

34-18

Agenda Item #:

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: August 15, 2006 [X] Consent [ ] Regular  
[ ] Ordinance [ ] Public Hearing  
Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to:

- A) **adopt** a resolution authorizing the conveyance of the County's interest in 0.30 acres of surplus property to the City of South Bay without charge and with reservation of mineral and petroleum rights, but without rights of entry and exploration; and
- B) **approve** a County Deed in favor of the City of South Bay.

**Summary:** The City of South Bay has requested the conveyance of an improved parcel of County-owned surplus property acquired by tax deed in June 2004. The 0.30 acre parcel is located at 480 U.S. Highway 27 North within the City's municipal boundaries and is improved with a commercial structure with an assessed value of \$51,849. Section 197.592(3), F.S., requires the conveyance of surplus property acquired by tax deed to the municipality in which it is located. The property has existing environmental contamination which the City intends to clean up. The City proposes to sell the property to foster community development and to stimulate economic growth. Although Staff is currently revisiting the program to convey residential parcels to the municipalities in light of the affordable housing issues, this parcel is commercial in nature. Staff believes that this property will be more appropriately developed, managed and maintained by the City. This conveyance will relieve the County of potential liability for occurrences on this property and also the cost of continued maintenance. The County will retain mineral and petroleum rights in accordance with Section 270.11, F.S., without rights of entry and exploration.  
**(PREM) District 6 (HJF)**

**Background and Justification:** The 0.30 acre parcel escheated to the County in 2004. PREM, in response to direction from the Real Estate Assets Task Force, has developed a program to convey to the municipalities in which they are located, County property which is surplus and provides little opportunity to further a County function. The parcel's previous tenant operated a gas station with underground fuel storage tanks which were removed in 1993, but environmental contamination currently exists. PREM, with assistance from ERM, provided notice to the City detailing the various regulations and stipulations required by DEP, PREM and ERM regarding clean up of the contamination. The City acknowledges such conditions, will accept the parcel in an AS-IS condition and agrees to comply with all regulations and conditions. Furthermore, the City has also agreed to provide such notification as part of any future agreement it may enter into for the property. The City proposes to properly clean the property and then sell it to foster community development and to stimulate economic growth along the Highway 27 corridor. Staff believes this conveyance will relieve the County of potential liability and the cost of continued maintenance. Additionally, Staff feels strongly that the most cost effective method to dispose of the parcel is to convey it at no cost to the City. Staff believes that the municipality is in a better position to determine how this property should be used and maintained. Although affordable housing issues have recently surfaced, the parcel is commercial in nature. Other parcels that have escheated to the County via tax deeds which are residential in nature are being held by the County until Staff can research affordable housing issues and determine the best course of action.

**Attachments:**

- 1. Location Map
- 2. Resolution
- 3. County Deed
- 4. Letter of request from the City dated May 10, 2006
- 5. County letter dated February 23, 2006, acknowledged and agreed to by the City of South Bay
- 6. Florida Statutes Sections 197.592(3) and 270.11

Recommended By: [Signature] Department Director Date: 7/22/06  
Approved By: [Signature] County Administrator Date: 8/3/06

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No: Fund \_\_\_\_\_ Dept \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
 Program \_\_\_\_\_

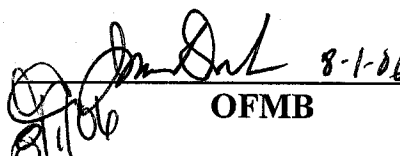
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

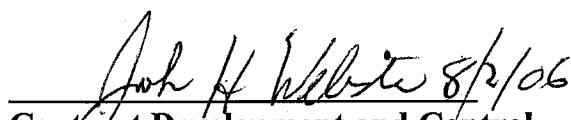
No fiscal impact. Conveyance will eliminate County's cost for on-going maintenance & Liability.

**C. Departmental Fiscal Review: \_\_\_\_\_**

**III. REVIEW COMMENTS**

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

  
 \_\_\_\_\_  
 OFMB  
 7-25-06

  
 \_\_\_\_\_  
 Contract Development and Control

This item complies with current County policies.

**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney  
 8/2/06

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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



**RESOLUTION NO. R-2006-**

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY TO CITY OF SOUTH BAY WITHOUT CHARGE AND WITH MINERAL AND PETROLEUM RIGHTS RESERVATION WITHOUT RIGHTS OF ENTRY AND EXPLORATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the County owns one (1) property within the municipal boundaries of the City of South Bay which was acquired for delinquent taxes; and,

**WHEREAS**, Florida Statutes Section 197.592(3) states that under certain conditions, the County is to convey to municipalities in which they are located, properties acquired by the County for delinquent taxes; and,

**WHEREAS**, the subject land has not been previously sold, has not been acquired for infill housing, has not been dedicated by the Board of County Commissioners, and shall not be conveyed to the record prior fee simple title owner; and,

**WHEREAS**, pursuant to Florida Statute Section 270.11, the City of South Bay has requested that such property be conveyed without reservation of and to release the rights of entry and exploration relating to such mineral and petroleum rights; and,

**WHEREAS**, the Board of County Commissioners of Palm Beach County has agreed to convey such property reserving phosphate, mineral, metals and petroleum rights but releasing any and all rights of entry and exploration relating to such rights.

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

**Section 1. Recitals**

The foregoing recitals are true and correct and incorporated herein by reference.

**Section 2. Authorization to Convey Real Property**

The Board of County Commissioners of Palm Beach County shall convey to the City of South Bay without charge and by County Deed attached hereto and incorporated herein by reference, the real property legally described in such deed.

**Section 3. Conflict with Federal or State Law or County Charter**

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

**Section 4. Effective Date**

The provisions of this Resolution shall be effective immediately upon adoption hereof.

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 TONY MASILOTTI, CHAIRMAN
- COMMISSIONER ADDIE L. GREENE, VICE CHAIRPERSON
- COMMISSIONER KAREN T. MARCUS
- COMMISSIONER JEFF KOONS
- COMMISSIONER WARREN H. NEWELL
- COMMISSIONER MARY MCCARTY
- COMMISSIONER BURT AARONSON

The Chair thereupon declared the resolution duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2006.

PALM BEACH COUNTY, a  
political subdivision of the State of Florida  
Board of County Commissioners

SHARON R. BOCK  
CLERK & COMPTROLLER

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Tony Masilotti, Chairman

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS  
AND CONDITIONS

By \_\_\_\_\_  
Assistant County Attorney

By  \_\_\_\_\_  
Department Director

PREPARED BY AND RETURN TO:  
STEVEN K. SCHLAMP, PROPERTY SPECIALIST  
PALM BEACH COUNTY  
PROPERTY & REAL ESTATE MANAGEMENT DIVISION  
3200 BELVEDERE ROAD, BUILDING 1169  
WEST PALM BEACH, FLORIDA 33406-1544

PROPERTY CONTROL NUMBER: 58-36-44-11-00-000-7081

## COUNTY DEED

**THIS DEED**, made \_\_\_\_\_, by **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose legal mailing address is 301 North Olive Avenue, West Palm Beach, Florida 33401-4791, party of the first part, and the **CITY OF SOUTH BAY**, a municipal corporation, whose legal mailing address is 335 SW 2<sup>nd</sup> Avenue, South Bay, Florida 33493, party of the second part.

### WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the party of the second part, its successors and assigns forever, the following described land lying and being in Palm Beach County, Florida:

11-44-36, S 272.99 FT OF W ¼ OF LT 3 ST SURV N & E OF SR 25.  
THE ABOVE BEING THE REAL PROPERTY DESCRIBED UNDER  
TAX CERTIFICATE NUMBER 16781 IN THE TAX DEED  
RECORDED IN OFFICIAL RECORD BOOK 17072, PAGE 1605,  
PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Reserving, however, unto party of the first part, its successors and assigns an undivided three-fourths (3/4) interest in, and title in and to an undivided three-fourths (3/4) interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half (1/2) interest in all petroleum that is or may be in, on, or under said land. The aforementioned reservation of phosphate, mineral, metals and petroleum rights shall not include and party of the first part hereby expressly releases any and all rights of entry and rights of exploration relating to such phosphate, mineral, metals and petroleum rights.

**IN WITNESS WHEREOF**, the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairman or Vice Chairperson of said Board, the day and year aforesaid.

### ATTEST:

**SHARON R. BOCK**  
**CLERK & COMPTROLLER**

**PALM BEACH COUNTY,**  
**a political subdivision of the State of Florida**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Tony Masilotti, Chairman

**APPROVED AS TO FORM**  
**AND LEGAL SUFFICIENCY**

(OFFICIAL SEAL)

By: \_\_\_\_\_  
Assistant County Attorney

City Hall (561) 996-8751  
(561) 996-8752

Police  
Department (561) 996-6511

# City of South Bay

335 S. W. 2ND AVENUE

South Bay, Florida 33493

May 10, 2006

Mr. Ross C. Hering,  
Director  
Facilities Development  
and Operations Department  
Property and Real Estate  
3200 Belvedere Road,  
Building #1169  
West Palm Beach, FL33406-1544

**REF: Conveyance of Parcel Formerly Known as Nana's Petroleum**

Dear ~~Mr. Hering~~ <sup>Ross</sup>:

The purpose of this letter is to provide an update to the county's conveyance of the above referenced parcel that is designated as PCN 58-36-44-11-00-000-7081. Once the county conveys this parcel to the City, immediate efforts will be undertaken to cleanup the contaminated property.

The City is currently working with Mr. Gregg Vaday, Treasure Coast Regional Planning Council, in seeking approval of funding to cleanup this parcel. For your information, the City has consulted with Ms. Maggie Smith, Senior Planner, with regards to mitigating this property.

Once the property is cleaned, the City intends to sell the property for community development and redevelopment along the Highway #27 corridor. This area which includes subject property is the focus of economic growth in this community.

Finally, the City recognizes that Florida Statutes Section 270.11 precludes the county from releasing mineral and petroleum rights to this municipality but will release entry and exploration to this local government. The City concurs with this statutory provision.

Mr. Hering, I wish to commend you, Mr. Richard Bogatin, Manager, Property Management, and Mr. Steven K. Schlamp, Property Specialist, for the assistance that they have rendered in the conveyance of the aforementioned parcel. If you have any questions regarding this matter, please feel free to contact me at (561) 996-6751.

**ATTACHMENT # 4**

Sincerely,



Bobby "Tony" Smith, City Manager  
City of South Bay

cc: Department Heads  
Attorney Thomas Montgomery  
Dr. Richard Orman, City Planner  
Mr. Greg Vaday, TCRPC





RECEIVED

MAY 05 2006

**Facilities Development &  
Operations Department  
Property & Real Estate  
Management Division**

3200 Belvedere Road  
Building 1169

West Palm Beach, FL 33406-1544

(561) 233-0200

FAX: (561) 233-0210

www.pbcgov.com/fdo



**Palm Beach County  
Board of County  
Commissioners**

Tony Masilotti, Chairman

Addie L. Greene, Vice Chairperson

Karen T. Marcus

Jeff Koons

Warren H. Newell

Mary McCarty

Burt Aaronson

**County Administrator**

Robert Weisman

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**FAXED TO 561-996-7950 (3 PAGES)  
& SENT VIA REGULAR MAIL**

February 23, 2006

Mr. Bobby "Tony" Smith  
City Manager  
City of South Bay  
335 SW 2<sup>nd</sup> Avenue  
South Bay, FL 33493

RE: 480 US Highway 27 North ("Premises")

Dear Mr. Smith:

As you're aware, Palm Beach County wishes to convey at no cost four (4) parcels to the City of South Bay (City) that the County received via tax deed escheatment. Various correspondence and conversations on this conveyance have occurred, and we are awaiting your updated letter requesting these parcels.

As you're aware, one of the parcels (PCN 58-36-44-11-00-000-7081, located at 480 US Highway 27 North, known as the "Premises") has potential contamination. Although the City may understand the responsibilities in acquiring properties that are potentially contaminated sites and is in agreement in taking responsibility for site inspection and cleanup, the County's Environmental Resources Management Department (ERM) has requested that we fully advise the City of the following for this site:

- (1) Records indicate that the Premises previously contained six (6) fuel tanks which were removed in 1993. Records further indicate that the Premises has been designated as having high levels of petroleum-based contamination in both the soils and groundwater.

**ATTACHMENT # 5**



B. Smith, City of South Bay - 480 US Hwy. 27 North

February 23, 2006

page two - via fax and regular mail /

- (2) Three discharges were reported for the Premises. The discharge reported on December 7, 1989, is eligible for the State of Florida Department of Environmental Protection (DEP) funding of contamination cleanup through DEP's Petroleum Cleanup Participation Program (PCPP). DEP created the PCPP to assist owners of contaminated sites in paying for site cleanup. The PCPP requires that the owner of the Premises must: (i) pay for a limited contamination assessment report which identifies the extent of the contamination and cleanup, and (ii) contribute 25% of the money necessary to complete the cleanup. The discharges of February 25, 1991, and October 21, 1993, were determined to be re-reports of the original discharge and have been deleted from DEP records.
- (3) Funding for cleanup of petroleum contaminated sites has been prioritized by the DEP based on potential environmental hazard. Since the Premises has a relatively low potential environmental hazard, it has been assigned a score of 8. Funding is currently available for petroleum cleanup sites with a score of 30 or higher. Since the score for the Premises is relatively low, it is impossible to predict when funding for contamination cleanup will be available.
- (4) If the Premises' owner proceeds with renovations or development of the site prior to completion of a site cleanup, the eventual cleanup of the site, whether it is performed by the Premises' owner or DEP, will likely require excavating portions of the site to remove contaminated soils and drilling of monitoring wells or soil borings, which may temporarily disrupt or limit the renovations/development of the Premises.

ERM can provide technical assistance to the City in their efforts to cleanup the Premises. In order for the County to convey the Premises to the City, we request your acknowledgment of the above. Please sign below and fax this letter to me at (561) 233-0210 with the original mailed to my attention. Furthermore, by executing this letter below, the City hereby agrees to include this letter as an exhibit to any agreement regarding the future conveyance(s) or development of the Premises.



B. Smith, City of South Bay - 480 US Hwy. 27 North  
February 23, 2006  
page three - via fax and regular mail \_\_\_\_\_ /

Should you have any questions, do not hesitate to contact me at (561) 233-0220. Thank you.

Sincerely,

Samara J. Cooper  
Assistant Director

SJC:SKS

cc: Richard C. Bogatin, Manager, Property Management/PREM  
Steven K. Schlamp, Property Specialist/PREM  
Howard J. Falcon, Assistant County Attorney (via fax only to 561-355-4398)  
Richard E. Walesky, Director/ERM (via fax only to 561-233-2414)

---

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ACKNOWLEDGED AND AGREED TO:

City of South Bay

By: \_\_\_\_\_

  
Signature

TONY Smith  
Print Name

City Manager  
Title

Select Year: 2005

Go

## The 2005 Florida Statutes

Title XIV

Chapter 197

[View Entire Chapter](#)

### TAXATION AND FINANCE TAX COLLECTIONS, SALES, AND LIENS

#### 197.592 County delinquent tax lands; method and procedure for sale by county; certain lands conveyed to municipalities; extinction of liens.--

- (1) Lands acquired by any county of the state for delinquent taxes in accordance with law which have not been previously sold or dedicated by the board of county commissioners may, at its discretion, be conveyed to the record fee simple owner of such lands as of the date the county obtained title to the lands. However, before any conveyance shall be made, the former owner of the lands may file with the board of county commissioners a verified written application which shall show:
- (a) The description of the lands for which a conveyance is sought;
  - (b) The name and address of the former owner;
  - (c) The date title was acquired by the county;
  - (d) The price of the lands as previously fixed by resolution of the board of county commissioners, if this has been done;
  - (e) The use to which the lands were enjoyed by the record fee simple owner at the time of acquisition by the county;
  - (f) A brief statement of the facts and circumstances upon which the former owner bases the request for restitution of the described property;
  - (g) An offer to pay an amount equal to all taxes, including municipal taxes and liens, if any, which had become delinquent, together with interest and costs provided by law.
- (2) In the event the described lands have not been assessed for taxes for the current year in which the petition is filed, the applicant shall pay, in addition, the taxes for current and omitted years, the latter amount to be determined by applicable millage for the omitted years and based on the last assessment of the described lands.
- (3) Lands acquired by any county of the state for delinquent taxes in accordance with law which have not been previously sold, acquired for infill housing, or dedicated by the board of county commissioners, which the board of county commissioners has determined are not to be conveyed to the record fee simple owner in accordance with the provisions of subsections (1) and (2), and which are located within the boundaries of an incorporated municipality of the county shall be conveyed to the governing board of the municipality in which the land is located. Such lands conveyed to the municipality shall be freely alienable to the municipality without regard to third parties. Liens of record held by the county on such parcels conveyed to a municipality shall not survive the conveyance of the property to the municipality.
- (4) Liens of record held by the county upon lands not conveyed in accordance with subsections (1) and (2) or subsection (3) shall not survive the conveyance of the property to the county.

**History.**--s. 1, ch. 22870, 1945; ss. 1, 2, ch. 69-55; s. 1, ch. 72-268; s. 23, ch. 73-332; s. 197, ch. 85-342; s. 7, ch. 86-141; s. 6, ch. 99-190.

**Note.**--Former ss. 194.471, 197.655, 197.302.

[http://www.flsenate.gov/Statutes/index.cfm?p=2&App\\_mode=Display\\_Statute&Search\\_String=&...](http://www.flsenate.gov/Statutes/index.cfm?p=2&App_mode=Display_Statute&Search_String=&...) 5/17/2006

**ATTACHMENT # 6**

Select Year: 2005

## The 2005 Florida Statutes

Title XVIII  
PUBLIC LANDS AND PROPERTYChapter 270  
PUBLIC LANDS[View Entire Chapter](#)

### 270.11 Contracts for sale of public lands to reserve certain mineral rights; prohibition on exercise of right of entry in certain cases.--

(1) Unless the applicable agency chooses not to reserve such interest and except as otherwise provided by law, in all contracts and deeds for the sale of land executed by the Board of Trustees of the Internal Improvement Trust Fund or by any local government, water management district, or other agency of the state, there shall be reserved for such local government, water management district, other agency of the state, or the board of trustees and its successors an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half interest in all the petroleum that is or may be in, on, or under said land with the privilege to mine and develop the same.

(2)(a) The Board of Trustees of the Internal Improvement Trust Fund may, in its discretion, sell or release any reserved interest or any portion thereof in or as to any particular parcel of land, and the State Board of Education may sell or release any such interest or any portion thereof which was reserved for said board pursuant to this section prior to September 1, 1967. Such sale or release shall be made on application of the owner of the title to the particular parcel of land with statement of reason justifying such sale or release.

(b) The right of entry in respect to any interest in phosphate, minerals, and metals or any interest in petroleum heretofore or hereafter reserved in favor of the Board of Trustees of the Internal Improvement Trust Fund or the State Board of Education is hereby released as to any parcel of property that is, or ever has been, a contiguous tract of less than 20 acres in the aggregate under the same ownership.

(3) A local government, water management district, or agency of the state may, at its discretion, sell or release reserved interest in any parcel of land, except that such sale or release shall be made upon petition of the purchaser for such interest and with a statement of reasons justifying such sale or release.

(4) Any state agency, except a water management district, which receives royalties for parcels shall remit any such moneys into the General Revenue Fund, unless otherwise provided by law.

**History.**--ss. 1, 2, ch. 6159, 1911; RGS 1226; CGL 1771; s. 1095, ch. 19355, 1939; CGL 1940 Supp. 892(414); s. 1, ch. 26849, 1951; s. 1, ch. 59-220; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 76, ch. 71-355; s. 1, ch. 86-205; s. 1, ch. 86-257; s. 9, ch. 2001-256.

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