

**Meyers, Robert (COE)**

JNQ 06-111

**From:** Meyers, Robert (COE)  
**Sent:** Tuesday, August 01, 2006 4:10 PM  
**To:** Meyers, Robert (COE)  
**Subject:** RE: Inquiry

Updating this inquiry on August 1, 2006. The additional facts are that an elected official has been sued for damages and the municipality has concluded the official acted in her official capacity. The question is whether she can participate in and vote on the question of pre-payment of her legal fees, as opposed to post-payment of the fees. I spoke to Chairman Rosenthal and Victoria Frigo and we agreed that the matter was an emergency that required preliminary review prior to our meeting on the 29<sup>th</sup> of August, due to the fact that the official has already been sued – an answer is due before our next meeting -- and her council meets tonight to discuss this matter. Our conclusion was that due to the fact she stands to personally gain from this agenda item (fees paid up front versus being reimbursed), she should not participate in or vote on this matter.

Robert Meyers

**From:** Meyers, Robert (COE)  
**Sent:** Monday, July 31, 2006 3:45 PM  
**To:** Meyers, Robert (COE)  
**Subject:** Inquiry

I spoke to Christina Prkic (Weiss Serota) on July 31, 2006 and she wanted to know whether there was a voting conflict for an elected official to participate in and vote on the reimbursement of that official's legal fees arising out of a complaint filed against this official acting in his/her official capacity. Ms. Prkic advised that the State Commission has an opinion on point and permits officials to vote due to the fact state law allows local governments to fully reimburse their elected officials when charged in their official capacity if the charges are dismissed. I opined that as long a determination had been made by the city that said elected official had acted in his/her official capacity, the only remaining concern I had was whether the legal fees were subject to negotiation. In other words, if the official simply submits the bill to be paid in full, ratification by the commission/council would not present a conflict if the official participates and votes. However, if there is any discretion that rests with the board in terms of paying a portion of the bill or the total bill, then the official should not participate or vote.

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7/31/2006