



Item No. 9a

AGENDA ITEM MEMORADUM

Town Attorney

Susan L. Trevarthen

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> Oct 11, 2011	Sept 30th

*Subject to Change

- Presentation Reports Consent Ordinance
 Resolution Quasi-Judicial Old Business New Business

FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: Town Attorney Report: Update on Proposed Broward County Ethics Regulations for Municipal Elected Officials

EXPLANATION: On September 27, 2011, the Broward County Commission scheduled a hearing and published the notice that they intend to adopt this Ordinance on October 11 at 2 pm. As discussed at the September 27 Town Commission meeting, the County Attorney had proposed beneficial substantive changes to the Ordinance (limiting financial disclosures to those required by Form 1, allowing for advisory opinions). The County Commission has not yet accepted the changes proposed by the County Attorney, but those changes will roll over and be considered on October 11.

The comments from the Town Commission's discussion of the Ordinance were conveyed to the League on September 28. The Broward League of Cities (BLOC) Ethics Task Force met on October 4 to consider the proposed Ordinance. It prepared a memo to the County, supporting the County Attorney's proposed changes and requesting the County Commission to clarify certain issues prior to adoption of the Ordinance. Specifically, the Task Force requested the County Commission to:

- define the term "relative," because it has three different definitions in state law,
- clarify the Ordinance's introduction of certain defined terms (Covered Individual and Final Decision-Making Authority) without specifying how those terms are affected by the regulations and how they interrelate, and
- clarify the meaning of a municipal official lobbying in his or her official capacity (does a Town Commissioner need a vote of the dais to render any lobbying on behalf of the Town "official"?).

The Task Force also sent a memo to non-profit organizations, alerting them to the potential impact of these regulations on their ability to fundraise with municipal officials.

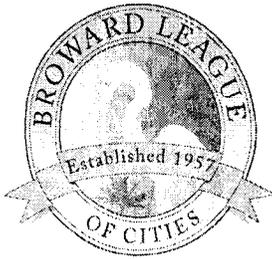
If the County Commission has addressed this item early enough and information can be obtained prior to the Town Commission meeting, an update will be provided at the meeting.

EXPECTED OUTCOME: Discussion of the status of the proposed County ethics ordinance

EXHIBIT(S): Memo from the BLOC to County dated October 5
Email from BLOC to Non-Profits (undated)
Email From Town Attorney to BLOC re the Town's comments dated September 28
Proposed Ordinance to Be Heard October 11 by County Commission

Reviewed by Town Attorney
 Yes No

Town Manager Initials CJA



MEMORANDUM

TO: Mayor Sue Gunzburger; and
Board of County Commissioners for Broward County
Joni Coffey Armstrong, County Attorney

CC: Bertha Henry, County Administrator
Andrew Meyers, Deputy County Attorney
Board of Directors, Broward League of Cities

FROM: Mayor Debby Eisinger, President, Broward League of Cities
Commissioner Lisa K. Aronson, Chair, Broward League of Cities Ethics Task Force

DATE: October 5, 2011

RE: Broward County League of Cities ("BLOC") / Proposed Code of Ethics

2010-2011 OFFICERS
President Debby Eisinger
Mayor, Cooper City
1st Vice President Bobby B. DuBose
Vice Mayor, Fort Lauderdale
2nd Vice President Susan Starkey
Councilmember, Davie
Secretary Patricia Asseff
Vice Mayor, Hollywood
Treasurer Gary Resnick
Mayor, Wilton Manors

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Past President M. Margaret Bates
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Past President Frank Ortis
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Commissioner, Lighthouse Point
Lisa K. Aronson
Commissioner, Coconut Creek
Diane Veltri Bendekovic
Mayor, Plantation
Hayward J. Benson, Jr.
Commissioner, Lauderdale
Suzanne Boisvenue
Mayor, Oakland Park
Jack Brady
Mayor, North Lauderdale
George Brummer
Vice Mayor, Pompano Beach
Pamela Bushnell
Mayor, Tamarac
Anne Castro
Commissioner, Dania Beach
Dan Dodge
Mayor, Hillsboro Beach
Thomas Dorsett
Commissioner, West Park
Jack McCluskey
Commissioner, Pembroke Pines
Doug McKay
Councilmember, Southwest Ranches
Wayne Messam
Commissioner, Miramar
Roseann Minnet
Mayor, Lauderdale-by-the-Sea
Ashira Mohammed
Mayor, Pembroke Park
Scott Newton
Commissioner, Wilton Manors
Peggy Noland
Mayor, Deerfield Beach
Jim Norton
Commissioner, Weston
Tom Powers
Commissioner, Coral Springs
Stacy Ritter
Broward County Commissioner
Donald K. Rosen
Deputy Mayor, Sunrise
David Rosenof
Vice Mayor, Parkland
Dorothy Ross
Commissioner, Hallandale Beach
Fred Schorr
Mayor, Lighthouse Point
Greg Sollitto
Councilmember, Sea Ranch Lakes
Joseph Varsallone
Commissioner, Margate
Benjamin Williams, Sr.
Commissioner, Lauderdale Lakes

Rhonda Calhoun
Executive Director

On October 4, 2011, the BLOC Ethics Task Force (the "Task Force") met to review the final proposed Code of Ethics ("Proposed Code") which will be presented to the Board of County Commissioners ("County Commission") for consideration at a public hearing on October 11, 2011. The Task Force has identified a number of ambiguities and questions which warrant further clarification from the County Commission or the County Attorney's Office **prior to the adoption** of the Proposed Code.

This memorandum is **not** intended to offer substantive amendments to the Proposed Code, rather it is simply intended to preemptively address a number of uncertainties which will create significant challenges for **all elected officials** who are ultimately bound by the same.

In addition to the comments set forth herein, the Task Force **strongly urges** the County Commission to consider **all** of the fair and reasonable amendments to the Proposed Code offered by the County Attorney's Office. While the Task Force supports each of the County Attorney's proposals, the amendments related to the **issuance of advisory opinions** and the **Form-1-equivalent for financial disclosure** of outside/concurrent employment are worthy of particular consideration. These amendments will greatly assist **all elected officials** who are governed by the Proposed Code when it is adopted.

Please consider the following:

- 1) The term "relative" (Page 8, Line 15) is undefined. The Proposed Code indicates that terms not defined shall be defined by Part III, Ch. 112, F.S. (or the Broward County Code of Ordinances and the Broward County Administrative Code). Please note that Ch. 112, F.S., has three (3) separate and distinct definitions of the term "relative." See Section 112.312(21), F.S., Section 112.313(5), F.S., and Section 112.3143, F.S.

- 2) The definitions of “covered individual” and “Final Decision-Making Authority” include references to “the prohibition of lobbying under section (c)(2) below.” (Page 5, Line 2 and Page 6, Lines 1-2, respectively). There is some uncertainty as to what these references are referring to and how this prohibition is meant to be interpreted.
- 3) The definition of “lobbyist” expressly **excludes** elected officials communicating in his or her “official capacity,” however, the term “official capacity” is not defined. Please note that different municipalities have different interpretations of when an elected official is acting in his or her “official capacity.” For instance, certain municipalities assert that their elected municipal officials are only acting in their “official capacity” when they have received specific authority from their respective commissions to engage in certain actions. Other municipalities interpret “official capacity” to include any action taken by their elected officials which may pertain to official business, regardless of whether they have received commission direction or approval.
- 4) The Proposed Code includes a detailed definition of “covered individual” (Page 4, Line 7). The only other reference to this term appears to be in the definition of “Lobbying” (Page 6, Line 6). The Proposed Code also includes a definition of “final decision-making authority.” (Page 5, Line 17). These three terms appear to have certain interrelated implications, however certain applications of the terms may result in unintended consequences.

For instance, the definition of “covered individual” expressly includes **any** municipal employee that has the authority to make a final decision regarding public procurement. (Page 4, Line 19). “Public procurement” is not defined. Certain municipalities authorize members of their public works staff to make routine purchases at hardware stores as may be necessary and expedient to conduct their daily business. Such employees appear to be “covered individuals” under the current definition in the Proposed Code as they are authorized to make a final decision regarding public procurement (i.e. the purchase of certain goods from a hardware store). If that public works employee were approached by a hardware store employee who sought to sell the public works employee a different, perhaps more expensive product, then that hardware store employee may arguably be considered a “lobbyist” engaged in “lobbying activities” under the current definitions. While this may be an extreme example, these are the types of scenarios which could result in unintended, and potentially significant, consequences for those individuals governed by the Proposed Code.

The Task Force is offering these comments in a good faith effort to ensure that **all** individuals who are ultimately bound by the Proposed Code have a clear understanding of the rules by which they are governed. It is in the best interests of all citizens and residents in Broward County, including all county and municipal elected officials, to have a clear and unambiguous code of ethics.

Please do not hesitate to contact us if there is any additional information that we can provide.

VIA EMAIL

TO:

Re: Broward County Board of Commissioners/Code of Ethics
For Elected Municipal Officials – Charitable Contribution
Fundraising

As you may be aware, the Board of County Commissioners is considering a uniform Code of Ethics which will apply to all elected municipal officials in Broward County. For your review, we have attached a copy of the Ordinance which is scheduled for public hearing and adoption on Tuesday, October 11, 2011 at 2:00 p.m. at the Broward Governmental Center, 115 S. Andrews Avenue, Room 422, Fort Lauderdale.

The Broward League of Cities (“League”) is generally supportive of a unified Ethics Ordinance designed to eliminate the presence or appearance of undue influence or conflicts of interest and restore faith in our local governmental leadership. However, the proposed Code includes new regulations governing the manner in which elected municipal officials may engage in charitable contribution fundraising for non-profit organizations (please see Page 13, Subsection (5)a of the attached proposal). In anticipation of these new regulations, the League wanted to make your organization aware that there will be an impact on the continued solicitation of charitable funds by elected municipal officials.

Broward County’s elected municipal officials have a long history of raising funds for non-profit organizations and working to advance the many worthy causes that they support. Therefore, we are advising you that the Ethics Code being considered for adoption by the County Commission may discourage and deter municipal officials from actively promoting and supporting charitable causes.

The public hearing will afford you the opportunity to address the County Commission with your organization’s possible concerns. We also suggest contacting the Commissioners prior to the Tuesday, October 11, 2011 public hearing. You can find individual contact information below.

Sincerely,

Mayor Debby Eisinger
President
Broward League of Cities

Commissioner Lisa K. Aronson
Ethics Task Force Chair

Mayor Suzanne Gunzburger -	954-357-7006	sgunzburger@broward.org
Vice Mayor John Rodstrom -	954-357-7007	jrodstrom@broward.org
Commissioner Dale Holness -	954-357-7009	dholness@broward.org
Commissioner Kristin Jacobs -	954-357-7002	kjacobs@broward.org
Commissioner Chip LaMarca -	954-357-7004	clamarca@broward.org
Commissioner Ilene Lieberman	954-357-7001	ilieberman@broward.org
Commissioner Stacy Ritter	954-357-7003	sritter@broward.org
Commissioner Barbara Sharief	954-357-7008	bsharief@broward.org
Commissioner Lois Wexler	954-357-7005	lwexler@broward.org

Susan L. Trevarthen

From: Susan L. Trevarthen
Sent: Thursday, September 29, 2011 11:33 AM
To: Roseann Minnet (roseannminnet@lauderdalebythesea-fl.gov); Stuart Dodd; Birute Ann Clotney (biruteannclotney@lauderdalebythesea-fl.gov); Scot Sasser (scotsasser@lauderdalebythesea-fl.gov); Chris Vincent
Cc: 'Connie Hoffmann'; Ralph "Bud" Bentley (ATM@lauderdalebythesea-fl.gov)
Subject: FW: Input on the September draft of the County Ethics Regulations for Municipal Officials from Town of Lauderdale-By-The-Sea

The notes I sent to the League.

From: Susan L. Trevarthen
Sent: Wednesday, September 28, 2011 2:28 PM
To: Rhonda Calhoun (bloc@bellsouth.net)
Cc: 'Connie Hoffmann'; David M. Wolpin
Subject: Input on the September draft of the County Ethics Regulations for Municipal Officials from Town of Lauderdale-By-The-Sea

The Town Commission briefly considered the new proposed ordinance (and the amendments filed in the County backup) at its regular Commission meeting on September 28, 2011. As we discussed, the Town Commission was meeting while the County Commission was considering this issue last night, so I need to know what the County Commission did.

Because our meeting was so soon after the draft was released, the Commissioners only had preliminary comments, and there may be additional comments coming from them individually. The comments made last night are noted below, and I was asked to forward them to the League Ethics Task Force and to seek its support for these changes.

1. Support for the proposed amendments in the backup, including the ones that made the requirement to disclose income consistent with the requirements of Form 1, and the one that provided for the giving of ethics opinions by municipal attorneys and the ability of elected officials to rely upon them.
2. Concern about the current definition of contractor being too broad. For example, the Town has many right-of-way license agreements with property owners for sidewalk cafes, parking spaces, operation of valet parking services, and other such purposes. These agreements are literally contracts, as that term is usually used, yet they do not seem to fall within the purpose and intent of the ethics regulations. The Town would support a narrower definition that is more clearly tied to the procurement context which is the intended scope of the regulations.
3. Concern about the duplicative filings (state and county level, by both the

giver and the recipient) associated with hosting a fundraiser for another elected official.

4. Disappointment that there is no acknowledgement in the ordinance of the enforceability of stricter municipal ethics requirements, and an apparent effort to preempt the field completely.
5. Concern about the impact on League of Cities activities in which the Commissioners participate.
6. Concern about the unfunded mandate of required ethics training, and a question as to whether free ethics training from the League or other vendors or contractors could ever be considered a prohibited gift.
7. Concern about the meaning of the County's repetition of the federal honest services fraud statute in its rules - will this be interpreted consistently with the federal statute? If so, why duplicate this federal requirement? How will officials know how to conform their actions to the County's version of this law?
8. Concern about the vagueness and subjectivity of the appearance of impropriety standard, and how it could result in baseless allegations against officials.

Thanks for your assistance with this matter.

Broward County Commission Public Hearing

Item #: 6.

Date: 10/11/2011

Director's Name: Joni Armstrong Coffey

Name:

Department: County Attorney

Information

Requested Action

MOTION TO CONSIDER enactment of an Ordinance, the title of which is as follows:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, AMENDING SECTION 1-19 OF THE BROWARD COUNTY CODE OF ORDINANCES, RELATING TO A CODE OF ETHICS FOR THE BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS AND OTHER SPECIFIED INDIVIDUALS; MODIFYING CERTAIN PORTIONS OF SECTION 1-19 AND EXTENDING IT TO COVER ELECTED MUNICIPAL OFFICIALS AND OTHER SPECIFIED INDIVIDUALS; DELETING REFERENCES IN SECTION 1-19 TO THE BROWARD COUNTY OFFICE OF INSPECTOR GENERAL AND REFERENCES TO ENFORCEMENT OF THE CODE OF ETHICS, WHICH SUBJECTS ARE NOW GOVERNED BY ARTICLE XII OF THE BROWARD COUNTY CHARTER; AMENDING SECTIONS 1-261 AND 26-72.5 OF THE BROWARD COUNTY CODE OF ORDINANCES TO PROVIDE CONSISTENT DEFINITIONS OF LOBBYING AND RELATED TERMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by Mayor Sue Gunzburger)

Why Action is Necessary

A Resolution directing the County Administrator to publish notice of public hearing to consider enactment of the Ordinance was adopted by the Board of County Commissioners at its Commission meeting of September 27, 2011.

What Action Accomplishes

Expands the current Code of Ethics for the Board of County Commissioners to cover elected municipal officials.

Is this Action Goal Related

Previous Action Taken

Summary Explanation/Background

The Board enacted Ordinance No. 2010-22, a "Code of Ethics for the Broward County Board of County Commissioners," on August 10, 2010 (the "Current Code"). On November 2, 2010, County voters approved an amendment to the Broward County Charter providing that County ordinances shall prevail over municipal ordinances whenever the County acts to regulate the conduct of municipal officials and employees through an enacted code of ethics.

On August 30, 2011, this Office was directed to draft a proposed ordinance expanding the Current Code to cover elected municipal officials, and to propose certain changes and optional language based on the Board's discussion on August 30. The proposed ordinance was

considered by the Board on September 27, 2011, at which time the Board set a public hearing for October 11, 2011, to consider enactment. During the Board's discussion on September 27, this Office was directed to include in the attached proposed ordinance the following changes that were part of the September 27 agenda package:

1. A technical clarification to the proposed definition of "Final Decision-Making Authority" (first appearing on page 5, line 17);
2. A non-substantive change in the language of the lobbying provision that begins on page 10, line 14;
3. A change on page 14, line 23, to reflect that municipal official campaign finance disclosures are filed with the appropriate municipal election official and not with the Supervisor of Elections; and
4. A change on page 16, line 20, to clarify permissible service by municipal officials on selection committees.

One change that was not part of the September 27 agenda package was also made to the proposed ordinance. This change reinserts, on page 7 at lines 21-23, definitions of the terms "relative" and "immediate family" that are defined in the Current Code but were inadvertently omitted from the proposed ordinance.

Also on September 27, this Office was directed to attach, as optional language, the following provisions that were submitted as additional material in connection with the September 27 agenda item (and which are attached hereto as Exhibit 3):

1. Language giving elected officials the opportunity to obtain "binding" ethics opinions from their public attorney, modeled after the provision contained in the Florida Code of Ethics (Chapter 112, Florida Statutes) (sponsored by Commissioner Ritter);
2. Language delaying imposition of the prohibition on engaging in lobbying activities until after the end of an elected municipal official's current term of office. Language not contained in the September 27 agenda package was added at the request of the Board to clarify that the lobbying prohibition shall apply upon commencement of any new term of office, even if such new term results from re-election of a currently sitting municipal official; and
3. Language requiring quarterly disclosure by municipal officials of the source of outside remuneration but not the amount, which is consistent with the information required under Form 1. Under the Current Code, County Commissioners, who are required to annually file a Form 6, are obligated to report, on a quarterly basis, both the source and amount of outside remuneration.

Also attached to Exhibit 3 for the Board's consideration (but not part of the September 27 agenda package) is a more narrowly-drafted revision to language that had previously been submitted by the Broward League of Cities regarding the Current Code's requirements for charitable fundraising. Under this proposed revision, a municipal official employed by a non-profit charitable organization would be permitted to solicit charitable contributions for that organization without disclosing each such solicitation.

Fiscal Impact

Fiscal Impact/Cost Summary:

Fiscal Impact Statement by Office of Management and Budget attached as Exhibit 2.

Attachments

Link: [Exhibit 1 - Copy of Proposed Ordinance](#)

Link: [Exhibit 2 - Copy of Fiscal Impact Statement](#)

Link: [Exhibit 3 - Optional Language](#)

PROPOSED

ORDINANCE NO. 2011-

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
5 AMENDING SECTION 1-19 OF THE BROWARD COUNTY
6 CODE OF ORDINANCES, RELATING TO A CODE OF
7 ETHICS FOR THE BROWARD COUNTY BOARD OF
8 COUNTY COMMISSIONERS AND OTHER SPECIFIED
9 INDIVIDUALS; MODIFYING CERTAIN PORTIONS OF
10 SECTION 1-19 AND EXTENDING IT TO COVER ELECTED
11 MUNICIPAL OFFICIALS AND OTHER SPECIFIED
12 INDIVIDUALS; DELETING REFERENCES IN SECTION 1-
13 19 TO THE BROWARD COUNTY OFFICE OF INSPECTOR
14 GENERAL AND REFERENCES TO ENFORCEMENT OF
15 THE CODE OF ETHICS, WHICH SUBJECTS ARE NOW
16 GOVERNED BY ARTICLE XII OF THE BROWARD
17 COUNTY CHARTER; AMENDING SECTIONS 1-261 AND
18 26-72.5 OF THE BROWARD COUNTY CODE OF
19 ORDINANCES TO PROVIDE CONSISTENT DEFINITIONS
20 OF LOBBYING AND RELATED TERMS; PROVIDING FOR
21 SEVERABILITY; PROVIDING FOR INCLUSION IN THE
22 CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

14 (Sponsored by Mayor Sue Gunzburger)

15 WHEREAS, on August 10, 2010, the Board of County Commissioners (the
16 "Board") enacted Ordinance No. 2010-22, a "Code of Ethics for the Broward County
17 Board of County Commissioners" (the "County Commissioner Ethics Code"); and

18 WHEREAS, on November 2, 2010, Broward County's voters approved an
19 amendment to the Broward County Charter providing that County ordinances shall
20 prevail over municipal ordinances whenever the County acts to regulate the conduct of
21 elected officials, appointed officials, and public employees in Broward County through
22 an enacted code of ethics; and

23 WHEREAS, also on November 2, 2010, the County's voters approved an
24 amendment to the Broward County Charter that created a charter-based Office of

1 Inspector General ("OIG") and preempted the portion of Ordinance No. 2010-22 that
2 had previously created a County Office of Inspector General; and

3 WHEREAS, after the Board stated its intention to expand the County
4 Commissioner Ethics Code to cover municipal officials in Broward County,
5 municipalities were afforded the opportunity to provide their input regarding the
6 expanded code; and

7 WHEREAS, the Broward League of Cities submitted certain proposed ethics
8 provisions that the League believed were necessary and appropriate for inclusion in any
9 ethics code applicable to municipal officials, including provisions recognizing differences
10 between service as a County Commissioner and service as an elected municipal
11 official; and

12 WHEREAS, at the request of the Board, the League's proposed provisions were
13 reviewed by the OIG; and

14 WHEREAS, the OIG recommended that certain provisions proposed by the
15 League be included in the expanded code, and the Board agrees that the provisions
16 recommended by the OIG should be included in the expanded code; and

17 WHEREAS, the Board finds that a single, uniform code providing ethics
18 standards for County Commissioners, elected municipal officials, and certain other
19 specified individuals will facilitate compliance with those ethics standards and will permit
20 greater efficiencies in connection with investigations and enforcement regarding alleged
21 violations of the code; and

22 WHEREAS, the Board finds that the provisions of this Ordinance strengthen and
23 supplement the restrictions and protections originally provided under the County
24 Commissioner Ethics Code,

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscoring type are additions.

1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 BROWARD COUNTY, FLORIDA:

3 Section 1. Section 1-19 of the Broward County Code of Ordinances is hereby
4 amended to read as follows:

5 Sec. 1-19. Code of Ethics for the ~~Broward County Commission~~ Elected
6 Officials.

7 (a) Statement of Policy.

8 It is the policy of Broward County that the Board of County Commissioners works
9 for the benefit of the citizens of the County and elected officials of municipalities work
10 for the benefit of the citizens of their respective municipalities. A County
11 Commissioners and elected municipal officials shall not receive any personal economic
12 or financial benefit resulting from ~~his or her~~ their service on ~~the Board~~ their local
13 governing bodies beyond legally authorized direct County compensation. It is the
14 responsibility of each County Commissioner and elected municipal official to act in a
15 manner that promotes public trust and confidence in government with complete
16 transparency and honesty in their services, and to avoid even the appearance or
17 perception of impropriety. ~~To that end, the voters of Broward County created Section~~
18 ~~11.08 of the Broward County Charter, which requires the Board of County~~
19 ~~Commissioners to consider a Code of Ethics ("Code") drafted by the Broward County~~
20 ~~Ethics Commission, with the sole and express purpose of regulating the behavior of the~~
21 ~~Broward County Commissioners. Upon the adoption of this Code by either the Board of~~
22 ~~County Commissioners or by the electors of Broward County, the Board of County~~
23 ~~Commissioners shall, as expeditiously as possible but no longer than 120 days after~~
24 ~~adoption, enact an ordinance consistent with the Resolution previously adopted by the~~

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1 ~~Board which would impose the Code, where applicable and appropriate, on County staff~~
2 ~~and advisory boards.~~

3 (b) Definitions. For purposes of this code of ethics (the "Broward County
4 Elected Official Code of Ethics");

5 1. "Contractor" means any person or entity having a contract with the
6 applicable local governmental entity.

7 2. "Covered Individual" means (i) any member of the Board of County
8 Commissioners; (ii) any member of a governing body of any municipality
9 within Broward County; (iii) any municipal mayor; (iv) any member of a
10 final decision-making body under the jurisdiction of the Board of County
11 Commissioners or the governing body of any municipality within Broward
12 County; (v) any individual directly appointed to a County or municipal
13 employment position by the Board of County Commissioners, by a
14 governing body of any municipality within Broward County, or by a
15 municipal mayor; (vi) any individual serving on a contractual basis as a
16 municipality's chief legal counsel or chief administrative officer; (vii) any
17 member of a selection, evaluation, or procurement committee that ranks
18 or makes recommendations to any final decision-making authority
19 regarding a County or municipal procurement; (viii) any employee, any
20 official, or any member of a committee of Broward County or of any
21 municipality within Broward County that has authority to make a final
22 decision regarding a public procurement; and (ix) the head of any
23 department, division, or office of Broward County or of any municipal
24 government who makes final recommendations to a final decision-making

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1 authority regarding items that will be decided by the final decision-making
2 authority. For purposes of the prohibition on lobbying under section (c)(2)
3 below, "Covered Individual" also includes members of other local
4 governmental entities within Broward County, including taxing authorities,
5 quasi-judicial boards, appointed boards, and commissions.

6 3. "Elected Official" means any member of the Board of County
7 Commissioners and any Municipal Official as defined below.

8 4. "Filed for Public Inspection" means that the form is completed legibly and
9 is filed with the applicable governmental entity's chief administrative
10 official or clerk, with a copy of the form or all information contained thereon
11 inputted into the applicable governmental entity's database, which
12 database shall be searchable by internet. For any municipality that does
13 not maintain a website sufficient to meet the requirements of this
14 paragraph, the form or information may be inputted into a database
15 maintained by the Broward League of Cities, provided that database is
16 searchable by internet.

17 5. "Final Decision-Making Authority" means (i) the Board of County
18 Commissioners; (ii) the governing body of any municipality within Broward
19 County; (iii) municipal mayors; (iv) final decision-making bodies under the
20 jurisdiction of the Board of County Commissioners or under the jurisdiction
21 of the governing body of any municipality within Broward County; and (v)
22 any employee, official, or committee of Broward County or of any
23 municipality within Broward County that has authority to make a final
24 decision to select a vendor or provider in connection with a public

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1 procurement. For purposes of the prohibition of lobbying under section
2 (c)(2) below, "Final Decision-Making Authority" also includes other local
3 governmental entities within Broward County, including taxing authorities,
4 quasi-judicial boards, appointed boards, and commissions.

5 6. "Lobbying" or "Lobbying Activities" means a communication, by any
6 means, from a lobbyist to a covered individual regarding any item that will
7 foreseeably be decided by a final decision-making authority, which
8 communication seeks to influence, convince, or persuade the covered
9 individual to support or oppose the item. Lobbying does not include
10 communications:

- 11 a. Made on the record at a duly-noticed public meeting or hearing; or
12 b. From an attorney to an attorney representing Broward County or
13 any municipality within Broward County regarding a pending or
14 imminent judicial or adversarial administrative proceeding against
15 Broward County or against any municipality within Broward County.

16 7. "Lobbyist" means a person who is retained, with or without compensation,
17 for the purpose of lobbying, or a person who is employed by another
18 person or entity, on a full-time or part-time basis, principally to lobby on
19 behalf of that other person or entity. "Lobbyist" does not include a person
20 who is:

- 21 a. An Elected Official, employee, or appointee of Broward County or
22 of any municipality within Broward County communicating in his or
23 her official capacity.
24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 **b.** An individual who communicates on his or her own behalf, or on
2 behalf of a person or entity employing the individual on a full-time or
3 part-time basis, unless the individual is principally employed by that
4 person or entity to lobby.

5 **c.** Any employee, officer, or board member of a homeowners'
6 association, condominium association, or neighborhood association
7 when addressing, in his or her capacity as an employee, officer, or
8 board member of such association, an issue impacting the
9 association or its members; or

10 **d.** Any employee, an officer, or a board member of a nonprofit public
11 interest entity (e.g., Sierra Club, NAACP, ACLU) when addressing
12 an issue impacting a constituent of that entity.

13 **8.** "Municipal Official" means any individual serving as a member of the
14 governing body of a municipality within Broward County or serving as a
15 municipal mayor within Broward County.

16 **9.** "Vendor" means an actual or potential supplier of any goods or services to
17 the applicable local governmental entity.

18 All operative words or terms used in this Code not defined herein shall be as
19 defined, in order of priority in the event of inconsistency, by Part III of Florida Statutes
20 Chapter 112, the Broward County Code of Ordinances, and the Broward County
21 Administrative Code. The term "relative" shall be as defined in Florida Statutes section
22 112.3135 and the term "immediate family" shall be as defined in Florida Statutes section
23 112.3148.

24 **(cb)** Standards of Conduct.

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1 In addition to the provisions of Florida Statutes Chapter 112, Part III, Code of
2 Ethics for Public Officers and Employees; Florida Statutes Chapters 838 and 839; Title
3 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward
4 County Code of Ordinances, sec. 26-67 et seq., the following Standards of Conduct
5 shall apply to each Elected Official ~~the individual members of the Broward County Board~~
6 ~~of County Commissioners.~~

7 ~~The operative words or terms used in this Code, unless otherwise defined~~
8 ~~herein, shall be as defined, in order of priority in the event of inconsistency, by Part III of~~
9 ~~Florida Statutes Chapter 112, the Broward County Code of Ordinances and the Broward~~
10 ~~County Administrative Code. The terms "registered lobbyist" or "lobbyist", "lobbying" or~~
11 ~~"lobbying activities", "vendor" and "contractor" shall be as construed and defined in the~~
12 ~~Broward County Lobbyist Registration Act and the Broward County Procurement Code.~~
13 ~~The term "relative" shall be as defined in Florida Statutes section 112.3135 and the term~~
14 ~~"immediate family" shall be as defined in Florida Statutes section 112.3148.~~

15 (1) Acceptance of Gifts.

16 a. Elected Officials ~~County Commissioners~~, their spouses or
17 registered domestic partners, their other relatives, and their County
18 or municipal office staff, shall not accept gifts, directly or indirectly,
19 regardless of value, from lobbyists registered with the governmental
20 entity on whose behalf they (or their spouse, registered domestic
21 partner, or relative) serve, County or from any principal or employer
22 of any such registered lobbyist, or from vendors or contractors of
23 such governmental entity ~~Broward County~~. In order to effectuate
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1 this provision, no lobbyist shall engage in any lobbying activity prior
2 to registering as a lobbyist with the applicable governmental entity.

3 b. Elected Officials ~~County Commissioners~~ may accept gifts from
4 other sources given to them in their official capacity, where not
5 otherwise inconsistent with the provisions of Florida Statutes
6 Chapter 112, Part III, up to a maximum value of \$50.00 per
7 occurrence. Gifts given to an Elected Official ~~County~~
8 ~~Commissioner~~ in his or her official capacity up to \$50.00 in value
9 are deemed to be *de minimis*.

10 c. The \$50.00 ~~above restrictions and limitations does~~ not apply to gifts
11 given to Elected Officials ~~County Commissioners~~ in their personal
12 (non-official) capacity, ~~and~~ ~~s~~Such gifts are still subject to the
13 reporting requirements of Florida Statutes section 112.3148.

14 (2) Outside/Concurrent employment.

15 a. Elected Officials ~~County Commissioners~~ shall not be employed as a
16 lobbyist or engage in lobbying activities before any member of the
17 governing body of the County or any municipality ~~municipalities~~
18 within Broward County, before any municipal mayor, or before any
19 member of any other local governmental entities within Broward
20 County, including taxing authorities, quasi-judicial boards,
21 appointed boards, and commissions, ~~except on behalf of Broward~~
22 ~~County as authorized by action of the Board of County~~
23 ~~Commissioners.~~ This form of employment and activity is deemed to
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1 be in substantial conflict with the proper discharge of an Elected
2 Official's ~~Commissioner's~~ duties in the public interest.

3 b. Elected Officials ~~County Commissioners~~ may engage in other
4 employment consistent with their public duties and where not
5 otherwise inconsistent with the provisions of Florida Statutes
6 Chapter 112, Part III. All outside or concurrent employment by an
7 Elected Official ~~County Commissioner~~, including employment
8 pursuant to contract, as well as any remuneration received from
9 that employment, must be disclosed quarterly on a form created by
10 the Broward County Attorney's Office. The disclosure form must be
11 ~~completely legibly and~~ filed for public inspection ~~in a database~~
12 ~~designated by the County Administrator, which database shall be~~
13 ~~searchable both in hard copy and by internet.~~

14 c. A spouse or registered domestic partner, immediate family
15 members, and County or municipal office staff of an Elected Official
16 ~~County Commissioner~~ shall not engage in ~~lobbying activities before~~
17 ~~the Board of County Commissioners~~ lobby any member of the
18 governing body of the County or any municipality within Broward
19 County, or before any municipal mayor, or before members of other
20 local governmental entities within Broward County, including taxing
21 authorities, quasi-judicial boards, appointed boards and
22 commissions, or otherwise conduct business as a vendor or
23 contractor with the local governmental entity served by the Elected
24 Official Broward County.

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1 (3) Lobbyists.

2 a. Elected Officials ~~County Commissioners~~ should avoid even the
3 appearance of impropriety in their interaction and dealings with
4 lobbyists registered under their local governmental entity's lobbyist
5 registration system ~~Broward County Lobbyist Registration Act~~ and
6 with the principals or employers of such lobbyists.

7 b. To promote full and complete transparency, lobbyists and their
8 principals or employers who intend to meet or otherwise
9 communicate with an Elected Official ~~County Commissioner~~ for the
10 purpose of engaging in lobbying activities, either at the Elected
11 Official's ~~Commissioner's~~ offices or elsewhere on the local ~~County~~
12 ~~government's~~ premises, must legibly register ~~by completing~~ a
13 contact log ~~as provided under Sec. 1-267 of the Broward County~~
14 ~~Code of Ordinances. This registration shall be made for listing~~
15 ~~each~~ Elected Official with whom ~~individual County Commissioner~~
16 the lobbyist, principal, or employer meets or intends on meeting or
17 communicating ~~with~~.

18 1. The information stated on the contact log ~~registration~~ shall
19 include the lobbyist's name; the name of the entity by which
20 the lobbyist is employed ~~his or her principal, including the~~
21 ~~employer or business~~; the name of the person or entity for
22 whom or which he or she is lobbying; the name of each ~~the~~
23 Elected Official ~~County Commissioner~~ with whom he or she
24 is meeting or communicating ~~with~~; the date and time of each

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such the meeting; and the specific purpose and subject matter of each such the meeting.

2. The contact log shall be completed ~~registration shall be made contemporaneously~~ with the meeting(s), ~~shall be legible,~~ and shall be filed for public inspection in a ~~database designated by the County Administrator,~~ which database ~~shall be searchable both in hard copy and by internet.~~

c. To further promote full and complete transparency, Elected Officials ~~County Commissioners~~ must disclose any and all lobbying activity that knowingly occurs between themselves and individual lobbyists or their principals or employers outside of their governmental ~~County Commission~~ offices/premises. This shall include communicating by any form of telephonic or electronic media.

1. The disclosure shall include the lobbyist's name; the name of the entity by which the lobbyist is employed; ~~lobbyist's principal, including his or her employer or business;~~ the name of the person or entity for whom or which he or she is lobbying; the date, time, and location of the meeting; and the specific purpose and subject matter of the meeting.

2. The disclosure shall be made within ten (10) business days of the lobbying activity, but must, in any event, be made prior to any vote on a matter that was the subject of the lobbying activity.

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1 3. The disclosure shall be made in a legible manner and filed
2 for public inspection in a database designated by the County
3 Administrator, which database shall be searchable both in
4 hard copy and by internet.

5 (4) Honest Services.

6 a. An Elected Official County Commissioner may not engage in a
7 scheme or artifice to deprive another of the material intangible right
8 of honest services or any activity in contravention of his or her duty
9 to provide loyal service and honest governance for the residents of
10 the governmental entity that he or she serves ~~Broward County~~.

11 b. This section shall be construed, to the extent possible, in
12 accordance with the standards and intent set forth under 18 U.S.C.
13 s.1346, as may be amended, and Florida Statutes Chapter 838.

14 (5) Solicitation and Receipt of Contributions.

15 a. Charitable Contribution Fundraising.

16 1. The solicitation of funds by an Elected Official County
17 Commissioner for a non-profit charitable organization, as
18 defined under the Internal Revenue Code, is permissible so
19 long as there is no quid pro quo or other special
20 consideration, including any direct or indirect benefit
21 between the parties to the solicitation.

22 2. To promote the full and complete transparency of any such
23 solicitation, an Elected Official County Commissioner shall
24 disclose, on a form created by the Broward County

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1 Attorney's Office, the name of the charitable organization,
2 the event for which the funds were solicited, and the name of
3 any individual or entity that may have promoted the
4 solicitation. The form shall be ~~completed legibly and shall be~~
5 filed for public inspection ~~in a database designated by the~~
6 ~~County Administrator, which database shall be searchable~~
7 ~~both in hard copy and by internet.~~

8 3. An Elected Official ~~County Commissioners~~ may not use
9 County staff or other County resources of his or her
10 governmental entity in the solicitation of charitable
11 contributions.

12 4. The requirements and prohibitions of this subpart shall not
13 apply to actions of an Elected Official in connection with
14 Broward County sponsored charities or fundraising events
15 sponsored by the official's governmental entity.

16 .b. Campaign Contribution Fundraising.

17 1. It is the intent of this Code to promote the full and complete
18 transparency of campaign contributions received by Elected
19 Officials ~~County Commissioners~~, consistent with the
20 disclosure requirements provided by state statute.

21 2. Any campaign finance disclosure that an Elected Official
22 ~~County Commissioner~~ must submit to the Supervisor of
23 Elections, or to the appropriate municipal election official, in
24 accordance with the provisions of Florida Statutes Chapter

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1 106 shall, contemporaneously, be filed for public inspection
2 ~~in a database designated by the County Administrator, which~~
3 ~~database shall be searchable both in hard copy and by~~
4 ~~internet.~~

5 3. Elected Officials ~~County Commissioners~~ who solicit
6 campaign contributions for other candidates for public office
7 shall disclose, on a form created by the Broward County
8 ~~Attorney's Office and filed for public disclosure in a manner~~
9 ~~designated by the County Administrator~~, the name of the
10 candidate for ~~which~~ whom they are soliciting, the location
11 and date of any associated event, and both the name and
12 contribution amounts of any individual who provided
13 contributions, directly or indirectly, to the Elected Official
14 ~~County Commissioner~~ for subsequent delivery to the
15 candidate. The form shall be filed for public inspection.

16 4. An Elected Official ~~County Commissioners~~ may not use any
17 ~~County staff or other County resources~~ of his or her
18 governmental entity in the solicitation or receipt of campaign
19 contributions.

20 5. Campaign or political contributions may not be made,
21 solicited, or accepted in any government-owned building.

22 c. The Board of County Commissioners shall be prohibited from
23 waiving the provisions of Section 18.63 of the Broward County
24

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1 Administrative Code as it pertains to the County's acceptance of
2 donations ~~in excess of five hundred (\$500.00) dollars.~~

3 (6) Procurement Selection Committees.

4 a. It shall be a conflict of interest for any Elected Official ~~member of~~
5 ~~the Board of County Commissioners~~ to serve as a voting member
6 of a County procurement Selection/Evaluation Committee in
7 connection with any prospective procurement by the Elected
8 Official's governmental entity. Elected Officials County
9 Commissioners shall not be included as members on any
10 Selection/Evaluation Committee and shall not participate or
11 interfere in any manner at Committee meetings or in the selection
12 of Committee members, which members shall be appointed by the
13 County Administrator or appropriate municipal staff, as relevant.
14 Upon the completion of the selection process by the Committee,
15 Elected Officials County Commissioners may inquire into any and
16 all aspects of the selection process and express any concerns they
17 may have to their Purchasing Director or, where applicable, other
18 employee with responsibility to oversee the procurement process.

19 b. The prohibitions stated in the preceding paragraph shall not apply
20 to strong mayors of municipalities with a charter-prescribed strong
21 mayor form of government or to Elected Officials who, under their
22 municipal charter, are required to participate in the procurement
23 process in a manner that would be inconsistent with such
24 prohibitions. The prohibitions stated in the preceding paragraph

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1 shall also not apply to the hiring (or contractual procurement, in lieu
2 of hiring) of individuals who report directly to a local governing
3 body.

4 (7) Financial Disclosure.

- 5 a. Each County Commissioner, contemporaneously with the annual
6 filing of the Form 6 Disclosure of Financial Interest with the State of
7 Florida Commission on Ethics, shall file such form for public
8 inspection ~~in a database designated by the County Administrator,~~
9 ~~which database shall be searchable both in hard copy and by~~
10 ~~internet.~~ Each Municipal Official, contemporaneously with the
11 annual filing of the Form 1 Statement of Financial Interests with the
12 State of Florida Commission on Ethics, shall file such form for
13 public inspection.

14 (de) Training and Education.

- 15 (1) New Elected Officials ~~County Commissioners~~ shall receive a minimum of
16 four (4) hours of training from their governmental entity's attorney (or as
17 directed by that attorney) ~~Office of the County Attorney~~ on the topics of the
18 Sunshine Law, public records, and public service ethics, and shall ~~—The~~
19 ~~County Commissioner~~ shall certify or acknowledge his or her participation
20 in this training ~~through~~ in a form filed with the entity's chief administrative
21 official or clerk ~~the County Administrator.~~ Such training shall be completed
22 within one hundred twenty (120) days after taking office. The four (4)
23 hours of training shall count towards the eight (8) hour training referenced
24 in the paragraph immediately below. Additional training for new Elected

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1 Officials Commissioners offered by the Florida Association of Counties or
2 the Florida League of Cities is strongly encouraged.

- 3 (2) Each Elected Official ~~member of the Board of County Commissioners~~
4 shall, on an annual basis, attend or participate in a minimum of eight (8)
5 hours of continuing education training on the topic of public service ethics.
6 These programs may be available through regional universities, municipal
7 or local government organizations, or the state or regional Bar
8 associations. Each Elected Official ~~The County Commissioner~~ shall
9 annually certify or acknowledge that he or she has met this requirement in
10 a form filed with the entity's chief administrative official or clerk ~~his or her~~
11 ~~participation in this program through the County Administrator.~~

12 (d) ~~Enforcement.~~

13 (1) ~~Office of Inspector General.~~

14 a. ~~Created and Established.~~

- 15 1. ~~The Office of Inspector General is created to detect~~
16 ~~misconduct involving waste, fraud, abuse, mismanagement,~~
17 ~~corruption, as well as the violation of County and municipal~~
18 ~~ordinances, state or federal statutes, and the state and~~
19 ~~federal constitution by any member of the Board of County~~
20 ~~Commissioners.~~
- 21 2. ~~The Inspector General shall head the Office.~~
- 22 3. ~~The organization and administration of the Office of~~
23 ~~Inspector General shall be independent to assure that no~~
24 ~~interference or influence external to the Office of Inspector~~

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1 ~~General adversely affects the objectivity of the Inspector~~
2 ~~General.~~

3 b. ~~Functions, Authority and Powers.~~

4 1. ~~The authority of the Inspector General shall extend over the~~
5 ~~Board of County Commissioners.~~

6 2. ~~Upon a determination by the Inspector General that good~~
7 ~~cause exists, including but not limited to the receipt of a filed~~
8 ~~complaint or a credible published report, the Inspector~~
9 ~~General shall commence an investigation of any member of~~
10 ~~the Board of County Commissioners.~~

11 3. ~~Any complaint received by the Office of Inspector General~~
12 ~~that is made against a candidate for the office of County~~
13 ~~Commissioner and received within sixty (60) days of the date~~
14 ~~of the election shall be held in abeyance until the election is~~
15 ~~determined or, if the complaint is made within sixty (60) days~~
16 ~~of a primary election, until the general election is determined~~
17 ~~if the individual against whom the complaint was filed~~
18 ~~remains a candidate in the general election.~~

19 4. ~~The Inspector General shall have the authority to investigate~~
20 ~~any member of the Board of County Commissioners. Each~~
21 ~~member of the Board of County Commissioners shall fully~~
22 ~~cooperate with the Inspector General.~~

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- 5. ~~In connection with an investigation, the Inspector General shall have the power to subpoena witnesses, administer oaths, and require the production of documents and records.~~
- 6. ~~The Inspector General shall have the authority to prepare reports and recommendations based upon its investigation.~~
- 7. ~~Upon a finding of probable cause and the good faith belief that a violation of a state, federal or local law, rule, regulation or policy has occurred, the Inspector General shall notify the appropriate civil, criminal or administrative agencies charged with enforcement of said violation.~~
 - a) ~~The Inspector General shall refer findings of alleged criminal offenses to the State Attorney and/or the Office of the United States Attorney.~~
 - b) ~~The Inspector General shall refer findings of alleged civil offenses involving a violation of Florida Statutes Chapter 112, Part III, to the Florida Commission on Ethics.~~
 - c) ~~Civil infractions involving local ordinances or code provisions not covered by Florida Statutes Chapter 112, Part III shall be stated in a complaint brought in the name of the Inspector General on behalf of Broward County, which complaint shall be referred to a Hearing Officer randomly chosen from among the panel of hearing officers selected by the Inspector~~

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1 ~~General Selection Oversight Committee. Upon the~~
2 ~~finding of a violation, the Hearing Officer shall impose~~
3 ~~sanctions in accordance with Florida Statutes~~
4 ~~sections 112.317 and 125.69, or as provided within~~
5 ~~this Code.~~

6 i. ~~In addition to all other authority granted in this~~
7 ~~section, the hearing officer shall have the~~
8 ~~authority to:~~

9 a. ~~Issue notices of hearings;~~

10 b. ~~Administer oaths and affirmations;~~

11 c. ~~Issue subpoenas authorized by law,~~
12 ~~including those requiring the attendance~~
13 ~~of witnesses and the preservation and~~
14 ~~production of documents and other~~
15 ~~items which may be used as evidence;~~

16 d. ~~Rule upon motions presented and offers~~
17 ~~of proof and receive relevant evidence;~~

18 e. ~~Issue appropriate orders to effectuate~~
19 ~~discovery;~~

20 f. ~~Regulate the course of the hearing;~~

21 g. ~~Dispose of procedural requests or~~
22 ~~similar matters; and~~

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1 9. ~~The Inspector General's records related to active~~
2 ~~investigations shall be and are confidential and exempt from~~
3 ~~disclosure, as provided by F.S. 112.3188(2).~~

4 10. ~~The Inspector General shall be deemed "an appropriate local~~
5 ~~official" for purposes of whistleblower protection provided by~~
6 ~~F.S. 112.3188(1).~~

7 11. ~~The Inspector General may recommend remedial action and~~
8 ~~may follow up to determine whether recommended remedial~~
9 ~~actions have been taken.~~

10 12. ~~The Inspector General shall establish policies and~~
11 ~~procedures and monitor the costs of investigations~~
12 ~~undertaken.~~

13 13. ~~The Inspector General is hereby deemed to be a public~~
14 ~~official and shall be subject to all applicable provisions of this~~
15 ~~Code.~~

16 e. ~~Minimum Qualifications, Selection and Term of Office.~~

17 4. ~~Minimum qualifications. The Inspector General shall be a~~
18 ~~person who:~~

19 a) ~~Has at least ten (10) years of experience in any one,~~
20 ~~or a combination of, the following fields:~~

21 1) ~~as a Federal, State or local Law Enforcement~~
22 ~~Officer;~~

23 2) ~~as a Federal or State court judge;~~

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~~3) as a Federal, State or local government attorney with expertise in investigating fraud, mismanagement and corruption; or~~

~~4) as a person with progressive supervisory experience in an investigative public agency similar to an inspector general's office.~~

~~b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;~~

~~e) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary;~~

~~d) Has a four year degree from an accredited institution of higher learning;~~

~~e) Has experience in the management of a private or public entity; and~~

~~f) Has not been employed by Broward County or served in an elected office within the State of Florida during the five (5) year period immediately prior to selection.~~

~~2. Highly qualified candidates will also have audit related skills and/or hold one or more of the following professional certifications at the time of selection: certified inspector general (CIG), certified inspector general investigator (CIGI), certified inspector general auditor (CIGA), certified public~~

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1 accountant (CPA), certified internal auditor (CIA), or certified
2 fraud examiner (CFE).

3. Selection.

4 a) ~~Responsibility for selecting the Inspector General~~
5 ~~shall be vested solely with the Inspector General~~
6 ~~Selection Oversight Committee ("Selection Oversight~~
7 ~~Committee").~~

8 b) ~~The Selection Oversight Committee shall be~~
9 ~~comprised of:~~

10 1) ~~The Chief Judge of Seventeenth Judicial~~
11 ~~Circuit or, if he or she is unable or unwilling to~~
12 ~~serve, then his or her designee.~~

13 2) ~~The State Attorney of the Seventeenth Judicial~~
14 ~~Circuit or, if he or she is unable or unwilling to~~
15 ~~serve, then his or her designee.~~

16 3) ~~The Public Defender for the Seventeenth~~
17 ~~Judicial Circuit or, if he or she is unable or~~
18 ~~unwilling to serve, then his or her designee.~~

19 4) ~~The Special Agent in charge of the Miami~~
20 ~~Regional Operation Center of the Florida~~
21 ~~Department of Law Enforcement or, if he or~~
22 ~~she is unable or unwilling to serve, then his or~~
23 ~~her designee.~~

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~~5) The Dean of the Nova Southeastern University Law Center or, if he or she is unable or unwilling to serve, then his or her designee. In the event that no individual in this category agrees to serve, the Selection Oversight Committee shall fill the vacancy.~~

~~e) In the event any of the above individuals are unable or unwilling to serve, the members of the Selection Oversight Committee shall fill the vacancy by majority vote.~~

~~d) The members of the Selection Oversight Committee shall elect a chairperson who shall preside over the actions of the Committee. The Selection Oversight Committee shall establish its own rules of procedure.~~

~~e) The Human Resources Division of Broward County shall be responsible for providing staffing to the Selection Oversight Committee and for the solicitation of qualified candidates for the position of Inspector General.~~

~~f) In addition to its other responsibilities under this Code, the Selection Oversight Committee shall select qualified hearing officers to preside over hearings in connection with civil infractions as specified above.~~

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- g) ~~In addition to the factors specified above, in selecting the Inspector General and qualified hearing officers, the Selection Oversight Committee shall take into consideration the rich diversity of the County's residents.~~

- 4. ~~Term. The Inspector General shall be appointed for a term of four (4) years. The Selection Oversight Committee shall convene at least six (6) months prior to the end of each contract term to determine whether to renew the contract of the Inspector General or solicit new candidates.~~

- 5. ~~Vacancy. In the event of a vacancy in the position of Inspector General, the Chairperson of the Selection Oversight Committee shall appoint an interim Inspector General until such time as a successor Inspector General is selected and assumes office.~~

- 6. ~~The presence of all five (5) members of the Selection Oversight Committee is necessary to constitute a quorum for purposes of any vote to select or remove the Inspector General. For all other votes, a quorum shall consist of three (3) or more members being present.~~

- d. ~~Contract. The Director of the Broward County Human Resources Division, with the assistance of the County Attorney of Broward County, shall negotiate a contract of employment with the Inspector~~

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1 ~~General substantially consistent with the terms included in~~
2 ~~contracts of other contractual employees of Broward County.~~

3 e. ~~Physical Facilities and Staff.~~

4 1. ~~The County shall provide the Office of Inspector General~~
5 ~~with appropriately located office space and sufficient~~
6 ~~physical facilities together with necessary office supplies,~~
7 ~~equipment and furnishings to enable the Office to perform its~~
8 ~~functions.~~

9 2. ~~The Inspector General shall have the power to appoint,~~
10 ~~employ, and remove such assistants, employees and~~
11 ~~personnel, and establish personnel procedures as deemed~~
12 ~~necessary for the efficient and effective administration of the~~
13 ~~activities of the Office of Inspector General.~~

14 3. ~~The Office of the County Auditor shall be a resource to the~~
15 ~~Inspector General and shall make staff available as~~
16 ~~necessary to assist the Inspector General in its~~
17 ~~investigations.~~

18 f. ~~Procedure for Finalization of Reports and Recommendations Which~~
19 ~~Make Findings as to the Person or Entity Being Reviewed or~~
20 ~~Inspected. The Inspector General shall publish and deliver~~
21 ~~finalized reports and recommendations to the Board of County~~
22 ~~Commissioners and to the Offices represented on the Selection-~~
23 ~~Oversight Committee. Whenever the Inspector General concludes~~
24 ~~a report or recommendation which contains findings as to a~~

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1 member of the Board of County Commissioners, the Inspector
2 General shall provide the affected County Commissioner with a
3 copy of the report or recommendation and the County
4 Commissioner shall have ten (10) working days to submit a written
5 explanation or rebuttal of the findings before the report or
6 recommendation is finalized. A timely submitted written
7 explanation or rebuttal shall be attached to the finalized report or
8 recommendation. The requirements of this subsection shall not
9 apply when the Inspector General, in conjunction with the State
10 Attorney or United States Attorney, determines that supplying the
11 County Commissioner with such report will jeopardize a pending
12 criminal investigation.

13 g. Reporting.

- 14 1. ~~The Inspector General shall annually prepare and publish a~~
15 ~~written report to all covered entities concerning the work and~~
16 ~~activities of the Office of Inspector General including, but not~~
17 ~~limited to, statistical information regarding the disposition of~~
18 ~~closed investigations. The annual report of the Inspector~~
19 ~~General shall, promptly after it is completed, be posted on~~
20 ~~Broward County's public website and presented to the~~
21 ~~Selection Oversight Committee.~~
- 22 2. ~~The Selection Oversight Committee shall convene at least~~
23 ~~annually, shortly after its receipt of the annual report, to~~
24 ~~consider the report and the performance of the Inspector~~

Coding:

Words in ~~struck-through~~ type are deletions from existing text. Words in underscoring type are additions.

1 ~~General. Other meetings of the Committee may be set by~~
2 ~~majority vote during the annual meeting or at the request of~~
3 ~~the Inspector General. A meeting to vote upon setting a~~
4 ~~public hearing to consider removal of the Inspector General~~
5 ~~shall be set by the Chairperson upon his or her own volition~~
6 ~~or upon being requested to do so by any member of the~~
7 ~~Committee.~~

8 h. Financial Support and Budgeting.

- 9 ~~1. The Charter Government of Broward County shall be~~
10 ~~responsible for the funding of the Office of Inspector~~
11 ~~General.~~
- 12 ~~2. Pursuant to its annual budget process, the Broward County~~
13 ~~Board of County Commissioners shall provide sufficient and~~
14 ~~adequate financial support for the Inspector General's Office~~
15 ~~to fulfill its duties. The costs of reviews, inspections and~~
16 ~~investigations by the Inspector General may be defrayed in~~
17 ~~part by the imposition of a fee imposed by the County which~~
18 ~~shall be equal to one quarter of one percent (0.25%) of the~~
19 ~~contract price (hereinafter "IG contract fee") added to each~~
20 ~~County contract, as well as a fee on lobbyist registrations.~~
- 21 ~~3. The Inspector General shall timely deliver to the Board of~~
22 ~~County Commissioners a budget request including a~~
23 ~~reasonable estimate of operating and capital expenditures.~~
24 ~~The budget request shall include funds to enable the~~

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 ~~Inspector General to retain outside counsel to represent the~~
2 ~~Inspector General in connection with complaints referred to a~~
3 ~~hearing officer. The Inspector General's budget shall not be~~
4 ~~implemented until a public hearing is held by the Broward~~
5 ~~County Board of County Commissioners. The Inspector~~
6 ~~General shall establish a fiscal year which coincides with~~
7 ~~that of Broward County. Nothing contained herein shall be~~
8 ~~construed to prohibit the Inspector General from transmitting~~
9 ~~to the Board of County Commissioners supplemental budget~~
10 ~~requests, which shall be scheduled for a public hearing and~~
11 ~~if approved by the Commission, shall constitute amendments~~
12 ~~to the county budget. The Board of County Commissioners'~~
13 ~~approval of the Inspector General's budget request shall not~~
14 ~~be unreasonably withheld.~~

15 ~~h. Removal. The Inspector General may be removed only for cause~~
16 ~~based upon specified charges of the following: neglect of duty,~~
17 ~~abuse of power or authority, discrimination, or ethical misconduct.~~
18 ~~Removal shall be considered at a duly noticed public hearing of the~~
19 ~~Selection Oversight Committee. The Inspector General shall be~~
20 ~~provided sufficient advance notice of the reasons for the possible~~
21 ~~removal, and shall be given an opportunity to be heard on the~~
22 ~~charges. The Inspector General may only be removed upon the~~
23 ~~affirmative vote of no fewer than three (3) members of the~~
24 ~~Selection Oversight Committee.~~

Coding:

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1 (2) **Sanctions.**

2 a. **Fines.**

3 1. ~~A County Commissioner who violates any provision of this~~
4 ~~Code shall be assessed a monetary fine of between \$250.00~~
5 ~~and \$5,000.00 per violation.~~

6 2. ~~Additionally, the Hearing Officer may order the~~
7 ~~Commissioner to pay restitution or to disgorge any sums~~
8 ~~wrongfully received by the Commissioner or by any relative~~
9 ~~of the Commissioner or entity substantially affiliated with the~~
10 ~~Commissioner.~~

11 3. ~~In determining the amount of the fine, the Hearing Officer~~
12 ~~shall consider:~~

- 13 a) ~~The gravity of the violation;~~
- 14 b) ~~Whether it was intentional; and~~
- 15 c) ~~Whether it is a repeat offense.~~

16 4. ~~The Hearing Officer may determine that no fine shall be~~
17 ~~imposed upon making an affirmative, express finding that the~~
18 ~~violation was unintentional and *de minimis*.~~

19 b. **Public Reprimand/Censure.**

20 1. ~~A County Commissioner who is found to have violated any~~
21 ~~provision of this Code shall be subject to public reprimand or~~
22 ~~censure.~~

23 c. **Incarceration.**

24
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1 4. ~~A County Commissioner who is convicted of a violation of~~
2 ~~this Code may, pursuant to Florida Statutes section 125.69,~~
3 ~~be subject to imprisonment for a maximum of sixty (60) days,~~
4 ~~in addition to a fine and public censure.~~

5 Section 2. RESTRICTIONS ON AMENDMENT.

6 Except as to any amendments required as a result of changes in governing law:

7 (a) The Board of County Commissioners may at any time strengthen or
8 supplement the restrictions and protections provided under this Code, but the
9 restrictions and protections hereof may be weakened or removed, in whole or in part,
10 only by citizen initiative as referenced in Section 7.01 of the Broward County Charter.

11 (b) If any Court determines that the above-provided requirement of a citizen
12 initiative is inconsistent with applicable law, then, to the full extent permitted under
13 applicable law, the restrictions and protections of this Code may be weakened or
14 removed, in whole or in part, only by an affirmative vote of a majority plus one (1)
15 member of the full Board of County Commissioners.

16 Section 3. Section 26-72.5 of the Broward County Code of Ordinances, the
17 definition section of the Broward County Employee Code of Ethics Act, is hereby
18 amended to read as follows:

19 Except as stated in (a) through (g) ~~(e)~~ below, the definitions contained or
20 referenced in Section 1-19, Broward County Code, apply to the same words or terms
21 appearing in this Act.

22 ...

23 **(b) "Covered Individual" means (i) any member of the Board of County**
24 **Commissioners; (ii) any member of a final decision-making body under the jurisdiction**

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscoring type are additions.

1 of the Board of County Commissioners; (iii) any member of a selection, evaluation, or
2 procurement committee that ranks or makes recommendations to any final decision-
3 making authority regarding a County procurement; (iv) any employee of Broward
4 County that has authority to make a final decision regarding a public procurement; and
5 (v) the head of any department, division, or office of Broward County who makes final
6 recommendations to a final decision-making authority regarding items that will be
7 decided by the final decision-making authority.

8 (c)(b) "Gift" shall be as defined in Subsection 112.312(12), Florida Statutes.

9 (d) "Final Decision-Making Authority" means (i) the Board of County
10 Commissioners; (ii) final decision-making bodies under the jurisdiction of the Board of
11 County Commissioners; and (iii) any employee of Broward County that has authority to
12 make a final decision to select a vendor or provider in connection with a public
13 procurement.

14 (e)(e) "Immediate family member" means a parent, spouse, child, sibling, or
15 registered domestic partner of a County employee.

16 (f) "Lobbying or Lobbying Activities" means a communication, by any means,
17 from a lobbyist to a covered individual regarding any item that will foreseeably be
18 decided by a final decision-making authority, which communication seeks to influence,
19 convince or persuade the covered individual to support or oppose the item. Lobbying
20 does not include communications:

- 21 1. Made on the record at a duly-noticed public meeting or hearing; or
- 22 2. From an attorney to an attorney representing Broward County regarding a
23 pending or imminent judicial or adversarial administrative proceeding
24 against Broward County.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 (g) "Lobbyist" means a person who is retained, with or without compensation,
2 for the purpose of lobbying; or a person who is employed by another person or entity,
3 on a full-time or part-time basis, principally to lobby on behalf of that other person or
4 entity. "Lobbyist" does not include a person who is:

5 1. An Elected Official, employee, or appointee of Broward County or of any
6 municipality within Broward County communicating in his or her official
7 capacity;

8 2. An individual who communicates on his or her own behalf, or on behalf of
9 a person or entity employing the individual on a full-time or part-time basis,
10 unless the individual is principally employed by that person or entity to
11 lobby;

12 3. Any employee, officer, or board member of a homeowners' association,
13 condominium association, or neighborhood association when addressing,
14 in his or her capacity as an employee, officer, or board member of such
15 association, an issue impacting the association or its members; or

16 4. Any employee, an officer, or a board member of a nonprofit public interest
17 entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue
18 impacting a constituent of that entity.

19 Section 4. Section 1-261 of the Broward County Code of Ordinances, the
20 definition section of the Broward County Lobbyist Registration Act, is hereby amended
21 to read as follows:

22 As used in this article, unless the context otherwise indicates:

23 ...

24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscoring type are additions.

1 (b) Lobbying or Lobbying Activities means a communication, by any means,
2 from a lobbyist to a covered individual regarding any item that will foreseeably be
3 decided by a final decision-making authority, which communication seeks to influence,
4 convince, or persuade the covered individual to support or oppose the item. Lobbying
5 does not include communications:

- 6 1. Made on the record at a duly-noticed public meeting or hearing; or
7 2. From an attorney to an attorney representing Broward County regarding a
8 pending or imminent judicial or adversarial administrative proceeding
9 against Broward County. ~~means communicating directly or indirectly, in~~
10 person, by telephone, by letter, or by any other form of communication, on
11 behalf of any other person (as defined in (c) below), with any County
12 Commissioner, any member of any decision-making body under the
13 jurisdiction of the Board, or any County employee, where the lobbyist
14 seeks to influence a decision to be made by the Board, a decision to be
15 made by any decision-making body under the jurisdiction of the Board, or
16 a final procurement decision to be made by a County employee.
17 Appearing before the Board or other decision-making body under the
18 jurisdiction of the Board at a publicly noticed meeting does not constitute
19 lobbying.

20 ...
21 (d) Lobbyist means a person who is retained, with or without compensation,
22 for the purpose of lobbying; or a person who is employed by another person or entity,
23 on a full-time or part-time basis, principally to lobby on behalf of that other person or
24 entity. "Lobbyist" does not include a person who is:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscoring type are additions:

- 1 1. An Elected Official, employee, or appointee of Broward County or of any
2 municipality within Broward County communicating in his or her official
3 capacity;
- 4 2. An individual who communicates on his or her own behalf, or on behalf of
5 a person or entity employing the individual on a full-time or part-time basis,
6 unless the individual is principally employed by that person or entity to
7 lobby;
- 8 3. An employee, officer, or board member of a homeowners' association,
9 condominium association, or neighborhood association when addressing,
10 in his or her capacity as an employee, officer, or board member of such
11 association, an issue impacting the association or its members; or
- 12 4. An employee, officer, or board member of a nonprofit public interest entity
13 (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a
14 constituent of that entity. ~~any individual who engages in lobbying, as~~
15 ~~defined in subsection 1-261(b), regardless of whether he or she receives~~
16 ~~any compensation for such lobbying. Any individual who, in his or her~~
17 ~~individual capacity, merely communicates with a County Commissioner, a~~
18 ~~decision making body under the jurisdiction of the Board of County~~
19 ~~Commissioners, or any County employee, for the purpose of self-~~
20 ~~representation, without compensation to express support of or opposition~~
21 ~~to any item shall not be required to register as a lobbyist. Additionally,~~
22 ~~"lobbyist" does not include any public officer, public employee, or public~~
23 ~~appointee when acting in his or her official capacity; any employee or~~
24 ~~officer of a homeowners' association, condominium association, or~~

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 ~~neighborhood association when addressing, in his or her capacity as an~~
2 ~~employee or officer of such association, an issue impacting the~~
3 ~~association or its members; or any employee of a nonprofit public interest~~
4 ~~entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue~~
5 ~~impacting a constituent of that entity.~~

6 ...
7 (g) Covered Individual means (i) any member of the Board of County
8 Commissioners; (ii) any member of a final decision-making body under the jurisdiction
9 of the Board of County Commissioners; (iii) any member of a selection, evaluation, or
10 procurement committee that ranks or makes recommendations to any final decision-
11 making authority regarding a County procurement; (iv) any employee of Broward
12 County that has authority to make a final decision regarding a public procurement; and
13 (v) the head of any department, division, or office of Broward County who makes final
14 recommendations to a final decision-making authority regarding items that will be
15 decided by the final decision-making authority.

16 (h) Final Decision-Making Authority means (i) the Board of County
17 Commissioners; (ii) final decision-making bodies under the jurisdiction of the Board of
18 County Commissioners; and (iii) any employee of Broward County that has authority to
19 make a final decision to select a vendor or provider in connection with a public
20 procurement.

21 Section 5. SEVERABILITY.

22 If any portion of this Ordinance is determined by any Court to be invalid, the
23 invalid portion shall be stricken, and such striking shall not affect the validity of the
24 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion

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1 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
2 or circumstance(s), such determination shall not affect the applicability hereof to any
3 other individual, group, entity, property, or circumstance.

4 Section 6. INCLUSION IN CODE.

5 It is the intention of the Board of County Commissioners that the provisions of
6 this Ordinance shall become and be made a part of the Broward County Code; and that
7 the sections of this Ordinance may be renumbered or relettered and the word
8 "ordinance" may be changed to "section," "article," or such other appropriate word or
9 phrase in order to accomplish such intentions.

10 Section 7. EFFECTIVE DATE.

11 This ordinance shall become effective as provided by law.

12 ENACTED

13 FILED WITH THE DEPARTMENT OF STATE

14 EFFECTIVE

PROPOSED

23
24
AJM/mm
10/05/11
Municipal Officials Code of Ethics.doc
11-421

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

Florida Statutes Section 112.3135 Restriction on employment of relatives.—

(1) In this section, unless the context otherwise requires:

(a) “Agency” means:

- | | | | | |
|----------------|---|---|---|---|
| | * | * | * | * |
| 5. A city; and | * | * | * | * |

(b) “Collegial body” means a governmental entity marked by power or authority vested equally in each of a number of colleagues.

(c) “Public official” means an officer, including a member of the Legislature, the Governor, and a member of the Cabinet, or an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency, including the authority as a member of a collegial body to vote on the appointment, employment, promotion, or advancement of individuals.

(d) “Relative,” for purposes of this section only, with respect to a public official, means an individual who is related to the public official 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.

(2) (a) A public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a **relative** of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a **relative** of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a **relative** of the individual is a member. However, this subsection shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population. This subsection does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide.

(b) Mere approval of budgets shall not be sufficient to constitute “jurisdiction or control” for the purposes of this section.

(3) An agency may prescribe regulations authorizing the temporary employment, in the event of an emergency as defined in s. 252.34, of individuals whose employment would be otherwise prohibited by this section.

(4) Legislators’ **relatives** may be employed as pages or messengers during legislative sessions.



OFFICE OF MANAGEMENT AND BUDGET

115 S. Andrews Avenue, Room 404 • Fort Lauderdale, Florida 33301 • 954-357-6345 • FAX 954-357-6364

MEMORANDUM

September 23, 2011

TO: Board of County Commissioners

FROM: Kayla Olsen, Director 
Office of Management and Budget

SUBJECT: Fiscal Impact Statement Re: Proposed Ordinance Amending Section 1-19, of the Broward County Code of Ordinances, Relating to a Code of Ethics for the Broward County Board of County Commissions and Other Specified Individuals

Summary

The proposed ordinance amends section 1-19 of the Broward County Code of Ordinances relating to a code of ethics for the Broward County Board of County Commissioners to regulate the conduct of elected municipal officials, appointed officials, and public employees within Broward County. Furthermore, consistent definitions of lobbying and related terms are included.

Fiscal Impact

There is no fiscal impact anticipated to the County from this proposed ordinance unless the workload for the Inspector General's Office related to municipalities becomes greater than the Inspector General has planned and budgeted for.

KO: mg

Proposed Amendment Sheets.

BROWARD COUNTY COMMISSION
PROPOSED AMENDMENT TO ORDINANCE

Proposed By Office of the County Attorney

Date 10/11/11

Subject of Ordinance Municipal Officials Code of Ethics

Resolution #
if existing _____

On Page 10, Line 13,

insert:

Notwithstanding anything to the contrary that may be stated above, the quarterly disclosure by
Municipal Officials shall be limited to the information otherwise required for disclosure on Form

1.

Proposed Amendment _____

Adopted _____

Not Adopted By
Board _____

BROWARD COUNTY COMMISSION
PROPOSED AMENDMENT TO ORDINANCE

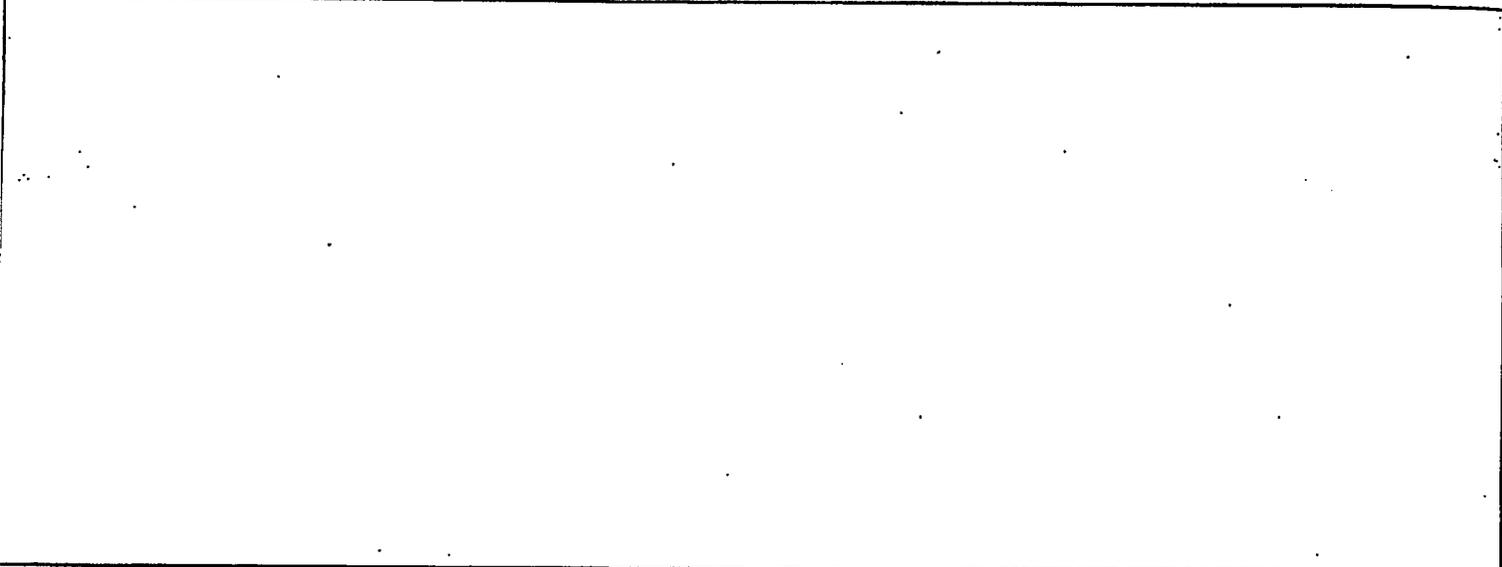
Proposed By Office of the County Attorney

Date 10/11/11

Subject of Ordinance Municipal Officials Code of Ethics

Ordinance #
if existing _____

On Page 14, Line 16,



insert:

5. Salary received by a Municipal Official from a non-profit charitable organization employing the Municipal Official shall not be considered a quid pro quo or other special consideration for purposes of paragraph 1 above. Additionally, the disclosure requirement contained in paragraph 2 above shall not apply to Municipal Officials who are employed by a non-profit charitable organization when soliciting charitable contributions on behalf of that organization.

Proposed Amendment _____

Adopted _____

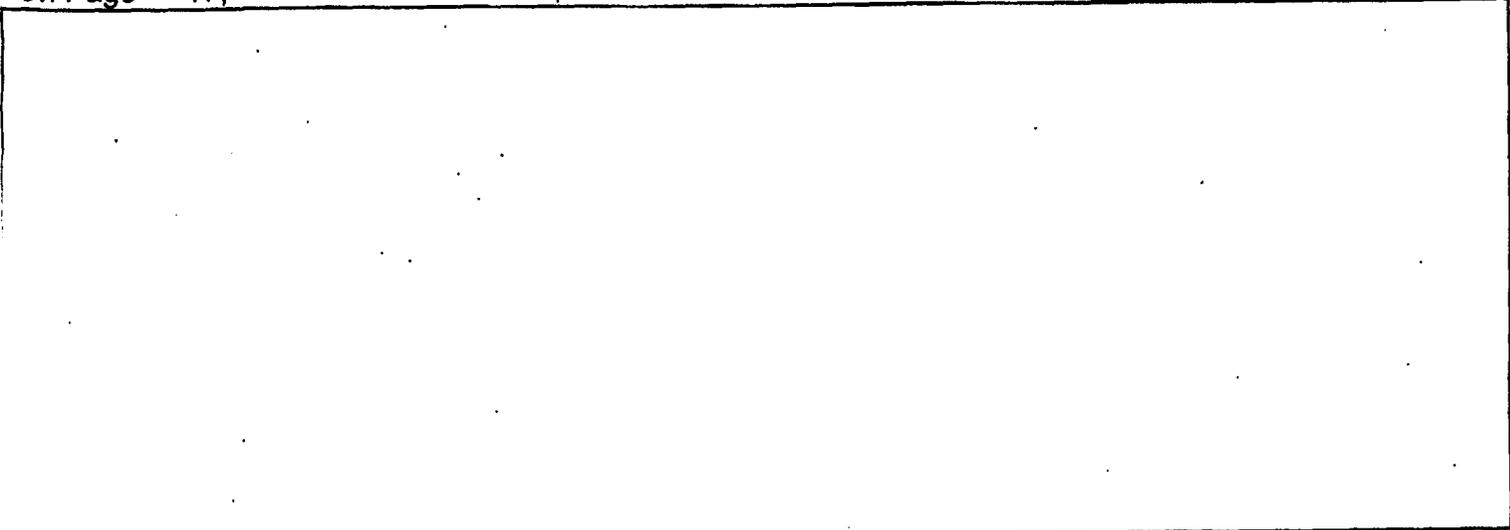
Not Adopted By
Board _____

BROWARD COUNTY COMMISSION
PROPOSED AMENDMENT TO ORDINANCE

Proposed By Office of the County Attorney Date 10/11/11

Subject of Ordinance Municipal Officials Code of Ethics Resolution # if existing

On Page 17, Line 14,



insert:

(8) Advisory Opinions.

- a. Any Elected Official may request an advisory opinion about how the Elected Official Code of Ethics applies to his or her own situation. Requests for opinions from County Commissioners shall be made to the Broward County Attorney or to the County Attorney's designee. Requests for opinions from Municipal Officials shall be made to the municipality's chief attorney or to that attorney's designee. Requests for opinions shall be considered only if in writing and signed by the Elected Official or by his or her office staff. Requests for opinions shall state all material facts necessary for the advising attorney to understand the circumstances and render a complete and correct opinion. If at any time after receipt of a request, the advising attorney believes that additional information is needed, the Elected Official requesting the opinion shall be notified and shall furnish such additional information.

b. Until amended or revoked, an advisory opinion rendered pursuant to this section shall be binding on the conduct of the Elected Official covered by the opinion unless material facts were omitted or misstated in the request for the advisory opinion. If the Elected Official acts in accordance with a binding advisory opinion, the Elected Official's action may not be found to be in violation of the Elected Official Code of Ethics. However, any opinion rendered under this section shall not be binding as to whether the Elected Official's action complies with state or federal ethics requirements.

Proposed Amendment _____

Adopted _____

Not Adopted By
Board _____

Florida Statutes Section 112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(1) The provisions of this section do not apply to gifts solicited or accepted by a reporting individual or procurement employee from a **relative**.

(2) As used in this section:

(a) **“Immediate family” means any parent, spouse, child, or sibling.**

(b) 1. “Lobbyist” means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term “lobbyist” includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as “lobbyists” who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

(c) “Person” includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(d) “Reporting individual” means any individual, including a candidate upon qualifying, who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office. For purposes of implementing this section, the “agency” of a reporting individual who is not an officer or employee in public service is the agency to which the candidate seeks election, or in the case of an individual elected to but yet to formally take office, the agency in which the individual has been elected to serve.

(e) “Procurement employee” means any employee of an officer, department, board, commission, or council of the executive branch or judicial branch of state government who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds \$1,000 in any year.

(3) A reporting individual or procurement employee is prohibited from soliciting any gift from a political committee or committee of continuous existence, as defined in s. 106.011, or from a lobbyist who lobbies the reporting individual’s or procurement employee’s agency, or the partner, firm, employer, or principal of such lobbyist, where such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement

employee, or any member of the **immediate family** of a reporting individual or procurement employee.

(4) A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a political committee or committee of continuous existence, as defined in s. 106.011, or from a lobbyist who lobbies the reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

(5) (a) A political committee or a committee of continuous existence, as defined in s. 106.011; a lobbyist who lobbies a reporting individual's or procurement employee's agency; the partner, firm, employer, or principal of a lobbyist; or another on behalf of the lobbyist or partner, firm, principal, or employer of the lobbyist is prohibited from giving, either directly or indirectly, a gift that has a value in excess of \$100 to the reporting individual or procurement employee or any other person on his or her behalf; however, such person may give a gift having a value in excess of \$100 to a reporting individual or procurement employee if the gift is intended to be transferred to a governmental entity or a charitable organization.

(b) However, a person who is regulated by this subsection, who is not regulated by subsection (6), and who makes, or directs another to make, an individual gift having a value in excess of \$25, but not in excess of \$100, other than a gift which the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter, for the previous calendar quarter in which a reportable gift is made. The report shall be filed with the Commission on Ethics, except with respect to gifts to reporting individuals of the legislative branch, in which case the report shall be filed with the Division of Legislative Information Services in the Office of Legislative Services. The report must contain a description of each gift, the monetary value thereof, the name and address of the person making such gift, the name and address of the recipient of the gift, and the date such gift is given. In addition, when a gift is made which requires the filing of a report under this subsection, the donor must notify the intended recipient at the time the gift is made that the donor, or another on his or her behalf, will report the gift under this subsection. Under this paragraph, a gift need not be reported by more than one person or entity.

(6) (a) Notwithstanding the provisions of subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of \$100 to any reporting individual or procurement employee if a public purpose can be shown for the gift; and a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.

(b) Notwithstanding the provisions of subsection (4), a reporting individual or procurement employee may accept a gift having a value in excess of \$100 from an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board if a public purpose can be shown for the gift; and a reporting individual or procurement employee who is an officer or employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization.

(c) No later than March 1 of each year, each governmental entity or direct-support organization specifically authorized by law to support a governmental entity which has given a gift to a reporting individual or procurement employee under paragraph (a) shall provide the reporting individual or procurement employee with a statement of each gift having a value in excess of \$100 given to such reporting individual or procurement employee by the governmental entity or direct-support organization during the preceding calendar year. Such report shall contain a description of each gift, the date on which the gift was given, and the value of the total gifts given by the governmental entity or direct-support organization to the reporting individual or procurement employee during the calendar year for which the report is made. A governmental entity may provide a single report to the reporting individual or procurement employee of gifts provided by the governmental entity and any direct-support organization specifically authorized by law to support such governmental entity.

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of \$100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to the statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics. The report filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the report shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(7) (a) The value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities, except as otherwise provided in this subsection, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided shall be used. If additional expenses are required as a condition

precedent to eligibility of the donor to purchase or provide a gift and such expenses are primarily for the benefit of the donor or are of a charitable nature, such expenses shall not be included in determining the value of the gift.

(b) Compensation provided by the donee to the donor, if provided within 90 days after receipt of the gift, shall be deducted from the value of the gift in determining the value of the gift.

(c) If the actual gift value attributable to individual participants at an event cannot be determined, the total costs shall be prorated among all invited persons, whether or not they are reporting individuals or procurement employees.

(d) Transportation shall be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses shall be considered a single gift.

Transportation provided in a private conveyance shall be given the same value as transportation provided in a comparable commercial conveyance.

(e) Lodging provided on consecutive days shall be considered a single gift. Lodging in a private residence shall be valued at the per diem rate provided in s. 112.061(6)(a)1. less the meal allowance rate provided in s. 112.061(6)(b).

(f) Food and beverages which are not consumed at a single sitting or meal and which are provided on the same calendar day shall be considered a single gift, and the total value of all food and beverages provided on that date shall be considered the value of the gift. Food and beverage consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(g) Membership dues paid to the same organization during any 12-month period shall be considered a single gift.

(h) Entrance fees, admission fees, or tickets shall be valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater.

(i) Except as otherwise specified in this section, a gift shall be valued on a per occurrence basis.

(j) The value of a gift provided to several individuals may be attributed on a pro rata basis among all of the individuals. If the gift is food, beverage, entertainment, or similar items, provided at a function for more than 10 people, the value of the gift to each individual shall be the total value of the items provided divided by the number of persons invited to the function, unless the items are purchased on a per person basis, in which case the value of the gift to each person is the per person cost.

(k) The value of a gift of an admission ticket shall not include that portion of the cost which represents a charitable contribution, if the gift is provided by the charitable organization.

(8) (a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from **relatives**.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

(b) The statement shall include:

1. A description of the gift, the monetary value of the gift, the name and address of the person making the gift, and the dates thereof. If any of these facts, other than the gift description, are unknown or not applicable, the report shall so state.
2. A copy of any receipt for such gift provided to the reporting individual or procurement employee by the donor.
 - (c) The statement may include an explanation of any differences between the reporting individual's or procurement employee's statement and the receipt provided by the donor.
 - (d) The reporting individual's or procurement employee's statement shall be sworn to by such person as being a true, accurate, and total listing of all such gifts.
 - (e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company, which bears a date on or before the due date constitutes proof of mailing in a timely manner.
 - (f) If a reporting individual or procurement employee has not received any gifts described in paragraph (a) during a calendar quarter, he or she is not required to file a statement under this subsection for that calendar quarter.
- (9) A person, other than a lobbyist regulated under s. 11.045, who violates the provisions of subsection (5) commits a noncriminal infraction, punishable by a fine of not more than \$5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to which the gift was given in violation of subsection (5), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.
- (10) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.