



**Miami-Dade Commission on Ethics & Public Trust**  
**Report of Investigation**

**Investigators:** Sylvia Batista

<b>Case:</b> K18-019	<b>Case Name:</b> Michael McDearmaid, member of the City of North Miami Planning Commission.	<b><u>Date Opened:</u></b>	<b>CASE CLOSED</b>  Date: <u>6/20/18</u>
<b>Complainant(s):</b> Marc Yvanes,	<b>Subject(s):</b> Voting Conflict of interest.	03/14/18	

**Allegation(s):**

On or about 03/13/18, Marc Yvanes (Yvanes), a resident of the City of North Miami, contacted the COE and advised of an alleged voting conflict of interest in connection with a member of the City's Planning Commission, Michael McDearmaid (McDearmaid). According to Yvanes, McDearmaid's conflicted service as a board member of the North Miami Planning Commission arises from his registration as a lobbyist for developer OZ & BF, LLC (the Developer). The Developer filed an application for approval of a residential development which has come before the Planning Commission several times. According to Yvanes, the Developer recently received a change in the zoning designation of the property it plans to develop by building a high-rise condominium building in an area zoned for residential single family. Yvanes informed that many residents who reside in the area, referred to as Iron Gate Manor, are strongly against the development.

McDearmaid was appointed to the Planning Commission on 08/22/17 by City of North Miami Mayor Smith Joseph.

The COE initiated an investigation to determine whether McDearmaid had a voting conflict and should have abstained from participating in the discussion of the issue and voting on it.

**Relevant Laws:**

Section 2-11.1(d), Conflict of Interest and Code of Ethics Ordinance; and  
Section 112.3143, Florida Statutes.

**Investigation:**

**Meetings Reviewed:**

The following are the Planning Commission meetings where McDearmaid recused himself from participating in the item introduced by the Developer.

**12/05/17 – North Miami Planning Commission meeting –**

The first time McDearmaid recused himself from participating in the Planning Commission's deliberations on the subject item was during a meeting held on **12/05/17**. McDearmaid recused himself at the moment that the item came up for a resolution to approve the Developer's application. After the testimonies of several area residents, and discussion by members of the Planning Commission, the acting lobbyist for the Developer, Joseph Geller, asked that the item be deferred. Members of the Planning Commission voted to defer the item to 01/11/18. On 12/04/17 McDearmaid wrote to the Planning Commission informing them of his conflict of interest and wish to recuse himself from the meeting.

**03/14/18 – North Miami Planning Commission meeting –**

At the moment the item was mentioned, McDearmaid declared that he had a conflict of interest and must recuse himself due to the fact that he "works for the firm of the attorney who represents the client." McDearmaid filed a Form 8B Memorandum of Voting Conflict in reference to his recusal.

The Developer's application was approved by the Planning Commission 3-1 with Commission Pechon opposing same.

**Interview –**

**05/02/16 – Gary Held, City Attorney -**

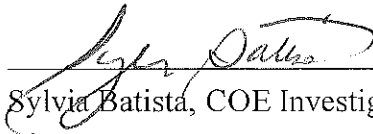
City Attorney Gary Held came to the COE to discuss the matter with this investigator and the COE's Advocate, Michael Murawski. Mr. Held confirmed that neither City Code nor Florida Statutes prohibit members of a board from representing applicants who come before the board. However in such cases, the board member must recuse himself from participating on the item's discussion and vote. Mr. Held said that McDearmaid had recused himself each time that his

client's item was introduced at a Planning Commission meeting. For this reason, McDearmaid's service on the Planning Commission is not prohibited.


**Conclusion:**

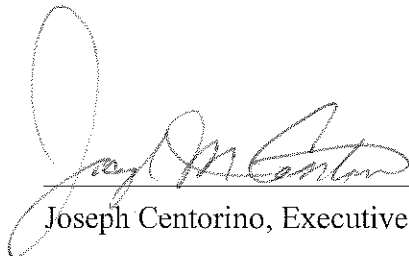
Michael McDearmaid's conflict of interest was resolved by his recusal from participating in the deliberations and vote on the item introduced by his client, OZ & BF, LLC.

For this reason, this matter can be closed with no further action by the COE.

  
Sylvia Batista, COE Investigator

Approved by:

  
Michael Murawski, Advocate

  
Joseph Centorino, Executive Director

Date: 6/20/18

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