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ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

February 10, 2004

The Honorable Myron Rosner
City of North Miami Beach
7011 NE 19th Avenue
North Miami Beach, FL 33162

RE: REQUEST FOR OPINION

Dear Commissioner Rosner:

You requested an opinion regarding possible conflicts of interest related to your participation in and vote on the contract award to your former political consultant. According to your letter, the City of North Miami Beach may consider hiring the same political consultant whom you hired to manage your campaign for City Council in 2003 to now manage the City's annexation advocacy campaign.

Under the Conflict of Interest and Code of Ethics Ordinance, you are not prohibited from participating in or voting on the contract award to hire your former political consultant. Section 2-11.1 (d) "*Further prohibition on transacting business with the County,*" provides,

Additionally, no person included in the term defined in subsection (b) (1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary... or if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in subsection (b)(1) who has

any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the Commission meeting during the discussion of the subject item and shall not vote or participate in any way in said matter.

Presently, you do not have any of the enumerated relationships with the political consultant, nor do the facts indicate that the hiring of that consultant would affect you in a unique or distinct manner.

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", with a long horizontal line extending to the right.

ROBERT MEYERS
Executive Director



February 9, 2004

The Honorable Myron Rosner
17011 N.E. 19th Avenue
North Miami Beach, FL 33162

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Dear Councilman Rosner:

I am in receipt of your letter dated February 3, 2004 and I have had the opportunity to consult with Howard Lenard regarding your request for opinion. After careful review, I conclude that the questions presented in the letter are outside of our jurisdiction, with one exception. Our office will issue you an opinion with respect to the voting conflict question involving a political consultant whom you retained during your campaign who is now under consideration to handle the City's annexation advocacy plan. Specifically, whether or not you are permitted to participate in the discussions and vote on the contract award to your former political consultant. I should be able to provide you with a written opinion by the end of this week. Regarding the other issues, I suggest you seek an opinion from the City Attorney and follow the relevant Attorney General Opinion, which you cite in your letter of February 3rd.

If you wish to discuss the above with me in greater detail, please feel free to contact me at your convenience.

Sincerely,

Robert Meyers

cc: Howard Lenard, Esq., City Attorney



City of North Miami Beach, Florida

COUNCILMAN MYRON ROSNER

February 3, 2004

Mr. Robert Meyers, Executive Director
Miami Dade County Ethics Commission
19 West Flagler Street, Suite 207
Miami, FL 33130

RE: Request for a Written Opinion

Dear Mr. Meyers:

May I respectfully call on the Commission for its opinion regarding a matter of concern in North Miami Beach? The matter involves the annexation of an unincorporated enclave, including more than 250 electors, that is surrounded by the City. A neighborhood association that includes homeowners within the enclave has received approval from the County to circulate a petition requesting an election for annexation into the City, and has requested the City's assistance. If my understanding of the attached Attorney General's opinions is correct, the City may act as an advocate for the annexation of the unincorporated enclave if it believes that such annexation would be in the best interest of the City. Following are the questions I request that you consider:

In light of recent news reports that the Commission's staff is probing the conduct of the City of Miami's expenditures on "advocacy" issues, in an abundance of caution, I am requesting your assistance and guidance on what "types" of expenditures a City may utilize? For example, would it be permissible for such advocacy, assuming approval in an acceptable manner, to include a City-funded table for collecting signatures near the polling places during an election (March 9th)? Would it be permissible for such advocacy to include the hiring of a political consultant to manage the advocacy campaign? Will there be any conflict of interest if the political consultant the City hires to manage the annexation advocacy is the same consultant I used to manage my successful campaign for election to the City Council in May of 2003? Is the City best advised to follow the ruling of Attorney General opinion #74-227 (attached), which permits City contributions to an independent committee (with appropriate auditing) to conduct the campaigns?

Thank you in advance for your guidance and prompt attention to these matters, since time is of the essence.

Sincerely,

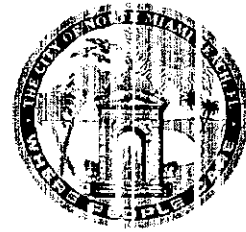


Councilman Myron Rosner

cc: Mayor and City Council
City Attorney
City Manager
City Clerk

CITY OF NORTH MIAMI BEACH
17011 NE 19TH AVENUE
NORTH MIAMI BEACH, FL 33162

TELEPHONE: (305)948-2900



FAX TRANSMISSION

City Manager's Office

TO: ROBT. MEYERS FROM: COUNCILMAN ROSNER

COMMISSION
COMPANY: ON ETHICS COMPANY: CITY OF NORTH MIAMI BEACH

FAX NO: (305) 579-0273 FAX NO: (305) 957-3602

NUMBER OF PAGES INCLUDING TRANSMISSION: 2

MESSAGE SENT BY: SHERY DATE: 2-4-04

COMMENTS:

Should you have difficulty with this transmission, please call (305) 948-2900.