

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

Meeting Date: November 22, 2016 [] Consent [] Regular
[] Workshop [X] Public Hearing
Department:
Submitted By: COUNTY ATTORNEY
Submitted For: FIRE-RESCUE DEPARTMENT

I. EXECUTIVE BRIEF

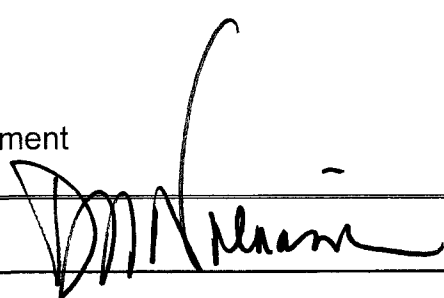
Motion and Title: Staff recommends motion to adopt: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 11, Article VII, of the Palm Beach County Code, known as the Palm Beach County Regional Hazardous Materials Response Ordinance of 1998 (codifying Ordinance 98-13, as amended); amending section 11-130 of the Palm Beach County Code, relating to the Oversight Committee; incorporating uniform policies and procedures for County advisory boards; amending Section 11-132 of the Palm Beach County Code relating to cost recovery; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; providing for captions; and providing for an effective date.

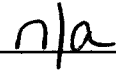
Summary: The Palm Beach County Regional Hazardous Materials Response Ordinance of 1998 (Ordinance No. 98-13) as amended, provides for regional hazardous materials response teams comprised of fire departments within Palm Beach County. The Ordinance also provides for a hazardous material Oversight Committee. The Board adopted Resolution No. 2013-0193, imposing specific requirements on County advisory boards, such as the hazardous materials Oversight Committee. This Ordinance is being revised to provide that the uniform policies and procedures in Resolution No. 2013-0193 will apply to the hazardous materials Oversight Committee. The Ordinance is also being revised to clarify cost recovery provisions. (Countywide) (PFK)

Background and Policy Issues: There are currently four (4) hazmat response teams. The hazardous materials Oversight Committee, through its technical review team, oversees the delivery of hazmat services and ensures compliance with the approved Standards of Performance by each of the team providers. The revising Ordinance implements the requirements of Resolution No. 2013-0193, and its uniform policies and procedures for the hazardous materials Oversight Committee; and clarifies cost recovery language in the Ordinance.

Attachment:

- 1. Ordinance Amendment

Recommended by:  **11.2.14**
Date

Approved by:  **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	2017	2018	2019	2020	2021
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 No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

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

** No Fiscal impact

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

[Signature] 11/3/16
OFMB 211/2

[Signature] 11/10/16
Contract Development and Control

B. Legal Sufficiency:

[Signature] 11/1/16
Assistant County Attorney

C. Other Department Review:

Department Director

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

ORDINANCE NO. 2016-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 11, ARTICLE VII, OF THE PALM BEACH COUNTY CODE, KNOWN AS THE PALM BEACH COUNTY REGIONAL HAZARDOUS MATERIALS RESPONSE ORDINANCE OF 1998 (CODIFYING ORDINANCE 98-13, AS AMENDED); AMENDING SECTION 11-130 OF THE PALM BEACH COUNTY CODE, RELATING TO THE OVERSIGHT COMMITTEE; INCORPORATING UNIFORM POLICIES AND PROCEDURES FOR COUNTY ADVISORY BOARDS; AMENDING SECTION 11-132 OF THE PALM BEACH COUNTY CODE RELATING TO COST RECOVERY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the Board) adopted the Palm Beach County Regional Hazardous Materials Response Ordinance of 1998, Ordinance 98-13 as amended (the Ordinance), codified in Chapter 11, Article VII of the Palm Beach County Code; and

WHEREAS, an Oversight Committee was established by the Ordinance to carry out certain duties and responsibilities on behalf of the Board; and

WHEREAS, the Board of County Commissioners has adopted Resolution 2013-0193, imposing specific requirements on members of County advisory boards; and

WHEREAS, as a County advisory board created by the Ordinance, the Oversight Committee is subject to the provisions of Resolution No. 2013-0193; and

WHEREAS, Palm Beach County Code Section 11-130, codifying Ordinance No. 98-13, as amended, must be amended to comply with the requirements of Resolution No. 2013-0193 and Board direction; and

WHEREAS, Palm Beach County Code Section 11-132, codifying Ordinance No. 98-13, as amended, must be amended to clarify provisions related to cost recovery.

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

Section 1. AMENDMENT TO PALM BEACH COUNTY CODE SECTION 11-130 – OVERSIGHT COMMITTEE:

Section 11-130 is hereby amended as shown below:

1 The board of county commissioners shall appoint a five-member oversight committee to
2 establish the standards and review the effectiveness of delivering hazardous materials
3 emergency response services on a regional basis.

4 (1) Membership. The committee shall consist of one (1) member, representing each of
5 the following groups:

- 6 a. Palm Beach County Health Department;
- 7 b. Palm Beach County League of Cities;
- 8 c. Solid Waste Authority of Palm Beach County;
- 9 d. Fire Chief's Association of Palm Beach County; and
- 10 e. Division of Emergency Management.

11 Appointments shall be based on recommendations submitted by the represented group.
12 Each member shall be appointed to the oversight committee in accordance with Palm
13 Beach County PPM #CW-O-023 "Board Appointments."

14 (2) Terms of office. The members shall serve three-year terms. ~~There shall be no limit~~
15 ~~on the number of terms an individual may serve.~~ The members may serve no more
16 than three consecutive three-year terms.

17 (3) Meetings. The oversight committee shall meet at least quarterly or more often as
18 determined by the membership.

19 (4) Duties and responsibilities. The responsibilities of the oversight committee shall
20 include, but not be limited to:

- 21 a. Recommend a solid waste authority fee schedule to provide a partial
22 funding source for the designated hazardous materials response teams.
- 23 b. Oversee funds recovered as a direct result of response actions in accordance
24 with section 11-132 of this article.
- 25 c. Review, recommend, establish, modify, and oversee performance standards
26 for the delivery of regional hazardous materials response services, including
27 initial response zones for the regional hazardous materials response teams.
28 Prior to modifying any initial response zone, the oversight committee shall
29 seek comment and discussion from the regional hazardous materials
30 response teams.
- 31 d. Monitor and evaluate the distribution of funds and supplies to each of the
32 hazardous materials response service providers.
- 33 e. Review the findings of the technical review team to assure effectiveness of
34 the regional delivery of hazardous materials response services.
- 35 f. Submit a written report, at least annually, to the board of county
36 commissioners, on the effectiveness of the regional hazardous materials
37 response program.
- 38 g. The Oversight Committee shall be subject to the uniform policies and
39 procedures established by the Board as currently set forth in Resolution No.
40 2013-0193, as may be amended by action of the Board.
- 41 h. Oversight Committee members shall be governed by the applicable
42 provisions of the State Ethics Code and the applicable provisions of the
43 Palm Beach County Code of Ethics.

44 (5) Technical review team. The oversight committee shall appoint three (3) members
45 and three (3) alternate members to serve on the technical review team, based upon
46 recommendations from the Fire Chief's Association of Palm Beach County. Each
47 member and alternate member shall be a chief fire officer from a fire-rescue
48 department within the county. No member may serve on the technical review team
49 while the team is reviewing a service provider which employs the member or with
50 whom the member is otherwise directly affiliated. In such case, an alternate member
51 shall serve on the technical review team. An alternate member also may serve on the
52 technical review team when a member is otherwise unavailable to serve. Alternates
53 shall be called to service on a rotational basis.

54 (6) Responsibilities of the technical review team.

- 1 a. Visit sites of each of the haz-mat service providers once a year to assure
2 review and report on compliance with the standards of performance as
3 approved by the oversight committee.
- 4 b. Examine service providers' records to document performance criteria such
5 as, but not limited to: Daily staffing of each haz-mat team, turnout time,
6 response time, minimum equipment accessibility, incident documentation,
7 personnel certifications and in-service training programs.
- 8 c. Participate in each of the significant post incident analysis conducted by the
9 regional hazardous materials response teams.
- 10 d. Submit a written report annually, to the oversight committee on each team's
11 compliance with the established performance standards.
- 12 e. Examine the incidence of hazardous materials emergencies within the entire
13 county and report to the oversight committee on the effectiveness of the
14 regional hazardous materials response teams.

15
16 **Section 2. AMENDMENT TO PALM BEACH COUNTY CODE SECTION 11-132 – COST**
17 **RECOVERY:**

18 Section 11-132 is hereby amended as shown below:

19 (a) Generally. Any person(s) responsible for causing or allowing a discharge or
20 threatened discharge of any hazardous substances which require response actions by a regional
21 hazardous materials response team(s), in order to protect the public health, safety, welfare, or the
22 environment, shall be required to reimburse the responding team(s) for the full amount of the cost
23 of any and all response actions. When responding to an emergency caused by a discharge or
24 threatened discharge of hazardous substances, the responding regional hazardous materials
25 response team(s) shall keep a detailed record of the costs of all response actions. The cost of all
26 response actions shall be calculated in accordance with the following schedule:

27 (1) For all incidents of less than four (4) hours duration, the responsible party shall
28 reimburse the responding regional hazardous materials response team(s) for the costs of all
29 expendable supplies used during response actions, including, but not limited to: Firefighting foam,
30 chemical extinguishing agents, recovery drums, absorbent materials, protective clothing, gloves
31 and testing equipment.

32 (2) For all incidents of four (4) hours or greater in duration, the responsible party shall
33 reimburse the responding regional hazardous materials response team(s) for the costs of all
34 expendable supplies used during response actions, and the costs of all equipment, and apparatus
35 ~~used during response actions and the actual labor costs of personnel assigned to the responding~~
36 ~~regional hazardous materials response team(s) and personnel responding to the incident, as~~
37 determined by the response team(s) to be reasonable. The cost of the equipment and apparatus
38 shall be calculated in accordance with the current FEMA Schedule of Equipment Rates, as may be
39 periodically amended.

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(3) For the purpose of this article, "duration" shall be considered as the time period beginning with the arrival on scene of the first regional hazardous materials response team member and ending with the release of the last regional hazardous materials response team member from the scene and the return to their home station.

(b) Authority to recover costs. Each responding regional hazardous materials response team(s) that responds to an incident is hereby authorized to invoice and collect the emergency response costs from the responsible party. In the event that the responsible party does not reimburse the responding team(s) for the recoverable costs, said team(s) is authorized to seek reimbursement from the federal government in accordance with 40 CFR 310 or other applicable reimbursement program. If a reimbursement program requires coordinated billing among multiple responding teams, then the teams shall cooperate to do so. Further, the county or any municipal jurisdiction may invoice the responsible party for the allowable cost of its municipal services which were required to support the regional hazardous materials response team during its emergency response actions, including, but not limited to, law enforcement and public works services.

(c) Use of recovery funds. All monies recovered from the responsible party or from the federal government as reimbursement for response actions shall be used by the responding team(s) for the following purposes exclusively:

- (1) To provide for the continual restocking of expendable supplies to the responding regional hazardous materials response team(s).
- (2) To provide for the replacement of damaged and/or destroyed nonexpendable equipment to the responding regional hazardous materials response team(s).
- (3) To provide for the enhancement of regional hazardous materials response services.
- (4) As otherwise recommended by the oversight committee.

Section 3. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

1 **Section 4. SEVERABILITY:**

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
3 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
4 holding shall not affect the remainder of this Ordinance.

5
6 **Section 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

7 The provisions of this Ordinance shall become and be made a part of the Palm Beach
8 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish
9 such, and the word ordinance may be changed to section, article, or other appropriate word.

10
11 **Section 6. CAPTIONS:**

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

14
15 **Section 7. EFFECTIVE DATE:**

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

18
19 **REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY**

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APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach

County, Florida, on this the ____ day of _____, 20 ____.

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

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

By: _____
Deputy Clerk

By: _____
Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: Paul F. J. E.
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of

_____, 20 ____.