



MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST

Summary of Minutes and Agenda Actions (Amended April 10, 2019)

Meeting of March 13, 2019

The Miami-Dade Commission on Ethics (COE) convened in the Biscayne Building, 19 West Flagler Street, Suite 820, Miami, FL, on March 13, 2019. Present were Chairman H. Jeffrey Cutler, Vice-Chairman Nelson Bellido and Commissioner Judith Bernier. Also present were Jose Arrojo, Executive Director; Michael Murawski, Advocate; Gilma Diaz-Greco, Martha Perez, and Radia Turay, Staff Attorneys; Rhonda Victor Sibilia, Communications Director; Rachelle Ross, Executive Secretary; other staff members and members of the public. The meeting was called to order at 10:00 a.m. by Chairman Cutler. A quorum was present.

I. Approval of Minutes

Vice Chair Bellido made a motion to approve the minutes of the January 9, 2019, meeting. Commissioner Bernier seconded it and it was unanimously approved (3-0).

II. Public Comment

Stephen Cody requested that the complaint he filed in January 2018 against South Miami Mayor Philip Stoddard be heard as soon as next month.

III. Section Eight Requests

Staff Attorney Gilma Diaz-Greco presented a request from two individuals from February and two from March wishing to contract under the federally-funded Section 8 program, and since neither they nor immediate family members are employed by the Miami-Dade Public Housing and Community Development Department, recommended approval. Vice Chair Bellido moved to approve the recommendation. It was seconded by Commissioner Bernier and unanimously approved (3-0).

IV. Housing requests

Staff Attorney Diaz-Greco presented the requests of two County employees from February and two from March to seek assistance through a program overseen by the Miami-Dade Public Housing and Community Development Department, and since they nor any of their family members oversee or administer the program, recommended it be approved. Vice Chair Bellido made a motion to approve the recommendation. It was seconded by Commissioner Bernier and unanimously approved (3-0).

V. Monthly Summary of Inquiries

Staff Attorney Radia Turay presented a Summary of Inquiries issued by the COE staff from January 1-February 28, 2019 and discussed **INQ 19-21**. Commissioner Bellido requested that it come back to the COE as a Request for Opinion.

VI. Executive Director's Report

- Executive Director Jose Arrojo presented a letter to a local mayor opining that a municipal attorney should not take part in discussions about the terms of his or her employment and should not recommend an outside attorney to advise elected officials about such matters. Coral Gables City Attorney Miriam Ramos, representing the city attorney committee of the Miami-Dade League of Cities, noted that lawyers act under a high standard for transparency, but agreed there is a possibility for abuse. While she has authority under her city's charter to hire outside counsel, Ms. Ramos agreed that she would bring a proposed retainer for legal opinions regarding her employment to the city commission for approval. After discussion, Mr. Arrojo said he would bring back the issue for COE approval.
- Mr. Arrojo said he would discuss report on Lobbyist Registration Procedures as part of the presentation of **C 18-48-10**.
- Mr. Arrojo shared legislation from Miami Beach establishing the Office of Inspector General and the creation of a selection committee that includes the Ethics Commission Executive Director as a member.
- The Executive Director brought back a report summarizing a lengthy investigation that found Miami-Dade County has failed to enforce rules requiring its hired lobbyists to disclose potential conflicts among their clients. After meeting with industry representatives, the correspondence addressed to the Mayor and County Commissioners recommends: clarify of what constitutes "representation" to consider whether being retained to track legislation contrary to County positions is a conflict; determine if lobbyist registrations with the state that identifies each issue would satisfy the local reporting requirements; and identify a third party – such as the Clerk of the Board – collect and maintain lobbyist conflict reports and provide public on-line access to the annual filings. Discussion was continued to the end of the meeting, when Ethics Commissioners agreed with the findings.
- Mr. Arrojo said the agency is below spending for the first half of the current fiscal year and said he would answer any questions about staffing changes cited in his memo. When Chairman Cutler questioned costs associated with a move to new offices, Mr. Arrojo said \$238,000 was estimated to build out the suite, but that expense has not been required by the County in the proposed 2019-20 budget.
- He recommended that the COE not permit remote electronic participation by Ethics Commissioners, based on legal interpretation of the County Code regarding boards and member attendance. Commissioners agreed to keep meeting on the second Wednesday of each month.
- He discussed proposed legislation by County Commissioner Sally Heyman would expand the jurisdiction of both the COE and the Office of the Inspector General (OIG) to conduct investigations into Whistleblower allegations and Whistleblower retaliation cases to all the municipalities. The Inspector General is in opposition because that would require additional funding and staff to address the increased workload. Ethics Commissioners agreed, especially if outside hearing officers were brought in for expedited hearings. Another version would set minimum standards for cities to enact their own Employee Protection Ordinances that would enable the COE and OIG to take part, if needed.
- Mr. Arrojo introduced Executive Secretary/Assistant Machell Anderson, who joined the staff two weeks ago.

VII. Complaints

- Advocate Michael Murawski provided an update on **C 16-34** and lack of payment of the \$1,500 ethics fines by sharing Frantz Pierre's Application for Determination of Civil Indigent Status in the Eleventh Judicial Circuit Court. He questioned the accuracy of the application and wanted to pursue civil remedies to collect the fine. Vice Chair Bellido made a motion to file a claim against Pierre. It was seconded by Commissioner Bernier and unanimously approved (**3-0**).

-- Commissioner Bernier made a motion to ratify the Letter of Instruction for a complaint (**C 18-53-12**) filed against Rick Dunning, a Senior Vice President of "First Transit," who stipulated to Probable Cause that he inadvertently violated the County's "Cone of Silence" when he commented on a recommendation to give the contract to a competitor. The motion was seconded by Vice Chair Bellido and unanimously approved (**3-0**).

The Ethics Commission convened in closed session at 10:55 a.m., recessed from 12:20-12:28 p.m., returned to open session at 12:51 p.m. and took the following actions:

-- Vice Chair Bellido made a motion to find Probable Cause that a representative of an international aircraft company violated the County's lobbying and Cone of Silence ordinances when it competed to sell helicopters to the Fire-Rescue Department, and accept a settlement agreement for **C 16-31**. Since January 2016, the complaint alleges that Christopher Sirkis, Southeast Regional Sales Manager for Agusta Westland, a subsidiary of Leonardo Helicopters, lobbied County personnel eight times without being registered and violated the Cone of Silence 13 times. Under terms of the settlement, Sirkis pled no contest to five of the counts, will pay a fine of \$4,500 and investigative costs of \$1,500, accept of Letter of Reprimand and cooperate with investigators on other aspects of the investigation. Commissioner Bernier seconded the motion and it was unanimously approved (**3-0**).

-- Vice Chair Bellido made a motion to find No Probable Cause to a complaint (**C 18-47-10**) that Hialeah City Clerk Marbelys Fatjo violated any provision of the Conflict of Interest and Code of Ethics Ordinance when she was paid her salary during maternity leave since the investigation found no evidence to support the complaint. Commissioner Bernier seconded the motion and it was unanimously approved (**3-0**).

-- Vice Chair Bellido made a motion to dismiss four counts of a complaint (**C 18-48-10**) lodged against 16 individuals associated with efforts to bring a professional soccer team to a park near Miami International Airport. David Winker accused them of various violations of the City of Miami's lobbying rules and portions of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance. A finding of No Legal Sufficiency was found regarding Jared Lindsey, No Probable Cause was found in the part of the complaint against David Beckham, Jorge Mas, Jose Mas, Marcelo, Claire, Pablo Alvarez, Steven Marin, Carlos J. Gimenez, Barbara Hardemon, Iris Escarra and Richard Perez, and an allegation about the lack of ownership information on lobbyist registration forms was dismissed against all respondents because that provision has not been enforced nor warned about by the City of Miami, Miami-Dade County and most other municipalities, as explained in an investigative report presented by Executive Director Arrojo. (He told Ethics Commissioners that other non-compliance issues discovered in the more than year-long review of lobbyist registrations are being addressed with the County Clerk. Assistant Miami City Attorneys George Wysong and Xavier Alban said the City is adding a two-part principal ownership question to its form and will ensure compliance.) The motion was seconded by Commissioner Bernier and unanimously approved (**3-0**).

-- Vice Chair Bellido made a motion to stay that portion of the same complaint (**C 18-48-10**) against several City of Miami officials pending the resolution of a similar civil complaint filed in Circuit Court. The motion was seconded by Commissioner Bernier and unanimously approved (**3-0**).

-- Vice Chair Bellido made a motion to accept the withdrawal of **C 19-03**, filed by Mr. Winker against the City of Miami for failing to enforce its lobbyist registration requirements, after Mr. Winker expressed his gratitude that actions were being taken to remedy the oversights. The motion was seconded by Commissioner Bernier, but then deferred until a formal request for withdrawal is made in writing and presented at the next meeting.

-- Vice Chair Bellido made a motion to approve the Advocate's second motion for extension of time to make a Probable Cause Determination for **C 17-36**. Commissioner Bernier seconded the motion and it was unanimously approved (**3-0**).

-- Vice Chair Bellido made a motion to find No Legal Sufficiency to a complaint (**C 18-50-12**) filed against Palmetto Bay Village Manager Ed Silva and No Probable Cause for former Palmetto Bay Mayor Eugene Flinn, who was accused of violating the Citizens' Bill of Rights by not fulfilling a public records request from citizen activist Gary Pastorella.

The investigation found that Flinn made a good faith effort to compile a lengthy list of email addresses he compiled from a survey on his personal blogsite and those used for Flinn's correspondence and social media accounts, as was requested. Commissioner Bernier seconded the motion and it was unanimously approved (3-0).

-- Vice Chair Bellido made a motion to approve a settlement for **C 18-51-12** with attorney Jose Smith, who was accused of violating the Sunshine Law and conducting unregistered lobbying for his firm's services while members of the North Bay Village Commission considered replacing the Village Attorney after municipal elections in November. The agreement dismissed the Sunshine Law accusation, because that is out of the COE's jurisdiction, and found No Probable Cause to two instances cited for unregistered lobbying. Under the agreement, Smith did not contest one finding of Probable Cause of unregistered lobbying and will accept a Letter of Instruction. The motion was seconded by Commissioner Bernier and unanimously approved (3-0).

-- Vice Chair Bellido made a motion to find No Probable Cause to a complaint (**C 19-01-01**) accusing a Construction Manager in Miami-Dade's Transportation and Public Works Department of exploiting his official position by using his County phone to collect rent and intimate a tenant at a strip mall he owns in North Miami Beach. He also motioned to find Probable Cause that shopping center owner Hossin Habibnejad failed for six years to obtain permission for that or file the required Source of Income Statements. Since learning of the requirement, Habibnejad has come into compliance. The motion includes the issuance of a Letter of Instruction. Commissioner Bernier seconded the motion and it was unanimously approved (3-0).

--- Vice Chair Bellido made a motion to find **C 19-02-01** filed by Sweetwater Mayor Orlando Lopez against City Commissioner Idania Llanio, Not Legally Sufficient, because it is not an abuse of power to sponsor a resolution for action that Lopez claimed was intended to curry favor with the residents who could be inspired to vote for Llanio in her upcoming mayoral race against Lopez. Commissioner Bernier seconded the motion and it was unanimously approved (3-0).

-- Vice Chair Bellido made a motion to find a second complaint (**C 19-04-01**) filed by Mayor Lopez against Commissioners Llanio and Prisca Barreto as Not Legally Sufficient since it contained no additional information regarding an "exploitation" claim that the Florida Department of Law Enforcement had already determined as unfounded. Mr. Murawski said he would check whether either respondent had any expenses associated with defense of the case and could bring back a fine against Mayor Lopez for filing a "frivolous" complaint. Commissioner Bernier seconded the motion and it was unanimously approved (3-0).

-- Vice Chair Bellido made a motion to approve the respondent's request to continue the Probable Cause hearing for **C 19-05-02**. Commissioner Bernier seconded the motion and it was unanimously approved (3-0).

--Vice Chair Bellido made a motion to approve the defense request for continuance of **C 19-06-02** to the April meeting. Commissioner Bernier seconded the motion and it was unanimously approved (3-0).

VIII. Adjournment

There being no further business, the meeting adjourned at 1:15 p.m.



Prepared by Rhonda Victor Sibilia, Communications Director