

Chairperson Teager called the meeting to order at 6:04 P.M.

ROLL CALL:

Members Present - Michael Teager, Chairperson
Teresa Funk, Vice-Chairperson
Anna Garvey
Lawrence Kavanaugh, Jr.
Jon Minear, Deputy Town Attorney

Absent - Kayla Leonard

Chairperson Teager addressed the students in the audience and informed them the meeting was a work session to discuss miscellaneous items related to the Ethics Code and the Ethics Board will only vote to adjourn the meeting. The purpose of the meeting is to review and improve the code.

Board Composition

Chairperson Teager referred to a draft text reflecting previous suggestions and noted the changes include removing the Town Attorney and the Town Clerk as nonvoting members. This has been the practice since the second half of 2020 and the Town Clerk has indicated they should not be a nonvoting member of the Ethics Board. The Town Attorney has also advised they should not be a nonvoting member, either. The language has also been updated to state the Secretary to the Ethics Board will be a member of the Town Clerk's office. The Secretary should have knowledge of town processes and meeting minutes are posted to the website by the Town Clerk's office. Chairperson Teager stated in his opinion there should be an official secretary for all town commissioned boards.

Chairperson Teager stated the second change is for the board members' terms. Currently, each member is appointed to a five year term and noted three members were appointed the same year and two members were appointed another year and the terms do not expire until 2025 and 2026. Councilmember Piekarec had previously suggested changing the terms to a revolving series of appointments with one each year. There are pros and cons with either practice. Mr. Kavanaugh stated the annual appointments would provide for continuity and noted three members' terms will end at the same time. Chairperson Teager stated while each Town Board member may nominate a candidate for the Ethics Board the entire Town Board votes on the appointment and noted the code states each Councilmember appoints a candidate. Ms. Garvey stated she agrees with the proposed changes to the board composition.

Chairperson Teager stated the Ethics Board is still awaiting feedback on the changes to the disclosure forms noting the revisions were forwarded in the spring of 2022.

Chairperson Teager questioned the Ethics Board members for their opinions on the terms. Mr. Kavanaugh stated he supports the annual appointments. Ms. Garvey stated she agrees on the concept of rotating terms to avoid losing many members at once and adding one new person each year provides for a fresh perspective.

Section 13-6 Whistleblower Policy

Chairperson Teager stated the section is titled Whistleblower Policy and makes passing reference to members of the public, but noted the section focuses on town employees, elected officials, town appointees, and staff.

Section 13-6(A) lists "the public" but the public is not mentioned again. During a previous discussion of this topic the Ethics Board identified the definition of whistleblower in the town code to be only a town employee and questioned Deputy Town Attorney Minear if the definition needs to be updated to include a member of the public. Mr. Minear stated in his opinion, a whistleblower is defined in and of itself; the Ethics Board can define what a whistleblower is if the members are so inclined. Ms. Garvey questioned if the intent of a whistleblower policy was to protect someone from retribution and it would be reasonable to limit this to town staff. The section should be updated as opposed to updating the definition of a whistleblower. Mr. Minear stated there would be certain scenarios when a whistleblower could be a member of the public. Ms. Garvey stated the situation implies something was known because of confidential town business and the public can file an ethics complaint.

Ms. Funk suggested renaming the section Complaint Policy and Procedure to cover anyone or anything. Chairperson Teager stated complainant could replace whistleblower, and complainant includes internal and external individuals. There is language in this section about confidentiality of whistleblowers and employees are safeguarded from retribution and noted the Ethics Board also keeps the identity of members of the public who file complaints confidential. The Ethics Board also had previous discussions regarding dismissed complaints and the consensus was the complainant's confidentiality is protected. Mr. Minear stated the Ethics Board should define whistleblowers to clarify and agrees that the term implies internal. Ms. Garvey stated the code should either be broad as complainant or have separate definitions with separate intent – why the two are being separated for internal and external parties. Ms. Garvey stated a whistleblower should be protected from professional consequences. Mr. Kavanaugh stated in the event of retaliation against a member of the public, the individual has their own recourse and suggested removing "and the public" from the section. Ms. Garvey agreed and suggested adding a section with a definition of a complainant with a similar statement regarding their confidentiality if that is the intent of the paragraph.

Chairperson Teager questioned if a section should be added, or if Section 13-6 should be modified to include both whistleblower and complainant. Ms. Funk questioned if the process would be different. Chairperson Teager noted the whistleblower has other options for filing a complaint as listed in the section. Ms. Garvey stated the discussion seems to be leading to a determination that this section should be a broad complainant section if the Ethics Board does not want to separate internal and external complaints into separate sections. The only recourse the Ethics Board has to protect an individual from being fired is to protect their identity and the Ethics Board would do that in either instance. Chairperson Teager stated many of the complaints the Ethics Board has reviewed were external in nature and were all handled in the same manner. However, considering the recent questions surrounding dismissed complaints, the code should be written to protect all complainants. Mr. Minear stated there is a section in the code that requires all matters to be kept confidential.

Chairperson Teager noted the last part of Section 13-6 (C) states once a complaint has been submitted it will be investigated is very brief. Mr. Minear stated the best practice would be to add more details about this process. Ms. Funk agreed that the process should be clarified. Mr. Minear stated it could be advantageous for the Ethics Board to leave the process broad and not limit itself. Chairperson Teager stated different complaints may require different steps and the current wording is broad. Ms. Funk suggested changing the paragraph into bullet items. Chairperson Teager stated Town Attorney Trapp advised the Ethics Code should be updated to reflect the practice of the Ethics Board, and noted every investigation will be different. Ms. Garvey agreed that the Ethics Board receives a broad range of complaints, and it would not be reasonable to put forth one set standard unless they are extremely broad. Chairperson Teager noted the code is not clear on a complaint being submitted to the Town Clerk. Ms. Funk stated the code states the complaint form should be submitted to the Ethics Board Attorney. Chairperson Teager stated the complaint form would need to be updated to reflect this and suggested removing the form from the Ethics Code so that future revisions would not require a change to the code. Ms.

Funk suggested all of the points in Section 13-6 could be reviewed and combined or cut back.

Chairperson Teager questioned Mr. Minear if the Ethics Board should add language regarding dismissal of complaints. Mr. Minear stated legally it is not necessary, but the members may choose to add language. Chairperson Teager stated the confidentiality of a complainant will be protected even when a complaint is dismissed. Ms. Funk agrees that dismissal should be clarified and suggested adding language, for example, the Ethics Board must ensure an ethics code was violated and if there was no violation the complaint is dismissed. Mr. Minear stated this is implied in the way the code is written. Ms. Garvey suggested a statement on the website or form could advise the complainant on how to follow up on the status of their complaint. Ms. Funk stated that was not the nature of the recent issue, rather it was an inquiry from the Town Board on what dismissal means. Chairperson Teager stated the question was regarding the nature of the complaint and what happens after a complaint is dismissed. Mr. Minear suggested adding the language post investigation the Ethics Board will render an advisory opinion or dismiss the complaint. Ms. Funk stated that a definition of dismissal will also need to be added.

Mr. Kavanaugh stated the definition of ethics is not included in the code. Chairperson Teager explained to the students that an ethical violation is a list of very specific things and would be open to adding a definition.

Ms. Funk stated the Ethics Board also discussed Section 13-3 (H). Chairperson Teager stated the members discussed making this specific to executive session.

Chairperson Teager stated he would like to present revised Board Composition language at the December meeting to be voted on.

Chairperson Teager queried the members if the continuing the have meetings on the second Wednesday of each month is still agreeable to everyone's schedules.

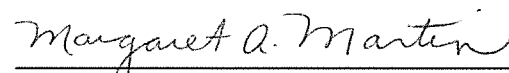
ADJOURNMENT

Motion by Chairperson Teager, seconded by Mr. Kavanaugh, to adjourn the meeting at 6:54 P.M.

Ayes: All

Noes: None

Motion Carried



Margaret A. Martin

Deputy Town Clerk/Secretary to the Ethics Board