



## COMPTROLLER'S INVESTIGATIVE REPORT

# Luminary-Frostbite Volunteer Fire Department, Inc.

*May 6, 2024*

**Jason E. Mumpower**  
*Comptroller of the Treasury*



**DIVISION OF INVESTIGATIONS**



JASON E. MUMPOWER  
*Comptroller*

May 6, 2024

Luminary-Frostbite Volunteer Fire Department, Inc.  
Board Members  
13002 Summer City Road  
Spring City, TN 37381

Luminary-Frostbite Volunteer Fire Department Officials:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the Luminary-Frostbite Volunteer Fire Department Inc., and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the District Attorney General of the 12<sup>th</sup> Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink that reads "Jason E. Mumpower".

Jason E. Mumpower  
Comptroller of the Treasury

JEM/MLC

# INVESTIGATIVE REPORT

## Luminary-Frostbite Volunteer Fire Department, Inc.

The Office of the Comptroller of the Treasury investigated allegations of malfeasance related to the Luminary-Frostbite Volunteer Fire Department, Inc. The investigation was initiated after Bledsoe County officials reported questionable purchases. The investigation was limited to selected records for the period August 1, 2020, through November 31, 2022. The results of the investigation were communicated with the Office of the District Attorney General of the 12<sup>th</sup> Judicial District.

### BACKGROUND



The Luminary-Frostbite Volunteer Fire Department, Inc. (department) is a nonprofit organization and was established on August 6, 1992, to provide fire protection services in Bledsoe County (county). The department is located on Walden’s Ridge and is shared by the Luminary and Frostbite communities. The department consists of volunteer members and is funded by a combination of fundraisers, donations, and annual contributions from the county government. During the period reviewed, the county used funds

from the Governor’s Local Government Grant and a Community Development Block Grant to purchase and pay vendors directly for equipment the department requested.

### RESULTS OF INVESTIGATION

#### 1. THE COUNTY MAYOR ASSUMED THE AUTHORITY VESTED IN THE LUMINARY-FROSTBITE VOLUNTEER FIRE DEPARTMENT

The county mayor (mayor) assumed the authority vested in the department by appointing a new fire chief and selling a department-owned truck. During the period reviewed, the department was a nonprofit organization registered with the Tennessee Secretary of State and was governed by a set of bylaws that established the board of directors pertaining to general powers, number of members, tenure, qualifications, resignations, removal of a director, and vacancy. The department’s bylaws state, “The directors (board members) may remove a board member only with cause. ‘Cause’ may be determined by the board members, but it must be substantial in matter affecting the director’s ability to serve effectively.”

- A. During the period reviewed, the county provided annual contributions that assisted the department but had limited financial oversight and responsibility for its day-to-day operations. According to the department’s bylaws, the department shall be governed by a board of directors and a fire chief. A majority vote of the board members is required for the selection of the fire chief. Without authorization or determination of cause for removal by the board, the mayor requested that the fire chief (now former) turn over all things that pertained to the department and informed the fire chief that he was no longer a part of the department. The mayor then appointed a new fire chief, although the department’s operational responsibilities do not rest with the county. The new fire chief held a meeting, and the citizens elected new board members.
- B. The county commission approved the sale of a Mack pumper truck (truck) donated to the department by another fire department in 2019. Both fire departments stated the truck was donated to the department, not to the county; however, the mayor determined the county had to be listed on the title when registering the truck. A Tennessee Vehicle Title and Registration search showed that the owner of the truck was the “Luminary-Frostbite VFD Bledsoe County.” The department informed the county mayor that a bid request had been placed online by the department for the truck, including the bid period ending June 30, 2021. The county also placed a bid in the local paper for the truck, and on May 26, 2021, before the closing bid date, the county mayor accepted a local bid submitted to the county of \$650 for the truck without informing or inquiring with the department. The mayor accepted this bid and sold the truck on June 1, 2021. The check for the sale of the truck was dated June 4, 2021, 26 days before the closing bid date of June 30, 2021, as set by the department. When the mayor was asked about selling the truck, he stated it belonged to the county. The department is not a government entity and does not fall under the county’s bid requirements. The charter and bylaws allow the department to own and maintain their own equipment. The charter does not require the department to obtain approval from the county commission to sell department equipment, and it does not require the county to control the bid process on behalf of the department.

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## INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES

Our investigation revealed deficiencies in internal control and compliance.

**Deficiency 1: The department failed to exercise its rights as a chartered nonprofit corporation**

The department violated its bylaws when it allowed the mayor to unilaterally dismiss the department’s fire chief and when it removed board members without a majority vote of the board of directors. The department’s nonprofit corporate charter, filed with the Tennessee Secretary of State on August 6, 1992, outlines the purpose of the department and vests the board of directors with power over the administrative affairs of the corporation. The general powers of the corporation consist of the charter and the bylaws of the corporation as set forth in Tennessee Code

Annotated § 48-53-102. The charter gives the corporation the power to do all things necessary or convenient to carry out its affairs, including to elect, appoint, and designate directors and appoint officers, to establish conditions for admission to membership, to admit members, and to issue memberships. The department's bylaws give the board of directors the responsibility to select the department's fire chief, and a majority vote of the board of directors is required to select the department's fire chief. The department's bylaws state that the board of directors may remove a member only with cause and give the authority to remove a director solely to the board of directors. The mayor, who is not a board member, appointed a new department fire chief without a majority vote of the board of directors. The mayor then recommended a meeting, which was presided over by the newly appointed department fire chief, at which new board members were voted into their positions. This process was in violation of the charter and bylaws established by the department.

**Deficiency 2: Department officials failed to maintain an active nonprofit registration status with the Tennessee Secretary of State**

The department was initially registered as a Tennessee nonprofit corporation in August 1992 but was administratively dissolved as of February 2024 for failure to confirm an active nonprofit status. Tennessee Code Annotated § 5-9-101 authorizes counties to appropriate county funds to nonprofit volunteer fire departments, and Tennessee Code Annotated § 12-3-1206 authorizes counties to transfer assets to nonprofit volunteer fire departments. To ensure it may continue to receive county funds and assets, the department must maintain its status annually as a nonprofit with the Tennessee Secretary of State.

In addition, Tennessee Code Annotated § 68-102-309 requires any nonprofit volunteer fire department that receives appropriations from a government entity to file an annual financial report with the Comptroller of the Treasury and the local government entity from which the volunteer fire department receives appropriations. The last annual report for the department, as listed on the Comptroller of the Treasury's website, is for the fiscal year July 2021 through June 2022.

The department should annually ensure their active state nonprofit registration status and submit an annual report to both the Comptroller of the Treasury and to their county government.