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Miami-Dade County Commission on Ethics and Public Trust

Memo

To: Mike Murawski, ethics advocate
From: Karl Ross/ Kennedy Rosario, investigators
Date: April 18, 2006
Re: K06-17 Deborah Irby

The purpose of this memo is to support the complaint regarding Opa-locka City Clerk Deborah Irby's unauthorized gasoline usage in the period following Hurricane Wilma, which struck on the morning of Oct. 24, 2005, in which it is alleged Ms. Irby and City Manager Jannie Beverly violated Section 2-11.1(g) of the Miami-Dade County Code entitled *Exploitation of official position prohibited*. It should be noted that neither Irby, City Manager Beverly nor the city attorney were able to cite an official ordinance or resolution authorizing Ms. Irby's use of gasoline at the city's public works depot.

A spreadsheet prepared in connection with this investigation indicates Ms. Irby took a total of 85.6 gallons during the period in which her home was without electricity – from Oct. 24, 2006, through Nov. 7, 2006, according to Florida Power & Light. Ms. Irby began taking gas from the city's public works pump on Oct. 28, 2006, the same day her bank records indicate she made an expenditure of \$708.31 at Sam's Club in Miramar, presumably for the generator used to power her home.

A careful analysis of Ms. Irby's gasoline usage indicates she reaped a financial benefit well in excess of the \$100 she purportedly intended to pay the city. Ms. Irby's check for gas usage was dated Nov. 2, though her home continued without power for five more days. During that time, she consumed 34 additional gallons of gas at a cost to the city of \$59.15. The total cost to the city for the period in question was \$149.81.

It should be noted that Ms. Irby's average weekly gas usage for 2005 was 13 gallons a week. Allowing for two fill-ups of her personal vehicle – the legitimacy of which has

also been called into question by the investigation – Ms. Irby still consumed about 60 gallons more during this period, most of which can be attributed to the need to fuel her home generator and, in at least one instance, filling up her daughter's car. The financial benefit to Ms. Irby could be roughly calculated at \$180 if an average price per gallon of mid-grade gasoline of \$3 per gallon is used. This was the approximate market value of such gasoline in the days following Wilma in which Ms. Irby did not see fit to wait in gas lines as other city employees and ordinary citizens did.

Investigators would also like to note Ms. Irby's hostile attitude toward employees who questioned her gasoline usage. In particular, we believe Irby should be censured for her attack on Assistant Public Works Director Conrad Harris. One public works employee told investigators that Irby, who was irate after learning of this inquiry, shouted at him to "Tell Conrad to get his camera so he can take a picture of me filling up my car." Investigators are troubled that Mr. Harris was subsequently placed on administrative leave without a full explanation as to why. It should be noted that Mr. Harris first questioned Irby's abuse of her gas privileges during a meeting at which city employees petitioned City Manager Beverly to buy gas following Wilma. It appears that he has been singled out for retaliatory action as a result.

Investigators hope that other city employees interviewed in connection with Ms. Irby's improper gasoline usage are not subject to similar treatment. Both employees say they witnessed Ms. Irby fill up her personal car and the gas containers following Wilma – contradicting Irby's claim that she didn't fill up her car at this time.

Lastly, it should be noted that two former city employees described Ms. Irby's decision to write the city a check for \$100 as less-than-voluntary. These employees told investigators that Manager Beverly confronted Irby about her gas usage following the meeting with Mr. Harris and other rank-and-file employees. While it is admirable that Ms. Beverly demanded compensation for the city for Ms. Irby's exploitive behavior, investigators are troubled that Ms. Beverly later closed ranks with Irby and didn't challenge Irby's more benign version of events during a Feb. 24 meeting with COE investigators. In doing so, Ms. Beverly sought to enable and legitimize Ms. Irby's actions, which she admitted were contrary to her judgment about proper administrative practices. As one of the former employees said of Ms. Beverly, "I think she should say 'No' to a lot of things" that city officials do. The second former employee described Ms. Irby's unauthorized gasoline usage as "one of those things you have to shut up about" if you want to work in Opa-locka.

Official records from the city's public works department show Ms. Irby consumed 681 gallons of gas in 2005 at a cost to taxpayers of \$1,119. This represents a benefit to Ms. Irby of approximately \$1,500 had she been required to buy gas at retail. A review of her benefits package indicates the city has not authorized this usage.

