



MEMORANDUM

To: Assistant Deputy Mayor Jacqueline A. Guzman
From: Thomas P. Moss, City Attorney *TPM*
Date: March 25, 2025
Re: City of Sunrise/Elected Official Code of Ethics – Advisory Opinion 25-01

Facts

You have advised that you maintain two social media (Facebook) pages. Both Facebook pages were created by and are administered by you, without input, assistance or oversight from the City of Sunrise. Neither page has as its primary purpose the promotion of charitable causes or events.

You recently posted on your Facebook pages information regarding the tragic death of a Sunrise teenager. The posts contain information about a candlelight vigil in honor of the teenager and include a GoFundMe link to accept donations for the family's funeral expenses. The GoFundMe campaign was organized by the family of the teenager. Your posts ask readers to consider donating to the GoFundMe campaign. Your posts do not tag specific individuals or entities.

Additionally, you regularly post information regarding upcoming public events on your Facebook pages. One of the events is an annual Go Red Fashion Show benefitting either the American Heart Association, Inc. ("AHA") or Heart Sistas, Inc. ("Heart Sistas"), depending on the year. Both the AHA and Heart Sistas are 501(c)(3) tax exempt organizations that promote heart health and disease awareness. Admission to the annual fashion show is free. Your Facebook posts include a link for the public to obtain free tickets to the show, as well as links to the AHA or Heart Sistas websites. People attending the fashion show have opportunities to make charitable donations to the AHA or Heart Sistas. You have typically tagged musical performers for the event and representatives of the beneficiary in your Facebook posts. By Resolution, the City of Sunrise has formally approved charitable solicitations on behalf of the AHA and Heart Sistas.

If these facts are inaccurate or incomplete in any way, please let me know because it may affect my opinion.

Questions Presented

You have asked for an advisory opinion regarding whether sharing a GoFundMe campaign on your Facebook pages to benefit a family whose son passed away requires a charitable solicitation disclosure pursuant to the Broward County Elected Official Code of Ethics.

You have also asked whether you may post on your social media pages information about the annual Go Red Fashion Show when the event benefits a nonprofit organization that has been formally approved by the City for purposes of charitable solicitation where such posts include a link to obtain free tickets, a link to the beneficiary's website, and the beneficiary and musical performers are tagged.

Social Media Posts Containing Information about a Candlelight Vigil and a Link to a GoFundMe Campaign Do Not Require a Charitable Solicitation Disclosure

County Code Section 1-19(c)(5)a.1. allows an Elected Official in his or her private capacity to solicit funds, goods, or services on behalf of any charitable organization, nonprofit entity, or individual (Private Charitable Solicitation), provided that the Elected Official complies with any applicable state or federal laws, does not represent or imply to anyone that the charitable solicitation is on behalf of or has been approved or endorsed by the Elected Official's governmental entity, does not use any staff or resources of his or her governmental entity, and further provided that the Elected Official discloses the Private Charitable Solicitation within fifteen (15) days after the Elected Official engages in Private Charitable Solicitation.

Your Facebook posts sharing information about the candlelight vigil and containing a link to the GoFundMe campaign would be considered a charitable solicitation. However, County Code Section 1-19(c)(5)a.3. provides exceptions to the definitions of both Private Charitable Solicitation and Official Charitable Solicitation, including:

- Postings on social media pages where the page does not have as its primary purpose the promotion of charitable causes or events, provided that such postings do not tag specific individuals or entities in order to call their attention to the postings, and irrespective of whether the postings are boost postings or promoted postings; and
- GoFundMe® or similar online fundraising campaigns.

Your Facebook posts sharing details of the vigil and the GoFundMe campaign are not Private Charitable Solicitations or an Official Charitable Solicitations because they are social media posts on pages that do not have as their primary purpose the promotion of charitable causes or events and you did not "tag" specific individuals or entities in the posts. The GoFundMe link in your posts do make the posts charitable solicitations because GoFundMe campaigns are also an exception to the definitions of both Private Charitable Solicitation and Official Charitable Solicitation. Because the posts are not Private Charitable Solicitations or Official Charitable Solicitations, no disclosure is required under the Broward County Elected Official Code of Ethics.

Social Media Posts Containing Information about an Annual Fashion Show, a Link for Free Tickets, and a Link to the Beneficiary's Website are Allowable Under the County Elected Official Code of Ethics

County Code Section 1-19(c)(5)a.2. allows an Elected Official in his or her official capacity to solicit funds, goods, or services for qualified charitable causes, individuals, and educational or humanitarian nonprofit entities that meet the Internal Revenue Code's criteria for charitable organizations ("Official Charitable Solicitation"), so long as there is no quid pro quo or other special consideration, including any direct or indirect exchange of benefits between the parties to the Official Charitable Solicitation.

Further, County Code Section 1-19(c)(5)a.4. allows, except where otherwise required by law, and as otherwise qualified in the County Elected Official Code of Ethics, an Elected Official to use staff directly assigned to the Elected Official and to use his or her governmental entity's e-mail and telephone systems and other resources that do not require the affirmative expenditure of public funds (collectively, "in-kind resources") when engaging in Official Charitable Solicitation, provided the use of such resources does not violate any other provision of applicable law. Approval by the Elected Official's governmental entity is required only where the Official Charitable Solicitation involves the affirmative expenditure of public funds through the use of resources other than in-kind resources or where the Elected Official seeks to use staff other than directly assigned staff; however, an Elected Official may choose to seek formal approval of the charitable solicitation from his or her governmental entity even where only directly assigned staff and in-kind resources are used in connection with the charitable solicitation.

City of Sunrise Resolution No. 11-183, as amended, identifies those charitable organizations, nonprofit organizations, fundraising events and City events that are formally approved by the City. The past beneficiaries of the annual fashion show, the AHA and Heart Sistas, are charitable organizations formally approved by the City of Sunrise for purposes of charitable solicitation.

It is uncertain that social media posts constitute solicitations when they merely share information about the annual fashion show, contain links to obtain free tickets, and contain links to the beneficiary's website. However, such posts would be allowable under the County Elected Official Code of Ethics regardless of whether the posts are solicitations when the beneficiary of donations is a nonprofit or charitable organization formally approved by Resolution No. 11-183, as amended.

Based on the foregoing facts and provisions of the County Elected Official Code of Ethics, it is my opinion that you are allowed to post information on your social media pages sharing information about the annual fashion show, including links to obtain free tickets and links to the beneficiary's website, when the beneficiary of donations has been formally approved by the City of Sunrise for purposes of charitable solicitation as long as there is no *quid pro quo* or other special consideration, including any direct or indirect benefit, provided to you, and you comply with all applicable laws. There is no disclosure requirement when the charitable solicitations are formally approved by the City Commission pursuant to Resolution No. 11-183, as amended.

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the County Code and may be relied upon by the individual who made the request for purposes of the Broward County Elected Official Code of Ethics. It is limited to the facts provided. Within fifteen (15) days, this opinion must be filed with Broward County for inclusion in the database of advisory opinions.