

Memo

To: Elliot Sokolow, Commissioner, Town of Lauderdale-By-The-Sea

From: Susan L. Trevarthen, Town Attorney
Robert A. Meyers, Assistant Town Attorney

Cc: Connie Hoffmann, Town Manager

Date: February 20, 2015

Re: Adequacy of Training Obtained in 2014
Town Attorney Opinion (TAO): 15-1E (Training)

Facts: You were elected as a Commissioner for a four-year term of office, and sworn in on March 18, 2014. You have filed forms certifying that you have taken eight (8) hours of public service ethics training under Section 1-19 of the Broward County Code of Ordinances (the “County Ordinance”) in 2014, your first year in office.

That training included sessions which addressed sunshine law and public records issues, as well as the requirements of local and state ethics laws.

On occasion, a scheduled hour of training may have run short of a full sixty minutes (i.e., fifty minutes).

You attended ethics training by the Town Attorney prior to your being elected.

You previously received Town Attorney Opinion TAO 14-3 advising you that your training requirement should be calculated starting from the anniversary of the date you took office and running until your successor is sworn in. The opinion also advised that training taken within the sixty days prior to taking office will count towards the training requirement for your first year in office.

Question: You wish to know whether the training that you have obtained in 2014 is sufficient to satisfy the requirements of the County Ordinance for the first year of your first term of office.

Analysis:

1. Type of Training Obligation

Section 1-19(d)(2) of the County Ordinance mandates ethics training on an annual basis on the topic of public service ethics. It requires newly elected members of the Town Commission to obtain four hours of training in sunshine law, public records, and public service ethics, which may also address sunshine law and public records. All Commissioners must annually obtain eight hours of training in public service ethics. The County Ordinance counts the four hours of training required for newly elected Commissioners counts towards the eight-hour requirement for their first year of office.

You are required to obtain the four hours of training for newly elected officials your first year in office, and to obtain the eight hours of public service ethics training for all Town Commissioners under the County Ordinance each year that you are in office.

2. Satisfaction of Your Training Obligation

A. Scope of Training

“Public service ethics” is not defined in the County Ordinance. Sunshine law and public records law are specifically and separately listed as part of the four hour training requirement for newly elected officials, but are not mentioned in the eight hour training requirement for all Commissioners. The question is whether that omission limits the subject matter of training that qualifies for the eight hour requirement.

Because sunshine law and public records law issues are part of the four hour requirement and those four hours qualify towards the eight hour requirement, it can be said that the intent is to include those topics as part of “public service ethics.” Also, the plain meaning of “public service ethics” could well encompass the matters regulated by the sunshine law and public records act. For these reasons, it is reasonable for training in the sunshine law and public records law to qualify as training in “public service ethics,” and therefore eligible to be counted as part of the eight hour training requirement. Training in public records and sunshine law issues qualifies as public service ethics training under the County Ordinance.

The training in public records, sunshine law issues and other public service ethics issues described on your forms qualifies as public service ethics training under the County Ordinance.

B. Amount of Training

You attended public service ethics training sessions offered by the Town Attorney and the League of Cities. On occasion, a scheduled hour of training may have been somewhat shorter and not lasted a full sixty minutes. The County Ordinance does not define the term “hour,” and it is therefore necessary to consult other sources when

analyzing this term in the context of training and education. According to Florida Bar Rule 5.04(a), which covers courses and credit approval for continuing legal education (CLE) credits for attorneys, fifty minutes of course time is equivalent to one CLE hour. Most universities also give one credit hour for classes that last approximately fifty minutes.

Consequently, it is reasonable to report attending a scheduled hour of ethic training that ended early, as long as your training hours, on average, were at least fifty minutes long. You attended public service ethics training sessions in 2014 offered by the Town Attorney and the Broward League of Cities, totaling 8 hours. This satisfies your requirement.

Answer: Training in public records and sunshine law issues qualifies as public service ethics training under the County Ordinance. The ethics training you attended prior to taking office may be counted towards your public service ethics training obligation. Ethics training sessions that are scheduled for sixty minutes but actually last less than sixty minutes (i.e., fifty minutes) can be reported as one full hour of training. The training you have reported satisfies your obligations for public service ethics training under the County Ordinance for your first year in office.

Assuming that you have disclosed all of the pertinent facts to us, you may use this opinion as a “safe harbor” under the County Ordinance should any questions arise concerning the Opinion provided herein. If you need any additional assistance regarding this matter, please contact us.

Limitations: This Opinion is provided pursuant to Subsection 8 of the County Ethics Code, which allows an Elected Official to request an advisory opinion about how the Code applies to his or her own situation. “Requests for opinions shall be considered only if in writing and signed by the Elected Official or by his or her office staff. Requests for opinions shall state all material facts necessary for the advising attorney to understand the circumstances and render a complete and correct opinion.” In addition, “until amended or revoked, an advisory opinion rendered pursuant to this section shall be binding on the conduct of the Elected Official covered by the opinion unless material facts were omitted or misstated in the request for advisory opinion. If the Elected Official acts in accordance with a binding advisory opinion, the Elected Official’s conduct may not be found to be in violation of the Broward County Elected Official Code of Ethics. However, any opinion rendered under this section shall not be binding as to whether the Elected Official’s action complies with state or federal ethics requirements.”

TOWN OF LAUDERDALE-BY-THE-SEA
COMMISSIONER ADVISORY OPINION REQUEST FORM
(Pursuant to Sec. 1-19(c)(8) of Broward County Code of Ethics for Elected Officials)

Date: 2-16 2015

Requesting Commissioner: Elliot Sokolow

Question:

The forms reporting the amount and kind of ethics training I attended this year are attached.
Does this training satisfy my obligations under the Broward County ethics ordinance to date?



Background Information: