

Chairperson Carpenter called the meeting to order at 6:00 P.M.

ROLL CALL:

- Members Present - Amy Carpenter
Rodney Montgomery
Theresa Funk
Lawrence Kavanaugh, Jr.
Amy Kobler, Town Clerk
Jon Minear, Deputy Town Attorney
Michael Teager
- Absent - Tina Hawthorne, Town Attorney

COMMUNICATIONS

- Resignation of Ethics Board Secretary Amelia Greenan

Chairperson Carpenter announced the resignation of Amelia Greenan as Secretary to the Ethics Board as she has taken the position of Chief of Staff to Supervisor Dickson.

- Town Board appointment of Ethics Board Secretary Molly Martin

Chairperson Carpenter welcomed Molly Martin to the position of Secretary to the Ethics Board. Ms. Martin is also the Deputy Town Clerk.

- Selection of Ethics Board Chairman and Vice Chairman

Chairperson Carpenter asked for nominations for the next Chairperson of the Ethics Board.

Motion by Mr. Montgomery, seconded by Mr. Kavanaugh, to nominate Michael Teager as Chairperson of the Ethics Board.

On the question, Mr. Montgomery stated this will allow Ms. Carpenter to guide the new Chairperson before her term on the Ethics Board expires.

Ayes: All

Noes: None

Motion Carried

Chairperson Teager asked for nominations for the Vice Chairperson position.

Motion by Mr. Montgomery, seconded by Ms. Funk, to nominate Amy Carpenter as Vice Chairperson of the Ethics Board.

Ayes: All

Noes: None

Motion Carried

- Review of 2020 Annual Disclosure Form and Collection of 2021 Annual Disclosure Form

Chairperson Teager addressed the 2020 annual disclosure forms and questioned if the board needed to enter into executive session. Ms. Carpenter stated they do not and asked Town Clerk Kobler for status. Town Clerk Kobler stated no additional forms have been received and reminded all the 2021 disclosure forms are due by March. Further, Secretary Martin will email everyone that is required to provide one; once received they will be tracked and forwarded to the Ethics Board members. If a board member would like to discuss any submission, they will bring that up during a meeting.

Chairperson Teager agreed with the process and questioned if the board would then enter into executive session to discuss the disclosure form. Town Clerk Kobler stated after consulting with Town Attorney Hawthorne, the Board should not enter into executive session to discuss the disclosure forms.

Ethics Board Attorney Minear disagreed and stated he wrote an opinion as to why it was appropriate to enter into executive session.

Chairperson Teager asked Town Clerk Kobler how the submissions will be tracked. Town Clerk Kobler stated a spreadsheet has been created to track them.

Mr. Montgomery questioned which attorney's advice the Ethics Board should follow as the Town Attorney and the Ethics Board Attorney have differing opinions.

Mr. Minear stated he has reviewed laws and statutes with regards to going into executive session relating to disclosure forms. Additionally, a particular section was brought to the Board's attention by a resident.

Chairperson Teager stated the resident was present and noted he had replied separately to the resident, stating he preferred to go into executive session over the potential of making an individual look bad when there was no conflict of interest.

Ms. Carpenter addressed the resident and stated the board members received the communication in November after being unaware of a problem with the email system. Unfortunately, Mr. Minear's email was delayed by the town's transition to a new IT provider and was unable to be shared at the December meeting due to the meeting being cancelled. Ms. Carpenter read Mr. Minear's attached response.

Mr. Minear explained the resident stated the Ethics Board committed a public officer's violation by going into executive session to discuss the disclosure forms citing Article 7 of the Public Officers in the Open Meetings Law. However, subsection F of Article 7 provides a board can go into executive session if the matter being discussed involves a medical, financial, credit, or employment history of a particular person or corporation, matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation. In Mr. Minear's opinion, the disclosure forms potentially contain such information and based on those reasons the board chose to go into executive session.

The resident commented that the meeting minutes stated the reason for going into executive session was there was personal information on the forms such as addresses; this information is public knowledge and not an adequate reason for executive session. The resident further questioned if any information on the forms would be redacted in response to a FOIL request.

Town Clerk Kobler stated she would provide the disclosure form without redactions.

The question of amending the minutes was raised by Ms. Funk. Mr. Minear stated the minutes can be amended to include items listed in his letter.

- Review of Ethics Training

Chairperson Teager requested an update from Ms. Funk on the ethics training.

Ms. Funk completed training with a group of employees that report to Highway Superintendent Adams and commented she received pushback from an individual seeking further information regarding a complaint that was filed the previous year and objections to the fines. Ms. Funk was unable to piggyback onto a training opportunity at the Senior Center with the HR group before the end of the year.

Chairperson Teager questioned the protocol for ethics training. Ms. Funk responded the intent was to complete in person training first, as there was a significant change in the code followed by sending the code out annually as a reminder.

Chairperson Teager questioned if there is anyone who has not received training on the updated code. Ms. Funk stated anyone in Town Hall and the members of the Planning, Zoning, and Town Boards have not yet received training.

Chairperson Teager questioned if the training was incumbent on the Ethics Board. Ms. Carpenter stated the timetable was not finalized and agreed some detail should be added to their plan. Mr. Montgomery believes the Town Board needs to provide direction as they enforce the code. Mr. Minear believes it is the obligation of the Ethics Board to fix the training schedule and deliver the training. Mr. Montgomery clarified his comment stating it is up to the Town Board to be sure employees have completed their training. Mr. Kavanaugh questioned if it is the responsibility of the Ethics Board to deliver the training. Mr. Minear confirmed it is. Mr. Kavanaugh offered to help Ms. Funk with the training. Ms. Carpenter stated the board can help with the training. Ms. Funk welcomes the assistance and stated Supervisor Dickson requested the board conduct training after the adoption of the new code. Mr. Minear stated there is not an official written obligation or duty that the board is mandated to do the training; the board took it upon themselves under the Supervisor's recommendations.

Ms. Carpenter advised Chairperson Teager that options such as online training is still viable and different training methods can be utilized for the various groups.

MINUTES TO BE APPROVED

Motion by Ms. Funk, seconded by Mr. Kavanaugh, to approve meeting minutes from November 4, 2020.

On the question, Mr. Kavanaugh questioned if these were the minutes to be amended. Ms. Carpenter stated they are not.

Ayes: All

Noes: None

Motion Carried

Chairperson Teager addressed the suggestion to amend the October 7, 2020 meeting minutes.

Ms. Carpenter read from the minutes and noted the wording "there is personal information like the addresses on the forms" may be where the minutes should be more detailed.

Chairperson Teager suggested adding the verbiage: "the forms include personal data and potential employment ramifications therein."

Mr. Minear referred to his letter and stated it should include: "property ownership information, past employment history, future employment plans, employment generally, demotion, discipline, suspension, dismissal, or removal of a particular person or business entity."

Town Clerk Kobler questioned if the minutes were being amended to include what Mr. Minear just read and stated this was not said during the meeting. Mr. Minear does not recall the exact conversation, but he knows they discussed the contents of the disclosures including employment history, and whether an individual could be demoted or disciplined as a result. Ms. Kobler suggested reviewing the recording.

Mr. Kavanaugh suggested amending the minutes to include Mr. Minear's letter. Mr. Minear thought this was acceptable. Ms. Carpenter will copy all board members with Mr. Minear's letter.

Chairperson Teager questioned if it would be appropriate to amend the minutes at the next meeting. Mr. Minear confirmed this action.

OPEN DISCUSSION

Ms. Carpenter suggested adding each board member's terms to the town website.

Ms. Funk stated the board intended to review some items in the code this year.

Chairperson Teager requested guidance on quorums. Mr. Minear cautioned that if a majority of board members are together and it is not in an open forum, it could be interpreted as a violation of the Open Meetings Law; this would be more than four board members.

Ms. Carpenter suggested the following practice: if a board member misses more than three meetings, they are no longer a member and referred to the other boards that utilize this practice.

PUBLIC COMMENTS

A resident commented that this group could be together and have a discussion, they just cannot vote, without violating Open Meetings Law. Mr. Minear stated this is correct, however, best practice is to avoid that type of situation.

WEST SENECA COMMUNITY CENTER
1300 Union Road
West Seneca, NY 14224

ETHICS BOARD PROCEEDINGS
Meeting Minutes
January 6, 2021

Mr. Montgomery thanked Ms. Carpenter for being the Chairperson of the group and getting a new code adopted.

Ms. Carpenter thanked Amelia Greenan for her service to the Ethics Board.

ADJOURNMENT

Motion by Mr. Montgomery, seconded by Ms. Carpenter, to adjourn the meeting at 6:45 P.M.



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

TOWN OF WEST SENECA
Office of the Attorney for the Ethics Board
1250 Union Road
West Seneca, New York 14224
Telephone: (716-558-3256)
Facsimile: (716-674-0518)

December 8, 2020

VIA EMAIL ONLY

Susan Kims

RE: Email Dated November 6, 2020

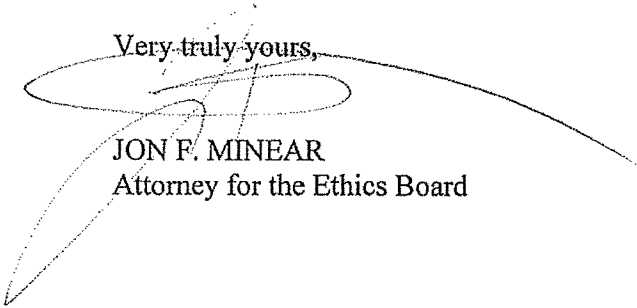
Dear Ms. Kims:

I first want to thank you for your interest in the Ethic's Board business. Residents like you make the Town a better place by ensuring the Town government works efficiently, correctly, and transparently.

That said, the Ethics Board received your email dated November 6, 2020, detailing your opinion on whether the Ethics Board should have went into Executive Session to review and discuss the Financial Disclosure Forms. The Ethics Board went into Executive Session to discuss the completed Financial Disclosure Forms because they contain property ownership information, **past employment history, future employment plans, asset ownership information, employment history of a corporation or limited liability company, or matters that may lead to the employment, demotion, discipline, suspension, dismissal or removal of a particular person or business entity.** Perhaps not all of those reasons were in the minutes, but they are nonetheless the reasons for the Executive Session.

Thank you for your interest in the Ethic's Board. I look forward to seeing you at a future meeting. If you should have any questions, please feel free to contact me at any time.

Very truly yours,


JON F. MINEAR
Attorney for the Ethics Board

cc: Ethics Board (via email)