
INQ 16-82 Welsh

Mr. Pepe:

You have inquired in your capacity as City Attorney for the City of South Miami regarding whether City Commissioner Bob Welsh may participate and vote on a resolution before the City Commission for the City to donate funds to a non-profit of which Commissioner Welsh's wife is a volunteer officer and from which she does not receive any compensation. Commissioner Welsh himself holds no office and has no employment with the non-profit organization in question, and neither he nor his wife stand to reap any financial gain from the action.

Section 2-11.1(d) of the County Ethics Code provides that there could be a voting conflict of interest where the officer in question holds one of the enumerated relationships with an entity affected by the action, directly or indirectly, or where that official "might, directly or indirectly, profit or be enhanced by the action of the board." Only the latter requirement could possibly apply here, although it seems unlikely inasmuch as neither Commissioner Welsh nor his wife appear to have either a potential private financial benefit or some special enhancement from an action that would benefit this non-profit organization. You should be made aware, however, that the County voting conflict standard is stricter than the voting conflict standard under Chapter 112, State Statutes, which requires a special private benefit, usually financial, to apply. If an official would be personally enhanced in some special way by a vote, then that provision could apply, even in the absence of a financial benefit. Under these circumstances, Mr. Welsh should ask himself whether there is any such special enhancement from which he could benefit before voting on this issue. However, given the facts which you have provided, there is no objective basis on which I could find a voting conflict of interest.

Sincerely,

Joe Centorino

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
ethics.miamidade.gov



From: Thomas Pepe [<mailto:tpepe@southmiamifl.gov>]
Sent: Wednesday, March 02, 2016 8:40 AM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: Voting Conflict re spouse who is an officer

Dear Ms. Diaz-Greco:

City Commissioner Harris has proposed a resolution to donate to a non-profit of which Commissioner Welsh's wife is a volunteer officer of this non-profit and she does not receive any compensation for her work. It does not appear that Commissioner Welsh would be allowed to abstain since he does not have any of the prohibited relationships with the non-profit, such as officer, stockholder, etc., and there is no reference in the County or City ordinance that I have found that include a prohibition if the commission member's spouse holds such a prohibited office.

Is there a provision that I am overlooking or an opinion that has been rendered that finds that a spouse that holds one of those offices constitutes a conflict of interest so as to prohibit Commissioner Welsh from participating and voting on this item?

Thank you.

Thomas F. Pepe

City Attorney
City of South Miami
1450 Madruga Avenue, Ste 202,
Coral Gables, Florida 33146
Tel: (305) 667-2564
Fax: (305) 341-0584
E-mail: tpepe@southmiamifl.gov

ATTENTION: This e-mail may contains PRIVILEGED AND CONFIDENTIAL INFORMATION intended only for the use of the addressee named above. If you are not the intended receiver, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone, call collect if outside of your area code and delete this e-mail. We will reimburse you for the cost of your long distance call. Thank you. Please also note: All e-mails to and from this e-mail site are kept as a public record. Your e-mail communications, including your e-mail address may be disclosed to the public and media at any time pursuant to Florida Statutes, ch. 119.