

Meeting Date
January 24, 2017



AGENDA	
Section	New Business
Item No.	VI F 2

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Request to advertise public hearing on Ordinance relating to a commissioner code of ethics.
DEPT/OFFICE:	District 3 Commissioner, John Tobia

Requested Action:

It is requested that the Board of County Commissioners authorize the County Manager's office to advertise a public hearing, to be held on the February 7, 2017 board meeting, on the attached ordinance relating to. The ordinance specifically sets forth standards and conditions regarding County Commission ethics.

Summary Explanation & Background:

Legislative Intent

The purpose of this Ordinance is to set forth standards and conditions for a code of ethics applicable to members of the Board of County Commissioners of Brevard County. The Ordinance prohibits the use by commissioners for messaging during Board of County Commissioners meetings. The Ordinance prevents commissioners from lobbying before the Board or County department directors and employees within six (6) years of vacating office. In addition, the Ordinance puts in place a procedure for the Board to decide which commissioner(s) can attend business meetings, symposiums, seminars, or any other functions for which County funds are being used. Lastly, the Ordinance creates a procedure for commissioners to disclose their travel expenditures when County funds are used to attend business meetings, symposiums, seminars, or any other functions. The Ordinance provides definitions and establishes a set of progressive penalties for violations of the Ordinance.

Fiscal Impact: N/A at this time.

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached):		Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager	Department Director / Extension District 3 Commission						
Stockton Whitten	Assistant County Manager							



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January 25, 2017

MEMORANDUM

TO: Stockton Whitten, County Manager

RE: Item VI.F.2., Request to Advertise Public Hearing for Ordinance Relating to Commissioner Code of Ethics

The Board of County Commissioners, in regular session on January 24, 2017, approved a Workshop Meeting on February 21, 2017, at 1:00 p.m. in the Florida Room, to discuss standards and conditions regarding County Commission ethics.

Your continued cooperation is greatly appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Rowe, Deputy Clerk

cc: Each Commissioner
County Attorney
SCGTV Director

ORDINANCE NO. 2017-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA RELATING TO COMMISSIONER ETHICS; CREATING A NEW CHAPTER IN THE BREVARD COUNTY CODE OF ORDINANCES, CHAPTER 3, "COMMISSIONER ETHICS"; PROVIDING FOR DEFINITIONS; PROVIDING FOR A PROHIBITION ON THE USE OF CELL PHONES BY COMMISSIONERS DURING MEETINGS OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR A SIX (6) YEAR LOBBYING BAN ON COMMISSIONERS FOLLOWING VACATION OF OFFICE; PROVIDING FOR THE ESTABLISHMENT OF A BOARD PROCEDURE TO SEND COUNTY COMMISSIONERS TO BUSINESS MEETINGS, SYMPOSIUMS, SEMINARS, OR ANY OTHER FUNCTIONS FOR WHICH COUNTY FUNDS WILL BE USED; PROVIDING FOR A PROCESS FOR COMMISSIONERS TO DISCLOSE TRAVEL EXPENDITURES; PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Code of Ethics, Part III, Chapter 112, Florida Statutes, establishes certain rules and regulations that public officers, including county commissioners, must follow; and

WHEREAS, a county may adopt an ethics code more stringent than, or with provisions differing from, the provisions of the State Code of Ethics as long as the county's ethics code does not conflict with the State's ethics provisions; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, hereinafter referred to as the "Board," has found that it is necessary for the preservation of the integrity, honesty, and transparency in government to adopt the following set of rules related specifically to governing commissioners serving on the Board; and

WHEREAS, pursuant to Fla. Stat. § 125.01(1)(a), the Board has the power to adopt its own rules of procedure and, therefore, has the authority to prohibit cell phone use by commissioners during Board meetings; and

WHEREAS, the Board specifically finds that the use of text messaging during Board meetings interferes with transparent government and commissioners are, therefore, prohibited from using cell phones during Board meetings, but are still permitted to conduct research on electronic devices and converse with County staff using their official County email accounts; and

WHEREAS, the Board finds that a six (6) year lobbying ban on commissioners going before the Board or County department directors and employees after vacation of their office, except for matters involving collective bargaining, will effectively address any real or perceived conflicts of interest; and

WHEREAS, the Board has determined that it should vote on and approve which commissioners may attend business meetings, symposiums, seminars, or any other functions for which County funds will be used; and

WHEREAS, the Board has determined that the use of any County funds for County business meetings, symposiums, seminars, or any other functions should be itemized and recorded with the County Manager's Office;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

Section 1. Creation, Findings, and Intent. Chapter 3 of the Brevard County Code of Ordinances is hereby created. The Board of County Commissioners of Brevard County, Florida, hereinafter referred to as the "Board," hereby determines and declares that the perception of impropriety can exist where government is not open and accessible to all citizens of Brevard County. Therefore, the Board has determined that a commissioner code of ethics is necessary to prevent the appearance of impropriety that may result when commissioners use cell phones during Board meetings; lobby before the Board or County department directors and employees within a certain time period after leaving office; or, spend County dollars on County business without reporting expenditures from said trips. Based on these concerns, the Board hereby establishes a commissioner code of ethics as more fully set forth herein.

Section 2. Construction. This Ordinance shall be broadly construed to affect its purpose of preserving transparent and ethical government for the benefit of all citizens of the County.

Section 3. Authority. Pursuant to Article VIII, Section 1 of the Florida Constitution and Chapters 112 and 125, Florida Statutes, the Board is authorized to establish a Code of Ethics for County commissioners. The Board finds that the implementation of such a Code of Ethics will foster open, transparent government, and serves to protect and promote government integrity.

Section 4. Definitions. As used in this Ordinance, unless the context otherwise requires:

Board or County Commission means the Board of County Commissioners of Brevard County, Florida.

County means Brevard County, Florida.

County commissioner or commissioner means a member of the Board of County Commissioners of Brevard County, Florida.

Lobbyist means any person, firm, corporation, partnership, limited liability company, or any other legal entity who or which is hired for compensation by a person for the sole purpose of lobbying or conducting lobbying activities on behalf of that person. "Lobbyist" does not include:

- (1) a citizen acting in his/her own private capacity;
- (2) a paid officer or employee of a company representing or advocating in behalf of that company before the board;
- (3) a County officer, County employee, or any other person affiliated with the County while acting in his or her official capacity or in connection with his or her official job responsibilities;
- (4) any County officers or employees who are acting in their official capacity or in the normal course of their duties;
- (5) a person who only addresses the Board, a decision-making board, advisory board, or advisory committee during a publicly held meeting, including, but not limited to, the following portions of that meeting: consent agenda; public comment; new business; or, unfinished business;
- (6) a person or entity requested or compelled by a County officer, County employee, or by a member of a decision-making board, advisory board, or advisory committee to appear before such an entity; or
- (7) a person or entity, including an expert witness, who does not meet with an individual County officer or County employee prior to a meeting of the decision-making board, advisory board, or advisory committee considering a matter or measure but later appears before a decision-making board, advisory board, or advisory committee to present or give factual or opinion testimony about that matter or measure.

Person means any natural person or any sole proprietor, corporation, partnership, limited liability company, joint venture, trust, or other legal entity in whatever form it has been created or named.

Section 5. Use of Cell Phones during Board Meetings Prohibited.

- (1) Except as provided in subparagraph (5) below, no County commissioner shall be permitted to use his/her cell phone for messaging during a Board meeting.
- (2) Commissioners are permitted to use electronic devices during Board meetings, with the exception of cell phones, to access agenda materials and to conduct research.
- (3) Commissioners are permitted to communicate with County staff during Board meetings, but must do so using their official County email accounts.
- (4) If, during a Board meeting, a commissioner receives a text message related to official public business on the agenda, the commissioner must either (a) take a screen shot of the text message and forward that screen shot to the County email address for the commissioner and the County Manager or (b) if the commissioner's phone does not have screen shot

capability, preserve in their Commission office records and forward to the County Manager, a photo copy of the text message.

- (5) The County Manager shall preserve a copy of all text messages sent by or received from a commissioner or commissioners in compliance with subparagraph (4).
- (6) This policy does not prohibit using an electronic communications device in the event of an emergency or urgent family matter.

Section 6. Revolving Door. No County commissioner who takes office after the effective date of this Ordinance shall, for compensation, represent another person or entity before the County Commission or County department directors and employees on any matter for a period of six (6) years after that commissioner has left the office of County Commissioner.

Section 7. Travel procedure and notification requirements.

- (1) The Board must approve, by supermajority vote, which commissioner(s) may attend a business meeting, symposium, seminar, or any other function for which County funds will be used to pay for an admission fee, tuition, travel costs, or overnight accommodations.
- (2) Commissioners using their own personal funds shall not be subject to this section.
- (3) Commissioners using County funds to attend a business meeting, symposium, seminar, or any other function shall document their travel expenditures by filing receipts with the County Manager's Office.

Section 8. Penalties. Any County commissioner that is currently sitting on the Board, or any individual that is elected to the Board after the adoption of this Ordinance, who violates, permits to be violated, or causes to be violated any provision of this Chapter shall, upon such a finding by the County Manager's Office, be subject to the following penalties:

- (1) For the first offense, written notice of the violation shall be published in the Board agenda outlining the nature of the violation.
- (2) For a second offense within a twelve (12) month period, a civil fine in an amount not to exceed \$250.00.
- (3) For any subsequent offenses within the twelve (12) month period, a civil fine in an amount not to exceed \$500.00 per violation.

Section 9. Conflict. Unless preempted by State or Federal law, to the extent that the provisions of this Ordinance are more stringent than those of State law, then this Ordinance shall apply. In the case of a direct conflict between any provision of this Ordinance and a provision of any Federal, State, or County law, rule, or regulation, the more restrictive shall apply.

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Section 10. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made part of the Brevard County Code of Ordinances; and that the sections of this chapter may be renumbered or re-lettered and that the word "Ordinance" may be changed to "Chapter," "Section," "Article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 11. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 12. Effective Date. This Ordinance shall become effective upon filing with the Office of Secretary of State of Florida.

DONE, ORDERED, AND ADOPTED in Regular Session, this ____ day of _____, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: Scott Ellis, Clerk of Court

By: Curt Smith, Chairman
(as approved by the Board on _____)

