

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

APRIL 3, 2014

**THURSDAY
1:31 P.M.**

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

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

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Senior Investigator
Anthony C. Bennett, COE Investigator
Steven P. Cullen, Esq., COE Executive Director
Christie E. Kelley, Esq., COE Staff Counsel
Gina A. Levesque, COE Intake Manager

ADMINISTRATIVE STAFF:

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

III. INTRODUCTORY REMARKS – None

IV. APPROVAL OF MINUTES FROM MARCH 6, 2014

MOTION to approve the March 6, 2014, minutes. Motion by Michael Kridel, seconded by Clevis Headley, and carried 5-0.

IV. – CONTINUED

Chair Salesia Smith-Gordon said that as a point of order, the March 6, 2014, minutes were correct; however, she made an incorrect statement regarding the vice-chair's self-nomination. She requested that her statement be rescinded; that the original motion be vacated; and that the floor be opened for proper vice-chair nominations.

MOTION to nominate Michael Kridel as vice-chairperson. Motion by Carmine Priore, seconded by Salesia Smith-Gordon, and carried 5-0.

(CLERK'S NOTE: A motion was inadvertently made by Commissioner Carmine Priore to approve the March 6, 2014, minutes as amended.)

Chair Smith-Gordon clarified that the motion to amend was unnecessary since the March 6, 2014, minutes were accurate.

RECESS

At 1:36 p.m., the chair declared the meeting recessed for executive session.

V. EXECUTIVE SESSION – C14-001

RECONVENE

At 3:00 p.m., the meeting reconvened, and at Chair Smith-Gordon's request for a roll call, Vice Chair Kridel and Commissioners Headley, Loffredo, and Priore were present.

Vice Chair Michael Kridel read the Public Report Finding No Probable Cause and Final Order of Dismissal:

Complainant, Steven P. Cullen, Executive Director of the Commission on Ethics, filed the above referenced Complaint on January 6, 2014, alleging that Respondent, Connor Lynch, former Chairperson of the City of Delray Beach Planning and Zoning Board, possibly violated Section 2-443(c), *Disclosure of Voting Conflicts*, and Section 2-443(a)(5), *Misuse of Public Office or Employment of the Palm Beach County Code of Ethics*.

V. – 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 Code of Ethics. On April 3, 2014, the Commission conducted a hearing and reviewed the Memoranda of Inquiry, Investigation, Legal Sufficiency and No Probable Cause, the recommendation of staff, and the oral statement of the Advocate. The Commission concluded no probable cause exists, and the Complaint was dismissed.

Therefore it is:

Ordered and adjudged that the Complaint against Respondent, Connor Lynch, is hereby dismissed.

Done and ordered by the Palm Beach County Commission on Ethics in public session on April 3, 2014. By: Salesia V. Smith-Gordon, Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report Finding No Probable Cause and Final Order of Dismissal.)

Chair Smith-Gordon said that anyone wishing to comment should complete a comment card.

VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

VI.a. Request for Opinion (RQO) 14-005

MOTION to approve the consent agenda. Motion by Michael Kridel, seconded by Carmine Priore, and carried 5-0.

VII. ITEMS PULLED FROM CONSENT AGENDA – None

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VIII. PROPOSED ADVISORY OPINIONS

VIII.a. RQO 14-006

Christie Kelley, Esq., COE staff counsel, said that:

- A Village of Wellington (Village) councilman asked whether he was prohibited from participating and voting on a matter which may come before the Village council regarding a new civil aviation ordinance affecting the development where he lived.
- Staff submitted the following:
 - Based on the facts presented, the councilman was not prohibited from voting on the matter since any financial benefit or loss attributable to him as an individual Wellington Aero Club (Aero Club) homeowner was shared with similarly situated members of the general public.
 - The matter did not constitute a unique circumstance whereby his personal gain or loss significantly exceeded that of other members of the affected class.
 - Public officials were prohibited from using their positions to give themselves a unique financial benefit.
 - In evaluating conflict of interest under the Palm Beach County Code of Ethics, the Commission on Ethics (COE) considered how many individuals stood to gain or lose from a decision, and whether the gain or loss was remote and speculative.
 - A class of persons who stood to gain from a decision was small; however, it was more likely that an official would have a conflict.
 - Based on the class size of 268 Aero Club homes, the councilman was not prohibited from participating and voting on the civil aviation ordinance although he lived in the community.

VIII.a. – CONTINUED

- The exact ordinance was still unavailable for COE review; therefore, staff added language cautioning the councilman to carefully examine the ordinance's text when available to ensure that it did not give him a special financial benefit.
- Use of the word, "any," in the Code of Ethics' (Code) definition of financial benefit removed any measure of magnitude regarding the financial benefit.

Commissioner Priore said that the Code's reference to financial benefit did not apply strictly to money, and that financial benefit, as written, was a very broad subject. He added that a benefit's value could be established by the individual requesting an opinion.

Ms. Kelley explained that the definition of financial benefit included anything else of value.

MOTION to approve proposed advisory opinion letter RQO 14-006 as amended to include the added language as discussed. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 5-0.

IX. EXECUTIVE DIRECTOR COMMENTS

IX.A.

DISCUSSED: Legislative Bills Update.

Steven P. Cullen, Esq., COE Executive Director, said that:

- Florida Senate Bill (SB) 846 passed the Senate and was before the House of Representatives (House). The bill offered technical amendments to State law and did not directly impact the COE's operations.
- Florida SB 1474 underwent two significant amendments and passed the Ethics and Elections Committee and the Community Affairs Committee.
 - It would next go before the Senate Appropriations Committee.

IX.A. – CONTINUED

- The bill currently indicated that a local ethics commission, such as the COE, must establish a procedure whereby a respondent would be entitled to a public trial by the COE or a hearing officer.
- If SB 1474 became law, the COE would be required to create a procedural process and follow it.
- A variant of SB 1474 provided for a trial by the Department of Administrative Hearings; however, County officials were concerned about the cost factor.
- The COE's ordinance and Rules of Procedure currently provided that if a respondent was charged with a violation and the COE found probable cause, a full public hearing would be handled by the COE or three chair-designated COE members.
- The ordinance and the Rules of Procedure would need revision if SB 1474 became law.
- No public trials have occurred since the COE's inception.
- House Bill 1314 was SB 1474's companion bill, and it contained the same language as SB 1474. It passed the House's Local and Federal Affairs Committee this morning and needed one final approval.

IX.B.

DISCUSSED: Customer Service Visits.

Mr. Cullen said that:

- He conducted six or seven customer service visits and met with various municipal managers or human resources staff.
- The visits should be completed within several months.
- Most of the municipalities were aware of the COE's website.

X. COMMISSION COMMENTS – None

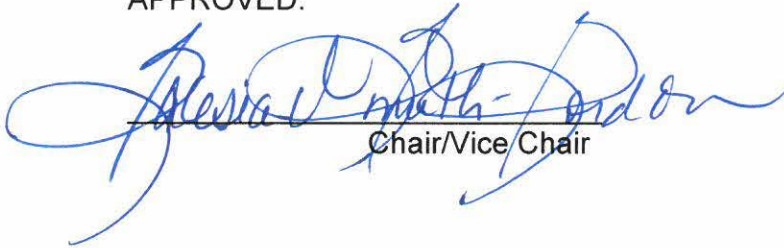
XI. PUBLIC COMMENTS – None

XII. ADJOURNMENT

MOTION to adjourn the meeting. Motion by Michael Kridel, seconded by Clevis Headley, and carried 5-0.

At 3:20 p.m., the chair declared the meeting adjourned.

APPROVED:


Chair/Vice Chair