

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

OCTOBER 2, 2014

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

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

- I. CALL TO ORDER**
- II. ROLL CALL**

MEMBERS:

Salesia V. Smith-Gordon, Chair – Absent
Michael S. Kridel, Vice Chair
Clevis Headley
Michael F. Loffredo
Carmine A. Priore

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Senior Investigator
Anthony C. Bennett, COE Investigator
Steven P. Cullen, COE Executive Director
Christie E. Kelley, COE Staff Counsel
Gina A. Levesque, COE Intake Manager

ADMINISTRATIVE STAFF:

Andrea Javier, Minutes Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS

Vice Chair Kridel said that Commissioner Loffredo would act as chair if the meeting did not adjourn by 2:30 p.m.

IV. APPROVAL OF MINUTES FROM SEPTEMBER 4, 2014

MOTION to approve the September 4, 2014, minutes. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 4-0. Salesia Smith-Gordon absent.

V. PROBABLE CAUSE HEARING (TO BE HEARD IN PUBLIC SESSION)

V.a. C14-009

Steven Cullen, Commission on Ethics (COE) Executive Director, said that:

- The respondent waived applicable time requirements and his right to a private hearing.
- J. Alex Augustin filed a sworn complaint against Keith James, a City of West Palm Beach commissioner, on September 14, 2014.
- He determined there was legal sufficiency since the complaint alleged facts that, if true, indicated a violation of the Code of Ethics (Code).
- Staff recommended dismissal for lack of probable cause.
- After examining the documentary evidence and considering legal argument, the COE should determine whether probable cause existed.
- Probable cause could be found if reasonable, trustworthy facts and circumstances led the COE to believe the respondent violated the Code.
- Pursuant to the COE's bylaws, Article VIII Section 10, the commissioners, not the public, could ask questions during the hearing.

Staff Counsel Christie Kelley said that:

- The complaint alleged that:
 - At the September 2, 2014, City of West Palm Beach (City) Commission meeting, the respondent, Commissioner James, voted on a matter pertaining to a proposed settlement between the City and the United States Department of Housing and Urban Development (HUD).

V.a. – CONTINUED

- The vote regarded work involving the City and Redemptive Life Fellowship, Inc. (RLF), and that as its registered agent, Commissioner James should have disclosed the relationship or abstained from voting.
- Based on the facts, Commissioner James' vote did not violate the Code's sections on misuse of public office, corrupt misuse of official position, or disclosure of voting conflicts since the matter did not directly or indirectly involve a customer or client of his outside employer or business.
- The investigation revealed that :
 - Redemptive Life Fellowship Urban Initiative Corporation (RLFUIC), not RLF, contracted with the City for HUD funding.
 - The respondent was never RLFUIC's registered agent.
 - Neither RLF nor RLFUIC were mentioned at the September 2, 2014, City Commission meeting.
 - The relationship between respondent and RLFUIC did not meet the Code's definition of customer or client.
 - The respondent was paid \$2,500 for providing legal services to RLFUIC between 2006 and 2007.

Mr. Cullen said that a proposed order stating that no probable cause was found and that the matter was dismissed was prepared for the COE's consideration.

MOTION to accept the Public Report Finding No Probable Cause and Final Order of Dismissal as presented. Motion by Carmine Priore, seconded by Michael Loffredo, and carried 4-0. Salesia Smith-Gordon absent.

Mr. Cullen suggested the COE review the public report, which was not included in the agenda packet.

Gina Levesque, the COE Intake Manager, clarified that staff-generated orders were not generally included in the agenda or published until the COE voted.

V.a. – CONTINUED

Vice Chair Kridel read the following public report and final order:

Complainant, Alex Augustin, filed the above referenced complaint on September 15, 2014, alleging that Respondent, Keith James, a Commissioner of the City of West Palm Beach, violated §2-443(a), *Misuse of public office or employment*, §2-443(b), *Corrupt misuse of official position*, and §2-443(c), *Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. On October 2, 2014, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, Legal Sufficiency Determination, Investigative Report and Probable Cause Recommendation. After an oral statement by the Advocate, the Commission concluded no probable cause exists to believe any violation occurred.

Therefore it is:

Ordered and Adjudged that the complaint against respondent, Keith James, is hereby dismissed.

Done and Ordered by the Palm Beach County Commission on Ethics in public session on October 2, 2014.

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

VI. PROPOSED ADVISORY OPINIONS

VI.a. Request for Opinion (RQO) 14-026

Ms. Kelley said that:

- Lake Worth Community Redevelopment Agency (LWCRA) Chair Cary Sabol asked whether he was prohibited from legally representing Adopt-a-Family in a real estate transaction on a paid or unpaid basis.

VI.a. – CONTINUED

- The LWCRA partnered with local nonprofit organizations, such as Adopt-a-Family, to provide funds from its recently awarded grant.
- Chair Sabol anticipated receiving \$2,500 from the transaction.
- Neither Chair Sabol nor his spouse served as an officer or director of Adopt-a-Family.
- Staff submitted that:
 - Chair Sabol was not prohibited from representing Adopt-a-Family in a real estate transaction in his personal capacity as an attorney.
 - Adopt-a-Family was not considered a customer or client since the anticipated income on a paid or unpaid basis was less than the Code's \$10,000 threshold.
 - Chair Sabol would not be prohibited from participating in or voting on matters regarding Adopt-a-Family.

MOTION to approve proposed advisory opinion letter RQO 14-026. Motion by Michael Loffredo, seconded Clevis Headley, and carried 4-0. Salesia Smith-Gordon absent.

VI.b. RQO 14-027

Mr. Cullen said that:

- County Planning, Zoning, and Building Executive Director Rebecca Caldwell asked whether attending an award ceremony dinner valued over \$100 and sponsored by an organization was considered a gift given her participation in judging a contest for the organization, which was also a registered lobbyist.
- Ms. Caldwell's participation served a public purpose since it enhanced the relationship between the "industry" and the "enforcers."
- Ms. Caldwell spent four to eight hours evaluating the applications before judging the contest.

VI.b. – CONTINUED

- Staff submitted that:
 - Under the Code, an exception to the gift definition applied since it was accepted while performing official County duties for a public purpose and since County time was expended in preparation.
 - A precedent was set in RQO 11-011 where time invested was considered a gift-law exception.
 - Attending the dinner was not considered a gift and reporting it was unnecessary.

MOTION to approve proposed advisory opinion letter RQO 14-027. Motion by Carmine Priore, seconded by Clevis Headley, and carried 4-0. Salesia Smith-Gordon absent.

VI.c. RQO 14-028

Mr. Cullen said that:

- City of Boynton Beach Commissioner Michael Fitzpatrick asked about the cone-of-silence requirement under the County Lobbyist Registration Ordinance, Section 2-355, which restricted communication between parties involved in a competitive bid.
- Commissioner Fitzpatrick was authorized to negotiate with the County outside of the existing bid process to transfer a 4.85-acre property for use as a public park.
- Staff submitted that the ordinance did not apply to Commissioner Fitzpatrick's communication with the County since he was operating outside the bid process, and it did not meet the cone-of-silence legal definition.

MOTION to approve proposed advisory opinion letter RQO 14-028. Motion by Clevis Headley, seconded by Michael Loffredo, and carried 4-0. Salesia Smith-Gordon absent.

VII. DISCUSSION RE: WORKSHOP

Mr. Cullen said that:

- Staff's proposed agenda for the October 24, 2014, workshop encompassed most of the suggested discussion topics.
- Staff would provide a packet of proposed changes to COE rules and ordinances in strikethrough format with the final agenda.
- Staff focused on changes to COE rules and bylaws, since ordinance changes required the Board of County Commissioners' approval.
- Staff could not confirm which special guests would attend.

VIII. EXECUTIVE DIRECTOR COMMENTS

DISCUSSED: Workshop.

Mr. Cullen said that:

- Staff anticipated that Senator Abruzzo or his staff would attend to brief the COE on the "Ethics Summit."
- Staff incorporated proposed changes to COE rules into the bylaws.

IX. COMMISSION COMMENTS

IX.1.

DISCUSSED: Expression of Commendation.

Commissioner Clevis Headley commended staff and the COE on their hard work.

Vice Chair Kridel said that writing reports was challenging and that he was impressed with the quality of staff's work.

X. PUBLIC COMMENTS

X.1.

DISCUSSED: Workshop.

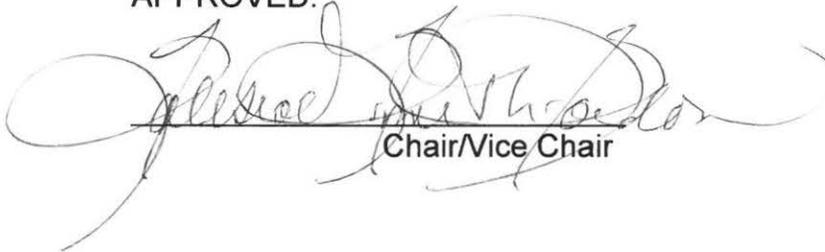
Richard Radcliffe, Palm Beach County League of Cities (LOC) Executive Director, said that while the LOC supported changing COE rules, it was reluctant to support changing the Code. He suggested that the COE address the issue of COE meetings being used for political purposes at the upcoming workshop.

XI. ADJOURNMENT

MOTION to adjourn the meeting. Motion by Clevis Headley, seconded by Carmine Priore, and carried 4-0. Salesia Smith-Gordon absent.

At 2:03 p.m., the vice chair declared the meeting adjourned.

APPROVED:



Chair/Vice Chair