

Agenda

April 2, 2015 – 1:30 pm
Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Palm Beach County
Commission on Ethics
300 North Dixie Highway
West Palm Beach, FL 33401
561.355.1915
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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 March 5, 2015
- V. Processed Advisory Opinions (Consent Agenda)
 - a. ROO 15-008
 - b. ROO 15-009
 - c. ROO 15-010
- VI. Items Pulled from Consent Agenda
 - a.
- VII. Proposed Advisory Opinions
 - a. ROO 15-007
 - b. ROO 15-011
- VIII. Discussion Re: Definition of "Active" Vendor
- IX. Discussion Re: "Contemporaneous" filing of Gift forms for state reporting individuals
- 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**

MARCH 5, 2015

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

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

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

STAFF:

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

ADMINISTRATIVE STAFF:

Julie Burns, Deputy Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS – None

IV. APPROVAL OF MINUTES FROM FEBRUARY 5, 2015

MOTION to approve the February 5, 2015, minutes. Motion by Clevis Headley, seconded by Michael Kridel, and carried 4-0. Carmine Priore absent.

Steven Cullen, COE Executive Director, said that:

- Two executive sessions would be conducted in the Board of County Commissioners chambers.
- The sessions would not be recorded by the County's TV Channel 20; however, an audio recording would be made.
- The parties agreed to waive confidentiality so the sessions would be heard together.

RECESS

At 1:32 p.m., the chair declared the meeting recessed for an executive session.

V. EXECUTIVE SESSION

RECONVENE

At 2:30 p.m., the meeting reconvened, and at Chair Smith-Gordon's request for a roll call, Vice Chair Michael Kridel and Commissioners Clevis Headley and Michael Loffredo were present.

V.a. C15-001

Vice Chair Michael Kridel read the following Public Report and Final Order of Dismissal as discussed during the executive session:

Complainant, Steven P. Cullen, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on January 8, 2015, alleging that Respondent, Hal Valeche, Palm Beach County Commissioner, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by knowingly accepting a gift from a person that he knows, or should know, is a lobbyist who lobbies Palm Beach County.

V.a. – CONTINUED

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. Respondent and Advocate entered into a negotiated settlement wherein Respondent admitted the violation of §2-444(a)(1) of the Palm Beach County Code of Ethics for knowingly accepting a gift from a person that he knows, or should know, is a lobbyist who lobbies Palm Beach County. The Respondent agreed to accept a Letter of Instruction.

On March 5, 2015, the negotiated settlement was presented to the COE for approval. After reviewing the negotiated settlement and all relevant documents associated with the case, the COE approved the negotiated settlement and dismissed the case without a finding of probable cause and issued a Letter of Instruction.

Therefore, it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Hal Valeche, is hereby DISMISSED and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on March 5, 2015.

By: Salesia V. Smith-Gordon, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

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V. – CONTINUED

V.b. C15-002

Vice Chair Kridel read the following Public Report and Final Order of Dismissal as discussed during the executive session:

Complainant, Steven P. Cullen, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on January 8, 2015, alleging that Respondent, Donaldson Hearing, a Registered Lobbyist for the firm, Cotleur & Hearing, Inc., violated §2-444(a)(2) of the Palm Beach County Code of Ethics by knowingly giving, 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 he knows is an official of the county.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. Respondent and Advocate entered into a negotiated settlement wherein Respondent admitted to giving a gift, in the form of two tickets to the Northern Palm Beach County Chamber of Commerce's Annual Leadership Awards Dinner with a face value of \$350, to a person who he knows is an official of the county. Respondent admitted that the conveyance of this gift could reasonably be perceived as a violation of Section 2-444(a)(2) of the Palm Beach County Code of Ethics, but maintained that any such violation was unintentional and inadvertent. Respondent agreed to accept a Letter of Instruction, attend ethics training, and repay the cost of the gift to the Chamber of Commerce or a charity of his choice.

On March 5, 2015, the negotiated settlement was presented to the COE for approval. After reviewing the negotiated settlement and all relevant documents associated with the case, the COE approved the negotiated settlement and dismissed the case and issued a Letter of Instruction.

V.b. – CONTINUED

Therefore, it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Donaldson Hearing, is hereby DISMISSED and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on March 5, 2015.

BY: Salesia V. Smith-Gordon, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

VI. PROBABLE CAUSE HEARING (PUBLIC)

VI.a. C15-005

Mr. Cullen said that the respondent waived confidentially and agreed that the COE could hear the case in public session. He added that a negotiated settlement was reached and would be presented for the COE's consideration.

Mark Bannon, COE Senior Investigator, said that:

- The COE received an anonymous complaint letter containing State of Florida Quarterly Gift Disclosure forms (disclosure forms) that were filed by Village of Wellington (Village) Council Member Anne Gerwig for 2012, 2013, and 2014.
- The letter stated that according to the County's Code of Ethics (Code), Ms. Gerwig must file copies of the disclosure forms with the COE.
- Verification indicated that the disclosure forms were not filed with the COE, which was a Code violation.
- When the investigation was completed, Mr. Cullen filed a formal complaint.
- No indication existed that Ms. Gerwig intended to hide any gifts.

VI.a. – CONTINUED

Christie Kelley, COE Staff Counsel, stated that:

- Ms. Gerwig subsequently filed the disclosure forms for 2012, 2013, and 2014 with the COE once she received the complaint notice.
- Staff recommended that the COE approve Ms. Gerwig's negotiated settlement.
 - Ms. Gerwig agreed to accept a Letter of Instruction for violating the Code, Section 2-444(f)(1).
 - Pursuant to the proposed settlement agreement, the matter would be dismissed without a probable cause finding, and the Letter of Instruction would be issued.

Chair Salesia Smith-Gordon said that Ms. Gerwig could read the following statement into the record:

Thank you for the opportunity to address the commission. I want to express a few facts about the situation. I have not asked an attorney to represent me today as I am not in opposition of this commission and have no intention of challenging your authority in this matter. With that said, please understand the following statement prepared by me.

I do not think this process was necessary. This investigation was prompted by an anonymous complaint requesting whistleblower status and directing the executive director to self-initiate an investigation. *Anonymous'* claim stated that they were using Section 2-447 in fear of retribution. The State of Florida Commission on Ethics does not accept anonymous complaints but you do, based on the whistleblower status.

I do not personally hire or fire anyone. As a member of the Village council, I carry only one-fifth of a vote to hire or fire the city manager and the city attorney. All Village employees work for one of them with a strict prohibition of even directing an employee in my Village charter.

VI.a. – CONTINUED

The method used to initiate this complaint is, at best, questionable. *Anonymous* also stated that the County gift forms are required annually, and your executive director has opined that the implication in the statute is that the forms are required quarterly. All of my gifts were reported timely on the form provided to me by the Clerk's Office, at my request. I have been open and transparent in all of my official acts. I have attended annual ethics training.

I do recall, when prompted by this investigation, being told that the COE requires a copy. I do think that I may have been told that you required them annually when the State required them quarterly. There is some confusion on this issue based on my recollection and the actual complaint filed by *Anonymous*. I wrongly assumed that you would receive the information. I think this could have been handled by notifying me of the issue and allowing me to comply at that point. Instead, this has been allowed to continue and to proceed.

When I received the notice from Mr. Cullen on January 20, it stated that a COE advocate was assigned and gave me his contact information; along with that, a date that I should contact Mr. Irwin Block, the COE advocate. I followed those instructions and was unable to reach Mr. Block. At that point, I spoke to Ms. Levesque, who made some rather inflammatory statements to me. This included her questioning whether I had ever been involved in a criminal investigation or a court proceeding before, along with the statement that the wheels of justice turn slowly and that I should take a deep breath and just relax. She stated that this was no big deal and that Mr. Block would be contacting me soon enough.

(This space intentionally left blank.)

VI.a. – CONTINUED

Following this conversation, I learned that Mr. Block had passed away a few days after this call. After reading his obituary, I am disappointed that I did not get to meet him. He was truly a legal icon, and I would have appreciated having at least met him, even in this situation as odd as that might sound. It also took me two conversations with your staff to actually explain to me that the COE advocate was actually my prosecutor. I had no understanding of this process. My understanding of this process is certainly not coming from a legal position but as an elected official. I do not think that Ms. Levesque understood that an ethics violation is a big deal to an elected official, whether or not it is intentional or actionable. Being called before you is a very big deal to me, and I intend to make sure that it is used in a way that benefits the public.

When I filled out the gift form reports, I followed the written instructions on them. Admittedly, I could have asked my ethics officer if that was sufficient, and I did not. I also did not recall that I had to furnish you a copy of the form myself. I wrongly assumed that the process was complete. When Mr. Bannon first contacted me, I stated that I thought they had received a copy. He informed me that they do not receive them from the State, and further stated that the State does not put them online, but the County does.

In this regard, it does make sense to me that you would want me to send you a copy and the State, because you put them online, and they don't. But I had no knowledge of that situation. I had not contemplated this previously, and do not recall that being presented at any of the training.

(This space intentionally left blank.)

VI.a. – CONTINUED

The Form 1 Statement of Financial Interest is mailed to the Supervisor of Elections' Office in Palm Beach County. That form is mailed to us by the Supervisor of Elections, and she forwards it to both COEs. The voting conflicts form that I am required to file are given to my clerk, and she files them with the proper authorities. Gift forms are unique in that I am the only one that would know if I had received a reportable gift. Unlike the other two forms, they are less frequent for me, and I followed the instructions that were printed on the form. We even receive courtesy notices from the League of Cities with a link that reminds us when our annual financial interest forms are due, which I appreciate.

I have a job, as most city elected officials do, along with my family obligations, and can get quite busy. The notices are appreciated, but I was not reminded by anyone to make a copy of my State reporting gift forms and send them to you, to the best of my recollection.

Also, I do recall the focus of the gift training to be on what a reportable gift and acceptable gift is, and I do think that I have complied with the letter of the law here. Your statute does not say when specifically it has to be done.

Even when my own ethics officer counseled me that one of the gifts I reported would not necessarily fall under your definition as a reportable gift, I listed it anyway. I believe the more information offered the public is always better than less.

I urge you to consider the facts in this situation and consider offering a COE opinion that states clearly that the forms we fill out according to the instructions on the forms must also be copied to the County COE quarterly, which is not clearly represented in the statute.

(This space intentionally left blank.)

VI.a. – CONTINUED

I have spoken to many other city-elected officials since this came to my attention, and they were not aware of this requirement either. I have also requested that Wellington offer a link to the COE Web site where the gift forms are displayed, and that has been done. We already displayed election reports there so this seemed like a good place for the public to be able to get this information.

I accept the authority and the service of this commission and agree with the mission statement that you have. I think that you have the authority to dismiss this without the settlement agreement, with the settlement agreement, or continue with an actual hearing. I urge you not to allow this commission to be manipulated by a political agenda cloaked in secrecy and to continue your mission of honesty, integrity, character for all government in Palm Beach County. Respectfully submitted, Ann Gerwig.

Chair Smith-Gordon stated that complaints could be anonymous if they complied with the COE's rules governing them. She added that the information contained in the complaint was accurate.

Ms. Gerwig said that anyone who anonymously wrote a complaint was probably subject to the State's whistleblower statute, but there was no one that she could or would retaliate against.

Mr. Bannon clarified that the whistleblower status was given to particular types of complaints. He added that the COE relied on the documentary evidence that was submitted with the complaint.

Ms. Gerwig stated that:

- The COE's filing requirement was not addressed in the ethics training that she took approximately one week before she received the complaint.
- She was unaware that the COE uploaded complaints onto its Web site.
- She would accept the COE's negotiated settlement.
- She did not want the matter determined privately.

VI.a. – CONTINUED

- The COE should not consider anonymous complaints regarding a technical violation.
- She received and read the Code during ethics training.

Chair Smith-Gordon said that she agreed that the Code did not state that the disclosure forms should be filed with the COE contemporaneously with the State filing.

Mr. Cullen said that the negotiated settlement implied that the Code required a COE filing contemporaneously with the State filing.

MOTION to adopt the proposed negotiated settlement. Motion by Clevis Headley, seconded by Michael Loffredo, and carried 4-0. Carmine Priore absent.

Ms. Levesque stated that the proposed negotiated settlement packet did not contain any changes.

MOTION to accept the proposed negotiated settlement. Motion by Clevis Headley, seconded by Michael Loffredo, and carried 4-0. Carmine Priore absent.

MOTION to accept the Public Report and Final Order of Dismissal as presented. Motion by Michael Kridel, seconded by Clevis Headley, and carried 4-0. Carmine Priore absent.

Vice Chair Kridel read the following Public Report and Final Order of Dismissal:

Complainant, Steven P. Cullen, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on January 28, 2015, alleging that Respondent, Anne Gerwig, Councilwoman of the Village of Wellington, violated §2-444(f)(1) of the Palm Beach County Code of Ethics by failing to file with the COE a copy of each State of Florida Quarterly Gift Disclosure form filed with the state in 2012, 2013, and 2014.

VI.a. – CONTINUED

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. Respondent and Advocate entered into a negotiated settlement wherein Respondent agreed to accept a Letter of Instruction based on violations of §2-444(f)(1) of the Palm Beach County Code of Ethics for failure to file with the COE a copy of each State of Florida Quarterly Gift Disclosure form filed with the state.

On March 5, 2015, a negotiated settlement was presented to the COE for approval. After reviewing the negotiated settlement and all relevant documents associated with the case, the COE approved the negotiated settlement, dismissed the case, and issued a Letter of Instruction.

Therefore, it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Anne Gerwig, is hereby DISMISSED and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on March 5, 2015.

By: Salesia V. Smith-Gordon, Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

VII. PROCESSED ADVISORY OPINION (CONSENT AGENDA)

VII.a. Request for Opinion (RQO) 15-006

PUBLIC COMMENT: Bart Novack.

MOTION to approve the consent agenda. Motion by Michael Kridel, seconded by Clevis Headley, and carried 4-0. Carmine Priore absent.

(CLERK'S NOTE: The motion and vote was inadvertently taken again on page 15.)

VIII. ITEMS PULLED FROM CONSENT AGENDA – None

IX. DISCUSSION RE: AMENDMENT TO ORDINANCE

Chair Smith-Gordon said that Commissioner Priore should be present to vote on COE ordinance amendments that were submitted for the Board of County Commissioners' (BCC) consideration and that the COE should include other matters that needed BCC approval.

Mr. Cullen stated that on November 5, 2015, the COE voted to submit a proposed draft to the BCC amending the ordinance to allow using hearing officers; however, the COE requested that the submittal be delayed for further discussion.

Chair Smith-Gordon said that discussion was needed regarding vendors and the selection criteria for hearing officers and jurist pools. She added that the COE should consider amending Section 2-444(f)(1) to state that filing the gift law log with the State should be performed contemporaneously with the COE.

Vice Chair Kridel said that he was unsure whether the suggested amendment could be discussed since it was not included as an agenda item.

Chair Smith-Gordon said that the amendment would be addressed later.

John Whittles, Executive Director and President-Elect Designee, Palm Beach County Bar Association (Bar), said that at the Bar's January 2015 board meeting, a suggestion was made that the Bar could select a pool or panel of potential COE hearing officers.

IX. – CONTINUED

Mr. Cullen said that alternative ordinance language could be crafted to incorporate the Bar's suggestion into the selection process. He added that increasing the minimum qualifications for hearing officers could decrease the applicant pool.

Mr. Whittles commented that allowing the Bar complete independence would give the selection process greater weight. He added that Bar members were required to be either State-licensed attorneys or paralegals with specific licensing.

Commissioner Clevis Headley said that he questioned to the extent to which someone should be familiar with the Code since it was referenced in Section 2.260.1(a)(2) of the proposed ordinance language.

Chair Smith-Gordon noted that most of the COE members were probably unfamiliar with the Code prior to completing training.

Mr. Whittles said that the word, "familiar," could include specialized training and/or certain types of substantive experiences.

Vice Chair Kridel suggested including language making COE training a minimum requirement for Bar members prior to being appointed as hearing officers.

Chair Smith-Gordon suggested reading the proposed amendment.

(This space intentionally left blank.)

IX. – CONTINUED

Vice Chair Kridel read the proposed language for Section 2.260.1(a):

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, and
- (2) Be experienced in matters of governmental ethics including completion of the current version of ethics training of the Palm Beach County Code of Ethics, related ordinances, and the rules and practices of the Palm Beach County Commission on Ethics, and
- (3) Attorneys with prior judicial experience or as a hearing officer, mediator, or special master shall be deemed uniquely qualified.

MOTION to approve the amended language in Section 2-260.1(a) of the Commission on Ethics ordinance as discussed. Motion by Michael Kridel, seconded by Clevis Headley, and carried 4-0. Carmine Priore absent.

Mr. Cullen stated that staff would place the proposed ordinance amendment on the BCC's agenda for consideration.

VII. – CONTINUED

Ms. Levesque advised that a motion was made on item VII.a.; however, a vote was not taken.

MOTION to approve the consent agenda. Motion by Michael Kridel, seconded by Clevis Headley, and carried 4-0. Carmine Priore absent.

X. EXECUTIVE DIRECTOR COMMENTS

X.a.

DISCUSSED: COE Annual Reports and National Ethics Awareness Month Poster.

Mr. Cullen said that:

- Staff distributed over 200 COE annual reports to primary users and stakeholders and included them on the COE's Web site.
- A poster was created to remind everyone that March was National Ethics Awareness Month.
 - The poster indicated that 40 percent of workers said that they observed unethical or illegal misconduct on the job.
 - The COE and the Office of Inspector General placed logos on the poster requesting that anyone who witnessed fraud, waste, abuse, or ethics violations report them to the COE.

XI. COMMISSION COMMENTS – None

XII. PUBLIC COMMENTS

XII.

XII.a.

DISCUSSED: RQO 15-005.

Richard Radcliffe, Executive Director, Palm Beach County League of Cities, commented that Ms. Gerwig diligently filed the disclosure forms with the State and that no one was harmed because she failed to file them with the COE. He said that he agreed with Ms. Gerwig that the matter became a teaching moment for her, but it should not have been treated as though it was a major violation.

XII.a. – CONTINUED

Chair Smith-Gordon said that Mr. Radcliffe's points were appreciated; however, Ms. Gerwig had the option to not attend the probable cause public hearing.

Mr. Radcliffe commented that Ms. Gerwig attempted to act appropriately, but the public may not understand the situation.

Chair Smith-Gordon stated that observers of the situation would now know that a gift disclosure form should be filed with the COE. She added that the COE's task was to ensure that those sections of the Code pertaining to the situation were clear.

XIII. ADJOURNMENT

At 3:48 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair

V Processed Advisory Opinions

RQO 15-008 Ilan Kaufer

An elected official asked if the Palm Beach County Code of Ethics (Code) prohibits him from using his official title as Vice Mayor of the Town of Jupiter on an organization's list of sponsors.

Staff submits the following for COE review: As long as there is no quid pro quo in exchange for the donation and none of the persons or entities listed in Sec. 2-443(a) of the Code would receive a special financial benefit from your donation, the official is not prohibited from using his official title in the identification of himself as a sponsor. Under the circumstances provided, using his official title as Vice Mayor of the Town of Jupiter on an organization's list of sponsors would not violate the misuse of office provisions of the Code.

RQO 15-009 Stephanie Spritz

The Assistant City Attorney for the City of Delray Beach (City) asked if the City Fire Department may solicit donations from vendors of the City to raise money for teams to compete in several Advanced Life Support (ALS) competitions and one Rapid Intervention Team (RIT) competition

Staff submits the following for COE review: The City Fire Department is not prohibited from soliciting and accepting donations from City vendors using City resources or staff in excess of \$100, annually in the aggregate, to raise funds for the teams to attend the training competitions as long as the competitions are determined to have a public purpose. Here, the City's Fire Department administration or the City Council must make a determination that solicitations for the competitions are for a public purpose.

RQO 15-010 Pamela Hart Frazier

A Palm Beach County employee, who is a member of the American Contract Compliance Association's (ACCA) board of directors and one of the co-chairs of the 2015 ACCA National Training Institute, asked what her obligations are under the Code when she solicits sponsorships or donations for the 2015 ACCA National Training Institute.

Staff submits the following for COE review: The employee may solicit donations or sponsorships on behalf of the ACCA from anyone as long as they do not have a pending application or award of any nature before the Palm Beach County Board of County Commissioners (BCC). Since the employee is a member of the ACCA's board of directors, when soliciting sponsorships and donations for the event, she must not use her position as a County employee in any way, including any other oral or written solicitations. Additionally, she may not use County staff or County resources to solicit contributions. While she is not prohibited from soliciting donations for a non-profit organization in her personal capacity, any solicitation, pledge, or donation in excess of \$100 involving a vendor, lobbyist, or principal or employer of a lobbyist of the BCC must be disclosed on a solicitation log and filed with the COE.



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

March 26, 2015

Mr. Ilan Kaufer, Vice Mayor
Town of Jupiter
210 Military Trail
Jupiter, FL 33458

Re: RQO 15-008
Misuse of Office

Dear Mr. Kaufer,

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:

Does the Palm Beach County Code of Ethics (Code) prohibit you from using your official title as Vice Mayor of the Town of Jupiter on an organization's list of sponsors?

ANSWER:

Based on the facts submitted, as long as you are using your official title for identification purposes and not in an attempt to gain a special benefit, you are not prohibited from using your official title on the event's sponsor list.

The Code prohibits an elected official from using his official position to give a special financial benefit, not shared with similarly situated members of the public, to certain persons or entities, including himself, his spouse, or charities and other non-profit organization of which he or his spouse is an officer or director.¹ Additionally, the official may not use his position to corruptly secure a special benefit for himself or another.² However, an elected official is not prohibited from lending his name and official title to a fundraising effort if the above-mentioned prohibited persons or entities do not receive a special financial benefit.³

Based on the facts provided, you intend to use your official title for identification purposes and not in an attempt to gain a special benefit for anyone. As long as there is no quid pro quo in exchange for the donation and none of the persons or entities listed in Sec. 2-443(a) of the Code would receive a special financial benefit from your donation, you are not prohibited from using your official title in the identification of yourself as a sponsor. Under the circumstances provided, using your official title as Vice Mayor of the Town of Jupiter on an organization's list of sponsors would not violate the misuse of office provisions of the Code.

FACTS:

You currently serve as the Vice Mayor on the Town of Jupiter Town Council. You and your wife would like to support local organizations and become sponsors for local charitable and other non-profit organizations' events. Typically, event invitations include opportunities for sponsorship. With the donation for the sponsorship, the name of the donor is generally displayed in some manner to identify the donor and the donation that was

¹ §2-443(a)

² §2-443(b)

³ RQO 11-029

provided. Neither you nor your wife is a director or officer of any of the organizations that you would like to sponsor. Your relatives do not work for any of the organizations that you are currently considering sponsoring. None of the organizations being considered are the outside employer of either you or your wife, and they are not customers or clients of your outside employer or your wife's outside employer.

LEGAL BASIS:

The legal basis for this opinion is found in §2-442 and §2-443 of the Code:

Section 2-442. Definitions.

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.

Section 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;
 - (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.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts 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



Palm Beach County Commission on Ethics

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Executive Director

Steven P. Cullen

March 20, 2015

Ms. Stephanie Spritz, Assistant City Attorney
City of Delray Beach
200 N.W. 1st Ave
Delray Beach, FL 33444

Re: RQO 15-009
Charitable Solicitation

Dear Ms. Spritz,

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:

May the City of Delray Beach Fire Department solicit donations from vendors of the City of Delray Beach (City) to raise money for teams to compete in several Advanced Life Support (ALS) competitions and one Rapid Intervention Team (RIT) competition?

ANSWER:

Based on the facts submitted, as long as the ALS and RIT training competitions are determined by the administration or by the governing body of the City to have a public purpose, the City Fire Department is not prohibited from soliciting and accepting donations from City vendors using City resources or staff in excess of \$100, annually in the aggregate, to raise funds for the teams to attend the training competitions.

The Palm Beach County Code of Ethics prohibits a public employee from accepting gifts of a value in excess of \$100, annually in the aggregate, from vendors, lobbyists, principals or employers of lobbyists doing business with the employee's public employer.¹ The Code also prohibits a public employee from soliciting gifts of any value from someone known to be a vendor, lobbyist, principal or employer of lobbyists of their public employer if the gift is for the personal benefit of the employee or for the benefit of a relative, household member, or another employee.² However, the Code specifically exempts gifts solicited or accepted by public employees on behalf of their government for a public purpose.³ Whether an event meets the definition of a public purpose must be determined by the administration or by the governing body of the municipality.⁴ Additionally, there is no prohibition within the Code regarding use of municipal resources or staff for soliciting donations, as long as the solicitations are in furtherance of a public purpose.⁵

Based upon the facts submitted, the City Fire Department is not prohibited from soliciting and accepting donations from City vendors using City resources or staff in excess of \$100, annually in the aggregate, to raise funds for the teams to attend the training competitions as long as the competitions are determined to have a public purpose.

¹ §2-444(a)

² §2-444(c)

³ §2-444(g)(1)e.

⁴ RQO 12-062; RQO 12-044; RQO 11-084

⁵ RQO 12-044

Here, the City's Fire Department administration or the City Council must make a determination that solicitations for the competitions are for a public purpose.

FACTS:

You are the Assistant City Attorney for the City. The City Fire Department plans to send teams of to compete at several ALS team competitions and one RIT team competition. The competitions are held at locations outside of Palm Beach County and typically last three days. The teams are provided overnight accommodations and food by the City. The equipment for each ALS team costs approximately \$1,000. The equipment for the RIT teams costs under \$500. The teams train throughout the year for the competitions. The competitions are held in conjunction with a conference where the team members can attend presentations to learn and practice new techniques and procedures.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-444(c) and §2-444(g)(1)e. of the Code:

Sec. 2-444. Gift law

- (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.
- (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.
 - (1) Exceptions. The provisions of subsection (g) shall not apply to:
 - 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;

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts 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



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

March 9, 2015

Ms. Pamela Hart Frazier
Office of Small Business Assistance
50 South Military Trail, Ste 202
West Palm Beach, FL 33415

Re: RQO 15-010
Gift law

Dear Ms. Frazier,

Your request for an expedited advisory opinion pursuant to Commission on Ethics (COE) Rule of Procedure 2.6 has been received and reviewed. The opinion rendered is as follows:

QUESTION:

As a Palm Beach County (County) employee, what are your obligations under the Palm Beach County Code of Ethics (Code) when you solicit sponsorships or donations for the 2015 American Contract Compliance Association (ACCA) National Training Institute?

ANSWER:

The Code allows a public employee to solicit contributions for non-profit organizations in excess of \$100 from vendors, lobbyists, or principal or employer of a lobbyist of the employee's public employer as long as a detailed log is maintained of the vendors and lobbyists solicited, pledges made, and donations received.¹ The solicitation log must contain the name of the non-profit organization, the name of the person or entity contacted, and the amount of funds solicited and pledged.² This form must be filed within 30 days of the event's occurrence, or if it is not related to an event then within 30 days from the date of the solicitation.³ Such solicitation, direct or indirect, is not prohibited under the Code as long as there is no quid pro quo or other special consideration.⁴ Additionally, under the Code, a public employee is prohibited from soliciting contributions from anyone having a pending application or award of any nature before his or her public employer.⁵ Furthermore, public employees are prohibited from using their official position to give a special financial benefit to a non-profit organization where they serve as an officer or director.⁶

Therefore, you may solicit donations or sponsorships on behalf of the ACCA from anyone as long as they do not have a pending application or award of any nature before the Palm Beach County Board of

¹ §2-444(h)

² §2-444(h)(2)

³ Id.

⁴ §2-444(e)

⁵ §2-444(h)(1)

⁶ §2-443(a)

County Commissioners (BCC). Since you are a member of the ACCA's board of directors, when soliciting sponsorships and donations for the event, you must not use your position as a County employee in any way, including any other oral or written solicitations. Additionally, you may not use County staff or County resources to solicit contributions. While you are not prohibited from soliciting donations for a non-profit organization in your personal capacity, any solicitation, pledge, or donation in excess of \$100 involving a vendor, lobbyist, or principal or employer of a lobbyist of the BCC must be disclosed on a solicitation log and filed with the COE.

FACTS:

You are an employee of the County, serving as a Small Business Development Specialist in the Office of Small Business Assistance. You are one of the co-chairs of the 2015 ACCA National Training Institute, and you are a member of the organization's board of directors. ACCA is a non-profit organization dedicated to delivering ongoing comprehensive training and certification to practitioners working within the fields of Affirmative Action, Contract Compliance, Minority/Women/Disadvantaged/Small/Emerging Business Enterprise, Labor Compliance, Economic & Business Development, and Equal Employment Opportunity. The ACCA fits the definition of a nonprofit charitable organization as defined under the Internal Revenue Service Code.

Your responsibilities as the co-chair of the local planning committee of include identifying sponsors, speakers, and workshop presenters, and arranging activities for the participants to do while they are in West Palm Beach. The conference will be held August 25, 2015 – August 30, 2015.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-443(a), §2-443(e), §2-443(g), and §2-444(h) of the Code:

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:
- (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.

Sec. 2-444. Gift law

- (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.
- (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. 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.

- (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.

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

VII Proposed Advisory Opinions

RQO 15-007 Dot Bast

The Human Resources Administrator for the City of Delray Beach (City) asked if a prohibited conflict of interest would exist for the Special Operations Coordinator (SOC) of the City's Fire-Rescue Department if the department utilizes Dive Gear Express as an active vendor, when the SOC's brother is an employee of that company.

Staff submits the following for COE review: Because the SOC oversees the contracts or transactions for the purchase of equipment and has ultimate authority over the equipment procurement and sustainment, a prohibited conflict of interest would arise for the SOC if the City's Fire-Rescue Department utilizes Dive Gear Express as an active vendor since the employer of the SOC's brother would be receiving a special financial benefit. The Palm Beach County Code of Ethics broadly defines "financial benefit," and it includes any money or contract.

RQO 15-011 Dave Bernhardt

A captain with the West Palm Beach Police Department (Police Department) asked if the Code prohibits the Chief of Police from writing a letter on official letterhead, stating that the West Palm Beach Police Foundation (Foundation) is the only charitable organization with a partnership with the Police Department.

Staff submits the following for COE review: Because the Chief of Police intends to write a generic letter that would be provided to any member of the public asking for information concerning the Foundation, writing such a letter is similar to writing a recommendation letter. As such, as long as long as there is no quid pro quo in exchange for the letter or a special financial benefit to any of the prohibited persons or entities listed in Sec. 2-443(a) of the Code, the misuse of office provisions of the Code would not be violated if the Chief of Police writes a letter on official letterhead stating that the Police Department has a partnership with the Foundation.

April 3, 2015

Ms. Dot Bast, Human Resources Administrator
City of Delray Beach
100 NW 1st Avenue
Delray Beach, FL 33444

Re: RQO 15-007
Misuse of Office

Dear Ms. Bast,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion and rendered its opinion at a public meeting on April 2, 2015.

QUESTION:

Would a prohibited conflict of interest arise for the City of Delray Beach's Special Operations Coordinator (SOC) of the Fire-Rescue Department if the department utilizes Dive Gear Express as an active vendor, when that employee's brother is an employee of that company?

ANSWER:

Based on the facts submitted, a prohibited conflict of interest would arise if the City's Fire-Rescue Department utilizes Dive Gear Express as an active vendor because the SOC's brother is an employee of that company.

The Palm Beach County Code of Ethics (Code) prohibits a public employee from using his official position, or influencing others to take or fail to take any action, to provide a special financial benefit to a relative's outside employer.¹ Based on the information submitted, the SOC oversees the contracts or transactions between Fire-Rescue and Dive Gear Express for the purchase of the equipment. The SOC also participates in determining the requirements of the contract or transaction and which company is used to purchase the buoyancy compensator devices (BCD) and other dive equipment. As such, because the SOC has ultimate authority over the equipment procurement and sustainment, a prohibited conflict of interest would arise if the City's Fire-Rescue Department utilizes Dive Gear Express as an active vendor since the employer of the SOC's brother would be receiving a special financial benefit. "Financial benefit" is broadly defined under the Code; in relevant part, it includes any "money" or "contract."²

FACTS:

You are the Human Resources Administrator for the City of Delray Beach. One of the vendors for the City's Fire-Rescue Department, Dive Gear Express, is the regional supplier of the BCD used by Fire-Rescue in its

¹ §2-443(a)

² §2-442, RQO-021

scuba set ups. Fire-Rescue began using Dive Gear Express' BCD five years ago, before the current SOC, who oversees this equipment, moved into his current position. The City is considering utilizing Dive Gear Express for repair and maintenance on the current BCDs and for the purchase of new BCDs and other dive equipment.

The SOC's brother works for Dive Gear Express. His brother is not an owner. The SOC's responsibilities include overseeing the contracts or transactions between Fire-Rescue and Dive Gear Express for the purchase of the equipment. All dive gear and dive equipment procurement and sustainment is the responsibility of the SOC. The SOC also participates in determining the requirements of the contract or transaction with Dive Gear Express. The SOC determines which company is used to purchase the BCDs or other dive equipment. A committee made up of three in-house dive instructors and the SOC develop the dive rescue budget, equipment needs, and equipment changes or modifications. However, the budget and equipment procurement and sustainment is ultimately managed by the SOC. Vendors are selected based on available inventory, cost, customer service, and reliability.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-442 and §2-443 of the Code:

Section 2-442. Definitions.

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.

Section 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:
 - (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;

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

April 3, 2015

Capt. David Bernhardt
West Palm Beach Police Department
600 Banyan Blvd.
West Palm Beach, FL 33401

Re: RQO 15-011
Misuse of Office

Dear Capt. Bernhardt,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion and rendered its opinion at a public meeting on April 2, 2015.

QUESTION:

Does the Palm Beach County Code of Ethics (Code) prohibit the Chief of Police of the West Palm Beach Police Department (Police Department) from writing a letter on official letterhead, stating that the West Palm Beach Police Foundation (Foundation) is the only charitable organization with a partnership with the Police Department?

ANSWER:

Based on the facts submitted, as long as there is no quid pro quo in exchange for the letter or a special financial benefit to any of the prohibited persons or entities listed in Sec. 2-443(a) of the Code, the Chief of Police is not prohibited from writing a letter on official letterhead, which states that the Foundation is the only charitable organization with a partnership with the Police Department.

Under the Code, an elected official is prohibited from using his official position to give a special financial benefit, not shared with similarly situated members of the public, to certain persons or entities, including himself, relatives, and charities and other non-profit organization of which he or his spouse is an officer or director.¹ The official must also not use his position to corruptly secure a special benefit for himself or another.² However, the Florida Commission on Ethics has previously determined that an elected official is not prohibited from writing a letter of recommendation using official letterhead as long as there is no quid pro quo to the elected official in exchange for the recommendation.³

Based on the facts provided, the Chief of Police intends to write a generic letter that would be provided to any member of the public asking for information concerning the Foundation. Writing such a letter is similar to writing a recommendation letter. As such, the misuse of office provisions of the Code would not be violated if the Chief of Police writes a letter on official letterhead stating that the Police Department has a partnership with the Foundation as long as the Chief of Police or any of the above-mentioned prohibited persons or entities would not receive an improper benefit in exchange for the writing of the letter.

¹ §2-443(a)

² §2-443(b)

³ CEO 99-8

FACTS:

You are a captain with the Police Department. The Foundation's Board of Directors has asked the Chief of Police to write a letter stating that the Foundation is the only charitable foundation with a partnership with the West Palm Beach Police Department. The letter would be a generic cover letter for any member of the public asking for information concerning the Foundation. The Foundation is a registered 501(c)(3) organization. No certified law enforcement officers from the Police Department serve on the Foundation's board, and none of the officers have an active role in the board's business operations. Additionally, none of the Chief of Police's relatives are employed by the Foundation or serves as a member of the Foundation's Board of Directors.

LEGAL BASIS:

The legal basis for this opinion is found in §2-442 and §2-443 of the Code:

Section 2-442. Definitions.

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.

Section 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;
 - (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.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts 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

Agenda Item VIII

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.

- Currently means the person or entity has sold goods or services or has sold or leased real or personal property to the county or municipality during the previous twenty-four (24) months.
- A current vendor means the person or entity has sold goods or services or has sold or leased real or personal property to the county or municipality during the previous twenty-four (24) months.

Agenda Item IX

- (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. **When a state reporting individual files a gift report with the state,** a copy of each report shall **also** be filed **contemporaneously** with the county commission on ethics.