

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: December 15, 2009 [] Consent Workshop [X] Regular Public Hearing

Department

Submitted For: FIRE RESCUE

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: 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 Town of South Palm Beach; providing for effectiveness; providing for opt-out procedures; 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 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 fire-rescue services to the Town of South Palm Beach (Town) through an interlocal agreement (R2004-0363), at a rate established by the Agreement. The Town now desires to opt into the Fire/Rescue MSTU as a method to receive and pay for fire-rescue services from the County. This ordinance will amend the boundaries of the Fire /Rescue MSTU to include the properties within the municipal boundaries of the Town. Inclusion of the Town in the Fire/Rescue MSTU will not change the amount of revenue received from the Town for fire-rescue services. Countywide (SB)

Background and Policy Issues: In February 2004, the County entered into an agreement with the Town of South Palm Beach for fire protection and emergency medical services for a ten-year term with a contract price established by the agreement. The Town now desires to opt into the Fire/Rescue MSTU as a method to receive and pay for fire-rescue services from the County. On October 27, 2009, the Town Council approved Ordinance No. 253 to include the Town within the County's Fire/Rescue MSTU. 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, Lantana, Palm Springs and Lake Worth. Adoption of this ordinance will include the Town of South Palm Beach in the Fire Rescue MSTU.

Subsequent to first reading, the ordinance was revised to specify in the opt-out procedures that either the County or the Town may cancel the Town's inclusion in the MSTU for tax year 2010 by adopting an ordinance and notifying the Property Appraiser by April 30, 2010. Negotiations are on-going to amend the existing interlocal service agreement to reflect the Town's participation in the MSTU. If agreement is not reached, the County may choose to cancel the Town's participation in the MSTU by exercising the ordinance's opt-out provisions by April 30, 2010, and fire-rescue services to the Town would then continue under the existing interlocal service agreement.

Attachments:

- 1. Proposed Ordinance
- 2. Town of South Palm Beach Ordinance No. 253

Recommended By: [Signature] Deputy Chief 12-11-09 Date

Approved By: [Signature] Fire-Rescue Administrator 12-11-09 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
 NET FISCAL IMPACT	 * _____	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

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

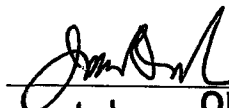
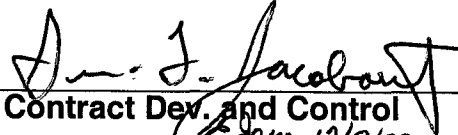
B. Recommended Sources of Funds/Summary of Fiscal Impact:

* Funding for service to the Town of South Palm Beach is currently provided from the main Fire-Rescue MSTU (Fund 1300). Inclusion of the Town in the Fire/Rescue MSTU will not change the amount of revenue received from the Town for fire-rescue services.


C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

 12-4-09
 OFMB
 88 12/4/09
 pm 12-4-09
 12/7/09
 Contract Dev. and Control
 G. Jones 12/7/09

B. Legal Sufficiency:

 12/11/09
 Assistant County Attorney
 Ability to remove Town from MSTU between 4/1/2010 + 4/30/2010 is based on prior representations from Property Appraiser's Office. We are waiting for re confirmation from them.

C. Other Department Review:

Department Director

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

**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
(CODRS) CODING FORM**

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (850)245-6270 or Suncom 205-6270.

COUNTY: (PAIM BEACH) COUNTY ORDINANCE # (2009)
(e.g., 00-001)

PRIMARY KEYFIELD
DESCRIPTOR: (Fire Protection)

SECONDARY KEYFIELD
DESCRIPTOR: (Emergency Medical Service)

OTHER KEYFIELD
DESCRIPTOR: (Fees)

ORDINANCE DESCRIPTION: (Fire Rescue MSTU Boundaries)
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: (_____) AMENDMENT # 2: (_____)

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: (_____) REPEAL # 3: (_____)

REPEAL # 2: (_____) REPEAL # 4: (_____)

(Others repealed: List all that apply): _____

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: (_____)

KEYFIELD 1 CODE: (_____) KEYFIELD 2 CODE: (_____)

KEYFIELD 3 CODE: (_____)

Rev. 4/10/04

ORDINANCE NO. 2009 - _____

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 TOWN OF SOUTH PALM BEACH; PROVIDING FOR EFFECTIVENESS; PROVIDING FOR OPT-OUT PROCEDURES; 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 Town of South Palm Beach ("Town") adopted Ordinance No. 253, providing consent for the Town'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 Town.

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

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, the Town of South Palm Beach, and those hereinafter exercising such right.”

Section 2. Effectiveness:

The provisions of this Ordinance shall become effective December 31, 2009, to be implemented for tax year 2010 for services beginning October 1, 2010, provided that the Town has duly enacted an ordinance consenting to its inclusion in the Fire/Rescue MSTU. The inclusion of the Town of South Palm Beach in the Fire/Rescue MSTU shall continue for the term of consent identified in the Town’s Ordinance No. 253, as it may be extended by the Town from time to time, provided that the County maintains in effect an ordinance including the Town within the Fire/Rescue MSTU.

The Town’s inclusion in the Fire/Rescue MSTU shall be deemed to continue after expiration, repeal or termination of the Town’s participation in the MSTU, to the limited extent necessary to enable the County to provide within the Town 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 Town or the County desire to terminate the Town’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 Town’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 Town’s inclusion in the County’s Fire/Rescue MSTU shall terminate on said December 31st. The terminating party shall deliver to the other party a certified copy of said ordinance for receipt on the same day that it is received by the Property Appraiser’s Office.

Notwithstanding anything in this Ordinance to the contrary, should either the County or the Town desire to unilaterally cancel the Town's participation in the Fire/Rescue MSTU prior to its implementation for tax year 2010, and therefore not have the Town receive fire-rescue services as an MSTU participant commencing October 1, 2010, then the party desiring said cancellation shall adopt, by April 30, 2010, an ordinance to repeal, cancel or otherwise terminate the Town's participation in the Fire/Rescue MSTU effective on or before April 30, 2010, 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, 2010. The cancelling party also shall deliver a copy of said ordinance to the other party for receipt on the same that it is received by the Property Appraiser's Office.

Section 4. 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 5. 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 6. 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 7. 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 _____, 2009.

ATTEST:
SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Burt Aaronson, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: *Sham Burns*
County Attorney

FILED with the Department of State on the _____ day of _____, 2009.

ORDINANCE NO. 253

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SOUTH PALM BEACH, FLORIDA; PROVIDING FOR THE TOWN'S CONSENT TO THE INCLUSION OF THE ENTIRE TERRITORY WITHIN THE TOWN OF SOUTH PALM BEACH'S MUNICIPAL BOUNDARIES INTO PALM BEACH COUNTY'S FIRE/RESCUE MUNICIPAL SERVICE TAXING UNIT FOR FIRE-RESCUE, FIRE PROTECTION, ADVANCED LIFE SUPPORT (OR SIMILAR EMERGENCY SERVICES) AND OTHER SERVICES NECESSARY; PROVIDING FOR INTENT, PURPOSE AND CONSENT; PROVIDING FOR A CONFLICTS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR DURATION OF CONSENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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 MSTU for certain essential municipal services, including the provision of fire-rescue services; and

WHEREAS, pursuant to Section 125.01(1)(q), *Florida Statutes*, the state legislature has provided for the inclusion of any municipality, or portion thereof, within a MSTU established under the authority of Section 9(b), Article VII. of the State Constitution; and has provided that no such inclusion may be authorized unless approved by ordinance of the governing body of the municipality giving consent either annually or for a longer specified term, subject to certain ad valorem tax limits; and

WHEREAS, Palm Beach County (the "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 Town Council of the Town of South Palm Beach (the "Town") desires to consent to the inclusion of all territory lying within the municipal boundaries of the Town within the County MSTU for fire-rescue services benefitting residents within the Town; and believes that such inclusion is in the best interests of the health, safety and welfare of the citizens of the Town of South Palm Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH PALM BEACH, FLORIDA, THAT:

Section 1: It is the intent, purpose and effect of this ordinance to comply with the provisions of Section 125.01(1)(q), *Florida Statutes*. The Town Council of the Town of South Palm Beach hereby consents to the inclusion of all territory within the incorporated municipal boundaries of the Town, to include all parcels of land annexed into the Town in the future during the effective term of this ordinance, within the County's Fire Rescue Municipal Service Taxing Unit (the "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 Town including, but not limited to, the enforcement of applicable laws and regulations.

Section 2: The provisions of this ordinance shall become effective December 31, 2009 to be implemented for tax year 2010, for County fire/rescue services to begin October 1, 2010. The Town's consent to be included in the County's Fire/Rescue MSTU shall continue for a term of ten (10) years through December 31, 2019, to fund fire/rescue services by the County through September 30, 2020; provided, however, that the Town's consent and inclusion in the County's Fire/Rescue MSTU shall be deemed to continue through September 30, 2020, to the extent necessary to enable the County to provide within the Town, fire/rescue and related services funded by tax year 2019, including, but not limited to, the enforcement of applicable laws and regulations.

Section 3: Should the Town intend to repeal this ordinance prior to its expiration on December 31, 2019, the Town shall provide written notice to Palm Beach County, by March 1st of any given year, of the Town's intent to repeal this Ordinance, with such repeal to be effective December 31st of that same year. In such case, the Town's inclusion in the County's Fire/Rescue MSTU shall terminate on said December 31; provided, however, that the Town'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 Town, 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: Specific authority is hereby granted to codify and incorporate this ordinance into Chapter 2. Administration. Article VIII. Finance. at newly created Sec. 2.383 entitled. "Inclusion of Town's Boundaries into Palm Beach County's Fire-Rescue Municipal Service Taxing Unit ("MSTU")" to read as follows:

Article VIII. Finance.

**SEC. 2-383. Inclusion of Town's boundaries into Palm Beach County's
Fire-Rescue municipal service taxing unit ("MSTU")**

Ordinance No. 253 adopted on October 27, 2009 provides for the inclusion of the Town of South Palm Beach's boundaries within the boundaries of the Fire/Rescue MSTU established by Palm Beach County for fire-rescue services pursuant to Section 125.01(1)(q), *Florida Statutes*, under the authority of Sec. 9(b), Article VII. of the State Constitution. Ordinance No. 253 is hereby included and incorporated herein by reference as if fully set forth herein and shall be kept on file for review in the Office of the Town Clerk.

Section 5: Repeal of Conflicting Ordinances. All other ordinances and parts of the ordinances in conflict with any provisions of this ordinance are hereby repealed to the extent of the conflict.

Section 6: Severability. Should any Section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or any part thereof other than the part to be declared invalid.

Section 7: Effective Date. This Ordinance shall become effective on December 31, 2009 provided that the Board of County Commissioners of Palm Beach County has adopted an ordinance providing for the inclusion of the territorial limits of the Town within the County's Fire Rescue MSTU. The Town's continuing participation in the MSTU is contingent upon the County maintaining an ordinance including the Town within the MSTU.

Section 8: The affected properties within the Town shall be noticed of their inclusion in the County's Fire-Rescue MSTU on their tax bill issued on or after November 1, 2010. The Town acknowledges that by opting into the MSTU, it cannot levy an annual ad valorem millage rate that would exceed the ten (10) mill cap for municipal purposes when combined with the Fire/Rescue MSTU's annual ad valorem levy.

First Reading: September 22, 2009

Second Reading: October 27, 2009

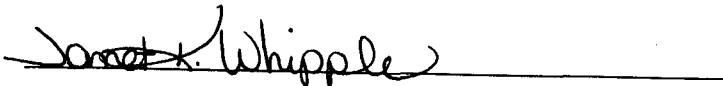
The Mayor thereupon declared this Ordinance approved and adopted by the Town Council of the Town of South Palm Beach, Florida, duly passed and adopted this 27th day of October, 2009.

TOWN OF SOUTH PALM BEACH, FLORIDA



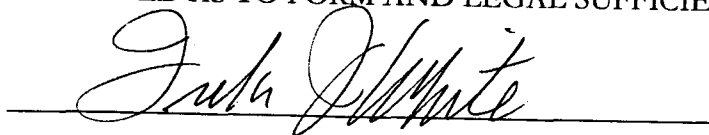
MARTIN MILLAR, MAYOR

ATTEST:



JANET K. WHIPPLE, TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



TRELA J. WHITE, TOWN ATTORNEY