

RESOLUTION NO. 2024-07

A RESOLUTION GRANTING AUTHORITY TO THE FIRE CHIEF TO HIRE DISTRICT EMPLOYEES BASED ON THE ANNUAL EMPLOYEE STAFFING LIST.

WHEREAS, the City of Miamisburg, Ohio and Miami Township, Montgomery County, Ohio created the Miami Valley Fire District (the "District") consistent with Ohio Revised Code Section 505.371 via Joint Resolution, City Resolution No. 2786 and Township Resolution No. 121-2011; and

WHEREAS, the Miami Valley Fire District is a special taxing district for purposes of Chapter 149 of the Ohio Revised Code; and

WHEREAS, the effective and timely hiring of qualified personnel is crucial for ensuring the safety and well-being of the community served by the Miami Valley Fire District; and

WHEREAS, the Fire Chief possesses the expertise and knowledge required to assess staffing needs and make informed decisions regarding the recruitment and hiring of personnel;

NOW, THEREFORE, BE IT RESOLVED BY THE MIAMI VALLEY FIRE DISTRICT BOARD OF TRUSTEES THAT:

Section 1.

The Miami Valley Fire District Board of Trustees hereby authorizes and empowers the Fire Chief to hire employees for the Miami Valley Fire District and conduct applicable oaths of office on behalf of the Board President based on the Employee Staffing List that shall be presented and approved annually by motion of the Board.

Section 2.

The Fire Chief shall adhere to all applicable laws, regulations, and organizational policies during the hiring process, including but not limited to equal employment opportunity principles and fair employment practices.

Section 3.

The Fire Chief is directed to submit a report to the Board of Directors on a regular basis, providing updates on the hiring activities, the status of the staffing levels, and any notable developments.

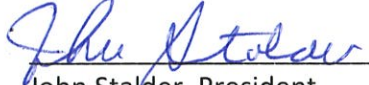
Section 4.

This Board hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of this Board, and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Ohio Revised Code Section 121.22.

Section 5.

This resolution shall be in full force and effect on February 8, 2024 and shall supersede any prior resolution or act of this Board, which may be inconsistent or duplicative with the provisions of this resolution.

** Subject to Section 6 read into the minutes of the meeting*
Adopted this 8th of February, 2024.


John Stalder, President

Yes/No


Terry Posey, Trustee

Yes/No


Ann-Lisa Allen, Trustee

Yes/No


Greg Bell, Trustee

Yes/No


Frank Fritsch, Trustee

Yes/No

February 13, 2024

VIA EMAIL

CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED

Amy Phillips
Human Resources Administrator
Miami Valley Fire District
2710 Lyons Road
Miamisburg, OH 45342

Re: Hiring Procedures for Fire District Employees

Dear Ms. Phillips:

You asked whether the Miami Valley Fire District Board of Trustees (the “Board”) can adopt a resolution authorizing the Fire Chief to hire a certain number of positions per year freely without further approval by the Board.

Miami Valley Fire District (“MVFD”) is a “joint fire district” established under R.C. 505.371. Under R.C. 505.371(B) the Board is the governing body of MVFD. Furthermore, the statute states that the Board “may exercise the same powers as are granted to a board of township trustees in sections 505.37 to 505.45 of the Revised Code[.]”¹ R.C. 505.38(A) states that the Board must appoint a Fire Chief, which will be the “head of the department.” Regarding personnel, the statute states that the Board “shall provide for the employment of firefighters as it considers best and shall fix their compensation.” R.C. 505.38(A).

This statute does not dictate the specific procedure that the Board must utilize to employ firefighting personnel. *See id.* Instead, the statute provides express authority to the Board to employ firefighters “as it considers best.” *Id.* Nothing in the statute suggests that there are limitations or restrictions on delegating hiring authority to the Fire Chief. Rather, the plain language suggests that the Board has broad authority to utilize the methods it believes are most appropriate for employing firefighters.

Based on this plain statutory language, it is our opinion that the Board may adopt a resolution establishing the specific number of qualified firefighting personnel and authorizing the Fire Chief to hire up to a certain number of individuals each year. As the “head of the department,” it is logical for

¹ In your question, you specifically asked whether R.C. 505.032 is a potential source of authority. Under R.C. 505.371, MVFD’s authority must be derived from 505.37 through 505.45 of the Ohio Revised Code. R.C. 505.032 is not one of the referenced statutes that MVFD can use for authority.

Amy Phillips
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the Fire Chief to exercise this type of discretion. Additionally, the statute gives the Board discretion to implement a procedure for employing personnel that the Board considers best. If the Board believes delegating this discretion to the Fire Chief is the most appropriate manner of hiring personnel, then it follows that the Board will be complying with R.C. 505.38 by establishing this procedure.

It is our understanding that the Board adopted Resolution 2024-07 for this purpose. We have reviewed the Resolution, and it is our opinion that this Resolution is sufficient and aligns with R.C. 505.38 in authorizing the Fire Chief to hire firefighting personnel.

If you have any questions, please contact me.

Sincerely,

FROST BROWN TODD LLP



Alexander L. Ewing
Partner

cc: W. Joseph Scholler

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