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Partial decision issued on sewer bid controversy

The Miami-Dade Commission on Ethics & Public Trust (COE) today considered **Request for Opinion 13-11**, which originated in an ongoing dispute regarding solicitations for proposals for a company to oversee massive repairs to Miami-Dade's sewer system. The COE Executive Director recently provided an advisory opinion requested by Mayor Carlos Gimenez, which found that the process leading to the recommendation for the award was seriously flawed. Legal questions concerning whether the County's Cone of Silence rule was applicable were presented to the full Ethics Commission for a binding opinion. The company that won the bid, CH2M Hill, had directly contacted members of the selection committee with a 400-page addendum to its original presentation prior to the second phase of the evaluation process. Representatives of the competing firm, AECOM Technical Services, Inc., complained that CH2M violated the "Cone of Silence" rules with that direct submission. The COE determined that members of a County selection committee are "officials" under the Cone ordinance, thereby making the direct submission permissible, provided that the County's bid documents did not specifically prohibit such contact. The Ethics Commission deferred its ruling on whether the documents prohibited the contact, pending submission of additional material by the two parties.

Ethics Commissioners approved a settlement with former North Miami Mayor Andre Pierre over the free use of public parks for his private soccer club. The complaint (**C 12-35**) charged that between October 2009 and January 2012, Mayor Pierre solicited free use of city-owned facilities without paying fees that are required by other similar groups, and that he neglected to disclose the value of the use of the soccer fields on financial disclosure forms. As part of the agreement, Pierre, whose mayoral term ended earlier this year, agreed not to contest the charges. He will accept a Letter of Instruction, pay a fine of \$500 and investigative costs of \$4,634.70 to the Ethics Commission, as well as reimburse the City of North Miami the amount of \$2,181.72.

No Probable Cause was found in a complaint (**C 13-023**) filed against Coral Gables City Manager Patrick Salerno by John Baublitz, President of the Coral Gables Fraternal Order of Police. The union leader claimed that the city manager violated the truth in government provision of the Miami-Dade County Citizens' Bill of Rights by mischaracterizing the state of the city's finances by using dated figures during an impasse hearing in September of 2012. The investigation found that Salerno presented numbers based on the end-of-year reports for 2011, but that did not constitute "knowingly omitting significant facts," as alleged, and so the complaint was dismissed.

The Ethics Commission found as Not Legally Sufficient a complaint (**C 13-27**) filed by a private citizen, Larry Vincent Williams, against various city of Miami officials, alleging, among other things, discrimination, harassment and denial of

due process. Those issues are not a part of the Conflict of Interest and Code of Ethics Ordinance and so the complaint was dismissed.

A lobbyist who registered in Miami Beach two years ago but failed to complete the required expenditure form, despite repeated reminders by the City Clerk and the Commission on Ethics, agreed to settle the complaint (C 13-28) against her. Nicoletta Canesi will not contest the allegations and will pay \$100 for investigative costs.

No Probable Cause was found to a complaint (C 13-30) accusing South Miami Mayor Philip Stoddard and Commissioner Bob Welsh of violating the Conflict of Interest and Code of Ethics Ordinance when they voted on a matter relating to former City Police Chief Orlando Martinez de Castro. The former chief's attorney asked the pair to absent themselves from the discussion during the August 14, 2013, meeting because Martinez de Castro was taking legal action against each of the elected officials. The COE found that neither Stoddard nor Welsh had a conflict as defined by the Code, since the action of the City Commission would have no effect on the pending lawsuits.

A complaint (13-32) filed by a private citizen, Jose Azze, against the City of Hialeah for mismanaging a contract with El Duke Sports Association was found Not Legally Sufficient. Ethics Commissioners determined that none of the allegations in the complaint fall within their jurisdiction and so it was dismissed.

In other action today, Ethics Commission Chair Charlton Copeland announced he is stepping down as Chair in anticipation of an extensive travel schedule during the law professor's next semester at the University of Miami. The election of a new chair will be held at the next meeting on December 12th. Also today, a plaque was presented along with accolades to Senior Staff Attorney Victoria Frigo, who is retiring at the end of this month.

The Ethics Commission was created in 1996 as an independent agency with advisory and quasi-judicial powers. It is composed of five members, serving staggered terms of four years each. Through a program of education, outreach and enforcement, the Commission seeks to empower the community and bolster public trust.

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