

ADD ON

Meeting Date
March 3, 2015



AGENDA	
Section	Public Hearing
Item No.	IV D

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	ORDINANCE PROHIBITING COUNTY COMPENSATION TO FORMER COMMISSIONERS FOR A PERIOD OF TWO YEARS
DEPT/OFFICE:	COUNTY ATTORNEY'S OFFICE

Requested Action:

It is requested the Board consider an ordinance prohibiting any current or former County Commissioner from being compensated as an employee, consultant, lobbyist or contractor for any legal entity that receives 50 percent or more of its revenues from Brevard County for a period of two years after leaving office.

Summary Explanation & Background:


LEGISLATIVE INTENT: It is the intent of this ordinance to prevent any current or former County Commissioner from being compensated as an employee, consultant, lobbyist or contractor for any legal entity that receives 50 percent or more of its revenues from Brevard County, whether in the form of grants or contract funding of any kind. The ordinance will prohibit both former and current commissioners from accepting compensation from, or contracting with any county agency(ies) receiving 50 percent or more of its operating funds for compensated services for a period of two years from the date the Commissioner leaves office. The ordinance will also provide for penalties including recapture of prohibited payments; removal from membership on county established, appointed or funded agencies where Board appointees vote for prohibited compensation contracts; fines; authorization to seek equitable or declaratory relief for invalidation of any prohibited contract, and a presumption that such contracts are void. The Ordinance will also require that any funding agreement between Brevard County and a legal entity receiving 50 percent or more of its funding must include a provision prohibiting that entity from paying compensation to former County Commissioner(s) unless that Commissioner has been out of office for a period of at least two years.

The proposed ordinance title and body of the proposed ordinance are attached.

Clerk to the Board Instructions:

Exhibits Attached: Proposed Ordinance

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager, Mel Scott	Department Director / Extension Scott Knox, County Attorney, 52090 
Stockton Whitten	Assistant County Manager, Venetta Valdengo	



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

March 4, 2015

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item IV.D, Ordinance Prohibiting County Compensation to Former Commissioners for a Period of Two Years

The Board of County Commissioners, in regular session on, March 3, 2015, denied ordinance prohibiting County compensation to former commissioners for a period of two years; and directed you to seek the Attorney General and/or Commission on Ethics opinion to determine if this ordinance can be done.

Your continued cooperation is greatly appreciated.

Sincerely yours,
BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge
Tammy Etheridge, Deputy Clerk

/cm

cc: Each Commissioner

ORDINANCE NO. 2015-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA; PROHIBITING ANY CURRENT COUNTY COMMISSIONER FROM BEING COMPENSATED AS AN EMPLOYEE, CONSULTANT, LOBBYIST OR CONTRACTOR FOR ANY LEGAL ENTITY THAT RECEIVES 50 PERCENT OR MORE OF ITS REVENUES FROM BREVARD COUNTY FOR A PERIOD OF TWO YEARS AFTER LEAVING OFFICE; PROHIBITING ANY FORMER COUNTY COMMISSIONER BEING COMPENSATED AS AN EMPLOYEE, CONSULTANT, LOBBYIST OR CONTRACTOR FOR ANY LEGAL ENTITY THAT RECEIVES 50 PERCENT OR MORE OF ITS REVENUES FROM BREVARD COUNTY FOR A PERIOD OF TWO YEARS AFTER LEAVING OFFICE; PROVIDING FOR A PRESUMPTION THAT ANY CONTRACT FOR EMPLOYMENT OR CONSULTING IN VIOLATION OF THE ORDINANCE PROHIBITIONS IS VOID; PROHIBITING BOARD APPOINTEES FROM VOTING FOR CONTRACTS VIOLATING THE ORDINANCE; PROVIDING FOR REMEDIES INCLUDING AUTHORITY TO SEEK INJUNCTION, RECOUPMENT AND THIRD PARTY VOIDABILITY OF ANY CONTRACT VIOLATING THE ORDINANCE; PROVIDING FOR PENALTIES INCLUDING FINES AND REMOVAL FROM APPOINTED BOARDS; PROVIDING FOR RECOUPMENT OF PAYMENT FOR COMPENSATION VIOLATING THE ORDINANCE FROM FUNDS DUE AND PAYABLE TO AN AGENCY ESTABLISHED OR APPOINTED BY THE COUNTY COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, section 112.326, Florida Statutes, provides that nothing in the Code of Ethics for Public Officers and Employees shall prohibit the governing body of any political subdivision, by ordinance from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in that Code, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of that Code; and

WHEREAS, the Board of County Commissioners wishes to enact more restrictive provisions prohibiting the payment of any kind of compensation to former County Commissioners for a period of two (2) years by persons or entities who receive 50 percent or more of their funding from Brevard County;

NOW THEREFORE, Be it ordained by the Board of County Commissioners of Brevard County, Florida as follows:

Section 1. Prohibited Compensation.-

(a) For a period of two (2) years after leaving office, no County Commissioner in office at or after the date of adoption of this ordinance may contract to provide employment, consulting, lobbying or other services for compensation from any person, corporation, dependent special district, agency, legal entity or department established, appointed, operated or funded by the Board of County Commissioners if such person or entity receives 50 percent or more of its operating revenues from Brevard County through its Board of County Commissioners or any of its agencies or departments.

(b) No person, corporation, partnership, dependent special district, agency, legal entity or department:

(1) established, appointed, operated or funded by Brevard County through its Board of County Commissioners, and

(2) receiving 50 percent or more of its operating revenues from the County through the Board of County Commissioners or any of its agencies or departments,

shall enter into an employment, consultant, lobbyist or other contract providing for the payment of compensation to a former County Commissioner unless that person has been

out of office for a period of at least two (2) years.

(3) No corporation, partnership, dependent special district, agency, board, legal entity or department:

(4) established, appointed or operated by the Board of County Commissioners and

(5) receiving 50 percent or more of its operating revenues from the County through its Board of County Commissioners or any of its agencies or departments,

shall either directly or indirectly pay any compensation for employment, consulting, lobbying or other work performed in its behalf by a person who is a former County Commissioner, unless the former County Commissioner has not held the office of County Commissioner for a period of at least two (2) years.

(c) No person appointed or serving as a member or director of the governing body of any board, agency, dependent special district, corporation, legal entity or department established, appointed, funded, or operated by the Board of County Commissioners shall vote to approve a contract authorizing payment of any compensation to a person who is a former County Commissioner for employment, consulting, lobbying or other services in behalf of that board, agency, dependent special district, corporation, legal entity or department unless the former County Commissioner has not held the office of County Commissioner for a period of at least two (2) years.

(d) For a period of two (2) years after the date a former Commissioner left office, the provisions of subsections (b), (c) and (d) of this section shall apply to any contract for compensation between any former County Commissioner and any board,

agency, dependent special district, corporation, legal entity or department established, appointed or operated by the Board of County Commissioners or its employees.

(e) Any County funding agreement, county approval or release of county funds authorizing a legal entity, including a county department, to be eligible to receive 50 percent or more of operating revenues from Brevard County shall be deemed to include the condition that the funded entity is prohibited from entering into an employment, consulting, lobbying or services contract providing for compensation to a former County Commissioner unless at least two (2) years have elapsed since the date that former Commissioner left office.

Section 2. Remedies; Prohibited Contracts Voidable.-

(a) Any contract that has been executed in violation of this part is voidable:

(1) By any party to the contract in any circuit court, by any appropriate action, by:

- a. The County Commission, or
- b. Any citizen materially affected by the contract and residing in the jurisdiction served by the board, agency, dependent special district, corporation or other legal entity entering into such contract.

(b) Any contract violating this ordinance is presumed void with respect to the affected former County Commissioner and any person, board, agency, dependent special district, corporation or other legal entity appointed or established by the Board of County Commissioners. Any contract violating this ordinance is voidable with respect to any private or public sector third party who employs or retains in any capacity such former

County Commissioner in a manner that violates this ordinance.

(c) As an alternative to the penalties provided for in this ordinance:

(1) this ordinance may be enforced by an action for declaratory judgment, injunction and, or recoupment of funds paid as compensation to a former County Commissioner in violation of the ordinance; or Brevard County may recoup or withhold the amount of compensation made to a former County Commissioner in violation of this ordinance from any county funds otherwise due or payable to the violating board, agency, dependent special district, corporation or other legal entity.

Section 3. Penalties.-

(a) To the extent allowed by law, in addition to the remedies provided for in section 2, any violation of this ordinance is punishable by a fine not to exceed \$500 for each violation. Each time a payment of compensation is made to a former County Commissioner under a contract for employment or consulting made in violation of this ordinance shall constitute a separate violation punishable by a fine not to exceed \$500.

(b) Any appointee of the Board of County Commissioners or a County Commissioner to a board or to the governing body of any other legal entity established or appointed by the Board of County Commissioners who casts his or her vote to pay compensation to a former County Commissioner in violation of Section 1, subparagraph (d) of this ordinance may be removed from that appointed office by the Board of County Commissioners or the appointing Commissioner.

Mailed to:

DIANE BYRUM
COUNTY ATTORNEY OFFICE
2725 JUDGE FRAN JAMIESON WAY BLDG C
VIERA FL 32940

A daily publication by:



AD#348918.02/19/2015

NOTICE OF PUBLIC HEARING
BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS
Pursuant to the provisions of Section 125.64 Florida Statutes, notice is hereby given that the Brevard County Board of County Commissioners shall hold a public hearing at 9:00 a.m. or as soon thereafter as the item may come up, on March 3, 2015, to consider adoption of an ordinance prohibiting current and former County Commissioners, for a period of two years after leaving office, from receiving compensation from or entering into employment contracts with entities or persons that receive at least 50 percent of their funding from Brevard County. All interested persons are invited to attend and be heard at the public hearing. The title of the Ordinance to be considered by the Board of County Commissioners of Brevard County, Florida, on that date reads as follows:

ORDINANCE NO. 2015-
An Ordinance of the Board of County Commissioners of Brevard County, Florida; prohibiting any current or former County Commissioner from being compensated as an employee, consultant, lobbyist or contractor any legal entity that receives 50 percent or more of its revenues from Brevard County for a period of two years after leaving office; providing for a presumption that any contract for employment or consulting in violation of the Ordinance prohibitions is void; prohibiting Board Appointees from voting for contracts violating the Ordinance; providing for penalties including fines and removal from appointed boards; providing for recoupment of payment for compensation violating the Ordinance from funds due and payable to an agency established or appointed by the County Commission; providing for severability; providing for an effective date. A copy of the ordinance may be inspected at the following locations:

- Office of Clerk to the Board of County Commissioners, Titusville, Florida
- North Brevard Library, Titusville, Florida
- Central Brevard Library, Cocoa, Florida
- Melbourne Library, Melbourne, Florida
- Milco Library, Milco, Florida

A copy of the ordinance may also be viewed online at: <http://www.brevardcounty.us/CountyManager/DraftOrdinances>

Pursuant to Section 238.0105 Florida Statutes, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she will need to ensure that a verbatim record of the proceedings is made, at his or her own expense, which record includes the testimony and evidence upon which any such appeal is to be based. Such person may provide a court reporter, stenographer, or a tape recorder for such verbatim record.

In accordance with the Americans Disabilities Act, persons needing a special accommodation or an interpreter to participate in the proceedings, please notify the department sponsoring the meeting/hearing, or the County Manager's Office, (321) 633-2010, at least 48 hours in advance. TDD: 1-800-955-8771. Assisted Listening System receivers are available for the hearing impaired, & can be obtained from the Sound Technician at the meeting.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Brighthouse Networks cable channel 199 (after March 4, 2015, Brighthouse Networks cable channel 499), Comcast cable channel 51 in North Brevard and Comcast cable channel 13 in South Brevard. SCGTV will also replay this meeting during the coming month. Check the SCGTV website for daily program updates <http://www.scgtv.org>.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in the proceedings, please notify the County Manager's Office at least 48 hours in advance at: (321) 633-2010.

Central Brevard Library and Reference Center - Fax 633-1954

Melbourne Library Reference Center - Fax 952-6347

North Brevard Library Reference Center - Fax 264-5030

South Mainland Library/Milco Reference Center - Fax 664-0534

Cocoa Beach Library Reference Center - Fax 868-1107

DeGroodt Library Reference Center - Fax 952-6320

Merritt Island Library Reference Center - Fax 453-1372

Brevard County Government Center, Bldg. C No. Brevard Government Complex, Tax Collector - Fax 264-5312

Merritt Island Service Complex, Supervisor of Elections - Fax 453-1330

South Brevard Service Complex, Supervisor of Elections - Fax 253-4401

Clerk to the Board's Office in Titusville - Fax - 264-6972

Law Library - Fax 617-7301

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared Kathy Cicala, who on oath says that she is LEGAL ADVERTISING SPECIALIST of the FLORIDA TODAY, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a

LEGAL NOTICE

Ad # (348918) \$ 325.64 the matter of:
Acct. # (6BR346)

COUNTY ATTORNEY OFFICE

the Court NOTICE OF PUBLIC HEARING
BREVARD COUNTY BOARD OF
COMMISSIONERS
MARCH 3, 2015

as published in the FLORIDA TODAY in the issue(s) of:

February 19, 2015

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Kathy Cicala
(Signature of Affiant)

19th day of February 2015

Ruby Royer
(Signature of Notary Public)
Ruby Royer

(Name of Notary Typed, Printed or Stamped)

Sworn to and subscribed before this:



RUBY ROYER
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF088043
Expires 1/30/2018

Personally Known or Produced Identification _____
Type Identification Produced: _____