



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Nilda Olmo/Breno Penichet

Case: K16-28	Case Name: Elvis Maldonado	<u>Date Opened:</u> June 6, 2016	CASE CLOSED
Complainant(s): Internal	Subject(s): Elvis Maldonado, Councilman-Homestead		

Date: 2/27/17

Allegation(s):

Elvis Maldonado (Maldonado), Councilman for Homestead, allegedly used the city issued vehicle (Tahoe) for personal business, even though he receives over \$900.00 monthly auto allowance to drive his personal vehicle while on city business.

Relevant Law:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance Sec.2-11.1
(g) *Exploitation of official position prohibited.* No person included in the terms defined in Subsection (b) (1) through (6) and (b) (13) shall use or attempt to use his or her official position to secure privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

Investigation:

Interviews

A newspaper article in the Miami Herald alleged that Maldonado improperly used a City Tahoe for personal use. In the course of the investigation, documents and records were reviewed that included the reservation or use of the Tahoe by Maldonado, his calendar and SunPass statements were reviewed and cross-referenced by COE staff.

As to the use of the Tahoe, the Mayor and Council as well as staff have access to the Tahoe, without provisions or sign-in sheets. In addition to using the Tahoe, Council members are given a monthly allowance of approximately \$950.00 towards the use of their personal vehicles for city business. Logs show Maldonado's use of the Tahoe is significantly higher than any other Council member. He advised that, unlike other Council members, he is involved with several committees that require him to travel outside of Homestead. Therefore, his use of the Tahoe is higher than the rest of the Council. He insisted he uses the Tahoe on city business. As per Maldonado, the vehicle is set aside for the Mayor and Council and their staff to share. Everyone has equal access.

Maldonado accompanied by his attorney, Juan Carlos Planas, met with Investigators Nilda Olmo and Breno Penichet on 12/06/2016, and provided the following information pertaining to the above mentioned allegations.

Maldonado stated that he might have used the Tahoe more than the rest of the Council but the city log does not really reflect an accurate count. He mentioned that just because one "reserves" the Tahoe, it does not mean that you actually used the vehicle. Furthermore, Maldonado indicated that he prefers to reserve the Tahoe in advance, therefore, notifying others of his intent to use the vehicle for either an upcoming meeting or event. By doing so, the Mayor and Council members can in turn respond, decline or accept the request in Outlook.

He noted calendar entries can also change due to cancellation or time change. If that happens the log might still reflect "reserve status"(under your name) even though you did not use the Tahoe. Additionally, the Mayor and Council have access to the keys of the Tahoe at any time, without having to sign the vehicle out. In fact, it is not uncommon to find an Outlook entry showing someone using the Tahoe, even though the person never ended up using it. In fact, anyone else can take possession of the Tahoe even though one's name appears on the entry because the person who originally made the request/reservation never modified the entry. The same inaccuracies seem to be apparent in the SunPass log statements. At times, toll records reflect the Tahoe in use and there is no reservation entry in Outlook.

Regarding the newspaper article, he stated that he does enjoy playing golf as a hobby and in fact did publish his score in the golf websites. However, there is no evidence that he actually used the Tahoe while at the golf course or at any non-city sponsored event.

Even though it appears that Maldonado did reserve or possibly used the Tahoe substantially more than the rest of the Council, there is no evidence that he used it for personal business (ie. golfing) or had actual possession of the Tahoe every time the log reflected a reservation in his name. COE staff inquired about four specific instances where the logs reflected a reservation made by Maldonado for the use of the Tahoe.

1. February 6, 2015
2. June 3, 2015
3. July 19, 2015
4. September 30, 2015

On the above mentioned dates, two golf websites (gamegolf.com and shotzoom) used to track golf scores and statistics, reflected Maldonado playing golf and posting his scores. Due to the lack of accountability and inaccuracy in the city log, we were unable to substantiate the use of the Tahoe during these instances

An internal investigation was never conducted even after the *Miami Herald* published an article on Maldonado and his use of the city car. Maldonado mentioned that although the Mayor and Council members had equal access to the Tahoe by either reserving or simply taking the keys, the article focused only on him.

COE staff inquired about policies or procedures in place for the use of the city's Tahoe; there are none. There is no written policy, rules, time sheets or sign out sheets for the Tahoe. Elizabeth Sewell, Clerk for the city of Homestead, provided a document showing the Outlook Tahoe reservation log for the Mayor and Council members, but there was no sign in sheet provided because none exists.

Furthermore, the Tahoe does not have a GPS tracking system which would be very beneficial not only for accountability but also to ensure safety.

Documents Review:

The following documents were reviewed by COE staff:

- Councilman Maldonado's Calendar
- Outlook Tahoe log
- SunPass Records for Tahoe
- City of Homestead Vehicle and Equipment Policy

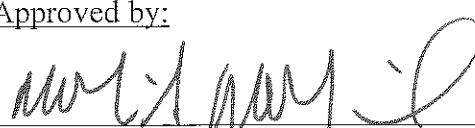
Conclusion:

The investigation determined that there is a total lack of accountability regarding the use of the City-owned Tahoe. In light of the fact that Councilmembers are provided with a substantial monthly car allowance to off-set the cost of automobile usage for City purposes, it makes no sense to provide unlimited access to a free vehicle for City Councilpersons or their staff. The lack of any accountability also invites abuses of the City property. It is recommended to the City Manager that he end the practice of allowing the use of such a City vehicle to continue. No amount of safeguards can be set in place to guarantee that the vehicle is not used for personal reasons by City officials or staff. This investigation has concluded that there is simply no good reason to provide Councilpersons with a monthly car allowance and provide for the usage of the City Tahoe, accordingly, the practice of allowing use of the Tahoe should be terminated. A copy of this report will be provided to the City Council and City Manager of the City of Homestead.

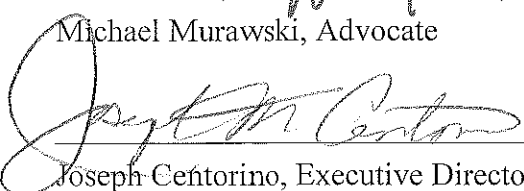


Nilda Olmo, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director

Date: 2/27/17