

**CITY OF BROOKSVILLE**  
201 Howell Avenue  
Brooksville, FL 34601

**COUNCIL WORKSHOP**  
**AGENDA**

December 14, 2015

3:00 P.M.

**A. CALL TO ORDER**

**B. QUASI JUDICIAL PROCEEDINGS**

Review of Quasi Judicial Proceedings and Statutory Requirements

Presentation: The Hogan Law Firm

**C. ETHICS IN GOVERNMENT**

Review of Chapter 112, Code of Ethics for Public Officers

Presentation: The Hogan Law Firm

Attachment: Presentation

**D. ADJOURNMENT**

# Ethics

## *Standards of Conduct*

### F.S. Chapter 112 - Standards of Conduct

Unauthorized Compensation

Misuse of Information

Misuse of Public Position

Nepotism

Dual Role

Gifts

Doing Business with One's Agency

Honoraria

Conflicting Relationships

Revolving Door

Voting Conflict

### Unauthorized Compensation

As a public officer, agency employee, or local government attorney, you (or your spouse or minor child) may not:

- Accept any compensation, payment, or thing of value if you know (or reasonably should know) it was given to influence a vote or other action in the officer's official capacity

F. S. § 112.313(4)

### Misuse of Position

As a public officer, agency employee, or local government attorney, you may not:

- Perform your official duties,
- Corruptly use or attempt to use your official position, or
- Use any property or resource in your trust

To secure a special privilege for yourself or others

F. S. § 112.313(6)

## Dual Role

As a county or municipal employee, you may not:

- hold office as member of the governing board of the entity that concurrently employs you

F. S. § 112.313(10)

## Dual Role

As a public officer (elected to office or as a qualified candidate), you may not:

- Accept public employment with the State or any political subdivision if you know or reasonably should know that the position is offered for the purpose of gaining influence or advantage, because of your office or candidacy.

A job offer to you must meet these criteria:

- The job already existed or was created without knowledge of your interest
- The job was publicly advertised
- You were subject to the same application and hiring process as everyone else
- You met or exceeded the required qualifications

F. S. § 112.3125

## Dual Role

If publicly employed before qualifying as a public officer for the current term of office you may continue your employment, but you may not accept promotion, advancement, raise, or additional benefits, if:

- You know or reasonably should know was provided for your election or public office or
- Promotion, advancement, raise, or additional benefits is not the same as given to others similarly situated

F. S. § 112.3125

## Doing Business with One's Agency

As a public officer (elected or appointed to hold office including on advisory bodies) or public employee, you may not:

- while acting in your official capacity, purchase or lease from your own business (or your spouse's or child's), or
- you may not sell or lease to your own governmental entity on behalf of own business (or spouse's or child's),

F. S. § 112.313 (3)

## Doing Business with One's Agency

### Exceptions:

- Own salary, expenses, or other compensation (F.S. § 112.313(5))
- Advisory boards: with full disclosure and waiver (by 2/3 vote by appointing body or following public hearing by appointing person) (F.S. § 112.313(12))
- Vendor selection system based on rotation (F.S. § 112.313(12)(a))
- Vendor selection system based on sealed and competitive bidding (CE Form 3A) (F.S. § 112.313(12)(b))
- Legal advertising, utilities, or common carrier (F.S. § 112.313(12)(c))
- Emergency purchase for citizen health or safety (F.S. § 112.313(12)(d))
- Sole source of supply within the political subdivision and prior full disclosure of the interest (CE Form 4A) (F.S. § 112.313(12)(e))
- Totals \$500 or less in one year (F.S. § 112.313(12)(f))
- Bank stockholder, director, or officer (depository) where no favoritism (F.S. § 112.313(12)(g))
- General public terms/rates (F.S. § 112.313(12)(i))

## Conflicting Relationships

As a public officer or public employee, you may not own or work for (as employee or contractor) a business that

- is subject to regulation by your own agency,
- doing business with your agency,\*
- creates a frequently recurring conflict between your private interests and your public duties, or
- would impede the full and faithful discharge of your duties (F.S. 112.313(7)(a))

\* Excluding collective bargaining between you (acting in your official capacity) and your agency.

## Conflicting Relationships

### Exceptions for "per se" conflicts of interest:

- certain special tax districts (F.S. 112.313(7)(a)1.)
- professionals where such practice is permitted or required by law (F.S. 112.313(7)(b))
- you are employed by a 501(c) that contracts with your agency, where
  - there is no compensation because of your relationship,
  - you don't participate in agency decisions,
  - you abstain from voting,
  - you publicly state why you abstain, and
  - you file a written memo (CE Form 8B) ( F . S . 112.313(15))

## Voting Conflicts

### Elected Officers:

As an elected officer, you may NOT vote:

- on matter providing a "special private gain or loss" to you, your employer, your business associate, or your relative.

You must disclose the interest verbally before the vote, and in writing within 15 days after.

You may participate if your local code doesn't prohibit it. F.S. 112.3143(3)(a)

### Appointive Officers:

As an appointive officer, you may NOT vote:

- on matter providing a "special private gain or loss" to you, your employer, your business associate, or your relative.

You can participate only if you disclose the interest before participation. F.S. 112.3143(4).

## Voting Conflicts

“Relative” means:

- Father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law F.S. § 112.3143(1)(b).

## Voting Conflicts

“Special Private Gain or Loss” means:

- an economic benefit or harm would go to officer, relative, business associate, or principal.

If a class is affected that includes that person, consider:

- size of the class affected by the vote,
- nature of interests involved,
- degree to which all members of the class are affected, and
- comparative benefit or harm to other class members.

If there is uncertainty about benefit or harm to that person, consider the degree of uncertainty, and nature or degree of benefit or harm.

F. S. 112.3143(1)(d)

## Voting Conflicts

**Elected Officers:**

- Announce your interest prior to vote on matter
- Abstain from the vote
- Submit Form 8B to minutes-taker within 15 days after vote
- Minutes-taker incorporates Form 8B into minutes

F. S. 112.3143 (3)(a)

**Appointed Officer:**

If trying to influence the outcome:

- Announce your interest, file Form 8B with the minutes-taker, and cc the other members prior to any attempt to influence
- Form 8B is incorporated into minutes
- The form must be read at the next meeting after filing

To discuss but not try to influence:

- Verbally disclose your interest prior to discussion
- File Form 8B with the minutes-taker, and cc other members within 15 days after vote
- Form 8B is incorporated into minutes
- The form is read at the next meeting

F. S. 112.3143 (4)

## Misuse of Information

As a current or former public officer, agency employee, or local government attorney, you may not disclose or use information:

- not available to the general public
- that you learned because of your official position
- for the benefit of any person or business entity (except for information only about “governmental practices”)

F. S. 112.313 (8)

## Nepotism

As a public official (public officer or employee with appointment or H.R. authority), you may not:

- appoint, employ, promote, or
- advocate to another to appoint, employ, or promote

any relative for a job in the agency where you are, regulate, or control & your relative may not be so appointed, employed, or promoted by the collegial body of which a relative of the individual is a member ( F. S. 112.3135(2)(a))

## Nepotism

“Relative” means:

- parent, child, sibling, uncle, aunt, first cousin, nephew, niece, spouse, in-law (father-, mother-, son-, daughter-, brother-, and sister-), stepparent, stepchild, stepbrother, stepsister, half brother, and half sister (F. S. 112.3135 (1)(d))

Exceptions:

- Municipal boards (except land-planning or zoning) with less than 35,000 population ( F. S. 112.3135 (2)(a))
- Volunteer EMT, firefighters, or police ( F.S. 112.3135 (2)(a))
- Emergency employment in accordance with established agency regulations ( F . S . 112.3135(3))

## Gifts

“Gift” means:

- Any service or thing statutorily listed or having an ascertainable value accepted directly or indirectly by recipient or on recipient’s behalf for recipient’s benefit without equal or greater consideration within 90 days

F.S. § 112.312(12)(a)

Value is:

- Actual cost - less taxes and gratuities - deduct compensation given within 90 days
- Personal services are valued at their reasonable, customary price

F.S. § 112.3148(7)

## Gifts

Statutory examples of gifts:

- Real and personal, tangible and intangible property and use of property
- Preferential rates and terms
- Forgiveness of debt
- Transportation
- Food and beverage
- Membership dues
- Admission fees
- Tickets to events and facilities
- Flowers, floral arrangements, and plants
- Professional services
- Personal services normally paid for

F.S. § 112.312(12)(a)

## Gifts

### Generally acceptable under the State Code:

- to accept a gift or anything else, of any value, from a relative F.S. 112.3148 (1)
- to accept a gift or anything else valued at \$100 or less, from a lobbyist, vendor, or political committee F. S. 112.3148(4)
- to accept a gift or anything else valued at over \$100, from other than a lobbyist, vendor, or political committee, so long as you report it (quarterly) F. S. 112.3148
- to accept a gift on behalf of a governmental entity or charity, but hold it only long enough to transfer it F. S. 112.3148 (4) & (5)(a)
- to accept a gift valued over \$100 from a government agency or authorized direct-support organization, if for a public purpose, so long as you report it (annually) F. S. 112.3148 (6)

## Gifts

### Unacceptable under the State Code:

- As a public official, to solicit any gift from a lobbyist, vendor, or political committee (partner, firm, employer, or principal) for yourself, your parent/child/spouse/sibling, another reporting person, or their immediate family ( F. S. 112.3148 (3))
- As a public official or employee, to solicit or accept anything if it could be perceived to result in official action or inaction ( F. S. 112.313(2))
- As a public official or employee, to accept anything of value if based on an understanding that you would be influenced ( F. S. 112.313(4))
- As a public official or employee, to accept anything directly or indirectly from a lobbyist, vendor, or political committee, that you reasonably believe is valued over \$100 ( F. S. 112.3148(4))

## Honoraria

“Honorarium” means

- a payment of money or anything of value given directly or indirectly as consideration for an oral presentation (in person or not) or a writing to be published (other than a book)

It does not mean:

- compensation for services performed as part of employment, a campaign contribution, or actual and reasonable travel expenses and registration fees for reporter and spouse F. S. 112.3149(1)

## Honoraria

As a reporting individual, you may not:

- solicit honoraria to perform public service duties F. S. 112.3149(2)
- accept honoraria from lobbyists or their employers, principals, partners, or firms; vendors; or political committees F. S. 112.3149(3)

Lobbyists, their employers, principals, partners, and firms, vendors, and political committees:

- may not give an honorarium
- may pay expenses relating to an honorarium
- must give a statement to reporting individual within 60 days of event with name/address of payer, description of expenses each day, and total value of expenses provided F. S. 112.3149(4) and (5)

## Honoraria

If you receive an honorarium-related expense from a lobbyist, vendor, or political committee, you must report:

- name/address/affiliation of payer,
- amount,
- date of event,
- description of expenses each day, and
- total value provided
- annually (CE Form 10) F. S. 112.3149(6)

Violation by donor is a non-criminal infraction, with maximum fine of \$5,000 and prohibition on lobbying before the recipient's agency for 2 years F. S. 112.3149(7)

## Revolving Door

As a former local elected public officer, you may not:

- personally represent another person or entity for compensation before
  - your former government body,
  - the county or municipality's chief administrative officer or employee, or their staff of your former government agency

for two (2) years after vacating office.

F. S. 112.313(14)

## Required Disclosures

## Required Disclosures

Forms 1 & 6 - Financial Statements

Form 3A - Bid for Public Business

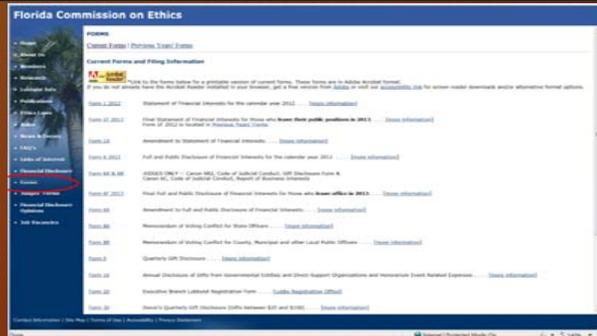
Form 4A - Sole Source of Supply

Form 8A - Voting Conflict

Form 9 - Gifts

Form 10 - Govt & Direct Support Org Gifts & Honorarium Expenses

## Forms - www.ethics.state.fl.us



## Forms 1 & 6 - Statement of Financial Statements

### Local officers - Form 1:

- Elected officials
- Appointees to fill terms vacated by elected officials and
- Appointees to governing bodies of counties and municipalities

File with the Supervisor of Elections where you reside - while filing qualifying papers, and then on or by July 1st every year F. S. § 112.3145

This is Form 1, Statement of Financial Interests, for the year 2012. It is a detailed form with multiple sections for reporting financial interests, including income, assets, and liabilities. The form includes instructions and a declaration section at the bottom.

## Forms 1 & 6 - Statement of Financial Statements

### Constitutional officers - Form 6:

- Sheriff
- Tax Collector
- Property Appraiser
- Supervisor of Elections
- Clerk of the Circuit Court
- County Commissioners

While filing qualifying papers, and then with the Commission on Ethics on or by July 1st every year FLA. CONST. ART. II SEC. 5(B) AND ART. VIII SEC. 1(E); F. S. 112.3144

This is Form 6, Full and Public Disclosure of Financial Interests, for the year 2012. It is a detailed form with multiple sections for reporting financial interests, including income, assets, and liabilities. The form includes instructions and a declaration section at the bottom.

## Forms 1X & 6X - Financial Statements Amendments

- File under same name as the original Form 1 or 6
- Identify the Form 1 or 6 you are amending
- Use the same thresholds (percentage or \$ value)
- Report the new information on 1X or 6X and explain the changes
- File with the same office you filed the original

This is Form 1X, Amendment to Form 1 Statement of Financial Interests. It is a form used to report changes to the information provided on Form 1. It includes sections for identifying the original form being amended and reporting the new information.

## Forms 1F & 6F - Final Financial Statements

If you leave public office or employment where you were required to file a Form 1 or Form 6 you must file a Form 1F or 6F at the same office you filed your Forms 1 or Form 6 within sixty (60) days of leaving office or employment F. S. 112.3144(6), 112.3145(2)(b)

## Form 3A - Bid for Public Business

As a public official, you are exempt from "business with self" and "per se" conflict prohibitions where you, your spouse, or your child seek to do business with your governmental entity when:

- The business is awarded under a system of sealed, competitive bidding
- There is no exertion of influence of your official status on bid negotiations or specifications,
- Disclosure is made to your entity prior to or at the time of bid submission, and
- Form 3A is filed with the Supervisor of Elections of your agency. F.S. 112.313(12)(b)

## Form 4A - Sole Source of Supply

As a public official, you are exempt from "business with self" and "per se" conflict prohibitions where you, your spouse, or your child seeks to do business with your governmental entity when

- Your, your spouse's, or your child's business is the only source of supply for the goods or services sought by the agency,
- Disclosure is made to your entity, and
- Form 4A is filed with the governing body of your entity (complete Part B) F. S. 112.313(12)(e)

## Form 8B - Voting Conflict Memorandum

As an elected officer, you may not vote on matters that would inure to your, your principal, relative or business associate's special private gain or loss -- you must disclose and then abstain

As an appointive officer, you may not vote on but can participate in such matters if you first disclose the interest F.S. 112.3143

## Form 8B - Voting Conflict Memorandum

### Elected Officers:

- Announce your interest prior to vote on matter
- Abstain from the vote
- Submit Form 8B to minutestaker within 15 days after vote
- Minutes-taker incorporates Form 8B into minutes F.S. 112.3143(3)(a)

### Appointive Officers:

- If trying to influence the outcome:
- Announce your interest
  - File Form 8B with the minutes-taker, and cc the other members prior to any attempt to influence
  - Form 8B is incorporated into minutes
  - The form must be read at the next meeting after filing
- To discuss but not try to influence:
- Verbally disclose your interest prior to discussion
  - File Form 8B with the minutes-taker, and cc other members within 15 days after vote
  - Form 8B is incorporated into minutes
  - The form is read at the next meeting

F. S. 112.3143(4)

## Form 9 - Quarterly Gift Disclosure

As a reporting individual, you must disclose permitted gifts from non-relatives when:

- you believe the gift is valued over \$100 after compensation

Reporting is made using Form 9 - by the end of the quarter following receipt.

- It is filed with the Commission on Ethics
- It must include description, monetary value, name/address of donor, date, cop of any receipt, and explanation of any differences between report and receipt

F.S. § 112.3148(8)

The image shows a sample of Form 9, titled 'Form 9 - QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)'. The form includes fields for the reporting individual's name, title, and the reporting period. It also has a table for listing gifts, with columns for date received, description, and value. The form is divided into sections for 'PART I - DISCLOSURE OF GIFTS', 'PART II - DISCLOSURE OF INTERESTS IN STOCK', and 'PART III - DISCLOSURE OF INTERESTS IN BONDS'. There are checkboxes for 'I believe the gift is valued over \$100 after compensation' and 'I believe the gift is valued over \$100 after compensation'. The form also includes a section for 'PART IV - SIGNATURE OF REPORTING INDIVIDUAL' and 'PART V - SIGNATURE OF MINUTES-TAKER'.

## Form 9 - Quarterly Gift Disclosures

### Lobbyists, Vendors, and Political Committees Must Report:

- Gifts given over \$25 and up to \$100 gifts must be reported by the donor to the Commission on Ethics each calendar quarter ( F. S. 112.3148(5)(b))
- L/V/PC must report: description, monetary value, name/address of giver, name/address of recipient, and date given ( F. S. 112.3148(5)(b))
- If L/V/PC must report the gift, at the time of the gift, s/he must notify the recipient s/he is going to report it ( F. S. 112.3148(5)(b))
- Violation has maximum fine of \$5,000 and prohibition on lobbying before the recipient's agency for 2 years ( F. S. 112.3148(9))

## Form 9 - Quarterly Gift Disclosure

"Value" is:

Actual cost - less taxes and gratuities - with deducted compensation given within 90 days

F.S. § 112.3148(7)

## Form 9 – Quarterly Gift Disclosure

### Special Valuation Rules

- Personal Services: reasonable, customary price in that community
- Transportation: if provided in a private conveyance, shall be given the same value as transportation provided in a comparable commercial conveyance. Round trip is one gift
- Lodging: if provided in a private residence shall be valued at the per diem rate provided in s. 112.061(6)(a), less the meal allowance rate provided in s. 112.061(6)(b). Consecutive days of lodging is one gift
- Entrance Fees: Face value, or on a daily or per event basis, whichever is greater
- To Multiple Persons: May be attributed on a pro rata basis.
  - Food, Beverage & Entertainment: If provided at a function for 10 or more people, total value of items divided by number of persons invited (unless purchased on a per person basis)
  - Admission Tickets to Charitable Events: Deduct that portion which represents a charitable contribution, if the gift is provided by the charity

F.S. § 112.3148(7)

## Form 10 – Certain Gift & Honorarium-Related

As a reporting individual, you must disclose:

- gifts with a public purpose from governmental entities,
- gifts from authorized direct support organizations, and
- honorarium-related expenses from L/V/PCs

Form 10 must be used for reporting; due annually by July 1st following the calendar year of receipt. The Form is filed with the Commission on Ethics F.S. 112.3148, 112.3149

## Penalties for Violations

## Penalties for Violations

Violations of State Code of Ethics & Constitution are malfeasance, misfeasance, or neglect of duty F. S. 112.317(4)

The Governor may suspend any elected municipal officer on recommendation of Commission on Ethics, and the Senate may remove (or reinstate) the suspended official by majority vote F. S. 112.317(5)

Where Commission on Ethics finds violation and assesses penalty/restitution, State Attorney General brings action to recover penalty F. S. 112.317(2)

Attorney General collects costs and attorneys' fees F. S. 112.317(3)

Commission on Ethics penalties are notwithstanding any other disciplinary or judicial action F. S. 112.317(3)

## Penalties for Violations

PUBLIC OFFICERS penalties can include:

- Impeachment
- Removal from office
- Suspension from office
- Forfeit up to 1/3 salary up to 12 months
- Public censure & reprimand
- Civil penalty up to \$10,000
- Restitution

F. S. 112.317(1)(a)

## Penalties for Violations

Pension Forfeiture when:

- Conviction of a qualifying offense committed before retirement, or
- Termination resulted from admitting/committing/aiding/abetting a qualifying offense
- Results in forfeiture of all retirement system rights and benefits, except for accumulated contributions F. S. 112.3173(3)

Notice and hearing to be held to determine whether pension should be forfeited F. S. 112.3173(5)(a)

Stayed pending appeal of felony convictions F. S. 112.3173(5)(c)

## Penalties for Violations

Qualifying offenses include committing, aiding, or abetting:

- embezzlement of public funds
- theft by public employee or officer from his or her employer
- bribery in connection with public employee or officer
- Chapter 838 felony (bribery or misuse of public office), except commercial bribery
- impeachable offense (misdemeanor in office) (FLA. CONST. ART. 3 § 17)
- felony by public employee or officer with intent to defraud public and attempts to or actually does realize profit or advantage
- s. 800.04 felony (lewd and lascivious conduct) with victim < 16 years, or ch. 794 felony (sexual battery) with victim < 18 years with use or attempted use of position of public office/employment F. S. 112.3173(2)(e)

## Penalties for Violation

Other:

- Contracts in violation of the Code are voidable by any party and in Circuit Court by action by Commission on Ethics, Attorney General, or any citizen materially affected and residing in jurisdiction F. S. 112.3175(1)
- Contracts in violation are void RE former official and voidable RE private third party employing former official F. S. 112.3175(2)

# SUMMARY

1. Don't ask for anything personal from anyone who knows you in your official capacity.
  2. Don't use your official status to get or get to do anything personal.
  3. Don't accept anything from a city or county lobbyist, contractor, vendor, potential supplier, or political committee (under State code, okay if under \$100).
  4. Don't mix city or county business with personal business, without a confirmed exception. Disclose bids and sole source of supply exceptions.
  5. Don't vote or participate in any decision where you get or get to do anything personal. When you abstain, fully disclose why.
  6. Don't use county or city anything to get or get to do anything personal.
  7. Don't use information you learned through your official capacity to get or get to do anything personal.
  8. If you get a gift, thing, pass, or privilege (from a non-relative) that benefits you personally and is worth over \$100, either pay for it or disclose it within 90 days.
  9. File your financial statements, honorarium expenses, and governmental and direct support organization gifts by July 1st. Disclose gifts and clients before your agency quarterly.
  10. When in doubt, ask for reliable advice.
- "Personal" or "personally" means for you in your private capacity, or for your family, your business, your employer, your business associate, or your client.