

Meyers, Robert (COE)

INA 07-180

From: Meyers, Robert (COE)
Sent: Tuesday, December 11, 2007 10:11 AM
To: 'Nina L. Boniske'
Subject: RE: Miami Lakes Question

Hi Nina,

I checked our files and I found correspondence from Alison Bieler from 2002 which indicates she and I had a discussion about Terms of Office in Miami Lakes. I believe this centered on whether Councilmen Pizzi and Thomson could vote on an item related to the length of their respective terms. According to Alison's memo in our file, I advised her that Pizzi and Thomson could not participate in or vote on this matter. If we gave an opinion on Mayor Slaton's compensation package, I have not been able to locate it. Our office is generally pretty good about keeping track of the opinions we issue. We also tend to kick these things around and/or present them to the full Ethics Commission for consideration. I don't recall having such a conversation about Slaton's salary and benefits package and I can say with a high degree of confidence that this issue never was presented to the Ethics Commission.

As a general proposition, I would agree that permitting an election official to vote on a raise or better benefits package can be justified as compensation is tied to the office – not the person who is currently occupying the office. Obviously, one expects that such compensation decisions will be revisited from time-to-time for a variety of reasons and that shouldn't be a reason to prevent the incumbent from voting on his/her salary or benefits. The difficulty in this case is that Mr. Pizzi seems to suggest that the current mayor's compensation package is unique to him (akin to an employment contract) and a new agreement will be negotiated with the next mayor. If Pizzi is correct, then I would recommend that Mayor Slaton recuse himself when his salary and benefits are discussed. If, alternatively, such a discussion about the Mayor's compensation applies to the current mayor and all future mayors, I do not believe a voting conflict exists.

From a practical matter, Mayor Slaton may decide it is not in his best interest to participate or vote, but you have state law that supports the position that he can vote and I cannot find anything in our local ethics code that is more restrictive than state law on this subject. Mr. Pizzi mentions a County ordinance that forbids elected officials voting on their salaries, but I have no knowledge of such a law.

If you wish to discuss the above, feel free to contact me at your convenience.

Thanks,

Robert
 Robert Meyers, Executive Director
 Miami-Dade Commission on Ethics and Public Trust
 (305) 350-0613

From: Nina L. Boniske [mailto:NBoniske@wsh-law.com]
Sent: Monday, December 10, 2007 5:07 PM
To: Meyers, Robert (COE)
Cc: Nina L. Boniske
Subject: Miami Lakes Question

Hello Robert:

I am following up on our conversation this morning and last week regarding an item on our Town Council agenda tomorrow night.

The state law does not prohibit the vote. In fact, Section 112.313(5), Florida Statutes, provides "Salary and

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Expenses.-No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law." I have reviewed the notes in our file and it appears that our office did make contact with your office when the original ordinance approving a salary for the Mayor's position back in May/June 2001 and that we were advised at that time to have the sitting Mayor not participate based upon the Miami-Dade County ethics code. I could not locate any written correspondence between our offices on this subject.

You were going to check and see if you all had opined on this issue as I am not sure where in the County ethics code such a prohibition exist. Have you found anything on your end regarding this issue? Also, on the issue of the transportation allowance, the state law would not prohibit such a vote (see above 112.313(5)). Would the County ethics code prohibit it?

Thanks.

Nina Boniske



Nina L. Boniske, Esq.
Member

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