

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

36-2

AGENDA ITEM SUMMARY

Meeting Date: January 13, 2009

Consent
 Workshop

Regular
 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 \$12,500 for the full satisfaction of a Code Enforcement Lien that was entered against Leonard McWhorter on August 16, 2001.

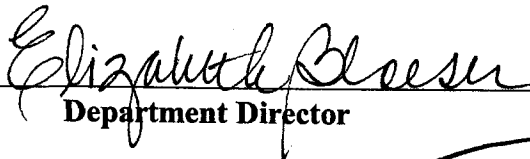
Summary: The Code Enforcement Special Master (CESM) entered an Order on May 2, 2001, giving Mr. McWhorter until July 1, 2001, to cease the storage of trucks and cars, remove the yard trash, rubble and debris and cut the Brazilian Pepper back to a height less than 18 inches within 25 feet of an adjacent developed property. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$75 per day was imposed. The CESM then entered a claim of lien against Mr. McWhorter on August 16, 2001. The cited code violations were fully corrected as of June 13, 2007. The total accumulated lien amount through January 28, 2008, the date settlement discussions began, totaled \$249,079, of which Mr. McWhorter's widow has agreed to pay the County \$12,500 for full settlement of his outstanding Code Enforcement Lien. (District 3) (PGE)

Background and Policy Issues: The initial violations that gave rise to this Code Enforcement case were for the storage of trucks and cars, the accumulation of yard trash, rubble and debris, and the overgrowth of Brazilian Pepper within 25 feet of an adjacent developed property. The Special Master gave the late Mr. McWhorter until July 1, 2001 to obtain compliance or a fine of \$75 per day would begin to accrue. A follow-up inspection by Code Enforcement on July 12, 2001, confirmed that the property was still not in compliance. A code lien was then entered against Mr. McWhorter on August 16, 2001. The Collections Section of OFMB was recently contacted by the attorney assisting Mrs. McWhorter with the sale of the property to discuss a settlement of the outstanding code lien. The Collections Section of OFMB, after careful review, evaluation, and discussions, agreed to present the proposed settlement offer in the amount of \$12,500 to the Board for approval.

(Continued on Page 3)

Attachments:

Recommended by:


Department Director

1/7/09
Date

Approved by:


County Administrator

1/12/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>20012</u>	<u>2013</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$12,500)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$12,500)</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 N/A

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

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

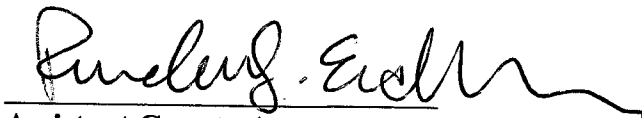
A. OFMB Fiscal and/or Contract Dev. and Control Comments:



OFMB

N/A
Contract Dev. and Control

B. Legal Sufficiency:



Assistant County Attorney

C. Other Department Review:

N/A
Department Director

Background and Policy Issues Continued
Page 3

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

1. The subject property is located west of U.S. Highway 441 in an area surrounded by landscape nurseries and nursery-type businesses. On several occasions during the course of his violations, the late Mr. McWhorter would get his property into about 90% compliance, but for reasons unknown, he would not have the trucks that were on the property removed nor complete the clearing of the overgrowth, which kept him from receiving his Affidavit of Compliance. Mr. McWhorter had battled cancer during the last few years of his life and only after his death did his family find out about the code lien and outstanding violations on the property. Once they became aware of the problems, they immediately corrected the remaining violations and obtained compliance.
2. The subject property is the only real property that Mr. McWhorter and his wife owned, and for which there is an outstanding \$131,200 mortgage. There is currently a sales contract for \$225,000 on the property and, after payment of the mortgage, back taxes, and other judgments, the remaining sales proceeds would be \$17,787 of which \$12,500 would be paid for settlement of the outstanding code lien. The remaining \$5,287 would go to the late Mr. McWhorter's widow.
3. The Property Appraiser lists the current market and taxable value of this property at \$237,023, which is very close to the contractual sale price.
4. Mrs. McWhorter must sell the property as she is unable to make the mortgage and property tax payments. Family members have been helping her out until the sale is complete. The property has been on the market for well over a year and the neighboring nursery owner has agreed to purchase the land.

An Affidavit of Compliance has been issued by Code Enforcement and states that the cited violations were corrected as of June 13, 2007 and that the properties are in full compliance with the CESM's Order. Further, the cited violations did not involve any health/safety issues.

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.