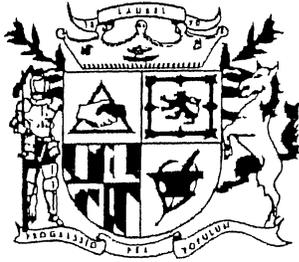


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CITY OF LAUREL, MARYLAND
ETHICS COMMISSION

8103 Sandy Spring Road • Laurel, Maryland 20707

July 28, 2004

[REDACTED]
[REDACTED]
Laurel, Maryland 20707

Dear [REDACTED]

In March, 2004, you requested an advisory opinion as a member of the City Planning Commission concerning the possible conflict of interest which could occur if your company bid on a City project for electronic imaging for document storage. Let me at the outset apologize for the delay in the Commission's decision on this matter but because I was in a serious accident and then due to scheduling problems, the Commission could not have acted any sooner.

Your request is that you be allowed to participate in and prepare your company's bid for a contract for electronic imaging that is expected to be put out for open competition by the City later this year. You testified that preparing proposals in response to bid requests is one of your normal job responsibilities for your company. You further testified that you are an employee of the company, not an officer, shareholder or owner; that you have been a member of the Planning Commission for ten (10) years, and that your position on the [REDACTED] does not involve any matters other than land use matters; that there is no relationship between these responsibilities and the anticipated contract for electronic imaging services; that your contact with City Staff is limited to the Department of Development Management and only about matters before the [REDACTED] and that you have no inside information from your appointed position with the City that could potentially be used in the anticipated contract competition.

[REDACTED] City Administrator, testified that the City has not yet set the final parameters of what the City will go to bid with but that it would be a sealed bid. Further, such bid(s) would be received by the City and reviewed by the Director of Information Technology,

The City Administrator and the City Solicitor. The lowest bid responsive and responsible would normally be recommended to the Mayor and City Council. There is no opportunity or reason for any presentation or lobbying by any company as any part of the bid process. [REDACTED] further testified that [REDACTED] is a valuable member of long standing of the Planning Commission with great experience and would be difficult to replace.

In the Commission's review of your request, we have determined that your request for an advisory opinion is, in reality, a request for exemption pursuant to Sec. 2-62 (c) of the City Code. Our attorney has opined that the Commission may interpret your request as one for an exemption and therefore, the Commission has so treated your letter. The exemption you have requested would exempt you from the provision that states, "No City Official or employee shall be employed by a business entity that is negotiating a contract of more than One Thousand Dollars (\$1,000.00) with the City" In order to grant such exemption, the Commission must find in accordance with Sec. 2-61 (a):

1. That the application of the provision of this Article would constitute an Unreasonable invasion of privacy, or
2. Significantly reduce the availability of qualified persons for public service to the City; and
3. That the exemption or modification would not be contrary to the purposes of this article.

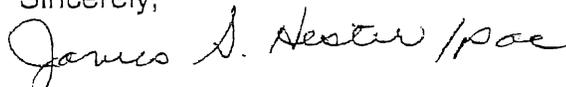
The Commission, having taken testimony on two (2) occasions and based solely upon such testimony and related documents finds as follows:

1. The strict application of the ethics laws in your case would not be an invasion of privacy.
2. However, based upon the City's bid process and the lack of opportunity to lobby or make presentations other than the sealed bid really removes any question of you utilizing your position on the [REDACTED] as leverage for your company. Further, your position on the [REDACTED] does not in any way deal with the subject matter of the proposed electronic imaging and that you would have no potential inside knowledge that could advantage your employer in this unrelated contract bidding process; and further that your position on the City [REDACTED] would not lend any weight to your employer's potential bid.
4. That because of your 10 years of accumulated expertise on the [REDACTED], the strict enforcement of the law in this case could be construed as significantly reducing the availability of qualified persons for public service to the City by costing the City a valued member of longstanding on the [REDACTED]. Many appointed members of the City Boards and Commission are business persons in the City and to deny exemptions, prima facie, of each case and person and without considering the purpose and intent of the Laurel Ethic Ordinance would reduce the availability of such business persons to serve. The Ethics Commission feels this has greater bearing in this specific case where the person is only an employee of the business as opposed to an officer, shareholder or owner.

4. That you be granted an exemption from Sec. 2-62 (c) of the City Code with the following conditions:
- (a) You will not lobby, make any presentations or in any way personally represent your employer before the City Staff or the Mayor and City Council concerning your company's bid.
 - (b) You will not permit your company to use your City title in their proposal or any part of their effort to win the bid for the contract.
 - (c) Should your position change and you become an officer or shareholder before the bid is awarded, or should any of the other circumstances referenced above that underlie this decision change, you return to the Commission for a further determination.
5. That with the above conditions and circumstances, the Commission finds that granting this exemption is not contrary to the purposes of the Ethics Ordinance.

Again, thank you for your patience and thank you for requesting this decision well in advance of the start of the bid process.

Sincerely,



James S. Hester
Chairman
Laurel Ethics Commission

JSH:pac

CC: Honorable Mayor [REDACTED]
City Council Members
Members of Laurel Ethics Commission
City Administrator, [REDACTED]
City Solicitor, [REDACTED] Esquire