

LDRAB

AMENDMENTS TO THE AGENDA

Wednesday, January 27, 2010

(Updated January 27, 2010)

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Amendments to the Agenda:

#1	Exhibit B, Part 1, Page 7 (Lines 28 - 33)
	Reason for Amendment: [Zoning] Amend to correct scrivener's error.

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1. Pain Management Clinic – all privately owned pain management clinics, facilities, or offices, which advertise in any medium for any type of pain management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and are required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, FL Stat. (2009). A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists: 1) beyond the usual course of the disease or the injury that is the cause of the pain; beyond the usual course of the disease or the injury that is the cause of the pain or 2) more than 90 days after surgery.

#2	Exhibit B, Part 6, Page 9 (Lines 33 - 38)
	Reason for Amendment: [Zoning] Amend to correct scrivener's error.

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91.1.Pain Management Clinic – all privately owned pain management clinics, facilities, or offices, which advertise in any medium for any type of pain management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and are required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, FL Stat. (2009). A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists: 1) beyond the usual course of the disease or the injury that is the cause of the pain; beyond the usual course of the disease or the injury that is the cause of the pain or 2) more than 90 days after surgery.

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Notes for Amendments to the Agenda:

- Double underlined language indicates new language.
- Language ~~double crossed out~~ indicates language proposed to be deleted.
- Underlined language indicates proposed new language.
- Language ~~crossed out~~ indicates language proposed to be deleted.
- .... (ellipses) indicates language not amended which has been omitted to save space.
- Relocated language is shown as *italicized* with reference in parenthesis.



January 21, 2010

**Department of Planning,  
Zoning & Building**

2300 North Jog Road  
West Palm Beach, FL 33411-2741  
(561) 233-5000

Planning Division 233-5300  
Zoning Division 233-5200  
Building Division 233-5100  
Code Enforcement 233-5500  
Contractors Certification 233-5525  
Administration Office 233-5005  
Executive Office 233-5228  
[www.pbcgov.com/pzb](http://www.pbcgov.com/pzb)



**Palm Beach County  
Board of County  
Commissioners**

- Burt Aaronson, Chair
- Karen T. Marcus, Vice Chair
- Jeff Koons
- Shelley Vana
- Steven L. Abrams
- Jess R. Santamaria
- Priscilla A. Taylor

**County Administrator**

Robert Weisman

Mr. Wesley Blackman, AICP, Chairman, and  
Members of the Land Development Regulation Advisory Board (LDRAB)  
241 Columbia Drive  
Lake Worth, FL 33460

**RE: January 27, 2010 LDRAB/LDRC and Annual Organizational  
Discussion**

Dear Mr. Blackman & Board Members:

Attached please find the agenda and supporting materials to assist you in  
preparing for the LDRAB/LDRC meeting on Wednesday, January 27, 2010.

The meeting will commence at **2:00 p.m.** in the Vista Center 1<sup>st</sup> Floor Conference  
Room (VC-1W-47), located at 2300 North Jog Road, West Palm Beach, Florida.

If you should have any questions or require additional information, please contact  
me at (561) 233-5232 or via email at [BCPinkst@pbcgov.org](mailto:BCPinkst@pbcgov.org) or William Cross,  
Principal Site Planner at [WCross@pbcgov.org](mailto:WCross@pbcgov.org).

Sincerely,

Barbara Pinkston-Nau  
Principal Site Planner, Zoning Division

Attachments: January 27, 2010 LDRAB/LDRC Agenda and Supporting  
Materials

- c: Verdenia C. Baker, Deputy County Administrator
- Barbara Alterman, Esq., Executive Director, PZB
- Lenny Berger, Assistant County Attorney
- Jon MacGillis, ASLA, Zoning Director
- Maryann Kwok, Chief Planner, Zoning
- William Cross, Principal Site Planner, Zoning
- Isaac Hoyos, Principal Planner, Planning
- John Rupertus, Senior Planner, Planning

*"An Equal Opportunity  
Affirmative Action Employer"*

# PALM BEACH COUNTY

## LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

**JANUARY 27, 2010**

### BOARD MEMBERS

**Wes Blackman, AICP, Chair** (PBC Planning Congress)

**David Carpenter, RLA, Vice Chair** (District 2)

**Raymond Puzzitiello** (Gold Coast Build. Assoc.)

**Joanne Davis** (District 1)

**Joni Brinkman** (League of Cities)

**Barbara Katz** (District 3)

**Ron Last, P.E.** (Florida Engineering Society)

**Jim Knight** (District 4)

**Jose F. Jaramillo** (A.I.A.)

**Lori Vinikoor** (District 5)

**Rosa Durando** (Environmental Organization)

**Mike Zimmerman** (District 6)

**Michael Cantwell** (PBC Board of Realtors)

**Martin Klein, Esq.** (District 7)

**(Vacant)** (Fl. Soc. of Prof. Surveyors)

**Vacant** (Member at Large/Alternate)

**Maurice Jacobson** (Condominium Association)

**Frank Palen, Esq.** (Member at Large/Alternate)

**Vacant** (Association Gen. Cont. of America)

### Board of County Commissioners

**Burt Aaronson**  
Chairman, District 5

**Karen T. Marcus**  
Vice Chair, District 1

**John F. Koons**  
Commissioner, District 2

**Shelley Vana**  
Commissioner, District 3

**Steven L. Abrams**  
Commissioner, District 4

**Jess R. Santamaria**  
Commissioner, District 6

**Priscilla A. Taylor**  
Commissioner, District 7

**Robert Weisman**  
County Administrator



"An Equal Opportunity – Affirmative Action Employer"  
2300 North Jog Road, West Palm Beach, Florida 33411 (561) 233-5200



**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)  
LAND DEVELOPMENT REGULATION COMMISSION (LDRC)  
WEDNESDAY, JANUARY 27, 2010 AGENDA  
2300 NORTH JOG ROAD  
1<sup>ST</sup> FLOOR CONFERENCE ROOM (VC-1W-47), 2:00 P.M.**

**A. CALL TO ORDER/CONVENE AS LDRAB**

1. Roll Call
2. Additions, Substitutions and Deletions
3. Elections – Chair and Vice Chair
4. Motion to Adopt Agenda
5. Adoption of November 18, 2009 Minutes (Exhibit A)

**B. ULDC AMENDMENTS**

1. Exhibit B Pain Management Clinics

**C. CONVENE AS LDRC**

1. Proof of Publication
2. Consistency Determination

**D. RECONVENE AS LDRAB**

**E. ANNUAL ORGANIZATION DISCUSSION**

1. Meeting Procedures
  - a. Robert's Rules of Order (Exhibit C)
  - b. Review of Sunshine Law and State Code of Ethics (Exhibit D)
  - c. Introduction to the New Palm Beach County Code of Ethics
  - d. Rules of Procedure (Exhibit E)
2. 2009 Attendance and 2010 Meeting Schedule
  - a. 2009 Attendance (Exhibit F)
  - b. 2010 Board Members (Exhibit G)
  - c. 2010 Meeting Schedule (Exhibit H)
3. 2010 Work Plan
  - a. Deadlines/Scheduling for Proposed 2010 Amendments (Exhibit I)
  - b. Summary of 2010 Proposed Amendments (Exhibit J)
  - b. Subcommittees
    - 1) General Subcommittee
      - Agricultural Enclave – Callery Judge Groves
      - Economic Development Overlay
      - Workforce Housing Program
    - 2) Infill Redevelopment Subcommittee (Urban Redevelopment Area [URA])
    - 3) Landscaping Subcommittee
      - Open Space Definition/Provsions
      - Clustering of R-O-W Trees
4. PZB Public Information (Exhibit K)

**F. PUBLIC COMMENTS**

**G. STAFF COMMENTS**

**H. ADJOURN**

# EXHIBIT A

## PALM BEACH COUNTY

### LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

#### Minutes of November 18, 2009 Meeting

On Wednesday, November 18, 2009 at 2:00 p.m. the Palm Beach County Land Development Regulation Advisory Board (LDRAB), met in the First Floor Conference Room (VC-1W-47), at 2300 North Jog Road, West Palm Beach, Florida.

#### A. Call to Order/Convene as LDRAB.

##### 1. Roll Call

Chair Wes Blackman called the meeting to order at 1:05 p.m. Barbara Pinkston-Nau, Code Revision Principal Planner, called the roll.

##### Members Present: 10

Wesley Blackman (PBC Planning Congress)  
David Carpenter (District 2)  
Raymond Puzzitiello (Gold Coast Bld. Assoc.)  
Joni Brinkman (League of Cities)  
Jose Jaramillo (A.I.A.)  
Rosa Durando (Environmental Org.)  
Frank Palen (Mem. At Large, Alternate)  
Ron Last (FL Eng. Society)  
Jim Knight (District 4) (Late)  
Lori Vinikoor (District 5)

##### Members Absent: 7

Joanne Davis (District 1)  
Barbara Katz (District 3)  
Mike Zimmerman (District 6)  
Martin Klein (District 7)  
Vacant (FL Soc. of Pro. Land Surveyors)  
Michael Cantwell (PBC Board of Realtors)  
Steven Dewhurst (Assoc. Gen. Cont. of Am.)  
Maurice Jacobson (Condominium Assoc.)  
Brian Waxman (Mem. At Large, Alternate)

##### County Staff Present:

Jon MacGillis, ASLA, Director of Zoning  
Lenny Berger, Assistant County Attorney  
Barbara Pinkston-Nau, Principal Site Planner, Zoning  
William J Cross, Principal Site Planner, Zoning  
John Rupertus, Senior Planner, Planning  
Jorge Perez, Senior Planner, Planning  
Wendy Hernandez, Zoning Manager  
Eileen Platts, Secretary, Zoning

##### 2. Additions, Substitutions, and Deletions

Staff presented an add/delete sheet with amendments to Exhibit A, Minutes; Exhibit C, Flex Space; and, Exhibit E, Prior Approvals and Non-conformities. Motion to adopt as amended by Raymond Puzzitiello and seconded by Frank Palen. The motion passed unanimously (9-0).

Jim Knight arrived at 1:10 pm.

##### 3. Motion to Adopt Agenda

Motion to adopt by Raymond Puzzitiello and seconded by Frank Palen. The motion passed unanimously (10-0).

##### 4. Adoption of October 28, 2009 Minutes (Exhibit A)

Motion for to adopt as amended by David Carpenter, seconded by Raymond Puzzitiello. The motion passed unanimously (10-0).

#### B. ULDC Amendments

##### 1. Exhibit B: Article 5 – Supplementary Standards

William Cross explained that on page 8 of Exhibit B there was one minor clarification to the amendments from the last round (2009-01). Whereas there were some changes made to the Workforce Housing Program and the Architectural Design Guidelines. Industry requested that they would prefer to retain the current provisions that apply Architectural Design Guidelines based on building size with one minor clarification to say that the multifamily buildings with more than 16 units is what the old code used to be but added "or three or more stories" shall be subject to the Architectural Design Guidelines. Staff supports the suggestion by Industry.

Motion for approval by David Carpenter, seconded by Frank Palen. The motion passed unanimously (10-0).

##### 2. Exhibit C: Flex Space

Wes Blackman had questions regarding the amendment to Article 5.B.1.C.2.c.3) Reserve Parking for future uses. Barbara Pinkston-Nau explained that what staff is trying to do is try and average what the parking requirements would be but in some cases for flex space the parking may be less than what would typically be required without flex space. The reserve parking is for if they revert back to the original use so they will still meet the parking space requirement for that lot. The reserved space does not have to be cement it can be grass as long as that area could be paved

## EXHIBIT A

for parking in the future. There will be a hand written notation on the site plan denoting whether they are using flex space or not and what the percentages are for tracking purposes. This will be done during the Administrative Review Process.

Motion for approval by David Carpenter, seconded by Frank Palen. The motion passed unanimously (10-0).

### 3. Exhibit D: Infill Redevelopment Overlay (IRO)

Wes Blackman questioned why there needs to be a definition for Non-Retail and where the term will be used. William Cross explained that it has to be added because it is language used in the Comprehensive Plan. Discussion ensued among Members and Staff on how the term "Non-Retail" is confusing because the definition states "Where a retail sales use is not the principal use, but **may be permitted** as an accessory use". Non-Retail sounds like it reads that there is no retail allowed. David Carpenter suggested that since retail use may be permitted that the term be changed to "Accessory Retail" to eliminate confusion. Wes Blackman and William Cross agree that Article 5.B.1.C.2.c.3) (Exhibit D, Page 19, line 40) should be changed from Non-Retail to Accessory Retail.

Members and staff agreed on the following amendments to Exhibit D:

Page 23 – Line 6 ~ Table 3.B.16.C – IRO FAR INCREASE: Change "non-retail" to accessory retail in Note 1 so it reads "May be increased up to 50 for accessory retail projects, in accordance with the Plan".

Page 26 – Line 24 ~ The second sentence regarding Townhouse needs to be revised so that condominium also refers to ownership. Staff deleted the term "condominium".

Page 30 – Line 33 ~ 4) Setback Measurement: Reference number to Table is incorrect needs to read "Table 3.B.4516.E".

Page 31 – Line 1 ~ Table 3.B.16.E – Block Building Configuration PDRs: Insert "Non-IRO project amendment note 6 " under the Building Placement column, row to C. Under the row labeled "Notes" insert number 6. to reference a Non-IRO project.

Page 34 – Line 1 ~ Table 3.B.16.E – TOWNHOUSE LOT AND BUILDING CONFIGURATION PDRs: Fix all superscripts in Table; Delete "N – Rear Setback to Alley" and replace with "D – Between rear parking and alley" (they both reference the same thing) re-letter appropriately; in the Figure in Table 3.B.16.E change wing width reference to "M" and change all "N" references to "D". Fix the Notes accordingly.

Page 34 – Line 13 ~ Change sentence in a) to read "A horizontal recess line of at least 15 feet in height is required along at least 50 percent of building facades facing streets;"

Page 35 – Line 46 ~ Change b) to c).

Page 36 – Line 3 ~ Change c) to d).

Page 37 – Line 5 ~ Language was read into the record by William Cross to amend the following Tables to accommodate ADA requirements: Table 3.B.16.F – Pedestal, Linear, Block, Courtyard and Civic Building Height and Use, add note 5; and, Table 3.B.16.F – Townhouse Building Height and Use add note 3: Allowances shall be permitted for Single floor units located on the first floor to accommodate ADA requirements.

Page 38 – Line 13 ~ Change Table Heading to 3.B.16.H.~~3E~~ – IRO Permitted Use Schedule.

Page 39 – Line 1 ~ Change Table Heading to ~~5.X.3~~ 3.B.16.F – IRO Permitted Use Schedule (continued).

Page 43 – Line 37-41 ~ Write new language for Parking Ratios in regards to the required number of spaces.

Page 44 – Line 4 ~ Correct typo for word "easy" to "ease".;

Page 45 – Line 25-29 ~ Change language to read "The applicant may apply for waivers for development standards in accordance with Article 3.F.16.D.5, Zoning Director waivers and Table 3.B.16.G, IRO Waivers. Waiver requests shall be reviewed by the Zoning Director for denial, approval or approval with conditions, prior to either DRO certification or approval. The following table summaries the development standards that could be requested through a waiver process":

Motion to adopt as amended by Raymond Puzzitiello and seconded by Jim Knight. The motion passed unanimously (10-0).

### 4. Exhibit E: Prior Approvals and Non-conformities

Page 57 – Delete Part 3 and renumber accordingly per LDRAB.

**EXHIBIT A**

Page 61 – Line 12 ~ create a table regarding the Minimum Acreage, Width, Depth, and Dimensional criteria for Non-conforming lots.

Page 68 – Line 28-34 ~ switch a. and b. so that Projects with less that 80 percent is before Projects with 80 percent or more...

Part 12 – Jon MacGillis stated the exemption for architectural design standards are being expanded to include the LCC Development District.

Motion to delete part 3 and approve Exhibit E as amended by Joni Brinkman, seconded by Frank Palen. The motion passed unanimously (9-0\*).

**C. Convene as LDRC**

- 1. Motion to adopt proof of publishing by Raymond Puzzitiello and seconded by Jim Knight. The motion passed unanimously (9-0\*).
- 2. Motion to adopt Consistency Determination by David Carpenter, seconded by Frank Palen. The motion passed unanimously (9-0\*).

\* Note: Rosa Durando left prior to LDRC convening.

**D. Reconvene as LDRAB**

Joni Brinkman stated that the last URA meeting scheduled is on December 1, 2009 and they really need one of the Architects on the Subcommittee to be there to discuss the Architectural Guidelines.

**E. Public Comments**

No one from the Public wished to speak.

**F. Staff Comments**

Staff had no comments.

**G. Adjourn**

The Land Development Regulation Advisory Board meeting adjourned at 3:10 p.m.

Recorded tapes of all LDRAB meeting are kept on file in the Palm Beach County Zoning/Code Revision office and can be requested by contacting the Code Revision Secretary at (561) 233-5088.

Minutes drafted by: Eileen Platts, Secretary *Eileen Platts* 12-03-09  
Name (signature) Date

EXHIBIT B

PAIN MANAGEMENT CLINICS  
SUMMARY OF AMENDMENTS

Part 1. ULDC, Articles 1.1.2.M.32, Medical or Dental Clinic and 1.1.2.P.1, Pain Management Clinic (pages 69 & 74 of 110), is hereby amended as follows:

**Reason for amendment:** [ BCC ] To establish a moratorium on Pain Management Clinics until the ULDC is amended to establish standards for this use; to clarify that pain management clinics are not considered medical or dental offices; and to provide a definition for pain management clinic.

CHAPTER I DEFINITIONS & ACRONYMS

Section 2 Definitions

M. Terms defined herein or referenced in this Article shall have the following meanings:

32. **Medical Office or Dental Clinic Office** - an establishment where patients, who are not lodged overnight, are admitted for examination or treatment by persons practicing any form of healing or health-building services whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida. A pain management clinic shall not be considered a medical or dental office.

P. Terms defined herein or referenced in this Article shall have the following meanings:

1. Pain Management Clinic – all privately owned pain management clinics, facilities, or offices, which advertise in any medium for any type of pain management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and are required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, FL Stat. (2009). A physician primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists beyond the usual course of the disease or the injury that is the cause of the pain beyond the usual course of the disease or the injury that is the cause of the pain or more than 90 days after surgery.

Part 2. ULDC, Table 3.B.2.A. – Airport Use Regulations (page 15 of 154), is hereby amended as follows:

**Reason for amendment:** [BCC] To amend all use matrices to reflect the establishment of Pain Management Clinics as a new use.

Table 3.B.2.A - Airport Use Regulations

Use Type	Airport Related Uses	Non-Airport Related Uses	Corresponding Zoning District PDRs <sup>(1)</sup>	Note <sup>(2)</sup>	Use Applicable to Specific Airport
<b>Commercial Uses</b>					
...					
<u>Pain Management Clinic</u>					<u>91.1</u>
...					
[Ord. 2006-036] [Ord. 2008-003]					

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Notes:

Underlined language indicates proposed new language.  
Language ~~crossed-out~~ indicates language proposed to be deleted.  
... (ellipses) indicates language not amended which has been omitted to save space.  
Relocated language is shown as *italicized* with reference in parenthesis.

**EXHIBIT B**

**PAIN MANAGEMENT CLINICS  
SUMMARY OF AMENDMENTS**

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**Part 3. ULDC, Table 3.E.1.B - PDD Use Matrix (page 75 of 154), is hereby amended as follows:**

**Reason for amendment:** [BCC] To amend all use matrices to reflect the establishment of Pain Management Clinics as a new use.

**Table 3.E.1.B - PDD Use Matrix cont'd**

Use Type	PUD					MUPD						MXPD		PIPD			M	R	N
	Pods					FLU						FLU		Use Zone					
	R	C	R	C	A	C	C	C	C	C	I	I	C	C	I	C			
E	O	E	I	G	L	H	L	H	R	N	N	H	H	N	O	N	P	P	
S	M	C	V	R			O	O		D	S	O	O	D	M	D	D	D	
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<b>Commercial Uses</b>																			
...																			
<u>Pain Management Clinic</u>																			
...																			
[Ord. 2005-002] [Ord. 2006-004] [Ord. 2007-001] [Ord. 2007-013] [Ord. 2009-040]																			
<b>Notes:</b>																			
<b>P</b>	Permitted by right																		
<b>D</b>	Permitted subject to approval by the DRO																		
<b>S</b>	Permitted in the district only if approved by Special Permit																		
<b>R</b>	Permitted in the district only if approved by the Board of County Commissioners (BCC) as a requested use.																		

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**Part 4. ULDC, Table 3.F.1.F – Traditional Development Permitted Use Schedule (page 118 of 154), is hereby amended as follows:**

**Reason for amendment:** [BCC] To amend all use matrices to reflect the establishment of Pain Management Clinics as a new use.

**Table 3.F.1.F – Traditional Development Permitted Use Schedule (Continued)**

District	TND						TMD				N O T E S
Tier	Urban/Suburban (U/S)			Exurban/Rural			U/S	Ex/ Rural	AGR		
Land Use Zone	Res	Neighborhood Center (NC)	Open Space/ Rec	Res	N/C	Open Space/ Rec			Dev	Preserve	
<b>Commercial Uses</b>											
...											
<u>Pain Management Clinic</u>											
...											
<b>Notes:</b>											
<b>P</b>	Permitted by right.										
<b>D</b>	Permitted subject to approval by the DRO.										
<b>S</b>	Permitted in the district only if approved by Special Permit.										
<b>R</b>	Requested Use.										

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**EXHIBIT B**

**PAIN MANAGEMENT CLINICS  
SUMMARY OF AMENDMENTS**

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**Part 5. ULDC, Table 4.A.3.A - Use Matrix (page 14 of 161), is hereby amended as follows:**

**Reason for amendment:** [BCC] To amend all use matrices to reflect the establishment of Pain Management Clinics as a new use.

**Table 4.A.3.A - Use Matrix Continued**

Use Type	Zoning District/Overlay															N O T E			
	Agriculture/ Conservation			Residential					Commercial					Industry/ Public					
	P C	A G R	A P	AR		R E	R T	R S	R M	C N	C L O	C C O	C H O	C G R E	I L		I G	P O	I P F
				R S A	U S A														
<b>Commercial Uses</b>																			
...																			
<u>Pain Management Clinic</u>																		<u>91.1</u>	
...																			
<b>Key:</b>																			
P Permitted by right																			
D Permitted subject to approval by the DRO																			
S Permitted in the district only if approved by Special Permit																			
B Permitted in the district only if approved by the Zoning Commission (ZC)																			
A Permitted in the district only if approved by the Board of County Commissioners (BCC)																			

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**Part 6. ULDC, Art. 4.B.1.A, Definitions and Supplementary Standards for Specific Uses, [Related to Medical or Dental Office and Pain Management Clinics] (pages 63 & 68 of 161), is hereby amended as follows:**

**Reason for amendment:** [Zoning/County Attorneys] BCC directed Staff at the December 1, 2009, BCC Hearing to review and evaluate the practices of Pain Management Clinics and to impose a moratorium on new applications for Pain Management Clinic approvals.

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**CHAPTER B SUPPLEMENTARY USE STANDARDS**

**Section 1 Uses**

**A. Definitions and Supplementary Standards for Specific Uses**

**83. Medical or Dental Office**

An establishment where patients, who are not lodged overnight, are admitted for examination or treatment by persons practicing any form of healing or health-building services whether such persons be medical doctors, chiropractors, osteopaths, chiropractists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida. A pain management clinic shall not be considered a medical or dental office.[Ord. 2005 – 002]

**91.1 Pain Management Clinic**

All privately owned pain management clinics, facilities, or offices, which advertise in any medium for any type of pain management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and are required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, FL Stat. (2009). A physician primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists beyond the usual course of the disease or the injury that is the cause of the pain beyond the usual course of the disease or the injury that is the cause of the pain or more than 90 days after surgery.

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**EXHIBIT B**

**PAIN MANAGEMENT CLINICS  
SUMMARY OF AMENDMENTS**

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**a. Moratorium**

1. The Board of County Commissioners of Palm Beach County does hereby impose a moratorium beginning on the effective date of this ordinance, upon the acceptance of zoning applications and all applicable requests for zoning approval for pain management clinics.
2. This Ordinance shall expire upon the earlier of the following: one year from the effective date of this ordinance or upon the effective date of Unified Land Development Code amendments dealing with pain management clinics to be considered by the Board of County Commissioners during the moratorium.

**Part 7. ULDC, Table.6.A.1.B, Minimum Off-Street Parking and Loading Requirements [Related to Medical or Dental Office and Pain Management Clinics] (page of 161), is hereby amended as follows:**

**Reason for amendment:** [BCC] To amend all use matrices to reflect the establishment of Pain Management Clinics as a new use.

**Table 6.A.1.B - Minimum Off-Street Parking and Loading Requirements – Cont'd**

Use Type: Commercial	Parking <sup>1</sup>	Loading <sup>2</sup>
...		
<u>Pain Management Clinic</u>	<u>1 space per 200 sq. ft.</u>	<u>C</u>
...		
<b>[Ord. 2005-002] [Ord. 2005-041] [Ord. 2006-004] [Ord. 2008-037]</b>		
<b>Loading Key:</b>		
Standard "A" - One space for the first 5,000 square feet of GFA, plus one for each additional 30,000 square feet of GFA.		
Standard "B" - One space for the first 10,000 square feet of GFA, plus one for each additional 15,000 square feet of GFA.		
Standard "C" - One space for the first 10,000 square feet of GFA, plus one for each additional 100,000 square feet of GFA.		
Standard "D" - One space for each 50 beds for all facilities containing 20 or more beds.		
Standard "E" - One space for the first 10,000 square feet of GFA, plus one for each additional 20,000 square feet of GFA. The space shall be a minimum of 12 feet in width and 18.5 feet in length for uses that require limited loading.		

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U:\Zoning\CODEREV\2010\Ordinances\Pain Managment Clinic\1-07-10 - Exhibit A1.docx

**Notes:**

Underlined language indicates proposed new language.  
 Language ~~crossed-out~~ indicates language proposed to be deleted.  
 .... (ellipses) indicates language not amended which has been omitted to save space.  
 Relocated language is shown as *italicized* with reference in parenthesis.

## **Exhibit C**

### **Robert's Rules of Order Summary**

Pursuant to Art. 17.B.5.B, Robert's Rules of Order all meetings and board proceedings conducted by the Palm Beach County Zoning Division must be governed by Robert's Rules of Order. Robert's Rules of Order were created by Major Henry Robert in 1867 as a set of principles that guide and enforce order during formal assemblies and gatherings. These rules emulated parliamentary procedures applied by the US Congress, which in turn were based on the British Parliamentary Law. According to Robert's Rules of Order, parliamentary procedure is based on the consideration of the rights of the majority, the rights of the minority (especially a large minority greater than one-third), the rights of individual members, the rights of absentee members, and the rights of all of these groups taken together.

To view the revised Robert's Rules of Order please refer to the following website:  
[www.bartleby.com/176/72.htm](http://www.bartleby.com/176/72.htm).

# Working in the Sunshine

*A Guide to the  
Government in the  
Sunshine Amendment  
and the Code of Ethics*

**Palm Beach County  
Board of County  
Commissioners**



# WORKING IN THE SUNSHINE

## A Guide to the Sunshine Amendment and the Code of Ethics



Prepared by Palm Beach County Attorney's Office  
Leonard Berger, Senior Assistant County Attorney

October 2007

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## I. INTRODUCTION

This guide provides an overview of Florida's Government in the Sunshine regulations for Palm Beach County officials and employees. If you are an employee of Palm Beach County or a government official, whether elected or appointed to any County office or board, including any advisory body, then you are governed by these regulations: the Public Records Law, the Sunshine Law, and the Code of Ethics. While Florida's Government in the Sunshine regulations do not affect your every waking moment, chances are you will look to one or more of these laws for critical direction at various points in your public career. This guide also provides an overview of the federal honest services law.

Reading this guide will not make you an expert in the field, but it will give you a general understanding of the principles that drive these laws and the ability to recognize issues that need to be addressed *before* making a decision. You may wish to read the language of these laws for a complete understanding of what is required, and to be sure that anything contained in this guide has not been superseded by a more recent amendment.

Whenever in doubt about how these laws may apply to you, please contact the County Attorney's Office at (561) 355-2225. It is always best to identify and deal with a potential problem as early as possible, before it becomes a crisis.

## II. CODE OF ETHICS

The public demands that its government operate ethically. As County officials and employees, you are held to a higher standard than your private sector counterparts. In order to meet this standard, you must be aware of any real or potential conflicts of interest that might arise between your public duties and your private pursuits. The Code of Ethics is not intended to

prevent you from participating in community activities or private economic pursuits available to the general public; it is intended only to ensure that public officials and employees carry out their duties fully, faithfully and ethically.

A good first step in avoiding a Code of Ethics violation, a potential violation, or even the appearance of one, is to ask yourself the following: How would an outside observer view this situation? Would it appear to the observer that you used your public position for your private benefit or the benefit of a relative or friend? Would it appear that you or your relative or friend received some sort of benefit or preferential treatment from the County as a result of your position? If the answer is yes, or even maybe, you should take steps to avoid a possible violation. If you are in doubt, the best approach for employees may be to disclose the situation to your supervisor so that, if necessary, the decision can be made for you by others. Whether you are a County official or employee, the County Attorney's Office is always available to answer questions about how to interpret a particular provision of the Code of Ethics, or how it may apply to you in a particular situation.<sup>1</sup>

The following sections will take a closer look at the key provisions of the Code of Ethics.

#### A. PROHIBITED CONFLICTS OF INTEREST

Florida's Code of Ethics includes laws that prohibit public officials and employees from engaging in certain activities that create a conflict between one's public duties and private interests. These rules present absolute prohibitions that cannot be avoided by simply abstaining from a vote. Described briefly, County officials and employees acting as purchasing agents cannot in their private capacity do business with the

<sup>1</sup> Any County official or employee may request an advisory opinion of the state's Commission on Ethics. The Commission's duties include providing such opinions and recommending penalties to disciplinary officials for violations of the Code of Ethics. Many of the examples used to illustrate these rules are taken directly from published opinions of the Commission.

County. This prohibition extends to a spouse or child of the official or purchasing agent, and includes a business in which any of these individuals are officers or part owners.<sup>2</sup> County officials and employees are further prohibited from holding an employment or contractual relationship with any entity doing business with or being regulated by his or her agency, or having such a relationship that would create a frequently recurring conflict between public duties and private interests.<sup>3</sup>

#### Q & A

**I do a lot of volunteer work for my local neighborhood association. Do I have a contractual relationship with them?**

Whether you have a "contractual or employment relationship" with an entity doing business with or being regulated by your agency is generally a question of whether you receive some sort of compensation as a result of the relationship. Serving as a voluntary director of a nonprofit organization does not, for example, constitute a contractual relationship,<sup>4</sup> nor does a marital relationship.<sup>5</sup> On the other hand, you would have a contractual relationship with an entity as its paid corporate officer or a holder of its stock.<sup>6</sup>

**These conflict of interest rules keep referring to my agency. What exactly does "agency" mean?**

The Commission on Ethics has described an employee's "agency" as the "lowest departmental unit within which his influence might reasonably be considered to extend."<sup>7</sup> This means that a County employee or official would not necessarily be precluded from doing business privately with every division

<sup>2</sup> §112.313(3), Florida Statutes.

<sup>3</sup> §112.313(7)(a), Florida Statutes.

<sup>4</sup> Commission on Ethics Opinion 89-33.

<sup>5</sup> Commission on Ethics Opinion 90-77.

<sup>6</sup> Commission on Ethics Opinion 86-36.

<sup>7</sup> Commission on Ethics Opinion 93-31.

and subdivision of County government. The critical question in determining whether a prohibited conflict exists is whether the employee or official plays any conceivable role in the County's decision to do business with his or her private enterprise. Commission on Ethics Opinions on the subject are fact specific and do not always describe a clear boundary between prohibited and acceptable conduct. The best practice when confronted with a possible conflict under these rules is to contact the County Attorney's Office for an opinion.

**These rules also prohibit me from working for a company that is regulated by the County. How can I avoid this conflict? If I am employed by a private company, isn't it bound to be regulated by the County in some way?**

The Commission on Ethics interprets the term "regulate" narrowly, looking to the function of the regulation rather than the mere fact of it. An employee, for example, would not be prohibited from working for a pool cleaning service on weekends simply because the company holds an occupational license from the County. This sort of regulation involves a ministerial process from which the employee could not derive improper benefit by virtue of his or her public employment.<sup>8</sup> On the other hand, a Code Enforcement Board member could not represent a person in a case before that board.

**Can a person who serves on a board appear before that board on his or her own behalf?**

The Code of Ethics does not prohibit a board member from appearing before his or her own board in the regulatory arena. Thus, a Board of Adjustment member could appear before the board to request a zoning variance on his or her own property, and a Code Enforcement Board member may appear before the board if his or her property is the subject of a code enforcement violation. Constitutional Due Process rights

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<sup>8</sup> Commission on Ethics Opinion 91-28.

ensure an individual's right to appear under such circumstances. Moreover, the rule in question simply prohibits a public officer from having a *contractual relationship* with an entity being regulated by his or her board.

### **MORE PROHIBITED CONFLICTS OF INTEREST**

The remaining prohibited conflicts of interest can be described as "common sense" prohibitions. First, public officials and employees cannot accept anything of value when the official or employee knows, or should know under the circumstances, that it was given in order to influence some official act or decision. Public officials and employees cannot disclose or use information not available to the public obtained by reason of their position for private benefit. And finally, public officials and employees cannot corruptly use their position for private benefit.<sup>9</sup>

### **Q & A**

**How can I misuse government information? Isn't it all available to the public?**

While Florida's open government laws require access to almost all government records, many government officials and employees have regular access to information not generally known to the public which could be used to their private advantage. For example, an employee with access to certain confidential information could violate this provision by using this information in his or her private capacity as a private investigator. A deputy clerk of the court who is also a real estate agent could violate this provision because of immediate access to information regarding property sales, foreclosure proceedings, probate proceedings, and matters in litigation. This provision could also be violated if an employee of a public agency forms a consulting firm offering a training program

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<sup>9</sup> See §112.313(2), -(4), -(6) and -(8), Florida Statutes.

based on the program the employee produced for the public agency.<sup>10</sup>

**The law forbids me from accepting a gift when I "should know" that the gift was given to influence me. How am I supposed to know when a gift is given to me in order to influence me?**

According to the Supreme Court of Florida, proof that a gift was given to a public official who might be in a position to help the donor one day is not enough by itself to establish a violation. Courts will look to the specific conduct of the official or employee and all of the surrounding circumstances to determine whether that person, with the exercise of reasonable care, should have known that a gift was given in exchange for some sort of improper benefit.<sup>11</sup> While there is no bright line test to guide your conduct in this area, courts explain that this law fairly describes a "zone of danger into which a public official or employee may not safely enter." To avoid finding yourself in this "zone of danger," it is wise to consider carefully who is giving you a gift and the possible reasons for the donor's generosity. Would you feel comfortable explaining to your constituents, your supervisor, or the media that the gift in question was in no way related to your official duties? If you have any doubts about the propriety of accepting the gift, chances are that others will believe you have misused your public position.

#### **B. EXCEPTIONS TO CONFLICTS OF INTEREST**

In the years since these conflict rules were introduced, the Legislature has seen fit from time to time to adopt certain exemptions. The following is a partial list of the exemptions most commonly encountered.<sup>12</sup> You will not run afoul of the

prohibitions against doing business with your agency or having conflicting employment relationships if:

- 1) the business is rotated among all qualified suppliers of the product in the county;
- 2) the business is awarded by sealed, competitive bid and the official, his spouse, or child has not attempted to persuade County employees or officials to enter into the contract AND the official or employee files a statement with the County Supervisor of Elections disclosing his or her interest and the nature of the business AND this statement is filed before the bid is submitted;
- 3) the purchase is in response to an emergency and must be made to protect the health, safety and welfare;
- 4) the purchase is from a sole source in the county and the official or employee fully discloses his or her interest to the governing body;
- 5) the aggregate of such transactions does not exceed \$500 per calendar year;
- 6) public officials or employees in a private capacity purchase goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency; or
- 7) public officials or employees in a private capacity purchase goods or services from a business entity subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of the general public and the official or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

<sup>10</sup> See Commission on Ethics Opinions 83-46 and 79-8.

<sup>11</sup> See Commission on Ethics v. Barker, 677 So.2d 254 (Fla. 1996); Goin v.

Commission on Ethics, 658 So.2d 1131 (Fla. 1<sup>st</sup> DCA 1995).

<sup>12</sup> See §112.313(12), Florida Statutes, for the complete list.

8) In addition, conflicts of advisory board members may be waived in a particular instance by a two-thirds vote of the appointing body, or the appointing individual if applicable, following full disclosure of the nature of the transaction.

### **C. VOTING CONFLICT, APPEARANCE OF VOTING CONFLICT, AND DISCLOSURE OF PERSONAL INTEREST OR RELATIONSHIP**

When called upon to vote on a matter, a public official may be confronted with one of three possible scenarios: (1) a voting conflict, which requires the official to abstain from voting and publicly declare the conflict; (2) an appearance of voting conflict, in which the official may choose to abstain and publicly declare the apparent conflict; (3) a personal interest or relationship in the matter which does not amount to a voting conflict or an appearance of one, but still calls for public disclosure of the relationship or interest. All three scenarios will be addressed in turn.

#### **1. VOTING CONFLICT**

In cases where a relationship or interest does not amount to a prohibited conflict by one of the circumstances described above, officials may still be required to publicly declare certain conflicts and abstain from voting. This law applies when a vote would result in a special private gain or loss to the official, any principal that retains the official, any subsidiary or parent organization of a principal that retains the official, or the official's relative or business associate.<sup>13</sup> For the purposes of this law, a relative is defined as a parent, spouse, child, sibling, or in-law.<sup>14</sup> The term "special private gain or loss" in almost all

<sup>13</sup> §112.3143(3)(a), Florida Statutes.

<sup>14</sup> §112.3143(1)(b), Florida Statutes.

circumstances refers to a direct financial interest.<sup>15</sup> Suppose, for example, that you serve on a code enforcement board which is hearing a case concerning excessive noise in a particular neighborhood. Your son works for a company causing the noise, and a decision by your board to eliminate the noise would cost your son his job. This scenario does not describe the sort of prohibited business or contractual relationship discussed above, yet it is easy to see how your decision in this case could be improperly influenced by your son's position with the company.

### **Q & A**

**What does "special private gain" mean? Can I vote on a matter that would improve my entire neighborhood?**

In determining whether a voting conflict exists, the Commission on Ethics looks to the size of the class of individuals relative to the official's opportunity for gain that would result from the vote. There was no voting conflict where, for example, a planning commissioner voted on a comprehensive plan amendment affecting 29,000 acres, merely because the commissioner's principal leased 300 of those acres.<sup>16</sup> On the other hand, a planning commissioner would be prohibited from voting on a comprehensive plan amendment affecting 32,000 acres where the commissioner, his relatives, and business associates own 1,200 acres.<sup>17</sup>

**Please explain what being "retained by a principal" means.**

Whether you are "retained" by a principal for the purposes of voting conflicts is usually a function of whether you are receiving some sort of compensation from this principal. If,

<sup>15</sup> See, e.g., *Izaak Walton League of America v. Monroe County*, 448 So.2d 1170, 1173 n. 8 (Fla. 3d DCA 1984); *George v. City of Cocoa*, 78 F.3d 494 (11<sup>th</sup> Cir. 1996) ("A 'special private gain' described by the voting conflicts statute almost always (if not always) refers to a financial interest of the public official that is directly enhanced by the vote in question.")

<sup>16</sup> Commission on Ethics Opinion 87-18.

<sup>17</sup> Commission on Ethics Opinion 95-4.

for example, you are providing legal, engineering or other professional services for a client, or if you are a paid director of a corporation, you are "retained" under this law.<sup>18</sup> You would not, on the other hand, be retained by your church simply because you are a member,<sup>19</sup> or by a nonprofit corporation which you serve as an uncompensated director.<sup>20</sup> Finally, there is no voting conflict if you are retained by another public agency.<sup>21</sup>

#### **What do I do if I have a voting conflict?**

In the event of a voting conflict, a public official must abstain from voting, declare publicly the nature of his or her interest in the matter before the vote occurs, and within fifteen days of the vote, file a memorandum of voting conflict with the person responsible for recording the minutes of the meeting to be incorporated into the minutes.<sup>22</sup> Elected officials are nevertheless allowed to participate in a matter prior to abstaining. Appointed officials, on the other hand, may not participate in matters that give rise to a voting conflict. Appointed officials must provide a copy of their memorandum of voting conflict to the other board members, and read the memorandum at the next public meeting after it has been filed. The term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at his or her direction.<sup>23</sup>

## **2. APPEARANCE OF VOTING CONFLICT**

There may be circumstances where a vote does not directly result in a special private gain or loss, but does create

<sup>18</sup> Commission on Ethics Opinions 84-11 and 84-107.

<sup>19</sup> Commission on Ethics Opinion 90-24.

<sup>20</sup> Commission on Ethics Opinion 84-50.

<sup>21</sup> See, e.g., Commission on Ethics Opinions 91-20, 88-20 and 86-86.

<sup>22</sup> The memorandum of voting conflict is known as Form 8B and is available from the County Attorney's Office or may be printed directly from the Commission on Ethics Web site at <http://www.ethics.state.fl.us/>.

<sup>23</sup> §112.3143(4)(c), Florida Statutes.

the appearance of one. In this case, section 286.012, Florida Statutes, allows a public official to declare the apparent conflict and abstain from voting. But while this law allows the official to abstain, it also imposes an affirmative duty on the part of officials to vote on all matters unless "there is or appears to be a possible conflict of interest" under Florida's Code of Ethics.<sup>24</sup> This law discourages use of the abstention to avoid a politically unpopular vote or otherwise manipulate the outcome of a particular vote. In determining what constitutes a possible conflict of interest under this statute, the Attorney General has explained that a public official must have a personal financial interest in a matter in order to abstain from voting.<sup>25</sup> The Commission on Ethics has similarly explained that a city council member may not abstain on a matter involving the member's personal foe, explaining that the Code of Ethics is primarily concerned with a public official's economic interests.<sup>26</sup>

## **Q & A**

### **Is there no better definition in the law of what constitutes a possible conflict of interest?**

There is a fine line between a possible conflict where a public official may abstain, and an absence of conflict where the public official must vote. Of the few opinions that give guidance on the subject, the timing of an official act in relation to some private transaction plays an important role. In one case where no actual conflict existed at the time of a vote, the Commission on Ethics explained that a recent transaction connected to the matter gave rise to the appearance of a conflict. In that case, a city commissioner entered into a partnership to purchase a parcel of land which was ultimately sold to a third party. A few months later, the third party approached the city regarding a possible voluntary annexation. The Ethics

<sup>24</sup> §286.012, Florida Statutes.

<sup>25</sup> Attorney General Opinion 87-17.

<sup>26</sup> Commission on Ethics Opinion 79-14.

Commission noted that the commissioner had no ongoing relationship with the third party and expected none in the future. While no actual voting conflict existed under these facts, the Commission on Ethics noted that the commissioner could elect to abstain based on an appearance of voting conflict.<sup>27</sup> The scarcity of opinions on the subject suggests that abstention for a possible conflict is rarely used. When there is clearly no actual voting conflict, the best practice in most cases is simply to vote and disclose the nature of the personal interest or relationship that raised the concern.

### 3. DISCLOSURE OF A PERSONAL INTEREST OR RELATIONSHIP

Even when required by state law to cast a vote, a public official can ensure maximum transparency in government decision-making by disclosing certain relationships and interests related to the matter. For example, voting on a matter that would benefit a grandparent, longtime friend, former employer, former business associate, or favorite charity, may not amount to a voting conflict under state law. But by fully disclosing the nature of these facts and relationships before the vote, the public official eliminates the possibility of any secret motive, and can better demonstrate that the vote was made for the public good, not for private gain. This serves not only the primary intent of Florida's Code of Ethics, but also the dictates of the federal "honest services" law.

### D. THE INTANGIBLE RIGHT TO HONEST SERVICES

Federal law prohibits engaging in fraudulent activity that would deprive another of the intangible right of honest services.<sup>28</sup> While not part of the state's Code of Ethics, this law certainly impacts local government officials and employees. Typical examples of activities prosecuted under this law include

<sup>27</sup> Commission on Ethics Opinion 87-96.  
<sup>28</sup> 18 U.S.C. §1346.

bribery or failure to disclose a conflict of interest that results in personal gain.<sup>29</sup> Federal courts have not uniformly interpreted the reach of this law. The Fifth and Fourth Circuits have tied a deprivation of honest services to a violation of state law.<sup>30</sup> The First Circuit, on the other hand, has explained that while the defendant in one case violated a state law, such a violation is not necessary to find a conviction under the federal law.<sup>31</sup> The Eleventh Circuit, the federal court that hears cases in Florida, has also ruled that proof of violation of state law is not necessary for a conviction under the federal law.<sup>32</sup>

The Eleventh Circuit's interpretation of this law suggests a broader reach than some other circuits, but public officials in Florida convicted under this law uniformly misused their public office for personal gain which, in one fashion or another, could have amounted to violations of Florida's Code of Ethics. In *United States v. Hasner*, for example, the chairman of the Housing Finance Authority concealed commissions paid to him in connection with a real estate transaction where the property was to be developed with bonds issued by the Housing Finance Authority.<sup>33</sup> In *Lomelo v. United States*, the mayor of the City of Sunrise took part in a scheme in which public dollars were funneled to individuals for services that were never performed.<sup>34</sup> *Castro v. United States* was one of several trial court cases emanating from the so-called "Operation Court Broom" in which judges were convicted of appointing attorneys as special public defenders in exchange for kickbacks.<sup>35</sup> Finally, in *United States v. Lopez-Lukis*, a Lee County Commissioner took bribes from a lobbyist in exchange for votes and participated with the lobbyist in a blackmail campaign

<sup>29</sup> *United States v. Woodard*, 459 F.3d 1078 (11<sup>th</sup> Cir. 2006).

<sup>30</sup> *United States v. Brumley*, 116 F.3d 728 (5<sup>th</sup> Cir. 1997).

<sup>31</sup> *United States v. Sawyer*, 85 F.3d 713 (1<sup>st</sup> Cir. 1996).

<sup>32</sup> *United States v. Hasner*, 340 F.3d 1261 (11<sup>th</sup> Cir. 2003).

<sup>33</sup> *Hasner*, 340 F.3d at 1265-1266.

<sup>34</sup> 891 F.2d 1512, 1514 (11<sup>th</sup> Cir. 1990).

<sup>35</sup> 248 F.Supp.2d 1170 (S.D. Fla. 2003).

against a county commission candidate to maintain a balance on the Commission that was favorable to the lobbyist.<sup>36</sup> By any standard imaginable, the public officials in each of these cases clearly stepped over the line.

In describing its understanding of the federal law, the Eleventh Circuit may not specifically adopt standards established by Florida's Code of Ethics, but it certainly remains consistent with it. The very first sentence of Florida's Code of Ethics provides: "It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain."<sup>37</sup> As for the Eleventh Circuit's reading of the federal law:

When a government officer decides how to proceed in an official endeavor—as when a legislator decides how to vote on an issue—his constituents have a right to have their best interests form the basis of that decision. If the official instead secretly makes his decision based on his own personal interests—as when an official accepts a bribe or personally benefits from an undisclosed conflict of interest—the official has defrauded the public of his honest services.<sup>38</sup>

Both laws serve the same end, and the federal court decisions thus far have hardly been shocking given the actions of the public officials at issue. But the Eleventh Circuit has made it clear that its understanding of the federal law will not be limited to duties imposed by state law. As such, it is not possible to simply resort to the body of opinions regarding Florida's Code of Ethics to determine how the federal law might apply. While not foolproof, full disclosure of the nature

<sup>36</sup> 102 F.3d 1164 (11<sup>th</sup> Cir. 1997).

<sup>37</sup> §112.311(1), Florida Statutes.

<sup>38</sup> *Lopez-Lukis*, 102 F.3d at 1169.

of personal interests and relationships related to a vote, even when there is no conflict under state law, best addresses the issue. Properly done, the nature of this disclosure should demonstrate that the decision is based on the best interests of the public and not secretly made to serve a private interest. Better still, this practice will further enhance transparency in local government decision-making.

#### E. FINANCIAL DISCLOSURE AND THE GIFT LAW

These rules require certain County officials and employees to regularly report their financial interests and receipt of certain gifts. The Gift Law also sets forth a number of prohibitions and rules regarding gift valuation for reporting purposes.<sup>39</sup>

#### Applicability

The following employees and officials are subject to the state's financial disclosure requirements and the requirements of the Gift Law:

- 1) All persons elected to office or appointed to fill an elective office, including any person who has qualified for elective office or who has been elected but has yet to assume responsibilities of the office.
- 2) All persons appointed to boards having the power to enforce local codes.
- 3) All persons appointed to local zoning or planning boards, including boards of adjustment or appeal boards, except those boards having only advisory functions.
- 4) All persons serving on a pension or retirement board having the power to invest pension or retirement funds, or the power to make a binding determination of

<sup>39</sup> See §§112.3145 and 112.3148, Florida Statutes, for a complete list of covered officials, rules and prohibitions.

one's entitlement to or amount of a pension or other retirement benefit.

- 5) All persons appointed to any other board who are required to file a financial disclosure by the appointing authority, or by state or local law or regulation.
- 6) The County Administrator, County Attorney, County Building Official, water resource coordinators, environmental control director, fire chief, any administrator with the authority to grant or deny land development permits, and purchasing agents with authority to make purchases exceeding \$15,000 in value.

If you are subject to the financial disclosure requirements, you should receive a financial disclosure form by mail no later than June 1. These forms are also available from the Palm Beach County Supervisor of Elections Office and online from the State Commission on Ethics Web site at <http://www.ethics.state.fl.us>.

#### **What to file, when to file, where to file it**

If you are covered by these rules you must file the financial disclosure form by July 1 of each year. You are also required to file this form no later than 30 days after taking the position. Elected officials file their form with the Commission on Ethics; others file with the Palm Beach County Supervisor of Elections Office. If you fail to timely submit the completed financial disclosure form, you will receive a delinquency notice. If you fail to respond to this delinquency notice, you will be subject to civil penalties. This disclosure form requires you to report your non-public sources of income and certain types of financial interests including certain types of real property holdings, ownership interests in certain types of businesses such as banks and utility companies, and certain financial liabilities you may have. If, after reading the form, you realize that you have nothing to disclose, mark "not applicable" on the form and file it anyway.

You are also required to file a final financial disclosure statement within 60 days of leaving your public position for the period between January 1 of the year in which you leave office and the last day of service. You are not required to file this final financial disclosure form if during this period you assume another public position that requires financial disclosure.

Those required to file a financial disclosure form are also subject to quarterly gift reporting requirements. You must file a quarterly gift report with the Commission on Ethics for any calendar quarter in which you receive a gift worth over \$100. The disclosure form is due no later than the last day of the following calendar quarter. For example, if the gift is received in March, it must be disclosed no later than June 30. This disclosure form requires a description of the gift, its value, the name and address of the donor, and the date received. You do not have to report gifts from relatives.<sup>40</sup> Like the financial disclosure form, this form is also available at the Commission on Ethics Web site. Unlike the financial disclosure form, you do not have to file the quarterly gift reporting form if you have nothing to report.

#### **Gift definition and valuation**

The gift reporting rules seem simple enough but, as the following section will reveal, a "gift" is not always a gift, and its value may not always be what it is worth. The law describes a "gift" as anything accepted by you or by another on your behalf including but not limited to real or personal property or its limited use; forgiveness of a debt; preferential terms on a debt, loan or other service; food or beverage; tickets to events, or membership dues. A "gift" does not include your salary or fees or gifts associated primarily with your employment; any award or plaque given in recognition of your civic, charitable or professional service; transportation provided to you by a public agency in relation to officially approved governmental business,

<sup>40</sup> See §112.3148(8)(a)1, Florida Statutes.

or the use of a public facility made available to you for a public purpose.

## Q & A

### How do I calculate the value of a gift?

Determining the value of a gift is not as simple as checking its price tag. The following rules address the more common questions of valuation.<sup>41</sup>

- 1) The value of a gift is determined using the actual cost to the donor, less taxes and gratuities. With respect to personal services provided, the reasonable and customary charge regularly charged for such service in your community shall be the value for reporting purposes.
- 2) Membership dues paid to the same organization during any twelve-month period shall be considered a single gift.
- 3) The value of entrance fees, admission fees, or tickets shall be the face value of the ticket or fee.
- 4) Transportation is valued on a round-trip basis and considered a single gift, unless only one-way transportation is provided. Transportation provided by private carrier is valued based on the same transportation provided by comparable commercial carrier. Lodging provided on consecutive days is considered a single gift.
- 5) The value of the gift is reduced by any compensation provided by you to the donor. This compensation must be given to the donor within ninety days of your receiving the gift. For example, a \$110 gift given to you may be valued at \$90 and therefore not subject to quarterly reporting if, within ninety days of

<sup>41</sup> See §112.3148(7), Florida Statutes.

receiving the gift, you paid \$20 to the donor in exchange for it.

## Prohibitions

The Gift Law prohibits you from receiving gifts from a lobbyist or the lobbyist's principal if the value of the gift exceeds \$100.<sup>42</sup> According to the Gift Law, a lobbyist is one who, for compensation, seeks or sought during the preceding twelve months to influence some measure of governmental decision-making. Those who lobby Palm Beach County are required by local ordinance to register. A complete listing of registered lobbyists is maintained by the County and available online for your review at: <http://www.pbcgov.com/legislativeaffairs/lobbying.htm>. In order to avoid violating this prohibition, it is important to know first, whether you have a gift at all and second, whether the gift's value exceeds the \$100 limit.

## F. RESTRICTION ON EMPLOYMENT OF RELATIVES

This law prohibits County officials and employees from seeking to appoint, employ, promote, or advance a relative in the agency in which the official or employee serves, or over which the official or employee exercises jurisdiction or control. For the purpose of this law, the term "relative" is quite broad. It is defined as one related to the official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

According to this law, the term "jurisdiction and control" does not include mere approval of budgets. Nor would

<sup>42</sup> See §112.3148(4), Florida Statutes.

approval of across the board salary increases constitute a violation of this law.<sup>43</sup>

### G. PENALTIES

Penalties for violating the Code of Ethics include removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed \$10,000, and restitution of any financial benefit received as a result of the violation.<sup>44</sup> Any contracts entered into by the County in violation of the Code of Ethics are voidable as well. Violations of the federal honest services law carry the possibility of substantial fines, forfeiture of any gains received in violation of the law, and a prison sentence of up to twenty years.

### III. PALM BEACH COUNTY POST-EMPLOYMENT ETHICS ORDINANCE

This local ordinance prevents certain employees from representing other parties in matters in which the County has an interest for at least six months following cessation of their employment with the County. Level-two employees, *i.e.*, assistant county administrators, assistant county attorneys, department heads, assistant department heads, division heads, auditors within the internal audit department, and deputy fire chiefs, must refrain from such representation for an additional six months in matters in which the employee participated substantially. Level-one employees, *i.e.*, county administrator, county attorney, internal auditor, fire rescue administrator, county engineer, deputy county administrator, chief deputy county attorney, deputy county engineer and director of planning, zoning and building, must refrain from such

<sup>43</sup> Commission on Ethics Opinion 90-62.

<sup>44</sup> See §112.317, Florida Statutes.

representation for an additional twelve months in matters in which the employee participated substantially.<sup>45</sup>

This ordinance does not prevent former employees from representing themselves before a County board or department in personal matters. Nor does this ordinance prevent a former employee from contracting with the County to provide goods or services.

### IV. SUNSHINE LAW

The principal aim of the Sunshine Law is to prevent government from conducting business behind closed doors. The law requires all meetings of any board or agency at which official acts are to be taken to be public. Since its adoption, the law has been broadly applied to cover each step of the decision-making process which leads to a board's official act. All advisory bodies that recommend action to the ultimate decision-making body must therefore meet "in the sunshine." In fact, any group, whether formally assembled or ad hoc in nature, must adhere to the Sunshine Law if it has been delegated any measure of decision-making authority. Complying with the requirements of the Sunshine Law is really rather simple and will be covered in a later section. The more difficult issues concern whether the Sunshine Law applies at all.

#### A. WHEN DOES THE SUNSHINE LAW APPLY?

According to Florida Statutes, all meetings of any agency or authority of the County at which official acts are to be taken are declared to be public meetings open to the public at all times.<sup>46</sup> The term "official acts" does not simply refer to the final vote of a board. Rather, this term describes every step in the decision-making process which leads to a board's final act. As such, a board cannot evade the law by meeting in private to resolve an issue only to summarily affirm its decision in a

<sup>45</sup> Palm Beach County Ordinance 88-30.

<sup>46</sup> See §286.011, Florida Statutes (1995).

subsequent public meeting.<sup>47</sup> Nor does the law allow two or more board members to privately discuss matters which may foreseeably come before their board.<sup>48</sup> This prohibition extends to all forms of electronic communication as well. Moreover, an individual who has been delegated the authority to act on behalf of an agency may be an "agency" for the purposes of the Sunshine Law.<sup>49</sup> In sum, any entity that has been delegated some measure of decision-making authority is covered by the Sunshine Law.

The critical factor in determining whether a board or committee is covered by the Sunshine Law is whether it functions as a decision-making body. For example, a staff committee formed to screen and recommend applicants for the position of dean at a state university was subject to the Sunshine Law. Even though applicants rejected by the committee nevertheless could be considered for hire, and the committee's recommendations overall could be disregarded, a court reasoned that the law applied because of the committee's involvement in the decision-making process.<sup>50</sup> In contrast, a group formed only for the purpose of fact finding in order to help the decision-making authority come to its own conclusion was not a committee covered by the Sunshine Law.<sup>51</sup>

It should be clear from the examples above that if you are appointed by the Board of County Commissioners to serve on an advisory board, your board is most certainly subject to the Sunshine Law. It should also be clear that there is no staff exception to the Sunshine Law. Employees for the most part only carry out the policies of the governing body and are not, therefore, covered by the Sunshine Law. But there are some limited situations where employees are called upon to engage in

<sup>47</sup> *Town of Palm Beach v. Gradison*, 296 So.2d 473 (Fla. 1974).

<sup>48</sup> *Rowe v. Pinellas Sports Authority*, 461 So.2d 72 (Fla. 1984).

<sup>49</sup> *Krause v. Reno*, 366 So.2d 1244 (Fla. 3d DCA 1979).

<sup>50</sup> *Wood v. Marston*, 442 So.2d 934 (Fla. 1983).

<sup>51</sup> *Cape Publications v. City of Palm Bay*, 473 So.2d 222 (Fla. 5th DCA 1985).

decision-making on behalf of the governing body. In these circumstances, the Sunshine Law applies to employees as well.

## B. WHAT IS REQUIRED TO COMPLY WITH THE SUNSHINE LAW?

The law requires reasonable notice of a meeting in order to make it a "public" meeting.<sup>52</sup> Whether notice is reasonable depends on the board and the facts surrounding the required board action.<sup>53</sup> "Reasonable notice" can best be described as notice that, in light of the surrounding circumstances, is sufficient to inform and enable interested persons to attend the meeting. Public meetings must also be held at facilities that are reasonably accessible to the public.<sup>54</sup> The Sunshine Law prohibits government from conducting meetings at any facility which discriminates on the basis of sex, age, race, creed, color, origin, or economic status, or which operates in such a manner as to unreasonably restrict public access.<sup>55</sup>

In addition, the Sunshine Law requires minutes of public meetings to be promptly recorded and made available for public inspection.<sup>56</sup> Minutes must be in written form and need only contain a brief summary of the meeting.<sup>57</sup> There is no requirement to tape record public meetings, but if done, these recordings become public records and must be available for public inspection.<sup>58</sup>

## C. PENALTIES FOR VIOLATING THE SUNSHINE LAW

Any member of a board or committee subject to the Sunshine Law who knowingly violates its provisions is guilty of

<sup>52</sup> *Yarbrough v. Young*, 462 So.2d 515 (Fla. 1st DCA 1985).

<sup>53</sup> See, e.g., *News and Sun-Sentinel Company v. Cox*, 702 F.Supp. 891 (S.D. Fla. 1988).

<sup>54</sup> See, e.g., Attorney General Opinion 76-141.

<sup>55</sup> See §286.011(6), Florida Statutes (1995).

<sup>56</sup> See §286.011, Florida Statutes (1995).

<sup>57</sup> Attorney General Opinion 82-47.

<sup>58</sup> See §119.01, Florida Statutes (1995); Attorney General Opinion 86-21.

a second degree misdemeanor, punishable by a prison term of up to sixty days, a fine of up to \$500, or both.<sup>59</sup> Furthermore, any elected or appointed official convicted of a misdemeanor may be removed from office by executive order of the Governor.<sup>60</sup> The statute provides in addition that any violation of the Sunshine Law is a noncriminal infraction punishable by a fine of up to \$500. Finally, reasonable attorneys' fees may be assessed against a board that violates the Sunshine Law.

## Q & A

### What happens to actions taken in violation of the Sunshine Law?

The Sunshine Law specifically provides that "no resolution, rule, or formal action shall be considered binding except as taken or made at an open meeting."<sup>61</sup> Courts have accordingly nullified actions taken by a board in violation of the Sunshine Law. A zoning ordinance, for example, was declared invalid because it was adopted based in part upon the recommendations of a citizens' planning committee which met in private.<sup>62</sup> In another instance, the court rendered void a contract to purchase property because the agency failed to give proper notice of a meeting.<sup>63</sup> A Sunshine Law violation can be cured with respect to the official action provided that the matter is given full consideration at a later public meeting.<sup>64</sup>

### Does the reasonable notice/reasonable access requirement include the right of the public to speak at a public meeting?

The statute does not address the public's right to speak at a public meeting. Courts have suggested, however, that the right to "participate" in public meetings does not include the

<sup>59</sup> See §286.011(3)(b), Florida Statutes (1995).

<sup>60</sup> See §112.52, Florida Statutes (1995).

<sup>61</sup> See §286.011, Florida Statutes (1995).

<sup>62</sup> *Town of Palm Beach v. Gradison*, 296 So.2d 473 (Fla. 1974).

<sup>63</sup> *TSI Southeast, Inc. v. Royals*, 588 So.2d 309 (Fla. 1<sup>st</sup> DCA 1991).

<sup>64</sup> See *Tolar v. School Board of Liberty County*, 398 So.2d 427 (Fla. 1981).

right to speak to each item.<sup>65</sup> There also exists ample authority to support a government's right to reasonably restrict the public's right to speak during public meetings.<sup>66</sup>

### Does the reasonable notice requirement include the requirement to prepare an agenda?

There is no requirement that an agenda be published as part of the reasonable notice requirement.<sup>67</sup> Moreover, in the event one is published, there is no requirement that the board adhere in lock step to the agenda as drafted.<sup>68</sup>

## V. PUBLIC RECORDS LAW

Along with the Sunshine Law, the Public Records Law forwards the principle of open government by ensuring public access to nearly all government records. This law is applied broadly by the courts to accomplish its intended effect. And while there exist hundreds of exceptions to the law, each is drafted narrowly by the Legislature and construed by the courts in like fashion. Nearly all documents concerning County business are more likely than not public records which must be made available for public inspection and copying upon request.

### A. PUBLIC RECORDS DEFINED

State law defines "public records" as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of any

<sup>65</sup> See *Law and Information Services v. City of Riviera Beach*, 670 So.2d 1014 (Fla. 4<sup>th</sup> DCA 1996) (citing *Wood v. Marston*, 442 So.2d 934 (Fla. 1983)).

<sup>66</sup> See, e.g., *Jones v. Heyman*, 888 F.2d 1328 (11<sup>th</sup> Cir. 1989).

<sup>67</sup> See *Law and Information Services v. City of Riviera Beach*, 670 So.2d 1014 (Fla. 4<sup>th</sup> DCA 1996).

<sup>68</sup> *Hough v. Stemberge*, 278 So.2d 288 (Fla. 3d DCA 1973).

agency.<sup>69</sup> The Supreme Court of Florida added to this definition that public records are all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.<sup>70</sup> As such, public records include not only those final or "official" government documents intended for public review, but also include drafts and interdepartmental memoranda which gave rise to the final document.

Carefully considering the terms used by the court in describing a public record—"perpetuate," "communicate" and "formalize"—should help you understand what is and what is not a public record. Was the document created in order to communicate an idea to another? Was it created in order to perpetuate or prolong the existence of an idea? Was it created in order to formalize an idea, to give it shape or definition? Consider the following common examples in light of these questions.

#### **Public record—is it or isn't it?**

Interoffice or intra-office memoranda which communicate information from one employee to another are likely public records. Drafts of official documents circulated among employees for comment are also public records, even if the information contained in them does not later become part of a formal public document. On the other hand, uncirculated rough drafts or notes intended only for your personal use, or dictation notes or tapes, would not be public records.<sup>71</sup> Your appointment calendar, to the extent it includes your official duties, is a public record, as are travel itineraries and plane reservations related to your official duties.<sup>72</sup> Tape recordings of

<sup>69</sup> §119.011(1), Florida Statutes.

<sup>70</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633 (Fla. 1980).

<sup>71</sup> *See, e.g., Byron, Harless*, 379 So.2d 633; *State v. Kokal*, 562 So.2d 324 (Fla. 1990).

<sup>72</sup> Attorney General Opinion 72-356.

advisory board meetings are public records.<sup>73</sup> E-mail sent or received in connection with official business is a public record. Resumes, salaries and performance evaluations are all public records as well.<sup>74</sup>

## **Q & A**

### **Is my entire personnel file a public record?**

Most personnel records are subject to the Public Records Law. The Supreme Court of Florida has explained that all records related to an employee's qualifications for the job or performance on the job are public records.<sup>75</sup> As noted above, records including your resume, salary and performance evaluations are public records. Any letter of reprimand or censure for failing to do your job properly is also a public record.<sup>76</sup> The Legislature has, however, enacted a number of exemptions to the law in order to strike a balance between the public's right to access government records and an employee's right to privacy. Social Security numbers of all current and former County employees are exempt.<sup>77</sup> Any medical information in your file which, if disclosed, would reveal your identity is exempt.<sup>78</sup> Examination questions and answer sheets of examinations administered by the County for employment purposes are also exempt.<sup>79</sup> Names and addresses of certain employees, such as code enforcement officers and firefighters, are exempt as well.<sup>80</sup>

<sup>73</sup> Attorney General Opinion 86-21.

<sup>74</sup> *See, e.g., Byron, Harless*, 379 So.2d at 639-640.

<sup>75</sup> *See Michel v. Douglas*, 464 So.2d 545 (Fla. 1985).

<sup>76</sup> *News-Press Publishing Co. v. Wister*, 345 So.2d 646 (Fla. 1977).

<sup>77</sup> §119.071(4)(a)1, Florida Statutes.

<sup>78</sup> §112.08(7) and §119.071(4)(b), Florida Statutes.

<sup>79</sup> §119.071(1)(a), Florida Statutes.

<sup>80</sup> §119.071(4)(d)1 and 5, Florida Statutes.

### Is written correspondence with the County Attorney's Office protected by the attorney-client privilege?

No. The Public Records Law provides a limited work product exemption, but it is not nearly as broad as the attorney-client privilege enjoyed by the private sector. The exemption is limited to documents prepared by or at the direction of the agency attorney exclusively for ongoing or imminent litigation which reflect the attorney's legal theory or litigation strategy. These documents lose exemption status at the close of the litigation.<sup>81</sup> Florida Statutes provide certain additional exemptions for documents regarding insurance claims negotiations and claims filed with Risk Management.<sup>82</sup>

### How does the Public Records Law apply when the County does business with the private sector?

The Public Records Law balances the public's demand for open government with the private sector's need to maintain some level of confidentiality in the competitive marketplace. Sealed bids or proposals solicited by the County, for example, are exempt from disclosure until the County makes a selection, or within ten days after the bid or proposal opening, whichever comes sooner.<sup>83</sup> Trade secrets, under certain circumstances, are also exempt.<sup>84</sup> Private businesses, however, acting on behalf of the County may be subject to the Public Records Law.<sup>85</sup> Whether a company doing business with the County is acting "on behalf of" the County, however, is not an easily answered question. Courts view the issue on a case by case basis analyzing, for example, whether the business through its contract with the County performs a governmental function or

<sup>81</sup> §119.071(1)(d)1, Florida Statutes; *State v. Coca Cola Bottling Co.*, 582 So.2d 1 (Fla. 4<sup>th</sup> DCA 1990).

<sup>82</sup> §624.311(2) and §768.28(16), Florida Statutes.

<sup>83</sup> §119.071(1)(b), Florida Statutes.

<sup>84</sup> See §119.071(1)(f), Florida Statutes, which exempts computer processing software obtained by the County under a licensing agreement.

<sup>85</sup> See §119.011(2), Florida Statutes, including as part of the definition for "agency" businesses acting on behalf of a government agency.

whether the business plays an integral role in the County's decision-making.<sup>86</sup> Simply put, a government cannot evade the Public Records Law by entrusting its documents to private entities with which it does business.<sup>87</sup>

### B. WHAT IS REQUIRED TO COMPLY WITH THE PUBLIC RECORDS LAW?

The law requires that all public records remain available for examination and inspection at any reasonable time and under reasonable conditions. In responding to a request, you should take only the amount of time necessary to retrieve the record and review it to see if any exemptions to the law apply. The law also provides that copies of public records must be furnished upon request and payment of a fee.<sup>88</sup> Generally, the fee for copying a public record cannot exceed the actual cost of copying. The County may impose a special service charge if the nature or volume of records requested requires extensive clerical or supervisory assistance.<sup>89</sup> The County's policy regarding reproduction of public records, including fee assessment, is currently found in PPM CW-F-002.

### Q & A

#### What exactly do "reasonable times" and "reasonable conditions" mean?

Despite the fact that laws often use the term "reasonable" to govern our conduct, the word can mean different things to different people. To help understand what the law considers reasonable, it is best to review what is considered *unreasonable*. Government cannot, for example, impose an automatic delay before a requested record is

<sup>86</sup> See, e.g., *News and Sun-Sentinel Company v. Schwab, Twitty & Hanser Architectural Group*, 596 So.2d 1029 (Fla. 1992).

<sup>87</sup> See, e.g., *L.E. Harold v. Orange County*, 668 So.2d 1010 (Fla. 5<sup>th</sup> DCA 1996); *Wisner v. City of Tampa*, 601 So.2d 296 (Fla. 2d DCA 1992); *Times Publishing Co. v. City of St. Petersburg*, 558 So.2d 487 (Fla. 2d DCA 1990).

<sup>88</sup> §119.071(a) and (4), Florida Statutes.

<sup>89</sup> §119.071(4)(d), Florida Statutes.

disclosed.<sup>90</sup> Nor can a government establish a fixed time period during which records may be inspected.<sup>91</sup> Courts have determined that it is unreasonable to require a person to give some reason for reviewing a public record.<sup>92</sup> It has also been found unreasonable to require a person to give his or her name or address, or to require that the request be made in writing.<sup>93</sup> Courts have also disapproved of a government's refusal to honor a public records request because it was overbroad.<sup>94</sup> If presented with a request that is too broad or vague to identify the records sought, you must notify the requesting party that you require more information in order to produce the document. In sum, this "reasonableness" standard has been construed to prevent a government from adopting policies that hinder the public's broad right of access to public records.

#### **How will I know if a document is exempt under the law?**

There are literally hundreds of exemptions to the Public Records Law scattered throughout all five volumes of the Florida Statutes, so chances are pretty good that you will not know whether an exemption applies. While these exemptions number in the hundreds, they are extremely narrow in scope, so chances are also pretty good that an exemption will not apply to the document being requested. Please contact the County Attorney's Office *before* you decide to refuse a public records request because of an exemption.

<sup>90</sup> *Tribune Company v. Cannella*, 458 So.2d 1075 (Fla. 1984).

<sup>91</sup> See Attorney General Opinions 92-9; 75-70, and Attorney General Informal Opinion Letter to Christina Riotte, May 21, 1990.

<sup>92</sup> *News-Press Publishing Co., Inc. v. Gadd*, 388 So.2d 276 (Fla. 2d DCA 1980).

<sup>93</sup> See, e.g., *Bevan v. Waniccka*, 505 So.2d 1116 (Fla. 2d DCA 1987); Attorney General Opinions 91-76 and 92-38.

<sup>94</sup> *Lorei v. Smith*, 464 So.2d 1330 (Fla. 2d DCA 1985).

#### **What if a public document contains some information that is exempt?**

Consult the County Attorney's Office first to determine whether the portion of the record in question is exempt. If an exemption applies, you are required to provide only that portion or portions of the document that is not exempt.<sup>95</sup> To do so, you may employ any method, such as masking the exempt information, as long as you do not destroy the exempted portion.<sup>96</sup>

#### **What if the record requested does not exist?**

The Public Records Law requires that the public be allowed access to public documents. It does not, however, require you to create a new report to accommodate a request. Under this law, a person may examine the County's records regarding its road improvement expenditures, for example, but you do not need to honor a request to examine a report of those expenditures by Commission District if such a report does not exist.

#### **What if I cannot answer questions about what the record means?**

The Public Records Law requires access, not explanations. A finance officer would be required to produce the County's finance records for public inspection, but is not required by the Public Records Law to explain or answer questions regarding those finance records.<sup>97</sup>

### **C. PENALTIES**

Those who knowingly violate the Public Records Law are guilty of a first degree misdemeanor, punishable by a fine of up to \$1,000, a prison term of up to one year, or both. Elected officials are in addition subject to suspension and removal from office or impeachment.

<sup>95</sup> §119.071(1)(b), Florida Statutes.

<sup>96</sup> Attorney General Opinion 84-81.

<sup>97</sup> Attorney General Opinion 92-38.



**Palm Beach County  
Board of County Commissioners**

Jeff Koons,, Chairman  
Burt Aaronson, Vice Chairman  
Karen T. Marcus  
Shelley Vana  
Mary McCarty  
Jess R. Santamaria  
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Exhibit E

LAND DEVELOPMENT REGULATION ADVISORY BOARD

# "Rules of Procedure"



May 14, 2004

## **Exhibit E**

### **Article I Introduction**

- A. The Palm Beach County Unified Land Development Code, hereinafter referred to as the ULDC, authorizes the Land Development Regulation Advisory Board and Land Development Regulation Commission, herein after referred to as the LDRAB and LDRC to Rules of Procedures for the transaction of business.
- B. The within Rules of Procedure have been adopted by the LDRAB and LDRC, and all previously adopted Bylaws or Rules of Procedure are deemed repealed.

### **Article II Powers and Duties**

- A. The LDRAB shall have the powers and duties as outlined in ULDC Art.17.C.1.B, Powers and Duties, as amended.

### **Article III Membership, Officers and Staff**

- A. The LDRAB shall be composed of members as outlined in ULDC Art.17.C.1.C, Board Membership, as amended.
- B. The Zoning Director shall serve as the Secretary and the professional staff of the LDRAB as outlined in ULDC Art.17.C.1.D, Staff, as amended.

### **Article IV Meetings**

- A. General meetings and special meetings of the LDRAB shall be governed as outlined in ULDC Art.17.B.5, Rules of Procedure, as amended.
- B. A member of the LDRAB shall be permitted to participate in a general or special meeting via telephone or teleconference if the following conditions are met:
  - 1. That the quorum necessary to take action and transact business is physically present at the meeting; and
  - 2. That the LDRAB, by a majority vote of the quorum present, determines that the extraordinary circumstances justify the members' absence.

## **Exhibit E**

### **Article V Subcommittees**

- A. The LDRAB may create subcommittees, which will be governed by the regulations in Art.17.C.1.E.2, Subcommittees, as amended, as well as the following regulations:
1. At a minimum, the subcommittee shall be composed of one LDRAB member and two non-LDRAB members. It shall be determined by a majority vote of the LDRAB that the non-members have the necessary expertise on the specific Code amendment;
  2. The subcommittee shall meet as often as determined necessary by the LDRAB;
  3. The presence of at least two members of the subcommittee, one of whom must be an LDRAB member, shall constitute a quorum necessary to take action and transact business;
  4. The location of all meetings shall be in PBC, Florida and all meetings shall be open to the public;
  5. The Zoning Director shall serve as the Secretary and the professional staff of the subcommittee;
  6. The County Attorney's Office shall provide counsel and interpretation on legal issues; and
  7. The subcommittee shall submit their findings at the next scheduled LDRAB meeting.

### **Article VI Amendments to the Rules of Procedures**

- A. The LDRAB may amend these rules at a regular meeting by a majority vote of the quorum present.
- B. The LDRAB Secretary shall maintain a copy of the "Rules of Procedures" in the Zoning Division for the Public to view.

## Exhibit F

### LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

#### 2009 ATTENDANCE MATRIX (Updated 01/20/10)

Meeting Dates & Times:			1/28/09 Canceled	2/25/09	3/25/09	4/22/09 Canceled	5/27/09	6/24/09	7/22/09	8/26/09 Canceled	9/23/09	10/28/09	11/18/09	12/9/09 Canceled
Seat	Member	Term Expires												
1	Joanne Davis	Feb. 3, 2010		N	Y		N	Y	Y		Y	Y	N	
2	David Carpenter	Feb. 7, 2012		Y	N		Y	Y	Y		N	Y	Y	
3	Barbara Katz	Feb. 3, 2010		N	Y		Y	Y	Y		N	N	N	
4	Jim Knight	Feb. 3, 2010		Vacant	Vacant		Y	Y	Y		Y	Y	N	
5	Lori Vinikoor	Feb. 3, 2010		Vacant	Vacant		Y	Y	Y		Y	Y	Y	
6	Mike Zimmerman	Feb. 7, 2012		Vacant	Y		Y	Y	Y		Y	N	N	
7	Martin Klein	Feb. 3, 2010		Y	Y		Y	Y	Y		Y	Y	N	
8	Raymond Puzittello	Feb. 3, 2010		Y	Y		Y	Y	Y		Y	N	Y	
9	Joni Brinkman	Feb. 7, 2012		Y	Y		Y	Y	Y		Y	Y	Y	
10	Ron Last, PE	Feb. 3, 2010		Y	Y		N	Y	Y		N	Y	Y	
11	Jose Jaramillo	Feb. 7, 2012		Y	Y		Y	Y	Y		Y	Y	Y	
12	Rosa Durando	Feb. 3, 2010		Y	Y		Y	Y	Y		Y	N	Y	
13	Michael Cantwell	Feb. 7, 2012		N	Y		Y	Y	Y		N	Y	N	
14	Wayne Larry Fish	Feb. 3, 2010		N	N		N	N	N		N	Vacant	Vacant	
15	Maurice Jacobson	Feb. 7, 2012		Y	Y		Y	Y	Y		Y	Y	N	
16	Steven Dewhurst	Feb. 3, 2010		N	N		Y	N	Y		N	Y	N	
17	Wes Blackman	Feb. 7, 2012		Y	Y		Y	N	Y		Y	N	Y	
18	Brian Waxman Esq.	Feb. 7, 2012		N	N		N	N	N		N	N	N	
19	Frank Palen, Esq.	Feb. 7, 2012		N	N		N	N	N		N	Y	Y	
<b>Total Attendees:</b>			<b>NA</b>	<b>9</b>	<b>12</b>	<b>0</b>	<b>14</b>	<b>14</b>	<b>16</b>	<b>0</b>	<b>11</b>	<b>12</b>	<b>9</b>	
Y	Present													
**Y**	Present (Participated via teleconference with quorum physically present and Board approval)													
N	Absent													
N	Absent (Attended less than ¾ of meeting)													
R	Resigned/Not on Board													
	ULDC Art. 17.B.2.A.3, Attendance: 1) "Lack of attendance is defined as a failure to attend three consecutive meetings..." or 2) "...a failure to attend two-thirds of the meetings scheduled during the calendar year. Also "Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting."													
	A total of 12 meetings have been scheduled for 2009. <b>Minimum attendance – eight meetings. Therefore, members cannot miss any more than 4 meetings.</b>													
Green	Appointees who are up for election													

## EXHIBIT G

### PALM BEACH COUNTY PLANNING, ZONING AND BUILDING LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) CURRENT MEMBER LIST

Updated January 21, 2010

SEAT	MEMBER (OCCUPATION)	DISTRICT OR ORGANIZATION	TERM ENDS
1	<b>Joanne Davis</b> (Growth Management Development)	District 1 Commissioner Marcus	02/05/2013
2	<b>David Carpenter</b> (Landscape Architect)	District 2 Commissioner Koons	02/07/2012
3	<b>Barbara Katz</b> (Land Use Advisor)	District 3 Commissioner Vana	02/05/2013
4	<b>James Knight</b> (Builder/Developer)	District 4 Commissioner Abrams	02/07/2012
5	<b>Lori Vinikoor</b> (Community Activist)	District 5 Commissioner Aaronson	02/05/2013
6	<b>Mike Zimmerman</b>	District 6 Commissioner Santamaria	02/07/2012
7	<b>Martin Klein</b> (Commercial Law) Comm. Taylor to reappoint in Jan/Feb 2010	District 7 Commissioner Taylor	02/06/2010 02/05/2013
8	<b>Raymond Puzzitiello</b> (Residential Builder) To be reappointed on 02/02/10	Gold Coast Builders Association	02/07/2010 02/05/2013
9	<b>Joni Brinkman</b> (Municipal Representative)	PBC League of Cities	02/07/2012
10	<b>Ron Last, P.E.</b> (Engineer) To be reappointed on 02/02/10	Florida Engineering Society	02/07/2010 02/05/2013
11	<b>Jose F. Jaramillo</b> (Architect)	American Institute of Architects	02/07/2012
12	<b>Rosa Durando</b> (Environmentalism) To be reappointed on 02/02/10	Environmental Organization	02/07/2010 02/05/2013
13	<b>Michael Cantwell</b> (Realtor)	The PBC Board of Realtors	02/07/2012
14	<b>Vacant</b> (Surveyor) Gary Rayman to be appointed on 02/02/10	Florida Society of Professional Surveyors	02/06/2010 02/05/2013
15	<b>Maurice Jacobson</b> (Citizen Representative)	Condominium/HOA Association	02/07/2012
16	<b>Vacant</b> (Commercial Builder)	Associated General Contractors of America	02/06/2010
17	<b>C. Wesley Blackman, AICP</b> (AICP Planner)	PBC Planning Congress	02/07/2012
18	<b>Vacant</b>	Alternate #1	02/07/2012
19	<b>Frank Palen</b> (Land Use, Zoning, Environmental Law)	Alternate #2	02/07/2012

U:\Zoning\CODEREV\2010\LDRAB\Meetings\1-27-10\Exhibit G - 2010 LDRAB Members.docx

## Exhibit H

### LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB) LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

#### 2010 MEETING DATES

(Updated 11/30/09)

DATE	DAY
January 27, 2010	Wednesday (4 <sup>th</sup> )
February 24, 2010	Wednesday (4 <sup>th</sup> )
March 24, 2010	Wednesday (4 <sup>th</sup> )
April 28, 2010	Wednesday (4 <sup>th</sup> )
May 26, 2010	Wednesday (4 <sup>th</sup> )
June 23, 2010	Wednesday (4 <sup>th</sup> )
July 28, 2010	Wednesday (4 <sup>th</sup> )
August 25, 2010	Wednesday (4 <sup>th</sup> )
September 22, 2010	Wednesday (4 <sup>th</sup> )
October 27, 2010	Wednesday (4 <sup>th</sup> )
November 17, 2010 *	Wednesday (3 <sup>rd</sup> ) *
December 8, 2010 *	Wednesday (2 <sup>nd</sup> ) *
January 26, 2011	Wednesday (4 <sup>th</sup> )

\* Meeting dates rescheduled to accommodate holidays.

#### **Meeting location and start times are typically as follows:**

Planning, Zoning and Building Department  
Vista Center  
2300 North Jog Road  
West Palm Beach, Florida 33411  
1<sup>st</sup> Floor Conference Room (VC-1W-47)  
Meetings typically commence at 2:00 p.m.

Meetings are subject to cancellation, or may be continued, rescheduled, relocated, or commenced at a different time as necessary (e.g. due to length of agenda, as needed to respond to Hurricanes or other similar natural disasters, etc.).



**INTER-OFFICE COMMUNICATION  
DEPARTMENT OF PLANNING, ZONING AND BUILDING  
ZONING DIVISION**

**TO:** Interested County Staff and Related Agencies

**FROM:** Jon MacGillis, ASLA, Zoning Director *[Signature]*

**DATE:** December 21, 2009

**RE:** **Deadlines/Scheduling for Proposed 2010 Unified Land Development Code (ULDC) Amendments**

**Department of Planning,  
Zoning & Building**

2300 North Jog Road  
West Palm Beach, FL 33411-2741  
(561) 233-5000

Planning Division 233-5300  
Zoning Division 233-5200  
Building Division 233-5100  
Code Enforcement 233-5500  
Contractors Certification 233-5525  
Administration Office 233-5005  
Executive Office 233-5228  
[www.pbcgov.com/pzb](http://www.pbcgov.com/pzb)

This memo serves to notify interested County staff and related agencies of the deadlines for submittal and scheduling for 2010 ULDC amendments. The Zoning Division is proposing to undertake two rounds of amendments for 2010. As always, it is critical that you coordinate with Zoning to meet the established deadlines if you are anticipating any amendments. The tentative schedules for both rounds are provided below:

**Amendment Round 2010-01**

Activity	Date
Deadline to submit amendment requests.	January 13, 2010
Deadline to submit backup documentation.	February 10, 2010
Land Development Review Advisory Board (LDRAB)/Land Development Regulation Commission (LDRC) Meetings.	(1) January 27, 2010
	February 24, 2010
	March 24, 2010
	April 28, 2010
	May 26, 2010
BCC Hearing – Request for Permission to Advertise.	June 24, 2010
BCC Hearing – 1 <sup>st</sup> Reading.	July 22, 2010
BCC Hearing – 2 <sup>nd</sup> Reading and Adoption.	August 26, 2010
(1) Annual Meeting	

**Amendment Round 2010-02**

Activity	Date
Deadline to submit amendment requests.	June 30, 2010
Deadline to submit backup documentation.	August 4, 2010
Land Development Review Advisory Board (LDRAB)/Land Development Regulation Commission (LDRC) Meetings.	August 25, 2010
	September 22, 2010
	October 27, 2010
BCC Hearing – Request for Permission to Advertise.	December 9, 2010
BCC Hearing – 1 <sup>st</sup> Reading.	January 6, 2010
BCC Hearing – 2 <sup>nd</sup> Reading and Adoption.	January 27, 2010

**Palm Beach County  
Board of County  
Commissioners**

Burt Aaronson, Chair  
Karen T. Marcus, Vice Chair  
Jeff Koons  
Shelley Vana  
Steven L. Abrams  
Jess R. Santamaria  
Priscilla A. Taylor

**County Administrator**

Robert Weisman

*"An Equal Opportunity  
Affirmative Action Employer"*



**Deadlines to submit amendment requests must include the following:**

- 1) Cover letter from Department or Division Director, or other authorized staff;
- 2) Name, title and contact information of primary contact person (will be required to attend LDRAB, LDRC and BCC Hearings to answer any questions);
- 3) Location in ULDC of proposed amendment(s), to include exact article citation and title (or nearest relevant title), and page number(s); and,
- 4) A summary of each proposed amendment.

**In addition to the above, deadlines to submit backup documentation shall include the following for each proposed amendment:**

- 1) Verification that any interested or affected persons or organizations have been consulted during the initiation of amendments, and are being updated where applicable;
- 2) A detailed background and summary of each proposed amendment; and,
- 3) Preparation of amendment exhibits using file template provided by Zoning, providing citation and title, reason for amendment, and text or images to be deleted, relocated or added. Templates and will be provided upon request.

**Kick Off Meeting – Code Amendment Training:**

A meeting will be held to review amendment submittal requirements and answer any questions. Attendance is not mandatory, but is highly encouraged.

**Location: Vista Center, 2300 North Jog Road, Room VC-1E-60**  
**Time: January 6, 2010, 3:30 – 4:30 p.m.**

Please RSVP to Eileen Platts, Zoning Secretary, at (561) 233-5216, or at [EPlatts@pbcgov.org](mailto:EPlatts@pbcgov.org).

If you should have any questions or require additional information regarding the proposed schedules, please contact me at 561-233-5234, or William J Cross, Principal Site Planner, at (561) 233-5216, or at [WCross@pbcgov.org](mailto:WCross@pbcgov.org).

JPM/WC

c. Distribution List Attached

## DISTRIBUTION LIST

### **Primary Recipients**

The Honorable Burt Aaronson, Chair, and Members of the Board of County Commissioners  
Verdenia Baker, Deputy County Administrator  
Robert P. Banks, Assistant County Attorney  
Lenny Berger, Assistant County Attorney  
Bevin Beaudet, Director, Water Utilities  
Liz Bloeser, Director, Financial Management and Budget  
Chuck Cohen, Executive Director, Surface Transportation (Palm Tran)  
Lisa DeLaRionda, Director, Public Affairs Department  
Dennis Eshelman, Director, Parks and Recreation  
Bonnie Finneran, Director, Resources Protection Division  
Kevin Johns, Director, Economic Development  
Edward Lowery, Director, Housing and Community Development  
Paul Milelli, Director, Public Safety  
Bruce Pelly, Director, Department of Airports  
Edward Rich, Director, Community Services  
Kenneth Rogers, Director, Land Development  
Gary M. Sypek, Director of Planning, Department of Airports  
James Titcomb, Executive Director, League of Cities  
Maurice Tobin, Director, Utilities Eng. Division, Water Utilities  
Rich E. Walesky, Director, Environmental Resources Management  
George Webb, County Engineer  
Dan Weisburg, Director, Traffic Division  
Robert Weisman, County Administrator  
Randy Whitfield, Director, Metropolitan Planning Organization  
Audrey Wolf, Director, Facilities Development and Operations

### **Other Internal Distribution**

Lorenzo Aghemo, Director, Planning Division  
Barbara Alterman, Executive Director, PZ&B  
Rebecca Caldwell, Director, Building Division  
William Cross, Principal Site Planner, Zoning Division  
Bryan Davis, Principal Planner, Planning Division  
Kurt Eismann, Director, Code Enforcement Division  
Allan Ennis, Assistant Director, Traffic Division  
Wendy Hernandez, Manager, Zoning Division  
Michael Howe, Senior Planner, Planning Division  
Isaac Hoyos, Principal Planner, Planning Division  
Robert Kraus, Env. Program Supervisor, Environmental Resources Management  
Maryann Kwok, Chief Planner, Zoning Division  
John Pancoast, Principal Planner, Monitoring  
John Rupertus, Senior Planner, Planning Division  
Patrick Rutter, Chief Planner, Planning Division  
Willie Swoope, Impact Fee Coordinator, PZ&B  
Houston L. Tate, Manager, Office of Community Revitalization  
Bruce Thomson, Principal Planner, Planning Division

### **Other Key Contacts**

Dr. Alina Alonzo, M.D., Director, Health Department  
Pete Banting, Real Estate Specialist, Facilities Development and Operations  
Richard Bogatin, Manager, Property Management, Facilities Dev. and Operations  
Frank Garguilo, Director, Env. Sciences and Eng, Health  
Tim Granowitz, Principal Planner, Parks and Recreation Department  
Michael Hambor, Engineer Supervisor III, Palm Beach County Health Department  
Arthur Kirstein, IV, Agricultural Economic Development Coordinator, Coop. Ext. Service  
Thomas LeFevre, Engineer Supervisor, Palm Beach County Health Department  
Jean Matthews, Planner, Parks and Recreation  
Elizee Michel, Executive Director, Westgate/Belvedere Homes CRA  
Kristin Garrison, Planning Director, Palm Beach County School Board  
William F. Wilsher, Superintendent, Park Planning and Design Division

**EXHIBIT J**

**ULDC AMENDMENT TRACKING SCHEDULE – ROUND 2010-01 – KEY TOPIC OR ARTICLE STATUS**  
(Updated 01/20/10)

**Scheduled LDRAB/LDRC Meeting Dates:**

- January 27, 2010 (Annual Meeting)
- February 24, 2010
- March 24, 2010
- April 28, 2010
- May 26, 2010

**BCC Zoning Hearing Dates**

- June 24, 2010 (Request Permission to Advertise)
- July 22, 2010 (First Reading)
- August 26, 2010 (Adoption)

Article - Title	Dbase Case #	Key Topic or ULDC Article	Amendment Summary/Comments	Meeting Dates		PM	Subcommittee
				LDRAB	LDRC		
<b>Art. 1 – General Provisions</b>							
	10-013	Art. 1.1.2.D.31 – 34 [Related to Development Order] (page 48 and 49 of 109)	[Zoning/Co. Atty.] Review and consolidate various definitions for Development Order, where feasible.	TBD	TBD	MK/BPN	N/A
	10-015	Art. 1.1.2.O.13, Open Space (page 73 of 109)	[Zoning] Pending results of discussions with industry, County agencies and other interested parties as part of LDRAB Sub-committee – emphasis Table 3.E.2.C, PUD Land Use Mix (page 92 of 155), and verification that any changes will not adversely impact other requirements or references to open space.	TBD	TBD	WC	<b>YES (Landscape)</b>
		Art. 1.F.4.E.2. (page 23 of 110)	[Zoning] Glitch – update reference to Art. 2.B.3, Variances to respond to prior amendments creating differing types of variances.	TBD	TBD	BPN	N/A
		Art. 1.G.1.B.3.a, Variance Required for New Deviation from Regulations (page 23 of 110)	[Zoning] Glitch – update reference to Art. 2.B.3, Variances to respond to prior amendments creating differing types of variances.	TBD	TBD	BPN	N/A
<b>Art. 2 – Development Review Procedures</b>							
		Art. 2.A.1.D.1.b.5) [Related to Zoning Commission and authority to grant Type II Variance Relief] (page 9 of 57)	[Zoning] Minor clarification to indicate that variance relief may not be granted within eligible Articles where the term “prohibited” is expressly stated or applied to a requirement. May also include additional clarification that some variance relief may be permitted within prohibited sections – where expressly stated as such.	TBD	TBD	BPN	N/A
		Art. 2.A.1.G.3.h.2), Sign Plans	[Zoning] Glitch – clarify title of referenced Articles Art. 2.A.1.G.3.g.1) and 2).	TBD	TBD	MK/BPN	N/A
	10-006	Art. 2.B.3.B.2, Noise Variance (page 19 of 53)	[Zoning] Add special standards for noise variances inadvertently omitted from Ord. 2003-067 (see Ord. 1992-007, as amended).	TBD	TBD	BPN	N/A
		Art. 2.E.2.C.2 [Related to Appeal and Monitoring]	[Zoning] Glitch – incorrect reference for appeals to DRAB.	TBD	TBD	BPN	N/A
	10-001	Art. 2.F.6.B, Annual Public Facilities Report (AUR) (page 51 of 53)	[Zoning] Report has become redundant due to existing OFMB administrative processes that track relevant APF data. To be deleted concurrent with Plan amendments to FLUE Policy 3.5-e of Objective 3.5 “Levels of Service Required for Development” and UE Policy 1.1-e.	TBD	TBD	BPN	N/A
<b>Art. 3 - Overlays and Zoning Districts</b>							
	10-011	Art. 3.B.2, AZO, Airport Zoning Overlay (page 14 of 154)	[DOA] Minor amendments to AZO.	TBD	TBD	BPN	N/A
	10-004	Art. 3.B.15, WCRAO, Westgate Community Redevelopment Area Overlay (page 35 of 154)	[WCRAO/Zoning] Minor amendments to WCRAO.	TBD	TBD	WC	N/A
		Art. 3.B, Overlays (Create new Economic Development Overlay) (page 14 of 154)	[Zoning/Planning] Establishment of Economic Development Overlay as mandated by FLUE Objective 1.10, SR-7 Economic Development Overlay (Policies 1.10-a through 1.10-r).	TBD	TBD	WC	<b>Yes (General)</b>

Status:	Pending	Withdrawn	Complete	On Schedule	Past Due
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**EXHIBIT J**

**ULDC AMENDMENT TRACKING SCHEDULE – ROUND 2010-01 – KEY TOPIC OR ARTICLE STATUS**  
 (Updated 01/20/10)

Article - Title	Dbase Case #	Key Topic or ULDC Article	Amendment Summary/Comments	Meeting Dates		PM	Subcommittee
				LDRAB	LDRC		
	09-252	Table 3.D.1.A, PDRs; Table 3.E.3.D, MUPD PDRs; Table 3.E.4.D, MXPDP PDRs; Table 3.E.5.D, PIPD PDRs; and, Table 3.E.6.D, MHPD PDRs. See also Overlays – as applicable.	[Zoning/Planning] Concurrent amendments to the FLUE of the Plan and the ULDC to relocate FAR provisions to the ULDC. Rescinds many of the FAR related changes adopted as part of the MGTS.	TBD	TBD	WC	N/A
	10-015	Table 3.D.2.C, PUD Land Use Mix (page 92 of 155)	[Zoning] Review of PUD open space requirements and related definition listed under Art. 1.1.2.O.13, Open Space.	TBD	TBD	WC	<b>Yes (Landscape)</b>
		Art. 3.E.1.C.2.j, Recreation Clubhouse Emergency Generators (page 83 of 154)	[Zoning] Glitch – Amend to indicate updated 20,000 square foot threshold as amended via Ord. 2007-013 to Art. 5.B.1.A.18.a.2) (page 24 of 86).	TBD	TBD	WC	N/A
<b>Art. 4 – Use Regulations</b>							
		Art. 4.A.4.A, General [Related to Development Thresholds] and Table 4.A.3.A, Thresholds for Projects Requiring Board of County Commission Approval (page 19 of 161).	[Zoning] Amend to clarify that WCRAO and PBIA projects that are eligible for rezoning without a commercial or industrial FLU amendment shall meet the applicable commercial or industrial square footage threshold for the FLU designation that corresponds to the Zoning district; amend table reference to Table 4.A.4.A and center. Reference WH, BPN and WC discussion on 1/11/10 and corresponding e-mails.	TBD	TBD	WC	N/A
	10-016	Art. 4.B.1.A.87, Multi-family (page 64 of 161)	[Zoning] Amend to delete prohibition for multi-family units on ground floor of TMD mainstreet. Pending discussion regarding e-mail from Wendy H. dated 01/09/10).	TBD	TBD	BPN	N/A
<b>Art. 5 – Supplementary Standards</b>							
		N/A - No amendments submitted for 2010-01 Round.					
<b>Art. 6 – Parking</b>							
		N/A – No amendments submitted to date.					
<b>Art. 7 – Landscaping</b>							
		Art. 7.E.5.G.4, Vacant Lot Variance	[Zoning] Glitch – clarify variance reference Art. 2.D.3, Administrative Variance.	TBD	TBD	BPN	N/A
	09-057 09-058	Art. 7.F.7.D, Clustering (Page 35 of 47)	[Zoning/Industry] Consider amendment to the clustering of canopy trees in ROW buffers for non-residential projects. The code doesn't consider projects that have frontages greater than 300' in length. (See database notes 2010-01) (Per Wendy Tuma's email to JM 6/16/09 8:03 a.m.)	TBD	TBD	BPN	<b>Yes (Landscape)</b>
	10-003	Art. 7.G.2.E.1, Curbing [Related to Off-street Parking Requirements] (Page 43 of 47)	[Zoning/Landscape] Clarify exemptions from Type "D" and "F" curbing still require alternative form of landscape protection from vehicular use areas.	TBD	TBD	BPN	N/A
	10-014	Codify PPM on Easement Overlap	[Zoning]	TBD	TBD	BPN	N/A
<b>Art. 8 - Signage</b>							
		N/A – No changes submitted to date.					
<b>Art. 9 – Archeological and Historic Preservation</b>							
	10-001	Art. 9.B.4.B, Waiver of the Code Provisions (page 13 of 18)	[Historical Preservation/Zoning] Response to need to provide incentives and mechanism to allow for the redevelopment of non-conforming structures that have been deemed historic by the Historical Resources Review Board (HRRB) in accordance with the standards of Art. 9. * The proposed amendments will be reviewed by the HRRB.			JW/CD	N/A *

Status: Pending   ~~Withdrawn~~   Complete   On Schedule   Past Due

**EXHIBIT J**

**ULDC AMENDMENT TRACKING SCHEDULE – ROUND 2010-01 – KEY TOPIC OR ARTICLE STATUS**  
 (Updated 01/20/10)

Article - Title	Dbase Case #	Key Topic or ULDC Article	Amendment Summary/Comments	Meeting Dates		PM	Subcommittee
				LDRAB	LDRC		
<b>Art. 10 – Code Enforcement</b>							
		N/A – No changes submitted to date.					
<b>Art. 11 – Subdivision, Platting and Required Improvements</b>							
	09-036	Art. 11, Platting [Related to R-O-W Abandonment]	[Land Development] Art. 11, Possible amendment for consistency on how an abandoned R-O-W is to be added to an adjoining parcel. [Zoning] May include minor amendments to Art. 3, Overlays and Zoning Districts to accommodate the incorporation of abandoned R-O-W into privately held parcels – including PDDs and TDDs.	TBD	TBD	BPN	N/A
	10-012	Art. 11.D, Platting (page 27 of 47)	[Surveying] Minor amendments pending (Glenn Mark).	TBD	TBD	GM/BPN	N/A
<b>Art. 12 – Traffic Performance Standards</b>							
	09-048	Art. 12, Traffic Performance Standards	[Traffic Division] Amend to add new Chapter for Indiantown Road Corridor Master Plan. (See email dated Mon 6/29/2009 3:51 PM to AD/BPN) Pending adoption of Comp Plan amendments in Oct. 2010.	TBD	TBD	AE/BPN	N/A
<b>Art. 13, Impact Fees</b>							
	10-020	N/A – No changes submitted to date. *	* <b>NOTE:</b> The 2009 Bi-Annual updates are proposed to be submitted as a stand alone Ordinance. Please contact Willie Swoop, Impact Fee Coordinator for additional information.	TBD	TBD	BPN	N/A
<b>Art. 14, ERM</b>							
	10-018	Minor amendments to update Groundwater Resources Protection Board and related definitions.	[ERM] 1. Modify the duties of the Groundwater Resources Protection Board by adding the Natural Areas Ordinance to their jurisdictional authority in Article 17. 2. Update some definitions for the Sea Turtle code in Article 1.	TBD	TBD	RK/BPN	N/A
<b>Art. 15 – Health Regulations</b>							
	10-019	Art. 15, Health Regulations (various)	[Health] Updates to Florida Statutes 381, 386 and 408 and associated regulations related to on-site sewage treatment and disposal including requirements for private collection and transmission systems.	TBD	TBD	AD/BPN	N/A
<b>Art. 16 – Airport Regulations</b>							
		N/A – No changes submitted to date.					
<b>Art. 17 – Decision Making Bodies</b>							
		Art. 17.C.7, Hearing Officers (page 14 of 26)	[Engineering/ERM/Co. Att.] Add clarification that Hearing Officers may serve to review other ordinances not specified otherwise, under the statement “any other provisions of this code or as may be determined to be appropriate by the BCC, from time to time.”	TBD	TBD	LB/BPN	N/A
	10-017						
	10-009	Art. 17.B.1.C.2 [Related to Vacancy] (page 8 of 26)	[Zoning] Glitch - "that person's term shall end (should say begin) at the same time the departing members terms would have ended".	TBD	TBD	BPN	N/A
<b>Art. 18 – Flood Damage Prevention</b>							
		N/A – No changes submitted to date.					

Status: Pending Withdrawn Complete On Schedule Past Due

**EXHIBIT J**

**ULDC AMENDMENT TRACKING SCHEDULE – ROUND 2010-01 – KEY TOPIC OR ARTICLE STATUS**  
 (Updated 01/20/10)

Article - Title	Dbase Case #	Key Topic or ULDC Article	Amendment Summary/Comments	Meeting Dates		PM	Subcommittee
				LDRAB	LDRC		
<b>Additional Topics or Applications</b>							
<b>Agricultural Enclave (aka Callery Judge Groves)</b>							
	10-007	Various amendments.	[Zoning/Planning] Series of amendments necessary to implement FLUE Policies establishing standards recognizing Agricultural Enclaves as mandated by F.S. 163.3162, The Agricultural Lands and Practices Act. Plan references include amendments to AE definitions for Agricultural Enclave Development, New Urbanism, Transect, Transect Zone and Form Based Code; FLUE Policies 1.4-a, 2.1-a, 2.2.5-d, 2.2.5-e, 2.2.5-g, 2.2.5-l, and 3.5-d; TE Policy 1.4- q. Includes suggested amendments and related documents submitted on behalf of Callery Judge Groves by Urban Design Kilday Studio's on December 16, 2009.	TBD	TBD	WC	<b>Yes (General)</b>
<b>Bio-Science Protection Overlay</b>							
	09-060	PENDING	[Zoning/Planning/Co. Atty.] Pending results of proposed amendments to the Bio-Science Board by-laws.	TBD	TBD	WC	N/A
<b>Lake Worth Drainage District</b>							
		PENDING	[LWDD] Codify LWDD authority under Development Review Officer.	TBD	TBD	WC	N/A
<b>STAND ALONE ORDINANCES</b>							
<b>Urban Redevelopment Area</b>							
		Create new Article 3.B.18, Priority Redevelopment Areas (PRAs),	[PZB] Will include related amendments to calibrate the PRA's to existing ULDC Articles 1, 2, 3, 4, 5, 6, 7, 8 and 12, as necessary to implement the July 2007 TCRPC Urban Redevelopment Area (URA) Planning Study and Corridor Master Plans, feedback received during the PRA charrette, and specific Policies of the Plan.	TBD	TBD	WC	<b>Yes (Infill Redevelopment)</b>
<b>Pain Management Moratorium</b>							
		Articles 1.E, 3.B, 3.E, 3.F, 4.A, 4.B. and 6.A	[Zoning/Co. Atty.] Enacting a one year moratorium on the acceptance of Zoning applications and approval of requests for Zoning approval of Pain Management Clinics, establishing definitions, use regulations and parking standards for Pain Management Clinics.	Jan. 27	Jan. 27	BPN/RB	N/A

U:\Zoning\CODEREV\2010\LDRABMeetings\1-27-10\Exhibit J 2010-01 Amendment Tracking Schedule.docx

Status:	Pending	Withdrawn	Complete	On Schedule	Past Due
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# 2010 ANNUAL ORGANIZATIONAL MEETING Land Development Regulation Advisory Board/Land Development Regulation Commission (LDRAB/LDRC)

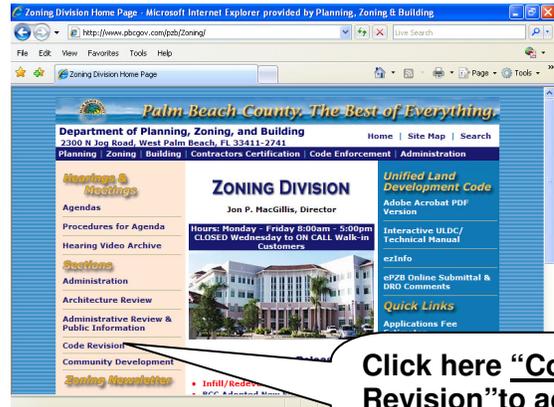
## How to Access Code Revision Website and Related Information

To access the Planning, Zoning & Building main web page, enter the following address:

<http://pbcgov.com/pzb>

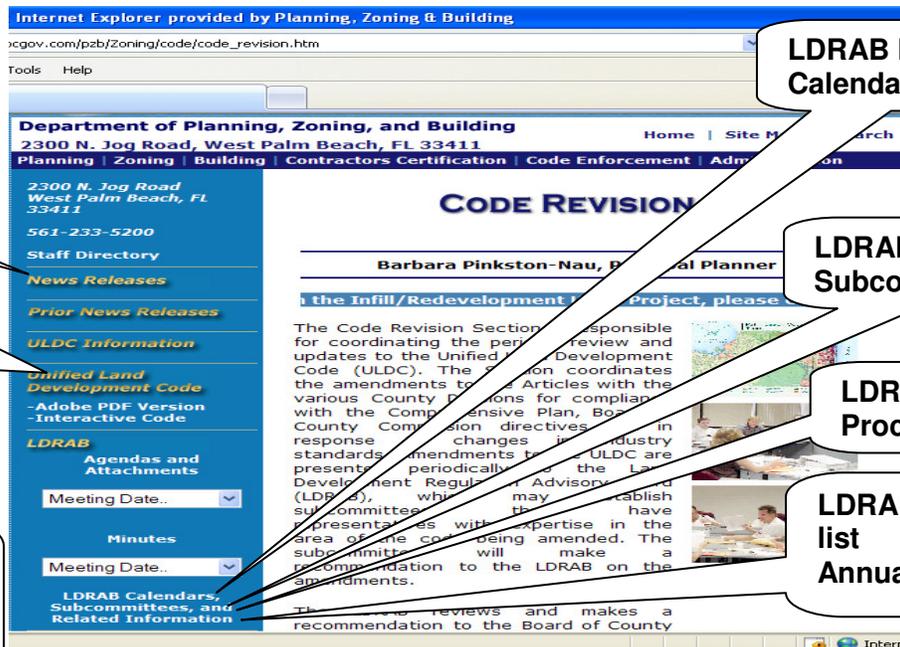
Or type the following:

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Or type the following address:

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## Exhibit K

### ACCESS TO CODE REVISION WEBSITE

The Code Revision website provides current updates and information that can be useful to Land Development Regulation Advisory Board (LDRAB) members. It is generally comprised of three key sections: News Releases, Unified Land Development Code and LDRAB.

- ❑ **News Releases Section** informs about recently adopted and currently proposed ordinances, as well as other pending projects.
- ❑ **Unified Land Development Code Section** contains two distinct versions of the Zoning Code: one is an interactive version capable of performing keyword search throughout the entire Code, whereas the other one is an Adobe Acrobat pdf of the printed Code.
- ❑ **LDRAB Section** provides LDRAB meeting agendas and staff reports, LDRAB and Subcommittee meeting calendars, Rules of Procedure, Membership lists, annual reports and archives pertaining to the proceedings of the LDRAB (formerly known as Citizen Task Force [CTF]).

The Code Revision website can be easily accessed through the Planning, Zoning and Building (PZB) website. Please refer to the attached graphics for explanation on how to navigate to our site.