COUNTY AGENDA REQUEST

Department:	Administration	Presenter(s):	Jack Krakeel
Meeting Date:	Thursday, March 8, 2012	Type of Request:	Consent

Wording for the Agenda:

Approval of County Human Resources Policy No. 404.07 which establishes a code of ethics for County employees.

Background/History/Details:

In November of 2010, the Board of Commissioners adopted a new Code of Ethics for County Officials. The new policy replaced a previous one that the Board felt contained some weak or unclear language.

The personnel policy under consideration establishes an ethics policy for County employees that is very similar to the one the Board adopted for Officials in 2010. The primary difference is the way alleged violations of the the policy are heard. In the case of an employee, the established employee grievance and disciplinary policies will apply.

What action are you seeking from the Board of Commissioners?

Approval of County Human Resources Policy No. 404.07 which establishes a code of ethics policy for County employees.

If this item requires funding, please describe:

N/A

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

HR – DISCIPLINE/GRIEVANCE
Ethics
404.07

Purpose.

The proper operation of local government requires that the employees be independent, impartial and responsible to the people; that government decisions and policy be made through proper channels of the governmental structure; that public employment not be used for personal gain; that public employees be free from the appearance of impropriety; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all county employees is adopted. The purpose of this policy is to establish ethical standards of conduct for all such employees by setting forth those acts or actions that are incompatible with the best interests of the county and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the county.

Definitions.

Business entity means any business, proprietorship, firm, partnership, person in either a representative or a fiduciary capacity, association, venture, trust, or corporation.

Confidential information means any information which, by law or practice, is not available to the public.

Employee shall include all those persons employed on a regular or part time basis by the county.

Immediate family means an official or employee and the spouse of an employee, their parents, children, brothers and sisters related by blood or marriage.

Interest means direct or indirect pecuniary or material benefit accruing to a public employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county except for such contracts or transactions which, by their terms and by the substance of their provisions, confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.

For purposes of this policy, a county employee shall be deemed to have an interest in the affairs of:

(1) his or her immediate family;

(2) any business entity in which the county employee is an officer, director, or member having a financial interest in, or employed by it; or

(3) any business entity as to which the stock, legal ownership, or beneficial ownership of a county employee is in excess of five percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the county employee.

Official act or *action* means any legislative, administrative, appointive or discretionary act of any official or employee of the county or any agency, board, committee, authority or commission thereof.

Standards.

(a) Interest in contract or transaction. No county employee having the power or duty to perform an official act or action related to a contract or transaction which is or may be the subject of an official act or action of the county shall:

(1) have or thereafter acquire an interest in such contract or transaction, or

(2) have an interest in any business entity involved in such contract or transactions, or

(3) have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction, or

(4) have solicited or accepted a present or future gift, favor, service, or thing of value from a person involved in such contract or transaction, except as provided in section 2-210, below.

(b) Conflict of interest: No employee shall participate directly or indirectly in selection, award, or administration of a contract when a conflict of interest, real or apparent, would be involved.

(1) Such a conflict would arise when the employee knows that:

(i) the employee, any member of the employee's immediate family, or the employee's partner has a financial or other interest pertaining to the procurement;

(ii) a business organization in which the employee, any member of the employee's immediate family, or the employee's partner is involved has a financial interest pertaining to the procurement; or

(iii) an organization with whom the employee, any member of the employee's immediate family, or the employee's partner is negotiating or has an arrangement concerning prospective employment, is involved in the procurement.

(c) Pre-acquisition of interest. No county employee shall acquire an interest in a contract or transaction which is or may be the subject of an official act or action of the county at a time when the county employee believes or has reason to believe that such contract or transaction will be directly or indirectly affected by an official act or action of the county.

(d) Disclosure of information. No county employee shall without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the county, or use such information to advance the financial or other private interest of himself or others.

(e) No county employee shall waive the attorney-client privilege or disclose any documents protected by the attorney-client privilege without the consent of the majority of the board of commissioners.

(f) No county employee shall disclose to others matters discussed in executive session of any board or commission without the consent of the majority of the board of commissioners or until after the minutes of the meeting is required to be released as a matter of law.

(g) Incompatible service. No county employee shall engage in or accept private employment or render service for any private entity, when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties.

(h) Appearance. No county employee shall appear on behalf of any private person other than himself, his spouse or minor children, before any county agency, authority or board.

(i) Public property. No county employee shall request or permit the unauthorized use of county-owned vehicles, equipment, materials or property for personal convenience or profit.

(j) Special treatment. No county employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen in the same or similar circumstances.

(k) Later case interest. No county employee shall, after the termination of service or employment with the county, accept remuneration of any kind for any appearance before any board, commission, committee, agency or authority of the county on behalf of any adverse party in relation to any case, proceeding, or application in which he personally participated during the period of his service or employment, which was under his active consideration during the period of his service or employment, or as to which he could have acquired knowledge or information during the period of his service or employment.

(l) Political recrimination. No county employee shall promise an appointment or threaten the dismissal from any county position as a reward or punishment for any political activity.

(m) Withholding of information. No county employee shall knowingly withhold any information which would impair the proper decision making of any of the county board, authorities, agency or commissions.

(n) Payment of debts. All county employees shall settle all accounts between them and the county, including the payment of taxes, in a timely fashion.

Exceptions.

(a) It shall not be deemed a violation of the standards of this policy if the interest of a county employee in a person or business entity is a contractual obligation of less than $500.00 which has not been preceded by any other obligation, discharged or existing, between the parties, and which is not the first in a series of two or more loans or debts which either of the parties is under any obligation to make or incur.

(b) The following shall not be deemed a violation of the standards of this policy:

(1) Legitimate salary, benefits, fees, commissions, or expenses associated with an official's or employee's non-public business;

(2) An award, plaque, certificate, memento, or similar item given in recognition of the official's or employee's civic, charitable, political, professional, or public service;

(3) Food, beverages, and registration at group events to which all similarly situated employees or officials are invited;

(4) Actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to an employee so that he or she may participate or speak at the meeting;

(5) A commercially reasonable loan made in the ordinary course of business;

(6) Any gift with a total value less than $100.00 in any calendar year;

(7) Promotional items generally distributed to public employees generally;

(8) A gift from a member of the public official's immediate family; or

(9) Food, beverage, or expenses afforded public employees, and members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

(c) It shall not be deemed a violation of the standards of this policy if a county employee, in his capacity as such employee, participates in the making of a contract even if such employee has a private pecuniary interest or performs in regard to that contract some function requiring the exercise of discretion on his part, if;

(1) The contract is awarded through a process of public notice and competitive bidding, or

(2) The board of commissioners at regular meeting, after determining that it is in the best interest of the county to do so, authorizes the participation.

Disclosure of interest in legislative action.

Any employee who has a financial or personal interest in any proposed legislative action of the board of commissioners, and who participates in discussion with or gives an official opinion or recommendation to the commission, shall disclose on the record the nature and extent of such interest.

Abstentions.

A county employee who has an interest that he has reason to believe may be affected by an official act or action shall abstain from any participation in the same.

Enforcement and administration.

(a) Administration.

(1) Complaints.

a. All complaints of ethical violations must be filed by or with the immediate supervisor of the employee, in writing, signed by the complainant, no later than 90 days after the alleged act occurred unless the complainant, by exercising reasonable diligence, failed to discover the alleged ethical violation within such 90 day period. In such a case, the complainant must file a written complaint with the immediate supervisor no later than 90 days after the complainant discovered the alleged violation. In all such cases brought after 90 days from the date of the alleged ethical violation, the complainant bears the burden of convincing the supervisor of the true date complainant learned of the alleged violation.

b. In no event, shall an ethical charge be filed with the immediate supervisor more than two years from the date of the alleged ethical violation.

c. The complainant may withdraw the complaint at any time in writing.

Penalties.

Employees are subject to the following penalties and actions for a breach of this code of ethics:

(1) Written warning or reprimand;

(2) Suspension without pay;

(3) Termination of employment;

(4) Recovery of value transferred or received by the county, and;

(5) Cancellation of the contract or rejection of the bid or offer.

An employee may appeal an adverse action in accordance with the procedures set forth in the Disciplinary Policy contained in this Policy and Procedures Manual.

Compliance with applicable laws.

No employee shall engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office.