Agenda Item #:

51-1

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: Fe	bruary 4, 2014	[]	Consent Ordinance	[x]	Regular Public Hearing
Department Submitted By: Submitted For:	County Attorney's Office Department of Public Safety C	onsum	ner Affairs Div	<u>/ision</u>	

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on March 11, 2014, at 9:30 a.m.: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 17, Article I (Ordinance No. 1980-12); Relating to Licenses, Taxation and Miscellaneous Business Regulations, to be known as the "Palm Beach County Motor Vehicle Fuel Price Posting Ordinance"; providing for Fuel Price Signs; providing for Repeal of Laws in Conflict; providing for a Savings Clause; providing for Severability; providing for Inclusion in the Code of Laws and Ordinances; providing for Captions; and providing an Effective Date.

<u>Summary</u>: The current Motor Vehicle Fuel Price Posting Ordinance requires every motor vehicle fuel service station to prominently and continuously display specific signage indicating the type of motor vehicle fuel available for sale, the minimum price per gallon in numerals at least six (6) inches tall, and the type of service offered for the displayed price, but it does not require the seller to display the maximum price per gallon a consumer will be charged for each type of motor vehicle fuel available for sale or require the seller to indicate on the sign whether the displayed price is a "discounted" price for cash sales. Amending the current ordinance to require retailers of motor vehicle fuel to post the highest price a customer would be required to pay and to prominently indicate on the same sign whether the advertised price is discounted for cash sales, will prevent consumers from being misled at the pump. The League of Cities has no opposition to the proposed Ordinance amendments. <u>Countywide</u> (PGE)

Background and Policy Issues: The global market forces affecting the price of gasoline on a weekly, if not daily, basis requires the proposed amendments to the current Motor Vehicle Fuel Price Posting Ordinance. The amendments will address consumer concerns that some gasoline stations in the County advertise the minimum price per gallon of gasoline without indicating that the displayed price is being offered for "cash only" sales; consumers are therefore not informed of the higher price they will be charged for using a credit card until the gasoline is pumped. In addition to posting the maximum price per gallon and indicating "cash only" designations, the proposed amendments also include requirements for nighttime illumination, freedom from vegetation obstruction and a civil penalty of two hundred fifty dollars (\$250.00) for the first violation and five hundred dollars (\$500.00) for each repeat violation.

Attachments:

	Posting Ordinance (with delineations) Posting Ordinance (without delineation	s)	
e .		,	
Recommended by:	County Attorney	Date	=
Approved By:	N/A	Date	

II. FISCAL IMPACT ANALYSIS

A. Fi	ve Year Summary of Fi	scal Impact	20			
F	iscal Years	2014	2015	2016	2017	2018
Opera Exter Progr	al Expenditures ating Costs nal Revenues am Income (County) nd Match (County)				-	
Net	Fiscal Impact	**				
POSI	DITIONAL FTE TIONS (Cumulative) m Included In Current I	Budget? Ye	s No	· -	· · · · · · · · · · · · · · · · · · ·	25 25
Budg	et Account Exp No: Fu Rev No: Fu	ind Depa ind Depa	rtment Unit rtment Unit	Object		
B. C.	**Although the proposed amendments to the ordinance include a provision for a \$250 fine for the first violation and a \$500 fine for a repeat violation, the fiscal impact is indeterminable at this time. *Departmental Fiscal Review:					
		III. REVIEW	COMMENTS			
A.	OFMB Fiscal and/or O	Contract Dev. a	An. J.	nments:	ol)/(0))	4
B.	Legal Sufficiency: Assistant County Att	College (21/1/14			r Po
C.	Other Department Re	view:				
	Department Dir	ector	e a			

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

1	ORDINANCE NO. 2014
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 17, ARTICLE I OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 1980-12) RELATING TO LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS, TO BE KNOWN AS THE PALM BEACH COUNTY MOTOR VEHICLE FUEL PRICE POSTING ORDINANCE"; PROVIDING FOR FUEL PRICE SIGNS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.
19	WHEREAS, the Board of County Commissioners of Palm Beach County finds and
20	declares that the public welfare and safety of the existing and future residents requires the
21	regulation and control of retail sales of motor vehicle fuel to the general public; and
22	WHEREAS, Palm Beach County regulates the display of signs on the premises of motor
23	vehicle fuel service stations that operate in the unincorporated and incorporated areas of the
24	County; and
25	WHEREAS, it is now necessary to amend Article I of Chapter 17 Sec. 2, of the Palm
26	Beach County Code to address consumers' concerns and prevent consumers from being misled,
27	to require retailers of motor vehicle fuel to post the highest price a customer would be required to
28	pay; and
29	WHEREAS, it is also necessary to amend Article I of Chapter 17 Sec. 2, of the Palm
30	Beach County Code to further protect consumers and ensure they are not misled, to require
31	retailers of motor vehicle fuel selling fuel at a discounted price to customers paying cash, to
32	prominently post on the signage displaying the price that it is a "cash only" sales price.
33 34 35 36 37	NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:
38	Section 1. Fuel Price Signs.
39 40	Chapter 17, Article I Section 17 - 2 of the Palm Beach County Code is amended to read as
41	follows:
42	

- 1 Every person that engages in the retail sales of motor vehicle fuel to the general public shall
- 2 prominently and continuously display signs on the premises according to Standard I or Standard

II and Standard III:

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(1) Standard I:

- 5
 6 a. At least one (1) sign shall be displayed which is a minimum of ten (10) square feet and a maximum of fifteen (15) square feet on its usable face.
 - b. The sign shall be prominently placed and readable by motorists traveling on the abutting streets.
 - c. The sign shall clearly indicate the types of motor vehicle fuel available for sale (i.e., leaded, unleaded, diesel, gasohol, etc.) in full or abbreviated form.
 - d. The sign shall indicate the <u>minimummaximum</u> retail price per gallon, or other unit, to the nearest tenth of a cent inclusive of all taxes, in numerals at least six (6) inches tall, for each kind of motor vehicle fuel available for sale. If prices are indicated in units other than "price/U.S. gallon," the unit must be indicated in lettering not less than three (3) inches tall.
 - e. If the prices displayed are for self-service or other limited type of service, the sign must clearly indicate the type of service.
 - f. All fuels and services displayed on the signs must be available at the posted prices.

(2) Standard II:

- a. Pump topper signs placed on the top of each pump.
- b. The signs must be placed so they are easily readable by motorists traveling on the abutting streets.
- c. The sign shall indicate the <u>minimum maximum</u> retail price per gallon, or other unit, to the nearest tenth of a cent inclusive of all taxes, in numerals at least six (6) inches tall for the motor vehicle fuels available at that pump. If prices are indicated in units other than "price/U.S. gallon," the unit must be indicated in lettering not less than three (3) inches tall.
- d. If the prices posted are for self-service or other limited type of service, the sign must clearly indicate the type of service.
- e. All fuels and types of service displayed on the signs must be available at the posted prices.
- f. Either the sign, or the pump it is attached to, must indicate the type of fuel available at that pump (i.e., leaded, unleaded, diesel, gasohol, etc.) in full or abbreviated form, easily readable from the abutting streets.

(3) Standard III:

- a. Any conditions of sale to obtain motor vehicle fuel for a discounted cash price shall be prominently displayed in lettering at least six (6) inches tall, for each kind of motor vehicle fuel available for sale on the sign as a "cash only" price.

 The "cash only" designation shall be positioned adjacent to the discounted price for each type of motor vehicle fuel sold at the discounted price.
- b. The size of the discounted price sign shall conform to the requirements in Standards I and II (at least six (6) inches tall). Such sign shall be clearly visible and legible to motorists of approaching motor vehicles on the abutting streets, and shall be illuminated in a manner that makes the sign visible at night to a person of average visual acuity.

1	c. The sign(s) shall be kept free from vegetation or other obstructions that may block
2	the view of the advertised price on the sign from the adjacent street or roadway or
3	otherwise camouflage the motor fuel pricing.
4	d. Any person engaging in the retail sales of motor vehicle fuel found to be in
5	violation of this Section of the Palm Beach Code shall be required to pay to Palm
6	Beach County a civil penalty of Two Hundred Fifty Dollars (\$250.00) for the first
7	violation and Five Hundred Dollars (\$500.00) for each repeat violation.
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8	Section 2. Repeal of laws in conflict.
10	All local laws and ordinances applying to the unincorporated area of Palm Beach County in
11	conflict with any provision of this article are hereby repealed to the extent of any conflict.
12	Section 3. Scope of Ordinance.
13 14	This Ordinance shall be applicable in both the unincorporated and incorporated areas of Palm
15	Beach County, except that it shall not apply in any municipality that has adopted and maintains
16	in effect ordinances or regulations governing the same matters.
17 18 19	Section 4. Savings clause.
20	Notwithstanding the section of this Ordinance regarding the repeal of laws in conflict, all
21	administrative and court orders, fines, and pending enforcement issued pursuant to this authority
22	and procedures established by Chapter 17, Article I, Section 17-2, of the Palm Beach County
23	Code, shall remain in full force and effect.
24 25	Section 5. Severability.
26 27	If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
28	held by the Court to be unconstitutional, inoperative or void, it is the intent of the Board of
29	County Commissioners that such holding shall not affect the remainder of this Ordinance.
30	
31 32	Section 6. Inclusion in the a Code of Laws and Ordinances.
33	The provisions of this Ordinance shall become and be made a part of the code of laws and
34	ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered
35	or re-lettered to accomplish such, and the word "ordinance" may be changed to "section,"
36	"article," or any other appropriate word.
37 38 39	Section 7. Captions.
40	The captions, section headings, and section designations used in this Ordinance are for

1	convenience only and shall have no effect on the interpretation of the provisions of this
2	Ordinance.
3 4 5 6	Section 8. Effective Date The provisions of this Ordinance shall become effective upon filing with the Department of
7	State.
8	APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
9	County, Florida, on this the day of, 2014.
10	
11 12 13 14	SHARON R. BOCK, CLERK PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
16 17 18	By: By: Priscilla A. Taylor, Mayor
19 20 21 22 23	APPROVED AS TO FORM AND LEGAL SUFFICIENCY
24 25	By: County Attorney
26 27	
28	EFFECTIVE DATE: Filed with the Department of State on the day of
29	, 2014.

1	ORDINANCE NO. 2014
2	AN ORDINANCE OF THE BOARD OF COUNTY
4	COMMISSIONERS OF PALM BEACH COUNTY,
5	FLORIDA, AMENDING CHAPTER 17, ARTICLE I OF THE
6	PALM BEACH COUNTY CODE (ORDINANCE NO. 1980-
7	12) RELATING TO LICENSES, TAXATION AND
8	MISCELLANEOUS BUSINESS REGULATIONS, TO BE
9	KNOWN AS THE PALM BEACH COUNTY MOTOR
10	VEHICLE FUEL PRICE POSTING ORDINANCE";
11	PROVIDING FOR FUEL PRICE SIGNS; PROVIDING FOR
12	REPEAL OF LAWS IN CONFLICT; PROVIDING FOR A
13	SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY;
14	PROVIDING FOR INCLUSION IN THE CODE OF LAWS
15	AND ORDINANCES; PROVIDING FOR CAPTIONS; AND
16	PROVIDING FOR AN EFFECTIVE DATE.
17	
18 19	WHEREAS, the Board of County Commissioners of Palm Beach County finds and
20	declares that the public welfare and safety of the existing and future residents requires the
21	regulation and control of retail sales of motor vehicle fuel to the general public; and
22	WHEREAS, Palm Beach County regulates the display of signs on the premises of motor
23	vehicle fuel service stations that operate in the unincorporated and incorporated areas of the
24	County; and
25	WHEREAS, it is now necessary to amend Article I of Chapter 17 Sec. 2, of the Palm
26	Beach County Code to address consumers' concerns and prevent consumers from being misled
27	to require retailers of motor vehicle fuel to post the highest price a customer would be required to
28	pay; and
29	WHEREAS, it is also necessary to amend Article I of Chapter 17 Sec. 2, of the Palm
30	Beach County Code to further protect consumers and ensure they are not misled, to require
31	retailers of motor vehicle fuel selling fuel at a discounted price to customers paying cash, to
32	prominently post on the signage displaying the price that it is a "cash only" sales price.
33 34	NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
35 36	COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:
37 38	Section 1. Fuel Price Signs.
39	Chapter 17, Article I Section 17 - 2 of the Palm Beach County Code is amended to read as
40	follows:
41	Every person that engages in the retail sales of motor vehicle fuel to the general public shall
42	prominently and continuously display signs on the premises according to Standard I or Standard
43	II and Standard III:

1	(1)	Standard I:
2 3	a.	At least one (1) sign shall be displayed which is a minimum of ten (10) square feet
4		and a maximum of fifteen (15) square feet on its usable face.
5	b.	The sign shall be prominently placed and readable by motorists traveling on the
6		abutting streets.
7	c.	The sign shall clearly indicate the types of motor vehicle fuel available for sale (i.e.,
8		leaded, unleaded, diesel, gasohol, etc.) in full or abbreviated form.
9	d.	The sign shall indicate the maximum retail price per gallon, or other unit, to the
10		nearest tenth of a cent inclusive of all taxes, in numerals at least six (6) inches tall, for
11		each kind of motor vehicle fuel available for sale. If prices are indicated in units other
12		than "price/U.S. gallon," the unit must be indicated in lettering not less than three (3)
13		inches tall.
14	e.	If the prices displayed are for self-service or other limited type of service, the sign
15		must clearly indicate the type of service.
16	f.	All fuels and services displayed on the signs must be available at the posted prices.
17	2)	Standard II:
18	a.	Pump topper signs placed on the top of each pump.
19	b.	The signs must be placed so they are easily readable by motorists traveling on the
20		abutting streets.
21	c.	The sign shall indicate the maximum retail price per gallon, or other unit, to the
22		nearest tenth of a cent inclusive of all taxes, in numerals at least six (6) inches tall for
23		the motor vehicle fuels available at that pump. If prices are indicated in units other
24		than "price/U.S. gallon," the unit must be indicated in lettering not less than three (3)
25		inches tall.
26	d.	If the prices posted are for self-service or other limited type of service, the sign must
27		clearly indicate the type of service.
28	e.	All fuels and types of service displayed on the signs must be available at the posted
29		prices.
30	f.	Either the sign, or the pump it is attached to, must indicate the type of fuel available
31		at that pump (i.e., leaded, unleaded, diesel, gasohol, etc.) in full or abbreviated form,
32		easily readable from the abutting streets.

(3) Standard III:

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- a. Any conditions of sale to obtain motor vehicle fuel for a discounted cash price shall be prominently displayed in lettering at least six (6) inches tall, for each kind of motor vehicle fuel available for sale on the sign as a "cash only" price. The "cash only" designation shall be positioned adjacent to the discounted price for each type of motor vehicle fuel sold at the discounted price.
 - b. The size of the discounted price sign shall conform to the requirements in Standards I and II (at least six (6) inches tall). Such sign shall be clearly visible and legible to motorists of approaching motor vehicles on the abutting streets, and shall be illuminated in a manner that makes the sign visible at night to a person of average visual acuity.
 - c. The sign(s) shall be kept free from vegetation or other obstructions that may block the view of the advertised price on the sign from the adjacent street or roadway or otherwise camouflage the motor fuel pricing.
 - d. Any person engaging in the retail sales of motor vehicle fuel found to be in violation of this Section of the Palm Beach Code shall be required to pay to Palm Beach County a civil penalty of Two Hundred Fifty Dollars (\$250.00) for the first violation and Five Hundred Dollars (\$500.00) for each repeat violation.

Section 2. Repeal of laws in conflict.

- 20 All local laws and ordinances applying to the unincorporated area of Palm Beach County in
- 21 conflict with any provision of this article are hereby repealed to the extent of any conflict.

22 Section 3. Scope of Ordinance.

- 23 This Ordinance shall be applicable in both the unincorporated and incorporated areas of Palm
- 24 Beach County, except that it shall not apply in any municipality that has adopted and maintains
- 25 in effect ordinances or regulations governing the same matters.

26 Section 4. Savings clause.

- Notwithstanding the section of this Ordinance regarding the repeal of laws in conflict, all
- 29 administrative and court orders, fines, and pending enforcement issued pursuant to this authority
- 30 and procedures established by Chapter 17, Article I, Section 17-2, of the Palm Beach County
- 31 Code, shall remain in full force and effect.

1	Section 5. Severability.				
2	If any section, paragraph, sentence, clause,	phrase, or word of this Ordinance is for any reason			
4	held by the Court to be unconstitutional, inoperative or void, it is the intent of the Board of				
5	County Commissioners that such holding shall not affect the remainder of this Ordinance.				
6	Section 6. Inclusion in the a Code of Law	s and Ordinances.			
7 8	The provisions of this Ordinance shall be	come and be made a part of the code of laws and			
9	ordinances of Palm Beach County, Florida.	The sections of this Ordinance may be renumbered			
10	or re-lettered to accomplish such, and th	e word "ordinance" may be changed to "section,"			
11	"article," or any other appropriate word.				
12	Section 7. Captions.	a v			
13 14	The captions, section headings, and sec	tion designations used in this Ordinance are for			
15	convenience only and shall have no effect	ect on the interpretation of the provisions of this			
16	Ordinance.	a a			
17	Section 8. Effective Date				
18 19	The provisions of this Ordinance shall be	come effective upon filing with the Department of			
20	State.				
21	APPROVED and ADOPTED by the	he Board of County Commissioners of Palm Beach			
22	County, Florida, on this the day of	, 2014.			
23					
24 25 26 27 28	SHARON R. BOCK, CLERK	PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS			
28 29 30 31 32	By: Deputy Clerk	By:Priscilla A. Taylor, Mayor			
33 34 35	APPROVED AS TO FORM AND LEGAL SUFFICIENCY				
36 37	By:				
38 39	By:County Attorney				
40	EFFECTIVE DATE: Filed with the	Department of State on the day of			
	2014				