

1 includes the installation and maintenance thereof pursuant to the county's
2 landscaping ordinance (appendix F, §500.35).

3 (b) Street lighting improvements as provided in this division include, but are not
4 limited to, such improvements as poles, wires, lines, cables, lamps, meter boxes;
5 all other components of a street lighting system; and all engineering and
6 administrative expenses in connection with the design, implementation,
7 construction, as well as maintenance expenses thereof, including electric utility
8 company charges for the supply of electric power to the improvements if capable
9 of being calculated for special assessment purposes.

10 (c) The board may, by resolution, establish guidelines applicable to the board's
11 determination of whether to proceed with any project for which a petition is
12 submitted.

13 (d) In neighborhoods of special environmental concern subject to problems that
14 are capable of remediation by providing facilities for water and/or sewer service or
15 drainage, the board may provide any or all such improvements under the terms of
16 this division. In such circumstances, the provision of such services and
17 improvements shall be subject to all pertinent provisions of this division and shall
18 be treated in the same manner as road improvements, street lighting and
19 landscaping improvements for special assessment percentage purposes and other
20 purposes. The term "drainage" as used herein includes clearing and dredging of
21 canals and other drainage facilities not under the jurisdiction of other governmental
22 entities.

23 (e) In areas of special concern along thoroughfares, the board may provide for
24 walls under the terms of this division. Improvements of this type include but are
25 not limited to all components of walls, and all administrative and engineering
26 expenses in connection with design, implementation and construction, as well as
27 advising property owners and/or property owners associations of all requirements,
28 including but not limited to acquisition of easements by property owners
29 associations and maintenance responsibilities.

1 **Section 2.**

2 **Section 26-24. SPECIAL ASSESSMENTS:**

3 The Board may provide for payment of the costs of any improvement under
4 Section 26-23(a), (b), (c) (d) or (e) ~~or (f)~~ of this division by levying and collecting special
5 assessments on the abutting, adjoining, contiguous, or other property specially benefited
6 by the improvements provided herein. The percentage of the cost of improvements
7 under Section 26-23 of this division to be paid by special assessment, unless otherwise
8 directed by the Board, shall be 100 percent of the total cost of the improvements, except
9 as provided in Section 26-30.13 of this division.

10 **Section 3.**

11 **Section 26-29. PERCENTAGE OF COSTS, FURTHER PROCEDURES:**

12 Upon completion of the preliminary cost estimate and compliance with the
13 requirements of Section 26-28 of this division, the improvements shall be brought to the
14 BOARD for a public hearing. No action is required by the BOARD prior to the public
15 hearing if the method of assessment is proposed to be the abutting footage method. The
16 proposed percentage of costs for a road improvement, street lighting improvements,
17 barrier walls, water and/or sewer is one hundred (100) percent unless otherwise directed
18 by the Board. If the proposed method of assessment is other than abutting footage, then
19 prior to the public hearing the BOARD shall determine the method of assessment to be
20 utilized for the improvement to be repaid to the trust fund by the property owners through
21 special assessments upon the specially benefitted property. However, the BOARD at any
22 time, in its sole discretion, may reject the petition or project for any further consideration.

23 **Section 4.**

24 **Section 26-30.3. PUBLIC HEARING:**

25 Prior to awarding the contract for construction of the improvements for which
26 special assessments will be made, the Board shall hold a public hearing on the proposed
27 project unless the Board rejects the project from further consideration. Property owners
28 to be assessed shall be notified by regular mail of the time and place of the public
29 hearing. The mailed notice shall advise each property owner of their individual proposed
30 special assessment, per parcel, based on the lowest acceptable bid, including other

1 allowable costs and the percentage and method of assessment determined in
2 accordance with the above provisions of this division.

3 The public hearing shall be held ~~not later than twelve (12) weeks~~ as soon as
4 practicable after the date the construction bids are received and no sooner than ten (10)
5 days after the mailing of the notices described in this section. Addresses for the mailed
6 notices shall be obtained from the records of the property appraiser or other reliable
7 sources.

8 In addition, a notice shall be published once each week for two (2) consecutive
9 weeks in a newspaper of general circulation in the locality. If there is no newspaper of
10 general circulation in the locality, the notice shall be published in a newspaper of general
11 circulation in the county. The most recent of such publication shall be no less than one
12 (1) week before the public hearing, the Board shall do so by resolution as provided in
13 Section 26-30.4 of this division.

14 At least ten (10) days before the public hearing, each property owner shall be
15 given notice of the public hearing by regular mail. The mailed and published notices shall
16 describe the streets or areas to be improved and advise all interested persons that each
17 property and amount to be assessed may be obtained at the office of the county engineer
18 ~~clerk of the board~~. At this public hearing, the owners of property to be specially assessed
19 or any other interested persons may appear before the Board and be heard as to the
20 propriety and advisability of making such improvements, costs, manner of payment, and
21 amount to be specially assessed against each property to be improved.

22 At the public hearing, an assessment roll prepared in accordance with the method
23 and percentage of assessment provided by this division shall be presented to the Board.
24 The assessment roll shall show the lots and lands assessed, and the amount of benefit to
25 and assessment against each lot or parcel of land. If the special assessment is to be
26 paid in installments, the number of annual installments into which the special assessment
27 is divided shall also be entered and shown upon the assessment roll.

28 At the time and place named in the notice of publication, the Board shall meet as
29 an equalizing Board to hear and consider all complaints as to such special assessments
30 and shall adjust, equalize, and approve by resolution as required in Section 26-30.4 of
31 this division. Such assessment shall stand affirmed and remain legal, valid and binding
32 as a first lien upon the property against which such assessment is made until paid.

1 Promptly after such confirmation of assessment, the assessment roll shall be recorded by
2 ~~the clerk of board in a special book known as the "Improvement Lien Book" and the~~
3 ~~record of the lien in this book shall constitute prima facia evidence of its validity. A copy~~
4 ~~of the resolution above shall also be recorded~~ in the official records of the clerk of the
5 circuit court Clerk & Comptroller of the county to facilitate knowledge of the lien by third
6 parties.

7 Upon completion of the improvements, the board may credit to each assessment
8 the difference in the original assessment made, approved and confirmed, and the
9 proportionate part of the actual costs of the improvement to be paid by special
10 assessment determined upon completion of the improvements. This information shall be
11 set forth in an "amending resolution" which shall be adopted by the Board and also
12 recorded in the public records as referenced above. In no event shall the final
13 assessments exceed the amount of benefits originally assessed by the Board.

14 **Section 5.**

15 **Section 26-30.10. PAYMENTS:**

16 Billing, receiving and accounting for the payment of assessments shall be the
17 responsibility of the ~~clerk of the circuit court~~ Clerk & Comptroller. A record of payments
18 and balances shall be kept for each property assessed. All payments received shall be
19 deposited into the applicable trust fund or deposited as otherwise provided in this division.

20 A tabulation of accounts shall be provided by the ~~clerk of the circuit court~~ Clerk &
21 Comptroller.

22 **Section 6.**

23 **Section 26-30.15. SAVINGS CLAUSE:**

24 Notwithstanding the provisions of this division herein repealing Ordinance No. 91-
25 41 and Ordinance No. 93-26, this division shall not affect or impair the processing and
26 implementation of any improvement project commenced under the provisions of
27 Ordinance No. 82-17, 84-5, 86-16, 87-10, 91-41, ~~or~~ 93-26, 94-11 and 2008-063. All
28 projects initiated under the divisions referenced above shall be deemed valid and in full
29 force and effect. Further, any money available for use in the units created and funded
30 under the above-referenced divisions shall be available for use in and transferred to the
31 corresponding units and trust funds created hereunder.

1 **Section 7. PROVIDING FOR REPEAL OF LAWS IN CONFLICT:**

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

4 **Section 8. SEVERABILITY:**

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

8 **Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

9 The provisions of this Ordinance shall become and be made a part of the Palm
10 Beach County Code. The sections of this Ordinance may be renumbered or relettered to
11 accomplish such, and the word ordinance may be changed to section, article, or other
12 appropriate word.

13 **Section 10. CAPTIONS:**

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

17

18 (REMAINDER OF PAGE LEFT BLANK INTENTIONALLY)

19

1 **Section 11. EFFECTIVE DATE:**

2 The provisions of this Ordinance shall become effective upon filing with the
3 Department of State.

4 APPROVED and ADOPTED by the Board of County Commissioners of Palm
5 Beach County, Florida, on this the ____ day of _____, 20____.

6 **SHARON R. BOCK, CLERK**

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

7
8
9
10 By: _____
11 Deputy Clerk

By: _____
Shelley Vana, Chair

12
13 **APPROVED AS TO FORM AND
14 LEGAL SUFFICIENCY**

15
16
17 By: _____
18 Assistant County Attorney
19

20 **EFFECTIVE DATE:** Filed with the Department of State on the ____ day of
21 _____, 20____.



MEMORANDUM

DATE: December 14, 2011
TO: Palm Beach County Board of County Commissioners
FROM: George T. Webb, P.E. *G. T. Webb*
County Engineer
RE: MUNICIPAL SERVICES TAXING UNIT (MSTU) – HISTORY

**Department of Engineering
and Public Works**

P.O. Box 21229
West Palm Beach, FL 33416-1229
(561) 684-4000
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**Palm Beach County
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Commissioners**

Shelley Vana, Chair

Steven L. Abrams, Vice Chairman

Karen T. Marcus

Paulette Burdick

Burt Aaronson

Jess R. Santamaria

Priscilla A. Taylor

County Administrator

Robert Weisman

The Municipal Service Taxing Unit (MSTU) Program was established by the Board of County Commissioners (Board) in 1994 to provide not only paved roads but also central water and sewer systems to better serve the citizens of Palm Beach County (County). The original intent of the MSTU Program was to eliminate the on-going costly maintenance of unpaved County maintained roads. In the beginning, only shell rock roads that the County was maintaining were eligible for the MSTU program, where the typical property owner was assessed for 50% of the cost to pave the road. However, the Board later changed the eligibility to open the program up to residents that wanted to take advantage of the program and pave their roads – even though that road had never previously been maintained by the County. Note: All water and sewer projects completed under the MSTU program have been assessed against the property owners for 100% of project costs.

Since FY 07-08, the Board has awarded 10 MSTU projects resulting in 28 paved roads. Only 14 of those roads had previously been maintained by the County. Paving those 14 roads eliminated the need to continually maintain the shell rock maintained roads. Our current level of maintenance finds our crews maintaining an average shell rock road approximately every six weeks.

There are currently 209 courtesy maintained roads in the County for a total length of 55.75 miles. Over the last few years the Engineering Department has received inquires about paving 33 different roads.

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These are shown on the attached MSTU PROJECT REQUESTS list. Of those listed, 11 are County maintained shell rock roads as shown in bold on the list. However, none of these projects have been initiated. The prior process would have allowed staff to send out petitions to the requesting individual, who would then canvas the neighborhood for signatures. Once more than 50% of the affected property owners signed the petition, it would be returned to the County and the road would be scheduled in the MSTU program. Historically, approximately 90% of the paving requests resulted in a paving project. This historical percentage was based on the 50%/50% cost sharing concept, and staff strongly believes that if the residents were assessed 100% of the costs, the return rate would be much, much lower.

The MSTU Ordinance was changed in December 16, 2008, to require property owners to be assessed 100% of the total cost of a project. However, since that change, the program has not accepted new requests because of funding constraints, and we have no way of gauging what kind of interest property owners may have in participating in a 100% program.

Ordinance language

The original ordinance had language that allowed the Board to assess **no more than 50%** of the project cost against the property owners. The actual language said the assessment "... shall not exceed 50% of the project cost." While the overwhelming number of projects resulted in owners being assessed 50% of the costs, this flexibility allowed the Board to deal with situations where other considerations came into play. In particular, in CCRT areas, assessments were capped at \$25/foot to allow improvements to be made without forcing owners to assume a large financial burden. Similarly, the Board determined that properties along a road that ran along a canal (where there would be no owners on the opposite side, only the canal) should not be made to pay the full 50% assessment.



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The proposed language will assess property owners 100% of a project's cost "unless otherwise directed by the Board." This would allow the Board the flexibility of determining the appropriate assessment level in certain circumstances. For example, staff believes that the Board may not want to levy more than 50% on those roads that are currently being maintained by the County – in keeping with the original intent to reduce our on-going maintenance costs. Similarly, the Board would have the flexibility in targeted neighborhoods to determine what an appropriate assessment level might be.

A change to the ordinance is also required to allow projects that were initiated and accepted into the MSTU Program prior to 2008 to be assessed at the 50% rate. Current ordinance language does not allow the assessment to be less than 100%.

The attached list is of projects remaining in the current MSTU Program. They were all accepted into the program under the original 50% ordinance language.

Recommendation

Staff believes the proposed language provides the best situation for the Board when the MSTU Program is reopened to allow consideration of new projects. The Board could direct staff to adopt policies and procedures that could address most requests, but could still approve a project that did not meet the standard criteria without having to amend the entire ordinance.

cc: Robert Weisman, County Administrator
Marlene Everitt, Assistant County Attorney
Tanya N. McConnell, Deputy County Engineer
Charlie Rich, Director, Engineering Services

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MSTU PROJECT REQUESTS						
No.	Requestee	Location	Phone #	CCRT	AREA	ATLAS
1.	Wanda Lear	Lanier Park (water)	371-7113	N		91-D27
2.	Alfredo Morejon	Ohio Street	758-8430	Y	33	71-D21
	Cheryl Impellitteri	Ohio Street	(561) 385-9416	Y	33	71-D21
3.	Everett Barber	Square Lake (water)	691-1522	N		34-F12
4.	William Morris	Amberjack Road	c 707-0699	N		90-E27
	Lee Mullally	3421 Amberjack Rd	965-6841	N		90-E27
5.	Marie Exilus	3603 Oberon Avenue	733-1875	N		98-E30
6.	Carl Ostorwal	2443 Genessee Avenue	686-6066	Y	16	70-E19
7.	Jason	Osprey Pond Ln	719-9205	N		95-I29
8.	John Glowka	Earlwood Dr (water)	743-2977	N		6-H1
9.	Greg	3091/3 Ford Rd	445-4920	N		80-E24
10.	Sandra Brown	123 rd Trail	333-1408	N		42-N15
11.	Cathlynne Wood	P. Beach Country Estates	575-3951	N		13-J/I 4/5
12.	Tom Hefman	Imperial Woods (water)	803-6069	N		6-H1
13.	Shaila Cyez	Bimini Ln	512-8771/776-7637	Y	18	70-F9
14.	Richard Walker	Pennock Point (water)	301-5363/744-0308	N		6-G2
15.	Denise Spiro	93 rd Ln. N. (Johnstone St.)	214-0391	Y	8	34-E11
16.	Cheyenne Stone	181st St (Jupiter)	(561) 630-0829\	Y	1	5-I2
17.	Sydney Ricketts	4777 Durham St	848-3468/236-4427	N		70-F19
18.	Kevin Easton	8511 40th Terr N (PBG)	758-9677	N		34-F12
19.	Nicolas Bernal	6302 Bishoff Rd	682-0810	N		69-H20
20.	Joyce	Penny Lane	683-3899	Y	70	90-E25
21.	Kristina	Odmann Avenue	963-6163	Y	58	80-F24
22.	Steve Haleston	Dolphin Rdg. Rd (E, W, N)	635-5784	N		71-D21
23.	Claudia Labeso	Ivywood Street	876-1162	N		69-G20
24.	Phil Grossi	8688 Arrowhead Drive	313-9313	N		70-K24/25
25.	Ron Litschaver	967 Patrick Drive	301-1036	N		71-D21
26.	Gary Sandileer	Hi Drive	(954) 829-7400	N		35-D11
27.	Staff	Seminole Colony	684-4070	N		58-F12
28.	Alfredo Morejon	Hairland Drive	758-8430	Y	42	80-F22
29.	Dalia Velez	Allison Court	255-1476	Y	70	90-E25
30.	Tanya Quickel	82 nd Road North	tquickel@indiantrail.com	N		40-R13
31.	Carlos Ugalde	ITID	644-6008			
32.	Fernando Miranda	47 th Way S.	(561) 317-1872	N		90-I25
33.	Patty Tobin	Arrowhead Drive	642-4455	N		77/78

MSTU PROGRAM - CURRENT PROJECTS

Attachment 2
page 4a

COMM DIST	PROJECT	PROJECT NUMBER	LIMITS	DESCRIPTION	Length					
						FY 12	FY 13	FY 14	FY 15	FY 16
1	Cinquez Park Rd East & Carver St. Tuscolossa St. Cornella & Evangaline Ave	2006137	North of Indiantown Rd Cinquez Park CCRT Area \$100,000 in CCRT funds used for design contract	Paving & Drainage Water Sewer Right of Way	4,000	Finald 10-19-11				
3	Sylvan Ln	CCRT 2000134	Melaleuca Ln north to end	Paving & Drainage OCR X26 & X111	600	Finald 11-23-11				
3	Michlar Dr., Tamis Tr., & 105th	2002136		Paving & Drainage	4,300	\$550,000	C			
6	60th St Bridge over M Canal	2004132	M-Canal Bridge and Intersection west of M Canal	Bridge & Intersection WPB Funding Amount					\$2,829,404	C
6	Fargo Ave. & El Paso Dr., Pancho Way & Pinto Dr.					\$9,040	S		(\$200,000)	
6	1st, 2nd, 3rd, Sunbeam, Wallis	2005135	North of Southern Blvd, east of Jog Rd (69-H-20) S34, T42, R43	Paving & Drainage	5,700	\$1,300,000	C			
2	Whispering Pines Area	2006127	Military east to end (70-F-21) S1, T44, R42 Located east of Military, 1/2 way btwn Southern & Summit	Paving & Drainage	2,700			\$931,500.00	C	
3	Patio Court	2004130	From Lakewood Rd North to L-11 Canal	Paving & Drainage	1,285	\$300,000	C			
PROJECT COST						\$ 2,159,040	\$ -	\$ 931,500	\$ 2,629,404	\$ -
FUNDING SUMMARY										
NEW REVENUE						\$611,276	\$200,000	\$100,000	\$ 100,000	\$ 100,000
BUDGET REDUCTION										
RESERVES						\$7,780,749	\$6,232,985	\$ 6,432,985	\$ 5,601,485	\$ 3,072,081
FUNDS AVAILABLE						\$8,392,025	\$6,432,985	\$ 6,532,985	\$ 5,701,485	\$ 3,172,081
TOTAL PROJECT COST						\$ 2,159,040	\$ -	\$ 931,500	\$ 2,629,404	\$ -
BALANCE (TO BE CARRIED FORWARD)						\$6,232,985	\$ 6,432,985	\$ 5,601,485	\$ 3,072,081	\$ 3,172,081
OCR BUGDET FUNDS						\$	\$ -	\$ -	\$ -	\$ -
CDBG GRANT FUNDS										