IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR THE COUNTY OF PALM BEACH, FLORIDA

FINAL PRESENTMENT
OF THE
PALM BEACH COUNTY GRAND JURY

STATUS REPORT OF THE GRAND JURY REGARDING PALM BEACH COUNTY GOVERNANCE AND PUBLIC CORRUPTION ISSUES

WINTER TERM A.D. 2010

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IN RE: STATUS REPORT OF THE GRAND JURY REGARDING PALM BEACH COUNTY GOVERNANCE AND PUBLIC CORRUPTION ISSUES

CHIEF JUDGE PETER D. BLANC, PRESIDING

IN THE NAME AND BY THE AUTHORITY BY THE STATE OF FLORIDA

I. GRAND JURY SUMMARY

The Grand Jury finds that Palm Beach County has made great strides in the past year in reversing the erosion of public trust in the institutions of local governance. The past several years had seen an undermining of the legal, political and economic pillars which support the community. After three county and two West Palm Beach city commissioners pled guilty to federal corruption charges, the reputation of Palm Beach County had suffered significant but not irreparable harm. The derisive reference to Palm Beach County as "Corruption County" stood as a clarion call to action. In recent years, various governmental entities and private organizations took isolated and tentative action toward attacking the problem, but the stigma persisted and fundamental reforms remained undone.

The Grand Jury commends and congratulates its predecessor Grand Jury, Spring Term 2009, for its comprehensive efforts in identifying deficiencies in local and state governance and making constructive and detailed findings and recommendations for improvement and significant change. The goals of these reforms were transparency, ethics and the development of effective governmental oversight. This Grand Jury Presentment constitutes a "report card" on progress made in Palm Bach County and statewide based on the findings and recommendations of its predecessor Grand Jury. The Presentment examines the following areas: 1) the status of state criminal statutes and ordinances addressing conflicts of interest, gratuity and theft of honest services by public

servants; 2) the creation and funding of an independent "watchdog" entity to monitor the activities of Palm Beach county government; 3) the strengthening of county ethics laws and the creation of a Commission on Ethics; 4) the increase in transparency, accountability and oversight of county matters involving land transactions; 5) the elimination of bond underwriting by rotation and adoption of the Government Finance Officers Association (GFOA) recommended practices; and 6) the elimination of the current system of commissioner-based discretionary funding of county recreation and infrastructure projects.

II. BACKGROUND AND SCOPE

This Grand Jury Presentment and status report was called for by State Attorney Michael McAuliffe to review the progress in certain specific areas of Palm Beach County governance and to make appropriate findings and recommendations to further improve governance in Palm Beach County and to pursue ethics reforms on a statewide basis. As previously noted by the 2009 Grand Jury, pursuant to Florida Stat. 905.16, the Grand Jury is uniquely situated as the "guardian of all that is comprehended in the police power of the State." Owens v. State, 59 So.2d 254 (Fla. 1952).

Unlike a Federal Grand Jury, Florida grand juries can, and should, serve a dual purpose in that:

> [Florida grand juries]...have a lawful function to investigate unlawful actions for all persons, private citizens and public officials alike and to return indictments when warranted, and also have a lawful and proper function to consider actions of public bodies and officials in use of public funds and report or present findings and recommendations as to practices, procedures, incompetency, inefficiency, mistakes and misconduct involving public officers and public monies.
>
> Kelly v. Sturgis, 453 So.2d 1179 (5th DCA 1984)

The objective of this Grand Jury was to review and report on the progress made in five areas of county and state governance. The areas identified were specifically addressed in the findings and recommendations of the INVESTIGATION OF PALM BEACH COUNTY GOVERNANCE AND PUBLIC CORRUPTION ISSUES, FINAL

PRESENTMENT, SPRING TERM A.D. 2009 (Grand Jury Presentment attached as exhibit 1).

The areas include: 1) Palm Beach County bond underwriting practices; 2) county commissioner's discretionary funds; 3) Palm Beach County governmental land transactions; 4) the county's internal and external auditing system and the need for an independent Inspector General; and 5) State and local public integrity and ethics laws and ordinances.

The Grand Jury finds that the Palm Beach County Board of County Commissioners, the Office of the County Attorney and the County Administrator's Office have exhibited sustained leadership in these areas and that significant progress has been made to begin to restore confidence and faith in county governance. (See County Staff Response and Recommendations attached as exhibit 2). The Grand Jury also finds that a number of private sector individuals and organizations have assisted in this effort by taking a positive, active and constructive role in the process and, by so doing, have helped local government to achieve greater transparency and accountability. Lastly, the Grand Jury finds that much needed public integrity and anti-corruption legislation has been drafted and currently is under consideration by the Florida Legislature. The Grand Jury reaffirms the previous recommendations and urges the Florida Legislature to adopt these measures without delay.

III. DISCUSSION

A. BOND UNDERWRITING

1. Previous practices and procedures

The Grand Jury reviewed the Final Presentment of the Palm Beach County Grand Jury Spring Term 2009, heard testimony and received additional documentation regarding Palm Beach County's issuance and underwriting of bonds. As previously outlined by the 2009 Grand Jury in its Presentment:

> Bonds are issued by governments over a number of years. In this way, the county can fund needed projects that benefit current and future taxpayers alike. As of September 30, 2008, the total outstanding debt for Palm Beach County was

> approximately $1.89 billion. During fiscal year 2008, Palm Beach County incurred $445 million in new debt and made debt payments totaling $200 million or approximately $320 per taxpayer.

The 2009 Grand Jury identified "two basic means of selling bonds – competitive bids and negotiated sales." It determined that the most cost effective method of "marketing general obligation bonds by a political subdivision with a solid tax base was through the competitive bid process." Prior to 1993, competitive sales were standard for bond offerings in Palm Beach County. Against the recommendation of the PBC Office of Finance, Management and Budget (OFMB) staff, the BCC changed bond underwriting from competitive to negotiated sale. This process remained in effect until 2009 and was contrary to the Government Finance Officer's Association (GFOA) recommended practices. Indeed, a study of the debt practices of 45 AAA rated counties nationwide between 2000 and 2008 revealed that Palm Beach County was one of only four counties that did not use a competitive sales method in the issuance of bonds. In addition to the standard use of negotiated sales, the Palm Beach County Board of County Commissioners developed a rotation system of selection for bond underwriters and bond counsel.

The 2009 Grand Jury found that the "negotiated sales only" process along with the rotation system was costly to the taxpayers, lacked transparency and undermined confidence in the process. Notably, the county staff (concurrent with the Grand Jury's investigation and Presentment) had been taking corrective measures and developed proposals to overhaul the current system. In addition, valuable information and useful suggestions were being offered by the Office of the Clerk and Comptroller in the form of a *Debt Issuance Process Review*. Many of the GFOA recommended practices were incorporated into the Office of the Clerk's report.

In an effort to instill transparency and independent oversight into the process one notable recommendation in the *Debt Issuance Process Review* involved the establishment of a Debt Oversight Committee. "The proposal would require that members of the DOC be selected through a request for qualifications (RFQ). The Debt Oversight Committee would review, revise and approve a written policy submitted by county staff that governs all debt management practices. In addition, the DOC would review all proposals

received and make recommendations for bond underwriting companies, bond counsel, disclosure counsel and financial advisor."

The 2009 Grand Jury recommendations were as follows:

- The Grand Jury recommends that the Board of County Commissioners complete and adopt recent county proposals to remove the current bond rotation system and institute a request for proposal (RFP) process for bond sales.

- The Grand Jury recommends that the Board of County Commissioners adopt the recommendation of the Office of the Clerk and others to establish an independent Debt Oversight Committee (DOC) consisting of between five and seven citizens selected through a request for qualifications (RFQ) to review, revise and approve a written policy submitted by county staff to govern all debt management practices. The Grand Jury further recommends that the DOC have minority representation.

- The Grand Jury recommends that the Debt Oversight Committee (DOC) also review all bond underwriting proposals received and make recommendations for bond underwriting companies, bond counsel, disclosure counsel and financial advisor.

- The Grand Jury recommends that Palm beach County adopt a preference for "competitive sales" of bonds but retain the flexibility to adopt negotiated sales when recommended by the Office of Management and Budget, the Financial Advisor and the Debt Oversight Committee.

- The Grand Jury recommends that Palm Beach County adopt an RFP process for all outside professionals including Financial Advisor, Bond Counsel, Disclosure Counsel and Bond Underwriting Company.

- The Grand Jury recommends that to insure fairness in the process, Palm Beach County adopt the GFOA best practice to encourage the use of Disadvantaged Business Enterprises (DBE) as part of a policy to include minority firms.

- The Grand Jury recommends that, in order to eliminate perceived conflict of interest, the role of the BCC be limited to acceptance or rejection of bond underwriting recommendations of county staff, financial advisor and Debt Oversight Committee (DC). This policy should apply to appointments of outside professionals and individual bond underwriting companies alike.

2. Updated Practices and Procedures

The Grand Jury heard testimony and reviewed documents regarding substantive changes to the County debt management practices. The BCC and County Administration, specifically the Office of Financial Management and Budget, responded to the

recommendations of the 2009 Grand Jury. Several of these changes were in the formative stage during the 2009 Grand Jury term and were finalized shortly thereafter.

Among the documents reviewed by the Grand Jury this term were changes to the Countywide Policies and Procedures Manual specifically regarding *Debt Management Policy* (attached as exhibit 3) as well as the new policy and procedure memorandum (PPM) regarding the *Competitive Selection Of Bond Underwriters Policy For Negotiated Sales* (attached as exhibit 4) and *Selection of Bond Disclosure Counsel Policy* (attached as exhibit 5). A number of Grand Jury recommendations were adopted in whole, or in part, by the BCC and those policy changes have been finalized.

First, the BCC established a County Financing Committee (CFC) to oversee county debt management issues. The CFC consists of the County OFMB Director, a current municipal finance officer with extensive experience in debt issuance, the Finance Director of the Solid Waste Authority, a representative of the Clerk and Comptroller's Office, and a representative from the Department involved with the debt issuance, if applicable. In addition, the County Debt Manager, the County Attorney, and the Financial Advisor serve as needed in an advisory capacity.

The County *Debt Management Policy* has adopted the Grand Jury recommendation that all new bond issues, including refunding debt obligations, are to be sold by competitive bid unless the CFC and Financial Advisor recommend to the County Administrator that the sale be negotiated. A negotiated sale must then be approved by the BCC. This policy affords flexibility but creates the presumption for the competitive process.

With regard to the selection of a bond underwriter when a negotiated sale is recommended, the rotation system has been eliminated and a "request for proposal" (RFP) process has been instituted. Specifically, the RFP process is conducted by the County Finance Committee. Once selected, the recommendation of the Committee goes to the County Administrator who then brings the matter to the BCC for approval. This process is codified in the *Competitive Selection of Bond Underwriters Policy for Negotiated Sales.*

The Grand Jury heard testimony and reviewed the revised *Debt Management Policy* with regard to the selection of outside professionals involved in the debt process.

All outside professionals, including Financial Advisor, Bond Counsel and Disclosure Counsel are to be selected through an RFP process administered by the County Attorney. These new policies call for selection recommendations to be submitted to the BCC for approval. The Board does retain the discretion to debate, question and provide alternative direction to County Staff within the framework of the debt management and selection policies and procedures.

The county no longer has a minority business program. There is assistance available to small businesses through the *Palm Beach County Office of Small Business Assistance, Small Business Enterprise Program (PPM CW-0-043, August 5, 2009)*. The Grand Jury heard testimony that this program monitors conditions affecting small business and is tasked with the mission to encourage the growth and development of these enterprises. The Policy and Procedure Directive states as follows:

> The Small Business Enterprise Program is an aggressive attempt on the part of the Board of County Commissioners to ensure that all businesses be afforded the opportunity for full participation in our free enterprise system while providing assistance and encouragement to Palm Beach County small businesses, which represent a significant portion of our local business community.

The BCC has established, through the County Code, certain preferences for certified small business enterprises (SBE). The Grand Jury heard testimony that the county no longer has a minority business program because it was determined not to be legally justified.

3. Findings and Recommendations

The Grand Jury finds that the present system of bond underwriting, as revised through the current *Debt Management Policy,* successfully implements the primary recommendations made by the 2009 Grand Jury and adopts and incorporates the GFOA recommended practices. Foremost in this regard is the formal adoption of competitive sales as a presumptive method of underwriting general obligation bonds.

The Grand Jury acknowledges the work of the County Attorney's Office, the Office of County Administrator and the Office of Management and Budget to create a transparent process for the selection of outside professionals involved in the debt process,

ending the bond rotation system and creating a functioning County Finance Committee to oversee bond sales.

The request for proposal (RFP) protocols instituted for the recommendation and selection of outside professionals, through the County Attorney, adequately addresses the most significant concerns regarding the appearance of favoritism and conflict of interest (both perceived and real). The creation of a County Finance Committee to review and make recommendations to the County Administrator regarding the issuance and management of debt is another positive step toward effective oversight and transparency. The Grand Jury finds this oversight committee contains members who are independent of county government with sufficient expertise and diversity to offer an effective unfiltered voice on the bond issues.

The Grand Jury also acknowledges the work of the county staff in encouraging growth and development of small business enterprises (SBE) and finds that allowing such businesses to obtain assistance through the Small Business Enterprises Program is commendable. However, the Grand Jury also finds that minority firms are too often left out of the process and would encourage the County Administrator's Office to monitor these issues and to periodically evaluate whether the process has the meaningful participation of minority firms.

The Grand Jury makes the following recommendations:

- ✓ The Grand Jury recommends that the revised Policy and Procedure Memorandum (PPM) for *Debt Management Policy* be maintained by the BCC and that periodic and public reviews be undertaken to determine the fiscal benefit of the competitive bond sale preference in future markets.

- ✓ The Grand Jury also recommends that the newly created PPM, *Competitive Selection of Bond Underwriters Policy for Negotiated Sales* likewise be maintained by the BCC subject to periodic review by the OFMB, County Administrator, County Finance Committee and County Attorney.

- ✓ The Grand Jury recommends that the County Finance Committee continue to review and make recommendations to the County Administrator regarding issuance and management of debt.

- ✓ The Grand Jury Recommends that the County Administrator monitor the effect of the Small Business Enterprises Program to the extent that the program encourages and assists in the goal of minority participation in the area of bond sales.

B. LAND TRANSACTIONS

1. Previous Practices and Procedures

The 2009 Grand Jury received both testimony and documentary evidence regarding the process by which the county purchases, sells and otherwise disposes of real property. The centralized planning, design and construction of all county facilities, including the purchase of property, sale of existing facilities or surplus properties and exchanges of property, is tasked to the Palm Beach County Facilities, Development and Operations Department. For the sale or trade of property a bidding process is the norm; however, that process is sometimes avoided in land swap scenarios. Land transactions involving road projects is assigned to the Department of Engineering & Public Works. This process usually involves "multiple landowners on long strips of land adjacent to rights of way." It may also include the acquisition of water retention areas. Properties adjacent to rights of way can be obtained by negotiated sale or condemnation.

The 2009 Grand Jury found that a perception existed within the county that "commissioners have been too involved in the building, planning and zoning process." In addition, there had been "a lack of transparency in large land acquisitions by the county." The 2009 Grand Jury cited to a number of examples of perceived "cronyism, unfair access and corruption of the land acquisition process." Testimony was noted involving cases of "intense political pressure put on local government in land deals" and referring to "the political atmosphere surrounding land deals as being a feeding frenzy." Accusations of undervaluation of county property for sale or trade and overvaluation of property for purchase were heard and reflected in the 2009 Grand Jury report.

Specific land deals were discussed where instances of seemingly excessive land valuation based upon multiple and progressive appraisals with values based upon "extraordinary assumptions" and "hypothetical conditions" seemed to push up the cost of county land purchases. In one instance and against the recommendation of staff the BCC voted to change the land use of a parcel the county was attempting to obtain thereby making that parcel more valuable. "Effectively, the BCC raised the value of the very land it was seeking to purchase." The 2009 Grand Jury acknowledged:

> In negotiations to acquire property, the county is at a distinct disadvantage. In many instances, property owners

> are aware well in advance of the county's need to obtain their property. This is most common in cases of roadway improvement. The county publishes a five year road program. Pressure exists to complete roadway improvements in an efficient and timely manner. Under these circumstances, a property owner seemingly can demand an extraordinarily high purchase price. The county has the incentive to pay the higher price to complete the improvements.

The 2009 Grand Jury heard testimony concerning the use of condemnation/eminent domain to combat the payment of unnecessarily high prices for land transactions involving road projects, rights of way and related purchases. The fear that condemnation costs would result in greater expense for these acquisitions was the driving force behind the need for "made as ordered appraisals where the use of extraordinary assumptions artificially increases property valuations." Refer to exhibit 1, 2009 Grand Jury Presentment, for detailed discussion.

Other methods were discussed to improve the system of county land purchase, trade and sale. Recommendations in the Presentment included contracting with an independent appraisal entity "to receive and review appraisal work done for the county and report its findings, including any disagreements it may have on an appraisal." A more timely system of public disclosure of appraisals and land disposition conflicts of interest would likewise add to accountability and transparency in governance. The Presentment stated: "A decision to pay a premium for property may have legitimate reasons; however, more transparency will enable the public to have a meaningful dialogue on the issue and increase accountability for these decisions." At the time, land disposition conflicts of interest were not typically disclosed until closing which resulted in commissioners voting on contracts without the public's timely knowledge that conflicts of interest or relationships between parties existed.

In addition, the 2009 Grand Jury, in the Presentment, discussed the re-starting of an *ad hoc* right-of –way committee, having been previously formed and consisting of the County Office of Management and Budget, the County Attorney's Office, the Engineering Department and Facilities and Management Department "to review cases where a decision had to be made whether to pursue condemnation." The benefit of

several departments reviewing a particular negotiation would add a layer of scrutiny regarding land purchases well in excess of appraised value as well as being tasked with the mission to identify problems early in the process and avoid costly delays in approved projects.

The 2009 Grand Jury recommendations were as follows:

- The Grand Jury recommends that Palm Beach County re-institute and formalize a Land Valuation Committee (LVC) to review appraisals, assessments, asking and offering prices and the feasibility of condemnation proceedings for all sales , acquisitions and trades. The LVC should include representatives from the Engineering Department, Facilities and Management Department, Office of Management and Budget and the County Attorney's Office. The Grand Jury recommends that the LVC include a representative from the PBC Property Appraiser's Office or, at a minimum, to notify and consult with the Property Appraiser whenever there is a questionable appraisal or contemplated condemnation.

- The Grand Jury recommends that the county not utilize "extraordinary assumptions" in the county property appraisals process.

- The Grand Jury recommends that any proposed negotiated acquisition that exceeds 25% of assessed value be evaluated by the Land Valuation Committee (LVC) and a detailed report submitted with specific reasons for the acquisition and accompanying reasons why eminent domain (condemnation) is not recommended.

- The Grand Jury recommends that the Board of County Commissioners not consider or approve land use or zoning changes for properties which are subject to negotiation for county purchase unless State law requires such action or upon written advice of the County Attorney.

- The Grand Jury recommends increased transparency in county land sales that involve an offer to trade properties by including a bid process and public review. The value of the sale property and offered trade property should be appraised and all cash bids for the property reviewed by the Land Valuation Committee (LVC). The LVC then compares the cash offers to the trade offer and makes a detailed written finding as to the best value to the taxpayer and makes a recommendation to the Board of County Commissioners.

- The Grand Jury recommends that all land transaction appraisals be published on the Palm Beach County website along with the assessed value of the subject property no less than 2 weeks prior to being scheduled before the Board of County Commissioners for approval.

- The Grand Jury recommends that the Palm Beach County Charter be amended to require a super-majority of County Commissioners (5) to approve any land purchase based upon appraisals using hypothetical assumptions where the purchase price exceeds the assessed value of the property by more than 25%.

2. Updated Policies and Procedures

The Grand Jury heard testimony and reviewed documentation pertaining to the current status of the 2009 Grand Jury recommendations on land purchase, sale and trade issues. In assessing the progress made by the BCC and county staff in addressing the concerns of the 2009 Grand Jury we are mindful of the "real world" considerations that are influenced by both legal requirements and issues of ultimate efficiency and taxpayer benefit. The broad issue has always been one of increased transparency and accountability. The Grand Jury acknowledges that, in some instances, what may appear to be an inefficient or ethically compromised transaction may in fact be required by law or justified upon closer review. When reviewing the progress made in county governance since the 2009 Grand Jury Presentment, this Grand Jury listened to the testimony and reviewed the documentary evidence with the ultimate goal of assessing progress in light of these realities.

The BCC passed the Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance 2009-052; resolution no. R-2010-0292 amending Chapter 22, Article VI of the Palm Beach County Code (attached as exhibit 6). Part 3 of the ordinance amendment creates a Property Review Committee (PRC) "to review, evaluate and advise the Board regarding real estate transactions involving the purchase (including eminent domain), sale or exchange of fee simple title to real property..." Specifically enumerated are the following criteria:

The PRC is tasked with reviewing the following county transactions when those transactions:

1. Are based on appraisal(s) utilizing Hypothetical Conditions or Extraordinary Assumption.
2. Are based upon appraisal(s) assuming a change of land use, a comprehensive plan amendment or concurrency other than that which currently exists.
3. Involve a purchase in which the purchase price of the real property is greater than one hundred and ten (110%) of the fair market value as

determined by the appraisal or the average of the appraisals obtained by the county.

4. Involve a sale in which the sale price of the real property is lower than ninety percent (90%) of the fair market value as determined by the appraisal or the average of the appraisals obtained by the County.
5. Involve an exchange of real property in which the purchase or sale price of the real property to be conveyed to or by the County, plus any additional considerations to be paid to or by the County in the exchange transaction exceeds $250,000.

Resolution-0292 specifies that the membership of the PRC consist of five (5) individuals selected by nomination from the following: the Palm Beach County Property Appraiser's Office, the Broward or Martin County Property Appraiser's office or an MAI certified appraiser with offices in Palm Beach County, a licensed real estate broker with expertise in commercial real estate, a government land planning employee with an office in Palm Beach County or recommended by the Palm Beach County Planning Congress and an eminent domain expert employed as an attorney by a governmental agency or in private practice with an office in Palm Beach County. The BCC appoints at large the five members to staggered 3 year terms. Testimony revealed that the Director of the County Property and Real Estate Management Department is tasked with the responsibility of reaching out to individuals who fit the criteria of the PRC resolution and forwarding qualified applicants to the BCC for appointment.

The Grand Jury heard testimony regarding the membership of the committee and is satisfied that the current process fulfills the spirit of the 2009 Grand Jury recommendation. The Grand Jury concludes that the County Attorney's Office is correct in its assessment of s. 286.011 Fl. Stat. (the Sunshine Law) in that various County employees from OFMB, Engineering, Facilities and Management and the County Attorney would, if members of this official advisory board, be precluded from communicating with each other on matters before the committee other than in public, noticed meetings. If the PRC consisted of county staff members, they would be unable to discuss items before the PRC even if those matters require their input and cooperation in the daily business of running their departments. In short, they would be unable to do their jobs. While this may not have been so in regards to an unofficial *ad-hoc* committee, the formalized PRC certainly would be subject to the Sunshine Law.

The Grand Jury believes that the alternative membership established by County Administration and the BCC provides sufficient expertise and independence to afford oversight of county land transactions; however, the transparency of the selection process and scrutiny regarding potential conflicts of interest may require further review.

Ordinance 2009-052, part 2 adopts, in part, another recommendation of the 2009 Grand Jury:

> All purchases (including eminent domain), sales and exchanges of fee simple title to real property (including conveyances for no or nominal consideration) must be approved by a supermajority vote (five commissioners) of the Board.

In requiring a supermajority vote for "all purchases (including eminent domain), sales and exchanges" the BCC and County Administration actually went beyond the recommendation of the 2009 Grand Jury. The super-majority requirement adds a significant layer of scrutiny to these land deals and calls appropriate attention to the need for accountability and transparency in assessing real property transactions. The Grand Jury heard testimony regarding the 2009 Grand Jury recommendation that the super-majority voting requirement be by County Charter amendment and finds the establishment of the super-majority by ordinance to be functionally equivalent and sufficiently in compliance with that recommendation.

In addition, the Grand Jury is mindful of the need for flexibility in appraisal criteria including the potential use of "extraordinary assumptions" provided that transparency and accountability are maintained. The requirement that the LVC scrutinize any property appraisal using such an assumption combined with the super-majority vote on the transaction by the BCC should provide an adequate and public review of those transactions.

A related recommendation that "any proposed negotiated acquisition that exceeds 25% of assessed value be evaluated by the Land Valuation Committee (LVC)" has likewise been adopted through Ordinance 2009-052. In fact, the ordinance goes beyond the recommendation by including all acquisitions "in which the purchase price of the real property is greater than one hundred and ten (110%) of the fair market value as determined by the appraisal..."

The BCC also addressed the recommendation that there be "increased transparency in county land sales that involve an offer to trade properties." County Ordinance 2009-052 specifically includes LVC review and evaluation of exchanges of real property by the county valued in excess of $250,000. In addition, the 2009 Grand Jury recommendation included a bid/RFP process for exchanges of property. Cash bids would then be compared to the appraised value of the proposed exchange in determining the value of the transaction to the taxpayer. The Grand Jury heard testimony that an added step of putting the property out to bid would be wasteful as appraisals are already obtained for both properties involved in an exchange and that LVC review and follow through with written recommendations and disclosures affords adequate transparency. The Grand Jury acknowledges and accepts the concerns of the county; however, there remains a transparency issue for those transactions below the threshold amount of $250,000.

The 2009 Grand Jury recommended that "all land transaction appraisals be published on the Palm Beach County website along with the assessed value of the property no less than 2 weeks prior to being scheduled" before the BCC for approval. Testimony revealed that this recommendation was considered wasteful of staff resources and therefore not adopted by the County. In light of increased transparency and disclosure through the LVC and the availability of obtaining appraisal copies by request the Grand Jury does not believe this decision to be patently unreasonable. However, such disclosure only helps in educating and informing the public and it should be re-considered.

The Grand Jury received testimony that, as a further effort to increase the transparency of transactions, the County is diligently working on protocols to ensure that agenda items are complete and submitted to the BCC two weeks prior to the relevant meeting.

The 2009 Grand Jury recommended that "land use or zoning changes for properties which are subject to negotiation for county purchase" not be considered unless required by State law or "upon written advice of the County Attorney." The Grand Jury heard testimony and reviewed documents regarding the legal limitations regarding the land regulatory process. State law favors the rights of property owners. For example,

denial of a rezoning application may not be based solely because the county seeks to purchase the property. Legislative changes, such as comprehensive plan amendments, so long as the policy is formalized, do allow for greater flexibility in BCC decision making. Rezoning or other development order approvals are quasi-judicial in nature and the criteria are codified by law or existing code. There is a concern that if all of the criteria required by law or code are met, the fact that the county is discussing the purchase of the property does not give the county legal grounds to delay or deny the application. On the other hand, if the county amends its code to authorize a delay in this instance, it may have that legal authority.

For example, the County Unified Land Development Code (ULDC) contains a provision authorizing, but not mandating, a delay in consideration of a zoning request when there is an active code enforcement proceeding against the property. There is an important difference between a negotiation to purchase property with an already pending zoning or development application and one in which a property owner seeks value enhancement through a land use change after the negotiations have begun. Clearly (provided there is transparency) the decision to negotiate in the face of a run-up in potential value is an acceptable factor for which there is accountability. However, the county can and should maintain appropriate ordinances and processes to maximize, within its legal authority, the ultimate position of the taxpayer.

The Grand Jury urges the BCC to use all resources available to research, and to the extent practicable, achieve this end. According to testimony, the county has been considering a policy whereby a seller will be required to disclose whether the property is the subject of an active application at the time negotiations commence, or update the department if an application is submitted afterward. If the disclosure indicates that there is a pending approval, the item can be placed on the BCC agenda to determine whether negotiations should begin or continue. The disclosure of this information at an early stage in the process enhances both transparency and accountability.

The Grand Jury heard testimony that in the past year no land use changes have been requested regarding property acquisition negotiations by the county. This may be due in large part to the current economic climate. The Grand Jury urges that the issues

presented can and should be timely dealt with notwithstanding the current condition of the economy.

Lastly, the Grand Jury heard testimony regarding conflicts of interest in the acquisition and disposition of real property. Conflicts regarding BCC Commissioners are dealt with within State and local ethics laws and ordinances. The PBC county ethics ordinance now punishes willful conflict of interest violations as a crime (albeit a second degree misdemeanor). In addition, requiring that agenda items be complete and submitted to the BCC no later than two weeks prior to the meeting should give commissioners and the public a greater opportunity to scrutinize these deals in advance. In the case of a buyer's conflict, Fl. Stat. 286.23 (attached as exhibit 7) requires disclosure off all persons having a beneficial interest in the seller's property at least 10 days prior to closing. This statute, in addition to having no penalties for non-compliance, arguably does not give public notice until after the relevant votes are taken (unless written conflicts are voluntarily submitted well before the deadline). According to testimony, a county policy and procedure is being developed to ensure that seller conflicts are timely disclosed prior to votes being taken on the transactions.

The Grand Jury commends the work done by the Palm Beach County Board of County Commissioners, the Office of the County Attorney and the County Administrator's Office to adopt many of the recommendations of the 2009 Grand Jury with regard to real property transactions. The establishment of the PRC among other proposed policy initiatives will increase transparency and accountability ultimately benefiting the taxpayer.

3. Findings and Recommendations

The Grand Jury finds that the BCC through county staff has made significant strides in bringing transparency and accountability to the process by which real property is bought, sold and traded within the county. Most notably, the creation of the Property Review Committee (PRC) set up to review appraisals involving hypothetical conditions, extraordinary assumptions or assuming a change of land use is a positive improvement over prior practice. In addition, the PRC monitors a purchase in excess of, or sale below, the fair market value of a property.

The Grand Jury also acknowledges the BCC for going beyond the 2009 recommendation by requiring a supermajority in "all purchases (including eminent domain), sales and exchanges of real property." This increase in scrutiny enhances both transparency and accountability on the part of the BCC and the Grand Jury commends their effort.

Lastly, the Grand Jury finds that a number of in-progress policy efforts by the county staff need to be finalized and put into practice, including the requirement that all BCC agenda items be complete and submitted to the BCC two weeks prior to the meeting, early disclosure of persons having a beneficial interest in real property subject to sale, lease or taking by eminent domain, and instituting a protocol requiring ongoing disclosure of any pending land use change by the seller of real property. These changes are necessary to promote open and transparent transactions by disclosing information early on in the process. The Grand Jury believes that there is no such thing as too much transparency in the sale, purchase and trade of real property.

The Grand Jury makes the following recommendations:

- ✓ The Grand Jury recommends that the Property Review Committee (PRC) process be evaluated on a yearly basis. This published evaluation should include; the number and type of transactions reviewed by the PRC, the written findings of the PRC for each transaction reviewed, the ultimate decision of the BCC on each transaction, recommendations by the PRC members, county staff and BCC regarding improvement to county land transaction policy and protocol.

- ✓ The Grand Jury recommends that the BCC follow through with a proposed protocol to require real property agenda items to be completed and submitted to the BCC a minimum of 2 weeks prior to the relevant meeting.

- ✓ The Grand Jury recommends that the BCC follow through with a proposed protocol requiring the ongoing disclosure of any pending land use change by the seller of real property and that this information be submitted to the BCC to consider whether negotiations should begin or continue.

- ✓ The Grand Jury recommends that the BCC require that all interest in real estate offered for sale and being held in a representative capacity be publicly disclosed in writing by the seller prior to the commencement of negotiations, or at a minimum, 2 weeks prior to the BCC meeting. Notice of this requirement is to be given to the seller prior to commencement of negotiations with the county.

C. COMMISSIONER DISCRETIONARY FUNDS

1. Prior Practices and Procedures

The 2009 Grand Jury heard testimony and reviewed documents regarding both the Recreation Assistance Program (RAP) and District Infrastructure Funding (gas taxes) commonly referred to as the commissioner's discretionary funds.

The 2009 Grand Jury discussed the negative effect of these discretionary programs "in both fact and perception." Acknowledging that the projects funded by these programs may have been "laudable efforts and beneficial to the citizens of Palm Beach County" the fact remained that the process was politicized and these accounts were commonly referred to as "slush funds." Approval of these projects was by consent agenda. Over the years there had not been a single objection to the passage of a discretionary fund project. (refer to exhibit 1, 2009 Grand Jury Presentment, for detailed discussion)

The 2009 Grand Jury found that use of these funds with total individual discretion and without oversight fed the public perception that the commissioners used the system to curry political favor. In addition, the 2009 Grand Jury found that, even though new funding had been eliminated, existing funding remained substantial and "the re-constitution of the discretionary fund program is possible, if not likely."

The 2009 Grand Jury made the following recommendations:

- The Grand Jury recommends that the use of discretionary funds be formally terminated.

- The Grand Jury recommends that another mechanism be put in place to ensure that any future gas tax revenue or spending programs involving parks and recreation and road beautification be equitably distributed throughout the county.

- The Grand Jury recommends that the Board of County Commissioners immediately freeze all remaining funds from all discretionary accounts and that these funds be utilized to fund an independent oversight entity and additional investigative resources.

2. Updated Practices

The Grand Jury heard testimony and received documents showing that, in the FY 2010 budget process, the remaining discretionary fund balances not previously

committed to specific projects were returned, within the appropriate designation, to the general fund. A total of $4,018,264 was swept from commissioner discretionary accounts. District reserves of $1,962,886, previously approved and allotted by prior commitment, remain in the accounts (See exhibit 8). No new RAP or Gas Tax discretionary funding was approved for FY 2010.

While sweeping the remaining uncommitted dollars from discretionary accounts the BCC did not consider an alternative mechanism to ensure equitable distribution of funds for future parks and recreation and road beautification projects. Rather, The Grand Jury heard testimony, regarding the preference on the part of the BCC that future such projects be need-based and not necessarily divided equally among districts.

The Grand Jury also heard testimony that funding "an independent oversight entity and additional investigative resources" would not be an appropriate expenditure of gas tax revenue pursuant to state law. The Grand Jury acknowledges the prerogative of the BCC to fund the Office of Inspector General specifically through general revenue funds. The Grand Jury has an expectation that the BCC will adequately fund the OIG and Commission on Ethics without resort to contingency funding.

3. Findings and Recommendations

The Grand Jury finds that the county, already in the process of ending discretionary fund allocations, completed the elimination of the programs when the funds were swept from the commissioners' individual accounts last summer. The Grand Jury further finds that the BCC commitment to an effective oversight entity has resulted in an Office of Inspector General, adequately funded through general revenue and additional dedicated revenue mechanisms. As such, the need to find start-up money from the remaining discretionary funds is eliminated.

The Grand Jury makes the following recommendations:

- ✓ The Grand Jury recommends that the BCC continue to refrain from using the discretionary funding mechanism in the future.

- ✓ The Grand Jury recommends that in the future if the BCC re-constitutes any similar program earmarking specific revenue to use for particular county needs, that this process be as a body and in no way involve discretionary spending from individual commissioner accounts.

D. ETHICS LAWS

1. Previous State of the Law

At the time of the Spring Term 2009 Grand Jury investigation of public corruption issues, the Florida laws included the State Code of Ethics for Public Officers and Employees, Chapter 112, part III, Florida Statutes. (Attached as exhibit 9). There was, and is, is no criminal penalty for violating of the Florida State Code of Ethics.

Also, only one county ethics ordinance, the Lobbyist Registration Ordinance 2003-18 (attached as exhibit 10), existed. The ordinance's stated purpose was: "[T]hat to preserve and maintain the integrity of the governmental decision making process, it is necessary that the identity and activities of certain persons who engage in efforts to influence County Commissioners, Advisory Board members and employees on matters within their official duties, be publicly and regularly disclosed." Included in the 2003 ordinance was a "cone of silence" section prohibiting non-written communication with "any County Commissioner or Commissioner's staff, or any Employee authorized to act on behalf of the Commission to award a particular contract" between the deadline of a request for proposal, bid or other competitive solicitation and the award or other disposition of the contract. A violation of the "cone of silence" provision carried only non-criminal sanctions.

The 2009 Grand Jury also took note of the paucity of formal ethics training in the county for public employees and officials. In essence, the evidence showed ethics training and awareness for elected and appointed public servants alike to be mere "afterthoughts and not imperatives."

The 2009 Grand Jury reviewed documents, ordinances and heard testimony regarding ethics protocols in other jurisdictions. In its findings and recommendations the Grand Jury suggested that Palm Beach County adopt an ethics ordinance similar to the Miami-Dade Conflict of Interest and Code of Ethics Ordinance and further made the following specific recommendations:

- The Grand Jury recommends that the Board of County Commissioners expand the lobbyist registration and "cone of silence" ordinance to include other ethics issues including conflict of interest, nepotism, gifts, and areas not covered under section 112 part III Florida Statutes. The ordinance should include a revolving door

prohibition on lobbying within two years after leaving public service and a prohibition on acceptance of travel expenses from county vendors.

- The Grand Jury recommends that violation of the Palm Beach County Ethics Ordinance be punishable as a 2nd degree misdemeanor.

- The Grand Jury recommends the establishment of a Palm Beach County Ethics Commission to hear ethics complaints and issue findings including referral to the Office of the State Attorney to review the appropriateness of pursuing charges.

- The Grand Jury recommends that a confidential ethics hotline be established. This hotline must be administered by an independent entity once established.

- The Grand Jury recommends that the Palm Beach County Attorney's Office in partnership with the Ethics Commission and the State Attorney's Office establish a robust ethics training protocol for commissioners, county staff and volunteer citizen committee members including initial ethics training and mandatory periodic follow-up sessions.

- The Grand Jury recommends that the Palm Beach County Attorney's Office in partnership with the Ethics Commission and the State Attorney's Office require ethics training for county vendors, citizens groups, trade associations, non-profit corporations who receive county funds and any other organization within Palm Beach County upon request.

- The Grand Jury recommends that the Palm Beach County Attorney's Office in partnership with the Ethics Commission and the State Attorney's Office offer "fraud awareness" training to all county employees including a whistleblower workshop.

- The Grand Jury recommends that the Florida Legislature review and clarify the Sunshine Law. The Grand Jury recommends that the Statute more clearly define what constitutes a covered "board or commission" and that a citizen advisory task force with no decision-making power or quasi-judicial duties be exempted from the law's application. This is a preliminary recommendation. This issue warrants and justifies a significant commitment of analysis and review.

- The Grand Jury recommends that the BCC utilize an electronic simultaneous voting procedure to avoid any appearance of influence among the commissioners.

2. Updated Ethics Ordinances

The Grand Jury received and reviewed the recently adopted Palm Beach County Code of Ethics Ordinance 2009-051 (attached as exhibit 11), Commission on Ethics Ordinance 2009-050 (attached as exhibit 12) and amendments to the Palm Beach County

Post Employment Ordinance 88-30 (attached as exhibit 13), contained in part two of Ordinance 2009-051. The stated purpose of the Code of Ethics is "to provide additional and more stringent ethics standards as authorized" by state statute. In that regard, the code is "additional and supplemental to any and all state and federal laws governing ethical conduct of officials and employees." The Code of Ethics addresses a myriad of issues prohibiting and limiting certain conduct by public officials, citizen committee volunteers and vendors.

The Code of Ethics specifically addresses misuse of public office or employment; disclosure of voting conflicts; prohibited contractual relationships; prohibition on acceptance of travel expenses from county contractors, vendors, service providers, bidder or proposers; prohibition on acceptance of contingency fees; by any person when such fees are dependent on an action or decision of the BCC, the County Administrator or advisory board or committee; false statements, documents or withholding of information by vendors; and prohibiting a current or former official or employee from disclosing or using information not available to members of the general public for personal gain.

In addition, County Commissioners are prohibited from accepting or solicit gifts of a value in excess of $100 from lobbyists. The ordinance prohibits "any person" from offering or giving an official or employee a gift because of any official public action, legal duty performed or legal duty violated." Gifts in excess of $100.00 that are not prohibited under the ordinance still must be reported by "any official or employee" and records of such gifts are to be maintained by the Commission on Ethics. Retaliation for "communicating, cooperating with, or assisting the Commission on Ethics or the Inspector General" is likewise prohibited. A violation of the above prohibitions, in addition to civil penalties, subjects one to prosecution by the state attorney for a 2nd degree misdemeanor.

Nepotism is prohibited under the Code of Ethics; however, a violation is subject to civil penalties only. Civil penalties for violation of any section of the Code of Ethics include public reprimand, a fine of up to $500 and, when a pecuniary benefit is received as a result of the violation, restitution.

As part of the Code of Ethics, part 2 amends sections 2-351 through 2-357 of the existing Palm Beach County Lobbyist Registration Ordinance 2003-018 as well as the

Palm Beach County Post-Employment Ethics Ordinance 88-30. Lobbyist ordinance amendments include a requirement that lobbyists register separately for each principle represented prior to lobbying and that all expenditures in excess of $25.00 be reported. The Commission on Ethics is charged with the administration and enforcement of the ordinance. A willful violation, as prosecuted by the state attorney, is punishable as a 2nd degree misdemeanor.

The Code of Ethics, as well as related ordinances establishing the Commission on Ethics and Inspector General, contemplates that additional jurisdictions, municipalities, bureaus, districts, or other governmental entities located in Palm Beach County may, pursuant to agreement or memorandum of understanding, utilize the services of the Commission on Ethics or Inspector General. In addition, political subdivisions may ultimately come under the jurisdiction of the COE and IG by way of referendum. Presently, jurisdiction is limited to county government related operations and entities. According to testimony, there is an active partnership between the business community and the county government to place the Code of Ethics, Commission on Ethics and Inspector General Ordinances on the November 2010 ballot for possible adoption by municipalities within Palm Beach County.

The Grand Jury heard testimony and reviewed the ordinance creating The Commission on Ethics (COE). The county government established the Commission on Ethics on December 18, 2009, in order to administer the Code of Ethics and related ordinances. As stated in the ordinance preamble: "...[T]he purpose of the Palm Beach County Commission on Ethics is to serve as the guardian of the public trust by, among other things, educating the public, elected and appointed officials and other public servants as to the required standards of ethical conduct and enforcing those standards of conduct..." The COE is empowered to "review, interpret, render advisory opinions and enforce this Code of Ethics." An additional duty imposed on the Commission is ongoing ethics training for both officials and employees as well as "entities that receive County funds."

According to the ordinance: "The jurisdiction of the Commission on Ethics shall extend to any person required to comply with the Palm Beach County Code of Ethics, the

Palm Beach County Lobbyist Registration Ordinance, and the Palm Beach County Post-Employment Ordinance..."

The Ethics Commission consists of five commissioners. No individual, while a member of the commission, may hold or campaign for elective office, hold office in any political party or committee, actively participate in or contribute to any political action committee, or to any political campaign for a state or federal office serving the State of Florida, be employed by Palm Beach County, or any municipality or governmental entity subject to the authority of the COE or IG, or allow his or her name to be used in a campaign for elected office. The commissioners are chosen by the following individuals and entities: the President of the Palm Beach County Association of Chiefs of Police; the Presidents of the Hispanic, F. Malcolm Cunningham Jr., and Palm Beach County Bar Associations; the President of Florida Atlantic University (FAU); the President of the Palm Beach County Chapter of the Florida Institute of CPAs and the Board of Directors of the Palm Beach County League of Cities, Inc.

"The Commission on Ethics shall be empowered to review, interpret, render advisory opinions and enforce" the Code of Ethics, Post-Employment and Lobbyist Registration Ordinances. Duties include developing and delivering "ethics training and outreach programs for the benefit of county employees and officials, county vendors, non-profit corporations, and other entities that do business with or are regulated by the County."

Procedures for processing ethics complaints, hearings and appeals are specified and the ordinance incorporates "whistleblower protection provided for in section 112.3188(1), Florida Statutes." (Attached as exhibit 14). The COE is also empowered to issue investigative subpoenas subject to notice to the State Attorney and U.S. Attorney for the Southern District of Florida. When appropriate, the COE may refer cases to the State Attorney (criminal) and Inspector General (non-criminal).

Insofar as training is concerned, the Grand Jury commends the increased efforts by the County Attorney to educate commissioners and county employees as to the new code of ethics as well as existing state and federal ethics provisions. The main county publication "Working in the Sunshine; a Guide to the Government in the Sunshine Amendment and the Code of Ethics" has been updated and the new version disseminated

as a reference and training tool. The recent efforts by the County Attorney's Office are commendable as interim measures; however, pursuant to the ordinance, ethics training, outreach and public awareness now are within the jurisdiction of the COE.

The 2009 Grand Jury recommended that "the BCC utilize an electronic simultaneous voting procedure to avoid any appearance of influence among the commissioners." The Grand Jury heard testimony that to institute such a protocol would cost in excess of $150,000 and that such an expenditure was not warranted at this time. The Grand Jury acknowledges that during the current economic conditions this expenditure would be burdensome; however, the Grand Jury renews its recommendation to institute simultaneous voting because voting without specific knowledge of how a colleague has voted and without the possibility of strategically casting a vote has independent and significant value in the effort to achieve accountability in local government.

The 2009 Grand Jury heard testimony regarding the interpretation and practical effect of Fl. Stat 286.011 (the sunshine law) on the efficient and effective daily running of local government. Palm Beach County has interpreted the law to include advisory boards, staff committees, informal work groups and even subcommittees of these groups, when any of these gatherings could be considered as leading up to decision-making. As was determined in the actual establishment of the Property Review Committee, a strict interpretation of the law could make even *ad-hoc* combinations of county staff personnel subject to the requirement that all discussion take place in a public forum. The Grand Jury agrees that transparency is of great importance in good governance, however; there is a need to better define the parameters of the sunshine law so as not to unnecessarily hinder the effectiveness of government.

The Grand Jury reviewed two pending bills before the State legislature, HB 1211 and SB 1598 (attached as exhibit 15). Essentially, this pending legislation would transfer sunshine law matters to the public records code (Fl. Stat 119) and while the Senate version maintains the current statutory application to "all meetings of any board or commission, of any state agency or authority of any county, municipal corporation, or political subdivision...at which official acts are to be taken", the house bill broadens the

scope of the law to include, "all meetings of any collegial body of any agency at which official acts are to be taken or at which public business will be transacted or discussed..." The Grand Jury believes that the law should be further studied to determine whether advisory committees, with no independent authority to make and/or enforce decisions, sitting as a purely advisory panel of experts, should be exempted from this process.

3. Findings and Recommendations

The Grand Jury finds that in the past year the Board of County Commissioners has taken effective action in matters of ethics reform in county governance. The adoption of a significant code of ethics administered by an independent commission will positively change the manner in which the public's business is conducted in the county. The Grand Jury applauds the County Attorney's office for its diligent work in drafting ordinances which mirror the recommendations of the 2009 Grand Jury. The Ethics Commission is commencing operations this spring. It is critical that the BCC adequately fund the COE. Currently, the COE's jurisdiction extends only to the county government, lobbyists and vendors doing business with the county. The Grand Jury finds, that to be its most effective, the ethics ordinances should be extended to additional jurisdictions, municipalities, bureaus, districts, or other governmental entities located in Palm Beach County. The Grand Jury recommends that the Code of Ethics and Commission on Ethics issues be placed on the ballot this fall in the form of a Charter Amendment for voter approval. In addition, other districts and governmental entities should be encouraged to submit to the jurisdiction of the COE as further discussed in section F of this report.

Specifically, the Grand Jury recommends the following:

- ✓ The Grand Jury recommends that the Board of County Commissioners seek to expand the jurisdiction of the Commission on Ethics and Inspector General by placing the Code of Ethics, Inspector General and Commission on Ethics ordinances on the ballot through a Charter Amendment for voter approval by voters in all municipalities.

- ✓ The Grand Jury recommends that additional jurisdictions; bureaus, districts, or other governmental entities located in Palm Beach County agree to submit to the jurisdiction of the COE and IG by memorandum of understanding or other inter-local agreement.

- ✓ The Grand Jury recommends the establishment of independent hotlines for both the IG and COE; the IG hotline to be administered by the IG and the COE hotline to be administered by the Executive Director of the COE. The Grand Jury recommends that sufficient funding be made available by the BCC to adequately publicize both hotlines using all possible media resources including; information technology, public service announcements through mass media and other public means.

- ✓ The Grand Jury recommends that the COE, by and through the executive director, establish a robust annual ethics training regimen for public servants, citizen groups and vendors doing business with public entities within Palm Beach County. This includes partnering with the State Attorney's Office on matters including fraud awareness and whistleblower statutes.

E. STATE ANTI-CORRUPTION CRIMINAL LAWS

1. Current State of the Law

In 2009 the Grand Jury "heard extensive testimony and reviewed a significant number of documents regarding the state and county criminal laws and ordinances available to combat corruption at the local, state and federal levels." In assessing the statutes available on the state and local level the 2009 Grand Jury determined that the state anti-corruption statutory toolbox was deficient. Many of the statutes utilized in federal court simply do not exist in Florida state law. For example, while the state has a bribery statute, "there is no crime short of accepting or soliciting a gratuity unless it rises to the level of a '*quid pro quo*' (something for something) bribe." The 2009 Grand Jury acknowledged that state prosecutors are not able to obtain federal tax records, extortion offenses by public servants are misdemeanor offenses and most notably, no state statute exists criminalizing the core corruption addressed by a "scheme or artifice to deprive another of the intangible right of honest services or any activity in contravention of his or her commitment to provide loyal services or honest governance for the residents of this state or a local government within the state." Indeed, the Grand Jury found "as a practical matter, the recent city and county commissioner cases prosecuted by the federal authorities could not have been prosecuted under current state anti-corruption laws...no honest services fraud statute exists in state law."

The 2009 Grand Jury identified additional deficiencies in state law including the lack of state sentencing enhancements for crimes committed by public servants under

color of law or authority. In addition, no criminal sanction existed for even willful violations of state ethics and disclosure laws.

The 2009 Grand Jury also discussed investigative tools that would enhance the state's ability to effectively prosecute corruption cases. The Grand Jury discussion included the following:

> In Florida, witnesses compelled by subpoena to appear before the grand jury automatically receive use immunity (with the caveat that the witness testifies truthfully). This means the statement cannot be used against the witness in the future even if she admits to criminal conduct. Often this leaves the state prosecutor in a closed box, especially in corruption cases where it often is not known whether a potential witness may have violated the law and engaged in possibly chargeable offenses. The Florida rules should be modified so that grand juries and state attorneys can compel testimony or statements without automatic use immunity being granted.

Importantly, the 2009 Grand Jury heard expert testimony regarding "the significant disparity in investigative resources available to Federal as opposed to State prosecutors to fight corruption." The 2009 Grand Jury stated:

> Most corruption cases are highly technical and require months or years of investigative focus and activity. Investigative resources and dedicated prosecutors are the key to developing successful corruption prosecutions as a permanent part of the enforcement landscape.

The 2009 Grand Jury found that "state corruption statutes are limited in scope and deterrent effect" and that Palm Beach County "lacks the adequate investigative and prosecutive resources necessary to effectively prosecute corruption."

Based on those findings, the 2009 Grand Jury recommended the following:

- The Grand Jury recommends that the Florida Legislature adopt the proposed anti-corruption statute "Theft or Deprivation of Honest Services" as introduced this spring in the Legislature.

- The Grand Jury recommends that the Florida Legislature adopt a sentencing or crime enhancement mechanism for a crime committed by a public servant in his/her official capacity ("under color of law"). This enhancement can take the form of either an increase in the degree and level of the felony or a specific

increase in the number of guideline points on the Florida Criminal Punishment Code Sentencing Guidelines Score Sheet.

- The Grand Jury recommends that Palm Beach County adopt a comprehensive Ethics Ordinance and that violations of that ordinance be punishable by a $500 fine and up to 60 days in the Palm Beach County Jail. The Ordinance would be enforced and prosecuted by the State Attorney's Office.

- The Grand Jury recommends that the State Legislature likewise amend Section 112 par III Florida Statutes to include a criminal sanction for knowing violations of state ethics laws.

- The Grand Jury recommends that the State Legislature and/or Board of County Commissioners provide funding for State Attorney Office's investigative/prosecutorial resources specifically earmarked for anti-corruption investigations.

- The Grand Jury recommends that the Palm Beach County Sheriff's Office establish, and the Palm Beach County Board of County Commissioners allocate resources for the establishment of a dedicated anti-corruption investigations unit

- The Grand Jury recommends that the Florida Legislature enact legislation to remove the automatic grant of "use immunity" pursuant to Fl. Stat. 914.04 when a witness testifies before a Grand Jury or the State Attorney pursuant to a subpoena. The change should not preclude the assertion of any available privilege.

2. Proposed Changes to State Law

This Grand Jury has reviewed a number of bills pending in the Florida Legislature this legislative session. The bills include:

-SB 734/HB 489 (Offenses Committed Under Color of Law)(attached as exhibit 16)

-SB 874/HB 615 (Substantial Assistance)(attached as exhibit 17)

-SB 1980/HB 1301 (Violations of County Ordinances)(attached as exhibit 18)

This pending legislation includes a bill to enable county commissions by ordinance to pass increased criminal penalties for violations of local ethics ordinances (from second degree to first degree misdemeanors). This state law change would affect the PBC Ethics Ordinance and give it more teeth.

Also, a bill drafted by State Attorney Michael McAuliffe (Fifteenth Judicial Circuit) and State Attorney Mike Satz (Seventeenth Judicial Circuit) amends Fl. Stat. 838.022 (attached as exhibit 19) to capture the core corruption otherwise addressed by the

federal honest services law. However, the bill avoids the pitfalls of the federal law. The draft of "Restoring Faith in Public Office Act" states as follows:

> 838.022 Official Misconduct
> (2) It is unlawful for a public servant, with corrupt intent, to participate or abstain in a matter falling within the public servant's duties, and in furtherance of such corrupt intent, to willfully fail to make a financial disclosure otherwise required by state law or local ordinance concerning the matter.
> (3) For the purposes of this section:
> (c) The term "participate" means voting, deciding, advocating, opposing, or any attempt to influence the decision or result by oral or written communication, whether made by the public servant or at the public servant's direction.
> (d) The term "financial disclosure" means any disclosure relating to financial interests, foreseeable financial benefits or special private gain or loss to the public servant or the public servant's relatives as the term "relative" is defined in 112.3134(1)(b)
> (4)(a) Any person who violates subsection (1) or subsection (2) commits a felony of the 3rd degree, punishable as provided in s. 775.082, s. 775.083 or s. 775.084
> (b) any person who violates subsection (2) and the amount of the undisclosed financial interest or benefit or private gain or loss is valued at $10,000 or more commits a felony of the second degree, punishable as provided in s.775.082, s. 775.083 or s. 775.084.
> PUNISHMENT CODE RANKING CHART FOR 4(A) & (B) IN LEVEL 7 AND 4(C) IN LEVEL 8

The Grand Jury was made aware that significant opposition exists to the federal honest services fraud statute (attached as exhibit 20) both in the courts and the legal community. The scope and reach of the federal honest services statute (and its constitutionality) currently is before the United States Supreme Court.

The current anti-corruption state law regarding Official Misconduct attempts to address these concerns by only criminalizing the willful failure to disclose "financial interest in a public matter" relating to an official duty that is "required to be disclosed by law, custom, or statute concerning an official act." Testimony revealed that the criticism directed at the federal honest services statute does not apply to the more targeted and specific state anti-corruption proposals.

Also, another bill pending in the Florida Legislature enhances crimes committed by defendants acting under color of law. The bill defines "under color of law" as "action based on public authority or position or the assertion of such authority or position." The enhancement only applies to cases that do not have "...under color of law as an element of the offense." The Grand Jury heard testimony regarding the effect of this enhancement. The bill addresses situations where a public servant commits a crime and uses his or her position or the assertion of authority to further or facilitate the crime. For example, the bill would enhance the penalty when a public school administrator commits theft at work by stealing school funds. The bill simply recognizes that a special harm is inflicted on a community when a public servant uses a public office to commit a crime.

The Grand Jury reviewed documents and heard testimony regarding a legislative proposal to amend Fl. Stat. 914.04 (attached as exhibit 21) to give grand juries the option of withdrawing the automatic grant of immunity when a witness appears to testify. The proposed changes will allow the use of testimony or other documentary information to be used "without limitation" where the witness is informed that immunity is withdrawn and the witness has been advised of his or her due process right against self-incrimination. Testimony was received regarding the positive effect this amendment would have on investigative process particularly with regard to corruption matters. While continuing to scrupulously protect the due process rights of witnesses, the state prosecutor, acting on behalf of the grand jury, would not be forced to make a blind decision to issue an investigative subpoena (without knowledge of a potential witness' involvement in criminal activity) and running the risk of inadvertently granting immunity for that criminal behavior. The statutory changes also include adding falsification and obstruction of justice to the circumstances where the use of compelled testimony is permitted.

The Grand Jury takes note of the need for action on these proposed anti-corruption measures. Indeed, recent editorials in major newspapers underscore the urgency of the situation and the opportunity to act. (Editorials are attached as exhibit 22).

Lastly, but critically, the Grand Jury heard testimony regarding the need for more resources dedicated to state public corruption investigation and prosecution. Public corruption cases tend to be significant and time-consuming matters requiring dedicated

prosecutors and investigative staff with specialized knowledge. In short, state attorneys need adequate resources to build extremely complex cases. This requires a long-term commitment and constant interaction between investigators and prosecutors acting as a seamless team. The investigation can include hundreds of witnesses, thousands of documents, the use of wiretaps, and the testimony of cooperating defendants. It can take years to successfully unearth corruption, a process that becomes "untenable if regular case loads overwhelm" the state attorney's offices.

Last year, Palm Beach County State Attorney Michael McAuliffe shifted scarce resources to create the Public Integrity Unit and staff it with two prosecutors and one investigator. There remains no investigating agency within Palm Beach County with a dedicated public corruption investigative unit. Neither the BCC nor the Florida Legislature has increased funding in these critical areas of public safety.

3. Findings and Recommendations

The Grand Jury finds that the anti-corruption bills currently pending in the Florida Legislature offer a clear path for ethics reform and corruption fighting on a statewide basis. Current state anti-corruption statutes offer little muscle in the fight.

The Grand Jury further finds the proposed bills achieve the appropriate sanction for corrupt behavior without compromising due process by being overly broad or vague in its application. The "color of law" bill holds public servants accountable for criminal actions based upon their "public authority or position' that are not otherwise specifically covered under current corruption laws. The unique position of a public servant as a holder of the public trust requires a serious response to the breach of that trust. The Grand Jury recognizes the need for increased flexibility with regard to witness immunity currently automatically conferred by grand jury subpoena.

Finally, the Grand Jury highlights the need for adequate resources being made available to both law enforcement and state attorneys in matters related to the investigation and prosecution of public corruption. While the Grand Jury recognizes that the state faces a continuing financial crisis, fighting corruption is not optional. The Florida Legislature must ensure an adequate level of funding to make progress on fighting corruption in our communities.

Unfortunately, with the exception of the new County Code of Ethics, not one of the 2009 Grand Jury recommendations has been adopted by the Florida Legislature. As such, the Grand Jury recommends the following:

- ✓ The Grand Jury recommends that the Florida Legislature adopt the proposed anti-corruption statutes SB 734/HB 489 (Offenses Committed Under Color of Law), SB 1076/ HB 585 (Restoring Faith in Public Office Act), SB 874/HB 615 (Substantial Assistance), SB 1980/HB 1301 (Violations of County Ordinances) and the relevant portions of SB 1546/HB 347 (914.04 amendment to immunized testimony).

- ✓ The Grand Jury recommends that the State Legislature provide funding for State Attorneys' investigative/prosecutorial resources specifically earmarked for anti-corruption investigations and prosecution.

- ✓ The Grand Jury recommends that the Palm Beach County Board of County Commissioners provide increased funding for the establishment of a Palm Beach County Sheriff's Office dedicated anti-corruption unit.

- ✓ The Grand Jury recommends that the Palm Beach State Attorney's Office establish and coordinate a dedicated inter-agency anti-corruption investigations unit.

F. INTERNAL AND EXTERNAL AUDIT MECHANISMS

1. Previous practices and procedures

The Grand Jury reviewed documents and heard testimony regarding the status of existing internal and external audit mechanisms presented to the 2009 Grand Jury. At that time two entities were assigned by the Board of County Commissioners (BCC) with audit responsibilities for the county government. The internal audit function was handled by the Office of Internal Auditor, established by the BCC in 1987. The internal auditor is appointed by the BCC and authorized by the charter of Palm Beach County "...to serve the Board of County Commissioners." As discussed in the 2009 Grand Jury presentment, "most audits performed by the internal auditor's office are policy and procedure audits. Only one in four internal audits has any financial element." A second audit mechanism involves a county external auditor. The 2009 Grand Jury found the external audit was primarily accounting in nature. "The external audit report expresses an opinion as to the financial statements of the BCC, certain constitutional officers and component units..."

According to the 2009 Grand Jury "neither the internal auditor's office nor the external auditor role functions as a fraud or forensic auditor. No instances of significant fraud ever have been uncovered in any of their reports." Although "no specific fault with the work of the internal auditor's office" or the external auditor's financial reports was found, neither auditing mechanism was designed for, or suitable to, address fraud, mismanagement or abuse, whether malfeasance, misfeasance or nonfeasance. The scope of these audits is simply not forensic in nature.

In addition, the 2009 Grand Jury noted that the current "watchdog" system had no hotline or other effective mechanism to process investigative information. Nor were county vendors and non-profit recipients of county funds scrutinized by county auditors. In fact, evidence showed that significant fraud was missed for years through the external auditing process. "Notably, the entire 2007 external auditor's report of Palm Beach County failed to uncover even one fraudulent or questionable transaction."

The 2009 Grand Jury noted efforts by the Office of the Clerk and Comptroller to step into an independent auditor's role. In commending the "proactive efforts in establishing an audit services division and the retention of certified fraud auditors" and noting that "the Office of the Clerk's position has institutional and working knowledge of county finances," the Grand Jury voiced concerns over potential conflicts of interest (the Clerk acts as the Chief Financial Officer (CFO) for the county) and having an elected "watchdog...exerting broad authority over the policy decision-making of an independently elected governance body." In the end, noting the potential "clash of roles" between elected governmental officers, the 2009 Grand Jury found that an independent watchdog entity modeled after the Miami-Dade Office of Inspector General would be best suited to achieve the goals of effective governmental oversight of public employees, vendors and other recipients of county funds.

The 2009 Grand Jury made the following recommendations:

- The Grand Jury recommends that the Board of County Commissioners draft and pass an Ordinance establishing an independent Office of Inspector General or Performance and Chief Compliance Officer with the ability to obtain any and all records from Palm Beach County governmental entities, vendors doing business with the county and entities funded, in whole or in part, by county tax dollars.

- The Grand Jury recommends that the Board of County Commissioners establish an independent oversight board consisting of the State Attorney's Office, Public Defender's Office, Sheriff's Office, President of the Police Chief's Association, the Chairman of a newly established Ethics Commission and a private resident of Palm Beach County to nominate and oversee the Inspector General/Performance & Chief Compliance Officer.

- The Grand Jury recommends that functions of the Inspector General/Performance/Chief Compliance Officer be modeled after Miami-Dade County Ordinance establishing an Office of Inspector General.

- The Grand Jury recommends that to offset any direct taxpayer funding for this office the Board of County Commissioners require an agreement with county revenue producing departments to reimburse investigative costs and on site resources provided to those departments. In addition the Grand Jury recommends that all vendor contracts include a built-in proprietary fee of ¼ of 1% to help fund this new entity.

- The Grand Jury further recommends as previously indicated that the BCC fund an OIG or other similar independent "watchdog" entity through discretionary fund account dollars and pursue funding sources in subsequent years to reduce the use of county tax dollars.

- The Grand Jury recommends that the Palm Beach County Board of County Commissioners take immediate steps to establish and publicize a Palm Beach County Government hotline to report waste, fraud, mismanagement and abuse. This hotline must be administered by and independent entity once established.

2. Updated Practices and Procedures

The Grand Jury finds that the Office of the County Attorney and the BCC acted responsibly and expeditiously in drafting and implementing an ordinance for the establishment of an Office of Inspector General. Ordinance 2009-049 (attached as exhibit 23) establishes "an independent Office of Inspector General with the ability to obtain any and all records from Palm Beach County governmental entities, vendors doing business with the County, and entities funded in whole or in part by County Tax dollars." The IG specifically is empowered with providing "independent oversight of County operations." Specifically, section 2 (A) establishes the IG as follows:

> There is hereby established the Palm Beach County Office of Inspector General which is created in order to detect misconduct involving abuse, corruption, fraud, waste, inefficiencies, and mismanagement by elected and

> appointed County officials and employees, County agencies and instrumentalities, contractors, and other parties doing business with the County and/or receiving County funds.

Section 2.B. "Functions, Authority and Powers," enumerates the specific duties and authority of the IG including the performance of audits, inspections and reviews, full and unrestricted access to records and subpoena power to compel the production of records. Specifically, Section 2B(1) authorizes the IG to "(a) make investigations of County matters and publish the results of such investigations; (b) review and audit past, present and proposed County programs, accounts, records, contracts, change orders and transactions; and (c) prepare reports and recommendations to the Board based on such investigations."

In addition, all County officials and employees, agencies and instrumentalities, including "contractors and other parties doing business with the County and/or receiving County funds" are required to cooperate with the IG. Section 2B(2) confers the power to "conduct audits of, require reports from, and receive full and unrestricted access to the records" of all entities subject to its jurisdiction. Section 2B(3) confers the power of subpoena to obtain the testimony of witnesses and production of documents if entities within its jurisdiction refuse to cooperate voluntarily. Section 2B(6) states as follows:

> The Inspector General shall have the power without limitation to audit, investigate, monitor, inspect and review the operations, activities, performance, and procurement processes including, but not limited to, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff, and officials, in order to ensure compliance with contract specifications and detect corruption and fraud.

The Grand Jury heard testimony and reviewed the provisions of Ordinance 2009-049 pertaining to funding of the OIG, including Section 2B(4), 2B(10) and 2H ("financial support and budgeting"). The ordinance adopts the 2009 Grand Jury recommendation that an investigative fee equal to one quarter of one percent (0.25%) of a contract price be imposed as an "IG contract fee." The Grand Jury heard testimony and reviewed documents regarding fee exemptions. (Attached as exhibit 24). The Grand Jury also

heard testimony and reviewed ordinance provisions regarding the ability of the IG to enter into inter-local agreements with other public entities, including special taxing districts and municipalities. Lastly, section 2H of the ordinance requires the county to "provide sufficient financial support for the Inspector General's Office to fulfill its duties as set forth in this Ordinance" while section 2B(14) enables the IG to recover costs from other entities involved in "willful misconduct in regard to County funds."

Additional provisions direct the IG to refer appropriate cases to state, federal or local law enforcement agencies, civil agencies, or the Commission on Ethics, establish and maintain a "hotline" to receive complaints, attend "all duly noticed County meetings relating to the procurement of goods or services...and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. Active IG investigations are "confidential and exempt from disclosure, as provided by section 112.3188(2), Florida Statutes."

Through testimony and a thorough review of the ordinance, the Grand Jury determined that the Inspector General is insulated from the BCC and County administration. The IG is selected by the Commission on Ethics along with the State Attorney and Public Defender. The contract term is four (4) years and while the County Attorney assists the Commission in negotiating the terms of the employment contract, "no official or employee of any governmental entity subject to the authority or the Office of Inspector General shall participate in the selection of the Inspector General." (Section 2C(3)). The IG may only be removed "for cause based upon specified charges of the following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct." Ultimate removal must be based upon "the affirmative vote of five (5) members of the Board, five (5) members of the Selection Committee, and a supermajority of all Funding Entities. (Section 2I)).

The Grand Jury acknowledges the necessity to maintain separation and autonomy between the IG and the governmental entities subject to its oversight function. The ordinance recognizes this requirement with the provision that obstruction, interference, harassment or retaliation against "any person for assisting, communicating or cooperating with the Inspector General" is a criminal offense punishable as a 2nd degree misdemeanor.

The Grand Jury notes that the ordinance establishing the Inspector General as well as ordinances previously discussed involving the Commission on Ethics, Code of Ethics and Lobbying reform are presently limited to county government and related county funded entities. The Office of the County Attorney in conjunction with various citizen and business organizations has begun the process of placing the Inspector General, Code of Ethics and Commission on Ethics Ordinances before the voters in the form of a charter amendment to extend their jurisdictions to the municipalities of Palm Beach County.

Palm Beach County Resolution 2010-0129 (attached as exhibit 25) establishes an "Inspector General and Commission on Ethics Advisory Committee" of 5 members to "serve in an advisory capacity to assist County Administration...in implementing the Ordinances" creating the OIG and COE. The committee members are appointed by the *Palm Beach County Ethics Initiative* which further insulates the appointment process from undue influence by the BCC or county staff.

3. Findings and Recommendations

The Grand Jury commends the efforts of the BCC and County Attorney's Office to develop and create an independent Inspector General "watchdog" entity for County governance. The Grand Jury agrees that the best way to address the root cause of the public perception of corruption and institutional "pay to play" allegations is to adequately fund and maintain a system of independent oversight with jurisdiction to monitor vendors, government-funded organizations, and public servants. The Inspector General ordinance, in conjunction with the Code of Ethics and establishment of the Commission on Ethics, is a necessary and significant advancement in this ongoing effort. Therefore, it is imperative that the county adequately fund both the IG and COE in the initial stages of their existence.

A successful charter amendment to expand the jurisdiction of the IG and COE will further improve the ability of both organizations to fulfill their missions. The Grand Jury also finds that other entities need to voluntarily come under the umbrella of the IG and Ethics Commissions. Entities such as The Palm Beach County School Board and special taxing districts* within the county such as the Palm Beach County Health Care

District and the Port of Palm Beach are encouraged to enter into inter-local agreements with the Inspector General

It is imperative, given the economic climate, that governmental entities not only be efficient, but successful in reducing fraud without regard to politics or powerful special interests. Vendors as well as public servants need to be independently scrutinized and the public will judge both the willingness and political courage of our leaders to lead on this issue.

Specifically, the Grand Jury recommends the following:

- ✓ The Grand Jury recommends that the Board of County Commissioners adequately fund the Office of Inspector General through a dedicated funding source.

- ✓ The Grand Jury recommends that the Inspector General actively seek to enter into inter-local agreements or memorandum of understanding with municipalities and other governmental entities to both expand the jurisdiction and develop additional funding sources for the operation of the Office of Inspector General.

- ✓ The Grand Jury recommends that municipalities and other governmental entities submit to the jurisdiction of the IG by voluntarily entering into inter-local agreements or memoranda of understanding with the OIG.

- ✓ The Grand Jury recommends that Palm Beach County take the appropriate steps to introduce a version of Ordinances 2009-049,050 and 051 as a charter amendment initiative for adoption by a majority of voters in each municipality county-wide.

- ✓ The Grand Jury recommends that, as a part of any funding assessment, adequate resources be made available to publicize both the OIG and COE programs and their hot lines to public servants, vendors and other recipients of county funds as well as the general public. This effort should be ongoing.

*Additional special taxing districts in Palm Beach County include: Children's Services Council of Palm Beach County, Greater Boca Raton Beach and Park District, Jupiter Inlet District, Seminole Improvement District, West Palm Beach Downtown Development Authority, Boca Raton Airport Authority, Seacoast Utility Authority, South Central Regional Wastewater Treatment and Disposal Board.

The Grand Jury will review the progress regarding both the county ethics measures and the statewide ethics reform proposals in one year and issue an appropriate Presentment.

IV. CONCLUSION

While significant advances on the ethics reform front have been made, Palm Beach County and the State of Florida have much unfinished work before the community can have renewed and full confidence in our public servants. On the local level, the Inspector General and the Ethics Commission need to start operations and be adequately funded. The reach of both the Inspector General and the Ethics Commission needs to extend to local municipalities, special taxing districts and other entities such as the Palm Beach County School Board. On the State level, the Florida Legislature must take bold action and exercise leadership by passing pending anti-corruption legislation. The roadmap remains, but our leaders need to take action in order to reach the destination of responsive, accountable government.

DISTRIBUTION REQUEST

The Grand Jury requests that this Presentment be furnished to the following:

Hon. Charlie Crist, Governor
Hon. Alex Sink, Chief Financial Officer
Hon. Bill McCollum, Attorney General
Hon. Jeff Atwater, Senate President
Hon. Larry Cretul, House Speaker
Hon. Dave Aronberg, State Senator
Hon. Larcenia Bullard, State Senator
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Hon. Christopher Smith, State Senator
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Hon. Maria Sachs, State Representative
Hon. Kelly Skidmore, State Representative
Hon. William Snyder, State Representative
Hon. Sharon Bock, Clerk & Comptroller
Hon. Gary R. Nikolits, Palm Beach County Property Appraiser
Hon. Ric Bradshaw, Palm Beach County Sheriff
Hon. Burt Aaronson, County Commissioner Chair
Hon. Karen Marcus, County Commissioner Vice Chair
Hon. Steven L. Abrams, County Commissioner
Hon. Jeff Koons, County Commissioner
Hon. Jess R. Santamaria, County Commissioner
Hon. Priscilla Taylor, County Commissioner
Robert Weisman, County Administrator
Palm Beach County Criminal Justice Commission

EXHIBIT LIST

1- 2009 Grand Jury Presentment
2- Palm Beach County Response and Recommendations
3- Office of Financial Management & Budget Debt Management Policy CW-F-074 – August 18, 2009
4- Office of Financial Management & Budget Competitive Selection of Bond Underwriters Policy for Negotiated Sales CW-F-078 – August 18, 2009
5- County Attorney: Selection of Bond Counsel and Disclosure Counsel Policy CW-F-079 – September 1, 2009
6- Palm Beach County Real Property Acquisition, Dispositional Leasing Ordinance 2009-052, Property Review Committee Resolution-0290
7- Fl. Statute 286-23
8- Palm Beach County Transportation Improvement Fund & Parks and Recreation Assistance Programs
9- Fl. Statute Chapter 112, Part III, State Code of Ethics
10- Palm Beach County Lobbyist Registration Ordinance 2003-18
11- Palm Beach County Code of Ethics Ordinance 2009-051
12- Palm Beach Commission on Ethics Ordinance 2009-050
13- Palm Beach County Post Employment Ordinance 88-30
14- Fl. Statute 112.3188 (Whistleblower Statute)
15- HB 112/SB1598 (Proposed changes to Fl. Statute 286.011 – Sunshine Law)
16- SB 734/HB489 (Proposed changes to Fl. Statute 775.0876 – Under Color of Law)
17- SB 874/HB615 (Proposed Fl. Statute 921.186 – Substantial Assistance)
18- SB1980/HB1301 (Proposed Fl. Statute 128.69 – Violation of County Ethics Ordinances)
19- Proposed Fl. Statute 838.022 – "Restoring Faith in Public Office Act"
20- 18 U.S.C.A. s. 1346 – Federal Honest Services Statute
21- SB 1546/HB 347 (Proposed Fl. Statute 914.04 – Grand Jury Testimony)
22- Ethics Reform Press/Commentary
23- Palm Beach County Office of Inspector General 2009-049
24- Inspector General Fee Exemptions PPM CW-F-081
25- Palm Beach County Inspector General and Commission on Ethics Advisory Committee Ordinance 2010-0129

CERTIFICATION OF PRESENTMENT

The Grand Jury respectfully submits this Presentment this the 9th day of April, 2010.

FOREPERSON OF THE GRAND JURY

As authorized and required by law, we have advised the Grand Jury returning this presentment.

MICHAEL F. McAULIFFE
STATE ATTORNEY
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

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