



# Agenda

March 5, 2015 – 1:30 pm  
Governmental Center,  
301 North Olive Avenue, 6<sup>th</sup> Floor  
Commissioners Chambers

Meeting will begin at 1:30 pm  
Executive Session from 2:00 pm to 3:00 pm  
Regular Agenda will resume at 3:15 pm

#### **Palm Beach County**

#### **Commission on Ethics**

300 North Dixie Highway  
West Palm Beach, FL 33401  
561.355.1915  
FAX: 561.355.1904  
Hotline: 877.766.5920

#### **E-mail:**

[ethics@palmbeachcountyethics.com](mailto:ethics@palmbeachcountyethics.com)

#### **Commissioners**

Salesia V. Smith-Gordon, Chair

Michael S. Kridel, Vice Chair

Michael F. Loffredo

Carmine A. Priore

Clevis Headley

#### **Executive Director**

Steven P. Cullen

#### **Intake Manager**

Gina A. Levesque

#### **Staff Counsel**

Christie E. Kelley

#### **Senior Investigator**

Mark E. Bannon

#### **Investigator**

Anthony C. Bennett

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from February 5, 2015
- V. Executive Session
  - a. C15-001
  - b. C15-002
- VI. Probable Cause Hearing (Public)
  - a. C15-005
- VII. Processed Advisory Opinion (Consent Agenda)
  - a. RQO 15-006
- VIII. Items Pulled from Consent Agenda
  - a.
- IX. Discussion Re: Amendment to Ordinance
- X. Executive Director Comments
- XI. Commission Comments
- XII. Public Comments
- XIII. Adjournment

If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, (s)he will need a record of the proceedings, and that, for such purpose, (s)he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**OFFICIAL MEETING MINUTES  
OF THE  
PALM BEACH COUNTY COMMISSION ON ETHICS  
PALM BEACH COUNTY, FLORIDA**

**FEBRUARY 5, 2015**

**THURSDAY  
1:30 P.M.**

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

Chair Salesia Smith-Gordon announced that Vice Chair Michael Kridel would preside, since laryngitis weakened her voice.

**II. ROLL CALL**

**MEMBERS:**

Salesia V. Smith-Gordon, Chair  
Michael S. Kridel, Vice Chair  
Clevis Headley  
Michael F. Loffredo  
Carmine A. Priore

**STAFF:**

Mark E. Bannon, Commission on Ethics (COE) Senior Investigator  
Anthony C. Bennett, COE Investigator  
Steven P. Cullen, COE Executive Director  
Christie E. Kelley, COE Staff Counsel  
Gina A. Levesque, COE Intake Manager

**ADMINISTRATIVE STAFF:**

Barbara Strickland, Deputy Clerk, Clerk & Comptroller's Office

**III. INTRODUCTORY REMARKS**

Vice Chair Kridel stated that Chair Smith-Gordon would indicate to him whenever she had information she wished to share, in the event that she could not speak.

**IV. APPROVAL OF MINUTES**

**IV.a. December 11, 2014**

**MOTION to approve the December 11, 2014, minutes. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 5-0.**

**IV.b. January 7, 2015**

**MOTION to approve the January 7, 2015, minutes. Motion by Clevis Headley, seconded by Salesia Smith-Gordon, and carried 5-0.**

**V. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)**

**V.a. Request for Opinion (RQO) 15-001**

**MOTION to approve processed advisory opinion letter RQO-15-001. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 5-0.**

**V.b. RQO 15-003**

**MOTION to approve processed advisory opinion letter RQO 15-003. Motion by Carmine Priore, seconded by Clevis Headley, and carried 5-0.**

**V.c. RQO 15-004**

**MOTION to approve processed advisory opinion letter RQO 15-004. Motion by Carmine Priore, seconded by Salesia Smith-Gordon, and carried 5-0.**

**VI. ITEMS PULLED FROM CONSENT AGENDA – None**

**VII. PROPOSED ADVISORY OPINIONS**

**VII.a. RQO 15-002**

Christie E. Kelley, Staff Counsel, said that:

- An employee of Palm Beach County, who worked in the Aquatic Division of the Parks and Recreation Department, asked whether he could accept part-time outside employment as a Masters Swim coach for LB2 Enterprises Inc. (LB2), a company which contracted with the Aquatics Division.
- Staff concluded that this part-time employment with LB2 would violate the prohibited contractual relationships section of the Code of Ethics (Code) because the employee would be unable to comply with all of the requirements of the waiver and exceptions provisions as set forth in section 2-443(e)(5).
- Here, both the employee and the employee's spouse worked in the Aquatics Division of the County's Parks and Recreation Department, and the Aquatics Division oversaw the contracts with LB2.
- As such, the employee would need to decline this offer for part-time outside employment.

Ms. Kelley added that regardless of whether the coaching job was a volunteer position or a paid one, and payment was declined, the Code prohibited contractual violations. A separate response could be provided in the event that a strictly volunteer position was sought by the employee, she said.

**MOTION to approve proposed advisory opinion letter RQO 15-002. Motion by Michael Loffredo, seconded by Clevis Headley, and carried 5-0.**

**VII.b. RQO 15-005**

Ms. Kelley stated that:

- A Palm Beach County (County) Fire Rescue (Fire Rescue) employee asked to register and work as a lobbyist during non-work hours for a principal firm that lobbied the County and municipal councils on issues unrelated to goods and services provided to, or used by, Fire Rescue.

## PROPOSED ADVISORY OPINIONS – CONTINUED

### VII.b. – CONTINUED

- Staff submitted that the employee was prohibited from lobbying the County, his public employer. He was not prohibited from lobbying municipalities.
- As a lobbyist working for a principal firm that lobbied the County and municipal councils, the firm would be the employee's outside employer under the Code. Lobbying his public employer on behalf of his outside employer would violate the contractual prohibition provision.
- The employee must take great care not to use his official public position or title, directly or indirectly, in any of his dealings.

Commissioner Carmine Priore commented that the issue appeared to be whether the employee was permitted to lobby the County. He said that if the employee's salary came from a municipal services taxing unit instead of from the County, the employee would be acting as a lobbyist for the municipalities.

Ms. Kelley stated that no separate employment classification existed other than that of an employee of the County, and that the public entity the employee served was the County.

**MOTION to approve proposed advisory opinion letter RQO 15-005. Motion by Clevis Headley, seconded by Salesia Smith-Gordon, and carried 5-0.**

### VIII. ANNUAL REPORT

Steven P. Cullen, COE Executive Director, stated that:

- The newly published 2014 annual report was available, and it could be viewed on the COE's Web site under the Publications tab.
- Updated biographies of the commissioners and staff, and a training function recap, appeared on the report's first 14 pages.
- An updated format contained headnotes for 39 opinions, plus detailed dispositions of 15 complaints and 34 inquiries.

## VIII. – CONTINUED

- Of the budgeted \$564,299, \$515,952 was expended, leaving an unspent balance of \$48,346.
- Legislative activities and initiatives were reported on page 24, followed by a 2015 project list and expected results.
- Onsite visits and trainings were conducted, and public information booklets were distributed to community organizations.

Commissioner Priore commented that incoming complaints required large amounts of staff time spent on research to determine legal sufficiency, with no expectation of compensation. He said that a method might be developed to determine whether individuals making the complaints were even aware of the Code and its specifics.

Chair Smith-Gordon remarked that while an individual might make a complaint legitimately, the complaint could lack sufficiency to justify it.

Mr. Cullen said that the COE's Web site explained the complaint form, rules, and procedures. He added that Rule 3.5 provided that the COE may assess attorney's fees and costs against respondents in cases of frivolous or groundless complaints.

(CLERK'S NOTE: Item XII. was taken up at this time.)

## XII. PUBLIC COMMENTS

### XII.a.

**DISCUSSED:** Advisory Opinions.

Richard Radcliffe, Palm Beach County League of Cities (LOC) Executive Director, said that the graph on page 17 of the annual report seemed to imply that advisory opinions came from each city, when only 39 advisory opinions came from six cities and one community redevelopment agency in total. He asked for clarification as to whether each city issued one opinion.

Mr. Cullen clarified that the illustration showed only the entities that issued opinions.

**PUBLIC COMMENTS – CONTINUED**

**XII.a. – CONTINUED**

Vice Chair Kridel pointed out that 29 opinions were represented, if all the graph's single purple bars were ignored.

(CLERK'S NOTE: The agenda order was restored.)

**IX. DISCUSSION RE: AMENDMENT TO ORDINANCE**

Vice Chair Kridel stated that an ordinance amendment was of such significant importance that discussion should be deferred to the next meeting, since the chair was unable to participate fully at this time.

(CLERK'S NOTE: The Vice Chair announced two seconders to the following motion.)

**MOTION to table the ordinance amendment discussion for a time certain at the next regularly scheduled meeting. Motion by Carmine Priore, seconded jointly by Michael Loffredo and Clevis Headley, and carried 5-0.**

**X. EXECUTIVE DIRECTOR COMMENTS**

**X.a.**

**DISCUSSED:** Ethics Rules.

Mr. Cullen said that:

- An updated 2015 rulebook reflecting all of the ordinances and policies was available for everyone in attendance and for the general public.
- A folded card titled "Top Ten Ethics Rules" adapted from state commissions around the country was updated and distributed widely.

**X.b.**

**DISCUSSED:** Declaration.

Mr. Cullen said that the Board of County Commissioners declared the month of March as "Ethics Awareness Month."

**XI. COMMISSION COMMENTS**

**XI.a.**

**DISCUSSED:** Appreciation.

Commissioner Michael Loffredo stated that he commended the COE's investigators for all the extra time expended on investigations, and the staff for its excellent annual report.

Commissioner Clevis Headley said that the COE staff deserved gratitude for its work.

**XI.b.**

**DISCUSSED:** Legal Sufficiency.

Vice Chair Kridel said that the concept of legal sufficiency was difficult to describe and to grasp.

Commissioner Priore said that a method should be devised to caution citizens about filing complaints without reason.

**XI.c.**

**DISCUSSED:** Ethics Rules.

Chair Smith-Gordon suggested that the annual report and the "Top Ten Ethics Rules" card be distributed to LOC members.

**XII. PUBLIC COMMENTS – Pages 5-6**

**XIII. ADJOURNMENT**

**At 2:10 p.m., the chair declared the meeting adjourned.**

APPROVED:

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Chair/Vice Chair





**PALM BEACH COUNTY COMMISSION ON ETHICS**  
300 North Dixie Highway, Suite 450, West Palm Beach, Florida 33401  
Hotline: 877-766-5920 or 561-355-1915

**COMPLAINT FORM**

**1. Complainant**

Name: Steven P. Cullen E-Mail: ethics@palmbeachcountyethics.com  
Address: 300 N. Dixie Highway, Suite 450  
City: West Palm Beach Zip Code: 33401  
Phone No #: 561-355-1915

**2. Respondent**

Name: Anne Gerwig E-Mail: anne@aga-engineering.com  
Address: 14505 Paddock Drive  
City: Wellington Zip Code: 33414  
Home #: \_\_\_\_\_ Work #: 561-792-9000 X225 Cell #: \_\_\_\_\_  
Title/Office Held or Sought: Commissioner

**3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY**

- Allegation is against person in County/Municipal Government
- Allegation is about County/Municipal Whistleblower Retaliation
- Allegation is against a Vendor, Lobbyist, or a Principal of a Lobbyist

**4. STATEMENT OF FACTS ATTACHED**

- Exhibit 1 – Memorandum of Inquiry
- Exhibit 2 – Affidavit
- Exhibit 3 – Supporting Documentation

**5. OATH**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Personally known to me and appeared before me, Steven P. Cullen, Executive Director of the Palm Beach County Commission on Ethics, whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith. Signed and sworn to on this 28th day of January, 2015.



[Signature]  
Steven P. Cullen, Executive Director  
[Signature]  
(Signature of Notary Public, State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

## MEMORANDUM OF INQUIRY

To: Steven P. Cullen, Executive Director  
From: Mark E. Bannon, Senior Investigator  
Re: AN 15-001 – Anne Gerwig – Council Member, Village of Wellington

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- **Background**

This matter came to the attention of the PBC Commission on Ethics (COE) through a letter dated January 12, 2015 by someone wishing to remain “anonymous” (Complainant) “for fear of retribution”. The Complainant requested that COE open an investigation into a possible violation of Section 2-444 (Gift Law) of the PBC Code of Ethics by Village of Wellington Council Member Anne Gerwig (Respondent). The complainant stated that this section of the code requires that an elected official file an annual gift form when gifts are taken with both the COE and the Florida Commission on Ethics.

Also provided with the letter were copies of three (3) State of Florida Quarterly Gift Disclosure Forms (Form 9) indicating Respondent filed the forms with the Florida Commission on Ethics in 2012, 2013 and 2014. The Complainant said Respondent was obligated under Section 2-444 of the PBC Code of Ethics to also file this gift disclosure with the COE, and that a search of the COE website ([www.palmbeachcountyethics.com](http://www.palmbeachcountyethics.com)) where this information is made available for public viewing revealed that Respondent had not filed the gift forms with the COE as required. Lastly, the Complainant said that filing said gift forms with the Florida Commission on Ethics does not excuse or eliminate Respondent’s obligation to also file with the COE.

- **Inquiry**

Although the Complainant is mistaken as to the annual requirement for gift disclosure as it relates to an elected official (their disclosure requirement is quarterly as set by Florida Law), the Complainant is correct in that a copy of all quarterly disclosure forms filed with the state must also be filed with the COE. The Complainant also stated that Respondent was required to undergo training from COE staff as to her obligations under the code. The following documents were with the letter sent to COE:

1. A copy of the State of Florida Quarterly Gift Disclosure form (Form 9) for the quarter ending December 2012, which was signed and notarized by Respondent on January 30, 2013, and stamped as received by the Florida Commission on Ethics on February 8, 2013. This disclosure form listed one (1) gift valued at \$250. Included as well was a copy of the envelope addressed to the Florida Commission on Ethics and listing Respondent’s home address. (2 pages)
2. A copy of the State of Florida Quarterly Gift Disclosure form (Form 9) for the quarter ending December 2013, which was signed and notarized by Respondent on January 30, 2014, and stamped as received by the Florida Commission on Ethics on February 4, 2014. This disclosure form listed one (1) gift valued at \$180. Included as well was a copy of the envelope addressed to the Florida Commission on Ethics and listing Respondent’s home address. (2 pages)
3. A copy of the State of Florida Quarterly Gift Disclosure form (Form 9) for the quarter ending March 2014, which was signed and notarized by Respondent on April 30, 2014, and stamped as received by the Florida Commission on Ethics on May 7, 2014. This disclosure form listed two (2) gifts valued at a total of \$900. Included as well was a copy of the envelope addressed to the Florida Commission on Ethics and listing Respondent’s home address. (2 pages)

After reviewing the material submitted, I checked the COE gift form database, and did not locate any gift forms from Respondent. Then I physically searched the "hard copy" files of all gift disclosure forms maintained at the COE office, and was also unable to locate any copies of any quarterly gift disclosure forms from Respondent.

Therefore, it is not likely that copies of Respondent's Quarterly Gift Disclosure forms for these periods were not sent to the COE as required by Section 2-444 of the Code of Ethics.

- **Applicable law**

**The following sections of the PBC Commission on Ethics ordinance are relevant:**

**Section 2-254. Creation and jurisdiction.**

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics...* (Emphasis added)

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

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

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

- (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the:
- (1) Countywide Code of Ethics;

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

(b) *Legal sufficiency of complaints*

- (2) In order to be found legally sufficient, complaints filed by the Inspector General, Executive Director of the Commission on Ethics or the State Attorney must:
  - a. Be in writing, and executed on a form prescribed by the commission on ethics;
  - b. Allege the elements of a violation within the commission on ethics jurisdiction in the complaint and/or supporting documents provided;
  - c. Be sworn to by the person filing the complaint before a notary public and contain the following language: "Personally known to me and appeared before me, \_\_\_\_\_, whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith."

**The following sections of the PBC Code of Ethics are relevant:**

**Sec. 2-442. Definitions**

*Official or employee* means any official or employee of the county or the municipalities located within the county, whether paid or unpaid.

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

- (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100.00) shall report that gift in accordance with this section.
- (1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons 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.*** (Emphasis added)

The following portions of Section 112.3148, Florida Statutes, are relevant:

F.S. §112.3148 ***Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—***

2.(d) "Reporting individual" means any individual, including a candidate upon qualifying, who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office. For purposes of implementing this section, the "agency" of a reporting individual who is not an officer or employee in public service is the agency to which the candidate seeks election, or in the case of an individual elected to but yet to formally take office, the agency in which the individual has been elected to serve.

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less...

As an elected official of the Village of Wellington, Respondent Anne Gerwig is within the reporting requirements of §112.3148, Florida Statutes. However, Respondent has also been under the jurisdiction of the PBC Code of Ethics since June 1, 2011, having been originally elected as a Village of Wellington Council Member in 2010, and re-elected in March 2014. The PBC Code of Ethics requires that when a State of Florida Quarterly Gift Disclosure form is required to be filed under state law, a copy must also be filed with the COE.

No sworn complaint was filed in this matter, but the COE Executive Director has the authority to file a "self initiated" complaint where legal sufficiency exists. As listed below:

*Legal sufficiency to file a self initiated complaint exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based upon facts which have been sworn to as true by a material witness or witnesses, and if true would constitute the offenses alleged, relating to a violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.*

Based on the information provided by the Complainant, and gathered during this Inquiry, I prepared and submitted an affidavit as required to meet the legal sufficiency requirement that a complaint be "based upon facts which have been sworn to by a material witness or witnesses, and if true would constitute the offenses alleged." The affidavit was submitted to the Inquiry file along with the following documents.

- **Documents submitted to the Inquiry file:**

The following documents are submitted to the Inquiry file:

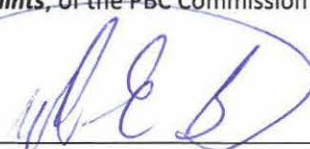
1. Copy of anonymous letter dated January 12, 2015, received by COE staff on January 15, 2015, listing the allegation that Respondent failed to file copies of her State of Florida Gift Disclosure Forms with the COE as required by Section 2-444, *Gift law*, of the PBC Code of Ethics. (1 page)
2. Copy of information submitted by the anonymous source that appears to be the results of their attempts to search the COWE website for copies of Respondent's Quarterly Gift Disclosures for 2012, 2013 and 2014, as well as searches for all gift disclosure forms for the Village of Wellington. (6 pages)
3. Copy of Respondent's State of Florida Gift Disclosure Form for December 2012, as filed with the Florida Commission on Ethics in January 2013. (2 pages)
4. Copy of Respondent's State of Florida Gift Disclosure Form for December 2013, as filed with the Florida Commission on Ethics in January 2014. (2 pages)

5. Copy of Respondent's State of Florida Gift Disclosure Form for March 2014, as filed with the Florida Commission on Ethics in May 2014. (2 pages)
6. Copy of the Palm Beach County Code of Ethics as submitted by the anonymous source. (12 pages)
7. Copy of the information that appears to have been taken from the COE website ([www.palmbeachcountyethics.com](http://www.palmbeachcountyethics.com)) listing reporting requirements under the PBC Code of Ethics, as submitted by the anonymous source. (12 pages)
8. Affidavit submitted by COE Senior Investigator Mark Bannon. (1 page)

- **Recommendation**

Based on the evidence obtained during the Inquiry, I recommend that a complaint be filed by the COE Executive Director, and that a formal investigation be commenced. At the point such self initiated complaint is filed, this matter will be deemed as **LEGALLY SUFFICIENT** under Section 2-260(b)(2), *Procedure on Complaints Filed, Legal sufficiency of complaints*, of the PBC Commission on Ethics Ordinance.

Submitted by:

  
\_\_\_\_\_  
Mark E. Bannon  
PB County Commission on Ethics

1/28/2015  
Date

Reviewed by:

  
\_\_\_\_\_  
(Initials)

1/28/2015  
Date

## AFFIDAVIT

To: Steven P. Cullen, Executive Director  
From: Mark E. Bannon, Senior Investigator  
Re: AN 15-001 – Anne Gerwig – Council Member, Village of Wellington

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- **Facts**

On January 15, 2015 COE staff received an anonymous letter dated January 12, 2015. The letter requested that COE open an investigation into a possible violation of Section 2-444 (Gift Law) of the PBC Code of Ethics by Village of Wellington Council Member Anne Gerwig (Respondent). The letter writer stated that this section of the code required that an elected official file an annual gift form when gifts are taken with both the COE and the Florida Commission on Ethics. They also provided copies of three (3) State of Florida Quarterly Gift Disclosure Forms (Form 9) showing that Respondent filed the forms with the Florida Commission on Ethics in 2012, 2013 and 2014. The letter writer alleges that Respondent was obligated under Section 2-444 of the PBC Code of Ethics to also file the gift disclosures with the COE, and that a search of the COE website ([www.palmbeachcountyethics.com](http://www.palmbeachcountyethics.com)) where the information is made available for public viewing revealed that Respondent had not filed the gift forms with the COE as required. The letter alleges that filing said gift forms with the Florida Commission on Ethics does not excuse or eliminate Respondent's obligation to also file with the COE. Finally, the letter writer states that they have filed this information with COE anonymously "for fear of retribution," and asks that COE "self initiate an ethics violation(s) of your gift codes (Sec 2-444)."

I reviewed the anonymous letter and all materials submitted. It should be noted that although the letter writer was mistaken as to the annual requirement for gift disclosure as it relates to an elected official (their disclosure requirement is quarterly as set by Florida Law), they were correct in that a copy of all quarterly disclosure forms filed with the state must be filed with the COE as well. The anonymous complainant included the following information with the letter sent to COE:

1. A copy of the State of Florida Quarterly Gift Disclosure form (Form 9) for the quarter ending December 2012, which was signed and notarized by Respondent on January 30, 2013, and stamped as received by the Florida Commission on Ethics on February 8, 2013. This disclosure form listed one (1) gift valued at \$250. Included as well was a copy of the envelope addressed to the Florida Commission on Ethics and listing Respondent's home address. (2 pages)
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After reviewing the material submitted with the letter, I checked the COE gift form database, and did not locate any gift forms from Respondent. Then I physically searched the "hard copy" files of all of the gift disclosure forms maintained at the COE office, and was again unable to locate any copies of the quarterly gift disclosure forms.

Section 2-444(f)(1) of the PBC Code of Ethics states in relevant portion, "Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section." "Those persons 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.**" (Emphasis added)

As an elected official, Respondent is a state reporting individual under §112.3148, Florida Statutes. She is also within the jurisdiction of the PBC Code of Ethics. Therefore, where required under state law to file a quarterly gift disclosure form, she is required to send a copy of such form to the COE. In checking both the COE database and physically searching the "hard copy" gift forms maintained by COE staff for 2012, 2013 and 2014, I was able to establish that it appears none of the three (3) quarterly disclosure forms filed with the Florida Commission on Ethics were also filed with the COE, as required by Section 2-444(f)(1) of the PBC Code of Ethics.


By:   
\_\_\_\_\_  
Mark E. Bannon, Senior Investigator  
PBC Commission on Ethics

  
\_\_\_\_\_  
DATE

STATE OF FLORIDA        }  
  }  
COUNTY OF PALM BEACH }

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 28<sup>th</sup> day of January, 2015 by Mark E. Bannon, who is personally known to me.

 **GINA LEVESQUE**  
MY COMMISSION # EE 207356  
EXPIRES: July 17, 2016  
Bonded Thru Budget Notary Services

  
\_\_\_\_\_  
Signature of Notary Public

Palm Beach County Commission on Ethics

300 N. Dixie Highway, Suite 450

W. Palm Beach, Fl 33401

January 12, 2015

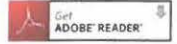
I am requesting that the Palm Beach County Commission on Ethics initiate an investigation on Councilwoman Anne Gerwig of the Village of Wellington for gift form filing violations (Sec 2-444). Based upon Palm Beach County Code of Ethics requiring an elected official to file an annual gift form (when gifts are taken) with BOTH Palm Beach County and the State of Florida Commissions on Ethics, a copy of gifts accepted by Councilwoman Gerwig are attached (Not found on Palm Beach County Ethics website). Councilwoman Gerwig filed with the State of Florida Commission on Ethics but NOT with the Palm Beach County Commission as required by your gift statute and your code of ethics. Councilwoman Gerwig is required to attend an ethics training course which discusses this as stated by your code Sec 2-446. Information obtained on your website gives evidence to an ethics violation by not filing with Palm Beach County (Sec 2-444). Filing with the State of Florida Commission on Ethics does NOT excuse or eliminate her obligation to file (by Nov 1 of the calendar year with Palm Beach County).

This is being filed anonymously for fear of retribution (Sec 2-447). I urge you to please investigate and self initiate an ethics violation(s) of your gift codes (Sec 2-444).



# Palm Beach County Commission on Ethics

[Gift Statistics](#)



## Gift Search

Political Subdivision:  Department/Board:  Reporting Year:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Middle: \_\_\_\_\_

Political Subdivision	Department	Employee	Reporting Year	View Document	Form Type
WELLINGTON	ATTORNEY'S OFFICE COMMISSION	MEGAN CROSS ROGERS	2014	<a href="#">View file</a>	State
		JOHN GREENE	2012	<a href="#">View file</a>	State
	MAYOR	ROBERT SAUL MARGOLIS	2012	<a href="#">View file</a>	County
			2012	<a href="#">View file</a>	State
			2012	<a href="#">View file</a>	State
			2012	<a href="#">View file</a>	State
			2013	<a href="#">View file</a>	State
	2014	<a href="#">View file</a>	State		
	VILLAGE COUNCIL	MATTHEW WILLHITE	2014	<a href="#">View file</a>	State

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# Palm Beach County Commission on Ethics

[Gift Statistics](#)



## Gift Search

Political Subdivision: WELLINGTON Department/Board: VILLAGE COUNCIL Reporting Year: 2014  
Last Name: Gerwig First Name: anne Middle:

[Search](#) [Reset Search](#)

No Record Found for the selected criteria

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## Gift Search

Political Subdivision: WELLINGTON Department/Board: COMMISSION Reporting Year: 2014  
Last Name: Gerwig First Name: anne Middle:

No Record Found for the selected criteria

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# Palm Beach County Commission on Ethics

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## Gift Search

Political Subdivision:  Department/Board:  Reporting Year:   
Last Name: Gerwig First Name: anne Middle:

No Record Found for the selected criteria

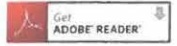
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[Gift Statistics](#)



## Gift Search

Political Subdivision:  Department/Board:  Reporting Year:   
Last Name: Gerwig First Name: anne Middle:

No Record Found for the selected criteria

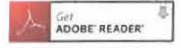
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## Gift Search

Political Subdivision:  Department/Board:  Reporting Year:   
 Last Name:  First Name:  Middle:

No Record Found for the selected criteria

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# Palm Beach County Commission on Ethics

[Gift Statistics](#)



## Gift Search

Political Subdivision:  Department/Board:  Reporting Year:

Last Name: Gerwig

First Name: anne

Middle:

No Record Found for the selected criteria

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236580

<b>Form 9</b>		<b>QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)</b>		FLORIDA COMMISSION ON ETHICS	
LAST NAME – FIRST NAME – MIDDLE NAME: Gerwig Anne Millington		NAME OF AGENCY: Village of Wellington		RECEIVED	
MAILING ADDRESS: 14505 Paddock Drive		OFFICE OR POSITION HELD: Councilwoman			
CITY: Wellington, 33414, Palm Beach	ZIP: 33414	COUNTY: Palm Beach	FOR QUARTER ENDING (CHECK ONE): <input checked="" type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input type="checkbox"/> SEPTEMBER <input type="checkbox"/> DECEMBER		YEAR 2014

**PART A — STATEMENT OF GIFTS**

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT
2/14/14	Reduced price trip to NY City for my son, Luke	\$600	The King's Academy Theatre Dept.	8401 Belvedere Road West Palm Beach FL 33411
3/28/14	Tickets to Global Dressage Festival (food/beverage)	\$300	Joseph Scarpa	3612 Aiken Ct Wellington FL 33414

CHECK HERE IF CONTINUED ON SEPARATE SHEET

PROCESSED

**PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT**

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

**PART C — OATH**

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes.	STATE OF FLORIDA COUNTY OF <u>Palm Beach</u> Sworn to (or affirmed) and subscribed before me this <u>30</u> day of <u>April</u> , 2014 by <u>Anne Gerwig</u> <u>Rachel R Callovi</u> (Signature of Notary Public-State of Florida)
	(Print, Type, or Stamp Commissioned Name of Notary Public) Personally Known <input checked="" type="checkbox"/> OR Produced Identification <input type="checkbox"/> Notary Public State of Florida Type of Identification Produced _____ Rachel R Callovi My Commission EE135457 Expires 10/26/2015

SIGNATURE OF REPORTING OFFICIAL: [Signature]

**PART D — FILING INSTRUCTIONS**

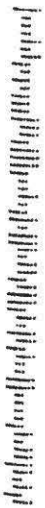
This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)



Anne Gerwig  
14505 Paddock Dr  
Wellington FL  
33414

Commission on Ethics  
PO Brewer 15709  
Tallahassee FL 32317-5709

92917570909



05 MAY 2014 PM 7 L



PROCESSED

COMMISSION ON ETHICS

DATE RECEIVED

FEB 04 2014

Form 9

QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)

Form fields for personal and agency information: LAST NAME - FIRST NAME - MIDDLE NAME: Gerwig Anne M; NAME OF AGENCY: Village of Wellington; MAILING ADDRESS: 14505 Paddock Dr; OFFICE OR POSITION HELD: Council - Seat 2; CITY: Wellington; ZIP: 33414; COUNTY: Palm Beach; FOR QUARTER ENDING (CHECK ONE): [X] DECEMBER; YEAR: 2013

236580

PART A - STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received.

Table with 5 columns: DATE RECEIVED, DESCRIPTION OF GIFT, MONETARY VALUE, NAME OF PERSON MAKING THE GIFT, ADDRESS OF PERSON MAKING THE GIFT. Row 1: 12.14.13, 2 tickets to VIP tent for Match (Chile vs. USA), \$180.00, Grand Champions Polo Club, 13444 South fields Rd. Well 33414

CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B - RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C - OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes.

Florida Statutes.

SIGNATURE OF REPORTING OFFICIAL

STATE OF FLORIDA COUNTY OF PALM BEACH Sworn to (or affirmed) and subscribed before me this 30 day of JANUARY, 20 14

by MICHAEL GAMBAROTTI

(Signature of Notary Public - State of Florida)

MICHAEL ROBERT GAMBAROTTI MY COMMISSION #FF080931 (Print, Type, or Stamp Commissioned Name of Notary Public) OR Produced Identification EXPIRES January 5, 2018 Type of Identification Produced (407) 398-0153 FloridaNotaryService.com

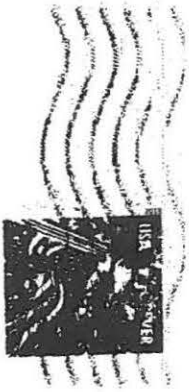
PART D - FILING INSTRUCTIONS

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)

Anne M Gerwig  
14505 Paddock Dr  
Melkington FL 33414

Commission on Ethics  
PO Drawer 15709  
Tallahassee FL 32317-5709

POSTAGE WILL BE PAID BY ADDRESSEE  
NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



32917570909



PROCESSED

I.D.# 236580

<b>Form 9</b>		<b>QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)</b>		COMMISSION ON ETHICS DATE RECEIVED
LAST NAME – FIRST NAME – MIDDLE NAME: <i>Gerwig Anne M.</i>		NAME OF AGENCY: <i>Wellington</i>		FEB 08 2013
MAILING ADDRESS: <i>14505 Paddock Dr.</i>		OFFICE OR POSITION HELD: <i>Councilwoman</i>		
CITY: <i>Wellington</i>	ZIP: <i>33414</i>	COUNTY: <i>Palm Beach</i>	FOR QUARTER ENDING (CHECK ONE): <input type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input type="checkbox"/> SEPTEMBER <input checked="" type="checkbox"/> DECEMBER	
				YEAR: 20 <u>12</u>

**PART A — STATEMENT OF GIFTS**

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form you are not required to disclose gifts from relatives or certain other gifts. You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT
<i>11-20-2012</i>	<i>250<sup>00</sup> Visa Gift Card</i>	<i>250<sup>00</sup></i>	<i>Denise Varney</i>	<i>40 Tanya Shinn 15805 Weatherly Rd. Wellington FL 33414</i>

CHECK HERE IF CONTINUED ON SEPARATE SHEET

**PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT**

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

**PART C — OATH**

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes.

*Anne M. Gerwig*  
SIGNATURE OF REPORTING OFFICIAL

STATE OF FLORIDA  
 COUNTY OF Palm Beach  
 Sworn to (or affirmed) and subscribed before me this 30<sup>th</sup> day of January, 20 13  
 by Anne M. Gerwig  
*Awilda Rodriguez*  
 (Signature of Notary Public-State of Florida)

(Print, Type, or Stamp Commissioned Name of AWILDA RODRIGUEZ  
 Personally Known  Other   
 Type of Identification Produced Commissioned Notary Public  
 EXPIRES: August 23, 2016

**PART D — FILING INSTRUCTIONS**

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 3600 Maclay Blvd. South, Suite 201, Tallahassee, Florida 32312. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30)

Anne Gerwig  
Wellington Councilwoman  
14505 Paddock Dr.  
Wellington FL  
33414

WEST PALM BEACH FL 334

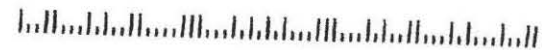
06 FEB 2013 PM 5 1



Commission on Ethics  
P.O. Drawer 15709  
Tallahassee FL 32312

COMMISSION ON ETHICS  
DATE RECEIVED  
FEB 08 2013

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# Code of Ethics

(Effective Date June 1, 2011)

## Sec. 2-441. Title; statement of purpose.

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

Officials and employees in the public service shall be conscious that public service is a public trust, shall be impartial and devoted to the best interests of the people of Palm Beach County, and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.

Nothing herein shall abridge employees' constitutional right to collective bargaining.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*

## 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:

**Advisory board** shall mean any advisory or quasi-judicial board created by the board of county commissioners, by the local municipal governing bodies, or by the mayors who serve as chief executive officers or by mayors who are not members of local municipal governing bodies.

**Customer or client** means any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000).

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

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

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

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

**Lobbying** shall mean seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any county commissioner, any member of a local municipal governing body, any mayor or chief executive officer that is not a member of a local municipal governing body, any advisory board member, or

any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the board of county commissioners, or the local municipal governing body lobbied as applicable.

**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 responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

**"Lobbyist"** shall not include:

- (1) Any employee, contract employee, or independent contractor of a governmental agency or entity lobbying on behalf of that agency or entity, any elected local official when the official is lobbying on behalf of the governmental agency or entity which the official serves, or any member of the official's staff when such staff member is lobbying on an occasional basis on behalf of the governmental agency or entity by which the staff member is employed.
- (2) Any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing.
- (3) Any expert witness who is retained or employed by an employer, principal or client to provide only scientific, technical or other specialized information provided in agenda materials or testimony only in public hearings, so long as the expert identifies the employer, principal or client at the hearing.
- (4) Any person who lobbies only in his or her individual capacity for the purpose of self-representation and without compensation.
- (5) Any employee, contract employee, or independent contractor of the Palm Beach County League of Cities, Inc., lobbying on behalf of that entity.

**Official or employee** means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "employee" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county. The term also includes contract personnel and contract administrators performing a government function, and chief executive officer who is not part of the local governing body. The term "official" shall mean members of the board of county commissioners, a mayor, members of local municipal governing bodies, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

**Outside employer or business** includes:

- (1) Any entity, other than the county, the state, or any other federal, regional, local, or municipal government entity, of which the official or employee is a member, official, director, proprietor, partner, or employee, and from which he or she receives compensation for services rendered or goods sold or produced. For purposes of this definition, "compensation" does not include reimbursement for necessary expenses, including travel expenses; or
- (2) Any entity located in the county or which does business with or is regulated by the county or municipality as applicable, in which the official or employee has an ownership interest. For purposes of this definition,

an "ownership interest" shall mean at least five (5) percent of the total assets or common stock owned by the official or employee or any combination of the official or employee's household members, spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official or employee's latest individual federal tax return.

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

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

**Persons and entities** shall be defined to include all natural persons, firms, associations, joint ventures, partnerships, estates, trusts, business entities, syndicates, fiduciaries, corporations, and all other organizations.

**Relative** unless otherwise specified in this article, means an individual who is related to an official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the official or employee or who otherwise holds himself or herself out as or is generally known as the person whom the official or employee intends to marry or with whom the official or employee intends to form a household, or any other natural person having the same legal residence as the official or employee.

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

**Vendor** means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager or employee.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*

#### **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 special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:
  - (1) Himself or herself;
  - (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;



- (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people;
  - (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
  - (5) A customer or client of the official or employee's outside employer or business;
  - (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner—"substantial" for these purposes shall mean at least ten thousand dollars (\$10,000) and shall not include forms of indebtedness, such as a mortgage and note, or a loan between the official or employee and a financial institution;
  - (7) A civic group, union, social, charitable, or religious organization, or other not for profit organization of which he or she (or his or her spouse or domestic partner) is an officer or director.
- (b) **Corrupt misuse of official position.** An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.
- (c) **Disclosure of voting conflicts.** County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above. The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, § 112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, as set forth in subsections (a)(1) through (7).
- (d) **Contractual relationships.** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to [section 2-448\(c\)](#) or by the local municipal governing body pursuant to local ordinance as applicable. This prohibition shall not apply to employees who enter into contracts with Palm Beach County or a municipality as part of their official duties with the county or that municipality. This prohibition also shall not apply to officials or employees who purchase goods from the county or municipality on the same terms available to all members of the public. This prohibition shall also not apply to advisory board members provided the subject contract or transaction is disclosed at a duly noticed

public meeting of the governing body and the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction.

- (e) **Exceptions and waiver.** The requirements of subsection (d) above may be waived as it pertains to advisory board members where the advisory board member's board is purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. No waiver shall be allowed where the advisory board member's board is not purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. Waiver may be effected by the board of county commissioners or by the local municipal governing body as applicable upon full disclosure of the contract or transaction prior to the waiver and an affirmative vote of a majority plus one (1) of the total membership of the board of county commissioners or the local municipal governing body as applicable. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after full disclosure of the contract or transaction at a public hearing, by the appointing person. In addition, no official or employee shall be held in violation of subsection (d) if:

- (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder and:
  - a. The official or employee or member of his or her household has in no way participated in the determination of the bid specifications or the determination of the lowest bidder;
  - b. The official or employee or member of his or her household has in no way used or attempted to use the official or employee's influence to persuade the agency, governmental entity or any personnel thereof to enter such a contract other than by the mere submission of the bid; and
  - c. The official or employee, prior to or at the time of the submission of the bid, has filed a statement with the supervisor of elections and the commission on ethics, disclosing the nature of the interest in the outside employer or business submitting the bid.
- (2) An emergency purchase or contract which would otherwise violate a provision of subsection (d) must be made in order to protect the health, safety, or welfare of the citizens of the county or municipality as applicable.
- (3) The outside employer or business involved is the only source of supply within the county or municipality as applicable and there is full disclosure by the official or employee of his or her interest in the outside employer or business to the county or municipality as applicable and the ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.
- (4) The total amount of the contracts or transactions in the aggregate between the outside employer or business and the county or municipality as applicable does not exceed five hundred dollars (\$500) per calendar year.
- (5) Notwithstanding any provision to the contrary, subsection (d) shall not be construed to prevent an employee from seeking part-time employment with an outside employer who has entered into a contract for goods or services with the county or municipality as applicable provided that:
  - a. The employee or relative of the employee does not work in the county or municipal department as applicable which will enforce, oversee or administer the subject contract; and
  - b. The outside employment would not interfere with or otherwise impair his or her independence of judgment or otherwise interfere with the full and faithful performance of his or her public duties to the county or municipality as applicable; and

- c. The employee or relative of the employee has not participated in determining the subject contract requirements or awarding the contract; and
  - d. The employee's job responsibilities and job description will not require him or her to be involved in the outside employer's contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and
  - e. The employee demonstrates compliance with applicable merit rules regarding outside employment and obtains written permission from his or her supervisor; and
  - f. The employee has obtained a conflict of interest waiver from the chief administrative officer and the employee's department head of the county or municipality based on a finding that no conflict exists. The employee shall submit the request for waiver in writing and under oath. The request for the waiver shall be signed by the employee under oath or affirmation on an approved form provided by the commission on ethics. The document shall contain written acknowledgment of compliance with the provisions of subsection (5)a. through (5)e. of this subsection, together with such pertinent facts and relevant documents that support such waiver. A waiver under this subsection must be approved by both the employee's supervisor and chief administrative officer of the county or municipality. The county or municipality shall record such waiver in the employee's personnel file and shall submit a copy of the waiver and all related documents to the commission on ethics. The commission on ethics in its discretion may elect to review, comment on, or investigate any waiver. The commission on ethics review or investigation shall not delay an employee's ability to take the part time employment.
  - g. *Official law enforcement overtime or extra duty details.* The provisions of subsection (d) shall be waived for outside employment when that employment consists of a certified police agency uniformed external security or extra duty detail, contracted or administered by the police agency as applicable. For the purpose of this subsection, all records of external, extra duty or overtime security details, including supervisor approval, identity of contracting parties, and including time, date and manner of detail shall be maintained by the individual contracting or administrating police agency, records of which shall be accessible to the public subject to state public records disclosure exemptions.
- (f) **Accepting travel expenses.** 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 or municipal contractor, vendor, service provider, bidder or proposer as applicable. The board of county commissioners or local municipal governing body as applicable may waive the requirements of this subsection by a majority vote of the board or local municipal governing body. The provisions of this subsection shall not apply to travel expenses paid by other governmental entities or by organizations of which the county or municipality as applicable is a member if the travel is related to that membership.
- (g) **Contingent fee prohibition.** No person shall, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person shall, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: an ordinance, resolution, action or decision of the board of county commissioners or local municipal governing body as applicable, any employee authorized to act on behalf of the board of county

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

- (h) **Honesty in applications for positions.** No person seeking to become an official or employee, or seeking to enter into a contract to provide goods or services to the county or municipality as applicable, may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or services to the county or municipality as applicable.
- (i) **Disclosure or use of certain information.** A current or former official or employee shall not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*

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

- (a) (1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, 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) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.
- (2) No vendor, lobbyist, or principal or employer of a lobbyist that lobbies the county or a municipality shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is an official or employee of that county or municipality. For the purposes of this subsection (a)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement opportunity that has been published by the county or a municipality.
- (b) (1) 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) in the aggregate for the calendar year from any vendor, lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority, influence or advice.
- (2) No vendor, lobbyist, or principal or employer of a lobbyist who lobbies an advisory board or any county or municipal department that is subject in any way to the advisory board's authority, influence

or advice, shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is a member of that advisory board. For the purposes of this subsection (b)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement opportunity that has been published by the county or a municipality.

- (c) No county commissioner, member of a local governing body, mayor or chief executive officer when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist where the gift is for the personal benefit of the official or employee, another official or employee, or any relative or household member of the official or employee. No advisory board member or any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority, influence or advice, where the gift is for the personal benefit of the advisory board member, another advisory board member, or an official, or any relative or household member of the official or employee.
- (d) For purposes of this section, a principal or employer of a lobbyist shall include any officer, partner or director of the principal or employer entity, or any employee of a principal or employer who is not an officer, partner or director, provided that the employee knows or should know with the exercise of reasonable care that the principal or employer employs a lobbyist.
- (e) 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.
- (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.
  - (1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons 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.
  - (2) *All other officials and employees who are not reporting individuals under state law.*
    - a. *Personal gifts.* All officials and employees who are not reporting individuals under state law are not required to report gifts in excess of one hundred dollars (\$100) so long as those gifts are given to the official or employee by a personal friend or co-worker and the circumstances demonstrate that the motivation for the gift was the personal or social relationship rather than an attempt to obtain the goodwill or otherwise influence the official or employee in the performance of his or her official duties. Factors to be considered in determining whether a gift was motivated by a personal or social relationship may include but shall not be limited to:

whether the relationship began before or after the official or employee obtained his or her office or position; the prior history of gift giving between the individuals; whether the gift was given in connection with a holiday or other special occasion; whether the donor personally paid for the gift or sought a tax deduction or business reimbursement; and whether the donor gave similar gifts to other officials or employees at or near the same time. If the personal friend or co-worker is a vendor, lobbyist or principal or employer of a lobbyist that lobbies the county or municipality as applicable, then the official or employee shall not accept a gift in excess of one hundred dollars (\$100) in accordance with subsections (a)(1) and (b)(1).

- b. *All other gifts.* All officials or employees who are not reporting individuals under state law and who receive any gift in excess of one hundred dollars (\$100), which is not otherwise excluded or prohibited pursuant to this subsection, 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. All officials or employees who are not reporting individuals under state law and who do not receive a gift in excess of one hundred dollars (\$100) during a given reporting period shall not file an annual gift disclosure report. The annual gift disclosure report shall be created by the county commission on ethics and shall be in a form substantially similar in content as that required by state law.
- (g) 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. Food and beverages consumed at a single setting or a meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift. In determining the value of the gift, the recipient of the gift may consult, among other sources, Florida Statutes, § 112.3148, and the Florida Administrative Code as may be amended.
  - (1) Exceptions. The provisions of subsection (g) shall not apply to:
    - a. Political contributions specifically authorized by state or federal law;
    - b. Gifts from relatives, domestic partners, and dependents named on the official's or employee's latest federal income tax return, or one's household member;
    - c. Awards for professional or civic achievement;
    - d. Materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
    - e. Gifts solicited or accepted by county or municipal officials or employees as applicable on behalf of the county or municipality in performance of their official duties for use solely by the county or municipality for a public purpose;
    - f. Publicly advertised offers for goods or services from a vendor under the same terms and conditions as are offered or made available to the general public;
    - g. Inheritance or other devise;
    - h. Registration fees and other related costs associated with educational or governmental conferences, meetings or seminars and travel expenses either properly waived or inapplicable pursuant to [section 2-443\(f\)](#), provided that attendance is for governmental purposes, and

- attendance is related to their duties and responsibilities as an official or employee of the county or municipality;
- i. A ticket, pass or admission in connection with public events, appearances or ceremonies related to official county or municipal business, if furnished by a nonprofit sponsor organization of such public event, or if furnished pursuant to a contract between the event's non-profit sponsor and the county or municipality as applicable, provided the sponsor organization does not employ a lobbyist, and further provided the ticket, pass or admission is given by a representative of the sponsor organization who is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass or admission must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2);
  - j. Expenditures made in connection with an event sponsored by a nonprofit organization funded in whole or in part with public funds whose primary function is to encourage and attract tourism or other business opportunities for the benefit of Palm Beach County or the municipalities as applicable, provided the sponsor organization does not employ a lobbyist, and further provided that the invitation to the event is made by a representative of the sponsor organization and the representative is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the expenditure must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2).
- (h) Solicitation of contributions on behalf of a non-profit charitable organization.
- (1) Notwithstanding the prohibition on gifts as outlined in subsections (a) and (b), the solicitation of funds by a county or municipal official or employee for a non-profit charitable organization, as defined under the Internal Revenue Code, is permissible so long as there is no quid pro quo or other special consideration, including any direct or indirect special financial benefit to the official or employee or to the person or entity being solicited. The solicitation by an official or employee as contemplated herein, is expressly prohibited if made to any person or entity with a pending application for approval or award of any nature before the county or municipality as applicable.
  - (2) To promote the full and complete transparency of any such solicitation, officials and employees shall disclose, on a form provided by the commission on ethics, the name of the charitable organization, the event for which the funds were solicited, the name of any person or entity that was contacted regarding a solicitation or pledge by the official or employee, and the amount of the funds solicited or pledged if known. The form shall be completed legibly and shall be filed with the commission on ethics. The form shall be filed within thirty (30) days from the occurrence of the event for which the solicitation was made, or if no event, within thirty (30) days from the occurrence of the solicitation.
  - (3) Officials and employees may not use county or municipal staff or other county or municipal resources in the solicitation of charitable contributions described in this subsection.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*

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

An official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement in or to a position in the county or municipality as applicable in which the official is serving or over which the official exercises jurisdiction or control, any individual who is a relative or domestic partner of the official. An individual may not be appointed, employed, promoted, or advanced in or to a position in the county or a municipality if such appointment, employment, promotion, or advancement has been advocated by an official, serving in or exercising jurisdiction or control over the county or municipality as appropriate, who is a relative or domestic partner of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative or domestic partner of the individual is a member. However, this section shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than thirty-five thousand (35,000) population. This section does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide. Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

- (1) For the purposes of this section, "official" means any official or employee in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in the county or municipality as applicable.
- (2) For the purposes of this section, "relative" means spouse, parent, child, sibling, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*

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

- (a) Officials and employees, as public servants, are considered stewards of the public trust and should aspire to the highest level of integrity and character. Officials and employees shall be informed of their ethical responsibilities at the start of their public service, and shall receive updates and training materials on ethics issues throughout the span of their public service. The county administrator or municipal administrator as applicable shall establish by policy a mandatory training schedule for all officials and employees which shall include mandatory periodic follow-up sessions. This policy may also address ethics training for entities that receive county or municipal funds as applicable.
- (b) The commission on ethics shall develop and deliver, or contract with other entities to develop and deliver, training programs. The commission on ethics shall coordinate and cooperate with all affected county or municipal entities, departments, agencies, boards, councils and commissions to ensure that effective and meaningful training experiences are delivered in a timely and efficient manner.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*



**Sec. 2-447. Noninterference.**

It shall be a violation of this article for any person: (a) to retaliate against, punish, threaten, harass, or penalize any person for communicating, cooperating with, or assisting the commission on ethics or the inspector general; or (b) to interfere, obstruct or attempt to interfere or obstruct without valid legal basis any investigation conducted by the commission on ethics or the inspector general.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*

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

- (a) The commission on ethics shall be empowered to review, interpret, render advisory opinions, and enforce this code of ethics pursuant to the procedures established in the county commission on ethics ordinance. Jurisdiction of the commission on ethics with respect to advisory opinions rendered shall extend to all county and municipal officials and employees, and all other persons and entities required to comply with the provisions of this code and the county lobbyist registration ordinance, including but not limited to lobbyists, their employers and principals, and contractors and vendors.
- (b) A finding by the commission on ethics of a violation of any part of this article shall subject the person or entity to public reprimand, a fine of up to five hundred dollars (\$500), or both. The commission on ethics may also order the person or entity to pay restitution when the person or entity or a third party has received a pecuniary benefit as a result of the person's violation.
- (c) Upon a finding of the commission on ethics that a violation of this article or the lobbyist registration ordinance resulted in a contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit conferred by the county or municipality as applicable, then such contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit may be rescinded or declared void by the board of county commissioners or the local municipal governing body as applicable.
- (d) The commission on ethics may in its discretion refer willful violations of sections [2-443](#), [2-444\(a\)](#), [2-444\(b\)](#), [2-444\(c\)](#), [2-444\(e\)](#), or [2-447](#) to the state attorney. Pursuant to Florida Statutes, §125.69, a person who violates the sections of the article set forth in this [section 2-448\(d\)](#) shall be subject to prosecution in the name of the state in the same manner as first degree misdemeanors are prosecuted, and upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed one (1) year, or both.

*(Ord. No. 2011-011, § 1(Exh. 1), 5-17-11)*

**Code of Ethics Ordinance (/pdf/Code\_of\_Ethics\_Ordinance\_June\_1\_2011.pdf)** - Revised (Effective Date June 1, 2011)

**Lobbyist Registration Ordinance (/pdf/Lobbyist\_Registration\_Ordinance.pdf)**

**Post-Employment Ordinance (/pdf/Post-Employment\_Ordinance.pdf)**

Our specific statutory authority is derived from Article V, Division 8, § 2-254 of the Palm Beach County Code. This ordinance gives the Commission on Ethics the power to review, interpret, enforce and render opinions regarding the County ethics ordinances.

**How do I file a complaint?** Any person may file a complaint with the Commission on Ethics. The Commission on Ethics has an on-line complaint form with instructions ([http://www.palmbeachcountyethics.com/pdf/Forms/Complaint\\_Form\\_and\\_Instructions.pdf](http://www.palmbeachcountyethics.com/pdf/Forms/Complaint_Form_and_Instructions.pdf)) that you may fill out and print for mailing or delivery. Complaints must be in writing, allege a violation of one of the ordinances mentioned above, be based substantially on personal knowledge and signed under oath or affirmation by the complaining person. If you have any questions about the complaint process or would like to speak with a member of our staff please call the Palm Beach County Ethics Hotline at 877.766.5920.

**Must I identify myself when I make an ethics allegation?** In order to file a complaint you must identify yourself on the complaint form. However, the commission does have a hot-line 877.766.5920 and staff will take anonymous information or you may send your complaint anonymously by mail to The 1916 Historic Courthouse, 300 North Dixie Highway, Suite 450, West Palm Beach, FL 33401. There must be sufficient, reliable information given by the anonymous complainant showing a violation of the county ethics ordinances before the ethics commission staff will start any inquiry into the alleged conduct.

**I've gone before my local commission or advisory board on a matter of importance to me and they did nothing. I think that their decision is unethical and I'm ready to file a complaint. What information do I need to have when I talk to you?** For the Commission on Ethics to be able to process your complaint, you must have evidence based on your own personal knowledge that the action or inaction by the government official, employee or advisory board member resulted in a financial benefit to a defined person or business (e.g., an official's relative, customer, client or outside employer) when the benefit is not shared by similarly situated members of the general public. It is not an ethics code violation for an official to merely be "wrong" in their decision making. Nor is it necessarily a code of ethics violation when an official violates a county or municipal policy. Policy violations should be referred to the appropriate county or municipal officials.

**What is a financial benefit?** Anything of value that can be obtained through the exercise of an official or employee's authority that is not shared with similarly situated members of the public.

**I am a volunteer and was appointed to sit on a board. Am I subject to the ethics ordinance?** All county, municipal and city advisory board members are subject to the ethics ordinances if they are selected by the Board of County Commissioners, municipal governing body, mayor or other chief executive officer of a municipality.

**What is a gift statement? Who has to file it?** Under the new ordinance, all county and municipal employees, officials, or advisory board members are required to complete a gift disclosure form. Certain "reporting individuals" already have a quarterly requirement under state law. For more specific questions, please view the gift disclosure instruction form ([/pdf/Forms/Gift\\_Form.pdf](/pdf/Forms/Gift_Form.pdf)) or call our office at 561.355.1915.

**When do I file my gift statement?** Under the county ethics code, the gift reporting calendar year is October 1st - September 30th. Gift reports are due no later than November 1st for the previous reporting year.

**What is the purpose of gift reporting?** Through transparency and access to information, including non-exempt gifts received by public officials and employees, public trust and confidence in government will be improved.

# GIFT LAW DISCLOSURE REQUIREMENTS

## State Reporting Individuals

- ❖ “Local Officers” and department managers
- ❖ Quarterly Reporting Required
- ❖ Send your state form to the Florida COE, send a copy to us

## Local Reporting Individuals

- ❖ Everyone else
- ❖ Yearly Reporting
- ❖ Due November 1
- ❖ Fax, Email or U.S. Mail

## PROBABLE CAUSE RECOMMENDATION

To: Commission on Ethics  
From: Christie E. Kelley, Esquire  
Re: C15-005, Anne Gerwig – Village of Wellington

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- **Recommendation**

A finding of PROBABLE CAUSE should be entered in the above captioned matter as to the allegations made in the Complaint.

*Probable Cause exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics (COE) to conclude that the Respondent, Anne Gerwig, violated the Palm Beach County Code of Ethics.*

- **Jurisdiction**

The COE has jurisdiction pursuant to Chapter 2, Article V, Division 8, section 2-258(a) of the Palm Beach County Commission on Ethics Ordinance which states in pertinent part:

Article V, Division 8, Section 2-258. *Powers and duties.* (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the:

- (1) Countywide Code of Ethics;
- (2) County Post-Employment Ordinance, and
- (3) County Lobbyist Registration Ordinance.

Article XIII, Section 2-444(f), *Gift reports*, of the Palm Beach County Code of Ethics (Code) states: "Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section." Section 2-444(f)(1), *Gift reports for officials and employees identified by state law as reporting individuals*, states: "Those persons 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."

- **Background**

This matter came to the attention of the COE through a letter dated January 12, 2015, by someone wishing to remain "anonymous" (Complainant) "for fear of retribution." The Complainant requested that COE open an investigation into a possible violation of Section 2-444 (Gift Law) of the Code by Village of Wellington Councilmember Anne Gerwig (Respondent). The Complainant indicated that Respondent filed three State of Florida Quarterly Gift Disclosure forms (Form 9) with the Florida Commission on Ethics in 2012, 2013, and 2014, but Respondent failed to file copies of the gift forms with the COE as required by the Code. The Complainant stated that filing those three gift forms with the Florida Commission on Ethics does not excuse or eliminate Respondent's obligation to file with the COE.

The general issue indicated in the complaint is as follows:

Whether Respondent, Anne Gerwig, failed to file with the COE a copy of each State of Florida Quarterly Gift Disclosure form that she filed with the state, as required under Section 2-444(f)(1) of the Code.

- **Facts establishing probable cause for a violation of Section 2-444(f)(1), Gift reports for officials and employees identified by state law as reporting individuals**

All information from the Memorandum of Inquiry, Legal Sufficiency Determination, and supporting documents are adopted by reference into this Probable Cause Recommendation.

The investigation revealed Respondent failed to file copies of the State of Florida Quarterly Gift Disclosure forms for 2012, 2013, and 2014 with the COE.

Respondent has been under the jurisdiction of the Code since June 1, 2011, having been originally elected as a Village of Wellington Councilmember in 2010 and then re-elected in March 2014. As an elected official of the Village of Wellington, Respondent is within the reporting requirements of §112.3148, Florida Statutes. As such, when a State of Florida Quarterly Gift Disclosure form is required to be filed under state law, a copy must also be filed with the COE.

Respondent filed three (3) State of Florida Quarterly Gift Disclosure forms with the Florida Commission on Ethics in 2012, 2013, and 2014.

1. A State of Florida Quarterly Gift Disclosure form (Form 9) for the quarter ending December 2012 was signed and notarized by Respondent on January 30, 2013, and stamped as received by the Florida Commission on Ethics on February 8, 2013. This disclosure form listed one (1) gift valued at \$250.
2. A State of Florida Quarterly Gift Disclosure form (Form 9) for the quarter ending December 2013 was signed and notarized by Respondent on January 30, 2014, and stamped as received by the Florida Commission on Ethics on February 4, 2014. This disclosure form listed one (1) gift valued at \$180.
3. A State of Florida Quarterly Gift Disclosure form (Form 9) for the quarter ending March 2014 was signed and notarized by Respondent on April 30, 2014, and stamped as received by the Florida Commission on Ethics on May 7, 2014. This disclosure form listed two (2) gifts valued at a total of \$900.


During the investigation, Investigator Bannon searched the COE gift form database and did not locate any gift forms from Respondent. In addition, Investigator Bannon physically searched the "hard copy" files of all gift disclosure forms maintained at the COE office, and he was also unable to locate any copies of any quarterly gift disclosure forms from Respondent.

On February 4, 2015, Respondent filed copies of the State of Florida Quarterly Gift Disclosure forms for 2012, 2013, and 2014 with the COE.

- **Conclusion**

There is probable cause to conclude that Respondent, Anne Gerwig, failed to file copies of the State of Florida Quarterly Gift Disclosure forms with the COE that she filed with the state in 2012, 2013, and 2014, in violation of Section 2-444(f)(1) of the Palm Beach County Code of Ethics.

By:

  
\_\_\_\_\_  
Christie E. Kelley, Esquire  
Florida Bar No. 72565

2-17-15  
\_\_\_\_\_  
Date



# Palm Beach County Commission on Ethics

## Commissioners

Salesia V. Smith-Gordon, *Chair*

Michael S. Kridel, *Vice Chair*

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## Executive Director

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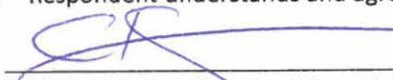
In Re: Anne Gerwig

C15-005

## NEGOTIATED SETTLEMENT

Pursuant to §2-260(d) of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics (COE) *may enter into such stipulations and settlements as it finds to be just and in the best interest of the citizens of the county.* Commission on Ethics Rule of Procedure 6.16 permits the COE Advocate to enter into settlement negotiations at any stage in the proceedings and present proposed agreements to the COE for consideration and approval. Advocate and Respondent do hereby submit the following settlement agreement in the above captioned matter based upon the following terms and conditions:

1. Based on the findings by the COE and the facts and circumstances as set forth in the attached Letter of Instruction, Respondent agrees to accept the Letter of Instruction based on violations of §2-444(f)(1) of the Palm Beach County Code of Ethics for failing to file with the COE a copy of each quarterly gift disclosure form filed with the state in 2012, 2013, and 2014.
2. Respondent further agrees to contemporaneously file with the COE a copy of all future State of Florida Quarterly Gift Disclosure forms filed with the state.
3. Based on Respondent's position that the Palm Beach County Code of Ethics does not specify a time frame for filing a copy of the State of Florida Quarterly Gift Disclosure form with the COE, the Advocate's position that there is an implied basis to believe that the Palm Beach County Code of Ethics requires that this filing occur contemporaneously with the state filing, and the fact that this issue is a matter of first impression for the COE, pursuant to this Proposed Settlement Agreement, the COE agrees to dismiss this matter without a finding of probable cause and issue the Letter of Instruction, believing that the public interest would not be served by proceeding further and that the alleged violations were inadvertent and unintentional.
4. The Letter of Instruction shall act as guidance from the COE to Respondent, and to all state reporting individuals under the COE's jurisdiction, that a copy of the State of Florida Quarterly Gift Disclosure form shall be filed with the COE contemporaneously with the filing with the state.
5. This Proposed Settlement Agreement supersedes any and all previous communications, representations, and offers, either verbal or written, between the Advocate and Respondent. By signing this document, Respondent acknowledges that she is doing so freely, voluntarily and without duress; that she is competent to enter this agreement; and that she has fully and completely read and understands the terms and conditions herein.
6. Advocate and Respondent agree that settlement of this action in the manner described above is just and in the best interest of the Respondent and the citizens of Palm Beach County.
7. Evidence of this offer of compromise and settlement is inadmissible to prove any of the allegations alleged.
8. Respondent understands and agrees that **NO OFFER IS FINAL UNTIL ACCEPTED BY THE COMMISSION ON ETHICS.**

  
Christie E. Kelley, Esquire, Advocate

2-24-15  
Date

  
Anne Gerwig, Respondent

2-24-15  
Date

## LETTER OF INSTRUCTION

Steven P. Cullen, Executive Director of the Palm Beach County Commission on Ethics (COE) (Complainant) filed the above-captioned complaint against Anne Gerwig, Councilmember of the Village of Wellington (Respondent) alleging a violation of the Palm Beach County Code of Ethics (Code of Ethics), specifically Article XIII, §2-444(f)(1) (Gift reports for officials and employees identified by state law as reporting individuals). The complaint alleges that Respondent failed to file with the COE a copy of each State of Florida Quarterly Gift Disclosure form filed with the state.

- **Facts**

This matter came to the attention of the COE through a letter dated January 12, 2015, by someone wishing to remain “anonymous,” requesting that the COE open an investigation into a possible violation of §2-444 (Gift Law) of the Code of Ethics by Village of Wellington Councilmember Anne Gerwig (Respondent). The letter indicated that Respondent filed three State of Florida Quarterly Gift Disclosure forms with the Florida Commission on Ethics in 2012, 2013, and 2014, but Respondent failed to file copies of the gift forms with the COE, as required by the Code of Ethics.

The investigation by the COE revealed that Respondent filed three State of Florida Quarterly Gift Disclosure forms with the Florida Commission on Ethics in 2012, 2013, and 2014. A search of the COE gift form database did not locate any gift forms from Respondent. In addition, a physical search of the “hard copy” files of all gift disclosure forms maintained at the COE office revealed that copies of the quarterly gift disclosure forms from Respondent were not filed with the COE. On February 4, 2015, Respondent filed copies of the State of Florida Quarterly Gift Disclosure forms for 2012, 2013, and 2014 with the COE.

- **Holding**

Under §2-444(f)(1) of the Gift Law portion of the Code of Ethics, Respondent had an obligation to file with the COE a copy of each State of Florida Quarterly Gift Disclosure form filed with the state. Respondent failed to file the required gift disclosure forms with the COE.

The COE is mindful of Respondent’s position that §2-444(f)(1) does not specify a time frame for filing a copy of the State of Florida Quarterly Gift Disclosure form with the COE. The COE has not previously opined on this matter. As a matter of first impression, the COE interprets §2-444(f)(1) as requiring that when state reporting individuals under the COE’s jurisdiction file State of Florida Quarterly Gift Disclosure forms with the state, they must also contemporaneously file copies with the COE.

In light of the facts and circumstances known to the COE, the matter is disposed of by way of dismissal with this Letter of Instruction. The COE believes that the violation was inadvertent and unintentional and has determined that the public interest would not be served by proceeding further. However, Respondent is advised that the filing of Ethics Complaint C15-005, along with this Letter of Instruction, is to serve as notice to state reporting individuals that when a State of Florida Quarterly Gift Disclosure form is required to be filed under state law, a copy must also be filed contemporaneously with the COE. Respondent is therefore instructed to be more careful in the future to ensure that she follows the requirements of §2-444(f)(1) to avoid any future enforcement action.

This Letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on March 5, 2015.

Palm Beach County Commission on Ethics,

By:

\_\_\_\_\_  
Salesia V. Smith-Gordon, Chair

PROPOSED





# Palm Beach County Commission on Ethics

## Commissioners

Salesia V. Smith-Gordon, *Chair*

Michael S. Kridel, *Vice Chair*

Michael F. Loffredo

Carmine A. Priore

Clevis Headley

## Executive Director

Steven P. Cullen

February 23, 2015

Mr. David Schwarz, CREIS Project Coordinator  
Dept. of Economic Sustainability  
100 Australian Avenue, Suite 500  
West Palm Beach, FL 33406

Re: RQO 15-006  
Post-Employment Ordinance

Dear Mr. Schwarz,

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

### **QUESTION:**

What restrictions does the Palm Beach County Post Employment Ordinance (Post Employment Ordinance) place on you, as a Palm Beach County (County) employee, if you were to leave County employment and seek employment or a contract with another public entity or with a private company or organization?

### **ANSWER:**

Based on the facts submitted, the Post Employment Ordinance would not apply to you because you are not a County commissioner, a Level 1 employee, or a Level 2 employee. As such, the Post Employment Ordinance would not place any restrictions on you when seeking employment or contracting with another public entity or with a private company or organization after leaving County employment.

The Post Employment Ordinance prohibits individuals who work in County administration and in management-level positions, specifically County Commissioners, Level 1 employees, and Level 2 employees, from representing anyone other than the county or another public entity for certain time periods.<sup>1</sup> The Post Employment Ordinance defines Level 1 employees as those employed as the County Administrator, the County Attorney, the Internal Auditor, the Fire Rescue Administrator, the County Engineer, the Deputy County Administrator, the Chief Deputy County Attorney, the Deputy County Engineer, and the Director of Planning, Zoning, and Development.<sup>2</sup> Level 2 employees are assistant county administrators, assistant county attorneys, department heads, assistant department heads, division heads, auditors within the Internal Audit department, and deputy fire chiefs.<sup>3</sup> Representation means appearing on behalf of an individual or entity, for compensation, before the Palm Beach County Board of County Commissioners (BCC) in any of their official capacities or before an advisory body of the BCC or personal communications made with any officials, employees, or advisory board members of the County in their official capacity, on behalf of an individual or entity.<sup>4</sup>

<sup>1</sup> §2-143

<sup>2</sup> §2-142

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Under the Post Employment Ordinance, former County commissioners are prohibited from representing anyone besides the County or another public entity for two years after the end of their term of office with the County.<sup>5</sup> Former Level 1 employees are prohibited from representing anyone besides the County or another public entity for six months after leaving County employment; however, an additional 18-month restriction applies for issues where the County is a party.<sup>6</sup> Former Level 2 employees are prohibited from representing anyone besides the County or another public entity for six months after leaving County employment; however an additional six-month restriction applies for issues where County is a party.<sup>7</sup>

**FACTS:**

You are a County employee and serve as Community Development Project Coordinator for the Department of Economic Sustainability. You are not a department head, an assistant department head, a division head, or in any management-level position. Your position does not meet the definition of a Level 1 or a Level 2 employee under the Post Employment Ordinance.

**LEGAL BASIS:**

The legal basis for this opinion is found in the §2-142 and §2-143 of the Post-Employment Ordinance:

**Sec. 2-142. Definitions.**

- (1) *County commissioner* means any county commissioner of Palm Beach County.
- (2) *Level 1 employee* means all individuals employed by the board of county commissioners in the position of:
  - a. County administrator;
  - b. County attorney;
  - c. Internal auditor;
  - d. Fire rescue administrator;
  - e. County engineer;
  - f. Deputy county administrator;
  - g. Chief deputy county attorney;
  - h. Deputy county engineer; and
  - i. Director of planning, building and zoning.
- (3) *Level 2 employee* means:
  - a. Assistant county administrators;
  - b. Assistant county attorneys;
  - c. Department heads;
  - d. Assistant department heads;
  - e. Division heads;
  - f. Auditors (within internal audit department); and
  - g. Deputy fire chiefs.
- (4) *Represent or representation* means actual physical attendance on behalf of an individual or entity, for compensation, at a proceeding before the board of county commissioners in any of their official capacities or before an advisory body of the board of county commissioners or personal communications made with any officials, employees, or advisory board members of the county in

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<sup>5</sup> §2-143(a)

<sup>6</sup> §2-143(b)

<sup>7</sup> §2-143(c)

their official capacity, on behalf of an individual or entity, including the filing of documents or the writing of letters on behalf of said individual or entity.

**Sec. 2-143. Prohibited conduct after termination of employment or office with the county.**

- (a) No former county commissioner shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of two (2) years after the cessation of his or her term of office with the county.
- (b) No former level 1 employee shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of six (6) months after the cessation of his or her employment with the county; additionally no level 1 employee shall knowingly represent anyone other than the county or another public entity in connection with any particular matter involving common issues of law and fact in which the county is a party or has an interest and in which the former employee participated personally, substantially and directly for the county for an additional period of eighteen (18) months (for a total of two (2) years) after the cessation of his or her employment with the county.
- (c) No former level 2 employee shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of six (6) months after the cessation of his or her employment with the county; additionally no former level 2 employee shall knowingly represent anyone other than the county or another public entity in connection with any particular matter involving common issues of laws and fact in which the county is a party or has an interest and in which the employee participated personally, substantially and directly for the county for an additional period of six (6) months (for a total of one (1) year) after the cessation of his or her employment with the county.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted, but assume they are true for purposes of this advisory opinion. 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.

Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Steven P. Cullen  
Executive Director

CEK/gal

Item IX. Discussion Re: Amendment to Ordinance  
Version passed at November COE Meeting:

Sec. 2-260.1. Public hearing procedures.

(a) Right to public hearing. After a finding of probable cause, a respondent is entitled to a public hearing on the complaint. The respondent may elect to have the hearing conducted by the full Commission, a panel of three Commissioners designated by the Commission Chair, or by a hearing officer as established in section 2.G.3.G, Palm Beach County Unified Land Development Code, who is not a member of the Commission.

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

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

(de) *Evidence.*

- (1) Stipulations may be received and are encouraged as to uncontested matters.
- (2) Oral evidence shall be taken only on oath or affirmation.
- (3) The respondent and the advocate shall have the right: to present evidence relevant to the issue; to cross-examine opposing witnesses on any matter relevant to the issue; and to impeach any witness regardless who first called him or her to testify.
- (4) The hearing shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient itself to support a finding. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The commission on ethics shall not allow the introduction into evidence of an affidavit of a person when that person can be called to testify; this shall not preclude the admission of a deposition of such a person, however, for any reason permissible in a court of law under the Florida Rules of Civil Procedure.

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

(fe) *Proposed public report.* After the conclusion of the hearing, the respondent and the advocate may present written proposed public reports, within a time designated by the chairperson or a member of the commission on ethics designated by the chairperson. If a proposed public report is filed by the respondent or the advocate, each proposed finding in the proposal that is rejected shall be accompanied by a statement summarizing the reasons for rejection.

(gf) *Motions to dismiss filed by advocate.* After probable cause is found and a public hearing is ordered by the commission on ethics, and after further investigation or discovery is made by the advocate, the advocate may move to dismiss the proceeding if the advocate concludes that there is insufficient evidence to proceed to the public hearing in good faith. Such a motion shall

specifically state the grounds upon which it is made. The motion shall be heard by the commission on ethics in accordance with the procedure provided for in section 2-260(i).

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

## Item IX Discussion Re: Amendment to Ordinance

### Alternate language proposed by staff:

#### Sec. 2-260.1 Public hearing procedures

**(a) Right to public hearing.** After a finding of probable cause, a respondent is entitled to a public hearing on the complaint. The respondent may elect to have the hearing conducted by the full Commission, a panel of three Commissioners designated by the Commission Chair, or by a hearing officer selected from a list established by the Palm Beach County Bar Association. For inclusion on the list of designated hearing officers, he/she shall have the following minimum qualifications:

- (1) Be a member, in good standing, of the Florida Bar for at least the preceding five years,
- (2) Be experienced in matters of governmental ethics and familiar with the Palm Beach County Code of Ethics, related ordinances, and the rules and practices of the Palm Beach County Commission on Ethics,
- (3) Attorneys with prior judicial experience or as a hearing officer, mediator or special master shall be deemed uniquely qualified.