

I. O/C Ethics Board - Complaint 1-2009 (Final Report) September 15, 2009

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A. Background and Introduction

1. Complaint 1-2009 was received by the Ocean City Ethics Board on January 16th, 2009.
2. The complaint was submitted by Mr. Michael Hamilton, Sr. Guard, Ocean City Beach Patrol, 1960 -present, of 22 Southview Dr. Somers Point NJ 08244.
3. The complaint was found to be validly submitted and assigned for investigation.

B. Details of The Complaint

The complaint alleges that two persons, Ocean City Fire Chief Joseph Foglio, and Ocean City Beach Patrol Operations Chief Thomas Mullineaux, have violated the Ocean City Ethics Ordinance 7-12.

1. The complaint alleges Nepotism and Cronyism, claiming that Chief Foglio and Chief Mullineaux selectively ignored documented OCBP policy and the Ocean City Ethics Ordinance by hiring and promoting family members and business associates over and above more qualified applicants having much higher test scores, and / or superior background and experience, and making up new undocumented rules to justify their actions, further claiming that when those actions were challenged to simply state: "I'm the Chief and it's my prerogative to do what ever I want".
2. The complaint further alleges that Chief Foglio and Chief Mullineaux selectively ignored documented OCBP policy and the Ocean City Ethics Ordinance by granting unwarranted privileges to certain OCBP Employees (including Chief Mullineaux) by waiving mandatory annual re-qualifying swim test requirements, and by waiving rookie swim tests requirements for certain applicants.
3. The complaint further alleges that Chief Mullineaux directed that certain swim test results logs be filled in after the fact, by the addition of a "check mark" or "OK", attempting to indicate that an OCBP employee or applicant successfully completed swim test requirements when they did not.
4. The complaint further alleges that Chief Foglio and Chief Mullineaux selectively ignored OCBP Policy and the Ocean City Ethics Ordinance by failing to discipline certain OCBP employees when disciplinary action was called for, while exacting discipline for others. An example cited, alleges multiple driving violations involving a senior administrative member of the beach patrol. Two incidents cited involving "open (alcoholic beverage) container" violations and one involving a "fleeing the scene of an accident" violation, all incidents involving a City vehicle while on duty. The complainant alleges that these incidents were "covered up" and that Chief Foglio used his influence and official position as Fire Chief to avoid citations and disciplinary action. Another incident involving a lower ranking OCBP employee whose parked city vehicle rolled into and damaged vehicles of city residents, resulted in severe disciplinary action including a lengthy suspension.
5. The complaint further alleges sexism in that Chief Mullineaux routinely and publicly, verbally disparages, demeans, and verbally abuses female OCBP employees.

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6. The complaint further alleges age discrimination by Chief Mullineaux, citing that he voiced his intent (in the hearing of others), and intentionally worked to “get rid” of older OCBP employees, (simply because of their age), by cutting available work hours in such a way to adversely affect pension benefits. Additionally, the new 2009 OCBP Policy, published in March 2009, changes the rehiring swim test requirements in a way that reverses decades long standing swim time differentiation between older and younger employees. In this new policy Chief Mullineaux seems to excuse himself for having to comply with the re-qualifying standards. This new policy is in direct conflict with a letter from Ocean City personnel director, Joann Cioeta dated December 23, 2008 that states: “Testing standards for Rookies, Returning Lifeguards and Returning Administrative Lifeguards remains the same as were listed in the OCBP Re qualifying Standards 2008.” By now eliminating any time differentiation, and with no provision to “grandfather” existing employees, this policy is perceived as the latest attempt of getting rid of older employees and may be a violation of anti discrimination law.
7. The complaint further alleges that Chief Mullineaux habitually and publicly (including over the OCBP radio system) uses objectionable language and profanities, including the “F-Word”, in the presence of men and women of all ages, including minors, while they are working for him in his official capacity as Operations Chief, OCBP, in violation of Ocean City Ordinance 87-174-15.2.
8. The complaint further alleges that Chief Foglio and Chief Mullineaux without competitive bids, directed an OCBP purchase order for boat oars, to the “Oar House”, a family owned business of an employee of the OCBP, and that the order was very high priced and “fronted” through a “no value added” third party supplier “Surfer Supply”, granting unwarranted privilege and advantage and having prejudiced judgment.
 - i. The investigation of this point has revealed (via discussion with Mr. Joseph Clark, Ocean City Director of Procurement) that the purchase order was for “One of a Kind”, boat oars, that the OCBP had previously tried and found to be superior. The total order price was less than that requiring competitive bids. Mr. Clark stated that the OCBP desire to purchase these oars was brought to his attention because of their superior performance and durability. The supplier of the oars is a company owned by the family of an employee of the Ocean City Beach Patrol, but Mr. Clark stated there was no conflict of interest since they were purchased through an established independent distributor and not directly. Mr. Clark stated that the order was in compliance with all state and municipal codes.

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9. The complaint further alleges that many of the actions undertaken by Chief Foglio and Chief Mullineaux involving the hiring and promotion of family members and business associates and the excusing of certain individuals from mandatory and documented qualifying swim test requirements (as claimed in points 1, 2 and 3 above) has resulted in under qualified individuals employed as life guards and medics and seriously jeopardizes public safety. An example cited, involved a near drowning incident in July 2007 at the 8th St. Beach where it is alleged that emergency aid, albeit professional and effective, was not according to protocol, because the guards rendering aid (some of whom were EMT's) failed to defer to a junior medic who in their view was less qualified than they were. This incident resulted in Chief Foglio forcing all OCBP employees who were present to agree to a confidentiality agreement as a condition of continuing employment, and to never again discuss the incident.
10. On September 11, 2009 the complainant submitted additional information based on the 2009 season, alleging that Chief Foglio and Chief Mullineaux are in violation of Ocean City Personnel Policies, regarding the OCBP's hiring practices, and are also in violation of both the USLA (United States Lifeguard Association) and the SJLCA (South Jersey Lifeguards Chiefs Association) regarding testing standards, and the retention of original testing documents.

C. Summary of alleged violations of the Ocean City Ethics Ordinance

1. The complaint against Chief Foglio alleges violations of the following Sections of the Ocean City Ethics Ordinance:
 - i. 2-15-5-B. No officer or employee (of the City of Ocean City) shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others.
 - ii. 2-15-5-D. No officer or employee shall act in his official capacity in any matter where he or she or a member of his or her immediate family or any business organization in which he or she has an interest has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity or independence of judgment.
 - iii. 2-15-5-E. No officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.
2. The complaint against Chief Mullineaux alleges violations of the following Sections of the Ocean City Ethics Ordinance:
 - i. 2-15-5-B. No officer or employee (of the City of Ocean City) shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others.

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D. Preliminary Investigation Status as of May 26th 2009.

1. The Ocean City Beach Patrol is under the jurisdiction of the Fire Department and is therefore under the overall supervision of Fire Chief Joseph Foglio.
2. The complainant submitted several hundred pages of documentation presenting his case and as evidence in support of the complaint.
3. A lengthy interview was conducted and several additional telephone interviews were conducted with the complainant Michael Hamilton.
4. Multiple interviews were conducted with Joann Cioeta, Ocean City Personnel Director and Keith Szendrey (Esquire), then Ocean City Personnel clerk, now Ocean City Legal Department Head and City Solicitor.
5. An interview was conducted with Joseph Clark, Ocean City Director of Procurement.
6. Written, and telephone interview testimony was received from eight (8) OCBP current employees and retirees who requested, and were given the assurance of anonymity due to the stated fear of reprisal. In 7 of 8 cases the testimony received validated and substantiated the accusations made by the complainant, and provided additional examples and details adding credibility to the complaint.

E. Initial Observations as of May 26th 2009.

1. Based solely on the initial complaint and the documentation submitted by Michael Hamilton and the interviews and / or written testimony conducted with and provided by eight (8) additional current and past employees of the OCBP, the complaint alleging that Chief Joseph Foglio and Chief Thomas Mullineaux violated several sections of the Ocean City Ethics Ordinance and other City Ordinances justifies further investigation.

F. Steps taken since May 26th 2009.

1. Conducted a closed session discussion with the Ethics Board to discuss preliminary investigation status.
2. Notified Chief Foglio and Chief Mulineaux of the complaint.
3. Conducted individual interviews with Chief Joseph Foglio and Chief Thomas Mullineaux. (each interviewee was accompanied by legal counsel, and each interview was documented by a certified court reporter).
4. Conducted additional / follow up discussions / interviews with City Legal and Personnel Department heads: (Ms. Joann Cioeta, Mr. Keith Szendry).
5. Conducted additional and follow up interviews with past and present OCBP employees, including the complainant, Mr. Michael Hamilton.
6. Follow up discussions of the Investigating committee.
7. Developed conclusions and draft Final Report (herein contained).

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G. Findings, Conclusions and Recommendations.

1. The investigating team found that since the OCBP was placed under the jurisdiction of the Ocean City Fire Department and the direct managerial influence of Fire Chief Joseph Foglio, the Beach Patrol has undergone several significant improvements resulting in a stronger, more professional, more qualified Beach Patrol that is better equipped than ever before in its history to provide life guard rescue and emergency medical services to help ensure the public safety of those who use the Ocean City beaches. Examples of these improvements include, but are not limited to: improved and better documented OCBP procedures and policies, an improved organizational structure for the Beach Patrol, an improved training program, improved testing standards for new and returning guards including the addition of an interview process, new standards requiring that all medics be certified EMTs., and the addition of mandatory drug testing. All of these improvements and others have been implemented under the leadership of Chief Foglio.
2. During the investigation, the investigating team found that the OCBP is widely recognized (inside and beyond the state of New Jersey) as one of the finest Beach Patrol organizations in the country and can, and should be the pride of Ocean City. The OCBP record, the quality of its employees and its professionalism is a model for other beach patrols to emulate.
3. While there have been a few lapses in adherence to existing OCBP policies and procedures (as outlined below) the investigating team found that the public safety was never compromised in any way.
4. The long standing record of the OCBP is an overwhelming testimony of the high quality organization that it is.

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5. Regarding the specific allegations against Chief Joseph Foglio:

- i. Point 1 of the complaint - Nepotism and Cronyism - (see page 1, B.1)
 - a. Although there has been a past practice of hiring family members and friends into the Beach Patrol, (now prohibited by the Ocean City Nepotism Policy, effective in 2009) the investigating team found no evidence of Chief Foglio using any influence to insure that any person was hired, promoted, or given a specific assignment in favor of any other person. The complaint further alleges favoritism in that the hiring of new guards is not based strictly on empirical data such as swim test scores and that persons with lower test scores are sometimes hired over those with better test scores. The investigating team learned that the policy of the OCBP is to hire based on a “mix” of empirical data from qualifying test scores and an interview process. To be hired, applicants must have passing test scores and demonstrate an appropriate degree of maturity and communication skills in the interview. This “mix” provides management with an appropriate degree of subjective decision making when selecting applicants as new hires for the patrol. The use of subjective criteria in addition to qualifying empirical data, is a fairly common hiring practice used in both the private and public sectors of the marketplace. We therefore recommend that this part of the complaint against Chief Foglio be dismissed on the basis that *the complaint has no reasonable factual basis* as it pertains to the Ocean City Ethics Ordinance.
- ii. Point 2 of the complaint - Granting Unwarranted Privileges by waiving mandatory swim test requirements for certain people. (see page 1, B.2)
 - a. The investigating team found no evidence of Chief Foglio using any influence or having any kind of direct knowledge or involvement of the waiving of mandatory testing of new or returning life guards or medics. We therefore recommend that this part of the complaint against Chief Foglio be dismissed on the basis that *the complaint has no reasonable factual basis* as it pertains to the Ocean City Ethics Ordinance.
- iii. Point 4 of the complaint - Granting Unwarranted Privileges by an inconsistent use of discipline favoring certain people. (see page 1, B.4)
 - a. The investigating team found no evidence supporting this allegation. The alleged incidents were presented as “hear say” only and could not be substantiated by any first hand witnesses or documentation. We therefore recommend that this part of the complaint against Chief Foglio be dismissed on the basis that *the complaint has no reasonable factual basis* as it pertains to the Ocean City Ethics Ordinance.

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- iv. Point 8 of the complaint - Granting Unwarranted Privileges by purchasing boat oars manufactured by a company in which OCBP employees have a financial interest. (see page 2, B.8)
 - a. As reported in section B.8.i on page 2, (and repeated here for simplicity):
 - 1) *The investigation of this point has revealed (via discussion with Mr. Joseph Clark, Ocean City Director of Procurement) that the purchase order was for "One of a Kind", boat oars, that the OCBP had previously tried and found to be superior. The total order price was less than that requiring competitive bids. Mr. Clark stated that the OCBP desire to purchase these oars was brought to his attention because of their superior performance and durability. The supplier of the oars is a company owned by the family of an employee of the Ocean City Beach Patrol, but Mr. Clark stated there was no conflict of interest since they were purchased through an established independent distributor and not directly. Mr. Clark stated that the order was in compliance with all state and municipal codes.*
 - b. We therefore recommend that this part of the complaint against Chief Foglio be dismissed on the basis that the complaint is factually incorrect as it pertains to the Ocean City Ethics Ordinance.
- v. Point 9 of the complaint - Assignment of (and using influence to assign) under qualified personnel to "lifeguard" and "medic" positions favoring family members and friends. (see page 3, B.9)
 - a. As was the case with Point 2 of the complaint against Chief Foglio , the investigating team found no evidence of Chief Foglio using any influence or having any kind of direct knowledge or involvement in the assignment of new or returning life guards or medics to specific positions or locations on the beach. Additionally, the investigating team found no evidence of any unqualified or under qualified life guards or medics assigned to any OCBP position. We therefore recommend that this part of the complaint against Chief Foglio be dismissed on the basis that the complaint has no reasonable factual basis as it pertains to the Ocean City Ethics Ordinance.

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- vi. Point 10 of the complaint - Violation of Ocean City Personnel Policies, regarding the OCBP's hiring practices, and violation of both the USLA (United States Lifeguard Association) and the SJLCA (South Jersey Lifeguards Chiefs Association) regarding testing standards, and the retention of original testing documents. (see page 3, B.10)
 - a. The investigating team found that the type of relief the complainant seeks on this point of the complaint is *not within the jurisdiction of the Ethics Board*. The Ethics Board hereby refers this point of the complaint to the City of Ocean City for it's own evaluation.

- vii. **Summary of Findings, Conclusions and Recommendations regarding the specific allegations against Chief Joseph Foglio:**
 - a. **Based on the above, the investigating team finds that Chief Joseph Foglio did not violate any part of the Ocean City Ethics Ordinance and is hereby vindicated of all of the above charges against him.**

 - b. **Based on the above, points 10 of the complaint found above is not within the jurisdiction of the Ethics Board. The Ethics Board hereby refers this point of the complaint to the City of Ocean City for it's own evaluation.**

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6. Regarding the allegations against OCBP Chief of Operations, Thomas Mullineaux:
 - i. Point 1 of the complaint - Nepotism and Cronyism - (see page 1, B.1)
 - a. Although there has been a past practice of hiring family members and friends into the Beach Patrol, (now prohibited by the Ocean City Nepotism Policy, effective in 2009) the investigating team found no evidence of Chief Mullineaux using any influence to insure that any person was hired, promoted or given a specific assignment in favor of any other person. The complaint further alleges favoritism in that the hiring of new guards is not based strictly on empirical data such as test scores and that persons with lower test scores are sometimes hired over those with better test scores. The investigating team learned that the policy of the OCBP is to hire based on a mix of empirical data from qualifying test scores and an interview process. Applicants must have passing test scores and demonstrate an appropriate degree of maturity and communication skills in the interview. This “mix” provides management with an appropriate degree of subjective decision making when selecting applicants as new hires for the patrol. We therefore recommend that this part of the complaint against Chief Mullineaux be dismissed on the basis that the complaint has no reasonable factual basis as it pertains to the Ocean City Ethics Ordinance.
 - ii. Point 2 of the complaint - Granting Unwarranted Privileges by waiving mandatory swim test requirements for certain people. (see page 1, B.2)
 - a. The investigating team found supporting testimony and documents that provide convincing evidence that Chief Mullineaux did use his influence and his position as Chief of Operations in the waiving of mandatory testing of certain returning life guards, including excusing himself from mandatory testing as required by the OCBP’s own policies and procedures. **We therefore find Chief Thomas Mullineaux in violation of the Ocean City Ethics Ordinance 2.15.5.B.** (No officer or employee (of the City of Ocean City) shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others).
 - b. The investigating team recommends the minimum penalty allowed by the Ocean City Ethics Ordinance of \$100.00 be levied on Chief Mullineaux for this violation along with any additional disciplinary action deemed appropriate by Chief Foglio. This \$100.00 penalty should be made payable to the City of Ocean City and may be paid via payroll deduction.

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- c. The investigating team has learned that since the complaint was filed in January, Chief Foglio has implemented new directives, that properly implemented, should better insure the full compliance with already existing OCBP policies and practices that should prevent future abuses. The investigating team is satisfied that appropriate remedies are already in place.
- d. It should be noted that the swim test requirements for returning OCBP employees published via a memo in March 2009, excluded the Chief of Operations for taking the re-qualifying swim tests. The memo did that by stating that the re-qualifying standards applied to the positions of Senior Lieutenant down thus excluding the Chief of Operations. If that is to be the revised policy of the OCBP for future years, we recommend that the OCBP Operations Manual be revised to indicate the change. Currently the policy considers the Chief of Operations as the "Highest Ranking Lifeguard on the Beach Patrol" and does not exempt that position for the re-qualifying standards that apply to all returning guards.
- e. The investigating team also recommends that the OCBP, with assistance and oversight from Chief Foglio, implement appropriate additional checks and balances to insure future compliance with all OCBP policies and procedures.

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- iii. Point 3 of the complaint - Falsification of swim test documents after the Ethics complaint was filed in January 2009. (see page 1, B.3)
 - a. The investigating team found supporting testimony and documents that provide convincing evidence that Chief Mullineaux did direct an OCBP employee to change official swim test documents by adding a “check mark” or the notation “OK” next to the names of those not having swim test times recorded, attempting to indicate a person did take the mandatory swim test and passed. Testimony revealed that this was done after the complaint was filed in January 2009. During direct testimony Chief Mullineaux addressed this point by indicating that it was his understanding that everyone passed, but that the record keeping was “less than it should have been at that time”. Chief Mullineaux’s testimony that everyone took the mandatory re-qualifying swim tests and passed is undermined by the testimony of several others that testified that certain people did not have to test.
 - b. **The investigating team therefore finds Chief Thomas Mullineaux in violation of the Ocean City Ethics Ordinance 2.15.5.B.** (No officer or employee (of the City of Ocean City) shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others).
 - c. The investigating team recommends the minimum penalty allowed by the Ocean City Ethics Ordinance of \$100.00 be levied on Chief Mullineaux for this violation along with any additional disciplinary action deemed appropriate by Chief Foglio. This \$100.00 penalty should be made payable to the City of Ocean City and may be paid via payroll deduction.
 - d. The investigating team also received testimony and supporting documentation that indicates that the OCBP Policy of mandatory drug testing for all employees as a condition of employment, is not being enforced as rigorously as necessary in order to insure compliance. Documents showed that while many employees were in compliance, there were several OCBP employees who failed to comply.
 - e. As it is with Point 2 of the Complaint (above) the investigating team learned that since the complaint was filed in January, Chief Foglio has implemented new directives that properly implemented should better insure the full compliance with already existing OCBP policies and practices that should prevent future abuses. The investigating team is satisfied that remedies are already in place.
 - f. The investigating team also recommends that the OCBP, with assistance and oversight from Chief Foglio, implement appropriate additional checks and balances to insure future compliance with all OCBP policies and procedures.

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- iv. Point 4 of the complaint - Granting Unwarranted Privileges by an inconsistent use of discipline favoring certain people. (see page 1, B.4)
 - a. The investigating team found no evidence supporting this allegation. The alleged incidents were presented as hear say only and could not be substantiated by any first hand witnesses. We therefore recommend that this part of the complaint against Chief Mullineaux be dismissed on the basis that the complaint has no reasonable factual basis as it pertains to the Ocean City Ethics Ordinance.
- v. Point 5 of the complaint - Sexism, use of disparaging comments against female employees. (see page 1, B.5)
 - a. Although the testimony of female member(s) of the OCBP (past and present) provided convincing substantiation of this point of the complaint, the type of relief the complainant seeks on this point is not within the jurisdiction of the Ethics Board. The Ethics Board hereby refers this point of the complaint to the City of Ocean City for it's own evaluation.
- vi. Point 6 of the complaint - Age Discrimination and a verbally stated and a planned effort to force older beach patrol employees to quit or retire. - (see page 2, B.6)
 - a. Testimony was received from several member(s) of the OCBP (past and present) provided convincing substantiation of this point of the complaint. The testimony included statements that the Chief of Operations verbally stated his desire to find a way to get older guards to retire, and the reduction of the number of work hours available to older guards compared to previous years by giving the work to younger employees. This reduction of hours would have a negative effect on the calculation of retirement benefits. However, the type of relief the complainant seeks on this point is not within the jurisdiction of the Ethics Board. The Ethics Board hereby refers this point of the complaint to the City of Ocean City for it's own evaluation.
 - b. Additionally it should be noted that the 2009 changes eliminating the "tiered" re-qualifying test requirements for returning guards that were implemented by the OCBP were implemented only after the City Personnel and Legal departments challenged the past practice and raised concerns about the legal ramifications of a tiered system of test standards. The allegation that this change was implemented as an attempt to "get rid" of older guards has no reasonable factual basis as it pertains to the Ocean City Ethics Ordinance.

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- vii. Point 7 of the complaint - Use of Objectionable Language in public, including over the OCBP radio system. (see page 2, B.7)
 - a. Although the testimony of several member(s) of the OCBP (past and present) provided convincing substantiation of this point of the complaint, the type of relief the complainant seeks on this point is not within the jurisdiction of the Ethics Board. The Ethics Board hereby refers this point of the complaint to the City of Ocean City for it's own evaluation.

- viii. Point 8 of the complaint - Granting Unwarranted Privileges by purchasing boat oars manufactured by a company in which an OCBP employees have a financial interest. (see page 2, B.8)
 - a. As reported in section B.8.i on page 2, (and repeated here for simplicity):
 - 1) *The investigation of this point has revealed (via discussion with Mr. Joseph Clark, Ocean City Director of Procurement) that the purchase order was for "One of a Kind", boat oars, that the OCBP had previously tried and found to be superior. The total order price was less than that requiring competitive bids. Mr. Clark stated that the OCBP desire to purchase these oars was brought to his attention because of their superior performance and durability. The supplier of the oars is a company owned by the family of an employee of the Ocean City Beach Patrol, but Mr. Clark stated there was no conflict of interest since they were purchased through a an established independent distributor and not directly. Mr. Clark stated that the order was in compliance with all state and municipal codes.*
 - b. We therefore recommend that this part of the complaint against Chief Mullineaux be dismissed on the basis that the complaint is factually incorrect as it pertains to the Ocean City Ethics Ordinance

- ix. Point 9 of the complaint - Assignment of under qualified personnel to "life guard" and "medic positions". (see page 3, B.9)
 - a. The investigating team found no evidence of any unqualified or under qualified lifeguards or medics to any OCBP position. We therefore recommend that this part of the complaint against Chief Mullineaux be dismissed on the basis that the complaint has no reasonable factual basis as it pertains to the Ocean City Ethics Ordinance.

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- x. Point 10 of the complaint - Violation of Ocean City Personnel Policies, regarding the OCBP's hiring practices, and violation of both the USLA (United States Lifeguard Association) and the SJLCA (South Jersey Lifeguards Chiefs Association) regarding testing standards, and the retention of original testing documents. (see page 3, B.10)
 - a. The investigating team found that the type of relief the complainant seeks on this point of the complaint is *not within the jurisdiction of the Ethics Board*. The Ethics Board hereby refers this point of the complaint to the City of Ocean City for it's own evaluation.

- xi. Summary of Findings, Conclusions and Recommendations regarding the specific allegations against OCBP Chief of Operations Thomas Mullineaux:
 - a. **Based on the above, points 2 and 3 of the complaint found on pages 9 / 10 and 11 respectfully, the investigating team finds that OCBP Chief of Operations Thomas Mullineaux did violate section 2-15-5-B. Of the Ocean City Ethics Ordinance which states "No officer or employee (of the City of Ocean City) shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others". These violations occurred in 2007 and 2008, and new directives that should better insure full compliance with already existing OCBP policies and practices have been implemented in 2009, that along with improved oversight, should prevent future abuses.**

 - b. **The investigating team recommends the minimum penalty allowed by the Ocean City Ethics Ordinance of \$100.00 be levied on Chief Mullineaux for each violation along with any additional disciplinary action deemed appropriate by Chief Foglio. This \$200.00 in penalties should be made payable to the City of Ocean City and may be paid via payroll deduction.**

 - c. **Based on the above, points 5, 6, 7 and 10 of the complaint found on pages 12, 13, and 14, are not within the jurisdiction of the Ethics Board. The Ethics Board hereby refers these points of the complaint to the City of Ocean City for it's own evaluation.**

Respectfully Submitted.