

# QUEEN ANNE'S COUNTY ETHICS COMMISSION



Annual Report  
2009

## Queen Anne's County Ethics Commission



### 2009 Annual Report

#### **Introduction**

The Maryland General Assembly enacted the State Ethics Law in 1979. The purpose of the law is to protect the public's confidence and trust in government by assuring the impartiality and independent judgment of State officials and employees. The Maryland Public Ethics Law requires local jurisdictions to enact provisions that are similar to the State Public Ethics Law. The Queen Anne's County Commissioners have complied with this requirement through the passage of and amendments to the Queen Anne's County Public Ethics Law.

The Queen Anne's County Ethics Commission administers the County's Public Ethics Law (Chapter 8 of the Queen Anne's County Code) by encouraging and enforcing compliance with its requirements. The Commission does so by various education and information outreach efforts, issuance of Advisory Opinions, consideration and resolution of Complaints, ensuring compliance with public financial disclosure requirements of various County officials and employees, and overseeing lobbyist registration and annual reporting requirements – all more specifically described below.

The Ethics Commission consists of five members and one alternate. Commission members serve a five-year term, and the terms are staggered. In this way it is possible to acquire new ideas and perspectives without sacrificing continuity and experience. In 2009, Neal Jackson was appointed to fill the vacant alternate position on the Commission with the rest of the membership consisting of Robert C. Mueller, Kendall R. Ruffatto, Reverend Nanese A. Hawthorne, Benjamin C. Tilghman, Jr. and Harold O. Wilson. The members elected Mr. Mueller to serve as Chairman.

The Commission meets formally once a month, usually on the third Monday of each month, in the County Commissioners' Hearing Room in the Liberty Building in Centreville. Members of the public are welcome to attend the open sessions of each meeting. The agenda can now be viewed on the website prior to the meeting. During the open portion of each meeting the Commission discusses the status of financial disclosure

reports, ethics training, requests for advisory opinions and other issues, and hears comments from the public. If necessary, the Commission also meets in a closed or executive session to conduct confidential business generally including discussion of certain requests for advisory opinions, complaints and the progress of any investigations, and to consult counsel. Hearings on complaints of ethics violations are also handled during closed sessions. All final actions of the Commission are taken in the open portion of the meeting as required by Section 8-8D of the Queen Anne's County Code.

The Commission is staffed by a part time clerk, Tina Miles, and is advised by an attorney, Lynn Knight, who is appointed by the Commission with the approval of the County Commissioners.

### **Education and Outreach**

The Ethics Commission continued its efforts to educate County employees and officials as well as the public regarding the Ethics Code, by making available on the website one page fact sheets on conflicts of interest, gifts, financial disclosure and, new this year, lobbyist registration. Also available on the website for the first time in 2009 was the Ethics Commission's 2008 Annual Report which includes summaries of all the Advisory Opinions issued in 2008.

Chairman Robert Mueller again conducted ethics training sessions for all new employees of County departments in the spring and fall of 2009. Copies of the Guide to the Ethics Law and one-page fact sheets on conflicts of interest, gifts and financial disclosure were distributed to all attendees. The sessions were designed to familiarize county employees with the scope and approach of the Ethics Law, with particular emphasis on the conflicts and gifts provisions, using hypothetical examples to illustrate the applicable principles.

### **Advisory Opinions**

In 2009 the Commission issued 18 Advisory Opinions either upon request, or initiated by the Commission itself as a result of issues raised during its regular meetings. Each opinion, redacted as necessary to preserve confidentiality, is announced during the public portion of meeting and becomes available to the public in written form after notification of the individual requesting the opinion. Unlike a Complaint, Advisory Opinions are as the name states, advisory in nature, and an opinion on an ethics matter rendered by the Commission. Advisory Opinions are based solely on the facts presented by the individual(s) or party requesting the opinion. The Commission does not conduct any investigation of the facts (although it may, on occasion, ask for clarification), and the opinions are not binding. The following summary of the 18 Advisory Opinions from 2009 should be used as a guide only, and must not be utilized in place of the entire opinion.

09-01

Determined that an appearance of a conflict and a conflict would exist if a Supervisor in the Recreation Department allowed a Program Coordinator under her supervision to hire the Supervisor's spouse as a vendor. The opinion offered several recommendations to mitigate the appearance of a conflict. These recommendations in large part, suggested that the Director, as opposed to the Supervisor, would assume the active management role in all matters regarding the Vendor in question and that the Program Coordinator would report directly to the Director, thus bypassing the Supervisor, for all matters involving the Vendor in question. (January 09, 2009)

09-01A

Clarified Opinion 09-01 regarding the signing of timesheets, stating that the Director should sign the timesheets as opposed to the Program Coordinator. The Commission reaffirmed, however, that the Program Coordinator would not be in violation of the Ethics Code by performing purely ministerial acts to administer the contract. (January 26, 2009)

09-02

Found that there would be a perception of a violation of the Ethics Code if a member of the Animal Control Commission sought preferential treatment from the Department of Animal Control for an animal rescue league that the member also represented. (March 16, 2009)

09-03

Determined that there is no conflict or violation of the Ethics Code when individual members of a public body such as the Council of Governments make a gift to a county employee, serving as secretary to the council, as an appreciation for her work. (May 18, 2009)

09-04

Found that County employees providing volunteer technical assistance to groups using the County run TV station did not rise to the level of an actual or perceived conflict under the Ethics Code. (June 15, 2009)

09-05

Determined that an appearance of a conflict could exist when a County Department Head having an official relationship with a particular service benefit provider utilized the same service benefit provider for their other family members. (June 15, 2009)

09-06

No conflict or an appearance of a conflict of interest exists for a County agency to utilize the services of a former county employee, whose spouse continues to be a County employee in a different department, as a caterer for the County agency function. (June 15, 2009)

09-07

Determined that the Seafood and Agricultural Reconciliation Committee has decision making authority under the Ethics Code, and members thus will be required to submit Financial Disclosure Forms prior to serving on the Commission. (July 20, 2009)

09-08

Found that a conflict of interest does not exist when a spouse of a high ranking County employee provides landscaping services for the new Emergency Center since there is no direct relationship between University of Maryland Eastern Shore and Queen Anne's County for the management of the Emergency Center. (June 15, 2009; July 20, 2009)

09-09

Based upon additional facts received, the Commission reviewed Advisory Opinion 09-05, and reversed its earlier opinion that a conflict could exist as stated in Advisory Opinion 09-05. The commission determined that a broker for insurance services has no ability to alter or fix the price of this type of insurance, and there are no rebates or commissions attributable to the insurance in question, and thus no private gain or identifiable motivational advantage for either party. There is no conflict or appearance of a conflict in this case. (August 16, 2009)

09-10

Determined that there is no conflict or appearance of a conflict of interest when the County Department of Emergency Medical Services accepted a \$25.00 gift from the Anne Arundel Medical Center. (September 21, 2009)

09-11

Found that membership on a County board or commission, in and of itself, and absent any concrete facts, does not present any conflict of interest or violation of the County Ethics Code should a member of that board or commission decide to run for public office. (October 19, 2009)

09-12

Stated there would be an actual conflict of interest if an employee of the land use department participates in an event at Pintail Point when Pintail Point has a matter pending before the land use department. Further, the county employee's participation would be construed as a gift, which would not be allowed under the County Ethics Code. (October 19, 2009)

09-13

Reviewed a request for an opinion regarding gifts of county employees to another county employee to defray medical expenses for his son and found that pursuant to an earlier opinion (08-23) a conflict would exist only if a donation is received by an

employee who supervises the donor. No conflict exists, however, for other donations. (November 16, 2009)

09-14

Found there would be a violation of the County Ethics Code if employees at the County Airport accepted gift certificates. (November 16, 2009)

09-15

Determined that a County employee's husband bidding on a contract would represent a conflict of interest and an appearance of a conflict since the County employee works for a County department involved in the approval process, and the County employee has a financial interest in the husband's company. (December 21, 2009)

09-16

Considered the applicability of the County Ethics Code to a YMCA committee, and determined that the committee was not comprised of stakeholders nor does it have any decision making authority and therefore is subject only to the conflicts and gifts provisions of Section 8-5 E. However, if the committee deals with land use, zoning, or acquisition functions, they will be required to submit Financial Disclosure Forms. (December 21, 2009)

09-17

Found that members of an FY 2011 Budget Committee would not deliberately include stakeholders nor have decision-making authority and thus only be subject to the conflicts and gifts provisions of Section 8-5 E. However, if the committee deals with land use, zoning, or acquisition functions, they will be required to submit Financial Disclosure Forms. The Ethics Commission suggested that because of the broad scope of the Committee, the County Commissioners designate this Committee subject to the full applications of the County Ethics Code. (December 21, 2009).

## **Financial Disclosure**

The Queen Anne's County Public Ethics Law, Chapter 8 of the Queen Anne's County Code, requires that elected County officials, certain employees, members of decision-making-authority boards or commissions, and various other individuals disclose their financial affairs annually, as well as upon employment/appointment and upon leaving office, as a tool to guard against conflicts of interest and to assure the public that Queen Anne's County business is being properly conducted.

In 2009, the Commission received and reviewed 244 financial disclosure statements. The deadline for filing the annual financial disclosure statement is January 31<sup>st</sup>.

## **Complaints**

In 2009, the Commission initiated one complaint for failure to file a financial disclosure form by the deadline. A letter was sent to that individual advising of the initiation of the complaint and that the violation could be cured by filing or appearing on the date of the scheduled hearing. When the individual failed to appear on the date of the hearing a letter was sent advising of a civil penalty for the failure to file the financial disclosure form. After further review of the circumstances the finding of a violation was rescinded and the complaint was terminated.

The Commission initiated a complaint with regard to tickets to a wine festival received by a member of the County Liquor Board. After a hearing on the matter the complaint was dismissed.

A complaint was filed with the Commission against a member of the Queen Anne's County 4-H Park Board alleging a conflict of interest under the County Public Ethics Law. The alleged conflict arose when a private company owned by the Respondent entered into a contract with the Board for services. A closed hearing was conducted and, on the basis of the evidence taken in that hearing, the Commission concluded that the contractual arrangement between the Respondent and the Board was a conflict of interest in violation of Section 8-11.A.(2) and presented an appearance of a conflict of interest in violation of Section 8-11.A.(7). The Commission ordered the Respondent to cease and desist in any action in furtherance of the contract in question and to take no other action to provide the maintenance service required by the Board that would be inconsistent with its opinion. See **Opinion 09-01**.

The Commission initiated a complaint against an organization for failure to register as a lobbyist or respond to the Commission's request regarding why the organization did not believe it was so required. After the organization was notified that a hearing was scheduled, the registration form was filed but a representative did not appear for the hearing. A subpoena was issued requiring the representative to appear at a new hearing date. The Commission concluded that the failure to timely file the lobbyist registration form was a violation of Section 8-14 of the Public Ethics Law but determined that in view of all the circumstances there would be no fine or penalty for that violation.

## **Lobbying Disclosure**

In 2009, the Ethics Commission registered 34 lobbyists and received 16 year-end disclosure reports for 2008.

In early 2009, the Commission began a project to educate the public, and particularly organizations in the County, regarding the lobbying registration

requirements. A one page fact sheet was prepared and placed on the website, along with the required forms. A list of registered lobbyists was also added to the website this year. The Commission is in the process of identifying organizations that will be sent a letter and the one page fact sheet informing them of the provisions of the Public Ethics Law regarding lobbying and lobbyist registration.

The Public Ethics Law defines a lobbyist as someone who communicates with any official or employee, for the purpose of influencing that person in performance of his or her official duties and who:

- Spends or intends to spend \$100 or more on food, entertainment, services, or gifts for officials or employees or spouses or dependent children during a calendar year;
- Is compensated \$500 or more in a calendar year for lobbying;
- Spends \$500 or more in a calendar year to compensate another person or persons for lobbying to influence an official or employee in the performance of his or her official duties; or
- Spends at least \$2000 or more in a calendar year for salaries, contractual employees, postage, telecommunications services, electronic services, advertising, printing and delivery services for the express purpose of soliciting others to communicate with an official or employee to influence that person in performance of his or her official duties.

Lobbying disclosure under the Public Ethics Law has two aspects. First, lobbyists are required to file a registration statement within five days of first acting as a lobbyist, and yearly thereafter. Second, any lobbyist who expends funds or receives compensation to influence County government action, or who gives gifts, such as meals and beverages to influence County government action, is required to file a detailed year-end disclosure report of those activities. The registration statement and year-end disclosure report are public records available for inspection and copying.

## **Conclusion**

The Queen Anne's County Ethics Commission made a concerted effort this year to educate the public and organizations in the County regarding the registration of lobbyists. As a result, the number of registered lobbyists substantially increased in 2009. It appears there is a fair amount of misunderstanding and confusion regarding the need to register and who, exactly, is required to register. To that end the Commission prepared a mailing and created a list of individuals and organizations to which the law might apply. This mailing is scheduled for May of 2010.

In addition to continuing to conduct ethics training sessions for all new County employees, the Commission made more information regarding the County Ethics Law available on the County website to facilitate access to that information by officials, employees and the public.

During 2009 the Commission noticed several instances where the subject of a request for an advisory opinion was unaware that the request had been made, sometimes becoming aware only after the Advisory Opinion was made public. Not surprisingly this has created misunderstandings, and in some cases a strong response from the subject of the opinion. To some extent this misunderstanding is rooted in a misunderstanding of the nature of an Advisory Opinion itself, but there have been cases where individuals took offense to the unfounded implication that they “had done something wrong.” While it is important that the public has the mechanism to request advisory opinions in a confidential manner, once the opinion is rendered, even without specific names, in a small community the identity(ies) of the individual(s) involved is often quite obvious. In 2010 the Commission will be working on a procedure to insure that those affected will receive timely notification.

The number and nature of the requests for Advisory Opinions received by the Commission in 2009 demonstrate that the Queen Anne’s Public Ethics Law is an important component of the county government. We are pleased to have been of service to the County in 2009, and look forward to our continued participation in the government of Queen Anne’s County in 2010.

Respectfully submitted,

Queen Anne’s County Ethics Commission

Robert C. Mueller, Esquire, Chairman  
Reverend Nanese A. Hawthorne  
Kendall R. Ruffatto, Esquire  
Benjamin C. Tilghman, Jr.  
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