



*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*

September 5, 2019 – 1:30 p.m.  
Governmental Center,  
301 North Olive Avenue, 6<sup>th</sup> Floor  
Commissioners Chambers

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from August 1, 2019
- V. Processed Advisory Opinions (Consent Agenda)
  - a. RQO 19-013
  - b. RQO 19-014
  - c. RQO 19-015
- VI. Items Pulled from Consent Agenda
  - a.
- VII. Executive Director Comments
- VIII. Commission Comments
- IX. Public Comments
- X. 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**

**AUGUST 1, 2019**

**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 - Absent  
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:**

Domonique McKenzie, Minutes Clerk, Clerk & Comptroller's Office

**III. INTRODUCTORY REMARKS – None**

**IV. APPROVAL OF MINUTES FROM JUNE 6, 2019**

**MOTION to approve the June 6, 2019 minutes. Motion by Peter Cruise, seconded by Rodney Romano, and carried 4-0. Michael Kridel absent.**

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

**V.a. Request for Opinion (RQO) 19-009**

**V.b. RQO 19-012**

**MOTION to approve the consent agenda. Motion by Rodney Romano, seconded by Peter Cruise, and carried 4-0. Michael Kridel absent.**

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

**VII. EXECUTIVE DIRECTOR COMMENTS**

**VII.a.**

**DISCUSSED:** Summer 2019 Newsletter.

Mark Bannon, COE Executive Director, stated that common questions regarding gift laws needed to be reviewed.

**VII.b.**

**DISCUSSED:** Community Partners of South Florida.

Mr. Bannon congratulated Peter Cruise on being appointed to the Board of Directors for the Community Partners of South Florida.

**VIII. COMMISSION COMMENTS**

**VIII.a.**

**DISCUSSED:**

Commissioner Romano suggested that brief answers be utilized to supplement analysis provided in COE opinions.

**IX. PUBLIC COMMENTS – None**

**X. ADJOURNMENT**

**At 1:35 p.m., the chair declared the meeting adjourned.**

APPROVED:

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Chair/Vice Chair



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

**Executive Director**  
Mark E. Bannon

August 6, 2019

Ms. Victoria Nowlan, Executive Director  
Palm Beach County Legislative Delegation  
301 North Olive Avenue, Suite 1101  
West Palm Beach, FL 33401

Re: RQO 19-013  
Gift law

Dear Ms. Nowlan,

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

**QUESTION:**

Does the Palm Beach County Code of Ethics (Code) prohibit you, as the Executive Director of the Palm Beach County Legislative Delegation, from soliciting or accepting sponsorship donations for the Legislative Delegation reception from county vendors or from lobbyists or principals or employers of lobbyists who lobby the county, where the reception will be free and open to the public, with the exception of those individuals who under state or local law are prohibited from receiving such a gift and who will be charged a fee of \$15 to attend?

**BRIEF ANSWER:**

No violation will occur so long as the following conditions are met:

1. County administration or the board of county commissioners declares the event to have a public purpose;
2. The donations are accepted on behalf of the county and used solely for a public purpose; and
3. There is no quid pro quo or other special consideration given to donors in exchange for a donation.

**FACTS:**

You are the Executive Director of the Palm Beach County Legislative Delegation. The Palm Beach County Legislative Delegation Office is a nonpartisan office that serves all thirteen members of the Florida Senate and House of Representatives who represent Palm Beach County in Tallahassee. The delegation office is responsible for the following:

- Scheduling and coordinating all delegation meetings in Palm Beach County and Tallahassee;
- Developing the delegation's legislative program which includes all local bills, community appropriation requests, and county and municipal legislative priorities;
- Providing legislative assistance and research to the delegation during the legislative session; and
- Serving as a liaison between the delegation, local governments, and community organizations.

At the end of each legislative session, a comprehensive report, which reviews all local bills and appropriations affecting the county and general bills passed by Palm Beach County Delegation members, is published by the delegation for all county, municipal, and federal offices and other interested parties.

Your department would like to hold a reception immediately following your organizational meeting on September 11, 2019. The meeting will be held at the FITTEAM Ballpark of the Palm Beaches. The department prefers that this event be sponsored, with each sponsor donating \$300, which will be used exclusively for food and beverage. The sponsors will be acknowledged with their names on a poster displayed at the reception. This event

will be free and open to the public, and those individuals bound by the lobbying laws will be required to pay a \$15 ticket price.

You have a mix of sponsors that you would like to utilize, which will include a blend of the county lobby team firms, local chambers, Economic Council of Palm Beach County, Discover the Palm Beaches, FPL, and local governmental consultants. Some may do business with the county, but this reception is being held by and for the 13-member Legislative Delegation.

**RATIONALE:**

Generally, the Code prohibits public employees from soliciting or accepting any gift in excess of \$100, annually in the aggregate, from a vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells, or leases to their public employer.<sup>1</sup> However, there is an exception for gifts that are solicited or accepted by public employees in performance of their official duties on behalf of their public employer, which will be used solely for a public purpose.<sup>2</sup> Whether an event meets the definition of a public purpose must be determined by the administration or by the governing body of the county or municipality as applicable.<sup>3</sup> The Code further prohibits any person or entity from offering or giving any gift to any public official or employee in return for any public action or legal duty as a quid pro quo for the gift.<sup>4</sup>

Based upon the facts provided, because you would be soliciting and accepting the sponsorship donations in the performance of your official duties as the Executive Director of the Palm Beach County Legislative Delegation, the exception in Sec. 2-444(g)(1)e. would apply to this situation as long as the reception is determined to have a public purpose. Therefore, before any donations are solicited or accepted, County Administration or the board of county commissioners must make a determination that the Legislative Delegation reception is for a public purpose. If the reception is determined to have a public purpose, you would not be prohibited from soliciting and accepting donations over \$100 from county vendors or from lobbyists or principals or employers of lobbyists who lobby the county for the Legislative Delegation reception as long as the donor does not receive any unlawful quid pro quo in exchange for providing such a donation.

**LEGAL BASIS:**

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

**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.
  
- (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.

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<sup>1</sup> Sec. 2-444(a)

<sup>2</sup> Sec. 2-444(g)(1)e.

<sup>3</sup> RQO 12-044; RQO 15-009; RQO 15-040

<sup>4</sup> Sec. 2-444(e)

- (1) Exceptions. The provisions of subsection (g) shall not apply to:
- e. Gifts solicited or accepted by county or municipal officials or employees as applicable on behalf of the county or municipality in performance of their official duties for use solely by the county or municipality for a public purpose.

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

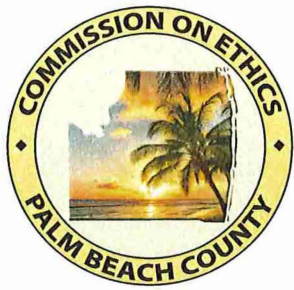
Sincerely,



Mark E. Bannon,  
Executive Director

CEK/gal





# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

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Commissioners  
Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Rodney G. Romano  
Michael S. Kridel  
Peter L. Cruise  
**Executive Director**  
Mark E. Bannon

August 27, 2019

Mr. Thomas Bradford, Village of Tequesta  
Environmental Committee  
345 Tequesta Drive  
Tequesta, FL 33469

Re: RQO 19-014  
Contractual Relationship

Dear Mr. Bradford,

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:**

Are you prohibited from serving as an advisory board member on the Environmental Committee for the village of Tequesta (Village) given you had entered into a contract with the Village to provide construction contract administration prior to your appointment to the Environmental Committee?

**BRIEF ANSWER:**

No. There is no prohibition as long as the existence of the contract is disclosed at a public meeting of the Village Council because the Environmental Committee does not provide any oversight of the subject contract.

**FACTS:**

You are a newly appointed member of the Environmental Committee, who was appointed on July 11, 2019. You are also a current vendor of the Village. On December 28, 2018, you executed a contract with the Village to provide construction contract administration for its Water Treatment Plant Upgrades Project. The contract ends on November 1, 2019. The construction work entails replacement of the existing sulfuric acid and sodium hydroxide bulk and day tanks, replacement of existing motor operated valves on six pressure sand filters, upgrades to the pressure filter controls, replacement of older motor control center sections, demolition of an emergency generator, and upgrades to the motor control center room. It is your understanding that the Village Council did not have to approve this contract because it was for under \$25,000 and did not need the Village Council's authorization. However, the Village Council is fully aware of the contract because they have thanked you for helping them, and you have had to make a presentation about critical aspects of the project in order to secure their permission for special hours of work during critical phases of construction.

On July 11, 2019, the Tequesta Village Council appointed you and six other Village residents to the newly created Environmental Committee. You wanted to be on this committee because the Village is surrounded by water on three sides and water related activities are in high, growing demand resulting in ever increasing crowding on our waterways and degradation of our environmental resources, including the Loxahatchee River, a designated Wild and Scenic River. The Environmental Committee holds public meetings for the purpose of developing recommendations for best practices, fostering community partnerships, and within the bounds of the Village's Comprehensive Development Plan, developing recommendations for goals, objectives, and policies relative to sustaining and improving the environment of the Village of Tequesta. The Village of Tequesta Environmental Committee presents its recommendations to the Village Council for further direction, final review, and ultimate approval. The Environmental Committee is purely advisory and does not provides any regulation, oversight, management, or policy-setting recommendations regarding the contract between you and the Village.

**RATIONALE:**

As an advisory board member appointed by the Village Council, you are considered an official under the Code, and the Code prohibits officials from entering into any contract or other transaction for goods or services with the public entity they serve.<sup>1</sup> However, the Code further states that the contractual relationship prohibition does not apply to advisory board members provided the board does not provide any contract oversight and the existence of the contract is disclosed at a public meeting of the governing body.<sup>2</sup> An advisory board is considered to exercise contract oversight when the board will play a role in the regulation, oversight, management, or policy-setting recommendations regarding the subject contract. Based on the facts provided, because the Environmental Committee is purely advisory and does not provide any oversight of the subject contract, the contractual relationship prohibition would not apply to you as long as the existence of the contract is disclosed at a public meeting of the Village Council.

**LEGAL BASIS:**

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

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

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "official" shall mean members of the board of county commissioners, a mayor, members of local municipal governing bodies, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi-judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

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

**(d) *Contractual relationships.*** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable...This prohibition shall also not apply to advisory board members provided the subject contract or transaction is disclosed at a duly noticed public meeting of the governing body and the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction.

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,



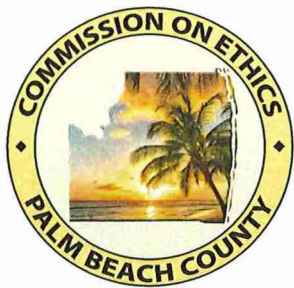
Mark E. Bannon,  
Executive Director

CEK/gal

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<sup>1</sup> §2-443(d), *Contractual relationships*

<sup>2</sup> *Id.*



# Palm Beach County Commission on Ethics

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September 5, 2019

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Commissioners

Sarah L. Shullman, Chair

Bryan Kummerlen, Vice Chair

Rodney G. Romano

Michael S. Kridel

Peter L. Cruise

**Executive Director**

Mark E. Bannon

August 19, 2019

Ms. Gina Burg, Public Arts Assistant  
City of Boynton Beach  
3301 Quantum Blvd. Suite 101  
Boynton Beach, FL 33426

Re: RQO 19-015  
Contractual Relationship

Dear Ms. Burg,

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

**QUESTION:**

Does the Palm Beach County Code of Ethics (Code) prohibit you, as an employee of the city of Boynton Beach (City), from submitting your photographs for the City's New City Hall Arts Project and receiving compensation if your work is selected?

**BRIEF ANSWER:**

A violation will not occur so long as:

- the total amount of the contracts or transactions for the art commissions does not exceed \$500 per calendar year or you donate your photographs to the City without receiving any compensation, and
- you do not use your position with the City in any way to have your work selected over the work of another applicant.

**FACTS:**

You are an employee for the city of Boynton Beach, working as the Public Arts Assistant. In your free time, you also work as a photographer. The City is preparing for the procurement of multiple artworks for its New City Hall Project. You are interested in participating in this project. The project is a 144' wide x 10' high wall which will be used to showcase artwork from the City's Emerging Artist Program. If selected, your photographs would then be sent to production to be installed as a large scale vinyl type mural in March or April of 2020.

There are 12 people on the selection panel including the City Manager, the ADA compliance manager, and the president of the Boynton Beach Arts Commission Board. You are not on the selection panel. Three other artists will be submitting their work for consideration as well. The artists chosen by the selection panel will then put together a concept that will be presented to the Arts Commission for approval. Once the artist(s) is selected for the artwork commissions, an artist agreement is required to be signed by the City. The selected artist(s) will then receive up to \$6,000 for their art. However, you stated that you would be willing to not receive any compensation and donate your photographs to the City if your work is selected.

**RATIONALE:**

Generally, the Code prohibits public employees from entering into any contract or other transaction for goods or services with their public employer.<sup>1</sup> Here, you are prohibited from entering into any contract or transaction for

<sup>1</sup> §2-443(d), *Contractual relationships*

goods or services with the city of Boynton Beach. However, Section 2-443(e)(4) of the Code provides an exception when the total amount of the contracts or transactions in the aggregate between the employee and her public employer does not exceed \$500 per calendar year. Therefore, if the total amount of the contracts or transactions between you and the City does not exceed \$500, in the aggregate for the calendar year, then you are not prohibited from submitting your work and entering into an artist agreement with the City, if your photographs are selected. Additionally, the Code does not prohibit you from donating your photographs to the City if you are one of the selected artists and chose to decline any compensation.

Further, the Code also prohibits you from using your official position, or influencing others in any way to take an action, which will result in a special financial benefit being given to you or your outside photography business.<sup>2</sup> Based on the facts provided, you must ensure that you do not use your position as the Public Arts Assistant in any way, or influence anyone sitting on the selection panel, to select your work over the work of another applicant.

**LEGAL BASIS:**

The legal basis for this opinion is found in §2-443(a)(1, 4), §2-443(d) and §2-443(e)(4) 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;
  - (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;
- (d) **Contractual relationships.** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable.
- (e) **Exceptions and waiver.** In addition, no official or employee shall be held in violation of subsection (d) if:
- (4) The total amount of the contracts or transactions in the aggregate between the outside employer or business and the county or municipality as applicable does not exceed five hundred dollars (\$500) per calendar year.

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

<sup>2</sup> §2-443(a), *Misuse of public office or employment*