

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: February 23, 2010

Consent Regular
 Workshop Public Hearing

Submitted By: COUNTY ATTORNEY

Submitted For: ADMINISTRATION

I. EXECUTIVE BRIEF

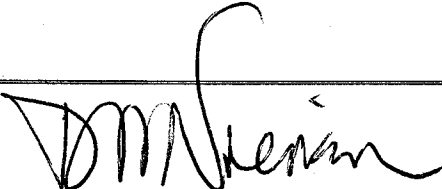
Motion and Title: Staff recommends motion to adopt: A resolution of the Board of County Commissioners creating the Palm Beach County Property Review Committee.

Summary: On December 15, 2009, the Board of County Commissioners adopted Ordinance No. 2009-052 which ordinance, among other things, requires the Board to create by resolution a committee to be named the "Property Review Committee" to review, evaluate and advise the Board regarding real estate transactions involving the purchase (including eminent domain), sale or exchange of fee simple title to real property if certain triggers or thresholds are met. This resolution satisfies such requirement and creates the Palm Beach County Property Review Committee. Countywide (HJF)

Background and Justification: The Palm Beach County Property Review Committee will be comprised of five (5) individuals appointed at large by the Board of County Commissioners. Appointments shall be based upon nominations from the following: One (1) representative from the Palm Beach County Property Appraiser's Office; One (1) representative from the Broward County Property Appraiser's Office, the Martin County Property Appraiser's Office or an MAI certified appraiser with offices in Palm Beach County and expertise in the appraisal of Palm Beach County real estate; One (1) representative licensed as a real estate broker with an office in Palm Beach County and expertise in Palm Beach County commercial real estate; One (1) representative with expertise in land planning employed by a governmental agency with an office in Palm Beach County or recommended by the Palm Beach County Planning Congress; One (1) **(continued on Page 3)**

Attachments:

- 1. Resolution
- 2. Ordinance 2009-052

Recommended by:  2/16/10
County Attorney Date

Approved by: N/A _____
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2011 | 2012 | 2013 | 2014 |
|------------------------------------------------|-------|-------|-------|-------|
| Capital Expenditure | 0 | 0 | 0 | 0 |
| Operating Costs | 0 | 0 | 0 | 0 |
| External Revenues | 0 | 0 | 0 | 0 |
| Program Income (County) | 0 | 0 | 0 | 0 |
| In-Kind Match (County) | 0 | 0 | 0 | 0 |
| NET FISCAL IMPACT | * | 0 | 0 | 0 |
| # ADDITIONAL FTE POSITIONS (Cumulative) | 0 | 0 | 0 | 0 |

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:

* No fiscal impact



OFMB
2/17/10

 2/17/10

Contract Development and Control
6/17/10

B. Legal Sufficiency:



Assistant County Attorney
2/16/10

C. Other Department Review:

Department Director

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

Background and Justification (continued from page 1)

representative with expertise in eminent domain employed as an attorney by a governmental agency with offices in Palm Beach County or in private practice with expertise in eminent domain and an office in Palm Beach County.

The Committee will have the following duties and functions: To review, evaluate and advise the Board of County Commissioners regarding real estate transactions required to be reviewed by the Property Review Committee pursuant to Palm Beach County Ordinance No. 2009-052 or which may otherwise be presented to the Property Review Committee by the County. The Ordinance requires the Committee to review, evaluate and advise the Board regarding real estate transactions involving the purchase (including eminent domain), sale or exchange of fee simple title to real property, which transactions: 1) are based on appraisal(s) utilizing Hypothetical Conditions or Extraordinary Assumptions, 2) are based upon appraisals(s) assuming a change of land use, a comprehensive plan amendment or concurrency other than that which currently exists, 3) involve a purchase in which the purchase price of the real property is greater than one hundred and ten percent (110%) of the fair market value as determined by the appraisal or the average of the appraisals obtained by the County, 4) involve a sale in which the sale price of the real property is lower than ninety percent (90%) of the fair market value as determined by the appraisal or the average of the appraisals obtained by the County, 5) involve an exchange of real property in which the purchase or sale price of the real property to be conveyed to or by the County, plus any additional consideration to be paid to or by the County in the exchange transaction exceeds \$250,000. Property Review Committee review is not required for transactions for less than \$250,000, transactions subject to Federal Aviation Administration review or audit with the exception of off-airport transactions for a non airport purpose, transactions pursuant to Chapter II, article XV of the Palm Beach County Code, the "Conservation Lands Protection Ordinance", or to any intergovernmental conveyance of real property pursuant to F.S. §125.38, as may be amended.

The actions, decisions, and recommendations of the Property Review Committee will not be final or binding on the Board of County Commissioners but will be advisory only. The Property Review Committee may call upon any department or other agency of the County, regional, state, federal, or local governments for information or advice in the performance of its duties and function. Staff from the Property and Real Estate Management Division of the Facilities Development and Operations Department will provide administrative support to the Committee. The County Attorney's office will act as legal counsel to the Property Review Committee at all its meetings and will provide such legal advice and assistance as may be requested by the Committee.

Appointment of new members to fill vacancies and reappointment of members whose terms have expired will be made at large by the Board of County Commissioners. Should a vacancy occur among the five (5) member categories identified that cannot be filled by that group, that vacancy may be filled by a county resident having experience in real estate valuation or eminent domain. The terms of members will be staggered over a three (3) year period such that the terms of no more than two (2) members expire in any one year.

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, CREATING THE PALM BEACH COUNTY PROPERTY REVIEW COMMITTEE; PROVIDING FOR MEMBERSHIP; PROVIDING FOR MEETINGS AND ORGANIZATION; PROVIDING FOR DUTIES AND FUNCTIONS; PROVIDING FOR BOARD ACTION ADVISORY ONLY; PROVIDING FOR ASSISTANCE TO THE COMMITTEE; PROVIDING FOR SEVERABILITY.

WHEREAS, the Board of County Commissioners of Palm Beach County adopted Ordinance No. 2009-052 on December 15, 2009, which ordinance, among other things, requires the Board to create by resolution a committee to be named the "Property Review Committee" to review, evaluate and advise the Board regarding real estate transactions involving the purchase (including eminent domain), sale or exchange of fee simple title to real property if certain triggers or thresholds are met; and

WHEREAS, the Board desires to establish such Property Review Committee.

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

Section 1. Creation. Upon adoption of this Resolution by the Board of County Commissioners, there is created and established a committee to be known as the Palm Beach County Property Review Committee.

Section 2. Membership:

a. The Property Review Committee shall consist of five (5) members appointed at large by the Board of County Commissioners. Appointments shall be based upon nominations from the following:

1. One (1) representative from the Palm Beach County Property Appraiser's Office;
2. One (1) representative from the Broward County Property Appraiser's Office, the Martin County Property Appraiser's Office or an MAI certified appraiser with offices in Palm Beach County and

expertise in the appraisal of Palm Beach County real estate.

3. One (1) representative licensed as a real estate broker with an office in Palm Beach County and expertise in Palm Beach County commercial real estate.
 4. One (1) representative with expertise in land planning employed by a governmental agency with an office in Palm Beach County or recommended by the Palm Beach County Planning Congress;
 5. One (1) representative with expertise in eminent domain employed as an attorney by a governmental agency with offices in Palm Beach County or in private practice with expertise in eminent domain and an office in Palm Beach County.
- b. Appointment of new members to fill vacancies and reappointment of members whose terms have expired shall be made at large by the Board of County Commissioners. Should a vacancy occur among the five (5) member categories identified in 2.a. that cannot be filled by that group, that vacancy may be filled by a county resident having experience in real estate valuation or eminent domain.
- c. The initial term of the member appointed pursuant to 2.a.1 shall be one (1) year. The initial term of the two members appointed pursuant to 2.a.2 and 2.a.3 shall be for two (2) years. The initial term of the remaining members shall be three (3) years. Thereafter, the term for all members shall be three (3) years. The terms shall be staggered over a three (3) year period such that the terms of no more than two (2) members expire in any one year.
- d. Nothing contained herein shall preclude reappointment of a member at the expiration of such member's term. Further, the

property appraiser representatives appointed as members shall have discretion to delegate authority to other staff members of such property appraiser's office to represent such office on the Property Review Committee as such representatives deems appropriate.

Section 3. Meetings and Organization. The Committee shall establish a time and place for holding meetings as may be necessary and shall adopt such rules of organization and procedure as may be required. A majority of members of the committee shall constitute a quorum for the transaction of business and the concurrence of a majority of the members present and voting shall be required to take any official action. All meetings of the Committee and any of its subcommittees shall be open to the public, duly advertised and otherwise comply with all applicable requirements of Florida's Government in the Sun Law as set forth in chapter 286 Florida Statutes.

Section 4. Duties and Functions. The Committee shall have the following duties and functions:

- a. To review, evaluate and advise the Board of County Commissioners regarding real estate transactions required to be reviewed by the Property Review Committee pursuant to Palm Beach County Ordinance No. 2009-052 or which may otherwise be presented to the Property Review Committee by the County.

Section 5. Committee Action Advisory Only. The actions, decisions, and recommendations of the Property Review Committee shall not be final or binding on the Board of County Commissioners but shall be advisory only.

Section 6. Assistance to the Committee. The Property Review Committee may call upon any department or other agency of the County, regional, state, federal, or local governments for information or advice in the performance of its duties and function. County government will provide legal, administrative and consultant support and facilities as needed which is hereby declared to be a County purpose. Staff from the Property and Real Estate Management Division

of the Facilities Development and Operations Department shall provide administrative support to the Committee. The County Attorney's office shall act as legal counsel to the Property Review Committee at all its meetings and shall provide such legal advice and assistance as may be requested by the Committee.

Section 7. Severability. If any section, sentence, clause, phrase, or word of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holdings shall in no way affect the validity of the remaining portions of this Resolution.

Section 8. Effective Date. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Commissioner _____ who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, was as follows:

| | | ABSENT | AYE | NAY |
|-----------------------------------|---|--------|-------|-------|
| Comm. Burt Aaronson, Chair | - | _____ | _____ | _____ |
| Comm. Karen T. Marcus, Vice Chair | - | _____ | _____ | _____ |
| Comm. Jeff Koons | - | _____ | _____ | _____ |
| Comm. Shelley Vana | - | _____ | _____ | _____ |
| Comm. Steven L. Abrams | - | _____ | _____ | _____ |
| Comm. Jess R. Santamaria | - | _____ | _____ | _____ |
| Comm. Priscilla A. Taylor | - | _____ | _____ | _____ |

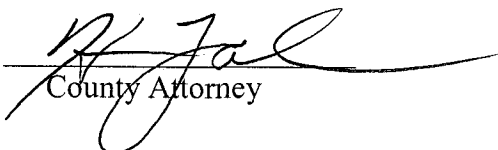
The Chair thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2010.

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

SHARON R. BOCK, CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: 
County Attorney

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ORDINANCE NO. 2009-052

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE PALM BEACH COUNTY REAL PROPERTY ACQUISITION, DISPOSITION AND LEASING ORDINANCE, CHAPTER 22, ARTICLE VI OF THE PALM BEACH COUNTY CODE; PROVIDING FOR DEFINITIONS; PROVIDING FOR SUPERMAJORITY VOTE; PROVIDING FOR CREATION OF A PROPERTY REVIEW COMMITTEE; 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 the "Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance" which is codified at Chapter 22, Article VI of the Palm Beach County Code; and

WHEREAS, the Board of County Commissioners desires to amend such ordinance to add a supermajority vote requirement in certain circumstances and to provide for the creation of a Property Review Committee to review, evaluate and advise the Board regarding certain real estate transactions.

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

Part 1. Chapter 22, Article VI, Section 22-102, Definitions, is hereby amended to add the following definitions:

Hypothetical Condition means a condition not presently existing but supposed for the purpose of analysis in an appraisal. Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property or about conditions external to the property, such as market conditions or trends or about the integrity of data used in an appraisal analysis.

Extraordinary Assumption means an assumption, directly related to a specific appraisal, which, if found to be false, could alter the appraiser's opinions or conclusions.

1 Extraordinary assumptions presume as fact otherwise uncertain information about physical,
2 legal, or economic characteristics of the subject property or about conditions external to the
3 property such as market conditions or trends or about the integrity of data used in an appraisal
4 analysis.

5 **Part 2.** Chapter 22, Article VI, is hereby amended to add a new Section 22-106
6 as follows:

7 **SUPERMAJORITY VOTE.**

8 All purchases (including eminent domain), sales and exchanges of fee simple title to real
9 property (including conveyances for no or nominal consideration) must be approved by a
10 supermajority vote (five commissioners) of the Board. The foregoing supermajority vote
11 requirement will not apply to internal interdepartmental transactions or transactions that do not
12 require separate board action due to a delegation of authority by the Board to County staff prior
13 to January 1, 2010. On or after January, 2010, delegation of authority to staff by the Board
14 relating to purchases, sales and exchanges (including eminent domain and conveyances for no
15 or nominal consideration) must be approved by a supermajority vote of the Board.

16 **Part 3.** Chapter 22, Article VI, is hereby amended to add a new Section 22-107
17 as follows:

18 **PROPERTY REVIEW COMMITTEE.**

19 A. The Board shall create by resolution, within sixty (60) days of the effective date
20 of this Ordinance, a committee to be named the Property Review Committee to review,
21 evaluate and advise the Board regarding real estate transactions involving the purchase
22 (including eminent domain), sale or exchange of fee simple title to real property, which
23 transactions:

- 24 1. Are based on appraisal(s) utilizing Hypothetical Conditions or Extraordinary
25 Assumptions.
- 26 2. Are based upon appraisal(s) assuming a change of land use, a comprehensive
27 plan amendment or concurrency other than that which currently exists.
- 28 3. Involve a purchase in which the purchase price of the real property is greater
29 than one hundred and ten percent (110%) of the fair market value as
30 determined by the appraisal or the average of the appraisals obtained by the
31 County.

- 1 4. Involve a sale in which the sale price of the real property is lower than
2 ninety percent (90%) of the fair market value as determined by the appraisal
3 or the average of the appraisals obtained by the County.
4 5. Involve an exchange of real property in which the purchase or sale price of
5 the real property to be conveyed to or by the County, plus any additional
6 consideration to be paid to or by the County in the exchange transaction
7 exceeds \$250,000.

8 B. The Board and the County Administrator shall be entitled to direct County staff
9 to present to the Property Review Committee any real property transaction not otherwise
10 required by this Ordinance to be presented to the Property Review Committee.

11 C. The provisions of this section shall not apply to transactions for less than
12 \$250,000, transactions subject to Federal Aviation Administration review or audit with the
13 exception of off-airport transactions for a non airport purpose, transactions pursuant to Chapter
14 11, Article XV of the Palm Beach County Code, the "Conservation Lands Protection
15 Ordinance", or to any intergovernmental conveyance of real property pursuant to F.S. §125.38,
16 as may be amended.

17 **Part 4. REPEAL OF LAWS AND ORDINANCES IN CONFLICT**

18 All local laws and ordinances in conflict with any provision of this Ordinance
19 are hereby repealed to the extent of any such conflict.
20

21 **Part 5. SEVERABILITY**

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

25 **Part 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES**

26 The provisions of this Ordinance shall become and be made a part of the Code
27 of Laws and Ordinances of Palm Beach County, Florida. The articles and sections of this
28 Ordinance may be renumbered or relettered to accomplish such, and the word "Ordinance" may
29 be changed to "Section", "Article", or other appropriate word.

30 **Part 7. EFFECTIVE DATE**


31 The provisions of this Ordinance shall become effective January 1, 2010.

32 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
33 County, Florida, on this the 15th day of December, 2009.

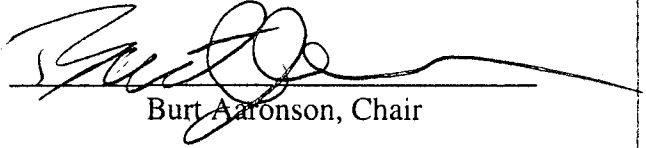
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SHARON R. BOCK, CLERK

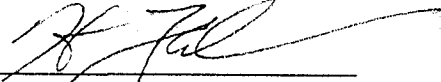
PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: 
Deputy Clerk



By: 
Burt Aaronson, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 18th day of
December, 2009.