

Meyers, Robert (COE)

INQ 09-110

From: Meyers, Robert (COE)
Sent: Thursday, July 02, 2009 9:45 AM
To: 'Kenneth M. Kilpatrick'
Cc: Ross, Karl A. (COE)
Subject: RE: Update

Dear Mr. Kilpatrick:

I reviewed your request for opinion dated September 4, 2008 and it is the policy of the Miami-Dade Commission on Ethics, as articulated in our enabling ordinance, not to issue opinions based on past conduct. Any possible conflict of interest that may have existed as result of your chairmanship of the Model City Community Advisory Committee and as president of the Brownsville Charrette Neighborhood Foundation, Inc. was cured once you resigned from the Model City Community Advisory Committee. Our office does not have the authority to give opinions to individuals who fall outside the jurisdiction of the Ethics Commission, and once you resigned from the CAC, you were no longer under our jurisdiction for purposes of issuing an advisory opinion. Past conduct can only be evaluated by our office when a complaint is filed, where allegations of conflicts of interest are raised. Such a complaint has not been filed against you as chairman of the Model City Community Advisory Committee.

I apologize for the delay for not answering your question in a more timely matter.

Sincerely,

Robert Meyers, Executive Director
 Miami-Dade Commission on Ethics and Public Trust

From: Kenneth M. Kilpatrick [mailto:tsona@bellsouth.net]
Sent: Wednesday, July 01, 2009 11:55 AM
To: Meyers, Robert (COE); Ross, Karl A. (COE)
Subject: RE: Update

I explained to Mr. Ross, when we talked after my resignation from the CAC, that although I had resigned from the CAC it was important to have the opinion to absolutely repel any notion that my resignation was forced in any way. I'm a little shocked that you don't have the request. The letter was accompanied by several documents that shed light on the operations that were in place. I will assume that Mr. Ross has all of these documents and can forward them to you without a problem?

Kenneth M. Kilpatrick
 (786) 443-9420
 email: tsona@bellsouth.net

From: Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]
Sent: Wednesday, July 01, 2009 10:48 AM
To: Ross, Karl A. (COE); Kenneth M. Kilpatrick
Subject: RE: Update

I'm a bit confused by all of this. I was under the impression that the issue was resolved and there was no reason for our office to issue an opinion. Obviously, this is not the case and I can put this request on the agenda for our July meeting. Would it be possible for one of you to forward me the request for opinion again?

Thanks,

Robert Meyers

7/2/2009

From: Ross, Karl A. (COE)
Sent: Tuesday, June 30, 2009 4:15 PM
To: 'Kenneth M. Kilpatrick'
Cc: Meyers, Robert (COE)
Subject: RE: Update

Hi Mr. Kilpatrick,
I will forward your email to Robert Meyers, as it is the legal side that handles such requests.

Regards, Karl

p.s. The investigation into matters involving the Model City CAC has been closed.

From: Kenneth M. Kilpatrick [mailto:tsona@bellsouth.net]
Sent: Tuesday, June 30, 2009 2:50 PM
To: Ross, Karl A. (COE)
Subject: Update

Mr. Ross. I hope that all is well with you and the staff at COE. I have patiently awaited an opinion from your office for many months now and have not received the opinion as of yet. When we spoke by telephone earlier this year, you indicated that the opinion was almost completed and that I should be receiving the opinion in the very near future. Could you update me on the status of my opinion request?

Thanks.

Kenneth M. Kilpatrick
(786) 443-9420
email: tsona@bellsouth.net

Meyers, Robert (COE)

From: Ross, Karl A. (COE)
Sent: Friday, October 10, 2008 11:13 AM
To: Meyers, Robert (COE)
Cc: Murawski, Michael P. (COE)
Subject: Kenneth Kilpatrick RFO

Hi Robert,

Below you will find the notes from the interview Mike and I had with Mr. Kilpatrick earlier this week. For reference, I also copied notes from an interview earlier this year by the Planning & Zoning official who led the Brownsville Charrette.

The issue, as I see it, has to do with whether Kilpatrick or anybody else serving dually on the Brownsville Charrette Steering Committee – sponsored by OCED and implemented through Miami-Dade Planning & Zoning – and the nonprofit Brownsville Charrette Neighborhood Foundation Inc. (hereinafter, “the Foundation”) has incurred or will incur in any conflict arising from these obligations. The former is a public endeavor and the latter, a private and purportedly nonprofit endeavor.

In a nutshell, the Steering Committee played an influential, albeit advisory, role in recommending zoning changes to the Brownsville area that are now in the process of being incorporated into the county’s Comprehensive Development Master Plan. Taking off his “official” hat as the chairman of the Steering Committee, Kilpatrick, through his nonprofit Foundation, has “advocated” on behalf of the owners of specific projects seeking zoning changes in the charrette area.

An example of this is the re-zoning application before Community Council 8 filed by the Urban League of Greater Miami for mid-rise multi-family housing in an area presently consisting of single-family homes. Last year, attorneys for the Urban League filed an application seeking increased density for the subject parcels. In March of this year, Kilpatrick and at least two other members the Foundation wrote letters to the chairman of Council 8 endorsing the Urban League’s re-zoning application. All three members were, like Kilpatrick, members of the charrette Steering Committee who now serve on the Model City CAC. Kilpatrick wrote his letter identifying himself as “Chairperson” of the Brownsville Charrette Steering Committee. The other two members – Everett Stewart and Timothy Everette – signed letters as presidents of their respective homeowners’ groups. Yes, this is all rather convoluted. I do not know the present status of the zoning application.

On June 25, Kenneth Kilpatrick resumed his position as chairman of the Model City CAC – after being off the board for a couple of years – and placed an item on the agenda discussing the Brownsville Charrette. Several members of the community took exception to Kilpatrick placing this item on the agenda and informed me of the nonprofit Foundation. This perceived conflict led to an unruly and unproductive meeting and has served to further divide an already divisive board. CAA Executive Director Julie Edwards, who I have spoken to, advised Kilpatrick to request an opinion from COE.

Lastly, during the interview Kilpatrick maintained that the Foundation has no funding source and that neither he nor any other officer of the Foundation has received consulting fees or payments for their “advocacy” on behalf of projects such as that being developed by the Urban League, which is seeking to build more than 200 housing units. Kilpatrick did acknowledge that at some point he would like to be compensated for his work on behalf of applicants and business such as the Urban League or even Publix, but he indicated that his efforts have not yet come to fruition. He conceded that he might have to

resign from public office at that time. He also stated that the Urban League could seek funding from the Model City CAC, which makes recommendations to the BCC about how to allocate anti-poverty and affordable housing funds from U.S. HUD.

In my opinion, this is quite a bit of intrigue and should be monitored. The obvious concern is that Mr. Kilpatrick may attempt to parlay his official influence into a paid consultancy for himself and possibly others using the Foundation or some other means. Even if he leaves office to accept paying work with projects or applicants, this would smack of influence peddling.

For the time being, the Advocate has indicated that we should attempt to work with Mr. Kilpatrick and help orient him as to the provisions Ethics Ordinance so that he might become aware of any restrictions this might put on his activities in the Brownsville/ Model City area. This would at least provide him with fair warning if future conflict should arise.

Kenneth Kilpatrick, chairman
Model City CAC
Phone: (786) 443-9420
Oct. 7, 2008

Mr. Kilpatrick was interviewed at COE offices, providing a copy of a written request for guidance as to possible conflicts involving the Brownsville Charrette Neighborhood Foundation Inc. He said he was chairman of the Model City CAC at the time the charrette was held in May 2003. He said he has also served on the charrette's "steering committee" since 2002. The charrette was funded by OCED and carried out with the assistance of paid consultants and county Planning and Zoning staff. He said that after the workshop was conducted and the report released in September 2003, there was no funding for additional meetings of the steering committee. He said members of the steering committee decided at that time to form a not-for-profit so they could a.) "advocate" on behalf of certain projects and b.) operate independent of the county bureaucracy. He said the foundation has not qualified for 501(c)(3) status, does not have a bank account and has since been administratively dissolved. He said the foundation does not receive membership dues, donations and has no other funding source at this time. He did say the foundation has publicly supported a number of projects – including efforts to open a Publix supermarket in Brownsville and, also, a multi-family housing project under development by the Urban League of Greater Miami. He said members of the foundation have written letters in support of such projects.

Mr. Kilpatrick was given a copy of the county's ethics ordinance and advised to become familiar with the section on lobbying. He was also advised to become familiar with the section on voting conflicts, as Mr. Kilpatrick did say the Urban League had requested funding from the Model City CAC in the past. He said staff denied the funding request at that time. He said the Urban League might seek either CDBG or Home Investment Partnership funds at a future date. The Model City CAC makes recommendation as to funding recipients. These recommendations are forwarded to the Miami-Dade County Commission, which submits the final request to U.S. HUD for disbursement of funds. Kilpatrick said that he had recently been unemployed and living on public assistance, but stated he is working as a security sergeant at Johnson & Wales University. He said that he has no immediate plans to seek income through his involvement in the Brownsville charrette process, but stated he has considered that possibility. He said he is aware that he would have to resign from the board or otherwise limit his official involvement at that time.

Gianni Lodi, principal planner
Area Planning Implementation Unit

7/1/2009

Miami-Dade Planning & Zoning DepartmentPhone: (305) 375-2341June 27, 2008

Mr. Lodi advised that he has been involved with overseeing the Brownsville Charrette and is working to implement the recommended land-use changes resulting from said process. He said the charrette was funded by OCED, and between \$50,000 and \$100,000 was allocated for that purpose. He said the actual expense exceeds that amount, the difference being absorbed by Planning & Zoning. He said that Mr. Kilpatrick and Mr. Owens were tapped to represent the community and serve on the steering community because they had been previously recognized by OCED as community representatives. Loida noted that Kilpatrick and Owens are cousins and seem to be acting "as a team" in their dealings. He said the request for a charrette for Brownsville originated jointly with OCED and with Community Council #8. He said the county considers Model City and Brownsville to be interchangeable because Brownsville comprises the portion of Model City located within Unincorporated Miami-Dade County. He said Model City extends down into the city of Miami proper. He described the area as being located between Hialeah and Miami, south of NW 62nd Street. Loida was shown a copy of the Department of State incorporation papers for the Brownsville Charette Neighborhood Foundation Inc., headed by Mr. Kilpatrick and other members of the Model City CAC. He said he was unaware of the existence of this nonprofit company. Lodi said Planning & Zoning spent all of the funds allocated for the charrette and that nothing was paid to Kilpatrick's foundation. He said the only outside entity hired as a consultant was the South Florida Regional Planning Council, and that was so that they could pay for outside design work and for food and beverages for meetings. He said Javier Betancourt was the project manager at SFRPC. He said the land-use recommendations arrived at through the charrette process are being implemented via ordinance. He said the recommendations are expected to lead to greater density and commercial development.

Lodi said one application does stand out as having possibly been subject to manipulation by the subjects – Application No. 3, submitted by the Urban League of Miami. He said three tracts of land belonging to the Urban League are the site of a proposed mid-rise development consisting of several buildings of four to seven stories and as many as 300 units. The site is presently zoned for duplexes, which is a less intense usage (6-8 unit/ acre compared to 59 units/acre) than that for the proposed development. The land is located a couple blocks south of 54th Street in a residential area and residents have opposed the project. Lodi noted that OCED owns several tracts of land in the vicinity and has been looking to up-zone those parcels. He said that Kilpatrick and others in his group have tried to negotiate with planners, saying they would oppose up-zoning the county parcels unless the Urban League land was also up-zoned. (Oliver Gross, director of property management and development, 305/696-4450 x130, and 8500 NW 25 Ave.)

Lodi said that after working with Kilpatrick and others at the charrette, planners took the proposed rezoning plan to Community Council #8 on Dec. 12, 2007, and the council endorsed it, with recommendations. The next step, he said, was to take the plan before the county's Planning Advisory Board. At that PAB meeting in March 2008, however, Kilpatrick, Owens and Neil Adams spoke out in opposition of the plan, leaving planners feeling "blindsided." Lodi said this surprised him since they had all participated in the charrette, and he could not understand what their purpose was. He said that after this happened, Commissioner Edmundson requested a meeting with P&Z staff in her office at the SPCC. Lodi said that at the meeting, Edmundson asked for a briefing and instructed staff to go back to the community and negotiate with the community members. When asked who specifically in the community they should meet with and negotiate the proposed changes, Edmundson indicated Kilpatrick, Owens and Adams by choosing their names off a list of community members. (Note: Possible charter violation.) Lodi said that staff met with Kilpatrick and others, as directed, then returned before the PAB on June 2, at which time the plan was approved. He advised that a clash between Kilpatrick and possibly Leroy

Jones (Nana) occurred at that meeting and that the conflict was unseemly for a planning session. He advised requesting the video from the county's Communications Department as well as reviewing Application No. 3.

Lodi said he was puzzled by some of the endorsements being made at the June 2 meeting in favor of the Urban League proposal as he had never heard of some of these groups, indicating that perhaps some of the support was being manufactured as opposed to coming from legitimate members of the community. He also advised that the Urban League is involved in a planning study in the North Central Corridor, north of 62nd Street, in an area slated for a county charrette between 79th and 119th streets.

Karl Ross, investigator
Miami-Dade County Commission on Ethics & Public Trust
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