

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, August 22, 2017 9:05 AM
To: Sanchez, Rodzandra (COE)
Subject: Marcos Villanueva, City Commissioner, City of Sweetwater (Voting Conflict) INQ 17-207

INQ 17-207 Villanueva

From: Centorino, Joseph (COE)
Sent: Monday, August 21, 2017 4:33 PM
To: 'mvillanueva@cityofsweetwater.fl.gov' <mvillanueva@cityofsweetwater.fl.gov>
Cc: Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 17-207 Marcos Villanueva, City Commissioner, City of Sweetwater (Voting Conflict)

Commissioner Villanueva:

You have requested an opinion from this agency concerning whether you would have a voting conflict of interest under Section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance for you to participate in and vote on a matter coming before the Sweetwater City Commission involving consideration of a request by a former police officer of the City of Sweetwater to be reinstated to his police position. You have informed that you were the supervisor of the officer at the time he engaged in actions leading to his termination from the force, and that you have information to present to the board regarding those circumstances that would be deemed relevant to the decision before the board. You have also indicated that you are a personal friend of this officer and that he has contributed to your political campaign.

Section 2-11.1(d) of the Code of Ethics covers voting conflicts of interest on the part of elected public officials who are members of a local government board. There are a series of relationships listed in that section, including officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor and creditor, which, under certain circumstances, could create a legal voting conflict of interest under that section. Former supervisor, personal friend, and campaign contributor are not among those relationships. Further, you would have a legal voting conflict of interest under that section, if you "would or might, directly or indirectly, profit of be enhanced" by the vote. Nothing you have revealed to us indicates that you have the type of personal interest in this matter that could lead to personal profit or enhancement.

Accordingly, I have concluded that, under the circumstances related by you, you do not have a legal conflict of interest under the Ethics Code that would prohibit you from participating in the discussion and vote on this matter. However, there is one important caveat that should be added to this conclusion.

Under Section 286.012, Florida Statutes, even if you do not have a legal voting conflict on a matter, if the issue involved occurs in the context of a quasi-judicial proceeding, you may abstain from voting on that matter "if the abstention is to assure a fair proceeding free from potential bias or prejudice." I provide this section to you because the nature of the proceeding described by you, that of a hearing to determine whether an former officer should be reinstated to the City of Sweetwater Police Department, appears to have some of the characteristics of a quasi-judicial proceeding. If it involves an evidentiary hearing before the Commission, after which the board will take a vote adjudicating certain rights of the individual applicant before it, then there is a likelihood that this would be considered a quasi-judicial proceeding. Furthermore, you have indicated that it is your intent to provide testimony at this hearing based upon your personal knowledge of the circumstances surrounding the officer's termination. A board member sitting in a quasi-

judicial proceeding is expected to base his or her decision strictly on an impartial evaluation of the evidence presented before it. If an individual effectively plays the role of a witness who provides testimony on behalf of an applicant before that board, then it is questionable whether that board member is in a position to provide an impartial evaluation of the evidence, given that the evidence consists in part of his or her own testimony provided on behalf of an interested party.

While I cannot conclude that you have a voting conflict of interest that would prevent you from voting on this matter, I do suggest that you confer with your City Attorney regarding whether it would be appropriate for you to recuse yourself under these circumstances.

Sincerely,

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
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Miami, FL 33130
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ethics.miamidade.gov



From: Marcos Villanueva [<mailto:mvillanueva@cityofsweetwater.fl.gov>]
Sent: Saturday, August 19, 2017 12:48 AM
To: Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>
Subject: RE: Ethics Complaint

Mr. Murawski,

I hope this email finds you in good spirits. Do you have any information pertaining to my request of legal opinion on my participation and future vote on the former police officer requesting to be reinstated by the Sweetwater Commission?

As I explained via phone, the former officer was under my command when I was a police Lieutenant. The officer in question is a personal friend of mine and he also donated to my campaign.

I am prepared to rule on the totality of the circumstances based upon the evidence that will be presented to me during that future Commission Meeting and I will shed light upon the circumstances on previous lawful orders that I gave that officer, which may have affected his decision to not to engage a suspect during the Commission of a crime.

General rules of engagement were specified during not only roll call for patrol but for special events, that no officer was to take independent action without back up upon engaging a suspect/subject. This verbal command was given by me on several occasions for officer safety.

The officer was terminated and accused of cowardness because he did not engage the suspect. The officer did make notifications to a supervisor of the suspicious activity and requested backup.

I'm respectfully requesting that the commission on ethics give me a legal opinion on whether or not my involvement would be a conflict of interest, due to the fact that the officer is not only a former subordinate and friend of mine but the fact that he also donated to my political campaign. I am making this request with the intentions of the utmost transparency and upholding my ethical oath of office. I look forward to reading your response.

On Aug 9, 2017 1:06 PM, "Marcos Villanueva" <mwillanueva@cityofsweetwater.fl.gov> wrote:

Thank you for your prompt response.

On Aug 9, 2017 12:00 PM, "Murawski, Michael P. (COE)" <Michael.Murawski@miamidade.gov> wrote:

Dear Commissioner Villanueva:

As per our telephone conversation yesterday, the Ethics Commission did dismiss the complaint that was filed against you at its meeting today. You will be receiving a Final Order reflecting that within a week or so

From: Marcos Villanueva [mailto:mwillanueva@cityofsweetwater.fl.gov]
Sent: Tuesday, August 08, 2017 6:11 PM
To: Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>
Subject: Re: Ethics Complaint

Mr. Murawski,

Thank you for your recent phone call. Just to recap our conversation, I am not surprised that Mr. Mejia attempted to file a frivolous complaint with the Miami Dade Commission on Ethics. This individual was one of my political opponents during the campaign. He has made it a point to attend every Sweetwater Commission meeting, which is in his right, but he makes it a point to make slanderous and defaming statements during the meetings. Unfortunately, I believe this is a game being played by several individuals/politicians, in an attempt to smear my good name.

I have asked the President of the Commission of the City of Sweetwater Idania Llanio, to remove and ban Mr Mejia from attending the meetings for becoming boisterous, out of order, disrespectful and for making slanderous and defaming false statements about me. Commissioner Llanio has refused to remove Mr. Mejia, even though the City Charter calls for the removal of any individual who violates the Decorum of the Commission meeting. I presented a motion to have Mr. Mejia removed and banned from the Commission meetings but the motion died on the floor. Needless to say, I will have to contend with this individual until a solution reveals itself or I may have to resort to a civil lawsuit of Mr. Mejia for slander, defamation of character and libel.

Unfortunately, there are person(s) who use the Commission on Ethics as a political pawn in an attempt to muddy the waters in the hopes of some sort of distorted media attention and stretch of the truth.

Thank you for your attention to this matter and I look forward to the official dismissal of said complaint by the Commission tomorrow.

On an unrelated question. There is a former police officer who was terminated from the city of Sweetwater Police Department, who has asked the Sweetwater Commission to rule on whether or not he should be reinstated in the police department. I am the former police officer's Lieutenant. I am a character witness to his claim of wrongful termination. This officer is a personal friend of mine and he also donated to my political campaign.

I am able to make an ethical decision on any matter, especially when it involves someone who I am close too. I hold those who are closest to me to a higher standard of conduct.

I am respectfully requesting a legal opinion for the Commission on Ethics. Below are my questions:

1. Do I have to recuse myself from voting on that item?
2. If I must recuse myself from voting, may I make a verbal statement prior to the vote?

I ask the Commission on Ethics for a legal opinion pertaining to this matter with the very most transparent and ethical intentions.

Should you have any questions pertaining to this matter or if I may be of any assistance to your office, please do not hesitate to reach to me via email or call me at, [786 510-9400](tel:7865109400).

Respectfully,

Marcos A. Villanueva

City of Sweetwater

Commissioner.

On Aug 8, 2017 2:10 PM, "Murawski, Michael P. (COE)" <Michael.Murawski@miamidade.gov> wrote:

Dear Commissioner Villanueva:

Attached please find a copy of an ethics complaint that was filed against you by Jose Mejia.

Please contact me at [305-350-0609](tel:305-350-0609) at your earliest convenience to discuss this matter with you.

Sincerely,

Michael Murawski