

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

36-1

AGENDA ITEM SUMMARY

Meeting Date: August 16, 2016

☒ Consent

☐ Regular

☐ Workshop

☐ Public Hearing

Department: Office of Financial Management & Budget

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: a negotiated settlement agreement in the amount of \$40,000.00 for the full satisfaction of a Code Enforcement Lien that was entered against John & Clotilde Paiva on August 7, 2013.

**Summary:** The Code Enforcement Special Magistrate (CESM) entered an Order on February 6, 2013 on property owned by John & Clotilde Paiva (the Paivas) giving them until June 6, 2013 to bring the property located at 8608 Pioneer Road, West Palm Beach into full Code Compliance. The property had been cited for constructing a retaining wall around the perimeter of a pond without the required building permits and inspections. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$100.00 per day was imposed. The CESM then entered a claim of lien against the Paivas on August 7, 2013. Code Enforcement issued an Affidavit of Compliance for the property on April 9, 2015 stating the code violations had been corrected as of April 8, 2015. The total accrued lien amount through October 31, 2015, the month in which settlement discussions began, totaled \$83,479.82, of which the Paivas have agreed to pay the County \$40,000.00 for full settlement of their outstanding Code Enforcement Lien. District 6 (PM).

**Background and Policy Issues:** The initial violations that gave rise to this Code Enforcement Lien was for constructing a retaining wall around the perimeter of a pond without the required building permits and inspections. The Special Magistrate gave the Paivas until June 6, 2013 to obtain the required building permits and inspections, or a fine of \$100.00 per day would begin to accrue. A follow-up inspection and check of permit records by Code Enforcement on June 11, 2013 confirmed that the property was still not in compliance. A code lien was then entered against the Paivas on August 7, 2013. On April 9, 2015 an Affidavit of Compliance was issued stating that the cited code violations were corrected as of April 8, 2015 and the property was in full compliance with the CESM's Order. The Collections Section of OFMB (Collections) was first contacted by Mr. Reid Moore Jr., the Paivas' Attorney, on October 28, 2015 to discuss the outstanding code case and lien balance. Collections, after extensive review, evaluation and discussions with Mr. Reid Moore Jr. and Code Enforcement, has agreed to present a proposed settlement offer in the amount of \$40,000.00 to the Board for approval.

(continued on page 3)

Attachments: none

Recommended by:

  
Department Director

7/25/16  
Date

Approved by:

  
County Administrator

8/1/16  
Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b><u>2016</u></b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>
<b>Capital Expenditures</b>	_____	_____	_____	_____	_____
<b>Operating Costs</b>	_____	_____	_____	_____	_____
<b>External Revenues</b>	<b><u>(\$40,000.00)</u></b>	_____	_____	_____	_____
<b>Program Income (County)</b>	_____	_____	_____	_____	_____
<b>In-Kind Match (County)</b>	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b><u>(\$40,000.00)</u></b>	_____	_____	_____	_____

### # 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:**


*Lisa Power* 7/26/16  
OFMB  
7-20-16  
7-20-16

N/A

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**Contract Dev. and Control**

### B. Legal Sufficiency:

  
Assistant County Attorney

### C. Other Department Review:

**Department Director**

## **Background and Policy Issues Continued**

The factors considered during staff's review and evaluation of this settlement are as follows.

1. On June 8, 2012, Code Enforcement issued a Notice of Violation to the Paivas for the construction of a pond retaining wall that was built on the property without the required permits. On January 28, 2013 (9 days before the CESM hearing) Mr. Paiva submitted a building permit application for the wall with no further activity to submit signed and sealed plans by a licensed engineer, and the permit application became inactive on August 11, 2013. The permit application was then subsequently renewed on October 30, 2013. This renewal then became inactive on May 11, 2014 with the permit application becoming abandoned and voided on June 13, 2014. The key problem that held up the issuance of the building permit was that the drawings submitted by Mr. Paiva required an Engineer's signature and seal that the existing wall was constructed in accordance with all the applicable building codes. Mr. Paiva attempted, but could not find an engineer who would sign and seal the plans and "as built" retaining wall. Further, since the wall had already been constructed, an Engineer would have to certify that it met or exceeded all applicable building codes.
2. On April 8, 2015, Mr. Paiva, nearly three (3) years after the Notice of Violation was issued, requested an inspection from Code Enforcement which was performed and it was found that the entire retaining wall had been removed from the edge of the pond.
3. The costs of installing the retaining wall (materials and labor) was approximately \$8,000.00.
4. Mr. Paiva has acknowledged that he should have never constructed the wall before first having the required permits and should have removed the wall much sooner when it became apparent he would not be able to obtain the required building permits for the existing wall.
5. After several months of discussions and negotiations, staff has agreed to put the proposed code lien settlement before the Board of County Commissioners for approval.

An Affidavit of Compliance was issued by Code Enforcement stating that the cited code violations were fully corrected as of April 8, 2015 and that the property was in full compliance with the CESM's Order. Further, the cited violations did not involve any health/safety issues.

In light of the above stated circumstances, Staff believes that the proposed settlement is fair and in the best interest of Palm Beach County.

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.