



RICK SCOTT
GOVERNOR

STATE OF FLORIDA

Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

www.flgov.com
850-488-7146
850-487-0801 fax

August 15, 2014

Benedict P. Kuehne, Esquire
100 S.E. 2d Street, Suite 3550
Miami, Florida 33131-2154

Dear Mr. Kuehne,

This is in response to your correspondence of August 14, 2014 relating to the case of *United States v. Michael Pizzi*, S.D. Fla. Case No. 13-20815. You have asked that the Governor revoke the Executive Order suspending Pizzi from the office of Mayor of Miami Lakes.

A short recitation of the facts puts this matter into legal perspective. On August 6, 2013, the United States Attorney for the Southern District of Florida filed a complaint charging Pizzi, then mayor of Miami Lakes, with conspiracy to commit extortion. The complaint charged Pizzi with accepting four bribes from FBI undercover operatives posing as businessmen in exchange for using his official position to support sham federal grant applications for economic development. The Governor suspended Pizzi from office as result of this complaint.

On August 13, 2013, the Miami Lakes Town Council passed a resolution scheduling a special election for mayor. The resolution relies upon Article II, Section 2.5(C)(iv) of the town charter, which addresses a vacancy in the office of Mayor for more than six months, as authority for the election. On October 1, 2013, the Town held the special election. Pizzi was not a candidate in that election, which was won by Wayne Slaton, who is the Mayor of Miami Lakes.

On February 28, 2014, the United States Attorney filed a seven-count superseding indictment charging Pizzi with one count of conspiracy to commit extortion, four counts of attempted extortion (bribery), and two counts of bribery concerning programs receiving federal funds. At Pizzi's seven-week trial, he did not contest that monies were paid to him, or that the undercover agents purported to seek corrupt official decisions, but instead claimed among other things, that he had been entrapped by federal authorities into accepting the bribes. On August 14, 2014, the jury acquitted Pizzi.

You then requested the Governor to “REINSTATE Michael Pizzi to office as Mayor of Miami Lakes IMMEDIATELY.” After reviewing the Miami Lakes Town Charter, and in consultation with the Miami Lakes town attorney, it has been determined that Mayor Slaton was not elected only to fill Pizzi’s seat temporarily until the felony charges against Pizzi were resolved. Rather, Mayor Slaton was elected to serve out the term of office as Pizzi’s replacement. In other words, as a matter law set out by the Town Charter, Pizzi’s term ended when Slaton was elected. The voters of Miami Lakes have duly elected Wayne Slaton as their Mayor.

The Miami Lakes Town Charter sets out these provisions in Article II, Section 2.5. Section 2.5(A) states that a vacancy in office occurs upon “death, resignation, disability, suspension or removal from office in any manner authorized by law, or by forfeiture of his/her office” (emphasis added). Section 2.5(C)(iv), the section upon which the Town Council relied in setting the October 2013 special election, provides the following:

If the Mayor’s position becomes vacant and six months or more remain in the unexpired term, a special election shall be held for the election of a new Mayor within 90 calendar days following the occurrence of the vacancy. Pending the election, the office of Mayor shall be filled by the Vice-Mayor. The Council shall then appoint a new Vice-Mayor. No temporary Council appointment shall be made.

As stated above, the term of office for the winner of the special election held pursuant to this section was the remainder of the regular term, and not just the period of Pizzi’s suspension. This conclusion is further supported by Section 2.5(C)(iii), which addresses a vacancy in the Mayor’s office of less than six months:

If the Mayor’s position becomes vacant, and less than six months remain in the unexpired term, the Vice-Mayor shall complete the term of Mayor. The vacancy thus created on the Council shall be filled in the manner that the vacancy of a Councilmember is generally filled under this Article. The Council shall then appoint a new Vice-Mayor. *If the elected Mayor shall be returned to office, s/he shall automatically resume the duties of the office for the remainder of the term for which elected, and the Vice-*

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Mayor shall be returned to complete the balance of his/her term. The appointment of the person to complete the term of the Vice-Mayor shall be automatically rescinded. (Emphasis supplied).

In short, when the office of mayor is vacant for less than six months, the elected mayor is restored to office upon the termination of the vacancy. No such provision for temporary service exists in the Town Charter for a vacancy of six months or more. This contrast supports the conclusion that Pizzi's term ended upon the election of Mayor Slaton, and that the Town Charter did not provide for Pizzi's reinstatement.

Because this matter involves interpretation of the town charter, it is in these regards a local issue and the Governor has no further role. The Governor's primary interest is to ensure that all public officials in the State maintain the highest standards of ethics and integrity.

Sincerely,



Peter Antonacci
General Counsel