

Diaz-Greco, Gilma M. (COE)

Subject: FW: City Charter Interpretation

From: Leen, Craig [<mailto:cleen@coralgables.com>]

Sent: Monday, February 24, 2014 12:07 PM

To: Ramos, Miriam S. (COE)

Subject: RE: City Charter Interpretation

Thanks, Miriam. I agree with you.

It was nice speaking with you. I am really looking forward to the CLE.

Have a great week as well,
Craig

Craig E. Leen
City Attorney

From: Ramos, Miriam S. (COE) [<mailto:MSRAMOS@miamidade.gov>]

Sent: Monday, February 24, 2014 12:05 PM

To: Leen, Craig

Subject: RE: City Charter Interpretation

Thanks Craig. As we discussed, the propriety of whether to create position is outside of our jurisdiction. We would only be concerned with issues that may arise under the scenarios that you address in the second to the last paragraph of your memo.

Good luck on Tuesday. Have a great week.

Miriam S. Ramos, Esq.
Deputy General Counsel



Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
ethics.miamidade.gov

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From: Leen, Craig [<mailto:cleen@coralgables.com>]

Sent: Monday, February 24, 2014 10:55 AM

To: Ramos, Miriam S. (COE)

Subject: City Charter Interpretation

Miriam,

Thank you for speaking with me. The Charter interpretation is attached. The City Commission is considering whether to create the position on Tuesday. As discussed, I view it as similar to how the County Commission has Commission staff. Please see the second to last paragraph, which emphasizes that the Commission Aide could not direct staff and would have to act in conformance with the Sunshine Law, both of which points I plan to emphasize at the Commission meeting on Tuesday.

Best,

Craig

Craig E. Leen

City Attorney

City of Coral Gables

405 Biltmore Way

Coral Gables, Florida 33134

Phone: (305) 460-5218

Fax: (305) 460-5264

Email: cleen@coralgables.com

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**CITY OF CORAL GABLES
OFFICE OF THE CITY ATTORNEY**

-INTERPRETATION-

TO: CITY COMMISSION **DATE:** February 21, 2014

FROM:  **SUBJECT:** Commission Aide

**CRAIG E. LEEN
CITY ATTORNEY**

My office was asked to determine whether the City Charter permits the City Commission to create the position of Commission Aide to assist the City Commission and City Commissioners in the performance of their functions, and to select the person who fills the position. Pursuant to section 2-201(e)(8) of the City Code, authorizing the City Attorney to interpret the City Charter on behalf of the City, my interpretation of the City Charter is as follows:

Under the City Charter, the City Commission has the authority to direct the City Manager and the Human Resources Director in open session to create a Commission Aide position that reports to the City Commission (the City Commission can approve the job description in open session as well). The position could be given responsibilities that will ensure the position is a confidential, exempt position. The City Commission can place that position under the charge of the Commission, and can appoint and remove the person filling that position by resolution. This interpretation is supported by express wording in section 23 of the City Charter explaining the lines of authority between the Commission and the City Manager. This provision gives the Commission ultimate authority as the governing body to direct the City Manager, and City officers and employees (in open session), as well as the ultimate authority to direct the appointment and removal of officers and employees by resolution.

In addition, this interpretation is consistent with other provisions in the Charter and the role of the City Commission and City Manager. The City Commission is the governing body of the City under section 8 of the Charter, as well as section 166.021 of the Florida Statutes. The City Manager is the chief executive officer of the City with day-to-day management authority for those functions placed in his charge. Indeed, section 21 of the Charter, relating to the City Manager, uses this express language "placed in his charge." The City Manager does not have day-to-day management authority over the City Commission, the City Attorney's Office, or the City Clerk's Office. Those Charter offices and their direct employees are not placed in the City Manager's charge, as their functions are not in his charge. Accordingly, just as the City Attorney's Office can have employees under the charge of the City Attorney, and just as the City Clerk's Office can have employees under the charge of the City Clerk, the City Commission can certainly have employee(s) under its charge as well. A Commission Aide would not have the

type of administrative authority that must be under the day-to-day management authority of the City Manager (in contrast to the City Architect, for example, who was the subject of a prior interpretation/opinion; in this prior opinion, I opined that the City Architect would be required to be under the day-to-day management authority of the City Manager because the City Architect exercises administrative discretion under the direction of the City Manager as chief executive officer of the City). Instead, a Commission Aide would be helping the Commission or individual Commissioners in the performance of their policy making, legislative, and oversight functions, which is different than the City Manager's day-to-day administrative and management functions.

Please note, the Commission Aide would not have the authority to direct administrative staff, as individual Commissioners do not have the authority to direct administrative staff. The Commission Aide would have the authority to inquire (i.e. seek and receive information) on behalf of an individual City Commissioner, as individual Commissioners have authority to inquire under section 23 of the Charter. It is also important to note that the Commission Aide could not act as a liaison or conduit in any manner between individual Commissioners to ensure compliance with the Sunshine Law.

Ultimately, as the governing body of the City, particularly in light of the express wording in section 23 of the Charter, the City Commission has the authority to have a Commission Aide under its charge to assist it in its function, and the City Commission may direct the appointment or removal of the person filling that position.