

Behind the Scenes Advocacy

by C. Gregory Dale

One of the most difficult challenges you face as a planning commissioner is to separate your role as a commissioner from your history of community involvement in many of the same issues that come before the commission. This column focuses on the ethical issues associated with the temptation many commissioners experience to work "behind the scenes." As usual, let me begin with an example.

Prior to joining the planning commission you were involved in a variety of community issues and worked very comfortably in the political process. You have always drawn on your values and beliefs to take positions that you believe are in the best interest of your community.

As a planning commissioner, you quickly realize that you are in a position to be particularly well-apprised about what's going on in your community, especially in terms of land use and development issues. This information is not of a confidential nature, but relates more to your knowledge of items coming before the commission, as well as your understanding of the personalities of individual commissioners.

You find yourself faced with several dilemmas. Should you "tip off" your friends to issues that you know would be of interest to them? Should you encourage the advocacy of certain positions before your commission? Should you work behind the scenes to help people better prepare their arguments and "cases" to be presented to the commission?

As I have noted in previous columns, you (and each of your colleagues) come to the planning commission with certain values, beliefs, and political orientations. No one is asking you to abandon these. On the other hand, by becoming a planning commissioner you are accepting allegiance to certain principles that transcend your personal political beliefs; these principles have clear ethical implications. When you

agree to serve on a planning commission you accept the obligation to treat all persons fairly, even if those persons happen to have radically different political viewpoints than you.

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Is there anything wrong with your using your knowledge of commission affairs to advise friends of pending or future issues? Can you encourage individuals and groups to become active in planning commission affairs?

Clearly there is a benefit in public knowledge of matters before the planning commission. Likewise, encouraging advocacy before the planning commission simply makes for a more open and diverse process. However, you should not provide certain information to one group while withholding it from another, or selectively encourage participation only by those who share your views. While there is nothing wrong with your encouraging public participation, it is often best, if you have a planning director or staff planner, that they be the ones principally responsible for ensuring that *all* segments of the community are aware of pending or future items that may be of interest.

Is there a problem with your working behind the scenes to assist certain groups or individuals on matters pending before the commission? In a word, yes. First of all, it is very difficult for a commissioner to become involved in an issue and try to

keep that involvement "behind the scenes." Invariably that involvement comes out, often in the form of rumors and innuendo. A commissioner's greatest asset is credibility; once damaged, that credibility may be impossible to restore.

An even more serious problem raised when a commissioner becomes a "behind the scenes" advocate is that it implies that the commissioner has taken a position on a particular issue before it has been aired through the public hearing or review process. A fundamental tenet of commission deliberation is that commissioners should not make up their minds about a particular issue until all interested individuals have had an opportunity to state their positions and make their arguments.

When a commissioner is lobbying, either behind the scenes or openly for a particular position, that commissioner's vote is tainted. This can be damaging to the credibility of not just the individual commissioner, but the commission as a whole. It may also open the commission up to serious legal claims of violating due process requirements of fair and open decision making.

Accepting a position as commissioner includes an obligation to abide by certain ethical and due process rules of behavior. While you have not foregone your right to free speech by becoming a planning commissioner, you have accepted a larger responsibility to put the public interest before your personal political agenda. ♦

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