
Addendum to INQ 16-158

From: Centorino, Joseph (COE)
Sent: Wednesday, June 15, 2016 11:55 AM
To: 'Robert Meyers' <RMeyers@wsh-law.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: Addendum RE: INQ 16-158 -- Sue Loyzelle, Town Councilmember, Town of Cutler Bay (Voting Conflict, Section 2-11.1(d))

Robert:

You have advised that, in response to INQ 16-158, Councilwoman Loyzelle has decided to end the employment/consultant relationship that she has with lobbyist Jose Castillo. I had informed you that her retention of him as a paid campaign staff member in her campaign for Vice Mayor of the Town of Cutler Bay would create a voting conflict of interest under Section 2-11.1(d) for those matters in which Mr. Castillo appeared before the Council as lobbyist for another person or entity while so employed. Given that the employment/consultant relationship has now ended, and assuming that there is no other relationship enumerated under Section 2-11.1(d), and that Councilwoman Loyzelle does not in any way stand to personally profit or be enhanced from the vote on issues that Mr. Castillo lobbies on, then Ms. Loyzelle would no longer have a voting conflict of interest and the County Ethics Code would not prohibit her voting on or participating in such items before the Council.

Joseph M. Centorino

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From: Robert Meyers [<mailto:RMeyers@wsh-law.com>]
Sent: Wednesday, June 15, 2016 11:09 AM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Subject: INQ 16-158 -- Loyzelle Opinion

Hi Joe:

Per our conversation, I am seeking an addendum or revision to INQ 16-158 due to a change in circumstances. The initial opinion found that Councilmember Loyzelle would have a voting conflict of interest when items for which Jose Luis Castillo registered as a lobbyist comes before the Town Council on account of the fact that he is a consultant to her campaign for Vice Mayor. According to Councilmember Loyzelle, her campaign severed its relationship with Mr. Castillo and Green Point last night (June 14, 2016). For the record, the campaign made only one expenditure to Green Point -- in March of 2016 in the amount of \$250 for palm cards. The campaign has no further financial obligations to either Mr. Castillo or Green Point. Since Councilmember Loyzelle does not currently have an enumerated relationship with Mr. Castillo or Green Point which would trigger a voting conflict under the local ethics code, I am requesting written confirmation from you that any voting conflict of interest that existed in the past has been alleviated because of the actions taken by the two parties.

If you need additional information, please contact me. Given the fact that this is a time-sensitive matter, I would appreciate a written response before the end of the day.

Thanks,

Robert

Robert Meyers



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INQ 16-158 Loyzelle

From: Centorino, Joseph (COE)

Sent: Tuesday, June 14, 2016 1:40 PM

To: 'Robert Meyers' <RMeyers@wsh-law.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 16-158 Sue Loyzelle, Councilmember, Town of Cutler Bay (Voting Conflict, Section 2-11.1(d), Miami-Dade Code)

Robert:

You have inquired on behalf of Sue Loyzelle, Councilmember of the Town of Cutler Bay, regarding whether she has a voting conflict under Section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, in voting on matters coming before the Council where a party is represented by Jose Luis Castillo as a lobbyist. Mr. Castillo, a principal with the Green Point Group, has been hired by you to work on your campaign for the office of Vice Mayor in Cutler Bay.

Section 2-11.1(d) of the County Ethics Code governs voting conflicts by elected officials such as Councilmember Loyzelle. There are three separate categories of possible voting conflicts of interest under that section. The first category, which is directly relevant to this analysis, provides for an automatic prohibited conflict if the voting member has one of the following relationships with a person or entity directly or indirectly affected by the vote before the board: officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary. See RQO 15-04. Under the facts presented by you, Mr. Castillo may be considered to be either a consultant or employee of Councilmember Loyzelle, based upon his having been hired by her to fill a paid position on her campaign. Since Mr. Castillo, as a lobbyist for an entity affected by a matter before the Cutler Bay Town Council, would himself be at least indirectly affected by the vote, Ms. Loyzelle would have a voting conflict of interest on any such matter and should recuse herself from the vote. Based on the County ordinance, as well as the Florida Statute governing voting conflicts, Section 112.3143(3), Councilmember Loyzelle should announce the conflict publicly before the item is taken up, leave the room during the discussion and vote on the item, and file Form 8B with the Clerk within 15 days of the vote.

Councilmember Loyzelle should also avoid voting on or participating in any preliminary or procedural votes that could have some effect on the issue on which she is conflicted, unless she receives a prior opinion from this office to the contrary. She should also avoid any activity that might be interpreted as an attempt on her part to affect the vote of the Council on an item on which she has recused herself due to a voting conflict.

Once Councilmember Loyzelle has recused herself from voting on or participating in any given issue, there is nothing in the Ethics Code that would prohibit her from having a conversation with Mr. Castillo for the sole purpose of her gaining information about the matter in question. As a public official, Ms. Loyzelle is entitled to be educated and informed on issues that pertain to her office. However, Councilmember Loyzelle should avoid any conversation with Mr. Castillo (or with anyone else) that could be interpreted as an attempt on her part to provide advice or assistance to Mr. Castillo or others in connection with the presentation of the issue or any aspect of the issue before the Town Council.

Sincerely,

Joe

Joseph M. Centorino

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From: Robert Meyers [<mailto:RMeyers@wsh-law.com>]
Sent: Monday, June 13, 2016 2:45 PM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Subject: Request for Opinion -- Loyzelle

Hi Joe:

Per our discussion on Friday, listed below are the relevant facts:

Cutler Bay Town Councilmember Sue Lozelle is running for Vice Mayor. She has enlisted Jose Luis Castillo, a principal with the Green Point Group, to work on her campaign. As I understand it, he will be paid for the services he provides her campaign. Mr. Castillo is currently a registered lobbyist with the Town and is likely to lobby the Town Council on the Vista Del Lago and Mater Academy items coming before Council later this year. Councilmember Lozelle wishes to know whether she has a voting conflict under the County Ethics Code that would prohibit her from participating in, and voting on, these items, if her campaign consultant lobbies the Town Council on behalf of the abovementioned entities. If she has a voting conflict, would this also prohibit him as a representative of these entities from educating her about these matters off-the-record?

Based on our initial conversation, I understand that you believe that she has a real or actual voting conflict under the local ethics code. After giving this issue more thought and reviewing opinions from the Ethics Commission, I don't believe she has a conflict unless you argue that she can indirectly benefit from Mr. Castillo's representation of his private client in front of the Council in a matter that affects their enumerated relationship. There is no dispute the two of entered into a relationship covered by the local ethics code – he is serving as a consultant to her campaign and will be acting in this capacity when the two applications are heard by the Council. However, the voting conflict section applies to the conduct of the elected official, not to those who may have entered into a relationship with elected officials. In other words, the fact that a consultant of the elected official may receive a benefit by the official's vote does not create a conflict for the official unless the official also receives a benefit.

The subject matter under consideration must impact the relationship between the two parties in order to create a voting conflict. For the sake of argument, if an official has retained an attorney to handle a legal matter for him and the attorney is appearing before the official's government on a completely unrelated matter (let's say the attorney is

requesting a variance for his home), the fact that elected official has a business relationship with the applicant does not establish a conflict because the action/vote on the variance has no bearing on the business relationship.

In the instant case, Councilmember Loyzelle as the elected official has to be the individual who benefits (directly or indirectly) from the vote on these applications. The fact that her campaign consultant may be viewed more favorable in the community or may affect his standing among developers and other potential clients based on his appearances before the Council, does not trigger a conflict for her because their relationship is tied to a political campaign and has nothing to do with his lobbying business or the success/failure of these applications. So, unless, you are inclined to find that she can indirectly benefit from these votes, there is no actual or real voting conflict under the law.

I won't pass judgment under whether an appearance of a voting conflict is created by this arrangement when Mr. Castillo appears before the Town Council. Obviously, should you determine that she has no actual conflict, but recommends that she an appearance of a conflict and ought to recuse herself, such advice, although helpful, would not be binding on her.

Lastly, if you conclude that she does have an actual conflict, she would still like to meet with him privately to discuss these projects. If she can take no action in her official capacity due to the conflict, I find nothing in the ethics code that would preclude her from meeting with him or any other interested party to discuss such items.

Since this is a time-sensitive matter, I would appreciate a response from you by the close of business tomorrow. Councilmember Loyzelle understands that she will accept your advice as binding and act accordingly. My goal, other than presenting all of the relevant facts to you, was to offer some perspective about the voting conflicts section given the 18 years that I have spent analyzing it.

Thanks and feel free to call me or email me should you wish to discuss above.

Robert

Robert Meyers



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