



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case PI 16-017	Case Name: Cuban Consulate proposal	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s):	Subject(s): Mayor Philip Levine, City Comm. Ricky Arriola	April 20, 2016	CASE CLOSED

Allegation(s):

Date: 5/9/2016

An allegation arose that Miami Beach Mayor Philip Levine and Comm. Ricky Arriola engaged in private talks with a Cuban diplomatic official about locating a Cuban Consulate in Miami Beach in possible violation of the Florida Sunshine Law.

The meeting occurred on or about March 23 at the Cuban Foreign Relations Ministry with Gustavo Machin, deputy director of the Ministry's North America division. During the meeting, Mayor Levine and Comm. Arriola reportedly told Machin that "unlike their Miami counterparts, they'd welcome Cuban diplomats in their city."

Following the meeting, Mayor Levine was quoted in the Miami Herald saying he understood that this "sensitive matter would have to go to the full commission for a vote." He added that the Cuban government "brought it up to us," noting that Tampa, an alternate seat for the consulate, was too far away for most of the local Cuban population.

The issue did come before the Miami Beach City Commission at an April 13 meeting, as commissioners voted 4-3 to oppose hosting a Cuban consulate on Miami Beach. The item was placed on the agenda following the trip by an alleged political rival to the mayor.

Relevant Ordinances:

F.S. 286.011 Public meetings and records; public inspection; criminal and civil penalties.— (1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such

board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Investigation:

Interviews

Raul Aguila, city attorney

Miami Beach, FL

April 21, 2016

In a telephone interview, Mr. Aguila advised that he was not consulted by either Mayor Levine or Comm. Arriola about the meeting in Havana to discuss an alleged proposal to locate a Cuban consulate in Miami Beach. He said he learned about the talks in the newspaper.

Mr. Aguila noted the mayor and commissioner were not in Cuba on official city business, and characterized their mission as a "private trip." He said he was not aware of any previous policy the city had with respect to the establishment of a Cuban consulate. He said the city did have a more generalized policy dating back to the 1980s opposing involvement with Cuba and the Fidel Castro regime, but said he was not aware of anything since that time.

Mr. Aguila noted that, upon the officials' return to Miami Beach, subsequent discussions were held in public forms, including a lengthy debate before the Hispanic Affairs Committee. He said the item was heard in committee the same week it came before the full commission. He noted a similar measure opposing a consulate in Miami Beach was adopted by a 4-3 vote.

Mr. Aguila was given an opportunity to review the above notes, and responded as follows:

Please see my supplements and/or revisions to my statement below:

- 1. I recall now that the Mayor did mention he was traveling to Cuba with a group of students from Tufts University. This came up in conversation during the course of scheduling (and re-scheduling) some routine meetings that I had with him on other (unrelated) matters. I found out that Comm. Arriola would also be on the same trip when I read about it in the Miami Herald. Again, since the Mayor and Commissioner Arriola were making the trip in their personal—and not official—capacities, I am not advised and/or consulted with regard to my elected officials' personal travel plans.*
- 2. I have no personal knowledge of whether the purpose of the meeting in Cuba (that the Mayor and Commissioner Arriola attended) was for the purpose of locating a Cuban consulate in Miami Beach. The only knowledge I have is what I read in the Miami Herald. Again (as with my answer to #1 above), since this was a personal trip, it's not customary for my Mayor and/or Commissioners to share their itinerary and/or travel plans with me.*
- 3. Immediately prior to Commissioner Grieco's placement of his Resolution (which was presented and discussed, but not adopted, at the April 13, 2016 City Commission Meeting), I was asked whether there were prior City Commission actions taken with respect to Cuba. Not knowing any off the top of my head, I went into the City Clerk's archives and found two Resolutions relating to Cuba: 1.) Resolution No. 84-17628, passed on January 18, 1984, expressing "the City's opposition to the establishment of relations between the United States and Cuba;" and 2.) Resolution No. 2013-28169, passed on March 13, 2013, and "urging the Miami-Dade County Board of Commissioners and County Mayor to oppose contracting the Airport City project to a company that violates the intent of CS/CS/HB 959 prohibiting the State and local governments from entering into contracts with companies engaged in business operations in Cuba or Syria." There are no other City resolutions and/or ordinances that I've been able to find pertaining to Cuba. There is no prior legislative action expressly pertaining to a Cuban consulate in Miami Beach (or, for that matter, any prior discussion of a Cuban consulate at all).*

The rest of my statement is correct.

Ricky Arriola, city commissioner
Miami Beach, FL
May 5, 2016

Comm. Arriola appeared for a voluntary statement at COE offices, accompanied by attorney JC Planas, to discuss his recent trip to Cuba with Mayor Levine. The commissioner stated the purpose of the trip was to establish person-to-person relationships with Cuban officials and academics as encouraged by Pres. Obama during his corresponding visit.

Comm. Arriola said the meeting with Cuban foreign ministry officials was arranged by Mayor Levine or one of his assistants and that there was no prior discussion between himself and the mayor to bring up the subject of hosting a Cuban consulate in Miami Beach. He said the issue came up "organically" during the meeting when one of the Cuban officials made a remark about Miami not wanting a consulate. He said that he responded by saying that he was not personally opposed to having a consulate in Miami Beach, and that he felt attitudes were changing and that the area was becoming more receptive. Comm. Arriola stated his concern the subsequent controversy was "manufactured" by a political opponent.

Comm. Arriola said he felt the consulate issue was more of a “sidebar conversation,” adding that they mainly discussed the president’s trip and tried to interpret comments made by Raul Castro and Pres. Obama. He said the meeting lasted about 20 to 30 minutes. “They brought up the topic of a Cuban consulate,” he said. “They said Miami doesn’t want a Cuban consulate ... I said I think things are changing in Miami ...” He said that, speaking in an individual capacity, he wasn’t opposed to bringing a consulate in Miami Beach.

Comm. Arriola said he could not recall Mayor Levine’s specific remarks but that they were consistent with his and that there was no concrete proposal to bring a consulate to Miami Beach. He said that one of the other Cuban officials, not Gustavo Machin, first raised the issue. He said he didn’t know anything about Machin prior to the meeting because he and the mayor were expecting to meet with another official, Josefina Vidal, but that she had to cancel and that Machin, who as it turned out was a more senior official, took her place.

Comm. Arriola emphasized that he and the mayor did not intend to discuss the issue of a consulate and had no prior agenda for the meeting. “He (Machin) introduced himself ... We chatted. There was no agenda. We didn’t know who he was or what he brought to the table ...” He said he only learned later that Machin was a high-ranking official.

Comm. Arriola said he and Mayor Levine are long-time friends and it would not be unusual for them to travel together. He said the mayor’s political consultant, Chris Uvert, was present at the meeting and that two other Cuban officials accompanied Machin. He said he and the mayor also met with Cuban environmental officials to discuss a host of other issues such as climate change, sea-level rise and protecting coral reefs. His attorney, Planas, stated that the topics were largely “broad-ticket” issues and did not involve local matters.

Comm. Arriola said he didn’t foresee the issue of a Cuban consulate would be brought before the Miami Beach City Commission. He said it was done after the fact by a rival (Comm. Michael Grieco) “to score political points” and to try to discredit Arriola, who is Cuban, among his Cuban-American constituents. He said Comm. Grieco plans to challenge Mayor Levine, and that Grieco also views him as a potential rival for Miami Beach mayor. “This was a politically motivated move by Michael Grieco, who is running for mayor ...”

Comm. Arriola noted *Miami Herald* reporter Patricia Mazzei was invited to attend the meeting at the Cuban foreign ministry, but said the Cuban officials did not want a reporter present. He said they immediately told her about the meeting afterwards, noting that: “We were very open about what happened. We were not being secretive ... Nobody thought this would come before the City Commission.” He said he was not aware the matter of a consulate had recently come before the Miami-Dade County Commission in January. “The only thing I knew was that Tomas Regalado didn’t want a consulate for security issues.”

Mayor Philip Levine
City of Miami Beach, FL
May 6, 2016

Mayor Levine said he took a one-week course at Tufts University regarding trade and diplomacy, and that during the course he became friendly with school administrators. He said administrators later asked him to sponsor a delegation of 12 graduate students on a trip to Cuba. He said the dates for the trip were set in advance of President Obama's announced visit to the island and that it was a coincidence they happened to overlap. He said that once he became aware of the president's trip, he coordinated his trip with the White House and U.S. diplomatic officials, though he stated he was not there in any official capacity.

Mayor Levine stated that, as far as he knows, it was the Cuban government that organized meetings with environmental and foreign relations ministers. He said this was largely a matter of protocol, noting that Cuban officials accompanied the Tufts delegation throughout the course of the visit from about March 20 to 25. He said that Jeffrey DeLaurentis, the U.S. government's Charge d'Affaires, or top diplomatic official on the island, was also involved, on some level, in coordinating the subsequent meetings with Cuban ministers.

Mayor Levine said the meeting with Cuban environmental officials lasted about an hour and a half, but that the meeting with foreign affairs ministers – including Machin – was much shorter, lasting about 15 to 20 minutes. He said there was no prior discussion with Comm. Arriola or anybody else about what issues might be raised at the meeting, including the issue about where a Cuban consulate should be located. He said that he vaguely recalled having a conversation with a Cuban official about this matter, but he said he could not recall whether this occurred at the meeting with Machin. “I do remember having a quick interchange” – about the consulate – “with one of the foreign ministers either at a meeting or on a bus or walking down the street,” the mayo said, adding that the group was frequently accompanied by Cuban officials. “I remember someone making a comment to me, and I remember saying I wouldn't be opposed to it” – having a consulate in Miami Beach – “in the future.”

Mayor Levine said he discussed the issue with a *Miami Herald* reporter following the meeting, and that he felt he had been “honest” about what happened. He said that if he thought anything improper had occurred he would not have been so forthcoming. He said he “never in a billion years” anticipated that the issue would come before the Miami Beach commission for a vote, blaming the controversy on a political rival (Comm. Grieco).

Mayor Levine said, “It was one commissioner playing politics, who decided to sponsor a resolution about a Cuban consulate” in order to create a controversy. He said he felt it would be comparable to having a general conversation with another Miami Beach elected official about the terrorist organization ISIS and then having somebody sponsor a resolution against ISIS. He said that he had no idea the matter would come before the commission. He said that, moreover, there was never any concrete proposal to locate a consulate in Miami Beach, and that no Cuban official sought or solicited his support in establishing one.

Document/Audio/Video Review:

Media coverage of the trip published in the *Miami Herald* was reviewed, along with coverage of the Miami-Dade County Commission's resolution in opposition to a Cuban consulate.

These included a March 23 report by Patricia Mazzei headlined "Miami Beach leaders tell Cuban government they'd welcome consulate," retrieved from the following address:
<http://www.miamiherald.com/news/nation-world/world/americas/cuba/article67879422.html>

Conclusion(s):

Based on the above-referenced findings, it does not appear any casual or incidental discussions of locating a Cuban consulate on Miami Beach would rise to the level of violating the Sunshine Law, though this determination would be made, not by the Commission on Ethics and Public Trust, but rather by the Miami-Dade County State Attorney's Office who enforces the Sunshine Law.

The findings suggest that only informal talks about the issue were held with Cuban officials, and that no attempts were made to advance a formal proposal to establish consular offices in Miami Beach by either party to the conversations. Such a decision would be made by the White House and federal officials, not by local officials in Miami Beach.

There was furthermore no evidence of any attempt to conceal these conversations or to shield them from public scrutiny, as the matter was discussed openly with a newspaper reporter. The mayor and commissioner said they were not purporting to represent the city, but were only voicing their personal opinions as to whether they would favor any such proposal.

Given the lack of any formal agenda for the Havana talks and the corresponding absence of any pending legislation before the Miami Beach City Commission, there does not appear to be any violation of the Sunshine Law. The mayor and commissioner disclosed this topic to a reporter and the matter was immediately publicized. All subsequent deliberations held in Miami Beach were carried out in the appropriate public forums.

It is not uncommon for members of a public board to travel together for board-related purposes to attend conferences or legislative sessions in Tallahassee. During such meetings, it is always advisable to avoid situations in which a matter foreseeably coming before the board might be discussed in a conversation involving a fellow board member.

The inquiry did not turn up information suggesting a secret plan or proposal by either official to sponsor a Cuban consulate, but rather an impromptu exchange of opinions. Accordingly, this preliminary inquiry should be concluded without further action and a copy of the findings should be transmitted to the Miami-Dade State Attorney's Office for review.

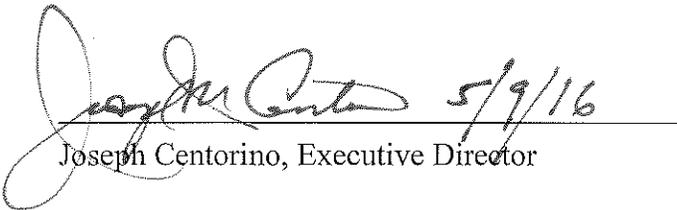


Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director