



Honesty - Integrity - Character

Agenda

March 6, 2025 – 1:30 p.m.
Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

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

- I. Call to Order
- II. Pledge of Allegiance
- III. Nomination and election of new Chairperson (to begin presiding over meeting immediately upon election)
- IV. Nomination and election of new Vice Chairperson
- V. Roll Call
- VI. Election
- VII. Introductory Remarks
- VIII. Approval of Minutes from February 6, 2025
- IX. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 25-003
- X. Items Pulled from Consent Agenda
 - a.
- 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 (COE)
PALM BEACH COUNTY, FLORIDA
FEBRUARY 6, 2025**

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

**WEISMAN GOVERNMENTAL CENTER
COMMISSION CHAMBERS**

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:

Jillian Zalewska, Deputy Clerk

I. Call to Order

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

II. Pledge of Allegiance

Chair Vara-Garcia recited the Pledge of Allegiance.

III. Roll Call

Present: Chair Kristin A. Vara-Garcia, Vice Chair Michael S. Kridel,
Commissioner Michael H. Kugler, and Commissioner Rodney G.
Romano

Absent: Commissioner Peter L. Cruise

IV. Introductory Remarks

No comments were made.

V. Approval of Minutes from January 9, 2025

MOTION to approve the minutes. Motion by Commissioner Kugler, seconded by Commissioner Romano, and carried 4-0.

VI. Processed Advisory Opinions (Consent Agenda)

RQO 25-002

MOTION to approve the consent agenda. Motion by Commissioner Kugler, seconded by Commissioner Romano, and carried 4-0.

VII. Items Pulled from Consent Agenda

No items were pulled from the consent agenda.

VIII. Executive Director Comments

Ms. Kelley shared the following comments:

- In January, staff had conducted ethics training for the City of Riviera Beach.
- Three additional training sessions were scheduled for the City of Riviera Beach in February.
- Several outreach events were upcoming.
- COE staff were working with County Administration to request that the Board of County Commissioners (BCC) convene the Ordinance Review Committee in order to revise the COE ordinance to reflect changes implemented by the state legislature.
- On March 11, the BCC would be presenting a proclamation declaring March as Ethics Awareness Month.
- New chairs and vice chairs would be elected at the March 6 COE meeting, and group photos would be taken.

XI. Commission Comments

No comments were made.

XII. Public Comments

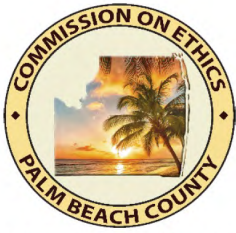
There were no public comments.

XIII. Adjournment

At 1:33 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

February 26, 2025

Janet Steele, Division Director
Palm Beach County Public Safety
Animal Care & Control
7100 Belvedere Road
West Palm Beach, FL 33411

Re: RQO 25-003
Outside Employment

Dear Ms. Steele:

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:

Does the Palm Beach County Code of Ethics (Code) prohibit veterinarians who are employed with Palm Beach County Animal Care and Control (ACC) from accepting outside employment with other providers of low cost spay and neuter programs when these outside employers are Palm Beach County (County) vendors?

BRIEF ANSWER:

Generally, the Code prohibits public employees from accepting concurrent employment, directly or indirectly, with any "outside employer" that is a vendor of their public employer unless certain criteria are satisfied. However, considering the facts as presented, the scenario here is one of first impression for the COE, and a limited exception based on the sole source provider is being implemented in this specific situation.

FACTS:

You are the director for ACC. One of the primary goals of ACC is to provide low cost spay and neuter service throughout the County. While many of these surgeries are performed at the ACC facility, because of the overwhelming need, oftentimes the County contracts with other agencies to provide this service at additional sites. In outsourcing this to different locations, a larger portion of the County's population has access to spay and neuter surgeries. The contracted providers are able to reach a greater portion of the pets in need of alteration by increasing the convenience of these surgeries to people who may not be able to obtain transportation to the ACC location. This additional outreach furthers ACC's spay and neuter mission and leads to a positive result for all County residents.

Veterinarians who perform shelter work operate in a highly specialized area, especially when it comes to HQHRSNS (High Quality High Rate Spay Neuter Surgery) as this is a major component of shelter medicine. ACC has encountered extreme difficulty recruiting veterinarians with the necessary qualifications given both the nationwide veterinarian shortage and the comparative low salaries offered by ACC. There are very few veterinarians who are qualified in shelter medicine in Palm Beach County, and most (if not all work) for other rescues and shelters in PBC.

An additional complication is that due to an ongoing veterinary staff shortage, ACC currently maintains contracts with all the major rescues and shelters in the County to perform the surgeries that ACC is unable to provide. You negotiate the contracts with the CEOs of the surrounding non-profit organizations.¹ The veterinarians at these facilities play no role in the contract negotiations, the rates of pay, or any other terms of the contracts. Many of these veterinarians work part-time at their “main” positions within the other shelters, and so have taken contract or part-time work with ACC to gain more training hours with the complex forensic and surgical cases handled by ACC. The relationship with these veterinarians is symbiotic in nature as both sides realize a significant benefit; ACC is able to utilize their skills at a rate most of these professionals could not accept, and the veterinarians are able to augment both their skill set and their income.

There are no other qualified veterinarians who can perform the type of work needed by ACC who are not already working for ACC’s partners. Considering the current cost of living in Palm Beach County along with the relative low salaries ACC is able to offer, there is no possibility of hiring veterinarians from out of town to fill their permanent vacancies.²

If ACC loses their current veterinary staff because of the concurrent employment prohibitions, it is unlikely ACC will find qualified personnel to fill the positions. This loss will devastate ACC’s spay/neuter programs for the County and have a dramatic effect on the pet overpopulation problem within eight to 12 months.

ANSWER:

In general, the Code prohibits public employees or their outside employer from entering into any contract to provide goods or services to their public employer.³ Therefore, based on the facts provided, an ACC veterinarian is prohibited from any employment with a County vendor unless one of the allowed exceptions to the contractual relationship prohibition applies.

One such exception that must now be considered is the sole source of supply exception. The Code provides for the sole source exception where the outside employer or business is the sole

¹ The COE is aware that one of the veterinarians employed with ACC also operates a non-profit organization that offers services needed by ACC. Were ACC to contract with this non-profit for services, the contract would also be covered by the exception authorized in this opinion.

² The last four qualified candidates offered positions at ACC’s top rate of pay each declined because of the low salary.

³ Sec. 2-443(d)

source of the product or service within the County.⁴ While it has not been applied in this manner until now, the unique conditions surrounding this factual scenario require a fresh analysis of the Code. Considering the lack of qualified professionals in this specialized field, the COE is applying the sole source exception in a manner not previously considered. The COE acknowledges that multiple individuals (here, qualified veterinarians) would not normally be considered a sole source within the plain language of the statute. However, in this situation, because the number of qualified veterinarians needed by ACC exceeds the number of qualified veterinarians available, the sole source exception is appropriate.

Based on the facts provided, because the veterinarians employed by ACC are the only qualified professionals in the County, the sole source exception applies in this situation. However, in order to avoid violating the Code and for purposes of transparency, any veterinarian employed by the County who has concurrent employment with a vendor, must fully disclose his or her interest in the outside employer to the County and the COE.

As a reminder, the Code also prohibits any employee from using or attempting to use his or her official position with the County in any way to give a special financial benefit to specified persons and entities, including to himself or to an outside employer.⁵ Additionally, the Code prohibits any employee from using his or her official position to corruptly secure a special benefit of any kind for anyone, including himself or an outside employer.⁶ Further, while the Code does not restrict the specific outside employment contemplated here, each individual relying on this opinion must be mindful that as a public employee, no quid pro quo or other benefit may be given for an official act or the past, present, or future performance of a public duty.⁷

LEGAL BASIS:

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

Sec. 2-443. Prohibited conduct.

(d) ***Contractual relationships.*** No official or employee shall enter into any contract or other transaction for goods or services with his or her 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. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable. This prohibition shall not apply to employees who enter into contracts with Palm Beach County or a municipality as part of their official duties with the county or that municipality. This prohibition also shall not

⁴ Sec. 2-443(e)(3)

⁵ Sec. 2-443(a)

⁶ Sec. 2-443(b)

⁷ Sec. 2-444(e)

apply to officials or employees who purchase goods from the county or municipality on the same terms available to all members of the public. This prohibition shall also not apply to advisory board members provided the subject contract or transaction is disclosed at a duly noticed public meeting of the governing body and the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction.

(e) **Exceptions and waiver.** The requirements of subsection (d) above may be waived as it pertains to advisory board members where the advisory board member's board is purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. No waiver shall be allowed where the advisory board member's board is not purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. Waiver may be effected by the board of county commissioners or by the local municipal governing body as applicable upon full disclosure of the contract or transaction prior to the waiver and an affirmative vote of a majority plus one (1) of the total membership of the board of county commissioners or the local municipal governing body as applicable. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after full disclosure of the contract or transaction at a public hearing, by the appointing person. In addition, no official or employee shall be held in violation of subsection (d) if:

(3) The outside employer or business involved is the only source of supply within the county or municipality under applicable law or county or municipal policy, and there is full disclosure by the official or employee of his or her interest in the outside employer or business to the county or municipality as applicable and the ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.

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. This opinion is not applicable to any conflict under state law, or with any relevant provision within the rules of The Florida Bar. Inquiries regarding possible conflicts under state law or bar rules should be directed to the State of Florida Commission on Ethics or The Florida Bar.

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