

Chairperson Teager called the meeting to order at 6:05 P.M.

ROLL CALL:

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

Absent - Anna Garvey

MINUTES TO BE APPROVED

Motion by Chairperson Teager, seconded by Mr. Kavanaugh, to approve Minutes of the October 19, 2022, meeting.

Ayes: All

Noes: None

Motion Carried

COMMUNICATIONS

Appeals Process

Chairperson Teager stated amendments to the Ethics Code have been proposed with the appeals process being one of them and suggested setting a time limit for challenges. For example, how would a challenge a few years after a decision was made be handled. Deputy Town Attorney Minear suggested the Ethics Board members review the process utilized by other municipalities. Mr. Minear also stated an "appeal" is usually directed to some other level or body and suggested using "objections to decisions" or something of that nature. Mr. Minear stated he will investigate this further. Chairperson Teager stated it is important that there is a defined time frame for any objections.

Mr. Kavanaugh presented a scenario where an employee was dismissed by the Town Board because of an ethics violation investigation and questioned what exactly would be appealed, the Ethics Board's opinion and investigation or the discipline imposed on the employee and questioned if there is already a process in place for this. Mr. Minear stated any recommendation by the Ethics Board, as an advisory board, is passed along to the Town Board for a final decision on ethics complaints; therefore, any objection would be directed to the Town Board and not the Ethics Board. Any action or determination by the Town Board can be challenged through a process called an Article 78 Petition which has a time limit and a statute of limitations. Mr. Minear stated the Ethics Board is an advisory board and nothing is reviewable. Ms. Leonard stated it is her understanding that an Article 78 cannot be made until there is a full and final determination so an advisory board opinion is not reviewable. Mr. Minear agreed. Chairperson Teager questioned if this should be noted, for example with a footnote on the complaint form. Mr. Minear stated it is in the CPLR so it is not necessary to include this in the Ethics Code or Town Code and the Ethics Board should not give legal advice to anyone by adding the footnote.

Board Composition

Chairperson Teager stated Town Clerk Kobler has requested the Town Clerk not be an ex-officio non-voting member of the Ethics Board and mentioned one reason is that complaints are filed in the Town Clerk's office, and it is a conflict of interest to be a part of any investigation. Chairperson Teager stated it is a benefit to the Ethics Board to have a member of the Town Clerk's office present and referred to the Deputy Town Clerk who is currently the secretary. Chairperson Teager suggested the code be updated to require the Deputy Town Clerk to be the secretary to the Ethics Board. Additionally, Town Attorney Trapp has indicated the Town Attorney should not be encroaching on the Ethics Board as the Ethics Board has its own attorney. Chairperson Teager stated the Town Attorney should only be involved in the event the Ethics Board attorney would need to recuse themselves. Chairperson Teager stated the Town Attorney could still be a member of the Ethics Board but not be required to attend meetings. Chairperson Teager stated it is important to maintain a connection to town activities through a member of the Town Clerk's office and would like the secretary to be a member of that office.

Chairperson Teager stated there are errors in wording of the Ethics Code that can be addresses when all changes are ready.

Mr. Kavanaugh stated he thinks it is important that the Town Clerk's office is represented, and the Town Clerk could appoint that individual. Ms. Leonard questioned if the Ethics Code includes the Town Clerk and Town Attorney as voting members. Chairperson Teager stated the Town Attorney and Town Clerk are identified as non-voting ex-officio members and there must be a secretary. Further, per general municipal law each advisory board and or commission must have an officer or staff on the board. Chairperson Teager questioned if this would mean the secretary or Ethics Board Attorney would fulfill this requirement should the Ethics Code be amended to remove the Town Clerk and Town Attorney. Mr. Minear stated he is not a member of the Ethics Board, he is the attorney for the Ethics Board, but the secretary as an employee of the town would fulfill this requirement. Ms. Leonard questioned if the Ethics Code should state a member of the Town Clerk's Office and not the Deputy Town Clerk specifically. Chairperson Teager stated he would prefer the Deputy Town Clerk specifically. Mr. Minear stated legally it would be acceptable.

Former Officials

Chairperson Teager stated Mr. Kavanaugh had suggested adding language regarding First Amendment rights for former town officials speaking in front of the Town Board and the Ethics Board could discuss adding language. Mr. Kavanaugh stated that condition applies whether wording is included in the Ethics Code.

Training Materials

Chairperson Teager stated he will provide materials for the required two hours of training for Ethics Board members and given that next year is a local election year, the training on conflicts of interest and political campaign affiliations would be appropriate.

EXECUTIVE SESSION

Motion by Chairperson Teager, seconded by Ms. Funk, to enter into executive session to review disclosure forms, as they pertain to past employment history, future employment plans, employment history of a corporation or limited liability company, and/or matters that may lead to the employment, demotion, discipline, suspension,

dismissal, or removal of a particular person or business entity.

Ayes: All

Noes: None

Motion Carried

Motion by Chairperson Teager, seconded by Ms. Funk, to return from executive session at 7:15 P.M.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Chairperson Teager, seconded by Ms. Funk, to adjourn the meeting at 7:15 P.M.

Ayes: All

Noes: None

Motion Carried

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