

ADD ON

Meeting Date
July 11, 2017



AGENDA	
Section	New Business
Item No.	VI.F.3

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Seeking Recoupment of County TIF payments used to pay a salary to a CRA Commissioner; Revocation of Authority
DEPT/OFFICE:	District 3

Requested Action:

INITIATING JUDICIAL PROCEEDINGS AGAINST THE TOWN OF PALM SHORES AND ITS CRA, SEEKING DECLARATORY RELIEF AND MONETARY DAMAGES; REVOKING DELEGATIONS OF AUTHORITY TO THE TOWN OF PALM SHORES COMMUNITY REDEVELOPMENT AGENCY FOR NON-PERFORMANCE

Summary Explanation & Background:

Beginning in approximately 2012, the Mayor of the Town of Palm Shores began receiving a salary, paid for out of the CRA trust fund, for her role as CRA Director. Florida Statute prohibits paying salaries to Commissioners of CRAs.

In the delegation of authority by Brevard County, in 2002, allowing the creation and maintenance of the CRA, the County put a cap of 25% on administration expenses. The CRA exceeded that cap in multiple years.

This resolution seeks to recoup TIF payments made by the County which were used for the salary, and revoke the delegations authority of the CRA going forward, under the terms of the 2002 resolution.

Missing Item
original agenda
printed off?
DM 8/16/17

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

Interim County Manager

Assistant County Manager
Venetta Valdengo

Department Director / Extension

Frank Abbate

Interim Assistant County Manager
John Denninghoff

John Tobia, District 3 Commissioner
Ext. 52075



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 12, 2017

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item VI.F.3., Interlocal Agreement with the Town of Palm Shores for Payoff of County Tax Increment Financing (TIF) Payments Used to Pay a Salary to a Community Redevelopment Agency (CRA) Commissioner

The Board of County Commissioners, in regular session on July 11, 2017, approved the Interlocal Agreement with the Town of Palm Shores for the payoff of County TIF payment, in the amount of \$101,902 to be paid back within a 30-day timeframe to the County. Enclosed are two executed Interlocal Agreements for your action.

Upon execution by the Vice Mayor of Town of Palm Shores, please return the fully-executed Interlocal Agreement to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

Encls. (2)

cc: Each Commissioner
Interim County Manager
Interim Assistant County Manager
Finance
Budget

Deborah Thomas

From: Donna Scott
Sent: Wednesday, July 19, 2017 9:38 AM
To: Deborah Thomas
Cc: Tammy Rowe; Christine Mulligan-Willey
Subject: FW: Interlocal agreement

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

We are good to go on Tuesday for Chairman to sign and to provide the originals to Attorney Knox, and please make a copy after the meeting for us Tammy/Christy.

Donna Scott
Assistant Clerk to the Board
(321) 637-2001 / Ext. 49120



From: Knox, Scott L [mailto:Scott.Knox@brevardfl.gov]
Sent: Wednesday, July 19, 2017 9:33 AM
To: Donna Scott
Subject: RE: Interlocal agreement

The City will be approving and signing their end of the deal on the 25th as well, so that would work.

Scott L. Knox, Brevard County Attorney
2725 Judge Fran Jamieson Way
Melbourne, FL 32940
(321) 633-2090

The State of Florida has a broad public records law and a request made under the authority of that Public Records law may require the disclosure and copying of any email sent to this office unless exempt, privileged or confidential under state law .

From: Donna Scott [mailto:donna.scott@brevardclerk.us]
Sent: Wednesday, July 19, 2017 8:31 AM
To: Knox, Scott L
Cc: Tammy Rowe; Deborah Thomas
Subject: RE: Interlocal agreement
Importance: High

Good morning Scott,

Are the timeframes okay if we have the Clerk sign today and the Chairman sign on Tuesday, July 25; then providing the executed ILA to you?

10/2

INTERLOCAL AGREEMENT

This Agreement, made and entered by and between the Town of Palm Shores, Florida, hereinafter referred to as "Town" and Brevard County, a political subdivision of the State of Florida by and through its Board of County Commissioners, hereinafter referred to as "County".

Whereas, the Town was granted certain Community Redevelopment Agency ("CRA") powers delegated to the Town by the Brevard County Board of County Commissioners; and,

Whereas, the Town has begun the process to dissolve the Ordinances and Resolutions of the Town establishing the Town's CRA; and,

Whereas, the Town has provided in the Ordinance that no future tax increment revenues shall be appropriated by Brevard County to the Town of Palm Shores CRA trust fund absent an interlocal agreement to the contrary between Brevard County and the Town; and,

Whereas, the Town has also provided in the Ordinance that there will be an the immediate transfer of all current CRA Funds to Brevard County, a copy of the proposed Ordinance is attached; and

Whereas, the Town and the County have identified a legal issue relating to certain payments made from the CRA funds by the Town for compensation paid the Mayor as the CRA director; and,

Whereas, the Town agrees that it is in the best interest of the public to return the funds paid for that compensation to the County; and,

Whereas the Town and the County agree to be bound by this agreement.

It is therefore, agreed as follows:

- (1) The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part of this Agreement.
- (2) Authority: This Agreement shall be considered an Interlocal Agreement pursuant to authority of Chapter 164 of the Florida Statutes.

- (3) The Town agrees to pay and the County accepts the sum of \$101,902.00 as full and complete reimbursement of any and all funds paid to the Mayor as director of the CRA. The repayment shall be within 30 days of the approval of this Agreement by the respective governing bodies to this Agreement.
- (4) Modification: No modification of this Agreement shall be binding on either party unless reduced to writing and signed by a duly authorized representative of the County and the Town. The Town Manager, or designee, and the County Manger, or designee, are hereby authorized to execute minor amendments that are necessary to implement the purpose and intent of this Agreement, as long as the County's funding contribution is not increased.
- (5) Venue: Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this Agreement shall be in the Eighteenth Judicial Circuit Court in and for Brevard County, Florida and any trial shall be non-jury.
- (6) Severability: If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceable shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can still be accomplished.
- (7) Entirety: This Agreement represents the understanding and agreement of the parties in its entirety. There shall be no amendments to the Agreement unless such amendments are in writing and signed by both parties.
- (8) Nothing herein shall be deemed as an admission of fault or liability and is being entered into in the best interest of the parties hereto

IN WITNESS WHEREOF, we have set our hands and seals.

ATTEST:

Town of Palm Shores:

Patricia Burke
Town Clerk

Frank Falcone
Frank Falcone, Vice Mayor

Date 07/25/17

ATTEST:

Scott Ellis

Scott Ellis, Clerk of the Board of County
Commissioners of Brevard County, Florida

Curt Smith

Curt Smith, Chair

As approved by the Board on:

July 11, 2017

Date

RESOLUTION NO. 2017-_____

A RESOLUTION INITIATING JUDICIAL PROCEEDINGS, AS CONSISTENT WITH FLORIDA STATUTES, AGAINST THE TOWN OF PALM SHORES SEEKING DECLARATORY RELIEF AND MONETARY DAMAGES; REVOKING DELEGATIONS OF AUTHORITY TO THE TOWN OF PALM SHORES COMMUNITY REDEVELOPMENT AGENCY FOR NON-PERFORMANCE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Brevard County Board of County Commissioners delegated authority to the Town of Palm Shores to create and maintain a Community Redevelopment Agency ("CRA") consistent with Chapter 163, Florida Statutes, in 2002 when it enacted Resolution 02-221; and

WHEREAS, the Town of Palm Shores CRA was then created in 2004; and

WHEREAS, the Town of Palm Shores chose to structure the CRA so that voting members of the Town of Palm Shores Government would serve as Commissioners of the CRA, consistent with Chapter 163, Florida Statutes; and

WHEREAS, the Mayor of Town Shores is a voting member of the local government, and therefore serves as a commissioner of the Town of Palm Shores CRA; and

WHEREAS, beginning in approximately 2011, the Mayor of the Town of Palm Shores was named CRA Director; and

WHEREAS, beginning in approximately 2012, the Mayor of the Town of Palm Shores began receiving a salary, paid for out of the CRA trust fund, for her role as CRA Director; and

WHEREAS, Fla. Stat. § 163.356(3)(a) expressly prohibits CRA commissioners from receiving a salary by declaring that "a commissioner shall receive no compensation for services..."; and

WHEREAS, Chapter 163, Florida Statutes, lists no exceptions to this prohibition; and

WHEREAS, the salary for the Town of Palm Shores CRA Director is derived entirely from County TIF payments; and

WHEREAS, approximately \$84,500 of County funds have been unlawfully expended by the Town of Palm Shores CRA in paying a salary to a CRA commissioner; and

WHEREAS, Resolution 02-211 expressly caps administrative expenses for the Town of Palm Shores CRA to 25% of TIF revenue; and

WHEREAS, during the period of 2012-2014, the Town of Palm Shores CRA spent 40.8%, 37.4%, and 26.6%, respectively, of TIF revenue on administrative expenses.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

- 1) The foregoing recitals are incorporated by reference in this Resolution as findings of the County
- 2) Subject to compliance with the mandatory dispute resolution procedures imposed by Chapter 164, Florida Statutes, on the County, the Town of Palm Shores CRA and the Town of Palm Shores, the County shall pursue an action for declaratory relief in order to seek a judicial determination as to the propriety of the expenditure of CRA revenues for the Mayor's services as CRA Director, and pursue an associated claim for monetary compensation to recoup the tax increment funds paid to the Mayor of the Town of Palm Shores as CRA Director
- 3) As of the date of adoption of this resolution, the County Commission hereby revokes and rescinds all CRA authorities previously delegated to the Town of Palm Shores including, but not limited to, those delegated in Resolution 02-221, to the extent permitted by Florida Statute, based on failure to perform (non-performance) in accordance with applicable laws and by the terms of Resolution 02-221, it being in the fiscal interests of the County, and shall cease all future annual County tax increment paid to the Town CRA
- 4) This resolution shall take effect on the date of adoption.

DONE AND ADOPTED, this ____ day of July, 2017

BREVARD COUNTY, THROUGH ITS Board of County Commissioners

BY: _____
Curt Smith, Chairman

(as approved by the Board on _____, 2017)

Attest:

Scott Ellis, Clerk