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February 17, 2025

Mr. Frank Winewski

Transmitted by e-mail to: fwinewski@hotmail.com

Re: Your Ethics Inquiry

Dear Mr. Winewski,

I am writing in response to your ethics inquiry. You state that you currently work for the Village of North Palm Beach Fire Rescue Department as a Firefighter, while also serving as a Trustee on the North Palm Beach Police & Fire Pension Board. However, you do not reside in the Village of North Palm Beach. Instead, you reside in the City of Westlake, and are potentially interested in serving on Westlake's City Council. In response to my inquiry, you elaborated that the City of Westlake does not have any sort of contract or agreement with the Village of North Palm Beach Fire Rescue Department.

You ask whether there would be any prohibited violations of the Code of Ethics were you to continue serving both as a Firefighter with the Village of North Palm Beach Fire Rescue Department and as a Trustee on the North Palm Beach Police & Fire Pension Board, while also serving as a City Councilman for the City of Westlake.

A statutory provision relevant to your inquiry is Section 112.313(10)(a), Florida Statutes. This provision states:

EMPLOYEES HOLDING OFFICE.—

- (a) No employee of a state agency or of a county, municipality, special taxing district, or other political subdivision of the state shall hold office as a member of the governing board, council, commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.

According to Section 112.313(10)(a), Florida Statutes, public employees are prohibited from being a member of the governing body that serves as their employer. However, Section 112.313(10)(a) does not prohibit simultaneous employment or office-holding for different political subdivisions. For example, a Duval County School employee was not prohibited from serving as a member of the Jacksonville City Council because "the Duval County Public Schools [] is separate and distinct from, and independent of, the City Council." CEO 02-4.

Given that the Village of North Palm Beach Fire Rescue Department and the City of Westlake constitute different political subdivisions, it appears there would be no violation of Section 112.313(10)(a) were you to continue serving as a Firefighter with the Village of North Palm Beach and a Trustee of the North Palm Beach Police & Fire Pension Board, while also potentially serving on the City of Westlake's City Council. See CEO 76-32 (elected town clerk was not prohibited from holding employment as manager of the town water and sewer systems because the clerk did not serve as the governing body of the sewer and water systems), CEO 76-203 (city commissioner was not prohibited from being employed as a buyer for the county within which the city was located where the city in no way regulated the county), CEO 88-77 (county commissioner was not prohibited by Section 112.313(10)(a) from simultaneously serving as deputy clerk of the circuit court).

Another provision relevant to your inquiry is Section 112.3125(4), Florida Statutes, which states:

(2) A public officer may not accept public employment with the state or any of its political subdivisions if the public officer knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the public officer's office or candidacy.

(3) Any public employment accepted by a public officer must meet all of the following conditions: (a) The position was already in existence or was created by the employer without the knowledge or anticipation of the public officer's interest in such position; (b) The position was publicly advertised; (c) The public officer was subject to the same application and hiring process as other candidates for the position; and (d) The public officer meets or exceeds the required qualifications for the position.

(4) A person who was employed by the state or any of its political subdivisions before qualifying as a public officer for his or her current term of office or the next available term of office may continue his or her employment. However, he or she may not accept promotion, advancement, additional compensation, or anything of value that he or she knows, or with the exercise of reasonable care should know, is provided or given as a result of his or her election or position, or that is otherwise inconsistent with the promotion, advancement, additional compensation, or anything of value provided or given an employee who is similarly situated.

Because your employment with the Village of North Palm Beach Fire Rescue Department precedes your potential office-holding with the City of Westlake City Council, Sections 112.3125(2) and (3) will not apply to you.

Section 112.3125(4) expressly "grandfathers" persons who held their public employment prior to their qualification for public office, the situation in which you find yourself. However, it also prohibits the employee from accepting promotion, advancement, additional compensation, or anything of value if he or she knows, or should know, that such advancement is being provided as a result of his or her election or position or which is inconsistent with advancements provided to similarly situated public employees. Thus, should you be elected to serve on the City of Westlake's City Council, you should take caution before accepting any promotions, advancement, additional compensation, or anything of value from the Village of North Palm Beach Fire Rescue Department, accepting them only when you know they are not being provided to you as a result of your election to the City of Westlake's City Council. You are advised to contact the Commission again, if that situation presents itself, for additional guidance.

You indicate that the Village of North Palm Beach Fire Rescue Department and the City of Westlake do not transact any business together or have any contracts or agreements between them. Also, the facts you present do not create any cause for concern that either position will tempt you to dishonor the responsibilities of the other. Therefore, it appears you will not have a conflict of interest under Section 112.313(7)(a), Florida Statutes, either.

In conclusion, it appears you can maintain your employment with the Village of North Palm Beach Fire Rescue Department and your position as a Trustee on the North Palm Beach Police & Fire Pension Board, even if you are elected to serve on the City of Westlake's City Council, without violating the Code of Ethics. If you are presented any promotion, advancement, additional compensation, or anything else of value from the Village of North Palm Beach, please contact the Commission for additional guidance.

Mr. Frank Winewski

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The guidance provided in this letter is limited to the facts that have been provided. If there are additional material facts, or if I have misstated them in this letter, please contact me again. The referenced statutes and advisory opinions are available on the Commission's website at www.ethics.state.fl.us. If you have any other questions about the guidance contained in this letter, please send me an e-mail at novenario.stephanie@leg.state.fl.us.

Sincerely,

Stephanie Novenario

Stephanie Novenario

Attorney, Florida Commission on Ethics