

# COMMISSION ON ETHICS & PUBLIC TRUST



## REPORT OF INVESTIGATION

K #: K11-081

Date Opened: June 15, 2011

Date Closed: November 16, 2011

Name of investigator: Breno Penichet

### **Allegation:**

**This Investigation was predicated upon information received in the form of a Letter from Village of El Portal (VEP) Mayor Daisy Black (Black) to former Assistant State Attorney Joseph Centorino (Centorino). In the letter, Black requested that Centorino review the way the sanitation contract for the VEP was awarded. Black also requested to know if soliciting campaign contributions from a Village vendor by the village manager is inappropriate activity.**

### **Investigation:**

COE Investigator Penichet reviewed the letter dated March 23, 2011. In the letter, Black advised that the VEP issued a Request for Proposals No. 2011-01(RFP) for sanitation collection. During a recent council meeting, when the vote to award the contract came up, one (1) council member made a motion to allow the village manager to make the final recommendation as to which company should be awarded the contract.



The letter went to state that because Village Manager Jason Walker (Walker) had solicited contributions for two (2) incumbent councilpersons - Linda Marcus (Marcus) and Harold Mathis (Mathis). The contributions were allegedly solicited from a village vendor who was also one of the vendors in contention for the sanitation contract.

A public records request was made for all the documents relating to RFP# 2011-01. VEP provided all the documents requested. COE investigators reviewed the documents and found they followed standard procedures.

On July 14, 2011, Walker was interviewed by COE Investigators Kennedy Rosario and Penichet; also present was Advocate Michael Murawski. Walker was advised of the allegations made in the letter. He denied ever being involved in any political campaign or soliciting any contributions from any VEP vendor. Walker went on to explain the process used to screen the companies that responded to the RFP. Walker advised that he followed the exact same procedure that was followed for the previous contract. Walker advised that these allegations stem from the fact that since he took over the finances of the village, the new Mayor (Black) can not spend money the way it was done in the past. This has created tension between him and the Mayor Black and she has tried to have him fired.

COE Investigators interviewed Doug Cunningham (Cunningham), the resident that originally contacted the Mayor Black and complained regarding the elected officials receiving contributions from village vendors. Cunningham advised he felt it was unethical for elected officials to accept contributions from vendors conducting business with the VEP. Cunningham advised that he checked with the Florida Ethics Commission



(FEC) and was advised that the practice was legal unless it was prohibited by ordinance. Cunningham advised that he was grateful that COE investigators had contacted him and spoke to him on this matter. He did not mention the fact that Walker recommended the vendor. Cunningham advised that he had no complaints regarding the solid waste pick up or any other issue, except the contributions.

COE Investigators contacted Linda A. Marcus (Marcus) who ran for council seat 4. Marcus was advised of the allegations made in the letter, Marcus advised that she did receive a contribution from Waste Management, but it was unsolicited. Marcus advised that Walker did not intervene on her behalf. Marcus advised that she did not need to fundraise that much and was elected with no problems. Marcus made it very clear that Walker was not involved in her campaign.

COE investigators contacted Harold Mathis (Mathis) who ran for council seat 1. Mathis was advised of the allegations made in the letter. Marcus advised that he did receive a contribution from Waste Management, but it was unsolicited. Marcus further advised Walker did not intervene on his behalf. Mathis advised that he reviewed the recommendations and voted for the company that he felt would provide the best overall service. Mathis made it very clear that Walker was not involved in his campaign.

COE investigators contacted Jason Neal (Neal), Waste Management's Government Affairs Director. Neal was advised of the nature of the complaint. Neal advised that it was standard practice of the company to make a contribution to all candidates. Neal further stated that Walker never solicited any contributions and was in no way involved in any

candidate's campaign. Neal advised that Waste Management has a very good working relationship with VEP.

**Conclusion:**

The above information was discussed with Advocate M. Murawski who advised it does not appear that any ordinance within our jurisdiction has been violated. Therefore, the investigation will be closed without further action. It should be noted that the VEP Council is free to pass an ordinance that would prohibit village vendors from contributing to the campaigns of VEP officials. Passing such an ordinance would remove the appearance of a conflict that bothers citizens regarding vendors contributing to the campaigns fund of elected officials.