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STAFF GENERAL COUNSEL

August 19, 2004

Charles Byrd
Director of Urban Initiatives
The Beacon Council
80 S.W. 8th Street
Miami, FL 33130

RE: INQUIRY 04-104

Dear Mr. Byrd:

You requested an opinion regarding any conflicts between your chairmanship of the loan committee for the Urban Task Force(UTF) and your marketing activities on the behalf of the task force. I am rendering my opinion based on the information you provided. The Ethics Commission has not considered this matter. Please advise me if you would like a formal opinion from the Ethics Commission.

You advised me that the Urban Task Force is responsible for reviewing , analyzing and evaluating economic development plans and projects for targeted areas in Miami-Dade County. The UTF also administers the application and approval process for Section 108 loans. Section 108 is a federal loan program designed to provide financial assistance to businesses in targeted urban areas. The loans may be used for working capital, purchase of machinery and equipment, construction/renovation of commercial sites and acquisition of real estate for large scale commercial and industrial projects. The loan amounts range from half a million to five million dollars.

The UTF Loan Committee is primarily composed of task force members with banking and lending backgrounds. After the UTF staff performs due diligence analyses of the loan applications, the Loan Committee makes loan award recommendations to the Office of Community and Economic Development. The Office of Community and Economic Development executes the actual loan documents. In your capacity as chair of the Loan Committee, you are responsible for preparing committee agendas and calling meetings. You also make presentations to community organizations to encourage participation in UTF's loan programs. You do not vote on any proposals generated by your public presentations.

The Conflict of Interest and Code of Ethics ordinance permits you to serve as Chair of the Loan Committee and to solicit loan proposals for the Section 108 program. Further, you are permitted to participate in discussions and vote on any proposal unless you have one of the prohibited relationships with the individual proposers enumerated in the Conflict of Interest and Code of Ethics ordinance.

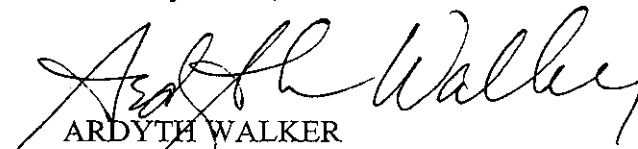
Section 2-11.1(v) prohibits advisory board members from participating in discussion and voting on matters if the board member has a prohibited relationship and will be directly affected by the decision of the board. Section 2-11.1(v) provides that no person included in the terms defined in subsections (b)(3)(quasi-judicial personnel) and (b)(4)(advisory personnel) shall vote on any matter presented to the advisory board or quasi-judicial board on which the persons sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor. Therefore, you may vote on proposals generated by your presentations or solicitations as long as you do not have any of the listed relationships with the applicants and will not be directly affected by the committee's action.

The Conflict of Interest ordinance also prohibits you from taking action where your personal financial interests are involved or acquiring a financial interest in any project where your financial stake in the endeavor will be affected by the actions of the UTF loan committee.

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) 350-0616.

Sincerely Yours,


ARDYTH WALKER
Staff General Counsel

ARTICLE VI. TASK FORCE ON URBAN ECONOMIC REVITALIZATION

Sec. 30A-128. Creation of the task force on urban economic revitalization.

There is hereby created and established as an agency and instrumentality of Miami-Dade County a revocable trust which shall be named and known as a Task Force on Urban Economic Revitalization hereinafter referred to as "the Task Force." The Task Force shall be a public body through which its governing body may exercise all those powers either specifically granted herein or necessary in the exercise of the powers herein enumerated.

(Ord. No. 97-33, § 1, 4-15-97)

Sec. 30A-129. Definitions.

For the purposes of this section the following definitions shall be effective:

- (1) *Urban Economic Revitalization* means the undertakings and activities of Miami-Dade County and its residents in implementing comprehensive economic development strategies to create jobs, cause an increase in the tax base, and promote business activity in Targeted Urban Areas located in Miami-Dade County.
- (2) *Targeted urban areas* means those geographical areas commonly known as: Liberty City/Model City, Carol City, Goulds, Overtown, Little Haiti, Brownsville, Opa-Locka, Richmond Heights, Homestead/Florida City, Coconut Grove, Northwest 27th Avenue Corridor, Northwest 183rd Street Corridor, West Little River, Princeton/Naranja, Leisure City, South Miami, Perrine and the City of North Miami's 7th Avenue District, Downtown District, West Dixie Highway District and Biscayne Boulevard District. Any geographic locations in Miami-Dade County which are designated by the Federal Government as empowerment zones shall be included in the definition of targeted urban areas at the time of such designation. Maps or street descriptions setting forth the contiguous boundaries of the targeted

urban areas, which are attached to this article as Exhibit A and on file with the Clerk of the Board of County Commissioners, are hereby incorporated herein by reference.

- (3) *County funds* means funds received by the County from any source, and shall include but not be limited to, general funds, omnibus reserve funds, state or federal grant funds, and any empowerment zone funding granted to Miami-Dade County before and after the effective date of this article

(Ord. No. 97-33, § 2, 4-15-97; Ord. No. 02-39, § 1, 3-12-02)

Sec. 30A-130. Governing body.

(a) *Membership; compensation.* The governing body of the Task Force shall be a Board of Directors composed of twenty-three (23) voting members. Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the discharge of their duties.

(b) *Composition.* The voting membership of the Board of Directors shall be ethnically, racially, geographically and gender balanced and shall be composed of the following members:

- (1) One (1) member representing the financial or banking community;
- (2) One (1) member representing the legal community;
- (3) One (1) member nominated by the Chairperson of the Board of County Commissioner's Committee which has jurisdiction over community and economic development;
- (4) One (1) member with a background in public sector budgeting and finance;
- (5) One (1) member nominated by the Beacon Council;
- (6) One (1) member representing the civic and private sector business community which shall be nominated by the Greater Miami Chamber of Commerce;

- (7) One (1) member representing the civic and private sector business community which shall be nominated by the Miami-Dade Chamber of Commerce;
- (8) One (1) member nominated by the Metro-Miami Action Plan Trust
- (9) Two (2) members of the Florida Legislature, one (1) from the House and one (1) from the Senate, who were elected from districts which are located, wholly or partially, within a targeted urban areas;
- (10) One (1) member nominated by the Urban Bankers Association, Inc.;
- (11) One (1) member nominated by the Black Lawyers Association Inc.;
- (12) One (1) member nominated by the Black Business Association;
- (13) One (1) member nominated by Tools for Change;
- (14) One (1) member nominated by a community development organization which allows the community to vote on its Board membership;
- (15) Four (4) members of the Board of County Commissioners whose districts constitute the largest part of the Targeted Urban Areas shall each designate one (1) member of the Task Force who shall be residents of targeted urban areas or who are business owners who have places of business within targeted urban areas.
- (16) One (1) member representing the Commercial/Industrial Development Community;
- (17) One (1) member nominated by the Coalition of Community Development Corporations;
- (18) One (1) member representing the investment banking community;
- (19) One (1) member representing the insurance community;

Members of the Board of County Commissioners who were elected from districts which are located, wholly or partially, in the targeted urban areas,

shall serve as ex-officio, non-voting advisors to the Task Force. These advisors shall not count towards a quorum.

Vacancies on the Board of Directors shall be filled in the same manner by which the original members were appointed, with a special emphasis on choosing persons representative of the gender, racial and ethnic composition of the entire community.

(Ord. No. 97-33, § 3, 4-15-97)

Sec. 30A-131. Terms of office, tenure and removal of Directors.

All non-ex officio members shall serve staggered terms of three (3) years each; provided, however, of the original Board of Directors, the Mayor of Metropolitan Miami-Dade County shall select five (5) members for a term of one (1) year, and five (5) members for a term of two (2) years and the remaining non-ex officio members for a term of three (3) years. No member, with the exception of ex-officio members and advisors, shall be permitted to serve more than two (2) consecutive and complete terms of three (3) years each unless so authorized by the Mayor of Metropolitan Miami-Dade County. Members may be removed in accordance with the provisions of Section 2-11.38 of the Code of Metropolitan Miami-Dade County.

(Ord. No. 97-33, § 4, 4-15-97)

Sec. 30A-132. Qualifications.

Each member of the Task Force must comply with the requirements of Section 2-11.38 of the Code of Metropolitan Miami-Dade County.

(Ord. No. 97-33, § 2, 4-15-97)

Sec. 30A-133. Organization and procedure.

(1) *Officers.* The Task Force shall organize after the members thereof have qualified to serve. The Mayor shall appoint the initial Chairperson

and Vice-Chairperson and officers of the Task Force as necessary. These officers shall hold such offices for an initial one-year term. After expiration of the initial term of office of such officers, the Task Force shall elect its officers from among its members. In addition, the Task Force shall make, adopt and amend bylaws, rules and regulations for its own governance.

(2) *Meetings.* The Task Force shall hold regular meetings and such other meetings as it deems necessary. A majority of the members of the Task Force shall constitute a quorum. Minutes shall be kept of all meetings of the Task Force and all meetings shall be public.

(3) *Committees.* The Task Force shall appoint any committees it deems necessary.

(4) *Applicability of County rules and procedures.* The trust shall at all times operate under the Florida Open Government laws, including the "Sunshine Law," public meeting laws and public records laws and shall be governed by all state and County conflict of interest laws, as applicable, including the Metropolitan Dade County Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1 of the Code of Metropolitan Dade County.

(5) *Voting requirements.* Trustees may designate in writing alternates to attend meetings and/or vote on their behalf.
(Ord. No. 97-33, § 6, 4-15-97)

Sec. 30A-134. Powers and duties.

The powers and duties of the Task Force shall be as follows:

- (a) To serve in an advisory capacity to the Mayor and the Board of County Commissioners with respect to all issues affecting urban economic revitalization related to targeted urban areas;
- (b) To develop and present to the Mayor and the Board of County Commissioners within ninety (90) to one hundred twenty (120) days from the first meeting of the Task Force, a "Plan" which shall:
 - (1) Identify the goals of the Plan and identify specific, focused, achievable

economic development projects and/or programs to be carried out wholly or partially within the targeted urban areas,

- (2) Delineate the action steps necessary or desirable to accomplish goals of the Plan,
- (3) Develop a plan for private sector fundraising to benefit Urban Economic Development within targeted urban areas; such plan should (1) identify persons and/or private entities to engage in fundraising to benefit Urban Economic Development within targeted urban areas and may propose to Dade County a contract with such persons and/or entities which would establish a public/private partnership, the goal of which would be to benefit Urban Economic Development within targeted urban areas; (2) include a component to involve residents of the targeted urban areas in fundraising in order to promote a sense of community ownership in the economic revitalization of the targeted urban areas, and (3) allow an opportunity for capital investment by residents of the targeted urban areas.

In order to develop the Plan, the Task Force shall:

- (1) Review, analyze and evaluate the funding expended in the targeted urban areas for economic development over the past ten (10) years.
- (2) Review, analyze and evaluate existing economic development plans and/or studies prepared on behalf of Dade County and prepared by community development corporations or community based organizations to determine which projects are achievable and feasible, including but not limited to plans and/or studies related to projects such as the Poinciana Industrial Park, the Seventh Avenue Corridor, Northside Shopping Center, the Northwest 183rd Street Shopping Center, the Community Development Bank, the Rich-

mond Heights Old Shopping Center Project, the Perrine/Homestead Avenue Corridor, and the Goulds Shopping Center; provided, such plans or studies shall relate to projects or programs wholly or partially within targeted urban areas;

- (3) Review, analyze and evaluate successful Urban Economic Revitalization programs from other major urban areas, including but not limited to programs in Baltimore, Maryland, Harlem, New York; Washington, D.C. and Atlanta, Georgia;
- (4) Review, analyze and evaluate the Community and Individual Investment Corporation Guide published by USHUD September, 1996;
- (5) Hold community meetings, coordinated by MMAP, to encourage public input in developing a focused, achievable and feasible plan and disseminate information regarding existing programs which aid the urban economic revitalization effort. The community input process utilized in the empowerment zone process may be used as a guide;
- (6) Identify new and existing federal, state and local sources of funding, if any, which could provide funding for Urban Economic Revitalization.
 - (c) To update the Plan on an annual basis;
 - (d) To study the feasibility of community based development entities' consolidating and forming alliances which could take advantage of economies of scale and promote efficiency in service delivery; and to recommend incentives to encourage the formation of such consolidations and alliances;
 - (e) To encourage employment of targeted urban area residents in major downtown developments, such as the Maritime Park Project and the Performing Arts Center;
 - (f) To encourage and promote the development and growth of the new and existing businesses in the targeted urban areas; and
 - (g) To review the Office of Community Development's ("O.C.D.'s") recommendations for

Dade County Community Development Block Grant economic development category funding and Community Based Organization Funding, related to economic development, for the purpose of assuring that O.C.D.'s staff recommendations are in accordance with priorities established by the Plan and require O.C.D. to report the dollar amount being spent in targeted urban areas. To the extent the Board expends County Funds for economic development in targeted urban areas, recommendations of the Task Force made pursuant to this subsection shall be accepted and implemented by the Board of County Commissioners, unless the recommendation is disapproved by a two-thirds ($\frac{2}{3}$) vote of the entire membership of the Board of County Commissioners.

(h) Work with the Mayor to identify and propose to the Board of County Commissioners a dedicated source of funding to implement the Urban Economic Revitalization Plan.
(Ord. No. 97-33, § 7, 4-15-97)

Sec. 30A-135. County spending in targeted urban areas to be in accordance with the Plan.

All County funds expended for Urban Economic Revitalization purposes on projects to be implemented partially or wholly within targeted urban areas, shall be spent in accordance with the priorities established by the Plan.

Any expenditures for urban economic revitalization purposes made by Dade County in an incorporated municipality shall be made only pursuant to an inter-local agreement approved by the municipalities and the Board.
(Ord. No. 97-33, § 8, 4-15-97)

Sec. 30A-136. County spending in non-targeted urban areas not affected by ordinance.

It is the intention of the Board that areas which are not within the boundaries of targeted urban areas shall not be prejudiced with respect to the allocation of County Funds by virtue of the operation of this article. The Board reserves its discretion to allocate County Funds to areas inside and outside targeted urban areas.
(Ord. No. 97-33, § 9, 4-15-97)

Sec. 30A-137. Staff support.

The Clerk of the Board of County Commissioners shall record all meetings of the Task Force. The County Manager and the County Attorney shall provide to the Task Force adequate staff and support services to enable the Task Force to carry out its duties and responsibilities.

(Ord. No. 97-33, § 10, 4-15-97)

Sec. 30A-138. Liberal construction to effectuate public purpose.

This article, being for public purpose and for the welfare of the citizens of Miami-Dade County, Florida, shall be liberally construed to effect the purposes hereof.

(Ord. No. 97-33, § 11, 4-15-97)

Secs. 30A-139—30A-150. Reserved

**ARTICLE VII. SOUTH MIAMI
COMMUNITY REDEVELOPMENT AND
REVITALIZATION TRUST FUND**

Sec. 30A-151. Recitations.

The [recitations included as part of the ordinance from which this article derives] are hereby deemed true and correct and are hereby incorporated as a part of this article.

(Ord. No. 98-80, § 1, 6-16-98)

Sec. 30A-152. Established.

The South Miami Community Redevelopment and Revitalization Trust Fund (the "Fund") is hereby established. Each taxing authority (as defined in the Act) shall annually pay into the Fund, a sum not less than that increment in the income, proceeds, revenues and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment in accordance with the Plan. The increment shall be determined annually and shall be that amount equal to fifty (50) percent of the difference between:

- (a) The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service

millage, on taxable real property contained within the geographic boundaries of the Redevelopment Area; and

- (b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the Redevelopment Area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of this ordinance.

(Ord. No. 98-80, § 2, 6-16-98)

Sec. 30A-153. County appropriations to Fund.

Each taxing authority shall, by January 1st of each year, appropriate to the Fund for so long as any indebtedness pledging increment revenues to the payment thereof is outstanding (but not to exceed thirty (30) years) a sum that is no less than the increment as defined and determined by Section 2 of this ordinance accruing to such taxing authority. In no year shall the County's obligation to the Fund exceed the amount of that year's tax increment as determined pursuant to Section 2 of this ordinance. Beginning with the twentieth year after the date of sale of the initial bonding or indebtedness pledging tax increment funds, no new sale of bonds or indebtedness supported by the County's tax increment may occur nor may existing indebtedness so supported be refunded without amending this Ordinance. The County's obligation to fund the Fund annually shall continue until all loans, advances and indebtedness, if any, and interest thereon, of the Agency incurred as a result of redevelopment in the Redevelopment Area have been paid. The County's increment contribution is to be accounted for as a separate revenue within the Fund but may be combined within other revenues for the purpose of paying debt service. The County must approve the amount, duration of the obligation and the purpose of any bond, note or other form of indebtedness, including advances, pledging or otherwise obligating tax increment funds.

(Ord. No. 98-80, § 3, 6-16-98)

Sec. 30A-154. Expenditures of Fund moneys.

Moneys in the Fund may be expended from time to time for the following purposes, when directly related to financing or refinancing of redevelopment in the Redevelopment Area pursuant to the Plan:

- (a) Administrative and overhead expenses necessary or incidental to the implementation of the Plan;
- (b) Expenses of redevelopment planning, surveys and financial analysis, including the reimbursement to the City Commission or the Agency for such expenses incurred before the Plan was approved and adopted;
- (c) The acquisition of real property in the Redevelopment Area;
- (d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants as provided in Section 163.370, Florida Statutes;
- (e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes and any other form of indebtedness;
- (f) All expenses incidental to or connected with the issuance, sale, redemption, retirement or purchase of agency bonds, bond anticipation notes or other form of indebtedness, including funding of any reserve, redemption or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes or other form of indebtedness; and
- (g) The development of affordable housing within the Redevelopment Area.

(Ord. No. 98-80, § 4, 6-16-98)

Sec. 30A-155. Moneys remaining in Fund on the last day of the Agency's fiscal year.

On the last day of the Agency's fiscal year, any money which remains in the Fund after the payment of the above listed expenses for such year shall be:

- (a) Returned to each taxing authority which paid the increment in the proportion that

the amount of the payment of such taxing authority bears to the total amount paid into the Fund by all taxing authorities within the Redevelopment Area for that year;

- (b) Used to reduce the amount of any indebtedness to which increment revenues are pledged;
- (c) Deposited in an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or
- (d) Appropriated to a specific redevelopment project pursuant to the Plan which project will be completed within three (3) years from the date of such appropriation.

(Ord. No. 98-80, § 5, 6-16-98)

Sec. 30A-156. Annual independent financial audit.

The Agency shall provide for an independent financial audit of the Fund each fiscal year and a report of such audit. Such report shall describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the Fund during such fiscal year and the amount of principal and interest paid during such year on any indebtedness to which is pledged increment revenues and the remaining amount of such indebtedness. The Agency shall provide a copy of the report to each taxing authority. All Fund records shall be available for County inspection. The County reserves the right to audit the Fund. (Ord. No. 98-80, § 6, 6-16-98)

Sec. 30A-157. Declaration of public purpose; liberal construction.

This article is hereby declared to be for a public purpose and for the welfare of the citizens of Miami-Dade County, Florida and shall be liberally construed to effectuate the purpose thereof. (Ord. No. 98-80, § 7, 6-16-98)

**Section 108
Revolving Loan Fund
(RLF)
Guidelines**

- Description:** Financial assistance to businesses in the TUAs to promote business attraction, expansion and retention.
- Purpose:** Working capital, purchase of machinery and equipment, construction/renovation of commercial sites and acquisition of real estate.
- Maximum Amounts:** Not to exceed 20% of total project costs up to 5 million.
(Threshold loan amount is \$500,000)
- Interest Rates:** Affordable fixed rate financing based on market rates, financial analysis and the needs of the business.
- Conditions:** For each \$35,000 of Section 108 RLF funds, at least one new permanent full time job must be created, of which at least 51% must be made available to individuals whose income is low/moderate and live within an established TUA entity. Project must be located within a Targeted Urban Area.
- Requirements:** A business plan that includes the loan request and the method of loan repayment.
- Leveraging:** Fund recipients will be expected to provide at least a 1:4 match, (\$1 Section 108 fund dollars to \$4 business owner/bank funds)
- Collateral:** Loans must be secured with collateral to the extent available and acceptable to the Section 108 RLF Loan Committee.
- Project Evaluation Criteria:** The following factors and criteria will be applied in the selection and evaluation of economic development projects:
- Leveraging of public funding
 - Cost per new job created
 - Job Creation for low-moderate income
 - Percentage utilization of small business and minority services
 - Committed sources of private and other funding
 - Ability to repay
 - Experience of entrepreneur/owners
 - Physical impact-visibility
 - Types of services brought to the community (refer to TFUER Strategic Plan)

HUD SECTION 108 REVOLVING LOAN FUND

Eligible Activities

The following projects are eligible for consideration:

- **Office Buildings**
- **Industrial Parks**
- **Manufacturing Facilities**
- **Shopping Centers**
- **Hotel/Motel Developments**
- **Large Scale Entertainment Centers**
- **Franchise Development**
- **All Other Large-scale Industrial or Commercial Projects**

- Market feasibility
- Funding priority to projects located within non-entitlement cities; and projects within entitlement cities where the city is providing project funding; projects proposed for location which have not received consistent public funding
- Project is financially feasible considering debt services and other factors (including cost of any required environmental amount and remediation)
- Return on equity investment is reasonable
- Collateral
- Guarantees
- Character of principals

R00 04-151

CLOSED
SEE FNO
04-104



THE BEACON COUNCIL
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F A X C O V E R S H E E T

Pages (including cover sheet)

DATE: 8/10/04

TO: Ms. Ardeth Walker

COMPANY: Dade County Ethics Comm.

FAX Number: 305-579-1093

FROM: Charles Byrd - Director, Urban Initiatives

MESSAGE:
*Ardeth, per our conversation, due
my chairmanship of the Urban Initiatives
Face Sect 108. I am concerned
a conflict of interest, for projects
that I bring to the Beacon, even
though, I don't vote on these
projects. - Please contact me once
you have completed an opinion, please
(do not) fax back to me. I can come
pick it up.*