

COMMISSION MEMBERS

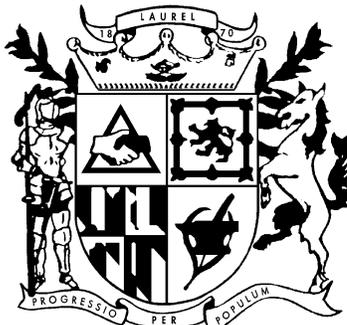
James Hester
Chair
Vincent McEvoy
Vice Chair
Toni Drake
Kenneth P. Dahms
Joseph Fisher
Richard Kluckhuhn
Alternate

COMMISSION STAFF

Kristie M. Mills
City Administrator

Dennis Whitley
Counsel to the Commission

Kay Harrison
Administrative Support



CITY OF LAUREL ETHICS COMMISSION

8103 Sandy Spring Road

Laurel, Maryland 20707-2502

July 11, 2012

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Re: Request for Advisory Opinion

Dear XXXXXXXXXXXXXXX:

On May 3, 2012, you requested an advisory opinion from the Ethics Commission concerning whether you and/or XXXXXXXXXXXXXXX. would create potential for future violations of the City’s Ethics Ordinance if you or XXXXXXXX applied for Federal, State or County grants, conducted seminars and training sessions for the Laurel Police Department, gave presentations in schools, churches, non-profit organizations, private companies, or government agencies, registered as a paid vendor with XXXX or started a weekly television show on the Laurel Cable Network.

FACTS:

The facts of the situation as they have been presented to the Commission by you are as follows:

First, in addition to being a XXXXXXXXXXXXXXX, you are also the Founder and President of XXXXXXXXXXXXXXX, a 501(c) 3 nonprofit organization that addresses, among many issues, domestic violence. XXXXXXXXXXXXXXX currently has no paid staff or grant

XXXXXXXXXXXXXXXXXXXX

July 10, 2012

Page 2

funding. However, in the near future, you and XXXXXXXXXXXXXXXX would like to pursue grant funding in order to hire staff, obtain compensation for yourself, and open an office on Main Street.

Second, you shared the business plan for XXXXXXXXXXXXX, which includes you giving paid speeches, seminars and training sessions about “domestic violence, bullying, child abuse, low self-esteem, codependency, teen dating violence, suicide and depression.” XXXX XXXXXX would market and charge for your services. XXXXXXXXXXXX would target public and private clients in the City of Laurel and throughout the metropolitan region. It should also be noted that you have proffered that you would provide your services to the City of Laurel Police Department’s domestic violence program pro bono.

Third, you explained that you and XXXXXXXXXXXX are not presently paid XXXX vendors. However, on April 26, 2012, you spoke at XXXX Administrative Professional’s Week Training Conference, and it is your understanding that the presentation was well received. Therefore, you would like to take advantage of the goodwill garnered from the aforementioned training and apply for XXXX contracts applicable to your services.

Fourth, you informed the Commission that neither you nor XXXXXXXXXXXX currently has a television show on the Laurel Cable Network. Notwithstanding, it is your desire to start a weekly television show on the Laurel Cable Network. The proposed television show would discuss various topics with different guest each week. Lastly, you also explained that you have met with an employee at XXXX, and he has agreed to act as your mentor for the television show.

ADVISORY OPINION

Based on your written request for an advisory opinion and the testimony presented during the hearing on said request, the Laurel Ethics Commission decided the following by unanimous vote.

APPLYING FOR FEDERAL, STATE AND COUNTY GRANTS

There is no specific provision in the Ethics Code of the City of Laurel that prohibits you or XXXXXXXXXXXXX from applying for Federal, State and County grants. However, Section 2-55 of the Ethics Code outlines prohibited acts and section (e) specifically prohibits the use of the prestige of the office for personal gain. Specifically, 2-55 (e) of the Ethics Code states in pertinent parts:

(e)

Use of prestige of the office

(1)

An official or employee may not intentionally use the prestige of the office or public position for the private gain of that official or employee or the private gain of another.

In other words, while you and XXXXXXXXXXXX are free to solicit grants, you and XXXXXXXX XXXXXXXX are prohibited from using your title of XXXXXXXX or any other reference to your position as a XXXXXXXXXXXX in promotional material or business solicitations. Moreover, the Ethics Commission strongly suggests that you and XXXXXXXXXXXX take steps to:

- 1) create a clear separation from your work as Founder and President of XXXXXXXX XXXXXXXX and your work as a XXXXXXXX in the City,
- 2) ensure that XXXXXXXXXXXX and you do not refer at any time to your role in one to your role in the other
- 3) not solicit or accept business from vendors in the City,
- 4) not solicit or accept business from vendors outside of the City that are identified with the City, and
- 5) not solicit or accept business from vendors inside or outside of the City that conduct business or aspire to conduct business with the City.

PROVIDING SEMINARS/TRAINING TO THE LAUREL POLICE DEPARTMENT

Section 2-55 (j) of the Ethics Code prohibits you and XXXXXXXXXXXX from providing free seminars and training sessions to or on behalf of the Laurel Police Department. Section 2-55 (j) addresses abuse of position by elected and appointed officials. In particular, Section 2-55 (j) states:

(j)

Abuse of position.

(1)

No elected or appointed city official shall use the prestige of his or her office to advance his or her own political interests, private interest or the private interest of any other person, or entity whether for profit or non-profit.

(2)

No elected or appointed city official or city employee may seek monetary or non-monetary favors or contributions from any person or entity who is

XXXXXXXXXXXXXXXXXXXX

July 10, 2012

Page 4

subject to that person's official duties. Contributions from any person or entity over which such city official or city employee has any responsibility to approve or inspect the work of or in any way approve contracts with, zoning of property in which the person or entity has a direct or indirect interest (including any professional or non-professional fee) permits, or the like. In no case shall any city official or city employee seek monetary or non-monetary gifts or favors or contributions from any person or entity seeking a contract with the city; any person or entity involved directly or indirectly with any zoning or permit request before any city department, board, commission, or the mayor and city council.

As a sitting XXXXXXXXXX Section 2-55(j)(1) prohibits you from using the prestige of your office to advance the otherwise noble interest of XXXXXXXXXX. Furthermore, Section 2-55(j)(2) prohibits you from seeking non-monetary favors from the Laurel Police Department, because the police department budget is subject to your review as a part of the official duties of a XXXXXXXXXX.

REGISTERING AS A PAID VENDOR WITH XXXX

Section 2-55 (a)(1)(ii)(e) of the Ethic Code prohibits you and XXXXXXXXXX from registering as a paid vendor with the XXXXXXXXXXXXXXXXXXXXXXXXXX (XXXX). Section 2-55(a)(1)(ii)(e) outlines the prohibited conduct and interests of elected and appointed officials. Specifically, section 2-55(a)(1)(ii)(e) states:

- (a) *Participation prohibitions.*
 - (1)

Except as permitted by commission regulation or opinion, an official or employee may not participate in:

- (ii)

Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

- e. An entity, doing business with the city in which a direct financial interest is owned by another entity in which the official or

XXXXXXXXXXXXXXXXXXXX

July 10, 2012

Page 5

employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests;

XXXX is currently doing business with the City. XXXX provides water and sewer services for all of City's buildings, parks, pools and Main Street plants. Consequentially, as a XXXXXXXX and President of XXXXXXXXXX, you are prohibited from obtaining a direct financial interest in an entity doing a substantial amount of business with the City.

For the same reason, you should not accept the offer that has been made to you by the senior manager from the XXXX to serve as a mentor for a television show or any other purpose.

STARTING A TELEVISION SHOW ON THE LAUREL CABLE NETWORK

Section 2-55 (j) of the Ethics Code prohibits you and XXXXXXXXX from starting a weekly television show on the Laurel Cable Network. As stated previously, Section 2-55 (j) addresses abuse of position by elected and appointed officials. Section 2-55 (j)(1) addresses abuse of position by elected and appointed officials for private interest and section 2-55(j)(2) discusses the interaction between elected and appointed officials and the entities that are subject to their official duties. Stated more succinctly, section 2-55 (j)(1) prohibits you from using the prestige of your office to help XXXXXXXXXX obtain the desired television show.

Moreover, section 2-55(j)(2) prohibits you from seeking non-monetary favors from the Laurel Cable Network, because the City provides a 25% share of cable franchise fee received by the Laurel Cable Network Foundation.

POST-EMPLOYMENT LIMITATIONS AND RESTRICTIONS

In the hearing you mentioned that you introduced legislation that relates to the subject of this Advisory Opinion. When the day comes that you step down from your position as XXXXXXXXXX, we wish to advise you to refer to the language in the Ethics Ordinance that covers the limitations and restrictions that will govern your actions at such a future time:

2-5 Prohibited Conduct and Interests

⋮

(c) Post employment limitations and restrictions

XXXXXXXXXXXXXXXXXXXX

July 10, 2012

Page 6

(1) A former official or employee may not assist or represent any party other than the City for compensation in a case, contract, or other specific matter involving the City if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) Until the conclusion of the next regular session that begins after the elected official leaves office, a Mayor or member of the City Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

IN CLOSING

The Ethics Commission thanks and commends you for coming to us to request clarification on these important and complex issues prior to carrying out any action associated therewith. You set an example for others to follow by doing so.

Your work with XXXXXXXX is commendable and addresses a critical social issue facing society today. Maryland is a large state with a great many communities, jurisdictions, and organizations beyond Laurel who can greatly benefit from you and XXXXXXXXXX good work and we wish you and XXXXXXXXXX great success in undertaking your work in these other places and in compliance with this Advisory Opinion.

Should you have any other questions or if the Commission may provide further advice on compliance with the Ethics Ordinance on this or any other matter, please contact us at your convenience.

Sincerely,

James Hester, Chairman