

SUBJECT: TOWN COUNCIL MEMBERS RECEIVING MEALS AND GIFTS FOR SPOUSES

SUMMARY:

Town Council members are not prohibited from accepting meal invitations if not given to influence official actions, however, if the meals are accepted, they must be reported on the Member's Statement of Economic Interests.

QUESTION:

The Mayor of Gilbert questions the acceptance of meals and gifts for spouses by members of City Council. He states:

Every year the Lexington County Peach Festival has a pre-festival banquet which is sponsored by two financial institutions. On July 4th, the Lexington County Peach Festival has a noon luncheon for dignitaries, constitutional officers, and local politicians which is sponsored by two utility companies. After the Peach Festival, the Gilbert Community Club sponsors a banquet for those individuals who worked at the Peach Festival and invites the Town Council to participate. Every Christmas, the Town sponsors an appreciation dinner for the volunteer firemen of the Gilbert-Summit Fire Department. At the supper, the Fire Department provides gifts to all spouses.

DISCUSSION:

This opinion is rendered in response to a letter dated January 25, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-705 prohibits both the offer and acceptance of anything of value to influence the actions of a public official, public member, or public employee. Section 8-13-705(A) provides:

- (A) person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:
- (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
 - (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
 - (3) induce a public official, public member, or public employee to perform or fail to

perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

Anything of value is defined in Section 8-13-100(1) as:

- (1)(a) "Anything of value" or "thing of value" means:
- (i) a pecuniary item, including money, a bank bill, or a bank note;
 - (ii) a promissory note, bill of exchange, an order, a draft, warrant, check or bond given for the payment of money;
 - (iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 - (iv) a stock, bond, note, or other investment interest in an entity;
 - (v) a receipt given for the payment of money or other property;
 - (vi) a chose-in-action;
 - (vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 - (viii) a loan or forgiveness of indebtedness;
 - (ix) a work of art, an antique, or a collectible;
 - (x) an automobile or other means of personal transportation;
 - (xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;
 - (xii) an honorarium or compensation for services;
 - (xiii) a promise or offer of employment;
 - (xiv) any other item that is of pecuniary or compensatory worth to a person.
- (b) "Anything of value" or "thing of value" does not mean:
- (i) printed informational or promotional material, not to exceed ten dollars in monetary value;
 - (ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
 - (iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;
 - (iv) educational material of a nominal value directly related to the public official's, public member's, or public employee's official responsibilities;
 - (v) an honorary degree bestowed upon a public official, public member, or public employee by a public or private university or college;
 - (vi) promotional or marketing items offered to the general public on the same terms and conditions without regard to status as a public official or public employee; or
 - (vii) a campaign contribution properly received and reported under the

provisions of this chapter.

Section 8-13-710(A) provides:

(A) Unless provided by subsection (B) and in addition to the requirements of Chapter 17 of Title 2, a public official or public employee required to file a statement of economic interests under Section 8-13-1110 who accepts anything of value from a lobbyist's principal must report the value of anything received on his statement of economic interests pursuant to Section 8-13-1120(A)(9).

Thus, anything of value received from a lobbyist principal as defined in Section 2-17-10(14) is to be reported on the Statement of Economic Interests.

Further, Section 8-13-710(B) provides:

(B) A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

(1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member's or public employee's office or position;

(2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:

(a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity;

(b) conducts operations or activities which are regulated by the public official's, public member's, or public employee's governmental entity.

This section requires disclosure of anything of value worth \$25 or more in a day or \$200 in the aggregate in a calendar year if the gift is from a person who is giving the thing of value because of the officeholder's position, someone who is a potential contractor or someone whose activities are regulated by the officeholder's agency.

Those persons required to file a Statement of Economic Interests are required by Section 8-13-710 (A) to report anything of value received from a lobbyist principal. Anything of value worth more than \$25 in a day or \$200 in a calendar year is to be disclosed if the thing is received from a donor where there is reason to believe the donor would not give it except for the person's public position, or if the donor is either regulated by the recipient's agency or is seeking a business relationship with that agency.

Thus, if the meals are not given to influence the Council members in their official functions, they are not prohibited from accepting the meal invitations. However, if the financial

institutions or utility companies are lobbyists principals, the Town Council members must disclose the receipt of such meals and the value. The meals and gifts sponsored by the Community Club or the volunteer fire department must be reported if they are worth \$25 or more in a day or \$200 or more in a calendar year.