

City of Salisbury Ethics Commission

Opinion Request Number: 2024-02

Date of Opinion: July 30, 2024

Issue & Answer:

1. May employees of the City's Zoo conduct business for American Association of Zookeepers (AAZK) while on City time and using City resources? **No.**

Facts: For years, employees of the Zoo, specifically zookeepers, have belonged to the local chapter of the American Association of Zookeepers (AAZK) referred to as the "Chesapeake AAZK Chapter." AAZK is a national organization whose vision is to lead the zoo and aquarium industry in fostering professional development and personal connections that advance animal care, animal welfare and conservation. AAZK has over 100 chapters nationwide. The Chesapeake AAZK Chapter (CAAZK), unlike most other AAZK chapters, consists of only Salisbury Zoo employees. Membership of CAAZK could be extended to zookeepers at the Brandywine Zoo or Delmarva Discovery Museum, but there has not been an effort to expand outside of the Salisbury Zoo by existing CAAZK members. There are times when not all zookeepers at the Zoo are members of CAAZK.

This Advisory Opinion was requested after the Zoo received an invoice from CAAZK for more than \$700 for goods to be sold by CAAZK to the Zoo in the Zoo's gift shop using, in part, materials from the Zoo and made during Zoo time. In the coming months, CAAZK intends to use Zoo biofacts at fundraisers off Zoo premises as well as Zoo grounds for special zoo encounters and events, which charge an admission fee. All monies generated from these fundraising activities benefit CAAZK exclusively; no monies flow back to the Zoo.

Over the years, CAAZK members, at their discretion, have utilized the Zoo's resources, such as rhea eggs, animal foot impressions, and supplies, to create merchandise. CAAZK then sells this merchandise to the Salisbury Zoo's gift shop or other outside vendors and keeps all revenue from the sales. CAAZK members, most often on City time and without paying a fee to the Zoo for using its facilities, offer behind-the-scene tours of the Zoo and keep all revenue from those tours. From the monies raised, CAAZK pays its chapter and membership fees and donates to AAZK's conservation efforts. The Zoo has allowed this practice because, heretofore, CAAZK fulfills conservation efforts on behalf of the Zoo, which is a condition of becoming reaccredited by the Association of Zoos and

Aquariums (AZA). The Zoo, however, has made a decision to contribute to conservation efforts directly and will not be relying upon CAAZK any longer to reach its conservation goals.

As Salisbury Zoo employees, zookeepers have access to marketing content (videos, pictures, etc.) that visitors and other staff do not, including sensitive enrichment activities. At times, that marketing content has been first shared by zookeepers to CAAZK's social media page before being offered to the Salisbury Zoo's dedicated social media page.

CAAZK also holds its meetings at the Zoo during Zoo operating hours and uses the Salisbury Zoo mailing address as its own mailing address.

Analysis: Section 2.04.050(e) of the Ethics Code, which governs “prestige of office,” provides:

- (1) An official or employee may not intentionally use the prestige of the office or public position for the private gain of that official or employee or the private gain of another. The prohibitions of this section include, but are not limited to:
 - (i) The use of influence in the award of a City contract to a specific person or entity;
 - (ii) Initiating a solicitation for a person to retain the compensated services of a particular lobbyist or firm;
 - (iii) Using public resources or title to solicit a political contribution regulated in accordance with the Election Law Article of the Annotated Code of Maryland.
- (2) This subsection does not prohibit performance of usual and customary constituent services by an elected local official without additional compensation.

(2.04.050(e)).

The Commission finds that City zookeepers have been using the prestige of their position at the Zoo for the private gain of CAAZK. This includes CAAZK using Zoo materials and time to raise funds for CAAZK and sharing sensitive enrichment activities with CAAZK before that information is shared with the public through the Zoo's channels of communications.

Because, at times, not all City zookeepers are members of CAAZK and because CAAZK funds its chapter and membership fees from fundraising activities using Zoo resources, CAAZK members receive a “direct financial interest” from CAAZK doing business with the City, which is prohibited by

Chapter 2.04.050 of the Code. That section provides that, except as permitted by Commission regulation or opinion, an employee may not participate in an entity doing business with the City in which a direct financial interest is owned by another entity in which the employee has a direct financial interest, if the employee may be reasonably expected to know of both direct financial interests.

The Commission recognizes CAAZK's method of doing business with the City had been sanctioned and pardoned by the Zoo because the City benefited from CAAZK's conservation efforts. However, given the changes at the Zoo, including, but not limited to the Zoo raising funds for and contributing to conservation efforts directly, the relationship between CAAZK and the City must change and shall adhere to the restrictions set forth in the City's Ethics Code. This Commission recommends that the Zoo set rules and procedures for CAAZK's fundraising efforts, if CAAZK intends to continue using City resources, as well as guidelines for CAAZK using City property to hold chapter meetings. Moving forward, there should be a clear delineation between when a zookeeper is acting on behalf of the Zoo or on behalf of CAAZK.

Application: The City Ethics Commission cautions that this Opinion is applicable only to the request described herein. This Opinion should not be considered to be binding indefinitely. The passage of time may result in amendment to the applicable law and/or developments in the area of ethics generally or in changes of facts that could affect the conclusion of the Commission. This Opinion is intended to serve as a general guide for persons subject to the Ethics Code and members of the public, but is not intended to address the innumerable factual possibilities which may arise.