



## FREDERICK COUNTY GOVERNMENT

### OFFICE OF THE COUNTY EXECUTIVE

Jan H. Gardner  
County Executive

*Douglas D. Browning, Chief Administrative Officer*

May 15, 2015

Gwen Romack  
Chair, Ethics Commission  
c/o County Attorney's Office  
12 East Church Street  
Frederick, MD 21701

RE: Ethics Commission Advisory Opinion No. 15-01

Dear Ms. Romack and Members of the Ethics Commission:

We are writing to express our strong disagreement and concern with the Ethics Commission Advisory Opinion No. 15-01. This opinion wrongly concludes that there is no conflict of interest or appearance of conflict with an elected county council member bidding and performing work on county government capital improvement projects or contracts.

We strongly believe that a county elected official bidding on a county project or contract and performing this work taints the public process and violates the public trust.

It is our view, this advisory decision fails to protect the public trust in county government decisions, the very objective that the ethics ordinance and ethics commission are charged with protecting. We have lost confidence in the ethics commission's ability to interpret the ethics ordinance's conflict of interest provisions and make rulings that assure the public that county decisions are made without conflict of interest or the appearance of conflict of interest.

The Conflict of Interest provisions in the Ethics Ordinance are found in section 1-7.1-5 of the County Code. Subsection 1-7.1-5(D)(1) specifically references both a conflict of interest and **appearance of conflict**. County council members bidding on county government contracts and performing work for the county in exchange for money clearly creates a public appearance of conflict of interest and of elected officials profiting from their position. We are concerned that other contractors will not even bid on county work that would cause them to be placed in the position of competing with a county elected official.

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The Ethics Commission does not seem to recognize or understand that interactions or interference with county employees from some county council members continues under the Charter Government. While the Charter makes the County Executive responsible for supervising county employees and states that the County Council as a body or as individual members have no power to appoint, dismiss, or direct employees, in practical reality there remains clear instances of county council members interfering with the management of county employees. The County Executive has already had to intervene to stop a council member from berating and yelling at a county employee. There are no consequences in the Charter for council members continuing to interfere and intervene in the management of county employees.

Consideration should also be given to the impact this decision has on county employees. County employees would reasonably find it very difficult to not respond to a county council member or to simply ignore efforts at interference. County Council members do have a vote on department budgets during the budget process. One only has to review recent budget discussions to see specific examples of county council members making motions to delete funding for a specific individual's position.

As county leaders who ran for office on a pledge to ensure open and honest government as well as to restore trust in government, we are compelled to share our strong disagreement with this flawed decision and our lack of confidence in the Ethics Commission.

We will take immediate action to remedy this situation through legislation and Executive Order.

  
Jan H. Gardner  
County Executive

  
Bud Otis  
Bud Otis, President  
County Council

cc: Douglas D. Browning, Chief Administrative Officer  
Members of the Ethics Commission