

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: March 17, 2009	Consent <input checked="" type="checkbox"/>	Regular <input type="checkbox"/>
	Public Hearing <input type="checkbox"/>	
Submitted By: Water Utilities Department		
Submitted For: Water Utilities Department		

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: a Resolution of the Board of County Commissioners of Palm Beach County, Florida, superseding and replacing Resolution No. R-98-719, as amended by Resolution No. R-2000-0553, concerning the Palm Beach County Water Utilities Department's Deferred Payment Plan.

Summary: On March 8, 1998, the Board adopted Resolution No. R-98-719, which superseded and replaced Resolution Nos. R-93-51, R-96-109, and R-97-643. Resolution No. R-98-719 provided for a Deferred Payment Plan to assist property owners converting from private wells, septic tanks, and/or private irrigation supply systems to defer certain fees, and to have the deferred fees billed on the customer's monthly billing. Resolution No. R-98-719 was amended by Resolution No. R-2000-553 to provide for an interest rate reduction from 8% to 6½%. This new Resolution will clarify certain provisions of Resolution No. R-98-719 and add the Department's Fire Sprinkler System Connection Fee (Connection Fee) to the fees which may be deferred, where the building being connected to County fire line facilities is preexisting, and where the building's existing fire protection system utilized a non-public water supply, or the building had no existing fire protection system. County-wide (MJ)

Background and Justification: The Department recognizes its responsibility to, where appropriate, provide service to benefit the public's health, safety, and welfare. The Deferred Payment Plan has been a great benefit to encourage the public with private wells, septic tanks, and/or private irrigation supply systems within the Department's service area to convert to the County's potable water, wastewater, and/or reclaimed water facilities. The addition of fire sprinkler systems to the list of fees that may be deferred under this resolution will mitigate the impact of the Department's Connection Fee on eligible property owners and provide an added measure of safety to the public.

Attachments:

1. Deferred Payment Resolution

Recommended By: Barbara Beaubien Department Director Date: 2/10/09

Approved By: Sharon R. B. Assistant County Administrator Date: 2/18/09

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund ____ Agency ____ Org. ____ Object ____

Is Item Included in Current Budget? Yes ___ No ___

Reporting Category N/A

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

This item has no fiscal impact.

C. Department Fiscal Review: Delia M. Met

III. REVIEW COMMENTS

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

John Paul 2-12-09
 2/2/09 OFMB
 Tom 2/11
 CW 2/11/09

Eric J. Jacobson 2/12/09
 Contracts

B. Approved as to form and legal sufficiency:

W. W. J. 2/17/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

RESOLUTION NO. R-2009-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, SUPERSEDING AND REPLACING RESOLUTION NO. R-98-719, AS AMENDED BY RESOLUTION NO. R-2000-0553; PROVIDING FOR A DEFERRED PAYMENT PLAN FOR THE PAYMENT OF GUARANTEED REVENUE FEES, CONNECTION FEES, SERVICE INSTALLATION FEES, AND FIRE SPRINKLER SYSTEM CONNECTION FEES UPON CONVERSION FROM THE USE OF EXISTING WELLS, SEPTIC TANKS, PRIVATE IRRIGATION SUPPLY SYSTEMS, FIRE PROTECTION SYSTEMS UTILIZING NON-PUBLIC WATER SUPPLY, OR NONEXISTANT FIRE PROTECTION SYSTEMS AND CONNECTION TO THE COUNTY'S POTABLE WATER, WASTEWATER, RECLAIMED WATER FACILITIES, AND/OR FIRELINE FACILITIES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 8, 1998, the Board of County Commissioners adopted Resolution No. R-98-719, which superseded and replaced Resolution Nos. R-93-51, R-96-109, and R-97-643; and

WHEREAS, Resolution No. R-98-719 provided for a Deferred Payment Plan for the payment of guaranteed revenue fees, connection fees, and service initiation fees upon conversion from use of private wells, septic tanks, and/or private irrigation supply systems and connection to the County's potable water, wastewater, and/or reclaimed water facilities; and

WHEREAS, Resolution No. R-98-719 was amended by Resolution No. R-2000-0553; and

WHEREAS, the Board of County Commissioners desires to modify the provisions of Resolution No. R-98-719, as amended by Resolution No. R-2000-0553, to include as eligible for deferred payment those Fire Sprinkler System Connection Fees incurred upon connection to County fireline facilities, where the building being connected to County fireline facilities is preexisting, and where the building's existing fire protection system utilized a non-public water supply, or the building had no existing fire protection system; and

WHEREAS, the Board of County Commissioners desires to clarify the provisions of Resolution No. R-98-719, as amended by Resolution No. R-2000-0553, to provide that any mortgage required on a property subject to the Deferred Payment Plan resulting from refinancing or other financing option shall be subordinated to the County's lien on the property, or that the deferred payment shall be paid in full; and

WHEREAS, the Board of County Commissioners desires to supercede and replace Resolution No. R-98-719, as amended by Resolution No. R-2000-0553, in its entirety, with this Resolution.

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

1. All existing Deferred Payment Plans applied for and approved by the Department pursuant to Resolution No. R-93-51, as amended by Resolution Nos. R-96-109 and R-97-643, and applied for and approved by the Department pursuant to Resolution No. R-98-719, as amended by Resolution No. R-2000-0553, shall remain in full force and effect until satisfied in full; however, an existing Deferred Payment Plan may be affected by this Resolution upon the voluntary action(s) of the property owner as set forth in Paragraph 5 hereinbelow.

2. All Deferred Payment Plans applied for and approved by the Department as of the effective date hereof shall be implemented in accordance with the requirements and obligations as set forth in this Resolution which shall supersede and replace Resolution No. R-98-719, as amended by Resolution R-2000-0553.

3. The Board of County Commissioners recognizes that property owners converting from the use of existing wells, septic tanks, and private irrigation supply systems, and connecting to the County's potable water, wastewater and/or reclaimed water system, provides a benefit to the public health and to the environment, and accordingly the Board of County Commissioners designates such property owners as a separate class ("Service Initiation Class") of customers for purposes of this Resolution. The Board of County Commissioners also recognizes that property owners of preexisting buildings connecting to the County's fireline facilities, where the building's existing fire protection system utilized a non-public water supply, or the building had no existing fire protection system, provides a benefit to the public health, safety, and environment, and accordingly, the Board of County Commissioners designates such property owners as a separate class of customers ("Fire Sprinkler System Class") for purposes of this Resolution.

4. Any member of the Service Initiation Class may make application to the Department to defer payment under the Deferred Payment Plan for Guaranteed Revenue Fees, Connection Fees, and Service Installation Fees (collectively "Service Initiation Fees") associated with the conversion from the use of existing wells, septic tanks, and/or private irrigation supply systems and connection to the County's potable water, wastewater and/or reclaimed water facilities. Any member of the Fire Sprinkler System Class may make application to the Department to defer payment under the Deferred Payment Plan for Fire Sprinkler System Connection Fees and connection to the County's fireline facilities. The Department shall promulgate policies and procedures with regard to the Deferred Payment Plan and same shall be included in the UPAP. The Board of County Commissioners may amend the UPAP from time to time and the then current policies and procedures as set forth therein shall govern.

5. **CONDITIONS AND ELIGIBILITY.** A property owner making application for the Deferred Payment Plan as set forth herein shall remain the customer of record for the deferred payment and for all County potable water, wastewater, and reclaimed water service provided to property receiving the benefit of the Deferred Payment Plan until said deferred payment is paid in full. Any new mortgage required on a property subject to the Deferred Payment Plan as a result of refinancing or other financing option shall be subordinated to the County's lien, or the deferred payment shall be paid in full. Should the property owner not be the customer of record at the time of making application for the Deferred Payment Plan, a customer account shall be established in the property owner's name which shall include the deferred payment amount and all potable water, wastewater, and reclaimed water service provided to said property for which the property owner shall be billed through the Department's monthly customer billing procedures. Additionally, other fees and application requirements associated with a new customer account, such as an account deposit, account activation fee, and a completed application for service as required by UPAP shall be required prior to the establishment of the new customer account.

A. A property owner who has an existing Deferred Payment Plan entered into prior to July 1, 1998 ("Existing Plan") with the Department may, upon application and approval by the Department, convert the Existing Plan to a new Deferred Payment Plan.

B. A property owner making application for the Deferred Payment Plan who currently has an Existing Plan benefiting the same property is required to convert the Existing Plan to a new Deferred Payment Plan as a condition of approval of said application by the Department.

C. A property owner making application for the Deferred Payment Plan who currently has an Existing Plan benefiting a different property which is in a non-delinquent payment status, may, upon application and approval by the Department, convert the Existing Plan to a new Deferred Payment Plan.

D. A property owner making application for the Deferred Payment Plan who currently has an Existing Plan benefiting a different property which is in a delinquent payment status, is required to either bring said delinquent Existing Plan(s) to a non-delinquent payment status or convert said delinquent Existing Plan(s) to a new Deferred Payment Plan as a condition of approval of said application by the Department.

6. PRIORITY OF LIEN, INTEREST, AND METHOD OF PAYMENT.

Deferred payment for Service Initiation Fees and Fire Sprinkler System Connection Fees as set forth herein shall be payable at the time and in the manner stipulated in this Resolution. Said Service Initiation Fees and Fire Sprinkler System Connection Fees shall become a lien, inferior to the lien of all federal and state taxes, but superior to all other liens, titles, and claims until paid. Lien(s) shall bear interest at a rate established by the County for special assessment liens pursuant to Section 27, Article VIII of the Palm Beach County Code, as amended from time to time, from the date of service activation as defined in UPAP.

In accordance with the Deferred Payment Plan, all deferred payments for said Service Initiation Fees and Fire Sprinkler System Connection Fees shall be included on the customer's monthly potable water, wastewater and reclaimed water bill, and shall be paid by the customer in monthly installments with interest payable at the rate of six and one-half percent (6.5%) per annum for all Deferred Payment Plans entered into on or subsequent to February 1, 2000. Said deferred payments may be paid over a period not to exceed twenty (20) years as set forth in UPAP. The deferred payments may be paid without interest at any time within thirty (30) days from the date of application for deferred payment. Should the monthly deferred amount or any portion thereof remain due and owing after thirty (30) days from the date of the monthly customer billing, a late fee, including interest, as set forth in the UPAP, shall be due upon the unpaid and outstanding amount, in addition to the delinquent amount due.

7. ISSUANCE OF CERTIFICATES OF INDEBTEDNESS. Upon review and approval of the property owner's Deferred Payment Plan, a Certificate of Indebtedness shall be issued by the Department. Said Certificate of Indebtedness shall be in substantially the form as set forth in Attachment "A", which is attached hereto and incorporated herein, and shall include notification that billings for the Deferred Payment Plan are to be included in the monthly customer billing along with potable water, wastewater, and reclaimed water fees for said property. The County Attorney, or the County Attorney's designee, and the County Administrator, or the County Administrator's designee, shall sign the Certificate of Indebtedness. The Signature of the County Attorney or the County Attorney's designee shall be acknowledged before a Notary Public for the State of Florida and the Department shall duly record the Certificate of Indebtedness in the Public Records of the Clerk of the Circuit Court for Palm Beach County.

8. DEFAULT OF SERVICE INITIATION FEES/FIRE SPRINKLER SYSTEM CONNECTION FEES. Fees collected and received for monthly customer billings shall be applied by the Department in accordance with the UPAP. Failure to pay the monthly customer billing amount may cause the Department to terminate potable water service

to the property benefiting from the Deferred Payment Plan until said delinquent amount is paid in full. Upon default of any deferred payment under the Deferred Payment Plan, Palm Beach County or the holder of the Certificate of Indebtedness may enforce the lien of such Certificate in accordance with the laws of the State of Florida and may record an additional lien for the cost of enforcement thereof inclusive of court costs, and reasonable attorneys fees, which shall accrue and mature. In addition, enforcement for payment under the Deferred Payment Plan may be by suit in equity brought in accordance with the Florida Rules of Civil Procedure or by any other lawful legal process or procedure available for enforcement pursuant to the laws of the State of Florida. The final decree or judgment shall include the amount of principal remaining due and unpaid, together with any interest accrued thereon, and all costs including attorney fees. Any foreclosure proceeding brought hereunder shall be prosecuted to a sale and conveyance of the property in accordance with the laws of the State of Florida pertaining to mortgage foreclosures.

9. Billing, receiving, and accounting for all deferred payments made under the Deferred Payment Plan shall be the responsibility of the Department. The Department shall keep a record of all payments and balances for each property benefiting from the Deferred Payment Plan and shall deposit said payments into the applicable Department account.

10. The property owner benefiting from the Deferred Payment Plan shall comply with and abide by the terms of this Resolution, the Application for the Deferred Payment Plan, the Certificate of Indebtedness, and the UPAP.

11. This Resolution does not affect the rates, fees or charges of the Department and does not otherwise affect the UPAP, except to the extent expressly set forth hereinabove.

12. This Resolution shall become effective upon adoption by the Board of County Commissioners.

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 motion passed as follows:

- Commissioner John F. Koons, Chairman -
- Commissioner Burt Aaronson, Vice Chairman -
- Commissioner Karen T. Marcus -
- Commissioner Shelley Vana -
- Commissioner -
- Commissioner Jess R. Santamaria -
- Commissioner Addie L. Greene -

The Chairman thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2009.

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

**SHARON R. BOCK
CLERK AND COMPTROLLER**

By: _____
Clerk (or Deputy Clerk)

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney



**DEFERRED PAYMENT PLAN LIEN
CERTIFICATE OF INDEBTEDNESS**

No. ####

\$#,###.##

BOARD OF COUNTY COMMISSIONERS)	NAME
PALM BEACH COUNTY)	STREET ADDRESS (OF INSTALLATION)
STATE OF FLORIDA)	CITY, ST

MAILING ADDRESS:
STREET ADDRESS
CITY, ST, ZIP+4

KNOW ALL MEN BY THESE PRESENTS that the Board of County Commissioners of Palm Beach County, State of Florida, has caused this Deferred Payment Plan Lien Certificate of Indebtedness to be issued under and by virtue of Section 125.01, Florida Statutes, and pursuant to Resolution No. R-09-####, is hereby declared to be a lien superior to all other liens save and except Federal and State taxes assessed against the following described real estate, situate in Palm Beach County, State of Florida, to wit:

LEGAL DESCRIPTION

PCN# 00-00-00-00-000-0000

in the amount of \$#,###.##, lawful money of the United States of America, the same being the amount assessed against said property for the cost of the following to wit:

- GUARANTEED REVENUE FEES, CONNECTION FEES & SERVICE INSTALLATION FEES FOR POTABLE WATER SERVICE
- MANDATORY AGREEMENT PAYMENT FOR POTABLE WATER SERVICE
- GUARANTEED REVENUE FEES, CONNECTION FEES & SERVICE INSTALLATION FEES FOR WASTEWATER SERVICE
- MANDATORY AGREEMENT PAYMENT FOR WASTEWATER SERVICE
- GUARANTEED REVENUE FEES, CONNECTION FEES & SERVICE INSTALLATION FEES FOR POTABLE WATER AND WASTEWATER SERVICE
- MANDATORY AGREEMENT PAYMENT FOR POTABLE WATER AND WASTEWATER SERVICE
- GUARANTEED REVENUE FEES, CONNECTION FEES & SERVICE INSTALLATION FEES FOR RECLAIMED WATER SERVICE
- MANDATORY AGREEMENT PAYMENT FOR RECLAIMED WATER SERVICE
- CONNECTION FEES FOR FIRE SPRINKLER SYSTEMS

Said lien is duly made against said property for the above stated costs by the Board of County Commissioners of Palm Beach County, Florida. The Deferred Payment shall be payable to the Palm Beach County Water Utilities Department in 240 equal monthly installments, with interest calculated annually at the rate of six and one-half percent (6½%) from date of service activation until paid in full. All deferred payment amounts shall be included in the customer monthly billing along with potable water, wastewater, and/or reclaimed water fees for said property. A late fee, including interest, as set forth in the Department's Uniform Policies and Procedures Manual (UPAP), which may be amended from time to time, shall be due upon the unpaid and outstanding amount in addition to the delinquent amount due. The Department shall apply fees received for monthly customer billings in accordance with the then current UPAP. Failure to pay the monthly customer billing amount may cause the Department to discontinue potable water and/or reclaimed water service to said property in accordance with the then current UPAP. Palm Beach County may enforce this lien in accordance with the laws of the State of Florida, and same shall be subject to foreclosure.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has issued this Deferred Payment Plan Lien Certificate of Indebtedness bearing date of **MM-DD-YY** and has caused the same to be executed on its behalf by the County Attorney and the County Administrator.

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

By: _____
County Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification.

(Signature of Notary)

(Typed, Printed, or Stamped Name of Notary)

COUNTY ADMINISTRATOR
BOARD OF COUNTY COMMISSIONERS

By: *Berna Beumler*
Director, PBC Water Utilities Department