

ETHICS OPINION
Office of the City Attorney

TO: Mayor Scott Brook
FROM: John J. Hearn, City Attorney
RE: Attending the 2020 Smart City Summit & Expo in Taipei, Taiwan
DATE: January 14, 2020

You have asked if you may attend the 2020 Smart City Summit & Expo in Taipei, Taiwan from March 24, 2020 through March 27, 2020. The Summit & Expo is organized by the Taipei city government and the Taipei Computer Association (Organizers). While there, you will be visiting several governmental and non-governmental organizations and interacting with other mayors and officials. You will also be addressing and discussing smart city models. In addition, you will be making a speech on city social media management. The Organizers have offered to reimburse you for Premium Economy airfare and four nights hotel accommodation. In addition, the Organizers are providing for your attendance at VIP activities, including the opening ceremony, welcome lunch, Taipei Night, a real-site demo tour and a cultural tour.

The City's relationship with the Taiwanese community goes back to 1995 when the City created the Multi-Cultural Committee, which ultimately led to contact with the Coral Springs Chinese Cultural Association. This relationship solidified as the City participated in their Chinese New Year and they participated in City events. The Chinese Cultural Center has been available to the City to host various events.

TECO (Taiwan Economic and Cultural Office) in Coral Gables soon became part of this association. The City was often invited to their Annual Double Ten Celebrations in Coral Gables and here locally at their Chinese Cultural Center in Coral Springs. The Director General of TECO and his associates continue to attend the City's International Dinner Dance, representing the Chinese community. TECO also serves on the City's World fest Planning Committee and actively participates in the annual Worldfest celebrations.

Two years ago, TECO approached the City about partnering with them and the Coral Springs Chinese Cultural Association in celebrating Taiwan Day. The City arranged for this to be hosted at the N.W. Regional Library. The most recent Taiwan Day was celebrated there on October 23, 2019. Further, there have been discussions with TECO and local Chinese Cultural Association about developing a sister city relationship with the City of Coral Springs.

If these facts are incorrect or inaccurate in any way, please let us know, because it will affect the opinion that we give.

The Broward County Code of Ethics provides that Municipal Elected Officials "shall not accept gifts, directly or indirectly, regardless of value" from any lobbyist registered with the City, from any principal/employer of any such lobbyist, or from vendors or contractors of the City. Section 1-19(c)(1)a., County Code of Ordinances. Commissioners may accept gifts in an "official capacity" from "other sources" up to \$50.00 per occurrence. "Gift" is defined in accordance with Chapter 112, Florida Statutes.

Section 1-19(c)(1)b., County Code of Ordinances. "Gift" does not include anything provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization. Section 112.312(12)(b)(8), Florida Statutes.

The Organizers are not lobbyists, vendors or contractors of the City. The Broward County Ethics Ordinance limits gifts given to municipal elected officials in their official capacity from "other sources" up to \$50.00. Therefore, you may only accept a gift relating to the Summit & Expo (including travel expenses, accommodations, and registration fees) from the Organizers up to \$50.00.

Please note that the Taipei city government does not fall within the organizational exception under Section 112.312(12)(b)(8). While the Florida League of Cities and the Broward League of Cities are qualifying organizations, the Taiwan city government is an international municipality and not a state, regional or national organization.

Our office conducted further research to ascertain whether your attendance at the Seminar would be considered an honorarium under state law, and not a "gift," since you would be participating as a speaker and in other events.

Under Section 112.312(12)(b)(3), Florida Statutes, "Gift" does not include "[a]n honorarium or an expense related to an honorarium event paid to a person or the person's spouse." Florida Commission on Ethics Rule 34-13.220 fully defines an "honorarium." Under that definition, an honorarium is defined as "[a] speech, address, oration, or other oral presentation by the reporting individual or procurement employee. . . ." An honorarium does not include the payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual or procurement employee and spouse.

However, under subsection (3), to the extent that the transportation, lodging, and food and beverages provided or paid for exceed "actual and reasonable expenses," this amount constitutes an honorarium. Factors which the Commission will consider in

determining the reasonableness of honorarium event related expenses¹ include, but are not limited to:

- (a) The distance the reporting individual or procurement employee was required to travel to attend the event or function;
- (b) The mode of transportation which was utilized by the reporting individual or procurement employee to travel to and from the event or function;
- (c) The length of the speech or oral presentation made by the reporting individual or procurement employee;
- (d) The length of the event or function where the reporting individual or procurement employee spoke;
- (e) The time of day that the reporting individual or procurement employee made the speech or oral presentation;
- (f) Participation by the reporting individual or procurement employee at other events or presentations reasonably necessary to the presentation made by the reporting individual or procurement employee; and
- (g) Whether the honorarium event related expenses received by the reporting individual or procurement employee are comparable to expenses incurred by other persons attending the event.

Applying these factors, it appears that payment of your airfare, hotel, food and transportation expenses by the Organizers in this case would likely constitute an honorarium, since you have received an invitation to be a speaker and would be involved in other events, you would have to travel internationally to the Summit & Expo, your participation is particularly significant where the City and the Taiwan Economic and Cultural Office have a longstanding and ongoing professional relationship, and there is no indication that your travel expenses are not comparable to expenses incurred by other persons attending the event.

In a similar situation regarding acceptance of international travel expenses, Mayor Gold obtained an informal opinion from the Florida Commission on Ethics. The Broward County Inspector General's Office has previously advised that obtaining an informal opinion from the Florida Commission on Ethics exhausts all available resources, and that relying on such an opinion is reasonable. Therefore, we also sought an informal opinion from the Florida Commission on Ethics regarding your attendance at the Summit & Expo.

In response to our request, our office received the attached information opinion from the Florida Commission on Ethics. The opinion concludes that your airfare and hotel expenses related to the Summit & Expo qualify as honorarium expenses. However, the opinion provides that only those other expenses included in the registration fee qualify as honorarium expenses. We have reviewed the materials provided by the Organizers as it relates to the VIP activities (including opening ceremony, welcome lunch, Taipei Night, real-site demo tour and cultural tour). Based upon our review, the opening ceremony may

¹ "Honorarium event" is defined as "a meeting or function, or a series of related meetings or functions such as a convention held over several days, where the reporting individual or procurement employee has been invited to make a speech, address, oration, or other oral presentation . . ." *Florida Commission on Ethics Rule 34-13.230*.

be considered part of the registration fee as it is a required activity. The welcome lunch is also an allowable honorarium expense. However, you will need to confirm if the Taipei Night, real site demo tour and cultural tour are included in the registration fee. If so, these are also allowable honorarium expenses. If any one of these are not included in the registration fee, it is considered a "gift" and you will need to determine the value of the event. If any of these events has a value of over \$50.00, you would need to reimburse the Organizers any amount over \$50.00 for each event within 90 days of each event.

In conclusion, based upon our review of state law and the ethics opinion we received, you may accept the airfare, hotel, food and transportation expenses provided by the Organizers. You may also attend the opening ceremony as it is a required activity for the Summit & Expo and therefore may be considered to be included in the registration fee. However, as detailed above, you will need to confirm if the Taipei Night, real site demo tour and cultural tour are included in the registration fee.

If you need additional guidance regarding this matter, please feel free to contact my office.

Opinion 2020-001

Doc. 133920



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January 10, 2020

Mr. John J. Hearn

Transmitted via email to: jhearn@coralsprings.org

Re: Your inquiry received on January 6, 2020

Dear Mr. Hearn:

This is in response to your above-referenced inquiry that you, the City Attorney for the City of Coral Springs, have brought on behalf of Scott Brook, the City's Mayor. In your inquiry, you ask about the applicability of Section 112.3149, Florida Statutes (the Honoraria Law) to an upcoming trip the Mayor may take to Taiwan.

You state that the City has long had a close relationship with the Taiwanese community, resulting in the City creating a Multi-Cultural Committee focusing on Taiwanese residents, partnering with various cultural groups to hold events, and attending events sponsored by the Chinese Cultural Center. You relate that, given this close relationship, the Mayor has been invited to attend and speak at a summit and exposition in Taiwan. You indicate the summit and expo are being organized by the City of Taipei and the Taipei Computer Association (hereinafter "the organizers"), neither of whom are lobbyists¹ or vendors of the City, or political committees. You state the Mayor will have several obligations if he attends the summit and exposition, including delivering a speech on city social media management, addressing and discussing smart city models, and interacting with mayors and officials at events sponsored by governmental and non-governmental entities.

¹ It is assumed for the guidance given herein that the organizers are also not the employers, principals, partners, or firms of lobbyists who lobby the City.

You indicate the organizers have offered to provide the Mayor's airfare to, and hotel accommodations while in, Taiwan, in particular a Premium Economy airfare ticket and four nights at a hotel. You also state the organizers also would like to cover (pay for) his attendance at several VIP activities related to the summit and exposition. You relate these activities are the opening ceremony, welcome lunch, attendance at "Taipei Nights," a real-site demo tour, and a cultural tour. Importantly, from what you indicate, the Mayor did not solicit or ask the organizers to provide any accommodations for travel, hotel, or activities; rather, the organizers have offered them to the Mayor in the event that he agrees to attend the summit and exposition.

As a reporting individual—meaning an individual required by law to file a full or limited public disclosure of his financial interests (Section 112.3149(1)(c), Florida Statutes)²—the Mayor is subject to the provisions in Section 112.3149, Florida Statutes, which governs the solicitation, acceptance, and disclosure of honoraria. An "honorarium" is defined in Section 112.3149(1)(a), Florida Statutes, as

... a payment of money or anything of value, directly or indirectly, to a reporting individual [,] or to any other person on his or her behalf, as consideration for:

1. sA speech, address, oration, or other oral presentation by the reporting individual or procurement employee, regardless of whether presented in person, recorded, or broadcast over the media.
- 2.s A writing by the reporting individual or procurement employee, other than a book, which has been or is intended to be published.

Specifically excluded from the definition of an "honorarium" are honorarium event-related expenses, which are "the payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual[.]" See Section 112.3149(1)(a).

According to the statute, as a reporting individual, the Mayor is prohibited from soliciting an honorarium related to his public position (Section 112.3149(2)) as well as from accepting an honorarium from a political committee, a vendor doing business with his agency, or a lobbyist—or employer, principal, partner, or firm of a lobbyist—of his agency. See Section 112.3149(4). However, he is permitted to accept honorarium event-related expenses, as long as he reports any event-related expenses coming from one of the sources identified in Section 112.3149(4) on a CE Form 10.

² The statutes, rules, opinions, and Commission forms cited herein are available at www.ethics.state.fl.us.

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Considering that the Mayor is expected to speak while at the summit and exposition, it appears the payment for his airfare to Taiwan and four-days of hotel accommodations may be considered honorarium event-related expenses. In addition, if the VIP activities which the organizers have offered to cover are included in a registration fee for the summit and exposition, payment for these activities also appears to fall within the definition of honorarium event-related expenses. Moreover, because you indicate that neither of the organizers are lobbyists³ or vendors of the City, or political committees, there is no reporting obligation if the Mayor accepts any honorarium event-related expenses they may offer.

However, it should be noted that if the VIP activities are not covered by a registration fee, they will fall outside the definition of an honorarium event-related expense. It is recommended, in that instance, that the payment for the VIP activities be considered a "gift"—as that term is defined in Section 112.312(12), Florida Statutes—and it is further recommended that, in the event that the cost of an activity exceeds \$100, the Mayor report the activity as a gift from the organizers on a CE Form 9 (Quarterly Gift Disclosure).⁴ See Section 112.3148(8), Florida Statutes. In other words, the payment for the activities can be accepted, but may need to be reported. Of note, this guidance just pertains to VIP activities not covered by a registration fee; any VIP activities covered by a registration fee—as well as payment for airfare and hotel accommodations—may be considered honorarium event-related expenses, as previously described.

If I have misinterpreted any information you relayed to me, please let me know soon in writing. Should you have further questions regarding the guidance herein, please do not hesitate to contact me.

Sincerely,

Gray Schafer

Gray Schafer
Senior Attorney
Florida Commission on Ethics
(850)-488-7864

³ Again, it is assumed for the guidance given herein that the organizers are not the employers, principals, partners, or firms of lobbyists who lobby the City.

⁴ The CE Form 9 is a quarterly form on which reporting individuals, such as the Mayor, must disclose gifts received during the previous calendar quarter that are valued in excess of \$100.