



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
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MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney 

DATE: January 25, 2019

SUBJECT: City of Sebastian Fire Marshal Ordinance

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.

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 June 12, 2018, the Board authorized the County Attorney's Office to draft a resolution which would 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.

Since that time, County staff has tried to work with City staff to see if a compromise could be made prior to initiating the conflict resolution process under the Act. Unfortunately, this was unsuccessful. Thus, per the Board's direction, the County Attorney's Office has drafted the attached resolution.

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.

FUNDING.

The costs of the conflict resolution process are to be split evenly between the parties. The funding for participating in the conflict resolution process is budgeted and available in the Emergency Services District/Fire Rescue/Legal Services account number 11412022-033110. The County Attorney does not anticipate the conflict resolution process costing more than \$3,000.

RECOMMENDATION.

The County Attorney's Office recommends that the Indian River County Board of County Commissioners approve the draft resolution initiating the conflict resolution procedure under the Florida Governmental Conflict Resolution Act.

ATTACHMENT.

Proposed Resolution