

Revised
Backup.

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

Submitted For: COUNTY ATTORNEY

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II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>*</u>	_____	_____	_____	_____
# 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:

** No additional fiscal impact*

[Signature]
OFMB 7/7/10

[Signature]
Contract Development and Control 7/8/10

B. Legal Sufficiency:

[Signature]
Assistant County Attorney 7/7/10

C. Other Department Review:

Department Director

Summary: This ordinance would schedule a referendum at the November 2, 2010, General Election on an amendment to the Palm Beach County Charter requiring the County to establish by ordinance a Code of Ethics, a Commission on Ethics and an Independent Inspector General. The Charter amendment and implementing ordinances would apply to Palm Beach County and all municipalities approving the referendum. The Commission on Ethics would be funded by Palm Beach County. The Inspector General would be funded by the County and all other governmental entities subject to the authority of the Inspector General. Countywide (RPB)

Background and Policy Issues: In December 2009, the Board of County Commissioners adopted ordinances establishing the Code of Ethics, the Commission on Ethics and the Office of Inspector General. In the Status Report of the Grand Jury Regarding Palm Beach County Governance and Public Corruption Issues, dated April 9, 2010, the Grand Jury recommended that the Board of County Commissioners expand the jurisdiction of the Commission on Ethics and Inspector General by charter amendment. The charter amendment proposed here places local ethics regulation in the Palm Beach County Charter, provides a process for developing the ordinances implementing the charter amendment with municipal input, and requires that the Inspector General be funded by all jurisdictions subject to the authority of the Inspector General at minimum in an amount equal to one quarter of one percent of contracts of all governmental entities subject to the authority of the Inspector General. The charter amendment provides a review process which includes municipal input for ethics ordinance amendments and a method to modify the amount of the inspector general fee. The Board approved the ordinance on first reading on June 29, 2010. At the June 29 meeting, the Board directed staff to draft an amendment to the proposed charter amendment that would make it easier to change the amount equal to one quarter of one percent of contracts if adjustment is needed to adequately fund the Inspector General. Staff has prepared an amendment to Section 8.3 of the charter amendment (Attachment 2) that would eliminate the requirement that 75% of the entities subject to authority of the Inspector General request a change before the Board of County Commissioners can adjust the Inspector General fee. The amendment provides that the Board of County Commissioners can increase or decrease the quarter of one percent upon a showing of need for such adjustment based upon criteria contained in the Implementing Ordinance. Such change would require review and recommendation by the Review Committee, which includes municipal representation. The recommendation of the Review Committee could only be overturned by a super-majority vote of the Board of County Commissioners.

Agenda Item #:

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

Meeting Date: July 20, 2010 ☐ **Consent** ☐ **Regular**
☒ **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, amending Charter of Palm Beach County, Florida; pertaining to ethics regulation, the establishment of a County Code of Ethics, an independent Commission on Ethics and an independent Office of Inspector General; providing for charter amendment language; providing for referendum and ballot language; providing for form of notice; providing for severability; providing for inclusion in the charter; and providing for an effective date.

Attachments:

1. Ordinance
2. Proposed Amendment to Section 8.3 of Charter Amendment

Recommended by:  7/6/10
County Attorney Date

Approved by: N/A

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Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>*</u>	_____	_____	_____	_____
# 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: _____

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OFMB 7/7/10

Contract Development and Control 7/8/10

B. Legal Sufficiency:

Assistant County Attorney 7/7/10

C. Other Department Review:

Department Director

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ORDINANCE NO. 2010-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHARTER OF PALM BEACH COUNTY, FLORIDA; PERTAINING TO ETHICS REGULATION, THE ESTABLISHMENT OF A COUNTY CODE OF ETHICS, AN INDEPENDENT COMMISSION ON ETHICS, AND AN INDEPENDENT OFFICE OF INSPECTOR GENERAL; PROVIDING FOR CHARTER AMENDMENT LANGUAGE; PROVIDING FOR REFERENDUM AND BALLOT LANGUAGE; PROVIDING FOR FORM OF NOTICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 1(c), Article VIII of the Constitution of the State of Florida provides that by general law a county government may be established by charter; and

WHEREAS, the voters of Palm Beach County adopted the Charter of Palm Beach County on November 6, 1984, effective January 1, 1985; and

WHEREAS, the Charter of Palm Beach County provides that the Board of County Commissioners may propose a charter amendment by ordinance subject to voter approval; and

WHEREAS, the Board of County Commissioners of Palm Beach County has determined it is in the best interest of the citizenry of the County and will promote confidence in government to place a charter amendment on the ballot which will require the County to adopt by ordinance an independently appointed County Commission on Ethics adequately funded by the County Commission and an independently selected Office of Inspector General adequately funded by the County Commission and other governmental entities subject to the authority of the Inspector General; and

WHEREAS, passage of this Ordinance will allow the residents of Palm Beach County to vote on the proposed charter amendment at the general election held on November 2, 2010.

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

PART 1. AMENDMENT OF CHARTER

Subject to the approval of the electorate as required by the Constitution and Laws of Florida, the Charter of Palm Beach County shall be amended by adding a new subparagraph (6) to Sec. 1.3. Scope of County Ordinances; Conflict with Municipal Ordinances; by amending Sec. 3.2. Prevention of Conflict of Interest; and by adding Article VIII, Ethics Regulation, Sec. 8.1 County Code of Ethics, Sec. 8.2 Commission on Ethics, Sec. 8.3 Inspector General, and Sec. 8.4 Ordinance Preparation, Adoption and Amendment, as follows:

Sec. 1.3. Scope of County Ordinances; Conflict with Municipal Ordinances.

Municipal ordinances shall prevail over county ordinances to the extent of any conflict, regardless of the time of passage of the municipal ordinances, except that the county ordinances shall prevail over conflicting municipal ordinances:

* * *

(6) In matters related to the Ethics Regulation in accordance with Article VIII of this Charter: The Palm Beach County Code of Ethics, Palm Beach County Commission on Ethics and the Office of Inspector General in municipalities where the charter amendment is approved by a majority of voters in that municipality voting in the referendum as set forth in Sec. 6.3 of this Charter.

Sec. 3.2. Prevention of conflict of interest.

The Board of County Commissioners shall take whatever action is necessary on behalf of its residents to ensure that the County government's appointed officials, elected officials and employees abide by the code of ethics as set out in state law and the ethics regulations adopted by the Board of County Commissioners.

ARTICLE VIII. ETHICS REGULATION

Sec. 8.1. County Code of Ethics.

The County shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below.

Sec. 8.2 Commission on Ethics.

The County shall, by ordinance, establish an independent Commission on Ethics, comprised of a minimum of five members not appointed by or subject to removal by the County Commission or by any other entity subject to the jurisdiction of the Commission on Ethics, with the authority to review, interpret, render advisory opinions and to enforce the Palm Beach County Code of Ethics, and to provide ethics training to local governments, citizen groups and the general public of Palm Beach County. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below. The Commission on Ethics shall be adequately funded by the County Commission and all other governmental entities that elect to be subject to the authority of the Commission on Ethics pursuant to interlocal agreement.

Sec. 8.3. Inspector General.

The County shall, by ordinance, establish an Office of Inspector General to provide independent oversight of publicly funded transactions, projects, and other local government operations. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below. The ordinance shall provide that the Inspector General shall be selected by a Selection Committee, comprised of the Commission on Ethics, the State Attorney or designee, and the Public Defender or designee. The ordinance shall further provide that the Inspector General shall serve a fixed term, and prior to completion of that term, may be removed only for cause and pursuant to a procedure requiring, at a minimum, supermajority votes at duly noticed public hearings of the Board of County Commissioners and the Selection Committee. The Office of Inspector General shall be funded at minimum in an amount equal to one quarter of one percent of contracts of the County and all other governmental entities subject to the authority of the Inspector General as determined by ordinance implementing this Section. This ordinance may also provide that the minimum one quarter of one percent amount shall be adjusted by ordinance of the Board of County Commissioners upon written request of 75% of the entities, other than Palm Beach County, subject to the authority of the Inspector General. The Board of County Commissioners may reject such request to adjust the amount by supermajority vote. No adjustment shall occur if such adjustment results in the Office of the Inspector General not being adequately funded.

Sec. 8.4. Ordinance Preparation, Adoption, and Amendment.

Ordinances providing for implementation and funding of Article 8, Ethics Regulation, of the Palm Beach County Charter shall be prepared, adopted, and amended in the following manner:

(a) The Board of County Commissioners has adopted ordinances establishing and providing for the funding, authority and powers of the Palm Beach County Commission on Ethics and the Office of Inspector General (the "Existing Ordinances"). The drafting committee described below shall develop the ordinances enabling this Charter Amendment by beginning with the Existing Ordinances and making those changes necessary to conform the Existing Ordinances to the requirements of this Charter Amendment and proposing other such changes deemed necessary and proper by the drafting committee.

(b) Each ordinance shall be developed by a drafting committee consisting of two representatives appointed by the Board of County Commissioners; two representatives appointed by the Palm Beach County League of Cities, Inc. (the "League") or any successor entity to the League; the County Attorney or his or her designee; and the General Counsel for the League or his or her designee. In addition, the committee will include the Executive Director of the Palm Beach County Commission on Ethics for matters pertaining to the Code of Ethics and Commission on Ethics Ordinances, and will include the Inspector General for matters pertaining to the Inspector General Ordinance ("the Initial Ordinance Drafting Committee"). The Initial Ordinance Drafting Committee may by majority vote agree to add up to three additional members representing other governmental entities that are subject to the regulation of the Inspector General, the Commission on Ethics, or both.

(c) The Board of County Commissioners may adopt any ordinance recommended by the Initial Ordinance Drafting Committee (the "Recommended Ordinance") by an affirmative vote of four members of the Board. If the Board of County Commissioners desires to change any Recommended Ordinance, the Board shall refer all proposed changes to the Initial Ordinance Drafting Committee, which shall either modify the Recommended Ordinance to include a proposed change or recommend that a proposed change not be adopted. Adoption of any change to a Recommended Ordinance requires an affirmative vote of five members of the Board. If the Initial Ordinance Drafting Committee fails to submit the Recommended Ordinance to the Board of County Commissioners within 90 days of effective date of this charter amendment or fails to take action on a proposed change within 30 days of receipt of such change from the Board, the Board of County Commissioners may take action to adopt the ordinance by an affirmative vote of four members.

(d) Amendments to any of the ordinances adopted pursuant to Section 8 of the Charter may be proposed by the Board of County Commissioners, the League, the Ethics Commission, the Inspector General, or the Executive Director of the Commission on Ethics. All proposed amendments must be reviewed by a committee with the same make-up as the Initial Ordinance Drafting Committee (the "Review Committee"). The Review Committee's recommendation shall be forwarded to the Board of County Commissioners. Any change recommended by the Review Committee may be adopted by an affirmative vote of four members of the Board of County Commissioners. Adoption of any change not recommended by the Review Committee requires an affirmative vote of five members of the Board of County Commissioners. If the Review Committee fails to submit an ordinance amendment to the Board of County Commissioners within 90 days after referral of an amendment from one of the above parties,

the Board of County Commissioners may adopt the amendment by an affirmative vote of four members of the Board.

PART 2. REFERENDUM AND BALLOT LANGUAGE

On November 2, 2010, a general election is to be held, and in accordance with the requirements of the Constitution and Laws of Florida, the following question shall be placed on the ballot by the Supervisor of Elections:

REQUIRING COUNTY CODE OF ETHICS, INDEPENDENT ETHICS COMMISSION AND INDEPENDENT INSPECTOR GENERAL

Shall the Palm Beach County Charter be amended to require the Board of County Commissioners to establish by ordinances applicable to Palm Beach County and all municipalities approving this amendment: a Code of Ethics, an independent Commission on Ethics funded by the County Commission, and an independent Inspector General funded by the County Commission and all other governmental entities subject to the authority of the Inspector General?

YES _____

NO _____

PART 3. FORM OF NOTICE

The form of notice of the election by which this Charter shall be submitted to a referendum shall contain the complete text of Parts 1 and 2 of this Ordinance.

PART 4. SEVERABILITY

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

PART 5. INCLUSION IN THE CHARTER

In the event this proposed amendment is approved by referendum, Part 1 of this Ordinance shall become and be made a part of the Home Rule Charter of Palm Beach County, Florida. The Articles or Sections of this Charter Amendment Ordinance may be renumbered or relettered to accomplish such, and the word "amendment" may be changed to "section," "article," or any other appropriate word.

PART 6. EFFECTIVE DATE

This Ordinance shall become law on January 1, 2011, if approved by a majority of those electors voting on the matter.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2010.

SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA,
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
County Attorney

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

Sec. 8.3. Inspector General.

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The County shall, by ordinance, establish an Office of Inspector General to provide independent oversight of publicly funded transactions, projects, and other local government operations. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below (hereinafter "Implementing Ordinance"). The Implementing Ordinance ordinance shall provide that the Inspector General shall be selected by a Selection Committee, comprised of the Commission on Ethics, the State Attorney or designee, and the Public Defender or designee. The Implementing Ordinance ordinance shall further provide that the Inspector General shall serve a fixed term, and prior to completion of that term, may be removed only for cause and pursuant to a procedure requiring, at a minimum, supermajority votes at duly noticed public hearings of the Board of County Commissioners and the Selection Committee. The Office of Inspector General shall be funded at minimum in an amount equal to one quarter of one percent of contracts of the County and all other governmental entities subject to the authority of the Inspector General (the "Funding Base") as determined by the Implementing Ordinance ordinance implementing this Section. The Board of County Commissioners may increase or decrease the Funding Base upon a showing of need for such adjustment based upon criteria contained in the Implementing Ordinance but in no event shall the Funding Base be reduced below one quarter of one percent unless the request for such reduction is made by the Inspector General. The demonstration of need shall be subject to review and recommendation by the Review Committee, which recommendation shall only be overruled by a supermajority vote of the Board of County Commissioners. This ordinance may also provide that the minimum one quarter of one percent amount shall be adjusted by ordinance of the Board of County Commissioners upon written request of 75% of the entities, other than Palm Beach County, subject to the authority of the Inspector General. The Board of County Commissioners may reject such request to adjust the amount by supermajority vote. No adjustment shall occur if such adjustment results in the Office of the Inspector General not being adequately funded.

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The County shall, by ordinance, establish an Office of Inspector General to provide independent oversight of publicly funded transactions, projects, and other local government operations. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below (hereinafter "Implementing Ordinance"). The Implementing Ordinance shall provide that the Inspector General shall be selected by a Selection Committee, comprised of the Commission on Ethics, the State Attorney or designee, and the Public Defender or designee. The Implementing Ordinance shall further provide that the Inspector General shall serve a fixed term, and prior to completion of that term, may be removed only for cause and pursuant to a procedure requiring, at a minimum, supermajority votes at duly noticed public hearings of the Board of County Commissioners and the Selection Committee. The Office of Inspector General shall be funded at minimum in an amount equal to one quarter of one percent of contracts of the County and all other governmental entities subject to the authority of the Inspector General (the "Funding Base") as determined by the Implementing Ordinance. The Board of County Commissioners may increase or decrease the Funding Base upon a showing of need for such adjustment based upon criteria contained in the Implementing Ordinance but in no event shall the Funding Base be reduced below one quarter of one percent unless the request for such reduction is made by the Inspector General. The demonstration of need shall be subject to review and recommendation by the Review Committee, which recommendation shall only be overruled by a supermajority vote of the Board of County Commissioners. No adjustment shall occur if such adjustment results in the Office of the Inspector General not being adequately funded.

Clean