

Agenda

April 7, 2011 – 3:30 p.m.
Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Palm Beach County
Commission on Ethics
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Commissioners
Edward Rodgers, Chair
Manuel Farach, Vice Chair

Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director
Alan S. Johnson

Staff Counsel
Megan C. Rogers

Administrative Assistant
Gina A. Levesque

Investigator
Mark E. Bannon

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from March 3, 2011
- V. Public Comment
- VI. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 11-009
 - b. RQO 11-011
 - c. RQO 11-014
 - d. RQO 11-015
 - e. RQO 11-016
- VII. Items Pulled from Consent Agenda
 - a. RQO 11-017 (pulled per Comm. Fiore)
- VIII. Proposed Advisory Opinions
 - a. RQO 11-010
 - b. RQO 11-012
 - c. RQO 11-013
- IX. Public Comment
- X. 2012 COE Budget
- XI. Review of Public Comment Procedures
- XII. Review of Proposed County-wide Commission on Ethics and Code of Ethics Ordinances
- XIII. Executive Director Comments
- XIV. Public Comments
- XV. Adjournment

MEETING: PALM BEACH COUNTY COMMISSION ON ETHICS (COE)

I. CALL TO ORDER: March 3, 2011, at 3:05 p.m., in the Commission Chambers, 6th Floor, Governmental Center, West Palm Beach, Florida.

II. ROLL CALL

MEMBERS:

Judge Edward Rodgers, Chair
Manuel Farach, Esq., Vice Chair
Dr. Robin Fiore
Ronald Harbison
Bruce Reinhart, Esq. – Absent

STAFF:

Alan Johnson, Esq., COE Executive Director
Mark Bannon, COE Investigator
Gina Levesque, COE Administrative Assistant
Sydone Thompson, Deputy Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS

Alan Johnson, Esq., Commission on Ethics (COE) Executive Director (ED) stated that Bruce Reinhart would not be present at today's meeting because he was attending a conference in San Diego, California.

Judge Edward Rodgers asked everyone to turn off or silence their cell phones. He stated that the COE would recess to discuss item V.a., C10-007, and item V.b., C10-008 in an executive session that was closed to the public. He said that the public meeting would resume in chambers in approximately 45 minutes.

IV. APPROVAL OF MINUTES FROM FEBRUARY 3, 2011

MOTION to approve the minutes of the February 3, 2011, meeting. Motion by Robin Fiore, seconded by Manuel Farach, and carried 4-0. Bruce Reinhart absent.

(CLERK'S NOTE: At the request of the chair, the agenda was taken out of sequence and item IX. was discussed at this time.)

IX. PUBLIC COMMENTS

Mr. Johnson asked whether the COE would permit public commentators' remarks prior to adjourning the meeting for executive session. The chair granted the request.

IX.A.

PUBLIC COMMENT: Alexandria Larson.

DISCUSSED: Protocol for Public Comments at Commission on Ethics Meetings.

Alexandria Larson said that the executive session should be held at the end of the COE meeting so that the public would not have to wait one hour or more until the executive session concluded.

Judge Rodgers remarked that the COE could consider changing the meeting format and hear the executive session at the end of the meeting; however, Dr. Robin Fiore pointed out that the executive session's determination had to be reported in the public meeting.

Ronald Harbison suggested that the executive session should be added to the agenda as a time certain item. Mr. Johnson agreed that it could be added as a time certain item with an estimated completion time.

IX.B.

ADDITIONAL PUBLIC COMMENT: Susan Squire.

DISCUSSED: Commissioner Aaronson's Case Dismissal.

Susan Squire read a document that she purported to be from an Internet blog. She stated that the ED's salary increase correlated with Commissioner Burt Aaronson's case determination. She expressed concern about Commissioner Aaronson's attorney fees reimbursement and referred to the Commissioner as "The godfather of Palm Beach County."

Dr. Fiore asked that Ms. Squire refrain from making implicative remarks, since she was of Italian descent.

Judge Rodgers said that the COE was not involved in collusion, and that the public often disagreed with government's decisions.

IX.B. – CONTINUED

Manuel Farach stated that public decorum and respect for the process had been disregarded by the speaker, whose banter exhausted the commission's time. He recommended that the Ms. Squire be disallowed to make additional remarks.

Judge Rodgers informed Ms. Squire that the COE would try to find another forum for her to voice her concerns.

(CLERK'S NOTE: For further discussion on item IX. see pages 13-14.)

RECESS

At 3:11 p.m., the COE recessed for an executive session.

(CLERK'S NOTE: For further discussion on items V.a. and V.b., Executive Session, see pages 4-7.)

RECONVENE

At 4:20 p.m., the COE reconvened with Judge Rodgers, Manuel Farach, Robin Fiore, and Ronald Harbison present.

Remainder of page left blank intentionally.

V. EXECUTIVE SESSION (DETERMINATION)

V.a. C10-007

Judge Rodgers stated that a complaint involving Commissioner Priscilla Taylor was heard in the executive session. He read, as follows, the report of which he said copies would be available at today's meeting:

"PUBLIC REPORT, FINAL ORDER, ISSUANCE OF LETTER OF INSTRUCTION

Executive Director of the Commission on Ethics filed the above-captioned complaint against Priscilla A. Taylor for violating Article XIII, Section 2-444 (a), Gift law of the Palm Beach County Code of Ethics.

The complaint alleges that the respondent, while a Palm Beach County commissioner, accepted a prohibited gift from the principal or employer of a lobbyist.

Facts:

The respondent is and has been a County commissioner since July 19, 2009. She is a reporting individual as defined by Section 112.3145 (1) (a), required to submit a quarterly gift disclosure, Form No. 9, listing any and all gifts in excess of \$100 subject to specific statutory exclusions.

On December 21, 2010, the respondent signed a gift quarterly disclosure form listing a gift from Ethel Isaacs, Florida Power and Light (FPL), valued in the amount of \$150. The gift comprised a ticket to the Delray Beach Chamber of Commerce Gala event, held September 25, 2010.

A review of the County paid lobbyist's registration records maintained by Palm Beach County Administrator's office, through the Office of Legislative Affairs, established that FPL employs registered lobbyists who lobby Palm Beach County.

V.a. – CONTINUED

Holding:

Article XIII states as follows:

No county commissioner, or employee, or any other person or business on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than \$100 from any person or business entity that the recipient knows is a lobbyist or any principal employer of a lobbyist.

The respondent did accept a prohibited gift from the employer of a lobbyist in excess of \$100. However, the Commission on Ethics has reviewed the facts and circumstances surrounding this alleged violation, and has determined that the actions of the respondent were unintentional and inadvertent. Although FPL is an employer of a registered lobbyist, the Commission on Ethics is unaware of any significant FPL issues coming before the County Commission during the time that the respondent had served as a commissioner.

In addition, Commission on Ethics acknowledges the candid response submitted by the respondent, including her acknowledgement that she could have, and should have done more to ensure that the gift was not prohibited; as well as, steps taken by the respondent establishing staff procedures including better screening of the invitations prior to acceptance, to ensure future compliance with the Code of Ethics. Lastly, the Commission on Ethics is mindful of the fact that the respondent in no attempted to hide the acceptance of this gift, and the premises therein, as she fully complied with the state gift reporting requirements, and that she has voluntarily returned the prohibited portion of the gift to the donor.

In light of the facts and circumstances known to the Commission on Ethics, the matter is disposed of by way of dismissal with this letter of instruction. Respondent is now advised that the filing of the ethics complaint C10-007, along with this letter of instruction is to serve as notice of the consequences of not following the gift law requirements under the Code of Ethics. While the Commission on Ethics finds that any alleged violation was inadvertent and unintentional, respondent is therefore instructed to be more diligent in the future about investigating the source of any gift, and to conform her activities to this letter of instruction and the requirements of Section 2-444, to avoid any future enforcement action.

V.a. – CONTINUED

This Letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on March 3, 2011.

Signed, Edward Rodgers, Chair.”

Mr. Johnson stated that on March 4, 2011, the letter of instruction read by Judge Rodgers would be available on the COE Web site, and that hard copies would be available to the public at today’s meeting.

V.b. C10-008

Judge Rodgers stated that:

- Complaint C10-008 involved Community Services Department Director Channell Wilkins. The complainant relied on an outdated Web site, which the investigation revealed was factually incorrect.
- The COE concluded on March 3, 2011, that there was no violation of the Code. Information contained in the complaint would be available on the COE Web site.

Mr. Johnson commented that the COE Web site was under repair. He said that information regarding the March 3, 2011, executive session would be available on the COE Web site no later than Monday, March 07, 2011.

PUBLIC COMMENT: Alexandria Larson.

Mr. Johnson stated that the COE had no authority over the Solid Waste Authority (SWA), but that the Office of the Inspector General (OIG) did.

Mr. Farach suggested that concerns regarding the SWA should be referred to Sheryl Steckler, Inspector General (IG).

Mr. Johnson said that Ms. Larson could provide documents of her choosing to Administrative Assistant Gina Levesque for inclusion in the COE’s public record.

ADDITIONAL PUBLIC COMMENT: Susan Squire.

V.b. – CONTINUED

Mr. Johnson said that Ms. Squire could contact his office to process her request for information.

Dr. Fiore stated that she was not related to Mr. and Mrs. John Fiore who were named in Ms. Squire's remarks.

Mr. Farach suggested that Ms. Squire provide the document she read during her comments to Ms. Levesque for distribution to the COE.

VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

VI.a. Request for Opinion (RQO) 11-002

VI.b. Request for Opinion (RQO) 11-004-OE

VI.c. Request for Opinion (RQO) 11-005

VI.d. Request for Opinion (RQO) 11-006

Mr. Johnson stated that items RQO 11-002, RQO 11-004-OE, RQO 11-005, and RQO 11-006 were presented together as the consent agenda.

MOTION to approve the consent agenda. Motion by Robin Fiore, seconded by Ronald Harbison, and carried 4-0. Bruce Reinhart absent.

VII. PROPOSED ADVISORY OPINIONS

VII.a. RQO 11-003

Mr. Farach disclosed that more than 10 years ago he represented REG Architects (REG) and although he no longer represented the company as an attorney, he would abstain from commenting or voting on this item.

Mr. Johnson said that:

- Since Mr. Farach was not actively working as an attorney for REG, it was not imperative that he abstain from discussing or voting on the item; and, if Mr. Farach decided to abstain from any action on the item, he was not required to leave the dais.

VII.a. – CONTINUED

- Item RQO 11-003 involved Manuel Ayala, an architect employed by REG. Mr. Ayala requested an advisory opinion because he had volunteered to serve on the Palm Beach County Construction Industry Licensing Board (CILB).
- It was determined that REG had no contracts with the County, but was a subcontractor for civil engineering firm Miller Legg, which was working on the County's Riverbend Park project in Jupiter, Florida.
- Specific County projects were not heard before the CILB, which had authority over licensing issues.
- The Code stipulated that unless there was a nexus between a contractor and subcontractor, the subcontractor's contract would not be prohibited unless an active County contract was in force.
- Mr. Ayala was not required to obtain a waiver, but he was advised to use caution when discussing licensing matters on the CILB that involved his employer REG, or the subcontractor Miller Legg. Participation in such matters would constitute violations of Code Sections 2-443 (a) or 2-443 (b).

MOTION to approve staff's interpretation on item VII.a. RQO 11-003. Motion by Robin Fiore, seconded by Ronald Harbison, and carried 3-0. Manuel Farach abstained. Bruce Reinhart absent.

VIII. EXECUTIVE DIRECTOR COMPENSATION

Mr. Harbison stated that:

- The discussion regarding Mr. Johnson's compensation began three months ago, and was a continuation from the COE's prior agreement that within six months of employment the ED's salary would be reevaluated.
- Compensation data was requested from the County human resources department, and it was determined that the ED's current salary was minimal in comparison to salary ranges of positions that closely matched the ED's experience and job title.

VIII. – CONTINUED

- It was apparent that the senior assistant attorney and county directors' positions were in line with the ED's position. The average salary for the senior assistant county attorney title was \$143,936 and the median salary was \$142,775. Based on the data collected for county directors, the average salary was \$129,047 and the median salary was \$128,019.
- The COE should develop guidelines for the ED's compensation and performance evaluations.
- Mr. Johnson's salary should be increased by 10 percent, which would result in an approximated compensation of \$130,000.

(CLERK'S NOTE: For further discussion on item VIII. see page15.)

VIII.a. UNSCHEDULED ITEMS

VIII.a.1. Commission on Ethics' Budget Assessment

Mr. Johnson reported that:

- The ED's initial budget for fiscal year (FY) 2010 was a partial budget totaling \$180,000.
- In FY 2010, the COE expended 61 percent of budgeted salaries, 62 percent of operating expenses, and 82 percent of the capital budget. The total budget outlay was 62 percent, which resulted in a 38 percent budget reserve. The data was reflective of a five-month budget cycle.
- Initially, the need to hire an attorney and an investigator was circumvented since the ED was an attorney and former prosecutor. The ED's office functioned with staff consisting of Ms. Levesque and volunteers.
- The FY 2011 budget was \$475,626, and accounted for additional staff.
- Through March 1, 2011, the COE expended 30.1 percent of annual budgeted salaries, 11.09 percent of annual budgeted salaries, .1 percent of annual budgeted salaries, 11.09 percent of operating expenses, and 33.51 percent of the capital budget.

VIII.a.1. – CONTINUED

- The total budget outlay of 26.54 percent for the first five months projected a 45 percent reserve for FY 2011.
- By delaying the hiring of legal counsel Megan Rogers Esq., and investigator Mark Bannon, Esq., it was estimated that the COE's FY 2011 reserve would be 30 percent.
- The ED's office would have a full staff once another investigator was hired in 2011. The hiring process for the second investigator position had been delayed to realize budgetary cost-savings.
- It was anticipated that the FY 2012 budget reserve would be smaller than that of FY 2011.

VIII.a.2. Internships and Community Outreach

Mr. Johnson explained that:

- The University of Miami fellowship was promising, but the fellow secured a permanent job in a law firm prior to starting with the ED's office.
- Two interns from Palm Beach Atlantic University were currently working in the ED's office. During the next semester it was anticipated that Palm Beach State College interns would be working in the ED's office.
- Although the COE's jurisdiction included officials and employees of government, ethics-related issues were broad-based and warranted community support and involvement. Currently the interns were crafting educational outreach programs for the ED's office.
- Plans for an "Ethics Awareness Week," a "Face of Ethics for Palm Beach County" title, and ethics-related scholarships were being developed.
- The ED had made attempts at partnering with art schools in the community, and would be partnering with local schools to convey the COE's message to students in a user-friendly format. By early 2012, the ED's office's outreach program would be fully operational.

VIII.a.2. – CONTINUED

- In the last 10 months, the ED had made 60 public appearances. Mr. Bannon and Ms. Rogers were being trained to conduct speeches and presentations to political, public, and civic groups.

VIII.a.3. Comparative Analysis of the State Ethics Commission and the Commission on Ethics

Mr. Johnson stated that:

- The State Ethics Commission (SEC) based in Tallahassee, Florida, serviced concerns from 67 counties as opposed to the COE that was based in the county it served.
- The SEC had no local connections and did not conduct self-initiated investigations, while the COE conducted self-initiated inquiries to determine substance Code violations.
- The COE responded to advisory opinions within 30 days, which was not customary for the SEC.
- The COE's objective was to be in tune with the community and gather the public's concerns firsthand.
- Several inquiries made to the ED were unfounded and closed.
- If the facts associated with an inquiry warranted further investigation, it would be flagged as a self-initiated complaint and investigated.
- The COE processed 41 advisory opinions within its first seven months. Approximately 10 advisory opinions were processed in 2011. These statistics did not account for the 38 municipalities that signed the referendum.
- The COE was service oriented and should be used as a resource for County officials and employees to avert Code violations.

VIII.a.4. Transparency

Mr. Johnson communicated that:

- Matters discussed at COE meetings were published to the COE Web site. The materials included advisory opinions, substantiated case determinations, and video recordings of public meetings, including ordinance drafting committee meetings.
- Content regarding inquiries and unfounded complaints were not published to the ED's Web site; however, they were housed at the ED's office and were obtainable upon request.

VIII.a.5. Palm Beach County's Ethics Advancements

Mr. Johnson said that:

- The COE received honorable mention in the statewide grand jury report that was commissioned by Governor Charlie Crist regarding corruption in South Florida. The 117-page document illustrated statewide grand jury recommendations, and recognized Palm Beach, and Miami-Dade counties as local governmental models for COE and IG protocols. This distinction verified that the County was progressive in ethical matters.
- The business community, contractors, and advisory board members were required to adhere to the Code. A recent presentation was held with 35 lobbyists who were notified of their obligations to comport with the Code.
- Given the ED's measurable outcomes, it was evident that strides had been made to change the perception of the County from corrupt to ethical.

Mr. Harbison noted that the County was complimented by the SEC chairman for developing a model prototype for the organization of the COE and IG. He stated that when he attended the Fourth Annual "South Florida's Culture of Corruption" conference, a New York law professor said that the County's ethics infrastructure was a model for the country.

Mr. Johnson relayed that the City of Jacksonville's (City) Ethics Officer Carla Miller had requested a copy of the County's Code for use in developing stronger Codes in her City.

VIII. a.5. – CONTINUED

Judge Rodgers stated that the COE should use budgeted funds to increase Mr. Johnson's salary, especially when the ED's workload would increase significantly when the 38 municipalities came under the Code's jurisdiction.

Mr. Farach expressed support for the ED's proposed salary increase by saying that it would be a great loss to the COE if Mr. Johnson were hired by the public or private sector.

Dr. Fiore said that Mr. Johnson's compensation rate should be comparable to that of the IG's. She added that the ED position was based on Miami-Dade County's IG model that profiled the prime candidate as a male, former Federal Bureau of Investigations agent at top pay grade.

Mr. Harbison emphasized that Mr. Johnson had been a good steward of the ED's budget by realizing a 40 percent surplus for FY 2010.

Dr. Fiore suggested that Mr. Johnson's salary be increased to that of the Senior County Attorney position.

Mr. Farach stated that at this time, he was comfortable with a 10 percent pay increase for Mr. Johnson; however, he would have preferred to discuss the matter with the entire commission, since Bruce Reinhart was absent from today's meeting.

MOTION to apply a 10 percent pay increase for Alan Johnson, Commission on Ethics Executive Director. Motion by Ronald Harbison, seconded by Manuel Farach, and carried 4-0. Bruce Reinhart absent.

Mr. Harbison asked whether the County's human resources department could provide the COE with information and job descriptions pertaining to contracts and employee manuals for employees at the senior attorney level or key administrators. Mr. Farach concurred and suggested that a future workshop be planned to discuss that issue.

IX.A. – Continued from pages 2-3

DISCUSSED: Protocol for Public Comments at Commission on Ethics Meetings.

Alexandria Larson said that at the Board of County Commissioner (BCC) meetings, public comments were heard before the vote was taken.

IX.A. – CONTINUED

Mr. Farach asked Ms. Larson to clarify whether she felt it was appropriate for the COE to respond to or debate with an audience member's shouts while the commission actively discussed an item.

Judge Rodgers read Ms. Squire's comment card as follows, "Perfect– self-initiate a complaint against, godfather of Palm Beach County, offense."

Mr. Farach said that in response to an earlier comment, the ED should look at whether public comment should be taken before the COE voted. He asked the ED staff to inquire about the public comment procedure with other boards in the County and report those findings to the COE. He stated that since the COE was newly formed, members were learning as the process unfolded. He expressed concern that COE meetings could become debates, and that they would be lengthened unnecessarily.

Mr. Johnson stated that each public speaker was allotted three minutes to comment, and he added that the policy would be enforced at future meetings.

(CLERK'S NOTE: Item VII. was discussed at this time. The numeric order of the agenda was taken out of sequence.)

VIII. – EXECUTIVE DIRECTOR COMPENSATION

Assistant County Administrator Brad Merriman stated that Mr. Johnson would be given a 10 percent pay increase effective the next pay period.

(CLERK'S NOTE: The numeric sequence of the agenda was restored.)

X. WORKSHOP ITEMS

X.a. Drafting Committee Update

Mr. Johnson reported that:

- The IG ordinance drafting committee (IG committee), and the COE ordinance drafting committee (COE committee) both were composed of seven members. Ms. Steckler was an IG committee member, and he, Mr. Johnson, was a COE committee member.

X.a. – CONTINUED

- The IG and COE committees' members were chosen as outlined by referendum as follows:
 - Two each were chosen by the League of Cities (LOC) and the BCC, one each by the County Attorney and the general counsel for the LOC or its designee; and, the seventh member for either board would be the ED or his designee, and the IG or her designee;
 - The LOC selected Michael Bornstein from the Town of Lantana and Kurt Bressner from the City of Boynton Beach. The third LOC representative was counsel Trela White, Esq.;
 - The board appointed David Baker, Esq., who was the current chair for the COE committee, and Dave Aronberg., vice chair; and,
 - Donna Raney, Esq., was the current designee for the County attorney.
- Regarding the IG committee, it was unclear whether ordinance language would include defined rules for waste, fraud, mismanagement, and abuse because inspectors general in Florida were typically entities with criminal jurisdictions. Of the non-criminal civil inspectors general in the State, those definitions were not used. Another issue was the method for generating the IG's quarter percent IG fee, or its equivalent.
- Amendments to the COE Codes were completed although additional amendments could be made at this juncture. Each COE member was provided with the updated copy of the COE ordinance.
- On March 16, 2011, COE drafting committee meeting was scheduled to fast-track amendments to the lobbyist and post-employment ordinances sections of the Code. Two more meetings would be held before the 90-day deadline.
- The first reading of the Code would be heard in the first week of May 2011, the second reading would take place in the third week of May 2011, and the jurisdictions would be set later.

X.a. – CONTINUED

- The ED hotline had received several calls from governmental entities and law enforcement officials within the county's 38 municipalities regarding the effective date of the ED's jurisdiction. These entities were directed to file complaints with the SEC, and were informed that the County's Code would likely be effective in May 2011.
- Originally, the COE had no jurisdiction over municipalities in the County. The referendum that was passed by voters stipulated that the IG and COE drafting committees would be allotted 90 days to craft the appropriate ordinance language that would apply to the municipalities. The expiration date for the completing the modifications was April 1, 2011.
- The ED could request that County staff schedule the issue for the May 2011 COE meeting, and also ask that the BCC adopt the IG and COE ordinances as amended, even if the modifications had not been completed. The drafting committees had not yet completed the final versions of the two ordinances.
- It was believed that the final drafting of the COE ordinance would be completed on March 30, 2011, which would satisfy the referendum's 90 day time frame for ordinance amendments.
- The gift law and waivers were major Code provisions that would be discussed by the committee. The issue of outside employment was also being vetted by the COE committee.
- Currently, Code provisions prohibited employees from negotiating, enforcing, or working in a department with active contracts involving the secondary employer. The employee would be required to submit merit rule approval for outside employment to the COE.
- City of West Palm Beach Attorney Claudia McKenna had suggested that the COE create an outside employment waiver form (form) for employees.
- A procedure would be created whereby employees would sign the form under oath to verify their detachment from the contract process involving an outside employer. The form would also be signed by each employee's supervisor and chief administrator, and a copy would be forwarded to the COE for review to determine whether an investigation was warranted.

X.a. – CONTINUED

- A searchable gift-reports application would be added to the COE Web site within one week of today's COE meeting.
- The proposed amendment to the Code's employee waiver process could relieve the COE from processing every request for an outside employment opinion.
- The COE committee planned to discuss:
 - reporting requirements for gifts in excess of \$100 for fiancés and lower-level employees;
 - personal relationship exceptions that correlated with personal gifts from lobbyists' Code provision; and,
 - the necessity for reporting gifts based on job title and responsibilities.

Dr. Fiore commented that it was naive to speculate that lower-level employees were immune to the gift prohibition.

Mr. Johnson stated that:

- The COE ordinance drafting committee would also discuss reportable gifts and prohibited actions.
- The Palm Beach County Business Forum requested that the definition of lobbying be limited to activities occurring after a meeting was held with an official.
- After the COE committee meeting on March 30, 2011, a brief meeting could be held with the COE, as an update on the substantive modifications made to the ordinance. The briefing could be conducted at the April 2011 COE meeting.

Dr. Fiore said that lobbyists by definition were influential entities, and that ordinance language should not be weakened in that regard. Although lobbyists conducted important work, the issue was managing their influence, which was the commission's responsibility, she stated.

X.a. – CONTINUED

Mr. Johnson stated that he was not aware of any drafting committee member submitting a waiver as a registered lobbyist.

**X.b. Rules of Procedure Amendments 4.11 and 4.12
(Self-Initiated Complaints)**

Mr. Johnson stated that:

- Rules of procedure needed to be drafted for self-initiated complaints.
- Within the bounds of the Code, a procedure was added so that inquiries would be made into information that was furnished to the ED's office. These inquiries would be made in lieu of an investigation.

**X.c. Rules of Procedure Amendments 4.31, 4.32, and 4.33
(Advocate Conflicts of Interest)**

Mr. Johnson stated that:

- The Florida Bar Association's Rule 4, Rules of Professional Conduct, was adopted by the COE for situations involving conflict of interest and COE advocates (advocates).
- Any instance of conflict of interest involving an advocate was to be immediately reported to the ED, and a replacement was to be assigned to a case. The respondent and complainant would be notified of such developments.
- Of the current volunteer advocates, two worked at the same law firm. An independent volunteer advocate would be secured if a direct conflict of interest with the COE or ED existed.

XI. EXECUTIVE DIRECTOR COMMENTS – None

XII. BOARD COMMENTS

XII.a. Manuel Farach, Esq. – None

XII.b. Dr. Robin Fiore

DISCUSSED: Procedure for Documenting Official Commission on Ethics Mail.

Dr. Fiore asked that the County resolution that she received as official mail from Ms. Levesque, be added to the official record for today's meeting, and she asked that the document be posted to the COE Web site. Mr. Farach said that he had also received the same document.

Mr. Johnson noted that the entire commission, including the ED, had received the letter. Additionally, Ms. Steckler and all drafting committee members were also furnished with the same letter, he stated.

Dr. Fiore suggested that an item should be added to the COE agenda when official mail was distributed to commissioners.

Mr. Johnson proposed that one copy of the letter should be submitted for the public record as an acknowledgement that each COE member was in receipt of the document.

Mr. Farach stated that the letter bore the resolution number 11-11 from the Town Council of the Town of Palm Beach (Town). Mr. Johnson commented that the Town had requested that the IG jurisdiction be expanded to the County Sheriff's Office and School District.

Judge Rodgers recommended that when a COE member received correspondence, one copy should be handled as a board copy.

XII.c. Ronald Harbison – None

XII.d. Bruce Reinhart, Esq. – None

XII.e. Judge Edward Rodgers

XII.e.1.

DISCUSSED: Public Comments.

Judge Rodgers asked whether the issue of public comments should be discussed.

Mr. Farach asked Mr. Johnson to conduct a survey of countywide advisory boards and commissions to determine the policy for accepting public comments. He said that the findings should be posted to the COE Web site for the public's edification and feedback.

Mr. Johnson stated that he would provide the board with his findings at the April 2011, COE meeting.

XII.e.2.

DISCUSSED: Scheduling Executive Sessions.

Judge Rodgers asked whether executive sessions could be scheduled at the COE's choosing.

Mr. Johnson said that:

- The Code allowed a quorum for probable cause hearings and the chair could appoint three COE commissioners to preside over cases. This procedure could take effect when the COE processed more cases.
- In the future, a special master could be appointed if the number of complaints increased significantly. The Code would need to be amended to add a special master provision.

Mr. Farach proposed that a blind rotation system be used when assigning COE members to preside over complaints, in order to avoid conflicts of interest or the appearance of favoritism.

Mr. Johnson stated that for pre-hearings, such as evidentiary matters, the Code stipulated that the chair could appoint one COE commissioner to preside over the hearing.

XIII. ADJOURNMENT

At 6:07 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
Manuel Farach, *Vice Chair*
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director

Alan S. Johnson

March 7, 2011

Sarah Alsofrom
Palm Beach County Education and Government Programming Advisory Board
301 N. Olive Ave.
West Palm Beach, FL 33410

Re: RQO 11-009
Gift Law

Dear Ms. Alsofrom,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email on February 27, 2011, whether, as a member of the Palm Beach County Education and Government Programming Advisory Board (EGPAB), you could accept a ticket to an upcoming awards banquet from a friend who works for Florida Power and Light (FPL).

IN SUM, Section 2-244(b) of the Palm Beach County Code of Ethics specifically prohibits you from accepting a gift from any lobbyist, or any principal or employer of a lobbyist who lobbies your advisory board or any county department that is subject to your board's authority. You stated that FPL does not appear before your board nor does it lobby the Palm Beach County Public Affairs Department (PAD), the only county department associated with your advisory board. Based on the information you have provided, accepting a ticket from your friend valued at 125.00 dollars is reportable, but not prohibited.

THE FACTS as we understand them are as follows:

You serve on the Palm Beach County Education and Government Programming Advisory Board (EGPAB) that supervises Channel 20. You are not a reporting individual under state law. A friend, employed by FPL, offered you a ticket at FPL's table at an upcoming awards banquet. FPL, an employer of lobbyists, purchased a table for the event and paid for the tickets. If purchased individually, the tickets would cost one hundred and twenty-five dollars (\$125.00). FPL does not lobby EGPAB or the PAD, the county department subject to your board's authority. Prior to receipt of this advisory opinion, you informed commission staff that you have decided, in an abundance of caution, to not attend the awards ceremony as a guest of FPL.

THE LEGAL BASIS for this opinion relies on the following section of the Palm Beach County Code of Ethics.

Article XIII, Sec. 2-444. Gift Law.



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Alan S. Johnson

(b) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value greater than one hundred dollars (\$100.00) from any lobbyist, or any principal or employer of a lobbyist, *who lobbies the recipients advisory board, or any county department that is subject in any way to the advisory boards authority.* (emphasis added)

In this instance, the tickets were offered to you by an employee of FPL. FPL does not appear before your advisory board, nor does FPL have any contact with channel 20 or the PAD, the only department subject to the Education and Government Programming Board's authority. Therefore, based on the information you have provided, you may accept this gift; however, you must disclose it on your 2011 gift reporting form. The gift reporting requirement is as follows:

Article XIII, Sec. 2-444. Gift Law.

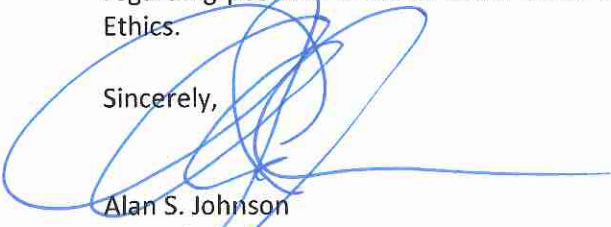
(d)(2) All other officials and employees. All other officials or employees who receive any gift in excess of one hundred dollars (\$100.00) shall complete and submit an annual gift disclosure report with the county commission on ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30 of each year.

Section (d) requires that as an advisory board member you submit all reportable gifts in excess of one hundred dollars (\$100.00) on an annual disclosure report.

IN SUMMARY, notwithstanding your subsequent decision not to accept the ticket, the Palm Beach County Code of ethics does not prohibit you, in your capacity as an advisory board member, from accepting a ticket to an awards banquet valued at 125.00 from an entity that does not lobby your advisory board or any department subject to your board's authority. For a non state reporting individual, a gift received and valued in excess of 100.00 would need to be reported on the county yearly gift disclosure form due November 1, reflecting any reportable gifts received October 1 through September 30 for the previous year.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Sincerely,


Alan S. Johnson
Executive Director
ASJ/meb/gal

2633 Vista Parkway, West Palm Beach, FL 33411 561.233.0724 FAX: 561.233.0735

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Alan S. Johnson

March 25, 2011

Paul Murphy, System Integrator
Information Systems Services
301 N. Olive Ave., 8th Floor
West Palm Beach, FL 33411

Re: RQO 11-011

Dear Mr. Murphy,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows.

On March 15, 2011 your supervisor, Chuck Lemon, contacted Commission on Ethics staff to request an advisory opinion and asked whether you may attend the Independent Oracle Users Group Conference (Oracle Conference) as an instructor. In a follow up email on March 22, 2011, Mr. Lemon provided your online registration reflecting your status as an instructor. After reviewing the information submitted by Mr. Lemon, commission staff contacted you directly, and in your email dated March 23, 2011, you requested an advisory opinion providing additional information about the conference and your role with county Information Systems Services (ISS). The conference will take place on April 10 through April 14 in Orlando, Florida and the county would cover the cost of travel, lodging and per diem. While attendance for all speakers is complementary, the registration fee for conference attendees is \$1,750.00.

IN SUM, based on the facts you have submitted, where a county employee attends an educational conference as an instructor, in his official capacity and in the performance of his official duties, the absence or waiver of a registration fee in this context is not an improper reimbursement of travel expenses, notwithstanding the fact that the conference sponsor is a county vendor. Under the code of ethics this is not a gift, because as an instructor the registration fee is adequate consideration for your work and preparation in advance of the conference. Moreover, even under a gift analysis, a registration fee is not considered a gift where the employee attends on behalf of the county in performance of his official duties.

The FACTS as we understand them are as follows:

You are a systems integrator for the county Information Systems Service department. You, along with other members of ISS, collaborated with the county engineering department and developed an innovative software application that allows electronic review and comment on plans submitted by utilities and developers requiring modifications to county roads. This application, called ePermits, is used in conjunction with an Oracle software program entitled AutoVue. The county would like to market this application to other entities. You were the principal designer of ePermits, wrote the majority of the code for the application and assist in the training process.



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Based upon this innovative use of the AutoVue software, Oracle contacted ISS and requested that you speak at the conference and share the ISS team's innovation with other developers. All instructors attend the conference at no charge. The county would be responsible for all travel, lodging, per diem and other costs. You will conduct two hour-long sessions; "Capitalize on Information to Drive Business Process Innovation with AutoVue" and "Enterprise Visualization SIG." These sessions will showcase the county's use of this emerging technology, discuss the benefits of ePermitting and the integration of Geographic Information Systems (GIS) within ePermits and how it can be used to prevent conflicts between different types of permits within the same geographic area.

As an instructor at a conference with over 5,000 projected attendees, you and ISS have the opportunity to market the county application to other organizations and local governments. It is intended that this process be licensed to these entities for a fee benefiting Palm Beach County. Moreover, you would have the opportunity to see other examples of how the AutoVue product is used as well as collaborating with other users from both the private and public sectors.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Section 2-443(e) *Accepting Travel Expenses* states as follows:

No official or employee shall accept directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county contractor, vendor, service provides, bidder or proposer.

While Oracle is a county vendor, this section of the Palm Beach County Code of Ethics does not prohibit you from speaking at the conference. As a general rule, county employees are prohibited from accepting travel expenses from vendors, including registration fees. In this instance, Palm Beach County is directly paying all expenses related to your travel, lodging and per diem. Since there is no registration fee applicable to conference instructors, there is no improper reimbursement within the context of sec. 2-443(e)

Section 2-444 (a) of the gift law prohibits county employees from accepting gifts valued at over one hundred dollars from a business entity that employs lobbyists. It reads:

No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly any gift with a value of greater than one hundred dollars (\$100) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist.

Section 2-444(e) defines a gift as:



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Transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.

Assuming that the fee waiver is of economic value, the value of your time in the preparation and presentation of these lectures would be an off-set consideration for that waiver. Even if this was not adequate and lawful consideration, an exception to the gift law applies to circumstances where a county employee is accepting a benefit, not on his own behalf, but on behalf of the county.

The following exception may be found in Sec. 20444(e)(i)e.:

- (1) Exceptions. The provision of subsection (e) shall not apply to:
 - (e) Gifts solicited by county employees on behalf of the county in performance of their official duties for use solely by the county in conducting official business;

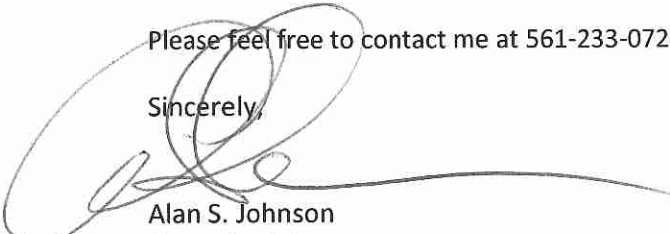
A search of the county lobbyist database revealed that Oracle America, Inc. employs lobbyists who lobby Palm Beach County government. Employees cannot accept any gift in excess of one hundred dollars from a lobbyist or principal or employer of a lobbyist. Notwithstanding, there are some exceptions to this prohibition. In this case, the absence or waiver of the \$1,750.00 registration fee, even if it were found to be a personal benefit to you, is for use in your capacity as a county employee on behalf of the county, as part of your official duties in conducting official business. As a systems integrator who will be marketing a process to economically benefit Palm Beach County, the Oracle conference is directly related to your work on behalf of the county.

IN SUMMARY, based on the facts and circumstances submitted, you may attend the April 10th Oracle conference as an instructor without paying a registration fee, provided all other travel expenses are paid directly by the county and not through reimbursement by a county vendor.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,


Alan S. Johnson
Executive Director

ASJ/mcr/gal

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April 1, 2011

Robert Shorr, President
Accurate Balancing and Commissioning, Inc.
254 9th Street
West Palm Beach, FL 33401

Re: RQO 11-014
Prohibited Contracts

Dear Mr. Shorr,

Your request for advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your e-mail of March 23, 2011, whether your status as a former employee of Palm Beach County prohibits your privately owned business, Accurate Balancing and Commissioning, Inc., (ABC), from seeking to provide services to, or from entering into service contracts with, Palm Beach County.

IN SUM, there is no prohibition in the Code of Ethics that would prohibit you, as a former employee of Palm Beach County, from providing services to, or entering into service contracts with, Palm Beach County, beyond the restrictions enumerated within the Palm Beach County Post-Employment Ordinance. Since your employment with the county terminated in 2004, the prohibited time periods within the Post-Employment Ordinance have expired.

THE FACTS as we understand them are as follows:

You were an employee of Palm Beach County from 1989 through 2004 in the Solid Waste Authority, Water Utilities and Facilities Departments. You left county employment in 2004. After leaving employment with the county, you opened a private business, Accurate Balancing and Commissions, Inc., (ABC) in 2007. You are the sole owner of this small business. This business was certified by the Palm Beach County Office of Small Business Assistance (SBA) on August 10, 2010, as a Palm Beach County "vendor" for specific services offered by your company. This certification to be a county vendor is valid until August, 2013 according to documentation you submitted. You live with your girlfriend, Rebecca Carter, who is herself an employee of Palm Beach County. She is the Senior Secretary for the Facilities Management Division. She has no involvement with ABC, and is not an officer or shareholder in this company.

The reason for your request for this Advisory Opinion is that you have been told through a secondary source that as a former employee of Palm Beach County, who lives with a current employee, a conflict of interest is present whereby the county cannot employ your company to provide services.

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THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Sec. 2-442. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Official or employee means any official or employee of the county, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, division, committee, or subcommittee of the county. (Emphasis added)

Sec. 2-443. Prohibited conduct.

- (c) *Prohibited contractual relationships.* No official or employee shall enter into any contract or other transaction for goods or services with the county. This prohibition extends to all contracts or transactions between the county or any person or agency acting for the county, and the official or employee, directly or indirectly, or the official or employee's outside employer or business.

Sec. 2-143. Prohibited conduct after termination of employment or office with the county, prohibits certain former high level employees from representing "anyone other than the county or another public entity in connection with any matter" for a period of up to two (2) years after leaving employment with the county. (Ord. No. 88-30)

Even if you held a high ranking position within county government, you have not been employed by the county for over six (6) years; therefore the prohibitions of this ordinance do not apply. Insofar as your live-in girlfriend is concerned, so long as she is not an officer, shareholder or otherwise employed by your solely owned company and refrains from using her position in any capacity to benefit herself, you or your outside business, there is no prohibition from ABC doing business with the county. Therefore, section 2-443(c) of the code would not apply to her, you or to ABC. The Palm Beach County Post-Employment Ordinance (Ord. No. 88-30) is also not applicable to you, since you left county employment more than two (2) years ago.

IN SUMMARY, based on the facts you have submitted, there is no prohibition within the Code of Ethics or Post-Employment Ordinance that prevents you from providing services for, or entering into a contract to provide services to Palm Beach County.

Notwithstanding this opinion, as a vendor please be aware that under Section 2-443(a) *Misuse of office or employment*, your girlfriend, as a member of your household, may not take, or fail to take, any action



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in her position as an employee with the county, in a manner that she knows, or should know with the exercise of reasonable care, will result in any financial benefit to you or to her, not shared by similarly situated members of the general public. This would include any improper action or inaction involving the awarding of county business to your company.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson
Executive Director
Commission on Ethics

ASJ/meb/gal



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March 29, 2011

Gary Hines
Business Development Board of Palm Beach County, Inc.
310 Evernia Street
West Palm Beach, FL 33401

Re: RQO 11-015
Gift law

Dear Mr. Hines,

Your request for advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your e-mail of March 24, 2011, whether any member of the Royal Palm Beach Community High School Medical Science Academy Citizens Advisory Board (Academy Board), is prohibited under the Palm Beach County Code of Ethics from soliciting sponsors and participants for a fundraising golf tournament to be held at a local golf course. You advised that all proceeds from this event will go directly to the Royal Palm Beach Community High School Medical Science Academy (the Academy).

IN SUM, those members of the Academy Board that are officials or employees of Palm Beach County, or specific municipalities (Boynton Beach, Lantana and Lake Worth) have restrictions under the Palm Beach County Code of Ethics on such fundraising efforts and are prohibited from soliciting any sponsorship or participant donation, valued at greater than \$100.00, from a person or entity they know to be a lobbyist, principal, or employer of a lobbyist, if that lobbyist, principal or employer lobbies the government entity for whom they serve as an official, or employee.

THE FACTS as we understand them are as follows:

The Academy is a "magnet program" located at Royal Palm Beach Community High School, a public school under the authority and supervision of the Palm Beach County School District. You serve as Chairman of the Academy Board, an advisory board made up of entirely of volunteers who advise the faculty and staff of the Academy and assist in fundraising efforts. The Academy Board has no actual authority over the Academy, and fills only an advisory role. Each member of the Academy Board was invited to join by an advisor, faculty member or administrator of the Academy.

In order to financially assist the Academy, members of the Academy Board have scheduled a golf tournament for April 30, 2011 at The Links Madison Green, a private golf course. All proceeds from this tournament will go to the Academy. As part of your fundraising efforts, you ask local businesses to act as "sponsors" for this event for a donation. You also solicit individuals and businesses to register to play golf in this tournament, charging an admission fee, which varies depending on the number of players and date of registration. According to the flyer for this event, a single player may register for a cost of \$100.00, and a sponsor may pay

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a fee of up to \$5,000.00 for special signage and advertizing at the event, along with registration for up to eight (8) players. You advised that some of the members of the Academy Board are officials or employees of either Palm Beach County or local municipalities within Palm Beach County.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Sec. 2-442. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal or most significant responsibilities to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

Official or employee means any official or employee of the county, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, division, committee, or subcommittee of the county. The term "official" shall mean members of the board of county commissioners, and members appointed by the board of county commissioners to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity. (Emphasis added)

Sec. 2-444. Gift law.

- (a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept *directly or indirectly*, any gift with a value of greater than one hundred dollars (\$100.00) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist. (Emphasis added)
- (b) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100.00) from any lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient's advisory board, or any county department that is subject in any way to the advisory board's authority.
- (e) For the purposes of this section, "gift" shall refer to the *transfer of anything of economic value*, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. (Emphasis added)



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Currently, no members of the Academy Board fall under the jurisdiction of the Code of Ethics based solely on their membership in the Academy Board because none were appointed by the Palm Beach County Board of County Commissioners (BCC) or the governing body of any of the municipalities currently under the Commission on Ethics jurisdiction (Boynton Beach, Lantana and Lake Worth).


Any member of the Academy Board that is also an official or employee of Palm Beach County or the specific named municipalities, does fall within the jurisdiction of the Code of Ethics. Those members are prohibited under the Code of Ethics from soliciting any donation valued at greater than \$100.00 from anyone they know to be a lobbyist, principal, or employer of a lobbyist, who lobbies their governmental employer, or in the case of a county official, lobbies their county "advisory board, or any county department that is subject in any way to the advisory board's authority." This prohibition applies to the solicitation of prohibited gifts directly or indirectly for the benefit of religious, charitable or other non-profit organizations.¹ They are not prohibited under the Code of Ethics from volunteering their time at the event, or from soliciting funds in excess of \$100.00 from persons not falling under the lobbyist, principal or employer umbrella.

IN SUMMARY, at this time the Commission on Ethics has no jurisdiction over members of the Academy Board who are not officials or employees of Palm Beach County or the specific municipalities named above. For those members of the Advisory Board who do fall under the Code of Ethics, they are prohibited from soliciting or accepting donations of a value greater than \$100.00 from any lobbyist, principal or employer of a lobbyist who lobbies their governmental entity.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson
Executive Director
Commission on Ethics

ASJ/meb/gal

¹ RQO 10-012, RQO 10-019



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Alan S. Johnson

April 1, 2011

Kurt Bressner
City Manager- City of Boynton Beach
100 E. Boynton Beach Blvd.
P.O. Box 310
Boynton Beach, FL 33425-0310

Re: RQO 11-016

Dear Mr. Bressner,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email on March 31, 2011, whether a non-lobbyist sponsor of an annual dinner dance can invite the Mayor, other members of the City Commission of Boynton Beach, and their spouses to the event without violating the code of ethics gift prohibitions. Tickets cost \$100.00 per person.

IN SUM, Section 2-444 does not prohibit City of Boynton Beach Officials and their spouses from accepting tickets to an event, so long as the tickets are not donated by lobbyists, or principals or employers of lobbyists. City of Boynton Beach officials may not accept tickets with an aggregate value greater than \$100.00 from a lobbyist or principal or employer of a lobbyist. You stated that the table sponsor, Florida Power and Light Company (FPL), does not lobby the City of Boynton Beach Commission or other city officials. Based on the information you have provided, the gift of tickets to the Schoolhouse Children's Museum and Learning Center dinner dance is not a prohibited gift from a lobbyist and must only be reported if the value of the tickets to the members of the City Commission and their spouses exceeds one hundred dollars (\$100.00).

THE FACTS as we understand them are as follows:

You are the City Manager of Boynton Beach and requested an advisory option from the Commission on Ethics on behalf of the City of Boynton Beach Commission. The Children's Schoolhouse Museum and Learning Center is having its annual dinner dance on April 16, 2011. One of the table sponsors, FPL, wishes to invite the Mayor, the City Commission and their spouses to attend. City officials will not be involved in fundraising, are not being honored, and they will not be taking an active role in the program. Based upon the facts you submitted to commission staff, while FPL employs lobbyists at the state and county level, FPL does not lobby before the City of Boynton Beach Commission.

THE LEGAL BASIS for this opinion may be found in sec. 2-444 of the Palm Beach county Code of Ethics.

Article XIII, Section 2-444. Gift Law.

- (a) No [Boynton Beach] commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value greater than one



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hundred dollars (\$100.00) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist.

In this instance, the tickets were offered to the City Commission by FPL. FPL does not lobby the City Commission. Therefore, based on the information that you have provided, the City Commissioners and Mayor may accept this gift. However if they attend the event with their spouses, they must disclose receipt of these tickets on their 2011 gift reporting forms.¹ The gift-reporting requirement is as follows:

Article XIII, Sec. 2-444. Gift Law.

(d) Gift Reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100.00) shall report that gift.

(1) *Gift reports for officials and employees indentified by state law as reporting individuals.* Those person required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, § 112.3148, as may be amended. A copy of each report shall be filed with the county commission on ethics.

Based upon the information that you have provided, one ticket valued at \$100.00 is not a reportable gift under the Palm Beach County Code of Ethics. However, a second ticket provided to a spouse or other individual on behalf of a member of the city commission is considered as having been provided with the intent to benefit the covered individual². Therefore, two tickets to the event costing \$200.00 would constitute a reportable gift under the code.

IN SUMMARY, The Palm Beach County Code of Ethics does not prohibit members of the Boynton Beach City Commission or the Mayor of Boynton Beach, from accepting tickets to the Schoolhouse Children's Museum dinner dance valued at \$100.00 from a table sponsor that does not lobby the city of Boynton Beach. Under the reporting requirements of the county code, should an official and their spouse attend, the resulting gift of \$200.00 should be reported.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflict under state law should be directed to the State of Florida Commission on Ethics.

Sincerely,

Megan C. Rogers
Staff Counsel

MCR/gal

¹ CEO 91-04(for purposes of gift reporting, travel expense for official's wife are charged to official), CEO 05-05(official must report additional admission provided by city enabling official to invite his spouse).

² RQO10-024



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April 1, 2011

Lucia Bonivita
Palm Beach County Board of County Commissioners
301 N. Olive Avenue, 12th Floor
West Palm Beach, FL 33401

Re: RQO 11-017
Gift Law/ Gift Exceptions

Dear Ms. Bonivita,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email and follow up phone call of March 31, 2011, whether a hotel stay paid for by your second cousin's hotel reward points is considered a gift, and if so, is there a requirement to report the gift.

IN SUM, gifts from relatives are excluded from the prohibitions and reporting requirements of the Palm Beach County Code of Ethics, however, the definition of relative includes only first cousins. The value of the hotel room is therefore a reportable gift.

THE FACTS as we understand them are as follows:

On a recent trip, your second cousin used her personal hotel points to pay for one night at each of two New York City hotels, the Sheraton Four Points Chelsea and the W Union Square. The advertised rate for the Sheraton Four Points Chelsea is \$149.00 and the rate for the W Union Square is \$299.00. You stated that your cousin is not a lobbyist or a principal or employer of a lobbyist.

THE LEGAL BASIS for this opinion may be found in sec. 2-444 of the Palm Beach County Code of Ethics:

- (e) For the purposes of this section, "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.

Your lodging expenses for two nights in New York are considered a gift under the Palm Beach County Code of Ethics.



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
Manuel Farach, *Vice Chair*
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director

Alan S. Johnson

Section 2-444(d) reads:

(d) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100.00) shall report that gift.

Under the Palm Beach County Code of Ethics, county employees must report gifts valued at over one hundred dollars on their annual gift reports due no later than November 1 for the previous reporting year, unless an exception applies. Gifts from certain members of employees' families are not subject to the reporting requirements; second cousins are not included in this exception.

The Commission on Ethics refers to Florida statute 112.3148(7)(e) since the Palm Beach County Code of Ethics is silent as to the exact manner of valuing gifts:

(e) Lodging provided on consecutive days shall be considered a single gift.

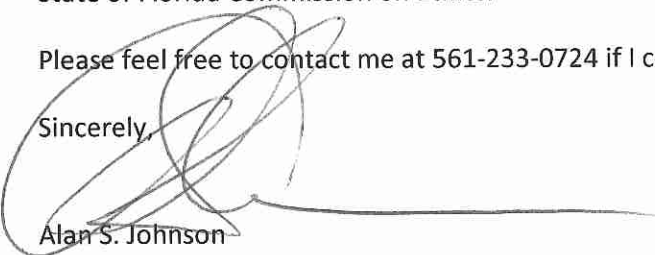
The advertised rate for the Sheraton Four Points Chelsea is \$149.00 and the rate for the W Union Square is \$299.00. Since lodging provided on consecutive days is considered a single gift, the total value of your stay per statute is \$448.00 dollars.

IN SUMMARY, based on the facts and circumstances submitted, two one-night hotel stays obtained for you by your second cousin using hotel points are a reportable gift and must be reported on an annual gift reporting form.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,


Alan S. Johnson
Executive Director

ASJ/mcr/gal

April 8, 2011

Ms. Tammi Wilkins
Palm Beach County Commission
301 N. Olive Ave.
West Palm Beach, FL 33410

Re: RQO 11-010
Misuse of Public Office or Employment

Dear Ms. Wilkins,

The Commission on Ethics considered your request and rendered its opinion at a public meeting held on April 7, 2011.

YOU ASKED in your email on March 4, 2011, whether, as a Palm Beach County employee you could continue to serve as a board member and officer of the Duo Center, a local non-profit organization affiliated with the Engrafted Word Worship Center (Worship Center) that accepts summer camp vouchers from Palm Beach County Human Services Division.

IN SUM, while the code of ethics does not prohibit you from being an officer or board member of a non-profit organization, as an employee of Palm Beach County and officer of both the Engrafted Word Worship Center and the Duo Center, you must take great care to not use your official position in county government to financially benefit either organization. In addition, you may not solicit or accept a gift with a value in excess of \$100.00 from a lobbyist, principal or employer or a lobbyist on behalf of the Worship or Duo Centers.¹

THE FACTS as we understand them are as follows:

You are the receptionist for the Palm Beach County Commission; you do not participate in the awarding of contracts, enforce, oversee or administer any contracts on behalf of the county. In your personal time, you volunteer as pastor of the Engrafted Word Worship Center and serve on the board of the center's non-profit organization, the Duo Center. In particular, the Duo Center provides outreach and community activities designed to develop and sustain responsibility, knowledge, and self-worth for underserved youth and their families- including a summer camp for school-aged children. Palm Beach County Human Services Division provides low-income families with summer camp vouchers and the Duo Center summer program accepts these vouchers in lieu of payment.

¹ RQO 10-041

In addition, your husband is an officer and director of both the Worship and Duo Centers. You do not receive compensation from either organization.

THE LEGAL BASIS for this opinion relies on a number of sections within the code of ethics.

Sec. 2-443 Prohibited conduct.

(a) Misuse of public office or employment. An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a financial benefit, not shared with similarly situated members of the general public, for any of the following person or entities:

(7) A non-governmental civil group, union, social, charitable or religious organization of which he or she (or his or her spouse or domestic partner) is an officer or director.

You may not use your position in Palm Beach county government to financially benefit a religious or other non-profit organization of which you or your spouse is an officer or director. Any attempt to use your official position to influence the county commission or any county department on behalf of these organizations, for their financial benefit, would violate the misuse of office section of the code.

Sec. 443(c) prohibits officials and employees from entering into “any contract or other transaction for goods or services with the county” through the official or employee’s outside employer or business. An outside employer or business is defined in section 2-442 as “any entity, other than the county... of which the official or employee is a member, official, director, or employee and from which he or she receives compensation for services rendered or goods sold or produced.” Although the Duo Center contracts with the county through the summer voucher program, section 2-443(c) does not apply because you do not receive any compensation for your work with the organization.

Finally, the following code sections apply to gifts:

Sec. 2-444(e) For the purposes of this section, “gift” shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.”

Sec. 2-444(a) No... employee, or other person or business entity on his or her behalf, shall knowingly solicit or accept *directly or indirectly*, any gift with a value of greater than \$100.00 from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist. (emphasis added)

Section 2-444(c) No person or entity shall offer, give or agree to give an official or employee a gift and no official or employee shall accept or agree to accept a gift from a person or entity because of

- 1) An official public action taken or to be taken, or which could be taken;
- 2) A Legal duty performed or to be performed or which could be performed; or
- 3) A legal duty violated or to be violated, or which could be violated by any official or employee.

While gifts donated to a religious organization are not reportable as gifts by the individual officers or directors of that organization, as a county employee, you cannot, directly or indirectly, accept or solicit gifts from lobbyists, principals or employers of lobbyists in excess of \$100.00. Therefore, your acceptance or solicitation, or the acceptance or solicitation on your behalf, of a gift, valued at more than \$100.00 from a lobbyist, principal or employer of a lobbyist on behalf of the Worship Center or the Duo Center would be prohibited.²

IN SUMMARY, based on the facts you have submitted, the Palm Beach County Code of Ethics does not prohibit you from serving as an officer or director with the Duo Center or the Engrafted Word Worship Center. However, as an employee of the county, please be careful not to accept anything of value in return for an official act or the performance of a legal duty or otherwise use your position to financially benefit these organizations. Your duty to not use your official position to financially benefit a religious or non-profit organization in which you are an officer or director is ongoing. You may not personally, solicit or accept, on behalf of a non-profit organization donations in excess of one hundred dollars (\$100.00), directly or indirectly, from any lobbyist, principal or employer of a lobbyist who lobbies Palm Beach County.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Sincerely,

Alan S. Johnson
Executive Director
ASJ/mcr/gal

² RQO 10-004

April 8, 2011

Phil Donovan, Water Plant Operator
City of Lake Worth Utilities Department
Municipal Services Building
1900 2nd Avenue North
Lake Worth, FL 33461

Re: RQO 11-012
Prohibited contracts

Dear Mr. Donovan,

The Commission on Ethics considered your request and rendered its opinion at a public meeting held on April 7, 2011.

YOU ASKED in your letter dated March 18 2011, whether, as an employee of the City of Lake Worth Utilities Department (LWUD), you are prohibited by the Palm Beach County Code of Ethics from operating your outside business, collecting drinking water for testing for two “consecutive” water utility systems that purchase water from Lake Worth Utilities for resale to homeowners. In follow-up emails on March 22nd and March 23rd, you further indicated that part of your duties for your city employment involves responsibility for water quality.

IN SUM, under the facts you have provided, you are prohibited from operating an outside business under which you obtain samples of drinking water for testing from a “consecutive” water utility system, when that secondary water utility buys this water directly from your government employer, the City of Lake Worth Utility Department, and part of your city employment responsibilities includes maintaining water quality.

THE FACTS as we understand them are as follows:

You are a Water Plant Operator employed by the City of Lake Worth Utilities Department (LWUD). In your employment with LWUD, one of your responsibilities is ensuring proper water quality for drinking water that LWUD distributes to its customers. You have a Florida Drinking Water License, which is required under Florida law for both your city employment, and to conduct your outside business. Your outside business involves obtaining drinking water samples from two consecutive water systems, and transporting those samples to public and private laboratories for water quality testing.

This outside business began about 20 years ago when your name was among those submitted to the Palm Beach County Health Department, to establish a list of qualified individuals to assist small utilities

with mandated drinking water testing. A “qualified individual” for this purpose, refers to someone with a valid Florida Drinking Water License. Regulations require a “consecutive water utility” (a secondary utility that purchases drinking water from a primary utility, and re-sells the water to its customers), to test all water distributed in such a manner, even if it was tested previously by the primary provider.

Sometime after submitting your name to the Health Department, you were contacted by both Lake Osborne Estates and WP Utilities (AKA Palm Breezes Club). You entered into an agreement with both entities to take drinking water samples from their system, and transport them to laboratories for testing on a monthly basis. You do not conduct the tests yourself, but are responsible for both obtaining the water samples, and transporting them to the laboratories. You advised that while both your city employment and your outside business require you to maintain a valid Florida Drinking Water License, the maintaining of your outside business is not dependent on your continued employment with the City of Lake Worth. Because this drinking water is delivered by an underground pipeline connected directly to the LWUD water pipelines, LWUD is the sole source water available to these two secondary providers.

THE LEGAL BASIS for this opinion relies on the following relevant sections of the Code of Ethics.

Section 2-443(c) prohibits officials and employees from entering into “any contract or other transaction for goods or services with the [City]” *either directly or indirectly*, through the official or employee’s outside employer or business. An outside business is defined in section 2-442(2) as “Any entity located in the [City] or which does business with or is regulated by the [City], in which the official or employee has an ownership interest...”

Under the facts you have provided, you have an outside business and have entered into an agreement with “consecutive water utilities” that purchase their water from your government employer. Your agreement involves aspects of water quality assurance. Because one of your responsibilities in your city employment is maintaining the drinking water quality LWUD provides to customers, including these consecutive water utilities, you have a potential conflict of interest in the water quality of the consecutive water systems. The indirect contractual relationship through these “consecutive water utilities” with LWUD is prohibited under the Code of Ethics.

IN SUMMARY, as an employee of the City of Lake Worth, you fall under the jurisdiction of the Code of Ethics by agreement between the Commission on Ethics and the City of Lake Worth. Under the Code, you may not, *directly or indirectly*, enter into a contract for goods or services with your government employer. Under the facts you have presented, you have a potential conflict of interest in maintaining the water quality of both your public employer and outside customer, also a customer of your public employer. Therefore you are prohibited under the Code of Ethics from entering into an agreement with “consecutive water utilities” that obtain their water from LWUD.

Notwithstanding this opinion, you are not prohibited by the Palm Beach County Code of Ethics from entering into similar agreements with any “consecutive water utility” that obtains water from a different primary provider, (i.e., Palm Beach County Water Utilities, Palm Springs Water Department, etc.) as these agreements would not constitute an indirect contractual relationship with your public employer, Lake Worth.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law or any ordinance enacted by the City of Lake Worth. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics. Inquiries regarding possible conflicts under any Lake Worth City Ordinance should be directed to the City Attorney.

Sincerely,

Alan S. Johnson
Executive Director

ASJ/meb/gal

April 8, 2011

David Schwartz, Project Coordinator
PBC Department of Housing & Community Development
100 Australian Avenue
West Palm Beach, FL 33406

Re: RQO 11-013
Prohibited Contractual relationships

Dear Mr. Schwartz,

The Commission on Ethics considered your request and rendered its opinion at a public meeting held on April 7, 2011.

YOU ASKED in your e-mail of March 23, 2011, whether the Palm Beach County Code of Ethics prohibited the PBC Department of Housing & Community Development (HCD) from offering loan assistance under a residential rehabilitation program to a person who is related by marriage to the Vice-Mayor of Pahokee, a municipality located within Palm Beach County. During a telephone discussion this same date, you gave additional information to Commission on Ethics staff.

IN SUM, the Commission on Ethics does not currently have jurisdiction over municipal employees or officials of Pahokee and, therefore, cannot comment on the appropriateness of entering into a loan agreement for residential rehabilitation between Palm Beach County and an applicant and resident of Pahokee who is the sister-in-law of the vice-mayor of Pahokee, other than to narrowly answer the question as presented. The code of ethics does not prohibit Palm Beach County and HCD from entering into this contract since the recipient is not a county employee.

THE FACTS as we understand them are as follows:

You are the Community Development Project Coordinator for HCD. One of your duties involves coordinating a residential rehabilitation program that offers deferred repayable loans to qualified owners of certain residential properties within Palm Beach County for the purpose of repairing their properties to meet applicable housing and building code standards. These loans are funded by the U.S. Department of Housing and Urban Development. All approvals for rehabilitation loans under this program lie with Palm Beach County, through the Director of HCD.

HCD offers these loans to qualified persons living in Pahokee (and certain other municipalities) under inter-local agreements. This agreement allows the municipality to receive funds for assisting in the application and repair inspection process. The municipality does become involved in the process to the extent that they receive the application from the resident, check it to ensure it is properly completed, verify both ownership of the property and residency of the applicant, and once repairs begin, inspect

the work of the contractor to ensure it meets all building standards. You advised that Pahokee is not involved in the approval of applications, other than to forward applications to HCD once they have been reviewed and checked. You also stated that Pahokee was not involved in the selection of contractors who perform the work, which is completed via sealed bid by HCD.

Ms. Mattie Crawford, a resident of Pahokee, is an applicant for this HCD program. Ms. Crawford is not employed by Palm Beach County. However, her brother-in-law, Henry Crawford, serves as the Vice-Mayor of Pahokee.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Sec. 2-442. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Official or employee means any *official or employee of the county*, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, division, committee, or subcommittee of the county. (Emphasis added)

Sec. 2-443(c) Prohibited contractual relationships. No official or employee shall enter into any contract or other transaction for goods or services with the county. This prohibition extends to all contracts or transactions between the county or any person or agency acting for the county, and the official or employee, directly or indirectly, or the official or employee's outside employer or business.

Neither the applicant, nor the Vice-Mayor of Pahokee is an employee of Palm Beach County.

While the county-wide Code of Ethics will be extended to all municipalities within Palm Beach County, the City of Pahokee is not currently under the jurisdiction of the Commission on Ethics. Therefore the commission cannot opine regarding the relationship between the recipient, who is not an employee or official of the county, and her brother-in-law, the Vice-Mayor of Pahokee. Once municipalities are within its jurisdiction, the Commission on Ethics will have the ability to scrutinize municipal transactions. The county-wide code of ethics prohibits an official or employee from using his or her office for the special financial benefit of a listed relative. While any potential violation of the code would depend upon the facts and circumstances of events and transactions, insofar as the limited premise of this opinion is concerned, HCD is not prohibited from entering into a residential rehabilitation agreement with Ms. Crawford.

IN SUMMARY, based upon the facts as submitted and the limitations of jurisdiction your question is narrowly answered as follows:

The residential rehabilitation loan program is offered and administered by Palm Beach County through HCD to all qualified county applicants. Ms. Crawford is not an employee or official of Palm Beach County and therefore is neither prohibited from entering into a county contract nor otherwise required to obtain a waiver from the Board of County Commissioners. Palm Beach County is not prohibited under the Code of Ethics from entering into an agreement with Ms. Crawford for this residential rehabilitation loan.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,

Alan S. Johnson
Executive Director
Commission on Ethics

ASJ/meb/gal

AGENDA ITEM X – PUBLIC COMMENT REVIEW

Pursuant to COE directive at the meeting of March 2, 2011, staff has completed a legislative, judicial and executive review regarding the issue of public comment within commission meetings.

Staff Analysis:

§ 286.011, Florida Statutes (the sunshine law) does not specifically require that public meetings allow for public comment. There are a number of Florida Statutes relating to specific boards and commissions requiring that public testimony or comment be allowed. These statutes pertain to legislative matters or executive functions where due process issues are involved such as the right of a party to be heard in a quasi-judicial hearing before a special master or where a local government entity conducts a duly noticed public hearing. § 163.3215, Florida Statutes.

Florida courts have extended the concept of public meetings to being “a marketplace of ideas, so that the governmental agency may have sufficient input from the citizen who are going to be affected by the subsequent action of the [public agency]”, referring to the “citizen input factor” and stating that public input was an important aspect of public meetings. **Town of Palm Beach v. Gradison, 296 So.2d 473 (Fla. 1974), Krause v. Reno, 366 So.2d 1244 (3rd DCA 1979).**

However, while the right to meaningful public comment is secure within legislative matters, it has not been extended to executive functions. For example, while determining that a public university academic search committee, whose function was to screen and recommend candidates for dean, was a sunshine committee with respect to the open meeting requirements of § 286.011, the court rejected the public’s right to comment or participate. “...nothing in this decision gives the public the right to be more than spectators. The public has no authority to participate in or to interfere with the decision-making process.” **Wood v. Marston, 442 So.2d 934 (Fla. 1983)**

Attorney General Opinions have consistently stated that public participation in open meetings is required only when public comment is either specifically mandated by statute or when the meeting involves a legislative function. “...this office has recognized that when certain committees are carrying out certain executive functions that traditionally have been conducted without public input, the public has the right to attend but may not have the authority to participate. On the other hand, if a committee or board is carrying out legislative functions, this office has advised that the public should be afforded a meaningful opportunity to participate at each stage of the decision-making process.” **AGO Inf. Op. To Honorable John Thrasher, Jan. 27, 1994, AGO Inf. Op. To David G. Conn, May 7, 1987.**

Additionally, notwithstanding the right to public comment in specified public hearings or other legislative matters, “...reasonable rules and policies which ensure the orderly conduct of a public meeting and which require orderly behavior on the part of those persons attending the meeting may be adopted by the board or commission.” **AGO Inf. Op. To Joseph P. Caetano, July 2, 1996.** Several AGO informal opinions quoted a federal appellate court case recognizing that “to deny the presiding officer

the authority to regulate irrelevant debate and disruptive behavior at a public meeting would cause such meetings to drag on interminably, and deny others the opportunity to voice their opinions.” **Jones v. Heyman**, 888 F. 2d 1328 (11th Cir. 1989). The **Jones** court acknowledged that the city commission chair’s actions to confine the speaker to the agenda, and to have the speaker removed when his behavior became disruptive constituted a reasonable time, place and manner regulation and did not violate the speaker’s first amendment rights.

Several attorneys representing municipalities were canvassed on this issue. All opined that public comment was statutorily required only during noticed public hearings on legislative and quasi-judicial matters of a legislative nature (sworn testimony). Executive functions of a board or commission did not require public hearing. However, even when not required, the board or commission may allow public comment on non-legislative matters at their discretion. In a search of listed county advisory boards and commissions, of the 10 boards with posted agendas or minutes, 5 provided no public comment and 5 provided for public comment at the conclusion of the meeting. A number of advisory boards invite public comment on listed agenda items without noting this on the agenda or providing a formal public comment section.

Staff Recommendation:

Staff recommends that the Commission on Ethics adopt the following policy with regard to public comment:

- 1- A public comment agenda section scheduled after Approval of Minutes (comments may not relate to executive session items on the agenda)
- 2- Public comment be invited related to agenda items involving legislative or rulemaking issues (e.g., recommendation of code revision, changes to rules of procedure, etc.) before a final vote on the agenda issue.
- 3- A final public comment section at or near the conclusion of the scheduled public meeting.

AGENDA ITEM XI – 2012 COE BUDGET

Staff analysis:

As the Referendum Drafting Committee approaches completion of its work, staff estimates that the county-wide code of ethics will be adopted by the BCC in May 2011. At that time, based on a staff survey of municipalities, an additional 194 elected officials, 1,781 appointed officials, 7,993 full time and 1,028 part time municipal employees will become subject to the jurisdiction of the Commission on Ethics.

According to Palm Beach County Human Resources, currently there are 5,813 full time and 206 part time county employees, 7 elected officials and approximately 1,000 appointed officials. As a result of the expanded jurisdiction, there will be a significant increase in the duties and responsibilities of COE staff. In fact, the number of individuals subject to the code of ethics will more than double. Currently, staff consists of an Executive Director, staff attorney, investigator (also an attorney), administrative assistant and part-time research analyst.

In addition to the increase in the volume of advisory opinions, filed complaints, inquiries and investigations anticipated as a result of the expansion of the COE oversight to municipalities, staff will be responsible for training employees and officials in all 38 municipalities, and retraining county employees and officials in the revised code of ethics. Lastly, regarding transparency, the COE website will be the main depository of records maintained in compliance with the code of ethics. This includes gift report databases, elected and advisory board conflict of interest filings and prohibited contract waivers, involving both officials and employees.

As a result of these changes, there is a need to expand the COE staff to add an auditor/investigator and a part-time data entry person.

Since its inception, the COE has been running a significant reserve. In 2010, the operating reserve was \$66,914.00. In the current fiscal year the reserve is estimated to significantly increase. As a result, notwithstanding the addition of a full time and part time position, the ad valorem budget request for 2012 will remain at current levels. However, the proposed additional staff will absorb reserves and may result in an increased request for the 2013 budget year.

Staff recommendation:

Staff recommendation is to employ an additional full-time auditor/investigator and a part-time data entry person (absorb the current research analyst into this position) to coincide with the expansion of the COE to the 38 municipalities within Palm Beach County.

Municipality	Employees		Committees/ Boards	Board Members	Elected Officials
	Full Time	Part Time			
Atlantis	25	0	4	20	5
Belle Glade	240	0			5
Boca Raton	1257	524	26	207	5
Boynton Beach	861	0	17	125	5
Briny Breezes	0	0	1	6	6
Cloud Lake	1	0	0	0	6
Delray Beach	737	124	22	190	5
Glen Ridge		1	0	0	6
Golf	22	0	0	0	5
Greenacres	174	15	6	50	6
Haverhill	4	0	13	63	5
Highland Beach	34	13	3	21	5
Hypoluxo	3	0	1	6	6
Juno Beach	37	2	1	5	5
Jupiter	365	0	7	56	5
Jupiter Inlet					5
Lake Clark Shores	25	0	2	16	5
Lake Park	72	0	6	31	5
Lake Worth	354	0	18	96	5
Lantana	98	0	6	40	5
Lox Groves	0	0	1	5	5
Manalapan	23	16	3	21	7
North Palm Beach	143	87	11	73	5
Ocean Ridge	26	0	2	14	5
Pahokee	61	0	4	26	5
Palm Beach	350	0	15	109	6
Palm Springs	153	40	7	32	4
Riviera Beach	427	59	16	101	6
Royal Palm Beach	101	20	3	19	5
South Bay	19	0	2	9	5
South Palm Beach	0	2	5	27	5
Tequesta	79	10	5	29	5
Wellington	260	0	11	71	5
West Palm Beach	1587	0	30	250	6
Palm Beach Gardens	417	114	8	49	5
Palm Beach Shores	22	0	1	7	5
Gulf Stream	16	1	1	7	5
Total	7993	1028	258	1781	194

	Employees		Committees/ Boards	Board Members	Elected Officials
	Full Time	Part Time			
Palm Beach County	5813	206	95	1000	7

PALM BEACH COUNTY, FLORIDA
CAPITAL & OPERATING APPROPRIATIONS (BP40)

FUND: 1484 PBC Commission on Ethics

					PRIOR YEAR	CURRENT YEAR	CURRENT YEAR	CURRENT YEAR	DEPARTMENT		BASE	SUPP	BUDGET
Fund	Dept	Unit	Appropriation	Object	ACTUAL	BUDGET	MOD BUDGET	ESTIMATE	TARGET	CHANGE	REQUEST	REQUEST	REQUEST
UNIT: 2100 Commission on Ethics													
1484	290	2100	2902100PA	E1201REG 1201 Regular	60,384	286,250	286,250	274,284	270,484	79,541	350,025	0	350,025
1484	290	2100	2902100PA	E1301REG 1301 Regular	0	0	0	0	1	0	1	0	1
1484	290	2100	2902100PA	E1501REG 1501 Regular	810	0	0	0	1	0	1	0	1
1484	290	2100	2902100PA	E2101 Fica-Taxes	3,782	16,929	16,929	16,270	16,234	971	17,205	0	17,205
1484	290	2100	2902100PA	E2105 Fica Medicare	885	4,151	4,151	3,984	3,960	3,420	7,380	0	7,380
1484	290	2100	2902100PA	E2201 Retirement Contributions-Prs	6,852	37,378	37,378	35,028	37,812	8,441	46,253	0	46,253
1484	290	2100	2902100PA	E2301 Insurance-Life & Health	12,289	34,125	34,125	36,384	39,984	9,996	49,980	0	49,980
1484	290	2100	2902100PA	E2401 Workers Compensation	0	0	0	0	361	0	361	0	361
2902100PA					85,002	378,833	378,833	365,950	368,837	102,369	471,206	0	471,206
1484	290	2100	2902100OA	E3161 Audio/Visual Services Ch. 20	0	10,000	10,000	0	10,000	0	10,000	0	10,000
1484	290	2100	2902100OA	E3301 Court Reporter Services *	0	2,000	2,000	0	2,000	0	2,000	0	2,000
1484	290	2100	2902100OA	E3401 Other Contractual Services *	0	5,000	5,000	0	5,000	0	5,000	0	5,000
1484	290	2100	2902100OA	E3414 Iss Professional Services	0	5,000	5,000	0	5,000	0	5,000	0	5,000
1484	290	2100	2902100OA	E4001REG 4001 Regular	2,346	5,000	5,000	0	5,000	0	5,000	0	5,000
1484	290	2100	2902100OA	E4007 Travel-Mileage	96	1,000	1,000	1,000	1,000	0	1,000	0	1,000
1484	290	2100	2902100OA	E4008REG 4008 Regular	2,750	9,600	9,600	5,000	9,600	0	9,600	0	9,600
1484	290	2100	2902100OA	E4406 Rent-Office Equipment	1,119	0	0	900	0	0	0	0	0
1484	290	2100	2902100OA	E4502 Casualty Self Ins Premiums	0	0	0	0	2,109	0	2,109	0	2,109
1484	290	2100	2902100OA	E4701 Printing & Binding-Outside	84	15,000	15,000	0	15,000	0	15,000	0	15,000
1484	290	2100	2902100OA	E4703 Graphics Charges	0	5,000	5,000	0	5,000	0	5,000	0	5,000
1484	290	2100	2902100OA	E4901 Oth Curmt Chrges & Obligtions	75	0	0	0	0	0	0	0	0
1484	290	2100	2902100OA	E4941 Registration Fees	0	5,000	5,000	0	5,000	0	5,000	0	5,000
1484	290	2100	2902100OA	E4945 Advertising	0	0	0	1,500	0	0	0	0	0
1484	290	2100	2902100OA	E4946 Advertising Including Legal	0	0	0	0	0	0	0	0	0
1484	290	2100	2902100OA	E5101 Office Supplies	2,818	2,000	2,000	2,000	2,000	0	2,000	0	2,000
1484	290	2100	2902100OA	E5111 Office Furniture And Equipment	5,777	3,000	3,000	2,600	3,000	0	3,000	0	3,000
1484	290	2100	2902100OA	E5112 Telephone Equipment/Install	0	0	0	0	0	0	0	0	0
1484	290	2100	2902100OA	E5121 Data Processng Sftwre/Accessres	1,201	9,693	9,693	3,050	9,693	0	9,693	0	9,693
1484	290	2100	2902100OA	E5201 Materials/Supplies Operating	0	5,000	5,000	0	5,000	0	5,000	0	5,000
1484	290	2100	2902100OA	E5401 Books Publicatns & Subscrptns	615	3,000	3,000	3,000	3,000	0	3,000	0	3,000
1484	290	2100	2902100OA	E5412 Dues & Memberships	350	5,000	5,000	0	5,000	0	5,000	0	5,000
2902100OA					17,231	90,293	90,293	19,050	92,402	0	92,402	0	92,402
1484	290	2100	2902100CA	E6401 Machinery & Equipment	1,637	0	0	0	0	0	0	0	0
1484	290	2100	2902100CA	E6405 Data Processing Equipment	8,407	6,500	6,500	0	6,500	0	6,500	0	6,500
2902100CA					10,044	6,500	6,500	0	6,500	0	6,500	0	6,500
UNIT: 9900 Operating Reserves													
1484	290	9900	2909900NA	E9902 Operating Reserves	0	0	0	0	0	66,914	66,914	0	66,914
2909900NA					0	0	0	0	0	66,914	66,914	0	66,914
TOTAL IN FUND: 1484 PBC Commission on Ethics					112,277	475,626	475,626	385,000	467,739	169,283	637,022	0	637,022

**PALM BEACH COUNTY, FLORIDA
REVENUE BUDGET (BF18)**

FUND: 1484 PBC Commission on Ethics

Fund	Dept	Unit	Revenue Source	PRIOR YEAR	CURRENT YEAR	CURRENT YEAR	CURRENT YEAR	BASE	SUPP	BUDGET
				ACTUAL	BUDGET	MOD BUDGET	ESTIMATE	REQUEST	REQUEST	REQUEST
1484	010	0100	R6110	Pool Investment Income	3,048	0	0	0	0	0
1484	010	0100	R6116	Change In Fair Value	0	0	0	0	0	0
TOTAL IN DEPT : 010				3,048	0	0	0	0	0	0
1484	290	2100	R8000	Tr Fr General Fund Fd 0001	180,000	475,626	475,626	475,626	475,626	475,626
TOTAL IN DEPT : 290				180,000	475,626	475,626	475,626	475,626	0	475,626
1484	800	2100	R8000	Tr Fr General Fund Fd 0001	0	0	0	0	0	0
1484	800	8000	R8901	Balance Brought Forward	0	0	0	70,770	161,396	161,396
TOTAL IN DEPT : 800				0	0	0	70,770	161,396	0	161,396
TOTAL IN FUND: 1484 PBC Commission on Ethics				183,048	475,626	475,626	546,396	637,022	0	637,022
GRAND TOTALS:				183,048	475,626	475,626	546,396	637,022	0	637,022

1 | **DIVISION 8. COMMISSION ON ETHICS*****Draft dated 3/14/11**

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4 | *Cross references: Code of ethics, § 2-441 et seq.
5
6
7

8 | **Sec. 2-254. Creation and jurisdiction.**

9 | The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby
10 | established. The jurisdiction of the commission on ethics shall extend to any person required to
11 | comply with the countywide code of ethics, the countywide lobbyist registration ordinance, and
12 | the countywide post-employment ordinance, and may further extend to persons or entities
13 | required to comply with additional ordinances and regulations duly adopted by other county,
14 | local, or municipal government and any commission, bureau, district, or other governmental
15 | entity located in Palm Beach County as more fully set forth below. The jurisdiction of the
16 | commission on ethics is not exclusive. Any person or entity subject to a complaint to the county's
17 | commission on ethics may also be subject to a separate complaint to the state commission on ethics or
18 | pursuant to a municipality's ethics ordinance. A finding by the county's commission on ethics is not
19 | binding on the state and may not be binding on the municipality, depending on the nature of the
20 | complaint and whether the municipality's ethics ordinance is more restrictive than the countywide
21 | ethics code.

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22 | (Ord. No. 2009-050, § 1, 12-15-09)
23

24 | **Sec. 2-255. Membership, qualifications, terms, vacancies.**

- 25 | (a) *Composition and appointment.* The commission on ethics shall be composed of five (5)
26 | voting members. The members of the commission on ethics shall be appointed as follows:
- 27 | (1) The president of the county association of chiefs of police shall be requested to appoint a
28 | former law enforcement official with experience in investigating white collar crime or public
29 | corruption.
 - 30 | (2) The president of the Hispanic Bar Association of Palm Beach County, the president of the F.
31 | Malcolm Cunningham, Sr. Bar Association, and the president of the county bar association shall
32 | be requested to appoint an attorney with experience in ethics regulation of public officials and
33 | employees.
 - 34 | (3) The president of Florida Atlantic University (FAU) shall be requested to appoint a faculty
35 | member who teaches at an institution of higher education with a campus located in the county
36 | and who has taught a course in professional legal ethics or has published or performed services
37 | in the field of professional legal ethics.
 - 38 | (4) The president of the Palm Beach Chapter of the Florida Institute of CPAs shall be requested
39 | to appoint a member who possesses at least five (5) years experience as a certified public
40 | accountant (CPA) with forensic audit experience.
 - 41 | (5) The board of directors of the Palm Beach County League of Cities, Inc. shall be requested to
42 | appoint a person who has served as a former elected official for a governmental entity in the
43 | county.

44 | All appointing officers or entities identified in subsections (a)(1) through (5) shall in good faith
45 endeavor to appoint members of the commission on ethics within forty-five (45) days of the
46 effective date of the ordinance from which this division is derived. Each appointing entity shall
47 promptly provide notice of each appointment to the county administrator.

48 (b) *Additional qualifications.* Each member of the commission on ethics shall be of outstanding
49 reputation for integrity, responsibility and commitment to serving the community. The members
50 of the commission on ethics should be representative of the community-at-large and should
51 reflect the racial, gender and ethnic make-up of the community. Before entering upon the duties
52 of office, each appointee on the commission on ethics shall take the prescribed oath of office
53 pursuant to Florida Constitution, Art. II §5(b). ~~Florida Statutes, § 876.05~~. Members of the
54 commission on ethics shall serve without compensation.

55 (c) *Term.* The members of the commission on ethics shall serve staggered terms of four (4)
56 years each, provided that of the original members, two (2) members described in subsections
57 (a)(1) and (2) shall be appointed for an initial term of two (2) years. The remaining three (3)
58 members shall be appointed for an initial term of four (4) years. Thereafter, all members of the
59 commission on ethics shall serve terms of four (4) years.

60 (d) *Vacancies.* A vacancy occurring during or at the expiration of a member's term on the
61 commission on ethics shall be filled as provided in subsections (a) and (b), no later than sixty
62 (60) days after the vacancy occurs.

63 (e) *Additional requirements.* No individual, while a member of the commission on ethics,
64 shall:

- 65 (1) Hold or campaign for any elective political office;
- 66 (2) Hold office in any political party or political committee;
- 67 (3) Actively participate in or contribute to any political action committee, or to any campaign
68 for state or local office or for any U.S. Congressional or Senate office serving the State of
69 Florida;
- 70 (4) Be employed by Palm Beach County, any municipality within the county, or any other
71 governmental entity subject to the authority of the commission on ethics or the inspector general;
72 or
- 73 (5) Allow his or her name to be used by a campaign in support of or against any candidate for
74 political office or any referendum or other ballot question. Nothing herein shall preclude a
75 member of the commission on ethics from signing a petition in support of or against any
76 referendum or other ballot question.

77 (Ord. No. 2009-050, § 2, 12-15-09)

78

79 **Sec. 2-256. Applicability of code of ethics ordinance.**

80 | The countywide code of ethics ordinance shall be applicable to all persons and/or entities within
81 the jurisdiction of said ordinance and shall specifically apply to the members and staff of the
82 commission on ethics.

83 (Ord. No. 2009-050, § 3, 12-15-09)

84

85 **Sec. 2-257. Organization.**

86 (a) The commission on ethics shall elect one (1) of its voting members as chairperson who shall
87 serve a term of two (2) years. No chairperson shall be permitted to serve two (2) consecutive
88 terms.

89 (b) The commission on ethics shall adopt bylaws and rules of procedure which are consistent
90 with the provisions of this division and rules and regulations for the commission on ethics'
91 governance. The commission on ethics shall hold regular meetings in accordance with the
92 bylaws of the commission and may hold such other meetings as it deems necessary.

93 (c) All meetings of the commission on ethics shall be public, and written minutes of the
94 proceedings thereof shall be maintained by the commission on ethics. All actions taken at the
95 meetings of the commission on ethics shall be promptly and properly recorded. Copies of all
96 minutes, resolutions, decisions or advisory opinions of the commission on ethics shall be
97 forwarded to the clerk to the board of county commissioners no later than thirty (30) days
98 subsequent to any meeting of the commission on ethics.

99 (d) The commission on ethics shall be empowered to appoint an executive director and to
100 remove such appointee at will. The commission on ethics shall utilize a competitive selection
101 process when selecting an executive director. The commission on ethics shall fix the executive
102 director's salary, subject to ultimate budget approval by the board of county commissioners. The
103 executive director shall be empowered to appoint, remove, and suspend employees or agents of
104 the commission on ethics, subject to ultimate budget approval by the board of county
105 commissioners. The executive director shall be further empowered to adopt personnel and
106 management policies consistent with like policies in place for county personnel.

107 (Ord. No. 2009-050, § 4, 12-15-09)

108

109 **Sec. 2-258. Powers and duties.**

110 (a) The commission on ethics shall be authorized to exercise such powers and shall be required
111 to perform such duties as are hereinafter provided. The commission on ethics shall be
112 empowered to review, interpret, render advisory opinions and enforce the:

- 113 (1) Countywide Code of Ethics;
114 (2) Countywide Post-employment Ordinance; and
115 (3) Countywide Lobbyist Registration Ordinance.

116 ~~(b) It is anticipated that municipalities, taxing districts, and other public officials and entities
117 will recognize and desire to benefit from the services of the commission on ethics. The
118 commission on ethics may additionally be empowered to review, interpret, render advisory
119 opinions, and enforce the county's code of ethics or similar ordinances, rules or regulations duly
120 adopted by the county or other local or municipal government, or any commission, bureau,
121 district, or other governmental entity located in the county, pursuant to agreements or
122 memoranda of understanding between the commission on ethics and said governmental
123 agency/entity. The memorandum of understanding or agreement shall include a provision for fees
124 to be paid to the commission on ethics from the public entity in exchange for such benefits at a
125 rate established by the commission on ethics. All fees paid under any such agreement shall be
126 used solely to fund the operations of the commission on ethics and its staff. Any such agreement
127 or memorandum of understanding is subject to final approval of the board, but such approval
128 shall not be unreasonably withheld.~~

129 ~~(c)~~ (b) As set forth in the countywide office of inspector general ordinance ~~(Ord. No. 2009-049)~~,
130 the commission on ethics shall serve with one (1) delegate each from the state attorney's office
131 and public defender's office for the Fifteenth Judicial Circuit as the selection committee. The
132 selection committee shall be authorized to select the inspector general, to determine whether or
133 not to renew the term of an inspector general, and to ~~remove- participate in the removal of~~ the
134 inspector general as set forth in greater detail in the county office of inspector general ordinance.

135 | ~~(d)~~-(c) The commission on ethics shall from time to time review ordinances and state and federal
136 | laws relating to ethics in government and shall report and make recommendations to the board of
137 | county commissioners and municipal elected officials as it deems appropriate.

138 | ~~(e)~~-(d) The commission on ethics shall develop and deliver ethics training and outreach
139 | programs for the benefit of county and municipal employees and officials, county and municipal
140 | vendors, nonprofit corporations, and other entities that do business with or are regulated by the
141 | county or the municipalities located within the county. The commission on ethics may
142 | recommend that the board enter into agreements with other entities to provide such training and
143 | outreach programs to be administered by the commission on ethics.

144 | (Ord. No. 2009-050, § 5, 12-15-09)

145 | **Sec. 2-258.1 Extended jurisdiction by interagency agreements.**

146 | It is anticipated that taxing districts, and other public officials and entities will recognize and
147 | desire to benefit from the services of the commission on ethics. The commission on ethics may
148 | additionally be empowered to review, interpret, render advisory opinions, and enforce similar
149 | rules or regulations duly adopted by any commission, bureau, district, or other governmental
150 | entity located in the county, pursuant to agreements or memoranda of understanding between the
151 | commission on ethics and said entity. The memorandum of understanding or agreement shall
152 | include a provision for fees to be paid to the commission on ethics from the public entity in
153 | exchange for such benefits at a rate established by the commission on ethics. All fees paid under
154 | any such agreement shall be used solely to fund the operations of the commission on ethics and
155 | its staff. Any such agreement or memorandum of understanding is subject to final approval of the
156 | board, but such approval shall not be unreasonably withheld.

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157 | **Sec. 2-259. Financial support for the commission.**

159 | (a) The commission on ethics shall establish a fiscal year which coincides with that of the
160 | county. Pursuant to its annual budget process, the county shall provide sufficient financial
161 | support for the commission on ethics to fulfill its duties as set forth in this division. The
162 | commission on ethics shall timely submit to the board of county commissioners a budget request
163 | including a reasonable estimate of operating and capital expenditures, which request shall not be
164 | implemented until approved by the board of county commissioners. ~~In order to ensure adequate~~
165 | ~~funding for the prompt establishment of the commission on ethics, the board of county~~
166 | ~~commissioners hereby approves an amount equal to one hundred eighty thousand dollars~~
167 | ~~(\$180,000.00) to fund all commission on ethics operations for the remainder of the 2009-2010~~
168 | ~~fiscal year.~~

169 | (b) The commission on ethics budget request shall be prepared on official county budget forms
170 | in a format prescribed by the county office of financial management and budget, shall be
171 | reviewed in a manner similar to that in which of other county departments are reviewed, and
172 | shall be incorporated in the proposed budget and timely submitted to the board of county
173 | commissioners each year. Nothing contained herein shall be construed to prohibit the
174 | commission on ethics from submitting to the board of county commissioners supplemental
175 | budget requests which, if approved, shall constitute amendments to the county budget.

176 | (c) In addition to budgetary appropriations made by the county, the board of county
177 | commissioners, may, for the benefit of the commission on ethics ~~may~~ accept grants,
178 | contributions or appropriations from the federal government, state government, any municipality
179 | within the county, or any academic institution or nonprofit entity which has not entered into a
180 | contract or transacted business with the county or any governmental entity subject to the

181 | provisions of this ordinance. The commission on ethics may accept grants, contributions or
182 appropriations from an academic institution or nonprofit entity which has entered into a contract
183 or transacted business with the county if the board of county commissioners by resolution
184 approves the grant, contribution, or appropriation. No other grants, contributions or
185 appropriations may be accepted by the commission on ethics.
186 (Ord. No. 2009-050, § 6, 12-15-09)

187
188
189
190

191 **Sec. 2-260. Procedure on complaints filed.**

192 ~~(a) Legally sufficient complaint. Any person may file a complaint with the commission on~~
193 ~~ethics. Within thirty (30) days after receipt of a complaint by the commission on ethics, a copy~~
194 ~~shall be sent to the alleged violator, otherwise known as the respondent. The commission shall~~
195 ~~investigate all complaints following a finding by the executive director, with advice of counsel to~~
196 ~~the commission on ethics, that the complaint is legally sufficient. In order to be found legally~~
197 ~~sufficient, a complaint must:~~

- 198 ~~(1) Be in writing, and executed on a form prescribed by the commission on ethics;~~
199 ~~(2) Allege the elements of a violation within the commission on ethics' jurisdiction;~~
200 ~~(3) Be based substantially upon the personal knowledge of the complainant; and~~
201 ~~(4) Be signed under oath or affirmation by the complaining person.~~

202 ~~Upon a finding of legal sufficiency by the executive director, the commission on ethics shall~~
203 ~~initiate a preliminary investigation.~~

204 ~~(b) Complaints filed by inspector general, executive director or state attorney. The inspector~~
205 ~~general, executive director of the commission on ethics or the state attorney may file a complaint~~
206 ~~with the commission on ethics. In order to be found legally sufficient, the complaint must be in~~
207 ~~writing, sworn to by the person filing the complaint before a notary public and contain the~~
208 ~~following language: Personally known to me and appeared before me, _____,~~
209 ~~whose signature appears below, being duly sworn, says that the allegations set forth in this~~
210 ~~complaint are based upon facts which have been sworn to as true by a material witness or~~
211 ~~witnesses and which if true would constitute the offenses alleged and that this complaint is~~
212 ~~instituted in good faith. Within five (5) days after receipt of the complaint by the commission on~~
213 ~~ethics, a copy of the complaint shall be sent to the alleged violator, otherwise known as the~~
214 ~~respondent.~~

215

216 **Sec. 2-260. Procedure on Complaints filed.**

217 **(a) Filing of complaints.**

218 ~~(1) Any person may file a complaint with the commission on ethics. Within thirty (30) days~~
219 ~~after receipt of a complaint by the commission on ethics, a copy of the complaint and all~~
220 ~~documents in support thereof shall be sent to the alleged violator, otherwise known as the~~
221 ~~respondent. The commission shall investigate all complaints following a finding by the~~
222 ~~executive director to the commission on ethics, that the complaint is legally sufficient.~~

223 ~~(2) The Inspector General, Executive Director of the Commission on Ethics or the State~~
224 ~~Attorney may file a complaint with the commission on ethics. Within five (5) days after~~
225 ~~receipt of the complaint by the commission on ethics under this subsection, a copy of the~~

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226 ~~complaint and all documents in support thereof shall be sent to the alleged violator,~~
227 ~~otherwise known as the respondent.~~
228 (3) ~~Within twenty (20) days of a legal sufficiency finding, a copy of the complaint and all~~
229 ~~documents in support thereof shall be sent to the alleged violator, otherwise known as the~~
230 ~~respondent.~~

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231 (b) ~~Legal sufficiency of complaints.~~

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232 (1) ~~In order to be found legally sufficient, complaints filed by persons under section (a)1~~
233 ~~above, must:~~

- 234 a- ~~Be in writing, and executed on a form prescribed by the commission on ethics;~~
- 235 b- ~~Allege the elements of a violation within the commission on ethics' jurisdiction in the~~
236 ~~complaint and/or supporting documents provided;~~
- 237 c- ~~Be based substantially upon the personal knowledge of the complainant; and~~
- 238 d- ~~Be signed under oath or affirmation by the complaining person.~~

239 (2) ~~In order to be found legally sufficient, complaints filed by the Inspector General, Executive~~
240 ~~Director of the Commission on Ethics or the State Attorney, must:~~

- 241 a- ~~Be in writing, and executed on a form prescribed by the commission on ethics;~~
- 242 b- ~~Allege the elements of a violation within the commission on ethics' jurisdiction in the~~
243 ~~complaint and/or supporting documents provided;~~
- 244 c- ~~Be sworn to by the person filing the complaint before a notary public and contain the~~
245 ~~following language: "Personally known to me and appeared before me, _____,~~
246 ~~whose signature appears below, being duly sworn, says that the allegations set forth in~~
247 ~~this complaint are based upon facts which have been sworn to as true by a material~~
248 ~~witness or witnesses and which if true would constitute the offenses alleged and that~~
249 ~~this complaint is instituted in good faith."~~

250
251 ~~Upon a finding of legal sufficiency by the executive director, the commission on ethics shall~~
252 ~~initiate a preliminary investigation.~~

253
254 (c) ~~Documents Provided to the Respondent Within twenty (20) days of a legal sufficiency~~
255 ~~finding, a copy of the complaint and all documents in support thereof shall be sent to the~~
256 ~~alleged violator, otherwise known as the respondent,~~

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258 (e) ~~(d) Preliminary investigation and public hearing.~~ A preliminary investigation shall be
259 undertaken by the commission on ethics of each legally sufficient complaint over which the
260 commission on ethics has jurisdiction to determine whether there is probable cause to believe
261 that a violation has occurred. If, upon completion of the preliminary investigation, the
262 commission on ethics finds no probable cause to believe that a violation has been committed, the
263 commission on ethics shall dismiss the complaint with the issuance of a report to the
264 complainant and the respondent. If the commission on ethics finds from the preliminary
265 investigation probable cause to believe that a violation has been committed, it shall ~~set the matter~~
266 ~~for a public hearing and~~ notify complainant and respondent via certified mail, hand delivery, or
267 courier, ~~informing the person of his or her right to request a hearing within thirty (30) days of~~
268 ~~receipt of the notice. Upon request submitted to the commission on ethics in writing, any person~~
269 ~~who the commission on ethics finds probable cause to believe has committed a violation of a~~
270 ~~provision within its jurisdiction shall be entitled to a public hearing. Such person shall be deemed~~
271 ~~to have waived the right to a public hearing if the request is not received within thirty (30) days~~

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272 | ~~following receipt of the probable cause notification required by this subsection.~~ The commission
273 | on ethics ~~may on its own motion require a public hearing,~~ may conduct such further investigation
274 | as it deems necessary, and may enter into such stipulations and settlements as it finds to be just
275 | and in the best interest of the citizens of the county. The public hearing provided for in this
276 | section shall be held within ~~ninety (90)~~ one hundred twenty (120) days of the probable cause
277 | determination unless extended by the commission on ethics for good cause based on the request
278 | of a party or on its own initiative.

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279 | ~~(d)~~ (e) *Investigations.* Investigations shall be conducted by commission on ethics staff or by
280 | any other person or agency so designated by the commission on ethics under the supervision of
281 | the executive director and/or the inspector general. Investigations shall be limited to the
282 | allegations of the complaint, but shall include an investigation of all facts and persons materially
283 | related to the complaint at issue. Subsequent to the filing of a complaint and notice to the
284 | respondent, the commission on ethics has an ongoing duty to disclose to the respondent any and
285 | all additional documents, statements of witnesses and other evidence, not otherwise subject by
286 | statute to nondisclosure, obtained by the commission pursuant to the ongoing investigation of a
287 | complaint.

288 | ~~(e)~~ (f) *Counsel.*

289 | (1) Counsel to commission on ethics. The commission on ethics shall select counsel to advise
290 | the commission on ethics.

291 | (2) Advocate. The commission on ethics shall retain legal counsel to serve as the advocate. The
292 | advocate shall prosecute cases before the commission on ethics. The executive director may
293 | serve as advocate provided the executive director is a member of the Florida Bar in good
294 | standing.

295 | (3) Counsel to the commission on ethics, the advocate, or both may serve on a volunteer basis.

296 | (4) Respondent. The respondent may appear on his or her own behalf or may be represented by
297 | a lawyer. All notices and communications to a respondent represented by a lawyer shall be made
298 | through respondent's lawyer.

299 | ~~(f)~~ (g) *Public records exemption.* The commission on ethics and its staff shall be considered
300 | "an appropriate local official" for the purposes of whistleblower protection provided for in
301 | Florida Statutes, § 112.3188(1). ~~With the exception of the initial complaint filed in a matter, all~~
302 | The complaint and all records held by the commission on ethics and its staff related to an active
303 | preliminary investigation are confidential and exempt from disclosure in a manner consistent
304 | with the provisions in Florida Statutes, §112.324(2)(a) and (3) and § 112.3188(2). In addition,
305 | any proceeding conducted by the commission on ethics pursuant to a complaint or preliminary
306 | investigation is exempt from the provision § 286.011, Florida Statutes, and Article 1, § 24(b),
307 | Florida Constitution, as set forth in § 112.324(2)(a) and (3), Florida Statutes. Once a preliminary
308 | investigation is complete and a probable cause determination made, all other proceedings
309 | conducted pursuant to this subsection shall be public meetings within the meaning of Florida
310 | Statutes, ch. 286, and all other documents made or received by the commission on ethics shall be
311 | public records within the meaning of Florida Statutes, ch. 119, ~~subject to whistleblower~~
312 | confidentiality as provided for in Florida Statutes § 112.3188(1).

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313 | ~~(g)~~ (h) *General power of subpoena.* The commission on ethics shall be empowered to subpoena
314 | and investigate. In the case of a refusal to obey a request for documents or for an interview
315 | during an investigation, the commission on ethics may subpoena relevant witnesses and compel
316 | their attendance and testimony, administer oaths and affirmations, take evidence, and require by
317 | subpoena the production of any books, papers, records, or other relevant items. The commission

318 on ethics may delegate to its staff the authority to administer oaths and affirmations. In the case
319 of a refusal to obey a subpoena issued to any person, the commission on ethics may make
320 application to any circuit court of this state which shall have jurisdiction to order the witness to
321 appear before the commission on ethics and to produce evidence, if so ordered, or to give
322 testimony ~~touching on relevant to~~ the matter in question. Any person who fails to obey the order
323 may be punished in a court of law. Seventy-two (72) hours prior to serving a subpoena, the
324 executive director shall provide written notice to the state attorney and the U.S. Attorney for the
325 Southern District of Florida. The commission on ethics shall not interfere with any ongoing
326 criminal investigation or prosecution of the state attorney or the U.S. Attorney for the Southern
327 District of Florida. When the state attorney or the U.S. Attorney for the Southern District of
328 Florida has explicitly notified the commission on ethics in writing that the commission's
329 investigation is interfering with an ongoing criminal investigation or prosecution, the
330 commission on ethics shall suspend service of subpoena, examination of witnesses, or other
331 investigative activities as set forth in the notice.

332 ~~(h)-(i) Subpoenas for discovery; discovery.~~ At any time after the commission on ethics orders a
333 public hearing of the matter, the commission on ethics may issue subpoenas, as provided in
334 subsection ~~(eh)~~, to effect discovery upon the written request of respondent or advocate. The
335 requesting person shall give the name and address of each witness he or she wishes to have
336 deposed and shall describe with particularity those documents or other items that the person
337 wishes to have the witness produce pursuant to a subpoena *duces tecum* . The chairperson or a
338 member of the commission on ethics designated by the chairperson may issue appropriate orders
339 to effectuate the purposes of discovery and to prevent delay.

340 ~~(i)-(j) Subpoenas for public hearing.~~ The respondent and the advocate shall submit to the
341 executive director a list of all witnesses he or she wishes to have subpoenaed to attend the
342 hearing. The lists shall contain the correct names and addresses of the witnesses and shall
343 describe with particularity those documents or other items that he or she wishes to have the
344 witness bring to the hearing pursuant to subpoena *duces tecum* . Subpoenas shall be issued as
345 provided in subsection ~~(eh)~~.

346 ~~(j)-(k) Motions.~~

347 (1) All motions shall be in writing unless made on the record during a hearing, and shall fully
348 state the actions requested and the grounds relied upon. The motion shall include a statement that
349 the movant has conferred with the advocate and all other parties of record and shall state whether
350 there is any objection to the motion.

351 (2) The original written motion shall be filed with the commission on ethics and a copy served
352 on all parties or their attorneys. The commission on ethics staff shall send a copy of the motion
353 to the chairperson.

354 (3) The chairperson, or a member of the commission on ethics designated by the chairperson,
355 shall conduct such proceedings and make such orders as are deemed necessary to dispose of
356 issues raised by motions, but is not required to hold a hearing on the motion in order to rule upon
357 it.

358 (4) Every written motion may be accompanied by, or included in, a written memorandum
359 stating the grounds upon which the motion is based. Other parties to a proceeding may, within
360 seven (7) days of service of a written motion, file written memoranda in opposition.

361 ~~(k)-(l) Prehearing conferences.~~ The chairperson, or a member of the commission on ethics
362 designated by the chairperson, may conduct one (1) or more prehearing conferences for the
363 purpose of hearing arguments on pending motions, clarifying and simplifying issues, discussing

364 the possibilities of settlement of the issues, examining exhibits and documents, exchanging
365 names and addresses of witnesses, and resolving other procedural matters.

366 | ~~(4)-(m)~~ *Exchange of witness lists.* Unless otherwise ordered by the chairperson or a member of
367 the commission on ethics designated by the chairperson as a result of a prehearing conference,
368 the advocate and the respondent(s) or counsel for respondent(s) shall exchange the names and
369 addresses of witnesses at least ten (10) days prior to the public hearing, with a copy being
370 provided to the chairperson. Names and addresses of witnesses discovered subsequently shall be
371 disclosed to the other party or parties and to the chairperson as soon as possible. Failure to
372 disclose the name and address of a witness may result in the exclusion of the witness's testimony,
373 according to the rule applied in civil judicial proceedings.

374 (Ord. No. 2009-050, § 7, 12-15-09; Ord. No. 2010-042, pt. 1, 9-28-10)

375

376 Sec. 2-260.1. Public hearing procedures.

377 (a) *Presentation of the case.* The advocate shall present his or her case first. Respondent may
378 then present his or her case. Rebuttal evidence may be permitted in the discretion of the
379 commission on ethics.

380 (b) *Opening and closing statements.* Opening and closing statements may be presented by the
381 advocate and the respondent. The advocate may make the first statement and the respondent may
382 follow. Rebuttal by the advocate may be permitted or may be denied.

383 (c) *Evidence.*

384 (1) Stipulations may be received and are encouraged as to uncontested matters.

385 (2) Oral evidence shall be taken only on oath or affirmation.

386 (3) The respondent and the advocate shall have the right: to present evidence relevant to the
387 issue; to cross-examine opposing witnesses on any matter relevant to the issue; and to impeach
388 any witness regardless who first called him or her to testify.

389 (4) The hearing shall not be conducted according to technical rules relating to evidence and
390 witnesses. Any relevant evidence may be admitted. Hearsay evidence may be used to supplement
391 or explain other evidence, but shall not be sufficient itself to support a finding. The rules of
392 privilege shall be effective to the same extent that they are now or hereafter may be recognized
393 in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The commission on
394 ethics shall not allow the introduction into evidence of an affidavit of a person when that person
395 can be called to testify; this shall not preclude the admission of a deposition of such a person,
396 however, for any reason permissible in a court of law under the Florida Rules of Civil Procedure.

397 (d) *Transcript of proceedings.* The proceedings shall be recorded by recording instruments or
398 by a court reporter. Respondent may, at his or her own expense, provide a court reporter or
399 recording instruments. The commission on ethics may provide a court reporter. No transcript of
400 the proceedings shall be prepared unless requested by the commission on ethics or by the
401 respondent. If the respondent requests that a transcript be prepared by a court reporter, the
402 respondent shall pay the expense of transcription. If the Respondent requests that the commission
403 on ethics prepare a transcript from recording instruments and the commission on ethics grants
404 such request, the respondent shall pay the commission on ethics the actual cost of transcription.
405 If a court reporter records the proceedings, the court reporter's transcript shall be the official
406 transcript.

407 (e) *Proposed public report.* After the conclusion of the hearing, the respondent and the
408 advocate may present written proposed public reports, within a time designated by the
409 chairperson or a member of the commission on ethics designated by the chairperson. If a

410 proposed public report is filed by the respondent or the advocate, each proposed finding in the
411 proposal that is rejected shall be accompanied by a statement summarizing the reasons for
412 rejection.

413 (f) *Motions to dismiss filed by advocate.* After probable cause is found and a public hearing is
414 ordered by the commission on ethics, and after further investigation or discovery is made by the
415 advocate, the advocate may move to dismiss the proceeding if the advocate concludes that there
416 is insufficient evidence to proceed to the public hearing in good faith. Such a motion shall
417 specifically state the grounds upon which it is made. The motion shall be heard by the
418 commission on ethics in accordance with the procedure provided for in section 2-260(i).

419 (g) *Public order imposing penalty.* Upon completion of any hearing initiated under this
420 subsection, the commission on ethics shall make a finding and public report as to whether any
421 provision within its jurisdiction has been violated. If the commission on ethics finds, ~~by clear and~~
422 ~~conveying convincing evidence,~~ based upon competent substantial evidence in the record, that a
423 violation has been committed, the commission on ethics shall issue an order imposing the
424 appropriate penalty as provided in the ordinance being enforced. The public report and final
425 order shall include a determination as to whether the violation was intentional or unintentional.
426 The commission on ethics shall, within twelve (12) months of the filing of a complaint, render a
427 final order disposing of said complaint unless extended by the commission for good cause. If a
428 person fails to comply with an order issued by the commission on ethics, the commission on
429 ethics may make application to any circuit court of this state which shall have jurisdiction to
430 order the violator to comply with the order of the commission on ethics. Any violator who fails
431 to obey the order may be punished by the court.

432 (Ord. No. 2009-050, § 8, 12-15-09)

433

434 **Sec. 2-260.2. Notification and referral to other authorities.**

435 As provided for by ordinance within its jurisdiction, the commission on ethics shall refer a matter
436 to the state attorney or any other appropriate official or agency having authority to initiate
437 prosecution when deemed appropriate. The state attorney or other appropriate agency may
438 decline prosecution or enforcement of any matter referred under this division and refer the matter
439 back to the commission on ethics. The commission on ethics shall notify the State of Florida
440 Commission on Ethics, the state attorney, the U.S. Attorney for the Southern District of Florida,
441 and other appropriate law enforcement agencies within ten (10) days of a finding of no probable
442 cause or of a final order disposing of a complaint.

443 (Ord. No. 2009-050, § 9, 12-15-09)

444

445 **Sec. 2-260.3. Dismissal of complaints.**

446 Notwithstanding any other provisions of this division, the commission on ethics may, at its
447 discretion: (a) dismiss any complaint at any stage of disposition should it determine that the
448 public interest would not be served by proceeding further, or (b) dismiss any complaint at any
449 stage of disposition and issue a letter of instruction to the respondent when it appears that the
450 alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on
451 ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue
452 a public report stating with particularity its reasons for the dismissal. The commission on ethics
453 may, at the request of the state attorney or any other law enforcement agency, stay an ongoing
454 proceeding. The commission on ethics shall not interfere with any ongoing criminal investigation
455 of the state attorney or the U.S. Attorney for the Southern District of Florida.

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456 (Ord. No. 2009-050, § 10, 12-15-09)

457

458 **Sec. 2-260.4. Frivolous or groundless complaints.**

459 In any case in which the commission on ethics determines that the complaining party filed a
460 frivolous or groundless complaint as defined in Florida Statutes, § 57.105, or a complaint with
461 malicious intent and with the knowledge that the complaint contains one or more false
462 allegations, or with reckless disregard for whether the complaint contains material false
463 allegations, the commission on ethics shall order the complaining party to pay any costs and
464 attorney's fees incurred by the commission on ethics and/or the alleged violator. The
465 determination by the commission on ethics regarding whether a complaint is frivolous or
466 groundless shall be deemed conclusive.

467 (Ord. No. 2009-050, § 11, 12-15-09)

468

469 **Sec. 2-260.5. Effect on other laws.**

470 The provisions of this division shall be deemed supplemental to any other applicable county
471 ordinance or state or federal law and are not intended to replace or repeal any provision of state
472 or federal law or of this Code.

473 (Ord. No. 2009-050, § 12, 12-15-09)

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475

476 **Sec. 2-260.6. Prospective jurisdiction.**

477 The commission on ethics shall be empowered to consider alleged violations within its
478 jurisdiction committed on or after the effective date of the ordinances set forth in section 2-
479 258(a), as each may be amended from time to time. Any alleged violation committed before the
480 effective date of any such ordinance or amendment shall be governed by the applicable law in
481 effect at the time of the alleged violation.

482 (Ord. No. 2009-050, § 13, 12-15-09)

483

484 **Sec. 2-260.7. Personnel proceeding.**

485 Where an employee of the county or other governmental entity subject to the jurisdiction of this
486 ordinance is alleged to have violated an ordinance within the jurisdiction of the commission on
487 ethics and, based upon the same set of facts, is subject to an ongoing disciplinary action initiated
488 by the county or other governmental entity subject to the jurisdiction of this ordinance the
489 commission on ethics shall stay consideration of a complaint until the conclusion of the
490 personnel proceeding. Nothing herein shall abridge employees' constitutional right to collective
491 bargaining.

492 (Ord. No. 2009-050, § 14, 12-15-09)

493

494 **Sec. 2-260.8. Statute of limitations.**

495 No action may be taken on a complaint filed more than two (2) years after the violation is alleged
496 to have occurred unless a person, by fraud or other device, prevents discovery of the violation.

497 Where the allegations are the subject of a personnel proceeding or where the complainant is
498 required to exhaust his or her administrative remedies prior to filing a complaint, the statute of
499 limitations shall be tolled until the termination of said personnel proceeding or the exhaustion of
500 administrative remedies.

501 (Ord. No. 2009-050, § 15, 12-15-09)

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Sec. 2-260.9. Advisory opinion.

Any person within the jurisdiction of the commission on ethics, when in doubt about the applicability or interpretation of any provision within the commission on ethics' jurisdiction to himself or herself in a particular context, may submit in writing the facts of the situation to the commission on ethics with a request for an advisory opinion to establish the standard of public duty, if any. A person requesting an advisory opinion may withdraw the request at any time up to ten days before the commission on ethics convenes a public meeting to consider the request. An advisory opinion shall be rendered by the commission on ethics on a timely basis, and each such opinion shall be numbered, dated and published.
(Ord. No. 2009-050, § 16, 12-15-09)

Sec. 2-260.10. Appeals.

(a) Any final order of the commission on ethics may be appealed by filing a petition for writ of certiorari in the Fifteenth Judicial Circuit Court in and for Palm Beach County. The commission on ethics shall provide the index and record on appeal when required by, and in accordance with, the Florida Rules of Appellate Procedure. A fee shall be charged by the commission on ethics for the preparation and transmission of the record on appeal to the court of appropriate jurisdiction. Such fee may be waived by the executive director if the party requesting the record is indigent.
(b) Costs or fees may not be assessed against the commission on ethics in any appeal from a final order or advisory opinion issued by the commission on ethics pursuant to this division.
(c) Unless specifically ordered by the commission on ethics or by a court of competent jurisdiction, the commencement of an appeal does not suspend or stay a final order or advisory opinion of the commission on ethics.
(Ord. No. 2009-050, § 17, 12-15-09)

1 **ARTICLE XIII. CODE OF ETHICS*** Draft Dated 3-14-11– 3/17/11 4/4/11 latest changes
2 highlighted in grey
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5 ***Cross references:** Commission on ethics, § 2-254 et seq.
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7
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9 **Sec. 2-441. Title; statement of purpose.**

10 This article shall be known as the Palm Beach County Code of Ethics. This code of ethics is
11 enacted pursuant to Florida Constitution, Article VIII, section 1(g), Florida Statutes, ch. 125, and
12 the Charter of Palm Beach County. The Municipalities located within Palm Beach County are
13 subject to the provisions of this Code of Ethics pursuant to referendum. The purpose of this
14 code is to provide additional and more stringent ethics standards as authorized by Florida
15 Statutes, § 112.326. This code shall not be construed to authorize or permit any conduct or
16 activity that is in violation of Florida Statutes, ch. 112, pt. III. This code of ethics shall be deemed
17 additional and supplemental to any and all state and federal laws governing ethical conduct of
18 officials and employees, as well as all local laws, rules, regulations and policies ~~governing~~
19 ~~personnel matters.~~

20 Officials and employees in the public service shall be conscious that public service is a public
21 trust, shall be impartial and devoted to the best interests of the people of Palm Beach County,
22 and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.
23 Nothing herein shall abridge employees' constitutional right to collective bargaining.
24 (Ord. No. 2009-051, pt. 1, § 1, 12-15-09; Ord. No. 2010-043, pt. 1, 9-28-10)
25

26 **Sec. 2-442. Definitions.**

27 The following words, terms and phrases, when used in this article, shall have the meanings
28 ascribed to them in this section, except where the context clearly indicates a different meaning:
29 Advisory board shall mean any advisory or quasi-judicial board created by the board of county
30 commissioners, by the local municipal governing bodies, or by the mayors or chief executive
31 officers that are not members of local municipal governing bodies.

32 *Customer* or *client* means any person or entity to which an official or employee's outside
33 employer or business has supplied goods or services during the previous twenty-four (24)
34 months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000.00).

35 *Domestic partner* is an adult, unrelated by blood, with whom an unmarried or separated official
36 or employee has an exclusive committed relationship and maintains a mutual residence.

37 *Financial benefit* includes any money, service, license, permit, contract, authorization, loan,
38 travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of
39 value. This term does not include campaign contributions authorized by law.

40 *Household Member* includes anyone whose primary residence is in the official or employee's
41 home, including non-relatives who are not rent payers or employees of the head of the
42 household.

43 *Inspector general* shall mean the office established in article XII of this chapter.

44 Lobbying shall mean seeking to influence a decision through oral or written communication or
45 an attempt to obtain the goodwill of any county commissioner, any member of a local municipal
46 governing body, any mayor or chief executive officer that is not a member of a local municipal
47 governing body, any advisory board member, or any employee with respect to the passage,
48 defeat or modification of any item which may foreseeably be presented for consideration to the

49 advisory board, the board of county commissioners, or the local municipal governing body as
50 applicable.

51
52 *Lobbyist* shall mean any person who is employed and receives payment, or who contracts for
53 economic consideration, for the purpose of lobbying on behalf of a principal, and shall include
54 an employee whose principal or ~~most significant~~ responsibility to the employer is overseeing
55 the employer's various relationships with government or representing the employer in its
56 contacts with government. "*Lobbyist*" shall not include:

57 (1) any employee, contract employee, or independent contractor of a governmental agency
58 or entity lobbying on behalf of that agency or entity, any elected local official when the
59 official is lobbying on behalf of the governmental agency or entity which the official
60 serves, or any member of the official's staff when such staff member is lobbying on an
61 occasional basis on behalf of the governmental agency or entity by which the staff
62 member is employed.

63 (2) any person who is retained or employed solely for the purpose of representing an
64 employer, principal or client during a publicly noticed quasi-judicial hearing or
65 comprehensive plan hearing, provided the person identifies the employer, principal or
66 client at the hearing.

67 (3) any expert witness who is retained or employed by an employer, principal or client to
68 provide only scientific, technical or other specialized information provided in agenda
69 materials or testimony only in public hearings, provided the expert identifies the
70 employer, principal or client at the hearing.

71 (4) any person who lobbies only in his or her individual capacity for the purpose of self-
72 representation and without compensation.

73 (5) any employee, contract employee, or independent contractor of the Palm Beach County
74 League of Cities lobbying on behalf of that entity.

75 (6) persons under active contract with the county or municipalities as applicable who
76 communicate with employees of the county or such municipalities regarding issues
77 related only to the performance of their services under their active contract.

78
79 *Official* or *employee* means any official or employee of the county or the municipalities located
80 within the county, whether paid or unpaid. The term "employee" includes but is not limited to all
81 managers, department heads and personnel; and includes all members of an office, board,
82 body, advisory board, council, commission, agency, department, district, division, committee, or
83 subcommittee of the county or the municipalities located within the county. The term also
84 includes contract personnel and contract administrators performing a government function, and
85 mayor or chief executive officer who is not part of the local governing body. The term "official"
86 shall mean members of the board of county commissioners, a mayor, members of local
87 municipal governing bodies, and members appointed by the board of county commissioners, or
88 members of local municipal governing bodies or mayors or chief executive officers that are not
89 members of local municipal governing body, as applicable, to serve on any advisory, quasi

90 judicial, or any other board of the county, state, or any other regional, local, municipal, or
91 corporate entity.

92 *Outside employer or business* includes:

93 (1) Any entity, other than the county, the state, or any other federal regional, local, or municipal
94 government entity, of which the official or employee is a member, official, director, proprietor,
95 partner, or employee, and from which he or she receives compensation for services rendered or
96 goods sold or produced. For purposes of this definition, "compensation" does not include
97 reimbursement for necessary expenses, including travel expenses; or

98 (2) Any entity located in the county or which does business with or is regulated by the county
99 or municipality as applicable, in which the official or employee has an ownership interest. For
100 purposes of this definition, an "ownership interest" shall mean at least five (5) percent of the
101 total assets or common stock owned by the official or employee or any combination ~~of the~~
102 ~~members~~ of the official or employee's household members, or relatives spouse, child, step-child,
103 brother, sister, parent or step-parent, or a person claimed as a dependent on the official or
104 employee's latest individual federal tax return.

105 (3) the term outside employer or business shall not apply to an employee who is employed by a
106 certified bargaining agent solely to represent employees.

107
108 *Palm Beach County Commission on Ethics* means the commission established in section 2-254
109 et seq. to administer and enforce the ethics regulations set forth herein, and may also be
110 referred to as the "commission on ethics" in this article.

111 *Persons and entities* shall be defined to include all ~~individuals, children natural persons,~~ firms,
112 associations, joint ventures, partnerships, estates, trusts, business entities, ~~trusts,~~ syndicates,
113 fiduciaries, corporations, and all other ~~groups or combinations organizations.~~

114 *Relative* ~~means a spouse, child, step-child, brother, sister, parent or step-parent, or a person~~
115 ~~claimed as a dependent on the official or employee's latest individual federal income tax return.~~
116 unless otherwise specified in this ordinance, means an individual who is related to an official or
117 employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew,
118 niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
119 sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half
120 brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step
121 grandparent, step great grandparent, step grandchild, step great grandchild, person who is
122 engaged to be married to the official or employee or who otherwise holds himself or herself out
123 as or is generally known as the person whom the official or employee intends to marry or with
124 whom the official or employee intends to form a household, or any other natural person having
125 the same legal residence as the official or employee.

126 Transaction shall refer to the purchase or sale by the county or municipality of goods or services
127 for a consideration.

128 Vendor means any person or entity who sells goods or services, sells or leases personal
129 property, or sells or leases real property to the county or municipality as applicable.

130 (Ord. No. 2009-051, pt. 1, § 2, 12-15-09; Ord. No. 2010-043, pt. 2, 9-28-10)

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132
133 **Sec. 2-443. Prohibited conduct.**

134 (a) *Misuse of public office or employment.* An official or employee shall not use his or her
135 official position or office, or take or fail to take any action, or influence others to take or fail to

136 take any action, in a manner which he or she knows or should know with the exercise of
137 reasonable care will result in a special financial benefit, not shared with similarly situated
138 members of the general public, for any of the following persons or entities:

- 139 (1) Himself or herself;
- 140 (2) ~~A His or her spouse or domestic partner, member of his or her household, including a~~
141 ~~domestic partner and his or her dependents, household member or persons claimed as~~
142 ~~dependents on the official or employee's latest individual federal income tax return,~~ or the
143 employer or business of any of these people;
- 144 (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle
145 or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or
146 domestic partner, or the employer or business of any of these people;
- 147 (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner,
148 or someone who is known to such official or employee to works for such outside employer or
149 business;
- 150 (5) A customer or client of the official or employee's outside employer or business;
- 151 (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner--
152 "substantial" for these purposes shall mean at least ten thousand dollars (\$10,000.00) and shall
153 not include forms of indebtedness, such as a mortgage and note, or a loan between the official
154 or employee and a financial institution;
- 155 (7) A ~~nongovernmental~~ civic group, union, social, charitable, or religious organization, or other
156 not for profit organization of which he or she (or his or her spouse or domestic partner) is an
157 officer or director.

158 (b) Corrupt misuse of official position. An official or employee shall not use his or her official
159 position or office, or any property or resource which may be within his or her trust, to corruptly
160 secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or
161 others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and
162 for the purpose of obtaining, or compensating or receiving compensation for, any benefit
163 resulting from some act or omission of an official or employee which is inconsistent with the
164 proper performance of his or her public duties.

165 (c) Disclosure of voting conflicts. County and municipal officials as applicable shall abstain
166 from voting and not participate in any matter that will result in a special financial benefit as set
167 forth in subsections (a)(1) through (7) above. ~~When abstaining, t~~he official shall publicly
168 disclose the nature of the conflict and when abstaining from the vote, shall complete and file a
169 State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida
170 Statutes, § 112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the
171 completed form to the county commission on ethics. Officials who abstain and disclose a voting
172 conflict as set forth herein, shall not be in violation of subsection (a), provided the official does
173 not otherwise use his or her office to take or fail to take any action, or influence others to take or
174 fail to take any action, in any other manner which he or she knows or should know with the
175 exercise of reasonable care will result in a special financial benefit, not shared with similarly
176 situated members of the general public, as set forth in subsections (a)(1) through (7).

177 (d) Prohibited Contractual relationships. No official or employee shall enter into any contract
178 or other transaction for goods or services with their respective county or municipality. This
179 prohibition extends to all contracts or transactions between the county or municipality as
180 applicable or any person, ~~or~~ agency or entity acting for the county or municipality as applicable,
181 and the official or employee, directly or indirectly, or the official or employee's outside employer
182 or business. Any such contract, agreement, or business arrangement entered into in violation of
183 this subsection may be rescinded or declared void by the board of county commissioners
184 pursuant to section 2-448(c) or by the local municipal governing body pursuant to local
185 ordinance as applicable. This prohibition shall not apply to employees who enter into contracts
186 with Palm Beach County or a municipality as part of their official duties with the county or that

187 municipality. This prohibition also shall not apply to officials or employees who purchase goods
188 from the county or municipality on the same terms available to all members of the public. This
189 prohibition shall also not apply to advisory board members provided the subject contract or
190 transaction is disclosed at a duly noticed public meeting of the governing body and the advisory
191 board member's board provides no regulation, oversight, management, or policy-setting
192 recommendations regarding the subject contract or transaction.

193 (e) Exceptions and waiver. The requirements of subsections (a) and (c)-(d) above may be
194 waived as they-it pertains to advisory board members where the advisory board member's
195 board is purely advisory and provides regulation, oversight, management, or policy-setting
196 recommendations regarding the subject contract or transaction. No waiver shall be allowed
197 where the advisory board member's board is not purely advisory and provides regulation,
198 oversight, management, or policy-setting recommendations regarding the subject contract or
199 transaction. Waiver may be effected by the board of county commissioners or by the local
200 municipal governing body as applicable upon full disclosure of the contract or transaction ~~or~~
201 ~~financial benefit~~ prior to the waiver and an affirmative vote of a majority plus one of the total
202 membership of five ~~(5)~~ members of the board of county commissioners or the local municipal
203 governing body as applicable. In instances in which appointment to the advisory board is made
204 by an individual, waiver may be effected, after full disclosure of the contract or transaction or
205 financial benefit at a public hearing, by the appointing person. In addition, no official or
206 employee shall be held in violation of subsection (a) or (ed) if:

207 (1) The business is awarded under a system of sealed, competitive bidding to the lowest
208 bidder and:

209 a. The official or employee or member of his or her household has in no way participated in the
210 determination of the bid specifications or the determination of the lowest bidder;

211 b. The official or employee or member of his or her household has in no way used or
212 attempted to use the official or employee's influence to persuade the agency, governmental
213 entity or any personnel thereof to enter such a contract other than by the mere submission of
214 the bid; and

215 c. The official or employee, prior to or at the time of the submission of the bid, has filed a
216 statement with the supervisor of elections and the commission on ethics, disclosing the nature
217 of the interest in the outside employer or business submitting the bid.

218 (2) An emergency purchase or contract which would otherwise violate a provision of
219 subsection (a) or (ed) must be made in order to protect the health, safety, or welfare of the
220 citizens of the county or municipality as applicable.

221 (3) The outside employer or business involved is the only source of supply within the county or
222 municipality as applicable and there is full disclosure by the official or employee of his or her
223 interest in the outside employer or business to the county or municipality as applicable and the
224 ethics commission prior to the purchase, rental, sale, leasing, or other business being
225 transacted.

226 (4) The total amount of the contracts or transactions in the aggregate between the outside
227 employer or business and the county or municipality as applicable does not exceed five hundred
228 dollars (\$500.00) per calendar year.

229 (5) Notwithstanding any provision to the contrary, subsection (ed) shall not be construed to
230 prevent an employee from seeking part-time employment with an outside employer who has
231 entered into a contract for goods or services with the county or municipality as applicable
232 provided that:

233 a. The employee or relative of the employee does not work in the county or municipal
234 department as applicable which will enforce, oversee or administer the subject contract; and

235 b. The outside employment would not interfere with or otherwise impair his or her
236 independence of judgment or otherwise interfere with the full and faithful performance of his or
237 her public duties to the county or municipality as applicable; and

238 c. the employee or relative of the employee has not participated in determining the subject
239 contract requirements or awarding the contract; and
240 d. the employee's job responsibilities and job description will not require him or her to be
241 involved in the outside employer's contract in any way including, but limited to, its enforcement,
242 oversight, administration, amendment, extension, termination or forbearance; and
243 e. the employee demonstrates compliance with applicable merit rules regarding outside
244 employment and obtains written permission from his or her supervisor; and
245 f. ~~The employee has obtained a conflict of interest opinion from the commission on ethics
246 finding no conflict exists regarding the subject contract. The request for advisory opinion must
247 be made in writing and set forth and include all pertinent facts and relevant documents. The
248 employee has obtained a conflict of interest waiver from the chief administrative officer and the
249 employee's department head of the county or municipality based on a finding that no conflict
250 exists. The employee shall submit the request for waiver in writing and under oath. The
251 request for the waiver shall be signed by the employee under oath or affirmation on an
252 approved form provided by the Commission on Ethics. The document shall contain written
253 acknowledgment of compliance with the provisions of (5)a. through (5)e. of this subsection,
254 together with such pertinent facts and relevant documents that support such waiver. A waiver
255 under this subsection must be approved by both the employee's supervisor and chief
256 administrative officer of the county or municipality. The county or municipality shall record such
257 waiver in the employee's personnel file and shall submit a copy of the waiver and all related
258 documents to the commission on ethics. The commission on ethics in its discretion may elect to
259 review, comment on, or investigate any waiver.~~

260 ~~g. Official law enforcement overtime or extra duty details. The provisions of subsection (d) shall
261 be waived for outside employment when that employment consists of a certified police agency
262 uniformed external security detail, contracted and administered by the police agency as
263 applicable. For the purpose of this subsection, all records of external or overtime security
264 details, including supervisor approval, identity of contracting parties, and including time, date
265 and manner of detail shall be maintained by the individual contracting policy agency, records of
266 which shall be accessible to the public subject to state public records disclosure exemptions.~~

267
268 (f) *Accepting travel expenses.* No official or employee shall accept, directly or indirectly, any
269 travel expenses including, but not limited to, transportation, lodging, meals, registration fees and
270 incidentals from any county or municipal contractor, vendor, service provider, bidder or proposer
271 as applicable. The board of county commissioners or local municipal governing body as
272 applicable may waive the requirements of this subsection by a majority vote of the board or local
273 municipal governing body. The provisions of this subsection shall not apply to travel expenses
274 paid by other governmental entities or by organizations of which the county or municipality as
275 applicable is a member if the travel is related to that membership.

276 (g) *Contingent fee prohibition.* No person shall, in whole or in part, pay, give or agree to pay or
277 give a contingency fee to another person. No person shall, in whole or in part, receive or agree
278 to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus,
279 commission, or nonmonetary benefit as compensation which is dependent on or in any way
280 contingent on the passage, defeat, or modification of: an ordinance, resolution, action or
281 decision of the board of county commissioners or local municipal governing body as applicable,
282 any employee authorized to act on behalf of the board of county commissioners or local

283 municipal governing body as applicable, the county administrator or municipal administrator as
284 applicable, or any action or decision of an advisory board or committee. This prohibition does
285 not apply to real estate brokers when acting in the course of their profession as regulated by
286 §§475.001-475.5018, Florida Statutes, as may be amended. Nothing in this section may be
287 construed to prohibit any salesperson from engaging in legitimate government business on
288 behalf of a company from receiving compensation or commission as part of a bona fide
289 contractual arrangement with that company provided such compensation or commission is
290 ordinary and customary in the industry. Nothing in this section may be construed to prohibit an
291 attorney from representing a client in a judicial proceeding or formal administrative hearing
292 pursuant to a contingent fee arrangement.

293
294 (h) *Honesty in applications for positions.* No person seeking to become an official or
295 employee, or seeking to enter into a contract to provide goods or services to the county or
296 municipality as applicable, may make any false statement, submit any false document, or
297 knowingly withhold information about wrongdoing in connection with employment by or services
298 to the county or municipality as applicable.

299 (i) *Disclosure or use of certain information.* A current or former official or employee shall not
300 disclose or use information not available to members of the general public and gained by reason
301 of his or her official position, except for information relating exclusively to governmental
302 practices, for his or her personal gain or benefit or for the personal gain or benefit of any other
303 person.

304 (Ord. No. 2009-051, pt. 1, § 3, 12-15-09; Ord. No. 2010-043, pt. 3, 9-28-10)

305
306 **Sec. 2-444. Gift law.**

307 (a) (1) No county commissioner, member of a local governing body, mayor or chief executive
308 when not a member of the governing body, or employee, or any other person or business entity
309 on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of
310 greater than one hundred dollars (\$100.00) in the aggregate for the calendar year from any
311 person or business entity that the recipient knows, or should know with the exercise of
312 reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist. Who lobbies,
313 sells or leases to the county or municipality as applicable.

314 (42) No lobbyist, vendor or principal or employer of a lobbyist that lobbies the county or a
315 municipality shall knowingly give, directly or indirectly, any gift with a value greater than one
316 hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor,
317 lobbyist, or principal knows is an official or employee of that county or municipality.

318 (b) (1) No advisory board member, or any other person on his or her behalf, shall knowingly
319 solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars
320 (\$100.00) in the aggregate for the calendar year from any vendor, lobbyist, or any principal or
321 employer of a lobbyist, who lobbies the recipient's advisory board, or any county or municipal
322 department as applicable that is subject in any way to the advisory board's authority.

323 (42) No lobbyist, vendor, or principal or employer of a lobbyist who lobbies an advisory board or
324 any county or municipal department that is subject in any way to the advisory board's authority,
325 shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars
326 (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal
327 knows is a member of that advisory board.

328 (c) No county commissioner, member of a local governing body, mayor or chief executive
329 officer when not a member of the governing body, or employee, or any other person or business
330 entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business
331 entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist where the
332 gift is for the personal benefit of the official or employee, another official or employee, or any
333 relative or household member of the official or employee. No advisory board member or any
334 other person or business entity on his or her behalf, shall knowingly solicit a gift of any value
335 from any person or business entity that the recipient knows is a lobbyist or any principal or
336 employer of a lobbyist who lobbies the recipient's advisory board, or any county or municipal
337 department as applicable that is subject in any way to the advisory board's authority, where the
338 gift is for the personal benefit of the advisory board member, another advisory board member,
339 or an official, or any relative or household member of the official or employee.

341 (e) (d) For purposes of this subsection, a principal or employer shall include any officer, partner
342 or director of the principal entity, or any employee of a principal who is not an officer, partner or
343 director, provided such employee knows or should know with the exercise of reasonable care
344 that the principal employs a lobbyist.

345 (e) (e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no
346 official or employee shall accept or agree to accept a gift from a person or entity, because of:

- 347 (1) An official public action taken or to be taken, or which could be taken;
348 (2) A legal duty performed or to be performed or which could be performed; or
349 (3) A legal duty violated or to be violated, or which could be violated by any official or
350 employee.

351 (d) (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars
352 (\$100.00) shall report that gift in accordance with this subsection.

353 (1) *Gift reports for officials and employees identified by state law as reporting individuals.*
354 Those persons required to report gifts pursuant to state law shall report those gifts in the
355 manner provided by Florida Statutes, § 112.3148, as may be amended. A copy of each report
356 shall be filed with the county commission on ethics.

357 (2) *All other officials and employees who are not reporting individuals under state law.* All
358 other officials or employees who receive any gift in excess of one hundred dollars (\$100.00)
359 shall complete and submit an annual gift disclosure report with the county commission on ethics
360 no later than November 1 of each year beginning November 1, 2011, for the period ending
361 September 30 of each year. Other officials or employees who do not receive a gift in excess of
362 one hundred dollars (\$100.00) during a given reporting period shall not file an annual gift
363 disclosure report. The annual gift disclosure report shall be created by the county commission
364 on ethics and shall be in a form substantially similar in content as that required by state law.

365 a. *Personal Gifts.* All officials and employees who are not reporting individuals under state law
366 are not required to report gifts in excess of one hundred dollars (\$100.00) so long as those gifts
367 are given to the official or employee by a personal friend or co-worker and the circumstances
368 demonstrate that the motivation for the gift was the personal or social relationship rather than an
369 attempt to influence the official or employee in the performance of his or her official duties. If
370 the personal friend or co-worker giving the gift in excess of \$100.00 is a prospective vendor
371 seeking to do business with the official or employee's governmental entity, then the official or
372 employee shall report the gift. If the personal friend or co-worker giving the gift in excess of
373 \$100.00 is a vendor, or a lobbyist or principal or employer of a lobbyist that lobbies the county or
374 municipality as applicable, then the official or employee shall not accept the gift in accordance
375 with subsections (a)(1) and (b)(1).

376 b. All other gifts. All officials or employees who are not reporting individuals under state law
377 and who receive any gift in excess of one hundred dollars (\$100.00), which is not otherwise
378 excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift
379 disclosure report with the county commission on ethics no later than November 1 of each year
380 beginning November 1, 2011, for the period ending September 30 of each year. ~~Other~~ All
381 officials or employees who are not reporting individuals under state law and who do not receive
382 a gift in excess of one hundred dollars (\$100.00) during a given reporting period shall not file an
383 annual gift disclosure report. The annual gift disclosure report shall be created by the county
384 commission on ethics and shall be in a form substantially similar in content as that required by
385 state law.

386
387 ~~(e)~~ (g) For the purposes of this section, "gift" shall refer to the transfer of anything of economic
388 value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or
389 promise, or in any other form, without adequate and lawful consideration. Food and beverages
390 consumed at a single setting or a meal shall be considered a single gift, and the value of the
391 food and beverage provided at that sitting or meal shall be considered the value of the gift.

392 (1) Exceptions. The provisions of subsection ~~(e)~~ (g) shall not apply to:

393 a. Political contributions specifically authorized by state or federal law;

394 b. Gifts from relatives or ~~members of~~ one's household member. For the purposes of this
395 subsection, "relative" means, spouse, parent, grandparent, child, sibling, uncle, aunt, first
396 cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
397 sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-
398 brother, or half-sister; a person who is engaged to be married to the official or employee or who
399 otherwise holds himself or herself out as or is generally known as the person whom the official
400 or employee intends to marry or with whom the official or employee intends to form a
401 household, or any other natural person having the same legal residence as the official or
402 employee.

403
404 c. Awards for professional or civil-civic achievement;

405 d. Materials such as books, reports, periodicals or pamphlets which are solely informational or
406 of an advertising nature;

407 e. Gifts solicited or accepted by county or municipal employees as applicable on behalf of the
408 county or municipality in performance of their official duties for use solely by the county or
409 municipality in conducting official business;

410 f. Gifts solicited or accepted by commissioners or members of local municipal governing
411 bodies as applicable on behalf of the county or municipality in performance of their official duties
412 for use solely by the county or municipality in conducting its official business.

413 (Ord. No. 2009-051, pt. 1, § 4, 12-15-09; Ord. No. 2010-043, pt. 4, 9-28-10)

414
415 **Sec. 2-445. Anti-nepotism law.**

416 An county official may not appoint, employ, promote, advance, or advocate for appointment,
417 employment, promotion, or advancement in or to a position in the agency-county or municipality
418 as applicable in which the county official is serving or over which the county official exercises
419 jurisdiction or control, any individual who is a relative of the county official. An individual may not
420 be appointed, employed, promoted, or advanced in or to a position in the county or a
421 municipality if such appointment, employment, promotion, or advancement has been advocated

422 by an official, serving in or exercising jurisdiction or control over the county or municipality as
423 appropriate, who is a relative of the individual or if such appointment, employment, promotion,
424 or advancement is made by a collegial body of which a relative of the individual is a member.
425 However, this section shall not apply to appointments to boards other than those with land-
426 planning or zoning responsibilities in those municipalities with less than 35,000 population. This
427 section does not apply to persons serving in a volunteer capacity who provide emergency
428 medical, firefighting, or police services. Such persons may receive, without losing their volunteer
429 status, reimbursements for the costs of any training they get relating to the provision of
430 volunteer emergency medical, firefighting, or police services and payment for any incidental
431 expenses relating to those services that they provide. Mere approval of budgets shall not be
432 sufficient to constitute "jurisdiction or control" for the purposes of this section.
433
434

435 (1) For the purposes of this section, "county official" means any official or employee in whom is
436 vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to
437 appoint, employ, promote, or advance individuals or to recommend individuals for appointment,
438 employment, promotion, or advancement in connection with employment in an agencythe
439 county or municipality as applicable.

440 (2) For the purposes of this section, "relative" means spouse, parent, child, sibling, uncle, aunt,
441 first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-
442 law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-
443 brother, or half-sister.

444 (Ord. No. 2009-051, pt. 1, § 5, 12-15-09)

445
446 **Sec. 2-446. Ethics training.**

447 (a) Officials and employees, as public servants, are considered stewards of the public trust and
448 should aspire to the highest level of integrity and character. Officials and employees shall be
449 informed of their ethical responsibilities at the start of their public service, and shall receive
450 updates and training materials on ethics issues throughout the span of their public service. The
451 county administrator or municipal administrator as applicable shall establish by policy a
452 mandatory training schedule for all officials and employees which shall include mandatory
453 periodic follow-up sessions. This policy may also address ethics training for entities that receive
454 county or municipal funds as applicable.

455 (b) The commission on ethics shall develop and deliver, or contract with other entities to
456 develop and deliver, training programs. The commission on ethics shall coordinate and
457 cooperate with all affected county or municipal entities, departments, agencies, boards, councils
458 and commissions to ensure that effective and meaningful training experiences are delivered in a
459 timely and efficient manner.

460 (Ord. No. 2009-051, pt. 1, § 6, 12-15-09)

461
462 **Sec. 2-447. Noninterference.**

463 It shall be a violation of this article for any person: (a) to retaliate against, punish, threaten,
464 harass, or penalize any person for communicating, cooperating with, or assisting the
465 commission on ethics or the inspector general; or (b) to interfere, obstruct or attempt to interfere
466 or obstruct any investigation conducted by the commission on ethics or the inspector general.

467 (Ord. No. 2009-051, pt. 1, § 7, 12-15-09)

468
469 **Sec. 2-448. Administration, enforcement and penalties.**

470 (a) The commission on ethics shall be empowered to review, interpret, render advisory
471 opinions, and enforce this code of ethics pursuant to the procedures established in the county
472 commission on ethics ordinance. Jurisdiction of the commission on ethics with respect to