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**GOREN CHEROF
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ATTORNEYS AT LAW

GCDE ETHICS ADVISORY OPINION

To: Commissioner Regina Martin

From: Samuel S. Goren, City Attorney *SSG*
Jacob G. Horowitz, Assistant City Attorney *JGH*

Date: July 15, 2021

Re: City of North Lauderdale (“City”) / Code of Ethics – Advisory Opinion

I. ISSUE AND FACTS PRESENTED

You were elected in November 2020 to serve as the City Commissioner for District C. In addition to serving as the district commissioner, you are employed to serve as the senior pastor for the Embassy Church of South Florida (the “Church”) located in the City of North Lauderdale. The Church is a registered 501(C)(3) not-for-profit organization.

In your capacity as senior pastor, you routinely work to promote the Church throughout the community. Your pastoral duties include, but are not limited to, officiating special and regular services, community outreach, including but not limited to event planning and evangelism, serving on special committees, counseling congregants and other roles as outlined by your organization’s bylaws, doctrinal beliefs and policies. You occasionally speak to other elected officials, public employees, businesses, and vendors about issues relative to the Church and its congregants, as well as raising funds for the Church and projects that benefits the Church. Your communications with, including but not limited to, elected officials, public employees, businesses, and vendors, includes seeking their support for Church-related events, projects and lobbying on behalf of other matters that may benefit the Church.

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Please reply to Fort Lauderdale Office

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You have asked the City Attorney to provide you with an advisory opinion examining whether the Broward County Code of Ethics for Elected Officials (“Code of Ethics”) permits you to engage other elected and public officials, vendors, members of the public and businesses in the community on behalf of the Church as well as to recruit members, raise funds and awareness of the church to further the Church’s mission.

II. ANSWER

Based on the facts and circumstances described, it is our opinion that as the senior pastor of the Church you **are not a lobbyist**, by definition, under the Code of Ethics when you communicate on behalf of the Church. Therefore, you **are legally permitted** to communicate with members of the public, elected officials and other “covered individuals” on matters relative to the Church.

Additionally, the charitable fundraising disclosure requirements set forth in the Code of Ethics do not apply to elected officials who are employed by a nonprofit charitable organization when soliciting charitable contributions on behalf of that organization. Since you are the senior pastor and the Church is a nonprofit charitable organization, you **are not legally required** to file any disclosures when you engage in charitable contribution fundraising on behalf of the Church.

III. ANALYSIS

The Code of Ethics expressly states that “elected officials **shall not lobby** any covered individuals.”

“Lobby” means a communication “**from a lobbyist** to a covered individual regarding any item that will foreseeably be decided by a final decision-making authority, which communication seeks to influence, convince, or persuade the covered individual to support or oppose the item.” The Code provides a broad definition of “covered individual” which includes other elected and public officials, as well as certain members of municipal and county staff.

The Code of Ethics’ definition of “lobbyist” expressly **excludes** “an individual who communicates on his or her own behalf, **or on behalf of a person or entity employing the individual** on a full or part time basis, unless the individual is principally employed by that person or entity to lobby.”

You are employed by the Church, a 501(c)(3) nonprofit charitable organization, as its senior pastor. Based on the definition of “lobbyist” set forth in the Code of Ethics, individuals who communicate on behalf of their employer are not lobbyists unless they are principally employed to lobby. As the senior pastor, you have a broad range of duties and responsibilities which may, at times, include communicating with other elected officials and covered individuals on issues relevant to the Church. Such communications are a relatively minor description of your job functions.

Based on the foregoing, it is our opinion that the Code of Ethics **does not** prohibit you from continuing to communicate with other elected officials on behalf of the Church, even if such communications include lobbying on behalf of matters which may benefit the Church.

The Code of Ethics also provides detailed disclosure requirements when elected officials engage in charitable contribution fundraising on behalf of nonprofit organizations. This provision expressly states that these disclosure requirements **shall not apply** to municipal officials who are employed by a nonprofit charitable organization when soliciting charitable contributions on behalf of that organization.

It is our opinion that this legal exception would apply to you, as the senior pastor Church, when you engage in charitable contribution fundraising on behalf of your employer, the Church. Therefore, you **are not legally required to disclose** when you raise funds on behalf of the Church.

IV. CONCLUSION

Based on the foregoing, it is the opinion of the City Attorney's Office that the Code of Ethics **does not legally prohibit** you from communicating with other elected and public officials, and other covered individuals, regarding matters relative to the Church, even if such communications may include lobbying. Further, as the Church pastor, **you are not legally required** to disclose when you engage in charitable contribution fundraising on behalf of the Church.

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Code of Ethics, and may be relied upon by the individual who made the request. This analysis is limited solely to the facts presented. Within fifteen (15) days of receiving this opinion, a copy must be sent in a searchable "pdf" format to ethicsadvisoryopinions@broward.org for inclusion in the searchable database of advisory opinions maintained by the County.

Please contact our office if there is any additional information that we can provide.