

Meyers, Robert (COE)

INQ 06-34

From: Meyers, Robert (COE)
Sent: Wednesday, March 08, 2006 4:32 PM
To: 'Christina Prkic'
Subject: Your inquires

Hi Christina,

This is to respond to your two inquiries – one fairly general and the other rather specific. Regarding the general question, you wanted to know whether our office has issued any opinions on the subject of an attorney appearing before a council/commission/board when one of the members has retained that attorney to represent his/her interests as a private citizen. Our office has two opinions on point (INQ 04-20 and INQ 06-18). INQ 04-20 stands for the proposition that an elected official must recuse himself/herself from participating in and voting on a matter only in circumstances when the official's private legal counsel is appearing in front of the board on behalf of a third party when such representation is related to scope of the legal services provided to the elected official. In other words, if an elected official retains an attorney for a zoning matter, then the elected official should absent himself/herself from the proceedings if the very same attorney is representing another client on a zoning matter. By the same token, once the attorney ceases to provide legal services to the elected official, then recusal is no longer necessary. INQ 06-18 found that an elected official may hire an attorney and that attorney may appear before the official's board without triggering a recusal provided the attorney is representing the elected official on matters unrelated to the issue presented to the official's board.

Your second question involves any potential conflicts that Councilman Meador may have in the Town of Miami Lakes connected to a zoning item likely to come before Town Council. You advised me a corporate park in Miami Lakes is being considered as a possible site for a charter school and that Mr. Meador's wife and her family, through some type of corporate entity, own a significant portion of the land located in the corporate park and also have substantial real estate holdings adjacent to the corporate park. Further, you indicated that Councilman Meador serves as unpaid in-house/general counsel to this corporate entity. Finally, you stated that the corporation is opposed to the creation of a charter school at the site.

Based on the facts you have provided, Councilman Meador has a voting conflict that would prohibit him from participating in any stage of the process in the matter involving the charter school petition. I find his role as legal counsel to the abovementioned corporation establishes a voting conflict because it is one of the defined enumerated relationships in specifically identified in County Code Section 2-11.1(d). Therefore, this relationship should elicit a recusal on his part if the corporation appears before the Town Council. Secondly, an elected official may have a voting conflict if that official is likely to be affected in a manner distinct from the manner in which it would affect the public generally or if the official stands to profit from or be enhanced by the action of the governing body. Given the fact Councilman Meador's wife has a controlling financial interest in the corporate park itself and the surrounding property, it is reasonable to conclude that any action taken by the Town concerning the charter school application will distinctly impact Councilman Meador.

If you wish to discuss in greater detail, please contact me at your convenience.

Robert

3/8/2006