CHARLES COUNTY ETHICS COMMISSION

Advisory Opinion 2018-03

DATE: July 20, 2018

Procedural Background and Summary of Information reviewed by the Ethics Commission

Two ethic inquiries came before the Ethics Commission ("Commission") pertaining to recent town hall meetings.[1] The first was referred by the County Attorney Office after it was received on May 22, 2018. ("Inquiry I") In essence the inquiry noted that several persons received emails from the subject Commissioner's campaign regarding a series of 7 town hall meetings that occurred prior to early voting. It was alleged that the subject Commissioner never held such meetings and questioned whether these town hall meetings were actually campaign events that occurred at taxpayer expense. Finally, attached to the email was a copy of what appeared to be an email sent from the subject Commissioner's campaign email address, dated May 21, 2018, noting the upcoming town hall meeting scheduled for May 22, 2018 and making reference to the schedule of other town hall meetings.

On June 18, 2018, the County Attorney Office received a referral from the State Board of Elections ("State Board") involving the same town hall meetings. ("Inquiry II") Inquiry II, dated May 25, 2018, was alleged that the subject Commissioner never held such meetings before, questioned whether it was appropriate to use County funds for these alleged campaign events and noted several concerns, which are summarized below:

- This is the first time in the past four years that a series like this has taken place and it is ethically questionable to do so in an election year. Also, it has never been done for any other budget.
- The County Commissioners host one town hall per quarter in the commissioner hearing room.
- Six of the 7 scheduled meetings were to be held in County buildings, which other groups must pay a rental fee to utilize.
- Of the 5 county commissioners, 2 were not notified until the morning of the newspaper notice.
- The subject Commissioner sent the meetings notice via his campaign email address to voters, supporters and donors.

[1] County Ethics Law does not allow disclosure of the identity of the person who made the inquiry or the subject of the inquiry. *See* County Code, §170-4(J)(1) and (2).

- The first two meetings had already taken place and only 2 commissioners attended.
- There is a fee to place an ad in the paper and this misuse of County funds.

The State Board determined that Inquiry II fell outside its enforcement authority and referred the matter to the Commission.

The Commission considered Inquiry I during its meetings on July 11 and July 18, 2018.[2] Inquiry II was not considered on July 11, 2018 because the County Attorney Office received information that suggested Inquiry II was still being addressed by the State Board. On July 12, 2018, the State Board confirmed that it did not review Inquiry II because it was outside its jurisdiction. This matter was added to the July 18, 2018 agenda.

Summary of information reviewed during July 11, 2018 Commission meeting

- Inquiry I
- Copies of fliers and news releases pertaining to the town hall meetings and issued by that were prepared and issued by the County's media office. These documents were headed "County Commissioners to hold State of the County Town Hall Meetings—Hosted by [subject Commissioner]" or "The Charles County Board of Commissioners Invite You to Attend the 2018 … State of the County Town Hall – Hosted by [subject Commissioner]". The documents also state that the Commissioners will discuss the recently-adopted 2019 budget, community priorities, and related issues. The "dollar bill"graphic, which had previously been used by the County in its budget presentations and materials, was also included on many of the materials.
- The town hall meeting dates were scheduled for May 22, May 23, May 24, May 29, June 5, June 6 and June 7, 2018.
- County media request, dated May 10, 2018, displayed a total cost of $44.00. This document also listed the account from which the funds would be paid.
- Email statement from County Attorney Office employee who, at the request of the County Attorney, contacted the County's Chief of Accounting and was informed the account reflected on the media request is dedicated to the subject Commissioner for conferences and meetings.
- Email statement from subject Commissioner. A summary of the statement:
    - The FY19 budget was passed on May 15, 2018. Prior to the adoption of the budget, the subject Commissioner, along with other County officials, attended two community meetings to explain the process of establishing a budget, discuss the proposed budget and to answer any questions.
    - These meetings appeared to be very much appreciated by the citizens, that experience and the fact there was no Commissioner Town Hall scheduled in the second quarter (April, May, June), it seemed appropriate to schedule a number of meetings to discuss the adopted FY19 budget and address any other issues that may be of interest to County residents.
    - The public was invited to attend the town hall meetings by the entire board of commissioners and hosted by the subject Commissioner.

[2] Inquiry I was originally scheduled to be addressed on June 6, 2018. However, due to lengthy amount of time it took to address other matters, Inquiry I was rescheduled to July 11, 2018.

- The materials to advertise and promote the meetings were handled by the County's Media office. Information about the meetings were provided to the public through a County News Release, the County's social media sites, Boarddocs and submitted to the local newspaper in its "Calendar of Events" section. It was his understanding that once the information was placed in the public domain, it was acceptable to use the information on his campaign email account.
- The meetings were not a campaign event. There were no campaign materials or volunteers present at the meetings. County staff was not required or paid to attend the meetings and no refreshments were served.
- The subject Commissioner offered to meet with the Commission if clarification was needed or if there were any further questions.

During the July 11, 2018 meeting, the Commission requested the following additional information:

- The specific date the FY19 budget was adopted. (The County Attorney went to her office to check the meeting minutes on Boarddocs and returned with the May 15, 2018 County Commissioner meeting minutes, confirming that was the date the FY19 budget was passed.)
- The Commission asked questions regarding email address from which the campaign sent the information; where the posters were located and what did they say; if the documents appeared on BoardDocs; did the documents appear on the County website; the date the material was given to the Commissioner's Office; and what is the County's policy on requesting media submissions and services provided by the Media Office.
- The inquiry was deferred to July 18, 2018 so that the requested information could be obtained. The Commission also asked the County Attorney to receive further information from the State Board as to whether they were still handling Ethics II.

Summary of information reviewed during July 18, 2018 Commission meeting

- Information reviewed during July 11, 2018 meeting
- County media policies
- Subject Commissioner financial disclosure statements for Calendar Years 2016 and 2017
- Packet sent to State Board by subject Commissioner's representative of the Commissioner's campaign committee. This included responses to the allegations in Inquiry II. A summary of those responses: o The County Commissioners may hold individual town hall meetings, including

  Commissioner Presidents o Quarterly town hall meetings are held annually, hosted by a different Commissioner. The meetings may be held at a location in their district or at a County building.
  - None of the seven town hall meetings were held in County-owned buildings. (The County Attorney informed the Commission that according to information available to her, one of the buildings is owned by the County but has been leased for many years to a non-profit).
  - During the same Commissioner meeting when the FY19 budget was passed, and all Commissioners were present, the subject Commissioner announced that he

would be having town hall meetings and all the County Commissioners were invited to attend and give their insight and perspectives. (The County Attorney confirmed that she watched the tape of the meeting and the subject Commissioner did make the announcement.)

- o May 18, 2018 email sent by the subject Commissioner to the other County Commissioners inviting them to participate in any or all of the meetings to provide their insight.
- o Listing of the material prepared by and distributed by the County media office, including dates. (The County Attorney confirmed with the Media Office that the listing was accurate.)
- o No newspaper ads were purchased to announce the meetings. The list of meetings were included in the Maryland Independent's "On the Agenda" section, which is printed at the discretion of the newspaper and there is no charge.
- o There were no political displays at the meetings, no political materials were distributed and no food or drink was provided. No campaign funds were used to promote, produce or support these meetings. o The purpose of the meetings was to inform the citizens and discuss the FY19 approved budget and to answer any questions form the citizens.

✦ Updated information from County Media Office:

- o Updated list of specific tasks completed with regard to the town hall meetings o Total print/production costs $130.73
- o All items were provided to an employee assigned to the Commissioner Office on May 21, 2018 o Copies of the materials produced for the

town hall meetings

Commission Decision

After reviewing the information and engaging in detailed discussion, the Commission entertained motions and voted on the inquiries separately. The votes on each was 2 to 1 in favor of finding that there was not sufficient evidence of an ethics violation. The majority and opposing decisions will be detailed separately.

Majority Decision

There was no specificity given as to the alleged ethics violation. There was no reference to the provision of the County's Ethics Code that was violated. It was agreed that if the town hall meetings were in fact campaign events that would be problematic. However, there was no evidence that the town hall meetings were in fact campaign events.

There was no allegation or proof that campaign materials were present at the town hall meetings. There was no allegation or proof that the subject Commissioner (or anyone on his behalf) asked attendees to vote for him or asked them to participate on his campaign. The inquiries assumed that these town hall meetings would be campaign events without evidence to support the assumption. There is nothing to suggest that the town hall meetings did not occur other than as advertised, i.e. to discuss the recently adopted budget or other County concerns. The conclusion that the town hall meetings were campaign events is solely based on speculation or innuendo.

From the information provided, the town hall meetings were for a legitimate governmental purpose. They were consistent with the County's media policy, whose purpose states, in part: "The Media Services Division is responsible for effectively communicating and promoting government policies, programs, services, and events to the public."[3] The information prepared by the County Media Office fell within the description of the policy.

APPROVED THIS _20th_ day of July, 2018.

ETHICS COMMISSION OF
CHARLES COUNTY, MARYLAND

_____/s/_____
Stephen P. Fitzgerald, Esq., Vice Chairman

_____/s/_____
Lisa Elliott, Commission Member

Opposing Decision

The timing of the town hall meetings is very concerning. This series of meetings had not occurred previously and the meetings were scheduled immediately before the period for early voting was to commence. Early voting was June 14 through June 21, 2018. The County does not normally hold town hall meetings this close to the start of election voting. No minutes from the town hall meetings were made available for review.

It is also suspicious that all of the Commissioners did not attend. If the meetings were really for the budget, you would expect all the Commissioners to attend. The timing of the meetings and the absence of several Commissioners is suspicious and cannot be ignored. It was suspicious that all Commissioners were not available to discuss concerns from the public about the budget.

_____/s/_____
Henry A. Collins, Jr., Chairman

[3] SOP#: CAP.CAD.02.002