

Honesty - Integrity - Character

Agenda

July 11, 2024 – 1:30 p.m.

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

Palm Beach County

Commission on Ethics

300 North Dixie Highway, Ste 450

West Palm Beach, FL 33401

561.355.1915

Hotline: 877.766.5920

E-mail: ethics@pbcgov.org

Commissioners

Kristin A. Vara-Garcia

Michael S. Kridel

Peter L. Cruise

Michael H. Kugler

Rodney G. Romano

Executive Director

Christie Kelley

General Counsel

Rhonda Giger

Intake & Compliance Manager

Gina A. Levesque

Education & Communications Manager

S. Lizabeth Martin

Investigator

Mark A. Higgs

Investigator

Abigail Irizarry

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- I. Call to Order
 - II. Pledge of Allegiance
 - III. Roll Call
 - IV. Introductory Remarks
 - V. Approval of Minutes from June 6, 2024
 - VI. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 24-010
 - VII. Items Pulled from Consent Agenda
 - a.
 - VIII. Executive Director Comments
 - IX. Commission Comments
 - X. Public Comments
 - XI. 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**

JUNE 6, 2024

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

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

MEMBERS:

Kristin A. Vara-Garcia, Chair
Michael S. Kridel, Vice Chair
Peter L. Cruise
Michael H. Kugler
Rodney G. Romano

COMMISSION ON ETHICS STAFF PRESENT:

Rhonda Giger, General Counsel
Abigail Irizarry, COE Investigator II
Christie E. Kelley, COE Director III
Gina A. Levesque, COE Intake and Compliance Manager
S. Lizabeth Martin, COE Communication and Education Manager

CLERK OF THE CIRCUIT COURT & COMPTROLLER'S OFFICE STAFF PRESENT:

Alyssa Berg, Deputy Clerk

I. CALL TO ORDER

The chair called the meeting to order at 1:30 p.m.

II. PLEDGE OF ALLEGIANCE

Commissioner Romano performed the Pledge of Allegiance.

III. ROLL CALL

All members were present.

IV. INTRODUCTORY REMARKS

No remarks were made.

V. APPROVAL OF MINUTES FROM MAY 2, 2024

MOTION to approve the May 2, 2024, minutes. Motion by Commissioner Kugler, seconded by Commissioner Cruise, and carried 5-0.

VI. Executive Session for C23-007

RECESS

At 1:31 p.m., the chair declared the meeting recessed for executive session.

RECONVENE

At 2:01 p.m., the meeting reconvened with all members present.

Vice chair Kridel read the final order into the record:

RE: C23-007

Christie Kelley, Executive Director of the Palm Beach County Commission on Ethics (COE), filed the above-referenced complaint against Respondent, Marianne Miles, former Councilmember of the Town of Loxahatchee Groves. The complaint alleges that Respondent violated Sections 2-443(a), *Misuse of office or employment, and/or 2-443(c), Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics. These violations occurred on several occasions when Respondent may have used or attempted to use her official position in a manner that would result in a prohibited entity receiving a special financial benefit by discussing and/or voting on matters when she should have abstained from those discussions or votes and/or should have filed a voting conflict form(s).

Pursuant to Sec. 2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On June 6, 2024, in lieu of a probable cause hearing, the COE advocate recommended the issuance of a letter of instruction and a dismissal of the complaint. This recommendation is proposed because Respondent is no longer an elected official, thus is unlikely to violate the Palm Beach County Code of Ethics in the future. Additionally, on two occasions, it appeared the violations were unintentional because Respondent later attempted to rectify her improper votes by “withdrawing” them.

Pursuant to Commission on Ethics Ordinance Sec. 2-260.3(b), Dismissal of complaints, the complaint may be dismissed and a letter of instruction issued at this stage of the proceedings if the violation appears to have been inadvertent, unintentional, or insubstantial.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Marianne Miles, 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 this 6th day of June, 2024.

VII. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

- a. RQO 24-006
- b. RQO 24-008
- c. RQO 24-009

MOTION to approve the consent agenda. Motion by Commissioner Cruise, seconded by Commissioner Romano, and carried 5-0.

VIII. ITEMS PULLED FROM CONSENT AGENDA

No items were pulled from the consent agenda.

IX. EXECUTIVE DIRECTOR COMMENTS

- 1. Ms. Kelley discussed the COE'S Interlocal Agreement with West Lake that had recently been approved at the BCC meeting.
- 2. Ms. Kelley spoke about the in-person ethics training held by the City of Boynton Beach.
- 3. Ms. Kelley stated that staff had participated in meetings with various municipalities.

X. COMMISSION COMMENTS

No comments were made.

XI. PUBLIC COMMENTS

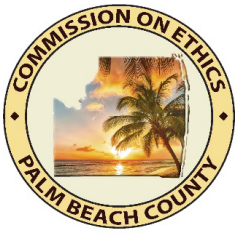
Michael Aktas, Erin Aktas, Matthew Aktas, Mikki Isackson, Candace Rojas, and Andrew Charles Eranch

XII. ADJOURNMENT

At 2:20 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair



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Palm Beach County Commission on Ethics

Commissioners

Kristin A. Vara-Garcia, Chair
Michael S. Kridel, Vice Chair
Peter L. Cruise
Michael H. Kugler
Rodney G. Romano

Executive Director

Christie Kelley

June 14, 2024

Mr. Dennis Furney, Maintenance Supervisor
Palm Beach County Engineering and Public Works
2555 Vista Parkway
West Palm Beach, FL 33411-5601

Re: RQO 24-010
Nepotism

Dear Mr. Furney:

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 the Palm Beach County Code of Ethics (Code) prohibit you from accepting a promotion to a position that would result in your sibling reporting to a supervisor when that supervisor would be in your direct chain of command?

BRIEF ANSWER:

Generally, the anti-nepotism section of the Code does not preclude the advancement of a person to a position higher than a relative who is currently employed with the same governmental agency. It also does not require the discharge of a person whose relative takes a higher position after the person's employment is established. As long as you carefully follow the guidance in this opinion, including exercising no control over your sibling's promotion or employment and abstaining from advocating for a promotion for him in the future, you are not precluded from accepting the new position.

FACTS:

You have been employed with Palm Beach County (County) for 36 years. Your current position is Maintenance Supervisor in the Bridge Section of the Engineering and Public Works Department. Your sibling is also employed with the County and works for the Bridge Section; however, he reports to a different division and has a different supervisor. While you are a supervisor, your brother is not currently in your chain of command.

The Assistant Public Works Superintendent is expected to retire in the near future, and you would like to apply for his position. Were you to move to this role, you would be second-in-command

of the Bridge Section. This promotion would mean that you would then become the supervisor over the division to which your brother reports. In sum, your brother would continue to directly report to a Trades Crew Chief, who would then report to a Maintenance Supervisor. This Maintenance Supervisor would directly report to you.¹

You understand that if you are promoted to the Assistant Superintendent role, you may not promote or advance your brother or advocate in any way for his promotion or advancement.

ANSWER:

Under the Code, an employee may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement in or to a position in the County where the employee exercises control, any individual who is a relative of the official.² A sibling is considered a relative under the Code.³ However, the anti-nepotism provision does not require the discharge of a person whose relative takes a higher position after the person's employment is already established.

Section 2-445 of the Code is identical to the Anti-nepotism provision in the Florida Code of Ethics.⁴ In its simple terms, the anti-nepotism provision addresses only appointment, employment, promotion, or advancement. It does not prohibit two relatives from working together, or one relative from supervising another.⁵ Instead, this section of the Code prohibits an employee from promoting or advancing, or advocating for the promotion or advancement of, a relative in the agency he serves or over which he exercises control. As the Assistant Public Works Superintendent, you may ultimately be involved in the day-to-day decision making processes within the Bridge Section. However, you would not have the ultimate authority to appoint, promote, or advance persons within that section.

In applying the Code to County governance, the County Administrator is the person granted the authority to hire and promote staff within the County.⁶ Even in your new role, you would not have the ultimate authority to hire and/or promote a County employee.

Section 2-445 also prohibits an employee from using their official position to advance or otherwise advocate for a relative's promotion. Accordingly, you must take great care not to use your new position to recommend or otherwise advocate for the promotion of your sibling should he seek a new position within the County.

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-445 of the Code:

Sec. 2-445. Anti-nepotism law.

An official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement in or to a position in the county or municipality as

¹ While you have not yet received this promotion, the COE has written this opinion as though it will occur.

² Sec. 2-445. Anti-nepotism law.

³ Id.

⁴ Fla. Stat. 112.3135

⁵ CEO 96-13; RQO 13-015.


⁶ Palm Beach County Code: Chapter 2, Article 2, Sec. 2-20

applicable in which the official is serving or over which the official exercises jurisdiction or control, any individual who is a relative or domestic partner of the official. An individual may not be appointed, employed, promoted, or advanced in or to a position in the county or a municipality if such appointment, employment, promotion, or advancement has been advocated by an official, serving in or exercising jurisdiction or control over the county or municipality as appropriate, who is a relative or domestic partner of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative or domestic partner of the individual is a member

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, or with any relevant provision within the rules of The Florida Bar. Inquiries regarding possible conflicts under state law or bar rules should be directed to the State of Florida Commission on Ethics or The Florida Bar.

Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Christie Kelley
Executive Director
RG/gal