



GCDE ETHICS ADVISORY OPINION

To: Council President Tim Fadgen

From: Kerry L. Ezrol, City Attorney *KLE*

Date: October 22, 2024

Re: City of Plantation (“City”) / Code of Ethics – Advisory Opinion-Broward MPO
Tickets to Fort Lauderdale Alliance Annual Dinner-Gift

I. ISSUE AND FACTS PRESENTED

You are the City’s representative on the Broward MPO (“MPO”). The MPO has invited you to attend the Greater Fort Lauderdale Alliance (“Alliance”) annual dinner on October 24, 2024 (“Event”). The individual cost of a ticket for the Event is \$275.00 for members and \$350.00 for nonmembers. According to the Alliance’s website, the MPO is a member of the Alliance.

Based on the foregoing, you have asked whether you are permitted to accept a ticket for the Event from the MPO pursuant to the Broward County Code of Ethics for Elected Officials (“Code of Ethics”). You have acknowledged that the ticket for the Event is being provided to you in your official capacity.

II. ANSWER

It is my opinion that you are permitted to accept the ticket for the Event from the MPO in your official capacity. MPO, is a governmental entity authorized by section 337.175, Florida Statutes and created pursuant to the 1979 ILA (defined below). The MPO is not, by definition, a vendor, contractor, or lobbyist of the City.

Voting members of the MPO are required to be elected officials of general purpose governments. Accordingly, it is further my opinion that you are an “Elected Official” of the MPO receiving a gift from the MPO. Therefore, the MPO, as a governmental entity, is giving you a gift, as its own Elected Official which is not considered a gift from an "other source" for purposes of the \$50.00 limitation. As advised by the Commission on Ethics, you will, however, need to file a Form 9 Quarterly Gift Disclosure with the Commission on Ethics to the extent that the ticket for the Event exceeds \$100.00.

III. ANALYSIS

MPOs are legislatively authorized pursuant to section 339.175, Florida Statutes. Of note, “Voting members shall be elected officials of general-purpose local governments, . . .” *Section 339.175(3)(a), Florida Statutes.*

On July 5, 1977, the City adopted Resolution No. 1473, among other things, authorizing execution of an Interlocal Agreement (“1977 ILA”) creating the MPO under section 163.01, Florida Statutes. On November 28, 1979, the City adopted Resolution No. 2004 which, among other things, superseded the 1977 ILA with a new ILA (“1979 ILA”) among Broward County, the cities of Deerfield Beach, Fort Lauderdale, Hollywood, Hallandale, Lauderhill, Pompano Beach, and the City, and FDOT. The 1977 ILA was terminated pursuant to the 1979 ILA. Under the ILA, section 163.01, and section 339.175(2) the MPO is a separate legal entity. Pursuant to the 1979 ILA, membership of the MPO consists of voting members from the 2019 ILA participants, “all of whom shall be either the mayor and/or member of the local governing body (council, commission) of the respective governmental entity. . .” The City has one voting member. On November 30, 2022, you were designated as the City’s voting member on the MPO pursuant to City Resolution 13038. Additionally, on March 8, 2023, you were appointed by City Council to MPO’s Metro Transportation Engineering & Construction Cooperative (“MTECC”) pursuant to Resolution No. 2023-013.

On Septemebr 14, 2022, the City Council adopted Resolution No. 13011 approving an ILA with the MPO for transportation planning and related services.

Please note the following relevant provisions of the Code of Ethics:

“‘Contractor’ means any person or entity currently under contract with the applicable local governmental entity.” *Section 1-19(b)(3), Broward County Code of Ordinances.*

“‘Elected Official’ means any member of the Board of County Commissioners and any Municipal Official as defined below”. *Section 1-19(b)(3), Broward County Code of Ordinances.*

“‘Municipal Official’ means any individual serving as a member of the governing body of a municipality within Broward County or serving as a municipal mayor within Broward County.” *Section 1-19(b)(9) Broward County Code of Ordinances.*

(1) Acceptance of Gifts.

a. No Elected Official or relative, registered domestic partner, or governmental office staff of any Elected Official, shall accept any gift, directly or indirectly, with a value in excess of \$5.00, from lobbyists registered with the governmental entity on whose behalf they (or their registered domestic partner or relative) serve, or from any principal or employer of any such registered lobbyist, or from vendors or contractors of such governmental entity. In order to effectuate this provision, no lobbyist shall engage in any lobbying activity prior to registering as a lobbyist with the

applicable governmental entity. **For purposes of this paragraph, neither Broward County, any municipality within Broward County, or any other governmental entity shall be considered a registered lobbyist, a principal or employer of a registered lobbyist, or a vendor or contractor of any governmental entity within Broward County.** *Section 1-19(c)(1) a. Broward County Code of Ordinances. (emphasis added)*

b. Elected Officials may accept gifts from other sources given to them in their official capacity, where not otherwise inconsistent with the provisions of Chapter 112, Part III, Florida Statutes, up to a maximum value of \$50.00 per occurrence. Gifts given to an Elected Official in his or her official capacity up to \$50.00 in value are deemed to be de minimis. **A governmental entity giving a gift to its own Elected Official shall not be considered a gift from an "other source" for purposes of the \$50.00 limitation.** *Section 1-19(c)(1) b. Broward County Code of Ordinances. (emphasis added)*

IV. CONCLUSION

Based on the foregoing, it is the opinion of the City Attorney's Office that the Code of Ethics allows you to accept the ticket for the Event from the MPO in your official capacity. You will, however, need to file a Form 9 Quarterly Gift Disclosure with the Commission on Ethics to the extent that the ticket for the Event exceeds \$100.00 (i.e., \$175.00).

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Broward County Code of Ordinances and may be relied upon by the individual who made the request. This analysis is limited solely to the facts presented. Please note that this advisory opinion must be sent in a searchable .pdf format to Broward County (ethicsadvisoryopinions@broward.org) within fifteen (15) days of receipt. Please contact our office if there is any additional information that we can provide.

KLE