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County Executive

## THE PRINCE GEORGE'S COUNTY GOVERNMENT BOARD OF ETHICS

The Honorable Covette Rooney, Chair  
Cassandra Burckhalter, Member  
Curtis Eugene, Member  
Sharon Theodore-Lewis, Esq., Member

### BOARD ADVISORY OPINION

November 21, 2017

Case AO-18-0113

On August 28, 2017, the Board of Ethics (the "Board") reviewed a request from the Commission for Animal Control ("Commission") regarding the Commission's request for a waiver from the filing of financial disclosure statements as required under the Prince George's County Code (the "Code"). For the reasons explained below, we find that members of the Commission should file financial disclosure statements.

### APPLICABLE LAW

The Code of Ethics is intended to govern the actions of elected officials, appointed officials, and employees. The Code of Ethics seeks to ensure that trust is not eroded and that there is no improper influence, actual or the appearance thereof, in County Government.

#### **Sec. 2-290. Statement of purpose and policy.**

- (a) The Prince George's County Council, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained. It is evident that this confidence and trust is eroded when the conduct of the County's business is subject to improper influence and even the appearance of improper influence.
- (b) For the purpose of guarding against improper influence, the County Council enacts this Code of Ethics to require County elected officials, officials, employees, and individuals appointed to boards and commissions to disclose their financial affairs and to set minimum standards for their conduct of local business.
- (c) It is the intention of the Council that this Division, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

#### **Section 2-291 – Definitions**

**Official** means an elected official, an employee of the County, or a person appointed to or employed by the County or any County agency, board, commission, or similar entity whether or not paid in whole or in part with County funds and whether or not compensated.

## **Section 2-294 – Financial Disclosure**

- (a) The following elected officials, officials and employees and candidates for office as such officials or employees, when such positions are elective, are required to file the financial disclosure statements provided for in this Section:

...

(16) Members of the County Animal Control Commission;

...

(34) Any other officials, employees, and/or appointees of the County Government whom the County Executive shall by Executive Order designate for filing and who are directly responsible for making governmental decisions, policy or taking governmental action pursuant to any such decision or policy or recommending any such decision, policy or action with regard to:

- (A) Procurement or contracting;
- (B) Administering or monitoring grants or subsidies;
- (C) Planning and zoning;
- (D) Inspecting, licensing, regulating, or auditing any nongovernmental enterprise; and
- (E) Other activities where the decision, action or policy might have significant economic impact on the interests of any nongovernmental enterprise;

....

## **ANALYSIS**

Members of the Commission should be required to file financial disclosure statements because they are considered “officials” of the County and they engage in activities and conduct hearings where their decisions, actions, or policies may have significant economic impact on the interests of a nongovernmental enterprise. The Commission is comprised of the Health Officer, the Chief of Police, the President of the Prince George's County Veterinarian's Association, and six (6) citizen members, including a representative of a local humane organization, a kennel owner, and a representative of the pet industry. All citizen members are appointed by the County Executive and subject to confirmation by the County Council. Citizen members are elected for two (2) year terms, but may serve consecutive terms. All members of the Commission continue to serve until their successor has been appointed and confirmed. Members of the Commission receive compensation in accordance with Subtitle 2, Division 24 of the Code. The Office of County Executive provides the Commission to the extent authorized in the expense budget, with office space, supplies, equipment, and support personnel as required.

Subtitle 3, Division 3, Section 3-109 of the Code states the Commission has the powers and duties to make recommendations to the County Executive and to the Director of the Animal Control Program on rules and regulations concerning: the operation of the Animal Control Facility; standards for the collection, care, custody and disposal of animals at large, and public nuisance animals; and standards for the maintenance of holding facilities, pet shops, petting zoos, and other matters related to the treatment and maintenance of animals within the County. The Commission may prepare and present the Commission's budget as well as review and make recommendations on the Animal Control Program's budget. The Commission has the power to conduct hearings on whether a person subject to an order of the Commission has complied and where it has been determined a violation has occurred, require the payment of civil penalties. Additionally, the Commission has the power to conduct public hearings upon the filing of a written complaint alleging a violation of the animal control provisions. The Commission also has the power to compel the production of documents and the attendance of witnesses at hearings. Further, the Commission makes recommendations to the County Executive regarding changes of the animal controls laws.

The power and duties entrusted to the Commission under the County Code allows for a great deal of influence in animal control matters within the County. The Commission can request the Office of Law to apply for a court order compelling compliance when a person who has been summoned to appear before the Commission fails to comply. The Commission may order mandatory restriction or confinement of an animal; order the destruction or disposition of an animal; and order correction of conditions or methods of animal care, maintenance, housing or veterinary treatment of an animal. The Commission can also make recommendations that licenses issued under the animal control provisions be suspended or revoked. Furthermore, the Commission may make recommendations to the State's Attorney to initiate criminal prosecutions for violations.

### **CONCLUSION**

Based on the foregoing, the Commission for Animal Control is a County board, commission, or similar entity and its members are County officials subject to the filing requirements of Section 2-294 of the Code. As a body enacted pursuant to statute, your organization, along with other similar boards and commissions, compose a formal system through which citizens can advise the County Executive on animal control issues affecting the County. Even more, the Commission is supported by County funds and uses County owned property to conduct its business. The filing of financial disclosure statements serve to remind public officials and employees of their financial interests to help them avoid conflicts of interest, while at the same time, promoting public confidence in the integrity of government by providing citizens with information about those who serve them. Section 2-294(h) of the Code permits the Board to grant exemptions or modifications to the financial disclosure requirement where it finds that application of Section 2-294 would (i) constitute an unreasonable invasion of privacy; (ii) would significantly reduce the availability of qualified persons for public service; and (iii) would not be contrary to the purpose of the Section. Nothing advanced in your letter, supports your contention that submission of financial disclosure statements to the Board "would present a serious challenge and be overly burdensome for the recruitment of members..."

In reaching this decision, the Board has relied upon the facts as presented by your organization.

Sincerely,

/s/

Covette Rooney  
Board Chair