

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

FEBRUARY 5, 2015

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

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

Chair Salesia Smith-Gordon announced that Vice Chair Michael Kridel would preside, since laryngitis weakened her voice.

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:

Barbara Strickland, Deputy Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS

Vice Chair Kridel stated that Chair Smith-Gordon would indicate to him whenever she had information she wished to share, in the event that she could not speak.

IV. APPROVAL OF MINUTES

IV.a. December 11, 2014

MOTION to approve the December 11, 2014, minutes. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 5-0.

IV.b. January 7, 2015

MOTION to approve the January 7, 2015, minutes. Motion by Clevis Headley, seconded by Salesia Smith-Gordon, and carried 5-0.

V. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

V.a. Request for Opinion (RQO) 15-001

MOTION to approve processed advisory opinion letter RQO-15-001. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 5-0.

V.b. RQO 15-003

MOTION to approve processed advisory opinion letter RQO 15-003. Motion by Carmine Priore, seconded by Clevis Headley, and carried 5-0.

V.c. RQO 15-004

MOTION to approve processed advisory opinion letter RQO 15-004. Motion by Carmine Priore, seconded by Salesia Smith-Gordon, and carried 5-0.

VI. ITEMS PULLED FROM CONSENT AGENDA – None

VII. PROPOSED ADVISORY OPINIONS

VII.a. RQO 15-002

Christie E. Kelley, Staff Counsel, said that:

- An employee of Palm Beach County, who worked in the Aquatic Division of the Parks and Recreation Department, asked whether he could accept part-time outside employment as a Masters Swim coach for LB2 Enterprises Inc. (LB2), a company which contracted with the Aquatics Division.
- Staff concluded that this part-time employment with LB2 would violate the prohibited contractual relationships section of the Code of Ethics (Code) because the employee would be unable to comply with all of the requirements of the waiver and exceptions provisions as set forth in section 2-443(e)(5).
- Here, both the employee and the employee's spouse worked in the Aquatics Division of the County's Parks and Recreation Department, and the Aquatics Division oversaw the contracts with LB2.
- As such, the employee would need to decline this offer for part-time outside employment.

Ms. Kelley added that regardless of whether the coaching job was a volunteer position or a paid one, and payment was declined, the Code prohibited contractual violations. A separate response could be provided in the event that a strictly volunteer position was sought by the employee, she said.

MOTION to approve proposed advisory opinion letter RQO 15-002. Motion by Michael Loffredo, seconded by Clevis Headley, and carried 5-0.

VII.b. RQO 15-005

Ms. Kelley stated that:

- A Palm Beach County (County) Fire Rescue (Fire Rescue) employee asked to register and work as a lobbyist during non-work hours for a principal firm that lobbied the County and municipal councils on issues unrelated to goods and services provided to, or used by, Fire Rescue.

PROPOSED ADVISORY OPINIONS – CONTINUED

VII.b. – CONTINUED

- Staff submitted that the employee was prohibited from lobbying the County, his public employer. He was not prohibited from lobbying municipalities.
- As a lobbyist working for a principal firm that lobbied the County and municipal councils, the firm would be the employee's outside employer under the Code. Lobbying his public employer on behalf of his outside employer would violate the contractual prohibition provision.
- The employee must take great care not to use his official public position or title, directly or indirectly, in any of his dealings.

Commissioner Carmine Priore commented that the issue appeared to be whether the employee was permitted to lobby the County. He said that if the employee's salary came from a municipal services taxing unit instead of from the County, the employee would be acting as a lobbyist for the municipalities.

Ms. Kelley stated that no separate employment classification existed other than that of an employee of the County, and that the public entity the employee served was the County.

MOTION to approve proposed advisory opinion letter RQO 15-005. Motion by Clevis Headley, seconded by Salesia Smith-Gordon, and carried 5-0.

VIII. ANNUAL REPORT

Steven P. Cullen, COE Executive Director, stated that:

- The newly published 2014 annual report was available, and it could be viewed on the COE's Web site under the Publications tab.
- Updated biographies of the commissioners and staff, and a training function recap, appeared on the report's first 14 pages.
- An updated format contained headnotes for 39 opinions, plus detailed dispositions of 15 complaints and 34 inquiries.

VIII. – CONTINUED

- Of the budgeted \$564,299, \$515,952 was expended, leaving an unspent balance of \$48,346.
- Legislative activities and initiatives were reported on page 24, followed by a 2015 project list and expected results.
- Onsite visits and trainings were conducted, and public information booklets were distributed to community organizations.

Commissioner Priore commented that incoming complaints required large amounts of staff time spent on research to determine legal sufficiency, with no expectation of compensation. He said that a method might be developed to determine whether individuals making the complaints were even aware of the Code and its specifics.

Chair Smith-Gordon remarked that while an individual might make a complaint legitimately, the complaint could lack sufficiency to justify it.

Mr. Cullen said that the COE's Web site explained the complaint form, rules, and procedures. He added that Rule 3.5 provided that the COE may assess attorney's fees and costs against respondents in cases of frivolous or groundless complaints.

(CLERK'S NOTE: Item XII. was taken up at this time.)

XII. PUBLIC COMMENTS

XII.a.

DISCUSSED: Advisory Opinions.

Richard Radcliffe, Palm Beach County League of Cities (LOC) Executive Director, said that the graph on page 17 of the annual report seemed to imply that advisory opinions came from each city, when only 39 advisory opinions came from six cities and one community redevelopment agency in total. He asked for clarification as to whether each city issued one opinion.

Mr. Cullen clarified that the illustration showed only the entities that issued opinions.

PUBLIC COMMENTS – CONTINUED

XII.a. – CONTINUED

Vice Chair Kridel pointed out that 29 opinions were represented, if all the graph's single purple bars were ignored.

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

IX. DISCUSSION RE: AMENDMENT TO ORDINANCE

Vice Chair Kridel stated that an ordinance amendment was of such significant importance that discussion should be deferred to the next meeting, since the chair was unable to participate fully at this time.

(CLERK'S NOTE: The Vice Chair announced two seconders to the following motion.)

MOTION to table the ordinance amendment discussion for a time certain at the next regularly scheduled meeting. Motion by Carmine Priore, seconded jointly by Michael Loffredo and Clevis Headley, and carried 5-0.

X. EXECUTIVE DIRECTOR COMMENTS

X.a.

DISCUSSED: Ethics Rules.

Mr. Cullen said that:

- An updated 2015 rulebook reflecting all of the ordinances and policies was available for everyone in attendance and for the general public.
- A folded card titled "Top Ten Ethics Rules" adapted from state commissions around the country was updated and distributed widely.

X.b.

DISCUSSED: Declaration.

Mr. Cullen said that the Board of County Commissioners declared the month of March as "Ethics Awareness Month."

XI. COMMISSION COMMENTS

XI.a.

DISCUSSED: Appreciation.

Commissioner Michael Loffredo stated that he commended the COE's investigators for all the extra time expended on investigations, and the staff for its excellent annual report.

Commissioner Clevis Headley said that the COE staff deserved gratitude for its work.

XI.b.

DISCUSSED: Legal Sufficiency.

Vice Chair Kridel said that the concept of legal sufficiency was difficult to describe and to grasp.

Commissioner Priore said that a method should be devised to caution citizens about filing complaints without reason.

XI.c.

DISCUSSED: Ethics Rules.

Chair Smith-Gordon suggested that the annual report and the "Top Ten Ethics Rules" card be distributed to LOC members.

XII. PUBLIC COMMENTS – Pages 5-6

XIII. ADJOURNMENT

At 2:10 p.m., the chair declared the meeting adjourned.

APPROVED:


Chair/Vice Chair