



**ANNE ARUNDEL COUNTY
ETHICS COMMISSION**

December 10, 2007

By Electronic and First-Class Mail

Re: AO-07-93

You inquired whether your recent appointment to the Planning Advisory Board (PAB) will require you to withdraw your membership in and activities with a number of civic organizations. The ethics commission advises that while you may continue to belong to and participate in the activities of these organizations, doing so may significantly curtail your participation in PAB activities.

You have advised that you are the outgoing president of the Arnold Preservation Council (APC), and as such, you are expected to continue to serve on the operating board. As you described it, the APC is a “watchdog” organization that concerns itself with land use, transportation, and environmental protection in Arnold and surrounding communities. The APC has appeared and testified before the county small area committees in connection with the rezoning process and has testified before the PAB and the Board of Appeals.

You are also the APC representative on the Greater Severna Park Water Action Group (WAG). This group is concerned with protecting the waterways in the Severna Park area. The group has an educational and legislative focus and may be involved in taking a position on particular legislation.

Finally, you are a member of the Growth Action Network (GAN), a coalition of about 30 civic groups that focuses on growth issues. You have stated that your involvement with this group has been quite limited.

As an appointed member of the PAB, you are considered to be an “employee” of the county for purposes of the ethics law. §7-1-101(5). In this context, you should be aware of some constraints imposed by the ethics law on your participation in certain matters for the PAB while you are a member of these various groups. Section 7-5-101(a)(2)(ii) prohibits an employee, including a member of the PAB, from participating in any matter if that employee is a member of an entity that is a party to the matter. That means that you may not participate in any matter before the board in which APC, WAG, or GAN is a party. Even if the organizations are not “parties” to a particular matter, you should not participate in any matter in which one of these organizations has taken a position. While it would not be strictly prohibited by law, your participation would at least raise the appearance of a conflict of interest. The Public Ethics Law is intended to ensure that county employees and volunteers act impartially and with independent judgment to avoid even the appearance of a conflict of interest. See, e.g. AO-07-02.

The ethics law also restricts your activities on behalf of the organizations to which you belong. Specifically, §7-5-104 of the ethics law provides that,

- (a) Generally. Except as provided in subsection (b), an employee may not, other than in the course of the employee's official duties, assist or represent a person in any matter:
 - (1) before any governmental unit or employee of the County;
 - (2) in which the County has an interest.

In AO-07-14, the ethics commission advised a new member of the PAB that the member, the president of the local NAACP, could not represent or assist that organization in any matters in which the county might have an interest. In an earlier opinion, AO-96-104, the ethics commission advised that a member of the PAB who was also an attorney, that the member could not represent clients in actions against the Anne Arundel County Board of Education. The commission advised that, "by participating in the decision-making process on both sides of an ongoing controversy, the member of the PAB, despite his best intentions and regardless of his personal integrity, is sending mixed signals about the impartiality and independent judgment of the PAB."

One of the functions of the PAB is to recommend to the County administration a list of the proposed capital projects and capital improvement programs that should be approved for funding in the next fiscal year or within a certain time thereafter. *Anne Arundel County Charter*, §533. In doing so, the members of the PAB are required to exercise impartial and independent judgment to further the best interests of the county. This duty to the county does not require individual members of the PAB to put aside their individual points of view or their individual values. It means only that in considering what is best for the county, the members are not also thinking about what may be best for the various organizations to which they belong.

For these reasons, the ethics commission advises that while you may continue to belong to the organizations described in this opinion, you may face significant restrictions in your participation both as a member of these organizations, and as a member of the PAB.

Thank you for your inquiry. If specific matters come before the board that are of concern to you, please feel free to contact the ethics commission for additional guidance.

Sincerely,

Betsy K. Dawson
Executive Director

BKD/gs