

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K #: 12- 102

Date Opened: July 16, 2012

Date Closed: Oct. 15, 2012

Name of Investigator: Manuel W. Diaz

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**Historical:**

On July 16, 2012, the Miami New Times featured an article entitled “South Miami Soccer Club Accuses City Officials of Unethical Practices.” The article dealt with an RFP that was issued by the City of South Miami (the City) for a franchise to operate a soccer program at City parks. On June 12, 2012, the City Commission decided against the city manager’s recommendation of Grey Ghosts Soccer Club (GGSC) and awarded the contract to the South Miami United Soccer Club (SMU).

**Allegation:**

An attorney representing GGSC filed a law suit in circuit court. In the suit, Petitioner Javier Rodriguez, alleged that two Directors for SMU violated the City Ethics Code because of their membership on the City Parks and Recreation Board (P&RB).

**Applicable Legislation:**

**The City of South Miami Code of Ordinances**

**Sec. 8A-1. - Conflict of interest and code of ethics ordinance.**

“(b)(4) The term "advisory personnel" shall refer to the members of those city advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the city commission. “

“(10) The term "transact any business" shall refer to the purchase or sale by the city of specific goods or services for consideration and to submitting a bid, a proposal in response to a RFP, a statement of qualifications in response to a request by the city, or entering into contract negotiations for the provision on any goods or services, whichever first occurs.

(c) Prohibition on transacting business with the city.

No person included in the terms defined in paragraphs (b) (1) through (6) and in paragraph (b) (9) shall enter into any contract or transact any business in which that person or a member of the immediate family has a financial interest, direct or indirect with the city or any person or agency acting for the city, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violation of this subsection shall constitute malfeasance in office and shall effect forfeiture of office or position....”

**ARTICLE III. - BOARDS AND COMMITTEES**

**- Parks and recreation board**

(a) Creation; composition.

The park and recreation board shall consist of at least nine (9) voting members and two (2) ad hoc non-voting members for a total of eleven (11) members.

(1) Appointment and the terms of membership: Pursuant to article II, section 8 of the Charter, as amended on February 9, 2010, when there are more than five (5) members on a board or committee, each city commissioner shall appoint one person to serve as a representative on the board or committee, and all members of such board or committee in excess of five (5) shall be appointed by three (3) affirmative votes of the city commission based on recommendations submitted by any city commissioner. Reappointments and/or replacements are to be made in the identical manner as the original appointments

- (2) Ad hoc members: The members will serve a six-month term and members must be a contractor with the city's parks and recreation department running a sports program at time of appointment. All ad hoc members shall be nonvoting members.

(d) Duties. The duties of the board shall be as follows:

(2) Study the leisure time and recreational needs of the city residents, including, but not limited to: (a) make recommendations, on the development of a master plan for parks and recreational facilities; (b) provide directions and guidance in setting policies and goals for recreational and athletic programs; (c) assist the city administration in identifying funding sources for recreational opportunities; and (d) provide for public hearings; (e) an administrative staff representative shall be appointed by the city manager, a secretary to the board will be chosen from amongst board members, who shall be responsible for proceedings, in the form of summary minutes, which shall be regularly submitted to the city commission for its consideration.

### **Investigation:**

#### **Public Records**

1. South Miami Grey Ghosts Soccer Club, Inc. vs. City of South Miami, Florida Case # 12-25209CA32, Verified Petition For Equitable Relief was reviewed. (Copy in File)  
Sections 15-22 identify and allege that Patrick Flood (Flood) and Anthony Tolgyesi (Tolgyesi) served as members of the P&RB in violation of Sec. 8A-1(b) (4) and Sec. 8A-1(c), of the City Code.
2. The City Commission Agenda for August 7, 2007 (item 5) indicates that Flood was appointed to the P&RB for a term of 1 year. The same Agenda, (item 6) confirms that Tolgyesi was appointed to the PR&B for a term of 1 year. (Copy in file)
3. The City Commission Agenda for March 17, 2009 (item 8) indicates that Tolgyesi was appointed to the P&RB for a term of 2 years. The same Agenda, (item 9) confirms that Flood was appointed to the P&RB for a term of 2 years. (Copy in file)
4. The City web site, under the heading Park and Recreation Board, lists the membership of the P&RB. The site indicates that both Flood and Tolgyesi terms expired on March 2, 2011. A search of the City Commission Agendas (online) does not indicate that they were re-appointed. The site does not indicate if they were appointed as regular members or as "Ad hoc".

## **Interviews:**

Lorenzo Woodley (Woodley) – City Department of Parks and Recreation

Woodley has been the director of the Parks Department since 2010. Prior to being named the director, Woodley was the assistant director of P&R. As both the assistant director and the director, Woodley attended the meetings of the P&RB.

Woodley described the P&RB as an advisory board that reviews existing programs and make recommendations to P&R. He advised that it is difficult to realize a quorum at meetings and many meetings have been cancelled; there would be an agenda prepared, but were no minutes taken. According to Woodley, there are no minutes available for any of the P&RB meetings.

Woodley advised that in 2010, because of budget shortfalls, the City decided to stop funding the soccer program. The soccer program instead started collecting member fees and the City used the funds collected by members to continue to subsidize the soccer program. SMU was incorporated as a not-for-profit and was issued a permit to run the program. The issuing of the permit was done for record keeping purposes, creating a mechanism whereby the City could accept the revenue. Woodley provided copies of the permits issued in 2010 thru 2011 to SMU. (Copies in investigative file)

**Martha Stout Tate** (Tate) - Former P&R Director

Tate advised that she was appointed as firector after the termination of a former director Caesar Garcia (Garcia). During her tenure, SMU ran the City's soccer program. According to Tate, there was a rapid turn over of City managers during the period. City administration decided that SMU should incorporate as a vendor to facilitate the payment of fees to the City.

**Anthony Tolgyesi**

Tolgyesi was interviewed in his office. He advised that in 2007 he was asked to sit on the P&RB by former Mayor Horace Feliu. He served one, 1-year term and was re-appointed for a 2-

year term in 2009. His 2<sup>nd</sup> term of office ended in March of 2011. He was never re-appointed to the P&RB. Since the end of this 2<sup>nd</sup> term, he has attended meetings (as a guest and as a coach for SMU) at the request of Dick Ward the current chairperson of the P&RB.

Tolgyesi advised that the P&RB reviews the P&R soccer program and makes recommendations to P&R staff on how to improve the program. He advised that when he was appointed to the P&RB in 2007, the P&RB prepared detailed recommendations for P&R facilities improvement. The intention was to present the recommendation to the City Commission. The recommendations were never presented to the Commission by the P&R staff.

Tolgyesi advised that in 2010 the City decided not to include funding for the youth soccer program in the City budget. The City decided that the program should be outsourced to a vendor. There was no RFP issued by the City. It was agreed that Tolgyesi, Flood and other parents, already involved with the program, would take over the management of the program and collect participant fees from the participants to fund the program. The City would be compensated for the use of its fields and other expenses. A not-for-profit, SMU, was incorporated to facilitate the collection of fees from participants. The City was paid for the use of the park where SMU practiced and played its games. Additional revenues were used to purchase equipment, uniforms, pay referees and subsidize travel expenses. He served as the registered agent and treasurer for SMU. He donated his time as a coach and as a director until late 2011 when he started collecting a salary as a part time coach.

Tolgyesi clarified that the soccer program was initially incorporated as Grey Ghosts, FC, Inc. (GGFCI) in June of 2010. The name of the program was changed to South Miami United, Inc. in August of 2010 when a portion of the program separated and incorporated under the name South Miami Grey Ghosts Soccer Club Inc.

### **Patrick Flood**

Flood advised that he and Tolgyesi, along with other parents, acted as volunteer coaches and coordinators for the City soccer program. In 2007, former Mayor Feliu nominated him to the P&RB for a 1-year term. In 2009, he was re-appointed to a two year term which ended in

2011. He noted that in 2009, he and Tolgyesi received the “Key to the City” because of their involvement with the program.

In 2010, City administrators advised that the City would no longer fund the program, and the program was to be “outsourced” to a vendor. There was no RFP issued, instead, City administrators asked him and Tolgyesi to manage the program. The program was incorporated as a not-for-profit and obtained 501(c)(3) status, enabling the program to receive donations. According to Flood, City administrators were aware of SMU’s not-for-profit status and their (Flood and Tolgyesi’s) involvement in the corporation.

In the spring of 2011, he attended COE training for City Boards. During the training he asked if his participation on the P&RB and his status as a vendor was a conflict. He was advised by the COE trainer that this created a conflict. After the meeting he contacted the City manager and resigned from the P&RB. (Copy of memorandum Flood to City Manager in file.)

**CONCLUSION:**

After discussion with COE Advocate, it was concluded that the filing of an ethics complaint in this matter is not warranted, accordingly, this matter is closed without further action.