



PALM BEACH COUNTY COMMISSION ON ETHICS
 300 North Dixie Highway, Suite 450, West Palm Beach, Florida 33401
 Hotline: 877-766-5920 or 561-355-1915

COMPLAINT FORM

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

Please list all information where you would like to be contacted. Our preference is email.

Name: Joel Rutsky E-Mail jrutsky@lakeworth.org
 Address: 1900 2nd Ave N
 City: Lake Worth, Florida Zip: 33461
 Home #: 561-670-5635 Work #: 561-586-1725 Cell #: 561-714-0255

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

Please provide as much information as possible.

Name: Pamela Triolo E-Mail ptriolo@lakeworth.org
 Address: 7 North Dixie Hwy
 City: Lake Worth, Florida Zip: 33460
 Home #: _____ Work #: 561-586-1735 Cell #: 561-518-8434
 Title/Office Held or Sought: Mayor of the City of LAke Worth

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

Allegation is against person in

County/Municipal Government

Allegation is about County:

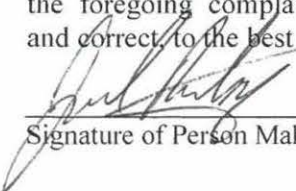
Whistleblower Retaliation

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.



 Signature of Person Making Complaint

STATE OF FLORIDA

COUNTY OF Palm Beach


Sworn to (or affirmed) and subscribed before me this 23 day of March, 2015, by

Joel Rutsky

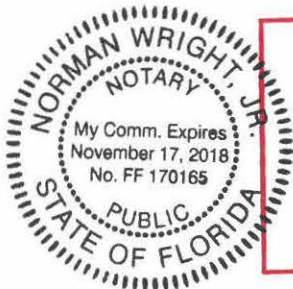
 (Name of Person Making Statement)

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

Driver License



 (Signature of Notary Public, State of Florida)



NORMAN WRIGHT JR

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

On 3/12/2014 @ 11:05am the Electric service was disconnected to 2417 North Federal Hwy Lake Worth, Florida 33460 due to non-payment of their Utility bill. This residence is believed to be owned by Pamela Triola who is the Mayor of The City of Lake Worth. Later that day a work order was generated to reconnect the electric service. The work order had the job order instructions of "Re-connect per City Manager". There was no payment made at the time the work order was generated. The account had an outstanding balance of \$430.56. This amount plus the appropriate re-connection fee should have been paid prior to us re-connecting their electric service. This is in writing per our City Resolution 18-2008 section 2: Refusal or Discontinuance of service by City, Paragraph (I) reads as follows:

For non-payment of bills or non-compliance with the City's rules and regulations. In the event a service is disconnected for non-payment of billing under Section 2. , paragraphs (F), (I), (J) or (K), full payment of the customer's total outstanding balance and re-connection fees will be required prior to re-connection of the service.

This resolution was clearly by passed by the Mayor and the City Manager so that the Mayor would have her electric service restored prior to making the required payment. The payment was received on the following day.

I believe these actions are a violation of the Code of Ethics Section 2-443. Prohibited Conduct. Paragraph (a) Misuse of public office or employment and / or Paragraph (b) Corrupt misuse of official position.



- ★ WF0673894-001
- Charge detail
- Charge summary
- Equipment transac
- Estimates
- Inspections
- Inventory transactio
- Job order facilities
- Job order instructio
- Labor transactions
- Non-inventory trans
- Notifications
- Other item transact
- Result comments
- TV inspections

J/O General Information

Request number: WF0673894
J/O number: 001
J/O description: TURN BACK ON ELECTRIC SVC
J/O status: Closed
Category: CUSTOMER SVC WKR ELECTRIC
Task: TURN BACK ON ELECTRIC SVC
Assigned department: CUSTOMER SERVICE WORKER

Date/Time/User Information

Entry date: 03/12/2015
Entry time: 18:10:23
Entry user: DRYANRLUIZ
Initiation date: 03/12/2015
Initiation user: DRYANRLUIZ
Scheduled start: 03/12/2015
Scheduled completion: 03/12/2015

Customer/Location Information

Customer: 000065079
Customer name: CLAHANE, MICHAEL G
Location: 000027732
Location address: 2417 N FEDERAL HWY
Service: ELECTRIC
Service sequence: 000
Meter number: E25906
Completion method: Delinquency maintenance

W/R General Information

Request number: WF0673894
Short description: TURN BACK ON ELECTRIC
Category: CUSTOMER SVC WKR ELEC
Request status: Closed
General location: North City
Assigned department: CUSTOMER SERVICE WORKER
Work type: ROUTINE

Completion/Close Information General Ledger Defaults

Comments

RECONNECT PER CITY MANAGER

- Print
- Cancel
- Exit
- Refresh
- Toggle code/d...
- Show/hide
- CIS functions
- Job order fun...

Please See Page 3

18-2008

RESOLUTION NO. 18-2008 OF THE CITY OF LAKE WORTH, FLORIDA, SUPERSEDING RESOLUTIONS 1-98, 56-98, 2-2001, AND 65-2007 OF THE CITY OF LAKE WORTH ESTABLISHING APPLICATION FOR SERVICE, ACCESS TO UTILITY EQUIPMENT, AND DEPOSIT REQUIREMENTS; PROVIDING FOR ABATEMENT OF VEGETATION INTERFERING WITH POWER LINES; PROVIDING FOR THE REFUND OF RESIDENTIAL SERVICE DEPOSITS FOR ONE ACTIVE RESIDENTIAL ACCOUNT ONLY; PROVIDING FOR THE RETENTION OF COMMERCIAL DEPOSITS; PROVIDING FOR CERTAIN CHANGES IN DEPOSIT AND APPLICATION REQUIREMENTS; AUTHORIZING TRANSFER OF DELINQUENT CHARGES TO ANY OF AN APPLICANT'S PRESENT ACCOUNTS AS A PREVIOUS BALANCE; PROVIDING FOR INTEREST PAYMENTS ON ALL DEPOSITS; ESTABLISHING CERTAIN FEES, CUSTOMER AUTOMATIC PAYMENT INCENTIVES AND CHARGES RELATING TO UTILITIES SERVICE AND BILLING; PROVIDING THAT CONFLICTING RESOLUTIONS ARE REPEALED; PROVIDING AN EFFECTIVE DATE.

Section 1. Application for Service.

- (A) Application for utility service(s) shall be made on forms furnished by the City of Lake Worth and shall constitute an agreement by the customer with the City to abide by the rules of the City with regard to its services of electric energy, water and sanitary sewer. Application for service(s) requested by verifiable firms, partnerships, associations and/or corporations shall be tendered only by their duly authorized agents and/or local representative and the official title of such parties shall be signed to the application.
- (B) A duly authorized agent shall mean a person listed on the organization's current business charter and/or articles of incorporation.
- (C) A local representative shall mean a person authorized by the firm, partnership, association and/or corporation by formal action by the governing body or by a duly authorized agent of the organization.
- (D) The authorized agent and/or local representative shall provide copies of the incorporation certificate, minutes of the meeting of such organization that names those officers and agents that may act on behalf of the organization. In addition to the aforementioned requirements, the local representative shall provide an original letter from an official of the organization named in the minutes to bind the organization to the service contract.
- (E) The application form shall include the following statement concerning collection charges:

I/we agree to reimburse the City for reasonable attorney's and collection fees if this account is placed in the hands of an attorney for collection.

- (F) All applications shall include the name and social security number of the applicant. Applications made by co-holders of the account(s) shall include the names and social security numbers of all of the parties and the account established shall be joint.
- (G) Applications shall be denied by the City of Lake Worth if the application submitted fails to include all of the information requested, and/or the applicant(s) fail to sign it.
- (H) If after accepting an application, it is found to contain information that proves to be false, or has misleading representations, when investigated by the City of Lake Worth or its agent(s), utility services may be refused or discontinued until the correct information is provided.
- (I) The City of Lake Worth shall require of all applicants for utility services, proof of identification and proof of accuracy of identifying data including drivers license numbers, federal tax numbers, social security numbers, etc. requested on the application.
- (J) The City of Lake Worth may require proof of ownership, lease, or rental of any property for which utility service(s) is requested.
- (K) Subject to the exceptions set forth in Section 4, paragraph (C), of this Resolution, new residential customers requesting initial connection of utility service(s) must appear in person at the utility's customer service office to make application for service(s) and pay the appropriate deposit(s) prior to the physical connection of the utility service(s).

Existing customers or past customers wishing to re-establish utility service may do so via telephone call, provided they supply their social security number and any additional information reasonably requested by the City, and that they satisfy the requirement for deposit(s), subject to the exceptions set forth in Section 4, paragraph (C) of this Resolution.

Section 2. Refusal or Discontinuance of Service by City.

As applicable, the City may refuse or discontinue service under the following conditions:

- (A) For falsification of the customer's application for service.
- (B) For non-compliance with and/or violation of any State or City law or regulation governing electric service.
- (C) For failure or refusal of the customer to correct any deficiencies or defects in his wiring and/or equipment which are reported to him by the City.
- (D) For the use of energy for any other property or purpose than that described in the application.
- (E) For failure or refusal to provide adequate space for the meter and service equipment of the City.
- (F) For failure or refusal to provide the City with a deposit to insure payment of bills in accordance with the utility's regulation. (See Paragraph (I), below).
- (G) For neglect or refusal to provide safe and reasonable access 24 hours a day to the City for the purpose of reading meters or installation, inspection, maintenance and removal of equipment owned by the City.
- (H) For failure or refusal to grant or cause to be granted to the City, without cost to the City, all rights, easements, permits, privileges and rights-of-way which, in the opinion of the City, are necessary for the rendering of service to the customer.
- (I) For non-payment of bills or non-compliance with the City's rules and regulations. In the event a service is disconnected for non-payment of billing under Section 2., paragraphs (F), (I), (J) or (K), full payment of the customer's total outstanding balance and re-connection fees will be required prior to re-connection of the service.
- (J) For non-payment of prior bills incurred by the customer for service at any one or more locations. (See Paragraph (I), above).
- (K) For non-payment of prior bills incurred by a previous customer, provided, that the current applicant or customer occupied the premises at the time the prior bills were incurred and the previous customer continues to occupy the premises. (See Paragraph (I), above).
- (L) Without notice in the event of a condition believed by the City, or other governmental agency having jurisdiction within the service area, to be

MEMORANDUM OF INQUIRY

To: Steven Cullen, Executive Director
From: Anthony C. Bennett, Investigator
Re: C15-007 - Pamela Triolo, Mayor, City of Lake Worth (City)

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff via a sworn complaint filed by Mr. Joel Rutsky (Complainant), on March 23, 2015. The Complaint was properly notarized and hand delivered to the Commission on Ethics (COE) office on March 26, 2015. The Complaint listed Pamela Triolo as the Respondent.

Attached to the sworn Complaint was a typed letter with no addressee listed. In addition, the letter contained no date or time stamp. A screenshot copy of a City of Lake Worth utility requisition and a copy of Resolution 18-2008 from the City's procedure manual also were included within the complaint support documentation.

In the letter, it was alleged that on March 12, 2014 at 11:05am, electric service was disconnected at 2417 North Federal Highway, Lake Worth Florida 33460 due to nonpayment of the utility bill. That same day, a work order was generated to reconnect electric services at the same address. On the work order, within the Comments Section, there was an order of instruction to "Reconnect per City Manager." The letter alleged, there was no payment made at the time the work order was generated, and the account still had a listed outstanding balance of \$430.56.

It was alleged the above outstanding balance, plus all associated reconnection fees, should have been paid prior the generation of the reconnection work order and prior to service workers actually reconnecting the utilities. This mandate is in accordance with City Resolution 18-2008 Section 2: Refusal or Discontinuance of service by City, Paragraph (I).

Complainant alleged the above property address is owned by Mayor Pamela Triolo (Respondent). Complainant alleged Respondent may have circumvented the reconnection process by asking the City Manager to have the utilities restored prior to payment of the bill, which would be a "violation of the Code of Ethics".

The following documents were provided with the Complaint and submitted to the investigative file:

- **Documents provided by Complainant**

1. Anonymous Letter outlining the allegation(s) made. (1 page)
2. Screenshot copy of a City of Lake Worth requisition. (1 page)
3. Copy of City of Lake Worth Resolution 18-2008. (3 pages)

- **Applicable Law**

The Following section of the PBC Commission on Ethics Ordinance establishes jurisdiction in this matter:

Sec. 2-254. Creation and jurisdiction.

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

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

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 "employee" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county... 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)

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

Relative unless otherwise specified in this article, means an individual who is related to an official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife...(Emphasis added).

As the Mayor of the City of Lake Worth, Pamela Triolo is under the jurisdiction of the Palm Beach County Code of Ethics and the COE.

Sec. 2-443. Prohibited conduct.

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

- (1) Himself or herself;
- (2) His or her spouse or domestic partner, household member or persons claimed as dependants on the official or employee's latest federal income tax return, or the employer or business of any of these people;

- **Inquiry:**

Respondent was originally elected as Mayor for the City in November of 2011. She leads the City Commission, which is comprised of four (4) District Commissioners. As the Mayor, she is required to live within the city limits of Lake Worth. I conducted a search of the Palm Beach County Property Appraiser's website in an effort to locate Respondent's place of residence. The search resulted in a "No results matched your search criteria. Please modify your search and try again" message. I tried several different variations of spellings and names with the name Triolo only to continue to find negative results.

On Tuesday, May 20, 2015, at 10:05am, I took a taped statement from Mr. Joel Rutsky (Complainant). Complainant was sworn in and gave permission to be recorded. Below are the details of that interview:

Complainant stated his full name and advised that his occupation as the Revenue Protection Supervisor for the City of Lake Worth Utilities. He stated his work address is 1900 2nd Avenue North, Lake Worth FL, 33461. He said he supervises the meter shop for Lake Worth Utilities. He oversees twelve (12) employees that conduct day to day work for Lake Worth Utilities that range from reading meters, turning electric and water

meters on and off, disconnection of power and water for non-payment, reconnection of power and water after payments are made, keeping track of work orders generated for those types of service calls and connection of electric and water services for new customers.

Complainant stated the City has its own in-house utilities department that supplies power and water. He advised the current chain of command for the utilities department is as follows: Interim Utilities Director, Walter Gill, is currently in charge of the department and reports to City Manager, Michael Bornstein, who reports directly to the Lake Worth City Commission and Mayor.

Complainant advised he knew Pamela Triolo as the Mayor for the City and said she was elected into that position approximately two (2) years ago. He said she was a resident of Lake Worth and provided her home address. When Complainant was asked if he knew Michael Bornstein, he said he knew him to be the City Manager of Lake Worth and a City resident.

Complainant advised he filed the complaint because on March 12, 2015, a work order was generated to disconnect electric services at the address previously provided for nonpayment of the utility bill. He stated the address was the residence of Mayor Pamela Triolo and that a service technician went to the address to disconnect the power on March 12th at 11:05am in accordance with the work order. Complainant explained that when a disconnection occurs, the meter is pulled out of the housing, a device is placed on the back of the meter to stop the flow of electric and the meter is placed back in the housing so that it always stays at the original location.

When he saw the technician the next morning, the technician said he was unable to put the meter back in place after disconnection because the house had a standby generator attached, which kept turning on and supplying an alternate flow of electricity through the meter housing and ultimately to the residence. Complainant said that service technicians are trained to avoid houses with standby generators because the added electricity could cause a back flow and possible explosion. He said that it is a safety issue for the service technician, and another type of technician disconnects the power if a house is identified as having a standby generator.

Complainant advised he checked the computer system after speaking with the technician for a telephone number to call the resident and explain why there was no electric meter and the steps they would need to take to have it returned. At that time, he noticed that the same day the power was disconnected (March 12, 2015), another work order was generated to reconnect the service. Under the "Comments" section of the second work order, it said "Reconnect per City Manager." He then checked to see if the bill had been paid, and said as per a City Resolution, there is a requirement that an unpaid utility bill be paid prior to reconnection of services. He found the electric bill had not been paid, but electric services had been restored. He said at the time he checked, there was still an outstanding balance of \$430.56. He reiterated he checked the system on March 13, 2015, the day after service was initially disconnected and then restored, and the balance had not been paid. Upon further investigation, Complainant advised he found that the night crew had gone back after normal business hours to reconnect the electric service based on the second work order generated. He advised that service technicians do not have access to the billing system and conduct all their business based on work orders they receive.

Complainant said he then went to the house because the first technician advised there was no signage posting a warning about a backup generator, and according to City code, there should be signs warning service technicians about a backup generator in case they have to work with the electric meter for any reason. He said when he went to check for the warning signs himself and to advise the homeowner that the signs needed to be posted per City code, he walked into the yard and realized whose house it was.

Complainant said there were numerous "Pamela Triolo for Mayor" signs on the front lawn, and put "two and two together" and realized it was her house. This was confirmed by another city employee who knew where the Mayor lived. Complainant said he had no idea it was her house prior to going to check for the generator

warning signs. He said he knocked on the door but there was no answer, then followed up with the electrical inspector in the City Building Department to let them know about the generator. He did so because they are usually the ones that notify the owner that they are not in compliance and needed to post signs and do whatever else needs to be done to comply with city code. In this case, Respondent's current generator issue would be considered a code violation.

Ultimately, he said he believed the Mayor had come home, realized the power was off and called the City Manager to get it turned back on. Then the City Manager called utilities and had a work order generated for reconnection, which is why the second work order says "reconnect per City Manager" in the Comments section. The electric was disconnected the morning of March 12, 2015, reconnected the evening of March 12, 2015 and the payment was finally made the next day March 13, 2015, which is against the City Resolution. Complainant quoted Lake Worth City Resolution 18-2008, stating once the power is disconnected, it cannot be reconnected unless the past due bill and reconnection fees are paid.

Complainant advised normal practice is if power is disconnected in the morning and the payment is made along with the \$35 reconnection fee, a work order would be generated that same morning to reconnect services. They try their best to get the power restored that day. If the payment is made after regular business hours (6pm), there is a \$10 night fee added to the regular reconnection fee for a total of \$45. All past due amounts, plus the reconnection fee, and the night fee would normally have to be paid for the service to be reconnected after hours. He said the second work order was generated for reconnection at 6:10pm on March 12, 2015 and would have been considered an after hour's call.

Complainant said Service Technician Gonzalo Aguilar disconnected the power to Respondent's house on March 12, 2015 and said Service Technician Lee Walker restored power the same day.

I read through Lake Worth Resolution 18-2008 with Complainant. He said that the resolution is what the City currently uses when dealing with utilities disconnection and reconnection. He advised he is aware that deviations to the policy have been made in the past where a Commissioner or the City Manager would call Customer Service to have utilities restored, but he was not sure about the details of why it had happened. He also advised that this is the first time he has been aware of any deviations from the policy in the past few years. Even in those cases, he advised he has never seen power restored without at least some of the balance paid on an outstanding bill. He went on to say that he was unaware if there was a medical issue or a childcare issue that may have been present in this instance where there would have been a need to reconnect the utilities.

Complainant said Ms. Donna Ryan-Ruiz is the Customer Service Manager and would know who placed the City Manager comment on the reconnection work order. He said usually the Customer Service Reps would input information into the comments section as a means of documentation on work orders if there is an extenuating circumstance or if they were bypassing a protocol such as who authorized what and why. Complainant advised even if he was a city employee who lived in Lake Worth, he could not just call customer service and have his utilities restored without paying. Complainant advised a service technician would not automatically restore power without some kind authorization from a supervisor. The only other instance where power would be restored is with a letter of commitment from an assistance agency promising the City to pay the bill, but that he was not aware of any letter of commitment for this issue.

When Complainant was asked if the utility account was in the Mayor's name, he advised that the account is listed as Michael Clahane, who is the Mayor's husband. He also noted the Mayor ran for office using her maiden name not her married name. He advised the calls into the Customer Service employees are not recorded to his knowledge. Complainant advised he would send me the payment information for Respondent's account to verify the fees were paid the next day. He also provided the original disconnection and reconnection work orders for the file. He had nothing else to add to this inquiry.

The interview was ended at 10:33am the same day.

On Thursday, May 28, 2015, at 10:55am, I took a taped statement from Ms. Donna Ryan-Ruiz (Witness) at Lake Worth City Hall. Witness was sworn in and gave permission to be recorded. Below are the details of that interview:

Ms. Ryan-Ruiz identified her position as the Customer Service Manager for the City of Lake Worth Utilities. She advised her daily duties include overseeing the customer service department, customer billing, resident disconnection and reconnection payments, setting up and disconnection of new utility services, and supervising a staff of thirteen (13) individuals. Of the thirteen staff members, she stated eleven (11) actually handle customer and resident phone calls. She stated that she also handles customer and resident phone calls on occasion.

She explained the process for disconnection and reconnection of utility services as follows:

1. The customer is required to pay the delinquent account in full, per policy, prior to reconnection.
2. This amount includes any previous balance, current balance, and a reconnection fee.
3. The reconnection fee is \$35 for the first time. If the utility is disconnected again within a year, the fee increases to \$90.
4. There is also an after hour reconnection charge of \$45 for any calls made to the 24-hour customer service call-in system after 5pm. The customer must agree to immediately pay the after-hours charge and all delinquent amounts prior to the utility being restored.
5. Payments can be made over the phone through use of credit cards during normal business hours.
6. For payments made after hours, the caller is directed to go to the City website, log into their electronic account and make the payment electronically.
7. Once payment is received by the City, a reconnection work order is generated. During business hours the Customer Service Representative issues the work order, and after business hours the work order is generated by the computer system.
8. All generated work orders are dispatched to the Field Service Workers, who reconnect the utility services. She noted that she is not in charge of the service workers who actually reconnect the utility.

When Ms. Ryan-Ruiz was asked if there were any circumstances where a utility would be reconnected absent a payment, she said "No", and added the only instance where this would be possible is if there was an exception agreement between the City and the customer to repay the past due amount and the reconnection fee. She also advised there are assistance agencies the City deals with that work with customers who may not have the financial means to restore utility services. In that case, the assistance agency would issue a note to pay on behalf of the customer. With the note from the assistance agency, a reconnection work order is generated and the utility service is restored. She advised the customer is responsible for the reconnection fee, while the agency covers the amount needed for reconnection.

Ms. Ryan-Ruiz advised if the customer relays that there is an extenuating circumstance, such as a sick child or medical issue, they are referred to an assistance agency. She noted the main agency the City deals with is Community Action, which is an assistance agency through Palm Beach County. If a customer is referred as being in need of utility restoration and they are dealing with a child or medical issue, that customer becomes a priority and the process to restore the utility beings immediately.

Ms. Ryan-Ruiz noted the policy is primarily followed in all disconnection and reconnection instances. She did state there may have been a few variations in the past, but they were all either based on an extenuating circumstance or reviewed on a case by case basis. In those cases, outside of collecting all monies in full, they may have just made an exception to collect previous balances.

When Ms. Ryan-Ruiz was shown a copy of City of Worth Resolution 18-2008, she advised she was familiar with it and understood its contents. She acknowledged she and her employees follow it when handling disconnection and reconnection of utilities.

When Ms. Ryan-Ruiz was asked about Mr. Michael Bornstein, she identified him as the City Manager. She was then shown a screenshot copy of a work order, and identified it as a reconnection of service work order. She acknowledged that with that document, the City authorized the utility service to be reconnected. She acknowledged she generated this particular document, Work Order #673894, and authorized electric service restoration at the address listed (2417 North Federal Highway, Lake Worth, FL). She advised she did not know whose address it was at the time she generated the work order, but is now aware that the Respondent lives there.

Ms. Ryan-Ruiz was asked about the information in the comments section of the reconnect order. She stated the phrase "Reconnect per the City Manager" was typed in that section. She said she entered that phrase in the comment section because the City Manager, Michael Bornstein, called her office telephone and told her to have the power restored to that address. She stated the City phone system does not record phone calls or document calls coming into or out of the Department, so there would be no documentation of the call that she received from him. She said the call was received around 6pm, which would be considered after hours. She also believes he told her there was a problem paying on line, but could not be sure of that statement.

Ms. Ryan-Ruiz advised she reports directly to the Utility Director. She did not know if Mr. Bornstein called the Utility Director prior to calling her, and said she did not question him as to why she was being told to generate a reconnection work order. She stated she did check to see if the bill had been paid prior to generating the work order and found that it was not paid at that time. She stated Mr. Bornstein gave no indication when the bill would be paid. She then said she did not call Mr. Bornstein back to advise him that the bill had not been paid.

She advised when Mr. Bornstein initially called after asking the power be restored at the provided address, he told her there was no meter attached and asked her if it was common practice for the service worker to remove the meter. She told him that she did not know if it was common practice for the workers to remove meters and said there was no note from the service worker so she could not provide information as to why the meter was missing or where it was.

When Ms. Ryan-Ruiz was asked if she knew who Pamela Triolo was, she identified Triolo as the Mayor of Lake Worth. She was then asked to read the name on the work order. She read the name Michael Clahane. She stated she did not know who Michael Clahane was. When asked if Respondent ever called her directly to have the power reconnected, Ryan-Ruiz said "No", and also said she could not recall if the power was ever disconnected at that address previously. She later advised that Mr. Bornstein came to her the following day and told her this was the Mayor's account. She told Mr. Bornstein that she was not aware that the account belonged to the Mayor and said there was no further discussion regarding the matter.

Ms. Ryan-Ruiz was asked if anything was abnormal or stood out regarding the request by Bornstein to have the power restored at this address. She said "No," during the entire process, there was nothing that really stood out. She said Bornstein dealt directly with her regarding this issue and never involved any of her employees.

Ms Ryan-Ruiz advised after the second conversation with Mr. Bornstein, she went back to check the account to see if had been paid. She said it was paid "sometime in the morning" by way of over the counter payment.

Ms. Ryan-Ruiz advised she had no other information to offer and the interview ended at 11:13am the same day.

I reviewed the Palm Beach County Property Appraisers website to see if Michael Clahane was listed as a property owner for the provided address. Under the last name Clahane, I saw the first name "Pamela" listed as the sole property owner for the provided address. I did not see the first name Michael listed. In comparing the listing from the website to the address listed on the reconnection work order, I found that Michael and Pamela Clahane both reside at the address.

- Documents provided by Investigator

1. Property Appraiser Address/Name Search for Pamela Triolo. (2 pages)
2. Palm Beach County Property Address/Name Search for Michael Clahane. (3 pages)
3. Email from Joel Rutsky (Complainant). (1 page)


- Recommendation

After reviewing the background information, the documents submitted by Complainant, witness statements, and the applicable law, I believe that if the allegations as stated are true, they would result in a violation of the PBC Code of Ethics §2-443(a), *Misuse of public office or employment* by Respondent. Therefore, it is my recommendation that this matter be found **LEGALLY SUFFICIENT** under Section 2-260(a)(2), **Procedure on Complaints Filed, Legal sufficiency of complaints**, of the PBC Commission on Ethics Ordinance and request that a formal investigation begin into this complaint.

Legal sufficiency is defined as:

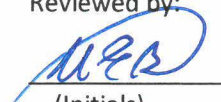
Legal sufficiency exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based upon facts which have been sworn to by a material witness or witnesses, and 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.

Submitted by:


Anthony C. Bennett, Investigator
PB County Commission on Ethics


Date

Reviewed by:


(Initials)


Date

PALM BEACH COUNTY COMMISSION ON ETHICS
LEGAL SUFFICIENCY DETERMINATION

To: Palm Beach County Commission on Ethics
From: Steven P. Cullen, Executive Director
Re: C15-007 – Pam Triolo, Mayor, City of Lake Worth

The background and applicable law sections documented in the Memorandum of Inquiry are incorporated by reference into this Legal Sufficiency Determination.

- **Analysis**

In order to find a violation of §2-443(a) *Misuse of public office or employment*, it would have to be alleged and established that a person under the jurisdiction of the Code of Ethics used his or her official position or employment to provide a “special financial benefit” for themselves, their spouse, domestic partner, household member or dependent, or one of the other persons or entities listed in this particular code section. A “financial benefit” is defined in §2-442 *Definitions*, as “...any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value...”

Respondent is in fact the Mayor of the City of Lake Worth. She resides with her husband Michael Clahane at the address listed above. This information was verified based on comparisons between a City of Lake Worth reconnection work order and a listing found on the Palm Beach County Property Appraiser’s website matching the addresses to the name Pamela Clahane, which is Respondent’s married name.

According to statements obtained, it is reasonable to believe that Respondent contacted Lake Worth City Manager Michael Bornstein in an effort to have the power restored at her place of residence, while bypassing City Resolution 18-2008. The resolution specifically delineates the process for restoring utility services due to nonpayment of a utility bill. The applicable section of the resolution reads as follows:

RESOLUTION NO. 18-2008 OF THE CITY OF LAKE WORTH, FLORIDA

Section 2. Refusal or Discontinuance of Service by City.

As applicable, the City may refuse or discontinue service under the following conditions:

- (I) For non-payment of bills or non-compliance with the City's rules and regulations. In the event a service is disconnected for non-payment of billing under Section 2., paragraphs (F), (1), (J) or (K), full payment of the customer's total outstanding balance and re-connection fees will be required prior to re-connection of the service.

Information also obtained from documentation provided and statements received, show Respondent had her power restored prior to making the delinquent payments as is required by City Resolution 19-2008. Statements obtained from Witness Donna Ryan-Ruiz show she was contacted directly by Lake Worth City Manager Michael Bornstein. Ryan-Ruiz advised Mr. Bornstein told her to have the power restored although he did not know if the payment had or had not been made on the delinquent account. Ryan-Ruiz also stated she checked the following day and a walk-in payment had been made; however, it was received well after power was restored, which, she acknowledged, violates the City Resolution. Lastly, Ryan-Ruiz stated she had

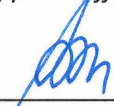
no knowledge of a promise to pay note that could have been provided by a third party assistance agency in the event of a hardship.

Respondent may have violated the Palm Beach County Code of Ethics and used her position as Mayor to circumvent the City's reconnection process by contacting the City Manger to have him use his position as City Manager to influence Lake Worth Utilities to reconnect the electric prior to payment of her overdue electric utilities account.

- **Conclusion**

Based on staff recommendation, information presented by Complainant and sworn testimony from witnesses, there is **LEGAL SUFFICIENCY** to believe that, if true, Respondent, Pam Triolo, the Mayor of the City of Lake Worth, may have violated the Palm Beach County Code of Ethics by acting in a manner to give herself a "special financial benefit" not available to similarly situated members of the general public in violation of Code of Ethics Section 2-443(a), *Misuse of public office of employment*. Thus a formal investigation into these allegations is warranted.

BY:



Steven P. Cullen, Executive Director
Florida Bar No. 362204
PBC Commission on Ethics



Date

PALM BEACH COUNTY COMMISSION ON ETHICS
REPORT OF INVESTIGATION

To: Steven P. Cullen, Executive Director
From: Anthony C. Bennett, Investigator
Re: C15-007 – Pam Triolo, Mayor, City of Lake Worth

The documents and information provided in the Memorandum of Inquiry in this case are incorporated by reference into this Report of Investigation.

- **Investigation**

On Wednesday, July 8, 2015, at 08:03am, I took a taped statement from Mr. Michael Bornstein (Witness).

The interview with Mr. Bornstein was conducted at Lake Worth City Hall, located at 7 North Dixie Highway, Lake Worth, FL 33460. Mr. Bornstein elected to give the interview voluntarily, was aware that the interview was being audio recorded, and agreed to do so under oath. Prior to the interview, I obtained Mr. Bornstein's name, address telephone number and public email address for identification and contact purposes.

Mr. Bornstein was sworn in and gave permission to be recorded. Below are the details of that interview:

Mr. Bornstein stated he is the current City Manager for the City of Lake Worth. He advised he has known Respondent for just over three years, or the length of his employment as City Manager. He stated all employees working for the City either directly or indirectly report to him as the "CEO" of the organization or city, which also encompasses Lake Worth Utilities. Mr. Bornstein advised he reports to the Mayor and the five (5) elected city officials, which is the City Commission.

Mr. Bornstein advised he was "somewhat" familiar with the Lake Worth Utilities disconnection and reconnection of service process. He advised he unsure of the detailed parts, but knew there was a process. Mr. Bornstein was asked if he was familiar with the Lake Worth Utilities policy and procedures. He advised he primarily "relies on staff" to know and comply with policies but stated he knew where the policies were and how to access them if needed. He said he could not recall directly reading any policies as it relates to disconnection and reconnection of services, and went on to say that given the complexities of the wide varieties of laws and, etc., it was not something he was well versed in.

I showed Mr. Bornstein a copy of City of Lake Worth Resolution 18-2008, Procedures Regarding Electric Services. Mr. Bornstein read aloud the section regarding disconnection of services for non-payment of bill. He read, "Full payment of the customer's total remaining outstanding balance and reconnection fees are due prior to reconnection of the service." He stated he was not one-hundred percent (100%) sure that is what was required, but understood it as read. Mr. Bornstein advised he lives in the City, and that it is part of his employment contract to live within the City limits. He stated he has never had his utilities disconnected, so he is not personally familiar with the reconnection process.

When Mr. Bornstein was asked about the event that happened on March 15, 2015, he said he roughly remembered, and went on to say that he had gone to Tallahassee with Mayor Triolo to attend the State Legislative Session. He said they drove up together a few days prior, and drove back together on March 15, 2015. He said he remembered conversations he had with Respondent during the drive where Respondent was complaining about the utilities payment process in relation to her debit card. He said Respondent told him there was a few times in which she attempted to make a payment using her debit card, where the payment (monies) had come out of her bank account, but there were issues with the City's acceptance of the payment. Mr. Bornstein stated Respondent advised she had made a payment before the trip to Tallahassee, and she was not sure if it had gone through

properly, even though the monies were deducted from her bank account. Respondent told him she had numerous problems with the service in the past and had hoped everything would be alright upon their return.

Mr. Bronstein stated he was not familiar with that process because he does not pay with a debit card. His payment is made directly to Lake Worth Utilities through the automatic bill pay process through his bank. He schedules the payment to be made, and it is deducted directly from his bank account without the use of a debit card. He stated the way Respondent pays, he would think the debit would be like a check and if the monies are deducted, he would think everything would have gone through with no problem. Mr. Bornstein stated this conversation between him and Respondent occurred while driving to Tallahassee.

Mr. Bornstein stated when they got back to the Lake Worth, he dropped off Respondent at her home. A few minutes later, he received a telephone call from Respondent in which she stated her power had been cut off despite her making the payment. He stated he felt he needed to straighten this issue out due to extenuating circumstances. He advised the City's utilities process had been in transition since his tenure at Lake Worth, including the payment process. He said while the rules and regulations are clear, the actual process has produced some gray areas that needed to be addressed.

Mr. Bornstein stated that he figured they had just gotten back from Tallahassee, the offices were closed, and this is something that could be dealt with in the morning. He was confident Respondent was not going to leave town and not make good on the bill if it was not actually already paid. He said that he either called or sent an email (he could not recall which one) to Donna Ryan-Ruiz, the Lake Worth Utilities Customer Service Manager regarding the situation and provided the Mayor's address. He figured Respondent would ensure everything was taken care of after the issue was resolved. Bornstein advised he later learned there was some form of "glitch" in the process which is why her payment was rejected.

Mr. Bornstein reiterated at the time of the issue, he felt confident the information provided by Respondent was trustworthy enough to make this judgment call. He again felt the debit card was like a check and if you see money come out of your account, you assume the actual payment was made. He advised there was nothing in their policy that describes what procedures needed to be taken when dealing with a specific "glitch" in the system, so he felt comfortable making this call as he had done with other accounts. His aim was to be more customer-friendly when dealing with these types of issues.

Mr. Bornstein referenced a previous incident that was somewhat similar. He stated there was an apartment complex near City Hall on Dixie Highway where the owner of the complex had not paid the utility bill. The tenants of the apartment complex had been paying their portion of the bill to the owner, who was then supposed to forward the payment to Lake Worth Utilities. Since the owner did not pay the bill, the tenants were faced with disconnection of service. He stated some of the tenants were handicapped and others were veterans. Even in this case, he understood the policy states that if you do not pay the bill, your services will be disconnected. He felt the situation was unclear enough that he could step in and make the decision to continue service despite the non-payment of the bill, at least until they could find other means to resolve the issue.

Mr. Bornstein advised he has gotten calls regarding similar issues during the time he has been City Manager. He stated he has tried to stay on the side of good customer service while they were in the process of fighting the many issues they were having within the Utilities Department. When he started as City Manager, customer service was the biggest source of complaints and problems for the City. He needed to spend a lot of time and effort to improve customer service; situations like the apartment complex and even Respondent's case fell along the lines of good customer service representation. He stated the process is still not at the level where he feels comfortable, but he will do what he can to continue to improve it, even if it means making judgment calls like the one he made for Respondent. He reiterated that he would have made the same call for any resident facing a similar circumstance. He stated while he understood the policy as written, he felt the extenuating circumstances in Respondent's case was more or less a gray area within the policy and procedures of Lake Worth Utilities that needed to be directly addressed.

When Mr. Bornstein was asked if he remembered if it was an email or a call that was placed to Ms. Donna Ryan-Ruiz, he said he believed it was an email because he was trying to figure out the whole debit card issue. Why the process would show the payment made, the money be removed from the account, and still display that the payment had not been made. He advised he was trying to get a better understanding of the process. He said he would look for the email and forward it to me.

Mr. Bornstein stated he never checked to see if the payment was made. He just assumed based on the conversation he had with Respondent that the issue was being resolved, which included dealing with owed monies. His biggest issue was figuring out where the breakdown was in the process. He said he was trying to find out if the "glitch" was at PNC (the bank) or with them (Lake Worth Utilities). He noted that some form of "ping" occurs where the bank account is contacted, the money is withdrawn and it will sit in limbo for about three to four days then be credited to the utility account. For whatever reason, the money will not be released and the funds are held until the issue is resolved. He said they were checking to see if the information was incorrectly entered, or a zip code issue, or maybe even a debit card security code issue. Whichever it was, the information was not lining up with the information in the system, and the transaction was being denied. Once denied, the "Invalid Transaction" message shows and the money is then released back into the (Respondent's) account. He stated they are struggling with how to resolve this issue, other than to not use a debit card, or pay by check. He advised he just was not sure.

He again stated, as far as he remembered, he and Respondent had the conversation on Monday of that week as they were driving up to Tallahassee and returned on Wednesday to her power being disconnected. Based on their conversation, he understood that the payment had been made and the power was disconnected anyway. Therefore, he acted on that knowledge of the situation. The fact that she is his "boss" did not factor into the decision that he made to have the power restored and she did not "order" him to have her utilities resorted.

Mr. Bornstein stated of course he could not do this for everyone, but if there were cases such as this that he knew about, he would make every attempt to keep utilities on until the issue was resolved. He advised he will attempt to give the customer the benefit of the doubt. He stated the payment process is still a work in progress and there are some things that are still required, but the city does not have the necessary funds to make the purchase. However, it is still much better now than what it was when he started.

Mr. Bornstein had no other information to add to this investigation.

The interview was concluded at approximately 08:25 A.M.

On Thursday, July 16, 2015, at 1:00 P.M., I took a taped statement from Ms. Pam Triolo (Respondent).

The interview with Respondent was conducted at First Impressions Creative Services, located at 120 North Federal Highway Suite 201, Lake Worth, FL 33460. Respondent elected to give the interview voluntarily, was aware that the interview was being audio recorded, and agreed to do so under oath. Prior to the interview, I obtained Respondents name, address telephone number and public email address for identification and contact purposes

Respondent was sworn in and gave permission to be recorded. Below are the details of that interview:

Respondent advised she is the current Mayor of the City of Lake Worth and was elected to the position approximately three (3) years ago. She stated she is also a current resident of the City and provided her home address which has been added to the file. She advised her "place of residence" is currently titled in her married name of "Clahane".

When I asked Respondent if she was familiar with an "incident" that occurred on March 15, 2015, in which her electric power/utilities were disconnected at her residence, she said "yes, I am familiar". Respondent said she had been having an issue with her electric bill for approximately six (6) months prior to the incident. According to her, this particular issue was brought up publically in City commission meetings. She advised there is/was a problem with the City's on-line pay module, which is what is used to pay the bill for Lake Worth Utilities.

Respondent stated when she pays her bill using the module she enters all of the requested data in the available fields, and sees that the payment goes through because monies are deducted from her personal account. Then, she would get a message saying the payment has been declined, despite the fact the money has been deducted from the account. In order to verify, she went to log into her personal bank account and saw the transaction was made, but was being held in a "pending" status. The money was then tied up in the pending status and unavailable to her for five (5) to seven (7) business days. She advised she confirmed that there was money available for the payment; she just was not sure as to why the payment kept being declined.

Respondent stated she brought it up in previous commission meetings because it had been happening to her on a frequent basis. She said that if it had been happening to her, she was sure that it had affected other members of the community and wanted the problem fixed. She stated the billing problem was not just with electric utilities, but water and sewage as well. She gave an example of the bill being \$500. If this money sat in a pending status for up to seven (7) days, a resident would have to come up with another \$500 to have their utilities restored. She stated this was "unacceptable and needed to be fixed." She stated other residents complained the portal was an "abomination" and it kept "messing up or screwing up," but she had no information about anyone specific that had the same issue.

Respondent stated she called PNC Bank (her personal bank) regarding her issue, and was told that the issue was with the City. She said she then contacted the City, who in turn told her it was a problem with the bank. Unsure of where the issue was, Respondent brought up the problem at multiple meetings asking the City Manager to look into it and have it rectified. She stated she took other steps as well. She advised she called the Utilities Department and had them walk her through the entire payment process, which included each step, password changes, inputting of debit card information, and in the end the problem was still occurring. She stated they were physically on the phone with her and the information still came back as declined. She stated Lake Worth Utilities told her she would have to wait and do the process again in a "couple of days."

Respondent stated she and the City Manager had to go to Tallahassee for a legislative session and rode together. Respondent went on to say that during the return trip, her husband called and advised that the power was off at the house. She said she told him that she had paid the bill a few days prior, and it was still saying pending in her bank account. She said she was relying on the information she received from Lake Worth Utilities telling her she could rectify the issue at the end of the week, or when she returned from Tallahassee.

When Respondent returned home she realized the power was off and the actual meter was pulled for some reason. She said that was not the proper protocol to be followed per City Ordinance. She advised the meter is only pulled if someone is found to be tampering with it or if it is an older meter that is being replaced. She advised when the worker came to restore the power, he asked why the meter was pulled. The worker had to leave again to get another meter to finally restore the power. Respondent emphasized that the payment still said pending in her bank account during that time.

Respondent was asked if she had a generator attached to the house, and said yes, but was not sure if it would have worked properly because it had not been serviced in some time. She stated they have a generator attached to their home to keep medicine refrigerated due to her husband's medical condition.

Respondent stated she did call the City Manager to inform him of what was happening because she was concerned about the power being cut off. She advised they spoke on this very issue during the drive to Tallahassee where she stated to the City Manager, "I hope everything is ok with my power." She stated they returned from Tallahassee after business hours, so she could not go into the customer service and pay. She also stated due to the pending payment status, online was not an option either. According to her, the City Manager did call the Lake Worth Utilities Customer Service Department to inquire about her power. She advised she was not sure what he told them but he was aware that she had made her payment. She stated the power was ultimately turned on a few hours later that same night.

Respondent advised her husband went to Lake Worth Utilities to physically make the payment first thing the next morning. She stated she believed there was a disconnection fee that was charged to the account. She stated that

her husband just paid whatever amount Lake Worth Utilities asked him to pay without question. She stated they just paid it to make sure the issue was handled, and never sought to get reimbursed for the reconnection fee.

Respondent said she continues to deal with payment problems while using the portal, and that she and Donna Ryan-Ruiz, Lake Worth Utilities Customer Service Manager, are supposed to meet in her personal office (after hours) to try and determine the cause of the problem. Respondent stated Ryan-Ruiz advised the problem could be an Apple/Mac issue where information is not being either sent or received properly, since that is the type system she uses to complete the process. She also said there are network updates that need to be done, which may also be part of the problem.

When I asked Respondent if she could recall any instances where power was reconnected for a customer prior to payment being made, she said "yes", there was a motel on Dixie Highway where the residents had been paying the utility bill to the landlord, but the landlord was not paying the bill to Lake Worth Utilities. Instead of cutting the power to residents, which included children and veterans, they kept it on until the issue could be rectified. She also recalled individuals who had health related issues and restaurants in the area that were behind, but their power was left on or reconnected until a deal could be worked out. She stated she could not recall where the documentation of these incidents was located, but she would try and find it.

Respondent advised she would try to get copies of her payment transaction and her bank account which showed the payment as pending. She also stated she would locate and provide copies of documents showing she brought up the issue in previous Lake Worth Commission meetings. Respondent added she has requested the City Manager and Lake Worth Utilities to come up with a plan to fix the issue and ones similar in nature. She stated she is not sure what they are working out, but knows a plan is in the works.

The interview was concluded at approximately 01:31 P.M.

As a follow-up to the interview, Respondent said she was unable to track down documentation about the payment process that was the foundation for this complaint due to her not having the accurate times when the transactions were made. She did, however, forward screenshots of her July payment process. The documents included the screenshots of Respondent's PNC Bank account showing before and after transaction balances. The actual account numbers were redacted as a security measure. Also sent were screenshots of Respondent's Lake Worth Utilities online payment screens, which included the initial login screen, credit/debit card input screen, a screenshot of Respondent's Lake Worth Utilities usage charges, a screen shot of the "Review of Payment and Charge Information", and a screenshot of the "Payment Receipt".

Respondent reiterated in a phone conversation prior to sending the documents, that they were not screen shots of the transaction that was the basis of the complaint. I reviewed the documents and found the following:

1. The first document shows a screenshot of Respondent's PNC Online banking account, a login date and time of Friday, July 24, 2015 at 11:42 am, a fund balance sufficient to pay the amount owed. All account numbers and other sensitive information have been redacted as a security measure.
2. The second document shows a screenshot of the Lake Worth Utilities home page, customer name as Michael Clahane (Respondent's husband), Respondent's address, and an active outstanding account balance of \$535.23 on the "Service Summary" section. There is no date or time listed on this individual document.
3. The third document shows the payment screen of the Lake Worth Utilities website. Respondent has entered the following information into the data section: Name-Pamela Triolo; Debit/Credit Card Info-*redacted*; Billing Address-Respondent's home address that is currently on file.
4. The fourth document shows a screenshot of the Lake Worth Utilities fee confirmation page. The screen asks the user to confirm the payment of \$535.23.
5. The fifth document shows a screenshot of the Lake Worth Utilities review of payment and charge information, which is the final review before submission of the payment. It shows the Name and address of Respondent and her paying the total amount \$535.23.

6. The sixth document shows the Lake Worth Utilities electronic payment receipt. It lists Respondent's name and address, the payment date of July 24, 2015 at 5 pm, and the payment amount of \$535.23. However on the final receipt also lists "Declined" under the Transaction Status.
7. The seventh document shows another screenshot of Respondent's PNC Bank account with account information redacted. The date of the document is July 24, 2015, and lists the amount of \$535.23 deducted Respondent's bank account.
8. The eighth document shows Respondent's bank account dated July 29, 2015. The account lists \$535.23 to Lake Worth Utilities as "pending" in Respondent's personal account.

Respondent also forwarded a copy of a transcript from an open Lake Worth Budget Work Session which according to the date occurred on August 25, 2014. The session was called to discuss the upcoming Fiscal Year 2015 proposed budget. The excerpt forwarded by Respondent was regarding the Lake Worth Utilities electric rate and budget discussion. In a conversation between Commissioner Andy Amoroso, Mayor Pam Triolo and Commissioner Christopher McVoy, the number of people paying their utility bill on line was discussed.

Amoroso stated they needed to make sure the online bill pay process is updated and added into the business plan. Respondent followed up by stating the system needed to be "fine-tuned". She advised she continuously gets "knocked off" the system, her passwords are lost and she is forced to re-enter all of her information. Commissioner McVoy stated the same thing has happened to him as well. Respondent next advised that she has made payments, monies had been deducted, but realized days later that the payment had not gone through. She advised she reached out to Utilities to see what happened, and was told they did not receive the payment and she was then forced to make another payment ultimately tying up approximately \$800 due to having to make a double payment until her pending money was released or finally goes through.

I reviewed the 2014 Lake Worth City Commission archives and located the August 25, 2014 Budget Work Session which was located on the City of Lake Worth website. All of the information presented by Respondent regarding that meeting was verified.

- **Additional documents obtained during investigation**

In conducting the investigation into allegations made by Complainant, I obtained documents from other sources that are relevant. These included the following:

1. Screenshot copies of Respondent's Lake Worth Utilities payment, which includes screenshots of her personal bank account. (8 pages)
2. Various email correspondence between this investigator and Respondent. (5 pages)

- **Analysis**

In order to ascertain if Respondent violated §2-443(a)(1)(2), *Misuse of public office or employment*, it would have to be determined that she received a "special financial benefit" as defined in the Code. Respondent did in fact have her power disconnected due to non-payment. This was established based on documentation submitted by Complainant and verified. However, there were extenuating circumstances present that should be considered.

Based on a sworn statement given by Respondent and verified by Witness Michael Bornstein, a conversation had taken place prior to Respondent's utilities being disconnected. That conversation surrounded an on-going problem Respondent was having while attempting to make payments for her utilities through the online service. According to Respondent, she had made the payment prior to the trip to Tallahassee and said "I hope they don't cut off my power" to Bornstein. Upon their return, Respondent found out the utilities had been turned off. She admitted calling Mr. Bornstein directly to relay the issue, but did not direct or order him to call and have the power restored. Based on the previous conversation, Mr. Bornstein made a telephone call to the Lake Worth Utilities Customer Service Manager, Ms. Donna Ryan-Ruiz.

Ms. Ryan-Ruiz, subsequently (based on her sworn statement) submitted a work order to have the power restored at Respondent's residence. On the work order she put "Reconnect per City Manager" in the comments section. Ms. Ryan-Ruiz stated it is common to place information in the comments section. The reconnection was completed later that evening after normal business hours.

The next morning, Respondent's husband went to Lake Worth Utilities to pay the bill including the reconnection fees despite her account still showing the payment she had made days prior was listed as pending in her bank account. She also advised and gave examples of previous times that she and other Lake Worth Commissioners brought up the same issue during City Commission meetings.


In addition, although she was unable to get copies of the transaction that was in question, she did provide detailed screenshots of a payment transaction that occurred between the dates of July 24, 2015 and July 29, 2015. That transaction outlined the specific issue that led to the filing of this complaint. It showed that she made an online payment on July 24, 2015. The monies deducted from her PNC Bank account. The same monies were held in a "pending payment" status through July 29, 2015. She also provided a copy of the declined payment screen from Lake Worth Utilities dated July 24, 2015; despite the fact the monies were deducted.

In a sworn statement, City Manager Bornstein stated Respondent did not order or direct him to place a call to have the power restored. He advised she called him report the issue based on the previous conversation earlier in the week. He stated all residents of Lake Worth have access to call him with problems such as this and he would do everything within his power to assist them as well.


In this case, the investigation did not find Respondent made a conscious effort to circumvent the restoration process to obtain any special financial benefit to which she was not entitled. The necessary payment was likely made prior to the due date, and a second payment was made early the day after her electric was restored, including a reconnection fee which she may not have owed, as verified by the payment receipt. There is insufficient evidence to show that Respondent received any "special financial benefit" in this case, because if she made the payment online as she had on other occasions, she would have been entitled to have her electric remain connected. While she had no specific evidence of this transaction, she was able to show the online payment system had failed her and others in the past, and that she and other Commissioners, as well as the City Manager, were aware of the issue and working to resolve it.

- **Recommendation**

Based on all of the information gathered during the investigation, I recommend that a the COE Advocate file a recommendation for **NO PROBABLE CAUSE** in this matter, as there is no evidence that Respondent violated the PBC Code of Ethics by her actions.

Submitted by: 
Anthony C. Bennett
PB County Commission on Ethics


Date

Reviewed by: 
(Initials)


Date

Verbatim
Aug. 25, 2014, Budget Work Session

Discuss the Fiscal Year 2015 proposed budget

1) Electric rate and budget discussion

.....

Commissioner Amoroso -in looking at the business plan, because originally when we started with this, there was talk about outsourcing. We were able to not outsource....because we are a small town, the small town feel. This is the first contact people have with our Utility Department. So I asked them to look at the Business Plan--these are pieces of the Business Plan--one was credit card. How many of our larger corporate accounts use credit cards that we indeed are paying the service fee because I do the same thing in my own business. Every time somebody uses a credit card, you know you much rather have cash than the credit cards, and also, as we move forward with more people paying online, what is our strategy from a Business Plan that actually educate the people that you can save your City money, you can save yourself time by paying online, paying with a check, what the differences are. Steve is actually looking at that part of the Business Plan. Kinda like when you first open your business. This is what you're going to do with the Business Plan and these are your figures. I don't know if we ever did that. It's kinda going backwards and putting the Business Plan together again and seeing what the actual fees are.

Mayor Triolo - we have to fine tune our bill payment though because there are still a lot of issues with that. I somehow got knocked off the system myself and I had to reregister everything.

Commissioner McVoy - me too.

Mayor Triolo - and then when I reregistered--then it lost my password--then it came back again and then I made a payment online and it said it didn't go through. Then I called the Utility Department to say...to see if it had gone through or not because it was deducted from my bank account, but the pay...the sheet said it didn't go through and then I made...they made another payment and I ended up paying 800 and something dollars by the time I was done with two transactions that apparently one of them did go through. So we gotta fine tune that puppy or at least I'm already prepaid for the next month.

7/24
4:45

PNC Bank Online Banking

https://www.pnc.com/onlinebanking/OnlineBankingServices

My Accounts | Transfer Funds | Pay Bills | Alerts | Business Tools | Customer Service | My Offers

Summary | Account Activity

Account Activity

Available Balance: \$919.56

Show Account & Routing Number

Account Activity | Online Statements

Pending Transactions			
Date	Description	Withdrawal	Deposit
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Posted Transactions			
Date	Description	Withdrawal	Deposit
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Account Summary		Account Alerts	
Available Balance	\$919.56	[REDACTED]	[REDACTED]
Last Statement Balance	\$2,282.52	[REDACTED]	[REDACTED]
	07/08/2015	[REDACTED]	[REDACTED]

Additional Information

Address: 2437 N FEDERAL HWY
LAKE WORTH, FL 33460
891

Account Services

Overdraft Protected By: [REDACTED]

Visa Checkout

Learn More

News: Earn 10% cash back on your Starbucks purchase! Enjoy our 10. NY Pizza by the Slice, handmade fresh every day!



Visitors | Business | Residents | City Commission

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home | city hall | utilities | public safety

Search



First Time Online Payment Instructions

**** IMPORTANT ** SYSTEM UPGRADE:** We will be upgrading our system the weekend of August 21st. All online services will be unavailable from Friday August 21st 5:00 pm through August 22nd 6:00 pm. We apologize in advance for any inconvenience this may cause.

Account Information

- Payment History
- Make Payments
- Consumption Report
- Billing History
- Service Summary
- Edit Account
- Manage Billing
- Log Off
- E-mail Us

Customer Name: CLAHANE, MICHAEL G
Location Address: 2417 N FEDERAL HWY
LAKE WORTH FL

Account Status: ACTIVE Payments are allowed
Account Balance: \$535.23 -
Amount Past Due: \$0.00
Cash Only: No

* Transactions that have been authorized but not yet posted may be included.

[Pay Now](#)

- Service Summary
- Edit Account
- Manage Billing
- Log Off
- Email Us

does on your credit card. Also, be sure to use the billing address of the credit card as it appears on your statement.



* = Required

Card Details

*Card Number

*Expiration Date 2016 ->

*Card Security Code

Cardholder Name

*First Name

Middle Initial

*Last Name

Billing Address

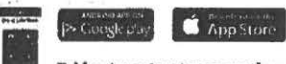
*Address

*City

*State FL

*ZIP Code





First Time Online Payment Instructions
**** IMPORTANT ** SYSTEM UPGRADE:** We will be upgrading our system the weekend of August 21st. All online services will be unavailable from Friday August 21st 6:00 pm through August 22nd 6:00 pm. We apologize in advance for any inconvenience this may cause.

- Account Information
- Payment History
- Main Payments**
- Classy/Leak Report
- Billing History
- Service Summary
- BSI Account
- Manage eBilling
- Log Out
- Email Us

View Fees

Please confirm the amount of your payment.

* = Required

*Payment Amount: \$35.23

[Continue >](#)

[Cancel](#)

First Time Online Payment Instructions
**** IMPORTANT ** SYSTEM UPGRADE:** We will be upgrading our system the weekend of August 21st. All online services will be unavailable from Friday August 21st 5:00 pm through August 22nd 6:00 pm. We apologize in advance for any inconvenience this may cause.

- Account Information
- Payment History
- Make Payments**
- Consumption Report
- Billing History
- Service Summary
- Edit Account
- Manage eBilling
- Log Off
- E-mail Us

Payment Charges Review Receipt

Review Payment and Charge Information

Bill To [REDACTED]
Billing Name: Clahane, Pamela
Billing Address: 2417 N. Federal Highway, Lake Worth, FL 33460

Fee	Amount	Totals
Application Fees		
00085879-000027732	\$535.23	
Total Application Fees		\$535.23
Total Amount Due		\$535.23

[= Back](#) [Submit =](#)

[= Cancel](#)

First Time Online Payment Instructions
**** IMPORTANT ** SYSTEM UPGRADE:** We will be upgrading our system the weekend of August 21st. All online services will be unavailable from Friday August 21st 5:00 pm through August 22nd 6:00 pm. We apologize in advance for any inconvenience this may cause.

- Account Information
- Payment History
- Make a Payment**
- Consumption Record
- Billing History
- Service Summary
- Bill Account
- Manage Billing
- Log Off
- E-mail Us

Payment Charges Review Receipt

Payment Receipt

We are sorry, but we were unable to process your payment at this time. Please see below.

Transaction Result	Transaction Status Reason	Declined Please press review tender button to try again or contact your payment administrator

[Review Tender](#)

Payment Method: Charged To Account Holder
 Cebane, Pamela
 Billing Address: 2417 N. Federal Highway, Lake Worth, FL 33460

Transaction Overview: Total Amount: \$535.23
 Payment Date: 07/24/2015 17:00:14

Charge Details

Charge Description	Amount
000065079-000027732	535.23
Total	\$535.23

[Go back and pay for a different account.](#)

PNC Bank Online Banking

The PNC Financial Services Gr... (URL: https://www.onlinebanking.pnc.com/#!/services/OnlineBankingServices)

Most Visited - Login as First Insp... Getting Started Latest Headlines - Apple Yahoo! Google Maps

Disable - Cookies - CSS - Forms - Images - Information - Miscellaneous - Outlook - Picasa - Tools - Windows - Windows Live

PNC Online Banking

Privacy Security Sign Off

Last Sign On: Friday, July 24, 2016 at 4:18 p.m. EDT

My Accounts Transfer Funds Pay Bills Alerts Business Tools Customer Service My Offers

Summary Account Activity

Account Activity

Available Balance: \$384.33

Show Account & Routing Number

Account Activity | Online Statements

Account Summary Account Alerts

Pending Transactions

Date	Description	Withdrawals	Deposits
07/24/2015	Lake Worth Union CARDP352N	\$535.83	

Account Summary

Available Balance: \$384.33

Pending Transactions

List by Date List by Type Search Filter: All Export

Date	Description	Withdrawals	Deposits	Balance

Additional Information

Address: 2117 N FEDERAL HWY LAKE WORTH, FL 33460-6371 E61

Account Services

Overdraft Protection: Etc E61

Visa Checkout

→ deducting

https://www.onlinebanking.pnc.com/#!/services/DepositAccounts?account=1ed6356-d2860e-7742b-7a7210b-3af6418b34052a-d617d5a364a21f78418d496a9486cb18958823c98b24c5c4403495.D04.001

Still pending
7/29
Disappeared late 7/30

PNC Bank Online Banking

The PNC Financial Services Gr... https://www.onlinebanking.pnc.com/alservlet/OnlineBankingServlet

My Accounts | Transfer Funds | Pay Bill | Alerts | Business Tools | Customer Service | My Offers

Summary | Account Activity

Account Activity

Interest Checking XXXXXX1415 Available Balance: \$147.63

Show Account & Review Number

Account Activity | Online Statements

Print Friendly Page

Pending Transactions		
Date	Description	Amount
07/24/2015	Lake Worth URB CARD	\$535.93

Account Summary

Available Balance: \$147.63

Last Statement Balance: \$2,627.52

Additional Information		
Address:	Account Services	Learn More
2417 N FEDERAL HWY LAKE WORTH, FL 33460-8371	Overnight Protected By: \$41 80.00	

PROBABLE CAUSE RECOMMENDATION

To: Commission on Ethics
From: Christie E. Kelley, Esquire
Re: C15-007 – Pam Triolo, Mayor, City of Lake Worth

All background information and facts from the Memorandum of Inquiry, Legal Sufficiency Determination, Memorandum of Investigation, and supporting documents are adopted by reference into this Probable Cause Recommendation.

- **Recommendation**

A finding of NO 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, Pam Triolo, violated the Palm Beach County Code of Ethics.

- **Jurisdiction**

The 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.

Sec. 2-443. Prohibited conduct.

- (a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:
 - (1) Himself or herself;
 - (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;

- **Analysis**

To prove that Respondent violated §2-443(a), *Misuse of public office or employment*, the evidence would have to show that Respondent received a “special financial benefit, not shared with similarly situated members of the general public.” Here, the evidence showed that Respondent had her electric utilities disconnected due to non-payment of her utility bill on March 15, 2014. The electric utilities were subsequently reconnected later that the same day. However, the investigation also revealed that Respondent did not make a deliberate attempt to

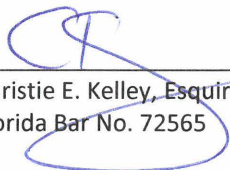
circumvent the restoration process to obtain any special financial benefit to which she was not entitled. In her sworn statement, Respondent stated she made the necessary payment prior to the due date, and a second payment, including a reconnection fee, was made in person early the next morning after her electric utilities were restored. Respondent also provided documentation showing how the online payment system had failed her and other users in the past and that other Commissioners and the City Manager were aware of the issue and were working to resolve it.

Furthermore, the sworn statements of Respondent and Michael Bornstein, City Manager, revealed that, prior to her utilities being disconnected on March 15, 2014, they had discussed the on-going problem Respondent was having while attempting to make payments for her utilities through Lake Worth Utilities' online payment service. According to Respondent, she had made the payment prior to her trip to Tallahassee with Bornstein and stated to Bornstein, "I hope they don't cut off my power." Upon their return, Respondent found out the utilities had been turned off, and she called Mr. Bornstein directly to relay the issue. Based on their previous conversation, Mr. Bornstein made a telephone call to the Lake Worth Utilities customer service manager, which resulted in Respondent's utilities being reconnected. Mr. Bornstein stated Respondent did not order or direct him to place a call to have her electric utilities restored. Respondent also stated she did not order Mr. Bornstein to make the call to Lake Worth Utilities. Mr. Bornstein stated that all residents of Lake Worth can call him with problems such as this and he would do everything within his power to assist them.

Based on the information revealed during the investigation, the facts do not support a violation of §2-443(a) because there is insufficient evidence to prove that Respondent received a "special financial benefit." The evidence shows that Respondent most likely made the payment online, was entitled to have her electric utilities remain connected, and did not deliberately attempt to circumvent the restoration process.

- **Conclusion**

Based on the facts and circumstances, there is **NO PROBABLE CAUSE** to believe that Respondent, Pam Triolo, violated §2-443(a) of the Palm Beach County Code of Ethics. Therefore, I recommend that a finding of **NO PROBABLE CAUSE** and an **ORDER of DISMISSAL** be entered.

By: 
Christie E. Kelley, Esquire
Florida Bar No. 72565

9-14-15
Date