

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARD APPOINTMENT SUMMARY**

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Meeting Date: November 19, 2013

Department: Planning, Zoning & Building Department

Submitted By: Building Division

Advisory Board Name: Construction Board of Adjustments and Appeals

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Appointment of one member to the Construction Board of Adjustments and Appeals.

<u>Nominee</u>	<u>Seat</u>	<u>Requirement</u>	<u>Nominated By</u>	<u>Term</u>
Duane Drawdy	2	General Contractor	Construction Industry Management Council	11/19/2013-11/18/2017

Summary: Palm Beach County Ordinance 89-31, as amended in 2002, established the Construction Board of Adjustment and Appeals (the "Board"). The Construction Industry Management Council has nominated Duane Drawdy for a term of four years. Mr. Drawdy has previously served on the Board from 2008 until August 2013. Per Palm Beach County Ordinance 2012-006, as amended, Palm Beach County Amendments to the Florida Building Code, 2010 Edition, the Board is comprised of seven regular members: one architect; one engineer; one general contractor; one electrical contractor; one HVAC contractor; one plumbing contractor; and any other contractor licensed category. In addition to these members, there should be two alternate members: one member with the qualifications referenced above; and one member at large from the public.

As required by Section 2-443(d) of the Code of Ethics, this Agenda Item Summary will serve as disclosure for Duane Drawdy. Mr. Drawdy is the owner of Drawdy Construction Company, Inc., which contracts with Palm Beach County to provide construction services for the County through sealed bids. The Construction Board of Adjustments and Appeals provides no regulation, oversight, management, or policy-setting recommendations regarding this contract. Countywide (SF)

Background and Justification: The Construction Board of Adjustments and Appeals shall have the power, as further defined in 113.3 of the Palm Beach County Amendments to the Florida Building Code, to hear appeals of decisions and interpretations of the Building Official, and consider variances of the technical codes. The Board shall establish rules and regulations for its own procedures not consistent with the provisions of this code. The Board shall meet on call of the Chairman. The Board shall meet within 30 calendar days after Notice of Appeal has been received.

This advisory committee membership has 9 seats, 7 currently filled, and a diversity count of White: 7 (100%). The gender ratio (male:female) is 6:1.

Attachments:

1. Boards/Committees Application
 2. Resume
 3. Letter of Recommendation
 4. PBC Commission on Ethics Letter of October 4, 2013
 5. CBAA Attendance Record
 6. Section 113 of the PBC Amendments to the Florida Building Code, 2010 Edition
- =====

Recommended By: f. Rebecca Caldwell /pp 10.31.13
 Department Director Date

Legal Sufficiency: [Signature] 11/5/13
 Assistant County Attorney Date

II. REVIEW COMMENTS

A. Other Department Review:

Department Director

Date

REVISED 06/92
ADM FORM 03
(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

Print Form

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION

The information provided on this form will be used by County Commissioners and/or the entire Board in considering your nomination. This form **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. ~~Further, please attach a biography or resume to this form.~~

Section I (Department): (Please Print)

Board Name: Construction Board of Adjustments and Appeals Advisory Not Advisory

At Large Appointment or District Appointment / District # _____

Term of Appointment: 3/4 Years. From: 11/19/2013 To: 11/18/2017

Seat Requirement: Building Contractor Seat #: 2

*Reappointment or New Appointment

or to complete the term of _____ Due to: resignation other

Completion of term to expire on: _____

*When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners: 0

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Drawdy Charles Duane
Last First Middle

Occupation/Affiliation: Drawdy Construction Co. Inc

Owner Employee Officer

Business Name: Drawdy Construction Co. Inc.

Business Address: 10201 Lantana Rd

City & State: Lake Worth Fla. Zip Code: 33449

Residence Address: 5960 Michlar Dr.

City & State: Lake Worth Fla Zip Code: 33449

Home Phone: (561) 439 6351 Business Phone: (561) 965 8092 Ext.

Cell Phone: (561) 307 3405 Fax: ()

Email Address: drawdy@comcast.net

Mailing Address Preference: Business Residence

Have you ever been convicted of a felony: Yes _____ No

If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: Male Female
 Native-American Hispanic-American Asian-American African-American Caucasian

Section II Continued:

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

<u>Contract/Transaction No.</u>	<u>Department/Division</u>	<u>Description of Services</u>	<u>Term</u>
Ex: (R#XX-XXXX/PO XXX)	Parks & Recreation	General Maintenance	10/01/11-09/30/12
PBC Project 2004608	Engineering	Highway Bridge Construction	10/1/12-9/30/13

(Attach Additional Sheet(s), if necessary)

OR NONE

All board members are required to read and complete training on Article XIII, the Palm Beach County Code of Ethics, and read the Guide to the Sunshine Amendment prior to appointment/reappointment. Article XIII, and the training requirement can be found on the web at: <http://www.palmbeachcountyethics.com/training.htm>. Keep in mind this requirement is on-going.

By signing below I acknowledge that I have read, understand, and agree to abide by Article XIII, the Palm Beach County Code of Ethics, and I have received the required Ethics training (in the manner checked below):

- By watching the training program on the Web, DVD or VHS
- By attending a live presentation given on _____, 20__

AND

By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: C. Duane Drawdy Printed Name: C. Duane Drawdy Date: 11/5/12

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website www.palmbeachcountyethics.com or contact us via email at ethics@palmbeachcountyethics.com or (561) 233-0724.

Return this FORM to:
 {Insert Liaison Name Here}, {Insert Department/Division Here}
 {Insert Address Here}

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: November 19, 2013

Commissioner's Signature: _____ Date: _____

January 2, 2013

Resume of **DUANE DRAWDY**

Prepared for PALM BEACH COUNTY BOARD OF ADJUSTMENTS

Born July 4, 1940 in Stuart, Florida, raised in Lake Worth, and graduated Lake Worth High School in 1958.

After working in construction for 3 years, I attended RETS Tech School in Miami, graduated and went to work for **HONEYWELL** in St. Petersburg, Florida. During the next 19 years, I worked on research, development, and testing of Missile Guidance Systems for Mercury, Gemini, Apollo, and Space Shuttle.

After receiving my State General Contractors license, CGC 016907, my father, two brothers and I started **DRAWDY CONSTRUCTION CO., INC.** in 1980 and continue to day working in and around Palm Beach County. Drawdy Construction Co., Inc. specializes in CONCRETE HIGHWAY BRIDGES, DOCKS, SEAWALLS, AND MARINAS.

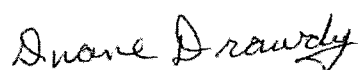
I am vice president of Drawdy Construction Co., Inc.

I have served 4 years on the **PALM BEACH COUNTY CONTRACTOR LICENSING BOARD** and 3 years on the **PALM BEACH COUNTY BOARD OF ADJUSTMENTS**.

I think it is important to give back to the industry in hopes that my experience may serve PALM BEACH COUNTY.

I appreciate the opportunity to serve a 4 year term on the BOARD OF ADJUSTMENTS, if it pleases the County.

Respectfully,



Duane Drawdy



Natasha V. Cannon, Executive Director

*** FURNISHED VIA EMAIL ***

August 12, 2012

Richard Gathright, Interim Building Official
Department of Planning Zoning & Building
2300 North Jog Road
West Palm Beach, Florida 33411

Re: General Contractor Nominee to CBAA

Dear Mr. Gathright:

Pursuant to your request for a general contractor nominee to serve on the CBAA, the members of the Construction Industry Management Council voted unanimously to nominate Duane Drawdy, General Contractor, to serve another term on Seat 2 of the Construction Board of Adjustment & Appeals.

If you have any further questions, you can reach me at (561) 200-4788.

Sincerely,

Natasha V. Cannon

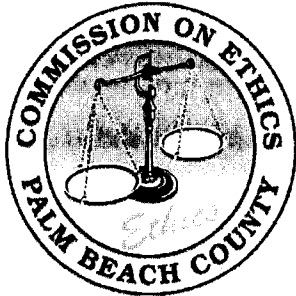
Natasha V. Cannon
Executive Director

NVC/dn

THE MANAGEMENT LEVEL OF ASSOCIATIONS, REPRESENTING TRADES,
SKILLS AND DESIGN PROFESSIONALS IN THE CONSTRUCTION INDUSTRY

Electrical Council of Florida Palm Beach Chapter • Palm Beach Air Conditioning Contractors of America
Palm Beach County Roofing & Sheet Metal Contractors Association • Plumbing Heating Cooling Contractors
Plumbing & Air Conditioning Contractors Industry Fund • Sunshine State One Call of Florida, Inc.

6615 W Boynton Beach Boulevard, #329, Boynton Beach, Florida 33437 • 561-200-4788 • 561-577-2099 • Email/pbccimc@aol.com



Palm Beach County Commission on Ethics

Commissioners

Robin N. Fiore, Chair
Daniel T. Galo, Vice Chair
Patricia L. Archer
Salesia V. Smith-Gordon
Michael S. Kridel

Executive Director

Steven P. Cullen

October 4, 2013

C. Duane Drawdy
Drawdy Construction Company, Inc.
10201 Lantana Road
Lake Worth, Florida 33449

Re: RQO 13-016
Contractual Relationships-Low Bid Exception

Dear Mr. Drawdy,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion, and rendered its opinion at a public meeting held on October 3, 2013.

YOU ASKED in your submission dated September 3, 2013, whether as a County advisory board member a prohibited conflict of interest is created if your outside business bids for and is awarded a contract with Palm Beach County. You have indicated in your letter that all such contracts are awarded via "competitive bids."

IN SUM, you may not use your official position as an advisory board member to give or influence others to give you or your outside business a special financial benefit. In addition, the code prohibits you or your outside business from contracting with Palm Beach County. However, there is an exception to the contractual relationship prohibition.

The code provides an exception for contracts entered into under a process of sealed, competitive bidding, where your outside business is the lowest bidder, provided that you have not participated in the bid specifications or determination of the lowest bidder, have not used your position in any way to influence the award, and have disclosed the nature of your interest in the business submitting the bid. If you fully comply with these requirements, the code does not prohibit you or your outside business from contracting with the County.

THE FACTS as we understand them are as follows:

You are the Vice President of Drawdy Construction Company, Inc. (DCC). DCC builds concrete highway bridges in and for Palm Beach County. All projects that DCC has applied for in the past have been awarded through a sealed, competitive bid process. It is anticipated that any future contracts will also be awarded by this process. You serve on the Palm Beach County Construction Board of Adjustments and Appeals (CBAA). The CBAA interprets the provisions of various building, electrical, plumbing and other construction codes adopted by the Board of County Commissioners (BCC) and hear appeals of decisions made by the Building Official for Palm Beach County.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Code of Ethics, which took effect on June 1, 2011:

Section 2-443(a) prohibits you, as an advisory board member from using your official position, or influencing others to take or fail to take any action, that would result in a special financial benefit not shared with similarly situated members of the general public, for yourself, your spouse or domestic partner or an outside business of yours or your spouse or domestic partner, among other listed persons or entities.

Section 2-443(d) states as follows:

Contractual relationships. No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to §2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable.

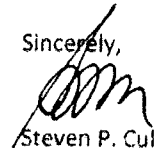
Section 2-443(d) prohibits you or your outside business¹ from entering into any contract or other transaction for goods or services with the County, directly or indirectly, unless one of several exceptions applies. Specifically, §2-442(e)(1) provides an exception for contracts awarded under a system of sealed, competitive bidding, where your company is the lowest bidder. The sealed bid exception applies so long as an advisory board member does not 1) participate in the determination of bid specifications, 2) use their official position to influence or persuade their government entity other than by the mere submission of the bid, and 3) files a statement with the Supervisor of Elections and the Commission on Ethics disclosing the nature of the interest in the outside business prior to submitting the bid. Each individual bid submission must comply with the exception requirements listed in §2-443(e)(1)a, b, and c.² So long as your bid submission comports with these requirements, you are not prohibited from applying and accepting bids awarded under this exception to the contractual relationship prohibition.

IN SUMMARY, as a county advisory board member you may not use your official position to give a special financial benefit to your outside business. In addition, you may not enter a contract for goods or services with Palm Beach County unless it is through a sealed bid process as prescribed by §2-443(e)(1)a, b, and c of the Code of Ethics.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,


Steven P. Cullen,
Executive Director

SPC/mcr/gal

¹ §2-442(2) Outside employer or business includes any entity, other than the county, the state, or any other federal, regional, local or municipal government entity, of which the official or employee is a member, official, director, proprietor, partner or employee, and from which he receives compensation for services rendered or goods sold or produced.

² HQ-11-650

CBAA MEETING ATTENDANCE

MEMBER	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13
Dixon, Ron	/	/	/	/	/	/	/	A	/	/	P	/
Donegan, Thomas	/	/	/	/	/	/	/	P	/	/	P	/
Drawdy, Duane	/	/	/	/	/	/	/	P	/	/		
Dzenutis, Peter	/	/	/	/	/	/	/	P	/	/	A	/
Rasper, Bart	/	/	/	/	/	/	/	P	/	/	P	/
Walden, Margie	/	/	/	/	/	/	/	P	/	/	P	/
Walker, Michael	/	/	/	/	/	/	/	A	/	/	A	/
Wiener, Marc	/	/	/	/	/	/	/	P	/	/	P	/

Three absences of any member from required meetings of the board shall in a 12 month period, at the discretion of the applicable governing body, render any such member subject to immediate removal from office.

P - Present
A - Absent
/ - no meeting
 no longer a member

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SECTION 113 CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

113.1 Appointment. There is hereby established a board to be called the Construction Board of Adjustment and Appeals, which shall consist of seven members and two alternates. The applicable governing body shall appoint the Board.

113.2 Membership and Terms

113.2.1 Membership. The Construction Board of Adjustment and Appeals shall consist of seven members. Such board members shall be composed of individuals with knowledge and experience in the technical codes to include, to the greatest extent possible, an architect, engineer, general contractor, electrical contractor, HVAC contractor, plumbing contractor, and any other contractor licensed category. In addition to the regular members, there should be two alternate members, one member with the qualifications referenced above and one member at large from the public. A board member shall not act in a case in which he has a personal or financial interest.

113.2.2 Terms. The terms of office of the board members shall be staggered so no more than one-third of the board is appointed or replaced in any 12-month period. The two alternates, if appointed, shall serve one-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Three absences of any member from required meetings of the board shall in a 12 month period, at the discretion of the applicable governing body, render any such member subject to immediate removal from office.

113.2.3 Quorum and voting. A simple majority of the board shall constitute a quorum. In varying any provision of this code, the affirmative votes of the majority present, but not less than three affirmative votes, shall be required. In modifying a decision of the building official, not less than four affirmative votes, but not less than a majority of the board, shall be required. In the event that regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.

113.2.4 Secretary of board. The building official or his/her authorized representative shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member, and any failure of a member to vote.

113.3 Powers. The Construction Board of Adjustments and Appeals shall have the power, as further defined in 113.4, to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.

113.4 Appeals

113.4.1 Decision of the building official. The owner of a building, structure or service system, or duly authorized agent, may appeal a decision of the building official to the Construction Board of Adjustment and Appeals whenever any one of the following conditions are claimed to exist:

1. The building official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
2. The provisions of this code do not apply to this specific case.
3. That an equally good or more desirable form of installation can be employed in any specific case, which the building official has rejected or refused.
4. The true intent and meaning of this code or any of the regulations hereunder have been misconstrued or incorrectly interpreted.

113.4.2 Variances. The Construction Board of Adjustments and Appeals, when upon written request, has been so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:

1. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
2. That the special conditions and circumstances do not result from the action or inaction of the applicant.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.
4. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
5. That the grant of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and general welfare.

113.4.2.1 Conditions of the variance. In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.

113.4.3 Notice of appeal. Notice of appeal shall be in writing and filed within 30 calendar days after the building official renders the decision. Appeals shall be in a form acceptable to the building official.

113.4.4 Unsafe or dangerous buildings or service systems. In the case of a building, structure or service system, which in the opinion of the building official, is unsafe, unsanitary or dangerous, the building official may, in the order, limit the time for such appeals to a shorter period.

113.5 Procedures of the board.

113.5.1 Rules and regulations. The board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet on call of the chairman. The board shall meet within 30 calendar days after notice of appeal has been received.

113.5.1.1 Rules of Evidence. Formal rules of evidence shall not apply, but fundamental due process should be observed and govern the proceedings. Upon determination by the Chairperson, irrelevant, immaterial, or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form. The Board may request certain evidence be provided by an architect or engineer registered in the State of Florida, in which case said evidence shall be signed, sealed, and dated.

113.5.1.2 Testimony. Any member of the Board or the attorney representing the Board may inquire of, or question, any witness before the Board. Any member of the Board, the petitioner or his/her attorney, and/or the building official shall be permitted to inquire of any witness before the Board. The Board may consider testimony presented by the building official, the petitioner, or any other witness.

113.5.2 Decisions. The Construction Board of Adjustment and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official or varies the application of any provision of this code, the building official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two weeks after filing. Every decision of the board shall be final; subject however to such remedy as any aggrieved party might have at law or in equity.

113.6 Local Construction Regulation Board. The local government may also utilize this Board to convene as the Local Construction Regulation Board (LCRB), as provided in Florida Statute 489.113. The LCRB may deny, suspend, revoke or limit the authority of a certified contractor to obtain a building permit or permit with specific conditions, if the LCRB has found such contractor, through public hearing, to be guilty of fraud or a willful building code violation within the county or municipality that the LCRB represents. The LCRB may also, deny, suspend, revoke or limit the authority of a certified contractor to obtain a building permit or permit with specific conditions, if it has proof through the public hearing process, that a contractor has been found guilty in another county or municipality within the past 12 months, of fraud or a willful building code violation and after providing notice of an opportunity to be heard to the contractor, finds that such fraud or violation would have been fraud or a violation if committed in the county or municipality that the LCRB represents. Notification of and information concerning such permit denial shall be submitted to the division within 15 days after the LCRB decides to deny the permit.

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