

Agenda

June 4, 2015 – 1:30 pm
Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Administration of Oath – 1:30 pm Call to Order/Regular Meeting – 1:45 pm Executive Session – 2:00 pm to 2:45 pm Regular Agenda will resume at 3:00 pm

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. Administration of Oath of Office by Judge Jeffrey Colbath
- II. Call to Order
- III. Roll Call
- IV. Introductory Remarks
- V. Approval of Minutes from May 7, 2015
- VI. Executive Session – C15-004
- VII. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 15-014
 - b. RQO 15-016
 - c. RQO 15-018
 - d. RQO 15-019
 - e. RQO 15-020
- VIII. Items Pulled from Consent Agenda
 - a.
- IX. Proposed Advisory Opinions
 - a. RQO 15-015
 - b. RQO 15-017
- 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**

MAY 7, 2015

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

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

(CLERK'S NOTE: Introductory remarks were heard before roll call.)

III. INTRODUCTORY REMARKS

Commission on Ethics (COE) Chair Salesia Smith-Gordon said that all mobile telephones should be silenced.

Steven P. Cullen, COE Executive Director, said that effective May 1, 2015, Commissioner Carmine Priore tendered his resignation from the COE.

Chair Smith-Gordon said that a quorum existed despite Commissioner Priore's absence.

II. ROLL CALL

MEMBERS:

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

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

ROLL CALL – CONTINUED

ADMINISTRATIVE STAFF:

Solibel Rose, Deputy Clerk, Clerk & Comptroller's Office

III. Page 1

IV. APPROVAL OF MINUTES FROM APRIL 2, 2015

MOTION to approve the April 2, 2015, minutes. Motion by Clevis Headley, seconded by Michael Kridel, and carried 4-0.

Mr. Cullen stated that C15-004 was suspended and would not be discussed during the executive session.

RECESS

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

V. EXECUTIVE SESSION

RECONVENE

At 2:30 p.m., the meeting reconvened with Commissioners Headley, Kridel, Loffredo, and Smith-Gordon present.

V.a. C15-004 – Not discussed

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EXECUTIVE SESSION – CONTINUED

V.b. C14-008

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

Complainant, Norman Ostrau, Ethics Officer for the City of West Palm Beach, filed the above referenced complaint on September 15, 2014, alleging that Respondent, Michele Sias, Finance Director for the City of West Palm Beach, violated §2-443(h) of the Palm Beach County Code of Ethics by omitting or providing false information on her employment application with the City and by knowingly withholding information about wrongdoing in connection with employment.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics (COE) is empowered to enforce the Palm Beach County Code of Ethics. Respondent and Advocate entered into a negotiated settlement wherein Respondent admitted to violating §2-443(h) of the Palm Beach County Code of Ethics and agreed to pay a five hundred (\$500) dollar fine.

On May 7, 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 found Respondent violated §2-443(h) of the Palm Beach County Code of Ethics by omitting or providing false information on her employment application with the City and by knowingly withholding information about wrongdoing in connection with employment. Pursuant to §2-260.1, *Public hearing procedures*, of the Palm Beach County Commission on Ethics Ordinance, the COE finds that the violation was intentional.

Therefore, it is:

ORDERED AND ADJUDGED that this matter is concluded upon payment of the aforementioned five hundred (\$500) dollar fine.

EXECUTIVE SESSION – CONTINUED

V.b. – CONTINUED

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on May 7, 2015.

By: Salesia V. Smith-Gordon, Chair

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

(CLERK'S NOTE: Further discussion of item V.b. occurred later in the meeting.)

VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

VI.a. Request for Opinion (RQO) 15-012

MOTION to approve the processed advisory opinion letter RQO 15-012. Motion by Michael Kridel, seconded by Clevis Headley, and carried 4-0.

VI.a. RQO 15-013

MOTION to approve the processed advisory opinion letter RQO 15-013. Motion by Clevis Headley, seconded by Michael Kridel, and carried 4-0.

VII. ITEMS PULLED FROM CONSENT AGENDA – None

VIII. PROPOSED ADVISORY OPINIONS

VIII.a RQO 15-010 (Revised)

Mr. Cullen said that the RQO was previously rendered but that additional information became available.

Staff Counsel Christie Kelley said that:

- A county employee asked what her obligations under the Code of Ethics (Code) were when she was the co-chair of the 2015 American Contract Compliance Association (ACCA) National Training Institute.

PROPOSED ADVISORY OPINIONS – CONTINUED

VIII.a. – CONTINUED

- Her responsibilities for the event included making reservations, locating sponsors and speakers and arranging activities for participants.
- Additional information regarding ACCA's non-profit status was received after the COE rendered its original opinion in April.
- The ACCA was not a non-profit charitable organization as defined by the Internal Revenue Code.
- The County employee may not accept a donation or sponsorship on behalf of the ACCA of over \$100 from any county vendor or lobbyist per calendar year.
- The employee or the ACCA may not accept a gift of any value from any county vendor or lobbyist for personal benefit.
- The employee was a member of the ACCA's board of directors and she may not use her official position as a county employee to give special financial benefits to herself or the ACCA.
- Gifts over \$100 from any vendor or non-lobbyist must be reported to the COE by November 1st on the Annual Gift Disclosure Form.
- The code did not prohibit the employee from planning and organizing the ACCA event.
- The ACCA was a 501(c)(6), which was a non-profit business league organization and that the Code made an exception for charitable solicitations to vendors for only charitable non-profits.

Vice Chair Kridel said that:

- There were multiple distinctions among the 501(c) non-profit organizations to determine which were charitable.
- Based upon specific activity requirements, some non-profits were not taxed.

PROPOSED ADVISORY OPINIONS – CONTINUED

VIII.a. – CONTINUED

- The ACCA was not a charitable non-profit.

MOTION to approve proposed advisory opinion letter RQO 15-010. Motion by Clevis Headley, seconded by Michael Kridel, and carried 4-0.

IX. POLICY AND PROCEDURE CLARIFICATION RE: PROCESSING OF COMPLAINTS THAT ARE FILED WITHIN 30 DAYS OF AN ELECTION

Mr. Cullen stated that:

- Staff requested a review of the applicable rules of procedure to establish a different protocol for complaints filed against an official during an election.
- It was determined at the August 2, 2012, COE meeting that no changes were needed to the current rules of handling complaints within the 30-day timeframe.
- The City of Jacksonville (Jacksonville) and Miami Dade County (Miami Dade) COEs had different protocols for complaints that were filed during an election:
 - Jacksonville’s COE executive director did not accept a complaint if it was filed within 15 days of an election date.
 - Miami Dade’s Ethical Campaign Practice Ordinance required that the conduct of candidates and the elections be monitored.
- Staff would need to determine the merits of a complaint and decide whether it was for political reasons or actual code violations.
- The COE was missing an appointee from the Palm Beach County League of Cities (LOC).

BOARD DIRECTION:

Chair Smith-Gordon requested that staff study the rules for processing complaints during an election and bring back recommendations.

IX. POLICY AND PROCEDURE CLARIFICATION – CONTINUED

Vice Chair Kridel said that he believed that clarification of the rules would be beneficial.

Commissioner Michael Loffredo stated that he believed that changes were not needed, but that he would support a study.

Commissioner Clevis Headley said that the COE could determine if a complaint filed during an election should be expedited.

Mr. Cullen stated that there were current rules under the Code that allowed a complaint to be expedited.

PUBLIC COMMENT: Richard Radcliffe.

V.b. – CONTINUED

Vice Chair Kridel read the following Order as discussed during the executive session:

The Palm Beach County Commission on Ethics has imposed a fine of \$500 in this case.

Therefore, it is hereby:

ORDERED AND ADJUDGED that the Palm Beach County Board of County Commissioner, c/o the Palm Beach County Commission on Ethics, located at 300 N. Dixie Hwy, Suite 450, West Palm Beach, FL 33401, shall have and recover from the Respondent, Michelle Sias, the sum of \$500. Said sum is to be made payable to the Board of County Commissioners in the forms of a certified check or money order and to be paid in two equal installments of \$250 payable upon entry of this order and \$250 payable within 30 days thereafter.

Pursuant to Article V, Division 8, §2-260.1(g), this Order may be enforced by application to any Circuit Court of the State of Florida, which shall have jurisdiction to order Respondent to comply with an Order of the Palm Beach County Commission on Ethics.

V.b. – CONTINUED

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on May 7, 2015.

BY: Salesia V. Smith-Gordon, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Order.)

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

X. EXECUTIVE DIRECTOR COMMENTS

X.1.

DISCUSSED: Expression of Thanks.

Mr. Cullen thanked Commissioner Priore for his service on the COE.

X.2.

DISCUSSED: Quarterly Newsletter.

Mr. Cullen said that the spring 2015 edition of the Ethics Bulletin was published and it included recent cases and advisory opinions, along with information regarding the "Top Ten Ethics Rules."

X.3.

DISCUSSED: Drafting Committee.

Mr. Cullen stated that the COE Drafting Committee was established and would have its initial meeting on May 21, 2015. He added that the public could attend.

XI. COMMISSION COMMENTS

XI.1.

DISCUSSED: Ethics Violation Penalties.

Commissioner Loffredo said that the COE could impose a maximum fine of \$500 for an ethics violation.

COMMISSION COMMENTS – CONTINUED

XI.1. – CONTINUED

Chair Smith-Gordon stated that:

- A finding of a violation by the COE subjected the person or entity to a letter of reprimand or instruction and a maximum fine of \$500.
- She requested that staff investigate local COE's violation penalties and bring back information.

XI.2.

DISCUSSED: Postponed Items.

Chair Smith Gordon requested an update regarding the Gift Law and the rule for simultaneously filing of financial records.

Mr. Cullen said that the COE Drafting Committee would consider those items at its initial meeting.

XII. PUBLIC COMMENTS – None

XIII. ADJOURNMENT

At 3:02 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair

VII Processed Advisory Opinions

a. **RQO 15-014 Deborah Wiggins**

A Palm Beach County (County) code enforcement officer asked if the Palm Beach County Code of Ethics (Code) prohibits her from applying for a scholarship from a company, which is not a vendor or lobbyist of the County, to attend the American Association of Code Enforcement (AACE) Conference.

Staff submits the following for COE review: The employee may apply for the company's scholarship to attend the AACE Conference because the entity offering the scholarships is not a vendor, lobbyist, contractor, service provider, bidder, or proposer of the County. In addition, the scholarship does not have to be reported to the COE because it is for educational training costs related to her duties and responsibilities as a County code enforcement officer and is not considered a gift under the Code.

b. **RQO 15-016 Greg Tindall**

An advisory board member for the Town of Loxahatchee Groves asked if a prohibited conflict of interest would exist would if he performed repair work for the Loxahatchee Groves Water Control District (LGWCD).

Staff submits the following for COE review: A prohibited conflict of interest would not exist if he performs various repair work for LGWCD while also serving as an advisory board member for a municipality. The Code exempts governmental entities from the definition of outside employer or business. Since LGWCD is a special district, and thus a governmental entity, it is not considered an outside employer under the Code.

c. **RQO 15-018 Richard Lucibella**

A commissioner of the Town of Ocean Ridge asked if the Code prohibits him from inviting Town officials and staff on hunting trips, and whether the officials and staff are allowed to accept the trips.

Staff submits the following for COE review: Town officials and Town staff are not prohibited from accepting the flight on his privately owned aircraft and the lodging at his hunting leases. However, if the value of the gift is over \$100, it must be reported. Under the Code, elected officials, as state reporting individuals, must timely report the gift on their State of Florida Quarterly Gift Disclosure Form (Form 9). A copy of the Form 9 must also be filed with the COE at the same time. Town staff who are not state reporting individuals must report gifts valued at over \$100 on their annual gift reports due no later than November 1 for the previous reporting year.

d. **RQO 15-019 Lisa Rivera**

An elected official asked if the Code allows her to use her personal funds to place display advertisements in local newspapers wishing her District 1 constituents a great summer or a happy and safe holiday season.

Staff submits the following for COE review: The Code does not prohibit an elected official from using her name and official title on a display advertisement wishing her constituents a great summer or a happy and safe holiday season when she pays for the advertisements and does not receive any quid pro quo for placing the advertisements in the local newspapers.

e. RQO 15-020 Matthew Selby

A Palm Beach County employee asked if the Code prohibits the Palm Beach County Library System Team from accepting a Loop the Lake for Literacy bike jersey, which is provided to a person or team who fundraises over \$400.

Staff submits the following for COE review: The Palm Beach County Library System Team may accept the bike jersey. Under the Code, if a gift is not from a vendor or lobbyist and has a value over \$100, it must be reported. Here, since the value of the bike jersey is under \$100, it does not need to be reported.



Palm Beach County Commission on Ethics

Commissioners

Salesia V. Smith-Gordon, *Chair*

Michael S. Kridel, *Vice Chair*

Michael F. Loffredo

Clevis Headley

Executive Director

Steven P. Cullen

May 21, 2015

Ms. Deborah Wiggins, Code Enforcement Officer
Palm Beach County Code Enforcement
2300 N. Jog Road, 2nd Floor
West Palm Beach, FL 33411

Re: RQO 15-014
Gift law

Dear Ms. Wiggins,

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 you, a Palm Beach County (County) code enforcement officer, apply for a scholarship from Safeguard Properties to attend the American Association of Code Enforcement (AACE) Conference?

ANSWER:

Based on the facts submitted, you may apply for a Safeguard Properties' scholarship to attend the AACE Conference because the entity offering the scholarships is not a vendor, lobbyist, contractor, service provider, bidder, or proposer of the County. The scholarship would not have to be reported to the COE because it is for educational training costs related to your duties and responsibilities as a County code enforcement officer.

The Palm Beach County Code of Ethics (Code) prohibits public employees from accepting payment of any travel expenses, including registration fees and lodging, from a vendor, contractor, service provider, bidder, or proposer of their public employer.¹ Public employees are also prohibited from accepting a gift of any value from any person or entity in return for performing their duties as a public employee.² In addition, public employees cannot accept gifts in excess of \$100 from vendors and lobbyists of their public employer.³ Moreover, public employees may not solicit a gift of any value from a vendor or lobbyist of their public employer for their personal benefit.⁴ The Code also prohibits public employees from using their official positions to give a special financial benefit to themselves.⁵

Furthermore, if a public employee receives an allowable gift with a value in excess of \$100, it must be reported annually to the COE, unless one of several exceptions applies. One of the gift exceptions is educational fees and costs related to an employee's governmental duties and responsibilities, which are not considered gifts under the Code and do not need to be reported.⁶

Based on the facts presented, the scholarship from Safeguard Properties, which is not a vendor, lobbyist, contractor, service provider, bidder, or proposer of the County, would allow you to receive additional training

¹ §2-443(f)

² §2-444(e)

³ §2-444(a)

⁴ §2-444(c)

⁵ §2-443(a)

⁶ §2-444(g)(1)h.; RQO 10-034; RQO 12-002

through the continuing education courses offered at the AACE Conference. Accordingly, you are not prohibited from applying for the scholarship to the AACE Conference, provided that there is no quid pro quo or special treatment or privilege given to Safeguard Properties in exchange for offering these scholarships. If you are awarded a scholarship to the conference, you would not have to report the scholarship to the COE because it is for educational training costs related to your duties and responsibilities as a County code enforcement officer.

FACTS:

You are a County employee, working in the Planning, Zoning, and Building Department as a Code Enforcement Officer.

Safeguard Properties is offering eight scholarships to code enforcement professionals to attend the AACE Conference. The scholarship includes registration to the conference and a four-night stay at the host hotel. The conference is held October 26-30, 2015 in Kissimmee, Florida. The AACE Conference provides continuing education seminars for code enforcement professionals. Code enforcement professionals who are members of AACE are eligible to apply for the scholarships; you are a member of AACE.

Safeguard Properties is a company that preserves vacant and foreclosed properties across the U.S. for the bank or entities holding the properties' mortgages. Safeguard Properties is not a vendor or a lobbyist of the County. The County's code enforcement officers occasionally have contact with Safeguard Properties while managing their code enforcement cases.

The AACE is a national nonprofit association representing the profession of code enforcement. AACE is the only association representing housing, property maintenance and zoning officials in the United States. Its members are employed by cities, towns, parishes, counties and state government for the enforcement of housing, property maintenance and zoning ordinances intended to provide minimum standards for the protection of the public's health, safety and welfare.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-443(a), §2-443(f), §2-444(a)(1), §2-444(c), §2-444(e), and §2-444(g)(1)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:
 - (1) Himself or herself;

- (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.

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.

- (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.
- (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.
 - (1) Exceptions. The provisions of subsection (g) shall not apply to:
 - h. Registration fees and other related costs associated with educational or governmental conferences 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;

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



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

May 26, 2015

Mr. Greg Tindall
Financial Advisory and Audit Committee
14579 Southern Blvd. Suite 2
Loxahatchee Groves, FL 33470

Re: RQO 15-016
Conflict of Interest

Dear Mr. Tindall,

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:

Would a prohibited conflict of interest exist if you, a member of the Financial Advisory and Audit Committee (FAAC) for the Town of Loxahatchee Groves, perform repair work for the Loxahatchee Groves Water Control District (LGWCD)?

ANSWER:

Based on the facts submitted, a prohibited conflict of interest would not exist if you perform various repair work for LGWCD while also serving as a member of the FAAC because LGWCD, a governmental entity, is not considered an outside employer under the Palm Beach County Code of Ethics (Code).

The Code defines an advisory board as any advisory or quasi-judicial board created by the board of county commissioners or by local municipal governing bodies.¹ Here, the FAAC is an advisory board, and as a member of FAAC appointed by the Town Council, you are an advisory board member subject to the jurisdiction of the COE. As an advisory board member, you cannot participate or vote on an issue that would give a special financial benefit to specified persons or entities.² An outside employer is one of the specified entities. However, the Code exempts governmental entities from the definition of outside employer or business.³ Since LGWCD is a special district, and thus a governmental entity, it is exempt from the definition of outside employer. However, the Code prohibits you from using your official position to corruptly secure a special benefit, privilege, or exemption for anyone.⁴ Therefore, based on the information provided, a prohibited conflict of interest would not exist if you perform repair work for LGWCD as long as you do not wrongfully use your official position as an FAAC member to corruptly secure a special benefit for anyone.

FACTS:

You are an appointed member of FAAC for the Town of Loxahatchee Groves. FAAC is purely advisory and advises the Town Council on issues related to the Town's budget, financial activities and performance, and annual audit.

¹ §2-442

² §2-443(a)

³ §2-442

⁴ §2-443(b)

LGWCD has asked you to perform assorted repair work for them. LGWCD is a special district and provides surface water management and road maintenance services for the Town of Loxahatchee Groves. You have researched the work to be performed and have provided LGWCD an estimate of the expected time and rate.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-442, §2-443(a), and §2-443(b) of the Code:

Sec. 2-442. Definitions.

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.

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;

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;

- (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 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



Palm Beach County Commission on Ethics

Commissioners

Salesia V. Smith-Gordon, Chair

Michael S. Kridel, Vice Chair

Michael F. Loffredo

Clevis Headley

Executive Director

Steven P. Cullen

May 27, 2015

Richard J. Lucibella, Commissioner
Town of Ocean Ridge
5 Beachway North
Ocean Ridge, FL 33435

Re: RQO 15-018
Gift Law

Dear Commissioner Lucibella,

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:

As a Commissioner for the Town of Ocean Ridge (Town), does the Palm Beach County Code of Ethics (Code) prohibit you from inviting Town officials and staff on hunting trips, and are the Town officials and staff allowed to accept the trips?

ANSWER:

Based on the facts submitted, Town officials and Town staff are not prohibited from accepting the flight on your privately owned aircraft and the lodging at your hunting leases.

Gifts exchanged between Town staff and officials are not prohibited, provided there is no official quid pro quo involved.¹ In addition, the Code does not prohibit Town officials and staff from accepting gifts over \$100, as long as the gifts are not donated by a vendor, lobbyist, or principal or employer of a lobbyist of the Town.² Based on the facts provided, the flight on your privately owned aircraft and the lodging at your hunting leases are considered gifts under the Code.³ In determining the value of a gift, the Code defers to Florida codes and statutes.⁴ If the value of the gift is over \$100, it must be reported.⁵ Under the Code, Town commissioners, as state reporting individuals, must timely report the gift on their State of Florida Quarterly Gift Disclosure Form (Form 9).⁶ A copy of the Form 9 must also be filed with the COE at the same time. Town staff who are not state reporting individuals must report gifts valued at over \$100 on their annual gift reports due no later than November 1 for the previous reporting year.⁷

¹ §2-444(e); RQO 11-103

² §2-444(a)

³ RQO 11-017

⁴ §112.3148(7), Florida Statutes; §34-13.310, Florida Administrative Code; RQO 11-022

⁵ §2-444(f)

⁶ §2-444(f)(1)

⁷ §2-444(f)(2)b.

FACTS:

You are an elected official, serving as Commissioner for the Town of Ocean Ridge. You have hunting leases in Florida, Mississippi, and Texas, and you regularly hunt on these leases. You are a pilot and generally travel to these hunts on your privately owned aircraft. You often invite guests to join you. You neither request nor accept fees for travel costs or fuel expenses because you consider it a "sunk cost" of your trip since you are going to these locations anyway. Guests pay for their own hunting licenses. There are no lodging fees for your guests because these camps are leased or owned by you. Some of your previous hunting companions are now your fellow Town Commissioners or Town staff. You stated that you are aware of the proscription on discussions that might violate Sunshine Law.

LEGAL BASIS:

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

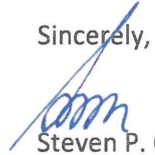
Sec. 2-444. Gift law.

- (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.
- (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.*
 - 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.

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.

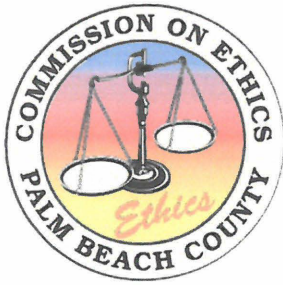
Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Steven P. Cullen
Executive Director

CEK/gal



Palm Beach County Commission on Ethics

Commissioners

Salesia V. Smith-Gordon, Chair

Michael S. Kridel, Vice Chair

Michael F. Loffredo

Clevis Headley

Executive Director

Steven P. Cullen

May 27, 2015

Lisa Rivera, Councilwoman
City of Greenacres
5800 Melaleuca Lane
Greenacres, FL 33463

Re: RQO 15-019
Misuse of Office

Dear Councilwoman Rivera,

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:

As a Councilwoman for the City of Greenacres, does the Palm Beach County Code of Ethics (Code) allow you to use your personal funds to place display advertisements in local newspapers wishing District 1 constituents a great summer or a happy and safe holiday season?

ANSWER:

Based on the facts submitted, using your own personal funds to place display advertisements in local newspapers wishing your constituents a great summer or a happy and safe holiday season would not violate the misuse of office provisions of the Code.

The Code prohibits you from using your official position to give a special financial benefit, not shared with similarly situated members of the public, to specified persons or entities, including yourself.¹ Additionally, you may not use your position to corruptly secure a special benefit for yourself or another person.² However, the Code does not prohibit you, as an elected official, from using your name and official title on a display advertisement wishing your constituents a great summer or a happy and safe holiday season when you pay for the advertisements and do not receive any quid pro quo for placing the advertisements in the local newspapers.

FACTS:

You are a newly elected official serving as Councilwoman for District 1 in the City of Greenacres. You would like to place a display advertisement in local newspapers wishing a great summer to your constituents. Additionally, you would like to place another display advertisement during the holiday season wishing your constituents a happy and safe holiday season. Both advertisements will be purchased with your personal funds.

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.

¹ §2-443(a)

² §2-443(b)

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;
 - (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.

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.

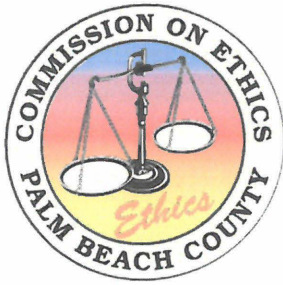
Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Steven P. Cullen
Executive Director

CEK/gal



Palm Beach County Commission on Ethics

Commissioners

Salesia V. Smith-Gordon, Chair

Michael S. Kridel, Vice Chair

Michael F. Loffredo

Clevis Headley

Executive Director

Steven P. Cullen

May 27, 2015

Matthew Selby, Librarian
Palm Beach Gardens Library
11303 Campus Dr.
Palm Beach Gardens, FL 33410

Re: RQO 15-020
Gift Law

Dear Mr. Selby,

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 the Palm Beach County Library System Team from accepting the Loop the Lake for Literacy bike jersey?

ANSWER:

Based on the facts submitted, the Palm Beach County Library System Team may accept the bike jersey. Since the value of the bike jersey is under \$100, it does not need to be reported.

The Code prohibits a public employee from accepting a gift of any value in return for the way he performs his duties as a public employee.¹ Additionally, over the course of the calendar year, a public employee cannot accept gifts worth more than \$100 from a vendor, lobbyist, or a principal or employer of a lobbyist of his public employer.² If a gift is not from a vendor or lobbyist and has a value over \$100, it must be reported.³ Here, the Palm Beach County Library System Team was eligible for a Loop the Lake bike jersey because the team fundraised over \$400. If the team accepts the bike jersey, it does not need to report the gift to the COE since the value is under \$100.

FACTS:

You are a Palm Beach County employee, working as a Youth Services Librarian. This year, you were on the Palm Beach County Library System Team for the Loop the Lake for Literacy bike ride. The Loop the Lake for Literacy cycling event supports the programs of the Literacy Coalition of Palm Beach County (Literacy Coalition). The Literacy Coalition is a not for profit organization committed to ensuring that every resident of Palm Beach County is able to read.

¹ §2-444(e)

² §2-444(a)(1)

³ §2-444(f)

Loop the Lake for Literacy 2015 included rides of 14, 34, 68 and 115 miles on the dike at Lake Okeechobee, starting and ending at Port Mayaca. Teams or individuals who fundraised \$400 or more were allowed to ride for free and could receive a Loop the Lake jersey. After this year's ride, your team was offered the free bike jersey for raising more than \$400. The captain of your team declined the free jersey citing an ethics rules violation. The value of the jersey is \$69.

LEGAL BASIS:

The legal basis for this opinion is found in §2-444 of the Code:

Section 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.


- (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.

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

June 5, 2015

Ms. Deb Wiggins, Code Enforcement Officer
Code Enforcement
2300 N Jog Road, 2nd Floor
West Palm Beach, FL 33411

Re: RQO 15-015
Conflict of Interest

Dear Ms. Wiggins,

The Palm Beach County Commission on Ethics (COE) considered your request and rendered its revised opinion at a public meeting held on June 4, 2015.

QUESTION:

As a Palm Beach County (County) code enforcement officer, are you allowed to work on cases that involve properties owned and managed by your landlord, or should those cases be reassigned to other officers?

ANSWER:

The Palm Beach County Code of Ethics (Code) prohibits you from using your official position, or taking or failing to take any action, or influencing others to take or fail to any action, in a manner which you know would give a special financial benefit to specified persons or entities.¹ A landlord is not among the persons or entities specified in §2-443(a)1-7. However, the Code prohibits you from using your official position to give yourself a special financial benefit. A financial benefit includes anything of value.² The Code also prohibits a public employee from using their official position to corruptly secure any special exemption or benefit for any person.³ This prohibition requires a wrongful intent that is inconsistent with the proper performance of your official duties.

Based on the facts submitted, you are not prohibited from working on code enforcement cases involving properties owned and managed by your landlord as long as you do not use your official position as a County code enforcement officer in any manner to give yourself a special financial benefit or to corruptly benefit your landlord. While there may be no per se prohibited conflict of interest under the Code, you are worried about the appearance of impropriety. While the landlord-tenant relationship may not constitute a prohibited conflict, it may create an appearance of impropriety, especially if your acts are discretionary in nature.⁴ Although matters of internal policy and procedure are not normally subject to COE jurisdiction, we concur with your recommendation that should you receive cases involving your landlord's properties, those cases should be reassigned to another code enforcement officer. However, if you choose to have the cases involving your landlord reassigned to other code enforcement officers, you must not influence them to act or fail to act in a manner which would result in you receiving a special financial benefit.

¹ §2-443(a)

² §2-442

³ §2-443(b)

⁴ RQO 11-037

FACTS:

You are a County employee working in the Planning, Zoning, and Building Department as a Code Enforcement Officer. As a code enforcement officer, you receive anonymous complaints and observe "Inspector Initiated" cases in your designated work areas. Some of these cases or complaints involved properties that are owned and managed by your landlord, a large corporation with properties throughout Florida. If a code enforcement officer receives a case with a conflict, it can be reassigned to another code enforcement officer. You are concerned about working these cases for fear that someone may say you acted too harshly or too easy on your landlord.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-442, §2-443(a) and §2-443(b) of the Code:

Sec. 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.

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.

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

PROPOSED

June 5, 2015

Ms. Sonja Holbrook, Manager
Department of Community Services
810 Datura Street
West Palm Beach, FL 33401

Re: RQO 15-016
Conflict of Interest

Dear Ms. Holbrook,

The Palm Beach County Commission on Ethics (COE) considered your request and rendered its revised opinion at a public meeting held on June 4, 2015.

QUESTION:

Does a prohibited conflict of interest exist for you in your new role as the Planning and Evaluation Manager of Palm Beach County's Community Services Department if you currently have an active private adoption application with the Treasure Coast Division of the Children's Home Society of Florida (CHSF), when you oversee the outcomes and performance measures of the Palm Beach County Division of the CHSF's Financially Assisted Agency (FAA) contract with the County and make recommendations on the funding levels?

ANSWER:

The Palm Beach County Code of Ethics (Code) prohibits you from using your official position as a County employee in any way that would result in a special financial benefit to specified persons or entities.¹ One of the entities specified in §2-443(a) is a non-profit organization where you or your spouse serve as an officer or director. Since neither you nor your spouse is an officer or director of the CHSF, the special financial benefit prohibition does not apply to this non-profit organization. The Code also prohibits you from using your official position to corruptly secure a special benefit for any person.² Corruptly means an official action taken with wrongful intent and for the purpose of receiving any benefit, which is inconsistent with the proper performance of your public duties.³

Based on the facts submitted, a prohibited conflict of interest would not exist as long as you do not wrongfully use your official position to corruptly secure a special benefit for anyone, including a benefit that is not financial in nature. While there may be no per se prohibited conflict of interest under the Code, because you have an active private adoption application with Treasure Coast Division of the CHSF, your oversight of the Palm Beach County Division of the CHSF's outcomes and performance measures and your recommendation on its funding may create an appearance of impropriety, especially if your acts are discretionary in nature.⁴ If you are concerned about this appearance of impropriety, you may choose to have your director or another member of your staff oversee the outcomes and performance measures of the Palm Beach County Division of the CHSF and make the funding recommendations for that organization while your adoption application is pending.

¹ §2-443(a)1-7.

² §2-443(b)

³ Id.

⁴ RQO 11-037

FACTS:

You are a County employee and were recently appointed to Manager of Planning and Evaluation for the Community Services Department. In this role, you oversee the outcomes and performance measures for the FAA contracts. The County augments its own services by providing financial assistance to community-based organizations. FAA organizations are monitored by the Community Services Department to maintain strict fiscal and service integrity. It is your understanding that you and your director will recommend funding levels for organizations to the Palm Beach County Board of County Commissioners (BCC), and the BCC will then make the final determination over which organizations will receive FAA contracts.

Currently, one of the FAA contracts is with the Palm Beach County Division of the CHSF. The CHSF is a statewide non-profit organization with locations throughout Florida. About one year ago, you submitted an application for private adoption to the CHSF in Martin County and paid the application fee. The social worker recently completed your home study, and you are hoping to adopt a child through this agency. You believe your social worker's region for the private adoption program includes both Martin County and Palm Beach County. Neither you nor your spouse is an officer or director of Children's Home Society.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-442, §2-443(a) and §2-443(b) of the Code:

Sec. 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.

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.

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

PROPOSED