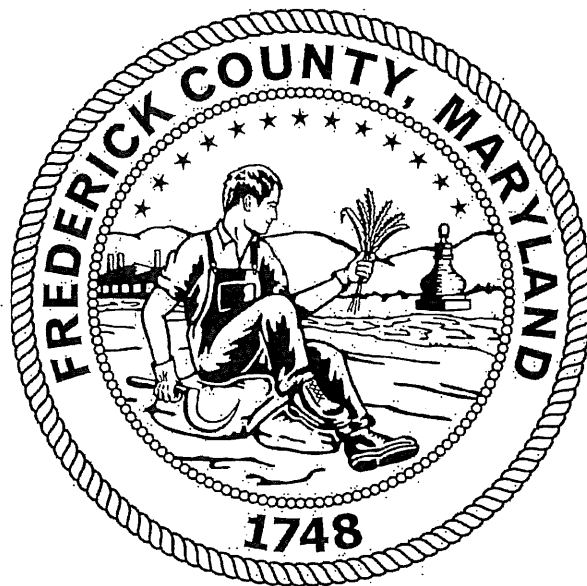


Administration of the
Frederick County Ethics Law
October 2018 – September 2019

Report to the Frederick County Executive
and the Frederick County Council



Frederick County Ethics Commission

September 6, 2019

Report on the Administration of the Frederick County Ethics Law

October 2018 – September 2019

This report to the County Executive and the County Council describes the Frederick County Ethics Commission's work to administer the Ethics Law from October 2018 through September 2019. State law requires that this report be provided annually.

I. Ethics Commission meetings

During the reporting period, the Ethics Commission met on October 10, 2018; November 14, 2018; December 12, 2018; January 9, 2019; February 13, 2019; March 13, 2019; April 10, 2019; July 10, 2019 and August 14, 2019.

Copies of the meeting agendas and the approved minutes for these meetings are included in Appendix A and B of this report, respectively. The Commission's agendas and meeting minutes are also posted online.

II. Ethics Commission accomplishments

A. Training for County officials and employees

Training County officials and employees on the Ethics Law is a vital step towards ensuring that all County government officials and employees are aware of the Law's requirements and that they remain in compliance with the Law. The Ethics Commission completed the work it began during the previous reporting period to obtain the County Executive's support for implementation of mandatory training for County officials and employees on the requirements of the Ethics Law.

Several members of the Ethics Commission met with the County Executive in January 2019 to discuss the Commission's training recommendations and provide the County Executive with a PowerPoint presentation that could be used as part of the County's ongoing ethics training program. At this meeting, the County Executive agreed to require ethics law training for County government officials and employees. The Commission thanks the County Executive for her support and commitment on this important issue.

B. Review of financial disclosure statements

The Commission members review the financial disclosure statements filed by those County elected and appointed officials, employees and members of boards and commissions who are subject to the Ethics Law's annual filing requirements. (Financial disclosure statements are due in April of each year. The statements provide information for the previous calendar year.) Once the disclosure statements are received, the Commission reviews the statements to identify and address existing or potential conflicts of interest. Financial disclosure statements that are incomplete or raise questions about potential conflicts of interest are identified and the filers of those statements are contacted to obtain the additional information required for the Commission to determine whether there are conflicts of interest or violations of the Ethics Law. When concerns arise about compliance with the Ethics Law, the Commission provides guidance and direction to the official or employee.

During the period covered by this report, the Ethics Commission completed its review of the financial disclosure statements filed in 2018 and found no conflicts of interest. The Commission is in the process of reviewing the financial disclosure statements it received in 2019.

C. Advisory Opinions issued

The Commission issued three advisory opinions during the reporting period.

- Advisory Opinion No. 18-03 provided guidance on what types of activities County officials and employees may engage in to help non-profit entities, consistent with the requirements of the Ethics Law. The activities include raising or donating funds, as well as soliciting or donating items that non-profit entities can use to serve their clients. The Ethics Commission addressed the eight specific situations mentioned in the request, but stressed that questions about the applicability of the "use of prestige of office" conflict of interest provision in the Ethics Law must be decided on a case-by-case basis due to the variety of factual situations in which the questions could arise.
- Advisory Opinion No. 19-01 considered whether the Ethics Law allowed two County Council Members who are employed in Frederick County as public school teachers to vote on the County Executive's appointment of a person to serve on the Board of Education to fill the remaining term of a Board member who resigned. The Commission found that its earlier Advisory Opinion 14-05 was controlling and that the two Council Members could vote on confirmation of the appointment without violating the Ethics Law.
- Advisory Opinion No. 19-02 responded to a request for guidance regarding a GoFundMe page set up to assist a County official and the official's children after the loss of the official's spouse. (The County official did not establish the fund, but was aware of its

existence.) The Ethics Commission provided guidance on which types of donations could be accepted under the Ethics Law's conflict-of-interest provisions.

Copies of these Advisory Opinions are provided in Appendix C.

D. Action on complaints

The Ethics Commission received an ethics complaint in July 2019. The complaint alleged that a County official violated the "use of prestige of office" provision in the Ethics Law through postings on the official's Facebook page and public comments. The Ethics Commission dismissed the complaint, finding that the facts contained in the complaint, even if true, were insufficient to state a violation of the Ethics Law.

There were no other complaints filed during the period covered by this report.

Appendix A – Ethics Commission Agendas

Appendix B – Ethics Commission Meeting Minutes

Appendix C – Ethics Commission Advisory Opinions

ETHICS COMMISSION

Public Meeting Agenda for October 10, 2018

Meeting location: Winchester Room, 2nd floor, Winchester Hall

Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the September 12, 2018 meeting
 2. Discussion and approval of the Commission's training recommendation to the County Executive
 - Draft letter to the County Executive (Mr. Shapiro)
 - Revisions to PowerPoint handout (Mr. Heller, Ms. Davidson, Mr. Shapiro)
 3. Discussion of request for guidance on the extent to which officials and employees can participate in fund raising activities or request donations for a third party
-

Remaining 2018 meeting dates (second Wednesday of each month):

November 14 (Shane unable to attend)
December 12

2019 meeting dates:

January 9
February 13 (Shane unable to attend)
March 13
April 10
May 8 (Shane unable to attend)
June 12
July 10
August 14
September 11 (Linda unable to attend)
October 9
November 13 (Shane unable to attend)
December 11

Annual calendar items

Month	Item
February/March	Discuss Commission recommendations for inclusion in the County Executive's legislative package
July	Election of Chair and Vice-Chair
August/September	Begin work on the Commission's annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Public Meeting Agenda for November 14, 2018

Meeting location: Winchester Room, 2nd floor, Winchester Hall

Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the October 10, 2018 meeting
 2. Discussion and approval of the PowerPoint sample training document
 3. Discussion of annual financial disclosure statements from officials and employees
-

Remaining 2018 meeting date (second Wednesday of each month):

December 12

2019 meeting dates:

January 9	July 10
February 13 (Shane unable to attend)	August 14
March 13	September 11 (Linda unable to attend)
April 10	October 9
May 8 (Shane unable to attend)	November 13 (Shane unable to attend)
June 12	December 11

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Public Meeting Agenda for December 12, 2018
Meeting location: Winchester Room, 2nd floor, Winchester Hall
Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the November 14, 2018 meeting
 2. Discussion and approval of the PowerPoint sample training document
 3. Discussion and approval of revisions to the 2019 financial disclosure forms
 4. Continued discussion of annual financial disclosure statements from officials and employees
-

2019 meeting dates:

January 9
February 13 (Shane unable to attend)
March 13
April 10
May 8 (Shane unable to attend)
June 12
July 10
August 14
September 11 (Linda unable to attend)
October 9
November 13 (Shane unable to attend)
December 11

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Public Meeting Agenda for January 9, 2019

Meeting location: Winchester Room, 2nd floor, Winchester Hall

Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the December 12, 2018 meeting
 2. Vote to conduct an administrative function meeting to discuss a pending request for an advisory opinion.
-

Remaining 2019 meeting dates:

February 13	(Shane unable to attend)
March 13	(Deidre unable to attend)
April 10	
May 8	(Shane unable to attend)
June 12	
July 10	
August 14	
September 11	(Linda unable to attend)
October 9	
November 13	(Shane unable to attend)
December 11	

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Public Meeting Agenda for February 13, 2019

Meeting location: Winchester Room, 2nd floor, Winchester Hall

Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the January 9, 2019 meeting
 2. Briefing by Mr. Hess, Mr. Heller and Ms. Davidson on the meeting with the County Executive on January 29, 2019
 3. Distribution of the County Executive's Public Ethics Report to the Ethics Commission for the period July 1, 2018 to December 31, 2018
 4. Identification and discussion of any Ethics Commission recommendations to the County Executive for inclusion in her legislative package
 5. Update on financial disclosure statement follow ups
-

Remaining 2019 meeting dates:

March 13	(Deidre unable to attend)
April 10	
May 8	(Shane unable to attend)
June 12	
July 10	
August 14	
September 11	(Linda unable to attend)
October 9	
November 13	(Shane unable to attend)
December 11	

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Public Meeting Agenda for March 13, 2019

Meeting location: Winchester Room, 2nd floor, Winchester Hall

Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the February 13, 2019 meeting
2. Vote to conduct an administrative function meeting to discuss a request for an advisory opinion. (tentative)

Remaining 2019 meeting dates:

April 10
May 8 (Shane unable to attend)
June 12
July 10
August 14
September 11 (Linda unable to attend)
October 9
November 13 (Shane unable to attend)
December 11

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Public Meeting Agenda for April 10, 2019.

Meeting location: Winchester Room, 2nd floor, Winchester Hall

Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the March 13, 2019 meeting
2. Discussion of the need for additional work on the development of training materials to be used for educating County employees on the Ethics Law

Remaining 2019 meeting dates:

May 8 (Ernest and Shane unable to attend)
June 12
July 10
August 14
September 11 (Linda unable to attend)
October 9
November 13 (Shane unable to attend)
December 11

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Public Meeting Agenda for July 10, 2019

Meeting location: Winchester Room, 2nd floor, Winchester Hall

Meeting Time: 7:00 PM

PUBLIC MEETING

1. Introduction of new members
 - Dr. Anna Johnson-Winegar
 - Mr. James Stanker (Alternate Member)
 2. Approval of the minutes from the April 10, 2019 meeting
 3. Election of Chair and Vice Chair
 4. Selection of Ethics Commission representative on the Ethics Nominating Committee
 5. Distribution of completed annual financial disclosure statements for review
-

Remaining 2019 meeting dates:

August 14
September 11 (Linda unable to attend)
October 9
November 13 (Shane unable to attend)
December 11

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

ETHICS COMMISSION

Revised Public Meeting Agenda for August 14, 2019
Meeting location: Winchester Room, 2nd floor, Winchester Hall
Meeting Time: 7:00 PM

PUBLIC MEETING

1. Approval of the minutes from the July 10, 2019 meeting
2. Distribution of additional financial disclosure statement
3. Update on Ethics brochure distribution
4. Discussion of annual report to the County Executive and County Council
5. Decision on whether to meet in September
6. Vote to conduct an administrative function meeting to discuss a new complaint

Remaining 2019 meeting dates:

September 11	(Linda unable to attend)
October 9*	* Discussion of issues arising from Member reviews of financial disclosure statements
November 13	(Shane unable to attend)
December 11	

Annual calendar items:

Month	Item
February/March	Discuss recommendations for inclusion in the County Executive's legislative package
July	Elect Chair and Vice-Chair
August/September	Begin work on annual report to the County Executive and County Council
September	Chair to sign the annual certification to the State Ethics Commission
October	Annual report and annual certification due by October 1

Frederick County Ethics Commission Minutes for the Public Meeting of Wednesday, October 10, 2018

Present: Stephen K. Hess, Chair
M. Shane Canfield, Commission Member
Christopher D. Glass, Sr., Commission Member
Deborah L. Lundahl, Commission Member
Linda B. Thall, Senior Assistant County Attorney

Absent: Ernest A. Heller, Vice-Chair
Deidre R. Davidson, Commission Member
Alan Shapiro, Commission Member
Rev. Douglas P. Jones, Alternate Commission Member

The Frederick County Ethics Commission meeting started at 7:05 p.m. on October 10, 2018, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the September 12, 2018 meeting were emailed to the members before the meeting.

MOTION: Ms. Lundahl made a motion to approve the minutes. Mr. Glass seconded the motion, which was approved unanimously.

Discussion of recommendation letter to the County Executive – Before the meeting, Mr. Shapiro circulated his revised draft letter to the County Executive conveying the Commission's recommendation for mandatory training of all County officials and employees on the Ethics Law. The Commission members discussed the revised letter and changes suggested by Mr. Hess. The members considered the comments raised at the meeting and agreed on amendments to the letter. Mrs. Thall reminded the Commission that the letter would be a public record.

Discussion of PowerPoint training example – This discussion was postponed until a future meeting when more members are present.

Discussion of request for guidance on the scope of employee fund raising activities allowed under the Ethics Law – Before the meeting, an email from a County Division Director to Mrs. Thall was sent to the members. The email asked for guidance on the extent to which the Ethics Law allows County officials and employees to engage in activities designed to raise funds for other persons or entities outside of the County government. Mrs. Thall summarized earlier opinions of the Ethics Commission on this topic and the members then discussed the questions raised in the Division Director's email. The Commission asked Mrs. Thall to draft a written response consistent with the Commission's directions.

Reminder about review of financial disclosure statements – The members will discuss the financial disclosure statements at the Commission’s November meeting. Each member should complete his or her review of the assigned disclosure statements prior to the November meeting.

Adjournment

MOTION: Mr. Glass made a motion to adjourn the meeting. The motion was seconded by Ms. Lundahl and approved unanimously.

The Ethics Commission adjourned its meeting at 7:50 p.m.

/s/
Linda B. Thall, Senior Assistant County Attorney

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, November 14, 2018

Present: Stephen K. Hess, Chair
Ernest A. Heller, Vice-Chair
Deidre R. Davidson, Commission Member
Christopher D. Glass, Sr., Commission Member
Deborah L. Lundahl, Commission Member
Alan Shapiro, Commission Member
Rev. Douglas P. Jones, Alternate Commission Member
Linda B. Thall, Senior Assistant County Attorney

Absent: M. Shane Canfield, Commission Member

The Frederick County Ethics Commission meeting started at 7:05 p.m. on November 14, 2018, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the October 10, 2018 meeting were emailed to the members before the meeting.

MOTION: Mr. Heller made a motion to approve the minutes. Mr. Glass seconded the motion, which was approved unanimously.

Discussion of PowerPoint training example – Ms. Davidson informed the Commission that she is continuing to work on the PowerPoint and hopes to have the PowerPoint completed by the time that Commission members meet with the County Executive. The Commission asked Ms. Davidson to email the PowerPoint in advance of the December meeting, so that the members can provide their comments on the PowerPoint. Additional questions and answers to include in the document are needed.

Discussion of recommendation letter to the County Executive – Mr. Shapiro requested changes to the Commission's letter to the County Executive regarding training on the Ethics Law. The Commission members agreed to make the additional changes to the letter.

Review of financial disclosure statements – The financial disclosure statements were distributed at the Commission's October meeting. The members discussed questions about some of the financial disclosure statements and noted which statements required follow up contact. Mr. Shapiro stated that he would have his comments and questions ready for discussion at the December meeting. The Commission members also made suggestions for improving the financial disclosure forms by clarifying the need to identify co-owners of property and advising officials and employees of the disclosure

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, December 12, 2018

Present: Stephen K. Hess, Chair
Deidre R. Davidson, Commission Member
Christopher D. Glass, Sr., Commission Member
Deborah L. Lundahl, Commission Member
Alan Shapiro, Commission Member
Rev. Douglas P. Jones, Alternate Commission Member
Linda B. Thall, Senior Assistant County Attorney

Absent: Ernest A. Heller, Vice-Chair
M. Shane Canfield, Commission Member

The Frederick County Ethics Commission meeting started at 7:00 p.m. on December 12, 2018, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the November 14, 2018 meeting were emailed to the members before the meeting.

MOTION: Rev. Jones made a motion to approve the minutes. Mr. Shapiro seconded the motion, which was approved unanimously.

Discussion of PowerPoint training document – Mr. Hess distributed a list of items for the Commission to discuss before reviewing the specific wording of the PowerPoint and the members' suggested changes. Mr. Hess started with a discussion of the intended use of the PowerPoint document. This discussion focused on whether the document was intended to be used as a presentation tool or to be used by officials and employees to review on their own as part of the ethics training. The members also discussed the target audience for the PowerPoint and what information the Commission wanted the persons receiving the training to take away from the document. Ms. Davidson stated that the PowerPoint was created to allow employees to take the ethics training from their computers. Rev. Jones felt that the PowerPoint should be as detailed and inclusive as possible. Mr. Glass took the position that the County is responsible for deciding what type of training it wants to provide and that the PowerPoint could be shared as one of the available options. There may be a need for different types of training depending on the audience taking the training. Mr. Shapiro stated that the PowerPoint should be more detailed if the employee will be reviewing the PowerPoint independently, but that if the training is live with an audience, a less detailed document would be better. The members also provided their opinions on whether the Ethics Law brochure should be distributed as part of the training.

The members then turned to Mr. Shapiro's specific changes to the PowerPoint, which had been emailed to the members before the meeting. The proposed changes were discussed individually and the members agreed with all but one of the proposed changes.

MOTION: Mr. Shapiro made a motion to adopt the proposed edits with the exception of the change to page 9. The motion was seconded by Ms. Davidson and approved unanimously.

Discussion of revisions to the financial disclosure forms for 2019 – The revised forms were distributed to the members in advance of the meeting. There was a short discussion of the changes and whether any member had any additional changes to the forms before they were approved. There were no additional changes.

MOTION: Rev. Jones made a motion to approve the forms as drafted. The motion was seconded by Mr. Shapiro and approved unanimously.

Update on Commission member questions regarding the 2018 financial disclosure statements – At the November meeting, the members identified questions about individual financial disclosure statements that required additional information and review. Before the December meeting, Mr. Shapiro emailed the members a list of questions about some of the disclosure forms he reviewed. Legal counsel provided information to the Commission about the status of the inquiries and individual responses to the members' questions. Additional updates will be provided as more information becomes available.

Update on request for a meeting with the County Executive – Mr. Hess advised the Commission members that a meeting with the County Executive was scheduled for January 29 to discuss the Commission's training recommendations. Mr. Hess asked which other members were available to attend the meeting. Ms. Davidson confirmed that she could attend the meeting. Mr. Shapiro and Ms. Lundahl also expressed interest in attending, if needed. The members also agreed that the PowerPoint should be provided to the County Executive before the meeting.

Adjournment

MOTION: Rev. Jones made a motion to adjourn the meeting. The motion was seconded by Mr. Glass and approved unanimously.

The Ethics Commission adjourned its meeting at approximately 7:50 p.m.

/s/

Linda B. Thall, Senior Assistant County Attorney

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, January 9, 2019

Present: Stephen K. Hess, Chair
Ernest A. Heller, Vice-Chair
M. Shane Canfield, Commission Member
Deidre R. Davidson, Commission Member
Christopher D. Glass, Sr., Commission Member
Deborah L. Lundahl, Commission Member
Alan Shapiro, Commission Member
Rev. Douglas P. Jones, Alternate Commission Member
Linda B. Thall, Senior Assistant County Attorney

The Frederick County Ethics Commission meeting started at 7:00 p.m. on January 9, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the December 12, 2018 meeting were emailed to the members before the meeting.

MOTION: Ms. Lundahl made a motion to approve the minutes. Mr. Glass seconded the motion, which was approved unanimously.

Vote to conduct an administrative function meeting – The Commission discussed the need to have an administration function meeting to consider a request for an advisory opinion made by two persons seeking guidance on the application of the Ethics Law to their situation.

MOTION: Mr. Heller made a motion to hold an administrative function meeting to discuss the pending request for an advisory opinion. Mr. Glass seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting – The Commission began its administrative function meeting at approximately 7:05 p.m. on January 9, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701. All of the Commission members and the Alternate Member were present, as was Ms. Thall. The Commission members discussed a request for an advisory opinion and how the Ethics Law and other laws apply to the specific action referenced in the opinion request. The members directed that an advisory opinion be prepared.

The Commission resumed its public meeting at approximately 7:50 pm.

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, February 13, 2019

Present: Stephen K. Hess, Chair
Ernest A. Heller, Vice-Chair
Deidre R. Davidson, Commission Member
Christopher D. Glass, Sr., Commission Member
Deborah L. Lundahl, Commission Member
Alan Shapiro, Commission Member
Rev. Douglas P. Jones, Alternate Commission Member
Linda B. Thall, Senior Assistant County Attorney

Absent: M. Shane Canfield, Commission Member

The Frederick County Ethics Commission meeting started at 7:00 p.m. on February 13, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the January 9, 2019 meeting were emailed to the members before the meeting.

MOTION: Mr. Heller made a motion to approve the minutes. Rev. Jones seconded the motion, which was approved unanimously.

Briefing on meeting with the County Executive – On January 29, 2019, Mr. Hess, Mr. Heller and Ms. Davidson met with the County Executive and others to present the Commission's recommendation for mandatory ethics training for County officials and employees. Mr. Heller began by stating that the meeting went well and that the County Executive was very supportive of the Commission's recommendation. To start, the training will most likely be completed online and there will be a certification process to note each person's successful completion of the training. Mr. Hess advised the Commission that the training will need to be targeted to the audience taking the training and that there will be a need to develop questions and answers for different audience groups before the training takes place. Ms. Davidson indicated that the County Executive agreed that all County employees will be required to take the training. The County Executive is expected to ask the County's Human Resources Division and Division of Interagency Information Technologies to assist in developing and implementing the training program.

Distribution of the Public Ethics Report – The Commission members received the Public Ethics Report prepared by the County Executive's Office for the period starting on July 1, 2018 and ending on December 31, 2018. The members discussed the Public Ethics Law and the Commission's role and responsibilities under that law.

Discussion of recommendation to the County Executive for inclusion in her legislative package – Every year, the County Executive solicits recommendations from County boards and commissions for legislative proposals to include in her legislative package. The Ethics Commission schedules this agenda item annually in February or March in order to allow sufficient time for the Commission to identify areas where legislation might be needed.

Mr. Shapiro suggested amending the ex parte disclosure requirements of the Public Ethics Law to require more content about the nature of the ex parte communications. Mr. Heller took the position that it is not the role of the Ethics Commission to review the communications. Instead, the Ethics Commission's role is to hear complaints from the public when someone believes that there has been a failure to comply with the law's requirements. Rev. Jones asked how people would have access to the ex parte disclosures. The Commission was informed that the reports are posted on the County's website. Mr. Hess opposed expanding the disclosure requirements to require that additional information about the nature of the communication be provided to the Ethics Commission. Mr. Shapiro expressed concern that the Commission's receipt of the report could be construed as approval by the Commission. He suggested that it might be better if the Ethics Commission was not the recipient of the report. Rev. Jones raised the possibility of the Commission taking a closer look at a representative sampling of the disclosed communications. Mr. Heller opposed a change to the law. As a compromise, Mr. Glass stated that the Ethics Commission could ask for a synopsis of each ex parte communication. Mr. Hess said that another possibility would be to require the person disclosing the communication to indicate that the communication fell into one of the following categories: in favor of the pending land use application, against the pending land use application or requesting information about the pending land use application.

MOTION: Mr. Shapiro made a motion to have the Ethics Commission ask for legislation to amend the Public Ethics Law to remove the requirement that the Ethics Commission receive the report disclosing ex parte communications. Mr. Glass seconded the motion. Mr. Shapiro, Ms. Davidson and Mr. Glass voted in favor of the motion. Mr. Hess, Mr. Heller, Ms. Lundahl and Rev. Jones voted against the motion. The motion was not approved.

There were no other proposals for inclusion in the legislative package.

Update on financial disclosure statement inquiries – The Ethics Commission previously asked Ms. Thall to follow up on certain financial disclosure statements that were either incomplete or raised questions about potential conflicts of interest. Ms. Thall informed the Ethics Commission members of the results of her inquiries. The Commission found that no further action was required.

Independent Ethics Commission Nominating Committee – The terms of Mr. Glass, Mr. Shapiro and Rev. Jones will end on June 30, 2019. Mr. Heller advised the members that the Nominating Committee has scheduled a meeting for March 23, 2019 to consider

applicants who are interested in reappointment or appointment to the Ethics Commission. The Commission agreed that Mr. Heller should continue working with the Nominating Committee as the Ethics Commission's representative.

Adjournment

MOTION: Mr. Heller made a motion to adjourn the meeting. The motion was seconded by Mr. Glass and approved unanimously.

The Ethics Commission adjourned its meeting at approximately 7:55 p.m.

/s/
Linda B. Thall, Senior Assistant County Attorney

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, March 13, 2019

Present: Stephen K. Hess, Chair
 Ernest A. Heller, Vice-Chair
 M. Shane Canfield, Commission Member
 Christopher D. Glass, Sr., Commission Member
 Deborah L. Lundahl, Commission Member
 Alan Shapiro, Commission Member
 Rev. Douglas P. Jones, Alternate Commission Member
 Linda B. Thall, Senior Assistant County Attorney

Absent: Deidre R. Davidson, Commission Member

The Frederick County Ethics Commission meeting started at 7:00 p.m. on March 13, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the February 13, 2019 meeting were emailed to the members before the meeting.

MOTION: Mr. Heller made a motion to approve the minutes. Rev. Jones seconded the motion, which was approved unanimously.

Vote to conduct an administrative function meeting – The Commission discussed the need to have an administration function meeting to consider a request for an advisory opinion and guidance regarding a fund-raising campaign.

MOTION: Ms. Lundahl made a motion to hold an administrative function meeting to discuss the request for an advisory opinion and guidance. Rev. Jones seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting – The Commission began its administrative function meeting at approximately 7:05 p.m. on March 13, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701. All of the Commission members and the Alternate Member were present, except for Ms. Davidson. Ms. Thall was also present. The Commission members discussed a request for an advisory opinion and guidance on how the Ethics Law applies to a fund-raising campaign and whether the Ethics Commission should grant an exemption for certain types of gifts under § 1-7.1-5(I)(5)(f). The members directed that an advisory opinion be prepared.

The Commission resumed its public meeting at approximately 8:10 pm.

Adjournment

The Ethics Commission adjourned its meeting at approximately 8:10 p.m.

/s/
Linda B. Tall, Senior Assistant County Attorney

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, April 10, 2019

Present: Stephen K. Hess, Chair
Ernest A. Heller, Vice-Chair
M. Shane Canfield, Commission Member
Christopher D. Glass, Sr., Commission Member
Deborah L. Lundahl, Commission Member
Alan Shapiro, Commission Member
Rev. Douglas P. Jones, Alternate Commission Member
Linda B. Thall, Senior Assistant County Attorney

Absent: Deidre R. Davidson, Commission Member

The Frederick County Ethics Commission meeting started at 7:00 p.m. on April 10, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the March 13, 2019 meeting were emailed to the members before the meeting.

MOTION: Mr. Heller made a motion to approve the minutes. Rev. Jones seconded the motion, which was approved unanimously.

Discussion of training for County officials and employees – Mr. Shapiro suggested prior to the meeting that the Commission members discuss the best way to refine the Commission's training PowerPoint for training different employee groups. Ms. Thall informed the Commission of the progress made to date by the County in implementing the Commission's training recommendations, including an initial training session to be held in April for the County's division directors and managers. This training will be conducted by an attorney who has experience as an instructor on Maryland's local ethics laws. The County has also created a focus group of division directors who will be providing direction on how to implement the ethics training for different employee groups. The Commission asked Ms. Thall to obtain a copy of the training materials used in the April training session, to obtain feedback on any issues arising out of the initial training session and to get direction from the County on what assistance is needed from the Ethics Commission in connection with the ongoing employee training. Rev. Jones thanked Mr. Heller, Mr. Shapiro and Ms. Davidson for their work on the training PowerPoint. The other Commission members also stated their appreciation for the time and effort of these three members.

Discussion of whether the Commission will meet in May – Three of the members have advised the Commission that they will be unable to attend the May 8 meeting. Mr. Hess asked whether any other members were aware of a reason why they might not be able to

attend the May meeting. No additional conflicts were noted. As it appeared that there will be a quorum for the meeting, the Commission plans to meet on May 8.

Financial disclosure statements – Ms. Thall reminded the members that their financial disclosure statements needed to be filed by April 30.

Ethics Nominating Committee – Mr. Heller, who has been serving as the Ethics Commission’s representative on the Ethics Nominating Committee, suggested that the Commission select another member to work with the Committee, as he may be applying for reappointment when his term expires in June 2020. The Commission agreed to make this change and will discuss this further after the new Ethics Commission members needed to fill the positions that will become vacant in July 2019 are appointed and confirmed. Mr. Canfield had general questions about how the recruitment and appointment process works. Mr. Heller described the process and commented that the Nominating Committee has been very efficient in recruiting applicants to serve on the Ethics Commission, interviewing those applicants and making recommendations to the County Executive so that the positions are filled in a timely manner.

Update on Advisory Opinion 19-02 – Mr. Canfield asked whether there had been any additional contact with the individual who requested the Advisory Opinion. Ms. Thall informed the Commission that she had spoken with that individual and that additional efforts had been made to facilitate compliance with the guidance provided in this Advisory Opinion.

Adjournment

MOTION: Mr. Heller made a motion to adjourn. Mr. Shapiro seconded the motion, which was approved unanimously.

The Ethics Commission adjourned its meeting at approximately 7:30 p.m.

/s/
Linda B. Thall, Senior Assistant County Attorney

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, July 10, 2019

Present: Stephen K. Hess, Chair
Ernest A. Heller, Vice-Chair
M. Shane Canfield, Commission Member
Dr. Anna Johnson-Winegar, Commission Member
Rev. Douglas P. Jones, Commission Member
James Stanker, Alternate Commission Member
Linda B. Thall, Senior Assistant County Attorney

Absent: Deidre R. Davidson, Commission Member
Deborah L. Lundahl, Commission Member

The Frederick County Ethics Commission meeting started at 7:00 p.m. on July 10, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Introduction of new members – Dr. Johnson-Winegar and Mr. Stanker attended their first Ethics Commission meeting. They introduced themselves to the other members and provided information about their backgrounds.

Approval of the minutes – The draft minutes from the April 10, 2019 meeting were emailed to the members before the meeting.

MOTION: Rev. Jones made a motion to approve the minutes. Mr. Heller seconded the motion, which was approved unanimously.

Election of Chair and Vice-Chair – Mr. Hess indicated that he was willing to serve another term as the Commission's Chair, but would defer to Mr. Heller if he was interested in becoming the Chair. Mr. Heller stated that he would support the reelection of Mr. Hess.

MOTION: Rev. Jones made a motion to nominate Mr. Hess for Chair and Mr. Heller as Vice-Chair. Dr. Johnson-Winegar seconded the motion, which was approved unanimously.

Ethics Nominating Committee – Mr. Heller, the Ethics Commission's representative on the Ethics Nominating Committee, stated that another Commission member needed to be appointed to serve on the Committee, as he may be applying for reappointment when his term expires in June 2020. Rev. Jones indicated that he was willing to become a member of the Nominating Committee. The members agreed to his appointment by acclamation.

Financial disclosure statement review – Ms. Thall distributed the financial disclosure statements filed by County officials, County employees and members of designated County boards and commissions for calendar year 2018. The members discussed the nature of the Ethics Commission’s review and the purpose for the review. Mr. Hess asked that the members complete their reviews before the Commission’s October meeting.

Inquiry regarding additional questions – Mr. Hess asked Dr. Johnson-Winegar and Mr. Stanker whether they had any questions that the other members could answer. There were no additional questions at this time.

Discussion of public education on the Ethics Law – Mr. Heller noted that under the Ethics Law, one of the Commission’s duties is to conduct a public information program regarding the purposes and application of the Ethics Law. Mr. Heller questioned whether the Commission should be doing more in this area. Mr. Hess mentioned the brochure that the Commission created and suggested making the brochure more available to the public. Possible locations for the brochure were in County buildings, County libraries and the Chamber of Commerce. Mr. Hess asked Ms. Thall to provide a progress report at the Commission’s next meeting.

Adjournment

MOTION: Mr. Heller made a motion to adjourn. Mr. Canfield seconded the motion, which was approved unanimously.

The Ethics Commission adjourned its meeting at approximately 7:35 p.m.

/s/
Linda B. Thall, Senior Assistant County Attorney

Frederick County Ethics Commission
Minutes for the Public Meeting of Wednesday, August 14, 2019

Present: Stephen K. Hess, Chair
 Ernest A. Heller, Vice-Chair
 Dr. Anna Johnson-Winegar, Commission Member
 Rev. Douglas P. Jones, Commission Member
 James Stanker, Alternate Commission Member
 Linda B. Thall, Senior Assistant County Attorney

Absent: M. Shane Canfield, Commission Member
 Deidre R. Davidson, Commission Member
 Deborah L. Lundahl, Commission Member

The Frederick County Ethics Commission meeting started at 7:00 p.m. on August 14, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Approval of the minutes – The draft minutes from the July 10, 2019 meeting were emailed to the members before the meeting.

MOTION: Mr. Heller made a motion to approve the minutes. Rev. Jones seconded the motion, which was approved unanimously.

Distribution of an additional financial disclosure statement – It was learned that the member of a County Board had submitted his financial disclosure statement using an incorrect form. The member subsequently completed the correct disclosure form. This new form was provided to the Ethics Commission members for their review. The Commission members will discuss their comments and questions regarding the financial disclosure statements at the Commission’s October meeting.

Discussion of Ethics brochure distribution – At the Commission’s July meeting, the Commission asked that the Commission’s Ethics Law brochure be made more available to the public. Ms. Thall stated that the brochures were now available in the 1st floor lobby area and the County Attorney’s Office in Winchester Hall, as well as at the buildings where the Citizens Services Division, Senior Services Division and Parks and Recreation Divisions are located. In addition, copies were sent to the different Frederick County library locations. The brochures were also sent to Frederick Community College, Hood College and Mount St. Mary’s University, with a request that they be placed in areas where they would be available to students and the public. The Commission asked that it be advised if these institutions responded to the Commission’s request. The Chamber of Commerce was contacted, but did not respond. The League of Women Voters was unable to accommodate the request, as it does not have an office location.

Discussion of the Commission’s annual report – Before the meeting, the members received drafts of the Commission’s annual report, which is due to the County Executive and County Council Members by October 1. The members approved the draft, with updates to be made as necessary before the report is distributed.

Decision on a September meeting – Ms. Thall advised the Commission that she will not be able to attend the September meeting. Rev. Jones stated that at this time there did not appear to be a need for the Commission to meet in September, but that a meeting could be scheduled in September if the need arose. The other members agreed with Rev. Jones.

Decision to meet to perform an administrative function – The Commission recently received an ethics complaint against a County official. The Commission discussed whether it should conduct an administrative function meeting to discuss the complaint.

MOTION: Dr. Johnson-Winegar made a motion to hold an administrative function meeting. Mr. Stanker seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting – The Commission began its administrative function meeting at approximately 7:10 p.m. on August 14, 2019, in the Winchester Room on the 2nd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701. Present for the meeting were Mr. Hess, Mr. Mr. Heller, Dr. Johnson-Winegar, Rev. Jones, Mr. Stanker and Ms. Thall. The Commission discussed whether the facts alleged in the complaint, if true, would constitute a violation of the Ethics Law by the County official named in the complaint. By consensus, the members agreed that the facts alleged in the complaint did not state a violation of the Ethics Law. The members asked Ms. Thall to draft the necessary dismissal notice.

MOTION: Rev. Jones made a motion to end the administrative function meeting. Mr. Heller seconded the motion, which was approved unanimously.

The administrative function meeting ended at 7:25 pm.

Adjournment

MOTION: Mr. Heller made a motion to adjourn. Dr. Johnson-Winegar seconded the motion, which was approved unanimously.

The Ethics Commission adjourned its meeting at approximately 7:25 p.m.

/s/
Linda B. Thall, Senior Assistant County Attorney



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

Advisory Opinion No. 18-03

Introduction

The Ethics Commission received a request for guidance from a County Division Director asking whether the County's Ethics Law allows County officials or employees to engage in certain activities designed to help non-profit entities. The activities include raising or donating funds and soliciting or donating items for use by the non-profit entity to serve its clients. The Division Director provided the following list of examples of questions that arise within the Director's Division on a fairly regular basis:

1. Purchasing a ticket to a community gala/party/crab feast hosted by, or on behalf of, a non-profit with proceeds going to the non-profit.
2. Attending an event where tangible items are required for entry in addition to, or in lieu of, a ticket. Those items (shoes/clothes/food) are then distributed by the non-profit.
3. Attending a non-profit's kick-off event to announce a fundraising effort. Attendance is at the request of the director of the non-profit.
4. Responding to social media requests from a funded agency for items (furniture, electronics, bikes, shoes, etc.) to be given directly to families that they serve.
5. Using a department holiday drive to gather items (diapers, books, hats, gloves) to be distributed through a funded agency. (Similar to the way Stuff the Bus or Toys for Tots are managed.)
6. Participating in a group donation of funds collected at work or by a group unrelated to work that is then donated to a non-profit supported by County funds allocated through the division or department.
7. Using your time or talent to fund raise (karaoke, dance, entertain) for a nonprofit.
8. Participating in a labor effort (painting, basic carpentry, property clean up) for a nonprofit itself (not for a client of the nonprofit).

Discussion

The Ethics Commission has issued a number of opinions on the extent to which County officials and employees may seek donations or engage in other fundraising activities on behalf of other entities under the Ethics Law. The Commission's most recent advisory opinion on this topic was issued in 2012. As the current members of the Ethics Commission were not serving on the Commission when the earlier opinions were issued, the Commission decided to issue this advisory opinion to confirm that it agrees with the earlier advisory opinions.

The prior opinions focus on the "use of prestige of office" provision in what is now Section 1-7.1-5(H)(1) of the Ethics Law, which provides (in part) that an official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.¹ The opinions found that it was not a violation of this section for officials or employees to raise funds that would be received directly by the County and spent by the County. Concerns arose, however, when County officials and employees engaged in fundraising or soliciting donations to benefit a non-County government entity. When an official or employee uses his or her title or position to engage in this type of activity, this was found to constitute an improper use of the prestige of office on the part of the official or employee. It did not matter whether the entity benefitting was a for-profit entity or a non-profit entity, as the funds or donations were solicited "for the private gain of another" regardless of the entity's status.

The Ethics Commission is in general agreement with the above principles. It is important to note, however, that the Ethics Law does not prohibit officials and employees from supporting outside entities or activities in their personal lives. It is only when the official or employee uses his or her County title or position to assist or support a non-County government entity that the Ethics Law provision on the use of prestige of office applies.

Turning to the eight specific questions listed above, the actions as described would not violate the Ethics Law. In reaching this conclusion, the Ethics Commission considered the examples as written and declined to read additional facts or variables into the questions that could potentially change the Commission's conclusions. Decisions as to whether there is a violation of the Ethics Law need to be decided on a case-by-case basis based on the specific facts presented.

Question #1. An official's or employee's purchase of a ticket to a community gala/party/crab feast that is hosted by or on behalf of a non-profit with proceeds going to the non-profit is not, by itself, a violation of the Ethics Law.

¹ There is a limited exception in Section 1-7.1-5(H)(3) that applies to elected officials for actions taken in the "performance of usual and customary constituent services" without the official's receipt of additional compensation. That exception does not apply to the examples addressed in this advisory opinion.

Question #2. An official's or employee's attendance at an event where tangible items such as shoes, clothes or food are collected to be distributed by a non-profit entity and are required for entry in addition to, or in lieu of, a ticket would not violate the Ethics Law.

Question #3. An official's or employee's attendance at a non-profit's kick-off event held to announce a fundraising effort at the request of the director of the non-profit would not, by itself, violate the Ethics Law. The official or employee could attend the event as a County representative provided that the official or employee does not endorse the fundraising effort or otherwise attempt to raise funds for the non-profit in an official capacity.

Question #4. An official's or employee's direct response to a social media request from a County-funded agency for items such as furniture, electronics, bikes, shoes, etc., to be given directly to families that the agency serves would not violate the Ethics Law. The official or employee should not make use of his or her office or title to encourage others to make donations, however.

Question #5. An official's or employee's use of a department holiday drive (such as Stuff the Bus or Toys for Tots) to gather items (diapers, books, hats, gloves) to be distributed through a funded agency would not violate the Ethics Law. Managers and supervisors should exercise caution, however, so as not to pressure other County officials or employees into participating.

Question #6. An official's or employee's participation in a group donation of funds collected at work or by a group unrelated to work that is then donated to a non-profit supported by County funds allocated through the official's or employee's division or department would not be a violation of the Ethics Law if participation is voluntary and supervisors do not solicit the donations.

Question #7. An official's or employee's use of his or her own time and talent to raise funds by entertaining others or participating in entertainment events for a nonprofit would not violate the Ethics Law.

Question #8. An official's or employee's participation in a collective labor effort, such as painting or providing basic carpentry work or property clean up, for a nonprofit entity would not violate the Ethics Law.

When specific actions to benefit other persons or entities are considered, County officials and employees who are supervisors or part of management are cautioned to take into account the potential for an Ethics Law violation when they encourage other County officials or employees over whom they have authority to participate in fundraising activities, as the other officials or employees may feel that they are being pressured to participate in the activity being endorsed. To the extent that this type of pressure is applied in the work environment, the supervisor or manager may be subject to a complaint that the person is improperly using the prestige of his or her office to encourage (or coerce) activity that benefits a non-County government entity.



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION
Office of the County Attorney

Jan H. Gardner
County Executive

Stephen K. Hess, Chair

Advisory Opinion No. 19-01

Two County Council members who are employed in Frederick County as public school teachers have requested an advisory opinion from the Ethics Commission as to whether the County's Ethics Law permits them to vote on the County Executive's appointment of a person to serve on the Board of Education to fill the remaining term of a Board member who resigned. Under the State Education Article in the Maryland Code, when there is a mid-term vacancy on the Board of Education, the County Executive is responsible for appointing someone to fill that vacant position. The County Executive's appointment is subject to confirmation by the County Council.

The Ethics Commission has reviewed the powers and duties of the Board of Education under the Education Article. The Commission has also reviewed Advisory Opinion 14-05, in which the Commission issued guidance to the same two Council Members that it would not create a conflict of interest or the appearance of impropriety for them to vote on the County budget and related funding matters. That Advisory Opinion noted that if issues arose in the future that had the potential to affect them or a family member "more directly and narrowly," they should consider seeking additional guidance from the Ethics Commission. The pending request for an advisory opinion provides the opportunity for the Commission to determine whether the pending vote on confirmation of the County Executive's appointment of a Board of Education member affects the two Council Members more directly and narrowly so as to create a conflict of interest or the appearance of impropriety.

After consideration of the applicable State and County law, the Commission finds that Advisory Opinion 14-05 controls the issue presented. Accordingly, it is the opinion of the Ethics Commission that the two Council Members are not precluded from voting on whether to confirm the County Executive's appointee to the Board of Education.

The Ethics Commission thanks the Council Members for seeking guidance on this issue from the Commission.

/s/

Stephen K. Hess, Chair

January 11, 2019

Date



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION
Office of the County Attorney

Jan H. Gardner
County Executive

Stephen K. Hess, Chair

Advisory Opinion No. 19-02

The Ethics Commission has been asked to provide guidance with regard to a GoFundMe page set up in memory of a County official's spouse who passed away unexpectedly. The fund was created to assist the County official and the official's young children. The County official did not personally set up the fund, but is aware of its existence. The funds raised are currently being held in a restricted account until the Ethics Commission provides guidance on how to avoid prohibited conflicts of interest under the County Ethics Law.

Before addressing the ethical issues, the Commission wishes to extend its condolences to the County official and family members affected by this tragedy. The Commission also thanks those who brought this matter to the Ethics Commission's attention in a desire to ensure that the fund is administered in a manner that complies with the requirements of the Ethics Law.

The fund has raised over \$54,000. More than five-hundred donors have contributed to the fund. Approximately 80% of the contributions have been in the amount of \$100 or less, although a few of the donors have contributed amounts between \$500 and \$2,000. The fund's webpage provides the names of most of the donors, although there are a number of anonymous donors and some donors who have only provided first names. For the reasons provided below, the administration of the fund should vary depending on whether the donors are identified, the amount of the donations and whether the donors fall into one of the restricted classifications contained in the Ethics Law.

To the extent that the donations have been made anonymously, the donations may be accepted by the County official. This is because there can be no perception of bias or a potential for improper influence if the official is not aware of the identity of the person who made the anonymous donation.

The Ethics Law also allows the official to accept donations that do not exceed \$20. Under § 1-7.1-5(I)(5)(c), gifts that would otherwise not be allowed under the law are permitted if the gift is unsolicited and does not exceed \$20. This subsection recognizes that the potential for bias or improper influence resulting from acceptance of a donation of \$20 or less is minimal. As the official did not set up the fund, these donations may be treated as "unsolicited" under § 1-7.1-5(I)(5)(c).

The official would not violate the Ethics Law by accepting donations in excess of \$20 from identified donors, unless the identified donors fall into one or more of the restricted categories found in § 1-7.1-5(I)(3) of the Ethics Law. That subsection provides that an official may not knowingly accept a gift, directly or indirectly, from a person that the official knows or has reason to know:

(a) Is doing business with or seeking to do business with the County division or agency with which the official is affiliated;

(b) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official;

(c) Is engaged in an activity regulated or controlled by the official's governmental unit; or

(d) Is a lobbyist with respect to matters within the official's jurisdiction.

The Ethics Commission considered whether an exemption should be made under § 1-7.1-5(I)(5)(f), which authorizes the Commission to issue a written exemption for a specific gift or class of gifts if it finds that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature. The Commission is unable to make such a finding for all of the donations to the fund. Instead, the official will need to review the names of the identified donors to determine, based on information available to the official, whether the donor falls into one or more of the four categories listed above. The Commission is also concerned that making an exemption under § 1-7.1-5(I)(5)(f) will set a precedent that could be difficult to limit in the future. The better approach in this instance is to apply the standards contained in the Ethics Law, as described above, for determining which donations the official may legally accept.

/s/

Stephen K. Hess, Chair

March 20, 2019

Date

Note: Commission member Deidre Davidson recused herself from participation in this Advisory Opinion.