

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

AUGUST 7, 2014

**THURSDAY
1:30 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, COE Executive Director
Christie E. Kelley, COE Staff Counsel
Gina A. Levesque, COE Intake Manager

ADMINISTRATIVE STAFF:

Andrea Javier, Minutes Clerk, Clerk & Comptroller's Office
Julie Burns, Deputy Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS

Chair Salesia Smith-Gordon requested that cell phones be silenced or placed on vibrate, and that comment cards were available.

IV. APPROVAL OF MINUTES FROM JUNE 5, 2014

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

V. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

V.a. Request for Opinion (RQO) 14-013

V.b. RQO 14-014

V.c. RQO 14-017

V.d. RQO 14-018

V.e. RQO 14-019

V.f. RQO 14-020

V.g. RQO 14-021

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

VI. ITEMS PULLED FROM CONSENT AGENDA – None

VII. PROPOSED ADVISORY OPINIONS

VII.a. RQO 14-015

Steven Cullen, COE Executive Director, said that:

- A Village of Wellington (Wellington) councilwoman asked whether she was prohibited from voting on the selection of a design and the award of a contract to construct a bridle and multipurpose path adjacent to the Palm Beach Point (PBP) community.
- The PBP Property Owner's Association (POA) was her customer or client, and within the previous 24 months, she supplied the POA with goods or services valued over \$10,000.

VII.a. – CONTINUED

- Staff submitted that:
 - Councilwoman Anne Gerwig's vote would not give any special financial benefit to her customer or client.
 - Under previous COE determinations and State law, any financial benefit must be clear, direct, and immediate rather than remote or speculative.
 - Councilwoman Gerwig could vote on the matter.

Chair Smith-Gordon said that Councilwoman Gerwig and her client could benefit from the project. She asked that the COE consider adding language to the opinion that a hint of impropriety may exist and should be considered.

Mr. Cullen said that under Rule 2.8(f), the COE had discretionary power to add cautionary language.

MOTION to approve amending proposed advisory opinion letter RQO 14-015 to include language that a hint of impropriety may exist. Motion by Salesia Smith-Gordon.

Mr. Cullen clarified that Wellington Assistant Attorney Megan Rogers and her client sought the opinion because a future, similar matter may come before the COE.

Chair Smith-Gordon said that the COE could not recommend that Councilwoman Gerwig not vote unless clear evidence of a financial benefit existed.

Mr. Cullen said that the opinion letter would state that she could vote; however, it would caution her to ensure that no financial benefit existed in this matter or in future, similar ones.

Commissioner Carmine Priore expressed concern that the offering of subjective recommendations would set a precedent.

VII.a. – CONTINUED

Mr. Cullen recommended that any proposed language be inserted on page 3, somewhere in the second to the last paragraph.

Commissioner Michael Kridel said that based on RQO 14-015's specific facts and circumstances, the additional language was unnecessary.

MOTION SECONDED by Clevis Headley, and carried 3-2. Michael Kridel and Carmine Priore opposed.

Commissioner Headley suggested adding the language, "however, please be advised that there may be the appearance of impropriety, and the applicant should proceed with due caution," at the end of page 3's last sentence in the second to the last paragraph.

Intake Manager Gina Levesque read the proposed language, "Please be advised that the appearance of impropriety..."

Chair Smith-Gordon suggested adding, "may exist," after the word, "impropriety."

Commissioner Headley suggested adding, "and should accordingly proceed with caution," after the words, "may exist."

Chair Smith-Gordon read the proposed language: "however, please be advised that the appearance of impropriety may exist, and voting should be proceeded with caution."

Mr. Cullen recommended amending the end of the sentence to read: "should proceed with caution."

Chair Smith-Gordon said that by consensus, proposed advisory opinion letter RQO 14-015 would be approved as amended to reflect the language discussed.

VII. – CONTINUED

VII.b. RQO 14-016

Mr. Cullen said that:

- The Town of Manalapan (Manalapan) chief of police asked whether giving sworn police officers firearms and bulletproof vests purchased with holiday gift money given to the Manalapan Police Department (department) would violate the Code of Ethics gift law.
- The firearms would become the officers' personal property.
- The vests would be used during work hours for five years, after which time they became valueless and would be given to the officers as personal property.
- Staff submitted that:
 - The firearms would be considered gifts under the gift law and would require completion of a gift report form.
 - The vests would not be considered gifts since they remained the department's property until losing value.

Chair Smith-Gordon said that she would allow comment from Police Chief Carmen Mattox.

Mr. Mattox said that:

- Most holiday gift money was used to purchase department equipment; however, the officers requested that the funds be used to purchase firearms for their personal use.
- The holiday money was given to the department without terms or conditions.
- The officers used Glock 22, 40-caliber firearms when working but were requesting smaller Glock 380 firearms for their personal use.

VII.b. – CONTINUED

- The department did not require that officers carry firearms at all times within their jurisdictions.
- Officers must be State qualified to carry off-duty firearms.

Chair Smith-Gordon stated that the COE's opinion was narrowly construed based on its governing rules. She said that determining whether the gift's type or dissemination was or was not appropriate would be governed by the State and the department, and not by the COE.

MOTION to approve proposed advisory opinion letter RQO 14-016 as amended to include changing the language on page 3, the second to the last paragraph to read: "Our opinion merely narrowly construes the Palm Beach County's Code of Ethics ordinance, and is not applicable to any conflict under State law or regulatory rules governing guns or law enforcement regulations." Motion by Salesia Smith-Gordon, seconded by Clevis Headley, and upon call for a vote, the motion FAILED 2-3. Michael Kridel, Michael Loffredo, and Carmine Priore opposed.

MOTION to approve proposed advisory opinion letter RQO 14-016 as written. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 5-0.

VIII. DISCUSSION RE: WEBSITE TRAFFIC AND SOCIAL MEDIA

Mr. Cullen said that:

- Staff and the County's Information Systems Services Department (ISS) made recent COE Web site modifications.
- Web site tabs were cleaner, content was changed to streamline the main page's appearance, and opinion summaries would be added.
- The agenda package contained Google Analytics' analysis of COE Web site traffic.
 - Approximately 18,000 pages were viewed from January 1, 2014, through July 23, 2014.

VIII. – CONTINUED

- The main page was the most viewed, followed by pages about training, opinions, meetings, ordinances, codes, contact, and complaints.
- Google Analytics also analyzed the “bounce” rate, or the percentage of individuals who visited a Web site, retrieved their requested material, and immediately signed off. A 56 percent “bounce” rate was considered good by ISS.
- A PowerPoint training slide problem was fixed.

Staff Counsel Christie Kelley said that:

- The COE maintained an active Twitter and Facebook presence.
- Each month, COE’s Facebook page saw increased activity.
 - There were 15 Facebook postings in October 2014, and 89 in July 2014.
 - She was an active “friend” of the COE’s Facebook page, which included a staff link.

Chair Smith-Gordon said that she would click “like” on the COE’s Facebook web page, and she requested that other commissioners with Facebook profiles do the same.

IX. DISCUSSION RE: WORKSHOP

Chair Smith-Gordon said that she spoke with Mr. Cullen about scheduling a workshop to discuss the Office of Program Policy Analysis and Government Accountability and other issues.

MOTION to approve scheduling a COE workshop. Motion by Salesia Smith-Gordon.

Commissioner Priore said that he supported holding a workshop after the ethics summit with the legislators was scheduled.

IX. – CONTINUED

Chair Smith-Gordon said that holding a workshop beforehand would allow information to be brought forward to the summit.

Commissioner Kridel said that a summit in 2014 was probably unlikely.

Mr. Cullen stated that a summit planning meeting with State Senator Joseph Abruzzo and statewide COE directors was scheduled for August 8, 2014.

MOTION SECONDED by Clevis Headley, and carried 3-2. Michael Kridel and Carmine Priore opposed.

BOARD DIRECTION:

Chair Smith-Gordon requested that Mr. Cullen discuss possible summit dates and the selection of a potential facilitator with the commissioners.

She added that:

- David Baker, former Palm Beach County Ethics Ordinances Drafting Committee chair, was interested in facilitating the summit.
- A September workshop would provide an idea of what to anticipate from the legislators at the summit.

Ms. Levesque said that since the workshop was a public meeting, it could be held in the Board of County Commissioners chambers for Channel 20 viewing or in another main conference room with recording equipment accommodations.

Commissioner Priore suggested a roundtable seating arrangement.

Ms. Levesque stated that the County's Vista Center conference room could also accommodate viewing and recording equipment. However, she said, the room contained a dais seating arrangement. She added that a former commissioner requested that no COE meetings be held in locations such as the Vista Center, which lacked security metal detectors.

IX. – CONTINUED

MOTION to approve holding the workshop at the Vista Center. Motion by Salesia Smith-Gordon, seconded by Clevis Headley, and carried 5-0.

Chair Smith-Gordon suggested scheduling the workshop for a Friday morning.

Commissioner Headley suggested that the room be reserved for three hours.

Commissioner Priore said that he would be absent until August 31, and that he would attend September's COE meeting but would be absent again until September 30.

Chair Smith-Gordon said that since some commissioners may have conflicting schedules in October, a September workshop should be scheduled.

X. EXECUTIVE DIRECTOR COMMENTS

X.a. Complaint Process Comparison Chart

Mr. Cullen said that the agenda packet contained a chart comparing how the State, Palm Beach/Miami-Dade counties, and the City of Jacksonville COEs handled their complaint process. He added that most of the local COEs utilized a similar trial process, while the State COE used a Division of Administrative Hearings judge.

(CLERK'S NOTE: See page 10 for continuation of item X.a.)

X.b. Ethics Summit Update

Mr. Cullen said that he anticipated the ethics summit process and date would be determined at the August 8 summit planning meeting.

X.c. Case Statistics

Mr. Cullen said that the agenda packet included some work product statistics from January 2014 to July 2014. He stated that the statistics involved staff's workload regarding the number of opinions, inquiries, complaints, referrals, public records requests, training and community outreach.

X.a. – CONTINUED

Mr. Cullen said that he believed that the local COE executive directors were satisfied with their complaint process; however, they may propose changes at the summit planning meeting.

XI. COMMISSION COMMENTS – None

XII. PUBLIC COMMENTS – None

XIII. ADJOURNMENT

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

At 2:25 p.m., the chair declared the meeting adjourned.

APPROVED:



Chair/Vice Chair