



Palm Beach County
Commission on Ethics
2633 Vista Parkway
West Palm Beach, FL 33411
561.233.0724

FAX: 561.233.0735

Hotline: 877.766.5920

E-mail:

ethics@palmbeachcountyethics.com

Commissioners

Edward Rodgers, Chair
Manuel Farach, Vice Chair
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

Executive Director

Alan S. Johnson

Staff Counsel

Megan C. Rogers

Executive Assistant

Gina A. Levesque

Senior Investigator

Mark E. Bannon

Investigator

James A. Poag, Jr.

News Release

For Immediate Release

Contact:

February 3, 2012

Alan Johnson, Executive Director

(561) 233-0736

Summary of Commission on Ethics Meeting Held on February 2, 2012

The Commission on Ethics (COE) took the following actions at its monthly public meeting held on February 2, 2012.

The COE held an executive session hearing in the matter of C12-001, in re: Kimberly Mitchell. The commission issued a Public Report and Finding of No Probable Cause. Full text of the order and investigative materials are available at <http://www.palmbeachcountyethics.com/complaints.htm>.

Six (6) advisory opinions were approved. Two (2) advisory opinions were discussed and tabled and will be considered at the next COE meeting. The full opinions are published and available at:

<http://www.palmbeachcountyethics.com/ethics/opinions.htm>

RQO 12-001: A city fire chief asked whether an outside company he owns may continue to provide software support and receive compensation from the City of West Palm Beach for EMS software, previously provided to the city by his company, until a new county system is operational.

The COE opined as follows: As of June 1, 2011, the Code of Ethics prohibits an employee or their outside business from entering into a contract with their public employer unless one of several exceptions applies.

Based upon the facts submitted, the employee's outside business is not prohibited from fulfilling the terms of its licensing agreement with the city entered into prior to the effective date of the code of ethics. However, all agreements revised or renewed after June 1, 2011 are subject to the contractual relationships prohibitions of the code of ethics. An exception to this prohibition exists where an employee's company is the only source of supply within the city, provided there is full disclosure by the employee of their interest in the outside company to the city and the Commission on Ethics. Lastly, notwithstanding that an employee is not prohibited from entering into or maintaining a contract with their public employer as a sole source provider, the employee may not use their official position to give or influence others to give their outside business a special financial benefit.

RQO 12-002 Norm Ostrau: A city ethics officer asked whether municipal employees may accept scholarship dollars from a local nonprofit to attend professional certification programs at Palm Beach State College.

The COE opined as follows: Public employees and officials are not prohibited from accepting scholarship dollars, provided that there is no quid pro quo or special treatment or privilege given to the non-profit organization in exchange for offering these scholarships. If awarded, so long as the scholarships are educational training costs related to an employee's duties and responsibilities to their government employer, they are not reportable gifts.

RQO 12-003 Carol Langford: A county employee/board liaison asked whether the code prohibits a lobbyist who lobbies Palm Beach County from being appointed to a county advisory board.

The COE opined as follows: While the code does not expressly prohibit a lobbyist from serving on an advisory board, lobbying activities with county officials and staff members in a lobbyist's professional capacity could potentially create a reoccurring conflict in their government service. Based upon the information presented, there is no evidence that the board member's status as a lobbyist for a local trade organization would create a reoccurring conflict and preclude his service to the Commission of Affordable Housing Advisory Board.

However, advisory board members are prohibited from using their official position to give a special financial benefit, not shared with similarly situated members of the general public, to themselves, their outside employer or business or a customer or client of their outside employer or business. Voting on a client's proposal, participating in conversations or attempting to influence fellow board members or county staff would constitute a misuse of office. The prohibition extends to the advisory board member, or someone using the member's official position on their behalf.

RQO 12-004 Jeffrey Garber: A county advisory board member asked if he must abstain and not participate in voting where a person appearing before his board is represented by the nonprofit Legal Aid Society and two partners with his law firm serve as officials or board members of that nonprofit.

The COE opined as follows: The misuse of office and voting conflicts sections of the code are grounded in the desire to limit potential misuse of a public duty to treat all citizens and entities on an equal footing where the official has a financial conflict. Accordingly, the code directly prohibits only those persons (or their spouse or domestic partner) serving as a nonprofit officer/director from participating and voting on issues that may specially financially benefit that nonprofit organization. As a result, an official is not required to abstain from voting under the circumstances submitted.

Legal Aid representation is pro bono, performed by individual licensed attorneys, and does not result in a financial benefit for an individual lawyer or his or her firm; however, should an associate of their firm appear before the official's advisory board on behalf of a firm client, the official must abstain and not participate in the matter. Should a member of the firm appear before the official's advisory board on behalf of a pro bono Legal Aid client, and the firm does not benefit financially, the official is not prohibited from hearing and participating in the matter under the code, however the attorney may want to consult the Florida Bar Rules Regulating Professional Conduct.

RQO 12-005 Paula Bosquet: A municipal councilwoman asked whether the Code of Ethics limits or prohibits endorsement or support of partisan and nonpartisan candidates for primary or general elections.

The COE opined as follows: The revised Palm Beach County Code of Ethics does not limit or regulate political activity or speech. Any regulation of political activity is controlled by state and federal law. In addition, the COE cannot opine as to whether or not the nonpartisan nature of the official's position is regulated by local municipal ordinance.

RQO 12-006 Chuck Magazine: A municipal employee asked whether a Veterans Advisory Commission member may solicit construction materials and services from past and potential vendors of the City of Boynton Beach solely for use by the city in constructing public monuments in a city park.

The COE opined as follows: There is no prohibition against a volunteer advisory board member soliciting or accepting a vendor or lobbyist gift of any amount provided the vendor or lobbyist does not vend or lobby the official's board or the department within the board's authority. Additionally, even if the vendor or lobbyist appears before the board or department, an official or employee is not prohibited from soliciting or accepting gifts in excess of \$100, annually in the aggregate, on behalf of his or her municipality in the performance of their official duties where these gifts are for use solely by the municipality for a public purpose. Notwithstanding, an advisory board member may not use his or her public office to obtain a personal special financial benefit or other *quid pro quo* in exchange for these gifts.

A detailed explanation of all agenda items is available at the COE's website:
<http://www.palmbeachcountyethics.com/ethics/meetings.htm>