



Palm Beach County Commission on Ethics

Honesty - Integrity - Character

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November 28, 2017

Leif J. Ahnell, City Manager
City of Boca Raton
201 West Palmetto Park Road
Boca Raton, FL 33432

Sent via email only to: ljahnell@myboca.us

RE: Request regarding Advisory Opinion RQO 13-006

Dear Mr. Ahnell,

We are in receipt of your letter dated November 15, 2017. Your request for the COE to review Advisory Opinion RQO 13-006 and affirm or re-address that advisory opinion has been received and reviewed.

Section 2-260.9 of the Commission on Ethics (COE) Ordinance requires that any advisory opinion be requested by the public official or employee who is affected by the issue, and where the opinion is given to help them establish "the standard of public duty" as it applies to that person under specific circumstances. Therefore, the COE cannot affirm or re-address Advisory Opinion RQO 13-006, based on a request of the City Council as a whole. Further, an advisory opinion is prospective and applies only to future acts by an official.

Please also keep in mind that the COE opines only to those facts submitted and does not investigate their accuracy when presented, as stated in every advisory opinion rendered. An opinion is only as accurate as the facts presented, and the holding of RQO 13-006 stands on the facts as provided to the COE in 2013. Further, the COE cannot opine on a matter or an action that has already occurred, such as the "votes" discussed in the newspaper articles you provided.

However, to assist the Council with their dialog, perhaps the following analysis concerning the general applicability of that advisory opinion will be beneficial.

Advisory Opinion RQO 13-006 was adopted by the COE based on a very specific set of facts provided by the City Attorney, and is one that should be narrowly construed to that particular fact pattern.

In approving this advisory opinion the COE was careful to specifically recognize the following key fact: *"The investor is neither the applicant nor the developer of the project, but has an interest in the underlying property for the proposed project."* That fact written into the advisory opinion serves to limit this opinion to votes not involving the applicant or developer of a property.

Should Mayor Haynie or any other City Council member need guidance regarding the Code of Ethics to a future action, the COE will issue an advisory opinion on that matter. For the issuance of an advisory opinion on any future matter for Mayor Haynie, the Code requires that the request for an opinion come from either Mayor Haynie or the City Attorney on the Mayor's behalf.¹

Respectfully,


Mark E. Bannon, Executive Director
Palm Beach County Commission on Ethics

MEB/gal

¹ Commission on Ethics Ordinance Section 2-260.9, Advisory opinion