

*Honesty - Integrity - Character*

**Palm Beach County**  
**Commission on Ethics**  
300 North Dixie Highway  
West Palm Beach, FL 33401  
561.355.1915  
FAX: 561.355.1904  
**Hotline: 877.766.5920**  
E-mail: [ethics@pbcgov.org](mailto:ethics@pbcgov.org)

**Commissioners**  
Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Michael S. Kridel  
Rodney G. Romano  
Peter L. Cruise

**Executive Director**  
Mark E. Bannon

**Intake and Compliance Manager**  
Gina A. Levesque

**General Counsel**  
Christie E. Kelley

**Chief Investigator**  
Anthony C. Bennett

**Investigator**  
Abigail Irizarry

# *Agenda*

August 2, 2018 – 1:30 p.m.  
Governmental Center,  
301 North Olive Avenue, 6<sup>th</sup> Floor  
Commissioners Chambers

Meeting will begin at 1:30pm  
Executive Session will begin at 1:45pm  
Regular Agenda will resume at 2:15pm

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from July 12, 2018
- V. Processed Advisory Opinions (Consent Agenda)
  - a. RQO 18-012
  - b. RQO 18-013
- VI. Items Pulled from Consent Agenda
  - a.
- VII. Executive Session C17-001
- VIII. Executive Director Comments
- IX. Commission Comments
- X. Public Comments
- XI. 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**

**JULY 12, 2018**

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

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

**II. ROLL CALL**

**MEMBERS:**

Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Peter L. Cruise  
Michael S. Kridel  
Rodney G. Romano

**STAFF:**

Mark E. Bannon, Commission on Ethics (COE) Executive Director  
Anthony Bennett, COE Chief Investigator  
Abigail Irizarry, COE Investigator I  
Christie E. Kelley, Esq., COE General Counsel  
Gina A. Levesque, COE Intake and Compliance Manager

**ADMINISTRATIVE STAFF:**

Leslie Dangerfield, Deputy Clerk, Clerk & Comptroller's Office

**III. INTRODUCTORY REMARKS – None**

**IV. APPROVAL OF MINUTES FROM MAY 3, 2018**

**MOTION to approve the May 3, 2018 minutes. Motion by Rodney Romano, seconded by Peter Cruise, and carried 5-0.**

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

**V.a. RQO 18-009**

**V.b. RQO 18-010**

**V.c. RQO 18-011**

**MOTION to approve the consent agenda. Motion by Rodney Romano, seconded by Peter Cruise, and carried 5-0.**

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

**RECESS**

**At 1:31 p.m., the chair declared the meeting recessed for an executive session.**

**VII. EXECUTIVE SESSIONS**

**RECONVENE**

**At 3:22 p.m., the meeting reconvened, and at Chair Sara Shullman's request for a roll call, Vice Chair Kummerlen, and Commissioners Peter Cruise, Michael Kridel, and Rodney Romano were present.**

**VII. – CONTINUED**

(CLERK'S NOTE: The advisory opinion letters were taken out of order.)

**VII.f. C17-034**

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

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

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on August 15, 2017, alleging that Respondent, Ruvy New, a principal of a lobbyist who is registered to lobby the City of Boca Raton (City), violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift valued at over \$100 in the aggregate to a City official.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 12, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate, the Commission concluded no probable cause exists to believe a violation occurred. The evidence revealed that the gift was not from a prohibited source. The City official incorrectly listed the gift as having been provided by Ruvy New when the gift was in fact provided by someone else.

Therefore it is:

**ORDERED AND ADJUDGED** that the complaint against Respondent, Ruvy New, is hereby **DISMISSED**.

**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on July 12, 2018.

By: Sara L. Shullman, Chair

**VII. – CONTINUED**

**VII.e. C17-033**

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

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

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on August 15, 2017, alleging that Respondent, Robert Weinroth, a City of Boca Raton (City) elected official, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by accepting a gift valued at over \$100 in the aggregate from a person or business entity that was a principal or employer of a lobbyist who lobbied the City.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 12, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission concluded no probable cause exists to believe a violation occurred. The evidence revealed that the gift was not from a prohibited source. Respondent incorrectly listed the gift as coming from a person who was a principal of a lobbyist when the actual gift giver was neither a City vendor nor a lobbyist or principal or employer of a lobbyist who lobbies the City.

Therefore it is:

**ORDERED AND ADJUDGED** that the complaint against Respondent, Robert Weinroth, is hereby **DISMISSED**.

**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on July 12, 2018.

By: Sara L. Shullman, Chair

## VII. – CONTINUED

### VII.d. C17-017

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

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

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on May 31, 2017, alleging that Respondent, Doug Mosley, an employee of a City of Boca Raton vendor, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift with a value over \$100 in the aggregate to a City of Boca Raton elected official.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 12, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission determined that probable cause exists, but that the violation was unintentional, inadvertent, or insubstantial. The Commission then issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance finding that the public interest would not be served by proceeding further.

Therefore it is:

**ORDERED AND ADJUDGED** that the complaint against Respondent, Doug Mosley, is hereby **DISMISSED** and a Letter of Instruction issued.

**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on July 12, 2018.

By: Sara L. Shullman, Chair

**VII. – CONTINUED**

**VII.c. C17-016**

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

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

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on May 31, 2017, alleging that Respondent, Robert Weinroth, a City of Boca Raton elected official, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by accepting a gift with a value over \$100 in the aggregate from a person that he knew, or should have known with the exercise of reasonable care, was a vendor of the City of Boca Raton.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 12, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission determined that probable cause existed but that the violation was unintentional, inadvertent, or insubstantial. The Commission then issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance finding that the public interest would not be served by proceeding further.

Therefore it is:

**ORDERED AND ADJUDGED** that the complaint against Respondent, Robert Weinroth, 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 July 12, 2018.

By: Sara L. Shullman, Chair

## VII. – CONTINUED

### VII.g. C17-032

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

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

Complainant, Alfred Zucaro, Jr., filed the above referenced complaint on July 24, 2017, alleging that Respondent, Mark Guzzetta, violated §2-353(a), *Registration required*, of the Palm Beach County Lobbyist Registration Ordinance by failing to register as a lobbyist for a principal prior to engaging in lobbying efforts on behalf of that principal.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 12, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent's attorney, the Commission determined that probable cause existed to believe that Respondent violated §2-353(a), *Registration required*, and §2-354(a), *Contact log*, on two occasions. The Commission further determined that the violation of §2-353(a) was unintentional, inadvertent, or insubstantial because Respondent believed that the principal entity registered him as a lobbyist prior to his lobbying efforts on their behalf. The Commission also determined that the violation of §2-354(a) was unintentional, inadvertent, or insubstantial because Respondent believed his colleague entered his name on the contact logs. The Commission then issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance finding that the public interest would not be served by proceeding further.



**VII.g. – CONTINUED**

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Mark Guzzetta, 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 July 12, 2018.

By: Sara L. Shullman, Chair

**VII.a. C17-010**

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

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

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on April 19, 2017, alleging that Respondent, Susan Haynie, a City of Boca Raton elected official, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by accepting a gift with a value over \$100 in the aggregate from a person that she knew, or should have known with the exercise of reasonable care, was vendor of the City of Boca Raton.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 12, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate and the Response submitted by Respondent's counsel. After an oral statement by the Advocate and Respondent's counsel, the Commission determined that probable cause existed, but that the violation was unintentional, inadvertent, or insubstantial. The Commission then issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance finding that the public interest would not be served by proceeding further.

**VII.a. – CONTINUED**

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Susan Haynie, 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 July 12, 2018.

By: Sara L. Shullman, Chair

**VII.b. C17-011**

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

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

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on April 19, 2017, alleging that Respondent, Doug Mosley, an employee of a City of Boca Raton vendor, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift with a value over \$100 in the aggregate to a City of Boca Raton elected official.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 12, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission determined that probable cause existed but that the violation was unintentional, inadvertent, or insubstantial. The Commission then issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance finding that the public interest would not be served by proceeding further.

**VII.b. – CONTINUED**

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Doug Mosley, 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 July 12, 2018.

By: Sara L. Shullman, Chair

**VIII. EXECUTIVE DIRECTOR COMMENTS**

Mr. Bannon said that the Ron Jones case (C17-002) was having its final public hearing on Monday, July 16, 2018. He added that this was the second final hearing to ever be held by the COE and the first to use a magistrate.

**IX. COMMISSION COMMENTS - None**

**X. PUBLIC COMMENTS – None**

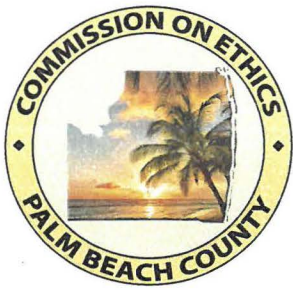
**XI. ADJOURNMENT**

**At 3:39 p.m., the chair declared the meeting adjourned.**

APPROVED:

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Chair/Vice Chair



# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

August 2, 2018  
Page 11 of 16  
Commissioners  
Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Rodney G. Romano  
Michael S. Kridel  
Peter L. Cruise  
**Executive Director**  
Mark E. Bannon

July 26, 2018

Mr. Brenton Rolle, Recreation Specialist  
City of Boynton Beach Recreation & Parks Senior Center  
1021 S. Federal Hwy.  
Boynton Beach, FL 33435

Re: RQO 18-012  
Gift law

Dear Mr. Rolle,

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 (the Code) prohibit you, the supervisor of the City of Boynton Beach Senior Center, from accepting an unsolicited gift from a member of the senior center?

**ANSWER:**

The Code prohibits you as a public employee from using your official position to give yourself a special financial benefit.<sup>1</sup> Additionally, you are prohibited from soliciting anything of value for your personal benefit from any vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells, or leases to the City of Boynton Beach.<sup>2</sup> Similarly, the Code prohibits you from accepting a gift of any value in exchange for the past, present or future performance of an official act or legal duty.<sup>3</sup> You are also prohibited from accepting any gifts with a value over \$100 in the aggregate per calendar year from any vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells, or leases to the City of Boynton Beach. Any gifts that you receive that exceed \$100 in value must be reported pursuant to the requirements of the Code.<sup>4</sup>

Because this is an unsolicited gift that was not given to you in exchange for any quid pro quo or other special consideration, but rather as a general expression of appreciation, it is not prohibited by the Code. Based on the facts provided, you did not use your official position as the supervisor of the senior center to obtain this gift from one of the center's members. The gift giver provided the gift to you as a general show of appreciation for Father's Day. In addition, Section 2-444(c) is not applicable because you did not solicit the gift, and the gift giver is not a vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells or leases to your public employer. Additionally, no quid pro quo or other special consideration was given to the gift giver in exchange for the gift. Finally, because the value of the gift is under \$100, it would not need to be reported on a gift form.

However, public employees must also take care to follow any policies that their public employer has established regarding gifts. Here, the City of Boynton Beach has a stricter zero gift policy. Therefore, although the Code would

<sup>1</sup> §2-443(a)

<sup>2</sup> §2-444(c)

<sup>3</sup> §2-444(e); RQO 10-031; RQO 11-008

<sup>4</sup> §2-444(f)

not prohibit a public employee from accepting this gift under the circumstances provided, you must follow the City's policies which prohibit the acceptance of such a gift.

**FACTS:**

You work for the City of Boynton Beach, serving as the supervisor of the Boynton Beach Senior Center. You were given a Rocky Mountain Tumbler by a member of the senior center as a gift for Father's Day. Based on prices you found online, the value of the gift was between \$16 to \$20. The member of the senior center is not a vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells or leases to the City of Boynton Beach. There was no transaction or service provided in exchange for this gift.

You had never been offered a gift before by a member of the public. Upon being given the gift, you referred to the Code of Ethics and also spoke to your supervisor. Out of an abundance of caution, you contacted the COE for guidance. After requesting an advisory opinion with the COE, you learned that the City of Boynton Beach has a "zero gift" policy and you have returned the gift.

**LEGAL BASIS:**

The legal basis for this opinion is found in the §2-443(a), §2-444(c), §2-444(e), or §2-444(f) of the Code:

**Sec. 2-443. Prohibited conflict.**

- (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

**Section 2-444(e). Gift law.**

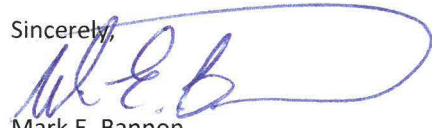
- (c) No county commissioner, member of a local governing body, mayor or chief executive officer when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient 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.
- (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.
- (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.

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. This opinion 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,



Mark E. Bannon,  
Executive Director

CEK/gal



# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

August 2, 2018

Commissioners

Page 14 of 16  
Sarah L. Shullman, Chair

Bryan Kummerlen, Vice Chair

Rodney G. Romano

Michael S. Kridel

Peter L. Cruise

**Executive Director**

Mark E. Bannon

July 20, 2018

Mr. Don Howard, Director – Inventory & Stores  
Palm Beach County Fire Rescue  
2601 Vista Park Way  
West Palm Beach, FL 33411

Re: RQO 18-013  
Conflict of Interest

Dear Mr. Howard,

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 (the Code) prohibit Palm Beach County Fire Rescue from hiring the daughter of a Fire Rescue employee?

**ANSWER:**

The Anti-Nepotism provision of the Palm Beach County Code of Ethics (the Code) prohibits an official from appointing, employing, promoting, or advancing a relative, or advocating for any of those actions on behalf of a relative.<sup>1</sup> Under Section 2-445, *Anti-nepotism law*, an official means any “employee in whom is vested the authority by law, rule or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in the county.”<sup>2</sup> Based on the facts provided, the anti-nepotism section would not apply to this situation because Mr. McNamara does not have the authority to appoint, employ, promote, or advance individuals within the section where his daughter would be working.

Additionally, the Code prohibits Mr. McNamara from using his official position, or influencing others to take or fail to take any action, to give a special financial benefit to his daughter.<sup>3</sup> The Code also prohibits him from using his official position to corruptly secure a special benefit for anyone, including his daughter.<sup>4</sup> Corruptly is defined as an act that is done with a wrongful intent and inconsistent with the proper performance of your public duties.<sup>5</sup> Based on the facts provided, where Mr. McNamara has had no involvement with the interview process involving the position that his daughter applied for or the selection of his daughter by the Inventory Management & Stores Section for the inventory specialist position, there is no prohibited conflict of interest per se under the Code based solely on the father-daughter relationship.

However, you must also take care to follow any applicable policies that the employing entity may have established regarding the hiring of any family relative of a current employee. In this case, it appears that County Merit Rule 11,

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<sup>1</sup> §2-445

<sup>2</sup> Id.

<sup>3</sup> §2-443(a)

<sup>4</sup> §2-443(b)

<sup>5</sup> Id.

*Nepotism*, may apply. Section 11.02(B) of this Merit Rule requires that the Palm Beach County Human Resource Director give prior approval for the employment of any relative of a current County employee to assure that no managerial conflict exists.<sup>6</sup>

**FACTS:**

You are Manager of Inventory Management & Stores for Palm Beach County Fire Rescue Support Services Division. There is an available on-call/part-time position for an inventory specialist within the Inventory Management & Stores section. You have found a qualified candidate that you would like to hire. The candidate happens to be the daughter of Jim McNamara, the Capital Projects Manager of the Support Services Division.

The Inventory Management & Stores Section and the Capital Project Section are separate sections within the Support Services Division of Fire Rescue. The inventory specialist position will report directly to you and would not report to or work with her father. The candidate's father does not have supervisory authority over you, and he does not have the authority to appoint, employ, promote, or advance individuals within your section. He also has not had any involvement in the interview or selection process for the inventory specialist position.

**LEGAL BASIS:**

The legal basis for this opinion is found in the §2-443(a), §2-443(b), or §2-445 of the Code:

**Sec. 2-443. Prohibited conflict.**

- (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;
- (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.

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

An official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion or advancement in or to a position in the county or municipality as applicable in which the official is serving or over which the official exercises jurisdiction or control, any individual who is a relative or domestic partner of the official.

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

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<sup>6</sup> Section 11, Palm Beach County Merit System Rules and Regulations



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. This opinion 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,



Mark E. Bannon,  
Executive Director

CEK/gal