

Administration of the
Frederick County Ethics Law
October 2022 – September 2023

Report to the
Frederick County Executive and the
Frederick County Council



Frederick County Ethics Commission
September 28, 2023

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Report on the Administration of the Frederick County Ethics Law

October 2022 – September 2023

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 2022 through September 2023. State law requires that this report be provided annually.

I. Ethics Commission meetings

During the reporting period, the Ethics Commission met on December 14, 2022, February 8, 2023, April 12, 2023, May 10, 2023, June 14, 2023, July 12, 2023, August 9, 2023, and September 13, 2023.

Copies of the meeting agendas and the approved minutes for these meetings are included in Appendix A and Appendix B of this report, respectively. The Commission's agendas and meeting minutes are also posted on the Commission's web page located at <https://frederickcountymd.gov/1519/Ethics-Commission>.

II. Review of financial disclosure statements

A. Financial Disclosures

The Commission staff reviewed 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, staff reviewed the statements to identify any incomplete questions or answers that may raise questions about potential conflicts of interest. Such exceptions are then provided to the full Commission for review. 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 2022 and found no conflicts of interest. The Commission is in the process of reviewing the financial disclosure statements it received in 2023.

B. Advisory Opinions issued

The Commission received four (4) requests for an advisory opinion during the reporting period.

- Advisory Opinion 22-02 was issued in response to a request from a member of the Frederick County Council requesting the Commission's interpretation of the Maryland Annotated Code, General Provisions Article regarding the special provisions of the State's Ethics Law for Frederick County. The special provisions of the Public Ethics Law, which applies only to Frederick County, is codified in Sections 5-857 through 5-864 of Title 5 of Maryland's General Provision Article.
- Advisory Opinion 23-01 was issued in response to a request from a member of the Frederick County Council regarding the Council Member's employment with an organization that may come before the County Council from time to time.
- Advisory Opinion 23-02 was issued in response to a request from a member of the Frederick County Council regarding the Requestor's ability to provide letters of support with respect to constituents' grant applications.
- Advisory Opinion 23-03 was issued in response to a request from the County Executive to participate in the AIEF Israel Seminar for National Democratic Leaders to be held in late July 2023.

C. Action on complaints

The Ethics Commission received two (2) complaints during the reporting period regarding individuals which the complainants alleged should be registered as lobbyists. As of the time of this Report, neither complaint has been finally resolved.

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

Attachments:

Appendix A – Ethics Commission Agendas
Appendix B – Ethics Commission Meeting Minutes
Appendix C – Advisory Opinions

Appendix A

Ethics Commission Agendas



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION
Office of the County Attorney

Stephen K. Hess, Chair

Public Meeting Agenda for

Wednesday, December 14, 2022, at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call
2. Introduction of new members
 - Mary Beth Kaslick
 - Christopher Perry
3. Vote to conduct an administrative function meeting to review Financial Disclosure Statements and to discuss a request for an advisory opinion*

*If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

January 11
February 8
March 8
April 12
May 10
June 14
July 12
August 9
September 13
October 11
November 8
December 13

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 GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

Public Meeting Agenda for

Wednesday, February 8, 2023 at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call.
2. Approval of Minutes from December 14, 2022 meeting.
3. Discussion on possible changes to the County's Ethics laws, procedures or interpretations.
4. Vote to conduct an administration function meeting to review Financial Disclosure Statements and to discuss two (2) requests for advisory opinions.*

*If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

February 8
March 8
April 12
May 10
June 14
July 12
August 9
September 13
October 11
November 8
December 13

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 GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION

Office of the County Attorney

Stephen K. Hess, Chair

REVISED

Public Meeting Agenda for

Wednesday, April 12, 2023, at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call.
2. Approval of Minutes from February 8, 2023 meeting.
3. Update on possible changes to the County's Ethics laws, procedures or interpretations.
4. Vote to conduct an administration function meeting to review request for advisory opinions and approval of two outside employment requests. *

*If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

April 12
May 10
June 14
July 12
August 9
September 13
October 11
November 8
December 13

Annual calendar items:

Month	Item
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 GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

Public Meeting Agenda for

Wednesday, May 10, 2023, at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call
2. Approval of Minutes from April 12, 2023 meeting
3. Status of Financial Disclosure Statements Review
4. Possible Ethics Law Changes
5. Ethics Training for Employees
6. Vote to conduct an administration function meeting to review one (1) new complaint and to follow-up on an outside employment request from April's meeting.*

*If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

June 14
July 12
August 9
September 13
October 11
November 8
December 13

Annual calendar items:

Month	Item
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 GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION

Office of the County Attorney

Stephen K. Hess, Chair

Public Meeting Agenda for

Wednesday, June 14, 2023, at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call
2. Approval of Minutes from May 10, 2023 meeting
3. Vote to conduct an administration function meeting to review a request for reconsideration of approval for outside employment and a request for an advisory opinion.*

*If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

July 12
August 9
September 13
October 11
November 8
December 13

Annual calendar items:

Month	Item
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 GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION

Office of the County Attorney

Stephen K. Hess, Chair

Public Meeting Agenda for

Wednesday, July 12, 2023, at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call;
2. Election of Chair and Vice-Chair;
3. Approval of Minutes from June 14, 2023 meeting;
4. Acknowledge Receipt of the Public Ethics Report for Period January 1, 2023 – June 30, 2023;
5. Update from Staff on possible changes to the County's Ethics Law;
6. Vote to conduct an administration function meeting to discuss a pending complaint.*

* If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

August 9
September 13
October 11
November 8
December 13

Annual calendar items:

Month	Item
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 GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION

Office of the County Attorney

Douglas P. Jones, Chair

AMENDED

Public Meeting Agenda for

Wednesday, August 9, 2023, at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call;
2. Approval of Minutes from July 11, 2023 meeting;
3. Discussion of Changes to State and Local Ethics Law;
4. Vote to conduct an administrative function meeting to discuss a new complaint, a pending complaint, and the review of financial disclosure statements for 2022.*

* If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

September 13

October 11

November 8

December 13

Annual calendar items:

Month	Item
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 GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION

Office of the County Attorney

Douglas P. Jones, Chair

Public Meeting Agenda for

Wednesday, September 13, 2023, at 7:00 p.m.

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

AGENDA:

1. Call to Order / Roll Call;
2. Approval of Minutes from August 9, 2023 meeting;
3. Discussion of Changes to State and Local Ethics Law;
4. Vote to conduct an administrative function meeting to discuss the review of financial disclosure statements for 2022 and two (2) pending complaints.*

* If Commission votes to conduct an administrative function meeting, the public meeting will be adjourned.

Upcoming 2023 Meeting Dates

October 11

November 8

December 13

Annual calendar items:

Month	Item
September	Annual Report to the County Executive and County Council
October	Annual report and annual certification due by October 1

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Appendix B

Ethics Commission Minutes



Jessica Fitzwater
County Executive

FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

Minutes of the Public Meeting of the Frederick County Ethics Commission

**Wednesday, December 14, 2022
7:00 P.M.**

Present:

Stephen K. Hess (Chair)
Rev. Douglas P. Jones (Vice-Chair)
Deborah L. Lundahl
Mary Beth Kaslick
Michael G. Bunitsky
Christopher Perry, Alternate Member

Absent:

James A. Stanker
Stephen Larsen

Also in Attendance

Catherine Keller. Secretary

The Frederick County Ethics Commission meeting was called to order 7:00 p.m. on December 14, 2022.

1. Call to Order / Roll Call.
2. Introduction of new members
3. Vote to conduct an administrative function meeting to review Financial Disclosure Statements and to discuss a request for an advisory opinion

1. Approval of Agenda. Commissioner Hess called the meeting to order at 7:00 p.m. Commissioner Bunitsky made a motion to approve the agenda. Commissioner Jones seconded the motion, which was approved unanimously.

2. Introduction of new members. Commissioner Kaslick and Commissioner Perry introduced themselves to the Commission. The remaining members conducted brief introductions.

3. Vote to conduct an administrative function meeting to review Financial Disclosure Statements and to discuss a request for an advisory opinion. Commissioner Lundahl voted to enter into an administrative function in order to review Financial Disclosure Statements and to discuss a request for an advisory opinion. Commissioner Jones seconded the motion, which was approved unanimously. The Commission entered into administrative function at 7:08 p.m.

Commissioner Jones voted to leave administrative function. Commissioner Kaslick seconded the motion, which was approved unanimously. The Commission resumed the public meeting at 7:56 p.m.

There being no other business before the Commission, Commissioner Bunitsky made a motion to adjourn the meeting, which was seconded by Commissioner Kaslick and approved unanimously. The meeting adjourned at 8:00 p.m.

/s/

Catherine Keller
Secretary



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

Minutes of the Public Meeting of the Frederick County Ethics Commission

Wednesday, February 8, 2023
7:00 P.M.

Present:

Stephen K. Hess (Chair)
Rev. Douglas P. Jones (Vice-Chair)
Deborah L. Lundahl
Mary Beth Kaslick
Michael G. Bunitsky
James A. Stanker
Stephen Larsen
Christopher Perry, Alternate Member

Absent:

None

Also in Attendance

Andrew Ford, Secretary

1. Call to Order / Approval of Agenda. Commissioner Hess called the meeting to order at 7:00 p.m. Commissioner Larsen made a motion to approve the agenda, which was seconded by Commissioner Bunitsky and approved unanimously.

2. Approval of Minutes. Commissioner Bunitsky made a motion to approve the minutes, which was seconded by Commissioner Jones and approved unanimously.

3. Approval of schedule of regular meetings for 2023. Commissioner Jones made a motion to approve the schedule of meetings which was seconded by Commissioner Kaslick and approved unanimously.

4. Acknowledge receipt of the County Executive's Public Ethics Report. The Commission by consensus acknowledged receipt of the report.

5. Discussion on possible changes to the County's Ethics laws, procedures or interpretations. The Commission discussed treatment of virtual meetings for purposes of the definition of lobbying. Mr. Ford was asked to research how other counties handle this. The

Commission also discussed the use of social media and possible need for guidance to be provided by the Commission and changing the law re: the dollar amount on gifts.

6. Vote to conduct an administrative function meeting. Commissioner Jones moved to enter into an administrative function in order to discuss two (2) requests for advisory opinions. Commissioner Larsen seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting - The Commission entered into administrative function at 7:46 p.m. All of the Commission members and the Alternate Member were present. Mr. Ford was also present. The Commission members first discussed a request for an advisory opinion regarding the special provisions of the Public Ethics Law, which applies only to Frederick County, and are codified in Sections 5-857 through 5-864 of Title 5 of Maryland's General Provision Article. Specifically, the request concerned the applicability of the law to posts that might be made on social media. The members directed that an advisory opinion be prepared.

The Commissions then turned to a second request for an advisory opinion relating to the conflicts of interest provisions of the Ethics Law with respect to a County Council member's employment and matters that may come before the County Council with respect the member's employer. The members directed that an advisory opinion be prepared.

Commissioner Bunitsky moved to leave administrative function. Commissioner Larsen seconded the motion, which was approved unanimously. The Commission resumed the public meeting at 8:13 p.m.

There being no other business before the Commission, Commissioner Larsen made a motion to adjourn the meeting, which was seconded by Commissioner Kaslick and approved unanimously. The meeting adjourned at 8:13 p.m.

/s/
Andrew J. Ford
Secretary



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

CORRECTED

Minutes of the Public Meeting of the Frederick County Ethics Commission

Wednesday, April 12, 2023

7:00 P.M.

Present:

Stephen K. Hess (Chair)
Rev. Douglas P. Jones (Vice-Chair)
Deborah L. Lundahl
Mary Beth Kaslick
Michael G. Bunitsky
James A. Stanker
Stephen Larsen

Christopher Perry, Alternate Member

Absent:

None

Also in Attendance

Andrew Ford, Secretary

1. Call to Order / Approval of Agenda. Commissioner Hess called the meeting to order at 7:00 p.m. Commissioner Bunitsky made a motion to approve the agenda, which was seconded by Commissioner Jones and approved unanimously.

2. Approval of Minutes. Commissioner Jones made a motion to approve the **February 8, 2023** minutes, which was seconded by Commissioner Bunitsky and approved unanimously.

3. Vote to Conduct an Administrative Function Meeting. Commissioner Lundahl moved to enter into an administrative function in order to discuss one (1) request for an advisory opinion and two (2) requests for approval of outside employment. Commissioner Kaslick seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting - The Commission entered into administrative function at 7:05 p.m. All of the Commission members and the Alternate Member were present. Mr. Ford was also present.

The Commission members first discussed a request for an advisory opinion regarding Section 1-7.1-5 (F) of the Ethics Law regarding requests to County officials for endorsement letters by organizations (both for-profit and not-for-profit). The Commission reviewed and reaffirmed its guidance in Advisory Opinion 12-04 and directed counsel to prepare a draft opinion expanding on the prior opinion.

The Commissioners then turned to a request by a part-time employee for exemption from Section 1-7.1-5(B) (outside employment) by an employee-owned company providing services indirectly to the division or agency in which the employee works. The request was denied.

The Commissioners then considered a request by an employee for exemption from Section 1-7.1-5(B) (outside employment) where employee is employed (a) by an institution of higher education teaching on the subject matter in the same field as the employee is employed by the County and (b) by the County in another capacity. This request was granted.

Commissioner Jones moved to leave administrative function. Commissioner Bunitsky seconded the motion, which was approved unanimously. The Commission resumed the public meeting at 7:42 p.m.

There being no other business before the Commission, Commissioner Lundahl made a motion to adjourn the meeting, which was seconded by Commissioner Bunitsky and approved unanimously. The meeting adjourned at 7:42 p.m.

/s/
Andrew J. Ford
Secretary



Jessica Fitzwater
County Executive

FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION
Office of the County Attorney

Stephen K. Hess, Chair

Minutes of the Public Meeting of the Frederick County Ethics Commission

Wednesday, May 10, 2023

7:00 P.M.

Present:

Rev. Douglas P. Jones (Vice-Chair)
Deborah L. Lundahl
Michael G. Bunitsky
Mary Beth Kaslick
Christopher Perry, Alternate Member

Absent:

Stephen K. Hess (Chair)
Stephen Larsen
James A. Stanker

Also in Attendance

Andrew Ford, Secretary

1. Call to Order / Approval of Agenda. Commissioner Jones called the meeting to order at 7:00 p.m. Commissioner Lundahl made a motion to approve the agenda, which was seconded by Commissioner Kaslick and approved unanimously.

2. Approval of Minutes. Commissioner Bunitsky made a motion to approve the minutes, which was seconded by Commissioner Lundahl and approved unanimously.

3. Status of Financial Disclosure Statements Review. Mr. Ford reported on the status of receipt of the Financial Disclosure Statement for 2022.

4. Possible Ethics Law Changes. The Commissioners discussed possible changes to the Frederick County Ethics Ordinance. Mr. Ford will research certain items for consideration and report back to the Commission.

5. Ethics Training for Employees. The Commissioners discussed updating training materials for employees and requesting that training be part of the new employee orientation and annual continuing education.

6. Vote to Conduct an Administrative Function Meeting. Commissioner Kaslick moved to enter into an administrative function in order to discuss one (1) complaint and (2) a follow-up to a request for approval of outside employment. Commissioner Lundahl seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting - The Commission entered administrative function at 7:32 p.m. Present were Rev. Douglas P. Jones (Vice-Chair), Deborah L. Lundahl, Michael G. Bunitsky, Mary Beth Kaslick, and Christopher Perry. Mr. Ford was also present.

Commissioners determined to move forward with the complaint and instructed Mr. Ford to notify the subject of the complaint. Commissioners requested that staff should reach out to the employee and supervisor re: denial of outside employment request from April 2023 meeting.

Commissioner Bunitsky moved to leave administrative function. Commissioner Kaslick seconded the motion, which was approved unanimously. The Commission resumed the public meeting at 8:05 p.m.

There being no other business before the Commission, Alternate Commissioner Perry made a motion to adjourn the meeting, which was seconded by Commissioner Kaslick and approved unanimously. The meeting adjourned at 8:06 p.m.

/s/
Andrew J. Ford
Secretary



Jessica Fitzwater
County Executive

FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION
Office of the County Attorney

Stephen K. Hess, Chair

Minutes of the Public Meeting of the Frederick County Ethics Commission

Wednesday, June 14, 2023

7:00 P.M.

Present:

Stephen K. Hess (Chair)
Rev. Douglas P. Jones (Vice-Chair)
Deborah L. Lundahl
Michael G. Bunitsky
Mary Beth Kaslick
Stephen Larsen

Absent:

James A. Stanker
Christopher Perry, Alternate Member

Also in Attendance

Andrew Ford, Secretary

1. Call to Order / Approval of Agenda. Commissioner Hess called the meeting to order at 7:00 p.m. Commissioner Bunitsky made a motion to approve the agenda, which was seconded by Commissioner Lundahl and approved unanimously.

2. Approval of Minutes. Commissioner Bunitsky made a motion to approve the May minutes, which was seconded by Commissioner Jones and approved unanimously.

3. Vote to Conduct an Administrative Function Meeting. Commissioner Bunitsky moved to enter into an administrative function in order to discuss a request for reconsideration of approval for outside employment and a request for an advisory opinion. Commissioner Larsen seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting - The Commission entered administrative function at 7:25 p.m. Present were Commissioners Hess, Jones, Lundahl, Bunitsky, Kaslick and Larsen. Ms. Pilar Olivo, Mr. Geordie Wilson and Mr. Ford were also present. After hearing from Ms. Olivo, the Commissioners unanimously approved the request for approval of outside employment. After which, Ms. Olivo and Mr. Wilson left the meeting.

The Commission then turned to a review of a request for an advisory opinion from an elected official regarding whether the official could accept an all-expense paid trip to participate in a seminar without violating the Ethics Law prohibition against the acceptance of a gift. After review of the request, a motion was made by Commissioner Larsen to hold that the official's participation in the seminar would not be considered the acceptance of a gift in violation of the Ethics Law. The motion was seconded by Commissioner Bunitsky, and the motion passed 4 to 2. Mr. Ford was directed to draft a response to the official's request consistent with this determination.

Commissioner Jones moved to leave administrative function. Commissioner Bunitsky seconded the motion, which was approved unanimously. The Commission resumed the public meeting at 7:44 p.m.

There being no other business before the Commission, Commissioner Jones made a motion to adjourn the meeting, which was seconded by Commissioner Bunitsky and approved unanimously. The meeting adjourned at 7:45 p.m.

/s/
Andrew J. Ford
Secretary



Jessica Fitzwater
County Executive

FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

Minutes of the Public Meeting of the Frederick County Ethics Commission

Wednesday, July 12, 2023

7:00 P.M.

Present:

Deborah L. Lundahl
Michael G. Bunitsky
Mary Beth Kaslick
Walter Olson
Christopher Perry, Alternate Member

Absent:

Rev. Douglas P. Jones
Stephen Larsen
James A. Stanker

Also, in Attendance

Andrew Ford, Secretary

1. Call to Order. Mr. Ford, as Secretary, called the meeting to order at 7:00 p.m.
2. Election of Chair and Vice-Chair. Commissioner Bunitsky nominated Commissioner Jones to be Chair. Commissioner Kaslick seconded the motion, which was approved unanimously. Commissioner Bunitsky nominated Lundahl to be Vice-Chair. Commissioner Olson seconded the motion, which was approved unanimously. Vice-Chair Lundahl chaired the meeting from this point forward.
3. Approval of Minutes. Commissioner Bunitsky made a motion to approve the June 14, 2023 minutes, which was seconded by Commissioner Olson and approved unanimously.

4. Acknowledge Receipt of the Public Ethics Report for Period January 1, 2023 – June 30, 2023. The Commissioners acknowledged receipt of the Report.

5. Update on Changes to Law. Mr. Ford provided the Commission with a summary of the changes to the law or Commission's standard operating procedures that have been discussed in past meetings.

- (A) Change County Ethics Law to include virtual meetings as if "in person".
- (B) Change definition of lobbying in County Ethics Law to include *any* attempt to influence any legislative, executive, or administrative action of a County agency.
- (C) Reduce the registration thresholds in County Ethics Law to levels closer to those of similar sized counties.
- (D) Change County Ethics Law to provide advisory approval process for Outside Employment.
- (E) Change Commission's Standard Operating Procedures to provide that the Commission may dismiss a complaint if confidentiality is breached by the complainant.

Mr. Ford will draft proposed language for each of the above for review by the Commission.

6. Vote to Conduct an Administrative Function Meeting. Commissioner Kaslick moved to enter into an administrative function to discuss a pending complaint. Commissioner Perry seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting - The Commission entered administrative function at 7:33 p.m. Present were Commissioners Lundahl, Bunitsky, Kaslick, Olson, and Perry. Mr. Ford were also present.

Commissioners discussed the latest response received from the subject of the complaint and next steps with respect to obtaining additional information. Commissioner Bunitsky moved to leave administrative function. Commissioner Kaslick seconded the motion, which was approved unanimously. The Commission resumed the public meeting at 7:57 p.m.

There being no other business before the Commission, Commissioner Bunitsky made a motion to adjourn the meeting, which was seconded by Commissioner Olson and approved unanimously. The meeting adjourned at 7:57 p.m.

/s/
Andrew J. Ford
Secretary



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION Office of the County Attorney

Stephen K. Hess, Chair

Minutes of the Public Meeting of the Frederick County Ethics Commission

Wednesday, August 9, 2023

7:00 P.M.

Present:

Deborah L. Lundahl, Vice-Chair
Mary Beth Kaslick
Walter Olson
Stephen Larsen

Absent:

Rev. Douglas P. Jones, Chair
James A. Stanker
Michael G. Bunitsky
Christopher Perry, Alternate Member

Also in Attendance

Andrew Ford, Secretary
Byron Black, County Attorney

1. Call to Order. Vice-Chair Lundahl called the meeting to order at 7:00 p.m.
2. Approval of Minutes. Commissioner Kaslick made a motion to approve the May minutes, which was seconded by Commissioner Olson and approved unanimously.
3. Update on Changes to Law. Mr. Ford discussed the letter from the County Executive requesting any ideas or suggestions for the Frederick County legislative package for the 2024 General Assembly Session. Any ideas should be provided by Thursday, September 14, 2023.
4. Vote to Conduct an Administrative Function Meeting. Commissioner Larsen moved to enter into an administrative function in order to discuss a new complaint, a pending complaint and review of 2022 financial disclosure statements. Commissioner Kaslick seconded the motion, which was approved unanimously.

Required information regarding the administrative function meeting - The Commission entered administrative function at 7:02 p.m. Present were Commissioners Lundahl, Kaslick, Olson and Larsen. Messrs. Ford and Black were also present.

Mr. Black discussed with the Commission the allegation in the new complaint that the County Attorney's Office would have a conflict of interest in providing advice to the Commission. Without concluding that any such conflict of interest existed, the Commission decided to engage outside counsel, considered several names and selected Timothy Maloney. The Commission instructed Mr. Black to reach out to Mr. Maloney and engage his services on behalf of the Commission. Mr. Black then left the administrative function meeting.

Mr. Ford discussed the pending complaint with the Commissioners, who authorized Mr. Ford to solicit an offer of settlement from the subject of the complaint or, in the alternative, work with counsel to set a date for a hearing.

Mr. Ford reviewed the process for finalizing the review of the 2022 Financial Disclosure Statement. The Commission agreed to review the remaining statements and any potential exceptions at the September meeting.

Commissioner Olson moved to leave administrative function. Commissioner Kaslick seconded the motion, which was approved unanimously. The Commission resumed the public meeting at 8:02 p.m.

There being no other business before the Commission, Commissioner Larsen made a motion to adjourn the meeting, which was seconded by Commissioner Bunitsky and approved unanimously. The meeting adjourned at 8:02 p.m.

/s/

Andrew J. Ford
Secretary

Appendix C

Advisory Opinions



FREDERICK COUNTY GOVERNMENT

FREDERICK COUNTY ETHICS COMMISSION

Office of the County Attorney

Jessica Fitzwater

County Executive

Stephen K. Hess, Chairman

Advisory Opinion 22-02

April 12, 2023

On December 6, 2022, the Ethics Commission received a letter from a member of the Frederick County Council requesting the Commission's interpretation of the Maryland Annotated Code, General Provisions Article regarding the special provisions of the State's Ethics Law for Frederick County. The special provisions of the Public Ethics Law, which applies only to Frederick County, is codified in Sections 5-857 through 5-864 of Title 5 of Maryland's General Provision Article (the "Law").

I. Procedures

Under Section §1-7.1-4(c) of the Frederick County Ethics Law, the Ethics Commission is required to develop procedures and policies for advisory opinion requests and to publish such opinions. Pursuant to the Ethics Commission's Standard Operating Procedures (August 2016), the Ethics Commission issues advisory opinions to provide guidance on compliance with the requirements of the Ethics Law. Advisory Opinions are issued in advance of an action and provide guidance on how to comply with the Ethics Law. This differs from a Commission decision on a complaint, which looks at conduct that has already occurred and determines whether there has been a violation of the Ethics Law. When the Commission makes a decision on the request, it issues an advisory opinion.

II. The Request

In the present request, the Council Member states that they believe informing the member's constituents of upcoming meetings and public hearings (including pending applications covered by the statute) is part of the member's responsibility as an elected representative. In the past, the Council Member has notified constituents via e-mail and disclosed to the Chief Administrative Officer each individual constituent's name who received the member's e-mail. The Council Member, however, expresses concern regarding providing such notices via social media where the member may not be able to provide identifying information on each recipient of the member's notification. (For example, a public post on Facebook does not permit identification of who read the post.)

Based on the foregoing, the Council Member asks:

... whether a factual message about (1) an upcoming public hearing, (2) the subject of the hearing, and (3) the public's opportunities to participate in the hearing – all regarding a pending application covered by the State ethics law for Frederick County – is subject to the *ex parte* disclosure requirement and, if so, does it require naming all individuals who have received the communication?

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III. The Law

The Law prohibits contributions to members of the governing body by applicants with interests in property that is the subject of certain zoning and planning applications¹ pending before the governing body and restricts the ability of a member of the governing body to vote and participate in the application proceedings if such a contribution is received. The Law also requires members of the governing body to disclose *ex parte* communications about pending applications. MD. General Provisions Section 5-859(b) states:

A member of the governing body who communicates *ex parte* with an individual concerning a pending application during the pendency of the application shall file with the Chief Administrative Officer a separate disclosure for each communication within the later of 7 days after the communication was made or received.

This requirement does not apply to communications between a Council Member and an employee of the Frederick County Government whose duties involve giving aid or advice to a Council Member about a pending application.

The Law also gives persons who are parties of record in the pending application the right to file with the Chief Administrative Officer an affidavit with evidence of a covered *ex parte* communication. In administering the Public Ethics Law, the Chief Administrative Officer, subject to the direction and control of the Ethics Commission, is responsible for receiving the *ex parte* disclosures, maintaining the required records, and preparing summary reports for the Ethics Commission.

Section 5-862(b)(3) of the Law provides that an action taken in reliance on an opinion of the State Ethics Commission or the Frederick County Ethics Commission may not be considered a knowing or willful violation.

IV. Discussion and Analysis

In 2014 in Opinion 14-03, this Commission addressed a complaint concerning the disclosure of *ex parte* communications by a County Commissioner.² There, a Commissioner indicated that he had been contacted by “various individuals” regarding a pending land use

¹ An application is defined in the Public Ethics Law as one of the following:

- A. An application for a zoning map amendment as part of a piecemeal or floating zone rezoning proceeding;
- B. A formal application for a comprehensive map planning change or zoning change during the County comprehensive land use plan update;
- C. An application for a map amendment to the County water and sewerage plan;
- D. A request made under 4-416 of the Local Government Article for the governing body to approve the placement of annexed land in a zoning classification that allows a land use that is substantially different from the use for the land authorized in the zoning classification of the County applicable at the time of annexation; or
- E. An application to create a district or easement or other interest in real property as part of an agricultural land preservation program.

² Reference here is to a member of the Board of County Commissioner. Frederick County transitioned from the County Commissioner form of government to the County Charter form of government on December 1, 2014. Under Charter Government, there is an Executive Branch with a County Executive and a Legislative Branch with a County Council.

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application, and the complaint alleged that this disclosure was inadequate and failed to comply with the Law.

As discussed in Opinion 14-03, the Commissioner did not get the names or contact information of individuals who shared their opinions on the pending application, but he relayed that he wanted to disclose the conversations as a precaution. The Ethics Commission stated:

Since the Public Ethics Law was adopted in 2007, County Commissioners have faced the problem of how to report *ex parte* communications with constituents who express their opinions on pending land use applications covered by the Law. When a written communication in the form of a letter or email is received, it is generally a simple matter for the Commissioner to report the communication, as there is a record showing from whom the communication was received and the date on which the communication was both sent and received. Oral communications from constituents, however, can be more difficult to report. These communications can arise in an informal setting, when the constituent takes the opportunity to express an opinion to a Commissioner. In such settings, the Commissioner may not know the constituent's identity, either because it is not given or because the person specifically wants to remain anonymous. In such situations, the practice has been to disclose the fact that an *ex parte* communication was received, even though it may not be possible to provide the name of the person making the contact. The Ethics Commission has considered this approach sound.

The Commission recognizes that constituents may wish to remain anonymous when sharing their opinions, making it difficult for Commissioners to obtain the information necessary to make detailed reports of these *ex parte* communications. To require that constituents identify themselves before expressing their opinions to Commissioners has the potential to discourage constituents from exercising their right to communicate with their elected representatives. The Ethics Commission is unwilling to interpret the Public Ethics Law as imposing such a requirement. In addition, if multiple anonymous contacts are made in a relatively short period of time, the Commission sees no harm in reporting them collectively, as occurred in this case. ***When the identity of the person making the communication is known, however, the Commissioner must report that communication separately.***

(Frederick County Ethics Commission Opinion 14-03, page 3. Emphasis added.)

Based on the foregoing, the fact that a member of the governing body cannot identify the recipient of the communication should not prevent the member from reporting the communication to the Chief Administrative Officer. Such communication should include the date and method of the communication and information conveyed in the communication. Should a recipient separately engage with a member regarding the original communication, any such communication should be separately logged and should note the name of the person communicating with the member and information discussed. [The Ethics Commission can envision a situation involving social media where the actual identity of such a person engaging with a member of the governing body is not known due to the use of an alias or username. In such instances, the member should provide the alias or username and any other identifying information known to the member through the social media platform.]

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Conclusion

For the reasons discussed above and based on the Representations, the Ethics Commission finds that a post by a Council Member via social media is subject to the disclosure requirements of the law.

/s/
Stephen K. Hess, Chair



FREDERICK COUNTY ETHICS COMMISSION

Stephen K. Hess, Chair

Office of the County Attorney

Advisory Opinion 23-01

June 30, 2023

On January 12, 2023, the Ethics Commission received a request from a member of the Frederick County Council regarding the Council Member's employment with an organization that may come before the County Council from time to time.

I. Procedures

Under Section §1-7.1-4(c) of the Frederick County Ethics Law, the Ethics Commission is required to develop procedures and policies for advisory opinion requests and to publish such opinions. Pursuant to the Ethics Commission's Standard Operating Procedures (August 2016), the Ethics Commission issues advisory opinions to provide guidance on compliance with the requirements of the Ethics Law. Advisory opinions are issued in advance of an action and provide guidance on how to comply with the Ethics Law. This differs from a Commission decision on a complaint, which looks at conduct that has already occurred and determines whether there has been a violation of the Ethics Law. When the Commission makes a decision on the request, it issues an advisory opinion.

II. The Request

In the present request, it is stated that the Council Member is employed by an organization that may come before the County Council from time to time. The Council Member anticipates that such instance may involve American Rescue Plan Act of 2021 (or ARPA) or other grant requests or financial matters.

III. The Ethics Law

Section 1-7.1-5(A) of the Ethics Law addresses participation prohibitions and states, in pertinent part:

“[E]xcept as permitted by Commission regulation or opinion, an official or employee may not participate in:

(1) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee, or a qualified relative of the official or employee has an interest.

(2) 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:

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... (b) A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

Subsection (A) continues:

(3) A person who is disqualified from participating under subparagraphs (1) or (2) of this paragraph shall disclose the nature and circumstances of the conflict and may participate or act if:

- (a) The disqualification leaves a body with less than a quorum capable of acting;
- (b) The disqualified official or employee is required by law to act; or
- (c) The disqualified official or employee is the only person authorized to act.

(4) The prohibitions of subparagraphs (1) and (2) of this paragraph do not apply if participation is allowed by regulation or opinion of the Commission.

IV. Conclusion

The Commission does not believe it would be appropriate for it to grant to the Council Member a blanket exemption from the participation prohibitions of the Ethics Law given the variety of possible reasons that the employer be before the County Council.

The Commission believes that the most prudent course for the Council Member would be to abstain from participation in matters involving the employer. However, if the Council Member's failure to participate would leave the body with less than a quorum, the Council Member is reminded of the exception provided in Section 1-7.1-5(A)(3) and quoted above.

/s/
Stephen K. Hess, Chair



FREDERICK COUNTY ETHICS COMMISSION

Stephen K. Hess, Chair

Office of the County Attorney

Advisory Opinion 23-02

June 30, 2023

On March 4, 2023, the Ethics Commission received a request from a member of the Frederick County Council (the “Requestor”) regarding the Requestor’s ability to provide letters of support with respect to constituents’ grant applications.

I. Procedures

Under Section §1-7.1-4(c) of the Frederick County Ethics Law, the Ethics Commission is required to develop procedures and policies for advisory opinion requests and to publish such opinions. Pursuant to the Ethics Commission’s Standard Operating Procedures (August 2016), the Ethics Commission issues advisory opinions to provide guidance on compliance with the requirements of the Ethics Law. Advisory opinions are issued in advance of an action and provide guidance on how to comply with the Ethics Law. This differs from a Commission decision on a complaint, which looks at conduct that has already occurred and determines whether there has been a violation of the Ethics Law. When the Commission makes a decision on the request, it issues an advisory opinion.

II. The Request

The Requestor’s request for an advisory opinion appears to have been prompted by a recent request that the Council Member received from a non-profit organization to provide a letter of support for a grant application. The Requestor’s request was not for guidance on any specific grant application but rather general guidance on similar situations.

III. The Ethics Law

Section 1-7.1-5(F) addresses the use of prestige of office and states, in pertinent part:

- (1) An official or employee may not intentionally use the prestige of office or public position:
 - (a) For the private gain of that official or employee or the private gain of another; or
 - (b) To influence, except as part of the official duties of the official or employee or as a usual and customary constituent service without additional compensation, the award of a state or local contract to a specific person.
- (2) An official may not directly or indirectly initiate a solicitation for a person to retain the compensated services of a particular regulated lobbyist or lobbying firm.
- (3) This paragraph does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

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June 30, 2023

IV. Discussion

In Advisory Opinion 12-04, the Ethics Commission provided general guidance to County officials and employees with respect to the use of County property such as County stationery or County-controlled electronic resources to communicate with others. The Commission specifically highlighted that the Ethics Law expressly permits elected officials to perform usual and customary constituent services if the Commissioner does not receive additional compensation for such services. While the Ethics Commission endorses its prior guidance in Advisory Opinion 12-04, it acknowledges that the advisory opinion did not discuss what constitutes permissible constituent services.

In considering the Requestor's request, the Commission looked at Howard County Ethics Commission's Opinion No. 2011-04 which addressed a similar request. In that opinion, the Howard County Ethics Commission noted the similarity between its ethics law and the State's "use of prestige of office" provision in the State's Ethics Law. Based on this, the Howard County Ethics Commission turned to the guidelines of the State's Joint Commission on Legislative Ethics regarding the use of prestige of office. The **2021 Ethics Guide** from Joint Commission states:

The basic guidelines cited by the Ethics Committee include the following:

- Refrain from using one's legislative title ("Senator" or "Delegate"), or prominently identifying oneself a legislator, for the legislator's private gain or the private gain of another. However, service in the General Assembly may be noted in a resume, employment-related biographical description, or public notice of a member's new employment.
- Use official General Assembly correspondence only for official legislative business or customary constituent services.
- Do not publicly endorse a commercial entity or product under circumstances that invoke one's position as a legislator.

Examples of *permissible constituent services include, but are not limited to*:

- writing a letter of recommendation or character reference, provided that the communication does not violate the prohibition against *ex parte* communication discussed later in this Ethics Guide¹;
- promoting economic development in the member's district or elsewhere in the State; and
- efforts on behalf of nonprofit community groups, subject to the prohibition against soliciting contributions from individual regulated lobbyists.

¹ "It is improper for a legislator to attempt to influence a decision-making official, in a matter pending in court or before a quasi-judicial administrative body, by communicating with the official off the record and out of the presence of the parties. There are formal procedures available for conveying information, such as a character reference, in such situations, and Ethics Counsel can assist members in determining the appropriate method of communication." 2021 Ethics Guide, p. 26.

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In promoting economic development or aiding community groups, use of one's prestige of office would be improper if the legislator, a family member, or a close associate had an ownership interest with the entity in question or otherwise might gain financially as a result of the assistance.

2021 Ethics Guide, p. 19 (Emphasis added.)

The Commission believes that these examples are permissible under the Frederick County Ethics Law. The Commission believes that promoting economic and community development in one's district or within the County is an important part of the County Council's role and, by extension, of each council member's role. Such assistance could include assisting an organization in securing a government grant. The assistance, however, is in furtherance of economic and/or community development, and not in furtherance of the specific organization or business. A council member might face a situation where two organizations in one's district or the County were seeking an endorsement for the same grant. There is no reason that the council member could not provide letters of support for both organizations – again, the support in favor of economic or community development generally and not a particular organization. With respect to a non-profit organization, the goal of the organization and its connection to a council member's district or the County may separately provide a basis for support, independent of any effect on economic development.

Use of one's prestige of office would be improper if the official, a family member, or a close associate had an ownership interest with the entity in question or might otherwise gain financially as a result of the assistance. Except as noted above, commercial endorsement for a for-profit entity may be untenable.

What is a permissible use of prestige of office is very fact specific and the Requestor may wish to seek further guidance from the Commission if a particular request raises concerns about the appearance of impropriety.

V. Conclusion

Subject to the discussion above, the Commission advises the Requestor that writing endorsement letters is a permissible constituent service within the meaning of §1-7.1-5(F) of the Ethics Law.

/s/
Stephen K. Hess, Chair



FREDERICK COUNTY ETHICS COMMISSION

Stephen K. Hess, Chair

Office of the County Attorney

Advisory Opinion 23-03

June 21, 2023

Honorable Jessica Fitzwater
Frederick County
12 East Church Street
Frederick, Maryland 21701

Re: County Executive Participation in an Educational Seminar

Dear County Executive Fitzwater:

The Ethics Commission has been asked to provide an advisory opinion to you with respect to your participation in the AIEF Israel Seminar for National Democratic Leaders to be held in late July 2023 (the "Seminar").

I. Background

It is the Commission's understanding as follows:

1. The American Israel Education Foundation ("AIEF") is 501(c)(3) charitable and education organization which provides grants to support select educational programs.
2. By letter dated May 24, 2023, Richard Fishman, Executive Director of AIEF, invited you to participate in the Seminar, and AIEF has offered to cover all costs associated with the Seminar, including domestic and international airfare, hotel, food, on-the-ground transportation, and security (the "Expenses").
3. The purpose of the Seminar to help educate political leaders about the importance of the U.S.-Israel relationship through firsthand experiences in Israel, briefings on Middle Eastern affair and meetings with Israeli political elite.
4. Participants will hear a wide array of viewpoints, including discussions with members of the Israeli Knesset and the Palestinian Authority; U.S. government officials; military leaders; prominent academics, journalists, and political consultants; and heads of non-governmental organizations focused on LGBTQ+ advocacy, environmental technology, labor organizing, and women's rights.
5. The program will also include visits to historic and religious sites in Jerusalem and the Galilee.

6. You have not been asked to speak or lead any presentations.
7. AIEF's offer to cover the Expenses is conditioned on you obtaining written confirmation from the Ethics Commission or your counsel that you may participate in the Seminar as outlined above.

In addition, for purposes of this Advisory Opinion, the Commission is assuming that AIEF is not required to register under the Frederick County Ethics Law.

II. Procedures

Under Section §1-7.1-4(c) of the Frederick County Ethics Law, the Ethics Commission is required to develop procedures and policies for advisory opinion requests and to publish such opinions. Pursuant to the Ethics Commission's Standard Operating Procedures (August 2016), the Ethics Commission issues advisory opinions to provide guidance on compliance with the requirements of the Ethics Law. Advisory Opinions are issued in advance of an action and provide guidance on how to comply with the Ethics Law. This differs from a Commission decision on a complaint, which looks at conduct that has already occurred and determines whether there has been a violation of the Ethics Law. When the Commission decides on the request, it issues an Advisory Opinion.

Typically, under the Ethics Commission's Standard Operating Procedures, an Advisory Opinion does not name the specific person who is the subject of the request for the opinion; however, in this instance, based on the understanding that this Advisory Opinion must be shared with AIEF, the Ethics Commission has agreed to identify you herein.

III. The Ethics Law

Section 1-7.1-5(G) of the Frederick County Ethics Law prohibits the solicitation and acceptance of gifts. A "gift" is defined under the law as the transfer of anything of economic value regardless of the form without adequate and lawful consideration.

Pursuant to § 1-7.1-5(G)(4) of the Ethics Law, 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, agency, or board or commission with which the official or employee 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 or employee;
- c. Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

- d. Is a lobbyist with respect to matters within the jurisdiction of the official or employee.
- e. Is an association, or any entity acting on behalf of an association that is engaged only in representing counties or municipal corporations.

Section 1-7.1-5(G)(5)(d) of the Ethics Law allows an official to accept reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting; provided, however, that subparagraph (5) of this paragraph does not apply to a gift:

- a. That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;
- b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or
- c. Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

“Lobbying” is defined in § 1-7.1-3 of the Frederick County Ethics Law as:

- 1. Communicating in the presence of a County official or employee with the intent to influence any official action of that official or employee; or
- 2. Engaging in activities with the express purpose of soliciting others to communicate with a County official or employee with the intent to influence that official or employee.

Under § 1-7.1-8. Frederick County Ethics Law (§ 1-7.1-8. of the County Code), a lobbyist is defined as a person or entity who during the calendar year: “(1) Expends, exclusive of personal travel and subsistence expenses, in excess of \$2,500 in furtherance of this activity; (2) Is compensated in excess of \$2,500 in connection with this activity; or (3) Spends \$100 or more cumulatively on gifts to or for officials or employees or their spouses or dependent children.”

IV. Discussion

In considering whether or not your participation in the Seminar at no cost to the County Executive or the County is a gift, the Commission discussed §1-7.1-5(G)(5)(d) which provides for reasonable expenses for food, travel, lodging and scheduled entertainment of an official which is provided in return for the participation of the official in a panel or speaking engagement at the meeting. While the Commission understands that the County Executive will not be speaking, the Commission believes that County Executive’s participation in the Seminar

activities, outlined above, could benefit the County Executive in the performance of her responsibilities and, by extension, could benefit the County.

This potential benefit, however, must be weighed against the potential for inappropriate influence of an official. In this regard, the Commission placed great weight on the understanding that AIEF is not registered and is not required to be registered under the Frederick County Ethics Law. In addition, the Commissioners are relying on the County Executive's compliance with § 1-7.1-5(G)(4).

In its discussions, the Commission found by majority of members present that it did not believe the County Executive's attendance at the Seminar would impair the impartiality and the independence of judgment of the official or give the appearance of impairing the impartiality and independence of judgment of the official or employee.

V. Conclusion

For the reasons discussed above and based on the Commission's understandings set forth above, the Ethics Commission finds that the County Executive's participation in the Seminar at the expense of AIEF (*i.e.*, all costs associated with the Seminar, including domestic and international airfare, hotel, food, on-the-ground transportation and security) is not prohibited as the acceptance of a gift.

/s/
Stephen K. Hess, Chair