



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

Commissioners

Peter L. Cruise

Carol E. A. DeGraffenreidt

Michael S. Kridel

Michael H. Kugler

Rodney G. Romano

Executive Director

Christie E. Kelley

Intake and Compliance Manager

Gina A. Levesque

General Counsel

Vacant

Investigator

Abigail Irizarry

Investigator

Mark A. Higgs

Agenda

February 3, 2022 – 1:30 p.m.

Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes
 - a. November 4, 2021
 - b. December 2, 2021
 - c. January 6, 2022
- V. Strategic Plan
- VI. Discussion on amending Commission on Ethics Ordinance regarding FICPA as appointing entity
- VII. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 22-001
 - b. RQO 22-002
- VIII. Items Pulled from Consent Agenda
 - a.
- IX. Executive Director Comments
- X. Commission Comments
- XI. Public Comments
- XII. 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**

NOVEMBER 4, 2021

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

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Peter L. Cruise, Chair
Michael S. Kridel, Vice Chair
Carol E. A. DeGraffenreidt
Michael H. Kugler
Rodney G. Romano

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Executive Director
Abigail Irizarry, COE Investigator II
Gina A. Levesque, COE Intake and Compliance Manager

ADMINISTRATIVE STAFF:

Deputy Clerk, Danielle Freeman, Clerk of the Circuit Court & Comptroller's Office

III. INTRODUCTORY REMARKS – None

IV. APPROVAL OF MINUTES FROM SEPTEMBER 2, 2021

MOTION to approve the October 7, 2021 minutes.

Chair Cruise requested that Commissioner DeGraffenreidt's absence from the October 7, 2021 meeting reflect that she was absent due to illness.

Motion by Rodney Romano, seconded by Michael Kugler, and carried 5-0.

V. EXECUTIVE DIRECTOR COMMENTS

Mark Bannon, Executive Director, stated the following:

- Mr. Bannon and Ms. Kelley would be teaching their annual Commission on Ethics training on November 9, 2021 for the League of Cities.
- Mr. Bannon said that he would not be seated on the dais while the interviews were conducted.

VI. INTERVIEWS FOR EXECUTIVE DIRECTOR

Chair Cruise thanked Leilani Yan, Manager of Recruitment and Selection, for her efforts during this interview process and on behalf of the Commission he offered his condolences on the passing of her father.

Ms. Yan gave a brief overview of how the interviews and activities for the day would be conducted.

The Commission conducted 45-minute interviews with each of the following candidates.

- a. Kalinthia Dillard
- b. Amie Young
- c. Christie Kelley

Discussion ensued regarding the Commissions opinions of the candidate's qualifications, scoring of their written assessments, and their overall ranking.

The Commission selected Christie Kelley as the new Executive Director.

Ms. Yan informed the Commission of the next steps in the process, which included:

- Informing the selected candidate; and
- The Assistant County Administrator meeting with the candidate to discuss salary.

Discussion ensued regarding the Commissions second choice if Ms. Kelley did not accept the job offer, and they decided the position would default to Ms. Dillard without reinterview.

Chair Cruise asked that a letter be sent to the other candidates on behalf of the Commission expressing how well they performed in their interviews.

VII. COMMISSION COMMENTS- None

VIII. PUBLIC COMMENTS- None

X. ADJOURNMENT

At 5:06 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair

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

DECEMBER 2, 2021

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

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Peter L. Cruise, Chair
Michael S. Kridel, Vice Chair
Carol E. A. DeGraffenreidt
Michael H. Kugler
Rodney G. Romano

STAFF:

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

ADMINISTRATIVE STAFF:

Marisa Valentin, Deputy Clerk, Clerk of the Circuit Court & Comptroller's Office

III. INTRODUCTORY REMARKS

III.a

Chair Cruise stated that this would be Mr. Bannon's last meeting serving as the Commission on Ethics Executive Director, due to his December 31, 2021 retirement.

RECESS

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

RECONVENE

At 2:03 p.m., the meeting reconvened, and at Chair Cruise's request for a roll call, Commissioners DeGraffenreidt, Kridel, Kugler, and Romano were present.

IV. EXECUTIVE SESSION - C20-004

IV.a

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

Complainants, Michele Burns and Risa Mccarraher, filed the above referenced complaint on December 8, 2020, alleging Respondent, James Knight, a member of the Land Development Regulation Advisory Board (LDRAB) violated Section 2-443{a), *Misuse of public office or employment*, and Section 2-443{c), *Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics by using his position on the LDRAB to give a special financial benefit to his brothers-in-law.

Pursuant to §2-258{a)¹ of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. On December 2, 2021, the Commission conducted a hearing and reviewed 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 that probable cause did not exist because the evidence did not show that a violation had occurred.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, James Knight, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on December 2, 2021.

By: Peter L. Cruise, Chair

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

V. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

- a. RQO 21-016**
- b. RQO 21-017**

c. RQO 21-018

MOTION to approve the consent agenda. Motion made by Rodney Romano, seconded by Michael Kugler, and carried 5-0.

VI. ITEMS PULLED FROM CONSENT AGENDA – None

VII. EXECUTIVE DIRECTOR COMMENTS

VII.a

Mark Bannon, COE Executive Director, expressed gratitude to his staff and the Commissioners for their service and support during his career with the Commission on Ethics.

MOTION to present Mr. Bannon with his nameplate from the dais. Motion made by Carol DeGraffenreidt, seconded by Rodney Romano, and carried 5-0.

VIII. COMMISSION COMMENTS

VIII.a

Chair Cruise and the Commissioners each expressed their gratitude and fond sentiments for Mr. Bannon and his years of service as Executive Director of the Commission on Ethics.

IX. PUBLIC COMMENT

IX.a

The following public speakers wished Mr. Bannon well on his well deserved retirement.

Alan Johnson, Verdenia Baker, Stuart Robinson, Richard Radcliffe, Norman Ostrow, John Cleary, Denise Coffman, Todd BonLarron, and Gina Levesque.

At 2:29 P.M., the chair declared the meeting adjourned.

Chair/Vice Chair

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

January 6, 2022

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

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Peter L. Cruise, Chair
Michael S. Kridel, Vice Chair
Carol E. A. DeGraffenreidt
Michael H. Kugler
Rodney G. Romano

STAFF:

Christie E. Kelley, Esq., Commission on Ethics (COE) Executive Director
Abigail Irizarry, COE Investigator II
Gina A. Levesque, COE Intake and Compliance Manager

ADMINISTRATIVE STAFF:

Marisa Valentin, Deputy Clerk, Clerk of the Circuit Court & Comptroller's Office

III. INTRODUCTORY REMARKS

III.a

Chair Cruise said that he wanted to recognize that this was Christie Kelley's first meeting in her new role as Executive Director.

IV. 2021 ANNUAL REPORT PRESENTATION

IV.a

Christie Kelley, COE Executive Director, gave a PowerPoint presentation detailing the complaints and investigations handled by the office of the Commission on Ethics in 2021 as contained in the report.

Commissioner Kugler inquired about the status of the search for a General Counsel replacement following Ms. Kelley's promotion.

Ms. Kelley stated that a posting for the position was being created and further updates would be provided.

V. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

a. RQO 21-019

b. RQO 21-021

MOTION to approve the consent agenda. Motion made by Rodney Romano, seconded by Michael Kugler, and carried 5-0.

VI. ITEMS PULLED FROM CONSENT AGENDA – None

VII. EXECUTIVE DIRECTOR COMMENTS

VII.a

Ms. Kelley thanked the Commission for its confidence in granting her the promotion. She said that her office was in the process of finding a new General Counsel, and that a draft of a strategic plan would be presented to the commission soon.

VIII. COMMISSION COMMENTS – None

IX. PUBLIC COMMENT

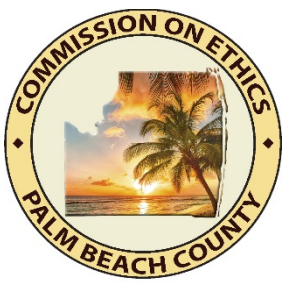
IX.a

The following public speakers welcomed Ms. Kelley in her new role as COE Executive Director and looked forward to working with her.

John Carey and Richard Radcliffe.

At 1:47 P.M., the chair declared the meeting adjourned.

Chair/Vice Chair



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Palm Beach County Commission on Ethics

Commissioners

Peter L. Cruise, Chair
Michael S. Kridel, Vice Chair
Carol E.A. DeGraffenreidt
Michael H. Kugler
Rodney G. Romano

Executive Director

Christie E. Kelley

January 14, 2021

Mr. Daniel Koenig, Senior Manager
Palm Beach County 9-1-1 Program Services
20 South Military Trail
West Palm Beach, FL 33415

Re: RQO 22-001
Outside Employment

Dear Mr. Koenig,

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

QUESTION:

Does the Palm Beach County Code of Ethics (Code) prohibit you from accepting working in your private capacity as an independent contractor for a company where you would act as a consultant on various 911 technologies and operations?

BRIEF ANSWER:

The Code does not prohibit you from working as a consultant in your private capacity during non-work hours as long as you follow the requirements of the Code as described in this advisory opinion.

FACTS:

You are Palm Beach County employee, working as the Senior Manager in the 9-1-1 Program Services Division of the Public Safety Department. You have been approached by Arbolus, which maintains a professional networking platform (www.arbolus.com). They have requested your services as a consultant in the areas of Next Generation 9-1-1 technologies and Public Safety Answering Point operations. The work would include phone and teleconference meetings. The consulting is in generalized trends in 911, including equipment, technology and operations. It does not reference Palm Beach County 9-1-1 Program Services operations directly. Any consulting work would occur outside of your county work hours. Arbolus is currently not a vendor of the county.

ANSWER:

Section 2-443(d), *Prohibited contractual relationships*, prohibits you and your outside business as a consultant from entering into any contract or other transaction to provide goods or services to the county, directly or indirectly. Additionally, the COE has previously held that Section 2-443(d) also prohibits you or your outside business from entering into any contractual relationships with a vendor of the county if you would be providing goods or services to the county through that contract.¹ This would create an indirect contract between you and the county and would violate the Code.

Based on the facts provided, the company that you would be working for as an independent contractor, Arbolus, is not a vendor of the county. Therefore, as long as you and your outside business do not enter into any contract or other transaction for goods or services with the county or with a county vendor, other than where an exception applies,

¹ RQO 10-038, RQO 16-001, RQO 16-006, RQO 19-019

and you perform your consulting work outside of your county work hours and do not use county resources, software, or equipment, the Code does not prohibit you from working as an independent contractor for Arbolus.

Although the Code does not prohibit this type of work in your private capacity, you would have an ongoing responsibility to refrain from using your official position with the county to give a special financial benefit to yourself or your outside business.² This would include using your position to influence another person to take some action, which would give a special financial benefit to yourself or your outside business, soliciting business during your county work hours, or identifying yourself as a county employee in an attempt to obtain a customer, including providing any written or verbal communication using your title or position with the county.

Finally, you are reminded that you must ensure that you comply with the county's rules regarding outside employment.

LEGAL BASIS:

The legal basis for this opinion is found in §2-443(a) and §2-443(d) 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. This prohibition shall not apply to employees who enter into contracts with Palm Beach County or a municipality as part of their official duties with the county or that municipality. This prohibition also shall not apply to officials or employees who purchase goods from the county or municipality on the same terms available to all members of the public.

This 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.

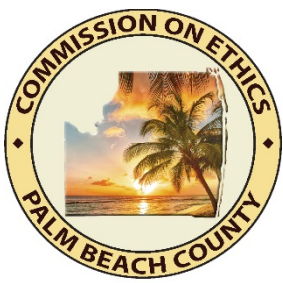
Sincerely,



Christie E. Kelley,
Executive Director

CEK/gal

² Section 2-443(a), *Misuse of public office or employment*



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Palm Beach County Commission on Ethics

Commissioners

Peter L. Cruise, Chair
Michael S. Kridel, Vice Chair
Carol E.A. DeGraffenreidt
Michael H. Kugler
Rodney G. Romano

Executive Director

Christie E. Kelley

January 27, 2021

Mr. Albert Dowdell, III
110 Dr. MLK, Jr. Blvd. West
Belle Glade, FL 33430

Re: RQO 22-002
Conflict of Interest

Dear Mr. Dowdell,

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 you have a prohibited conflict of interest if you serve on the board of a non-profit organization that has previously been cited for code violations by the city of Belle Glade (city) when you work as a code enforcement officer for the city?

FACTS:

You were recently hired by the city as a code enforcement officer. You also serve on the housing board of McCurdy Senior Housing, a 501(c)(3) non-profit organization, located in the city. McCurdy Senior Housing has previously been cited for code violations by the city. McCurdy Senior Housing is located in your assigned area. In the event that the city receives a complaint about McCurdy Senior House, you can request to have another code enforcement officer assigned to that complaint.

City code enforcement officers work in close association with PBSO and the city's Planning, Building, and Public Works Departments to maintain high community standards and address violations of the Belle Glade Municipal Ordinances. For the most part, code enforcement officers are proactively canvassing their assigned areas; however, they do respond to complaints received from the public.

ANSWER:

The Palm Beach County Code of Ethics (Code) prohibits public employees from using their official positions, or taking or failing to take any action, or influencing others to take or fail to any action, in a manner which they know would give a special financial benefit to specified persons or entities, including an organization of which they are an officer or director.¹ Thus, the Code prohibits you from using your official position as a city code enforcement officer, or taking or failing to take any action, or influencing others to take or fail to any action, in any way to give a special financial benefit to McCurdy Senior Housing. A financial benefit is defined as anything of value.

¹ §2-443(a)(1-7)

The Code also prohibits public employees from using their official positions to corruptly secure any special exemption or benefit for any person or entity.² The Code defines corruptly as “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.” Thus, the Code also prohibits you from using your official position as a code enforcement officer to corruptly secure a special benefit for McCurdy Senior Housing.

Based on the facts submitted, the Code does not prohibit you from serving on the board of McCurdy Senior Housing as long as you do not use your official position as a city code enforcement officer in any way to give McCurdy Senior Housing a special financial benefit or to corruptly secure a special benefit for McCurdy Senior Housing. Thus, while on duty, you must treat the McCurdy Senior Housing in the same manner as you would treat any other property or business within the city. For example, you cannot ignore any city ordinance or code violations by McCurdy Senior Housing while on duty, and you cannot ask another city employee to ignore any violations by McCurdy Senior Housing.

Additionally, while there may be no per se prohibited conflict of interest under the Code, an appearance of impropriety may exist, especially if your acts are discretionary in nature.³ Although matters of internal policy and procedure are not subject to COE jurisdiction, to avoid the appearance of impropriety, we recommend that any cases assigned to you that involve McCurdy Senior Housing be reassigned to another code enforcement officer. If you choose to have those cases reassigned to other code enforcement officers, you are reminded that you must not influence them to act or fail to act in a manner which would result in McCurdy Senior Housing receiving a special financial benefit.

Although the local Code of Ethics does not prohibit you from serving on the board of McCurdy Senior Housing as long as there is no misuse of your official position as discussed above, you should be aware that Section 112.313(7)(a), Florida Statutes, precludes a public official or employee from having any employment or contractual relationship with any entity which is subject to the regulation of the agency of which he or she is an officer or employee. Therefore, you should seek clarification from the City Attorney about whether state law precludes you from serving on the board of McCurdy Senior Housing while being employed as a city code enforcement officer.

LEGAL BASIS:

The legal basis for this opinion is found in §2-443(a) and §2-443(b) 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;
 - (7) A civic group, union, social, charitable, or religious organization, or other organization of which he or she (or his or her spouse or domestic partner) is an officer or director. However, this subsection shall not apply to any official or employee who is required to serve on the board of directors of any organization solely based on his or her official position (ex-officio), regardless

² §2-443(b)

³ RQO 11-037

of whether he or she has voting rights on the board, and who receives no financial compensation for such service on the board of directors, and otherwise has no personal ownership interest in the organization.

- (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,



Christie E. Kelley,
Executive Director

CEK/gal