

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: **October 22, 2019** Consent [] Regular []
Public Hearing [X]

Department: **Water Utilities Department**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: (A) adopt: 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; and (B) approve a Resolution of the Board of County Commissioners of Palm Beach County, Florida, Amending Resolution R-2005-0588, as Amended by Resolution R-2008-2085; Pertaining to the Special Assessment Project for the Atlantic Avenue and State Road 7 Area Wastewater Force Main Extension Project.

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 an existing assessment project, 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 amended Resolution for the Atlantic Avenue and State Road 7 Area Wastewater Force Main Extension Project will allow the Affected Owners within that project to elect to extend their payment schedules from twenty (20) to twenty-five (25) years. Countywide (MJ)

Background and Policy Issues: 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.
2. Amended Resolution for the Atlantic Avenue and State Road 7 Area Wastewater Force Main Extension Project.

Recommended By:	 For Department Director	10-15-2019 Date
Approved By:	 Assistant County Administrator	10/21/19 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

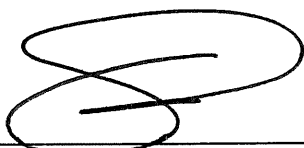
Is Item Included in Current Budget? Yes ___ No ___

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

Reporting Category N/A

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

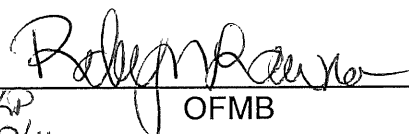
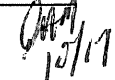
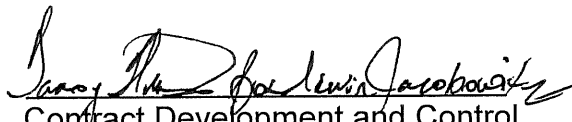
No Fiscal Impact



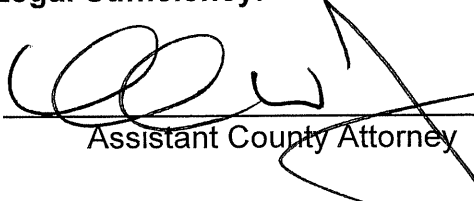
C. Department Fiscal Review: _____

III. REVIEW COMMENTS

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

 _____ OFMB 10/11	10/17/19  10/17	 _____ Contract Development and Control 10/18/19 JW
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B. Legal Sufficiency:



 Assistant County Attorney
 10/18/19

C. Other Department Review:

Department Director

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

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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.


1 **Section 5. EFFECTIVE DATE:**

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

5
6 SHARON R. BOCK, CLERK
7 AND COMPTROLLER

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

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11 By: _____
12 Deputy Clerk

By: _____
 Mack Bernard, Mayor

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16 APPROVED AS TO FORM AND
17 LEGAL SUFFICIENCY

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21 By: 
22 County Attorney

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

RESOLUTION NO. R-2019-

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING RESOLUTION R-2005-0588, AS AMENDED BY RESOLUTION R-2008-2085; PERTAINING TO THE SPECIAL ASSESSMENT PROJECT FOR THE ATLANTIC AVENUE AND STATE ROAD 7 AREA WASTEWATER FORCE MAIN EXTENSION PROJECT

WHEREAS, on March 15, 2005, in accordance with the Palm Beach County Ordinance 2001-0010, which is codified at Chapter 27, Article VIII of the Palm Beach County Code, the Board of County Commissioners, Palm Beach County, Florida ("Board"), adopted Resolution No. R-2005-0588, confirming the special assessment process for the Atlantic Avenue and State Road 7 Area Wastewater Force Main Extension Project; and

WHEREAS, pursuant to Resolution No. R-2005-0588, assessments not paid in full within thirty (30) days after completion of the improvement project for which the assessments were made are subject to interest at the rate of six and one half percent (6 ½ %) per year and payable in twenty (20) equal annual installments of principal and interest; and

WHEREAS, on November 18, 2008, the Board adopted Resolution No. R-2008-2085, amending Resolution No. R-2005-0588, and removing one parcel from the assessment roll; and,

WHEREAS, pursuant to Section 27-161 of the Palm Beach County Code, as amended, the Board, upon good cause shown, may approve a resolution 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; and

WHEREAS, the Board finds that good cause exists to direct 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, for certain properties included in the Atlantic Avenue and State Road 7 Area Wastewater Force Main Extension Special Assessment Project.

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

1. The Board hereby finds good cause to allow for the liens set forth in **Exhibit "A"** (attached hereto and incorporated herein) to be payable in more than twenty (20) annual installments, where so requested by the individual property owners. All liens set forth in **Exhibit "A"** had previous annual installment amounts reduced through no fault of the property owners, and, in order for the property owners to fully pay off the lien in twenty years, said property owners would need to pay higher annual payments of principal and interest than originally provided. The payment schedule for any property listed in **Exhibit "A"** will be extended to twenty-five (25) years for those property owners who request the extension. Notice of the extension shall be recorded in the Public Records of Palm Beach County, Florida. The total principal and interest amounts shall not exceed those amounts originally provided to the property owner at the completion of the improvement project for which the assessment was made.

2. The effective date of this Resolution shall be the same date as the effective date of that ordinance 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" which was adopted by the Board on October 22, 2019.

3. Each and every other paragraph of Resolution No. R-2005-0588, as amended by Resolution No. R-2008-2085, shall remain in full force and effect and said Resolution is reaffirmed as modified herein.

The foregoing Resolution was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote; the vote was as follows:

Commissioner Mack Bernard, Mayor
Commissioner Dave Kerner, Vice-Mayor
Commissioner Hal R. Valeche
Commissioner Gregg K. Weiss
Commissioner Robert S. Weinroth
Commissioner Mary Lou Berger
Commissioner Melissa McKinlay

The Mayor thereupon declared the Resolution duly passed and adopted this day of _____, 2019.

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

By: _____
Sharon R. Bock
Clerk and Comptroller

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By  _____
County Attorney

EXHIBIT A

PROJECT NAME: ATLANTIC AVENUE & STATE ROAD 7

PCN	LEGAL DESCRIPTION	OWNER NAME
00-41-46-13-04-001-0000	PRESERVE PAR 1 441 ATLANTIC PUD ALL OF PL K/A PRESERVE PAR 1, UPLAND AREA A & WETLAND AREA B	DJS FARMS LLC
00-42-43-27-05-065-0550	PALM BEACH FARMS CO PLAT NO 3 TR 55 & TR 56 (LESS E 204.20 FT SR 7 R/W) & 25 FT ABND PT OF STRIP LYG S OF & ADJ TO BLK 65 &	PERO LAND CO INC
00-41-46-24-02-001-0000	STOP & SHOP PROPERTY PAR A	SFD 441 LLC
00-42-46-17-01-000-0730	PALM BEACH FARMS CO PL 1 TR 73 (LESS E 15 FT STARKEY RD R/W), TRS 74 THRU 87, TR 88 (LESS E 15 FT STARKEY RD R/W), 30 FT ABND STRIP LYG S OF & ADJ TO (LESS S 15 FT OF W 327 FT), TR 105 (LESS E 15 FT	ONE MILE PROPERTIES LLC
00-42-46-17-01-000-1020	PALM BEACH FARMS CO PL 1 TR 102 (LESS N 232.33 FT & ELY 320 FT TURNPIKE R/W), TR 103 (LESS N 232.33 FT), TR 104 (LESS N 232.33 FT & W 15 FT STARKEY RD R/W), TR 121 (LESS S 143 FT DELRAY WEST RD &	MORNINGSTAR NURSERY INC
00-42-46-17-01-000-1131	PALM BEACH FARMS CO PL 1 W 1/2 OF TR 113 (LESS N 240 FT, W 15 FT LYONS RD & S 114.02 FT ATLANTIC AVE & TRGLR PAR R/WS) IN SEC 17	LLOYDS SERVICE CENTER INC
00-42-46-17-01-000-1132	PALM BEACH FARMS CO PL 1 E 1/2 OF TR 113 (LESS N 240 FT & S 149 FT ATLANTIC AVE R/W) IN SEC 17	BOSS INVESTMENT PROPERTIES LLC
00-42-46-18-01-000-1130	PALM BEACH FARMS CO PL 1 TRS 113 THRU 115 (LESS S 200 FT SR 806 R/W) & 15 FT STRIP LYG W OF & ADJ TO IN SEC 18	SOUTHEAST INVSTMNTS OF PALM BEACH CNTY INC
00-42-46-18-01-000-1160	PALM BEACH FARMS CO PL 1, TR 116 (LESS S 30 FT SR 806 R/W) IN SEC 18	OASIS OF GLADES INC
00-42-46-18-01-000-1173	PALM BEACH FARMS CO PL 1, SE 1/4 OF TR 117 (LESS S 50 FT SR 806 R/W) IN SEC 18	SDH PROPERTIES INC
00-42-46-18-01-000-1201	PALM BEACH FARMS CO PL 1, S 1/2 OF TR 120 (LESS SSR 806 & E 25 FT SMITH SUNDY RD R/WS) IN SEC 18	DELRAY BCH COMMERCE & STORAGE CTRS INC
00-42-46-18-01-000-1210	PALM BEACH FARMS CO PL 1, TRS 121 & 122 (LESS S 10 FT SR 806 R/W) IN SEC 18	DELRAY GROWERS INC

PROJECT NAME: ATLANTIC AVENUE & STATE ROAD 7

PCN	LEGAL DESCRIPTION	OWNER NAME
00-42-46-18-01-000-1230	PALM BEACH FARMS CO PL 1 TR 123 (LESS S 10 FT SR 806 R/W) IN SEC 18	J M A PROPERTIES INC
00-42-46-18-02-001-0000	PEANUTS COUNTRY STORE PL TR A	ESMAIL LAND CORP
00-42-46-19-01-000-0091	PALM BEACH FARMS CO PL 1 SUB E 143 FT OF N 1/2 OF TR 9 SEC 19 (LESS N 70 FT LWDD L-34 CNL R/W)	BARBARITO GERALD M DD JCL BISHOP OF DIOCESE OF PALM BEACH
00-42-46-19-01-000-0092	PALM BEACH FARMS CO PL 1 SUB N 232 FT OF TR 9 SEC 19 (LESS E 143 FT & N 70 FT LWDD L-34 CNL R/W)	BARBARITO GERALD M DD JCL BISHOP OF DIOCESE OF PALM BEACH
00-42-46-19-01-000-0132	PALM BEACH FARMS CO PL 1 SUB TR 13 (LESS E 200 FT & L-34 & ATLANTIC AVE R/WS), TRS 14 & 15 (LESS L-34 CNL & ATLANTIC AVE R/WS) & TR 16 (LESS L-34 & ATLANTIC AVE R/WS & W 95 FT E-1 CNL R/W) IN SEC 19	SOUTHEAST INV OF P B CTY INC
00-42-46-19-02-001-0180	ATLANTIC PARK LTS 18 THRU 31 BLK 1, E 1/2 OF 30 FT ABND 2ND ST LYG W OF & ADJ TO & BLK 2 (LESS W 13.43 FT) & W 1/2 OF 30 FT ABND 2ND ST LYG E OF & ADJ TO	DELRAY FIELDS LLC LADY KEM LAND TRUST LLC
00-42-46-19-02-002-0281	ATLANTIC PARK W 13.43 FT OF BLK 2, 30 FT ABND PT OF 3RD ST LYG W OF & ADJ TO, BLKS 3 & 4, 30 FT ABND PT OF 4TH ST LYG BET & 15 FT ABND PT OF FOREST AVE LYG S OF & ADJ TO	DELRAY FIELDS LLC LADY KEM LAND TRUST LLC
00-42-46-19-02-006-0010	ATLANTIC PARK BLK 6	SALAZAR DIONISIA J LOPEZ
00-42-46-20-01-000-0070	PALM BEACH FARMS CO PLAT 1 SUB TRS 7 & 8 IN SEC 20	CUNNINGHAM CAROLYN K TR
00-42-46-20-01-000-0091	PALM BEACH FARMS CO PL 1 SUB W 1/2 OF TR 9, TR 10 & E 1/2 OF TR 11 IN SEC 20	AMKBJ PARTNERS LTD LLLP
00-42-46-20-01-000-0130	PALM BEACH FARMS CO PL 1 SUB TR 13 (LESS N 52.49 FT L-34 CNL R/W) & TRS 20 & 45 IN SEC 20	US LANDVEST CORP TR BOB ABERSOLD CPA C/O
00-42-46-20-01-000-0150	PALM BEACH FARMS CO PL 1 SUB TR 15 (LESS N 32 FT & S 12 FT OF N 44 FT OF E 230.14 FT ATLANTIC AVE, S 12 FT OF N 44 FT OF WLY 103.06 FT & S 8.29 FT OF N 52.29 FT LWDD L-34 CNL R/WS) IN SEC 20	SFD LYONS LLC
00-42-46-20-02-018-0010	DELRAY LAKES ESTATES TRACTS R-1 & R-2	DELRAY LAKES ESTATES HMOWNERS