



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Sylvia Batista

Case K-13-125	Case Name:	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s): Julio Martinez, former Mayor of Hialeah.	Subject(s): City of Hialeah Councilmembers and Mayor Carlos Hernandez	10/10/13	10/25/13

Allegation(s):

On 10/10/13 former Mayor of Hialeah and current mayoral candidate Julio Martinez (Martinez) called a press conference attended by several members of the press and the COE. Those in attendance were shown a video obtained by Martinez from the City by way of a public records request. The video in question is alleged to have been recorded on 09/09/13 by a camera located outside the office of Hialeah Mayor Carlos Hernandez and a second camera located by the elevators on the 4th floor of City Hall.

Before showing the video, Martinez informed that he, together with Private Investigator Joe Carrillo, Attorney Jose Garcia-Pedrosa and Raul Martinez, have been investigating potential Sunshine Law violations by City of Hialeah Council members. Martinez said that his interest in the matter began after speaking with Acting Budget Director, Ines Beecher, who told him that she had met with the Mayor, the City Attorney and Council members individually shortly before the Budget hearing where her proposed budget was voted on.

The video shows that Mayor Hernandez entered his office a few minutes before 5:00 p.m. with his body guard. The City Council Budget Meeting was scheduled to begin at 7:00 p.m. For the next two hours the video shows the Mayor's Chief of Staff, the Acting Budget Director, City Attorney and seven council members entering the area of the Mayor's office at different times. Some of the council members are carrying what was alleged to be the budget book. At the conclusion of the video, three minutes before the budget hearing was set to start, five council members, the Mayor and his Chief of Staff are seen leaving the Mayor's office, some carrying the budget book, and going into the elevator together on their way to the meeting.

Martinez stressed that his motives for conducting the investigation are not political, but rather driven by a strong desire to clean up the City. Martinez advised that the Mayor would be hosting a press conference at City Hall to respond to the allegations.

Immediately after the press conference, City of Hialeah Mayor Carlos Hernandez held a press conference in City Hall. Mayor Hernandez responded to the questions posed by the media stating that Martinez and associates were wrong. Hernandez explained that the City works under a strong Mayor form of government which permits him to meet with his council members individually before a council meeting. The Mayor confirmed that he met with each council member individually as part of his function as administrator. Hernandez stressed several times that because he is not a voting member of the council he is permitted to do this.

Hernandez criticized Raul Martinez and Julio Martinez for going to the press to report something which is not a violation of the Sunshine Law and is misleading.

Relevant Law:

Florida Statutes, Section 286.011.
Miami-Dade County Citizens' Bill of Rights, Section (A)6.

Investigation:

Document/Audio/Video Review:

The video publicized at the aforementioned press conference is alleged to reveal the Mayor, council members, City Attorney, Mayor's Chief of Staff and Budget Manager going through a door that goes directly into the Mayor's office. However, a visit to the area of the Mayor's office at City Hall reveals that the door actually goes into a reception area which is connected to a conference room on one side and a maze of offices and work areas on the other. The Mayor's office is connected to the conference room through a small door, but the main entrance to his office is through another reception area occupied by the Mayor's administrative assistant, Lissette Franco.

Interviews(s):

10/18/13 – Lissette Franco, Administrative Assistant for Mayor Hernandez –

Lissette Franco (Franco) is the Mayor's administrative assistant. She schedules all appointments for the Mayor and acts as the gatekeeper for the Mayor's office. In connection with the 9/9/13 budget hearing, Franco said that she set aside time for each council member to come in and speak with the Mayor about the budget. She schedules time for each council member to meet with the Mayor separately. Franco explained that sometimes there is a back-up and council members end up waiting or seeing someone else while they wait.

Franco said that the budget meetings with the Mayor are flexible, but general council meetings are not. Council members meet with the Mayor at their will. Sometimes it is not necessary for all council members to meet with the Mayor. The Mayor only meets with those council members that have questions. Franco said that the door to the Mayor's office is open during the meeting. The Mayor meets with one council member at a time. Franco said she has always kept that formality.

10/18/13 - Isis Garcia-Martinez , Council member and Council President –

Isis Garcia-Martinez (Garcia-Martinez) has been a council member from 1991 to 1995 and from 2007 to the present. She was appointed as Council President 3 years ago. Garcia-Martinez said that on the afternoon of the budget hearing she first met with Ines Beecher and then met with Armando Vidal to discuss issues that she could not find in the budget. Armando Vidal is the Chief of Public Works. Garcia-Martinez said she was not the first council member to meet with the Mayor.

Garcia-Martinez said that she does not speak with any council member before any items coming up for a vote. Garcia-Martinez said that on that day she waited and saw the Mayor individually. Garcia-Martinez said that as Council President she runs the meeting so she rushes everyone out the door to get downstairs. Garcia-Martinez added that the City Attorney is also available in case there are legal issues she needs to discuss.

10/18/13 - Ines Beecher, Acting Budget Director –

Ines Beecher (Beecher) is the Acting Budget Director. Beecher said that the Mayor asked her to come in before the budget hearing. Beecher said she did not notice any conversations between council members in reference to the budget. Beecher said that at one point she walked out to get Bill Grodnick, the City Attorney.

Beecher explained that before retiring from the County during the last 4 years she was County Budget Manager in the Office of the County Auditor. Beecher said that on that day she met with the Mayor and then met with five (5) of the council members individually. Beecher said that one or two of the council members wanted to discuss the question of the tax millage, which was confusing. Council members also wanted to know about the water rate increase while others talked about the Fire Department asking why there were zeros on the pension amount. Beecher said that she met with the council members in her office. Sometimes the Mayor calls and the council members are just making small talk. The council members talk to each other, but not about the City.

10/18/13 - Paul B. Hernandez, Council member –

Paul Hernandez (Hernandez) has been on the Hialeah Council since November 2011. Hernandez said that he usually goes through the agenda as soon as he receives it. He usually requests the appointment with the Mayor. Sometimes something else comes up and the Mayor will call him. Hernandez said that it is common for council members to meet with the administrator (the Mayor). If someone is in the Mayor's office when he comes in, he waits and when they go out he goes in. Sometimes the meeting is on the same day of the council meeting. Department persons are called in as needed. Later, if time permits, he will talk to his colleagues about general matters, not about anything that is on the agenda. Hernandez said that it is not unusual for the budget to pass without much discussion.

Hernandez said that his question to Beecher concerned the roll-back rate. Beecher gave him a hand-out and went over general budgeting questions. They will usually make an appointment to meet. Hernandez said that he got the Mayor's feedback regarding the budget. He and the Mayor are alone when they do this. Hernandez said that for budget hearings, he sees both the Mayor and the Budget Manager.

10/21/13 – Luis Gonzalez, Council member –

Luis Gonzalez (Gonzalez) has been on the council since 2005. Gonzalez said that he did not call the

Mayor to meet, but it is customary to meet with the Mayor and Budget Manager before budget hearings. Gonzalez said that he asked Beecher regarding financial issues. Gonzalez said that he went over the roll-back rate with Beecher because it didn't seem right. The City did not raise property taxes.

The Mayor was busy when he went to his office on the day of the budget hearing. Gonzalez said he came outside the area to speak to Bill Grodnick. Gonzalez said he noticed that Public Works Director, Armando Vidal and Beecher were in the area and he spoke to both of them in connection with the budget. He and the other council members will greet and talk about personal issues. Gonzalez said that he has never discussed items coming up for a vote with any of the council members.

Gonzalez said that he takes personal offense at the allegations. His brother, who was at the press conference, told him that Julio Martinez called them "delinquents." Basically, if Franco calls and says the Mayor wants to meet with him, he will go. Normally all the council members go speak with the Mayor individually before the meeting.

10/21/13 – Katherine Cue-Fuente, Council member –

Katherine Cue-Fuente (Cue-Fuente) was appointed to the City Council in 2008 and has been re-elected to office since then. Cue-Fuente said that, on the day of the budget hearing, she met with the Mayor's Chief of Staff. Cue-Fuente said she then waited to meet with Beecher. She and Beecher met regarding a typo she spotted under Fire Department that caused an error on the information regarding salaries. Cue-Fuente said she then waited and met with the Mayor to explain what she had discussed with Beecher. Cue-Fuente said that she meets with Bill Grodnick if she needs to. Cue-Fuente said that she does not engage in any discussion with council members regarding any item coming before them. Cue-Fuente said that there is no need for it.

10/21/13 – Lourdes Lozano, Council member –

Lourdes Lozano (Lozano) has been on the council since 2011. On the day of the budget hearing, Lozano said that she spoke with the Mayor and Beecher. Lozano said she first spoke with Beecher about the changes on the budget regarding money being spent on insurance and pensions. She then asked Beecher some personal things. Lozano said she then met alone with the Mayor. Lozano said that she knows what the Sunshine Law is and she respects it. She always has questions and always meets with the Mayor alone before the budget meeting.

10/21/13 – Vivian Casals-Munoz, Council member –

Vivian Casals-Munoz (Casals-Munoz) has been a council member of the Hialeah Council since November of 2006. Casals-Munoz explained that she reviewed the budget that afternoon. She did not have an appointment with the Mayor, but she went to speak to him. She had three pages worth of questions for Beecher on the budget. This budget was different from last year's. This is the first budget prepared by Beecher for the City.

Casals-Munoz did not meet with the Mayor on that day. She noticed that it was close to 7:00 p.m. and she went out a different door because the alarm had been set on the other door. Casals-Munoz said that she rode down on the elevator with the Mayor's Chief of Staff. Casals-Munoz said that she had no discussion with the other council members regarding the budget. Beecher answered all of her questions.

10/21/13 – Dr. Jose Caragol, Council member –

Dr. Jose Caragol (Caragol) has been on the Hialeah Council for 8 years. He was Public Information Office for the Hialeah Police Department before being on the council. Caragol explained that for many years council members go home, shower and change, and then come back to see the Mayor before the council meeting. On the day of the budget hearing he spoke with the Mayor individually. Caragol said that he did not meet with Beecher, but he did meet with the Mayor. He usually asks the Mayor whether everything is in order.

Caragol said that he never discussed the budget with the other council members in groups or individually. He does not discuss items that are coming up for a vote with any of the council members.

10/21/13 – Mayor Carlos Hernandez –

Mayor Carlos Hernandez (Hernandez) acknowledged the video which raised the question of whether a Sunshine Law violation had taken place on the day of the budget hearing. Hernandez said that he installed the camera that took the video at issue. He installed the camera for transparency three or four months ago. Hernandez said that on the day of the budget hearing he met with each council member individually. Hernandez said that the council members were there to ask questions about the budget. This is why they had their budget books with them.

Hernandez said that to the best of his knowledge, none of the council members discussed the budget with each other. As a strong mayor, he can discuss items coming up for vote with all department heads since they all work for him and with council members individually. As an administrator he is there to answer questions. It is common for council members to come up before the meeting to discuss items. Most of the activity occurs after 4:00 p.m. because most council members work during the day. All of his discussions are held with council members individually. Hernandez said that he did not discuss what one council member said with any other council member.

10/24/13 - Armando Vidal, Chief of Public Works –

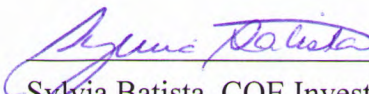
Armando Vidal (Vidal) is the City's Public Works Chief. According to Assistant State Attorney Johnette Hardiman, Vidal said that on the day of the budget hearing he did not see any voting member of the City council discuss agenda items with other council members. Vidal explained that, due to the camera position, the video does not show who is in the Mayor's office. Vidal said that he saw council members meet individually with Beecher. Vidal said he and the Mayor met with council members individually. Vidal confirmed that the Mayor can meet with council members because he is non-voting.

Conclusion:

In view of the information and statements obtained in this investigation, it appears that there is insufficient evidence to show a violation of the Sunshine Law or the Citizen's Bill of Rights.

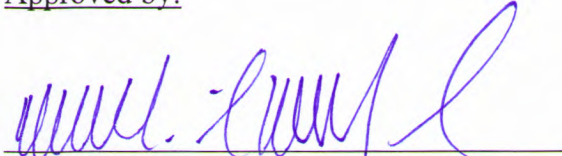
This investigation was conducted in consultation with the Office of the State Attorney and will be turned over to the SAO for its review and closure.

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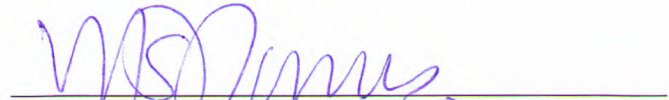
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Sylvia Batista, COE Investigator

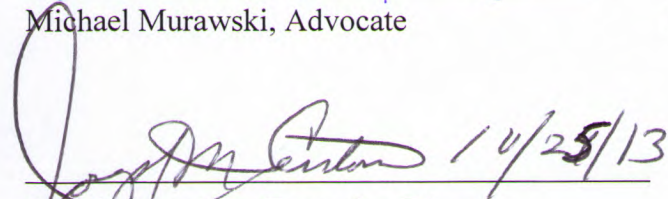
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 10/25/13

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