

Ethics Committee - Town of West Seneca

June 2, 2014 @ 5:30 P.M.

Members Present - Amy L Carpenter
George P Clifford
Edward F Gehen Jr.
Susan Kims
James E Manley
Shawn P Martin
Jacqueline A Felser, Town Clerk
Charles D Grieco, Town Attorney

Members Absent - None

The meeting was held at the West Seneca Town Hall, 1250 Union Road, West Seneca and called to order by Town Attorney Charles Grieco at 5:30 P.M.

Mr. Grieco stated in accordance with Town Code he is an ex-officio member of the Board of Ethics, not a voting member, and will provide legal counsel and guidance to the members. The purpose of the meeting is to determine how business will be conducted and establish rules and regulations. A chairperson needs to be selected and that person will be responsible for setting meeting agendas and dates and chairing the meetings.

Amy Carpenter questioned how violations to the Ethics Code are presented to the committee. Mr. Grieco referred to §13-9(b) of the Code of Ethics which states, "Upon written request of any Town official, officer or employee, the Board of Ethics established herein shall render advisory opinions regarding this chapter of Ethics ..."

Town Clerk Jacqueline Felser stated the Town Board referred two items to the Ethics Committee based on comments received from the public.

Mr. Gehen questioned how Ethics Committees in other municipalities are organized and conduct their business.

Mr. Grieco stated he could look into the organization and conduct of Ethics Committees in other municipalities and noted the Village of Williamsville established an Ethics Committee but they have never had a meeting. The committee will need to address the frequency of meetings and if they will only meet on an as needed basis.

Mrs. Carpenter questioned what type of access the committee members will have to information when an issue arises so they can verify whether the claim is true.

Mr. Grieco advised the Attorney General for the State of New York has issued an opinion that Ethics Committees have investigatory power, but it's not completely clear as to how that is enforced. The committee could ask the person accused of violating the Ethics Code, but he/she may refuse to speak so enforcement can be difficult since they cannot force people to cooperate.

Mr. Clifford questioned how the Town Board will submit items they would like reviewed by the Ethics Committee.

Mrs. Felser responded that the current issues were presented at Town Board meetings and the minutes reflect that they want the Ethics Committee to review the issues.

Mr. Grieco noted that in accordance with §13-9(b) of the Code of Ethics, "The opinions of the Board of Ethics shall be advisory and under no circumstances shall the identity of the Town officer, official or employee be disclosed except to authorized persons and agencies or pursuant to a court order." However, these issues were already disclosed at an open Town Board meeting.

Mrs. Carpenter commented that the two issues were brought before the Town Board by a member of the public and she questioned if anyone could approach the Town Board with accusations.

Mr. Gehen suggested that an accusation should have some facts to back it up before it is referred to the Ethics Committee.

Mr. Martin stated the role of the Ethics Committee is to gather information on an issue, basically do the legwork, and make a recommendation.

Mr. Grieco suggested the Ethics Committee create a form for the Town Board to use for referrals that summarizes the accusation and includes factual information to support it.

Mr. Manley suggested modeling the referral form after a grievance form which includes the same information they would be requesting.

Mrs. Carpenter thought that all committee members should be present if they decide to interview people concerning an issue. She questioned whose responsibility it will be to request someone to appear before the Ethics Committee.

Mr. Martin suggested it be the Town Clerk's responsibility since she would have the resources to notify people.

Mrs. Felser referred to the confidentiality clause in the Ethics Code and questioned if the committee members will recess to Executive Session to conduct interviews since the committee meeting is an open meeting.

Mr. Grieco stated they could recess to Executive Session as long as there is a legitimate reason to do so. He further stated he would provide the committee members with additional information on Code of Ethics committees in other communities.

Mrs. Felser stated she will forward the Town Board minutes that reference the two issues to the committee members via email.

Mr. Manley questioned if every town employee has received a copy of the Code of Ethics.

Mrs. Felser responded that she reviewed the copies of signed Codes of Ethics that are filed in her office and most of the elected officials and appointed employees have signed. Most union employees did not sign because of union issues and the police officers are covered under their own rules and regulations.

Mr. Martin noted that union employees filed a grievance when the Code of Ethics was presented to them and a determination was made that whether they signed it or not they are bound by it because it is in the Town Code.

Mr. Grieco stated that the Ethics Code does not require employees to sign, but it does apply to all employees of the town.

Mr. Clifford suggested all future hires be required to sign the Code of Ethics as part of accepting a job with the town.

Mrs. Kims questioned if there is a NYS Code of Ethics and if it supersedes the Town Code.

Mr. Grieco advised that the NYS Ethics Law is very narrow and has more to do with conflicts of interest with regard to contracts. Hiring family members is not a violation of the NYS Ethics Law; however, it is a violation of the Town Code. The Town Code can be stricter than NYS, but it cannot be less stringent. Only if they are in direct conflict does NYS law supersede. Mr. Grieco stated it might be helpful to reach out to other towns that have active Ethics Boards who might be willing to talk to the committee members about their practices. The Attorney General's office also has online training and the NYS Association of Towns might be willing to send a representative. Mr. Grieco stated he also represents some villages and the New York Conference of Mayors (NYCOM) has a publication that summarizes ethics which he will forward to the committee members. He further suggested checking other municipalities' websites to review their Ethics Codes.

The next Ethics Committee meeting was scheduled for Monday, June 16, 2014 at 5:30 P.M.

Respectfully submitted,

Jacqueline A Felser
Town Clerk