



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 type="checkbox"/> Aug 23, 2011	Aug 12 th
<input type="checkbox"/> Sept 12, 2011 1 st BUDGET PUBLIC HEARING	Sept 1 st
<input type="checkbox"/> Sept 13, 2011	Sept 2 nd
<input type="checkbox"/> Sept 26, 2011 2 nd BUDGET PUBLIC HEARING	Sept 15 th
<input checked="" type="checkbox"/> Sept 27, 2011	Sept 16

*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: Proposed Broward County Ethics Regulations for Municipal Officials

EXPLANATION: The Broward League of Cities distributed the proposed Broward County ethics regulations for municipal officials on September 23. On September 27, the Broward County Commission will decide whether to schedule a hearing and publish the notice that they intend to adopt this Ordinance on October 11. The League will be scheduling a meeting of its Ethics Task Force during the week of October 3, and has requested that all cities provide comments on the proposed ordinance for the consideration of that task force.

EXPECTED OUTCOME: Discussion of the proposed County ordinance, and any comments to be shared with the Broward League of Cities Ethics Task Force and/or County Commission

EXHIBIT(S): Email Correspondence from the Broward League of Cities Proposed Ordinance

Reviewed by Town Attorney
 Yes No

Town Manager Initials ST

From: Rhonda Calhoun [<mailto:bloc@bellsouth.net>]
Sent: Friday, September 23, 2011 11:33 AM
To: Rhonda Calhoun
Subject: Draft of Proposed County Ordinance/Code of Ethics Municipal Officials

Good Morning Elected Officials, City Managers & City Attorneys:

Please find attached a copy of the Proposed Ordinance of the Board of County Commissioners extending coverage of their Code of Ethics to elected municipal officials and other specified individuals for your review. Please note that this is Exhibit 2 of Agenda Item #78 for their meeting of Tuesday, September 27th directing the County Administrator to publish Notice of Public Hearing for consideration to enact the proposed ordinance on Tuesday, October 11, 2011 at 2:00 p.m. in Room 422 of the Governmental Center.

We will be scheduling a Broward League Ethics Task Force meeting the week of October 3rd. If you have any comments you would like for the Committee to consider, please convey them to this office as soon as practicable.

Rhonda Calhoun
Executive Director
Broward League of Cities
115 South Andrews Avenue, Suite 122
Fort Lauderdale, Florida 33301
954-357-7370
www.browardleague.org
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PROPOSED

ORDINANCE NO. 2011-

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)

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

WHEREAS, on November 2, 2010, Broward County's 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 elected officials, appointed officials, and public employees in Broward County through an enacted code of ethics; and

WHEREAS, also on November 2, 2010, the County's voters approved an 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,

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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 regarding a public procurement. For purposes of the prohibition

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

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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.

22 (c**b**) Standards of Conduct.

23 In addition to the provisions of Florida Statutes Chapter 112, Part III, Code of
24 Ethics for Public Officers and Employees; Florida Statutes Chapters 838 and 839; Title

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1 18, Chapter 63 of the United States Code; and Chapter 26, Article V of the Broward
2 County Code of Ordinances, sec. 26-67 et seq., the following Standards of Conduct
3 shall apply to each Elected Official ~~the individual members of the Broward County Board~~
4 ~~of County Commissioners.~~

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

13 (1) Acceptance of Gifts.

- 14 a. Elected Officials ~~County Commissioners~~, their spouses or
15 registered domestic partners, their other relatives, and their County
16 or municipal office staff, shall not accept gifts, directly or indirectly,
17 regardless of value, from lobbyists registered with the governmental
18 entity on whose behalf they (or their spouse, registered domestic
19 partner, or relative) serve, County or from any principal or employer
20 of any such registered lobbyist, or from vendors or contractors of
21 such governmental entity Broward County. In order to effectuate
22 this provision, no lobbyist shall engage in any lobbying activity prior
23 to registering as a lobbyist with the applicable governmental entity.
24

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

8 c. The \$50.00 ~~above restrictions and limitations does~~ not apply to gifts
9 given to Elected Officials ~~County Commissioners~~ in their personal
10 (non-official) capacity, ~~and s~~Such gifts are still subject to the
11 reporting requirements of Florida Statutes section 112. 3148.

12 (2) Outside/Concurrent employment.

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

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

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

23 (3) Lobbyists.
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- a. Elected Officials ~~County Commissioners~~ should avoid even the appearance of impropriety in their interaction and dealings with lobbyists registered under their local governmental entity's lobbyist registration system ~~Broward County Lobbyist Registration Act~~ 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 ~~County Commissioner~~ for the purpose of engaging in lobbying activities, either at the Elected Official's ~~Commissioner's~~ offices or elsewhere on the local ~~County~~ government's premises, must legibly register ~~by completing a contact log as provided under Sec. 1-267 of the Broward County Code of Ordinances. This registration shall be made for listing each~~ Elected Official with whom ~~individual County Commissioner~~ the lobbyist, principal, or employer meets or intends on meeting or communicating with.
 - 1. The information stated on the contact log registration shall include the lobbyist's name; the name of the entity by which the lobbyist is employed ~~his or her principal, including the employer or business;~~ the name of the person or entity for whom or which he or she is lobbying; the name of each the Elected Official ~~County Commissioner~~ with whom he or she 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 in accordance with the provisions of Florida
24 Statutes Chapter 106 shall, contemporaneously, be filed for

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

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

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

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

21 c. The Board of County Commissioners shall be prohibited from
22 waiving the provisions of Section 18.63 of the Broward County
23 Administrative Code as it pertains to the County's acceptance of
24 donations in excess of five hundred (\$500.00) dollars.

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1 (6) Procurement Selection Committees.

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

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

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1 procurement, in lieu of hiring) of individuals who report directly to a
2 local governing body.

3 (7) Financial Disclosure.

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

13 (~~d~~e) Training and Education.

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

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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 (4) ~~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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 underscoring type are additions.

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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- ~~h. Enter any order, consistent with his or her authority, to carry out the purposes of this chapter.~~
 - ~~ii. Except to any extent inconsistent with any provision of this subsection, the Florida Rules of Civil Procedure and Florida Evidence Code, as amended, shall apply to hearings under this section.~~
 - ~~iii. Within thirty (30) days after completion of the hearing, the hearing officer shall issue a final order determining whether a violation of the Code has occurred. The final order shall contain detailed findings of fact and conclusions of law. If a violation has occurred, the final order shall specify the sanction(s) imposed.~~
 - ~~iv. Orders issued by the hearing officer, including the final order, are subject to judicial review as provided by applicable law.~~
- ~~8. The Inspector General shall provide adequate notice to the subject of any investigation and an opportunity to be heard with respect to the charges or allegations made.~~

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

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

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

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

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

~~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:~~

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

~~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;~~

~~c) 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 ~~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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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

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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~~

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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 i. ~~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.~~

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(2) Sanctions.

a. Fines.

1. ~~A County Commissioner who violates any provision of this Code shall be assessed a monetary fine of between \$250.00 and \$5,000.00 per violation.~~
2. ~~Additionally, the Hearing Officer may order the Commissioner to pay restitution or to disgorge any sums wrongfully received by the Commissioner or by any relative of the Commissioner or entity substantially affiliated with the Commissioner.~~
3. ~~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.~~
4. ~~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*.~~

b. Public Reprimand/Censure.

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

c. Incarceration.

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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 regarding a public procurement.

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

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

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

24

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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 ...

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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:

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- 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~~

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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 regarding a public procurement.

20 Section 5. SEVERABILITY.

21 If any portion of this Ordinance is determined by any Court to be invalid, the
22 invalid portion shall be stricken, and such striking shall not affect the validity of the
23 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
24 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),

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

3 Section 6. INCLUSION IN CODE.

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

9 Section 7. EFFECTIVE DATE.

10 This ordinance shall become effective as provided by law.

11 ENACTED

12 FILED WITH THE DEPARTMENT OF STATE

13 EFFECTIVE

PROPOSED

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