

203-49



**ETHICS COMMISSIONERS**

Kerry E. Rosenthal, Chairman  
Robert H. Newman, Vice Chairman  
Gail Dotson  
Dawn Addy  
Elizabeth M. Iglesias

**ROBERT A. MEYERS**  
EXECUTIVE DIRECTOR

**MICHAEL P. MURAWSKI**  
ADVOCATE

**ARDYTH WALKER**  
STAFF GENERAL COUNSEL

June 16, 2003

Elizabeth Hernandez  
City Attorney  
City of Coral Gables  
405 Biltmore Way  
Coral Gables, FL 33134

**RE: REQUEST FOR OPINION**

Dear Ms. Hernandez:

You requested an opinion regarding the application of a Miami-Dade County Ordinance exempting certain county advisory boards from the Conflict of Interest and Code of Ethics Ordinance in the City of Coral Gables. Specifically, you present two questions for review:

- (1) Whether the exemption extends to all municipal boards when acting in an advisory capacity, as provided under Section 2-11.1 (b) (4) "Advisory personnel" of the Code of Ethics Ordinance?
- (2) Whether the eighteen [18] municipal boards you list in your letter to the Ethics Commission are considered solely advisory in nature as provided under Section 2-11.1 (b) (4) "Advisory personnel" of the Code of Ethics Ordinance and thereby exempt from the Code of Ethics?

In April 2003, the Miami-Dade Board of County Commissioners [BCC] adopted an ordinance authorizing certain county advisory boards exempt from the Conflict of Interest and Code of Ethics Ordinance. Subsequently, the BCC adopted a resolution designating eighteen [18] county boards exempt from the Code of Ethics. The designated boards are solely advisory pursuant to Florida Statutes, with no rule-making, policy or procedural authority, and with no power to render awards, contracts or final adjudications.

In response to question one, the exemption covers only the boards specifically listed in the County resolution and not all boards and their personnel when acting solely in an advisory capacity, as provided under Section 2-11.1 (b)(4). Therefore, only the advisory boards specifically listed in the municipal resolution would be exempt from the provisions in the Code of Ethics Ordinance.

With regard to question two, your letter lists eighteen [18] municipal boards you indicate are solely advisory and thus exempt from the Code of Ethics Ordinance. You include a brief description of the functions and responsibilities of each board. Based upon these descriptions, all may be considered advisory and therefore exempt from the Code of Ethics, but for the following two boards, the **Insurance Advisory Board** and the **Cultural Affairs Board**.

First, the Insurance Advisory Board may not qualify as solely advisory pursuant to 2-11.1 (b)(4). My concern stems from the fact that members of the board, according to the description you provide, "assists in the preparation of bids and specs." I do not think this is an "advisory" function per se.

Secondly, you indicate that the Cultural Affairs Board evaluates and "recommends on funding requests." Does the Board grant or allocate dollars? The County's Cultural Affairs Council, which engages in such duties, is not exempt from the Code of Ethics Ordinance. If the City's Cultural Affairs Board is allocating and voting on funding requests, these activities may not be construed as purely advisory.

The remaining boards you list include:

(1) Anti-Crime Committee; (2) Beautification Committee; (3) Budget/Audit Advisory Board; (4) Cable Television; (5) Communications Committee; (6) School Community Relations; (7) Merrick House; (8) Disability Affairs Advisory Board; (9) Economic Development Board; (10) Emergency Management; (11) International Affairs Coordinating Council; (12) Library Advisory; (13) Parks and Recreation; (14) Citywide Traffic Advisory Board; (15) Senior Citizens Advisory Board; and (16) University of Miami Community Relations Board.

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 flourish extending to the right.

ROBERT MEYERS  
Executive Director

**Prkic, Christina (COE)**

---

**From:** Hernandez, Elizabeth [ehernandez@coralgables.com]  
**Sent:** Monday, June 16, 2003 11:26 AM  
**To:** 'Meyers, Robert (COE)'; 'Prkic, Christina (COE)'  
**Subject:** FW: Municipal board exemption  
**Follow Up Flag:** Follow up  
**Due By:** Friday, June 20, 2003 12:00 AM  
**Flag Status:** Flagged

Can you advise on status?

-----Original Message-----

**From:** Hernandez, Elizabeth  
**Sent:** Wednesday, June 04, 2003 8:14 AM  
**To:** 'Prkic, Christina (COE)'  
**Cc:** Slesnick, Donald; Brown, David  
**Subject:** RE: Municipal board exemption

While I don't agree with the assessment on the Cultural Affairs Board, I accept your thoughtful analysis. Can you please send me your opinion so that I may present same to the City Commission. Thanks!

-----Original Message-----

**From:** Prkic, Christina (COE) [mailto:cprkic@miamidade.gov]  
**Sent:** Tuesday, June 03, 2003 3:42 PM  
**To:** 'Hernandez, Elizabeth'  
**Subject:** RE: Municipal board exemption

Hi Liz,

Hope you're having a great day.

I've had the opportunity to review these boards with Robert. There are two you list that raise some questions.

First, the **Insurance Advisory Board** may not qualify as solely advisory pursuant to 2-11.1 (b)(4). My concern stems from the fact that members of the board, according to the description you provide, "assists in the preparation of bids and specs." I do not think this is an "advisory" function per se.

Secondly, you indicate that the Cultural Affairs Board evaluates and "recommends on funding requests." Does the Board grant or allocate dollars? The County's Cultural Affairs Council, which engages in such duties, is not exempt from the Code of Ethics Ordinance. If the Board is allocating and voting on funding requests, these activities may not be construed as purely advisory. You may want to reconsider its exemption.

As for the remaining boards you list, I concur with your opinion.

At this juncture, should you agree with my assessment about the above-mentioned boards, I can go ahead and submit an opinion to you without going before the Ethics Commission. Otherwise, I will bring it before the Commission at its upcoming meeting on June 12th.

Let me know how you'd like to proceed. I will be out of the office after 4:15 today until Monday, June 9th. I can prepare the opinion for you to have by June 10th, unless of course, the matter goes before the Ethics Commission.

Best regards,

6/16/03

Christina

-----Original Message-----

**From:** Hernandez, Elizabeth [mailto:ehernandez@coralgables.com]  
**Sent:** Friday, May 16, 2003 12:31 PM  
**To:** Robert Meyers (rmeyers@co.miami-dade.fl.us); Prkic, Christina (COE)  
**Subject:**

The County Commission has adopted a resolution exempting certain advisory personnel as defined under the County Ordinance from the requirements of the Ethics Ordinance. The first question would be - is it only for advisory boards when acting in their capacity as provided in Section 2-11.1. (b) (4)-, Ethics Ordinance? Secondly, I would like to know if you concur with my opinion that the following boards are purely advisory in nature and thus the City Commission can also exempt them from the requirements of the Ethics Ordinances:

- 1-Anti-Crime Committee-sole function to act as steering committee to Police Department in developing five year strategic plan.
- 2-Beautification Committee-recommends to the Commission regarding parks, plazas, parkway landscaping and botanical improvements; and recommends the residential and commercial properties worthy of recognition.
- 3-Budget/Audit Advisory Board-reviews the Manager's Budget and review financial information, both external and internal, to insure that overall audit coverage is sufficient.
- 4-Cable Television-advises the city commission and city manager on programming and allocations of local cable service.
- 5-Communications Committee-advises city commission and administration on issues of Public Relations and E-Government.
- 6-School Community Relations-provides opportunity for dialog between the city schools and the neighbors; addresses complaints and advises the city commission on how to preserve harmony in the neighborhood and schools, as well as to establish a line of communication to address issues of quality of education offered to the students.
- 7-Merrick House-administers the Coral Gables Merrick House in accordance with established guidelines. Must submit any fund raising requests to manager.
- 8-Cultural Affairs Board-evaluates and recommends on funding requests.
- 9-Disability Affairs Advisory Board-advocacy group for issues affecting disabled.
- 10-Economic Development Board-assists development department in formulating and implementing relevant goals and objectives and makes recommendations to the city commission regarding development issues.
- 11-Emergency Management-provides for the continuity of executive functions of government by designation of additional officers to serve in the event of the unavailability of the elected incumbent. In the event of a natural or man-made disaster, to provide service to the residents of the city under the supervision of the manager.
- 12-Insurance advisory-advises manager and city commission on the overall needs and requirements for various kinds and types of insurance coverage and assists in the preparation of bids and specs.
- 13-International Affairs Coordinating Council-coordinates visits of international dignitaries. Sister Cities

6/16/03

program.

14. Library Advisory-advises the City Commission on the Coral Gables Public Library.

15. Parks and Recreation-advises on the needs as to parks and recreation.

16. Citywide Traffic Advisory Board-advises the city commission on city-wide traffic calming plan. Obtains citizen input.

17.-Senior Citizens Advisory Board-reviews issues related to the elderly and advises the city commission on actions and programs to develop policies to respond to the needs of senior citizens.

18-um Community relations-committee provides an opportunity for dialogue between the university, its neighbors and the city. To create a forum to hear complaints and concerns and to foster better relations between all parties.

Can you please advise me if you concur with my opinion that these boards qualify as purely advisory personnel?

Please fax or email a copy of the County Resolution to my attention.

**112.312 Definitions.**--As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

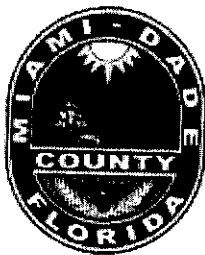
(1) "Advisory body" means any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than 1 percent of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations.

In Black's Law Dictionary, Rev. 4th ed., at p. 1411, the following definition of "quasi-judicial" is provided: A term applied to the action, discretion, etc., of public administrative officers, who are required to investigate facts, or ascertain the existence of facts, and draw conclusions from them, as a basis for their official actions, and to exercise discretion of a judicial nature.

The above-quoted definition was adopted by the Florida Supreme Court in *Canney v. Board of Pub. Instruction of Alachua County*, 278 So.2d 260, 263 (Fla. 1973). Florida courts have also characterized a quasi-judicial function as one involving the adjudication of a person's legal rights, duties, privileges, or immunities. *Bay National Bank & Trust Co. v. Dickinson*, 229 So.2d 302, 305 (1 D.C.A. Fla., 1969); *Deel Motors, Inc. v. Department of Commerce*, 252 So.2d 389, 394 (1 D.C.A. Fla., 1971). In this instance, it is clear that the function in question does involve the adjudication of a person's legal duty, that duty being the \$10 monthly contribution requirement imposed upon parolees and probationers by s. 945.30, F. S.

Therefore, I am of the opinion that, under the above standards, the granting of individual exemptions to parolees and probationers from payment of all or any part of the \$10 monthly contributions toward cost of supervision required by s. 945.30, F. S., upon the ascertainment of the facts and the finding of the existence of one or more of the factors delineated in that statute, is a quasi-judicial function.





## Miami-Dade Legislative Item

### File Number: 030146

**File Number:** 030146      **File Type:** Ordinance      **Status:** Before the Board  
**Version:** 0      **Reference:**      **Control:** County Commission  
**File Name:** EXEMPTION FROM CONFLICT/INT. CODE OF ETHICS      **Introduced:**  
 ORD. FOR BOARDS      1/16/2003  
**Requester:** NONE      **Cost:**      **Final Action:**  
**Agenda Date:** 4/8/2003 **Agenda Item Number:** 6J

**Notes: Title:** ORDINANCE AUTHORIZING EXEMPTION FROM THE MIAMI-DADE COUNTY CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE FOR DESIGNATED COUNTY BOARDS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE [SEE AGENDA ITEM NO. 10A1]

**Indexes:** CONFLICT OF INTEREST/CODE OF ETHICS      **Sponsors:** Sally A. Heyman  
 EXEMPTION      Jose "Pepe" Diaz

**Sunset Provision:** No      **Effective Date:**      **Expiration Date:**

**Registered Lobbyist:** None Listed

### Legislative History

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Governmental Operations and Environment Committee	3/4/2003	2I	Forwarded to BCC with a favorable recommendation				P
Board of County Commissioners	2/4/2003	13M	Adopted on first reading		3/4/2003		P

**REPORT:** The foregoing proposed ordinance was adopted on first reading and set for public hearing before the Government Operations and Environment Committee on March 4, 2003, at 9:30 a.m.

### Legislative Text

**TITLE**

ORDINANCE AUTHORIZING EXEMPTION FROM THE MIAMI-DADE COUNTY CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE FOR DESIGNATED COUNTY BOARDS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

**BODY**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-11.39.2 of the Code of Miami-Dade County is hereby created to read as follows:  
Sec. 2-11.39.2. Application of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

Notwithstanding any other provision of the Code or of any resolution, the Board of County Commissioners may by resolution determine that the members of designated county boards are exempt from the provisions of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code) as the same may be amended from time to time. Resolutions adopted under the authority of this section shall be effective for 2003 and thereafter.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

---

[Home](#) | [Agendas](#) | [Minutes](#) | [Legislative Search](#) | [Lobbyist Registration](#) | [Legislative Reports](#)  
[2003 BCC Meeting Calendar](#) | [Miami-Dade County Code of Ordinances](#)

[Home](#) | [Using Our Site](#) | [About](#) | [Phone Directory](#) | [Privacy](#) | [Disclaimer](#)

---

E-mail your comments, questions and suggestions to [Webmaster](#)

Web Site © 2003 Miami-Dade County.  
All rights reserved.



## Miami-Dade Legislative Item

### File Number: 030487

**File Number:** 030487      **File Type:** Resolution      **Status:** Adopted  
**Version:** 0      **Reference:** R-340-03      **Control:** County Commission  
**File Name:** EXEMPTION OF CERTAIN COUNTY BOARDS FROM CONFLICT/INT. ORD      **Introduced:** 2/18/2003  
**Requester:** NONE      **Cost:**      **Final Action:** 4/8/2003  
**Agenda Date:** 4/8/2003      **Agenda Item Number:** 10A1

**Notes: Title:** RESOLUTION ADOPTED UNDER THE AUTHORITY OF SECTION 2-11.39.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, EXEMPTING CERTAIN COUNTY BOARDS FROM THE APPLICATION OF THE MIAMI-DADE COUNTY CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE [SEE AGENDA ITEM NO. 6J]

**Indexes:** CONFLICT OF INTEREST/CODE OF ETHICS COUNTY BOARDS EXEMPTION      **Sponsors:** Sally A. Heyman  
 Jose "Pepe" Diaz

**Sunset Provision:** No      **Effective Date:**      **Expiration Date:**  
**Registered Lobbyist:** None Listed

### Legislative History

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned	Pass/Fail
Board of County Commissioners	4/8/2003	10A1	Adopted				P
Governmental Operations and Environment Committee	3/4/2003	2L	Forwarded with a favorable recommendation				P

### Legislative Text

#### TITLE

RESOLUTION ADOPTED UNDER THE AUTHORITY OF SECTION 2-11.39.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, EXEMPTING CERTAIN COUNTY BOARDS FROM THE APPLICATION OF THE MIAMI-DADE COUNTY CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE

#### BODY

WHEREAS, this Board wishes to attract more citizens to serve on County advisory boards, and to make such service more convenient; and

WHEREAS, this Board has enacted Section 2-11.39.2 of the Code of Miami-Dade County, Florida; and

WHEREAS, said section authorizes this Board to exempt designated County boards from the application of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance; and

WHEREAS, this Board wishes to implement said section and designate certain County boards thereunder,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The following County boards are hereby designated pursuant to Section 2-11.39.2 of the Code of Miami-Dade County:

1. Affirmative Action Advisory Board
2. Aircraft Noise Abatement Task Force for MIA
3. Asian American Advisory Board
4. Bicycle/Pedestrian Advisory Committee
5. Black Affairs Advisory Board
6. Commission on Disability Issues
7. Commission for Women
8. Community Image Advisory Board
9. Community Relations Board Nominating Committee
10. Community Small Business Enterprise Program
11. Dial-A-Life Program Advisory and Oversight Board
12. Domestic Violence Oversight Board
13. Equestrian Center Advisory Board
14. Hispanic Affairs Advisory Board
15. Minority and Women-Owned Business Advisory Board
16. Parks and Recreation Citizens Advisory Committee
17. Racial Profiling Advisory Board
18. Transportation Aesthetics Review Committee

Section 2. The members of each County board listed above in Section 1. of this resolution are exempted from the application of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance arising from Board membership.

Section 3. The exemption provided to Board members through Section 2-11.39.2 of the Code and this resolution shall be effective for 2003 and thereafter.

---

[Home](#) | [Agendas](#) | [Minutes](#) | [Legislative Search](#) | [Lobbyist Registration](#) | [Legislative Reports](#)  
[2003 BCC Meeting Calendar](#) | [Miami-Dade County Code of Ordinances](#)

[Home](#) | [Using Our Site](#) | [About](#) | [Phone Directory](#) | [Privacy](#) | [Disclaimer](#)

---

E-mail your comments, questions and suggestions to [Webmaster](#)

Web Site © 2003 Miami-Dade County.  
All rights reserved.