

Meyers, Robert (COE)

FNO 06-93

From: Meyers, Robert (COE)
Sent: Monday, June 26, 2006 4:07 PM
To: 'Menendez, Maria'
Subject: RE: need clarification - second request

Ms. Menendez,

After pulling the ordinance that created the Budget and Finance Committee and reviewing its responsibilities, I am convinced these committee members must file financial disclosure forms. The fact that the committee was scheduled to expire on October 1, 2005 is not a persuasive argument for finding it is an ad hoc committee.

If you have any additional questions, please do not hesitate to contact me.

Thank you,

Robert Meyers

From: Menendez, Maria [mailto:MMenendez@cityofsouthmiami.net]
Sent: Monday, June 26, 2006 9:20 AM
To: Meyers, Robert (COE)
Subject: RE: need clarification - second request

Good Morning Mr. Meyers,

Was this email intended for me?

Maria M. Menendez

From: Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]
Sent: Monday, June 26, 2006 9:08 AM
To: Menendez, Maria
Subject: RE: need clarification - second request

Hi Victoria,

No meeting today due to lack of quorum. Let's discuss this request.

Thanks,

Robert

From: Menendez, Maria [mailto:MMenendez@cityofsouthmiami.net]
Sent: Friday, June 23, 2006 2:34 PM
To: Meyers, Robert (COE)
Subject: RE: need clarification - second request

The Budget and Finance Committee was created by ordinance and the terms of the members expire on October 1st. This is done every year, and each year the Commission appoints a new set of members. I am not sure if that could be called ad hoc committee.

6/26/2006

From: Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]
Sent: Friday, June 23, 2006 2:27 PM
To: Menendez, Maria
Subject: RE: need clarification - second request

The fact that it is called a committee as opposed to a board is not the crucial factor. More importantly, what are the functions of this committee and how was this committee created? I understand that it is activated during budget season, which seems to make it an ongoing committee, rather than an ad hoc committee. If it were clearly an ad hoc committee, I would conclude that its members would not have to file.

Robert Meyers

From: Menendez, Maria [mailto:MMenendez@cityofsouthmiami.net]
Sent: Friday, June 23, 2006 11:31 AM
To: Meyers, Robert (COE)
Subject: RE: need clarification - second request

Thank you so much Mr. Meyers. But again, what about the argument that a committee member does not need to file because it is a committee and not a board?

From: Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]
Sent: Friday, June 23, 2006 11:24 AM
To: Menendez, Maria
Subject: RE: need clarification - second request

Ms. Menendez,

I referred this matter to our attorney and apparently she never got back to you. Your finance director and budget and committee members would have to file with the County. The County Code mandates that all department directors and all board members file (with a few exceptions for individuals sitting on certain boards). The simplest form to file is the Source of Income Statement, which requires filers to identify their major sources of income. The form is on our website and can be downloaded and copied. Our website address is www.miamidade.gov/ethics

If you have any other questions, do not hesitate to contact me.

Sincerely,

Robert Meyers, Executive Director
Miami-Dade Commission on Ethics and Public Trust

From: Menendez, Maria [mailto:MMenendez@cityofsouthmiami.net]
Sent: Friday, June 23, 2006 8:49 AM
To: Meyers, Robert (COE)
Subject: FW: need clarification - second request

Dear Mr. Meyers:

I sent a request for clarification yesterday to your office and I'm still waiting for a response. As you know, it is imperative for me to have this clarification since my office is responsible for informing who should file a financial disclosure.

My question is, whether a finance director or a budget and committee member would need to file the disclosure with the County. As you may read the response, they are not mandated to file with the State. However, they are advising me to double check with you about the County disclosure.

6/26/2006

Thank you for your prompt attention to this matter.

Sincerely,

Maria M. Menendez, CMC
City Clerk
6130 Sunset Drive
South Miami, FL 33143
(305) 663-6340
mmenendez@cityofsouthmiami.net
www.cityofsouthmiami.net

From: Menendez, Maria
Sent: Thursday, June 22, 2006 10:54 AM
To: 'ethics@miamidade.gov'
Subject: FW: need clarification

Below is the response from the State to my questions regarding the Financial Disclosure.

I now need clarification from you, whether these people would be required to file with the County.

Thank you for your assistance,

Sincerely,

Maria M. Menendez, CMC
City Clerk
6130 Sunset Drive
South Miami, FL 33143
(305) 663-6340
mmenendez@cityofsouthmiami.net
www.cityofsouthmiami.net

From: disclosure [mailto:disclosure@leg.state.fl.us]
Sent: Thursday, June 22, 2006 10:42 AM
To: Menendez, Maria
Subject: RE: need clarification

Ms. Menendez,

We currently do not have a "Budget and Finance Committee" on the list as required to file for the City of South Miami. Per our Attorney, Julie Costas, the Committee does not sound like any of the listed "local officers" in F.S.112.3145. Unless there is a local option/ordinance that requires them to file, I don't believe they should be required to file.

Since this is in Dade County, there may be some requirement that they file with the Miami-Dade Ethics Commission, however.

As for the Finance Director, if he does not meet the definition of "purchasing agent" with authority to purchase \$15,000 then he shouldn't be on the list either. There may be some confusion with "specified state employees" because that portion of the statute does list "business managers, . . . finance and accounting directors," etc. Again, he may have to file locally, however.

6/26/2006

If you have any questions or need further assistance, please do not hesitate to contact our office.

Kimberly R. Holmes
Program Specialist/Financial Disclosure Unit
Commission on Ethics
P.O. Drawer 15709
Tallahassee, FL 32317-5709
Telephone: (850) 488-7864
Fax: (850) 488-9657

From: Menendez, Maria [mailto:MMenendez@cityofsouthmiami.net]
Sent: Thursday, June 22, 2006 8:14 AM
To: disclosure
Subject: need clarification

Shirley,

I have a couple of questions regarding the Financial Disclosure.

1. A member of the Budget and Finance Committee (Committee which is activated every year around the budget cycle), came to me saying that she does not need to submit the form because of the fact that it is a committee vs. a board.
2. The other question that I have concerns the Finance Director. The officer is under the assumption that because under our Charter any purchase above \$5,000 has to be approved by the Commission that the Finance Director does not need to submit the form. (I read the instructions and I don't see any reference to a finance director, but I am still in doubt)

Thank you for your assistance,

Sincerely,

Maria M. Menendez, CMC
City Clerk
6130 Sunset Drive
South Miami, FL 33143
(305) 663-6340
mmenendez@cityofsouthmiami.net
www.cityofsouthmiami.net

6/26/2006

MEMO

TO: Robert Meyers

FROM: Victoria Frigo

DATE: June 26, 2006

RE: Financial Disclosure applicability to South Miami Budget and Finance Committee

1. How established:

The Budget and Finance Committee is established under the South Miami Code at §2-26.8. The members are appointed by the city mayor to review the city's budget and financial investments.

2. Ad hoc?

According to the code, the term of office appears to **sunset** on Oct. 1, 2005.

3. To whom does the committee report?

The city commission.

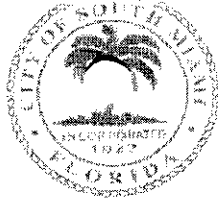
4. Committee Minutes:

In the Committee's minutes of Jan. 9, 2003, (the late) Earl Gallop made remarks about the Sunshine Law and "Acting City Manager Sandy Youkilis made comments to the members on the requirements of the State of Florida pertaining to Financial Disclosure Form."

5. State precedent?

State law is not helpful in this area because state advisory board members are not required to file financial disclosure statements if the entities below a certain budget and are—

solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations. Fla. Stat. 112.312 (2005).



CITY OF SOUTH MIAMI BUDGET AND FINANCE REVIEW COMMITTEE MINUTES

January 9, 2003

CALL TO ORDER:

The South Miami Budget and Finance Review Committee met in regular session on Thursday, January 9, 2003 beginning at 5:30 p.m., in the City Commission Chambers, 6130 Sunset Drive.

1. ROLL CALL:

The following members of the Budget and Finance Review Board were present: Cathy McCann, Daniel Rivera, Levy Kelly, Dick Ward, Valerie Newman, Mark Radosevich, George Greene, Anthony S. Hussain, and Craig Z. Sherar.

Also in attendance were: Acting City Manager Sandy Youkilis, Finance Director Hakeem K. Oshikoya, and Assistant City Manager Orlando Martinez.

2. WELCOME REMARKS:

Mayor Horace Feliu and Commissioner Dan McCrea made separate remarks, in the absence of each other, to welcome the Committee members and expressed the importance of the Committee in assisting the City to find solutions to its current budget woes. Commissioner McCrea distributed a proposed resolution on the schedule of work the Committee will be doing, and asked them to review and comment on it. The Committee agreed to act on it at the next meeting.

City Attorney Earl Gallop also made remarks to welcome the members and provided them overview of the State of Florida Sunshine law including penalty for violations, rights of members of public to request records, and conflict of interest provisions.

Acting City Manager Sandy Youkilis made comments to the members on the requirements of the State of Florida pertaining to Financial Disclosure form.

ITEMS FOR THE BOARD'S CONSIDERATION:

3. ELECTION OF OFFICERS

Chairperson

Mr. Ward made a motion to nominate Ms. McCann as the Chairperson, seconded by Mr. Kelly and Mr. Radosevich.

There being no opposition, the motion passed unanimously.

Vice Chairperson

Mr. Sherar motioned for Mr. Radosevich to be Vice Chairperson; it was seconded by Mr. Rivera.

Motion was approved unanimously by members.

4. DISTRIBUTION OF REPORTS

Finance Director Hakeem Oshikoya distributed financial reports on last year financial activities and the ongoing fiscal year to the members. He also distributed a report on current financial issues facing the City. It was received by members for future review and discussion.

Mr. Radosevich distributed a sample vision and mission statements to the Committee. Members agreed to act on it at the next meeting.

5. SCHEDULING OF NEXT MEETING

Members voted unanimously to meet again at 7:30 pm on Thursday January 16, 2003, and postpone discussion of future meeting dates till the next meeting.

6. ADJOURNEMENT

The meeting was adjourned at 8:30 pm

Sec. 2-26.8. Budget and finance committee.

(a) *Name.* There is hereby created a budget and finance committee. The committee shall consist of no more than five (5) members.

(b) *Purpose.* The purpose of the committee is to provide advice and recommendations to the city commission regarding the adoption and implementation of financially sound annual budgets and investment policies. To accomplish this purpose, the committee is charged with reviewing and evaluating the draft proposed budget, the city's investments, employee pension and other retirement accounts examining ways to preserve existing revenue sources and exploring additional funding sources; giving advice to the city commission on projected earnings of investments and desirable or necessary further investments, revenue, expenditures and strategic planning (which includes analyzing existing service levels and determining sufficiency and appropriateness). The committee shall also review the annual comprehensive audit report.

(c) *Membership, terms.* Members of the committee shall be appointed by the mayor as provided for by the City Charter. The mayor shall attempt to include representatives of the local business community, residents and accounting and finance experts in the membership of the committee. Membership may include persons representing other groups or professions. The initial appointments to the committee shall be for a term that expires on October 1, 2005. Appointments to fill any vacancy on the committee will be for the unexpired term. The city manager or designee may serve as an ex officio member of the committee.

(d) *Meetings, quorum.* Regularly scheduled meetings shall be held at least quarterly at city hall at a convenient time to be decided by the committee members. The members may change the place and time of a particular meeting by motion and a vote of the majority of members present at a regularly scheduled meeting. A majority of the members in good standing shall constitute a quorum necessary to hold meetings and take action. Additional special meetings may be scheduled and notice shall be given, as provided in the City Code for special meetings of the city commission; provided, however, that scheduling special meetings shall require the vote or written request of a majority of the members. The committee shall appoint a chairperson and a vice chairperson. The chairperson shall conduct all meetings. In the absence of the chairperson, the vice chairperson shall conduct the meeting. All meetings shall be properly noticed, open to the public and minutes shall be kept by recording and in written form. Members shall serve without compensation.

(e) *Administrative assistance.* The city manager or designee shall provide the committee members with copies of quarterly and annual financial reports for the general budget and retirement accounts as soon as they are available following the close of the quarter and the fiscal year. The annual audit report and the proposed budget shall be delivered to the committee members not later than the date they are delivered to the city commissioners. The city manager or designee shall provide assistance to the committee, provided that all requests are submitted in writing. Should the city manager find any committee request for information or assistance unreasonable or disruptive to the normal operations of the city, the city manager may deny the request, providing to the committee written grounds for the denial. The committee may, upon a majority vote, appeal the city manager's denial to the city commission.

(f) *Reports.* The committee shall prepare a report of its budget and finance review to the city commission at or before the first public hearing in accordance with subparagraph 1(b).

(g) *Sunshine laws.* All meetings of the committee and of any two or more persons appointed to the committee are subject to the Florida Sunshine Law requirements for notice and public meeting. All documents, including email communications, prepared by the committee or a committee member are public records.

(Ord. No. 1760, § 1, 10-16-01; Ord. No. 1783, §§ 1, 2, 12-3-02; Ord. No. 1815, §§ 1, 2, 7-20-04)