

DRAFT

Chairperson Teager called the meeting to order at 6:07 P.M.

ROLL CALL:

Members Present - Michael Teager, Chairperson
Teresa Funk, Vice-Chairperson
Anna Garvey
Lawrence Kavanaugh, Jr.
Kayla Leonard
Paula Eade Newcomb, Deputy Town Attorney

Absent - None

Chairperson Teager opened the work session and stated he would allow public comments if they are related to the suggested revisions to the town's Ethics Code provided by the Town Attorney.

The Ethics Board members were provided with printed copies of the NYS Harassment Law. Mr. Kavanaugh invited speakers to attend the meeting in June to make comments on the record.

James Randolph, West Bihwood Drive, made the following comments regarding NYS harassment laws:

- ✓ Four different conditions of harassment, of which three are misdemeanors and one is a felony
- ✓ Suggested changes to the Ethics Code do not include a definition of harassment that is different than what the NYS law states
- ✓ Redundant to include harassment in the Ethics Code
- ✓ The inclusion of the public and terms "annoy" and "discredit" infringes on the rights of the public to speak at meetings and free speech
- ✓ NYS Comptroller's Office has the issuance of the code of ethics and there is no mention of the public in the state law
- ✓ There may be benefits to including vendors
- ✓ Believes the political donations some Town Board members received from the spouse of a senior executive of Tompkins Agency created a conflict of interest in a recent vote about insurance for the town and suggested those parties recuse themselves from voting; Section E of the Ethics Code addresses this
- ✓ Raised further concerns about the insurance quote but was unable to address the Tompkins Agency representative directly

Courtney Fallon, Treehaven Road, made the following comments and questions:

- ✓ Concerned that proposed changes to the Ethics Code will violate the freedom of speech
- ✓ Harassment laws already exist
- ✓ Inclusion of the word "annoying" is very concerning
- ✓ Members of the Town Board have characterized her speaking about safety issues at the town pool as harassment
- ✓ Concerned the changes are retaliation against members of the public like herself and Mr. Randolph

Chairperson Teager provided context to the students in the audience explaining that proposed changes to the Ethics Code would be binding on members of the public who interact with members of the town.

Chairperson Teager stated he would support adding the definition of the public in the definitions section but is

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not comfortable with anything in the Ethics Code applying to members of the public and cannot envision how the code would be enforceable against members of the public. Ms. Leonard stated she does not know how one would get members of the general public to sign up to agree to this code of ethics whereas appointed and elected individuals did agree. Additionally, she said she cannot imagine how the code would be enforceable on the public. Ms. Garvey stated enforcing the Ethics Code on the public is not the purpose of the code; the purpose is to ensure those serving or working for the town are not using their position for personal gain.

Ms. Leonard stated if a member of the town feels harassed by a member of the public they have channels to address this behavior. This suggested change borders on suppressing the public's speech.

Ms. Funk stated she does not agree with the word "annoy" being included and it does not rise to the level of an ethics violation.

Chairperson Teager referred to the copies of the Ethics Code stated the suggested revisions are in red print and the Ethics Board's requested changes include adding definitions of independent contractor and vendor, remove disclosure forms, and updating the composition of the Ethics Board.

Ethics Board members made the following suggestions:

- ✓ Section 13-1: Remove mentions of the public and third party
- ✓ Section 13-4(D): Remove, blatant restriction on public
- ✓ Section 13-3(R): Remove, blatant restriction on public
- ✓ Questioned the intermittent mentioning of the public's Constitutional rights
- ✓ Section 13-3(O) No. 1.: How can the possibility of bias be prevented if an oral complaint is made to one of the parties listed. Ms. Funk suggested the complaint could be recorded or a second witness could be present. Ms. Garvey questioned the goal or purpose of this method. Ms. Leonard stated it is an ADA issue. Secretary Martin questioned the change in the filing of complaints. Chairperson Teager stated this allows for ease of access for an individual filing a complaint. Ms. Eade-Newcomb confirmed ease of access was the intent of the Town Attorney and agreed that the Town Clerk should be added. In terms of an oral complaint, the person assisting the individual should read back the complaint and have the complainant sign it. The question was raised as to whether the form could be digitized or if complaints could be emailed. Chairperson Teager stated his concern with an oral-only complaint is that it is not catalogued or tracked. Ms. Funk stated there are multiple components of a complaint and is concerned that an oral complaint might lack pertinent information. Ms. Garvey suggested an appointment would be required to make an oral complaint. Ms. Eade-Newcomb stated a protocol is needed for oral complaints and verification of their accuracy should be included. Chairperson Teager stated removing the complaint form from the code would allow for revising it as needed and cataloguing and tracking complaints is critical to the complaint process. Ms. Eade-Newcomb stated the Ethics Board may want to clarify that any complaints must be submitted in a hard copy form.
- ✓ Section 13-7(A): Do not understand the inclusion of political party membership or employment with the governmental entities listed as disqualifying factors for serving on the Ethics Board. Ms. Eade-Newcomb stated Mr. Trapp's thought was that many individuals are politically appointed and would bring political bias with them. Chairperson Teager stated at the town level he does not understand the conflict of interest. The Ethics Board members agreed the verbiage is too broad. Secretary Martin clarified that Civil Service employees must take a test even though they are "appointed" by the Town Board and questioned if the same limitations are imposed on paid board positions within the town including the Planning Board and Zoning Board. Ms. Funk stated she would support adding the restriction preventing individuals that serve on a board of any of the listed entities. All Ethics Board members agreed that the political affiliation

of the membership has never been discussed or been an issue. Ms. Eade-Newcomb stated the intent was to prevent one political party from controlling the Ethics Board and finding a violation of a member of another political party; political parties are protected. Ms. Leonard recounted her appointment process and noted that her political affiliation was never brought up and questioned if an individual's affiliation would now be questioned during the process. The Ethics Board members agreed that this condition would limit potential candidates and noted the ongoing difficulty in finding volunteers. No. 3 of this section should be limited to the officer or leadership level of a political party or removed from the Ethic Code.

- ✓ The recusal process has not been addressed and Mr. Kavanaugh suggested adding this as Section 13-12. Ms. Eade-Newcomb stated one suggestion was to add the recusal process to the Rules of Procedure and Mr. Trapp would await the Ethics Board's discussion about adding this to the code.
- ✓ Section 13-7(A) No. 2: Remove the West Seneca Board of Education as it is a separate entity and jurisdiction. Mr. Kavanaugh referred to former Councilman William Bauer running for Town Council while a member of the Ethics Board and questioned why being a candidate would be an issue.
- ✓ Chairperson Teager stated his main concerns included references to the public, the political items, and the process by which a complaint is filed but still has questions regarding Section 13-6 Whistleblower Policy. Ms. Garvey stated the purpose of Whistleblower is to protect an individual from internal retaliation and would not apply to the general public. Ms. Eade-Newcomb noted Mr. Trapp added the form shall be attached and suggested the form should not be included in the Ethics Code as other forms are being removed. The Ethics Board members agreed that forms should not be included in the code to allow for ease of revising them as necessary.
- ✓ Section 13-3(P): What is "approved" training or who approves training? The Ethics Board members agreed on the word "accredited" instead of "approved."

ADJOURNMENT

Motion by Chairperson Teager, seconded by Ms. Leonard, to adjourn the work session at 7:34 P.M.

Ayes: All

Noes: None

Motion Carried

Margaret A. Martin
Deputy Town Clerk/Secretary to the Ethics Board

