

Palm Beach County Commission on Ethics

Commissioners
Manuel Farach, Chair
Robin N. Fiore, Vice Chair
Ronald E. Harbison
Daniel T. Galo
Patricia L. Archer

Executive Director
Alan S. Johnson

In Re: Addie Greene

C12-004

Public Report and Final Order of Dismissal **with a Letter of Instruction**

COMPLAINANT, Derrick McCray, filed the above-referenced COMPLAINT on May 31, 2012, alleging a possible ethics violation involving RESPONDENT Addie Greene, Mangonia Park Councilwoman.

The COMPLAINT alleges that Councilwoman Greene misused her position and authority, in part, by using her official position to obtain waivers of municipal water utility late fees.

Pursuant to Chapter 2, Article V, Division 8, §2-258(a)¹ of the Palm Beach County Code, the Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. An official may not use her official position in a manner which she knows or should know with the exercise of reasonable care will result in a special financial benefit to her, not shared with similarly situated members of the general public.²

On July 20, 2012, the COMPLAINT was determined by staff to be LEGALLY SUFFICIENT. The Memorandum of Probable Cause and Memoranda of Inquiry and Investigation, adopted by reference, were presented to the Commission on Ethics on September 12, 2012. At that time, the Commission conducted a hearing. The Commission reviewed and considered the Memoranda of Inquiry, Investigation and Probable Cause, recommendation of staff, oral statements of the RESPONDENT and

¹ 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) County Code of Ethics;
(2) County Post-Employment Ordinance, and
(3) County Lobbyist Registration Ordinance.

² Article XIII, §2-443(a) and (c)

ADVOCATE. The Commission also reviewed Article V, §2-260.3 of the Commission on Ethics Ordinance.³

At the conclusion of the hearing the Commission on Ethics dismissed the case with a LETTER OF INSTRUCTION because the alleged violation was inadvertent, unintentional, or insubstantial.

Therefore it is:

ORDERED AND ADJUDGED THAT the COMPLAINT against RESPONDENT, Addie Greene, is hereby DISMISSED and a LETTER OF INSTRUCTION is to be issued in this case.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on September 12, 2012.

Palm Beach County Commission on Ethics,

By:



Manuel Farach, Chair

³ Sec. 2-260.3. Dismissal of Complaints

Notwithstanding any other provisions of this division, the commission on ethics may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue a public report stating with particularity its reasons for the dismissal.



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LETTER OF INSTRUCTION

Derrick McCray (Complainant) filed the above-captioned complaint against **Addie Greene, Town of Mangonia Park Councilwoman** (Respondent) alleging violations of the Palm Beach County Code of Ethics, Article XIII, §2-443(a)(Misuse of office) and §2-443(b)(Corrupt misuse of office). The complaint alleges, in part, that Respondent, while a Town Councilwoman, used her official position to obtain waivers of late fees assessed for late payment of her water utility bills.

- **Facts**

Respondent is an elected councilwoman for the Town of Mangonia Park (the Town). As an elected municipal official in Palm Beach County, Respondent is subject to the Palm Beach County Code of Ethics.

On or between January 3, 2012 and February 3, 2012, Respondent obtained adjustments to her water utility bill for three consecutive late fee assessments totaling \$75. While it was determined that this is contrary to Town policy, there was no written policy involving such waivers and waiver decisions are allowed to be made in the discretion of the Town Manager. Although unwritten, the Town policy has been to allow only one late fee adjustment over a 12-18 month period. On one prior occasion in 2011, three consecutive waivers were given to another Town resident for health reasons. While it was established that Respondent was involved in obtaining the earlier third party waiver, the Town Manager maintained that Respondent did not use her official position to obtain the waiver of late fees for either this individual or the Respondent herself. However, the testimony of other Town staff members indicate that the Respondent secured access and an immediate audience with staff, including the Town Manager, for her personal financial issues, in a manner not available to other residents of the Town, and that she was able to do so because of her position as Town Councilwoman. The Town's offices are located in a secured location behind a locked door which is not accessible to the public. Other than by appointment, the public is required to conduct Town business on the opposite side of a glass window which has an opening at its base used as a pass through for documents and currency.

- **Holding**

Sec. 2-443(a). *Misuse of public office or employment*, states in relevant part:

- (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;

Sec. 2-260.3. Dismissal of complaints, states as follows:


Notwithstanding any other provisions of this division, the commission on ethics may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be

served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue a public report stating with particularity its reasons for the dismissal. The commission on ethics may, at the request of the state attorney or any other law enforcement agency, stay an ongoing proceeding. The commission on ethics shall not interfere with any ongoing criminal investigation of the state attorney or the U.S. Attorney for the Southern District of Florida.

Respondent did seek and obtain an adjustment of water utility late fees in the aggregate amount of \$75. The COE is mindful of the fact that the Town Manager has stated that the Respondent did not use her title, or otherwise threaten or coerce the Town Manager into making this adjustment. While this type of adjustment is extremely rare, it has previously occurred. In addition, the Town Manager maintains that she issued the adjustment in error, believing that the late fees were compounded during a dispute over an initial water bill that had remained unresolved. While that assumption was erroneous, there is no evidence to dispute the Town Manager's statement that it was her error. Most significantly, the Town Manager stated that Respondent did not use her position to obtain the adjustments. However, the COE is also mindful of the statements of other Town staff members regarding the demeanor of the Respondent as well as her actions in regard to this personal matter. These actions included bypassing the public complaint protocols and physically entering the locked area containing the offices of Town staff and arranging to meet with staff immediately and without appointment, actions that are not available to general members of the public.

In light of the facts and circumstances known to the Commission on Ethics, the matter is disposed of by way of dismissal with this Letter of Instruction. The COE believes that the alleged violation was insubstantial and has determined that the public interest would not be served by proceeding further. However, Respondent is now advised that the filing of Ethics Complaint C12-004, along with this Letter of Instruction, is to serve as notice that actions taken by Respondent to resolve personal financial issues regarding water utility late fees, to the extent that they are not available to members of the general public, create an appearance that she is obtaining a special benefit based upon her position as Town Councilwoman. Respondent is instructed to be more careful in the future to ensure that she follows Town policies and procedures available to the general public when dealing with personal financial issues and complaints and to conform her activities to this Letter of Instruction and to the requirements of §2-443(a) to avoid any future enforcement action.

This letter of instruction is issued by the Palm Beach County Commission on Ethics in public session on September 12, 2012.

Palm Beach County Commission on Ethics,

By: _____
Manuel Farach, Chair