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PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

WORKSHOP SUMMARY

Meeting Date: January 27, 2009

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Title: Waterfront Bond Projects Status Report.

Summary: Staff has prepared a status report on the Waterfront Bond projects, which the Board previously allocated funding for. Since the last update on February 27, 2007, several projects have reported significant progress. Attached is a detailed list of all the projects and the current status of each project. Commissioner Marcus has requested that the Board be informed of recent developments on a previously identified, but unfunded project at the Town of Lake Park Marina which Staff believes has great potential. However, all of the funding under the \$50M Waterfront Bond Issue has been allocated, such that funding of the Lake Park project would require a reallocation. The Town will make a brief presentation on its proposed project. In addition, Staff obtained an appraisal of the Palm Beach Yacht Center Transaction which indicates that the value of the revised Easement exceeds the appraised value by \$2.25M. Details of the Yacht Center transaction are attached. (PREM) Countywide (HJF)

Attachments:

1. Report on Palm Beach Yacht Center
2. Status Reports

Recommended By: _____

Department Director

1-22-09

Date

Approved By: _____

County Administrator

1/26/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	- 0 -	_____	_____	_____	_____

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:

No fiscal impact

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 1-26-09
 OFMB
 (UD) CN 11/23/09
 1/23

[Signature] 1/26/09
 Contract Development and Control

B. Legal Sufficiency:

[Signature] 1/26/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

ATTACHMENT 1

(8 pages)

Palm Beach Yacht Center

This project involved the purchase of a Working Waterfront Preservation and Conservation Easement over a 9.14 acre parcel of property on the west side of the Intracoastal in Hypoluxo. The Easement restricts the use of the property to the existing marina, dry storage, boat yard and accessory marine related uses, with the owner retaining the right to develop other uses on 1.5 acres of the property.

The value of the Easement was appraised at \$9,300,000. The County paid \$14,000,000. Subsequent to closing of the purchase of the Easement, it came to light that Commissioner Newell, who was a main proponent of the Waterfront Bond Program and who had voted in favor of this transaction, had a business relationship with one of the property owners and also received favorable terms on dockage and repair at the marina.

As a result of this disclosure, the Board questioned whether the County overpaid for the Easement and whether the transaction could be unwound. In addition, the property owners offered to include without charge their remaining 1.5 acres in the Easement, thereby releasing all remaining "development rights". The Board directed Staff to obtain an additional appraisal valuing the Easement with this additional property included.

Staff obtained an additional appraisal which values the Easement, as proposed to encumber the entire property, at \$16,250,000. This is \$2,250,000 more than the \$14,000,000 the County paid. Staff has discussed this issue with both appraisers and with Staff at the Property Appraiser's Office, and essentially everyone agrees that the value of the Easement encumbering the entire property exceeds the purchase price, such that the Easement is being acquired below appraised value.

Two commissioners also questioned the perceived lack of public access to this facility. This is a complex issue and requires some discussion of the Bond Program itself. There were two types of uses which the Program was designed to preserve and promote: 1) Marinas, Boat Yards, and Working Waterfronts, and 2) Parks, Boat Ramps, and other public access facilities. All three components provide access to the water, but only Parks and Boat Ramps provide true "public access". The other category which includes projects, such as the Sailfish Marina, Boynton Marina and the Riviera Beach Marina, provide an opportunity for the public to visit the waterfront, store their boat in a slip within the marina or dine in the restaurant with a view of the marina and water. However, the users of the marina or patrons of the restaurant still have to pay for the service. With the proposed ramp fees, even users of the County ramps will be paying for the "service".

The Palm Beach Yacht Center (PBYC) is a combination of all three components of the Marina Boat Yard and working Waterfront category. It is an integrated marine business operation with wet slips (marina), a boatyard and a marine repair business, as well as boat sales. It also serves an essential function by hauling and storing boats in preparation for hurricanes.

While PBYC does not prohibit the general public from driving into the facility and walking around the Marina or fishing off the end of the docks, there is no dedicated public access facilities, parking or other attractions for the general public. PBYC charges

customers for storing boats in the slips and the dry storage building, hauling boats and utilizing the boat yard for repairs.

The boatyard and repair business is essential to the Marine Industries. The argument is that without places to perform maintenance and repairs on a boat, a boat owner has to pay more, travel further or just can't get a boat serviced. The end result is boat owners sell their boats and the industry suffers.

The PBYC clearly fits within the marina, boatyard and working waterfront category. It was never promoted as a park or public access facility. Copies of the previous Agenda Items for this transaction are attached. However, in an effort to address concerns expressed in regards to the lack of public access, the property owner has offered to develop a restaurant along the waterfront portion of the property. This would require that the Easement be revised to specifically allow this use. While the site could physically accommodate this use with minimal impacts upon the marina and boat yard, the introduction of the public into a working waterfront facility poses some challenges. In addition, the impact upon valuation has not been addressed. However, Staff believes that it is highly unlikely that the restaurant use would be valued more than the \$2,250,000 cushion in the appraised value.

Staff requires Board direction on whether the restaurant use should be allowed in the amendment to the Easement.

Staff has coordinated with the Town of Hypoluxo on proposed amendments to the Easement document and incorporated many of the changes requested by the Town. The Town has indicated that it supports preservation of the PBYC through keeping the Easement in place with their proposed modifications to the Easement. Staff is close to finalizing negotiations for a revised easement and hopes to present it to the BCC for approval after receiving direction on the restaurant use.

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	_____	_____	_____	_____	_____
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 _____ Dept _____ Unit _____ Object _____
 Program _____

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

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

OFMB/Budget 11-27-07 Contract Development and Control 11/27/07
 (Circled stamp: REVISION 11/26/07) (Handwritten: 11/27/07)

B. Legal Sufficiency:

11/28/07
 Assistant County Attorney

C. Other Department Review:

 Department Director

ADD-ON

Agenda Item #:

5H-2

M/K 6-0

MC abs

R-2006-0425

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: February 28, 2006 Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to Adopt:

A) a Resolution providing for the purchase of the Working Waterfront Preservation Easement and Declaration of Restrictive Covenants for Palm Beach Yacht Center; and

Approve
B) an Agreement for Purchase and Sale with WMJB Marine, Inc. for the purchase of a working Waterfront Preservation Easement and Declaration of Restrictive Covenants for \$14,000,000.

Summary: WMJB Marine, Inc. is the owner of the Palm Beach Yacht Center (PBYC) located on 9 acres on South Federal Highway just south of Hypoluxo Road. PBYC is an operating boat yard, dry storage and marina operation. In an effort to avoid a sale of the property for residential development and ensure continued operation of the facilities, Staff proposes to acquire a Working Waterfront Preservation Easement and Declaration of Restrictive Covenants (Easement) from PBYC. Under the terms of the Easement, the property owner shall be required to maintain and continuously operate the boat yard and dry storage facilities at, no less than their current sizes. The property owner shall also be required to maintain 44 boat slips located on a submerged land lease with the State and make these slips available for lease to the public. There are an additional 40 boat slips that must be maintained by the property owner but which are not required to be available to the public. The property owner will also be permitted to construct non-maritime uses, including residential and commercial structures, on not more than 65,000 square feet of the property. The Purchase Price for the Easement is \$14,000,000. The value of the "development rights" being purchased by the County was appraised at \$9,300,000. (PREM) District 4 (HJF)

Background and Policy Issues: In November of 2004, the voters approved a \$50 million bond issue to preserve, protect and expand public access to and use of freshwater and saltwater bodies of water and to preserve working waterfronts. On March 1, 2005, the Board directed that \$35 million of the bond issue be allocated to Marinas, Boatyards and Redevelopment Projects. On November 22, 2005, the Board reviewed the potential projects identified by Staff and allocated funding to certain projects. Staff was directed to pursue acquisition of the "development rights" for the PBYC for \$14,000,000.

CONTINUED ON PAGE 3

Attachments:

- 1. Location Map
- 2. Resolution
- 3. Agreement for Purchase and Sale

Recommended By: [Signature]
Department Director Date

Approved By: [Signature] 2/27/06
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	14,000,000				
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	14,000,000				
# 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:

Funding for this project in the amount of \$14 million will be provided from the \$50 million Waterfront Preservation Bond Issue.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 2/27/06
 OFMB

[Signature] 2/27/06
 Contract Development and Control

[Handwritten notes: CW 2/27/06, 2/27/06 w/ the time of CDC's review, the Agreement for purchase & sale was not executed.]

B. Legal Sufficiency:

[Signature] 2/27/06
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

Background and Policy Issues continued:

The concept of preserving existing waterfront uses such as marinas and boatyards is much more complex than it appears on the surface. In order to comply with legal requirements associated with issuing General Obligation Bonds to fund the projects, the County must acquire an interest in the land, such as an easement, providing public access to the marina/boatyard. Introducing public access to operating private facilities presents unique challenges. The property owners want to be able to manage and control their business operations without undue interference, while the County needs to ensure that such public access is not infringed upon or taken away. The public easements are perpetual, yet there is no guarantee that such businesses will be operated in perpetuity. The County can not afford to purchase the property outright. The market value of the Palm Beach Yacht Center is approximately \$30 million.

In order to reduce costs, the approach was to focus on preserving the primary existing uses by restricting the land area encompassed by those uses, and allowing the owners to develop the balance of the property. The property owner did not want to limit the densities allowed in the portion of the property they can develop, and Staff agreed to rely upon physical limitations and code requirements. As such, this structure is not technically a purchase of development rights, but rather an easement limiting development area and restricting uses within that area. The Easement presented in this item is the result of lengthy negotiations with input from the County Attorney's office and outside bond counsel. While staff believes that the Easement accomplishes the objectives of preserving public access and/or working waterfront uses, there remains some risk that existing operations may change over time and the public may at some time in the future perceive that the County did not get what it paid for. A discussion of specific terms of the Easement, and the potential issues associated with each, is set forth below.

Further Development

The Boatyard, In and Out Storage Facility and 44 Boat Slips on the Submerged Land Lease shall remain open to the public. The property owner will have the right to develop other uses on 65,000 square feet of the property in the northeast section of the overall property (the "Non-Maritime Use Property"). Currently, the property owner contemplates developing approximately 40 town home units on the Non-Maritime Use property. Water retention requirements for improvements constructed on the Non-Maritime Use Property can be accommodated outside the non-Maritime Use Property, but all other requirements must be accommodated on-site. All other portions of the 9.7 acre site must be utilized for a maritime use which is compatible with the Boatyard, In and Out Storage Facility and/or Boat Slips.

Some concern was expressed during negotiations that once additional development occurs on the Non-Maritime Use Property, such as the planned town homes, the unit owners might object to the noise and activity generated by the working Boatyard and In and Out Storage Facility and make efforts to restrict those activities. However, the limited size of the Non-Maritime Use Property in relation to the overall size of the larger project (1.5 acres of the total 9.7 acres), makes it unlikely that the property owner would allow the unit owners to gain any control over such matters. There is substantial remaining value in the operating maritime facilities that the property owner would not want to see diminished.

Boatyard

The existing Boatyard must be operated and maintained on a continuous basis, but may be closed for not longer than 1 year for maintenance and/or replacement of improvements. As there are minimal improvements in the Boatyard, any such closure should be for a minimal period of time. The public (paying customers) shall have the right of access to and use of the Boatyard facilities on a first come first served basis. There are no restrictions on the rates that Boatyard customers may be charged.

In and Out Storage Facility

The existing In and Out Storage Facility currently accommodates 250 boats not more than 37 feet in length. The Facility must be continuously operated and maintained and accommodate not less than 230 boats. The owner shall have the right to temporarily close this Facility for not longer than 1 year for maintenance and/or replacement of the improvements. The public (paying customers) shall have the right of access to and use of this Facility on a first come first served basis. There are no restrictions on rates charged by the owner for use of this Facility.

Boat Slips

There are 44 boat slips located on a submerged land lease from the State. The owner must apply for renewal of the Submerged Land Lease and provided the Lease is renewed, keep the 44 slips available for lease to the public (paying customers) on a first come first served basis. There are no restrictions on the rates that can be charged for use of these slips.

There are also 40 slips on submerged land owned by the property owner. Although these slips do not have to be made available to the public, they must be kept in existence by the property owner. The property owner plans to sell these slips to purchasers of their planned town home development.

Insurance/Maintenance & Repair of Improvements

The property owner must maintain fire and extended coverage insurance on improvements in the Boatyard and In and Out Storage Facility. No insurance is required to be maintained on the Boat Slips. Windstorm insurance is not required to be maintained on any improvements. Due to the cost of windstorm insurance and the fact that a new roof rated for 140 mph winds was just installed on the In and Out Storage Facility, the owner requested that it be allowed to self insure against windstorm. In exchange, the property owner has agreed to rebuild notwithstanding the availability of insurance proceeds.

Upon approval of this Agreement, the property owner will provide the County with a title insurance commitment evidencing that there are no title matters which at closing would have priority over the County's rights under the Easement or which would otherwise materially impact the owners ability to continue operation of its business in substantially the same manner as it is doing now. The obligations of the County under this Agreement are contingent upon the County issuing bonds to fund the purchase price. The County must close this transaction, if at all, by April 1, 2006.

ATTACHMENT 2

(3 pages)

STATUS REPORT
PROJECTS FROM \$50M GO WATERFRONT ACCESS BOND
MARINA AND WORKING WATERFRONT PROJECTS

Bond Proceeds	\$ 50,000,000
Sunshine Pool Loan	\$ 6,000,000
Cost of Issuance	\$ (525,000)
Total	\$ 55,475,000

<u>Name</u>	<u>Status</u>	<u>Allocations</u>
Palm Beach Yacht Center	Development rights acquired. New appraisal valued the Easement over entire property at \$16,250,000	\$14,000,000
Sailfish Marina	Completed. Development rights acquired.	\$15,000,000
Riviera Beach Marina Renovations	Interlocal agreement was executed by both parties in February 2007 and expires in April. Project held up in negotiations between CRA and marina developer. City has requested a one year extension of the Grant Agreement and revisions to the project scope.	\$ 5,000,000
Lockheed Martin Fishing Pier	Tri-party Agreement was approved on February 27, 2007 and approved. Project is presently in the design and permitting phase which should be wrapped up shortly.	\$ 400,000
Boynton Beach Marina CRA	Completed. Public access easement and restrictive covenant acquired over entire marina.	\$ 2,000,000

**STATUS REPORT
PARKS ADMINISTERED PROJECTS FROM \$50M GO WATERFRONT ACCESS BOND**

Name	Status	Allocations
Pahokee Marina	Completed. Project elements include dredging, freshwater construction, boat ramps, and 120 boat slips.	\$3,000,000
Burt Reynolds	Completed. Project elements include an additional 64 boat trailer parking spaces, 65 additional car parking spaces, extended staging docks, and a new restroom.	\$300,000
Delray Beach Mangrove Park	Completed. A new park that includes two boat ramps, 19 boat trailer parking spaces, 13 car spaces, restroom and staging docks.	\$1,000,000
Light Harbor	Under Construction. Will open early Spring 2009. Project elements include three boat ramps, staging docks, 72 boat trailer parking spaces, 22 car parking spaces, restroom and sitting gazebos.	\$2,600,000
Belle Glade Marina	Project divided into two phases. Phase I (\$2,463,000) is underway and includes engineering/design, dredging, renovation of existing ramps, floating staging docks, and boater access to special event area. Phase II (\$537,000) to be entered into upon completion of Phase I.	\$3,000,000
Dubois Park	Acquisition of Zeke's Marina outparcel completed. Engineering design and permitting underway for project that will include 30 day docks, boat taxi landing ramp for non-notarized boats, and snorkeling area.	\$2,700,000
Waterway Park	Site plan and environmental permitting in progress. Project elements include three boat ramps, staging docks, 60 boat trailer parking spaces, 57 car parking spaces. Approximately \$500,000 in additional funding will be needed for this project.	\$2,500,000
Bert Winters Park	Two different projects proposed for this park. Project A – elements include adding 40 boat trailer parking spaces to existing boat ramp facility and can be accomplished with existing budget. Project B – Increase boat trailer parking spaces by 80 plus a 78 slip marina and associated infrastructure. Currently pursuing consulting services to determine feasibility of marina concept. Significant additional funding would be required to construct marina and related improvements.	\$1,500,000
Jaycee Park	Project initially included the addition of day docks to make this recently constructed park as a boater destination area. The City recently informed us that for permitting reasons, they will not be able to pursue this project and that the funds will be available for reallocation.	\$500,000
Phil Foster Park	Boater related landside improvements for \$1M (Bond) is under construction. Marina feasibility study and initial engineering and design \$1M (Sunshine). Results of feasibility study indicate the proposed marina is not currently permissible. Approximately \$900,000 of initial funding for this project is available for reallocation.	\$2,000,000

Potential New Projects (Previously Identified, but not funded)

PGA Marina:

Located at 2401 PGA Boulevard -- 7.19 acre privately owned marina located on the south side of PGA Boulevard and the Intracoastal Waterway. This is a full service marina (fuel, mechanics, hull repair, ships stores, etc.) with 350 dry storage spaces and approximately 15 wet slips. Because of access to the Lake Worth and Jupiter Inlets this marina is a desirable location for boaters. Current zoning is CG-1.

Lake Park Marina Expansion:

Located at 105 Lake Shore Drive. The Town of Lake Park has completed renovations of this publicly owned and operated marina which include 103 wet slips, public boat ramp, ships stores, public restrooms, etc. The Town is now proposing to move forward with the next phase of the marina expansion and is working with a developer who has acquired additional land around the marina. The expansion plan will include several restaurants, a hotel and commercial shops, a 30% increase in boat trailer parking and additional public parking spaces. The Marina is located within the 12-acre Kelsey Water Front Park and has convenient access to Peanut Island, McArthur State Park and the Lake Worth Inlet.

Additional New Project

Castaways Marina & Bar:

This is an existing marina with 19 large slips and waterfront bar on 1.15 acres located on the south side of the Jupiter Inlet. It has developed into one of the favorite establishments in Jupiter for its casual atmosphere and wide open views of the inlet. The property is situated in an ideal location for incorporation into the Town of Jupiter's Riverwalk project. It is very similar to the Sailfish Marina in terms of providing access to the water and discussions with the property owner indicate that they would be interested in structuring a similar transaction. Unfortunately, because of the value of this property, the cost to acquire an easement/development rights would most likely be well in excess of \$10,000,000.