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Another ethics investigation has been opened in the perennially scandal-plagued City of North Miami Beach. / Photo by City of North Miami Beach

Ethics Investigators Probe North Miami Beach Deal to Privatize City Attorney's Office

JERRY IANNELLI | AUGUST 30, 2019 | 10:00AM

Miami-Dade County ethics investigators are once again focusing their sights on the perennially scandal-plagued North Miami Beach. In recent years, two of the city's mayors have pleaded to criminal charges. *New Times* caught the former mayor admitting he took money from a prominent developer, and the city has privatized its waste-management services and water-treatment utility – to two companies that have since rained campaign donations on city officials.

Now *New Times* has learned that ethics investigators are once again sniffing around in city business – just as North Miami Beach is proposing to privatize its city attorney's office and hand the entire legal department to a private law firm, the Coral Gables-based Weiss Serota Helfman Cole & Bierman (informally known as Weiss Serota).

Jose Arrojo, director of the Miami-Dade County Commission on Ethics and Public Trust, said his office does not comment on the existence of any potential investigations. But *New Times* obtained emails showing the office has assigned an investigator to look into the deal. Via email, North Miami Beach's current city attorney, Sarah Johnston, said she was aware someone had filed an anonymous ethics complaint and confirmed she'd been in contact with Arrojo's office, though she said she felt she'd handled herself in accordance with the law.

"I am aware of the anonymous complaint that was filed, I have been in communication with the Miami-Dade County Commission on Ethics and Public Trust over the last couple of months," she said. "I have publicly commented during both meetings on the potential benefit and ensured all of my actions are in compliance with ethics rules and my professional guidelines."

At the moment, North Miami Beach has only one city attorney, Johnston, whose contract ends in October. Rather than simply renewing her contract or hiring another attorney, city officials are instead proposing an alternate idea: paying a private company to do the exact same job for no particularly great reason. Just after midnight at an extremely long city commission meeting that began July 16, Commissioner Fortuna Smukler claimed Johnston was struggling to find additional lawyers to fill out the staff at her one-person office and that Johnston was already using Weiss Serota employees to handle additional legal work.

Just before 1 a.m., two Weiss Serota lawyers pitched their plan to the city – which, conveniently, includes hiring Johnston to work for Weiss Serota at a potentially higher salary than the one she's making with the city. Under Weiss Serota's proposal, the private law firm would hire Johnston and provide the city with a small team of attorneys for \$55,000 per month in taxpayer funds to handle "general services and land use and zoning matters," as well as code-enforcement issues. The law firm would charge \$425 per hour to handle land-development applications and would invoice the city for basic items such as fax charges, long-distance calls, and court costs.

From the dais, Commissioner Phyllis Smith asked Johnston for her opinion about the proposal.

"Potentially, there could be a benefit in this for me, so I need to be cautious," Johnston said, adding that her current situation was not "sustainable or responsible" at the moment.

August 19, the law firm sent a written proposal to the city:

We are proposing a six-month evaluation period, during which our Firm would be hired to serve as your Interim City Attorney for a monthly flat rate, with the exception of certain delineated services. We are the only law firm with the experience and the relationship with the City to facilitate this transition. We would staff the City with three to four attorneys to handle day-to-day matters. To ensure the smoothest transition from the status quo and highest retention of historical knowledge, the Firm would like to hire current and former City Attorney personnel. This supports our effort, while eliminating any employment liability for the City. During the interim period, you can evaluate the new working dynamic. After the six-month period, you will be in a better position to determine factors and conditions for a future legal services solicitation or if you would like to revert back to having an in-house position. This situation maximizes your benefit and flexibility.

Two days later, the city discussed the proposal once again – and Johnston again admitted it created a conflict of interest that prevented her from discussing the issue.

Because she had a potential interest in the contract, she said she could not offer any advice "that could come off as a recommendation."

But clearly, some outside observers were not happy with the idea. According to documents obtained by *New Times*, a tipster flagged the proposal for the county's ethics commission.

New Times obtained emails between the tipster and Arrojo, which showed the ethics commission has assigned an investigator to look into the deal.

"Thank you for the additional information. Commission on Ethics Investigator Nilda Olmo has been assigned to this matter," Arrojo wrote August 22.

A representative with Weiss Serota did not return messages from *New Times* last night. But if the deal goes through, it would not be the first time a North Miami Beach official has benefited from one of the companies that landed a city contract. In 2018, *New Times* found that, after the city privatized its garbage services to Waste Management and its water plant to the global engineering firm CH2M Hill, both of those companies gave political donations to the city officials who approved the deals, including Mayor Anthony DeFillipo.

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