

36-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 16, 2010

☒ Consent

☐ Regular

☐ Workshop

☐ Public Hearing

Department:

Submitted by: 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 \$30,000 for the full satisfaction of a Code Enforcement Lien that was entered against Eric & Carol Gordon on August 6, 2008.

Summary: The Code Enforcement Special Master (CESM) entered an Order on March 5, 2008 giving the Gordons until July 7, 2008 to move the bulk materials being stored in designated parking areas and within the required district setback area and move the storage of commercial vehicles, dumpsters, trailers, and other items from the area designated as plant growing area per the approved nursery site plan for the property. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$250 per day was imposed. The CESM then entered a claim of lien against the Gordons on August 6, 2008. The cited code violations were fully corrected as of July 8, 2009. The total accumulated lien amount through September 30, 2009, the date the settlement discussions began, totaled \$115,995, of which the Gordons have agreed to pay the County \$30,000 (25.86%) for full settlement of their outstanding Code Enforcement Lien. (District: 3) (PE)

Background and Policy Issues: The initial violations that gave rise to this code enforcement case were for the storage of bulk materials in designated parking areas, and the storage of commercial vehicles, dumpsters, and other miscellaneous vehicles and equipment in designated plant growing areas pursuant to the approved nursery site plan. The Special Master gave the Gordons until July 7, 2008 to obtain compliance or a fine of \$250 per day would begin to accrue. An inspection of the property on July 11, 2008 confirmed that the property was still not in full compliance, but that some corrective action had been taken. A lien was then entered against the Gordons on August 6, 2008. The Collections Section of OFMB was recently contacted by Mr. Gordon to discuss settlement of their substantial code lien. The Collections Section of OFMB, after careful review, evaluation, and discussions, agreed to present the proposed \$30,000 settlement amount to the Board for approval.

(Continued on Page 3)

Attachments: N/A

Recommended by: _____

Department Director

10/25/10

Date

Approved by: _____

County Administrator

10/28/10

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$26,000)</u>	<u>(\$3,000)</u>	<u>(\$1,000)</u>	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$26,000)</u>	<u>(\$3,000)</u>	<u>(\$1,000)</u>	_____	_____

ADDITIONAL FTE
POSITIONS (Cumulative)

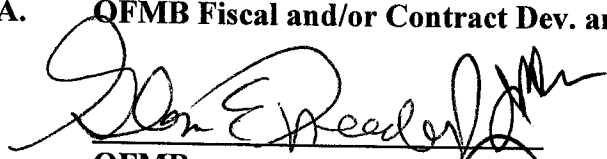
Is Item Included In Current Budget? Yes _____ No X
Budget Account No.: Fund 0001 Department 600 Unit 6241 Object 5900

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
10/22/10 Ref 5/10/10 10/25/10

N/A
Contract Dev. and Control

B. Legal Sufficiency:


Assistant County Attorney

C. Other Department Review:

Department Director

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

1. Mr. Gordon, who operates the business, sought to amend the approved site plan, which would allow for changes to the approved location of outdoor bulk storage and vehicles on the property. This business is a landscape and wholesale nursery with no real on-site growing of trees and shrubbery. One of the reasons for moving the storage to the rear of the property was due to vandalism that was occurring to some of the equipment which was being parked and stored in the front of the property as required, pursuant to the original approved site plan.
2. The Gordons, who divorced back in 2004, are still joint owners of this property only, due to the court approved asset distribution schedule. The subject property has a \$650,000 balloon mortgage, which has become due and is substantially greater than the current value of the property, and is senior to the County's code lien. This has prevented the owners from refinancing or selling the property and paying off the loan. The proposed lien settlement amount will come from a portion of the sale proceeds (\$23,000) of a separate property that is individually owned by Mr. Gordon's ex-wife, with the balance to be paid in monthly installments by Mr. Gordon in a minimum amount of \$250, until such time that the remaining balance has been paid in full.
3. The gravity of the violations, together with the fact that there were no life/safety issues involved, warrants consideration of a reduction of their substantial lien amount.

An Affidavit of Compliance has been issued by Code Enforcement and states that the cited violation was corrected as of July 8, 2009 and that the property is 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.