



*Office of the*  
**INDIAN RIVER COUNTY  
ADMINISTRATOR**

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Jason E. Brown, County Administrator  
Michael C. Zito, Assistant County Administrator

**MEMORANDUM**

**TO:** Members of the Board of County Commissioners

**FROM:** Jason E. Brown  
County Administrator

**DATE:** May 31, 2018

**SUBJECT:** City of Sebastian Fire Marshal

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**BACKGROUND**

Pursuant to section 208.09 of the Indian River County Ordinance Code (the “Code”), the Indian River County Fire Marshal’s Office is operated under the supervision of the Fire Chief of the Indian River County Fire Division, under the direction of the Director of the Indian River County Department of Emergency Services. Additionally, the Fire Chief is responsible for designating a Fire Marshal who is responsible for the administration and enforcement of applicable provisions of the Code, the State Fire Prevention and Control Chapter (Chapter 633, Florida Statutes) and Chapter 69A-60, Florida Administrative Code. The Fire Marshal, or his or her designee, is responsible for issuing permits, certificates, notices, approvals and or orders pertaining to life safety, fire control and fire hazards.

Additionally, under section 208.11 of the Code, unless otherwise provided by law, annual fire safety inspections are required to be conducted by qualified inspectors of all buildings specified in the Florida Fire Prevention Code under the Emergency Services District jurisdiction.

On March 6, 2018, the County Attorney’s Office presented an agenda item to the Indian River County Board of County Commissioners (the “Board”) concerning an ordinance being considered by the City of Sebastian, (the “City”) City Council (the “Council”) that would establish an independent City Fire Marshal’s Office that would have the same responsibilities as that of the Indian River County Fire Marshal’s Office. The Board voted to oppose the ordinance. On March 14, 2018, after taking comments from the public, including testimony from the County Administrator, the Council voted to approve the ordinance.

On April 3, 2018, the County Attorney's Office presented an agenda item to the Board asking for guidance on how to proceed, and provided the steps needed in order to see if the Indian River County Emergency Services District and the City would be able to resolve the differences between the two entities before any litigation is filed. Per the Board direction, Chairman O'Bryan drafted a letter to Mayor Hill asking whether the City of Sebastian wishes to either remain as part of the District, or if not, the County will assume the City of Sebastian intends on leaving the District and providing all of the emergency services within the City of Sebastian. Attached is the letter sent to the City.

The County Attorney has received a letter of response from the City which indicates they will proceed with their plans to establish an independent Fire Marshal for the City. Attached is the letter received from the City.

In order to move toward a resolution, staff recommends that the Board vote to initiate the Florida Governmental Conflict Resolution Act (the "Act") in order to see if the Indian River County Emergency Services District and the City would be able to resolve the differences between the two entities before any litigation is filed. In order to initiate the process set forth under the Act, the Board would need to adopt a resolution stating its intention to initiate the conflict resolution procedure. After the conflict resolution procedure has been initiated, a conflict assessment meeting is held. The County Administrator and the City Manager, or his designee, would attend the conflict assessment meeting. During the conflict assessment meeting, the governmental entities discuss the issues pertaining to the conflict and an assessment of the conflict from the perspective of each governmental entity involved. If the issues cannot be resolved during the conflict assessment meeting, the parties would conduct a joint public meeting and then mediation, if necessary. Per the Act, a facilitator may be utilized by the parties during the process. If the Board votes to initiate the process under the Act, staff will bring back a resolution to the Board for consideration.

Staff provides the following options to consider as part of the process of resolving this matter through the Florida Governmental Conflict Resolution Act:

**Option 1 – Interlocal Agreement:**

Draft an interlocal agreement with the City in which the City manages all Fire Marshal Services within the City of Sebastian. Any such agreement would need to indemnify and hold the County harmless for any actions of the City Fire Marshal activities.

**Option 2 – Separate City of Sebastian from Emergency Services District:**

Accept the City adoption of Ordinance O-18-02 as their intent to leave the Emergency Services District effective October 1, 2019 and begin the process for the City to establish a separate Fire Department. Staff has outlined some basic parameters necessary for divestiture from the Indian River County Emergency Services District. While any final agreement would need to be negotiated between the City and the County, the following parameters provide the general framework of the County's proposed terms:

- Sell Fire Rescue Station #8 on Barber Street to City in an amount which is agreeable to both parties. This is the only Fire Rescue Station that is located

within the City Limits of Sebastian. If the City is not interested in acquiring this property, then the County could offer it at sale for surplus.

- Several Fire Rescue Stations outside the City of Sebastian provide services for calls from within the City. Establish additional support in the form of an automatic aid agreement between the City and the Emergency Services District where Fire Rescue Station resources from various Stations (9,10,11, and 15) would provide backup for the City's station on Barber Street. Table 1 below shows the percentage of calls from the various stations that originated from within the City along with an estimated fee to be paid by the City to the Emergency Service District for automatic aid. Conversely, Station 8 responds to several calls for service outside this City of Sebastian. The cost of these calls as estimated in Table 2 below could be deducted from the fee calculated in Table 1, as calculated in Table 3.

**Table 1 – Calls for Service in Sebastian for Fire Rescue Stations Outside City Limits**

<b>Station Number</b>	<b>Location Description</b>	<b>Calls for Service % in City of Sebastian</b>	<b>Estimated Annual Operating Costs<sup>(1)</sup></b>	<b>Estimated Automatic Aid Fee from City<sup>(2)</sup></b>
Station 9	Roseland	61.51%	\$1,893,280	\$1,164,556
Station 10	Fellsmere	6.19%	\$1,893,280	\$117,194
Station 11	Orchid	11.29%	\$1,893,280	\$213,751
Station 15	North County Pool	13.37%	\$1,089,012	\$145,601
<b>Total</b>		<b>92.36%</b>		<b>\$1,641,102</b>

(1) Operating costs based upon the estimated total operating costs for a full complement station for Stations 9, 10, and 11, and the costs for an ALS Engine only at Station 15 for fiscal year 2017/18 budgeted amounts.

(2) The estimated fee is derived by prorating the total operating costs for each station by the percentage of calls within the City.

**Table 2 – Calls for Service Outside Sebastian for Fire Rescue Station 8**

<b>Station Number</b>	<b>Location Description</b>	<b>Calls for Service % Outside City of Sebastian</b>	<b>Estimated Annual Operating Costs<sup>(1)</sup></b>	<b>Estimated Automatic Aid Fee to City<sup>(2)</sup></b>
Station 8	Barber Street - Sebastian	25.84%	\$1,893,280	\$489,224
<b>Total</b>		<b>25.84%</b>		<b>\$489,224</b>

(1) Operating costs based upon the estimated total operating costs for a full complement station for Station 8 for fiscal year 2017/18 budgeted amounts.

(2) The estimated fee is derived by prorating the total operating costs for each station by the percentage of calls from outside the City.

**Table 3 – Summary of Estimated Automatic Aid Payments**

<b>Item Description</b>	
Automatic Aid Fees Paid by City to Emergency Services District	\$1,641,102
<i>Less:</i>	
Automatic Aid Fees Paid by Emergency Services District to City	(\$489,224)
<b>Net Payment from City of Sebastian</b>	<b>\$1,151,878</b>

- Personnel from Station 8 would be absorbed into Indian River County Fire Rescue Service personnel through attrition. Therefore, there would not be a need to reduce staffing for Indian River County Fire Rescue. Based on this proposal, the City would need to prepare to fully staff their Fire Rescue Station and administrative operations effective October 1, 2019.

### **RECOMMENDATION**

Staff recommends the Board vote to utilize the dispute resolution process under the Florida Governmental Conflict Resolution Act and direct the County Attorney's Office to draft a resolution to initiate the process.