



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case No: K13-131	Case Name: Ernesto Perez/ unregistered lobbying	Date Open:	
	Subject(s): Ernesto Perez	Oct. 22, 2013	

Allegation(s):

That former Dade Medical College (DMC) Pres. Ernesto A. Perez (Perez), on multiple occasions, engaged in unregistered lobbying in the City of Homestead (Homestead) by advocating on behalf of the expansion of DMC's campus at public meetings and private encounters with city officials.

Similar allegations were subsequently raised concerning activities in the City of Coral Gables (Coral Gables) by Perez and other representatives of DMC and an affiliate, University of Southernmost Florida, which was seeking permission to convert an office building for educational use.

Relevant Ordinances:

The Miami-Dade County Code of Ethics and Conflict of Interest Ordinance holds, in applicable part [Sec. 2-11.1(s)], that: "All lobbyist shall register with the [city clerk] within three (3) business days of being retained as a lobbyist or before engaging in any lobbying activities ..."

It further describes a lobbyist as: "All persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat or modification of (an) ordinance, resolution, action or decision of the [city council]; any action, decision or recommendation of [city] personnel during the time period of the entire decision-making process ..."

The City of Homestead also has a lobbyist ordinance, City Code Section 2-591. The city's ordinance is compatible with the county's ethics code in all material respects.

Investigation:

Interviews

Relevant sworn statements were taken from the Homestead City Manager George Gretsas (Gretsas), the Assistant City Manager David Hebert (Herbert) and the Community Redevelopment Agency Director, Enrico “Rick” Ammirato (Ammirato) in October 2012 in connection with a related investigation.

The relevant portions of those statements can be found in the statements themselves, which were transcribed by a court reporter and copies of which are in the case file.

With respect to Coral Gables, sworn statements were taken on March 13, 2014, from City Manager Pat Salerno (Salerno), Planning & Zoning Director Ramon Trias (Trias) and Development Services Director Jane Tompkins (Tompkins) regarding their interactions with DMC representatives. These were recorded by COE, and relevant portions of each are as follows:

Salerno advised that he has served as Coral Gables manager since April 2009, and that prior to that he was city manager of Sunrise for 18 years. He said he holds a Master’s Degree in Public Administration from Oklahoma University.

Salerno advised that DMC/Southernmost is in the process of seeking approval from Coral Gables to open classrooms on two floors of the Giralda Building, located at 2222 Ponce de Leon Boulevard. He said that the change in use from business to educational necessitated a complete review by the Planning and Zoning staff, including an analysis of whether sufficient parking is available for the intended use. He said that the parking issue has been a matter of controversy between DMC and Coral Gables. He said based on staff review of the application, it is staff’s position that DMC does not meet the requirement for number of parking spaces and is about 42 spaces short of the requirement. He noted Coral Gables did grant approval to use the fifth floor of the building for offices.

Salerno said that in early 2013, he was contacted by two individuals on behalf of DMC with respect to the parking space issue: Perez and Enrique Lopez (Lopez), an academic dean with the University of Southernmost Florida. He said Perez initiated a phone conversation lasting about 10 minutes during which Perez expressed his displeasure with Coral Gables’ reluctance to approve his company’s request for the change in use. He further indicated that he needed the matter resolved quickly as it was “costing him a lot of money.” He further advised that he wanted Coral Gables to approve the requested change “right away.”

Salerno further stated that when he explained to Perez that he had to follow the zoning ordinance and could not influence the sought-after approval, Perez responded that DMC “didn’t have to do this type of thing in other cities.” Salerno added: “I sensed he was unhappy with me. I think he was seeking approvals at that time. There was a sense I had that the delay was costing him money ... He indicated he would need to get his attorneys involved.”

Salerno stated that he did feel that he was being lobbied by Perez, and that Perez was seeking to influence Coral Gables’ review of DMC’s request for approvals for a use change.

Salerno said that in addition to his conversation with Perez, he also had numerous telephone conversations with Lopez. He said he had approximately five lengthy telephone calls with Lopez, who wanted him to intervene in the staff review process since Coral Gables staff had taken the position that DMC didn't have enough parking. He said DMC needed 42 additional spaces to comply with the zoning requirements. "He (Lopez) said the school needed to occupy its space quickly, that this should not be a big issue ... He wanted me to expedite it, clearly. To do whatever was in my power to resolve the issue."

Salerno went on to state Lopez sought to intimidate him by claiming Coral Gables had "made mistakes" with respect to the building in the past and suggested he would embarrass Coral Gables by revealing the alleged mistakes, saying "it wouldn't reflect positively on the City."

Salerno said he did feel that Lopez was attempting to lobby him, adding that he didn't look forward to his phone calls because he knew it would end with him telling Lopez that, as city manager, he had to follow the zoning code and could not bend the rules for him.

He added that the City still has not approved the requested change in usage for classrooms on the third floor, though approvals were granted for the fourth and fifth floors.

Jane Tompkins (Tompkins), director of Development Services for the City of Coral Gables, stated she spoke or corresponded by email with numerous DMC representatives, including Perez, Lopez, John Janeiro, Mario Garcia-Cera and Perry Adair.

Tompkins said that, as director of Development Services, she oversees three administrative functions for the City: (1) Code Enforcement, (2) Building Permits, and (3) Planning and Zoning. She said that Manny Lopez is the Building Official, an in-house position.

With respect to her education, Tompkins stated she has a B.A. in finance and an M.A. in urban planning from Iowa, and a law degree from Northern Illinois University.

Tompkins stated that DMC has had issues with two properties, one involving signage and another involving the conversation from business to educational use. She noted the Coral Gables did issue a permit for DMC to convert one of the two floors for educational use. She said no permit has been issued for the other floor due to a shortage of parking spaces (42).

Tompkins stated that on or about April 2013, she began to receive numerous phone calls and emails from DMC representatives, as well as letters and in-person meetings. "They wanted us to indicate they had sufficient parking, so that building permits could be issued." She said DMC representatives were insistent that they met City requirements. She stated that Lopez was her primary contact with DMC, at least in the early stages of the process.

Asked if she felt she had been lobbied by Lopez, Tompkins responded that she did believe that she was being lobbied. "I believe so," she said. "He was very persistent in his phone calls and emails." She said Lopez presented information intended to persuade her that DMC had enough parking and that, as a result, the Coral Gables should issue the requested permits and approvals.

Tompkins said that after she held firm that she could not override City staff, that Lopez made “what I would call veiled threats ... that he would go over my head to Pat Salerno or the elected officials.” She said she had at least three to four conversations with him in April and May, as well as at least one face-to-face meeting with Lopez and DMC attorneys.

Tompkins said the City still has not issued the permit for the second floor of classrooms, as a result of the parking issue and that DMC has still been unable to satisfy that requirement.

Ramon Trias (Trias), director of Planning and Zoning for Coral Gables, stated that he has served in this capacity since July 2012. He previously ran a private consulting firm.

Trias said he is lobbied frequently (90% of applicants, he said) and DMC was no exception. He said he has had such encounters with a number of DMC representatives, including DMC VP George Alvarez (Alvarez), Lopez (academic dean) and DMC attorney John Janeiro.

Trias said he dealt mainly with Alvarez as it related to the signage issue, and that as it related to the parking issue he dealt with Lopez, noting DMC was short 40 to 42 spaces, depending on the methodology used. He said that Lopez tried to persuade him the methodology used by City staff was flawed and that, for example, the City was double counting labs as “classroom stations” when, Lopez argued, the students from the classroom would be the same ones using the labs. He said Lopez would also argue about calculations for square footage, etc.

Trias said that Lopez represented to him that he was a dean at the college (Southernmost Florida) at the time he began to contact him about one year ago (early 2013). “He was trying to get the permit approved,” Trias said, noting that interior renovations are usually a simple matter but that, due to the proposed change in usage, a more comprehensive review had to be conducted by Planning and Zoning staff and issues soon emerged with parking.

Trias said that DMC required “an amazing amount of staff time” for such a minor project because they sent so many claims regarding parking availability – all of which had to be vetted and reviewed by City staff. He said that staff found their claims to be unsubstantiated. “Yes, he made his case ... He expressed some frustration. ... He was very persistent and insistent in his phone calls. He was trying to persuade me the college had resolved the parking ...”

Trias stated that he did feel that Lopez was lobbying him.

Document/Audio/Video Review:

On or about Nov. 12, a package of documentation was reviewed alleging as many as 20 counts of unregistered lobbying by former DMC Perez on behalf of DMC and its affiliate, Florida Education Center of Homestead. These included city emails, scheduling confirmations, public meeting agendas and minutes and lobbyist registration logs.

These incidents of alleged unregistered lobbying date from 2009 through 2013.

On March 12, 2014, copies of public records were obtained from Coral Gables regarding communication between DMC/Southernmost and City staff relating to the parking issue at the Giralda Complex building, at 2222 Ponce de Leon Blvd.

Conclusion(s):

A review of the available information consisting of public records and sworn statements supports the filing of a complaint for unregistered lobbying on the part of Perez for the years 2011, 2012, 2013.

Upon consultation with the Advocate, it was decided that a complaint should be filed against Perez for unregistered lobbying in 2011, 2012 and 2103. The Advocate will decide which of the individual acts of unregistered lobbying he wishes to include in the complaint.

With respect to the information concerning possible unregistered lobbying in Coral Gables, it would appear, based on the sworn statements of the city manager and staff, that Perez did engage in lobbying with respect to a proposed change of use for the Giralda Complex, and that another DMC/Southernmost representative, Lopez, also lobbied city staff.