

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

FEBRUARY 2, 2017

**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
Sarah L. Shullman

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Executive Director
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

RECESS

At 1:31 p.m., the chair declared the meeting recessed for an executive session.

IV. EXECUTIVE SESSION

RECONVENE

At 2:35 p.m., the meeting reconvened with Chair Kridel, Vice Chair Clevis Headley, and Commissioners Michael Loffredo, Judy Pierman, and Sarah Shullman present.

IV.a. C16-008

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

Complainant, Kelvin Bledsoe, filed the above referenced complaint on August 3, 2016, alleging that Respondent, Kathryn McNealy, Palm Beach County Community Services Department (CSD) employee, violated §2-443(b) of the Palm Beach County Code of Ethics by using her official position to manipulate the times sheets of two CSD employees.

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 February 2, 2017, the Commission conducted a hearing and reviewed the Report of Investigation and the Probable Cause Recommendation submitted by the COE Advocate. 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, Kathryn McNealy, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on February 2, 2017.

By: Michael S. Kridel, Chair.

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

IV.b. C16-010

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

Complainant, Jessica Hinnars, filed the above referenced complaint on August 31, 2016, alleging that Respondent, Shelly Petrolia, City of Delray Beach City Commissioner, violated §2-443(c) of the Palm Beach County Code of Ethics by nominating a customer or client of Respondent's outside business to the City of Delray Beach Site Plan Review and Appeals Board.

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 February 2, 2017, the Commission conducted a hearing and reviewed the Report of Investigation and the Probable Cause Recommendation submitted by the Coe Advocate. 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, Shelly Petrolia, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on February 2, 2017.

By: Michael S. Kridel, Chair.

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

V. PROCESSED ADVISORY OPINIONS (Consent Agenda)

V.a. Request for Opinion (RQO 17-001)

V.b. RQO 17-003

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

VI. ITEMS PULLED FROM CONSENT AGENDA – None

VII. EVIDENTIARY STANDARDS REVIEW

Christie Kelley, Esq., COE General Counsel, said that:

- The lowest evidentiary standard that the COE could use was legal sufficiency for the filing of a complaint.
- For legal sufficiency to exist, the person must be under the jurisdiction of the COE; and the alleged actions, if valid, must constitute a violation of the COE's Code of Ethics.
- The next evidentiary standard involved probable cause hearings.
- Probable cause existed where there were reasonably trustworthy facts and circumstances that warranted proceeding to a final hearing.
- The third evidentiary standard was clear and convincing evidence, which would be applied to the upcoming final public hearing.
- Clear and convincing evidence was precise, explicit, lacked confusion, and possessed such weight that it produced a firm belief or conviction without hesitation about the matter in issue.
 - The clear and convincing evidence was a medium or intermediate-level evidentiary standard.
 - The standard required more proof than a preponderance of the evidence but less proof than beyond a reasonable doubt.
 - The Fourth District Court of Appeal described the clear and convincing standard as follows:

The clear and convincing evidence requires that the evidence must be found to be credible. The facts to which the witnesses testify must be distinctly remembered. The testimony must be precise and explicit, and the witness must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact the firm belief or conviction without hesitancy as to the truth of the allegations sought to be established.

VIII. 2016 ANNUAL REPORT

Mark Bannon, COE Executive Director, said that:

- The front and back covers of the 2016 annual report featured photographs depicting the county's western communities.
- The COE's mission statement remained unchanged since the COE's inception.
- The COE had jurisdiction over three ordinances:
 - the Palm Beach County Code of Ethics (Code), which applied to all County and municipal officials and employees;
 - the Lobbyist Registration Ordinance, which applied countywide except for three municipalities with a similar ordinance; and
 - the Post Employment Ordinance, which applied to County officials and employees after leaving their positions.
- The COE's most important mission was to teach people how to understand the Code.
 - The majority of violations were found to be unintentional.
 - Approximately 400 live presentations were conducted.
 - The updated COE training video was uploaded to the COE's Web site, youtube.com, and was available in DVD format.
 - The Practical Guide to Code of Ethics handbook was recently published, and staff was distributing it to municipalities and throughout the county.
- The COE decided 30 advisory opinions in 2016.
 - The online database, which was searchable by subject matter, contained 390 advisory opinions from the past six years.

VIII. – CONTINUED

- Inquiries that did not lead to complaints were not published on the Web site but were still available to the public.
- The COE monitored and reviewed County and municipal training requirements.
- Ethics training was available to lobbyists and vendors; however, the Lobbyist Registration Ordinance did not require them to take the training.
- Staff attended at least one municipal meeting of the 38 existing municipalities with the exception of the City of Westlake, which was outside the COE's jurisdiction.
- Staff spoke about the COE at approximately 50 private and public events.
- The COE maintained a strong social media presence via Twitter and Facebook.
- There were 12 sworn complaints in 2016 with five still pending.
- Thirteen pending complaints from 2015 were carried over to 2016; two of which were still pending.
- There were 21 inquiries with 11 pending. One inquiry from 2015 was still pending.
- Of the 10 probable cause hearings, four were legally sufficient with no probable cause, two were legally sufficient with probable cause but were dismissed, and four had probable cause but were dismissed with letters of instruction. Three probable cause hearings were in abeyance because criminal charges were pending, one was set for final hearing, and two were determined during today's executive session.
- The COE's budget for fiscal year 2015-2016 was \$578,227, of which \$520,000 was expended. The COE has never exceeded its allotted budget.

VIII. – CONTINUED

- Conflict of interest or misuse of office were the most prevalent types of advisory opinions.
 - Twelve advisory opinions involved conflict of interest or misuse of office and four involved voting conflicts.
 - Of the 30 requested advisory opinions, 15 were from municipalities, six were from advisory boards, seven were from the County, one was from a vendor, and one was from a special district.
- 50 percent of the 2016 complaints involved corrupt misuse; 25 percent involved misuse of office, and 5 percent involved voting conflicts.
- 58 percent of complaints were from municipalities; 27 percent involved the County, and 15 percent were from entities, such as vendors, lobbyists, or one of the special districts.
- A complaint process diagram was included in annual reports to illustrate the steps that typically followed the filing of sworn complaints.

Chair Kridel noted that his professional designation was CFC and not CFA, as reflected on page 8 of the annual report.

IX. EXECUTIVE DIRECTOR COMMENTS

IX.a.

DISCUSSED: Ethics Training.

Mr. Bannon said that staff was distributing copies of the ethics training DVD to municipalities and informing them that ethics training was available on the COE Web site. He thanked the County's Graphic Department and PBTv Channel 20 for their help with ethics training projects.

IX. – CONTINUED

IX.b.

DISCUSSED: Ethics Awareness Month.

Mr. Bannon said that on March 14, 2017, at 9:30 a.m., the Board of County Commissioners would present a proclamation declaring April 2017 as Ethics Awareness Month.

IX.c.

DISCUSSED: Top 10 Ethics Rules.

Mr. Bannon said that he spoke with Assistant County Administrator Todd Bonlarron about improving County government communications and that the top 10 ethics rules would be a good poster to distribute among the various County buildings.

IX.d.

DISCUSSED: Regional Ethics Bowl.

Mr. Bannon noted that he, Ms. Levesque, and Ms. Kelly participated as judges and moderators at the January 28, 2017, Regional Ethics Bowl. He explained that students debated ethical issues and that Atlantic High School's two teams placed first and second among the 12 teams that competed.

XI. COMMISSION COMMENTS

XI.a.

DISCUSSED: Commendations.

Commissioner Shullman thanked staff members for the 2016 annual report and for their accomplishments during 2016. She noted that staff fielded approximately 772 calls.

Commissioner Pierman commended staff on the 2016 annual report.

Mr. Bannon said that 200 copies of the report were ordered for the municipalities.

XI. – CONTINUED

Vice Chair Headley commended staff members for their outstanding work during 2016.

Chair Kridel said that he agreed with the commendations and that he also wanted to acknowledge the COE members' dedication.

XI.b.

DISCUSSED: March 2, 2017, Final Public Hearing.

Commissioner Shullman inquired whether the March 2, 2017, final public hearing had any updates regarding motions and exhibit lists.

Ms. Levesque said that an update would be available February 3, 2017.

XII. PUBLIC COMMENTS – None

XIII. ADJOURNMENT

At 2:59 p.m., the chair declared the meeting adjourned.

APPROVED:



Chair/Vice Chair