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**MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST**

In re: MIRABILE v. WELSH

C 12-25

PUBLIC REPORT AND FINAL ORDER

Hector Mirabile, City Manager in the City of South Miami, filed the above-referenced complaint against Robert Welsh, a South Miami City Commissioner, for purportedly tainting the City's procurement process when he communicated orally with potential bidders.

Specifically, the complaint alleged that Commissioner Welsh improperly contacted two potential bidders after the City had advertised an RFP for the design and building of Murray Park Community Pool. Commissioner Welsh was said to have spoken with potential bidders before the City Manager had made his written recommendation to the City Commission. If true, these actions may violate Sec. 2-11.1 (t) of the County Ethics Code, known as the Cone of Silence, which prohibits certain oral communications during the procurement process.

Pursuant to the Code of Miami-Dade County at Sec. 2-1068, the jurisdiction of the Ethics Commission extends "to any person required to comply with the County or municipal Code of Ethics Ordinances...." The County Ethics Code at Sec. 2-11.1(a) extends the jurisdiction of the County Ethics Ordinance to municipal elected officials.

On May 31, 2012, the Ethics Commission found probable cause to charge respondent with two counts of violating the Cone of Silence at Sec. 2-11.1 (t), based on respondent's general admission to the facts and corroborating evidence discovered through an investigation into the matter.

On June 26, 2012, the Ethics Commission accepted a settlement agreement with respondent in which respondent did not contest the second allegation in the complaint and agreed to pay investigative costs of \$250. Accordingly, the Ethics Commission dismissed the first count in the complaint and issued a general letter of instruction to Commissioner Welsh.

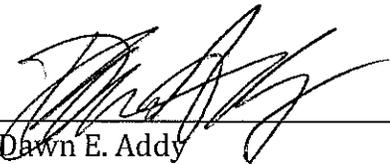
Therefore it is:

ORDERED AND ADJUDGED THAT the complaint against respondent Robert Welsh is hereby concluded.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on June 26, 2012.

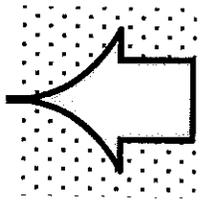
MIAMI-DADE COUNTY COMMISSION ON ETHICS
& PUBLIC TRUST

By:



Dawn E. Addy
Chair

Signed on this date: 07/20/2012



MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



LETTER OF INSTRUCTION

To: South Miami Commissioner Robert Welsh
From: Miami-Dade County Commission on Ethics and Public Trust
Re: Ethics Complaint C12-025
Date: August 2012

On April 13, 2012, Hector Mirabile (Mirabile), South Miami City Manager, filed an Ethics Complaint against South Miami Commissioner Robert Welsh (Welsh). The complaint alleged that Welsh violated Section 2-11.1(t), Cone of Silence, of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (the Ordinance).

On May 31, 2012, the Ethics Commission held a hearing on this matter and found the allegation to be supported by Probable Cause. On June 26, 2012, the Ethics Commission ratified a Settlement Agreement (attached hereto as Exhibit A) which included the issuance of this Letter of Instruction.

WHEREFORE, the Miami-Dade County Commission on Ethics and Public Trust hereby issues this Letter of Instruction to Commissioner Welsh.

Investigation into the facts of this case revealed the following:

-On August 9, 2010, the City of South Miami (SM) issued an RFP; the Cone of Silence went into effect at that time.

-On February 14, 2012, Welsh was elected to the SM Commission.

-On April 17, 2012, Mirabile made his recommendation to the Commission, thus lifting the Cone of Silence.

-In April 2012, Welsh contacted two potential bidders to discuss the project prior to Mirabile making his recommendation to the Commission.

RELEVANT ORDINANCES

Section 2-11.1(t) (Cone of Silence), of the Ordinance, states in pertinent part:

“(1)(a) “Cone of Silence” is hereby defined to mean a prohibition on...(v) any communication regarding a particular RFP, RFQ or bid between a, potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, [City]¹ Commissioner and their respective staffs...”

Investigation revealed that Welsh, who was a citizen activist before being elected to the SM Commission, was heavily involved in the Murray Park Community Pool project which was the subject of the instant RFP. Welsh had very particular ideas about how the pool should be designed. His contact with both potential bidders seems to have been a continuation of his previous efforts to have the design of the pool comport with what he believed was in the best interest of SM.

Based on the facts of the instant case, Welsh is specifically instructed to abide by the Cone of Silence, as it is compulsory for him to do so in order to maintain the integrity of the procurement process. This complaint and Letter of Instruction should serve as ample warning to Commissioner Welsh of the consequences of not abiding by the Cone. In the future, Welsh should ensure that he does not in any way interfere with a pending RFP, RFQ or bid.

Furthermore, Welsh has received ethics training from staff at the Ethics Commission and should now be fully familiar with the conduct and behavior that is permissible and impermissible under the Ordinance. If he feels that he is not sufficiently knowledgeable about the ethical rules that apply to him, as an elected official, he is strongly advised to obtain further training from the Commission on Ethics immediately.

Moreover, Commissioner Welsh is instructed to seek an opinion from the Ethics Commission whenever he might be in doubt about applicable ethics rules. Seeking advice prior to taking any action should assure that Commissioner Welsh does not appear before this Commission, as a Respondent, at any time in the future.

¹ Sec. 2-11.1(a) of the Ordinance states in pertinent part, “[r]eferences in the section to County personnel shall therefore be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to.”