WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 3/26/2024 Weekly Agenda Date: 4/23/24

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Supervisor J. Taylor

WORDING FOR AGENDA ITEM:

Reallocate Funding on Cost of Insurance from the New LEC Maintenance and Repair Budget and / or Schedule a Closed Session to Consider the County's Position on Longstanding and Necessary Lease Provision Issues

ACTION REQUIRED:

Approve Ordinance ☐	Approve Resolution ☐	Approve Motion ☐
Public Hearing ☐	Other: Informational ☑	Attachments ☐

EXECUTIVE SUMMARY:

For several months the Woodbury County Board of Supervisors has known that there are provisions of the lease between the Law Enforcement Center Authority and the Board of Supervisors that are problematic. These includes a lack of parameters on the thresholds by which the county or the LEC Authority Maintenance Fund will operate, a lack of clarity on functional ownership, a prohibition on the LEC Authority building new buildings from the Maintenance Fund, safeguards and oversight on taxpayer dollars by the county board, etc. This agenda item contemplates two items:

First, a currently unbudgeted $177,000 expense for insurance. The lease makes clear the county owes this but that the LEC Authority engages the insurance provider: "Section 13.2 of the lease specifies that the County must pay to the Authority the costs of insurance secured by the Authority as "Additional Rent."

With $1.2 million in the Maintenance Fund--before the potentially earliest date of now July 2024--we can stand on the legal opinion that the maintenance costs are to be paid for by the "owner," not the tenant. Therefore, it seems reasonable to reallocate additional county-provided maintenance funds rather than even further depleting reserves. Second, if this action does not carry, it begs the question how and when the BOS will resolve these issues.

BACKGROUND:

The Law Enforcement Center has exceeded $70 million with several expenses not yet addressed, e.g. $210,000 of an unbilled 28th Street Project, a rapidly depleted Miscellaneous Fund, and costs that may very well exceed $72 million. Over 20 years time, an annual $400,000 in property taxpayer dollars will yield $8 million. Over that same period, the county we have now learned will pay $1.6 million more in insurance over 20 years than it is currently paying in the old facility.

Setting a precedent of the county paying for repairs to a building that it is already taxing for in a maintenance fund for is doubly taxing for a building that will cost from all sources of revenue in excess of $80 million ($50.3 million bond, ARPA, one time F&E, interest, etc.). While there are understandable factors outside of the Board's control, e.g. supply-chain/demand issues, rising costs, incurred damages, etc., how much money the BOS keeps on allocating for funding that is already there is within our control. How we engage and proactively respond to longstanding issues is certainly within our control.

While it is our hope that the eventually opened building will pay the bond payments off in revenue, the two amounts alone ($400,000 from the maintenance fund and $170,000 in repairs) represent over 25% of the $2.2 million tax asking increase for FY 25.

In trying to resolve these issues, we were asked to turn in our philosophy of a list of over 20 items that were "Operational" and "Maintenance." I did so. We have yet to discuss as a Board how these provisions or this exercise mattered or to discuss.

We were asked by outside counsel to respond to desired changes in the lease. I do not know the status of anyone's response.

I was told that the building must be finished in order to negotiate which seems that after three years to be an odd request: start operating under the terms of a lease that is problematic without fixing or suggesting terms before the very problems arise that the lease fails to address with specificity.

FINANCIAL IMPACT:

Reallocate $170,000 to the cost of insurance from the County Maintenance & Repair Fund and rely on the Owner Maintenance Fund which has been fully funded per the provisions of the lease.

Schedule a closed session with counsel to discuss the terms of the lease that the BOS agrees upon and then schedule an open joint session with the LEC Authority to discuss the terms of the lease.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes ☐ **No** ☐

RECOMMENDATION:

Reallocate $170,000 to the cost of insurance from the County Maintenance & Repair Fund and rely on the Owner Maintenance Fund which has been fully funded per the provisions of the lease.

Schedule a closed session with counsel to discuss the terms of the lease that the BOS agrees upon and then schedule an open joint session with the LEC Authority to discuss the terms of the lease.

ACTION REQUIRED / PROPOSED MOTION:

Reallocate $170,000 to the cost of insurance from the County Maintenance & Repair Fund and rely on the Owner's Maintenance Fund which has been fully funded per the provisions of the lease.

Schedule a closed session with counsel to discuss the terms of the lease that the BOS agrees upon and then schedule an open joint session with the LEC Authority to discuss the terms of the lease.

Approved by Board of Supervisors April 5, 2016.