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

FILE 2841 — November 19, 2026

GIFT ACCEPTANCE AND DISCLOSURE

CITY COUNCIL MEMBER ACCEPTING MONETARY BEQUEST FROM A WILL

To: John Cary (West Melbourne)

SUMMARY:

A reporting individual who receives money bequeathed to her via a will must disclose the bequest on a CE Form 9, "Quarterly Gift Disclosure." Referenced are CEO 91-57, CEO 23-5, CEO 24-5, and CEO 24-8.

QUESTION 1:

Is a monetary bequest from a will a reportable "gift" for purposes of the Code of Ethics?

This question is answered as follows.

You are a City Attorney who has requested an ethics opinion on behalf of a City Council Member, who is a reporting individual[1] subject to gift disclosure requirements. In your inquiry, you indicate that the Council Member had an elderly neighbor whom she had befriended, and that this neighbor was not a relative of hers. You explain that the Council Member often checked in on

[1] A "reporting individual" is anyone who is required by law to file financial disclosure, either Form 6, "Full and Public Disclosure of Financial Interests," or Form 1, "Statement of Financial Interests." § 112. 3148(2)(d), Fla. Stat.

her neighbor and spent time with her. As the Council Member's neighbor aged, you note that the Council Member took care of her as well, as she had no family and few friends.

When the Council Member's neighbor passed away earlier this year, you state that the Council Member found out that her neighbor had bequeathed a substantial sum of money to her through her last will and testament. You note that the neighbor did not have any business before the City, nor was she a lobbyist. You and the Council Member's believe the neighbor's only interactions with the City were limited to routine matters, such as setting up utility accounts and paying bills. You indicate that the Council Member ultimately received the money bequeathed to her during the previous calendar quarter, and inquire whether the Council Member must report this bequest on a CE Form 9, "Quarterly Gift Disclosure" by the end of the current calendar quarter.

Where there is no indication that this bequest was made to influence the Council Member's official actions, and where the neighbor was not a vendor, lobbyist, or principal of a lobbyist of the City, we may narrow our focus to a certain provision of Florida's gift law, found in Section 112.3148(8), which states:

> Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of $100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to $100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

Essentially, this provision requires a reporting individual, such as the Council Member, to disclose all gifts valued in excess of $100, unless they are otherwise prohibited by other parts of the statute. The disclosure must occur by filing Form 9, "Quarterly Gift Disclosure," by the last day of the calendar quarter following the quarter when the gift was accepted. Therefore, to determine whether the monetary bequest given to the Council Member by her neighbor is subject to disclosure, we must determine whether it constitutes a reportable "gift" for purposes of the statute. Section 112.312(12), Florida Statutes, defines the term "gift" as:

> ...that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days...

Section 112.312(12)(a) also contains a list of items that are considered "gifts":

1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.

4. The use of tangible or intangible personal property.

5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.

6. Forgiveness of an indebtedness.

7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.

8. Food or beverage.

9. Membership dues.

10. Entrance fees, admission fees, or tickets to events, performances, or facilities.

11. Plants, flowers, or floral arrangements.

12. Services provided by persons pursuant to a professional license or certificate.

13. Other personal services for which a fee is normally charged by the person providing the services.

14. Any other similar service or thing having an attributable value not already provided for in this section.

Although monetary bequests from a last will and testament are not specifically contained in this list, the Commission has consistently opined that money given to a reporting individual when greater or equal consideration was not exchanged generally constitutes a reportable gift. See, e.g., CEO 24-8 (monetary proceeds from a charitable auction), CEO 24-5 (GoFundMe donations), and CEO 23-5 (Substack donations). Additionally, Section 112.312(12)(b), Florida Statutes, contains a list of items that explicitly are not "gifts" subject to disclosure, none of which include bequests from a last will and testament.[2] However, it is worth discussing whether the Council Member's caretaking of her neighbor amounted to "consideration" provided by the Council Member for the bequest. Black's Law Dictionary (12th ed. 2024) defines "consideration" as:

> Something (such as an act, a forbearance, or a return promise) bargained for and received by a promisor from a promisee; that which motivates a person to do something, esp. to engage in a legal act.

---

[2] Of note, Chapter 90-502, Laws of Florida, which became law on January 1, 1991, substantially revised State law regarding gifts. Prior to 1991, gifts given to public officers who had an obligation to file a statement of financial interests were disclosed on those public officers' financial disclosure forms, and Section 112.3145, the statute governing statements of financial interests, specifically provided in subsection (3)(d) that "gifts received from a parent, grandparent, sibling, child, or spouse of the person reporting, or from a spouse of any of the foregoing; gifts received by bequest or devise; gifts representing an expression of sympathy and having no material benefit; gifts required to be disclosed pursuant to s. 111.011; or campaign contributions which were reported as required by law need not be listed" (emphasis added). Chapter 90-502 expressly removed this exemption from gift disclosure, and required the disclosure of gifts on quarterly gift disclosure forms, rather than public officers' statements of financial interests. As a matter of statutory construction, it must be presumed that legislatures act purposefully and intentionally when drafting bills. If the Legislature wanted to keep the exception for gifts received by bequest or devise when enacting Chapter 90-502, it could have done so, but did not, which we must presume was intentional.

Here, there is no indication that the Council Member took care of her neighbor based on a bargained for promise that, in exchange for the caretaking, she would be included in her neighbor's last will and testament. In fact, based on your inquiry, it appears that the Council Member did not know that she would be included in her neighbor's last will and testament prior to her neighbor's passing. Consideration for a gift based on prior goods or services provided by a donee to a donor cannot be presumed, there must be a clear and explicit understanding between the done and the donor at the time of the gift being given (or within 90 days thereafter) that a donee provided goods or services to the donor in exchange for the gift provided to him or her.

Furthermore, in CEO 91-57, we discussed consideration in the form of services provided by a reporting individual, and noted:

> Notwithstanding the "quid pro quo" concept contained in the definition of "gift" in Section 112.312(9)(a), Florida Statutes,[3] we are of the view that at a minimum, disclosure should be the goal for the reporting official who receives any of the listed items contained in the definition of "gift." Therefore, in the absence of clear evidence to the contrary, we are going to assume when we are rendering opinions on gifts that the reporting individual has not given "equal or greater consideration" in exchange for the gift. We adopt this view because of our reluctance to issue opinions valuing the reporting individual's services, which is extremely difficult to do

[3] As referenced above, the current definition of "gift" is found in Section 112.312(12), Florida Statutes.

in the context of an advisory opinion, as well as our belief that the public is better served by disclosure of the receipt of gifts by reporting individuals.

Consistent with this reasoning, we cannot find that the caretaking the Council Member provided to her neighbor amounted to greater or equal consideration provided by the Council Member for the bequest. As such, the money the Council Member received is a "gift" subject to disclosure on Form 9. Of note, pursuant to Section 112.3148(8)(a)1., Florida Statutes, gifts from "relatives" (as that term is defined in Section 112.312(21), Florida Statutes) do not need to be disclosed by reporting individuals. While monetary bequests from relatives are not subject to disclosure, here, your inquiry indicates that the Council Member's neighbor is not a "relative" of hers, which therefore warrants her disclosure of all gifts from the neighbor exceeding $100 in value, including the bequest discussed above. To make a proper disclosure of the bequest on Form 9, the Council Member must disclose the date the bequest was received, a description of the gift (in this case, "money"), the name of her neighbor, and the neighbor's address at the time of her passing.

Your question is answered accordingly.

KJS/aln

Steverson, Kathryn File 2841

From: Stillman, Kerrie
Sent: Tuesday, October 27, 2026 3:00 PM
To: Steverson, Kathryn; Zuilkowski, Steven
Subject: FW: Ethics opinion

Importance: High

Please handle the following opinion request.

From: John Cary <jcary@westmelbourne.gov>
Sent: Tuesday, October 27, 2026 10:43 AM
To: Stillman, Kerrie <STILLMAN.KERRIE@leg.state.fl.us>
Subject: Ethics opinion

Good morning, Executive Director Stillman.

My name is John Cary, and I am the city attorney for the city of West Melbourne. I am submitting an ethics question to you at the recommendation of the on-call attorney that I spoke with on October 16, with a follow-up discussion the following week. I am making this inquiry with the authorization of the member of the City Council who asked for legal advice.

I am submitting this inquiry to you because, after doing my own research and then discussing with your on-call attorney, it appears that the law is unclear as to this question. The on-call attorney recommended that I submit the question to you for either a formal or informal opinion, as determined by you. The member of the City Council has told me that she will comply with whatever opinion is provided, and is asking this question in good faith.

The council member had an elderly neighbor that she had befriended. She often checked in on her and spent time with her and they became friends over a decade ago. As the neighbor aged, the council member took care of her, as she had no family and few friends. They are not related by blood. The neighbor died earlier this year, and the council member found out that the neighbor left her a substantial sum of money through her last will and testament (well over the $100 reporting threshold). This neighbor did not have any business before the city, nor was she a lobbyist. As far as we know, she never interacted with the city in any meaningful manner other than to set up utility accounts, pay bills, etc.

The question is, does the gift in the woman's will to the city council member need to be disclosed as a reportable gift on the quarterly report? Or, do any other actions need to be taken by the city council member due to her position as a municipal elected official?

Please feel free to reword the question for clarity if needed, as is often done with attorney general opinions.

Thank you,
John

John Cary | City Attorney
City of West Melbourne | 2240 Minton Road | West Melbourne, FL 32904
Phone: 321-837-7772 **Fax:** 321-768-2390
jcary@westmelbourne.gov | westmelbourne.gov

Follow us on



Please Note: Florida has a broad public records law. As a result, any written communication created or received by City of West Melbourne officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

Naomi, Amelia

From: John Cary <jcary@westmelbourne.gov>
Sent: Tuesday, November 3, 2026 9:18 AM
To: Naomi, Amelia
Cc: Steverson, Kathryn
Subject: RE: Your Ethics Opinion Request

My understanding is that she received it last quarter so would need to report it this quarter.

John

John Cary | City Attorney
City of West Melbourne | 2240 Minton Road | West Melbourne, FL 32904
Phone: 321-837-7772 **Fax:** 321-768-2390
jcary@westmelbourne.gov | westmelbourne.gov
Follow us on

Please Note: Florida has a broad public records law. As a result, any written communication created or received by City of West Melbourne officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

From: Naomi, Amelia <NAOMI.AMELIA@leg.state.fl.us>
Sent: Tuesday, November 3, 2026 9:12 AM
To: John Cary <jcary@westmelbourne.gov>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Your Ethics Opinion Request

WARNING: This email originated from outside the City of West Melbourne. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Cary,

I hope you are well. I do have a follow-up question for you:

Has the probate process started yet? I just wanted to know if I should draft this as if she has already accepted the money, or if she has not received it yet.

Best,
Amelia Naomi

From: Naomi, Amelia
Sent: Wednesday, October 28, 2026 11:22 AM
To: John Cary <jcary@westmelbourne.gov>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Your Ethics Opinion Request

Mr. Cary,

If you could please complete this consent form (attached) and email it back at your convenience, this would be great. It is asking whether we have your consent (and/or the Councilmember's consent) to publish either of your names with the final opinion.

Best,
Amelia

From: John Cary <jcary@westmelbourne.gov>
Sent: Tuesday, October 27, 2026 4:30 PM
To: Naomi, Amelia <NAOMI.AMELIA@leg.state.fl.us>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Your Ethics Opinion Request

Thank you. I will await your next correspondence. If you need more factual information, I will have to get it from the council member, so please allow me time to do so.

John

John Cary | City Attorney
City of West Melbourne | 2240 Minton Road | West Melbourne, FL 32904
Phone: 321-837-7772 **Fax:** 321-768-2390
jcary@westmelbourne.gov | westmelbourne.gov
Follow us on

Please Note: Florida has a broad public records law. As a result, any written communication created or received by City of West Melbourne officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

From: Naomi, Amelia <NAOMI.AMELIA@leg.state.fl.us>
Sent: Tuesday, October 27, 2026 4:05 PM
To: John Cary <jcary@westmelbourne.gov>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Your Ethics Opinion Request

WARNING: This email originated from outside the City of West Melbourne. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Cary,

I hope you are doing well. I am the attorney who spoke with you on the phone regarding this question and I have been assigned your request. I just consulted with our General Counsel and he thinks this should be handled via a formal opinion. It will be considered at our December 4th meeting. I will be in touch with any follow-up questions I may have for you. Please feel free to reach out to me if you have any questions as well.

Best,
Amelia L. Naomi

Attorney
Florida Commission on Ethics
NAOMI.AMELIA@leg.state.fl.us
Telephone: 850-488-7864 | Fax: 850-488-3077