



Montgomery County Government

FINANCING FIRE AND RESCUE SERVICES AND RELATED ACTIVITIES

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Exhibits:

- Exhibit A, Fire Tax Districts Prior to Enactment of Bill 39-71
- Exhibit B, Fire Tax Rates, FY72 - FY92
- Exhibit C, Fire Tax Districts as they Currently Exist
- Exhibit D, Fire Tax Districts FY91 Tax Rate Calculation
- Exhibit E, 1990 Approved Census Tracts
- Exhibit F, Memo from County Attorney's Office re: Mitigating Proposal Property Tax Increase for Rockville Fire Tax District

I. SUMMARY AND MAJOR CONCLUSIONS/RECOMMENDATIONS

A. Summary

Since before the turn of the century, Montgomery County has had fire fighting companies. In their earliest organization, these fire fighting companies were truly community based, drawing necessary funds and volunteer firefighters from the immediate communities that they served. Beginning in 1927, companies began accepting public funds, first in the form of grants than as revenue from a fire tax levied in the communities the companies served.

In FY71, the Council passed legislation (Bill 39-71) which established two fire tax classes: Consolidated and Individual. Beginning in FY72, ten of the 16 fire departments were incorporated into the Consolidated Fire Tax District (CFTD), with a common fire tax rate, and the other six departments remaining as individual fire tax districts with varying fire tax rates. Over the next 20 fiscal years, four of these six departments have been incorporated into the CFTD. Today only Rockville and Upper Montgomery remain as individual fire tax districts.

When Bill 39-71 was enacted, Council established the sum of 21 cents per \$100 of the assessed value of taxable property as the "trigger rate" to move into the CFTD. That rate was raised to 26 cents beginning in FY75, and has remained at 26 cents to this day.

In February 1991, at the request of the County Executive, the Council introduced Bill 4-91, which would establish a single County-wide fire tax district and make other legislative changes to the funding of County fire and rescue operations. In March 1991, Bill 4-91 was rejected by unanimous vote of the Council, and OLO was directed to conduct a study of all issues relating to financing fire and rescue services and report its findings to the Council. This OLO report complies with that directive.

B. Major Conclusions/Recommendations

1. During the twenty years since the enactment of legislation creating two classes of fire tax districts, Individual and Consolidated, there have been many changes, both intrinsic and extrinsic to the fire and rescue services, which have affected directly the administration, operation, and funding of those services.

- Among the changes intrinsic to the fire and rescue services has been the increase in mutual support and interdependence among fire departments in the delivery of those services.
- Among the changes extrinsic to the fire and rescue services has been the overall growth in the County's assessed value of property, a growth that has not been evenly distributed among the fire tax areas.

2. Under current legislation which sets the "trigger" fire tax rate for incorporation into the CFTD at 26 cents per \$100 of the assessed value of taxable property, it is unlikely that Rockville will ever qualify for incorporation into the CFTD because of its disproportionately high assessable tax base.

3. Volunteer participation greatly benefits the County by reducing the number of paid firefighters/rescuers to staff the apparatus, which in turn reduces the operating budgets of the fire departments and ultimately the fire tax levies.

4. During the 20 years since creation of the two classes of fire tax districts, there has been a significant decline in the number of active volunteers, and a corresponding increase in the number of paid career employees in the fire and rescue services.

5. There is no empirical evidence to substantiate that incorporation into the Consolidated Fire Tax District has had any direct, negative impact on volunteer participation.

6. Based on its evaluation of the issues relating to financing fire and rescue services, OLO recommends that a single, County-wide fire tax would be the most equitable approach to funding all fire and rescue services and related activities. Specifically, OLO recommends that the County Council should consider enacting legislation amending Chapter 21 to:

- Establish a single fire tax district encompassing the entire County; and
- Direct that the tax levy on each \$100 of the assessed value of taxable property within the newly established single fire tax district produce an amount that the Council finds sufficient to fund all activities relating to the fire and rescue service.

II. AUTHORITY, SCOPE, METHODOLOGY AND ACKNOWLEDGMENT

A. Authority

Council Resolution No. 12-144, subject: CY 1991 Work Program of the Office of Legislative Oversight, adopted March 26, 1991.

B. Scope and Organization of Report

This report examines the legislative history and issues relating to financing fire and rescue services in Montgomery County. In March 1991, the Council rejected a bill which would have essentially established a single, County-wide fire tax. At the time the bill was rejected, the Council directed OLO to conduct a study of all issues relating to financing fire and rescue services and report its findings to the Council. The report is organized as follows:

Chapter III. Background and Legislative History

Chapter IV. Evaluation

- Fire Tax Consolidation
- Individual Fire Tax District Boundaries
- Funding Sources for Fire and Rescue Services

Chapter V. Related Matters

Chapter VI. Conclusions

Chapter VII. Recommendations

C. Methodology

This project was conducted during April-July, 1991, through interviews with current and former State, County and Rockville City officials and staff, and members of several fire and rescue corporations; and review and analysis of:

- Current and past State and County laws, to include the minutes of public hearings and worksessions;
- Applicable County policies, regulations and procedures;
- Numerous reports and studies relating to the legislated fire tax and alternative fire tax plans; and
- Statistical data provided by the State Office of Assessments, County offices and agencies, and fire and rescue corporations.

D. Acknowledgment

The Office of Legislative Oversight acknowledges the full cooperation and courteous support from officials and staff of the State Assessment Office, County Government departments, the City of Rockville, and the fire and rescue corporations. Throughout the course of this study, OLO was repeatedly impressed with the dedication of all personnel to the critical mission of the fire and rescue services and their concern with the cost to the citizens in funding those services. OLO especially acknowledges the contribution of Department of Fire and Rescue Services' (DFRS) Research Analyst Bonnie Bigenho in developing statistics on incident and unit responses.

Finally, when interviewing public officials, staff of several County agencies, volunteer members of independent fire and rescue corporations and citizens, OLO received a wide range of facts, opinions, and sentiments regarding the administration, operation and funding of fire and rescue services in Montgomery County. OLO received, examined and considered all viewpoints; however, the report solely represents the analysis, conclusions and recommendations of the writer.

III. BACKGROUND AND LEGISLATIVE HISTORY

A. Background

Montgomery County has had fire fighting companies since before the turn of the century. At the time of their organization, the fire fighting companies were truly community based, drawing necessary funds and volunteers from the immediate communities that they served. The first instance of public assistance to volunteer fire companies occurred in 1927, when the Maryland General Assembly enacted four acts relating to funding County fire fighting organizations.

One Act (Chapter 191, 1927 Laws of Maryland), authorized the County Commissioners of Montgomery County to contribute annually the sum of \$500 for each piece of firefighting apparatus "having a pump or chemical tank . . . for the purchase, repair and maintenance" of the equipment. The Act also specified that the maximum County contribution to any one volunteer company was \$1,500, and that no company could receive a payment unless it had more than 1,000 feet of hose. In 1962 (Chapter 13, Laws of Montgomery County), the County Council changed the annual allowance to \$1,500 regardless of the number of fire fighting vehicles a department operated. This annual allowance to the fire departments continued until 1972 when the Council established the Consolidated and Individual Fire Tax Districts and repealed the annual payment.

Three additional Acts passed by the 1927 General Assembly (Chapters 248, 269 and 500), created three special taxing districts in the three County election districts served by the Chevy Chase, Bethesda, and Silver Spring volunteer fire departments. The Acts also established an initial levy for

each of the three special taxing districts on the basis of \$100 of the assessed value of the taxable real and personal property* within the respective taxing districts.

For Chevy Chase, the levy was set at not more than 15 cents; for Bethesda, not more than 12 cents; and for Silver Spring, not more than six cents. Each Act specified that the tax monies were to be collected by the County, which in turn would forward the funds to the treasurers of the respective volunteer fire departments to be used to maintain and operate the department.

Between 1927 and 1952, 13 additional volunteer fire departments were incorporated, with the General Assembly (or the County Council after adoption of the Charter in 1948), creating a corresponding individual fire tax district and setting an initial fire tax levy as needed. By 1952, 16 fire departments had been incorporated in the County; and by the early 1960's, 13 of these departments were supported by tax levies in their respective fire tax districts. Council established a fire tax levy for the last three fire tax districts as follows: Hyattstown in FY65, Rockville in FY73 and Damascus in FY87.

At Exhibit A is a map of Montgomery County reflecting the 16 fire tax districts. With minor exceptions, the fire tax district corresponds to the fire department's service response area.

B. Legislative History

Bill No. 1

In 1967, the Council passed Bill No. 1, which directed a number of significant changes to the County's fire and rescue services. Among the changes included in Bill No. 1 were the creation of a County Department of Fire and Rescue Protection, headed by a County Fire Chief; the transfer of all fire and rescue corporation employees to the County's merit system; and the reduction of the 16 separate fire tax districts to two, a Rural Fire Tax District, composed of the six response areas of Upper Montgomery, Hyattstown, Laytonsville, Damascus, Sandy Spring and Burtonsville, and an Urban Fire Tax District, composed of the remainder of the County, except for the incorporated City of Takoma Park.

* The following terms used in this report have specific meanings. Assessed value or base of real and personal property: for real property, the full cash value of the property multiplied by the State assessment ratio for that property (40% for FY90-91); for business and corporation personal property (computers, machinery, buildings), the full cash value of the property less depreciation. Assessed taxable value or base: the assessed value or base which can be taxed after the application of exemptions, assessment caps, tax credits, and the like.

The volunteer corporations were totally against Bill No. 1 and petitioned it to referendum. At the next general election in November 1968, Bill No. 1 was resoundingly defeated by more than a two-to-one majority.

Bill 39-71

The defeat of Bill No. 1 in 1968 left the system of 16 individual fire tax districts intact. In December 1971, Emergency Bill 39-71 was introduced to enact those provisions of Bill No. 1 that were either not opposed by the volunteer corporations or had received minimal opposition three years earlier. The main provisions of Bill 39-71 were the repeal of the annual \$1500 grant to fire departments and the creation of a process of reducing the 16 individual fire tax districts.

Bill 39-71 proposed dividing the fire tax districts into two classes, but not on the basis of population and density as Bill No. 1 had proposed with the rural and urban districts. Instead, Bill 39-71 proposed creating two types of fire tax districts based on the fire tax rate needed to support fire and rescue services in a particular fire tax area. Specifically, Bill 39-71 set up the following two classes of fire tax districts:

1. Consolidated Fire Tax District (CFTD). Any fire department with a tax rate equal to or exceeding 17 cents per \$100 assessed valuation of taxable property, as determined by the tax rate established in FY 1972, would be considered in the Consolidated Fire Tax District. Once a fire department became part of the CFTD, it would remain therein, and the department's response area would be an integral part of the CFTD. Changes to the CFTD boundaries had to be set by Council-enacted legislation amending the fire tax district boundaries for any of the following reasons: construction of a new fire station, changes in property lines, road or bridge openings or closings which affected response distances, or errors in drawing up the original fire tax boundaries. Included in the CFTD, which would become effective in FY73, would be ten of the sixteen fire departments: Bethesda, Burtonsville, Cabin John, Chevy Chase, Glen Echo, Hillandale, Hyattstown, Sandy Spring, Silver Spring and Takoma Park (excluding the incorporated City of Takoma Park).

2. Individual Fire Tax Districts. Those fire departments not included in the CFTD would remain as individual fire tax districts. The remaining six fire departments would be included in this second class: Damascus, Gaithersburg, Kensington, Laytonsville, Rockville and Upper Montgomery.

Until its final reading on February 1, 1972, Bill 39-71 included language which directed that any fire department which subsequently required a tax rate equal to or exceeding 17 cents per \$100 assessed valuation for the then current fiscal year would be included in the CFTD. However, at the final reading, the Council amended Bill 39-71 to raise the change-over (or "trigger") rate from 17 cents to 21 cents, thereby enabling Kensington, with a projected FY73 fire tax rate of 18 cents, to remain an individual fire tax district. At Exhibit B is a table reflecting the fire tax rates established for the 16 fire tax districts for the fiscal year prior to enactment of Bill 39-71, FY72, and for the subsequent 20 fiscal years.

Bills 17-74 and 18-74

In April 1974, two bills, 17-74 and 18-74, were introduced. Each bill addressed a single issue. Bill 17-74, providing for the incorporation of the City of Takoma Park into the Consolidated Fire Tax District, was quickly enacted as emergency legislation and signed into law by the County Executive in May 1974.

However, the single issue addressed in Emergency Bill 18-74 raised heated controversy. The purpose of Bill 18-74 was to increase the fire tax "trigger" rate that directed the movement of a fire department from an individual fire tax district into the Consolidated Fire Tax District from 21 cents to 26 cents per \$100 of assessed value. Supporters of Bill 18-74 argued that the increase in the fire tax "trigger" rate was necessary because the high inflation of the time and the roll back of assessments by the Governor* effectively reduced the assessed value of real property in the fire tax districts.

The Council enacted Bill 18-74 on May 9, 1974, by a 5-1 vote with one abstention, and sent it to the County Executive for signature. The Executive returned the Bill without approval, citing as the reason for his veto that the increase in the entry level from 21 cents to 26 cents was solely to benefit the Kensington Fire Tax District. On May 14, 1974, the Council unanimously overrode the Executive's veto.

The effect of the enactment of Bill 18-74 on the FY75 fire tax rates is reflected in Table 1. It must be noted that while the bill enabled Kensington to remain outside of the CFTD, it had a significant impact on Laytonsville.

* Effective with the FY75 tax year, the Governor "rolled back" the assessable value of real property from 60% to 50% of full cash value.

Table 1

**Effect of Bill 18-74 on the FY75 Fire Tax Rate
for Selected Fire Tax Districts**

Fire Tax District	FY74 Rate ^{a)}	FY75 Rate ^{b)}	\$ Change	% Change	FY75 rate had Bill 18-74 not passed		
					CFTD Rate	\$Ch.	%Ch.
Consolidated	\$.300	\$.345	\$.045	15%	\$.315	\$.015	5%
Kensington	.205	.250	.045	22%	.315	.110	54%
Laytonsville	.170	.345	.175	103%	.315	.145	85%

a) The FY74 rate was levied on the basis of \$100 of assessed value of taxable real and personal property prior to the Governor's rollback.

b) The FY75 rate was levied on the basis of \$100 of assessed value of taxable real and personal property after the Governor's rollback from 60% to 50% of full cash value.

Table 1 indicates that Bill 18-74 had the following effect on the fire tax rates in the CFTD, Kensington and Laytonsville fire tax districts:

1. CFTD. Increased the CFTD rate by 4.5 cents instead of 1.5 cents for 11 fire departments.

2. Kensington. Enabled Kensington to absorb an individual fire tax rate increase of 4.5 cents and remain outside of the CFTD, rather than be moved into the CFTD with an increase of 11 cents.

3. Laytonsville. Regardless of the action on Bill 18-74, Laytonsville would have moved into the CFTD because of its rising operating costs. However, increasing the "trigger" rate from 21 cents to 26 cents resulted in a greater increase in Laytonsville's tax rate. Under the 21 cent "trigger" rate, Laytonsville's fire tax rate would have increased only 14.5 cents; however, by enacting Bill 18-74 and raising the "trigger" rate to 26 cents, Laytonsville's rate increased 17.5 cents because, without Kensington, the CFTD had a smaller assessed tax base.

Bill 18-78

Under County Code Sections 21-4R and 21-13, the Council must revise fire tax boundaries to conform to any changes in fire department service response area boundaries. In April 1978, as a result of opening three new fire stations, the Council enacted Bill 18-78, which changed the boundaries of the CFTD and some individual fire tax districts to be effective in FY79. Bill 18-78 also recognized that, because of increased operating expenses, the Gaithersburg-Washington Grove Fire Department would be included in the CFTD, effective with the FY79 fire tax levy, bringing the total to 12 fire departments in the CFTD.

It must be noted that under County law, Council action is not required when a fire department moves from its individual fire tax district to the CFTD because the individual fire tax rate equals or exceeds the "trigger" rate. In a 1973 opinion (No. 73.134), the County Attorney wrote that, for budgetary reasons, the Executive must communicate to the Council when including a fire department in the CFTD, and that the notification may result in Council legislation to change fire tax district boundaries. However, the opinion emphasized that under Code Section 21-13, the Executive does not have a statutorily imposed obligation to make a separate recommendation to the Council to include a fire department in the CFTD. This ruling of the County Attorney was followed in FY90 when the fire tax rates for the Damascus and Kensington individual fire tax districts exceeded 26 cents and both were included in the CFTD without legislative action.

Incorporation of Damascus and Kensington Into the CFTD

Background. With the Gaithersburg-Washington Grove Volunteer Fire Department moving into the CFTD in FY79, and the "trigger" rate established at 26 cents, there remained in FY80 only the CFTD and four individual fire tax districts, with the following fire tax rates:

<u>Fire Tax District</u>	<u>FY80 Fire Tax Rate</u>
CFTD (12 Fire Depts)	\$.323
Damascus	.000
Kensington	.258
Rockville	.137
Upper Montgomery	.137

Damascus. By 1986, Damascus was finding it more and more difficult to rely on volunteers to respond to fire calls during daytime hours, Monday through Friday. Not only had the number of calls increased as a result of growth in the Damascus response area, but the availability of volunteers whose daytime places of employment were close enough to the fire station to respond to daytime calls had drastically dropped off. As a result, the Damascus Board of Directors decided it had to provide paid fire fighters for the daytime weekday shift.

In 1987, Damascus was assigned a paid career officer and three paid fire fighters to cover the daytime hours from Monday to Friday. Because of the relatively low assessed property base in the Damascus Fire Tax District (\$201 million in FY87), the fire tax rate went from zero to 23 cents per \$100 of assessed value. Three years later, in FY90, Damascus had increased the number of paid firefighters to a level that the Damascus fire tax rate exceeded the 26 cent "trigger" rate, and Damascus was incorporated into the CFTD.

Kensington. As noted earlier, Kensington twice was able to remain out of the Consolidated Fire Tax District because of special actions by the Council. In 1972, when Bill 39-71, which created the CFTD, was before the Council for final reading, the Council amended the bill to raise the fire tax "trigger" rate for inclusion into the CFTD from 17 cents to 21 cents. Had the Council not so acted, Kensington would have been included in the CFTD because its fire tax rate was projected to be 18 cents in FY73. Two years later when the Kensington fire tax rate was at 20.5 cents and projected to go to 25 cents the next fiscal year, the Council enacted Bill 18-74 over an Executive veto to raise the fire tax "trigger" rate for incorporation into the CFTD from 21 cents to 26 cents.

Between 1974 and 1989, despite an annual increase in its budget, Kensington was able to remain outside the CFTD because of a corresponding annual increase in the property values in the Kensington Fire Tax District. For example, in FY82, the Kensington Fire Tax District's taxable base was \$1.4 billion. Seven years later, in FY89, the taxable base had almost doubled to \$2.3 billion. The effect on the Kensington fire tax rate and fire tax levies for the same two fiscal years was as follows: in FY82, the fire tax rate was 25.8 cents with a resulting fire tax levy of \$3,679,372; seven years later in FY89, because of growth in property, a lower fire tax rate of 24.2 cents resulted in a higher fire tax levy of \$5,618,503.

However, during the same period, the budget for the Kensington Fire Department also increased. In FY74, the operating budget for the Kensington Fire Department was \$1.5 million. By FY89, Kensington's annual expenditures had exceeded \$5.4 million, with the fire tax rate for FY90 projected to exceed the "trigger" rate of 26 cents. Consequently, in FY90 Kensington was incorporated, along with Damascus, into the CFTD leaving only two individual fire tax districts: Rockville and Upper Montgomery. At Exhibit C is a map of Montgomery County showing the two individual fire tax districts and the CFTD as they exist at this time.

Bill 42-87

In October 1987, the Council enacted Bill 42-87, which provided for the transfer of all paid uniformed fire and rescue personnel from the individual fire and rescue corporations to the County's merit system. The newly transferred personnel were assigned to the Department of Fire and Rescue Services, which was given statutory authorization to employ, supervise, allocate, and assign all paid fire and rescue personnel to the local independent fire and rescue corporations.

Another provision of Bill 42-87 modified Code Section 21-4R(b) to authorize the Council to levy a tax on all property in each fire tax district for personnel costs incurred by the Department of Fire and Rescue Services for the paid firefighter/rescuer personnel providing service in those fire tax districts.

Upper Montgomery Fire Tax District

Upper Montgomery has consistently had, except for Damascus, the lowest fire tax rate of any of the 16 fire tax districts, due primarily to its large volunteer complement and small number of paid personnel. Upper Montgomery hired its first three paid firefighters in 1966. By the mid-1970's, that number had doubled with the addition of three paramedic personnel. By the late-1980's, Upper Montgomery's paid complement had reached its current level of eight personnel.

During the same period, Upper Montgomery's fire tax rates reflected the incremental increases in paid staff. In FY72, Upper Montgomery's fire tax rate was 10 cents per \$100 assessed property value, with a resulting fire tax levy of \$94,437. By FY82, the tax rate had increased to 14.7 cents, with a fire tax levy of \$269,692. By FY91, the tax rate for Upper Montgomery had increased to 25.9 cents, just short of the "trigger" rate of 26 cents for inclusion in the CFTD. The 11.2 cent (76%) increase in the fire tax rate in the nine years between FY82 and FY91 was due to the increase in the number of paid personnel and overall operating expenses. During the same nine-year period, FY82 to FY91, the assessable base for Upper Montgomery increased only 65%.

Rockville Fire Tax District

The Rockville Volunteer Fire Department was organized in the early 1920s and incorporated in December 1923. Except for receiving minimal public funds in the form of the annual grant for the purchase, repair and maintenance of their equipment, the Rockville Fire Department operated for the next 30 years as a totally volunteer organization.

In 1962, the Rockville Fire Department decided that it needed to hire firefighters to assist in daytime operations. Accordingly, a request was made to the Council to establish a tax levy of 10 cents per \$100 of assessed property value in the Rockville Fire Tax District, to begin in FY63. That same year, the County Council also authorized the sale of bonds "not to exceed \$140,000" for the construction of a new station on Rollins Avenue, with the principal and interest on the bonds to be paid from the tax levy of the Rockville Fire Tax District.

The 10 cent fire tax rate remained relatively constant for most of the next decade, with the first major increase occurring in FY71 when the rate was set at 13.5 cents. The next year when the Council created the new Consolidated Fire Tax District with an entry tax rate of 17 cents, Rockville, with a tax rate of 13 cents easily retained its individual fire tax district status. When the CFTD "trigger" rate was raised to 26 cents in 1974, Rockville's tax rate was only 14 cents. In the decade following creation of

the CFTD (FY72 - FY81), the Rockville fire tax rate remained relatively constant at between 13 and 14.5 cents, with two exceptions, in FY75 (15 cents) and FY79 (15.7 cents).

Table 2 contains pertinent information relating to the Rockville Fire Tax District for the most recent decade, FY82-FY92.

Bill 4-91

In February 1991, at the request of the County Executive, the Council introduced Bill 4-91. According to the legislative request report, the bill had three objectives: to establish a single, County-wide fire tax district; to revise the law regulating the establishment of fire tax boundaries and fire service response areas; and to fund all fire and rescue services from fire tax revenues. Although not introduced as emergency legislation, the bill moved quickly through public hearing and committee worksession, and was before the Council for final action in five weeks. On March 19, 1991, Bill 4-91 was rejected by unanimous vote of the Council.

Bill 4-91 would have abolished the current policy of two categories of fire tax districts, Consolidated and Individual, and replaced it with a single, County-wide fire tax district and a single County-wide fire tax rate. The major impact of Bill 4-91 would have been to change the process for moving from an individual fire tax district to the Consolidated Fire Tax District, a process which had been in effect for almost two decades since Bill 39-71 was enacted. Bill 4-91 would, by legislative action, have eliminated the last two individual fire tax districts: Rockville and Upper Montgomery.

Although the other changes proposed in Bill 4-91--revising the fire tax boundary/response area alignment procedure and funding all fire and rescue services from fire tax revenue--received some discussion, records indicate that Bill 4-91 was decided primarily on the issue of whether to consolidate the remaining two individual fire tax districts into a single, County-wide fire tax district by enacting new legislation or to continue the process established 20 years earlier by Bill 39-71.

As stated earlier, when the County Council rejected Bill 4-91, it directed the OLO to conduct a study on all issues relating to financing fire and rescue services and report its findings to the Council later in the year.

IV. EVALUATION

This chapter evaluates the following three issues relating to financing fire and rescue services in the County:

- Part A: Fire Tax Consolidation;
- Part B: Individual Fire Tax District Boundaries; and
- Part C: Funding Sources for Fire and Rescue Services and Related Activities.

Table 2

Rockville Fire Department and Fire Tax District
Assessable Base, Fire Tax Rate, Fire Tax Levy and Budget
FY82 - FY92

<u>Fiscal Year</u>	<u>Assessable Base^{a)}</u> (Millions \$)	<u>Tax Rate^{b)}</u>	<u>Tax Levy^{c)}</u>	<u>Budget^{d)}</u>	
				(\$)	(WY)
FY82	\$1,817	\$.170	\$3,008,122	\$2,881,958	69.7
FY83	2,207	.160	3,243,642	3,118,104	68.5
FY84	2,270	.160	3,744,149	3,213,892	73.0
FY85	2,525	.144	3,780,335	3,661,597	77.0
FY86	3,037	.130	3,935,279	3,940,401	77.2
FY87	3,371	.125	4,213,996	4,338,646	84.0
FY88	3,754	.156	5,856,124	5,072,904	89.5
FY89	4,249	.167	7,095,337	5,683,134	97.7
FY90	4,895	.145	7,097,088	6,524,730	119.8
FY91	5,245	.152	8,014,700	8,358,940	120.3
FY92	5,800	.140	8,063,160	8,052,670	118.1

Sources:

- a) Department of Finance: Actual for FY82-FY90; Estimated for FY91 and FY92.
- b) Department of Finance Comprehensive Annual Financial Reports for FY82-FY90; adopted Council appropriations resolutions for FY91 and FY92.
- c) Department of Finance Comprehensive Annual Financial Reports for FY82-FY90; Department of Finance estimates for FY91 and FY92.
- d) County Executive's Recommended Budget and Public Services Programs: Actual for FY82-FY90; Estimated for FY91; Appropriated for FY92. Included in the work years (WYs) are full-time firefighters/rescuers and overtime.

A. Fire Tax Consolidation. This issue is addressed by posing and answering questions related to these four major subjects:

- Recent changes within and outside the fire and rescue services;
- Interdependence and mutual support in service delivery;
- Effect on volunteerism by incorporation into the Consolidated Fire Tax District (CFTD); and
- Fairness and tax equity.

1. What has changed in the fire and rescue services to warrant a change in the process established by the Council in May 1972, for moving from an individual fire tax district to the Consolidated Fire Tax District (CFTD)?

Background. As discussed in Chapter III, the County Council established by legislation (Bill 39-71) two classes of fire tax districts: Individual and Consolidated; and established a process whereby a fire department in an individual fire tax district would be incorporated into the Consolidated Fire Tax District (CFTD). The key element determining the move from an individual district to the CFTD was the fire tax rate. Originally, Bill 39-71 set the "trigger" fire tax rate at 17 cents or more per \$100 of assessed valuation with the result that ten fire departments moved into the CFTD in FY73. The same legislation set the "trigger" rate for future moves at 21 cents. Two years later, in May 1974, Council legislation (Bill 18-74) increased that rate to 26 cents per \$100 of assessed valuation. In the 17 years since that increase, four additional fire departments have moved into the CFTD: Laytonsville (FY75), Gaithersburg (FY79), Damascus (FY90), and Kensington (FY90).

Discussion. In public testimony in opposition to Bill 4-91, it was stated that nothing had changed in the past 20 years to justify a change in the legislated process of moving a fire department from an individual fire tax district to the CFTD on the basis of a "trigger" tax rate set in law at 26 cents per \$100 of assessed value of taxable real and personal property. However, a review of the past two decades indicates a number of significant changes both intrinsic and extrinsic to fire and rescue services that have had a direct affect on those services.

Intrinsic to the fire and rescue services have been the following major changes:

- An Executive-appointed Fire and Rescue Commission was created in 1980, with centralized authority and responsibility to establish County-wide policies and the regulatory framework for all County fire, rescue, and emergency medical services. In the decade since its creation, the Fire and Rescue Commission has issued many policies, regulations, and procedures, which have affected all elements of the fire and rescue service by standardizing both administration and operations. These include: minimum personnel training

requirements and certification standards; a standard incident command system; provisions for the temporary transfer of equipment between fire departments; an integrated emergency command structure; and standard operating procedures for responding to high-rise box alarms, trench collapse and cave-ins, urban-rural box alarms, and other emergencies.

- In January 1988, all paid firefighter/rescuers who elected to do so were transferred from the independent corporations to the County's merit system. In the same County law that authorized the transfers (Bill 42-87), the Department of Fire and Rescue Services was given responsibility to employ, pay, terminate, discipline, assign, promote, transfer and supervise paid firefighter/rescuer personnel.

- All procedures for call-in (Enhanced 911), and alert notification and dispatch (Computer Assisted Dispatch) of all fire and rescue resources, have been standardized and centralized.

- Finally, and significantly, the independent fire departments have become more interdependent and mutually supporting, with multiple department responses to fire and rescue emergencies the standard rather than the exception. There has always been mutual support among the independent fire departments. However, as the County increased in population and density, there has been a corresponding increase in the number of stations, pieces of fire fighting apparatus, and frequency of fire and rescue incidents. With that increase in size and activity came a corresponding increase in responses outside individual department's fire tax district in mutual support of other departments. (See below for detailed discussion of interdependence and mutual support.)

In addition to the above changes within the fire and rescue services, there have been significant changes extrinsic to fire and rescue services that have impacted on those services:

- Montgomery County has grown during the past 20 years, in terms of population and households, with a corresponding growth in the fire and rescue service units and operations. Table 3 reflects the growth in selected categories over that 20-year period.

- The value of the County's tax base has also increased. At Table 4 is a comparison of the assessed tax base for property (real and personal) for each of the 16 fire tax areas for the two fiscal years 1976 and 1991.* It is important to note that, while the assessed taxable value grew in all fire tax districts, the growth was not evenly distributed among the fire tax areas.

* Fiscal year 1976 was selected as the year closest to the year Bill 39-71 was enacted (1972) for which data were available for each of the 16 fire tax districts.

Table 3

**Montgomery County: Population, Households, Assessed Value
and Selected Data on the Fire and Rescue Services
FY70 and FY90**

County	FY70	FY90	% Change FY70-FY90
Population a)	522,800	757,030	44.8%
Households a)	156,670	282,230	80.1%
Assessed value of taxable property b) (Millions \$)	\$3,123	\$21,525	589.2%
Fire tax expenditures b)	\$5,210,200	\$57,253,700	998.9%
<hr style="border-top: 1px dashed black;"/>			
<u>Fire/Rescue Data</u> b)			
No. of stations	27	33	22.2%
No. of paid firefighters/rescuers	348	870	150.0%
No. of active volunteers*	1,493	689	(53.9%)
No. of unit responses	(See Note)		

* The term "active volunteers" does not have a precise definition. OLO assumes that these figures relate to volunteers who perform a type of service which qualifies for some LOSAP credit.

Note: Reliable unit response data for FY70 is not available. However, the following unit response data are available for FY80 and FY90:

<u>FY80</u>	<u>FY90</u>	<u>% Change FY80 - FY90</u>
75,208 unit responses	115,387 unit responses	53.4%

Sources:

- a)** Research Division, Montgomery County Planning Department, M-NCPPC.
- b)** Department of Finance, Annual Financial Report - FY70 and FY80;
Comprehensive Annual Financial Report - FY90.

Table 4

Comparison of Assessed Tax Base
FY76 and FY91

<u>Fire Tax District</u> ^{a)}	<u>FY76 Assessed Tax Base</u> ^{b)} (Millions \$)	<u>% of Total</u>	<u>FY91 Assessed Tax Base</u> ^{c)} (Millions \$)	<u>% of Total</u>	<u>% Increase FY76 - FY91</u> ^{d)}
Bethesda	\$829	15.9	\$3,693	15.8	345
Burtonsville	108	2.0	709	3.0	556
Cabin John	202	3.9	1,320	5.6	553
Chevy Chase	175	3.4	675	2.9	286
Damascus	60	1.2	314	1.3	423
Gaithersburg	513	9.8	3,333	14.2	550
Glen Echo (Conduit Rd)	211	4.0	764	3.3	262
Hillandale	265	5.1	1,003	4.3	278
Hyattstown	41	0.8	85	0.4	107
Kensington	819	15.7	2,729	11.6	233
Laytonsville	36	0.7	313	1.3	769
Sandy Spring	290	5.6	1,061	4.5	266
Silver Spring	564	10.8	1,665	7.1	195
Takoma Park	78	1.5	232	1.0	197
Rockville	898	17.2	5,245	22.4	484
Upper Montgomery	<u>125</u>	<u>2.4</u>	<u>302</u>	<u>1.3</u>	<u>142</u>
Totals:	\$5,214	100%	\$23,443	100%	350%

Notes and Sources:

- a) As reconstructed by OLO from DFRS fire tax maps and Department of Finance tax classes.
- b) Department of Finance records.
- c) Actual FY91 assessed taxable base through March 31, 1991, as reported in Department of Finance's TAX750 Report.
- d) The average increase for the 15-year period was 350%; and the median increase was 282%. The percent increase in the CPI-U for the same period was 157%.

● Overall growth in the County has been accompanied by a dramatic change in its socio-economic composition. This change has often been cited by the volunteer fire/rescue corporations as a major reason for the decreases in volunteer participation. Specifically, the volunteer corporations have cited the following for the decline in the number of fire and rescue volunteers: diminished interest on the part of citizens; competition for the time of a volunteer because of secondary employment, continuing education, and social activities; and reluctance on the part of employers to permit a volunteer to respond to fire incidents from the volunteer's place of employment. It is important to note that the last remaining fire and rescue corporation in the County that does not take direct tax funds, the Bethesda-Chevy Chase Rescue Squad is also not able to maintain a volunteer complement on weekdays and must hire personnel who are paid with volunteer funds to staff its equipment during daytime hours.

Summary. During the past 20 years, there have been a number of changes intrinsic and extrinsic to the fire and rescue services. These changes have directly impacted on the funding, staffing and delivery of those services.

2. What changes in mutual support and interdependency in the delivery of fire and rescue services have occurred during the past 20 years to warrant a change in the method of financing these services?

Background. The various independent volunteer fire departments were created out of a community need for organized, reliable fire protection. From the communities that the fire departments served came volunteer funding and volunteer firefighters. Eventually, the County gave small grants to these corporations, and enacted legislation authorizing the collection of a tax in the communities to purchase and maintain firefighting equipment, construct fire stations, and hire firefighters. Although there was always a spirit of cooperation and mutual support among fire departments, each department operated primarily in a "stand alone" mode, with its service response area corresponding to the community from which the department was originally organized, and from which it received fire tax funds and volunteer support.

During the past 20 years, the growth in the County and corresponding complexity of fire suppression operations has led to the development of standard training, operating, and response procedures; and the consolidation and centralization under the Department of Fire and Rescue Services of responsibility for the permanent and temporary assignment of all paid firefighters. The adoption of standard incident command procedures, fire-ground operational procedures, and a single computer-aided dispatch system have all facilitated increased mutual support, and necessitated an integrated County-wide fire and rescue system staffed by a combination of professional volunteers and career paid personnel.

Discussion. At Tables 5 and 6 are data reflecting actual responses in calendar year 1990, by incident and unit, for half of the fire departments (8) and over half of the fire stations (17). These data evidence

Table 5

**CY 1990 Fire and Rescue Incident and Unit Responses
of Selected Fire Departments Within and Outside
the Fire Department's Primary Response Area**

INCIDENT RESPONSES

<u>Department</u>	<u>(# STA)</u>	<u>Total Number For Department</u>	<u>Number Within Department Area (%)</u>	<u>Number Outside Department Area (%)</u>
Bethesda	(3)	5,732	4,250 (74.1%)	1,482 (25.9%)
Burtonsville	(1)	1,702	1,300 (76.4%)	402 (23.6%)
Damascus	(1)	1,114	855 (76.8%)	259 (23.2%)
Gaithersburg	(2)	8,308	6,946 (83.6%)	1,362 (16.4%)
Kensington	(4)	10,469	7,461 (71.3%)	3,008 (28.7%)
Laytonsville	(1)	1,170	496 (42.4%)	674 (57.6%)
Rockville	(4)	11,030	8,828 (80.0%)	2,202 (20.0%)
Upper Mont	(1)	660	563 (85.3%)	97 (14.7%)
Total:		<u>40,185</u>	<u>30,699 (76.4%)</u>	<u>9,486 (23.6%)</u>

UNIT RESPONSES

<u>Department</u>	<u>(# STA)</u>	<u>Total Number For Department</u>	<u>Number Within Department Area (%)</u>	<u>Number Outside Department Area (%)</u>
Bethesda	(3)	8,389	6,511 (77.6%)	1,878 (22.4%)
Burtonsville	(1)	2,351	1,856 (78.9%)	495 (21.1%)
Damascus	(1)	1,594	1,300 (81.6%)	294 (18.4%)
Gaithersburg	(2)	11,554	9,921 (85.9%)	1,633 (14.1%)
Kensington	(4)	14,904	11,369 (76.3%)	3,535 (23.7%)
Laytonsville	(1)	1,716	850 (49.5%)	866 (50.5%)
Rockville	(4)	17,444	14,447 (82.8%)	2,997 (17.2%)
Upper Mont	(1)	967	843 (87.2%)	124 (12.8%)
Total:		<u>58,919</u>	<u>47,097 (79.9%)</u>	<u>11,822 (20.1%)</u>

Notes:

Incident Response: A specific fire/rescue event to which one or more units respond and an individual identification number is assigned by the Emergency Communications Center (ECC). For CY 1990, Montgomery County had a total of **65,641** fire/rescue incidents.

Unit Response: An individual piece of apparatus dispatched to an incident. For CY 1990, Montgomery County had a total of **112,967** fire/rescue unit responses.

Types of Apparatus: For this Table and Table 6, only the following apparatus were counted: engines, trucks, aerial trucks, rescue squads, ambulances, medic units, brush trucks and boats.

Source: DFRS Master Fire File, June 10, 1991.

the interdependent and mutual support characteristics of present-day fire and rescue operations in the County. Table 5 shows that, for the eight fire departments, more than 23 percent of the incident responses and 20 percent of the unit responses were to fire and rescue emergencies outside the departments' primary service response areas. In the case of one fire department, Laytonsville, a majority of its responses were outside its primary response area.

Table 6 takes the same basic fire and rescue incident and response data for 1990 for the eight fire departments and presents that data in the form of approximate ratios. The first ratio compares the total number of responses by a department to the total number of responses inside the department's response area by other fire departments. The second ratio compares the number of department responses outside its primary service response area to the number of responses inside the department's response area by other fire departments.

The overall conclusion one reaches from Tables 5 and 6 is that fire departments do not function solely in their own primary service response areas, but routinely respond to emergencies outside their primary response areas. Conversely, fire departments are aided by other fire departments in a continual cycle of mutual support.

Another example of the interdependence and mutual support of the County fire and rescue services is the standard response assignment system established by the Fire and Rescue Commission. Under that system, the same number and type of apparatus generally respond to the same type of fire incident regardless of the incident location. Such a standardized system necessitates that multiple units be dispatched from more than one station to house fire and other major fire incidents (barns, commercial buildings, apartments, townhouses, schools). To meet the apparatus requirements of the County's standard response procedures, apparatus must be dispatched from multiple stations of two or more fire departments.

Summary. The County's fire and rescue services in 1991 are vastly different than that of the early 1970's. While still providing County residents with effective fire, rescue and emergency services, the fire and rescue departments are no longer totally independent entities, employing their own corporation firefighters/rescuers, and operating almost exclusively within their individual fire tax districts under policies and operating procedures directed by the governing boards of the individual fire corporations. Today, the independent fire departments operate in an integrated manner within a County-wide combined fire and rescue service where interdependence and mutual support are the rule rather than an occasional event.

- 3. What are the effects on volunteer participation and the preservation of the volunteer system when a fire department moves from its individual fire tax district to the Consolidated Fire Tax District (CFTD)?**

Table 6

CY 1990 Fire and Rescue Incident and Unit Responses
Comparison of Responses Within and Outside the Primary Response Areas
of Selected Fire Departments

INCIDENT RESPONSES

Corporation (# STA)	A	B	C	D	E
	Total # For Dept	# Outside Dept Area	# of Responses From Other Depts Inside Dept Area	Ratio of Total Dept Responses to Responses From Other Departments (A to C)	Ratio of Dept Responses Outside of Area to Responses From Other Departments (B to C)
Bethesda (3)	5,732	1,482	4,360	1 to 1	1 to 3
Burtonsville (1)	1,702	402	532	3 to 1	1 to 1
Damascus (1)	1,114	259	141	8 to 1	2 to 1
Gaithersburg (2)	8,308	1,362	1,937	4 to 1	1 to 1
Kensington (4)	10,469	3,008	5,360	2 to 1	1 to 2
Laytonsville (1)	1,170	674	209	6 to 1	3 to 1
Rockville (4)	11,030	2,202	4,313	3 to 1	1 to 2
Upper Mont (1)	660	97	60	11 to 1	2 to 1

UNIT RESPONSES

Corporation (# STA)	A	B	C	D	E
	Total # For Dept	# Outside Dept Area	# of Responses From Other Depts Inside Dept Area	Ratio of Total Dept Responses to Responses From Other Departments (A to C)	Ratio of Dept Responses Outside of Area to Responses From Other Departments (B to C)
Bethesda (3)	8,389	1,878	7,031	1 to 1	1 to 4
Burtonsville (1)	2,351	495	685	3 to 1	1 to 1
Damascus (1)	1,594	294	261	6 to 1	1 to 1
Gaithersburg (2)	11,554	1,633	3,046	4 to 1	1 to 2
Kensington (4)	14,904	3,535	6,947	2 to 1	1 to 2
Laytonsville (1)	1,716	866	307	6 to 1	3 to 1
Rockville (4)	17,444	2,997	5,541	3 to 1	1 to 2
Upper Mont (1)	667	124	155	6 to 1	1 to 1

Source: DFRS Master Fire File, June 10, 1991.

Background. Beginning in 1893 with the organization of a volunteer fire company in Takoma Park, Montgomery County has had a long and proud history of volunteer fire and rescue services. During the first three decades of this century, all fire and rescue organizations in the County were totally supported by private donation of funds, materials, and personnel services from the communities they served. In 1927, the departments began receiving a grant from the County to help defray operating expenses. Over the next six decades, as the number of volunteer fire departments increased, the level of tax support also increased.

Today, all but two of the 17* fire departments still use volunteers in varying numbers along with paid County firefighters to respond to fire, rescue, and medical emergencies. The two exceptions, Bethesda and Chevy Chase, have volunteer boards of directors, but no volunteer fire or rescue personnel. The Bethesda Fire Department went to an all-paid staff in 1939, and the Chevy Chase Fire Department ceased using volunteer firefighters in 1954. Both actions occurred well before the creation of the CFTD in 1972.

In March 1991, during Council debate on legislation to establish a single fire tax rate for the whole County (Bill 4-91), there was much discussion on the relationship of financing fire and rescue services to the contribution, enhancement, and preservation of volunteerism in the fire and rescue services. Specifically, the debate centered on the following two issues: (a) the impact of volunteer participation on the tax rate in an individual fire tax district; and (b) the overall effect on volunteer participation when a fire department is incorporated into the CFTD. Each of these issues is discussed below.

Discussion:

(a) The impact of volunteer participation on the fire tax rate of an individual fire tax district.

There is no question that volunteer participation reduces a fire department's need for paid personnel, which in turn reduces the operating budget of the fire department and, hence, reduces fire taxes. The question, however, is how much of an impact on the fire tax do volunteers make.

Currently, the tax savings which accrue from volunteer fire and rescue services cannot be quantified with any degree of accuracy, because the County does not have a reliable formula for calculating the equivalency of active volunteer firefighters to paid firefighters. In an attempt to mathematically calculate volunteer contribution, the Fire and Rescue Commission's draft 1984 Master Fire Defense Plan suggested the following volunteer-to-career personnel ratio:

* When tracing the history of fire tax district legislation earlier in this report, references were made to 16 fire departments and fire tax districts (areas). In 1989, a 17th department, the Germantown Volunteer Fire Department, was created within the CFTD by splitting the Hyattstown Fire Department and fire service response area.

One career person is equal to:

<u>Number Volunteers</u>	<u>When the Percentage of Active Volunteer Participation is:</u>
4	60% or more
6	40% or more
8	Less than 40%

The draft 1984 Master Plan was never published in final form and the equivalency table was never adopted. However, at least one of the larger fire departments reports that it currently uses the above ratio as a guideline because there is no better alternative.

In 1986, the Council commissioned Ryland Research to study County fire personnel staffing and apparatus standards. As part of the study, the Ryland Research consultants examined the issue of equating volunteer and career personnel, and concluded that general ratios of the type presented in the 1984 draft Master Fire Defense Plan were not meaningful in Montgomery County "...particularly for use by the County Council in making budget decisions". This conclusion from the Ryland Report was based primarily on the level of complexity of the County's fire and rescue services. To quote from the Phase II Report findings:

"...the fire/rescue corporations have different policies concerning sleep-in, stand-by, response from home and work, response directly to the fireground, etc. When these factors are combined with the usual volunteer participation considerations of time-of-day, day-of-week, season, qualifications or rank needed . . . the level of complexity becomes unacceptable; that is, an almost infinite set of ratios would be needed to make meaningful personnel allocation decisions. And, these ratios could change quickly because of changes in policies of the fire/rescue corporations."*

Based upon OLO's experience in this matter, findings in the Ryland Report appear to be valid. This is certainly not to imply that volunteers do not save the County money. Rather, because of volunteer staffing variables in the various fire departments, one cannot develop a cost equivalency that has any degree of common application. However, in an effort to present an example of the cost savings volunteer service provides the County, OLO developed Table 7 (page 16a) which assumes the loss of all volunteers in four selected fire departments and estimates the additional costs and resulting impact on the FY91 fire tax rate of the loss of those volunteers and the requirement to staff the departments 24 hours each day with paid career employees at the minimum level of staffing.

* "Staffing and Apparatus Standards for Montgomery County Fire/Rescue Services", Ryland Research, Inc., September 17, 1986. The Ryland Report was briefed to the Council's Government Structure, Automation, and Regulation (GSA) Committee in January 1987; however, no formal action on the consultant's recommendations was taken by either the Committee or the full Council.

Table 7

**Impact on the FY91 Fire Tax Rate of Additional Costs
to Fully Staff Four Fire Departments With Paid County Personnel**

A. <u>Fire Tax Districts</u>	CFTD		Rockville	Upper Montgomery
	1. Total FY91 funding requirement. ^{a)}	\$51,408,490		\$9,063,290
2. FY91 fire tax rate. ^{b)}	\$.278		\$.152	\$.259
3. \$ equivalent to a 1¢ increase in fire tax rate. ^{c)}	\$1,780,400		\$527,300	\$30,800
B. <u>Fire Departments</u>	Kensington	Damascus	Rockville	Upper Montgomery
4. FY91 paid personnel assigned and personnel costs. ^{d)}	82 \$4,551,670	15 \$835,040	112 \$6,311,070	8 \$504,670
5. Additional paid personnel needed to replace staffing provided by volunteers. ^{e)}	40	17	35	17
6. Additional personnel costs associated with full paid staffing. ^{f)}	\$2,029,680	\$799,400	\$1,636,500	\$844,000
7. Additional fire tax needed to fund additional personnel costs.	\$.011	\$.004	\$.031	\$.274
8. New fire tax rate to fund all paid County staffing.	\$.289 (.278+.011)	\$.282 (.278+.004)	\$.183 (.152+.031)	\$.533 (.259+.274)

Notes and Sources:

- ^{a)} Vol. I, Approved FY91 Operating Budget, pp. 2-21 and 2-22. (See Exhibit D.)
- ^{b)} OMB calculation based upon: FY91 funding requirements; estimated fire tax revenue from FY91 assessable base; Takoma Park rebate; estimated interest earnings; and estimated FY90 surplus.
- ^{c)} Based on the FY91 estimated assessable base and the FY91 fire tax rate.
- ^{d)} Based on actual FY91 expenditures for first three quarters and estimated 4th quarter expenditures for personnel assigned. Three departments were authorized more personnel than were assigned (Kensington-89; Damascus-17; and Rockville-116), but were not filled because a recruit class was cancelled.
- ^{e)} DFRS: For minimum staffing at the appropriate rank for the major pieces of apparatus.
- ^{f)} DFRS: Includes salaries, fringe, overtime, holiday compensation and associated personnel operating expenses (uniforms, protective gear, etc.).

The data in Table 7 show that, based on FY91 costs, to fully staff the Rockville and Upper Montgomery fire departments at the minimum level with paid personnel, the Rockville FY91 fire tax rate would have to be increased 3.1 cents to 18.3 cents, and the Upper Montgomery FY91 fire tax rate increased 27.4 cents to 53.3 cents. From Table 7 one can see both the beneficial impact of volunteer participation on reducing the fire tax rate in the two individual fire tax districts, and the impact of the assessable base on the actual fire tax levied.

(b) The effect on volunteer participation when a fire department moves from an individual fire tax district to the CFTD.

At the public hearing on Bill 4-91, testimony was received (and subsequently repeated in a letter to the Council's Public Safety Committee) that, with two exceptions, fire departments have experienced a decline in volunteer participation after moving to the Consolidated Fire Tax District (CFTD). One of the fire departments cited as an example of this decline in volunteers was the Gaithersburg-Washington Grove Volunteer Fire Department.

To further examine this issue, OLO queried the four departments that most recently moved into the CFTD: Laytonsville (FY75), Gaithersburg-Washington Grove (FY79), Damascus (FY90), and Kensington (FY90). A review of their responses indicates that incorporation into the CFTD has not resulted in a decline in volunteer participation. Instead, it appears that a decline in volunteer participation has been due to factors unrelated to incorporation into the CFTD.

The primary reason for initially requesting the County to levy a fire tax, and for incremental increases in the fire tax levies, has been the need by the fire corporations to hire paid firefighters. Initially, the paid firefighters/rescuers were needed to respond to daytime calls because of the absence of volunteers during the weekday hours. As is the case today, with the exception of career firefighters on shift work who can volunteer on the days they are off-duty, the overwhelming majority of volunteers serve during evening and weekend periods when they are free from their regular jobs.*

As has been stated in testimony before the Council on frequent occasions, and documented in previous reports on the fire and rescue services, the number of volunteer firefighters declined during the 1970's and 1980's for a variety of socio-economic reasons. In addition to this decline in the actual number of volunteers, their availability also declined as volunteers became more and more restricted by their employers from leaving

* It is important to note that Montgomery County career firefighters employed by the Department of Fire and Rescue Services (DFRS) are prohibited from providing any volunteer firefighter/rescuer services at a corporation to which they are assigned by the DFRS. Volunteer firefighters become members of a volunteer fire corporation and provide their volunteer services directly to and as members of a volunteer fire corporation. Montgomery County firefighters do not provide any volunteer services directly to DFRS.

their places of employment to respond to the "fire siren". This was particularly the case in the up-County areas (such as Damascus and Laytonsville), where volunteers traditionally responded to the firehouse siren from their places of daytime employment.

Kensington Volunteer Fire Department (KVFD). OLO queried the Administrative Officer of the Kensington VFD as to the effect on the department's volunteer membership when it was incorporated into the Consolidated Fire Tax District (CFTD) in FY90. The KVFD responded that incorporation had no affect on the entry level membership, but may have had some affect on senior members who saw no further need for their fiscal oversight now that the department was not in an individual fire tax district. During the years immediately preceding incorporation into the CFTD (1987-90), Kensington experienced a loss of many active, riding volunteers. The KVFD attributes this to the January 1988 transition of paid firefighters/rescuers from corporate employment to merit system employment and the prohibition on career employees volunteering at the corporation where regularly assigned. In the period since incorporation (1990-91), because of intense recruiting efforts by the KVFD, there has been a surge in volunteer membership which appears to be unrelated to that Department moving into the CFTD.

Gaithersburg-Washington Grove Fire Department (GWGFD). Because the GWGFD was specifically identified as a department that lost volunteers after coming into the CFTD, OLO queried the President of the Department concerning the effect on volunteer participation as a result of incorporation into the CFTD. In a written reply to OLO's request, the President submitted data which strongly suggest that incorporation into the CFTD did not in itself result in a loss of volunteers. Data were provided by the President on volunteer membership and paid career employees for the period 1975-1983. This nine-year period covers the four years prior to the year Gaithersburg entered the CFTD (1975-1978), the year it was incorporated into the CFTD (1979), and the four years after entry (1980-1983). The President's data are reflected in Table 8.

The data indicate that, in the three years prior to incorporation into the CFTD (1976-1978), the GWGFD experienced an increase of 23 career paid firefighter/rescuers. This 60 percent increase was in direct response to the opening of temporary Station 29. In 1978, Gaithersburg Station 8 was permanently relocated to Montgomery Village and Station 29 was transferred by action of the Executive Committee of the Fire Board to the Hyattstown Volunteer Fire Department. When Station 29 was relocated in Germantown, the paid career employees that had been hired to staff Station 29 when it was assigned to the GWGFD did not transfer to the new location.

In the same three-year period preceding Gaithersburg's incorporation into the CFTD, a total of 76 volunteer members either resigned or were dropped by vote of the membership. In the year of incorporation into the CFTD (1979), 51 members resigned or were dropped. And in the subsequent four years after incorporation into the CFTD (1980-1983), an additional 135 members resigned or were dropped for an average loss of 34 members for each of the four years.

Table 8

**Volunteer Membership and Career Paid Employees of the
Gaithersburg-Washington Grove Fire Department
1975-1983**

<u>Year</u>	<u>Volunteer Membership</u>		<u>Paid Career Employees^{c)}</u>
	<u># Members^{a)}</u>	<u># Resigned^{b)}</u>	
1975	110	10	38
1976	109	23	37
1977	111	21	49
1978	127	32	56
1979 ^{d)}	126	51	60
1980	109	39	61
1981	97	43	60
1982	91	27	59
1983	92	26	61

a) Active and life members.

b) Includes resignations and those dropped by vote of the membership.

c) Firefighter/rescue employees employed by the corporation. Does not include administrative or part-time hourly career employees (formerly called "casual labor").

d) The year the Department was incorporated into the CFTD.

Source: Gaithersburg-Washington Grove Volunteer Fire Department, Inc.,
June 21, 1991.

According to information provided by the President, the loss of members after incorporation was the result of several factors: internal dissension in the Corporation leadership which led to the removal of the president and chief which then resulted in resignations by members who disagreed with their removal; when Station 29 was transferred to the Hyattstown VFD, many members transferred their membership to that corporation; a decision by the GWGFD leadership to purge the rolls of older, inactive members; and finally, the increase in the number of paid career employees. Consequently, to allege that volunteers left the GWGFD when it was incorporated into the CFTD is an over-simplification of a complex situation where many factors were involved.

Finally, both Laytonsville and Damascus reported similar scenarios: loss of daytime volunteers during weekdays necessitated the hiring of paid firefighters. Both Laytonsville and Damascus had a number of businesses in proximity to the fire station from which volunteers who were employees responded to daytime fire alarms. However, the growth of the two communities and the reluctance of employers to excuse employees to respond to alarms led to the hiring of tax-paid firefighters/rescuers to respond to daytime calls, Monday through Friday.

Summary. Information from the four fire departments that most recently were incorporated into the CFTD indicates that incorporation has not directly resulted in a loss of volunteers. It appears that the need to hire firefighters/rescuers to staff the fire and rescue apparatus during periods of limited or no volunteer availability resulted in incremental increases in fire taxes in the individual fire tax districts, increases that eventually reached the 26-cent "trigger" fire tax rate to move the fire department into the CFTD. Thus, loss of volunteers resulted in incorporation, and not the other way around.

4. How do the issues of fairness and tax equity affect the method of financing fire and rescue services?

Background. Throughout discussions on Bill 4-91, Fire Tax District Consolidation, the issues of fairness and equity were raised by both proponents and opponents of the bill. Supporters of a single County-wide fire tax argued that it was unfair to continue the current system of funding a County-wide fire and rescue system in a manner where taxpayers in the two individual fire tax districts, Rockville and Upper Montgomery, pay significantly less for a level of service that is equal to that received by taxpayers in the Consolidated Fire Tax District (CFTD). Supporters also emphasized that it was a matter of tax equity that taxpayers in the Rockville Fire Tax District, with its high economic base, should absorb some of the funding requirements of those fire departments in other parts of the County that are more expensive to operate relative to their assessable tax bases. Finally, supporters of a single fire tax pointed out that fire departments in the CFTD routinely respond to emergencies in the Rockville service response area.

Opponents of a single County-wide fire tax stressed that it would be unfair for the County to break a 20-year "agreement" that an individual fire tax district would not be absorbed into the CFTD until its expenditures

reached a legislated fire tax rate equivalent to 26 cents per \$100 of assessed property value. Further, opponents to Bill 4-91 argued that it is not equitable to increase the fire tax of the citizens of the two remaining individual fire tax districts while not providing a corresponding increase in the level of service to the communities they serve. Finally, opponents of a single fire tax also pointed out that the Rockville and Upper Montgomery Fire Departments routinely responded to emergencies in the CFTD service response area.

Fairness and equity are highly subjective issues and tend to be emotional. In an attempt to present an impartial discussion of how fairness and equity fit into the manner of financing County fire and rescue services, this section will examine **fairness** and **equity** within the following three broad categories:

- Tax equity and the assessable base;
- A sudden large increase in the fire tax rate;
- The currently legislated tax consolidation "agreement".

Discussion:

(a) Tax equity and the taxable base

Earlier in this chapter, the growth of the County during the past 20 years was discussed as one of the significant factors that has had an impact on the staffing, operations and funding of fire and rescue services. With respect to funding, the growth and distribution of the property tax base is especially significant.

Table 4 (page 12b) compared the assessed tax base for each of the 16 fire tax areas for fiscal year 1976 to the tax base for those areas in fiscal year 1991. Overall, there was an increase in the tax base in every fire tax area of the County, with an average increase for the County over the 15-year period of 350 percent. However, the overall increase in the taxable base was not evenly distributed among the fire tax areas.

In particular, the data in Table 4 indicate that:

- The increases in the assessed tax base in two fire tax districts, Hyattstown (107%) and Upper Montgomery (142%), were less than the rate of inflation (157%) for the same 15-year period. In the remaining 14 fire tax districts, the increases were more than the rate of inflation, some by as much as three times the rate.

- In FY76, the 14 fire tax areas that comprise what is now the CFTD represented 79.4% of the County's assessed tax base; with the Rockville Fire Tax District representing 17.2%, and the Upper Montgomery Fire Tax District, 2.4%

- In FY91, the percent of the assessed tax base of the 14 fire tax areas that now comprise the CFTD had decreased to 76.3%; while Rockville's percentage increased to 22.4%, and Upper Montgomery's declined to 1.3%.

Not reflected on Table 4, but germane to the issue, is the growth in the County's population and its distribution among the fire tax districts during this same period. As stated earlier, FY76 was selected in Table 4 because it was the first year after enactment of Bill 39-71 in 1972 which data were available for each of the 16 fire tax districts. According to data provided by the Montgomery County Planning Department, M-NCPPC, the County's population in 1976 was 585,800. Unfortunately, population distribution by fire tax district is not available for that year. However, from data on the 1990 census provided by the Montgomery County Planning Department and the approved 1990 census tract map, (Exhibit E), OLO was able to calculate the distribution of the 1990 population among the fire tax districts to be as follows:

CFTD	621,865 (82.2%)
Rockville	128,921 (17.0%)
Upper Montgomery	6,244 (0.8%)
Total County	757,030 (100%)

The unequal growth of the assessed tax base in the 16 former fire tax areas, as reflected in Table 4, coupled with increases in the operating budgets of all the fire departments, contributed significantly to the incorporation of four departments into the CFTD during the 15-year period (FY76-FY91).

The unequal distribution of the County's FY91 assessed tax base in relation to departments' budgets is presented at Table 9. The data indicate that, of the 14 fire departments that currently are part of the CFTD, taxpayers in the primary service response areas of seven departments pay more in fire taxes than is budgeted for the departments which serve them. In the other seven departments' primary service response areas, the opposite is the case. In effect, the taxpayers in half of the fire response areas subsidize the departments in the other areas of the CFTD.

However, taxpayers in the individual fire tax districts of the remaining two fire departments, Rockville and Upper Montgomery, are assessed at a rate that is set only to cover their respective department budgets, using prior year surplus funds and providing for a surplus in the current year.

Table 9

**A Comparison of FY91 Estimated Fire Tax Revenues
to the FY91 Estimated Fire Department Budgets**

<u>Fire Tax District^{a)}</u>	<u>Assessed Taxable Base^{b)} (Millions \$)</u>	<u>% of Total</u>	<u>Tax Dist/Rate^{c)}</u>	<u>Estimated Fire Tax Revenue^{d)}</u>	<u>Estimated Fire Department's FY91 Budget^{e)}</u>	<u>Comparison Revenue-Budget</u>
Bethesda	\$3,693	15.8	CFTD/.278	\$10,195,570	\$7,494,420	2,701,150
Burtonsville	709	3.0	CFTD/.278	1,957,420	1,369,900	587,520
Cabin John	1,320	5.6	CFTD/.278	3,643,560	3,142,040	501,520
Chevy Chase	675	2.9	CFTD/.278	1,863,680	1,520,440	343,240
Damascus	314	1.3	CFTD/.278	866,650	1,164,840	(298,190)
Gaithersburg	3,333	14.2	CFTD/.278	9,202,170	4,505,110	4,697,060
Glen Echo (Conduit Rd.)	764	3.3	CFTD/.278	2,108,380	1,911,510	196,870
Hillandale	1,003	4.3	CFTD/.278	2,769,980	3,485,410	(715,430)
Hyattstown	85	0.4	CFTD/.278	233,860	2,522,210 ^{f)}	(2,288,350)
Kensington	2,729	11.6	CFTD/.278	7,534,050	6,436,490 ^{g)}	1,097,560
Laytonsville	313	1.3	CFTD/.278	864,110	1,176,610	(312,500)
Sandy Spring	1,061	4.5	CFTD/.278	2,928,210	3,019,110	(190,900)
Silver Spring	1,665	7.1	CFTD/.278	4,597,510	6,339,890	(1,742,380)
Takoma Park	232	1.0	CFTD/.278	894,120 ^{h)}	1,920,010	(1,025,890)
Rockville	5,245	22.4	Rock/.152	8,014,700	8,358,940	(344,240)
Upper Montgomery	<u>302</u>	<u>1.3</u>	Upp Mont/.259	797,280	792,630	4,650
Total:	<u>\$23,443</u>	<u>100</u>				

Notes and Sources:

- a) As reconstructed by OLO from the Tax Class Map of Montgomery County.
b) Actual 1990-91 assessed taxable base (real and personal property) through March 31, 1991, as reported in Department of Finance's TAX750 Report.
c) FY91 fire tax rate for Consolidated (CFTD), Upper Montgomery, and Rockville Fire Tax Districts.
d) Assessed Taxable Base x 99.3% collection factor x fire tax district rate/\$100 value. Not included is the prior year's available surplus of (approximately \$6 million) or the interest earnings (approximately \$1.4 million) from the three fire tax districts, which, when distributed, will increase revenue available to departments.
e) County Executive's Recommended FY92 Budget, p. 40-23. Operating Budget only; does not include Current Receipt CIP.
f) Includes Germantown budget of \$1,825,490 in Hyattstown fire tax area.
g) Includes approximately \$515,000, which is 70% of the Wheaton Rescue Squad budget charged to the Kensington fire tax area.
h) Includes Takoma Park rebate of \$255,000.

(b) A sudden large increase in the fire tax rate

An additional objection raised in public testimony to establishing a single County-wide tax was the perceived unfairness of the "jolt" to taxpayers in Rockville and Upper Montgomery by a large increase in the fire tax should these two districts be incorporated into the CFTD. To illustrate the magnitude of this "jolt", Table 10 shows what would have been the FY92 fire tax rate for Rockville and Upper Montgomery had the Council established a single County-wide fire tax rate for FY92.

Table 10
**The Effect on the Fire Tax Rate - FY91 to FY92 -
for Taxpayers of Rockville, Upper Montgomery and the Consolidated
Fire Tax Districts Had Council Created a Single County-Wide
Fire Tax for FY92 Under Two Scenarios**

Scenario I. The single, County-wide fire tax would fund the same fire and rescue service activities as currently specified in Code Section 21: operation of the fire and rescue corporations, personnel costs of all career DFRS employees assigned to the Corporations; personnel and uniform costs of recruit trainees; all operational personnel and supervisors in the DFRS Bureau of Operations, and LOSAP payments except for the B-CC Rescue Squad.

	FY91 Approved <u>Individual Tax Rate</u>	FY92 <u>Single Tax Rate</u>	Change	
			\$	%
Rockville	\$.152	\$.207	\$.055	26.2%
Upper Montgomery	.259	.207	(.052)	(20.1%)
CFTD	.278	.207	(.071)	(25.5%)

Scenario II. The single, County-wide fire tax would fund all activities relating to the fire and rescue service currently funded from the Fire Tax Fund (see above) and the General Fund (Fire and Rescue Commission, DFRS less Bureau of Operations, and B-CC Rescue LOSAP payments).

	FY91 Approved <u>Individual Tax Rate</u>	FY92 <u>Single Tax Rate</u>	Change	
			\$	%
Rockville	\$.152	\$.238	\$.086	56.6%
Upper Montgomery	.259	.238	(.021)	(8.1%)
CFTD	.278	.238	(.040)	(14.4%)

The two scenarios presented in Table 10 indicate that had the Council enacted a single, County-wide fire tax rate for FY92, taxpayers in the Upper Montgomery Fire Tax District (0.8% of the County's population) would have actually realized a reduction in their fire taxes of either 5.2 cents, or 2.1 cents per \$100 assessed value. For taxpayers in the Rockville Fire Tax

District (17.0% of the County's population), their fire taxes would have increased either 5.5 cents or 8.6 cents. The remaining taxpayers who live in the CFTD (82.2% of the County's population) would have realized a reduction in the fire tax rate, depending on which scenario is followed, of either 7.1 cents or 4.0 cents per \$100 of assessed value.

It must be emphasized that the increase in the fire tax rate between Scenario I and Scenario II would be offset by an equal decrease in the general County-wide property tax rate. Therefore, had the Council created a single, County-wide fire tax district for FY92, the marginal change (FY91-FY92) in the average residential tax bills in the single fire tax district (under either scenario) would have been as follows:

- Consolidated Fire Tax District:

- Cycle I: 1/3 reassessed for FY90 = (\$14)
 - Cycle II: 1/3 reassessed for FY91 = (\$19)
 - Cycle III: 1/3 reassessed for FY92 = (\$11)

- Rockville Fire Tax District:

- Cycle I: 1/3 reassessed for FY90 = \$48
 - Cycle II: 1/3 reassessed for FY91 = \$65
 - Cycle III: 1/3 reassessed for FY92 = \$37

- Upper Montgomery Fire Tax District:

- Cycle I: 1/3 reassessed in FY90 = \$10

There is precedence for imposing a significant single year increase in a district's fire tax rate. Table 11 reflects the initial effect on the fire tax rate of the 14 individual fire tax districts that are now incorporated into the CFTD. The data indicates that 13 of the 14 tax districts experienced an increase in the fire tax rate, ranging from one-half cent (Cabin John) to 17.5 cents (Laytonsville), with an average increase of 5.1 cents. It should be noted that five of the 13 districts experienced increases in the fire tax rate in excess of the 5.5 cents Rockville would have increased had the Council created a single, County-wide fire tax for FY92.

(c) The currently legislated tax consolidation "agreement".

Almost everyone who testified in opposition the Bill 4-91, stressed that it would be unfair for the Council to change an "agreement" which the Council made 20 years ago that an individual fire tax district would not be incorporated into the CFTD until its fire tax reached or exceeded a legislated "trigger" rate.

In evaluating this argument, it is important to point out that legislative actions of the Council are not "agreements" in the sense that laws are some sort of a contractual arrangement that can only be changed by

Table 11

Initial Effect on the Fire Tax Rate
When an Individual Fire Tax District Was Absorbed
Into the Consolidated Fire Tax District (CFTD)

Fire Department	Fire Tax Rate					
	Last Year in Individual Fire Tax District		First Year in CFTD		Change Last Yr-First Yr	
	Year	Rate	Year	Rate	\$	%
Bethesda	FY72	\$.255	FY73	\$.270	.015	5.9%
Burtonsville	FY72	.210	FY73	.270	.060	28.6%
Cabin John	FY72	.265	FY73	.270	.005	1.9%
Chevy Chase	FY72	.275	FY73	.270	(.005)	(1.8%)
Glen Echo (Conduit Rd)	FY72	.260	FY73	.270	.010	3.8%
Hillandale	FY72	.250	FY73	.270	.020	8.0%
Hyattstown	FY72	.240	FY73	.270	.030	12.5%
Sandy Spring	FY72	.180	FY73	.270	.090	50.0%
Silver Spring	FY72	.245	FY73	.270	.025	10.2%
Takoma Park	FY72	.200	FY73	.270	.070	35.0%
Laytonsville	FY74	.170	FY75	.345	.175	102.9%
Gaithersburg-WG	FY78	.255	FY79	.335	.080	31.4%
Damascus	FY89	.230*	FY90	.276	.046	20.0%
Kensington	FY89	.242	FY90	.276	.034	14.0%

* Until FY89, Damascus had not levied a fire tax. In that first year of a tax levy, the impact on the taxpayers was the entire 23 cents.

Source: Office of Management and Budget (OMB).

consent of all parties involved. On the contrary, legislative acts reflect the policies of the majority of the elected legislators: policies that reflect their convictions and decisions, based upon the circumstances at the time the legislation is enacted. In the issue under discussion, namely financing fire and rescue services, Chapter III shows that, in matters relating to fire and rescue services, the Council has legislated many changes, especially in the past five years.

The record indicates a series of Council actions affecting the funding of fire and rescue services. Originally, except for an annual grant from the County for the purchase, maintenance, and repair of fire apparatus, fire departments were totally supported by the communities they served. Next came legislative authorization for specific communities to levy a tax within their "fire tax area" or district for the support of their community fire departments. In 1972, by Bill 39-71, the Council terminated the program of annual grants and created two classes of fire tax districts (Individual and Consolidated), and a process of moving from an individual fire tax district to the CFTD. Under the provisions of Bill 39-71, 10 of the County's 16 fire departments moved into the CFTD. Within two years, Council amended the law to raise the "trigger" fire tax rate for incorporation from 21 cents to 26 cents per \$100 of assessed value. Under that policy, four more fire departments have been incorporated. Today, only two of the original 16 fire departments remain as individual fire tax districts.

Summary. Fairness and equity are highly subjective and emotional issues, not easily evaluated by empirical methods. Whatever the rationale may be for not changing the current process for incorporation into the CFTD, OLO does not believe one can use the argument that it would be unfair to change the process because Council would, in effect, be breaking some sort of "agreement". Legislation is dynamic and is amended or repealed when circumstances and events change the original circumstances and reasons for enacting the legislation. The most obvious example of the dynamics of legislation relates to the issue of fire tax rates. Two years after the Council set the "trigger" rate for incorporation into the CFTD at 21 cents, it amended the law to increase the rate to 26 cents.

B. Individual Fire Tax District Boundaries

Current law (Code Section 21-4R(a)) requires that fire tax district boundaries be revised through legislation to conform to changes in the service response area boundaries of fire departments. Code Section 21-14 defines a response area as the geographic area served by a fire and/or rescue station whose boundaries are the mid-points in road distances between fire and/or rescue stations.

Although numerous changes to the response areas have been made, the Council has not changed fire tax districts since April 1978. In April 1990, Bill 35-90 was introduced to realign the fire tax district boundaries with the new service response area boundaries resulting from the opening of the new Rockville Fire Department Station 31. After considerable debate, the Council rejected Bill 35-90 and instructed the Executive branch to re-examine the whole issue of fire tax boundaries.

The Executive branch response to the Council's request was Bill 4-91, introduced in February 1991, which proposed eliminating the need for fire tax district boundaries altogether by creating a single, County-wide fire tax. The Council rejected Bill 4-91, and in so doing again postponed action on legislatively aligning the fire tax district and service response area boundaries.

During the debate over Bill 4-91, both by the Public Safety Committee and the Council, there appeared to be consensus that, if a single, County-wide tax is not legislated, then the tax district boundaries should be updated. However, because the Council felt there was a lack of full information on the impact of boundary changes, especially to taxpayers living outside the Rockville Fire Tax District, it also rejected provisions in Bill 4-91 that would have realigned the boundaries.

C. Funding Sources for Fire and Rescue Services and Related Activities

Currently, funding for fire and rescue services and related activities comes from four sources:

1. Volunteer contributions. The fire and rescue corporations that receive volunteer contributions expend these funds in a variety of ways which contribute to the fire and rescue mission. The County has no control over volunteer contributions.

2. The State of Maryland Fire, Rescue, and Ambulance Fund (508 Grant Funds). The State distributes funds for fire, rescue and ambulance services directly to the County, which consults with the Fire and Rescue Commission and the Montgomery County Volunteer Fire-Rescue Association before distributing the funds to the 19 corporations.

3. Fire Tax Levies. Under Code Section 21-4R(b), the Council levies a tax on all property assessed for County tax purposes at a rate sufficient to provide funds for operating, maintaining, and equipping the corporations in the Rockville, Upper Montgomery, and Consolidated Fire Tax Districts. Included in this are the purchase of apparatus and facilities, personnel costs incurred by DFRS for paid career personnel providing fire and rescue services through the Corporations, operational and supervisory personnel of DFRS' Bureau of Operations, and personnel and uniform costs of recruit trainees.

In addition, under Code Section 21-3(c), fire tax levies are also used to fund Length of Service Award (LOSAP) payments for those volunteer members who belong to fire and rescue corporations that receive tax monies. Prior to the debate over Bill 4-91, that section of the law had been overlooked, and LOSAP payments were made from the General Fund. After recognizing this oversight, the Office of Management and Budget retroactively charged LOSAP payments for all corporations except the Bethesda-Chevy Chase (B-CC) Rescue Squad for FY91. Under current law, because the B-CC Rescue Squad does not receive direct fire tax revenues, its LOSAP payments continue to be funded from the General Fund.

4. General Fund. The remaining fire and rescue service activities are currently funded from the General Fund. Included are the costs associated with the Fire and Rescue Commission, and all expenditures associated with the Department of Fire and Rescue Services, excluding the Bureau of Operations. Included in the activities of DFRS which are funded by the General Fund are the Director's office; management services; fire prevention, investigation and code enforcement; communications; and most training.

Bill 4-91 included provisions to transfer expenses for all activities relating to the fire and rescue services from the General Fund to the proposed single, County-wide fire tax fund. Minutes of the Public Safety Committee and full Council debate on Bill 4-91 indicate that several Councilmembers supported enacting that portion of the bill which transferred all fire and rescue costs currently funded out of the General Fund to the fire tax fund. However, a motion to that effect was defeated, and the transfer provision of Bill 4-91 was rejected along with the entire bill.

V. RELATED MATTERS

Mitigating Proposed Rockville Fire Tax Increase

When Bill 4-91 was before the Council, the question was raised whether there was a way to lessen the impact from consolidation of the fire tax districts on the Rockville taxpayers. The Council's Senior Legislative Attorney presented a discussion of the question in the bill packet. OLO referred that discussion to the Office of the County Attorney for an informal opinion on the matter.

At Exhibit F is the reply from the Office of the County Attorney presenting four options to lessen the impact of consolidation.

VI. CONCLUSIONS

1. During the twenty years since the enactment of legislation creating two classes of fire tax districts, Individual and Consolidated, there have been many changes, both intrinsic and extrinsic to the fire and rescue services, which have affected directly the administration, operation, and funding of those services.

- Among the changes intrinsic to the fire and rescue services has been the increase in mutual support and interdependence among fire departments in the delivery of those services. A survey of fire and rescue incident and unit responses by half the fire departments in 1990 indicated that almost one-fourth of those responses were made into the primary service response areas of other fire departments.

- Among the changes extrinsic to the fire and rescue services has been the overall growth in the County's assessed value of property, a growth that has not been evenly distributed among the fire tax areas.

2. Under current legislation which sets the "trigger" fire tax rate for incorporation into the CFTD at 26 cents per \$100 of the assessed value of taxable property, it is unlikely that Rockville will ever qualify for incorporation into the CFTD because of its disproportionately high assessable tax base. For example, if in FY91 the entire personnel complement for minimum staffing of the Rockville Volunteer Fire Department had been satisfied with paid County firefighter/rescuers, the Rockville fire tax rate for that year would have only increased 3.1 cents from 15.2 cents to 18.3 cents, well below the 26-cent "trigger" rate.

3. Volunteer participation greatly benefits the County by reducing the number of paid firefighters/rescuers to staff the apparatus, which in turn reduces the operating budgets of the fire departments and ultimately the fire tax levies. However, because of varying factors among the individual volunteer fire departments as to how and when volunteers are utilized, the County has not developed a reliable and universally applicable equivalency ratio between volunteer and paid personnel.

4. During the 20 years since creation of the two classes of fire tax districts, there has been a significant decline in the number of active volunteers, and a corresponding increase in the number of paid career employees in the fire and rescue services. As reported in the County's Annual Financial Reports and Comprehensive Annual Financial Reports, in the period 1970 to 1990, the number of paid firefighters increased more than 144 percent while the number of active volunteers declined more than 53 percent.

5. There is no empirical evidence to substantiate that incorporation into the Consolidated Fire Tax District has had any direct, negative impact on volunteer participation. The reasons for the decline in active volunteer participation in the fire and rescue services are varied and complex. However, there appears to be a consensus that the following factors have contributed to that decline:

- (a) Socio-economic changes in the County, such as the increase in two wage-earner and single-parent families;
- (b) Ever-increasing and demanding training requirements and certification standards for firefighters/rescuers;
- (c) Inability of volunteers to respond to fire calls from their place of employment during the work day;
- (d) Prohibition on career paid employees volunteering in the corporations to which they are regularly assigned; and
- (e) A gradual but steady reduction of Corporation identity and control because of various legislative actions.

6. While some contend that the County Council is bound by fairness and equity not to change the "agreement" it legislated in 1972, which stipulates the process by which a fire department in an individual fire tax district is incorporated into the Consolidated Fire Tax District (CFTD), it is important

to recognize that this "agreement" is not a contract, and that legislation is routinely amended or repealed by the County Council as circumstances and events require. An example of legislative change is the Council's action two years after creating the CFTD to increase the "trigger" rate for incorporation into the CFTD from 21 cents to 26 cents.

7. Because of the increase in mutual support and interdependence among fire departments, and the uneven distribution of property value in the County, establishing a single, County-wide fire tax district would actually result in greater equity than the current system in that all County taxpayers would pay the same fire tax rate to support equivalent service from the County-wide fire and rescue services, regardless of the economic base of the particular fire service response area.

8. Although there have been changes in the service response areas of various fire departments, since 1978, the County Council has not enacted legislation to align the fire departments' service response areas with the appropriate fire tax district boundaries, or vice versa.

9. Currently, not all fire and rescue services and other activities relating to the fire and rescue service are funded from fire tax levies.

VII. RECOMMENDATIONS

Based on its evaluation of the issues relating to financing fire and rescue services, OLO recommends that a single, County-wide fire tax would be the most equitable approach to funding all fire and rescue services and related activities. Specifically, OLO recommends that the County Council consider enacting legislation amending Chapter 21 to:

1. Establish a single fire tax district encompassing the entire County, including all real and personal property assessed for County tax purposes;
2. Eliminate the requirement for annually revising fire tax district boundaries to conform to fire department service response areas; and
3. Direct that the tax levy on each \$100 of the assessed value of taxable property within the newly established single fire tax district produce an amount that the Council finds sufficient to fund all activities relating to the County's fire and rescue services. Such services should include:
 - (a) the management, operation and maintenance of all fire and rescue services;
 - (b) the purchase (including debt service), maintenance, and operation of all facilities and equipment necessary or incidental to fire and rescue services;

- (c) the operation of the Fire and Rescue Commission and the Department of Fire and Rescue Services;
- (d) all tax-supported expenditures of the Fire and Rescue Corporations; and
- (e) all facets of the Length of Service Awards Program (LOSAP).

VIII. COMMENTS ON THE DRAFT OLO REPORT

In early August, 1991, OLO circulated a draft of this report to the following:

- The Chief Administrative Officer and appropriate Executive Branch offices and departments: the Offices of Management and Budget and the County Attorney; the Departments of Finance and Fire and Rescue Services; and the Fire and Rescue Commission;
- The Mayor of the City of Rockville;
- The Presidents of the Rockville and Upper Montgomery Volunteer Fire Departments;
- The Presidents of the other Fire and Rescue Corporations;
- The Chairman of the Fire Board;
- The President of the Montgomery County Volunteer Fire-Rescue Association;
- Dr. Robert J. Wilson, Volunteer Officers League of Montgomery County;
- Judge David L. Cahoon; and
- The Council Staff Director.

All technical corrections received either orally or in writing by September 6, 1991, are incorporated into this final report. Written comments received on the draft report are included in their entirety starting on page 30.

With the exception of the responses from the City of Rockville and the Rockville Volunteer Fire Department, there is concurrence with the report's conclusions. In disagreeing with the OLO report, the City Manager of Rockville opines a bias by OLO in its analysis of the data presented in the report; and the President of the Rockville Volunteer Fire Department charges that OLO's data is incorrect.

OLO will address each of these comments when the County Council conducts its public discussions of the report.

A. CITY OF ROCKVILLE



ROCKVILLE

City of Rockville • Maryland Avenue at Vinson Street • Rockville, Maryland 20850-2364
City Manager • (301) 309-3300

September 4, 1991

Mr. Andrew Mansinne, Jr.
Director, Office of Legislative Oversight
100 Maryland Avenue
Rockville, Maryland 20850

Dear Mr. Mansinne:

In early August you wrote to Mayor Douglas Duncan inviting comments on the draft of OLO Report 91-2, Financing Fire and Rescue Services and Related Activities. On behalf of the Mayor and Council, I want to thank you for allowing us the opportunity to comment on the report. Following is our current thinking on the issues which have been raised.

The report represents an extensive amount of research and analysis, and we complement the OLO staff for their effort. We are disappointed, however, that your interpretation of the data, and your analysis of the nature of the 20-year-old agreement regarding the fire tax districts and the fairness and equity issues are biased in favor of a single, county-wide fire tax.

Following is our response to the conclusions presented on pages 26, 27 and 28 of the report.

(1) No data is provided to support the statement that the proportion of interdependency existing in 1990 is greater than the proportion existing in 1970. We have stated that mutual support and interdependence has always existed between the various volunteer fire districts and that while the frequency of calls has certainly increased with the increasing density of development, the proportion of interdependency is about the same. Your assertion that until recently volunteer fire departments largely responded only to incidents within their districts may be true for 50 years ago, but you provide no data to support this conclusion for the past 20 years.

Unless such data can be provided, we would reassert our point that nothing has changed with regard to interdependence to justify forced consolidation.

(2) The report makes a correct and significant conclusion here that the Rockville Fire Tax District is unlikely to ever reach the "trigger" rate of 26 cents, but it incorrectly places the primary reason for this on Rockville's higher assessable base. Using your

MAYOR: Douglas M. Duncan • COUNCIL: James F. Coyle, Viola D. Hovsepian, James T. Marrinan, David Robbins
CITY MANAGER: Bruce Romer • CITY CLERK: Sharon A. Gran • CITY ATTORNEY: Paul T. Glasgow

own figures on pages 21 and 21(a), the Rockville District comprised 17.0 percent of the County's FY 91 population, and 22.4 percent of the FY 91 assessable base. This means that every person in the Rockville district accounted for 22.4/17.0 or 1.32 times the assessable base per capita. Multiplying this proportion times the FY 91 Rockville district fire tax rate of 15.2 cents only increases the rate to 20.1 cents. This suggests that the assessable base accounts for less than half of the difference in tax rate. Could it be that volunteerism and fund-raising efforts within the district account for much of the rest?

(3) We can agree with this conclusion and would suggest that in the absence of reliable equivalency figures a dramatic change from the agreed-upon process is not warranted.

(4 & 5) It cannot be ignored that the 53 percent decline in volunteerism has occurred during the period of most rapid consolidation of fire districts. Agreeably, many factors impact on volunteerism. Item "e" in conclusion No. 5 is precisely what we wish to avoid in the Rockville District. Moreover, the process for consolidation provided in the 20-year-old agreement accounts for these factors.

(6) This conclusion is, perhaps, the most troubling to us. None of the prior amendments to this agreement have been substantive. The basic premise remains that there ought to be a gradual, controlled transition from volunteer-based fire districts to a consolidated district. Your dismissal of this agreement as an item of legislation that can be routinely amended or repealed at the whim of the County shakes the very foundation of County-Municipal cooperation and interdependence. Does this mean that all of our future cooperation with Montgomery County must be performed under a binding, legal contract?

(7) After dismissing equity and fairness as too emotional and subjective for empirical analysis, the report finds it convenient to include these factors as the basis for your recommendations. We submit that the equity and fairness issues were addressed in 1970 and resolved through the agreement reached at that time.

(8 & 9) These conclusions are tangential to the matters at hand.

In conclusion, the report offers some important and useful data but leaves unresolved the central issues regarding the proposed, forced transfer of the Rockville Fire Tax District into the Consolidated Fire Tax District.

The conclusions and recommendations come from a biased analysis of the data, and a dismissal of prior commitments. The issues we have raised remain as valid and fundamental today as they were last spring and, indeed, 20 years ago. This report furnishes no basis to abdicate the existing agreement.

Again, we want to thank you for allowing us the opportunity to comment on the report. We trust that the County Council will respect and reaffirm the Rockville Fire Tax District.

Sincerely,


Bruce Romer
City Manager

BR:bjt

cc: Mayor and Council
Alan Hinde, Chief, Rockville Volunteer Fire Department

B. EXECUTIVE BRANCH



Montgomery County Government
ROCKVILLE, MARYLAND 20850

MEMORANDUM

September 5, 1991

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: William H. Hussmann
Chief Administrative Officer 

SUBJECT: DRAFT OLO Report #91-2, Financing Fire and Rescue Services and Related Activities

Thank you for the opportunity to comment on the Draft OLO Report #91-2 Financing Fire and Rescue Services and Related Activities. This report provides a thorough and objective analysis of a complex and sensitive subject. The comments from the Fire & Rescue Commission, Department of Fire & Rescue Services, the Office of Management & Budget, and the County Attorney's Office are attached.

We are pleased that OLO's independent, objective conclusion is that a single, County-wide fire tax would actually result in greater tax equity than the current system. Additionally, OLO's recommendation that there should be a single, County-wide fire tax which would fund all fire and rescue services and related activities confirms the position of the County Executive as was proposed in Bill 4-91.

The Executive Branch looks forward to discussing OLO Report #91-2, upon its release by the Council. Thank you again for the opportunity to comment.

WHH/djs

Attachments



Montgomery County Government

REC AUG 28 11 4: 39

MEMORANDUM

August 28, 1991

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: George Giebel, Chairman *George Giebel*
Fire and Rescue Commission

SUBJECT: Draft OLO Report #91-2, Financing Fire and Rescue Services
and Related Activities

I would like to forward the position of the Fire and Rescue Commission regarding the above report. Six of the seven Commissioners concur with the report recommendations.

GG:sb

7250D

MEMORANDUM

August 27, 1991

TO: Andrew Mansinne, Director
Office of Legislative Oversight

FROM: *RF* Ramon F. Granados, Director
Department of Fire and Rescue Services

SUBJECT: Comments on Draft OLO Report #91-2

You recently transmitted to me for comments a draft report dated September, 1991, entitled "Financing Fire and Rescue Services and Related Activities", OLO Report #91-2. This is to provide you with my comments on that report.

After a thorough review of the report I find the facts contained therein to be complete and accurate, as presented. The establishment of a single fire tax district to serve as a single source of funds for the Department's expenditures will significantly reduce the time and effort required to prepare and administer the Department's budget, which is currently from four sources of tax funding. The implementation of the recommendations contained in the report will not require any other actions to be carried out by the Department. The next action required would be to develop its normal fiscal year budget, following normal procedures and time frame.

Thank you for the opportunity to review this draft report. If I can be of any further assistance, please let me know.

RFG/LDA:lh

7938E

OFFICE OF THE COUNTY ATTORNEY
MONTGOMERY COUNTY, MARYLAND

M E M O R A N D U M

August 28, 1991
September 5, 1991 - Amended

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

VIA: Joyce R. Stern *Joyce R. Stern*
County Attorney *9-5-91*

FROM: Bruce P. Sherman *Bruce P. Sherman*
Senior Assistant County Attorney *9/5/91*
Public Safety Team

RE: Comments on August 5, 1991 Draft of OLO Report 91-2,
Financing Fire and Rescue Services and Related Activities

Thank you for the opportunity to review and comment on the August 5, 1991 draft of OLO Report 91-2 concerning financing of fire and rescue services in Montgomery County, Maryland. You bring to this evaluation a unique personal familiarity with the history and intricacies of the various segments of the fire and rescue service. A prior Office of Legislative Report on the Fire Service, Report No. 85-3 issued on September 10, 1985, has been of significant interest in evaluating and reviewing many of the current issues involving fire and rescue services in Montgomery County, Maryland.

In reviewing the current report, the County Attorney's Office will concentrate on issues of legal significance in the draft, rather than editorial style, statistical accuracy, or policy recommendations. With this introduction, the following comments are made regarding specific provisions of your draft.

COMMENT 1, PAGE 12:

The September 12, 1991 draft states in part, that "In January 1988, all paid firefighter/rescuers were transferred from the independent fire corporations to the County's merit system, and the Department of Fire and Rescue Services was given responsibility for County-wide career staff scheduling and detailing of paid personnel to maintain appropriate staffing and personnel qualification levels in all service response areas."

Paid firefighter/rescuers were not required to transfer from the independent fire and rescue corporations to the County's merit system. Rather, any fire and rescue merit system employee in a fire/rescuer occupational series as of October 15, 1987 was

authorized, but not required, to laterally transfer to a vacant position in the Montgomery County Department of Fire and Rescue Services.¹ In January 1988, a substantial number of fire corporation employees selected discontinued service retirements as an alternative to transferring to the Department of Fire and Rescue Services.² The section suggests that the Department of Fire and Rescue Services is limited to only scheduling and detailing paid personnel. However, the Montgomery County Code contains a much wider scope of authority for the DFRS with regard to the paid firefighter/rescuer personnel. Montgomery County Code, 1984, Section 2-39A(b) provides that DFRS may "employ, pay, terminate, discipline, assign, promote, transfer and supervise employees in the firefighter/rescuer occupational series...."

¹Montgomery County Code, Section 21-4M(i)(1) provides in part that:

"Until January 15, 1988, any fire and rescue merit system employee in the firefighter/rescuer occupational series on October 15, 1987, may laterally transfer to a vacant position in the department [of fire and rescue services]."

On November 2, 1987, a County Attorney staff opinion addressed the impact of this section on fire corporation employees. The opinion stated that "the law does not require that the firefighters transfer to county positions. Those persons who decide not to transfer to county merit system positions have the right to remain with their employing corporations, however, county fire district tax funds will not be used to pay the salaries of persons who do not transfer to county positions." Staff opinion of then Associate County Attorney Linda D. Berk, November 2, 1987.

²In the November 2, 1987 County Attorney staff opinion concerning fire corporation employee transfers, the question of eligibility for discontinued service retirement was discussed. The opinion concluded that:

"In the event, however, that an employee stays with the fire corporation and the corporation declines or is unable to continue funding that employee's salary (whether due to the unavailability of fire district tax revenues or for any other reason), this action would constitute an abolishment of the employee's position so as to qualify the employee under [Montgomery County Code, 1984,] Section 33-45(d)" subject to certain eligibility conditions. Section 33-45(d) provides for pension benefits in the event of abolishment of a covered position.

COMMENT 2 - PAGE 17:

In commenting on the availability of individuals to provide volunteer services to the fire corporations, the report states in part that "As is the case today, with the exception of career firefighters on shift work who can volunteer on the days they are off-duty, the overwhelming majority of volunteers serve during evening and weekend periods when they are free from their regular jobs." It should be noted that Montgomery County career firefighters employed by the Department of Fire and Rescue Services are prohibited from providing any volunteer firefighter/rescuer services at a corporation to which they are assigned by the DFRS.³ Volunteer firefighters become members of a volunteer fire corporation and provide their volunteer services directly to and as members of a volunteer fire corporation. Montgomery County firefighters do not provide any volunteer services directly to the Montgomery County Department of Fire and Rescue Services.

Substantial questions exist as to the legality of Department of Fire and Rescue Services firefighters providing any volunteer fire/rescuer services at any fire corporation in Montgomery County. A complaint is pending with the United States Department of Labor alleging that Montgomery County career firefighters who provide volunteer fire and rescue services in Montgomery County must be paid overtime compensation at the rate of one and one-half times the normal hourly pay rate. This issue is currently on review in the legal offices of the United States Department of Labor. If suit is filed against the County by the U. S. Department of Labor, over 100 DFRS firefighters who are currently members of the independent fire and rescue corporations, may either be required to be paid compensation for their volunteer services or be prohibited from providing volunteer firefighter/rescuer services in Montgomery County, Maryland.

³ See Department of Fire and Rescue Services, departmental directive no. 91-5, which provides in part that:

"Employees may not work in any on-duty capacity as a department employee in any station of a Montgomery County fire and rescue corporation where they are an active operational volunteer member."

⁴ In a letter dated July 10, 1991 to Congresswoman Constance A. Morella, the acting administrator of the U.S. Department of Labor, Employment Standards Administration, summarized the Department of Labor's position in the complaint that is currently undergoing legal review in the Office of the Solicitor, as well as the County's disagreement with the employment standards position. In reciting their position, the acting administrator stated that:

The FLSA does not permit employees of Montgomery County engaged in fire fighting activities to volunteer additional hours of service without compensation which involve the same type of "duties" or services that they are employed to perform for the County. Based on our understanding of the facts of this matter and given the integrated structure of the County's emergency command, all work involving like duties or services performed by a career firefighter within Montgomery County is compensable and must be included in determining whether he or she has worked overtime hours for purposes of the Fair Labor Standards Act. By allowing or encouraging career firefighters to "volunteer" their services to fire corporations, the County is impermissibly reducing its overtime expenditures at the expense of its firefighting employees."

The acting administrator then notes that the County disagrees with the legal conclusion of the employment standards administration and as a result, the case has been referred to the Department of Labor's solicitor's office for legal review prior to further action.

Montgomery County Government has received no direct written confirmation from the U.S. Department of Labor concerning its position in this case or the current status of their review.

COMMENT 3 - PAGE 28:

The OLO Report in recommendation no. 3 suggests that legislation be enacted that will direct "that the tax levy on each \$100 of the assessed value of taxable property within the newly established single fire tax district must produce an amount sufficient to fund all activities relating to the fire and rescue services" It is suggested that the Council and Executive's funding discretion be specifically mentioned in any statutory enactment. Thus, the legislation could provide that a tax levy be placed on the assessed value of taxable property to produce an amount sufficient, in the discretion of the Montgomery County Council, to fund all activities relating to the fire and rescue service.

COMMENT 4 - GENERAL INFORMATION:

As you are aware, overtime litigation is currently pending before the U.S. District Court for the District of Maryland in the case of Conway v. Takoma Park v. Montgomery County Government. In this case, approximately 500 firefighters have sued the fire corporations that previously were their employers for overtime violations under the U.S. Fair Labor Standards Act. Potential damage awards against the independent fire and rescue corporations in Montgomery County may range from 5 to 40 million dollars. Four years after the initiation of the litigation, the fire corporations impleaded Montgomery County Government as a third-party defendant claiming that the fire corporations had a right to indemnification from Montgomery County Government. It is premature to even speculate on the future outcome of the claim against Montgomery County Government.⁵ It is incumbent upon the County Attorney's Office to note that in the event of a possible adverse judgment against Montgomery County Government in this litigation, the potential exists for incurring liability in a speculative amount between 5 and 40 million dollars to be borne either by general revenues or the fire tax districts, reflecting uncompensated overtime work by former fire corporation employees between May 1983 and January 1988.

⁵ In July 1990, a motion to dismiss claims against the County was filed. As of August 28, 1991, the court has failed to act on this preliminary motion.

CONCLUSION

The comments in this memorandum are not intended to, nor should they be construed as an endorsement of or opposition to any of the recommendations contained in the report. The objective of this memorandum is to identify significant legal issues that are raised by the discussion in the report.

The staff of the County Attorney's Office is, of course, available to the Office of Legislative Oversight and the County Council for further analysis of issues related to the report on financing of fire and rescue services in Montgomery County, Maryland.

91.05510
0922.BPS:stk

cc: Neal Potter, County Executive
William H. Hussmann, Chief Administrative Officer
David Cahoon, Chair, Committee on Fire Excellence
Tim Firestine, Director, Dept. of Finance
George Gabel, Chair, MCFRC
Ramon F. Granados, Director, DFRS
Robert K. Kendal, Director, OMB
Keith Kolodgie, Asst. to CAO
Deborah Snead, Asst. To CAO for Audits & Evaluations

M E M O R A N D U M

August 9, 1991

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

FROM: Robert K. Kendal, Director
Office of Management & Budget 

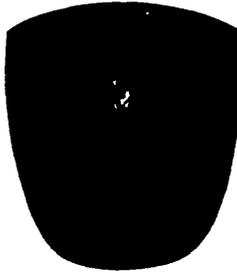
SUBJECT: OLO Report No. 91-2, Financing Fire and Rescue Services and Related Activities

The Office of Management and Budget has reviewed the above referenced draft report, and appreciates the opportunity to comment. Once again, your office has provided a well researched and well written report. The information presented is quite comprehensive and well organized.

We fully concur with the conclusions and recommendations presented. They closely parallel the Executive's position as stated in Bill 4-91.

There is one matter, however, which we ask you to consider correcting. On page 27, conclusion Number 3, you state "the County has not developed a reliable and universally applicable equivalency ratio between volunteer and paid personnel" [emphasis ours]. Given your discussion of this matter and the conclusions of the Ryland Research Phase II Report as quoted on page 16, we believe the conclusion should read "the County can not develop"

Thank you once again for a fine piece of work.



Est. 1921

ROCKVILLE VOLUNTEER FIRE DEPARTMENT, INC.

P.O. BOX 1547, ROCKVILLE, MARYLAND 20850
(301) 424-2311

September 4, 1991

MEMORANDUM

**TO: MR. ANDREW MANSINNE, JR., DIRECTOR
OFFICE OF LEGISLATIVE OVERSIGHT**

FROM: GUY L. POIRIER, PRESIDENT 
ROCKVILLE VOLUNTEER FIRE DEPARTMENT, INC.

**SUBJECT: COMMENT OF OFFICE OF LEGISLATIVE OVERSIGHT
REPORT 91-2: FINANCING FIRE AND RESCUE SERVICES AND
RELATED ACTIVITIES**

I have reviewed your draft report on Financing Fire and Rescue Services and Related Activities. At this time, I am only prepared to comment on two issues.

- The first being your "Comparison of Responses within and outside the primary response areas of selected Fire Departments." (page 14a, Table 6.) Your data used in this table appears to be incorrect, I have enclosed the data of this comparison for the Rockville Volunteer Fire Department as provided to us by the Department of Fire and Rescue Services.
- The second issue related to the quarter million dollars that the Rockville Fire Tax District was incorrectly charged. This started with our testimony before the County Council on March 12, 1991 on Bill 4-91, Fire Tax District Consolidation. This testimony was supported by written testimony documenting violations of the Montgomery County Code section 21-4 R (b) Taxation.

I further supplied you with documents upon your request in a memorandum (attached) to Chief Wm. Alan Hinde on May 15, 1991, showing where the Rockville Fire Tax District was incorrectly charged.

I also met with you on May 30, 1991 to review how our calculations were figured. You informed me on that day, that our calculations were wrong and that we should have taken a sampling at which you explained how we should have calculated our findings. It was then that you showed me how to do a sampling using the Monthly Famis reports where personnel were being assigned to the Rockville Fire Tax District but not working there. After your calculations were complete, we were both surprised to find that the quarter million dollars was now just over a half million dollars by your sampling. I thought that your report was to include this information so that the County Council would have an understanding as to why the Rockville Fire Tax District is being over charged.

I want to thank you for your work on this project and allowing me the chance to comment on your draft report. If there are any other documents that you need, please contact me.

SUMMARY OF 1990 EMERGENCY RESPONSES: ROCKVILLE VOLUNTEER FIRE DEPARTMENT

INCIDENTS OUTSIDE THE ROCKVILLE RESPONSE AREA RESPONDED TO BY ROCKVILLE UNITS

INCIDENT AREA BY FIRE STATION	NUMBER OF INCIDENTS	NUMBER OF UNITS THAT RESPONDED
1	6	7
2	6	6
4	13	6
5	77	88
6	26	28
7	6	9
8	828	1324
9	3	3
10	16	17
11	7	9
12	9	9
13	6	7
14	40	68
15	6	6
16	9	9
17	14	19
18	32	34
19	12	12
20	56	64
21	97	107
24	5	5
25	152	201
26	448	542
28	550	867
29	177	228
30	185	263
40	21	24
50	1	1
53	1	1
55	2	2
70	1	1
76	1	1
80	4	6
99	11	18
TOTAL	2828	3997

INCIDENTS INSIDE THE ROCKVILLE RESPONSE AREA RESPONDED TO BY NON-ROCKVILLE UNITS

INCIDENT AREA BY FIRE STATION	NUMBER OF INCIDENTS	NUMBER OF UNITS THAT RESPONDED
3	569	814
23	934	1431
31	692	1110
33	310	454
TOTAL	1936	2995



Montgomery County Government

RECEIVED
MAY 17 1991

RYAD

MEMORANDUM

May 15, 1991

TO: William Alan Hinde, Chief
Rockville Volunteer Fire Department, Inc.

FROM: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

SUBJECT: Testimony Before the County Council

Andrew Mansinne, Jr.

In your oral and written testimony before the County Council on March 12, 1991, on Bill No. 4-91, Fire Tax District Consolidation, you alluded to the possibility that, "...during 1990 the citizens of the Rockville Fire Tax District may have incorrectly had to pay more than 1/4 of a million dollars for career personnel who were working in other fire tax districts".

To enable me to follow-up on your testimony, it would be most helpful if you could provide specific facts relating to this allegation.

By separate memorandum, I have provided Chief Les Adams an extract of your March 12th testimony before the Council, and requested any information he may have relating to this matter.

Your attention to this request is appreciated.

AM/cca
383/105

cc: Chief Les Adams, DFRS

Office of Legislative Oversight

100 Maryland Avenue, Rockville, Maryland 20850, 301/217-7990

D. GAITHERSBURG-WASHINGTON GROVE FIRE DEPARTMENT, INC.



GAITHERSBURG-WASHINGTON GROVE FIRE DEPARTMENT, INC.

STATION 8

801 Russell Avenue
Gaithersburg, MD 20879
(301) 948-0660

STATION 28

7272 Muncaster Mill Road
Derwood, MD 20855
(301) 921-9330

Learn Not To Burn

August 27, 1991

Mr. Andrew Mansinne
Office of Legislative Oversight
100 Maryland Avenue, 5th Floor
Rockville, MD 20850

Dear Andy:

Thank you for the opportunity to review the OLO Report #91-2, "Financing Fire and Rescue Services and Related Activities."

I have made minor editorial suggestions on Pages 6, 9, 10a, 11, 18, 21a, 24, 27, and 28. The report is a fair and equitable review of the facts pertinent to the County Council's request.

However, I have several points which may be worthy of clarification or modification:

Page 12a - Table 3. What is the source of the number of active volunteers? The figure, 689, may be the number of personnel running calls, the number submitted for LOSAP, or some other figure. Does it include administrative volunteers? Auxiliary members? Those on military status (who do get LOSAP credit)? Please identify sources of data.

Page 12b - Table 4 indicates that the total assessable tax base is \$23,443,000,000. This translates to an income of:

CFTD	0.278/c x	\$17,896,000,000	=	\$49,750,880
Rockville	0.152/c x	5,245,000,000	=	7,972,400
Upper Montgomery	0.259/c x	302,000,000	=	782,180
				<u>\$58,505,460</u>

Page 17a - Table 7 indicates the FY 91 fire and rescue system cost as \$61,261,410. It is interesting to note that \$58.5 million invested at 5.0 percent APR yields \$61.4 million. Such a calculation omits, as did OMB projects, reassessment or additions to the assessable tax base (unless I missed it). One may argue that the assessable tax base now generates more money than spent on the entire fire and rescue system. This matter is also discussed on Page 21a in Table 9 where the excess of revenue totals \$3,211,690.

August 27, 1991
Page Two

I suggest that these fiscal projections require further explanation as it is actually tangential to the thrust of the report, equity across the County. If dismissed in the text, the issue of a surplus (if any) cannot be used to obscure the points being made in the conclusions and recommendations.

Page 26, Conclusions - While one does not bite the hand that feeds you, it is curious that the conclusions do not clearly identify that the current inequitable situation is the result of action and inaction on the part of the County Council. Most of the factual materials presented have been well known to most officials in the fire and rescue service and the Executive Branch.

Page 27, Recommendations - While the facts reported in the report lead to the recommendation of establishing a single fire tax district, the recommendations lead to other issues which are neither identified nor discussed other than the issue of increases in taxes to residents of the City of Rockville. Additional issues may include:

- Impact of transferring all fire and rescue system costs out of the general fund to a fire tax.
- Implications of a uniform fire tax on the general tax structure, e.g., why have a separate fire tax?
- Increased politization of support for the fire and rescue system.

Whether the OLO report should address these is, of course, a matter for your office to decide.

Thank you for the opportunity to review the draft.

Sincerely,

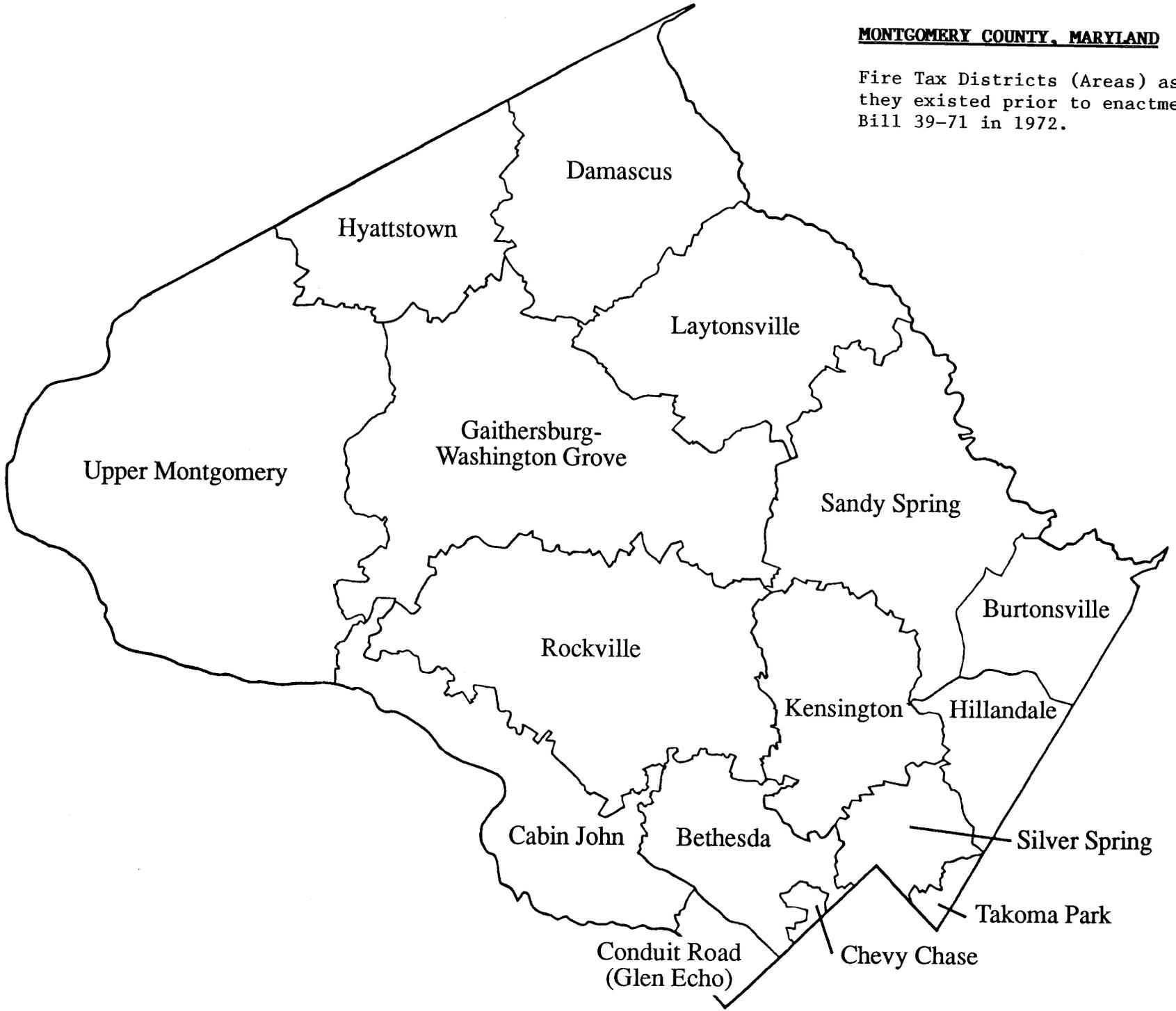


Kenneth D. Fisher
President

KDF/smw
Attachments

MONTGOMERY COUNTY, MARYLAND

Fire Tax Districts (Areas) as they existed prior to enactment of Bill 39-71 in 1972.



A-1

EXHIBIT A

FIRE TAX RATES
(in dollars per \$100 assessed property value)
FY72 to FY92

FIRE TAX DISTRICT	FY72	FY73	FY74	FY75	FY76	FY77	FY78	FY79	FY80	FY81	FY82	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90	FY91	FY92
Consolidated (CFTD) (Created in 1972- Effective for FY73)	N/A	.270	.300	.345	.325	.308	.323	.335	.323	.358	.363	.340	.335	.319	.299	.269	.286	.276	.293	.278	.227
Bethesda	.255	(Part of CFTD in FY73)																			
Burtonsville	.210	(Part of CFTD in FY73)																			
Cabin John	.265	(Part of CFTD in FY73)																			
Chevy Chase	.275	(Part of CFTD in FY73)																			
Damascus	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.230	.230	.230	(Part of CFTD in FY90)		
Gaithersburg	.130	.130	.145	.145	.180	.195	.255	(Part of CFTD in FY79)													
Glen Echo (Conduit Rd)	.260	(Part of CFTD in FY73)																			
Hillandale	.250	(Part of CFTD in FY73)																			
Hyattstown ^{a)}	.240	(Part of CFTD in FY73)																			
Kensington ^{b)}	.140	.180	.205	.250	.245	.225	.244	.235	.258	.248	.258	.258	.243	.245	.245	.220	.259	.242	(Part of CFTD in FY90)		
Laytonsville	.100	.095	.170	(Part of CFTD in FY75)																	
Rockville	.130	.135	.140	.150	.130	.130	.145	.157	.137	.137	.170	.160	.160	.144	.130	.125	.156	.167	.145	.152	.140
Sandy Spring	.180	(Part of CFTD in FY73)																			
Silver Spring	.245	(Part of CFTD in FY73)																			
Takoma Park	.200	(Part of CFTD in FY73)																			
Upper Montgomery	.100	.135	.130	.125	.105	.070	.085	.097	.137	.137	.147	.147	.155	.165	.175	.215	.215	.247	.250	.259	.193

- ^{a)} In 1989, Station 29 in Germantown was separated from the Hyattstown VFD and incorporated as a separate volunteer fire department in the Consolidated Fire Tax District (CFTD).
- ^{b)} Until 1990, the Wheaton Rescue Squad was funded 30% from the Consolidated Fire Tax District and 70% from the Kensington Fire District. Since Kensington was absorbed into the CFTD in FY90, Wheaton Rescue has been 100% funded from the CFTD.

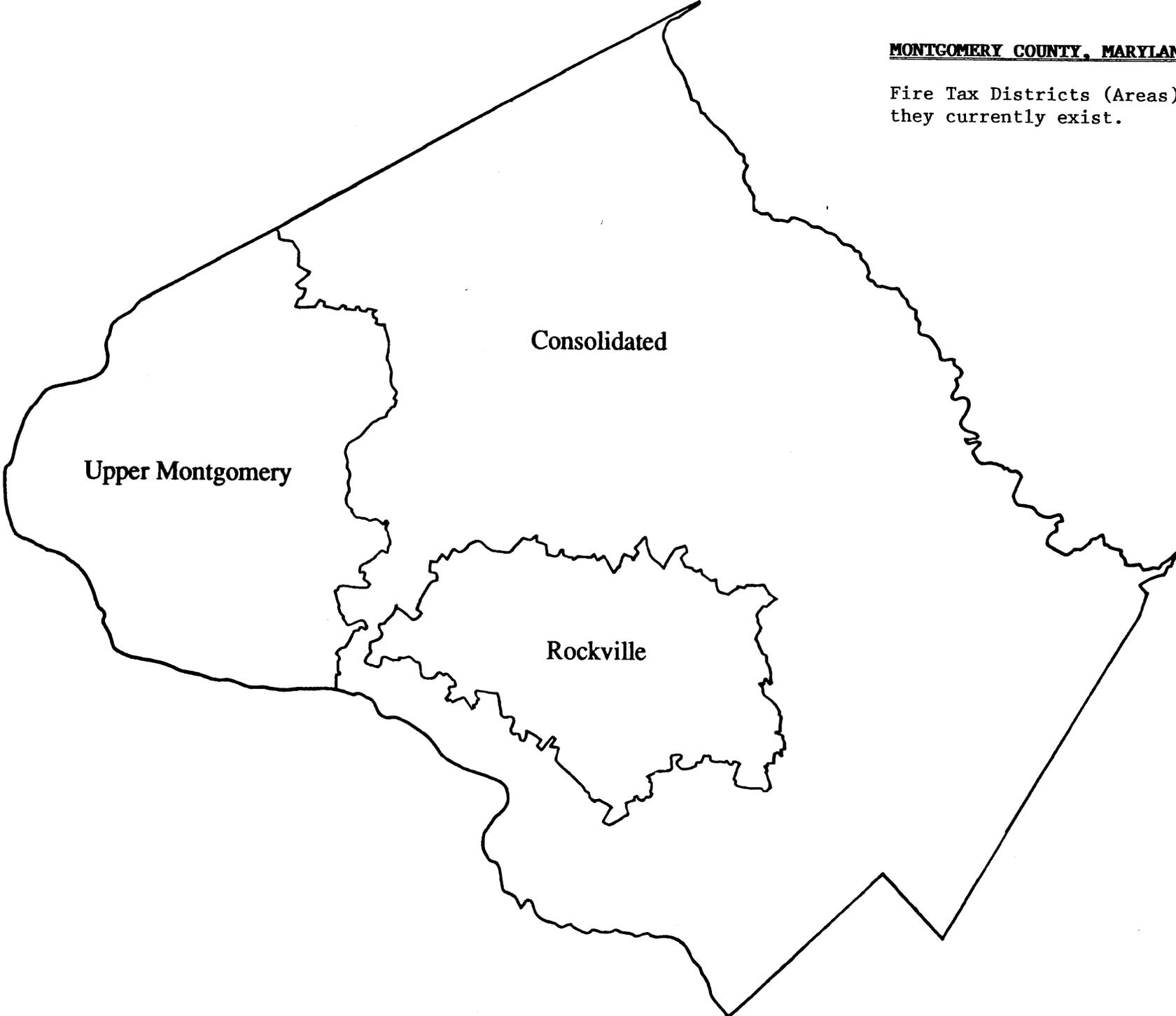
Source: Comprehensive Annual Financial Reports, Montgomery County, Maryland.

B-1

EXHIBIT B

MONTGOMERY COUNTY, MARYLAND

Fire Tax Districts (Areas) as they currently exist.



C-1

EXHIBIT C

FIRE TAX DISTRICTS FY 91 TAX RATE CALCULATION

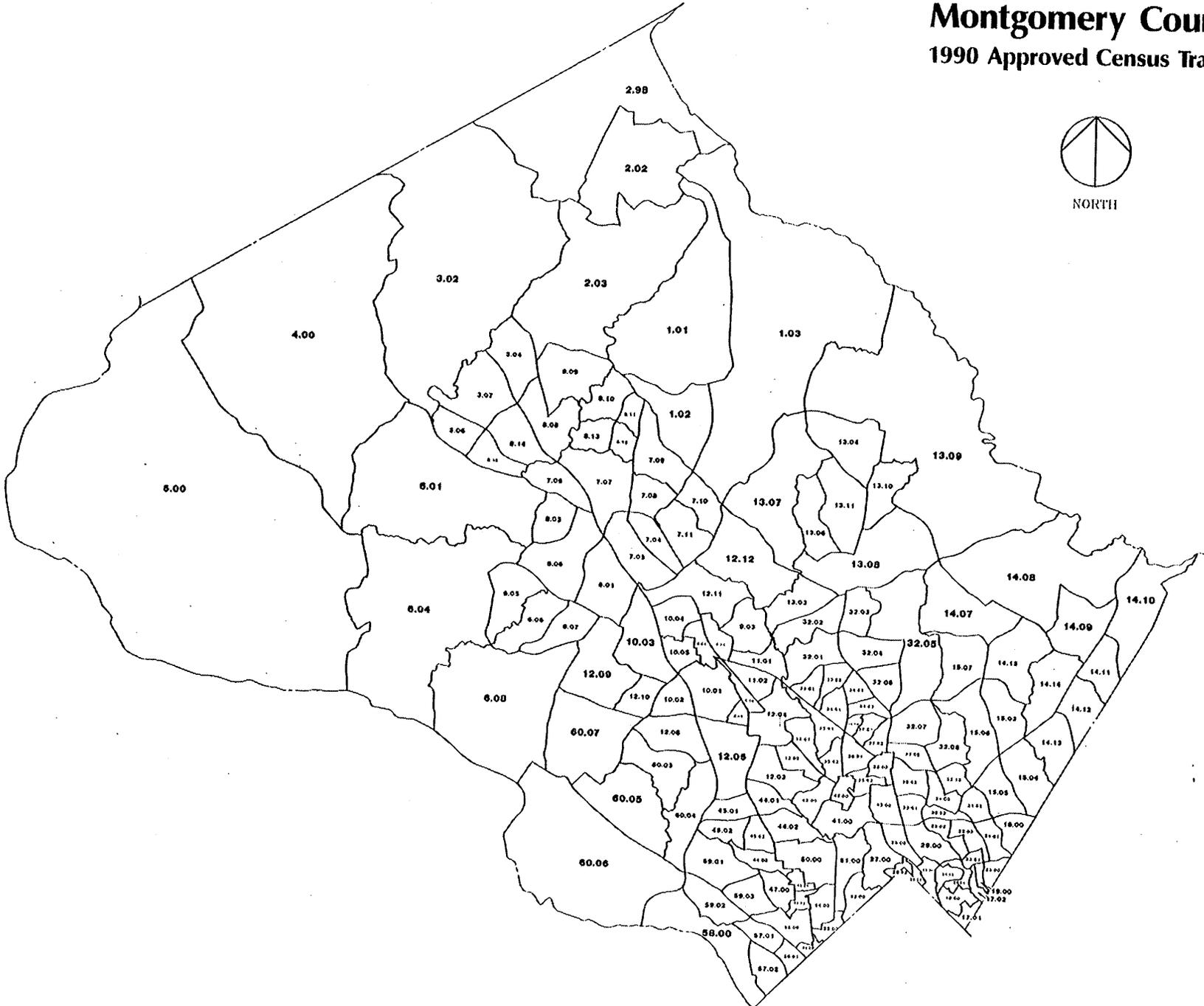
	Consolidated	Rockville	Upper Montgomery	Total
I. ESTIMATED FY 90 REVENUE				
Fund Balance 6/30/89 (Fire Dept. Books)	505,330	177,340	21,560	704,230
Unreserved Fund Balances 6/30/89 (Finance Dept.)	(1,129,550)	665,910	(58,490)	(522,130)
SUBTOTAL	(624,220)	843,250	(36,930)	182,100
Reservation Change	(25,000)		60,000	35,000
Est. FY 90 Tax Revenues	47,637,000	6,920,000	683,000	55,240,000
Plus Takoma Park Rebate	225,000	0	0	225,000
Plus Est FY 90 Int. Earned	1,250,000	325,000	40,000	1,615,000
TOTAL REVENUES FOR FY 90	48,462,780	8,088,250	746,070	57,297,100
II. FY 90 Expenditure Calculations				
Less: FY 90 Op. Bud. Approp.	44,121,250	6,851,320	678,570	51,651,140
Less: FY 90 Apparatus CIP	1,172,000	335,000	15,000	1,522,000
Less: FY 90 Other C.R. CIP	725,000	79,000	57,000	861,000
Total Appropriations	46,018,250	7,265,320	750,570	54,034,140
SUBTOTAL	2,444,530	822,930	(4,500)	3,262,960
Less: FY 90 Supplementals	0	0	0	0
III. TOTAL SURPLUS AVAILABLE FOR FY 91	2,444,530	822,930	(4,500)	3,262,960

D-1

EXHIBIT D

	Consolidated	Rockville	Upper Montgomery	Total
IV. FY 91 FUNDING REQUIREMENTS				
FY 91 Approved Oper Budget	48,901,490	8,377,290	802,630	58,081,410
SUBTOTAL OPERATING BUDGET	48,901,490	8,377,290	802,630	58,081,410
Plus Current Receipt CIP:	2,507,000	686,000	(14,000)	3,179,000
TOTAL FY 91 FUNDING REQUIREMENT	51,408,490	9,063,290	788,630	61,260,410
V. ESTIMATED FY 91 REVENUE				
FY 91 Assessable Base	17,828,445	5,326,227	295,329	23,450,001
Estimated Tax Revenue	49,216,140	8,039,190	759,550	58,014,880
Plus: Takoma Park Rebate	225,000	0	0	225,000
Plus: FY 91 Est Int Earnings	1,225,000	400,000	55,000	1,680,000
TOTAL ESTIMATED REVENUE	50,666,140	8,439,190	814,550	59,919,880
Plus: Est. FY 90 Surplus	2,444,530	822,930	(4,500)	3,262,960
TOTAL FUNDS AVAILABLE	53,110,670	9,262,120	810,050	63,182,840
VI. SURPLUS	1,702,180	198,830	21,420	1,922,430
Tax Rate Adjustment	-1.5	0.7	0.9	
Recommended Tax Rates FY 91	27.8	15.2	25.9	
Tax Rate History 1990	29.3	14.5	25.0	
1989	27.6	16.7	24.7	
1988	28.6	15.6	21.5	
1987	26.9	12.5	21.5	
1986	29.9	13.0	17.5	

Montgomery County 1990 Approved Census Tracts



E-1

EXHIBIT E

Source: Bulletin No. 1, 1990 Census First Release Map Book, Montgomery County Planning Department, April 1991.

M E M O R A N D U M

August 1, 1991

TO: Andrew Mansinne, Jr., Director
Office of Legislative Oversight

VIA: Joyce R. Stern *Joyce R. Stern*
County Attorney

FROM: Marc P. Hansen *Marc Hansen*
Senior Assistant County Attorney

RE: Mitigating Proposed Property Tax
Increase for Rockville Fire Tax District

You have indicated that the Council has asked the Office of Legislative Oversight to study all issues relating to the financing of Fire and Rescue Services including a consolidation of the Rockville Fire Tax District into the Consolidated Fire Tax District. In particular, you have asked for comment on certain options that have been suggested to lessen the impact of such a consolidation on Rockville taxpayers. These options are:

1. Combine the Rockville Fire Tax District into the Consolidated Fire Tax District but phase in any tax rate increase over more than one tax year.
2. Increase the tax rate in the Rockville Fire Tax District until it equals the rate imposed in the Consolidated Fire Tax District. When the rates have been equalized, combine the two districts.
3. Allow qualified Rockville taxpayers to defer any fire tax that is due to the consolidation.
4. Enact the consolidation now but defer its effective date.

THE APPLICABLE LAW

The County may only impose a single tax rate for all property subject to the County property tax. See, MD Tax -- Property Code Ann., Section 6-302(b) (1986) and Rosecroft Trotting and Pacing Assoc v. Prince George's County, 298 Md. 580, 471 A.2d 719 (1984). Section 6-203(b) is consistent with the general rule that a taxing district may not be divided into parts for the purpose of imposing a higher rate on one section

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than another. See, McQuillan Mun. Corp., Section 44.21 (3rd Ed.) and 71 Am.Jur.2d, State and Local Taxation, Section 152.

Section 21-4R(b), Montgomery County Code (1984), authorizes the Council to levy a tax rate in each fire tax district in an amount ". . . sufficient to provide funds for operating, maintaining and equipping the corporation in that district and for personnel costs incurred by the department for personnel providing service in that fire tax district." Section 21-13(b) authorizes the Council to levy a tax for each fire tax district at a rate ". . . to produce an amount that may appear to the council as sufficient for purposes of the organization, operation and maintenance of fire, ambulance and rescue services and for the purchase, construction, maintenance and operation of all real and personal property necessary or incidental to such services, within each such district." These statutory provisions are consistent with and must be viewed in the context of the general legal principle that taxes must be imposed for a public purpose and for the use of the public of the district being taxed. See, 71 Am.Jur.2d, State and Local Taxation, Section 66, and McQuillan Mun. Corp., Section 44.35 (3rd Ed.).

Finally, Article 15 of the Maryland Declaration of Rights requires the County's tax rates to be uniform within each class or subclass of: (a) land, (b) improvements on land, and (c) personal property. There is nothing, however, in the language or legislative history of Article 15 that would suggest that land and improvements could be classified on the basis of geographic location. See, Rosecroft Trotting and Pacing Assoc v. Prince George's County, 471 A.2d at 722-724.

DISCUSSION¹

Single Tax Rate. Clearly the County cannot absorb the Rockville Fire Tax District into the Consolidated Fire Tax District and impose a different tax rate on property located in the old Rockville district. Differing tax rates in the same

¹These options were discussed in a briefing paper* prepared by Mike Faden, Senior Legislative Counsel, which you attached to your request for advice. In general, I concur with the conclusions rendered by Mike.

*Attached as F-5

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district would violate Section 6-302 of the Tax Property Article and Article 15 of the Maryland Declaration of Rights.

Postpone Absorption of the Rockville Fire Tax District but Gradually Increase the Rockville Tax Rate. As indicated, taxes must be imposed for a public purpose and for the benefit of the district from which the tax is imposed. The accumulation of a surplus without a public purpose that benefits the district from which the tax is collected would violate this basic principle of taxation. Accordingly, this option could only be used if a legitimate project were identified in the Rockville Fire Tax District for which a surplus needed to be accumulated.

Tax Deferral Program. Section 52-18F, Montgomery County Code (1984), authorizes qualified taxpayers who meet the maximum income ceiling of \$60,000, and residency requirements to obtain a tax deferral on residential real property. The amount of taxes that may be deferred may not exceed the amount paid in the prior taxable year adjusted by the CPI. Section 52-18F(d) provides that the taxes eligible for deferral are the general property tax and special service area taxes. Accordingly, qualified taxpayers of the Rockville Fire Tax District are eligible for the Residential Real Property Tax Deferral Program.

Section 52-18F was enacted under State enabling legislation adopted in 1990. See MD Tax-Property Code Ann., Section 10-204.1 (Cum. Supp. 1990). Section 10-204.1 authorizes the County to defer up to the entire amount of tax increase incurred after the taxpayer enters the program. Consequently, the Council could remove the current CPI limitation allowing for a deferral of the entire amount of a tax increase. This would further mitigate any tax increase incurred by Rockville taxpayers after consolidation. Interest accrues, however, on these taxes and, of course, the taxes must be paid.

Postpone Effective Date of Consolidation. Section 112 of the Charter provides:

"All legislation, except emergency legislation, shall take effect 91 days following the date on which it shall become law unless a later effective date is prescribed in the legislation."

Legislation providing for an effective date at some definite time in the future is a commonly accepted practice. See, McQuillan Mun. Corp., Section 15.39 (3rd Ed.). Accordingly, the Council could enact legislation absorbing the Rockville Fire Tax

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District into the Consolidated Fire Tax District but provide for an effective date at some point in the future.

I trust this memorandum has been responsive to your inquiry. If you have further questions, please do not hesitate to contact me.

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cc: H. Christopher Malone, Senior Assistant County Attorney
Bruce P. Sherman, Senior Assistant County Attorney
Michael Faden, Senior Legislative Attorney

2) Can the impact of consolidation on individuals' property taxes be phased in or otherwise reduced?

Committee Chair Krahnke and Council Vice President Adams asked whether any way can be found to phase in the impact on Rockville district taxpayers of absorption into a Countywide district.

Data submitted by the Fire and Rescue Commission (circle 31) shows that the probable increase in tax rates for Rockville taxpayers is about the same as that for other districts recently absorbed into the Consolidated District, and is somewhat less than that for Gaithersburg, Laytonsville and Sandy Spring. The Commission did not have data on the effect of the rate increases for previously absorbed districts on average homeowners. However, preliminary data for Rockville (circle 26) shows that the average increases for taxpayers if that district is absorbed into the Consolidated District would be \$45, \$60, or \$36, depending on the assessment cycle. These take into account the 10% assessment cap. We expect to receive firmer data on average taxpayer impact from OMB on Monday (March 18).

It is clear that, once the County creates a single fire tax district, it must adopt a single tax rate for all properties in that district. To set a lower rate for Rockville residents, or to limit the percentage of their tax increase, would violate the uniformity requirement of the state Constitution. While the Attorney General has said that "perfect uniformity is not possible and temporary limitations are permissible," having a lower tax rate for selected properties within a single district, even for one or two years, is probably too blatant a violation of the uniformity principle to pass muster.

Given that conclusion, there may be 2 other ways to buffer this increase.

— The Council could postpone the absorption of the Rockville Fire Tax District for 1-2 years and in the meantime adopt higher tax rates for the Rockville District than are needed to fund its current operations. This would result in large surpluses in that account. We can find no state law or County Charter provision that precludes this option; the 5% limit on surpluses in Charter §310 applies only to the General Fund. However, this approach would require amendments to Chapter 21, and staff is left uneasy by the prospect that a taxpayer would challenge the levy as unnecessary to fund the district's appropriation. We do not advise this option.

— The Council could adopt a tax deferral program, much like that enacted last year in Bill 4-90, which would allow qualified taxpayers to defer that portion of the tax that is due to this increase. (We understand from Douglas Browning, Revenue Division chief, that last year no taxpayers applied for the deferral under Bill 4-90.) Given the relatively small amount of the individual increases and the administrative burdens of a deferral system, this option appears to be questionable.

The only other way to phase in the effect of consolidation would be to enact it now but postpone its effective date until tax conditions are more favorable. This could be combined with a shift of certain expenses from the General Fund to the current fire tax districts, so that the nominal fire tax rate in the Rockville district rises but the actual effect on Rockville district taxpayers is nonexistent.