers) with millage rates ranging from three to 45. What was once a godsend and tailored to local needs, has become outdated, inefficient, and, in certain cases, dangerous. That county, like many others

in the state, knew that changes were needed, and it began exploring options for consolidation.

Consolidation² is a workable solution to reduce redundancy and obtain economies of scale that bolster service levels and rationalize the tax burden. This process is best undertaken with willing participants at the impacted fire provider, and a variety of forces are presently at work that are creating favorable conditions for consolidation. These tailwinds include: (1) costs: health insurance, state retirement, salaries and fire facilities, apparatus and equipment have all increased markedly over the past decade; (2) personnel: finding and retaining paid staff and capable volunteers is increasingly difficult, especially given the time, energy and training necessary to provide fire service; (3) attrition: many fire chiefs, volunteers, and "founders" of the current fire providers are retiring, stepping back or physically unable to serve; and (4) protocol: many successful consolidations have provided a roadmap and an example to fire providers that were previously hostile to consolidation.



The Roadmap to Consolidation

Counties possess the authority to exercise any and all powers “to operate and maintain a fire protection system within the county,” including the power “to designate . . . the areas of the county where fire protection service may be furnished” by FSAs;³ create, diminish or abolish Home Rule Districts that provide “fire protection;”⁴ or “enlarge, diminish or consolidate any existing” fire SPD.⁵ It is important to point out that Fire Districts cannot be statutorily consolidated with an SPD; instead, they may only be combined with a like entity.⁶ However, FSA or Home Rule District consolidations, SPD service area alterations and VFD terminations may be made effective at the same time and under a common plan for addressing fire service.

An administrative consolidation of Fire Districts can eliminate or consolidate Fire Districts into one entity through an ordinance and supporting agreements.⁷ While the ordinance provides for the legal consolidation of the Fire Districts, additional agreements are typically necessary to address existing contractual obligations and the transfer of assets of the Fire Districts. If Fire Districts have outstanding debt subject to prepayment, the county often must either pay off the existing debt or issue refunding bonds to satisfy the debt. If the debt is not subject to prepayment, the county must negotiate an assumption of the debt obligation prior to the elimination of the Fire District. Any existing service agreements should be assigned to the newly consolidated entity (or to the county on behalf of the applicable Fire District) to ensure that the appropriate level of fire service is maintained. Supplementary agreements will also be necessary to

transfer the assets, including both real and personal property, to the county.

The enlargement, diminishment, or consolidation of SPDs can be done upon receipt of a petition to the county from the affected SPDs, or by county council, acting on its own motion. Upon receipt of such a petition, or acting on its own, the county may determine whether to enlarge, diminish or consolidate any existing SPD located within the county’s boundaries. Similar to the process for the consolidation of Fire Districts, the enlargement, diminishment, or consolidation process is subject to the terms of an ordinance of the county council and is often supplemented with separate agreements that are necessary to complete the consolidation. Counties cannot directly abolish an SPD without a complicated referendum process⁸, and SPDs cannot convey away all of their assets in an effort to end-run the abolition statute.⁹

Counties do not have the direct authority to terminate VFDs as they are standalone corporate entities.¹⁰ However, most of the VFDs do not (or cannot) operate independently of the county. Often, the county either contracts directly with the VFD for service or maintains a Fire District that overlays the service area of the VFD, providing a mechanism for the levy and collection of taxes or fees in support of the VFD. While suffering from many of the inefficiencies attributable to Fire Districts and SPDs, many VFDs additionally lack the training protocols, insurance coverage and tort-claims act protection attendant to local government entities like Fire Districts and SPDs. As a result, counties can leverage their role as the revenue provider (under *(Continued on next page)*



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contract or through the overlapping Fire District) to get the VFDs to join or initiate a consolidation effort. This is dramatic leverage as the VFDs cannot operate or function without the county-derived revenue streams.

Operational Considerations after Consolidation

As with all essential governmental services, the goal of consolidation should be a higher level of service at a lower overall cost to citizens. Though some redundancies will be eliminated, closing fire stations or otherwise reducing the fire staff may not be required. In fact, counties may notice an uptick in recruiting as a result of increased location options, enhanced training opportunities, and a larger salary pool to support paid staffing. A county should also consider drafting updated employment and staffing policies, assessing training requirements, and evaluating equipment compatibility.

Governance options for Fire Districts include (1) establishing the Fire District as an administrative division of the county, essentially a county department, or (2) establishing a separate fire commission. Given the political implications attendant to a separate governing body, many counties have opted to bring the Fire Districts in-house and operate them as a department of the county. Unfortunately, that option is not available in an SPD consolidation; since each SPD is an independent political subdivision, self-governance is still required. However, the county does maintain the flexibility to determine whether to provide for a new commission, the applicable number of commissioners and may decide to expand or reduce the size of the governing board.¹¹

As technology improves and growth continues unabated, counties should evaluate whether existing fire service structures best serve their constituents. Consolidating fire providers can have numerous benefits, including attracting new and retaining existing firefighters (both paid and volunteer); allowing for enhanced training; stabilizing service calls and fire station capacity; promoting better responsiveness to taxpayers, residents, and businesses within a county; and unifying and potentially improving ISO ratings throughout the county. Though consolidating fire providers comes with some growing pains, it often results in better and higher quality service for taxpayers. 

Lawrence Flynn is a public finance attorney with Pope Flynn, LLC. Connect with him at www.linkedin.com/in/lawrenceflynn.

¹Act 408 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1984.

²The term “consolidation” is used in this article, and is generally intended to encompass both merger, as well as the creation or reconstitution of new fire providers to the exclusion of departments that will be abolished.

³S.C. Code Ann. § 4-19-10.

⁴S.C. Code Ann. § 4-9-30(5)(a) & (e).

⁵S.C. Code Ann. § 6-11-420.

⁶SPDs can only be consolidated with other SPDs or expanded into the service area formerly occupied by a VFD, FSA or Home Rule District, after such VFD, FSA or Home Rule District is abolished.

⁷Given the referendum requirements associated with Home Rule Districts, the preferred consolidation path is to use the FSA statute,



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which does not require a referendum as a condition of creation. As a result, the consolidation of Home Rule Districts often results in reconstitution as an FSA.

⁸See S.C. §§ 6-11-2010 et seq. providing for the onerous methodology to dissolve an SPD, including the submission of a petition signed by 40% of the registered voters in the district to be dissolved, an election, which may be held only on a general election date (November in even numbered years) and the approval of 2/3 of the voters casting ballots on the question.

⁹See *Evins v. Richland County Historic Preservation Com'n*, 341 S.C. 15 (2000).

¹⁰See Title 33, Chapters 31 & 36 of the Code of Laws of South Carolina 1976, as amended.

¹¹See S.C. § 6-11-610 wherein the county has the authority to adjust the board to determine whether “there should be a new commission or changes in the personnel of the old commission” and otherwise as necessary to “provide for the proper functioning of the special purpose district The number of commissioners shall be not less than three nor more than nine.”



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