

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 11, 2006 [X] Consent [] Regular
[] Ordinance [] Public Hearing
Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) adopt a Resolution authorizing the conveyance of 1.00 acre of surplus property to the City of West Palm Beach without charge and with reservation of mineral and petroleum rights, but without rights of entry and exploration; and

B) approve a County Deed in favor of the City of West Palm Beach.

Summary: The City of West Palm Beach has requested the conveyance of one (1) surplus County property, located at 1400 Henrietta Avenue, which is within its jurisdiction and was acquired by the County via a tax deed in August 2005. The assessed value of this property is \$157,500 and contains 1.00 acre. The City is planning to develop this property for attainable or workforce housing, including housing for the elderly. The County Deed includes restrictions that the City and its successors must: (i) remain in compliance with the City's approved attainable or workforce housing program's income eligibility standards, and (ii) acknowledge in its documents and publicity the County's donation of this parcel. The conveyance of surplus property to the municipality in which it is located is a major element of PREM's disposition program adopted by the Board upon the recommendation of the Real Estate Assets Task Force. This conveyance will assist in providing attainable or workforce housing units, relieve the County of potential liability for occurrences on this property and the cost of continued maintenance. The County will retain mineral and petroleum rights in accordance with Section 270.11, F.S., without rights of entry and exploration. (PREM) District 7 (TKF)

Background and Justification: As this parcel will allow the City to develop attainable or workforce housing for its constituents, HCD has recommended that PREM convey this property with deed restrictions requiring the City be in compliance with the City's attainable or workforce housing programs. PREM, in response to direction from the Real Estate Assets Task Force, has developed a program to convey to the municipalities in which they are located, County properties which are surplus and provide little opportunity to further a County function. Staff feels strongly that the most cost effective method to dispose of this surplus property is to convey it at no cost to the municipality in which it is located, in accordance with 197.592(3), F.S. This conveyance relieves the County of potential liability and cost of continued maintenance.

Attachments:

- 1. Location Map
 - 2. Resolution
 - 3. County Deed
 - 4. Florida Statutes Sections 197.592(3) and 270.11
-
-

Recommended By: Andy Wolf 7/3/06
Department Director Date

Approved By: [Signature] 7/2/06
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
 NET FISCAL IMPACT	<u> -0- </u>	<u> -0- </u>	<u> -0- </u>	<u> -0- </u>	<u> -0- </u>
 # ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____
 Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact as a result of this item.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature]

 OFMB
 07/15/06

[Signature]

 Contract Development and Control
 7/17/06

B. Legal Sufficiency:

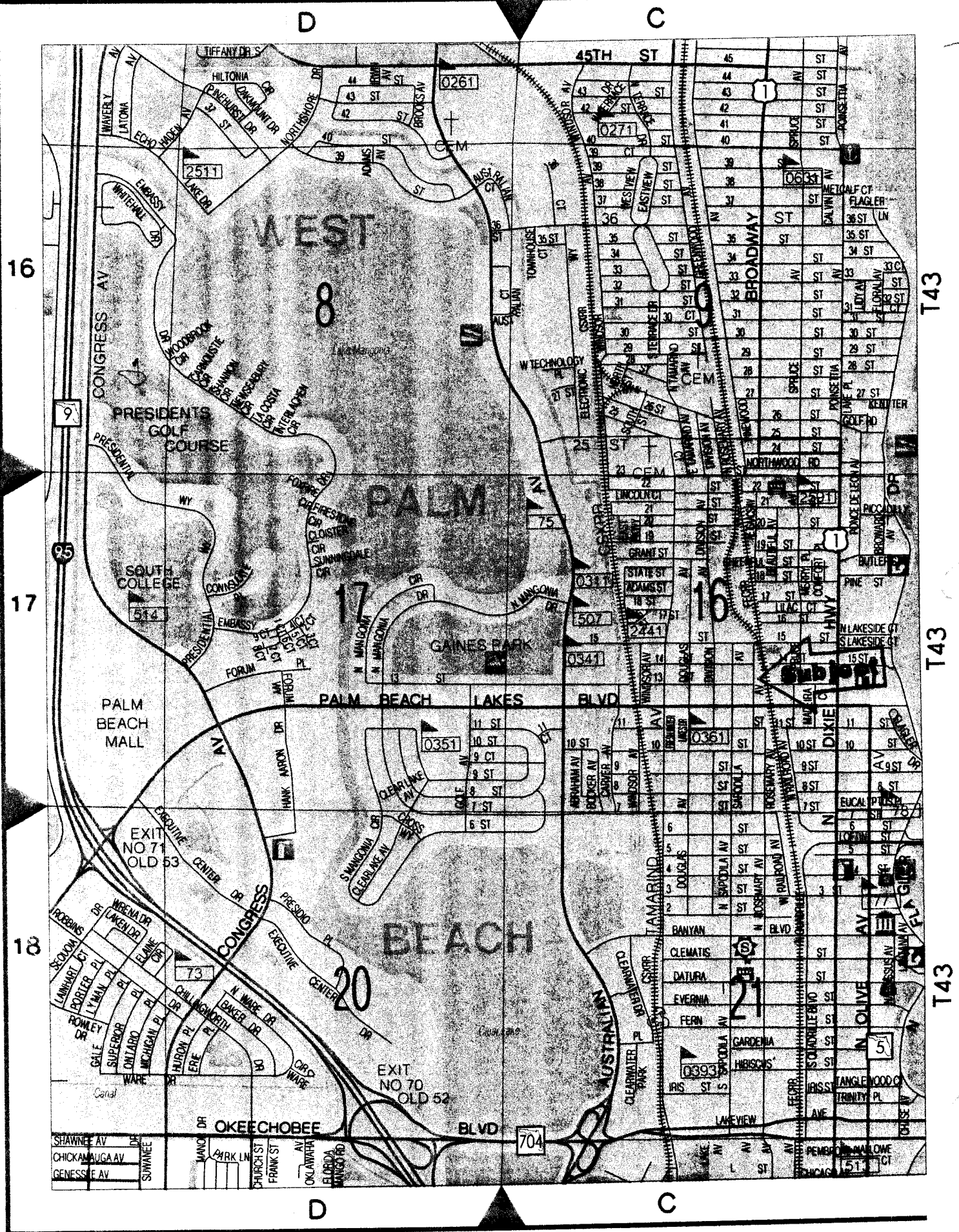
[Signature]

 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.



LOCATION MAP

ATTACHMENT # /

11

RESOLUTION NO. R-2006-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY TO THE CITY OF WEST PALM BEACH WITH DEED RESTRICTIONS AND CONDITIONS, BUT WITHOUT CHARGE AND WITH MINERAL AND PETROLEUM RIGHTS RESERVATION WITHOUT RIGHTS OF ENTRY AND EXPLORATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County owns a property within the municipal boundaries of the City of West Palm Beach which was acquired for delinquent taxes; and,

WHEREAS, Florida Statutes Section 197.592(3) states that under certain conditions, the County is to convey to municipalities in which they are located, properties acquired by the County for delinquent taxes; and,

WHEREAS, the subject land has not been previously sold, has not been acquired for infill housing, has not been dedicated by the Board of County Commissioners, and shall not be conveyed to the record prior fee simple title owner; and,

WHEREAS, the City of West Palm Beach has agreed to the conveyance of such real property with deed restrictions and conditions requiring the City of West Palm Beach to acknowledge the donation of this property and be in compliance with the City's Attainable or Workforce Housing Programs; and,

WHEREAS, the Board of County Commissioners of Palm Beach County has agreed to convey such real property with deed restrictions and conditions and such real property is not needed for County purposes; and,

WHEREAS, pursuant to Florida Statute Section 270.11, the City of West Palm Beach has requested that such property be conveyed without reservation of and to release the rights of entry and exploration relating to such mineral and petroleum rights; and,

WHEREAS, the Board of County Commissioners of Palm Beach County has agreed to convey such property reserving phosphate, mineral, metals and petroleum rights but

releasing any and all rights of entry and exploration relating to such rights.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Authorization to Convey Real Property

The Board of County Commissioners of Palm Beach County shall convey to the City of West Palm Beach without charge and by County Deed with deed restrictions and conditions, attached hereto and incorporated herein by reference, the real property legally described in such deed.

Section 3. Conflict with Federal or State Law or County Charter

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

Section 4. Effective Date

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing resolution was offered by Commissioner _____ who moved its adoption. The Motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

COMMISSIONER TONY MASILOTTI, CHAIRMAN
COMMISSIONER ADDIE L. GREENE, VICE CHAIRPERSON
COMMISSIONER KAREN T. MARCUS
COMMISSIONER JEFF KOONS
COMMISSIONER WARREN H. NEWELL
COMMISSIONER MARY MCCARTY
COMMISSIONER BURT AARONSON

The Chair thereupon declared the resolution duly passed and adopted this ____ day of _____, 2006.

PALM BEACH COUNTY, a
political subdivision of the State of Florida

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By _____
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By Ammy Welf
Department Director

G:\PROPERTY MGMT SECTION\DISPOSITIONS\WPBVIRESO-CONVEY-CWPBVIHENRIETTA7.3.06.DOC

PREPARED BY AND RETURN TO:
TED A. SIMMONS, PROPERTY SPECIALIST
PALM BEACH COUNTY
PROPERTY & REAL ESTATE MANAGEMENT DIVISION
3200 BELVEDERE ROAD, BUILDING 1169
WEST PALM BEACH, FLORIDA 33406-1544

PROPERTY CONTROL NUMBER: 74-43-43-16-00-000-1120

COUNTY DEED

THIS DEED, made _____, by PALM BEACH COUNTY, a political subdivision of the State of Florida, whose legal mailing address is 301 North Olive Avenue, West Palm Beach, Florida 33401-4791, party of the first part, and the CITY OF WEST PALM BEACH, a municipal corporation, whose legal mailing address is 202 2nd Street, West Palm Beach, Florida 33401-4799, party of the second part.

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the party of the second part, its successors and assigns forever, the following described land lying and being in Palm Beach County, Florida:

16-43-43, ALL TH PT OF N ½ OF NE ¼ OF SE ¼ W OF RY. THE ABOVE BEING THE REAL PROPERTY DESCRIBED UNDER TAX CERTIFICATE NUMBER 18284 IN THE TAX DEED RECORDED IN OFFICIAL RECORD BOOK 19095, PAGE 1332, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

This County Deed is given subject to the following conditions and restrictions which are imposed by the party of the first part upon the party of the second part as follows:

1. The party of the second part agrees to acknowledge the party of the first part's donation of the property in all of the party of the second part's documents and publicity. If the property is further conveyed to a co-operating non-profit agency, that agency also must acknowledge the party of the first part's donation in all documents and publicity.
2. The property may only be used for attainable or workforce housing and, in the event the property is conveyed, the party of the second part agrees to also impose a deed restriction which complies with the funding program used by the party of the second part, said restriction to be recorded in the public records of Palm Beach County.
3. In the event the property is conveyed for homeownership, the following restrictions shall be included in the deed restrictions.
 - a. The homes shall be conveyed to buyers who shall occupy and homestead them as their principal places of residence. There will be a Shared Equity mortgage consistent with the party of the second parts funding program as collateral for the purchase assistance provided
 - b. The home buyer's annual adjustable incomes at the time of acquisition shall not exceed 150% of the median area income, adjusted for family size, as determined by the most current information from the U.S. Department of Housing and Urban Development.
 - c. Restrictive covenants placed by the party of the second part against the property shall include a clause that provides that upon foreclosure by any lender, transfer in lieu of foreclosure or assignment of an FHA insured mortgage to HUD, such restriction shall terminate. The covenant must provide that upon the occurrence of any of these events, the party of the second part may exercise its right of first refusal to purchase the property to preserve affordability of the property or recapture the financial assistance pursuant to the provisions under 24 CFR 92.254. However, the affordability restrictions shall be revived according to the original terms if, during the original affordability period as provided herein, the

ATTACHMENT # 3

owner of record before the foreclosure or other transfer, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Property, the affordability period shall be revived according to its original terms.

4. In the event the property is conveyed for rental purposes, the party of the second part agrees to certify that the units will be maintained attainable as required by the underlying guidelines of the funding program utilized by the party of the second part. In perpetuity, 50% of the units must be occupied by households with annual incomes less than 80% of the area median income, and whose rents must not exceed 35% of the monthly income with adjustment for family size, or as outlined by the underlying guidelines of the funding program utilized by the party of the second part. The owner of the rental housing must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements.

5. The conditions and restrictions imposed by this County Deed shall constitute covenants running with the land and shall be binding upon and burden the party of the second part, their successors and assigns having or hereafter acquiring any right, title or interest in or to all or any portion of the described real property.

Reserving, however, unto party of the first part, its successors and assigns an undivided three-fourths (3/4) interest in, and title in and to an undivided three-fourths (3/4) interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half (1/2) interest in all petroleum that is or may be in, on, or under said land. The aforementioned reservation of phosphate, mineral, metals and petroleum rights shall not include and party of the first part hereby expressly releases any and all rights of entry and rights of exploration relating to such phosphate, mineral, metals and petroleum rights.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairman or Vice Chairperson of said Board, the day and year aforesaid.

ATTEST:

**SHARON R. BOCK
CLERK & COMPTROLLER**

**PALM BEACH COUNTY,
a political subdivision of the State of Florida**

By: _____
Deputy Clerk

By: _____
Tony Masilotti, Chairman

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

(OFFICIAL SEAL)

By: _____
Assistant County Attorney

FLORIDA STATUTE 270.11

Title XVIII

PUBLIC LANDS AND PROPERTY

Chapter 270

Public Lands

270.11 Contracts for sale of public lands to reserve certain mineral rights; prohibition on exercise of right of entry in certain cases.--

- (1) Except as otherwise provided by law, in all contracts and deeds for the sale of land executed by the Board of Trustees of the Internal Improvement Trust Fund or by any local government, water management district, or other agency of the state, there shall be reserved for such local government, water management district, other agency of the state, or the board of trustees and its successors an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half interest in all the petroleum that is or may be in, on, or under said land with the privilege to mine and develop the same. *
- (2)(a) The Board of Trustees of the Internal Improvement Trust Fund may, in its discretion, sell or release any reserved interest or any portion thereof in or as to any particular parcel of land, and the State Board of Education may sell or release any such interest or any portion thereof which was reserved for said board pursuant to this section prior to September 1, 1967. Such sale or release shall be made on application of the owner of the title to the particular parcel of land with statement of reason justifying such sale or release.
- (b) The right of entry in respect to any interest in phosphate, minerals, and metals or any interest in petroleum heretofore or hereafter reserved in favor of the Board of Trustees of the Internal Improvement Trust Fund or the State Board of Education is hereby released as to any parcel of property that is, or ever has been, a contiguous tract of less than 20 acres in the aggregate under the same ownership.
- (3) A local government, water management district, or agency of the state may, at its discretion, sell or release such reserved interest in any parcel of land, except that such sale or release shall be made upon petition of the purchaser for such interest and upon submission by the local government, water management district, or agency of the state which owns the parcel of a statement of reasons justifying such sale or release.
- (4) Any state agency, except a water management district, which receives royalties for parcels shall remit any such moneys into the General Revenue Fund, unless otherwise provided by law.

History.--ss. 1, 2, ch. 6159, 1911; RGS 1226; CGL 1771; s. 1095, ch. 19355, 1939; CGL 1940 Supp. 892(414); s. 1, ch. 26849, 1951; s. 1, ch. 59-220; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 76, ch. 71-355; s. 1, ch. 86-205; s. 1, ch. 86-257.

ATTACHMENT # 7