



EXECUTIVE ADMINISTRATION/LEGAL DIVISION  
ACCOUNTING DIVISION  
APPEALS DIVISION  
ARCHIVES AND RECORDS  
CENTURY DIVISION  
CHILD SUPPORT  
CLERK TO THE BOARD  
COUNTY CIVIL  
COUNTY CRIMINAL  
COURT DIVISION  
CIRCUIT CIVIL  
CIRCUIT CRIMINAL  
DOMESTIC RELATIONS  
FAMILY LAW

**ERNIE LEE MAGAHA**  
**CLERK OF THE CIRCUIT COURT & COMPTROLLER**  
**ESCAMBIA COUNTY, FLORIDA**

◊ AUDITOR ◊ ACCOUNTANT ◊ EX-OFFICIO CLERK TO THE BOARD ◊ CUSTODIAN OF COUNTY FUNDS ◊

FINANCE  
JURY ASSEMBLY  
GUARDIANSHIP  
HUMAN RESOURCES  
JUVENILE DIVISION  
MARRIAGE  
MENTAL HEALTH  
MANAGEMENT INFORMATION SYSTEMS  
OFFICIAL RECORDS  
OPERATIONAL SERVICES  
PROBATE DIVISION  
TRAFFIC DIVISION  
TREASURY

January 8, 2007

Chairman Kevin White  
Escambia County Board of County Commissioners  
221 Palafox Place, Suite 400  
Pensacola, FL 32502

Re: Sale of County Surplus Property located at 7501 Jamesville Road  
Account No. 090795300

Dear Chairman White:

This letter is to follow up on our previous discussion regarding the purchase of the above-referenced surplus property by Escambia County Commissioner Whitehead. Upon advice of our legal counsel, we must advise you that the Clerk of Court and Comptroller will not process any remaining transactions to conclude the purchase of this real property by Commissioner Whitehead.

We have been advised that county commissioners are prohibited from purchasing county surplus property by §112.313, Florida Statutes, which governs standards of conduct for public officers. The Florida Commission on Ethics has held in a number of its opinions that it is a prohibited conflict of interest for a county or city public officer or employee who has a role in the disposition of surplus public property (real or personal) to purchase such property from the city or county, whether or not the property is offered at auction or through sealed competitive bids. As Commissioner Whitehead participates in the process of declaring various county held real properties as surplus, he is ineligible to purchase any of the parcels. Attached is a copy of Commission on Ethics Opinion 84-85 which explains the conflict of interest and refers to the other prior opinions rendered on the same subject.

There were other problems with the attempted sale of the Jamesville Road property. These were as follows:

1. The failure of the Administrative Services department to update the value of the real estate to the current assessed value. The property was offered at \$62,250 which was substantially less than the current assessed value of \$83,490. The Property Appraiser's website will confirm the current assessed value.

Chairman Kevin White  
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January 8, 2007

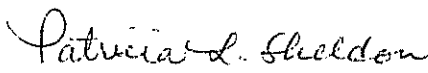
2. The property was first advertised for sale on December 3, 2006 which was prior to the Board taking action to declare the property as surplus.
3. The item was taken up at the December 7, 2006 meeting as an add-on item when it should have been part of the regular agenda package. There does not appear to have been any emergency reason for this property to be added as a last minute agenda item.

In light of the above, it is recommended that the Board take action to rescind the December 19, 2006 sale of the Jamesville Road property to Commissioner Whitehead. A refund of the \$6,500 bid deposit paid by Commissioner Whitehead will be in order. It is further recommended that the Board provide direction to the Administrative Services department on its procedures for selling surplus property, including insuring that any real property is offered at the most current assessed value, and that no county officials or employees who are involved in the disposition process bid on any sale of real or personal county surplus property.

Thank you for your attention and cooperation in this matter.

Sincerely,

Ernie Lee Magaha  
Clerk of the Circuit Court & Comptroller

By:   
Patricia L. Sheldon, CPA, CGFO, CPFO  
Administrator for Financial Services

PLS/nac

cc: Janet Lander, County Attorney  
Gene Valentino, Commissioner District 2

Select Year: 

## The 2006 Florida Statutes

<a href="#">Title X</a>	<a href="#">Chapter 112</a>	<a href="#">View Entire Chapter</a>
PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS	

### 112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.--

(1) DEFINITION.--As used in this section, unless the context otherwise requires, the term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) SOLICITATION OR ACCEPTANCE OF GIFTS.--No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(3) DOING BUSINESS WITH ONE'S AGENCY.--No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

(4) UNAUTHORIZED COMPENSATION.--No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) SALARY AND EXPENSES.--No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) MISUSE OF PUBLIC POSITION.--No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.--

(a) 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, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; 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.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.--

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(l) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the

Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person, including an other-personal-services employee, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. An agency employee, including an agency employee who was employed on July 1, 2001, in a Career Service System position that was transferred to the Selected Exempt Service System under chapter 2001-43, Laws of Florida, may not personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

(10) 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.

(b) The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.

(11) PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD MEMBERS.--No officer, director, or administrator of a Florida state, county, or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

(12) EXEMPTION.--The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of

elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year.

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer or an officer of any district within a county, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it appears in the records of the agency that the governing body of the agency has determined that such officer or member of a public board or body has not favored such bank over other qualified banks.

(h) The transaction is made pursuant to s. 1004.22 or s. 1004.23 and is specifically approved by the president and the chair of the university board of trustees. The chair of the university board of trustees shall submit to the Governor and the Legislature by March 1 of each year a report of the transactions approved pursuant to this paragraph during the preceding year.

(i) The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and:

1. The price and terms of the transaction are available to similarly situated members of the general public; and

2. The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

(13) COUNTY AND MUNICIPAL ORDINANCES AND SPECIAL DISTRICT AND SCHOOL DISTRICT RESOLUTIONS REGULATING FORMER OFFICERS OR EMPLOYEES.--The governing body of any county or municipality may adopt an ordinance and the governing body of any special district or school district may adopt a resolution providing that an appointed county, municipal, special district, or school district officer or a county, municipal, special district, or school district employee may not personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining. Nothing in this section may be construed to prohibit such ordinance or resolution.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.--A person who has been elected to any county, municipal, special district, or school district office may not personally represent another

person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection:

- (a) The "government body or agency" of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.
- (b) The "government body or agency" of any other county elected officer is the office or department headed by that officer, including all subordinate employees.
- (c) The "government body or agency" of an elected municipal officer consists of the governing body of the municipality, the chief administrative officer or employee of the municipality, and their immediate support staff.
- (d) The "government body or agency" of an elected special district officer is the special district.
- (e) The "government body or agency" of an elected school district officer is the school district.

(15) ADDITIONAL EXEMPTION.--No elected public officer shall be held in violation of subsection (7) if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the officer's agency and:

- (a) The officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;
- (b) The officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the agency, or otherwise; and
- (c) The officer abstains from voting on any matter which may come before the agency involving the officer's employer, publicly states to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s. 112.3143.

(16) LOCAL GOVERNMENT ATTORNEYS.--

- (a) For the purposes of this section, "local government attorney" means any individual who routinely serves as the attorney for a unit of local government. The term shall not include any person who renders legal services to a unit of local government pursuant to contract limited to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. For the purposes of this section, "unit of local government" includes, but is not limited to, municipalities, counties, and special districts.
- (b) It shall not constitute a violation of subsection (3) or subsection (7) for a unit of local government to contract with a law firm, operating as either a partnership or a professional association, or in any combination thereof, or with a local government attorney who is a member of or is otherwise associated with the law firm, to provide any or all legal services to the unit of local government, so long as the local government attorney is not a full-time employee or member of the governing body of the unit of local government. However, the standards of conduct as provided in subsections (2), (4), (5), (6), and (8) shall apply to any person who serves as a local government attorney.
- (c) No local government attorney or law firm in which the local government attorney is a member, partner, or employee shall represent a private individual or entity before the unit of local



government to which the local government attorney provides legal services. A local government attorney whose contract with the unit of local government does not include provisions that authorize or mandate the use of the law firm of the local government attorney to complete legal services for the unit of local government shall not recommend or otherwise refer legal work to that attorney's law firm to be completed for the unit of local government.

(17) BOARD OF GOVERNORS AND BOARDS OF TRUSTEES.--No citizen member of the Board of Governors of the State University System, nor any citizen member of a board of trustees of a local constituent university, shall have or hold any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. 11.045.

**History.**--s. 3, ch. 67-469; s. 2, ch. 69-335; ss. 10, 35, ch. 69-106; s. 3, ch. 74-177; ss. 4, 11, ch. 75-208; s. 1, ch. 77-174; s. 1, ch. 77-349; s. 4, ch. 82-98; s. 2, ch. 83-26; s. 6, ch. 83-282; s. 14, ch. 85-80; s. 12, ch. 86-145; s. 1, ch. 88-358; s. 1, ch. 88-408; s. 3, ch. 90-502; s. 3, ch. 91-85; s. 4, ch. 91-292; s. 1, ch. 92-35; s. 1, ch. 94-277; s. 1406, ch. 95-147; s. 3, ch. 96-311; s. 34, ch. 96-318; s. 41, ch. 99-2; s. 29, ch. 2001-266; s. 20, ch. 2002-1; s. 894, ch. 2002-387; s. 2, ch. 2005-285; s. 2, ch. 2006-275.

<sup>1</sup>**Note.**--Abolished by s. 3, ch. 2001-170.

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CEO 84-85 -- August 9, 1984

**CONFLICT OF INTEREST****CITY COUNCIL MEMBER PURCHASING SURPLUS CITY LAND FOR RESIDENCE**

To: *(Name withheld at the person's request.)*

**SUMMARY:**

A prohibited conflict of interest would be created were a city council member to purchase surplus city land for use as his residence. CEO's 83-26, 83-24, 81-86, 79-10, 77-15, and 76-188 are referenced. However, under the rationale of CEO's 81-51 and 76-75, no prohibited conflict of interest would be created were a city council member to purchase improved real property from a developer for use as his residence, where the property had been purchased from the city as surplus property and then improved by the developer.

**QUESTION 1:**

Would a prohibited conflict of interest be created were a city council member to purchase surplus city land for use as his residence?

This question is answered in the affirmative.

In your letter you advise that ....., a member of the Delray Beach City Council, is considering purchasing an unimproved double lot currently listed as surplus property by the City for use as his residence. You also advise that in disposing of surplus property the City Administration, at the direction of the City Council, compiles a list of all property which is declared surplus and available for sale. Whenever an offer is made for a parcel listed on the surplus property schedule, an appraisal is done on the property. If an appraisal of the property already had been made, the appraisal would be updated unless it had been done very recently. All offers for sale are discussed at a public meeting in terms of the appraisal, and the Council's tentative approval or disapproval is given. If an offer tentatively is approved, the potential sale of the property along with the details of the sale are publicly advertised for two weeks. At the end of that period a public hearing is held at which citizen comments are heard and other offers can be considered.

We previously have advised that public employees involved in the acquisition or disposition of public property may not purchase surplus property by bid at a public auction or even by a sealed, competitive bidding process. See CEO 83-24, CEO 83-26 and CEO 76-188. We also have advised that members of governing bodies of counties and municipalities may not purchase surplus property by bid at auction or by sealed bid. See CEO 81-86, CEO 79-10 and CEO 77-15.

As in these previous opinions, the members of the City Council here play a role in declaring property surplus and in the sale of the property. Although we recognize the safeguards which the City follows in disposing of surplus property, the safeguards here would appear no greater than those inherent in a sale by public auction or by a competitive bidding process.

Accordingly, for the reasons expressed in opinions referenced above, we find that a prohibited conflict of interest would be created were the subject City Council member to purchase surplus City property from the City.

**QUESTION 2:**

Would a prohibited conflict of interest be created were a City Council member to purchase improved real property from a developer for use as his residence, where the property had been purchased from the City as surplus property and then improved by the developer?

This question is answered in the negative, subject to the conditions noted below.

In your letter of inquiry you advise that as an alternative to the possible purchase of surplus property from the City, the subject Council member is considering the future purchase of this property from a corporation which would purchase it directly from the City. This corporation previously has purchased surplus City property adjacent to the lots in question and currently is developing that property. The Council member originally had approached the corporation to purchase a home in that development, but was informed that all of the property already had been sold. It was then that he sought to purchase the adjacent City-owned property.

You advise that the corporation would develop the subject lots in conjunction with the adjacent lots previously purchased and would convey the subject lot, once improved, to the Council member. The Council member has no interest in the corporation and is not employed by the corporation. The corporation understands that the future sale of the property, once improved, to the Council member is contingent upon our approval of that transaction. However, the corporation intends to be bound by the contract to purchase the lots from the City regardless of the outcome of our opinion, and simply would seek another buyer in the event that it could not sell to the Council member.

We are of the opinion that the Code of Ethics for Public Officers and Employees would not prohibit the subject City Council member from purchasing improved property in the City from a developer for use as his residence, provided that the decision to declare the property surplus was not made at his request or specifically for the purpose of making the property available for sale to him by another. We previously have determined that a misuse of public position prohibited by Section 112.313(4), Florida Statutes (Supp. 1974), presently renumbered as Section 112.313(6), Florida Statutes, occurred where a county commissioner took action to declare county land surplus in order to acquire the property from a third party. In re Homer B. Sikes, Complaint No. 75-12 (January 19, 1976). See also CEO 81-51 and CEO 76-75, regarding municipal building officials purchasing or constructing residences within their municipalities. In the present instance the corporation would not merely be acting as a "straw man" for the Council member, as the corporation would improve the property in conjunction with the adjacent lots in its development before conveying it.

Accordingly, subject to the conditions noted above, we find that no prohibited conflict of interest would be created were the subject Council member to purchase the subject property from the developer.