

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

| | | | |
|-----------------------|---------------------------------------|--|--|
| Meeting Date: | October 8, 2019 | <input type="checkbox"/> Consent | <input checked="" type="checkbox"/> Regular |
| | | <input type="checkbox"/> Workshop | <input type="checkbox"/> Public Hearing |
| Department: | Engineering & Public Works | | |
| Submitted By: | Engineering & Public Works | | |
| Submitted For: | Roadway Production Division | | |

I. EXECUTIVE BRIEF

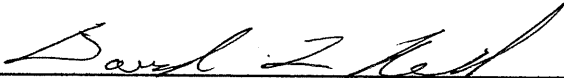

Motion and Title: Staff recommends a motion to approve on preliminary reading and advertisement for Public Hearing on Tuesday, October 22, 2019 at 9:30 a.m.: an ordinance of the Board of County Commissioners (BCC) of Palm Beach County (County), Florida, amending Section 26-30.5, "Priority of Lien, Interest, and Method of Payment of Special Assessments", of Chapter 26, Article II of the Palm Beach County Code, the "Municipal Service Taxing Unit (MSTU) 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 MSTU Special Assessment Ordinance (Ordinance) provides for the levying of assessments and associated liens upon properties that will specially benefit from the construction of street improvements and related projects. The BCC has already 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 now needs 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 also allow the BCC, upon good cause, to approve a resolution directing that a lien 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 (YBH)

Background and Policy Issues: The Engineering and Public Works 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

(Continued on Page 3)

- Attachments:**
- 1. MSTU Special Assessment Ordinance – Underline/Strikethrough Copy
 - 2. Proposed MSTU Special Assessment Ordinance

| | | |
|------------------------|---|-------------------|
| Recommended By: | <u>YBH/TEL</u>  | <u>10/01/2019</u> |
| | County Engineer | Date |
| Approved By: |  | <u>10/1/19</u> |
| | Assistant County Administrator | Date |

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2020 | 2021 | 2022 | 2023 | 2024 |
|-------------------------|--------|------|------|------|------|
| Capital Expenditures | \$ -0- | -0- | -0- | -0- | -0- |
| Operating Costs | -0- | -0- | -0- | -0- | -0- |
| External Revenues | -0- | -0- | -0- | -0- | -0- |
| Program Income (County) | -0- | -0- | -0- | -0- | -0- |
| In-Kind Match (County) | -0- | -0- | -0- | -0- | -0- |
| NET FISCAL IMPACT | \$ ** | -0- | -0- | -0- | -0- |
| # ADDITIONAL FTE | | | | | |
| POSITIONS (Cumulative) | | | | | |

Is Item Included in Current Budget? Yes No
Does this item include the use of federal funds? Yes No X

Budget Account No:

Fund Dept Unit Object

Recommended Sources of Funds/Summary of Fiscal Impact:

**This item has no fiscal impact.

C. Departmental Fiscal Review: . Alicia Valaman

III. REVIEW COMMENTS

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

Lisa R 9/26/19
#60 OFMB DC 9/25
9/25

J. J. Jacob 9/27/19
Contract Dev. and Control

B. Approved as to Form and Legal Sufficiency:

JBHana 10/4/19
Assistant County Attorney

C. Other Department Review:

Department Director

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

Background and Policy Issues: (Continued from Page 1)

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 bills as non-ad valorem assessments.

This Ordinance amends the existing Palm Beach County MSTU Special Assessment Ordinance that was approved by the BCC on July 16, 2013.

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY (COUNTY), FLORIDA, AMENDING SECTION 26-30.5, "PRIORITY OF LIEN, INTEREST, AND METHOD OF PAYMENT OF SPECIAL ASSESSMENTS", OF CHAPTER 26, ARTICLE II OF THE PALM BEACH COUNTY CODE, THE "MUNICIPAL SERVICE TAXING UNIT (MSTU) 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 July 16, 2013, the Board of County Commissioners (Board) enacted Palm Beach County Code Chapter 26, Article II, Division 1, Ordinance No. 2013-019 referred to as the MSTU Special Assessment Ordinance (Assessment Ordinance) which enhanced the efficiency of the County's funding and construction of street improvements and related projects through special assessments upon properties which derive a special benefit from the improvements; and

WHEREAS, the Assessment Ordinance requires assessment liens to be payable in not more than twenty (20) equal annual installments, if installments are allowed by the Board; and

WHEREAS, the Board has approved certain assessment projects, allowing assessment liens to be paid in not more than twenty (20) equal annual installments; and

WHEREAS, based on an unintended re-amortization of remaining assessment amounts in certain existing assessment projects, certain property owners have had their annual installment payment amounts reduced below the original annual installment payment amount; and

WHEREAS, in order to pay off the assessment lien within twenty (20) annual installments, each affected property owner's annual installment payment amount would now need to be increased beyond the original annual installment payment 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 wishes to amend the Assessment Ordinance as set forth herein, including 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.

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

3 **CHAPTER 26, ARTICLE II, SECTION 26-30.5, IS HEREBY AMENDED AS FOLLOWS:**

4 **SECTION 1. Section 26-30.5. Priority of Lien, Interest, and Method of Payment of Special**
5 **Assessments.**

6 Special assessment(s) shall be payable at the time and manner stipulated in the resolution providing
7 for the improvements. The special assessment shall remain a lien, inferior to the lien of all federal, state,
8 county, district and municipal taxes, but superior to all other liens, titles and claims until paid. **Except as**
9 **provided herein,** Lien(s) shall bear interest at a rate not to exceed ten (40) percent **(10%)** per year from
10 the date of acceptance of the improvement and may, by resolution, be made payable in not more than
11 twenty (20) equal annual installments if installments are allowed by the **Board** ~~board~~. **Upon good cause,**
12 **the Board may approve a resolution directing that a lien(s) may be made payable in more than**
13 **twenty (20) annual installments, which may not be equal and which may bear a fluctuating interest**
14 **rate. Good cause includes, but is not limited to, an instance(s) where a previous annual installment**
15 **amount(s) was reduced through no fault of the property owner. However, said resolution shall be**
16 **limited to address any procedural irregularity in the collection process in which the irregularity is**
17 **not the fault of the property owner.** The assessments may be paid without interest at any time within
18 thirty (30) days after the improvement is completed and a motion accepting the improvement has been
19 adopted by the ~~board~~ **Board** or its authorized representative(s). However, if assessment is not paid when
20 due, there shall be additional interest at a rate of ten (40) percent **(10%)** per year, upon the due but unpaid
21 installment(s) or portion(s) thereof outstanding at the end of each month, added to the outstanding
22 assessment balance.

23 **SECTION 2. REPEAL OF LAWS IN CONFLICT:**

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

26 **SECTION 3. SEVERABILITY:**

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

1 **SECTION 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

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

5 **SECTION 5. EFFECTIVE DATE:**

6 The provisions of this Ordinance shall become effective upon filing with the Department of State.
7 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on
8 this the ____ day of _____, 2019.

9
10 SHARON R. BOCK, CLERK
11 AND COMPTROLLER

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

12
13
14
15 By: _____
16 Deputy Clerk

By: _____
Mack Bernard, Mayor

17
18
19
20 APPROVED AS TO FORM AND
21 LEGAL SUFFICIENCY

22
23
24
25 By:  _____
26 County Attorney
27

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

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WHEREAS, the Assessment Ordinance requires assessment liens to be payable in not more than twenty (20) equal annual installments, if installments are allowed by the Board; and

WHEREAS, the Board has approved certain assessment projects, allowing assessment liens to be paid in not more than twenty (20) equal annual installments; and

WHEREAS, based on an unintended re-amortization of remaining assessment amounts in certain existing assessment projects, certain property owners have had their annual installment payment amounts reduced below the original annual installment payment amount; and

WHEREAS, in order to pay off the assessment lien within twenty (20) annual installments, each affected property owner's annual installment payment amount would now need to be increased beyond the original annual installment payment 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 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:

CHAPTER 26, ARTICLE II, SECTION 26-30.5 IS HEREBY AMENDED AS FOLLOWS:

SECTION 1. Section 26-30.5. Priority of Lien, Interest, and Method of Payment of Special Assessments.

Special assessment(s) shall be payable at the time and manner stipulated in the resolution providing for the improvements. The special assessment shall remain a lien, inferior to the lien of all federal, state, county, district and municipal taxes, but superior to all other liens, titles and claims until paid. Except as provided herein, lien(s) shall bear interest at a rate not to exceed ten percent (10%) per year from the date of acceptance of the improvement and may, by resolution, be made payable in not more than twenty (20) equal annual installments if installments are allowed by the Board. Upon good cause, the Board may 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. Good cause includes, but is not limited to, an instance(s) where a previous annual installment amount(s) was reduced through no fault of the property owner. However, said resolution shall be limited to address any procedural irregularity in the collection process in which the irregularity is not the fault of the property owner. The assessments may be paid without interest at any time within thirty (30) days after the improvement is completed and a motion accepting the improvement has been adopted by the Board or its authorized representative(s). However, if assessment is not paid when due, there shall be additional interest at a rate of ten percent (10%) per year, upon the due but unpaid installment(s) or portion(s) thereof outstanding at the end of each month, added to the outstanding assessment balance.

SECTION 2. REPEAL OF LAWS IN CONFLICT:

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

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

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SECTION 5. EFFECTIVE DATE:

The provisions of this Ordinance shall become effective upon filing with the Department of State. APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the ____ day of _____, 2019.

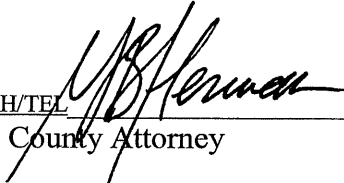
SHARON R. BOCK, CLERK
AND COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:  _____
County Attorney

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