

**MEETING: SPECIAL MEETING OF THE PALM BEACH COUNTY COMMISSION ON ETHICS**

I. **CALL TO ORDER:** October 31, 2011, at 3:12 p.m., in the Commission Chambers, 6th Floor, Governmental Center, West Palm Beach, Florida.

II. **ROLL CALL**

MEMBERS:

Judge Edward Rodgers, Chair  
Manuel Farach, Esq., Vice Chair  
Robin N. Fiore, Ph.D.  
Ronald E. Harbison, CPA  
Bruce E. Reinhart, Esq.

STAFF:

Mark E. Bannon, COE Investigator  
Leonard Berger, Assistant County Attorney  
Todd Bonlarron, Legislative Affairs Director  
Tammy Gray, Public Information Specialist  
Alan S. Johnson, Esq., COE Executive Director  
Gina A. Levesque, COE Administrative Assistant  
James Poag, COE Investigator  
Richard Radcliffe, League of Cities Executive Director  
Megan C. Rogers, Esq., COE Staff Counsel  
Barbara Strickland, Deputy Clerk, Clerk & Comptroller's Office

III. **INTRODUCTORY REMARKS**

Judge Edward Rodgers requested that all cellphones be silenced. He stated that the discussion topic was the Palm Beach County and the League of Cities' proposed revised lobbyist registration ordinance.

IV. **DISCUSSION OF PROPOSED ORDINANCE AND RECOMMENDATIONS INCLUDING PUBLIC COMMENTS**

Assistant County Attorney Leonard Berger stated that:

#### IV. - CONTINUED

- The proposed lobbyist registration ordinance packet that was distributed to Commission on Ethics (COE) members contained definitions that were altered to match those in the Code of Ethics (Code).
- Lobbyist registration and expenditure reporting requirements that were introduced locally more than a year ago became effective soon.
- A new computerized lobbyist registration system allowed lobbyists to register online with electronic signatures.
  - The system was developed with the League of Cities' assistance.
  - Sorted and cross-referenced data allowed users to find names of lobbyists and principals who conducted business in 38 municipalities and in the county's unincorporated areas.
  - Lobbyists, city officials, and the general public could use the new resource.
- Attorney lobbyists were required to register as lobbyists, according to the County's 2003 lobbyist registration ordinance.
- A cone of silence that enhanced transparency was an option for the municipalities that chose to prohibit communication between their commissioners and staff, and with anyone involved in the proposal process. The COE was responsible for enforcement.
  - Daily fines were penalties for failures to register.
  - Extreme cases could result in de-barrment from lobbying for specific time periods.
  - Knowing violations were first-degree misdemeanors.

#### IV. - CONTINUED

- The proposed ordinance was effective within County government and in all the cities and municipalities that had not adopted an ordinance contrary to this one.

Legislative Affairs Director Todd Bonlarron referred to the registration language that required a principal to affirmatively sign and attest that a particular lobbyist represented that principal. He said that the online registration process allowed electronic signatures and e-mail messages to flow between lobbyists and principals and return to the database.

COE Executive Director Alan Johnson stated that:

- The ordinance packet contained Palm Beach County Economic Council recommendations for Code amendments. Amendments could be achieved by a drafting committee convened by a referendum.
- Approximately 40 lobbyists and other interested parties had attended a meeting at the COE offices to give their input regarding the ordinance's definitions. He and COE staff members represented those interests in today's discussion.
- The proposed ordinance required the COE to review and advise the Board of County Commissioners (BCC) on all legislation related to ethics. The COE could advise the BCC to adopt the proposed ordinance or recommend changes to the proposal.

Judge Rodgers stated that some municipalities had complained about the ordinance. He said that some advisory boards occasionally required a sophistication of specialties that the smaller entities could not achieve under rigid ordinance requirements. He queried whether an exception could be made for the smaller towns that were unable to attract experienced volunteers.

Mr. Berger said that such exception existed in the State's Code, and that the appointing body could waive the conflict under the current rules. He added that:

- The COE could discuss the topic in greater detail.
- Specific cities could be identified as those whose sizes would create genuine problems.

#### IV. - CONTINUED

- The League of Cities could be asked to furnish opinions and ideas.

Concerning the recordkeeping provisions of the proposed ordinance, Commissioner Harbison asked what the statute of limitations requirement was in public corruption cases. Commissioner Reinhart replied that it was five years in federal courts. Mr. Johnson said that State courts imposed four years for a felony, which could be expanded to five years for public officials after they left office.

Commissioner Harbison stated that an amendment should be made to correspond with the public corruption statute of limitations. Commissioner Reinhart said that keeping records for an additional two years should not prove problematic if records appeared online. Mr. Berger said that paper records would be maintained, that they would not appear online, and that they would be voluminous.

Mr. Bonlarron commented that computers or paper logs could be set up at offices' entrances for registered lobbyists to sign in. He said that the sign-in records could be scanned for computer storage.

#### **PUBLIC COMMENT:** John R. Levinson.

Commissioner Manuel Farach asked whether the present definition of lobbyist applied to a business owner who lobbied for his business without compensation. Mr. Berger said that the present lobbyist definition applied to those who were hired to interact regularly with government entities. He also said that:

- A large portion of the gift law dealt with the principals of lobbyists just as it dealt with lobbyists themselves.
- The COE would decide how far it wanted to go in regulating lobbying activities, and what it required for transparency.

Mr. Johnson stated that the present lobbyist definition was well thought out, and that it was the same as the Code's definition. The COE could recommend language changes to the Code's drafting committee, he added.

#### **IV. - CONTINUED**

Mr. Bonlarron clarified that any initial investigation, as outlined in the ordinance, was conducted by County administration, and that evidence of probable cause was the department's primary indicator. He said that initial reviews would be forwarded to the COE.

Mr. Johnson stated that the complaints received at his office were processed by his staff in accordance with the ordinance's dual review system.

Mr. Bonlarron said that:

- Lobbyist registration required forms completed online or on paper, in addition to a \$25 fee per principal represented.
- Registered lobbyists remained registered until they submitted notification forms of withdrawal.
- Annual lobbyist expenditure reports would keep membership rolls current.

Mr. Johnson advised that the COE make a recommendation that the BCC either adopt or deny the ordinance. He said that a third option was to make no recommendation.

Commissioner Reinhart stated that the COE would enforce the BCC's decision to adopt or deny, and that no opinion should be expressed. Commissioner Harbison stated that the COE's function was to advise the BCC, and that he preferred to make a recommendation for the BCC's action.

**MOTION to recommend adoption of the proposed ordinance to the Board of County Commissioners. Motion by Ronald Harbison.**

**MOTION DIED FOR LACK OF A SECOND.**

#### **IV. - CONTINUED**

**MOTION that the Commission on Ethics take no position at this time on the proposed ordinance. Motion by Manuel Farach, and seconded by Bruce Reinhart.**

Commissioner Farach stated that his motion was intended to convey his discomfort with making changes until he had gained greater understanding of all of the ordinance's conflicting and contradictory objectives.

**UPON CALL FOR A VOTE, the motion carried 4-1. Ronald Harbison opposed.**

#### **V. STAFF COMMENTS**

##### **V.1. DISCUSSED: Proclamation.**

Mr. Johnson informed the COE that the BCC would make a presentation of a proclamation during its regular meeting the next day declaring that November 18, 2011, as Ethics Awareness Day. He invited the commissioners to attend the meeting.

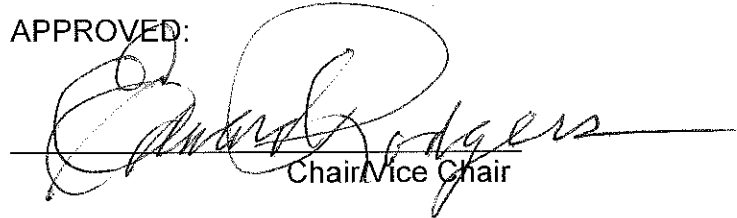
Mr. Johnson said that Commissioner Fiore planned to make a keynote address in BCC chambers. He also said that:

- Teachers were encouraged by the school board to incorporate ethics into their lesson plans for November 18, 2011;
- An interfaith clergy group recommended that ethics be introduced into their sermons on the weekend prior to November 18, 2011;
- Libraries planned to dedicate sections of books on ethics topics;
- Postcards promoting Ethics Awareness Day were mailed to 1200 elected officials;
- Those present today were invited to attend the next day's BCC meeting at 9:30 a.m.; and,
- A new campaign would replace the "Got Ethics?" public bus advertisements.

**VI. Adjournment**

**At 4:03 p.m., the chair declared the meeting adjourned.**

APPROVED:



Chair/Vice Chair