

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

OCTOBER 3, 2019

**THURSDAY
1:30 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 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:

Marisa Valentin, Deputy Clerk, Clerk & Comptroller's Office

- III. INTRODUCTORY REMARKS**

DISCUSSED: Introduction of Mark Higgs.

Chair Shullman said that she wished to welcome Mark Higgs as the newest COE investigator.

DISCUSSED: Disclosure

Commissioner Romano said that he exchanged greetings with attorney Glenn Bertisch, who was to be involved in the executive session hearings later today.

IV. APPROVAL OF MINUTES FROM SEPTEMBER 5, 2019

MOTION to approve the September 5, 2019 minutes. Motion by Peter Cruise, seconded by Michael Kridel, and carried 4-0.

RECESS

At 1:33 p.m., the chair declared the meeting recessed for an executive session.

V. EXECUTIVE SESSION

RECONVENE

At 3:29 p.m., the meeting reconvened, and at Chair Shullman's request for a roll call, Commissioners Cruise, Kridel and Romano were present.

V.a C18-005

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

Complainant, Tradrick McCoy, filed the above referenced complaint on December 14, 2018, alleging that Respondent, Lynne Hubbard, who was a city councilperson at the time of the allegations, violated §2-443(b) of the Palm Beach County Code of Ethics by corruptly using her position as an elected official to give herself a special benefit by contacting the police to have them prohibit a process server from serving her with a summons.

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 October 3, 2019, 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 that probable cause does not exist to believe any violation of §2-443(b) occurred because the evidence showed that Respondent did not use her position as a councilperson to contact any police officer directly but instead called the Police Department Administration phone

number, which is available to the general public, and did not instruct any of the officers to prohibit the process server from serving her.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Lynne Hubbard, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on October 3, 2019.

By: Sarah L. Shullman, Chair

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

V.b C18-006

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

Complainant, Tradrick McCoy, filed the above referenced complaint on December 14, 2018, alleging that Respondent, Derrick Jackson, a police officer with the City of Riviera Beach police department, violated §2-443(b) of the Palm Beach County Code of Ethics by corruptly using his position to give former Councilperson Lynn Hubbard a special benefit by prohibiting a process server from serving her with a summons.

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 October 3, 2019, 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 that probable cause does not exist to believe any violation of §2-443(b) occurred because the evidence showed that Respondent did not prohibit, or attempt to prohibit, the process server from serving former Councilperson Hubbard.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Derrick Jackson, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on October 3, 2019.

By: Sarah L. Shullman, Chair

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

V.c C18-007

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

Complainant, Tradrick McCoy, filed the above referenced complaint on December 14, 2018, alleging that Respondent, Stephen Thomas, a major with the City of Riviera Beach police department, violated §2-443(b) of the Palm Beach County Code of Ethics by corruptly using his position to give former Councilperson Lynn Hubbard a special benefit by prohibiting a process server from serving her with a summons.

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 October 3, 2019, 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 that probable cause does not exist to believe any violation of §2-443(b) occurred because the evidence showed that Respondent did not prohibit, or attempt to prohibit, the process server from serving former Councilperson Hubbard.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Stephen Thomas, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on October 3, 2019.

By: Sarah L. Shullman, Chair

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

V.d C18-008

Commissioner Romano read the following Public Report and Final Order of Probable Cause:

Complainant, Mark E. Bannon, Executive Director of the Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on December 28, 2018, alleging that Respondent, Lynne Hubbard, who was a city councilperson at the time of the allegations, violated §2-443(b) of the Palm Beach County Code of Ethics by corruptly securing a special benefit for herself or others by actively participating in the SYEP hiring process, handpicking those interviewed for the SYEP positions, personally scheduling the interviews, attending and participating in their interviews, imposing her hiring choices on staff, and actively participating in the daily operation of SYEP, which was inconsistent with the proper performance of her public duties.

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 October 3, 2019, 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 probable cause exists to believe that the Respondent may have violated §2-443(b) of the Palm Beach County Code of Ethics.

Therefore it is:

ORDERED AND ADJUDGED that probable cause exists and the complaint against Respondent, Lynne Hubbard, will be set for a final hearing within 120 days to be coordinated between the parties.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on October 3, 2019.

By: Sarah L. Shullman, Chair

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

VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

a. RQO 19-017

MOTION to approve the consent agenda. Motion by Peter Cruise, seconded by Michael Kridel, and carried 4-0.

VII. PROPOSED ADVISORY OPINIONS

a. RQO 19-016

Commissioner Kridel said that regardless of whether the funds were paid directly or indirectly, the fees paid by Crocker Partners ultimately went to the same place. He added that the COE was bound by statute and was only permitted to address matters of direct payments.

COE Executive Director Mark Bannon said that because the business association was partially owned by the same company that paid the association fees, the payments should be classified as direct.

Commissioner Romano said that although the COE might not have jurisdiction on this matter, the commission should advise circumspection because there was an appearance of impropriety.

Mr. Bannon said that the opinion needed to be rewritten and that there were 2 options to do so. He said that the opinion could leave out the possible repercussions, given that Cocker Partners payments were below the \$10,000 limit within 24 months, or language could be added to clarify the concern regarding the business relationship.

Chair Shullman said that she was in favor of drafting a new opinion that stated that because the amount paid was under the amount set by statute, the COE was withholding a decision. She said that a warning should also be included stating that if the amount reached or exceeded \$10,000, that could be a violation.

MOTION to table approval of RQO 19-016 to a subsequent COE meeting pending changes to the opinion language. Motion by Michael Kridel, seconded by Peter Cruise, and carried 4-0.

VIII. ITEMS PULLED FROM CONSENT AGENDA – None

IX. EXECUTIVE DIRECTOR COMMENTS

DISCUSSED: Palm Beach County Planning Congress Ethics Seminar.

COE Executive Director Mark Bannon said that the Palm Beach County Planning Congress was having its 13th Annual Ethics Seminar on Friday, November 1, 2019 at the Old School Square in Delray Beach.

DISCUSSED: Ethics Bowl.

Mr. Bannon said that Palm Beach County School District was partnering with Florida Atlantic University (FAU) to host the Regional High School Ethics Bowl at FAU's main campus in January 2020.

X. COMMISSION COMMENTS

DISCUSSED: Hearings

Commissioner Romano requested clarification regarding the standard of proof presented at a hearing following a finding of probable cause, and whether it was permitted to instruct staff regarding evidence that would be of specific interest to the COE.

COE Executive Director Mark Bannon said that following a finding of probable cause, the respondent had the choice to either appear before a magistrate or the COE for the final hearing.

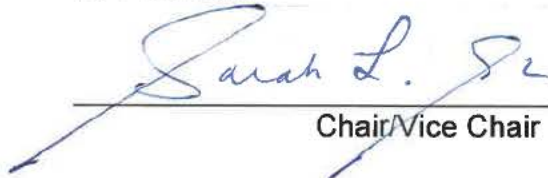
COE General Counsel Christie E. Kelley said that at the final hearing, the evidentiary standard used was "clear and convincing."

XI. PUBLIC COMMENTS - None

XII. ADJOURNMENT

At 3:53 p.m., the chair declared the meeting adjourned.

APPROVED:



Chair/Vice Chair