

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: December 18, 2007

[[[[]]]]

Consent Workshop

[X]

Regular Public Hearing

Department

Submitted For: FIRE RESCUE

I. EXECUTIVE BRIEF

Motion and Title: **Staff recommends** **motion to:**

- A) **waive** the ordinance enactment notice requirements of Section 125.66(2), Florida Statutes, declaring that an emergency exists and that the immediate enactment of an ordinance to add Lake Worth to the Fire/Rescue MSTU is necessary, pursuant to the emergency enactment procedure set out in Section 125.66(3), Florida Statutes.
- B) **adopt** an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Section 26-51, Subsection (b), of Chapter 26, Article II, Division 3, of the Palm Beach County Code; amending the boundaries of the Fire/Rescue MSTU (Municipal Service Taxing Unit) to include the City of Lake Worth; providing for effectiveness; providing for opt-out procedures; providing for opt-out procedures for tax year 2008; providing for opt-out notice between April 30, 2008, and June 30, 2008; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the Code of Laws and Ordinances; providing for captions.

Summary:

The Fire/Rescue MSTU (MSTU) encompasses the unincorporated areas of Palm Beach County plus the incorporated areas within the municipal boundaries of municipalities that have opted to join the MSTU. The County currently provides dispatch services to the City of Lake Worth (City) through an Emergency Services Agreement for Mutual Assistance, Automatic Aid, and Dispatch Services (R2005-1563). The City now desires to abolish its fire-rescue department and opt into the MSTU as a method to receive and pay for fire-rescue services from the County. The Department is currently in negotiations with the City to enter into a service agreement. However, if no action is taken by the City and the BCC prior to December 31, 2007 to include the City in the MSTU they could not be included in the MSTU until October 2009. The proposed ordinance amends the existing boundaries of the Fire/Rescue MSTU to include properties within the municipal boundaries of the City. If the County decides not to move forward with the provision of fire-rescue services to the City, the Board has the option to repeal this ordinance prior to April 30, 2008.

Due to an oversight in the Clerk's office, the regular enactment 10 day notice requirement has not been met. This has created an emergency situation due to the fact that this ordinance must be enacted prior to January 1st to include Lake Worth in the MSTU for tax year 2008; and there is no other Board meeting scheduled before January 1st that could satisfy the 10 day notice requirement. Pursuant to the emergency enactment procedure in Section 125.66(3), the Board may enact an ordinance with a waiver of the notice requirements by a four-fifths vote of the membership, declaring that an emergency exists and that the immediate enactment of said ordinance is necessary.

Countywide (SB)

Background and Policy Issues: The City currently has its own fire department. The City has determined that abolishing their fire department and opting into the main Fire/Rescue MSTU is in the best interest of health, safety and welfare of the citizens of the City. Currently, the following municipalities are included in the Fire Rescue MSTU: the Town of Glen Ridge, the Town of Lake Clarke Shores, the Town of Cloud Lake, the Town of Juno Beach, the Village of Wellington, the Town of Haverhill, the Village of Royal Palm Beach, the City of Pahokee, the City of South Bay, the City of Belle Glade, the Town of Loxahatchee Groves and the Town of Lantana. Adoption of this ordinance will include the City of Lake Worth in the Fire/Rescue MSTU.

Attachments:

1. Proposed Ordinance
2. October 22, 2007 Memo to BCC regarding city mergers
3. Copy of Ordinance adopted by the City of Lake Worth (No. 2007-45)

Recommended By:

Deputy Chief

Date _____

Approved By:

Fire-Rescue Administrator

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

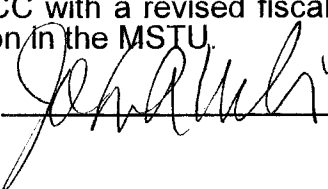
Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
 NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X_____

Budget Account No.: Fund 1300 Dept _____ Unit _____ Object _____


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

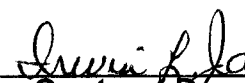
As outlined in the attached October 22, 2007 memo to the BCC regarding city mergers, the fiscal impact of Lake Worth joining the MSTU could be as high as \$5 - \$6 million. The memo advised the Board there were a number of significant outstanding issues that could reduce the overall cost to the County. Those discussions are continuing, and once resolved staff will provide the BCC with a revised fiscal analysis prior to any final BCC decision on Lake Worth's inclusion in the MSTU.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 12-13-07
OFMB 88 CN 12/13/07
12/13/07

 12-13-07
Contract Dev. and Control

B. Legal Sufficiency:

This item complies with current County policies.

 12-13-07
Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

ORDINANCE NO. 2007 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 26-51, SUBSECTION (b), OF CHAPTER 26, ARTICLE II, DIVISION 3, OF THE PALM BEACH COUNTY CODE; AMENDING THE BOUNDARIES OF THE FIRE/RESCUE MSTU (MUNICIPAL SERVICE TAXING UNIT) TO INCLUDE THE CITY OF LAKE WORTH; PROVIDING FOR EFFECTIVENESS; PROVIDING FOR OPT-OUT PROCEDURES; PROVIDING FOR OPT-OUT PROCEDURES FOR TAX YEAR 2008; PROVIDING FOR OPT-OUT NOTICE BETWEEN APRIL 30, 2008, AND JUNE 30, 2008; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS.

WHEREAS, Chapter 26, Article II, Division 3, of the Palm Beach County Code, in accordance with the authority set forth in Section 125.01(1)(q) and (r), Florida Statutes, established municipal service taxing units (MSTUs) to provide fire protection, fire-rescue, advanced life support (or similar emergency services), code enforcement, and all other necessary and incidental powers to effect the purposes for which the MSTUs were created; and

WHEREAS, the Fire/Rescue MSTU encompasses the unincorporated areas of Palm Beach County plus the incorporated areas within the municipal boundaries of municipalities that have opted to join the MSTU pursuant to Section 125.01(1)(q), Florida Statutes, or other applicable law; and

WHEREAS, in accordance with Section 125.01(1)(q), Florida Statutes, the City of Lake Worth's Ordinance No. 2007-45 provides consent for the City's inclusion in the Fire/Rescue MSTU; and

WHEREAS, the Board of County Commissioners desires to amend the boundaries of the Fire/Rescue MSTU to include the properties within the municipal boundaries of the City of Lake Worth; and

WHEREAS, the Palm Beach County Property Appraiser's Office has advised the County that the City's participation in the Fire/Rescue MSTU for tax year 2008 may be cancelled by notification to the Property Appraiser by April 30, 2008.

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

Section 1. Section 26-51, subsection (b), of the Palm Beach County Code is hereby amended as follows:

“(b) The Fire/Rescue MSTU shall consist of the entire unincorporated area of the County plus all property situated within a municipality’s boundaries, as they may be amended from time to time, which municipality has opted and consented to be included within the Fire/Rescue MSTU, in accordance with Section 125.01(1)(q), Florida Statutes, or other applicable law, and been accepted by the County, namely: the Town of Glen Ridge, the Town of Lake Clarke Shores, the Town of Cloud Lake, the Town of Juno Beach, the Village of Wellington, the Town of Haverhill, the Village of Royal Palm Beach, the City of Pahokee, the City of South Bay, the City of Belle Glade, the Town of Loxahatchee Groves, the Town of Lantana, the City of Lake Worth, and those hereinafter exercising such right.”

Section 2. Effectiveness:

The provisions of this Ordinance shall be effective immediately, to be implemented for tax year 2008 for services beginning October 1, 2008, provided that the City has duly enacted an ordinance consenting to its inclusion in the Fire/Rescue MSTU. The inclusion of the City of Lake Worth in the Fire/Rescue MSTU shall continue for the term of consent identified in the City’s Ordinance No. 2007-45, as it may be extended by the City from time to time, provided that the County maintains in effect an ordinance including the City within the Fire/Rescue MSTU.

The City’s inclusion in the Fire/Rescue MSTU is premised upon the understanding between the City and the County that they shall adopt, prior to March 15, 2008, and maintain an interlocal agreement, pursuant to the authority granted in Section 163.387(3)(b), Florida Statutes, as it may be amended from time to time, that exempts the Fire/Rescue MSTU from the Lake Worth Community Redevelopment Agency and from any and all other Community Redevelopment Agencies created by the City, whether now in existence or subsequently created hereafter, and from the payment of tax increment funds to such Agencies. If said exemption is not implemented and maintained by interlocal agreement or otherwise, then the County may

repeal this Ordinance in accordance with the provisions and procedures set out in Section 3, Section 4 or Section 5 of this Ordinance.

The City's inclusion in the Fire/Rescue MSTU shall be deemed to continue, after expiration, repeal or termination of the City's participation in the MSTU, to the limited extent necessary to enable the County to provide within the City fire-rescue and related services funded by the final tax year, including but not limited to the enforcement of applicable laws and regulations.

Section 3. Opt-Out Procedures:

Should the City or the County desire to terminate the City's participation in the Fire/Rescue MSTU, then the party desiring said termination shall adopt, prior to March 1st of any given year, an ordinance to repeal or otherwise terminate the City's participation in the Fire/Rescue MSTU effective December 31st of that same year, and deliver a certified copy of said ordinance to the Palm Beach County Property Appraiser's Office, Division of Appraisal Administration, for physical receipt by the Property Appraiser prior to March 1st of that same year. In such case, the City's inclusion in the County's Fire/Rescue MSTU shall terminate on said December 31st. A certified copy of said ordinance shall be delivered to, and received by, the other party on the same day that it is delivered to, and received by, the Property's Appraiser's Office.

Section 4: Opt-Out Procedures for Tax Year 2008:

Notwithstanding anything in this Ordinance to the contrary, should either the City or the County desire to unilaterally cancel the City's participation in the Fire/Rescue MSTU prior to its implementation for tax year 2008, and thereby have the City not receive fire-rescue services by and through the County's Fire/Rescue MSTU as anticipated commencing October 1, 2008, then the party desiring said cancellation shall adopt, by April 30, 2008, an ordinance to repeal, cancel or otherwise terminate the City's participation in the Fire/Rescue MSTU effective on or before April 30, 2008, and deliver a certified copy of said ordinance to the Palm Beach County Property Appraiser's Office, Division of Appraisal Administration, for physical receipt by the Property Appraiser by April 30, 2008. A copy of said ordinance shall be delivered to, and

received by, the other party on the same day that it is delivered to, and received by, the Property's Appraiser's Office.

Section 5: Opt-Out Notice Between April 30, 2008, and June 30, 2008:

If neither the City nor the County timely cancel the City's participation in the Fire/Rescue MSTU for tax year 2008 in accordance with Section 4, then the City shall be included in the Fire/Rescue MSTU commencing with tax year 2008. In this case, and notwithstanding anything in this Ordinance to the contrary, should the City or the County notify the other in writing between April 30, 2008, and June 30, 2008, of the City or the County's intent to terminate the City's participation in the Fire/Rescue MSTU, then the provisions and procedures of this Section shall apply. Said notice by the City or the County shall be deemed to evidence an intent by both the City and the County for the City to not receive fire-rescue services from the County, by and through the Fire/Rescue MSTU or otherwise, within the City during fiscal year 2008-2009 commencing October 1, 2008, and thereafter.

In this event, and notwithstanding anything in this Ordinance to the contrary, the County shall have no responsibility for the provision of fire-rescue services to and within the City during fiscal year 2008-2009 and thereafter. In this event, the County shall remit to the City the amount of the taxes collected within the City by the Fire/Rescue MSTU for fiscal year 2008-2009, based on a calculation and schedule established by the County or as otherwise set out in an interlocal agreement between the parties. The purpose of such payments shall be for the City to provide fire-rescue services within the City during fiscal year 2008-09. The County or the City must adopt an ordinance by December 31, 2008, in order to terminate the City's participation in the Fire/Rescue MSTU as of December 31, 2008, for the tax levy for fiscal year 2009-2010, and thereafter.

The provisions and procedures set out in this Section are intended to be incorporated into an interlocal agreement between the City and the County to be entered into by March 15, 2008.

Section 6. Repeal of Laws in Conflict:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 7. Severability:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 8. Inclusion in the Code of Laws and Ordinances:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 9. Captions:

The captions, section headings, and section designations used in this Ordinance are intended only for the convenience of users and shall have no effect on the interpretation of the provisions of this Ordinance.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2007.


ATTEST:
SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
County Attorney

FILED with the Department of State on the _____ day of _____, 2007.



PALM BEACH COUNTY FIRE RESCUE
Inter-Office Memorandum

Fire Rescue
Chief Herman W. Brice
50 South Military Trail, Suite 101
West Palm Beach, FL 33415-3198
(561) 616-7000
www.pbcgov.com

Date: October 22, 2007

TO: Addie L. Greene, Chairperson and
Members, Board of County Commissioners

FROM: *Herman W. Brice*
Herman W. Brice, Fire Chief
Palm Beach County Fire Rescue

RE: City Mergers

**Palm Beach County
Board of County
Commissioners**
Addie L. Greene, Chairperson
Jeff Koons, Vice Chair
Karen T. Marcus
Robert J. Kanjian
Mary McCarty
Burt Aaronson
Jess R. Santamaria

County Administrator
Robert Weisman

"An Equal Opportunity
Affirmative Action Employer"

Over the past several years the County has successfully merged fire rescue services with a number of municipalities. These mergers have substantially raised the level of fire rescue services within the municipalities and have provided the county with the opportunity to provide a more efficient and effective response to emergencies. The enhanced level of service improves emergency response to the county and cities for hazardous materials and transportation accidents along the I-95 corridor and rail transportation routes. Mergers have lowered response times utilizing a "closest unit response" and reduced the confusion that occurs along jurisdictional boundaries. Another major advantage has been the coordinated response to emergency incidents during a hurricane.

Most of these mergers have occurred with a single jurisdiction over an extended time frame. However, with the implementation of the Board of County Commissioners voluntary level of service standard, the County's funding of a voluntary countywide dispatch system, and more recently, tax reform, the number of inquiries for information on potential mergers has increased significantly. Currently, the most extensive talks have occurred with the City of Lake Worth, but Fire Rescue has also received an official request from Riviera Beach to provide merger information. Fire Rescue has held several exploratory meetings with Lake Worth to identify potential issues and the city has passed an ordinance on first reading to request inclusion into the Fire Rescue MSTU. A number of significant issues remain and we continue to meet and discuss mutual agreement for resolution of these issues.

ATT. #2

In the past when a city has approached the County to join the MSTU and merge fire rescue departments the Board of County Commissioners has supported those mergers, the most recently being the three Glades cities of Pahokee, Belle Glade, and South Bay. In each of the mergers to-date, while there have clearly been operational benefits and enhancements in the level of service provided, there has been an additional cost to the MSTU. As we consider future mergers, I feel the negative financial impact on the MSTU will continue. Fortunately, Fire Rescue has been able to reduce the MSTU millage rate even with the number of mergers that have occurred. Obviously, our increased tax base has been the major reason for the millage decrease. With tax reform measures currently in place and other proposals being considered, some level of Commission override will be necessary to maintain Fire Rescue's current level of service. Without overrides in the future, the department would be faced with potential personnel reductions, shutting down units, and eliminating capital, including new stations.

In our initial discussions with Lake Worth I am projecting that the merger will require an additional \$5-6 million increase above the revenue generated by the city, and this increase will be assumed by the MSTU. This additional fiscal requirement will compound any impacts of tax reform measures now being considered.

While there is a negative financial impact on the MSTU, I believe the increased level of service for the county and the city residents supports continuing the Board's previous position of encouraging fire rescue mergers.

HWB/lc

Cc: Bob Weisman, County Administrator

2007-45

ORDINANCE NO. 2007-45 OF THE CITY OF LAKE WORTH, FLORIDA, PROVIDING FOR THE CITY'S CONSENT TO THE INCLUSION OF THE ENTIRE TERRITORY WITHIN THE CITY OF LAKE WORTH'S MUNICIPAL BOUNDARIES INTO PALM BEACH COUNTY'S FIRE/RESCUE MSTU (MUNICIPAL SERVICES TAXING UNIT); PROVIDING FOR INTENT, PURPOSE AND CONSENT; PROVIDING FOR AN EFFECTIVE DATE AND DURATION OF CONSENT; PROVIDING FOR EFFECTIVENESS OF REPEAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT CONFLICTING ORDINANCES ARE REPEALED; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 125.01(1)(q) and (r), Florida Statutes, the Florida Legislature has empowered counties to establish municipal service taxing units ("MSTU"s), whereby a county may levy a tax within the county for certain municipal services, including the provision of fire-rescue services; and

WHEREAS, pursuant to Section 125.01(1)(q), Florida Statutes, the Florida Legislature has provided that any municipality or portion thereof may be included in a municipal service taxing unit, provided that the municipality adopts an ordinance giving its consent either annually or for a term of years; and

WHEREAS, Palm Beach County established an MSTU known as the Fire/Rescue MSTU to provide fire protection, fire-rescue, advanced life support (or similar emergency services), code enforcement, and other services necessary and incidental to the purpose for which the MSTU was created; and

WHEREAS, the City Commission of the City of Lake Worth desires to consent to the inclusion of all the territory lying within the municipal boundaries of the City into the County's Fire/Rescue MSTU for fire-rescue and related services within the City, and believes that such inclusion is in the best interest of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1. It is the intent of this Ordinance to comply with the provisions of Section 125.01(1)(q), Florida Statutes. The City Commission hereby consents to the inclusion of all the territory within the incorporated municipal boundaries of the City of Lake Worth, as they may be amended from time to time, within Palm Beach County's Fire/Rescue MSTU, which was established pursuant to enabling legislation adopted by the Board of County Commissioners of Palm Beach County. The purpose of the enactment of this Ordinance is to enable the County to provide fire-rescue and related services within the territorial limits of the City of Lake Worth.

ATT.#3

Pg. 2, Ord. 2007-45

Section 2. The provisions of this Ordinance shall become effective December 31, 2007, to be implemented for tax year 2008 for County fire-rescue services beginning October 1, 2008. The City's consent to be included in the County's Fire/Rescue MSTU shall continue for a term of ten years through December 31, 2017, to fund fire-rescue services by the County through September 30, 2017; provided, however, that the City's consent and inclusion in the County's Fire/Rescue MSTU shall be deemed to continue through September 30, 2018, to the extent necessary to enable the County to provide within the City fire-rescue and related services funded by tax year 2017, including but not limited to the enforcement of applicable laws and regulations.

Section 3. Should the City repeal this Ordinance prior to its expiration, the City shall provide written notice to Palm Beach County, by March 1 of any given year, of the City's intent to repeal this Ordinance, with said repeal to be effective December 31 of that same year. In such case, the City's inclusion in the County's Fire/Rescue MSTU shall terminate on said December 31; provided however that the City's inclusion in the County's Fire/Rescue MSTU shall be deemed to continue through the following September 30 to the extent necessary to enable the County to provide within the City fire-rescue and related services funded by the final tax year, including but not limited to the enforcement of applicable laws and regulations.

Section 4. As agreed to by Palm Beach County, the City may repeal this ordinance before April 30, 2008. In the event of such repeal by April 30, 2008, the City shall withdraw from the County's Fire/Rescue MSTU effective for the year beginning October 1, 2008, and all subsequent years, and the City shall be removed from the levy of the Palm Beach County Fire/Rescue MSTU taxes for fiscal year 2008-2009, and all subsequent years. In the further event that the City repeals this ordinance by April 30, 2008, but for some reason the City is not timely removed from the Palm Beach County Fire/Rescue MSTU taxes for fiscal year 2008-2009, Palm Beach County shall reimburse the City for the taxes collected by the Palm Beach County Fire/Rescue MSTU for fiscal year 2008-2009.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. If any provision of this Ordinance, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 7. The provision of this Ordinance shall become and be made a part of the code of ordinances of the City of Lake Worth, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 8. This Ordinance shall become effective ten (10) days after passage.

The passage of this Ordinance on first reading was moved by Commissioner Vespo, seconded by Commissioner Jennings, and upon being put to a vote, the vote was as follows:

Mayor Jeff Clemens	AYE
Vice Mayor Retha Lowe	AYE
Commissioner Cara Jennings	AYE
Commissioner Jo-Ann Golden	AYE
Commissioner Dave Vespo	AYE

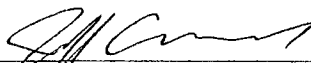
The Mayor thereupon declared this Ordinance duly passed on first reading on the 2nd day of October 2007.

The passage of this Ordinance on second reading was moved by Commissioner Jennings, seconded by Vice Mayor Lowe, and upon being put to a vote, the vote was as follows:

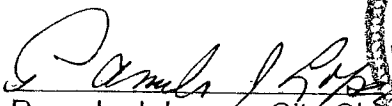
Mayor Jeff Clemens	AYE
Vice Mayor Retha Lowe	AYE
Commissioner Cara Jennings	AYE
Commissioner Jo-Ann Golden	AYE
Commissioner Dave Vespo	AYE

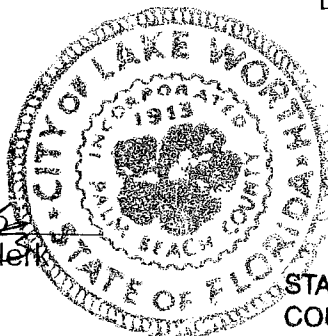
The Mayor thereupon declared this Ordinance duly passed and enacted on the 30th day of October 2007.

LAKE WORTH CITY COMMISSION

By: 
Jeff Clemens, Mayor


ATTEST:


Pamela J. Lopez, City Clerk



STATE OF FLORIDA
COUNTY OF PALM BEACH
CITY OF LAKE WORTH
I hereby certify the foregoing to be a true and correct copy
of Ordinance No. 2007-45

In Witness whereof, I have hereunto set my hand and
affixed the official seal of the City of Lake Worth, Florida.

11-1-07
Date 
City Clerk