
From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, July 13, 2015 9:14 AM
To: Sanchez, Rodzandra (COE)
Subject: Daniel Dietch, Mayor, Town of Surfside (Voting Conflict - Follow-up INQ 15-74) INQ 15-144

INQ 15-144 Miller

From: Linda Miller [mailto:lmiller@townofsurfsidefl.gov]
Sent: Wednesday, July 08, 2015 4:33 PM
To: Centorino, Joseph (COE)
Cc: Diaz-Greco, Gilma M. (COE); Perez, Martha D. (COE)
Subject: RE: INQ 15-144 Daniel Dietch, Mayor, Town of Surfside (Voting Conflict - Follow-up INQ 15-74)

Joe:
Thank you. I most appreciate your advice and opinion.
Linda

From: Centorino, Joseph (COE) [mailto:CENTORI@miamidade.gov]
Sent: Wednesday, July 08, 2015 4:28 PM
To: Linda Miller
Cc: Diaz-Greco, Gilma M. (COE); Perez, Martha D. (COE)
Subject: INQ 15-144 Daniel Dietch, Mayor, Town of Surfside (Voting Conflict - Follow-up INQ 15-74)

Ms. Miller,

You have requested a follow-up opinion on behalf of Surfside Mayor Daniel Dietch to INQ 15-74, regarding whether he may have a voting conflict on participating and voting on the attached Traffic Management Plan-Long Term Solutions – 9500 Block of Byron Avenue. While this is an aspect of an overall traffic plan for Surfside, it is my opinion that since this particular phase is centered on the 9500 block of Byron Avenue and is in close proximity to the Mayor's residence at 9372 Byron Avenue, I would again recommend that Mayor Dietch recuse himself from participating in or voting on this measure. As I indicated in my earlier opinion regarding a related issue, this is a fairly close call, and certainly the Mayor should be involved in items that concern the overall traffic plan for the Town. However, given the proximity of these changes to his personal residence and the focus of these changes on that part of Byron Avenue where he resides, Mayor Dietch should not vote on this matter.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Linda Miller [mailto:lmiller@townofsurfsidefl.gov]
Sent: Tuesday, July 07, 2015 5:27 PM
To: Centorino, Joseph (COE)
Subject: Follow-up INQ 15-74 Daniel Dietch, Mayor, Town of Surfside (Voting Conflict)

Dear Joe:

Thank you for today's telephone discussion. Per our conversation, I have forwarded your below opinion dated April 24, 2015 as well as the previous attachment dated February 10, 2015. I have also provided a new attachment (Town of Surfside Commission Communication dated July 14, 2015 related to the Traffic Management Plan-Long Term Solutions -9500 Block of Byron Avenue). I request further clarification and follow-up to your below email dated April 24, 2015 (INQ 15-74) on whether there is a conflict of interest for Mayor Daniel Dietch, who lives at 9372 Byron Avenue to participate and vote at the July 14, 2015 Town Commission Meeting on the Traffic Management Plan Agenda item. I await your reply. Thank you.

Sincerely,
Linda

From: Centorino, Joseph (COE) [<mailto:CENTORI@miamidade.gov>]
Sent: Friday, April 24, 2015 10:42 AM
To: Linda Miller
Subject: INQ 15-74 Daniel Deitch, Mayor, Town of Surfside (Voting Conflict)

Ms. Miller:

As Town Attorney for the Town of Surfside, you have inquired on behalf of Mayor Daniel Dietch regarding whether he has a voting conflict of interest in connection with the Town Commission's anticipated consideration of and vote on a traffic plan of action that would have a direct impact on Byron Avenue, the street where Mayor Dietch lives in the Town of Surfside. The action relates to a plan outlined in the attached correspondence, which seeks to address increased traffic flow on Collins Avenue and Harding Avenue that is causing increased traffic into the nearby residential neighborhood, and, specifically, on Byron Avenue. The plan includes a number of components that would directly affect Byron Avenue and lead to the expenditure of public funds for various changes on Byron Avenue in the vicinity of the 9300 block that would lead to the closing of Byron Avenue and making it a dead end street with vehicular access from the south. The Mayor resides at 9372 Byron Avenue. Byron Avenue is approximately 8 blocks long and has less than 100 houses on it, based on information that you have provided. The entire Town of Surfside is only about 1 square mile. It is likely that any significant redirection of traffic on a given street will have an impact on other streets in the neighborhood and, to some extent, on the entire Town.

This is a fairly close issue due the small size of the Town and the interrelated impacts that virtually any traffic plan of action would have on the entire town. As an elected official, Mayor Deitch or any other elected official on the Town Commission has an obligation to address issues of general concern and impact in the town. There is no suggestion that Mayor Dietch has exercised any disproportionate influence on the development of the proposed changes to Byron Avenue that are under consideration.

Based on the information we have received, I think there may be a voting conflict for Mayor Dietch to be involved in participating and voting on an issue that directly relates to traffic plan changes on the street where he resides. In general, I would analogize this to the voting by a public official on a zoning change that might affect his or her property in a way distinct from most of the community. There are opinions from this office and from the State Commission on Ethics that suggest that where the official involved may be voting on a zoning matter that has a direct impact on a group of homes or properties, and where the official is part of a class of affected properties and owns more than 1% of the properties subject to the impact, that a voting conflict occurs.

Section 2-11.1(d) of the County Ethics Code is very strict in defining a voting conflict where a voting official "might, directly or indirectly, profit or be enhanced by the action of the Board..." If there is a vote that is specific to changes on Byron Avenue, then I suggest that the Mayor recuse himself from participating in or voting on that issue. On the other hand, if there is discussion or a vote on an overall traffic plan for the Town, of which Byron Avenue is only one aspect, then I think that the voting conflict prohibition would likely not apply.

If you have any further questions about this matter, please feel free to call me.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Linda Miller [<mailto:lmiller@townofsurfsidefl.gov>]
Sent: Thursday, April 23, 2015 5:34 PM
To: Centorino, Joseph (COE)
Subject: Surfside Traffic-April 27-2015

Dear Joe,

I request your opinion on the following situation. The Town is experiencing increased traffic on Collins Avenue and Harding Avenue in Surfside. Please see the attached Commission Communications dated February 10, 2015 and April 14, 2015 from the Town Manager, Guillermo Olmedillo and Chief of Police, David Allen regarding a Traffic Plan of Action. Drivers have learned that they can avoid the backup on Collins Avenue and Harding Avenue by travelling west into the residential neighborhood and north and south on Byron Avenue. One proposed action of the traffic plan of action would include that the 9300 block of Byron Avenue will become a dead end street with vehicular access from the south.

On April 14, 2015, the Town Commission voted to hold a special Town meeting to discuss the traffic plan of action. A resident, Dr. Elizabeth Levine stated during public comment that Mayor Daniel Dietch, who lives at 9372 Byron Avenue should recuse himself from voting on the traffic action plan at the special Town meeting which is scheduled for Monday, April 27, 2015 at 6:00 p.m. For reference here is the link for the motion for the special Town meeting at approximately 3:51 of the video. <http://view.earthchannel.com/PlayerController.aspx?&PGD=surfsidefl&eID=189>

Chief David Allen has stated that neither he, nor any representative from the Town, contacted the Mayor or any member of his family to discuss the traffic action plan. Please advise whether in your opinion there is a conflict of interest for the Mayor to participate and vote at the April 27, 2015 Special Town Commission Meeting. I await your reply. Thank you.

Sincerely,

Linda



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