



MEMORANDUM

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JSK 09-45

Date: May 4, 2009
To: Board of County Commissioners
From: Janette S. Knowlton, County Attorney
Subject: Gift acceptance and disclosure

As you know, the County's contract with the Rays states that the Rays will provide the County with "one luxury suite per spring training exhibition games for use by County for each such game". In a memorandum dated December 22, 2008, Administration provided a proposal for use of the County suite which essentially reserved the suite for the Board and elected officials on two occasions and the remainder of the game tickets were to be distributed to various non profits, community groups "in an effort to build strong community relationships, encourage fan appreciation and support our local advisory groups," etc. It later came to my attention that the County was not necessarily adhering to that suggested policy and instead, the tickets may have been used or given away by the Board members at their discretion. As we discussed, the procedure has reporting requirement implications of which the Board needs to be made aware or reminded.

The definition of "gift" in Florida Statutes §112.312(12) provides:

- (a) 'Gift,' for purposes of ethics in government and financial disclosure required by law, means 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, including:
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 - 10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
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 - 6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.

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The Commission on Ethics previously found in CEO 92-33 that city commissioners had received reportable gifts (to the extent their value exceeded \$100) where they received 20 tickets each to touring Broadway shows staged at the city-owned auditorium, as well as tickets to other events and performances, and were permitted to use or give them away at their discretion. The Commission refused to accept the City's argument that the tickets were a benefit associated with the Commissioners' public offices and were being used for a public purpose. A very different situation existed in a more recent Commission Opinion (at CEO 01-19), which held that the City officials who served as "hosts" to groups using the City's stadium suite or tickets pursuant to the City's policy have not received a "gift" as the public officers and employees provided equal or greater consideration to their agencies by acting in their official capacities as agency representatives. In that case, the City of St. Petersburg had formulated a written policy for allocating use of its suites, tickets and passes. The usage criteria included: to promote economic development; to recognize contributions of City boards, commissions, committees, community service organizations; neighborhood associations, and youth groups; and to recognize and reward the contributions of City employees." By allocating the tickets in conformance with this written policy, the City's suite was being used to promote economic development or other public purpose objectives and the City officials were present serving as official representatives of the City. The Commission found that the City officials did not receive a "gift" as they had provided equal or greater consideration for their presence in the suite when they were there on behalf of the City.

In discussing the matter personally with the Commission on Ethics, they strongly recommend we develop and adhere to a written policy on ticket allocation. They indicated that tickets allocated for economic development purposes have always been determined not to be a gift and that the further you stray away from economic development purposes the greater the likelihood that the public purpose objective will not be met. They also indicated that the inclusion of family members at these events should most likely lead to a determination that such tickets would be considered gifts to the public official from the County. I suggest that for next year, I will work with Administration to propose a written policy for ticket allocation that will comply with the ethics guidelines described above and hopefully meet the Board members' expectations.

Another critical factor in the determination whether the gift is reportable is valuation. According to the Rays' representative, Melanie Lenz, the price for the County's sky box varies from \$700 per game to \$1,050 per game (for 14 tickets) depending on the opponent. The following games were at the higher value of \$1,050 per game:

February 25	Opening Day vs. Cincinnati
February 27	Boston
March 7	Boston
March 12	Philadelphia
March 22	NY Yankees

For all other games, the suite cost was \$700 per game. So, for the individual games listed above, the ticket value was \$75 each. All other games were \$50 each. Since I do not know who attended which games and whether you had family or friends accompanying you, I am simply providing you with the appropriate disclosure form (Form 9) for your use and hope the above information provides some guidance to you. The forms are due to the Commission on Ethics by June 30, 2009.

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CHARLOTTE SPORTS PARK SUITE TICKET ALLOCATION POLICY & PROCEDURE

POLICY

Background

Charlotte County has the right of the exclusive use of a suite that has 14 fixed seats with a total capacity of 14. The County will receive 14 suite tickets for each home spring training game at the Charlotte Sports Park.

Parking

Assigned parking passes do not come with the suite use and parking will need to be handled by each participant.

Food & Beverage Service

All food and beverage service must be ordered from and provided by Hospitality Food Services, LLC. It is the responsibility of the individual/department using the tickets to make arrangements for the ordering of, and the payment for, any food and beverages. Departments will not be allowed to pay for suite refreshments from their budgets. The only exception is when the Economic Development Department hosts prospective businesses for economic development purposes .

Criteria for Suite Ticket Use

The availability of the suite tickets at Charlotte Sports Park provides a significant opportunity to promote Charlotte County in a most positive way. The resource will be used to achieve several important purposes:

- First and foremost, to promote and support the County's economic development and tourism objectives.
- To recognize the contributions of County Boards, Committees, and Community Service organizations.

To achieve these purposes and maximize the full potential of this resource, the suite tickets will be placed in the Economic Development Office for distribution in accordance with this policy and procedure statement. The Economic Development Director will oversee this policy and procedure.

Commissioners with their individual badges are welcome to visit/host any event; but Economic Development and Tourism shall strive not to blend events with outside groups or individuals that are not associated within the same profession due to the confidential or targeted nature of many of their events.

Reporting Requirements

Individuals who are issued tickets will be responsible for completing a report (see attached) that identifies the individuals to whom the tickets were issued and the purpose of the use. This report will be used to determine if the use is such that the County needs to withhold the appropriate amount of income tax.

PROCEDURE

Requesting Tickets

Within seven day of each game, the Economic Development Director and the Tourism Department Director will determine their ticket needs for uses stated above. All remaining tickets will then become available for allocation on an individual request basis through the Economic Development Office for individual members serving on County Boards/Committees and Community Service Organizations.

Once the tickets have been allocated, the individual can pick up the ticket at Economic Development Office along with a Use Report Form (see attached).

Reporting Requirements

Within five work days following the event, the requesting individual/department will complete the Use Reporting Form and submit it to the Finance Department. Failure to submit the report in a timely manner may result in the individual requesting the tickets to be taxed for the tickets as a taxable benefit.

Rays Spring Training Game Schedule 2013

Date	Opponent	Time
Feb 23	Pittsburgh (ss)	1:05
Feb 25	Boston # 75	1:05
Feb 26	Houston	1:05
Feb 28	Detroit # 75	1:05
March 2	Baltimore	1:05
March 3	Minnesota	1:05
March 8	Philadelphia # 75	1:05
March 10	Boston # 75	1:05
March 11	Minnesota	7:05
March 12	New York # 75	1:05
March 15	Philadelphia # 75	1:05
March 16	Boston # 75	1:05
March 21	Toronto	1:05
March 22	Baltimore (ss)	1:05
March 23	Minnesota	1:05
March 25	Pittsburgh	7:05
March 27	Toronto	1:05

**Charlotte County
Charlotte Sports Park Suite/Ticket/Pass
Use Reporting Form**

Reporting Individual: _____ Event Date: _____

Event Name: _____

Business Purpose: Yes _____ No _____

Description of Purpose: _____

Guest Name	Business Affiliation
1.	
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