



Montgomery County Lodge 35, Inc.

18512 Office Park Drive
Montgomery Village, MD 20886

Phone: (301) 948-4286

Fax: (301) 590-0317

November 2, 2012

HAND DELIVERED

Emmet C. Davitt
State Prosecutor
Office of the Maryland State Prosecutor
300 East Joppa Road, Suite 410
Towson, MD 21286

Re: *Montgomery County's Unauthorized Expenditures of Taxpayer Funds and
Use of County Resources for Campaign Advocacy
File No. 13-2906*

Dear Mr. Davitt:

Fraternal Order of Police, Montgomery County Lodge 35, Inc. ("FOP35") respectfully requests that you reconsider your decision to close your investigation into the unauthorized use of taxpayer funds by the Montgomery County government to advocate for passage of Ballot Question B in the November 6, 2012 general election.

Although County Attorney Marc Hansen's September 19, 2012 opinion letter addressed government speech and political activity by government employees, it did not opine on the expenditure of government funds to advocate for one side of a contested ballot question. As you pointed out in your October 22, 2012 letter to County Executive Isiah Leggett and the County Council and in your October 26, 2012 letter to Attorney General Gansler, Maryland election law requires that with the exception of individual expenditures, all solicitations and expenditures of funds to support or oppose a ballot question at an election must be conducted by a ballot issue committee. The County cannot claim good faith reliance on advice of counsel on this issue because the County Attorney's opinion letter did not address it.

The title of the opinion letter accurately describes the subject addressed -- "Government Speech - Effects Bargaining Referendum." It does not address at all the issue of the legality of using public, taxpayer funds in support of Question B. Indeed, the words "public expenditures" or "expenditures" do not appear anywhere in the memo. Nor does the County Attorney address or disagree with your finding in your letter to County Executive Isiah Leggett and the County Council, dated October 22, 2012 that "all...expenditures of funds to support or oppose a ballot question at an election" constitute "political activities" and thus, under Title 13 of the Election Law Articles, may occur only "through a daily established ballot issues committee registered with the State Board of Elections."

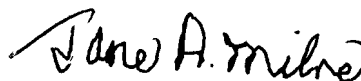
Emmet C. Davitt
November 2, 2012
Page 2

There is no dispute of fact by Mr. Hansen or anyone that the County Government has spent taxpayer, public funds directly, not through a registered ballot issue committee, in support of Question B on the November 6 ballot. You also stated that government officials expending funds in support of a ballot question not through a registered ballot question committee may be committing crimes.

Yesterday, registered voters throughout Montgomery County received in the mail the enclosed campaign material from the Montgomery County Office of Public Information advocating support for Question B. We believe that the County likely mailed these political ads to all registered voters in Montgomery County. We also learned yesterday that the County has hired individuals to distribute pro-Question B campaign material at the polls. Please note Md. Ann. Code, Election Law §13-245(c)'s requirements regarding payment for walk around services.

In light of these recent expenditures for political advocacy, FOP 35 requests that you reopen your investigation.

Very truly yours,

A handwritten signature in black ink that reads "Jane A. Milne". The signature is written in a cursive style with a large initial "J" and "M".

Jane A. Milne
Secretary

enc.