



Honesty - Integrity - Character

**Palm Beach County
Commission on Ethics**

The Historic 1916 Courthouse
300 N. Dixie Hwy, Suite 450
West Palm Beach, FL 33401

561.355.1915

FAX: 561.355.1904

Hotline: 877.766.5920

E-mail:

ethics@palmbeachcountvethics.com

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Michael S. Kridel, Chair
Clevis Headley, Vice Chair
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Investigator

Abigail Irizarry

News Release

For Immediate Release

Contact:

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Mark E. Bannon, Executive Director

(561) 355-1937

Summary of Palm Beach County Commission on Ethics Meeting Held on October 14, 2016

The Palm Beach County Commission on Ethics (COE) took the following actions at its monthly public meeting held on October 14, 2016.

One complaint was heard in executive session. The complete file is published on the COE website at: <http://www.palmbeachcountyethics.com/complaints.htm>.

C15-030: The COE reviewed and considered the memorandum of inquiry, the investigative report, probable cause recommendation, and the statement of the COE advocate and respondent. The COE found probable cause existed to believe that respondent violated the Code of Ethics when his outside business entered into a contract with his public employer but that the violation was inadvertent, unintentional, or unsubstantial. The COE issued a letter of instruction and dismissed the case.

Four advisory opinions were approved. The full opinion is published and available at: <http://www.palmbeachcountyethics.com/opinions.htm>

RQO 16-020: W.W. Grainger, Inc (Grainger), a vendor of the county, asked if it could provide a complimentary one-day pass to county employees for attendance to the 2017 Grainger Show/Conference.

The COE opined as follows: Because Grainger is a vendor doing business with the county, county employees would be prohibited from accepting travel expenses from Grainger, including conference fees and meals, unless it is waived by a majority vote of the Board of County Commissioners (BCC). If the travel expenses are waived by the BCC and the county employees' attendance at the conference is in their official capacity and for educational or governmental purposes, the waiver or reimbursement of the \$300 event pass would not be considered a gift as defined by §2-444(g) of the gift law and, therefore, does not need to be reported. However, if the county employees receive anything of value in excess of \$100 at the conference from a non-vendor of the county, the gift must be reported on their annual gift reports.

RQO 16-021: The assistant city attorney for the city of Delray Beach asked (1) if members of the West Atlantic Redevelopment Coalition (WARC) are under the jurisdiction of the COE and subject to the Palm Beach County Code of Ethics (code), and (2) if the chair of WARC, Joycelyn Patrick, who is also a city of Delray Beach Planning and Zoning Board (PZB) member, has a voting conflict if a sponsor of WARC's annual fundraising gala appears before the PZB.

The COE opined as follows: WARC is a nonprofit organization which was created to advise the Delray Beach Community Redevelopment Agency and the city of Delray Beach on redevelopment issues in the West Atlantic area of the city. However, its board members are not appointed by the city commission and, thus, they are not city officials or employees as defined by Section 2-442. Therefore, WARC board members are not under the jurisdiction of the COE and are not subject to the Code of Ethics.

However, as a member of the PZB, Ms. Patrick is under the jurisdiction of the COE and is subject to the code. Based on the information presented, although Ms. Patrick is the chair of WARC (a nonprofit organization), WARC would not receive, directly or indirectly, any special financial benefit from the sponsor's project if she were to vote to recommend that project to the city commission. While there may be no per se prohibited conflict of interest, there is an appearance of impropriety created by Ms. Patrick's position on both the WARC board (which accepted a "title sponsorship" donation from this developer) and on the PZB board where she will have to vote on whether to recommend this project to the city commission. As long as Ms. Patrick does not give any *quid pro*

quo or other benefit to the local developer in exchange for the sponsorship of WARC's fundraising gala, she is not prohibited from participating in or voting on the local developer's project when it comes before the PBZ board.

RQO 16-023: The interim city attorney asked if the city of Delray Beach Commission may waive the cone of silence provision in order to meet individually with each person who submitted proposals to provide city attorney legal services

The COE opined as follows: Because the city solicited competitive bids for city attorney legal services, the cone of silence provision applies. Any oral communication between any city commissioner and any person seeking the award of the legal services contract that occurs outside of a public meeting is prohibited under this provision. Therefore, city commissioners cannot meet individually with each proposer seeking the award of the contract unless these one-on-one meetings are held during a publicly-noticed proceeding. If the city chooses to reject all bids for legal services and use the city's direct acquisition method, the cone of silence will terminate. When the cone of silence is not in effect, the code does not prohibit the city commission from meeting individually one-on-one with any applicants.

RQO 16-024: The city attorney for the city of Boca Raton asked if the cone of silence provision applies when the city of Boca Raton is seeking bids from interested parties to purchase land owned by the city and, if it does apply, when does the cone of silence terminate.

The COE opined as follows: The cone of silence provision applies to this situation because the city is utilizing a competitive solicitation process by soliciting competitive bids from parties interested in purchasing the land. The cone of silence provision goes into effect at the submission deadline. Any oral communication made outside of a public meeting between any person seeking the award of the sale/purchase contract and any city council member, their staff, or any employee authorized to act on behalf of the city council is prohibited after that time, unless an exception applies. The cone of silence provision would remain in effect during any pre-award contract negotiations. The cone of silence terminates when the city council awards the contract to one of the interested parties, rejects all of the bids from the interested parties, or takes some other action which ends the competitive solicitation process regarding the sale of the land.

A detailed explanation of all agenda items is available at <http://www.palmbeachcountyethics.com/meetings.htm>.

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