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INQ 16-169 Barrett

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**From:** Perez, Martha D. (COE)

**Sent:** Wednesday, June 22, 2016 3:01 PM

**To:** montyb1980@att.net

**Cc:** Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>;

Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Sola, Lester (WASD) <Lester.Sola@miamidade.gov>

**Subject:** Monty Barrett, Former employee (WASD); Two Year Rule; 16-169

Dear Mr. Barrett,

You have inquired regarding the ethics restrictions that may apply to you following your retirement from Miami-Dade County's Water & Sewer Department (WASD), where you were employed in the Operations and Maintenance Department.

#### Background

You recently retired from the County where you worked as Plant Maintenance Supervisor in the Operations & Maintenance Division of WASD. Your duties while with the County involved the supervision of mechanics and maintenance of plants equipment. In your retirement you are considering working for private companies, some of which may transact business with the County and, specifically, with your former department and/or division. You are also considering your own business which will consist of providing boat repair and/or fabrication services.

#### Analysis

The County Ethics Code at Section 2-11.1(q) ("Two Year Rule") provides that,

*No person who has served as....departmental personnel or employee shall for a period of two years after his or her County service has ceased, lobby any County officer, departmental personnel or employee, in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge or accusation in which Miami-Dade County or one of its agencies or instrumentalities is a party or has any interest whatever, direct or indirect.*

Consequently, while following your retirement you may form your own business and/or be employed with firms that do business with the County, you are prohibited from LOBBYING the County. Lobbying activities

under the “Two- Year Rule” are more expansive than those in the general County lobbying ordinance. Whereas the lobbying ordinance at Section 2-11.1(s) of the County Ethics Code characterizes lobbying as advocating actions or decisions that will foreseeably be decided by the BCC, Mayor or a County board, the “Two- Year” Rule includes advocating for actions or decisions that may be made at the sole discretion of any County personnel. For example, you are prohibited from arranging or participating in any meetings, negotiations, presentations or other discussions directly with County officials or staff for the purpose of influencing the County elected official, staff or employee to take any type of official action, decision or recommendation. *See* RQO 08-28; RQO 04-34.

The following are some examples of activities which are not considered “lobbying” for purposes of the Two Year Rule:

- Imparting institutional knowledge and history of the County’s capital improvement programs to the current employer and its team. RQO 12-09
- Estimating project costs, as long as there is no involvement with County offers or staff directly, through face to face meetings, telephone calls, emails or other communication, in negotiating changes or modifications for any purpose, including negotiation of change orders. RQO 12-09
- Providing management or oversight of County projects related to an *awarded* contract . RQO 08-18
- Meeting with County staff and appearing before County boards and committees, provided the appearance is related to an *awarded* contract. RQO 11-24
- Submit an application or proposal provided you do not lobby. An example of lobbying would be to communicate either in writing or orally with anyone in the County in an effort to influence a decision on the matter, including appearing at any selection or evaluation committee meetings or in any way engaging with County personnel on behalf of the submitted proposal/ application. INQ 14-71; INQ 16-78
- Engaging in ministerial activities such as filing or submitting routine administrative requests or permit applications to a County department; confirming receipt of plans or permit applications; or, inquiring about the status of submitted plans. RQO 08-28; RQO 04-33

Additional information concerning limitations of the “Two- year Rule” may be found in RQO 12-09 and “Frequently Asked Questions”, both of which are attached. Please note, all formal opinions (RQO’s) may be found at <http://ethics.miamidade.gov>.

Another important provision of the County Ethics Code which may impact former County employees is Section 2-11.1(h), Confidential information: *No person [including contract staff] shall....disclose confidential information...gained through his or her official position with the County, nor shall he or she ever use such information, directly or indirectly, for his or her personal gain or benefit.* If the decision-making process on the services you or your prospective employer provides to the County is related to the work that you performed while working for the County, you should consider whether you have access to confidential information through your County service which may give you an advantage in your/your employer’s dealings with the County.

If you have any questions or concerns regarding whether you should engage in any other activity with the County, please contact us.

This opinion is based on the facts as you have presented them to the Ethics Commission. Please contact us if these facts change. Inquiries regarding possible conflicts with departmental directives should be addressed with your Department Supervisor. Inquiries regarding possible conflicts under State law should be directed to the Florida Commission on Ethics.

**Martha D. Perez**

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

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**From:** [montyb1980@att.net](mailto:montyb1980@att.net) [<mailto:montyb1980@att.net>]

**Sent:** Wednesday, June 22, 2016 2:08 PM

**To:** Perez, Martha D. (COE)

**Subject:** Re: Ethics questions

- 1) Monty Barrett
- 2) Retired May 31, 2016
- 3) Water and Sewer dept.  
Operations and Maintenance dept.
- 4) Plant maintenance supervisor
- 5) Supervise the mechanics and maintain the plants equipment
- 6) Lester Sola
- 7) Yes, some do and some do not. I would like to know my options
- 8) Mostly outboard machine shop, boat repair and fabrication
- 9) Through other companies or working for other companies that do business with the county?

On Thursday, June 16, 2016 2:24 PM, "Perez, Martha D. (COE)" <[perezmd@miamidade.gov](mailto:perezmd@miamidade.gov)> wrote:

Good afternoon,

We are in receipt of your email requesting information on doing business with the County after retirement. In order to respond to your questions, please provide us with the following information:

- 1) What is your name?
  - 2) When did you retire from the County (Date)?
  - 3) What Department and Division did you work in?
  - 4) What was the title of your position?
  - 5) What were your duties and responsibilities in that department and division?
  - 6) Who was your Department Director?
  - 7) If you are considering working for a company that transacts business with the County, is the company doing business with your former Department/ Division?
  - 8) If you are considering your own company/ business, what will that consist of?
  - 9) Do you intend to do business with the County directly through your own company or through other companies which are currently doing business with the County or both?
- Thanking you in advance for your responses.

Martha D. Perez

Staff Attorney

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