

**ETHICS TASK FORCE OF FREDERICK COUNTY
MEETING MINUTES
Monday, April 20, 2015**

Task Force Members Linda Norris-Waldt, Chair; Karl Bickel, Vice-Chair; Gwen Romack, County Ethics Commission Chair; Donald Foster, Thomas Gill, Jesse Goode, Kevin Grubb, Diana Halleman, Dr. Sayed Hague, John Helms, John Shatto and Nancy Pluhowski were present for the meeting. Also present was Linda Thall, Senior Assistant County Attorney.

Task Force Chair Norris-Waldt called the meeting to order at 7:00 p.m. in the first floor meeting room, Winchester Hall, 12 East Church Street, Frederick, Maryland.

Task Force Chair Norris-Waldt asked Task Force Members for any changes to the draft minutes of the meeting on April 2, 2015. A correction was offered and the draft minutes were accepted as final pending revision.

Presentation of Code of Conduct Considerations: Follow-up to Task Force Discussion at April 2, 2015 meeting

Mr. Grubb opened the Code of Conduct topic by pointing out that there is a need to define what assignments a County Council Member(s) can direct a County employee to do.

Ms. Thall noted that there are stand-alone policies.

Mr. Grubb raised the topic of anti-harassment cases and how they are investigated.

Ms. Thall explained that sexual harassment cases involving County employees are handled by human resources.

Mr. Gill offered that the County, not a Council member, would be held liable if a County employee filed a sexual harassment suit involving a

Council member. And, there is no existing authority to discipline a Council member.

Ms. Thall noted that remedies are limited in respect to an elected official. A Court does not have the authority to remove an elected official. The Ethics Commission does not have jurisdiction over sexual harassment cases.

Mr. Gill suggested that that the Task Force recommend amending the County Charter to provide for the removal of elected officials.

Dr. Hague asked about the process for sexual harassment cases.

States Attorneys Office

With the Council's concurrence, Ms. Norris-Waldt placed the Code of Conduct discussion on a temporary hold to introduce the Honorable J. Charles Smith III, States Attorney.

Mr. Smith provided background on the States Attorneys Office process regarding referrals from the Ethics Commission/County.

Ms. Romack expressed support for mandatory referral to the States Attorney of an ethics complaint filed by a citizen who believes that criminal conduct has occurred.

Mr. Helms noted that if the Ethics Commission determines that a violation occurred in respect to lobbying activity, the complaint must be referred to the States Attorney.

Mr. Smith explained that criminal violations have different rules than ethics violations.

Ms. Romack noted that the Ethics Commission decides each matter by a majority vote. The Commission encourages citizens who are filing ethics complaints to submit supporting documentation.

Dr. Hague asked whether guidelines could be provided to the Task Force and the Ethics Commission.

Mr. Smith offered to prepare guidance on when to refer matters to the States Attorney.

Code of Conduct continued

Mr. Grubb requested that the Task Force members review suggested changes to the County's personnel rules, and items 1 – 14 of the handout.

Ms. Thall suggested a separate Code of Conduct that addresses behaviors that are not in the Ethics Ordinance.

Ms. Halleman offered that the Code of Conduct be the preamble.

Mr. Gill suggested a separate Code of Conduct for elected officials.

Ms. Pluhowski offered that a code of conduct should be an expectation of behavior for elected officials, appointed officials, and employees of the County.

Mr. Gill made a motion have a Code of Conduct outside of the County's Ethics Code that applies to elected officials and officials subject to confirmation. The motion was seconded and approved by unanimous vote with Mr. Otis, Ms. Leffler, Ms. Brown, Rev. Link, and Mr. Hicks absent.

Ms. Halleman suggested that while sexual harassment is in the personnel requirements, it could also be a topic for inclusion in the Code of Conduct.

Ms. Thall expressed that the Ethics Commission members are volunteers and that the Commission doesn't have a staff.

Ms. Halleman suggested that the Task Force recommend that the Ethics Commission be given a budget.

Ms. Norris-Waldt offered that we prioritize what is most important. We heard support from citizens for the Code of Conduct to be included in the Ethics Ordinance.

Dr. Hague expressed that a code of conduct is the core.

Mr. Gill made a motion to set aside the prior motion and made a new motion that a specific Code of Conduct be included in the Ethics Ordinance. This motion was seconded and the Task Force voted unanimously to approve the motion with Mr. Otis, Ms. Leffler, Ms. Brown, Rev. Link, and Mr. Hicks absent.

Ms. Norris-Waldt suggested, due to the length of the discussion of the Code of Ethics, that the agenda topic of the Independent Ethics Commission be moved to the Task Force meeting tentatively scheduled for April 30. The Task Force supported Ms. Norris-Waldt's suggestion and the need to hold the April 30 meeting.

Mr. Shatto described the documents that the Task Force members should review for the April 30 meeting.

Investigation/Enforcement

Mr. Foster opened a discussion for the need to expand the Ethics Commission's investigative powers and penalty provisions to permit the County to take an action if need be. Mr. Foster noted that a budget and the ability to obtain counsel are needed.

Mr. Gill expressed that the Ethics Commission should have the ability to use a subpoena when investigating ethics violations.

Ms. Halleman suggested that the Commission's budget should include the ability to hire a person to investigate/ascertain alleged ethics violations.

Mr. Foster and Mr. Goode will follow-up with Ms. Thall on the administrative process.

Discussion

Ms. Norris-Waldt opened a discussion about the editorial in the Frederick News-Post regarding the Ethics Commission. In the editorial, the News-Post offered three suggestions (1) that the public be notified when the Ethics Commission receives a formal complaint, (2) open the Ethics Commission hearings to the public and that the meetings only be closed when the matter under discussion involves sensitive details, and (3) the public doesn't find out the outcome of the cases unless an opinion is issued. If the Commission determines that there is nothing to the complaint, then that should be made public. If the Commission decides not to hear a case then it should outline the reasons why.

Ms. Thall noted that the person filing a complaint often makes it public but that the Ethics Commission and County staff are not permitted to disclose it to the public. The Ethics Commission meetings are generally open to the public when the agenda items, for example, are modifying SOP's . Formal opinions are published on the website.

Ms. Norris-Waldt suggested getting information on the website that address the three issues raised in the editorial.

Mr. Grubb asked whether there are definitions for the closure of cases before the Ethics Commission.

Ms. Thall provided that there are 3 main categories: (1) dismissed w/o investigation, (2) finding of violation, and (3) finding of no violation.

Mr. Grubb suggested that a list of closure terms and conditions would help clarify understanding of the process.

Mr. Helms offered that a reporting of the number of cases that the Ethics Commission handles would help with obtaining a budget for it.

Public Comments

Public comments were provided by Ms. Melanie Cox of Frederick (Council District 3), Ms. Kimberly Mellon of Cascade (Washington County), and Mr. Hayden Duke.

Ms. Melanie Cox, President of the League of Women's Voters, supported for the Council a budget, investigative powers including subpoena power, stronger penalty provisions, and a code of conduct for elected officials. Ms. Cox suggested that the Commission's actions be made public.

Ms. Kimberley Mellon offered comments that the Ethics Commission may consider preemptive activity such as developing ethics training.

Mr. Hayden Duke expressed support that the County Council members select the members of the Ethics Commission. Mr. Hayden suggested that the Ethics Commission offer workshops.

Adjourn

The meeting was adjourned at 9:25 p.m.

Nancy J. Pluhowski for
Craig Hicks, Secretary
County Ethics Task Force