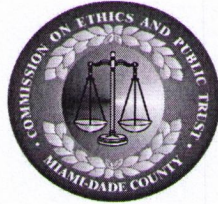


MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

#K12-113

Date Opened: 08/03/2012

Date Closed: 08/17/2012

Investigator: Sylvia Batista

On 08/02/12, the COE received an anonymous e-mail setting forth allegations involving mismanagement of Special Tax District (“STD”) funds by Gilberto Delgado (“Delgado”), Chief of Parks and Recreation Special Tax Districts (“STD”). The source alleged that Delgado, who has a take-home county vehicle, often uses his personal vehicle during his division’s operating hours because he conducts outside business during the same hours.

The COE’s issue relates to a possible violation of the Conflict of Interest and Code of Ethics Ordinance Section 2-11.1(k), *Prohibition on outside employment* and Section 2-11.1(g), *Exploitation of official position*.

08/08/12 – Public Records Request

This investigator submitted a public records request of Delgado’s requests for approval of outside employment. Records provided reflect that Delgado has permission to engage in outside employment as a consultant and qualifier for GD Construction & Management Corp. (GD), a

Florida profit corporation. Delgado has permission to work from 2 to 4 hours a day from 6 p.m. to 11 p.m., 2 to 5 days a week. Delgado has requested and received yearly approvals of outside employment from 2005 to 2012, with the exception of 2006 and 2007.

Delgado disclosed income from his outside employment for the tax years ending in 2006, 2007, 2008, 2009 and 2010. Delgado reported earnings of \$10,000 in 2006 and \$8,000 in 2007. Delgado has reported no earnings from his outside employment for the tax years ending in 2008, 2009 and 2010.

08/14/12 – Interview, Gilberto Delgado

Delgado has been in the Parks and Recreation Department since January of 1993. He was promoted to STD Manager in April of 2000 and to STD Chief in July of 2007.

Delgado was informed as to the anonymous e-mail alleging his mismanagement of STD funds and engaging in outside employment during his county working hours. Delgado advised that an identical e-mail was delivered to the BCC and the County Mayor on 09/28/11 by an unknown source. Delgado produced a copy of the e-mail which is identical to the e-mail received by the COE on 08/02/12 upon which this investigation was initiated. Delgado also provided a copy of the response from Jack Kardys (Kardys), Parks Director, to the sender of the e-mail. Kardys' response, dated 10/07/11, was delivered to the e-mail address of the sender of the 09/28/11 e-mail. In his response, Kardys addressed each of the concerns set forth in the e-mail and clarified each item of inaccurate information provided by the sender. Copies of the 09/28/11 e-mail and Kardys' 10/07/11 response are attached hereto as Exhibit A. Delgado believes that the e-mails come from a disgruntled retired employee who would like to see him terminated.

Delgado explained that, when he started as STD Manager in 2000, he noted that his employees were not working their full schedules; some employees were not showing up for work, or coming in late and not calling in. Delgado said that he needed to keep closer tabs on employee attendance. For this reason, he put certain practices in place which were not popular with some employees. Delgado said that this is what he had to do in order to do his job and make certain that his employees did the same. Delgado said that when he started as Manager of the STD in 2000, there were 80 part-time employees which he turned into 80 full-time employees within a period of 4 to 5 years. Delgado also promoted 4 or 5 Landscape Supervisors 1 to Landscape Supervisors 2.

Delgado explained that the taxpayers in the STDs expect to get what they pay for and his job is to see that they get the full benefit of the additional taxes that they pay. Residents of STDs call him to complain of workers talking on the cell phone when they should be mowing the lawn, or whatever other job they are doing. STDs include services to guardhouses, lakes, landscaping, fencing, irrigation systems, landscape lighting, trees and fountains.

Delgado said that his outside employment is as a construction consultant and qualifier. Delgado said that his wife is the administrator of the business and his nephew is the project manager. Delgado explained that the business, which is run from his house, has been just covering expenses, but is working on a project now that will earn them some money in the future. His business does not pay him a salary, but it will make enough to pay his wife and nephew a salary this year. Delgado advised that he works his outside employment on weeknights and weekends only.

Delgado recalled that last November or December his director made all division chiefs turn in their take home vehicles. Delgado said that he presently has a vehicle assigned to him to use during county working hours, but sometimes it is not convenient for him to change cars. For instance, if he has a meeting downtown late in the day, he will drive his car from home and drive home directly from there.

Delgado provided the COE with a copy of his Outside Employment Statement for the tax year ending 2011 in which he reports no income from his outside employment.¹

08/17/12 – This investigator reviewed the aforementioned income tax statements and verified that Mrs. Delgado did not receive a salary from GD Construction for 2009, 2010 and 2011, thus, Delgado is not required to amend his Outside Employment Statements for those years.

Conclusion:

No violation of the Conflict of Interest and Code of Ethics Ordinance was noted. For that reason, no further action will be taken by the COE on this matter.

¹ On 08/15/12 Delgado was told that his wife's salary from GD Construction must be reported as income on his outside employment statement. Delgado advised that he would provide the COE an opportunity to review his income tax returns for 2009, 2010 and 2011 in order to confirm that his wife reported no income from GD Construction for those years.

October 7, 2011

Mr. Jose Maria Perez

Via email response: licjosemariaperez@gmail.com

Dear Mr. Perez:

On behalf of Mayor Carlos A. Gimenez, I am responding to your recent email in which you communicated your concerns regarding the Special Tax District.

The Miami-Dade Parks, Recreation and Open Spaces Department charge each individual Special Tax District administered by the department a 13% special assessment fee. This fee is charged for staff time monitoring the work in the districts and responsible for all the processes associated with performing the work within each district. The department does not "subsidize" the operation of other non-special tax districts functions with special tax district funding. The department uses a time and charges system to verify each employee's hour of chargeable time to each district. This information is a matter of public record and is available upon request. In addition, public meetings are held annually for Special Tax Districts to review the budget and obtain input from its residents.

As Chief of the Special Tax District, Mr. Delgado is directly accountable for all of the Special Tax Districts, created through ordinances and resolutions approved by the Board of County Commissioners. His responsibilities not only consist of landscaping and tree care; it consists of vast responsibilities such as supervision of capital equipment, complex irrigation systems, maintenance, and coordination of graffiti removal and enforcement of safety practices. He exercises independent judgment in managing the districts functions as well as the supervision of technical and highly skilled employees comprised of 98 full time employees. In addition, Mr. Delgado coordinates work with other County departments and public utilities for the maintenance of the Special Taxing Districts, designing and coordinating public improvement within these districts. Mr. Delgado oversees contractual agreements and construction contracts needed for all construction and maintenance needs to include electrical plumbing, irrigation, fountains system, and entrance fixtures for all Districts which requires holding and maintaining a Certified State of Florida General Contractor License.

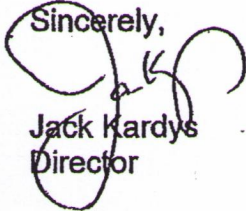
As Chief, Mr. Delgado is responsible for establishing and managing the budget which is estimated at over \$10 million for FY 09-10 with 113 active districts. He conducts required public hearings, supervising the preparation of the preliminary special assessment to all districts, recommending the level of service provided to include purchase of necessary capital equipment, hiring of additional staff and amending the budget accordingly. Mr. Delgado is fully qualified to carry out the duties required and has an exemplary job performance history with the department. It is Mr. Delgado's judgment to use or not use his assigned vehicle.

Exh. "A"

The equipment utilized by the crews is purchased by the Special Tax Division, not the districts. Kendale Lakes Special Tax District is the only district that purchases their equipment and it is used only in the Kendale Lakes District. The equipment hourly rate charged to each district is used to recover the purchase, fuel and maintenance cost of the equipment. Special Taxing Districts are in no way paying for equipment twice, but pay for only the equipment hours used within each district. The carryover accumulated through savings is exclusively used for emergencies or landscape projects within and approved by each individual district. The department does not use any Special Tax District reserves to "cover internal shortages throughout its department." Any evidence produced would be investigated and acted upon immediately.

Thank you for taking the time to write and sharing your concerns. Should you have any questions regarding this issue, please contact Frank Faragalli, Assistant Director for Operations, at (305) 755-7910.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Kardys", is written over the typed name and title. The signature is stylized and somewhat cursive.

Jack Kardys
Director

cc: Honorable Carlos A. Gimenez, Mayor
Lisa M. Martinez, Senior Advisor, Office of the Mayor
Frank Faragalli, Assistant Director, PROSD

231625

Thomas, Christine (Office of the Mayor)

From: Arias, Ruben J. (Office of the Mayor)
Sent: Wednesday, September 28, 2011 2:29 PM
To: Thomas, Christine (Office of the Mayor)
Subject: FW: Parks & Rec / S.T.D Watergate I?

C:

Please doc track and assign to Alina Hudak and Lisa Martinez.

Ruben J Arias

Director of Public Affairs

Miami-Dade County

Office of the Mayor

111 N.W. First Street, 29th Floor

Miami, Florida 33128

Office: 305-375-1312

rjaras@miamidade.gov

www.miamidade.gov

From: José María Pérez [mailto:licjosemariaperez@gmail.com]
Sent: Wednesday, September 28, 2011 2:20 PM
To: Board of County Commissioners (MetroNet); Mayor
Subject: Parks & Rec / S.T.D Watergate I?

Dear Special Tax District Resident,

During these tough economic times we find ourselves in the midst of record levels of unemployment; families and individuals struggling to make ends meet with decreased property values, high taxes and gas prices. This is something that you already know but, here's something that you may not be aware of; something else that adds to your already heavy financial burden:

"YOUR TAXPAYER DOLLARS ARE BEING SQUANDERED!"

You are receiving this because you are a resident of a "Special Tax District" which is being managed by The Miami-Dade County Parks Department. Why is this information being disclosed to you? In light of the recent action spearheaded by Norman Braman to expose Miami-Dade County Government malfeasance, fiscal irresponsibility and theft of the tax dollars that they manage, you have the right-to-know what is about to be presented for your knowledge and consideration. As a Special Tax District resident you pay an extra fee above your regular annual property tax for Miami-Dade County to maintain specific areas of your community. This is called a "Special Assessment." While there is nothing illegal or criminal about this, what is actually being done with your hard-earned tax dollars is.

What our investigative group has uncovered:

- For every dollar collected from you through your "Special Assessment" anywhere between 8-15 cents is set aside for the specific use of managing only Special Tax District affairs. In other words, the office expenses including the manager who oversees the daily operation. Where this is important is that the Parks Department is actually subsidizing the operation of other NON-SPECIAL TAX DISTRICT ENTITIES within their Department with funds intended only for use for your Special Tax Districts; again, "The Manager."
- In addition to this irresponsibly blatant mismanagement of Special Taxpayer Dollars is the absence of any real accountability by The Parks Department of the manager of these funds, Miami-Dade Parks Special Tax District Division Chief Gilberto Delgado, who is the architect of the current system. Gilberto Delgado is a licensed General Contractor (License Number: FLCGC062097) and according to Miami-Dade County's Job Description for his position, possession of this license is a requirement. Consider this; it has been brought to this group's attention that

Gilberto Delgado has an assigned 24 hour County vehicle at his disposal, yet he chooses to use his own personal vehicle nearly 50% of the time during his County Division's operating business hours. Is it possible that his motivation is to cut his County Division's operating budget (\$6,000,000 annually) by using his personal vehicle? Don't bet on it. Could it be he's conducting his own private business during his County Division's operating business hours? This is more likely.

- The bulk of the equipment used by the County personnel assigned to work in your Special Tax Districts is already PAID for (with YOUR tax dollars). This is not illegal; it is the intent of the Special Tax concept. However, in wearing the hat of "businessman," Gilberto Delgado has put his own unique spin on the system. YOU, the residents of the Special Tax Districts are charged AN HOURLY USAGE FEE for this same equipment THAT YOUR TAX DOLLARS ALREADY PURCHASED! What does this mean? You're paying for it TWICE! How's that for managing your money. As YOUR tax dollars (funds) build up in their accounts WITH INTEREST what happens; answer; Parks draws from the well to cover internal shortages throughout its Department and who knows what else. We encourage you to use your imagination.

- Did you know that your County's Public Works Department has a Special Tax Division? In fact, Public Works collects a fee from PARKS in exchange for them managing YOUR SPECIAL TAX DISTRICTS! Why not save this money and just have Public Works take over and manage the whole thing? Answer, we've discovered that Gilberto Delgado has a counterpart in Public Works with MORE SENIORITY; PERFORMING THE SAME JOB FUNCTION! Now what we have here is a duplication of jobs and it's costing YOU, the taxpayer, about \$106,000 a year (Delgado's salary).

If what has been presented here angers and disturbs you, GOOD, it should! After all it is YOUR hard-earned tax dollars that are being SQUANDERED and used as a CASH COW! This is a CALL TO ACTION! Talk to your neighbors! Notify your Commissioner! Demand an investigation with audits! Situations like this are why the public are FED UP with CORRUPT GOVERNMENT! IF YOU DO NOTHING, THEN NOTHING WILL CHANGE...

Miami-Dade County Agencies; this is only the beginning, there is more to come. We're not done yet!

<http://www.twitlonger.com/show/bsidlo>

<http://www.corporationwiki.com/Florida/Miami/gilberto-delgado-P100238.aspx>