

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Wednesday, February 22, 2006 11:22 AM
To: John Hearn
Cc: Meyers, Robert (COE)
Subject: INQ 06-24 Ex Parte Jennings Rule

MEMO
COMMISSION ON ETHICS & PUBLIC TRUST

TO: John Hearn, City Attorney for Doral
COPY: Robert Meyers
FROM: Victoria Frigo
DATE: February 22, 2006
RE: INQ 06-24 Jennings ex Parte Communication

Dear John:
In your e-mail of February 21, 2006, you ask the following:

QUESTION:

If a mayor has recently had an ex parte communication with a resident regarding a specific issue that is soon to be voted on, may the mayor vote on the matter if he discloses the details of the ex parte conversation (by providing e-mails and other forms of evidence of the general nature of the discussion)?

ANSWER:

There is a rebuttable presumption that public officials can remain impartial and unbiased on issues up for vote in spite of unanticipated meetings with residents who voice their concerns ex parte.

In the case as you've presented it, the mayor did not indicate to the resident how he would vote on the matter they discussed, and the mayor believes he was not prejudiced by the conversation. Most commentators would agree that, under those circumstances, the mayor need not refrain from voting. However, as soon as the item is on the floor, the mayor should disclose in detail the specific elements discussed in the ex parte communication.

I have consulted with Robert Meyers on your question, and he agrees with this interpretation of the Jennings rule.

2/22/2006

Frigo, Victoria (COE)

From: attyhearn@aol.com
Sent: Tuesday, February 21, 2006 1:23 PM
To: Frigo, Victoria (COE)
Subject: Jennings

Victoria, Thanks for your prompt assistance today re Jennings issue. Can you also confirm for me Robert Meyer's understanding that if Jennings is violated the steps are to inform all parties of details, provide e-mails etc; but that does not allow subject commissioner to not vote on item. Thanks.

John J. Hearn, Esq.

2/22/2006