

5F-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 05/17/11 Consent Regular
 Workshop Public Hearing

Department: Planning, Zoning & Building Department

Submitted By: Planning Division

Submitted For: County Attorney's Office

I. EXECUTIVE BRIEF

Motion and Title: STAFF REQUESTS BOARD DIRECTION ON PARTICIPATION IN THE MULTI JURISDICTIONAL ISSUES FORUM.

Summary: The Board of County Commissioners, at its meeting on January 11, 2011, directed the County Attorney to examine the County's participation in the "Palm Beach County Intergovernmental Coordination Program" in light of potential Sunshine Law concerns. The Coordination Program is comprised of two elements: (a) an Issues Forum and Executive Committee comprised of elected officials; and (b) an Intergovernmental Plan Amendment Review Committee comprised of planning directors. The Sunshine Law applies to any gathering of two or more members of a board or committee regarding discussion of matters that will come before a board or committee in the foreseeable future, unless the committee's powers are limited to information-gathering or fact finding authority and only conducts such activities. The Issues Forum of the Coordination Program is a sunshine committee as it makes recommendations regarding countywide issues. Options to consider by the Board are as follows:

- 1) Discontinue participation in the Issues Forum, the Executive Committee, and IPARC by withdrawing as a party to the two interlocal agreements; or
- 2) Discontinue participation in the Issues Forum by withdrawing from the Multi-Jurisdictional Issues Coordination Forum Interlocal Agreement and continue to participate in IPARC; or
- 3) Continue participation as set forth in the Interlocal Agreements. Countywide (RB);

Background and Policy Issues: The County and municipalities participate in intergovernmental coordination through the "Palm Beach County Intergovernmental Coordination Program". The Intergovernmental Program provides an ideal structure for addressing intergovernmental conflicts and also serves as a means to organize local governments to address multi-jurisdictional issues. This Program was established in October, 1993, through the execution of two interlocal agreements among the County, 31 municipalities, and several special districts. The interlocal agreements are related and both serve intergovernmental coordination functions required by Local Government Comprehensive Planning and Land Regulation Act and are referenced in the County Comprehensive Plan. Any changes to these interlocal agreements would require evaluation and possible changes to the Intergovernmental Coordination Element of the County Comprehensive Plan. Both agreements provide that any party can withdraw from the agreements, with 60 days written notice to the Chair of the Executive Committee.

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Attachment: Assistant County Attorney Memorandum

Recommended by:  _____ Date 3.2.11

Approved By:  _____ Date 3/7/11

Deputy County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

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

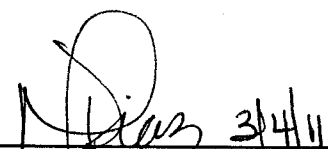
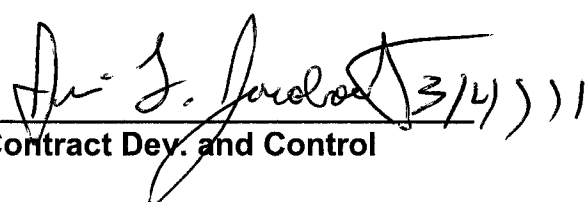
Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Department _____ Unit _____ Object _____
 Program _____

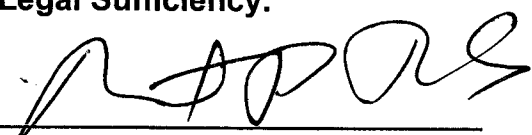
B. Recommended Sources of Funds/Summary of Fiscal Impact: *Agenda item is for Board Direction only and will have no fiscal impact.

C. Departmental Fiscal Review: Pat D'Agostino

III. REVIEW COMMENTS

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

 _____ OFMB <i>3/4/11</i> <i>3/3/11</i> <i>5/13/11</i> <i>8/13/11</i>	 _____ Contract Dev. and Control
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B. Legal Sufficiency:


 Assistant County Attorney

C. Other Department Review:

 Department Director

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The Multi-Jurisdictional Issues Coordination Forum Interlocal Agreement establishes an Issues Forum and Executive Committee, each comprised of elected officials including two County Commissioners, as means of building consensus or establishing a countywide position relative to multi-jurisdictional issues. The Executive Committee determines whether to accept issues of multi-jurisdictional significance, refers the issues to ad-hoc committees and makes written reports to the Forum on the action taken regarding the issue. The Forum, by a two-thirds vote, can veto or adopt the minority position of the Executive Committee. Otherwise, the action of the Executive Committee remains in effect. The Issues Forum and Executive Committee of the Issues Forum are made up of elected officials. Representatives of Forum and members of the Executive Committee of the Issues Forum are subject to the Sunshine Law regarding any issue that is reasonably foreseeable to come before the Committee or Forum.

The Comprehensive Plan Amendment Coordinated Review Interlocal Agreement establishes the Intergovernmental Plan Amendment Review Committee (IPARC) comprised of planning directors and an Executive Committee comprised of elected officials, including two County Commissioners. IPARC is a countywide comprehensive plan review process and includes a clearinghouse designed to disseminate proposed comprehensive plan amendments to the various local governments, to coordinate fact finding panels to review plan amendments when local governments file formal objections, and to conduct conflict resolution panels. These functions all fall into information dissemination/fact finding and are not subject to the Sunshine Law. The Executive Committee of IPARC is charged with the administrative governance of the IPARC Clearinghouse administrative process and is only subject to the Sunshine Law regarding the supervision and policy decisions regarding the IPARC process.




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MEMORANDUM

DATE: February 9, 2011

TO: Board of County Commissioners

FROM:  Robert P. Banks, Senior Assistant County Attorney

RE: Sunshine Law Concerns Regarding BCC Participation in
Multijurisdictional Issues Forum

**Palm Beach County
Board of County
Commissioners**

Karen T. Marcus, Chair
Shelley Vana, Vice Chair
Paulette Burdick
Steven L. Abrams
Burt Aaronson
Jess R. Santamaria
Priscilla A. Taylor

County Administrator

Robert Weisman


Issue: The Board of County Commissioners, at its meeting on January 11, 2011, directed the County Attorney to look at participation of the BCC in the Multijurisdictional Issues Forum in light of potential Sunshine Law concerns for BCC members serving on the executive committee of the Forum. The Sunshine Law applies to any gathering of two or more members of a board or committee regarding discussion of matters that will foreseeably come before the board or committee, unless the committee has only been delegated information-gathering or fact finding authority and only conducts such activities. Violations of the Sunshine Law can be prosecuted as a misdemeanor and can also be used as grounds to invalidate the actions taken by a board or committee in violation of the Sunshine Law. The Issues Forum is a sunshine committee as it makes recommendations regarding countywide issues. Withdrawal from the issues forum or revision to the Issues Forum Interlocal Agreement making it a fact finding/information gathering committee would resolve the Sunshine Law issue.

Recommendation: Remain on the Issues Forum but propose amendments to the Issues Forum Interlocal Agreement making the Forum a fact finding/information gathering panel only, thereby removing Sunshine Law concerns regarding the Issues Forum.

Other Options:

1. Withdraw as a party to the Issues Forum Interlocal Agreement and propose amendments to the IPARC Interlocal Agreement to expand the scope of the IPARC Interlocal Agreement to include multi-jurisdictional issues, but limited to a fact finding/information gathering role only.

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2. Withdraw as a party to the Issues Forum Interlocal Agreement and revise the intergovernmental coordination element of the county comprehensive plan.

Background: The Multijurisdictional Issues Coordination Forum Interlocal Agreement (a/k/a Issues Forum) and the Intergovernmental Comprehensive Plan Amendment Review Committee Interlocal Agreement (a/k/a IPARC) were created by Interlocal agreement in 1993 after the sunset of the Countywide Planning Council and are made up of local governments within the county. The interlocal agreements are related and both serve intergovernmental coordination functions required by Local Government Comprehensive Planning and Land Regulation Act and are referenced in the county comprehensive plan. Any changes to these interlocal agreements would require evaluation and possible changes to the Intergovernmental Coordination Element of the county comprehensive plan.

IPARC is a countywide comprehensive plan review process and includes a clearinghouse designed to disseminate proposed comprehensive plan amendments to the various local governments, to coordinate fact finding panels to review plan amendments when local governments file formal objections and to conduct conflict resolution panels. These functions all fall into information dissemination/fact finding and are not subject to the Sunshine Law. The Executive Committee of IPARC is made up of elected officials. The Executive Committee of IPARC is subject to the Sunshine Law, but only regarding the subject matter of the Executive Committee, which is supervising and making policy decisions regarding the IPARC process.

The Issues Forum provides a means of building consensus or establishing a countywide position relative to multi-jurisdictional issues. The Executive Committee of the Issues Forum determines whether to accept issues of multi-jurisdictional significance, refers the issues to ad-hoc committees and makes written reports to the Forum on the action taken regarding the issue. The Forum, by a two-thirds vote, can veto or adopt the minority position of the Executive Committee. Otherwise, the action of the Executive Committee remains in effect. Representatives of Forum and members of the Executive Committee of the Forum are subject to the Sunshine Law regarding any issue that is reasonably foreseeable to come before the Committee or Forum.

Both agreements provide that any party can withdraw from the agreements, with 60 days written notice to the Chair of the Executive Committee.

If you have any questions regarding this matter, please do not hesitate to contact me.

cc: Denise Nieman, County Attorney
Bob Weisman, County Administrator
Verdenia Baker, Deputy County Administrator
Barbara Alterman, Director, PZ&B
Lorenzo Aghemo, Director, Planning Division