



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Nilda Olmo

Case: PI 17-34	Case Name: North Miami Officials	<u>Date Opened:</u> CASE	
Complainant(s): Dr. Hector Medina	Subject(s): Dr. Smith Joseph, Mayor of North Miami Carol Keys North Miami Councilwoman	CLOSED Date: <u>1/3/2018</u>	

Allegation(s):

Dr. Hector Medina (Medina) contacted the COE regarding several alleged ethics violations by City of North Miami Mayor Smith Joseph (Joseph) and Councilwoman Carol Keys (Keys). Medina met with this Investigator and COE Executive Director, Joseph Centorino, regarding the following allegations:

- (1) Medina stated that during the North Miami Mardi Gras event held in North Miami on 01/29/17, Joseph ordered the police and code enforcement officers not to address noise violations.
- (2) Medina alleged that Joseph used the North Miami Food Giveaway event on 05/05/17 to campaign and buy votes, prior to general North Miami elections taking place, the following Tuesday.
- (3) The third allegation was against Keys and stemmed from Keys voting on an amendment to the Land and Development Regulations (LDR's), citing a conflict of interest. Medina stated that "Key's purchase of property, and her voting on a contentious adoption of land and development regulations, that would effectively turn a residential block (she bought 2 lots) from residential to an industrial". Medina mentioned he was gathering video/written documentation to support his allegations against both officials*

*The evidence was never provided.

Relevant Law:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Sec. 2-11.1 (d)
Further prohibition on transacting business with the County.

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Sec. 2-11.1 (g)
Exploitation of official position prohibited.

Investigation:

Interviews

On Sunday, January 29, 2017, the City of North Miami held a Marti Gras celebration along NE 125th Street, between NE 6th Ave to 12th Ave. The event was scheduled from 1:00PM to 10:00PM, but due to delays caused by rain and cold weather, the event extended past midnight. The event included a street parade, food, live bands, music trucks, street dancing and a concert by several artists. The City estimated an attendance of over 12,000 people.

Witnesses were interviewed regarding the allegations and provided the following information:

**Dr. Smith Joseph
Mayor, City of North Miami**

Joseph was interviewed and denied any and all the allegations brought forth by Medina. He stated that he never contacted police/code enforcements officers any time prior, during or after the event, regarding ignoring noise violations. He stated the event extended longer than anticipated due to several delays and weather condition. Joseph clarified that Code Enforcement Compliance Unit hours are Monday to Friday from approximately 8:00am to 4:00pm, not on weekends (event held on a Sunday).

As to the allegations regarding the food distribution event, Joseph stated the City sponsors several food distributions and other events throughout the year. This event was not different and happened to fall the week prior to their general elections on 05/09/17 (Joseph was one of the candidates for Mayor, as was Medina).

Joseph stated that the event was sponsored by the City along with Farm Share and Share Your Heart. Prior to the event, he signed a Farm Share document stating that he was in compliance with Federal and State laws and was aware and familiar with the rules and regulations therein. Furthermore, he referred this investigator to contact the "Share Your Heart" Coordinator for any questions or concerns regarding his participation in the event.

Joseph mentioned that he was present during the food distribution event and recalled an incident with a North Miami Mayoral candidate passing out candidacy paraphernalia. The information provided by Joseph regarding the food distribution event was verified by Rolando Gonzalez, Executive Director, Victory for Youth/Share your Heart

Donald Blanchard
Major, City of North Miami Police Department, Code Enforcement

Blanchard was interviewed and stated the Code Enforcement unit works "Banker hours", approximately from 7:30am to 4:00 pm., Monday to Friday. There is a late shift on a rotating basis, and scheduled Code officers work until approximately 6:30pm, on that particular shift. Blanchard stated he was not working the Sunday of the Mardi Gras event. He assured this investigator that Joseph never contacted him or approached him regarding noise violations or noise complaints stemming from the event.

Larry Juriga
Interim Police Chief, City of North Miami

Juriga was interviewed regarding the allegations and recalled that the City-sponsored event ran late due to weather conditions. Therefore, the event hours were extended past 10:00PM, as originally planned. Any incidents or complaints were handled in accordance with procedure. Juriga assured he was never approached, contacted or ordered by Joseph to ignore noise violations/complaints during the Mardi Gras event.

Neal Cuevas
Assistant Chief, North Miami Police Department

Cuevas stated that, from the Executive Command Staff to the Support Unit, everyone was very much involved and cooperated with the department. There was high police presence to ensure a successful event. Issues were resolved following rules and regulations as with any other event and this event, although significantly larger, was no exception.

Cuevas recalled speaking to Joseph and Councilman Bien-Aime during the event, but there was no mention, insinuation or orders given by Joseph to ignore noise violations.

Regarding the food distribution event, Cuevas stated that he recalled the incident with Medina and the coordinator of the event requesting assistance due to Medina's disruptive behavior by going up to the line and distributing political campaign paraphernalia, when the focus of the charitable event was to assist those in need by providing them with the free food. Cuevas stated he instructed one of his officers to assist in "moving him along." Furthermore, Cuevas mentioned photographs or promotional photographs might have captured the incident with Medina.

Kessler Brooks,
Sergeant, North Miami Police Department

Kessler was interviewed and recalled receiving a directive from Cuevas regarding a disturbance during the food drive. He was informed that an individual was approaching those waiting in the food distribution line and handing out his political campaign cards/flyers, disrupting the event.

Brooks approached Medina who was on the sidewalk by the distribution line but he did not observe Medina handing out any cards/flyers. As per Brooks, Medina denied disturbing the event in any way and mentioned he was not on private property and was simply greeting some of the people he knew in the line.

Brooks stated to this investigator that he disagreed with Cuevas's directives and felt it was not a lawful order. He felt that, under the law, he did not have the right to remove Medina since he was not breaking any laws and had the right to be on a public sidewalk.

Rolando Gonzalez
Executive Director, Victory for Youth/Share Your Heart

Gonzalez is the Executive Director of "Share your Heart", a non-profit organization committed to assisting children and families that are abandoned, abused or neglected. They collaborate with corporate, faith-based communities and community partners (Federal, State and local) to assist communities in need.

On 05/05/17, Share your Heart in cooperation with the US Department of Agriculture and Farm Share,¹ sponsored a food distribution event in North Miami. Gonzalez was interviewed regarding the allegations. Gonzalez stated that both organizations have to abide by strict Federal and State laws and prior to any event. Farm Share requires that participants sign a State compliance document. Farm Share, in conjunction with Share Your Heart, decided on a date mutually convenient to both, and in no way was the date decided by Joseph. When questioned about the allegations, Gonzalez asserted that it was a coincidence that the event took place days before the North Miami general elections on 05/09/17.

Gonzalez stated that he has been working with North Miami and setting up charitable distribution events for the City for approximately three years. He mentioned that, although he has organized numerous events throughout the years, he recalls this particular food distribution vividly due to an incident involving a gentleman making a scene and handing out his political campaign paraphernalia to those waiting at the food distribution line.

Gonzalez stated that he approached the man and identified himself as the event coordinator. He told him he was not permitted to distribute political campaign material and advised him the event was not politically affiliated and the sole purpose was to feed the needy. After several warnings, according to Gonzalez, he requested police assistance and the gentleman was told not to disrupt the event.

¹ Farm Share's mission is to alleviate hunger and malnutrition by recovering and distributing fresh and nutritious food to those who need it most. Farm Share is working to alleviate hunger and malnutrition by recovering and distributing fresh and nutritious food to those who need it most. Farm Share provides food to hundreds of non-profit organizations. Farm Share distributes more than 6 million household food packages – totaling 40 million pounds of food – each year to Florida families in need. More than 15 million pounds of fresh and nutritious fruits and vegetables are trucked each year to participating community groups throughout Florida. Established in 1991, Farm Share is a 501(c)(3) non-profit organization, dedicated to recovering, sorting, packing and distributing nutritious food for people in need. Farm Share administers a combination of USDA commodity programs and produce recovery operations.(Source: <http://farmshare.org/about-us/>).

Gonzalez explained that Farm Share has to abide by Federal/State laws when organizing an event, including food distributions, and underscored the importance of requiring elected officials or candidates for office to familiarize themselves with the rules and regulations and sign the compliance document.

Gonzalez was very cooperative and provided precise, detailed information as to the process and time involved in setting up a food distribution event. He also mentioned that Stephen Shelley, CEO for Farm Share, would be able to provide more information as well as a copy of the compliance document signed by Joseph.

**Stephen R. Shelley, Esq.
Chief Operating Officer, Farm Share**

Shelley was interviewed regarding the North Miami food distribution event in conjunction with Share Your Heart and the City of North Miami on 05/05/17, from 9:00am-12:pm. Shelley stated that they have been organizing events with the City on numerous occasions, throughout the years. This particular event was coordinated by Rolando Garcia from Share Your Heart.

Shelley mentioned that, prior to setting up any of their events, they make sure participating parties are in compliance with the U.S. Department of Agriculture/Federal laws. The compliance document outlines rules and regulations and notes additional State laws governing elected officials/candidates for office and their responsibilities. The document states that under Federal Law and as a tax exempt organization, Farm Share:

“May not participate or engage in any political campaign on behalf of or in opposition to any candidate for public office. Candidate for public office means any federal, state, or local public office.” (26 USC 501 (c)(3).”

Also, the document contains a section on the importance of following the rules and regulations, since any violation may result in penalties to Farm Share, from imposition of taxes and/or revoking its 501(c)(3) status, thereby preventing it from operating as a not-for-profit organization.

Shelley provided this investigator with a copy of the State compliance document² signed by Joseph on 05/04/17.

**Carol Keys, Esq.
Councilwoman, City of North Miami**

Keys was contacted and interviewed regarding the voting conflict allegations. Medina alleges that Keys voted to adopt the LDR's and change eight blocks (two of which she was in the process of purchasing) from “residential” to “industrial”. Keys provided documents showing the voting would not change the zoning map, but rather, the vote was to conform to the

² Rules and Regulations Regarding Political Activities at Farm Share Distribution Events document.

existing zoning ordinances in the City.

Keys stated that on 06/27/17, the Council voted to approve the LDR's, including the revised zoning map, and on second hearing held on 07/11/17, the Council once again voted 4-0 to approve the LDR's, including the map.

Keys provided this investigator with excerpts from Florida Statutes, Section 163, and North Miami Zoning Code mandating the conformity of the Land Use Regulations to the Comprehensive Plan. Changes were made back in 2007. Copies of the 2007 Future Land Use Map as well as the 2015 Future Land Use map, which was approved in 2016, showed the eight blocks as "industrial", not "residential" Lots 60 and 62 (the lots Keys was in the process of purchasing) and the reason Medina felt it was a conflict of interest.

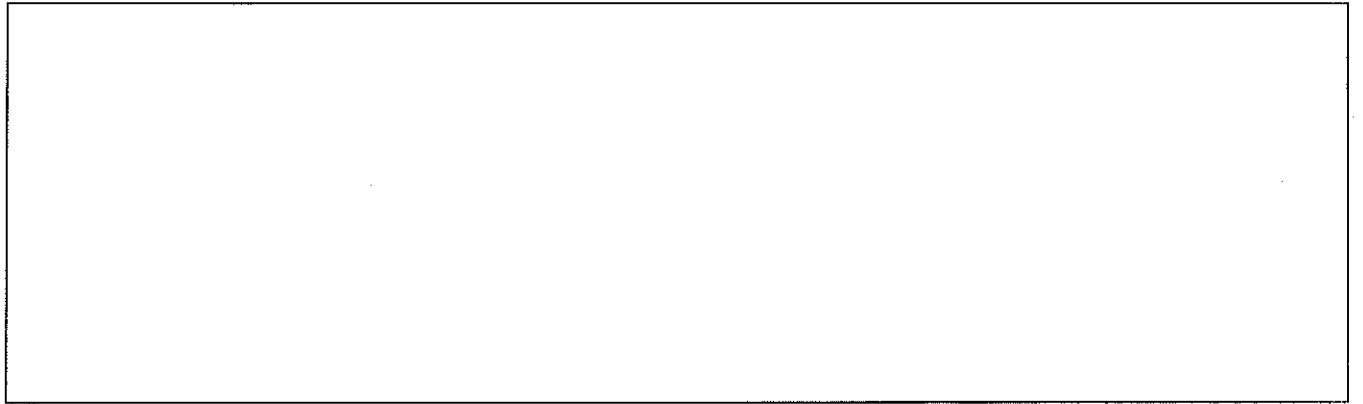
Keys mentioned that she had numerous discussions with City Manager Larry Spring and City Attorneys Jeff Cazeau and Jenniffer Warren, as well as Gary Held, North Miami Zoning Counsel, regarding her purchase of the two lots and disclosures of said purchase and any possible conflict of interest by voting on a North Miami Land Use Regulations (LDR), to include a revised Zoning map on 6/27/17 and on 07/11/17.

They all agreed that it was not a conflict under State law, Chapter 112, and that disclosure was not required. On 06/27/17, Carolyn Martin, Assistant City Attorney from NM, concluded that although Keys will receive an economic benefit she may vote on the proposed changes because the benefit received does not constitute a "special private gain".

Keys stated that after receiving the written opinion from the City Attorney and attending the COE ethics course, she discussed the case with COE Executive Director Joseph Centorino and later requested an opinion as well. Centorino concluded there was no voting conflict based on the voting conflict provisions in Section 2-11.1(d) of the County Ethics Ordinance.

Documents/Video Review:

1. Farm Share Rules and Regulations Regarding Political Activities at Farm Share Distribution Events document.
2. North Miami, Farm Share, Share your Heart food distribution flyer.
3. Relevant portions of the 06/27/17 North Miami Commission meeting/Agenda were reviewed.
4. Relevant portions of the 07/11/17 North Miami Commission meeting/Agenda were reviewed.
5. 2007 Future Land Use map
6. 2015 Future Land Use map
7. 2007 Future Land Use Map (showing proposed changes)
8. Miami-Dade Property Appraiser
9. 06/27/17 Opinion, Carolyn Martin, Assistant City Attorney
10. 07/14/17 Opinion, COE, Joseph Centorino



Conclusion:

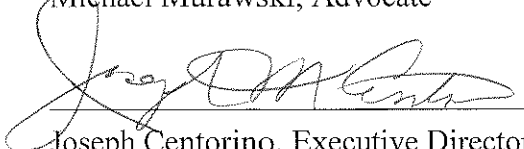
After discussion with Advocate Michael Murawski, it was determined that there was no evidence to prove an ethics violation. Accordingly, this matter should be closed with no further action.



Nilda Olmo, COE Investigator

Approved by:


Michael Murawski, Advocate



Joseph Centorino, Executive Director

Date: 1/3/18