

ST. MARY'S COUNTY ETHICS COMMISSION

MINUTES OF February 23, 2004

Library, St. Mary's County Governmental Center

Members Present: David Deaderick, Vice Chair
George Baroniak, Member
Viola Gardner, Member
Zora Siemasko, Member
Shirley Baldwin, Executive Secretary

Other Attendees: Jennifer O. Dill, Esq., Davis, Upton & Palumbo
Walter Burch
Jason Babcock, The Enterprise

Absent: M. Martha Neal, Ph.D., Chair

CALL TO ORDER:

The meeting was called to order by Mr. Deaderick at 2:00 p.m.

ANNOUNCEMENTS:

Because of the large volume of items on today's agenda as well as a large volume of Financial Disclosure Statements to review, the agenda was altered for the convenience of all in attendance.

The next meeting of the Ethics Commission will be March 1, 2004.

REVIEW/APPROVE MINUTES

Minutes of February 2, 2004 The motion was made by Ms. Siemasko to approve the minutes as written, seconded by Ms. Gardner. The motion carried.

Executive Session Minutes of February 2, 2004. The minutes of the Executive Session were distributed for review. Ms. Gardner made the motion to approve the minutes as distributed, seconded by Ms. Siemasko. Motion carried.

FINANCIAL DISCLOSURE STATEMENTS

- Status 2002 Outstanding. No change in the status of 2002.
- Status 2003 Outstanding. 168 statements have been sent out, and there are 88 ready for review today. Mr. Deaderick postponed the review session until later in today's meeting.

UNFINISHED BUSINESS

- Response to County Attorney re Transportation Task Force. Mr. Deaderick read the memo prepared to Mr. Norris in response to his memo to the Ethics Commission dated January 8, 2004. In addition, the Ethics Commission considered whether members of the Transportation Task Force will be required to file Financial Disclosure Statements. Mr. Baroniak made the motion to require members of the Task Force to file Financial Disclosure Statements since the Task Force will consider matters related to acquisition, zoning, or designation of land. This was seconded by Ms. Gardner. The motion carried.

The motion was made by Ms. Siemasko to approve the memorandum to Mr. Norris as prepared and read by Mr. Deaderick. The motion was seconded by Mr. Baroniak. The motion carried.

- E-Mail from Walter Burch regarding Development Review Forum This was briefly discussed at the previous meeting. Members were asked to review the material and come back on February 23 prepared to respond. Mr. Burch enclosed excerpts from minutes of the Development Review Forum as well as their charter. He felt some of their members may have a conflict of interest. Another e-mail was received from Mr. Burch since that time, enclosing minutes of the Development Review Forum (DRF) of Jan. 21, 2004, which shows that one of the members was an active participant in Adequate Public Facilities discussions. Mr. Burch felt the DRF was being used in place of formation of the Adequate Public Facilities Task Force. Mr. Burch felt this person has a conflict of interest since he has active residential development projects in St. Mary's County. Mr. Baroniak was asked by the Chair prior to the meeting to study the issue, look at the material sent and bring a recommendation on how to deal with the issues.

Mr. Baroniak spoke regarding the two issues, one being the creation of a board and the second, a conflict of interest of a participant serving on this particular board. He referred to the State of Maryland Public Law, the State Ethics Commission and the St. Mary's County Ethics Ordinance, wherein under Section 6, C. it is stated that members of boards, commissions and committees listed as well as all members of ad hoc committees and task forces providing advice and/or recommendations regarding acquisition, zoning or designation of land, ... shall submit a financial disclosure statement. Mr. Baroniak concluded the creation of this task force should conform to the County's Ethics Ordinance and they should file Financial Disclosure Statements – which the Commission ruled in March 2003. With reference to the individual serving on the Board, he could find nothing that would preclude him from serving. If that individual has a conflict, he should refrain from any action and discussion.

At this time, Jennifer O. Dill, Davis, Upton & Palumbo, was introduced. She discussed the “appearance of a conflict of interest,” even though you may not have an actual conflict.

Mr. Deaderick pointed out that in the Bylaws of the DRF it states that membership of this Forum shall consist of members of the residential building industry, commercial building industry, surveying and planning. The body is made up primarily of developers for the purpose of giving advice regarding the streamlining of permits through Planning & Zoning. One of the questions being raised is “Are they going outside of the boundaries of their charter and doing other things?”

Ms. Dill urged the Commission to consider the limits of its powers as delegated by the Ethics Ordinance and indicated she would like to explore further whether the Commission has any authority to question the role of the Development Review Forum. It was agreed to continue such discussion at the next meeting.

Mr. Burch asked to speak to the Commission prior to its going into Executive Session. Mr. Burch gave some background on the DRF stating they were formed to streamline the processes in the Department of Planning & Zoning. He gave additional background on the APFO Task Force, which after the Ethics Commission ruled that people serving on that Task Force had to file Financial Disclosure Statements, the establishment of the Task Force was dropped. Mr. Burch felt that the duties of that Task Force was being handled by the DRF. If the DRF sticks to their charter, he does not see a problem, but when they amend the Zoning Ordinance, he does see a problem, particularly with Article 6, when it talks about what type of development you can have.

Ms. Siemasko made the motion to enter Executive Session under 4-210 (a)(8) of the St. Mary's County Open Meetings Act in order to discuss items with the Attorney present. Motion seconded by Mr. Baroniak. Motion carried. Mr. Burch and Mr. Babcock departed, and the Executive Session began at 2:45.

Executive Session ended at 3:15.

NEW BUSINESS

- 2005 Budget

Material and forms have been received to prepare the 2005 budget. Mr. Deaderick will further look at this material and will report back to the Commission at a later date.

FINANCIAL DISCLOSURE STATEMENTS

- Review Session

The Commission reviewed a portion of the Financial Disclosure Statements, and will continue to review the remainder next week.

ADJOURNMENT

Ms. Siemasko moved to adjourn the meeting at 3:48 p.m., seconded by Mr. Baroniak. Motion carried.