

36-3

Agenda Item #: _____

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

BOARD APPOINTMENT SUMMARY

Meeting Date: October 7, 2014

Department:

Submitted By: Office of Financial Management and Budget

Submitted For: Contract Review Committee

I. EXECUTIVE BRIEF

Motion and Title: **STAFF RECOMMENDS MOTION TO APPROVE:** Re-appointment of F. Malcolm Cunningham, Jr. to the Contract Review Committee.

<u>Nominee</u>	<u>Seat No.</u>	<u>Nominated By</u>
F. Malcolm Cunningham, Jr., Esq.	4	Commissioner Taylor Commissioner Burdick Commissioner Valeche Commissioner Abrams Commissioner Berger Commissioner Santamaria

Summary: On December 6, 2011 the Board of County Commissioners voted to add an At-Large appointee to the Contract Review Committee. The Board directed the new member to be a representative from the community with general contracting experience or an attorney experienced in construction law. Malcolm Cunningham, Esq., was appointed to the Contract Review Committee on March 20, 2012. Mr. Cunningham is a local attorney admitted to practice in Florida, and he specializes in commercial and construction litigation. As Mr. Cunningham's term has expired, re-appointment is being recommended as he has served the Committee and County well during his tenure. Staff is recommending a 3-year term for Mr. Cunningham, per Board policy. Countywide (JM)

Background and Justification: Per the direction of the Board, a fourth member of the Contract Review Committee was added on December 6, 2011. The new member is an at-large appointee from the Community with experience in general contracting or an attorney with experience in construction law. The other three members of the Committee are the County Attorney (or designee), the County Engineer (or designee), and the Director of Contract Development and Control (or designee) who serves as the Committee's chair. The Contract Review Committee meets weekly, and discusses and approves items brought forth by Departments that effect changes to Board approved construction or design professional contracts. The Committee also votes on Final Contract Summaries for construction projects.

Attachment:

1. Application with résumé

Recommended by: Elizabeth Blaser 9/3/14
Department Director Date

Approved by: James C. Myers 9/4/14
Assistant County Attorney Date

BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION

The information provided on this form will be used in considering your nomination. Please COMPLETE SECTION II IN FULL. Answer "none" or "not applicable" where appropriate. Please attach a biography or résumé to this form.

Section I (Department): (Please Print)

Board Name: Contract Review Committee Advisory ☐ Not Advisory ☒

☒ At Large Appointment or ☐ District Appointment /District #: _____

Term of Appointment: 3 Years. From: 9/9/14 To: 9/8/17

Seat Requirement: General Contractor's experience or an attorney's experience in construction law Seat #: _____

☒ *Reappointment or ☐ New Appointment

or ☐ to complete the term of _____ Due to: ☐ resignation ☐ other

Completion of term to expire on: _____

*When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners: _____

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Cunningham F. Maholm Jr.
Last First Middle

Occupation/Affiliation: Attorney

Owner ☐ Employee ☐ Officer ☐

Business Name: The Cunningham Law Firm, P.A.

Business Address: 400 S Australian Ave., Ste 700

City & State: W. Palm Beach, FL Zip Code: 33401

Residence Address: 1217 Avondale Ln

City & State: W. Palm Bch, FL Zip Code: 33409

Home Phone: 561 616.5540 Business Phone: 561 833.6480 Ext.

Cell Phone: () Fax: 561 833.6558

Email Address: fmccnn@cunninghamlaw.com

Mailing Address Preference: ☒ Business ☐ Residence

Have you ever been convicted of a felony: Yes _____ No ☒

If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: ☒ Male ☐ Female
☐ Native-American ☐ Hispanic-American ☐ Asian-American ☒ African-American ☐ Caucasian

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

ETHICS TRAINING: All board members are required to read and complete training on Article XIII, the Palm Beach County Code of Ethics, and read the State Guide to the Sunshine Amendment, Article XIII, and the training requirement can be found on the web at: <http://www.palmbeachcountyethics.com/training.htm>. Ethics training is on-going, and pursuant to PPM CW-P-80 is required before appointment, and upon reappointment.

☒ By signing below I acknowledge that I have read, understand, and agree to abide by Article XIII, the Palm Beach County Code of Ethics, and I have received the required Ethics training (in the manner checked below):

✓ By watching the training program on the Web, DVD or VHS on _____ 20 _____
By attending a live presentation given on _____ 20 _____

AND

☐ By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: [Signature] Printed Name: F. W. Allen Cunningham Date: 8/13/14

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website www.palmbeachcountyethics.com or contact us via email at ethics@palmbeachcountyethics.com or (561) 233-0724.

Return this FORM to:
{Insert Liaison Name Here}, {Insert Department/Division Here}
{Insert Address Here}

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on:

Commissioner's Signature: Proctor Date: 8/18/14

Pursuant to Florida's Public Records Law, this document may be reviewed and photocopied by members of the public.

Revised 01/14/2014

Section II Continued:

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

<u>Contract/Transaction No.</u>	<u>Department/Division</u>	<u>Description of Services</u>	<u>Term</u>
<u>Example: (R#XX-XX/PO XX)</u>	<u>Parks & Recreation</u>	<u>General Maintenance</u>	<u>10/01/00-09/30/2100</u>
<u>N/A</u>			
(Attach Additional Sheet(s), if necessary)			
OR			
NONE	<input checked="" type="checkbox"/>	NOT APPLICABLE/ (Governmental Entity)	<input type="checkbox"/>

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AND

☐ By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: [Signature] Printed Name: F. Malachuk Cunningham Date: 8/13/14

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Section III (Commissioner, if applicable):

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Commissioner's Signature: Paula Burdick Date: 8-14-2014

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Revised 01/14/2014

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*Applicant's Signature: [Signature] Printed Name: F. M. L. Cunningham Date: 8/13/14

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{Insert Address Here}

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: [Signature] Date: 8/19/14

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Revised 01/14/2014

Section II Continued:

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*Applicant's Signature: [Signature] Printed Name: F. M. L. C. Cunningham Date: 8/13/14

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{Insert Address Here}

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on:

Commissioner's Signature: S. Abrams (15) Date: 8/19/14

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Revised 01/14/2014

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*Applicant's Signature: [Signature] Printed Name: F. M. McLaughlin Date: 8/13/14

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{Insert Address Here}

Section III (Commissioner, if applicable):
Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: Mary Lou Berger Date: 8-28-14

Pursuant to Florida's Public Records Law, this document may be reviewed and photocopied by members of the public. Revised 01/14/2014

Section II Continued:

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*Applicant's Signature: [Signature] Printed Name: F. M. L. Cunningham Date: 8/13/14

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{Insert Liaison Name Here}, {Insert Department/Division Here}
{Insert Address Here}

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on:

Commissioner's Signature: [Signature] Date: 8/21/14

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Revised 01/14/2014

Curriculum Vitae
F. Malcolm Cunningham, Jr.

F. Malcolm Cunningham, Jr., is a native of Palm Beach County, Florida. He received his BA degree from Fisk University in Nashville, Tennessee in 1977 and his JD degree from Howard University in Washington, D.C., in 1980, where he served as Associate Editor of the Howard Law Journal. Following his graduation from Howard University, Cunningham served as a law clerk to the Honorable Joseph W. Hatchett, Circuit Judge, United States Court of Appeals for the Fifth Circuit (1980-81).

Admitted to practice law in Florida in 1980, Cunningham is an AV rated attorney. His practice is concentrated in business and construction litigation and he represents contractors, sureties, public owners, insurance companies and developers. Mr. Cunningham is recognized in the national legal community for professional achievement. Cunningham has served as a member of the governing committee of the ABA Forum on the Construction Industry. Additionally, he is a former Vice Chair of the ABA Tort and Insurance Practice Section's Fidelity and Surety Law Committee. Cunningham also served on the Council of the ABA Tort and Insurance Practice Section ("TIPS").

Mr. Cunningham has written for and lectured to trade associations and Bar groups including the Insurance Coverage Litigation Committee and the Fidelity and Surety Law Committee of TIPS on issues related to construction. Cunningham is the author of numerous papers and articles including F. Malcolm Cunningham, Jr. & Amy L. Fischer, *Insurance Coverage in Construction-The Unanswered Question*, 33 Tort & Ins. L.J. 1063 (Summer 1998) and *The Ethical Considerations of Representing a Principal and a Surety*, reprinted as Chapter 13 of the Bond Default Manual, Second Edition.

Cunningham has been active in business and politics in West Palm Beach. Cunningham is the managing partner of The Cunningham Law Firm, P.A. Cunningham serves on the Hospice Foundation Board and is a former member of the Economic Council of Palm Beach County, Florida and a former Chairman of the Palm Beach County Criminal Justice Commission. Cunningham also served on the board of the local district council for HRS.

Cunningham is a member of Tabernacle Missionary Baptist Church located in West Palm Beach. He is married to the former Pamela Jeffrey and has four children.