



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: Lorne Alter E-Mail: lorne.alter@hotmail.com
Address: 10469 Whitewind Cir
City: Boynton Beach FL Zip: 33473
Home #: 561-733-5433 Work #: Cell #:

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

Please provide as much information as possible.

Name: Michael Fitzpatrick E-Mail: mfitzpatrick@bbfl.us
Address: 175 SW 2nd St
City: Boynton Beach FL Zip: 33435
Home #: 561-632-9578 Work #: Cell #:
Title/Office Held or Sought: City Commissioner, Boynton Beach

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

- [X] Allegation is against person in County/Municipal Government
[] Allegation is about County/Municipal/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

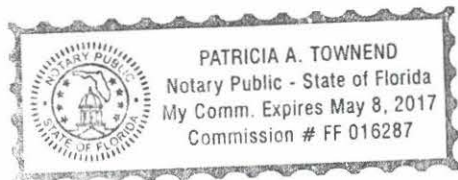
I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments are true and correct, to the best of my knowledge and belief.

Signature of Person Making Complaint

STATE OF FLORIDA
COUNTY OF Palm Beach
Sworn to (or affirmed) and subscribed before me this 16 day of Oct, 2015, by Lorne Alter

(Name of Person Making Statement)
who is personally known to me or produced identification. Type of identification produced:

Florida DL
Signature of Notary Public, State of Florida



Patricia A. Townend
(Print, Type, or Stamp Commissioned Name of Notary Public)

October 16, 2015

Palm Beach County Commission on Ethics
300 N Dixie Hwy Suite 450
West Palm Beach, FL 33401

RE: Boynton Beach Commissioner Michael Fitzpatrick

Dear Commissioners;

It has been brought to the public's attention that Michael Fitzpatrick, who holds a position as an elected official in the municipality of Boynton Beach, has been using a "charity" funding for his personal gain. Additionally, he has not abstained from voting on agenda items brought before the Boynton Beach City Commission when he had a conflict of interest regarding that item. This letter is to respectfully request the Palm Beach County Commission of Ethics to require Mr. Fitzpatrick to submit evidence of the "charity's" legitimacy and financial activity as it appears that the charity is itself a misrepresentation. If findings show the unethical behavior on Mr. Fitzpatrick's part, he should return any donations to the contributors and cease any activity in the name of this "charity".

According to the website www.gofundme.com/saveboyntonhigh, Commissioner Fitzpatrick is very much involved with a group that wants to preserve a building known as the Boynton Beach Old High School. The website implores viewers to donate money through the site and gives the impression that money collected will be used for the preservation of the Boynton Beach Old High School building. However, at the very bottom of the page, it says that \$400 will be spent on a deposit for the utility bill of the "headquarters". In fact, the address of the "headquarters" is a residential property that Mr. Fitzpatrick owns. The website states in Update #1 that the "headquarters" is Mr. Fitzpatrick's vacant home. The fact that the group led by Mr. Fitzpatrick meets at 101 SW 4th Ave. in Boynton Beach which is shown in the public records as owned by Michael Fitzpatrick.

At the bottom of the same website mentioned above, the group claims to use \$850 for processing fees to establish a 501c3 for the Boynton Beach Old High School. A records search shows that no such 501c3 has begun to be processed for the Boynton Beach Old High School, although funding has been available for a month. There has been no Solicitation of Contributions Registration Application filed. The expenditures of the charitable contributions are not available to the public, as they should be according to the Solicitation of Contributions Act of Florida. Mr. Fitzpatrick writes on the website that an account was opened for the group at Wells Fargo bank under the DBA of "Historic Boynton Beach High School Project", however no such fictitious name filing can be found at the Florida Department of State Division of Corporations website.

On August 18th of 2015, Mr. Fitzpatrick voted on a city commission agenda item involving the Boynton Beach old high school building. He voted both as a founder of the "charity" and as a commissioner. Clearly this is a conflict of interest because the charity depends on the existence of the building. As per city commission meeting minutes, Mr. Fitzpatrick was already involved with the soliciting group.

Records show that he did not refrain from voting on the agenda item to reverse the commission's previous decision to demolish the building and allow Mr. Gonzalez of REG Architects to come up with a plan for the building by January of 2016.

There is further evidence that donations collected cannot be used on the Boynton Beach Old High School in that Mr. Fitzpatrick and his group do not have any means of cleaning up the building or hiring contractors to work on the building. As per the Boynton Beach City Commission meeting on August 18th of 2015, the City of Boynton Beach still owns the building and has given permission to REG Architects to come up with a plan. If the group wanted to physically or financially take action on the building, they would need permission from the Boynton Beach City Commission, who has already given that permission to REG Architects. The group led by Mr. Fitzpatrick has no authority and no permission to execute the stated plans for the money they are collecting. The group is a sham.

Enclosed with this letter is evidence of the events described above. If the Palm Beach County Commission on Ethics reviews the facts and finds Mr. Fitzpatrick in violation of ethical behavior for an elected official, I urge the Commission to rule that Mr. Fitzpatrick to refund all received proceeds. The list of charitable contributors entitled to a refund would not only include those that donated through the www.gofundme.com/saveboyntonhigh website and unknown contributors through other means, but also the City of Boynton Beach, which through a vote on of city commissioners that included Mr. Fitzpatrick on 9/15/2015, awarded \$1500 of taxpayer funds to the Greater Boynton Beach Foundation to be earmarked for "a community clean up event at the Old High School". This event has been planned by the group that Mr. Fitzpatrick leads, as per meeting agendas. In effect, Mr. Fitzpatrick requested and voted on as a city commissioner to have taxpayer dollars directed to a legitimate charitable organization only to be redirected to the group that he has been leading and has yet to establish as a legitimate charity.

The Palm Beach County Commission on Ethics has been given the confidence of the constituents of Palm Beach County to preside over questionable activities by municipal elected officials and to use its authority to enforce ethical behaviors of these officials. If the Commission finds Mr. Fitzpatrick is using charitable funds for personal gains and failing to abstain from voting as a municipal elected official on matters that are a conflict of interest to himself, then I urge the Commission to appropriately sanction or otherwise deal with Mr. Fitzpatrick. We have confidence that the Palm Beach County Commission on Ethics will find a suitable resolution to any injustice.

Sincerely,

A handwritten signature in blue ink, appearing to be the initials 'M.F.' followed by a long horizontal stroke.

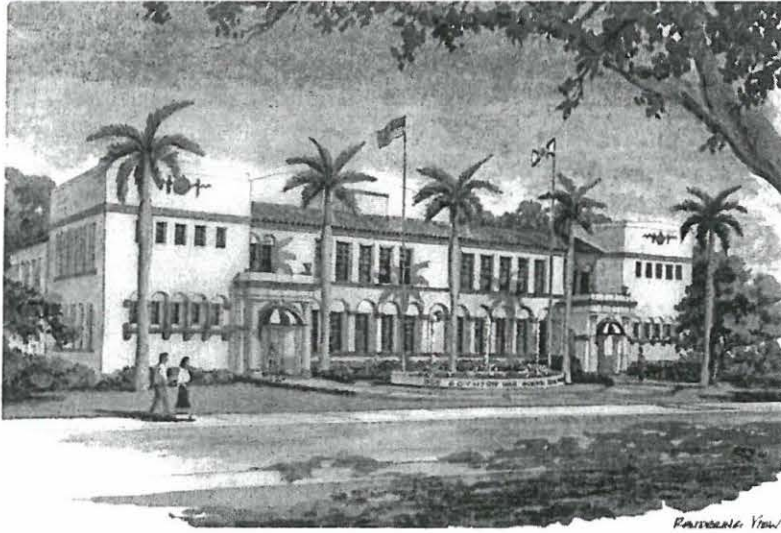
Search Help Start a Fundraiser

SHARE

TWEET

DONATE

Save Historic Boynton High School



BOYNTON BEACH, ... EDUCATION

\$2,617 of \$9,999

Raised by 19 people in 2 months

Donate Now

SHARE ON FACEBOOK

166 TOTAL SHARES

SHARE

149

TWEET

17



Created August 13, 2015
Anthony Pitre

UPDATE #4

1 MONTH AGO

Be the first to like this update

ENDANGERED SITE |
Boynton Beach High School |

The Boynton Beach High School has been under threat for some time, first to an architecturally insensitive addition that would obscure the architectural design, more recently to a demolition proposal by the Mayor of Boynton Beach. The structure is sound, is important both culturally and historically within the community and can be restored and adaptively reused for a variety of community activities.

According to an article in the Sun Sentinel, the city is now reviewing three plans for the old high school. Two options proposed involve renovation/restoration – one would renovate the high school to be a community center, another would retain the façade and relocate city offices to the building. The third option comes from the Boynton Beach CRA's request that the high school be demolished to make room for new mixed-use development and other new city buildings. As of now, no decisions have been made. |

Source: <http://www.floridatrust.org/endangered-sites/boynton-beach-high-school-mangrove-park-school> |

19 DONATIONS

RECENT

\$500

Mike Fitzpatrick Fitzpatrick
1 month ago

Anthony and I opened up the checking account where this money will be deposited yesterday at Wells Fargo. His wife will keep the bookkeeping for now. DBA "Historic Boynton Beach High School Project". Anthony has downloaded the 501(c)3 paperwork to look over. This hopefully means the donations can be back dated as tax deductible contributions. This will be discussed at the August 26th planning meeting.

\$20

Heidi Bell
1 month ago



\$50

Chris Montague
1 month ago

Contact us to find out how you can join our efforts to SAVE Historic Boynton Beach High School from demolition. With your help we will convert this rich with history and beautiful building into a Cultural & Educational Center; while still preserving it's amazing architecture. |

Find link to sign our petition in "About This Campaign" section.

Potential investors, developers and donors, contact me directly to schedule a meeting. |

Thank You! |

*Stay tuned for new update after our group meeting tommorrow.

Subscribe to Updates

SHARE

TWEET

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UPDATE #3

1 MONTH AGO

Be the first to like this update

So I added no sugar and yet my coffee tasted exceptionally sweet this morning.

Enjoy the article and our first WIN.

This only means one thing, it's now time to hit the ground running and arm ourselves with knowledge, resources, capital and the right additions to our team.

Come January, we'll be prepared to have a say in who, when, why and what plan to adopt; and the finances to back it up. (Second round of fundraising in the works.)

Stay tuned for more news and updates.

Let's not forget to thank our local city officials, supporters and each other.

#SpreadDaWord #saveboyntonhigh #thisplacestillmatters
<http://www.palmbeachpost.com/news/news/local/architect-gets->

This building may be one of the most important assets in Boynton Beach. To lose this piece of history would be a tremendous loss to the City.

SHARE

TWEET

DONATE

\$20

Anonymous
1 month ago

\$100

Cindy Nye
1 month ago

This is my initial donation toward preserving our beloved Historic BB High School, an integral part of my history and heritage as well as my siblings, my mother, her siblings, childhood friends along with current and past residents of Boynton Beach, all of whom have either attended this school or can simply appreciate the value of such a beautiful example of historic architecture.

\$500

Marcy Adams
1 month ago

I went to this school (with Mike Fitzpatrick); my dad graduated from this school in 1937 and according to family folklore my grandmother helped start the cafeteria which included her fabulous homemade rolls that we also ate at Boynton High. I would hate to see the piece of both my history and Boynton's be torn down by councilmen who have lived in Boynton for such a short period of time!

\$250

Melanie & Jesse Feldman
1 month ago

If Mayor Taylor is willing to reconsider his position, we will agree to donate even more money to this cause. Keep the history and character in downtown Boynton!!!

\$100

Kathy Albert
2 months ago

This building must be saved! So many memories there!

\$10

debbie lytle
2 months ago

get ur done

permission-to-try-to-save-historic-7nnMXJ/

Search Help Start a Fundraiser

SHARE 11-19 of 18 donations TWEET DONATE

Architect puts 4 months to figure out 4 way to save 1927 high school

By Alexander Seltzer
 An architect has been selected to study the possibility of the Boynton Beach Commission trying to save the historic high school on Ocean Avenue, a move that the architect hopes will give the building a chance to survive.

The commission recently decided to hold off on demolishing and demolishing the building. The architect will study the building and make a plan on how to save it.

The architect, Alexander Seltzer, is the president of RSG Architects, which is the one to handle the building's future.

And he says there is a lot of interest in the building. He has been approached by a lot of people in the area, where he said the school could be turned into a 10-15 million dollar project.

He also says that the building is a historic landmark and that he has a lot of experience in this area. He is the president of the Florida Trust for Historic Preservation and was involved in rehabilitating the historic National Theater in the 1980s and 1990s.

The school was on the city's agenda but was not at the beginning of the meeting. The city's agenda was to demolish the building and build a new one. The architect says that the city is not interested in saving the building and that he is going to try to get the city to change its mind.

The architect says that he is going to submit three plans to the city and that he is going to try to get the city to change its mind. He says that he is going to try to get the city to change its mind and that he is going to try to get the city to change its mind.

Boynton
 commission

Commissioner and Commissioner of Mark McKay voted for demolition.

Resident Joe Pedroni, principal architect of the school, and Anthony Pitre, principal architect of the school, have raised \$1,277,000 to save the school.

The school has received the support of local citizens, local business groups and local politicians. The school is expected to be a great addition to the city and to the community.

The school is expected to be a great addition to the city and to the community. The school is expected to be a great addition to the city and to the community.



gofundme

Congratulations Anthony, your GoFundMe page, 'Save Historic Boynton High School' is mentioned in the Orlando Sentinel Online!

Want to reach the media to spread the word about your cause? Tell us how you can help us reach the media.

Show your page link here: <https://www.gofundme.com/saveboyntonhigh>

"Historic school wins a reprieve"

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UPDATE #2 1 MONTH AGO

Be the first to like this update

First and foremost thanks again to the folks who have contributed thus far and thank you in advance to those who WILL going forward.

Very exciting turn of events. I was honored to sit in on a meeting with city officials and developer Rick Gonzalez yesterday who today was granted four months at which time he will submit three plans all of which would save the Old Historic Boynton Beach High School.

Please write your Mayor and commissioners and thank them for unanimously voting to allow a four month stay and not moving forward with the demolition plan.

To all the supporters of "SHBBHS" we need not take a break to sit and wait for these four months to be up. Instead we should take this opportunity to become more aggressive, continue to spread our message ensuring that any plan adopted includes the wishes of the community.

Please helps us spread the word.

Thank You!

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UPDATE #1

2 MONTHS AGO

Be the first to like this update.

We'd like to thank our first two donors Debbie Lytle & Kathy Albert for their contributions.

A very special thanks to our very own Boynton Beach Commissioner Michael Fitzpatrick - District 3 for not only pledging to donate \$500 but also allowing us to occupy his vacant second home as our interim headquarters.

Stay tuned for before and after pictures of our cleanup & move-in efforts which started today with the help of Fitzpatrick, Cindy McClain Nye and myself.

Look us up on social media for the latest news and events

#SaveHistoricBoyntonHigh

[Subscribe to Updates](#)[SHARE](#)[TWEET](#)[DONATE](#)

Save The Historic Boynton Beach High School From Demolition

On August 4, 2015, the Boynton Beach city Commissioners voted 3-2 to tear down the Historic Boynton Beach High School located in downtown Boynton Beach.

Despite the comments of the Vice Mayor, this building is not just "two-by-fours...nails...[and] concrete." This building symbolizes so much more for the citizens of Boynton Beach and its surrounding communities. To some, it's memories from their days in high school. To others it's the artfully designed architecture that is unfortunately disappearing throughout our community. To most, it symbolizes not just what Boynton Beach was in the past, but what it could be going forward.

We are not asking the city to save the building using its own money that we know it does not possess. We are simply asking that the commissioners re-vote on this issue and vote to save the building.

We believe there is a clear movement to save the Historic High School and further believe there are local developers interested in taking on this challenge. As such, we are also asking that the City form a group of Boynton Beach citizens to work with the City and assist in identifying developers who are interested in renovating the Historic High School to serve a more modern purpose. A building built as well as the Historic High School can be the flagship landmark of Boynton Beach's downtown revitalization and be enjoyed for another 80+ years.

Please sign this petition and help us send a unified message to the leaders of Boynton Beach that the citizens demand the Historic High School be saved. Thank you.

LETTER TO

Mayor Jerry Taylor
Vice Mayor Joe Casello [Help](#) [Start a Fundraiser](#)
Commissioner David Merker
and 2 others
Commissioner Mac McCray
Commissioner Michael Fitzpatrick

[SHARE](#)

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[DONATE](#)

Please save the Historic Boynton Beach High School from demolition. Please re-vote and choose preservation of the school over destruction.

Thank you.

(Work in Progress - 1st Round Campaign details including initial Wish List & Fundraising operating budget breakdown Coming Soon.)

WISH LIST

Contribute any amount to the items below.

\$850



IRS Application fee for 501(c)(3)

\$400



FPL deposit - interim headquarters

166 TOTAL SHARES

[SHARE](#)

[TWEET](#)

[DONATE](#)

COPY, PASTE & SHARE: <https://www.gofundme.com/saveboyntonhigh>

What is GoFundMe?

Fundraising made easy >>

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[POSTER](#)

[LINK](#)

[CONTACT](#)

3 COMMENTS

Please use Facebook to leave a comment below:

[CONTINUE](#)

Nothing gets posted to your wall. Only your Facebook name & photo are used.

Most

Recent



Nina Raw Chef Kauder 12 days ago

With much of boynton looking rathernon-descript.... this building stands out, even now, in its current state of disrepair. It is clear it had a history and i hope the day will come that it gets a new life as a jewel in the county. I see nothing but potential in this building that could anchor the downtown area with a marriage of old and new

sensibilities. How about "upcycling" it, granting it a LEED designation and turning it into a test kitchen for

SHARE

TWEET

DONATE



William W. Combes 1 month ago

I have no personal connection to this structure but, I choose to live in Boynton Beach, I believe it's architectural presence is as important as the people that reside within its boundaries. I know few of its residences but, this structure I honor. It has character, personality, distinction, style, purpose & function; more than I can say for most people. It deserves continued life. If the efforts are bestowed to this grand structure, it will shine as a temple to the community of Boynton Beach, a place I call home!



Heidi Bell 1 month ago

thank you for all your hard work and dedication toward accomplishing our goal!

1-3 of 3 comments

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- Ferguson Rebuilds
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Gary R. Nikolits, CFA
Property Appraiser
 Palm Beach County

Homestead Exemption **E-file** ▶



Location Address 101 SW 4TH AVE
 Municipality BOYNTON BEACH
 Parcel Control Number 08-43-45-28-12-004-0110
 Subdivision BOWERS PARK IN

Official Records Book 26668 Page 1284

Sale Date JAN-2014

Legal Description BOWERS PARK LT 11 & LT 12 (LESS E 7 FT & RETURN CURVE AREA RD R/W)
 BLK 4

Owners

FITZPATRICK MICHAEL

Mailing address

175 SW 2ND ST
 BOYNTON BEACH FL 33435 4471

Sales Date	Price	OR Book/Page	Sale Type	Owner
MAR-2014	\$0	26668 / 1278	SUMMARY ORDER	FITZPATRICK MICHAEL &
JAN-2014	\$10	26668 / 1280	REP DEED	FITZPATRICK MICHAEL &
JAN-2014	\$10	26668 / 1284	WARRANTY DEED	FITZPATRICK MICHAEL
JAN-2014	\$10	26668 / 1282	WARRANTY DEED	FITZPATRICK MICHAEL
MAY-2010	\$10	23852 / 1731	QUIT CLAIM	FITZPATRICK JOHN F

1 2

No Exemption Information Available.

Number of Units 2 *Total Square Feet 2809 Acres 0.28
 Use Code 0100 - SINGLE FAMILY Zoning R2 - Duplex (08-BOYNTON BEACH)

Tax Year	2015 P	2014	2013
Improvement Value	\$111,200	\$87,625	\$63,852
Land Value	\$30,874	\$30,874	\$30,874
Total Market Value	\$142,074	\$118,499	\$94,726

P =
 Preliminary

All values are as of January 1st each year

Tax Year	2015 P	2014	2013
Assessed Value	\$142,074	\$104,199	\$94,726
Exemption Amount	\$0	\$0	\$0
Taxable Value	\$142,074	\$104,199	\$94,726

Tax Year	2015 P	2014	2013
Ad Valorem	\$3,191	\$2,468	\$2,150
Non Ad Valorem	\$467	\$475	\$450
Total tax	\$3,658	\$2,943	\$2,600

Save the Old High School

Meeting Agenda

26AUG2015

101 SW 4th Avenue ←

- 1904 Call to Order -- Mike Fitzpatrick
- 1905 Welcome remarks, agenda explanation, timeline, a volunteer to take notes
- 1907 Self Introductions
- 1917 Reports:
 - Saturday Rally – Barbara Ready
 - Public Relations -- Susan Oyer
 - City Commission meeting – Jesse Feldman (sick) Barbara Ready
 - Fund Raising -- Anthony Pitre
 - HQ Cleanup – Eric Salomonsson
- 1925 Pick monthly meeting date
- 1927 Organize committees, volunteers for up coming events
- 1940 Foundation Name, slogan, and purpose discussion
- 2005 Adjourn

Committee Structure

Steering Committee –President, VP, Secretary, Treasurer, Standing committee chairs. For this extra committed group, an extra meeting per month.

Social Committee -- The most important committee because the best way to get people to displace their current schedules and take on saving the school is if it increases their level of personal satisfaction and personal growth. Part of the increased satisfaction will come from an increased feeling of having input on community events, but the greatest increase will come from interacting with people with common interests and making new friends. There has to be social time to do this. After general meetings are adjourned is one opportunity. During this time the social committee plans to have the drinks, cups, and clean up. At work outings, this committee makes sure the water coolers are cold and full, and the pizza arrives on time. Set up general meetings. Playroom for kids?

Fund raising Committee -- Direct donations, in kind donations, grant writing, fund raising events such as auctions and a concert by the Children's Museum. Donor board, thank you letters.

Public Relations Committee – A campaign of letters to the editor, emails, City Commission meeting attendance, media contacts

Internal Communications – Keeper of the virtual roll-o-dex, Archivist- Scrapbook of newspaper articles, online repository of historical documents and engineering reports (Dropbox?)

Foundation Task Force – Hammer out details for foundation creation and document submittal

High School Work Committee – Similar to how Kids Kingdom playground was built. Tool guy – Responsible for cataloguing and checking in and out donated and loaned tools. Develop liability form and keep on file, record who works when for how long, provide personal protection equipment, temporary electricity and debris roll-offs. Meeting with City Manager Monday at 2pm.

VP -- Runs meeting when Pres. Is unavailable

Secretary – Keeps minutes of general and steering committee minutes

Treasurer – Keeps checkbook, publishes monthly accounting report, files required reports (none at this time)

**MEETING MINUTES
REGULAR CITY COMMISSION
BOYNTON BEACH, FL**

August 18, 2015

7. BIDS AND PURCHASES OVER \$100,000

A. **PROPOSED RESOLUTION NO. R15-090** - Authorize the City Manager to sign an annual service agreement with Motorola, Inc. in the amount of \$113,449.40 for the continued maintenance and repair of the City's radio telecommunications systems as a sole source vendor and authorize the City Manager to sign the Agreement.

Motion

Commissioner Merker moved to approve Proposed Resolution No. R15-090. Vice Mayor Casello seconded the motion.

Vote

The motion passed unanimously.

8. CODE COMPLIANCE and LEGAL SETTLEMENTS - None

9. PUBLIC HEARING

7 P.M. OR AS SOON THEREAFTER AS THE AGENDA PERMITS

The City Commission will conduct these public hearings in its dual capacity as Local Planning Agency and City Commission.

10. CITY MANAGER'S REPORT - None

11. UNFINISHED BUSINESS - None

A. Discussion on process for demolition of the Old High School (*Added to the agenda*)

Mayor Taylor advised Rick Gonzalez had met with Commission members individually and submitted a proposal. Commissioner McCray recalled a study by Mr. Gonzalez had been done in 2007. Mr. Gonzalez reported he had done three studies on the Old High School. The City had contacted Mr. Gonzalez for one of the studies. The other two studies were done at the request of private individuals in the Historical Society. Commissioner McCray thought the CRA had indicated \$50,000 was spent for the studies.

In 2008 it was reported that the Historical Society had started a pledge drive. He wanted to know if any pledge documents or dollars had been submitted to Warren Adams, Historical Planner. Mr. Adams corrected that he was a member of the Historical Society, not a board member or any type of affiliate. He did not receive any type of business reports. Commissioner McCray asked the City Manager to investigate what had been reported in the newsletter of the Historical Society.

**MEETING MINUTES
REGULAR CITY COMMISSION
BOYNTON BEACH, FL**

August 18, 2015

Vice Mayor Casello believed the vote of 3-2 for demolition of the Old High School was controversial and helped sparked community interest. Personally he was not impressed with survey numbers or perceived leaders spreading negativity without solutions or politicians who pan to the crowds. Vice Mayor Casello asserted his voting record on preserving the history of Boynton Beach was clear. He had spearheaded the effort to change the former Veterans Park to Dewey Park, honoring the Dewey name for the formation of early Boynton Beach. He assisted the Women's Club effort to receive \$50,000 even if not successful in getting a matching grant. He fought for and was unsuccessful, as the only Commissioner, for the preservation and saving of the historical Dive Shop building at the Marina. Also, in the last two budgets he voted for funding to help supplement the Children's Schoolhouse Museum in excess of \$500,000.

Vice Mayor Casello had met with Mr. Gonzalez, a well-known architect and expert in historic preservation and architecture. The City has worked with Mr. Gonzalez on several studies. He presented a couple interesting concepts for preserving the building that are worth exploring. Mr. Gonzalez requested four months to develop the plans. He urged the Commissioners to agree to allow Mr. Gonzalez four months to vet every possible plan before demolition begins.

Commissioner McCray had a study called Old Boynton High School Adaptive Reuse prepared December 12, 2009. Mr. Gonzalez acknowledged it was his report. Commissioner McCray echoed Vice Mayor Casello's remarks. He had met with Mr. Gonzalez previously. It would be due diligence to give Mr. Gonzalez the four months to submit a plan and if not convinced, Commissioner McCray would continue to vote no.

Commissioner Merker wanted to hear Mr. Gonzalez's study and thanked him for coming.

Mayor Taylor pointed out Mr. Gonzalez had served on the State Historical Commission, involved locally with saving the Church in the Town Square, Delray's Old School, Lake Worth Casino area and other projects. Mayor Taylor stressed his goal was not to tear down the Old High School. He clarified his desire was to see a plan to restore the building if the financial aspect can be arranged. The City does not have the money. Mr. Gonzalez has offered to cover the cost of his plan.

Commissioner McCray asked how many studies had been done on the Old High School and Mr. Livergood replied nearly a dozen, specifically starting in 1993. In addition there has been a dozen or so discussing the structural integrity of the building and ability to adapt the building to other uses. In total there has been a couple of dozen studies.

Commissioner McCray stated he has been in Boynton for many years and seen many changes..

Mr. Gonzalez reviewed his credentials. He commented historical places change over time. It is how you manage and move with the change to ensure the essence of the

**MEETING MINUTES
REGULAR CITY COMMISSION
BOYNTON BEACH, FL**

August 18, 2015

history is there, but it fits a modern use. He now has resources for a development team in house with a general contractor, engineer and finances to spend \$500,000 in development, architectural and engineering fees. He was willing to spend \$50,000 of their time and own money over the next four months and return in January with an alternative.

The options include a private option, community option and perhaps a combination of both. The project would be extremely complicated. His team can present a viable solution. It is their area of expertise and he had been involved for 30 years in South Florida and Palm Beach County. If sufficient time is given, it will help the City of Boynton Beach realize the potential of redevelopment for the adjacent areas. Recently there have been proposals to reuse building, but do non-traditional or inappropriate changes for historical buildings.

Commissioner Fitzpatrick had taken pictures that depicted the interior damage was not as bad as it could have been. He noticed there has been a tarp installed for some stabilization. Mr. Gonzalez had a team willing to spend the next four months to look at private options with CRA collaboration and study the cost and return on investment. There were several options to be explored with the CRA to develop the private option. The public option would encompass the Theatre, Civic Center, Art Center and other smaller uses to relocate to the building with some commercial uses in the front. If the use is for non-profit, a municipality or government institution, State grants could be sought. Available grants have increased from \$350,000 to \$500,000 as a partial funding for community-type projects. Through the private sector or CRA, TIF funding would be available. The cost may be different depending on the use. Any plan will take a collaborative approach with the goal to retain as much as possible. It was hoped to create an example of an adaptive reuse for the State of Florida.

With the Commission's approval, Mr. Gonzalez looked forward to answering any questions and coming back in four months.

Mayor Taylor remarked Mr. Gonzalez had addressed many of the concerns about the due diligence of the City to save the building. In discussion with Mr. Gonzalez, Mayor Taylor advised the City was currently paying over \$200,000 a year to keep the Children's Schoolhouse Museum open. The Women's Club, the most historic building in Boynton Beach, needs a great deal of money. There are two houses on Ocean Avenue that are being preserved. Mr. Gonzalez has the extensive background and involvement in historic preservation efforts that could bring this project to reality.

Mayor Taylor preferred to be optimistic that a solution can be found; however, there is the possibility that no plans could be developed or sufficient funding found.

Commissioner Merker felt the citizens deserve the credit for forcing the issue back before the Commission for reconsideration.

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Vice Mayor Casello noted no one on the Commission was forced to do anything. The best result for Boynton Beach is the ultimate goal. It comes down to economics.

Mayor Taylor commented he has never been forced to make any decision. He does listen. Mr. Gonzalez thanked Ms. LaVerriere for her input.

Commissioner McCray echoed the remarks of Mayor Taylor and Vice Mayor Casello that none of his votes were forced either.

Motion

Commissioner McCray moved to extend to Mr. Gonzalez four months to come back in January and meet with the Commission and citizens who are interested to hear the proposals. Commissioner Merker seconded the motion.

Commissioner Fitzpatrick reflected on Commissioner McCray's loss when the first Poinciana School was torn down. There was no plan to replace the historic high school. The decision makers who voted to tear down the old Poinciana school are most likely dead and beyond retribution. Those trying to save the Old High School are mostly too young to know anything about the old Poinciana school and are not residents of Boynton Beach.

Commissioner Fitzpatrick suggested one classroom could be saved as a Boynton Beach educational museum with a few desks and chairs to look like an old classroom and another area to be used as a memorial to other lost schools such as Poinciana, Boynton Beach Junior High rebuilt as Galaxy Elementary, Seacrest High School that is now a grass lot and Plumosa and St. Mark Catholic Schools that have closed. Another area could be used as an exhibit of Palm Beach County educational segregation and integration. The story needs to be told. Commissioner Fitzpatrick had no problem with the facts being raw and honest.

After the vote on demolition of the Old High School, Commissioner Fitzpatrick decided he should take a leadership role in saving the Old High School. He had posted on social media on the Delray/Boynton's kid page, urging emails be sent to the City Commission and eventually 50 emails were sent to his mailbox. He invited those expressing interest to an organizational meeting at his home.

In the interim, Jesse Feldman started an online petition and Barbara Ready informed more people. Commissioner Fitzpatrick entered the Old High School and took multiple pictures. The statements made relating to the condition of the School are exaggerated. Anthony Podray started an online fundraising site at gofundme.com. Commissioner Fitzpatrick gave \$500 and the total contributions are now \$1,670. A media protest was organized in front of the Old High School with at least 70 people in attendance. A project headquarters was established and various individuals assigned specific duties.

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Commissioner Fitzpatrick remained confident the participants would stay the course with the project and be present at the ribbon cutting in the future.

Commissioner McCray stated for the record, "My vote was not a vote, you know, in retaliation. The people that went to the old Poinciana, I do admit half of them are dead, but I am very much alive."

Mayor Taylor wanted the public to know it was obviously going to be a unanimous vote to extend the status quo another four months with a decision to be made in January.

Mayor Taylor opened the issue for public comment.

Dr. Piotr Blass, 113 W. Tara Lakes Drive, suggested giving Mr. Gonzalez six months until after the election. Mayor Taylor interjected only four months was requested. Dr. Blass contended it would be logical to allow more time. He offered to contact polish architects who restored Warsaw, Poland after World War II, to work with the City free of charge. His dream and hope was to preserve the High School and create a University of Boynton.

Brian Edwards, 629 NE 9th Avenue, thanked the Commission for reconsidering the matter and Mr. Gonzalez for offering his expertise. He appreciated consensus was accomplished. Mr. Edwards was proud of the citizens who were willing to unite in a peaceful rally for a cause and the Commission for listening to the public.

Debbie Lytle, 1700 SW 14th Avenue, thanked the Commission for validating the citizens' interest in preserving the history of Boynton Beach and moving forward to a better future.

Jesse Feldman, 1331 S. Federal Highway, was glad the citizens were being heard and thanked those who signed the petition and were present to speak on behalf of the School. He asked the City listen to others who have come forward to help develop the School, rather than limit the possibilities to Mr. Gonzalez. Mr. Feldman thought six months would be preferable to give the community an opportunity to raise money. Mayor Taylor advised any other interested developers should be directed to Mr. Gonzalez. He will be the point person for the City. Commissioner Fitzpatrick did not necessarily agree with the assertion. Ms. LaVerriere indicated there was a process or procedure for the City to accept proposals. The City is not advertising for a formal RFP or Request for Proposals. It is more of an unsolicited proposal that is a procurement process outlined by the State. Interested individuals could speak with Ms. LaVerriere and she would guide them through the same process as outlined to Mr. Gonzalez. It will be presented in the form of an unsolicited proposal for the adaptive reuse of the building. Mr. Feldman indicated he was proud to be a citizen of Boynton Beach.

John McGovern, 3929 Palladium Lake Drive, recalled Mayor Taylor had stated, "The Commission is the voice of the people." Mr. McGovern surmised the current course of

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action is political goodwill and will turn the preservation efforts around. He suggested a motion to reconsider should be offered by Vice Mayor Casello since he was on the prevailing side.

Chris Montague, 222 W. Ocean Avenue, thanked the Commission for changing their views and considering the cries of the public. It was a great political move to bring the community together.

Theresa Zimmerman, 121 SE 11th Avenue, indicated both her daughters had attended the School when it was an elementary school. They were all happy more time was being given to save the Old High School and make some new uses for it. She had heard \$1M was being spent to demolish the dive shop and she felt it was a waste of money because it belongs where it is. The money could be used toward saving the beautiful School.

Rev. Randall Gill, Pastor of the First Presbyterian Church of Boynton Beach, and new President of the Boynton Beach Historical Society, thanked the Commission for their wisdom and kindness in giving the citizens more of an opportunity to help save the Old High School and use it for the benefit of all the citizens in the community. The Commission was showing great leadership.

James Devoursney, 2625 Lake Drive North, commented he was previously embarrassed to be a citizen of Boynton Beach because the Chair of the Planning and Zoning Board attacked a Commissioner. He was now proud to be a citizen of Boynton Beach.

Michael Wilson, 1224 Isle Court, echoed the previous remarks. There is a lot of work needed downtown. The Old High School is a gem and the first stepping stone. The 500 Ocean project under construction and a cultural center area would anchor the west. Mr. Wilson suggested more listening should be done and it could be a new start for downtown Boynton Beach.

Brad Druckenbrod, 1067 SW 25th Way, was very happy; however, he questioned how the building had reached its current condition and not maintained. Perhaps the neglect was intentional. Mayor Taylor recalled the school was shut down a long time ago by the School Board. Various endeavors were held in the structure and then it became a storage facility and ultimately nothing further was done.

Voncile Smith, 1747 Banyan Creek Court, had attended the school when it was a high school. She was pleased it was going to survive.

No one else coming forward, Mayor Taylor closed public comment and called for a vote on the motion.

Vote

 The motion passed unanimously. 

Mayor Taylor was pleased with the outcome. These type of projects become emotional and things are said and done in haste. There is a national organization called "Black Lives Matter" and the followers wear black and wear their signs. Ms. Barbara Ready had posted an email that said, "Please come down to the school house, wear black shirts and bring a sign that says 'This building matters'." In Mayor Taylor's opinion, the comment equated Black lives matter with a building matters. He was offended by the comparison of a building with a person's life, regardless of the ethnicity. Some may be offended and it was a shameful thing to bring up. It was disrespectful because it compares people and buildings. Mayor Taylor apologized to anyone offended by the comment.

Commissioner Fitzpatrick interjected the colors of the Old High School were black and gold, Boynton Tigers. When the rally was being organized there was not enough time to find black and gold clothing to wear. Equating the two is strange.

12. NEW BUSINESS

A. Consider staff analysis of existing regulations applicable to gasoline sales uses contained in the Page 4 of 288 Land Development Regulations, Part 3. *Zoning, Article IV. Use Regulations, Section D. Use Matrix & Notes*, and direct staff relative to recommended amendments that in part, support continued operation and expansion of existing gas stations. ***(Moved from 8/4/15 meeting)***

Mike Rumpf, Planning and Zoning Director, pointed out the item had appeared on the strategic initiative list. It originated from a business owner who wanted to add gasoline sales to his convenience store on North Seacrest Boulevard. Staff was directed to study the applicable Land Development Regulations to determine if it was an eligible location. The plan to add gasoline sales was aborted, but the study was completed.

Commissioner McCray suggested a brief summation would be sufficient since the original applicant has changed his plans.

Mr. Rumpf remarked there are 18 gas stations within the City. At least half are non-conforming with current regulations. They are all located on arterial roadways which are the high-class roadways within the City. If half of the sites were damaged by a major storm event, the decision would have to be made if they could rebuild and continue to sell fuel and service to the community in great need.

There is a current standard that all stations must meet a minimum 200 foot separation from a residential zoning district. There are five components to reduce the non-

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C. Authorize the expenditure of \$300 from Commissioner Fitzpatrick's Community Support Funds to Sister City Program - Essay Writing and Art Contest

Motion

Commissioner McCray moved to approve. Commissioner Fitzpatrick seconded the motion that carried unanimously.

D. Authorize the expenditure of \$200 from Commissioner Fitzpatrick's Community Support Funds to Boca Raton's Promise organization to assist the Boynton Beach Mental Health Committee.

Motion

Commissioner McCray moved to approve. Commissioner Fitzpatrick seconded the motion that carried unanimously.

E. Authorize the expenditure of \$1,500 from Commissioner Fitzpatrick's Community Support Funds to the Greater Boynton Beach Foundation.

Motion

Commissioner McCray moved to approve. Commissioner Fitzpatrick seconded the motion.

Mayor Taylor advised he would vote to support this donation so that it will go to the Boynton Beach Foundation, but not for the mold study on the Old High School because this is already being done in an investigation by a potential developer. Commissioner Fitzpatrick said this donation would be for clean-up. Mayor Taylor was opposed to allowing anyone in the building to clean it up because there is liability on the part of the City if someone is hurt or gets sick.

Attorney Cherof confirmed for Mayor Taylor that the request for authorization was properly within the scope of funds approved in the policy adopted by the City Commission. Approval of this item would require some additional steps to make sure safeguards are in place to allow clean up; however, the expenditure would be appropriate.

Mayor Taylor announced he would not support the expenditure because he did not want anyone interrupting the process that is in place at this time regarding the Old High School.

Vote

The motion carried 3-1. (Mayor Taylor dissented.)

EXHIBIT "A"

COMMUNITY SUPPORT FUNDS
REQUEST FORM

Part I - Summary of Request (to be completed by City Clerk)

Date of Request:

11 SEP 2015

Requested by Mayor/Commissioner:

FITZPATRICK

Amount Requested:

\$ 1,500

Recipient/Payee:

Greater Bounton Beach Foundation

Description of project, program, or activity to be funded: To assist with expenses
related to a community clean-up event at the Old High School.

Expenses such as: Supplies, mold study to ensure air quality, etc.

Part II - Availability of funds

The annual appropriation of funds available to the requesting Member of the Commission listed above is \$2,000.

The balance of funds available for the requesting Member of the Commission is \$ -0 -.

Accordingly:

- There are funds available as requested
- There are insufficient funds available as requested

Dated: 9/10/2015

By: Judith A. Kyle
City Clerk
DEPUTY

Part III-Eligibility Evaluation

- Public funds will not be used to improve private property unless there is a clear public need, purpose and benefit
- The recipient/payee provides services within the City
- The public purpose is beneficial to the entire community served by such donation

Dated: 11 SEP 15

By: [Signature]
Requesting Member of the City Commission

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: File
From: Mark E. Bannon, Executive Director
Re: C15-024 – Michael Fitzpatrick – City Commissioner, City of Boynton Beach

- **Background**

This matter came to the attention of the PBC Commission on Ethics (COE) through a sworn complaint filed on October 16, 2015 by Lorne Alter, (Complainant) a resident of the City of Boynton Beach (City). Attached to the sworn complaint was a typewritten letter also dated October 16, 2015, which was signed and listed several reasons for filing the Complaint against City Commissioner Michael Fitzpatrick (Respondent).

The letter made several allegations against Respondent in regards to his actions as a City Commissioner that relate to his support of preserving the Old Boynton Beach High School building (old high school). According to records obtained from the PBC Property Appraiser's website (www.pbcgov.com/papa), the old high school is located at 125 East Ocean Avenue, Boynton Beach. It is owned by the City of Boynton Beach, built in 1928, and its assessed value as of 2015 was \$938,553 (\$461,921 for the building, and \$476,632 for the land).

The specific allegations made by Complainant against Respondent are as follows:

1. Respondent has failed to abstain during agenda items brought before the City Commission when he had a conflict of interest regarding the items, specifically involving the old high school, and a "charity" being set up to fund the efforts to save this building.
2. Respondent is involved with the group seeking to preserve the old high school building, and that monies collected through the group's webpage (www.gofundme.com/saveboyntonhigh) are listed as being for that purpose. However Complainant alleges that \$500 of these funds are slated to be used to pay the electric bill at the group's "headquarters," a residential home owned by Respondent.
3. The "website" for this group mentions that \$850 of the collected funds will be used for "processing fees" to establish a 501(c)(3) registered charity by the group, but a records search shows that no such charity has been registered with the IRS.
4. On this same website, Respondent commented that he has opened a checking account at Wells Fargo bank under the name "Historic Boynton Beach High School Project," but that the Florida Division of Corporations has no record of such corporation for this fictitious name.
5. On August 18, 2015, Respondent voted as a City Commissioner on an agenda item involving the old high school building, that he voted on the item as both a City Commissioner and as a "founder of the charity," which Complainant alleges is a conflict of interest. According to Complainant, the agenda item Respondent voted on at that time was to reverse a previous City Commission vote to demolish the old high school.
6. At a City Commission meeting held on September 15, 2015, Respondent voted to award \$1,500 of taxpayer funds to the Greater Boynton Beach Foundation for "a community clean up event at the Old High School." Complainant alleges that this event was planned by the group that Respondent leads, and essentially redirected funds earmarked for a legitimate charitable organization (Greater Boynton Beach Foundation), to a group that he has been leading and which has yet to establish itself as a legitimate charity.
7. Finally, Complainant alleges that Respondent and his group wishing to save the old high school have no means to do so as the City owns the building, and the City would have to give permission for this group to take any action. The Complainant points out that permission had already been given to another entity to demolish the building.

- **Documents submitted with the Complaint**

Also accompanying the letter were the following documents, which are submitted to the Inquiry file:

1. Various pages of a website (www.gofundme.com/saveboyntonhigh) created by Anthony Pitre on August 13, 2015, and developed to fund preserving the old Boynton Beach High School Building. This page shows that Respondent donated \$500 of his own money to open a checking account for this cause. (6 pages).
2. A page from the PBC Property Appraisers website (www.co.palm-beach.fl.us/papa) listing a residential property located at 101 SW 4th Avenue, Boynton Beach, listed as being owned by Respondent. (1 page)
3. What appears to be an agenda for a meeting to be held on August 26, 2015 held at 101 SW 4th Avenue for an organization known as "Save the Old High School," . (2 pages)
4. Partial copy of City Commission meeting minutes from August 8, 2015 (pages 8-15). (8 pages)
5. A document entitled, "Community support funds request form," dated September 11, 2015, in which Respondent requested \$1,500 of City funds be allocated to help clean up the Old Boynton High School property. (1 page)

- **Inquiry**

According to various newspaper articles from the *Palm Beach Post* and the *Sun Sentinel* newspapers, the question of what to do with the old high school has been an issue for many years. There are factions of residents that want the building and land sold. Others want the building renovated for future use by the City, and still others want the building demolished and replaced with a structure that would be used by the City. While there have been several studies done concerning the use of the old high school, it sits empty at this time.

I conducted online research into some of the information provided by Complainant. The website for the "go fund me page" for collection of donations to this cause is found at (www.gofundme.com/saveboyntonhigh). According to the website itself it was created by Anthony Pitre on August 13, 2015. I was able to verify that the "Historic Boynton Beach High School Project," the name under which respondent opened a bank account for funds collected is not a registered 501(c)(3) charity with the IRS (EIN: 27-3150281). This fictitious name is also not registered as a Florida not-for-profit corporation with the Florida Division of Corporations as Complainant alleges. Further, the Greater Boynton Beach Foundation (the Foundation) is a registered 501(c)(3) charitable organization with the IRS as alleged by Complainant, and the organization is also registered as a Florida not-for-profit Corporation with the Florida Division of Corporations.¹ Respondent is not listed as an officer or director of the Foundation.

In reviewing the website created for funding the effort to save the old high school, I also discovered that Respondent did make a \$500 donation to this cause. It appears that Respondent left the following in the "comments" section after making the donation:

"Anthony and I opened up the checking account where this money will be deposited yesterday at Wells Fargo. His wife will keep the bookkeeping for now. DBA "Historic Boynton Beach High School Project". Anthony has downloaded the 501(c)3 paperwork to look over. This hopefully means the donations can be back dated as tax deductible contributions. This will be discussed at the August 26th planning meeting."

- **Applicable law**

The following sections of the PBC Commission on Ethics ordinance are relevant:

Section 2-254. Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to ***any person required to comply with the countywide code of ethics...*** (Emphasis added)

¹ The IRS 501(c)(3) charitable registrations were checked via the IRS website (www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Select-Check). The Florida corporation checks were completed using the Florida Division of Corporations website (www.subbiz.org).

Sec. 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;

The following sections of the PBC Code of Ethics are relevant:

Sec. 2-442. Definitions.

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

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

(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: (Emphasis added)

- (1) Himself or herself;

- (7) A civic group, union, social, charitable, or religious organization, or other not for profit organization **of which he or she (or his or her spouse or domestic partner) is an officer or director.** (Emphasis added)

(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)

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

- **Recommendation**

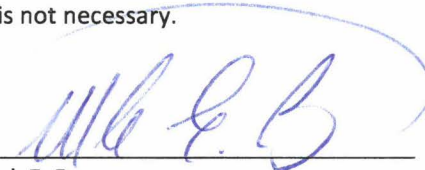
When initially given this Inquiry, there was insufficient information to immediately determine whether the sworn Complaint was legally sufficient. After conducting the preliminary investigation, I have determined that the Complaint is legally sufficient, based on the following standard used by the COE:

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.

As a City Commissioner, Respondent is within the jurisdiction of the COE, and bound by the Code of Ethics. There are sections of the code of ethics that apply to Respondent regardless of whether he misused his official position, (i.e., Section 2-444, *Gift Law*, and Sub-Sections 2-443(d), *Contractual relationships*, 2-443(h), *Honesty in applications*, and 2-443(i), *Disclosure and use of certain information*).

However, no evidence was uncovered to believe that Respondent took any action as a City Commissioner that was in violation of any of the relevant section of the PBC Code of Ethics. Further, there is no reason to believe that further investigation would uncover additional evidence of any violation. Therefore, while the evidence supports a finding of legal sufficiency, nothing has been uncovered to believe a violation was committed, concluding that a formal investigation is not necessary.

Submitted by:



Mark E. Bannon
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: Mark E. Bannon, Executive Director
Re: C15-024 – Michael Fitzpatrick – Former Commissioner, City of Boynton Beach

The background and applicable law sections documented in the Memorandum of Inquiry are incorporated by reference into this Legal Sufficiency Determination. It should be noted that while Respondent is no longer a Boynton Beach City Commissioner, at all times relative to the allegations in the Complaint, he did hold such a position, and thus was subject to the authority of the PBC Commission on Ethics, as well as the Code of Ethics.

- **Analysis**

As an elected official of the City of Boynton Beach (City), Respondent, Michael Fitzpatrick, is within jurisdiction of the PBC Commission on Ethics and bound by the PBC Code of Ethics. Based on the allegations found in the sworn Complaint as well as documents provided by Complainant and found during the Inquiry, any potential Code of Ethics violations would have to be found in one of the three sub-sections of §2-443, ***Prohibited conduct***. Those sub-sections are: §2-443(a)(1-7), ***Misuse of public office of employment***; §2-443(b), ***Corrupt misuse of official position***, and; §2-443(c), ***Disclosure of voting conflicts***. It is necessary to analyze the allegations in terms of the specific sub-sections of the Code.

Section 2-443(a)(1-7) Misuse of public office or employment:

In order to find a violation of §2-443(a)(1-7), it is necessary to show that Respondent took some action involving the use of his authority as a City Commissioner to obtain a special financial benefit for himself or for one of the persons or entities listed in this sub-section. Based on the Complaint, it is alleged that Respondent gave such an improper special financial to himself and to a charitable entity that he is closely associated with. Because the Complaint alleges that Respondent acted to obtain such a financial benefit for a charitable organization (the Historic Boynton Beach High School Project) and to himself, any violation of this sub-section would require: 1) Respondent's actions involved using his authority as a City Commissioner; and, 2) These actions gave an improper financial benefit to at least one of the seven persons or entities listed in Code sub-section 2-443(a)(1-7).

Code sub-section 2-443(a)(1-7) prohibits actions taken with the use of official authority, such as that of a city commissioner, where these actions give a special financial benefit to one of the listed persons or entities. The applicable portions listing these persons or entities are, sub-section 2-443(a)(1), "Himself or herself," and sub-section 2-443(a)(7), "A civic group, union, social, charitable, or religious organization, or other not for profit organization of which he or she (or his or her spouse or domestic partner) is an officer or director." Clearly, the Respondent fits within this definition, and a reasonable case can be made that "the Historic Boynton Beach High School Project," also fits within this language as a "charitable" organization. Unlike some other code sections, Section 2-443, ***Prohibited conduct***, does not specifically require that the "charitable" organization be registered as a 501(c)(3) charity with the IRS. However, sub-section 2-443(a)(7) does require that Respondent be an "officer, or director" of this charitable organization. There is no evidence submitted by Complainant, or uncovered during this investigation to indicate that the Historic Boynton Beach High School Project is a formal organization, or that it has any particular leadership structure. The evidence shows that Respondent assisted in setting up what can best be termed as an "informal" not-for-profit organization. While Respondent is characterized as a "leader" of this effort to save the old high school, that alone does not meet the code requirements of an "officer or director." Respondent is also alleged to have assisted in the creation of a website and bank account to collect funds for use in attempting to save the Old Boynton Beach High School from demolition.

Based on this, we consider only that portion of the prohibition that applies to Respondent himself receiving some special financial benefit from his actions. Complaint provided evidence, (verified through the “go-fund-me website), that \$400 of the fees collected for this effort is earmarked to pay an electric bill for a second residence owned by Respondent. However this same website indicates that Respondent donated the use of his home to the group to hold meetings and that Respondent also donated \$500 cash to the effort to save the old high school. Based on this information, the use of donations to this website for this effort are not tied in any way to Respondent’s public position as a City Commissioner, even though he has made it known at City Commission meetings that he supports the effort to save this site, and has voted against the demolition of this building as a City Commissioner. It also appears that respondent received no special financial benefit through his efforts, and in fact may have lost money. Further, Respondent did not use his official position as a City Commissioner in this effort, as the fact that he is a public official is not mentioned on the website. Respondent does have the right to act for a charitable cause by donating funds or the use of his private property in that effort, just as any private citizen may. Respondent’s involvement with the website set up to collect donations to save the Old Boynton Beach High School site, and the use of these funds for this purpose, are not in violation of the Code of Ethics, since Respondent did not use his public position as a City Commissioner in this effort.

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

In order to find a violation of §2-443(b), it is necessary to show that Respondent took some action involving the use of his authority as a City Commissioner to “corruptly” obtain a special benefit for himself or some other person or entity. The term “corruptly” is defined within the section as follows: *“For 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.”*

Based on the analysis done in the application of sub-section 2-443(a)(1-7) to the facts as alleged, the threshold of this sub-section is not met. Even Respondent’s official actions, taken during votes at City Commission meetings on August 18, 2015, and September 15, 2015 cannot reasonably be defined as having been done with “wrongful intent. The use of an “unregistered charity” and web site to solicit funds to help the prevent the demolition of the old high school does not meet this sub-section’s requirements, because these actions were not taken by use of Respondent’s public authority and are clearly not inconsistent with the proper performance of his public duties.

Section 2-443(c), Disclosure of voting conflict:

In order to find a violation of §2-443(c), it is necessary to show that Respondent voted as a City Commissioner on some matter which provided an improper special financial benefit for some person or entity as listed under sub-section 2-443(a)(1-7).

Complainant did provide evidence that on August 18, 2015, Respondent voted as City Commissioner to stop the scheduled demolition of the old high school, and at that time did publicize that he was “taking a leadership role” in saving the old high school. However, there is no evidence uncovered during this inquiry that would indicate that Respondent himself obtained any special financial benefit by this vote, nor that he is an “officer or director” of any charity organization that would have gained some improper special financial benefit by this vote. Respondent’s interest in saving this site and publicizing his leadership in this effort does not mean that his vote to stop demolition of the site resulted in a special financial benefit for either himself or any charitable organization for which he serves as an officer or director. These are specific titles generally required when such an organization files for recognition as a not-for-profit corporation with the Florida Division of Corporations, which Complainant is correct in his assertion has not been done for this organization. And as discussed previously, given the donation of both money and property for use for meetings, Respondent did not receive a personal financial benefit in this action.

Complainant also provided evidence that at a City Commission meeting held on September 15, 2015, Respondent voted to award \$1,500 of taxpayer funds to the Greater Boynton Beach Foundation for “a community clean up

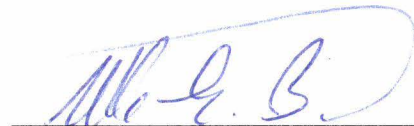
event at the Old High School.” Regardless of their use for a purpose that Respondent’s group embraced, the award of these funds was made to a different charity. According to the Florida Division of Corporations website (www.sunbiz.org), the Greater Boynton Beach Foundation is a Florida not-for-profit corporation. Respondent’s name is not listed as an officer or director of this corporation. Therefore, his vote to award funds to this entity to be used for the clean-up of the old high school was not in violation of sub-section 2-443(c). While the “Historic Boynton Beach High School Project” and the Greater Boynton Beach Foundation share a willingness to have this public site cleaned, because he is not an officer or director of the Greater Boynton Beach Foundation, which was the organization that was given \$1,500 of City funds to conduct a community clean-up of the site, Respondent also had no duty under the Code of Ethics to abstain from participating in discussions or voting on this matter on September 15, 2015.

- **Conclusion**

Based on the information presented by Complainant and uncovered during the Inquiry, there is **LEGAL SUFFICIENCY** to believe that the allegations, if true, could be in violation of Section 2-443(a), Section 2-443(b), and/or Section 2-443(d) of the Palm Beach County Code of Ethics by Respondent, who was subject to the jurisdiction of Code of Ethics at the relevant time period.

However, the Inquiry into this matter did not find sufficient evidence to support the allegations by Complainant that Respondent used his authority as a City Commissioner in a manner that would be in violation of these sections of the code.

BY:



Mark E. Bannon, Executive Director
Florida Bar No. 17640
PBC Commission on Ethics

4/21/2016
Date

PALM BEACH COUNTY COMMISSION ON ETHICS
PROBABLE CAUSE RECOMMENDATION

To: Commission on Ethics
From: Christie E. Kelley, Advocate
Re: C15-024 – Michael Fitzpatrick – Former Commissioner, City of Boynton Beach

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 alleged violation of Sec. 2-443(a), Sec. 2-443(b), and Sec. 2-443(c).

Probable Cause exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics (COE) to conclude that the Respondent, Michael Fitzpatrick, 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.

- **Analysis**

The investigation revealed that there is insufficient evidence to prove Respondent violated §2-443(a), §2-443(b), or §2-443(c) of the Palm Beach County Code of Ethics (Code).

Here, to prove that Respondent violated §2-443(a), *Misuse of public office or employment*, the evidence must show that Respondent used his position as a City Commissioner to give a special financial benefit to himself or to a not for profit organization of which he is an officer or director. Based on the information revealed during the investigation, there is no evidence to support the allegation that Respondent was an officer or director of the Historic Boynton Beach High School Project. The evidence shows that the Historic Boynton Beach High School Project is an informal not for profit organization and that it does not have any particular leadership structure. Although Respondent was characterized as a “leader” of the effort to save the old high school, that characterization alone does not meet the Code’s requirement that Respondent serves as an “officer or director.”

In addition, there is no evidence to support the allegation that Respondent used his official position in any way to give a special financial benefit to himself. The evidence revealed that Respondent did not mention the fact that he was a public official on the GoFundMe website page he helped create to collect funds for use in attempting to save the Old Boynton Beach High School from demolition. Thus, Respondent’s involvement in the creation of the website to collect donations is not a violation of the Code of Ethics since Respondent did not use his public position as a City Commissioner in this effort. In addition, the evidence showed that Respondent donated the use of his home to the group to hold meetings and that Respondent donated \$500 to the GoFundMe account for the old high school. Based on this information, the donations to save the old high school were not tied in any way to

Respondent's public position as a City Commissioner, even though he vocally supported the effort to save this site at City Commission meetings and had voted against the demolition of this building as a City Commissioner. Moreover, Respondent has the right to act for a charitable cause by donating funds or the use of his private property in that effort, just as any private citizen may.


Next, in order to find a violation of §2-443(c), *Disclosure of voting conflict*, the evidence must show that Respondent voted as a City Commissioner on a matter which gave an improper special financial benefit to himself or to a not for profit organization of which he is an officer or director. Since the investigation did not reveal any evidence which would indicate that Respondent received any special financial benefit by this vote or that his vote gave an improper special financial benefit to a not for profit organization of which he is an "officer or director," there is insufficient evidence to prove that Respondent violated §2-443(c). As stated previously, Respondent was not an officer or director of the Historic Boynton Beach High School Project. Moreover, although Respondent voted as a City Commissioner on August 18, 2015, to stop the scheduled demolition of the old high school and took a leadership role in the effort to save the old high school, those actions do not mean that his vote resulted in a special financial benefit for either himself or any charitable organization for which he serves as an officer or director. Further, Respondent's vote on September 15, 2015, to award \$1,500 of taxpayer funds to the Greater Boynton Beach Foundation for "a community clean up event at the Old High School" also did not violate §2-443(c) since he is not listed as an officer or director of that foundation. Therefore, he was not prohibited from participating in discussing or voting on either of these matters.

Finally, to prove that Respondent violated §2-443(b), *Corrupt misuse of official position*, the evidence must show that Respondent used his official position as a City Commissioner to "corruptly" obtain a special benefit for himself or some other person or entity. The term "corruptly" is defined as "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." Here, there is no evidence that Respondent's votes at the City Commission meetings on August 18, 2015, and September 15, 2015, were made with a "wrongful intent." In addition, his involvement in the informal not for profit organization and the creation of a webpage to solicit funds to prevent the demolition of the old high school does not meet the Code's definition of corrupt because Respondent did not use his official position as a City Commissioner in these efforts, and his actions were not inconsistent with the proper performance of his public duties.

- **Conclusion**

Based on the facts and circumstances, there is **NO PROBABLE CAUSE** to believe that Respondent violated §2-443(a), *Misuse of public office or employment*, §2-443(b), *Corrupt misuse of official position*, or §2-443(c), *Disclosure of voting conflicts*, 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, Advocate
Florida Bar No. 72565

4-29-16
Date

From: [Gina A. Levesque](#)
To: "MICHAEL M FITZPATRICK"
Subject: RE: Ethics Complaint
Date: Thursday, May 05, 2016 9:50:28 AM
Attachments: [image003.png](#)
[A of U between SBH and BBHS 2 pages.pdf](#)
[LastPage_Signed.pdf](#)
[image004.png](#)

Mr. Fitzpatrick,

I will print all of the attached documents and provide them to the commissioners at the hearing. Please let me know if you need anything else.

Regards,

Gina A. Levesque, Intake and Compliance Manager
Palm Beach County Commission on Ethics
Ph 561-355-1937

www.palmbeachcountyethics.com



Honesty - Integrity - Character

From: Michael Fitzpatrick [mailto:fitzpatrickm1971@gmail.com]
Sent: Thursday, May 05, 2016 9:05 AM
To: Gina A. Levesque
Subject: Re: Ethics Complaint

I acknowledge receipt. I will attend the meeting. Attached are pdf files of an agreement between the informal group Save Boynton High! and the long established Boynton Beach Historical Society. The purpose was to get on a correct non-profit status. SBH! essentially became a sub committee of BBHS. The agreement is two separate pdfs because I was in Maine at the time and had to go to a Realtor office to copy my signature.

There is still about \$3,400 in the BBHS checking account from the GoFundMe money and the Pirate Fest booth. The money is controlled by the Treasurer Fran Tuite. When my City email account was closed many contacts disappeared from my phone and hers was one. The President of the BBHS is Rev Randy Gill and his phone number is 561-732-3774.

I presume there is still \$1,500 sitting in the Boynton Beach Foundation. At my request the

BBHS is setting up meetings with the Boynton Beach City Commission to use this money if needed to temporarily patch holes in the Old High School roof and fix broken window panes before the rainy season.

In the end no money was used to pay for my electric bills at my Dad's old house. The bills have been about \$35 per month and my payment record with FPL was good enough that no deposit for a second account was required.

Mike Fitzpatrick

On Fri, Apr 29, 2016 at 9:32 AM, Gina A. Levesque

<Glevesque@palmbeachcountyethics.com> wrote:

Good morning Mr. Fitzpatrick,

Attached is the PC recommendation. Please confirm receipt.

Thank you,

Gina A. Levesque,

Intake and Compliance Manager

www.palmbeachcountyethics.com



From: Gina A. Levesque

Sent: Thursday, April 28, 2016 3:10 PM

To: 'fitzpatrickm1971@gmail.com'

Subject: Ethics Complaint

Good afternoon Mr. Fitzpatrick,

The attached document will explain everything about the hearing we spoke about that is scheduled to take place on May 5. Please confirm receipt of this email and that you are going to attend.

Regards,

Gina A. Levesque,

Intake and Compliance Manager

Palm Beach County Commission on Ethics

300 North Dixie Highway, Suite 450

West Palm Beach, FL 33401

Ph [561-355-1937](tel:561-355-1937)

Fx [561-656-7100](tel:561-656-7100)

glevesque@palmbeachcountyethics.com

www.palmbeachcountyethics.com



Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Agreement of Understanding between The Boynton Beach Historical Society And Save Boynton High!

Purpose

The purpose of this collaboration is to outline the understanding between the **Boynton Beach Historical Society (BBHS)** and **Save Boynton High! (SBH)** in order to maximize efforts of both organizations toward preventing the destruction of the historic Old Boynton Beach High School located at 125 E Ocean Av in Boynton Beach, FL. Efforts may also include charting a course for the reuse of the building if those events occur within the timeframe of this Initiative.

Duration

The duration of this Agreement is from September 22, 2015 until on or before January 31, 2016, by which time the fate of the High School is likely to be decided. If needed at that time, this agreement may be extended, providing both parties agree in writing and redefine the purpose and term of the agreement. If it is not extended, the Agreement is consider no longer in effect and any funds remaining in the SBH account will be turned over to SBH to disburse as determined by the SBH Steering Committee.

Save Boynton High Initiative

- Save Boynton High will be viewed as a non-substantial Initiative of the BBHS whose goal is to prevent the destruction of the historic Boynton High School and to begin efforts to chart a course for the reuse of the Old Boynton Beach High School located at 125 E Ocean Av in Boynton Beach, FL.
- The BBHS Board will be kept fully informed of SBH planning and activities and is welcome at all SBH meetings.
- The SBH Steering Committee retains its own planning and direction and all expenditure decision making powers pertaining to SBH Funds.

Initiative Activities

For the duration of this agreement, the projected activities of SBH are:

- Lead all planning and execution for the table/booth at the “Boynton Beach Haunted Pirate Fest and Mermaid Splash” on October 24-25, 2015 at which, the SBH and BBHS may jointly participate,
- Obtain liability release for all events as required,
- Lead the efforts involved for at least one (1) Clean-Up Weekend of the Old Boynton Beach High School,

Agreement of Understanding between The Boynton Beach Historical Society And Save Boynton High!

- Conduct fund raising efforts earmarked for specific purposes (such as the temporary or permanent repair of the roof) or for general purposes (such as payment of utility bills for at the temporary meeting place),
- Hold Steering, General and Committee meetings of the SBH,
- Control and release its own Press Releases and Media Events pertaining to its activities, and
- Maintain a continued presence at the City Commission meetings.

For the duration of this agreement the projected activities of the BBHS are:

- Pass a motion in support of this Initiative made to the Board of Directors,
- File as the organization on record for the “Boynton Beach Haunted Pirate Fest and Mermaid Splash” in October 24-25, 2015 and the Clean-Up Weekend (date to be determined),
- Participate in the “Boynton Beach Haunted Pirate Fest and Mermaid Splash” on October 24-25, 2015 and the Clean-Up Weekend (date to be determined) as possible,
- Promote SBH efforts on BBHS website, FaceBook and in other social media,
- Open a separate bank account for SBH funds, regular reporting (including a record of such donations) will be made available to the Board of the BBHS and the Steering Committee of SBH, and
- Act as Issuer for reimbursement from the SBH account for expenditures that are presented to the Board of BBHS and approved by designates of Steering Committee of SBH subject to the availability of funds. Such reimbursement will be made in a timely manner.

Participation in Pirate Fest and in Clean-Up Weekend will be open to members of the BBHS Society at large.

SBH Funds

- SBH currently has approximately \$2,500 in donated funds. Some or all of these funds and any collected subsequently, will be turned over to the BBHS and deposited into the separate bank account to be opened by authorized representatives of the BBHS.
- Reimbursement will be issued for expenses by authorized representatives of the BBHS for appropriately approved by SBH Steering Committee members (Mike Fitzpatrick, Barbara Ready, or Anthony Pitre) from the account subject to the availability of funds.
- SBH will be provided with the BBHS 501(c)(3) information necessary to demonstrate the non-profit status of BBHS allowing

Agreement of Understanding between The Boynton Beach Historical Society
And Save Boynton High!

- Donors will be provided a tax deduction, and
- In order for purchases to be made without paying the State Sales Tax.
- Items that may have been purchased for which sales tax was paid will be fully reimbursed as approved by SBH Steering Committee members.
- Donations to this account will be covered by the BBHS tax deduction provisions.
- SBH activities may add additional deposits to this account.
- At the end of the agreement any funds remaining in the separate account will be turned over to SBH to disburse as determined by the SBH Steering Committee.
- BBHS may also conduct a parallel fund raising program to help save Boynton High School and those funds may be donated to the SBH group and deposited into the separate account.

Signed

Randall Gill, President Boynton Beach Historical Society

Date



Mike Fitzpatrick, President Save Boynton High!

25 SEP 2015

Date