

# MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

## REPORT OF INVESTIGATION

#K12-049

Date Opened: 03/16/12

Date Closed: 04/03/12

Investigator: Sylvia Batista

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On March 15, 2012, the COE received an e-mail from Town of Medley Councilman Gerardo Silva, Jr. ("Silva"). In his e-mail Silva alleged that Town Attorney Michael Pizzi ("Pizzi") disregarded his request to place an item on the March 5, 2012 council meeting agenda that involved past directives given by the Council to Pizzi. Silva further stated in his e-mail that at the meeting when he inquired as to the reason his item had not been placed on the agenda, Pizzi's response was that he did not feel it was important.

The COE's issue relates to possible violations of the Conflict of Interest and Code of Ethics Ordinance Section 2-11.1(g) *Prohibition on exploitation of official position*.

### **Investigation:**

#### **3/22/12 – Interview of Lina Taboada, Town Clerk –**

Taboada was advised of the subject of the interview and rendered the following statement:

She has been the Clerk of the Town of Medley for 32 years. Taboada said that she recalled the request submitted by Silva and explained that all agenda items get passed by Pizzi, so she left it up to him to place the item on the agenda. She

explained that she thought Silva only wanted a report from Pizzi on pending items and was not concerned because any item that does not require a vote from council can be brought up during the Miscellaneous portion of the meeting. Taboada said she does not understand why Silva did not simply bring the item up himself at the meeting. She explained that for 32 years no councilmember has been denied the right to bring up any topic during Miscellaneous. She said that Silva has done it in the past.

### **3/22/12 – Interview of Michael Pizzi, Town Attorney –**

Pizzi was advised of the allegations raised against him by Silva and responded as follows:

He explained that after he received Silva's e-mail, which was some time in February, he e-mailed and called Silva to ask him to discuss what he wanted. Pizzi said that Silva did not respond to his e-mails or telephone calls. He said that when he spoke to the Clerk about Silva's request, he understood that Silva wanted a report on pending items, but he could not do it unless he talked to Silva. Pizzi said that Silva was not asking for the council to take action by voting on anything. Pizzi explained that Silva wanted to discuss every directive given to him. He said that in order to do that he would have to listen to every tape of every meeting for the past two (2) years. Pizzi said that no other council member has requested this. He said that Silva wanted a report from him but did not respond to his e-mails and telephone calls requesting clarification.

Pizzi explained that Silva consistently never meets with him and staff, never meets with him to discuss agenda items and never reads memos or documents that

he and his office send him. He advised that Silva comes to the council meetings not having read or met with him and then complains that he is not prepared. Pizzi said that the Mayor and councilpersons, with the exception of Silva, all meet with him prior to the meetings. He stated that it is a waste of resources for Silva to send him and his staff on a wild goose chase because he is not prepared.

Pizzi explained that the Town of Medley council has a liberal meeting policy—any councilmember can place an item under Miscellaneous. Nothing stopped Silva from asking for the report at the end of the meeting during Miscellaneous. Pizzi wondered why Silva did not add the item and request a report rather than send an e-mail to the COE.

#### **03/05/12 Town of Medley Regular Council meeting -**

This investigator reviewed the audio recording of the 3/5/12 regular council meeting and heard the following verbatim account of the comments made by Silva and Pizzi on the subject of Silva' complaint:

**Silva:** Ok I have one, Mayor I sent an e-mail to the Town Clerk on Feb. 16 to put an item on the agenda and it was not placed on the agenda, so I'd like to know why.

**Clerk:** You would have to ask the Town attorney on that.

**Pizzi:** I thought that the councilmember just wanted an update from me on all the pending items. I'd be happy to give him a memo if he wants it, I'd be happy to give him a memo tomorrow.<sup>1</sup>

**Silva:** Okay thank you.

#### **04/02/12 – Interview of Councilman Gerardo Silva –**

COE investigator spoke with Silva by telephone and informed him of the findings of our inquiry to date. Specifically, Silva was informed that the audio tape of the meeting did not support Silva's account of what Pizzi said. Silva explained that he thought that

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<sup>1</sup> Pizzi's actual response vastly deviates from Silva's account provided to the COE in his complaint.

was what he heard Pizzi say at the meeting. COE investigator reminded Silva that he can bring up items for discussion during the Miscellaneous portion of the meeting. Silva was advised that no further action will be taken by the COE on his complaint.

**04/03/12 – Re-interview of Michael Pizzi, Town Attorney –**

Pizzi contacted this investigator and advised that the Clerk and a staff member had spent two days going through every council meeting for the past two years in order to prepare the report requested by Silva. Pizzi added that Silva had forced the town to spend a substantial amount of its human resources on a project to gather information previously provided to Silva. He said that he would have preferred Silva asked regarding specific items instead. Pizzi advised that he made a resolution at last night's council meeting outlining the procedures for placing items on the agenda so that council can vote on it.

**Conclusion:**

This investigator did not find evidence that Pizzi's actions constitute a violation of the Conflict of Interest and Code of Ethics Ordinance. For this reason, no further action will be taken by the COE on this matter and the case is closed.