



Palm Beach County Commission on Ethics

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Alan S. Johnson

Paula Bousquet, Councilwoman
City of Greenacres
500 Maleluca Lane
Greenacres, FL 33463

Re: RQO 12-005
Political Activity

Dear Councilwoman Bousquet,

Your request for advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

YOU ASKED, in your email dated January 19, 2012, whether the Code of Ethics limits or prohibits your endorsement or support of partisan and non-partisan candidates for primary or general elections.

IN SUM, the revised Palm Beach County Code of Ethics does not limit or regulate political activity or speech. Any regulation of political activity is controlled by state and federal law. In addition, the Commission cannot opine as to whether or not the non-partisan nature of your position is regulated by local municipal ordinance.

THE FACTS as we understand them are as follows:

You are a sitting municipal councilwoman for the City of Greenacres (the City). Your position is non-partisan; however, you would like to sign endorsements in support of both partisan and non-partisan candidates in upcoming primary and general elections. In addition, you may wish to recruit candidates for City Council in the future. You intend to use your official title in these endorsements. Lastly, the endorsements are not in exchange for a benefit or anything of value.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Code of Ethics:

The definition of financial benefit specifically excludes *campaign contributions authorized by law*.¹ In addition, *political contributions specifically authorized by state or federal law* are likewise excluded from the gift law.² The commission has previously opined on these exemptions.³ Notwithstanding these exclusions, an official has an ongoing duty not to use his or her official position to *corruptly secure or attempt to secure a special privilege, benefit or exemption for himself, herself, or others*. Corruptly

¹ §2-442. Definitions.

² §2-444(g)(1)a.

³ RQO 11-023, RQO 11-033

means done with a wrongful intent and in a manner inconsistent with the proper performance of their official duties.⁴

In previously addressing the issue of campaign contributions the commission stated:

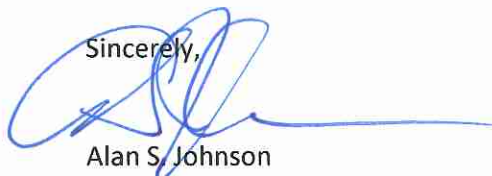
The rationale for exempting campaign contributions from the gift laws can be found in both state and federal law. It is well established that supporting a political candidate financially is speech, and represents political expression at the core of the electoral process.⁵ Any law that burdens the right of association and free speech may be upheld only if it serves a compelling government interest and is narrowly tailored to serve that interest.⁶

IN SUMMARY, the Code of Ethics does not regulate or limit political activity that does not involve a corrupt misuse of official position. Therefore, the Commission on Ethics cannot opine on matters involving political activity and speech regulated by state and federal law unless they rise to the level of a corrupt misuse of office.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state ethics or campaign law or any local municipal ordinance that may apply. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics. Inquiries regarding possible conflicts under state campaign finance laws should be directed to the Florida Division of Elections.

Please feel free to contact me at (561) 233-0724 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson
Executive Director

ASJ/gal

⁴ §2-443(b)

⁵ State v. Dodd, 561 So.2d 263 (Fla. 1990)(citing Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990)

⁶ State by Butterworth v. Republican Party of Florida, 604 So. 2d 477 (Fla. 1992)(citing EU v. San Francisco County Central Democratic Committee, 489 U.S. 214 (1989))