

Board of County Commissioners

Agenda Request

Date of Meeting: March 15, 2010

Date Submitted: February 26, 2010

To: Honorable Chairman and Members of the Board

From: Benjamin H. Pingree, County Administrator
Lindsay Stevens, Assistant County Administrator
Scott McDermid, Director, Department of Public Safety
Louis Lamarche, Chief, Division of Fire Rescue

Subject: Request Board Consideration and Policy Clarification for Public Funding of Repairs Required on Privately Owned Volunteer Fire Department Buildings and Property

Statement of Issue:

This agenda item requests Board consideration and policy clarification for public funding of repairs required on privately owned Volunteer Fire Department buildings and property.

Background:

Recently the County has received two requests from Volunteer Fire Departments to fund capital repairs on the VFDs' privately owned facilities. The Wakulla County Fire Suppression System includes ten (10) separate private non-profit corporations that serve our community as Volunteer Fire Departments (VFDs). These independent VFDs serve an essential governmental function under contract with the Board of County Commissioners. Like most VFD structures in Florida, the volunteer fire station structures in Wakulla County were built by the local citizens – mostly on a volunteer basis. These buildings have been maintained over the course of the last 30 years by donations gathered by each respective VFD. Since the creation of the MSBU (created by Ordinance in 1985), each VFD has been provided funding through the County budget process.

Five (5) of the VFDs have deeded ownership for their respective buildings and land to Wakulla County. Since transferring ownership to the County, the County has improved and maintained these facilities. Additionally, the County provides insurance and pays utilities for the VFDs.

The five (5) Volunteer Fire Departments that have chosen to convey the title of the land and facilities to the County are listed as follows:

- Wakulla Station Volunteer Fire Department;
- Medart Volunteer Fire Department;
- Crawfordville Volunteer Fire Department;
- Smith Creek Volunteer Fire Department;
- Riversink Volunteer Fire Department.

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Additionally, the five (5) Volunteer Fire Departments that have chosen to retain ownership of their facilities are listed as follows:

- Sopchoppy Volunteer Fire Department, (owned by the City of Sopchoppy);
- St. Marks Volunteer Fire Department, (owned by the City of St. Marks);
- Apalachee Bay Volunteer Fire Department, (owned by the Volunteer Department);
- Panacea Volunteer Fire Department, (owned by the Volunteer Department);
- Ochlocknee Bay Volunteer Fire Department, (owned by the Volunteer Department).

Analysis:

The implementation of the MSBU in 1985 has provided an operating budget for each Volunteer Fire Department. Each VFD is provided, within the budget, a line for maintenance and repairs. These funds are primarily used by serving the needs of apparatus maintenance and repair, with some dollars being expended on structural maintenance and repair. While these funds are typically adequate, on occasion there are repairs required that exceed the budgeted funds provided for a VFD.

VFDs are also eligible to apply for grants from FEMA's Assistance to Firefighter Grant Program to restore or repair facilities; however, these grants have closed for FY 2009/2010 and will not open again until November of 2010. In the last application period only the Crawfordville VFD submitted a grant for station improvements. This fiscal year there is a \$200,000.00 Capital Improvement Project (CIP) provided to the Crawfordville VFD, a Department that transferred ownership of the property to the County well over 30 years ago. The CIP will either provide the match for the station construction grant, or if the grant is not awarded, the CIP Funds will repair and update the existing station.

While there are reserve accounts within the MSBU for large-scale repairs, the County has recently received requests for public funding on privately owned VFD buildings. The County and VFDs operate under an Operational Agreement between each VFD and the County. The current Operational Agreement was enacted between the Volunteer Department(s) and the County on May 19, 2008 (Attachment #1).

In the Agreement, building maintenance is addressed in Section F (1). Vehicles, Buildings, and Equipment:

The Volunteer Fire Rescue Department shall maintain all vehicles, buildings, and equipment in a state of readiness which shall include the provisions of providing suitable housing for such vehicles and equipment, however, the Volunteer Fire Rescue Department may apply to the County Fire Chief for a waiver of the suitable housing requirements set forth above. Suitable housing is defined as heated, locked buildings with areas of the building that house vehicles and firefighting and rescue equipment secured in a manner to prevent access by the general public. If the Volunteer Fire Rescue Department is unable to comply with the suitable housing requirement it must apply for exemption from this requirement.

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In the agreement funding is addressed in Section L (2) and (3):

2. *County shall fund the Volunteer Fire Rescue Department from MSBU funds, impact fee funds or from other lawfully available funds.*
3. *County funds shall be used by the Volunteer Fire Rescue Department to provide fire prevention, protection, rescue, and related services.*

In the agreement Buildings and Equipment are addressed in Section N (1) and (2):

1. *Acquisition, replacement or expansion of buildings or purchase of equipment pursuant to this Agreement shall be approved in advance by the County and acquired through the County's purchasing ordinance as budgeted.*
2. *All buildings constructed or capital equipment or real estate acquired and paid for, in any part, with County funds pursuant to this Agreement shall remain the property of the County unless otherwise specifically agreed by County in writing. Buildings previously built entirely or in part with local (non-public) funds including those at Apalachee Bay, Panacea, Ochlockonee Bay, St. marks and Sopchoppy shall remain the property of those departments.*

The County has received two separate requests to fund improvements to the VFD-owned facilities listed as follows:

- **Ochlocknee Bay VFD** - The Ochlocknee Bay Volunteer Fire Department is requesting that the Board fund the replacement of the roof on the building. Facility Management staff inspected the needed repairs and found that the cost for a complete roof replacement would be approximately \$40,000.00, while a repair of the current issue will cost approximately \$10,000.00. The leadership of the Ochlocknee Bay VFD reports that this cost is more than the VFD has available. Additionally, they have expressed concerns of having to pay for the repairs since the building is primarily used as a Volunteer Fire Department. Staff and the Ochlocknee Bay VFD leadership have met and were unable to determine a solution that both parties could agree upon.

The land and the original portion of the building were granted in 1980 to the Ochlocknee Bay VFD by the Waff family. In 1981, fund raising efforts coordinated by the local citizens and Fire Department members provided the ability to construct the fire apparatus garage section of the station. In the land grant to the VFD there is a contingency that requires the property to be used as a fire department or it will revert to the Waff family.

- **Apalachee Bay VFD** - The Apalachee Bay Volunteer Fire Department also requested that the Board fund roof repairs to the facility. As of February 22, 2010, Apalachee Bay VFD has chosen to rescind their request for repairs and decided to execute the repairs through their own membership and funding.

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Summary:

All of the VFD structures are beginning to show their age, so it is expected that the policy clarification provided on this matter will affect future similar requests. In order to support a proper expenditure of public funds, County staff and the County Attorney understand the need for an identifiable public purpose and for the County to obtain a level of dominion over the property so that public funds are not serving a private purpose.

In light of these requirements, staff and the County Attorney has identified the following options and is requesting Board consideration in order to proceed with the Ochlocknee Bay VFD request to fund required repairs to the building:

1. **Deed** - Require a grant of ownership, with purpose and specific use contingencies that will require the return of the property to the grantor if no longer used as a Public Building. For example, in 1990 the Medart VFD deeded the land and buildings to the County with the stipulation that if the land and buildings are abandoned or are not used as public buildings; the property reverts to the grantor (Attachment #2).

This approach provides dominion over a structure that is funded with County funds and would ensure protection of the County's investment through future County maintenance. Additionally, since the County has major capital demands in its existing building inventory, requiring a deed before the County expends significant public funds on a structure would allow the County to prioritize all of its building challenges. The resistance received from the volunteer membership relates to the restrictions of use in a County building as the Ochlockonee Bay station is also used for community gatherings where alcohol is present. Alcohol would no longer be allowed if the building were deeded to the County.

2. **Lease** - Require a lease from the owner to the County for a term that exceeds the expected lifespan of the proposed repairs. This approach provides many of the same benefits as the deed option in that it ensures County dominion over a structure that is funded with public funds. There is less resistance to this option from the Ochlockonee Bay VFD; however, it would also restrict the use of the facility.
3. **Approve the expenditure of public funds on privately owned buildings without requiring any grant of ownership or lease** - This option provides the least amount of protection for the public funds being placed into a structure, either for maintenance or improvement. Although the County may be able to demonstrate an adequate public purpose for use of County funds under the terms of the existing Operations Agreement, it is less optimal than either a lease or a deed of the station. The County could invest in these facilities and lose the value of its investment in the event the VFD chooses to no longer operate or alienate the building. Additionally, the County has extensive capital needs in its existing facility inventory, making it difficult to prioritize expenditures on private facilities.

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After consideration of exploring the options above, staff is recommending the Board direct staff to obtain the deed from the Ochlockonee Bay Fire Department at this time. Obtaining the deed will allow the County ownership of the building, with purpose and specific use contingencies that will require the return of the property to the grantor if no longer used as a public building.

Options:

1. Direct staff to obtain the deed from the Ochlockonee Bay Fire Department to require a grant of ownership, with purpose and specific use contingencies that will require the return of the property to the grantor if no longer used as a Public Building.
2. Direct staff and the County Attorney to draft a lease from the owner to the County for a term that exceeds the expected lifespan of the proposed repairs.
3. Approve the expenditure of public funds on privately owned buildings without requiring any grant of ownership or lease.
4. Board direction.

Recommendation:

Option #1

Attachments(s):

1. VFD Agreement
2. Medart VFD Deed