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October 24, 2002

Angus M. Laney
City of North Miami
776 Northeast 125 ST
North Miami, FL 33261

RE: REQUEST FOR ADVISORY OPINION 02-139

Dear Mr. Laney:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 23, 2002 and rendered its opinion based on the facts stated in your request.

As Assistant to the City Manager in North Miami, you requested an opinion regarding any potential conflicts or restrictions related to your potential employment with The Swerdlow Group and its affiliated partners, Preserve Partners, Ltd.

You advised the Commission that as Assistant to the City Manager your principal responsibility is project manager for environmental activities at the Munisport Landfill Site. The Swerdlow Group, and its project known as *The Preserve in North Miami*, was selected to redevelop the Landfill Site. Your principal responsibilities with The Swerdlow Group would be substantially the same as those in your current position. In addition, some potential responsibilities might include coordination with the City Engineer regarding utilities and infrastructure and with the City's Department of Community Planning and Development, the Community Redevelopment Agency [CRA] and a Community Development District [CDD].

The Commission found that under the Conflict of Interest and Code of Ethics Ordinance there is no legal conflict that

precludes you from accepting employment with The Swerdlow Group and its affiliated partners. However, the Ordinance prohibits you from lobbying any city official or agency on issues related to the Munisport Landfill Site, now known as *The Preserve at North Miami*. Section 2-11.1(q) "Continuing application for two years after County Service" provides that,

"No person who has served as an elected official, i.e. mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee shall for a period of two years after his or her county employment has ceased, lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one of its agencies or instrumentalities is a party or has any interest whatever, whether, direct or indirect."

The Conflict of Interest and Code of Ethics ordinance defines lobbying as seeking to encourage the passage, defeat or modifications of 1) ordinance, resolution, action or decision of the County Commission; 2) any action, decision, recommendation of any County board or committee; or 3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a county board or committee.

Therefore, you would not be permitted for instance, to seek a zoning modification from a City planning board, to be publicly identified as part of a lobbying team for The Swerdlow Group and Preserve Partners, Ltd., or to persuade a City official to take a particular course of action related to *The Preserve at North Miami*. On the other hand, Section 2-11.1 (q) does not prohibit you from submitting routine administrative requests or providing information to City personnel and agencies as they relate to the project.

This opinion construes the Miami-Dade County 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 should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,

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

ROBERT MEYERS
Executive Director