

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 20, 2008 [] Consent [] Regular
[] Workshop [X] Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

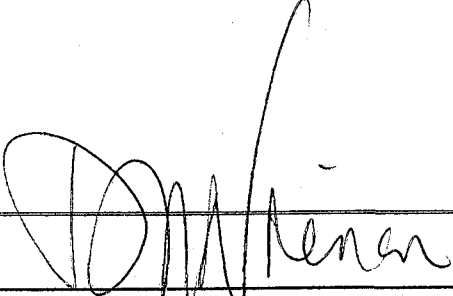
I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, authorizing the use of unmanned cameras at traffic signals to promote traffic safety; providing for title and purpose; providing for use of image capture technologies; providing for definitions; providing for adherence to red light traffic control signals; providing for violation; providing for warning signs at monitored intersections; providing for review of recorded images; providing for notice of infraction; providing for vehicle owner responsibilities; providing for appeal to Palm Beach County's hearing officer; providing for penalties; providing for administrative costs; providing for collection of civil penalties; providing for exceptions; providing for three-month notice, introductory period; providing for accounting for program revenues and expenditures; providing for applicability; providing for severability; providing for inclusion in the code of laws and ordinances; providing for captions; and providing for effective date.

Summary: On March 11, 2008, the Board of County Commissioners held its preliminary reading of this ordinance authorizing the use of unmanned camera/monitoring systems to promote compliance with red light directives and to adopt a civil enforcement system, including notice, review, penalties, funding and an appeal process for red light violations captured by unmanned camera/monitoring systems. The Board of County Commissioners determined that the unmanned camera/monitoring systems at traffic signals are necessary to promote the safety of the public. The Board at the preliminary reading directed that the penalty be changed from \$100.00 to \$125.00. Countywide (MRE)

Background and Policy Issues: For several years the Board has been advocating the installation of cameras at intersections in order to protect the health, safety and welfare of the public. The Sheriff also supports this approach as a means of protecting the public. This year the Florida Legislature also seemed supportive of this concept, but failed to pass uniform red light camera legislation. The County supported a statewide approach and agreed to defer adoption of this ordinance to allow the legislature to adopt a statewide approach. However, in the absence of legislation, the County is prepared to proceed with this local ordinance.

- Attachments:**
1. Ordinance

Recommended by:  5/5/08
County Attorney Date

Approved by: _____ N/A _____
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	*** see below	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

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:

*** Fiscal impact is indeterminable at this time.
5-14-08 *5/14/08* *5/14/08* *5/14/08* *5/14/08*
5/14/08 *5/14/08* *5/14/08* *5/14/08* *5/14/08*
 OFMB ID CN 5/14/08 5/14/08
 Contract Development and Control
 5/14/08

B. Legal Sufficiency:

5/5/08
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

ORDINANCE NO. 2008 - _____

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF PALM BEACH COUNTY,
5 FLORIDA, AUTHORIZING THE USE OF UNMANNED
6 CAMERAS AT TRAFFIC SIGNALS TO PROMOTE
7 TRAFFIC SAFETY PROVIDING FOR TITLE AND
8 PURPOSE; PROVIDING FOR USE OF IMAGE
9 CAPTURE TECHNOLOGIES; PROVIDING FOR
10 DEFINITIONS; PROVIDING FOR ADHERENCE TO
11 RED LIGHT TRAFFIC CONTROL SIGNALS;
12 PROVIDING FOR VIOLATION; PROVIDING FOR
13 WARNING SIGNS AT MONITORED INTERSECTIONS;
14 PROVIDING FOR REVIEW OF RECORDED IMAGES;
15 PROVIDING FOR NOTICE OF INFRACTION;
16 PROVIDING FOR VEHICLE OWNER
17 RESPONSIBILITIES; PROVIDING FOR APPEAL TO
18 PALM BEACH COUNTY'S HEARING OFFICER;
19 PROVIDING FOR PENALTIES; PROVIDING FOR
20 ADMINISTRATIVE COSTS; PROVIDING FOR
21 COLLECTIONS OF CIVIL PENALTIES; PROVIDING
22 FOR EXCEPTIONS; PROVIDING FOR THREE-MONTH
23 NOTICE, INTRODUCTORY PERIOD; PROVIDING FOR
24 ACCOUNTING FOR PROGRAM REVENUES AND
25 EXPENDITURES; PROVIDING FOR APPLICABILITY;
26 PROVIDING FOR SEVERABILITY; PROVIDING FOR
27 INCLUSION IN THE CODE OF LAWS AND
28 ORDINANCES; PROVIDING FOR CAPTIONS; AND
29 PROVIDING FOR EFFECTIVE DATE.

30 **WHEREAS**, Palm Beach County contains a number of high density traffic
31 areas and regularly experiences traffic incidents within these areas due to the failure
32 of motorists to obey duly erected traffic control devices, which exposes its citizens to
33 the dangers of personal injury and property damage; and

34 **WHEREAS**, Palm Beach County is concerned with the inability to provide for
35 the safe, efficient and orderly use of county roads and to effectively reduce the
36 significant dangers presented to motorists and pedestrians by motorists who fail to
37 stop for red lights; and

38 **WHEREAS**, the use of unmanned cameras to enforce toll violations on the
39 state's toll roads has been determined to be fair, reasonable and sufficient by the
40 State of Florida in order to effectively enforce the laws regulating the payment of tolls,
41 without the need to commit the extreme amount of personnel that would be
42 necessary without the use of unmanned cameras; and

43 **WHEREAS**, the use of unmanned cameras can be similarly effective in
44 enforcing laws requiring vehicles to stop for red lights, thereby freeing law

1 enforcement officers to respond to other, often more significant incidents and crime;
2 and

3 **WHEREAS**, local governments in different parts of the state have
4 demonstrated the enhancement of vehicular and pedestrian traffic safety attributable
5 to the integration of automated image capture technologies with traditional traffic law
6 enforcement methodology; and

7 **WHEREAS**, Section 316.008, Florida Statutes, grants counties, with respect
8 to streets and highways under their jurisdiction and within the reasonable exercise of
9 police power, the authority to regulate and monitor traffic by means of law
10 enforcement officers and security devices; and

11 **WHEREAS**, Palm Beach County has authority under its Charter and local
12 home rule to enact an ordinance making the failure to stop for a red light indication a
13 violation of Palm Beach County's Code and to provide for enforcement of such
14 violations of the Palm Beach County Code; and

15 **WHEREAS**, Attorney General Opinion 05-41, dated July 12, 2005 confirms
16 the authority of Palm Beach County by the terms of §316.02 and §316.008, Florida
17 Statutes, to enact an Ordinance authorizing Palm Beach County to monitor violations
18 of traffic signals within Palm Beach County and to use unmanned cameras to monitor
19 intersections and record traffic violations; and

20 **WHEREAS**, the Attorney General has opined that local governments may not
21 issue traffic citations under the State Statute to drivers for violations observed by the
22 use of unmanned cameras and not otherwise observed by law enforcement officers;
23 and

24 **WHEREAS**, in order to be consistent with state law and the Attorney General's
25 Opinion, Palm Beach County should issue "Notices of Infraction" for failure to stop at
26 red lights to registered owners of vehicles and should not utilize the uniform traffic
27 citation prescribed by Chapter 316 of the Florida Statutes for such violations and
28 should not prosecute such violations through the county court; and

29 **WHEREAS**, Palm Beach County finds it to be fair and reasonable to use the
30 same procedure employed by the state to enforce toll violations through unmanned
31 cameras and further finds that violations for failing to stop at a red light constitute

1 serious threats to the public health, safety and welfare of the community and
2 violations that are irreparable or irreversible and are itinerant and transient in nature,
3 all as set forth in Chapter 162, Florida Statutes; and

4 **WHEREAS**, Palm Beach County finds that implementation of the enforcement
5 program as set forth herein will promote and protect the health, safety and welfare of
6 its citizens, consistent with the authority of and limitations on Palm Beach County
7 pursuant to the Florida Constitution and Florida Statutes.

8 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
9 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

10 **Section 1. Recitals**

11 The foregoing recitals are hereby adopted and confirmed as being true and
12 correct and are hereby made a specific part of this Ordinance.

13 **Section 2. Title and Purpose**

14 This Ordinance shall be known as The Red Light Camera Safety Ordinance
15 (Ordinance). The purpose of this Ordinance is to authorize the use of Image Capture
16 Technology to promote compliance with red light signals as proscribed by this
17 Ordinance and to adopt a civil enforcement system for red light signal violations.

18 **Section 3. Use of Image Capture Technologies**

19 Palm Beach County owns, operates and maintains county roads and
20 therefore Palm Beach County is authorized to utilize image capture technologies to
21 promote the safe, efficient and orderly use of county roads to protect and improve
22 the public health, safety and welfare of the community and thereby reduce accidents,
23 injuries and disruption of traffic. The Department of Engineering and Public Works
24 shall be responsible for coordinating and establishing administrative policies
25 germane to the effective and timely implementation of provisions set forth in the
26 Ordinance.

27 **Section 4. Definitions**

28 The following definitions shall apply to this Ordinance:

29 (a) *Intersection* shall mean the area embraced within the prolongation or
30 connection of the lateral curb line or, if none, then the lateral boundary lines, of the
31 roadways of two roads which join or intersect one another at, or approximately at,

1 right angles or the area within which vehicles traveling upon different roads joining at
2 any other angle may come in conflict.

3 (b) *Motor Vehicle* shall mean any self-propelled vehicle not operated
4 upon rails or guide ways. Motor Vehicles shall not include any bicycle, motorized
5 scooter, electric personal assisted mobility device or moped.

6 (c) *Notice of Infraction* shall mean a Palm Beach County citation issued
7 for a Red Zone Infraction.

8 (d) *Owner/Vehicle Owner* shall mean the person or entity identified by
9 the Florida Department of Motor Vehicles or other state vehicle registration office, as
10 the registered Owner of a Vehicle. Such term shall also mean a lessee of a Motor
11 Vehicle pursuant to a lease of six months or more.

12 (e) *Recorded Images* shall mean images recorded by a Traffic Control
13 Signal Monitoring System/Device presented on:

- 14 (1) A photograph;
- 15 (2) An electronic image;
- 16 (3) A digital image;
- 17 (4) A video recording; or
- 18 (5) Any other medium; and

19 which shows the rear of a Motor Vehicle and on at least one image clearly identifies
20 the license plate number of the Motor Vehicle.

21 (f) *Image Capture Technology/Traffic Control Signal Monitoring*
22 *System/Device* shall mean an electronic system consisting of one or more Motor
23 Vehicle sensors, working in conjunction with a Traffic Control Signal, still camera
24 and/or video recording device, to capture and produce Recorded Images of Motor
25 Vehicles entering an Intersection against a steady red light signal indication.

26 (g) *Red Zone Infraction* shall mean a traffic offense whereby a Traffic
27 Control Signal Monitoring System establishes that a Motor Vehicle entered an
28 Intersection controlled by a duly erected traffic control device at a time when the
29 Traffic Control Signal for such Motor Vehicle's direction was emitting a steady red
30 signal.

1 (h) *Palm Beach County Hearing Officer* shall mean an individual
2 appointed by the County Administrator from a pool of either the Hearing Officer or
3 Special Master Candidates selected by the Board of County Commissioners to
4 conduct hearings pursuant to Article 17 of the ULDC.

5 (i) *Traffic Control Signal* shall mean a device exhibiting different colored
6 lights or lighted arrows, successively one at a time or in combination, using only the
7 colors green, yellow and red that indicate and apply to drivers of Motor Vehicles as
8 provided in Florida Statutes §316.075.

9 **Section 5. Adherence to Red Light Traffic Control Signals**

10 Motor Vehicle traffic facing a Traffic Control Signal's steady red light indication
11 shall stop before:

- 12 (a) Entering the crosswalk on the near side of an Intersection; or
- 13 (b) If no crosswalk exists, then before entering the Intersection.

14 Once stopped, the Motor Vehicle shall remain standing until a green indication is
15 shown on the traffic control device. However, the driver of a Motor Vehicle which is
16 stopped in obedience of a steady red Traffic Control Signal, may make a right turn
17 unless such turn is otherwise prohibited by posted sign or other traffic control device.

18 **Section 6. Violation**

19 A violation of this Ordinance, known as a Red Zone Infraction, shall occur
20 when the operator of a Motor Vehicle does not comply with the requirements of
21 Section 5. Violations shall be enforced pursuant to this Ordinance. This Ordinance
22 shall not prohibit law enforcement personnel from issuing a citation for a red light
23 signal violation in accordance with normal statutory enforcement techniques. This
24 section shall not supersede, infringe, curtail or impinge upon state laws related to red
25 light signal violations or conflict with such laws. Notices of Infraction issued pursuant
26 to this Ordinance shall not be by Florida Uniform Traffic Citation and shall not be
27 subject to prosecution or appeal in the county courts.

28 **Section 7. Warning Signs at Monitored Intersections**

29 Each Intersection which has a Traffic Control Signal Monitoring Device
30 installed shall be identified as a "Monitored Intersection" by appropriate signage to be
31 posted no less than 300 feet before the Intersection, unless conditions exist which

1 necessitate placement of the signs closer to the Intersection. The warning signs shall
2 indicate the operation of the Traffic Control Signal Monitoring Device at the
3 Intersection and that failure to obey the red light in accordance with this Ordinance
4 will result in the issuance of a Notice of Infraction. The absence of warning signs at
5 any particular Monitored Intersection will not affect the validity of a Notice of Infraction
6 issued for a Red Zone Infraction at that Intersection. The absence of warning signs
7 at a Monitored Intersection shall not constitute grounds for an appeal of a Notice of
8 Infraction issued pursuant to this Ordinance.

9 **Section 8. Review of Recorded Images**

10 The owner of a Motor Vehicle that is shown by Recorded Images to have
11 been operated so as to have committed a Red Zone Infraction shall be issued a
12 Notice of Infraction. The Recorded Image shall be sufficient grounds to issue a
13 Notice of Infraction.

14 One, or more, Traffic Control Infraction Reviewer(s) shall be designated. A
15 Traffic Control Infraction Reviewer shall review Recorded Images prior to the
16 issuance of a Notice of Infraction to ensure accuracy and the integrity of the
17 Recorded Images. Once a Traffic Control Infraction Reviewer has verified the
18 accuracy and integrity of the Recorded Images and determined that a Red Zone
19 Infraction occurred, he or she shall approve the Notice of Infraction and provide such
20 notice to the Vehicle Owner in compliance with Part I, Chapter 162.12, Florida
21 Statute.

22 **Section 9. Notice of Infraction**

23 Palm Beach County's Notice of Infraction shall include:

- 24 (a) The name and address of the Vehicle Owner;
- 25 (b) The license plate number and registration number of the Motor
26 Vehicle involved in the infraction;
- 27 (c) The make, model, year and color of the Motor Vehicle;
- 28 (d) Notice that the Red Zone Infraction is pursuant to this Ordinance;
- 29 (e) The location of the Intersection or roadway where the Red Zone
30 Infraction occurred;
- 31 (f) The date and time of the Red Zone Infraction;

1 (g) Notice of the Recorded Images relating to the Motor Vehicle and
2 a statement that the Recorded Images are evidence of a Red Zone Infraction;

3 (h) The civil penalty to be imposed;

4 (i) The procedures for payment of the civil penalty and contesting
5 the Notice of Infraction;

6 (j) A signed statement by the Traffic Control Infraction Reviewer
7 that, based on inspection of the Recorded Images, the Motor Vehicle was involved in
8 a Red Zone Infraction;

9 (k) Information advising the Vehicle Owner of the manner and time
10 in which the Notice of Infraction may be appealed and warning that a failure to pay
11 the civil penalty or to contest the Notice of Infraction in a timely manner is an
12 admission of the Red Zone Infraction and will result in the entry of a judgment against
13 the Vehicle Owner.

14 **Section 10. Vehicle Owner Responsibilities**

15 A Vehicle Owner receiving a Notice of Infraction may, within thirty (30) days of
16 the date of the Notice of Infraction:

17 (a) Pay the assessed civil penalty pursuant to instructions on the
18 Notice of Infraction; or

19 (b) Request an appeal pursuant with procedures as outlined in this
20 Ordinance.

21 The failure to comply with the provisions of this Section within thirty (30) days
22 from the date of Notice of Infraction shall constitute a waiver of the right to contest the
23 Notice of Infraction and will be considered an admission and will result in the entry of
24 a judgment against the Vehicle Owner as provided for in Part I, Chapter 162, Florida
25 Statutes.

26 **Section 11. Appeal to Palm Beach County's Hearing Officer**

27 Palm Beach County's Hearing Officer is authorized to consider appeals under
28 this Ordinance. Within thirty (30) days of the date of the Notice of Infraction, the
29 Vehicle Owner may file an appeal with Palm Beach County pursuant to the directions
30 in the Notice of Infraction. A hearing on the appeal shall be scheduled for all
31 appeals.

1 Upon receipt of this appeal, Palm Beach County shall schedule a hearing
2 before Palm Beach County's Hearing Officer. Notice of the hearing shall be
3 provided to the Vehicle Owner no less than ten (10) days prior to the hearing and
4 shall be provided by certified and U.S. Mail to the same address to which the Notice
5 of Infraction was sent.

6 The following shall be permissible grounds for an appeal:

7 (a) At the time of the infraction, the Motor Vehicle was not under the
8 care, custody or control of the Vehicle Owner or an individual with the Vehicle
9 Owner's consent.

10 (b) The Motor Vehicle driver was issued a citation for violating a
11 traffic signal by a law enforcement officer, which was separate and distinct from the
12 Notice of Infraction issued under this Ordinance for violating the steady red Traffic
13 Control Signal;

14 (c) The Motor Vehicle driver was required to violate the steady red
15 Traffic Control Signal in order to comply with other governing laws;

16 (d) The Motor Vehicle driver was required to violate the steady red
17 Traffic Control Signal in order to reasonably protect the property or person of another;

18 (e) The steady red Traffic Control Signal was inoperable or
19 malfunctioning;

20 All testimony before the Hearing Officer shall be under oath and shall be
21 recorded. The Traffic Control Infraction Reviewer who issued the Notice of Infraction
22 shall testify at the appeal. Then, the Vehicle Owner may present evidence and
23 testimony and cross examine witnesses. The formal rules of evidence shall not
24 apply, but fundamental due process shall be observed and shall govern the
25 proceedings. Upon determination of the Hearing Officer, irrelevant, immaterial and
26 unduly repetitious evidence may be excluded, but all other evidence of a type
27 commonly relied upon by reasonable prudent persons in the conduct of their affairs
28 shall be admissible. Any part of the evidence may be received in written form. The
29 Hearing Officer may inquire of or question any witness present at the hearing. The
30 Vehicle Owner or his/her attorney and the Traffic Control Infraction Reviewer or
31 his/her attorney shall be permitted to inquire of any witness present at the hearing.

1 The Hearing Officer may consider testimony presented by the Vehicle Owner, the
2 Traffic Control Infraction Reviewer or any other witness. All decisions by the Hearing
3 Officer shall be final and reviewable by writ of certiorari to Palm Beach County Circuit
4 Court.

5 Recorded Images indicating a Red Zone Infraction verified by a Traffic Control
6 Infraction Reviewer are admissible in any proceeding before Palm Beach County's
7 Hearing officer to enforce the provisions of this Ordinance.

8 **Section 12. Penalties**

9 A Red Zone Infraction, in violation of this Ordinance shall be deemed a non-
10 criminal, civil infraction for which a civil penalty in the amount of \$125.00 shall be
11 assessed.

12 As the violation relates to this Ordinance and not the State Statutes, no points
13 as provided in F.S. §322.27 shall be recorded on the driving record of the Vehicle
14 Owner or responsible party.

15 **Section 13. Administrative Costs**

16 In addition to the civil penalty assessed pursuant to Section 12, there shall be
17 imposed and assessed against the Vehicle Owner an administrative cost of \$25.00 in
18 the event of an unsuccessful appeal of the Notice of Infraction.

19 **Section 14. Collection of Civil Penalties**

20 Palm Beach County may establish procedures for the collection of civil
21 penalties and administrative costs imposed herein and may enforce such penalty by
22 civil action in the nature of debt collection.

23 **Section 15. Exceptions**

24 This Ordinance shall not apply to Red Zone Infractions involving vehicle
25 collisions investigated by a law enforcement officer or to any authorized emergency
26 vehicle responding to a *bona fide* emergency.

27 **Section 16. Three-Month Notice; Introductory Period**

28 For the first three months this Ordinance is in effect, the Vehicle Owner shall
29 receive a courtesy Notice of Infraction. Commencing three months after the effective
30 date of the Ordinance, the Vehicle Owner is subject to the enforcement provisions as
31 provided herein.

1 **Section 17. Accounting for Program Revenues and Expenditures**

2 Revenue and expenditures derived from this activity shall be collected for the
3 Engineering and Public Works Department and deposited in the County's general
4 fund.

5 **Section 18. Applicability**

6 This Ordinance shall apply in the unincorporated area of Palm Beach County.
7 Municipalities may by interlocal agreement with Palm Beach County and by
8 Ordinance or resolution, authorize the enforcement of this Ordinance within their
9 municipality.

10 **Section 19. Severability**

11 If any section, paragraph, sentence, clause, phrase or word of this Ordinance
12 is for any reason held by a Court of competent jurisdiction to be unconstitutional,
13 inoperative or void, such holding shall not affect the remainder of this Ordinance.

14 **Section 20. Inclusion in the Code of Laws and Ordinances**

15 The provisions of this Ordinance shall become and be made a part of the Palm
16 Beach County Code. The sections of this Ordinance may be renumbered or re-
17 lettered to accomplish such and the word "ordinance" may be changed to "section,"
18 "article," or other appropriate word.

19 **Section 21. Captions**

20 The captions, section headings and section designations used in this
21 Ordinance are for convenience only and shall have no effect on the interpretation of
22 the provisions of this Ordinance.

23 **Section 22. Effective Date**

24 The provisions of this Ordinance shall become effective upon filing with the
25 Department of State.
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APPROVED and ADOPTED by the Board of County Commissioners of Palm
Beach County, Florida, on this the ____ day of _____, 20____.


SHARON R. BOCK, CLERK &
COMPTROLLER

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

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 20____.

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