

# *Agenda*

May 5, 2011 – 3:00 p.m.  
Governmental Center,  
301 North Olive Avenue, 6<sup>th</sup> Floor  
Commissioners Chambers

**Palm Beach County**

**Commission on Ethics**

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**Commissioners**

Edward Rodgers, Chair

Manuel Farach, Vice Chair

Robin N. Fiore

Ronald E. Harbison

Bruce E. Reinhart

**Executive Director**

Alan S. Johnson

**Staff Counsel**

Megan C. Rogers

**Administrative Assistant**

Gina A. Levesque

**Investigator**

Mark E. Bannon

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from April 7, 2011
- V. Public Comment Revision to By-Laws
- VI. Voting Conflicts
  - a. Commission on Ethics Request for Advisory Opinion from Attorney General's Office (requested by Commissioner Farach)
- VII. Processed Advisory Opinions (Consent Agenda)
  - a. RQO 11-018
  - b. RQO 11-019
- VIII. Items Pulled from Consent Agenda
  - a.
- IX. Proposed Advisory Opinions
  - a. RQO 11-009 (resubmitted from 4/7/11)
  - b. RQO 11-013 (resubmitted from 4/7/11)
  - c. RQO 11-015 (resubmitted from 4/7/11)
  - d. RQO 11-020
- X. Clarification of information provided to the Palm Beach Post by the City of Riviera Beach (requested by Commissioner Rodgers)
- XI. Revised Code of Ethics and Commission on Ethics Ordinances.
  - a. BCC Agenda Item 4H-1
  - b. BCC Agenda Item 4H-2
- XII. Executive Director Comments
- XIII. Public Comments
- XIV. Adjournment

**MEETING: PALM BEACH COUNTY COMMISSION ON ETHICS (COE)**

**I. CALL TO ORDER:** April 7, 2011, at 3:33 p.m., in the Commission Chambers, 6th Floor, Governmental Center, West Palm Beach, Florida.

**II. ROLL CALL**

MEMBERS:

Judge Edward Rodgers, Chair  
Manuel Farach, Esq., Vice Chair  
Dr. Robin Fiore – Appeared telephonically  
Ronald Harbison  
Bruce Reinhart, Esq. – Arrived later

STAFF:

Alan Johnson, Esq., COE Executive Director  
Gina Levesque, COE Administrative Assistant  
Megan Rogers, COE Staff Attorney  
Sydone Thompson, Deputy Clerk, Clerk & Comptroller's Office

**III. INTRODUCTORY REMARKS**

Judge Edward Rodgers stated that Dr. Robin Fiore would be appearing via telephone and he asked everyone to turn off or silence their cell phones.

**IV. APPROVAL OF MINUTES FROM MARCH 3, 2011**

**MOTION to approve the minutes of the March 3, 2011, meeting. Motion by Ronald Harbison, seconded by Manuel Farach, and carried 3-0. Robin Fiore and Bruce Reinhart absent.**

(CLERK'S NOTE: Robin Fiore joined the meeting telephonically.)

Dr. Robin Fiore stated that she had no corrections to the March 3, 2011, COE meeting minutes.

(CLERK'S NOTE: At the request of the chair, the agenda was taken out of sequence. Item XI. was discussed at this time.)

## **XI. REVIEW OF PUBLIC COMMENT PROCEDURES**

Alan Johnson, Esq., Commission on Ethics (COE) Executive Director (ED) stated that:

- At the March 3, 2011, COE meeting Manuel Farach requested a review of protocols for public comment so the COE could establish meeting procedures.
- The review consisted of County public comment policies and procedures, State statutes, and case law for County advisory boards and Board of County Commissioner (BCC) meetings.
- Florida Statute 286.011, the Florida Sunshine Law (Sunshine Law) did not specify whether public comment was required at public meetings.
- Statutes found in Chapter 163 of the Sunshine Law indicated the types of advisory boards that permitted public comments prior to voting. They included:
  - The Planning and Zoning Commission that required the public's input prior to making a zoning or land-use changes; or,
  - Quasi-judicial duly noticed hearings facilitated by a special master.
- The Florida courts extended the concept of public meetings to a marketplace of ideas in which governmental agencies received sufficient input from citizens. Case law stipulated that public comments were permissible for legislative agenda items, but not for executive decisions.
- Some County advisory boards published their agendas and one added a public comment agenda item.
- Staff recommended that:
  - Public comments should not be taken for final public hearings for complaint cases and executive sessions; and, should be permitted at the beginning at COE meetings;
  - The chair had the discretion to limit inappropriate public comments and impose time limits; and,

## **XI. – CONTINUED**

- A public comment section should be added to the COE's Rules of Procedure for non-executive sessions and non-final hearings.
- Examples of COE legislative actions included making recommendations to the BCC and COE drafting committee regarding COE ordinance modifications, and amending the COE Rules of Procedure.

(CLERK'S NOTE: Bruce Reinhart joined the meeting.)

Mr. Farach proposed that public comments should be permitted for each agenda item, prior to the COE taking action by vote or otherwise. He added that public comments should also be permitted during meetings in which punishment was imposed.

Mr. Harbison voiced his disagreement with Mr. Farach's proposal and suggested limiting public comments to two minutes.

Mr. Farach stated that he agreed with Mr. Harbison's recommendation to limit public comment to two minutes, but at the discretion of the chair, Judge Rodgers.

Mr. Johnson said that:

- In final public hearings, the public was not deposed prior to addressing the commission. Their statements, if directed toward substantive matters, could become evidence.
- In sentencing hearings, evidentiary or weighted statements made by the public should be disallowed.
- Public comment should be made after the sentencing phase to avoid conflicts.

Dr. Fiore expressed concern that members of the public would be permitted to make statements at a final hearing without being placed under oath prior to the commission handing down its penalty.

Mr. Harbison said that he did not believe it was appropriate in the context of a hearing for the public to make comments.

## **XI. – CONTINUED**

Judge Rodgers said that he did not believe that the commission had the authority to place members of the public under oath as a requirement for speaking at COE meetings.

Mr. Harbison remarked that if a member of the public were not a party to the case while the COE deliberated, then their statements would muddle the deliberative process.

Dr. Fiore said that if the public had not heard the evidence that the commission was privy to, then she questioned the value of their comments.

Mr. Johnson said he had spoken with Miami-Dade Commission on Ethics and Public Trust Executive Director Robert Meyers, placed public comments at the end of its agenda, and experienced members of the public making weighted comments prior to the completion of the executive session.

Judge Rodgers said that the public was entitled to comment on the commission's actions. He added that persuasive comments made by the public could influence the commission's decision-making process.

Bruce Reinhart stated that he agreed with Judge Rodgers' statement. He said that in adjudicatory hearings, there was sentiment that the commission should take public comment prior to rendering sentences. He concluded that sanctions imposed by the commission should not be subject to the view of the public.

Judge Rodgers said that he agreed with Mr. Reinhart's comment and that he recommended fine-tuning guidelines for such circumstances.

**MOTION to approve, subject to the discretion of the chair and excluding aspects of the Commission on Ethics that were evidentiary in nature, that public comment should be permitted with regard to each group of agenda items prior to the commission taking a vote. Motion by Manuel Farach.**

**MOTION DIED FOR LACK OF SECOND.**

## **XI. – CONTINUED**

Judge Rodgers suggested that the matter be tabled for discussion at a future meeting.

Mr. Johnson said that:

- The COE could, at today's meeting, permit public comment for agenda items XI., X., XII., and XIV.
- The final Public Comment agenda item served as a platform for commentators to address concerns that were not discussed during the meeting.
- Most advisory boards permitted public comment at the end of meetings.
- Members of the public should submit comment cards to speak on agenda items, and be limited to two minutes.

(CLERK'S NOTE: The numeric sequence of the agenda was restored.)

## **V. PUBLIC COMMENT**

### **V.a.**

**DISCUSSED:** Public Comment.

Suzanne Squire after reading the COE mission statement, she asked that the commission received her document for public record purposes. She stated that the commissioners mistreated her at the prior COE meeting on March 3, 2011. She said that the commission was usurping its authority and treading on the people in the county.

(CLERK'S NOTE: At the attempt of disorderly conduct, the chair asked that the security officer be summoned to maintain decorum.)

Alexandria Larson said that it was offensive when commission members stated they did not want to hear from the public.

Judge Rodgers asked Ms. Larson if she had suggestions on procedures for public comment.

**V.a. – CONTINUED**

Ms. Larson said that members of the public should speak for three minutes and make their statements without interruption. She concluded that the public was taken out of the process, and that she implored the commission to review videos of the board of county commissioners' meetings.

**VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)**

Mr. Johnson stated that processed advisory opinions VII.a., RQO 11-017 and VI.e. RQO 11-016 pulled from the agenda were both items that involved the definition of lobbying in the context of lobbyists, and prohibitions against soliciting or accepting a gift greater than \$100 from a lobbyist, principal, or employer of a lobbyist. He said that the remaining consent agenda items VI.b. RQO 11-011, VI.c. RQO 11-014, and VI.d. RQO 11-015, could be voted on in their entirety.

Mr. Farach and Mr. Harbison requested that item VI.a. RQO 11-009 be pulled from the consent agenda because both commissioners had served on separate boards with Sarah Alsofrom, the petitioner in the opinion.

Dr. Fiore requested that item VI.a. RQO 11-009 be pulled from the consent agenda since it pertained to lobbying.

- VI.a. RQO 11-009 – Page 17**
- VI.b. RQO 11-011**
- VI.c. RQO 11-014**
- VI.d. RQO 11-015 – Pages 12-16**
- VI.e. RQO 11-016 – Pages 11-12**

**MOTION to approve consent agenda items RQO 11-011, RQO 11-014, and RQO 11-015. Motion by Bruce Reinhart, seconded by Ronald Harbison.**

## VI. – CONTINUED

**PUBLIC COMMENT:** Alexandria Larson.

Judge Rodgers said it would be inappropriate to make a decision on an advisory opinion after polling audience members.

Mr. Johnson suggested that Ms. Larson contact his office to discuss her inquiries.

Judge Rodgers suggested amending the COE Rules of Procedure so the public would be prohibited from commenting on cases in which the commission rendered a final decision.

**MOTION to accept staff's recommendation that public comments should not be taken for final public hearings on complaint cases and executive sessions; and, should be permitted at the beginning at COE meetings; that the chair had the discretion to limit inappropriate public comments, and impose time limits; and, that a public comment section should be added to the COE's Rules of Procedure for non-executive sessions and non-final hearings. Motion by Ronald Harbison, seconded by Bruce Reinhart, and carried 4-1. Manuel Farach opposed.**

Mr. Johnson asked whether the commission had voted to adopt items VI.b. RQO 11-011, VI.c. RQO 11-014, and VI.d. RQO 11-015. Mr. Harbison stated that the motion was to adopt staff's recommendation about public comment.

Mr. Johnson clarified that staff's recommendation was to accept public comment after each separate agenda item at today's meeting. He said that any public comments regarding requests for advisory opinions (RQO) should be permitted at the end of the meeting under agenda item XIV.

**RESTATED MOTION to accept staff's recommendation as stated by Mr. Johnson. Motion by Ronald Harbison, seconded by Bruce Reinhart, and carried 4-1. Manuel Farach opposed.**

(CLERK'S NOTE: The consent agenda vote was taken at this time.)

**UPON CALL FOR A VOTE, the motion carried 5-0.**

(CLERK'S NOTE: Consent agenda items RQO 11-009 and RQO 11-016 were pulled for discussion at this time.)



## **VII. ITEMS PULLED FROM CONSENT AGENDA**

Regarding processed advisory opinions RQO 11-016 and RQO 11-017, Mr. Johnson explained that:

- The lobbyist registration ordinance defined lobbying, but the Code had no such definition.
- The COE drafting committee incorporated the definition of lobbying into the Code as it related to the municipalities. It was presumed that the definition of lobbying would remain in the Code.
- Goodwill lobbying, added to the Code, was another type of lobbying.
- The term, lobbyist, did not refer to a specific governmental entity, but described someone who tried to influence governmental decisions.
- The term, lobbying, modified the term, lobbyist, as an act performed before a particular government.
- In advisory opinion RQO 10-030:
  - Rachel Ondrus, Executive Director of the County legislative delegation, attempted to rent an apartment from a woman whose husband was a lobbyist for the State legislature;
  - The lobbyist husband had not lobbied the County, and the commission concluded that any lobbyist regardless of location was a lobbyist as per the Code; and,
  - Therefore, gifts greater than \$100 could not be accepted from that individual.
- Staff recommended that:
  - There was no rational basis to sustain appeals against lobbyists who had not lobbied the County or actively lobbied the County.
  - An acceptance of the definition of lobbyist without a definition of lobbying only partially addressed the term.

## VII. – CONTINUED

- The COE could decide whether to discard the earlier advisory opinion decision and apply both Codes' definitions, which were in the jurisdiction of the COE, since lobbyists worked within certain jurisdictions.

Mr. Reinhart recommended that the COE limit the lobbyists' prohibition to individuals lobbying in a particular public official's jurisdiction.

Dr. Fiore stated that:

- She did not agree with Mr. Reinhart's recommendation because, in light of State term limits, intra-county, and intra-state commerce in the County, the issue was not the lobbyists' geographical origination. Lobbyists gave gifts to gain influence. Such actions constituted corruption.
- Human beings responded favorably to people who granted favors through gifts. Therefore, public officials should not accept gifts.

Mr. Reinhart said that the issue was treated broadly, since public officials could not accept legitimate gifts from friends or family members who had not lobbied that public official. He asked whether carveouts for legitimate gifts could be permitted.

Mr. Johnson explained that the COE drafting committee considered whether vendors, lobbyists, principals, or employers of lobbyists should be prohibited from giving gifts greater than \$100 to a public official they were vending; and, he added that the goal was not to create carveouts for vendors, lobbyists, principals, or employers of lobbyists. He said that if the COE viewed all lobbyists and vendors under the \$100 or greater gift prohibition, vetting the issue with the drafting committee could prove problematic from a legal perspective.

Dr. Fiore asked whether it was acceptable for a vendor to give a gift prior to a contract being in force. Mr. Johnson said that it was prohibited because the Code specifically discussed vendors who sought favors in anticipation of future contracts.

## VII. – CONTINUED

Mr. Johnson added that:

- The lobbyist definition was inadvertently omitted from the Code. The term lobbying was in the Code.
- Lobbying was defined in the lobbyist registration ordinance and included provisions for goodwill gifts.
- The Code addressed advisory board members who lobbied their advisory board or department over which the advisory board exercised authority.
- The ordinance limited lobbyists' sphere of influence.

Judge Rodgers asked whether geographical confines existed for lobbyists.

Assistant County Attorney Leonard Berger said that:

- The definition of lobbying as drafted in the lobbyist registration ordinance was relative to the Code. The element of knowledge was an important factor to consider when discussing lobbyists and the gift law.
- One concrete method for determining whether someone knew or should have known that an individual was lobbying was to check the lobbyist register.
- It would be difficult to rationalize preventing out-of-State lobbyists from giving gifts to a County employee or official.
- The registration process required lobbyists to indicate their areas of legislative interests, and it proved difficult for them to disclose every board they could appear before.
- The County's Information System Services department was currently developing a centralized lobbyist registry with the League of Cities for municipalities' use.
- Individuals who lobbied the State were registered with the State, but not with the County's registry.

## **VII. – CONTINUED**

- A County employee could not accept gifts from lobbyists who did not lobby the County, but who lobbied a municipality.

### **VI.e. RQO 11-016**

Mr. Johnson stated that City of Boynton Beach (Boynton Beach) City Manager Kurt Bressner requested an opinion RQO 11-016. He explained that COE staff counsel Megan Rogers, Esq., had processed the opinion and issued the response letter.

Regarding processed advisory opinion RQO 11-016 Ms. Rogers said that:

- Florida Power & Light (FPL) representatives invited Boynton Beach city commissioners (city commissioners) to attend as the guests at a local dinner-dance for the Schoolhouse Children's Museum and Learning Center.
- The Code did not define lobbying. The lobbyist registration ordinance defined lobbying as seeking to influence the decisions of the County commission.
- An organization, or donor of a gift who did not lobby a city or municipal commission, was not a lobbyist for purposes of the Code.
- Since FPL had not appeared before the city commissioners and it was not foreseeable that they intended to appear before that body, it was determined that the city commissioners could attend the event as FPL's guests.

Dr. Fiore stated that the COE had discussed instances where public officials who chaired charities were invited to events as honorary guests of various companies.

Ms. Rogers stated that Mr. Bressner assured her that none of the city commissioners or the mayor were actively involved in planning or fundraising for the dinner.

#### **VI.e. – CONTINUED**

Mr. Reinhart asked whether Boynton Beach officials were permitted to attend the dinner, and whether they were required to report gifts of \$100 or more. He said that if FPL lobbied Boynton Beach in the future, the gift registry would reflect the receipt of such a gift.

Ms. Rogers said that the Boynton Beach officials would be permitted to attend the event.

Judge Rodgers asked Mr. Farach to assume the chair since he signed off on opinion RQO 11-016.

Mr. Reinhart and Mr. Harbison said that they agreed with Ms. Rogers' analysis.

Dr. Fiore said that there was insufficient information and she questioned FPL's motives for purchasing a dinner table for the Boynton Beach officials.

**MOTION to adopt staff's proposed opinion in RQO 11-016. Motion by Bruce Reinhart, and seconded by Ronald Harbison. Upon polling the committee, the motion carried 2-1. Manuel Farach opposed, Robin Fiore and Edward Rodgers abstained.**

(CLERK'S NOTE: Judge Rodgers resumed as chair.)

#### **VI.d. RQO 11-015**

Mr. Johnson stated that:

- Processed advisory opinion RQO 11-015 involved the Royal Palm Beach Community High School Medical Science Academy Citizens Advisory Board (Academy Board). It stipulated that the group should be prohibited under the Code from soliciting sponsors and participants for a fundraising golf tournament to be held at a local golf course.

#### VI.d. – CONTINUED

- Staff's letter stated in sum that Academy Board members who were officials or employees of the County, or the specific municipalities under the Code's jurisdiction, which included Boynton Beach, the Town of Lantana (Lantana), and the City of Lake Worth (Lake Worth), were prohibited from soliciting any sponsorship or participant donation valued at more than \$100.
- The Code addressed such occurrences with the language, "from a person or entity they know to be a lobbyist, principal or employer of a lobbyist, if that lobbyist, principal or employer lobbies the government entity for whom they serve as an official or employee."
- Effectively, the parties involved in the opinion would not have solicited vendors under the highlighted conditions.

(CLERK'S NOTE: Judge Rodgers left the meeting.)

Dr. Fiore expressed concern that the Academy Board could solicit lobbyists and justify their actions because some individuals in the group were not public officials and therefore were not subject to the lobbyist law. She opined that some Academy Board members who were public officials should step down from the board in order for the group to participate in the event.

Mr. Reinhart said that based on the proposed gift law amendment, public officials could be charged with Code violations if the advisory board they served engaged in solicitation for the entire committee.

Mr. Johnson stated that:

- A previous advisory opinion involving County Commissioner Burt Aaronson, an elected official, who was asked to be an honoree at his synagogue's dinner. This exemplified indirect solicitation because the official's name was used to promote and sell tickets for the event.
- Advisory opinion RQ 10-041 involved a Boynton Beach employee who served as a Delray Beach advisory board member:
  - The issue was whether a gift or donation to a church constituted a personal gift to the board member.

#### VI.d. – CONTINUED

- The petitioner was notified that, “as an employee of the City of Boynton Beach, you were required to declare anything of value received in excess of \$100 if not specifically excluded from the definition of gift. A gift is anything of value.”
- The Code did not exclude reimbursements for church-related travel.
- The COE stipulated that employees could not solicit on behalf of the church or accept a gift in excess of \$100 from a lobbyist, principal, or employee of a lobbyist.

Mr. Reinhart stated that the events that led to RQ 10-041 was akin to the opinion involving Commissioner Aaronson, and constituted indirect solicitation.

Mr. Johnson asked whether the COE wanted to revise the response letter on RQO 11-015 to read that a County employee or public official could not serve on an advisory board that participated in soliciting for a fundraiser, even if the employee or official did not participate in the event. He said that this issue would also be discussed with the ordinance drafting committee on April 8, 2011.

Mr. Reinhart stated that if the drafting committee in the next 60 days corrected this issue legislatively, it could influence how the COE processed the opinion.

(CLERK’S NOTE: Judge Rodgers rejoined the meeting.)

Dr. Fiore suggested forming subcommittees so that the act of solicitation would apply to select advisory board members.

Mr. Johnson stated that he believed the drafting committee intended to vote in an opposite direction. He said that drafting committee members viewed fundraising as good public outcome, and some supported gift law carveouts for non-profit organizations. He concluded that the COE’s decision on this opinion would affect the drafting committee’s actions at tomorrow’s meeting.

**MOTION to direct staff to modify opinion on RQO 11-015 to reflect that the solicitation by the Royal Palm Beach Community High School Medical Science Academy Citizens Advisory Board would not be permissible based on the Commission on Ethics’ interpretation of the gift law. Motion by Bruce Reinhart, and seconded by Robin Fiore.**

## **VI.d. – CONTINUED**

Mr. Johnson clarified that he inadvertently pulled item RQO 11-017 which was a separate issue from items RQO 11-015 and RQO 11-016. He suggested that another motion be made for the consent agenda approval.

**AMENDED MOTION to rescind the consent agenda based on Scrivener's error with respect to item VI.d. RQO 11-015, and pulling items VI.b. RQO 11-011 and VI.c. RQO 11-014. Motion by Bruce Reinhart, seconded by Ronald Harbison, and carried 5-0.**

**AMENDED MOTION to direct staff to modify the conclusion in item VI.d. RQO 11-015 to reflect that solicitation from lobbyists of contributions by Royal Palm Beach Community High School Medical Science Academy Citizens Advisory Board would be prohibited by the gift law, section 2-444. Motion by Bruce Reinhart, and seconded by Robin Fiore.**

Mr. Johnson stated that an elected official, County employee, or advisory board member would not be permitted to serve on a board associated with a religious or non-profit organization, and that he or she would be required to resign.

Judge Rodgers suggested that a niche be added to the Code for allowances made to non-profit organizations or religious institutions with elected officials as members.

Mr. Farach stated that if the COE recommended Code modifications regarding elected officials and charitable organizations, membership levels could negatively be affected.

Mr. Johnson said that:

- The issue with indirect gifts was that the advisory board members could not solicit or ask someone else to solicit on their behalf.
- The indirect gift component expanded to include board members or organizational solicitations from lobbyists who appeared before an official or employee's governmental entity.
- The first reading of the revised Code was scheduled for May 3, 2011, before the BCC.
- The drafting committee would likely adopt the State's standard, which allowed solicitation.



#### **VI.d. – CONTINUED**

Mr. Harbison commented that he favored prohibiting elected officials from soliciting lobbyists. However, he said he was not in agreement with holding a public official accountable because a fellow advisory board member engaged in soliciting a lobbyist.

**SECOND AMENDED MOTION to direct staff to modify the conclusion to reflect that the requested conduct would be in violation of Code section 2-444, indirect solicitation. Motion by Bruce Reinhart, and seconded by Robin Fiore.**

Mr. Johnson asked whether advisory board members should be asked to resign. Dr. Fiore suggested that they should take a leave of absence instead of stepping down.

Mr. Farach stated that he understood Mr. Reinhart's comments to mean that a public official's presence on the board would constitute indirect solicitation.

**UPON POLLING THE COMMITTEE, the motion carried 3-1. Ronald Harbison and Bruce Reinhart opposed, and Edward Rodgers abstained.**

#### **VII.a. RQO 11-017**

Mr. Johnson stated that:

- Processed advisory opinion RQO 11-017 involved Lucia Bonivita, a County employee who asked whether a hotel stay paid by her second cousin's reward points was a gift, and whether it was reportable.
- Ms. Bonivita was not exempt from the Code, although her relative was not a lobbyist.
- In the response letter, Ms. Bonivita was informed that the Code had not been violated, and that the value of the two-day hotel stay was reportable.

**MOTION to approve staff's recommendation on RQO 11-017. Motion by Bruce Reinhart, seconded by Robin Fiore, and carried 5-0.**

**VI.a. RQO 11-009**

(CLERK'S NOTE: Manuel Farach said he would leave the dais to abstain from voting on the item. Ronald Harbison remained on the dais but he said that he would also abstain from the discussion and vote.)

Mr. Johnson stated that:

- Processed advisory opinion RQO 11-009 involved Sarah Alsofrom who, though not a County employee, served on the Education and Government Programming advisory board.
- Ms. Alsofrom declined from a friend employed by FPL an awards banquet ticket valued at \$125. Although FPL was a lobbyist in the County, it did not lobby the advisory board that Ms. Alsofrom served.
- Based on the Code, this case was exempt. Staff recommended that the gift was reportable, although not prohibited.

**MOTION to approve staff's recommendation on RQO 11-009. Motion by Bruce Reinhart, seconded by Robin Fiore, and carried 3-0. Manuel Farach and Ronald Harbison abstained.**

**VIII. PROPOSED ADVISORY OPINIONS**

**VIII.a. RQO 11-010**

Mr. Johnson stated that:

- Proposed advisory opinion RQO 11-010 involved Tammi Wilkins, a County employee served as a board member and officer on the Duo Center non-profit organization (non-profit). She asked whether she could continue to serve as a board member, since the non-profit accepted summer camp vouchers from the County's Human Services department.
- The Code did not prohibit an employee from serving as a non-profit officer. However, Ms. Wilkins could not use her official County position to financially benefit of the organization.
- Ms. Wilkins was not permitted to solicit or accept gifts on behalf of the organization in excess of \$100 from a lobbyist, principal, or employer of a lobbyist. This fact-scenario did not involve fundraising.

### **VIII.a. – CONTINUED**

Dr. Fiore asked whether Ms. Wilkins' employment benefited her husband, who was the officer and director of the organization.

Mr. Johnson said that one of the conclusions was that an individual's public position could not be used to benefit their spouse or the non-profit boards on which they served.

Mr. Reinhart stated that as a County employee, Ms. Wilkins was not involved in any decisions making concerning the non-profit in question.

Mr. Johnson said that Ms. Wilkins played no role with the summer program, vouchers, or those departments. He added that the Code did not prevent an employee from volunteering, other than fundraising.

**MOTION to approve staff's recommendation on RQO 11-010. Motion by Bruce Reinhart, seconded by Ronald Harbison, and carried 4-0. Manuel Farach absent.**

### **VIII.b. RQO 11-012**

(CLERK'S NOTE: Mr. Farach rejoined the meeting.)

Mr. Johnson stated that:

- Proposed advisory opinion RQO 11-012 involved Phil Donovan, an employee of the City of Lake Worth Utilities Department (LWUD), whose official duties included maintaining and testing water quality.
- Mr. Donovan asked whether he could enter into an outside contract with "consecutive" water utilities, which purchased water from LWUD for resale to homeowners.
- Staff recommended prohibiting Mr. Donovan from working privately with "consecutive" water utilities, because there was a Code nexus and a conflict of interest.

Judge Rodgers said that he did not agree with Mr. Johnson's providing advice in the opinion letter to Mr. Donovan because future implications could arise for the COE. Mr. Johnson stated that he would excise the section noted by Judge Rodgers in the response to the opinion letter.

**VIII.b. – CONTINUED**

**MOTION to approve RQO 11-012 and to delete the next-to-last paragraph in the opinion letter. Motion by Bruce Reinhart, seconded by Manuel Farach, and carried 5-0.**

**VIII.c. RQO 11-013**

Mr. Johnson stated that:

- Proposed advisory opinion RQO 11-013 involved David Schwartz, Project Coordinator for the County's Department of Housing and Community Development (HCD).
- Mr. Schwartz asked whether the County was prohibited from granting the relative of a municipality's vice-mayor loan assistance for a property, as well as rehabilitation inspections for code compliance.
- Staff determined that there was no prohibition in the County by policy or Code, to extend such assistance because currently, the City of Pahokee (Pahokee) was under COE jurisdiction.
- The COE could not make a recommendation regarding the transaction or the relationship between the applicant and the municipal official.

Mr. Reinhart asked whether staff's recommendation to deny the opinion was made because the Code's definition did not apply.

Mr. Johnson stated that:

- During the course of the investigation, an individual from the jurisdiction disclosed that the relative was the sister-in-law of Pahokee's vice-mayor.
- In the future, if Pahokee came under the Code's jurisdiction the COE could render a decision on whether the vice-mayor obtained a financial benefit for a covered relative.

(CLERK'S NOTE: Mr. Reinhart left the meeting.)

Mr. Farach said that if the COE rendered a decision at today's meeting, it could be modified in May 2011, when the Board of County Commissioners (BCC) adopted the proposed Code provisions. He suggested that the COE delay making a decision at this time on the opinion before them.

### **VIII.c. – CONTINUED**

Mr. Johnson stated that he had discussed the matter at length with the chair. By not approving the request, the COE's actions could cause the official's relative to be ineligible for the program, he added.

(CLERK'S NOTE: Mr. Reinhart rejoined the meeting.)

**MOTION to approve RQO 11-013 with the proviso that staff revise the proposed opinion to reflect that in the near future the City of Pahokee could fall under the Code's jurisdiction; and if so, the COE could not advise how they would rule on the matter in the future. Motion by Manuel Farach, and seconded by Bruce Reinhart.**

Mr. Johnson asked the COE to clarify whether the motion was to approve the section of the response letter stating that no Code prohibition existed. He said that the letter could state that the issue could be considered later by the COE.

Mr. Farach stated that the parties should not be given advice, but that they could be informed that the circumstances surrounding the opinion could amount to a Code violation in the future.

Mr. Johnson asked whether this advisory opinion could be brought back to the COE in May 2011 for discussion.

### **MOTION WITHDRAWN.**

(CLERK'S NOTE: At the direction of the chair, item RQO 11-013 was tabled until the next COE meeting.)

Mr. Johnson said that:

- If the loan was not processed, then the person who requested the opinion could ask that the matter be readdressed at the COE's May or June 2011 meeting.
- If the COE rendered a decision and the loan was issued, the COE could not modify the opinion's decision later.
- The effective date of the new referendum Codes determined enforcement.

**IX. PUBLIC COMMENT – None**

**X. 2012 COMMISSION ON ETHICS BUDGET**

Mr. Johnson stated that the COE had not requested additional funds since forecasting the budget for the 2010 fiscal year (FY). He said that:

- Initially, the need to hire additional staff was circumvented because the workload he did not require it.
- When the BCC adopted the referendum, significant increases in workload would warrant the need for additional staff.
- The ED's office had a surplus of \$66,000 in savings from FY 2010.
- The ED's FY 2011 surplus could be at least \$75,000.
- A poll was conducted to count the number of part-time employees, full-time employees, and elected officials in the 38 municipalities:
  - The ED had jurisdiction over 5,800 County staff.
  - Within the municipalities, there were 8,000 full-time employees, 1,000 officials and advisory board members, and 194 elected officials.
  - With the addition of Lake Worth, Lantana, and Boynton Beach staff, the ED's workload would more than double.
  - The ED's office would also be responsible for training staff, and processing complaints and advisory opinions.
- The ED was required to account fiscally for additional staff vacancies even when positions were not filled immediately.
- There was sufficient staff with the ED, COE Investigator Mark Bannon, and Ms. Rogers to process advisory opinions.
- There was a need for another investigator position based on the number of current inquiries received from the municipalities. The position could be filled by summer's end, would cost approximately \$70,000, and would not result in increased ad valorem taxes.

## **X. – CONTINUED**

- The ED office's FY 2013 budget would be need-based.
- In the past, a part-time staff position was created and filled, and in the future, a data entry position would need to be filled to manage the ED's document database.

Assistant County Administrator Brad Merriman stated that County employees' annual salaries were based on approximately 2,080 gross work hours per year.

Mr. Harbison suggested calculating the ED's staffing needs by tabulating the projected workload and hours needed to process advisory opinions.

Mr. Johnson said that the COE was in the process of crafting hourly, monthly, or annual scaled service fees for non-municipal organizations.

Mr. Harbison commented that it would be helpful if the ED developed performance measures in incremental units to determine overall workload and budget forecasts.

Mr. Johnson stated that:

- Community Redevelopment Agencies (CRA) and the Solid Waste Authority functioned differently from the municipalities.
- The ED had not contemplated that its jurisdiction would extend beyond the municipalities unless by signed agreement.
- Jurisdictional negotiations were ongoing with Boynton Beach regarding its CRAs.
- Channel 20 would be recording ED training sessions for use as Web-based ethics classes and compliance measures.

Mr. Merriman stated that all budgets were subject to the approval of the BCC, and that Mr. Johnson's budget recommendation could be submitted for its consideration.

## **X. – CONTINUED**

County Budget Division Director John Wilson said that:

- The ED's office had a carry-forward in FY 2010. It would also have a carry-forward in FY 2011 to balance its budget.
- Typically, County departments were not permitted to retain any surplus to fund the next FY. The County's FY 2012 budget would include the ED's request for additional staff.
- The ED's gross budget would increase until the office's only revenue source was the general fund.
- The COE, listed as a separate funding entity on the County's budget, had a budget document bearing its mission and number of positions.
- The ED's budget was formulated as a special revenue fund. By the end of 2011, a government accounting standards board ruling would restrict certain revenue levels, and prohibit the retention of a separate fund.
- Once instituted, the ED would be prohibited from retaining a special fund, and its revenue would be transferred to the general fund resulting in a negative fund balance.

Mr. Merriman stated that the ordinance as drafted stipulated that the County funded the COE's expenses.

**MOTION to approve staff's recommendation for the Commission on Ethics' 2012 budget. Motion by Ronald Harbison, and seconded by Bruce Reinhart.**

**PUBLIC COMMENT:** Suzanne Squire.

(CLERK'S NOTE: The gavel was passed to the vice-chair.)

**MOTION to receive and file the document submitted by Ms. Squire. Motion by Bruce Reinhart, and seconded by Robin Fiore.**

(CLERK'S NOTE: The gavel was returned to the chair and the commission was polled.)



**X. – CONTINUED**

Mr. Farach commented that the document submitted by Ms. Squire had no relevance to the COE's 2012 budget. He said that the people's work was overshadowed. He suggested that Ms. Squire file a complaint, if she believed that Commissioner Aaronson committed an ethics violation.

**UPON POLLING THE COMMITTEE, the motion to receive and file carried 3-2. Manuel Farach and Ronald Harbison opposed.**

**ADDITIONAL PUBLIC COMMENT:** Alexandria Larson.

Mr. Johnson stated that he had been fiscally responsible with the budget for his office, which by County Charter, required adequate funding.

**UPON CALL FOR A VOTE, the motion for the 2012 budget carried 5-0.**

**XI. REVIEW OF PUBLIC COMMENT PROCEDURES – Pages 2-5**

**XII. REVIEW OF PROPOSED COUNTYWIDE COMMISSION ON ETHICS AND CODE OF ETHICS ORDINANCES**

(CLERK'S NOTE: Judge Rodgers left the meeting.)

Mr. Johnson said that:

- A substantive change made to the Code by the ordinance drafting committee was the ability to withdraw a requested advisory opinion 10-days prior to a COE meeting.
- On April 8, 2011, he intended to propose to the drafting committee that the definition of vendor be modified to include any person or entity with a pending bid, proposal or request before the board or municipality, when applicable.
- Gifts in excess of \$100 from vendors with active contracts or vendors with proposals before a governmental body were prohibited.
- Law firms that represented municipalities were vendors of that government and fell under the jurisdiction of the Code with respect to the gift law.

## **XII. – CONTINUED**

- Imported Code language, “through the County or municipality as applicable,” stipulated the conditions under which a vendor was affiliated with a governmental entity.

(CLERK’S NOTE: Judge Rodgers rejoined the meeting.)

Mr. Reinhart stated that if the gift law were limited to the governmental entity that had a direct interaction with a vendor, then the affiliation should be clarified in the Code.

Mr. Johnson said that the term “as applicable” related to a municipality or the County, and would be discussed with the ordinance drafting committee.

Mr. Johnson stated that:

- The Code was transformative, but the reality was that there would be willful violators of its rules.
- Misuse of office and conflict-of-interest Code provisions served to hold officials and employees accountable for their actions.
- Line 370 of the Code addressed whether personal gifts carve outs would exist. It read, “Giving a gift in excess of \$100 who is a prospective vendor seeking to do business with the official or the employee’s governmental entity.”
- Language proposals would be added to the Code for relationships that were in place prior to an employee’s hire or election to a governmental entity.
- Employees and officials were required to report prohibited gifts and identify gift sources.
- Neither vendors nor lobbyists had specific reporting requirements.

Judge Rodgers stated that he preferred flexible Code language so that the COE could interpret and make determinations of violations more freely.

### **XIII. EXECUTIVE DIRECTOR COMMENTS**

#### **XIII.a. Advisory Board Update**

Mr. Johnson said that:

- Mr. Farach had been reviewing the advisory board waivers and reviewing letters to determine whether any issues were prevalent.
- Mr. Berger recommended solutions to strengthening the Code by banning vendors with conflicting contracts from serving on advisory boards or from working with agencies that served the board.
- Initially, advisory boards could waive option-A, financial benefit. However, the option was later withdrawn and could no longer be waived by political entities.
- Advisory board members with conflicts of interest were required to request supermajority waivers.

Mr. Berger explained that:

- An advisory board that was connected in any way to a fellow board member's contract could not be waived; however, the relationship had to be disclosed publicly as an agenda item.
- The ordinance drafting committee and the COE were not examples of pure advisory boards.
- Pure advisory boards such as the County Zoning Commission were created by resolution, assigned specific duties, and defined areas of focus.

Mr. Johnson said that:

- Carveouts would be added to the Code for public events hosted by entities such as the Sports Commission and the Business Development Board (BDB), whose roles were to collaborate with elected officials and businesses to foster business growth in the County.
- Examples of non-public events included private meetings hosted by prospective vendors' intent on bringing new business to the county.

### **XIII.a. – CONTINUED**

- Disclosure requirements could be vetted in the future.
- As per the gift law, the BDB was prohibited from giving gifts in excess of \$100 for service contracts with the County.

Mr. Berger said that certain aspects of business-recruiting prospects were exempt from disclosure by State law.

Mr. Reinhart suggested that private meetings could either be prohibited or permitted with the provision that they were noticed publicly.

Mr. Johnson explained that if County commissioners or municipal officers solicited on behalf of its government, their actions were exempt from the Code.

Mr. Harbison commented that he did not want the COE to impede the county's economic development. He expressed concern with lobbyists issuing tickets for business-related events, and he said that he did not have the same concern for the BDB.

Mr. Johnson proposed an amendment to the Code stipulating that vendors and lobbyists were prohibited from providing event tickets to County employees and officials. Mr. Harbison said that the county commission could solve the issue by appropriating a line item on their budget for meals and events. He added that the need for confidentiality at some point during this process was necessary.

Mr. Berger explained that job-incentive-growth contracts often involved government officials because of the associated incentives for qualified industries such as tax breaks and job-growth grants. He said there was a point in the process where all activities would be disclosed.

### **XIII.b. Charitable Solicitation**

Mr. Johnson asked whether an official, employee, charitable board member, or organization member could be involved in fundraising efforts where vendors were associated. He said that:

- The ordinance drafting committee would likely adopt the State statute through carveouts for charitable solicitation as exceptions.
- There was a prohibition against accepting gifts in excess of \$100 from a lobbyist, principal, or employer of a lobbyist.

### **XIII.b. – CONTINUED**

- Code carveouts did not apply to solicitations for 501(c) (3) organizations.
- Charitable and religious organizations were permitted to engage in solicitation.
- Direct solicitation could be banned, but indirect solicitation would be difficult to vet.
- The State statute stipulated that:

A reporting individual, procurement employee, or any other person on his behalf was prohibited from knowingly accepting directly or indirectly from a lobbyist who lobbies the reporting individuals or procurement employer's agency directly or indirectly on behalf of the partner, firm, employer or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100. However, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of the charity, the person receiving the gift shall not maintain custody of the gift for any period of time.

Judge Rodgers expressed support for the State's language and agreed that the COE should adopt that Code language.

Mr. Reinhart said that the Code would not solve every situation and that there should be some flexibility for charitable organizations to solicit.

Mr. Harbison remarked that it might be best to address indirect solicitation with the COE as opposed to both indirect and direct solicitation.

Mr. Berger said that at the State level, identifying constitutional threat and corrupt conduct was addressed in State courts. He added that State courts deemed that State Code violations could not be based on the assumption that public officials would grant future favors in exchange for gifts.

Mr. Farach expressed concern about charitable carveouts since the county's history was rooted in gift-related corruption.

Mr. Reinhart said he intended to enforce the adopted ordinance.

(CLERK'S NOTE: Telephonic communication was lost with Dr. Fiore.)

**XIV. PUBLIC COMMENTS**

**DISCUSSED:** Various Topics.

Suzanne Squire said that if no gifts were issued to officials, the problem of corruption would not arise and that it was difficult for the BDB not to accept gifts since its role was to foster the county's economic growth. She commented that she preferred the previous COE mission statement listed in its bylaws since the current mission statement was diluted. She stated that the March 3, 2011, meeting minutes did not accurately portray her statement. She said that waiver counts should be used to ensure total board independence, and that the County should not pursue grant funds since they interfered with its independence.

Mr. Reinhart asked Ms. Squire to identify the Code provision she used to opine that Commissioner Aaronson had committed a violation so that an ethics complaint could be self-initiated. Otherwise, he added, no COE action was warranted since the commission operated with limited authority that was based on ordinance precepts. He concluded that the COE mission statement could not be used as a basis for filing an advisory opinion.

Alexandria Larson said that the BDB hosted a party at the Breakers Resort and the grand jury report did not cover the public's areas of concern.

**XIII. ADJOURNMENT**

**At 7:22 p.m., the chair declared the meeting adjourned.**

APPROVED:

\_\_\_\_\_  
Chair/Vice Chair

## **AGENDA ITEM V – PUBLIC COMMENT REVISION TO COE BY-LAWS**

Pursuant to COE directive at the meeting of April 7, 2011, staff is submitting a proposed change to the Commission on Ethics bylaws, Article VIII-Meetings by adding Section 10: Public Comment.

### **Staff Analysis:**

At the COE meeting of March 2, 2011, staff submitted a Public Comment Review of statutory, executive and judicial authority regarding the appropriateness of public comment during advisory and code enforcement board meetings (attached for reference).

Although very few forms of public comment are specifically mandated by statute, judicial and executive interpretation has expanded this requirement to all legislative functions of these public entities. While public comment related to executive or administrative functions remains discretionary, staff has recommended that the COE allow public comment in these areas as well. This would include all matters except those involving quasi-judicial hearings involving complaints.

Both a probable cause hearing and the “fact” portion of a final hearing involve the adjudication of past action by a respondent alleged to have violated the law. The Commission on Ethics ordinance sets out guidelines for these complaint hearings. To the extent that this commission sits in a quasi-judicial posture, the respondent has certain due process rights, including but not limited to adequate discovery. Public comment opens the door to inadmissible, improper or other evidence not known to or contemplated by the parties. Statements made by witnesses who have not been listed or evidence referred to which has not been provided has the potential to violate the due process rights of the respondent.

Once the adjudicatory portion of a complaint is resolved, regardless of the decision, public comment may be permitted without violating these due process rights.

### **Staff Recommendation:**

Staff recommends that the commission revise the by-laws to add Article VIII, section 10 to read as follows:

Section 10: Public Comment

*Public comment is permitted on all agenda items with the exception of probable cause proceedings and the adjudicatory portion of final hearings involving complaints before the commission. The chairperson may establish and enforce rules pertaining to the orderly conduct of public comment, including time, manner and decorum.*

## AGENDA ITEM VI – VOTING CONFLICTS

**286.012 Voting requirement at meetings of governmental bodies.** - No member of any state, county, or municipal governmental board, commission, or agency who is present at any meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest under the provisions of s. 112.311, s. 112.313, or s. 112.3143. In such cases, said member shall comply with the disclosure requirements of s. 112.3143.

### Staff analysis:

There are 28 Attorney General Opinions citing the above statute. In all opinions, abstention is allowed only where there is a financial conflict of interest. In AGO 88-62, the attorney general specifically addressed whether code enforcement boards, which are quasi-judicial, were subject to the requirements of § 286.012 or whether a member could disqualify him or herself from participating in a matter based on procedures for disqualification of a Judge as outlined in Chapter 38, Florida Statutes. The opinion concluded that judicial conflict of interest standards are not applicable to these quasi-judicial entities.

The AGO has directed that “any questions as to the existence of a conflict of interest in any particular factual situation must be submitted to the Florida Commission on Ethics.” AGO 87-17 As a search term, there are over 300 CEO opinions regarding voting conflicts. These opinions have strictly construed the statute as allowing abstention only in cases of real or potential financial benefit to the member or related person or entity. The only exception staff has found involved a situation where a non-financially based abstention was taken so as not to violate another Florida Statute.<sup>1</sup>

Although the CEO has consistently opined that the appearance of impropriety based upon overt personal bias, prejudice or dislike of an individual before the board or commission is not a sufficient basis for abstention absent a financial nexus;<sup>2</sup> staff is concerned with non-financial bias or prejudice in quasi-judicial complaint hearings. The Florida Commission on Ethics has stated that it is not within its jurisdiction to opine regarding disqualification of a board member based on due process or quasi-judicial grounds.<sup>3</sup> Indeed, several appellate cases speak to procedures in these hearings and the requirement of an impartial decision maker as a basic component of the fairness required by due process.<sup>4</sup> Unfortunately, none of the appellate decisions speak to the issue of the voting requirements as set forth in § 286.012.

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<sup>1</sup> In re Mitchell Kinzer 90-163 (Fla. Comm. Ethics 1990)(an official may abstain from voting where the vote would violate the nepotism statute)

<sup>2</sup> CEO 79-14 (physical altercation), CEO 08-11 (criminal complaint filed)

<sup>3</sup> CEO 08-11, footnote 7

<sup>4</sup> Seminole Entertainment, Inc. v. City of Casselberry, 811 So.2d 693 (5<sup>th</sup> DCA 2001), Florida Water Services Corporation v. Robinson, 856 So.2d 1035 (5<sup>th</sup> DCA 2003)



**Staff Recommendation:**

In quasi-legislative or administrative matters, staff believes that voting is required on all matters, notwithstanding personal relationships, bias or prejudice, unless there is a real or potential financial conflict of interest involving the member, a relative or outside business associate. The only exception to the financial nexus is where a vote would violate another statute. In this context, a violation of due process should be sufficient to trigger a conflict in a quasi-judicial code enforcement hearing, notwithstanding the lack of any financial nexus. Disqualification or recusal would therefore seem to be warranted. Staff recommends that this question be presented to the Attorney General for an opinion. Pursuant to AGO rules, it is necessary that the ethics commission vote on the matter and present the request upon approval of a majority of commissioners.

May 6, 2011

Pam Bondi, Attorney General  
Department of Legal Affairs  
The Capitol PL01  
Tallahassee, Florida 32399-1050

RE: Request for an Advisory Opinion

Dear Ms. Bondi,

A majority of the members of the Palm Beach county Commission on Ethics request a legal opinion on the following issues;

Notwithstanding § 286.012, Florida Statutes, in a quasi-judicial hearing before a Commission on Ethics, under circumstances giving rise to bias, prejudice or affinity concerns, non financial in nature, may an ethics commissioner abstain from voting, or in the alternative, disqualify him or herself to avoid violating the due process rights of a respondent?

Based upon our unique position as a commission on ethics, we believe that by voting on matters where we have expressed an opinion or have a prior personal relationship with a person appearing before us, there is a distinct appearance of impropriety. Staff has alerted us to the requirement that absent a financial nexus, abstention is not allowed. However, we are of the belief that even where a commissioner would not receive a financial benefit, voting under such circumstances would nonetheless be harmful to public perception. Pursuant to AGO 87-27, we have also filed a request for an advisory opinion with the Florida Commission on Ethics asking whether or not there is a different standard for ethics commissions when it comes to creating an appearance of impropriety

Moreover, we are particularly concerned with the voting requirement applying to quasi-judicial hearings. A vote, notwithstanding demonstrated bias, prejudice or affinity on the part of a commissioner, may conflict with due process requirements of both the Florida and United States constitutions.

Section 286.012, Florida Statutes, provides:

No member of any state, county, or municipal governmental board, commission, or agency who is present at any meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest under the provisions of s. 112.311, s. 112.313, or s. 112.3143. In such cases, said member shall comply with the disclosure requirements of s. 112.3143.<sup>1</sup>

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<sup>1</sup> Staff has counseled us that there are at least 28 AGO opinions interpreting this statute and that they all require a financial nexus to abstain from voting. However, we believe that the question of what process is due in quasi-judicial ethics commission hearings may be distinguished from those prior opinions.

In AGO 88-62, your office concluded judicial conflict standards are not applicable to quasi-judicial code enforcement boards and that officials must follow the standards provided in the code of ethics. However, ten years after AGO 88-62, the Commission on Ethics opined that

It is not within our jurisdiction to determine whether bias or prejudice exists on the part of the member toward the attorney or her clients for the purposes of disqualification (“recusal”) of the member from consideration of Council matters involving the attorney or his clients, based on due process/quasi-judicial grounds. In this regard, the member may wish to review caselaw or consult the Attorney General. Op.Fla.Comm.Ethics 08-11 (2008).

Courts have determined that an official may not abstain from voting simply because they have expressed an opinion, have a prior personal relationship or demonstrated dislike of a person or cause. *George v. City of Cocoa, Fla.*, 78 F.3d 494 (11<sup>th</sup> Cir. 1996). Yet, in *Florida Water Services Corporation v. Robinson*, the court reasoned that while it is not necessary for quasi-judicial hearings to mirror the judicial model, an impartial decision maker is a basic component of the fairness requirements of due process and there may be times where disqualification is appropriate. *Florida Water Services Corporation v. Robinson*, 856 So. 2d 1035 (Fla. 5<sup>th</sup> DCA 2003).

The Palm Beach County Commission on Ethics enforces a county-wide Code of Ethics and Lobbyist Registration and Post-Employment Ordinances. Complaints are prosecuted by a commission advocate and the process may include both probable cause and final hearings. The respondent maintains various due process rights inherent in proceedings involving allegations of misconduct with the potential for sanctions if a violation is found to have occurred. Civil sanctions include fine, public reprimand, restitution or rescission of an improper pecuniary benefit. In addition, contracts, grants, subsidies, licenses, permits, franchises or other benefits may be rescinded or voided by the Board of County Commissioners based upon a finding of violation. The Commission on Ethics may refer willful violations to the State Attorney for prosecution as first degree misdemeanors.

In light of the above, in the absence of judicial clarification, we are unable to determine whether abstention or recusal would be appropriate when due process concerns conflict with the requirements of §286.012 in quasi-judicial proceedings.

Sincerely,

Edward Rodgers  
Chairman, Palm Beach County Commission on Ethics

ER/gal



# Palm Beach County Commission on Ethics

## Commissioners

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## Executive Director

Alan S. Johnson

April 21, 2011

Ms. Audrey R. Norman, Director  
PBC Cooperative Extension Service  
559 North Military Trail  
West Palm Beach, Florida 33415

Re: RQO 11-018  
Gift Law

Dear Ms. Norman,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email of April 7, 2011 whether one of your employees could accept a gift card on behalf of the Cooperative Extension and if so, whether you are required to report this gift.

IN SUM, although an employee may not accept a gift of any value in exchange for the performance or non-performance of his or her official duties, based on the facts and circumstances you have given, since the gift card will not be accepted or used by the individual employee for his personal benefit, but rather on behalf of the county department for use, "solely by the county in conducting its official business," it is not considered to be a personal gift under the code of ethics. Therefore, gift prohibitions and reporting requirements do not apply.

THE FACTS as we understand them are as follows. A Palm Beach County Cooperative Extension Service (PBCCES) agent, Ron Rice, conducted a program at Syngenta Corporation. The PBCCES is a county department, whose function is to provide access to technology and research regarding more than 2,000 subjects of interest. Syngenta is a chemical company that specializes in fertilizer and pesticides. Syngenta does not contract with the county, nor is it a principle or employer of a lobbyist registered with Palm Beach County. After the program, Syngenta sent Mr. Rice a thank you card containing a \$50.00 gift card. You have indicated that the money was intended to be used by your department for county purposes, specifically to purchase program supplies.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

The Palm Beach County Code of Ethics Section 2-444, *Gift Law*, provides that gifts in excess of \$100.00, not otherwise excluded, must be reported by the official or employee who receives the gift. Since the gift card is for \$50.00, there is no reporting requirement.



# Palm Beach County Commission on Ethics

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Bruce E. Reinhart

## Executive Director

Alan S. Johnson

Section 2-444(c) states in pertinent part:

(c) ...no official or employee shall accept or agree to accept a gift from a person or entity, because of:

- (1) An official public action taken or to be taken, or which could be taken;
- (2) A legal duty performed or to be performed or which could be performed; or
- (3) A legal duty violated or to be violated, or which could be violated by any official or employee.

Mr. Rice may not accept a gift in return for the performance of his official duties.<sup>1</sup>

However, Section 2-444(e)(1)(f), states as follows:

(1) Exceptions. The provisions of subsection (e) *shall not apply* to:

- e. Gifts solicited by county employees *on behalf of the county in performance of their official duties for use solely by the county in conducting official business.* (emphasis added)

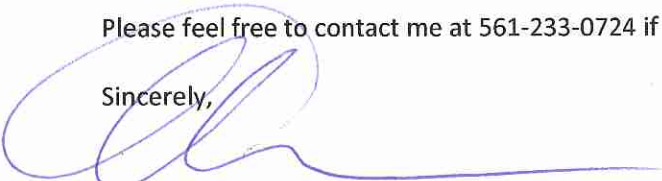
Mr. Rice may accept the \$50.00 gift card on behalf of the county for use solely by the county in conducting official business, because it is not a personal gift under the definition as provided by the code of ethics.

IN SUMMARY, based upon the information provided, the code of ethics allows county employees to solicit donations on behalf of Palm Beach County, in the performance of their official duties, so long as these funds are used solely for a county purpose. Moreover, while this would have been a prohibited gift if given to Mr. Rice for his personal benefit, it would not have been a reportable gift because it is not in excess of \$100.00.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflict under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,

  
Alan S. Johnson  
Executive Director

ASJ/mcr/gal

<sup>1</sup> RQO 10-031





# Palm Beach County Commission on Ethics

## Commissioners

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## Executive Director

Alan S. Johnson

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April 25, 2011

Walt Smyser  
Lake Worth Utilities Water System  
1900 2<sup>nd</sup> Avenue North  
Lake Worth, Florida 33461

Re: RQO 11-019  
Gift Law

Dear Mr. Smyser,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email on April 15, whether you could attend a fish fry and pool party sponsored by a local engineering, planning and consulting firm. In a second email on April 15, 2011 you indicated that you would not be attending either of the events and thus would not require an advisory opinion. Pursuant to the Commission on Ethics Rules of Procedure, Section B 2.4(f), once submitted, an advisory opinion request may not be withdrawn by the submitting party. Therefore, please find the following response to your original request.

IN SUM, Section 2-444 does not prohibit City of Lake Worth employees from attending events where they pay an admission fee. Alternatively, if there is no admission fee and the sponsor of an event is not a lobbyist principle or employer of a lobbyist, employees must report their attendance only if the per person cost of the event exceeds one hundred dollars.

THE FACTS as we understand them are as follows:

You are a water/sewer engineer for the City of Lake Worth. A local engineering, planning and consulting firm, Simmons and White invited you to attend its 12<sup>th</sup> Annual KDW Fishing Tournament and Fish Fry. According to the invitation, there is a \$150.00 entry fee per boat for the fishing tournament but there is no fee to attend the fish fry and pool party. Lake Worth employees were not offered free admission to the tournament portion of the event. Proceeds from the event benefit the Florida Engineering Society Scholarship Fund. In an email on April 15, commission staff requested that you determine whether Simmons and White lobbied the City of Lake Worth. You responded, "since I will not be attending this event I will not be in violation no matter what. I therefore do not need to contact the City Administration to determine if they have any contracts with the city. Thank you." As such, commission



# Palm Beach County Commission on Ethics

## **Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## **Executive Director**

Alan S. Johnson

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staff contacted Simmons and White, Inc. and spoke with one of the event organizers Sarah Abercrombie. Ms. Abercrombie indicated that Simmons and White does not employ lobbyists.

THE LEGAL BASIS for this opinion may be found in sec. 2-444 of the Palm Beach county Code of Ethics.

Article XIII, Section 2-444. Gift Law.

(e) For the purposes of this section, "gift shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverage consumed at a single setting or a meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

In this case, Lake Worth employees or officials may pay for and participate in the fishing tournament. When an employee or official purchases a ticket to an event or pays an entry fee as in this case, that payment is consideration for their attendance and is not a gift. However, attending the fish fry may be a reportable gift.

Section 2-444 (d) addresses the reporting requirements of the gift law.

Article XIII, Sec. 2-444. Gift Law.

(d) Gift Reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100.00) shall report that gift.

If the value of the fish fry is more than \$100.00 per person, it is a reportable gift. The ethics commission has previously addressed valuation issues and determined that for the purposes of valuation, s. 112.3148 is relevant.<sup>1</sup> Of significance here, subsection 7(j) provides the following:

(j) The value of a gift provided to several individuals may be attributed on a pro rata basis amount all of the individuals. If the gift is food, beverage, entertainment, or similar items, provided at a function for more than 10 people, the value of the gift to each individual shall be the total value of the items provided divided by the number of person invited to the function, unless the items are purchased on a per person basis, in which case the value of the gift to each person is the per person cost.

After attending an event, such as the Simmons and White fish fry, an employee or official must contact their host to determine the overall cost of the event and then divide that cost based on the number of attendees according to the valuation portion of the state ethics code. If the amount exceeds \$100.00

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<sup>1</sup> RQO 10-005





# Palm Beach County Commission on Ethics

## **Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## **Executive Director**

Alan S. Johnson

you must report this as a gift on your annual gift reporting form. If your spouse or other individual on your behalf attends with you, you must calculate the total cost of both you and your guests attendance.<sup>2</sup> Therefore, even if the cost per person is not in excess of \$100.00, it still may be a reportable gift.

IN SUMMARY, The Palm Beach County Code of Ethics does not prohibit Lake Worth employees from entering the Simmons and White fishing tournament. Employees who wish to attend the fish fry may attend the event but will need to determine if their attendance qualifies as a reportable gift.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflict under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,

Alan S. Johnson  
Executive Director

ASJ/mcr/gal

<sup>2</sup> RQ010-024



May 6, 2011

Sarah Alsofrom  
Palm Beach County Education and Government Programming Advisory Board  
301 N. Olive Ave.  
West Palm Beach, FL 33410

Re: RQO 11-009  
Gift Law

Dear Ms. Alsofrom,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email on February 27, 2011, whether, as a member of the Palm Beach County Education and Government Programming Advisory Board (EGPAB), you could accept a ticket to an upcoming awards banquet from a friend who works for Florida Power and Light (FPL).

IN SUM, Section 2-244(b) of the Palm Beach County Code of Ethics specifically prohibits you from accepting a gift from any lobbyist, or any principal or employer of a lobbyist who lobbies your advisory board or any county department that is subject to your board's authority. You stated that FPL does not appear before your board nor does it lobby the Palm Beach County Public Affairs Department (PAD), the only county department associated with your advisory board. Based on the information you have provided, accepting a ticket from your friend valued at 125.00 dollars is reportable, but not prohibited.

THE FACTS as we understand them are as follows:

You serve on the Palm Beach County Education and Government Programming Advisory Board (EGPAB) that supervises Channel 20. You are not a reporting individual under state law. A friend, employed by FPL, offered you a ticket at FPL's table at an upcoming awards banquet. FPL, an employer of lobbyists, purchased a table for the event and paid for the tickets. If purchased individually, the tickets would cost one hundred and twenty-five dollars (\$125.00). FPL does not lobby EGPAB or the PAD, the county department subject to your board's authority. Prior to receipt of this advisory opinion, you informed commission staff that you have decided, in an abundance of caution, to not attend the awards ceremony as a guest of FPL.

THE LEGAL BASIS for this opinion relies on the following section of the Palm Beach County Code of Ethics.

Article XIII, Sec. 2-444. Gift Law.

(b) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value greater than one hundred dollars (\$100.00) from any lobbyist, or any principal or employer of a lobbyist, *who lobbies the recipients advisory board, or any county department that is subject in any way to the advisory boards authority.* (emphasis added)

In this instance, the tickets were offered to you by an employee of FPL. FPL does not appear before your advisory board, nor does FPL have any contact with channel 20 or the PAD, the only department subject to the Education and Government Programming Board's authority. Therefore, based on the information you have provided, you may accept this gift; however, you must disclose it on your 2011 gift reporting form. The gift reporting requirement is as follows:

Article XIII, Sec. 2-444. Gift Law.

(d)(2) All other officials and employees. All other officials or employees who receive any gift in excess of one hundred dollars (\$100.00) shall complete and submit an annual gift disclosure report with the county commission on ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30 of each year.

Section (d) requires that as an advisory board member you submit all reportable gifts in excess of one hundred dollars (\$100.00) on an annual disclosure report.

IN SUMMARY, notwithstanding your subsequent decision not to accept the ticket, the Palm Beach County Code of ethics does not prohibit you, in your capacity as an advisory board member, from accepting a ticket to an awards banquet valued at 125.00 from an entity that does not lobby your advisory board or any department subject to your board's authority. For a non state reporting individual, a gift received and valued in excess of 100.00 would need to be reported on the county yearly gift disclosure form due November 1, reflecting any reportable gifts received October 1 through September 30 for the previous year.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Sincerely,

Alan S. Johnson  
Executive Director  
ASJ/meb/gal

May 6, 2011

David Schwartz, Project Coordinator  
PBC Department of Housing & Community Development  
100 Australian Avenue  
West Palm Beach, FL 33406

Re: RQO 11-013  
Prohibited Contractual relationships

Dear Mr. Schwartz,

The Commission on Ethics considered your request and rendered its opinion at a public meeting held on May 5, 2011.

YOU ASKED in your e-mail of March 23, 2011, whether the code of ethics prohibited PBC Department of Housing & Community Development (HCD) from offering loan assistance to an applicant who is related to the Vice Mayor of Pahokee. This matter was considered at a public meeting held on April 7, 2011 and continued to May 5, 2011.

IN SUM, the Commission on Ethics does not currently have jurisdiction over municipal employees or officials of Pahokee and, therefore, cannot comment on the appropriateness of entering into a loan agreement for residential rehabilitation between Palm Beach County and an applicant and resident of Pahokee who is the sister-in-law of the vice-mayor of Pahokee.

THE FACTS as we understand them are as follows:

You are the Community Development Project Coordinator for HCD. One of your duties involves coordinating a residential rehabilitation program that offers deferred repayable loans to qualified owners of certain residential properties within Palm Beach County for the purpose of repairing their properties to meet applicable housing and building code standards. These loans are funded by the U.S. Department of Housing and Urban Development. All approvals for rehabilitation loans under this program lie with Palm Beach County, through the Director of HCD.

HCD offers these loans to qualified persons living in Pahokee (and certain other municipalities) under inter-local agreements, where the municipality receives funds for assisting in the application and repair inspection process. Prior to submission to HCD, the municipality receives the application from the resident, checks it to ensure it is properly completed, verifies both ownership of the property and residency of the applicant, and once repairs begin, inspects the work of the contractor to ensure it meets all building standards.

Ms. Mattie Crawford, a resident of Pahokee, is an applicant for this HCD program and you advised that her brother-in-law, Henry Crawford, serves as the Vice-Mayor of Pahokee.

THE RATIONALE for the determination that it would be inappropriate for the Commission on Ethics to opine based upon the facts and circumstances submitted is grounded in the lack of jurisdiction over the parties to a significant segment of the transaction. While County employees have final discretion over who receives financial assistance, Pahokee employees have at least some discretion over the submission and review process. At this time, the commission cannot opine regarding the relationship between the recipient and her brother-in-law, the Vice-Mayor of Pahokee. Without being able to investigate both sides of the transaction, the Commission would be remiss in recommending that the county take or not take any action at this time.

It is anticipated that by June, 2011 the county-wide Code of Ethics will be extended to all municipalities within Palm Beach County and once municipalities are within its jurisdiction, the Commission on Ethics will have the ability to scrutinize municipal transactions. While any potential violation of the code would depend upon the facts and circumstances of events and transactions, the Commission on Ethics cannot advise, even those county officials currently under our jurisdiction, on matters where the entire transaction cannot be properly addressed.

IN SUMMARY, based upon the facts and circumstances as submitted, at this time we do not have jurisdiction to determine whether or not there is a conflict of interest.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,

Alan S. Johnson  
Executive Director  
Commission on Ethics

ASJ/mcr/gal

May 6, 2011

Gary Hines  
Business Development Board of Palm Beach County, Inc.  
310 Evernia Street  
West Palm Beach, FL 33401

Re: RQO 11-015  
Gift law

Dear Mr. Hines,

Your request for advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your e-mail of March 24, 2011, whether any member of the Royal Palm Beach Community High School Medical Science Academy Citizens Advisory Board (Academy Board), is prohibited under the Palm Beach County Code of Ethics from soliciting sponsors and participants for a fundraising golf tournament to be held at a local golf course. You advised that all proceeds from this event will go directly to the Royal Palm Beach Community High School Medical Science Academy (the Academy).

IN SUM, those members of the Academy Board that are officials or employees of Palm Beach County, or specific municipalities currently under the jurisdiction of the Commission on Ethics (Boynton Beach, Lantana and Lake Worth) have restrictions under the Palm Beach County Code of Ethics on such fundraising efforts and are prohibited, directly or indirectly, from soliciting any sponsorship or participant donation, valued at greater than \$100.00, from a person or entity they know to be a lobbyist, principal, or employer of a lobbyist, if that lobbyist, principal or employer lobbies the government entity for whom they serve as an official, or employee. This prohibition extends to solicitations made by others on behalf of the charitable organization.

THE FACTS as we understand them are as follows:

The Academy is a "magnet program" located at Royal Palm Beach Community High School, a public school under the authority and supervision of the Palm Beach County School District. You serve as Chairman of the Academy Board, an advisory board made up of entirely of volunteers who advise the faculty and staff of the Academy and assist in fundraising efforts. The Academy Board has no actual authority over the Academy, and fills only an advisory role. Each member of the Academy Board was invited to join by an advisor, faculty member or administrator of the Academy.

In order to financially assist the Academy, members of the Academy Board have scheduled a golf tournament for April 30, 2011 at The Links Madison Green, a private golf course. All proceeds from this tournament will go to the Academy. As part of your fundraising efforts, you ask local businesses to act as "sponsors" for this event for a donation. You also solicit individuals and businesses to register to play golf in this tournament, charging an admission fee, which varies depending on the number of players and date of registration.

According to the flyer for this event, a single player may register for a cost of \$100.00, and a sponsor may pay a fee of up to \$5,000.00 for special signage and advertizing at the event, along with registration for up to eight (8) players. You advised that some of the members of the Academy Board are officials or employees of either Palm Beach County or local municipalities within Palm Beach County.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

**Sec. 2-442. Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Official or employee* means any official or employee of the county, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, division, committee, or subcommittee of the county. The term "official" shall mean members of the board of county commissioners, and members appointed by the board of county commissioners to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

**Sec. 2-444. Gift law.**

- (a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept *directly or indirectly*, any gift with a value of greater than one hundred dollars (\$100.00) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist. (Emphasis added)
- (b) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100.00) from any lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient's advisory board, or any county department that is subject in any way to the advisory board's authority.
- (e) For the purposes of this section, "gift" shall refer to the *transfer of anything of economic value*, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. (Emphasis added)

Currently, no members of the Academy Board fall under the jurisdiction of the Code of Ethics based solely on their membership in the Academy Board because none were appointed by the Palm Beach County Board of County Commissioners (BCC) or the governing body of any of the municipalities currently under the Commission on Ethics jurisdiction (Boynton Beach, Lantana and Lake Worth).

Any member of the Academy Board that is also an official or employee of Palm Beach County or the specific named municipalities, does fall within the jurisdiction of the Code of Ethics. Those members are prohibited under the Code of Ethics from soliciting any donation valued at greater than \$100.00 from anyone they know to be a lobbyist, principal, or employer of a lobbyist, who lobbies their governmental employer, or in the case of a county official, lobbies their county “advisory board, or any county department that is subject in any way to the advisory board’s authority.” This prohibition applies to the solicitation of prohibited gifts directly or indirectly for the benefit of religious, charitable or other non-profit organizations.<sup>1</sup>

As individuals, county employees or officials are not be prohibited under the Code of Ethics from volunteering their time at a charitable event, or from personally soliciting funds in excess of \$100.00 from persons not falling under the known lobbyist, principal or employer umbrella. However, as board members, they represent the organization. As such, solicitation or acceptance of donations by the organization are indirectly attributable to all officers and board members of the organization for the purposes of sec.2-444(a) and (b).

IN SUMMARY, the Commission on Ethics has no jurisdiction over members of the Academy Board who are not officials or employees of Palm Beach County or the specific municipalities named above. For those members of the Advisory Board who do fall under the Code of Ethics, they are prohibited from directly or indirectly soliciting or accepting donations of a value greater than \$100.00 from any lobbyist, principal or employer of a lobbyist who lobbies their governmental entity.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,

Alan S. Johnson  
Executive Director  
Commission on Ethics

ASJ/gal

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<sup>1</sup> RQO 10-012, RQO 10-019

May 6, 2011

Clark D. Bennett  
Spectrum Municipal Services, Inc.  
2501A Burns Road  
Palm Beach Gardens, Florida 33410

Re: RQO 11-020  
Conflict of Interest

Dear Mr. Bennett,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email whether as a county vendor you could continue to serve on the board of a non-profit organization that receives funding from the county and is currently applying for additional grant monies or whether this relationship creates a conflict of interest in violation of the code of ethics.

IN SUM, while you are a vendor doing business with Palm Beach County, you are neither an employee nor an official as those terms are defined within the code. The code of ethics does not prohibit vendors from entering into multiple contracts or transactions with the county through more than one private entity, whether for profit or non-profit.

THE FACTS as we understand them are as follows:

You are the managing director of Spectrum Municipal Services, a municipal advisory firm that provides guidance to county decision-makers on public finance issues. You are also the Chairman of the Board of Alzheimer's Community Care, Inc. (ACC), an organization founded to provide specialized care to Alzheimer's disease and related disorder patients and caregivers. ACC has received funding from the county in the past and is currently applying for additional county funding.

THE LEGAL BASIS for this opinion may be found in Sec. 2-442 of the Palm Beach County Code of Ethics:

*Official or employee* means an official or employee of the county, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, division, committee or subcommittee of the county.



While the code definition is intentionally broad in nature, it is not intended to reach persons retained by the county on a contractual basis. Such persons are classified as independent contractors<sup>1</sup> and are not currently considered employees as defined by the code.<sup>2</sup> The two elements that distinguish an independent contractor from an employee are 1) the contractor has an independent business and 2) the employer does not control the manner in which the contractor performs their work. Here, you have an independent business and are free to sell your financial services to the county. As such, for the purpose of the Palm Beach County Code of Ethics you are an independent contractor, not an employee.

While you are not an employee or official, as a county vendor you do have standing to ask for an advisory opinion pursuant to the jurisdiction conveyed in sec. 2-448(a) of the code of ethics.

IN SUMMARY, based on the facts and circumstances submitted, you are a vendor transacting business with Palm Beach County to provide advice on public finance issues. You are not a county employee or official. Accordingly, the code of ethics does not prohibit you from transacting or contracting with the county in your capacity as a director of a charitable organization.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,

Alan S. Johnson  
Executive Director

ASJ/mcr/gal

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<sup>1</sup> “One who, in exercising an independent employment, contracts to do certain work according to his own methods, without being subject to the control of his employer, except as to the product or result of his work.” 41 Am Jur.2d Independent Contractors s.1, 1968.

<sup>2</sup> A revised code of ethics currently before the BCC expands the definition of employee to include “contract personnel and contract administrators performing a government function...” Once the new code of ethics is adopted your status under the code may change which in turn may affect the applicability of this opinion.

May 7, 2011

Randy Schultz  
The Palm Beach Post - Editorial Board  
P.O. Box 24700  
West Palm Beach, FL 33416

Re: Clarification

Dear Mr. Schultz,

It has come to our attention that certain representations were made concerning communication between Riviera Beach City Attorney Pamala Ryan and Commission on Ethics Executive Director Alan Johnson regarding the charitable distribution of vendor funds provided to the City of Riviera Beach. Specifically, an article by Post staff writer Willie Howard published on April 20, 2011 contained the following: "Ryan consulted with Alan Johnson, executive director of the Palm Beach County Commission on Ethics, in developing the policy."

The purpose of this letter is to clear up any misunderstanding regarding the involvement of Mr. Johnson or the Palm Beach County Commission on Ethics in any City of Riviera Beach policy decision regarding the discretionary use by council members of funds obtained from city vendors.

While Ms. Ryan did speak with Mr. Johnson and there was an exchange of e-mails on the subject, the article suggests that Mr. Johnson, on behalf of the ethics commission, somehow endorsed or otherwise sanctioned this policy, or at the least, the policy resulted from consultation with Mr. Johnson.

As you can see by the attached e-mails, Mr. Johnson was contacted by Ms. Ryan to offer input on a pending resolution before the Riviera Beach Council. Mr. Johnson stated unequivocally that the Commission on Ethics had no jurisdiction within municipalities and that he could not opine as to this issue. In an effort to assist Ms. Ryan with relevant information, Mr. Johnson made her aware of the 2009 Palm Beach County Grand Jury Report regarding governance and public corruption issues. The Grand Jury reviewed the county discretionary fund policy and noted in their report "...the negative effect of the discretionary fund programs in both fact and perception." The Grand Jury further referred to these discretionary accounts as "slush funds" and criticized the mechanism used to distribute these funds. Ultimately, the Grand Jury recommended the funds be terminated and all discretionary accounts frozen and ultimately "utilized to fund an independent oversight entity and additional investigative resources." It is our understanding that the City of Riviera Beach is contemplating instituting just such a discretionary program with funds divided among individual councilpersons for distribution. Additionally, the Riviera Beach program contemplates using vendor contributions as opposed to the county program which used only tax dollars.

In addition to making Ms. Ryan aware of the Grand Jury report, Mr. Johnson also identified sections of the Palm Beach County Code of Ethics that could become potential issues once the referendum extending the ordinances to all municipalities was fully implemented. This was informational only, and the January 19, 2011 e-mail from Mr. Johnson specifically stated, "I cannot, nor can the ethics commission, give you any advice in this matter at this time..."

Any indication, either direct or indirect, that the Commission on Ethics, or its executive director sanctioned, endorsed or participated in the formulation of a discretionary fund policy for the City of Riviera Beach is both inaccurate and incorrect. Please keep this information in mind if you plan to cover this issue in the future.

Sincerely,

Edward Rodgers  
Chairman, Palm Beach County Commission on Ethics

ER/gal

PROPOSED

**From:** Alan Johnson S.  
**Sent:** Wednesday, January 19, 2011 2:56 PM  
**To:** 'Ryan, Pamala Hanna'  
**Cc:** 'Mark Bannon E.'  
**Subject:** RE: Question

Pamala;

Thank you for the heads up. As you know, WPB is not yet under the jurisdiction of the COE. That being said, I would like to refer you to the 2009 Grand Jury Report, specifically the section dealing with discretionary funds. While this issue may or may not ultimately involve issues with the code of ethics, clearly there was a concern shown by the grand jury regarding individual county commissioners using discretionary funds in a manner not unlike your plan. In fact, the county discretionary funds were tax dollars, where your plan involves vendor dollars. In general terms, funds solicited by public officials for public purposes are not considered gifts under the code. The problem, however, is how to avoid the appearance (or reality) of a city councilperson using their official position to financially benefit a person or entity that is prohibited under the code. This includes not only outside businesses, employers, customers or clients, and those who work for them, but family members, members of one's household, and non profit organizations if the official is an officer or director. Somewhere along the line, a person or an entity that loses out to another person or entity for these dollars will file a complaint and if there turns out to be a prohibited financial benefit, it will be a code issue.

I cannot, nor can the ethics commission, give you any advice in this matter at this time, but you may want to consider some of these collateral issues. Attached is the grand jury report (pages 19-20). We can speak further about this issue prior to the meeting if you like.

Al

**Alan S. Johnson**  
**Executive Director**  
**Commission on Ethics**  
**Ph 561-233-0725**  
**Fx 561-233-0735**



*"Honesty, Integrity, Character"*

**From:** Ryan, Pamala Hanna [mailto:PRYAN@Rivierabch.com]  
**Sent:** Wednesday, January 19, 2011 1:50 PM  
**To:** Alan Johnson S.  
**Subject:** Question

Good afternoon Al. This is Pamala Ryan, City Attorney for Riviera Beach.

I will be attending the 3:00 meeting today on the Inspector General Ordinance. I am wondering if you will be there. I have a question to ask you but will try not to stalk you at the meeting! The City is about to enter into a new waste agreement with Waste Management. As apart of the agreement, Waste Management will be giving the city \$72,000 per year for community benefits to be defined in a resolution of council. Below is the language we are considering. I want to make sure there will be no ethical issues for my council members if we allow this in the agreement. I have not uncovered any case law or attorney general opinion on point. I welcome your input. The language is:

23.1 As a community benefit to the City, Contractor agrees to contribute the sum of \$72,000 to the City per year for use by elected officials for public purposes. The City Council shall determine by resolution what types of community benefits will qualify for the program. The resolution will also provide for equal distribution of said funds to be made available for use by each elected official. \$36,000 will be made available for use on October 1<sup>st</sup> and April 1<sup>st</sup> of every year until expiration of this Agreement and any renewals. Each elected official shall direct Waste Management, through the city manager, where to spend the community benefit amount. Payment will be made by Contractor, on behalf of the elected official, directly to the entity designated by the City Council Member or Mayor. Contractor will provide a report quarterly to the City that includes a list of the entities receiving payments and the amounts thereof. On an annual basis, Contractor will provide a written report and an oral presentation to the City Council of all community benefits and any additional monetary and in-kind services, made by Contractor.

Thank you for reviewing it for me!

--Pamala

Pamala H. Ryan  
City Attorney  
City of Riviera Beach  
600 W. Blue Heron Blvd.  
Riviera Beach, FL 33404  
Tel: (561) 845-4069  
Fax: (561) 845-4017

CONFIDENTIALITY NOTE: The information contained in this transmission is legally privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you receive this communication in error, please notify the sender immediately by telephone call to (561) 845-4069 and delete the message.

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from local officials, employees, or the general public regarding city business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

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Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR THE COUNTY OF PALM BEACH, FLORIDA**

**FINAL PRESENTMENT  
OF THE  
PALM BEACH COUNTY GRAND JURY**

**INVESTIGATION OF PALM BEACH COUNTY  
GOVERNANCE AND PUBLIC CORRUPTION ISSUES**

**SPRING TERM A.D. 2009**



\*\*\*\*\*

**MICHAEL F. McAULIFFE**  
State Attorney

**PAUL ZACKS**  
Chief Assistant State Attorney

**ALAN JOHNSON**  
Assistant State Attorney

**May 21, 2009**

## **C. COMMISSIONER DISCRETIONARY FUNDS**

### **1. Current Practices and Procedures**

The Grand Jury received documentation and testimony regarding both the Recreation Assistance Program (RAP), established in 1994, and the District Infrastructure Funding (gas taxes) which was approved in 1999. These accounts are commonly referred to as the commissioners' discretionary funds.

In 1994, the Recreation Assistance Program (RAP) was created when the BCC allocated funds to support various park and recreation projects in the county. The next year, RAP evolved into a discretionary funding program with an annual allocation of \$200,000 per commissioner. According to the documentary evidence and testimony, the recipients of RAP funds must be governmental entities or not-for-profit agencies and the programs/activities must have a recreational or cultural arts component. In 1999, the BCC approved allocating \$7 million in gas taxes to be used by the commissioners for "capital projects." Each commission district was allocated an equal share of \$1 million per year. The annual allocation was approved by the BCC in advance for each subsequent fiscal year until 2009 when the tax was set to expire. In 2006, the BCC voted to allow an individual commissioner to transfer up to \$200,000 from the Infrastructure Discretionary Fund (Gas Tax) to the RAP fund through a series of budgetary transfers. Unspent discretionary funds remain in the account of each commissioner, effectively rolling over to the next fiscal year. The Grand Jury heard testimony that, in 2007, the BCC stopped funding both the Gas Tax and RAP program; however, previously unspent funds remain available within each commissioner's account.

## **2. Evaluation**

Numerous witnesses testified about the negative effect of the discretionary fund programs in both fact and perception. Indeed, these accounts were commonly referred to as “slush” funds. Most of the projects funded by discretionary funds over the years were laudable efforts and beneficial to the citizens of Palm Beach County. This Grand Jury’s criticism focuses not on the projects, but the mechanism used to distribute the funds.

These funds have politicized the process of funding county recreational, arts and infrastructure projects. Unused discretionary funds rolled over to the next fiscal year. Discretionary fund spending is a consent agenda item. Over the years, there has not been a single objection to the passage of discretionary fund items at a BCC meeting. The Grand Jury heard credible testimony that the use of discretionary funds increased in election years. A Tax Watch study recommended elimination of both the Gas Tax and RAP programs for those very reasons.

The Grand Jury recognizes that the issue of discretionary funds has been addressed, in part, by the decision of the BCC to temporarily cease funding these accounts. However, the Grand Jury heard testimony that the discretionary fund programs have not been eliminated. In addition, funds unspent have rolled over year to year and all commissioners have discretionary funds remaining in their accounts. Currently, the total amount of discretionary funds available to commissioners is \$3,412,510 (attached as Exhibit 9).

## **3. Findings and Recommendations**

The Grand Jury finds that by giving each commissioner millions of dollars to distribute essentially as he/she pleased, the BCC created a process that eliminated oversight and, at a minimum, politicized the manner of funding. The Grand Jury also finds that, although currently



no new funding has been allocated to the program, the re-constitution of the discretionary fund program is possible, if not likely. Therefore, the Grand Jury recommends the following:

- The Grand Jury recommends that the use of discretionary funds be formally terminated.
- The Grand Jury recommends that another mechanism be put in place to ensure that any future gas tax revenue or spending programs involving parks and recreation and road beautification be equitably distributed throughout the entire county.
- The Grand Jury recommends that the Board of County Commissioners immediately freeze all remaining funds from all discretionary accounts and that these funds be utilized to fund an independent oversight entity and additional investigative resources.

#### **D. ETHICS LAWS**

##### **1. Current State of the Law**

The Grand Jury received substantiated evidence regarding ethics rules, statutes, guidelines and proposals. In addition, the Grand Jury heard testimony from a number of civilian witnesses, elected officials, state and local government employees, county staff and staff from other agencies on this important issue.

The Grand Jury also reviewed applicable Florida laws including the State Code of Ethics for Public Officers and Employees, Chapter 112, part III, Florida Statutes. These laws include standards of conduct for public officers, including solicitation, acceptance and disclosure of gifts, unauthorized compensation, misuse of public position, conflicts of interest, nepotism, lobbying prohibitions, and disclosure of financial interests. Notably, unless a violation of Chapter 112 includes acts that also are prohibited in a separate criminal statute, all violations of the ethics chapter are non-criminal. Chapter 112-related complaints and violations are handled by the Florida Commission on Ethics. The Grand Jury identified no Palm Beach County governmental or public entity with the statutory authority to address or adjudicate ethics issues (other than the County Administrator) (see below).

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

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Meeting Date: May 3, 2011

Consent       Regular  
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COMMISSION ON ETHICS

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I. EXECUTIVE BRIEF

**Motion and Title:** Approve on preliminary reading and advertise for public hearing on May 17, 2011, at 9:30 a.m.: an ordinance of the Board of County Commissioners of Palm Beach County, Florida, repealing the Palm Beach County Commission on Ethics Ordinance, Ordinance 2009-050, as amended, and adopting a new countywide Palm Beach County Commission on Ethics Ordinance; providing for creation and jurisdiction; providing for membership qualifications, terms and vacancy; providing for applicability of the code of ethics; providing for organization of the Commission on Ethics; providing for powers and duties; providing for extended jurisdiction by interagency agreements; providing for financial support; providing for procedure on complaints filed; providing for public hearing procedures; providing for notification and referral to other authorities; providing for dismissal of complaints; providing for frivolous or groundless complaints; providing for effect on other laws; providing for prospective jurisdiction; providing for personnel proceeding; providing for statute of limitations; providing for advisory opinion; providing for appeals; providing for savings clause; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; and providing for an effective date.

**Summary:** The Board of County Commissioners adopted an ordinance creating the Palm Beach County Commission on Ethics as part of a series of ethics reforms begun in December 2009. Since then, the Board proposed charter amendments requiring in part the adoption of an ordinance extending the jurisdiction of the Commission on Ethics to the municipalities in Palm Beach County. The charter amendments, which were approved by the voters in November 2010, also called for the establishment of a drafting committee to propose recommended changes to the existing Commission on Ethics Ordinance for countywide application. This ordinance is the product of the committee's work. A brief description of substantive changes to this ordinance is included as Attachment 3. Countywide (LB)

**Background and Policy Issues:** The Palm Beach County Commission on Ethics will be empowered to review, interpret, render advisory opinions and enforce the Palm Beach County Code of Ethics, countywide. The Commission on Ethics will also provide training and outreach programs for county and municipal employees and officials, county and municipal vendors, and other entities that do business with the County and municipalities.

(Continued on page 3)

**II. FISCAL IMPACT ANALYSIS**

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	_____	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget?                      Yes \_\_\_\_\_ No \_\_\_\_\_

Budget Account No.:      Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
    Reporting Category \_\_\_\_\_

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

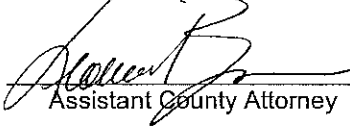
C. Departmental Fiscal Review: \_\_\_\_\_

**III. REVIEW COMMENTS**

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

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

B. Legal Sufficiency:

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

C. Other Department Review:

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

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



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ORDINANCE NO. 2011-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING THE PALM BEACH COUNTY COMMISSION ON ETHICS ORDINANCE, ORDINANCE 2009-050, AS AMENDED, AND ADOPTING A NEW COUNTYWIDE PALM BEACH COUNTY COMMISSION ON ETHICS ORDINANCE; PROVIDING FOR CREATION AND JURISDICTION; PROVIDING FOR MEMBERSHIP QUALIFICATIONS, TERMS AND VACANCY; PROVIDING FOR APPLICABILITY OF THE CODE OF ETHICS; PROVIDING FOR ORGANIZATION OF THE COMMISSION ON ETHICS; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR EXTENDED JURISDICTION BY INTERAGENCY AGREEMENTS; PROVIDING FOR FINANCIAL SUPPORT; PROVIDING FOR PROCEDURE ON COMPLAINTS FILED; PROVIDING FOR PUBLIC HEARING PROCEDURES; PROVIDING FOR NOTIFICATION AND REFERRAL TO OTHER AUTHORITIES; PROVIDING FOR DISMISSAL OF COMPLAINTS; PROVIDING FOR FRIVOLOUS OR GROUNDLESS COMPLAINTS; PROVIDING FOR EFFECT ON OTHER LAWS; PROVIDING FOR PROSPECTIVE JURISDICTION; PROVIDING FOR PERSONNEL PROCEEDING; PROVIDING FOR STATUTE OF LIMITATIONS; PROVIDING FOR ADVISORY OPINION; PROVIDING FOR APPEALS; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, based on a referendum on November 2, 2010, concerning proposed amendments to the Palm Beach County Charter, a majority of voters in the County and in every municipality in Palm Beach County elected to require the Board of County Commissioners to adopt an ordinance to establish a countywide Commission on Ethics with the authority to review, interpret, render advisory opinions and to enforce the countywide Palm Beach County Code of Ethics and to provide ethics training for the benefit of local governments, citizens groups and the general public; and

WHEREAS, the Palm Beach County Board of County Commissioners finds that the integrity of the governmental decision-making process is essential to the continued functioning of an open government; and

WHEREAS, the Board of County Commissioners further finds that the establishment of the countywide Commission on Ethics will ensure the integrity of these processes and restore public confidence in government; and

1           **WHEREAS**, the purpose of the Palm Beach County Commission on Ethics is to serve as the  
2 guardian of the public trust by, among other things, educating elected and appointed officials and  
3 other public servants and those who do business with local governments as to the required standards  
4 of ethical conduct and enforcing those standards of conduct; and

5           **WHEREAS**, it is not the intent of the Board of County Commissioners that the Palm Beach  
6 County Commission on Ethics serve as a personnel board resolving personnel matters involving  
7 County and municipal employees; and

8           **WHEREAS**, the Board of County Commissioners hereby determines that the Ordinance set  
9 forth herein advances the purposes and intent of the Palm Beach County Charter amendments  
10 approved by the electorate on November 2, 2010; and

11           **WHEREAS**, the Board of County Commissioners of Palm Beach County, pursuant to its  
12 authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida Statutes, the  
13 Palm Beach County Charter, hereby adopts the Palm Beach County Commission on Ethics  
14 Ordinance; and

15           **WHEREAS**, the Board of County Commissioners has conducted a duly noticed public  
16 hearing to consider these amendments as required by law.

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

19 **SECTION 1. THE PALM BEACH COUNTY COMMISSION ON ETHICS.**

20           The Palm Beach County Commission on Ethics, Ordinance 2009-050, is hereby repealed and  
21 the new countywide Palm Beach County Commission on Ethics Ordinance is hereby adopted as set  
22 forth in Exhibit 1 which is attached hereto and made a part hereof.

23 **SECTION 2. SAVINGS CLAUSE.**

24           All complaints, investigations, advisory opinions, recommended orders, final orders, requests  
25 for advisory opinions, hearing processes, and all other functions of the Palm Beach County  
26 Commission on Ethics, initiated or completed pursuant to Ordinance 2009-050 or Ordinance 2009-  
27 051, as amended, shall remain in full force and effect. The membership and terms of each member  
28 of the Commission on Ethics shall remain as originally established pursuant to Ordinance 2009-050.

29 **SECTION 3. REPEAL OF LAWS IN CONFLICT.**

30           All local laws and ordinances in conflict with any provisions of this Ordinance are hereby  
31 repealed to the extent of such conflict.

1 **SECTION 4. SEVERABILITY.**

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any  
3 reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the  
4 remainder of this Ordinance.

5 **SECTION 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

6 The provisions of this Ordinance shall become and be made a part of the Code of Laws and  
7 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or  
8 re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or  
9 other appropriate word.

10 **PART 6. EFFECTIVE DATE.**

11 The provisions of this Ordinance shall become effective upon filing with the State of Florida  
12 Department of State.

13 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach  
14 County, Florida, on this the \_\_\_\_ day of May, 2011.

15 SHARON R. BOCK  
16 CLERK & COMPTROLLER

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

17  
18  
19  
20 By: \_\_\_\_\_  
21 Deputy Clerk

By: \_\_\_\_\_  
Karen T. Marcus, Chair

22  
23  
24  
25 (SEAL)

26  
27  
28  
29 APPROVED AS TO FORM AND  
30 LEGAL SUFFICIENCY

31  
32  
33  
34 By: \_\_\_\_\_  
35 County Attorney

36  
37  
38 Filed with the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

## EXHIBIT 1

### 1 **Sec. 2-254. Creation and jurisdiction.**

2 The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby  
3 established. The jurisdiction of the commission on ethics shall extend to any person required to  
4 comply with the countywide code of ethics, the county lobbyist registration ordinance, and the  
5 county post-employment ordinance, and may further extend to persons or entities required to  
6 comply with additional ordinances and regulations duly adopted by other county, local, or  
7 municipal government and any commission, bureau, district, or other governmental entity  
8 located in Palm Beach County as more fully set forth below. The jurisdiction of the commission  
9 on ethics is not exclusive. Any person or entity subject to a complaint to the county's  
10 commission on ethics may also be subject to a separate complaint to the state commission on  
11 ethics or pursuant to a municipality's ethics ordinance. A finding by the county's commission on  
12 ethics is not binding on the state and may not be binding on the municipality, depending on the  
13 nature of the complaint and whether the municipality's ethics ordinance is more restrictive than  
14 the countywide ethics code.

### 15 **Sec. 2-255. Membership, qualifications, terms, vacancies.**

16 (a) *Composition and appointment.* The commission on ethics shall be composed of five (5)  
17 members. The members of the commission on ethics shall be appointed as follows:

18 (1) The president of the county association of chiefs of police shall be requested to appoint a  
19 former law enforcement official with experience in investigating white collar crime or public  
20 corruption.

21 (2) The president of the Hispanic Bar Association of Palm Beach County, the president of the F.  
22 Malcolm Cunningham, Sr. Bar Association, and the president of the county bar association shall  
23 be requested to appoint an attorney with experience in ethics regulation of public officials and  
24 employees.

25 (3) The president of Florida Atlantic University (FAU) shall be requested to appoint a faculty  
26 member who teaches at an institution of higher education with a campus located in the county  
27 and who has taught a course in professional legal ethics or has published or performed services  
28 in the field of professional legal ethics.

29 (4) The president of the Palm Beach Chapter of the Florida Institute of CPAs shall be requested  
30 to appoint a member who possesses at least five (5) years experience as a certified public  
31 accountant (CPA) with forensic audit experience.

32 (5) The board of directors of the Palm Beach County League of Cities, Inc. shall be requested to  
33 appoint a person who has served as a former elected official for a governmental entity in the  
34 county.

35 All appointing officers or entities identified in subsections (a)(1) through (5) shall in good faith  
36 endeavor to appoint members of the commission on ethics within forty-five (45) days of the  
37 effective date of the ordinance from which this division is derived. Each appointing entity shall  
38 promptly provide notice of each appointment to the county administrator.

39 (b) *Additional qualifications.* Each member of the commission on ethics shall be of outstanding  
40 reputation for integrity, responsibility and commitment to serving the community. The members  
41 of the commission on ethics should be representative of the community-at-large and should  
42 reflect the racial, gender and ethnic make-up of the community. Before entering upon the duties  
43 of office, each appointee on the commission on ethics shall take the prescribed oath of office  
44 pursuant to Florida Constitution, Art. II §5(b). Members of the commission on ethics shall serve  
45 without compensation.



47 (c) *Term.* The members of the commission on ethics shall serve staggered terms of four (4)  
48 years each, provided that of the original members, two (2) members described in subsections  
49 (a)(1) and (2) shall be appointed for an initial term of two (2) years. The remaining three (3)  
50 members shall be appointed for an initial term of four (4) years. Thereafter, all members of the  
51 commission on ethics shall serve terms of four (4) years.

52 (d) *Vacancies.* A vacancy occurring during or at the expiration of a member's term on the  
53 commission on ethics shall be filled as provided in subsections (a) and (b), no later than sixty  
54 (60) days after the vacancy occurs.

55 (e) *Additional requirements.* No individual, while a member of the commission on ethics,  
56 shall:

- 57 (1) Hold or campaign for any elective political office;
- 58 (2) Hold office in any political party or political committee;
- 59 (3) Actively participate in or contribute to any political action committee, or to any campaign  
60 for state or local office or for any U.S. Congressional or Senate office serving the State of  
61 Florida;
- 62 (4) Be employed by Palm Beach County, any municipality within the county, or any other  
63 governmental entity subject to the authority of the commission on ethics or the inspector general;  
64 or
- 65 (5) Allow his or her name to be used by a campaign in support of or against any candidate for  
66 political office or any referendum or other ballot question. Nothing herein shall preclude a  
67 member of the commission on ethics from signing a petition in support of or against any  
68 referendum or other ballot question.

69  
70 **Sec. 2-256. Applicability of code of ethics ordinance.**

71 The countywide code of ethics ordinance shall be applicable to all persons and/or entities within  
72 the jurisdiction of said ordinance and shall apply to the members and staff of the commission on  
73 ethics.

74  
75 **Sec. 2-257. Organization.**

76 (a) The commission on ethics shall elect one (1) of its voting members as chairperson who shall  
77 serve a term of two (2) years. No chairperson shall be permitted to serve two (2) consecutive  
78 terms.

79 (b) The commission on ethics shall adopt bylaws and rules of procedure which are consistent  
80 with the provisions of this division and rules and regulations for the commission on ethics'  
81 governance. The commission on ethics shall hold regular meetings in accordance with the  
82 bylaws of the commission and may hold such other meetings as it deems necessary.

83 (c) All meetings of the commission on ethics shall be public, and written minutes of the  
84 proceedings thereof shall be maintained by the commission on ethics. All actions taken at the  
85 meetings of the commission on ethics shall be promptly and properly recorded. Copies of all  
86 minutes, resolutions, decisions or advisory opinions of the commission on ethics shall be  
87 forwarded to the clerk to the board of county commissioners no later than thirty (30) days  
88 subsequent to any meeting of the commission on ethics.

89 (d) The commission on ethics shall be empowered to appoint an executive director and to  
90 remove such appointee at will. The commission on ethics shall utilize a competitive selection  
91 process when selecting an executive director. The commission on ethics shall fix the executive  
92 director's salary, subject to ultimate budget approval by the board of county commissioners. The

93 executive director shall be empowered to appoint, remove, and suspend employees or agents of  
94 the commission on ethics, subject to ultimate budget approval by the board of county  
95 commissioners. The executive director shall be further empowered to adopt personnel and  
96 management policies consistent with like policies in place for county personnel.  
97

98 **Sec. 2-258. Powers and duties.**

99 (a) The commission on ethics shall be authorized to exercise such powers and shall be required  
100 to perform such duties as are hereinafter provided. The commission on ethics shall be  
101 empowered to review, interpret, render advisory opinions and enforce the:

- 102 (1) Countywide Code of Ethics;
- 103 (2) County Post-employment Ordinance; and
- 104 (3) County Lobbyist Registration Ordinance.

105 (b)As set forth in the Office of Inspector General, Palm Beach County, Florida Ordinance, the  
106 commission on ethics shall serve with one (1) delegate each from the state attorney's office and  
107 public defender's office for the Fifteenth Judicial Circuit as the inspector general committee. The  
108 inspector general committee shall be authorized to select the inspector general, to determine  
109 whether or not to renew the term of an inspector general, and to participate in the removal of the  
110 inspector general as set forth in greater detail in the Office of Inspector General, Palm Beach  
111 County, Florida Ordinance.

112 (c)The commission on ethics shall from time to time review ordinances and state and federal  
113 laws relating to ethics in government and shall report and make recommendations to the board of  
114 county commissioners and municipal elected officials as it deems appropriate.

115 (d)The commission on ethics shall develop and deliver ethics training and outreach programs for  
116 the benefit of county and municipal employees and officials, county and municipal vendors,  
117 nonprofit corporations, and other entities that do business with or are regulated by the county or  
118 the municipalities located within the county. The commission on ethics may recommend that the  
119 board enter into agreements with other entities to provide such training and outreach programs to  
120 be administered by the commission on ethics.  
121

122 **Sec. 2-258.1 Extended jurisdiction by interagency agreements.**

123 It is anticipated that taxing districts, and other public officials and entities will recognize and  
124 desire to benefit from the services of the commission on ethics. The commission on ethics may  
125 additionally be empowered to review, interpret, render advisory opinions, and enforce similar  
126 rules or regulations duly adopted by any commission, bureau, district, or other governmental  
127 entity located in the county, pursuant to agreements or memoranda of understanding between the  
128 commission on ethics and said entity. The memorandum of understanding or agreement shall  
129 include a provision for fees to be paid to the commission on ethics from the public entity in  
130 exchange for such benefits at a rate established by the commission on ethics. All fees paid under  
131 any such agreement shall be used solely to fund the operations of the commission on ethics and  
132 its staff. Any such agreement or memorandum of understanding is subject to final approval of the  
133 board, but such approval shall not be unreasonably withheld.  
134

135 **Sec. 2-259. Financial support for the commission.**

136 (a) The commission on ethics shall establish a fiscal year which coincides with that of the  
137 county. Pursuant to its annual budget process, the county shall provide sufficient financial  
138 support for the commission on ethics to fulfill its duties as set forth in this division. The

139 commission on ethics shall timely submit to the board of county commissioners a budget request  
140 including a reasonable estimate of operating and capital expenditures, which request shall not be  
141 implemented until approved by the board of county commissioners.

142 (b) The commission on ethics budget request shall be prepared on official county budget forms  
143 in a format prescribed by the county office of financial management and budget, shall be  
144 reviewed in a manner similar to that in which other county departments are reviewed, and  
145 shall be incorporated in the proposed budget and timely submitted to the board of county  
146 commissioners each year. Nothing contained herein shall be construed to prohibit the  
147 commission on ethics from submitting to the board of county commissioners supplemental  
148 budget requests which, if approved, shall constitute amendments to the county budget.

149 (c) In addition to budgetary appropriations made by the county, the board of county  
150 commissioners, may, for the benefit of the commission on ethics, accept grants, contributions or  
151 appropriations from the federal government, state government, any municipality within the  
152 county, or any academic institution or nonprofit entity which has not entered into a contract or  
153 transacted business with the county or any governmental entity subject to the provisions of this  
154 ordinance. The commission on ethics may accept grants, contributions or appropriations from an  
155 academic institution or nonprofit entity which has entered into a contract or transacted business  
156 with the county if the board of county commissioners by resolution approves the grant,  
157 contribution, or appropriation. No other grants, contributions or appropriations may be accepted  
158 by the commission on ethics.

159  
160 **Sec. 2-260. Procedure on Complaints filed.**

161 (a) *Filing of complaints.*

- 162 (1) Any person may file a complaint with the commission on ethics.  
163 (2) The Inspector General, Executive Director of the Commission on Ethics or the State  
164 Attorney may file a complaint with the commission on ethics.

165 (b) *Legal sufficiency of complaints.*

- 166 (1) In order to be found legally sufficient, complaints filed by persons under section (a)1 above,  
167 must:  
168 a. Be in writing, and executed on a form prescribed by the commission on ethics;  
169 b. Allege the elements of a violation within the commission on ethics' jurisdiction in the  
170 complaint and/or supporting documents provided;  
171 c. Be based substantially upon the personal knowledge of the complainant; and  
172 d. Be signed under oath or affirmation by the complaining person.  
173 (2) In order to be found legally sufficient, complaints filed by the Inspector General, Executive  
174 Director of the Commission on Ethics or the State Attorney, must:  
175 a. Be in writing, and executed on a form prescribed by the commission on ethics;  
176 b. Allege the elements of a violation within the commission on ethics' jurisdiction in the  
177 complaint and/or supporting documents provided;  
178 c. Be sworn to by the person filing the complaint before a notary public and contain the  
179 following language: "Personally known to me and appeared before me, \_\_\_\_\_,  
180 whose signature appears below, being duly sworn, says that the allegations set forth in  
181 this complaint are based upon facts which have been sworn to as true by a material  
182 witness or witnesses and which if true would constitute the offenses alleged and that  
183 this complaint is instituted in good faith."  
184

185 Upon a finding of legal sufficiency by the executive director, the commission on ethics shall  
186 initiate a preliminary investigation.

187

188 (c) *Documents Provided to the Respondent.* Within twenty (20) days of a legal sufficiency  
189 finding, a copy of the complaint and all documents in support thereof shall be sent to the  
190 alleged violator, otherwise known as the respondent.

191 (d) *Preliminary investigation and public hearing.* A preliminary investigation shall be  
192 undertaken by the commission on ethics of each legally sufficient complaint over which the  
193 commission on ethics has jurisdiction to determine whether there is probable cause to believe  
194 that a violation has occurred. If, upon completion of the preliminary investigation, the  
195 commission on ethics finds no probable cause to believe that a violation has been committed, the  
196 commission on ethics shall dismiss the complaint with the issuance of a report to the  
197 complainant and the respondent. If the commission on ethics finds from the preliminary  
198 investigation probable cause to believe that a violation has been committed, it shall set the matter  
199 for a public hearing and notify complainant and respondent via certified mail, hand delivery, or  
200 courier. The commission on ethics may conduct such further investigation as it deems necessary,  
201 and may enter into such stipulations and settlements as it finds to be just and in the best interest  
202 of the citizens of the county. The public hearing provided for in this section shall be held within  
203 one hundred twenty (120) days of the probable cause determination unless extended by the  
204 commission on ethics for good cause based on the request of a party or on its own initiative.

205 (e) *Investigations.* Investigations shall be conducted by commission on ethics staff or by any  
206 other person or agency so designated by the commission on ethics under the supervision of the  
207 executive director and/or the inspector general. Investigations shall be limited to the allegations  
208 of the complaint, but shall include an investigation of all facts and persons materially related to  
209 the complaint at issue. Subsequent to the filing of a complaint and notice to the respondent, the  
210 commission on ethics has an ongoing duty to disclose to the respondent any and all additional  
211 documents, statements of witnesses and other evidence, not otherwise subject by statute to  
212 nondisclosure, obtained by the commission pursuant to the ongoing investigation of a complaint.

213 (f) *Counsel.*

214 (1) Counsel to commission on ethics. The commission on ethics shall select counsel to advise  
215 the commission on ethics.

216 (2) Advocate. The commission on ethics shall retain legal counsel to serve as the advocate. The  
217 advocate shall prosecute cases before the commission on ethics. The executive director may  
218 serve as advocate provided the executive director is a member of the Florida Bar in good  
219 standing.

220 (3) Counsel to the commission on ethics, the advocate, or both may serve on a volunteer basis.

221 (4) Respondent. The respondent may appear on his or her own behalf or may be represented by  
222 a lawyer. All notices and communications to a respondent represented by a lawyer shall be made  
223 through respondent's lawyer.

224 (g) *Public records exemption.* The commission on ethics and its staff shall be considered "an  
225 appropriate local official" for the purposes of whistleblower protection provided for in Florida  
226 Statutes, § 112.3188(1). The complaint and all records held by the commission on ethics and its  
227 staff related to an active preliminary investigation are confidential and exempt from disclosure in  
228 a manner consistent with the provisions in Florida Statutes, §112.324(2) and (3) and §  
229 112.3188(2). In addition, any proceeding conducted by the commission on ethics pursuant to a  
230 complaint or preliminary investigation is exempt from the provision § 286.011, Florida Statutes,

231 and Article 1, § 24(b), Florida Constitution, as set forth in § 112.324(2) and (3), Florida Statutes.  
232 Once a preliminary investigation is complete and a probable cause determination made, all other  
233 proceedings conducted pursuant to this subsection shall be public meetings within the meaning  
234 of Florida Statutes, ch. 286, and all other documents made or received by the commission on  
235 ethics shall be public records within the meaning of Florida Statutes, ch. 119, subject to  
236 whistleblower confidentiality as provided for in Florida Statutes § 112.3188(1).

237 (h) *General power of subpoena.* The commission on ethics shall be empowered to subpoena and  
238 investigate. In the case of a refusal to obey a request for documents or for an interview during an  
239 investigation, the commission on ethics may subpoena relevant witnesses and compel their  
240 attendance and testimony, administer oaths and affirmations, take evidence, and require by  
241 subpoena the production of any books, papers, records, or other relevant items. The commission  
242 on ethics may delegate to its staff the authority to administer oaths and affirmations. In the case  
243 of a refusal to obey a subpoena issued to any person, the commission on ethics may make  
244 application to any circuit court of this state which shall have jurisdiction to order the witness to  
245 appear before the commission on ethics and to produce evidence, if so ordered, or to give  
246 testimony relevant to the matter in question. Any person who fails to obey the order may be  
247 punished in a court of law. Seventy-two (72) hours prior to serving a subpoena, the executive  
248 director shall provide written notice to the state attorney and the U.S. Attorney for the Southern  
249 District of Florida. The commission on ethics shall not interfere with any ongoing criminal  
250 investigation or prosecution of the state attorney or the U.S. Attorney for the Southern District of  
251 Florida. When the state attorney or the U.S. Attorney for the Southern District of Florida has  
252 explicitly notified the commission on ethics in writing that the commission's investigation is  
253 interfering with an ongoing criminal investigation or prosecution, the commission on ethics shall  
254 suspend service of subpoena, examination of witnesses, or other investigative activities as set  
255 forth in the notice.

256 (i) *Subpoenas for discovery.* At any time after the commission on ethics orders a public hearing  
257 of the matter, the commission on ethics may issue subpoenas, as provided in subsection (h), to  
258 effect discovery upon the written request of respondent or advocate. The requesting person shall  
259 give the name and address of each witness he or she wishes to have deposed and shall describe  
260 with particularity those documents or other items that the person wishes to have the witness  
261 produce pursuant to a subpoena *duces tecum*. The chairperson or a member of the commission on  
262 ethics designated by the chairperson may issue appropriate orders to effectuate the purposes of  
263 discovery and to prevent delay.

264 (j) *Subpoenas for public hearing.* The respondent and the advocate shall submit to the executive  
265 director a list of all witnesses he or she wishes to have subpoenaed to attend the hearing. The  
266 lists shall contain the correct names and addresses of the witnesses and shall describe with  
267 particularity those documents or other items that he or she wishes to have the witness bring to the  
268 hearing pursuant to subpoena *duces tecum*. Subpoenas shall be issued as provided in subsection

269 (h).

270 (k) *Motions.*

271 (l) All motions shall be in writing unless made on the record during a hearing, and shall fully  
272 state the actions requested and the grounds relied upon. The motion shall include a statement that  
273 the movant has conferred with the advocate and all other parties of record and shall state whether  
274 there is any objection to the motion.

275 (2) The original written motion shall be filed with the commission on ethics and a copy served  
276 on all parties or their attorneys. The commission on ethics staff shall send a copy of the motion  
277 to the chairperson.

278 (3) The chairperson, or a member of the commission on ethics designated by the chairperson,  
279 shall conduct such proceedings and make such orders as are deemed necessary to dispose of  
280 issues raised by motions, but is not required to hold a hearing on the motion in order to rule upon  
281 it.

282 (4) Every written motion may be accompanied by, or included in, a written memorandum  
283 stating the grounds upon which the motion is based. Other parties to a proceeding may, within  
284 seven (7) days of service of a written motion, file written memoranda in opposition.

285 (l) *Prehearing conferences.* The chairperson, or a member of the commission on ethics  
286 designated by the chairperson, may conduct one (1) or more prehearing conferences for the  
287 purpose of hearing arguments on pending motions, clarifying and simplifying issues, discussing  
288 the possibilities of settlement of the issues, examining exhibits and documents, exchanging  
289 names and addresses of witnesses, and resolving other procedural matters.

290 (m) *Exchange of witness lists.* Unless otherwise ordered by the chairperson or a member of the  
291 commission on ethics designated by the chairperson as a result of a prehearing conference, the  
292 advocate and the respondent(s) or counsel for respondent(s) shall exchange the names and  
293 addresses of witnesses at least ten (10) days prior to the public hearing, with a copy being  
294 provided to the chairperson. Names and addresses of witnesses discovered subsequently shall be  
295 disclosed to the other party or parties and to the chairperson as soon as possible. Failure to  
296 disclose the name and address of a witness may result in the exclusion of the witness's testimony,  
297 according to the rule applied in civil judicial proceedings.  
298

**Sec. 2-260.1. Public hearing procedures.**

299  
300 (a) *Presentation of the case.* The advocate shall present his or her case first. Respondent may  
301 then present his or her case. Rebuttal evidence may be permitted in the discretion of the  
302 commission on ethics.

303 (b) *Opening and closing statements.* Opening and closing statements may be presented by the  
304 advocate and the respondent. The advocate may make the first statement and the respondent may  
305 follow. Rebuttal by the advocate may be permitted or may be denied.

306 (c) *Evidence.*

307 (1) Stipulations may be received and are encouraged as to uncontested matters.

308 (2) Oral evidence shall be taken only on oath or affirmation.

309 (3) The respondent and the advocate shall have the right: to present evidence relevant to the  
310 issue; to cross-examine opposing witnesses on any matter relevant to the issue; and to impeach  
311 any witness regardless who first called him or her to testify.

312 (4) The hearing shall not be conducted according to technical rules relating to evidence and  
313 witnesses. Any relevant evidence may be admitted. Hearsay evidence may be used to supplement  
314 or explain other evidence, but shall not be sufficient itself to support a finding. The rules of  
315 privilege shall be effective to the same extent that they are now or hereafter may be recognized  
316 in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The commission on  
317 ethics shall not allow the introduction into evidence of an affidavit of a person when that person  
318 can be called to testify; this shall not preclude the admission of a deposition of such a person,  
319 however, for any reason permissible in a court of law under the Florida Rules of Civil Procedure.

320 (d) *Transcript of proceedings.* The proceedings shall be recorded by recording instruments or  
321 by a court reporter. Respondent may, at his or her own expense, provide a court reporter or  
322 recording instruments. The commission on ethics may provide a court reporter. No transcript of  
323 the proceedings shall be prepared unless requested by the commission on ethics or by the  
324 respondent. If the respondent requests that a transcript be prepared by a court reporter, the  
325 respondent shall pay the expense of transcription. If the Respondent requests that the commission  
326 on ethics prepare a transcript from recording instruments and the commission on ethics grants  
327 such request, the respondent shall pay the commission on ethics the actual cost of transcription.  
328 If a court reporter records the proceedings, the court reporter's transcript shall be the official  
329 transcript.

330 (e) *Proposed public report.* After the conclusion of the hearing, the respondent and the  
331 advocate may present written proposed public reports, within a time designated by the  
332 chairperson or a member of the commission on ethics designated by the chairperson. If a  
333 proposed public report is filed by the respondent or the advocate, each proposed finding in the  
334 proposal that is rejected shall be accompanied by a statement summarizing the reasons for  
335 rejection.

336 (f) *Motions to dismiss filed by advocate.* After probable cause is found and a public hearing is  
337 ordered by the commission on ethics, and after further investigation or discovery is made by the  
338 advocate, the advocate may move to dismiss the proceeding if the advocate concludes that there  
339 is insufficient evidence to proceed to the public hearing in good faith. Such a motion shall  
340 specifically state the grounds upon which it is made. The motion shall be heard by the  
341 commission on ethics in accordance with the procedure provided for in section 2-260(i).

342 (g) *Public order imposing penalty.* Upon completion of any hearing initiated under this  
343 subsection, the commission on ethics shall make a finding and public report as to whether any  
344 provision within its jurisdiction has been violated. If the commission on ethics finds, by clear and  
345 convincing evidence, based upon competent substantial evidence in the record, that a violation  
346 has been committed, the commission on ethics shall issue an order imposing the appropriate  
347 penalty as provided in the ordinance being enforced. The public report and final order shall  
348 include a determination as to whether the violation was intentional or unintentional. The  
349 commission on ethics shall, within twelve (12) months of the filing of a complaint, render a final  
350 order disposing of said complaint unless extended by the commission for good cause. If a person  
351 fails to comply with an order issued by the commission on ethics, the commission on ethics may  
352 make application to any circuit court of this state which shall have jurisdiction to order the  
353 violator to comply with the order of the commission on ethics. Any violator who fails to obey the  
354 order may be punished by the court.

355  
356 **Sec. 2-260.2. Notification and referral to other authorities.**

357 As provided for by ordinance within its jurisdiction, the commission on ethics shall refer a matter  
358 to the state attorney or any other appropriate official or agency having authority to initiate  
359 prosecution when deemed appropriate. The state attorney or other appropriate agency may  
360 decline prosecution or enforcement of any matter referred under this division and refer the matter  
361 back to the commission on ethics. The commission on ethics shall notify the State of Florida  
362 Commission on Ethics, the state attorney, the U.S. Attorney for the Southern District of Florida,  
363 and other appropriate law enforcement agencies within ten (10) days of a finding of no probable  
364 cause or of a final order disposing of a complaint.

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**Sec. 2-260.3. Dismissal of complaints.**

Notwithstanding any other provisions of this division, the commission on ethics may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue a public report stating with particularity its reasons for the dismissal. The commission on ethics may, at the request of the state attorney or any other law enforcement agency, stay an ongoing proceeding. The commission on ethics shall not interfere with any ongoing criminal investigation of the state attorney or the U.S. Attorney for the Southern District of Florida.

**Sec. 2-260.4. Frivolous or groundless complaints.**

In any case in which the commission on ethics determines that the complaining party filed a frivolous or groundless complaint as defined in Florida Statutes, § 57.105, or a complaint with malicious intent and with the knowledge that the complaint contains one or more false allegations, or with reckless disregard for whether the complaint contains material false allegations, the commission on ethics shall order the complaining party to pay any costs and attorney's fees incurred by the commission on ethics and/or the alleged violator. The determination by the commission on ethics regarding whether a complaint is frivolous or groundless shall be deemed conclusive.

**Sec. 2-260.5. Effect on other laws.**

The provisions of this division shall be deemed supplemental to any other applicable county ordinance or state or federal law and are not intended to replace or repeal any provision of state or federal law or of this Code.

**Sec. 2-260.6. Prospective jurisdiction.**

The commission on ethics shall be empowered to consider alleged violations within its jurisdiction committed on or after the effective date of the ordinances set forth in section 2-258(a), as each may be amended from time to time. Any alleged violation committed before the effective date of any such ordinance or amendment shall be governed by the applicable law in effect at the time of the alleged violation.

**Sec. 2-260.7. Personnel proceeding.**

Where an employee of the county or other governmental entity subject to the jurisdiction of this ordinance is alleged to have violated an ordinance within the jurisdiction of the commission on ethics and, based upon the same set of facts, is subject to an ongoing disciplinary action initiated by the county or other governmental entity subject to the jurisdiction of this ordinance the commission on ethics shall stay consideration of a complaint until the conclusion of the personnel proceeding. Nothing herein shall abridge employees' constitutional right to collective bargaining.

**Sec. 2-260.8. Statute of limitations.**



410 No action may be taken on a complaint filed more than two (2) years after the violation is alleged  
411 to have occurred unless a person, by fraud or other device, prevents discovery of the violation.  
412 Where the allegations are the subject of a personnel proceeding or where the complainant is  
413 required to exhaust his or her administrative remedies prior to filing a complaint, the statute of  
414 limitations shall be tolled until the termination of said personnel proceeding or the exhaustion of  
415 administrative remedies.

416  
417 **Sec. 2-260.9. Advisory opinion.**

418 Any person within the jurisdiction of the commission on ethics, when in doubt about the  
419 applicability or interpretation of any provision within the commission on ethics' jurisdiction to  
420 himself or herself in a particular context, may submit in writing the facts of the situation to the  
421 commission on ethics with a request for an advisory opinion to establish the standard of public  
422 duty, if any. A person requesting an advisory opinion may withdraw the request at any time up to  
423 ten days before the commission on ethics convenes a public meeting to consider the request. An  
424 advisory opinion shall be rendered by the commission on ethics on a timely basis, and each such  
425 opinion shall be numbered, dated and published.

426  
427 **Sec. 2-260.10. Appeals.**

428 (a) Any final order of the commission on ethics may be appealed by filing a petition for writ of  
429 certiorari in the Fifteenth Judicial Circuit Court in and for Palm Beach County. The commission  
430 on ethics shall provide the index and record on appeal when required by, and in accordance with,  
431 the Florida Rules of Appellate Procedure. A fee shall be charged by the commission on ethics for  
432 the preparation and transmission of the record on appeal to the court of appropriate jurisdiction.  
433 Such fee may be waived by the executive director if the party requesting the record is indigent.

434 (b) Costs or fees may not be assessed against the commission on ethics in any appeal from a  
435 final order or advisory opinion issued by the commission on ethics pursuant to this division.

436 (c) Unless specifically ordered by the commission on ethics or by a court of competent  
437 jurisdiction, the commencement of an appeal does not suspend or stay a final order or advisory  
438 opinion of the commission on ethics.

439

1 **DIVISION 8. COMMISSION ON ETHICS\***

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3  
4 ~~\*Cross references: Code of ethics, § 2-441 et seq.~~

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8 **Sec. 2-254. Creation and jurisdiction.**

9 The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby  
10 established. The jurisdiction of the commission on ethics shall extend to any person required to  
11 comply with the countywide code of ethics, the ~~countywide~~ lobbyist registration  
12 ordinance, and the ~~countywide~~ post-employment ordinance, and may further extend to  
13 persons or entities required to comply with additional ordinances and regulations duly adopted  
14 by other county, local, or municipal government and any commission, bureau, district, or other  
15 governmental entity located in Palm Beach County as more fully set forth below. The  
16 jurisdiction of the commission on ethics is not exclusive. Any person or entity subject to a  
17 complaint to the county's commission on ethics may also be subject to a separate complaint to  
18 the state commission on ethics or pursuant to a municipality's ethics ordinance. A finding by the  
19 county's commission on ethics is not binding on the state and may not be binding on the  
20 municipality, depending on the nature of the complaint and whether the municipality's ethics  
21 ordinance is more restrictive than the countywide ethics code.  
22 (Ord. No. 2009-050, § 1, 12-15-09)

23  
24 **Sec. 2-255. Membership, qualifications, terms, vacancies.**

- 25 (a) *Composition and appointment.* The commission on ethics shall be composed of five (5)  
26 ~~voting~~ members. The members of the commission on ethics shall be appointed as follows:  
27 (1) The president of the county association of chiefs of police shall be requested to appoint a  
28 former law enforcement official with experience in investigating white collar crime or public  
29 corruption.  
30 (2) The president of the Hispanic Bar Association of Palm Beach County, the president of the F.  
31 Malcolm Cunningham, Sr. Bar Association, and the president of the county bar association shall  
32 be requested to appoint an attorney with experience in ethics regulation of public officials and  
33 employees.  
34 (3) The president of Florida Atlantic University (FAU) shall be requested to appoint a faculty  
35 member who teaches at an institution of higher education with a campus located in the county  
36 and who has taught a course in professional legal ethics or has published or performed services  
37 in the field of professional legal ethics.  
38 (4) The president of the Palm Beach Chapter of the Florida Institute of CPAs shall be requested  
39 to appoint a member who possesses at least five (5) years experience as a certified public  
40 accountant (CPA) with forensic audit experience.  
41 (5) The board of directors of the Palm Beach County League of Cities, Inc. shall be requested to  
42 appoint a person who has served as a former elected official for a governmental entity in the  
43 county.  
44 All appointing officers or entities identified in subsections (a)(1) through (5) shall in good faith  
45 endeavor to appoint members of the commission on ethics within forty-five (45) days of the

46 effective date of the ordinance from which this division is derived. Each appointing entity shall  
47 promptly provide notice of each appointment to the county administrator.

48 (b) *Additional qualifications.* Each member of the commission on ethics shall be of outstanding  
49 reputation for integrity, responsibility and commitment to serving the community. The members  
50 of the commission on ethics should be representative of the community-at-large and should  
51 reflect the racial, gender and ethnic make-up of the community. Before entering upon the duties  
52 of office, each appointee on the commission on ethics shall take the prescribed oath of office  
53 pursuant to Florida Statutes, ~~§ 876.05~~ Constitution, Art. II §5(b). Members of the commission on  
54 ethics shall serve without compensation.

55 (c) *Term.* The members of the commission on ethics shall serve staggered terms of four (4)  
56 years each, provided that of the original members, two (2) members described in subsections  
57 (a)(1) and (2) shall be appointed for an initial term of two (2) years. The remaining three (3)  
58 members shall be appointed for an initial term of four (4) years. Thereafter, all members of the  
59 commission on ethics shall serve terms of four (4) years.

60 (d) *Vacancies.* A vacancy occurring during or at the expiration of a member's term on the  
61 commission on ethics shall be filled as provided in subsections (a) and (b), no later than sixty  
62 (60) days after the vacancy occurs.

63 (e) *Additional requirements.* No individual, while a member of the commission on ethics,  
64 shall:

65 (1) Hold or campaign for any elective political office;

66 (2) Hold office in any political party or political committee;

67 (3) Actively participate in or contribute to any political action committee, or to any campaign  
68 for state or local office or for any U.S. Congressional or Senate office serving the State of  
69 Florida;

70 (4) Be employed by Palm Beach County, any municipality within the county, or any other  
71 governmental entity subject to the authority of the commission on ethics or the inspector general;  
72 or

73 (5) Allow his or her name to be used by a campaign in support of or against any candidate for  
74 political office or any referendum or other ballot question. Nothing herein shall preclude a  
75 member of the commission on ethics from signing a petition in support of or against any  
76 referendum or other ballot question.

77 (~~Ord. No. 2009-050, § 2, 12-15-09~~)

78

79 **Sec. 2-256. Applicability of code of ethics ordinance.**

80 The countywide code of ethics ordinance shall be applicable to all persons and/or entities within  
81 the jurisdiction of said ordinance and shall ~~specifically~~ apply to the members and staff of the  
82 commission on ethics.

83 (~~Ord. No. 2009-050, § 3, 12-15-09~~)

84

85 **Sec. 2-257. Organization.**

86 (a) The commission on ethics shall elect one (1) of its voting members as chairperson who shall  
87 serve a term of two (2) years. No chairperson shall be permitted to serve two (2) consecutive  
88 terms.

89 (b) The commission on ethics shall adopt bylaws and rules of procedure which are consistent  
90 with the provisions of this division and rules and regulations for the commission on ethics'

91 governance. The commission on ethics shall hold regular meetings in accordance with the  
92 bylaws of the commission and may hold such other meetings as it deems necessary.  
93 (c) All meetings of the commission on ethics shall be public, and written minutes of the  
94 proceedings thereof shall be maintained by the commission on ethics. All actions taken at the  
95 meetings of the commission on ethics shall be promptly and properly recorded. Copies of all  
96 minutes, resolutions, decisions or advisory opinions of the commission on ethics shall be  
97 forwarded to the clerk to the board of county commissioners no later than thirty (30) days  
98 subsequent to any meeting of the commission on ethics.  
99 (d) The commission on ethics shall be empowered to appoint an executive director and to  
100 remove such appointee at will. The commission on ethics shall utilize a competitive selection  
101 process when selecting an executive director. The commission on ethics shall fix the executive  
102 director's salary, subject to ultimate budget approval by the board of county commissioners. The  
103 executive director shall be empowered to appoint, remove, and suspend employees or agents of  
104 the commission on ethics, subject to ultimate budget approval by the board of county  
105 commissioners. The executive director shall be further empowered to adopt personnel and  
106 management policies consistent with like policies in place for county personnel.  
107 (Ord. No. 2009-050, § 4, 12-15-09)

108  
109 **Sec. 2-258. Powers and duties.**

110 (a) The commission on ethics shall be authorized to exercise such powers and shall be required  
111 to perform such duties as are hereinafter provided. The commission on ethics shall be  
112 empowered to review, interpret, render advisory opinions and enforce the:  
113 (1) Countywide Code of Ethics;  
114 (2) ~~Countywide~~County Post-employment Ordinance; and  
115 (3) ~~Countywide~~County Lobbyist Registration Ordinance.  
116 ~~(b) It is anticipated that taxing districts, and other public officials and entities will recognize and~~  
117 ~~desire to benefit from the services of the commission on ethics. The commission on ethics may~~  
118 ~~additionally be empowered to review, interpret, render advisory opinions, and enforce similar~~  
119 ~~rules or regulations duly adopted by any commission, bureau, district, or other governmental~~  
120 ~~entity located in the county, pursuant to agreements or memoranda of understanding between the~~  
121 ~~commission on ethics and said entity. The memorandum of understanding or agreement shall~~  
122 ~~include a provision for fees to be paid to the commission on ethics from the public entity in~~  
123 ~~exchange for such benefits at a rate established by the commission on ethics. All fees paid under~~  
124 ~~any such agreement shall be used solely to fund the operations of the commission on ethics and~~  
125 ~~its staff. Any such agreement or memorandum of understanding is subject to final approval of the~~  
126 ~~board, but such approval shall not be unreasonably withheld.~~  
127 ~~(c) As set forth in the countywide office of inspector general ordinance (Ord. No. 2009-049);~~  
128 ~~(b)As set forth in the countywide office of inspector general ordinance, the commission on ethics~~  
129 ~~shall serve with one (1) delegate each from the state attorney's office and public defender's office~~  
130 ~~for the Fifteenth Judicial Circuit as the selectioninspector general committee. The~~  
131 ~~selectioninspector general committee shall be authorized to select the inspector general, to~~  
132 ~~determine whether or not to renew the term of an inspector general, and to removeparticipate in~~  
133 ~~the removal of the inspector general as set forth in greater detail in the countycountywide office~~  
134 ~~of inspector general ordinance.~~

135 | ~~(d)~~—c)The commission on ethics shall from time to time review ordinances and state and federal  
136 laws relating to ethics in government and shall report and make recommendations to the board of  
137 county commissioners and municipal elected officials as it deems appropriate.  
138 | ~~(e)~~—d)The commission on ethics shall develop and deliver ethics training and outreach programs  
139 for the benefit of county and municipal employees and officials, county and municipal vendors,  
140 nonprofit corporations, and other entities that do business with or are regulated by the county or  
141 the municipalities located ~~with~~within the county. The commission on ethics may recommend that  
142 the board enter into agreements with other entities to provide such training and outreach  
143 programs to be administered by the commission on ethics.

144 | (Ord. No. 2009-050, § 5, 12-15-09)

145 | **Sec. 2-258.1 Extended jurisdiction by interagency agreements.**

146 | It is anticipated that taxing districts, and other public officials and entities will recognize and  
147 desire to benefit from the services of the commission on ethics. The commission on ethics may  
148 additionally be empowered to review, interpret, render advisory opinions, and enforce similar  
149 rules or regulations duly adopted by any commission, bureau, district, or other governmental  
150 entity located in the county, pursuant to agreements or memoranda of understanding between the  
151 commission on ethics and said entity. The memorandum of understanding or agreement shall  
152 include a provision for fees to be paid to the commission on ethics from the public entity in  
153 exchange for such benefits at a rate established by the commission on ethics. All fees paid under  
154 any such agreement shall be used solely to fund the operations of the commission on ethics and  
155 its staff. Any such agreement or memorandum of understanding is subject to final approval of the  
156 board, but such approval shall not be unreasonably withheld.

157 | **Sec. 2-259. Financial support for the commission.**

159 | (a) The commission on ethics shall establish a fiscal year which coincides with that of the  
160 county. Pursuant to its annual budget process, the county shall provide sufficient financial  
161 support for the commission on ethics to fulfill its duties as set forth in this division. The  
162 commission on ethics shall timely submit to the board of county commissioners a budget request  
163 including a reasonable estimate of operating and capital expenditures, which request shall not be  
164 implemented until approved by the board of county commissioners. ~~In order to ensure adequate~~  
165 ~~funding for the prompt establishment of the commission on ethics, the board of county~~  
166 ~~commissioners hereby approves an amount equal to one hundred eighty thousand dollars~~  
167 ~~(\$180,000.00) to fund all commission on ethics operations for the remainder of the 2009-2010~~  
168 ~~fiscal year.~~

169 | (b) The commission on ethics budget request shall be prepared on official county budget forms  
170 in a format prescribed by the county office of financial management and budget, shall be  
171 reviewed in a manner similar to that in which of other county departments are reviewed, and  
172 shall be incorporated in the proposed budget and timely submitted to the board of county  
173 commissioners each year. Nothing contained herein shall be construed to prohibit the  
174 commission on ethics from submitting to the board of county commissioners supplemental  
175 budget requests which, if approved, shall constitute amendments to the county budget.

176 | (c) In addition to budgetary appropriations made by the county, the board of county  
177 commissioners, may, for the benefit of the commission on ethics—may, accept grants,  
178 contributions or appropriations from the federal government, state government, any municipality  
179 within the county, or any academic institution or nonprofit entity which has not entered into a  
180 contract or transacted business with the county; or any governmental entity subject to the

181 | provisions of this ordinance. The commission on ethics may accept grants, contributions or  
182 | appropriations from an academic institution or nonprofit entity which has entered into a contract  
183 | or transacted business with the county if the board of county commissioners by resolution  
184 | approves the grant, contribution, or appropriation. No other grants, contributions or  
185 | appropriations may be accepted by the commission on ethics.  
186 | (Ord. No. 2009-050, § 6, 12-15-09)

187  
188

189 | **Sec. 2-260.- Procedure on ~~complaints~~ Complaints filed.**

190 | (a) ~~(a) Legally sufficient complaint. Filing of complaints.~~

191 | ~~(1) Any person may file a complaint with the commission on ethics. Within thirty (30) days~~  
192 | ~~after receipt of a complaint by the commission on ethics, a copy shall be sent to the alleged~~  
193 | ~~violate, otherwise known as the respondent.~~

194 | ~~(2) The commission shall investigate all~~ Inspector General, Executive Director of the  
195 | Commission on Ethics or the State Attorney may file a complaint with the commission on  
196 | ethics.

197 | ~~(b) Legal sufficiency of complaints following a finding by the executive director, with advice of~~  
198 | ~~counsel to the commission on ethics, that the complaint is legally sufficient.~~

199 | ~~(1) In order to be found legally sufficient, a complaint~~ complaints filed by persons under section  
200 | (a)1 above, must:-

201 | a. (1) Be in writing, and executed on a form prescribed by the commission on ethics;

202 | b. (2) Allege the elements of a violation within the commission on ethics' ethics'  
203 | jurisdiction in the complaint and/or supporting documents provided;

204 | c. (3) Be based substantially upon the personal knowledge of the complainant; and

205 | d. (4) Be signed under oath or affirmation by the complaining person.

206 | ~~Upon a finding of legal sufficiency by the executive director, the commission on ethics shall~~  
207 | ~~initiate a preliminary investigation.~~

208 | ~~(2) (b) Complaints filed by inspector general, executive director or state attorney. The~~  
209 | ~~inspector general, executive director of the commission on ethics or the state attorney may~~  
210 | ~~file a complaint with the commission on ethics. In order to be found legally sufficient, the~~  
211 | ~~complaint~~ complaints filed by the Inspector General, Executive Director of the Commission  
212 | on Ethics or the State Attorney, must be:

213 | a. Be in writing, and executed on a form prescribed by the commission on ethics;

214 | b. Allege the elements of a violation within the commission on ethics' jurisdiction in the  
215 | complaint and/or supporting documents provided;

216 | c. Be sworn to by the person filing the complaint before a notary public and contain the  
217 | following language: "Personally known to me and appeared before me,  
218 | \_\_\_\_\_ whose signature appears below, being duly sworn, says  
219 | that the allegations set forth in this complaint are based upon facts which have been  
220 | sworn to as true by a material witness or witnesses and which if true would constitute  
221 | the offenses alleged and that this complaint is instituted in good faith. Within five (5)  
222 | days after receipt of the complaint by the commission on ethics, a copy of the  
223 | complaint shall be sent to the alleged violator, otherwise known as the respondent."

224 | ~~(e)~~

225 | ~~Upon a finding of legal sufficiency by the executive director, the commission on ethics shall~~  
226 | ~~initiate a preliminary investigation.~~

227  
228 (c) Documents Provided to the Respondent. Within twenty (20) days of a legal sufficiency  
229 finding, a copy of the complaint and all documents in support thereof shall be sent to the  
230 alleged violator, otherwise known as the respondent.  
231 (d) Preliminary investigation and public hearing. A preliminary investigation shall be  
232 undertaken by the commission on ethics of each legally sufficient complaint over which the  
233 commission on ethics has jurisdiction to determine whether there is probable cause to believe  
234 that a violation has occurred. If, upon completion of the preliminary investigation, the  
235 commission on ethics finds no probable cause to believe that a violation has been committed, the  
236 commission on ethics shall dismiss the complaint with the issuance of a report to the  
237 complainant and the respondent. If the commission on ethics finds from the preliminary  
238 investigation probable cause to believe that a violation has been committed, it shall ~~notify~~  
239 ~~complainant and respondent via certified mail, hand delivery, or courier, informing the person of~~  
240 ~~his or her right to request a hearing within thirty (30) days of receipt of the notice. Upon request~~  
241 ~~submitted to the commission on ethics in writing, any person who the commission on ethics finds~~  
242 ~~probable cause to believe has committed a violation of a provision within its jurisdiction shall be~~  
243 ~~entitled to a public hearing. Such person shall be deemed to have waived the right to a public~~  
244 ~~hearing if the request is not received within thirty (30) days following receipt of the probable~~  
245 ~~cause notification required by this subsection. The commission on ethics may on its own motion~~  
246 ~~require a public hearing, set the matter for a public hearing and notify complainant and~~  
247 ~~respondent via certified mail, hand delivery, or courier. The commission on ethics may conduct~~  
248 such further investigation as it deems necessary, and may enter into such stipulations and  
249 settlements as it finds to be just and in the best interest of the citizens of the county. The public  
250 hearing provided for in this section shall be held within ~~ninety (90) one hundred twenty (120)~~ days  
251 of the probable cause determination unless extended by the commission on ethics for good cause  
252 based on the request of a party or on its own initiative.  
253 ~~(d)–(e) Investigations.~~ Investigations shall be conducted by commission on ethics staff or by any  
254 other person or agency so designated by the commission on ethics under the supervision of the  
255 executive director and/or the inspector general. Investigations shall be limited to the allegations  
256 of the complaint, but shall include an investigation of all facts and persons materially related to  
257 the complaint at issue. Subsequent to the filing of a complaint and notice to the respondent, the  
258 commission on ethics has an ongoing duty to disclose to the respondent any and all additional  
259 documents, statements of witnesses and other evidence, not otherwise subject by statute to  
260 nondisclosure, obtained by the commission pursuant to the ongoing investigation of a complaint.  
261 ~~(e)–(f) Counsel.~~  
262 (1) Counsel to commission on ethics. The commission on ethics shall select counsel to advise  
263 the commission on ethics.  
264 (2) Advocate. The commission on ethics shall retain legal counsel to serve as the advocate. The  
265 advocate shall prosecute cases before the commission on ethics. The executive director may  
266 serve as advocate provided the executive director is a member of the Florida Bar in good  
267 standing.  
268 (3) Counsel to the commission on ethics, the advocate, or both may serve on a volunteer basis.  
269 (4) Respondent. The respondent may appear on his or her own behalf or may be represented by  
270 a lawyer. All notices and communications to a respondent represented by a lawyer shall be made  
271 through respondent's lawyer.

272 | ~~(f)–g)~~ *Public records exemption.* The commission on ethics and its staff shall be considered "an  
273 | appropriate local official" for the purposes of whistleblower protection provided for in Florida  
274 | Statutes, § 112.3188(1). ~~With the exception of the initial~~ The complaint filed in a matter, and all  
275 | records held by the commission on ethics and its staff related to an active preliminary  
276 | investigation are confidential and exempt from disclosure in a manner consistent with the  
277 | provisions in Florida Statutes, ~~§ 112.3188(2)–112.324(2) and (3) and § 112.3188(2).~~ In addition,  
278 | any proceeding conducted by the commission on ethics pursuant to a complaint or preliminary  
279 | investigation is exempt from the provision § 286.011, Florida Statutes, and Article 1, § 24(b),  
280 | Florida Constitution, as set forth in § 112.324(2)(a) and (3), Florida Statutes. Once a preliminary  
281 | investigation is complete and a probable cause determination made, all other proceedings  
282 | conducted pursuant to this subsection shall be public meetings within the meaning of Florida  
283 | Statutes, ch. 286, and all other documents made or received by the commission on ethics shall be  
284 | public records within the meaning of Florida Statutes, ch. 119.119, subject to whistleblower  
285 | confidentiality as provided for in Florida Statutes § 112.3188(1).

286 | ~~(g)–h)~~ *General power of subpoena.* The commission on ethics shall be empowered to subpoena  
287 | and investigate. In the case of a refusal to obey a request for documents or for an interview  
288 | during an investigation, the commission on ethics may subpoena relevant witnesses and compel  
289 | their attendance and testimony, administer oaths and affirmations, take evidence, and require by  
290 | subpoena the production of any books, papers, records, or other relevant items. The commission  
291 | on ethics may delegate to its staff the authority to administer oaths and affirmations. In the case  
292 | of a refusal to obey a subpoena issued to any person, the commission on ethics may make  
293 | application to any circuit court of this state which shall have jurisdiction to order the witness to  
294 | appear before the commission on ethics and to produce evidence, if so ordered, or to give  
295 | testimony ~~touching on~~ relevant to the matter in question. Any person who fails to obey the order  
296 | may be punished in a court of law. Seventy-two (72) hours prior to serving a subpoena, the  
297 | executive director shall provide written notice to the state attorney and the U.S. Attorney for the  
298 | Southern District of Florida. The commission on ethics shall not interfere with any ongoing  
299 | criminal investigation or prosecution of the state attorney or the U.S. Attorney for the Southern  
300 | District of Florida. When the state attorney or the U.S. Attorney for the Southern District of  
301 | Florida has explicitly notified the commission on ethics in writing that the commission's  
302 | investigation is interfering with an ongoing criminal investigation or prosecution, the  
303 | commission on ethics shall suspend service of subpoena, examination of witnesses, or other  
304 | investigative activities as set forth in the notice.

305 | ~~(h)–i)~~ *Subpoenas for discovery; discovery.* At any time after the commission on ethics orders a  
306 | public hearing of the matter, the commission on ethics may issue subpoenas, as provided in  
307 | subsection ~~(gh)~~, to effect discovery upon the written request of respondent or advocate. The  
308 | requesting person shall give the name and address of each witness he or she wishes to have  
309 | deposed and shall describe with particularity those documents or other items that the person  
310 | wishes to have the witness produce pursuant to a subpoena *-duces tecum-*. The chairperson or a  
311 | member of the commission on ethics designated by the chairperson may issue appropriate orders  
312 | to effectuate the purposes of discovery and to prevent delay.

313 | ~~(i)–j)~~ *Subpoenas for public hearing.* The respondent and the advocate shall submit to the  
314 | executive director a list of all witnesses he or she wishes to have subpoenaed to attend the  
315 | hearing. The lists shall contain the correct names and addresses of the witnesses and shall  
316 | describe with particularity those documents or other items that he or she wishes to have the



317 witness bring to the hearing pursuant to subpoena *-duces tecum-*. Subpoenas shall be issued as  
318 provided in subsection (gh).

319 ~~(j-k)~~ *Motions.*

320 (1) All motions shall be in writing unless made on the record during a hearing, and shall fully  
321 state the actions requested and the grounds relied upon. The motion shall include a statement that  
322 the movant has conferred with the advocate and all other parties of record and shall state whether  
323 there is any objection to the motion.

324 (2) The original written motion shall be filed with the commission on ethics and a copy served  
325 on all parties or their attorneys. The commission on ethics staff shall send a copy of the motion  
326 to the chairperson.

327 (3) The chairperson, or a member of the commission on ethics designated by the chairperson,  
328 shall conduct such proceedings and make such orders as are deemed necessary to dispose of  
329 issues raised by motions, but is not required to hold a hearing on the motion in order to rule upon  
330 it.

331 (4) Every written motion may be accompanied by, or included in, a written memorandum  
332 stating the grounds upon which the motion is based. Other parties to a proceeding may, within  
333 seven (7) days of service of a written motion, file written memoranda in opposition.

334 ~~(k-l)~~ *Prehearing conferences.* The chairperson, or a member of the commission on ethics  
335 designated by the chairperson, may conduct one (1) or more prehearing conferences for the  
336 purpose of hearing arguments on pending motions, clarifying and simplifying issues, discussing  
337 the possibilities of settlement of the issues, examining exhibits and documents, exchanging  
338 names and addresses of witnesses, and resolving other procedural matters.

339 ~~(l-m)~~ *Exchange of witness lists.* Unless otherwise ordered by the chairperson or a member of  
340 the commission on ethics designated by the chairperson as a result of a prehearing conference,  
341 the advocate and the respondent(s) or counsel for respondent(s) shall exchange the names and  
342 addresses of witnesses at least ten (10) days prior to the public hearing, with a copy being  
343 provided to the chairperson. Names and addresses of witnesses discovered subsequently shall be  
344 disclosed to the other party or parties and to the chairperson as soon as possible. Failure to  
345 disclose the name and address of a witness may result in the exclusion of the witness's testimony,  
346 according to the rule applied in civil judicial proceedings.

347 (Ord. No. 2009-050, § 7, 12-15-09; Ord. No. 2010-042, pt. 1, 9-28-10)

348

349 **Sec. 2-260.1. Public hearing procedures.**

350 (a) *Presentation of the case.* The advocate shall present his or her case first. Respondent may  
351 then present his or her case. Rebuttal evidence may be permitted in the discretion of the  
352 commission on ethics.

353 (b) *Opening and closing statements.* Opening and closing statements may be presented by the  
354 advocate and the respondent. The advocate may make the first statement and the respondent may  
355 follow. Rebuttal by the advocate may be permitted or may be denied.

356 (c) *Evidence.*

357 (1) Stipulations may be received and are encouraged as to uncontested matters.

358 (2) Oral evidence shall be taken only on oath or affirmation.

359 (3) The respondent and the advocate shall have the right: to present evidence relevant to the  
360 issue; to cross-examine opposing witnesses on any matter relevant to the issue; and to impeach  
361 any witness regardless who first called him or her to testify.

362 (4) The hearing shall not be conducted according to technical rules relating to evidence and  
363 witnesses. Any relevant evidence may be admitted. Hearsay evidence may be used to supplement  
364 or explain other evidence, but shall not be sufficient itself to support a finding. The rules of  
365 privilege shall be effective to the same extent that they are now or hereafter may be recognized  
366 in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The commission on  
367 ethics shall not allow the introduction into evidence of an affidavit of a person when that person  
368 can be called to testify; this shall not preclude the admission of a deposition of such a person,  
369 however, for any reason permissible in a court of law under the Florida Rules of Civil Procedure.

370 (d) *Transcript of proceedings.* The proceedings shall be recorded by recording instruments or  
371 by a court reporter. Respondent may, at his or her own expense, provide a court reporter or  
372 recording instruments. The commission on ethics may provide a court reporter. No transcript of  
373 the proceedings shall be prepared unless requested by the commission on ethics or by the  
374 respondent. If the respondent requests that a transcript be prepared by a court reporter, the  
375 respondent shall pay the expense of transcription. If the Respondent requests that the commission  
376 on ethics prepare a transcript from recording instruments and the commission on ethics grants  
377 such request, the respondent shall pay the commission on ethics the actual cost of transcription.  
378 If a court reporter records the proceedings, the court reporter's transcript shall be the official  
379 transcript.

380 (e) *Proposed public report.* After the conclusion of the hearing, the respondent and the  
381 advocate may present written proposed public reports, within a time designated by the  
382 chairperson or a member of the commission on ethics designated by the chairperson. If a  
383 proposed public report is filed by the respondent or the advocate, each proposed finding in the  
384 proposal that is rejected shall be accompanied by a statement summarizing the reasons for  
385 rejection.

386 (f) *Motions to dismiss filed by advocate.* After probable cause is found and a public hearing is  
387 ordered by the commission on ethics, and after further investigation or discovery is made by the  
388 advocate, the advocate may move to dismiss the proceeding if the advocate concludes that there  
389 is insufficient evidence to proceed to the public hearing in good faith. Such a motion shall  
390 specifically state the grounds upon which it is made. The motion shall be heard by the  
391 commission on ethics in accordance with the procedure provided for in section 2-260(i).

392 (g) *Public order imposing penalty.* Upon completion of any hearing initiated under this  
393 subsection, the commission on ethics shall make a finding and public report as to whether any  
394 provision within its jurisdiction has been violated. If the commission on ethics finds, by clear and  
395 convincing evidence, based upon competent substantial evidence in the record, that a violation  
396 has been committed, the commission on ethics shall issue an order imposing the appropriate  
397 penalty as provided in the ordinance being enforced. The public report and final order shall  
398 include a determination as to whether the violation was intentional or unintentional. The  
399 commission on ethics shall, within twelve (12) months of the filing of a complaint, render a final  
400 order disposing of said complaint unless extended by the commission for good cause. If a person  
401 fails to comply with an order issued by the commission on ethics, the commission on ethics may  
402 make application to any circuit court of this state which shall have jurisdiction to order the  
403 violator to comply with the order of the commission on ethics. Any violator who fails to obey the  
404 order may be punished by the court.  
405 | (~~Ord. No. 2009-050, § 8, 12-15-09~~)  
406  
407 **Sec. 2-260.2. Notification and referral to other authorities.**

408 As provided for by ordinance within its jurisdiction, the commission on ethics shall refer a matter  
409 to the state attorney or any other appropriate official or agency having authority to initiate  
410 prosecution when deemed appropriate. The state attorney or other appropriate agency may  
411 decline prosecution or enforcement of any matter referred under this division and refer the matter  
412 back to the commission on ethics. The commission on ethics shall notify the State of Florida  
413 Commission on Ethics, the state attorney, the U.S. Attorney for the Southern District of Florida,  
414 and other appropriate law enforcement agencies within ten (10) days of a finding of no probable  
415 cause or of a final order disposing of a complaint.

416 | (~~Ord. No. 2009-050, § 9, 12-15-09~~)

417

418 **Sec. 2-260.3. Dismissal of complaints.**

419 Notwithstanding any other provisions of this division, the commission on ethics may, at its  
420 discretion: (a) dismiss any complaint at any stage of disposition should it determine that the  
421 public interest would not be served by proceeding further, or (b) dismiss any complaint at any  
422 stage of disposition and issue a letter of instruction to the respondent when it appears that the  
423 alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on  
424 ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue  
425 a public report stating with particularity its reasons for the dismissal. The commission on ethics  
426 may, at the request of the state attorney or any other law enforcement agency, stay an ongoing  
427 proceeding. The commission on ethics shall not interfere with any ongoing criminal investigation  
428 of the state attorney or the U.S. Attorney for the Southern District of Florida.

429 | (~~Ord. No. 2009-050, § 10, 12-15-09~~)

430

431 **Sec. 2-260.4. Frivolous or groundless complaints.**

432 In any case in which the commission on ethics determines that the complaining party filed a  
433 frivolous or groundless complaint as defined in Florida Statutes, § 57.105, or a complaint with  
434 malicious intent and with the knowledge that the complaint contains one or more false  
435 allegations, or with reckless disregard for whether the complaint contains material false  
436 allegations, the commission on ethics shall order the complaining party to pay any costs and  
437 attorney's fees incurred by the commission on ethics and/or the alleged violator. The  
438 determination by the commission on ethics regarding whether a complaint is frivolous or  
439 groundless shall be deemed conclusive.

440 | (~~Ord. No. 2009-050, § 11, 12-15-09~~)

441

442 **Sec. 2-260.5. Effect on other laws.**

443 The provisions of this division shall be deemed supplemental to any other applicable county  
444 ordinance or state or federal law and are not intended to replace or repeal any provision of state  
445 or federal law or of this Code.

446 | (~~Ord. No. 2009-050, § 12, 12-15-09~~)

447

448 **Sec. 2-260.6. Prospective jurisdiction.**

449 The commission on ethics shall be empowered to consider alleged violations within its  
450 jurisdiction committed on or after the effective date of the ordinances set forth in section 2-  
451 258(a), as each may be amended from time to time. Any alleged violation committed before the  
452 effective date of any such ordinance or amendment shall be governed by the applicable law in  
453 effect at the time of the alleged violation.

454 | (~~Ord. No. 2009-050, § 13, 12-15-09~~)

455

456 | **Sec. 2-260.7. Personnel proceeding.**

457 | Where an employee of the county or other governmental entity subject to the jurisdiction of this  
458 | ordinance is alleged to have violated an ordinance within the jurisdiction of the commission on  
459 | ethics and, based upon the same set of facts, is subject to an ongoing disciplinary action initiated  
460 | by the county; or other governmental entity subject to the jurisdiction of this ordinance the  
461 | commission on ethics shall stay consideration of a complaint until the conclusion of the  
462 | personnel proceeding. Nothing herein shall abridge employees' constitutional right to collective  
463 | bargaining.

464 | (~~Ord. No. 2009-050, § 14, 12-15-09~~)

465

466 | **Sec. 2-260.8. Statute of limitations.**

467 | No action may be taken on a complaint filed more than two (2) years after the violation is alleged  
468 | to have occurred unless a person, by fraud or other device, prevents discovery of the violation.  
469 | Where the allegations are the subject of a personnel proceeding or where the complainant is  
470 | required to exhaust his or her administrative remedies prior to filing a complaint, the statute of  
471 | limitations shall be tolled until the termination of said personnel proceeding or the exhaustion of  
472 | administrative remedies.

473 | (~~Ord. No. 2009-050, § 15, 12-15-09~~)

474

475 | **Sec. 2-260.9. Advisory opinion.**

476 | Any person within the jurisdiction of the commission on ethics, when in doubt about the  
477 | applicability or interpretation of any provision within the commission on ethics' jurisdiction to  
478 | himself or herself in a particular context, may submit in writing the facts of the situation to the  
479 | commission on ethics with a request for an advisory opinion to establish the standard of public  
480 | duty, if any. A person requesting an advisory opinion may withdraw the request at any time up to  
481 | ten days before the commission on ethics convenes a public meeting to consider the request. An  
482 | advisory opinion shall be rendered by the commission on ethics on a timely basis, and each such  
483 | opinion shall be numbered, dated and published.

484 | (~~Ord. No. 2009-050, § 16, 12-15-09~~)

485

486 | **Sec. 2-260.10. Appeals.**

487 | (a) Any final order of the commission on ethics may be appealed by filing a petition for writ of  
488 | certiorari in the Fifteenth Judicial Circuit Court in and for Palm Beach County. The commission  
489 | on ethics shall provide the index and record on appeal when required by, and in accordance with,  
490 | the Florida Rules of Appellate Procedure. A fee shall be charged by the commission on ethics for  
491 | the preparation and transmission of the record on appeal to the court of appropriate jurisdiction.  
492 | Such fee may be waived by the executive director if the party requesting the record is indigent.  
493 | (b) Costs or fees may not be assessed against the commission on ethics in any appeal from a  
494 | final order or advisory opinion issued by the commission on ethics pursuant to this division.  
495 | (c) Unless specifically ordered by the commission on ethics or by a court of competent  
496 | jurisdiction, the commencement of an appeal does not suspend or stay a final order or advisory  
497 | opinion of the commission on ethics.

498 | (~~Ord. No. 2009-050, § 17, 12-15-09~~)

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506 | ~~\\Server\owdata\docs\PBC League of Cities\Ethics Ords BCCModelsFall-2010\doc Commission on Ethics~~  
507 | ~~Ordinance Revisions.docx~~

### **Summary of substantive changes**

- Provided additional explanation of Commission on Ethics jurisdiction
- Relocated and expanded on provisions allowing entities other than the County and municipalities to contract for Commission on Ethics services
- Reorganized section outlining procedures for filing complaints
- Adding partial exemption to Sunshine Law and Public Records law provided by section 112.324, Florida Statutes
- Amending advisory opinion section to allow a person requesting an advisory opinion to withdraw the request at any time up to ten days before the Commission on Ethics convenes a meeting to consider the request

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: May 3, 2011

Consent       Regular  
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COMMISSION ON ETHICS

I. EXECUTIVE BRIEF

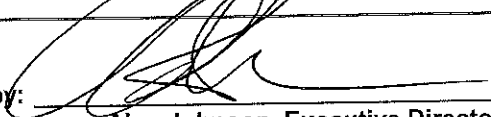
**Motion and Title:** Approve on preliminary reading and advertise for public hearing on May 17, 2011, at 9:30 a.m.: an ordinance of the Board of County Commissioners of Palm Beach County, Florida, repealing the Palm Beach County Code of Ethics, Ordinance 2009-051, as amended, and adopting a new countywide Palm Beach County Code of Ethics; providing for title and statement of purpose; providing for definitions; prohibiting certain conflicts of interest and creating voting conflict standards; providing for a gift law; providing anti-nepotism law; providing for ethics training; providing for non-interference; providing for administration, enforcement, and penalties; providing for savings clause; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; providing for an effective date.

**Summary:** The Board of County Commissioners adopted the Palm Beach County Code of Ethics as part of a series of ethics reforms begun in December 2009. Since then, the Board proposed charter amendments requiring in part the adoption of a countywide Code of Ethics that would apply to the municipalities in Palm Beach County. The charter amendments, which were approved by the voters in November 2010, also called for the establishment of a drafting committee to propose recommended changes to the existing Code of Ethics for countywide application. This ordinance is the product of the committee's work. A brief description of substantive changes to this ordinance is included as Attachment 3. Countywide (LB)

**Background and Policy Issues:** The Palm Beach County Code of Ethics will apply to all county and municipal officials and employees, lobbyists, their principals and employers, and vendors. The code includes a comprehensive regulatory framework which includes defining and prohibiting certain conflicts of interest, gift law requirements, and anti-nepotism rules. The code provides a more comprehensive and stringent regulatory framework than the state's Code of Ethics.

**Attachments:**

1. Ordinance
2. Strike-through/underline version for comparison purposes
3. Brief description of substantive changes

Recommended by:  Date: 04/27/2011  
 Alan Johnson, Executive Director

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
 N/A

**II. FISCAL IMPACT ANALYSIS**

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	_____	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget?                      Yes \_\_\_\_\_ No \_\_\_\_\_

Budget Account No.:      Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
    Reporting Category \_\_\_\_\_

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

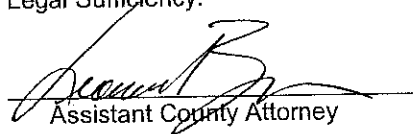
C. Departmental Fiscal Review: \_\_\_\_\_

**III. REVIEW COMMENTS**

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

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

B. Legal Sufficiency:

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

C. Other Department Review:

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

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



ORDINANCE 2011- \_\_\_\_\_

1  
2 AN ORDINANCE OF THE BOARD OF COUNTY  
3 COMMISSIONERS OF PALM BEACH COUNTY,  
4 FLORIDA, REPEALING THE PALM BEACH COUNTY  
5 CODE OF ETHICS, ORDINANCE 2009-051, AS AMENDED,  
6 AND ADOPTING A NEW COUNTYWIDE PALM BEACH  
7 COUNTY CODE OF ETHICS; PROVIDING FOR TITLE  
8 AND STATEMENT OF PURPOSE; PROVIDING FOR  
9 DEFINITIONS; PROHIBITING CERTAIN CONFLICTS OF  
10 INTEREST AND CREATING VOTING CONFLICT  
11 STANDARDS; PROVIDING FOR A GIFT LAW;  
12 PROVIDING ANTI-NEPOTISM LAW; PROVIDING FOR  
13 ETHICS TRAINING; PROVIDING FOR NON-  
14 INTERFERENCE; PROVIDING FOR ADMINISTRATION,  
15 ENFORCEMENT, AND PENALTIES; PROVIDING FOR  
16 SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS  
17 IN CONFLICT; PROVIDING FOR SEVERABILITY;  
18 PROVIDING FOR INCLUSION IN THE CODE OF LAWS  
19 AND ORDINANCES; PROVIDING FOR AN EFFECTIVE  
20 DATE.  
21

22 WHEREAS, based on a referendum on November 2, 2010, concerning proposed  
23 amendments to the Palm Beach County Charter, a majority of voters in the County and in every  
24 municipality in Palm Beach County elected to require the Board of County Commissioners to  
25 adopt a countywide Code of Ethics; and

26 WHEREAS, the Board of County Commissioners of Palm Beach County has determined  
27 that a countywide code of ethics will foster proper conduct and operation of government, and  
28 prevent public office and employment from being used for private gain other than the  
29 remuneration provided by law; and

30 WHEREAS, the Board of County Commissioners of Palm Beach County has determined  
31 that enactment of a Code of Ethics will help ensure that public officials and employees abide by  
32 the highest ethical standards; and

33 WHEREAS, the adherence to the highest standards of ethics protects the integrity of  
34 County government and fosters public confidence in the actions of public officials and  
35 employees; and

36 WHEREAS, the Board of County Commissioners hereby determines that the Ordinance  
37 set forth herein advances the purposes and intent of the Palm Beach County Charter amendments  
38 approved by the electorate on November 2, 2010; and

39 WHEREAS, the Board of County Commissioners of Palm Beach County, pursuant to its  
40 authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida Statutes,

1 and the Palm Beach County Charter, hereby adopts the Palm Beach County Code of Ethics  
2 Ordinance; and

3 **WHEREAS**, the Board of County Commissioners has conducted a duly noticed public  
4 hearing to consider these amendments as required by law.

5 **NOW, THEREFORE**, be it ordained by the Board of County Commissioners of Palm  
6 Beach County, Florida, that:

7 **SECTION 1. THE PALM BEACH COUNTY CODE OF ETHICS.**

8 The Palm Beach County Code of Ethics, Ordinance 2009-051, is hereby repealed and the  
9 new countywide Palm Beach County Code of Ethics Ordinance is hereby adopted as set forth in  
10 Exhibit 1 which is attached hereto and made a part hereof.

11 **SECTION 2. SAVINGS CLAUSE.**

12 All complaints, investigations, advisory opinions, recommended orders, final orders,  
13 requests for advisory opinions, hearing processes, and all other functions of the Palm Beach  
14 County Commission on Ethics, initiated or completed pursuant to Ordinance 2009-050, as  
15 amended, or Ordinance 2009-051, as amended, shall remain in full force and effect.

16 **SECTION 3. REPEAL OF LAWS IN CONFLICT.**

17 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby  
18 repealed to the extent of such conflict.

19 **SECTION 4. SEVERABILITY.**

20 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any  
21 reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect  
22 the remainder of this Ordinance.

23 **SECTION 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

24 The provisions of this Ordinance shall become and be made a part of the Code of Laws  
25 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be  
26 renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to  
27 "section," "article," or other appropriate word.

28 **SECTION 6. EFFECTIVE DATE.**

29 The provisions of this Ordinance shall become effective June 1, 2011.

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APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach

County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 2011.

SHARON R. BOCK  
CLERK & COMPTROLLER

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

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

By: \_\_\_\_\_  
Karen T. Marcus, Chair

(SEAL)

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

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

Filed with the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

## EXHIBIT 1

1 **Sec. 2-441. Title; statement of purpose.**

2 This article shall be known as the Palm Beach County Code of Ethics. This code of ethics is  
3 enacted pursuant to Florida Constitution, Article VIII, section 1(g), Florida Statutes, ch. 125, and  
4 the Charter of Palm Beach County. The Municipalities located within Palm Beach County are  
5 subject to the provisions of this Code of Ethics pursuant to referendum. The purpose of this code  
6 is to provide additional and more stringent ethics standards as authorized by Florida Statutes, §  
7 112.326. This code shall not be construed to authorize or permit any conduct or activity that is in  
8 violation of Florida Statutes, ch. 112, pt. III. This code of ethics shall be deemed additional and  
9 supplemental to any and all state and federal laws governing ethical conduct of officials and  
10 employees, as well as all local laws, rules, regulations and policies.

11 Officials and employees in the public service shall be conscious that public service is a public  
12 trust, shall be impartial and devoted to the best interests of the people of Palm Beach County,  
13 and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.

14 Nothing herein shall abridge employees' constitutional right to collective bargaining.  
15

16 **Sec. 2-442. Definitions.**

17 The following words, terms and phrases, when used in this article, shall have the meanings  
18 ascribed to them in this section, except where the context clearly indicates a different meaning:

19 *Advisory board* shall mean any advisory or quasi-judicial board created by the board of county  
20 commissioners, by the local municipal governing bodies, or by the mayors who serve as chief  
21 executive officers or by mayors who are not members of local municipal governing bodies.

22 *Customer* or *client* means any person or entity to which an official or employee's outside  
23 employer or business has supplied goods or services during the previous twenty-four (24)  
24 months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000.00).

25 *Domestic partner* is an adult, unrelated by blood, with whom an unmarried or separated official  
26 or employee has an exclusive committed relationship and maintains a mutual residence.

27 *Financial benefit* includes any money, service, license, permit, contract, authorization, loan,  
28 travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of  
29 value. This term does not include campaign contributions authorized by law.

30 *Household Member* includes anyone whose primary residence is in the official or employee's  
31 home, including non-relatives who are not rent payers or employees of the head of the  
32 household.

33 *Inspector general* shall mean the office established in article XII of this chapter.

34 *Lobbying* shall mean seeking to influence a decision through oral or written communication or an  
35 attempt to obtain the goodwill of any county commissioner, any member of a local municipal  
36 governing body, any mayor or chief executive officer that is not a member of a local municipal  
37 governing body, any advisory board member, or any employee with respect to the passage,  
38 defeat or modification of any item which may foreseeably be presented for consideration to the  
39 advisory board, the board of county commissioners, or the local municipal governing body  
40 lobbied as applicable.

41 *Lobbyist* shall mean any person who is employed and receives payment, or who contracts for  
42 economic consideration, for the purpose of lobbying on behalf of a principal, and shall include  
43 an employee whose principal responsibility to the employer is overseeing the employer's various  
44 relationships with government or representing the employer in its contacts with government.

45 "*Lobbyist*" shall not include:

- 46 (1) any employee, contract employee, or independent contractor of a governmental agency or  
47 entity lobbying on behalf of that agency or entity, any elected local official when the  
48 official is lobbying on behalf of the governmental agency or entity which the official  
49 serves, or any member of the official's staff when such staff member is lobbying on an  
50 occasional basis on behalf of the governmental agency or entity by which the staff  
51 member is employed.
- 52 (2) any person who is retained or employed for the purpose of representing an employer,  
53 principal or client only during a publicly noticed quasi-judicial hearing or comprehensive  
54 plan hearing, provided the person identifies the employer, principal or client at the  
55 hearing.
- 56 (3) any expert witness who is retained or employed by an employer, principal or client to  
57 provide only scientific, technical or other specialized information provided in agenda  
58 materials or testimony only in public hearings, so long as the expert identifies the  
59 employer, principal or client at the hearing.
- 60 (4) any person who lobbies only in his or her individual capacity for the purpose of self-  
61 representation and without compensation.
- 62 (5) any employee, contract employee, or independent contractor of the Palm Beach County  
63 League of Cities, Inc., lobbying on behalf of that entity.

64 *Official* or *employee* means any official or employee of the county or the municipalities located  
65 within the county, whether paid or unpaid. The term "*employee*" includes but is not limited to all  
66 managers, department heads and personnel of the county or the municipalities located within the  
67 county. The term also includes contract personnel and contract administrators performing a  
68 government function, and chief executive officer who is not part of the local governing body.  
69 The term "official" shall mean members of the board of county commissioners, a mayor,  
70 members of local municipal governing bodies, and members appointed by the board of county  
71 commissioners, members of local municipal governing bodies or mayors or chief executive  
72 officers that are not members of local municipal governing body, as applicable, to serve on any  
73 advisory, quasi judicial, or any other board of the county, state, or any other regional, local,  
74 municipal, or corporate entity.

75 *Outside employer or business* includes:

- 76 (1) Any entity, other than the county, the state, or any other federal, regional, local, or  
77 municipal government entity, of which the official or employee is a member, official, director,  
78 proprietor, partner, or employee, and from which he or she receives compensation for services  
79 rendered or goods sold or produced. For purposes of this definition, "compensation" does not  
80 include reimbursement for necessary expenses, including travel expenses; or
- 81 (2) Any entity located in the county or which does business with or is regulated by the county  
82 or municipality as applicable, in which the official or employee has an ownership interest. For  
83 purposes of this definition, an "ownership interest" shall mean at least five (5) percent of the total  
84 assets or common stock owned by the official or employee or any combination of the official or  
85 employee's household members, spouse, child, step-child, brother, sister, parent or step-parent,  
86 or a person claimed as a dependent on the official or employee's latest individual federal tax  
87 return.
- 88 (3) the term outside employer or business shall not apply to an employee who is employed by a  
89 certified bargaining agent solely to represent employees.

90 *Palm Beach County Commission on Ethics* means the commission established in section 2-254 et  
91 seq. to administer and enforce the ethics regulations set forth herein, and may also be referred to  
92 as the "commission on ethics" in this article.

93 *Persons and entities* shall be defined to include all natural persons, firms, associations, joint  
94 ventures, partnerships, estates, trusts, business entities, syndicates, fiduciaries, corporations, and  
95 all other organizations.

96 *Relative* unless otherwise specified in this ordinance, means an individual who is related to an  
97 official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin,  
98 nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,  
99 brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother,  
100 stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild,  
101 step grandparent, step great grandparent, step grandchild, step great grandchild, person who is  
102 engaged to be married to the official or employee or who otherwise holds himself or herself out  
103 as or is generally known as the person whom the official or employee intends to marry or with  
104 whom the official or employee intends to form a household, or any other natural person having  
105 the same legal residence as the official or employee.

106 *Transaction* shall refer to the purchase or sale by the county or municipality of goods or services  
107 for a consideration.

108 *Vendor* means any person or entity who has a pending bid proposal, an offer or request to sell  
109 goods or services, sell or lease real or personal property, or who currently sells goods or services,  
110 or sells or leases real or personal property, to the county or municipality involved in the subject  
111 contract or transaction as applicable. For the purposes of this definition a vendor entity includes  
112 an owner, director, manager or employee.

113

#### 114 **Sec. 2-443. Prohibited conduct.**

115 (a) *Misuse of public office or employment.* An official or employee shall not use his or her  
116 official position or office, or take or fail to take any action, or influence others to take or fail to  
117 take any action, in a manner which he or she knows or should know with the exercise of  
118 reasonable care will result in a special financial benefit, not shared with similarly situated  
119 members of the general public, for any of the following persons or entities:

120 (1) Himself or herself;

121 (2) His or her spouse or domestic partner, household member or persons claimed as dependents  
122 on the official or employee's latest individual federal income tax return, or the employer or  
123 business of any of these people;

124 (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle or  
125 aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic  
126 partner, or the employer or business of any of these people;

127 (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner,  
128 or someone who is known to such official or employee to work for such outside employer or  
129 business;

130 (5) A customer or client of the official or employee's outside employer or business;

131 (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner--  
132 "substantial" for these purposes shall mean at least ten thousand dollars (\$10,000.00) and shall  
133 not include forms of indebtedness, such as a mortgage and note, or a loan between the official or  
134 employee and a financial institution;

135 (7) A civic group, union, social, charitable, or religious organization, or other not for profit  
136 organization of which he or she (or his or her spouse or domestic partner) is an officer or  
137 director.

138 (b) *Corrupt misuse of official position.* An official or employee shall not use his or her official  
139 position or office, or any property or resource which may be within his or her trust, to corruptly  
140 secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or  
141 others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and  
142 for the purpose of obtaining, or compensating or receiving compensation for, any benefit  
143 resulting from some act or omission of an official or employee which is inconsistent with the  
144 proper performance of his or her public duties.

145 (c) *Disclosure of voting conflicts.* County and municipal officials as applicable shall abstain  
146 from voting and not participate in any matter that will result in a special financial benefit as set  
147 forth in subsections (a)(1) through (7) above. The official shall publicly disclose the nature of the  
148 conflict and when abstaining from the vote, shall complete and file a State of Florida  
149 Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §  
150 112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed  
151 form to the county commission on ethics. Officials who abstain and disclose a voting conflict as  
152 set forth herein, shall not be in violation of subsection (a), provided the official does not  
153 otherwise use his or her office to take or fail to take any action, or influence others to take or fail  
154 to take any action, in any other manner which he or she knows or should know with the exercise  
155 of reasonable care will result in a special financial benefit, not shared with similarly situated  
156 members of the general public, as set forth in subsections (a)(1) through (7).

157 (d) *Contractual relationships.* No official or employee shall enter into any contract or other  
158 transaction for goods or services with their respective county or municipality. This prohibition  
159 extends to all contracts or transactions between the county or municipality as applicable or any  
160 person, agency or entity acting for the county or municipality as applicable, and the official or  
161 employee, directly or indirectly, or the official or employee's outside employer or business. Any  
162 such contract, agreement, or business arrangement entered into in violation of this subsection  
163 may be rescinded or declared void by the board of county commissioners pursuant to section 2-  
164 448(c) or by the local municipal governing body pursuant to local ordinance as applicable. This  
165 prohibition shall not apply to employees who enter into contracts with Palm Beach County or a  
166 municipality as part of their official duties with the county or that municipality. This prohibition  
167 also shall not apply to officials or employees who purchase goods from the county or  
168 municipality on the same terms available to all members of the public. This prohibition shall  
169 also not apply to advisory board members provided the subject contract or transaction is  
170 disclosed at a duly noticed public meeting of the governing body and the advisory board  
171 member's board provides no regulation, oversight, management, or policy-setting  
172 recommendations regarding the subject contract or transaction.

173 (e) *Exceptions and waiver.* The requirements of subsection (d) above may be waived as it  
174 pertains to advisory board members where the advisory board member's board is purely advisory  
175 and provides regulation, oversight, management, or policy-setting recommendations regarding  
176 the subject contract or transaction. No waiver shall be allowed where the advisory board  
177 member's board is not purely advisory and provides regulation, oversight, management, or  
178 policy-setting recommendations regarding the subject contract or transaction. Waiver may be  
179 effected by the board of county commissioners or by the local municipal governing body as  
180 applicable upon full disclosure of the contract or transaction prior to the waiver and an

181 affirmative vote of a majority plus one of the total membership of the board of county  
182 commissioners or the local municipal governing body as applicable. In instances in which  
183 appointment to the advisory board is made by an individual, waiver may be effected, after full  
184 disclosure of the contract or transaction at a public hearing, by the appointing person. In addition,  
185 no official or employee shall be held in violation of subsection (d) if:

- 186 (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder  
187 and:
  - 188 a. The official or employee or member of his or her household has in no way participated in the  
189 determination of the bid specifications or the determination of the lowest bidder;
  - 190 b. The official or employee or member of his or her household has in no way used or attempted  
191 to use the official or employee's influence to persuade the agency, governmental entity or any  
192 personnel thereof to enter such a contract other than by the mere submission of the bid; and
  - 193 c. The official or employee, prior to or at the time of the submission of the bid, has filed a  
194 statement with the supervisor of elections and the commission on ethics, disclosing the nature of  
195 the interest in the outside employer or business submitting the bid.
- 196 (2) An emergency purchase or contract which would otherwise violate a provision of subsection  
197 (d) must be made in order to protect the health, safety, or welfare of the citizens of the county or  
198 municipality as applicable.
- 199 (3) The outside employer or business involved is the only source of supply within the county or  
200 municipality as applicable and there is full disclosure by the official or employee of his or her  
201 interest in the outside employer or business to the county or municipality as applicable and the  
202 ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.
- 203 (4) The total amount of the contracts or transactions in the aggregate between the outside  
204 employer or business and the county or municipality as applicable does not exceed five hundred  
205 dollars (\$500.00) per calendar year.
- 206 (5) Notwithstanding any provision to the contrary, subsection (d) shall not be construed to  
207 prevent an employee from seeking part-time employment with an outside employer who has  
208 entered into a contract for goods or services with the county or municipality as applicable  
209 provided that:
  - 210 a. The employee or relative of the employee does not work in the county or municipal  
211 department as applicable which will enforce, oversee or administer the subject contract; and
  - 212 b. The outside employment would not interfere with or otherwise impair his or her  
213 independence of judgment or otherwise interfere with the full and faithful performance of his or  
214 her public duties to the county or municipality as applicable; and
  - 215 c. the employee or relative of the employee has not participated in determining the subject  
216 contract requirements or awarding the contract; and
  - 217 d. the employee's job responsibilities and job description will not require him or her to be  
218 involved in the outside employer's contract in any way including, but not limited to, its  
219 enforcement, oversight, administration, amendment, extension, termination or forbearance; and
  - 220 e. the employee demonstrates compliance with applicable merit rules regarding outside  
221 employment and obtains written permission from his or her supervisor; and
  - 222 f. The employee has obtained a conflict of interest waiver from the chief administrative officer  
223 and the employee's department head of the county or municipality based on a finding that no  
224 conflict exists. The employee shall submit the request for waiver in writing and under oath. The  
225 request for the waiver shall be signed by the employee under oath or affirmation on an approved  
226 form provided by the Commission on Ethics. The document shall contain written



227 acknowledgment of compliance with the provisions of (5)a. through (5)e. of this subsection,  
228 together with such pertinent facts and relevant documents that support such waiver. A waiver  
229 under this subsection must be approved by both the employee's supervisor and chief  
230 administrative officer of the county or municipality. The county or municipality shall record  
231 such waiver in the employee's personnel file and shall submit a copy of the waiver and all  
232 related documents to the commission on ethics. The commission on ethics in its discretion may  
233 elect to review, comment on, or investigate any waiver. The commission on ethics review or  
234 investigation shall not delay an employee's ability to take the part time employment.

235 *g. Official law enforcement overtime or extra duty details.* The provisions of subsection (d) shall  
236 be waived for outside employment when that employment consists of a certified police agency  
237 uniformed external security or extra duty detail, contracted or administered by the police agency  
238 as applicable. For the purpose of this subsection, all records of external, extra duty or overtime  
239 security details, including supervisor approval, identity of contracting parties, and including  
240 time, date and manner of detail shall be maintained by the individual contracting or  
241 administrating police agency, records of which shall be accessible to the public subject to state  
242 public records disclosure exemptions.

243 *(f) Accepting travel expenses.* No official or employee shall accept, directly or indirectly, any  
244 travel expenses including, but not limited to, transportation, lodging, meals, registration fees and  
245 incidentals from any county or municipal contractor, vendor, service provider, bidder or proposer  
246 as applicable. The board of county commissioners or local municipal governing body as  
247 applicable may waive the requirements of this subsection by a majority vote of the board or local  
248 municipal governing body. The provisions of this subsection shall not apply to travel expenses  
249 paid by other governmental entities or by organizations of which the county or municipality as  
250 applicable is a member if the travel is related to that membership.

251 *(g) Contingent fee prohibition.* No person shall, in whole or in part, pay, give or agree to pay or  
252 give a contingency fee to another person. No person shall, in whole or in part, receive or agree to  
253 receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or  
254 nonmonetary benefit as compensation which is dependent on or in any way contingent on the  
255 passage, defeat, or modification of: an ordinance, resolution, action or decision of the board of  
256 county commissioners or local municipal governing body as applicable, any employee  
257 authorized to act on behalf of the board of county commissioners or local municipal governing  
258 body as applicable, the county administrator or municipal administrator as applicable, or any  
259 action or decision of an advisory board or committee. This prohibition does not apply to real  
260 estate brokers when acting in the course of their profession as regulated by §§475.001-475.5018,  
261 Florida Statutes, as may be amended. Nothing in this section may be construed to prohibit any  
262 salesperson from engaging in legitimate government business on behalf of a company from  
263 receiving compensation or commission as part of a bona fide contractual arrangement with that  
264 company provided such compensation or commission is ordinary and customary in the industry.  
265 Nothing in this section may be construed to prohibit an attorney from representing a client in a  
266 judicial proceeding or formal administrative hearing pursuant to a contingent fee arrangement.

267 *(h) Honesty in applications for positions.* No person seeking to become an official or  
268 employee, or seeking to enter into a contract to provide goods or services to the county or  
269 municipality as applicable, may make any false statement, submit any false document, or  
270 knowingly withhold information about wrongdoing in connection with employment by or  
271 services to the county or municipality as applicable.

272 (i) *Disclosure or use of certain information.* A current or former official or employee shall not  
273 disclose or use information not available to members of the general public and gained by reason  
274 of his or her official position, except for information relating exclusively to governmental  
275 practices, for his or her personal gain or benefit or for the personal gain or benefit of any other  
276 person.

277  
278 **Sec. 2-444. Gift law.**

279 (a)(1) No county commissioner, member of a local governing body, mayor or chief executive  
280 when not a member of the governing body, or employee, or any other person or business entity  
281 on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value  
282 of greater than one hundred dollars (\$100.00) in the aggregate for the calendar year from any  
283 person or business entity that the recipient knows, or should know with the exercise of  
284 reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies,  
285 sells or leases to the county or municipality as applicable.

286 (2) No vendor, lobbyist, or principal or employer of a lobbyist that lobbies the county or a  
287 municipality shall knowingly give, directly or indirectly, any gift with a value greater than one  
288 hundred dollars (\$100.00) in the aggregate for the calendar year to a person who the vendor,  
289 lobbyist, or principal knows is an official or employee of that county or municipality. For the  
290 purposes of this subsection 2-444(a)(2), the term vendor also includes any person or entity that,  
291 because of the nature of their business, may respond to an invitation to bid, request for proposal  
292 or other procurement opportunity that has been published by the county or a municipality.

293 (b)(1) No advisory board member, or any other person on his or her behalf, shall knowingly  
294 solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars  
295 (\$100.00) in the aggregate for the calendar year from any vendor, lobbyist, or any principal or  
296 employer of a lobbyist, who lobbies the recipient's advisory board, or any county or municipal  
297 department as applicable that is subject in any way to the advisory board's authority, influence or  
298 advice.

299 (2) No vendor, lobbyist, or principal or employer of a lobbyist who lobbies an advisory board or  
300 any county or municipal department that is subject in any way to the advisory board's authority,  
301 influence or advice, shall knowingly give, directly or indirectly, any gift with a value greater than  
302 one hundred dollars (\$100.00) in the aggregate for the calendar year to a person who the vendor,  
303 lobbyist, or principal knows is a member of that advisory board. For the purposes of this  
304 subsection 2-444(b)(2), the term vendor also includes any person or entity that, because of the  
305 nature of their business, may respond to an invitation to bid, request for proposal or other  
306 procurement opportunity that has been published by the county or a municipality.

307 (c) No county commissioner, member of a local governing body, mayor or chief executive  
308 officer when not a member of the governing body, or employee, or any other person or business  
309 entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business  
310 entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist  
311 where the gift is for the personal benefit of the official or employee, another official or  
312 employee, or any relative or household member of the official or employee. No advisory board  
313 member or any other person or business entity on his or her behalf, shall knowingly solicit a gift  
314 of any value from any person or business entity that the recipient knows is a vendor, lobbyist or  
315 any principal or employer of a lobbyist who lobbies the recipient's advisory board, or any county  
316 or municipal department as applicable that is subject in any way to the advisory board's  
317 authority, influence or advice, where the gift is for the personal benefit of the advisory board

318 member, another advisory board member, or an official, or any relative or household member of  
319 the official or employee.

320 (d) For purposes of this section, a principal or employer of a lobbyist shall include any officer,  
321 partner or director of the principal or employer entity, or any employee of a principal or  
322 employer who is not an officer, partner or director, provided that the employee knows or should  
323 know with the exercise of reasonable care that the principal or employer employs a lobbyist.

324 (e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no  
325 official or employee shall accept or agree to accept a gift from a person or entity, because of:

- 326 (1) An official public action taken or to be taken, or which could be taken;  
327 (2) A legal duty performed or to be performed or which could be performed; or  
328 (3) A legal duty violated or to be violated, or which could be violated by any official or  
329 employee.

330 (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars  
331 (\$100.00) shall report that gift in accordance with this section.

332 (1) *Gift reports for officials and employees identified by state law as reporting individuals.*  
333 Those persons required to report gifts pursuant to state law shall report those gifts in the manner  
334 provided by Florida Statutes, § 112.3148, as may be amended. A copy of each report shall be  
335 filed with the county commission on ethics.

336 (2) *All other officials and employees who are not reporting individuals under state law.*

337 a. *Personal Gifts.* All officials and employees who are not reporting individuals under state law  
338 are not required to report gifts in excess of one hundred dollars (\$100.00) so long as those gifts  
339 are given to the official or employee by a personal friend or co-worker and the circumstances  
340 demonstrate that the motivation for the gift was the personal or social relationship rather than an  
341 attempt to obtain the goodwill or otherwise influence the official or employee in the performance  
342 of his or her official duties. Factors to be considered in determining whether a gift was  
343 motivated by a personal or social relationship may include but shall not be limited to: whether  
344 the relationship began before or after the official or employee obtained his or her office or  
345 position; the prior history of gift giving between the individuals; whether the gift was given in  
346 connection with a holiday or other special occasion; whether the donor personally paid for the  
347 gift or sought a tax deduction or business reimbursement; and whether the donor gave similar  
348 gifts to other officials or employees at or near the same time. If the personal friend or co-worker  
349 is a vendor, lobbyist or principal or employer of a lobbyist that lobbies the county or  
350 municipality as applicable, then the official or employee shall not accept a gift in excess of  
351 \$100.00 in accordance with subsections (a)(1) and (b)(1).

352 b. *All other gifts.* All officials or employees who are not reporting individuals under state law  
353 and who receive any gift in excess of one hundred dollars (\$100.00), which is not otherwise  
354 excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift  
355 disclosure report with the county commission on ethics no later than November 1 of each year  
356 beginning November 1, 2011, for the period ending September 30 of each year. All officials or  
357 employees who are not reporting individuals under state law and who do not receive a gift in  
358 excess of one hundred dollars (\$100.00) during a given reporting period shall not file an annual  
359 gift disclosure report. The annual gift disclosure report shall be created by the county  
360 commission on ethics and shall be in a form substantially similar in content as that required by  
361 state law.  
362

363 (g) For the purposes of this section, "gift" shall refer to the transfer of anything of economic  
364 value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or  
365 promise, or in any other form, without adequate and lawful consideration. Food and beverages  
366 consumed at a single setting or a meal shall be considered a single gift, and the value of the food  
367 and beverage provided at that sitting or meal shall be considered the value of the gift. In  
368 determining the value of the gift, the recipient of the gift may consult, among other sources,  
369 section 112.3148, Florida Statutes and the Florida Administrative Code as may be amended.

370 (1) Exceptions. The provisions of subsection (g) shall not apply to:

- 371 a. Political contributions specifically authorized by state or federal law;
  - 372 b. Gifts from relatives, domestic partners, and dependents named on the official's or  
373 employee's latest federal income tax return, or one's household member;
  - 374 c. Awards for professional or civic achievement;
  - 375 d. Materials such as books, reports, periodicals or pamphlets which are solely informational or  
376 of an advertising nature;
  - 377 e. Gifts solicited or accepted by county or municipal officials or employees as applicable on  
378 behalf of the county or municipality in performance of their official duties for use solely by the  
379 county or municipality for a public purpose;
  - 380 f. Publicly advertised offers for goods or services from a vendor under the same terms and  
381 conditions as are offered or made available to the general public;
  - 382 g. Inheritance or other devise;
  - 383 h. Registration fees and other related costs associated with educational or governmental  
384 conferences, meetings or seminars and travel expenses either properly waived or inapplicable  
385 pursuant to section 2-443(f), provided that attendance is for governmental purposes, and  
386 attendance is related to their duties and responsibilities as an official or employee of the county  
387 or municipality;
  - 388 i. A ticket, pass or admission in connection with public events, appearances or ceremonies  
389 related to official county or municipal business, if furnished by a nonprofit sponsor organization  
390 of such public event, or if furnished pursuant to a contract between the event's non-profit  
391 sponsor and the county or municipality as applicable, provided the sponsor organization does not  
392 employ a lobbyist, and further provided the ticket, pass or admission is given by a representative  
393 of the sponsor organization who is not otherwise a vendor, lobbyist, principal or employer of a  
394 lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass or  
395 admission must be disclosed in accordance with the gift law reporting requirements of  
396 subsections 2-444(f)(1) and (f)(2);
  - 397 j. Expenditures made in connection with an event sponsored by a nonprofit organization funded  
398 in whole or in part with public funds whose primary function is to encourage and attract tourism  
399 or other business opportunities for the benefit of Palm Beach County or the municipalities as  
400 applicable, provided the sponsor organization does not employ a lobbyist, and further provided  
401 that the invitation to the event is made by a representative of the sponsor organization and the  
402 representative is not otherwise a vendor, lobbyist, principal or employer of a lobbyist.  
403 Notwithstanding the exception as provided in this subsection, the expenditure must be disclosed  
404 in accordance with the gift law reporting requirements of subsections 2-444(f)(1) and (f)(2).
- 405 (h) Solicitation of Contributions on Behalf of a Non-Profit Charitable Organization.

- 406 (1) Notwithstanding the prohibition on gifts as outlined in subsection 2-444(a) and  
407 (b), the solicitation of funds by a county or municipal official or employee for a non-  
408 profit charitable organization, as defined under the Internal Revenue Code, is permissible

409 so long as there is no quid pro quo or other special consideration, including any direct or  
410 indirect special financial benefit to the official or employee or to the person or entity  
411 being solicited. The solicitation by an official or employee as contemplated herein, is  
412 expressly prohibited if made to any person or entity with a pending application for  
413 approval or award of any nature before the county or municipality as applicable.

414 (2) To promote the full and complete transparency of any such solicitation, officials  
415 and employees shall disclose, on a form provided by the Commission on Ethics, the name  
416 of the charitable organization, the event for which the funds were solicited, the name of  
417 any person or entity that was contacted regarding a solicitation or pledge by the official  
418 or employee, and the amount of the funds solicited or pledged if known. The form shall  
419 be completed legibly and shall be filed with the Commission on Ethics. The form shall  
420 be filed within 30 days from the occurrence of the event for which the solicitation was  
421 made, or if no event, within 30 days from the occurrence of the solicitation.

422 (3) Officials and employees may not use county or municipal staff or other county or  
423 municipal resources in the solicitation of charitable contributions described in this  
424 subsection.

425

426 **Sec. 2-445. Anti-nepotism law.**

427 An official may not appoint, employ, promote, advance, or advocate for appointment,  
428 employment, promotion, or advancement in or to a position in the county or municipality as  
429 applicable in which the official is serving or over which the official exercises jurisdiction or  
430 control, any individual who is a relative or domestic partner of the official. An individual may  
431 not be appointed, employed, promoted, or advanced in or to a position in the county or a  
432 municipality if such appointment, employment, promotion, or advancement has been advocated  
433 by an official, serving in or exercising jurisdiction or control over the county or municipality as  
434 appropriate, who is a relative or domestic partner of the individual or if such appointment,  
435 employment, promotion, or advancement is made by a collegial body of which a relative or  
436 domestic partner of the individual is a member. However, this section shall not apply to  
437 appointments to boards other than those with land-planning or zoning responsibilities in those  
438 municipalities with less than 35,000 population. This section does not apply to persons serving in  
439 a volunteer capacity who provide emergency medical, firefighting, or police services. Such  
440 persons may receive, without losing their volunteer status, reimbursements for the costs of any  
441 training they get relating to the provision of volunteer emergency medical, firefighting, or police  
442 services and payment for any incidental expenses relating to those services that they provide.  
443 Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the  
444 purposes of this section.

445 (1) For the purposes of this section, "official" means any official or employee in whom is  
446 vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to  
447 appoint, employ, promote, or advance individuals or to recommend individuals for appointment,  
448 employment, promotion, or advancement in connection with employment in the county or  
449 municipality as applicable.

450 (2) For the purposes of this section, "relative" means spouse, parent, child, sibling, uncle, aunt,  
451 first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-  
452 in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-  
453 brother, or half-sister.

454

455 **Sec. 2-446. Ethics training.**

456 (a) Officials and employees, as public servants, are considered stewards of the public trust and  
457 should aspire to the highest level of integrity and character. Officials and employees shall be  
458 informed of their ethical responsibilities at the start of their public service, and shall receive  
459 updates and training materials on ethics issues throughout the span of their public service. The  
460 county administrator or municipal administrator as applicable shall establish by policy a  
461 mandatory training schedule for all officials and employees which shall include mandatory  
462 periodic follow-up sessions. This policy may also address ethics training for entities that receive  
463 county or municipal funds as applicable.

464 (b) The commission on ethics shall develop and deliver, or contract with other entities to  
465 develop and deliver, training programs. The commission on ethics shall coordinate and cooperate  
466 with all affected county or municipal entities, departments, agencies, boards, councils and  
467 commissions to ensure that effective and meaningful training experiences are delivered in a  
468 timely and efficient manner.

469  
470 **Sec. 2-447. Noninterference.**

471 It shall be a violation of this article for any person: (a) to retaliate against, punish, threaten,  
472 harass, or penalize any person for communicating, cooperating with, or assisting the commission  
473 on ethics or the inspector general; or (b) to interfere, obstruct or attempt to interfere or obstruct  
474 without valid legal basis any investigation conducted by the commission on ethics or the  
475 inspector general.

476  
477 **Sec. 2-448. Administration, enforcement and penalties.**

478 (a) The commission on ethics shall be empowered to review, interpret, render advisory  
479 opinions, and enforce this code of ethics pursuant to the procedures established in the county  
480 commission on ethics ordinance. Jurisdiction of the commission on ethics with respect to  
481 advisory opinions rendered shall extend to all county and municipal officials and employees, and  
482 all other persons and entities required to comply with the provisions of this code and the county  
483 lobbyist registration ordinance, including but not limited to lobbyists, their employers and  
484 principals, and contractors and vendors.

485 (b) A finding by the commission on ethics of a violation of any part of this article shall subject  
486 the person or entity to public reprimand, a fine of up to five hundred dollars (\$500.00), or both.  
487 The commission on ethics may also order the person or entity to pay restitution when the person  
488 or entity or a third party has received a pecuniary benefit as a result of the person's violation.

489 (c) Upon a finding of the commission on ethics that a violation of this article or the lobbyist  
490 registration ordinance resulted in a contract, grant, subsidy, license, permit, franchise, use,  
491 certificate, development order or other benefit conferred by the county or municipality as  
492 applicable, then such contract, grant, subsidy, license, permit, franchise, use, certificate,  
493 development order or other benefit may be rescinded or declared void by the board of county  
494 commissioners or the local municipal governing body as applicable.

495 (d) The commission on ethics may in its discretion refer willful violations of sections 2-443, 2-  
496 444(a), 2-444(b), 2-444(c), 2-444(e), or 2-447 to the state attorney. Pursuant to Florida Statutes,  
497 § 125.69, a person who violates the sections of the article set forth in this section 2-448(d) shall  
498 be subject to prosecution in the name of the state in the same manner as first degree  
499 misdemeanors are prosecuted, and upon conviction, such person shall be punished by a fine not  
500 to exceed one thousand dollars (\$1,000.00), imprisonment not to exceed one (1) year, or both.

ATTACHMENT 2

1 ~~ARTICLE XIII. CODE OF ETHICS\*~~  
2  
3

4 ~~\*Cross references: Commission on ethics, § 2-254 et seq.~~  
5  
6  
7

8 **Sec. 2-441. Title; statement of purpose.**

9 This article shall be known as the Palm Beach County Code of Ethics. This code of ethics is  
10 enacted pursuant to Florida Constitution, Article VIII, section 1(g), Florida Statutes, ch. 125, and  
11 the Charter of Palm Beach County. The Municipalities located within Palm Beach County are  
12 subject to the provisions of this Code of Ethics pursuant to referendum. The purpose of this code  
13 is to provide additional and more stringent ethics standards as authorized by Florida Statutes, §  
14 112.326. This code shall not be construed to authorize or permit any conduct or activity that is in  
15 violation of Florida Statutes, ch. 112, pt. III. This code of ethics shall be deemed additional and  
16 supplemental to any and all state and federal laws governing ethical conduct of officials and  
17 employees, as well as all local laws, rules, regulations and policies governing personnel matters.  
18 Officials and employees in the public service shall be conscious that public service is a public  
19 trust, shall be impartial and devoted to the best interests of the people of Palm Beach County,  
20 and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.  
21 Nothing herein shall abridge employees' constitutional right to collective bargaining.  
22 (Ord. No. 2009-051, pt. 1, § 1, 12-15-09; Ord. No. 2010-043, pt. 1, 9-28-10)

23  
24 **Sec. 2-442. Definitions.**

25 The following words, terms and phrases, when used in this article, shall have the meanings  
26 ascribed to them in this section, except where the context clearly indicates a different meaning:

27 Advisory board shall mean any advisory or quasi-judicial board created by the board of county  
28 commissioners, by the local municipal governing bodies, or by the mayors who serve as chief  
29 executive officers or by mayors who are not members of local municipal governing bodies.

30 *Customer or client* means any person or entity to which an official or employee's outside  
31 employer or business has supplied goods or services during the previous twenty-four (24)  
32 months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000.00).

33 *Domestic partner* is an adult, unrelated by blood, with whom an unmarried or separated official  
34 or employee has an exclusive committed relationship and maintains a mutual residence.

35 *Financial benefit* includes any money, service, license, permit, contract, authorization, loan,  
36 travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of  
37 value. This term does not include campaign contributions authorized by law.

38 *Household Member* includes anyone whose primary residence is in the official or employee's  
39 home, including non-relatives who are not rent payers or employees of the head of the  
40 household.

41 *Inspector general* shall mean the office established in article XII of this chapter.

42 Lobbying shall mean seeking to influence a decision through oral or written communication or an  
43 attempt to obtain the goodwill of any county commissioner, any member of a local municipal  
44 governing body, any mayor or chief executive officer that is not a member of a local municipal  
45 governing body, any advisory board member, or any employee with respect to the passage,  
46 defeat or modification of any item which may foreseeably be presented for consideration to the

47 advisory board, the board of county commissioners, or the local municipal governing body  
48 lobbied as applicable.

49 Lobbyist shall mean any person who is employed and receives payment, or who contracts for  
50 economic consideration, for the purpose of lobbying on behalf of a principal, and shall include  
51 an employee whose principal or most significant responsibilities responsibility to the employer is  
52 overseeing the employer's various relationships with government or representing the employer in  
53 its contacts with government. "Lobbyist" shall not include:

- 54 (1) any employee, contract employee, or independent contractor of a governmental agency or  
55 entity lobbying on behalf of that agency or entity, any elected local official when the  
56 official is lobbying on behalf of the governmental agency or entity which the official  
57 serves, or any member of the official's staff when such staff member is lobbying on an  
58 occasional basis on behalf of the governmental agency or entity by which the staff  
59 member is employed.
- 60 (2) any person who is retained or employed for the purpose of representing an employer,  
61 principal or client only during a publicly noticed quasi-judicial hearing or comprehensive  
62 plan hearing, provided the person identifies the employer, principal or client at the  
63 hearing.
- 64 (3) any expert witness who is retained or employed by an employer, principal or client to  
65 provide only scientific, technical or other specialized information provided in agenda  
66 materials or testimony only in public hearings, so long as the expert identifies the  
67 employer, principal or client at the hearing.
- 68 (4) any person who lobbies only in his or her individual capacity for the purpose of self-  
69 representation and without compensation.
- 70 (5) any employee, contract employee, or independent contractor of the Palm Beach County  
71 League of Cities, Inc., lobbying on behalf of that entity.

72 Official or employee means any official or employee of the county or the municipalities located  
73 within the county, whether paid or unpaid, and. The term "employee" includes but is not limited  
74 to all members of an office, board, body, advisory board, council, commission, agency managers,  
75 department, district, division, committee, or subcommittee heads and personnel of the county or  
76 the municipalities located within the county. The term also includes contract personnel and  
77 contract administrators performing a government function, and chief executive officer who is not  
78 part of the local governing body. The term "official" shall mean members of the board of county  
79 commissioners, a mayor, members of local municipal governing bodies, and members appointed  
80 by the board of county commissioners or, members of local municipal governing bodies or  
81 mayors or chief executive officers that are not members of local municipal governing body, as  
82 applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any  
83 other regional, local, municipal, or corporate entity.

84 Outside employer or business includes:

- 85 (1) Any entity, other than the county, the state, or any other federal, regional, local, or  
86 municipal government entity, of which the official or employee is a member, official, director,  
87 proprietor, partner, or employee, and from which he or she receives compensation for services  
88 rendered or goods sold or produced. For purposes of this definition, "compensation" does not  
89 include reimbursement for necessary expenses, including travel expenses; or
- 90 (2) Any entity located in the county or which does business with or is regulated by the county  
91 or municipality as applicable, in which the official or employee has an ownership interest. For  
92 purposes of this definition, an "ownership interest" shall mean at least five (5) percent of the total



93 assets or common stock owned by the official or employee or any combination of the members  
94 of the official or employee's household or relatives official or employee's household members,  
95 spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent  
96 on the official or employee's latest individual federal tax return.  
97 (3) the term outside employer or business shall not apply to an employee who is employed by a  
98 certified bargaining agent solely to represent employees.

99 *Palm Beach County Commission on Ethics* means the commission established in section 2-254  
100 et seq. to administer and enforce the ethics regulations set forth herein, and may also be referred  
101 to as the "commission on ethics" in this article.

102 *Person* ~~Persons and entities~~ shall be defined to include all individuals, ~~children~~ natural persons,  
103 firms, associations, joint ventures, partnerships, estates, trusts, business, ~~trusts~~ entities,  
104 syndicates, fiduciaries, corporations, and all other groups or combinations ~~organizations~~.

105 *Relative* means a spouse, child, step-child, brother, sister, parent or step-parent, or a person  
106 claimed as a dependent on the official or employee's latest individual federal income tax return.  
107 unless otherwise specified in this ordinance, means an individual who is related to an official or  
108 employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew,  
109 niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,  
110 sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother,  
111 half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step  
112 great grandparent, step grandchild, step great grandchild, person who is engaged to be married to  
113 the official or employee or who otherwise holds himself or herself out as or is generally known  
114 as the person whom the official or employee intends to marry or with whom the official or  
115 employee intends to form a household, or any other natural person having the same legal  
116 residence as the official or employee.

117 (Ord. No. 2009-051, pt. 1, § 2, 12-15-09; Ord. No. 2010-043, pt. 2, 9-28-10)

118  
119 *Transaction* shall refer to the purchase or sale by the county or municipality of goods or services  
120 for a consideration.

121 *Vendor* means any person or entity who has a pending bid proposal, an offer or request to sell  
122 goods or services, sell or lease real or personal property, or who currently sells goods or services,  
123 or sells or leases real or personal property, to the county or municipality involved in the subject  
124 contract or transaction as applicable. For the purposes of this definition a vendor entity includes  
125 an owner, director, manager or employee.

126  
127 **Sec. 2-443. Prohibited conduct.**

128 (a) *Misuse of public office or employment.* An official or employee shall not use his or her  
129 official position or office, or take or fail to take any action, or influence others to take or fail to  
130 take any action, in a manner which he or she knows or should know with the exercise of  
131 reasonable care will result in a special financial benefit, not shared with similarly situated  
132 members of the general public, for any of the following persons or entities:

133 (1) Himself or herself;

134 (2) A member of his or her household, including a spouse or domestic partner and his or her,  
135 household member or persons claimed as dependents on the official or employee's latest  
136 individual federal income tax return, or the employer or business of any of these people;

137 (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle or  
138 aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic  
139 partner, or the employer or business of any of these people;

140 (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner,  
141 or someone who ~~works~~ is known to such official or employee to work for such outside employer  
142 or business;

143 (5) A customer or client of the official or ~~employee~~ employee's outside employer or business;

144 (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner--  
145 "substantial" for these purposes shall mean at least ten thousand dollars (\$10,000.00) and shall  
146 not include forms of indebtedness, such as a mortgage and note, or a loan between the official or  
147 employee and a financial institution;

148 (7) A ~~nongovernmental~~ civic group, union, social, charitable, or religious organization, or other  
149 not for profit organization of which he or she (or his or her spouse or domestic partner) is an  
150 officer or director.

151 ~~(b)~~ Corrupt misuse of official position. An official or employee shall not use his or her official  
152 position or office, or any property or resource which may be within his or her trust, to corruptly  
153 secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or  
154 others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and  
155 for the purpose of obtaining, or compensating or receiving compensation for, any benefit  
156 resulting from some act or omission of an official or employee which is inconsistent with the  
157 proper performance of his or her public duties.

158 (c) Disclosure of voting conflicts. County and municipal officials as applicable shall abstain  
159 from voting and not participate in any matter that will result in a special financial benefit as set  
160 forth in subsections (a)(1) through (7) above. ~~When abstaining, the~~ The official shall publicly  
161 disclose the nature of the conflict and when abstaining from the vote, shall complete and file a  
162 State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida  
163 Statutes, § 112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the  
164 completed form to the county commission on ethics. Officials who abstain and disclose a voting  
165 conflict as set forth herein, shall not be in violation of subsection (a), provided the official does  
166 not otherwise use his or her office to take or fail to take any action, or influence others to take or  
167 fail to take any action, in any other manner which he or she knows or should know with the  
168 exercise of reasonable care will result in a special financial benefit, not shared with similarly  
169 situated members of the general public, as set forth in subsections (a)(1) through (7).

170 ~~(e) Prohibited contractual~~ (d) Contractual relationships. No official or employee shall enter  
171 into any contract or other transaction for goods or services with their respective county or  
172 municipality. This prohibition extends to all contracts or transactions between the county or  
173 municipality as applicable or any person, agency or entity acting for the county or municipality  
174 as applicable, and the official or employee, directly or indirectly, or the official or employee's  
175 outside employer or business. Any such contract, agreement, or business arrangement entered  
176 into in violation of this subsection may be rescinded or declared void by the board of county  
177 commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant  
178 to local ordinance as applicable. This prohibition shall not apply to employees who enter into  
179 contracts with Palm Beach County or a ~~municipality~~ municipality as part of their official duties with the  
180 ~~county or that municipality~~ municipality as part of their official duties with the county or that  
181 municipality. This prohibition also shall not apply to officials or employees who purchase goods  
182 from the county or municipality on the same terms available to all members of the public. This

183 prohibition shall also not apply to advisory board members provided the subject contract or  
184 transaction is disclosed at a duly noticed public meeting of the governing body and the advisory  
185 board member's board provides no regulation, oversight, management, or policy-setting  
186 recommendations regarding the subject contract or transaction.  
187 (d) (e) Exceptions and waiver. The requirements of subsections (a) and (e) subsection (d) above  
188 may be waived as they pertain to advisory board members where the advisory board  
189 member's board is purely advisory and provides regulation, oversight, management, or policy-  
190 setting recommendations regarding the subject contract or transaction. No waiver shall be  
191 allowed where the advisory board member's board is not purely advisory and provides  
192 regulation, oversight, management, or policy-setting recommendations regarding the subject  
193 contract or transaction. Waiver may be effected by the board of county commissioners or by the  
194 local municipal governing body as applicable upon full disclosure of the contract or transaction  
195 or financial benefit prior to the waiver and an affirmative vote of five (5) members a majority  
196 plus one of the total membership of the board of county commissioners or the local municipal  
197 governing body as applicable. In instances in which appointment to the advisory board is made  
198 by an individual, waiver may be effected, after full disclosure of the contract or transaction at a  
199 public hearing, by the appointing person. In addition, no official or employee shall be held in  
200 violation of subsection (a) or (ed) if:  
201 (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder  
202 and:  
203 a. The official or employee or member of his or her household has in no way participated in the  
204 determination of the bid specifications or the determination of the lowest bidder;  
205 b. The official or employee or member of his or her household has in no way used or attempted  
206 to use the official or employee's influence to persuade the agency, governmental entity or any  
207 personnel thereof to enter such a contract other than by the mere submission of the bid; and  
208 c. The official or employee, prior to or at the time of the submission of the bid, has filed a  
209 statement with the supervisor of elections and the commission on ethics, disclosing the nature of  
210 the interest in the outside employer or business submitting the bid.  
211 (2) An emergency purchase or contract which would otherwise violate a provision of subsection  
212 (a) or (ed) must be made in order to protect the health, safety, or welfare of the citizens of the  
213 county or municipality as applicable.  
214 (3) The outside employer or business involved is the only source of supply within the county or  
215 municipality as applicable and there is full disclosure by the official or employee of his or her  
216 interest in the outside employer or business to the county or municipality as applicable and the  
217 ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.  
218 (4) The total amount of the contracts or transactions in the aggregate between the outside  
219 employer or business and the county or municipality as applicable does not exceed five hundred  
220 dollars (\$500.00) per calendar year.  
221 (5) Notwithstanding any provision to the contrary, subsection (ed) shall not be construed to  
222 prevent an employee from seeking part-time employment with an outside employer who has  
223 entered into a contract for goods or services with the county or municipality as applicable  
224 provided that:  
225 a. The employee or relative of the employee does not work in the county or municipal  
226 department as applicable which will enforce, oversee or administer the subject contract; and

227 b. The outside employment would not interfere with or otherwise impair his or her  
228 independence of judgment or otherwise interfere with the full and faithful performance of his or  
229 her public duties to the county or municipality as applicable; and  
230 c. the employee or relative of the employee has not participated in determining the subject  
231 contract requirements or awarding the contract; and  
232 d. the employee's job responsibilities and job description will not require him or her to be  
233 involved in the outside employer's contract in any way including, but limited to, its enforcement,  
234 oversight, administration, amendment, extension, termination or forbearance; and  
235 e. the employee demonstrates compliance with applicable merit rules regarding outside  
236 employment and obtains written permission from his or her supervisor; and  
237 f. ~~The employee has obtained a conflict of interest opinion from the commission on ethics~~  
238 ~~finding no conflict exists regarding the subject contract. The request for advisory opinion must~~  
239 ~~be made in writing and set forth and include all pertinent facts and relevant documents. The~~  
240 ~~employee has obtained a conflict of interest waiver from the chief administrative officer and the~~  
241 ~~employee's department head of the county or municipality based on a finding that no conflict~~  
242 ~~exists. The employee shall submit the request for waiver in writing and under oath. The request~~  
243 ~~for the waiver shall be signed by the employee under oath or affirmation on an approved form~~  
244 ~~provided by the Commission on Ethics. The document shall contain written acknowledgment of~~  
245 ~~compliance with the provisions of (5)a. through (5)e. of this subsection, together with such~~  
246 ~~pertinent facts and relevant documents that support such waiver. A waiver under this subsection~~  
247 ~~must be approved by both the employee's supervisor and chief administrative officer of the~~  
248 ~~county or municipality. The county or municipality shall record such waiver in the employee's~~  
249 ~~personnel file and shall submit a copy of the waiver and all related documents to the commission~~  
250 ~~on ethics. The commission on ethics in its discretion may elect to review, comment on, or~~  
251 ~~investigate any waiver. The commission on ethics review or investigation shall not delay an~~  
252 ~~employee's ability to take the part time employment.~~  
253 (eg. Official law enforcement overtime or extra duty details. The provisions of subsection (d)  
254 shall be waived for outside employment when that employment consists of a certified police  
255 agency uniformed external security or extra duty detail, contracted or administered by the police  
256 agency as applicable. For the purpose of this subsection, all records of external, extra duty or  
257 overtime security details, including supervisor approval, identity of contracting parties, and  
258 including time, date and manner of detail shall be maintained by the individual contracting or  
259 administering police agency, records of which shall be accessible to the public subject to state  
260 public records disclosure exemptions.  
261 (f) *Accepting travel expenses.* No official or employee shall accept, directly or indirectly, any  
262 travel expenses including, but not limited to, transportation, lodging, meals, registration fees and  
263 incidentals from any county or municipal contractor, vendor, service provider, bidder or proposer  
264 as applicable. The board of county commissioners or local municipal governing body as  
265 applicable may waive the requirements of this subsection by a majority vote of the board or local  
266 municipal governing body. The provisions of this subsection shall not apply to travel expenses  
267 paid by other governmental entities or by organizations of which the county or municipality as  
268 applicable is a member if the travel is related to that membership.  
269 (fg) *Contingent fee prohibition.* No person shall, in whole or in part, pay, give or agree to pay  
270 or give a contingency fee to another person. No person shall, in whole or in part, receive or agree  
271 to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission,  
272 or nonmonetary benefit as compensation which is dependent on or in any way contingent on the

273 passage, defeat, or modification of: an ordinance, resolution, action or decision of the board of  
274 county commissioners or local municipal governing body as applicable, any employee  
275 authorized to act on behalf of the board of county commissioners or local municipal governing  
276 body as applicable, the county administrator or municipal administrator as applicable, or any  
277 action or decision of an advisory board or committee. -This prohibition does not apply to real  
278 estate brokers when acting in the course of their profession as regulated by §§475.001-475.5018,  
279 Florida Statutes, as may be amended. Nothing in this section may be construed to prohibit any  
280 salesperson from engaging in legitimate government business on behalf of a company from  
281 receiving compensation or commission as part of a bona fide contractual arrangement with that  
282 company provided such compensation or commission is ordinary and customary in the industry.  
283 Nothing in this section may be construed to prohibit an attorney from representing a client in a  
284 judicial proceeding or formal administrative hearing pursuant to a contingent fee arrangement.  
285 (gh) *Honesty in applications for positions.* No person seeking to become an official or  
286 employee, or seeking to enter into a contract to provide goods or services to the county or  
287 municipality as applicable, may make any false statement, submit any false document, or  
288 knowingly withhold information about wrongdoing in connection with employment by or  
289 services to the county or municipality as applicable.  
290 (hi) *Disclosure or use of certain information.* A current or former official or employee shall not  
291 disclose or use information not available to members of the general public and gained by reason  
292 of his or her official position, except for information relating exclusively to governmental  
293 practices, for his or her personal gain or benefit or for the personal gain or benefit of any other  
294 person.  
295 (Ord. No. 2009-051, pt. 1, § 3, 12-15-09; Ord. No. 2010-043, pt. 3, 9-28-10)

297  
298 **Sec. 2-444. Gift law.**

299 (a)(1) No county commissioner, member of a local governing body, mayor or chief executive  
300 when not a member of the governing body, or employee, or any other person or business entity  
301 on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value  
302 of greater than one hundred dollars (\$100.00) in the aggregate for the calendar year from any  
303 person or business entity that the recipient knows, or should know with the exercise of  
304 reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies,  
305 sells or leases to the county or municipality as applicable.

306 (2) No vendor, lobbyist, or principal or employer of a lobbyist that lobbies the county or a  
307 municipality shall knowingly give, directly or indirectly, any gift with a value greater than one  
308 hundred dollars (\$100.00) in the aggregate for the calendar year to a person who the vendor,  
309 lobbyist, or principal knows is an official or employee of that county or municipality. For the  
310 purposes of this subsection 2-444(a)(2), the term vendor also includes any person or entity that,  
311 because of the nature of their business, may respond to an invitation to bid, request for proposal  
312 or other procurement opportunity that has been published by the county or a municipality.

313 (b)(1) No advisory board member, or any other person on his or her behalf, shall knowingly  
314 solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars  
315 (\$100.00) in the aggregate for the calendar year from any vendor, lobbyist, or any principal or  
316 employer of a lobbyist, who lobbies the recipient's advisory board, or any county or municipal  
317 department as applicable that is subject in any way to the advisory board's authority, influence or  
318 advice.

319 (e)–(2) No vendor, lobbyist, or principal or employer of a lobbyist who lobbies an advisory  
320 board or any county or municipal department that is subject in any way to the advisory board’s  
321 authority, influence or advice, shall knowingly give, directly or indirectly, any gift with a value  
322 greater than one hundred dollars (\$100.00) in the aggregate for the calendar year to a person who  
323 the vendor, lobbyist, or principal knows is a member of that advisory board. For the purposes of  
324 this subsection 2-444(b)(2), the term vendor also includes any person or entity that, because of  
325 the nature of their business, may respond to an invitation to bid, request for proposal or other  
326 procurement opportunity that has been published by the county or a municipality.  
327 (c) No county commissioner, member of a local governing body, mayor or chief executive  
328 officer when not a member of the governing body, or employee, or any other person or business  
329 entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business  
330 entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist  
331 where the gift is for the personal benefit of the official or employee, another official or  
332 employee, or any relative or household member of the official or employee. No advisory board  
333 member or any other person or business entity on his or her behalf, shall knowingly solicit a gift  
334 of any value from any person or business entity that the recipient knows is a vendor, lobbyist or  
335 any principal or employer of a lobbyist who lobbies the recipient’s advisory board, or any county  
336 or municipal department as applicable that is subject in any way to the advisory board’s  
337 authority, influence or advice, where the gift is for the personal benefit of the advisory board  
338 member, another advisory board member, or an official, or any relative or household member of  
339 the official or employee.  
340 (d) For purposes of this section, a principal or employer of a lobbyist shall include any officer,  
341 partner or director of the principal or employer entity, or any employee of a principal or  
342 employer who is not an officer, partner or director, provided that the employee knows or should  
343 know with the exercise of reasonable care that the principal or employer employs a lobbyist.  
344 (e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no  
345 official or employee shall accept or agree to accept a gift from a person or entity, because of:  
346 (1) An official public action taken or to be taken, or which could be taken;  
347 (2) A legal duty performed or to be performed or which could be performed; or  
348 (3) A legal duty violated or to be violated, or which could be violated by any official or  
349 employee.  
350 (d)–f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars  
351 (\$100.00) shall report that gift in accordance with this section.  
352 (1) Gift reports for officials and employees identified by state law as reporting individuals.  
353 Those persons required to report gifts pursuant to state law shall report those gifts in the manner  
354 provided by Florida Statutes, § 112.3148, as may be amended. A copy of each report shall be  
355 filed with the county commission on ethics.  
356 (2) All other officials and employees. All other officials or employees who receive any gift in  
357 excess of one hundred dollars (\$100.00) who are not reporting individuals under state law.  
358 a. Personal Gifts. All officials and employees who are not reporting individuals under state law  
359 are not required to report gifts in excess of one hundred dollars (\$100.00) so long as those gifts  
360 are given to the official or employee by a personal friend or co-worker and the circumstances  
361 demonstrate that the motivation for the gift was the personal or social relationship rather than an  
362 attempt to obtain the goodwill or otherwise influence the official or employee in the performance  
363 of his or her official duties. Factors to be considered in determining whether a gift was  
364 motivated by a personal or social relationship may include but shall not be limited to: whether

365 the relationship began before or after the official or employee obtained his or her office or  
366 position; the prior history of gift giving between the individuals; whether the gift was given in  
367 connection with a holiday or other special occasion; whether the donor personally paid for the  
368 gift or sought a tax deduction or business reimbursement; and whether the donor gave similar  
369 gifts to other officials or employees at or near the same time. If the personal friend or co-worker  
370 is a vendor, lobbyist or principal or employer of a lobbyist that lobbies the county or  
371 municipality as applicable, then the official or employee shall not accept a gift in excess of  
372 \$100.00 in accordance with subsections (a)(1) and (b)(1).

373 b. All other gifts. All officials or employees who are not reporting individuals under state law  
374 and who receive any gift in excess of one hundred dollars (\$100.00), which is not otherwise  
375 excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift  
376 disclosure report with the county commission on ethics no later than November 1 of each year  
377 beginning November 1, 2011, for the period ending September 30 of each year. Other All  
378 officials or employees who are not reporting individuals under state law and who do not receive  
379 a gift in excess of one hundred dollars (\$100.00) during a given reporting period shall not file an  
380 annual gift disclosure report. The annual gift disclosure report shall be created by the county  
381 commission on ethics and shall be in a form substantially similar in content as that required by  
382 state law.

383 ~~(e)~~  
384 (g) For the purposes of this section, "gift" shall refer to the transfer of anything of economic  
385 value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or  
386 promise, or in any other form, without adequate and lawful consideration. Food and beverages  
387 consumed at a single setting or a meal shall be considered a single gift, and the value of the food  
388 and beverage provided at that sitting or meal shall be considered the value of the gift. In  
389 determining the value of the gift, the recipient of the gift may consult, among other sources,  
390 section 112.3148, Florida Statutes and the Florida Administrative Code as may be amended.

391 (1) Exceptions. The provisions of subsection ~~(e)~~ (g) shall not apply to:

392 a. Political contributions specifically authorized by state or federal law;  
393 ~~b. Gifts from relatives or members of one's household. For the purposes of this subsection,~~  
394 ~~"relative" means, spouse, parent, grandparent, child, sibling, uncle, aunt, first cousin, nephew,~~  
395 ~~niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,~~  
396 ~~stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister;~~

397 ~~e.b. Gifts from relatives, domestic partners, and dependents named on the official's or~~  
398 ~~employee's latest federal income tax return, or one's household member;~~

399 c. Awards for professional or ~~civic~~ achievement;

400 d. Materials such as books, reports, periodicals or pamphlets which are solely informational or  
401 of an advertising nature;

402 ~~e. Gifts solicited or accepted by county or municipal officials or employees as applicable on~~  
403 ~~behalf of the county or municipality in performance of their official duties for use solely by the~~  
404 ~~county or municipality in conducting official business;~~

405 ~~f. Gifts solicited by commissioners or members of local municipal governing bodies as~~  
406 ~~applicable on behalf of the county or municipality in performance of their official duties for use~~  
407 ~~solely by the county or municipality in conducting its official business for a public purpose;~~

408 ~~(Ord. No. 2009-051, pt. 1, § 4, 12-15-09; Ord. No. 2010-043, pt. 4, 9-28-10)~~

409 ~~f. Publicly advertised offers for goods or services from a vendor under the same terms and~~  
410 ~~conditions as are offered or made available to the general public;~~

411 g. Inheritance or other devise:  
412 h. Registration fees and other related costs associated with educational or governmental  
413 conferences, meetings or seminars and travel expenses either properly waived or inapplicable  
414 pursuant to section 2-443(f), provided that attendance is for governmental purposes, and  
415 attendance is related to their duties and responsibilities as an official or employee of the county  
416 or municipality:  
417 i. A ticket, pass or admission in connection with public events, appearances or ceremonies  
418 related to official county or municipal business, if furnished by a nonprofit sponsor organization  
419 of such public event, or if furnished pursuant to a contract between the event's non-profit  
420 sponsor and the county or municipality as applicable, provided the sponsor organization does not  
421 employ a lobbyist, and further provided the ticket, pass or admission is given by a representative  
422 of the sponsor organization who is not otherwise a vendor, lobbyist, principal or employer of a  
423 lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass or  
424 admission must be disclosed in accordance with the gift law reporting requirements of  
425 subsections 2-444(f)(1) and (f)(2):  
426 j. Expenditures made in connection with an event sponsored by a nonprofit organization funded  
427 in whole or in part with public funds whose primary function is to encourage and attract tourism  
428 or other business opportunities for the benefit of Palm Beach County or the municipalities as  
429 applicable, provided the sponsor organization does not employ a lobbyist, and further provided  
430 that the invitation to the event is made by a representative of the sponsor organization and the  
431 representative is not otherwise a vendor, lobbyist, principal or employer of a lobbyist.  
432 Notwithstanding the exception as provided in this subsection, the expenditure must be disclosed  
433 in accordance with the gift law reporting requirements of subsections 2-444(f)(1) and (f)(2).  
434 (h) Solicitation of Contributions on Behalf of a Non-Profit Charitable Organization.  
435 (1) Notwithstanding the prohibition on gifts as outlined in subsection 2-444(a) and  
436 (b), the solicitation of funds by a county or municipal official or employee for a non-  
437 profit charitable organization, as defined under the Internal Revenue Code, is permissible  
438 so long as there is no quid pro quo or other special consideration, including any direct or  
439 indirect special financial benefit to the official or employee or to the person or entity  
440 being solicited. The solicitation by an official or employee as contemplated herein, is  
441 expressly prohibited if made to any person or entity with a pending application for  
442 approval or award of any nature before the county or municipality as applicable.  
443 (2) To promote the full and complete transparency of any such solicitation, officials  
444 and employees shall disclose, on a form provided by the Commission on Ethics, the name  
445 of the charitable organization, the event for which the funds were solicited, the name of  
446 any person or entity that was contacted regarding a solicitation or pledge by the official  
447 or employee, and the amount of the funds solicited or pledged if known. The form shall  
448 be completed legibly and shall be filed with the Commission on Ethics. The form shall  
449 be filed within 30 days from the occurrence of the event for which the solicitation was  
450 made, or if no event, within 30 days from the occurrence of the solicitation.  
451 (3) Officials and employees may not use county or municipal staff or other county or  
452 municipal resources in the solicitation of charitable contributions described in this  
453 subsection.  
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**Sec. 2-445. Anti-nepotism law.**



456 An official may not appoint, employ, promote, advance, or advocate for appointment,  
457 employment, promotion, or advancement in or to a position in the county or municipality as  
458 applicable in which the official is serving or over which the official exercises jurisdiction or  
459 control, any individual who is a relative of the official or domestic partner of the official. An  
460 individual may not be appointed, employed, promoted, or advanced in or to a position in the  
461 county or a municipality if such appointment, employment, promotion, or advancement has been  
462 advocated by an official, serving in or exercising jurisdiction or control over the county or  
463 municipality as appropriate, who is a relative or domestic partner of the individual or if such  
464 appointment, employment, promotion, or advancement is made by a collegial body of which a  
465 relative or domestic partner of the individual is a member. However, this section shall not apply  
466 to appointments to boards other than those with land-planning or zoning responsibilities in those  
467 municipalities with less than 35,000 population. This section does not apply to persons serving in  
468 a volunteer capacity who provide emergency medical, firefighting, or police services. Such  
469 persons may receive, without losing their volunteer status, reimbursements for the costs of any  
470 training they get relating to the provision of volunteer emergency medical, firefighting, or police  
471 services and payment for any incidental expenses relating to those services that they provide.  
472 Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the  
473 purposes of this section.

474 (1) For the purposes of this section, "official" means any official or employee in whom is  
475 vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to  
476 appoint, employ, promote, or advance individuals or to recommend individuals for appointment,  
477 employment, promotion, or advancement in connection with employment in the county or  
478 municipality as applicable.

479 (2) For the purposes of this section, "relative" means spouse, parent, child, sibling, uncle, aunt,  
480 first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-  
481 in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-  
482 brother, or half-sister.

483 (~~Ord. No. 2009-051, pt. 1, § 5, 12-15-09~~)

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486 **Sec. 2-446. Ethics training.**

487 (a) Officials and employees, as public servants, are considered stewards of the public trust and  
488 should aspire to the highest level of integrity and character. Officials and employees shall be  
489 informed of their ethical responsibilities at the start of their public service, and shall receive  
490 updates and training materials on ethics issues throughout the span of their public service. The  
491 county administrator or municipal administrator as applicable shall establish by policy a  
492 mandatory training schedule for all officials and employees which shall include mandatory  
493 periodic follow-up sessions. This policy may also address ethics training for entities that receive  
494 county or municipal funds as applicable.

495 (b) The commission on ethics shall develop and deliver, or contract with other entities to  
496 develop and deliver, training programs. The commission on ethics shall coordinate and cooperate  
497 with all affected county or municipal entities, departments, agencies, boards, councils and  
498 commissions to ensure that effective and meaningful training experiences are delivered in a  
499 timely and efficient manner.

500 (~~Ord. No. 2009-051, pt. 1, § 6, 12-15-09~~)

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502 **Sec. 2-447. Noninterference.**

503 It shall be a violation of this article for any person: (a) to retaliate against, punish, threaten,  
504 harass, or penalize any person for communicating, cooperating with, or assisting the commission  
505 on ethics or the inspector general; or (b) to interfere, obstruct or attempt to interfere or obstruct  
506 without valid legal basis any investigation conducted by the commission on ethics or the  
507 inspector general.

508 (~~Ord. No. 2009-051, pt. 1, § 7, 12-15-09~~)

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**Sec. 2-448. Administration, enforcement and penalties.**

(a) The commission on ethics shall be empowered to review, interpret, render advisory  
opinions, and enforce this code of ethics pursuant to the procedures established in the county  
commission on ethics ordinance. Jurisdiction of the commission on ethics with respect to  
advisory opinions rendered shall extend to all county and municipal officials and employees, and  
all other persons and entities required to comply with the provisions of this code and the county  
lobbyist registration ordinance, including but not limited to lobbyists, their employers and  
principals, and contractors and vendors.

(b) A finding by the commission on ethics of a violation of any part of this article shall subject  
the person or entity to public reprimand, a fine of up to five hundred dollars (\$500.00), or both.  
The commission on ethics may also order the person or entity to pay restitution when the person  
or entity or a third party has received a pecuniary benefit as a result of the person's violation.

(c) Upon a finding of the commission on ethics that a violation of this article or the lobbyist  
registration ordinance resulted in a contract, grant, subsidy, license, permit, franchise, use,  
certificate, development order or other benefit conferred by the county or municipality as  
applicable, then such contract, grant, subsidy, license, permit, franchise, use, certificate,  
development order or other benefit may be rescinded or declared void by the board of county  
commissioners or the local municipal governing body as applicable.

(d) The commission on ethics may in its discretion refer willful violations of sections 2-443, 2-  
444(a), 2-444(b), 2-444(c), 2-444(e), or 2-447 to the state attorney. Pursuant to Florida Statutes,  
§ 125.69, a person who violates the sections of the article set forth in this section 2-448(d) shall  
be subject to prosecution in the name of the state in the same manner as first degree  
misdemeanors are prosecuted, and upon conviction, such person shall be punished by a fine not  
to exceed one thousand dollars (\$1,000.00), imprisonment not to exceed one (1) year, or both.

(~~Ord. No. 2009-051, pt. 1, § 8, 12-15-09; Ord. No. 2010-043, pt. 5, 9-28-10~~)

~~Sees. 2-449-2-460. Reserved.~~

## ATTACHMENT 3

### Summary of substantive changes

- Added definition of Lobbying to match county lobbyist registration ordinance
- Added definition of vendor
- Added prohibition of corrupt misuse of official position: An official or employee may not corruptly use his or her official position to secure a special privilege for any person. Corruptly means done with a wrongful intent and for the purpose of obtaining a benefit from an act of the official or employee which is inconsistent with the proper performance of public duty.
- Amended contractual relationships/advisory board waivers: Prohibition does not apply and waiver is not required for an advisory board member whose contract or transaction is disclosed at a public meeting of the board, provided the board does not regulate, oversee, manage or set policy regarding the contract or transaction. If the board is purely advisory and provides oversight, regulation, management or policy regarding the contract or transaction a waiver will be required. If the board is not purely advisory, no waiver is permitted.
- Amended regulation of outside employment for county and municipal employees: Employees may seek outside part-time employment provided they comply with the conflict of interest provisions of the waiver section and file a waiver form, under oath, approved by their department head and the chief administrative officer of the county or municipality. Police agency extra duty details contracted or administered by the agency are exempt from the waiver requirements. Records maintained by that agency must be available for public review.
- Amended Gift Law prohibitions: elected officials and employees may not solicit or accept gifts with a value greater than \$100.00 in the aggregate per calendar year from a vendor, lobbyist, principal or employer of a lobbyist. Vendors, lobbyists, principals or employers of lobbyists may not give gifts with a value greater than \$100 in the aggregate per calendar year to an official or employee of the entity they contract with or lobby. Advisory board members and vendors have the same prohibition, applicable to any vendor, lobbyist, principal or employer of a lobbyist who contracts or lobbies their board or department.
- Added gift solicitation prohibition: No official or employee may solicit a gift of any value from a lobbyist, principal, or vendor for his or her personal benefit, or the benefit of any relative, household member, or other official or employee.
- Added exclusion for certain personal gifts: Non state reporting individuals do not have to report gifts in excess of \$100.00 received from personal friends provided the friends are not vendors, lobbyists, principals or employers of lobbyists.
- Additional exceptions to the gift law include:
  - 1- Publicly advertised specials, available to members of the general public;
  - 2- Registration fees and travel expenses for educational conferences where the attendance is related to official duties;
  - 3- Public event tickets, etc. furnished by a non-profit sponsor who does not employ a lobbyist so long as the ticket is not given by a vendor, lobbyist, principal or employer of a lobbyist;
  - 4- Expenditures made in connection with an event sponsored by a non-profit organization funded with public funds whose primary function is to encourage and attract tourism and business opportunities to Palm Beach County provided the organization does not employ a

lobbyist and the invitation to the event is not made by a vendor, lobbyist, principal or employer of a lobbyist;

5- Solicitations of contributions on behalf of a non-profit charitable organization with the maintenance and filing of a contact log;

6- Inheritance.

➤ Anti-nepotism law adopts the state language to include volunteer as well as paid positions.