

Frederick County Ethics Commission
Minutes for the Meeting of Monday, April 26, 2004

Present: Ronald W. Peppe, Chairman
Phillip P. Killam, Commission Member
G. Anthony Crook, Commission Member
Andrew T. Jones, Alternate Commission Member
Linda B. Thall, Assistant County Attorney

The Frederick County Ethics Commission met at 7:00 p.m. on April 26, 2004, at the Office of the County Attorney on the 3rd floor of Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

Unfinished Business

Approval of the minutes – The Commission considered the minutes from its April 19, 2004, meeting. Mr. Jones asked that the description of the motion made by Mr. Crook regarding the Commission's request for information on insurance coverage be amended to make it clear that the Ethics Commission was requesting assistance from the Board of County Commissioners.

MOTION: Mr. Crook moved to approve the minutes as amended. Mr. Peppe seconded the motion. Mr. Peppe and Mr. Crook voted to approve the motion. Mr. Killam abstained.

Request for information on insurance coverage – Mr. Killam requested and received a summary of the discussion from the April 19, 2004, meeting on this subject. The Commission also discussed alternative courses of action to follow until the requested information is obtained. The Assistant County Attorney distributed for discussion a draft of the memorandum to be sent to the Board of County Commissioners, as requested at the Commission's April 19, 2004, meeting. The memorandum seeks assistance from the Board of County Commissioners in getting a written opinion from the County Attorney on the subject of insurance liability coverage for members of the Ethics Commission. Mr. Jones suggested adding a statement to the memorandum noting that the request for information was a longstanding one.

MOTION: Mr. Crook made a motion to approve the wording of the memorandum as prepared. Mr. Peppe seconded the motion. The motion was approved, with Mr. Crook and Mr. Peppe voting in favor of the motion. Mr. Killam abstained.

Mr. Peppe signed the memorandum to the Board of County Commissioners.

Request for guidance on proposed contract – The Commission began a discussion of the request for guidance submitted by the Department of Parks and Recreation. The Assistant County Attorney provided the Commission with the additional information it had requested at

its April 19, 2004, meeting. The Commission members then discussed whether the proposed contract for the operation of a concession stand at a County park would present a conflict of interest under the Ethics Ordinance and whether an exemption should be granted. The proposed contract would be with a business owned by two Frederick County employees. The Commission considered asking the Department to readvertise the contract to find out whether anyone else would bid on the contract.

The Commission members then questioned whether they had previously voted not to conduct additional new business until the County Attorney's response to the Commission's request for insurance coverage information was received. The Commission asked the Assistant County Attorney to review the minutes from its past meetings to find out whether it had formally voted on this matter. The minutes from December 8, 2003, stated that the members of the Commission had determined that they would conduct no additional business until the information was received. The minutes did not show that the Commission had taken a formal vote on this decision. The Commission members then discussed the merits of this approach. Mr. Peppe stated that he would like to move ahead with Commission business. Mr. Crook agreed that the Commission should continue to do its work. Mr. Jones took the position that the Commission should take a strong stand and only consider revisions to Advisory Opinion 03-3.

Revision of Advisory Opinion 03-3 – Prior to the meeting, Mr. Crook sent to the Commission members and the Assistant County Attorney a proposed language change to the revision of Advisory Opinion 03-3 that would provide guidance in determining when tickets or free admissions to certain events can be considered a "courtesy or ceremony extended to the office." The Commission discussed the language change and considered alternative proposals.

MOTION: Mr. Crook moved to approve the revisions to Advisory Opinion 03-3. Mr. Killam seconded the motion, which passed unanimously.

Mr. Peppe agreed to sign the revised opinion on behalf of the Ethics Commission.

MOTION: Mr. Crook moved to send letters to two employees who had previously met with the Commission to discuss their acceptance of tickets or free admission to attend a professional or intercollegiate sporting event or charitable, cultural, or political event. The employees would be advised in the letters that the Ethics Commission had reviewed the circumstances of their cases and concluded that the conduct in question should not have occurred, but that they would not be charged with violation of the Ethics Ordinance. The employees would be cautioned not to repeat the conduct. The motion was not seconded.

The Commission agreed that it would not pursue the two employees for conflict of interest violations due to their having been advised by the County Attorney that their conduct did not violate the Ethics Ordinance. Mr. Killam suggested an amendment to the motion to add a reference to the employees' having been advised by the County Attorney that they were not in violation of the Ethics Ordinance. Mr. Crook then withdrew his motion.

The Commission then discussed whether it should hold off on sending letters to the two employees until after Revised Advisory Opinion 03-3 is completed and published. The Commission included in its discussion the suggestion that it also defer taking action until after the County Attorney's written memorandum on the insurance liability coverage is received.

MOTION: Mr. Crook moved to have the revised advisory opinion go to the County Attorney to get his position on the opinion. The County Attorney would be asked to approve the revised advisory opinion for form and legality. Mr. Killam seconded the motion. The motion passed unanimously.

Request for guidance on proposed contract – The Commission returned to its discussion of the proposed contract between the Department of Parks and Recreation and a business owned by two County employees for the operation of a concession stand at a County-owned park.

MOTION: Mr. Crook moved to have the Commission send a letter to the Department stating that the proposed contract would be in violation of the conflict of interest provisions in the Ethics Ordinance. The letter would state that, based on the documentation provided, the Commission had concluded that an exemption from the conflict of interest provisions was not appropriate at this time. Mr. Killam seconded the motion.

After discussion on the motion, Mr. Crook withdrew the motion.

MOTION: Mr. Crook moved to have the Commission send a letter to the Department stating that the proposed contract with the business owned by County employees would violate the conflict of interest provisions in the Ethics Ordinance. The Commission would not grant an exemption under Section 1-7.1-7 of the Ethics Ordinance without a strong justification. The Commission did not find a strong justification, but the Department would be advised that it could come back to the Commission with additional reasons for an exemption if it wished to do so. The motion was seconded by Mr. Peppe and was passed unanimously.

The Commission asked that a draft of the letter be distributed to all Commission members before it is sent. Once approved, Mr. Peppe will sign the letter on behalf of the Commission.

MOTION: Mr. Killam moved to have the Commission defer consideration of any new business until after the written response from the County Attorney on the insurance coverage questions is received. Mr. Killam subsequently withdrew the motion.

Revised Advisory Opinion 03-3 – The Commission expressed interest in having the revised advisory opinion published in the County newsletter and distributed with the financial disclosure statements.

New Business

None

Adjournment

MOTION: Mr. Killam moved to adjourn the meeting. Mr. Crook seconded the motion.
The motion passed unanimously.

The meeting was adjourned at approximately 9:20 p.m.

/s/
Linda B. Tall, Assistant County Attorney