

MEMORANDUM

TO: Commissioner Barbara Sharief

FROM: Rocio Blanco Garcia, Assistant County Attorney

DATE: October 5, 2020

RE: **NHL All-Star Game Tickets**
CAO File 20-03E

During a Board meeting earlier this year, you expressed an interest in attending the 2021 NHL All-Star Game and directed our Office to research whether attendance by Commissioners would raise any ethical concern given the County's ownership of the arena and its contractual dealings with certain entities involved in the event, including the Florida Panthers ("the Panthers").

Below, we analyze different scenarios under which a Commissioner obtains an admission ticket and the ethical implications of each.

1. Commissioner Purchases an Admission Ticket at the Same Price and Under the Same Terms and Conditions as Members of the Public.

The purchase of a ticket by a Commissioner under the same terms and conditions as all other members of the public does not raise any ethical concerns.

The County and State Codes of Ethics limit the gifts elected officials may receive. "Gift" is generally defined as anything of value for which equal or greater consideration is not given within 90 days. If you purchase a ticket for the same amount and on the same terms as any other member of the public, equal consideration would have been given for the ticket and no gift would have been received.

2. Commissioner Receives Free Tickets or Some Other Preferential Treatment.

With limited exceptions not applicable here, the County's Code of Ethics prohibits Commissioners from accepting any gift from a contractor, vendor, lobbyist, or principal of a lobbyist (collectively, "prohibited donors") if the value of such gift exceeds \$5. The Panthers is a County contractor. Commissioners may accept gifts from other sources up

to \$50 in their official capacity. There are no limits on gifts from other sources where the gift is given in the Commissioner's personal capacity, though the gift may require a Florida Commission on Ethics Form 9 disclosure (quarterly gift disclosure; <http://www.ethics.state.fl.us/Documents/Forms/Form%209.PDF?cp=2020924>).

In light of this, if the Panthers or any other prohibited donor were to offer you a ticket, you would not be able to accept it, for the value of a ticket to the NHL All-Star Game will inevitably exceed \$5. Even if the ticket is offered by a person or entity who is not a prohibited donor, you would not be able to accept the ticket if the ticket is given to you in your capacity as Commissioner and the value exceeds \$50, which is also likely (in this instance, you would be required to reimburse an amount equal to the value less \$50). While you would be able to accept a ticket from a person or entity who is not a prohibited donor if the ticket is given to you in your personal capacity (e.g., a lifelong friend), you would have to disclose such gift if the value of the ticket exceeds \$100.

3. County Provides a Free Ticket to a Commissioner Working the Event.

Section 112.3148(6)(a), Fla. Stat. allows counties to give gifts to elected officials if a public purpose can be shown for the gift. A Commissioner's engagement with business leaders at a County venue (the arena) and the promotion of the County's attractions and interests serves a public purpose. Therefore, if you were to attend the 2021 NHL All-Star Game on behalf of the County to promote the County's interests and foster relationships with community leaders, you could receive a ticket from the County without incurring a reimbursement obligation. However, if the value of any ticket received from the County exceeds \$100, you would have to disclose such gift in Florida Commission of Ethics Form 10 (annual disclosure of gifts from governmental entities; <http://www.ethics.state.fl.us/Documents/Forms/Form%2010.PDF?cp=2020924>).

Where the County wants one or more of its Commissioners to "work the event" on behalf of the County, the County could either purchase tickets in the open market and give them to those working the event, or the County could obtain the tickets pursuant to an agreement with the event organizers, including through a sponsorship agreement. Though the County has an agreement with the Panthers and other entities that relates to the 2021 NHL All-Star Game, that agreement does not currently provide a mechanism for the County to obtain tickets. The agreement could be amended, however, should the County deem it in its best interest to do so and provided the County provides consideration for such amendment.

A Commissioner who does not work the event on behalf of the County may not receive a ticket from the County absent some other public purpose being served by the Commissioner's attendance.

4. Commissioner Pays Face Value for an Admission Ticket.

At times, elected officials are offered the opportunity to purchase admission tickets at face value (*i.e.*, for the amount listed on the ticket itself). Payment of face value is typically adequate consideration and does not give rise to ethics concerns. In fact, the Florida Administrative Rules expressly state that the value of an admission ticket is based on its face value. However, it is not unusual for admission to highly coveted events to have a much higher market value than that listed on the face of the ticket.

As you will recall, this situation arose in the context of this year's Super Bowl, where a County contractor gave elected officials the opportunity to purchase tickets at face value. Due to the significant difference between market value and face value for Super Bowl tickets (a difference in the thousands of dollars), our Office contacted the Florida Commission on Ethics and inquired whether the difference between face value and market value constituted a gift under these circumstances. Determining whether the difference in value constitutes a gift is important for the reasons outlined in Section 2 above — Commissioners are limited on what gifts they can accept from certain sources.

The Commission on Ethics was unable to fully analyze our inquiry and provide an opinion in time for the Super Bowl, but its legal staff indicated that the facts raised potential issues regarding prohibited gifts, securing a disproportionate benefit, misuse of position, and unauthorized compensation. Notwithstanding these stated concerns, officials of other governmental entities accepted offers to purchase Super Bowl tickets at face value, and we are unaware of any ethics investigations resulting from that.

Though we do not yet know whether the market value of tickets to the 2021 NHL All-Star Game will be higher than the face value, given our communications with the Commission on Ethics, if anyone desires to have the opportunity to purchase tickets for face value, we believe it would be prudent to seek a formal opinion well in advance of the 2021 NHL All-Star Game.

In conclusion, you may always purchase your own ticket to the NHL All-Star game under the same terms and conditions as members of the public. If you are offered a free ticket, your ability to accept it depends on who is giving you the ticket and in what capacity. The opportunity also exists to receive an admission ticket from the County if you are attending the event on the County's behalf and for a public purpose. Finally, we believe that the ability to purchase tickets at face value should be formally vetted with the Florida Commission on Ethics.

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Please let us know whether you wish for our Office to prepare, on your behalf, a request for an opinion from the Commission on Ethics. Please also let us know if you wish to further discuss this matter.

c: Andrew J. Meyers, County Attorney