

**Bel Air Board of Ethics
Meeting Minutes
October 29, 2021, at 4:45 p.m.
Bel Air Town Hall
39 N. Hickory Ave., Bel Air, MD 21014**

The meeting was called to order on Friday, October 29, 2021, at 4:45 p.m.

Members Present: Wilbur W. Bolton, III, Chair
Shelley Dolan
Susan Niewenhous
Theresa Rose

Members Absent: Steven Chizmar

Staff Present: Jesse Bane, Town Administrator
Charles Keenan, Jr., Legal Counsel
Michael L. Krantz, Director of HR & Administration/Town Clerk
Jane Sudbrink, Recording Secretary

1. Approval of Agenda

Mr. Bolton stated that the board has convened for an emergency meeting as a result of another meeting that took place three days ago. That meeting was prompted by citizen concerns over a conflict of interest related to pending legislation before the town commissioners scheduled for a vote on Monday, November 1, 2021. No members had any additions or corrections to the agenda. Ms. Rose made the motion to approve the agenda, and Ms. Dolan seconded the motion. All in favor. The motion passed.

2. Review of Conflict-of-Interest Allegations Presented during Public Comment at the Bel Air Board of Town Commissioners Work Session Meeting Held on October 26, 2021, at 5:15 p.m. at Bel Air Town Hall

a. Regarding Ordinance 806-21 Amending Sections 165-51, 165-53, and 165-59 of the Town Development Regulations

i. Town Code Text Amendment Petition by 212 Archer Street LLC d/b/a Independent Brewing Company for Outdoor Dining and Satellite Parking

Mr. Bolton asked Mr. Krantz to present on the background of the subject at hand, the issues that were brought forth, an explanation of how the town staff addressed these issues, the declarations and disclosures that were made, and lastly the recommended action.

Background

Mr. Krantz stated that at the Bel Air Board of Town Commissioners Work Session Meeting held at Town Hall on October 26, 2021, at 5:15 p.m. during public comment, a group of citizens, whose spokesperson was Shannon Abel, read a letter sent earlier in the day to the commissioners and town staff. The letter alleged a conflict of interest may exist between one or more members of the board and Independent Brewing Company (IBC). This letter was in response to pending legislation before the board: Ordinance

806-21, which is a Town Code Text Amendment Petition initiated by 212 Archer Street LLC doing business as IBC for outdoor dining and satellite parking. Ordinance 806-21 is scheduled for a public hearing on Monday, November 1, 2021, as well as a potential vote.

Primary Issues/Summation of the Letter

Mr. Krantz summarized the letter stating that the allegations focused on possible current or past employment at IBC by members of the Board of Commissioners, or a relative of a commissioner, that would adversely impact a commissioner's ability to act in an impartial manner. The commissioner would then be obligated to recuse herself or himself from voting on any legislation or business involving IBC.

Discussion and Explanation of How Town Staff Addressed These Issues

Mr. Krantz recited Bel Air Town Code, Chapter 43. Code of Ethics, Section § 43-4: Conflicts of Interest. The code prohibits a commissioner from participating in any matter in which the commissioner, or a relative of the commissioner, has an interest in—especially a financial interest, has employment, or has something similar.

As a consequence of these allegations and concerns, town staff—including Charles Keenan, Jesse Bane, and Michael Krantz—questioned all five members of the town board regarding potential conflicts of interest, including but not limited to employment or any other financial interests. They specifically inquired whether anyone had ever received money or gifts from IBC. Mr. Krantz outlined the following declarations and disclosures that resulted from this examination.

1. Mayor Chmielewski disclosed that her spouse, Eric Chmielewski, has been paid by IBC as the result of a contractual relationship for information technology expertise pertaining to social media, graphic design, or similar services. For that reason, Mayor Chmielewski declared her intent to recuse herself from voting on Ordinance 806-21. Additionally, Mayor Chmielewski disclosed that her spouse regularly volunteers at IBC and IBC community events for no monetary gain or gifts.
2. Commissioner Hughes disclosed that she has volunteered on more than one occasion at IBC or at IBC community events for no monetary gain or gifts. In addition, Commissioner Hughes declared that she has received no more than two free beers for her volunteer services at a value less than twenty-five (\$25.00) dollars.
3. Commissioners Richards, Kahoe, and Bianca denied having any financial interest in IBC nor have they ever received any money or gifts from IBC.
4. All commissioners declared that they have patronized IBC at one time or another and have always paid their tabs or bills in full.

Before Mr. Krantz spoke on Recommended Action, Mr. Bolton asked about the IBC events where the commissioners have been volunteers. Specifically, IBC repeatedly holds events on its premises for fundraising activities. Were the volunteers working to make money for IBC or were they working for a third party to make money? Mr. Krantz stated that the commissioners volunteered at events and they volunteered for IBC. Mr. Keenan added that Commissioner Hughes stated only that she volunteered for IBC and received two to three beers. She did not specifically say for other third parties. Likewise, Mayor Chmielewski said her husband volunteered for IBC and not for other third parties.

Ms. Dolan asked if Mayor Chmielewski recused herself only after this conflict of interest came to light or if she planned to do so all along knowing of her husband's involvement with IBC. Mr. Keenan said we cannot guess at the mayor's thought processes. It was not apparent when she determined to recuse herself, but it appeared to have come about as a result of the issues raised.

A discussion ensued over when and how the mayor votes during meetings. Mr. Krantz, Mr. Keenan, and Mr. Bolton determined that, although in the meeting minutes it might appear that the mayor has not voted, she does actually vote, but she is always the last vote recorded.

Mr. Bolton asked if there had been other specific pieces of legislation that have come up over the last three years dealing with IBC. Mr. Keenan said that indirectly there have been legislative items through the planning department. These included licensing of food trucks and allowance of tents on the premises. The commissioners voted affirmatively for not having the town license the trucks and for allowing the tents to be on the premises. These affirmative votes included Mayor Chmielewski's vote.

There were no further questions from the board. Mr. Krantz moved on to the Recommended Action.

Recommended Action

Mr. Krantz stated that the town staff and legal counsel recommended that the Board of Ethics reserve judgment because Mayor Chmielewski made the declaration that she intends to recuse herself from voting on Ordinance 806-21.

Mr. Krantz said that for the other commissioners, lacking more specific evidence or corroborated testimony, none of the other declarations or disclosures rose to the level of a conflict of interest as defined by the town code and as interpreted by town staff and legal counsel.

Mr. Bolton determined that the board members had no additional questions or comments, so he opened the meeting to questions or comments from the audience. Mr. Shannon Abel, 126 W. Gordon St., asked if it was illegal or legal for an establishment to offer favors to commissioners. Mr. Krantz said that this was not a question for this board. Mr. Keenan stated that it is not illegal to offer free drinks. Mr. Abel further asked for the board to clarify the recommendation to have the mayor recuse herself. Mr. Keenan declared that there is no longer a conflict of interest because she has removed herself from the matter at hand. She will not vote. Mr. Shannon asked for additional clarification. Mr. Bolton said that the recommendation is to reserve any decision regarding the mayor because she has determined to recuse herself. Mr. Bolton said that the next steps are up to the mayor. If she attempts to or is successful in violating the Code of Ethics and violating the conflict-of-interest provisions, there are sanctions in the code, however, these were not the issues at hand during this meeting.

Mr. Bolton declared that he would have the board members make a motion to approve the recommendations of the town investigations. Specifically, these recommendations were as follows: 1) to reserve a decision regarding the mayor until after the November 1, 2021, vote, and 2) to find that the other commissioners had not violated the conflict-of-interest provisions in the code. Mr. Bolton assured everyone that he had reviewed these provisions and they are quite specific.

Mr. Bolton determined that no one else in the audience had questions or comments, nor did the board members. Ms. Niewenhaus motioned to approve the recommendations, and Ms. Dolan seconded. All in favor. Motion carried.

3. Miscellaneous

Mr. Bolton noted that his predecessor on the board, who was also his law partner and friend, would have helped the town staff and counsel put a plan together for an investigation and to make recommendations. If there were no written recommendations in place, he thanked Mr. Keenan, Mr. Krantz, and Mr. Bane for their appropriate and thorough actions that were done so expeditiously. He declared that they would have written recommendations at the next meeting when it is next scheduled.

4. Adjournment

With no further questions or comments, Mr. Bolton solicited a motion to adjourn. Ms. Dolan made the motion to adjourn, and Ms. Rose seconded. All in favor. Motion carried. Meeting adjourned at 5:15 p.m.

Approved:

Signature on file

Wilbur W. Bolton, III, Chair
Board of Ethics

Signature on file

Michael L. Krantz, Town Clerk