

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 22, 2008 ☐ Consent ☐ Regular
 ☐ Workshop ☒ Public Hearing

Department:

Submitted By: The County Attorney's Office
 Submitted For: Housing and Community Development Department
 (Commission on Affordable Housing)

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Sections 14-242 through 14-248 of the Palm Beach County Code, codifying Palm Beach County Ordinance No. 93-8, as amended by Ordinances No. 94-1, 94-24, 95-22, 01-026, and 03-026, known as the Palm Beach County Affordable Housing Ordinance, providing for policy and purpose; providing for definitions; providing for use of funds, providing for the Commission On Affordable Housing; providing for roles and responsibilities; providing for distribution of monies; providing for maximum administrative expenses; providing for implementation of programs; providing for repeal of laws in conflict; providing for savings clause; providing for severability; providing for inclusion in the code of laws and ordinances; providing for enforcement; providing for penalties; providing for captions; and providing for an effective date.

Summary: On June 17, 2008, the Board of County Commissioners held preliminary reading of this ordinance and authorized advertising for public hearing. Changes to the CAH Ordinance are recommended to meet the requirements of Ch. 2007-198, Laws of Florida, Section 420.9076, Florida Statutes. Countywide (TKF)

Background and Policy Issues: In 2007, the Florida Legislature passed Ch. 2007-198, Laws of Florida, Section 420.9076, Florida Statutes, requiring counties which receive State Housing Incentive Program (SHIP) funds to appoint an Affordable Housing Advisory Committee. Palm Beach County already has a Commission on Affordable Housing that fulfills many of the responsibilities of the new law; therefore, it is only necessary to amend the County's current ordinance to comply with the requirements. (Continues on page 3)

Attachments:

1. Proposed Ordinance Amendment

Approved By: _____

County Attorney

Date

7/9/08

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-

NET FISCAL IMPACT

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included In Current Budget? Yes X No

Budget Account No.: Fund __ Agency __ Org. __ Object __ Reporting Category

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

Approval of this item will not have fiscal impact at this time. The fiscal impact will be determined on a project by project basis.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

Shirley White 6.20.08
6.19.08 OFMB 6/19/08 CN 6/18/08

Don J. Jones 6/23/08
Contract Dev. and Control 6/23/08

B. Legal Sufficiency:

[Signature]
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Background and Policy Issues: (continued from page 1)

The proposed changes are highlighted below:

- Addition of the definitions of "Essential Services Personnel", "Public-Private Partnership" and "Workforce Housing". (Section II)
- Addition of Workforce Housing as an allowable use of funds. (Section III and Section VIII)
- Change the composition of the Commission on Affordable Housing to delete a provider of professional services and a representative of the public school system, and add a for-profit provider of affordable housing, a not-for-profit provider of affordable housing, a representative of employers, a Planning Commission member, a representative of essential services personnel, a resident of the County and a fair housing representative. (Section IV)
- Amend the roles and responsibilities of the CAH consistent with the new requirements. (Section V)
- Clarify the method of distribution of monies. (Section VI and Section VII)

ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 14-242 THROUGH 14-248 OF THE PALM BEACH COUNTY CODE, CODIFYING PALM BEACH COUNTY ORDINANCE NO. 93-8, AS AMENDED BY ORDINANCES NO. 94-1, 94-24, 95-22, 01-026, AND 03-026, KNOWN AS THE PALM BEACH COUNTY AFFORDABLE HOUSING ORDINANCE, PROVIDING FOR POLICY AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR USE OF FUNDS, PROVIDING FOR THE COMMISSION ON AFFORDABLE HOUSING; PROVIDING FOR ROLES AND RESPONSIBILITIES; PROVIDING FOR DISTRIBUTION OF MONIES; PROVIDING FOR MAXIMUM ADMINISTRATIVE EXPENSES; PROVIDING FOR IMPLEMENTATION OF PROGRAMS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners adopted an Affordable Housing Ordinance on May 18, 1993 in order to access State Housing Initiative Partnership Program (SHIP) funding; and

WHEREAS, Palm Beach County has a commitment to preserve and create safe, sanitary and affordable housing for all the citizens; and

WHEREAS, there exists in Palm Beach County a shortage of safe and sanitary residential housing available at affordable prices to very low, low and moderate income families; and

WHEREAS, private enterprise and investment in Palm Beach County County have not been able to produce, without assistance, the needed construction and rehabilitation of safe and sanitary residential housing at low prices or rents which very low, low and moderate income families can afford; and

WHEREAS, it is the goal of Palm Beach County to facilitate the provision of an adequate supply of safe, sanitary and affordable funding to meet the needs of County's residents, with special attention to the needs of very low and low income households; and

1 **WHEREAS**, the Palm Beach County Comprehensive Plan, Housing Element,
2 requires the establishment of the Commission on Affordable Housing with prescribed
3 duties; and

4 **WHEREAS**, in 2007, the Florida Legislature passed CH. 2007-198, Laws of
5 Florida Section 420.9076, Florida Statutes, requiring counties receiving SHIP funds to
6 appoint an Affordable Housing Advisory Committee or make amendments to current
7 Affordable Housing Advisory Committees; and

8 **WHEREAS**, it is necessary to amend the Palm Beach County Code Sections
9 14-242 through 14-248 to incorporate the changes required by the Florida Legislature.

10 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
11 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that** Sections 14-242
12 through 14-248 of the Palm Beach County Code be amended as follows:

13 **SECTION I. POLICY AND PURPOSE:**

14 Section 14-243(c) of the Palm Beach County Code shall be amended to read as
15 follows:

16 Invest in the preservation and revitalization of our ~~out~~ neighborhoods, the
17 development of healthy, safe and viable communities, and the security of having a
18 quality environment in which to raise families.

19 **SECTION II. DEFINITIONS:**

20 Section 14-244 of the Palm Beach County Code is amended with the addition of
21 the following definitions:

22 Essential Services Personnel means persons who are in need of affordable
23 housing who are employed in occupations or professions in Palm Beach County which
24 are designated by the Board as "essential services personnel" in the local housing
25 assistance plan.

26 Public – Private Partnership means any form of business entity that includes
27 substantial involvement of at least one public sector entity and at least one private
28 sector for-profit or not-for-profit business or charitable entity.

29 Workforce Housing means housing affordable to natural persons or families
30 whose total annual household income does not exceed One Hundred and Forty percent
31 (140%) of the area median income, adjusted for household size, or One Hundred and

1 Fifty percent (150%) of area median income, adjusted for household size, in areas of
2 critical state concern as designated by the Florida Legislature.

3 **SECTION III. USE OF FUNDS:**

4 Section 14-245(e)(10) of the Palm Beach County Code is hereby added, and
5 shall read as follows:

6 Provide for workforce housing or any other housing need or program allowed by
7 the SHIP guidelines and approved in the local housing assistance plan.

8 **SECTION IV. COMMISSION ON AFFORDABLE HOUSING:**

9 Section 14-246(c) of the Palm Beach County Code is hereby amended to read
10 as follows:

11 *Composition:* The CAH shall be comprised of thirteen (13) ~~nine (9)~~ members,
12 all of whom shall be appointed by the board of county commissioners. Those appointed
13 to the CAH shall be concerned citizens who understand the complexities of affordable
14 housing issues and are willing to be advocates of affordable housing programs. The
15 CAH shall be composed of the following members:

16 (1) One (1) member who is actively engaged in the residential home building
17 industry in connection with affordable housing.

18 (2) One (1) member who is actively engaged in the banking or mortgage
19 banking industry in connection with affordable housing.

20 (3) One (1) member who is a representative of those areas of labor engaged in
21 homebuilding in connection with affordable housing.

22 (4) One (1) member who is designated as an advocate of low-income persons in
23 connection with affordable housing.

24 (5) One (1) member who is actively engaged as a for-profit a provider of
25 affordable housing.

26 (6) One (1) member who is actively engaged in the ~~as a~~ real estate professional
27 in connection with affordable housing.

28 (7) One (1) member who is ~~a provider of professional services relating to~~
29 actively engaged as a not-for-profit provider of affordable housing.

30 (8) One (1) member who is a representative of a service organization working
31 on behalf of persons with special housing needs.

(9) One (1) member who ~~is a representative of the county public school system~~
represents employers within Palm Beach County.

(10) One (1) member who actively serves on the Planning Commission which is
the local planning agency pursuant to Florida Statute 163.3174.

(11) One (1) member who represents essential services personnel, as defined
in the local housing assistance plan.

(12) One (1) member who is a resident of Palm Beach County.

(13) One (1) member who represents fair housing interests.

All appointments are at large.

SECTION V. ROLES AND RESPONSIBILITIES.

Section 14-246(F) of the Palm Bach County Code is hereby amended to read as follows:

(1) The CAH shall review the established and proposed policies and procedures, articles, programs, land development regulations, proposed affordable housing developments and the adopted local comprehensive plan of the county and shall recommend specific initiatives and review and recommend affordable housing development to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value.

(2) Recommendations may include the modification or repeal of existing policies, procedures, article, regulations, program or plan provisions or approval of developments related to affordable housing; or at a minimum, the CAH shall make recommendations on affordable housing incentives in the following areas:

~~a. The affordable housing definition as currently adopted in the housing element.~~

ab. The expedited processing of permits or development orders for affordable housing projects.

be. The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment.

~~cd. The voluntary density bonus program which allowances of flexibility increased densitiesy in exchange for the provision of affordable housing.~~

de. The reservation of infrastructure capacity for housing for very-low-income persons, and low-income persons and moderate-income persons, as

1 well as the special methodologies developed pursuant to the traffic performance
2 standards ordinance [section 23-126 et seq.].

3 ef. The transfer of development rights as a financing mechanism for
4 housing for very-low-income persons and low-income persons.

5 fg. The reduction of parking and setback requirements for affordable
6 housing.

7 gh. The expanded allowance of flexible lot configurations, including of
8 zero-lot-line configurations for affordable housing.

9 hi. The modifications of sidewalk and street requirements.

10 ij. The establishment of additional processes by which the county
11 considers, before adoption, procedures and policies that have a significant
12 impact on the cost of housing.

13 jk. The preparation of a printed inventory of locally owned public lands
14 suitable for affordable housing.

15 k. The allowance of affordable accessory residential units in residential
16 zoning districts.

17 l. The support of development near transportation hubs and major
18 employment centers and mixed – used developments.

19 (3) The CAH recommendations may ~~shall~~ also include other affordable housing
20 incentives identified by the CAH and as identified by the comprehensive plan.

21 (4) To the maximum extent feasible, the approved affordable housing incentive
22 recommendations submitted to the Bboard of county commissioners must quantify the
23 affordable housing cost reduction anticipated from implementing the specific
24 recommendation.

25 (5) ~~Within nine (9) months from the adoption of this article [May 18, 1993],~~ the
26 CAH shall make affordable housing incentive recommendations approved by a majority
27 of its membership at a public hearing. Notice of the time, date, and place of the public
28 hearing of the CAH to adopt affordable housing incentive recommendations shall be
29 published in a newspaper of general paid circulation in the county. Such notice shall
30 contain a short and concise summary of the affordable housing incentive
31 recommendations to be considered by the CAH. The notice shall also state the public
32 place where a copy of the tentative CAH recommendation can be obtained by

1 interested persons. The CAH shall submit the adopted affordable housing incentive
2 recommendations to the Board of county commissioners for their consideration in the
3 affordable housing incentive plan no later than December 31, 2008, pursuant to section
4 14-248.

5 (6) The CAH shall assist county staff with the duties designated in the county's
6 comprehensive plan.

7 (7) The CAH shall submit an annual report to the Board as is required of all
8 advisory boards and shall submit a triennial report as required by Florida Statute
9 420.9076.

10 (8) The CAH shall perform such duties as required by Florida Statute 420.9076,
11 as may be amended. The CAH should be encouraged to make any other
12 recommendations to the board on affordable housing-related issues.

13 (9) ~~The CAH working with the county, community-based organizations, for-profit~~
14 ~~housing developers, lending institutions, providers of professional services relating to~~
15 ~~affordable housing, service organizations working on behalf of persons with special~~
16 ~~housing needs, and other persons interested in issues related to affordable housing~~
17 ~~shall act as the local housing partnership as required by section 420.9073, Florida~~
18 ~~Statutes. The local housing partnership shall implement the local housing assistance~~
19 ~~program and other such efforts established by the CAH. Such implementation shall be~~
20 ~~consistent with this article, sections 420.907-420.9079, Florida Statutes, and rule 91-~~
21 ~~37, Florida Administrative Code.~~

22 **SECTION VI. DISTRIBUTION OF MONIES:**

23 Section 14-247(b)(1) of the Palm Beach County Code shall be amended to read
24 as follows:

25 a. To implement the local housing assistance plan and incentive plans, such
26 costs shall include, but not be limited to A maximum of ten (10) percent of all the
27 monies pursuant to board resolution shall be used for administrative costs.

28 b. A minimum of seventy-five (75) percent of the County's SHIP local housing
29 distributions shall be used received for construction, rehabilitation, and emergency
30 repair for eligible sponsors providing units to eligible persons, including emphasis on
31 providing housing opportunities for persons who have special housing needs in the
32 county.

1 c. A minimum of sixty-five (65) percent of the County's SHIP local housing
2 distributions, not including program income, shall provide for homeownership activities,
3 including but not limited to:

4 1. Acquisition, acquisition/rehabilitation, emergency repair,
5 weatherization, new construction, mortgage interest reduction/write-
6 downs, second and third mortgages or impact fee payment for eligible
7 sponsors of homeownership opportunities for eligible persons.

8 2. Full or partial down payment and/or closing cost assistance for
9 homebuyers qualifying as eligible persons.

10 3. Rehabilitation for eligible persons who own and occupy substandard
11 housing units.

12 4. Homeless prevention programs designed to assist eligible persons for
13 a short term when sudden or unexpected loss of income due to medical
14 emergency or involuntary loss of employment threaten the ability of the
15 household to maintain homeownership, or amortization of impact fee
16 payments.

17 5. Retrofitting, rehabilitation and new construction for eligible persons
18 with disabilities.

19 d. A percentage, to be defined in the local housing assistance plan and as
20 required by the federal government, shall provide a match for county participation in the
21 federal home program or other such allowable federal program as identified in the local
22 housing assistance plan.

23 e. Funds not used to meet the above criteria may be used to provide rental
24 housing and homeownership training to prospective homebuyers and homeowners
25 assisted through the local housing assistance program.

26 **SECTION VII. MAXIMUM ADMINISTRATIVE EXPENSES:**

27 Section 14-247(d) of the Palm Beach County Code shall be amended to read as
28 follows:

29 The total amount paid for any administrative expenses from the SHIP local
30 housing distribution in connection with the local housing assistance program will not
31 exceed ~~ten (10) percent of the proceeds of the local housing distribution.~~ the amount
32 allowed by SHIP guidelines.

1 **SECTION VIII. IMPLEMENTATION OF PROGRAM:**

2 Section 14-247(f)(2)d of the Palm Beach County Code shall be amended to read
3 as follows:

4 d. All units constructed, rehabilitated, or otherwise assisted with program funds
5 shall be occupied by very-low-income, low-income, or moderate-income persons and
6 persons who have special housing needs. At least thirty (30) percent of units must be
7 occupied by very-low-income persons and at least another thirty (30) percent by low-
8 income persons. The remainder shall be occupied by persons who have special
9 housing needs, very-low-income, low-income, or moderate-income persons, or be
10 affordable workforce housing.

11 **SECTION IX. REPEAL OF LAWS IN CONFLICT:**

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

14 **SECTION X. SAVINGS CLAUSE:**

15 Notwithstanding anything to the contrary, all provisions of Palm Beach County
16 Code Sections 14-242 through 14-248, codifying Palm Beach County Ordinance No.
17 93-8, as amended by ordinances No. 94-1, 94-24, 95-22, 01-026 and 03-026 known as
18 the Palm Bach County Affordable Housing Ordinance, are specifically preserved and
19 remain in full force and effect for the limited purpose of enforcing any alleged violations
20 of said Code which occurred prior to its repeal or amendment.

21 **SECTION XI. SEVERABILITY:**

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

25 **SECTION XII. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

26 The provisions of this Ordinance shall become and be made a part of the Palm
27 Beach County Code. The sections of this Ordinance may be renumbered or relettered
28 -to accomplish such, and the word "ordinance" may be changed to "section", "article", or
29 other appropriate word.

1 **SECTION XIII. ENFORCEMENT:**

2 This Ordinance is enforceable by all means provided by law. Additionally, the
3 County may choose to enforce this Ordinance by seeking injunctive relief in the Circuit
4 Court of Palm Beach County.

5 **SECTION XIV. PENALTY:**

6 Any violation of any portion of this Ordinance shall be punishable as provided by
7 law.

8 **SECTION XV. CAPTIONS:**

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

12 **SECTION XVI. EFFECTIVE DATE:**

13 The provisions of this Ordinance shall become effective upon filing with the
14 Department of State.

15 APPROVED and ADOPTED by the Board of County Commissioners of Palm
16 Beach County, Florida, on this the ____ day of _____, 2008.

17
18 **SHARON R. BOCK, CLERK &**
19 **COMPTROLLER**

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

20
21
22 By: _____
23 Deputy Clerk

 By: _____
 Addie L. Greene, Chairperson

24
25
26 **APPROVED AS TO FORM AND**
27 **LEGAL SUFFICIENCY**

28
29
30 By:  _____
31 County Attorney

32
33
34 **EFFECTIVE DATE: Filed with the Department of State on the ____ day of**
35 _____, 2008.