

MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST

Summary of Minutes and Agenda Actions

Meeting of October 12, 2017

The Miami-Dade Commission on Ethics (COE) convened in the Biscayne Building, 19 West Flagler Street, Suite 820, Miami, FL, on October 12, 2017. Present were Commission Vice Chair H. Jeffrey Cutler and Commissioners Judith Bernier and Carol Zeiner. Also present were Joseph Centorino, Executive Director; Michael Murawski, Advocate; Gilma Diaz-Greco, Martha Perez and Radia Turay, Staff Attorneys; Rhonda Victor Sibilia, Communications Director; Nilda Olmo and Sylvia Batista, Investigators; Mathew Dennison and Joshua Mosios, Legal Interns; and members of the public. The meeting was called to order at 10:00 a.m. by Vice Chair Cutler. A quorum was present.

I. Approval of Minutes

Commissioner Zeiner made a motion to approve the minutes of the August 9, 2017, meeting. The motion was seconded by Commissioner Bernier and unanimously approved (3-0).

II. Public Comment

Esperanza "Hope" Reynolds requested that the town hall meeting in Miami Lakes that was postponed due to Hurricane Irma be rescheduled in November. She also discussed the ethics of increasing taxes through government resolution, instead of a vote by the public.

III. Request for Opinion

Staff Attorney Martha Perez presented **RQO 17-05**, from Amanda Sanfilippo, Curator and Artist Manager for the County's Art in Public Places Program, regarding her domestic partner's participation in public art projects sponsored by her agency. As the administrator in Miami-Dade County's Department of Cultural Affairs (DOCA), she has no say in the selection of artists under the program, but she does coordinate and oversee the application process. Sanfilippo also directs and administers the South Florida Cultural Consortium Visual and Media Artists Award Program, which awards fellowships of \$15,000 to selected participants. Ms. Sanfilippo and her supervisor, Cultural Affairs Deputy Director Deborah Margol, explained their impartiality regarding all applicants, including visual artist Justin Long, Ms. Sanfilippo's domestic partner. The Conflict of Interest and Code of Ethics Ordinance prohibits an immediate family of a County employee from entering into a contract or transacting business with the employee's County department. Under the Ethics Code, domestic partners are included in the definition of "immediate family member," so the staff recommendation prohibited Long from participating in the art programs. The prohibition may be waived by a two-thirds vote of the Board of County Commissioners. Commissioner Zeiner made a motion to approve the recommendation. It was seconded by Commissioner Bernier and unanimously approved (3-0).

Staff Attorney Gilma Diaz-Greco presented **RQO 17-06** from Michael Liu, the Director of the County's Public Housing and Community Development Department (PHCD), regarding his executive secretary's ability to participate in the Home-Ownership Second Mortgage Program. Mary Pacheco wants to apply for the publicly-funded program that helps qualified applicants complete financing when they are unable to obtain a loan for the entire mortgage from a private lender. Because she performs only secretarial and clerical duties for the Executive Director of the Department, and since neither she nor her boss are involved in the decision-making or oversight of the program, staff recommended that Ms. Pacheco may participate. Commissioner Bernier made a motion to approve the recommendation. It was seconded by Commissioner Zeiner and unanimously approved (3-0).

IV. Section Eight Requests

Staff Attorney Diaz-Greco had four requests (three intended for the postponed September agenda and one for October) from County employees to contract under the federally-funded Section 8 program, and, since they are not associated with the Miami-Dade Public Housing and Community Development Department, recommended approval. Commissioner Zeiner made a motion to support the recommendation. Commissioner Bernier **seconded it and it was** unanimously approved **(3-0)**.

V. Housing requests

Staff Attorney Diaz-Greco presented the requests of four County employees (two from September and two from October) to seek assistance through programs overseen by the Miami-Dade Public Housing and Community Development Department, and since neither they nor any of their family members oversee or administer the programs, recommended they be approved. Commissioner Bernier made a motion to approve the recommendation. It was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.

VI. Monthly Summary of Inquiries

Staff Attorney Radia Turay presented a Summary of Inquiries issued by the COE staff from July 29th through September 27th, of which four were briefly discussed.

VII. Miami Beach Lobbyist Appeals

Staff Attorney Martha Perez presented appeals from fourteen individuals who registered as lobbyists in the City of Miami Beach, but who failed to file required expenditure and compensation statements by the deadline. The following actions occurred:

- Commissioner Zeiner made a motion to waive the fine of \$3,700 levied on Jeffrey Bass, who was present. It was seconded by Commissioner Bernier and unanimously approved **(3-0)**.
- Commissioner Zeiner had to recuse herself from the appeal for Rosa de la Camara, who was present, leaving the Commission with no quorum. The appeal was postponed to the next meeting.
- Commissioner Bernier made a motion to waive the \$2,950 fine levied on Claudia Gill, who was present. The motion was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.
- Commissioner Bernier made a motion to waive the \$2,550 fine for Mark Grant, who was present. The motion was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.
- Commissioner Bernier made a motion to waive the \$1,700 fine for Marc Halpern. The motion was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.
- Commissioner Bernier made a motion to waive the \$2,500 fine for Nicholas Hamann, who was present. The motion was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.
- Vice Chair Cutler made a motion to waive the \$1,700 fine for Amanda Jungles. It was seconded by Commissioner Bernier and unanimously approved **(3-0)**.
- Commissioner Zeiner made a motion to waive the \$8,500 fine for Raymond Jungles. It was seconded by Commissioner Bernier and unanimously approved **(3-0)**.
- Commissioner Bernier made a motion to waive the \$5,650 fine for Maureen Luna, who was present. It was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.
- Commissioner Bernier made a motion to reduce the \$2,750 fine to 3% or \$82.50 for Jeff McInnis. It was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.
- Commissioner Bernier made a motion to reduce the \$750 fine to 3% or \$22.50 for Leyla Rojas Osorio, who was present. It was seconded by Commissioner Zeiner and unanimously approved **(3-0)**.

- Commissioner Bernier made a motion to waive the \$4,150 fine for Ronald Rosengarten. It was seconded by Commissioner Zeiner and unanimously approved (3-0).
- Commissioner Zeiner made a motion to waive the \$5,100 fine for Corey Seltenright, who was present. It was seconded by Commissioner Bernier and unanimously approved (3-0).
- Commissioner Bernier made a motion to reduce the \$2,950 fine to 3% or \$88.50 for Cricket Snow, who was present. It was seconded by Commissioner Zeiner and unanimously approved (3-0).

VIII. Executive Director's Report

- Executive Director Joseph Centorino reported that the annual County budget process resulted in no cuts for the agency (other than funds that had been planned for an office move that will not happen). The \$2,235,000 spending plan maintains COE staffing with annual merit increases.
- Mr. Centorino provided background on the School District's nomination of Civics/Law Studies instructor Isaiah Thomas to receive the Ethical Governance Day Teacher Award and asked for the Commission's endorsement. Commissioner Zeiner made a motion to approve the award. It was seconded by Commissioner Bernier and unanimously approved (3-0). He also said that Hurricane Irma has hindered recruitment efforts for classroom volunteers on Thursday, October 19, 2017, but that a good turnout is still anticipated.
- Mr. Centorino announced that the hurricane-delayed municipal luncheon, "Forensic Fundamentals" at the Medical Examiner's Office has been rescheduled to Wed., Nov. 8, and encouraged Commissioners to attend. He also discussed the two meetings held in August with Ethics Officers from County Departments and the municipalities.

IX. Complaints

Advocate Murawski, with Respondent's Attorney Ben Kuehne, said in a status report on **C 16-34** that they hoped to set aside a full day for a hearing on the case in November, and he will contact the Commissioners to find a suitable date.

The Ethics Commission convened in closed session at 11:15 a.m. Commissioners returned to open session at 11:36 a.m. and took the following action:

- Commissioner Bernier made a motion to find No Probable Cause to a complaint (**C 17-05**) accusing Opa-Locka City Manager Yvette Harrell and City Attorney Vincent Brown of violating the Citizens' Bill of Rights or Conflict of Interest and Code of Ethics Ordinance by failing to produce public records in a timely manner and imposing unreasonably high fees. The investigation found that the complaining company made numerous public records requests demanding voluminous amounts of information at the same time the beleaguered city was receiving numerous records requests from other entities. While, the staff memo recommending the "No Probable Cause" finding stated that the City's process for responding to records requests may be described as "inept," there was insufficient evidence to prove that Harrell and Brown intentionally withheld records. The motion was seconded by Commissioner Zeiner and unanimously approved (3-0).
- Commissioner Zeiner made a motion to find No Probable Cause to a complaint (**C 17-12**) that was filed by a representative of Humana South Florida accusing Eston "Dusty" Melton of improper lobbying after he made several contacts with County staff in support of Delta Dental's efforts to contract with the County earlier this year. Melton had been properly registered to represent The Comprehensive Companies (TCC) on insurance and financial issues. Delta Dental contracted with TCC to act as its marketplace representative and Melton was one of TCC's paid consultants. The investigative memo noted that this type of situation is not addressed in the

lobbying rules that are supposed to promote transparency. The motion was seconded by Commissioner Bernier and unanimously approved (3-0).

--Commissioner Zeiner made a motion to approve the Stipulation to Probable Cause and settlement agreement for C 17-17, in which a Miami-Dade County lifeguard who has worked a second job for the past six years was charged with not disclosing it, as required. As part of the settlement, Jose A. Cancelo has filed the appropriate disclosures for the past three years, and will pay a \$500 fine and accept a Letter of Instruction. The motion was seconded by Commissioner Bernier and unanimously approved (3-0).

-- Commissioner Bernier made a motion to dismiss a complaint (C 17-18) filed by a Water & Sewer Department employee, Victor Fernandez-Cuervo, against Miami-Dade County alleging whistleblower retaliation. Because the complaint is not filed against any specific individual and because it was filed long after the 60-day deadline for whistleblower complaints, it was deemed Not Legally Sufficient. Commissioner Zeiner seconded the motion and it was unanimously approved (3-0).

-- Commissioner Bernier made a motion to approve the Advocate's request for an extension of time to make a Probable Cause determination for C 17-19. Commissioner Zeiner seconded the motion and it was unanimously approved (3-0).

-- Commissioner Bernier made a motion to dismiss a complaint (C 17-25) filed against all elected Surfside Town officials and top administrators, questioning their compliance with the City Charter's provisions for emergency management. Because the Ethics Commission does not have jurisdiction to enforce the Town Charter and, since the complaint does not allege any violation of the Conflict of Interest and Code of Ethics Ordinance, the complaint is Not Legally Sufficient. Commissioner Zeiner seconded the motion and it was unanimously approved (3-0).

X. Performance Review – COE Advocate

Executive Director Centorino presented the annual evaluation of Public Advocate Michael Murawski and recommended a merit pay increase of 4.3%. Commissioner Zeiner made a motion to accept the recommendation. It was seconded by Commissioner Bernier and unanimously approved (3-0).

XI. Adjournment

There being no further business, the meeting adjourned at 11:41 a.m.

A handwritten signature in blue ink, reading "Rhonda Victor Sibia", is written over a horizontal line.

Prepared by Rhonda Victor Sibia, Communications Director