

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: **October 8, 2019**

Consent []
Public Hearing []

Regular [X]

Department: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and to advertise for Public Hearing on October 22, 2019: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending section 27-161, "Liens of Assessments", of Chapter 27, Article VIII of the Palm Beach County Code, the "Potable Water, Wastewater, and Reclaimed Water Special Assessment Ordinance"; providing for laws in conflict; providing for severability; providing for inclusion in the Code of Laws and Ordinances; and providing for an effective date.

Summary: The Potable Water, Wastewater, and Reclaimed Water Special Assessment Ordinance (Ordinance) provides for the levying of assessments and associated liens upon properties that will specially benefit from the construction or reconstruction of potable water, wastewater, and/or reclaimed water facilities. The Board of County Commissioners ("Board") has approved certain assessment projects, allowing assessment liens to be paid in not more than twenty (20) equal annual installments. It was recently discovered that, based on an unintended re-amortization of remaining assessment amounts for certain property owners (Affected Owners) in existing assessment projects, the Affected Owners' annual installment payment amounts had been reduced below the original annual installment payment amount. This re-amortization has resulted in the Affected Owners not being on schedule to pay off their assessment liens in twenty (20) equal annual installments, which is the maximum number of annual installments currently permitted by the Ordinance. In order to pay off the assessment lien in twenty (20) annual installments, each Affected Owners' annual installment payment amount would need to be increased beyond the original annual installment payment amount provided to each Affected Owner at the time of the placement of the assessment lien. Such an increase to the annual installment payment amounts may cause financial hardship to the Affected Owners. The amendment to the Ordinance will allow the Board, upon good cause shown, to approve a resolution directing that a lien(s) may be made payable in more than twenty (20) annual installments, which may not be equal and which may bear a fluctuating interest rate. Any such resolutions shall be limited to address procedural irregularities in the collection process, which irregularity is not the fault of the property owner. The October 22, 2019 Public Hearing will include amended resolutions permitting the assessment liens of the Affected Owners to be payable in twenty-five (25) annual installments. Countywide (MJ)

Background and Justification: The Water Utilities Department utilizes the Ordinance to levy and collect special assessments against properties receiving a special benefit from the assessment project. Following completion of the special assessment project, assessments are collected utilizing the Uniform Assessment Collection Act (Act) found at Sections 197.3632 and 197.3635, Florida Statutes. Pursuant to the Act, said assessments are included on the assessed properties' annual tax bill as non-ad valorem assessments.

Attachments:

- ## 1. Proposed Ordinance Amendment

Recommended By: Jim Stiles 9-17-19
Department Director Date

Approved By: Robt J. Blum 9/23/19
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	0	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund Dept Unit Object

Is Item Included in Current Budget? Yes ____ No ____

Does this item include the use of federal funds? Yes ____ No ____

Reporting Category N/A

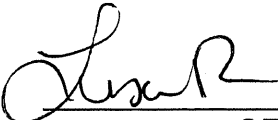
B. Recommended Sources of Funds/Summary of Fiscal Impact:

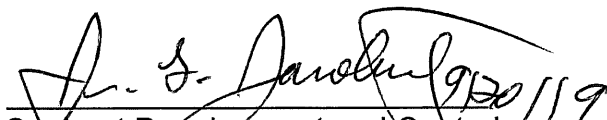
No fiscal impact. Repayment period extended from 20 to 25 years.

C. Department Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

 9/19/19
OFMB 9/19/19

 9/20/19
Contract Development and Control 9/20/19

B. Legal Sufficiency:

 9/23/19
Assistant County Attorney

C. Other Department Review:

Department Director

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

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 27-161, "LIENS OF ASSESSMENTS", OF CHAPTER 27, ARTICLE VIII OF THE PALM BEACH COUNTY CODE, THE "POTABLE WATER, WASTEWATER, AND RECLAIMED WATER SPECIAL ASSESSMENT ORDINANCE"; PROVIDING FOR LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 13, 2001, the Board of County Commissioners ("BCC") adopted the Potable Water, Wastewater, and Reclaimed Water Special Assessment Ordinance ("Assessment Ordinance"), in order to provide for the levying of assessments upon properties which derive a special benefit from the construction or reconstruction of potable water, wastewater, and/or reclaimed water facilities; and

WHEREAS, the Assessment Ordinance required assessment liens to be payable in not more than twenty (20) equal annual installments; and

WHEREAS, based on an unintended re-amortization of remaining assessment amounts, certain property owners in existing assessment projects have had their annual installments reduced below the original installment amounts, and, in order to pay off the assessment lien within twenty annual installments, annual installments would now need to be increased beyond the original installment amount; and

WHEREAS, increasing the annual installment amounts may cause financial hardship to those property owners subject to the re-amortization; and

WHEREAS, the Board of County Commissioners wishes to amend the Assessment Ordinance to allow the Board, upon good cause shown, to approve resolutions directing that assessment liens may be made payable in more than twenty (20) annual installments, which may not be equal and which may bear a fluctuating interest rate.

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

SECTION 1.

Chapter 27, Article VIII, Section 27-161, is hereby amended as follows:

Sec. 27-161. Lien of assessments.

1 Upon adoption of the assessment resolution, assessments shall constitute a lien against the assessed
2 property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other
3 non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity
4 to all other liens, titles and claims, until paid. Except as provided herein, All liens shall bear interest at
5 a rate not to exceed ten (10) percent per year from the date of acceptance of the improvements, and may,
6 by resolution, be made payable in not more than twenty (20) equal annual installments, if installments are
7 approved by the board. Upon good cause, the board may approve a resolution directing that a lien(s)
8 may be made payable in more than twenty (20) annual installments, which may not be equal and
9 which may bear a fluctuating interest rate. Good cause includes, but is not limited to, an instance(s)
10 where a previous annual installment amount(s) was reduced through no fault of the property owner.
11 However, said resolutions shall be limited to address any procedural irregularity in the collection
12 process which irregularity is not the fault of the property owner. Assessments may be paid without
13 interest at any time within thirty (30) days after the improvements have been completed and accepted by
14 the board or its authorized representative(s). If an assessment is not paid when due, there shall be
15 additional interest at a rate of eighteen (18) percent per year, upon the due but unpaid installment(s) or
16 portions thereof outstanding at the end of each month, added to the outstanding assessment balance for
17 those assessments that are not being collected pursuant to the Uniform Assessment Collection Act.
18 Assessments collected pursuant to the Uniform Collection Act shall be subject to the collection provisions
19 of Chapter 197, Florida Statutes, as may be amended, including provisions relating to penalties for
20 delinquent payment and issuance and sale of tax certificates and tax deeds for nonpayment.

21 **Section 2. REPEAL OF LAWS IN CONFLICT:**

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

24 **Section 3. SEVERABILITY:**

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

28 **Section 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

29 The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code.
30 The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word
31 “ordinance” may be changed to “section”, “article”, or other appropriate word.

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SHARON R. BOCK, CLERK
AND COMPTROLLER

By: Mack Bernard, Mayor *TCS*

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 2019.