

DeKalb County

Board of Ethics

c/o Department of Finance

Manuel J. Maloof Center

1300 Commerce Drive

Decatur, Georgia 30030

www.co.dekalb.ga.us/ethics/

AGENDA

Special Session

June 3, 2004

1. Call to Order
2. Introduction of Board Members in Attendance
3. Introduction of Members of the Public in Attendance
4. Full Hearing on the Complaints Filed Against Commissioner Lou Walker by Mike Kovacich and South River Watershed Alliance / South DeKalb Neighborhoods Coalition / DeKalb County Civic Coalition / Dunwoody Homeowners Association
5. Adjourn

(Next Scheduled Meeting: August 11, 2004 at 7:00 p.m.)

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c/o Office of the Clerk, Finance Department

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MINUTES

Meeting on June 3, 2004

MEMBERS PRESENT:

Pat Killingsworth, Chair, Aubrey Villines, Vice Chair
Jule Lassiter, Secretary, Stanley Baum, Teri Thompson,
Bryan Smith Veronica Higgs.

OTHERS PRESENT:

Commissioner Lou Walker, James Washburn, Esq.,
Steve Labowitz, Esq., Micheal Kovacich, CAO Richard Stogner,
Ms. Barbara Sanders, Joan Walker, Abraham Walker, Jr.,
Ms. Josie Dean, Ms. Viola Davis, Ms Ruby Davis, various other
Members of the public.

CALL TO ORDER AND APPROVAL OF MINUTES:

Patricia Killingsworth, Chair of the Board of Ethics ["Board"] called the meeting to order at approximately 8:00 p.m. There was a short delay due to the necessity in having a court reporter present. The approval of the minutes for the May 2004 meeting were deferred.

NEW BUSINESS:

The sole agenda item for this meeting was the hearing of the ethics complaint which had been filed against 6th District Commissioner Lou Walker by Mike Kovacich and South River Watershed Alliance / South DeKalb Neighborhoods Colation / DeKalb County Civic Coalition / Dunwoody Homeowners Association.

Having set all other business aside, the Board heard testimony and received evidence from all parties. {Documentary evidence submitted is attached hereto.} Thereafter, the Board, after open deliberations, found unanimously (7-0) that Commissioner Walker had violated the DeKalb County Code of Ethics in failing to disclose his business relationship with the City of Atlanta prior to a Commission vote on a related matter. Upon further open deliberations the BOE unanimously determined that the appropriate punishment in this particular circumstance would be a public reprimand. The Board advised the complainants and the Commissioner that it would accept draft submissions on the text of such a reprimand. These submissions would be reviewed and considered for action at the next regular meeting.

There being no further discussion, the meeting was adjourned.

Respectfully submitted,

Jule Lassiter, Secretary
DeKalb County Board of Ethics

(Next quarterly meeting: August 11, 2004 at 7:00 p.m.)

The DeKalb County Board of Ethics, having met on June 3, 2004, and heard evidence presented by Complainant Mike Kovacich and DeKalb County Commissioner Lou Walker in an open, public forum, hereby resolves the Complaints filed by Mike Kovacich and other citizens against DeKalb County Commissioner Lou Walker. Complainants alleged that Commissioner Walker violated Sections 22A(c)(1), (c)(4), (c)(6), (d), and (e) of the DeKalb County Code of Ethics.

As reflected by the testimony and documentary evidence presented at the hearing, Paragon Productions, Inc., in which Commissioner Lou Walker has an ownership interest, entered into a contractual relationship with Montgomery Watson/KHAFRA ("MW/K") to assist MW/K in providing certain services for the City of Atlanta. This contractual relationship predated Commissioner Walker's election to the DeKalb County Commission in August 2000. Pursuant to the last contract between Paragon and MW/K, Paragon provided staffing for a call center for City of Atlanta residents to inquire about a wastewater system project, produced a newsletter for Atlanta residents, and other public relations efforts. All work between Paragon and MW/K had ended by October 1, 2003.

On August 26, 2003, the DeKalb County Board of Commissioners considered a resolution by which the County supported the complete separation of the South River Basin, expressed its support for federal and state assistance, requested that state and federal environmental agencies consider granting a time extension to the City of Atlanta so the city could comply with the Clean Water Act, and that the City of Atlanta update the County with progress on this issue (the "Resolution"). Although Commissioner Walker asked a question during an August 19, 2003 work session regarding Atlanta wastewater issues, Commissioner Walker did not address the Resolution during the August 26 hearing, and he abstained from voting on this Resolution.

The DeKalb County Code of Ethics recognizes, "It is essential to the proper administration and operation of the DeKalb County government that the members of its governing authority be, and give the appearance of being, independent and impartial." This independence ensures that the public maintains confidence and integrity in the County government. The specific provisions of the Code of Ethics that Commissioner Walker has been accused of violating state:

22A(c): No member of the governing authority shall:

(1) By his conduct, give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official acts or actions or that he is affected unduly by the rank or position of or kinship or association with any person;

(4) Appear on his own personal behalf, or represent, advise, or appear on the personal behalf of, whether paid or unpaid, any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee of the state or of any county or municipality concerning any contract or transaction which is or may be the subject of an official act or action of DeKalb County or otherwise use or attempt to use his official position to

secure unwarranted privileges or exemptions for himself or other persons;

(6) Acquire an interest in any contract or transaction at a time when he believes or has reason to believe that such an interest will be affected directly or indirectly by his official act or actions or by the official acts or actions of the governing authority of DeKalb County;

(d) A member of the governing authority who has an interest that he has reason to believe may be affected by his official acts or actions or by the official acts or actions of the governing authority of DeKalb County shall disclose the precise nature and value of such interest by sworn written statement to the board of ethics and ask for its opinion as to the propriety of said interest. Every member of the governing authority who knowingly has any interest, direct or indirect, in any contract to which DeKalb County is or is about to become a party, or in any other business with DeKalb County, shall make full disclosure of such interest to the governing authority of DeKalb County and to the board of ethics. The information disclosed by such sworn statements, except for the valuation attributed to the disclosed interest, shall be made a matter of public record by the board of ethics.

(e) A member of the governing authority shall disqualify himself from participating in any official act or action of DeKalb County directly affecting a business or activity in which he has any interest, whether or not a remote interest.

Based on the evidence presented at the hearing, the Board of Ethics concluded that Commissioner Walker did not violate Section 22A(c)(1), (c)(4), (c)(6), or 22A(e). The Board concluded, however that Commissioner Walker violated Section 22A(d) for failing to disclose to the Board of Ethics and to seek its opinion as the propriety of his potential personal interest in the Board of Commissioners' consideration of the Resolution. The Board recognizes that Commissioner Walker explained that he was unaware of any obligation to seek guidance from the Board of Ethics regarding a possible conflict of interest, and that there was no direct link between the Resolution and Paragon's contract with MW/K. Nevertheless, the purpose of the Code of Ethics is for public officials to avoid even the appearance of impropriety.

Because the appearance of impropriety must be avoided, all members of DeKalb County governing authorities have an affirmative duty to disclose to the Board of Ethics any potential conflict of interest in the performance of his or her duties. The DeKalb County Board of Ethics therefore reprimands Commissioner Walker for violating Section 22A(d) of the DeKalb County Code of Ethics.

This 11th day of August 2004.
Nunc Pro Tunc June 3, 2004

Patricia M. Killingsworth
Chair, DeKalb County Board of Ethics