

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 18, 2013

{ } Consent { } Regular
{ } Workshop {X} Public Hearing

Department:

Submitted By: Engineering & Public Works
Submitted For: Roadway Production Division

EXECUTIVE BRIEF

Motion and Title: Staff recommends a motion to not adopt: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Palm Beach County Code Chapter 26, Article II, Division 1, known as the Municipal Service Taxing Unit (MSTU) Special Assessment Ordinance; amending Section 26-24, Special Assessments; amending Section 26-30.15, Savings Clause; providing for Repeal of Laws in Conflict; providing for Severability; providing for inclusion in the Code of Laws and Ordinances; providing for Captions; providing for Effective Date.

SUMMARY: On May 7, 2013, the Board of County Commissioners (Board) held its preliminary reading of this ordinance. The proposed changes would have amended Palm Beach County Code Chapter 26, Article II, Division 1, known as the Municipal Service Taxing Unit (MSTU) Special Assessment Ordinance to allow for assessments and collections at a percentage of 100% of the total cost of the improvements for all projects with the exception of those projects accepted into the MSTU program by the Board prior to May 1, 2013 and those projects deemed to have exceptional circumstances, but in no instance should the assessment be less than 50%. However, in addition to these amendments, other ordinance elements not covered in this advertised public hearing have been identified that require change. Staff requests that this proposed amendment not be adopted so that a revised ordinance amendment can be brought back before the Board.

Countywide (MRE)

Background and Policy Issues: On May 7, 2013, the Board of County Commissioners (Board) modified the proposed ordinance amendment to have all project assessments set at 100% of the total project costs with the exception of those projects accepted into the Municipal Service Taxing Unit program by the Board prior to May 1, 2013 and those projects deemed to have exceptional circumstances, but in no instance should the assessment be less than 50%. In the process of review staff identified additional elements that need to be addressed. Staff will be bringing a revised amendment of the ordinance to the Board for preliminary reading and permission to advertise for public hearing.

Attachments:

- 1. Ordinance

Recommended by: Ornelis A. Fernandez 6/6/13
Division Director Date

[Handwritten signature]

Approved By: J. T. Webb 6/10/13
County Engineer Date

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ORDINANCE NO. 20____-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 26, ARTICLE II, DIVISION 1, KNOWN AS THE MUNICIPAL SERVICE TAXING UNIT (MSTU) SPECIAL ASSESSMENT ORDINANCE; AMENDING SECTION 26-24, SPECIAL ASSESSMENTS; AMENDING SECTION 26-30.15, SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida enacted Palm Beach County Code Chapter 26, Article II, Division 1, referred to as the Municipal Service Taxing Unit (MSTU) Special Assessment Ordinance which enhanced the efficiency of the County's funding and construction of street improvements and related projects through special assessments; and

WHEREAS, there is a recognized need to make revisions to the Municipal Service Taxing Unit (MSTU) Special Assessment Ordinance in order to better facilitate and enhance the application of the County's MSTU special assessment process; and

WHEREAS, the Board of County Commissioners desires to amend the Municipal Service Taxing Unit (MSTU) Special Assessment Ordinance as set forth herein.

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

Section 1

The following Sections of the Municipal Service Taxing Unit (MSTU) Special Assessment Ordinance as codified in the Palm Beach County Code Chapter 26, Article II, Division 1, are hereby amended as follows:

Sect. 26-24. SPECIAL ASSESSMENTS:

The Board may provide for payment of the costs of any improvement under Section 26-23(a), (b), (c) (d) or (e) of this division by levying and collecting special assessments on the abutting, adjoining, contiguous, or other property specially benefited by the improvements provided herein. The percentage of the cost of improvements under Section 26-23 of this division to be paid by special assessment shall be 100 percent for all projects, with the exception of: 1) those projects accepted into the MSTU

1 program by the Board of County Commissioners prior to May 1, 2013, including those
2 with fixed assessment amounts and, 2) projects that the Board of County Commissioners
3 deem to have exceptional circumstances and, 3) as provided in Section 26-30.13 of this
4 division but in no instance should the assessment threshold for those projects be less
5 than 50 percent. For road projects, where one side of the road is adjacent to a canal;
6 where County owned property exists; or where there are property(s) whose access to the
7 road has been legally restricted, the County may be treated as an assessed property
8 owner and may pay its proportionate share of the assessed amount.

9 **Section 2**

10 **Sect. 26-30.15. SAVINGS CLAUSE:**

11 Notwithstanding the provisions of this division herein repealing Ordinance No. 91-
12 41 and Ordinance No. 93-26, this division shall not affect or impair the processing and
13 implementation of any improvement project commenced under the provisions of
14 Ordinance No. 82-17, 84-5, 86-16, 87-10, 91-41, 93-26, 94-11, 2008-063 and 2012-002.
15 All projects initiated under the divisions referenced above shall be deemed valid and in
16 full force and effect. Further, any money available for use in the units created and funded
17 under the above-referenced divisions shall be available for use in and transferred to the
18 corresponding units and trust funds created hereunder.

19 **Section 3**

20 **PROVIDING FOR REPEAL OF LAWS IN CONFLICT:**

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

23 **Section 4**

24 **SEVERABILITY:**

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

28 **Section 5**

29 **INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

30 The provisions of this Ordinance shall become and be made a part of the Palm
31 Beach County Code. The sections of this Ordinance may be renumbered or relettered to

1 accomplish such, and the word ordinance may be changed to section, article, or other
2 appropriate word.

3 **Section 6**

4 **CAPTIONS:**

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

8 **Section 7**

9 **EFFECTIVE DATE:**

10 The provisions of this Ordinance shall become effective upon filing with the
11 Department of State.

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

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SHARON R. BOCK, CLERK &
COMPTROLLER

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

22 By: _____
23 Deputy Clerk

22 By: _____
23 Steven L. Abrams, Mayor

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27 APPROVED AS TO FORM AND
28 LEGAL SUFFICIENCY

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33 By: _____
34 Assistant County Attorney

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

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