



**TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
MUNICIPAL ETHICS COMMITTEE**

AUGUST 26, 2019 5:00 PM

NORTH HAMPTON TOWN HALL

DRAFT MINUTEES

MEMBERS PRESENT: Chairman Jonathan Pinette, Vice-Chairman Susan Leonardi, Timothy Harned, Mark L. Janos, Kathleen Kilgore, Phillip E. Wilson (Alternate)

ALSO PRESENT: Town Administrator Bryan Kaenrath

AGENDA

Chairman Pinette welcomed everyone to the August 26, 2019 Meeting of the Municipal Ethics Committee and called the meeting to order at 5:04 pm, followed by the Pledge of Allegiance.

OLD BUSINESS – None

NEW BUSINESS

Approval of the Minutes of the Ethics Committee Meeting of June 6, 2019

Motion: To approve the Ethics Committee Meeting Minutes of June 6, 2019.

Motioned: Mr. Janos

Seconded: Mr. Harned

Vote: Motion was approved by a vote of 4-0

Ms. Kilgore recused herself from the meeting and did not vote, and Alternate Phil Wilson took her place on the Ethics Committee.

Initial Review of Complaint Received August 14, 2019

Chairman Pinette said he received a phone call regarding a complaint that was sent to the Town Clerk on August 14, 2019 at 10:40 am and sent notification to everyone, with a Certified Letter sent to both parties.

He said they would be reviewing the complaint tonight and making a decision on whether or not to take jurisdiction or dismiss.

Mr. Phil Wilson read the complaint in full. The letter was sent from Mr. Joseph Bernardo of 3 Ocean Boulevard dated August 14, 2019, and addressed to Susan Buchanan, Town Clerk, Town of North Hampton, NH.

In the letter Mr. Bernardo stated he was filing an official Ethics Complaint to the Ethics Committee. He said on August 12th, while at Bogie's in Hampton, he was approached by Wally Kilgore who introduced himself, and though the conversation started pleasantly it took a quick turn towards intimidation. He said Mr. Kilgore became verbally aggressive saying that the behavior of the Zoning Board and Mr. Bernardo was explicitly unfair to the last applicant's request for variance to not perform hydrogeological testing. Mr. Bernardo said Mr. Kilgore stated that he was rude to the applicants and he should respect high-paying tax members, which was repeated in offending language.

Mr. Bernardo said he was quite shocked by Mr. Kilgore's behavior and approach while in a public place. He said Mr. Kilgore continued to blame him for Route 1 development saying "it will never happen because of people like you" and the way he treats people as a Zoning Board Member. Mr. Bernardo said he replied that his vote was his vote and he had nothing to add. He said he viewed it as a personal attack, and felt that intimidation by someone active in the Town, and a Planning Board Member, was inappropriate. He said Mr. Kilgore is fully aware of the rules and ethics of the Town and took a very unprofessional approach to a decision of the Zoning Board (vote 4-1).

Chairman Pinette said to reiterate, Mr. Bernardo and Mr. Kilgore are both elected officials in the Town and the case they were talking about is up for appeal. He opened the meeting to discussion on the complaint and whether or not they should take jurisdiction over this.

Discussion: Mr. Wilson said they should strictly follow procedures and decide where this falls under the Code of Ethics. He said what he was most concerned about was that a member of the Planning Board was accosting a member of the Zoning Board outside of the public and trying to influence that member about an official decision, and also trying to influence future actions of the Zoning Board. He said he personally felt the behavior was inappropriate, and said it might also be illegal according to the Code of New Hampshire with respect to people involved in active cases on either board saying anything about them that might influence any decision outside of a public venue.

Chairman Pinette said having a discussion in public about a case that is done with is acceptable, but this concerned a case that was being appealed. He said there was a heated conversation in public that could sway or not sway, and was overheard by others present at the time. Mr. Wilson stated that it was still an active case before the Planning Board which was why they were requesting the waiver from the hydrogeological study from the Zoning Board, as the Planning Board had no authority to weigh in on a variance. Mr. Janos said they filed a request for reconsideration before the Zoning Board to be considered at tomorrow night's meeting.

Mr. Wilson said Mr. Bernardo was simply trying to apply the Zoning Ordinance adopted by the Town reasonably and fairly. He said there was also some disturbance at the Planning Board as they were not

83 willing to waive the requirement over which they had no authority. He said having a Planning Board
84 member take the view that because you are applying the adopted ordinance of the Town according to
85 procedures prescribed by law, that "Route 1 development will never happen" because of Mr. Bernardo
86 and how he treats people as a Zoning Board Member, presents an ethical problem for an elected member
87 of the Planning Board.

88
89 Mr. Janos said the Committee needed to decide what section of the Code of Ethics would be most
90 appropriate to consider, and said nothing points directly to Mr. Bernardo's complaint. He said they could
91 use Section 4.02 Fairness & Adherence to Proper Procedure, or 4.03 Improper Personal Gain, subsection
92 E, and decide whether any provisions of the Code are properly before them based on the complaint. Mr.
93 Harned agreed with Mr. Janos and said he also flagged 7.01 in the Code of Ethics.

94
95 **Motion:** To take jurisdiction and consider the complaint that led to the circumstances and give parties an
96 opportunity to present testimony to allow the Ethics Committee to make a decision as to whether or not
97 they find a violation.

98 **Motioned:** Mr. Janos

99 **Seconded:** Mr. Harned

100 **Vote:** Motion approved 4-0, with 1 abstention

101
102 Chairman Pinette asked Town Administrator Kaenrath about a timeframe to hold the next meeting. Town
103 Administrator Kaenrath said under 7.06A it states 21 days, but Mr. Harned pointed out that was upon
104 completion of the Preliminary Investigation which they had not yet done. Town Administrator Kaenrath
105 said no other timeframe was laid out. After discussion of possible dates, it was decided to hold the next
106 meeting on Thursday, September 19, 2019 at 6:00 pm.

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108 Chairman Pinette said he would send out notification to everyone. He said either party could submit
109 information, and asked that testimony and statements be signed and notarized. Mr. Wilson said at the
110 next meeting preliminary information should be considered and a decision made as to whether or not to
111 move forward with formal proceedings.

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113 Chairman Pinette reiterated that information should be sent in by each party, the Committee would
114 review everything, and then decide whether to move forward with formal proceedings. He said
115 September 13th would be the deadline to submit information or testimony by either party to the Town
116 Clerk, and he would pick it up and have it distributed to Committee members. He said that would give
117 them a week to review everything, then meet on September 19th to decide whether or not to move
118 forward.

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120 **Any other Item That May Legally Come Before the Committee**

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122 **Adjournment**

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124 Mr. Wilson made a motion to adjourn the meeting which was seconded by Mr. Janos. Chairman Pinette
125 adjourned the meeting at 5:40 pm.

Municipal Ethics Committee Meeting
August 26, 2019

127 **Next Meeting:** The next Municipal Ethics Committee Meeting is scheduled for Thursday, September 19,
128 2019 at 6:00 pm.
129

130 Respectfully submitted,

131 Patricia Denmark, Recording Secretary

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