

**BOARD OF ETHICS MEETING MINUTES
TUESDAY, March 20, 2018**

**TOWN OF NORTH CASTLE
15 BEDFORD ROAD
ARMONK, NY**

Public Meeting:

DATE: March 20, 2018

TIME: 8:34 a.m. called to order

PLACE: Hergenhan Recreation Center, Upstairs Conference Room

PRESENT: Board of Ethics Members
David Simonds, Chair
Brett Summers, Secretary
Susan Shimer
Edward Lobermann
John Klem

ABSENT:
Rabbi Stacy Bergman, Alternate

OTHERS PRESENT:
José Berra, Liaison with the Town Board

1. **Call to Order**
At 8:34 a.m. the meeting was called to order by the Chair.

2. **Revision and Adoption of Agenda**

Discussion, Action: 2.1 Revisions (if necessary) and adoption of Agenda

Four additional agenda items were proposed: Add executive session item 3.2, Personnel, Alternate Members of Board of Ethics; add executive session item 3.3, Personnel, Legal, Update re Individual Allegations; add unfinished business item 5.4, Attestation Requirement on Complaint Form; add unfinished business item 5.5, Notification of Town Attorney of Ethics Complaints; and add new business item 6.4, Next Year's Officers. In addition, with the attendance of José Berra as liaison to the Town Board, the Executive Session items listed below under item 3 were moved to the conclusion of the public meeting. A motion was made by Mr. Summers and seconded by Mr. Simonds to adopt the agenda as revised. Vote: 5-yes 0-no. Motion carried.

3. **Executive Session**

- 3.1 **Personnel, Legal: Contingent Outside Counsel**

- 3.2 **Personnel: Alternate Members of Board of Ethics**

- 3.3 **Personnel, Legal: Update re Individual Allegations**

At 10:48, a motion was made by Mr. Summers and seconded by Mr. Simonds to move into executive session to discuss the listed three matters. Vote: 5-yes 0-no. Motion carried. Mr. Berra departed the meeting, and the conference room was closed. At 10:58 am, the Board resumed its public meeting.

4. **Comments from the Public**
None

5. Unfinished Business

5.1 Annual Disclosure Obligation

Information, Discussion: 5.1 Annual Disclosure Obligation

A discussion was held regarding the status of the town's progress on implementing a system to obtain annual ethics disclosures and acknowledgments pursuant to the Town's adopted Code of Ethics. Ms. Shimer referenced New York State's General Municipal law, including section §812, and noted that our annual acknowledgement form and disclosure obligations are consistent with state and local law. Mr. Berra indicated the need to consult with the Town's counsel, including perhaps its labor counsel. There was discussion of the respective roles and responsibilities of the Town Board and the Board of Ethics, and Mr. Berra acknowledged that any labor issues with any of the Town's bargaining units were issues for the Town Board to resolve. He indicated that he would follow up with the Town Board and get back to us with further information.

5.2 Educational Initiative

Discussion, Action: 5.2 Educational Initiative

After discussion of the need to implement an educational initiative for Town employees and officials to facilitate better understanding of their obligations under the Code of Ethics, Mr. Simonds moved to table further discussion, planning and action on this item until the annual disclosure issues are resolved, or until a few months go by, whichever is sooner. Mr. Klem seconded. Vote: 5-yes 0-no. Motion to Table carried.

5.3 Contract Employees

Information, Discussion: 5.3 Contract Employees

A discussion was had about whether and how to apply the standards set forth in the Code of Ethics to the Town's contract employees and consultants. There was consensus to learn more about how other municipalities dealt with this issue (as well as the annual disclosure/labor issue). Mr. Summers will reach out to the Association of Towns as well as Mr. Mark Davies who has authored many papers on municipal ethics issues.

5.4 Attestation Requirement on Complaint Form

Information, Discussion, Action: 5.4 Attestation Requirement on Complaint Form

A discussion was had about the signature requirement of the Town Clerk or Deputy on the Complaint Form previously adopted by the Board of Ethics on July 11, 2017. Mr. Summers moved, and Mr. Simonds seconded, that the notation of "Town Clerk or Deputy" be deleted, and in its place add "Notary Public." Vote: 5-yes 0-no. Motion carried.

5.5 Notification of Town Attorney of Ethics Complaints

Information, Discussion: 5.4 Notification of Town Attorney of Ethics Complaints

A discussion was had whether the requirement to notify the Town Attorney and provide a copy of the Complaint continues to apply in cases where the complaint is fundamentally defective and is properly summarily dismissed by the Board of Ethics. There was consensus that all such Complaints would continue to be provided to the Town Attorney even in such cases. No changes in procedures were recommended.

6. New Business

6.1 Procedures re Individual Complaints

Information, Discussion, Action: 6.1 Procedures re Individual Complaints

A discussion was had about the signature and attestation requirements on the Complaint Form previously adopted by the Board of Ethics on July 11, 2017. Mr. Simonds moved, and Mr. Klem seconded, that the following statement be inserted immediately above the signature line on the complaint form: "Verified under oath and based on personal knowledge." Vote: 5-yes 0-no. Motion carried.

6.2 Code of Ethics Provision re Future Employment §27-11.
Information, Discussion: 6.2 Code of Ethics Provision re Future Employment §27-11.

At the Board of Ethics annual presentation to the Town Board, the future employment provisions in the Code of Ethics were added by the Town to the agenda items for discussion. Thus, Mr. Simonds and Mr. Summers summarized the future employment provisions as part of that presentation. Mr. Berra was asked if there were any particular concerns by the Town Board about the future employment provision. Mr. Berra indicated he would inquire and let the Board of Ethics know if Town Officials have any specific concerns.

6.3 Code of Ethics re Personal Benefit §§27-4, 5.

Information, Discussion: 6.3 Code of Ethics re Personal Benefit §§27-4, 5.

A discussion was had about interpretation of various provisions in the Code of Ethics including the prohibition against one using his or her municipal position for "personal or private gain" (§27-4) and the language requiring that members of the public be treated with equal consideration and without special advantage (§27-5). Considerable discussion of these provisions was had in light of the entire Code as well as the paragraph on its purpose (§27-1). There was no uniform consensus on the exact interplay between these provisions, and there was consensus to postpone further discussion if and when that becomes necessary.

6.4 Next Year's Officers

Discussion, Action: 6.4 Next Year's Officers

Mr. Klem moved, and Mr. Lobermann seconded, that the Board of Ethics keep the same designation of officers for the coming year. Mr. Simonds agreed to continue as Chair, and Mr. Summers agreed to continue as Secretary. Vote: 5-yes 0-no. Motion carried.

7. Chair's Report

None

8. Topics for Future Agendas / Requests for Information

None

9. Communications to the Board of Ethics

None

10. Approval of Minutes of February 27, 2018 Meeting

Discussion, Action: 10.1 Board of Ethics Minutes: January 2, 2018

After discussion of a disclosure issue, a motion was made by Mr. Simonds and seconded by Mr. Klem to approve the draft Board of Ethics Minutes of February 27, 2017. Vote: 5-yes, 0-no. Motion carried.

11. Adjournment

At 10:58 a.m., a motion was made by Mr. Summers and seconded by Mr. Simonds to move back into public session and adjourn the meeting. Vote: 5-yes 0-no. Motion carried.

The public meeting ended at 10:58 a.m.

Respectfully submitted,


Brett Summers, Secretary

May 10, 2018
Date