

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K 12-098

Date Opened: July 5, 2012

Date Closed: February 18, 2013

Name of Investigator: Breno Penichet

Allegation:

This investigation was predicated on information received in the form of a complaint alleging that Robert Vernon (Vernon), former Mayor of the Village of Key Biscayne (the Village), may have violated the two (2) year rule by lobbying the Village Commissioners on behalf of a business owner.

Applicable Legislation:

Continuing application for two (2) years after County service, Sec. 2-11.1(q)(1), Miami-Dade Conflict of Interest and Code of Ethics Ordinance.

Investigation:

According to the information received, during a council meeting on February 28, 2012, the owners of the Silver Sands Beach Resort (Silver Sands) being represented by several lobbyists, were trying to change part of a legislative package that would affect their application for the construction of a condominium. It was also learned that Vernon had contacted several of the Councilmembers and requested they meet with Roberto Cuevas (Cuevas), the representative for the owners of the property.

Mayra Lindsay, Council member

COE Investigators K. Ross and B. Penichet interviewed Mayra Lindsay (Lindsay) at her office, concerning the possible violation of the two (2) year rule by ex-mayor Vernon.

According to Lindsay, she was present at the meeting on February 28, 2012, in which the persons representing the owners of the Silver Sands ¹ we're attempting to change the applicable standard from a "legislative to a quasi-judicial" standard, which would be an easier standard if applied.

According to Lindsay, the representatives of the property owners Al Cardenas (Cardenas) and Cuevas (Cuevas), wanted the Council to meet with them on a one on one basis in order to present their proposal.

Lindsay advised that she felt that Vernon was advocating for the group more as a businessman than a citizen, and that his actions were very questionable. Lindsey advised that she did meet with several of the representatives of the property owners, but was never contacted by Vernon. In the end, the Council voted to only allow a hotel to operate on the site.

COE Investigators reviewed the video of the meeting and confirmed that during the course of the proceeding Vernon stated he had contacted Councilmembers, including the Mayor, and requested they meet with the property owners. COE Investigators also found that all persons lobbying on behalf of Silver Sands were registered with the exception of Vernon.

Steven Helfman, Village Attorney

Steven Helfman (Helfman) was interviewed on the telephone, and advised that he was at the February 28, 2012 when it was learned that the Village officials had met with the representatives of Silver Sands and that Vernon had contacted the officials and facilitated the meetings. Helfman stated that he did not know what was discussed at the individual meetings between the Council members and the representatives of the property owners. Helfman advised

¹ Silver Sands, also operates under corporate entities named Red Dragon's Sands LTD, AXIS Development Corp.

that he felt that Vernon was advocating for the project. Helfman did not know if Vernon had been paid for his services, or if there was any type of agreement with the owners to be the exclusive representative of the property once it was built. According to Helfman, Vernon was a very strong advocate against the Village's position. Vernon was a strong supporter of the Silver Sands proposal and was very vocal.

Franklin Caplan, Village Mayor

Franklin Caplan (Caplan) was interviewed on the telephone and advised that he was contacted by Vernon, a person he knows from serving with on the Council. Vernon asked Caplan if he would meet with Cuevas, a representative of the owners of Silver Sands. Caplan felt Vernon was only making an introduction and did not feel it was a business transaction. Caplan did not believe Vernon was lobbying on behalf of the project.

Mike Darvey, Councilmember

Mike Darvey (Darvey) was interviewed on the telephone and advised that he was contacted by Vernon, whom he knows from serving with him on the Council. Vernon asked Darvey if he would meet with Cuevas. Darvey felt Vernon was only making an introduction, and did not feel it was a business transaction. Darvey did not believe Vernon was lobbying on behalf of the project. Darvey advised that he is an attorney and if he had felt the request was out of line he would not have gone through with the meeting.

Dr. Michael Kelly, Vice Mayor

Dr. Michael Kelly (Kelly) was interviewed on the telephone and advised that he was contacted by Vernon. Vernon told Kelly the representatives of the owners of Silver Sands wanted to meet with him and explain their position. Kelly felt Vernon was only making an introduction and did not feel it was a business transaction. Kelly did not believe Vernon was lobbying on behalf of the project. Kelly advised that Vernon did not try to persuade him in any way on how he (Kelly) should vote.

Mr. Enrique Garcia, Councilmember

Enrique Garcia (Garcia) was interviewed on the telephone and advised that he was a good friend of Vernon, and was not contacted, and did not have any information regarding the situation.

Robert “Buzz” Vernon, former Key Biscayne Mayor

COE Investigators interviewed Vernon at the COE office, concerning the possible violation of the two (2) year rule. Vernon advised that he was a lifelong resident of Key Biscayne and as such really cares for his community. Vernon advised that he was a four (4) term mayor and as such gets calls all the time to help people with matters involving the Village. Vernon did not know the owners of the property, but was introduced to Cuevas by Cardenas, and asked to help with the upcoming Council action. Vernon advised the issue was the Council did not want to allow the Silver Sands to build condos, even though they allowed the “Sonesta Beach Hotel aka Oceana” to build in the same area. Vernon advised that he made it very clear when he addressed the Council that he was not lobbying only asking them to do what is right and take a stand.

Vernon advised that he was not paid to set up the meetings or promised any type of exclusivity on the sale of the units. Vernon advised that he is a realtor but so are other members of the Council that he would not be the only one to benefit from any new construction in the Village. Vernon further stated he was never advised of the two (2) year rule by the Village Attorney once he was advised he stopped all activity at once.

CONCLUSION:

Advocate Michael Murawski advised that no further action would be taken since there does not appear to be sufficient evidence that Vernon was lobbying. Accordingly, it is recommended that the above case be closed without further action.