

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

Meeting Date: December 15, 2009

Consent Regular
 Public Hearing

Department

Submitted By: 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, establishing the Palm Beach County Commission on Ethics; 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 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 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: In response to the Presentment of the Palm Beach County Grand Jury regarding Investigation of Palm Beach County Governance and Public Corruption Issues, the Board of County Commissioners directed the County Attorney's Office to draft ordinances creating a local Code of Ethics, and establishing an Office of Inspector General and Commission on Ethics. This Ordinance establishes the Palm Beach County Commission on Ethics. Countywide (LB)

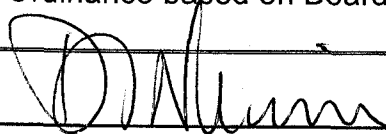
Background and Policy Issues: The Palm Beach County Commission on Ethics will be empowered to review, interpret, render advisory opinions and enforce the Palm Beach County Code of Ethics, the Lobbyist Registration Ordinance, and the Post-employment Ordinance. The Commission on Ethics will also provide training and outreach programs for county employees and officials, county vendors, and other entities that do business with Palm Beach County. Other local governmental agencies will be able to employ the services of and be subject to the Commission on Ethics by contract. To ensure independence, the Commission on Ethics members will be appointed by one university president and four collegial bodies, not one of which is subject to the jurisdiction of the Commission on Ethics. The board will be composed of a former law enforcement official with experience investigating white collar crime or public corruption, an attorney with experience in ethics regulation, an ethics educator, a certified public accountant, and a former elected official. The Commission on Ethics, along with one representative each from the State Attorney and Public Defender, will select the Inspector General.

Attachments:

- 1. Ordinance
- 2. Summary of changes to Ordinance based on Board direction 12/1/2009

Recommended by: _____

County Attorney



Date

12/9/09

Approved by: _____

N/A

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures					
Operating Costs	180,000	198,500*	198,500*	198,500*	198,500*
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	180,000	198,500*	198,500*	198,500*	198,500*
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____


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

*Fiscal impact for 2011-2014 is an estimate, with the actual impact to be determined by the *Commission on Ethics'* budget request.


C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

 12-9-09
 _____ OFMB
 12/10/09
 _____ 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.

1 **SECTION 1. CREATION AND JURISDICTION.**

2 The Palm Beach County Commission on Ethics (hereinafter "Commission on Ethics") is
3 hereby established. The jurisdiction of the Commission on Ethics shall extend to any person
4 required to comply with the Palm Beach County Code of Ethics, the Palm Beach County Lobbyist
5 Registration Ordinance, and the Palm Beach County Post-Employment Ordinance, and may further
6 extend to persons or entities required to comply with additional Ordinances and Regulations duly
7 adopted by other county, local, or municipal government and any commission, bureau, district, or
8 other governmental entity located in Palm Beach County as more fully set forth below.

9 **SECTION 2. MEMBERSHIP, QUALIFICATIONS, TERMS, VACANCIES.**

10 **A. Composition and appointment.** The Commission on Ethics shall be composed of
11 five (5) members. The members of the Commission on Ethics shall be appointed as follows:

- 12 (1) The President of the Palm Beach County Association of Chiefs of Police shall be
13 requested to appoint a former law enforcement official with experience in investigating
14 white collar crime or public corruption.
- 15 (2) The President of the Hispanic Bar Association of Palm Beach County, the President of
16 the F. Malcolm Cunningham, Sr. Bar Association, and the Chair of the Palm Beach
17 County Bar Association's Committee for Diversity and Inclusion shall be requested to
18 appoint an attorney with experience in ethics regulation of public officials and
19 employees.
- 20 (3) The President of Florida Atlantic University (FAU) shall be requested to appoint a
21 faculty member who teaches at an institution of higher education with a campus located
22 in Palm Beach County and who has taught a course in professional legal ethics or has
23 published or performed services in the field of professional legal ethics.
- 24 (4) The President of the Palm Beach Chapter of the Florida Institute of CPAs shall be
25 requested to appoint a member who possesses at least five years experience as a
26 Certified Public Accountant (CPA) with forensic audit experience.
- 27 (5) The Board of Directors of the Palm Beach County League of Cities, Inc. shall be
28 requested to appoint a person who has served as a former elected official for a
29 governmental entity in Palm Beach County.

30 All appointing officers identified in Section 2.A.(1) through (5) shall in good faith endeavor to
31 appoint members of the Commission on Ethics within forty-five (45) days of the effective date of

1 this Ordinance. Each appointing entity shall promptly provide notice of each appointment to the
2 County Administrator.

3 **B. Additional qualifications.** Each member of the Commission on Ethics shall be of
4 outstanding reputation for integrity, responsibility and commitment to serving the community. The
5 members of the Commission on Ethics should be representative of the community-at-large and
6 should reflect the racial, gender and ethnic make-up of the community. Before entering upon the
7 duties of office, each appointee on the Commission on Ethics shall take the prescribed oath of office
8 pursuant to section 876.05, Florida Statutes. Members of the Commission on Ethics shall serve
9 without compensation.

10 **C. Term.** The members of the Commission on Ethics shall serve staggered terms of four (4)
11 years each, provided that of the original members, two (2) members described in subsection 2.A.(1)
12 and 2.A.(2) shall be appointed for an initial term of two (2) years. The remaining three (3) members
13 shall be appointed for an initial term of four (4) years. Thereafter, all members of the Commission
14 on Ethics shall serve terms of four (4) years.

15 **D. Vacancies.** A vacancy occurring during or at the expiration of a member's term on the
16 Commission on Ethics shall be filled as provided in subsections A. and B., no later than sixty (60)
17 days after the vacancy occurs.

18 **E. Additional requirements.** No individual, while a member of the Commission on Ethics,
19 shall:

- 20 (1) Hold or campaign for any elective political office;
- 21 (2) Hold office in any political party or political committee;
- 22 (3) Actively participate in or contribute to any political action committee, or to any
23 campaign for state or local office or for any U.S. Congressional or Senate office serving
24 the State of Florida;
- 25 (4) Be employed by Palm Beach County, any municipality within Palm Beach County, or
26 any other governmental entity subject to the authority of the Commission on Ethics or
27 the Inspector General; or
- 28 (5) Allow his or her name to be used by a campaign in support of or against any candidate
29 for political office or any referendum or other ballot question. Nothing herein shall
30 preclude a member of the Commission on Ethics from signing a petition in support of or
31 against any referendum or other ballot question.

1 **SECTION 3. APPLICABILITY OF CODE OF ETHICS ORDINANCE.**

2 The Palm Beach County Code of Ethics Ordinance shall be applicable to the members and
3 staff of the Commission on Ethics.

4 **SECTION 4. ORGANIZATION OF THE COMMISSION ON ETHICS.**

5 A. The Commission on Ethics shall elect one (1) of its voting members as chairperson who
6 shall serve a term of two (2) years. No chairperson shall be permitted to serve two (2) consecutive
7 terms.

8 B. The Commission on Ethics shall adopt bylaws and rules of procedure which are
9 consistent with the provisions of this ordinance and rules and regulations for the Commission on
10 Ethics' governance. The Commission on Ethics shall hold regular meetings in accordance with the
11 bylaws of the Commission and may hold such other meetings as it deems necessary.

12 C. All meetings of the Commission on Ethics shall be public, and written minutes of the
13 proceedings thereof shall be maintained by the Commission on Ethics. All actions taken at the
14 meetings of the Commission on Ethics shall be promptly and properly recorded. Copies of all
15 minutes, resolutions, decisions or advisory opinions of the Commission on Ethics shall be forwarded
16 to the Clerk to the Board of County Commissioners no later than thirty (30) days subsequent to any
17 meeting of the Commission on Ethics.

18 D. The Commission on Ethics shall be empowered to appoint an Executive Director and to
19 remove such appointee at will. The Commission on Ethics shall utilize a competitive selection
20 process when selecting an Executive Director. The Commission on Ethics shall fix the Executive
21 Director's salary, subject to ultimate budget approval by the Board of County Commissioners. The
22 Executive Director shall be empowered to appoint, remove, and suspend employees or agents of the
23 Commission on Ethics, subject to ultimate budget approval by the Board of County Commissioners.
24 The Executive Director shall be further empowered to adopt personnel and management policies
25 consistent with like policies in place for County personnel.

26 **SECTION 5. POWERS AND DUTIES OF THE COMMISSION ON ETHICS.**

27 A. The Commission on Ethics shall be authorized to exercise such powers and shall be
28 required to perform such duties as are hereinafter provided. The Commission on Ethics shall be
29 empowered to review, interpret, render advisory opinions and enforce the:

- 30 (1) Palm Beach County Code of Ethics;
31 (2) Palm Beach County Post-Employment Ordinance; and

1 (3) Palm Beach County Lobbyist Registration Ordinance.

2 B. It is anticipated that municipalities, taxing districts, and other public officials and entities
3 will recognize and desire to benefit from the services of the Commission on Ethics. The
4 Commission on Ethics may be empowered to review, interpret, render advisory opinions, and
5 enforce the County's Code of Ethics or similar ordinances, rules or regulations duly adopted by Palm
6 Beach County or other local or municipal government, or any commission, bureau, district, or other
7 governmental entity located in Palm Beach County, pursuant to agreements or memoranda of
8 understanding between the Commission on Ethics and said governmental agency. The memorandum
9 of understanding or agreement shall include a provision for fees to be paid to the Commission on
10 Ethics from the public entity in exchange for such benefits at a rate established by the Commission
11 on Ethics. All fees paid under any such agreement shall be used solely to fund the operations of the
12 Commission on Ethics and its staff. Any such agreement or memorandum of understanding is
13 subject to final approval of the Board, but such approval shall not be unreasonably withheld.

14 C. As set forth in the Palm Beach County Office of Inspector General Ordinance (Palm
15 Beach County Ordinance 2009-XXXX), the Commission on Ethics shall serve with one delegate
16 each from the State Attorney's Office and Public Defender's Office for the Fifteenth Judicial Circuit
17 as the Selection Committee. The Selection Committee shall be authorized to select the Inspector
18 General, to determine whether or not to renew the term of an Inspector General, and to remove the
19 Inspector General as set forth in greater detail in the Palm Beach County Office of Inspector General
20 Ordinance.

21 D. The Commission on Ethics shall from time to time review ordinances and state and
22 federal laws relating to ethics in government and shall report and make recommendations to the
23 Board of County Commissioners as it deems appropriate.

24 E. The Commission on Ethics shall develop and deliver ethics training and outreach
25 programs for the benefit of county employees and officials, county vendors, non-profit corporations,
26 and other entities that do business with or are regulated by the County. The Commission on Ethics
27 may recommend that the Board enter into agreements with other entities to provide such training and
28 outreach programs to be administered by the Commission on Ethics.

29 **SECTION 6. FINANCIAL SUPPORT FOR THE COMMISSION ON ETHICS.**

30 A. The Commission on Ethics shall establish a fiscal year which coincides with that of Palm
31 Beach County. Pursuant to its annual budget process, the County shall provide sufficient financial