

**ST. MARY'S COUNTY ETHICS COMMISSION  
MINUTES OF September 27, 2004**

**St. Mary's County Governmental Center, Rm. 14**

**Members Present:** David Deaderick, Chair  
George Baroniak, Vice Chair  
Joseph B. Bush, Member  
Arthur Goeller, Alternate Member  
Zora Siemasko, Member  
Shirley Baldwin, Executive Secretary  
John Norris, III, County Attorney  
Jennifer Dill, Davis & Upton

**Members Absent:** Viola Gardiner, Member

**CALL TO ORDER:**

The meeting was called to order by Mr. Deaderick at 2:01 p.m.

**ANNOUNCEMENTS:**

The next meeting is scheduled for October 4, 2004.

**REVIEW/APPROVE MINUTES:**

Minutes of September 13, 2004. Mr. Bush noted under New Business, Request for Advisory Opinion #2. the word "interest" was omitted. The motion was made by Ms. Siemasko to approve the minutes as corrected, seconded by Mr. Baroniak. Motion carried.

**FINANCIAL DISCLOSURE STATEMENTS**

FDS Status: There are still two outstanding and one in administrative review.

Review Session: Two Financial Disclosure Statements were reviewed and one was approved. One will be returned for additional information

**UNFINISHED BUSINESS**

Recognition of Dr. Neal's Service: Mr Deaderick acknowledged the accomplishments of the Ethics Commission during Dr. Neal's term of office. Mr. George Forrest presented a framed copy of the County seal with appropriate inscription to Dr. Neal for her service. Dr. Neal in turn presented an engraved gavel to the Ethics Commission.

Revisions to Ethics Ordinance Mr. Norris provided copies of the Ethics Ordinance with the revisions which were made by the Commission.

Requests for Advisory Opinion.

1. A letter dated August 27, 2004, was received from an individual who is employed by the St. Mary's County Public School System. Her letter raised three questions

regarding conflicts of interest regarding her additional employment as an independent consultant. The first inquiry is whether it is allowable for her to conduct a fund-raising event with either a Parent Teacher Association or Booster Club within St. Mary's County Public Schools. The school group would receive a percentage of the profits. After discussion, it was felt the Ethics Commission needed more information. A list of questions will be furnished Mr. Deaderick who will call her and obtain further information. The motion was made by Mr. Bush to postpone a decision on this part until further information is received. Motion seconded by Mr. Goeller, and the motion carried.

The next question is whether she can teach a class for a fee through the St. Mary's County Department of Recreation and Parks youth and adult leisure programs. After discussion, Ms. Siemasko made the motion to issue an Advisory Opinion stating there was no conflict of interest with this issue. This was seconded by Mr. Goeller and the motion carried. Ms. Siemasko will write up the Advisory Opinion.

The third question in her letter inquired whether it is allowable for an employee of the county government or school system to sign up as a consultant under her. After discussion, it was felt additional documentation was needed to make a decision. Mr. Deaderick will advise her of that.

Mr. Baroniak moved that additional information be requested on questions 1 and 3; and that the Ethics Commission issue an opinion that there is no conflict of interest on question 2. The motion was seconded by Mr. Bush and the motion carried.

2. A letter dated September 12, 2004, was received from Commissioner Jarboe declaring his intention to recuse himself from any future votes regarding the Wal-Mart expansion issue and requesting an advisory opinion either affirming or correcting this decision. The husband of Mr. Jarboe's former campaign treasurer has offered to sell transferable development rights (TDR's) to Wal-Mart for the expansion of the California store.

Mr. Norris, County Attorney, and Mr. Phil Shire, Director, Land Use and Growth Management, both addressed TDR's and how they are transferred. The only role the County Commissioners has is to certify that the number of TDR's required are available, and give approval of the transfer of the TDR's to the particular project. After discussion it was determined that this was a ministerial and administrative decision and not a violation of the Ethics Ordinance

The motion was made by Mr. Bush that the Ethics Commission issue the Advisory Opinion allowing Mr. Jarboe to participate in the vote on the TDR's. Mr. Goeller seconded the motion, which carried unanimously. Mr. Baroniak volunteered to write the Advisory Opinion.

## **NEW BUSINESS**

Request for Advisory Opinions (Commissioners McKay and Raley) A memorandum was received from Mr. Norris, County Attorney, on behalf of Commissioners McKay and Raley, each of whom participates in the ownership and management of retail grocery stores in St. Mary's County. The memorandum expressed the view that a purpose of the proposed expansion of the Wal-Mart is, among other things, to offer what would be traditionally considered grocery items for retail sale and that the stores owned by Commissioners McKay and Raley have their own set of customers.

Mr. Baroniak made the motion that the Ethics Commission advise that there would be no conflict of interest for them to participate in approving the acceptance of development rights once such rights are determined to be valid and vested in the applicant, since such participation would be ministerial/administrative and without judgment on the merits of the issue of expansion of the Wal-Mart store. The motion was seconded by Mr. Bush and the motion carried. Mr. Deaderick will write the advisory opinion.

## **PUBLIC COMMENT**

None

## **ADJOURNMENT**

Mr. Baroniak moved to adjourn at 3:08 p.m., seconded by Mr. Bush. Motion carried.