

PALM BEACH COUNTY COMMISSION ON ETHICS  
**EXECUTIVE SUMMARY**

To: Alan Johnson, Executive Director  
From: James A. Poag, Investigator  
Re: C12-013– Respondent, Marlene Ross-City of Boynton Beach Commissioner

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- **Background**

This matter came to the attention of the Commission on Ethics' staff via a sworn complaint signed on October 4, 2012 by Terry Aperavich (Complainant), a resident of the City of Boynton Beach (the City). Attached to the sworn complaint form were a letter (Complainant's Statement) and two newspaper articles from the Palm Beach Post dated October 2, 2012 and October 3, 2012.

The Complaint alleges that Marlene Ross (Respondent), Commissioner for the City of Boynton Beach (the City) misused her official position to corruptly secure a special benefit for David Katz (Lobbyist) by signing a letter which stated that she had not been lobbied by Katz, then later admitting that her statement was false, in violation of Section 2-443(b) *Corrupt misuse of official position* of the Palm Beach County Code of Ethics (the Code). The Complaint also alleges that the Respondent voted to appoint Katz to the City Financial Advisory Committee (FAC) because she believed that if she did not, he would expose public copies of compromising photographs she had previously sent to another individual.

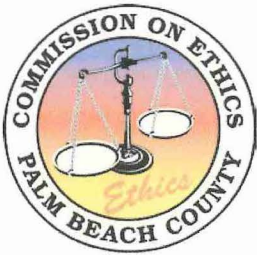
- **Investigative Information**

**Allegation 1:**

In her statement to the State Attorney investigators, Respondent admitted to filing false statements pertaining to the City investigation into whether Katz had lobbied City officials. By signing the letter drafted by Katz dated July 7, 2011, and submitting a subsequent false email statement to Laurie LaVerriere, Interim City Manager, Respondent made false statements in an official City investigation. In her sworn statement to the Office of the State Attorney, Respondent claimed that she made these false statements to avoid potential negative effects that might result from the publication of purportedly inappropriate photographs. In submitting these false statements, Respondent benefited herself by avoiding potential public embarrassment. Respondent also benefited Katz by reducing his exposure to potential lobbying violations/fines. Katz was fined \$750 for other instances of alleged lobbying, but was not held accountable for lobbying activities covered up by Respondent.

**Allegation 2:**

A review of the minutes from the January 3, 2012 City of Boynton Beach City Commission meeting revealed that the Respondent nominated Katz to the FAC. According to interviews and documentary evidence, the City Commission appoints advisory board members on a rotating basis. A review of the FAC Appointment Application for Katz showed that it was submitted on January 3, 2012, the same day that he was appointed to the board. Therefore, the application was not properly noticed and available to the public. According to the clerk, this is highly unusual. The Respondent insisted on the vote not being postponed. According to Respondent, she nominated Katz to avoid embarrassment and potential negative affects to her political career, should the alleged photographs be made public by Katz. She also indicated that she was fearful of Katz; however, the nature of their ongoing relationship contradicts this allegation.



## 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: TERRY APERAVICH  
Address: 2860 S.W. 14 ST. APT. 14  
City: BOYNTON BEACH, FL Zip: 33426  
Home #: 561-732-4487 Work #: — Cell #: 561-704-4184

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

Name: MARLENE ROSS  
Address: 100 EAST BOYNTON BEACH BLVD  
City: BOYNTON BEACH, FL Zip: 33435  
Home #: — Work #: 561-742-6000 Cell #: —  
Title/Office Held or Sought: CITY COMMISSIONER - BOYNTON BEACH, FL

**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.

Terry Aperavich  
Signature of Person Making Complaint

STATE OF FLORIDA

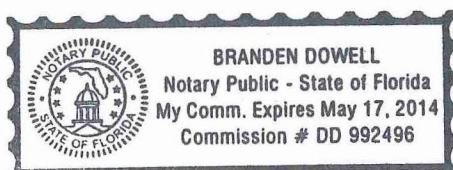
COUNTY OF Palm Beach

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

Terry Aperavich  
(Name of Person Making Statement)

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

FIDEL  
[Signature]  
(Signature of Notary Public, State of Florida)



Branden Dowell  
(Print, Type, or Stamp Commissioned Name of Notary Public)

**TERRY APERAVICH - PGA**

2860 SW 14<sup>TH</sup> Street, Apt. 14  
Boynton Beach, FL 33426-8039

**Terryta1@aol.com**

561-704-4184 C

561-732-4487 H

October 4, 2012

Palm Beach County Commission on Ethics  
2633 Vista Parkway  
West Palm Beach, FL 33411

Re: Marlene Ross

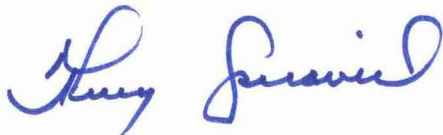
Dear Sirs:

This letter, Complaint Form, and the attached (highlighted) printouts of two articles from recent editions of The Palm Beach Post are being submitted to you for consideration regarding the matter of Marlene Ross – City Commissioner of Boynton Beach, Florida – and her recent behavior regarding her sending out nude photos of herself, her incestuous sexual relationship with a closely related family member, her signing official documents in bad faith and then lying about it, and her immoral behavior being on display without remorse for the entire community – not to mention our children – and the entire county to see.

I think she should graciously resign from office, but if she chooses to resist, I think a full investigation into ALL of her past conduct by your Board of Commissioners is in order to protect the best interests of the citizens of Boynton Beach, Florida.

Thank you for your attention to this matter.

Respectfully,



Terry Aperavich, PGA

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The Palm Beach Post

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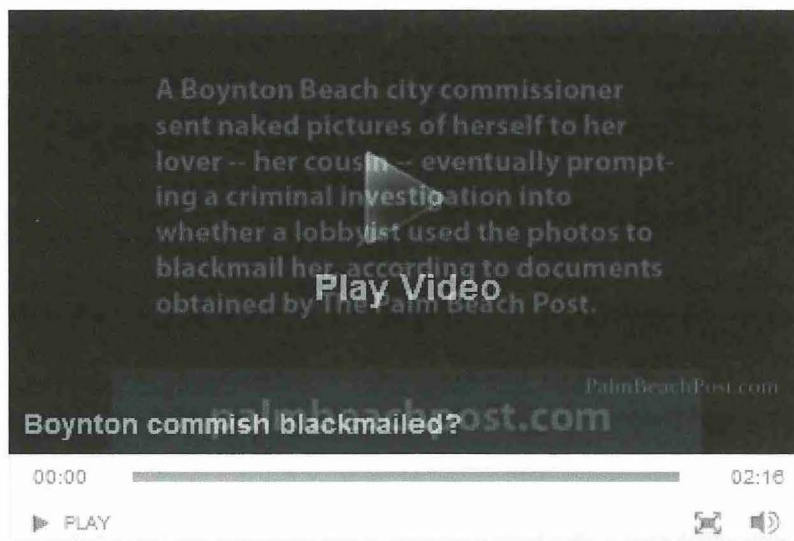
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Posted: 5:28 a.m. Tuesday, Oct. 2, 2012

BOYNTON BEACH

## Nude photos prompt blackmail probe in Boynton Beach



### Related

By Eliot Kleinberg

Palm Beach Post Staff Writer

**BOYNTON BEACH** — A Boynton Beach city commissioner sent naked pictures of herself to her lover, eventually prompting a criminal investigation into whether a lobbyist used the photos to blackmail her, according to documents obtained by *The Palm Beach Post*.



Marlene Ross, a commissioner for five years, told prosecutors last month that she felt lobbyist and former Commissioner David Katz had pressured her for years, trying to sway her votes on many key issues. She even admitted she lied last year when she signed a letter saying he'd never lobbied her.

But recently, Ross told investigators, she became convinced Katz knew of the photos and grew fearful he'd use them to destroy her political career, after he mentioned them at a Sept. 4 city commission meeting.

In comments that were cryptic to most in the chambers but which Ross believed were aimed at her, Katz suggested "consequences" for voting against his close friend, former Mayor Jerry Taylor, to fill out the term of a commissioner who had resigned in July. Ross continued that night to oppose Taylor and the commission remained deadlocked, 2-2.

After interviewing Ross at least three times, prosecutors concluded that "none of the scenarios described by Ms. Ross involved behavior that could be considered criminal extortion," Daniel Funk, assistant Palm Beach County state attorney, wrote in a memo dated Thursday.

However, a summary says, prosecutors worried about the potential for "Katz or others" to use the photos "to extort Ross in a future commission vote."

Ross eventually quit cooperating, and the case was closed Thursday.

"This is laughable at best," Katz said Friday. "There's nothing to blackmail her over. That's ridiculous." He said Monday that he would not comment further because he hadn't seen the prosecutors' documents.

Ross, elected to the commission in 2007 and reelected in 2011, describes Katz — who regularly lambastes commissioners at meetings — as a man who intimidated her, even physically; once, she says, when she mentioned troubles with her boyfriend, Katz offered to have someone "take care of it."

Of Katz, Ross wrote in a statement to prosecutors, "I can easily see that my hopes for my future career plans as a public servant are possibly being destroyed in a despicable way by a person who is corrupt and evil."

The investigation is the latest and quite possibly the most outrageous of a series of sideshows in Palm Beach County's third-most populous city. Amid spats erupting from the dais, Boynton Beach has struggled with plummeting property values, prolific turnover and continuous deadlock.

Mayor Jose Rodriguez was arrested this year on charges of pressuring the police chief and interim city manager to stop a child abuse investigation. He also is accused in a lawsuit against the Community Redevelopment Agency of helping get rid of its chief in part because she rejected his sexual advances.

Katz has accused the mayor of a vendetta and regularly calls out Rodriguez in public meetings.

And tow firm operator David Floering, who stopped bidding for city contracts in 2010, claiming corruption, has accused Rodriguez of cheating on property taxes and called the mayor a crook and a liar so many times that Rodriguez sued him for defamation; he later dropped the case.

It was Floering who told the state attorney's office in mid-August about the photos, saying he believed that "Ross may be getting extorted to vote in a certain way." He showed investigators an email he said was from Lisa Bright, the former CRA director. Bright said she was trying to get what she called "provocative pictures." Bright later told prosecutors she hoped the photos would help her in her wrongful termination lawsuit.

In a statement Friday to *The Post*, Ross said prosecutors reached out to her "about possible threats against me. I appreciate them contacting me."

She added, "I had had enough of the bullying. During what was a very sensitive time for my family, I regret sending a private message which concerned only my personal life. I was glad to be able to expose what I knew to the State Attorney. Unfortunately, the State Attorney was unable to file charges in this case; however, at a minimum these self-serving and sinister individuals are exposed for their despicable actions."

In late 2010 or early 2011, Ross told prosecutors, she had sent her first cousin Rogelio Vera — via private messaging on Facebook — "compromising" photos of herself that she'd previously created.

"You had some sort of relationship?" State Attorney's Office Detective Robert Flechaus asked Ross in a Sept. 12 interview.

"Yes," Ross said in audio supplied to *The Post*.

It was in late 2010, Ross said.

"He started with the flirting," she said. "I said, 'Oh, c'mon. This is not right.' He's a first cousin. 'This is not right. You've got to stop.'"



Ross said she ended her relationship a few months later. But in the meantime, she had sent Rogelio Vera the pictures.

She said he later warned her that his estranged wife, Lillian, might be getting into his computer, and she thought, "Oh, my God. What if she sees these pictures now?"

Ross already was starting to campaign for her March 2011 reelection vote.

"She (Lillian Vera) calls me. And she's, 'Oh, I can't believe you. I never thought you'd do this.' I said, 'Lillian. Let this go.'"

Later, she said, Lillian Vera sent her text messages, "mean, vicious stuff," and told her she was going to distribute the photos.

Lillian Vera would tell prosecutors this summer that her estranged husband had shown her the images once and she didn't have copies. Neither Lillian Vera nor her divorce attorneys would comment for this story; Rogelio Vera couldn't be reached.

After her confrontations with Lillian Vera, Ross told prosecutors she recalled saying, "These photos are going to get out. Wow. OK. Nothing I can do. Let's just hope for the best. Let's ride it out and do it.' And we rode it out."

The pictures never surfaced and Ross won re-election in March — by seven votes.

But, she said, she worried whether the photos had been seen by David Katz.

Years earlier, she said, Katz had unnerved her.

During her initial campaign in 2007, Ross wrote, she had mentioned to Katz that she was having "quarrels" with her "beau" and Katz had told her, "if I wanted my problems with Vince to stop that he knew someone who would take care of it. I told him that I wouldn't ever want anyone to hurt Vince."

And, she said, "this was the beginning for me of nearly five years on and off of many more moments of fear and intimidation at the hands of David Katz."

Among them: She said she believes Katz tipped off authorities and the media that Ross had declared a homestead exemption not on her Boynton Beach home but on one in Lantana. Ross said the error was an oversight that cost her \$14,000 and public embarrassment.

Ross said during the next few years, "to Katz's dismay," she cast several votes that didn't go Katz's way.

In July 2011, the city began investigating whether Katz improperly lobbied commissioners. Ross wrote that Katz provided her a "canned letter" saying he hadn't lobbied her and "aggressively told me to sign it. I signed it only because I wanted him to leave me alone. However, the fact is that he did lobby me."

About that time, Ross said, she began to suspect Katz knew about the photos.

"I hoped that I was wrong but my gut and a sick feeling in my stomach told me I could have a problem on my hands," Ross wrote.

Ross also said she agreed in April 2011 to appoint Katz to the city's charter review committee. She said she had "a sick feeling because he was pressuring me to vote to appoint him" and "feeling guilty" because Katz had submitted her admittedly untruthful letter saying he hadn't lobbied her. The city eventually fined Katz \$750 after then-Mayor Rodriguez said Katz had in fact lobbied him. He's refused to pay.

Ross said Katz then expressed interest in serving on the city's financial advisory committee and in January, she again voted for him, feeling "scared once again of what would happen if I did not do what he obviously wanted me to do."

On Aug. 12, Ross said, she agreed to meet Katz at dinner. "I felt scared that he would be angry if I didn't agree."

Days earlier, the commission had failed by a 2-2 vote to name former Mayor Taylor to finish the term of Commissioner Bill Orlove, who'd resigned in July. Ross and Commissioner Steven Holzman were the opposing votes.

At dinner, she said, Katz "sat across from me and said, 'Why will you not vote for Jerry? I don't understand it.' Very menacing."

And, she said, "his body language scared me. I'm like, 'I'm so glad I'm in a public place,' because if he had got me alone, I really thought he could hurt me physically."

At the commission's Aug. 21 meeting, Ross and Holzman voted against appointing Katz to the city's Planning and Development Board and the vote failed 2-2.

That night, and again on Sept. 4, Ross and Holzman again opposed naming Taylor to the commission seat, and the effort again failed 2-2.

Earlier in the Sept. 4 meeting, during public comment, Katz said several government agencies were following leads about "transmittal of messages and pictures between elected officials and convicted felons." Rogelio Vera served time in federal prison for possession with intent to distribute cocaine.

Then, Katz said, "Whatever consequences they're concerned with if they vote in favor of his appointment, they will pale into insignificance as to the ones that would come otherwise."

Ross said she interpreted the comment to mean that she could pay dearly for not supporting Taylor.

In her statement, Ross wrote, "At that point, I knew for sure that DK" — David Katz — "really does know about the private photos!"

And, she said, "I have been feeling physically and emotionally sick since I had to hear Katz speak those words. I have anxiety and I have been losing a lot of sleep. Sometimes the harassment by Katz is all I can think of."

In the interview, investigator Michelle Romagnoli told Ross, "I'm assuming, then, that you put up with this because you fear that he will, you know, look into every little bit and piece of your life, your personal life, and expose you to some kind of ridicule or whatever, and that's why you continue to put up with his persistence." Ross answered, "yes, yes."

But, investigator Robert Flechaus asked, "so basically, again, up to this point, nobody's extorting anybody. Just a bunch of phone calls." Ross: "a lot of phone calls, yes."

And, "the photos haven't been brought out," Flechaus said. "What else does he have, or what are you concerned about, where he can continue to harass you, influence you, or push you into a corner to get you to do things for him?"

Ross, who's out by term limits in 2014, said, "I'm somebody who can have a political future beyond this. And I've already been tainted."

---

## THE PLAYERS

**MARLENE ROSS, 45:** Boynton Beach Commissioner since 2007. Reelected 2011. Term expires 2014. Director of community affairs for WXEL public broadcasting stations since 1999; resigned Sept. 20 to work for Miami public radio station WLRN-FM 91.3. Single, no children. Born Marlene Figueroa in Santa Clara, Cuba. Bachelor's and master's from Florida Atlantic University.

**DAVID KATZ, 61:** Lobbyist and former city commissioner (1993-1995.) In 2007, then-commissioner Ron Weiland was accused of pressuring developers to hire Katz as a lobbyist. An FBI agent told FDLE counterparts "he sees no immediate grounds for a investigation." In 2008, Katz was then accused of taking money from two towing firms competing for city business.

**LISA BRIGHT, 42.** Named executive director of Community Redevelopment Agency in 2005. CRA board voted in September 2010 not to renew her contract. In March 2011, Bright sued the city, alleging Mayor José Rodríguez forced her out for rejecting his advances and so he could retain control of the CRA and block creation of an independent board.

**ROGELIO VERA, 48.** The former high school friend of Rodríguez served time in federal prison on drug charges. State records show some 20 arrests dating to 1983, on charges ranging from larceny to drug possession.

**LILLIAN VERA, 44.** Married Rogelio Vera in February 1998. She filed for divorce in 2011.

**DAVID FLOERING, 51.** The auto body and tow truck firm owner took Rodríguez to the Palm Beach County Commission on Ethics in 2011 — without success — and has broadcast such damning allegations about him that Rodríguez sued him for defamation. Rodríguez later dropped the suit.

*SOURCES:* Palm Beach Post archives, federal and Palm Beach County court records, city of Boynton Beach.

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*The Palm Beach Post*, pursuing a tip, was first to obtain, through a public records request, prosecutors' documents investigating accusations of blackmail in Boynton Beach.

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The Palm Beach Post

PALM BEACH POST

WEDNESDAY

OCT. 3, 2012

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Updated: 8:08 p.m. Tuesday, Oct. 2, 2012 | Posted: 3:18 p.m. Tuesday, Oct. 2, 2012

## Defiant Boynton Beach Commissioner Marlene Ross refuses mayor's call to resign amid nude photos report

### Related

By Eliot Kleinberg

Palm Beach Post Staff Writer

**BOYNTON BEACH** — A defiant Marlene Ross refused to resign her city commission seat at Tuesday night's meeting, hours after Mayor Woodrow Hay called for her to step down following Tuesday's *Palm Beach Post* story detailing that Ross sent naked pictures of herself to a lover, eventually prompting a criminal investigation into whether a lobbyist used the photos to blackmail her.

"Mr. Hay, your request is so out of line that you should be the one to resign," Ross said, her voice rising, at the start of the meeting.

Repeating key points of a statement she provided the *Post* last week, Ross said her alleged harassment stemmed directly from her votes against appointing former Mayor Jerry Taylor to fill out a seat vacated when a commissioner resigned in July.

"As I go through this challenge, the support has been overwhelming and I am very grateful," Ross said. Then, turning to Hay, she said, "it is mind boggling to me that this man is a minister."

She described "rumblings around town" that Hay "is Mr. Taylor's puppet up here on the dais."

And, she told Hay, "You said yourself it (the city) is on the brink of a disaster. Do us all a favor and why don't you resign?"

Hay did not respond.

Ross, a commissioner for five years, told prosecutors last month that she felt lobbyist and former Commissioner David Katz had pressured her for years, trying to sway her votes on many key issues. She even admitted she lied last year when she signed a letter saying he'd never lobbied her.

But recently, Ross told investigators, she became convinced Katz knew of the photos she had sent to her cousin and grew fearful he'd use them to destroy her political career, after he mentioned them at a Sept. 4 city commission meeting.



Prosecutors concluded that "none of the scenarios described by Ms. Ross involved behavior that could be considered criminal extortion," Daniel Funk, assistant Palm Beach County state attorney and part of the department's public integrity unit, wrote in a memo dated Thursday.

However, a summary says, prosecutors worried about the potential for "Katz or others" to use the photos "to extort Ross in a future commission vote."

Ross eventually quit cooperating, and the case was closed Thursday.

"When you look up the word 'Pinocchio' in the dictionary, you're going to see a picture of (Ross)," Katz told the commission during Tuesday's public comments period.

Of the Palm Beach County State Attorney's investigation, Katz said, "I was never called, contacted or asked to talk to them because there was nothing to what she said."

Taylor also spoke. He described "how proud I am of the friendship my wife and I have with the mayor and his wife." And, he said, "I commend you on the outstanding leadership you're doing as mayor."

Taylor also said after the meeting he'd pulled the papers to run again for mayor in March and had set up a campaign bank account.

"I hope to bring some unity to the commission and some respect for the city managers," Taylor said.

Vice Mayor Mack McCray had said at the meeting's opening prayer, "We recognize that we're all human and we've all sinned," and added, "we pray for Commissioner Ross tonight. Take hold of her, Lord. We are our brothers' and sisters' keepers."

Former community relations board member Ron Washam told the commission, "What I've seen tonight is not city government. It is city squabbling. We need to forgive each other for our shortcomings. We need to get back on track. We need to bring civility back to government in our own backyard."

Earlier, Hay had read aloud a statement he'd distributed to the press earlier in the day. It read:

"For more than a year, city leaders and staff have worked tirelessly on a branding initiative to improve the city's image.

"During this period of time, we have continually been faced with challenges that have marred our efforts. With that being said, we will now work even harder to spread our message that Boynton Beach is a great city in which to live, work and play.

"Today's news article once again scars our city. This is unfair to our residents and all of us who continue to work so hard to make this a better community. As elected officials, we are held to an even higher standard of behavior, and when standards are compromised, we must question the ability of the individual to be effective as a leader.

"Our city deserves better. I would hope that any elected official would do the right thing for this great city and its citizens."

## More News

### We Recommend

- Boynton Beach Commissioner Ross leaves WXEL, takes job in Miami (PalmBeachPost.com)
- Authorities release names of injured; \$1 million bail for man blamed for fatal crash on Military Trail (PalmBeachPost.com)
- Mafia icon moves into \$400K Boca Raton home (PalmBeachPost.com)
- 6-month-old girl dies after being left in car (PalmBeachPost.com)
- Off-duty deputy fatally shoots intruder (PalmBeachPost.com)
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### From Around the Web

- The Fed "Look Like Fools Again," Says Jim Rogers (Money Morning)
- What is Penelope Kardashian Thinking In This Photo? (nickmom)
- 102-Year-Old Woman Still Drives Her 82-Year-Old Car (AOL Autos)
- Time, CNN Suspend Columnist Zakaria (Wall Street Journal - Business)
- Why is Economy Not Hurting Obama in Polls? | Fox Business Video (Fox Business)
- Israeli military moves major operations to south (Mesh Nation)

[?]

PALM BEACH COUNTY COMMISSION ON ETHICS

## MEMORANDUM OF LEGAL SUFFICIENCY

To: Palm Beach County Commission on Ethics  
From: Alan S. Johnson, Executive Director  
Re: C12-013– Respondent, Marlene Ross-City of Boynton Beach Commissioner

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- **Recommendation**

Regarding the Complaint against Respondent, Respondent, Marlene Ross-City of Boynton Beach Commissioner, COE staff recommends a finding of **LEGAL SUFFICIENCY** be entered in complaint number C12-013.

*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.*

*Legal sufficiency exists where there is an allegation 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 upon facts which have been sworn to by a material witness or witnesses, and if true would constitute the offenses alleged, relating to a 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' staff via a sworn complaint signed on October 4, 2012 by Terry Aperavich (Complainant), a resident of the City of Boynton Beach (the City). Attached to the sworn complaint form were a letter (Complainant's Statement) and two newspaper articles from the Palm Beach Post dated October 2, 2012 and October 3, 2012.

The Complaint alleges that Marlene Ross (Respondent), Commissioner for the City of Boynton Beach, misused her official position to corruptly secure a special benefit for David Katz (Lobbyist) by signing a letter which stated that she had not been lobbied by Katz, then later admitting that her statement was false, in violation of Section 2-443(b) *Corrupt misuse of official position* of the Palm Beach County Code of Ethics (the Code). The complaint also alleges that the Respondent voted to appoint Katz to the Financial Advisory Committee because she believed that he would expose to the public copies of compromising photographs she sent to Rogelio Vera.

- **Analysis**

As a City of Boynton Beach Commissioner, Respondent is subject to the provisions of the Palm Beach County Code of Ethics (the Code), as of October 19, 2010 by memorandum of agreement, and the revised Code as of June 1, 2011, when all municipalities 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(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)

The Complainant based her allegations on newspaper articles. Therefore, the basis of her complaint is not substantially within her personal knowledge. However, pursuant to Article V, Division 8, §2-260(2) and COE Rules of Procedure 4.1.1 -4.1.3, in determining whether or not legal sufficiency exists to support a self-initiated complaint, the COE may undertake a preliminary inquiry into the facts and circumstances surrounding a possible violation of the Code. Inquiry was made by COE Investigator James A. Poag. Sworn testimony was obtained from City Manager, Laurie LaVerriere. In addition, statements and admissions were made by the Respondent under oath to investigators from the Public Integrity Unit of the Office of the State Attorney (PIU). According to both the City Manager and Respondent, Respondent submitted false information to the City Manager involving lobbying activities of Mr. David Katz. Respondent's actions regarding her board appointment of Mr. Katz were recorded at the January 3, 2012 City Commission meeting. Respondent admitted to the PIU investigator under oath to nominating Mr. Katz as a member of the City Financial Advisory Committee because she was afraid that he would publish compromising pictures that would negatively affect her political career and cause her public embarrassment. These facts, if true, would constitute a violation of the Palm Beach County Code of Ethics.

- **Conclusion**

Although the information provided by the Complainant is not sufficiently within her personal knowledge, the sworn testimony of material witnesses as well as documentary evidence obtained during Inquiry does allege sufficient facts that if true would constitute a violation of the Palm Beach County Code of Ethics. Therefore, there is **LEGAL SUFFICIENCY** to open a formal investigation into this matter.

BY:



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

11/15/2012  
Date



PALM BEACH COUNTY COMMISSION ON ETHICS  
**MEMORANDUM OF INQUIRY**

To: Alan Johnson, Executive Director  
From: James A. Poag, Investigator  
Re: C12-013– Respondent, Marlene Ross–City of Boynton Beach Commissioner

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All employees and officials of the City are under the jurisdiction of the Palm Beach County Commission on Ethics and Code of Ethics (the Code) by Memorandum of Agreement as of October 19, 2010, and the revised Codes as of June 1, 2011, when all Palm Beach County municipalities came under the jurisdiction of the COE.

- **Inquiry**

On October 16, 2012, the Complaint was assigned to this investigator for follow-up action. I reviewed the Complainant's statement and all documentation submitted to file including a copy of Palm Beach County State Attorney Office Investigation (2012PI000098A99) conducted by the Public Integrity Unit in August 2012 and closed on September 27, 2012. My initial review of (2012PI000098A99) revealed that the Respondent submitted a document entitled "Extortion of Boynton Beach Commissioner Marlene Ross: Understanding the History" to the Public Integrity Unit (PIU) during their investigation.

The document submitted by the Respondent to the PIU, contained the following statement:

*"July 2011: When the Interim City Manager/ICM investigated David Katz for lobbying without being registered (violation of city's lobbying ordinance). Katz approached me and handed me a canned letter which he had written that stated that he had never lobbied (see attached copy of letter. David Katz aggressively said to me to sign it. **I signed it only because I wanted him to leave me alone. However, the fact is that he did lobby me.**"*

It should be noted that a copy of the letter referenced in the Respondent's statement has been submitted to file. As a result of the ICM investigation Katz was fined \$750 for violating Boynton Beach Code of Ordinances: Article XVII: Registration of Lobbyist (City's lobbying ordinance). These violations did not include lobbying Respondent.

After reviewing the documents submitted to file, I determined that I needed to conduct an interview with Ms. Laurie LaVerriere, Interim City Manager for the City of Boynton Beach. On October 23, 2012, I made contact with LaVerriere and set an appointment to interview her on October 24, 2012, at 3:30 PM.

- **Sworn Statement: Laurie LaVerriere, Interim City Manager for the City of Boynton Beach**

On October 24, 2012, I went to the City municipal offices located at 100 E. Boynton Beach Blvd., Boynton Beach, FL. 33425, to interview Laurie LaVerriere, Interim City Manager for the City of Boynton Beach and to obtain relevant documents from City records. The interview was recorded and LaVerriere was placed under oath. No other persons were present during this interview.

I asked LaVerriere how the City investigation was initiated regarding allegations that Katz violated the City lobbying ordinance. LaVerriere stated that in the summer of 2011, former Mayor Jose Rodriguez brought to her attention some allegations contained in a police investigation that Katz had been involved in lobbying activities regarding the City's towing contract which may have violated the City's lobbying ordinance. According to LaVerriere the City has an ordinance which states, "If the City Manager is informed of person engaged in lobbying activities who failed to comply with the requirements of this article, citing the ordinance, he or she shall conduct an investigation as deemed necessary under the circumstances." She stated that she did initiate an investigation into the allegations against Katz under the City ordinance.

LaVerriere read this direct quote from a letter dated August 30, 2012, that she sent to Commissioner Ross:

"In July 2011 I obtained a copy of the Boynton Beach Police Department Incident Report #9038474 contained factual allegations that, if proven to be true, would support a conclusion that Mr. Katz was a "lobbyist" engaged in "lobbying" activity.

According to LaVerriere, she sent a copy of the letter to all five City Commissioners and former Mayor Rodriguez, notifying them of the investigation and asked for each of them to respond in writing whether or not they had been lobbied by Katz. In addition, she sent a letter to Katz, dated July 26, 2011, informing him that she was conducting an investigation and requesting him to provide her with a written response to the allegations against him (letter submitted to file). LaVerriere stated that initially Katz refused to submit a written response, however, he delivered letters to her office from individual commissioners stating he did not lobby them. I asked LaVerriere if one of the letters dropped off by Katz was from the Respondent. She replied "yes," however she could not recall at the time if the letter was signed, and she had no knowledge as to whether the letter was actually written by Respondent. A review of the documents obtained from the City revealed that the letter submitted to LaVerriere by Katz dated July 7, 2012, was signed.

I then asked if she had received a written response to the August 30, 2012 letter directly from Respondent. LaVerriere stated that Respondent did respond via e-mail, indicating that she had never been lobbied by Katz (copy of e-mail submitted to file). I then asked if the information received from the Respondent impeded her investigation in any way. According LaVerriere, while Katz would have been found in violation of the City's lobbying ordinance (he was subsequently fined \$750.00), he very possibly would have received additional fines for lobbying Respondent because there is a \$250 penalty per incident.

I asked LaVerriere if Respondent appointed Katz to the Financial Advisory Committee (FAC). According to LaVerriere, the City has a rotating schedule for advisory board seat appointments that allows each Commissioner an opportunity to make a seat appointment to a particular advisory board. LaVerriere stated that there was a vacant seat on the FAC and it was the Respondent's turn to appoint someone. She appointed Katz. LaVerriere further stated that this appointment by the Respondent is the appointment that was referenced in the material provided by the Respondent to the State Attorney Public Integrity Unit in which she claimed she felt pressured.

End of Interview.

A review of the minutes from the January 3, 2012 Boynton Beach City Commission Meeting revealed that during the discussion regarding appointments to the FAC, Janet Prainito, City Clerk, advised the Commission that it was the Respondent's turn to make the regular appointment to the Financial Advisory Committee. However, Prainito

also advised the Commission that it was not the normal procedure to appoint an advisory board member whose application had been received after publishing the Commission Meeting Agenda. Katz's application was received after the publication. Respondent indicated that there was some urgency in filling the vacant position, therefore she felt that the appointments should be made on that day and not postponed. According to the minutes, former Mayor Rodriguez expressed concern about the protocol for advisory appointments. Following additional discussion between Rodriguez and Respondent, James Cherof, the City Attorney, stated that the Commission sets the protocol for advisory board appointments and even though the appointments rotate, they are not considered individual Commissioner appointments. Respondent moved to appoint Katz as a regular member to the FAC. This motion was seconded by Commissioner Woodrow Hay, and the motion passed unanimously.

- **Documents Submitted to File**

1. Complainant's Statement
2. Palm Beach Post article dated October 2, 2012
3. Palm Beach Post article dated October 3, 2012
4. Palm Beach County State Attorney investigation (2012PI000098A99)
5. Boynton Beach, FL Code of Ordinances: Article XVII: Registration of Lobbyist
6. Letter from LaVerriere to Katz dated July 26, 2012
7. Letter from LaVerriere to Respondent dated August 30, 2012
8. E-mail from Respondent to LaVerriere dated September 3, 2012
9. Letter signed by the Respondent dated July 7, 2012 (submitted to LaVerriere by Katz)
10. Letter from LaVerriere to Katz dated October 4, 2012
11. January 3, 2012 Boynton Beach City Commission Meeting Minutes

- **Applicable Law**

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

**Sec. 2-254. Creation and jurisdiction** states as follows:

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...

**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.... *The term "official" shall mean* members of the board of county commissioners, a mayor, *members of local municipal governing bodies*, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity. (Emphasis added)

**Sec. 2-443. Prohibited conduct.**

(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.



- **Analysis**

Based on interviews conducted under oath with persons having material information in this matter, as well as all other documentary information uncovered during this inquiry, staff finds the following:

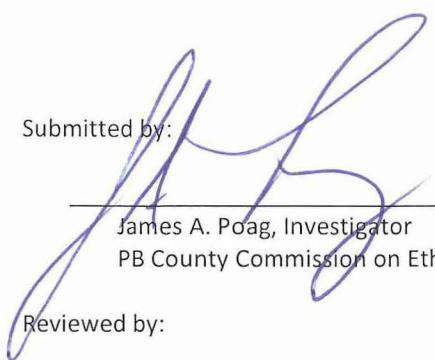
- **Allegation #1**

1. In July 2011, Laurie LaVerriere, Interim City Manager for the City of Boynton Beach initiated an investigation into allegations that David Katz violated Boynton Beach Code of Ordinances: Article XVII: Registration of Lobbyists, regarding matters related to the City's towing contract.
2. On August 30, 2011, as part of her investigation, LaVerriere sent City Commissioner Marlene Ross a letter requesting Commissioner Ross confirm in writing whether or not she had been lobbied by Katz regarding the City's towing contract.
3. On September 3, 2011, Commissioner Ross sent LaVerriere an e-mail response which stated "I can confirm that regarding the towing David Katz did not lobby me in my position as a commissioner". Additionally, Katz delivered a letter to LaVerriere, signed by Respondent, also asserting that Katz did not lobby her.
4. On October 4, 2011, LaVerriere sent Katz a letter informing him that her investigation had determined that he did violate Section 2-232 (a) of the Boynton Beach Code of Ordinances: Article XVII: Registration of Lobbyist for failing to properly register as lobbyist. Katz was fined \$250 a day for each day he engaged in lobbying activities. LaVerrieres' investigation found that Katz engaged in lobbying activities on three separate occasions. He was fined a total of \$750.
5. In August 2012, the Palm Beach County State Attorney Public Integrity Unit initiated an investigation (2012PI000098A99) into allegations that Commissioner Ross was being extorted by Katz. During the investigation Commissioner Ross admitted that she was not truthful and forthcoming in her response to LaVerriere when asked if Katz had lobbied her regarding the City's towing contract. The letter the Respondent admitted to having signed was submitted to LaVerriere by Katz.
6. The reason Respondent gave for not being truthful and submitting a false response was her fear that Katz was in possession or had knowledge of compromising pictures and that he would publish or otherwise use the pictures to embarrass or negatively impact her reputation and status in the community.

- **Allegation #2**

1. On January 3, 2012 the City of Boynton Beach City Commission met and discussed appointments to the Financial Advisory Committee (FAC). Interviews and documentary evidence revealed the City Commission appoints advisory board members on a rotating basis, however, the appointments are not usually made the same night that the applicant submits their board membership application.
2. Respondent was the next Commissioner in the rotation to nominate a candidate to serve on the FAC. Meeting discussion revealed that the Respondent communicated a sense of urgency to fill her board appointed vacancy the night of the meeting. The Respondent nominated David Katz, seconded by Commissioner Hay and adopted by the board unanimously.
3. According to the statement provided by the Respondent to the Public Integrity Unity, she appointed Katz to the FAC because she felt "scared once again of what would happen if I did not do what he obviously wanted me to do", referring to the compromising pictures that she believed were in Katz' possession.

Submitted by:

  
\_\_\_\_\_  
James A. Poag, Investigator  
PB County Commission on Ethics

Reviewed by:

\_\_\_\_\_  
(Initials)

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## 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: Alan S. Johnson, Executive Director, Commission on Ethics

Address: 2633 Vista Parkway

City: West Palm Beach

Zip: 33411

Telephone #: 561-233-0724

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

Name: Commissioner Marlene Ross

Address: Law Office of Scott N. Richardson P.A. 1401 Forum Way Ste. 720

City: West Palm Beach

Zip: 33401

Home #: \_\_\_\_\_ Work #: 561-471-9600

Cell #: \_\_\_\_\_

Title/Office Held or Sought: Lobbyist

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

Allegation is against person in

☒ Government

Allegation is about County:

☐ Whistleblower Retaliation

**4. STATEMENT OF FACTS AND SUPPORTING DOCUMENTATION ATTACHED**

**5. OATH and NOTARY**

STATE OF FLORIDA

COUNTY OF PALM BEACH

Personally known to me and appeared before me, Alan S. Johnson whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith. Signed and sworn to on this 19th day of November, 2012.



MARK E. BANNON  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE159006  
Expires 1/11/2016

Alan S. Johnson

(Signature of Notary Public, State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)



PALM BEACH COUNTY COMMISSION ON ETHICS

## MEMORANDUM OF INVESTIGATION

To: Alan Johnson, Executive Director  
From: James A. Poag, Investigator  
Re: C12-013– Respondent, Marlene Ross–City of Boynton Beach Commissioner

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- **Background**

This matter came to the attention of the Commission on Ethics' staff via a sworn complaint signed on October 4, 2012 by Terry Aperavich (Complainant), a resident of the City of Boynton Beach (the City). Attached to the sworn complaint form were a letter (Complainant's Statement) and two newspaper articles from the Palm Beach Post dated October 2, 2012 and October 3, 2012. The Memorandum of Inquiry as filed under case number C12-013 is incorporated by reference. Witness statements and other evidence obtained during the initial inquiry are also incorporated by reference into this Memorandum of Investigation.

- **Investigation**

On October 31, 2012, I went to Boynton Beach City Hall located at 100 E Boynton Blvd., Boynton Beach, FL., in order to obtain additional documents. During my visit to City Hall, Laurie LaVerriere, City Manager, informed me that during her investigation regarding allegations that David Katz violated the City's lobbying ordinance, he submitted to her signed letters from three other City officials besides the Respondent which stated they had never been lobbied by Katz regarding the City's towing contract. All three letters submitted to file are listed below:

1. Letter dated July 25, 2011, signed by Woodrow L. Hay.
2. Letter dated September 29, 2009, signed by Ronald R. Weiland.
3. Letter dated October 12, 2009, signed by Jerry Taylor.

On November 6, 2012, I contacted Katz by telephone and arranged to meet with him to take a sworn statement. I also contacted the Respondent and scheduled an appointment to meet with her on November 7, 2012 at the Commission on Ethics Offices at 8:30 am. Following my initial call to the Respondent, she called back to inform me that she would be represented by counsel. I asked her if she would have her attorney contact me and provide me with a letter of representation. Later that day, I received a call from the Respondent's attorney's office. I informed the individual on the phone that I could not discuss any matters concerning the Respondent without a notice of representation.

On November 7, 2012, the Respondent failed to show for her scheduled appointment. I did not receive a call from the Respondent, nor did I receive a call from her attorney or a letter of representation.

- **Sworn Statement: David Katz, Lobbyist/former Commissioner of the City of Boynton Beach**

On October 24, 2012, I went to a Starbuck's Café located at 514 Lake Avenue, Lake Worth, FL. 33460, to interview David Katz, Lobbyist/former Commissioner for the City of Boynton Beach. The interview was recorded and Katz was placed under oath. According to Katz, he worked on both of the Respondent's political campaigns and in the past and that he and the Respondent were considered friends.

I asked Katz what knowledge he had regarding inappropriate or compromising pictures of the Respondent sent to Vera. Katz stated that the only knowledge he had of any such pictures came from reading the newspaper and case notes from the State Attorney's office investigation. The investigation Katz was referring to is Palm Beach County State Attorney Office Investigation (2012PI000098A99) conducted by the Public Integrity Unit in August 2012 and closed on September 27, 2012.

I reminded Katz of his comments made during a September 4, 2012, City Boynton Beach Commission meeting in which he referenced pictures and inappropriate text messages. He explained that the pictures that he was referencing during the meeting were the same as those in question during (2012PI000098A99), however he had only heard of these pictures. According to Katz, he made reference to "her possibly texting pictures to a convicted felon." A review of the minutes from the September 4, 2012, City Commission meeting revealed Katz stated during the public comment section that "there are governmental as well as independent investigations into the transmittal of messages and pictures between elected officials and convicted felons". At no point in his statement, did Katz mention the Respondent by name. I asked Katz if he was ever in possession of any of the pictures that were sent to Rogelio. He replied, "No." I then asked if he ever had a conversation with the Respondent regarding the pictures sent to Rogelio, and he again replied, "No".

I asked Katz if he had ever seen the letter contained in the file dated July 7, 2011, signed by the Respondent, which stated that he had never lobbied her concerning towing issues. He replied, "Yes", and explained in 2010, he was accused of violating the City of Boynton Beach lobbying ordinance. He was subsequently investigated by LaVerriere and asked to submit a written response to the allegations. According to Katz, he refused to provide a written statement, instead he submitted (4) letters from two current and two former commissioners which stated he never lobbied them. I asked Katz, if he or the commissioners themselves drafted these letters. He stated that he was asked by both the Respondent and Woodrow L. Hay to draft the letters and then they would each sign.

I then asked Katz to explain the content of the conversation he had with the Respondent concerning the letter. He stated, he asked her "did I lobby you on towing issues" and she said "no." According to Katz, he then asked the Respondent if she would sign a letter stating that he never lobbied her regarding towing issues. He said that the Respondent agreed, however, she asked that he draft the letter because she was too busy. I asked Katz, during his conversation with the Respondent, did he ever threaten her, or mention that he knew or had in his possession copies of the pictures sent to Rogelio. He replied, "No," and explained that during City Manager LaVerriere's investigation the Respondent was asked whether the information contained in the letter he submitted was true. Respondent verified via email that she had never been lobbied by Katz. Katz claimed the Respondent also provided him with a copy. I asked Katz, why the Respondent would claim that she was forced by him to sign the letter. He replied, "For some reason she decided I forced her in doing this. I did not force her into doing anything. She had this opportunity to say no (pointing to the letter), she had a second opportunity to tell Laurie (LaVerriere) it's not the case and she didn't do that. This is the truth. What she signed is the truth. She wants make it like I did something wrong because of the pictures or whatever, that's her business." According to Katz, the only person that he knows who saw the pictures is Lillian Rivera (Rogelio's wife), based on the information he obtained from the State Attorney's notes.

I then asked Katz about his appointment to the Financial Advisory Committee (FAC). According to Katz, a vacancy became available and he felt that he could help the City with some of their "budgetary woes", so he called the Respondent and told her he would like to be appointed to the vacant seat. He said the Respondent was all for the idea because her former opponent in the 2011 election, Don Scantlan, was the FAC Chairman and she knew that he would be upset if Katz was appointed.

I asked Katz when the conversation with the Respondent regarding the FAC appointment took place. He stated that the conversation took place once the Charter Review Committee was sunsetted and he found out that there was a vacancy. I then asked if he submitted a formal application to the board and if so, when was it submitted. He stated that he did submit an application; however, he did not remember the date. A review of City documents revealed, Katz submitted his application for appointment to the FAC on January 3, 2012, the same day the City Commission met and the Respondent made the appointment.

It should be noted that a review of the minutes from the January 3, 2012 Boynton Beach City Commission Meeting revealed that during the discussion regarding appointments to the FAC, Janet Prainito, City Clerk, advised the Commission that it was the Respondent's turn to make the regular appointment to the Financial Advisory

Committee. However, Prainito also advised the Commission that it was not the normal procedure to appoint an advisory board member whose application had been received after publishing the Commission Meeting Agenda.

I then asked Katz, during his conversation with the Respondent concerning his appointment to the FAC, if he ever threatened her, or mention that he knew or had in his possession copies of the pictures sent to Rogelio. He replied, "No." I then asked him, why the Respondent would believe that he was in possession of the pictures that were sent to Rogelio. He replied, "I don't know, you would have to ask her that."

End of Interview

Following my interview with Katz, I returned to Boynton Beach City Hall in order to obtain a copy of City of Boynton Beach Financial Advisory Committee Appointment Application for David Katz. A review of the application revealed that it was submitted on January 3, 2012, the same day the City Commission met and the Respondent appointed Katz to FAC.

- **Additional Documents Submitted to File**

1. September 4, 2012 Boynton Beach City Commission Meeting Minutes
2. City of Boynton Beach Financial Advisory Committee Appointment Application for David Katz date January 3, 2012

- **Applicable Law**

**The following portions of the PBC Code of Ethics ordinance are relevant to this Inquiry:**

**Sec. 2-254. Creation and jurisdiction** states as follows:

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...

**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.... *The term "official" shall mean* members of the board of county commissioners, a mayor, *members of local municipal governing bodies*, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity. (Emphasis added)

**Sec. 2-443. Prohibited conduct.**

(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.

Witness statements and documentary evidence indicate that Respondent signed a false letter dated July 7, 2011, pertaining to the lobbying activities of Katz. On September 3, 2011, the Respondent also sent a confirmation e-mail message to Laurie LaVerriere, Interim City Manager which stated "I can confirm that regarding the towing



David Katz did not lobby me in my position as a commissioner.” A review of the Palm Beach County State Attorney Public Integrity Unit investigation (2012PI000098A99) revealed that the Respondent admitted that she was not truthful and forthcoming in her response to LaVerriere when asked if Katz had lobbied her regarding the City’s towing contract. The reason provided by the Respondent for submitting a false statement was because she was afraid that Katz would do something to negatively affect or ruin her political career.

Further investigation revealed, on October 4, 2011, LaVerriere notified Katz that her investigation determined that he did violate the Boynton Beach lobbying ordinance and he was subsequently fined a total of \$750. Witness testimony revealed the Respondent’s statement did not impede the overall investigation, however, had she been truthful and forthcoming in her e-mail, Katz very possibly would have received additional fines for lobbying the Respondent because there is a \$250 penalty per incident.

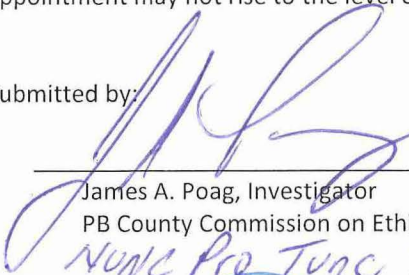
Katz, in a sworn statement, denied that he ever threatened, intimidated, or made any indication to the Respondent that he had knowledge of, or was in possession of, any pictures or other information that would jeopardize the Respondent’s political career. Witness statement and documentary evidence showed that the only inference made regarding inappropriate pictures on behalf of Katz was made during a September 4, 2012, City of Boynton Beach Commission meeting, over a year after the investigation into allegations that he violated the City’s lobbying ordinance.

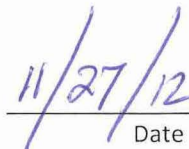
Section 2-443(b) *Corrupt misuse of official position* of the Code prohibits an official or employee of the county from using his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. There are two separate actions on behalf of the Respondent which, if true, may violate Sec. 2-443 (b) of the Code.

In her statement to the State Attorney investigators, Respondent admitted to filing false statements pertaining to the City investigation into Katz. By signing the letter drafted by Katz dated July 7, 2011, and submitting a subsequent false email statement to LaVerriere, the Respondent executed a false statement to be used in an official investigation. The purpose of these false statements was to avoid negative effects that might result from the publication of purportedly inappropriate photographs. In addition, by submitting these false statements, Respondent also benefited Katz by reducing his exposure to lobbying violations.

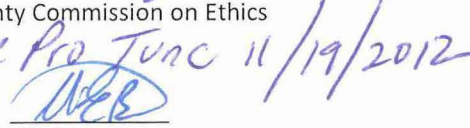
The Complainant also alleged that Respondent corruptly misused her official position in appointing Katz to the Financial Advisory Committee. A review of the minutes from the January 3, 2012 City of Boynton Beach City Commission meeting revealed that the Respondent appointed Katz to the FAC. According to interviews and documentary evidence, the City Commission appoints advisory board members on a rotating basis, in that each Commissioner takes a turn in appointing members to vacancies on City advisory boards. However, the appointments are not usually made the same night that the applicant submits their board membership application. A review of the Financial Advisory Committee Appointment Application for Katz showed that it was submitted on January 3, 2012, the same day that he was appointed to the board. However, the mere timeliness of such an appointment may not rise to the level of a corrupt use of official position.

Submitted by:

  
James A. Poag, Investigator  
PB County Commission on Ethics

  
Date

Reviewed by:

  
(Initials)

  
Date

PALM BEACH COUNTY COMMISSION ON ETHICS

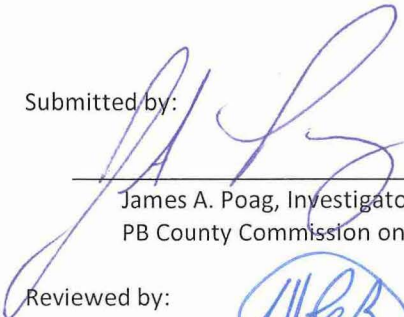
SUPPLEMENTAL MEMORANDUM OF INVESTIGATION

To: Alan Johnson, Executive Director  
From: James A. Poag, Investigator  
Re: C12-013– Respondent, Marlene Ross-City of Boynton Beach

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At the request of the Respondent's representative, it should be noted that the Commission on Ethics received a Notice of Appearance from the offices of Scott N. Richardson, P.A. on November 9, 2012.

Submitted by:

  
James A. Poag, Investigator  
PB County Commission on Ethics

  
Date

Reviewed by:

  
(Initials)

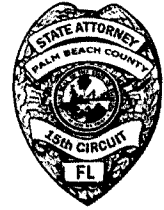
  
Date



## OFFICE OF THE STATE ATTORNEY

FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY

**PETER ANTONACCI**  
STATE ATTORNEY



September 27, 2012

### Memorandum

**To:** Peter Antonacci, State Attorney  
Paul Zacks, Chief Assistant State Attorney  
**From:** Daniel E. Funk, Assistant State Attorney, Public Integrity Unit  
**Date:** 9/27/12  
**RE:** Marlene Ross - Boynton City Commissioner

\*\*\*\*\*

During August of 2012, the Public Integrity Unit received information alleging Boynton Beach City Commissioner Marlene Ross was being extorted. An investigation was conducted by Det. Robert Flechaus of the Public Integrity Unit. The details of that investigation are summarized in the attached Inter-Office Memorandum. Interviews were conducted of potential witnesses. During her first scheduled interview, Marlene Ross said that she felt pressured by particular individuals into making decisions in her position as City Commissioner. None of the scenarios described by Ms. Ross involved behavior that could be considered criminal extortion. A second interview was scheduled for Ms. Ross, but after speaking briefly with detectives, she declined to give any further statements. Ms. Ross's attorney indicated that Ms. Ross did not wish to pursue this matter any further with the Office of the State Attorney.

OFFICE OF THE STATE ATTORNEY  
INTER-OFFICE MEMORANDUM

TO: Sgt. Dave Conklin

FROM: Detective Robert Flechaus

RE: Marlene Ross (2012PI000098A99)  
Boynton Beach Commissioner

DATE: September 24, 2012

.....

In August 2012 the Public Integrity Unit received information regarding Boynton Beach Commissioner Marlene Ross where it was alleged that Ross took some compromising (naked) photo's of herself in 2010/2011 and sent them to Rogelio Vera. The photo's are allegedly in possession of one or more subjects where Commissioner Ross was allegedly being blackmailed to vote certain ways on the Boynton Beach Commission issues and in return the photos would not be made public. The information provided about the photo's came from Boynton Beach Resident David Floering. Floering provided an email that was generated by Lisa Bright (former CRA Director).

On 08/23/12 Investigator Zampini and I met with Floering. Floering advised he had heard from Bright that there were nude photo's of Commissioner Ross floating around and believes Ross may be getting extorted to vote a certain way. Floering explained he received an email from Lisa Bright advising him that she was trying to make contact with Rogelio Vera's ex wife, Lillian Vera in attempt to get possession of the nude photo's of Marlene Ross. Floering advised he did not have possession of the photo's nor did he observe the photo's of Ross. Floering did advise that Bob Kanjian and David Katz(former Commissioner)may be in possession of the photo's. Floering had no further information.

On 08/23/12 Investigator Zampini and I met with Lillian Vera. Vera advised she was Rogelio Vera's ex wife. Vera explained that sometime at the end of 2010 and the beginning of 2011 she was separated from Rogelio. Vera explained one day she received a call from Rogelio and he wanted her to come to his hotel room and see something Marlene Ross had sent him on Facebook. Lillian did meet Rogelio and he showed her the naked photo's Ross had sent him. Lillian said she was disgusted by the photo's and called Marlene Ross several times to advise Ross of her anger and disapproval in regards to the photo's and her behavior. Lillian Vera explained she never possessed the photo's and only saw them that one time. Vera did not provide any further information.

On 08/23/12 Investigators Zampini, McDaniel, and I met with Lisa Bright. Bright advised that she was the former CRA director for Boynton Beach before she was voted out of her position by the Boynton Beach City Commission. Bright explained that she was currently in a law suit with the City of Boynton Beach. Bright advised she had heard about the photo's of Ross and was trying to find out who possessed them in an attempt to gain possession of them herself. Bright explained the photos may help her lawsuit. Bright said Ross's former campaign managers, Blake McDermott and Rebecca Shelton were aware of the photo's. Bright also mentioned she had heard that former City Commissioner, David Katz (#561-577-8007), may possess copies of said photo's. Bright had no further information.

On 09/06/12 Investigator Romagnoli and I met with Marlene Ross and her attorney, Scott Richardson. I explained to Ross what I had done during this inquiry up to this meeting. Ross confirmed that she had taken compromising photo's of herself and shown/provided them to Rogelio Vera. Ross also claimed that someone was using the photo's to persuade (extort) her to vote certain ways on issues within the City of Boynton Beach Commission. Ross led us to believe she was being extorted for at least the past two years. Ross did not provide any names of who was extorting her or what issues she had to vote differently on due to the extortion. Attorney Richardson advised he will talk to his client and contact me tomorrow in regards to having Ross provide further information. The interview was concluded.

On 09/07/12 I received a call from attorney Richardson. Richardson advised that commissioner Ross wants to provide further information on who was extorting her and the issues that were on the city's agenda that the subject wanted her to vote a particular way. Richardson also requested that I listen to the September 4, 2012 City of Boynton Beach Commission meeting and specifically to the public audience section where the citizens of Boynton Beach can come up and talk to the commission.

I reviewed said section via the Boynton Beach Commission website. The first person speaking was subject David Katz. Katz addressed the commission targeting Commissioner Ross specifically. For example, he mentioned that Ross was seen with former Mayor Jose Rodriguez a few times prior to recent commission hearings. Katz also advised the commission that there were several government agencies following up leads that involved inappropriate messages and photo's involving Ross and a convicted felon (IE: Rogelio Vera). Katz did not mention the names of the government agencies doing the investigation(S). Katz did not mention that he had observed the photo's or if he was in possession of them.



Katz then mentioned that commissioners Ross and Holtzman did not vote for Former Mayor Jerry Taylor to take the vacant Vice Mayor seat and eluded to the allegation that they may be receiving outside pressures to vote that way. Katz then says and relates the question to Ross and Holtzman that the consequences of voting for Taylor would be insignificant to the consequences of not voting Taylor on the commission. Note that this statement made by Katz came right after he mentions that there are photo's and messages involving Ross that were inappropriate being investigated.



Listen to audio.url

On 09/12/12 members of the Public Integrity Unit met with Commissioner Ross and her attorney, Scott Richardson. The interview was recorded. Ross was given an Instanter subpoena. Ross advised she did take naked photo's of herself and sent them to Rogelio Vera via Facebook private messaging. Ross advised this occurred at the end of 2010 through the beginning of 2011. Ross explained she felt for the past year that David Katz (Boynton Beach resident/former commissioner) had been putting pressure on her to vote certain ways on issues he felt strongly about (IE: Jerry Taylor Commission vote). Ross advised Katz would continuously call her and want to meet with her on issues to be voted on and lobby her to get her vote. Ross also explained she did not vote the way Katz wanted and after her explanation we concluded that a crime did not occur.

Subsequent to the interview with Ross and her attorney, we all came to the conclusion that a crime had not been committed against Ross. However, there was a potential for Katz or others to use the photo's he alleged he had and/or floating around in public to extort Ross in a future commission vote. Ross was asked if she ever met with Former Mayor Jose Rodriguez and conspired to vote a certain way that Rodriguez wanted the vote to go. Ross was also asked if Rodriguez ever used his authority or influence to extort her to vote the way he wanted. Ross refused to answer any questions regarding Rodriguez other than her saying they were good friends.

At this time Ross was concerned that her relationship with Rogelia Vera and the naked photo's of herself would become public. To assist Ross with her concern, we asked her if she would be willing to cooperate further. Ross's attorney requested he talk to Ross first before she made that decision.

On 09/18/12 members of the Public Integrity Unit met with Ross and

her attorney. Ross advised that she did have some information to provide. Prior to the taped interview we described to Ross the cooperation we would need from her. Ross was only willing to partially cooperate. Ross's attorney advised he would talk to his client and advise at a later time if Ross would fully cooperate. Also, we asked Ross if she had told anyone about her talking to the Public Integrity Unit in regard to this investigation. Ross advised she had talked to her mother's health care aid about it.

On 09/21/12 I received a call from attorney Scott Richardson. Richardson advised that Ross did not want to pursue the matter further.

On Tuesday, September 23, 2012, an email was sent to the Office of the State Attorney by Scott Richardson stating that Marlene Ross did not wish to pursue the matter any further. The investigation is closed.

## Extortion of Boynton Beach Commissioner Marlene Ross

### *Understanding the History*

#### **The Key Players:**

**David Katz:** Former BB city commissioner; sales auto parts for a living. **Makes side money by approaching city commissioner candidates and telling them that he can help them get elected. His primary motive is to gain their vote on matters of interest to him. Known to approach developers and assure them that he has three votes for their project, in return for a cash payment to him.** Has also been known to tell developers that he needs the money to pay off the commissioners. David Katz is Mayor Jerry Taylor's (12 years in office) best friend and hit man. Katz also former best friend is David Floering and together they controlled elections: Katz to make money on projects and Floering to ensure that his no-bid towing contract was not disturbed. David Katz was fined in early 2012 for not registering as a lobbyist. He plays Golf with Jerry Taylor every Saturday.

- In Town project: DK Was Investigated by FBI after commissioner Ron Weiland asked the developers when they were going to pay Katz for his lobbying activity. (2006/2007) Ron Weiland was aligned with David Katz and Katz ran all of his campaigns. It was believed that Ron Weiland was the benefit of financial support from Katz, from any payments Katz would receive.
- Towing RFP: Katz played both sides on this one. Receiving \$500 from David Floering and \$25,000 cash from Mr. Craig Goldstein from Westway Towing. After neither one was awarded the contract. Goldstein filed a police complaint which was investigated by Boynton Police and then the FBI.
- Hotel on Boynton Beach Blvd. Rumor has it that attorney Bonnie Miskel paid David Katz \$10k for approval of a hotel site on Boynton Beach Blvd.
- DK uses a gentleman by the name of Jonathan Dwork (Dworck?) to do some of his dirty work. Per below, this man turned on him at one point and might have some good information if interviewed. Jonathan helped the Boynton Beach Police on the Westway Towing investigation.
- DK told a senior partner of Morganti Construction after Morganti didn't get a contract and as he was leaving the meeting: "if you want to do business in Boynton Beach, you need to go through me".

**David Floering:** Towing Company Operator (Eastern Towing) who has closely worked with Katz and Taylor for years to maintain and retain his towing contract. Frequently

threatens commissioners or candidates to ensure his business is safe. He had a falling out with Katz when he lost his contract after Taylor left office. He's now working very hard to get Taylor back on board so Taylor can help him again. **Floering** personally threatened me one day after he lost his contract (2010): I ran into him at in the parking lot of the CRA office and he told me he would hurt me and get me for not voting for his contract. He put up signs across the city stating that the commissioners were corrupt because he/his company lost its contract. On election day March 2011 he drove to every voting poll and put up signs against me; the signs told voters that I'm corrupt (along with the other two commission members who voted for the change in the towing contract system). Floering wanted me to lose my re-election so that again the new person would potentially vote to give him back the contract. Makes it a point to submit public records request to let me know that he is looking into me; see attached copies/**David Floering sent 2 requests in May 2011 (Rogelio Vera, cousin of Marlene Ross being arrested in the city); sent another request recently one in Aug. 2012 to both the city clerk and also to PB Post reporter Eliot Kleinberg about email messages between me and Lillian Vera and/or Roger Vera (please see page 7 below as related to this information. The hard copies that I have of the documents which Floering completed for this request shed some more light on this question but the search criteria which the city clerk/IT staff used for looking into Floering's request shows "Lillian Vera", "Rogelio Vera" regarding searching my "City e-mail account for following criteria:**

David Floering works closely with the newspaper.

**Jerry Taylor:** Mayor of the city for 12 years. Worked for County Commissioner Mary McCarty for 15 years at the county. FBI investigated him on several occasions for his work with McCarty. The FBI settled for McCarty. Best friends with David Katz, David Floering and Lisa Bright (Former Boynton Beach CRA Executive Director who's contract was not renewed after Taylor left the Board)

**Lisa Bright:** former BB CRA Executive Director whose employment contract was not renewed by the CRA Board with a 4/1 vote. This vote happened after Jerry Taylor Left office and Lisa Bright is now suing the CRA for her dismissal.

## **Why this group has come together to EXTORT me to vote for Jerry Taylor**

**David Katz:** Gets his life long friend and partner back on the city commission. With the addition of Taylor, David Katz now controls the board. By all accounts Mayor Rodriguez wanted nothing to do with Katz which only led to Katz continually attacking him personally at public meetings. Controlling the board means he gets to extort developers and contractors in return for co-commissioner votes. This puts money in his pocket. This also allows Jerry Taylor to get a heads up on the upcoming Mayor's race in March of 2013.

**David Floering:** Needs Jerry Taylor back on the board to get his towing contract back. Taylor served 12 years while Floering held on to his no-bid contract.

**Lisa Bright:** She needs Taylor back on board so that the board can either rehire her or settle her lawsuit. A few months ago the board rejected her offer of reinstating her in return for her dropping her lawsuit. Within the last couple of weeks Bright was seen out dining with Jerry Taylor. Taylor has always been a supporter of Bright. **Bright and Taylor worked on trying to move the Police Station out of the downtown into west of town. Apparently, it was common knowledge that both of them were on the take and being paid off by Jim Comparato/Compson Associates.**

## **History of threats and why I'm intimidated by them (TIMELINE)**

Jerry Taylor encouraged Katz to call me during **Summer of 2007** as I was starting my work on my first campaign---JT did this because I was new on the political scene and he didn't want my opponent to win. During our first meeting, David Katz told me that he himself was thinking of running for the same seat but that if I was serious about my campaign then he would not run. He also said that I needed to hire him to help me with it. I was having quarrels with my beau Vince in the middle of my campaign. David told me that if I wanted my problems with Vince to stop that he knew someone who would take care of it. I told him that I wouldn't ever want anyone to hurt Vince. David said that I just needed to signal him and he would see to it that the problem would be taken care of. I remember the fear that I felt the moment that David Katz spoke to me that way. This was the beginning for me of nearly 5 years on and off of many more moments of fear and intimidation at the hands of David Katz (and through other key players as well at different times).

During my first term David Katz stopped talking to me for a long time after I voted against him on these two issues:

**Summer 2008---CORRECTION:** This issue was discussed and voted on not in Summer 2008 but in Nov. & Dec. 2007, soon after Katz helped me with my first election.



He wanted me to vote to decrease or eliminate an art fee charged to developers as their contribution to public art. He obviously was getting paid by the developer to decrease/remove the arts fee from their plans. To David Katz's dismay I voted not to change it.

**2008/2009:** Auburn Group. David Katz wanted me to vote to approve a developer's project which would have been located in the CRA District/Heart of Boynton neighborhood. Katz was being paid by Auburn to lobby the commissioners. He was not registered. **To Katz's dismay I voted no to approving the project.**

**In 2009**, after Katz had stopped speaking to me, I found out from the property appraiser's office that I had not transferred my one homestead exemption from one house/purchased in 1996 to another house/purchased in 2003 (I owned and still own both houses); apparently, someone had tipped them off about my oversight. **The PB Post ran an article about my oversight. This unfortunate oversight involving only one exemption cost me nearly \$14,000.** The property appraiser's office determined that I had to pay that amount of money, per Gary Nikolits the reason they had to tell me that I had to pay this amount was especially because the newspaper was following up with him in his elected official position and they wanted to know what he would be doing about it. **I was very upset about this hardship and I knew that obviously someone wanted to hurt me and as I explain in the next paragraph I had good reason to believe that it was Katz.**

**Sometime after this unfortunate situation took place, later in 2009 I received phone calls/voice messages from a constituent by the name of Jonathan Dwork?/Dworck?. He told me that he had been the person who had helped David Katz get all of the information about my homestead exemption situation. Jonathan also said that David's girlfriend Janice was very scared of David and that she wanted Jonathan to call me and warn me about David wanting to hurt me.** Jonathan said that Janice wanted to call me herself but that she was scared David would find out she called me. This was during the period of time when David Katz was being investigated by the BBPD and by the FBI. After this scenario David Katz and I continued to not speak and then after a while we would occasionally say hi to each other throughout 2010.

**Fall 2010:** Toward the end of 2010 Jerry Taylor started to ask me who would I be working with to help me with my campaign. I told him that I was looking into it and that I had someone in mind (Patriot Games). He asked to meet me for lunch and I agreed. At this lunch meeting he told me **"You'll regret it if you don't hire David...look at how much he helped you the first time, you'll be making a mistake". I remember having a sinking feeling in my gut once again, thinking that if I didn't hire David I would have another problem. I told Jerry Taylor that I would think about it.** By the end of 2010 I had decided to not hire Patriot Games and to instead go with Rebecca Shelton. David Katz started to call me to tell me that he would like to work with whoever I was hiring for my re-election campaign. When I told him that I had hired Rebecca Shelton, he said that he would like to call her because he already knew her and that he would be

able to work well with her. **I sensed that I had to agree and had a dreadful feeling that if I said no to David Katz about my campaign that I would have a problem on my hands.** I especially thought that he would definitely use the homestead exemption problem that I had in 2009 to taint me with my opponent for my re-election campaign. I wanted to stop him from hurting me even more with it! When Jerry Taylor had pressured me about why I would not want to work with David Katz again for my re-election I told him that I was told by good sources that Katz was responsible for my homestead exemption grief. Jerry Taylor said he didn't know what I was talking about, he said David Katz "would not have done that" to me. **I have every reason to believe that Jerry Taylor was lying to me in that moment and it was his way of letting me know that he is loyal to Katz. Taylor was letting me know that he and Katz are a team.**

When the campaign ended I recall meeting Rebecca at Hurricane Alley and I paid Rebecca by check after she asked me to pay her directly. I did give her the check and David was there at that moment. David Katz stayed talking to Rebecca after I left.

**July 2011:** *When the Interim City Manager/ICM investigated David Katz for lobbying without being registered (violation of city's lobbying ordinance). Katz approached me and handed me a canned letter which he had written that stated that he had never lobbied (see attached copy of the letter). **David Katz aggressively told me to sign it. I signed it only because I wanted him to leave me alone. However, the fact is that he did lobby me.** Also, The ICM did fine David Katz for lobbying the city about the towing issue.*

**Summer 2011:** Charter Review Committee (city's charter) – David Katz had already been fined \$750+ for lobbying without being registered. I had a sick feeling because he was pressuring me to vote to appoint him to this committee. **I was disappointed in myself and feeling guilty because I had submitted the letter stating that he hadn't lobbied me about the towing issue.** Now I was feeling scared again that if I didn't comply with his wishes then he would try to cause me grief.

**Although I resolved the homestead exemption issue in 2009 (by paying \$14,000), it has always continued to haunt me because it left me feeling vulnerable and more sensitive. Plus, David Katz had been making comments about my cousin Rogelio Vera (Roger) being good friends with Jose Rodriguez. Notice that on Feb. 22, 2011, David Floering made this public record request: "Any and all mail, email memo, letter or phone calls from the FBI or the US Attorneys office in regards to Boynton Police, case # 10-029154 for the arrest of Rogelio Vera a family member of Vice Mayor Marleen Ross, and business partner of Mayor Jose Rodriguez from 06/19/2010 till 12/19/2010. Also, on Feb. 23, 2011 David Floering made this public records request: "Any and all mail, email memo, letter, or phone calls from Pete Zampini of the PB County PIU Task Force in regards to Boynton Police, case# 10-029154 for the arrest of Rogelio Vera a family member of Vice Mayor Marleen Ross, and business partner of Mayor Jose Rodriguez from 06/19/2010 to 12/19/10". When Katz was making those comments to me about my cousin Roger Vera I started suspecting that he could already know about my photos and**

why exactly I had the problem with a woman during my campaign. Maybe he has known all along that the woman is Lillian Vera, Roger Vera's wife? I hoped that I was wrong but my gut and a sick feeling in my stomach told me that I could have a problem on my hands. I wanted to believe that Katz didn't know the history behind the photos but I always wondered about it. I continued to worry about what could happen if I simply did not do what he wanted me to do. I had reluctantly agreed to work with Katz on my re-election campaign because doing this gave me peace that Katz and Taylor wouldn't work together to use my homestead exemption problem against me. Plus, I still thought about the way he spoke to me during my first campaign about someone "taking care of Vince" if I had any concerns about my quarrels with Vince. After Jerry Taylor spoke to me and told me that I would "regret it" if I didn't work with Katz again and as I described above he was letting me know that he was loyal to Katz. Now Katz was letting me know again soon after my re-election that I owed him and that I had to vote for him to be a member of this committee. The reality of Katz serving on this committee was really staring me in the face. He had started to tell me about the first Charter Review Committee Meetings and it was obvious how he made his concerns all about how he could benefit from his push for the proposed changes to the charter. I imagined him pressuring me to vote to approve the changes which were recommended by him and/or by the committee. By the beginning of 2012, just as I had worried, he was making it clear that he wanted me to vote this way. He was calling me a lot as he had done in the past for other issues. I was avoiding his calls and would wait long periods of time before returning them. He led the charge on most of these recommendations. I could see him interjecting himself with new candidates in the future as he did with me and using them to his advantage. I sensed that he would want to pressure them and harass them just as he has done to me all of these years.

**Late 2011:** Financial Advisory Committee – He started to call me frequently to let me know how much he wanted to be appointed to this committee now that the Charter Review Committee had finished its work. In the same way that I felt pressured with that committee once again I was dreading having to consider him yet again for another committee. I was scared once again of what would happen if I did not do what he obviously wanted me to do. : As per the above information in green I continued to worry about what could happen to me if I simply did not do what he wanted me to do, including if Katz did actually know about me sending photos to my cousin Rogelio (Roger).

**Jan. 2012 to Present:** Ongoing pressure from Katz since about my remodeling project for my new house since Jan. 2012: I sold my townhouse in the city/my district in oct. 2011 and bought a foreclosure home in the city/my district one month later in nov. 2011; Since Jan. 2012 he has continued to ask me when is the project going to be completed and when would I be able to start staying in my new house. By April/May he started saying that he was still waiting for me to invite him to my new house...he told me often "I really want to see your new house". **The more he asked me the more pressured I felt and the more I thought that I truly didn't want to invite him to my home.** During this period of time, I heard rumblings that the PB Post reporter Eliot Kleinberg was asking around about my home addresses and where I live. The

Interim City Mgr told me that this reporter had asked her/her office about my home and that she told him she knew that I was remodeling my foreclosure home and staying temporarily with my parents in the Town of Lantana. The ICM knew that I had discussed the situation with her and with the City Attorney and that the attorney had advised me that I was handling the situation correctly and just as I needed to for this situation. However, once I started hearing the rumblings I was getting the sense that I was being warned and harassed and I knew that Katz was behind it. I called the city attorney several times and questioned him and told him that I was worried. He tried to reassure him and confirmed that we had several conversations about my situation and that he was clear that I was ok. However, he also confirmed that he didn't recall sending me anything in writing about our conversations and I don't recall sending him any emails either---this gave me more anxiety about it and the attorney told me not to worry. **I have been fearful and anxious about my current house situation for several months since Jan 2012, thinking that once again Katz is doing all he can to cause me grief and to taint me!** Why else has Eliot Kleinberg been asking around about my home situation all of this time? Obviously, after my homestead exemption issue I have reason to believe that just maybe Katz could hurt me again with my house situation and for sure he has been harassing and pressuring me about it.

**8-17-12:** After Jerry Taylor kept calling me over and over again to speak with me. I contacted David Katz and told him that I did not want to speak to any of the candidates: Katz stated that he needed to talk to me. **I agreed to meet Katz for dinner on Aug. 12, 2012 at the last minute after I first told him I could talk by phone---I felt scared that he would be angry if I didn't agree to meet with him. At dinner he made the following ANGRY comments to me "remember that Jerry Taylor helped you so much, you should want to help him...who else is even qualified for the vacancy?... you should not vote for anyone else."** I told him I was not sure about Taylor's support. The next day (over the weekend) I started to get a barrage of public records request from Floering and Bright. See attached. Note that they purposely copy all other commissioners, board members and the press to expose me to these embarrassing requests. The requests have nothing to do with others. The recent ones which came in from LB and DF are asking about my home addresses, per the section right above (Jan 2012 to present). This is a form of intimidation for them.

**8-21-12:** I felt more scared than ever before when I didn't assure Katz during the Aug. 17 dinner meeting that I would vote to appoint JT. **After worrying about it all night after that dinner I informed him on Aug. 18 that I didn't invite anyone to my house who I didn't want to associate with. During the commission meeting on Aug. 21 I didn't vote for David Katz to be appointed to the Planning & Development Advisory Board and the vote failed 2-2.** Before the Aug. 17 meeting he had let me know a few times that he had submitted his application for this advisory board and that he really wanted to be on it. He contacted me repeatedly to tell me this. I remember questioning his real intentions and wishing that he wouldn't continue to ask me about serving yet again on another advisory board/committee. I recall feeling scared to let him know that I

my political career, the idea of this kind of tainting happening to me again looms even larger. I can easily see that my hopes for my future career plans as a public servant are possibly being destroyed in a despicable way by a person who is corrupt and evil...by someone who for many years long before me has been causing a lot of harm to the city and to other people as well.

**Sept. 4, 2012:** Again, at the recent commission meeting on this date, once again I did not vote for Taylor to be appointed to the vacant commission seat (NOTE: This took place after I had my last meeting with David Katz on Aug. 17, 2012). During the Sept.4 meeting, DAVID KATZ THREATENED ME WITH FACING SERIOUS CONSEQUENCES AND HE MADE THIS EXACT POINT DURING PUBLIC AUDIENCE AT THE BEGINNING OF THE MEETING (SEE THE LINK FOR LISTENING TO THE AUDIO). KATZ TALKED ABOUT "TRANSMITTALS OF MESSAGES AND TEXTS BETWEEN ELECTED OFFICIALS AND CONVICTED FELONS".

**Now in this moment I knew for sure that DK really does know about the private photos! I had always wondered if Rebecca Shelton had told David Katz about my problem with one woman in particular (Lillian Vera).** My problem with Lillian Vera happened in the middle of my campaign while Rebecca & David were working closely together: Lillian Vera is the wife of this man (**Rogelio Vera**) and she had seen messages and some private photos of me---after she had gotten into his private messages inside facebook and/or text messages while they were separated and divorcing (the text messages had been sent to him from my personal cell number). **Lillian Vera**, a woman who was separated from her husband, was clearly very upset and she had started to send me private messages in facebook and by text, telling me that she would be distributing my photos during my campaign. Rebecca & I prayed and hoped for the best. **I know for sure that at the very least David Katz knew early on that I had been having problems with a woman harassing me about her husband communicating with me. I have been feeling physically and emotionally sick since I had to hear Katz speak those words during the Sept. 4 commission meeting. I have anxiety and I have been losing a lot of sleep. Sometimes the harassment by Katz is all I can think of. I have been thinking for a long time that he follows me and/or has someone follow me. Katz even knows that I was having dinner recently on Atlantic Ave in Delray Beach on a Monday night at 9pm and he let me know it in public while directing his message toward me in a despicable way when he made reference to the photos. The city attorney called me after the meeting ended to see if I was ok. He said that he had never seen someone make such a bizarre and creepy message the way that David Katz did that night. The attorney told me to be careful.**



1) DK is known to approach developers and assure them that he has three votes for their project, in return for a cash payment to him:

Marie Hornberger was the lobbyist for Morganti, the developer which had responded to an RFP issued by the Boynton Beach CRA for a project in the city's downtown area. Morganti was not selected. Jim Auld was the Morganti rep who was told by DK that he needed to go through DK himself in order to get anything done in Boynton. Marie Horenberger told me about this discussion. I understand that Jim Auld now works for Burkhart Construction.

2) Has also been known to tell developers that he needs the money to pay off the commissioners:

Marie Horenberger told me that Craig Goldstein had met with then Mayor Rodriguez and Goldstein told Rodriguez about DK doing this.

3) DK Was Investigated by FBI after commissioner Ron Weiland asked the developers when they were going to pay Katz for his lobbying activity(2006/2007). Ron Weiland was aligned with David Katz and Katz ran all of his campaigns. It was believed that Ron Weiland was the benefit of financial support from Katz, from any payments Katz would receive:

At a commission meeting the developer IN TOWN stated that Ron Weiland asked them when they were going to pay DK. Obviously the inference there is that Ron Weiland wanted to be paid by DK. Why would a commissioner ask a developer when their unofficial lobbyist was going to be paid?

4) Hotel on Boynton Beach Blvd. Rumor has it that attorney Bonnie Miskel paid David Katz \$10k for approval of a hotel site on Boynton Beach Blvd. It was approved but never built, apparently due to the market downturn:

I don't remember specifically who told me this. However, apparently then Commissioner Rodriguez had a meeting with Bonnie Miskel (land development attorney in Boca) and she asked him about DK. Miskel said that DK had approached her to help get the votes and wanted to be paid.

5) Bright and Taylor worked on trying to move the Police Station out of the downtown into the northwest side of town, far away from the depressed or blighted CRA District area of the city.

Apparently, it was common knowledge that both of them were on the take and being paid off by Jim Comparato/Compson Associates:

No evidence. It was obvious to many people because it was clearly based on this ridiculous transaction and the way they pushed it through was an embarrassment to many people. In the end the commission even removed it as a referendum for the voters to decide. The commission didn't want to even risk asking the voters to decide. Anyway, there was a big outcry from the people as more and more people realized what exactly the initially approved plans were. Truly, it was one of the most laughable deals. The city was literally going to buy a condo on the second floor in order to place our police department there. Lisa Bright even refused to do a study of the impact on the CRA. Which in hindsight to me is obviously an exec Director's responsibility to do. It's common knowledge around the city that it had to be a dirty deal.

6) I have every reason to believe that Jerry Taylor was lying to me in that moment and it was his way of letting me know that he is loyal to Katz. Taylor was letting me know that he and Katz are a team:

I was also told by Marie Horenberger that David Katz first approached my opponent Don Scantlan shortly before the start of my 2011 campaign for re-election---and that Scantlan refused his help and that is why DK came to me.

To whom it may concern,

7/7/2011

Since my first election to the Boynton Beach City Commission in November, 2007 David Katz has never lobbied me concerning any towing issues, tow contract negotiations or on behalf of any individual tow company seeking to do business with the city.

Marlene Ross  
Boynton Beach City Commissioner  
District 4  
403 Andover Court  
Boynton Beach, FL 33436  
561-704-5013

Vice Mayor McCray moved that the millage rate remain at the 7.8 mills. Commissioner Ross seconded the motion.

**Vote**

The motion passed unanimously.

**PROPOSED RESOLUTION NO. R12-087** - Adopt the Tentative Budget for the General Fund and all other funds for Fiscal Year 2012-2013.

Attorney Cherof read Proposed Resolution No. R12-087 by title only. He recommended the same type of motion as was done on the millage rate.

**Motion**

Vice Mayor McCray moved to approve. Commissioner Ross seconded the motion.

**Vote**

The motion passed 3-1 (*Commissioner Holzman dissenting*).

**B. Informational Items by Members of the City Commission**

Commissioner Ross acknowledged the excellent communication involving the flooding that took place in the Meadows development during Tropical Storm Isaac and hoped the situation could be improved. She also shared the Poverty Tour 2.0 would be in town to address the poverty issue. She wanted to be sure the non-profits are aware of the series to be held in West Palm Beach on September 15 at noon. It is a three-hour town hall symposium.

Mayor Hay announced on September 13<sup>th</sup> there would be a State of the City address.

**3. ANNOUNCEMENTS, COMMUNITY & SPECIAL EVENTS & PRESENTATIONS**

**A. Proclaim the month of September 2012 as Hunger Action Month.**

Mayor Hay gave an overview of the Hunger Action Month proclamation.

**4. PUBLIC AUDIENCE**

**INDIVIDUAL SPEAKERS WILL BE LIMITED TO 3 MINUTE PRESENTATIONS  
(at the discretion of the Chair, this 3 minute allowance may need to be  
adjusted depending on the level of business coming before the City  
Commission)**

from the suspended Mayor who is facing decades of imprisonment. Nothing has been proven to be true. Neither the Boynton Beach Police Department nor the State Attorney's office found anything to even interview Mr. Katz. He reiterated his request that the Interim City Manager admit she was pressured by the suspended Mayor to come to the false decision.

No one else coming forward, Mayor Hay closed public audience.

**5. ADMINISTRATIVE**

- A. Appoint Voting Delegate for Florida League of Cities Annual Conference, August 23-25, 2012.

Commissioner Holzman inquired if the Mayor planned on attending and he confirmed he would. Commissioner Holzman felt it made sense to appoint the Mayor as the City's voting member.

**Motion**

Commissioner Holzman so moved. Vice Mayor McCray seconded the motion.

Commissioner Holzman inquired if any other Commissioners would be attending. He would be attending to mingle, but not register.

**Vote**

The motion passed unanimously.

- B. Appoint eligible members of the community to serve in vacant positions on City advisory boards

**Motion**

Commissioner Ross nominated Wendy Kelly to be a regular member of the Community Relations Board. Vice Mayor McCray seconded the motion.

**Vote**

The motion passed unanimously.

**Motion**

Commissioner Hay moved to appoint David Katz as a regular member of the Planning and Development Board. Vice Mayor McCray seconded the motion.



Commissioner Holzman asked if there was an outstanding fine owed to the City of Boynton Beach by Mr. Katz in regard to the lobbying registration. Attorney Cherof advised there was an outstanding fine. Mr. Katz's response to the finding has been verbalized by him. Commissioner Holzman was not in a position to appoint anyone to a board who has an outstanding fine for violating the City's lobbying ordinance. The decision was made and he felt Mr. Katz should play by the rules.

Vice Mayor McCray pointed out Mr. Katz was serving on the Financial Advisory Board when the fine was assessed. The argument was redundant at this time.

**Vote**

The motion failed 2-2 (*Commissioners Holzman and Ross dissenting*).

**Motion**

Mayor Hay moved to appoint Ryan Wheeler as a regular member of the Planning and Development Board. Commissioner Holzman seconded the motion.

**Vote**

The motion passed 3-1 (*Vice Mayor McCray dissenting*).

C. District I Vacancy - Discussion of Letters of Interest

Mayor Hay declared the five interested individuals would be recognized, public input would be heard and then discussion and vote by the Commission. Michael Bessell, Dr. Piotr Blass, Jack McVey, Cliff Montross and Jerry Taylor were identified.

**Steve Anton**, 234 SE 2<sup>nd</sup> Avenue, inquired how the Charter could be changed. He contended the individual who had gotten the second highest votes in the previous election should be appointed, if willing to serve. The process could be eliminated since the residents had already voted. Mayor Hay appreciated the suggestion but it would not affect the current situation. Mr. Anton stressed he was attempting to save \$30,000.

**Don Scantlan**, 13 Cedar Circle, did not support any one candidate but thought either of the top two candidates pointed out two weeks ago would make fine Commissioners. There is not necessarily a wrong choice, but it would be wrong to conclude the meeting without filling the vacant seat on the Commission. If the four Commissioners cannot fulfill their obligation to fill the seat and an election is required, it would be a failure of all four elected officials.

**Ron Washam**, 127 South Atlantic Drive West, repeated the burden of leadership falls on the Commission and why the residents voted for the officials. Bickering and playing political football was not the goal. Good leadership was available. It is now a character

from the suspended Mayor who is facing decades of imprisonment. Nothing has been proven to be true. Neither the Boynton Beach Police Department nor the State Attorney's office found anything to even interview Mr. Katz. He reiterated his request that the Interim City Manager admit she was pressured by the suspended Mayor to come to the false decision.

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**Ron Washam**, 127 South Atlantic Drive West, repeated the burden of leadership falls on the Commission and why the residents voted for the officials. Bickering and playing political football was not the goal. Good leadership was available. It is now a character

issue of what the citizens think about the process. Mr. Washam reiterated his support of Jerry Taylor to fill the interim position. Mr. Taylor has extensive experience in government and brings credibility and honor to the City as he has in the past. He asked the Commission to appoint former Mayor and honored citizen, Jerry Taylor, to fill the vacancy in Commission District 1. It is a character issue that should be resolved.

**Brian Edwards**, 629 NE 9<sup>th</sup> Avenue, supported Jerry Taylor and thought it was commendable for anyone to volunteer to fill the vacancy and commendable to serve on the Commission. It would be to the credit of the Commission that Jerry Taylor serve the City of Boynton Beach. No other candidate could fill the position during the positive branding experience and difficult time for the City. Mr. Taylor has the credentials to fill the position and compliment the Commission and the City to move forward to the next election.

**Dr. Piotr Blass**, 113 West Tara Lakes Drive, suggested the City move forward and become an academic center with a university that would solve the financial woes of the City. He held a PhD from Michigan and a Masters from Harvard. He is a combat veteran from the Israeli Army. He has strong character. He would be an incredible Commissioner and would push for a university type building and would assist the Heart of Boynton. Any salary he would be paid would be donated to the City. Dr. Blass supported a special election and noted Commissioner Orlove ran unopposed and there had not been an election in the District for a long time for the people to speak. He emphasized \$30,000 was not a big price to pay for democracy.

**Phil Turano**, 4789 Dolphin Drive, Lake Worth, supported Jack McVey and noted his dedication to the East Boynton Beach Little League. He spoke about Mr. McVey's integrity and dedication to the City. Mr. McVey worked on the fields regularly and spent endless hours at the facility. Mr. Turano had not seen that depth of dedication in a very long time for any cause.

No one else coming forward, Mayor Hay closed public comment.

Mayor Hay reminded the Commission this would be the second attempt to fill the position. As the Charter is written, if an agreement is not reached, a special election would cost the taxpayers approximately \$25,000. He felt there was a judicial responsibility and more in depth discussion should be considered. There is an obligation to the City and its residents to resolve the situation.

Mayor Hay recalled he had previously voted for Jerry Taylor because he brings to the table the kind of experience needed. He recalled some Commissioners had been willing to make Mr. Taylor the Interim Mayor and now were against his appointment. He questioned what had happened in the past six months to not be qualified to serve as a Commissioner. Mayor Hay wanted to understand that position and questioned if other hidden agendas were in play. He stressed the residents should be heard. The greater good of the City had to be considered and decisions made. The current perception of

the Commission is not good and Mayor Hay hoped personal feelings could be set aside and vote for the greater good of the community.

Vice Mayor McCray corrected the price of a special election would be closer to \$30,000. With the Presidential election, a special election in Boynton Beach could not be held until December that would only allow about three months of a term. By then, any candidates for the March election would have declared their candidacy. If a decision was not made the City would be held hostage and be the laughing stock of the entire State. Vice Mayor McCray thanked Mr. McVey for his email. If the cost of the election is \$30,000 and the salary for the newly appointed Commissioner would be \$7,000 there remains \$23,000 in the General Fund for the City. He had previously nominated former Mayor Jerry Taylor and continued to support him as being more than qualified and the best candidate for the position to help the City until the March election.

Commissioner Holzman asked about the possible date for a special election. Ms. LaVerriere responded the Supervisor of Election had been contacted and advised the earliest date would be mid to late December. Commissioner Holzman surmised, at the most the person elected would sit for only four meetings. His review of the Charter was that a date certain to have a special election was not clearly defined. If there was no agreement, the Commission could decide not to have a special election and move forward. The people could then speak in March as several citizens had suggested.

Commissioner Holzman felt Commissioner Orlove had been anointed as the representative for his district. In his view, it would be wrong to anoint another Commissioner without hearing from the residents of the district. He stressed the term would be for only four meetings and the vacancy would not disturb the business of the City or hinder the City's progress. The current Commission has been functional and could continue until March when the residents can elect whoever they please. He appreciated all those who had submitted their names, but was not in a position to anoint another person to sit for that district.

Mayor Hay agreed with the use of the word anoint because the citizens of the district elected Jerry Taylor twice to be Mayor longer than anyone on the Commission. The people of the district certainly feel he is qualified. Mayor Hay contended there have been deadlocks on voting and the City needs to move ahead. He hoped the Commission could set aside its feelings and make a decision. The earliest the election could be held is in December. They would only serve for a couple months. Mayor Hay contended someone needed to be selected to give the Commission the power it needs to make decisions. If it is thrown back on the people to make the decision the Charter envisioned the Commission should make, then why is the Commission needed at all. The people have spoken and selected the officials to represent them and make these decisions.

Commissioner Ross clarified Commissioner Orlove was referred to as being anointed because he ran unopposed and was not technically elected. She felt it was time to let

the people speak. The current four members were doing a good enough job since the anointed one had departed. The one applicant was correct that \$25,000 was not much to spend for true democracy. The City needs to let the people speak. Commissioner Ross noted the citizen involvement was not at an acceptable level. This would be an opportunity for the citizens to become engaged at a critical time for the City. It was time to take the matter to the voters.

Mayor Hay remarked it was strange Commissioner Ross and Commissioner Holzman consistently had the same answers. Commissioner Ross disagreed. Mayor Hay indicated taxpayer money was a big concern on other issues and now the \$30,000 is insignificant. He was confused with their logic. He hoped the voting now would be remembered in March.

Mayor Hay recalled "this man" had helped Commissioner Ross get elected and helped with her re-election. Now, for whatever reason, that remains unknown, support for him has been withdrawn. Mayor Hay felt the public was due an explanation because the Commissioners had a responsibility to justify their position and explain their votes. Commissioners Holzman and Ross joined in that they had just made an explanation.

Mayor Hay informed the Commission, if the candidates run in a special election, former Mayor Taylor would win. Commissioner Ross welcomed an election and hoped all the candidates run. Mayor Hay stressed it was a waste of money and he did not want to hear the argument on taxpayer's money again. Commissioner Ross countered that Mayor Hay was being very unprofessional.

Commissioner Holzman suggested Mayor Hay had not heard or did not understand that he supported no special election. The Charter does not force the City to go to a special election. Given the fact there will only be four meetings left, the process would be frustrated and waiting for the March election would be best. He was not talking about spending taxpayer money. He felt he had every right, as the Commission did, to go that route and would not cost more money. If a special election was required he agreed with the comment made by the citizen as well as Commissioner Ross that \$25,000 to \$30,000 was a small price to pay for democracy.

Vice Mayor McCray had run unopposed at one time and did not feel he had been anointed, rather he had done a great job because no one had run against him. With the current budget crisis \$30,000 was significant. He wanted to know what would be done from this point forward until the election is held. The bickering needs to stop. In his view Jerry Taylor was the best choice for the vacancy. There is too much deadlock and the citizens are watching the bad behavior. The elected officials are representing the citizens to make the decisions. We all have different opinions as humans, but the right decision needs to be made.

Commissioner Ross repeated her contention that a special election should be considered. She questioned if an appeal to the Supervisor of Elections could persuade

her for an earlier date. She preferred the four members continue for as long as necessary and were actually doing better in many ways. She had no concern with the status quo continuing.

Mayor Hay could not understand the statement when deadlocks were common practice. Commissioner Holzman noted deadlocks were just a means to say no. Mayor Hay vehemently argued the election was not appropriate and the citizens should be outraged that the Commission is allowing this to happen with the leadership of the City. Utilizing \$30,000 for a few months of service when an appointment could be made at no cost was alarming.

Commissioner Ross thought the citizens need to be more involved. Even the advisory boards indicate there is very little civic involvement. An election would be a great opportunity for the citizens to get involved with fresh perspectives serving the City. Let the citizens decide and it would be in the best interest of the City to continue with the four elected officials. She would not apologize or explain her viewpoint. Mayor Hay strongly disagreed.

Mayor Hay called the name, Michael Francis Bessell. No nominations were made.

Mayor Hay called the name, Dr. Piotr Blass. No nominations were made.

Mayor Hay called the name, Jack McVey. No nominations were made.

Mayor Hay called the name, Jerry Taylor.

#### **Motion**

Vice Mayor McCray so moved. Mayor Hay passed the gavel and seconded the motion.

#### **Vote**

The vote was 2-2 (*Commissioners Holzman and Ross dissenting*).

Attorney Cherof advised the Charter provides after the two regular meetings and having not made an appointment to fill the vacancy, the City Commission shall call a special election for that purpose.

Mayor Hay repeated the earliest the election could be held would be in December. It leaves the Commission no option.

Commissioner Holzman felt there was an option not to hold a special election. By holding a special election in December would frustrate the purpose. He could not imagine the purpose of the provision in the Charter was to have an individual sit for four to five meetings. The purpose was when the situation occurred with Mayor Rodriguez



Vice Mayor McCray suggested reducing the rent by 50% and pay half of the taxes and let the City continue with the maintenance and then revisit the issue if the maintenance is extensive or in one year.

Mr. Guarn Sims thought the proposal was reasonable.

Ms. LaVerriere asked if the proposal applied to the second tenant and the Commission agreed it would.

**Motion**

Commissioner Ross so moved. Vice Mayor Hay seconded the motion.

**Vote**

The motion passed unanimously.

- B. Discuss and authorize travel to Florida League of Cities Annual Conference to be held in Hollywood, Florida from August 23-25, 2012.

Mayor Hay advised the expense would be the registration fee and he would commute.

There was consensus the cost would be covered.

**13. LEGAL**

- A. **PROPOSED ORDINANCE NO 12-014 - FIRST READING** - Approve amendments to the Land Development Regulations pursuant to Section 509.233 Florida Statutes, to allow for the exemption from that portion of State Law and the U.S. Food and Drug Administration's Food Code that prohibit dogs on the premises of a food establishment, and to establish a permit system and operational rules. Applicant: City Initiated.

Attorney Cherof read Proposed Ordinance No. 12-014 by title only on first reading.

**Motion**

Commissioner Holzman moved to approve. Vice Mayor McCray seconded the motion.

**Vote**

City Clerk Prainito called the role. The vote was 4-0.

- B. Discussion regarding scope and timing of Charter amendments

Ms. LaVerriere recalled there had been discussion when the Charter Review Committee offered their report. There were conclusions on a couple issues. The language would then be put in an ordinance to be brought to the Commission for approval and then on to a referendum vote. The March ballot was the proposed venue.

Commissioner Ross asked if the referendum could be on the November election and Attorney Cherof advised it was too late to submit the language for the ballot.

Attorney Cherof wanted confirmation the three sections; 17, 49 and 55 are the sections that are going to move forward and if there are other provisions of the Charter that should be considered by the voters. He suggested the provision regarding filling vacancies might be included.

Commissioner Holzman asked for direction on other charters that provide more direction on filling vacancies. Attorney Cherof advised the parameters were in every shape and size. Some charters make no provision for a special election and some deal with avoiding a special election. Others have time periods outlined.

Commissioner Holzman surmised approximately six months was needed to prepare for an election. Attorney Cherof indicated a State statute requires the Supervisor of Election to agree to and set the date for a special election. Commissioner Holzman suggested a "less than" time period of six months be stated when no special election be held in any situation.

Mayor Hay did not agree. Commissioner Ross wanted to see examples. She also contended the change of the run-off rule to 50% plus one could likely result in runoff elections on a regular basis. The concern has been the cost of one special election.

#### **Motion**

Commissioner Holzman moved to remove section 17 language from any sort of Charter amendment.

Mayor Hay did not agree since the cost of an election was not a concern for the current vacancy.

Vice Mayor McCray was not in favor of the proposed change.

Vice Mayor McCray seconded the motion.

#### **Vote**

The motion passed 3-1 (*Mayor Hay dissenting*).

Commissioner Ross proposed the term limits be changed to three, three-year terms. The City needs consistency. The change would not affect those running for election in the March election and be contingent on the outcome of the referendum vote on the same ballot.

**Motion**

Commissioner Holzman moved to change the Charter to three, three year term limits. Commissioner Ross seconded the motion.

Mayor Hay opened the issue for public comment.

**Brian Edwards**, 629 NE 9<sup>th</sup> Avenue, apologized to the City Attorney for being out of order. He had served on the Charter Review Committee and the members put a lot of thought into the changes, especially the term limits. In light of the comments on advisory board participation, there should have been discussions on why the recommendations were submitted by the Committee. Obviously the suggestions did not matter and the Committee was not necessary because the decisions are being made by the Commission. It bothered Mr. Edwards that the guidance and recommendations of the committee were not given more consideration.

**Ron Washam**, 127 South Atlantic Drive West, was concerned some of the changes could be perceived as self-serving unless a time stamp is included that the current Commission members would not be affected. Hasty changes are being proposed and they are against the Charter Review Committee recommendations. He did not disagree with the policy, but thought it should be effective after the current board is done.

Commissioner Holzman stressed the Commission was not making any decision. The decision would be made by the citizens. The option was being placed on the ballot for their decision.

Attorney Cherof clarified the run-off election language would not be included. There would be a new provision with respect to term limits and the timetable for the study relating to redistricting to coincide with the census. There are some grammatical issues as well. It would all be brought back before the Commission on at least two more occasions and could be a third public hearing held if desired.

**C. Closed-door session announcement.**

Attorney Cherof announced the closed-door session was needed to discuss the law suit, City of Boynton Beach versus Villa Lago. It is an issue regarding the collection of unpaid utility fees associated with Villa Lago. The Commission had directed resolution by negotiation if possible. Attorney Cherof wanted to report the result of those negotiations in a closed-door session and get guidance on the strategy for settlement.

## Pete Zampini

---

**From:** Zampini, Peter <ZampiniP@bbfl.us>  
**Sent:** Monday, August 20, 2012 3:38 PM  
**To:** Pete Zampini  
**Subject:** Fwd: Bright v. Boynton Beach Community Redevelopment Agency  
**Attachments:** Campaign\_Articles.pdf; ATT00001.htm

Begin forwarded message:

**From:** "david floering" <dfloering@aol.com>  
**To:** "zampinip@bbfl.us" <zampinip@bbfl.us>  
**Subject:** Fwd: Bright v. Boynton Beach Community Redevelopment Agency

-----Original Message-----

From: Lisa Bright <lisa.a.bright@gmail.com>  
To: dfloering <dfloering@aol.com>  
Sent: Mon, Aug 20, 2012 1:15 pm  
Subject: Fwd: Bright v. Boynton Beach Community Redevelopment Agency

Dave,

This is what I sent to Lillian Vera looking for a response-none yet.

It is my understanding Commissioner Marlene Ross was concerned the pictures would turn up during her 2011 reelection campaign. Rebecca Shelton worked on Marlene's reelection and Bob Kanjian was somehow involved with Rebecca Shelton and aware of the "titty" pictures. Attached articles are to refresh your memory from the 2010 and 2011 campaigns.

I will let you know if I hear back from Lillian Vera who feels the victim in Ross sending or sexting her personal photos to Lillian's husband, Roger Vera.

Lisa

----- Forwarded message -----

From: Lisa Bright <lisa.a.bright@gmail.com>  
Date: Sat, Aug 18, 2012 at 11:59 AM  
Subject: Bright v. Boynton Beach Community Redevelopment Agency  
To: lvera@comcast.net

Hi Lillian,

I am certain you do not know who I am but I know of you from Marlene Ross and Jose Rodriguez. I know from Marlene that your husband Roger is purportedly Jose's best friend. It is also my understanding at one time you were close to Jose; other than that I have no relevant information regarding you or your family.

I have an outstanding lawsuit against the City of Boynton Beach and of late, numerous people have provided information to me regarding Marlene and Jose. In particular, I was advised there was a concern on Marlene's part regarding provocative pictures she sent to your husband. She felt if they were published or distributed it would uin her. Of course, this is gossip, conjecture and hearsay.

However, to years ago when Marlene changed her vote at the last minute contributing to my job loss. Afterwards she let me know that she had to vote against me; otherwise, Jose would make sure she would not win her reelection campaign. At the time it did not make sense to me how Jose could have power against Marlene.

Of course, in light of this new information I would like to know if you ever shared these photos with Jose? or anyone? I also know my request is random and I apologize up front if I am acting improperly and offending you by asking you.

No need to respond - if this is a dead issue for you.

Regards,

Lisa Bright  
Do you need a Bright Idea?  
561-251-1819

--

Lisa Bright  
Do you need a Bright Idea?

--

Lisa Bright

**Do you need a Bright Idea?**  
**561-251-1819**

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Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

PALM BEACH COUNTY COMMISSION ON ETHICS  
**MEMORANDUM OF PROBABLE CAUSE**

To: Commission on Ethics  
From: Kai Li Fouts, Pro Bono Advocate  
Re: C12-013 – Respondent, Marlene Ross-City of Boynton Beach Commissioner

- **Recommendation**

A finding of **PROBABLE CAUSE** should be entered in the above captioned matter as to the allegations made in the **COMPLAINT**.

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

- **Jurisdiction**

COE has jurisdiction pursuant to Chapter 2, Article V, Division 8, section 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) Countywide Code of Ethics;
- (2) County Post-Employment Ordinance, and
- (3) County Lobbyist Registration Ordinance.

The violations for which probable cause is recommended include the following:

**COUNT 1:** Article XIII, Section 2-443(a), *Corrupt misuse of official position*

**COUNT 2:** Article XIII, Section 2-443(a), *Corrupt misuse of official position*

- **Background**

This matter came to the attention of the Commission on Ethics' staff via a sworn complaint signed on October 4, 2012 by Terry Aperavich (Complainant), a resident of the City of Boynton Beach (the City). Attached to the sworn complaint form were a letter (Complainant's Statement) and two newspaper articles from the Palm Beach Post dated October 2, 2012 and October 3, 2012.

The Complaint alleges that Marlene Ross (Respondent), Commissioner for the City of Boynton Beach, misused her official position to corruptly secure a special benefit for David Katz (Lobbyist) by signing a letter which stated that she had not been lobbied by Katz, then later admitting that her statement was false, in violation of Section 2-443(b) *Corrupt misuse of official position* of the Palm Beach County Code of Ethics (the Code). The complaint also alleges that the Respondent voted to appoint Katz to the Financial Advisory Committee because she believed that he would expose to the public copies of compromising photographs she sent to Rogelio Vera.



- **Facts establishing probable cause**

The COE inquiry and investigation are adopted by reference into this Probable Cause Memorandum.

A review of the Palm Beach County State Attorney Office (SAO) investigation (2012P1000098A99) conducted by the Public Integrity Unit between August and September, 2012 established that the Respondent submitted a document to the SAO entitled "Extortion of Boynton Beach Commissioner Marlene Ross: Understanding the History." In addition, Respondent gave a sworn statement to investigators admitting that she signed a false letter prepared by David Katz to Interim City Manager Laurie LaVerriere dated July 7, 2011. David Katz, who was then under investigation by the City of Boynton Beach (the City) for improper lobbying activities, submitted the letter to LaVerriere. Respondent further admitted that she appointed Katz to the City Financial Advisory Committee (FAC) at a City meeting held on January 3, 2012, because she was fearful of Katz and concerned that Katz would expose certain photographs of a compromising nature that would cause her public embarrassment and hurt her political career. After an investigation into her allegations, the SAO declined to file criminal charges against Katz in this matter.

Both Katz and LaVerriere gave sworn statements to COE investigators during the inquiry and investigation into these allegations. Katz claimed that he never lobbied the Respondent nor did he threaten or intimidate her at any time. LaVerriere confirmed that she received the letter stating that Katz had never lobbied her in her capacity as City Commissioner. The letter was prepared by Katz and delivered to LaVerriere by Katz. As a result, LaVerriere requested that Respondent confirm her purported written correspondence, which she did on September 3, 2011. Katz was ultimately found to have improperly lobbied other officials on 3 occasions and fined \$750. Due to her correspondence, he was not charged with lobbying Respondent, which would have likely resulted in additional fines assessed against Katz.

On January 3, 2012, Respondent nominated Katz to serve on the FAC. A review of the public meeting showed Katz submitted his application the day of the meeting and, therefore, his appointment was not publicly noticed. Notwithstanding, Respondent insisted that his nomination be heard and not delayed. She later informed the SAO that the reason for her actions was her fear of Katz. However, there is no specific act or comment by Katz that objectively supports this claim based upon her statements to the SAO. It should be noted that the only comment by Katz that could be taken as a veiled threat of exposure occurred at a City meeting on September 4, 2012, almost a year after the actions taken by the Respondent that are subject to the allegations within this Complaint.

**Sec. 2-443. Prohibited conduct.**


Sec. 2-443(b). *Corrupt misuse of official position*, states as follows:


- (a) *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)

- **Conclusion**

Based on the initial inquiry and the formal investigation into this matter, there is probable cause to believe that Respondent violated §2-443(b) of the Palm Beach County Code of Ethics. Therefore, a finding of **PROBABLE CAUSE** should be entered in the above captioned matter as to Counts one and two made in the **COMPLAINT**.

By:

  
Kai Li Fouts, Pro Bono Advocate  
Florida Bar No. 0076790

  
Date

LAW OFFICE OF  
**SCOTT N. RICHARDSON, P.A.**

1401 FORUM WAY • SUITE 720  
WEST PALM BEACH, FLORIDA 33401

SCOTT N. RICHARDSON, ESQ.  
BOARD CERTIFIED CRIMINAL TRIAL ATTORNEY

MARGUERITE E. HODGKINS, FRP  
PARALEGAL

TELEPHONE: 561•471•9600  
FACSIMILE: 561•471•9655  
EMAIL: snr6253@gmail.com

November 9, 2012

Alan S. Johnson, Esq.  
Executive Director  
Palm Beach County Commission on Ethics  
2633 Vista Parkway  
West Palm Beach, FL 33411

Re: Marlene Ross

Dear Al:

Please be advised that I represent Boynton Beach City Commissioner Marlene Ross. Recently, one of your investigators made contact with her. Please direct all communications to me, and I will convey the request to her.

Thank you for your courtesy and cooperation.

Very truly yours,



Scott N. Richardson  
SNR/snr

**SENT BY REGULAR MAIL AND FAX TO 561-233-0735**

December 6, 2012

Janet Prainito, City Clerk  
City of Boynton Beach, FL

Dear Janet,

The purpose of this letter is to inform you that effective immediately I am resigning from my position as a commissioner for the City of Boynton Beach. The time has come for me to move on. My new opportunities and my mother's medical needs are my priorities. Now that my beau and I are expecting a blessing in the new year this leaves me without enough time for anything else. It has been an honor and a privilege to serve as a commissioner for 5 years. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marlene Ross".

Marlene Ross



# Palm Beach County Commission on Ethics

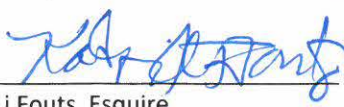
## Negotiated Settlement

In Re: Marlene Ross

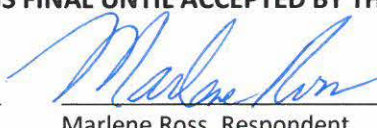
C12-013

Pursuant to section 2-260(d) of the Palm Beach County Commission on Ethics Ordinance, the Commission *may enter into such stipulations and settlements as it finds to be just and in the best interest of the citizens of the county*. Commission on Ethics Rules of Procedure 6.16 permits the COE Advocate to enter into settlement negotiations and present proposed agreements to the Commission for consideration and approval. Advocate and Respondent do hereby submit the following settlement agreement in the above captioned matter based upon the following terms and conditions:

1. Respondent, Marlene Ross, believes it to be in her best interest to avoid the expense and time of litigation in this matter and desires to resolve the issues contained in the probable cause finding by the Commission. Accordingly, Respondent admits that the allegations contained in the complaint as to Count 1, *Corrupt misuse of official position*, if true, could reasonably create a perception of "corrupt intent".
2. Pursuant to this Proposed Settlement Agreement, the Commission on Ethics agrees to dismiss Count 2 of the Complaint, *Corrupt misuse of official position*, issue a Letter of Instruction and impose a \$500 fine as prescribed under section 2-448(b) of the Palm Beach County Code of Ethics, believing that the public interest would not be served by proceeding further and that the alleged violation was inadvertent and unintentional.
3. This Proposed Settlement Agreement embodies the entire agreement of the parties respecting the subject matter herein. There are no promises, terms, conditions or obligations other than those contained in this Proposed Settlement Agreement.
4. This Proposed Settlement Agreement supersedes any and all previous communications, representations, and offers, either verbal or written, between the Advocate and Respondent. By signing this document, Respondent acknowledges that she is doing so freely, voluntarily and without duress; that she is competent to enter this agreement; that she has been given the opportunity to review this Proposed Settlement Agreement with an attorney; and that she has fully and completely read and understands the terms and conditions herein.
5. Advocate and Respondent agree that settlement of his action in the manner described above is just and in the best interest of the Respondent and the citizens of Palm Beach County.
6. Evidence of this offer of compromise and settlement is inadmissible to prove any of the allegations alleged.
7. Respondent understands and agrees that **NO OFFER IS FINAL UNTIL ACCEPTED BY THE COMMISSION ON ETHICS.**

  
Kai Li Fouts, Esquire  
Volunteer Advocate

10/3/2013  
Date

  
Marlene Ross, Respondent

10/3/13  
Date

  
Scott Richardson, Esquire

10/3/13  
Date