

**OFFICIAL MEETING MINUTES  
OF THE  
PALM BEACH COUNTY COMMISSION ON ETHICS  
PALM BEACH COUNTY, FLORIDA**

**AUGUST 2, 2012**

**THURSDAY  
1:35 P.M.**

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

**II. ROLL CALL**

**MEMBERS:**

Manuel Farach, Esq., Chair  
Robin N. Fiore, Ph.D., Vice Chair  
Daniel T. Galo, Esq.  
Ronald E. Harbison, CPA – Absent

**STAFF:**

Mark E. Bannon, COE Senior Investigator  
Alan S. Johnson, Esq., COE Executive Director  
Gina A. Levesque, COE Executive Assistant  
James A. Poag, COE Investigator  
Megan C. Rogers, Esq., COE Staff Counsel

**ADMINISTRATIVE STAFF:**

Julie Burns, Deputy Clerk, Clerk & Comptroller's Office (Recording)  
Paula Wilson, Deputy Clerk, Clerk & Comptroller's Office (Condensing)

**III. INTRODUCTORY REMARKS**

Commission on Ethics (COE) Executive Director, Alan Johnson, Esq., stated that a quorum existed.

Commissioner Farach stated that anyone wishing to speak should submit a public comment card, and that electronic devices should be turned off.

**IV. APPROVAL OF MINUTES FROM JULY 12, 2012**

**MOTION to approve the July 12, 2012, minutes. Motion by Robin Fiore, and seconded by Daniel Galo.**

Commissioner Farach stated that on page 20 of the July 12, 2012, minutes he believed it should read, Mr. Seymour stated that he could not agree to the ruling contained in the order, but he had no objection to its form. He also said that on the following line, the words, and permitted counsel to review the form, should be added.

Mr. Johnson informed the COE that staff did not review the minutes this month, and that hopefully next month someone could be hired to perform that task. He added that staff may need to review the changes with the recording of the meeting, and it would be brought back if the corrections were inaccurate.

**AMENDED MOTION to include the changes as discussed. The maker and the seconder agreed, and the motion carried 3-0. Ronald Harbison absent.**

**RECESS**

**At 1:39 p.m., the chair declared the meeting recessed for an executive session.**

**RECONVENE**

**At 3:36 p.m., the meeting reconvened with Manuel Farach, Robin Fiore, and Daniel Galo present.**

**V. EXECUTIVE SESSION (C12-003)**

- a. Probable Cause Hearing (Closed Session)**
- b. Public Report and Finding of Probable Cause**

Commissioner Fiore read the public report and finding of probable cause as follows:

Complainant, Alan S. Johnson, Executive Director of the Commission on Ethics, filed the above referenced complaint on May 18, 2012, alleging possible ethics violations involving Respondent, J. Jerome Taylor, Chair of the City of Riviera Beach Housing Authority (RBHA). The complaint alleges five Code of Ethics violations involving the use of RBHA funds.

## V.b. – CONTINUED

Count 1 alleges that on or about January 20, 2012, Respondent misused his official position by submitting an invoice for payment of \$950 for services provided to RBHA, claiming the funds were a reimbursement for payments Respondent had made to at least two persons who completed work for RHBA, and receiving a check as payment from RBHA. No documentation or names of individuals providing the purported work were provided by Respondent to verify these expenses. Respondent knew or should have known through the exercise of reasonable care that the payment of \$950 constituted a financial benefit to himself, not available to the similarly situated members of the general public, in violation of Article XIII, Section 2-443(a), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics.

Count 2 alleges that Respondent, at a meeting of the RBHA held on February 13, 2012, participated and voted to accept the financial accounting submitted to RBHA, which included payment to himself in the amount of \$950, failed to disclose this financial conflict at a public meeting, failed to abstain from voting, and failed to file the required State of Florida Form 8B as required under the Code of Ethics, in violation of Article XIII, §2-443(c), *Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics.

Count 3 alleges that on or about March 16, 2012, Respondent misused his official position by directing the RBHA Executive Director to issue a check, and submitting an invoice for payment of \$1000, purportedly for services provided to RBHA, and retaining a portion of the payment, constituting a financial benefit to himself, not available to similarly situated members of the general public, in violation of Article XIII, Section 2-443(a), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics.

Count 4 alleges that on or about March 16, 2012, Respondent corruptly attempted to secure a special privilege, benefit, or exemption for himself with wrongful intent, in a manner inconsistent with the proper performance of Respondent's public duties, by retaining a portion of a \$1000 RHBA check, and purportedly designated for pest control services, in violation of Article XIII, Section 2-443(b), *Corrupt misuse of official position*, of the Palm Beach County Code of Ethics.

**V.b. – CONTINUED**

Count 5 alleges that on April 10, 2012, Respondent participated and voted to accept the financial accounting submitted to RBHA which included the March 16, 2012, payment of \$1000, a portion of which was retained by the Respondent, and failed to disclose this financial conflict at the public meeting, failed to abstain from voting, and failed to file the required State of Florida Form 8B as required under the Code of Ethics, in violation of Article XIII, §2-443(c), *Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics.

Pursuant to Chapter 8, Article XIII, Section 2-443(a), *Misuse of public office or employment* prohibits a public official or employee from using their official position to take any action, or to influence others to take any action, in a manner which he or she knows or should know, will result in a special financial benefit, not shared by members of the general public, for any person or entity listed in §2-443(a)(1-7), including him or herself, an outside business or employer, or a customer or client of their outside business or employer.

Pursuant to Chapter 8, Article XIII, Section 2-443(b), *Corrupt misuse of official position* prohibits any official or employee from using his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and for the purpose of obtaining, 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.

Pursuant to Chapter 8, Article XIII, §2-443(c), *Disclosure of voting conflicts* states that an official shall abstain from voting and not participate in any matter that will result in a special financial benefit for him or herself. The official must not only publicly disclose the nature of the conflict when abstaining, but must also file a State of Florida conflict of interest Form 8B pursuant to the requirements of §112.3143, Florida Statutes, and submit a copy to the Commission on Ethics.

**V.b. – CONTINUED**

Pursuant to Chapter 2, Article V, Division 8, Section 2-258(a) of the Palm Beach County Code of Ethics, the Commission on Ethics is empowered to enforce the county code of ethics.

On May 18, 2012, the complaint was determined by staff to be legally sufficient. The matter had been brought to the attention of COE staff by a member of the RBHA and pursuant to COE Rule of Procedure 4.1.3 a preliminary inquiry was commenced. After obtaining sworn statements from material witnesses and documentary evidence sufficient to warrant a legally sufficient finding, a Memorandum of Legal Sufficiency was filed and an investigation commenced pursuant to Article V, Division 8, Section 2-260(d). Information obtained during the inquiry was adopted into the investigation and presented to the Commission on Ethics on August 2, 2012, with a recommendation that probable cause exists that a Code of Ethics violation occurred. At that time, the Commission conducted a probable cause hearing. The Commission reviewed and considered the inquiry and investigative reports, documentary submissions, recommendation of staff, written response of the Respondent as well as oral statements of the Respondent and Advocate. At the conclusion of the hearing, the Commission on Ethics determined that probable cause exists in this matter.

Accordingly, we find that there are reasonably trustworthy facts and circumstances for the Commission on Ethics to believe that the Respondent violated the Palm Beach County Code of Ethics as follows:

Count 1, Article XIII, section 2-443(a) (Misuse of Public Office or Employment)

Count 2, Article XIII, section 2-443(c) (Disclosure of Voting Conflicts)

Count 3, Article XIII, section 2-443(a) (Misuse of Public Office or Employment)

Count 4, Article XIII, section 2-443(b) (Corrupt Misuse of Official Position)

**V.b. – CONTINUED**

Count 5, Article XIII, section 2-443(c) (Disclosure of Voting Conflicts)

Therefore it is:

Ordered and adjudged that probable cause exists and the complaint against Respondent, J. Jerome Taylor, is hereby set for final hearing within 120 days to be coordinated between the parties.

Done and ordered by the Palm Beach County Commission on Ethics in public session on August 2, 2012, signed: Manuel Farach, chair.

(CLERK'S NOTE: The clerk added the correct language as printed, according to the public report and the finding of probable cause.)

**VI. PROCESSED ADVISORY OPINIONS (Consent Agenda)**

**VI.a. Request for Opinion (RQO) 12-052**

**VI.b. RQO 12-056**

**VI.c. RQO 12-057**

**MOTION to approve the Consent Agenda. Motion by Daniel Galo, seconded by Robin Fiore, and carried 3-0. Ronald Harbison absent.**

**VII. ITEMS PULLED FROM CONSENT AGENDA – None**

**VIII. PROPOSED ADVISORY OPINIONS**

**VIII.a. RQO 12-038**

Mr. Johnson stated that:

- Michael Malone, president, chief executive officer, and chief paid executive of the Greater Delray Beach Chamber of Commerce (Chamber) asked whether he needed to register as a lobbyist if he met periodically with elected officials, where interaction with government leaders, both elected and appointed, was normal operating practice for a person in his capacity.

### VIII.a. – CONTINUED

- Mr. Malone also served on the board of directors for a nongovernmental, nonprofit board called the Sister Cities of Delray Beach (Sister Cities), and an advisory board named the Charter Review Commission of the City of Delray Beach (CRC).
- The Chamber's members represented 14 percent of all businesses in Delray.
- The Chamber's role and function was to promote economic development, membership services, community development, and Delray's free enterprise system.
- The Chamber president's responsibilities were to:
  - represent the Chamber to its members and the general public;
  - manage the day-to-day operations of the organization, including but not limited to, staffing, building programs, events, finance, and records;
  - be a spokesman for the organization;
  - provide counsel to the Chamber's board of directors; and,
  - promote policies and positions of the organizations outlined by the Chamber.
- In this capacity, Mr. Malone met with prospective and present businesses, Chamber members and nonmembers, Delray public officials, and spoke with various groups.
- Under the County Code of Ethics' (Code) definition of lobbying, if Mr. Malone would be engaging in lobbying, if he met with government officials, seeking to influence them in certain decisions.
- Although he performed many other functions, Mr. Malone did not meet the Code's lobbying definition since he did not meet with governmental entities on behalf of a principal, only on behalf of his employer.

### VIII.a. – CONTINUED

- Mr. Malone's position on the Sister Cities' board of directors did not present any Code issue since it was a nonprofit organization.
- If specific Chamber issues came before the CRC regarding financial and other benefits, he should abstain from those matters.
- The Code specified that individuals could not contract themselves or their outside employer with their governing body; however, exemptions existed for advisory board members, as long as the contract did not include the advisory board in any way.

Commissioner Fiore said that the individual should register as a lobbyist. She added that in this case, the employer was an organization with the main function of lobbying; and since Mr. Malone was the chief paid officer of this collective organization, she regarded his job as a lobbyist.

Commissioner Farach said that staff's opinion was correct under the lobbyist ordinance definition; however, he was concerned with how it was written.

Commissioner Fiore stated that she considered the individual to be lobbying for every member; therefore, by definition the person was considered a lobbyist. She added that calling the individual a lobbyist would not harm the person or their organization, since it did not prevent them from carrying out their main function.

**MOTION to approve proposed advisory opinion letter RQO 12-038 as presented by staff. Motion by Daniel Galo, and seconded by Manual Farach.**

Assistant County Attorney Leonard Berger said that:

- Chambers of Commerce performed roles aside from trying to influence government.
- If the COE determined that every Chamber member was a principal to the lobbyist, many organizations not associated with government could be affected by the decision.
- The public was entitled to know whether someone was a paid lobbyist, since registration requirements were important for transparency.



### **VIII.a. – CONTINUED**

Commissioner Fiore said that receiving a benefit represented another issue. She added that in this instance, Mr. Malone wrote that having interaction with government leaders, both elected and appointed, was a normal operating practice for a person in his capacity; however, relationships regarding the distribution of funds and amenities should be made apparent.

Mr. Berger stated that under the lobbyist definition, he believed that Mr. Malone was primarily employed by the Chamber rather than by each Chamber member, since membership changed in Chamber of Commerce organizations.

League of Cities Executive Director Richard Radcliffe said that generally a chamber of commerce was not a lobbyist organization and that no commerce had influenced a governmental decision throughout his experience.

Commissioner Fiore said that she thought the Chamber had evolved into an organization that took public positions, and then lobbied for them.

Responding to Commissioner Fiore, Mr. Johnson stated that he believed that Mr. Malone's statement that he met periodically with elected officials could be characterized as occasional.

Commissioner Fiore suggested that the summary paragraph on page 53 should read: Based on the information that you have provided, to the extent that your contacts and relations with government are not your principal responsibility, you would not have to register as a lobbyist.

Mr. Johnson stated that Commissioner Fiore's suggested language was appropriate, and could be included in the COE opinion.

Commissioner Galo said that he had no objection to the requested amendment.

Commissioner Fiore read the suggested language as follows:

Based upon the information that you have provided, to the extent that your contacts and relations with the government on behalf of the Chamber are occasional, and are not your principal responsibility as president of the Chamber, then under those specific facts, you would not be required to register as a lobbyist.

### VIII.a. – CONTINUED

Mr. Johnson responded that:

- The statement was partially accurate since government contact did not have to be occasional.
- An individual still would not be a lobbyist under the ordinance, unless it was his/her principal responsibility; and
- The opinion was worded to reflect Mr. Malone's statements and to show that his governmental contacts were occasional.

Commissioner Farach said that if Mr. Malone was a full-time lobbyist, and it was his principal responsibility, then the misrepresentation of Mr. Johnson would constitute sufficient grounds to void the opinion. He added that he was comfortable with the proposed language, but understood the concern regarding where the factual analysis line would be drawn.

Commissioner Fiore said that since she believed it may be a mischaracterization, the words, are occasional, should be deleted.

Commissioner Galo said that:

- He was concerned that defining presidents or leaders of specific organizations as lobbyists would require the same definition for organizations such as the Bar Association.
- Using the word, occasional, was not a misrepresentation of Mr. Malone's duties.
- The Chamber promoted itself, so interaction with government would occur, which was allowable within the lobbying rules.

**VIII.a. – CONTINUED**

Mr. Johnson said that staff recommended that the words, are occasional, be stricken since it did not change the letter.

Commissioner Galo suggested that his motion be withdrawn; however, Commissioner Fiore stated that she would support it with the amendment that the language, are occasional, be removed.

**AMENDED MOTION to approve the proposed advisory opinion letter RQO 12-038 as amended to remove the words, are occasional. Motion by Daniel Galo, and seconded by Robin Fiore and carried 3-0. Commissioner Ronald Harbison absent.**

**VIII.b. RQO 12-051**

Megan Rogers, COE staff counsel, stated that:

- A town clerk asked whether her office may provide an elected official with an email database of local condominium presidents and homeowners' association directors; and, whether the use of the database by the elected official to advocate a position on an upcoming issue before the town council violated the code.
- The database was available to the public through a public-records request process.
- Staff had submitted that:
  - An official was prohibited from using his or her official position to gain a special financial benefit.
  - Under the Code, no indication that a special financial benefit for the elected official existed since the document was available through a public-records request.
  - The Code did not limit or regulate political activity not involving a corrupt misuse of official position.
  - Other political activities or public records disclosure were controlled by State and federal laws.

### VIII.b. – CONTINUED

- The official was provided with the document after requesting it from the town manager.
- It was not under staff's jurisdiction to investigate the procedures of a public-records request within the town.
- She was unsure whether the official used the town's procedure for a public-records request.

Commissioner Fiore said that since the information was available to the official through a public-records request, he was not receiving a special financial benefit.

Ms. Rogers said that:

- The town could determine its public-records-request procedure.
- The town's informal procedure was to request a document from the town manager who then provided it to the citizen. Whether that procedure was performed under all circumstances was not subject to the facts.
- Even if special treatment was received in the official's position as the mayor, no financial benefit was attached to receiving the document.
- Furthermore, the official received the document in his official capacity to discuss issues with town residents.

Commissioner Farach summarizing staff's opinion said that, although the procedures may or may not have been followed, it was not done with corrupt intent; therefore, a violation of the Code's section 2-443 did not exist.

Ms. Rogers added that no special financial benefit or corrupt intent existed, in this instance, which would indicate a misuse of office.

Commissioner Galo said that he did not think that the public-records request statute allowed a public entity to define a specific methodology in which the request could be made. He said that an oral representation was adequate and that the official could rightfully receive the document.

Commissioner Farach asked whether a public-records request defined by the Statute was made; or, was the information unclear from the facts that were given.

### **VIII.b. – CONTINUED**

Ms. Rogers said that her understanding from the town clerk was that:

- The town mayor had requested a document from the town manager.
- The mayor called the individuals listed on the document.
- The town clerk then received a complaint from an individual on the list who stated that he/she did not wish to be contacted by the mayor.
- The town clerk contacted the COE to determine whether a conflict existed and whether her office should not provide the information going forward.
- Staff determined that no special financial benefit existed; that public-records requests were a matter of State law; and that the act of contacting individuals on behalf of a matter coming before the town's council would not result in a special financial benefit, nor did it appear to be corrupt misuse.

**MOTION to approve proposed advisory opinion letter RQO 12-051. Motion by Robin Fiore, seconded by Daniel Galo, and carried 3-0. Ronald Harbison absent.**

### **VIII.c. RQO 12-053**

Ms. Rogers stated that:

- A municipal supervisor asked whether two members of her staff may attend a local training session paid for by the City of Lake Worth (City).
- The training cost \$50, and was sponsored by a vendor who would give a \$50 voucher to all attendees for their services.
- The vendor was a water testing company that provided only institutional testing services.
- The voucher would be given back to the City and used for its future business.

### VIII.c. – CONTINUED

- Staff submitted that:
  - Public employees were prohibited from accepting gifts over \$100 in the aggregate during the calendar year from a vendor of their public employer unless an exception applied.
  - Gifts provided to a government employee by a vendor and accepted on behalf of the government for a public purpose were not subject to this prohibition.
  - The public employees were not prohibited from attending this local vendor-sponsored training in an official capacity and accepting the \$50 voucher for testing services on behalf of their governmental employer.
  - If someone accepted the voucher on behalf of him/herself, it would be considered part of the aggregate gift prohibition from vendors and lobbyists.
  - Under these circumstances, no value existed for an individual gift since it was an institutional testing service that would provide the voucher back to the City.
  - The voucher was for the City of Lake Worth and it would be included with materials at the end of the training session.

Commissioner Farach stated that he was concerned that the letter could be read in other ways, and he suggested clearer language to emphasize that the individuals would not be accepting the voucher for themselves. He said that the third paragraph on the first page could read, for the benefit of their governmental employer. Ms. Rogers said that the suggested language would be changed in the first paragraph on the second page and in the summary paragraph of the letter.

**MOTION to approve proposed advisory opinion letter RQO 12-053 as amended to include the changes as discussed. Motion by Daniel Galo, seconded by Robin Fiore, and carried 3-0. Ronald Harbison absent.**

**VIII.d. RQO 12-054**

Mr. Johnson reported that:

- Real estate development consultant, Kevin Foley, asked whether he should register as a lobbyist under the Palm Beach County Registration Ordinance (ordinance) since he spent less than one percent of his consultation time in contact with a government official or staff members.
- Mr. Foley met with Town of Jupiter (Jupiter) staff and one council person.
- Mr. Foley said that he was contacted by Jupiter's manager who said that he should register as a lobbyist or ask for a COE opinion.
- Mr. Foley met with COE staff and provided a detailed account of his job duties.
- Most of his work did not attempt to influence government; however, he was a consultant for a principal, Braman Motorcars (Braman), who was redeveloping approximately nine dealerships.
- Mr. Foley was involved in ideas on developing these properties and on how to mitigate certain Jupiter regulations that currently disallowed dealerships.
- Staff had determined that Mr. Foley tried to influence or obtain the goodwill of Jupiter's staff and elected officials; therefore, he should register as a lobbyist.
- Even if he obtained the goodwill of staff or influenced any future legislative decisions at one meeting, since Braman was the principle, Mr. Foley was required to register.
- Staff had determined that Mr. Foley's activities constituted lobbying within the meaning of the ordinance and the Code.
- Staff said that Mr. Foley was offered to appear by telephone or ask that the item be tabled and he declined both offers.

Commissioner Farach said that the following decisions regarding lobbying were made prior to the proposed opinion of the ordinance:

#### **VIII.d. – CONTINUED**

- In advisory opinion RQO 12-025, the COE determined that one out of 500 trees in a line of agricultural landscaping was considered lobbying;
  - In advisory opinion RQO 12-033, the COE determined that a director of business development whose company was a vendor to municipalities was not considered a lobbyist under the ordinance;
  - In advisory opinion RQO 12-050, the COE determined that an individual could be a lobbyist, withdraw the next day, and was not considered a lobbyist under the ordinance; and,
  - In proposed advisory opinion RQO 12-054, if Mr. Foley was an employee as opposed to a consultant, he would not be considered a lobbyist.
- Although the ordinance was written and adopted by the Board of County Commissioners and enforced and interpreted by the COE, it appeared that the ordinance may be too broad in some areas, and not broad enough in others.

**MOTION to approve proposed advisory opinion letter RQO 12-054. Motion by Robin Fiore, seconded by Daniel Galo, and carried 3-0. Ronald Harbison absent.**

#### **VIII.e. RQO 12-055**

Mr. Johnson said that:

- A Delray Assistant City Attorney asked whether a local cruise company, that was not a vendor or a lobbyist, may hold an appreciation cruise for Delray Parks and Recreation Department employees and their families.
- Ordinarily a public employee could not receive a benefit for any specific act or for the performance of their job.
- The COE had issued opinions regarding gifts that were general in nature and not directed at specific acts of individual employees.



### VIII.e. – CONTINUED

- In advisory opinion RQO 11-00, lunch and the complimentary use of golf and tennis facilities as an expression of appreciation for the work of municipal public safety employees, was found not to violate this prohibition since the donor was not a municipal vendor.
- Similarly, in advisory opinion RQO 11-053, awards given by a private entity to municipal employees, generally for outstanding performance for public safety, were not prohibited where the donor was not engaged in vending or lobbying with the town.
- Based on the specific facts and circumstances neither a quid pro quo nor a relationship of a vendor or a lobbyist existed; the situation was only a corporate partner of Delray offering its appreciation to a general group of employees for no specific act; therefore, staff believed that no violation of the code was present.
- The cruise still constituted a gift, and if it exceeded \$100, reporting was required.
- The gift was cumulative in terms of invited employees' families.
- The tickets were valued at approximately \$20 for the cost of the cruise and the barbeque.

Commissioner Fiore said that she assumed that the non-vendor company would not become a vendor in the near future.

Mr. Johnson said that based on the facts provided, no indication existed that the company would ever be positioned as a vendor.

Commissioner Farach commented that if an entity received dollars from the governmental unit, it was considered a vendor; however, if it paid money to the governmental unit, it was not considered a vendor or lobbyist.

Mr. Johnson stated that the company rented boat slips from the governmental unit, which made them a receiver of services and goods, not a vendor.

**MOTION to approve proposed advisory opinion letter RQO 12-055. Motion by Robin Fiore, seconded by Daniel Galo, and carried 3-0. Ronald Harbison absent.**

## **IX. SOCIAL MEDIA UPDATE**

Ms. Rogers said that:

- Social media was a mechanism to increase the COE's outreach to county citizens.
- The next step was drafting a social media policy, taking into account previously discussed public-records requests, preservation, first amendment issues, and content restrictions.
- The draft policy was based on the current County policy, the American Bar Association's governmental agency recommendations, and the San Francisco Ethics Commission Policy.
- Since Ben Evans, COE clerical assistant had taken a full-time position at the Palm Beach County Healthcare District, implementing the policy and future social media involvement would fall on existing staff.
- Staff had reviewed hiring Mr. Evans in a part-time position to monitor compliance with the public records sections of the policy.
- Should the COE's social media presence grow, staff may request additional funding to create a full-time position.
- Subject to COE approval, staff would launch Facebook, YouTube, and Twitter pages.
  - The Facebook page would address meetings, provide public information and advisory opinions, and reference national and local ethics issues.
  - Facebook and YouTube pages would be used for extra issue-specific trainings.
  - Staff would review developing voting-conflict training, gift-law training, and charitable-organization training for the YouTube channel.
  - Twitter would be primarily used for its public communication aspects.

## **IX. SOCIAL MEDIA UPDATE CONTINUED**

- The public would be able to receive text messages via Twitter when COE public meetings took place.
- As new social media sites were created, staff would consider launching programs.
- Staff had drafted a public-comment procedure, since several risks were associated with allowing public comments.
- Providing a government-managed Facebook page created a public forum which was associated with certain First Amendment rights.
- As defined by the public comment policy listed on the Facebook page, staff could remove inappropriate comments.
- Staff did not foresee a need to increase monitoring the COE's Facebook page on an hourly basis at that time.
- Certain buzzwords could be automatically excluded and would be disabled by Facebook.
- A First Amendment issue would not exist by prohibiting YouTube comments and allowing only one-way communications on Twitter.

Commissioner Galo said that the social-media program was beneficial in terms of public involvements; however, he was concerned about the appropriateness of posted comments. He added that the policy was appropriate and that he wished to ensure to its maintenance.

Ms. Rogers stated that Facebook's spam and objectionable terms filter would target certain words or language that needed immediate removal. She added that the specific public-comment policy was based on the United States Army's policy and was challenged and upheld under First Amendment grounds.

Commissioner Farach said that he hoped that other public outreach efforts would complement the social-media effort.

Mr. Johnson said that staff would implement some of the previously discussed ideas as opportunity permitted.

**X. POLICY AND PROCEDURE CLARIFICATION RE: PROCESSING OF COMPLAINTS THAT ARE FILED WITHIN 30 DAYS OF AN ELECTION**

Mr. Johnson said that:

- Commissioner Fiore expressed concerned about how the COE processed complaints that were filed within 30 days of an election.
- Staff would determine that safeguards were already in place and whether any opportunity existed within the Code and the COE ordinance to put greater precautions in place.
- The COE's rules of procedure and ordinance controlled the timing of when a complaint would become public.
- Staff had recommended that the COE not change and ban complaints within the 30-day timeframe.
- Individuals could not be stopped from sending complaints, and staff would only be allowed to inform the media that they could neither confirm nor deny the information.
- The process remained private so that at any time, a respondent was not unduly tried and convicted before a COE determination occurred. He added that since significant and appropriate safeguards were in place, no action was warranted at that time.
- Mistakes would not occur currently since policies and procedures were in place.

Commissioner Farach said that in the past, sitting officials had been the target of ethics complaints by opponents, and the COE was concerned that those ethics complaints were done for purely political reasons and not for a true Code violation.

Mr. Radcliffe responded that the League of Cities agreed with staff's intent, and it was encouraged that policies and procedures were already in place.

## **XI. EXECUTIVE DIRECTOR'S COMMENTS**

### **XI.a.**

**DISCUSSED:** Prospective COE Members.

Mr. Johnson said that staff had identified two or three nominees from the League of Cities who wished to become COE members.

## **XII. COMMISSION COMMENTS**

### **XII.a.**

**DISCUSSED:** User-Friendly COE Initiatives.

Commissioner Fiore said that:

- She had discussions with individuals who were unaware of the COE and had trouble understanding its function due to its legal nature.
- The COE could review creating user-friendly initiatives, such as creating plain language paragraphs that explained COE decisions.
- No change to the COE process would occur, but it would make it easier for the public to understand and that the social media program was good for public outreach.

Commissioner Farach added that he asked Mr. Johnson to look into further outreach to County schools, including a teaching curriculum on ethics for middle and high schools. For the elementary schools, he was working on developing a Robin Hood skit that taught ethics.

### **XII.b.**

**DISCUSSED:** Inspector General Oversight Committee.

Commissioner Farach thanked the members of the COE for attending the August 1, 2012, Inspector General Oversight Committee meeting.

**XII.c.**

**DISCUSSED:** Future Ethics Goals in the County.

Commissioner Farach stated that that in the next several years, the COE should focus more on what needed to be accomplished regarding ethics in the County's future as opposed to its past.

**XIII. PUBLIC COMMENTS – None**

**XIV. ADJOURNMENT**

**MOTION to adjourn. Motion by Daniel Galo, seconded by Robin Fiore, and carried 3-0. Ronald Harbison absent.**

**At 5:27 p.m., the chair declared the meeting adjourned.**

APPROVED: 09/12/2012



Chair/Vice Chair