Proposed opinion recommended by staff NOT APPROVED BY ETHICS COMMISSION. To be considered at public meeting (See attached notice.)

FILE 2840 – December 4, 2026

CONFLICT OF INTEREST; VOTING CONFLICTS

TOWN MAYOR ALSO SERVING AS VOLUNTEER FIREFIGHTER, AND VOTING ON ISSUES AFFFECTING FIRE DEPARTMENT

To: Mr. Bruce Pickett (Town of Melbourne Beach)

SUMMARY:

Section 112.313(10), Florida Statutes, will not apply if a town mayor is accepting a nominal stipend from the town for volunteer firefighting services, although the mayor still will need to decline the stipend to avoid a prohibited conflict of interest under Section 112.313(7)(a), Florida Statutes. The mayor also will not have a voting conflict under Section 112.3143(3)(a), Florida Statutes, on measures concerning the town fire department unless the measures also will have a personal financial effect on him. Referenced are CEO 23-1, CEO 19-6, CEO 10-21, CEO 08-22, CEO 08-7, CEO 00-23, CEO 89-56, CEO 79-25, CEO 78-28, CEO 76-187, and CEO 76-109.

QUESTION 1:

Would a prohibited conflict of interest exist under either Section 112.313(10), Florida Statutes, or Section 112.313(7)(a), Florida Statutes, were a town mayor to serve as a volunteer firefighter with the town's fire department?

Question 1 is answered as follows.

In your letter of inquiry, you state you were recently elected Mayor of the Town of Melbourne Beach. You also indicate you have served—and hope to continue serving—as a volunteer firefighter for the Melbourne Beach Volunteer Fire Department (MBVFD), which is part

of Town government. You inquire whether your status as a volunteer firefighter for the Town, including receiving a quarterly stipend and various volunteer benefits and expenses, creates a prohibited conflict of interest for you now that you are serving as the Mayor.

To better understand the context of your inquiry, we must first discuss the background of the MBVFD. You state the Town historically has had both a Fire Department and active firefighting volunteers. You relate that, earlier this year, the Town combined its paid firefighters with its existing volunteers, resulting in one official municipal department—the MBVFD—comprised of both paid and volunteer firefighters. The responsibilities of the MBVFD, as described in the Town's Code of Ordinances, are to provide the Town with municipal fire protection, emergency medical first response, rescue services, fire prevention, fire inspections, and other emergency services. You state the MBVFD is the primary agency providing such services within the incorporated boundaries of the Town.[1]

Regarding its membership, you indicate, the MBVFD has 4 paid employees, including the Fire Chief, and 42 volunteers. You emphasize you serve as only a volunteer and are not a paid employee of the Town. Because of this, you do not receive a salary, hourly wages, or any other regular employee compensation for the firefighting services that you voluntarily provide. That being said, as a volunteer, you are eligible for the nominal stipend and incidental benefits available to the other volunteer members of the MBVFD. You relate the Fire Department pays you and its other volunteer firefighters a stipend of $325 per quarter ($1,300 annually) in recognition of your

[1] In response to additional questions from staff, you relate that while the MBVFD is the primary fire prevention provider within the Town, it has agreements with other regional firefighting services to obtain supplemental firefighting and emergency response services if a particular situation requires them.

service.[2] This stipend amount is not individually negotiated. Each volunteer firefighter receives the same standardized amount regardless of the number of calls answered, hours volunteered, shifts worked, or other measures of individual productivity. You indicate the stipend was authorized through an incentive program that the Town Commission approved in 2019. Under this program, the Fire Chief can adjust the amount of the stipend—subject to the approval of the Town Manager—so long as the approved amount stays within the MBVFD's budget.

You also indicate that, as a volunteer firefighter, the Town provides certain benefits and reimburses certain expenses. In terms of benefits, you state the Town provides workers' compensation coverage, accidental death coverage, uniforms and protective equipment, annual physical exams, access to the Town gym, and certain required trainings/certifications. To the best of your knowledge, State statutes and Town policies provide the authority for offering these benefits to volunteer firefighters. And regarding expenses affiliated with your service, you state the Town reimburses its volunteer firefighters for costs such as travel, mileage, and meals related to authorized training, as well as course registration and certification fees. You emphasize you receive the same benefits and are reimbursed for the same qualifying expenses as any other volunteer firefighter.

Given the foregoing, you ask if your continued service as a volunteer firefighter for the MBVFD—including the receipt of the quarterly stipend and acceptance of benefits/expenses—creates a prohibited conflict of interest with your position as Mayor. You indicate the Town Commission, on which you will serve, is not involved in the day-to-day operations of the MBVFD.

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[2] You relate that, to qualify for the stipend, you have to possess a valid State of Florida Volunteer Firefighter Certificate of Completion issued by the Division of State Fire Marshal.

Nor does it have supervisory authority over its personnel.[3] Such immediate supervision is provided by the Fire Chief, who reports directly to the Town Manager. However, you indicate the Town Commission does have authority under the Town Charter to adopt ordinances and policies governing the MBVFD, to approve the MBVFD's annual operating budget, and to create and eliminate staff positions within the MBVFD. For these reasons, you state the Town Commission does regulate the MBVFD, just as it would with any other Town Department.

There are two statutes to consider in relation to your inquiry. The Commission has analyzed them both before in the context of volunteer fire firefighters appointed or elected to public office. However, due to a recent change in the law, one of these statutes is no longer applicable to the facts that you present.

That statute is Section 112.313(10)(a), Florida Statutes, which states:

> EMPLOYEES HOLDING OFFICE.— 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.

The statute is implicated if one holds office on the governing body of an agency or political subdivision while, at the same time, serving as an employee of that agency or political subdivision. See CEO 19-6, Question 1. In past opinions, all preceding 2013, the Commission found this prohibition would be violated if a member of a governing board simultaneously serves as a volunteer firefighter for his or her agency or political subdivision. The Commission, in such

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[3] You state the Town Charter expressly prohibits individual Town Commissioners, or the Commission as a whole, from directing Town employees except when such direction is through the Town Manager and subject to additional Charter prohibitions concerning inquiries and investigations.

instances, considered the governing board member to be an "employee" of his or her agency or political subdivision, thereby implicating Section 112.313(1), as they were receiving a stipend. See CEO 00-23, CEO 79-25, CEO 78-28, CEO 76-187, and CEO 76-109.

However, in 2013, the laws changed concerning whether volunteer firefighters should be considered "employees," and the Commission has not had the opportunity until now to opine on those changes.[4] The specific change was made to Section 633.416, Florida Statutes, which concerns paid firefighters and volunteer firefighters, as a new subsection was added stating:

> (7) For purposes of this section, the term "employ" means to pay an individual a salary, wage, or other compensation for the performance of work. The term does not include the payment of expenses, reasonable benefits, a nominal fee, or a combination thereof to a volunteer for a public or private fire service provider who is only paid in a manner that would be authorized for a volunteer under the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq., and its implementing rules.

A plain reading of this amendment is that a volunteer firefighter should not be considered "employed" by a fire service provider if they only receive the type of "nominal fee" allowed for volunteers under the federal Fair Labor Standards Act. While this definition of "employ" is limited, by its language, only to Section 633.416, it would be difficult to warrant treating a volunteer firefighter as an "employee" for purposes of the Code of Ethics (Part III, Chapter 112, Florida Statutes) when the state and federal laws allowing for their service do not also consider them to be "employed."

The question then becomes whether your acceptance of the $325 quarterly stipend as a volunteer firefighter for the MBVFD falls within the definition of a "nominal fee." The language of the federal Fair Labor Standards Act essentially mirrors Section 633.416(7). It states the term

"employee" will not include a volunteer performing a service for a government agency so long as he or she "receives no compensation or is paid [only] expenses, reasonable benefits, or a nominal fee[.]" 29 U.S.C. § 203(e)(4)(A)(i). And the meaning of "nominal fee" is explained in more detail in the Code of Federal Regulations, which clarifies this portion of the Fair Labor Standards Act and states:

> Individuals do not lose their volunteer status if they receive a nominal fee from a public agency. A nominal fee is not a substitute for compensation and must not be tied to productivity. However, this does not preclude the payment of a nominal amount on a "per call" or similar basis to volunteer firefighters. The following factors will be among those examined in determining whether a given amount is nominal: The distance traveled and the time and effort expended by the volunteer; whether the volunteer has agreed to be available around-the-clock or only during certain specified time periods; and whether the volunteer provides services as needed or throughout the year. An individual who volunteers to provide periodic services on a year-round basis may receive a nominal monthly or annual stipend or fee without losing volunteer status.

29 CFR § 553.106(e) (emphasis added). As noted here, the federal code actually uses as an example of a "nominal fee" the very payment in question here—namely, a stipend provided on a regular and predetermined basis to a volunteer firefighter.

Drawing this together, it appears the quarterly stipend of $325 that you receive for your service as a volunteer firefighter is the type of "nominal fee" contemplated under the state and federal laws quoted above. You receive it based on periodic firefighting services that you provide on a year-round basis, it is a flat fee not tied to your productivity, and it is the same rate offered to all volunteer firefighters at the MBVFD. For this reason, the fact that the MBVFD offers you a stipend for your volunteer services is not a sufficient basis to find that the MBVFD "employs" you,

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[4] The amendment was made in Section 62 of Chapter 2013-183, Laws of Florida.

as would be needed to violate Section 112.313(10). Because there are no other grounds to find that the MBVFD employs you,[5] your simultaneous service to the Town as its Mayor and a volunteer firefighter does not, without more, create a prohibited conflict under Section 112.313(10). To the extent that prior Commission opinions held that volunteer firefighters receiving a nominal fee have an "employment" relationship implicating Section 112.313(10), we recede from them.[6]

The second statute implicated by your inquiry is Section 112.313(7)(a), Florida Statutes, which states:

> CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATINSHIP.--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 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.

There are two parts in Section 112.313(7)(a). The first is the most relevant to your inquiry, and prohibits a public officer, such as a Town Mayor, from being employed by or having a contractual relationship with any business entity or any agency that either is being regulated by his or her agency or is doing business with his or her agency. As discussed above, your service as a volunteer firefighter does not create an employment with the MBVFD. However, we must also consider

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[5] While the MFVFD provides you with benefits and reimburses certain expenses, Section 633.416(7) specifically states the term "employ" does not include the "payment of expenses" or "reasonable benefits" to a volunteer firefighter.

[6] Because you are not "employed" by the MBVFD, it is unnecessary to discuss the prohibition in Section 112.3125(4), Florida Statutes (Dual Public Employment), which pertains to public employees who then qualify for public office. Similarly, because you are simply volunteering, your scenario does not implicate Section 112.313(3), Florida Statutes (Doing Business With One's Agency), which would apply, in part, if you were selling goods or services to any

whether you have a contractual relationship with the MBVFD, given that it pays you a quarterly stipend.

In CEO 23-1, the Commission indicated the term "contract" for purposes of Section 112.313(7)(a) means:

> a promise or set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty. Another definition is that a 'contract' is an agreement upon a sufficient consideration to do or refrain from doing a particular lawful thing. [11 Fla. Jur. 2d Contracts, Section 1]

The Commission has found in the past that city commissioners and/or mayors receiving stipends for volunteer firefighting services have a contractual relationship with their municipal fire departments, thereby creating a prohibited conflict of interest under the first part of Section 112.313(7)(a). In other words, they have a contractual relationship (via the stipend) with an agency (the fire department) being regulated by their agency (the city commission). See CEO 08-22, CEO 78-28, and CEO 76-109. A contractual relationship has been found even when the stipend involved was small, such as $5 per call (CEO 78-28) or $250 annually (CEO 76-109).

This past reasoning applies here. While receiving the quarterly stipend from the MBVFD may not create an "employment" relationship, as explained above, it nevertheless creates a "contractual relationship" for purposes of the statute. From what you indicate, this stipend is authorized by a municipal incentive program, was approved by the Town Commission, and, presumably, there would be legal recourse if the Fire Department refused to provide the stipend to its volunteers. Moreover, you indicate the Town Commission does regulate the MBVFD. While it may not exercise direct supervisory authority over employees, and is not involved in the MBVFD's

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department or unit of the Town.

daily operations, you indicate the Town Charter vests the Town Commission with legislative, regulatory, and budgetary authority over the MBVFD. Accordingly, your continued receipt of a stipend as a volunteer firefighter creates a facial violation of the first part of Section 112.313(7)(a), as you will have a contractual relationship via the stipend with an agency—the MBVFD—being regulated by your agency, the Town Commission.[7]

A similar situation occurred in CEO 79-25, where we applied Section 112.313(7)(a) to a past Mayor of your Town. It is necessary to discuss this opinion to explain why it is factually distinguishable. At that time, the Town government did not include a fire department and the Town was contracting with a nonprofit corporation—the Melbourne Beach Volunteer Fire Department, Inc.—for fire prevention services. The then-Mayor was providing volunteer firefighting services to the Town through the nonprofit corporation, and the Commission concluded this arrangement placed him in violation of the first part of Section 112.313(7)(a) as he had an employment or contractual relationship with a business entity (i.e., the nonprofit corporation) doing business with and being regulated by his agency. The Commission, though, used an exemption found in Section 112.313(12)(e), Florida Statutes,[8] which applies when the public officer's employment or

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[7] Your scenario is relevant only to the first part of Section 112.313(7)(a). The second part of the statute applies if you have an employment or contractual relationship that will create a continuing or frequently recurring conflict of interest with your public duties or would create an impediment to the full and faithful discharge of your public duties. Because neither the Town Commission corporately, nor the Mayor individually, have any supervisory authority over MBVFD employees, and because you as Mayor are not involved in the MBVFD's day-to-day operations, it does not appear the second part of the statute is applicable.

[8] Section 112.313(12)(e), Florida Statutes, states it only applies if:

> 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 employe of his or her interest in the business entity to the governing body of the political subdivision

contractual relationship is with a "business entity" that is the "only source of supply within the political subdivision[.]" Because the nonprofit corporation was the only source of regular firefighting services within the Town's boundaries, the Commission used the exemption in Section 112.313(12)(e) to negate the application of the first part of Section 112.313(7)(a).[9] That being said, the outcome in CEO 79-25—which hinged upon the sole source exemption in Section 112.313(12)(e)—cannot be replicated here, as the exemption only applies to business entities providing a needed good or service, not public agencies such as the MBVFD. Nor do any of the other exemptions listed in Section 112.313(12), Florida Statutes, appear relevant to your situation.

However, there is still a step that you can take to avoid a conflict under Section 112.313(7)(a). The statute's application hinges upon you maintaining a contractual relationship with the MBVFD through receipt of the quarterly stipend. Absent the stipend, the element of a contractual relationship would not be present and the statute will not apply. See CEO 08-22, Question 1 (finding no conflict under Section 112.313(7)(a) if a member of a town commission simultaneously served as an uncompensated member of the town's volunteer fire department, having declined the stipend). Accordingly, to avoid a prohibited conflict under Section 112.313(7)(a), it is recommended that, during your term as Mayor, you decline the quarterly stipend offered to

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> prior to the purchase, rental, sale, leasing, or other business being transacted.

[9] You relate a nonprofit corporation still exists to support the MBVFD. This entity is known as the Melbourne Beach Volunteer Firefighters' Association, and it supports the MBVFD by fundraising, pursuing volunteer firefighter recruitment and retention initiatives, providing trainings, and donating equipment and resources. While you indicate you are a member of the Association, which does create a contractual relationship (see CEO 08-22, Question 3 and CEO 08-7, Question 2), your affiliation does not implicate Section 112.313(7)(a) as you indicate the Association has no ongoing business or contractual relationships with either the Town or the MBVFD.

volunteer firefighters. By declining the stipend, you will be able to simultaneously serve as Mayor and a bona fide volunteer firefighter without violating the statute.

We note that, separate and apart from the quarterly stipend, the MBVFA also offers its volunteer firefighters certain benefits and reimburses certain expenses, as detailed above. In the past, we have not found either the type of benefits involved here—such as workers' compensation coverage, life insurance, or firefighting equipment—or any "true reimbursement" provided to volunteer firefighters to create the type of contractual relationship contemplated in Section 112.313(7)(a). See CEO 08-22, Question 1. Indeed, the coverage provided by the benefits exists as much to protect the Town as for the benefit of any individual. See CEO 89-56. Therefore, your continued receipt of these benefits and expenses during your term as Mayor will not violate the prohibitions in Section 112.313(7)(a).

Question 1 is answered accordingly.

QUESTION 2:

Would a voting conflict occur were a town mayor to vote on measures affecting the town's fire department while also serving as a volunteer firefighter for that department?

Question 2 is answered as follows.

You also inquire whether you would be prohibited as a member of the Town Commission from voting on general matters concerning the MFVFD while serving as a volunteer firefighter, such as approving appropriations in the Town's annual budget. The statute relevant to your inquiry is Section 112.3143(3)(a), Florida Statutes, the voting conflicts law, which addresses when a local

officer serving in an elected position may vote on particular measures. It states:

> 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 or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than as agency as defined in s. 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. Such public office shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording he minutes of the meeting, who shall incorporate the memorandum in the minutes. [Section 112.3143(3)(a), Florida Statutes]

You will have a voting conflict under the statute on any measure that will, in part, inure to "the special private gain or loss" of yourself or a principal by whom you are retained. The term "special private gain or loss" is defined in Section 112.3143(1)(d), Florida Statutes, as "an economic benefit or harm."

Concerning votes on general matters affecting the MBVFD, we find you will not have a conflict as it is not a "principal by whom [you are] retained[.]" The phrase "principal by whom retained" is defined to mean:

> an individual or entity, <u>other than an agency as defined in 112.312(2)</u>, 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.

§ 112.3143(1)(a), Fla. Stat. (emphasis added). The MBVFD, as part of Town government, is an "agency" under Section 112.312, Fla. Stat. (defining the term to include any department of a

municipal government), and, therefore, is exempted from the definition. Moreover, assuming you decline the quarterly stipend during your term of office, you will not be receiving compensation or consideration for your services, as would create a "principal"-type relationship under this definition. Finally, as discussed above, you are not considered an "employee" of the MBVFD under state or federal law. Because of this, you will be able to vote on general matters affecting the MBVFD, such as budget appropriations, without having a conflict under Section 112.3143(3)(a). See CEO 08-22, Question 2.

However, if a particular measure is going to have a personal financial on you, the analysis changes. In that instance, when a measure is going to result in personal "special private gain or loss," you should treat the matter as a conflict under Section 112.3143(3)(a) and follow the procedures set forth in the statute (i.e., publicly disclose the nature of your conflict to the assembly, abstain from the vote, and file a Form 8B, "Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers" within 15 days of the vote). See CEO 08-22, Question 2 (finding a town commissioner also serving as a volunteer firefighter "would only be prohibited from voting on measures of import to the [fire department] if it also inured to [hi]s own 'special private gain or loss'"). Instances where this could occur might be if the Town Commission is asked to vote on a specific workers' compensation or insurance matter particularly regarding you.[10]

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[10] We do not find such a situation falls within the scope of Section 112.313(5), Florida Statutes, which states:

> 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.

Section 112.313(15) requires that the salary, expenses, or other compensation are being received

Question 2 is answered accordingly.

JMP/gps/ks

cc: Mr. Bruce Pickett

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in the public officer's capacity as a voting officer, and not in another capacity. See CEO 10-21. For example, while Section 112.313(5) would allow you as Mayor to vote on raising or lowering the base annual salary for members of the Town Commissioner, it would not apply to votes to raise or lower the benefits available to volunteer firefighters.

File 2840

FLORIDA
COMMISSION ON ETHICS

OCT 1 2 2026

RECEIVED

October 6, 2026

VIA CERTIFIED MAIL, RETURN RECEIPT

Kerrie Stillman, Executive Director
The Florida Commission on Ethics
P.O. Drawer 15709
Tallahassee, FL 32317-5709

Dear Florida Commission on Ethics:

I, Bruce Pickett, am a member of the Melbourne Beach Volunteer Fire Department ("MBVFD"). On August 14, 2026, the Melbourne Beach Town Commission qualified me as a candidate for Mayor of the Town of Melbourne Beach (the "Town"). Because no other candidate qualified for the office, my name will not appear on the November 3, 2026, ballot, and pursuant to section 101.151(7), Florida Statutes, I will be deemed elected Mayor of the Town of Melbourne Beach.

I respectfully request an advisory opinion regarding whether I may continue serving as a bona fide volunteer firefighter with MBVFD while serving as Mayor, including whether I may continue receiving the stipend, benefits, reimbursements, and Town resources provided uniformly to qualifying volunteer firefighters.

Background

The Town established its Fire Department pursuant to section 11-40(a) of the Town Code of Ordinances and section 3.02 of the Town Charter. Historically, the Department consisted of a Fire Chief and volunteer firefighters. In 2026, the Town transitioned to a hybrid staffing model combining paid firefighters with its existing volunteer force. The Department continues to recruit, train, equip, and utilize volunteer firefighters, and the Town Commission funds the Fire Department through the Town's annual budget.

The Town does not pay its volunteer firefighters an hourly wage or salary. Instead, qualifying volunteer firefighters receive a stipend of $325 per quarter ($108.33 per month or $1,300 annually), based upon the Town's October-to-October fiscal year.

Eligibility for the stipend requires a volunteer firefighter to satisfy the Fire Department's generally applicable minimum participation requirements for emergency responses and proficiency training. Every qualifying volunteer firefighter receives the same stipend. The amount is not individually negotiated and does not increase or decrease based upon the number of calls answered, hours volunteered, shifts worked, or other measures of individual productivity.

I currently receive this stipend in my capacity as a volunteer firefighter. I do not serve as an officer or director of the Fire Department.

In addition to the stipend, the Town provides volunteer firefighters with the following benefits and Town resources:

1. Workers' compensation coverage;
2. Accidental death coverage;
3. Work uniforms;
4. Personal protective equipment;
5. Annual physical examinations;
6. Required training and certification; and
7. Access to Town facilities, including the Town gym.

The Town also reimburses volunteer firefighters for approved expenses associated with their volunteer service, including:

1. Approved travel, mileage, and meals related to authorized training;
2. Course registration and certification fees; and
3. Other preauthorized Fire Department expenses.

As a volunteer firefighter, I currently receive the stipend, the benefits described above, and reimbursement for qualifying expenses on the same basis as other similarly situated volunteer firefighters.

Florida Statutory Treatment of Volunteer Firefighters

It is my understanding that current Florida law expressly recognizes, at least for purposes of section 633.416, Florida Statutes, a distinction between employing a firefighter for compensation and retaining the services of a bona fide volunteer firefighter who receives a permissible nominal fee or reasonable benefits.

This distinction is particularly important because the relevant language in section 633.416 was enacted through Chapter 2013-183, section 62, Laws of Florida, well after several of the Commission's prior opinions concerning volunteer firefighters, including CEO 89-41, CEO 00-23, and CEO 08-22.

Section 633.416 is titled "Firefighter employment and volunteer firefighter service; saving clause" and repeatedly distinguishes between the employment or hiring of a firefighter and the retention of a volunteer firefighter.

Most importantly, section 633.416(7), Florida Statutes, provides:

"For purposes of this section, 'employ' means paying an individual a salary, wage, or other compensation for performing work. It does not include paying a volunteer's expenses, reasonable benefits, a nominal fee, or any combination thereof when the volunteer serves a public or private fire service provider and is compensated only as permitted under the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq., and its implementing rules."

The significance of this provision is not necessarily that section 633.416 independently controls the Commission's interpretation of Chapter 112. Rather, it demonstrates that the Florida

Legislature has expressly recognized, specifically in the context of the fire service, that the receipt of some monetary payment, reasonable benefits, and expense reimbursement does not necessarily convert a bona fide volunteer firefighter into an employee.

That distinction appears particularly relevant to my circumstances.

Nature of the Volunteer Stipend

The United States Department of Labor has similarly recognized under the Fair Labor Standards Act that a bona fide volunteer may receive reimbursement of expenses, reasonable benefits, or a nominal fee without necessarily becoming an employee.

In U.S. Department of Labor Opinion Letter FLSA2006-28, the Department explained that one relevant consideration in determining whether a fee is nominal is whether the amount varies as the individual spends more or less time engaged in volunteer activities.

The MBVFD stipend does not fluctuate based upon hours worked, number of emergency calls answered, shifts worked, or productivity. Every qualifying State-certified volunteer firefighter receives the same amount under the same eligibility requirements.

A volunteer firefighter does not receive additional compensation for responding to more calls, volunteering additional hours, working more shifts, or otherwise being more productive. Likewise, a qualifying volunteer does not receive a smaller stipend merely because another volunteer responds to more calls or contributes more hours, provided that the volunteer continues to satisfy the Department's generally applicable membership and participation requirements.

The stipend therefore differs materially from compensation arrangements addressed in some of the Commission's earlier volunteer-firefighter opinions. For example, CEO 00-23 involved compensation of $2 per fire run or call. CEO 89-41 involved a payment structure connected to answering calls during assigned duty periods. Under the Melbourne Beach arrangement, there is no direct relationship between the amount of the stipend and the quantity of firefighting services performed.

The stipend is not an hourly wage, per-call payment, or payment for an assigned shift. It is a uniform amount made available to qualifying bona fide volunteer firefighters under the same terms and conditions.

Chapter 112 does not appear to contain a firefighter-specific definition of "employee" addressing an FLSA-permissible nominal volunteer fee. Accordingly, I respectfully request that the Commission consider whether its prior volunteer-firefighter opinions should be applied in light of the Legislature's subsequent enactment of section 633.416(7) and its express recognition that a bona fide volunteer firefighter may receive expenses, reasonable benefits, and a nominal fee without that payment constituting compensation for employment for purposes of that statute.

Section 112.316, Florida Statutes, also provides that the Code of Ethics should not be construed to prevent a public officer from following another occupation or pursuit that does not interfere with the full and faithful discharge of his or her public duties.

My service with MBVFD is undertaken for civic and public-service purposes and not as a substitute for a paid position. The stipend is not individually negotiated, does not vary with productivity, and is unrelated to my position as Mayor. If permitted to retain it, I would receive exactly the same stipend and benefits as every other similarly situated qualifying volunteer firefighter and would remain subject to the same Department policies, participation requirements, and operational chain of command.

Questions Presented

Based upon the foregoing, I respectfully request that the Florida Commission on Ethics address the following questions:

1. **Employee Status.** Would I be considered an "employee" of the Town for purposes of Chapter 112, Florida Statutes, solely because I serve as a bona fide volunteer firefighter and receive the fixed volunteer stipend described above?

2. **Volunteer Stipend.** Upon assuming the office of Mayor, would a prohibited conflict of interest arise under sections 112.313(7), 112.313(10), or any other provision of the Code of Ethics if I continue receiving the same fixed stipend available to all similarly situated qualifying volunteer firefighters?

3. **Volunteer Benefits and Town Resources.** Would a prohibited conflict of interest arise if, while serving as Mayor and as a volunteer firefighter, I continue receiving the same benefits and Town resources provided to other qualifying volunteer firefighters, including:

   a. Workers' compensation coverage;
   b. Accidental death coverage;
   c. Work uniforms;
   d. Personal protective equipment;
   e. Annual physical examinations;
   f. Required training and certification; and
   g. Access to Town facilities, including the Town gym?

4. **Expense Reimbursement.** While serving as Mayor and as a volunteer firefighter, would I be prohibited from receiving reimbursement on the same basis as other volunteers for:

   a. Approved travel, mileage, and meals associated with authorized training;
   b. Course registration and certification fees; and
   c. Other preauthorized Fire Department expenses?

5. **Annual Budget.** Would I be prohibited from voting upon the Town's annual budget merely because the budget includes appropriations for the Fire Department in which I serve as a volunteer firefighter?

6. **Fire Department Matters Generally.** Would a prohibited conflict of interest arise if, while serving as Mayor and as a volunteer firefighter, I vote upon matters involving the Fire Department when those matters affect the Department or its volunteer membership generally rather than providing a special private gain or loss uniquely applicable to me?

7. **Service Without Stipend.** If the Commission determines that receipt of the volunteer stipend creates a prohibited conflict, could I decline the stipend and nevertheless continue serving simultaneously as Mayor and as a bona fide volunteer firefighter while receiving the generally applicable volunteer benefits, equipment, training, and expense reimbursements described above?

Conclusion

I respectfully ask the Commission to consider these questions in light of the intent and spirit of Chapter 112, the Legislature's subsequent enactment of section 633.416(7), the Fair Labor Standards Act's treatment of nominal volunteer fees and reasonable benefits, and the specific characteristics of the Melbourne Beach Volunteer Fire Department's stipend arrangement.

In particular, I respectfully request that the Commission consider whether its earlier volunteer-firefighter opinions should be reevaluated or distinguished where a municipality provides a uniform, fixed nominal stipend that bears no relationship to hours worked, calls answered, shifts performed, or individual productivity and that is provided to bona fide volunteer firefighters pursuant to generally applicable eligibility requirements.

My goal is to continue serving the residents of Melbourne Beach as a volunteer firefighter while fully complying with the Florida Code of Ethics upon assuming the office of Mayor. I therefore seek the Commission's guidance before taking office so that both roles may be performed in a manner consistent with Florida law.
Thank you for your consideration.

Respectfully submitted,

Bruce A Pickett

Bruce Pickett

Steverson, Kathryn

From:	Schafer, Grayden
Sent:	Thursday, October 15, 2026 4:02 PM
To:	'jb081395@gmail.com'
Cc:	Steverson, Kathryn
Subject:	Ethics Inquiry

Mr. Pickett:

Thank you for speaking with me today. As we discussed, your ethics inquiry will be handled as a formal advisory opinion to be presented to the Ethics Commission during a public meeting.

Also, as we talked about, I have several questions for you to clarify the structure of the Town's Volunteer Fire Department, and the Department's provision of fire services. You and I have discussed several of these already, If you would, please provide your answers to the following questions in a written reply to this email. And if you need to have any of these questions clarified, please let me know.

1. Please describe the difference between the Town of Melbourne Beach Volunteer Fire Department and the Town of Melbourne Beach Volunteer Firefighter's Association (the MBVFA). For instance, is the MBVFA a private entity incorporated under Section 501(c)(3) of the IRS Code? What services does the MBVFA provide? Which entity actually provides fire prevention services to the Town?

2. Does the MBVFA have any ongoing contractual relationship with the Town or its Fire Department? If so, what is the subject matter of such contracts?

3. Are you an officer, partner, director, or proprietor of the MBVFA? Do you personally have any ownership interest in it?

4. Does the MBVFA have membership? If so, are you a member, given your service as a volunteer firefighter?

5. How many firefighters provide services to the Town Fire Department? Of that number, how many are paid employees and how many are volunteers?

6. Am I correct in understanding that you are only a volunteer firefighter, and not a paid employee?

7. You indicate that volunteer firefighters receive a $325 quarterly stipend, in addition to benefits and expenses. Who pays the stipend and the benefits/expenses—the Town Fire Department or the MBVFA?

8. How was the quarterly rate of $325 set? Is it through a Town ordinance or the Town Charter? Or is it a rate simply approved by the Town Council?

9. What is the authority for the volunteer firefighters receiving the benefits/expenses mentioned in your inquiry, such as workers' compensation, accidental death coverage, and reimbursement for travel expenses? Is it through a Town ordinance?

10. Are any of the expense reimbursements provided by the MBVFA? If so, please specify which ones.

11. Is the Town Fire Department the only source of regular firefighting services within the borders of the Town?

12. Does the City Council have regulatory authority over the Town Fire Department? In other words, does it have budgetary authority over the Fire Department and/or the ability to pass requirements applicable to the Fire Department?

Finally, as we discussed, once you become Mayor, it is recommended that you refrain from accepting any stipends for volunteer fire-fighting services—and treat as a voting conflict any measure that could affect your salary/benefits/expenses as a volunteer firefighter—until the Commission renders an opinion in your inquiry. Your Town Attorney should be able to clarify the process for handling a voting conflict under Section 112.3143, Florida Statutes (the voting conflicts law), although please let me know if you have any questions in this regard.

Thank you again,

Gray Schafer
Assistant General Counsel
Florida Commission on Ethics
(850)-488-7864

1. Please describe the difference between the Town of Melbourne Beach Volunteer Fire Department and the Town of Melbourne Beach Volunteer Firefighter's Association (the MBVFA). For instance, is the MBVFA a private entity incorporated under Section 501(c)(3) of the IRS Code? What services does the MBVFA provide? Which entity actually provides fire prevention services to the Town?

The Town of Melbourne Beach Volunteer Fire Department (MBVFD) and the Melbourne Beach Volunteer Firefighters' Association (MBVFA) are two separate and distinct entities that work cooperatively to support public safety within the Town of Melbourne Beach.

The Town of Melbourne Beach Volunteer Fire Department (MBVFD) is an official municipal department established pursuant to Section 11-40 of the Town of Melbourne Beach Code of Ordinances. The Department operates under the administrative authority of the Town, with the Fire Chief reporting directly to the Town Manager. The Department is staffed by a combination of career and volunteer personnel. The Department is responsible for providing municipal fire protection, emergency medical first response, rescue services, fire prevention, fire inspections, and other emergency services to the community. Pursuant to Section 11-41 of the Town's Code of Ordinances, the Department's authority and responsibilities include firefighting, fire prevention and fire code enforcement, personnel management, and emergency scene operations. The Department's operational responsibilities, personnel supervision, training, emergency response activities, and municipal budget are administered through the Town under the direction of the Fire Chief.

The Melbourne Beach Volunteer Firefighters' Association (MBVFA), legally incorporated as Melbourne Beach Volunteer Fire Department, Inc., is a separate Florida nonprofit corporation recognized as a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code. The Association is governed by its own Board of Directors and operates independently of the Town's municipal administrative structure. Its primary purpose is to support the Fire Department, its volunteer personnel, and the community through fundraising, volunteer firefighter recruitment and retention initiatives, training scholarships, public safety education, community outreach, and the acquisition of equipment and resources that enhance the Department's capabilities. The Association also supports community events, public relations efforts, and other charitable activities that promote public safety and community engagement. While the MBVFA works cooperatively with the Fire Department to support its mission, it does not independently provide municipal fire protection, emergency response services, or governmental fire code enforcement functions.

Although many individuals participate in both organizations, membership and participation in the Association are distinct from an individual's operational responsibilities as a firefighter with the municipal Fire Department. The Association does not exercise municipal governmental authority over firefighting operations, fire code enforcement, or emergency response personnel.
In summary, the MBVFD is the Town's official public safety agency responsible for delivering fire protection and emergency services, while the MBVFA is an independent nonprofit organization whose purpose is to support the firefighters, the Department, and the community it serves.

2. Does the MBVFA have any ongoing contractual relationship with the Town or its Fire Department? If so, what is the subject matter of such contracts?

The Melbourne Beach Volunteer Firefighters' Association (MBVFA) does not have any ongoing contractual relationship with the Town of Melbourne Beach or its municipal Fire Department. The Association operates as an independent nonprofit charitable organization and maintains a cooperative relationship with the Fire Department to support its public safety mission. This support includes fundraising, charitable donations, volunteer recruitment and retention initiatives, training scholarships, community outreach, and the purchase or donation of equipment and other resources for the Department's benefit. These activities are undertaken voluntarily in furtherance of the Association's charitable mission and do not constitute a contractual arrangement for the provision of municipal services. The Association does not receive compensation from the Town for providing fire protection, emergency response, or other

governmental services, nor does it exercise operational or administrative authority over the municipal Fire Department.

3. Are you an officer, partner, director, or proprietor of the MBVFA? Do you personally have any ownership interest in it?

No, I am not an officer, partner, director, or proprietor of the MBVFA, nor do I hold any ownership interest in the organization. My involvement is limited to general membership, and I do not serve on its Board of Directors or hold any managerial, administrative, or decision-making authority within the Association.

4. Does the MBVFA have membership? If so, are you a member, given your service as a volunteer firefighter?

Yes, the MBVFA is a membership-based organization, and I am a general member. My membership in the Association is separate and independent from my membership and service as a volunteer firefighter with the Town of Melbourne Beach Volunteer Fire Department.

5. How many firefighters provide services to the Town Fire Department? Of that number, how many are paid employees and how many are volunteers?

The Town of Melbourne Beach Volunteer Fire Department currently has 46 members, consisting of four paid employees and 42 volunteers. Of the Department's 46 members, 29 hold State of Florida certifications as either firefighters or volunteer firefighters.

6. Am I correct in understanding that you are only a volunteer firefighter, and not a paid employee?

Yes, I serve as a bona fide volunteer firefighter with the Town of Melbourne Beach Volunteer Fire Department and am not a paid employee of the Town. My firefighting services are provided voluntarily, and I do not receive a salary, hourly wages, or other regular employee compensation for those services. As a volunteer, I may be eligible to receive the same nominal stipend and incidental benefits made available to similarly situated volunteer firefighters under the Town's established policies and applicable law. These benefits are provided in recognition of volunteer service and are not intended to constitute wages or establish an employment relationship with the Town.

7. You indicate that volunteer firefighters receive a $325 quarterly stipend, in addition to benefits and expenses. Who pays the stipend and the benefits/expenses—the Town Fire Department or the MBVFA?

Volunteer firefighters who possess a valid State of Florida Volunteer Firefighter Certificate of Completion, issued by the Division of State Fire Marshal, are eligible to receive a nominal stipend of $325 per quarter ($1,300 annually) in recognition of their volunteer service. The stipend, along with any applicable volunteer benefits and expense reimbursements, is funded and administered by the Town of Melbourne Beach through its municipal Fire Department. The stipend is provided pursuant to the Town's established volunteer firefighter policies and is intended to recognize volunteer service rather than compensate firefighters as paid employees. The MBVFA does not fund, administer, or determine eligibility for these municipal stipends or benefits.

8. How was the quarterly rate of $325 set? Is it through a Town ordinance or the Town Charter? Or is it a rate simply approved by the Town Council?

Over the years, the Town of Melbourne Beach Volunteer Fire Department has utilized various incentive programs to encourage volunteer firefighter recruitment, participation, and retention. The current Volunteer Incentive Program was approved by the Town Commission in 2019. Under this program, stipend amounts may be adjusted by the Fire Chief, with approval from the Town Manager, based on available funding, operational needs, and the number of eligible volunteer firefighters.

The current stipend of $325 per quarter ($1,300 annually) was established to provide eligible volunteers with approximately $100 per month after anticipated tax withholding. The stipend is a standardized, nominal benefit intended to recognize and encourage continued volunteer service rather than provide hourly wages or compensation based on emergency responses or hours worked. The stipend amount is subject to administrative adjustment within the Department's approved budget, with the Town Manager's authorization.

9. What is the authority for the volunteer firefighters receiving the benefits/expenses mentioned in your inquiry, such as workers' compensation, accidental death coverage, and reimbursement for travel expenses? Is it through a Town ordinance?

The workers' compensation coverage, accidental death benefits, and travel expense reimbursements available to volunteer firefighters with the Town of Melbourne Beach Volunteer Fire Department are authorized through applicable Florida Statutes and established Town policies, rather than through a specific Town ordinance. These benefits are associated with volunteer service and are not individually negotiated or established specifically for any particular firefighter.

10. Are any of the expense reimbursements provided by the MBVFA? If so, please specify which ones.

No, the Melbourne Beach Volunteer Firefighters' Association (MBVFA) does not provide expense reimbursements to its general membership. However, as part of its charitable mission to support volunteer firefighter recruitment, retention, training, and professional development, the Association provides certain incidental benefits to its members. These may include meals or refreshments following training sessions and Department events, educational scholarships, and other occasional activities or benefits intended to support volunteer participation and recognize members' service.

These benefits are provided through the Association's independent nonprofit activities and are separate from the stipends, expense reimbursements, and other benefits administered by the Town of Melbourne Beach through its municipal Fire Department. They are not intended to serve as wages or compensation for firefighting services.

11. Is the Town Fire Department the only source of regular firefighting services within the borders of the Town?

Yes. The Town of Melbourne Beach Volunteer Fire Department (MBVFD) is the primary fire protection agency with jurisdiction and responsibility for providing regular firefighting and emergency response services within the incorporated boundaries of the Town of Melbourne Beach.

However, the Department operates within a regional emergency response system that provides additional resources through established mutual and automatic aid agreements. Brevard County Fire Rescue

provides supplemental firefighting and emergency response services to the Town pursuant to a countywide mutual aid agreement. Additionally, the Town maintains a separate automatic aid agreement with the City of Indian Harbour Beach Fire Department.

Under these agreements, neighboring fire departments may respond to incidents within the Town, either automatically based on predetermined response protocols or upon request when additional personnel, apparatus, or specialized resources are needed. These cooperative arrangements enhance emergency response capabilities but do not transfer or diminish the Town Fire Department's primary jurisdiction or responsibility for providing municipal fire protection services.

Accordingly, while other governmental fire departments may routinely assist with emergency incidents within the Town through mutual and automatic aid, the MBVFD remains the Town's primary municipal fire protection agency.

12. Does the City Council have regulatory authority over the Town Fire Department? In other words, does it have budgetary authority over the Fire Department and/or the ability to pass requirements applicable to the Fire Department?

Yes. The Town of Melbourne Beach operates under a Commission-Manager form of government, whereby the Town Commission serves as the municipality's governing body and retains ultimate legislative, policy-making, and budgetary authority over all municipal departments, including the Town of Melbourne Beach Volunteer Fire Department (MBVFD).

Pursuant to Sections 3.01 and 3.02 of the Town Charter, the Town Commission has the authority to adopt ordinances and policies governing the Fire Department, approve its annual operating budget and expenditures, and authorize the creation or elimination of staffing positions upon recommendation of the Town Manager.

However, the Town Charter establishes a clear separation between the Commission's legislative and policy-making responsibilities and the day-to-day administration of municipal operations. Under Section 3.03 of the Town Charter, the Town Manager serves as the Town's Chief Administrative Officer and is responsible for supervising municipal departments, administering approved budgets, and overseeing personnel and operational matters. The Fire Chief reports directly to the Town Manager and is responsible for the Department's daily administration, personnel supervision, training, and emergency response operations.
Additionally, Section 3.03(b) of the Town Charter expressly prohibits individual Commissioners or the Commission as a body from directing Town employees under the Town Manager's supervision, except through the Town Manager and subject to the Charter's provisions regarding inquiries and investigations.

Accordingly, while the Town Commission retains ultimate legislative, regulatory, and budgetary authority over the Fire Department, it does not exercise direct operational control or day-to-day supervisory authority over its personnel. Those responsibilities are delegated through the Town Manager to the Fire Chief, establishing a defined administrative separation between the Town's elected officials and the Department's operational management.