



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigators: Manuel Diaz and Breno Penichet

| | | | |
|---|---|-------------------|---------------------|
| Case No.: K13-126/ C13-030 | Case Name: Voting Conflict City of South Miami | Date Open: | Date Closed: |
| Complainant(s): Kenneth Harms | Subject(s): Bob Welsh Philip Stoddard | October 15, 2013 | October 29, 2013 |

Allegation(s):

Miami Dade-County resident Kenneth Harms (Harms) filed complaint C13-030, against Bob Welsh (Welsh), Commissioner for the City of South Miami (City), and Philip Stoddard (Stoddard), Mayor for the City of South Miami. Harms alleged that Stoddard and Welsh, while representing the City, in their respective roles as members of the City Council had a conflict of interest when they voted on an item relating to the firing of former Police Chief Orlando Martinez de Castro (Martinez de Castro).

In the complaint, Harms stated that at a special meeting of the commission, on August 14, 2013, Paul G. Totten, Attorney for Martinez de Castro, advised both parties that they should not vote on the matter before them because it would clearly be a conflict of interest, due to the fact that it would enhance their position in the upcoming tort action.

Relevant Ordinances:

Sec. 2-11.1(d), *Further prohibition on transacting business with the County*, Miami-Dade Conflict of Interest and Code of Ethics Ordinance:
 "...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 Commissioner if said perion 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 Commissioner: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder,

bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person...in a matter distinct from the manner in which it would affect the public generally...”

Investigation:

Interviews

Kenneth Harms
P.O. Box 432610
South Miami, FL 33243.
(305) 498-6878

On October 28, 2013, COE investigators M. Diaz and B. Penichet spoke to Harms via telephone regarding this matter. Harms advised that he was not present when the meeting took place, but provided the transcript of the proceeding. Harms advised that he felt Stoddard and Welsh should have recused themselves from the discussion and the vote because by affirming the resolution would have benefited Welsh in his official capacity and Stoddard in his individual capacity. Harms advised that he felt it would affirm the ruling that Martinez de Castro was acting in the capacity of City Manager, and thus negated his employment agreement. Harms also felt that it would also give the two parties an unfair advantage in the upcoming civil litigation.

Document/Audio/Video Review:

1. Original complaint C13-30
2. Transcript of special council meeting - COE Investigators reviewed the transcripts provided by Harms as part of the complaint. It was noted that Welsh asked the City Attorney before taking the vote if he could vote on the resolution. The City Attorney advised that there was no conflict and they could vote on the matter at hand.

Conclusion(s):

All of the above information was discussed with COE Advocate M. Murawski, it was determined the investigation did not reveal any evidence that Stoddard and Welsh profited, directly or indirectly by their vote or that either was enhanced by the same. Therefore, the instant case is closed and the Advocate will be recommending that the COE find No Probable Cause and dismiss C13-030.