



Palm Beach County Commission on Ethics

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September 19, 2011

William Orlove, Vice Mayor
City of Boynton Beach
100 E. Boynton Beach Blvd.
Boynton Beach, FL 33425

Re: RQO 11-083
Gift Law

Dear Vice Mayor Orlove,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion. The opinion rendered is as follows.

YOU ASKED in your email dated September 9, 2011, whether it violates the Palm Beach County Code of Ethics for you, in your official position as the Vice Mayor of Boynton Beach, to solicit donations from local businesses, if these items are solicited for a City-sponsored event. Additional information was provided to COE staff via supplementary email exchanges.

IN SUM, the Code of Ethics does not prohibit you from soliciting donations from local businesses in your official position as Vice Mayor of Boynton Beach, so long as the donations are given to the City for use in conducting its official business, including a City sponsored special event, and not based on any *quid pro quo* or other improper reason.

THE FACTS as we understand them are as follows:

You are the Vice Mayor of the City of Boynton Beach. Boynton Beach is planning a City sponsored event in which they will provide a complementary wedding for a couple. To this end, you wish to assist this effort by soliciting donations of wedding related goods and services from local businesses, within your official capacity as Vice Mayor. All donations will be accepted by the City through their Recreation Department, and given as a prize during the event. Some prize values may exceed \$100, and some donor businesses may be City vendors. No official or employee of Boynton Beach is eligible to enter the giveaway.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Code of Ethics:

Section 2-444(a)(1), *Gift law*, generally prohibits any county or municipal official or employee from soliciting or accepting any gift that is valued at greater than \$100, from any person or entity.... [that] is a vendor, lobbyist, principal or employer of a lobbyist. Similarly, Section 2-444(c) makes it a violation for any county or municipal official or employee...to knowingly solicit a gift of any value from a vendor...where such a gift is for the personal benefit of the official or employee, another official or employee, or any relative or household member of the official or employee.

Under the facts as you presented, these donations are not for the personal benefit of you or any other official or employee of the City, and are donated directly to the City Recreation Department for disbursement at a special event. As such, they are not considered to be prohibited gifts. Under the facts you presented, this is a City sponsored event; a government function which constitutes a public purpose. In several previous advisory opinions, this commission has opined that gifts solicited or accepted by a public official or employee on behalf of their government for use solely by that government entity for a public purpose are not considered gifts under the code.¹

Section 2-444(e) prohibits any person from giving an official or employee a gift, or for the official or employee to accept any gift, if given or accepted because of the performance of any past, present or future public action.

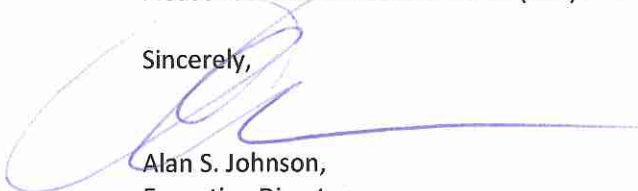
Under this provision, you must take care that the donations made by local businesses are not done based on any *quid pro quo* or other improper reason.

IN SUMMARY, the Code of Ethics allows you to solicit or accept donations from any local business, in your official capacity as Vice Mayor, so long as these donations are directed to the City, and used solely for a City purpose.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but 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 should you have any further questions in this matter.

Sincerely,



Alan S. Johnson,
Executive Director

ASJ/meb/gal

¹ RQO 10-027, RQO 10-040 §2-444(g)1e