

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

**NOVEMBER 3, 2016**

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

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

**II. ROLL CALL**

**MEMBERS:**

Michael S. Kridel, Chair  
Clevis Headley, Vice Chair  
Michael F. Loffredo  
Judy M. Pierman  
Sara L. Shullman

**STAFF:**

Mark E. Bannon, Commission on Ethics (COE) Executive Director  
Anthony Bennett, Chief Investigator  
Abigail Irizarry, COE Investigator I  
Christie E. Kelley, Esq., COE General Counsel  
Gina A. Levesque, COE Intake and Compliance Manager

**ADMINISTRATIVE STAFF:**

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

**III. INTRODUCTORY REMARKS**

Chair Michael Kridel stated that there was a fairly dense executive session.

**IV. APPROVAL OF MINUTES FROM OCTOBER 14, 2016**

**MOTION to approve the October 14, 2016, minutes. Motion by Clevis Headley, seconded by Michael Loffredo, and carried 5-0.**

**RECESS**

**At 1:32 p.m., the chair declared the meeting recessed for an executive session.**

**RECONVENE**

**At 3:44 p.m., the meeting reconvened, and at Chair Michael Kridel's request for a roll call, Chair Kridel, Vice Chair Clevis Headley, and Commissioner Michael Loffredo, Judy Pierman, and Sarah Shullman were present.**

(CLERK'S NOTE: Item VI. was presented at this time.)

**VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)**

**VI.a. Request for Opinion (RQO 16-022)**

**MOTION to approve the consent agenda. Motion by Clevis Headley, seconded by Sarah Shullman, and carried 5-0.**

**VII. ITEMS PULLED FROM CONSENT AGENDA – None**

**VIII. PROPOSED ADVISORY OPINIONS**

**VIII.a. RQO 16-025**

General Counsel Christie Kelley said that:

- This request for opinion was from the Village of Wellington (Wellington).
- The facts were as follows:
  - There was a Wellington council member who worked for an outside employer.
  - One of the outside employer's clients was Wantman Group.
  - A property owner was applying for a conditional use permit for a veterinary clinic in Wellington and hired Wantman Group to be its agent and to provide engineering services.

### VIII.a. – CONTINUED

- Wantman Group was going to present the application before the Wellington council and if the conditional use permit was approved, the group would also work as the engineering firm on that project.
- Wellington's attorney asked the COE if the council member had a voting conflict that would prohibit him from voting on and participating in a matter involving Wantman Group.
- Staff concluded that there was a voting conflict and that the council member could not participate in or vote on this matter.
  - The code of ethics prohibited the council member from using his official position to provide a special financial benefit to a customer or client of his outside employer, and he needed to abstain from voting on or participating in any matter which would result in a special financial benefit to that customer or client.
  - There was a direct nexus between the council member's vote on the permit and Wantman Group receiving a special financial benefit because the council member's vote would directly impact whether or not the project would go forward and whether Wantman Group would be hired as the engineering firm to complete the project.
  - The special financial benefit was not remote or speculative.

Commissioner Sarah Shullman said that she agreed with the proposed opinion and asked why it was not on the processed agenda.

Ms. Kelley said that the proposed opinion was not processed because her office received the request at the beginning of the week, which did not provide enough time to complete it and submit it to the chair for consent. She added that the Wellington council vote would be on November 8 so the matter had to be heard at this meeting as a proposed opinion.

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**VIII.a. – CONTINUED**

**MOTION to approve the proposed advisory opinion letter RQO 16-025. Motion by Judy Pierman, seconded by Clevis Headley, and carried 5-0.**

(CLERK'S NOTE: Item V. was presented at this time.)

**V. EXECUTIVE SESSION**

**V.a. C16-009**

Vice Chair Headley read the following Public Report and Final Order of Dismissal as discussed during the executive session:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on August 16, 2016, alleging that Respondent, Rashod Smith, a City of Delray Beach employee, violated §2-443(b) of the Palm Beach County Code of Ethics by waiving the facility rental application and fee for the Pompey Park Recreation Center for another City of Delray Beach employee when he did not have the authority to waive the application and fee.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. On November 3, 2016, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Affidavit from COE investigative staff, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and the Respondent, the Commission determined that the violation was inadvertent, unintentional or insubstantial and issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance.

Therefore it is:

**ORDERED AND ADJUDGED** that the complaint against Respondent, Rashod Smith, is hereby **DISMISSED** and a Letter of Instruction is issued.

**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on November 3, 2016.

**V.a. – CONTINUED**

By: Michael S. Kridel, Chair

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

Vice Chair Headley read the following Letter of Instruction as discussed during the executive session:

Mark E. Bannon, Executive Director of the Palm Beach County Commission on Ethics (COE) {Complainant}, filed the above-captioned complaint against Rashod Smith (Respondent), an employee of the City of Delray Beach (City), alleging a violation of the Palm Beach County Code of Ethics, specifically Article XIII, §2-443{b}{Corrupt misuse of official position). The complaint alleged, in part, that Respondent waived the rental application and fee for a City facility for another City employee when he did not have the authority to waive the application and fee.

Facts:

This matter came to the attention of COE staff via email from City Manager, Donald Cooper. The email contained information that Mr. Cooper obtained from a whistleblower. The whistleblower alleged that Respondent granted Tennille Decoste, a City employee unfettered access to a City facility during non-business hours by providing Ms. Decoste with keys and a security code to gain access into the building for a personal Thanksgiving Day dinner on November 26, 2015. The investigation revealed that Respondent did in fact provide Ms. Decoste with the keys and the security access code to gain entry into the City's Pompey Park Recreation Center. The investigation also revealed that Ms. Decoste requested to pay for the rental of the recreation center but that Respondent waived the rental application and \$222.60 rental fee even though he did not have the authority to do so.

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**V.a. – CONTINUED**

Holding:

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 violation was unintentional, inadvertent or insubstantial and has determined that the public interest would not be served by proceeding further. However, Respondent is advised that the filing of Ethics Complaint CIS-030, along with this Letter of Instruction, is to serve as notice that he should be more careful in the future to ensure that he follows the requirements of §2-443(b) to avoid any future enforcement action.

This Letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on November 3, 2016.

Palm Beach County Commission on Ethics,

By: Michael S. Kridel, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Letter of Instruction.)

**V.b. C16-006**

Vice Chair Headley read the following Public Report Finding Probable Cause as discussed during the executive session:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on July 1, 2016, alleging that Respondent, Rowan Hughes, a former Palm Beach County employee, violated §2-443(a) and §2-443(b) of the Palm Beach County Code of Ethics by attempting to receive a discount for the repair of his personal vehicle.

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**V.b. – CONTINUED**

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On November 3, 2016, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Affidavit from COE investigative staff, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and the Respondent, the Commission determined that there are reasonably trustworthy facts and circumstances to find probable cause exists and that the Respondent may have violated §2-443(a) and §2-443(b) of the Palm Beach County Code of Ethics. A final hearing will be set to determine whether any violation occurred.

Therefore it is:

**ORDERED AND ADJUDGED** that probable cause exists and the complaint against Respondent, Rowan Hughes, will be set for **FINAL HEARING** within 120 days to be coordinated between the parties.

**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on November 3, 2016.

By: Michael S. Kridel, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report Finding Probable Cause.)

**V.c. C15-027**

Vice Chair Headley read the following Public Report and Final Order of Dismissal as discussed during the executive session:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on December 4, 2015, alleging that Respondent, Joseph Lang, a City of Delray Beach employee, violated §2-443(d) of the Palm Beach County Code of Ethics by entering into contracts with the City through his outside business when his outside business did not meet any of the exceptions to the contractual relationships provision.

**V.c. – CONTINUED**

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On November 3, 2016, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Affidavit, and the Report of Investigation from COE investigative staff and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and the Respondent, the Commission determined that the violation was inadvertent, unintentional or insubstantial and issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Joseph Lang, is hereby DISMISSED and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on November 3, 2016.

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

Vice Chair Headley read the following Letter of Instruction as discussed during the executive session:

Mark E. Bannon, Executive Director of the Palm Beach County Commission on Ethics (COE) (Complainant) filed the above captioned complaint against Joseph Lang (Respondent), an employee of the City of Delray Beach, alleging a violation of the Palm Beach County Code of Ethics, specifically Article XIII, §2-443(d)(Contractual relationships). The complaint alleged that Respondent's outside business entered into contracts with his public employer, the City of Delray Beach.

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**V.c. – CONTINUED**

**Facts:**

This matter came to the attention of COE staff via a letter from Mr. Donald Cooper, City Manager for the City of Delray Beach, stating that an audit revealed that Respondent was an employee of Lang at First Response CPR Services, a vendor of the City of Delray Beach. The investigation by COE staff revealed that Respondent is the sole owner of Lang at First Response CPR Services and has a 100% ownership interest in the company. Invoices and statements from Respondent and the City Manager showed that Lang at First Response CPR Services was a vendor of the City and received \$10,834.51 from the City for providing goods and services in 2014 and 2015. During the investigation, Respondent also stated that he was approached by one of the officials from the City's Fire Department who specifically requested products and services from Respondent's outside business. Respondent stated when the issue of having a contractual relationship with his public employer was brought to his attention, he immediately ceased providing any goods and services to the City.

**Holding:**

Respondent's outside business (Lang at First Response CPR Services) was a vendor of the City. Under §2-443(d) of the Code, Respondent's outside business was prohibited from entering into any contracts or transactions for goods or services with the City. Further, the contracts between Lang at First Response CPR Services and the City did not meet any of the exceptions to the contractual relationships provision listed in §2-443(e)(1-5). The COE is mindful of the fact Respondent was approached by an official from the City's Fire Department who specifically requested services from Lang at First Response CPR Services.

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**V.c. – CONTINUED**

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 violation was unintentional, inadvertent, or insubstantial and has determined that the public interest would not be served by proceeding further. However, Respondent is advised that the filing of Ethics Complaint 05-027, along with this letter of Instruction, is to serve as notice that entering into a contract with his public employer is prohibited under the Palm Beach County Code of Ethics unless an exception applies. Respondent is therefore instructed to be more careful in the future to ensure that he follows the requirements of §2-443(d) to avoid any future enforcement action.

This letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on November 3, 2016.

By: Michael S. Kridel, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Letter of Instruction.)

**IX. EXECUTIVE DIRECTOR COMMENTS**

**IX.a.**

**DISCUSSED:** Council Meetings and the City of Westlake.

Executive Director Mark Bannon said that he and staff completed their goal of attending at least one council meeting in each municipality and that the newest municipality, the City of Westlake, requested a presentation from the COE. He added that while the Inspector General had jurisdiction over all newly created cities, the COE did not, and that he hoped to enter into a Memorandum of Understanding (MOU) with the City of Westlake.

**IX.b.**

**DISCUSSED:** New COE Handbook.

Mr. Bannon said that staff completed the final edits for the new handbook and it was in the publishing stage. He thanked John Johnson and his team from Palm Beach County Graphics for their assistance.

**IX.c.**

**DISCUSSED:** Corruption Discussion.

Mr. Bannon said that he met with Ivan Gorachenko, acting head of the Ukrainian National Reforms Council which was an anti-corruption group established in 2014. He said that they had an interesting discussion about the differences between their countries and corruption issues. He added that the National Reforms Council monitored not only corruption in government, but in general.

**IX.d.**

**DISCUSSED:** Delray Beach Housing Authority.

Mr. Bannon said that the Palm Beach County Board of County Commissioners approved the COE's MOU agreement with the Delray Beach Housing Authority. He added that the MOU would be in effect for another three years.

**IX.e.**

**DISCUSSED:** 10<sup>th</sup> Annual Ethics Seminar.

Mr. Bannon said that on November 4, he and Ms. Kelley would attend the 10<sup>th</sup> Annual Ethics Seminar at Palm Beach State College South Campus hosted by the Palm Beach County Planning Congress. He said that, generally, the seminar featured ethical issues in land use and was geared toward professional planners.

**X. COMMISSION COMMENTS**

**X.a.**

**DISCUSSED:** County Employees.

Chair Kridel said that the COE's role was critically important and aided County employees' education process to prevent them from inadvertently committing ethical violations.

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XI. PUBLIC COMMENTS – None

XII. ADJOURNMENT

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

APPROVED: XX/XX/2016



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Chair/Vice Chair