

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

JUNE 6, 2013

**THURSDAY
1:33 P.M.**

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Manuel Farach, Esq., Chair
Robin N. Fiore, Ph.D., Vice Chair – Appeared later by telephone
Patricia L. Archer
Daniel T. Galo, Esq.
Ronald E. Harbison, CPA - Absent

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Senior Investigator
Steven P. Cullen, Esq., COE Executive Director
Gina A. Levesque, COE Intake Manager
James A. Poag, COE Investigator
Megan C. Rogers, Esq., COE Staff Counsel

ADMINISTRATIVE STAFF:

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

III. INTRODUCTORY REMARKS

Executive Director Steven Cullen, Esq., stated that a quorum existed.

III. – CONTINUED

Commissioner Farach stated that anyone wishing to speak should submit a public comment card to COE staff. He added that comments were limited to three minutes, and that all electronic devices should be silenced or turned off.

IV. APPROVAL OF MINUTES FROM MAY 2, 2013

MOTION to approve the May 2, 2013, minutes. Motion by Patricia Archer.

Commissioner Galo stated that since he was not present at the May 2, 2013, meeting, he could not second the motion.

MOTION SECONDED by Manuel Farach, and carried 2-0. Daniel Galo abstaining. Robin Fiore and Ronald Harbison absent.

Intake Manager Gina Levesque stated that a quorum did not exist to vote on the minutes approval.

Commissioner Farach said his understanding was that once a quorum was reached, three votes were not needed to approve an item; only a majority of the members present was necessary.

Mr. Cullen said that he would consult someone regarding the voting procedure.

(CLERK'S NOTE: See page 6 for continuation of item IV.)

V. PRESENTATION TO JAMES POAG

Commissioner Farach said that COE Investigator James Poag had accepted a position with the Village of Wellington. He added that he had enjoyed working with Mr. Poag, and he wished him the best of luck.

Commissioner Galo congratulated Mr. Poag on his new position. He added that his excellent background had made him an asset for the COE, and he wished him good luck.

Commissioner Archer said that Mr. Poag would serve the COE well in his new position. She said that she looked forward to seeing the results of his work, and she wished him good luck.

VI. REQUEST FROM DAVID BAKER (RE: COMMISSIONERS CAPACITY AS MEMBERS OF THE INSPECTOR GENERAL COMMITTEE)

Commissioner Farach stated that by law, the COE functioned differently than the Inspector General Committee (IGC). He said that a presentation could be made; however, the COE members would not discuss matters pertaining to the IGC. He added that accepting information about the IGC without having discussion or taking action would not involve a Sunshine Law issue.

David Baker, Palm Beach County ethics initiative member, thanked the COE members for serving on the IGC. He said that when performing oversight and making evaluations, the COE members might consider individually meeting with Inspector General Sheryl Steckler to become familiar with her duties and her office functions.

Commissioner Farach thanked Mr. Baker for his guidance and direction in helping to draft ethics and inspector general ordinances.

VII. REQUEST FROM ROMA THEUS, ESQ.

Commissioner Farach stated that the May 13, 2013, letter from Victoria McCullough's attorney, Roma Theus, Esq., could not be discussed privately due to Sunshine Law provisions; therefore, he had asked that it be placed on today's agenda.

(CLERK'S NOTE: Commissioner Fiore joined the meeting by telephone.)

Commissioner Farach said he understood that discussions had occurred between Mr. Theus and Mr. Cullen, and that after the May 13, 2013, letter had been placed on the agenda, Mr. Theus sent another on June 5, 2013.

Mr. Theus said that he had received a second set of audio recordings from the January 10, 2013, and February 7, 2013, COE hearings. He said that one inaudible section of the February 7th recording was audible and was also heard by the court reporter; however, a comment from the January 10th hearing was inaudible or absent on the recording. He added that he then sent Mr. Cullen a June 5, 2013, letter that stating his concerns and informing him that a forensic audio expert would listen to the original and copies of the audio recordings and examine the recording equipment.

VII. – CONTINUED

Commissioner Archer stated that she did not make the alleged February 7, 2013, comment that was referenced in the May 13, 2013 letter.

Mr. Theus said that he believed the comment was made by Commissioner Fiore. He stated that he also listened to the February 7, 2013, audio recording regarding C12-015; however, he was not present for that hearing and could not comment. He acknowledged that the Respondents for C12-015 and C12-016 had agreed to the disposition of the three subsequently consolidated hearings.

Commissioner Farach said that according to Mr. Theus' letter, there was no obstruction or obstacle in obtaining the audio recordings, and that Mr. Theus' only concern was the recording quality. He added that the COE was informed that proceedings being held outside of the public's presence could not be transcribed by a court reporter or openly recorded by Channel 20; however, attorneys could bring their own court reporters.

Mr. Theus stated that he would consult Paul Ginsberg, a leading tape-recording expert and a Central Intelligence Agency and Federal Bureau of Investigation contract employee.

Mr. Cullen stated that Ms. McCullough's case had been closed, and that no further COE action was necessary.

Mr. Theus expressed concern that Ms. McCullough's closed case did not remain closed when he wrote an April 1, 2013, letter to the COE interim executive director's attention.

Commissioner Farach said that if Mr. Theus wanted the COE to take any action, he should speak to Mr. Cullen, and the matter would be placed on an upcoming COE agenda.

Commissioner Galo said that he questioned what predicate or procedure would be used to authorize a forensic evaluation of the COE's records.

VII. – CONTINUED

Mr. Cullen stated that the forensic evaluation request had been discussed with the County attorney. He said that according to Mr. Theus, testing of the recordings and recording equipment would be noninvasive and nondestructive. He suggested that after Mr. Theus made a formal request, questions could be addressed by the COE.

Commissioner Galo said that:

- He understood that the three consolidated hearings would have been presented as probable cause hearings; however, the parties had reached a resolution, which was presented to the COE.
- To accept the resolution, the COE should make factual findings whether there was probable cause, whether the case was appropriate to go forward, and whether the allegations, if true, were inadvertent, unintentional, or insignificant.
- He and Staff Counsel Megan Rogers had discussed concerns regarding some facts that were presented as a matter of record in the resolution.
- At the January 10, 2013, hearing, he had limited his comments to the concerns that he had discussed with Ms. Rogers. He did not recall making the comments that Mr. Theus had addressed in his May 13, 2013, and June 5, 2013, letters.
- His comments during the February 7, 2013, hearing, in which Mr. Theus had requested that C12-015 and C12-016, be consolidated, involved Ms. McCullough and were made in her and Mr. Theus' presence.

Mr. Theus stated that Ms. McCullough had provided the COE's members, investigator and advocate with one year of bank statements to support her representations. He said that some COE members had expressed speculation and conjecture regarding his client and an Equestrian Village project; however, his client had repeatedly stated that she never opposed or was involved in the matter. He said that during subsequent proceedings, the COE had acknowledged its investigator's realization that two unrelated projects existed.

VII. – CONTINUED

Commissioner Galo stated that the COE had attempted to present facts that supported its findings. He expressed concern that Mr. Theus may have perceived those attempts as supporting or considering the resolution.

Commissioner Farach suggested that further discussion be scheduled at a later date.

Mr. Theus said that individuals being asked by a governmental entity to account for their actions should only be required to respond to the accusation itself. He added that due process should include background information.

IV. – CONTINUED

(CLERK'S NOTE: See page 2 for earlier discussion.)

Commissioner Farach said that Commissioner Galo would be required to vote on the May 2, 2013, minutes although he was not present at the May 2, 2013, COE meeting, and would not be receiving a financial benefit.

Commissioner Fiore said that page 6, the last sentence, second paragraph under X.a., should read: "Was more than apparent."

MOTION to approve the May 2, 2013, minutes as amended. Motion by Patricia Archer, seconded by Manuel Farach, and carried 4-0. Ronald Harbison absent.

Commissioner Archer said that Florida Statute 286.02 required that an official vote on each item unless there was a financial benefit.

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

VIII. PROPOSED SETTLEMENT C13-004

Senior Investigator Mark Bannon said that:

- On April 15, 2013, the COE found probable cause to believe that Dean Turney had conducted lobbying activities for Equestrian Sports Productions (ESP) within the Village of Wellington (Wellington) during a December 18, 2012, meeting at the Village hall with Wellington Mayor Robert Margolis and Wellington Manager Paul Schofield.

VIII. – CONTINUED

- The parties had agreed at the meeting that its purpose was to discuss a League of Cities issue; however, a proposed settlement agreement between Wellington and ESP was also discussed.
 - Since the discussion involved a proposed settlement agreement that required ratification by Village counsel, it was considered lobbying.
 - At the time of the meeting, Mr. Turney was a registered lobbyist with the Village for two other businesses and not for ESP.
- Wellington had adopted its lobbyist registration ordinance on June 12, 2012; therefore, during the December 18, 2012, meeting, Mr. Turney should have been registered to act in any lobbying capacity.
- On April 2, 2013, Mr. Turney registered as a lobbyist. On May 23, 2013, he and Mr. Turney entered into a proposed settlement agreement regarding the matter.
- Staff recommended that the settlement agreement, a letter of instruction, and a dismissal of the case were reasonable based on the following:
 - Mr. Turney was already a registered lobbyist for other entities.
 - The parties at the December 18, 2012, meeting had agreed that the discussion regarding Wellington and ESP's proposed settlement was not the meeting's main purpose; however, Mr. Turney was responsible for not engaging in the discussion.
 - Evidence did not support a finding that the lobbying was intentional, and could be considered inadvertent.
 - Issuing a letter of instruction would follow a precedent regarding similar COE opinions.

Mr. Turney stated that the signature on the negotiated settlement was his; that the agreement was reached of his own free will; that no one pressured him to enter into the agreement; and that no promises were made to him other than those contained in the agreement.

VIII. – CONTINUED

Commissioner Fiore said it was her understanding that the December 18, 2012, discussion about Wellington and the ESP was inadvertent and was not initiated by Mr. Turney; however, she questioned its inadvertence that the lobbying registration had not been completed.

Mr. Turney clarified that he represented ESP, which produced horse shows, and that the litigation issues dealt with Wellington Equestrian Partners. He said that during the December 18, 2012, discussion, no lobbying registration was in process; however, he has since registered for ESP.

Mr. Bannon said that he was unsure whether staff had asked Mr. Margolis and Mr. Schofield who had initiated the December 18, 2012, discussion regarding Wellington and ESP's proposed settlement. He added that Mr. Turney's lobbying registration was unnecessary if he had met with Wellington officials on matters unrelated to lobbying activities that would come before Wellington's council.

Mr. Turney said he wanted to ensure that the negotiated settlement read: "In light of the facts and circumstances known to the Commission on Ethics, the matter is disposed of by the way of dismissal with this letter of instruction.

MOTION to approve proposed settlement C13-004. Motion by Patricia Archer, and seconded by Daniel Galo.

Commissioner Fiore said she had been informed that she could not vote since she was not present at the meeting.

Ms. Rogers explained that Commissioner Fiore could vote although it would not have any legal sufficiency. She said that the vote would be 3-0 with Commissioner Fiore appearing by phone.

UPON CALL FOR A VOTE, the motion carried 4-0. Ronald Harbison absent.

(CLERK'S NOTE: At a later date and upon further review, Ms. Rogers clarified that based on information provided in Robert's Rules of Order and in Article VIII, Sections 2 and 3 of the COE's bylaws, Commissioner Fiore was not prohibited from voting or participating based on her attendance by phone.)

VIII. – CONTINUED

MOTION to approve that the Respondent's actions as presented in C13-004 were unintentional. Motion by Patricia Archer and seconded by Daniel Galo.

Commissioner Galo said he believed that the incident should be considered inadvertent.

AMENDED MOTION to include the words, unintentional or inadvertent. The maker and the seconder agreed, and the motion carried 4-0. Ronald Harbison absent.

Commissioner Archer read the Public Report and Final Order of Dismissal:

Complainant, Bart Novak, filed the above-referenced complaint on January 30, 2013, alleging a possible violation of the Palm Beach County Lobbyist Registration Ordinance involving Respondent Dean Turney.

The complaint alleges that Dean Turney conducted lobbying activities in the Village of Wellington without being properly registered as a lobbyist in the county Central Lobbyist Registration System. The Village of Wellington adopted the County's Lobbyist Registration Ordinance on June 16, 2012, and since the adoption of this ordinance, requires that all lobbyists be registered in the Central Lobbyist Registration System prior to conducting lobbying activities with Village officials or staff.

COE staff determined that this complaint was legally sufficient on March 22, 2013, investigated the complaint, and determined that there was evidence to believe Respondent engaged in lobbying activities on December 18, 2012, in a meeting with Village Mayor Bob Margolis, and Village Manager Paul Schofield concerning settlement negotiations between the Village and Mark Bellissimo/Equestrian Sports Productions. Respondent was not registered as a lobbyist for these principals at the time of this meeting, although he is properly registered as a lobbyist for other principals.

VIII. – CONTINUED

Pursuant to Chapter 2, Article V, Division 8, §2-258(a) of the Palm Beach County Code, the Commission on Ethics is empowered to enforce the Palm Beach County Lobbyist Registration Ordinance as it pertains to any Palm Beach County municipality, once that municipality has adopted the ordinance into law. Article VIII, §2-353, *Registration and expenditures*, of this ordinance requires any person engaging in lobbying within the Village of Wellington to register as a lobbyist.

The Memorandum of Probable Cause and Memoranda of Inquiry and Investigation, adopted by reference, were presented to the Commission on Ethics on April 4, 2013. At that time, the Commission conducted a hearing. The Commission reviewed and considered the Memoranda of Inquiry, Investigation and Probable Cause recommendation of staff, and oral statements of Respondent and Advocate. At that time, the Commission found that probable cause existed to believe Respondent violated the Palm Beach County Lobbyist Registration Ordinance, and the matter was to be set for a public hearing within 120 days.

On June 6, 2013, Respondent and Advocate submitted a negotiated settlement to the Commission on Ethics for approval. Under this negotiated settlement, Respondent stipulates to the facts as set forth in the Public Report Finding Probable Cause, and as listed within the Letter of Instruction, that he violated Article VIII, §2-353 of the Palm Beach County Lobbyist Registration Ordinance on December 18, 2012, by failing to properly register as a lobbyist prior to engaging in lobbying activities during a meeting with the Village Mayor and the Village Manager.

Pursuant to the Commission on Ethics Ordinance 2-260.1, *Public hearing procedures*, the Commission on Ethics finds that the violation by Respondent was unintentional or inadvertent, dismisses the complaint, and issues a Letter of Instruction to Respondent.

VIII. – CONTINUED

Therefore, it is:

Ordered and adjudged that the complaint against Respondent, Dean Turney, is hereby dismissed, and a letter of instruction is to be issued in this case.

Done and ordered by the Palm Beach County Commission on Ethics in public session on June 6, 2013.

Commissioner Archer read the Letter of Instruction:

Bart Novak (Complainant) filed the above-captioned complaint against Dean Turney, (Respondent) alleging violations of the Palm Beach County Lobbyist Registration Ordinance, Article VIII, §2-353. (Registration and expenditures). The complaint alleges that Respondent conducted lobbying activities within the Village of Wellington; however, has not registered as a lobbyist pursuant to the Palm Beach County Lobbyist Registration Ordinance.

• Facts

Respondent is a registered lobbyist listed in the County's Central Lobbyist Registration System (CLRS), listing two (2) separate principals within this database. The Village of Wellington (the Village) adopted the CLRS as its sole means of registering lobbyists who lobby the Village on June 12, 2012. Respondent is not registered as a lobbyist for Equestrian Sports Productions (ESP) in the CLRS, although he is employed by ESP. Respondent described his employment with ESP as involving community and public relations and working to promote the equestrian industry throughout Palm Beach County.

(This space intentionally left blank.)

VIII. – CONTINUED

On or about December 18, 2012, Respondent met with Paul Schofield, Village Manager, and Robert Margolis, Village Mayor. Respondent states that this meeting was to discuss general equestrian issues within the Village, and the possibility of having a Village sponsored PBC League of Cities monthly meeting at the Palm Beach International Equestrian Center (PBIEC), which is owned and operated by ESP. Respondent described the purpose of this meeting to COE Investigator James Poag as seeking the goodwill of Manager Schofield and Mayor Margolis as it pertained to allowing the League of Cities monthly meeting to be held at PBIEC.

Mayor Margolis stated under oath that this meeting also involved a discussion of a proposed stipulation agreement offered by ESP to end current litigation with the Village over the Equestrian Village project, and other general ESP interests concerning the Equestrian Village project, and that Respondent appeared to be seeking their acceptance of this proposed stipulation. This stipulation agreement would have to be presented for a vote before the Village Council in order to be accepted.

- Holding

Sec. 2-352. *Definitions*, of the Lobbyist Registration Ordinance states in relevant portion:

Principal shall mean the person or entity a lobbyist represents, including a lobbyist's employer or client, for the purpose of lobbying.

Lobbying shall mean seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any County commissioner, any member of a local municipal governing body, any mayor or chief executive officer that is not a member of a local governing body, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the Board of County Commissioners, or the local municipal governing body lobbied as applicable.

VIII. – CONTINUED

Sec. 2-260.3. *Dismissal of complaints*, states as follows:

Notwithstanding any other provisions of this division, the Commission on Ethics may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a Letter of Instruction to the Respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the Commission on Ethics dismisses a complaint as provided in this subsection, the Commission on Ethics shall issue a public report stating with particularity its reasons for the dismissal.

The Commission on Ethics may, at the request of the state attorney or any other law enforcement agency, stay an ongoing proceeding. The Commission on Ethics shall not interfere with any ongoing criminal investigation of the state attorney or the U.S. Attorney for the Southern District of Florida.

Respondent met with Village Manager and Village Mayor on December 18, 2012, and during this meeting, discussed the proposed settlement stipulation and attempted to influence the acceptance of this agreement. This stipulation agreement would have to be presented for a vote before the Village Council in order to be accepted.

In light of the facts and circumstances known to the Commission on Ethics, the matter is disposed of by way of dismissal with this Letter of Instruction. The COE believes that the alleged violation was inadvertent, unintentional, or insubstantial and has determined that the public interest would not be served by proceeding further. However, Respondent is now advised that the filing of Ethics Complaint C13-004, along with this Letter of Instruction, is to serve as notice that prior to taking any actions that would be construed under the Lobbyist Registration Ordinance to be "lobbying" efforts regarding the Village, he is to be properly registered with the County's Central Lobbyist Registration System.

VIII. – CONTINUED

Respondent is instructed to take care to properly register in the CLRS database prior to lobbying for any principal before any County or municipal official or employee that falls with the jurisdiction of the Lobbyist Registration Ordinance to avoid any future enforcement action.

This Letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on June 6, 2013.

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

IX. PROPOSED ADVISORY OPINIONS

IX.a. RQO 13-010

Mr. Cullen said that RQO 13-010 involved whether a retirement system was subject to the County's lobbyist registration ordinance; and if so, whether investment advisory service providers must register as lobbyists when conducting a meeting with the retirement system's board (board) to specifically review the board's yearly portfolio.

Ms. Rogers said that:

- A lobbyist registration exception applied to the ordinance's lobbyist definition wherein any person who met the definition was required to register as a lobbyist with the central lobbyist registration database.
- The advisory service providers were not required to register as lobbyists if they met with the board to specifically review the portfolio's yearly performance.
- Appearing before the board to lobby for renewal of the portfolio would require lobbyist registration.

MOTION to approve proposed advisory opinion letter RQO 13-010. Motion by Daniel Galo, seconded by Patricia Archer, and carried 4-0. Ronald Harbison absent.

IX. – CONTINUED

IX.b. RQO 13-011

Mr. Cullen said that RQO 13-011 involved whether an Aviation and Airports Advisory Board member (AAAB member) was prohibited from participating and voting on the selection of a fixed-base operator for the Palm Beach County Park Airport where the AAAB member leased two hangers from the existing fixed-base operator.

Ms. Rogers said that:

- In a similar situation, the COE had determined that an AAAB member, who took advantage of set fuel rates for countywide airports, was similarly situated to the general public who used the airports and took advantage of those fuel rates.
- In RQO 13-011, the AAAB member was leasing two of the 68 hangers; therefore, his interest was greater in selecting a fixed-base operator who essentially would serve as his landlord.
- Staff recommended that the AAAB member may not use his official position or participate in the fixed-base operator voting process before the AAAB or the Request for Proposal Selection Committee.

MOTION to approve proposed advisory opinion letter RQO 13-011. Motion by Patricia Archer, seconded by Daniel Galo, and carried 4-0. Ronald Harbison absent.

IX.c. RQO 13-012

Mr. Cullen said that RQO 13-012 involved whether a municipal employee could accept direct donations from the Town of Jupiter Inlet Colony (Town) for legal defense expenses incurred, and whether the Town could establish a legal defense fund for the municipal employee's benefit.

Ms. Rogers said that:

- Although somewhat unique, RQO 13-012's situation followed similar opinions regarding gifts to police officers from the towns of Ocean Ridge, Manalapan, and Palm Beach.

IX.c. – CONTINUED

- The Town's police department was comprised of a police chief, a captain, and several full-time and part-time officers.
- Several months ago, the police chief had accused the captain of criminal activity and other wrongdoing. The captain was suspended, but he continued to administratively serve the Town.
 - The Palm Beach County Sheriff's Office and the Town subsequently conducted an internal affairs investigation. During the investigation, the captain had hired an attorney and had incurred approximately \$7,500 in attorney's fees.
 - The Town's investigation revealed no wrongdoing by the captain; however, the police chief was terminated.
- Several Town residents had approached the Town's attorney to assist the captain with his legal expenses.
- The Code of Ethics (Code) did not prohibit municipal employees from accepting financial assistance from Town residents who were not otherwise vendors, lobbyists, employees of vendors, lobbyists, or principals, or employers of lobbyists who sold, leased, or lobbied the Town, provided that the assistance was not in exchange for any official action taken by the Town or its employees.
- Municipal employees were prohibited from using their official positions or from wearing their uniforms in an official capacity to obtain or solicit a personal financial benefit not available to the similarly situated general public. If the financial assistance to the municipal employee was greater than \$100, he or she must report the gift to the COE.
- The Code did not prohibit municipalities from establishing legal defense funds to benefit municipal employees; however, funds may not be solicited or accepted from any Town vender, lobbyist, principal, or employer of a lobbyist that lobbied the Town. The donation's disbursement may not be based on any past, present, or future official act or legal duty.

IX.c. – CONTINUED

Commissioner Galo questioned the provision that police officers were prohibited from soliciting or obtaining donations while in uniform when the solicitations involved employment issues.

Ms. Rogers explained that previous charitable solicitation opinions made the distinction that an elected official, who served on the board of a nonprofit organization, was not prohibited from soliciting for the nonprofit provided that the elected official did not use his or her official title.

Mr. Cullen said that the opinion letter referenced that the Town and its residents wanted to help the captain. He added that staff was never informed that the captain would knock on doors to solicit donations.

Ms. Rogers stated that one option to consider would provide that the Town sponsor the legal defense fund, collect and log the donations, and disburse the funds to the captain and any other employees who met the provision's definition. She said that another option would provide that the captain directly accept the donations.

Commissioner Fiore stated that she would not support the second option since the legal defense fund would not be considered the Town's program or considered a general legal defense fund available to all individuals who needed this type of self-defense while performing their public duties.

Ms. Rogers said that under the Code, unless an exception applied, Town residents would not be prohibited from donating to the high-ranking captain's legal defense fund as long as the donations were reported. She added that the COE could address situations involving evidence of a quid pro quo or an exchange of money for official duty; however, no facts were presented that those situations had occurred.

Mr. Cullen stated that the opinion letter contained the sentence: "Solicitation for personal benefit while in uniform, or otherwise in an official capacity, is prohibited" addressed the concern regarding direct solicitation while in uniform.

IX.c. – CONTINUED

Commissioner Galo said that collecting donations for the police officer was directly related to his position so he should not be administering the fund. He suggested adding the sentence, “Additionally, the funds should be managed by someone other than the recipient” to the last paragraph on page two of the opinion letter before the sentence that began, “Further, assuming...”

Ms. Levesque read the added sentence as follows: “Additionally, the funds should be managed by someone other than the recipient to avoid the appearance of impropriety.”

Commissioner Farach suggested changing the word, “managed,” to the words, “solicited or managed.”

MOTION to approve proposed advisory opinion letter RQO 13-012 as amended to include the language as discussed. Motion by Daniel Galo, seconded by Patricia Archer, and carried 4-0. Ronald Harbison absent.

X. EXECUTIVE SESSIONS

Mr. Cullen stated that the executive session would take approximately 15 minutes. Ms. Rogers stated that as long as the COE members returned from executive session at the anticipated, noticed time, no Sunshine Law violation existed.

Commissioner Farach said that Ms. Rogers would consult Assistant County Attorney Leonard Berger regarding the Sunshine Law matter.

RECESS

At 3:07 p.m., the chair declared the meeting recessed for an executive session.

X.a. C13-011

RECONVENE

At 3:46 p.m., the meeting reconvened with Commissioners Archer, Farach, Fiore, and Galo present.

XI. EXECUTIVE DIRECTOR COMMENTS

XI.a.

DISCUSSED: Office of Program Policy Analysis and Government Accountability (OPPAGA) Update.

Mr. Cullen stated that:

- The OPPAGA team leader had advised him that field work was being conducted and that information continued to be gathered regarding OPPAGA's review of the COE.
- An OPPAGA supplemental information request was furnished to the COE members, and a draft response would be filed by the June 10, 2013, requested date.
- After receiving the requested information, OPPAGA could project a timeframe for completion.
- Senator Joseph Abruzzo had expressed a desire to attend a COE meeting although he had noted that he did not want to address any OPPAGA matters. Staff would inform his office of upcoming meeting dates.

XI.b.

DISCUSSED: COE Investigator Update.

Mr. Cullen said that the COE investigator's position had been advertised, and that Anthony Bennett was selected. He added that Mr. Bennett would bring significant law enforcement experience to the position, and that his expected start date was July 1, 2013.

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XI. – CONTINUED

XI.c.

DISCUSSED: Public Comments During COE Meetings.

Mr. Cullen said that:

- He had participated in a panel discussion sponsored by the City of West Palm Beach (City) concerning the legalities and practicalities of handling public comments at COE meetings.
- The COE had done an excellent job of balancing public comments with following the meetings' schedules.
- The panel discussion was televised by the City. Staff would review placing the video on the COE's Web site, or creating a video link.

XI.d.

DISCUSSED: COE Web Site Administrator's Ethics Debate Report.

Mr. Cullen said that:

- The COE's Web site had received over 2,500 visits during the month-long ethics debate.
- Many ethics debate participants had commented that citizens should remain vigilant in the ethics movement.
- A link could be published on the COE's Web site showing the results of the ethics debate.

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XI. – CONTINUED

XI.e.

DISCUSSED: Metrics Performance Measures.

Mr. Cullen stated that he had met with Kim Ardila-Morgan, Palm Beach State College Center for Applied Ethics Executive Director, to discuss her help in projects such as the COE's Web site revision and possibly referring a metrics professional to discuss performance measures. He added that County and COE staff would work to augment the Web site with an interactive format for the public.

Ms. Rogers commented that she and former Executive Director Alan Johnson, Esq., had attended the Council on Governmental Ethics Laws (COGEL) conference. She said that she and Mr. Cullen had spoken to Virindia Doss, Florida's COE Executive Director, who regularly attended COGEL conferences. She said that although Ms. Doss was unaware of the metrics approach for analyzing performance measures, she had expressed interest in the COE's development of that standard.

Mr. Cullen said that a metrics standard was probably nonexistent; however, another existing process could be adapted to the COE's needs. He added that in probable cause or final hearings, adoption of a judicial poll-type metric could be used to evaluate that portion of the COE's functions.

Commissioner Fiore said that before utilizing various metrics measures, the COE should first determine what information it was seeking at the end of the measuring process.

Mr. Cullen commented that after reviewing some academic literature, he believed that the process would be a hybrid-type evaluative process. He said that he and Ms. Rogers would bring back additional metrics information.

Commissioner Farach said that he was more concerned about being an effective, responsive, and flexible organization rather than filling a numbers quota.

XI. – CONTINUED

XI.f.

DISCUSSED: Ethics Training.

Mr. Cullen said that:

- Ms. Rogers and Mr. Bannon have been conducting ethics training this past week.
- Ms. Rogers had reviewed the PowerPoint presentations that were being used in the training sessions.
- Some surveys requesting feedback from training participants have been returned.

Commissioner Archer recommended that the COE members review the Code and ethics training program biannually during designated months.

Mr. Cullen said that staff could tailor a video or PowerPoint presentation for the COE members.

Ms. Levesque noted that the COE's Web site contained training dates and information.

XI.g.

DISCUSSED: COE Relocation Update.

Mr. Cullen said that the COE was scheduled to move into the old historic county courthouse at the end of June. He added that the COE would receive new telephone numbers.

XIII. COMMISSION COMMENTS – None

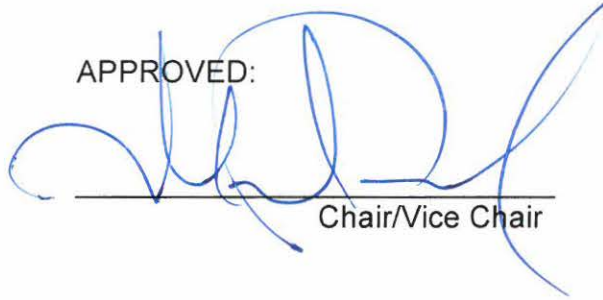
XIII. PUBLIC COMMENTS – None

XIV. ADJOURNMENT

MOTION to adjourn the meeting. Motion by Patricia Archer, seconded by Daniel Galo, and carried 4-0. Ronald Harbison absent.

At 4:05 p.m., the chair declared the meeting adjourned.

APPROVED:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Chair/Vice Chair