

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

Meeting Date: August 14, 2012

Consent Regular
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For: HOUSING FINANCE AUTHORITY

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on September 11, 2012, at 9:30 a.m.: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Section 2-184 and Sections 2-188 through 2-191 of the Palm Beach County Code governing the Housing Finance Authority of Palm Beach County (the "Authority") related to membership; conflicts of interest and disclosures by members of the Authority; contracts of the Authority; bonds of the Authority; rules and regulations of the Authority; providing for severability; providing for applicability; providing for inclusion in the Code of Laws and Ordinances; and providing for an effective date.

Summary: The Ordinance now governing the Authority (superseding the Resolution that created the Authority in 1979) was adopted in 2002. Since that time, changes have occurred in County governance, organization and ethics that require amendment of the County Code governing the Authority. The County Code revisions recommended by staff include adding provisions related to the County Code of Ethics, references to the new County Department of Economic Sustainability, and other revisions proposed by the Authority. Additionally, the Authority is recommending that the requirement that an Authority board member may not serve more than two (2) consecutive complete four (4) year terms be removed. Countywide (PFK)

Background and Policy Issues: Adoption of this Amending Ordinance will bring the Authority in compliance with current County requirements for governance, ethics and organization. The proposed revisions include the following:

Section 2-184. Membership. The term limitation on Authority members is eliminated. That limitation is now considered unduly restrictive. The required training session by the County Attorney's Office for new Authority members is eliminated as no longer necessary. New Authority members now must have the required County Code of Ethics training. Any other training should be done by the Authority's Executive Director or General Counsel.

(Continued on Page 3)

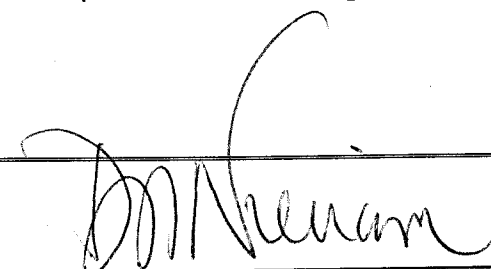
Attachments:

- 1. Ordinance

Recommended by: _____

County Attorney

Date



6-25-12

Approved by: _____

N/A

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	<u>0</u>	<u>0</u>	_____	_____	_____
Operating Costs	<u>0</u>	<u>0</u>	_____	_____	_____
External Revenues	<u>0</u>	<u>0</u>	_____	_____	_____
Program Income (County)	<u>0</u>	<u>0</u>	_____	_____	_____
In-Kind Match (County)	<u>0</u>	<u>0</u>	_____	_____	_____
 NET FISCAL IMPACT	 <u>0</u>	 <u>0</u>	 _____	 _____	 _____
	*NO FISCAL IMPACT				
 # ADDITIONAL FTE POSITIONS (Cumulative)	 _____	 _____	 _____	 _____	 _____

Is Item Included in Current Budget? Yes _____ No _____

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

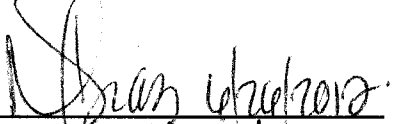
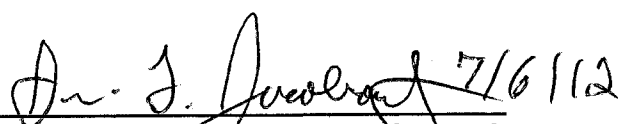
Reporting Category _____

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

C. Departmental Fiscal Review: *NO FISCAL IMPACT

III. REVIEW COMMENTS

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

<p align="center">  _____ OFMB JB 6/25/12 6/25/12 </p>	<p align="center">  7/6/12 _____ Contract Development and Control 7-6-12 B. Wheeler </p>
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B. Legal Sufficiency:

 6/18/12

 Assistant County Attorney

C. Other Department Review:

 Department Director

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

Background and Policy Issues (continued)

Section 2-188. Conflict of Interest; disclosures. The provision referring to the County Ethics Resolution has been replaced with language providing that Authority members and employees are subject to the County Code of Ethics. The special disclosure requirements for Authority members have been deleted. Such disclosure is not required of similar authorities, such as the Educational Facilities Authority or the Health Facilities Authority.

Section 2-189. Contracts of the authority. This revision simplifies the language governing Authority contract approval by the Board of County Commissioners.

Section 2-190. Bonds of the authority. These revisions clarify and simplify the process for Authority bond approval by the Board of County Commissioners.

Section 2-191. Rules and regulations. This revision provides that the Authority will have the County Department of Economic Sustainability as the Authority's point of contact to ensure that affordable housing is placed in the areas of the County where the need has been identified.

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ORDINANCE NO. 2012-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTION 2-184 AND SECTIONS 2-188 THROUGH 2-191 OF THE PALM BEACH COUNTY CODE GOVERNING THE HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY (THE "AUTHORITY") RELATED TO MEMBERSHIP; CONFLICTS OF INTEREST AND DISCLOSURES BY MEMBERS OF THE AUTHORITY; CONTRACTS OF THE AUTHORITY; BONDS OF THE AUTHORITY; RULES AND REGULATIONS OF THE AUTHORITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

18 **WHEREAS**, the Housing Finance Authority of Palm Beach County Ordinance, governing
19 the Palm Beach County Housing Finance Authority (the "Authority") (Ordinance 2002-022),
20 codified at Section 2-184 and Sections 2-188 through 2-191 of the Palm Beach County Code, was
21 adopted in 2002; and

22 **WHEREAS**, changes have taken place in County governance, organization and ethics
23 during the ten years since the Housing Finance Authority of Palm Beach County Ordinance (the
24 "Ordinance") was adopted; and

25 **WHEREAS**, the amendment of the Ordinance stated below is appropriate to include
26 changes to the Ordinance, codified in Section 2-184 and Sections 2-188 through 2-191 of the
27 County Code.

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

30
31 **SECTION 1. AMENDMENT OF THE HOUSING FINANCE AUTHORITY OF PALM**
32 **BEACH COUNTY ORDINANCE:**
33

34 Section 2-184 and Sections 2-188 through 2-191 of the Palm Beach County Code
35 (Ordinance 2002-022) are amended as follows:

36 **Section 2-184. Membership.**

37 Each commissioner of the board of county commissioners shall nominate one (1)
38 person to serve on the housing finance authority (the "Authority"). The nomination shall be
39 subject to the confirmation of a majority vote of the board of county commissioners. The
40 membership of the housing finance Authority should represent the following components
41 of the affordable housing industry: labor (organized labor or trade association); financial

1 (banking or similar institution or tax or financial professionals, such as attorney,
2 accountant, or financial planner); commerce (business owner or representative or business
3 organization representative); and low income or affordable housing advocates (resident of
4 affordable housing, representative of an organization that advocates on behalf of low
5 income persons for affordable housing or real estate professional specializing in affordable
6 housing). In compliance with F.S. Section 159.605(1), as may be amended, at least a
7 majority of the membership shall have knowledge in labor, finance or commerce, as
8 defined within this division. All members of the ~~housing finance a~~Authority must be
9 residents of the county. The terms of the members shall be four (4) years each, and shall
10 continue to be staggered in accordance with prior ordinances. A member shall hold office
11 until his or her successor has been appointed and has qualified unless such member has
12 been removed pursuant to section 2-186 herein. Each vacancy as it occurs shall be filled
13 for the remainder of the unexpired term. ~~A member may not serve more than two (2)~~
14 ~~consecutive complete four (4) year terms, after the effective date of this division. If a~~
15 ~~member completes the term of a member who has been removed or has resigned, such~~
16 ~~completion of a partial term shall not be counted toward the two (2) consecutive term limit.~~

17 A certificate of the appointment or reappointment of any member shall be filed with
18 the clerk of the circuit court, and the certificate shall be conclusive evidence of the due and
19 proper appointment of the member. A member shall receive no compensation for his or her
20 services, but shall be entitled to necessary expenses, including traveling expenses, incurred
21 in the discharge of duties. ~~Within sixty (60) days of appointment, new members shall~~
22 ~~schedule a training session with the county attorney's office on member's obligations~~
23 ~~pursuant to this division, including, but not limited to, conflicts of interest, financial~~
24 ~~disclosure, Florida Sunshine Law and the Florida Public Records Law.~~

25 In June of every year, ~~commencing in 2002,~~ the members of the ~~housing finance~~
26 ~~a~~Authority shall nominate a chairperson, and submit such nomination to the board of
27 county commissioners for approval. No member may serve more than two (2) consecutive
28 complete one (1) year terms as chairperson ~~after the effective date of this division.~~ The
29 board of county commissioners retains the ultimate authority to designate a chairperson of
30 the ~~housing finance a~~Authority.
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3 **Sec. 2-188. Conflict of Interest; disclosures.**

4 In compliance with F.S. Section 159.606, as may be amended, no member or
5 employee of the ~~housing finance a~~Authority shall acquire any interest, direct or indirect in
6 any qualifying housing development or in any property included or planned to be included
7 in such a development, nor shall an Authority member or employee have any interest, direct
8 or indirect, in any contract or proposed contract for materials or services to be furnished or
9 used in connection with any qualifying housing development. If any member or employee
10 of the ~~housing finance a~~Authority owns or controls, through acquisition prior to
11 membership on the ~~housing finance a~~Authority, an interest, direct or indirect in any
12 property included or planned to be included in any qualifying housing project, the Authority
13 member or employee shall immediately disclose the same in writing to the ~~housing finance~~
14 aAuthority. Such disclosure shall be entered upon the minutes of the ~~housing finance~~
15 aAuthority. Failure to disclose such interest shall constitute misconduct in office.

16 In compliance with F.S. Section 159.609, as may be amended, the ~~housing finance~~
17 aAuthority shall not finance the acquisition, construction, any reconstruction, or
18 rehabilitation of any qualifying housing development for its own profit or as a source of
19 revenue to the state or any local governmental unit.

20 In addition, the provisions of ~~Palm Beach County Ethics Resolution R-94-693, The~~
21 provisions of the Palm Beach County Code of Ethics, Article XIII of the Palm Beach
22 County Code, Sections 2-441 through 2-448, as may be amended, shall apply to ~~housing~~
23 ~~finance a~~Authority members and employees.

24 All members of the ~~housing finance authority shall file with the board of county~~
25 ~~commissioners full and public disclosure of their financial interest, substantially in the form~~
26 ~~of the disclosure required of elected public officials pursuant to section 8, article II of the~~
27 ~~State of Florida Constitution and F.S. Section 112.3144, as may be amended. No later than~~
28 ~~May 1 of each year, county administration shall mail a copy of the form prescribed for~~
29 ~~compliance with full and public disclosure to housing finance authority members. Housing~~
30 ~~finance authority members shall return the completed form no later than July 1 of each year.~~
31 ~~Failure to file a form may constitute neglect of duty.~~

1 **Sec. 2-189. Contracts of the authority.**

2 All contracts of the ~~housing finance a~~Authority for the purchase of goods and
3 services in excess of \$10,000.00 shall be submitted to and approved, in each instance, by
4 the board of county commissioners. All Authority purchases of goods and services shall be
5 done in accordance with the competitive processes as outlined in county ordinances and
6 policies, ~~including the rotation process utilized for bond counsel and bond underwriters.~~

7 **Sec. 2-190. Bonds of the authority.**

8 Prior to sale of any Authority bonds, such bonds shall be submitted to and approved,
9 in each instance by the board of county commissioners, ~~and the award~~ The underwriter,
10 placement agent or direct purchaser of the bonds, whether the bonds are sold through public
11 sale, ~~or negotiated sale, or private placement,~~ shall also be approved by the board of county
12 commissioners, but approval of bond purchase or placement agreements by the board of
13 county commissioners shall not be required.

14 **Sec. 2-191. Rules and regulations.**

15 All rules or regulations to be promulgated by the ~~housing finance a~~Authority,
16 including but not limited to, rules setting forth standards or criteria for determining whether
17 persons are eligible persons in the program or projects are eligible projects and rules
18 establishing criteria for scoring applications and authorizing bond issues as the same are
19 initially established or are changed or amended from time to time, shall be submitted to and
20 approved, in each instance, by the board of county commissioners. The ~~housing finance~~
21 aAuthority, when determining which projects and programs to fund, shall coordinate with
22 the county, through its ~~d~~Departments of ~~housing and community development~~ Economic
23 Sustainability, and planning, zoning and building and it's commission on affordable
24 ~~housing,~~ to ensure that affordable housing is placed in the areas where the need has been
25 identified by current studies.

26 **SECTION 2. SEVERABILITY:**

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

1 **SECTION 3. APPLICABILITY:**

2 This Ordinance shall constitute a uniform law applicable to all unincorporated and
3 incorporated areas in Palm Beach County to the extent provided by law.

4 **SECTION 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

5 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
6 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or
7 re-lettered to accomplish such and the word "ordinance" may be changed to "section," "article" or
8 other appropriate word.

9 **SECTION 5. EFFECTIVE DATE:**

10 The provisions of this Ordinance shall become effective upon filing with the Department of
11 State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
County, Florida, on this the ____ day of _____, 2012.

**SHARON R. BOCK, CLERK
& COMPTROLLER**

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

By: _____
Deputy Clerk

By: _____
Shelley Vana, Chair

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 2012.