

CITY OF COLLEGE PARK ETHICS COMMISSION

ADVISORY OPINION 2014-01

March 26, 2014

Economic Development Coordinator Michael Stiefvater has asked the Ethics Commission for an advisory opinion regarding whether the selection of the spouse of an employee of the Department of Planning, Community & Economic Development is permissible under the Ethics Chapter of the College Park Code.

I. Facts

The Department of Planning, Community & Economic Development (“Department”) is responsible for operating two farmer’s markets in College Park. To that end, the Department issued a Request for Qualifications (“RFQ”) seeking bids from independent contractors to serve as a “Market Master,” managing one or both markets. Julie Beavers, the wife of the City’s Community Development Coordinator, Steve Beavers, was the only qualified bidder that responded to the RFQ.

The Department includes three functional areas—planning and zoning, community development, and economic development. Terry Schum is the Director of the Department. Mr. Stiefvater, as the Economic Development Coordinator, is responsible for the economic development function and reports directly Ms. Schum. Similarly, Mr. Beavers, as the Community Development Coordinator, is responsible for the community development function, and reports directly to Ms. Schum. Miriam Bader, the Senior Planner, is responsible for planning and also reports directly to Ms. Schum.

The farmers markets fall under Mr. Stiefvater’s economic development purview. Mr. Stiefvater prepared the Market Master RFQ, with input from Ms. Schum, the City’s Finance Director, and the City Attorney. Ms. Schum and Mr. Stiefvater are responsible for reviewing the responsive bids, making a recommendation to the City Council regarding the selection of a contractor, and overseeing the performance of the contractor. Mr. Beavers did not have any role in the development of the RFQ and will not have any role in the selection or oversight of the Market Master. In addition, Mr. Beavers does not have any supervisory authority over any of the City officials or employees involved with the RFQ or Market Master contract.

II. Applicable Law

Chapter 38 of the College Park Code establishes ethical standards for City officials. The

goal of the Ethics Chapter is to ensure that City officials perform their duties with only the best interests of the City in mind. Section 38-11 prohibits City officials from participating in certain matters and holding certain employment relationships that may create conflicts between their private interests and the interests of the City.

Section 38-11(C), which prohibits City employees from participating in matters in which they have a conflict of interest, provides, in pertinent part, as follows:

- C. Participation prohibitions. Except 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.

* * *

J. Participation in procurement.

- (1) An individual or a person who employs an individual who assists the City agency in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

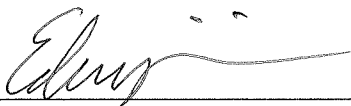
III. Discussion

Because Mr. Beavers did not participate in the development of the Market Master RFQ, will not have any role in the selection of the Market Master or oversight of the contract, and does not have supervisory authority over any City officials or employees involved with the RFQ or contract, the selection of Ms. Beavers to serve as the Market Master would not create a conflict of interest or the appearance of a conflict of interest under section 38-11 of the Ethics Chapter. Accordingly, the Commission finds that the selection of Ms. Beavers to serve as the Market Master is permissible under the Ethics Chapter.

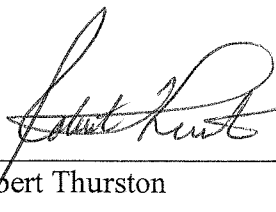
IV. Conclusion.

Based on the facts provided by Mr. Stiefvater and the facts readily available to the Commission, we conclude that the selection of Ms. Beavers is permissible under section 38-11 of the College Park Code. Should Mr. Beavers' responsibilities as a City employee change such that he becomes responsible for the procurement of Market Master services or oversight of the

Market Master contract, he must recuse himself from participating in such matters if Ms. Beavers will be bidding on the contract or is selected for the contract.



Ed Maginnis, Chair

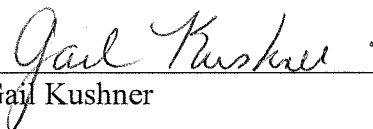


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