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Saturday, October 15, 2011 9:49 PM

From: "Commissioner Scott A. Brannon" <freeportinddev@aol.com>

To: "sharris827"

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Ethics Co...



Complaint...

Commissioner Scott A. Brannon
47 Shipyard Road
Freeport, Florida 32439

Begin forwarded message:

From: Clay Adkinson <clayadkinson@gmail.com>

Date: October 15, 2011 4:28:02 PM CDT

To: Scott Brannon <freeportinddev@aol.com>

Subject: document for SH

Review this, if acceptable print and deliver a hard copy. Don't forward.

SUMMARY OF ETHICS VIOLATIONS

Larry Jones, District 3 Commissioner, Walton County, Florida, has committed multiple violations of the Florida Code of Ethics. The violations relate to his employment with Waste Management, Inc., a private company doing business with Walton County and its Board of County Commissioners.

FACTUAL BACKGROUND

Larry Jones (hereinafter referred to as "Jones") was elected to the Walton County Board of County Commissioners in 2000, and then reelected in 2004 and 2008. Based upon the available public statements and financial disclosures provided by Jones, he became employed by Waste Management, Inc. (hereinafter referred to as "WM") in early 2009.

WM has held franchises for the collection of solid waste in Walton County (originally only south of the Choctawhatchee Bay, currently for the entire County), and for disposal of solid waste throughout the entire County at all times relevant to this complaint. It is difficult to determine the origination date for WM's franchises with Walton County, primarily due to corporate name changes, mergers, buyouts, and other similar occurrences. Accordingly, it is unclear if the original contract/franchise was awarded through a competitive bid/selection process, although it would seem unlikely. What is known is that subsequent renewals and expansions of WM's franchises have occurred without any form of competitive process.

Specifically, in 2003, and most recently in 2010, WM's franchises were renewed (and in 2010 expanded), and in neither instance was the result of a request for proposal/qualifications or competitive bid/selection being won by WM. Additionally, in both instances WM's franchises were renewed prior to termination date of the then-existing agreements. First in 2003, a ten year renewal was approved by the County, without any form of competitive process. At that time, WM's franchises were set to expire in 2005, but were extended by the early renewal until 2013. Secondly, in 2010, WM's franchises (as renewed in 2003) were still in effect with an expected termination date of 2013. Once again, an early renewal occurred, thereby advancing the termination date for five years, to wit, until 2015. During this renewal, WM purportedly acquired the solid waste collector (a local company known as DayCo of Walton) for the northern portion of the County. As part of WM's franchises being renewed and extended, the County approved WM assuming the franchise area for the northern portion of Walton County, and consolidated that franchise into the existing agreements. WM currently is the sole collection and disposal entity for solid waste doing business with Walton County.

During the most recent events that resulted in WM expanding and renewing its franchise agreements, Walton County started and summarily terminated a Request for Proposals (RFP) for solid waste services. Specifically, Walton County advertised the stated RFP in early 2010, received proposals from various vendors, including WM, and in late 2010 rejected all proposals (including WM's proposal), and at the same meeting approved the renewal, extension, and expansion of WM's franchise agreements with the County.

ETHICS VIOLATIONS COMMITTED BY LARRY JONES

Larry Jones has violated Section 112.313(7)(a) of Florida Statutes by virtue of his employment with Waste Management, Inc. WM is, without question, a company doing business with Walton County. Jones is employed by WM, and additionally serves as a County Commissioner for Walton County. This is a clear violation of the statute. Additionally, because Jones is required to regularly abstain or remove himself from matters related to solid waste, his employment with WM creates a continuing a reoccurring conflict between his private interests and the performance of his public duties, as well as impedes his full and faithful discharge of his public duties.

Contrary to any claim by Jones that he does not conduct business, or is prohibited from conducting business by WM, in Walton County, the mere act of employment with a company that is doing business with the County presents a violation of the Code of Ethics. Regardless of whether Jones actually does business for WM within the County the violation exists and is ongoing.

No exemption under 112.313(12) of Florida Statutes exists to excuse this conduct either. First, as stated previously, no competitive sealed bidding system seeking a lowest bidder was used. Secondly, even if one was used, 112.313(12)(b)(3) by filing a statement with Commission on Ethics at the time the bid occurred. No other stated exemption would apply either.

Additionally, Jones has possibly violated additional subsections of 112.313 of Florida Statutes. These include subsection (2) – Solicitation and Acceptance of Gifts; subsection (4) – Unauthorized Compensation; subsection (6) – Misuse of Public Position; and subsection (8) – Disclosure or use of Certain Information .

Given the prior history of WM receiving contract renewals without the need for a competitive process, specifically the 2003 instance, the hiring of Jones may well have been compensation and benefit for past action on behalf of Jones for the benefit for WM. Jones had never worked with a solid waste company prior to his employment with WM, nor does his employment fit with any career experience he previously had. Therefore, Jones may have taken actions to benefit WM to receive a promise of future employment, and subsequently accepted salary and benefits from WM after performing actions as a public official that directly benefited WM. This is a violation of 112.313(2).

This same sequence of events is a violation of 112.313(4), because Jones' compensation from WM was to secure and influence his past action and future votes and action regarding solid waste within Walton County.

Jones has further committed an ethic's violation by misusing his public position. Jones has lobbied other governmental agencies in the State of Florida, on behalf of WM, and in doing so has used the color of authority that comes with his official capacity to advance his private interests, as well as those of WM. This is a violation of 112.313(6).

Jones' actions within Walton County also violate 112.313(6). At multiple times during his employment by WM, Jones has met with Walton County staff and employees to discuss solid waste, obtain information to benefit WM as his employer, and to give direction on how to handle various issues. These meetings included both in person and telephonic communications with former County

Administrator Lyle Seigler, County Attorneys Lynn Hoshihara and George Ralph Miller, and numerous other county employees. Additionally, Jones spoke to representatives of WM, including consultant/lawyer Lloyd Blue, Paula Riggs, Dan McGinnis, Domenica Farmer, and Dave McConnell, and provided these WM employees with information beneficial to WM, but that was obtained based on his position as a Walton County Commissioner. This likewise violated 112.313(8).

Additionally, Jones has voted on various matters throughout his employment with WM that have indirectly (and possibly) directly benefitted WM. These matters have included voting on issues related to solid waste operations, the Walton County landfill, transfer stations within Walton County, and budgetary matters that effected solid waste operations. Jones' exact date of employment with WM is unknown, and depending on that actual date some or all matters stated may not have been a voting conflict, but Jones has never adequately clarified his employment to avoid the appearance that he has been "serving two masters". If Jones conducted has been improper, this is a violation of 112.3143.

Additionally, Jones has not consistently abided by Florida Statute 112.3143 regarding recusal/abstention for voting, and the necessary disclosures that must be made. Many meetings have included discussions on solid waste, and when Jones did not vote, he would simply leave the room without comment during these matters. No public statements were made, and it is unclear how frequently Jones filed the necessary forms with the clerk. Unless Jones filed the proper forms in advance of these meetings an oral statement is required, and this routinely has not occurred.

In sum, Jones has engaged in a prohibited employment with WM, and in doing so has abrogated his public duty so that he could benefit both himself and his private employer. Given WM's involvement in repeatedly advancing its position with the County, all without a public or competitive process, the decision to hire Jones as an employee was likely based on the decision to reward Jones for his prior work in extending their franchise, and to likewise insure WM's continued stranglehold on solid waste services within the County.

STATE OF FLORIDA
COMMISSION ON ETHICS
P. O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709

COMPLAINT

1. PERSON BRINGING COMPLAINT:

Name: _____ Telephone Number: _____

Address: _____

City: _____ County: _____ Zip Code: _____

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

Current or former public officer, public employee, candidate, or lobbyist - please use one complaint form for each person you wish to complain against:

Name: _____ Telephone Number: _____

Address: _____

City: _____ County: _____ Zip Code: _____

Title of office or position held or sought: _____

3. STATEMENT OF FACTS:

Please explain your complaint fully, either on the reverse side of this form or on additional sheets, providing a detailed description of the facts and the actions of the person named above. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. If you believe that a particular provision of Article II, Section 8, Florida Constitution (the Sunshine Amendment) or of Part III, Chapter 112, Florida Statutes (the Code of Ethics for Public Officers and Employees) has been violated, please state the specific section(s). Please do not attach copies of lengthy documents; if they are relevant, your description of them will suffice. Also, please do not submit video tapes or audio tapes.

4. OATH

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.

STATE OF FLORIDA

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me
this _____ day of _____,

20_____, by _____
(name of person making statement)

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____
Type of Identification Produced: _____

SIGNATURE OF COMPLAINANT

Jurisdiction of the Commission: The Commission on Ethics has the authority to review and investigate complaints concerning possible breaches of the public trust (violations of the State's ethics laws) by public officers, public employees, and similar persons involved with state and local government in Florida, including Executive Branch lobbyists. Complaints about the actions of Judges should be brought to the Judicial Qualifications Commission, and complaints against attorneys in private practice should be made to The Florida Bar.

Procedures followed by the Commission: The Commission follows a three-stage process when it considers complaints.

The first stage is a determination of whether the allegations of the complaint are legally sufficient, that is, whether the complaint indicates a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation and all records relating to the complaint will become public at that time.

If the complaint is found to be legally sufficient, the investigative staff of the Commission will begin an investigation. The second stage of the Commission's proceedings involves this investigation of the complaint and a decision by the Commission of whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds that there is no probable cause to believe that there has been a violation of the ethics laws, the complaint will be dismissed and will become public at that time.

If the Commission finds that there is probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and enters the third stage of proceedings. The third stage requires that the Commission decide whether the law actually was violated and, if so, what penalty should be recommended. This stage requires a public hearing (trial) at which evidence would be presented.

Attorney's Fees: If the complaint is dismissed, the person against whom the complaint is filed can file a petition to have the complainant pay his or her attorney's fees, which will be awarded after a hearing if the Commission finds that the complaint was made with a malicious intent to injure the official's reputation, the complainant knew that the statements made about the official were false or made the statements about the official with reckless disregard for the truth, and the statements were material.

Confidentiality: The Commission cannot accept anonymous complaints and cannot keep the identity of the complainant or any witness confidential. A complaint, as well as all of the Commission's proceedings and records relating to the complaint, is confidential and exempt from the public records law either until the person against whom the complaint is made waives confidentiality, or until the complaint reaches a stage in the Commission's proceedings where it becomes public. The Commission's procedures on confidentiality do not govern the actions of the complainant or the person against whom the complaint is made.

Legal Counsel: Both the complainant and the person complained against can be represented by legal counsel during the Commission's proceedings.

Other Information: More information about the ethics laws and the Commission's responsibilities is available at the Commission's website, www.ethics.state.fl.us, which contains publications, rules, and other information.