

PALM BEACH COUNTY COMMISSION ON ETHICS
AMENDED EXECUTIVE SUMMARY

To: Alan S. Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: C12-009 – Frederick Pinto, Councilman, Village of Royal Palm Beach

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through sworn complaints submitted by Martha Webster, a resident of the Village of Royal Palm Beach (the Village) and a member of the Village Council. Respondent is Village of Royal Palm Beach Councilman, Frederick Pinto. Frederick Pinto is also employed by Palm Beach County as the Administrative Assistant to County Commissioner Jess Santamaria (District 6).

There are two (2) separate Complaints concerning land use votes by the Village Council regarding a commercial shopping plaza in which County Commissioner Jess Santamaria has an ownership interest. Webster alleges in both Complaints that Councilman Pinto violated Code Section 2-443(a), *Misuse of public office or employment*, Section 2-443(b), *Corrupt misuse of official position*, and Section 2-443(c), *Voting conflicts*, on two different occasions by participating in and voting as a Village Councilman on these land use issues because Jess Santamaria is his “outside employer.”

The first Complaint alleges that at a regular Village Council meeting on June 7, 2012, Respondent; “facilitated a real estate transaction as an employee of Commissioner Santamaria that financially benefitted his direct employer. He further participated in and made the motion to approve the special exception project without disclosing his relationship to his employer.” This vote involved an application for a special exemption to allow a nursing school to operate within the plaza, and the applicant for this exemption was Shaker Health Holdings, Inc., a lessee of the shopping plaza.

The second Complaint alleges that at a regular Village Council meeting on July 5, 2012, Respondent; “participated in a special exemption petition determination brought before the Royal Palm Beach Council at the July 5, 2012 Council meeting.” The special exemption application was a request to allow a church or place of worship to allow the applicant to operate within this commercial shopping plaza. Complainant alleges that Respondent “voted to approve the special exemption project without disclosing his relationship to his employer, the owner of the property to be leased who financially benefitted from this special exemption approval.” This vote involved the same shopping plaza as the first vote, in which Jess Santamaria has an ownership interest. In this instance, The Potter’s House of West Palm Beach, Inc., applied for the special exemption.

- **Analysis**

Staff is of the opinion that under the plain language contained in the definition section of the Code, Commissioner Santamaria is not Respondent’s outside employer. Respondent is an employee of Palm Beach County. In §2-442, *Definitions*, the Code defines an outside employer or business to include; “Any entity, *other than the county*, the state, or any other federal regional, local, or municipal government entity...” (Emphasis added). The definition of outside employer specifically excludes employment with a governmental entity. Therefore, Respondent’s County employment is excluded from this definition. As a matter of statutory construction, all reference in the Code to the term “outside employer” is subject to this definition, including its government exclusion. Since Respondent is not employed by one of Santamaria’s private outside businesses, §§2-443(a)(4) and (5) are not applicable.

However, based upon the employment relationship between the Respondent and his supervisor, including the fact that Respondent is an at-will employee without merit status, the Respondent may have a conflict of interest under §2-443(a)(1) and (c). A county employee’s salary is a financial benefit to Respondent, and his vote as an elected member of a municipal council on an issue directly affecting his county supervisor’s financial interest may bear

upon his position as Administrative Assistant. As an at-will employee under Palm Beach County Merit Rule 2 (definitions), Respondent may be terminated at any time and without cause by Commissioner Santamaria.

For purposes of legal sufficiency, the Complainant's allegations are based upon personal knowledge of the relationship of Respondent to Commissioner Santamaria and knowledge of a financial benefit to the Commissioner's interests. The Respondent's participation and vote on the issues alleged in the Complaints are within her personal knowledge as well. Therefore, on its face, the Complaints are **LEGALLY SUFFICIENT** to the extent they contain allegations within the jurisdiction of the COE and based substantially on the personal knowledge of the Complainant, relating to an alleged violation regarding §§2-443(a), (b) and (c).

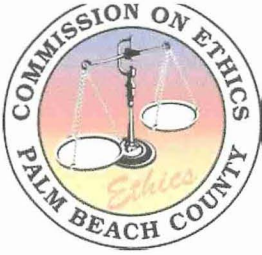
Based on these facts and circumstances, staff there is **NO PROBABLE CAUSE** to believe that Respondent, Fred Pinto, has violated §2-443(a) and/or §2-443(c) of the Palm Beach County Code of Ethics. Facts uncovered during the inquiry and investigation indicated that Respondent had not participated in the applicant's selection of the Shopping Center or otherwise used his Council position to influence staff's recommendation prior to the applications coming before the Village Council. Furthermore, inquiry and investigation uncovered no wrongful intent, inconsistent with the proper performance of his official duties. It should be noted that the relationship between Respondent and the Commissioner, under any other context than that of a governmental employer, would constitute a violation of the Code under these facts and circumstances.

Further, based upon Respondent's County employment, an appearance of conflict of interest exists regarding issues coming before him in his capacity as Village Councilman when such matters specially benefit his County supervisor. This is especially so where his county employment is at-will and not protected by merit rule. Here, the Respondent's livelihood depends upon this relationship, and his supervisor, Commissioner Santamaria, is free to terminate the relationship at any time. Maintaining Respondent's salary, raises, and benefits is not so remote and speculative as to avoid becoming a personal financial benefit as contemplated by the Code, if the facts and circumstances indicate Respondent facilitated or otherwise directed the transaction. Therefore, under a different set of circumstances, participating and voting on an issue specially financially benefitting his at-will County supervisor may be seen as resulting in a benefit to him personally.

- **Conclusion**

Staff recommends a finding of **NO PROBABLE CAUSE** be entered in this case as to §2-443(a), (b) and (c)(Counts 1-6). Respondent did not actively steer the underlying projects to his supervisor's businesses, or otherwise influence staff in their recommendation to approve the applications. Respondent did inquire as to any conflict created by his simultaneously serving as Councilman and employee of the County, however, it appears that he did not ask his municipal attorney whether the applications benefiting his at-will supervisor presented a conflict. Nor did he ask the COE for an advisory opinion prior to participating and voting on these issues. Notwithstanding, staff does not recommend proceeding further in this matter.

The Code permits the COE to *dismiss any complaint at any stage of disposition and issue a letter of instruction to the Respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial or where the public interest would not be served by proceeding further*. Therefore, staff recommends that this matter be **DISMISSED** and a **LETTER OF INSTRUCTION** be issued pursuant to Article V, Division 8, §2-260.3.



PALM BEACH COUNTY COMMISSION ON ETHICS

2633 Vista Parkway, West Palm Beach, Florida 33411

Hotline: 877-766-5920 or 561-233-0724

COMPLAINT FORM

1. Complainant (Person bringing Complaint) *Add pages, if necessary.*

Name: Martha Webster
Address: 103 Oriole Court
City: Royal Palm Beach Zip: 33411
Home #: 561-333-7122 Work #: _____ Cell #: 561-317-4624

2. Respondent (Person against whom complaint is made) *Add pages, if necessary.*

Name: Frederick Pinto
Address: 123 Heron Parkway, RPB, FL 33411/ 301 N. Olive Blvd., Suite 1201, WPB, FL 33401
City: Royal Palm Beach, Florida Zip: 33411
Home #: _____ Work #: 561-355-6300 Cell #: 561-352-5748
Title/Office Held or Sought: Councilman Village of Royal Palm Beach/Administrative Aid to Commissioner Santamaria

3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY

☒ Allegation is against person in
County/Municipal Government

☐ Allegation is about County:
Whistleblower Retaliation

4. STATEMENT OF FACTS BASED ON YOUR PERSONAL KNOWLEDGE

In a separate attachment, please describe in detail the facts and actions that are the basis of your complaint, including the dates when the actions occurred. Also attach any relevant documents as well as names and contact information of persons who may be witnesses to the actions. If known, indicate the section of the ordinance you believe is being violated. For further instructions, see page 2 of this form.

5. OATH

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments are true and correct, to the best of my knowledge and belief.

Martha Webster
Signature of Person Making Complaint

STATE OF FLORIDA

COUNTY OF Palm Beach

Sworn to (or affirmed) and subscribed before me
this 4 day of Sept, 2012, by

Martha Webster
(Name of Person Making Statement)

who is personally known to me ☐ or produced
identification ☒. Type of identification
produced: DL FL

Alicia M. Ragoobar
(Signature of Notary Public, State of Florida)



ALICIA M. RAGOOBAR
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE128275
Expires 10/2/2015

Report of Violation of Palm Beach County Code of Ethics

IG Reference Palm Beach County Commission on Ethics Guide for Employees, Officials and Advisory Board Members, Effective date June 1, 2011

Name: **Fredrick Pinto**

Position: Village of Royal Palm Beach Vice Mayor & Councilman, Seat 3

Charge: Royal Palm Beach Vice Mayor Fred Pinto facilitated a real estate transaction as an employee of Commissioner Santamaria that financially benefited his direct employer. He further participated in and made the motion to approve the special exception project without disclosing his relationship to his employer.

Incident: Discussion and vote on Regular Agenda Item 1- Village of Royal Palm Beach Council Meeting – June 7, 2012
 "Public hearing for approval of Application No 12-09 (SE) an application by Shaker Health Holdings, Inc. and adoption of Resolution No 12-14 confirming Council action. The applicant is seeking approval for the Special Exception Use of a "Business, Trade, or Vocational School", located within the Royal Plaza South Shopping Center at 650 Royal Palm Beach Boulevard. Agent: M. Daniel Splain, Shaker Health Holdings, Inc. (P&Z Administrator)

Ethics Charge: Violation of PBC Code of Ethics Guide for Elected Officials and Advisory Board

Members I. Prohibited Conduct –

I-A. Misuse of public employment

I-B. Corrupt misuse of official position

I-C. Disclosure of Voting Conflict

- (I-B) Frederick Pinto is an elected official.
- (I-A) Frederick Pinto is a full time paid employee of Jess Santamaria.
- (I-B) Jess Santamaria is an elected official.
- Jess Santamaria is the registered owner of Royal Palm Beach Shopping Plaza & Medical Center Limited.
- RPB Shopping Plaza & Medical Center is the owner of the property seeking Special Exception Use from the RPB Village Council.
- (I-C) Councilman of RPB Frederick Pinto did not reveal the conflict and engaged in discussion voting in favor of the Special Exception Use.
- Councilman Pinto initiated motion to approve project.

Supporting Documents

Exhibit A Regular Council Agenda – June 7, 2012

Exhibit B Regular Agenda Item 1 - detail

Exhibit C Approved Minutes Regular Council Meeting – June 7, 2012

Exhibit D 2012 Limited Partnership Annual Report – Royal Palm Beach Shopping Plaza & Medical Center Limited Doc #A06586

Exhibit E PBC Property Appraiser Parcel Control # 72-41-43-35-00-000-7120

Exhibit F TownCrier, "Nursing Home Seeks To Open In Royal Palm", Bukley, R., June 15, 2012

Exhibit G	Palm Beach Post, "Nursing school is proposed for plaza", Malek, M., June 20, 2012
Reference	Reference RPB web video – June 7 video
Reference	Court stenographer records taken at meeting by Commissioner Santamaria counsel – available by public records request, Commissioner

Statement of Facts:

On June 7, 2012 the above captioned agenda item came before the Royal Palm Beach Council. The agenda item was for the approval of a special exception use to allow the operation of T&T Academy. The property that the Academy was seeking approval was located in the Royal Palm Beach Shopping Plaza owned by **Commissioner Jess Santamaria**.

The owner of the property stated on the public record (video & court reporter document) that he determined he wished to locate his school in Palm Beach County and went directly to "one of the PBC Commissioners" to determine possibilities. He stated that his first contact was **Mr. Fred Pinto**, Administrative Aid to Commissioner Santamaria.

The evidence indicates that Commissioner Santamaria did enter into a business relationship with the owner to lease his property and that the special exception was approved by Mr. Fred Pinto. Mr. Pinto was his employee, he was also an elected official who discussed, initiated the motion to approve, and voted to approve the transaction. Mr. Pinto made no disclosure to recuse from acting to benefit Commissioner Santamaria.

Exhibit A

Regular RPB Council Agenda June 7, 2012

**VILLAGE OF ROYAL PALM BEACH
COUNCIL REGULAR MEETING
VILLAGE MEETING HALL
THURSDAY, JUNE 7, 2012
7:00 P.M.**

**PLEDGE OF ALLEGIANCE
ROLL CALL**

Mayor Matty Mattioli
Vice Mayor Fred Pinto
Councilwoman Martha Webster
Councilman Richard Valuntas
Councilman Jeff Hmara

**REPORTS
PETITIONS
STATEMENTS FROM THE PUBLIC**

CONSENT AGENDA

1. Approval of minutes of Council Regular Meeting of May 17, 2012.
(Village Clerk)
2. Approval and authorization for Village Manager to execute Consultant Services Authorization No. 03 with CDM Smith, Inc. in the amount of \$23,810.00 for Stormwater Utility Development Plan – Phase IV to provide professional services in implementing Stormwater Utility policies and procedures. The project is funded within Capital Project No. PW1107, Stormwater Utility Development Plan. (Director of Public Works)
3. Approval of a Special Event Permit for Our Lady Queen of the Apostles Catholic Church to hold its Annual Fall Festival at 100 Crestwood Boulevard on November 8, 2012 through November 11, 2012. (P & Z Administrator)
4. Approval of a Special Event Permit application by Royal Palm Covenant Church to hold a Yard Sale at 660 Royal Palm Beach Boulevard on June 16, 2012 from 7:30 a.m. to 5:00 p.m. (P & Z Administrator)
5. Approval to purchase and have installed a playground apparatus for Todd A. Robiner Park from Rep Services, Inc., in an amount not to exceed \$200,000.00 by piggybacking Clay County term contract #08/09-03, as renewed and extended from January 13, 2012

through January 13, 2013, for unit pricing. (Director of Parks & Recreation)

6. Approval and authorization to purchase and have installed replacement accordion panels in the recreation center from SSE and Associates, Inc., d/b/a Southeastern Surfaces and Equipment in the amount of \$31,372.33 by piggybacking the Sarasota County School Board Bid #12-1013 for unit and service pricing. (Director of Parks & Recreation)
7. Approval of bid award and authorization for the Village Manager to enter into a contract with L.V. Superior Landscaping, Inc., the lowest responsive, responsible bidder, in the amount of \$41,755.00 annually, for the maintenance of eight (8) neighborhood parks located throughout the Village. (Director of Parks & Recreation)

REGULAR AGENDA

1. Public hearing for approval of Application No. 12-09 (SE) an application by Shaker Health Holdings, Inc. and adoption of Resolution No. 12-14 confirming Council action. The applicant is seeking approval for the Special Exception Use of a "Business, Trade, or Vocational School", located within the Royal Plaza South Shopping Center at 650 Royal Palm Beach Boulevard. Agent: M. Daniel Splain, Shaker Health Holdings, Inc. (P & Z Administrator)
2. First reading and consideration of Ordinance No. 862 amending Chapter 26. Zoning at various sections to add an entirely new Section 26-75. 1 Warehouse and Storage Building over 400,000 square feet to provide for new regulations concerning this Special Exception Use, and to repeal in its entirety subsection 26-92(3) and subparagraph (g) at subsection (4) and readopt them to provide for the inclusion of a new Special Exception Use of "Warehouse and Storage Building over 400,000 square feet" along with landscape amendments and renumber all other Special Exception Uses accordingly. (P & Z Administrator)
3. First reading and consideration of Ordinance No. 868 amending Chapter 15. Landscaping and Vegetation Management. at Article V. Design Standards at Section 15-130 Minimum Landscape Requirements by repealing and readopting sub-section (d) to provide an exclusion for large water bodies from the lot area calculation related to required landscaping in the Industrial District; amending Article VI. at Section 15-143. Plant Material Standards. by repealing sub-paragraph (3) of sub-section (e) and readopting this sub-paragraph to reference new height limitations

for shrubs and hedges as set forth at Section 9-5. (P & Z Administrator)

4. Public hearing for second reading and adoption of Ordinance No. 867 amending Chapter 8. Elections of the Village Code of Ordinances to provide that the Village of Royal Palm Beach utilize the Supervisor of Elections, or designee, along with the Village Clerk, or designee to canvass the Municipal Elections. (Village Manager)
5. Annual review and evaluation of the performance of the Village Manager.

**ADJOURNMENT
/ATTACHMENT**

If a person decides to appeal any decision made by this group with respect to any matter considered at this meeting or hearing, he or she will need to insure that a verbatim record of the proceedings is made, which record should include the testimony and evidence upon which the appeal is to be based. The Village of Royal Palm Beach does not provide such a record.

In accordance with the provisions of the American With Disabilities Act (ADA), this document can be made available in an alternative format (large print) upon request. Special accommodations can be provided upon request with three (3) days advance notice of any meeting by contacting the Village Clerk's office, Village of Royal Palm Beach, 1050 Royal Palm Beach Boulevard, Royal Palm Beach, FL 33411. (561) 790-5100

Hearing Assistance: If any person wishes to use a ListenAid hearing device, please contact the Village Clerk prior to any meeting held in the Council Chambers.

Exhibit B

Regular RPB Council Agenda

Item 1

June 7, 2012



**Village of Royal Palm Beach
VILLAGE COUNCIL
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR APPROVAL OF APPLICATION NO. 12-09 (SE) AN APPLICATION BY SHAKER HEALTH HOLDINGS, INC. AND ADOPTION OF RESOLUTION NO. 12-14 CONFIRMING COUNCIL ACTION. THE APPLICANT IS SEEKING APPROVAL FOR THE SPECIAL EXCEPTION USE OF A "BUSINESS, TRADE OR VOCATIONAL SCHOOL", LOCATED WITHIN THE ROYAL PLAZA SOUTH SHOPPING CENTER AT 650 ROYAL PALM BEACH BOULEVARD: BY AGENT, M. DANIEL SPLAIN OF SHAKER HEALTH HOLDINGS, INC.

Issue:

The applicant is seeking Special Exception approval for the use of a "Business, trade or vocational school" on the subject site which is located in the General Commercial (CG) Zoning District. The School is proposing to occupy 7,500 square feet of floor area and will be located at the north end of the east building.

The proposed school will be a vocational training program for nurses, home health aides and nursing assistants. The school will operate Monday through Friday from 8:00 a. m. until 10:00 p. m. and on Saturdays from 8:00 a.m. until 12:00 p.m. The applicant has stated that the maximum student enrollment will be 200 students at full capacity. The students will be divided equally between the day and evening programs. The applicant further indicates that no more than 50 students will be present at the same time. In addition the applicant states that there will be a maximum of 20 employees at full enrollment.

In reviewing the proposed Special Exception use application, Village Staff considered compatibility with adjacent land uses, consistency with the Village's Comprehensive Plan and conformance with the Village's Development Standards for the General Commercial (CG) Zoning District. Staff has determined that the proposed Special Exception use conforms to Village Standards.

The Planning & Zoning Commission considered this application on May 22, 2012 and recommended approval by a vote of 5 to 0.

Recommended Action:

Approval of application 12-09 (SE) thru the approval of Resolution 12-14.

Initiator:	Village Manager Approval	Agenda Date	Village Council Action
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Planning and Zoning Administrator	6-7-12
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Mayor Matty Mattioli
Vice Mayor Fred Pinto
Councilwoman Martha Webster.....
Councilman Richard Valuntas.....
Councilman Jeff Hmara

The foregoing Resolution was declared duly passed and adopted this 7th day of June, 2012 confirming the action of Village Council of June 7, 2012.

Approved as to form and
legal sufficiency by:

VILLAGE ATTORNEY

MAYOR MATTY MATTIOLI

The Village of Royal Palm Beach,
Palm Beach County, Florida,
By its Village Council

APPLICATION NO. 12-09 (SE)

DIANE DISANTO, VILLAGE CLERK

Exhibit B
Conditions of Approval
T & T Academy @ Royal Plaza South
12-09 (SE)
Resolution No. 12-14

1. Development Order:

This development order constitutes approval for a 7,500 square foot Special Exception Use approval to allow a "Public or Private Academic Institution" to be located in the existing Royal Plaza South Shopping Center. The total student population will be limited to 200 students

Unless specifically discussed in this condition or subsequent specific conditions of approval, no other approval is granted or implied. All prior conditions of approval for the Royal Plaza Shopping Center remain in full force and effect unless specifically modified herein below.

2. Site Specific Conditions:

3. Standard Conditions:

- A. This special exception use approval shall expire one (1) year from the date of council approval, unless appropriate applications for site plan extension are submitted pursuant to Sec. 26-66 of the Village Code of Ordinances. In no case shall the approval be extended beyond code-established time frames.

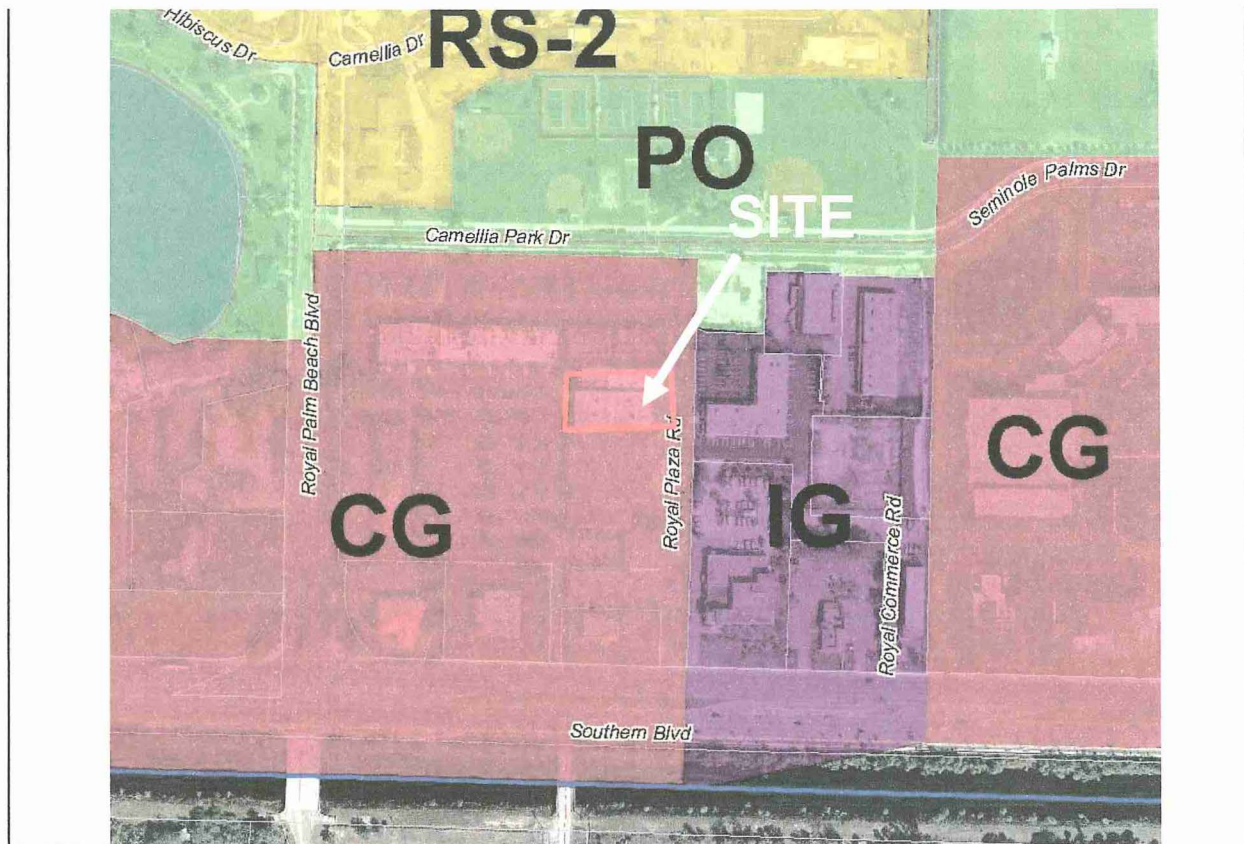


Figure 1: Location Map

III. Intent of Petition:

The applicant is seeking approval for the Special Exception use of “Business, trade or vocational school” on the subject site which is located in the General Commercial (CG) Zoning District. The School is proposing to occupy 7,500 square feet of floor area and will be located at the north end of the east building as depicted in the area shown in Attachment “C”.

IV. History:

The subject property is located on the east side of Royal Palm Beach Boulevard and north of Southern Boulevard. The existing shopping center was approved by Village Council on August 9, 1979.

V. Analysis:

The applicant is seeking approval for the Special Exception use of “Business, trade or vocational school” on the subject site which is located in the General Commercial (CG) Zoning District. The School is proposing to occupy 7,500 square feet of floor area and will be located at the north end of the east building.

The proposed school will be a vocational training program for nurses, home health aides and nursing assistants. The school will operate Monday through Friday from 8:00 a. m. until

**Attachment A
Legal Description
T & T Academy @ Royal Plaza South
12-09 (SE)
Resolution No. 12-14**

Legal Description:

Acreage in Section 35-43-41

More particularly described as follows:

The southerly 910.31 feet of the northerly 1090.82 feet of the westerly 718.95 ft of the 1198.43 feet of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ (less 284.53 feet of the west 432.99 feet, south 200 feet of west 200 feet of east 740.33 & south 86.5 feet of SR 80 right-of-way).

SUBJECT TO ALL PERTINENT MATTERS OF RECORD.

CONTAINING 14.87 ACRES, MORE OR LESS.

[illegible]

Exhibit C

Approved Minutes Regular RPB Council Meeting June 7, 2012

Agenda Item No. C - 1

VILLAGE OF ROYAL PALM BEACH

Agenda Item Summary

AGENDA ITEM: Approval of minutes of Council Regular Meeting of June 7, 2012.

ISSUE: It is necessary for Village Council to approve all Village Council meeting minutes.

RECOMMENDED ACTION: Motion to Approve

Initiator	Village Manager Approval	Agenda Date	Village Council Action
Village Clerk		07/5/12	

meeting has been scheduled for Monday, June 11th. She reported on citizens' concerns with the music at Veterans Park, repair of the clock at Veterans Park and asked for an update on the muddy canals.

The Director of Public Works reported on the canal situation while addressing the aesthetic issues. He stated that on-going meetings are being held with the vendor and the process has started to remove the floating vegetation in compliance with the label requirements of the pesticides. He added the rain has not cooperated with the process and while harvesting is not being used, aggressive treatment is.

Councilwoman Webster informed the residents that new voter registration cards have been issued with regard to the new redistricting. She urged everyone to be aware that they may have a new precinct location.

The Village Manager reported on a recent speed study done by Palm Beach County on Crestwood Boulevard south of Okeechobee Boulevard. The results of the study indicate consideration be given to raise the speed limit from 35 mph to 40 mph. He recommended the change and asked if there were any objections. Councilman Hmara commented that while attending HOA meetings excessive speeding on Crestwood Boulevard was an issue and thought raising the speed limit may not be appreciated by the residents. He also reported that the PBSO had their speed trailer in place on Crestwood and suggested waiting for those results before making that decision. A discussion ensued regarding the difference of the speed limit on the north section of Crestwood Boulevard vs. the south section. The Village Manager added the two roads are characteristically different stating that the north section of the roadway includes a curvature and an on-street proposed bike path. He added that there are no future plans to increase the speed limit on the north side of Okeechobee Boulevard. It was the consensus of Council to approve the change from 35 mph to 40 mph.

PETITIONS - None

STATEMENTS FROM THE PUBLIC

Tami Donnally introduced herself as a candidate for the newly drawn House District 86 that includes the Village of Royal Palm Beach. She stated she is a long time resident of Palm Beach County and is a pro-business leader and asked for their support.

CONSENT AGENDA

The Village Clerk read into the record the Consent Agenda as follows:

Councilwoman Webster referred to Consent Agenda Item No. 5 and asked if there was a way to have as much quality in the park for a little less than what was budgeted for. The Director of Parks & Recreation responded and compared it with the equipment at Willows Park stating it would be a great fit and will be approximately \$180,000 not \$200,000. Councilman Valuntas agreed with the recommendation from the Director and confirmed the play sets are worn out and no replacement parts are available. Councilman Hmara asked what the cost of the Willows Park equipment was. The Director responded approximately \$190,000. Councilwoman Webster made a motion to approve the Consent Agenda Item No. 5; seconded by Vice Mayor Pinto. Mayor Mattioli put the motion to a vote and it passed unanimously.

Vice Mayor Pinto asked the Village Manager to expand on Consent Agenda Item No. 7. The Village Manager explained the budget process as it pertains to the opening of the 160 acre Commons Park. He stated that more labor would be required to maintain the park and in lieu of hiring additional employees the choice was made to review the neighborhood parks for the bidding process. He reported on the various prices received stating this will save the Village approximately \$100,000 annually. Vice Mayor Pinto made a motion to approve the Consent Agenda Item 7; seconded by Councilman Hmara. Mayor Mattioli put the motion to a vote and it passed unanimously.

REGULAR AGENDA

- 1. Public hearing for approval of Application No. 12-09 (SE) an application by Shaker Health Holdings, Inc. and adoption of Resolution No. 12-14 confirming Council action. The applicant is seeking approval for the Special Exception Use of a "Business, Trade, or Vocational School", located within the Royal Plaza South Shopping Center at 650 Royal Palm Beach Boulevard. Agent: M. Daniel Splain, Shaker Health Holdings, Inc. (P & Z Administrator)**

This was a quasi-judicial hearing and the Village Attorney swore in all who will speak. The applicant is seeking Special Exception approval for the use of a "Business, trade or vocational school" on the subject site which is located in the General Commercial (CG) Zoning District. The School is proposing to occupy 7,500 square feet of floor area and will be located at the north end of the east building.

The proposed school will be a vocational training program for nurses, home health aides and nursing assistants. The school will operate Monday through Friday from 8:00 a.m. until 10:00 p.m. and on Saturdays from 8:00 a.m. until 12:00 p.m. The applicant has stated that the maximum student enrollment will be 200 students at full capacity.

Vice Mayor Pinto made a motion to approve; seconded by Councilman Valuntas. The Village Attorney read into the record Resolution No. 12-14 by title only. Hearing no discussion or public comment, Mayor Mattioli put the motion to a vote and it passed unanimously.

- 2. First reading and consideration of Ordinance No. 862 amending Chapter 26. Zoning at various sections to add an entirely new Section 26-75. 1 Warehouse and Storage Building over 400,000 square feet to provide for new regulations concerning this Special Exception Use, and to repeal in its entirety subsection 26-92(3) and subparagraph (g) at subsection (4) and readopt them to provide for the inclusion of a new Special Exception Use of "Warehouse and Storage Building over 400,000 square feet" along with landscape amendments and renumber all other Special Exception Uses accordingly. (P & Z Administrator)**

The P & Z Administrator made the presentation. Village Staff is proposing to amend Chapter 26. Zoning at various sections to add an entirely new section 26-75. 1 to be titled "Warehouse and storage building over 400,000 square feet"; to provide for new regulations concerning this special exception use; and to repeal in its entirety subsection 26-92 (3) and Subparagraph (g) at Subsection (4) and readopt them to provide for the inclusion of a new special exception use of "warehouse and storage building over 400,000 square feet" along with landscape amendments and renumber all other special exception uses accordingly.

The impetus of this code amendment, as stated above is to provide new and modified guidelines for the regulation of warehouse and storage buildings 400,000 square feet or larger. Currently Village Code does not properly regulate facilities of this nature.

The following is an outline of the pertinent modifications. The outline follows the order of Ordinance 862 which can be found attached hereto.

1. Sec. 26-75.1. (b) defines a *Warehouse and storage building over 400,000 square feet* as an Industrial establishment where goods are received / or stored for the redistribution to their eventual destination at remote locations; and which may include office space intended to provide logistical support for the local as well as the regional operation of the business.
2. Sec. 26-75.1. (c) (2) this section will allow portions of the building to exceed the height restriction of 32 feet for the zoning district so long as that portion of the building is set back an additional five

9. Sec. 26-75.1. (d) (4) requires that where chain link fencing is being utilized it must be vinyl coated; and vinyl coated fencing forward of the primary façade may have a maximum height of six (6) feet when not adjacent to a right-of-way.
10. Sec. 26-75.1. (d) (5) allows lighting fixtures to exceed the height limitations set forth in Section 26-73 (c) (1) c. to allow a maximum of forty feet in height within truck yard and loading areas. He also recommended that additional verbiage would include shielding lighting from adjacent residential areas.
11. Sec. 26-75.1. (d) (6) provides for an exemption to the building perimeter landscape requirements of Section 26-75 (h) (2).
12. Sec. 26-75.1. (d) (7) provides for an exemption to Section 26-75 (h) (4), which requires loading areas to be screened by an eight foot wing wall.
13. Sec. 26-75.1. (d) (8) allows the utilization of the landscaping requirements within Vehicle Use areas in Section 15-133. This section requires landscaped Perpendicular Dividers Strips for two facing parking rows containing ten or more parking spaces. Currently Section 26-73 (c) (12) d. 2. applies and requires landscaped Perpendicular Landscape Divider Strips between two facing rows regardless of the number of parking spaces the rows contain.
14. Sec. 26-75.1. (d) (9) provides for an exemption to Section 26-73 (c) (12) e. 1. which requires the perimeter landscaping berm to be limited to fifty percent of frontage, and vary in height from four feet to eight feet. The perimeter landscaping will however meet the standard regulations found in Section 15-131.
15. Sec. 26-92 (4) (g) deletes the 15-foot Minimum Parcel Perimeter Landscape Buffer.

The Senior Planner reported that the Local Planning Agency recommended approval with the following suggestions: 1) the staging of in operable trailers for extended period of time and suggested removing the verbiage “for extended periods of time”; 2) cap building height at 45’ and adequate screening in loading areas a minimum of 6’; 3) define truck yard area pertaining to light fixtures and to allow maximum height of 40’; and 5) thought there to be too much flexibility in the architectural requirements. Staff stated the code is in place to address the architecture of the buildings and allows the Village to require an applicant to add more architectural treatments as approved by Village Council. Village staff recommends approval.

The Local Planning Agency and staff recommend approval.

Councilman Valuntas made a motion to approve; seconded by Vice Mayor Pinto. The Village Attorney read into the record Ordinance No. 868 by title only. Hearing no discussion or public comment, Mayor Mattioli put the motion to a vote and it passed unanimously.

4. Public hearing for second reading and adoption of Ordinance No. 867 amending Chapter 8. Elections of the Village Code of Ordinances to provide that the Village of Royal Palm Beach utilize the Supervisor of Elections, or designee, along with the Village Clerk, or designee to canvass the Municipal Elections. (Village Manager)

The Village Manager stated in order to have the Supervisor of Elections on the Village canvassing board the ordinance needed to be modified. He added that it will also update the section of the code that refers to an "Election Inspection Board". The revisions discussed at the previous meeting are as follows: "Additionally, the Village Council by resolution may provide that two Councilmembers, which may include the Mayor, whose Groups or mayoral position are not scheduled to be voted upon may also be made members of the canvassing board."

Vice Mayor Pinto asked why it reads "may" as opposed to "shall" and stated he wanted the composition of the canvassing board clarified and did not want to wait for a crisis to address this. A discussion ensued with regard to the timing and having the possibility of having as many as four seats up for election at one time. Also discussed was which would best apply a resolution versus an ordinance. Councilwoman Webster thought the flexibility of a resolution may be better. The Village Attorney read into the record the following language: "the Village Council by resolution shall provide that Councilmembers which shall include the Mayor whose groups or mayoral position are not scheduled to be voted upon shall also be made members of the canvassing board". Councilman Pinto suggested a cap be placed on the number of members in the canvassing board. Councilman Valuntas suggested updating the ordinance only. The Village Attorney responded that the SOE is requiring a resolution indicating the canvassing board. Councilwoman Webster thought with more flexibility the greater authority the Council has. Vice Mayor Pinto reiterated that he wishes to have a definitive canvassing board in place. Councilman Valuntas suggested having an odd number for the canvassing board and recommended the following language be considered "where the SOE and Village Clerk shall canvas, with additionally the Village Council by resolution shall provide that one Councilmember which may include the Mayor, whose Groups of mayoral position is not scheduled to be voted upon, shall also be made a member

and that is with the contracts. He stated we go low-bid contracts and get stuck with those contractors, the main one being Royal Palm Beach Boulevard, north of Okeechobee; however, he appreciated his work.

Councilwoman Webster credited Mr. Liggins with leading in some significant accomplishments the past year noting his job performance has been good. She was looking forward to the future noting that working together will continue to make a good difference and thanked him.

Mayor Mattioli thought the Mr. Liggins to be a good worker and knowledgeable adding that he never stops working to improve our village noting that takes a lot of dedication. Mayor Mattioli congratulated Mr. Liggins on his ICMA accomplishments which include receiving the ICMA Credentialed Manager designation. He said he sees the daily operations of the village going efficiently and was impressed with the work on the upcoming budget. Mayor Mattioli added that Mr. Liggins was not looking for a pay raise, but that if the other employees get a pay raise, he should get the same. He again thanked him for his service.

Mr. Liggins thanked the council members for kind comments and stated the work that has been done this year was by the whole team and recognized the department directors and staff. He stated he was happy and proud to work for Royal Palm Beach and appreciated the opportunity.

ADJOURNMENT

Mayor Matty Mattioli

Diane DiSanto, Village Clerk

Exhibit D

2012 Limited Partnership Annual Report – RPB Shopping Plaza



Florida Incorporator™
The American Way to the American Dream.™

Tallahassee: 1-850-270-6379

[Home](#)[Contact](#)[Questions](#)[Security](#)[Privacy](#)[Name Search](#)**Business Filings****TITLE_records**[> Florida Fictitious Name \(DBA\)](#)[> Florida Corporation](#)[> Florida S Corporation](#)[> Florida Non Profit Corporation](#)[> Florida Limited Liability Co. \(LLC\)](#)

Foreign Limited Partnership ROYAL PALM BEACH
SHOPPING PLAZA & MEDICAL CENTER LIMITED
A06586 232055351 06/14/1978 PA ACTIVE 675 ROYAL
PALM BEACH BLVD. ROYAL PALM BEACH FL 33411
675 ROYAL PALM BEACH BLVD. ROYAL PALM
BEACH FL 33411 SANTAMARIA JESS R 255
PONDEROSA COURT ROYAL PALM BEACH FL 33411

Business Certification[> Certified Copy](#)[> Certificate of Good Standing](#)**Out of State Corporation / LLC**[> Out of State Corporation](#)[> Out of State Non Profit](#)[> Out of State LLC](#)**Business Renewals**[> Fictitious Name \(DBA\) Renewal](#)[> Corporation Annual Report](#)[> Non Profit Annual Report](#)[> Limited Liability Co. Annual Report](#)**Business Reinstatement**[> Corporation Reinstatement](#)[> Non Profit Reinstatement](#)[> LLC Reinstatement](#)**Business Changes**[> Change of Business Name](#)[> Change of Business Address](#)[> Change of Directors / Officers](#)[> Resignation of Officers](#)

Exhibit E

**PBC Property Appraiser Parcel
Control #72-41-43-35-00-000-7120**



Gary R. Nikolits, CFA
Property Appraiser
 Palm Beach County

Property Appraiser's Public Access

PAPA ▶



Location Address 200 ROYAL PALM BEACH BLVD
 Municipality ROYAL PALM BEACH
 Parcel Control Number 72-41-43-35-00-000-7120
 Subdivision

Official Records Book 03197 Page 0060

Sale Date JAN-1979

Legal Description 35-43-41, SLY 910.31 FT OF NLY 1090.82 FT OF WLY 718.95 FT OF ELY
 1198.43 FT OF NE 1/4 OF SW 1/4 (LESS S 284.53 FT OF W

Owners

PLAZA & MEDICAL CENTER LESSOR
 ROYAL PALM BEACH SHOPPING

Mailing address

675 ROYAL PALM BEACH BLVD
 ROYAL PALM BEACH FL 33411 7635

No Sales Information Available.

Exemption Applicant/Owner	Year	Detail
ROYAL PALM BEACH SHOPPING	2012	PART: CHARTER SCHOOLS

Number of Units	0	*Total Square Feet	99679	Acres	11.0139
Use Code	1600 - SHOPPING CENTER CMMITY	Zoning	CG - General Commercial (72-ROYAL PALM BEACH)		

Tax Year	2012 P	2011	2010
Improvement Value	\$3,839,742	\$3,983,081	\$3,970,480
Land Value	\$2,537,962	\$2,590,736	\$2,878,596
Total Market Value	\$6,377,704	\$6,573,817	\$6,849,076

P =
Preliminary

All values are as of January 1st each year

Tax Year	2012 P	2011	2010
Assessed Value	\$6,377,704	\$6,573,817	\$6,849,076
Exemption Amount	\$1,427,330	\$1,471,220	\$897,229
Taxable Value	\$4,950,374	\$5,102,597	\$5,951,847

Tax Year	2012 P	2011	2010
Ad Valorem	\$104,336	\$109,716	\$129,095
Non Ad Valorem	\$43,694	\$41,749	\$38,528
Total tax	\$148,030	\$151,465	\$167,623

Exhibit F

Nursing School Seeks To Open In Royal Palm

By [Ron Bukley](#) at June 15, 2012 | 12:05 am | [Print](#)



The Royal Palm Beach Village Council granted preliminary approval last week to a company seeking to open a nursing school at the former CVS Pharmacy location in the Royal Plaza shopping center.

Shaker Health Holdings is requesting a special exception approval to open a 7,500-square-foot vocational school at the north end of the shopping center's eastern building. The plaza is located at the northeast corner of Royal Palm Beach and Southern boulevards.

The school would offer vocational training for nurses, home health aides and nursing assistants, operating Monday through Friday from 8 a.m. to 10 p.m., and on Saturdays from 8 a.m. to noon. No more than 50 students will be present at any given time, and there will be a maximum of 20 employees at full enrollment.

At the June 7 council meeting, Mayor Matty Mattioli said he supports the application wholeheartedly. "I think it's a great idea and a great location," Mattioli said, recalling a recent documentary he'd seen predicting a shortage of nurses over the next 10 years. "I think this is a wonderful opportunity for the health industry, right here in our back yard."

Vice Mayor Fred Pinto was glad the company had decided to locate in the village. "This is a facility that could have gone to other locations in Palm Beach County," Pinto said. "Royal Palm Beach came out on top in terms of being able to meet the needs of the people who are developing the school, and there certainly is a need for trained nurses."

Councilwoman Martha Webster said the school is a logical progression in the development of the area, which already has educational facilities nearby. “We’re delighted to see it,” Webster said. “What’s even more important, we have continuity of the educational complex that seems to be growing there.” Webster asked whether there is adequate parking, and Planning & Zoning Director Bradford O’Brien said the application meets the needs for a shopping center, which is the most demanding in the village of one parking space per 200 square feet. “This shopping center has abundant parking,” O’Brien said, explaining that the plaza has 120 parking spaces more than the code requires. “I don’t anticipate there being a parking problem.”

The application complies with the village parking standards and county traffic performance standards, is compatible with neighboring land uses, consistent with the village’s comprehensive plan and conforms to the village’s development standards, O’Brien said.

Staff recommended approval of the application, and the Royal Palm Beach Planning & Zoning Commission voted 5-0 for approval May 22.

Applicant M. Daniel Splain said he and his wife are both healthcare administrators. “Most of my adult years have been in healthcare of one kind or another,” Splain said.

He said his wife has nursing and law degrees, is dean of a nursing school in Ohio and also has an immigration law practice engaged largely in bringing healthcare professionals to the United States.

“Because of repeated nursing shortages, I recruit healthcare professionals internationally,” he said, explaining that the lack of nurse and physical therapy educators has been brought on in part by the aging of the population and increasing life expectancy in the U.S.

“Today, over 80 percent of the people who die in this country die of chronic illness rather than acute illness as they did 100 years ago,” Splain said. “There has also been the development of new venues where care is rendered. It’s not just the hospital and the doctor’s office anymore.”

Many types of care that were once reserved for the hospital are now being done in a home healthcare setting.

“There has just been a sea change in how healthcare is delivered, and the need for healthcare professionals,” Splain said, noting a recent Robert Wood Johnson Foundation study projecting a dramatic nursing shortage by the year 2020 in the United States. “It’s no secret to anyone in this room that one of the most significant aging populations is right here in the State of Florida. There

are about 18 million people living in this state now. Many of them will live to be 85 to 90 years of age. They will require a great deal of care in the last six to eight months of their lives, and we don't want to just bring healthcare professionals from around the world. There are so many people in this country who want to be educated as nurses, but there have not been slots to educate those nurses."

Splain said he looks forward to becoming a part of the community. "There were a lot of places we thought about to put our nursing school, and sometimes serendipity drives you where you wind up," he said, explaining that he was watching a Palm Beach County Commission meeting a year ago and was impressed by some of the commissioners.

That led him to the office of Commissioner Jess Santamaria, for a meeting with Pinto, who works for Santamaria. "And that is how we wound up getting to know Royal Palm Beach," Splain said, adding that he is looking to buy a house in the village. "We hope to become an integral part of this community."

Splain explained that the school will start with a licensed practical nursing program. "There is still a great need for them in home health and in skilled nursing facilities," he said. "We are then moving to an associate's degree in nursing program."

Eventually, they're goal is to also offer a bachelor's degree program for registered nurses (BSN), he said, explaining that most of the hospitals in the country have adopted nursing magnet programs where they must be at 80 percent BSN by 2014.

"There is room in nursing today for all of those levels because there are different levels of complexity in nursing and different levels that require different degrees of critical thinking, and ability to assess and implement in certain practice areas," Splain said.

Pinto made a motion to approve the application, which carried unanimously.

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- Marshall Foundation Names Dr. Beer To Board

5

Exhibit G

ROYAL PALM BEACH

Nursing school is proposed for plaza

New company wants to open training facility for health aides by year-end.

By Mitra Malek
Palm Beach Post Staff Writer

A school that would train nurses, nursing assistants and home health aides might open by year's end in the Royal Plaza South Shopping Center.

Shaker Health Holdings Inc. is waiting on approvals from Florida's education and health departments, which are expected to review the Royal Palm Beach-based company's proposal by the end of October.

Meanwhile, the village council this month granted a special-exception use for Shaker Health Holdings to run a 7,500-square-foot school at the northeast corner of Royal Palm Beach and Southern boulevards.

"I think it's a great idea, a great location," Mayor Matty Mattioli said. "I support it 100

percent."

The school, which has not yet been named, would be the first for Shaker Health Holdings.

It intends to launch with a licensed practical nursing program and expand to an associate's degree in nursing program. Eventually the school would like to provide a bachelor's degree program for registered nurses, but space might be limited for that.

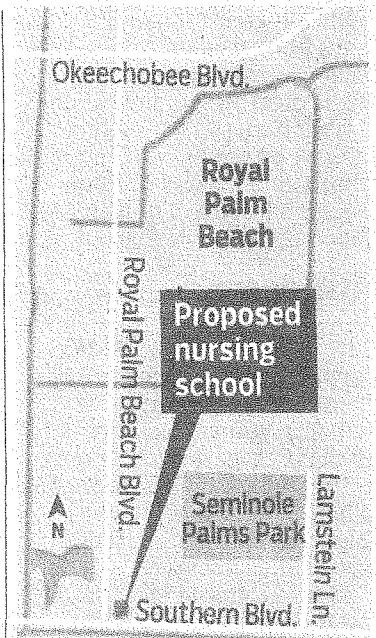
"We ultimately want all phases of nursing education," said Dan Splain, the company's secretary and treasurer.

Splain started the company with his wife, a nurse with a master's degree. He said he has spent more than 25 years in the health care industry, including working as a vice president with St. Francis Health System in Pittsburgh.

The school plans to have a maximum enrollment of 200 students and be open Monday through Friday from 8 a.m. to 10 p.m., and on Saturday from 8 a.m. to noon, with day and evening programs. It would have 20 employees at full capacity and no more than 50 students present at a time.

The shopping center already has 120 parking spaces beyond what Royal Palm code requires, said Bradford O'Brien, the village's planning director.

Very little work should be required on the space Shaker Health Holdings plans to occupy, Splain said. The building area includes a former pharmacy and



CHRISTOPHER SMITH/
The Palm Beach Post

medical offices.

Splain, who is moving to Royal Palm Beach from Ohio, said he chose to pursue opening the school in the village after watching a Palm Beach County Commission meeting on television and being inspired to call Commissioner Jess Santamaria, who later connected him with Royal Palm Vice Mayor Fred Pinto.

Florida has an obvious need for health care workers considering its older population, Splain said. He added that he has been visiting the state since the 1950s and is familiar with the county.

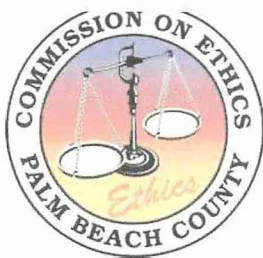
mitra_malek@pbpost.com

Reference

RPB Web Video

June 7, 2012

<http://www.royalpalmbeach.com/MediaCenter.aspx?CID=Council-Meetings-2#player>



PALM BEACH COUNTY COMMISSION ON ETHICS

2633 Vista Parkway, West Palm Beach, Florida 33411

Hotline: 877-766-5920 or 561-233-0724

COMPLAINT FORM

1. Complainant (Person bringing Complaint) *Add pages, if necessary.*

Name: Martha Webster

Address: 103 Oriole Court

City: Royal Palm Beach

Zip: 33411

Home #: 561-333-7122

Work #:

Cell #: 561-317-4624

2. Respondent (Person against whom complaint is made) *Add pages, if necessary.*

Name: Frederick Pinto

Address: 123 Heron Parkway, RPB, FL 33411/ 301 N. Olive Blvd., Suite 1201, WPB, FL 33401

City: Royal Palm Beach, Florida

Zip: 33411

Home #:

Work #: 561-355-6300

Cell #: 561-352-5748

Title/Office Held or Sought: Councilman Village of Royal Palm Beach/Administrative Aid to Commissioner Santamaria

3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY

☒ Allegation is against person in
County/Municipal Government

☐ Allegation is about County:
Whistleblower Retaliation

4. STATEMENT OF FACTS BASED ON YOUR PERSONAL KNOWLEDGE

In a separate attachment, please describe in detail the facts and actions that are the basis of your complaint, including the dates when the actions occurred. Also attach any relevant documents as well as names and contact information of persons who may be witnesses to the actions. If known, indicate the section of the ordinance you believe is being violated. For further instructions, see page 2 of this form.

5. OATH

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments are true and correct, to the best of my knowledge and belief.

Martha Webster

Signature of Person Making Complaint

STATE OF FLORIDA

COUNTY OF Palm Beach

Sworn to (or affirmed) and subscribed before me
this 4 day of Sept, 2012, by

Martha Webster

(Name of Person Making Statement)

who is personally known to me ☐ or produced
identification ☒. Type of identification
produced: DLFL

Alicia M. Ragoobar
(Signature of Notary Public, State of Florida)



ALICIA M. RAGOOBAR
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE128275
Expires 10/2/2015

Report of Violation of Palm Beach County Code of Ethics

IG Reference Palm Beach County Commission on Ethics Guide for Employees, Officials and Advisory Board Members, Effective date June 1, 2011

Name: **Fredrick Pinto**

Position: Village of Royal Palm Beach Vice Mayor & Councilman, Seat 3

Charge: Royal Palm Beach Vice Mayor Fred Pinto participated in a special exception petition determination brought before the Royal Palm Beach Council at the July 5, 2012 Council meeting. The special exception was a request to allow a church or place of worship in a commercial strip center. Fred Pinto, also an employee of Commissioner Santamaria, voted to approve the special exception project without disclosing his relationship to his employer, the owner of the property to be leased, who financially benefited from this special exception approval.

Incident: Discussion and vote on Regular Agenda Item 1- Village of Royal Palm Beach Council Meeting – July 5, 2012
 "Public Hearing for approval of application No. 12-15 (SE) and application by the Potter's House and adoption of resolution No. 12-15 confirming council action. The applicant is seeking special exception use approval for a "Church or place of worship", located within the oyal Plaza South Shopping Center at 650 Royal Palm Beach Boulevard: by agent, Jo Ann Graves of the Potter's House.

Ethics Charge: Violation of PBC Code of Ethics Guide for Elected Officials and Advisory Board Members I. Prohibited Conduct –

I-A. Misuse of public employment

I-B. Corrupt misuse of official position

I-C. Disclosure of Voting Conflict

- **(I-B) Frederick Pinto is an elected official.**
- **(I-A) Frederick Pinto is a full time paid employee of Jess Santamaria.**
- **(I-B) Jess Santamaria is an elected official.**
- **Jess Santamaria is the registered owner of Royal Palm Beach Shopping Plaza & Medical Center Limited.**
- **RPB Shopping Plaza & Medical Center is the owner of the property seeking Special Exception Use from the RPB Village Council.**
- **(I-C) Councilman of RPB Frederick Pinto did not reveal the conflict and engaged in discussion voting in favor of the Special Exception Use.**

Supporting Documents

Exhibit A	Regular Council Agenda – July 5, 2012
Exhibit B	Regular Agenda Item 1 - detail
Exhibit C	Approved Minutes Regular Council Meeting – July 5, 2012
Exhibit D	2012 Limited Partnership Annual Report – Royal Palm Beach Shopping Plaza & Medical Center Limited Doc #A06586
Exhibit E	PBC Property Appraiser Parcel Control # 72-41-43-35-00-000-7120
Reference	Reference RPB web video – July 5 video

Statement of Facts:

On **July 5, 2012** the above captioned agenda item came before the Royal Palm Beach Council. The agenda item was for the approval of a special exception use to allow the inclusion of The Potter's House of Worship to relocate into a commercial strip center. The property that the Potter's House was seeking special exception approval was located in the Royal Palm Beach Shopping Plaza owned by

Commissioner Jess Santamaria.

The special exception was approved by Mr. Fred Pinto. Mr. Pinto is an employee of Commissioner Santamaria, he is also an elected official of the Village of Royal Palm Beach who discussed and voted to approve the special exception permit. Mr. Pinto made no disclosure to recuse himself from acting to benefit Commissioner Santamaria.

Exhibit A

Regular RPB Council Agenda July 5, 2012

**VILLAGE OF ROYAL PALM BEACH
COUNCIL REGULAR MEETING
VILLAGE MEETING HALL
THURSDAY, JULY 5, 2012
7:00 P.M.**

**PLEDGE OF ALLEGIANCE
ROLL CALL**

Mayor Matty Mattioli
Vice Mayor Fred Pinto
Councilwoman Martha Webster
Councilman Richard Valuntas
Councilman Jeff Hmara

PRESENTATION OF 20 YEAR AWARD TO DENISE JANSEN-AUGUST

PRESENTATION OF 10 YEAR AWARD TO JUDY ESPEY

**REPORTS
PETITIONS
STATEMENTS FROM THE PUBLIC**

CONSENT AGENDA

1. Approval of minutes of Council Regular Meeting of June 7, 2012.
(Village Clerk)
2. Approval and authorization for the Village Manager to execute Consultant Services Authorization No. 8 with Erdman Anthony of Florida, Inc. for Crestwood Blvd North Streetscape Phase 1. The cost for said services shall not exceed \$35,485.00, funds to come from Account No. 303-3900-539-63-99, Project No. EN1101.
(Village Engineer)

REGULAR AGENDA

1. Public hearing for approval of Application No. 12-15 (SE) an application by The Potter's House and adoption of Resolution No. 12-15 confirming Council action. The Applicant is seeking Special Exception Use Approval for a "Church or place of worship", located within the Royal Plaza South Shopping Center at 650 Royal Palm Beach Boulevard: By Agent, Jo Ann Graves of The Potter's House (P & Z Administrator)

Exhibit B

Regular RPB Council Agenda

Item 1

July 5, 2012



**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR APPROVAL OF APPLICATION NO. 12-15 (SE) AN APPLICATION BY THE POTTER'S HOUSE AND ADOPTION OF RESOLUTION NO. 12-15 CONFIRMING COUNCIL ACTION. THE APPLICANT IS SEEKING SPECIAL EXCEPTION USE APPROVAL FOR A "CHURCH OR PLACE OF WORSHIP", LOCATED WITHIN THE ROYAL PLAZA SOUTH SHOPPING CENTER AT 650 ROYAL PALM BEACH BOULEVARD: BY AGENT, JO ANN GRAVES OF THE POTTER'S HOUSE.

Issue:

The applicant is seeking Special Exception Use Approval to permit a "Church or place of worship" on the subject site which is located in the General Commercial (CG) Zoning District. The church is proposing to provide 70 seats within the church and will be situated toward the middle of the northwestern building, as depicted on the attached site plan.

The site plan indicates that the church requires 18 parking spaces based on 1 parking space for every 4 seats pursuant to Village Code requirements. The site plan indicates a total parking requirement for all of the uses on site to be 524 spaces and 673 spaces have been provided.

In reviewing the proposed Special Exception use application, Village Staff evaluated the application as it pertains to the Village's parking standards, the County's Traffic Performance Standards, compatibility with adjacent land uses, consistency with the Village's Comprehensive Plan, and conformance with the Village's Development Standards for the General Commercial (CG) Zoning District. Staff has determined that the proposed Special Exception conforms to these Standards and therefore is recommending approval of this application.

Planning & Zoning considered this application on June 26, 2012 and recommended approval by a vote of 4 to 0.

Recommended Action:

Approval of application 12-15 (SE) thru the adoption of Resolution 12-15.

Initiator:	Village Manager Approval	Agenda Date	Village Council Action
------------	-----------------------------	----------------	---------------------------

Planning and Zoning Administrator	July 5, 2012
-----------------------------------	--------------

Mayor Matty Mattioli
Vice Mayor Fred Pinto
Councilwoman Martha Webster.....
Councilman Richard Valuntas.....
Councilman Jeff Hmara

The foregoing Resolution was declared duly passed and adopted this 5th day of July, 2012 confirming the action of Village Council of July 5, 2012.

Approved as to form and
legal sufficiency by:

VILLAGE ATTORNEY

MAYOR MATTY MATTIOLI

The Village of Royal Palm Beach,
Palm Beach County, Florida,
By its Village Council

APPLICATION NO. 12-15 (SE)

DIANE DISANTO, VILLAGE CLERK

Exhibit B
Conditions of Approval
The Potter's House @ Royal Plaza South
12-15 (SE)
Resolution No. 12-15

1. Development Order:

This development order constitutes approval for a Special Exception Use approval to allow a "Church or place of worship" with 70 seats to be located in the existing Royal Plaza South Shopping Center.

Unless specifically discussed in this condition or subsequent specific conditions of approval, no other approval is granted or implied. All prior conditions of approval for the Royal Plaza Shopping Center remain in full force and effect unless specifically modified herein below.

2. Site Specific Conditions:

N/A

3. Standard Conditions:

- A. This special exception use approval shall expire one (1) year from the date of council approval, unless appropriate applications for site plan extension are submitted pursuant to Sec. 26-66 of the Village Code of Ordinances. In no case shall the approval be extended beyond code-established time frames.

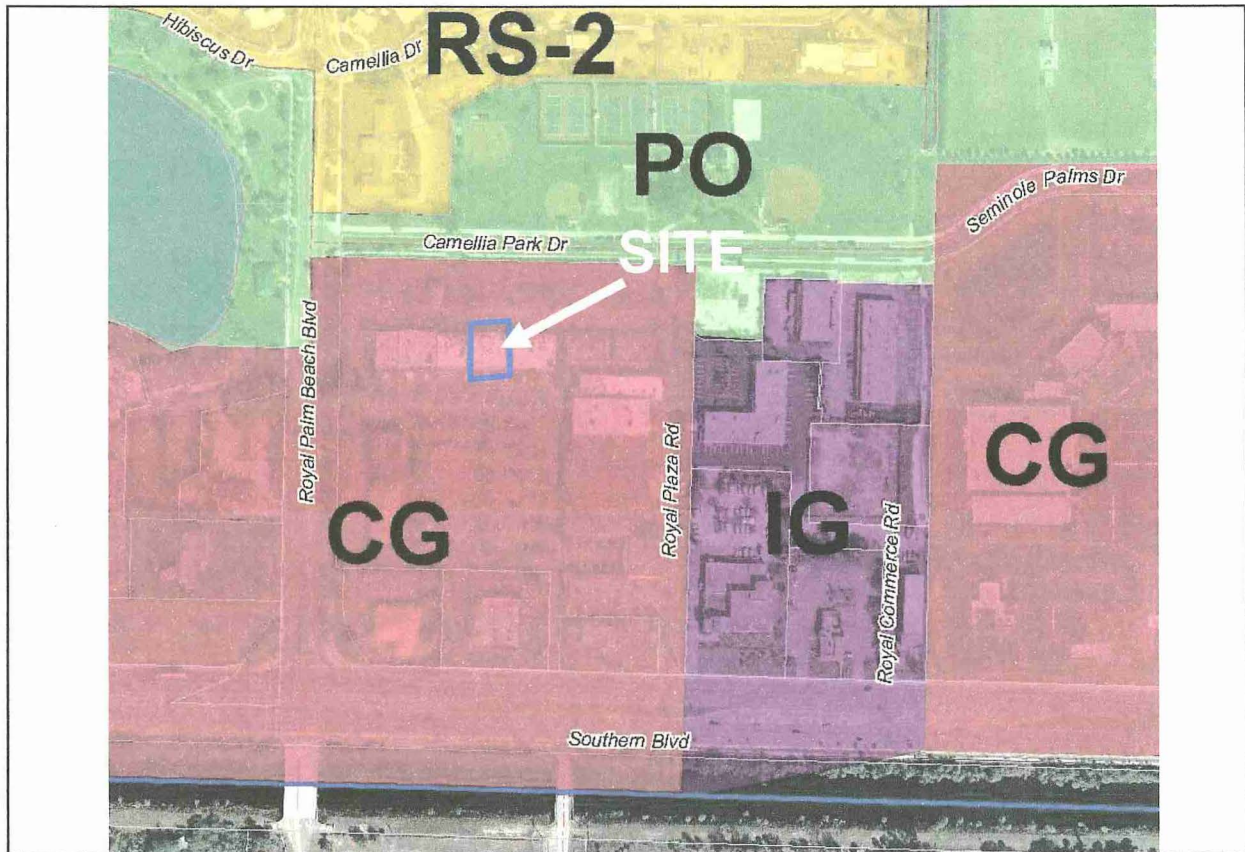


Figure 1: Location Map

III. Intent of Petition:

The applicant is seeking Special Exception Use Approval to permit a “Church or place of worship” on the subject site which is located in the General Commercial (CG) Zoning District. The church is proposing to provide 70 seats within the church and will be situated toward the middle of the northwestern building, as depicted on the attached site plan.

IV. History:

The subject property is located on the east side of Royal Palm Beach Boulevard and north of Southern Boulevard. The existing shopping center was approved by Village Council on August 9, 1979.

V. Analysis:

The applicant is seeking Special Exception Use Approval to permit a “Church or place of worship” on the subject site which is located in the General Commercial (CG) Zoning District. The church is proposing to provide 70 seats within the church and will be situated toward the middle of the northwestern building, as depicted on the attached site plan.

**Attachment A
Legal Description
The Potter's House @ Royal Plaza South
12-15 (SE)
Resolution No. 12-15**

Legal Description:

Acreage in Section 35-43-41

More particularly described as follows:

The southerly 910.31 feet of the northerly 1090.82 feet of the westerly 718.95 ft of the 1198.43 feet of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ (less 284.53 feet of the west 432.99 feet, south 200 feet of west 200 feet of east 740.33 & south 86.5 feet of SR 80 right-of-way).

SUBJECT TO ALL PERTINENT MATTERS OF RECORD.

CONTAINING 14.87 ACRES, MORE OR LESS.

Exhibit C

Approved Minutes Regular RPB Council Meeting July 5, 2012

VILLAGE OF ROYAL PALM BEACH
Agenda Item Summary

AGENDA ITEM: Approval of minutes of Council Regular Meeting of June 21, 2012 and July 5, 2012.

ISSUE: It is necessary for Village Council to approve all Village Council meeting minutes.

RECOMMENDED ACTION: Motion to Approve

Initiator	Village Manager Approval	Agenda Date	Village Council Action
Village Clerk		07/17/12	

**VILLAGE OF ROYAL PALM BEACH
MINUTES OF COUNCIL REGULAR MEETING
VILLAGE MEETING HALL
THURSDAY, JULY 5, 2012
7:00 P.M.**

**PLEDGE OF ALLEGIANCE
ROLL CALL**

Mayor Matty Mattioli
Vice Mayor Fred Pinto
Councilwoman Martha Webster
Councilman Richard Valuntas
Councilman Jeff Hmara

All members of Council were present, including the Village Manager, Village Attorney and Village Clerk.

PRESENTATION OF 20 YEAR AWARD TO DENISE JANSEN-AUGUST

Ms. Jansen-August was not present; however, the Mayor announced that the Director of Parks and Recreation will present her award at a later date.

PRESENTATION OF 10 YEAR AWARD TO JUDY ESPEY

Mayor Mattioli honored Judy Espey and acknowledged her work history and presented her with a service award package.

REPORTS

Mayor Mattioli reported that the July 4th celebration along with the fireworks were outstanding and thanked the Parks & Recreation staff along with the residents that attended.

Councilman Hmara also thought the July 4th celebration was outstanding and congratulated staff. He reported attendance at 1) Palm Beach County League of Cities monthly meeting held at Scripps Research facility where two keynote speakers spoke about bio-medical research and; 2) Good Government Institute class for newly elected officials where Rosemarie Barkett, former Chief Justice for the Florida Supreme Court was the keynote speaker. He reported on his site visit to local canals where the harvesting has been executed and the Huntington Woods Lake.

Councilman Valuntas also thought the July 4th celebration was a tremendous event and thanked all staff and volunteers involved.

This was a quasi-judicial hearing and the Village Attorney swore in all who will speak. The P & Z Administrator made the presentation stating the applicant is seeking Special Exception Use approval to permit a "Church or place of worship" on the subject site which is located in the General Commercial (CG) Zoning District. The church is proposing to provide 70 seats within the church and will be situated toward the middle of the northwestern building. The site plan indicates that the church requires 18 parking spaces based on 1 parking space for every 4 seats pursuant to Village Code requirements. The site plan indicates a total parking requirement for all of the uses on site to be 524 spaces and 673 spaces have been provided. The applicant has indicated that the church will hold services on Wednesday evening and Sunday morning, and staff does not feel that these hours of operation will conflict with the operation of the other businesses within the shopping center. In reviewing the proposed Special Exception use application, Village Staff evaluated the application as it pertains to the Village's parking standards, the County's Traffic Performance Standards, compatibility with adjacent land uses, consistency with the Village's Comprehensive Plan, and conformance with the Village's Development Standards for the General Commercial (CG) Zoning District. Staff has determined that the proposed Special Exception conforms to these Standards and therefore is recommending approval of this application. The Planning & Zoning Commission also recommends approval.

Lesley Colon, Administrator for Potter's House, said they have been in the area since 1999 and was excited to put their roots down permanently in Royal Palm Beach and looked forward to ministering the residents. At the present time the church has 55 members on Sunday and 30 on Wednesday evening.

Councilwoman Webster asked if other locations had been considered. Ms. Colon responded yes, noting that the church had been leasing the Royal Palm Beach Cultural Center since 2005 and wanted to stay within one or two miles of that location. Councilwoman Webster stated for the record she had spoken with several other municipalities regarding churches coming into strip store fronts. She confirmed the hours on Wednesday evening and Sunday morning and asked if there will be office hours during the week. Ms. Colon responded office hours will be Tuesday, Wednesday, and Thursday from 12 noon to 4:00 p.m.

Councilman Valuntas made a motion to approve; seconded by Councilman Hmara. The Village Attorney read into the record Resolution No. 12-15 by title only. Hearing no discussion or public comment, Mayor Mattioli put the motion to a vote and it passed unanimously.

2. Approval and authorization for the Mayor to enter into an Interlocal Grant Agreement between the Village of Royal Palm

Exhibit D

**2012 Limited Partnership Annual
Report – RPB Shopping Plaza**



Florida Incorporator™
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Tallahassee: 1-850-270-6379



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Business Filings

TITLE_records

[> Florida Fictitious Name \(DBA \)](#)

[> Florida Corporation](#)

[> Florida S Corporation](#)

[> Florida Non Profit Corporation](#)

[> Florida Limited Liability Co. \(LLC \)](#)

Foreign Limited Partnership ROYAL PALM BEACH
SHOPPING PLAZA & MEDICAL CENTER LIMITED
A06586 232055351 06/14/1978 PA ACTIVE 675 ROYAL
PALM BEACH BLVD. ROYAL PALM BEACH FL 33411
675 ROYAL PALM BEACH BLVD. ROYAL PALM
BEACH FL 33411 SANTAMARIA JESS R 255
PONDEROSA COURT ROYAL PALM BEACH FL 33411

Business Certification

[> Certified Copy](#)

[> Certificate of Good Standing](#)

Out of State Corporation / LLC

[> Out of State Corporation](#)

[> Out of State Non Profit](#)

[> Out of State LLC](#)

Business Renewals

[> Fictitious Name \(DBA \) Renewal](#)

[> Corporation Annual Report](#)

[> Non Profit Annual Report](#)

[> Limited Liability Co. Annual Report](#)

Business Reinstatement

[> Corporation Reinstatement](#)

[> Non Profit Reinstatement](#)

[> LLC Reinstatement](#)

Business Changes

[> Change of Business Name](#)

[> Change of Business Address](#)

[> Change of Directors / Officers](#)

[> Resignation of Officers](#)

Exhibit E

**PBC Property Appraiser Parcel
Control #72-41-43-35-00-000-7120**



Gary R. Nikolits, CFA
Property Appraiser
 Palm Beach County

Property Appraiser's Public Access

PAPA



Location Address 200 ROYAL PALM BEACH BLVD

Municipality ROYAL PALM BEACH

Parcel Control Number 72-41-43-35-00-000-7120

Subdivision

Official Records Book 03197

Page 0060

Sale Date JAN-1979

Legal Description 35-43-41, SLY 910.31 FT OF NLY 1090.82 FT OF WLY 718.95 FT OF ELY
 1198.43 FT OF NE 1/4 OF SW 1/4 (LESS S 284.53 FT OF W

Owners

PLAZA & MEDICAL CENTER LESSOR
 ROYAL PALM BEACH SHOPPING

Mailing address

675 ROYAL PALM BEACH BLVD
 ROYAL PALM BEACH FL 33411 7635

No Sales Information Available.

Exemption Applicant/Owner	Year	Detail
ROYAL PALM BEACH SHOPPING	2012	PART: CHARTER SCHOOLS

Number of Units 0 *Total Square Feet 99679 Acres 11.0139
 Use Code 1600 - SHOPPING CENTER CMMITY Zoning CG - General Commercial (72-ROYAL PALM BEACH)

Tax Year	2012 P	2011	2010
Improvement Value	\$3,839,742	\$3,983,081	\$3,970,480
Land Value	\$2,537,962	\$2,590,736	\$2,878,596
Total Market Value	\$6,377,704	\$6,573,817	\$6,849,076

P =
 Preliminary

All values are as of January 1st each year

Tax Year	2012 P	2011	2010
Assessed Value	\$6,377,704	\$6,573,817	\$6,849,076
Exemption Amount	\$1,427,330	\$1,471,220	\$897,229
Taxable Value	\$4,950,374	\$5,102,597	\$5,951,847

Tax Year	2012 P	2011	2010
Ad Valorem	\$104,336	\$109,716	\$129,095
Non Ad Valorem	\$43,694	\$41,749	\$38,528
Total tax	\$148,030	\$151,465	\$167,623

Reference

RPB Web Video

July 5, 2012

<http://www.royalpalmbeach.com/MediaCenter.aspx?CID=Council-Meetings-2#player>

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: Alan S. Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: C12-009 – Frederick Pinto, Councilman, Village of Royal Palm Beach

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through sworn complaints submitted by Martha Webster, a resident of the Village of Royal Palm Beach (the Village) and a member of the Village Council. Respondent is Village Frederick Pinto. There were two (2) separate complaint forms submitted by Webster, both dated September 4, 2012, and both properly sworn and notarized. The complaint forms each had a document entitled, "Report of Violation of Palm Beach County Code of Ethics," as separate attachments to the complaints, as well as documentary evidence in support of the complaints. Both complaints list Royal Palm Beach Councilmember Fredrick Pinto as the Respondent. Since the complaints concerned similar facts and circumstances, and the allegations of a violation were also similar, both complaints were examined under a single case number. The specific real property which is the focus of both complaints is the Royal Plaza South Shopping Center (the Shopping Center), listed in Village documents as being located at 650 Royal Palm Beach Blvd., but listed within the PBC Property Appraiser's records as being located at 200 Royal Palm Beach Blvd., both addresses being within the Village of Royal Palm Beach incorporated limits. In both cases, the Village Planning & Zoning Board, and Village staff, recommended the granting of use applications regarding this property. Village staff evaluated these applications as to how they would affect existing parking at the Shopping Center, and found that the current Village parking standards for the Shopping Center required at least 524 spaces. The Shopping Center has 673 parking spaces available currently, leaving sufficient parking available for both uses.

In the first Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a Council meeting held on June 7, 2012. In her complaint, Webster alleges that Respondent "facilitated a real estate transaction as an employee of Commissioner Santamaria [PBC Board of County Commissioners] that financially benefitted his direct employer. He further participated in and made the motion to approve the special exception project without disclosing his relationship to his employer."

In the second Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a public meeting on July 5, 2012. This complaint involves the same Shopping Center property as listed in the initial complaint, Royal Plaza South Shopping Center. In this second complaint, Webster alleges that Pinto, "participated in a special exemption petition determination brought before the Royal Palm Beach Council at the July 5, 2012 Council meeting. The special exemption was a request to allow a church or place of worship. The applicant was The Potter's House of West Palm Beach, Inc., (Potter's House), which also wished to locate their operations within the Royal Plaza South Shopping Center, a commercial shopping center in which Commissioner Santamaria has an ownership interest. Respondent, who Complainant describes as an employee of Commissioner Santamaria, "voted to approve the special exemption project without disclosing his relationship to his employer, the owner of the property to be leased, who financially benefitted from this special exemption approval."

For both allegations, Webster also listed on her Report of Violation of Palm Beach County Code of Ethics document attached to her Complaint, a "statement of facts" which is a narrative version of the issues listed by bullet point in this same document.

- **Inquiry as to Complaint #1: Council vote regarding Shaker Health Holdings, Inc.**

Webster alleges that the actions of Councilman Pinto by participating in discussions and voting at the June 7th Council meeting violates three (3) sections of the Palm Beach County Code of Ethics: Misuse of public employment [§2-443(a)], Corrupt misuse of official position [§2-443(b)], and Disclosure of voting conflicts [§2-443(c)]. In support of these allegations, Webster offered the following information in the "Report of Violation of Palm Beach County Code of Ethics" document attached to her Complaint:

- Frederick Pinto is an elected official.
- Frederick Pinto is a full time paid employee of Jess Santamaria.
- Jess Santamaria is an elected official.
- Jess Santamaria is the registered owner of Royal Palm Beach Shopping Plaza & Medical Center Limited.
- RPB Shopping Center & Medical Center is the owner of the property seeking a Special Exemption Use from the RPB Village Council.
- Councilman Frederick Pinto did not reveal the conflict and engaged in discussion ultimately voting in favor of the Special Exemption Use.
- Councilman Pinto initiated a motion to approve project.

I made an initial review of the Complaint Form for the first complaint filed by Webster, as well as the documentation submitted in support of the Complaint. The application for special exemption which is the focus of this Complaint, and considered by the Village Council at the June 7th Council meeting, was made by M. Daniel Splain, for Shaker Health Holdings, Inc. (Shaker Health). This application listed the purpose for the requested exemption was to establish a “business, trade or vocational school” located within the Shopping Center. This application was made to gain permission to open a nursing school at that location.

The following documents concerning this Complaint are submitted to the Inquiry file:

- **Documents submitted to file received from Complainant, concerning Complaint #1**

1. Original sworn Complaint Form signed by Martha Webster and properly notarized on September 4, 2012. (1 page)
2. Copy of “Report of Violation of Palm Beach County Code of Ethics” document attached to Complaint form and submitted by Complainant as the basis for her complaint. (2 pages)
3. Copy of Regular Council Agenda for the Village Council meeting held on June 7, 2012 at 7:00 PM. (3 pages)
4. Copy of the Agenda Item Summary for the June 7, 2012 Village Council meeting, listing specific information concerning the application for special exemption by Shaker Health Holdings, Inc. (6 pages, double sided)
5. Copy of approved minutes from the June 7, 2012 Village Council meeting. (7 pages, double sided)
6. Copy of document from the “Florida Incorporator,” listing the Royal Palm Beach Shopping Plaza and Medical center Limited, with an address of 675 Royal Palm Beach Blvd., RPB, FL 33411, and Jess Santamaria as a principal. (1 page)
7. Copy of document from the PBC Property Appraiser’s Office listing the Royal Palm Beach Plaza & Medical Center as lessor for a property at 200 Royal Palm Beach Blvd. (1 page)
8. Copy of a newspaper article dated June 15, 2012 from the Town Crier, that discusses the June 7, 2012 Village Council Meeting and vote of the special exemption application. (4 pages)
9. Copy of newspaper article (unknown date) from the Palm Beach Post that discusses the June 7, 2012 Village Council Meeting and vote of the special exemption application. (1 page)

- **Documents submitted to file obtained by this investigator during Inquiry, concerning Complaint #1**

1. Copy of employee information from Novell eGuide, listing Fred Pinto as a PBC-Board of County Commissioners employee, assigned as County Commission Administrative Assistant, and listing Jess R. Santamaria as manager. (1 page)
2. Copy of biography of Councilman Fred Pinto from the Village of Royal Palm Beach website (www.royalpalmbeach.com). (1 page)
3. Copy of biography of Councilwoman Martha Webster from the Village of Royal Palm Beach website (www.royalpalmbeach.com). (1 page)
4. Copy of corporate information on the Royal Palm Beach Shopping Plaza & Medical Center Limited from the Florida Division of Corporations website (www.sunbiz.org), listing it as a foreign limited partnership, and listing under the general partner detail section, the name Jess R. Santamaria.
5. Copy of corporate information on Shaker Health Holdings, Inc., from the Florida Division of Corporations website (www.sunbiz.org), listing it as a Florida for profit corporation, located at 2790 N. Military Trail, #7, WPB, FL 33409, with a mailing address of 500 Royal Palm Beach Blvd., RPB, FL 33411, and listing M. Daniel Splain III as the registered agent and Vice President.

This Complaint specifically alleges that because Respondent is an employee of PBC Commissioner Jess Santamaria, his actions at the June 7th Village Council meeting in relation to real property owned or controlled by Jess Santamaria, violated the PBC Code of Ethics (the Code). I began to examine the actions taken by Respondent at the June 7th Council meeting, as well as his full time employment with Palm Beach County as it relates to the allegations and the relevant provisions of the Code.

Respondent is retired from the United States military, as well as being an employee of the PBC Board of County Commissioners (BCC). His assignment as an employee is as an administrative assistant for District 6, County Commissioner Jess Santamaria, making Commissioner Santamaria his direct supervisor. However, Respondent is not an employee of Commissioner Santamaria, he is an employee of Palm Beach County. There is no allegation made, nor evidence uncovered by this Inquiry that Pinto is employed by any of the private businesses in which Jess Santamaria or his spouse or domestic partner have an ownership interest. Pinto stated under oath that he is not employed by any outside private company in which Santamaria has any interest. Therefore, the Complaint, as it regards outside employment, is confined to the known full time County employment of Respondent.

Pinto is under the jurisdiction of the PBC Code of Ethics both as an employee of the County, and as an elected official (Village Councilman). The Complaint alleges that Pinto misused his official position as a Village Councilman and violated Code Sections 2-443(a), *Misuse of public office or employment*, Section 2-443(b), *Corrupt misuse of official position*, and 2-443(c), *Disclosure of voting conflicts*. An examination of the language for each Code section is necessary to analyze these allegations, and the actions of Councilman Pinto at the June 7th Council meeting.

Analysis under Section 2-443(a)(1-7), *Misuse of public office or employment*

Under Section 2-443(a)(1-7), Respondent is prohibited from taking or failing to take any action, or influencing others to take or fail to take any action, in a manner which he knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any persons or entities listed in subsection 1-7, which includes; (1) himself; (2) his spouse, domestic partner, or household member; (3) any close family relative; (4) *an outside employer or business of his*, his spouse, or his domestic partner; (5) *a customer or client of him or his outside employer or business*; (6) a substantial debtor or creditor of his, his spouse, or domestic partner; or, (7) any civic group, union, or social, charitable or religious group or other not for profit organization of which he or his spouse or domestic partner is an officer or director (Emphasis added).

Under this section of the Code, Respondent is prohibited from participating in or voting on any issue coming before the Village Council in which there is some special financial benefit to his outside employer (subsection 4), or any customer or client of his outside employer (subsection 5). However, as stated earlier, Commissioner Santamaria is not Fredrick Pinto's outside employer. Respondent is an employee of Palm Beach County. Further, in Section 2-442, *Definitions*, the code defines an outside employer or business to include; "Any entity, *other than the county*, the state, or any other federal regional, local, or municipal government entity..." (Emphasis added). Therefore, since this definition specifically excludes employment with a governmental entity, Respondent's County employment is excluded from this definition. Since Respondent is not employed by one of Santamaria's private outside businesses, there is no potential violation under this subsection.

Therefore, based on the above information, Respondent's participation and vote during the Village Council meeting on June 7, 2012, as it relates to the application for special exemption made by Shaker Health Holdings, Inc., for property in which Jess Santamaria has an ownership interest, does not appear to be in violation of Section 2-443(a)(1-7), *Misuse of public office or employment*.

Analysis under Section 2-443(b), *Corrupt misuse of official position*

Under Section 2-443(b), Respondent is prohibited from using his official position or office to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, or others. This section also defines the term "corruptly" to mean, "done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties." Unlike Section 2-443(a), Section 2-443(b) does not require any relationship to exist between the person acting in their official capacity and the person receiving the benefit of those actions. However, it does require that the actions be inconsistent with the proper

performance of the actor's public duties. Based on this requirement, an examination of several factors was necessary.

Having read the minutes of the June 7th meeting as provided by the Complainant, and reviewed the audio/video recorded session, I was aware that M. Daniel Splain, the Vice-President and Resident Agent for the corporate applicant, Shaker Healthcare Holdings, Inc. (Shaker Health), had told the Council that he met Respondent through Commissioner Santamaria. I determined that it would be necessary to inquire further into this meeting, and to determine specifically how Shaker Health came to lease a portion of one of Jess Santamaria's commercial properties. To this end, I was able to obtain from the Village zoning office a contact telephone number for M. Daniel Splain in Ohio, where he and his wife currently reside.

Telephone interview with M. Danial Splain, Vice-President, Shaker Health Holdings, Inc.

On Monday, September 10, 2012, at approximately 10:00 am, I was able to speak to M. Daniel Splain by telephone at his office in Ohio. Splain agree to talk with me about his relationship to Respondent. I asked Splain to tell me how he and Councilman Pinto met. Splain advised that some months ago while traveling, he stayed in Juno Beach. At one point, he began watching the governmental channel on television, and viewed a BCC meeting broadcast. He stated that he was very impressed with Commissioner Santamaria, and since he and his wife were looking to relocate a business to the area, made an appointment to meet Commissioner Santamaria. After a brief meeting where they discussed the general business environment of Palm Beach County, Splain advised that they decided to go to lunch. Commissioner Santamaria invited his staff to go along, and it was at this time he was introduced to Pinto. During lunch conversation, Splain, who had been told during the introductions with Santamaria's staff that Pinto was also an elected official, began inquiring into the Royal Palm Beach area. Splain said that he told Pinto that he did not like the area where a local educational center he was considering buying was located (Military Trail near Okeechobee Blvd.), and he would prefer to relocate further west. Pinto advised him that the Royal Palm Beach area had available locations, and specifically discussed a medical building that had been refurbished, and that was available near Okeechobee Boulevard in Royal Palm Beach as being worth considering. It should be noted that this was not a property owned by Commissioner Santamaria. When Splain's company bought the school, he did look at that property, and met with a Gary Goitleib of WG Compass Realty, but felt the lease amount was too high. Splain then began driving thru the Royal Palm Beach Area, both to look at potential homes for he and his wife, and to see other available commercial property. He came upon the Royal Plaza South Shopping Center, which already had a charter school open on site, and began negotiations with the agent to lease some space. He stated that he subsequently became aware that the property belonged to Santamaria only because Santamaria's son was the listed agent. Splain was clear that while Pinto pointed him toward Royal Palm Beach, he had nothing to do with his choosing the Shopping Center as a potential location. He later represented Shaker Health as applicant to have the special exemption for the nursing school to be located at the Shopping Center brought before the Village Council. After speaking with Splain, I contacted Respondent and arranged to speak with him at the COE office later this same day.

Interview with Fredrick Pinto, Councilman, Village of Royal Palm Beach

I met with Respondent at the COE office on Monday, September 10, 2012 at approximately 4:00 PM. This interview was not recorded, as my purpose was to verify information given by M. Daniel Splain. Pinto related the same basic information as Splain regarding how they met, and that the conversations concerning Royal Palm Beach took place during lunch. He also stated that he told Splain of the medical building, but was not aware that Shaker Health had decided to lease the Shopping Center property until it came before the Village Council. Respondent also stated that he did know the property was owned by Santamaria during the June 7th vote for special exemption. However, he had conferred with the City Attorney some time ago about general issues of property owned by Santamaria in the Village, and had been told that since Santamaria himself was not his outside employer, and because he worked for a governmental agency, the code exempted him from any potential conflict so long as he did not take any improper actions in violation of the corrupt misuse section, such as acting as the Commissioner's agent, or using his Council position to directly assist Santamaria in some improper fashion. Pinto stated that he and Commissioner Santamaria never engage in discussions concerning Santamaria's outside businesses or his real estate holdings in Royal Palm Beach. The reason for this is to avoid even an appearance of any conflict with Pinto's job as a County employee working in Santamaria's office. Pinto also advised that he does not work for any of Jess Santamaria's outside private businesses.

Based on the information supplied by both M. Daniel Splain of Shaker Health and by Councilman Pinto, there was no indication of any improper action taken by Pinto concerning Shaker Health's leasing of the shopping center property controlled by Commissioner Santamaria's outside business. There is no evidence to dispute these statements, and the information was obtained from each source independently within a very close time frame, and without the knowledge of the other. Based on the information presented by both Splain and Pinto, verifying that Pinto took no action to influence the decision that Shaker Health's nursing school would be located at one of Commissioner Santamaria's shopping centers, there is no evidence of a corrupt misuse of official position by Councilman Pinto. Further, as far as Councilman Pinto's statement to Splain at lunch, in which he did recommend Royal Palm Beach as a location for the school, Pinto was off duty (on his lunch break) when this conversation took place, and arguably has an obligation as an elected official of the Village to recommend business opportunities relocate to the Village if he believes these will enhance the Village.

Analysis under Section 2-443(c), Disclosure of voting conflicts

For the reasons discussed more fully above, Commissioner Santamaria is not the "outside employer" of Village Councilman Frederick Pinto as defined in Section 2-442 of the Code of Ethics, and therefore, no conflict of interest was present in Councilman Pinto's participation and vote at the June 7, 2012 Village Council meeting to allow a special exemption for Shaker Health Holdings, Inc.

• **Inquiry as to Complaint #2: Council vote regarding Potter's House**

Webster also alleges in this Complaint that the July 5, 2012 discussion and vote by Respondent, Councilman Pinto, also violated three (3) sections of the Palm Beach County Code of Ethics: Misuse of public employment [§2-443(a)], Corrupt misuse of official position [§2-443(b)], and Disclosure of voting conflicts [§2-443(c)]. And, in support of these allegations, Webster offered the following similar information in the second "Report of Violation of Palm Beach County Code of Ethics" document attached to the second Complaint:

- Frederick Pinto is an elected official.
- Frederick Pinto is a full time paid employee of Jess Santamaria.
- Jess Santamaria is an elected official.
- Jess Santamaria is the registered owner of Royal Palm Beach Shopping Plaza & Medical Center Limited.
- RPB Shopping Center & Medical Center is the owner of the property seeking Special Exemption Use from the RPB Village Council.
- Councilman of RPB Frederick Pinto did not reveal the conflict and engaged in discussion voting in favor of the Special Exemption Use.

Similar to Complaint #1, this complaint involves participation in a discussion and a vote by Respondent at a Village Council meeting. This particular issue arose during the Village council meeting held on July 5, 2012, regarding an application for a special exemption on a land use issue within the same Royal Plaza South Shopping Center (Shopping Center) in which Commissioner Santamaria has an ownership interest. The application in this case was made by The Potter's House of West Palm Beach, Inc., (Potter's House) to hold religious services at this commercial plaza. As also stated, both the Planning and Zoning Board and Village staff recommended approval.

• **Documents submitted to file received from Complainant, concerning Complaint #2**

1. Original sworn Complaint Form signed by Martha Webster and properly notarized on September 4, 2012. (1 page)
2. Copy of "Report of Violation of Palm Beach County Code of Ethics" document attached to Complaint form and submitted by Complainant as the basis for her complaint. (2 pages)
3. Copy of Regular Council Agenda for the Village Council meeting held on July 5, 2012 at 7:00 PM. (2 pages)
4. Copy of the Agenda Item Summary for the July 5, 2012 Village Council meeting, listing specific information concerning the application for special exemption by Shaker Health Holdings, Inc. (5 pages, double sided)
5. Copy of approved minutes from the July 5, 2012 Village Council meeting. (3 pages, double sided)
6. Copy of document from the "Florida Incorporator," listing the Royal Palm Beach Shopping Plaza and Medical center Limited, with an address of 675 Royal Palm Beach Blvd., RPB, FL 33411, and Jess Santamaria as a principal. (1 page)
7. Copy of document from the PBC Property Appraiser's Office listing the Royal Palm Beach Plaza & Medical Center as lessor for a property at 200 Royal Palm Beach Blvd. (1 page)

- **Documents submitted to file obtained during Inquiry, concerning Complaint #2**

1. Copy of employee information from Novell eGuide, listing Fred Pinto as a PBC-Board of County Commissioners employee, assigned as County Commission Administrative Assistant, and listing Jess R. Santamaria as manager. (1 page)
2. Copy of biography of Councilman Fred Pinto from the Village of Royal Palm Beach website (www.royalpalmbeach.com). (1 page)
3. Copy of biography of Councilwoman Martha Webster from the Village of Royal Palm Beach website (www.royalpalmbeach.com). (1 page)
4. Copy of corporate information on the Royal Palm Beach Shopping Plaza & Medical Center Limited from the Florida Division of Corporations website (www.sunbiz.org), listing it as a foreign limited partnership, and listing under the general partner detail section, the name Jess R. Santamaria.
5. Copy of corporate information on The Potter's House of West Palm Beach, Inc., from the Florida Division of Corporations website (www.sunbiz.org), listing it as a Florida non-profit corporation, located at 1402 Royal Palm Beach Blvd., Bldg. 700, Suite 106, Royal Palm Beach, FL 33411, and listing Joann Graves as the registered agent President.

For the reasons discussed in the analysis portion of Complaint#1, County Commissioner Jess Santamaria is not the "outside employer" of Respondent. Therefore, using the same reasoning as was applied in Complaint #1, Councilman Pinto's participation in discussions and vote at the Village Council meeting on July 5, 2012 concerning The Potter's House of West Palm Beach, Inc. (Potter's House) application for a special exemption does not violate Code Section 2-443(a)(1-7), *Misuse of public office or employment*, even where the real property at issue is owned or controlled by Commissioner Santamaria.

Further, no evidence was submitted to support a violation of Code Section 2-443(b), *Corrupt misuse of official position*. While Commissioner Santamaria has an ownership interest in the shopping center, it is a customer of client of the shopping center that was the applicant for the special exemption. There is no allegation that Respondent has any relationship, financial or otherwise, with the applicant. Further, both the Village Planning and Zoning Board, and Village staff recommended approval of this project. Therefore, there is no evidence submitted by Complainant Webster, or uncovered by the Inquiry, to indicate this action was taken by Respondent, "*with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.*"

Finally Complainant also alleges Respondent's action of participating and voting on the Potter's House application for special exemption on July 5, 2012, as being in violation of Code Section 2-443(c), *Disclosure of voting conflicts*. For the reasons discussed previously, there was no improper special financial benefit conferred to Respondent, or his outside employer (Palm Beach County), or any person or entity listed in Section 2-443(a)(1-7) by this vote. Therefore, no violation of Section 2-443(c) of the Code of Ethics is indicated.

- **Relevant code provisions**

The following portions of the PBC Commission on Ethics ordinance are relevant to this Inquiry:

Section 2-254. Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics*, the county lobbyist registration ordinance, and the county post-employment ordinance... (Emphasis added)

Section 2-442. Definitions.

Official or employee means any official or *employee of the county or the municipalities located within the county*, whether paid or unpaid. (Emphasis added)

As a Councilman for the Village of Royal Palm Beach, Respondent is subject to the provisions of the PBC Code of Ethics (the Code), as of June 1, 2011, when the Village of Royal Palm Beach came under the jurisdiction of the PBC Commission on Ethics.

The following sections of the Code of Ethics are relevant to this inquiry.

Section 2-443. Prohibited Conduct.

Section 2-443(a), *Misuse of public office or employment*, states in relevant portion:

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 special financial benefit, not shared with similarly situated members of the general public, for any persons or entities listed in subsection 1-7, including: (1) himself; (4) an outside employer or business of his, his spouse, or his domestic partner; (5) a customer or client of him or his outside employer or business;


Section 2-443(b) *Corrupt misuse of official position*, states:

An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means *done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.* (Emphasis added)

Section 2-443(c), *Disclosure of voting conflicts*, states:

County and municipal officials as applicable *shall abstain from voting and not participate* in any matter that will result in a *special financial benefit as set forth in subsections (a)(1) through (7) above*. The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, as set forth in subsections (a)(1) through (7). (Emphasis added)


Submitted by:



Mark E. Bannon, Investigator
PB County Commission on Ethics

9/24/2012
Date

Reviewed by:



(Initials)

09/24/2012
Date

PALM BEACH COUNTY COMMISSION ON ETHICS

AMENDED MEMORANDUM OF LEGAL SUFFICIENCY

To: Palm Beach County Commission on Ethics
From: Alan S. Johnson, Executive Director
Re: C12-009 – Frederick Pinto, Councilman, Village of Royal Palm Beach

- **Recommendation**

Regarding the Complaint against Respondent, Frederick Pinto, Village of Royal Palm Beach Councilman, the Executive Director has, at the request of the COE, reviewed his prior finding of **NO LEGAL SUFFICIENCY** in complaint number C12-009 and, after further review, recommends a finding of **LEGAL SUFFICIENCY** be entered.

Legal sufficiency exists where there is an allegation containing the elements of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through sworn complaints submitted by Martha Webster, a resident of the Village of Royal Palm Beach (the Village) and a member of the Village Council. Respondent is Village Councilman Frederick Pinto. There were two (2) separate complaint forms submitted by Webster, both dated September 4, 2012 and properly sworn and notarized. The complaint forms each had a document entitled, "Report of Violation of Palm Beach County Code of Ethics," as separate attachments to the complaints, as well as documentary evidence in support of the complaints. Both complaints list Royal Palm Beach Councilman Fredrick Pinto as the Respondent. Since the complaints concerned similar facts and circumstances, and the allegations of a violation were also similar, both complaints were examined under a single case number. The specific real property which is the focus of both complaints is the Royal Plaza South Shopping Center (the Shopping Center), located within the Village of Royal Palm Beach (the Village) incorporated limits. In both cases, the Village Planning & Zoning Board, and Village staff, recommended the granting of use applications regarding this property.

In the first Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a Council meeting held on June 7, 2012. In her complaint, Webster alleges that Respondent "facilitated a real estate transaction as an employee of Commissioner Santamaria [PBC Board of County Commissioners] that financially benefitted his direct employer. He further participated in and made the motion to approve the special exception project without disclosing his relationship to his employer."

In the second Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a public meeting on July 5, 2012. This complaint involves the same Shopping Center property. In this second complaint, Webster alleges that Respondent "participated in a special exemption petition determination brought before the Royal Palm Beach Council at the July 5, 2012 Council meeting. The special exemption was a request to allow a church or place of worship. The applicant was The Potter's House of West Palm Beach, Inc., (Potter's House), which also wished to locate their operations within the Shopping Center, in which Commissioner Santamaria has an ownership interest. Respondent, who Complainant describes as an employee of Commissioner Santamaria, "voted to approve the special exemption project without disclosing his relationship to his employer, the owner of the property to be leased, who financially benefitted from this special exemption approval."

For both allegations, Webster also listed on her Report of Violation of Palm Beach County Code of Ethics document attached to her Complaint, a "statement of facts" which is a narrative version of the issues listed by bullet point in this same document.

- **Analysis**

As a Village of Royal Palm Beach Councilman, Respondent is subject to the provisions of the Palm Beach County Code of Ethics (the Code), as of June 1, 2011, when the Village came under the jurisdiction of the COE.

The following section of the Palm Beach County Code of Ethics is relevant to this inquiry.

Section 2-443(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 special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;
- (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
- (5) A customer or client of the official or employee's outside employer or business;

Section 2-443(c), *Disclosure of voting conflicts*, states in relevant part:

County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above.

Staff is of the opinion that under the plain language contained in the definition section of the Code, Commissioner Santamaria is not Respondent's outside employer. Respondent is an employee of Palm Beach County. In §2-442, *Definitions*, the Code defines an outside employer or business to include; "Any entity, *other than the county*, the state, or any other federal regional, local, or municipal government entity..." (Emphasis added). The definition of outside employer specifically excludes employment with a governmental entity. Therefore, Respondent's County employment is excluded from this definition. As a matter of statutory construction, all reference in the Code to the term "outside employer" is subject to this definition, including its government exclusion. Since Respondent is not employed by one of Santamaria's private outside businesses, §§2-443(a)(4) and (5) are not applicable.

However, based upon the employment relationship between the Respondent and his supervisor, including the fact that Respondent is an at-will employee without merit status, the Respondent may have a conflict of interest under §2-443(a)(1) and (c). A county employee's salary is a financial benefit to Respondent, and his vote as an elected member of a municipal council on an issue directly affecting his county supervisor's financial interest may bear upon his position as Administrative Assistant. As an at-will employee under Palm Beach County Merit Rule 2 (definitions), Respondent may be terminated at any time and without cause by Commissioner Santamaria. Merit Rule 7 containing the rules of conduct, disciplinary guidelines, adverse actions and employee recourse only apply to permanent-status employees. Under §2-442 *Definitions*, a financial benefit is defined as follows:

Financial benefit includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law.

Section 2-443(b) *Corrupt misuse of official position*

An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means done with a

wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties. (Emphasis added)

For purposes of legal sufficiency, the Complainant's allegations are based upon personal knowledge of the relationship of Respondent to Commissioner Santamaria and knowledge of a financial benefit to the Commissioner's interests. The Respondent's participation and vote on the issues alleged in the Complaints are within her personal knowledge as well. Therefore, on its face, the Complaints are **LEGALLY SUFFICIENT** to the extent they contain allegations within the jurisdiction of the COE and based substantially on the personal knowledge of the Complainant, relating to an alleged violation regarding §§2-443(a), (b) and (c).

- **Conclusion**

Based on the fact that the allegations provided in the Complaint are within the jurisdiction of the COE and are sufficiently based upon the personal knowledge of the Complainant, the Complaints filed in C12-009 against Respondent, Fred Pinto, are **LEGALLY SUFFICIENT**.

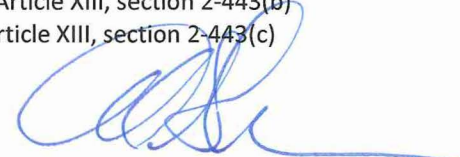
As regards June 7, 2012:

Count One, Article XIII, section 2-443(a)(1)
Count Two, Article XIII, section 2-443(b)
Count Three, Article XIII, section 2-443(c)

As regards July 5, 2012:

Count Four, Article XIII, section 2-443(a)(1)
Count Five, Article XIII, section 2-443(b)
Count Six, Article XIII, section 2-443(c)

BY:



Alan S. Johnson, Executive Director
Florida bar #223352
Commission on Ethics

10/17/2012
Date

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INVESTIGATION

To: Alan S. Johnson, Executive Director
From: Mark E. Bannon, Senior Investigator
Re: C12-009 – Frederick Pinto, Councilman, Village of Royal Palm Beach

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through sworn complaints submitted by Martha Webster, a resident of the Village of Royal Palm Beach (the Village) and a member of the Village Council. Respondent is Village Councilman Frederick Pinto. There were two (2) separate complaint forms submitted by Webster, both dated September 4, 2012, and both properly sworn and notarized. The complaint forms each had a document entitled, "Report of Violation of Palm Beach County Code of Ethics," as separate attachments to the complaints, as well as documentary evidence in support of the complaints. Since the complaints concerned similar facts and circumstances, and the allegations of a violation were also similar, both complaints were examined under a single case number. The specific real property which is the focus of both complaints is the Royal Plaza South Shopping Center (the Shopping Center) located at 200 Royal Palm Beach Blvd., within the Village of Royal Palm Beach incorporated limits. In both cases, the Village Planning & Zoning Board, and Village staff, recommended the granting of use applications regarding this property. Village staff evaluated these applications as to how they would affect existing parking at the Shopping Center, and found that the current Village parking standards for the Shopping Center required at least 524 spaces. The Shopping Center has 673 parking spaces available currently, leaving sufficient parking available for both uses.

In the first Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a Council meeting held on June 7, 2012. In her complaint, Webster alleges that Respondent "facilitated a real estate transaction as an employee of Commissioner Santamaria [PBC Board of County Commissioners] that financially benefitted his direct employer. He further participated in and made the motion to approve the special exception project without disclosing his relationship to his employer."

In the second Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a public meeting on July 5, 2012. This complaint involves the same Shopping Center property as listed in the initial complaint. In this second complaint, Webster alleges that Pinto, "participated in a special exemption petition determination" brought before the Royal Palm Beach Council at the July 5, 2012 Council meeting. The special exemption was a request to allow a church or place of worship. The applicant was The Potter's House of West Palm Beach, Inc., (Potter's House), which also wished to locate their operations within the Royal Plaza South Shopping Center, a commercial shopping center in which Commissioner Santamaria has an ownership interest. Respondent, who Complainant describes as an employee of Commissioner Santamaria, "voted to approve the special exemption project without disclosing his relationship to his employer, the owner of the property to be leased, who financially benefitted from this special exemption approval."

For both allegations, Webster also listed on her Report of Violation of Palm Beach County Code of Ethics document attached to her Complaint, a "statement of facts" which is a narrative version of the issues listed by bullet point in this same document.

- **Additional Information after initial Inquiry:**

The information from the initial Memorandum of Inquiry is incorporated by reference into this Memorandum of Investigation.

The initial presentation of this matter was brought before the Commission on Ethics (COE) on Thursday, October 4, 2012. In executive session, and after discussion of the issues, the COE voted to table the matter until a later meeting.

The Executive Director and I met to discuss Commissioners concerns regarding whether any personal financial benefit may have been obtained by Councilman Pinto in voting on this matter during the Village Council meetings on June 7, 2012 and July 5, 2012. Both of those votes concerned the same real property in which Respondent's direct supervisor with Palm Beach County, PBC Commissioner Jess Santamaria, had an ownership interest. The basis of this concern as brought out by the COE discussion on October 4th, was that even though a another governmental entity may not be considered an "outside employer," as defined by the Code, there would still be legal sufficiency to hear such a complaint. Upon reconsideration, the Executive Director found legal sufficiency, as to both corrupt misuse of official position and financial misuse of public office based upon the personal financial benefit derived from the Respondent's at-will position with the County, which is directly dependent on the good will of his supervisor.

It was determined that prior to this matter being brought back to the COE, additional information needed to be obtained. In addition, it was necessary to determine what, if any, advice had been given to Councilman Pinto by the Village Attorney concerning a vote involving business interests of his county supervisor, Commissioner Jess Santamaria.

- **Investigation**

The following persons who had not previously given statements were interviewed for this Investigation:

1. Bradley Biggs, Village Attorney, Corbett and White, P.A.
2. Jess Santamaria, PBC Commissioner, District 6, Managing Partner, Royal Plaza Shopping Center.
3. Bradford O'Brian, Planning and Zoning Administrator, Village of Royal Palm Beach
4. Trela White, Attorney, Corbett and White, P.A.
5. Johnnie Easton, Aide to PBC Commissioner Santamaria
6. Paul Razza, Aide to PBC Commissioner Santamaria

- **Telephone interview: Bradley Biggs, Village Attorney**

On Wednesday, October 10, 2012, I called Village Attorney Bradley Biggs, who is employed with the law firm of Corbett and White, P.A. Biggs advised me that he did not have any discussions with Councilman Pinto until after the votes on the subject property had been taken, and after I had initially interviewed Pinto. He stated that prior to the votes he was not asked any questions surrounding Santamaria's

properties by Pinto. Later, when asked, Biggs stated he simply told Pinto that only Pinto knows what his relationship is with Santamaria, and so he could not advise him. Biggs also stated that Pinto may have asked Trela White, a partner in his firm who had been the Village Attorney for several years, if he had general questions about a possible conflict in working with Santamaria and being a Village Commissioner. Biggs advised that White was out of town until Monday, October 15th, but that he would leave a note for her to call me on her return.

- **Interview: Jess Santamaria, PBC Commissioner, Managing Partner, Royal Plaza South Shopping Center**

On Wednesday October 10, 2012, at 3:00 PM, I met with PBC Commissioner Jess Santamaria at his offsite office, 675 Royal Palm Beach, Blvd., Royal Palm Beach, FL. The interview with Commissioner Santamaria was recorded, and was taken under oath. Commissioner Santamaria stated that he has known Fred Pinto for approximately ten (10) years. He met Pinto through various community organizations they are active with, and also knows him as a Royal Palm Beach Village Councilman. Pinto has worked for him for about 1½ years. He was hired because Santamaria was not happy with the performance of a former aide, and he was aware that Pinto was not happy with his current job, related to Information Systems. Santamaria also acknowledged that he is the Managing Partner of the Royal Plaza Shopping Center, the property involved in the application for special exemptions that came before the Village Council in June and July, 2012. Santamaria states that his son, Chris, runs the day-to-day operations of his real estate holdings, although he remains involved in the decision making. He made it clear that his office policy is that he does not discuss his private businesses in his office with staff, or anyone else. When a call comes in concerning his outside business, it is referred to his son, Chris and that telephone number is given to the caller.

Commissioner Santamaria stated that he met M. Daniel Splain when he was contacted by Splain's wife Elizabeth. Both Santamaria and Elizabeth are originally from the Philippines, so they immediately had something in common. Santamaria was also aware that the couple was looking to open a nursing school in the county. They agreed to meet for lunch in October 2011 while the couple was in Palm Beach County. Daniel Splain and his wife Elizabeth meet Santamaria at his office, and went to lunch with Santamaria's staff, including his aides, Johnnie Easton, Fred Pinto and Paul Razza. Santamaria described the lunch meeting as more of an introduction than a business meeting. They had lunch, and then Santamaria and his staff returned to their office, and the Splains departed from the restaurant. According to Santamaria, he is on the Board of Directors of Wellington Regional Hospital, and is a former member of the Palms West Hospital Board of Directors. Daniel Splain did ask Santamaria if he would be willing to help him meet with the CEO of these hospitals, in order to get their input into whether a nursing school locally would be a good idea. Santamaria stated that he did help the Splains obtain these meetings, but the location of the school was never discussed with him at the meetings, and he does not remember hearing any conversations between Pinto and Splain about locations for this school, but since there were five (5) people at the lunch, it is possible the discussion took place. He also stated that he spent a great deal of time talking to Elizabeth about the Philippines. Over the course of the next several months, Santamaria assisted the Splain's by setting up the meetings with the two (2) hospitals, and advising them that Palm Beach County was an excellent place to open a business.

I then changed the topic back to Fred Pinto. Commissioner Santamaria stated that he does have complete control as to who works on his staff, and even has the authority to increase the pay for staffers one time to 10% above the minimum salary. He stated that he does this regularly for his staff once he knows they will "work out." He also stated that if he is unhappy with the work of a staffer, he

can have them terminated, and has done so in the past. Because they are at-will employees, they are not transferred to another department as may happen with a merit rule employee, they are simply terminated. However, Santamaria also stated that he would not do so based on whether or not Councilman Pinto had voted to allow the special exemption for his tenants. Santamaria made it clear he only considers work product and how an aide works with the rest of the staff and various communities. He also stated that he has never asked anyone for a vote as a developer, and does not allow anyone in his companies to lobby elected or appointed officials about any project he is doing. Commissioner Santamaria said he follows the law and the local building codes, so there is no need to do so. He also pointed out that the votes taken at both meetings (attended by his son) were unanimous for granting the special exemption, so he did not need Fred Pinto's vote. Commissioner Santamaria also reiterated that he does not allow discussions concerning his outside businesses in his office, and no longer runs the daily operations. The interview was ended at 3:47 PM.

I next made contact with Royal palm Beach Planning and Zoning Administrator Bradford O'Brian, and arranged to meet with him at his office on Friday, October 12, 2012 at 11:00 AM.

- **Interview: Bradford O'Brian, Village Administrator for Planning and Zoning**

On Friday October 12, 2012, at 11:00 AM, I met with Bradford O'Brian, Planning and Zoning Administrator for the Village of Royal Palm Beach at his office in the Village Governmental Complex. The interview with Bradford O'Brian was recorded, and was taken under oath.

O'Brian was the staff member who presented both applications for special exemption to the Village Council on June 7, 2012, and July 5, 2012, concerning the Royal Plaza Shopping Center. He worked with staffer Kevin Urwin, Development Coordinator, on these applications. O'Brian stated that the main concern for staff about these changes to use from commercial to a school and a church was the parking availability, because neither was an entertainment venue where noise and late hours would be a concern. They found that there was more than sufficient parking availability, and therefore recommended the approval. O'Brian stated that neither he nor Urwin were contacted by Fred Pinto, or anyone from Santamaria's businesses about this issue prior to them presenting the staff recommendation, or prior to the votes. He did speak with representatives of both applicants to obtain information, but that was the normal way that such applications were handled. The interview ended at approximately 11:16 AM.

On Monday, October 15, 2012, at approximately 11:00 AM, I received a return telephone call from Trela White, partner in Corbett and White, P.A., the law firm that represents Royal Palm Beach as Village Attorney.

- **Telephone interview: Trela White, Corbett and White, P.A.**

White stated that she was formally the main attorney for her firm representing the Village, prior to the assignment to Bradley Biggs. White told me that she has known Fred Pinto for several years, as he has been on the Village Council for several terms. White stated that when Pinto first was offered a job with Commissioner Santamaria, he called her to ask if taking the job would require him to resign from the Village Council. At that time White advised him county employment does not disqualify him as a Village Councilman, and pointed out that Matt Wilhite (Wellington Councilman) is a County fireman. She told me that Pinto did not ask her any specific questions concerning property owned by Commissioner Santamaria within the Village at the time they spoke. But she did tell him that like every other Council

member, he would have to look at every issue before the Council, and determine if he needed to recuse himself based on a financial conflict. He was the only person who could make such a decision. White advised that was the extent of their conversation about any conflict Pinto's County employment might cause for him as a Village Councilman. The telephone interview was ended at this point.

After speaking to White, I made contact with Johnnie Easton, Aide to PBC Commissioner Santamaria, and arranged to interview her at the COE office. I was also able to arrange an interview with Santamaria Aide Paul Razza for Tuesday, October 11, 2012 at 4:00 PM at the COE office.

- **Interview: Johnnie Easton, Aide to Commissioner Santamaria**

On Monday October 15, 2012, at 4:00 PM, I met with Jonnie Easton at the COE office. The interview with Johnnie Easton was recorded, and was taken under oath.

Jonnie Easton has been employed as a County Commission Aide since 2003. She originally worked for Commissioner Tony Massilotti, and was retained in that position when Commissioner Santamaria became the commissioner for District 6, representing the western PBC communities.

Easton did remember the lunch with Daniel and Elizabeth Splain as happening about eight (8) months ago, but stated she could provide me with the exact date based on her calendar at her office, and several email exchanges from Daniel Splain during that time. She agreed to provide me with copies of these emails.

Easton advised that the Splains came to the Commissioner's office, but waited in the outer office until they were ready to go to lunch. She remembers that the lunch was attended by Commissioner Santamaria, the Splains, and all three (3) of the Commissioner's aides; herself, Fred Pinto and Paul Razza. The lunch was at a Chinese restaurant near the PBC Governmental Center called "Chopsticks." She remembers the lunch for several reasons, but mostly because Elizabeth and Commissioner Santamaria are both from the Philippines, and spent much of the time discussing that topic. She also remembers that Elizabeth was very funny, and she enjoyed talking with her. Easton did not overhear any conversations between Daniel Splain and Fred Pinto about locations for the nursing school, but stated that there was a lot of conversation at the lunch and she may not have heard this discussion. She also stated that it was common for Commissioner Santamaria, when introducing his staff, to tell others that one of his staff also serves as an elected or appointed official, and so most likely did so with Fred Pinto at this lunch. She does remember a conversation between Daniel Splain and Santamaria concerning an introduction to the local hospital personnel, and knew that the Commissioner is on one hospital board, and had been on another. She states the lunch lasted an hour or so, and the staff and Santamaria returned to the office after lunch. The interview was ended soon afterward.

Upon returning to her office the next morning, Easton forwarded me several emails from Daniel Splain to her or Commissioner Santamaria about scheduling the lunch, and thanking them for attending. From these emails I was able to establish that this lunch took place on October 13, 2011, almost exactly one year ago.

- **Interview: Paul Razza, Aide to Commissioner Santamaria**

On Tuesday, October 16, 2012, at 4:00 PM, I met with Paul Razza at the COE office. The interview with Paul Razza was recorded, and was taken under oath.

Paul Razza has been an aide to PBC Commissioner Santamaria for approximately 1½ years. He has known the Commissioner for approximately 35 years. He stated that when he first moved to Palm Beach County, Santamaria was his landlord as he rented a townhouse from him. Razza also knows the Commissioner because of Razza's involvement in community organizations in the western county area. Razza was an insurance agent for over 20 years, retired from that and became a state probation officer. He and Santamaria have always kept in touch, and Santamaria knew Razza was not happy as a probation officer. When Santamaria offered him a position on his staff, he decided to take it.

Razza also remembers the lunch with the Splains because of the discussion between the Commissioner and Elizabeth Splain regarding the Philippines. He does not remember much about the rest of the lunch, and said he did not hear a discussion between Pinto and Daniel Splain concerning the Royal Palm Beach area. He does remember that the Splains were involved in buying, or moving a nursing school to Palm Beach County. The interview was ended soon after.

- **Additional document submitted to file:**
 - Copy of various emails between Commissioner Santamaria's office and M. Daniel Splain. (9 pages)

At this time the investigation is concluded.

Submitted by:

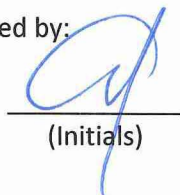
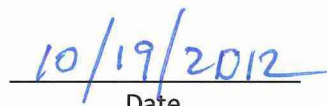


Mark E. Bannon, Investigator
PB County Commission on Ethics



Date

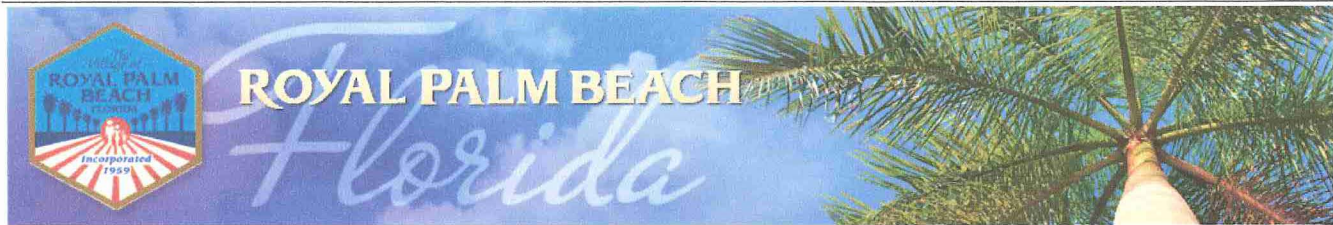
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Fred Pinto

[Mayor & Village Council](#)

Title: Councilman, Seat #4

Phone: (561) 790-5100

[Contact the Council](#)



Councilman Fred Pinto was born and raised in Harlem, New York. He graduated from Fordham University with a BS degree in Business Administration (Finance and Accounting) and the United States Army, Command and General Staff College, and is a Lt Col (Ret).

He served as a Technology Executive for several Wall Street investment banking firms, including Salomon Brothers, JP Morgan, and Lehman Brothers, and a Software Development firm, Memco Inc. and is currently a Senior Information Technology Management Consultant.

Fred was elected to the council, Group 4 for the Village of Royal Palm Beach in March 2003 and appointed Vice Mayor for 2005 and 2008. He serves on the Palm Beach County Metropolitan Planning Organization (MPO) and the Treasure Coast Regional Planning Council (TCRPC).~In other community service activities he is Past President for the Palm Beach County Caucus of Black Elected Officials, past President for Caribbean American For Community Involvement FL, Inc. (CAFCI), and a former member of the Palm Beach County Fair Housing/Equal Employment Opportunity Board. He also served as Treasurer of the Palm Beach County Board of Directors for the American Cancer Society (ACS), and is the past Legislative Advocacy Chair for the ACS Relay for Life.

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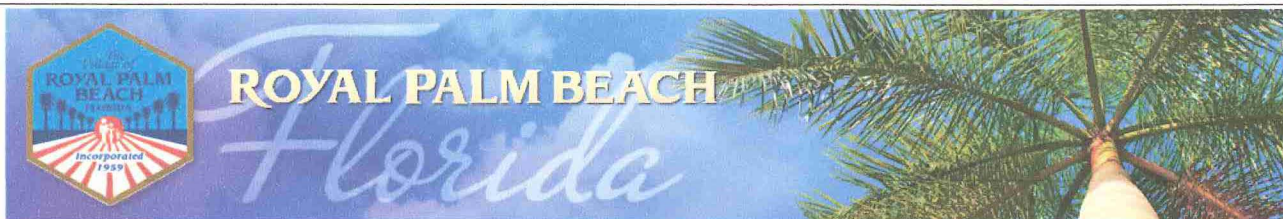
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Martha Webster

[Mayor & Village Council](#)

Title: Councilwoman, Seat #2

Phone: (561) 790-5100

[Contact the Council](#)



Councilwoman Martha Webster and her family moved to the Village in 1998 where she currently resides in the Willows subdivision with her husband, Gary. Martha holds an AA Degree from Virginia Intermont College, and both a BS Degree in Education and a M.Ed. in Education from Brenau University in Gainesville, GA. . She was honored with the 1994 nomination to Who's Who in American Colleges and Universities and has earned additional graduate studies at Florida Atlantic University.

Ms. Webster has worked in Palm Beach County as the Director of Housing for Consumer Counseling Services (1995-1998)), the Director of Community Services for United Way of Palm Beach County (1998-2000), and is now a retired tenured faculty of the University of Florida (2000-2011).

Since elected Councilwoman Webster worked to educate members of the public on the successful passage of the Palm Beach County Charter Amendment in 2008. She continues to work to maintain the high standard of park and recreation services that the Village offers. She is an advocate for the completion of planned roadways to provide comprehensive transportation systems for citizens commuting to and from the mid western communities. Ms. Webster supports strong and diverse economic development of the Village through innovative planning and business partnerships that will benefit the residents of the Village.

Councilwoman Webster serves as a member of numerous local and regional boards:

2012-2013 Executive Board Member, Secretary/Treasurer – Treasure Coast Regional Planning Council

2009-2012 Board Member - Treasure Coast Regional Planning Council

2012-2013 Vice President - PBC League of Cities

2011-2012 2nd Vice President – PBC League of Cities

2012-2013 Chair Legislative Committee - PBC League of Cities

2011-2012 Chair Policies & Procedures Committee – PBC League of Cities

2010-2012 Chair Education Committee – PBC League of Cities

2009-2011 Board Member -Palm Beach County League of Cities

2010-2012 RPBHS Medical Science Advisory Board

Office hours every Tuesday 3:00 PM- 5:00 PM - excluding Village Holidays

Other times available by appointment by calling 561-790-5103



Councilwoman Webster welcomes your comments and inquiries. She may be contacted using the link on this page.

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1050 Royal Palm Beach Blvd.
Royal Palm Beach, FL 33411
Ph: (561) 790-5100
Fx: (561) 790-5174



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<h2>Detail by Entity Name</h2>					
<h3><u>Foreign Limited Partnership</u></h3>					
ROYAL PALM BEACH SHOPPING PLAZA & MEDICAL CENTER LIMITED					
<h3><u>Filing Information</u></h3>					
Document Number	A06586				
FEI/EIN Number	232055351				
Date Filed	06/14/1978				
State	PA				
Status	ACTIVE				
Last Event	LP AMENDMENT				
Event Date Filed	01/06/2009				
Event Effective Date	NONE				
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675 ROYAL PALM BEACH BLVD. ROYAL PALM BEACH FL 33411					
Changed 01/22/1985					
<h3><u>Mailing Address</u></h3>					
675 ROYAL PALM BEACH BLVD. ROYAL PALM BEACH FL 33411					
Changed 01/22/1985					
<h3><u>Registered Agent Name & Address</u></h3>					
SANTAMARIA, JESS R 255 PONDEROSA COURT ROYAL PALM BEACH FL 33411-4700 US					
Address Changed: 02/20/2006					
<h3><u>General Partner Detail</u></h3>					
Name & Address					
Document Number					
SANTAMARIA, JESS R. 675 ROYAL PALM BEACH BLVD. ROYAL PALM BEACH FL 33411					
<h3><u>Annual Reports</u></h3>					
Report Year Filed Date					
2010	01/04/2010				
2011	01/11/2011				

2012

01/03/2012



Document Images

01/03/2012 -- ANNUAL REPORT	View image in PDF format
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01/06/2009 -- LP Amendment	View image in PDF format
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Detail by Entity Name

Florida Profit Corporation

SHAKER HEALTH HOLDINGS, INC,

Filing Information

Document Number	P11000028774
FEI/EIN Number	454706177
Date Filed	03/22/2011
State	FL
Status	ACTIVE
Effective Date	03/22/2011

Principal Address

2790 N MILITARY TRAIL
7
WEST PALM BEACH FL 33409 US

Mailing Address

500 ROYAL PALM BEACH BOULEVARD
ROYAL PALM BEACH FL 33411
Changed 07/19/2012

Registered Agent Name & Address

SPLAIN, M. DANIEL III
2790 N. MILITARY TRAIL
7
WEST PALM BEACH FL 33409 US

Officer/Director Detail

Name & Address
Title VP
SPLAIN, M. DANIEL 23199 SHAKER BOULEVARD SHAKER HEIGHTS OH 44122 US
Title PRES
STOLKOWSKI, ELIZABETH L 23199 SHAKER BOULEVARD SHAKER HEIGHTS OH 44122 US

Annual Reports

Report Year	Filed Date
2012	03/23/2012

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Florida Non Profit Corporation					
THE POTTER'S HOUSE OF WEST PALM BEACH, INC.					
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FEI/EIN Number 650966349					
Date Filed 11/16/1999					
State FL					
Status ACTIVE					
Principal Address					
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Registered Agent Name & Address					
GRAVES, JOANN 1402 ROYAL PALM BEACH BLVD BLDG 700 SUITE 106 ROYAL PALM BEACH FL 33411 US Name Changed: 06/05/2012 Address Changed: 06/05/2012					
Officer/Director Detail					
Name & Address					
Title PRES					
GRAVES, JOANN 1402 ROYAL PALM BCH BLVD SUITE 706 WEST PALM BEACH FL 33411 US					
Title D					
THOMAS, RICHARD BISHOP C/O 1402 ROYAL PALM BCH BLVD SUITE 706 WEST PALM BEACH FL 33411 US					

Title D

SMITH, BENJANMIN PSTR
C/O 1402 ROYAL PALM BEACH BLVD SUITE 706
WEST PALM BEACH FL 33411

Annual Reports**Report Year Filed Date**

2011	03/29/2011
2012	04/11/2012
2012	06/05/2012

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01/18/2000 -- ANNUAL REPORT	View image in PDF format
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PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF NO PROBABLE CAUSE AND DISMISSAL
WITH LETTER OF INSTRUCTION

To: Commission on Ethics
From: Megan C. Rogers, Staff Counsel
Re: Case Number C12-009 – Frederick Pinto, Councilman, Village of Royal Palm Beach

- **Recommendation**

A finding of NO PROBABLE CAUSE should be entered in the above captioned matter as to the allegations made in the Complaint and a DISMISSAL and LETTER OF INSTRUCTION be issued to Respondent.

Probable Cause exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics (COE) to believe that the Respondent, Frederick Pinto, violated the Palm Beach County Code of Ethics.

- **Jurisdiction**

The COE has jurisdiction pursuant to Chapter 2, Article V, Division 8, §2-258(a) of the Palm Beach County Commission on Ethics Ordinance which states in pertinent part:

Article V, Division 8, Section 2-258. *Powers and duties.* (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the;

- (1) County Code of Ethics;
- (2) County Post-Employment Ordinance, and
- (3) County Lobbyist Registration Ordinance.

Article XIII, §2-443(a)(1), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics (the Code) prohibits any employee or official from using their position to give a special financial benefit to themselves.

Article XIII, §2-443(b), *Corrupt Misuse of official position*, prohibits an employee or official from using their position to give a benefit to any person, if done with a wrongful intent which is inconsistent with the proper performance of his or her public duties.

Article XIII, §2-443(c) *Voting conflicts*, prohibits an official from participating in, or voting on an issue that would give him or her a special financial benefit, as described in §2-443(a).

This memorandum adopts by reference the Memorandum of Inquiry and Investigative Report prepared by COE investigative staff.

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through sworn complaints submitted by Martha Webster, a resident of the Village of Royal Palm Beach (the Village) and a member of the Village Council. Respondent is Village Councilman Frederick Pinto. There were two (2) separate complaint forms submitted by Webster, both dated September 4, 2012 and properly sworn and notarized. The complaint forms each had a document entitled, "Report of Violation of Palm Beach County Code of Ethics," as separate attachments to the complaints, as well as documentary evidence in support of the complaints. Both complaints list Royal Palm Beach Councilman Fredrick Pinto as the Respondent. Since the complaints concerned similar facts and circumstances, and the allegations of a violation were also similar, both complaints were examined under a single case number. The specific real property which is the focus of both complaints is the Royal Plaza South Shopping Center (the Shopping Center), listed within the PBC Property Appraiser's records as being located at 200 Royal Palm Beach Blvd., and being within the Village of Royal Palm Beach incorporated limits. In both cases, the Village Planning & Zoning Board, and Village staff, recommended the granting of special use applications regarding this property. Village staff evaluated these applications as to how they would affect existing parking at the Shopping Center, and found that the current Village parking standards for the Shopping Center required at least 524 spaces. The Shopping Center has 673 parking spaces available currently, leaving sufficient parking available for both uses.

In the first Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a Council meeting held on June 7, 2012. In her complaint, Webster alleges that Respondent "facilitated a real estate transaction as an employee of Commissioner Santamaria [PBC Board of County Commissioners] that financially benefitted his direct employer. He further participated in and made the motion to approve the special exception project without disclosing his relationship to his employer."

In the second Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a public meeting on July 5, 2012. This complaint involves the same Shopping Center property as listed in the initial complaint, Royal Plaza South Shopping Center. In this second complaint, Webster alleges that Pinto, "participated in a special exemption petition determination brought before the Royal Palm Beach Council at the July 5, 2012 Council meeting. The special exemption was a request to allow a church or place of worship. The applicant was The Potter's House of West Palm Beach, Inc., (Potter's House), which also wished to locate their operations within the Shopping Center, a commercial property in which Commissioner Santamaria has an ownership interest. Respondent, who Complainant describes as an employee of Commissioner Santamaria, "voted to approve the special exemption project without disclosing his relationship to his employer, the owner of the property to be leased, who financially benefitted from this special exemption approval."

For both allegations, Webster also listed on her Report of Violation of Palm Beach County Code of Ethics document attached to her Complaint, a "statement of facts" which is a narrative version of the issues listed by bullet point in this same document.

- **Inquiry and Investigation**

This memorandum adopts by reference staff memoranda of inquiry and investigation. Staff inquiry uncovered the following: Respondent, in his capacity as Village Councilman, participated in discussions and voted on applications involving Shaker Health Holdings, Inc. (June 7, 2012) and Potter's House of

West Palm Beach, Inc. (July 5, 2012). Both applications involved land use exemptions for prospective tenants of the Royal Plaza South Shopping Center (Shopping Center) in which Palm Beach County Commissioner Jess Santamaria has an ownership interest. Respondent is a Palm Beach County (PBC) employee and is employed as an Administrative Assistant to Commissioner Santamaria. Respondent is an at-will employee whose employment relationship is not subject to Merit Service. As an at-will employee Respondent's employment may be terminated by Commissioner Santamaria without cause at any time. In addition, salary raises are in the discretion of his supervisor and Respondent received such a raise in 2011.

As a sitting Village Councilman, Respondent did generally ask a Village Attorney for an opinion as to whether he was prohibited from accepting a position as Administrative Assistant to Commissioner Santamaria. Respondent indicated that he generally inquired of the Village Attorney as to whether a conflict existed regarding Santamaria's property interests; however, the Attorney recalls discussing only the issue of his taking the County position, unrelated to any specific issues that may come before the Council. Respondent did not request an advisory opinion from the COE prior to either vote. It should be noted that Respondent is not employed by any outside company owned by Commissioner Santamaria.

Regarding Shaker Health Holdings, Inc., interviews with witnesses revealed that the Village applicant was contemplating relocating his business to Palm Beach County. After viewing a Board of County Commission meeting, he made an appointment to meet with Commissioner Santamaria. Santamaria represents Western Palm Beach County. The Commissioner and his staff, Paul Razza, Johnnie Easton and Respondent, attended this meeting. The applicant specifically asked about opportunities in the Village. Respondent suggested a refurbished medical building in the Village that was not owned by Santamaria. This site was later rejected by the applicant and an alternative site was chosen. The new site is owned by an outside business of the Commissioner. According to uncontroverted testimony, including the Commissioner, staff and applicant, Respondent neither suggested nor attempted to influence the applicant to choose the Commissioner's property. Respondent stated that as a rule that he and Commissioner Santamaria never engage in discussions concerning Santamaria's outside businesses or his real estate holdings in Royal Palm Beach. This policy was confirmed in separate interviews with Commissioner Santamaria and staff members Johnnie Easton and Paul Razza. In addition, Village Planning and Zoning Administrator, Bradford O'Brian stated that there was no attempt by Respondent to contact or otherwise influence the Village staff decision to recommend the land use exceptions.

Regarding the Potter's House application, the inquiry uncovered no evidence to suggest that Respondent was involved in the applicant's selection of the Shopping Center or staff's recommendation.

- **Conclusion**

Based on these facts and circumstances, there is **NO PROBABLE CAUSE** to believe that Respondent, Fred Pinto, has violated §2-443(a) and/or §2-443(c) of the Palm Beach County Code of Ethics. Facts uncovered during the inquiry and investigation indicated that Respondent had not participated in the applicant's selection of the Shopping Center or otherwise used his Council position to influence staff's recommendation prior to the applications coming before the Village Council. Furthermore, inquiry and investigation uncovered no wrongful intent, inconsistent with the proper performance of his official duties. Therefore, **NO PROBABLE CAUSE** exists that Respondent violated §2-443(b) *corrupt misuse of official position*.

However, based upon Respondent's County employment, an appearance of conflict of interest exists regarding issues coming before him in his capacity as Village Councilman when such matters specially benefit his County supervisor. This is especially so where his county employment is at-will and not protected by merit rule. Here, the Respondent's livelihood depends upon this relationship, and his supervisor, Commissioner Santamaria, is free to terminate the relationship at any time. Maintaining Respondent's salary, raises, and benefits is not so remote and speculative as to avoid becoming a personal financial benefit as contemplated by the Code, if the facts and circumstances indicate Respondent facilitated or otherwise directed the transaction. Therefore, under a different set of circumstances, participating and voting on an issue specially financially benefitting his at-will County supervisor may be seen as resulting in a benefit to him personally.

It should be noted that the relationship between Respondent and the Commissioner, under any other context than that of a governmental employer, would constitute a violation of the Code under these facts and circumstances. The fact that the language of the Code excludes this relationship does not change the appearance of impropriety when a subordinate employee uses his or her official position to benefit their government supervisor.

Staff recommends a finding of **NO PROBABLE CAUSE** be entered in this case as to §2-443(a), (b) and (c)(Counts 1-6). Respondent did not actively steer the underlying projects to his supervisor's businesses, or otherwise influence staff in their recommendation to approve the applications. Respondent did inquire as to any conflict created by his simultaneously serving as Councilman and employee of the County, however, it appears that he did not ask his municipal attorney whether the applications benefiting his at-will supervisor presented a conflict. Nor did he ask the COE for an advisory opinion prior to participating and voting on these issues. Notwithstanding, staff does not recommend proceeding further in this matter. The Code permits the COE to *dismiss any complaint at any stage of disposition and issue a letter of instruction to the Respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial or where the public interest would not be served by proceeding further*. Therefore, staff recommends that this matter be **DISMISSED** and a **LETTER OF INSTRUCTION** be issued pursuant to Article V, Division 8, §2-260.3.

By: _____

Megan C. Rogers, Staff Counsel/Advocate
Palm Beach County Commission on Ethics

10/19/2012

DATE

PALM BEACH COUNTY COMMISSION ON ETHICS

MEMORANDUM OF NO LEGAL SUFFICIENCY AND RECOMMENDATION OF DISMISSAL

To: Palm Beach County Commission on Ethics
From: Alan S. Johnson, Executive Director
Re: C12-009 – Frederick Pinto, Councilman, Village of Royal Palm Beach

- **Recommendation**

Regarding the Complaint against Respondent, Frederick Pinto, Village of Royal Palm Beach Councilman, the Executive Director has found **NO LEGAL SUFFICIENCY** in complaint number C12-009 and recommends DISMISSAL pursuant to Art. V, §2-260(b) and Rule of Procedure 4.2.

Legal sufficiency exists where there is an allegation containing the elements of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through sworn complaints submitted by Martha Webster, a resident of the Village of Royal Palm Beach (the Village) and a member of the Village Council. Respondent is Village Councilman Frederick Pinto. There were two (2) separate complaint forms submitted by Webster, both dated September 4, 2012 and properly sworn and notarized. The complaint forms each had a document entitled, "Report of Violation of Palm Beach County Code of Ethics," as separate attachments to the complaints, as well as documentary evidence in support of the complaints. Both complaints list Royal Palm Beach Councilman Fredrick Pinto as the Respondent. Since the complaints concerned similar facts and circumstances, and the allegations of a violation were also similar, both complaints were examined under a single case number. The specific real property which is the focus of both complaints is the Royal Plaza South Shopping Center (the Shopping Center), listed in Village documents as being located at 650 Royal Palm Beach Blvd., but listed within the PBC Property Appraiser's records as being located at 200 Royal Palm Beach Blvd., both addresses being within the Village of Royal Palm Beach incorporated limits. In both cases, the Village Planning & Zoning Board, and Village staff, recommended the granting of use applications regarding this property. Village staff evaluated these applications as to how they would affect existing parking at the Shopping Center, and found that the current Village parking standards for the Shopping Center required at least 524 spaces. The Shopping Center has 673 parking spaces available currently, leaving sufficient parking available for both uses.

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In the second Complaint, Webster lists information concerning Respondent's actions as a Village Councilman at a public meeting on July 5, 2012. This complaint involves the same Shopping Center property as listed in the initial complaint, Royal Plaza South Shopping Center. In this second complaint, Webster alleges that Pinto, "participated in a special exemption petition determination brought before the Royal Palm Beach Council at the July 5, 2012 Council meeting. The special exemption was a request to allow a church or place of worship. The applicant was

The Potter's House of West Palm Beach, Inc., (Potter's House), which also wished to locate their operations within the Royal Plaza South Shopping Center, a commercial shopping center in which Commissioner Santamaria has an ownership interest. Respondent, who Complainant describes as an employee of Commissioner Santamaria, "voted to approve the special exemption project without disclosing his relationship to his employer, the owner of the property to be leased, who financially benefitted from this special exemption approval."

For both allegations, Webster also listed on her Report of Violation of Palm Beach County Code of Ethics document attached to her Complaint, a "statement of facts" which is a narrative version of the issues listed by bullet point in this same document.

- **Analysis**

As a Village of Royal Palm Beach Councilman, Respondent is subject to the provisions of the Palm Beach County Code of Ethics (the Code), as of June 1, 2011, when the Village came under the jurisdiction of the COE.

The following section of the Palm Beach County Code of Ethics is relevant to this inquiry.

Section 2-443(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 special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;
- (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
- (5) A customer or client of the official or employee's outside employer or business;

Section 2-443(c), *Disclosure of voting conflicts*, states in relevant part:

County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above.

Commissioner Santamaria is not Fredrick Pinto's outside employer. Respondent is an employee of Palm Beach County. In §2-442, *Definitions*, the Code defines an outside employer or business to include; "Any entity, *other than the county*, the state, or any other federal regional, local, or municipal government entity..." (Emphasis added). The definition of outside employer specifically excludes employment with a governmental entity. Therefore, Respondent's County employment is excluded from this definition. Nor is there any evidence indicating that Respondent received a financial or any other benefit for himself as a result of his official actions. Since Respondent is not employed by one of Santamaria's private outside businesses, there is no potential violation under these subsections.

Section 2-443(b) *Corrupt misuse of official position*

An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means *done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.* (Emphasis added)

There was no evidence presented by Complainant or found during this inquiry to indicate Respondent voted or participated either on June 7 or July 5, 2012, with a wrongful intent resulting in some act or omission which is inconsistent with the proper performance of his public duties. With regard to the proposed Shaker Health Nursing School, the COE inquiry found that other than to suggest that the applicant move his business to Royal Palm Beach,

Respondent played no part in the selection of one of Mr. Santamaria's properties. The vote on June 7, 2012 did not constitute a corrupt misuse, notwithstanding the fact that Respondent was aware that Commissioner Santamaria had a business interest in the property ultimately selected by the applicant. Likewise, there is no evidence presented by the Complainant, or uncovered during the COE inquiry, to support the allegation that Respondent's participation and vote on the land use application involving the Potter's House on July 5, 2012 constituted a corrupt special privilege, benefit, or exemption for Commissioner Santamaria, the Potter's House or any other person or entity.

- **Conclusion**

Based on the fact that the allegations provided in the Complaint, even if true, do not allege a violation of any provision of the Palm Beach County Code of Ethics, and the COE Inquiry did not find any evidence of such a violation, there is **NO LEGAL SUFFICIENCY** to open a formal investigation into this matter.

It is the recommendation of staff that this **COMPLAINT** be **DISMISSED** based upon a finding of **NO LEGAL SUFFICIENCY**.

BY:



Alan S. Johnson, Executive Director
Florida bar #223352
Commission on Ethics

09/25/2012

Date

PALM BEACH COUNTY COMMISSION ON ETHICS

Martha Webster

Complainant,

vs.

Frederick Pinto,

Respondent.

Complaint No. 12-009

NOTICE OF APPEARANCE

DONALD J. DOODY, of the law firm of Goren, Cherof, Doody & Ezrol, P.A., hereby file this Notice of Appearance, as counsel, on behalf of the Respondent, FREDERICK PINTO, in the above-styled action. All pleadings and correspondence should be served on the above counsel at the address indicated below.

Respectfully submitted,


Donald J. Doody, Florida Bar Number: 270547

Attorney e-mail address: ddoody@cityatty.com

Goren, Cherof, Doody & Ezrol, P.A.

3099 East Commercial Blvd., Suite 200

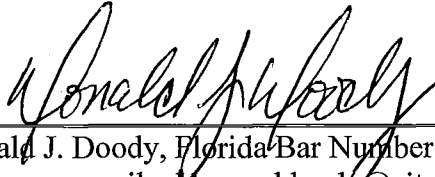
Fort Lauderdale, FL 33308

Telephone: (954) 771-4500 Facsimile: (954) 771-4923

Attorneys for Respondent, Frederick Pinto

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Appearance was provided on this 5 day of October 2012 via electronic mail to Gina A. Levesque, Palm Beach County Ethics, at GLEvesque@palmbeachcountyethics.com.



Donald J. Doody, Florida Bar Number: 270547
Attorney e-mail address: ddoody@cityatty.com
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Blvd., Suite 200
Fort Lauderdale, FL 33308
Telephone: (954) 771-4500 Facsimile: (954) 771-4923
Attorneys for Respondent, Frederick Pinto

H:_PVT CLIENT\PINTO 3089\0000000\Notice of Appearance.docx

PALM BEACH COUNTY COMMISSION ON ETHICS

Martha Webster

Complainant,

vs.

Frederick Pinto,

Respondent.

Complaint No. 12-009

DEMAND FOR DISCOVERY

COMES NOW, Respondent, Frederick Pinto, by and through undersigned attorneys, hereby notices the **Palm Beach County Commission on Ethics** to produce the following documents, or copies thereof, within thirty (30) days of the service of this request to Donald J. Doody, Esquire, 3099 E. Commercial Blvd., Suite 200, Fort Lauderdale, FL 33308:

1. Any recordings, digital video discs (DVD), tapes, web broadcasts of the Executive Session of the Commission on Ethics or any other proceedings held on October 4, 2012 regarding Case No. 12-009.
2. Two (2) copies of draft minutes, preliminary minutes and final minutes and/or transcripts of the Executive Session of the Commission on Ethics held on October 4, 2012 relative to Case No. 12-009.
3. Copies of any memorandums, correspondence, emails, text communications, reports, recommendations, submitted by staff or any third parties for consideration by the Commission on Ethics with respect to Case No. 12-009.

4. Copies of any orders, reports, findings, and opinions issued by the Commission on Ethics relative to, referencing or issued relative to Case 12-009.

Respectfully submitted,

GOREN, CHEROF, DOODY AND EZROL, P.A.
Attorneys for Respondent
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
(954) 771-4500 / Fax (954) 771-4923

BY: 

DONALD J. DOODY
Fl Bar# 270547

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Demand for Discovery was provided on this 5 day of October, 2012 via electronic mail to Gina A. Levesque, Palm Beach County Ethics, at GLEvesque@palmbeachcountyethics.com.

BEFORE THE PALM BEACH COUNTY COMMISSION ON ETHICS

In re: Frederick Pinto,

Complaint C12-009

Respondent

_____/

RESPONSE TO AMENDED MEMORANDUM OF LEGAL SUFFICIENCY

The Respondent, Frederick Pinto, by and through undersigned counsel, responds to the Executive Director's Amended Memorandum of Legal Sufficiency dated October 17, 2012 and states as follows:

1. Respondent respectfully takes exception to the Executive Director's legal analysis and determination that the two (2) Complaints filed against the Respondent are legally sufficient on their face. The Respondent's position is that both Complaints fail to satisfy the requirement that they be based on personal knowledge of the Complainant. Consequently, it is the position of the Respondent that both complaints are legally insufficient and should be dismissed.
2. As noted by Alan S. Johnson, the Executive Director of the Palm Beach County Commission on Ethics, a determination of legal sufficiency exists:

“Where there is an allegation containing the elements of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based on the PERSONAL KNOWLEDGE OF THE COMPLAINANT (emphasis added) relating to all alleged violation occurring after the effective date of the Code, and filed with the Ethics Commission within two (2) years of the alleged violation”

As set forth above, legal sufficiency must be premised “on the personal knowledge of the Complainant”. A review of both Complaints filed by Ms. Martha Webster clearly reflects that she lacks any personal knowledge of any facts that could give rise to any potential violation of the Ethics Code. All of the facts set forth in both Webster's Complaints are matters of public record. Furthermore, all of the actions taken by the Respondent were undertaken in a public forum at a public meeting. Accordingly, Webster lacks any personal knowledge beyond that which exists in the public record of two (2)

meetings held by the Royal Palm Beach Village Council¹. It is respectfully suggested to this honorable Board that the motivation to file the two (2) separate Complaints is not founded on an adherence to the Palm Beach County Code of Ethics. Rather, it is apparent that the likely motive is conceived in the politics of a local municipality and therefore undertaken as a politically motivated attack on the Respondent intended to inflict political damage on him for the purpose of portraying him as a public official who has betrayed the public trust. Nothing is further from the truth. The record in this case clearly reflects that the allegations made by Ms. Webster are baseless and lack any resemblance of merit. The Respondent has at all times during his tenure as an elected public official adhered to the highest standards of ethical conduct mandated by both the Florida Statutes and the Palm Beach County Code of Ethics.

3. The Amended Memorandum of Legal Sufficiency filed by the Executive Director states under the analysis section that the Respondent “may have a conflict under Section 2-443(a)(1) and (c)”. This statement is made notwithstanding an acknowledgement that the Respondent is not employed by an outside employer. Rather, he is an employee of Palm Beach County which is by definition not to be considered as an outside employer. The distinction between an employee and an ‘at will’ employee is a fine line that extends beyond the four corners of the Code of Ethics. The salary of a County employee is not and should not be considered as a special financial benefit accruing to the Respondent.
4. The Amended Memorandum of Legal Sufficiency concludes with a finding that the two (2) Complaints are legally sufficient to the extent:
 - 1) They contain allegations within the jurisdiction of the Board; and
 - 2) Are based substantially on the personal knowledge of the Complainant related to an alleged violation regarding Section 2-443 (a) (b) and (c);

The Respondent concedes the point that the allegations, as baseless as they are, fall within the jurisdiction of the Board. However, there exists nothing in the record that would support the conclusion that the allegations made by the Complainant are in fact based on her personal knowledge that the Respondent did in fact “facilitate” either real estate related matter that resulted in the subsequent applications being filed with the Village of Royal Palm Beach.

5. It is important to note that, under Florida law, a public official has a legal obligation to cast his or her vote absent a conflict of issue.

¹ In light of the fact that the Complainant is a member of the Village Council of Royal Palm Beach, one has to question the motive of Ms. Webster in filing her two (2) Complaints.

Section 286.012 of the Florida Statutes states in part:

“No member of any state, county, or municipal governmental board or commission, or agency who is present at any meeting of any such body at which an official decision, ruling or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling or act except when, with respect to any such member there is or appears to be, a possible conflict of interest under the provisions of Sections 112.311, 112.313, or 112.3143”

Accordingly, an elected official has an affirmative duty to cast his or her vote on every agenda item absent a conflict of interest.

6. The facts in this case demonstrate that no special benefit accrued to the Respondent or his employer on either occasion involving the votes he cast on June 7th, 2012 and July 5th, 2012 respectively. The suggestion that because the Respondent is an ‘at will’ employee as defined by the Merit System Rules and Regulations of Palm Beach County is one that ignores the fact that his salary is paid by Palm Beach County and his is an employee of Palm Beach County.

WHEREFORE, the Respondent respectfully request that this Board determine that the two (2) Complaints filed in this cause are legally insufficient and that they be dismissed.

Respectfully submitted,

Goren, Cherof, Doody & Ezrol, P.A.
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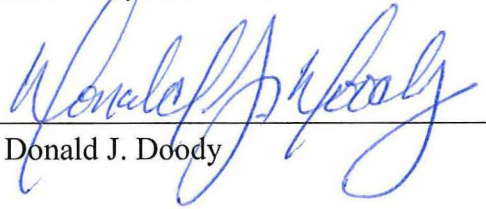
Donald J. Doody
Florida Bar No. 270547

CERTIFICATE OF SERVICE

I do hereby certify that I have, on this 3rd day of January, 2013 served a copy of the foregoing pleading on Alan S. Johnson, Executive Director of Palm Beach County Commission on Ethics, via facsimile to 561-656-7100 and by U.S. Postal Service to Palm Beach County Commission on Ethics 2633 Vista Parkway West Palm Beach, FL 33411.

By: _____

Donald J. Doody



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