

Frigo, Victoria (COE)

From: Centorino, Joseph (COE)
Sent: Monday, October 14, 2013 1:59 PM
To: Philippeaux, Gerard (DIST2)
Cc: Frigo, Victoria (COE); Diaz-Greco, Gilma M. (COE)
Subject: INQ - Commissioner Jean Monestime (Waste Management)

Mr. Philippeaux:

You have asked on behalf of Commissioner Jean Monestime whether he has a voting conflict regarding matters coming before the Commission concerning Waste Management, Inc. of Florida ("WM"). WM, a large company with thousands of employees, has a number of substantial pending contracts with the County involving trash hauling, recycling, sludge removal and related matters. Commissioner Monestime's wife is a long-term, fulltime salaried employee of WM, working as a Human Resource Generalist. She has no financial ownership interest in the company, and is not involved in the senior management of the company. Further, her job responsibilities do not involve her directly in the management or operations aspects of the County contracts. Commissioner Monestime himself has no ownership interest or other business relationship with WM.

Section 2-11.1(d) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance provides that Commissioner Monestime would have a voting conflict that would prevent him from voting or otherwise participating in a matter before the Board of County Commissioners if any of the following conditions applied:

- 1) Commissioner Monestime 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 : officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary;
- 2) Commissioner Monestime is a stockholder, bondholder, debtor or creditor of such an affected entity and the action would affect him in a manner distinct from the manner in which it would affect the public generally;
- 3) Commissioner Monestime would or might, directly or indirectly, profit or be enhanced by the action of the Board.

From the information provided, it does not appear that Commissioner Monestime has any of the relationships enumerated above with WM that would create a prohibited voting conflict. Although the award of these contracts would benefit WM, which might conceivably benefit all employees of WM, it does appear that, given the size of the company and his wife's relative insulation from the contractual relationship with the County, any profit or enhancement of his or his wife's financial interests from these matters is speculative and minimal at best.

Therefore, I do not find that Commissioner Monestime has a prohibited conflict of interest under the Miami-Dade Conflict of Interest and Code of Ethics that would bar him from voting on County contracts involving WM.

Nonetheless, there are factors involved in this situation that should cause Commissioner Monestime to consider abstaining from voting on contracts involving WM.

WM is a well-known company competing for very substantial contracts in the County that involve millions of dollars of County funds and that likely attract serious competition and public attention. Commissioner Monestime's wife, while not directly connected to these contracts, is a long-time employee of WM with a highly responsible position. Undoubtedly, she knows or is acquainted with individuals within the company who may be directly involved or affected by the contracts. It is a matter of public record that she is associated with the company. She is also likely to be acquainted, through her husband, with county officials other than her husband who have some connection to the

contracts involving WM. Commissioner Monestime himself may be or might become acquainted with representatives or officials of WM through his wife's employment. At the very least, it is likely that some representatives of WM who will lobby County officials will be aware of the Commissioner's wife's employment at WM.

Although Commissioner Monestime may not have a direct or prohibited conflict of interest in these contracts, it is not unlikely that his voting on them will be perceived by some persons as a possible conflict. All public servants, particularly elected officials, have a responsibility to guard the public trust and avoid any situation that could be detrimental to the public trust through an appearance of impropriety. While the County Ethics Code does not include "appearances" among its possible violations, it should be noted that the Code is only a minimum standard of conduct. Public officials are expected to conform to a higher standard of conduct when that becomes necessary to uphold the public trust.

Therefore, I strongly recommend that Commissioner Monestime seriously consider whether he should recuse himself from voting on or participating in matters related to these contracts. If you or Commissioner Monestime would like to further discuss this matter, I would be happy to do so.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Philippeaux, Gerard (DIST2)
Sent: Tuesday, September 17, 2013 2:53 PM
To: Centorino, Joseph (COE)
Subject: RE: request for clarification

Director,

In response to your inquiries, she is a Human Resource (HR) Generalist, has worked there for 23 years and is a salaried employee.

It was suggested by the County attorney that he removed himself.

Feel free to contact me if you need additional information.

Gerard Philippeaux
Chief of Staff
Office of Jean Monestime
Miami-Dade County Commissioner - District 2
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It's important the people should know what you stand for. It's equally important that they know what you won't stand for.

-Mary H. Waldrip

From: Centorino, Joseph (COE)
Sent: Tuesday, September 17, 2013 2:40 PM
To: Philippeaux, Gerard (DIST2)
Subject: RE: request for clarification

Gerard,

Please provide some information concerning the nature of the Commissioner's wife's employment with Waste Management, the length of her employment and her method of compensation. Also, please let me know whether Commissioner Monestime has received any prior opinions concerning this issues.

Regards,
Joe Centorino

From: Philippeaux, Gerard (DIST2)
Sent: Tuesday, September 17, 2013 1:29 PM
To: Centorino, Joseph (COE)
Subject: request for clarification

Good afternoon Director,

Hope all is well.

I am writing to request an opinion on the following issue.

At the September 17th BCC meeting, Commissioner Monestime recused himself from voting on Agenda item 8(F)(6) which awarded contracts to several firms including Waste Management Inc. of Florida, where his wife is simply an employee, not an owner nor a senior manager.

Our office would like to know if it is mandatory for Commissioner Monestime to continue removing himself from voting on any resolution involving Waste Management Inc. of Florida.

Your consideration on this matter is greatly appreciated.

Regards,

Gerard Philippeaux
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