



Palm Beach County Commission on Ethics

Commissioners

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Alan S. Johnson

May 4, 2012

Suzanne Mulvehill, Commissioner
City of Lake Worth
7 North Dixie Highway
Lake Worth, FL 33460-3787

Re: RQO 12-026

Dear Commissioner Mulvehill,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion, and rendered its opinion at a public meeting held on May 3, 2012.

YOU ASKED in your submission dated March 30, 2012, whether you may initiate a proclamation declaring May 20-26, 2012, as Small Business Week in the City of Lake Worth (the City) concurrently with the United States Business Administration's National Small Business week. In addition to your position as City Commissioner, you hold a position as a Certified Business Analyst for the Small Business Development Center (SBDC) at Palm Beach State College (PBSC).

IN SUM, the Code of Ethics does not prohibit you from initiating a general proclamation declaring May 20-26, 2012, as Small Business Week, notwithstanding your employment position with PBSC, provided that your actions do not specially financially benefit you, in a manner not shared with similarly situated members of the general public, or result in a *quid pro quo* benefit in exchange for a public action.

THE FACTS as we understand them are as follows:

You are a Commissioner of the City of Lake Worth (the City). Currently you have a position as a Small Business Development Consultant at Palm Beach State College (PBSC). Previously, the Commission on Ethics (COE) issued an opinion on your ability to be employed by PBSC and serve as City Commissioner.¹

The facts surrounding your employment are unchanged from that prior issued opinion.

Palm Beach State College is the host institution for the Small Business Development Center (SBDC), a governmental entity funded in part through a cooperative agreement with the U.S. Small Business Administration. The SBDC provides free counseling, advice and seminars to small business owners throughout the region. The SBDC at PBSC sets and provides your salary. Your position entails, among other things, providing one-on-one counseling to small or medium size enterprises (SME), contacting SME's in the region and recruiting SME's for the SBDC's growth acceleration program, and attending business events on behalf of the SBDC. From time to time, businesses that operate in the City may come to the SBDC to request your advice and businesses that you have counseled may appear before you as a member of the City Commission.

¹ RQO 11-031 OE

You would like to have the City join in the U.S. Small Business Administration's National Small Business Week, being held May 20-26, 2012, by initiating a City proclamation. You have requested such a proclamation in the past as a City Commissioner in 2009, prior to your employment with PBSC.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Commission on Ethics Ordinance and Code of Ethics, which took effect on June 1, 2011:

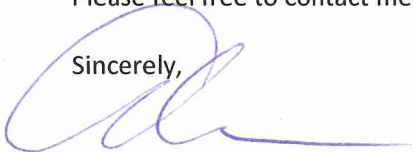
An analysis of the misuse of office sections of the Code of Ethics as well as relevant definitions of *outside employer* and *customer or client* as it pertains to your circumstances may be found in RQO 11-031 OE, and a companion proposed opinion set before this commission.² So long as you do not specially benefit yourself, in a manner not shared with similarly situated members of the general public³, or otherwise use your position with wrongful intent, in a manner inconsistent with the proper performance of your duties as City Commissioner, there is not a conflict under the code. The general proclamation affects all small businesses equally; both businesses that you may counsel and those that you do not counsel, and thereby does not specially financially benefit any particular enterprise. In addition, for reasons discussed in the aforementioned opinions, PBSC, a government entity, is not considered an outside employer as defined by the code. Therefore, §2-443(a), financial misuse of office, would not apply unless you obtained a special financial benefit for yourself as a result of an official action. Lastly, because the proclamation is general and not targeted, issues of impropriety as discussed in RQO 12-027 are eliminated.

IN SUMMARY, based on the facts and circumstances you submitted, you are not prohibited from sponsoring a general proclamation declaring May 20-26, 2012, as Small Business Week in the City concurrently with the United States Business Administration's National Small Business week, provided that your official action does not specially financially benefit you personally and you do not otherwise obtain a *quid pro quo* benefit in exchange for your actions.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,



Alan S. Johnson
Executive Director

ASJ/gal

² RQO 12-027

³ §2-443(a)(1), §2-443(b)