

Ethics Committee- Town of West Seneca
April 20, 2015 @ 5:45 pm

Members present- George P. Clifford, Chairman
Amy L. Carpenter
Susan Kims
Edward F. Gehen Jr.
James E. Manley
Shawn P. Martin
Jacqueline A. Felser, Town Clerk
John J. Fenz, Town Attorney

The meeting was held at the West Seneca Town Hall, 1250 Union Road, West Seneca and called to order by Chairman George Clifford at 5:45 P.M.

Chairman Clifford welcomed Katie Hourihan as the Ethics Committee secretary.

Disclosure Statement Policy:

Town Attorney John Fenz provided a sample annual Statement of Financial Disclosure and stated Article 18 governs conflicts of interest of municipal officers and employees. West Seneca is under 50,000 in population so there is no Ethical Code that requires financial disclosure statements. Amending the Code of Ethics requires Town Board action. The committee needs to decide if they would like to require financial disclosure statements, who needs to provide these statements and what will be asked.

Discussion followed on who should provide disclosure statements (i.e. department heads, elected and appointed officials).

Mr. Martin did not believe it was necessary for union employees to file disclosure statements or members of the ethics committee since we do not do business with the town and are not seeking business or money for services.

Mr. Fenz stated according to the procurement policy, only department heads or Town Board members have the power to authorize purchases.

Mr. Martin stated it was his understanding the disclosure statement is for people doing business with the town, not doing business with somebody on behalf of the town. If someone acts on behalf of the town in a matter inconsistent with their duties and violates the procurement policy, the transaction can be voided. If a town employee violates his obligations under his conditions of employment there are remedies for that and having signed a disclosure statement is in no way meant to stop that.

Mrs. Carpenter questioned disclosure statements with someone who is a family member that has a business and that business is not disclosed anywhere.

Mr. Fenz stated members of an appointed board should be included because there may be an applicant that appears before them who they have a financial interest with.

Mr. Martin stated "interest" and "family member" are already defined in the code.

Mr. Manley questioned the amount department heads can spend without Town Board approval.

Mr. Martin responded regardless of the amount no bill gets paid before it is signed off and approved by the Town Board.

Mr. Fenz stated the procurement policy does not address all the things that the Code of Ethics does. It would be helpful for the Town Board if there was a direct information sheet they could rely on so they can make informed decisions. Mr. Fenz stated he will look into other town's disclosure policies and find out who is required to provide them.

Mr. Gehen thought it was important to have disclosure statements for those who make purchases for the town with taxpayer's money whether it be elected or appointed officials or a person second in command.

Mrs. Kims provided disclosure statements for Clarence, Amherst, Mansfield, Cheektowaga and Elma and stated their Ethics Board keeps track of them. Elected and appointed officials of those towns are required to sign disclosure statements.

Mr. Gehen questioned confidentiality of this information.

Mr. Fenz thought that disclosure statements would be subject to FOIL; however, all the information required to be removed pursuant to FOIL would be redacted.

Mr. Gehen questioned the purpose of a disclosure statement and Mr. Fenz responded, the purpose of disclosure statements are to provide a basis of guidelines established by the town for the towns' safety.

Finally, Mr. Fenz will conduct a study to who needs to provide disclosure statements. Research to done by the end of May 15th and Jackie will forward to members.

Chairmen Clifford states the next meeting will be June 15 at 5:35pm at Town Hall.

Ayes: All

Noes: None

Motion Carried

Code of Ethics

Chairmen Clifford suggested adding cousins in the verbiage pertaining to "relative" in the code.

Mr. Martin stated that the language tracks the rules that the state laws provide. It states "descendents of grandparents" which includes cousins.

Mr. Gehen also questioned the terminology regarding who is the reporting individual is referring to in the code and Mr. Fenz replied that reporting individual isn't clearly defined, although the idea would be a person who has submitted and signed a Financial Disclosure statement.

Mr. Martin added it's a person who signed the ethics form.

Chairmen Clifford motioned to review the item for possible future changes.

Section 13-3-D and 13-2

Mr. Gehen questioned how they're two separate points under this section whereas one states one can receive "any gifts"

and at the end of the other section it states an “elected official under no circumstances can receive a gift more than \$75.00”.

Mr. Fenz recommended clarifying these separate clauses and determining specifications regarding “gifts”.

Mrs. Kims asked to also define whether it is one gift or multiple gifts. She provided an example of wording from another Town Code:

“Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift.”

Mr. Martin suggested a solution would be to copy the information from the Public Officers Law. Mr. Gehen also suggested defining the Public Officers Law. Mr. Martin and Mr. Fenz both agreed the code is clear but ambiguous and can be defined more clearly.

Chairman Clifford motioned to table the item and research proper verbiage.

Section 13.8

Mr. Gehen suggested if there should be a copy of the code for all employees. Everyone in the town should be aware of the Code of Ethics.

Mr. Fenz stated in regard to issue of implication, our Human Resource Department is working on that now. If it is required in the new packet, the written paperwork would be submitted to the Supervisor.

Section 13-9-B

Mr. Gehen suggested to clearly defining the issue of private vs. public deliberation. Opinions of the Board of Ethics shall be advisory and under no circumstance shall the identity of a town employee or official be disclosed. Discussing it would provide identity.

Mrs. Kims suggested to assigning a number to the case that only Ethics committee members would know the name of said employee. Discussions have to be made public to protect the rights of the citizens in the town.

Mrs. Carpenter mentioned possibly using the Whistleblower law.

Mr. Fenz stated that in the town’s harassment code, it is prohibited to engage in retaliation. He suggested including a section in the code to say if Town official officers or employees make a written request to the Board of Ethics for advisory opinion, they may not retaliate the issue.

Mrs. Carpenter questioned conflicts of interest regarding Federal or State protection and Mr. Fenz replied that it doesn’t look like there was any conflict.

Employee Definition

Mrs. Kims suggested to appropriately defining what an employee is in the Town Code and to state that political solicitation is prohibited on Town work places in Town Buildings.

Mr. Fenz replied that there is the Hatch act to cover the Town.

Mrs. Kims stated that only covers Federal issues and there is an instance where it happens in this town.

Chairmen Clifford stated to table political solicitation on town grounds for review.

Employees using Town vehicles

Mrs. Kims stated there is the issue of Town employees using Town vehicles for non-town related purposes.

Mr. Gehen stated that it is against the law and stated in the Penal Law.

Mr. Martin also added it is stated every year at Town Board meetings that employees may only use Town vehicles for Town relations.

Mr. Gehen stated if someone brings up this issue, it is our responsibility to deal with it and take it to the district attorney or call the police. If it involves town property, or individuals within the town, it may be better to involve an outside institution.

Adjournment:

Motion by Chairman Clifford, seconded by Shawn Martin, to adjourn the meeting at 6:45 P.M.

Ayes: All

Noes: None

Motion carried

Respectfully submitted,

Katie Hourihan
Ethics Secretary