

Honesty - Integrity - Character

Palm Beach County

Commission on Ethics

300 North Dixie Highway, Ste 450

West Palm Beach, FL 33401

561.355.1915

Hotline: 877.766.5920

E-mail: ethics@pbcgov.org

Commissioners

Kristin A. Vara-Garcia

Michael S. Kridel

Peter L. Cruise

Michael H. Kugler

Rodney G. Romano

Executive Director

Christie Kelley

General Counsel

Rhonda Giger

Intake & Compliance Manager

Gina A. Levesque

Education & Communications Manager

S. Lizabeth Martin

Investigator

Mark A. Higgs

Investigator

Abigail Irizarry

Agenda

October 10, 2024 – 1:30 p.m.

Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Meeting will begin at 1:30pm
Executive Session will begin at 1:40pm
Regular Agenda will resume immediately
following Executive Session

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Introductory Remarks
- V. Approval of Minutes from September 5, 2024
- VI. Executive Sessions:
 - a. C24-010
 - b. C24-011
- VII. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 24-014
 - b. RQO 24-015
- VIII. Items Pulled from Consent Agenda
 - a.
- IX. Executive Director Comments
- X. Commission Comments
- XI. Public Comments
- XII. 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 (COE)
PALM BEACH COUNTY, FLORIDA**

SEPTEMBER 5, 2024

**THURSDAY
1:30 P.M.**

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

MEMBERS:

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

COMMISSION ON ETHICS STAFF PRESENT:

Rhonda Giger, General Counsel
Abigail Irizarry, COE Investigator II
Christie E. Kelley, COE Director III
Gina A. Levesque, COE Intake and Compliance Manager
S. Lizabeth Martin, COE Communication and Education Manager

CLERK OF THE CIRCUIT COURT & COMPTROLLER'S OFFICE STAFF PRESENT:

Alyssa Berg, Deputy Clerk

I. CALL TO ORDER

The chair called the meeting to order at 1:30 p.m.

II. PLEDGE OF ALLEGIANCE

Commissioner Cruise led the Pledge of Allegiance.

III. ROLL CALL

All members were present.

IV. INTRODUCTORY REMARKS

There were no introductory remarks.

V. APPROVAL OF MINUTES FROM AUGUST 1, 2024

MOTION to approve the August 1, 2024, minutes. Motion by Commissioner Cruise, seconded by Commissioner Romano, and carried 5-0.

VI. Executive Sessions:

- a. C24-005
- b. C24-009

RECESS

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

RECONVENE

At 3:21 p.m., the meeting reconvened with all members present.

Vice Chair Kridel read the public reports and final orders into the record:

In Re: Thomas Turkin

C24-005

Complainant, Phillip Terrano, filed the above referenced complaint alleging that Respondent, Thomas Turkin, Vice Mayor of Boynton Beach, used his elected position for personal gain, in violation of Section 2-443(a), Misuse of public office or employment, or Section 2-443(b), Corrupt misuse of official position, of the Palm Beach County Code of Ethics.

Pursuant to Section 2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. ¹ On September 5, 2024, the Commission conducted a probable cause hearing. After reviewing the Report of Investigation and the Probable Cause Recommendation and listening to statements by the Advocate and Respondent's attorney, the Commission concluded that probable cause does not exist because there was no evidence that Respondent took any action that violated the Palm Beach County Code of Ethics.

Therefore it is:

ORDERED and ADJUDGED that the complaint against Respondent, Thomas Turkin, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on September 5, 2024.

In Re: Ronald Book

C24-009

Christie Kelly, Executive Director of the Palm Beach County Commission on Ethics (COE), filed the above-captioned complaint against Ronald Book (Respondent) alleging that Respondent, a registered lobbyist in Palm Beach County, provided a gift or gifts valued at over of \$100 to a prohibited person, to wit: A Palm Beach County Commissioner, in violation of Section 2-444(a)(2) of the Palm Beach County Code of Ethics. Pursuant to Section 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 September 5, 2024, the Commission conducted a probable cause hearing and reviewed the Memorandum of Inquiry, the Report Investigation, and the Probable Cause Recommendation submitted by the Advocate. Additionally, the Commission heard argument regarding the applicability of SB 7014 to a self-initiated complaint filed prior to the effective date of the statute. After statements and argument by the Advocate and Respondent's Counsel, the Commission determined that Sb 7014 should not be retroactively applied and determined that probable cause exists to believe that the Respondent may have violated Section 2-444(a)(2) of the Palm Beach County Code of Ethics.

The Advocate recommended the issuance of a letter of instruction and a dismissal of the complaint. The Advocate recommended this resolution based on Respondent's statement acknowledging that failing to cash the checks within 90 days of providing the gifts was an oversight and a mistake. After listening to the statements by Advocate and the Respondent's attorney, the Commission found that the alleged violation appeared to be inadvertent or unintentional and issued a letter of instruction. Pursuant to Commission on Ethics Ordinance Section 2-260.3(b), Dismissal of complaints, the complaint may be dismissed and a letter of instruction issued at any stage of the proceedings if the Commission finds that the violation was inadvertent, un intentional, or insubstantial.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Ronald Book, 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 this 5th day of September 2024.

VII. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

a. RQO 24-013

MOTION to approve the consent agenda. Motion by Commissioner Cruise, seconded by Commissioner Kridel, and carried 5-0.

VIII. ITEMS PULLED FROM CONSENT AGENDA

No items were pulled from the consent agenda.

IX. EXECUTIVE DIRECTOR COMMENTS

1.

Ms. Kelley stated that staff recently delivered presentations to the Lake Worth Beach Rotary Club and various municipalities.

2.

Ms. Kelley announced that the meeting scheduled for next month would be on October 12, 2024, which would fall on the second Thursday of the month.

X. COMMISSION COMMENTS

No comments were made.

XI. PUBLIC COMMENTS

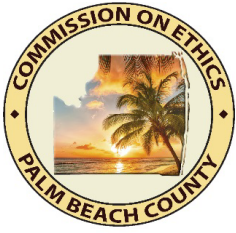
There were no public comments.

XII. ADJOURNMENT

At 3:28 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair



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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 Kelley

September 20, 2024

Vincent Guiel, Jr., Instrumentation Technician
Palm Beach County Water Utilities
2055 West Canal Street
Belle Glade, FL 33430

Re: RQO 24-014
Volunteer Activities/Conflict of Interest

Dear Mr. Guiel:

Your request for an advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

QUESTION:

As an employee of Palm Beach County (County), does the Palm Beach County Code of Ethics (Code) prohibit you from participating in a marketing program intended to promote the product of a current County vendor?

BRIEF ANSWER:

Generally, the Code would only restrict relationships with vendors if that relationship resulted in the vendor becoming your outside employer. Here, because your endorsement of the product is uncompensated, the work is akin to a volunteer position. Thus, as long as the guidance in this opinion is carefully followed, the Code does not prohibit you from taking part in the marketing program proposed by the vendor.

FACTS:

You are an Instrumentation Technician for Palm Beach Water Utilities (PBCWUD). PBCWUD uses the products of Halogen Systems (HS), a vendor with the County. HS provides analyzers for Chlorine and pH, which are used in County water and wastewater plants. Their product uses a new technology that helps provide accurate testing results while saving time and labor on tasks that must be performed on a daily basis. This has resulted in a large savings on maintenance and has eliminated the need to use chemicals throughout these processes. Through your capacity as a County employee, you have become familiar with HS and their products and have developed a particular expertise with their use and implementation and have personal experience as to how this product has reduced County expenditures related to labor, maintenance, and chemical use. In fact, because of this, HS has asked you to share your experience in a marketing campaign to promote their new technology.

You will not be compensated for your participation; you would simply be sharing your experiences regarding the product's efficacy. Additionally, your participation would not take place during your assigned work hours for the County, and no County resources would be used to promote HS or its product.

Finally, you believe the County would benefit from the exposure in that it would show how the County has embraced technology and innovation to reduce both environmental impacts and operational costs.

ANSWER:

As a County employee, the Code prohibits you from using your official position with the County to give a special financial benefit to yourself.¹ Here, as long as you are not receiving compensation for your participation in the marketing campaign, you will not be violating this provision of the Code. Further, the Code also prohibits you or your outside employer from having any contract or other transaction for goods or services with the County, either directly or indirectly, unless an exception applies.² Although HS contracts with the County, it would not be considered your outside employer here because your participation in the marketing campaign is uncompensated. Looking at the facts provided here, this provision of the Code does not apply and will not preclude you from participating in the proposed marketing campaign.

Additionally, as a County employee, the Code prohibits you from accepting, directly or indirectly, any gift valued at over \$100 in the aggregate per calendar from any person or business entity that the employee knows or should know with the exercise of reasonable care is a vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells or lease to the county.³ The Code defines gifts as “the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.”⁴ The Code also prohibits a public employee from soliciting gifts of any value from someone known to be a vendor, lobbyist, principal or employer of lobbyists of their public employer if the gift is for the personal benefit of the employee or for the benefit of a relative, household member, or another employee.⁵ Thus, you also could not accept a gift of over \$100 from HS for your participation in the campaign or for any other reason.

In addition, while the Code does not restrict your actions as long as the guidance in this opinion is followed, you must remember that as a public employee, no quid pro quo or any other benefit may ever be given for an official act or the past, present, or future performance of a public duty.⁶

Although matters of internal policy and procedure are not normally subject to COE jurisdiction, the COE recommends ensure you are complying with all applicable County policies if you are concerned about there being an appearance of impropriety related to your endorsement and participation in this project.

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-442, Sec. 2-443(a)(1), Sec. 2-443(d), and Sec. 2-444 of the Code:

Sec. 2-442. Definitions.

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager or employee.

¹ Sec. 2-443(a), Misuse of public office or employment.

² Sec. 2-443(d), Contractual relationships.

³ Sec. 2-444(a)(1), Gift law.

⁴ Sec. 2-442, Definitions.

⁵ Sec. 2-444(c), Gift law.

⁶ Sec. 2-444(e), Gift law.

Sec. 2-443. Prohibited Conduct.

(a) **Misuse of public office or employment.** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, or attempt to do any of these things, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

(1) Himself or herself;

(d) **Contractual relationships.** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business.

Sec. 2-444. Gift law.

(a) (1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist, or any principal or employer of a lobbyist who lobbies, sells, or leases to the county or municipality as applicable.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

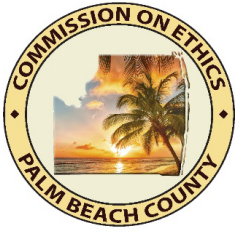
Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Christie Kelley
Executive Director

RG/gal



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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 Kelley

September 27, 2024

Sara Baxter, Palm Beach County Commissioner
Robert Weisman Governmental Center
301 North Olive Avenue, Suite 1201
West Palm Beach, FL 33401

Re: RQO 24-015
Outside Business/Conflict of Interest

Dear Commissioner Baxter:

Your request for an advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

QUESTION:

As a County Commissioner who owns an auto repair business, does the Palm Beach County Code of Ethics (Code) prohibit you from participating in discussions or voting on matters before the Palm Beach County Board of County Commissioners (BCC) concerning a request for proposals (RFP) to build an auto racetrack in Palm Beach County (County)?

BRIEF ANSWER:

The Code does not prohibit you from participating in discussions or voting on the RFP regarding the topic of the new auto racetrack because any potential for loss or gain to your outside business is remote and speculative.

FACTS:

You are a Commissioner for Palm Beach County, District 6. You and your spouse jointly own an outside business, Foreign Auto Specialists (FAS) located at 8446 Belvedere Road in West Palm Beach. FAS specializes in working on German and European luxury vehicles. FAS does not perform bodywork and does not sell auto parts outside of what is necessary when performing maintenance and repairs on those types of vehicles. FAS does not work on racecars or modified vehicles.¹ FAS uses specialized computer software to diagnose and communicate with each specific make and model of vehicle. FAS does not have diagnostic software for any racing vehicles, including cars used for drag racing.

¹ This type of service is not mentioned anywhere on FAS's website.

The County is seeking a private developer to build on 161.5 acres of county land at 20 Mile Bend in Loxahatchee. The RFP is expected to be available in October 2024 and will seek a developer to lease the land at a nominal cost to build a racetrack, off-highway vehicle park, or a combination of both.

To ensure full disclosure, you have informed the COE that your spouse owns and races a mini sprint car. Your spouse does not participate in drag races, road races, or road course events. At this time, the RFP does not include this type of racing vehicle.

ANSWER:

The Code prohibits public officials from using their official position in any manner that would result in a special financial benefit, not shared with similarly situated members of the general public, to certain persons or entities, including to themselves, their spouse, or their outside business.² Similarly, the Code also prohibits public officials from voting on an issue or participating in any matter coming before their board that would result in a special financial benefit to themselves, their spouse, or their outside business.³

In evaluating whether a conflict of interest exists, the degree to which there is uncertainty at the time of the vote as to whether any special financial benefit would be received by a prohibited person or entity must be considered.⁴ "Financial benefit" constitutes economic gain or loss. For a financial benefit to be "special," the benefit must inure uniquely to you or FAS, rather than benefiting the County as a whole or other small businesses. Further, to constitute a prohibited voting conflict, the possibility of the financial gain or loss must be direct and immediate, rather than remote and speculative. Where an official's gain or loss would require many steps and be subject to many contingencies, any gain or loss is remote and speculative and cannot be said to inure to one's special financial benefit.⁵ Similarly, the Florida Commission on Ethics has previously held that if a gain or loss to an official resulting from a particular measure is too remote and speculative, it does not constitute a special financial benefit.⁶

Based on the facts provided, the BCC will eventually be voting on RFPs submitted by businesses interested in the racetrack project. At this time, because of the uncertainty involved with any details of this project, even though your outside business deals with automobiles, it is unlikely FAS carries with it any unique circumstances wherein your personal gain or loss by this vote would exceed significantly that of other small-business owners located around the project site. Especially considering that the proposed project site is 14 miles from your outside business, FAS does not perform work on racecars, and there are hundreds of other small businesses within that

² Section 2-443(a), *Misuse of official position or employment.*

³ Section 2-443(c), *Disclosure of voting conflicts.*

⁴ 112.3143(1)(d), Florida Statutes.

⁵ RQO 12-063, CEO 05-15, CEO 91-61, CEO 12-19.

⁶ CEO 85-77 (school board member who owned business near the site of a proposed school district building was not prohibited from voting on the matter); CEO 85-87 (city council member was not prohibited from voting on a site plan for a shopping center which was to be located adjacent to the florist store which he owned).

circumference that will also be impacted by a project of this magnitude, it is likely that all small businesses in the area would be equally impacted.

At this time, because of the level of uncertainty as to whether there would be any economic gain or loss to your outside business subsequent to this vote, any impact from the result of the vote would not be direct and immediate. Additionally, nothing in the facts provided indicate that a direct financial benefit to FAS would result from this vote. Because of this, any possibility of a financial benefit you may receive is remote and speculative. Therefore, you are not prohibited from participating in discussions and voting on the racetrack RPF.

However, you are also reminded that whether a conflict of interest exists depends on the facts and circumstances of each situation. Thus, best practices dictate that you carefully review the participants in the racetrack project who appear before the BCC. If any of the participants or submissions are related to your outside business, you must ensure that none of your actions as a Commissioner result in a prohibited entity receiving a special financial benefit. If specific details surrounding this project ever arise and bring any doubt about your vote or participation, we recommend you seek an additional advisory opinion.

Finally, you are also reminded that Sec. 2-443(b), *Corrupt misuse of official position*, also prohibits public officials from using their official position to corruptly secure or attempt to secure a special privilege, benefit, or exemption for themselves or others. Corruptly means done with a wrongful intent and for the purpose of obtaining any benefit resulting from some act which is inconsistent with the proper performance of the official's duties. Therefore, you also must ensure you do not use your position as a BCC member to take some action which would corruptly secure a special privilege, benefit, or exemption for yourself or anyone else.

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-443(a) and (c) of the Code:

Sec. 2-443. Prohibited Conduct.

(a) **Misuse of public office or employment.** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, or attempt to do any of these things, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;
- (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people.

(c) **Disclosure of voting conflicts.** County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above. The term “participate” as used in this section shall be defined as: “To take any action, or to influence others to take any action, or to attempt to do any of these things, in order to affect the passage or defeat of the specific matter before the voting body in which the official is required to abstain from voting.”

Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,


Christie Kelley
Executive Director

RG/gal