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**The Ethics Commission**

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Advisory Opinion of January 9, 2009

The Commission received a request for an advisory opinion regarding a potential conflict of interest between the Recreation Manager and a vendor for the Department that would be under her supervision. The Commission reviewed the request at a special meeting on January 9, 2009. The Commission considered the facts that were provided regarding a possible perception of a conflict of interest and your proposed remedy.

The Commission determined that, in being a Supervisor in a Department that her subordinate, the Program Coordinator, would be hiring her husband as a vendor for a program that is under her supervision, the Supervisor would be "...acting on behalf of the county in any matter that would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them or a family member..." in violation of § 8-11.A (1). The Commission found that for the same reasoning that this relationship also violates § 8-11.A (2) because the husband would be supervised and contracted for services for the Wife in the same Department, albeit through a Program Coordinator.

The Commission further determined that these same activities by the Supervisor would give rise to a perception of a violation of the County Public Ethics Law, specifically § 8-11.A (7) in that an informed member of the public could reasonably believe that confidential information could pass between the spouses or use of her county position, either intentionally or unintentionally, because of the nature of their relationship and their respective positions with the Department.

Further, the Commission commends the activities of searching for a new vendor and respects the unique position this conflict brings. The Commission does not want to disrupt the County business, nor require that the Program cannot be offered.

To remedy the violations the Commission has the following recommendations to ensure the public that the conflict is being mitigated to the extent possible:

- 1) The Director, instead of the Recreation Manager, has to be the Supervisor of the Program Coordinator as it relates to the program that the vendor's services are utilized;
- 2) The Director, not the Program Coordinator or the Recreation Manager, must negotiate the contract and hire the vendor without any input from the Coordinator or Manager;



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- 3) During the administration of the program, if any problems occur, the Director, not the Coordinator or Manager, will be the decision maker, and further that the Program Coordinator be permitted no discretionary authority; and
- 4) The Director must conduct the evaluation of the Program Coordinator and the Vendor if any evaluation is necessary in relation to this particular program.

The Commission depends on the willingness of the Director to conduct the above described activity and suggest that the Director provide input and suggestions as to the Commission's directives should further issues arise.

Advisory Opinion 09-01

Advisory Opinion of January 9, 2009

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