



Palm Beach County
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News Release

For Immediate Release
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Summary of Palm Beach County Commission on Ethics Meeting Held on September 12, 2012

The Palm Beach County Commission on Ethics (COE) took the following actions at its monthly public meeting held on September 12, 2012.

Three complaints were heard in executive session. One complaint was heard in public session. All documents pertaining to complaint C11-027, C12-006, C12-004, and C12-007 are published on the COE website at <http://www.palmbeachcountyethics.com/complaints.htm>. The COE took the following action:

In C12-006, in re: John Greene: After reviewing staff memoranda of inquiry and no legal sufficiency, the COE determined that the actions taken by the respondent do not constitute a violation of the Code of Ethics and dismissed the complaint due to no legal sufficiency.

In C12-004, in re: Addie Greene: The COE issued a public report dismissing the complaint pursuant to §2-260.3 of the Commission on Ethics ordinance and issued a letter of instruction to the respondent. Full text of the order, investigative materials and letter of instruction are available at <http://www.pbcgov.com/ethics/complaints.htm>

In C12-007, in re: Rafael Abadia: The COE made a finding of no probable cause and issued a letter of instruction. Full text of the order, investigative materials and letter of instruction are available at <http://www.palmbeachcountyethics.com/complaints.htm>.

In C11-027, the COE issued a public report and final order finding that respondent Dr. Scott Swerdlin, violated Chapter 8, Article XIII, Section 2-443(a) and (c) of the Palm Beach County Code of Ethics when respondent, as chairman of the Village of Wellington Equestrian Preserve Committee, substantially participated in a matter that would result in a special financial benefit to the project applicant, Equestrian Sports Productions, a customer or client of his outside businesses, Palm Beach Equine Medical Centers and Palm Beach Equine Clinic. In addition, upon ultimately abstaining from the vote, Dr. Swerdlin failed to file a State of Florida Conflict Form 8B and submit a copy to the Palm Beach County Commission on Ethics as required. Dr. Swerdlin was issued a letter of reprimand and was fined \$1,000.

Five (5) advisory opinions were approved. Two (2) advisory opinions were tabled and will be considered at the next COE meeting. The full opinions are published and available at: <http://www.palmbeachcountyethics.com/opinions.htm>

RQO 12-058: A member of a city Historical Preservation Advisory Board asked whether she may participate and vote in a matter involving a proposed construction in a vacant lot adjacent to her home, where she has filed objections to the proposed construction. Additionally, she asked whether she may attend and participate as an individual homeowner, should she be required to abstain.

The COE opined as follows: Under the facts and circumstances submitted, an advisory board member may not participate and vote on a matter involving proposed construction in a vacant lot adjacent to her home. Furthermore, as a member of the Historical Preservation Advisory Board, she is prohibited from participating in the discussion even in her personal capacity as a homeowner.

RQO12-059: A member of a city Historical Preservation Advisory Board asked whether she may “hire out as a personal consultant to the persons submitting the plans for board review.”

The COE opined as follows: An advisory board member is prohibited from participating in discussions, presentations or voting on any issue that comes before her board which would provide a special financial benefit to her or to her customer or client. In addition, board members are prohibited from soliciting business or otherwise using their official position, as a member of a city board, for their personal financial benefit or the financial benefit of their business, employer or client. Lastly, depending upon the facts and circumstances, recurring conflicts related to an official’s service on the board may violate Florida Statute and otherwise create an appearance of impropriety.

RQO 12-060: A town clerk asked whether her town may give December holiday gifts to town employees and volunteers.

The COE opined as follows: There is no prohibition under the Code of Ethics where it is the intention of the town to give all employees and volunteer board members holiday gifts purchased from town funds and approved by the Town Council. The gifts contemplated are, for example, turkeys or \$25 Publix gift cards. No lobbyist or vendor is solicited or otherwise involved in the town holiday gift program.

RQO 12-062: A city attorney asked whether the Code of Ethics prohibits employees and officials from soliciting sponsorships from persons or entities who do not sell, lease or lobby the city, where the sponsorship may personally benefit a city official or employee. Additionally, she asked, if such action is prohibited, whether the city may solicit non-vendor sponsorships provided the city adopts a resolution at a public meeting declaring that a VIP reception attended by city officials and employees serves a public purpose.

The COE opined as follows: The Palm Beach County Code of Ethics (the Code) does not prohibit officials and employees from soliciting or accepting gifts from non-vendor local businesses provided the gift is not solicited or accepted as a *quid pro quo* or in exchange for “an official action taken” or “legal duty performed.” Gifts provided to a state reporting individual by a non-vendor or lobbyist of his or her municipality must be reported pursuant to all standards and requirements imposed under state law regarding the reporting of gifts. All other officials and employees who are not reporting individuals under state law are required by the Palm Beach County Code of Ethics to report gifts from non-vendors and non-lobbyists in excess of \$100, unless one of several exceptions apply.

RQO 12-063: A town attorney asked whether a an employee of a corporation that owns property within a study area district may serve on an advisory board created specifically to review potential development proposals for that district, and if so, whether he may participate and vote on any ultimate recommendation submitted to the town. In total, based upon the study area legend, prepared by town staff and submitted to COE staff, there are 15 property owners who may be affected by changes in the study area. Recommendations ultimately could include land use changes affecting density, height restriction and permitted uses within the study area. Changes could have a significant impact on property values; however, it is unknown at this time whether the board will ultimately recommend such changes.

The COE opined as follows: Advisory board members are prohibited from using their official position, participating or voting on an issue that would give a financial benefit to their outside employer not shared with similarly situated members of the general public. There is no bright line as to whether a contingent financial benefit creates a conflict. In evaluating conflict of interest under the Palm Beach County Code of Ethics, the COE considers 1) the number of persons who stand to gain from a decision, and 2) whether the gain or loss is remote and speculative. Where the class of persons who stand to gain from a decision is small, it is more likely that a member will have a conflict. Similarly, where a gain or loss to an official or his or her employer is not subject to significant contingencies, it may result in a conflict of interest under the Palm Beach County Code of Ethics.

Under the facts and circumstances submitted, where the official’s employer is one of 15 affected landowners and the recommendations of the committee will likely have a direct financial impact on the value of their properties, a conflict exists and the official may not participate and vote on issues related to the study area.

A detailed explanation of all agenda items is available at <http://www.palmbeachcountyethics.com/meetings.htm>

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