

Message

**Meyers, Robert (COE)**

INFO 05-07

31

**From:** Meyers, Robert (COE)  
**Sent:** Friday, January 14, 2005 3:54 PM  
**To:** 'David M. Wolpin'  
**Subject:** RE: Advice on Ethics Issue

David,

After speaking with Christina Prkic, she and I agree that it would be a conflict of interest under 2-11.1(j) because his outside employment activities could create a substantial impairment between his public duties and private interests. We do not see a violation of (c) due to the fact he is not contracting directly with his municipality.

If you have any questions or wish to discuss the above, please feel free to contact me at your convenience.

Happy New Year to you as well!

Robert

-----Original Message-----

**From:** David M. Wolpin [mailto:DWolpin@wsh-law.com]  
**Sent:** Wednesday, January 12, 2005 1:57 PM  
**To:** rmeyers@miamidade.gov  
**Subject:** Advice on Ethics Issue

Hi Robert- I hope that your New Year is going well so far.

I would appreciate your informal staff advice on the following matter under sec. 2-11.1 of the County Code.

Would a municipal police officer of a patrol rank, who is assigned to traffic duties, be barred from working an outside employment

which consists of driving a tow truck, where the towing company that he wants to work for is a company that has an existing publicly bid contract with his own municipality for police department towing requirements. Although one approach may be to find that only the disclosure requirement of sec. 2-11.1 (f) is applicable, it seems to me that the better view likely is that this outside employment is barred by sec. 2-11.1 (c) (1) and (J). As to (J), as a traffic officer, he may have to call for and monitor other tow truck drivers from the Company as they remove vehicles. As to (c) (1), he would be transacting business with the Company as a part time employee or independent contractor of the Company, under circumstances in which that Company may be viewed as being an agency acted on behalf of the municipality. Under the public records law, companies towing for police departments have been treated as "acting on their behalf". See Fox v. News- Press Publishing Company, Inc., 545 So.2d 941 (Fla. 2d DCA 1989) (towing company contracted for vehicle removal from streets is performing governmental function under Chapter 119, F. S.). Please advise me of your thoughts on this. Thanks very much for your assistance, as usual.

David M. Wolpin, Esquire  
 Weiss Serota Helfman Pastoriza  
 Guedes Cole & Boniske, P.A.  
 2665 South Bayshore Drive, Suite 420  
 Miami, Florida 33133  
 Telephone: (305) 854-0800  
 Facsimile: (305) 854-2323  
 Email: [dwolpin@wsh-law.com](mailto:dwolpin@wsh-law.com)

This message, together with any attachments, is intended only for the addressee. It may contain information which is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, use or any action or reliance on this communication is strictly prohibited. If you have received this email in error, please notify the sender immediately by telephone at (305) 854-0800 or by return email and delete the message along with any attachments.

1/14/05