PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

Agenda Item: SA. 2

## AGENDA ITEM SUMMARY

Meeting Date: January 24, 2023 [] Consent [X] Regular [] Workshop [] Public Hearing

Submitted By: Department of Airports

# I. EXECUTIVE BRIEF

## Motion and Title: Staff recommends motion to:

- (A) Approve a Resolution of the Board of County Commissioners of Palm Beach County, Florida; amending the Airport Rules and Regulations (R-98-220, as amended) as codified in Appendix B of the Palm Beach County Code (Airport Regulations); providing for the repeal of the jet restriction at the Palm Beach County Park Airport; providing for promulgation; providing for severability; providing for codification; and providing for an effective date.
- (B) Direct the Clerk of the Board to deliver a copy of the Resolution to the Municipal Code Corporation for codification upon receipt of an affidavit from the Department of Airports that the promulgation requirements of Section 332.08(2), Florida Statutes have been satisfied.

**Summary:** This Resolution repeals Section 12-6(a) of the Airport Regulations (R-98-220, as amended) (Jet Restriction), which prohibits pure turbo-jet aircraft and aircraft in excess of 12,500 pounds engaging in air cargo operations from operating at the Palm Beach County Park Airport (Lantana Airport), as required by the Federal Aviation Administration (FAA), Final Agency Decision (FAD) in *Forman v. Palm Beach County*, FAA Docket No. 16-17-13. Section 332.08(2), Florida Statutes, provides that, if a county operates one or more airports, its regulations shall be by resolution of the Board of County Commissioners, recorded in the minutes of the Board, and promulgated by posting a copy at the courthouse and at every airport for four consecutive weeks or publication once a week in a newspaper published in the county for the same period. Upon approval of this Resolution, the Department of Airports will satisfy the promulgation requirements set forth in Section 332.08(2), Florida Statutes and deliver an affidavit to the Clerk for transmittal to the Municipal Code Corporation for codification in the Palm Beach County Code. <u>Countywide (AH)</u>

**Background and Policy Issues:** On January 13, 2021, the FAA issued a FAD determining the Jet Restriction was adopted in violation of the Airport Noise and Capacity Act (ANCA) and the County's federal grant obligations, requiring the submission of a Corrective Action Plan (CAP) for the repeal of the Jet Restriction. On February 9, 2021, the Board directed the County Attorney to file a petition for review with the U.S. Court of Appeals and suspended enforcement of the Jet Restriction pending review. On November 18, 2022, the U.S. Court of Appeals issued an opinion denying the joint petition for review submitted by the County and the City of Atlantis. On December 6, 2022, the Board approved submission of a CAP to the FAA, committing to the repeal of the Jet Restriction. Approval of this item is required by the CAP approved by the Board at the December 6<sup>th</sup> meeting.

## Attachments:

1. Resolution (1)

Recommended By:	Haura Perke	12-16-22
	Department Director	Date
Approved By: _	Maker	1/12/23
	County Administrator	( Dáte

## **II. FISCAL IMPACT ANALYSIS**

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>		
Capital Expenditures Operating Costs Operating Revenues Program Income (County) In-Kind Match (County)							
NET FISCAL IMPACT # ADDITIONAL FTE POSITIONS (Cumulative)							
Is Item Included in Current Budget? Yes No _x Does this item include the use of federal funds? Yes No _X_							
Budget Account No: Fu Re	nd Depai porting Categoi			_ Rsource			
B. Recommended Sources of Funds/Summary of Fiscal Impact:							

There is no fiscal impact associated with approval of this Resolution.

C. Departmental Fiscal Review: WUMUNDUNSIN

# **III. REVIEW COMMENTS**

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

· 加上 12/19/2022 OFMB # 12/19

**B. Legal Sufficiency:** 

<u>Attorney</u> Assistant County

C. Other Department Review:

**Department Director** 

**REVISED 11/17** 

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

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#### **RESOLUTION NO. 2023-**

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA; AMENDING THE AIRPORT RULES AND REGULATIONS (R-98-220, AS AMENDED) AS CODIFIED IN APPENDIX B OF THE PALM BEACH COUNTY CODE; PROVIDING FOR THE REPEAL OF THE JET RESTRICTION AT THE PALM BEACH COUNTY PARK AIRPORT; PROVIDING FOR PROMULGATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County ("County"), by and through its Department of Airports ("Department"), owns and operates the Palm Beach County Park Airport ("Lantana Airport"); and

WHEREAS, Section 332.08(2), Florida Statutes, provides that, if a county operates one or more airports, its regulations for the governance thereof shall be by resolution of the Board of County Commissioners, recorded in the minutes of the Board, and promulgated by posting a copy at the courthouse and at every such airport for four (4) consecutive weeks or by publication once a week in a newspaper published in the county for the same period; and

WHEREAS, the Federal Aviation Administration ("FAA") concluded in its Final Agency Decision, Docket No. 16-17-13 ("FAD"), that the restriction set forth in Article XII, Division 2, Section 12-6(a) of the Airport Rules and Regulations ("Jet Restriction") was adopted in violation of federal law and the County's grant assurance obligations; and

**WHEREAS**, the County submitted a Corrective Action Plan to the FAA as required by the FAD, committing to the repeal of the Jet Restriction.

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

1. <u>Repeal of Jet Restriction.</u> Appendix B of the Palm Beach County Code, Article XII, Division 2, Sec. 12-6., Use Restrictions, is hereby amended as follows:

#### Sec. 12-6. Use restrictions.

The following use restrictions for the Lantana Airport shall be enforced in accordance with the Lantana interlocal agreement:

(a) <u>Reserved.</u> Pure turbo-jet aircraft and aircraft in excess of 12,500 pounds engaging in air cargo operations are prohibited.

2. <u>Promulgation of Rules and Regulations.</u> The Board of County Commissioners hereby directs that a copy of this Resolution be recorded in the Minutes of the Board and promulgated in accordance with Section 332.08(2), Florida Statutes.

3. <u>Severability.</u> If any section, sentence, clause, phrase, or word of this Resolution is held invalid or unconstitutional by a court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

4. <u>Codification.</u> The provisions of this Resolution shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this resolution may be renumbered or relettered to accomplish such, and the word "resolution" may be changed to "section", "article" or other appropriate word.

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5. <u>Effective Date.</u> This Resolution shall become effective immediately upon the date of promulgation as set forth in an affidavit filed with the Clerk of the Board that the requirements related to promulgation have been satisfied.

The foregoing Resolution was offered by Commissioner		, who
moved its adoption. The motion was seconded by Commissioner		3
and upon being put to a vote, the vote was as follows:		
COMMISSIONER GREGG WEISS, MAYOR COMMISSIONER MARIA SACHS, VICE MAYOR COMMISSIONER MARIA G. MARINO	-	
COMMISSIONER DAVE KERNER COMMISSIONER MARCI WOODWARD	-	
COMMISSIONER SARA BAXTER COMMISSIONER MACK BERNARD	-	

Then the Mayor thereupon declared this Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_\_, 20\_\_.

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

# JOSEPH ABRUZZO, CLERK OF THE CIRCUIT COURT AND COMPTROLLER

Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: ( County Attorney