

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

JUNE 4, 2015

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

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. ADMINISTRATION OF OATH OF OFFICE BY JUDGE JEFFREY COLBATH

Chair Salesia Smith-Gordon requested that mobile phones be silenced.

(CLERK'S NOTE: Chief Judge Jeffrey Colbath administered the oath of office to newly elected Commissioner Judy Pierman.)

II. CALL TO ORDER

III. ROLL CALL

MEMBERS:

Salesia V. Smith-Gordon, Chair
Michael S. Kridel, Vice Chair - Absent
Clevis Headley
Michael F. Loffredo - Absent
Judy M. Pierman

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

IV. INTRODUCTORY REMARKS

Chair Salesia Smith-Gordon welcomed Commissioner Pierman.

V. APPROVAL OF MINUTES FROM MAY 7, 2015

MOTION to approve the May 7, 2015, minutes. Motion by Clevis Headley, seconded by Salesia Smith-Gordon, and carried 3-0. Michael Kridel and Michael Loffredo absent.

VI. Pages 5-6

VII. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

VII.a. Request for Opinion (RQO 15-014)

VII.b. RQO 15-016

VII.c. RQO 15-018

VII.d. RQO 15-019

VII.e. RQO 15-020

MOTION to approve the consent agenda. Motion by Clevis Headley, seconded by Judy Pierman, and carried 3-0. Michael Kridel and Michael Loffredo absent.

VIII. ITEMS PULLED FROM CONSENT AGENDA – None

IX. PROPOSED ADVISORY OPINIONS

IX.a. RQO 15-015

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

- A County code enforcement officer asked whether she could work on cases involving properties owned and managed by her landlord or whether the cases should be assigned to other officers.
- The County's Code of Ethics (Code) prohibited her from using her official position to give a special financial benefit to a specified person or entity.

IX.a. – CONTINUED

- The Code did not specify a landlord; therefore, she was not prohibited from working on code enforcement cases involving properties owned and managed by her landlord as long as she did not use her official position as a code enforcement officer to give herself a special financial benefit or to corruptly secure a benefit for her landlord.
- The landlord/tenant relationship may not constitute a prohibited conflict, but it may create an appearance of impropriety, especially if her opinions were discretionary.
- Staff concurred with the code enforcement officer's recommendation that cases involving her landlord's properties should be reassigned to another code enforcement officer.

MOTION to approve proposed advisory opinion letter RQO 15-015. Motion by Clevis Headley, seconded by Judy Pierman, and carried 3-0. Michael Kridel and Michael Loffredo absent.

IX.b. RQO 15-017

Steven P. Cullen, Esq., COE Executive Director, stated that the proposed advisory opinion letter was incorrectly numbered RQO 15-016 and that the COE's packet contained a revised proposed advisory opinion letter.

Ms. Kelley said that:

- The County employee requesting the opinion originally believed that she would be making funding-level recommendations as the recently appointed manager of planning and evaluation for the Community Services Department.
- Her role included overseeing outcome and performance measures for contracts with financially assisted agencies (FAA).
- One FAA contract was with the Palm Beach County (PBC) Division of the Children's Home Society of Florida (CHSF).
- The County employee previously submitted a private adoption application to CHSF's Martin County division.

IX.b. – CONTINUED

- The County employee and her spouse were not CHSF officers or directors.
- An opinion was requested whether a conflict of interest existed between her oversight of outcome and performance measures of FAA contracts with CHSF's PBC division and her active private adoption application with CHSF's Martin County division.
- Staff submitted that:
 - No prohibited conflict of interest existed as long as she did not use her official position to corruptly secure a special benefit for anyone.
 - Since she had an active private application with CHSF's Martin County division, her oversight of outcome and performance measures of the FAA contract with CHSF's PBC division may create an appearance of impropriety.
 - She could request that her director or another staff member perform the oversight during the pending adoption.

Mr. Cullen explained that staff focused on an appearance of impropriety since no clear conflict of interest existed in the Code.

Commissioner Clevis Headley suggested that the proposed advisory opinion letter include language that the COE strongly recommended that the County employee choose her director or another staff member to perform the oversight.

Chair Smith-Gordon expressed a concern that an aspect of the private adoption may be missing. She suggested that the COE direct staff to bring back more information.

MOTION to direct staff to bring back more information regarding proposed advisory opinion letter RQO 15-017. Motion by Judy Pierman.

MOTION DIED FOR LACK OF A SECOND.

IX.b. – CONTINUED

Chair Smith-Gordon clarified that the additional information regarded the private adoption and whether a financial benefit existed.

Ms. Kelley said that the adoption application and process involved fees.

Mr. Cullen reiterated that the proposed advisory opinion letter contained a directive under the Code that the employee could not use her official position to give a special financial benefit to anyone.

MOTION to approve proposed advisory opinion letter RQO 15-017. Motion by Clevis Headley.

(CLERK'S NOTE: The motion was seconded later in the meeting.)

PUBLIC COMMENT: Richard Radcliffe.

Ms. Kelley explained that the proposed advisory opinion letter was revised to reflect the County employee's correction that her new position would not involve funding recommendations to the BCC.

Commissioner Pierman said that Ms. Kelley's explanation offered a different perspective into the events.

(CLERK'S NOTE: Commissioner Headley inadvertently made the motion again.)

MOTION SECONDED by Judy Pierman, and carried 3-0. Michael Kridel and Michael Loffredo absent.

RECESS

At 1:55 p.m., the chair declared the meeting recessed for an executive session.

VI. EXECUTIVE SESSION – C15-004

RECONVENE

At 3:01 p.m., the meeting reconvened, and at Chair Smith-Gordon's request for a roll call, Commissioners Clevis Headley and Judy Pierman were present.

VI. – CONTINUED

Chair Smith-Gordon read the following Public Report Finding No Probable Cause and Order of Dismissal as discussed during the executive session:

Complainant, Steven P. Cullen, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on January 21, 2015, alleging that Respondent, Kelvin Black, City of West Palm Beach Sanitation Department employee, violated §2-443(a) of the Palm Beach County Code of Ethics by using his official position in a manner which he knew would give himself a special financial benefit.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On June 4, 2015, the Commission conducted a hearing and reviewed the Memorandum of Inquiry and the Probable Cause Recommendation. After oral statements by the Advocate and Respondent, the Commission concluded no probable cause exists to believe any violation occurred.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against respondent, Kelvin Black, is hereby **DISMISSED WITH PREJUDICE**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on June 4, 2015.

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 Order of Dismissal.)

(This space intentionally left blank.)

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

X. EXECUTIVE DIRECTOR COMMENTS

X.a.

DISCUSSED: Ethics Ordinance Drafting Committee (EODC).

Mr. Cullen said that the EODC meeting was moved to July 27, 2015, at 9:00 a.m., in the McEaddy Conference Room. He added that the three COE proposed Code changes on the agenda involved public hearing procedures, the vendor definition, and gift reporting.

X.b.

DISCUSSED: COE Opinion Database.

Mr. Cullen said that the County's Information Systems Services Department developed an online database for the COE's opinions. He said that the database would improve the look and function of how opinions were stored on the Web site. He added that the database was being tested and should be completely functional within 30 to 60 days.

XI. COMMISSION COMMENTS

XI.a.

DISCUSSED: Welcoming Commissioner Judy Pierman.

Chair Smith-Gordon welcomed Commissioner Pierman and said that she would be a positive asset to the COE.

XI.b.

DISCUSSED: Chair Salesia Smith-Gordon's Resignation.

Chair Smith-Gordon said that she was resigning to devote time to her husband's election campaign as a District 7 County commissioner. She added that she would continue to be a COE advocate.

XI.b. – CONTINUED

Mr. Cullen noted that the COE positions were voluntary, and the commissioners were prohibited from engaging in political activity. He thanked Chair Smith-Gordon for her service.

XII. PUBLIC COMMENTS

XII.a.

DISCUSSED: Expression of Thanks and Commendation.

Inspector General John Carey thanked Chair Smith-Gordon for her service and support in chairing the COE and the Inspector General Committee.

Richard Radcliffe, Executive Director, Palm Beach County League of Cities, thanked Chair Smith-Gordon for her service and said that she would be missed. He added that people did not realize the difficulty of serving on the COE.

XIII. ADJOURNMENT

At 3:11 p.m., the chair declared the meeting adjourned.

APPROVED:



Chair/Vice Chair