

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL  
CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA**

**FALL TERM 2006**

**IN RE: THE BUSINESS PRACTICES OF THE CITY OF WEST  
PALM BEACH, PALM BEACH COUNTY, FLORIDA**

**IN THE NAME AND BY THE AUTHORITY BY THE STATE OF  
FLORIDA**

**The Grand Jury Presentment on the City of West Palm Beach  
Part A**

**“Pay to Play”**

**Introduction**

After irregular and illegal practices surfaced regarding Republic Properties and the West Palm Beach City Center project<sup>1</sup>, this Grand Jury was convened to investigate corruption, ethics and whether the City of West Palm Beach conducts business under a “pay to play” practice.

Witnesses who testified included residents, the mayor, elected city officials, former and present city employees, commissioners, vendors, developers and businesses who have conducted business with or within the city.

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<sup>1</sup> Republic Properties Corporation, a real estate development company, paid consulting fees to then City Commissioner Ray Liberti in relation to the City Center project. The City Center project is the construction of a civic complex that will house City Hall, the public library, and a non-profit cultural and educational institute in downtown West Palm Beach.

In addition to witness testimony, the Grand Jury received and reviewed documents, correspondence, emails and other evidence.

## **Pay to play**

One of the questions addressed by this Grand Jury is: Is the City of West Palm Beach a “pay to play” city?

The question posed in another way: Is it the understanding among developers and businesses that in order to successfully conduct business with the City of West Palm Beach, the developers and businesses must make large financial contributions or other considerations?

The evidence is as follows:

### **Campaign contributions**

Developers and businesses perceive that the City of West Palm Beach is in fact a “pay to play” city. Developers take actions consistent with this conclusion, including the contribution of substantial sums of money to the campaign account of Mayor Lois Frankel. Contributions are made at times significant to approval of or consideration of projects or matters before various boards and the City Commission in West Palm Beach.

Campaign contributions in increments of \$500.00 were made by wealthy large-scale developers to the political campaign account of Mayor Lois Frankel. These

contributions came from individuals, companies, and legal entities which were found to be connected to the developers. The total campaign contributions connected to a given developer varied from \$5,000 to \$21,000. Here are some examples:

**Rendina:** On June 14, 2005 28 checks attributed to developer Bruce Rendina totaled \$14,000.00; On June 15, 2005 an additional 12 checks totaling \$6,000.00 were connected to Bruce Rendina. Checks on various other dates brought the total to more than \$21,000.00.

**Huizenga:** On June 21, 2005, the West Palm Beach City Commission voted and approved future land use amendments and rezoning which increased allowed density and height (in planning board case number 1445 and 1445A). This action largely increased the value of certain property owned by developer Huizenga; On June 25, 2005, twenty \$500.00 checks associated with Huizenga were deposited into Mayor Frankel's campaign account, totaling \$10,000.00.

**Rincon Properties LLC:** This landowner donated \$5,000, all of which can be directly attributed to the one landowner. Amounts included one donation by a corporation and another by the same corporation under a fictitious name. This means one company donated \$1,000.00, twice the legal limit. If an eight-story development goes up on Flagler Drive near this property, the landowner stands to make \$50 million, as the value of the property is estimated to increase by that amount.

**Kenco City Center Development:** Kenco was a loser in the City Center project, apparently concluding in the process that West Palm Beach is a "pay to play" city. In connection with its next project, Kenco made \$10,000 in political contributions<sup>2</sup>. On June 30, 2005, twenty checks from Kenco and other entities associated with Kenco were contributed to Mayor Lois Frankel's campaign account totaling \$10,000. This was approximately one month before the company was to go before the Plans and Plats Review Committee, a preliminary process for Commission approval of a development. The reasonable conclusion is that this large contribution was made to insure the success of the subsequent project. Such actions are consistent with an acquired understanding of the "pay to play" perception by developers.

**Cypress Realty Group:** This developer made a \$5,000.00 political contribution to the mayor's campaign account late in 2006. These contributions were collected from family, employees and employees' spouses. Cypress Realty received administrative staff approval regarding North Olive Place in December 2006

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<sup>2</sup>Testimony revealed that this contribution totaled \$15,000.00. Only \$10,000.00 of the contribution was located in the campaign contribution reports reviewed during the course of this Grand Jury term.

which was a critical deadline. If approval had not been received by December 31, 2006, the entire project would have been subject to a new and unknown city master plan. (Refer to the Chamber of Commerce section for more financial contribution information of this company.)

The timing of these financial contributions occurred in conjunction with the developers' presentation of projects to the city, the City Commission and the mayor at various stages of the approval process. Some contributions were made in anticipation of submission of development projects. Some contributions occurred within days of votes before the Commission, or on the same day that the City Commission voted. Others were made while decisions, approval, or votes were pending on development projects.

**The evidence established that these contributions were bundled in several ways:**

1. Where a large developer owns many companies (one controlled 131 companies), each individual, legally distinct company made a \$500.00 contribution. Additionally, contributions were made by family members and friends of the developer.
2. A developer asked friends, family, employees, and spouses of employees to make individual \$500 political contributions to Mayor Lois Frankel. These contributions were then reimbursed by the developer to the individual parties who made the contributions.
3. Developers made substantial contributions to the Chamber of Commerce of the Palm Beaches. These contributions were used for various purposes to aid the mayor and the city financially, and to gain favor with the mayor and Commissioners. This type of contribution will be discussed thoroughly in a separate section of this report.

**Review of campaign contribution report**

One observation of the campaign contribution reports showed that a large percentage of contributions came from developers, businesses, and individuals from outside Palm Beach County and the State of Florida. Why would someone who is not a

resident of West Palm Beach, or a developer or business entity that is not based in the city of West Palm Beach, make such substantial contributions? This Grand Jury concludes the obvious; the contributions were consistent with the perception of the “pay to play” atmosphere made in the hopes of receiving favorable consideration.

This Grand Jury uncovered no evidence of any “quid pro quo” connecting the Mayor with any political contribution during its investigation.

## **Chamber of Commerce**

### **Factual Basis**

The Chamber of Commerce of the Palm Beaches is a non profit corporation. The Chamber of Commerce accepted checks or contributions from developers and businesses which were designated by the donor to be used for the “referendum campaign” and to oppose the lawsuit filed by West Palm Beach residents against the City Center project. One \$5,000.00 contribution was made by Cypress Realty Group on June 21, 2006 for the specific purpose of opposing the lawsuit filed by the residents of West Palm Beach. Additional contributions were in increments of \$5, 000.00 and \$10,000.00. The Grand Jury discovered contributions for this purpose in the total amount of \$30,000.00 for the year 2006. These contributions were deposited in the Chamber of Commerce operating expense account and then paid out through that account according to the directions of the developer.

Developers used the Chamber of Commerce and its operating account as a conduit for receipt of funds and payments used to fight the citizens initiative. The Grand Jury poses the question: Why was this money sent to the Chamber of Commerce? This question was not adequately explained to the Grand Jury. The use of the Chamber of Commerce's operating account disguised the initiative of the wealthy developers, the source of the contributions, and the existence of the payments. It would be difficult for the public to become aware of this practice.

## **Conclusions**

### **Campaign contributions**

The ability to bundle these campaign contributions enabled the wealthy, large scale developer to make significant financial contributions. These amounts, although they ran into thousands of dollars, are small compared to the large profits to be made, and are easily considered a "cost of doing business." When a developer stands to make millions of dollars on a project by acquiring the necessary permits and variances and votes, contributions of \$10,000 or even \$25,000 are insignificant to the developer, but not the recipient.

Regulating political campaign contributions is intended to prevent the illegal purchase of a bias or favor from elected officials. When loopholes are exploited, and the regulated system is misused and abused, the political contribution process becomes questionable. When contributions are bundled, the playing field is not level. Clearly, the large and powerful developer can out-contribute any small business. The large and

powerful developer can purchase the votes needed for the permits and variances, unlike the smaller business that cannot compete. Laws are circumvented.

This political campaign process must be reevaluated by the voters and the State legislature to address the issue of “attribution” of the contributions. This loophole must be addressed. Developers should not be permitted to bundle contributions, thereby gaining undue influence, unfair access and favoritism that is not available to the average citizen or smaller business. Developers should not be permitted to circumvent the clear intent of the law. A limit should be placed on the amount that is attributed to one individual or one entity.

### **Chamber of Commerce of the Palm Beaches**

The Chamber of Commerce is perceived to represent all of its business members. Acting as a conduit for substantial amounts of money from large developers gives the perception that the Chamber has come to represent the wishes of the developers. This organization should disclose when it is paying out substantial amounts of money which had been contributed by developers for a particular purpose.

### **Ethics**

Question: Is the City of West Palm Beach acting in an ethical manner in its business process?

Question: Are there problems with the Mayor’s Ethics Committee?

## **Factual Basis**

The evidence established the following:

### **Staff**

Employees of the City of West Palm Beach have acted unethically by targeting residents, causing inconvenience, financial losses, and loss of property.

One such example is a pastor targeted because of development interests in his properties, including a church at 5312 Broadway. He was harassed, given multiple fines, and given misleading and inconsistent information by city employees. The harassment continued despite his good faith attempts to correct any perceived deficiencies. He presented 13 proposals for improvements and was denied 13 times for various reasons. His attempts to address the unethical treatment by the City were futile. He could not get a fair speedy review of the issues and problems facing him from the City. He was without an advocate or a remedy.

Finally, the grand jury heard testimony concerning recourse for city hall employees who have issues about unethical conduct observed or unethical treatment of the employees. No avenue exists for swift independent review of such issues for the city employees themselves.

## **Conclusions:**

The City of West Palm Beach must implement an independent process by which residents, businessmen and women, and City employees can swiftly receive an unbiased, fair review of any unethical conduct or treatment at the hands of the City.

1. What is meant by independent? An individual or committee with no association with the City or the Mayor should be in place to review complaints. This reviewer must not be appointed or chosen by the City or Mayor, or answer to the City or the Mayor, or be subordinate to the City or the Mayor.
2. What is meant by swift review? A review must happen immediately; before more unethical conduct continues; before a resident incurs financial losses, fines, or loss of property; before more injury is inflicted. Delays in evaluation of the situation work against the individual, resident, or business suffering the breach of public trust. Fines accumulate quickly and injure the individual and smaller business. Injuries can be ongoing while review is pending.

## **Mayor's Ethics Committee**

### **Factual Basis**

In July of 2006 Mayor Lois Frankel empanelled a City of West Palm Beach Ethics Committee, the members of which were handpicked by Mayor Lois Frankel. This blue ribbon panel is comprised of influential, powerful individuals. No average citizens/residents of West Palm Beach are included. No entity or person who is independent of

the mayor is involved in this committee. The committee functions within the structure of the City of West Palm Beach and serves at the pleasure of the mayor. If this panel is to serve as the guardian of the ethical standards of conduct for the mayor and the staff of the City of West Palm Beach, some issues of independence and individual ethical conduct must be addressed.

Based on the credible evidence and credible testimony before it, this Grand Jury concludes that one member of the Ethics Committee acted unethically while conducting Ethics Committee business. The factual basis and resulting conclusions are detailed in Part B of this report.

## **Conclusions**

1. In order for the Ethics Committee to be effective, the members themselves must first exhibit ethical behavior in their role as the City's ethics monitors.
2. Secondly, the members of the committee should be chosen by a process that is independent of the mayor. The City of West Palm Beach Ethics Committee and its members must be objective and unbiased.
3. The Grand Jury recognizes that a public office and the functioning of that office involve a public trust. The residents have the right of review to guard against the abuse of public trust. For any City of West Palm Beach Ethics Committee to

function and accomplish an unbiased ethical result, that committee must act and function independently of the governing body.

**REDACTED...**

**...REDACTED**

**Strong mayor form of government**

“Absolute power corrupts absolutely.” Under the strong mayor format of government, there are virtually no checks and balances to the mayor’s power. There is no independent recourse to address grievances under this form of government. This Grand Jury recognizes that the City Commissioners have a responsibility to speak in a strong voice when representing their views. Commissioners simply agreeing with the strong mayor, rather than standing up for their constituents’ best interests, do a disservice to the City and its residents. The issue of a strong mayor is for the resident voters to address. The residents must evaluate this form of government to determine if this format still supports the best interests of the citizens of the City of West Palm Beach and the City itself. This Grand Jury understands that such a change would be accomplished through referendum.

It is the recommendation of this Grand Jury that this report be furnished to the following:

Governor Charlie Crist  
Ken Pruitt, Senate President  
Marco Rubio, Speaker of the House  
House Committee on Ethics & Elections in care of Chair Pat Patterson  
Senate Committee on Ethics & Elections in care of Chair Lee Constantine  
Philip Claypool, Executive Director and General Counsel, Florida Commission on Ethics  
Chris Anderson, Legal Counsel, Florida Commission on Ethics  
Chance Irvine, Chair, Florida Elections Commission  
Commissioner Isaac Robinson  
Commissioner Kimberly Mitchell  
Commissioner Jeri Muoio  
Commissioner William Moss  
City Attorney Claudia McKenna  
Northwood Renaissance in care of Mr. Carl Flick  
Ethics Committee in care of Chair Keith James  
Ms. Wendy Sartory Link, Chamber of Commerce of the Palm Beaches  
State Representative Mary Brandenburg; and  
Mayor Lois Frankel

The Grand Jury respectfully submits this unanimous report this 31<sup>st</sup> day of January, 2007.

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FOREPERSON OF THE GRAND JURY

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MARY ANN DUGGAN  
ASSISTANT STATE ATTORNEY  
FIFTEENTH JUDICIAL CIRCUIT