



Honesty - Integrity - Character

**Palm Beach County
Commission on Ethics**
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Summary of Palm Beach County Commission on Ethics Meeting Held on June 2, 2016

The Palm Beach County Commission on Ethics (COE) took the following actions at its monthly public meeting held on June 2, 2016.

One complaint was heard in executive session. The final order is published on the COE website at: <http://www.palmbeachcountvethics.com/complaints.htm>.

C15-029: The COE reviewed and considered the investigative report, statement and probable cause recommendation of the COE advocate and the statement made by the respondent. The COE found no probable cause, dismissed the case and issued a public report and final order of dismissal.

Four advisory opinions were discussed and approved. The full opinions are published and available at: <http://www.palmbeachcountvethics.com/opinions.htm>

RQO 16-011: The ethics officer for the city of West Palm Beach asked:

- 1) if a city employee who owns an outside business which offers fire rescue training is prohibited from providing such training to city fire rescue employees if the city pays directly or indirectly for the training;
- 2) if a city employee who works part-time for a business which offers fire rescue training is prohibited from providing such training to city fire rescue employees when that business is owned by another city employee; and
- 3) if a city employee who works part-time for a business which offers fire rescue training is prohibited from providing such training to city fire rescue employees when that business is not owned by a city employee.

The COE opined as follows:

- 1) Yes, the employee is prohibited from providing such training. As the owner of the business, the city employee who has an outside business which offers the training is not eligible to receive an outside employment waiver, even where he may also be a part-time employee of this outside business.
- 2) Yes, the employee is prohibited from providing such training. Because the owner of this business is a city employee and his or her business cannot contract with the city to provide goods or services, the city employee who works part-time at this business cannot receive a part-time outside employment waiver, as the outside employer cannot contract with the city for goods or services.
- 3) The city employee may be eligible for an outside employment waiver under §2-443(e)(5) of the Code of Ethics, which establishes a process by which the contractual relationship prohibition is waived for employees. As long as he or she meets all of the waiver requirements as set forth in §2-443(e)(5), including not working directly within the section or division of the West Palm Beach Fire Rescue Department or another city department that is specifically authorized to enforce, oversee, or administer the contract, the city employee who works part-time for a business which offers fire rescue training is not prohibited from providing such training to city fire rescue employees when that business is not owned by a city employee.

RQO 16-012: The director of communications for the city of West Palm Beach asked if the Code of Ethics prohibits him from sitting as a member of the Volunteer Leadership Board of the Palm Beach County chapter of the American Cancer Society (ACS), from becoming a member of ACS Cancer Action Network (CAN), or from participating in fundraising efforts for the ACS.

The COE opined as follows: He is not prohibited from serving as a member of the local ACS Volunteer Leadership Board or from becoming a member of the ACS Cancer Action Network as long as he does not use his position as director of communications to give an improper special benefit to himself, the person or entity from which he is soliciting donations, or to any of the specified persons or entities under Sec. 2-443(a)(1-7). He is also not prohibited from participating in efforts to fundraise for the ACS because he does not serve as an officer or director of ACS. However, he is prohibited from soliciting donations from any person or entity that has a current application for approval or award of any nature before the city and from using any city resources in the solicitation of donations for any nonprofit organization, including ACS. If he solicits donations, directly or indirectly, in excess of \$100 from a vendor, lobbyist, or principal or employer of a lobbyist of the city of West Palm Beach, he must maintain a record of the solicitations from city vendors, lobbyists, principals or employers of lobbyists, and submit a log to the Palm Beach County Commission on Ethics within 30 days of the event, or if no event, within 30 days of the solicitation.

RQO 16-013: A councilman for the town of Loxahatchee Groves asked:

- 1) if a conflict of interest would arise for him if he speaks with the town's legal counsel regarding a potential conflict between a town land development code and the Florida Constitution when he has a pending code complaint against him regarding the same land development code; and
- 2) if a voting conflict would arise for him if he votes on the land development code during a Town Council meeting while he has the pending code complaint against him.

The COE opined as follows:

- 1) As long as he refrains from discussing the code complaint against him and does not use his discussions with the town's legal counsel to give himself an improper special benefit, a conflict of interest would not arise for him if he discusses the potential conflict between the town land development code and the Florida Constitution.
- 2) As long as any benefit or loss attributed to him as an individual resident of the town is shared with similarly situated members of the general public and does not constitute a unique circumstance whereby any personal gain or loss to him exceeds significantly other members of the affected class, a conflict would not exist. Under the facts presented, if the changes to the town's land development code that he is voting on would affect all of the residents of the town of Loxahatchee Groves in the same way, then he would not have a conflict of interest because the size of the class would be large. However, if the changes to the town's land development code would affect a small class of residents within the town of Loxahatchee Groves and would provide a unique benefit to him, then a conflict of interest would exist. In such a case, in order to avoid violating the voting conflict provision of the code, he needs to publicly disclose the nature of the conflict, abstain from voting, not participate in discussion on the matter, complete and file a State of Florida Commission on Ethics Conflict Form (Form 8B), and submit a copy of the Form 8B to the COE.

RQO 16-015: The city manager for the city of South Bay asked if a conflict of interest would arise for him if the city applies for the demolition of a building on his sister-in-law's property through a Palm Beach County program funded by the U.S. Department of Housing and Urban Development.

The COE opined as follows: Neither he nor any of the persons or entities specified in Sec. 2-443(a)(1-7) would receive a special financial benefit from the demolition of the building because he, his spouse, and his sibling do not have any ownership interest in the building or the property. Further, while any potential special financial interest given to his brother using his official authority is subject to Sec. 2-443(a)(1-7), a special financial interest given to his brother's wife is not under this section. In addition, since he is not involved in selecting the buildings that are submitted for demolition and does not influence the selections, a prohibited conflict of interest would not arise for him if the city applies to the Palm Beach County program for the demolition of the building on his sister-in-law's property. Moreover, the code's provision against "corrupt" misuse of his authority is also not applicable in this circumstance. The use of his authority as the city manager to ultimately request the demolition of buildings that have been deemed unsafe cannot be considered a corrupt misuse of his authority, as that act is not inconsistent with the proper performance of his public duties.

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

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