

30 Years MIAMI TODAY

WEEK OF THURSDAY, SEPTEMBER 5, 2019

A Singular Voice in an Evolving City

WWW.MIAMITODAYNEWS.COM \$4.00

SHALALA LOOKS AT PLAYING ROLE IN RESTORATION OF COCONUT GROVE PLAYHOUSE, PG. 3



CONSTRUCTION SURGE: New construction starts in South Florida nearly quadrupled in value in July from the value of starts in July 2018, according to figures provided by Dodge Data & Analytics. Even so, however, the value of construction starts for the region in the first seven months of the year was left at 7% below the January through July level of 2018. In July, residential construction starts soared 94% above the level of July 2018, rising

from \$336 million to \$653 million. Meanwhile, the value of nonresidential starts was 638% of the value the prior July, rising from \$266 million to \$1.7 billion. The big July figures represented more than 30% of the year's total construction starts in the region. For the year to date, those starts are a bit above \$7.6 billion, versus just under \$8.2 billion for the first seven months of 2018.

TPO PLAN CLOSING: Concerned residents wishing to review and provide feedback on the draft version of Miami-Dade Transportation Planning Organization's (TPO) Long-Range Transportation Plan have until Sept. 16 to do so, a TPO release says. The plan, which will lay out the comprehensive agenda of the TPO through 2045 for highway, transit, freight and non-motorized transportation infrastructure, will serve as an update to the long-range transportation plan adopted by the county in October 2014 that ran until 2040. "The 2045 [long-range plan] emphasizes strategic rapid transit, land use, increased population and density, connectivity, multimodal shared mobility, and innovative financing throughout the long range transportation planning process," the plan's introduction says. "A connected and efficient multimodal transportation system in Miami-Dade County is the backbone to our economic mobility." Details: <https://miamidade2045lrtp.com/the-plan>.

BEACH TRANSIT WORKSHOPS: The Miami-Dade Department of Transportation and Public Works will hold two workshops this month to present, discuss and review alternatives for the Beach Corridor of the Strategic Miami Area Rapid Transit (SMART) Plan – the first from 6-8 p.m. Sept. 12 at the New World Center, 500 17th St. and the second from 6-8 p.m. Sept. 16 at the Miami Marriott Biscayne Bay, 1633 N Bayshore Dr. County commissioners were to have considered authorizing Mayor Carlos Giménez's office to advertise a 180-day request for proposals to design, build, finance, operate and maintain a rapid mass transit solution on the Beach Corridor trunk line of the SMART Plan connecting Overtown to South Beach. A consortium including casino giant Genting and China's BVD submitted an unsolicited proposal to the county May 2 to

THE ACHIEVER



Photo by Cristina Sullivan

Jose Arrojo

Leading county Commission on Ethics and Public Trust

The profile is on Page 4

Safeguards in reporting misconduct

BY JESSE SCHECKNER

Government employees and people working for companies contracted by cities in Miami-Dade may soon be safer reporting misconduct by those cities, companies and their workers.

County lawmakers were to vote this week on a law that would give cities the option to adopt laws ensuring greater whistleblower protections, including confidentiality and safeguards from retaliation.

An earlier version would have forced cities to adopt the law, but sponsor Sally Heyman loosened that restriction after meeting with municipal representatives, said Jose Arrojo, county Commission on Ethics and Public Trust executive director.

"We have the ordinance in a format now that's acceptable to the municipalities," he said. "They're being encouraged to adopt something very similar to the county employee protection ordinance, but it's not currently mandated."

County lawmakers in 1994 passed the Employee Protection Ordinance to prohibit the county from

Jose Arrojo wraps up full year leading independent agency...

Jose Arrojo spent much of his first year as executive director of the Miami-Dade Commission on Ethics and Public Trust reshaping the office's inner workings while keeping close watch on public officials and employees here.

That, he said, has involved restructuring staff, raising the budget and priming his team to increase their legal work, outreach and improve the agency's online presence to better reach everyone in the county and its 34 municipalities.

"I've been strengthening the legs under the table so we can get up and dance on it," he said.

He took over the position exactly one year ago today. The move marked the latest step in a legal career spanning three decades, including two stints comprising more than 20 years at the State Attorney's Office under State Attorneys Janet Reno and Katherine Fernandez-Rundle, for whom he served as chief assistant state attorney from 2004 to 2018.

He left government twice, once to represent the county police union and later in private practice, mostly representing public sector workers.

"My career has been almost exclusively in and about government," he said. "And even when I was away, I was still close to it because I represented public employees."

Now, as head of the 15-employee independent agency whose \$2.5 million annual budget — among the most modest in the county, he said — funds a team of investigators and support staff whose work is vital to protecting democracy by keeping those granted public trust accountable and honest.

"With our resources, we're called on to provide ethics opinion guidance in enforcement and compliance for 30,000



Photo by Cristina Sullivan

Jose Arrojo wants to look at the county's entire lobbying ordinance, carve out vendor representatives, clarify what a lobbyist is, then streamline their training.

The Achiever

Jose Arrojo

Executive Director
Miami-Dade Commission on Ethics and
Public Trust
19 W Flagler St., Suite 820, Miami
33130
(305) 579-2594

Jose.Arrojo@MiamiDade.gov

Born: Miami

Age: 56

Education: Juris doctor, Florida State
University College of Law, 1987; Bachelor
in history and government, Univer-

It proceeds like any other case. There's discovery, depositions, public records documents gathered and ultimately the case either resolves by negotiated agreement or goes to a full hearing.

If it's resolved by negotiated agreement there could be a letter of reprimand, fines, costs of investigation. If it goes to a hearing, you have a full mini-trial and our ethics commission decides yea or nay and imposes a penalty.

Q: Who enforces the penalty?

A: If the ethics commission imposes a penalty or we reach a settlement agreement and there's no compliance, we can seek compliance in the circuit court. We have a case now where the respondent was assessed a fine and refused to pay. We've

that without violating the law?"

Much of law enforcement is reactive. Here, elected officials and employees by ordinance have to call us. It gives us the opportunity to say, "I know you want to engage in this transaction, but you can't or can only do a portion of it. Here's guidance on how to do it without getting in trouble."

We issue hundreds of opinions throughout the year. It's a huge prophylactic exercise we engage in, the lion's share of what we do, and it doesn't get the attention it deserves. I want to work on [that].

Q: Do you see vindictiveness in some of the complaints?

A: Yes. Just like people try to use the State Attorney's Office or police agencies as tools to advance political agendas, we get complaints here where it is a supporter of an elected official or someone who doesn't like one, and they'll file a complaint.

We deal with those in our legal sufficiency portion. Certain folks will always want to use compliance agencies like ours or enforcement and prosecution agencies to advance a political agenda. Most of our lawyers were former prosecutors like me and are sensitized to that to make sure we're not used that way.

Q: How are your relations with public officials?

A: We should be a service-oriented shop. I try to make sure all the elected officials know we're available to provide them with ethics guidance. We have an enforcement side but also a collaborative side.

I have regular contact with elected officials. By county ordinance, they have to take ethics training. Three to four times a year I do ethics training for elected officials.

I try to use those forums to establish

nuge job.

Mr. Ojo sat down with reporter Jesse Scheckner. The interview, recorded by Jahmoukie Dayle, can be found on MiamiTodayNews.com.

Q: What was the process by which you were appointed executive director of the Commission on Ethics?

A: By county charter, the ethics commission is an independent board of the county. It's part of the county, but we don't report to the mayor or commissioners.

One of the commissioners has to be a former or retired judge appointed by the chief judge of the circuit. One has to be a former state or federal prosecutor, also appointed by the chief judge.

One person has to be a former municipal elected official appointed by the Miami-Dade League of Cities. Two are academic positions that rotate between the University of Miami, Florida International University and St. Thomas University.

By ordinance, my selection had to be a competitive process. There were a couple levels of review. I was one of the finalists. I went through the finalist interviews and was fortunate to be offered the position.

Q: To whom do you report?

A: I serve at the will and pleasure of the ethics commission. If most of them think I'm doing a good job, I stay here. If not, it's within their authority to dismiss me.

By ordinance, all our other employees here report to me.

Q: Can you describe how a standard ethics investigation is done, from start to finish?

A: Most people understand the way a criminal case works. That's the easiest way to understand it. Someone can file a formal complaint with our agency or communicate an allegation that there's been an ethics violation in any type of form.

It can be in writing, oral, left on our phone. Whichever you choose, it will come into our office. The first thing we'll look at is whether there's legal sufficiency. Someone might send something in that says, "I was at a county park and was treated disrespectfully" or "I work for the City of Miami and my supervisor is discriminating against employees who are in a protected class."

Initially we'll say, "This may or may not be true, but it doesn't fit our criteria so it's legally insufficient," and send it to the agency responsible for that.

Assuming the complaint meets our review criteria, it's assigned to an investigator. We investigate it, and if there's enough evidence the case is prosecuted like a criminal case. But instead of a judge who presides, it's the Commission on Ethics.

We don't deprive people of liberty interests or arrest them. We're not a prosecution agency prosecuting defendants before a criminal court judge, where someone will go to prison.

We're not an executive entity — the governor that can remove a local official. Our function in some ways is like yours as a journalist, shining a bright light on an issue.

There's a complaint we filed against an employee, board member or elected official, and we're going to go through this objective process where the person accused of misconduct is afforded due process and there'll be a fact-finding process.

At the end of that, we report on it. That report goes to the electorate. They should be able to see if an elected official's been found guilty of committing ethics violations and feel comfortable there's been an objective process.

Then it's up to them to take that information and address it at the voter's box or not, or we'll bring our findings to an elected city commissioner, council, city manager or mayor. Their job is to take our material and act on it.

The part people don't talk about is what we do on the front end. When I was a prosecutor, no one called and said, "I'm thinking of committing a robbery or bringing in 15 kilos of heroin. How can I do

accessible.

If you asked, son-lected officials may be less than complimentary about our agency or me. That comes with the territory. If we charge you with an ethics complaint and your voters find out, that's unpleasant. But you shouldn't have committed the violation.

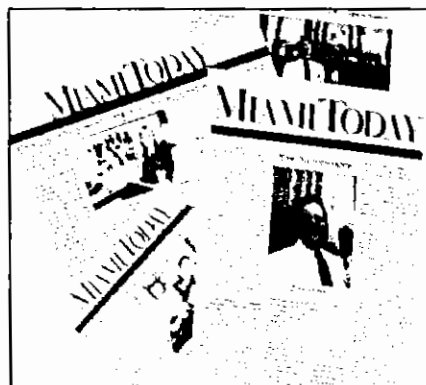
Q: By March, your office had submitted about a dozen reports on several lobbyists retained by the county whose firms also represented interests counter to the county's. How commonplace is this problem, and what's being done to fix it?

A: The Board of County Commissioners, by resolution and ordinance, has a policy that if the county hires you to lobby for it, you can't lobby for another party with an interest adverse to the county.

It's not a monumental position to take. As a lawyer, it's even easier to understand. If I'm representing client A, I can't represent client B who has an interest hostile to the first client.

We found and reported publicly that the reporting of potential conflict by county-hired lobbyists was less than robust. They're supposed to advise the county of potential conflicts. Our investigation found that wasn't happening.

We told the folks at the county who work with the lobbyists, spoke to the County Attorney's Office about it and ratcheted



REPRINTS

Build Your Business

MIAMI TODAY

The Newspaper for the Future of Miami

There's nothing like a 3rd party endorsement.

Article reprints about your company or industry
lend Miami Today's credibility to your business.

Digital and hard copy available.

Get a price quote and details.

Contact: Angela at 305-358-2663, ext. 105

alce@miamitodaynews.com

...that watchdogs ethics throughout governments in county

up the enforcement.

What I'd like to think happened this last legislative session is, because of our shining a light on the process, a lot of the county contract lobbyists were more engaged in reporting conflicts.

The back end to that is, whenever they report a conflict, by resolution our agency is supposed to advise the county commission this potential conflict has been reported and provide an opinion.

This last session, our opinion uniformly was that the county should not waive that conflict. I've been told by lobbyists who represent the county that if you want a successful lobbyist, he or she will have a lot of clients, and the county doesn't pay enough to be the only client.

There's some truth to that, but there's a happy medium. The county's main policy position in Tallahassee is to advocate against preemption legislation — anything that prevents local government from legislating or impacts home rule.

It's not a lot to ask, and it would be financially feasible for lobbyists representing the county not to accept clients that are pushing preemption legislation. That shouldn't gut your practice.

The county deferred on all the various waivers we presented to them. I don't know that there's been any new resolutions, so I wouldn't be surprised if we [wound up] in the same place [again].

The Board of County Commissioners gave policy direction to Jess McCarty at the County Attorney's Office to meet with lobbyists and engage with us and other stakeholders to come up with a new procedure.

That hasn't happened yet. I'm hopeful it will, as I am that the Commission on Ethics remains part of that procedure.

Q: Your office this year also found a multitude of additional issues with city and county lobbying oversight. Will

registering in a timely fashion.

When they were registering, they weren't reporting the ownership percentages of clients. There was confusion over who their clients were. We worked with the clerk of the court to correct the electronic lobbying procedure they have. It wasn't asking as many questions as it should.

But there's a bigger process going on. The way the county lobbying ordinance is written is incredibly expensive. It captures traditional lobbyists but also anyone who's advocating to other county employees.

For example, sales representatives at Jackson Health qualify as lobbyists. They're advocating to county procurement folks to buy [medical equipment]. A lot of folks in that community don't like to be referred to as lobbyists.

We've gone through this big education process this year. Going forward, it would be good to look at the entire lobbying ordinance, carve out vendor representatives and call them vendor representatives, clarify what a lobbyist is and streamline the training.

People come to sell things to Miami-Dade from all over the world, but the lobbyist training must be done in person. If you're trying to build a courthouse here and you're in Quebec, you must come here and take our training.

It's all due for a big overhaul. Some officials agree. Some commissioners are engaged with us. The reports you referenced addresses a small portion of a much larger issue.

Q: Is the wall between serving in elected office and working for private companies seeking government clearance too low or permeable?

A: I've rotated in and out of government, from being a prosecutor investigating police officers for misconduct to representing police officers accused of misconduct.

The reverse is also true. I can't go from today working for a private entity, resign and work for the county in a position where I'm awarding contracts my former employer's bidding on or monitoring their contracts with the county.

Two years is a long time professionally. The information in your brain is yours. If you know about government procedures, that's part of your skill set.

There's no prohibition on you sharing it with your new employer. The government shouldn't regulate your intellectual property.

Q: You mentioned leaving the State Attorney's Office to work for the Dade County Police Benevolent Association. What criticism did you get for that, in light of that office's non-prosecution of any officer for an on-duty death for 25 years?

A: Lawyers have defined professional rules irrespective of what the ethics ordinance says. If I prosecuted a case today, then leave the State Attorney's Office to work as general counsel for a police union, I can't represent the defendant on behalf of the union on that case. That's an obvious conflict. I could lose my Bar license.

Similarly, if I learn things in my involvement in a case today and work for a different party tomorrow, I can't divulge attorney-client privilege communications.

In criminal justice, the overwhelming majority of prosecutors aren't prosecutors their whole career. Most go on to civil practice or criminal defense.

The rule in South Florida for decades has been that lawyers who represent uniform services personnel were prosecutors, police or former municipal attorneys at one point.

Did I receive criticism by being the state attorney's main point of contact for investigating police misconduct since I'd

with police agencies that allowed me to speak to them, educate and give them direction, and they took it in a way they wouldn't if it were someone else.

At the same time, having someone like that in the state attorney's office, who understands police practice and can sit at a table with other lawyers and share perspective, offers valuable insight.

Might some people say, "You hired this guy who used to be the cops' lawyer. Now he's going to do everything he can to prevent cops from being prosecuted"? People who say that don't know my history.

Very often I was the only person in the room who defended police officers, but very often I was also the only person who'd prosecuted police officers and sent them to prison. That gets left out of the conversation.

Q: What person, living or deceased, do you most admire?

A: My dad, Jaime Arrojo. He passed away. He lived through the Spanish civil war and European depression, was conscripted into the Spanish army, started over, moved to Cuba, married my mom, built a successful business, lost it all, came to the US with very little, moved to Chicago in 1963 not speaking English and was able to provide for his wife and kids his whole life. I miss him every day.

Q: What was the last good book you read, and what is your favorite book?

A: I'm re-reading classics, finishing "For Whom the Bell Tolls," my second Ernest Hemmingway book. I'll read something trashy, something nonfiction and then go back to a classic.

I'm due for something trashy next — something sports-related, the history of the Chicago Cubs franchise, something like that.

I've probably read everything Philip Roth ever wrote. He's the one author I