



Item No. 2a

## AGENDA ITEM REQUEST FORM

**Town Attorney**

Department Submitting Request

**Susan L. Trevarthen**

Dept Head's Signature

### TOWN COMMISSION WORKSHOP

November 29, 2011

**SUBJECT TITLE:** Understanding the Broward County Code of Ethics as Applied to Municipal Elected Officials

**EXPLANATION:** A presentation of the requirements of the new Code of Ethics, enforcement of the requirements, and discussion of some of the issues in implementation.

**RECOMMENDATION:** Commission discussion and consideration of issues

**EXHIBITS:** 1. Broward County Code of Ethics for Elected Officials, effective January 2, 2012  
2. Broward County Charter Article XII – Broward County Office of Inspector General

Reviewed by Town Attorney

Yes  No

Town Manager Initials CS

## ARTICLE XII. - BROWARD COUNTY OFFICE OF INSPECTOR GENERAL

### Sec. 12.01. - Broward County Office of Inspector General.

#### **Sec. 12.01. - Broward County Office of Inspector General.**

##### A. Created and Established.

- (1) The Broward County Office of Inspector General (the "Office") is created to investigate misconduct and gross mismanagement.
- (2) For purposes of this Charter provision, misconduct is defined as any violation of the state or federal constitution, any state or federal statute or code, any county or municipal ordinance or code; or conduct involving fraud, corruption, or abuse.
- (3) For purposes of this Charter provision, gross mismanagement is defined as the material waste or significant mismanagement of public resources.
- (4) The Office shall be headed by an Inspector General. The organization and administration of the Office shall be independent to assure that no interference or influence external to the Office affects the objectivity of the Office.
- (5) Consistent with its approved budget, the Inspector General shall have the power to employ personnel as deemed necessary for the efficient and effective administration of the Office.

##### B. Functions, Authority, and Powers.

- (1) The authority of the Inspector General shall extend only over the following:
  - (a) All elected and appointed officials ("Officials") and employees ("Employees") of the Charter Government of Broward County ("County") and of all municipalities, including any city, town, or village duly incorporated under the laws of the state within Broward County ("Municipalities"); and
  - (b) All entities and persons (other than employees of the County or any Municipality) that provide goods or services to the County or any Municipality under contract for compensation ("Providers"), but solely with respect to the provision of such goods or services.
- (2) The Inspector General shall commence an investigation if good cause exists that any Official, Employee, or Provider has engaged in misconduct or gross mismanagement.
- (3) The Inspector General may find good cause on his or her own initiative or based on a signed, verified complaint (as described below) stating allegations that, if true, would constitute misconduct or gross mismanagement.
- (4) In addition to meeting the requirements of paragraph (3) above, a complaint may only serve

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as a basis for a good cause finding if it is signed by an identified person who verifies the contents of the complaint by including the following statement: "Under penalties of perjury, I declare that I have read the foregoing complaint and that based on my personal knowledge the facts stated in it are true." The Inspector General shall develop a complaint form consistent with the requirements of this paragraph.

(5) Any complaint received by the Office that is made against a candidate for elected office, and received within sixty (60) days of the date of the election, shall be held in abeyance until the election is determined, or, if the complaint is made within sixty (60) days of a primary election, until the general election is determined if the individual against whom the complaint was filed remains a candidate in the general election.

(6) In connection with an investigation, the Inspector General shall have the power to subpoena witnesses, administer oaths, and require (through subpoena or otherwise) the production of documents and records.

(7) As part of any investigation, the Inspector General may audit any program, contract, or the operations of any division, department, or office of the County and Municipalities. The Inspector General may also audit the operations or performance of any Provider relating to the Provider's contract for compensation with the County or any Municipality.

(8) The auditing referenced in paragraph (7) above shall be performed with the cooperation of the County Auditor. When conducting audits, the Inspector General shall have free and unrestricted access to Employees, Officials, records, and reports, and to the records and employees of Providers with respect to any Provider's contract for compensation with the County or any Municipality. The Inspector General may require Officials, Employees, and Providers to provide oral and written reports and to produce documents, files, and other records.

(9) All Officials, Employees, and Providers shall fully cooperate with investigations conducted by the Inspector General.

(10) As part of an investigation, the Inspector General shall interview all persons implicated by a complaint, and all persons implicated during the Inspector General's investigation.

(11) As part of an investigation, the Inspector General (or his or her designee) may attend all duly-noticed local government meetings relating to the procurement of goods or services, and may pose questions and raise concerns consistent with the functions, authority, and powers of the Inspector General.

(12) To the full extent provided under applicable law, including under Subsection 112.3188(2), Florida Statutes, as amended, the Inspector General's records related to active investigations shall be confidential and exempt from disclosure.

(13) In any case in which the Inspector General determines that a person has filed a complaint with a malicious intent to injure an Official's, Employee's, or Provider's reputation with baseless, spurious, or false accusations, or with a reckless disregard for the truth of the allegations, the complainant shall be liable for all costs incurred by the Inspector General in the investigation of the complaint. Upon such a determination, the Inspector General shall issue a demand letter for reimbursement of such costs, which shall be sent to the complainant by certified mail and presumed received three (3) days after mailing. If the complainant objects in writing to the demand for reimbursement of costs within thirty (30) days of receipt of the demand, the matter shall be

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referred by the Inspector General to a Hearing Officer (as provided below) for adjudication, including a determination of whether the criteria for the imposition of such costs have been met. If there is no timely objection, the Inspector General's determination shall be deemed to be final, conclusive, and binding. Once final, the determination for reimbursement of costs may be enforced by the Inspector General by filing an appropriate action in a court of competent jurisdiction.

(14) An Official or Employee who prevails in full in any administrative hearing in connection with a complaint filed with the Office of Inspector General shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred in the defense against such complaint to the full extent the Official or Employee would be entitled to reimbursement in connection with a complaint filed under the Florida Code of Ethics for Public Officers and Employees.

C. Referral and Prosecution of Misconduct.

(1) After completing his or her investigation and determining that there is probable cause to believe misconduct has occurred, the Inspector General shall notify the appropriate civil, criminal, or administrative agencies charged with enforcement related to the alleged misconduct. If no civil, criminal, or administrative agency has jurisdiction over the alleged misconduct, the matter shall be referred to a Hearing Officer (as provided below) for quasi-judicial enforcement proceedings.

(a) The Inspector General shall refer findings of alleged criminal offenses to the Office of 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 Chapter 112, Part III, Florida Statutes, to the Florida Commission on Ethics.

(c) The Inspector General shall refer findings of alleged violations of The Florida Election Code, Chapters 97 through 106, Florida Statutes, to the Florida Elections Commission (except as to alleged violations that may be criminal in nature, which shall be referred to the Office of the State Attorney).

(d) The Inspector General shall refer other alleged offenses to the appropriate civil, criminal, or administrative agency that would have jurisdiction over the matter.

(2) Any civil infraction not covered by paragraphs (a) through (d) above shall be stated in a complaint brought in the name of the Inspector General. The Inspector General may retain legal counsel not employed by the County to represent the Inspector General in prosecuting a complaint. The Inspector General shall serve the complaint on the Official, Employee, or Provider accused of misconduct in any manner deemed proper service under the Florida Rules of Civil Procedure. Concurrently with such service, the Inspector General shall refer the complaint to a Hearing Officer randomly chosen from the panel of Hearing Officers selected by the Selection-Oversight Committee (as described below). The accused person or entity shall file a response to the complaint within thirty (30) days after service.

(3) Except to any extent inconsistent with any provision of this section, the Florida Rules of Civil Procedure and Florida Evidence Code, as amended, shall apply to all matters referred to a Hearing Officer under paragraph (2) above.

(4) In addition to all other authority granted in this Section, the Hearing Officer shall have the authority to:

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- (a) Issue scheduling orders, case-management orders, and briefing schedules;
  - (b) Issue notices of hearings;
  - (c) Hold hearings on any procedural or substantive matters related to the complaint;
  - (d) Administer oaths and affirmations;
  - (e) Issue subpoenas authorized by law, including those requiring the attendance of witnesses and the production of documents and other items which may be used as evidence;
  - (f) Rule upon motions presented and offers of proof and receive relevant evidence;
  - (g) Issue appropriate orders to effectuate discovery;
  - (h) Regulate the course of the hearing;
  - (i) Dispose of procedural requests or similar matters; and
  - (j) Enter any order, consistent with his or her authority, to carry out the purposes of this Charter provision.
- (5) Within thirty (30) days after completion of the hearing process, the Hearing Officer shall issue a final order determining whether the Inspector General has proved the allegations of the complaint by a preponderance of the evidence. The final order shall contain detailed findings of fact and conclusions of law. If the Hearing Officer determines that misconduct has occurred, the final order shall specify the sanction(s) imposed, if any. The Hearing Officer may impose any of the following sanctions:
- (a) Fines.
    - 1. An Official, Employee, or Provider determined to have committed misconduct shall be assessed a monetary fine of between two hundred and fifty dollars (\$250.00) and five thousand dollars (\$5,000.00) per violation.
    - 2. In determining the amount of the fine, the Hearing Officer shall consider:
      - a) The gravity of the violation;
      - b) Whether it was intentional; and
      - c) Whether it is a repeat offense.
    - 3. The Hearing Officer may determine that no fine shall be imposed upon making an affirmative, express finding that the violation was unintentional and de minimis.
    - 4. In addition to a fine, the Hearing Officer may order the Official, Employee, or Provider to pay restitution or to disgorge any sums wrongfully received (directly or indirectly) by that person or entity (or any related person or entity).
  - (b) Public Reprimand/Censure. An Official or Employee who is found to have violated any provision of this Code may be subject to public reprimand or censure.

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(6) All orders issued by the Hearing Officer, when final, are subject to judicial review as provided by applicable law.

D. Reports and Recommendations.

(1) The Inspector General shall issue reports, including recommendations, in the following circumstances:

(a) At the conclusion of an investigation involving allegations of gross mismanagement; and

(b) At the conclusion of an investigation involving allegations of misconduct, if the Inspector General determines that a report will assist the County or any Municipality in preventing similar future misconduct. However, no report shall be issued if the Inspector General, in conjunction with the State Attorney or United States Attorney, determines that the issuance of such report may jeopardize a pending criminal investigation.

(2) The Inspector General shall issue all reports as follows:

(a) Upon conclusion of an investigation described in paragraph (1) above, the Inspector General shall issue a preliminary report containing findings and recommendations to the County or Municipality and to the Officials, Employees, or Providers implicated in the report. The recipients of the preliminary report shall have thirty (30) days to respond to the preliminary report's findings and recommendations. The time to respond to a preliminary report may be extended by the Inspector General.

(b) Within thirty (30) days after the response deadline, the Inspector General shall issue a final report containing findings and recommendations to the County or Municipality and to the Officials, Employees, and Providers implicated in the report. All responses to the Inspector General's preliminary report shall be considered in preparing the final report, and shall be appended to the final report.

(3) The Inspector General may follow up on any recommendations he or she makes to determine whether such recommendations have been implemented.

(4) The Inspector General shall establish policies and procedures to monitor the costs of investigations undertaken.

E. Minimum Qualifications, Selection, and Term of Office.

(1) Minimum qualifications. The Inspector General shall be a person who:

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

(i) as a federal, state, or local law enforcement officer or official;

(ii) as a federal or state court judge;

(iii) as a federal, state, or local government attorney with expertise in investigating fraud, mismanagement, and corruption;

(iv) as an inspector general, certified public accountant, or internal auditor;

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- (v) as a person with progressive supervisory experience in an investigative public agency similar to an inspector general's office;
  - (vi) as a person who has managed and completed complex investigations involving allegations of fraud, theft, deception, or conspiracy; or
  - (vii) as a person who has demonstrated an ability to work with local, state, and federal law enforcement agencies and the judiciary.
- (b) Has, at a minimum, a four-year degree from an accredited institution of higher learning.
- (c) Has experience in the management of a private or public entity.
- (d) Has not been employed by the County or any Municipality during the two (2) year period immediately prior to selection.
- (e) Has not been found guilty of or entered a plea of nolo contendere to any felony, or any misdemeanor involving a breach of public trust.
- (2) Selection.
- (a) Responsibility for selecting the Inspector General shall be vested solely with the Inspector General Selection-Oversight Committee ("Selection-Oversight Committee").
- (b) The Selection-Oversight Committee shall be comprised of the following five (5) individuals, none of whom shall be an elected official:
- (i) One person appointed by the Broward League of Cities;
  - (ii) One person appointed by the State Attorney for the Seventeenth Judicial Circuit ex officio, or by his or her designee if the State Attorney is unable or unwilling to appoint;
  - (iii) One person appointed by the Public Defender for the Seventeenth Judicial Circuit ex officio, or by his or her designee if the Public Defender is unable or unwilling to appoint;
  - (iv) The United States Attorney for the Southern District of Florida, or his or her designee if the United States Attorney is unwilling or unable to serve; and
  - (v) One person selected by affirmative vote of at least three (3) members of the Selection- Oversight Committee referenced above.
- (c) The appointments to the Selection-Oversight Committee under (b)(i), (ii), and (iii) above, and the United States Attorney's agreement to serve or his or her designation under (b)(iv), shall be made within sixty (60) days of the effective date of this Charter provision.
- (d) The selection under (b)(v) shall be made within fifteen (15) days thereafter.
- (e) If, for any reason, a timely appointment, agreement to serve, or designation under (b)(i), (ii), (iii), or (iv) does not occur, the members of the Selection-Oversight Committee shall fill the vacant position by affirmative vote of at least three (3) members.
- (f) Any appointee or designee may be removed and replaced at any time by the appointing

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or designating authority.

(g) Except as referenced in (e) above, any vacancy on the Selection-Oversight Committee shall be filled by the appointing or designating authority within thirty (30) days.

(h) 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.

(i) The Human Resources Division of Broward County shall provide staffing to the Selection- Oversight Committee for the purpose of filling the position of Inspector General.

(j) Within thirty (30) days after the effective date of this Charter provision, the Human Resources Division of Broward County shall solicit qualified candidates for the position of Inspector General. Within one hundred and twenty (120) days after the effective date of this Charter provision, the Selection-Oversight Committee shall select an Inspector General.

(k) In addition to its other responsibilities, the Selection-Oversight Committee shall select qualified Hearing Officers to preside over hearings in connection with those matters referred to Hearing Officers as provided above.

(l) 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.

(3) Term. The Inspector General shall be appointed for a term of four (4) years, commencing from the time the Inspector General and the County enter into a contract. The Selection-Oversight Committee shall convene at least six (6) months prior to the end of the four-year contract term to determine whether to renew the contract of the Inspector General or to solicit new candidates.

(4) Contract. Once the Selection-Oversight Committee selects an Inspector General, the Committee shall notify the Broward County Administrator and County Attorney. The Director of the Broward County Human Resources Division, with the assistance of the Office of the County Attorney, shall promptly negotiate a contract of employment with the Inspector General substantially consistent with the terms included in contracts of other contractual employees of Broward County.

(5) Removal. The Inspector General may be removed based on specified charges of the following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct. Removal shall be considered at a duly-noticed public hearing of the Selection-Oversight Committee. The Inspector General shall be provided sufficient advance notice of the reasons for the possible removal, and shall be given an opportunity to be heard on the charges.

(6) 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. The Interim Inspector General shall meet all qualifications provided herein for the Inspector General.

F. Annual Report.

(1) The Inspector General shall annually publish a written report to the County and the

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Municipalities detailing the activities of the Office of Inspector General. The annual report of the Inspector General shall, promptly after it is completed, be posted on a website established by the Inspector General, and shall be presented to the Selection-Oversight Committee.

(2) The Selection-Oversight Committee shall convene within sixty (60) days of its receipt of the annual report to consider the report and the performance of the Inspector General. Other meetings of the Committee may be set upon the request of any member of the Committee or at the request of the Inspector General.

G. Financial Support and Budgeting.

(1) The Inspector General's budget is subject to approval of the County Commission.

(2) Within sixty (60) days of selection, the Inspector General shall submit a proposed budget to the County Commission covering the remainder of the County's fiscal year in which the Inspector General is selected. In each subsequent County fiscal year, the Inspector General shall submit a proposed budget to the County Commission in accordance with the County's regular budget process.

(3) Each proposed budget shall include a reasonable estimate of operating and capital expenditures of the Office of Inspector General, funds to enable Hearing Officers to be retained, and funds to enable the Inspector General to retain outside counsel to represent the Inspector General in connection with complaints referred to a Hearing Officer.

(4) The County Commission shall provide sufficient funds for the Inspector General to carry out his or her duties in an efficient manner.

(5) In order to fund the Office of Inspector General, the County may impose a fee of one quarter of one percent (0.25%) on the total value of each County contract entered into after the effective date of this Charter amendment.

(6) In the event funds raised from such contract fees in any County fiscal year are insufficient to fund the Office of Inspector General, the County Commission may supplement such funding from the County's general revenue fund.

H. Conflict. Any County or Municipal ordinance or resolution that creates or has created an Office of Inspector General, or an officer, employees, or agents that function substantially the same as the Office of Inspector General as provided herein, shall be deemed inconsistent with and preempted by this Charter provision.

**Sec. 1-19. - Code of ethics for elected officials.**

(a) Statement of Policy. It is the policy of Broward County that the Board of County Commissioners work for the benefit of the citizens of the County and elected officials of municipalities work for the benefit of the citizens of their respective municipalities. County Commissioners and elected municipal officials shall not receive any personal economic or financial benefit resulting from their service on their local governing bodies beyond legally authorized direct compensation. It is the responsibility of each County Commissioner and elected municipal official to act in a manner that promotes public trust and confidence in government with complete transparency and honesty in their services, and to avoid even the appearance or perception of impropriety.

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

(1) "*Contractor*" means any person or entity having a contract with the applicable local governmental entity.

(2) "*Covered Individual*" means (i) any member of the Board of County Commissioners; (ii) any member of a governing body of any municipality within Broward County; (iii) any municipal mayor; (iv) any member of a final decision-making body under the jurisdiction of the Board of County Commissioners or the governing body of any municipality within Broward County; (v) any individual directly appointed to a County or municipal employment position by the Board of County Commissioners, by a governing body of any municipality within Broward County, or by a municipal mayor; (vi) any individual serving on a contractual basis as a municipality's chief legal counsel or chief administrative officer, when such individual is acting in his or her official capacity; (vii) any member of a selection, evaluation, or procurement committee that ranks or makes recommendations to any final decision-making authority regarding a County or municipal procurement; (viii) any employee, any official, or any member of a committee of Broward County or of any municipality within Broward County that has authority to make a final decision regarding a public procurement; and (ix) the head of any department, division, or office of Broward County or of any municipal government who makes final recommendations to a final decision-making authority regarding items that will be decided by the final decision-making authority. For purposes of the prohibition on lobbying under section (c)(2) below, "Covered Individual" also includes members of other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards, and commissions.

(3) "*Elected Official*" means any member of the Board of County Commissioners and any Municipal Official as defined below.

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

(5) "*Final Decision-Making Authority*" means (i) the Board of County Commissioners; (ii) the

governing body of any municipality within Broward County; (iii) municipal mayors; (iv) final decision-making bodies under the jurisdiction of the Board of County Commissioners or under the jurisdiction of the governing body of any municipality within Broward County; and (v) any employee, official, or committee of Broward County or of any municipality within Broward County that has authority to make a final decision to select a vendor or provider in connection with a public procurement. For purposes of the prohibition of lobbying under section (c)(2) below, "Final Decision-Making Authority" also includes other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards, and commissions.

(6) "*Immediate Family Member*" means a parent, spouse, child, sibling, or registered domestic partner.

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

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

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

- a. An Elected Official, employee, or appointee of Broward County or of any municipality within Broward County communicating in his or her official capacity.
- b. An individual who communicates on his or her own behalf, or on behalf of a person or entity employing the individual on a full-time or part-time basis, unless the individual is principally employed by that person or entity to lobby.
- c. Any employee, officer, or board member of a homeowners' association, condominium association, or neighborhood association when addressing, in his or her capacity as an employee, officer, or board member of such association, an issue impacting the association or its members; or
- d. Any employee, an officer, or a board member of a nonprofit public interest entity (e.g., Sierra Club, NAACP, ACLU) when addressing an issue impacting a constituent of that entity.

(9) "*Municipal Official*" means any individual serving as a member of the governing body of a municipality within Broward County or serving as a municipal mayor within Broward County.

(10) "*Vendor*" means an actual or potential supplier of any goods or services to the applicable local governmental entity.

All operative words or terms used in this Code not defined herein shall be as defined, in order of priority in the event of inconsistency, by Part III of Florida Statutes Chapter 112, the Broward County Code of

Ordinances, and the Broward County Administrative Code. The term "relative" shall be as defined in Florida Statutes section 112.3135.

(c) Standards of Conduct. In addition to the provisions of Florida Statutes Chapter 112, Part III, Code of Ethics for Public Officers and Employees; Florida Statutes Chapters 838 and 839; Title 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward County Code of Ordinances, sec. 26-67 et seq., the following Standards of Conduct shall apply to each Elected Official.

(1) Acceptance of Gifts.

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

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

c. The \$50.00 limitation does not apply to gifts given to Elected Officials in their personal (non-official) capacity. Such gifts are still subject to the reporting requirements of Florida Statutes section 112.3148.

(2) Outside/Concurrent employment.

a. Elected Officials shall not be employed as a lobbyist or engage in lobbying activities before any member of the governing body of the County or any municipality within Broward County, before any municipal mayor, or before any member of any other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards, and commissions. This form of employment and activity is deemed to be in substantial conflict with the proper discharge of an Elected Official's duties in the public interest.

b. Elected Officials may engage in other employment consistent with their public duties and where not otherwise inconsistent with the provisions of Florida Statutes Chapter 112, Part III. All outside or concurrent employment by an Elected Official, including employment pursuant to contract, as well as any remuneration received from that employment, must be disclosed on a form created by the Broward County Attorney's Office. The disclosure referenced in the preceding sentence shall be done quarterly by County Commissioners and annually by Municipal Officials. The disclosure form must be filed for public inspection. To the extent complying with the disclosure requirement contained in this paragraph would violate any written agreement to which a Municipal Official is a party, the Municipal Official shall file, for public inspection, a statement, under oath, from the Municipal Official's employer or other person or entity paying such outside remuneration, specifying how such violation would result from the required disclosure. Upon filing such statement, the Municipal Official shall not be required to comply with that portion of the disclosure requirement that would result in a violation of the written agreement for the balance of the Municipal Official's current term of

office as of the effective date of this Ordinance (such disclosure requirement shall apply in full upon commencement of a new term of office after the effective date hereof, even if such new term results from the re-election of a currently-serving Municipal Official).

c. A spouse or registered domestic partner, immediate family members, and County or municipal office staff of an Elected Official shall not lobby any member of the governing body of the County or any municipality within Broward County, or before any municipal mayor, or before members of other local governmental entities within Broward County, including taxing authorities, quasi-judicial boards, appointed boards and commissions, or otherwise conduct business as a vendor or contractor with the local governmental entity served by the Elected Official.

d. The prohibitions on Municipal Officials, their spouses or registered domestic partners, and their immediate family members stated in paragraphs a. and c. above shall not apply for the balance of the Municipal Official's current term of office as of the effective date of this Ordinance. The prohibitions shall apply for any new term of office that begins after the effective date hereof, even if such new term results from a re-election of a currently-serving Municipal Official.

(3) Lobbyists.

a. Elected Officials should avoid even the appearance of impropriety in their interaction and dealings with lobbyists registered under their local governmental entity's lobbyist registration system and with the principals or employers of such lobbyists.

b. To promote full and complete transparency, lobbyists and their principals or employers who intend to meet or otherwise communicate with an Elected Official for the purpose of engaging in lobbying activities, either at the Elected Official's offices or elsewhere on the local government's premises, must legibly complete a contact log listing each Elected Official with whom the lobbyist, principal, or employer meets or intends on meeting or communicating.

1. The information stated on the contact log shall include the lobbyist's name; the name of the entity by which the lobbyist is employed; the name of the person or entity for whom or which he or she is lobbying; the name of each Elected Official with whom he or she is meeting or communicating; the date and time of each such meeting; and the specific purpose and subject matter of each such meeting.

2. The contact log shall be completed contemporaneously with the meeting(s) and shall be filed for public inspection.

c. To further promote full and complete transparency, Elected Officials must disclose any and all lobbying activity that knowingly occurs between themselves and individual lobbyists or their principals or employers outside of their governmental 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; 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.

3. The disclosure shall be filed for public inspection.

(4) Honest Services.

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

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

(5) Solicitation and Receipt of Contributions.

a. Charitable Contribution Fundraising.

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

2. To promote the full and complete transparency of any such solicitation, an Elected Official shall disclose, on a form created by the Broward County Attorney's Office, the name of the charitable organization, the event for which the funds were solicited, and the name of any individual or entity that may have promoted the solicitation. The form shall be filed for public inspection.

3. An Elected Official may not use staff or other resources of his or her governmental entity in the solicitation of charitable contributions.

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

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.

b. Campaign Contribution Fundraising.

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

2. Any campaign finance disclosure that an Elected Official must submit to the Supervisor of Elections, or to the appropriate municipal election official, in accordance with the provisions of Florida Statutes Chapter 106 shall, contemporaneously, be filed for public inspection.

3. Elected Officials who solicit campaign contributions for other candidates for public office shall disclose, on a form created by the Broward County Attorney's Office, the name of the candidate for whom they are soliciting, the location and date of any associated event, and both the name and contribution amounts of any individual who provided contributions, directly or indirectly, to the Elected Official for subsequent delivery to the candidate. The form shall be filed for public inspection.

4. An Elected Official may not use any staff or other resources of his or her governmental entity in the solicitation or receipt of campaign contributions.

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

c. The Board of County Commissioners shall be prohibited from waiving the provisions of Section 18.63 of the Broward County Administrative Code as it pertains to the County's acceptance of donations.

(6) Procurement Selection Committees.

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

b. The prohibitions stated in the preceding paragraph shall not apply to strong mayors with a charter-prescribed strong mayor form of government or to Elected Officials who, under their charter, are required to participate in the procurement process in a manner that would be inconsistent with such prohibitions. The prohibitions stated in the preceding paragraph shall also not apply to the hiring (or contractual procurement, in lieu of hiring) of individuals who report directly to a local governing body.

(7) Financial Disclosure.

a. Each County Commissioner, contemporaneously with the annual filing of the Form 6 Disclosure of Financial Interest with the State of Florida Commission on Ethics, shall file such form for public inspection. Each Municipal Official, contemporaneously with the annual filing of the Form 1 Statement of Financial Interests with the State of Florida Commission on Ethics, shall file such form for public inspection.

(8) Advisory Opinions.

a. Any Elected Official may request an advisory opinion about how the Broward County 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 Broward County 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.

(d) Training and Education.

(1) New Elected Officials shall receive a minimum of four (4) hours of training from their governmental entity's attorney (or as directed by that attorney) on the topics of the Sunshine Law, public records, and public service ethics, and shall certify or acknowledge his or her participation in this training in a form filed with the entity's chief administrative official or clerk. Such training shall be completed within one hundred twenty (120) days after taking office. The four (4) hours of training shall count towards the eight (8) hour training referenced in the paragraph immediately below. Additional training for new Elected Officials offered by the Florida Association of Counties or the Florida League of Cities is strongly encouraged.

(2) Each Elected Official shall, on an annual basis, attend or participate in a minimum of eight (8) hours of continuing education training on the topic of public service ethics. These programs may be available through regional universities, municipal or local government organizations, or the state or regional Bar associations. Each Elected Official shall annually certify or acknowledge that he or she has met this requirement in a form filed with the entity's chief administrative official or clerk.

(Ord. No. 2010-22, § 1, 8-10-10; Ord. No. 2011-19, § 1, 10-11-11)

**Editor's note**— Section 7 of Ord. No. 2011-19, enacted Oct. 11, 2011, which amended former § 1-19 in its entirety, provided that no provisions of said ordinance shall be applicable to Municipal Officials until Jan. 2, 2012.