

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

3G-1

AGENDA ITEM SUMMARY

Meeting Date: October 1, 2013

☒ Consent
☐ Workshop

☐ Regular
☐ Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a negotiated settlement in the amount of \$30,300.00 for the full satisfaction of a Code Enforcement Lien that was entered against Gun Club Shopping Center, LLC & Gun Club Subsidiary, LLC (hereinafter collectively referred to as " Gun Club") on May 7, 2008.

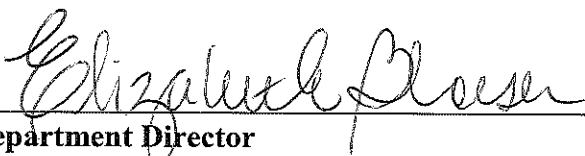
Summary: The Code Enforcement Special Master (CESM) entered an Order on November 7, 2007 giving Gun Club until December 7, 2007 to resolve their outstanding zoning violations. The zoning violations consisted of an outside lounge bar and seating constructed without proper zoning approval or building permits in addition to violation of the conditions of zoning approval prohibiting outdoor storage behind the existing structure. Gun Club was also given until March 7, 2008 to obtain the required building permits for a shed, fence and addition to the rear of the existing structure. Compliance with all conditions for zoning approval was achieved prior to the ordered compliance date of December 7, 2007. However, Gun Club did not obtain the required building permits by the ordered compliance date of March 7, 2008 resulting in the accrual of a fine in the amount of \$ 100.00 per day until compliance is achieved. Full code compliance was finally achieved on February 5, 2010. The total accrued lien amount through January 31, 2013, the date settlement discussions began was \$120,963.33. Gun Club has agreed to pay the County \$30,300.00 as full settlement of their outstanding Code Enforcement Lien District 2 (PM).

Background and Policy Issues: The violations that gave rise to this code enforcement case were for a zoning use violation and violation of Gun Club's condition of zoning approval. Additionally, Gun Club constructed a shed, fence and addition to the rear of the existing structure without the required building permits. The Special Master established two (2) separate compliance dates for the zoning violations and building permit violations. Fines in the amount of \$250.00 per day would accrue for the zoning related violations, and \$100.00 per day for the building permit violations. A follow-up inspection by Code Enforcement on December 7, 2007 confirmed that the zoning violations were corrected by the required compliance date. A second follow-up inspection on March 7, 2008 determined that the required building permits had not been obtained by the ordered compliance date of March 7, 2008. A code lien was then entered against Gun Club on May 7, 2008. The Collections Section of OFMB (Collections) was contacted by Gun Club's legal representative to discuss a settlement of their outstanding code lien. Collections, after several meetings and discussions with their legal representative and Code Enforcement officials, reviewed and evaluated the mitigating factors and agreed to present the proposed full and final settlement offer in the amount of \$30,300.00 to the Board of County Commissioners for approval.

(Continued on page 3)

Attachments:

Recommended by:


Department Director

9/23/13
Date

Approved by:


County Administrator

9/24/13
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> |
|-------------------------|-------------------|-------------|-------------|-------------|-------------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | <u>(\$30,300)</u> | _____ | _____ | _____ | _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | <u>(\$30,300)</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

Reporting Category _____

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 Fiscal and/or Contract Dev. : D. M. [Signature] 1/23/2013
OFMB

N/A

Contract Dev. and Control

B. Legal Sufficiency:


Assistant County Attorney

C. Other Department Review:

N/A

Department Director

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

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

1. The building permit issues were tenant driven as the tenant performed the construction work to their leasehold area without the required permits. The property owner, after unsuccessfully trying to get the tenant to obtain the required building permits, filed to have the tenant evicted from the property. The tenant was legally evicted on March 25, 2009.
2. The original management company was replaced soon after the tenant was evicted; however, they failed to resolve the outstanding building permit issues prior to their termination. A new management company was hired and had the unpermitted fence and structures removed.
3. The three (3) building code violations were not life safety issues and posed no danger to the customers or public. The violations could have easily been remedied had they applied for and obtained the building permits, or removed the structures, after they received notice that permits were required.
4. The gravity of the violations, together with the fact there were no life/safety issues involved, warrants consideration of a reduction of Gun Club Shopping Center, LLC & Gun Club Subsidiary, LLC substantial lien amount.

An Affidavit of Compliance has been issued by Code Enforcement and states that the cited violations were corrected as of February 5, 2010 and that the property is in full compliance with the CESM's Order. Further, the cited violation 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.