

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: August 21, 2007 **Consent** **Regular**
 Workshop **Public Hearing**

Department

Submitted By: Department of Airports

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: **Staff recommends motion to adopt:** A resolution authorizing the County Administrator or his designee to terminate lease and concession agreements managed by the Department of Airports for certain defaults and authorizing the County Attorney to initiate appropriate legal action, if necessary, as a result of the termination of such agreements.

Summary: Termination of lease or concession agreements for default typically requires Board approval. In the event a tenant or concessionaire fails to vacate the leased premises after termination of its agreement with the County, legal action may become necessary. In order to expedite the process of removing tenants and concessionaires in default of their agreements with the County and collecting unpaid rentals, fees and charges, staff is requesting the Board to authorize the County Administrator or his designee to terminate lease and concession agreements on behalf of the County for certain defaults, including failure to pay rental, charges and fees when due. The Resolution would also authorize the County Attorney to initiate appropriate legal proceedings without further Board action to remove tenants and concessionaires in default, which may include eviction proceeding and claims for unpaid rent. **Countywide (AH)**

Background and Policy Issues: The Department of Airports attempts to secure removal of tenants or concessionaires in default for non-payment of rental or fees prior to exhaustion of any required payment security; however, the process for termination of a lease or concession agreement can be lengthy. In order to ensure the timely removal of tenants and concessionaires in default of their agreements with the County and to maximize the revenues to the County, staff is requesting approval of the Resolution to expedite the process.

Attachments:

- 1. Resolution

AB Recommended by:  7/26/07
Department Director **Date**

Approved by:  8/2/07
County Administrator **Date**

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	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____
 Budget Account No: Fund _____ Department _____ Unit _____ Object _____
 Reporting Category _____

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

No Fiscal Impact

C. Departmental Fiscal Review: CM Sumner

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

James Dink 8-3-07
 OFMB
 CN 7/30/07

J. Webster for IT
 Contract Dev. and Control
 8/6/07

B. Legal Sufficiency:

Anne Delgado 8/7/07
 Assistant County Attorney

Itan
 This ~~contract~~ complies with our
 contract review requirements.

C. Other Department Review:

 Department Director

RESOLUTION NO. R-2007-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO TERMINATE LEASE AND CONCESSION AGREEMENTS FOR CERTAIN DEFAULTS; AUTHORIZING THE COUNTY ATTORNEY TO COMMENCE APPROPRIATE LEGAL ACTION UPON TERMINATION OF A LEASE OR CONCESSION AGREEMENT BY THE COUNTY ADMINISTRATOR OR HIS DESIGNEE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, termination of a lease or concession agreement approved by the Board of County Commissioners (the "Board") requires approval of the Board; and

WHEREAS, in the event a tenant or concessionaire fails to vacate the leased premises upon termination or to pay unpaid rental, the County must initiate eviction proceedings to obtain the tenant's removal and to collect any unpaid rental; and

WHEREAS, the agenda processing schedule typically requires a month to complete; and

WHEREAS, the timely removal of concessionaires or tenants in default of their agreements with the County is necessary to maximize revenues to the County and to ensure the County's Airports System is self-sustaining as possible; and

WHEREAS, the Board desires to authorize the County Administrator or his designee to terminate lease and concession agreements, which are managed by the Department of Airports on behalf of the County, for certain defaults.

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

1. The foregoing recitals are true and correct and incorporated herein.
2. The Board hereby authorizes the County Administrator or his designee, the Director of the Department of Airports, to terminate lease and concession agreements managed by the Department of Airports, on behalf of County, for non-payment of rental, charges or other fees, failure to submit required proof of insurance or failure to submit the required payment security. Any lease or concession agreement terminated pursuant to this Resolution shall be terminated in accordance with the applicable requirements of such lease or concession agreement, including provisions related to notice and cure periods.

3. Upon termination of a lease or concession agreement pursuant to this Resolution by the County Administrator or his designee, the County Attorney shall be authorized to take any appropriate legal action necessary to secure the removal of the tenant or concessionaire, including, but not limited to, eviction proceedings and claims for unpaid rental, charges or fees.

4. If any section, sentence, clause, phrase, or word of this Resolution is held invalid or unconstitutional by a Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

5. This Resolution shall become effective immediately upon adoption.

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 Addie L. Greene, Chairperson	-
Commissioner John F. Koons, Vice Chair	-
Commissioner Karen T. Marcus	-
Commissioner _____	-
Commissioner Mary McCarty	-
Commissioner Burt Aaronson	-
Commissioner Jess R. Santamaria	-

The Chairperson thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2007.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Assistant County Attorney