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INQ 16-148 Cubillos

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**From:** Centorino, Joseph (COE)  
**Sent:** Tuesday, June 07, 2016 1:49 PM  
**To:** 'Joseph Geller' <Joseph.Geller@gmlaw.com>  
**Cc:** Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>  
**Subject:** INQ 16-148 Claudia Cubillos, Mayor, Village of El Portal (Voting Conflict)

Mr. Geller:

You have inquired in your role as Village Attorney for the Village of El Portal regarding whether El Portal Mayor Claudia Cubillos has a prohibited conflict of interest in participating and voting on the appointment of a new Village Manager, where one of the finalists for the position is a former Village employee who was previously employed by a private company of which Mayor Cubillos is a principal. It is my understanding that it has been several years since the individual in question was employed by the Mayor's company, and that the Mayor has no current employment, business or other financial relationship with the individual.

Under Section 2-11.1(d) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance, an elected board member s may have a voting conflict of interest where that member has one of a number of specified relationships with an individual or entity that will be affected by a vote of the body, or if the official in question "would or might, directly or indirectly, profit or be enhanced by the action of the board." Under the circumstances related to me, I do not see any present relationship that would implicate Subsection (d), and I do not see any possibility that the Mayor will profit or be enhanced personally by the vote. Accordingly, I have concluded that Mayor Cubillos does not have a voting conflict of interest in participating and voting on the item in question. You are correct that, pursuant to Section 112.012, Florida Statutes, a member of a municipal governmental board or commission must vote on a matter before the board unless the official has a conflict of interest or is abstaining in a quasi-judicial proceeding to assure a fair proceeding free from potential bias or prejudice.

Sincerely,

Joe Centorino

*Joseph M. Centorino*

Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820  
Miami, FL 33130  
Tel: (305) 579-2594  
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**From:** Joseph Geller [<mailto:Joseph.Geller@gmlaw.com>]  
**Sent:** Friday, June 03, 2016 2:55 PM  
**To:** Centorino, Joseph (COE) <[CENTORI@miamidade.gov](mailto:CENTORI@miamidade.gov)>  
**Subject:** Re: El Portal

Thanx.

Sent from my iPhone

On Jun 3, 2016, at 2:14 PM, Centorino, Joseph (COE) <[CENTORI@miamidade.gov](mailto:CENTORI@miamidade.gov)> wrote:

Got it, Joe.

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**From:** Joseph Geller [<mailto:Joseph.Geller@gmlaw.com>]  
**Sent:** Friday, June 03, 2016 11:35 AM  
**To:** Centorino, Joseph (COE) <[CENTORI@miamidade.gov](mailto:CENTORI@miamidade.gov)>  
**Cc:** 'Claudia Cubillos' <[ccubillos@villageofelportal.org](mailto:ccubillos@villageofelportal.org)>  
**Subject:** El Portal

Dear Mr. Centorino,

I am writing you on behalf of my firm in our capacity as Village Attorney for El Portal.

This is a request for an informal ethics opinion, on behalf of Mayor Claudia Cubillos, who has requested it.

The facts are as follows: the Village is currently seeking a new Village Manager.

By charter, the Manager is selected by the City Council, including the Mayor.

One of the finalists is a former Village employee, now employed by another city.

Prior to working for the Village, she was employed by a company in which the Mayor is a principal. That employment ended several years ago.

There have been several public comments recently, some of which have criticized the Mayor, saying or implying that she is "biased" in the Manager selection in favor of her former employee, or that she is trying to gain too much control of the Village.

The Mayor and her co-owners of her business are very sensitive to the criticism.

To rebut it, the Mayor would like to recuse herself from voting on her former employee, though not on other issues relating to the Manager selection.

To my knowledge, the former employee is neither a debtor nor a creditor of the Mayor or her company, nor does any other prohibited relationship exist.

I therefore advised the Mayor that no conflict exists, and that if she is present on the dais, she cannot recuse herself, and must vote for or against her former employee.

Please advise if the Mayor is permitted to recuse herself from voting on her former employee due to the allegations of bias, or for any other reason, absent a prohibited relationship as set forth in statute.

Mayor, please confirm that the facts I have presented are accurate.

If she is not required or permitted to recuse herself, is she permitted to vote in favor or against the former employee, either, as she sees fit?

The Village Council is scheduled to meet again on Tuesday evening, June 7, so your rapid response prior to that time would be greatly appreciated.

Thank you.

Greenspoon Marder, PA

Village Attorneys

By: Joseph S. Geller, Esq.

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