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**MEMORANDUM**

**TO:** Burt Aaronson, Chair, and Members of the Board of  
 County Commissioners  
**FROM:** Bob Banks, Assistant County Attorney  
**RE:** County Attorney Comments at December 8, 2009  
 BCC Zoning Meeting: Zoning in Progress and  
 Moratorium-Pain Management Clinics  
**DATE:** December 7, 2009

At the Board of County Commissioners meeting on December 1, 2009, the Board asked staff to prepare a moratorium ordinance on new pain management clinics in the unincorporated area. Staff will bring a moratorium ordinance to the Board for permission to advertise at the January 28, 2010 BCC Zoning Meeting. It is recommended that the Board impose Zoning in Progress pending adoption of the moratorium.

1. Process – The moratorium would be enacted as an amendment to the Unified Land Development Code. This would require review by the Land Development Regulation Advisory Board (LDRAB) and consideration of the ordinance by the Board of County Commissioners at two public hearings. The LDRAB Meeting would be January 27, 2010.
2. Scope and Duration of Moratorium – The moratorium would be a one year moratorium on zoning approvals for Pain Management Clinics in the unincorporated area of Palm Beach County.
3. ULDC Language - The following definition of Pain Management Clinics is proposed to be added to the ULDC based on the registration requirements contained in Sections 3 and 4 of Chapter 2009-198, Laws of Florida: Pain Management Clinic: All privately owned pain-management

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clinics, facilities, or offices, which advertise in any medium for any type of pain-management services, or employ a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and are required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, Fla. Stat. (2009). A physician is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain. Chronic nonmalignant pain is pain unrelated to cancer which persists beyond the usual course of the disease or the injury that is the cause of the pain or more than 90 days after surgery.

4. Zoning in Progress - Staff requests the Board invoke zoning in progress beginning immediately regarding zoning approvals for new pain management clinics in the Unincorporated Area.

If you have any questions regarding this matter, please don't hesitate to contact me.

cc: Denise Nieman, County Attorney  
Robert Weisman, County Administrator  
Verdenia Baker, Assistant County Administrator  
Barbara Alterman, Executive Director, PZ&B  
Jon MacGillis, Director, Zoning Division  
Dawn Wynn, Assistant County Attorney  
Lenny Berger, Assistant County Attorney