

Honesty - Integrity - Character

Palm Beach County

Commission on Ethics

300 North Dixie Highway
West Palm Beach, FL 33401

561.355.1915

FAX: 561.355.1904

Hotline: 877.766.5920

E-mail: ethics@pbcgov.org

Commissioners

Michael S. Kridel, Chair

Sarah L. Shullman

Bryan Kummerlen

Rodney G. Romano

Peter L. Cruise

Executive Director

Mark E. Bannon

Intake and Compliance Manager

Gina A. Levesque

General Counsel

Christie E. Kelley

Chief Investigator

Anthony C. Bennett

Investigator

Abigail Irizarry

Amended Agenda

May 3, 2018 – 1:30 p.m.

Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Meeting will begin at 1:30pm
Executive Session will begin at 1:45pm
Regular Agenda will resume at 2:30pm

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from April 5, 2018
- V. Approval of Minutes from April 16, 2018
- VI. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 18-008
- VII. Items Pulled from Consent Agenda
 - a.
- VIII. Proposed Advisory Opinions
 - a. RQO 17-021
- IX. Executive Sessions
 - a. C17-029
 - b. C17-037
 - c. C17-041
 - d. C17-042
- X. Executive Director Comments
- XI. Commission Comments
- XII. Public Comments
- XIII. Adjournment

If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, (s)he will need a record of the proceedings, and that, for such purpose, (s)he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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

APRIL 5, 2018

**THURSDAY
1:30 P.M.**

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Michael S. Kridel, Chair
Peter L. Cruise
Bryan Kummerlen
Rodney G. Romano
Sarah L. Shullman

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Executive Director
Anthony Bennett, COE Chief Investigator
Abigail Irizarry, COE Investigator I
Christie E. Kelley, Esq., COE General Counsel
Gina A. Levesque, COE Intake and Compliance Manager

ADMINISTRATIVE STAFF:

Victoria Torres, Deputy Clerk, Clerk & Comptroller's Office

III. INTRODUCTORY REMARKS

IV. NOMINATION AND ELECTION OF CHAIR

Christie Kelley, COE General Counsel, said that the nomination process was subject to Robert's Rules of Order, which stated that recognition by the Chair and a seconder were not required to make a nomination but it was not out of order for members to second a nomination to signal their endorsement.

MOTION to nominate Sarah Shullman as Chair. Motion by Bryan Kummerlen, seconded by Peter Cruise, and carried 5-0.

V. NOMINATION AND ELECTION OF VICE CHAIR

Chair Shullman requested nominations for the Vice Chair position.

MOTION to nominate Bryan Kummerlen as Vice Chair. Motion by Peter Cruise, seconded by Michael Kridel, and carried 5-0.

VI. APPROVAL OF MINUTES FROM MARCH 1, 2018

MOTION to approve the March 1, 2018 minutes. Motion by Michael Kridel, seconded by Rodney Romano, and carried 5-0.

VII. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

VII.a. RQO 18-004

VII.b. RQO 18-005

VII.c. RQO 18-007

MOTION to approve advisory opinion letters RQO 18-004, RQO 18-005, and RQO 18-007. Motion by Peter Cruise, seconded by Michael Kridel, and carried 5-0.

VIII. ITEMS PULLED FROM CONSENT AGENDA – None

IX. DISCUSSION OF ADVISORY OPINION RQO 17-021

Ms. Kelly stated that since the previous meeting, she had been in contact with the owners of First Response Medical Consultants, LLC (FRMC) and would like its representatives to speak on the matter presented.

IX. – CONTINUED

Kenneth Schepcke, Palm Beach County Fire Rescue (Fire Rescue) Medical Director and FRMC owner, stated that:

- Mobile-Integrated Health (MIH) or Community Paramedicine (CP) services would bring in a new avenue of healthcare and provide new services to the county.
- FRMC would be considered a sole source provider because it was a complex field of medicine.
- MIH and CP were strictly funded through physicians who had Medicare patients.
- Patients enrolled in the MIH and CP services who dialed 9-1-1 would receive the exact same care as any other person.

Commissioner Cruise inquired as to how FRMC would avoid the appearance of impropriety.

Mr. Schepcke said that several exceptions were available for being a sole source provider. He added that there were no other similar services in the county.

Ms. Kelly stated that in order for the program to meet the sole source exception, it had to be the only option available in the county, the COE had to be in agreement, and the FRMC had to fully disclose its interest to outside businesses.

Commissioner Romano expressed concern over unsubscribed patients being treated differently by first responders.

Mr. Schepcke clarified that as the program matured, the primary goal was to allow more funding to Fire Rescue and supply enough full time services to all patients. He reiterated that FRMC subscribers would not get preferential treatment over other patients.

Commissioner Romano said that he was satisfied with the analysis presented and believed the sole source exception did not represent a conflict of interest.

Mr. Bannon clarified that the COE agreed that the FRMC program met the sole source exception; however the discussion would be tabled until the next meeting.

RECESS

At 2:03 p.m., the chair declared the meeting recessed for an executive session.

X. EXECUTIVE SESSIONS

RECONVENE

At 5:40 p.m., the meeting reconvened with Chair Shullman, Vice Chair Kummerlen, and Commissioners Peter Cruise and Rodney Romano present. Michael Kridel absent.

X.a. C17-012

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on May 16 2017, alleging that Respondent, Robert Weinroth, a City of Boca Raton elected official, violated §2-444(a)(l) of the Palm Beach County Code of Ethics by accepting a gift with a value over \$100 in the aggregate from Peter Sachs, a person that he knew, or should have known with the exercise of reasonable care, was a lobbyist who lobbied the City of Boca Raton.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission determined that the violations were unintentional, inadvertent or insubstantial. The Commission then issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance finding that the public interest would not be served by proceeding further.

X.a. – CONTINUED

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Weinroth, is hereby DISMISSED and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah L. Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.b. C17-013

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on May 16, 2017, alleging that Respondent, Peter Sachs, a lobbyist who lobbies the City of Boca Raton, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift with a value over \$100 in the aggregate to Robert Weinroth, a City of Boca Raton elected official.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission determined that the violations were unintentional, inadvertent or insubstantial. The Commission then issued a Letter of Instruction pursuant to Section 2-260.3 of the Commission on Ethics Ordinance finding that the public interest would not be served by proceeding further.

X.b. – CONTINUED

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Peter Sachs, is hereby DISMISSED and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.c. C17-014

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on May 25, 2017, alleging that Respondent, Robert Weinroth, a City of Boca Raton elected official, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by accepting a gift valued at over \$100 in aggregate from Frank Barbieri, a person that he knew, or should have known with the exercise of reasonable care, was a principal or employer of a lobbyist who lobbied the City of Boca Raton.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission concluded no probable cause exists to believe a violation occurred because Respondent incorrectly listed Mr. Barbieri as the gift giver on one of the listed gifts and incorrectly listed two tickets to another event as a gift when Respondent had provided items for the event's auction in exchange for tickets.

X.c. – CONTINUED

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Weinroth, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.d. C17-015

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on May 25, 2017, alleging that Respondent, Frank Barbieri, who serves as "of counsel" for a principal or employer of a lobbyist who lobbies the City of Boca Raton, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift with a value over \$100 in the aggregate to Robert Weinroth, a City of Boca Raton elected official.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission concluded no probable cause exists to believe a violation occurred because Respondent was incorrectly listed as the gift giver on one entry and was incorrectly listed as gifting tickets to Mr. Weinroth for another event when the tickets were given to Mr. Weinroth in exchange for providing items for the event's auction and, therefore, were not a gift.

X.d. – CONTINUED

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Frank Barbieri, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.e. C17-021

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on June 5, 2017, alleging that Respondent, Susan Haynie, a City of Boca Raton elected official, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by accepting a gift valued at over \$100 in aggregate from Frank Barbieri, a person that she knew, or should have known with the exercise of reasonable care, was a principal or employer of a lobbyist who lobbied the City of Boca Raton.

(This space intentionally left blank.)

X.e. – CONTINUED

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission concluded no probable cause exists to believe a violation occurred because Respondent did not know that Mr. Barbieri was employed by a principal or employer of a lobbyist as she only knew him to be a member of the Palm Beach County School Board and a reasonable search of the Palm Beach County Lobbyist Registry would not have revealed his relationship with the principal or employer of the lobbyist.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Susan Haynie, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.f. C17-022

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on June 5, 2017, alleging that Respondent, Frank Barbieri, who serves as "of counsel" for a principal or employer of a lobbyist who lobbies the City of Boca Raton, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift valued at over \$100 in the aggregate to Susan Haynie, a City of Boca Raton elected official.

X.f. – CONTINUED

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission concluded no probable cause exists to believe a violation occurred because the evidence could not establish that Respondent as “of counsel” was an employee of the principal or employer who employed a lobbyist to lobby the City of Boca Raton.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Frank Barbieri, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK’S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.g. C17-025

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on July 25, 2017, alleging that Respondent, Robert Weinroth, a City of Boca Raton elected official, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by accepting a gift valued at over \$100 in aggregate from a person that he knew, or should have known with the exercise of reasonable care, was a principal or employer of a lobbyist who lobbied the City of Boca Raton.

X.g. – CONTINUED

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission concluded no probable cause exists to believe a violation occurred because Respondent incorrectly listed on his gift form that he received gifts that exceeded \$100 in the aggregate when he did not. Further, the person giving the gift is not a principal of a lobbyist who lobbies the City of Boca Raton.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Weinroth, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.h. C17-026

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on July 25, 2017, alleging that Respondent, Mark Larkin, who was thought to be a principal of a lobbyist who lobbies the City of Boca Raton, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift valued at over \$100 in the aggregate to Robert Weinroth, a City of Boca Raton elected official.

X.h. – CONTINUED

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and the Respondent, the Commission concluded no probable cause exists to believe a violation occurred because Mr. Weinroth incorrectly listed on his gift form that he received gifts that exceeded \$100 in the aggregate when he did not. Further, Mr. Larkin is not a principal of a lobbyist who lobbies the City of Boca Raton.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Mark Larkin, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.i. C17-035

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on August 15, 2017, alleging that Respondent, Robert Weinroth, a City of Boca Raton elected official, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by accepting a gift valued at over \$100 in aggregate from Charles Bender, a person that he knew, or should have known with the exercise of reasonable care, was a principal or employer of a lobbyist who lobbied the City of Boca Raton.

X.i. – CONTINUED

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the Commission concluded no probable cause exists to believe a violation occurred because Respondent incorrectly reported the tickets as “gifts” when he, in fact, provided items for the event’s auction in exchange for the tickets.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Weinroth, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK’S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.j. C17-036

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on August 15, 2017, alleging that Respondent, Charles Bender, a principal or employer of a lobbyist who lobbied the City of Boca Raton, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving a gift valued at over \$100 in the aggregate to Robert Weinroth, a City of Boca Raton elected official.

X.j. – CONTINUED

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate, the Commission concluded no probable cause exists to believe a violation occurred because Mr. Weinroth incorrectly reported the tickets as gifts when he had in fact provided items for the event's auction in exchange for the tickets.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Charles Bender, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 5, 2018.

By: Sarah Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

X.k. C17-038 – CONTINUED TO April 16, 2018

X.l. C17-039 – CONTINUED TO April 16, 2018

XI. EXECUTIVE DIRECTOR COMMENTS

XI.a.

DISCUSSED: Congratulations.

Mr. Bannon congratulated Commissioner Shullman and Commissioner Kummerlen on their new roles.

XI. – CONTINUED

XI.b.

DISCUSSED: Hearing Officers.

Mr. Bannon said that 3 people were selected and approved by the Board of County Commissioners to serve as COE hearing officers

XII. COMMISSION COMMENTS

XII.a.

DISCUSSED: Commendation.

Commissioner Romano commended COE staff for organizing today's meeting efficiently.

XIII. PUBLIC COMMENTS – None

XIV. ADJOURNMENT

At 6:01 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair

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

APRIL 16, 2018

**MONDAY
2:30 P.M.**

**COMMISSION CHAMBERS
GOVERNMENTAL CENTER**

I. CALL TO ORDER

II. ROLL CALL

MEMBERS:

Sarah L. Shullman, Chair
Bryan Kummerlen, Vice Chair – Absent
Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Executive Director
Anthony C. Bennett, COE Chief Investigator
Abigail Irizarry, COE Investigator I
Christie E. Kelley, Esq., COE General Counsel
Gina A. Levesque, COE Intake and Compliance Manager

ADMINISTRATIVE STAFF:

Victoria Torres, Deputy Clerk, Clerk & Comptroller's Office

RECESS

At 2:31 p.m., the chair declared the meeting recessed for an executive session.

III. EXECUTIVE SESSIONS

RECONVENE

At 3:30 p.m., the meeting reconvened, and at Chair Shullman's request for a roll call, Commissioners Cruise, Kridel, and Romano were present.

III.a. C17-038

Commissioner Cruise read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaints on October 4, 2017, alleging that Respondent, Susan Haynie, a City of Boca Raton official, violated §2-443(a) and §2-443(c) of the Palm Beach County Code of Ethics by voting on and participating in matters that gave a special financial benefit to a customer or client of her outside business.

Pursuant to §2-258(a)1 of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On April 5, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation, and the statements of the Advocate and Respondent's counsel. The Commission then tabled their probable cause determination until a later date. On April 16, 2018, the Advocate and Respondent entered into a negotiated settlement wherein Respondent admits to participating in a voting on matters that gave a special financial benefit to a customer or client of her outside business.

III.a. – CONTINUED

On April 16, 2018, the Advocate and Respondent's counsel presented a negotiated settlement to the Commission. Pursuant to Section 2-260.3 of the Commission of Ethics Ordinance, the Commission approved the negotiated settlement, found that probable cause existed, and issued a Letter of Instruction. The Commission determined that the violations were unintentional or inadvertent because Respondent maintains that the City Attorney advised her that she did not have any voting conflicts on the matters.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Susan Haynie, is hereby **DISMISSED** and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on April 16, 2018.

By: Sarah L. Shullman, Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

III.b. C17-039

Commissioner Cruise read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on November 2, 2017, alleging possible ethics violation involving that Respondent, Susan Haynie, a City of Boca Raton official.

The complaint alleges two Palm Beach County Code of Ethics violations involving misuse of official position and failure to disclose voting conflicts.

III.b. – CONTINUED

Count 1 alleges that on or about December 8, 2015 and June 13, 2017, Respondent violated Article XIII, Section §2-443(a), *Misuse of public office or employment*, of the Palm Beach County Code of Ethics using her official position as the Mayor for the City of Boca Raton to give a special financial benefit to a customer or client of her outside business.

Count 2 alleges that on or about December 8, 2015 and June 13, 2017, Respondent participated in and voted on matters that gave a special financial benefit to a customer or client of her outside business, which is in violation of Article XIII, Section §2-443(c), *Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics.

On November 2, 2017, the complaint was determined by staff to be legally sufficient.

On April 16, 2018, prior to a Probable Cause Hearing, Respondent and Advocate submitted a negotiated settlement including a letter of reprimand to the COE for approval.

In accordance with the Negotiated Settlement, Count 1, *Misuse of public office or employment*, is dismissed.

Further, Respondent stipulates to the facts and circumstances pertaining to Count 2, *Disclosure of Voting Conflicts* and admits that she violated §2-443(c) of the Palm Beach County Code of Ethics. Respondent agrees to accept a Letter of Reprimand and pay a fine for the amount of five hundred (\$500) dollars.

Pursuant to Commission on Ethics Ordinance §2-260.1(h), *Public hearing procedures*, the Commission finds that there is insufficient evidence provided at this time to determine whether the violation in Count 2 was INTENTIONAL OR UNINTENTIONAL, and therefore makes no finding. Accordingly, the Commission issues a Letter of Reprimand to the Respondent and assesses a five hundred (\$500) dollar fine.

III.b. – CONTINUED

Therefore it is:

ORDERED AND ADJUDGED THAT this matter is concluded upon the dismissal of Count 1: §2-443(a), *Misuse of public office or employment*, and the issuance of a Letter of Reprimand and five hundred (\$500) dollar fine for Count 2: §2-443(c), *Disclosure of voting conflicts*.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on this 16th day of April, 2018.

By: Sarah L. Shullman, Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

IV. COMMISSION COMMENTS

Commissioner Romano suggested that, for future reference, the COE should tighten the language and discuss policy changes to offer legal counsel better guidance and make the process more efficient without lose ends.

V. ADJOURNMENT

At 3:38 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair



Honesty - Integrity - Character

Palm Beach County Commission on Ethics

May 3, 2018

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Sarah L. Shullman, Chair
Bryan Kummerlen, Vice Chair
Michael S. Kridel
Rodney G. Romano
Peter L. Cruise

Executive Director
Mark E. Bannon

April 12, 2018

James Cuomo, Firefighter
City of Boca Raton
201 W. Palmetto Park Road
Boca Raton, FL 33432

Re: RQO 18-008
Conflict of Interest

Dear Mr. Cuomo,

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

QUESTION:

Does a conflict of interest exist for you as a City of Boca Raton (City) firefighter, if you accept employment with a restoration company where you would introduce yourself to fire department representatives during active fires and see if they would introduce you to the homeowner so you can offer your restoration services to them?

ANSWER:

The Palm Beach County Code of Ethics (the Code) prohibits you from using your official position to give a special financial benefit to specified persons or entities, including to yourself or your outside employer.¹ Accordingly, you are prohibited from using your position as a City firefighter to give the restoration company or yourself a special financial benefit. Further, the Code prohibits you from marketing, selling, or attempting to sell, the services of the restoration company while on duty. Although the Code does not prohibit you from trying to market or sell the services of the restoration company to the general public in your personal capacity and on your own time, you may not use your official position as a City firefighter to promote the company. To avoid violating the Code, you must refrain from using or referring or alluding to your official position or title, from using your City email, and from wearing your City uniform while promoting or marketing the restoration company's services to the general public.

In addition, you are prohibited from using your official position to influence other to take an action which would give a special financial benefit to yourself or your outside employer.² As such, you are prohibited from using your official position as a City firefighter to influence the fire department representative on scene to introduce you to the homeowners or for the fire department representative to refer or allude to your title or position with the City Fire Department while introducing you to a homeowner.

Even given these guidelines for you to follow to avoid a potential violation of the Code of Ethics, the COE feels that in this case they have an obligation to inform you that a strong appearance of impropriety may exist based on your position as a firefighter. Should you choose to accept this employment, you must be extremely careful to take no actions that can be construed as a use of your official positions to give yourself or your outside employer a special financial benefit not available to the general public.

¹ §2-443(a)

² Id.

FACTS:

You are firefighter working for the City of Boca Raton. You have been approached by a national franchise that is recruiting you to work for its local restoration company. According to their business model, they hire active and retired fire personnel to go out during active fires and meet with the on-site fire department representatives. After making this contact, the fire department representative, if willing, would then introduce you to the homeowner as a trusted contractor in restoration. You could then offer your services, such as boarding up the structure and repairing any damage. The fire department representative who introduces you to the homeowner would not receive any compensation or other consideration for the introduction. The company informed to you that they use this business model in other parts of the country.

You are unsure of this arrangement and are seeking guidance from the COE before you accept or reject the employment offer.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-443(a) of the Code:


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:
- (1) Himself or herself;
 - (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. This opinion 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 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,


Mark E. Bannon,
Executive Director

CEK/gal

May 4, 2018

Richard Ellis, Division Chief-Medical Services
Palm Beach County Fire Rescue
405 Pike Road
West Palm Beach, FL 33411

Re: RQO 17-021
Contractual Relationship/Conflict of Interest

Dear Chief Ellis,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion and rendered its opinion at a public meeting on May 3, 2018.

QUESTION:

Would a conflict of interest exist if Palm Beach County Fire Rescue (PBCFR) enters into a contract with First Response Medical Consultants, LLC (FRMC), which is owned by PBCFR Medical Director Dr. Kenneth Schepcke and Associate Medical Director Dr. Peter Antevy, where the contract would allow PBCFR to be reimbursed by FRMC for providing mobile-integrated health (MIH) or community paramedicine (CP) services to FRMC subscribers?

ANSWER:

In general, the Palm Beach County Code of Ethics (Code of Ethics) prohibits public employees or their outside business or employer from entering into any contract or other transaction to provide goods and services to their public employer.¹ However, the Code has several exceptions to the contractual relationship prohibition.² As such, the Code prohibits Dr. Schepcke and Dr. Antevy, or their outside business, from entering into a contract with PBCFR, unless an exception applies.

Based on the facts provided, the proposed contract between the PBCFR and FRMC would not be prohibited because the sole source exception applies to their situation. The Code provides a sole source exception where the outside employer or business is the sole source of the product or the services within the county or municipality as applicable.³ Since FRMC is currently the only source of these MIH-CP services within the County, FRMC meets the sole source exception. The sole source exception would allow FRMC to contract with PBCFR to provide these services despite the conflict of interest that exists. However, prior to the transaction, Dr. Schepcke and Dr. Antevy must fully disclose their interest in the business to the County and to the COE.

The Code of Ethics also prohibits public employees from using their official positions to give themselves, their outside business, or customers or clients of their outside business a special financial benefit not shared with similarly situated members of the general public.⁴ Therefore, Dr. Schepcke and Dr. Antevy are prohibited from

¹ §2-443(d)

² §2-443(e)

³ §2-443(e)(3)

⁴ §2-443(a)

using their positions as the Medical Director and Associate Medical Director, respectively, to give themselves, FRMC, or any customers or clients of FRMC a special financial benefit. Moreover, although the Code does not prohibit Dr. Schepcke and Dr. Antevy from trying to market or sell the services of FRMC to physician groups or accountable care organizations within Palm Beach County in their personal capacity and on their own time, they may not use their official positions as the medical directors of PBCFR to promote their company. To avoid violating the Code, best practices include refraining from using or referring to their official position, title, county email, or wearing their county uniform while advertising or marketing their services to the general public.

Further, the Code of Ethics prohibits public employees from using their official positions to corruptly secure a special privilege, benefit, or exemption for themselves or anyone else.⁵ Corruptly is defined as “done with a wrongful intent and for the purpose of obtaining...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.”⁶ This means that Dr. Schepcke and Dr. Antevy are prohibited from using their official positions in any way that is inconsistent with the proper performance of their duties as the PBCFR medicals directors to corruptly secure a special privilege or benefit for anyone, including any of their clients. Thus, clients of FRMC cannot be given preference over other 911 calls for service. For example, FRMC clients cannot receive priority response over other 911 calls due solely to their enrollment in the FRMC program.

Because an appearance of impropriety may exist in this contractual relationship based on their positions as PBCFR Medical Director and Associate Medical Director, should you choose to form this relationship between their outside business and PBCFR, Dr. Schepcke and Dr. Antevy must be extremely careful to take no actions that can be construed as a use of their official positions to give themselves, their outside business, or any customer or client of their outside business a special financial benefit not available to the general public. They must also ensure that they take no actions that would be considered to be corrupt as defined in the Code of Ethics.

FACTS:

You are the Division Chief of Medical Services for Palm Beach County Fire Rescue. PBCFR is exploring the possibility of entering into a contractual agreement with FRMC to provide MIH and CP services to residents in Palm Beach County who are enrolled with FRMC. The owners of FRMC are Dr. Kenneth Schepcke and Dr. Peter Antevy, who have contractual arrangements to serve as the Medical Director and the Associate Medical Director, respectively, for PBCFR. Contract personnel performing a government function are included in the Code’s definition of employees. Serving as the Medical Director and Associate Medical Director for PBCFR constitutes a government function, and thus, both Dr. Schepcke and Dr. Antevy are County employees and are under the jurisdiction of the Code of Ethics.

Their business, FRMC, works with accountable care organizations (ACOs) and other physician groups and develops and implements care models designed to improve high-quality care delivery, timely physical and laboratory medical evaluations and medical treatment to Medicare patients, and Wi-Fi enabled remote patient health care monitoring with early warning and intervention for patients with signs of deterioration of their chronic illness. FRMC states that their sole function is to improve patient access to quality healthcare and reduce unnecessary emergency department and hospital visits for the Medicare patients treated by ACOs.

As a part of it work with the ACOs, FRMC will contract with local emergency medical service (EMS) agencies to pay those EMS agencies to provide MIH-CP services to patients who are enrolled in FRMC’s services through their ACO or physician group. The goal of most MIH-CP programs is to avoid transporting patients but instead treat them in place and avoid unnecessary hospital utilization. Currently, a mainstream EMS reimbursement

⁵ §2-443(b)

⁶ Id.

model for MIH-CP services does not exist, making those valuable MIH-CP services a cost drain on available resources for fire rescue agencies engaged in those programs. In exchange for providing MIH-CP services for the patients enrolled in FRMC's services, FRMC reimburses contracted EMS agencies.

According to Dr. Schepcke and Dr. Antevy, no other companies or vendors in Palm Beach County currently operate a MIH-CP program similar to FRMC. There are several EMS agencies around the nation that are experimenting with setting up MIH-CP programs, but none of those programs have a financially sustainable model; each of those programs requires grant funding that, when exhausted, will mean the end of their program. FRMC has the only MIH-CP program currently in existence, and the only one in Palm Beach County, that offers long-term financial sustainability.

Further, according to Dr. Schepcke, FRMC's program is unique and represents an increase in level of care. Each patient that calls 911 will continue to receive the standard 911 EMS response. In addition to the standard 911 response, after further telephone screening by a community paramedic in dispatch, or at the request of the on-scene responding EMS officer, appropriate patients will receive a higher level of care with an MIH-CP response. MIH-CP responses will generally be limited to conditions that have been prescreened by dispatch or the onsite 911 response paramedic team and are for those conditions anticipated to be treatable outside of the emergency department. Patients meeting this screening criteria will then receive a "home visit" by their own personal doctor who knows them very well. The community paramedic in this system serves as the doctor's eyes, ears, and hands and use real time HIPAA compliant proprietary electronic records, wearables, and data exchange that is unique and a sole source developed by Dr. Schepcke, Dr. Antevy, and their affiliates, so the patient can then receive treatment in their home with immediate access to their doctor via real-time telemedicine for follow up. FRMC's program allows these patients to get a physician evaluation using FRMC's sole source proprietary program, instead of just a paramedic evaluation.

PBCFR is interested in becoming one of the EMS agencies who contract with FRMC. If PBCFR is able to contract with FRMC, PBCFR will initially train its currently employed paramedics to work on MIH-CP program. It will then hire paramedics specifically for the community paramedics positions to respond and provide these services.

Neither Dr. Schepcke nor Dr. Antevy have any control or oversee the dispatch of EMS to calls for service. Dispatch is performed via standard protocols. They oversee the medical correctness of the dispatcher life support program, i.e., the lifesaving advice given over the phone. They do not determine response levels. Response levels are approved by the Fire Chief or the Fire Chief's designee.

LEGAL BASIS:

The legal basis for this opinion is found in the §2-443(a), §2-443(b), and §2-443(d) of the Code:

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:
- (1) Himself or herself;
 - (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
 - (5) A customer or client of the official or employee's outside employer or business;

- (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.
- (d) **Contractual relationships.** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable. This prohibition shall not apply to employees who enter into contracts with Palm Beach County or a municipality as part of their official duties with the county or that municipality. This prohibition also shall not apply to officials or employees who purchase goods from the county or municipality on the same terms available to all members of the public.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. This opinion 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 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,

Mark E. Bannon,
Executive Director

CEK/gal