

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: October 19, 2010 [ ] Consent [X] Regular  
[ ] Public Hearing

Department

Submitted By: COUNTY ATTORNEY'S OFFICE

Submitted For: PALM BEACH COUNTY COMMISSION ON ETHICS

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to: Approve an Interlocal Agreement with the City of Boynton Beach to engage the services of the Palm Beach County Commission on Ethics.

**Summary:** The Boynton Beach City Commission adopted an ordinance subjecting the City to the jurisdiction and authority of the Palm Beach County Commission on Ethics. This Interlocal Agreement will allow the City to engage the services of the Commission on Ethics and its Executive Director. This action addresses the City's desire to subject itself to the County's ethics regulations prior to consideration of a Charter amendment this November. The Charter amendment, if approved by voters, will allow the County to adopt ethics regulations applicable in each municipality that voted in favor of the amendment. Districts 3, 4, 7 (LB)

**Background and Justification:** In response to the State's Grand Jury Report in 2009, the Board of County Commissioners sought to create a set of ethics regulations that would apply uniformly to all government agencies in Palm Beach County. In furtherance of this goal, the Commission placed a Charter amendment on the November 2, 2010 ballot that would require the establishment by ordinance of a Code of Ethics, a Commission on Ethics, and an Office of Inspector General. If approved by the electorate, these ordinances will apply in all municipalities approving the referendum. The City of Boynton Beach desires to subject itself to the County's regulatory framework before the referendum and subsequent adoption of countywide ordinances. This agreement will remain in effect for one year, or until it is superseded by countywide ordinance.

**Attachments:**

1. Interlocal Agreement
2. Ordinance adopting Palm Beach County's current regulations by reference

Recommended by:   
Alan Johnson, Executive Director Date

Approved by: N/A

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	_____	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

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:**

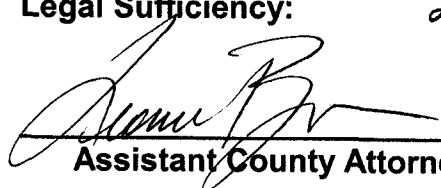
**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

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

 _____ OFMB	 _____ Contract Development and Control
--	---

**B. Legal Sufficiency:** 12/17/10  
J.P.

  
 \_\_\_\_\_  
 Assistant County Attorney

This Contract complies with our contract review requirements.

**C. Other Department Review:**

\_\_\_\_\_

Department Director

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

ATTACHMENT 1

## **The City of Boynton Beach**




City Clerk's Office  
100 E BOYNTON BEACH BLVD  
BOYNTON BEACH FL 33435  
(561) 742-6060  
FAX: (561) 742-6090  
e-mail : prainitoj@bblf.us  
www.boynton-beach.org

## **CERTIFICATION**

I, **JANET M. PRAINITO, CITY CLERK** of the **City of Boynton Beach, Florida**, do hereby certify that the attached Interlocal Agreement with Palm Beach County Commission on Ethics Ordinance consisting of 9 pages is a true and correct copy as it appears in the records of the City of Boynton Beach, Florida.

**WITNESS**, my hand and the corporate seal of the CITY OF BOYNTON BEACH, FLORIDA, dated this 5<sup>th</sup> day of October 2010.

  
**JANET M. PRAINITO, MMC**  
**CITY CLERK**



R10-120

**INTERLOCAL AGREEMENT**

This Interlocal Agreement ("Agreement") is made on \_\_\_\_\_, 2010, between the City of Boynton Beach, a municipality located in Palm Beach County, Florida ("Public Entity"), and Palm Beach County, a political subdivision of the State of Florida ("County"), each one constituting a public agency as defined in Part I of Chapter 163, Florida Statutes.

**WITNESSETH**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

**WHEREAS**, the Palm Beach County Commission on Ethics Ordinance (the Commission on Ethics Ordinance) permits the Commission on Ethics of Palm Beach County ("the Commission on Ethics"), subject to approval by the Board of County Commissioners, to negotiate agreements or memoranda of understanding with municipalities, special districts, and other public offices and entities, authorizing the Commission on Ethics to exercise any and all authority, functions and powers set forth in the Commission on Ethics Ordinance for the benefit of such Public Entity.

**WHEREAS**, Public Entity wishes to have the Commission on Ethics exercise such authority, functions and powers for Public Entity's benefit.

**NOW THEREFORE**, in consideration of the mutual representations, terms, and covenants hereinafter set forth, the parties hereby agree as follows:

**Section 1. Purpose**

The purpose of this Agreement is to have the Commission on Ethics exercise the authority, functions and powers granted by the Commission on Ethics Ordinance as to Public Entity's operations.

**Section 2. Representative/Monitoring Position**

The County's representative/contract monitor during the term of this Agreement shall be Alan S. Johnson, Executive Director, whose telephone number is (561) 233-0724.

The Public Entity's representative/contract monitor during the term of this Agreement shall be Public Entity's City Manager, Kurt Bressner, whose telephone number is (561) 742-6010.

**Section 3. Effective Date and Term**

This Agreement shall take effect upon execution of this Agreement by the Board of County Commissioners. This Agreement will then be in effect for one (1) year. This Agreement may be terminated by either party upon ninety (90) days written notice to the other party. In the event the County adopts countywide ethics regulations pursuant to its charter authority which supersede the ethics ordinances subject to this Agreement, this agreement will terminate upon the effective date of the countywide ethics regulations. Upon notice of termination by Public Entity or termination by superseding regulations, any ongoing Public Entity investigations being conducted by the Commission on Ethics pursuant to this Agreement shall continue until

completed.

**Section 4. Responsibilities and Duties**

The Commission on Ethics shall exercise any and all authority, functions and powers provided for in the Commission on Ethics Ordinance and Code of Ethics Ordinance in regard to Public Entity's operations.

Those functions, authority and powers include the following:

- The Commission on Ethics shall have the authority to: (1) review, interpret, render advisory opinions and enforce the Code of Ethics, (2) investigate legally sufficient complaints within the jurisdiction of the Commission on Ethics and conduct public hearings as provided by the Commission on Ethics ordinance; and (3) develop and deliver, or contract with other entities to develop and deliver training programs and ensure that effective and meaningful training experiences are delivered in a timely and efficient manner.
- (B) The Commission on Ethics shall have the power to conduct investigations, and receive full and unrestricted access to the records of the Public Entity, all elected and appointed Public Entity officials and employees, Public Entity departments, divisions, agencies and instrumentalities, contractors and other persons and entities doing business with the Public Entity and/or receiving Public Entity funds regarding any such contracts or transactions with the Public Entity.
- (C) In the case of a refusal to obey a request for documents or for an interview, the Commission on Ethics shall have the power to subpoena witnesses, administer oaths, and require the production of records in a manner consistent with section 162.08 Florida Statutes. The Commission on Ethics shall not interfere with any

ongoing criminal investigation or prosecution of the State Attorney or the U.S. Attorney for the Southern District of Florida.

- (D) Where the Commission on Ethics suspects a possible violation of any state, federal or local law, or rule, regulation or policy, the Executive Director or designee shall notify the appropriate civil, criminal or administrative agencies. In the case of a possible violation of a rule, regulation or policy governing a Public Entity employee, the Executive Director or designee shall also notify the governing body of the Public Entity and the head of the Department for which the employee works.
- (E) The Commission on Ethics shall have the power to require officials and employees to participate in ethics training on a regular basis.
- (F) The Commission on Ethics' "hotline" will receive complaints related to Public Entity operations. The Public Entity will support and assist the Commission on Ethics in publicizing the "hotline" and encouraging the reporting of ethics violations by local citizens, officials and employees.
- (G) The Commission on Ethics may exercise any of the powers contained in the Commission on Ethics Ordinance upon its own initiative.
- (H) With the exception of the initial complaint filed in a matter, all records held by the Commission on Ethics and its staff related to an active preliminary investigation are confidential and exempt from disclosure in a manner consistent with the provisions in s. 112.3188(2) Florida Statutes.

- (I) The Commission on Ethics and its staff shall be considered “an appropriate local official” of the Public Entity for purposes of whistleblower protection provided by s. 112.3188(1), Florida Statutes.
- (J) The Commission on Ethics may recommend remedial actions and may provide prevention and training services to Public Entity officials, employees, and any other persons covered by this Agreement. The Commission on Ethics may follow up to determine whether recommended remedial actions have been taken.
- (K) The Commission on Ethics shall monitor the costs of investigations undertaken. The Commission on Ethics shall cooperate with other governmental agencies to recover restitution from other entities involved in willful misconduct in regard to Public Entity funds.
- (L) In any case in which the Commission on Ethics determines that the complaining party filed a frivolous or groundless complaint as defined in s. 57.105 Florida Statutes, or a complaint with malicious intent and with the knowledge that the complaint contains material false allegations, the commission shall order the complaining party to pay any costs and attorneys fees incurred by the commission and/or the alleged violator.
- (M) The Commission on Ethics will maintain a website and all required databases including gift reports, voting conflict disclosures, final orders and advisory opinions.
- (N) The Commission on Ethics shall annually prepare and publish a written report concerning the work and activities of the Office of Commission on Ethics.



**Section 5. Funding and Budgeting by Public Entity**

All costs associated with the duties and responsibilities of the Commission on Ethics are funded by The Palm Beach County Board of County Commissioners. County funding shall include all staff services and other resources to be provided in furtherance of this Agreement.

**Section 6. Notice**

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

County  
**Alan S. Johnson**  
**Executive Director**  
**Palm Beach County**  
**Commission on Ethics**  
**2633 Vista Parkway**  
**West Palm Beach, FL 33411**

Public Entity  
**City of Boynton Beach**  
**100 E. Boynton Beach Blvd.**  
**Boynton Beach, FL 33435**  
**Att: City Manager's Office**

**Section 7. Delegation of Duty**

Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or municipal officers.

**Section 8. Filing**

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

**Section 9. Liability**

The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the other party. Further, nothing herein shall be construed as a waiver of sovereign immunity by either party, pursuant to Section 768.28, Florida Statutes.

**Section 10. Remedies**

This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**Section 11. Time of the Essence**

The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

**Section 12. Equal Opportunity Provision**

Commission on Ethics and Public Entity agree that no person shall, on the grounds of race, color, religion, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity and expression, or disability be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

**Section 13. Captions**

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

**Section 14. Severability**

In the event that any section, paragraph, sentence, clause, or provision hereof is held by a

court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

*[The remainder of this page intentionally left blank]*

**Section 15. Entirety of Agreement**

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement.

ATTEST

Sharon R. Bock, Clerk & Comptroller

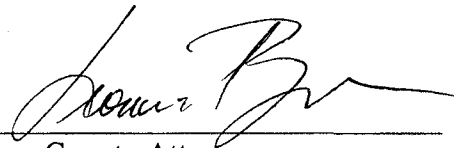
By: \_\_\_\_\_  
Clerk

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

By: \_\_\_\_\_  
\_\_\_\_\_, Chair

(SEAL)

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
County Attorney

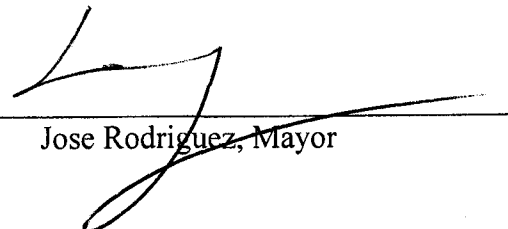
APPROVED AS TO TERMS AND  
CONDITIONS

By:   
Executive Director, Commission on Ethics

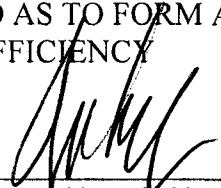
ATTEST

  
By:   
Janet M. Prainito, MMC, Clerk

CITY OF BOYNTON BEACH, FLORIDA

By:   
Jose Rodriguez, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
James A. Cherof, City Attorney

**The City of Boynton Beach**

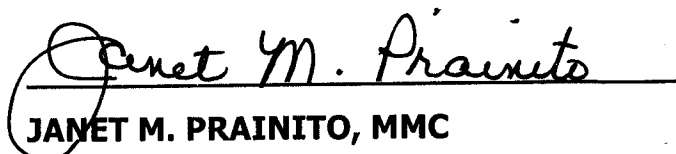


City Clerk's Office  
100 E BOYNTON BEACH BLVD  
BOYNTON BEACH FL 33435  
(561) 742-6060  
FAX: (561) 742-6090  
e-mail : prainitoj@ci.boynton-beach.fl.us  
www.boynton-beach.org

**CERTIFICATION**

**I, JANET M. PRAINITO, CITY CLERK** of the City of Boynton Beach, Florida, do hereby certify that the attached Ordinance No. 10-021 consisting of 3 pages is a true and correct copy as it appears in the records of the City of Boynton Beach, Florida.

**WITNESS**, my hand and the corporate seal of the CITY OF BOYNTON BEACH, FLORIDA, dated this 5<sup>th</sup> day of October, 2010

  
**JANET M. PRAINITO, MMC**  
**CITY CLERK**



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**ORDINANCE NO. 10-021**

**AN ORDINANCE OF THE CITY COMMISSION OF THE  
CITY OF BOYNTON BEACH, FLORIDA AMENDING  
THE CITY OF BOYNTON BEACH CODE OF  
ORDINANCES ARTICLE I, BY CREATING SECTION 2-  
25, TO BE ENTITLED "CODE OF ETHICS";  
INCORPORATING BY REFERENCE THE PALM  
BEACH COUNTY CODE OF ETHICS INTO THE CITY'S  
CODE OF ORDINANCES; PROVIDING FOR  
CONFLICTS, SEVERABILITY AND AN EFFECTIVE  
DATE.**

15       **WHEREAS**, the Board of County Commissioners of Palm Beach County, pursuant to  
16 its authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida  
17 Statutes, the Palm Beach County Charter, and section 112.326, Florida, adopted the Palm  
18 Beach County Code of Ethics and created the Palm Beach County Commission on Ethics  
19 (Commission on Ethics); and

20       **WHEREAS**, the Board of County Commissioners and the City of Boynton Beach  
21 desire to have the Code of Ethics regulations and the Commission on Ethics jurisdiction to  
22 apply to the City of Boynton Beach; and

23       **WHEREAS**, the Board of County Commissioners and the City of Boynton Beach  
24 have entered into an Interlocal Agreement to provide services to the City of Boynton Beach in  
25 the same manner that as those services are provided to Palm Beach County as set forth herein;  
26 and

27       **WHEREAS**, the City Commission of the City of Boynton Beach finds that adopting  
28 the Palm Beach County's Code of Ethics is in the best interests of the citizens and residents of  
29 the City.

30       **NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF  
THE CITY OF BOYNTON BEACH, FLORIDA, THAT:**

1           Section 1.     The foregoing whereas clauses are true and correct and are now ratified  
2 and confirmed by the City Commission.

3           Section 2.     Article I, Section 2-25 of the City's Code of Ordinances, to be entitled  
4 "Code of Ethics", is hereby created as follows:

5           Sec. 2-25     Code of Ethics

6  
7           The City of Boynton Beach hereby adopts by reference as its own the Palm Beach  
8 County Code of Ethics, Palm Beach County Code, Chapter 2, Article XII,  
9 sections 2-441 through 2-443, section 2-444(c), (d), and (e), section 2-445  
10 through section 2-448, and the Palm Beach County Commission on Ethics, Palm  
11 Beach County Code, Chapter 2, Article V, Division 8, sections 2-254 through 2-  
12 260.10, as may be amended from time to time.  
13

14           Section 3.     The Palm Beach County Code of Ethics and Commission on Ethics  
15 ordinances in existence as of the effective date of this Ordinance are hereby incorporated by  
16 reference and attached hereto as Exhibits 1 and 2 respectively.

17           Section 4.     All references to county government provided for in the Palm Beach  
18 County Commission on Ethics and Code of Ethics ordinances, including but not limited to  
19 county elected and appointed officials, county employees, county divisions and departments,  
20 shall be deemed as reference to the corresponding elected and appointed officers, divisions  
21 and departments of the City of Boynton Beach as appropriate to effectuate the intent of this  
22 Ordinance.

23           Section 5.     Each and every other provision of the City of Boynton Beach Code of  
24 Ordinances not herein specifically amended, shall remain in full force and effect as originally  
25 adopted.

26           Section 6.     All laws and ordinances applying to the City of Boynton Beach in  
27 conflict with any provisions of this ordinance are hereby repealed.


1           Section 7.     Should any section or provision of this Ordinance or any portion  
2 thereof be declared by a court of competent jurisdiction to be invalid, such decision shall not  
3 affect the remainder of this Ordinance.


4           Section 8.     This Ordinance shall become effective immediately.

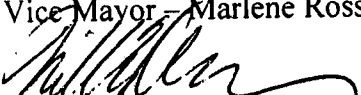
5           FIRST READING this 7<sup>th</sup> day of September, 2010.

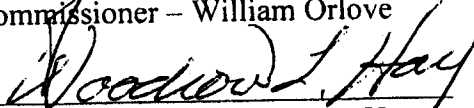
6           SECOND, FINAL READING AND PASSAGE this 21 day of September  
7 2010.

CITY OF BOYNTON BEACH, FLORIDA

10  
11   
12 \_\_\_\_\_  
13 Mayor - Jose Rodriguez

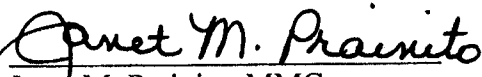
14   
15 \_\_\_\_\_  
16 Vice Mayor - Marlene Ross

17   
18 \_\_\_\_\_  
19 Commissioner - William Orlove

20   
21 \_\_\_\_\_  
22 Commissioner - Woodrow L. Hay

23   
24 \_\_\_\_\_  
25 Commissioner - Steven Holzman

26  
27  
28 ATTEST:

29  
30  
31   
32 \_\_\_\_\_  
33 Janet M. Prainito, MMC  
34 City Clerk

