

## Horst, Rachel

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**From:** CEER@brevardfl.gov  
**Sent:** Saturday, January 31, 2026 2:10 PM  
**To:** Horst, Rachel  
**Subject:** A new CEER Recommendation has been submitted as ID #2026049

### Recommendation # 2026049

Dear CEER Administrator,

Speak Up Brevard Recommendation ID #2026049 has been submitted. Please login to the CEER Application to start the recommendation evaluation workflow.

#### Contact Information:

##### Group/Organization

<b>Name</b>	Mary L Harvey
<b>Address</b>	1019 Harrison Street, Titusville FL 32780
<b>Phone</b>	(321) 413-8610
<b>Email</b>	mharveyforrotary@hotmail.com
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#### Recommendation Information:

<b>Recommendation ID</b>	2026049
<b>Recommendation Title</b>	Intergovernmental Coordination/Ethics & Transparency
<b>Areas Affected</b>	
<b>Department Affected</b>	BOARD OF COUNTY COMMISSIONERS
<b>Current problem</b>	A current City of Titusville Council Member, Megan Moscoso, has been hired by the District 1 County Commissioner. This situation creates a perception of a potential conflict of interest when matters affecting the City of Titusville or the surrounding District 1 area come before either body for discussion, coordination, or voting. At present, there does not appear to be a clearly defined or publicly communicated countywide policy addressing employment relationships between elected officials at different levels of local government and how potential conflicts or recusals should be handled. This can lead to public confusion, concerns about impartiality, and reduced confidence in decision-making processes. Titusville Council woman Megan Moscoso frequently comments on County decision making and policies at City Council Meetings when discussing issues that are before the city council. As recently as Jan 29th, 2026.
<b>Recommendation</b>	Develop and publish a clear county policy addressing employment or contractual relationships involving elected officials across overlapping jurisdictions. The policy should include: Required disclosure of such relationships. Clear guidance on recusal or abstention when matters directly affect the employing or employed jurisdiction.

Consistent application across all districts and departments. Additionally, making this information easily accessible to the public would improve transparency and understanding. Improves transparency and public trust in local government. Reduces the appearance of CONFLICTS OF INTEREST. Provides clear guidance to elected officials and staff.

**Attachments**

No Documents were attached.


Please do not reply to this e-mail, as it will go to an unmonitored mailbox.

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County Attorney's Office  
2725 Judge Fran Jamieson Way  
Building C, Room 308  
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

**TO:** Jim Liesenfelt, County Manager  
**FROM:** Morris Richardson, County Attorney   
**SUBJ:** Citizen Efficiency and Effectiveness Recommendation #2026049

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CEER #2026049, titled *Intragovernmental Coordination/Ethics & Transparency*, was received by the County from Ms. Mary L. Harvey.

**Citizen Statement:**

*A current City of Titusville Council Member, Megan Moscoso, has been hired by the District 1 County Commissioner. This situation creates a perception of a potential conflict of interest when matters affecting the City of Titusville or the surrounding District 1 area come before either body for discussion, coordination, or voting. At present, there does not appear to be a clearly defined or publicly communicated countywide policy addressing employment relationships between elected officials at different levels of local government and how potential conflicts or recusals should be handled. This can lead to public confusion, concerns about impartiality, and reduced confidence in decision-making processes. Titusville Council woman Megan Moscoso frequently comments on County decision making and policies at City Council Meetings when discussing issues that are before the city council. As recently as Jan 29th, 2026.*

**Citizen Recommendation:**

*Develop and publish a clear county policy addressing employment or contractual relationships involving elected officials across overlapping jurisdictions. The policy should include: Required disclosure of such relationships. Clear guidance on recusal or abstention when matters directly affect the employing or employed jurisdiction. Consistent application across all districts and departments. Additionally, making this information easily accessible to the public would improve transparency and understanding. Improves transparency and public trust in local government. Reduces the appearance of CONFLICTS OF INTEREST. Provides clear guidance to elected officials and staff.*

**Staff Analysis:**

This CEER recommends that the County adopt a policy addressing the County's employment of, and contractual relationships with, elected officials from other government

agencies to improve transparency and public trust, reduce the appearance of conflicts of interest, and provide clear guidance to elected officials and staff. The CEER specifically points out perceived conflicts relating to Commissioner Katie Delaney’s employment of Ms. Megan Moscoso, a Titusville city council member.<sup>1</sup> Various provisions of state law and county policy are relevant to the consideration of this CEER.

***Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Fla. Stat.)***

Dual Public Employment

A person may not be employed by a state agency or political subdivision of the state while at the same time holding office as a member of the governing body which is his or her employer.<sup>2</sup> Thus, a person may not simultaneously serve as a Brevard County commissioner and be employed by the Board of County Commissioners. However, this prohibition does not apply to a person serving as a municipal council member while employed by the Board of County Commissioners because Brevard County and its municipalities are separate and distinct political subdivisions.

Section 112.3125, Florida Statutes is relevant to the consideration of this CEER because it addresses so-called “dual public employment” – that is, when a person who is elected to, or is a candidate for, state or local office seeks public employment with the state or any of its political subdivisions. The statute defines the term “public officer” to include any person who is elected to state or local office or, for the period of his or her candidacy, has qualified as a candidate for office.<sup>3</sup>

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<sup>1</sup> It should be noted that a complaint was filed with the State of Florida Commission on Ethics alleging that Ms. Moscoso “has conflict of interest due to serving as both Communications Coordinator for Brevard County, District 1 and as a Councilwoman for the City of Titusville.” The Florida Commission on Ethics dismissed the complaint for “failure to constitute a legally sufficient complaint....” *In re Megan Moscoso, Complaint No. 25-205, Public Report and Order Dismissing Complaint* (COE Jan. 28, 2026). A similar complaint against Commissioner Delaney was dismissed on the same grounds. *In re Kathryn “Katie” Delaney, Complaint No. 25-206, Public Report and Order Dismissing Complaint* (COE Jan. 28, 2026).

<sup>2</sup> Fla. Stat. § 112.313(10).

<sup>3</sup> Fla. Stat. § 112.3125(1).

Pursuant to Section 112.3125, Florida Statutes, public officers are subject to the following restrictions:

- A public officer may not accept public employment 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.<sup>4</sup>
- Any public employment accepted by the public officer must meet each of the following four conditions:<sup>5</sup>
  - The position was already in existence or was created by the employer without knowledge or anticipation of the public officer's interest in such position.<sup>6</sup>
  - The position was publicly advertised.<sup>7</sup>
  - The public officer was subject to the same application and hiring process as other candidates for the position.<sup>8</sup>
  - The public officer meets or exceeds the required qualifications for the position.<sup>9</sup>
- A person who was employed by the state or a political subdivision before qualifying as a public officer may continue in 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 should know, is provided or given as a result of his or her election or position, or that is otherwise inconsistent with the

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<sup>4</sup> Fla. Stat. § 112.3125(2).

<sup>5</sup> Fla. Stat. § 112.3125(3).

<sup>6</sup> Fla. Stat. § 112.3125(3)(a).

<sup>7</sup> Fla. Stat. § 112.3125(3)(b).

<sup>8</sup> Fla. Stat. § 112.3125(3)(c).

<sup>9</sup> Fla. Stat. § 112.3125(3)(d).

promotion, advancement, additional compensation, or anything of value provided or given a similarly situated employee.<sup>10</sup>

### Conflicting Employment or Contractual Relationship

Section 112.313(7)(a), Florida Statutes, is relevant to the consideration of this CEER. It provides:

No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee ...; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

The first clause prohibits a public officer or employee from contracting with or being employed by any entity that does business with or is regulated by his or her agency. For purposes of this clause, Brevard County generally is not considered to be doing business with its municipalities.<sup>11</sup> Likewise, while a municipal council may occasionally be involved with the enactment of zoning or land use ordinances affecting proposed County projects, the Commission on Ethics has determined that this does not constitute “regulation” for purposes of the first part of Section 112.313(7)(a).<sup>12</sup>

The second clause of Section 112.313(7)(a) prohibits the holding of employment or a contractual relationship that will create a continuing or frequently recurring conflict between a public officer’s private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties. This is a fact-specific inquiry. For example, where a city council member was employed as an assistant school superintendent, the Commission on Ethics opined that the council

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<sup>10</sup> Fla. Stat. § 112.3125(4).

<sup>11</sup> See CEO 92-39 (1992) (“intergovernmental agreements and dealings between governmental entities have generally been found by [the Commission on Ethics] not to constitute ‘doing business’ for purposes of the first part of Section 112.313(7)(a)...”).

<sup>12</sup> See *id.*

member did not violate the second clause of Section 112.313(7)(a) because his job duties as assistant superintendent did not generally conflict with his council member duties, and he had the ability to delegate specific duties that might cause a conflict.<sup>13</sup>

### Voting Conflicts

Section 112.3143(3)(a), Florida Statutes, is relevant to this CEER. The statute provides:

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained . . . , other than an agency as defined in [Fla. Stat. §] 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer.

The statute defines “principal by whom retained” to exclude county, local, and municipal agencies of the state.<sup>14</sup> Thus, a municipal council member employed by the Board of County Commissioners would not violate the statute by voting on a measure that might inure to the gain or loss of Brevard County. Likewise, the statute would not bar a commissioner from voting on matters that might inure to the gain or loss of a municipality simply because the commissioner employs a member of the municipality’s governing body.

### ***Brevard County Personnel Policies***

Existing Brevard County personnel policies and procedures address many of the concerns raised by this CEER. For example, Merit System Policy VI.II.A., Outside Employment and Activities, provides in part:

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<sup>13</sup> See *id.*

<sup>14</sup> Fla. Stat. § 112.3143(1)(a) (“Principal by whom retained” means an individual or entity, other than an agency as defined in s. 112.312(2), that for compensation, salary, pay, consideration, or similar thing of value, has permitted or directed another to act for the individual or entity, and includes, but is not limited to, one’s client, employer, or the parent, subsidiary, or sibling organization of one’s client or employer.); Fla. Stat. § 112.312(2) (“Agency” means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative...).

Employees of the County Service shall not engage in any outside employment, enterprise, or other activity, whether paid or unpaid, which would interfere, be inconsistent, incompatible, or in legal, ethical or technical conflict with their duties as County employees or with the functions and responsibilities of the department or office for which they work. ...Permission to engage in outside employment or other activities may be denied or withdrawn at any time when it is determined by the appointing authority such activity interferes with the employee's production, efficiency, causes discredit to, or is in conflict with the interests of the County.

As referenced herein above, employees are required to complete a Request for Approval to Engage in Outside Employment/Activities form to request permission to engage in certain outside employment or activities, and new hires are required to disclose such outside employment or activities during the new hire process.

Merit System Policy VI.II.G., Political Activities of Employees, provides in part:

No employee shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the County Service, or an increase in pay or other advantage in employment in any such position for the purpose of influencing the vote or political action of any person, or for any consideration provided, however, that letters of inquiry, recommendations and references by employees in the County Service shall not be considered political pressure unless any such letter contains threatening, intimidating, irrelevant, derogatory or false information.

\* \* \*

Any employee holding elective public office shall be required to use annual leave or leave without pay when the duties of the elective public office require the attention of the employee during the employee's normal duty hours.

***Ethics and Optics***

Both the Florida Code of Ethics and existing Brevard County policy address situations where Brevard County might employ a public officer from another jurisdiction. In relation to the case referenced in the CEER, neither Commissioner Delaney nor her staff consulted with Human Resources or the County Attorney regarding the prospective hire

of a sitting municipal council member.<sup>15</sup> A policy specifically addressing the County's employment of public officers, including the dual public employment requirements of Section 112.3125, Florida Statutes, will help ensure that these issues are addressed during the employment process, improve transparency and public trust, reduce the appearance of conflicts of interest, and provide clear guidance to elected officials and staff.

**Staff Recommended Action:**

It is recommended that the Board of County Commissioners accept CEER #2026049 with revisions. Specifically, it is recommended that the Board direct the County Attorney, together with the County Manager and Human Resources staff, to prepare appropriate revisions to existing personnel policies to address the subject of dual public employment.

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<sup>15</sup> By comparison, in 2016 former District 1 County Commissioner Rita Pritchett sought a County Attorney opinion before hiring a city council member to a staff position. Based in part on the opinion issued by the County Attorney, Commissioner Pritchett elected not to proceed with the hire. A copy of that opinion is attached hereto as **Exhibit A**.



BOARD OF COUNTY COMMISSIONERS

County Attorney's Office  
2725 Judge Fran Jamieson Way  
Building C, Room 308  
Viera, Florida 32940

## Inter-Office Memo

**TO:** Commissioner Rita Pritchett, District 1 County Commissioner  
**FROM:** Scott Knox  
**SUBJECT:** County commissioner hiring a city councilmember to a staff position  
**DATE:** 12/6/16 \*amended 12/7/16

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**Question:** Can a County commissioner hire a sitting city councilmember to join the commissioner's staff?

**Short Answer:** While it depends on the nature and responsibilities of the staff position, it seems likely that there is no violation for purposes of the dual-office holding provision. As of this writing, it seems as though no ethics laws will be violated as long as: 1) the position already existed or was created without the knowledge or anticipation of the councilmember's interest in the position; 2) the position is publicly advertised; 3) the councilmember is subject to the same application and hiring process as other potential candidates; and, 4) the councilmember is qualified for the position.<sup>1</sup> However, issues will likely arise, especially for the city councilmember, as it relates to fully and faithfully discharging his or her public duties and responsibilities as both a County employee and a municipal officer.

### Analysis

#### 1. Cities and the County are Separate Entities

"No public officer or employee of an agency shall have or hold any employment . . . with . . . any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee . . ." <sup>2</sup> In addition, "[n]o employee of a . . . county . . . shall hold office as a member of the governing board, council, commission, or authority, . . . which is his or her employer while, at the same time, continuing as an employee of such employer."<sup>3</sup> Holding a city councilmember position and a County commissioner staff position would not violate either statutory provision because the positions are from distinct political subdivisions independent of each other. Importantly, however, "an officer or employee of an agency [shall not] have any

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<sup>1</sup>Fla. Stat. § 112.3125(3).

<sup>2</sup>Fla. Stat. § 112.313(7)(a)

<sup>3</sup>Fla. Stat. § 112.313(10)(a).

employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.”<sup>4</sup> While the duties and responsibilities of the commissioner staff position will need to be identified, it is unlikely that these duties will interfere with the councilmember’s ability to fully and faithfully discharge his or her public duties.

## 2. Dual Public Employment Concerns

The Florida Legislature addresses the ability for a public officer, i.e., a city councilmember, to simultaneously hold a position of employment with a governmental entity. “A public officer may not accept public employment with . . . [a] political subdivision[] 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 . . .”<sup>5</sup> Furthermore, as it specifically relates to the current situation, in order for the city councilmember to work on the commissioner’s staff, the staff position must be in existence or created by the commissioner “without the knowledge or anticipation of the [councilmember’s] interest in such position;” the staff position must have been publicly advertised; the councilmember was subject to the same application and hiring process as other candidates; and, the councilmember is qualified for the staff position.<sup>6</sup> As long as these conditions are met, the dual public employment requirements will be satisfied.

## 3. Dual-Office Holding Concerns

In pertinent part, Article II, Section 5(a) of the Florida Constitution provides that “[n]o person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein.” “This constitutional provision prohibits a person from serving in more than one state, county, or municipal office simultaneously.”<sup>7</sup> It is clear that, for purposes of this dual-office holding provision, a city councilmember is a public officer.<sup>8</sup> However, in order to determine the status of the staff position, it is the nature and character of the position that will determine if it should be classified as an office or an employment.

As a result, “it must be determined whether each of the positions . . . is an office for purposes of the dual office-holding prohibition.”<sup>9</sup> In order to make such a determination, the Florida Supreme Court has provided guidance on how to distinguish an “office” from an “employment.” Specifically, in *State ex rel. Holloway v. Sheats*, 83 So. 508 (Fla. 1919), the court found that

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<sup>4</sup>Fla. Stat. § 112.313(7)(a)

<sup>5</sup>Fla. Stat. § 112.3125(2).

<sup>6</sup>Fla. Stat. § 112.3125(3)

<sup>7</sup>Op. Att’y Gen. Fla. 2002-49 (2002).

<sup>8</sup>Op. Att’y Gen. Fla. 2005-59 (2005) (“Membership on the governing body of a governmental entity, such as a county or municipality, clearly constitutes an office.”).

<sup>9</sup>Op. Att’y Gen. Fla. 2016-15 (2016).

[t]he term “office” implies a delegation of a portion of the sovereign power to, and the possession of it by, the person filling the office, while an “employment” does not comprehend a delegation of any part of the sovereign authority. The term “office” embraces the idea of tenure, duration and duties in exercising some portion of the sovereign power, conferred or defined by law and not by contract. An employment does not authorize the exercise in one’s own right of any sovereign power or any prescribed independent authority of a governmental nature; and this constitutes perhaps the most decisive difference between an employment and an office, and between an employee and an officer.

*State ex rel. Holloway*, at 509.

Based on this reasoning, the commissioner staff position’s duties and responsibilities will likely result in the position being considered an employment, not an office. Therefore, it is unlikely that there will be a violation of the dual-office holding prohibition.

#### 4. Voting Conflict Concerns

Fla. Stat. § 112.3143(3)(a) provides that

[n]o county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained . . . , other than an agency as defined in [Fla. Stat. §] 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer.

It must be determined whether the councilmember inures a special private gain or loss for himself/herself and/or their family or business associates. This would require a case-by-case analysis of the issues going before the councilmember for a vote, as well as the method by which the commissioner staff position would be compensated. On the other hand, as it relates to special private gains or losses for the principal by whom the councilmember is retained, both the city council and the Board of County Commissioners would be exempt from analysis. Specifically,

“Principal by whom retained” means an individual or entity, *other than an agency as defined in s. 112.312(2)*, that for compensation, salary, pay, consideration, or similar thing of value, has permitted or directed another to act for the individual or entity, and includes, but is not limited to one’s client, employer, or the parent, subsidiary, or sibling organization of one’s client or employer.<sup>10</sup>

Pursuant to Fla. Stat. § 112.312(2), an “[a]gency” means any . . . county, local, or municipal entity of this state, whether executive, judicial, or legislative . . .” As a result, at least as it

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<sup>10</sup>Fla. Stat. § 112.3143(1)(a) (*emphasis added*).

applies to any gains or losses received by the County or city, there are no voting conflicts. Additionally, the compensation awarded to the councilmember in his or her capacity as the commissioner's staff needs to avoid being contingent upon any activities undertaken by the councilmember in his or her capacity on the city council.<sup>11</sup>

Example: CEO 92-39

The Florida Commission on Ethics issued an opinion (CEO 92-39) that addressed whether a city councilmember could serve as an assistant school superintendent. This example is relevant because it deals with two separate political entities that work independent of each other, similar to the employment position with the Board of County Commissioners and an officer position on a city council. In that situation, the assistant school superintendent would have the school board as a public agency and the city council as a public agency. The Commission first looked at whether the city councilmember/assistant school superintendent held "any employment or any contractual relationship with any business entity or agency which is subject to the regulation of or which is doing business with either of his public agencies."<sup>12</sup>

The Commission then focused on whether the school board, i.e., the employing agency, was "subject to the regulation of or is doing business with the [c]ity [c]ouncil, for the purposes of . . . [Fla. Stat. §] 112.313(7)(a)."<sup>13</sup> The Commission found that constructing a school within the city or having the school board enter into an interlocal agreement with the city council for said school would not subject the school board to the regulation of the city council. Furthermore, "intergovernmental agreements and dealings between governmental entities have generally been found by [the Commission] not to constitute 'doing business' for purposes of the first part of Section 112.313(7)(a) . . ."<sup>14</sup> Importantly, "[a] purpose of the Code of Ethics is to prevent private gain at public expense, not to prevent dealings between governmental entities."<sup>15</sup>

Next, the Commission examined whether these two positions would "create a continuing or frequently recurring conflict between a public officer's private interests and the performance of his public duties or what would impede the full and faithful discharge of his public duties."<sup>16</sup> In order to reach a conclusion, the Commission looked at the position's actual duties and responsibilities to ultimately determine that there would not be a violation of the second part of Fla. Stat. § 112.313(7)(a). The commissioner staff position will need to have duties that do not interfere with the councilmember's ability to discharge his or her duties as an elected official.

Lastly, the Commission examined whether such positions would cause a voting conflicts issue in violation of Fla. Stat. § 112.3143. The Commission came to the conclusion that there would not

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<sup>11</sup>See, Fla. Stat. § 112.3143.

<sup>12</sup>CEO 92-39 (1992).

<sup>13</sup>*Id.*

<sup>14</sup>*Id.*

<sup>15</sup>*Id.*

<sup>16</sup>*Id.*

be a violation of the voting conflicts law “because that law exempts from its prohibitions votes on measures inuring to the gain of an ‘agency.’”<sup>17</sup> As mentioned above, the Board of County Commissioners and a city council fall under the definition of “agency” and, therefore, are not subject to analysis to determine if a vote inured to the gain or loss of such governmental entities.

#### 5. \*Consultation with Ethics Attorney

After informally consulting<sup>18</sup> with an ethics attorney at the Florida Commission on Ethics, it seems there may be a challenge avoiding perceived violations of Florida’s ethics laws. In particular, “[a] public officer may not accept public employment . . . if the public officer knows, or *with the exercise of reasonable care should know*, that the position is being offered by the employer for purposes of gaining influence or other advantage based on the public officer’s office . . .”<sup>19</sup> This is interpreted to mean that constructive knowledge, based on the facts and circumstances of the situation. It is conceivable that an allegation of an ethics violation could be raised in circumstances where a city council member was employed by a County commissioner after voting in their official capacity as a city council person on a matter that directly affects the Commissioner or the Commissioner’s office.

Additionally, Fla. Stat. §§ 112.313(6) and 112.313(7)(a) will need to be addressed by the councilmember, especially as it relates to misuse of the power and authority entrusted to the councilmember. In particular, “[n]o public officer . . . shall . . . attempt to use his or her official position or any property or resource which may be within his or her trust . . . to secure a special privilege, benefit, or exemption for himself, herself, or others.”<sup>20</sup> For example, a perceived ethics issue could arise if the councilmember was to vote on a matter that would provide favorable terms to his/her employer, the County Commissioner, on the lease of a workspace owned by the city he/she represents. Likewise, the city councilmember is not permitted to hold any employment that “would impede the full and faithful discharge of his or her public duties.”<sup>21</sup> Due to these prohibitions, the city councilmember could foreseeably be placed in a difficult position as far as separating his/her duties and responsibilities as a member of the city council from his/her role on the Commissioner’s staff.

However, one obstacle that can potentially be avoided would be to craft the aforementioned lease agreement as an interlocal agreement with the City rather than a commercial sublease. Florida law states that “[n]o public officer or employee of an agency shall have or hold any employment . . . with . . . any agency which . . . is doing business with[] an agency of which he or she is an officer or employee . . .”<sup>22</sup> As mentioned above, the Ethics Commission does not consider

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<sup>17</sup>*Id.*

<sup>18</sup>A letter can also be submitted to the Commission, with permission from the commissioner and the councilmember, to get a more concrete opinion on the situation. Such an opinion usually takes two (2) weeks to complete.

<sup>19</sup>Fla. Stat. § 112.3125(2) (*emphasis added*).

<sup>20</sup>Fla. Stat. § 112.313(6).

<sup>21</sup>Fla. Stat. § 112.313(7)(a).

<sup>22</sup>*Id.*

interlocal agreements as “doing business.”<sup>23</sup> Therefore, if the agreement includes the certain language and provisions to satisfy the requirements of an interlocal agreement then it is possible that the “doing business” prohibition found in Fla. Stat. § 112.313(7)(a) can be avoided.

## **Conclusion**

The hiring of the city councilmember onto the County commissioner’s staff does not violate the dual-office holding provision established by Art. II, Sec. 5(a) of the Florida Constitution. However, there are additional considerations that need to be taken into account before the councilmember joins the County commissioner’s staff. In any event, the councilmember will need to ensure the provisions of the State’s ethics laws, Chapter 112, Florida Statutes, are not violated. Therefore, it may be advisable to seek an informal opinion from the Ethics Commission on the issues raised above, particularly the issues raised in point 5. The Ethics Commission attorney suggested that any such informal opinion would have to be jointly requested by the County Commissioner and the City Council person.

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<sup>23</sup>See, CEO 92-39 (1992).