

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

JULY 9, 2015

**THURSDAY
1:34 P.M.**

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

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

MEMBERS:

Michael S. Kridel, Vice Chair
Clevis Headley
Michael F. Loffredo
Judy M. Pierman

STAFF:

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

ADMINISTRATIVE STAFF:

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

- III. INTRODUCTORY REMARKS**

Vice Chair Michael Kridel said that today's meeting would be one of transitions.

- IV. AWARD PRESENTATIONS**

Vice Chair Kridel commended former Chair Salesia Smith-Gordon and former Commissioner Carmine Priore for their service.

IV. – CONTINUED

(CLERK’S NOTE: Ms. Smith-Gordon and Mr. Priore were presented with awards at this time.)

V. NOMINATION AND ELECTION OF CHAIR

Vice Chair Kridel asked for nominations for the chair seat.

Commissioner Michael Loffredo nominated Vice Chair Kridel.

MOTION to elect Michael Kridel as chair. Motion by Michael Loffredo, seconded by Clevis Headley, and carried 4-0.

VI. NOMINATION AND ELECTION OF VICE CHAIR

Chair Kridel stated that the floor was open for vice chair nominations.

Commissioner Loffredo nominated Commissioner Clevis Headley.

MOTION to elect Clevis Headley as vice chair. Motion by Michael Loffredo, seconded by Judy Pierman, and carried 4-0.

VII. APPROVAL OF MINUTES FROM JUNE 4, 2015

MOTION to approve the June 4, 2015 minutes. Motion by Judy Pierman, seconded by Clevis Headley, and carried 4-0.

VIII. Page 4

IX. Pages 5-8

X. PROCESSED ADVISORY OPINIONS (CONSENT)

X.a. Request for Opinion (RQO 15-021)

X.b. RQO 15-022

X.c. RQO 15-023

X.d. RQO 15-024

X. – CONTINUED

X.e. RQO 15-025

X.f. RQO 15-026

X.g. RQO 15-027

X.h. RQO 15-028

X.i. RQO 15-030

MOTION to approve the consent agenda. Motion by Judy Pierman, seconded by Clevis Headley, and carried 4-0.

XI. ITEMS PULLED FROM CONSENT AGENDA – None

XII. PROPOSED ADVISORY OPINIONS

XII.a RQO 15-029

Christie E. Kelley, Esq., COE staff counsel, said that:

- The attorney for the City of Riviera Beach asked if participation in a matter by an elected official, who had a voting conflict concerning that matter, would violate the County's Code of Ethics (Code) if the elected official abstained from voting.
- Staff submitted that the elected official's participation would violate the Code's Section 2-443(c), the disclosure of voting conflicts provision (provision).
- The provision required elected officials to abstain from voting and not participate in any matter which would result in a special financial benefit to persons or entities specified in the Code's Section 2-443(a)(1-7).
- To comply with the Code, elected officials were also required to disclose the conflict before discussion of the matter and file a State voting conflict form with the Clerk and Comptroller's Office and with the COE.

XII.a – CONTINUED

MOTION to approve proposed advisory opinion letter RQO 15-029. Motion by Clevis Headley, seconded by Judy Pierman, and carried 4-0.

RECESS

At 1:48 p.m., the chair declared the meeting recessed for an executive session.

VIII. PROBABLE CAUSE HEARING (EXECUTIVE SESSION)

RECONVENE

At 2:20 p.m., the meeting reconvened with Chair Kridel, Vice Chair Headley, and Commissioners Loffredo and Pierman present.

VIII.a. C15-015

Vice Chair Headley read the following Public Report Finding No Probable Cause and Order of Dismissal as discussed during the executive session:

Complainant, Michael P. McCloskey, filed the above referenced complaint on May 11, 2015, alleging that Respondent Geraldine Muoio, Mayor of the City of West Palm Beach, violated §4-443(a)(b)(c) of the Palm Beach County Code of Ethics.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 9, 2015, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, Legal Sufficiency Determination and Report of Investigation. After oral statements by the Advocate and Respondent, the Commission concluded no probable cause exists to believe any violation occurred.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Geraldine Muoio, is hereby DISMISSED.

VIII.a. – CONTINUED

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on July 9, 2015.

By: Michael S. Kridel, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report Finding No Probable Cause and Order of Dismissal.)

IX. PROBABLE CAUSE HEARING (PUBLIC)

IX.a. C15-018

Gina A. Levesque, COE Intake Manager, said that the respondent, COE Senior Investigator Mark E. Bannon, waived his right to an executive session.

Steven P. Cullen, COE Executive Director, said that:

- Bart Novack filed a formal complaint against Mr. Bannon on June 16, 2015.
- Legal sufficiency of the complaint was found. If true, the facts alleged would constitute a violation of the Code.
- After the investigation, staff recommended dismissal for lack of probable cause.
- The COE would determine whether probable cause existed by examining documentary evidence and considering legal argument.
- Probable cause could be found if there were reasonably trustworthy facts and circumstances for the COE to believe that Mr. Bannon violated the Code.

Ms. Kelly said that:

- The complaint stated that Mr. Bannon filed a gift form with the COE on July 17, 2013 for a gift with a monetary value of \$750 from the Palm Beach County Police Benevolent Association (PBA).

IX.a. – CONTINUED

- The complaint alleged that the PBA lobbied in front of government municipalities; therefore, the Code's Sec 2-444(a)(1) prohibited Mr. Bannon from accepting a gift greater than \$100.
- In order for the reported gift to violate the Code's Sec 2-444(a)(1), the evidence needed to show that the \$750 scholarship was paid by a person or business entity that the recipient knew, or should have known with the exercise of reasonable care, was a vendor, lobbyist, or any principal or employer of a lobbyist who lobbied, sold, or leased to the County or municipality as applicable.
- The evidence gathered revealed that none of the PBA entities associated with the reported gift were lobbyists, principals, or employers of lobbyists who lobbied the County.
- The parent organization, the Palm Beach County Police Benevolent Association, Inc. (PBA, Inc.), was a not-for-profit corporation.
- The scholarship was paid by the Police Benevolent Association Charity Fund, Inc. (PBA Charity Fund), which was also a not-for-profit corporation and 501(c)(3) charitable organization registered with the Internal Revenue Service.
- The PBA office manager stated that neither PBA, Inc., nor PBA Charity Fund were principals or employers of lobbyists who lobbied the County.
- The names of the PBA representatives listed on the document provided by Mr. Novack did not appear in the County's lobbyist registration database.
- The names of 15 PBA employees listed on the PBA Web site were cross referenced with the names of County lobbyists and principals and did not appear in the County's lobbyist registration database.
- The seven names used by PBA as a charitable organization listed on the Florida Department of Agriculture's Website did not appear in the County's lobbyist registration database.

IX.a. – CONTINUED

Mr. Bannon said that:

- The scholarship was competitive; however, a portion of the scholarship, which had a minimum grade point average requirement, was awarded to all applicants.
- He was a member of the PBA and that he listed his name on the gift form because he attended the award ceremony with his son, who received the scholarship in question.

(CLERK'S NOTE: Commissioner Loffredo inadvertently made a motion. Chair Kridel inadvertently called the vote without a second.)

Vice Chair Headley read the following Public Report Finding No Probable Cause and Order of Dismissal:

Complainant, Bart Novack, filed the above referenced complaint on June 16, 2015, alleging that Respondent, Mark Bannon, Senior Investigator for the Palm Beach County Commission on Ethics, violated §4-444(a)(1) of the Palm Beach County Code of Ethics.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 9, 2015, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, Legal Sufficiency Determination and Report of Investigation. After oral statements by the Advocate and Respondent, the Commission concluded no probable cause exists to believe any violation occurred.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Mark Bannon, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on July 9, 2015.

IX.a. – CONTINUED

By: Michael S. Kridel, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report Finding No Probable Cause and Order of Dismissal.)

MOTION to accept the Public Report Finding No Probable Cause and Order of Dismissal as presented. Motion by Judy Pierman, seconded by Clevis Headley, and carried 4-0.

Mr. Bannon said that he appreciated staff's extensive investigation.

(CLERK'S NOTE: The numeric order of the agenda was restored.)

XIII. EXECUTIVE DIRECTOR COMMENTS

XIII.a.

DISCUSSED: Live Training Requests.

Mr. Cullen said that there was an increase in live training requests, which he believed led to an increase in requests for opinion.

XIII.b.

DISCUSSED: Ordinance Drafting Committee.

Mr. Cullen said that the COE Ordinance Drafting Committee meeting was scheduled for July 27, 2015, during which the hearing officer amendment, the vendor definition, and the gift report filing date would be discussed

XIV. COMMISSION COMMENTS

XIV.a.

DISCUSSED: Congratulations.

Commissioners Loffredo and Pierman congratulated Chair Kridel and Vice Chair Headley on their new positions.

XIV.b.

DISCUSSED: Staff Commendations.

Chair Kridel said that the two probable cause hearings represented the highest level of transparency, professionalism, and ethics. He added that there was a vast difference between legal sufficiency and probable cause and that he was impressed by staff's investigative approaches.

XV. PUBLIC COMMENTS – None

XVI. ADJOURNMENT

At 2:37 p.m., the chair declared the meeting adjourned.

APPROVED:



Chair/Vice Chair