

4D

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: July 21, 2009 ☐ Consent ☐ Regular

Department ☒ Public Hearing

Submitted By: COUNTY ATTORNEY

Submitted For: Investment Policy Committee

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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 Section 2-41, subsection (c)(1), of the Palm Beach County Code; amending certain provisions of the Palm Beach County Investment Ordinance related to the conduct of Investment Policy Committee meetings, providing attendance requirements for committee members and providing for removal of committee members; providing for severability; providing for inclusion in the code of laws and ordinances; and providing for an effective date.

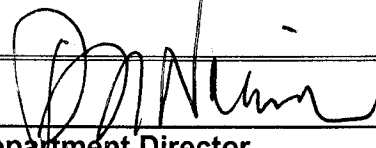
Summary: This amending ordinance was approved on first reading at the Board's June 16th meeting. The Investment Policy Committee recommends that the Board amend provisions of the Palm Beach County Investment Ordinance, Section 2-41, Subsection (c)(1), of the County Code to amend certain provisions of the Investment Ordinance related to the conduct of investment policy committee meetings, providing attendance requirements for committee members and providing for removal of committee members. Countywide (PFK)

Background and Justification:

The Investment Policy Committee recommended these changes to the Investment Ordinance by unanimous vote at the April 16th Committee meeting.

Attachments:

- 1. Ordinance Amendment (ordinance text changes blacklined)
- 2. Section 2-41, Palm Beach County Code

Recommended by:  6/22/09
Department Director Date

Approved by: _____
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>0</u>	_____	_____	_____	_____
Operating Costs	<u>0</u>	_____	_____	_____	_____
External Revenues	<u>0</u>	_____	_____	_____	_____
Program Income (County)	<u>0</u>	_____	_____	_____	_____
In-Kind Match (County)	<u>0</u>	_____	_____	_____	_____
NET FISCAL IMPACT	<u>0</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	_____	_____	_____	_____

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: No fiscal impact.

III. REVIEW COMMENTS

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

No Fiscal Impact.
7/1/09
OFMB
6/24/09

In. J. Joubert 7/8/09
Contract Development and Control

B. Legal Sufficiency:

Paul F. [Signature] 6/22/09
Assistant County Attorney

C. Other Department Review:

Department Director

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

ORDINANCE NO. 2009-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 2-41, SUBSECTION (c)(1), OF THE PALM BEACH COUNTY CODE; AMENDING CERTAIN PROVISIONS OF THE PALM BEACH COUNTY INVESTMENT ORDINANCE RELATED TO THE CONDUCT OF INVESTMENT POLICY COMMITTEE MEETINGS, PROVIDING ATTENDANCE REQUIREMENTS FOR COMMITTEE MEMBERS AND PROVIDING FOR REMOVAL OF COMMITTEE MEMBERS; 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, Chapter 125, Florida Statutes, authorizes counties to adopt ordinances consistent with general and special law to provide for the health, safety and welfare of its citizens; and

WHEREAS, the Board of County Commissioners previously enacted Ordinance 87-11, as amended, the "Palm Beach County Investment Ordinance," codified in Section 2-41 of the Palm Beach County Code; and

WHEREAS, the Board of County Commissioners desires to amend certain provisions of the Palm Beach County Investment Ordinance related to the conduct of investment policy committee meetings when the committee chairperson is absent for all or any portion of the meeting, providing attendance requirements for committee members and providing for removal of committee members.

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

Section 1. Chapter 2, Article III, Section 2-4, Subsection (c)(1), "Investment policy committee," is amended as follows:

(c) *Investment policy committee.* The county investment policy committee is created as follows:

(1) The committee shall be comprised of seven (7) voting members, five (5) members appointed by and serving at the pleasure of the majority of the Board of County Commissioners, a member of the Office of Financial Management and Budget selected by the County Administrator, and the County Sheriff or his designee as the seventh voting member. If the chairperson of the committee is absent for all or any portion of the meeting, the vice

chairperson will conduct the meeting. Failure to attend three (3) consecutive committee meetings, or failure to attend at least two-thirds (2/3) of the meetings in a calendar year, is grounds for the automatic removal of a committee member. Participation in less than seventy-five percent (75%) of the meeting is the same as failure to attend the meeting. A two-thirds (2/3) vote of the committee members is necessary to remove a committee member, with or without cause.

Section 2. REPEAL OF LAWS IN CONFLICT

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

Section 3. SEVERABILITY

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

Section 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES

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

SECTION 5. EFFECTIVE DATE

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

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2009.

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

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Paul F. Ja
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____,
2009.

ARTICLE III. FINANCIAL AFFAIRS*

DIVISION 1. GENERALLY

Sec. 2-41. Investment of surplus funds.

(a) *Interpretation.* This section shall not be interpreted in such a manner as to restrict the capability of the county to invest its surplus funds in accordance with general law and is intended to extend the ability of the county to invest in other items deemed prudent by the county. Nothing herein contained shall be interpreted or construed to abrogate any specific provision contained in any bond resolution or other contractual agreement of the county, or other requirements of general law of the state relating to the investment of bond proceeds or other such monies temporarily available in specific funds or accounts.

(b) *Penalty.* A violation of this section shall be punishable as provided by law.

(c) *Investment policy committee.* The county investment policy committee is created as follows:

- (1) The committee shall be comprised of seven (7) voting members, five (5) members appointed by and serving at the pleasure of the majority of the board of county commissioners, a member of the office of financial management and budget selected by the county administrator, and the county sheriff or his designee as the seventh voting member.
- (2) Members of the committee shall be appointed with the following backgrounds:
 - a. A current member of the board of county commissioners, who shall serve as chairperson and decide all tie votes.
 - b. The county sheriff or his designee.
 - c. A member of the office of financial management and budget selected by the administrator.

- d. Four (4) members, having any combination of the following backgrounds and experiences (no category having more than two (2) members): experience in the investment banking community or securities community with five (5) years direct investment experience and present investment management responsibility; member of the public with substantial investment or securities experience; or a local banker with a minimum of five (5) years direct investment experience and present investment management responsibility.

The committee and the clerk shall develop written policies in accordance with subsection (f) which shall serve as guidelines for use in the investment of surplus county funds and shall evaluate the effectiveness of the policies and investment practices of the county. The committee shall meet at least three (3) times a year or at the call of the chairperson.

(d) *Investments authorized.* When in the judgment of the clerk of the board of county commissioners, as custodian of county funds, surplus monies have accumulated in county accounts or funds or when the county has on hand or has accumulated surplus monies by reason of the sale of its own securities, the clerk shall make investments on behalf of and in the name of the board of county commissioners. Investment decisions will consider cash needs and cash flow projections which shall be developed and provided by county administrative staff. For the purposes of this section, the term "surplus funds" is as defined in Florida Statutes section 125.31(4). Surplus county funds may be invested at the then prevailing market price for such securities in the following:

- (1) The Local Government Surplus Funds Trust Fund.
- (2) Negotiable direct obligations of, or obligations, the principal and interest of which are unconditionally guaranteed by the United States Government at the then prevailing market price for such securities.

*Cross references—Licenses, taxation, and miscellaneous business regulations, ch. 17; special districts, ch. 26.

State law references—Home rule powers of chartered counties, Fla. Const., art. VIII, § 1(g); county finances generally, F.S. chs. 129—136.

- (3) Nonnegotiable interest-bearing time certificates of deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law in federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law.
 - (4) Bankers acceptances which are eligible for purchase by the Federal Reserve System.
 - (5) Prime commercial paper. For the purpose of this section, "prime" commercial paper shall be defined as that commercial paper which has received a Standard and Poors rating of at least A-1 and/or Moody's rating of at least Prime-1.
 - (6) Interest-bearing obligations with a fixed maturity of any corporation within the United States, if such obligations are rated by at least two (2) nationally recognized rating services in any one (1) of the two (2) highest classifications approved by the Comptroller of the Currency for the investment of the funds of national banks.
 - (7) Obligations of the Federal Farm Credit Banks, Federal Home Loan Mortgage Corporation, or Federal Home Loan Bank or its district banks, including Federal Home Loan Mortgage Corporation participation certificates, or obligations guaranteed by the Government National Mortgage Association.
 - (8) Obligations of the Federal National Mortgage Association, including Federal National Mortgage Association participation certificates and mortgage pass through certificates guaranteed by the Federal National Mortgage Association.
 - (9) Shares of funds created by the Florida Counties Investment Trust or shares or interests in other investment trusts authorized by Florida law for investment by municipalities or counties.
 - (10) Investments in any securities authorized by subsections (d)(2), (7) and (8) and may be under repurchase agreements or reverse repurchase agreements.
 - (11) Shares of any no-load money market mutual fund ("MMMF") registered with the Securities and Exchange Commission under the Investment Company Act of 1940, the shares of which are registered under the Securities Act of 1933, which is rated in the highest rating category of a nationally recognized statistical rating organization (NRSRO), and the portfolio of which is limited to:
 - a. Direct obligations of the United States Government or any agency or instrumentality thereof. Investment in CMOs, REMICS, or other derivative securities are prohibited.
 - b. Repurchase agreements fully collateralized by United States government obligations, provided such MMMF takes delivery of such collateral either directly or through an authorized third party custodian.
- (e) *Criteria for authorized investments.* Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.
- (f) *Development of investment policies.* Investments of county funds shall be made in accordance with written policies developed by the investment committee and the clerk, and presented to the board of county commissioners for their review and approval by resolution. Such investment policies shall address liquidity, diversification, safety of principal, yield, maturity, and quality, with primary emphasis on safety and liquidity;

the selection of qualified dealers and institutions for execution of investment transactions, and the capability of investment management.

(g) *Trust receipts, etc., authorized.* The clerk of the board of county commissioners, as custodian of county funds, is authorized to accept, on behalf of and in the name of the board of county commissioners, bank trust receipts from a third-party bank, as evidence of investment of temporarily idle funds in lieu of physical delivery of the obligations or securities, to a safe deposit box as required in Florida Statutes section 125.31(2)(a). All such trust receipts shall describe the various obligations or securities held, together with the specific number of each obligation or security held. The actual obligations or securities on which trust receipts are issued may be held by any third-party bank depository chartered by the United States government or the state, meeting qualifying criteria as set forth in the county's investment policy.

(h) *Sale of securities.* The clerk is authorized to sell such obligations or securities purchased pursuant to this article at the then prevailing market price, and to pay the proceeds of such sale into the proper accounts or funds of the county and shall not be liable for any loss of principal interest resulting from such transactions.

(Ord. No. 87-11, §§ 2—12, 6-9-87; Ord. No. 93-25, § 1, 9-21-93; Ord. No. 94-25, §§ 1, 2, 10-18-94; Ord. No. 95-19, §§ 1, 2, 5-16-95; Ord. No. 03-023, § 1, 6-17-03)

State law reference—Investment of surplus public funds, F.S. § 125.31.

Sec. 2-42. Crime prevention fund.

(a) *Title.* This section shall be known as the "Palm Beach County Crime Prevention Fund Ordinance."

(b) *Assessments imposed.*

- (1) A crime prevention program fund shall be established as per F.S. § 775.083(2). In addition to any other fine, penalty, or cost imposed by F.S. § 775.083(1), or any other provision of law, the court may assess a fine upon any person who, with respect to a charge, indictment, or prosecution commenced in the county, pleads guilty or

nolo contendere to, or is convicted of or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law.

- (2) The fine shall be fifty dollars (\$50.00) for a felony and twenty dollars (\$20.00) for any other offense. When the defendant enters the plea or is convicted or adjudicated, in a court in the county, the court may order the defendant to pay such fine if the court finds that the defendant has the ability to pay the fine and that the defendant would not be prevented thereby from being rehabilitated or making restitution.
- (3) The clerk of the court shall collect and deposit the assessments collected pursuant to this section in an appropriate designated county account established by the clerk of the court, which shall be a separate interest bearing trust fund for disbursement to the county as needed for the implementation and operation of crime prevention programs.
- (4) The clerk of the court shall withhold five (5) percent of the assessments each court collects pursuant to this section for the costs of administering the collection of assessments under this section.
- (5) The county shall account for the fines separately from other county funds, as crime prevention funds.

(c) *Use of funds.* The county, in consultation with the sheriff and the criminal justice commission, must expend such fines exclusively for the costs of collecting the fines and for crime prevention programs in the county, including safe neighborhood programs under F.S., §§ 163.501—163.523. (Ord. No. 01-030, §§ 1—4, 8-3-01; Ord. No. 01-099, § 1, 12-18-01)

Secs. 2-43—2-50. Reserved.

**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM**

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (904)-488-8427 or Suncom 278-8427.

COUNTY: (<u>PALM BEACH</u>)	COUNTY ORDINANCE # (_____) <small>(e.g., 93 - 001)</small>
PRIMARY KEYFIELD	
DESCRIPTOR: (<u>BOARDS/COMMITTEES</u>)	
SECONDARY KEYFIELD	
DESCRIPTOR: (<u>INVESTMENTS</u>)	
OTHER KEYFIELD	
DESCRIPTOR: (<u>ADMINISTRATION</u>)	
ORDINANCE DESCRIPTION: (<u>CONDUCT INVESTMENT POLICY COMMITTEE MEETINGS</u>) <small>(25 characters maximum including spaces)</small>	
ORDINANCES AMENDED: (List below the ordinances that are amended by the this legislation. If more than two, list the most recent two.)	
AMENDMENT # 1: (<u>95-19</u>); AMENDMENT # 2: (<u>03-23</u>).	
ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)	
REPEAL # 1: (_____); REPEAL # 3: (_____);	
REPEAL # 2: (_____); REPEAL # 4: (_____);	
(Others repealed: list all that apply): _____	

(FOR OFFICE USE ONLY):	COUNTY CODE NUMBER: (_ _)
KEYFIELD 1 CODE: (_____)	KEYFIELD 2 CODE: (_____)
KEYFIELD 3 CODE: (_____)	<small>Rev. 6/29/93</small>