

6E-3

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 2, 2008 [] Consent [X] Regular Workshop [] Public Hearing

Department

Submitted For: FIRE RESCUE

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends a motion to approve on preliminary reading and advertise for Public Hearing on December 16, 2008, at 9:30 a.m.: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Section 26-51, Subsection (b), of Chapter 26, Article II, Division 3, of the Palm Beach County Code; amending the boundaries of the Fire/Rescue MSTU (Municipal Service Taxing Unit) to include the City of Lake Worth; providing for effectiveness; providing for opt-out procedures; providing for opt-out procedures for tax year 2009; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the Code of Laws and Ordinances; providing for captions.

Summary: The Fire/Rescue MSTU (MSTU) encompasses the unincorporated areas of Palm Beach County plus the incorporated areas within the municipal boundaries of municipalities that have opted to join the MSTU. The County currently provides dispatch services to the City of Lake Worth (City) through an Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services (R2005-1563). The City now desires to abolish its fire-rescue department and opt into the MSTU as a method to receive and pay for fire-rescue services from the County. The Department is currently in negotiations with the City to enter into a service agreement. However, if no action is taken by the City and the BCC prior to December 31, 2008 to include the City in the MSTU they could not be included in the MSTU until October 2010. The proposed ordinance amends the existing boundaries of the Fire/Rescue MSTU to include properties within the municipal boundaries of the City. If the County decides not to move forward with the provision of fire-rescue services to the City, the Board has the option to repeal this ordinance prior to April 30, 2009. Countywide (SB)

Background and Policy Issues: The City currently has its own fire department. The City has determined that abolishing their fire department and opting into the main Fire/Rescue MSTU is in the best interest of health, safety and welfare of the citizens of the City. Currently, the following municipalities are included in the Fire Rescue MSTU: Cloud Lake, Glen Ridge, Haverhill, Juno Beach, Lake Clarke Shores, Royal Palm Beach, Wellington, Belle Glade, South Bay, Pahokee, Loxahatchee Groves, and Lantana. The Village of Palm Springs is being considered by the Board for addition to the Fire/Rescue MSTU on this same date. Adoption of this ordinance will include the City in the Fire Rescue MSTU.

Attachments:

- 1. Proposed Ordinance
2. Ordinance adopted by the City 2008-26

Recommended By: [Signature] Deputy Chief Date: 11-6-08

Approved By: [Signature] Herman Price Fire-Rescue Administrator Date: 11-6-08

[Handwritten mark]

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<i>*See note below</i>		_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes ___ No X

Budget Account No.: Fund 1300 Dept _____ Unit _____ Object _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

* Discussions with the City regarding a service agreement are ongoing. Staff will provide the BCC with a fiscal analysis prior to any final BCC decision on Lake Worth's inclusion in the MSTU.

C. Departmental Fiscal Review: *John Melan*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Atwillhite 11-17-08
11/14/08 OFMB *en 11/10/08*

Ann J. Frost 11/17/08
 Contract Dev. and Control

B. Legal Sufficiency:

Sharon Burns 11-18-08
 Assistant County Attorney

C. Other Department Review:

 Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

ORDINANCE NO. 2008 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 26-51, SUBSECTION (b), OF CHAPTER 26, ARTICLE II, DIVISION 3, OF THE PALM BEACH COUNTY CODE; AMENDING THE BOUNDARIES OF THE FIRE/RESCUE MSTU (MUNICIPAL SERVICE TAXING UNIT) TO INCLUDE THE CITY OF LAKE WORTH; PROVIDING FOR EFFECTIVENESS; PROVIDING FOR OPT-OUT PROCEDURES; PROVIDING FOR OPT-OUT PROCEDURES FOR TAX YEAR 2009; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS.

WHEREAS, Chapter 26, Article II, Division 3, of the Palm Beach County Code, in accordance with the authority set forth in Section 125.01(1)(q) and (r), Florida Statutes, established municipal service taxing units (MSTUs) to provide fire protection, fire-rescue, advanced life support (or similar emergency services), code enforcement, and all other necessary and incidental powers to effect the purposes for which the MSTUs were created; and

WHEREAS, the Fire/Rescue MSTU encompasses the unincorporated areas of Palm Beach County plus the incorporated areas within the municipal boundaries of municipalities that have opted to join the MSTU pursuant to Section 125.01(1)(q), Florida Statutes, or other applicable law; and

WHEREAS, in accordance with Section 125.01(1)(q), Florida Statutes, the City of Lake Worth's Ordinance No. 2008-26 provides consent for the City's inclusion in the Fire/Rescue MSTU; and

WHEREAS, the Board of County Commissioners desires to amend the boundaries of the Fire/Rescue MSTU to include the properties within the municipal boundaries of the City of Lake Worth; and

WHEREAS, the Palm Beach County Property Appraiser's Office has advised the County that the City's participation in the Fire/Rescue MSTU for tax year 2009 may be cancelled by notification to the Property Appraiser by April 30, 2009.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Attachment # _____ / _____

Section 1. Section 26-51, subsection (b), of the Palm Beach County Code is hereby amended as follows:

“(b) The Fire/Rescue MSTU shall consist of the entire unincorporated area of the County plus all property situated within a municipality’s boundaries, as they may be amended from time to time, which municipality has opted and consented to be included within the Fire/Rescue MSTU, in accordance with Section 125.01(1)(q), Florida Statutes, or other applicable law, and been accepted by the County, namely: the Town of Glen Ridge, the Town of Lake Clarke Shores, the Town of Cloud Lake, the Town of Juno Beach, the Village of Wellington, the Town of Haverhill, the Village of Royal Palm Beach, the City of Pahokee, the City of South Bay, the City of Belle Glade, the Town of Loxahatchee Groves, the Town of Lantana, the Village of Palm Springs, the City of Lake Worth, and those hereinafter exercising such right.”

Section 2. Effectiveness:

The provisions of this Ordinance shall become effective December 31, 2008, to be implemented for tax year 2009 for services beginning October 1, 2009, provided that the City has duly enacted an ordinance consenting to its inclusion in the Fire/Rescue MSTU. The inclusion of the City of Lake Worth in the Fire/Rescue MSTU shall continue for the term of consent identified in the City’s Ordinance No. 2008-26, as it may be extended by the City from time to time, provided that the County maintains in effect an ordinance including the City within the Fire/Rescue MSTU.

The City’s inclusion in the Fire/Rescue MSTU is premised upon the understanding between the City and the County that they shall adopt, prior to March 15, 2009, and maintain an interlocal agreement, pursuant to the authority granted in Section 163.387(3)(b), Florida Statutes, as it may be amended from time to time, that exempts the Fire/Rescue MSTU from the Lake Worth Community Redevelopment Agency and from any and all other Community Redevelopment Agencies created by the City, whether now in existence or subsequently created hereafter, and from the payment of tax increment funds to such Agencies. If said exemption is not implemented and maintained by interlocal agreement or otherwise, then the County may repeal this Ordinance in accordance with the provisions and procedures set out in Section 3 or Section 4.

The City's inclusion in the Fire/Rescue MSTU shall be deemed to continue, after expiration, repeal or termination of the City's participation in the MSTU, to the limited extent necessary to enable the County to provide within the City fire-rescue and related services funded by the final tax year, including but not limited to the enforcement of applicable laws and regulations.

Section 3. Opt-Out Procedures:

Should the City or the County desire to terminate the City's participation in the Fire/Rescue MSTU, then the party desiring said termination shall adopt, prior to March 1st of any given year, an ordinance to repeal or otherwise terminate the City's participation in the Fire/Rescue MSTU effective December 31st of that same year, and deliver a certified copy of said ordinance to the Palm Beach County Property Appraiser's Office, Division of Appraisal Administration, for physical receipt by the Property Appraiser prior to March 1st of that same year. In such case, the City's inclusion in the County's Fire/Rescue MSTU shall terminate on said December 31st. A certified copy of said ordinance shall be delivered to, and received by, the other party on the same day that it is delivered to, and received by, the Property's Appraiser's Office.

Section 4: Opt-Out Procedures for Tax Year 2009:

Notwithstanding anything in this Ordinance to the contrary, should either the City or the County desire to unilaterally cancel the City's participation in the Fire/Rescue MSTU prior to its implementation for tax year 2009, and thereby have the City not receive fire-rescue services by and through the County's Fire/Rescue MSTU as anticipated commencing October 1, 2009, then the party desiring said cancellation shall adopt, by April 30, 2009, an ordinance to repeal, cancel or otherwise terminate the City's participation in the Fire/Rescue MSTU effective on or before April 30, 2009, and deliver a certified copy of said ordinance to the Palm Beach County Property Appraiser's Office, Division of Appraisal Administration, for physical receipt by the Property Appraiser by April 30, 2009. A copy of said ordinance shall be delivered to, and received by, the other party on the same day that it is delivered to, and received by, the Property's Appraiser's Office.

Section 5: Repeal of Laws in Conflict:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 6. Severability:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 7. Inclusion in the Code of Laws and Ordinances:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 8. Captions:

The captions, section headings, and section designations used in this Ordinance are intended only for the convenience of users and shall have no effect on the interpretation of the provisions of this Ordinance.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2008.

**ATTEST:
SHARON R. BOCK, CLERK &
COMPTROLLER**

**PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
_____, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
County Attorney

FILED with the Department of State on the _____ day of _____, 2008.

ORDINANCE NO. 2008-26 OF THE CITY OF LAKE WORTH, FLORIDA, PROVIDING FOR THE CITY'S CONSENT TO THE INCLUSION OF THE ENTIRE TERRITORY WITHIN THE CITY OF LAKE WORTH'S MUNICIPAL BOUNDARIES INTO PALM BEACH COUNTY'S FIRE/RESCUE MSTU (MUNICIPAL SERVICES TAXING UNIT); PROVIDING FOR INTENT, PURPOSE AND CONSENT; PROVIDING FOR AN EFFECTIVE DATE AND DURATION OF CONSENT; PROVIDING FOR EFFECTIVENESS OF REPEAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 125.01(1)(q) and (r), Florida Statutes, the Florida Legislature has empowered counties to establish municipal service taxing units ("MSTU"s), whereby a county may levy a tax within the county for certain municipal services, including the provision of fire-rescue services; and

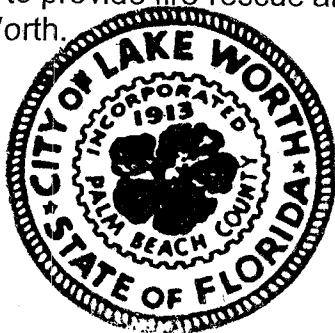
WHEREAS, pursuant to Section 125.01(1)(q), Florida Statutes, the Florida Legislature has provided that any municipality or portion thereof may be included in a municipal service taxing unit, provided that the municipality adopts an ordinance giving its consent either annually or for a term of years; and

WHEREAS, Palm Beach County established an MSTU known as the Fire/Rescue MSTU to provide fire protection, fire-rescue, advanced life support (or similar emergency services), code enforcement, and other services necessary and incidental to the purpose for which the MSTU was created; and

WHEREAS, the City Commission of the City of Lake Worth desires to consent to the inclusion of all the territory lying within the municipal boundaries of the City into the County's Fire/Rescue MSTU for fire-rescue and related services within the City, and believes that such inclusion is in the best interest of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. It is the intent of this Ordinance to comply with the provisions of Section 125.01(1)(q), Florida Statutes. The City Commission hereby consents to the inclusion of all the territory within the incorporated municipal boundaries of the City of Lake Worth, as they may be amended from time to time, within Palm Beach County's Fire/Rescue MSTU, which was established pursuant to enabling legislation adopted by the Board of County Commissioners of Palm Beach County. The purpose of the enactment of this Ordinance is to enable the County to provide fire-rescue and related services within the territorial limits of the City of Lake Worth.



STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS
CITY OF LAKE WORTH)
I hereby certify the foregoing to be a true and correct copy
of Ordinance 2008-26.

In Witness whereof, I have hereunto set my hand and affixed the official seal of the City of Lake Worth, Florida.

10-29-08 Crystal B. Hall
Date Deputy City Clerk

Section 2. The provisions of this Ordinance shall become effective December 31, 2008, to be implemented for tax year 2009 for County fire-rescue services beginning October 1, 2009. The City's consent to be included in the County's Fire/Rescue MSTU shall continue for a term of ten years through December 31, 2018, to fund fire-rescue services by the County through September 30, 2019; provided, however, that the City's consent and inclusion in the County's Fire/Rescue MSTU shall be deemed to continue through September 30, 2019, to the extent necessary to enable the County to provide within the City fire-rescue and related services funded by tax year 2018, including but not limited to the enforcement of applicable laws and regulations.

Section 3. Should the City repeal this Ordinance prior to its expiration, the City shall provide written notice to Palm Beach County, by March 1 of any given year, of the City's intent to repeal this Ordinance, with said repeal to be effective December 31 of that same year. In such case, the City's inclusion in the County's Fire/Rescue MSTU shall terminate on said December 31; provided however that the City's inclusion in the County's Fire/Rescue MSTU shall be deemed to continue through the following September 30 to the extent necessary to enable the County to provide within the City fire-rescue and related services funded by the final tax year, including but not limited to the enforcement of applicable laws and regulations.

Section 4. As agreed to by Palm Beach County, the City may repeal this ordinance before April 30, 2009. In the event of such repeal by April 30, 2009, the City shall withdraw from the County's Fire/Rescue MSTU effective for the year beginning October 1, 2009, and all subsequent years, and the City shall be removed from the levy of the Palm Beach County Fire/Rescue MSTU taxes for fiscal year 2009-2010, and all subsequent years. In the further event that the City repeals this ordinance by April 30, 2009, but for some reason the City is not timely removed from the Palm Beach County Fire/Rescue MSTU taxes for fiscal year 2009-2010, Palm Beach County shall reimburse the City for the taxes collected by the Palm Beach County Fire/Rescue MSTU for fiscal year 2009-2010.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. If any provision of this Ordinance, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 7. The provision of this Ordinance shall become and be made a part of the code of ordinances of the City of Lake Worth, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 8. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner Jennings, seconded by Commissioner Vespo, and upon being put to a vote, the vote was as follows:

Mayor Jeff Clemens	AYE
Vice Mayor Retha Lowe	AYE
Commissioner Cara Jennings	AYE
Commissioner Jo-Ann Golden	AYE
Commissioner Dave Vespo	AYE

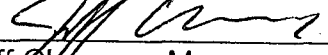
The Mayor thereupon declared this Ordinance duly passed on first reading on the 7th day of October 2008.

The passage of this Ordinance on second reading was moved by Commissioner Jennings, seconded by Commissioner Vespo, and upon being put to a vote, the vote was as follows:

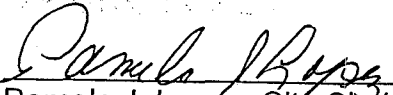
Mayor Jeff Clemens	AYE
Vice Mayor Retha Lowe	AYE
Commissioner Cara Jennings	AYE
Commissioner Jo-Ann Golden	AYE
Commissioner Dave Vespo	AYE

The Mayor thereupon declared this Ordinance duly passed and enacted on the 21st day of October 2008.

LAKE WORTH CITY COMMISSION

By: 
Jeff Clemens, Mayor

ATTEST:


Pamela J. Lopez, City Clerk

