

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: August 23, 2022 **Consent** **Regular**
 Ordinance **Public Hearing**

Submitted By: County Attorney

Submitted For: Administration

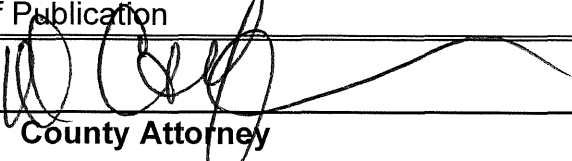
I. EXECUTIVE BRIEF

Motion and Title: **Staff recommends motion to adopt:** an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, repealing Chapter 18, Article V, Section 18-121, et seq., Palm Beach County Code, Ordinance No. 2017-046, "Prohibition of Conversion Therapy on Minors Ordinance"; providing for repeal of laws in conflict; providing for inclusion in the code of laws and ordinances; and providing for effective date.

Summary: On December 21, 2017, the Palm Beach County Board of County Commissioners (BCC) enacted Chapter 18, Article V, Section 18-121, et seq., Palm Beach County Code, Ordinance No. 2017-046, referred to as the "Prohibition of Conversion Therapy on Minors Ordinance" (Ordinance). On June 13, 2018, two therapists filed a single suit against the City of Boca Raton, (the City), and Palm Beach County, (the County), in the United States District Court for the Southern District of Florida in *Otto v. City of Boca Raton, Florida*, Case No. 9:18-CV-80771-RLR, challenging the City's and County's substantially similar conversion therapy ban ordinances. The District Court conducted a hearing on the therapists' claim for a temporary injunction that sought to prohibit the City and the County from enforcing their ordinances, and the District Court denied injunctive relief. The therapists appealed that interlocutory order to the United States Circuit Court of Appeals for the Eleventh Circuit (Eleventh Circuit). The Eleventh Circuit determined that the ordinances violated the First Amendment in *Otto v. City of Boca Raton, Florida*, 931 F.3d 854 (11th Cir. 2020), *reh'g en banc den.*, 2022 WL 2824907 (Jul. 20, 2022). The Eleventh Circuit issued mandate on July 29, 2022, finalizing its decision. In light of the Eleventh Circuit's ruling, the County Attorney recommends repeal of the County's Ordinance utilizing the regular enactment procedure provided for in section 125.66(2)(a), Florida Statutes (2021), which requires publication and consideration of the ordinance at a single public hearing. Countywide (HH)

Background and Policy Issues: In *Otto v. City of Boca Raton, Florida*, 931 F.3d 854 (11th Cir. 2020), *reh'g en banc den.*, 2022 WL 2824907 (Jul. 20, 2022), the Eleventh Circuit determined that the County's Ordinance prohibiting the practice of conversion therapy on minors violated the First Amendment. The *Otto* opinion became final on July 29, 2022, when mandate issued. The County Attorney has analyzed the Court's decision in *Otto*, including the concurring and dissenting opinions on denial of rehearing *en banc*, and recommends that no further appeal be taken from the Eleventh Circuit's decisions. Given the circumstances of this case, the County Attorney recommends repeal of the County's Ordinance utilizing the regular enactment procedure provided for in section 125.66(2)(a), Florida Statutes (2021), which requires publication and consideration of the ordinance at a single public hearing.

- Attachment:** 1. Ordinance Repealing Chapter 18, Article V, Section 18-121, et seq., Palm Beach County Code, Ordinance No. 2017-046
2. Proof of Publication

Recommended by:  8-11-22
 County Attorney **Date**

Approved By: NA _____
 Assistant County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2022 | 2023 | 2024 | 2025 | 2026 |
|------------------------|------|------|------|------|------|
| Capital Expenditures | | | | | |
| Operating Costs | | | | | |
| External Revenues | | | | | |
| Program Income(County) | | | | | |
| In-Kind Match(County) | | | | | |
| NET FISCAL IMPACT | -0- | -0- | -0- | -0- | -0- |
| #ADDITIONAL FTE | | | | | |
| POSITIONS (CUMULATIVE) | | | | | |

Is Item Included in Current Budget? Yes No
 Does this item include the use of federal funds? Yes No

Budget Account No:

Fund Agency Organization Object

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 Dev. and Control Comments:

Lorena Carter 8/11/22
 OFMB *JA* 8-11-22
 (M) 8-11-22

Inge Hill for Lewis Perkowski
 Contract Dev. & Control
 8-15-22 TW

B. Legal Sufficiency

Helene C. King 8-17-22
 Assistant County Attorney

C. Other Department Review

 Department Director

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

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING CHAPTER 18, ARTICLE V, SECTION 18-121, ET SEQ., PALM BEACH COUNTY CODE, ORDINANCE NO. 2017-046, "PROHIBITION OF CONVERSION THERAPY ON MINORS ORDINANCE"; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, on December 21, 2017, the Palm Beach County Board of County Commissioners (BCC) enacted Chapter 18, Article V, Section 18-121, et seq., Palm Beach County Code, Ordinance No. 2017-046, referred to as the "Prohibition of Conversion Therapy on Minors Ordinance" (Ordinance); and

WHEREAS, the Eleventh Circuit Court of Appeals considered the Ordinance in *Otto v. City of Boca Raton, Florida*, 931 F.3d 854 (11th Cir. 2020), *reh'g en banc den.*, 2022 WL 2824907 (Jul. 20, 2022), and determined that the Ordinance was violative of the First Amendment; and

WHEREAS, in light of the decision in *Otto*, the BCC wishes to repeal the Ordinance.

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

Section 1.

Chapter 18, Article V, Section 18-121, et seq., Palm Beach County Code, Ordinance No. 2017-046, is hereby repealed in its entirety.

Section 2. 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.

Section 3. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

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

Section 4. EFFECTIVE DATE:

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

1 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County,
2 Florida, on this the ____ day of _____, 2022.

3
4 JOSEPH ABRUZZO, CLERK
5 OF THE CIRCUIT COURT &
6 COMPTROLLER

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

7
8
9 By: _____
10 Deputy Clerk

By: _____
Robert S. Weinroth, Mayor

11
12
13
14 APPROVED AS TO FORM AND
15 LEGAL SUFFICIENCY

16
17
18 By: 
19 County Attorney

20
21
22 EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 2022.

LOCALIQ

The Gainesville Sun | The Ledger
Daily Commercial | Ocala StarBanner
News Chief | Herald-Tribune
News Herald | The Palm Beach Post
Northwest Florida Daily News

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Pbc Bocc Engineering
PO BOX 4036

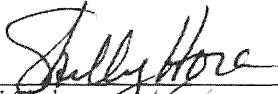
WEST PALM BEACH FL 334024036

STATE OF FLORIDA, COUNTY OF PALM BEACH

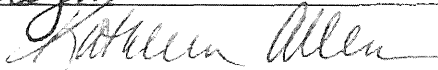
The Palm Beach Post, a daily newspaper printed and published in the city of West Palm Beach and of general circulation in Palm Beach, Martin, Okeechobee and St Lucie Counties, Florida; and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issues dated or by publication on the newspaper's website, if authorized, on:

08/11/2022

and that the fees charged are legal.
Sworn to and subscribed before on 08/11/2022



Legal Clerk



Notary, State of WI, County of Brown

1-7-25

My commission expires

Publication Cost: \$163.77

Order No: 7639276

of Copies:

Customer No: 730480

-1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

KATHLEEN ALLEN
Notary Public
State of Wisconsin

NOTICE OF PUBLIC HEARINGS
PLEASE TAKE NOTICE THAT AT 9:30 A.M. ON AUGUST 23, 2022, in the Palm Beach County Governmental Center, Jane Thompson Memorial Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach FL., the Board of County Commissioners of Palm Beach County, FL., intends to hold a public hearing for the purpose of considering the following proposed Palm Beach County Ordinance (s):

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING CHAPTER 18, ARTICLE V, SECTION 18-121, ET SEQ., PALM BEACH COUNTY CODE, ORDINANCE NO. 2017-046, "PROHIBITION OF CONVERSION THERAPY ON MINORS ORDINANCE"; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR EFFECTIVE DATE.

A copy of the above-referenced proposed ordinance is available for inspection in the Minutes Department, 2nd floor, Room 203.2, Governmental Center. All interested parties may appear at the meeting and be heard with respect to the proposed ordinance(s).

If a person decides to appeal any decision made by this commission with respect to any matter considered at this meeting or hearing they will need to have a record of the proceeding, and for that, for such purpose, they may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is based.

JOSEPH ABRUZZO,
Clerk of the Circuit Court & Comptroller
Board of County Commissioners
AUGUST 11, 2022 7639276