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Miami-Dade County Commission on Ethics and Public Trust

Memo

To: Mike Murawski, independent ethics advocate
Miriam Ramos, deputy advocate

From: Karl Ross, ethics investigator

Date: Dec. 6, 2011

Re: K11-009 Community Council Research Project (14 & 15)

Background: At the request of the Office of the Independent Advocate, a research project was assigned to all investigators in order to determine the following:

“The task is to research campaign contributions to [community council] members and their voting record and then compare the two. The idea is to render a report, similar to the credit card usage report we issued previously, pointing out existing issues and proposing better practices/legislative changes.”

Investigators were responsible for researching any such relationship as it might affect members of their assigned community councils, or in the case of this investigator – Community Council 14, also known as the Redland Community Council, and Community Council 15, also known as the South Bay Community Council. It was later decided the period of analysis should cover 2009, 2010 and 2011.

Methodology: The research project consisted of a review of public records available through the Miami-Dade County Planning & Zoning Department, which is the agency responsible for administering the county's 10 community councils, or Community Zoning Advisory Boards (CZABs). Each board consists of six members, five of whom are elected according to their residency in sub districts and a sixth member appointed by a Miami-Dade County Commissioner. The members serve four-year terms and, except for the appointed member, must run for office like other elected officials and file Campaign Treasurer's Reports (CTRs), available online through the

Elections Department. The CTRs for all of the elected members were reviewed, and their lists of donors – if any – were cross referenced to the names of zoning applicants, officers in related corporations and the names of any lobbyists registered in connection with those applications. A review of agenda items relating to each application yielded the names of individuals with an ownership interest in their respective applications. This information was contained in the Disclosure of Interest Form. Copies of these forms are included in the project file.

A further review was made of the county's Lobbyist Registration database, checking all applicants by principal in order to identify any lobbyists registered in connection with the zoning applications in question. The names of these lobbyists were also cross referenced to see if there was any correlation to campaign contributions and voting behavior on the part of the community council members. Spreadsheets were prepared identifying all stakeholders in the subject zoning applications (see file).

Findings: For **Community Council 14** (hereinafter "Council 14"), it was found that only one of the council members received campaign contributions during the 2008 and/or 2010 election cycles. Council 14's chairman, Curtis Lawrence, was a commission appointee. Vice Chair Patrice Michel was self-funded, as were fellow members Wilbur "Shortstop" Bell and Michael Rodriguez, records showed. An inquiry with the Elections Department further established that members Diane Coats-Davis and Neal Spencer were appointed to fill vacant seats on July 8, 2010.

Only Councilman Nehemiah Davis received campaign contributions. CTRs for Davis show that he raised a total of \$4,350 during the 2008 election cycle, including contributions from Century Homebuilders and its affiliates, the law firm Bercow Radell & Fernandez PA, and other business and real estate interests. A review of all zoning applications submitted before Council 14 for the period in question, however, failed to produce any applications linked to the individuals or entities making campaign contributions. It was therefore unnecessary to examine the voting record of Councilman Davis or other council members since no contributors could be linked to zoning applications coming before Council 14 for the years 2009, 2010 and 2011.

The analysis did show that 47 applications came before Council 14 during the period in question and that 40 of those applications were approved. Only four were denied, while two were deferred and one was withdrawn, according to records. It is worth noting that three of the four applications that were denied were submitted by individual property owners. The fourth was submitted by a business, Master Construction of South Florida LLC. None of the four applicants had retained lobbyists or zoning attorneys on behalf of their applications, according to records. A further review of the applications showed that they were rejected mainly because Council 14 members felt their proposed uses were incompatible with existing zoning. One application – submitted by Martiza Aguilar – was for an elderly living facility. A second – submitted by Bernardo & Maria Campuzano – was for a proposed soccer club with lighted fields and other amenities. A third was for the excavation of a proposed lake that planning officials said was tantamount to rock mining, and therefore prohibited.

And the fourth and final rejected application – submitted by Master Construction – was for a construction depot for the storage of materials and equipment that was rejected because it was incompatible with the surrounding agricultural parcels.

For **Community Council 15** (hereinafter “Council 15”), a review of CTRs for elected members revealed that each and every member was self-funded and did not receive contributions from applicants, businesses or other special interests. These include Chairwoman Marjorie Murillo, and council members Patricia Forbes, Gale Wimbley, Bobby Dell Stewart and Diane Richardson. Vice Chairman Paul Morrow was appointed to his seat. It is therefore not possible to attempt to correlate their individual voting behavior with campaign contributions – since there were none. It should further be noted that of the 19 zoning applications submitted to Council 15 during the years in question, 17 of those applications were approved, while the remaining two applications were deferred and none were denied or withdrawn.

It can be viewed as somewhat surprising no special interest money was invested in the campaigns for these council seats since most applications involved corporations, both large and small, and prominent developers and zoning attorneys. These include MD Holdings II, led by prominent South Dade developers Michael Latterner and Wayne Rosen; Waste Management of Florida Inc., a wholly owned subsidiary of the solid waste conglomerate Waste Management Inc.; Baptist Health South Florida, the largest private healthcare provider in the county; Cemex, a major cement and building materials maker that is traded on the New York Stock Exchange; and JP Morgan Chase, one of the nation’s largest chains of retail banks.

What’s more, an application submitted by Kimco Autofund LP was, in fact, submitted on behalf of Wal-mart Stores Inc., of Bentonville, Arkansas, to build a big box retail outlet in Cutler Ridge on SW 211th Street. It should be noted that Planning & Zoning staff recommended denying the application because it was deemed incompatible with planning guidelines for that area. The application was approved, nevertheless, at the Feb. 22, 2011, meeting. It should be further noted that no lobbyists appeared to be registered in connection with the Kimco Autofund LP application; however, this investigator attended that meeting and does recall that a team of experts and attorneys represented the application, including former Miami-Dade County Planning & Zoning Director Guillermo Olmedillo. Accordingly, it is recommended that a preliminary review be conducted to determine if lobbyist registration rules were met for this application as defined by the Miami-Dade ethics code. A review of lobbyist registrations by principal does show that Wal-mart Stores Inc. registered three individuals in early 2011 – including Olmedillo – but none in connection with the Kimco/ Wal-mart applications submitted for the review of Council 15. No registrations were found in connection with Kimco Autofund LP. A review of Olmedillo’s lobbyist registration records shows that he did register to lobby on behalf of Wal-mart, but for a proposed location on NW 163rd Street in North Miami.

One pattern that did emerge was that the national and international law firm of Holland & Knight, with Miami offices at 701 Brickell Avenue, represented four of the 19 applicants that came before Council 15 – compared to two of the 47 applicants that appeared before Council 14 during this same period of analysis. In each of the six instances, the applicants were successful in having their applications approved. It is surprising, therefore, that no campaign contributions were routed to any of the sitting council members. However, it should be noted that Holland & Knight was one of the entities identified in a COE investigation as having made unreported cash payments to Kentward Forbes, whose wife, Patricia, sits on Council 15 and who failed to report this income in her financial disclosure statements. Holland & Knight paid \$20,000 to corporations linked to the Forbes, raising questions as to whether the unreported payments were made in an attempt to influence zoning matters.

Conclusion: Due to a lack of relevant campaign contributions made on behalf of applicants or corporations or individuals with ties to applicants, it was not possible to conduct the requested analysis of voting behavior. The absence of any such campaign contributions would appear to be an anomaly, as development interests have been known to “bankroll” individuals, even at the community council level, who are expected to be supportive of their applications and other business interests. This has been seen repeatedly since the creation of the CZAB system more than a decade ago and, in a few instances, has led to criminal prosecution. The review did highlight other areas of concern, and provides the basis for possible future inquiry.

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