

Agenda Item #: 4D

M/V 7-0

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Ord-2009-051

Meeting Date: December 15, 2009

[] Consent [] Regular
[X] Public Hearing

Department

Submitted By: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

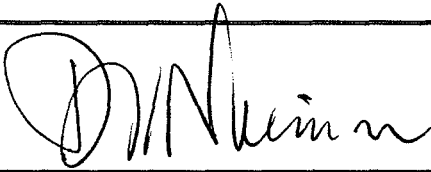
Motion and Title: Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, creating the Palm Beach County Code of Ethics; providing for title; providing for definitions; prohibiting certain conflicts of interest and creating voting conflict standards; providing for a gift law; providing anti-nepotism law; providing for training; providing for non-interference; providing for administration, enforcement, and penalties; amending the Palm Beach County Lobbyist Registration Ordinance, Palm Beach County Code, Chapter 2, Article VIII (Codifying Ordinances 2003-018 and 2003-055); amending Section 2-353 concerning registration form and requirements; amending Section 2-355 Code of Silence; amending Section 2-356 Enforcement; amending Section 2-357 Penalties; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the Code of Laws and Ordinances; and providing for an effective date.

Summary: In response to the Presentment of the Palm Beach County Grand Jury regarding Investigation of Palm Beach County Governance and Public Corruption Issues, the Board of County Commissioners directed the County Attorney's Office to draft ordinances creating a local Code of Ethics, and establishing an Office of Inspector General and Commission on Ethics. This Ordinance establishes the Palm Beach County Code of Ethics. Countywide (LB)

Background and Policy Issues: The Palm Beach County Code of Ethics will apply to all employees, and all elected and appointed individuals and provide a more comprehensive and stringent regulatory framework than the state's Code of Ethics. This ordinance also adds certain reporting requirements to the Lobbyist Registration Ordinance, and imposes a registration fee to recover expense to the County in administering the registration program.

Attachments:

- 1. Ordinance

Recommended by:  12/15/09
County Attorney Date

Approved by: N/A
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>-0-*</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

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

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

* no fiscal impact

Jan Dml 12-9-09
OFMB

John J. Javorek 12/10/09
Contract Development and Control

B. Legal Sufficiency:

Leonard B.
Assistant County Attorney

C. Other Department Review:

Department Director

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

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, CREATING THE PALM BEACH COUNTY CODE OF ETHICS; PROVIDING FOR TITLE; PROVIDING FOR DEFINITIONS; PROHIBITING CERTAIN CONFLICTS OF INTEREST AND CREATING VOTING CONFLICT STANDARDS; PROVIDING FOR A GIFT LAW; PROVIDING ANTI-NEPOTISM LAW; PROVIDING FOR TRAINING; PROVIDING FOR NON-INTERFERENCE; PROVIDING FOR ADMINISTRATION, ENFORCEMENT, AND PENALTIES; AMENDING THE PALM BEACH COUNTY LOBBYIST REGISTRATION ORDINANCE, PALM BEACH COUNTY CODE, CHAPTER 2, ARTICLE VIII (CODIFYING ORDINANCES 2003-018 AND 2003-055); AMENDING SECTION 2-353 CONCERNING REGISTRATION FORM AND REQUIREMENTS; AMENDING SECTION 2-355 CODE OF SILENCE; AMENDING SECTION 2-356 ENFORCEMENT; AMENDING SECTION 2-357 PENALTIES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County has determined that it is essential to the proper conduct and operation of government that public officials and employees be independent and impartial and that public office and employment not be used for private gain other than the remuneration provided by law; and

WHEREAS, the Board of County Commissioners of Palm Beach County has determined that enactment of a local Code of Ethics will help ensure that public officials and employees abide by the highest ethical standards; and

WHEREAS, the adherence to the highest standards of ethics protects the integrity of County government and fosters public confidence in the actions of public officials and employees; and

WHEREAS, the Board adopted the Lobbyist Registration Ordinance, Ordinance 2003-018, as amended by Ordinance 2003-55 in order to preserve and maintain the integrity of the governmental process by requiring public disclosure of activities of those who regularly engage in efforts to persuade public officials; and

WHEREAS, the Board of County Commissioners now desires to amend the Lobbyist Registration Ordinance to further strengthen the Board's commitment to County government that strives to meet the highest ethical standards; and

1 **WHEREAS**, the Board of County Commissioners hereby determines that creation of the
2 local Code of Ethics and strengthening of the Lobbyist Registration Ordinance by adoption of
3 this Ordinance serves the interests of its citizens by advancing its policy of open, honest
4 government; and

5 **WHEREAS**, the Board of County Commissioners adopts this Ordinance pursuant to its
6 authority under the Constitution of the State of Florida, Article VIII, section 1(g), the Charter of
7 Palm Beach County, Florida, and Florida Statutes, chapter 125.

8 **NOW, THEREFORE**, be it ordained by the Board of County Commissioners of Palm
9 Beach County, Florida, that:

10 **Part 1. The Palm Beach County Code of Ethics is hereby created as follows:**

11 **SECTION 1. TITLE; STATEMENT OF PURPOSE.**

12 Part one of this Ordinance shall be known as the Palm Beach County Code of Ethics.
13 This Code of Ethics is enacted pursuant to Florida Constitution, Article VIII, section 1(g),
14 Florida Statutes, chapter 125, and the Charter of Palm Beach County. The purpose of this Code
15 is to provide additional and more stringent ethics standards as authorized by section 112.326
16 Florida Statutes. This Code shall not be construed to authorize or permit any conduct or activity
17 that is in violation of chapter 112, Part III, Florida Statutes. This Code of Ethics shall be deemed
18 additional and supplemental to any and all state and federal laws governing ethical conduct of
19 officials and employees, as well as all local laws, rules, regulations and policies governing
20 personnel matters. Part two of this Ordinance consists of amendments to the Palm Beach County
21 Lobbyist Registration Ordinance.

22 Nothing herein shall abridge employees' constitutional right to collective bargaining.

23 **SECTION 2. DEFINITIONS.**

24 **A. "Customer" or "client"** means any Person or entity to which an Official or
25 Employee's Outside Employer or Business has supplied goods or services during the previous
26 twenty-four months, having, in the aggregate, a value greater than \$10,000.

27 **B. "Domestic partner"** is an adult, unrelated by blood, with whom an unmarried or
28 separated Official or Employee has an exclusive committed relationship and maintains a mutual
29 residence.

1 C. **"Financial benefit"** includes any money, service, license, permit, contract,
2 authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or
3 anything else of value. This term does not include campaign contributions authorized by law.

4 D. **"Household"** includes anyone whose primary residence is in the Official or
5 Employee's home, including non-relatives who are not rent payers or employees of the head of
6 the household.

7 E. **"Inspector General"** shall mean the Office established in Palm Beach County
8 Ordinance 2009-XXXX.

9 F. **"Lobbyist"** shall mean any person who is employed and receives payment, or who
10 contracts for economic consideration, for the purpose of Lobbying on behalf of a Principal, and
11 shall include an employee whose principal or most significant responsibilities to the employer is
12 overseeing the employer's various relationships with government or representing the employer in
13 its contacts with government. "Lobbyist" shall not include any employee or contract employee
14 of a governmental agency lobbying on behalf of that agency, any elected local official when the
15 official is lobbying on behalf of the governmental agency which the official serves, or any
16 member of the official's staff when such staff member is lobbying on an occasional basis on
17 behalf of the governmental agency by which the staff member is employed.

18 G. **"Official"** or **"Employee"** means any official or employee of the County, whether
19 paid or unpaid, and includes all members of an office, board, body, advisory board, council,
20 commission, agency, department, district, division, committee, or subcommittee of the county.
21 The term "Official" when used alone shall mean members of the Board of County
22 Commissioners, and members of any advisory or quasi-judicial board created by the Board of
23 County Commissioners.

24 H. **"Outside Employer"** or **"Business"** includes:

25 (1) Any entity, other than the County, of which the Official or Employee is a member,
26 official, director, or employee, and from which he or she receives compensation for
27 services rendered or goods sold or produced. For purposes of this definition,
28 "compensation" does not include reimbursement for necessary expenses, including
29 travel expenses, or

30 (2) Any entity located in the County or which does business with or is regulated by the
31 County, in which the Official or Employee has an ownership interest. For purposes

1 of this definition, an "ownership interest" shall mean at least five percent of the total
2 assets or common stock owned by the Official or Employee or any combination of
3 the members of the Official or Employee's Household or Relatives.

4 **I. "Palm Beach County Commission on Ethics"** means the Commission established by
5 the Palm Beach County Ordinance, 2009-XXX to administer and enforce the ethics regulations
6 set forth herein, and may also be referred to as the "Commission on Ethics" in this Ordinance.

7 **J. "Person"** shall be defined to include all individuals, children, firms, associations, joint
8 ventures, partnerships, estates, trusts, business, trusts, syndicates, fiduciaries, corporations, and
9 all other groups or combinations.

10 **K. "Relative"** means a spouse, child, step-child, brother, sister, parent or step-parent, or
11 a person claimed as a dependent on the Official or Employee's latest individual federal income
12 tax return.

13 **SECTION 3. PROHIBITED CONDUCT.**

14 **A. Misuse of Public Office or Employment.** An Official or Employee shall not use his
15 or her official position or office, or take or fail to take any action, or influence others to take or
16 fail to take any action, in a manner which he or she knows or should know with the exercise of
17 reasonable care will result in a Financial Benefit, not shared with similarly situated members of
18 the general public, for any of the following Persons or entities:

- 19 (1) Himself or herself;
- 20 (2) A member of his or her Household, including a Domestic Partner and his or her
21 dependents, or the employer or business of any of these people;
- 22 (3) A sibling or step-sibling, step-child, parent or step-parent, niece or nephew, uncle or
23 aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse
24 or domestic partner, or the employer or business of any of these people;
- 25 (4) An Outside Employer or Business of his or hers, or of his or her spouse or domestic
26 partner, or someone who works for such outside employer or business;
- 27 (5) A Customer or Client of the Official or Employee;
- 28 (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic
29 partner—"substantial" for these purposes shall mean at least \$10,000 and shall not
30 include forms of indebtedness, such as a mortgage and note, or a loan between the
31 Official or Employee and a financial institution;

1 (7) A nongovernmental civic group, union, social, charitable, or religious organization
2 of which he or she (or his or her spouse or domestic partner) is an officer or director.

3 **B. Disclosure of Voting Conflicts.** County Officials shall abstain from voting and not
4 participate in any matter that will result in a Financial Benefit as set forth in subsections A.(1)
5 through (7) above. When abstaining, the Official shall publicly disclose the nature of the conflict
6 and complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the
7 requirements of section 112.3143, Florida Statutes. Simultaneously with filing Form 8B, the
8 Official shall submit a copy of the completed form to the Palm Beach County Commission on
9 Ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in
10 violation of subsection A, provided the Official does not otherwise use his or her office to take or
11 fail to take any action, or influence others to take or fail to take any action, in any other manner
12 which he or she knows or should know with the exercise of reasonable care will result in a
13 Financial Benefit, not shared with similarly situated members of the general public, as set forth
14 in subsections A.(1) through (7).

15 **C. Prohibited Contractual Relationships.** No Official or Employee shall enter into
16 any contract or other transaction for goods or services with the County. This prohibition extends
17 to all contracts or transactions between the County or any Person or agency acting for the
18 County, and the Official or Employee, directly or indirectly, or the Official or Employee's
19 Outside Employer or Business. Any such contract, agreement, or business arrangement entered
20 into in violation of this subsection may be rescinded or declared void by the Board of County
21 Commissioners pursuant to Section 8.C. of this Ordinance. This prohibition shall not apply to
22 Employees who enter into contracts with Palm Beach County as part of their official duties with
23 the County.

24 **D. Exceptions and Waiver.** The requirements of subsections A. and C. above may be
25 waived as they pertain to Advisory Board members by the Board of County Commissioners upon
26 full disclosure of the transaction or Financial Benefit prior to the waiver and an affirmative vote
27 of five members of the Board of County Commissioners. In addition, no Official or Employee
28 shall be held in violation of subsection A. or C. if:

29 (1) The business is awarded under a system of sealed, competitive bidding to the lowest
30 bidder and:

1 (a) The Official or Employee or member of his or her Household has in no way
2 participated in the determination of the bid specifications or the determination of
3 the lowest bidder;

4 (b) The Official or Employee or member of his or her Household has in no way
5 used or attempted to use the Official or Employee's influence to persuade the
6 agency or any personnel thereof to enter such a contract other than by the mere
7 submission of the bid; and

8 (c) The Official or Employee, prior to or at the time of the submission of the bid,
9 has filed a statement with the Supervisor of Elections and the Commission on
10 Ethics, disclosing the nature of the interest in the Outside Employer or Business
11 submitting the bid.

12 (2) An emergency purchase or contract which would otherwise violate a provision of
13 subsection A. or C. must be made in order to protect the health, safety, or welfare of
14 the citizens of Palm Beach County.

15 (3) The Outside Employer or Business involved is the only source of supply within the
16 County and there is full disclosure by the Official or Employee of his or her interest
17 in the Outside Employer or Business to the County and the Ethics Commission prior
18 to the purchase, rental, sale, leasing, or other business being transacted.

19 (4) The total amount of the transactions in the aggregate between the Outside Employer
20 or Business and the County does not exceed \$500 per calendar year.

21 E. No Official or Employee shall accept, directly or indirectly, any travel expenses
22 including, but not limited to, transportation, lodging, meals, registration fees and incidentals
23 from any County contractor, vendor, service provider, bidder or proposer. The Board of County
24 Commissioners may waive the requirements of this subsection by a majority vote of the Board.
25 The provisions of this subsection shall not apply to travel expenses paid by other governmental
26 entities or by organizations of which the County is a member if the travel is related to that
27 membership.

28 **F. Contingent Fee Prohibition.** No Person shall, in whole or in part, pay, give or agree
29 to pay or give a contingency fee to another Person. No Person shall, in whole or in part, receive
30 or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus,
31 commission, or nonmonetary benefit as compensation which is dependent on or in any way

1 contingent on the passage, defeat, or modification of: an ordinance, resolution, action or decision
2 of the Board of County Commissioners, any Employee authorized to act on behalf of the Board
3 of County Commissioners, the County Administrator, or any action or decision of an Advisory
4 Board or committee.

5 **G. Honesty in Applications for Positions.** No person seeking to become an Official or
6 Employee, or seeking to enter into a contract to provide goods or services to the County, may
7 make any false statement, submit any false document, or knowingly withhold information about
8 wrongdoing in connection with employment by or services to the County.

9 **H. Disclosure or Use of Certain Information.** A current or former Official or
10 Employee shall not disclose or use information not available to members of the general public
11 and gained by reason of his or her official position, except for information relating exclusively to
12 governmental practices, for his or her personal gain or benefit or for the personal gain or benefit
13 of any other Person.

14 **SECTION 4. GIFT LAW.**

15 **A.** No County Commissioner or Employee, or any other Person or business entity on his
16 or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of
17 greater than \$100 from any Person or business entity that the recipient knows is a Lobbyist or
18 any principal or employer of a Lobbyist.

19 **B.** No Advisory Board member, or any other Person on his or her behalf, shall
20 knowingly solicit or accept directly or indirectly, any gift with a value of greater than \$100 from
21 any Lobbyist, or any principal or employer of a Lobbyist, who lobbies the recipient's Advisory
22 Board, or any County Department that is subject in any way to the Advisory Board's authority.

23 **C.** No Person or entity shall offer, give, or agree to give an Official or Employee a gift,
24 and no Official or Employee shall accept or agree to accept a gift from a Person or entity,
25 because of:

26 (1) An official public action taken or to be taken, or which could be taken;

27 (2) A legal duty performed or to be performed or which could be performed; or

28 (3) A legal duty violated or to be violated, or which could be violated by any Official or
29 Employee.

30 **D. Gift Reports.** Any Official or Employee who receives a gift in excess of \$100 shall
31 report that gift.

1 (1) Gift reports for Officials and Employees identified by state law as Reporting
2 Individuals. Those persons required to report gifts pursuant to state law shall report
3 those gifts in the manner provided by section 112.3148, Florida Statutes, as may be
4 amended. A copy of each report shall be filed with the Palm Beach County
5 Commission on Ethics.

6 (2) All other Officials and Employees. All other Officials or Employees who receive
7 any gift in excess of \$100 shall complete and submit an annual gift disclosure report
8 with the Palm Beach County Commission on Ethics no later than November 1 of
9 each year beginning November 1, 2011, for the period ending September 30 of each
10 year. Other Officials or Employees who do not receive a gift in excess of \$100
11 during a given reporting period shall not file an annual gift disclosure report. The
12 annual gift disclosure report shall be created by the Palm Beach County Commission
13 on Ethics and shall be in a form substantially similar in content as that required by
14 state law.

15 E. For the purposes of this Section, "gift" shall refer to the transfer of anything of
16 economic value, whether in the form of money, service, loan, travel, entertainment, hospitality,
17 item or promise, or in any other form, without adequate and lawful consideration. Food and
18 beverages consumed at a single setting or a meal shall be considered a single gift, and the value
19 of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

20 (1) Exceptions. The provisions of Section 4E shall not apply to:

21 (a) Political contributions specifically authorized by state law;

22 (b) Gifts from relatives or members of one's household;

23 (c) Awards for professional or civil achievement;

24 (d) Materials such as books, reports, periodicals or pamphlets which are solely
25 informational or of an advertising nature;

26 (e) Gifts solicited by County Employees on behalf of the County in performance
27 of their official duties for use solely by the County in conducting official
28 business;

29 (f) Gifts solicited by Commissioners on behalf of the County in performance of
30 their official duties for use solely by the County in conducting its official
31 business.

1 **SECTION 5. ANTI-NEPOTISM LAW.**

2 A. A County Official may not appoint, employ, promote, advance, or advocate for
3 appointment, employment, promotion, or advancement in or to a position in the agency in which
4 the County Official is serving or over which the County Official exercises jurisdiction or control,
5 any individual who is a relative of the County Official.

6 (1) For the purposes of this Section, "County Official" means any Official or Employee
7 in whom is vested the authority by law, rule, or regulation, or to whom the authority
8 has been delegated, to appoint, employ, promote, or advance individuals or to
9 recommend individuals for appointment, employment, promotion, or advancement in
10 connection with employment in an agency.

11 (2) For the purposes of this Section, "Relative" means spouse, parent, child, sibling,
12 uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law,
13 daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson,
14 stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

15 **SECTION 6. ETHICS TRAINING.**

16 A. Officials and Employees, as public servants, are considered stewards of the public
17 trust and should aspire to the highest level of integrity and character. Officials and Employees
18 shall be informed of their ethical responsibilities at the start of their public service, and shall
19 receive updates and training materials on ethics issues throughout the span of their public
20 service. The County Administrator shall establish by policy a mandatory training schedule for
21 all Officials and Employees which shall include mandatory periodic follow-up sessions. This
22 policy may also address ethics training for entities that receive County funds.

23 B. The Commission on Ethics shall develop and deliver, or contract with other entities to
24 develop and deliver, training programs. The Commission on Ethics shall coordinate and
25 cooperate with all affected County entities, departments, agencies, boards and commissions to
26 ensure that effective and meaningful training experiences are delivered in a timely and efficient
27 manner.

28 **SECTION 7. NON-INTERFERENCE.**

29 It shall be a violation of this Ordinance for any Person: (a) to retaliate against, punish,
30 threaten, harass, or penalize any Person for communicating, cooperating with, or assisting the
31 Commission on Ethics or the Inspector General; or (b) to interfere, obstruct or attempt to

1 interfere or obstruct any investigation conducted by the Commission on Ethics or the Inspector
2 General.

3 **SECTION 8. ADMINISTRATION, ENFORCEMENT AND PENALTIES.**

4 A. The Commission on Ethics shall be empowered to review, interpret, render advisory
5 opinions, and enforce this Code of Ethics pursuant to the procedures established in the Palm
6 Beach County Commission on Ethics Ordinance. Jurisdiction of the Commission on Ethics with
7 respect to advisory opinions rendered shall extend to all Officials and Employees, and all other
8 Persons and entities required to comply with the provisions of this Code and the Palm Beach
9 County Lobbyist Registration Ordinance, including but not limited to Lobbyists, their employers
10 and principals, and contractors and vendors.

11 B. A finding by the Commission on Ethics of a violation of any part of this Ordinance
12 shall subject the Person to public reprimand, a fine of up to \$500, or both. The Commission on
13 Ethics may also order the person to pay restitution when the Person or a third party has received
14 a pecuniary benefit as a result of the Person's violation.

15 C. Upon a finding of the Commission on Ethics that a violation of this Ordinance or the
16 Lobbyist Registration Ordinance resulted in a contract, grant, subsidy, license, permit, franchise,
17 use, certificate, development order or other benefit conferred by the County, then such contract,
18 grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit may
19 be rescinded or declared void by the Board of County Commissioners.

20 D. The Commission on Ethics may in its discretion refer violations of Sections 3., 4.A.,
21 4.B., 4.C., or 7. of this Ordinance to the State Attorney. Pursuant to section 125.69, Florida
22 Statutes, a Person who violates the Sections of the Ordinance set forth in this Section 8.D. shall
23 be subject to prosecution in the name of the state in the same manner as misdemeanors are
24 prosecuted, and upon conviction, such Person shall be punished by a fine not to exceed \$500,
25 imprisonment not to exceed 60 days, or both.

26 **Part 2. The Palm Beach County Lobbyist Registration Ordinance, Sections 2-351 through**
27 **2-357, is hereby amended as follows:**

28 **Sec. 2-352. Definitions.**

29 * * *

1 "Lobbyist" shall mean any Person who is employed and receives payment, or who
2 contracts for economic consideration, for the purpose of Lobbying on behalf of a Principal, and
3 shall include an employee whose principal or most significant responsibilities to the employer is
4 overseeing the employer's various relationships with government or representing the employer in
5 its contacts with government. "Lobbyist" shall not include any Employee as defined by this
6 ordinance when acting in the course of his or her employment, any elected local official when
7 the official is Lobbying on behalf of the governmental agency which the official serves, or any
8 member of the official's staff when such staff member is Lobbying on an occasional basis on
9 behalf of the governmental agency by which the staff member is employed.

10 * * *

11 **Sec. 2-353. Registration and expenditures.**

12 (a) *Registration required.* Prior to lobbying, all lobbyists shall submit an original, fully
13 executed registration form to county administration. A separate registration is required for each
14 principal represented. A registration fee of twenty-five dollars (\$25) must be included with each
15 registration form submitted. A registrant shall promptly send a written statement to county
16 administration canceling the registration for a principal upon termination of the lobbyist's
17 representation of that principal. This statement shall be signed by the lobbyist. ~~All lobbyists~~
18 ~~shall registration with county administration before engaging in lobbying. Every lobbyist shall~~
19 ~~submit a form prepared by county administration and shall state his or her name, address, the~~
20 ~~name and address of each principal represented, the general and specific areas of legislative~~
21 ~~interest, and the nature and extent of any direct business association or partnership with any~~
22 ~~current county commissioner, advisory board member, or employee. A lobbyist's registration~~
23 ~~shall automatically expire on December 31 of the year of registration. If at any time during the~~
24 ~~year, a lobbyist commences representing a principal for which the lobbyist has not registered~~
25 ~~pursuant to this article, such lobbyist shall register with respect to that principal prior to~~
26 ~~lobbying. Lobbying prior to registration is prohibited.~~

27 (b) *Registration form.* The registration form shall be prepared by county administration
28 and shall require the following information: 1) the name and address of the lobbyist; 2) the name
29 and address of the principal represented; 3) the date the lobbyist was initially retained by the
30 principal; 4) the nature and extent of any direct business association or partnership the lobbyist
31 and principal might have with any current county commissioner, advisory board member, or

1 employee; 5) the area of legislative interest; and 6) a statement confirming that the registrant is
2 authorized to represent the principal. The form shall be signed by the registrant and the
3 principal.

4 (b)(c) Registration exceptions. Registration shall not be required for the following:

- 5 (1) County commissioners, advisory board members or employees discussing
6 matters relevant to their official duties;
- 7 (2) Persons under contract with the county who communicate with county
8 commissioners, advisory board members or employees regarding issues related
9 only to the performance of their services under their contract;
- 10 (3) Any Person who lobbies only in his or her individual capacity for the purpose of
11 self-representation; or
- 12 (4) Any Person who appears before the board or advisory board in a quasi-judicial
13 proceeding.

14 (d) Reporting of expenditures. Commencing October 1, 2011, and on October 1 of each
15 year thereafter, the lobbyist shall submit to County Administration a signed statement under oath
16 listing all expenditures made by the lobbyist in lobbying Palm Beach County Officials and
17 Employees in excess of twenty-five dollars for the preceding year. A statement shall be filed
18 even if there have been no expenditures during the reporting period. The statement shall list in
19 detail each expenditure category, including food and beverage, entertainment, research,
20 communications, media advertising, publications, travel, lodging and special events.

- 21 (1) The County Administrator shall provide notice of violation to any Lobbyist who
22 fails to timely file an expenditure report and shall also notify the Palm Beach
23 County Commission on Ethics of this failure. In addition to any other penalties
24 which may be imposed under this Ordinance, any Lobbyist who fails to file the
25 required expenditure report within thirty days of the date of notice of violation
26 shall be suspended from Lobbying unless the notice of violation has been
27 appealed to the Commission on Ethics.

28 (e) False statements. A lobbyist shall not knowingly make, or cause to be made, a false
29 statement or misrepresentation in maintaining registration or when lobbying county
30 commissioners, advisory board members, or employees.

31 * * *

1 **Sec. 2-355. Cone of Silence.**

2 * * *

3 (c) The cone of silence shall be in effect as of the deadline to submit the proposal, bid, or
4 other response to a competitive solicitation. The cone of silence shall remain in effect and
5 subject to the terms of this section for any person or person's representative who responds to a
6 particular request for proposal, request for qualification, bid, or any other competitive
7 solicitation, and such response is either rejected by the County or withdrawn by the person or
8 person's representative. Each request for proposal, request for qualification, bid or any other
9 competitive solicitation shall provide notice of cone of silence requirements and refer to this
10 article.

11 * * *

12 (g) Any contract entered into in violation of the Cone of Silence provisions in this section
13 shall render the transaction voidable.

14 **Section 2-356. Enforcement.**

15 (a) If the County Administrator is informed of any Person ~~engaged in Lobbying activities~~
16 who has failed to comply with the requirements of this Ordinance, he or she shall conduct an
17 preliminary investigation as deemed necessary under the circumstances. In the event the County
18 Administrator determines that a violation may have occurred based on the results of the
19 investigation, the County Administrator shall forward the matter to the Palm Beach County
20 Commission on Ethics for further investigation and enforcement proceeding as set forth in
21 Ordinance XXX-XXXX, the Palm Beach County Code of Ethics. ~~the following enforcement~~
22 ~~procedures shall apply.~~

23 ~~—— (1) Creation and Appointment. Appeal hearings pursuant to this Ordinance shall~~
24 ~~be conducted by designated special masters. Applications for special master positions shall be~~
25 ~~directed to the County Administrator pursuant to a notice published in a newspaper of general~~
26 ~~circulation. The County Administrator shall select a pool of candidates from applications filed~~
27 ~~on the basis of experience and qualifications. The County Administrator shall appoint each~~
28 ~~special master to conduct each hearing from the pool of candidates selected, as necessary. A~~
29 ~~special master shall be a graduate of a law school accredited by the American Bar Association,~~
30 ~~and a current member in good standing of The Florida Bar. The County Administrator shall give~~

1 ~~preference to those attorneys who have prior experience in a judiciary capacity, or as a hearing~~
2 ~~officer, mediator, or special master. Special masters shall serve without compensation for their~~
3 ~~services, and shall not be considered Employees. Travel reimbursement is limited to expenses~~
4 ~~incurred only for travel outside Palm Beach County necessary to fulfill their responsibilities as a~~
5 ~~special master.~~

6 ~~—— (2) Conduct of Hearing. Hearings before the special master shall be conducted as~~
7 ~~follows:~~

8 ~~a.—— Persons seeking appeal will receive written notice by certified mail of the~~
9 ~~hearing no less than fifteen working days in advance of the hearing. The special master~~
10 ~~shall render a decision on the appeal within fifteen working days after the case was heard.~~

11 ~~b.—— The special master shall provide Persons seeking appeal and any County~~
12 ~~representatives an opportunity to present testimony and evidence. All testimony shall be~~
13 ~~under oath and shall be recorded. Formal rules of evidence shall not apply, but~~
14 ~~fundamental due process shall be observed and shall govern the proceedings. The special~~
15 ~~master, in his or her discretion, may exclude irrelevant, immaterial, or unduly repetitious~~
16 ~~evidence, but all other evidence of a type commonly relied upon by reasonably prudent~~
17 ~~Persons in the conduct of their affairs shall be admissible, whether or not such evidence~~
18 ~~would be admissible in a trial in the courts of Florida. Any part of the evidence may be~~
19 ~~received in written form.~~

20 ~~c.—— The decision of the special master is final and appealable by writ of~~
21 ~~certiorari pursuant to the Florida Rules of Appellate Procedure.~~

22 ~~—— (d)—— The validity of any action taken by the Board, the Advisory Boards, or any~~
23 ~~Employees, shall not be affected by the failure of any Person to comply with the provisions of~~
24 ~~this Ordinance.~~

25 **Section 2-357. Penalties**

26 * * *

27 6. The penalties provided in this section shall be exclusive penalties imposed for any
28 violation of the registration, contact log, and Cone of Silence requirements of this Ordinance.
29 Willful violations of this Ordinance shall be referred by the Commission on Ethics to the State
30 Attorney for prosecution in the same manner as a second degree misdemeanor pursuant to
31 Section 125.69, Florida Statutes. Failure or refusal of any Lobbyist to comply with any order of

1 the ~~County or special master~~ Commission on Ethics shall be punishable as provided by law, and
2 shall otherwise be subject to such civil remedies as the County may pursue, including injunctive
3 relief.

4 **Part 3. Repeal of Laws in Conflict.**

5 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
6 repealed to the extent of such conflict. The Palm Beach County Code of Ethics adopted by
7 Resolution 94-693 as amended by Resolution 2003-0962, is hereby repealed in its entirety.

8 **Part 4. Severability.**

9 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
10 reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect
11 the remainder of this Ordinance.

12 **Part 5. Inclusion in the Code of Laws and Ordinances.**

13 The provisions of this Ordinance shall become and be made a part of the Code of Laws
14 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be
15 renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to
16 "section," "article," or other appropriate word.

17 **Part 6. Effective Date.**

18 The provisions of this Ordinance shall become effective May 1, 2010.

19 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
20 County, Florida, on this the 15th day of December, 2009.

21 SHARON R. BOCK

22 CLERK & COMPTROLLER

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

23
24
25 By:   

26 Deputy Clerk

Chairman

Burt Aaronson,

27
28
29 (SEAL)

30
31
32 APPROVED AS TO FORM AND
33 LEGAL SUFFICIENCY

34
35
36 By: 

37 County Attorney

38
39 Filed with the Department of State on the 18th day of December, 2009.