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June 2, 2008

The Honorable Dennis Moss
Board of County Commissioners
District Nine
111 N.W. First Street
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION RQO 08-24

Dear Commissioner Moss:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on May 29, 2008 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether you may vote on matters involving the Children's Trust. Your employer, the Richmond-Perrine Optimist Club, receives funding from the Children's Trust.

In your letter, you advised the Commission that you serve as Executive Director of the Richmond-Perrine Optimist Club ("Optimist Club"). The Optimist Club provides a variety of social services in the South Miami-Dade County area. The Optimist Club received grants from the Children's Trust to provide after-school tutoring and physical fitness programs to children between six and twelve years of age. The grants were awarded through an open competitive process. The Board of County Commissioners does not have any involvement, oversight or decision-making power over the Children's Trust grant process.

The Children's Trust is an independent special district that was established in 2002 to fund children's programs in the areas of health, development, safety, parental and community responsibility. The Children's Trust was created pursuant to state statute and is funded by a half-penny sales tax. The funds are administered by the Children's Trust board and the Board of County Commissioners has no control over the Children's Trust funding or expenditures.

The Home Rule Charter requires reauthorization of the one-half penny tax that funds the Children's Trust in 2008. The resolution was brought before the Economic Development and Human Services (EDHS) Committee. EDHS has jurisdiction over all matters involving the Children's Trust. You serve as a member of the committee. You recused yourself from voting on the issue but seek guidance regarding whether you may vote on any issues regarding the Children's Trust.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits you to vote on matters involving the Children's Trust. Section 2-11.1(d) only prohibits Commissioners from voting on issues if they have one of the enumerated relationships with the person or entity seeking action or if the matter will uniquely affect them. Section 2-11.1(d) provides that no commissioner "shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person 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 of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee fiduciary or beneficiary or (ii) stockholder, bondholder, debtor or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the

public generally." Any commissioner who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the commission meeting during the discussion of the subject item and shall not vote or participate in any way in said matter.

You do not have any of the enumerated relationships with the Children's Trust. Further, you are not uniquely affected by decisions involving the Children's Trust because its funding and grant process is completely independent of the Board of County Commissioners. The placement of the reauthorization on the ballot is ministerial and does not uniquely affect you. Therefore, you do not have a voting conflict and may vote on matters involving the Children's Trust.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director