

## Frigo, Victoria (COE)

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**From:** Centorino, Joseph (COE)  
**Sent:** Tuesday, March 19, 2013 3:35 PM  
**To:** Escobar, Bernardo (DIST11)  
**Cc:** Frigo, Victoria (COE); Sanchez, Gerald (CAO)  
**Subject:** INQ - Commissioner Juan Zapata (District 11 Public Improvement Trust Fund)

Mr. Escobar:

You have inquired on behalf of Commissioner Juan Zapata regarding whether there are any provisions of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance that would prohibit the establishment of a District 11 Public Improvement Trust Fund pursuant to the pending resolution before the Miami-Dade County Commission (File No. 130271) that would establish such fund. The fund would draw upon public and private funding sources, including sources solicited through Commissioner Zapata, for the funding of public infrastructure projects in District 11. The fund would be administered by the Department of Management and Budget and would be kept and maintained by the Finance Department. The acceptance of contributions to this fund would be required to conform to Administrative Order 1-3, and any project for which the trust funds may be disbursed would have to serve a public purpose.

Pursuant to Section 2-11.1(e)(2)(f) of the Code of Ethics, "Gifts solicited by Commissioners on behalf of the County in performance of their official duties for use solely by the County in conducting its official business" are specifically excepted from the definition of a Gift under the Ordinance, and, therefore, are not subject to the prohibition against the solicitation of gifts by County officials in Section 2-11.1(e)(3). Because of this exception, there is no blanket prohibition that would disallow the establishment of this trust fund for the stated purpose of funding public infrastructure projects.

Because of Commissioner Zapata's elected position and the likelihood that persons or business entities having other connections to the County would be among the contributors to such a fund, some degree of caution would be advisable regarding Commissioner Zapata's solicitation activities and influence over the fund. It is important that Commissioner Zapata not be perceived as using his position to coerce such contributions from anyone. Commissioner Zapata should avoid any appearance that such contributions would influence other decisions made by himself or other County officials that could benefit the contributors. It is also necessary that the projects selected for funding have a clear public purpose rather than inuring primarily to anyone's private or political benefit. To the greatest extent possible, solicitations made for contributions to the fund should be directed at the widest possible class of potential contributors rather than targeted to County vendors, contractors or lobbyists. The selection process for those projects to be funded should be done fairly and openly and utilize county personnel and procedures for determining the most promising projects eligible for funding.

Subject to the foregoing recommendations, Commissioner Zapata may be involved in the solicitation of contributions to the District 11 Public Improvement Trust Fund.

If you or Commissioner Zapata have any further questions, please do not hesitate to contact me.

Sincerely,

*Joseph M. Centorino*

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