


10.7.14 #24

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Authority to Advertise an Ordinance Relating to Conflicts of Interest for
Appointed Advisory Board Members

DATE: October 7, 2014

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE THE ADVERTISEMENT OF AN ORDINANCE RELATING TO CONFLICTS OF INTEREST FOR APPOINTED ADVISORY BOARD MEMBERS.

BACKGROUND: The attached ordinance was drafted in response to a conversation the Board of County Commissioners ("BCC") had related to its appointed advisory board members and conflicts of interest. Advisory board members are subject to many of the same ethical standards county commissioners are, as set forth in Florida's Code of Ethics for Public Officers and Employees (State "Code of Ethics") found in Florida Statutes, Part III, Chapter 112. That Code of Ethics provides specific authority to counties to enact heightened standards of conduct for its appointed advisory board members and this ordinance exercises that authority, together with the County's home rule authority.

Currently, advisory board members must refrain from voting on matters that would inure the member's special private gain or loss, or that of a relative, business associate, or other corporate principal by which the member may be retained. See, Sec. 112.3143, Florida Statutes. However, state law allows such board members to participate in the decision making process so long as the conflict of interest is first disclosed in the form of a written memorandum filed in the official minutes and read into the record at the meeting.

The ordinance being proposed eliminates the ability of the BCC's appointed advisory board members from participating in any matter in which such member has a conflict of interest. "Participate" is defined to include any attempt to influence the decision by oral or written communication, whether made by or at the member's direction. If the proposed ordinance is adopted, such board members would be prohibited from participating in and voting on any matter in which such board member, or the other associated parties referenced above, has a conflict of interest. A redline copy of the ordinance highlighting the proposed changes is attached. Accordingly, I recommend that the Board of County Commissioners authorize the advertisement of a public hearing on this ordinance for Tuesday, October 21, 2014, at 6:00 p.m.

JLB:MJW:sme

Attachments

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ORDINANCE NO. 14-__

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATED TO CONFLICTS OF INTEREST; REVISING CHAPTER 2, ARTICLE III, DIVISION 4 BY CLARIFYING CERTAIN STATUTORY REFERENCES; PROVIDING ADDITIONAL RESTRICTIONS RELATED TO VOTING CONFLICTS FOR APPOINTED BOARD MEMBERS; REVISING PROVISIONS RELATED TO PENALTIES; RENUMBERING CODE SECTIONS AS APPROPRIATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ethics for Public Officers and Employees (“Code of Ethics”) is authorized by Section 8, Article II, Florida Constitution, and appears in Chapter 112, Part III, Florida Statutes; and

WHEREAS, the Code of Ethics recognizes that it is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain; and

WHEREAS, the Code of Ethics similarly recognizes that it is essential that government attract those citizens best qualified to serve and, therefore, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve; and

WHEREAS, the Code of Ethics balances these two important public purposes in establishing a code of conduct for the State of Florida’s public officers and employees; and

WHEREAS, Pinellas County is a charter county and pursuant to Section 1(g), Article VIII, Florida Constitution, has all powers of local self government not inconsistent with general law, or with special law approved by vote of the electors; and

WHEREAS, the Board of County Commissioners wishes to impose additional standards of conduct specifically related to voting conflicts of interest for members of its appointed boards and commissions pursuant to the specific grant of authority in Section 112.326, Florida Statutes.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS of Pinellas County Florida that:

SECTION 1. Chapter 2, Article III, Division 4, Pinellas County Code, is hereby amended to read as follows:

DIVISION 4. – CONFLICT OF INTEREST.

Sec. 2-856. - Florida Code of eEthics.

The Florida Code of Ethics for Public Officers and Employees ~~provided by general law, set forth in Part III, Chapter 112, Florida Statutes,~~ shall have full effect upon all employees and officeholders under Pinellas County's Charter Government.

Sec. 2-867. - Additional restrictions related to voting conflicts.

(a) The following terms and phrases shall have the meanings ascribed to them when used in this section:

Appointed Board Member means any non-elected person appointed to an advisory or quasi-judicial board created by the board of county commissioners.

Conflict Form means the State of Florida Commission on Ethics Conflict Form 8B, or any successor form promulgated by the Commission on Ethics for disclosure of voting conflicts.

Participate means any attempt to influence a decision by oral or written communication, whether made by the appointed board member or at such member's direction.

Relative means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(b) No appointed board member shall vote upon or participate in any matter that would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained, or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the board member. Such board member shall, prior to the vote being taken or any discussion being had on the matter, disclose the conflict by publicly stating to the assembly the nature of the board member's interest in the matter from which he or she is abstaining from voting and participating. Such board member shall complete and file with the person responsible for recording the minutes for the meeting a conflict form, which shall be incorporated into the minutes. The conflict form shall be filed at or before the meeting at which the vote is to be taken. In the event that disclosure has not been made prior to the meeting, or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known a conflict exists and the conflict form shall be filed within seven (7) calendar days, as set forth herein.

(c) Any elected official appointed to an advisory board created by the board of county commissioners as an additional duty to his or her existing office shall abide by the Florida Code of Ethics for Public Officers and Employees.

(d) This section shall not be construed to authorize or permit any conduct or activity that is in violation of the Florida Code of Ethics, and shall be deemed additional and supplemental thereto.

Sec. 2-87. - Penalty for violation.

The penalty for violation of the Florida Code of Ethics shall be as provided by general law. The board of county commissioners may, by resolution, provide for procedures by which a covered public official or employee may be removed from office for violation of the abovementioned Florida Code of Ethics.

SECTION 2. Severability. If any Section, Subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 3. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to section, article or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Filing of Ordinance; Effective Date. Pursuant to Section 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.

ORDINANCE NO. 14-___

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATED TO CONFLICTS OF INTEREST; REVISING CHAPTER 2, ARTICLE III, DIVISION 4 BY CLARIFYING CERTAIN STATUTORY REFERENCES; PROVIDING ADDITIONAL RESTRICTIONS RELATED TO VOTING CONFLICTS FOR APPOINTED BOARD MEMBERS; REVISING PROVISIONS RELATED TO PENALTIES; RENUMBERING CODE SECTIONS AS APPROPRIATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ethics for Public Officers and Employees (“Code of Ethics”) is authorized by Section 8, Article II, Florida Constitution, and appears in Chapter 112, Part III, Florida Statutes; and

WHEREAS, the Code of Ethics recognizes that it is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain; and

WHEREAS, the Code of Ethics similarly recognizes that it is essential that government attract those citizens best qualified to serve and, therefore, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve; and

WHEREAS, the Code of Ethics balances these two important public purposes in establishing a code of conduct for the State of Florida’s public officers and employees; and

WHEREAS, Pinellas County is a charter county and pursuant to Section 1(g), Article VIII, Florida Constitution, has all powers of local self government not inconsistent with general law, or with special law approved by vote of the electors; and

WHEREAS, the Board of County Commissioners wishes to impose additional standards of conduct specifically related to voting conflicts of interest for members of its appointed boards and commissions pursuant to the specific grant of authority in Section 112.326, Florida Statutes.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS of Pinellas County Florida that:

SECTION 1. Chapter 2, Article III, Division 4, Pinellas County Code, is hereby amended to read as follows:

DIVISION 4. – CONFLICT OF INTEREST.

Sec. 2-85. - Florida Code of Ethics.

The Florida Code of Ethics for Public Officers and Employees set forth in Part III, Chapter 112, Florida Statutes, shall have full effect upon all employees and officeholders under Pinellas County's Charter Government.

Sec. 2-86. - Additional restrictions related to voting conflicts.

(a) The following terms and phrases shall have the meanings ascribed to them when used in this section:

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Conflict Form means the State of Florida Commission on Ethics Conflict Form 8B, or any successor form promulgated by the Commission on Ethics for disclosure of voting conflicts.

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APPROVED AS TO FORM

By: 
Office of the County Attorney