

Independent Oversight Board

**Orientation &
Inaugural Meeting
February 14, 2019**



Introductions

Members should introduce themselves and talk about the field or category they are representing, as well as what drew them to seek appointment



Ice Breaker



Orientation

YOUR ROLE

To ensure accountability and transparency in the expenditure of Transportation Surtax proceeds, there is hereby established an independent Transportation Surtax Oversight Board ("Oversight Board"). The Oversight Board shall review and approve all proposed expenditures of Transportation Surtax proceeds to ensure consistency with the requirements of Section 212.055(1)(d), Florida Statutes. No expenditure of Transportation Surtax proceeds may be made unless such expenditure has been approved by the Oversight Board.



Orientation

Your Role

The Independent Transportation Surtax Oversight Board's role is described within 31½-75, Broward County Code of Ordinances. Oversight Board members:

- Serve four-year terms and may be reappointed for successive terms and cannot receive compensation*
- Shall meet at least quarterly
- Will be removed for good cause or if member no longer meets qualifications for membership



Orientation

Composition of Oversight Board:

- (1) One professional in the field of accounting;
- (2) One professional in the field of finance;
- (3) One professional in the field of land use or urban planning;
- (4) One professional in the field of engineering or construction management;
- (5) One professional in the field of architecture;
- (6) One professional in the field of environmental science;
- (7) One resident consumer of public transportation;
- (8) One former city or county manager and. . .



Orientation

The ninth category is specified as the Director of the Broward College Office of Supplier Relations and Diversity, or such person's designee.



Orientation

Broward County shall provide sufficient staff to enable the Oversight Board to efficiently perform its functions, and shall retain such consultants as the Oversight Board determines necessary to perform its responsibilities.



Background

How and Why We Got Here



Broward County Challenges



- 2017 Median Home Sales Price = \$340,000
- Median Income = \$64,100
- Owner Affordability Gap = \$145,000
- 14 percent reduction in home-ownership
- 32 percent increase in renters
- Current average fair market rent for a 2-bedroom is \$1,858/mo



Broward County Challenges

- Even now, in a time of “economic recovery” and low unemployment (Broward’s rate has been below 4% for 2018**), **Broward’s poverty rate remains around 13%***
- The average Broward household has two cars***
- Less than 2% of Broward residents regularly utilize public transportation****
- **Household could save up to \$10,000/yr without the expenses of a car*******

U.S. Census data; ** Bureau of Labor Statistics; *American Community Survey; ****Broward County Transportation data; *****American Public Transit Association*



What Our Community Was Saying...

- Members of the public consistently rank **traffic congestion** and **signal synchronization** as priorities for Broward County
- Safer **bicycling** (bike lanes and paths) and **pedestrian amenities** (sidewalks, lighting) are also identified as critical
- Expanding the amount of **greenways** (open recreational pathways connected across the county) is popular with our residents
- Better coverage, reliability and frequency of **public transit** is needed
- **Roadway flooding** and **drainage issues** need to be addressed



Orientation

BACKGROUND ON THE PLAN

- In 2016, after approximately 16 months of negotiations between Cities, County, business community, and the Broward Metropolitan Planning Organization (MPO), a question was placed on the ballot
- Two (2) Local Option Discretionary Sales Surtaxes were tied together (both had to pass or both failed)
 - .5-percent for Transportation System enhancements (County)
 - .5-percent for Infrastructure enhancements (Municipal)



Orientation

BACKGROUND ON THE PLAN

- The 2016 referendum on Charter County Transportation Systems passed, but could not be implemented because the Infrastructure referendum did not receive the requisite support from voters
- Broward County Board of County Commissioners identified as one of its top Strategic Plan priorities in February 2017, the passage of a full one-cent sales surtax for Transportation in 2018



Orientation

BUILDING THE PLAN- 2017

- FDOT District 4 and Broward County staff participated in a 2-day consultant-facilitated retreat to review various modes of transportation, innovations, best practices, as well as opportunities to collaborate on State roads--creating connectivity and greatest positive impacts to public
- Transportation consultants facilitated a review of current and future land use (BrowardNext), MPO Long Range Transportation Plan, Transit Development Plan, Florida Transportation Plan (FLP), FDOT 5-year work plan, 2016 Surtax Plans, BrowardNext, as well as other planning documents, during June and July 2017
- Consultants interviewed subject matter experts at FDOT District 4, Broward County Public Works, and Transportation agencies



Orientation

BUILDING THE PLAN- 2017

- Projects were identified and costing reviews with FDOT consultants occurred
- Received recommendations from consultants about assumptions based on existing federal rating criteria and bus service costing models
- Added City projects contained within 2016 surtax that supported transportation improvement (and were eligible under statutory language for local option sales tax transportation projects)
- GIS-mapped and coded projects into layers



Orientation

BUILDING THE PLAN-2017/2018

- Cities were asked to update project lists; county staff met with many municipalities to discuss project coordination
- County Commission Workshopped Proposed Plan in October and December 2017; updates to Plan occurred as a result
- Extensive educational community outreach occurred throughout 2018 to receive public input on projects and inform the public about the proposed plan
- Proposed Plan was published on County's website
- County Commission passed Resolution placing language on the November 2018 ballot



Orientation

BUILDING THE PLAN-2018

- State of Florida initiated extensive program audit of the County's existing transportation programs, financial controls and operations, as well as proposed Surtax Plan (July-September—no deficiencies)
- Final city-specific projects were incorporated, September 2018
- Interlocal Agreement with cities and MPO, September 2018
- Speaker's Bureau Educational Team received training August 2018; began disseminating city-specific educational materials to municipalities and other community partners, September 2018
- **Finalized Plan (financial and projects) was voted on by County Commission, October 2018**



The number of Americans ages 65 and older is set to **explode** from more than 46 million today to over 98 million by 2060 – nearly 20 million will be age **85 and older.**

U.S. adults 65 and older will **outnumber children** for the first time in our history **by the year 2030**

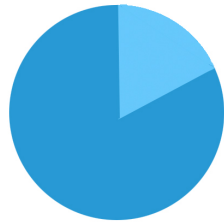
Florida has the **highest concentration of older residents** in the U.S.



Broward has the **fastest growing 85+** population in the state - projected to **grow by 31.9%** from 47,674 to **more than 63,000 by 2030**

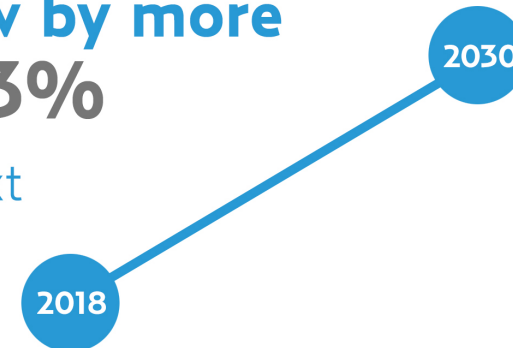
The **greatest population shift** in Broward will occur within the **next 5-10 years** when 236,663 older adults go from ages 55-64 to 60-74

Older adults 65+ currently make up **22.5% of Broward's Population -** or nearly 430,000 residents



Sources: Florida Department of Elder Affairs, Florida Chamber of Commerce, U.S. Census Bureau, DataUSA, and Population Resource Bureau

Broward's 80-84 population will **grow by more than 73%** in the next 12 years



Orientation

Let's briefly explore

Educational Website: www.PennyForTransportation.com



Orientation

OVERVIEW OF THE PLAN

- 476 road, traffic, signal, bridge, technology and safety improvements
 - 709 city-requested transportation improvements
 - Full funding for existing Community Shuttles, with some expanded service
 - Full funding for on-demand transportation services for people with disabling conditions (Paratransit)
 - Designing local transit service intended to offer more reliable, responsive, accessible system
 - Light rail along locally supported, studied, and approved corridors
- East-west and north-south connectivity projects are prioritized by ordinance, as is the demonstrated ability to reduce congestion**



Orientation

OVERVIEW OF THE PLAN

- New technologies creating “smart signals” intended to reduce traffic congestion and wait time
- More school safety zones
- Resiliency and roadway drainage improvements (intended to reduce flooding)
- 122 intersections reconfigured to increase traffic flow and reduce bottlenecks *across the county*
- Expanded, connected fiber optic network to support new technologies as they become available



Current Program Issues

- Reconciling projects that were submitted to both the MPO as part of their long-range planning process (the MTP 2045) and the County as a transportation surtax project
- Reorganizing County program structure to appropriately support the Mobility Advancement Program through additional co-location and streamlined delivery
- How best to deal with city-requested rehab and maintenance projects



Current Program Issues

- How a corridor delivery model attracts contractor competition and improves attractiveness of solicitation
- How corridor delivery may influence prioritization of certain projects contemplated in the corridor vicinity

Review of proposed corridor maps (Lenny Vialpando)

<https://bcgis.maps.arcgis.com/apps/Cascade/index.html?appid=f7a4e07dfed4f31be616cec829bfbd8>



Next Steps

- County is negotiating an Interlocal Agreement (ILA) with the MPO to articulate its process for reviewing, ranking and prioritizing projects based on each project's ability to alleviate traffic congestion and enhance connectivity
- Current ILA contemplates the first ranking and prioritization to be completed by the MPO in early 2020 for municipal projects that are not the Community Shuttle program.
- County will be bringing proposed 2019 and 2020 expenditures needed to stand-up the Mobility Advancement Program (surtax program) to the Oversight Board for approval,



Next Steps

- County is proposing to develop 5- and 10-year plans inclusive of all transportation-related projects funded wholly, or in any part, with surtax proceeds; giving Cities, County and MPO a level of certainty related to revenues, and also allows pursuit of grants (requiring surtax funding leverage)
- Those plans will be presented to the Oversight Board which will determine if proposed projects are eligible and approve proposed expenditures
- Once Oversight Board approves, annual Plan elements will be presented to the County Commission for approval as part of the County's budget process



Questions?



BROWARD COUNTY ATTORNEY'S OFFICE
ETHICS WORKSHOP



Overview

Main Potential Issues for Board Members:

1. Statement of Financial Interests
2. Gifts
3. Doing Business with One's Agency
4. Conflicting Employment or Contractual Relationships
5. Voting Conflicts



Disclosure of financial interests

When to File:

- **Initially:** Must file within 30 days of the date of appointment.
- **Thereafter:** July 1 following each calendar year in which board member holds his or her position.
- **Finally:** File Form 1F within 60 days of leaving office.



Gifts

Florida gift provisions only applicable to reporting individuals.

- If Board member NOT a reporting individual = not subject to Fla. Law.

County gift provisions applicable to all board members. So, regardless of whether you have to file a financial disclosure, the County provisions will apply to you as a board member.



Gifts

GIFT:

- 1) Something received
- 2) Directly or indirectly
- 3) Value
- 4) Donee does not give equal or greater consideration w/in 90 days.

Source: 112.312 (12)(a).

- SAME DEFINITION UNDER COUNTY'S CODE.



GIFTS

NOTABLE EXCEPTIONS:

1. Honorarium or an expense related to an honorarium
2. Awards, certificates, plaques, etc. given in recognition of donee's public, civic, charitable, or professional services
3. Use of a public facility or public property for a public purpose
4. Transportation in connection with officially approved governmental business

Source: § 112.312(12)(b).



Gifts

WHO THE DONOR IS MATTERS!

Florida Law

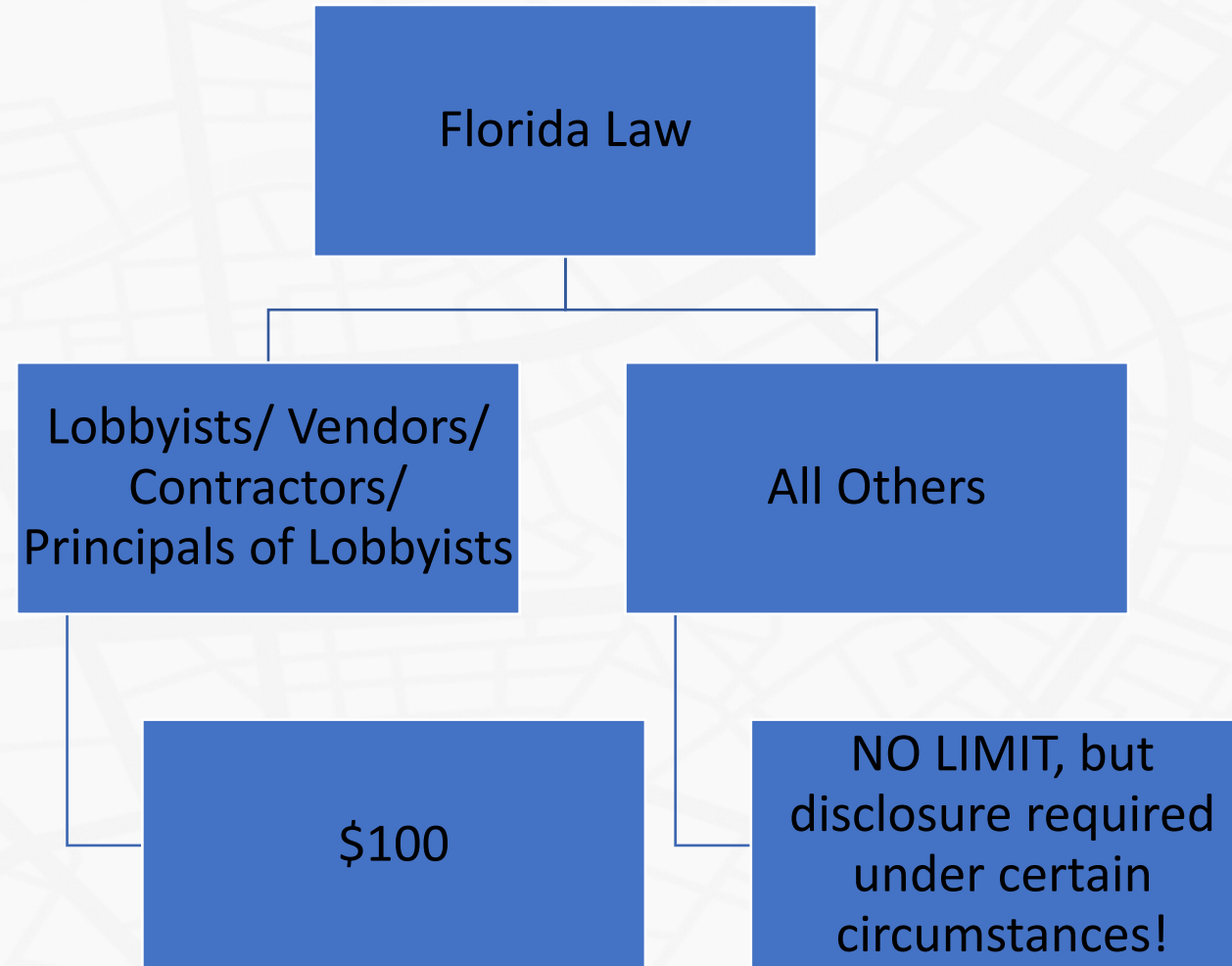
- Cannot accept gift (directly or indirectly) from vendor, contractor, lobbyist, or principal of a lobbyist if public officer knows gift has value \$100+.
- No limitation on gifts from other sources, but might need to disclose (form 9 quarterly gift disclosure).

County's Code

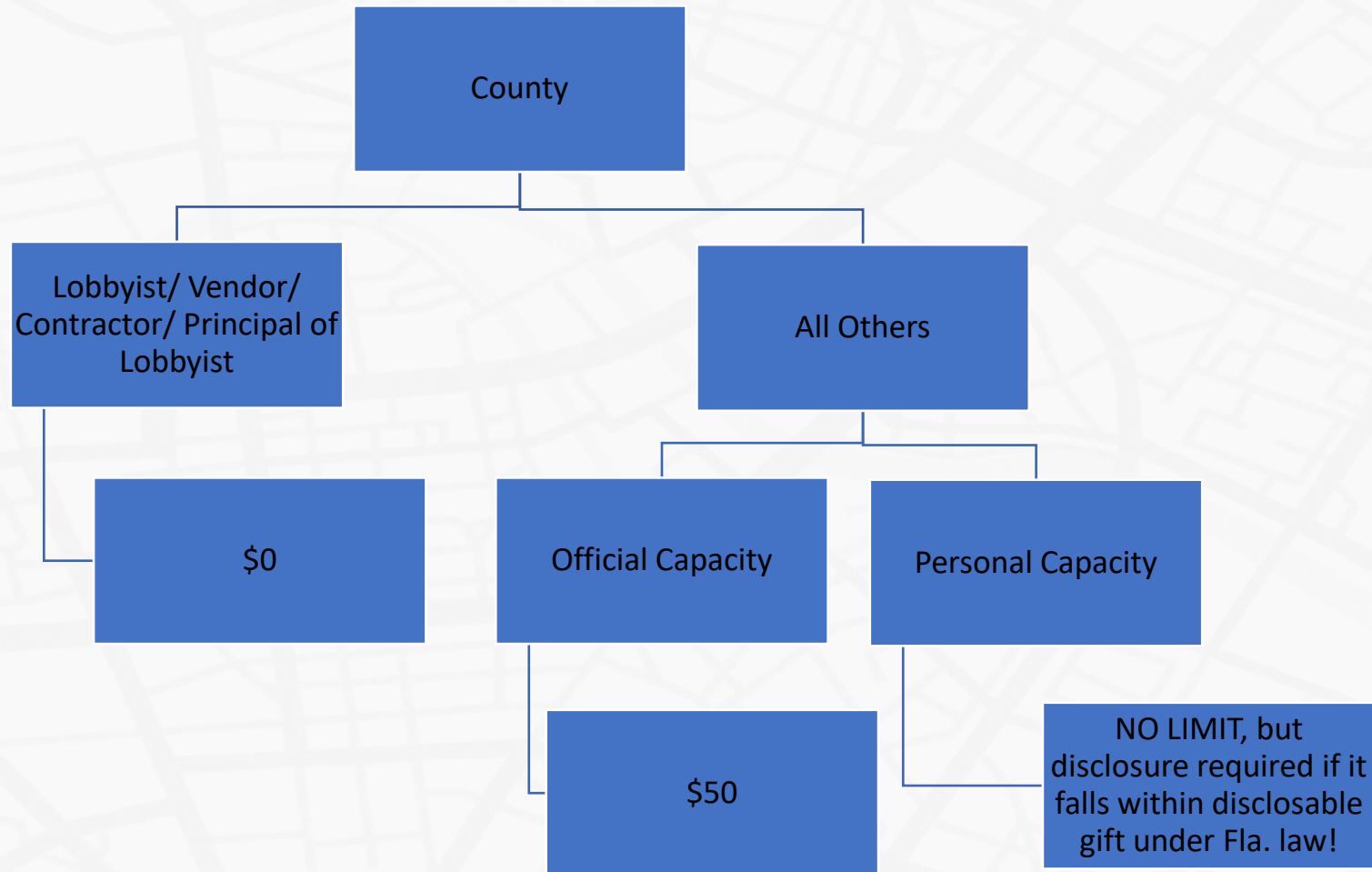
- Cannot accept gift (directly or indirectly) from vendor, contractor, lobbyist, or principal of a lobbyist, **regardless of value.**
- Cannot accept gift from other sources in official capacity if \$50+.
- No limitation for gifts in personal capacity.



GIFTS



Gifts



Gifts

- If Board member accepts gift in excess of \$100 (where allowed), Board member might need to File a Form 9 disclosure or Form 10 disclosure (if gift came from County or direct support organization). See Forms 9 and 10 to determine whether gift falls within class that must be disclosed.



Doing business with one's agency

- Board members acting in their official capacity cannot directly or indirectly purchase, rent, or lease any realty, goods, or services for their own agency from any business entity of which the board member or the board member's spouse or child is an officer, partner, director, or proprietor or in which such board member, spouse, or child has a material interest.
- Board members acting in their private capacity cannot rent, lease, or sell any realty, goods, or services to the board member's own agency (Oversight Board) or to the County.



Conflicting employment or contractual relationship

General Rule

- Public Officers (including board members) and Employees cannot have employment/contractual relationship:
 - with a business or agency **that is regulated by or is doing business with** the agency in which officer or employee serves, or
 - that will create **continuing or frequently recurring conflict** between employee/officer's private interests and his/her public duties.

Source:

Fla Stat. 112.313(7)

BCC 26-73(c)



Conflicting employment or contractual relationship

Agency?

- Advisory v. decision-making bodies.

Doing business with?

- Lawyers v. everyone else



Conflicting employment or contractual relationship

Example:

- Member of the Oversight Board **can** have a contractual relationship with a childcare facility.
 - **Why?**
 - The agency of a member of a board that has decision-making power is the board itself, so the agency of members of the Oversight Board is the Oversight Board itself.
 - Childcare facilities are regulated by County, but not by the Oversight Board.
 - There is no indication that there would be a frequently recurring conflict of interest.



Conflicting employment or contractual relationship

- If a conflicting relationship arises, the appointing Board (Appointing Authority) can waive the conflict under Section 112.313(12) upon full disclosure of the conflict and 2/3 vote of the Board.
 - Full disclosure requires completion of a Form 4A. See <http://www.ethics.state.fl.us/Documents/Forms/Form4a.PDF?cp=2018524>
- Other exemptions may apply, so consult with your board's counsel if you believe you might have a conflicting employment or contractual relationship.



Voting conflicts

Public officer (including board members) **cannot vote** on matter which benefits:

1. Public officer;
2. Public officer's principal;
3. Parent company or subsidiary of officer's principal;
4. Public officer's relatives; or
5. Public officer's business associate.

Source:

§ 112.3143(3)(a), Fla. Stat.



Voting conflicts

Relative?*

1. Father/mother
2. Son /daughter
3. Brother/sister
4. Father in law/mother in law
5. Husband/wife
6. Son in law/daughter in law

***Do not look at the definition of “relative” in 112.312!!**

Source:

§ 112.3143 (1)(c), Fla.

Stat.

Voting conflicts

Business Associate?

1. Any person or entity
2. Carrying out business w/ public officer, employee or candidate
3. As partner, joint venturer, co-owner of property, or shareholder where shares not listed on any national or regional stock exchange.

Source:

§ 112.312(4), Fla. Stat.



Voting conflicts

Principal by Whom Retained?

1. Employer
2. Client
3. Parent /subsidiary/sibling organization of one's client or employer

Source:

§ 112.3143(1)(a), Fla.
Stat.



Voting conflicts

Benefit?

1. Remote and speculative benefits do not count.
2. The benefit and cost must be special and private.
3. Typically a financial interest.



Voting conflicts

Example:

- Member of Oversight Board is a lobbyist for XYZ, Inc.
- The County Commission has determined that a project that will be using transportation surtax funds should be submitted to the Oversight Board for the Board's Consideration.
- If approved, a substantial amount of the work associated with the project will be performed by XYZ, Inc.
- Can the Oversight Board member vote on the project?



Voting conflicts

The Analysis:

1. Is member a public officer?
2. Is XYZ, Inc. an employer, client...?
3. Would a private special gain inure to member, member's employer, or member's client?



Voting conflicts

We have an **actual** conflict... Now what?

YOU MUST:

1. announce nature of conflict
2. abstain from voting
3. File disclosure within 15 days



Voting conflicts

We have an **apparent** conflict... Now what?

Florida Law:

YOU MAY:

1. abstain from voting

IF YOU CHOOSE TO ABSTAIN, THEN YOU MUST:

1. Disclose nature of the conflict prior to abstention
2. File disclosure within 15 days.



VOTING CONFLICTS

County Law:

If the conflict falls within Section 1-234 of the County's Code (member of a county-created board also serves as employee of public entity or as officer or member of board of directors of a private entity which stands to specifically gain or lose from action taken by the board) special rules apply:

YOU MUST:

1. Abstain from voting and participating on item
2. Announce nature of conflict (per Fla. law)
3. File disclosure within 15 days (per Fla. law)



Voting conflicts

Example

- Member of the Oversight Board is a big pro-life advocate.
- Every year, XYZ, Inc. spends over a million dollars fighting for women's rights to have an abortion.
- Oversight Board is considering a project which, if approved, will involve XYZ, Inc. doing a lot of the work associated with the project. XYZ, Inc. will thus be impacted by the Board's action.
- May the Oversight Board member abstain from voting?



Voting conflicts

CANNOT ABSTAIN from voting unless there is a conflict or appearance of a conflict under:

1. 112.311: conflict arising from financial interest, business transaction, professional activity, or other obligation.
2. 112.313: conflicting employment or contractual relationship
3. **112.3143**: voting conflict



Questions?

BROWARD COUNTY ATTORNEY'S OFFICE ETHICS WORKSHOP



Sunshine Law

The Oversight Board is subject to the Sunshine Law and the open meetings requirement of Sec. 286.11, F.S. because it is an entity created by law and “acting pursuant to a delegation of decision-making authority by the governmental entity” . . . *Sarasota Citizens for Responsible Government v. City of Sarasota*, 48 So.3d 775 (Fla.2010).

As such, no member may communicate with any other member regarding any issue that may come before the Oversight Board outside of a formally-noticed, public meeting.



LUNCH



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Next Steps

- Discussion of future processes
- Date, time, length of next meeting(s)?
- Presentations suggested for next meeting(s) (logos & branding, MPO's review, ranking and prioritization process for municipal projects and an overview of the 2045 MTP; FDOT's traffic management system, other?)
- Review of other Advisory Board governance legislation/By-Laws, recommendations from the Office of the County Attorney



Organization of the Oversight Board

Selection of a Chair for procedural purposes

Action Items (votes on previous discussion items, led by Chair)

Role of Oversight Board at Commission Retreat (proposed date, March 15, 2019, location TBD) to discuss Mobility Advancement Plan

