

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, March 30, 2017 3:09 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Jack Kardys, Former Director of County's Parks Department; Two-Year Rule (q); INQ 17-100

INQ 17-100 Kardys

From: Perez, Martha D. (COE)
Sent: Thursday, March 30, 2017 3:04 PM
To: 'jckardys@aol.com' <jckardys@aol.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Jack Kardys, Former Director of County's Parks Department; Two-Year Rule (q); INQ 17-100

Dear Mr. Kardys,

You inquire regarding the ethics restrictions that may apply to you following your retirement from the County's Parks Department, specifically as it relates to your service in the County's Future Park and Open Spaces System Task Force (Task Force), your board position in the Parks Foundation of Miami-Dade, Inc. (Foundation)- the fundraising arm of the County's Park Department, and your prospective consulting agreement and/or employment with PROS Consulting, LLC (PROS), a County vendor.

Issues presented under the "Two-Year Rule":

- 1) As a volunteer board member of the Foundation, may you lobby before the Board of County Commissioners (BCC) or attend meetings between the Foundation board members and individual Commissioners?
- 2) As a representative of the Foundation in the Task Force, may you lobby on behalf of the Foundation for increased funding for the County's Parks Department?
- 3) Would the "Two-Year Rule" preclude you from being employed by or providing consultant services for a prospective employer which is a County vendor, and, what post-employment restrictions would apply in this instance?

Background

You were employed by the County as the Director of Park Recreation and Open Spaces (Parks Department). You retired on January 31, 2017. You are currently contemplating working for a County consultant doing market research and strategic business planning for implementation and operational efficiency of Parks Department initiatives (conducting historical research; conducting performance reviews; recommending best practices and training; evaluating park management performance through measured results; providing open space master plan market research; and, providing implementation recommendations). At the suggestion of your accountant, you have formed J Kardys Strategies, LLC, which develops and implements innovative park and public realm strategies for building healthy and sustainable communities. Your company has no current or foreseeable relationship with the County.

- 1) In your former position with the County, you were a member of the Task Force. The Task Force was created by Mayor Gimenez to address the Park and Open Space Master Plan (OSMP). Its participants include members of the Foundation, Trust for Public Lands, County administration, Parks and OMB. The purpose of the Task Force is to review the County's OSMP objectives for long-term solutions as well as addressing short-term needs, including current levels of staffing, programming and deferred maintenance and repairs, with the goal to provide a

report with recommendations to the BCC. At the Task Force meeting held on November 28, 2016, the participants agreed to follow up on several tasks, including: financing feasibility research; prioritization of Park's unmet needs and OSMP build out costs; refining operating and programmatic expense projections; and, developing recommendations for a park funding initiative framework.

- 2) In your former position with the County, you were also a board member of the Foundation. The Foundation is a 501(c)(3) non-profit corporation which entered into an agreement with Miami-Dade County to formalize a private-public partnership (P3) for fundraising and optimizing resources to improve and preserve parks and parks programs in accordance with OSMP, and to delineate the respective rights and responsibilities of each party in order to eliminate duplication efforts in the conduct of their affairs. *See* Resolution R 806-04. In 2015, the agreement was amended to provide for County reimbursement to the Foundation for recreational programming and marketing expenses associated with parks and parks programming, and extend the term of the agreement to thirty (30) years. *The Parks Foundation is the fundraising arm of the County's Parks Department and the fiscal agent for the Parks Department with respect to grants and donations which the County would not be eligible to receive directly.* Pursuant to Section 1 (a) of the Agreement, "to the extent that the Foundation receives any unsolicited donation for a specific recipient or project that is outside the purview of the Parks Department, then the Foundation may accept and utilize such donation for such specified purpose, provided that no additional funds or resources are required for the Foundation." The Foundation's board members are not compensated. Conflict of interest rules prohibit the Foundation from employing you. Additionally, it is highly unlikely that the Foundation would employ PROS (your prospective employer) since its mission is strictly the fundraising for the Parks Department. *See* Section 15(1) of the Amended Agreement between the County and the Foundation
- 3) In your former position as the Director of the County's Parks Department, you provided management and oversight of all County parks projects and programs, including Park and Open Space Master Plan objectives (OSMP). You are contemplating working for PROS Consulting, Inc. (PROS), a County vendor. You were not involved in the selection of PROS but as Parks Director, you oversaw all park-related initiatives/programs/projects through your designated Project Managers. PROS entered into an agreement with the County back in 2013 to conduct *market research and business planning for the Parks Department's park and recreation programs, facilities and services*. *See* Agreement on Contract No. RFQ786A. Pursuant to the agreement, PROS is charged with the assessment and evaluation of long term strategies to guide the Parks Department in its operations as well as short term strategies to enhance the Department's efficiency and revenue capacity, which includes: recommending staff training; analyzing and evaluating current business plans and strategies and recommending new and improved ones; assisting in the coordination of project implementation; and, developing and administering evaluation tools.

Analysis under the "Two-Year Rule"

1) Participation in the Task Force

You are a former Parks Department member of the Task Force, a County advisory board. Your role as the Parks Department member ceased when you retired as Parks Director but you continue on the Task Force as a Foundation member. As an *advisory board member* of the Task Force, you may not appear before the Task Force where you serve and make a presentation or lobby on behalf of a third person or entity, unless you are representing the Foundation for the benefit of the County's Parks Department. *See* Section 2-11.1 (m)(2), County Ethics Code; RQO 01-01 (former County Director of P&Z may contract with the County and make appearances before the BCC in support of zoning changes as a county consultant representing the County's Department of Planning & Zoning).

Consequently, nothing in the County Ethics Code prevents your continued service on the Task Force as a representative of the Foundation (fundraising arm of the Parks Department), in order to advocate for park funding initiatives or other objectives on behalf of the Parks Department *provided* your participation in the Task Force *does not* involve advocating, directly or indirectly, on behalf of your company or PROS.

2) Membership in the Foundation

You are an *unpaid volunteer Foundation board member*. The Foundation is a 501(c)(3) non-profit organization, serving as the fundraising arm of the County's Parks Department. You ask whether you may continue your service in the Foundation and advocate (lobby) on the Foundation's behalf for a "dedicated or at least an increased funding level for the Parks Department." While the lobbying activities you may engage in on behalf of the Foundation are related to the work you performed in County service, any advantage the Foundation would gain in dealings with the County must be for the benefit of the County and not for your personal benefit or the benefit of a third party. *See* INQ 17-74.

Section 2-11.1(q) of the County Ethics Code, commonly referred to as the "Two-Year Rule", prohibits a County employee from lobbying the County for two years following separation from County employment. This post-employment ban does not apply to former County personnel who subsequently become employed or retained by a *501(c)(3) non-profit organization*, governmental entities or educational institutions. Consequently, insofar as your representation of the Foundation is concerned, advocating on behalf of the Foundation is exempt from the post-employment ban under the "Two-Year Rule." *See* Section 2-11.1(q); RQO 06-54; INQ 12-06; INQ 13-176; INQ 15-66; INQ 17-30.

Regarding whether you would be required to register as a lobbyist pursuant to Section 2-11.1(s), such registration requirement would depend on the purpose of the representation. If the purpose of appearing before the County Mayor, Commissioner(s) or staff is to speak in favor of additional County funding for the parks, the Foundation members would not be seeking to obtain any special benefit for the Foundation or themselves but rather, would be "essentially exercising their rights to appear as individuals to express support of funding for public parks" and would be exempt from the lobbying registration requirements. *See* INQ 16-180 issued to Jorge L. Lopez, Esq., volunteer member of the Foundation. However, any lobbying on behalf of the Foundation on an issue *unrelated* to the funding for the Parks Department would require compliance with lobbyist registration requirements. *See* Section 2-11.1(s)(4); INQ 13-167. Note, there is an exception to the registration requirement for unpaid representatives of 501(c)(3) non-profit entities who are *ONLY* seeking grant funding and not lobbying on other matters at the same time. *See* Section 2-11.1(s)(1)(b); INQ 14-260.

3) Contracting with the County or working for a County vendor

You further inquire whether the County's post-employment ban would preclude you from being employed by or providing consulting services for your prospective employer, PROS, a County vendor, which provides services exclusively to and for the benefit of the Parks Department. If you are permitted to work for PROS, you would like to know what limitations you have in working on Parks Department programs/initiatives/projects.

Section 2-11.1(q)(1)- The "Two Year Rule"- does not prohibit former County employees from working for a County vendor, consultant, contractor, etc., *provided* that the former employee does not engage in lobbying on behalf of the County vendor for the requisite two-year period. *See* RQO 06-54 (PHT consultant and former employee may subcontract with a prospective PHT vendor to provide the same services it provides as a PHT consultant provided the employee ends that consultant agreement and as long as the employee does not lobby PHT on behalf of the prospective vendor); INQ 14-184 (former Parks employee who was in the selection committee which selected PROS may work for PROS); INQ 14-254; INQ 14-133 (former Assistant Director at WASD overseeing capital improvement projects may provide consulting services to engineering firms engaged in or bidding for WASD's capital improvement projects); INQ 16-109 (former Assistant Superintendent at WASD may perform consulting work with engineering firm doing business with WASD); INQ 16-151 (former WASD employee may provide consulting services to a company transacting business with WASD).

The remaining question is whether you may be involved in certain activities on behalf of PROS involving its existing agreement with the County/Parks Department. To that end, Section 2-11.1(q) of the County Ethics Code (the "Two-Year Rule"), prohibits a County employee, who separated from County employment less than two years, from **lobbying** any County officer, departmental personnel or employee. The ordinance is designed to limit a former employee's ability to use his or her former County service and contacts for personal benefit or business interests through lobbying, to the detriment of others who do not have County "connections". Lobbying activities described in the post-employment ordinance are more expansive than those found under the general lobbying ordinance at Section 2-11.1(s) of the County Ethics Code. *See* RQO 01-38 Whereas the general lobbying ordinance characterizes lobbying as advocating for items that will foreseeably be decided or recommended by any County/city commission, board or the Mayor/city

manager, the post-employment ordinance makes no such limiting connection to matters that will foreseeably be brought before voting bodies or the Mayor/city manager.

Consequently, advocating for decisions that may be made at the sole discretion of *any* County personnel, not necessarily a voting body or the Mayor, are prohibited under the “Two-Year Rule.” For example, **you are prohibited from arranging, representing or participating in any meetings, negotiations, presentations, interactions or other discussions on behalf of PROS if the meetings or discussions are convened for the purpose of persuading or influencing elected officials and/or County personnel to take an official action or make an official decision or recommendation (emphasis added).** See Section 2-11.1(s), County Ethics Code; RQO 00-145RQO 12-09; INQ 16-106; INQ 16-06 . While “you may interact with County personnel in connection with ministerial matters [submitting paperwork or obtaining information], you must be careful not to attempt to persuade anyone in connection with a discretionary decision.” INQ 16-75

While Section 2-11.1(q) prohibits you from lobbying County officials on PROS’ behalf for two years, you would not be prohibited from providing certain services related to County projects. The Ethics Commission has opined that the “Two-Year Rule” permits former employees to engage in the following activities:

- * Imparting institutional knowledge and history of the County’s capital improvement programs to his or her team members-See RQO 12-09
- * Interacting with County personnel on ministerial activities, such as, obtaining documents, requesting information, asking procedural questions, or providing information to County personnel- See RQO 04-33
- * Estimating project costs, *as long as* there is no involvement with County officials or staff directly, through face to face meetings, telephone calls, emails or other communications, in negotiating changes for any purpose- See RQO 12-09; INQ 14- 31 (former employee may provide information regarding costs to County employees but would be strictly limited from going further in any discussion that might influence any decision that those employees need to make)
- * Providing support staff to the County through your employer, *as long as* you do not attempt to influence County officials or employees regarding the terms of the arrangement/ agreement- See RQO 12-09
- * Submitting an application or proposal, *provided* you do not lobby. See INQ 14-71; INQ 16-78
- * Coordinating activities between the County, outside agencies and County contractors and sub-contractors. See RQO 08-18
- * Meeting with County staff and appearing before County boards or committees *provided* the appearance is related to an *awarded contract* without any intention to influence the award, amend or modify the contract. See RQO 12-09 (“Two-Year Rule” prohibition extends to any lobbying in connection with an *approved* contract); RQO 11-24; INQ 16-75
- * Participating in meetings with the County on behalf of your employer to discuss County practices and procedures *as long as* the meeting is held for informational purposes only and not for the purpose of influencing any recommendations or other actions on the existing project- See RQO 12-09;
- * Providing management, oversight or services related to County projects *as long as* the communication with County officials or personnel does not involve persuasive activity. See RQO 11-24; See also RQO 09-36 (soon-to- retire County employee who was assigned oversight over Aviation project as Deputy Director of Aviation may, following retirement, provide oversight and management of the same project with new employer/sub-consultant to the project “because he will not be engaged in lobbying activities” [in other words, *as long as* no lobbying is involved]).

Another important provision of the County Ethics Code which may impact former County employees is Section 2-11.1(h)-*Confidential Information*- which prohibits the disclosure of confidential information gained through one’s official

position with the County or the use of such information, directly or indirectly, for personal gain or benefit. If the decision-making process on the services PROS provides to the County is related to the work you formerly performed for the Parks Department, you should consider whether you have access to confidential information through your three decades of County service which may give you an advantage in PROS' dealings with the County. See INQ 16-109.

Consequently, although you are not prohibited from working with or for PROS, you must abide by the limitations imposed by the "Two-Year Rule" as outlined herein. The Ethics Commission emphasizes that the County Ethics Code represents a minimal standard of conduct for those who have served in government and remain subject to the "Two-Year Rule. Former employees should carefully consider the totality of the circumstances before taking action that could possibly erode the public's trust. INQ 13-197

This opinion is based on the facts as presented. If any of these facts change or, in the event you are concerned about a specific activity or communication with respect to any of your current or prospective roles described herein, we encourage you to seek an opinion from this office.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

PEREZMD@miamidade.gov

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From: jckardys@aol.com [<mailto:jckardys@aol.com>]

Sent: Tuesday, March 28, 2017 11:02 AM

To: Perez, Martha D. (COE) <perezmd@miamidade.gov>

Subject: Fwd: opinion

Good talking to you yesterday Martha. As discussed, The company that I would work for is PROS Consulting out of Baltimore, a nationally recognized firm in the strategic business and market analysis space of the Park and Recreation industry which is currently under contract through 2018 with the Parks Department. I have attached all of the ISD information I could find on the selection and award of this contract, neither of which I was involved with as the former Parks Director. I have also attached the work your unit did regarding park's former employee Kevin Asher, who works(ed) for PROS Consulting. The LLC J Kardys Strategies was the suggestion of my accountant as I moved into the private sector. The LLC has no relationship with MDC and would not be doing any business with the county for the foreseeable future. I would be working for PROS Consulting as an individual and as their employee insured and with full access to their nationwide best practices and benchmarking data base.

As we discussed, the answer to your 3rd question below is: I am a volunteer board member who is required to donate \$1000 annually as board dues--none of the board members receive compensation from the Park Foundation and it would be incredibly unlikely that the Park Foundation would hire PROS Consulting to do any strategic business and market analysis because the Park Foundation simply raises money for park department recommended programs and projects. The conflict of interest rules in the Park Foundation would preclude it from doing any business directly with me as an individual or the LLC. The Foundation has no employees and contracts for its various services such as book keeping. Board officers, of which I am not, have various committee roles that provide oversight. As you describe, the work that I would do for the Parks Department as a member of the PROS Consulting team is incredibly important to

the Department considering the depth of my institutional knowledge and understanding of the culture of the organization, its strengths, weaknesses, opportunities and threats.

Subsequent to the original request to Michael pertained to my role as a Foundation Board member and a participant in the Future Park and Open Spaces task force, I was asked to make sure from an ethics perspective it is ok that I work for PROS Consulting on Parks Department projects as described below:

PROS Consulting will conduct a comprehensive evaluation of the following operational and strategic business plans tasks listed to support an overall goal of operational efficiency. The assessment and evaluation will identify long term strategies to guide Miami Dade County Parks and Open Space in the operations of the elements listed as well as short term strategies that enhance the efficiency and revenue capacity for the system within the Department. The outcome of the evaluation will provide information for the County to determine what business management model and operational changes they will want to make that gives the County the greatest opportunity to gain financial sustainability. PROS Consulting recommends training for staff on the process they used so that they can implement the recommendations developed in this Operational Efficiency Plan. PROS Consulting will analyze/evaluate current business plans and practices; develop/recommend new and improved business practices and strategies in alignment with OSMP; recommend scopes and strategic business case planning for implementing park general plans; assist in developing implementation plans with timelines for MDC Parks Dept; assist in facilitating/coordinating/convening project implementation stakeholders; assist in coordinating and administering project implementation; develop and administer evaluation and measurement tools.

Please call me any time with any questions at 305-801-2641 and thanks for your help on this.

Jack Kardys

jckardys@aol.com

Good morning Mr. Kardys,

I will be responding to your inquiry as per your email. I would appreciate it if you could provide me with the following additional information:

- 1) You indicate that you are currently working for a County-approved consultant. Is that person/entity currently transacting business with the Parks Department? If so, please describe.

- 2) The Foundation's biography also states that you have your own company, J. Kardys Startegies, LLC. Is your company presently doing business with the County or, do you foresee your company becoming involved with the County/ Parks Department? If so, please describe.
- 3) As the fundraising arm of the Parks Dept., does the Foundation employ or retain persons or entities to assist in meeting its County objective? In other words, is it contemplated that the Foundation may compensate you or your employer for the services described herein with monies allocated to the OSMP? The description of your services and the services of the county-approved consultant (ie., developing park strategic plans, evaluating park management performance, researching and providing/implementing recommendations) would appear to be of great benefit to the Parks Department.

You may contact me at (305) 350-0656 to discuss. Thank you.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

PEREZMD@miamidade.gov

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From: Murawski, Michael P. (COE)
Sent: Friday, March 24, 2017 5:01 PM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>
Subject: FW: Future Parks and Open Spaces Systems task force and the 2-year rule

From: jckardys@aol.com [<mailto:jckardys@aol.com>]
Sent: Friday, March 24, 2017 12:28 PM
To: Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>
Subject: Re: Future Parks and Open Spaces Systems task force and the 2-year rule

Mike can you call me when you get a moment--305-801-2641--tx hoping to come by and see you for a couple minutes next week

Jack Kardys

jckardys@aol.com

-----Original Message-----

From: jckardys <jckardys@aol.com>
To: Michael.murawski <Michael.murawski@miamidade.gov>
Sent: Wed, Mar 22, 2017 9:53 am
Subject: Fwd: Future Parks and Open Spaces Systems task force and the 2-year rule

Mike, per our discussion yesterday here is my question(s). Having retired as the Parks Director January 31, 2017, If I am working for a county approved consultant doing strategic business planning for implementation and operational efficiency (conducting historical research, performance reviews, recommending best practices and training, evaluating park management performance through measured results, providing open space master plan market research and implementation recommendations), should I:

1. Participate any longer in the Future Park and Open Spaces System task force created by the mayor in the attached reports to the Board of County Commissioners as a Park Foundation Board Member? I have been a Park Foundation board member (The Parks Foundation of Miami-Dade has a 30 year agreement approved by the BCC to serve as the fundraising arm of the parks department, in the same fashion as the Vizcayans, the Zoo Miami Foundation, the Deering Estate Foundation, etc.) since 2007 as the Parks Director and was asked to sit on the board upon retirement. The FAQs sheet on the "two-year rule" seems to allow former employees who "work for a government entity, 501(c) (3) non profit entity or educational institution" to lobby their former employers "on behalf of their employing entity." I am an unpaid volunteer board member of the Park foundation, not an employee. The task force described in the attached memo to the BCC is a work group that will produce a final report from the mayor to the board. As a representative of the Parks Foundation in the task force process I would advocate on behalf of the Foundation for a dedicated or at least an increased funding level for the Parks Department. Might this pose a conflict?
2. Just to take it a step further, if in the future the Parks Foundation Board decides to actively advocate for additional funding for the Parks Department through the budget process and including potential meetings with elected officials, would it be considered a conflict if I, as a volunteer Parks Foundation Board member, appeared before the BCC or accompanied other Park Foundation Board members to meet individually with Commissioners, in light of the two-year rule?

Call me on the cell, 305-801-2641 if any questions--thanks!

Jack Kardys

jckardys@aol.com

-----Original Message-----

From: jckardys <jckardys@aol.com>
To: george.navarrete <george.navarrete@miamidade.gov>
Sent: Mon, Mar 27, 2017 10:31 am
Subject: Fwd: opinion

Hope we can get together Wednesday. I attached some of what we can talk about:

1. The COE opinion Kevin Kirwin got for us on Asher's work for PROS Consulting (Leon)
2. Below is my communication with COE after our discussion last Tuesday—it was about the task force participation primarily since the Asher opinion seemed to cover the rest, and I followed up after our Thursday discussion and am waiting to hear back.
3. The rest of the attachments are from the ISD selection process on line.

Talk soon.

Jack Kardys

jckardys@aol.com

-----Original Message-----

From: jckardys <jckardys@aol.com>
To: Michael.murawski <Michael.murawski@miamidade.gov>
Sent: Fri, Mar 24, 2017 12:28 pm
Subject: Re: Future Parks and Open Spaces Systems task force and the 2-year rule

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Jack Kardys

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From: jckardys <jckardys@aol.com>
To: Michael.murawski <Michael.murawski@miamidade.gov>
Sent: Wed, Mar 22, 2017 9:53 am
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1. Participate any longer in the Future Park and Open Spaces System task force created by the mayor in the attached reports to the Board of County Commissioners as a Park Foundation Board Member? I have been a Park Foundation board member (The Parks Foundation of Miami-Dade has a 30 year agreement approved by the BCC to serve as the fundraising arm of the parks department, in the same fashion as the Vizcayans, the Zoo Miami Foundation, the Deering Estate Foundation, etc.) since 2007 as the Parks Director and was asked to sit on the board upon retirement. The FAQs sheet on the "two-year rule" seems to allow former employees who "work

for a government entity, 501(c) (3) non profit entity or educational institution" to lobby their former employers "on behalf of their employing entity." I am an unpaid volunteer board member of the Park foundation, not an employee. The task force described in the attached memo to the BCC is a work group that will produce a final report from the mayor to the board. As a representative of the Parks Foundation in the task force process I would advocate on behalf of the Foundation for a dedicated or at least an increased funding level for the Parks Department. Might this pose a conflict?

2. Just to take it a step further, if in the future the Parks Foundation Board decides to actively advocate for additional funding for the Parks Department through the budget process and including potential meetings with elected officials, would it be considered a conflict if I, as a volunteer Parks Foundation Board member, appeared before the BCC or accompanied other Park Foundation Board members to meet individually with Commissioners, in light of the two-year rule?

Call me on the cell, 305-801-2641 if any questions--thanks!

Jack Kardys

jckardys@aol.com

Attached Message

From	Kirwin, Kevin (MDPR) < Kirwin@miamidade.gov >
To	Kardys, Jack (MDPR) < Jack.Kardys@miamidade.gov >; Navarrete, George (MDPR) < George.Navarrete@miamidade.gov >
Subject	Fwd: Kevin Kirwin, Ethics Opinion (two-year rule, post employment restrictions) INQ 14-184
Date	Thu, 31 Jul 2014 14:28:31 +0000

FYI

Sent from my iPhone

Begin forwarded message:

From: "Diaz-Greco, Gilma M. (COE)" <GDIAZGR@miamidade.gov>
To: "Kirwin, Kevin (MDPR)" <Kirwin@miamidade.gov>
Cc: "Centorino, Joseph (COE)" <CENTORI@miamidade.gov>
Subject: Kevin Kirwin, Ethics Opinion (two-year rule, post employment restrictions) INQ 14-184

Dear Mr. Kirwin:

You have inquired about post-employment restrictions for a retiring Miami-Dade Parks Recreation and Open Spaces Department (MDPR) employee that will be working for a County vendor.

Generally the County Ethics Code at Sec. 2-11.1 (q)(1) does not prohibit former County employees from working for a County vendor, but it does prohibit them from engaging in a broad range of activities related to lobbying the County.

Please note that lobbying activities described in the post-employment ordinance are more expansive than those found under the general lobbying ordinance. Whereas the general lobbying ordinance characterizes lobbying as advocating for items that will foreseeably be decided or recommended by any County commission, County board or the County Mayor, the post-employment ordinance makes no such limiting connection to matters that will foreseeably be brought before voting bodies or the County Mayor. Consequently, advocating for decisions that may be made at the sole discretion of any County personnel, not necessarily a voting body or Mayor, are prohibited under the post-employment ordinance.

Based on our conversation regarding the work that the former County employee will be performing, the following are some examples of activities that are not considered lobbying for purposes of the two-year rule:

- reviewing construction documents for constructability
- imparting institutional knowledge and history of the capital improvement program to team members.

- providing support staff to the County through the former employee's private employer and partners, as long as the former employee does not attempt to influence County officers or personnel regarding the terms of this arrangement
- developing and executing a program to encourage public input
- identifying expert witnesses and others to assist with reviewing claims and litigation matters
- estimating costs, as long as the former County employee has no involvement with County officers and staff directly, through face-to-face meetings, telephone calls, emails, or other communications, in negotiating changes for any purpose, including negotiating change orders.

I have attached previous Ethic Commission opinions RQO 04-33, RQO 12-09 and INQ 13-197 on post-employment restrictions which address this issue in detail.

This opinion is based on the facts presented, if these facts change please contact us.
Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney

[cid:[image001.png@01CEE470.722F0FC0](#)]

Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
gdiazgr@miamidade.gov<<http://www.miamidadeethics.com/>>
www.facebook.com/MiamiDadeEthics<<http://www.facebook.com/MiamiDadeEthics>>

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From: Murawski, Michael P. (COE)
Sent: Monday, July 28, 2014 9:52 AM
To: Kirwin, Kevin (MDPR)
Cc: Diaz-Greco, Gilma M. (COE); Ramos, Miriam S. (COE)
Subject: FW: IMPORTANT CORRECTION - Asher
Importance: High

From: Kirwin, Kevin (MDPR)
Sent: Sunday, July 27, 2014 7:16 PM
To: Murawski, Michael P. (COE)
Subject: RE: IMPORTANT CORRECTION - Asher

Need to catch up with you tomorrow on this – Kevin Asher served on the selection panel for a consultant that is going to hire him to work on some projects that he was working on for us before he retired. Let know i can give you a call. Thanks

From: Murawski, Michael P. (COE)
Sent: Monday, July 21, 2014 9:30 AM
To: Kirwin, Kevin (MDPR)
Subject: RE: IMPORTANT CORRECTION - Asher

Im in the office, call me at 305-350-0609 whenever you can

From: Kirwin, Kevin (MDPR)
Sent: Monday, July 21, 2014 7:07 AM

To: Murawski, Michael P. (COE)
Subject: RE: IMPORTANT CORRECTION - Asher

Can I call you now on the cell?

From: Murawski, Michael P. (COE)
Sent: Monday, July 21, 2014 7:06 AM
To: Kirwin, Kevin (MDPR)
Subject: Re: IMPORTANT CORRECTION - Asher

Will do

Sent on my iPhone

Kevin:

I'm forwarding your e-mail to our Staff attorney. Mimi Diaz-Greco to give you guys an opinion about this situation

On Jul 21, 2014, at 6:43 AM, "Kirwin, Kevin (MDPR)"
<Kirwin@miamidade.gov<<mailto:Kirwin@miamidade.gov>>> wrote:
This is what I was talking about the other day. Can you call me after 10am please. thanks

From: Navarrete, George (MDPR)
Sent: Monday, July 14, 2014 3:54 PM
To: Kardys, Jack (MDPR)
Subject: IMPORTANT CORRECTION - Asher

Evidently, Asher was on the selection committee that selected all three consultants, including PROS Consulting.

From: Navarrete, George (MDPR)
Sent: Monday, July 14, 2014 3:10 PM
To: Kardys, Jack (MDPR)
Subject: Asher

Is it permissible to issue a Service Order to a consultant under an existing contract with the Department, knowing that that consultant will hire a recently retired Department employee to work on that Service Order? The retired employee left in good standing and was not involved in the selection of said consultant. The services of the retired employee are needed to finalized much-needed work assignments in the Department previously headed by the employee.

George Navarrete
Deputy Director
Miami-Dade Parks, Recreation and Open Spaces Department
305-755-7877
Cell:786-229-2034