



*Honesty - Integrity - Character*

**Palm Beach County**

**Commission on Ethics**

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**Commissioners**

Peter L. Cruise

Carol E. A. DeGraffenreidt

Michael S. Kridel

Michael H. Kugler

Rodney G. Romano

**Executive Director**

Mark E. Bannon

**Intake and Compliance Manager**

Gina A. Levesque

**General Counsel**

Christie E. Kelley

**Investigator**

Abigail Irizarry

**Investigator**

Mark A. Higgs

# *Agenda*

March 5, 2020 – 1:30 p.m.

Governmental Center,

301 North Olive Avenue, 6<sup>th</sup> Floor

Commissioners Chambers

**Meeting will begin at 1:30pm**  
**Executive Session will begin at 1:45pm**  
**Regular Agenda will resume at 3:00pm**

- I. Call to Order by Executive Director
- II. Roll Call
- III. Approval of Minutes from February 6, 2020
- IV. Swearing in ceremony by Judge Sarah L. Shullman
  - a. **Michael H. Kugler** – Appointed by the F. Malcolm Cunningham, Sr. Bar Association, the Hispanic Bar Association of Palm Beach County and the Palm Beach County Bar Association
  - b. **Carol E. A. DeGraffenreidt** – Appointed by the Palm Beach County Association of Chiefs of Police
- V. Roll Call
- VI. Introductory Remarks
- VII. Nomination and election of new Chairperson (begin presiding over meeting immediately upon election)
- VIII. Nomination and election of new Vice Chairperson
- IX. Adjourn for Executive Sessions
- X. Publication of Executive Session Orders
  - a. C19-002    b. C19-010
  - c. C19-011    d. C19-012
- XI. Executive Director Comments
- XII. Commission Comments
- XIII. Public Comments
- XIV. Adjournment

If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, (s)he will need a record of the proceedings, and that, for such purpose, (s)he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



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

**FEBRUARY 06, 2020**

**THURSDAY  
1:31 P.M.**

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

**II. ROLL CALL**

MEMBERS:

Bryan Kummerlen, Vice Chair  
Peter L. Cruise  
Michael S. Kridel  
Rodney G. Romano

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:

Timothy Montiglio, Deputy Clerk, Clerk & Comptroller's Office (Clerking)  
Julie Burns, Deputy Clerk, Clerk & Comptroller's Office, (Condensing)

**III. INTRODUCTORY REMARKS – None**

**IV. APPROVAL OF MINUTES FROM DECEMBER 12, 2019**

**MOTION to approve the December 12, 2019 minutes. Motion by Peter Cruise, seconded by Michael Kridel, and carried 4-0.**

## **UNSCHEDULED ITEM**

Mark Bannon, COE Executive Director, announced that Chair Sarah Shullman was appointed a County court judge by Governor Ron DeSantis, Vice Chair Bryan Kummerlen would be leaving his position, and Anthony Bennett was now with the Office of Inspector General.

## **RECESS**

**At 1:38 p.m., the vice chair declared the meeting recessed for an executive session.**

## **RECONVENE**

**At 2:17 p.m., the meeting reconvened with Vice Mayor Kummerlen and Commissioners Cruise, Kridel and Romano present.**

V. See later in the minutes.

## **VI. PROCESS ADVISORY OPINIONS (CONSENT AGENDA)**

VI.a. Request for Opinion (RQO) 20-001

VI.b. RQO 20-002

VI.c. RQO 20-003

**MOTION to approve the consent agenda. Motion by Peter Cruise, seconded by Rodney Romano, and carried 4-0.**

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

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

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**V. EXECUTIVE SESSION FOR C19-003**

Commissioner Cruise read the following Public Report and Final Order of Dismissal:

Complainant, Christopher Davey, a private citizen, filed the above referenced complaint on May 16, 2019, alleging that Respondent, Ryan Boylston, a city of Delray Beach elected official, violated §2-443(c) of the Palm Beach County Code of Ethics by failing to abstain from voting and participating in discussions on a matter that would result in a special financial benefit being given to a customer or client of his outside business.

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 February 6, 2020, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and the Respondent, the Commission issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance after determining that the violation was unintentional, inadvertent, or insubstantial.

Therefore, it is:

**ORDERED AND ADJUDGED** that the complaint against Respondent, Ryan Boylston, 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 February 6, 2020.

By: Brian Kummerlen, Vice Chair

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

## VIII. PRESENTATION OF 2019 ANNUAL REPORT

Mr. Bannon said that:

- The COE was created in 2010 based on a grand jury recommendation and subsequently a voter referendum.
- In 2011, the COE's authority was extended to include all county municipalities except Westlake, which did not exist at the time.
- The COE's mission statement was to foster integrity in public service, promote the public's trust and confidence in that service, and prevent conflicts between private interests and public duties.
- The COE was an independent organization that administered and enforced the Palm Beach County Code of Ethics (Code) and the lobbyist registration and post-employment ordinances.
  - The Code ensured that public employees and officials performed their public responsibilities impartially, did not use their public positions for private gain, and fostered public confidence and integrity in government.
  - The 2 ordinances functioned differently, but they established similar rules for how government business was conducted.
- The COE had jurisdiction over:
  - the BCC, approximately 6,000 full and part-time County employees, and about 1,000 volunteer officials that staffed 95 committees and boards; and
  - the 38 County municipalities with 203 elected officials, over 9,000 full and part-time employees, and 258 municipal boards with more than 1,800 volunteers.

- The COE had limited jurisdiction under:
  - the Code's gift law over vendors, lobbyists and principals/employers of lobbyists of the County and the 38 municipalities;
  - the County's lobbyist registration ordinance and 35 of the 39 municipalities for enforcement of Code violations based on the lobbyists that were registered to lobby within the municipalities; and
  - the post-employment ordinance over former County commissioners and certain former high-ranking County employees.
- The 5 COE members served a 4-year term without compensation.
- COE responsibilities included:
  - approving and publishing advisory opinions to assist County and municipal officials, employees, vendors, lobbyists, principals and employers of lobbyists; and
  - sitting as a quasi-judicial code enforcement board to evaluate complaints of Code violations, as well as the lobbyist registration or post-employment ordinances, and where appropriate, sanctioning violators within the ordinances.
- 43 in-person Code trainings were conducted for County and municipal employees, as well as offering DVD recordings, internet streaming, and YouTube videos.
- The COE website link offered miscellaneous training videos, Sunshine Law materials, and an interactive online quiz.
- A COE quarterly newsletter was published by the COE general counsel.
- COE staff attended at least 1 BCC meeting or municipal council meeting for each of the 39 municipalities.
- 9 Code trainings and training policy compliance reviews were conducted.

- 22 advisory opinions were issued regarding voting conflicts, conflicts of interest, and gift law questions.
- Turn-around time to formulate advisory opinions was about 13 days, and voting on them depended upon when the next COE meeting was scheduled.
- 41% of questions concerned voting conflicts or misuse of office.
- There were 12 sworn complaints of violations. 6 of the 12 were self-initiated by staff.
- 8 of the complaints were pending, 3 were administratively dismissed for having no legal sufficiency, and 1 was dismissed after the COE found no probable cause.
- 5 complaints filed in 2018 were heard in 2019. One contained a probable cause finding, and the other 4 were dismissed for no probable cause.
- 19 inquiries by individuals were not in the form of a complaint.
  - 8 were found to be not legally sufficient.
  - 3 became sworn complaints.
  - 1 was not legally sufficient, but it provided information that led to an investigation.
  - 7 remained ongoing.
- 80% of the complaints involved misuse of public office or employment, as well as corrupt misuse or disclosure of voting conflicts.
- \$680,598.71 was expended from the \$681,533 operating budget.
- Staff received approximately 970 telephone calls. 200 were referred to another enforcement agency, and 8 resulted in inquiries or investigations. Most of the other calls were for clarification on issues or informational in nature.



- Staff responded to 125 emails. 45 were referred to existing advisory opinions or sections of the Code, 24 were referred to another agency, and 7 led to an inquiry or investigation.

## **IX. EXECUTIVE DIRECTOR COMMENTS**

### **IX.a.**

**DISCUSSED:** Proposed Changes to the Code, Lobbyist Registration and COE Ordinances.

Mr. Bannon said that:

- The proposed changes were discussed and reviewed by the County Attorney's Office, the Palm Beach County League of Cities, and County administration.
- The COE would receive an email with the final proposed changes.
- The March 2020 COE agenda would contain the proposed changes for approval before being sent to the BCC to draft a committee and adopt the changes.

### **IX.b.**

**DISCUSSED:** High School Ethics Bowl.

Mr. Bannon said that he and Commissioner Peter Cruise participated in the annual High School Ethics Bowl on Saturday, January 18, 2020 at Florida Atlantic University.

## **X. COMMISSION COMMENTS**

### **X.a.**

**DISCUSSED:** Commendation.

Commissioner Cruise thanked Mr. Bannon for participating in the High School Ethics Bowl and said that he would soon announce the 2021 date for the next event.

**X.b.**

**DISCUSSED: 2019 Annual Report.**

Commissioner Michael Kridel said that he noticed an increase in the quantity and quality of information from the COE and the 2019 annual report, which added value to the County.

**X.c.**

**DISCUSSED: Commendation.**

Vice Chair Kummerlen said that he enjoyed participating as a COE member, and he commended Mr. Bannon on the 2019 annual report.

**XI. PUBLIC COMMENTS – None**

**XII. ADJOURNMENT**

**At 2:41 p.m., the chair declared the meeting adjourned.**

APPROVED:

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Chair/Vice Chair