

Ethics investigators hone in on Palmetto Bay vice mayor

HIGHLIGHTS

An ethics investigation is under way on Palmetto Bay's vice mayor, John Dubois

Officials say he had a conflict of interest when he voted on development rights last month

The city attorney put the news on blast during the recent council meeting



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Palmetto Bay Vice Mayor John Dubois committed ethical violations when he participated in last month's vote on the Palmetto Bay Village Center — against the advice of county ethics officials — and an investigation is under way, county investigators say.

On Friday, Joseph Centorino, executive director of the Miami-Dade Commission on Ethics, told Dubois' attorney, Jeffrey Leary, in an email that the vice mayor ignored advice from ethics investigators that he should not participate in the vote regarding the 485 condos that would be built along historic Old Cutler Road, which sits near his home.

About two weeks later, on May 2, Dubois voted anyway, and the project passed 3-2, with Dubois casting one of the dissenting votes.

Dubois told the Miami Herald that the ethics commission never told him he had a conflict.

In May, the Village Council approved development rights for 485 residential units — 400 of which he had had rights for since 2008 plus 85 units, the rights for which were transferred from an adjoining property. Ultimately, the developer, Scott Silver, could have built up to 150 more units on the adjoining property but settled at 85. He also gave up his rights to build a hotel.

In exchange Silver said he will donate 40 acres of land to the village for a passive park.

Dubois has been very vocal in opposing the project, saying traffic would flood the historic road and increase density.

“Subsequently we learned that he had proceeded to vote and participate in the item, and that he also engaged in activities intended to influence the outcome, in direct violation of the instructions that I had given him,” Centorino said in the email to Dubois' attorney. “Our investigation of this matter, of which you are aware, has indicated that, indeed, he does have a voting conflict of interest.”

Centorino added that the conflict is due to “both the proximity of his property to the development and the uniqueness of the impact of the proposed development on his property. The investigation also revealed his continued activity which violates his obligations under the County ethics code.”

Dubois had put an item on Monday's agenda to reverse the council's approval of the project. But the news of the ethics investigation was put on blast just before that item came up Monday night when Dexter Lehtinen, the village's attorney, read Centorino's letter into the record.

Dubois provided a legal opinion from the Florida Commission on Ethics that said he did not have a conflict of interest in voting because “you are not likely to gain or lose more than other persons affected by the vote.”

Centorino and Lehtinen said Miami-Dade law supersedes Florida ethics law.

State statutes, Centorino wrote to Dubois three weeks before the vote, require that an elected official with a conflict do three things before a vote comes up:

“You must publicly declare that you have a conflict of interest due to your personal stake in the outcome of the vote, and also that within 15 days of the vote, you must file Form 8B [attached] with the Clerk of the Board, again publicly disclosing the conflict [and] ... you must absent yourself from the chamber during the discussion and vote, and you may not participate in any way in the deliberation,” Centorino wrote.

After Lehtinen finished warning Dubois about the conflict, Dubois called for his discussion to be deferred. No one seconded the motion and it died.

But it didn't end there.

Lehtinen accused Dubois of having another conflict of interest. Lehtinen said that Dubois' attorney, Jeffrey Leary, is also the attorney for Bette April Burch, a Palmetto Bay property owner who sued the village weeks after the council approved the development.

Leary shares office space with Dubois. Burch owns a horse farm adjacent to Dubois' property. Lehtinen said there might be a perception that Dubois is paying Leary to move forward with the lawsuit, or otherwise supporting the lawsuit.

Dubois said Leary is free to represent who he chooses. He asked the city attorney what could be done to tone down the heated conversation and clear his attorney's name.

Lehtinen said the village would need to know that Leary does not get any payment or other subsidy from Dubois.

An earlier version of this article mischaracterized remarks by Dexter Lehtinen, the village's attorney. Lehtinen said that the question of whether Vice Mayor John Dubois was paying or subsidizing his attorney, Jeffrey Leary, in connection with a lawsuit Leary filed against the village on behalf of another client would have to be answered. However, he did not ask Dubois to answer the question.