

Meeting Date
<b>APRIL 11, 2017</b>



AGENDA	
Section	CONSENT
Item No.	II.A.5

**AGENDA REPORT**  
**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

SUBJECT:	Approval of Settlement Agreement relating to the Palm Shore Properties, LLC; (District 4)
DEPT/OFFICE	Utility Services Department

**Requested Action:**

It is requested that the Board of County Commissioners approve the settlement agreement between Palm Shores Properties, LLC, Brevard County Department of Health and Brevard County Board of County Commissioners allowing Palm Shores Properties, LLC to extend mandatory sewer connection until March 31, 2018.

**Summary Explanation & Background:**

Palm Shores is a recreational vehicle park owned and operated by Palm Shores Properties LLC. This RV Park is licensed by the Florida Department of Health (DOH) and is currently on individual septic systems. Due to repeated failures of septic systems within the Park, the Health Department is requiring all units in the Park to connect to the County sewer system. Pursuant to Section 110-66 (d) of the County Code, the Board, with approval of the Health Department, may extend the time required.

On July 22, 2016 the DOH issued a citation to Palm Shores Properties for failure to connect residences to the available sewer. The DOH levied a \$2,500 fine at that time. The County and the DOH have met with Palm Shores Properties several times to try to resolve this issue. Palm Shores Properties has requested additional time to connect to the county's sewer system.

The DOH and the county have drafted the attached agreement which would allow additional time for the mandatory connection of Palm Shores Properties to the county's sewer system. This agreement calls for:

- A.) Design of the Palms Shores RV Park sewer system to be owned and operated by Palm Shores Properties as a private system.
- B.) Palm Shores Properties will provide notice to all existing residents of the terms, conditions and financial implications of the connection to sewer. The DOH and the county will approve this notice prior to its distribution.
- C.) Palm Shores Properties will obtain FDEP approval for the system prior to May 31, 2017.
- D.) Palm Shores Properties may apply to the County to construct the permanent system.
- E.) Palm Shores must meet all county requirements (including connection fees) prior to activation of the sewer service.
- F.) Prior to October 1, 2017 Palm Shores Properties will begin construction of any remaining portions of the permanent system or provide residents notice that the park will close on or before March 31, 2018.

**Fiscal Impact:** The Utility Services Department will receive connection fees when units connect to the system, and service fees thereafter.

Contact: Jim Helmer, Utility Services Director, 321-633-2091, [jim.helmer@brevardfl.gov](mailto:jim.helmer@brevardfl.gov)

Clerk to the Board instruction: Execute four copies and return 3 originals to Utility Services Department, Bldg A-213, Viera

Exhibits Attached: Settlement Agreement Palm Shores Properties, LLC

<b>Contract /Agreement (If attached):</b> Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager		Assistant County Manager, Frank Abbate		Department Director / Extension			
Stockton Whitten		Assistant County Manager, Venetta Valdengo		 Jim Helmer, Utility Services Director / x52091			



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

April 12, 2017

MEMORANDUM

TO: Jim Helmer, Utility Services Director

RE: Item II.A.5., Settlement Agreement between State of Florida Department of Health in Brevard County, Brevard County, and Palm Shores Properties, LLC for Allowing Palm Shores Properties, LLC to Extend Mandatory Sewer Connection Until March 31, 2018

The Board of County Commissioners, in regular session on April 11, 2017, approved the Settlement Agreement between the State of Florida Department of Health in Brevard County, Brevard County, and Palm Shores Properties, LLC allowing for Palm Shores Properties, LLC to extend mandatory sewer connection until March 31, 2018. Enclosed are three fully-executed Agreements for your action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encls. (3)

cc: Contracts Administration  
Finance  
Budget

**SETTLEMENT AGREEMENT**  
**BETWEEN**  
**STATE OF FLORIDA**  
**DEPARTMENT OF HEALTH IN BREVARD COUNTY**  
**AND**  
**BREVARD COUNTY**  
**AND**  
**PALM SHORES PROPERTIES, LLC**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2017, between the State of Florida (Florida Department of Health in Brevard County), an agency of the State of Florida, 2725 Judge Fran Jamieson Way, Suite A-116, Viera, Florida 32940 hereinafter referred to as the "DEPARTMENT", Brevard County, 2725 Judge Fran Jamieson Way, Building A, Viera, Florida, 32940, hereinafter referred to as "COUNTY"; and Palm Shores Properties LLC, 2651 W. Eau Gallie Blvd, Suite A, Melbourne, FL 32935 hereinafter referred to as "PALM SHORES".

WHEREAS, PALM SHORES, operates a recreational vehicle park that is located at 5090 N Harbor City Boulevard, Melbourne, FL 32940, Brevard County, Florida.

WHEREAS, PALM SHORES, is a recreational vehicle park that is licensed by the DEPARTMENT.

WHEREAS, PALM SHORES, is currently on individual septic systems for their sewage disposal. These systems are permitted by the DEPARTMENT.

WHEREAS, on October 19, 2015 the DEPARTMENT notified PALM SHORES that pursuant to Florida Statue 381.00655 PALM SHORES must connect to municipal sewer within ninety (90) days.

WHEREAS, due to the availability of municipal sewer the DEPARTMENT is unable to issue repair permits.

WHEREAS on July 22, 2016 the DEPARTMENT issued a Citation for Violation Mobile Home, Recreational Vehicle, and Lodging Parks and Recreational Camp Program citing several violations including: failure to connect residences to sewer and safe method of sewage disposal. The DEPARTMENT levied a two thousand and five hundred dollar (\$2,500.00) fine against PALM SHORES.

WHEREAS the citation became Final Order on August 12, 2016 and PALM SHORES paid the \$2,500.00 fine on August 4, 2016.

WHEREAS, several meetings have taken place between the DEPARTMENT, PALM SHORES and COUNTY, in attempt to resolve this matter.

WHEREAS, PALM SHORES has requested the DEPARTMENT and COUNTY to allow PALM SHORES to continue to use failing and non-failing systems, for a period not to exceed March 31, 2018, so as to minimize the displacement of PALM SHORES residents.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties AGREE as follows:

1. The **DEPARTMENT** and **COUNTY** agree to postpone the mandatory connection of **PALM SHORES** to the county's public sewer system, under the provisions of Florida Statutes 381.00655 and Chapter 110-66 of Brevard's County Code until March 31, 2018 under the following conditions:

A) Prior to May 31, 2017, **PALM SHORES** shall design and obtain engineering approval from **COUNTY** for a permanent sewer system to serve all of **PALM SHORES**. The sewer system shall be owned and operated by **PALM SHORES** as a private system.

B) Prior to March 31, 2017, **PALM SHORES** shall provide notice to all existing **PALM SHORES** residents of the terms and conditions of this agreement and the financial and occupancy implications contained herein. The text of the notice shall be approved by the **DEPARTMENT** and **COUNTY** prior to distribution to the residents. Further, **PALM SHORES** agrees to provide a similar notice to all new residents that may stay or move into the park.

C) Prior to May 31, 2017, **PALM SHORES** shall obtain Florida Department of Environmental Protection (FDEP) approval for the permanent sewer system to serve all **PALM SHORES**.

D) After FDEP Approval, **PALM SHORES** may apply to the **COUNTY** to construct any portion of the approved permanent system to serve any lots with **PALM SHORES**. **COUNTY** may require pre-construction meeting prior to any construction. **PALM SHORES** agrees the location of the failing system which serves 12 RV units will be the first phase to connect.

E) Prior to the activation of sewage service for any portion of the system, **PALM SHORES** must receive specific authorization from **COUNTY**. Active authorization shall only be granted upon verification of proper construction, payment of **COUNTY** connection fees, and the establishment of a sewer account for the billing and payment of monthly sewage service fees. Sewer charges for any structure that has an independent water meter shall conform to the rates in effect at that time. Sewer charges for any structure that is not independently metered shall pay standard sewer charge for sewer customers served by a private water well.

F) Prior to October 1, 2017, **PALM SHORES** shall begin construction of any remaining portions of the permanent system or provide **PALM SHORES** residents notice the **PALM SHORES** will close on or before March 31, 2018. The activation requirements of the remaining units shall be the same as for any units connected to the sewer system during the prior years.

2. **PALM SHORES** agrees that prior to March 31, 2018, if any septic systems fail, the **DEPARTMENT** is unable to issue a repair permit and the system must be properly abandoned immediately; or when sewer connections are completed, the septic systems must be properly abandoned immediately. An abandonment permit must be obtained by the **DEPARTMENT** before any abandonment can occur and the abandonments must be completed by a septic tank contractor registered in the state of Florida or a Florida licensed plumber. Further, **PALM SHORES** must abate any sanitary nuisance as defined by S. 386.01 within twenty-four (24) hours of occurrence. Minor structural corrections to the septic systems may be made by a Florida licensed plumber or registered septic tank contractor but only to include the replacement

of distribution boxes. The DEPARTMENT must be notified of these corrections prior to commencement of work.

3. The DEPARTMENT will allow the 12 sites to continue using the failing septic system with the agreement that PALM SHORES will enter into a contract with a septic tank contractor registered in the state of Florida or a Florida licensed plumber to have the tank pumped no less than every 10 days until all existing units are connected to sewer. PALM SHORES agrees to submit a copy of the contract to the DEPARTMENT at the time of signature of this document and submit pump out receipts within 5 days of the work.

4. PALM SHORES agrees that if the failing septic system can no longer function pursuant to the conditions in paragraph number three above, than the RV units will immediately disconnect from the system and utilize the dump station onsite to dispose of their sewage. PALM SHORES will be required to hire a septic tank contractor registered in the state of Florida or a Florida licensed plumber to obtain an abandonment permit from this DEPARTMENT and abandon the tank.

5. PALM SHORES agrees that if the park is not connected to public sewer by March 31, 2018, than the RV units on the failing septic system will be immediately disconnected from the system and the RVs will be required to utilize the dump station onsite to dispose of their sewage. PALM SHORES will be required to hire a septic tank contractor registered in the state of Florida or a Florida licensed plumber to obtain an abandonment permit from this DEPARTMENT and abandon the tank. Moreover, PALM SHORES agrees to waive any and all rights to contest or request any waiver from the DEPARTMENT'S mandates under Section 381.00655. Additional time extensions may be granted at the sole discretion of the DEPARTMENT.

6. The parties to this agreement further agree and covenant that this agreement is binding on the parties, their heirs-at-law, and their assigns and successors in interest as evidenced by their signatures and lawful executions below.

7. All terms and conditions of this settlement are fully set forth in this document and no other material terms of settlement exist outside this document.

8. In the event any legal action must be taken to enforce the terms of this Settlement Agreement, all parties agree that venue will be in Brevard County, Florida, any court proceedings or trial will be non-jury, and that each party shall bear its own attorney's fees and costs.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the date first above written.

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

Maria Stahl  
Mary Stahl, Administrator/Health Officer

Date: 4/9/17

BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS

Curt Smith  
Curt Smith, Chair

As approved by the Board on: 4/11/17

ATTEST: Scott Ellis  
SCOTT ELLIS, CLERK

**ATTEST:**

\_\_\_\_\_  
Scott Ellis, Clerk

Before me, the undersigned authority personally appeared Jake Wise and David E. Alley, authorized representatives of the Palm Shores Properties, LLC, who presented personal identification to me, who did acknowledge to me, under oath, that they have read the above and foregoing Settlement Agreement they have affixed their signatures thereto and have the legal authority and power to sign such an agreement.

DATED at Brevard County, Florida the 1<sup>st</sup> day of March 2017.

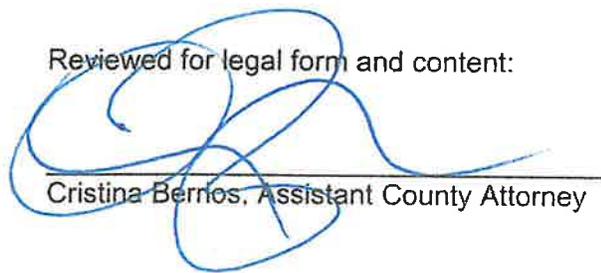
  
\_\_\_\_\_  
Notary Public, State of Florida

**PALM SHORES PROPERTIES LLC**

  
\_\_\_\_\_  
Jake Wise, Managing Member

  
\_\_\_\_\_  
David E. Alley, Managing Member

Reviewed for legal form and content:

  
\_\_\_\_\_  
Cristina Bernos, Assistant County Attorney



**MICHELLE FLORENCE EDWARDS**  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF064418  
Expires 10/20/2017