

Continued From 3/11/14 + 4/15/14

Agenda Item #:

5A-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

ADD-on

Meeting Date: April 22, 2014

<input type="checkbox"/>	Consent	<input type="checkbox"/>	Regular
<input type="checkbox"/>	Ordinance	<input checked="" type="checkbox"/>	Public Hearing

Department

Submitted By: County Attorney's Office

Submitted For: Department of Public Safety Consumer Affairs Division

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 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 for an Effective Date.

Summary: On February 4, 2014, the Board of County Commissioners (the "Board") held a preliminary reading of this Ordinance and authorized advertising for public hearing on March 11, 2014. On March 11, 2014, the Board continued the public hearing until April 15, 2014. On April 15, 2014, the Board continued the public hearing until April 22, 2014. The current Motor Vehicle Fuel Price Posting Ordinance requires gasoline stations 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 fuel 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 gasoline retailers 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. Staff has met with the industry and the industry has requested a one year time period in order to come into compliance. Accordingly, the Ordinance has been amended so that the sellers would be allowed up to one (1) year to retrofit signs to meet the requirements. During the interim, if cash discounts are offered, the sellers shall place a sign at the pump. The League of Cities has no opposition to the proposed Ordinance amendments. Countywide (PGE)

Background and Policy Issues: The proposed amendments 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:

1. Proposed Fuel Price Posting Ordinance (without delineations)
2. Proposed Fuel Price Posting Ordinance (with delineations)

Recommended by: _____

County Attorney

Date

4/17/14

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	_____**	_____	_____	_____	_____

ADDITIONAL FTE

POSITIONS (Cumulative) _____

Is Item Included In Current Budget? Yes _____ No _____

Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
Rev No: Fund _____ Department _____ Unit _____ Object _____

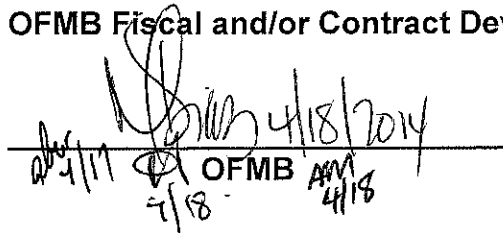
B. Recommended Sources of Funds/Summary of Fiscal Impact:

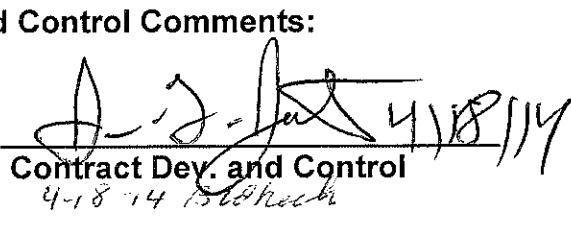
**Although the proposed amendments to the ordinance include a provision for a \$250 fine for the first violation and a \$500 fine for a repeat violation, the fiscal impact is indeterminable at this time.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

 4/18/2014
OFMB 4/18

 4/18/14
Contract Dev. and Control 4-18-14 1568/ack

B. Legal Sufficiency:

 4/17/14
Assistant County Attorney

C. Other Department Review:

Department Director

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

[illegible]

WHEREAS, the Board of County Commissioners of Palm Beach County finds and declares that the public welfare and safety of the existing and future residents requires the regulation and control of retail sales of motor vehicle fuel to the general public; and

WHEREAS, it is now necessary to amend Article I of Chapter 17 Sec. 2, of the Palm Beach County Code to address consumers' concerns and prevent consumers from being misled, to require retailers of motor vehicle fuel to post the highest price a customer would be required to pay; and

WHEREAS, it is also necessary to amend Article I of Chapter 17 Sec. 2, of the Palm Beach County Code to further protect consumers and ensure they are not misled, to require retailers of motor vehicle fuel selling fuel at a discounted price to customers paying cash, to prominently post on the signage displaying the price that it is a “cash only” sales price.

Section 1. Fuel Price Signs.

1

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

(1) Standard I:

- 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 maximum 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 maximum 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

1 kind of motor vehicle fuel available for sale on the sign as a "cash only" price.
2 The "cash only" designation shall be positioned adjacent to the discounted price
3 for each type of motor vehicle fuel sold at the discounted price.

4 b. The size of the discounted price sign shall conform to the requirements in
5 Standards I and II (at least six (6) inches tall). Such sign shall be clearly visible
6 and legible to motorists of approaching motor vehicles on the abutting streets.

7 c. The sign(s) shall be kept free from vegetation or other obstructions that may block
8 the view of the advertised price on the sign from the adjacent street or roadway or
9 otherwise camouflage the motor fuel pricing.

10 d. Any person engaging in the retail sales of motor vehicle fuel found to be in
11 violation of this Section of the Palm Beach Code shall be required to pay to Palm
12 Beach County a civil penalty of Two Hundred Fifty Dollars (\$250.00) for the first
13 violation and Five Hundred Dollars (\$500.00) for each repeat violation.

14 e. Persons that engage in the retail sales of motor vehicle fuel to the general public
15 shall have one year from the effective date of this ordinance to come into
16 compliance with signage requirements pertaining to maximum prices per gallon.
17 During the one year period, if a person engaging in the retail sale of motor vehicle
18 fuel to the general public offers a cash discount, they shall place a sign at the
19 pump indicating the type of fuel available from the discounted price.

20 **Section 2. Repeal of Laws in Conflict.**

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

24 **Section 3. Scope of Ordinance.**

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

29 30 **Section 4. Savings clause.**

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

36 37 **Section 5. Severability.**

38
39 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
40 held by the Court to be unconstitutional, inoperative or void, it is the intent of the Board of

County Commissioners that such holding shall not affect the remainder of this Ordinance.

Section 6. Inclusion in the a Code of Laws and Ordinances.

The provisions of this Ordinance shall become and be made a part of the code of laws and ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 7. Captions.

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 8. Effective Date.

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

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the ____ day of _____, 2014.

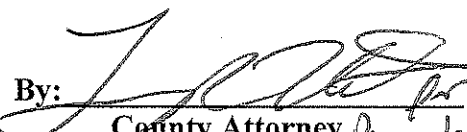
SHARON R. BOCK, CLERK

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

By: _____
Deputy Clerk

By: _____
Priscilla A. Taylor, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: 
County Attorney Pamela Edelberg

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 2014.

[illegible]

WHEREAS, the Board of County Commissioners of Palm Beach County finds and declares that the public welfare and safety of the existing and future residents requires the regulation and control of retail sales of motor vehicle fuel to the general public; and

WHEREAS, it is now necessary to amend Article I of Chapter 17 Sec. 2, of the Palm Beach County Code to address consumers' concerns and prevent consumers from being misled, to require retailers of motor vehicle fuel to post the highest price a customer would be required to pay; and

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

Chapter 17, Article I Section 17 - 2 of the Palm Beach County Code is amended to read as follows:

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

(1) Standard I:

- 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 maximum 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 maximum 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.
- 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.

1 d. Any person engaging in the retail sales of motor vehicle fuel found to be in
2 violation of this Section of the Palm Beach Code shall be required to pay to Palm
3 Beach County a civil penalty of Two Hundred Fifty Dollars (\$250.00) for the first
4 violation and Five Hundred Dollars (\$500.00) for each repeat violation.

5 e. Persons that engage in the retail sales of motor vehicle fuel to the general public
6 shall have one year from the effective date of this ordinance to come into
7 compliance with signage requirements pertaining to maximum prices per gallon.
8 During the one year period, if a person engaging in the retail sale of motor vehicle
9 fuel to the general public offers a cash discount, they shall place a sign at the
10 pump indicating the type of fuel available from the discounted price.

11 **Section 2. Repeal of laws in conflict.**
12

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

15 **Section 3. Scope of Ordinance.**
16

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

20
21 **Section 4. Savings clause.**
22

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

27
28 **Section 5. Severability.**
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30 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
31 held by the Court to be unconstitutional, inoperative or void, it is the intent of the Board of
32 County Commissioners that such holding shall not affect the remainder of this Ordinance.

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39 "article," or any other appropriate word.

1
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3
4 The captions, section headings, and section designations used in this Ordinance are for
5 convenience only and shall have no effect on the interpretation of the provisions of this
6 Ordinance.

7
8 **Section 8. Effective Date.**

9
10 The provisions of this Ordinance shall become effective upon filing with the Department of
11 State.

12 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
13 County, Florida, on this the ____ day of _____, 2014.

14
15 **SHARON R. BOCK, CLERK**

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

16
17
18
19
20 By: _____
21 Deputy Clerk

By: _____
Priscilla A. Taylor, Mayor

22
23
24 **APPROVED AS TO FORM AND
25 LEGAL SUFFICIENCY**

26
27
28 By: _____
29 County Attorney

30
31
32 **EFFECTIVE DATE:** Filed with the Department of State on the ____ day of
33 _____, 2014.