

Honesty - Integrity - Character

Palm Beach County Commission on Ethics

Commissioners
Kristin A. Vara-Garcia, Chair
Michael S. Kridel, Vice Chair
Peter L. Cruise
Michael H. Kugler
Rodney G. Romano

Executive Director
Christie E. Kelley

In Re: Robert Shorr

C22-004

MOTION TO DISMISS AND ISSUE A LETTER OF INSTRUCTION

COMES NOW The Commission on Ethics, by the undersigned Advocate, pursuant to Section 2-260.3 - Dismissal of complaints, of the Palm Beach County Commission on Ethics Ordinance, and respectfully requests the Hearing Officer issue a Letter of Instruction and dismiss complaint C22-004 and in support thereof states as follows:

LAW

Section 2-260.3 – Dismissal of complaints.

This Motion is filed pursuant to provisions of Section 2-260.3, stating that the commission on ethics or hearing officer may, at its discretion:

- (b) dismiss any complaint at any stage of disposition and issue a Letter of Instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional, or insubstantial.

FACTS

1. The complaint alleges that Respondent violated Section 2-443(b), Corrupt misuse of official position, of the Palm Beach County Commission on Ethics, which prohibits an official from using or attempting to use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others.
2. For the purposes of Section 2-443(b), "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.
3. Wrongful intent is defined as acting with reasonable notice that one's conduct was inconsistent with the proper performance of his or her public duties and would be a violation of the code of ethics. *Blackburn v. State, Com'n on Ethics*, 589 So. 2d 431 (Fla. Dist. Ct. App. 1991).

4. Loxahatchee Groves Code of Ordinance, Section 2 (2)(b), states that the authority granted to Town council members is that they are “vested with all legislative powers of the town to act.”
5. Loxahatchee Groves Code of Ordinance, Section 2 (2)(b), also states that the Mayor is also authorized to “preside at the meetings of the council and shall be recognized as the head of town government for service of process, ceremonial matters, and the signature or execution of ordinances, contracts, deeds, bonds, and other instruments and documents and for purposes of military law...The mayor shall have no administrative duties other than those necessary to accomplish these actions, or such other actions as may be authorized by the town council, consistent with general or special law.”
6. The investigation conducted by the Commission on Ethics showed that Respondent improperly used his position as the mayor of the Town of Loxahatchee Groves to corruptly secure a special benefit for himself or others by actively engaging in the day-to-day operations of a significant paving project contracted by the Town, which was inconsistent with the proper performance of his duties as the mayor.
7. Multiple employees from Ranger Construction, the company completing the paving project, stated that Respondent was their point of contact in the field, made the “field decisions,” and outlined the areas to be paved.
8. During Respondent’s sworn statement, he confirmed that he identified the areas to be paved during the Town’s paving project.
9. Respondent also confirmed that the duties of mayor would not typically include identifying areas to pave and that he assumed decision-making authority that was outside of his role as mayor/councilmember, but stated he “volunteered” because the Town employee who would normally have this responsibility was out sick.
10. By actively engaging in the day-to-day operations of the paving project, Respondent improperly assumed decision-making authority, which allowed him to choose extra areas to be paved knowing this would benefit specific individuals, including certain political allies.
11. Respondent had reasonable notice that his conduct was inconsistent with the proper performance of his public duties because he acknowledged that he received the required training on the Palm Beach County Code of Ethics.
12. On December 14, 2023, a probable cause hearing was held and the Commission on Ethics found probable cause existed.

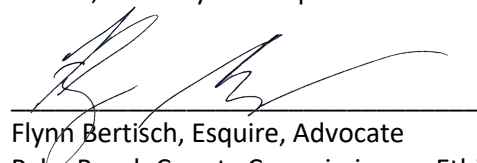
Although the Commission on Ethics contends that the evidence revealed during the investigation, including Respondent's sworn testimony, is sufficient to prove a violation of Section 2-443(b), it appears that the alleged violation was inadvertent, unintentional, or insubstantial. To be just and in the best interest of the citizens of Palm Beach County and to avoid the time and expense of litigation, the Commission on Ethics Ordinance authorizes the hearing officer to resolve such complaints with a Letter of Instruction, which serves as notice to the Respondent to exercise greater diligence in the future to adhere to the requirements of the Palm Beach County Code of Ethics in order to avoid any future enforcement action.

WHEREFORE, the Palm Beach County Commission on Ethics respectfully requests that the hearing officer issue a Letter of Instruction and enter an order dismissing the complaint.

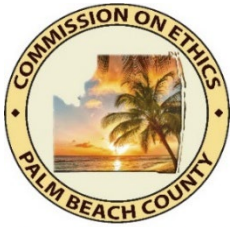
CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the Motion to Dismiss and Issue a Letter of Instruction was sent via email this 9th day of May, 2024 to Gina Levesque, Intake and Compliance Manager, Palm Beach County Commission on Ethics and David Markarian, attorney for Respondent.

By:



Flynn Bertisch, Esquire, Advocate
Palm Beach County Commission on Ethics
Florida Bar No. 605808



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In Re: Robert Shorr
_____ /

C22-004

NOTICE OF HEARING

RE: MOTION TO DISMISS AND ISSUE A LETTER OF INSTRUCTION

YOU ARE HEREBY NOTIFIED that the above-referenced complaint has been set for a hearing regarding the Motion to Dismiss and Issue a Letter of Instruction before the Palm Beach County Commission on Ethics with Elizabeth R. Clark, Esquire as the Hearing Officer.

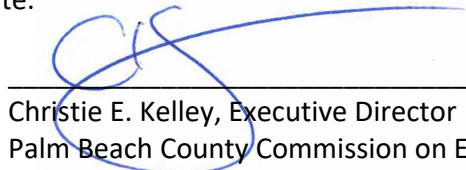
The hearing will be held **virtually via WebEx** at the following link: Meeting link <https://pbc.gov.webex.com/pbc-gov/j.php?MTID=mb70e20f51a04f1a188751761c5731475> on **Wednesday, May 15, 2024 at 3:00 p.m.** The meeting number is 2300 329 8940, and the password is kU4CMzpr7v8. If you would like to join by video system, dial [23003298940@pbc.gov.webex.com](tel:23003298940); you can also dial 173.243.2.68 and enter your meeting number. If you would like to join by phone, dial 1-844-621-3956 or 1-415-655-0001 and use access code: 2300 329 8940.

The hearing is open to the public and minutes will be taken by the clerk. An abbreviated version of the minutes will be provided by the clerk approximately one month after the hearing. If you would like a verbatim copy of the minutes, you may request a copy at your own expense.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the Notice of Hearing was sent via email this 9th day of May, 2024 to Elizabeth R. Clark, Esquire, Hearing Officer; Dave Markarian, attorney for Respondent; and Flynn Bertisch, Esquire, COE Advocate.

By:



Christie E. Kelley, Executive Director
Palm Beach County Commission on Ethics