

**Lee County Board Of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20041325

**1. REQUESTED MOTION:**

**ACTION REQUESTED:**

Adopt a Resolution to amend the Administrative Code, amending the policy and procedure for waiving a Municipal Services Benefit Unit penalty, AC 3-23.

**WHY ACTION IS NECESSARY:**

Requires approval by the Board of County Commissioners.

**WHAT ACTION ACCOMPLISHES:**

Expands the ability of the MSTBU office to work with property owners in obtaining past due assessments.

**2. DEPARTMENTAL CATEGORY:  
COMMISSION DISTRICT #:**

*CLA*

**3. MEETING DATE:**

*11-02-2004*

**4. AGENDA:**

**5. REQUIREMENT/PURPOSE:  
(Specify)**

<input type="checkbox"/>	STATUTE	
<input checked="" type="checkbox"/>	ORDINANCE	97-23
<input type="checkbox"/>	ADMIN. CODE	
<input type="checkbox"/>	OTHER	

**6. REQUESTOR OF INFORMATION:**

A. COMMISSIONER  
 B. DEPARTMENT Public Resources  
 C. DIVISION MSTBU Services  
 BY: Libby Walker

**7. BACKGROUND:**

On July 11, 2000 the Board adopted Administrative Code 3-23, providing for the MSTBU office to waive penalty on special assessments that meet certain criteria. This program has allowed many property owners to work with this office to bring their accounts current and/or pay off their assessments. The current administrative code requires a parcel for which a penalty is being waived, to be a homesteaded property.

The amendment requested would expand the eligible parcels to include those parcels that are sold at a tax deed sale. In many cases a parcel is sold at the tax deed sale with the purchaser to find that a special assessment is due and that penalty has accrued, sometimes to an amount that significantly exceeds the value of the parcel. Approving this amendment will help to collect past due accounts and will assist keeping these properties in the private sector.

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	Risk	GC	
<i>[Signature]</i>				<i>[Signature]</i>	<i>CA</i> 10/19/04	<i>10/20/04</i>	<i>10/20/04</i>	<i>10/16/04</i>	<i>10-21-04</i> <i>[Signature]</i>

**10. COMMISSION ACTION:**

APPROVED  
 DENIED  
 DEFERRED  
 OTHER

Rec. by CoAtty  
 Date: *10/19/04*  
 Time: *8:10*  
 Forwarded To:  
*Co. Admin*  
*10/19/04*

RECEIVED BY  
 COUNTY ADMIN: *CA*  
*10/19/04*  
*3:25pm SLT*  
 COUNTY ADMIN  
 FORWARDED TO: *PK*  
*10/21/04*  
*3pm*

LEE COUNTY RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF CERTAIN AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE; AMENDING THE POLCIY AND PROCEDURES FOR THE MSBU PENALTY WAIVER.**

**WHEREAS**, the Board of County Commissioners is the governing body in and for Lee County, a political subdivision of the State of Florida; and,

**WHEREAS**, the Board of County Commissioners has previously enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80 and ff., Florida Statutes, and which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

**WHEREAS**, the Board of County Commissioners has previously enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

**WHEREAS**, Lee County Ordinance No. 97-23 at Section III allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting; and,

**WHEREAS**, the Board of County Commissioners on July 11, 2000 adopted Resolution #00-07-06, which established administrative code AC 3-23; and

**WHEREAS**, a certain amendment to the Lee County Administrative Code is now being proposed, and the Board of County Commissioners finds that such proposed amendment is acceptable, serve a public purpose and is consistent with the terms and conditions of Lee County Ordinance No. 96-01, the Lee County Charter.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:**

1. The above preamble is hereby accepted and approved as being true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The proposed amendment(s) to the Lee County Administrative Code Amending Policy and Procedures for the MSBU Penalty Waiver (attached hereto as Exhibit A), is (are) approved, and are hereby directed to be incorporated into the Lee County Administrative Code as indicated in the amendment(s).
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other remaining provisions of this Resolution. It is hereby declared to be the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.

4. This Resolution shall become effective immediately upon its adoption by the Board of County Commissioners.

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

ROBERT P. JANES	_____
DOUGLAS ST. CERNY	_____
RAY JUDAH	_____
ANDREW W. COY	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**ATTEST:**  
**CHARLIE GREEN, CLERK**

**BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA**

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

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

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Office of the County Attorney

**ADMINISTRATIVE CODE  
BOARD OF COUNTY COMMISSIONERS**

**CATEGORY:**  
MSTBU

**CODE NUMBER:**  
AC 3-23

**TITLE:**  
MSBU Penalty Waiver

**ADOPTED:**  
July 11, 2000

**AMENDED:**

**ORIGINATING DEPARTMENT:**  
Public Resources/MSTBU Services

**PURPOSE/SCOPE:**

This Administrative Code is established for the purpose of implementing a Penalty Waiver Policy for MSBU Programs.

**POLICY/PROCEDURE:**

**A. PENALTY WAIVER**

- (1) The MSTBU Office will review the requests on a case by case basis and retains the right to approve or deny. Consideration will only be given to residential/homesteaded properties which have an MSBU special assessment lien on it, or those properties where the current owner(s) purchased the parcel through a tax deed auction within the past 18 months.
- (2) Any penalty clause within the Creation or Final Assessment documents of a specific project will take precedence over this administrative code.
- (3) The penalty can be waived if a) the account is paid in full in one payment, or b) if a payment plan executed between the MSTBU Office and the property owner, and complied with, bringing the account current within one year. Should an additional bill be run in that time, consideration will be given to extending the payment plan.
- (4) Penalty can only be waived one time for any given project/property.
- (5) Penalty cannot be waived if the MSTBU Office has sent a certified letter to the property owner and the property owner has not responded as per the letter, or if the account has been turned over to the County Attorney's office for action.
- (6) If an account has been turned over to the County Attorney's office, the County Attorney has the option of waiving penalty.
- (7) Payments received will be applied directly to the interest and principal amounts of the account. When the account is current the MSTBU Office will delete the accrued penalty. Should the property owner fail to meet with the agreed payment plan, no penalty will be waived, and no further consideration will be given for a penalty waiver.
- (8) Any property with an executed payment plan must be paid in full upon the sale, transferred through an estate, or title/name changed, in order to have the penalty waived.

Any property owner who currently participates in the Lee County Solid Waste Hardship program for garbage can have penalty waived if the interest due is current and/or a payment plan for interest is agreed to. Penalty Waiver in a hardship case can be applied for annually. Documentation of hardship status approved by the Lee County Solid Waste Department must be provided to the MSTBU office annually. The penalty waiver will become null and void upon sale and/or transfer of title of the property.