

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

NOVEMBER 1, 2012

**THURSDAY
1:38 P.M.**

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Manuel Farach, Esq., Chair
Robin N. Fiore, Ph.D., Vice Chair
Patricia L. Archer
Daniel T. Galo, Esq.
Ronald E. Harbison, CPA

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Senior Investigator
Alan S. Johnson, Esq., COE Executive Director
Gina A. Levesque, COE Executive Assistant
James A. Poag, COE Investigator
Megan C. Rogers, Esq., COE Staff Counsel

ADMINISTRATIVE STAFF:

Dominique Marseille, Minutes Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS

Commission on Ethics (COE) Executive Director, Alan Johnson, Esq., stated that a quorum existed.

Commissioner Farach stated that anyone wishing to speak should submit a public comment card, and that electronic devices should be turned off.

IV. APPROVAL OF MINUTES

a. September 12, 2012

Commissioner Farach stated that a typographical error existed regarding the date for agenda item IV.a., and that it should be September 12, 2012.

MOTION to approve the September 12, 2012, minutes. Motion by Patricia Archer seconded by Robin Fiore, and carried 5-0.

b. October 4, 2012

MOTION to approve the October 4, 2012, minutes. Motion by Patricia Archer seconded by Robin Fiore, and carried 5-0.

RECESS

At 1:41 p.m., the chair declared the meeting recessed for an executive session.

RECONVENE

At 2:51 p.m., the meeting reconvened with Commissioners Archer, Farach, Fiore, Galo, and Harbison present.

V. EXECUTIVE SESSION (REPORT)

V.a. C12-012

Commissioner Fiore read the following public report finding no probable cause and final order of dismissal:

Complainant, Juan Gando, filed the above-referenced complaint on September 27, 2012, alleging a possible ethics violation involving Respondent, John J. Greene, Village of Wellington (the Village) Councilman.

The complaint alleges that Councilman Greene misused his position and authority, in part, by using his official position to financially benefit a personal friend whose business interests appear to be in opposition to an application before the Village Council.

V. – CONTINUED

V.a. – CONTINUED

Pursuant to Chapter 2, Article V, Division 8, Section 2-258(a) of the Palm Beach County Code, the Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. An official may not use his official position to corruptly secure or attempt to secure a benefit for himself or others. Nor may an official accept a gift of any value because of the performance of an official act or legal duty.

On October 25, 2012, the complaint was determined by staff to be legally sufficient. The Memorandum of Probable Cause and Memoranda of Inquiry and Investigation, adopted by reference, in addition to information obtained in an unrelated complaint, C12-003 and advisory opinions, RQO 12-045 and RQO 12-065, were presented to the Commission on Ethics on November 1, 2012. At that time, the Commission conducted a hearing. The Commission reviewed and considered the Memoranda of Inquiry, Investigation and Probable Cause, recommendation of staff, as well as oral statements of the respondent and the advocate. At the conclusion of the hearing the Commission on Ethics found no probable cause exists, and the complaint was dismissed.

Therefore, it is:

Ordered and adjudged that the complaint against Respondent, John J. Greene, is hereby dismissed.

Done and ordered by the Palm Beach County Commission on Ethics in public session on November 1, 2012. Signed: Manuel Farach, Chair.

(CLERK'S NOTE: The clerk added the language as printed in the public report and final order of dismissal.)

VI. STATUS CHECK RE: SETTLEMENT/FINAL HEARING C12-003

Mr. Johnson requested that Pro Bono advocate Hardee Bass, Esq., and Respondent J. Jerome Taylor approach the board.

Mr. Bass said that:

- The COE had found probable cause on a five-count complaint against Mr. Taylor.
- He and Mr. Taylor negotiated the settlement for C12-003.
- Mr. Taylor admitted to the allegations contained in the complaint for counts 2, 4, and 5. Counts 1 and 3 of the complaint were dismissed.
- Mr. Taylor's fines totaled \$500.
- A letter of reprimand would be issued to Mr. Taylor, and he was required to pay \$500 in restitution to the Riviera Beach Housing Authority (RBHA).

Commissioner Farach requested that Mr. Bass give a brief factual basis for the stipulated settlement to Counts 2, 4, and 5.

Mr. Bass said that:

- In Count 2, on or around February 13, 2012, Mr. Taylor requested a reimbursement check from the RBHA. As a member of the RBHA, Mr. Taylor voted on finalizing that check. This was contrary to Palm Beach County's Code of Ethics (Code) and the disclosure of voting conflicts count.
- In Count 5, on or around March 16, 2012, the RBHA gave Mr. Taylor a check for \$1000 at the March 16, 2012, RBHA meeting, and he participated in the vote that ratified the payment to him.
- In Count 4, on or around March 16, 2012, after Mr. Taylor received a \$1000 check, he had someone cash the check under the guise of an individual doing pest-control services for him. Mr. Taylor allowed the individual to retain \$500 of the check, which violated the Code.

VI. – CONTINUED

Commissioner Farach explained to Mr. Taylor that he could bring an attorney for representation throughout the proceedings.

Mr. Taylor said that he would proceed without an attorney present, and that he agreed with the settlement's terms and conditions.

Commissioner Farach thanked Mr. Taylor for working with Mr. Bass to resolve the matter.

(CLERK'S NOTE: A question and answer session between Commissioner Galo and Mr. Taylor ensued at this time.)

MOTION to accept the negotiated settlement for C12-003. Motion by Robin Fiore, seconded by Patricia Archer, and carried 4-1. Daniel Galo opposed.

Commissioner Farach said that payment collections from Mr. Taylor was not the COE's decision, since payments would not be made through the COE.

Mr. Johnson said that payments would be negotiated with the RBHA and that Mr. Taylor was obligated to pay \$500 to the RBHA and a \$500 fine to the County. He said that the repayment obligation could be enforced in circuit court; however, Mr. Taylor could make arrangements for a payment plan with the RBHA, if they would allow it.

Commissioner Archer said that she supported a repayment plan for Mr. Taylor.

Mr. Johnson said that:

- The COE could discuss with Mr. Taylor how much he could pay, and have him contact the RBHA.
- The COE was not a probation agency that monitored payment plans.
 - Mr. Taylor's fines would come to the COE's office, but would be addressed to the County.
 - The COE could discuss a payment plan regarding fines owed to the County.

VI. – CONTINUED

Commissioner Fiore suggested that the COE discuss creating a payment structure for Mr. Taylor.

Commissioner Harbison said that he supported any suggestions for Mr. Taylor's fine payments.

Commissioner Fiore read the following public report and final order for C12-003:

Complainant, Alan S. Johnson, Executive Director of the Commission on Ethics, filed the above referenced complaint on May 18, 2012, alleging possible ethics violations involving respondent, J. Jerome Taylor, Chairman of the City of Riviera Beach Housing Authority (RBHA).

The complaint alleges five Code of Ethics violations involving the use of RBHA funds.

Count 1 alleges that on or about January 20, 2012, Respondent misused his official position by submitting an invoice for payment of \$950 for services provided to RBHA, claiming the funds were a reimbursement for payments respondent had made to at least two persons who completed work for RBHA, and receiving a check as payment from RBHA. No documentation or names of individuals providing the purported work were provided by Respondent to verify these expenses. Respondent knew or should have known through the exercise of reasonable care that the payment of \$950 constituted a financial benefit to himself, not available to the similarly situated members of the general public, in violation of Article XIII, Section 2-443(a), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics.

Count 2 alleges that Respondent, at a meeting of the RBHA held on February 13, 2012, participated and voted to accept the financial accounting submitted to RBHA, which included payment to himself in the amount of \$950, failed to disclose this financial conflict at the public meeting, failed to abstain from voting, and failed to file the required State of Florida Form 8B as required under the Code of Ethics, in violation of Article XIII, Section 2-443(c), *Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics.

VI. – CONTINUED

Count 3 alleges that on or about March 16, 2012, Respondent misused his official position by directing the RBHA Executive Director to issue a check, and submitting an invoice for payment of \$1000, purportedly for pest control services provided to RBHA, and retaining a portion of the payment, constituting a financial benefit to himself, not available to similarly situated members of the general public, in violation of Article XIII, Section 2-443(a), *Misuse of public office or employment*, Palm Beach County Code of Ethics.

Count 4 alleges that on or about March 16, 2012, Respondent corruptly attempted to secure a special privilege, benefit, or exemption for himself with wrongful intent, in a manner inconsistent with the proper performance of Respondent's public duties, by retaining a portion of a \$1000 RBHA check, purportedly designated for pest control services, in violation of Article XIII, Section 2-443(b), *Corrupt misuse of official position*, Palm Beach County Code of Ethics.

Count 5 alleges that on April 10, 2012, Respondent participated and voted to accept the financial accounting submitted to RBHA, which included the March 16, 2012, payment of \$1000, a portion of which was retained by the Respondent, and failed to disclose this financial conflict at the public meeting, failed to abstain from voting, and failed to file the required State of Florida Form 8B as required under the Code of Ethics, in violation of Article XIII, Section 2-443(c), *Disclosure of voting conflicts*, Palm Beach County Code of Ethics.

Pursuant to Chapter 8, Article XIII, Section 2-443(a), *Misuse of public office or employment* prohibits a public official or employee from using his or her official position to take any action, or to influence others to take any action, in a manner in which he or she knows or should know, will result in a special financial benefit, not shared by members of the general public, for any person or entity listed in Section 2-443(a)(1-7), including the public official, an outside business or employer or a customer or client of their outside business or employer.

VI. – CONTINUED

Pursuant to Chapter 8, Article XIII, Section 2-443(b), *Corrupt misuse of official position* prohibits any official or employee from using his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, “corruptly” means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or a omission of an official or employee which is inconsistent with the proper performance of his or her public duties.

Pursuant to Chapter 8, Article XIII, Section 2-443(c), *Disclosure of voting conflicts*, states that an official shall abstain from voting and not participate in any matter that will result in a special financial benefit for him or herself. The official must not only publicly disclose the nature of the conflict when abstaining, but must also file a State of Florida conflict of interest Form 8B pursuant to the requirements of Section 112.3143, Florida Statutes, and submit a copy to the Commission on Ethics.

Pursuant to Chapter 2, Article V, Division 8, Section 2-258(a) of the Palm Beach County Code of Ethics, the Commission on Ethics is empowered to enforce the County Code of Ethics.

On May 18, 2012, the complaint was determined by staff to be legally sufficient.

(CLERK’S NOTE: Commissioner Archer left the meeting.)

On August 2, 2012, in executive session, the Commission on Ethics (COE) found probable cause to believe a violation may have occurred and set the matter for final hearing as to the following alleged violations.

Count 1, Article XIII, Section 2-443(a) (Misuse of Public Office or Employment)

VI. – CONTINUED

Count 2, Article XIII, Section 2-443(c) (Disclosure of Voting Conflicts)

Count 3, Article XIII, Section 2-443(a) (Misuse of Public Office or Employment)

Count 4, Article XIII, Section 2-443(b) (Corrupt Misuse of Official Position)

Count 5, Article XIII, Section 2-443(c) (Disclosure of Voting Conflicts)

On November 1, 2012, the Respondent and Advocate submitted a negotiated settlement including a letter of reprimand to the COE for approval. Respondent stipulates to the facts and circumstances as contained in the aforementioned letter of reprimand.

According to the negotiated settlement and based on the facts as set forth in the letter of reprimand, Respondent admits to the allegations contained in counts two, four, and five of the complaint that he violated Sections 2-443(b) and (c) of the Palm Beach County Code of Ethics. Respondent agrees to accept a letter of reprimand and to pay a total of five hundred (\$500) dollars in fines and an additional five hundred (\$500) dollars in restitution to the Riviera Beach Housing Authority. Counts one and three are dismissed. Pursuant to the Commission on Ethics Ordinance section 2-260.1, *Public hearing procedures*, the Commission finds that the violation was intentional. As to Count two, the Commission assesses a fine of Two Hundred (\$200) Dollars; as to count four, the Commission assesses a fine of two hundred (\$200) dollars; as to count five, the Commission assesses a fine of one hundred (\$100) dollars; and the Respondent has been ordered to pay restitution in the amount of five hundred (\$500) and has been issued a letter of reprimand.

Therefore, it is:

VI. – CONTINUED

Ordered and adjudged that this matter is concluded upon acceptance of the letter of reprimand and payment of the aforementioned five hundred dollar (\$500) fine and restitution in the amount of five hundred dollars (\$500).

Done and ordered by the Palm Beach County Commission on Ethics in public session on this 1st day of November, 2012. Signed: Manuel Farach, Chair.

(CLERK'S NOTE: The clerk added the language as printed in the public report and final order of dismissal.)

Mr. Johnson said that a COE vote was needed to determine whether the violations were intentional or unintentional.

MOTION to accept a finding that the violations were intentional. Motion by Daniel Galo, seconded by Robin Fiore, and carried 4-0. Patricia Archer absent.

Commissioner Farach said the official final order would be changed to reflect that Mr. Taylor's actions were intentional.

(CLERK'S NOTE: Commissioner Archer joined the meeting.)

Commissioner Fiore read the letter of reprimand regarding C12-003 as follows:

November 1, 2012, Mr. J. Jerome Taylor, 1906 West 23rd Street, Riviera Beach, FL 33404.

Dear Mr. Taylor,

When the Commission on Ethics met in executive session on August 2, 2012, it found that probable cause existed to believe that you may have violated the Palm Beach County Code of Ethics, specifically Sections 2-443(a), (b), and (c). On November 1, 2012, you admitted to violating Section 2-443(b) of the Palm Beach County Code of Ethics entitled, "Corrupt misuse of official position," and Section 2-443(c) of the Palm Beach County Code of Ethics entitled "Disclosure of voting conflicts." The settlement agreement in this case provides for you to accept this public reprimand.

VI. – CONTINUED

Chapter 8, Article XIII, Section 2-443(b) Corrupt misuse of official position. An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, “corruptly” means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or an employee which is inconsistent with the proper performance of his or her public duties.

Chapter 8, Article XII, Section 2-443(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 official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Form 8B pursuant to the requirements of Florida Statutes, Section 112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the County Commission on Ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of Subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other 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, as set forth in Subsections (a)(1) through (7).

(THIS SPACE LEFT BLANK INTENTIONALLY)

VI. – CONTINUED

The facts are as follows:

On February 13, 2012, as an appointed Commissioner of the Riviera Beach Housing Authority (RBHA), you participated and voted in an approval of a financial statement listing a payment of \$950 to you for extermination services provided to four (4) Neighborhood Stabilization Program (NSP) grant funded homes. The financial statement ratified a payment to you via RBHA check dated January 20, 2012. No service provider invoices or other verification was provided to the RBHA regarding these expenses. You had previously submitted an invoice for \$950 to RBHA for services provided at the NSP homes. The invoice indicated external work. While you subsequently provided the COE with an extermination product receipt for under \$100, RBHA records did not substantiate any of your reimbursed expenses. You submitted an additional invoice to the COE on October 11, 2012, purportedly for internal work done on the NSP homes in June, 2011; however, this invoice was also never submitted to RBHA. In June/July, 2011, the RBHA had over \$49,000 in its operating budget.

On March 16, 2012, you submitted a \$1000 invoice for exterminating services provided by a Carlton Darville, for the RBHA offices located at 2014 West 7th Court in Riviera Beach. The submitted invoice contained false information, including fictitious contact information for Mr. Darville, the exterminator, and a false commercial exterminator's license number. When you received the RBHA check in March, 2012, you met with Mr. Darville, Jr. who cashed the RBHA check in your presence and returned \$500 to you in cash. While you have claimed in your response that the money received by you was paid to mow the lawn around the RBHA building and was given to a person named "Slim," at no time was this claim substantiated. Subsequently on April 10, 2012, you participated and voted on the financial statement containing the \$1000 payment to Mr. Darville, Jr., which resulted in a financial benefit to you.

VI. – CONTINUED

While the Commission is mindful of the serious health issues that caused you to be hospitalized for a significant period of time in September, 2011, you had sufficient time before and after your illness to submit the appropriate invoices for reimbursement of expenses incurred in July, 2012. However, due to the later submission of these invoices, the COE has agreed to dismiss the allegation of misuse of office for financial gain. However, of greater significance, the entire March, 2012 transaction occurred months after your release from the hospital and involved you obtaining a portion of the proceeds issued to the unlicensed exterminator. Lastly, in January and March, you submitted the invoices to RBHA containing false or misleading information. These actions constitute a corrupt misuse of your position.

As an appointed official, you are prohibited from participating or voting on any issue that will result in a special financial benefit to you. Even if you were entitled to reimbursement, you cannot participate in such a discussion and vote. These voting conflicts are compounded by the fact that you submitted false or incomplete invoices to the RBHA, and at least in the March, 2012 occurrence, corruptly retained RBHA money from the transaction.

Your actions constituted three violations of the Palm Beach County Code of Ethics.

The Commission on Ethics is of the strong belief that all public employees and officials are responsible for making sure that their actions fully comply with the law and are beyond reproach. As a public official, you are an agent of the people and hold your position for the benefit of the public. The people's confidence in their government is eroded when they perceive that official actions may be based upon private goals rather than the public welfare. Violations of the Palm Beach County Code of Ethics contribute to the erosion of public confidence and confirm the opinion of those who believe the worst about public officials.

VI. – CONTINUED

You are hereby admonished and urged to consider the letter and spirit of the Palm Beach County Code of Ethics and apply them in all future actions as a member of any public body to which you may be a part.

Sincerely, Manuel Farach, Chairman, Palm Beach County Commission on Ethics

(CLERK'S NOTE: The clerk added the language as printed in the letter of reprimand.)

VII. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

VII.a. RQO 12-069

Staff Counsel Megan Rogers Esq., said that:

- A question was asked whether a County Vendor, Wells Fargo Bank (WF), and several municipalities could continue to provide complimentary lunch and financial action strategy plans to County and municipal employees, officials, and advisory board members, while providing similar plans to members of the public.
- Potential WF clients were taken to lunch and provided with pre-retirement plans and information on ways to meet retirement goals.
- A municipal employee's financial advisor was asked whether WF's complimentary lunch was a gift and how it would be valued.
- The matter met the gift law exception that a publicly advertised offer provided by a vendor to the County, municipal staff, and officials are made available on the same terms to the public.
- Lunch was provided to all preretirement individuals in WF's client base.
- Paid lists of names from providers of pensions, 401K, and various retirement plans were used to uniformly contact individuals.

VII. – CONTINUED

VII.a. – CONTINUED

MOTION to approve processed advisory opinion RQO 12-069. Motion by Daniel Galo, seconded by Ronald Harbison, and carried 5-0.

VIII. ITEMS PULLED FROM THE CONSENT AGENDA – None

IX. PROPOSED ADVISORY OPINIONS

IX.a. RQO 12-070

Ms. Rogers said that:

- A municipal employee asked whether he could continue working as a certified urban planner to develop a city transit project where he co-owned a property within the development area.
- City of Boynton Beach (Boynton) would be making changes to the zoning requirements of the area.
- Over 500 properties were located within the development site.
- If the employee owned the entire building where he lived, his ownership interest would be 0.2 percent.
- Staff concluded that the economic benefit or loss that would affect the class was large enough so as to remove a prohibited, or special financial benefit unique to him, and would allow him to continue working in his official capacity to develop the project for Boynton.

Commissioner Fiore asked whether the situation should be analyzed by the number of people owning properties in the area.

Ms. Rogers said that the opinion letter spoke to the general principal that he could not use his official position to create a special financial benefit for himself. She said that the benefit was not special due to how the project was established.

IX. – CONTINUED

IX.a. – CONTINUED

Commissioner Fiore inquired whether the COE should say that no basis existed to determine whether the employee was acting inappropriately to benefit himself since Mr. Johnson could conduct the project in different ways.

Mr. Johnson said that if a special financial benefit existed, than one of the 500 property owners would benefit more than the rest. He said that the COE could only give an opinion based on the facts and circumstances when no unique benefit existed.

Commissioner Fiore said that a problem existed with the paragraph that began, Under the facts, since it referenced numbers, and the COE was unaware of what the project's amenities would be.

Commissioner Harbison said that based on the facts, no other financial benefit existed to the employee outside of being an area resident.

Ms. Rogers recommended adding a footnote to the opinion letter stating that at this point, it appeared that the employee's ownership interest was no more than 0.2 percent; however, should it become a special financial benefit, refer to the relevant section in the advisory opinion.

Commissioner Fiore suggested that the letter should include a statement saying while this was a numerical analysis, there may be other basis to determine what a special benefit was.

Commissioner Galo said that, regarding the project, decisions were not being made to benefit the employee as a resident, but that the decisions were made in accordance to the employee's duties.

Commissioner Farach suggested adding a sentence to address Commissioner Fiore's and Galo's concerns.

Mr. Johnson suggested that the footnote suggested by Ms. Rogers be placed on the second page at the end of the paragraph beginning with the words, Section 2-443.

IX. – CONTINUED

IX.a. – CONTINUED

Commissioner Fiore suggested adding words to the last sentence in the paragraph that began, Under the facts, so that it would read: Under these circumstances, the economic benefit or loss affects a class large enough so as to remove any prohibited individual financial benefit based on numbers; however, it might be the case that a special benefit is available to you in some other fashion and that would be a matter of fact.

Mr. Johnson suggested that adding the following sentence at the end of the paragraph that began, Under the facts, after footnote three: If during the development of the project, the facts and circumstances change to reduce the size of the affected class so as to give you a unique benefit, then it may become necessary for you to resubmit your request for an opinion, this opinion may not be applicable.

Commissioner Fiore said that the letter's additions would protect the COE from setting a future opinion precedent.

Mr. Johnson reread the added language: If during the development of this project, the facts and circumstances change to reduce the size of the affected class to give you a unique benefit, this opinion would not be applicable.

Commissioner Farach suggested changing the words, "unique benefit" to "special benefit."

Mr. Johnson said that footnote three would be placed at the end of the additional sentence.

MOTION to approve proposed advisory opinion letter RQO 12-070 as amended to include the changes as discussed. Motion by Daniel Galo, seconded by Patricia Archer, and carried 5-0.

IX.b. RQO 12-071

Ms. Rogers said that:

- A municipal advisory board member asked whether he was prohibited from voting on a matter, regarding a new development within a subdivision of his property owner's association (POA).
- The POA managed 40 individual homeowners associations (HOA) within its general structure.
- The board member owned a lot over one mile away from the proposed development.
- Staff had stated that:
 - Public officials were prohibited from using their official positions to give themselves a special financial benefit not shared with similar situated members of the general public.
 - In using a numerical analysis, the board member was one of 1,450 current property owners.
 - The proposed development did not directly affect the board member's HOA, nor did the member's property share frontages, road access, or sit adjacent to the proposed development; therefore, he was not prohibited from voting on the matter since no financial benefit existed.

MOTION to approve proposed advisory opinion letter RQO 12-071. Motion by Robin Fiore, seconded by Patricia Archer, and carried 5-0.

X. REVISIONS TO RULES OF PROCEDURE

(CLERK'S NOTE: Commissioner Galo left the meeting.)

RECESS

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

RECONVENE

At 4:18 p.m., the meeting reconvened with Commissioners Archer, Farach, Fiore, Galo, and Harbison present.

X.a. Section 4.6.1 – Referral to Other Authorities

Mr. Johnson said that:

- The item was tabled in October 2012.
- Section 2-260.2 of the COE ordinance entitled *Notification and Referral to Other Authorities*, and it stated that: As provided for by ordinance within its jurisdiction, the COE shall refer a matter to the state attorney or any other appropriate official or agency having authority to initiate prosecution when deemed appropriate. The state attorney or other appropriate agency could decline prosecution or enforcement of any matter referred by the COE, and return the matter back to the COE.
- No corresponding Rule of Procedure existed that described the referral process.
- A criminal investigation and a COE investigation were exempt from public record.
- A law enforcement referral did not affect a COE complaint going forward unless a written request was made by the state attorney or the United States Attorney to stay the COE proceedings pursuant to section 2-260(h).
- Staff proposed that three sections be added to the Rules of Procedure.
 - Section 4.6.1. Referral to Other Authorities for Prosecution, stated that: the Commission on Ethics or an executive director on behalf of the commission shall refer a matter to the state attorney or other appropriate official or agency having authority to initiate prosecution when deemed appropriate.
 - Section 4.6.2., A Notice to Commission of Referrals, stated that: The Commission on Ethics shall be notified of a referral made by the executive director pursuant to rule 4.6.1.

X. – CONTINUED

X.a. – CONTINUED

- Section 4.6.3., Manner of Notice to Commission/Public Records Exemption, stated that: The COE intake manager shall generate a separate case number for any referral by the executive director to the state attorney or other appropriate official or agency having authority to initiate prosecution. The referral shall be scheduled for review in executive session at the next regularly scheduled meeting of the commission. Unless disapproved by a majority of the commission, the executive session shall remain unpublished and exempt from public records disclosure until such time as the prosecuting authority declines or completes its investigation and notifies the commission that the matter is no longer exempt from disclosure pursuant to chapter 119, Florida Statutes.
- Staff would create a false case number and go into the executive session with the notification being exempt from public disclosure until it became a public record under the investigation, or returned to the COE with a declination of prosecution.
- If a situation required immediate notification, it would be brought back at the next regularly scheduled meeting.
- Cases discussed in executive session would eventually become public record once they were no longer considered exempt.
- A referral would receive a certain designation and would be attached to the COE's internal records with the referencing complaint.

MOTION to accept staff's recommendation to amend the Rules of Procedure. Motion by Ronald Harbison, seconded by Daniel Galo, and carried 5-0.

Mr. Johnson said that the complaint page on the COE's website was redesigned to be more user friendly, and that published public executive sessions and complaints could be searched online.

XI. COMMUNITY OUTREACH

Ms. Rogers said that:

- She had been tweeting updates during the meeting.
- The COE's Facebook page featured articles, events in the community, meeting reminders, and a Did-You-Know segment regarding the Code of Ethics.
- Advertising the COE on Facebook was being researched by staff.
- Staff requested that the COE members review their calendars to accommodate a March 8, 2013, Ethics Awareness Day (EAD).
 - An EAD kick-off could be held on March 7, 2013.
 - March was National Ethics Awareness month.
 - Staff was attempting to include a featured speaker at the COE March 8, 2013, meeting in the Board of County Commissioner's chambers.
 - In partnership with the Palm Beach County School Board (PBCSB), programs were being developed to provide three separate awards to students from lower, middle, and upper schools.
 - Lower school student projects would include art that reflected ethics, an essay contest for middle school, and ethics videos from the high-school level.
 - The COE could use art designs from grades one through four for COE bus advertising and ethics videos from high-school students on the COE YouTube channel.
 - On EAD, staff wanted to recognize individuals who had followed the proper paths set forth by the COE.
 - The PBCSB initiated the Ethics in Action program in 2011, and hosted its first ethics bowl in May 2012.

XI. – CONTINUED

- The PBCSB would like the final ethics team to practice a debate in front of the COE on March 7, 2013, before the April 2013, National Ethics Bowl Competition occurred.
- The COE had ongoing internship programs with the University of Miami, Palm Beach State College, Palm Beach Atlantic, and Florida Atlantic University's Honors College.
- Staff was developing nonprofit director training to help employees and officials comply with requirements.
- Trainings regarding charitable solicitation, the lobbyist registration ordinance, outside employment, and the gift laws would be available on the COE website and on the YouTube channel once they were finalized.
- Events at the Palm Beach County Planning Congress and the Chamber of Commerce were approaching, and Mr. Johnson would be presenting at both events.

Mr. Johnson said that advisory opinion annotations were not yet completed, and that the application was cost prohibitive.

Ms. Rogers said that all COE website contents were available in portable document format (pdf), and that people using either a Google or Safari browser could save information onto their feeds and in their computer's library through a mobile phone.

BOARD DIRECTION:

Commissioner Farach requested that staff research a COE application since costs differed from what the board had previously discussed. He said that the application costs were \$2,000 or \$3,000, and that funds from the COE's budget possibly could be used.

Ms. Rogers said that staff was concerned with lower-cost applications which required advertising, since the COE would be unable to control the advertising on those applications. She said that, staff would continue to work on the matter until an effective mechanism was found.

XI. – CONTINUED

Commissioner Harbison suggested that staff converse with David Baker or Marty Rogol regarding the Ethics Day activities.

Commissioner Fiore suggested that the COE offer newly elected officials special ethics training.

Ms. Rogers said that:

- Staff had reviewed an emailing model created by the governor's office.
- Emails associated with a COE investigation were disclosed at the end of an investigation process.
- The COE would be prohibited from immediately releasing emails associated with an investigation into a searchable database.
- Difficulty existed in allowing public access to emails through a searchable database that would not compromise an investigation.

XII. EXECUTIVE DIRECTOR COMMENTS – None

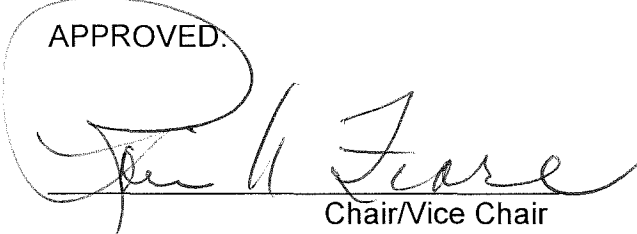
XIII. COMMISSION COMMENTS – None

XIV. PUBLIC COMMENTS – None

XV. ADJOURNMENT

MOTION to adjourn the meeting. Motion by Robin Fiore, seconded by Patricia Archer, and carried 5-0.

At 4:44 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair