



MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST

Summary of Minutes and Agenda Actions

Meeting of April 10, 2019

The Miami-Dade Commission on Ethics (COE) convened in the Biscayne Building, 19 West Flagler Street, Suite 820, Miami, FL, on April 10, 2019. Present were Chairman H. Jeffrey Cutler, Vice-Chairman Nelson Bellido and Commissioners Judith Bernier and Jan Jacobowitz. Also present were Jose Arrojo, Executive Director; Michael Murawski, Advocate; Gilma Diaz-Greco, Martha Perez, and Radia Turay, Staff Attorneys; Rhonda Victor Sibilia, Communications Director; Rachelle Ross, Executive Secretary; other staff members and members of the public. The meeting was called to order at 10:01 a.m. by Chairman Cutler. A quorum was present.

I. Approval of Minutes

Vice Chair Bellido made a motion to approve the minutes as amended by the suggestion of Staff Attorney Martha Perez, of the March 13, 2019, meeting. Commissioner Bernier seconded it and it was unanimously approved **(4-0)**.

II. Public Comment

None.

III. Requests for Opinion

RQO 19-01 Executive Director Jose Arrojo presented a proposed response referencing state statutes and prior COE opinions to Sunny Isles Beach Mayor George "Bud" Scholl, who was evaluating the performance of his city's lawyer. It recommends a municipal attorney should not opine in his or her official capacity on the terms and conditions of his or her employment and should not recommend an outside attorney to advise elected officials about such matters. In the municipalities where the city attorney may contract with outside counsel regarding his or her position, the opinion recommends that the contract be brought before the elected body for approval in a publicly-noticed meeting as soon as possible. Vice Chair Bellido made a motion to approve the opinion as amended. It was seconded by Commissioner Bernier and unanimously approved **(4-0)**.

RQO 19-02 Staff Attorney Radia Turay presented a proposed response to County Commissioner Esteban Bovo that determined he may vote on matters involving the Lasarte Law Firm, where his step-son, a law student, works as a legal assistant. However, if the step-son, Oscar de la Rosa, works on matters involving the firm's client, AECOM, which is engaged projects for the County, the opinion recommends that Commissioner Bovo *not* participate or vote on those issues. Chair Cutler recommended additional clarification be added, then Vice Chair Bellido made a motion to approve the opinion as amended. It was seconded by Commissioner Bernier and unanimously approved **(4-0)**.

IV. Section Eight Requests

Staff Attorney Gilma Diaz-Greco presented a request from one individual wishing to contract under the federally-funded Section 8 program, and since neither she nor immediate family members are employed by the Miami-Dade Public Housing and Community Development Department, recommended approval. Vice Chair Bellido moved to approve the recommendation. It was seconded by Commissioner Bernier and unanimously approved **(4-0)**.

V. Housing requests

Staff Attorney Diaz-Greco presented the requests of four County employees seeking assistance through a program overseen by the Miami-Dade Public Housing and Community Development Department, and since they nor any of their family members oversee or administer the program, recommended it be approved. (A fifth applicant, employed by Miami-Dade Schools, is not under COE jurisdiction.) Vice Chair Bellido made a motion to approve the recommendation. It was seconded by Commissioner Bernier and unanimously approved (4-0).

VI. COE Bylaws

Commissioner Jacobowitz read into the record a statement regarding her recent absences from monthly meetings, noting she had made speaking commitments last year, before she was asked to join the COE, and the previous director had assured her that would not be an issue. Given her experiences with other jurisdictions, Ms. Jacobowitz had requested to participate telephonically, and thanked staff for the research determining that is not permitted under County regulations of boards.

Staff Attorney Diaz-Greco presented proposed changes that clarify the Ethics Commission's creation and purpose and some that make the bylaws consistent with County resolutions and past opinions, including the statement that a member may not attend an Ethics Commission meeting electronically. Because the bylaws require that proposed changes be presented to Ethics Commissioners and the public at least ten days before they are voted on, the matter was tabled to the May meeting.

VII. Outside Employment Resolution

Staff Attorney Diaz-Greco presented a resolution providing for a 90-day grace period for County employees who have not requested permission for outside employment or filed statements of outside income for 2018, as a new reporting system goes into effect. Vice Chair Bellido made a motion to approve the resolution. It was seconded by Commissioner Bernier and unanimously approved (4-0).

VIII. Monthly Summary of Inquiries

Staff Attorney Radia Turay presented a Summary of Inquiries issued by the COE staff from March 1 - 31, 2019 and discussed **INQ 19-27** and **INQ 19-32**.

IX. Executive Director's Report

- Executive Director Jose Arrojo reported that County budget analysts have, so far, approved proposals to increase the current two part-time staff attorneys to full time positions and to add the general counsel position, effective with the 2019-20 fiscal year.
- The Executive Director reported that a three-year-old lawsuit filed by Palmetto Bay Vice Mayor John Dubois against the agency was settled the day before. As part of the settlement, both sides agreed to end the time and cost of continued litigation and the final record will include Dubois' rebuttal statement.
- Mr. Arrojo announced that the next meeting (May 8, 2019) would be held in the County Commission Chamber.
- In response to a question from Chair Cutler, Mr. Arrojo said the budget has been approved for new office facilities and the County is contracting with a private architect to design the work spaces.

X. Complaints

- Staff Attorney Martha Perez presented a proposed Letter of Reprimand following last month's settlement with Christopher Sirkis, Southeast Regional Sales Manager for Augusta Westland who settled the complaint (**C 16-31**) that he lobbied County personnel without being registered and violated the Cone of Silence. Ray de la Cabada, attorney for the respondent, objected to verbiage insinuating that the action was intentional. Commissioner Jacobowitz

made a motion to ratify the Letter with the deletion of specific language. It was seconded by Vice-Chair Bellido and unanimously approved **(4-0)**.

-- Advocate Michael Murawski presented a propose Letter of Instruction for a complaint (**C 18-51-12**) against attorney Jose Smith, who last month agreed not to contest one count of unregistered lobbying while members of the North Bay Village Commission considered replacing their Village Attorney last November. Vice Chair Bellido made a motion to ratify the Letter. It was seconded by Commissioner Jacobowitz and unanimously approved **(4-0)**.

-- Advocate Murawski presented a proposed Letter of Instruction for a complaint (**C 19-01-01**) against Hossin Habibnejad, a Construction Manager in Miami-Dade's Transportation and Public Works Department who rents storefronts at a strip mall in North Miami Beach, but failed to obtain permission for outside employment or submit the required Source of Income Statements annually. Vice Chair Bellido made a motion to approve the Letter. It was seconded by Commissioner Bernier and unanimously approved **(4-0)**.

-- Staff Attorney Perez presented a proposed amendment to the Ethics Commission Rules of Procedure governing the payment of costs and attorney's fees from frivolous or groundless complaints to follow the standard set by the Florida Commission on Ethics and consistent with state statutes. It requires that a petition for costs and fees must be filed with the COE within 30 days of the complaint being closed and must specifically cite the expenses incurred by the respondent of the complaint that has been determined frivolous or groundless, as defined by Florida law.

The Ethics Commission convened in closed session at 11:48 a.m., returned to open session at 12:00 Noon and took the following actions:

-- Vice Chair Bellido made a motion to approve the respondent's request for a continuance of a Probable Cause Determination for **C 17-36**. Commissioner Bernier seconded the motion and it was unanimously approved **(3-0;** Comm. Jacobowitz left the meeting).

-- Vice Chair Bellido made a motion to accept the withdrawal of a complaint (**C 19-03-01**) by David Winker, who had accused the City of Miami of ignoring its own lobbying rules. Winker was satisfied with initiatives announced last month by the City, as well by Miami-Dade County and other municipalities, to ensure proper disclosure of principals represented in lobbyist registration forms. The motion was seconded by Commissioner Bernier and unanimously approved **(3-0)**.

-- Vice Chair Bellido made a motion to approve the respondent's second request to continue the Probable Cause hearing for **C 19-05-02**. Commissioner Bernier seconded the motion and it was unanimously approved **(3-0)**.

-- Vice Chair Bellido made a motion to find Probable Cause that El Portal Mayor Claudia Cubillos exploited her official position when she requested that a Village Code Enforcement Officer use his personal pickup truck to move a piano that was being donated to her private day care center. Mayor Cubillos stipulated to Probable Cause and agreed to waive a hearing. Because the action occurred after hours and did not involve Village property, Bellido moved to dismiss the complaint (**C 19-06-02**) and direct Mayor Cubillos to pay \$500 in investigative costs and accept a Letter of Instruction. Commissioner Bernier seconded the motion and it was unanimously approved **(3-0)**.

-- Vice Chair Bellido made a motion to find No Probable Cause to a complaint (**C 19-07-02**) against South Miami City Manager Steven Alexander, who was accused of exploiting his official position for ordering the principal of Ludlam Elementary School to remove signs affixed to the fence surrounding the property because he was acting in his official capacity and had no personal gain. Commissioner Bernier seconded the motion and it was unanimously approved (**3-0**).

-- Vice Chair Bellido made a motion to find No Legal Sufficiency and dismiss a complaint (**C 19-08-02**) against a City of Miami employee following a confrontation with a patron at a city pool because there was no violation of the Conflict of Interest and Code of Ethics Ordinance. Commissioner Bernier seconded the motion and it was unanimously approved (**3-0**).

-- Vice Chair Bellido made a motion to find No Legal Sufficiency to two complaints (**C 19-09-03 & C 19-10-03**) that accused two candidates for North Miami City Council of campaigning for the seats before they were "advertised" on the city's website because they are not within the Ethics Commission's jurisdiction. Commissioner Bernier seconded the motion and it was unanimously approved (**3-0**).

--- Vice Chair Bellido made a motion to dismiss a complaint (**C 19-12-03**) as Not Legally Sufficient. It accused a Miami-Dade Fire Rescue Marine Services Chief of having incomplete or falsified diving log records making him deficient in dive certifications, which is a personnel matter not within the agency's jurisdiction. Commissioner Bernier seconded the motion and it was unanimously approved (**3-0**).

XI. Adjournment

There being no further business, the meeting adjourned at 12:02 p.m.



Prepared by Rhonda Victor Sibilia, Communications Director