



Agenda

March 3, 2011 – 3:00 p.m.
Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Palm Beach County
Commission on Ethics
2633 Vista Parkway
West Palm Beach, FL 33411
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Commissioners
Edward Rodgers, Chair
Manuel Farach, Vice Chair
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director
Alan S. Johnson

Administrative Assistant
Gina A. Levesque

Staff Counsel
Megan C. Rogers

Investigator
Mark E. Bannon

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from February 3, 2011
- V. Executive Session
 - a. C10-007
 - b. C10-008
- VI. Processed Advisory Opinions
 - a. RQO 11-002
 - b. RQO 11-004-OE
 - c. RQO 11-005
 - d. RQO 11-006
 - e. RQO 11-008
- VII. Proposed Advisory Opinions
 - a. RQO 11-003
- VIII. Executive Director Compensation (Commissioner Harbison)
- IX. Public Comments
- X. Workshop Items
 - a. Drafting Committee Update
 - b. Rules of Procedure Amendments 4.11 and 4.12 (self-initiated complaints)
 - c. Rules of Procedure Amendments 4.31, 4.32 and 4.33 (advocate conflicts of interest)
- XI. Executive Director Comments
- XII. Board Comments
- XIII. Adjournment

MEETING: PALM BEACH COUNTY COMMISSION ON ETHICS (COE)

I. CALL TO ORDER: February 3, 2011, at 3:08 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 - Arrived later
Dr. Robin Fiore
Ronald Harbison
Bruce Reinhart, Esq.

STAFF:

Alan Johnson, Esq., COE Executive Director
Mark Bannon, COE Investigator
Gina Levesque, COE Administrative Assistant
Megan Rogers, COE Staff Counsel
Benjamin Evans, COE Intern
Sean Moody, COE Intern
Elizabeth Sans, COE Intern
Sydone Thompson, Deputy Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS

Judge Edward Rodgers asked everyone to turn off or silence their cell phones. He recognized attendee Karen Erickson of The Erickson Institute.

Judge Rodgers stated that the Commission on Ethics (COE) would recess to discuss item V.a., C10-006, and item V.b., C10-007 in an executive session that was closed to the public. He said that the public meeting would resume in chambers at approximately 4:00 - 4:30 p.m.

IV. APPROVAL OF MINUTES FROM JANUARY 6, 2011

MOTION to approve the minutes of January 6, 2011. Motion by Robin Fiore, seconded by Bruce Reinhart, and carried 4-0. Manuel Farach absent.

RECESS

At 3:11 p.m., the COE recessed for an executive session.

V. EXECUTIVE SESSION

V.a. C10-006

V.b. C10-007

(CLERK'S NOTE: See below for further comments on the executive session.)

RECONVENE

At 4:53 p.m., the COE reconvened with Judge Rodgers, Manuel Farach, Dr. Robin Fiore, Ronald Harbison, and Bruce Reinhart present.

V. CONTINUED

Judge Rodgers stated that a complaint involving Commissioner Burt Aaronson was heard in the executive session and he read as follows the report. He said that copies of the report would be available at today's meeting:

"PUBLIC REPORT AND FINAL ORDER, WITH ISSUANCE OF A LETTER OF INSTRUCTION.

Complainant Alan S. Johnson, Executive Director of the Commission on Ethics, filed the above-reference complaint on December 15, 2011, [sic] alleging a possible ethics violation involving Respondent Burt Aaronson, Palm Beach County Commissioner.

The complaint alleges that on September 11, 2010, Burt Aaronson knowingly accepted a gift in excess of \$100 from a principal or employer of a lobbyist. 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 County Code of Ethics.

Knowingly accepting any gift with a value of greater than \$100 from any person or business entity that the recipient knows is a lobbyist or a principal or employer of a lobbyist is prohibited pursuant to Article XIII, Section 2-444(a) of the Palm Beach County Code.

V. – CONTINUED

On December 13, 2011, [sic], the Complaint was determined by staff to be legally sufficient. The matter was investigated and presented to the Commission on Ethics on January 6, 2011, with a recommendation that probable cause exists that a Code of Ethics violation occurred. At that time, the commission conducted a hearing. The commission reviewed and considered the investigative report, documentary submissions, recommendation of staff, written response of the Respondent, as well as oral statements of the Respondent and Advocate.

At the conclusion of the hearing, the Commission on Ethics continued the probable cause hearing until February 3, 2011. After further review of the facts and circumstances of the alleged offense, the matter was again presented to the Commission on Ethics on February 3, 2011, with a recommendation that although there may be probable cause to believe there was a Code of Ethics violation, the facts and circumstances warrant a dismissal with a letter of instruction to the Respondent.

At that time, the commission conducted further hearing in the matter. The commission reviewed and considered the investigative report, documentary submissions, recommendation of staff, written response of the Respondent, as well as oral statements of the Respondent and Advocate. The commission also reviewed Article V, Section 2-260.3 of the Commission on Ethics Ordinance.

At the conclusion of the hearing, the Commission on Ethics determined that the alleged violation was inadvertent and unintentional. The commission based this determination on the following factors:

- 1) Respondent received a gift of two tickets to the Business Development Board gala valued at \$400.
- 2) The total ticket value of \$400 is in excess of the \$100 limit imposed by Section 2-244(a).
- 3) The gift was given by George Elmore, a well-known businessman within Palm Beach County, who is also a personal friend of the Respondent.

V. – CONTINUED

- 4) One of George Elmore's companies, Coconut Northlake, LLC, employs lobbyists and is registered in Palm Beach County as a principal/employer of the lobbyists.
- 5) Over many years, Mr. Elmore has employed lobbyists for various land use issues that have come before County advisory boards and the County Commission, including one significant and high-profile matter several years ago.
- 6) The Respondent received the gift from a long-time personal friend.
- 7) Although the donor was listed as George Elmore, the purchaser of the tickets was Hardrives, Inc., another company owned by Mr. Elmore. Hardrives, Inc., does not currently employ lobbyists.
- 8) The Respondent contends the gift was from Hardrives, Inc., although his original sworn gift report names only Mr. Elmore as donor.
- 9) The Respondent did not attempt to hide the transaction, and promptly submitted the gift on his quarterly report on State Form No. 9.
- 10) In previous instances, the Respondent has requested advisory opinions from the Commission on Ethics and has demonstrated his commitment to following the Code of Ethics.
- 11) The gift at issue is \$400, and a permissible gift would have been \$100. While the commission does not find the amount in question to be insignificant, based on all the facts and circumstances, it does find the alleged violation to be insignificant within the meaning of Section 2-260.3.
- 12) The Respondent has voluntarily returned the prohibited portion of the gift to the donor.

V. – CONTINUED

- 13) Further, based upon the statements of the Respondent at the initial probable cause hearing, the proactive steps taken by the Respondent to ensure compliance with the Code of Ethics in the past, the fact that no attempt was made to hide the transaction as the Respondent made proper disclosure of the gift as required by state law, and the nature of the facts and circumstances surrounding the alleged violation, the commission finds that the alleged violation was inadvertent and unintentional.

Therefore, it is:

Ordered and adjudged that the Complaint against Respondent Burt Aaronson is hereby dismissed and a letter of instruction is to be issued in this case.

Done and ordered by the Palm Beach County Commission on Ethics in public session on February 3, 2011.

Signed, Edward Rodgers, Chair.”

Judge Rodgers next read the Letter of Instruction, and he said that copies of the document would be available as well:

“LETTER OF INSTRUCTION

The Executive Director of the Commission on Ethics filed the above-captioned Complaint against Burt Aaronson for violating Article XIII., Section 2-444(a) (gift law) of the Palm Beach County Code of Ethics. The Complaint alleges that Respondent, while a Palm Beach County Commissioner, accepted a prohibited gift from the principal or employer of a lobbyist.

Facts: Respondent is and has been a county commissioner since 1992. He is a reporting individual as defined by Section 112.3145(1)(a) required to submit a quarterly gift disclosure Form No. 9 listing any and all gifts in excess of \$100 subject to specific statutory exclusions.

V. – CONTINUED

On October 25, 2010, Respondent signed a quarterly gift disclosure listing a gift from George Elmore valued in the amount of \$400. The gift comprised two tickets to the Business Development Board Gala event held on September 11, 2010. A review of the county paid lobbyist registration records, maintained by the Palm Beach County Administrator's Office through the Office of Legislative Affairs, established that one of George Elmore's companies, Coconut Northlake, LLC, employs registered lobbyists who lobby Palm Beach County.

The purchaser of the tickets to the gala event was Hardrives, Inc., another company owned by Mr. Elmore. Subsequently, on January 13, 2011, Respondent filed an amended gift report listing Hardrives, Inc. as the gift donor. As of May 1, 2010, Hardrives, Inc., no longer employed registered lobbyists in Palm Beach County. Coconut Northlake, LLC employment of lobbyists is ongoing.

Holding: No county commissioner, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than \$100 from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist.

Respondent did accept a prohibited gift from the employer of a lobbyist. However, the Commission on Ethics has reviewed the facts and circumstances surrounding this alleged violation and has determined the actions of the Respondent were unintentional and inadvertent. Although Hardrives, Inc. no longer employed lobbyists at the time of the gift, one of Mr. Elmore's companies, coconut Northlake, LLC, is the employer of registered lobbyists.

In addition, the COE acknowledges the fact that George Elmore is a longtime personal friend of the Respondent and that the Respondent considered the gift tickets as being from Mr. Elmore in connection with Hardrives, Inc.

V. – CONTINUED

Among the additional significant circumstances noted by the COE, the Respondent has previously requested advisory opinions from the COE and in doing so has demonstrated his commitment to following the Code of Ethics. Lastly, the COE is mindful of the fact that Respondent in no way attempted to hide the acceptance of this gift and the premises therein as he fully complied with state gift reporting requirements, and further, that he has voluntarily returned the prohibited portion of the gift to the donor.

In light of the facts and circumstances known to the Commission on Ethics, the matter is disposed of by way of dismissal with this Letter of Instruction. Respondent is now advised that the filing of Ethics Complaint C10-006, along with this Letter of Instruction is to serve as notice of the consequences of not following gift law requirements under the Code of Ethics. While the COE finds that any alleged violation was inadvertent and unintentional, Respondent is therefore instructed to be more diligent in the future about investigating the source of any gift and to conform his activities to this Letter of Instruction and to the requirements of Section 2.-444(a) to avoid any future enforcement action.

This Letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on February 3, 2011.

Signed, Edward Rodgers, Chair.”

VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

VI.a. Request for Opinion (RQO) 10-038 OE

VI.b. Request for Opinion (RQO) 11-001

Alan S. Johnson, Esq., Commission on Ethics (COE) Executive Director, stated that RQO 10-038 OE and RQO 11-001 were presented together as the consent agenda.

MOTION to approve the consent agenda. Motion by Robin Fiore, seconded by Ronald Harbison, and carried 5-0.

MOTION to reorder the agenda to consider item VIII. Motion by Bruce Reinhart, seconded by Robin Fiore, and carried 5-0.

VIII. WORKSHOP ITEMS

VIII.a. Proposed Code Revision: Sec. 2-444 Gift Law

Concerning Sec. 2-444 (a)(1) Mr. Johnson stated that:

- Section 2-444 contained wording that required gift recipients to know that the gift's donor was a lobbyist, principal or an employer of a lobbyist.
- He suggested that since proof of violations required clear and convincing evidence, the Code of Ethics (Code) language concerning misuse of office could be used as follows:

No County commissioner, County employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly any gift with a value of greater than \$100 from any person or business that the recipient knows...; and,

...knows or should know with the exercise of reasonable care either lobbyist or principal or employer of a lobbyist.

Mr. Johnson said that:

- Staff requested the COE's consideration on the proposed gift law Code language revisions for the ordinance drafting committee (drafting committee).
- The lobbying activity mentioned in the lobbyist ordinance applied to the actions that occurred before a particular government entity or official that the employee or official represented.
- The lobbyist ordinance would not apply to county commissioners and State lobbyists who had not registered to lobby in the County.
- County lobbyists that were not registered to lobby before officials in the Village of Royal Palm Beach would not be affected by the ordinance.

VIII.a. – CONTINUED

Bruce Reinhart stated that the drafting committee should be mindful that certain types of conduct could be prohibited while other types could be allowed, if they were disclosed.

Mr. Johnson said that:

- The drafting committee would create clearer definitions for routine use, and that he welcomed additional discussion at the next COE meeting.
- The exercise of reasonable care indicated to elected officials that they had a responsibility to learn the business and political backgrounds of gift donors.
- General Code language prohibited activities and criminal penalties that would apply to willful Code violations, and would result in criminal prosecution.
- He recommended adding the Code language, “knows, or should know with the exercise of reasonable care.”

MOTION to approve a recommendation that the ordinance drafting committee adopt the proposed amendments to item VIII.a., Sec. 2-444 (a)(1). Motion by Robin Fiore, seconded by Ronald Harbison, and carried 5-0.

Concerning Sec. 2-444 (a)(2) Mr. Johnson stated that:

- The proposed Code revision resulted from Ronald Harbison’s opinion that gift donors were not culpable of Code violations even when they were lobbyists, or they had knowingly employed lobbyists, who gave gifts to County employees, officials, or elected officials.
- Code sections that discussed persons other than officials included:
 - Section 2-447: indicated any person who retaliated or interfered with an investigation;
 - Section 2-443(g): prohibited a person from submitting false documents to obtain County employment or a County contract; and,

VIII.a. – CONTINUED

- Section 2-443(f): prohibited any person from obtaining a contingency fee based on action or inaction of a body.
- Precedence in the Code expanded its reach when it was relevant and pertinent. The Code language was limited to persons in official positions such as an officer, partner, or director of a principal entity.
- Prohibited gifts furnished by lobbyists or principles and employees of lobbyists were subject to the jurisdiction of the COE.

Dr. Robin Fiore suggested adding the language, “or should know with reasonable care” to Sec. 2-444 (a)(2).

Mr. Johnson stated that:

- A \$500 fine could be imposed by the code enforcement board to a non-governmental employee who engaged in a prohibited action.
- Any valid contract with that employee could be voided, and any willful violation of the Code could be deemed criminal.
- The Inspector General’s powers were to advise, report, and make recommendations concerning violations.
- The COE had the power to make recommendations to the board.

Mr. Reinhart stated that it should be communicated to the drafting committee that resource limitations impacted the COE’s actions. He added that the actions of recipients and donors of prohibited gifts should be scrutinized equally.

MOTION to approve a recommendation that the ordinance drafting committee adopt the proposed amendments to item VIII.a., Sec. 2-444 (a)(2), and that the ordinance drafting committee acknowledge the Commission on Ethics’ resource limitations. Motion by Bruce Reinhart, and seconded by Robin Fiore.

VIII.a. – CONTINUED

Mr. Johnson suggested adding the language, “lower-level employees knew or with the exercise of reasonable care should know” to Sec. 2-444 (a)(2) of the Code.

AMENDED MOTION to approve a recommendation that the ordinance drafting committee adopt the proposed amendments to item VIII.a., Sec. 2-444 (a)(2), that the ordinance drafting committee consider adopting the proposal acknowledging the Commission on Ethics’ resource limitations, and the language proposed by Mr. Johnson. Motion by Bruce Reinhart, seconded by Robin Fiore, and carried 4-1. Manuel Farach opposed.

MOTION to approve a recommendation that the ordinance drafting committee adopt the proposed amendments to item VIII.a., Sec. 2-444 (b)(2). Motion by Bruce Reinhart, seconded by Robin Fiore, and carried 5-0.

Concerning Sec. 2-444 (c) Mr. Johnson stated that:

- A conflict was identified in the Code and State statutes pertaining to the gift law.
- The State law stipulated that employees or officials who were required to file quarterly gift reports were prohibited from any form of solicitation.
- The Code language stipulated that an employee could not solicit or accept a gift from a lobbyist in excess of \$100.
- The proposed amendment would import the State’s rule into the Code.

MOTION to approve a recommendation that the ordinance drafting committee adopt the proposed amendments to item VIII.a., Sec. 2-444 (c). Motion by Bruce Reinhart, seconded by Ronald Harbison, and carried 5-0.

VIII.b. Proposed Code Revision: Public Records Exemption for Initial Complaints – Sec. 2-260(f)

Mr. Johnson said that:

- The original statute exempted the complaint and investigation materials from public records. When the Code was initially adopted, only the whistleblower statute applied.
- In July 2010 the State expanded the non-disclosure rule from statewide COE to all local ethics commissions.
- The proposed amendments to the Code were reflective of recent modifications to the State law under Sec. 112.3188 concerning whistleblowers, and Sec. 112.324 concerning ethics commissions.
- The whistleblower section of the Code prohibited the name of the reporting party from being disclosed.
- The deleted language in Sec. 2-260(f), “With the exception of the initial complaint filed in a matter”, stipulated per State law that the initial complaint was exempt. The updated language modifications brought the Code into compliance with State law.

MOTION to approve a recommendation that the ordinance drafting committee adopt the proposed amendments to item VIII.b. Motion by Robin Fiore, seconded by Ronald Harbison, and carried 5-0.

VIII.c. Proposed Code Revision: Mandatory Setting of Public Hearings – Sec. 2-260(c)

Mr. Johnson stated that:

- The Code stipulated that once a probable cause determination was made by the COE, the respondent had 30 days in which to request a hearing, or the COE could request a hearing. If neither party made the request however, the case would not be resolved until a probable cause determination was made by the COE.
- The drafting committee suggested that once a probable cause determination was made, a final public hearing should be scheduled immediately to resolve the case.

VIII.c. – CONTINUED

- Staff recommended that the public hearing be scheduled within 120 days of the probable cause determination.
- Code language encouraged staff to ratify negotiated settlements on cases.

MOTION to approve a recommendation that the ordinance drafting committee adopt the proposed amendments to item VIII.c. Motion by Robin Fiore, seconded by Ronald Harbison, and carried 5-0.

VIII.d. Rules of Procedure Amendments 4.11 and 4.12 (Self-Initiated Complaints) – Tabled

VIII.e. Rules of Procedure Amendments 4.31 and 4.32 (Advocate Conflicts of Interest) – Tabled

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

VII. Executive Director Compensation

Mr. Reinhart said that no update on Mr. Johnson's compensation was available, and data relating to County employee salaries were circulated to each COE member through Mr. Johnson.

Mr. Harbison stated that:

- Based on the data set of County attorneys, the average salary was \$129,465 and the median was \$135,244.
- The average salary for the Attorney II position was \$87,988 and the median salary was \$86,913.
- The average salary for the title of Attorney III was \$108,607 and the median salary was \$106,421.
- The average salary for the title of Senior Assistant Attorney was \$143,936 and the median salary was \$142,775.

VII – CONTINUED

- There was no salary distinction under the Chief Assistant County Attorney title because all employees under this title earned \$178,780 annually.
- Based on the data collected for County Directors, the average salary was \$129,047 and the median salary was \$128,019.
- Based on the data collected for County Executive Directors, the average salary was \$102,079 and the median salary was \$95,819.

Judge Rodgers recommended that the matter be tabled and discussed at the next COE meeting in March 2011. The COE members concurred.

VIII. Pages 8-13

IX. EXECUTIVE DIRECTOR COMMENTS

IX.a. Referendum Committee Update

Mr. Johnson stated that there were no updates at this time on the referendum committee.

IX.b. Introduction of Staff Counsel

Mr. Johnson introduced staff counsel, Megan Rogers, and Palm Beach Atlantic University interns Sean Moody and Elizabeth Sans.

X. PUBLIC COMMENTS – None

XI. BOARD COMMENTS – None

XII. ADJOURNMENT

At 6:13 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair



Palm Beach County Commission on Ethics

Commissioners

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Manuel Farach, *Vice Chair*
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director

Alan S. Johnson

February 7, 2011

Steve Jerauld, Fire Chief
Palm Beach County Fire Rescue
405 Pike Road
West Palm Beach, Florida 33411

Re: RQO 11-002
Gifts/Advertised Discounts

Dear Chief Jerauld,

Your request for advisory opinion to the Palm Beach County commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your e-mail and attachment of January 26, 2011, whether you or members of your department may accept a travel discount offered by two Best Western properties located in Daytona Beach, Florida.

IN SUM, based upon the facts you have submitted, county fire-rescue personnel are not prohibited from accepting this discount when traveling to the Daytona Beach area. However, depending on the amount of the gift, recipients may be required to complete and include the gift in an annual gift disclosure report submitted to the Palm Beach County Commission on Ethics.

THE FACTS as we understand them are as follows: You are the Fire Chief for Palm Beach County and received a marketing letter from the sales manager of the Bahama House hotel in Daytona Beach, Florida. The letter included a flyer offering all Palm Beach County fire-rescue personnel discounted rates at either the Bahama House or Best Western Aku Tiki Inn hotels. Daytona Beach is located in Volusia County and your organization does not have existing or past contracts with either hotel or Best Western International, Inc. (Best Western). Based upon Florida and Palm Beach County Registration Records, Best Western, Bahama House, and the Aku Tiki Inn, are not principals or employers of lobbyists.

THE LEGAL BASIS for the commission's opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Section 2-444 of the Code of Ethics (gift law)

- (a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than



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one hundred dollars (\$100.00) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist.

Since neither hotel employs a lobbyist, the above prohibition does not apply. Of course, should either hotel employ or serve as the principal of a lobbyist in the future, acceptance of a discount amounting to more than one hundred dollars (\$100.00) over the course of an employee's stay at either property would be a violation of the code.

The relevant section requiring reporting of gifts valued at more than one hundred dollars is as follows:

(d) Gift Reports. Any official or employee who received a gift in excess of One Hundred Dollars (\$100.00) shall report that gift.

(1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, S.112.3148, as may be amended. A copy of each report shall be filed with the county Commission on Ethics.

(2) *All other officials and employees.* All other officials or employees who received any gift in excess of One Hundred Dollars (\$100.) shall complete and submit an annual gift disclosure report with the county Commission on Ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30th of each year.

The ethics commission has determined that for the purposes of valuation of allowable gifts, s.112.3148 is relevant. Specifically section (a) and (e) outlined below

(a) The value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities...

(e) Lodging provided on consecutive days shall be considered a single gift.

For example, on January 27, 2011 the best available rate listed on the Bahama House website was one hundred and nine dollars and ninety-nine cents (\$109.99). The promotional rate offered to Palm Beach County fire-rescue personnel was 77.00 per night: use of the discount must be reported after a four night stay at the listed rate. Again, for those employees whose discount over the total period of his or her stay amounts to less than one hundred dollars (\$100.00) there is no gift law reporting requirement.



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In addition, employees must be aware of Section 2-444 (c) which prohibits the offer or acceptance of a gift of any value in exchange for an official public action, legal duty performed or legal duty violated by an employee. This prohibition applies to any gift no matter the amount. In this instance, the Bahama House and the Aku Tiki hotels are located in Volusia County and therefore outside the service area of Palm Beach fire-rescue personnel. Although not binding on the Palm Beach County Commission on Ethics, the Florida Commission on Ethics also concluded that providing discounted services to state government employees did not violate the state code.¹

IN SUMMARY base upon the facts and circumstances you have provided, fire-rescue personnel may take advantage of the discounted hotel rates, however, discounted stays with an aggregate value in excess of one hundred dollars (\$100.00) must be reported in an annual gift disclosure report filed with the Palm Beach County Commission on Ethics. Those individuals identified by state law as "reporting individuals" must comply with s 112.3148, Florida Statutes.

This opinion construes the Palm Beach County Code of Ethics ordinance and is limited to the facts and circumstances you provided. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,

Alan S. Johnson
Executive Director

ASJ/mcr/gal

¹ CEO 06-18 (holding that agency officials and employees of the Department of Revenue may accept discounted cellular telephone service from a cellular provider who lobbies the Executive Branch where there was no evidence the discount was offered with an intent to influence agency decision making or obtain the goodwill of an agency official or employee).
CEO 88-42 (holding EMT's and paramedics could accept discounted food purchased at local restaurants while on duty where there was no direct relationship between the Emergency Services Division and the restaurants and no evidence that the discount was intended to influence official action).



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February 23, 2011

Walt Smyser
Lake Worth Utilities Water System
1900 2nd Avenue North
Lake Worth, Florida 33461

Re: RQO 11-004-OE

Dear Mr. Smyser,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email of February 9, 2011, whether you, as an employee of the City of Lake Worth, could continue to serve as webmaster for the Florida Water and Pollution Control Operators Association (FWPCOA). You advised that FWPCOA has not entered into any contract or other transaction for goods or services with the City of Lake Worth and that you have obtained merit rule approval from your supervisor.

IN SUM, based on the facts you submitted, you are not prohibited from serving as webmaster to the FWPCOA. Nevertheless, you may not use your official position as a city employee to obtain a financial benefit for FWPCOA.

THE FACTS you submitted are as follows:

You are the water/sewer engineer for the City of Lake Worth. As one of five organizations approved by the Florida Department of Environmental Protection to provide training in water treatment and distribution for water and sewer operators, the FWPCOA offers continuing education units to City of Lake Worth utilities employees. Employees, rather than the city, pay course fees personally. Lake Worth does not contract with FWPCOA for these trainings, but may reimburse employees taking part in these sessions. The FWPCOA pays you fifteen dollars per hour (\$15.00) for your services as webmaster and you have obtained merit rule approval from your supervisor to continue this outside employment.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics, which was voluntarily adopted by the City of Lake Worth in 2011.



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Palm Beach County Code of Ethics Section 2-443 states:

Outside employer or business is defined as:

- (1) Any entity, other than the county, the state or any other regional, local or municipal government entity, *of which the official or employee is a member, official, director, or employee, and from which he or she receives compensation...* (emphasis added)

FWPCOA is an outside employer; it is not a state, local or municipal government entity and you receive an hourly stipend of fifteen dollars (\$15.00).

Section 2-443 (a) reads:

- (a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, to take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:
 - (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who works for such outside employer or business;

Section 2-443(a) prohibits you for using your official position to obtain a financial benefit for yourself, FWPCOA, or anyone who works for FWPCOA. You have an ongoing responsibility not to use your official position or office with the city to gain such a financial benefit.

Finally, Section 2-443(c) states in part:

- (c) *Prohibited contractual relationships.* No official or employee shall enter into any contract or other transaction for goods or services with the [City of Lake Worth]. This prohibition extends to all contracts or transactions between the county or any person or agency acting for the [City of Lake Worth], and the official or employee, directly or indirectly, or the official or employee's outside employer or business.

Section 2-443 (c) prohibits officials and employees from entering into any contract with the city through the official or employee's outside employer or business. There are enumerated waivers and exceptions to 2-443(c), however in this case you advised that FWPCOA has no such contracts or transactions for goods or services with the city. At this time, this section does not apply to you.



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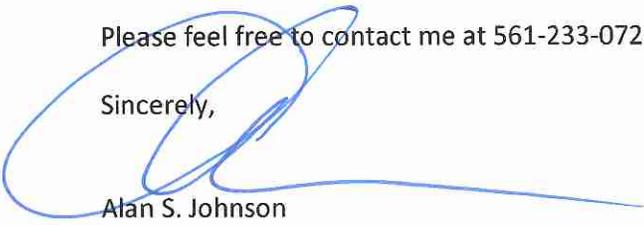
Alan S. Johnson

IN SUMMARY, based on the information you provided, you are not prohibited from acting as webmaster for the FWPCOA. However, you may not use your official position to financially benefit yourself, FWPCOA or any employee of FWPCOA.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,



Alan S. Johnson
Executive Director

AJS/meb/gal



Palm Beach County Commission on Ethics

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Alan S. Johnson

February 22, 2011

Commissioner Karen Marcus
Palm Beach County Board of County Commissioners
310 N. Olive Avenue, 6th Floor
West Palm Beach, FL 33401

RE: RQO 11-005
Gift law

Dear Commissioner Marcus,

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.

YOU ASKED in an email dated February 15, 2011, and a follow-up e-mail on February 17, whether a two hour airboat tour of the Arthur R. Marshall Loxahatchee National Wildlife Refuge given to Palm Beach County Commissioners by the U.S. Fish and Wildlife Service, but arranged for by a lobbyist for a non-profit environmental group who also provided a box lunch, is considered a gift subject to the restrictions and requirements of the Palm Beach County Code of Ethics.

IN SUM, based on the information you have submitted, the airboat ride and guided tour provided by the U.S. Fish and Wildlife Service for the purpose of educating commissioners about water quality issues, the effects of too many nutrients in the water, and the programs in place for Everglades restoration, is not considered a gift under Section 2-444, *Gift law*, of the Palm Beach County Code of Ethics. However, the box lunch provided by 1000 Friends of Florida, a non-profit agency and employer of a lobbyist, is considered a gift. Since the lunch was not valued at more than one hundred dollars (\$100.00), it is not a prohibited gift under the code.

THE FACTS as we understand them are as follows:

Palm Beach County Commissioners, including Commissioner Karen Marcus, Shelley Vana, Paulette Burdick and Priscilla Taylor, have been given a two-hour long tour of the Arthur R. Marshall Loxahatchee Wildlife Refuge, located in unincorporated Boynton Beach. According to the U.S. Fish and Wildlife Service (FWS) the purpose of this tour is educational, aimed at showing the commissioners, as a local governing body, some of the issues faced by FWS in maintaining water quality within the Everglades and the wildlife sanctuary. All Palm Beach County Commissioners have been invited to take the tour, given by FWS. FWS does not provide tours for the general public. The tour includes biologists and/or other FWS employees, serving as guides. All expenses for the tour itself are paid for by FWS, using an airboat owned by FWS. The tour was arranged by a lobbyist for a non-profit environmental group called 1000 Friends of Florida, who provided box lunches to each participant, at a cost of less than ten dollars



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(\$10.00) each. Several other lobbyists from non-profit environmental groups have also been allowed to attend.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics and the Palm Beach County Administrative Code:

The Palm Beach County Code of Ethics Section 2-444, *Gift law*, states in relevant part:

- (a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of *greater than one hundred dollars (\$100.00)* from any person or business entity that the recipient knows is a *lobbyist or any principal or employer of a lobbyist*. (Emphasis added)

- (e) For the purposes of this section, "gift" shall refer to the transfer of *anything of economic value* whether in the form of money, service, loan, travel, entertainment, hospitality, item, promise, or in any other form, *without adequate and lawful consideration*. (Emphasis added)

However, Section 2-444(e)(1)(f), states as follows in relevant part:

- (1) Exceptions. The provisions of subsection (e) *shall not apply* to:
 - (f) Gifts solicited by county commissioners *on behalf of the county in performance of their official duties for use solely by the county in conducting official business*. (Emphasis added)

IN SUMMARY, based on the information provided, the cost of the actual airboat tour of the wildlife refuge is paid for by the U.S. Fish and Wildlife Service, a department of the federal government. The federal government is not a lobbyist, or the employer of or principal of a lobbyist, within the meaning of the code of ethics.¹ Therefore, even if the value of the airboat tour is in excess of the one-hundred dollar threshold, it would not be a prohibited gift.

Further, since the tour itself is for educational purposes for members of the county commission to better understand how their actions as a governing body may affect water quality within this natural resource, the airboat tour falls under §2-444(e)(1)(f) of the code of ethics as being "*...on behalf of the county in performance of their official duties for use solely by the county in conducting official business.*"

¹ Art. XIII, sec. 2-442. "...Lobbyist shall not include any employee... of a governmental agency lobbying on behalf of that agency..."



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The Florida Administrative Code likewise excludes the use of a public facility, made available by a governmental entity for a public purpose, from the definition of a gift.²

The box lunch provided by 1000 Friends of Florida is a gift from a lobbyist, or employer or principle of a lobbyist. However, since the value of this gift is not in excess of one hundred dollars (\$100.00), it is not a prohibited or reportable gift under the code.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquires regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,



Alan S. Johnson
Executive Director

ASJ/meb/gal

² Florida Administrative Code § 34-13.214 Specific Examples of What Does Not Constitute a Gift. (6) The use of a public facility or public property, made available by a governmental entity, for a public purpose.



Palm Beach County Commission on Ethics

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Executive Director

Alan S. Johnson

February 23, 2011

Commissioner Paulette Burdick
Palm Beach County Board of County Commissioners
310 N. Olive Ave.
West Palm Beach, FL 33401

RE: RQO 11-006
Gift law/Prohibited Conduct

Dear Commissioner Burdick,

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.

YOU ASKED in an email dated February 18, 2011, whether allowing your nieces, who are high school and college students, to accompany you on a boat tour of the Lake Worth Lagoon given by the county's Environmental Resources Management Department (ERM), to provide an overview of the environmental restoration of the estuarine waters of the Lagoon, is a violation of the Code of Ethics. The public purpose of this tour is in support of your role as Chair of the Artificial Reef and Estuarine Enhancement Committee. You advised in follow-up emails that ERM does not offer such tours for members of the general public or students, and that an equivalent tour of the Lagoon on a commercial vessel would cost between five dollars (\$5.00) and twenty-five dollars (\$25.00) per person, depending on age and Florida residency.

IN SUM, based on the information you have submitted, the Lagoon tour is in performance of your public duties, and is therefore not a gift. However, because you may not use your official position to financially benefit your nieces, allowing them to accompany you could violate this provision. Notwithstanding, if reimbursement for the value of a financial benefit can be established, a payment of that amount may, depending upon the circumstances, eliminate the financial benefit. In this scenario, paying the equivalent amount to cover the commercial cost of your nieces' trip, by reimbursing ERM directly or indirectly through the general county fund, would eliminate the financial benefit and no violation of the code would occur.

THE FACTS as we understand them are as follows:

As a Palm Beach County Commissioner, you have been invited by the Palm Beach County Environmental Resources Management Department (ERM) to tour the Lake Worth Lagoon by boat to provide an overview of the environmental restoration of the estuarine waters of the Lagoon. You are Chair of the Artificial Reef and Estuarine Enhancement Committee. You would like two of your nieces to accompany you on this tour, feeling that it would be educational for them to attend. Your nieces are students, one in high school the other in college. ERM generally does not offer such tours to the public or to students. In researching the value of the tour in relation to your nieces, you have discovered that a similar tour on a commercial vessel costs between five dollars (\$5.00) and twenty-five dollars (\$25.00) per person, depending on the riders' age and whether or not they are a Florida resident.



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THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics and the Palm Beach County Administrative Code:

The Palm Beach County Code of Ethics Section 2-443, *Prohibited Conduct*, states in relevant part:

- (a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care *will result in a financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:* (Emphasis added)

- (3) A sibling or step-sibling, child or step-child, parent or step-parent, *niece* or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people; (Emphasis added)

The Palm Beach County Code of Ethics Section 2-444, *Gift law*, states in relevant part:

- (a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of *greater than one hundred dollars (\$100.00)* from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist. (Emphasis added)

- (e) For the purposes of this section, "gift" shall refer to the transfer of *anything of economic value* whether in the form of money, service, loan, travel, entertainment, hospitality, item, promise, or in any other form, *without adequate and lawful consideration.* (Emphasis added)

However, Section 2-444(e)(1)(f), states as follows in relevant part:

- (1) Exceptions. The provisions of subsection (e) *shall not apply to:*
 - (f) Gifts solicited by county commissioners *on behalf of the county in performance of their official duties for use solely by the county in conducting official business.* (Emphasis added)

IN SUMMARY, based on the information provided, the Lagoon tour will be given by ERM, which is a department of Palm Beach County. Palm Beach County is not a lobbyist, or the employer of or principal of a



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lobbyist, within the meaning of the code of ethics.¹ Therefore, even if the value of the tour was in excess of the one-hundred dollar threshold, it would not be a prohibited gift under the code of ethics, either to you or indirectly to your nieces.

Further, since the tour itself is to provide an overview of the environmental restoration of the estuarine waters of the Lagoon and you are the Chair of the Artificial Reef and Estuarine Enhancement Committee, the tour falls under §2-444(e)(1)(f) of the code of ethics as being "...on behalf of the county in performance of their official duties for use solely by the county in conducting official business." The Florida Administrative Code likewise excludes the use of a public facility, made available by a governmental entity for a public purpose, from the definition of a gift.² Therefore, your attendance is not considered a gift.

The economic value of the tour for your nieces, however, may be considered as an indirect gift to you. If the value exceeded one hundred (\$100.00) dollars, you would need to report it on your state quarterly gift report. However, since this tour is only offered because of your position as a PBC Commissioner, it is more accurately viewed as a potential violation of §2-443(a)(3), *Misuse of Office*. Because your nieces would receive a financial benefit, not shared by similarly situated members of the general public, their attendance may constitute a violation. Nonetheless, since an equivalent commercial value for this tour can be established, payment of this amount to ERM or to the Palm Beach County general revenue fund would eliminate the "financial benefit," and assure that no violation of the code of ethics occurs in this matter. Based on the facts you have submitted, if fully reimbursed, the tour would not be an indirect gift or a misuse of office.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquires regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,


Alan S. Johnson
Executive Director
ASJ/gal

¹ Art. XIII, sec. 2-442. "...Lobbyist shall not include any employee... of a governmental agency lobbying on behalf of that agency..."

² Florida Administrative Code § 34-13.214 Specific Examples of What Does Not Constitute a Gift. (6) The use of a public facility or public property, made available by a governmental entity, for a public purpose.



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Executive Director

Alan S. Johnson

March 2, 2011

Ms. Deborah Singer
Palm Beach County Office of Equal Opportunity
215 North Olive Avenue, Suite 130
West Palm Beach, Florida 33401

Re: RQO 11-008
Gift Law/Thank you Gifts

Dear Ms. Singer,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your email and attachment on February 24, 2011, whether you could accept two gift cards, valued at \$25.00 each, in appreciation for your work on a resident's employment discrimination case.

IN SUM, Section 2-244(c) of the Palm Beach County Code of Ethics specifically prohibits an employee from accepting a gift because of "an official action taken" or "duty performed." The assistance you provided was in your official capacity as a Palm Beach County employee, therefore you are prohibited from accepting the gift.

The facts as we understand them are as follows:

You are a compliance investigator II/mediator with the Palm Beach County Office of Equal Opportunity. On March 23, 2010 you were assigned to investigate an employment discrimination complaint; however the complaint was withdrawn before a probable cause finding was issued. On January 24, 2011 the complainant arrived at your office and gave you a thank you card containing two twenty-five dollar (\$25.00) gift cards for Olive Garden restaurant. The thank you card read, "I would like to thank you for all your support in this case. I will always appreciate your constant [sic] work and effort to resolve this matter." After calling the Ethics Hotline, you returned the gift cards via certified mail.

THE LEGAL BASIS for this opinion relies on the following section of the Palm Beach County Code of Ethics.



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Executive Director

Alan S. Johnson

Article XIII, Sec. 2-444. Gift Law

(c) No person or entity shall offer, give, or agree to give an official or employee a gift, and no official or employee shall accept or agree to accept a gift from a person or entity, because of:

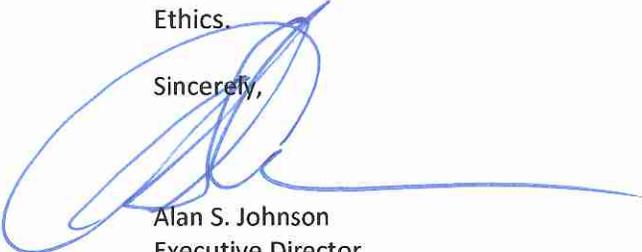
- (1) *An official public action taken or to be taken, or which could be taken;*
- (2) *A legal duty performed or to be performed or which could be performed; or*
- (3) *A legal duty violated or to be violated, or which could be violated by any official or employee. (emphasis added)*

In this instance, the gift cards were offered to you in appreciation for actions you had taken on behalf of the donor in your official capacity as an employee of the Palm Beach County Office of Equal Opportunity. The issue presented has been addressed previously by the Commission on Ethics in the context of complementary tickets offered by a playwright to a county employee in appreciation for assistance given in his official capacity.¹

IN SUM, the Code of Ethics specifically prohibits an employee from accepting a gift because of "an official act taken" or "duty performed." Regardless of whether or not the gesture of thanks from a resident was given after the official action was taken by you, or benefit was obtained by her, it is still a gratuity tied to your official act in investigating her claim. This is specifically prohibited under the code. Commendably, and prior to your receipt of this advisory opinion, you returned the gift cards.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Sincerely,



Alan S. Johnson
Executive Director

ASJ/mcr/gal

¹ RQO 10-031

March 4, 2011

Mr. Manuel Ayala
REG Architects, Inc.
120 S. Dixie Highway, Suite 201
West Palm Beach, FL 33401

RE: RQO 11-003
Prohibited Contractual Relationships/Misuse of Public Office

Dear Mr. Ayala,

The Palm Beach County Commission on Ethics has considered your request for an advisory opinion, and rendered its opinion at a public meeting on March 3, 2011.

YOU ASKED in an email dated January 28, 2011 whether it is necessary for you to obtain a waiver from the Board of County Commissioners (BCC) in order to be appointed to a seat on the Construction Industry Licensing Board (CILB). You supplied additional information through e-mail and by telephone discussions with COE staff, wherein you indicated that while your outside employer, REG Architects (REG), has no contracts with Palm Beach County; it is a sub-contractor for Miller Legg, a civil engineering firm, on a county project in Jupiter known as the Riverbend Park Project. Specific county projects do not come before the CILB for review or approval, as their authority lies only with licensing issues.

IN SUM, based on the facts you have submitted, since your outside employer, REG, has not entered into any contracts or other transactions for goods or services with Palm Beach County, it would not be a violation of the code of ethics for you to be a member of CLIB. Therefore, a waiver would not be necessary for you to be appointed to the CILB under these facts. However, if appointed, you would be required to abstain from voting and participation in any matter before the CILB that involves a financial benefit to you, your spouse or domestic partner, or any member of your household, your outside employer or business and that of your spouse or domestic partner, any customer or client of your outside employer or business, any of your relatives, a substantial debtor of yours, or any nongovernmental civic, union, social, charitable or religious organization of which you or your spouse or domestic partner are an officer or director.

THE FACTS as we understand them are as follows:

You are applying for appointment to the Palm Beach County Construction Industry Licensing Board (CILB), an advisory board whose members are appointed by the Board of County Commissioners (BCC). You are currently employed with the firm of REG Architects, Inc. (REG), as a project manager. REG has no contracts for goods or services with Palm Beach County. However, REG is a sub-contractor for civil engineering firm Miller Legg on a county project known as Riverbend Park. You personally are not directly involved in this project, nor is the CILB involved substantively in this project.

According to the Palm Beach County website (www.pbcgov.com), the function of the twelve member Construction Industry Licensing Board (CILB) is, "To establish qualifications and competency of contractors that work within the County. The Board also provides for the testing and licensing of these contractors and is empowered to revoke

licenses.” Because of the regulatory nature of the duties and responsibilities of the CILB, It is possible that either your outside employer, or a customer or client of your outside employer could appear before the CILB for licensing review or action while you are serving on this board.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

The Palm Beach County Code of Ethics Section 2-442, *Definitions* states in relevant part:

Official or employee means any official or employee of the county, whether paid or unpaid...and members appointed by the board of county commissioners to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity. (Emphasis added)

As a CILB member, you would fall under the definition of an “official” and thus would be subject to the jurisdiction of the code of ethics. Further, as listed below, your employment with REG would be considered as “outside employment” for the purposes of the code and Miller Legg a customer or client.

Section 2-442, *Definitions* states in relevant part:

Outside employer or business includes:

- (1) Any entity, other than the county, the state, or any other regional, local, or municipal government entity, of which the official or employee is a member, official, director, or employee, and from which he or she receives compensation for services rendered or goods sold or produced, (Emphasis added)

Section 2-443, *Prohibited conduct*, states as follows in relevant part:

(a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities: (Emphasis added)

- (1) Himself or herself;
- (2) A member of his or her household, including a domestic partner and his or her dependents, or the employer or business of any of these people;
- (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people;
- (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who works for such outside employer or business;

- (5) A customer or client of the official or employee;
- (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner--"substantial" for these purposes shall mean at least ten thousand dollars (\$10,000.00) and shall not include forms of indebtedness, such as a mortgage and note, or a loan between the official or employee and a financial institution;
- (7) A nongovernmental civic group, union, social, charitable, or religious organization of which he or she (or his or her spouse or domestic partner) is an officer or director.

(b) *Disclosure of voting conflicts.* County officials shall abstain from voting and not participate in any matter that will result in a financial benefit as set forth in subsections (a)(1) through (7) above.

(c) *Prohibited contractual relationships.* No official or employee shall enter into any contract with or other transaction for goods or services with the county. This prohibition extends to all contracts or transactions between the county or any person or agency acting for the county, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. (Emphasis added)

Under the provisions of § 2-443(c), if your outside employer did have contracts for goods or services with Palm Beach County, you would have needed to obtain a waiver from the Palm Beach County Board of County Commissioners under the waiver provisions of 2-443(d) in order to serve on CILB.

IN SUMMARY, under the facts you have presented, it is not necessary for you to obtain a waiver from the BCC to serve as a member of the CILB, assuming that your outside employer does not enter into any contracts for goods and services with Palm Beach County during your tenure on the Board. You are further cautioned that you may not use your position on the CILB for the financial benefit of any person or entity listed in Section 2-443 (a) (1-7). Further, you must disclose and abstain from voting on any matter before the CILB that could result in any financial benefit for any of these entities or people. Finally, it is imperative that you understand that as a member of the CILB, you must not participate in any licensing review or action taken by the CILB regarding any matters involving your outside employer or any of its customers or clients.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,

Alan S. Johnson
Executive Director
ASJ/meb/gal

Memorandum

From: Alan Johnson

To: Commission on Ethics

Date: March 3, 2011

Re: COE Budget Assessment

Request for assessment:

At the January meeting a request was made for an assessment of the COE budget as it pertains to available funding. The following is a brief general synopsis of past and current expenditures.

Fiscal 2010 (partial): Initial budget \$180,000.

In 2010 we expended 61% of budgeted salaries, 62% operating and 82% capital. The total budget outlay was 62% which resulted in a 38% budget reserve.*

*As an attorney and former prosecutor, I was able to handle the initial COE start-up and development without immediately hiring an attorney and investigator. In addition, I have developed a Pro-Bono Advocate Program through the Legal Aid Society, using former prosecutors and public defenders to fill the position of Advocate, saving the county the expense of the Advocate position. The effectiveness of using volunteer advocates will be reviewed. As the work load increases, there may be a need to assign significant cases to a staff advocate.

Fiscal 2011: Initial budget \$475,626.

Through March 1, 2011, we have expended 30.10% of annual budgeted salaries, 11.09% operating, and 33.51% capital. Total budget outlay of 26.54% for the first five months would project to a 45% reserve for fiscal 2011.

With the addition of municipalities sometime in the spring, we have hired a staff attorney to help handle the anticipated increase in work load. We also anticipate adding an additional investigator. Therefore salary budget outlays will be weighted to the end of the year to meet this added demand. Notwithstanding the addition of a staff attorney and investigator for the remaining budget year, I project the COE to have a significant budget reserve for fiscal 2011.

**Expense Summary as of 11/30/2010
Fiscal Year 2010**

<u>FY</u>	<u>Fund</u>	<u>Dept</u>	<u>Unit</u>	<u>Appr. Unit</u>	<u>Object</u>	<u>Adopted Budget</u>	<u>Cur. Mod. Budget</u>	<u>Preencumb</u>	<u>Encumb</u>	<u>Expended</u>	<u>Available</u>
2010	1484	290	2100	2902100PA	1201 Salaries & Wages Regular	0.00	107,545.00	0.00	0.00	60,384.48	47,160.52
2010	1484	290	2100	2902100PA	1501 Wages-Special-No Frs Contrib	0.00	0.00	0.00	0.00	810.00	-810.00
2010	1484	290	2100	2902100PA	2101 Fica-Taxes	0.00	4,340.00	0.00	0.00	3,781.98	558.02
2010	1484	290	2100	2902100PA	2105 Fica Medicare	0.00	1,015.00	0.00	0.00	884.50	130.50
2010	1484	290	2100	2902100PA	2201 Retirement Contributions-Frs	0.00	9,000.00	0.00	0.00	6,852.39	2,147.61
2010	1484	290	2100	2902100PA	2301 Insurance-Life & Health	0.00	18,200.00	0.00	0.00	12,289.40	5,910.60
					Personal Services	0.00	<i>62%</i> 140,100.00	0.00	0.00	85,002.75	55,097.25
2010	1484	290	2100	2902100OA	3414 Iss Professional Services	0.00	1,000.00	0.00	0.00	0.00	1,000.00
2010	1484	290	2100	2902100OA	4001 Travel And Per Diem	0.00	3,500.00	0.00	0.00	2,346.37	1,153.63
2010	1484	290	2100	2902100OA	4007 Travel-Mileage	0.00	200.00	0.00	0.00	96.37	103.63
2010	1484	290	2100	2902100OA	4008 Travel-Auto Allowance	0.00	2,500.00	0.00	0.00	2,750.00	-250.00
2010	1484	290	2100	2902100OA	4406 Rent-Office Equipment	0.00	2,500.00	0.00	0.00	1,119.38	1,380.62
2010	1484	290	2100	2902100OA	4701 Printing & Binding-Outside	0.00	500.00	0.00	0.00	83.75	416.25
2010	1484	290	2100	2902100OA	4703 Graphics Charges	0.00	0.00	0.00	0.00	0.00	0.00
2010	1484	290	2100	2902100OA	4901 Oth Currnt Chrges & Obligions	0.00	0.00	0.00	0.00	75.00	-75.00
2010	1484	290	2100	2902100OA	4941 Registration Fees	0.00	200.00	0.00	0.00	0.00	200.00
2010	1484	290	2100	2902100OA	5101 Office Supplies	0.00	3,000.00	0.00	0.00	2,817.69	182.31
2010	1484	290	2100	2902100OA	5111 Office Furniture And Equipment	0.00	9,803.00	0.00	0.00	5,776.67	4,026.33
2010	1484	290	2100	2902100OA	5112 Telephone Equipment/Install	0.00	0.00	0.00	0.00	0.00	0.00
2010	1484	290	2100	2902100OA	5121 Data Procsssng Sftwre/Accessres	0.00	3,500.00	0.00	0.00	1,200.95	2,299.05
2010	1484	290	2100	2902100OA	5401 Books, Publicatns & Subscrptns	0.00	500.00	0.00	0.00	615.00	-115.00
2010	1484	290	2100	2902100OA	5412 Dues & Memberships	0.00	500.00	0.00	0.00	350.00	150.00
					Operating	0.00	<i>62%</i> 27,703.00	0.00	0.00	17,231.18	10,471.82
2010	1484	290	2100	2902100CA	6401 Machinery & Equipment	0.00	5,697.00	0.00	0.00	1,637.16	4,059.84
2010	1484	290	2100	2902100CA	6405 Data Processing Equipment	0.00	6,500.00	0.00	0.00	8,407.36	-1,907.36
					Capital	0.00	<i>82%</i> 12,197.00	0.00	0.00	10,044.52	2,152.48
				Total for Unit: 2100 Commission on Ethics		0.00	180,000.00	0.00	0.00	112,278.45	67,721.55
Fund	1484			PBC Commission on Ethics		0.00	180,000.00	0.00	0.00	112,278.45	67,721.55
				FY 2010		0.00	<i>62%</i> 180,000.00	0.00	0.00	112,278.45	67,721.55

Revenue Summary

<u>Fund</u>	<u>Dept</u>	<u>Unit</u>	<u>Revenue Source</u>	<u>Adopted Revenue Budget</u>	<u>Current Revenue Budget</u>	<u>Received Revenue</u>	<u>Available</u>
2010							
Fund 1484							
Department 010							
Unit 0100 Interest Distribution							
1484	010	0100	6110 Pool Investment Income	0.00	0.00	3,048.11	-3,048.11
			Unit 0100	0.00	0.00	3,048.11	-3,048.11
			Department 010	0.00	0.00	3,048.11	-3,048.11
Department 290							
Unit 2100 Commission on Ethics							
1484	290	2100	8000 Tr Fr General Fund Fd 0001	0.00	180,000.00	180,000.00	0.00
			Unit 2100	0.00	180,000.00	180,000.00	0.00
			Department 290	0.00	180,000.00	180,000.00	0.00
Department 800							
Unit 2100 County Attorney							
1484	800	2100	8000 Tr Fr General Fund Fd 0001	0.00	0.00	0.00	0.00
			Unit 2100	0.00	0.00	0.00	0.00
			Department 800	0.00	0.00	0.00	0.00
			Fund 1484	0.00	180,000.00	183,048.11	-3,048.11
				0.00	180,000.00	183,048.11	

Expense Summary as of 1/3/2011
Fiscal Year 2011

<u>FY</u>	<u>Fund</u>	<u>Dent</u>	<u>Unit</u>	<u>Appr. Unit</u>	<u>Object</u>	<u>Adopted Budget</u>	<u>Mod. Budget</u>	<u>Preencumb</u>	<u>Encumb</u>	<u>Expended</u>	<u>Available</u>
2011	1484	290	2100	2902100PA	1201 Salaries & Wages Regular	286,250.00	286,250.00	0.00	0.00	45,116.84	241,133.16
2011	1484	290	2100	2902100PA	1301 Sal & Wages Non-Frs Employees	0.00	0.00	0.00	0.00	182.00	-182.00
2011	1484	290	2100	2902100PA	1501 Wages-Special-No Frs Contrib	0.00	0.00	0.00	0.00	300.00	-300.00
2011	1484	290	2100	2902100PA	2101 Fica-Taxes	16,929.00	16,929.00	0.00	0.00	2,758.45	14,170.55
2011	1484	290	2100	2902100PA	2105 Fica Medicare	4,151.00	4,151.00	0.00	0.00	645.11	3,505.89
2011	1484	290	2100	2902100PA	2201 Retirement Contributions-Frs	37,378.00	37,378.00	0.00	0.00	6,583.98	30,794.02
2011	1484	290	2100	2902100PA	2301 Insurance-Life & Health	34,125.00	34,125.00	0.00	0.00	6,181.66	27,943.34
					Personal Services	16% 378,833.00	378,833.00	0.00	0.00	61,768.04	317,064.96
2011	1484	290	2100	2902100OA	3161 Audio/Visual Services Ch. 20	10,000.00	10,000.00	0.00	0.00	0.00	10,000.00
2011	1484	290	2100	2902100OA	3301 Court Reporter Services *	2,000.00	2,000.00	0.00	0.00	0.00	2,000.00
2011	1484	290	2100	2902100OA	3401 Other Contractual Services *	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00
2011	1484	290	2100	2902100OA	3414 Iss Professional Services	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00
2011	1484	290	2100	2902100OA	4001 Travel And Per Diem	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00
2011	1484	290	2100	2902100OA	4007 Travel-Mileage	1,000.00	1,000.00	0.00	0.00	152.68	847.32
2011	1484	290	2100	2902100OA	4008 Travel-Auto Allowance	9,600.00	9,600.00	0.00	0.00	1,000.00	8,600.00
2011	1484	290	2100	2902100OA	4406 Rent-Office Equipment	0.00	0.00	0.00	0.00	436.80	-436.80
2011	1484	290	2100	2902100OA	4701 Printing & Binding-Outside	15,000.00	15,000.00	0.00	0.00	0.00	15,000.00
2011	1484	290	2100	2902100OA	4703 Graphics Charges	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00
2011	1484	290	2100	2902100OA	4941 Registration Fees	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00
2011	1484	290	2100	2902100OA	4945 Advertising	0.00	0.00	0.00	0.00	608.75	-608.75
2011	1484	290	2100	2902100OA	4946 Advertising Including Legal	0.00	0.00	0.00	0.00	0.00	0.00
2011	1484	290	2100	2902100OA	5101 Office Supplies	2,000.00	2,000.00	0.00	96.46	519.37	1,384.17
2011	1484	290	2100	2902100OA	5111 Office Furniture And Equipment	3,000.00	3,000.00	0.00	0.00	0.00	3,000.00
2011	1484	290	2100	2902100OA	5121 Data Procsgng Sftwre/Accessres	9,693.00	9,693.00	0.00	0.00	253.17	9,439.83
2011	1484	290	2100	2902100OA	5201 Materials/Supplies Operating	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00
2011	1484	290	2100	2902100OA	5401 Books, Publicatns & Subscrptns	3,000.00	3,000.00	0.00	357.95	1,538.86	1,103.19
2011	1484	290	2100	2902100OA	5412 Dues & Memberships	5,000.00	5,000.00	0.00	0.00	0.00	5,000.00
					Operating	5% 90,293.00	90,293.00	0.00	454.41	4,509.63	85,328.96
2011	1484	290	2100	2902100CA	6401 Machinery & Equipment	0.00	0.00	0.00	437.91	4.99	-442.90
2011	1484	290	2100	2902100CA	6405 Data Processing Equipment	6,500.00	6,500.00	0.00	0.00	0.00	6,500.00
					Capital	<1% 6,500.00	6,500.00	0.00	437.91	4.99	6,057.10
					Total for Unit: 2100 Commission on Ethics	475,626.00	475,626.00	0.00	892.32	66,282.66	408,451.02
Fund	1484				PBC Commission on Ethics	475,626.00	475,626.00	0.00	892.32	66,282.66	408,451.02
					FY 2011	14% 475,626.00	475,626.00	0.00	892.32	66,282.66	408,451.02

Expense Summary as of 1/28/2011

<u>Fun</u>	<u>Dept</u>	<u>Unit</u>	<u>Appropriation</u>	<u>Object</u>	<u>Adopted Budget</u>	<u>Current Modified Budget</u>	<u>Encumbered</u>	<u>Expended</u>	<u>Available</u>	<u>% Used</u>	
Fiscal Year	2011										
1484	290	2100	2902100PA	1201	Salaries & Wages Regular	286,250.00	286,250.00	0.00	62,364.64	223,885.36	21.79 %
1484	290	2100	2902100PA	1301	Sal & Wages Non-Frs Employe	0.00	0.00	0.00	836.50	-836.50	0.00 %
1484	290	2100	2902100PA	1501	Wages-Special-No Frs Contrib	0.00	0.00	0.00	510.00	-510.00	0.00 %
1484	290	2100	2902100PA	2101	Fica-Taxes	16,929.00	16,929.00	0.00	3,853.61	13,075.39	22.76 %
1484	290	2100	2902100PA	2105	Fica Medicare	4,151.00	4,151.00	0.00	901.24	3,249.76	21.71 %
1484	290	2100	2902100PA	2201	Retirement Contributions-Frs	37,378.00	37,378.00	0.00	8,778.26	28,599.74	23.49 %
1484	290	2100	2902100PA	2301	Insurance-Life & Health	34,125.00	34,125.00	0.00	8,872.98	25,252.02	26.00 %
					Personal Services	378,833.00	378,833.00	0.00	86,117.23	292,715.77	22.73 %
1484	290	2100	2902100OA	3161	Audio/Visual Services Ch. 20	10,000.00	10,000.00	0.00	0.00	10,000.00	0.00 %
1484	290	2100	2902100OA	3301	Court Reporter Services *	2,000.00	2,000.00	0.00	0.00	2,000.00	0.00 %
1484	290	2100	2902100OA	3401	Other Contractual Services *	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	3414	Iss Professional Services	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4001	Travel And Per Diem	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4007	Travel-Mileage	1,000.00	1,000.00	0.00	205.63	794.37	20.56 %
1484	290	2100	2902100OA	4008	Travel-Auto Allowance	9,600.00	9,600.00	0.00	1,500.00	8,100.00	15.63 %
1484	290	2100	2902100OA	4406	Rent-Office Equipment	0.00	0.00	0.00	586.43	-586.43	0.00 %
1484	290	2100	2902100OA	4701	Printing & Binding-Outside	15,000.00	15,000.00	0.00	0.00	15,000.00	0.00 %
1484	290	2100	2902100OA	4703	Graphics Charges	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4941	Registration Fees	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4945	Advertising	0.00	0.00	0.00	1,308.75	-1,308.75	0.00 %
1484	290	2100	2902100OA	4946	Advertising Including Legal	0.00	0.00	0.00	0.00	0.00	0.00 %
1484	290	2100	2902100OA	5101	Office Supplies	2,000.00	2,000.00	271.19	717.06	1,011.75	49.41 %
1484	290	2100	2902100OA	5111	Office Furniture And Equipme	3,000.00	3,000.00	480.00	0.00	2,520.00	16.00 %
1484	290	2100	2902100OA	5121	Data Procsssng Sftwre/Accessre	9,693.00	9,693.00	0.00	253.17	9,439.83	2.61 %
1484	290	2100	2902100OA	5201	Materials/Supplies Operating	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	5401	Books, Publicatns & Subscrptn	3,000.00	3,000.00	300.00	1,957.41	742.59	75.25 %
1484	290	2100	2902100OA	5412	Dues & Memberships	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
					Operating	90,293.00	90,293.00	1,051.19	6,528.45	82,713.36	8.39 %
1484	290	2100	2902100CA	6401	Machinery & Equipment	0.00	0.00	437.91	4.99	-442.90	0.00 %
1484	290	2100	2902100CA	6405	Data Processing Equipment	6,500.00	6,500.00	0.00	2,148.18	4,351.82	33.05 %
					Capital	6,500.00	6,500.00	437.91	2,153.17	3,908.92	39.86 %
						475,626.00	475,626.00	1,489.10	94,798.85	379,338.05	19.93%
						475,626.00	475,626.00	1,489.10	94,798.85	379,338.05	

Expense Summary as of 3/1/2011

<u>Fund</u>	<u>Dept</u>	<u>Unit</u>	<u>Appropriation</u>	<u>Object</u>	<u>Adopted Budget</u>	<u>Current Modified Budget</u>	<u>Encumbered</u>	<u>Expended</u>	<u>Available</u>	<u>% Used</u>
Fiscal Year	2011									
1484	290	2100	2902100PA	1201 Salaries & Wages Regular	286,250.00	286,250.00	0.00	82,497.12	203,752.88	28.82 %
1484	290	2100	2902100PA	1301 Sal & Wages Non-Frs Employe	0.00	0.00	0.00	1,557.50	-1,557.50	0.00 %
1484	290	2100	2902100PA	1501 Wages-Special-No Frs Contrib	0.00	0.00	0.00	780.00	-780.00	0.00 %
1484	290	2100	2902100PA	2101 Fica-Taxes	16,929.00	16,929.00	0.00	5,135.47	11,793.53	30.34 %
1484	290	2100	2902100PA	2105 Fica Medicare	4,151.00	4,151.00	0.00	1,201.02	2,949.98	28.93 %
1484	290	2100	2902100PA	2201 Retirement Contributions-Frs	37,378.00	37,378.00	0.00	11,283.22	26,094.78	30.19 %
1484	290	2100	2902100PA	2301 Insurance-Life & Health	34,125.00	34,125.00	0.00	11,564.30	22,560.70	33.89 %
				Personal Services	378,833.00	378,833.00	0.00	114,018.63	264,814.37	30.10 %
1484	290	2100	2902100OA	3161 Audio/Visual Services Ch. 20	10,000.00	10,000.00	0.00	0.00	10,000.00	0.00 %
1484	290	2100	2902100OA	3301 Court Reporter Services *	2,000.00	2,000.00	0.00	0.00	2,000.00	0.00 %
1484	290	2100	2902100OA	3401 Other Contractual Services *	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	3414 Iss Professional Services	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4001 Travel And Per Diem	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4007 Travel-Mileage	1,000.00	1,000.00	0.00	330.83	669.17	33.08 %
1484	290	2100	2902100OA	4008 Travel-Auto Allowance	9,600.00	9,600.00	0.00	2,000.00	7,600.00	20.83 %
1484	290	2100	2902100OA	4406 Rent-Office Equipment	0.00	0.00	146.27	586.43	-732.70	0.00 %
1484	290	2100	2902100OA	4701 Printing & Binding-Outside	15,000.00	15,000.00	0.00	0.00	15,000.00	0.00 %
1484	290	2100	2902100OA	4703 Graphics Charges	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4941 Registration Fees	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	4945 Advertising	0.00	0.00	0.00	1,308.75	-1,308.75	0.00 %
1484	290	2100	2902100OA	4946 Advertising Including Legal	0.00	0.00	0.00	0.00	0.00	0.00 %
1484	290	2100	2902100OA	5101 Office Supplies	2,000.00	2,000.00	278.11	999.80	722.09	63.90 %
1484	290	2100	2902100OA	5111 Office Furniture And Equipme	3,000.00	3,000.00	892.68	597.37	1,509.95	49.67 %
1484	290	2100	2902100OA	5121 Data Proccsng Sftwre/Accessre	9,693.00	9,693.00	0.00	253.17	9,439.83	2.61 %
1484	290	2100	2902100OA	5201 Materials/Supplies Operating	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
1484	290	2100	2902100OA	5401 Books, Publicatns & Subscrptn	3,000.00	3,000.00	300.00	2,318.01	381.99	87.27 %
1484	290	2100	2902100OA	5412 Dues & Memberships	5,000.00	5,000.00	0.00	0.00	5,000.00	0.00 %
				Operating	90,293.00	90,293.00	1,617.06	8,394.36	80,281.58	11.09 %
1484	290	2100	2902100CA	6401 Machinery & Equipment	0.00	0.00	25.08	4.99	-30.07	0.00 %
1484	290	2100	2902100CA	6405 Data Processing Equipment	6,500.00	6,500.00	0.00	2,148.18	4,351.82	33.05 %
				Capital	6,500.00	6,500.00	25.08	2,153.17	4,321.75	33.51 %
					475,626.00	475,626.00	1,642.14	124,566.16	349,417.70	26.54 %
					475,626.00	475,626.00	1,642.14	124,566.16	349,417.70	26.54 %

JOB_TITLE_DESC	RATE	HIRE DATE	Salary
ASSISTANT COUNTY ATTORNEY I	33.901	08/15/2005	\$70,514.08
ASSISTANT COUNTY ATTORNEY I	36.201	10/12/2004	\$75,298.08
ASSISTANT COUNTY ATTORNEY II	41.447	11/20/2002	\$86,209.76
ASSISTANT COUNTY ATTORNEY II	41.785	11/22/1999	\$86,912.80
ASSISTANT COUNTY ATTORNEY II	43.674	07/18/2005	\$90,841.92
ASSISTANT COUNTY ATTORNEY III	48.499	05/29/2001	\$100,877.92
ASSISTANT COUNTY ATTORNEY III	51.164	05/18/1998	\$106,421.12
ASSISTANT COUNTY ATTORNEY III	51.164	10/23/2000	\$106,421.12
ASSISTANT COUNTY ATTORNEY III	51.164	03/05/2001	\$106,421.12
ASSISTANT COUNTY ATTORNEY III	51.272	04/12/2006	\$106,645.76
ASSISTANT COUNTY ATTORNEY III	60.026	09/27/1999	\$124,854.08
SENIOR ASSISTANT COUNTY ATTORNEY	63.621	06/21/1993	\$132,331.68
SENIOR ASSISTANT COUNTY ATTORNEY	65.021	09/09/1996	\$135,243.68
SENIOR ASSISTANT COUNTY ATTORNEY	65.847	10/21/1996	\$136,961.76
SENIOR ASSISTANT COUNTY ATTORNEY	67.458	08/28/1989	\$140,312.64
SENIOR ASSISTANT COUNTY ATTORNEY	67.844	01/05/1998	\$141,115.52
SENIOR ASSISTANT COUNTY ATTORNEY	69.440	08/28/1989	\$144,435.20
SENIOR ASSISTANT COUNTY ATTORNEY	70.350	03/31/1993	\$146,328.00
SENIOR ASSISTANT COUNTY ATTORNEY	70.649	03/13/1991	\$146,949.92
SENIOR ASSISTANT COUNTY ATTORNEY	74.858	06/11/1990	\$155,704.64
SENIOR ASSISTANT COUNTY ATTORNEY	76.910	02/13/1989	\$159,972.80
CHIEF ASSISTANT COUNTY ATTORNEY	85.952	01/22/1996	\$178,780.16
CHIEF ASSISTANT COUNTY ATTORNEY	85.952	01/16/1996	\$178,780.16
CHIEF ASSISTANT COUNTY ATTORNEY	85.952	08/13/1984	\$178,780.16
COUNTY ATTORNEY	95.920	11/06/1986	\$199,513.60

JOB_TITLE_DESC	RATE	HIRE DATE	Salary
DIRECTOR COUNTY EXTENSION SERVICE	20.514	09/10/1979	\$42,669.12
DIRECTOR ADMINISTRATIVE SERVICES	36.689	06/05/2000	\$76,313.12
DIRECTOR OF AIRPORTS OPERATIONS	38.661	09/30/1996	\$80,414.88
DIRECTOR ECONOMIC DEVELOPMENT	39.257	11/20/1995	\$81,654.56
DIRECTOR JUSTICE SERVICES	40.238	12/13/2007	\$83,695.04
DIRECTOR SENIOR SERVICES	41.837	01/13/2003	\$87,020.96
DIRECTOR PLANNING, ZONING & BUILDING ADMINISTRATION	45.147	02/01/2005	\$93,905.76
DIRECTOR HUMAN SERVICES	45.147	11/28/2005	\$93,905.76
DIRECTOR AIRPORTS MAINTENANCE	45.270	01/02/1991	\$94,161.60
EXECUTIVE DIRECTOR GLADES UTILITY AUTHORITY	45.704	06/18/2007	\$95,064.32
EXECUTIVE DIRECTOR CRIMINAL JUSTICE COMMISSION	46.067	12/06/1999	\$95,819.36
DIRECTOR ENGINEERING SERVICES	46.210	04/13/2009	\$96,116.80
DIRECTOR OFFICE OF COMMUNITY REVITALIZATION	47.086	03/31/2007	\$97,938.88
DIRECTOR PLANT OPERATIONS & MAINTENANCE	47.529	05/02/2005	\$98,860.32
DIRECTOR AIRPORTS PROPERTIES	48.042	01/10/2005	\$99,927.36
DIRECTOR FIRE RESCUE FLEET MAINTENANCE	48.688	02/26/2007	\$101,271.04
DIRECTOR AIRPORTS PLANNING	48.819	01/10/2005	\$101,543.52
DIRECTOR ELECTRONIC SERVICES & SECURITY	49.440	07/31/2000	\$102,835.20
DIRECTOR PARKS FINANCIAL & SUPPORT SERVICES	50.782	11/01/1988	\$105,626.56
DIRECTOR MOSQUITO CONTROL	51.012	03/31/1986	\$106,104.96
DIRECTOR EMERGENCY MANAGEMENT	51.443	04/26/2010	\$107,001.44
DIRECTOR CONSTRUCTION COORDINATION	52.139	03/23/1982	\$108,449.12
DIRECTOR FINANCIAL MANAGEMENT	52.885	10/27/2008	\$110,000.80
DIRECTOR PUBLIC AFFAIRS	52.905	06/01/1981	\$110,042.40
DIRECTOR YOUTH AFFAIRS	55.398	10/26/1996	\$115,227.84
DIRECTOR ANIMAL CARE & CONTROL	55.608	08/26/2002	\$115,664.64
DIRECTOR HOUSING & COMMUNITY DEVELOPMENT	56.037	05/08/1995	\$116,556.96
DIRECTOR PARKS OPERATIONS	56.205	06/14/1980	\$116,906.40
DIRECTOR CONTRACT DEVELOPMENT & CONTROL	56.357	07/30/1984	\$117,222.56
DIRECTOR EQUAL OPPORTUNITY	56.437	11/12/1996	\$117,388.96
DIRECTOR RISK MANAGEMENT	56.537	05/24/2004	\$117,596.96
DIRECTOR UTILITIES ENGINEERING	56.671	12/10/2007	\$117,875.68
EXECUTIVE DIRECTOR COMMISSION ON ETHICS	56.740	05/17/2010	\$118,019.20
DIRECTOR AQUATICS	56.857	09/26/1978	\$118,262.56
DIRECTOR LINE OPERATIONS & MAINTENANCE	58.211	07/30/2007	\$121,078.88
DIRECTOR FACILITIES MANAGEMENT	58.873	09/24/1979	\$122,455.84
DIRECTOR LEGISLATIVE AFFAIRS	60.685	06/01/1999	\$126,224.80
DIRECTOR BUDGET	60.876	09/22/1997	\$126,622.08
DIRECTOR FINANCE & ADMINISTRATION	61.544	08/27/1984	\$128,011.52
DIRECTOR CONTRACTORS CERTIFICATION	61.551	10/12/1978	\$128,026.08
DIRECTOR PLANNING	61.752	07/22/2002	\$128,444.16
DIRECTOR ZONING	62.366	12/01/1986	\$129,721.28
DIRECTOR FINANCE & PLANNING	62.881	02/22/1988	\$130,792.48
DIRECTOR BUILDING	63.518	10/20/1987	\$132,117.44
DIRECTOR ROAD & BRIDGE	63.635	08/05/2008	\$132,360.80
DIRECTOR SPECIAL FACILITIES & BEACHES	63.635	12/12/1981	\$132,360.80
DIRECTOR CONSUMER AFFAIRS	63.635	10/02/1974	\$132,360.80
DIRECTOR REGULATORY COMPLIANCE	64.169	01/25/1982	\$133,471.52
DIRECTOR FACILITIES OPERATIONS	64.590	04/12/2004	\$134,347.20
DIRECTOR FACILITIES SERVICES	64.791	02/03/1986	\$134,765.28
DIRECTOR TOURIST DEVELOPMENT	64.904	05/11/2009	\$135,000.32
DIRECTOR HUMAN RESOURCES	65.018	06/25/1984	\$135,237.44
DIRECTOR LIBRARY	65.404	04/17/2006	\$136,040.32
DIRECTOR PALM TRAN	65.406	03/15/2004	\$136,044.48
EXECUTIVE DIRECTOR HOUSING FINANCE AUTHORITY	65.804	01/05/2009	\$136,872.32
DIRECTOR COMMUNITY SERVICES	66.109	07/13/2009	\$137,506.72
DIRECTOR PROPERTY & REAL ESTATE MANAGEMENT	69.448	02/21/1990	\$144,451.84
DIRECTOR FLEET MANAGEMENT	69.448	11/14/1990	\$144,451.84
DIRECTOR ROADWAY PRODUCTION	69.832	12/15/1986	\$145,250.56
DIRECTOR TRAFFIC ENGINEERING	70.006	05/01/1990	\$145,612.48
INTERNAL AUDITOR	70.196	06/06/1983	\$146,007.68

INSPECTOR GENERAL	72.116	06/28/2010	\$150,001.28
DIRECTOR OFFICE OF FINANCIAL MANAGEMENT AND BUDGET	72.347	03/24/1997	\$150,481.76
DIRECTOR PURCHASING	72.353	12/01/1989	\$150,494.24
DIRECTOR METROPOLITAN PLANNING & ORGANIZATION	72.827	01/07/1975	\$151,480.16
DIRECTOR CAPITAL IMPROVEMENTS	73.528	06/12/2000	\$152,938.24
DIRECTOR PARKS & RECREATION	74.895	02/20/1984	\$155,781.60
DIRECTOR PLANNING, ZONING & BUILDING	81.795	03/06/1989	\$170,133.60
DIRECTOR ENVIRONMENTAL RESOURCES MANAGEMENT	82.530	10/26/1987	\$171,662.40
DIRECTOR PUBLIC SAFETY	83.797	08/01/2006	\$174,297.76
FIRE RESCUE ADMINISTRATOR	86.252	01/09/1978	\$179,404.16
DIRECTOR INFORMATION SYSTEMS SERVICES	88.862	08/15/1988	\$184,832.96
DIRECTOR WATER UTILITIES	89.198	12/31/2003	\$185,531.84
DIRECTOR FACILITIES DEVELOPMENT & OPERATIONS	94.365	01/04/1988	\$196,279.20
DIRECTOR AIRPORTS	95.030	03/01/2010	\$197,662.40
COUNTY ENGINEER	95.496	11/26/1984	\$198,631.68
COUNTY ATTORNEY	95.920	11/06/1986	\$199,513.60
MEDICAL EXAMINER	115.299	03/01/2005	\$239,821.92

JOB_TITLE_DESC	RATE	HIRE DATE	Salary
EXECUTIVE DIRECTOR PBC LEGIS DELEGATION/LEGIS AFF LIAISON	31.066	09/07/2010	\$64,617.28
EXECUTIVE DIRECTOR GLADES UTILITY AUTHORITY	45.704	06/18/2007	\$95,064.32
EXECUTIVE DIRECTOR CRIMINAL JUSTICE COMMISSION	46.067	12/06/1999	\$95,819.36
EXECUTIVE DIRECTOR COMMISSION ON ETHICS	56.740	05/17/2010	\$118,019.20
EXECUTIVE DIRECTOR HOUSING FINANCE AUTHORITY	65.804	01/05/2009	\$136,872.32

AGENDA ITEM X(b) – RULES OF PROCEDURE AMENDMENTS

The COE rules of procedure have not been amended to reflect the adoption of changes to Art. V, sec. 2-260(b), allowing self-initiated complaints. In order to carry out the processing of a self-initiated complaint, staff must have the ability to inquire into, and obtain facts and circumstances to make a legal sufficiency determination. Staff recommends adoption of the following rules of procedure to allow for staff to obtain this information. Once complete, an inquiry will either be closed as without merit, or filed as legally sufficient at which time a case will be opened and the normal complaint process will be followed.

Staff recommends the following rule of procedure amendments:

4.11 Self-Initiated Complaints

The Inspector General, Executive Director of the Commission on Ethics or the State Attorney may initiate a sworn written complaint with the Commission on Ethics. Such complaint will be deemed legally sufficient.

4.12 Preliminary Inquiry of Commission on Ethics

In determining whether or not legal sufficiency exists to support a self-initiated complaint the Commission on Ethics may undertake a preliminary inquiry into the facts and circumstances involving a possible violation of an ordinance within its jurisdiction. A preliminary inquiry is not subject to public records disclosure.

4.12 Preliminary Inquiry Protocols

- a. Upon receipt of information which may form the basis of a violation, staff may review documents and conduct interviews prior to a finding of legal sufficiency.
- b. After conducting an inquiry, if no legal sufficiency is found, staff will prepare a memorandum of inquiry stating the facts and circumstances supporting its finding. A finding of no legal sufficiency after inquiry is thereafter subject to public records disclosure.
- c. Upon a finding of legal sufficiency, the matter under inquiry will be processed in accordance with Sections C and D as contained herein.

AGENDA ITEM X(c) – AMENDMENT TO RULES OF PROCEDURE ADDING 4.31 ADVOCATE CONFLICT OF INTEREST

4.31 Advocate Conflict of Interest

At all times during the investigation and presentation of a legally sufficient complaint, the Advocate has an ongoing duty to seek justice without predisposition or bias. In that regard there is an ongoing duty to disclose to the Executive Director any financial, personal or professional interest in the proceedings immediately upon discovery of the conflict.

4.32 Replacement of Advocate upon Disclosure of Conflict

Upon disclosure of a conflict, the Executive Director shall immediately replace the Advocate and notify the Respondent.

4.33 Applicability of Florida Bar Rules of Professional Conduct

The Advocate shall be governed by *Chapter 4. Rules of Professional Conduct* as promulgated by the Florida Bar.