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Contact: Robert Meyers, Executive Director
(305) 350-0613 or rmeyers@miamidade.gov

Ethics complaint dismissed against Inspector General

A finding of “no probable cause” was ruled in a complaint (**C 10-29**) filed against Miami-Dade Inspector General Chris Mazzella by the president of the Dade County Police Benevolent Association. John Rivera charged Mazzella with violating the County code in connection with his outside work as an entertainer. The Ethics Commission found three of the counts not legally sufficient. The remaining count charged Mazzella with Exploitation of Official Position, by citing his County title on the “We2duets” website. The Ethics Commission determined it is only a part of his brief biographical information, noting that “it is difficult to imagine what ‘special privileges or exemptions’ respondent is likely to reap...” adding, “...there is no logical connection between being an Inspector General and a wedding singer.”

Failure to complete required forms prompted two complaints that went before the Ethics Commission today. Linda Kurtz, who registered as a lobbyist for Abbott Vascular in 2007, did not file the required Lobbyist Expenditure Statement by the July 1, 2008 deadline. But because reminders and notices were unsuccessful and Ethics Commission investigators were unable to track her down, the complaint (**C 10-26**) was voluntarily dismissed. It will be refiled if the respondent is found in the future. Wilfred Pierre, a member of Miami’s Equal Opportunity Advisory Board in 2007, failed to submit a Source of Income Statement that was due July 1, 2008. However, Pierre described financial hardships to the Ethics Commissioners, who waived the fine associated with the complaint (**C 10-21**).

A rehearing was requested on last month’s opinion (**RQO 10-20**) that Key Biscayne Village Council Member Michael Kelly does not have a conflict of interest in attempts to rezone the site of the former Sonesta Hotel. Dr. Kelly lives in one of 55 single family homes immediately west of the beach front land and has proposed restrictions that would reduce the density from what is currently allowed, if a different site plan is submitted. Several high-rise buildings are also adjacent to the property, and the number of nearby homeowners totals approximately 1,500. The Ethics Commission opined that Councilman Kelly does not have a conflict and may vote on the rezoning because he doesn’t have a relationship with those involved in the redevelopment and he will not be affected by the vote differently from the general public. The property owner, Consultatio Key Biscayne LLC, sought to overturn that decision, but the Ethics Commission denied the rehearing request because no material facts were presented to change the Commissioners’ original opinion.

While the Ethics Commission ruled last month (**RQO 10-19**) that public testimony by a recently separated official in a quasi-judicial proceeding is not a violation of the County’s “two year rule” limiting lobbying by former employees, today it found (**RQO 10-21**) that a municipal ordinance does apply. The question concerns Robert Solera who left as Director of the Community Development Department in Sunny Isles Beach more than a year ago. Solera was called as a witness by representatives of Temple B’Nai Zion during debate over its possible historic preservation designation. The Ethics Commission ruled that, under County law, former government employees are NOT lobbying when they testify in publicly noticed quasi-judicial proceedings. However, the Sunny Isles Beach City Commission recently amended its two-year post employment prohibition to specifically ban former employees from testifying as expert witnesses. The Ethics Commission concluded that would prohibit Solera from appearing before the board unless he receives a waiver from the city commission, which has been granted.

In response to a Request for Opinion (**RQO 10-22**) from the wife of Miami-Dade County Commission Chairman Dennis Moss, the Ethics Commission reiterated a past decision that Margaret Moss may serve as a contracting officer for Miami International Airport, overseeing selection committee proceedings, contract negotiations and preparing award recommendation memos. But since her request was related to an advertising contract that has been the subject of

protracted bid protests and legal action, the Commission decided to defer determination of any ethical considerations until the litigation is concluded.

As the Public Health Trust (PHT) seeks a firm to provide correctional health services, some on the selection committee are seeking answers to technical issues including liability, finances and labor contracts associated with providing health care to prison inmates. One request for opinion (**RQO 10-23**) asks if the law known as the Cone of Silence requires public notice of meetings with experts in those areas. The Ethics Commission determined that the PHT must advertise any meetings between a member of the selection committee and subject matter experts who work for the PHT or the County. However, the decision notes that selection committee members may meet with outside experts who are not affiliated with any firm bidding for the work without providing public notice.

The Ethics Commission was created in 1996 as an independent agency with advisory and quasi-judicial powers. It is composed of five members, serving staggered terms of four years each. Through a program of education, outreach and enforcement, the Commission seeks to empower the community and bolster public trust.

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