

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

36-2

AGENDA ITEM SUMMARY

Meeting Date: November 21, 2006

☒ Consent

☐ Regular

☐ Workshop

☐ Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve a negotiated settlement offer in the amount of \$18,530.00 for the full satisfaction of three (3) Code Enforcement Liens that were entered against Sand & Surf Investments, LLC on June 1, and July 20, 2005.

**Summary:** The Code Enforcement Special Master (CESM) entered three (3) Orders on March 2, 2005 on three (3) individual units giving Sand & Surf Investments, LLC until May 1, 2005 to repair damaged ceilings, roofs, facia and soffets on each of the three (3) units. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$50.00 per day was imposed against each unit. The CESM then entered one (1) claim of lien on June 1, 2005 and two (2) on July 20, 2005 against Sand & Surf Investments LLC. The cited code violations were fully corrected as of November 2 and 9, 2005. The total accumulated aggregate lien amounts through October 6, 2006, the date settlement discussions began, totaled \$37,059.03, of which Sand & Surf Investments, LLC has agreed to pay the County \$18,530.00 (50%) for full settlement of their three (3) outstanding Code Enforcement Liens. (District 2) (PM)

**Background and Policy Issues:** The initial violations that gave rise to these three (3) code enforcement cases were for roof and ceiling damage to the three (3) cited units which resulted from the 2004 hurricane season. The Special Master gave Sand & Surf Investments, LLC until May 1, 2005 to obtain compliance or a fine of \$50.00 per day would begin to accrue in each case and against each unit. Individual follow-up inspections by Code Enforcement on May 2, 11, and June 8, 2005 confirmed that the units were still not in compliance. One (1) code lien was then entered against Sand & Surf Investments, LLC on June 1, 2005 and the subsequent two (2) liens on July 20, 2005. The Collections Section of OFMB was recently contacted by Sand & Surf Investments, LLC to discuss settlement of their three (3) outstanding code liens. The Collections Section of OFMB, after careful review, evaluation, and discussions, agreed to present the proposed settlement offer in the amount of \$18,530.00 to the Board for approval.

(Continued on Page 2)

Attachments:

Recommended by:

  
Department Director

11/09/06  
Date

Approved by:

  
County Administrator

11/13/06  
Date

The mitigating factors considered during our review and evaluation are as follows:

1. The damage to the three (3) units was the result of both Hurricanes Frances and Jeanne in September, 2004. Although the buildings were insured, the insurance carrier made the checks payable to both the owner and the mortgage company. The owner signed the checks and sent them to the mortgage company to sign and return to him to deposit so that he could hire the required contractors. The mortgage company deposited the checks and a dispute ensued because the property owner needed the funds to hire and pay the contractors. A lawsuit was subsequently drafted after discussions with the mortgage company broke down and the owner was forced to borrow from others to get the funds needed to fix the buildings. The property owner was proactively working to correct the problems but ran into serious financial difficulties when the mortgage company kept the insurance money that was issued to repair the damage (new roofs, soffets, and interior water damage due to the roof damage)
2. No tenants were permitted to remain or live in the damaged units until they were fully repaired. All of the affected tenants were relocated to undamaged units until the repairs were completed.
3. At the CESM hearing on these three (3) cases, the owner agreed to the original time frame as he believed that the insurance checks were forthcoming and that after receipt of the payments, he would be able to hire the required contractors to repair the units. Subsequently, the owner experienced financial difficulties as the mortgage lender kept two (2) of the insurance company's checks. However, by this time, the daily fines had begun accruing on the three (3) cases. As the owner was working diligently to get the insurance proceeds, he ended up having to borrow money from family and friends to get the work done. The withholding of the insurance proceeds by the mortgage lender significantly prolonged the owner's ability to get compliance.
4. The gravity of the violations, together with the fact that there were no life/safety issues involved, warrants consideration of a reduction of Sand & Surf Investments, LLC's substantial lien amount.

Affidavits of Compliance have been issued by Code Enforcement and each states that the cited violations were corrected as of November 2, 2005 (1 unit) and November 9, 2005 (2 units) and that the properties are in full compliance with the CESM's Orders. Further, the cited violations did not involve any health/safety issues as the units were secure and no one was permitted to reside in them until repairs were completed.

Settlement offers that reduce any debt amount due to Palm Beach County by more than \$2,500 require the approval of the Board of County Commissioners, per Countywide PPM# CW-F-048. This settlement offer exceeds the \$2,500 limit and requires Board approval.

In light of the above stated circumstances, Staff believes that the proposed settlement is fair and in the best interest of Palm Beach County.

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

| Fiscal Years            | <u>2007</u>       | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> |
|-------------------------|-------------------|-------------|-------------|-------------|-------------|
| Capital Expenditures    | _____             | _____       | _____       | _____       | _____       |
| Operating Costs         | _____             | _____       | _____       | _____       | _____       |
| External Revenues       | <u>(\$18,530)</u> | _____       | _____       | _____       | _____       |
| Program Income (County) | _____             | _____       | _____       | _____       | _____       |
| In-Kind Match (County)  | _____             | _____       | _____       | _____       | _____       |
| NET FISCAL IMPACT       | <u>(\$18,530)</u> | _____       | _____       | _____       | _____       |

# ADDITIONAL FTE  
POSITIONS (Cumulative)

Is Item Included In Current Budget? Yes \_\_\_\_\_ No X  
Budget Account No.: Fund 0001 Department 600 Unit 6241 Object 5900

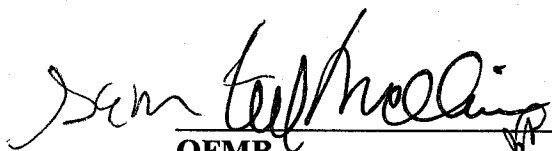
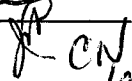
Reporting Category \_\_\_\_\_

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

### C. Departmental Fiscal Review:

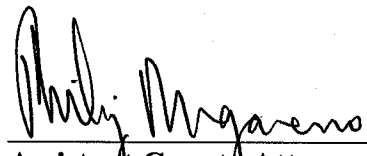
## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

  
OFMB  11/9/06

N/A  
Contract Dev. and Control

### B. Legal Sufficiency:

  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

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