

ING 11-114

**From:** Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]  
**Sent:** Thursday, June 23, 2011 2:31 PM  
**To:** Lynn Dannheisser  
**Subject:** FW: Surfside Opinion Request

Hi Lynn:

Hope you are well. I received an e-mail earlier in the week from Vice Mayor Graubart wherein he expressed his concerns about an "anonymous" gift given to the Town of Surfside. Listed below is Victoria's analysis of the situation. This has also been sent to the Vice Mayor.

On another note, we were trying to schedule lunch with Buck Thornburg, but I don't recall when you are available. Do you have anytime next week? If not next week, then let's shoot for mid-July.

Robert

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**From:** Frigo, Victoria (COE)  
**Sent:** Thursday, June 23, 2011 2:10 PM  
**To:** Meyers, Robert (COE)  
**Subject:** RE: Surfside Opinion Request

Robert,

You asked for Ethics Commission opinions relevant to the issue brought by Surfside Vice Mayor Joe Graubart regarding a gift to the Town.

THE FACTS as related by the Vice Mayor are that the Town of Surfside has accepted a \$15,000 gift from Tony Murray, an individual who will be bringing a zoning matter related to the Grand Beach Hotel before the Town's Development Impact Committee, Planning and Zoning Board, and, finally, the Town Commission. The gift has been used to defray the \$10,000 cost of a recent Town fireworks display celebrating the opening of a new Community Center. The Commission did not approve accepting the gift.

UNDER THE COUNTY CODE, a municipality may accept a gift from an individual who is likely to have matters coming before the municipality as long as no quid pro quo has been arranged. The gift may be solicited by a municipal employee or elected official and must be used solely by the city in conducting its official business. Regarding the facts presented by Vice Mayor Graubart, as long as the additional \$5,000 not used for the fireworks display is used for other official Town business, the Town of Surfside appears to be in compliance with the County Code at Sec. 2-11.1 (e).

In RQO 05-119, the Village of Palmetto Bay was permitted to purchase a building to be used as a Village Hall. The market value of the building was far in excess of the price agreed upon with the seller, an individual who anticipated seeking future land-use decisions before the Village. The Village Council indicated that they could vote fairly and without bias on applications presented by the seller, irrespective of any gift the real estate transaction represented to the Village.

In RQO 02-70, the City of West Miami was allowed to accept monetary donations from a non-resident who owned substantial property in the City. The money was used for specific City projects and activities such as paying City Commissioners' travel expenses to attend "Dade Days" in Tallahassee. The City of West Miami was advised to establish a record of all donated monetary contributions that identified donors and the specific city project their donations defrayed.

If you or Vice Mayor Graubart have further questions, please feel free to call me.

Sincerely,

**VICTORIA FRIGO, STAFF ATTORNEY**  
MIAMI-DADE COUNTY COMMISSION ON ETHICS  
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**From:** Meyers, Robert (COE)  
**Sent:** Thursday, June 23, 2011 11:00 AM  
**To:** Frigo, Victoria (COE)  
**Subject:** FW: Opinion Request

Victoria:

Let's discuss. I believe that we have an opinion on this point. If memory serves me correctly, the City of West Miami was confronted with a similar situation.

Robert

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**From:** Joe Graubart [mailto:jgraubart@townofsurfsidefl.gov]  
**Sent:** Tuesday, June 21, 2011 4:30 PM  
**To:** Meyers, Robert (COE)  
**Subject:** RE: Opinion Request

**Dear Executive Director Myers:**

**A matter of great importance and concern has come to my attention and weighs very heavy on me. Additionally, several residents contacted me regarding this matter, and therefore I believe it incumbent upon myself to contact the Commission on Ethics and Public Trust. As always, I not only want to do the correct thing – but**

want to 'distance myself' from what might be wrong (illegal or unethical?) as well. Especially when considering your statement on the Commissions web site: "...can create an appearance of impropriety and contribute to the erosion of the public's trust."

Last Sunday, June 19, 2011 the Town of Surfside celebrated the "Grand Opening" and dedication of a new Community Center. Part of this celebration was a night-time fireworks show to end the day's events.

**My Concern:**

At the beginning of this month's Regular Town of Surfside Commission Meeting (June 14, 2011), I asked to have an agenda item (Resolution) # 3H titled: "...AFTER-THE-FACT EXPENDITURE FOR EXHIBITION AND DISPLAY OF FIREWORKS..." be 'pulled' from the "consent agenda" – for further discussion. This resolution was to approve an expenditure of \$10,000.00 – "The total cost of the agreement [with Zambelli] is \$10,000.00".

Town Manager Roger Carlton stated that we have an anonymous donor to pay for the fireworks – contributing \$15,000.00. I only learned of the identity of the donor after reviewing the "grand opening" pamphlet (copied and pasted below).

*Thank you Tony Murray of the  
Grand Beach Hotel Surfside  
For the Fireworks Display at 8:45 pm*

**What troubles and concerns me:**

This 'contributor' has a large hotel construction project that will come before the Town's:

- "DIC" (Development Impact Committee)
- "Planning and Zoning Board"
- And The Town's Commission for final approval.

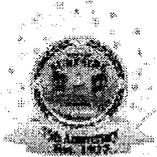
The first of these, the 'DIC' meets June 30, 2011 to "consider an application from MB Development requesting a 341 room hotel and parking garage to be located ...[Surfside]"

**I have no evidence of any wrong doing; and actually doubt there is (I am not trained to pass judgment upon these matters) – however, in many respects, this certainly appears to, as you state: “... create an appearance of impropriety and contribute to the erosion of the public’s trust.” Simply, I do not like or approve of accepting this type of contribution – especially without Commission approval. Obviously, I would have NOT voted in favor of this. If it were Publix, CostCo, or other similar organization – there would be no particular concern.**

**An ‘opinion’ on this from The Commission on Ethics and Public Trust will put me at ease. Perhaps there are several similar cases that have set precedent?**

**Thank you for your help and consideration and best wished for a bright future.**

**Best regards,**



**Joseph 'Joe' Graubart**

Vice-Mayor

Town of Surfside

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