



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

**JUNE 6, 2019 6:30 PM
NORTH HAMPTON TOWN HALL**

DRAFT MINUTES

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

ALSO PRESENT: Town Administrator Bryan Kaenrath, Attorney Dean Eckert

AGENDA

Chairman Jonathan Pinette welcomed everyone to the June 6, 2019 Meeting of the Municipal Ethics Committee and called the meeting to order at 6:33 pm, followed by the Pledge of Allegiance.

OLD BUSINESS – None

NEW BUSINESS

Approval of the Minutes of the May 16, 2019 Meeting

Motion: To approve the Ethics Committee Meeting Minutes of May 16, 2019.

Motioned: Mr. Harned

Seconded: Mr. Wilson

Changes/Corrections: Line #239 – “Jonas” was corrected to *Janos*; line #153 – “Jane Besh” was corrected to *Jane Boesch*; line #124 – the title for Julie Gilman was corrected to *Exeter Select Board Member*; line #264 – “June 23rd” was corrected to May 23rd.

Vote: Motion was approved as amended with above corrections 5-0

Final Review and Deliberation of the Complaint received April 24, 2019

Chairman Pinette asked everyone to be respectful if anyone is speaking, and said he did not want any distractions from the audience while they were conducting the meeting. He said they would reiterate the

Formal Charge sent certified mail, go over Section 4.02 of the Code of Ethics, then open the floor to both parties for 30 minutes each to present any additional information. He asked the Board how they felt about reviewing all the information previously received, and Mr. Janos said he did not think they needed to proceed with evidence already presented except to the extent it is relevant to tonight's discussion.

Chairman Pinette said Attorney Dean Eckert was assisting as Town Counsel, and asked if they needed a motion to bypass previous information. Attorney Eckert stated that the Chairman had the authority to set the order of procedure, and if the Board had received and reviewed prior documents and information there was no requirement to go through the formality of a second review.

Chairman Pinette stated that they would start with reading the Formal Charges sent certified mail to both parties by the Town of North Hampton Ethics Committee, May 16, 2019:

Statement of Formal Charges – Pursuant to the North Hampton Code of Ethics, Section 7.05 B-3(d), the Standing Ethics Committee is providing the respondent and complainant with the Statement of Formal Charges: Did a public statement by Selectperson Kilgore alleging that Selectperson Maggiore lacked the interest to nominate her to be Chair of the Select Board was based on sexism violate the Code of Ethics Section 4.02 requirement that a Town Official conducting Town Business treat others fairly, equally, and with respect? The Hearing before the Standing Ethics Committee on the statement of formal charges will be held in the North Hampton Town Hall on June 6, 2019 at 6:30 pm. The Hearing will be conducted pursuant to the procedures set forth in the Code of Ethics Section 7.06."

Complainant Presentation of Complaint – Mr. Jim Maggiore

Mr. Jim Maggiore said his appeal to the Committee began on April 24, 2019 with the request to find that Selectperson Kilgore's baseless accusation of sexism after the April 8, 2019 organizational meeting of the Select Board, her failure to take accountability for her comment under direct questioning in a Public Meeting, followed by flip-flopping to insisting the comment was accurate, all violate the terms of the approved North Hampton Code of Ethics.

Mr. Maggiore said the issue before the Committee is whether the public statements by Selectperson Kilgore, alleging that Selectperson Maggiore's lack of interest to consider her as Chair was based on sexism, violate the Code of Ethics, Section 4.02. He said the Seacoast Media Group, in an editorial dated May 10, 2019, gave voice to what is already apparent to reasonable people: that words like sexism, racist, and homophobic are the absolutely worst words someone can be called.

Mr. Maggiore said that Mrs. Kilgore's statements were without merit and evinced a profound lack of respect by one citizen for another. He said when directly asked about her statement she replied that she could not remember, but remembered the next day when she gave an interview to the Hampton Union and doubled-down on the comment. He said disrespectful statements must be recognized as such as it contravenes our values, distracts from genuine public business, and frustrates the orderly administration of business in North Hampton. He said for these reasons I request you find Mrs. Kilgore's personal attack on me in the press, her failure to take accountability for her comments and then flip-flopping, all violate our Code of Ethics.

Mr. Maggiore said the Preamble to the Code of Ethics identifies our common values in North Hampton: honesty, transparency, accountability, respect and civility in the behavior of its officials. He said Town Officials are called to act in the best interests of the Town, maintain the highest standards of personal integrity, and to promote and sustain an ethical culture. Board Chairs must therefore insure all participants in Town discussions behave civilly and not engage in personal attacks. He said each member of the Select Board takes an oath to perform the duties and be subject to the liabilities of the office.

Mr. Maggiore reasserted that there was no merit to the accusation that he is a sexist. He stated that the Ethics Committee heard testimony from residents, elected officers, and elected State Representatives about his personal character as well as his integrity in the discharge of his duties to both North Hampton and the State of New Hampshire. He said a summary of their comments included that Mr. Maggiore had no sexist tendencies and was respectful women, was professional and courteous, gave freely of his time to others and performed his duties with the best interests of the Town in mind; and as Chairman of the Select Board he consistently presided with civility and respect toward his fellow Board Members.

Mr. Maggiore also provided character references from Town residents, 2 former North Hampton Town Administrators, and an Assistant Town Manager who is also the Director of Personnel, as well as a licensed attorney and Selectperson Miller. He said a member of NHMA trained in Human Resources said he had investigated charges of discrimination and had not observed at any time any behavior on Mr. Maggiore's part that could be classified as sexist and he never treated anyone disrespectfully.

Mr. Maggiore said discrimination of any kind is a terrible evil that our Code of Ethics is designed to identify, prevent and rectify. He said the weight of evidence of both the recording and the minutes of the April 8th meeting, witness testimony and character references, prove there is no truth to the assertion that Mrs. Kilgore made. He said she made an untrue statement in personally attacking me in retaliation for a decision I made with which she disagreed. He stated that free speech was no impediment to the Committee finding that Mrs. Kilgore's statements were unethical.

Mr. Maggiore said he was asking that this Committee judge what Mrs. Kilgore said as either ethical or unethical and judge whether her statements in the paper were inconsistent with our values, and said the statements were not consistent with honesty, transparency, accountability, respect and civility in the behavior of its Town officers. He said her statement was false – he is not a sexist, the statement was not transparent as she obscured her disappointment about not being made chair with a personal attack, and she refused to be accountable for what she said, and further dishonored the First Amendment by using it to defend her poor behavior.

Mr. Maggiore said uttering a false statement about a colleague is *per se* uncivil and disrespectful, and not appropriate in Public meetings, and was a clear picture of conduct that violates every value in the Code of Ethics. He said being called a sexist is a deeply offensive personal attack, and said the Ethics Committee is charged under the Code to identify behavior that is contrary to our values which educate citizens about what civil discourse is. He urged the Committee to draw that line clearly and find the Mrs. Kilgore's statements and action to be unethical under Section 4.02 of our Code of Ethics.

Respondent Explanation & Testimony – Mrs. Kathleen Kilgore

Mrs. Kathleen Kilgore of 200 Atlantic Avenue said for the last 16 years she has worked as an accountant for a Materials Handling Management Company and worked closely with customers and colleagues on a daily basis. She said she had been an active member representing the residents of North Hampton to the best of her ability. She said today they were meeting for the 4th time in 6 weeks to discuss whether she violated North Hampton's Code of Ethics by simply answering questions from a reporter.

Mrs. Kilgore explained that she was asked questions and shared her opinion of what transpired during the organizational Select Board Meeting of April 8, 2019, and she was not speaking in an official capacity as a Select Board Member at that time. She reiterated that she simply answered the questions asked by Max Sullivan of the Hampton Union on how she personally considered the comments and demeanor of her fellow Board Members in the discussion of the possible chairmanship on April 8th, and stated that she did not choose the headline for the article nor author the article and used part of the question in her answers.

Mrs. Kilgore said her comments were that she thought the tone and body language of her colleagues was dismissive, and said: "Am I disappointed? Yes. Am I vindictive? No. Do I think there was a sexist part of it? Yes. Do I think there was a political part of it? Yes." She said these were not statements but answers to questions.

Mrs. Kilgore said she had received the complaint written by Mr. Maggiore alleging that her responses to Max Sullivan's questions were a violation of the Code of Ethics. She said the First Amendment of the US Constitution affords her the right to express her opinion as a citizen and the Code of Ethics specifically recognizes those protections under Article VII, Section 7.01: "... rights guaranteed to citizens under the First Amendment to the US Constitution shall be preserved at all times."

Mrs. Kilgore said she received the Formal Charges on May 22, 2019, which stated that she was being accused of violating Section 4.02 of the Code of Ethics. She said this section is only applicable to persons appearing on any Town Board or otherwise conducting the business of the Town, and her statement to Max Sullivan did not fall under those criteria. She said the Code was not to be dissected in order to draft a legitimate complaint against her, and said Section 4.02 was to be taken as a whole as written and was not applicable to the alleged conduct, and to suggest otherwise was an injustice.

Mrs. Kilgore said she has the right as a citizen to determine and communicate her opinions. She said she did not label or accuse Mr. Maggiore of a crime, and people could determine for themselves from the April 8th meeting video. She said anyone can understand that Mr. Maggiore is upset and has the right to voice his concerns, but the job of the Ethics Committee is to determine whether or not her responses to Max Sullivan was a violation of the Code of Ethics. She said the Committee was not here to determine whether or not her gender was a determining factor in the election of Select Board Chairman, and to punish her for her opinion would be unfair and unjust.

Mrs. Kilgore said during the Select Board Meeting on April 22nd, without any prior notice or an agenda item listed, Mr. Miller asked to discuss the article and the Chairman allowed my interview to be introduced into discussion and I agreed. She said while being interrogated by Mr. Miller that she stated that she did not recall using the word "sexism" in the interview. She said he demanded an apology and she refused to apologize for speaking on how she felt and that using that exchange against her in this ethics process was wholly inappropriate.

Mrs. Kilgore stated that after the meeting and reviewing her original conversation with Max Sullivan, she submitted a letter to the editor published April 26, 2019 and felt that statement fully clarified her position on the events in question. She said she was concerned that at the meeting on May 16th her Attorney was denied the opportunity to speak on her behalf, and her statement prepared by her Attorney was not read into the public record. She said Section 4.04 of the Code of Ethics states that all Town Officers shall cooperate with the Standing Ethics Committee and "such persons shall retain all rights otherwise provided under law". She said denying her Counsel to speak was in direct violation of that statement.

Mrs. Kilgore said there were many unanswered questions to due process of these proceedings, and said since this was the first time the Committee had met in 10 years this was a trial run. She said Section 7.03-D states that the Committee should develop and adopt rules of procedure, but this whole process was a clear demonstration that there were no formal rules of procedure since the Committee was formed. She said nothing that has occurred up to this point is laid out anywhere as a Code mandate.

Mrs. Kilgore said anyone can watch the April 8th Select Board Meeting and draw their own conclusions on how she was treated. She said she did not do anything wrong, unethical, or illegal, but she had to stand up to this Ethics Committee Complaint. She asked the Ethics Committee to categorically dismiss these charges and demands made by Mr. Maggiore. She said this was not about whether Mr. Maggiore or anyone is sexist, but about answering a question about how she felt during a political process, which is not a violation of the Code of Ethics. She asked that make a determination based on the literal words of the Code of Ethics and the rights guaranteed under the US Constitution which should be preserved at all times.

Witness Testimony on behalf of Mrs. Kilgore

Mr. Casey O'Kane of North Hampton said Mr. Maggiore's complaint against Mrs. Kilgore draws needed attention to the North Hampton Code of Ethics, as well as the behavior of Town Officials. He said while Mrs. Kilgore had not violated the Code of Ethics, the complaint against her spawned 18 violations of that Code. He said it was hard to see how Mr. Maggiore's complaint, or the Committee's handling of that complaint, met the requirements that Town Officers act in the best interest of the Town and maintain the highest standards of personal integrity.

Mr. O'Kane said the Code of Ethics duplicates and contradicts itself and contradicts other rules and legal principles, and it is clearly not up to the task set for it and neither is the Standing Ethics Committee. He said the Committee charged Mrs. Kilgore with violating Section 4.02, but this only applies to persons appearing before a Town Board or conducting Town business, and there was not a single assertion that Mrs. Kilgore did or said anything in any way relating to that and it was not relevant to Mr. Maggiore's complaint or these proceedings.

Mr. O'Kane said Mrs. Kilgore was now a person appearing before a Town Board, and as such was to be treated fairly and with respect. He said there were already examples of Mrs. Kilgore not being treated fairly in that Mr. Maggiore sought and obtained advice from North Hampton Town Counsel regarding the ethical complaint he wanted to bring against Mrs. Kilgore, which represents a personal use of Town services prohibited by Code of Ethics Section 4.03-A. He said this breach forms the basis for the charge

217 against Mrs. Kilgore and it is hypocritical and absurd for Mr. Maggiore to violate the Code of Ethics to file
218 an ethics complaint.

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220 Mr. O’Kane stated that the Standing Ethics Committee failed to allow Mrs. Kilgore to investigate its
221 members for conflicts of interest, Section 4.01 of the Code of Ethics, and her right to fair treatment under
222 Section 4.02, and violated their Code in adjudicating an ethics complaint. The Ethics Committee also
223 rescinded her right to be represented by legal counsel (Section 4.04) without any valid basis, but allowed
224 Town Counsel to speak on its behalf in drafting the Statement of Official Charges. He said this was also in
225 violation of Mrs. Kilgore’s rights and was hypocritical for the Standing Ethics Committee to violate the
226 Code of Ethics in adjudicating and ethics complaint.

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228 Mr. O’Kane stated that both Mr. Wilson and Mr. Harned remain seated on the Committee despite the fact
229 that Mr. Wilson’s wife appeared as a witness for Mr. Maggiore and was signatory, along with Mr. Harned’s
230 wife, to a published letter labeling Mrs. Kilgore’s conduct and comment in the matter in question as
231 baseless, uncalled for, and false. He said Section 4.01 of the Code of Ethics requires Town officials to
232 disclose those facts and recuse themselves from a matter in which they or a family member have an
233 interest. He said the statement of official charges unfairly distorts the section of the Code of Ethics it relies
234 on to make the charge against Mrs. Kilgore. He stated that the North Hampton Code of Ethics was violated
235 18 times in an ethics proceeding based on a groundless ethics charge against Selectperson Kilgore.

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237 Ms. Laurel Pohl of North Hampton said she did not think the problem here was that Mrs. Kilgore
238 overstepped the guidelines for the Code of Ethics, but that many of them had become intolerant of any
239 differences of opinion. She said they assume too much and spend too much time talking and not enough
240 time listening and then rush to making judgements. She said insisting on agreement as opposed to finding
241 possible ways to work together resulted in a war of words and deeds on many fronts between citizens,
242 Town officials, and Town employees for several years.

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244 Ms. Pohl said with regard to Mr. Maggiore’s complaint, no one was disputing that he was a nice guy and
245 generally courteous, charming and likeable, especially if you happen to agree with him. She said she did
246 not think he intended to behave condescendingly toward Mrs. Kilgore on April 8, 2019, but that is how he
247 treated her. She said she never expected Mr. Maggiore or Mr. Miller to nominate Mrs. Kilgore to be chair
248 and neither did Mrs. Kilgore, but said she was stunned when the focus of Mr. Maggiore’s refusal to
249 consider her as a viable candidate was a patronizing failure to answer her question at all and his behavior
250 was a thinly veiled pretense to tolerate her.

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252 Ms. Pohl said that Mrs. Kilgore’s comment to the press was accurate, fair, and valid. She said she was
253 present at the meeting and observed what happened, and said political differences were never cited by
254 Mr. Miller or Mr. Maggiore as rationale for refusing to consider Mrs. Kilgore as a viable candidate for chair.
255 She said Mr. Maggiore did not ask Mrs. Kilgore about her schedule or address her request to consider
256 adopting a policy of rotation of the chair, but rather side-stepped her question implying she was too busy.

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258 Ms. Pohl said deciding for a woman that she is too busy, insinuating that a woman could not handle an
259 increased workload, and blocking an opportunity for a woman to hold a position of authority are
260 demonstrations of an attitude that is generally considered sexism. She said Mrs. Kilgore was duly elected

by the voters to serve her 3-year term and Mr. Maggiore missed an opportunity to begin healing the rift between factions.

Ms. Pohl asserted that Mrs. Kilgore's responses to Max Sullivan was an accurate, fair, and valid description of the behavior she witnessed at the meeting. She said the Code did not allow for due process, was in itself a violation of free speech, and the multiple conflicts of interest on the Ethics Committee violated the Code of Ethics. She said she believed Mr. Janos was correct when he said Section 4.02 did not apply, as it was not official Town business when Mrs. Kilgore answered the questions of the reporter. She said Mrs. Kilgore said she felt political differences in the Town played a factor and there was also a sexist part of it.

Questioning of Complainant

Mr. Wilson asked Mr. Maggiore why he entered into the discussion about his nomination to be Chairman of the Select Board, as Select Board Rules & Procedures state that once seconded, a vote is taken when there is a single nomination to be Chair of the Select Board, and distinguishing a second for discussion purposes only was not provided for. He asked Mr. Maggiore why he chose not to follow those rules, as he was presiding and in charge of the meeting. Mr. Maggiore stated that Mr. Miller made the nomination and Mrs. Kilgore seconded it for discussion as he had always allowed as long as he was on the Board to entertain discussion for transparency and honesty rather than having an up or down vote. He said while not consistent with Select Board rules, he thought it was fair to enter into that kind of discussion.

Mr. Wilson asked why Mr. Maggiore compared his having commitments with those of Mrs. Kilgore and asked why the discussion was even relevant. Mr. Maggiore said the Select Board has an enormous workload in order to manage the prudential affairs of the Town, and said there were still goals unresolved from last year. He said he realized the number of times meetings had to be delayed or rescheduled because of Mrs. Kilgore's schedule, and issues having to be postponed. He said Mrs. Kilgore was heavily involved with the Economic Development Committee and was just elected a member of the Board of Trustees for the Library who are considering renovating their existing structure. He said the Select Board schedule was extremely complicated, but over the past two years they had found a way to work together and make progress in spite of the challenges and he did not want to disrupt that.

Ms. Leonardi said that Mr. Maggiore was talking about Mrs. Kilgore's schedule, and he gave a very thorough explanation of his reasoning, but asked if he has discussed this with Mrs. Kilgore. Mr. Maggiore said he did not discuss it prior to the meeting, and explained that if any 2 Board members were talking they were in violation of 91-A. He said members of the Select Board legally do not talk to each other and there was no non-public meeting to discuss how the Board would be constituted. Ms. Leonardi said she wanted to know if the Board Members had discussed the schedule for a little more agreement on that understanding, and Mr. Maggiore said he was just understanding or reflecting on their responsibilities.

Chairman Pinette thanked Mr. Maggiore for his cooperation. He reminded the audience that there was to be no talking while people were at the microphones and that conversations should be taken outside

Questioning of Respondent

Chairman Pinette asked Mrs. Kilgore about her statement that she did not authorize the article by Max Sullivan. Mrs. Kilgore said she did not write the article, and Chairman Pinette said she had authorized the article to be published. Mrs. Kilgore asked how she authorized it and said she simply answered questions. Chairman Pinette said he understood she did not write the article, but asked about using the word sexism. Mrs. Kilgore said she did not believe she said that.

Mr. Wilson asked Mrs. Kilgore why she seconded the motion and did not simply nominate herself, which under Select Board Rules does not require a second, and provides a chance after nominations are closed for Board Members to speak about the qualifications of the nominees. Mrs. Kilgore said it happened often that a nominee or subject was moved and then seconded for discussion, and said she appreciated Mr. Maggiore's allowing that discussion. She said she was following the procedures they had been doing.

Mr. Wilson said in his career he often had to deal with charges of sexism and sexual harassment, some of them vicious or dangerous, and said he had a lot of respect for the people that came to speak about the character of Mrs. Kilgore and Mr. Maggiore. He said he had learned that each case of sexism was distinct. He said he heard many people say Mr. Maggiore is a fine person and he agreed, and said he promotes transparency but that sometimes there was too much conversation about things.

Mr. Wilson said because each case of sexism was distinct, someone who has never done a sexist act might do so unconsciously, and somebody who charges someone of sexism may grab that as an appeal they know would be effective as a means of expressing their anger or disappointment. He asked Mrs. Kilgore to be very specific about what she finds is unequivocally sexist in the behavior of Mr. Maggiore. Mrs. Kilgore said her response to Max Sullivan was in regard to how she felt about the process that took place during the April 8th meeting. She said she never accused Mr. Maggiore of being overtly sexist nor would she do that tonight, and reiterated that it was her opinion of the process.

Mr. Janos asked Mrs. Kilgore, if in her meeting with Max Sullivan. he asked her if she believed the conduct that occurred at that meeting was sexist, or if it was a statement she offered on her own. Mrs. Kilgore said he had asked her questions and she used the questions as part of her response. Mr. Janos asked if she could repeat exactly what Max Sullivan asked her, and Mrs. Kilgore said she did not want to try to put it together if she could not remember.

Chairman Pinette thanked Mrs. Kilgore for her cooperation.

Ethics Committee Deliberations

Chairman Pinette said they identified the evidence and would now be deliberating. He said being on the Ethics Committee is not easy and said he personally liked both Mrs. Kilgore and Mr. Maggiore and had a good relationship with both. He said he did not like to hear the board ripped apart and said Ethics Committee members were doing the best they could and were trying to be fair to both parties.

Town Administrator Brian Kaenrath said the Committee has a guide for the deliberation process, which next suggests that the Committee consider discussion of the following issues during its deliberations:

A. Does the weight of the evidence support Selectman Maggiore's complaint that Selectperson Kilgore's allegations of sexism are baseless.

B. Does the weight of the evidence suggest Selectperson Kilgore's allegations of Mr. Maggiore's unwillingness to nominate her for Chair of the Select Board was due in part to sexism.

C. If the Committee finds the allegations of sexism to be baseless, did Selectperson Kilgore's public allegations of sexism constitute a violation of the Code of Ethics Section 4.02. Indeed if there is a violation of 4.02 of the Code of Ethics, does the Committee have any recommendations to the Select Board for remedial or punitive actions.

Chairman Pinette said they would start with: *A. Does the weight of the evidence support the complaint that the allegations were baseless.*

Mr. Janos said he did believe that the weight of the evidence suggests that the allegation was baseless. Mr. Wilson said he agreed but said they needed to distinguish between the way Mrs. Kilgore was made to feel and whether the behavior of Mr. Maggiore was objectively sexist. He said he had wanted Mrs. Kilgore to say specifically what in the behavior of Mr. Maggiore she would characterize as sexist, and not say that sexism was at play. He said the perception a person has and the way it makes them feel is one thing, but whether a reasonably objective woman could describe that behavior as sexist was the question. He said he was troubled by Mrs. Kilgore's response and her again stating that she did not say it was sexist and stepping away from the fact that one would describe Mr. Maggiore as sexist, saying it was the way it made her feel.

Mr. Wilson said the Committee is not here to determine how it made her feel or whether sexist behavior was at play in the discussion about the Chairman of the Board. He said with regard to the statement that the Board should rotate its Chair, the Town of North Hampton had not chosen to do that and never has done so over the last 25 years, and it was irrelevant to that discussion. He stated that it was said that Mr. Maggiore and Mr. Miller "denied" Mrs. Kilgore this opportunity, implying she was entitled to it, but 2 members out of 3 members of a Board vote, and that person is the Chairman.

Mr. Wilson said there were no qualifications for Chair and this was not a job interview, and he had asked Mr. Maggiore why he had entertained that discussion. He said in the end they got into this situation because the rules and procedures of the Select Board were violated. He said he agreed with Mr. Jonas in believing the allegation was baseless because they had not been given a firm base to say Mr. Maggiore's behavior was sexist.

Mr. Jonas stated that in response to *B. Does the weight of the evidence suggest Selectperson Kilgore's allegations of Mr. Maggiore's unwillingness to nominate her for Chair of the Select Board was due in part to sexism*, his answer was "no", and in *C. If the Committee finds the allegations of sexism to be baseless, did Selectperson Kilgore's public allegations of sexism constitute a violation of the Code of Ethics Section 4.02*, his answer was "no". He stated that in today's society the use of words that are designed to create controversy and make people uncomfortable were too easily distributed. He said making statements that are not necessarily true are ones that are easy to say, and are unfortunately used on a regular basis. He said under these particular circumstances, and under this Code of Ethics, he did not believe that the statement by Mrs. Kilgore rises to the level of a violation of the Code of Ethics.

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394 Chairman Pinette said that as a Board they had voted on the complaint being valid and sent a certified
395 letter to both parties stating that they were going to be taking these next steps. He said his question to
396 Mrs. Kilgore, when she said she did not author the article. he had taken to mean she did not "authorize"
397 the article. He said there was a lot of talk about statements of being passed up for Chair and Vice-Chair
398 due to sexism, and said he reviewed the information several times and did not see where there was any
399 sexism in play for that decision to be made.

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401 Chairman Pinette said his personal feeling was that a statement was made during the interview to a
402 response of a letter written by her husband regarding her being passed up for Chairman and the statement
403 was then made. He said he did not necessarily think Mrs. Kilgore would make that statement on her own,
404 but there was a chance for her to retract it and say that was not really what she meant, which has
405 snowballed into the third meeting of the Ethics Committee going back and forth over a statement that is
406 now forever going to be attached to Mr. Maggiore.

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408 Chairman Pinette said he had begged both parties to meet behind closed doors to avoid this whole thing,
409 and said the time and energy that went into this was tiring. He said he had a recommendation that there
410 was *no sexism* from the Ethics Committee and there was *no evidence whatsoever*, he and felt an apology
411 was warranted. He said personally, he thought the Select Board should have handled it right then and
412 there and it should never have come to the Ethics Committee. He stated that the Ethics Committee was
413 happy about how they conducted themselves during this deliberation.

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415 Ms. Leonardi said this has obviously been very difficult and challenging to see their community writing
416 editorials and appearing in the paper, and said none of us want to be in this position. She said she believed
417 in the Town's Code of Ethics and said they were very good standards, but they could see they were flawed.
418 She said the guidelines for the composition of this Committee are crossed, and they are probably the
419 closest ones working with both individuals as far as conflict of interest, and said the Ethics Committee only
420 meets when a complaint is filed.

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422 Ms. Leonardi said this was all new to the Committee Members and they were navigating it, and said their
423 role was pretty much as an advisory board as they had no authority to remove anyone, enforce any
424 penalties, or enforce their own recommendations. She said their recommendations also go right back to
425 the Select Board and where all of this started. She said the Committee spent a lot of time and it had been
426 frustrating, and said after this process they should consider reconvening and looking at this Code of Ethics
427 again. She said both parties already have counsel and she felt this matter would unfortunately be dealt
428 out between Mrs. Kilgore and Mr. Maggiore, regardless of their recommendation.

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430 Mr. Wilson said first the Committee should find that sexism was not involved in the decision, second that
431 there is no violation of Section 4.02 of the Code of Ethics, and thirdly the only recommendation they
432 should make is one to Town Administrator Bryan Kaenrath to make sure these minutes are held in the
433 Town as a permanent record and read into the minutes of the Select Board Meeting. He said they could
434 not have the newspaper retract the article, but trusted they would be responsible.

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436 Chairman Pinette said he wanted to make sure the Board was not moving in a direction of not wanting to
437 anger anybody or please either party. He said he was in agreement there was not any sexism in play

regarding the decision, but whether the statement was a violation of the Code of Ethics, he said it could have been worded differently and was now permanently attached to Mr. Maggiore. He said the Committee needed to come to some kind of conclusion and let the Select Board do what they would like or do nothing. He said everything is now in the meeting minutes.

Mr. Wilson said they were mandated by their own rules and procedures to come to a written recommendation and determination on the record whether a violation of the Code of Ethics has occurred. He said a written recommendation to the appropriate Town Official about whether a violation has occurred and whether any remedial or punitive should be taken. He said it seemed a consensus of the Committee that sexism was not involved in the decision about the Chair, and Chairman Pinette said that was correct.

Mr. Harned said he would agree with comments made so far that based on the tape review, testimony, and his involvement with various people in Town, he did not believe sexism was involved in the decision. He said he also believed that the initial discussion of the Select Board meeting and following could have been handled better on both behalves. He said he did not see Section 4.02 as being clearly cut and dried one way or the other, and said it has ambiguities though he knew 4.02 was the formal charge. He said he would like to go back to the Preamble to the Code of Ethics which talks about respect and civility and said he was not sure the spirit and intent of the Code of Ethics was completely followed. He said his consensus of opinion is along the lines of what had already been heard.

Formal Recommendation of Action of the Complaint of April 24, 2019

Motion: That the evidence, while supporting a finding that there was not a basis for Selectperson Kilgore's allegation of sexism, it does not support a finding that it was a violation of Section 4.02 of the Code of Ethics.

Motioned: Mr. Janos

Seconded: Ms. Leonardi

Discussion: Mr. Wilson said the reading of Section 4.02 that is relevant here is the third line, and he read the sentence in a way that applied to this situation: *No Town Official shall in the course of official duties, give or deny any person special consideration, advantage, or treatment as a result of the person's sex.* He said the reason he did not think there was a violation of 4.02 was because that would be the applicable declarative statement, and said he believed nobody was denied anything here because of their sex. He said he agreed that there was not sufficient basis for claiming a charge of sexism.

Mr. Wilson said the motion of Mr. Janos was on mark although he would have made it into 2 separate sentences without the subordinate clause "while". Mr. Janos said he encouraged him to edit his motion. Mr. Wilson suggested he remove while and put a period, then state the second sentence.

Chairman Pinette asked Attorney Eckert if signatures were needed tonight. Attorney Eckert said the Board should act on a motion tonight, and if it fails they should continue with various motions until they reached a decision. He said once they reach a decision, the next step would be to have a motion to authorize the Chair to author a decision consistent with the decision of the Board and to circulate it for signatures, affording the opportunity for any member who voted in the negative an opportunity to issue a dissenting

Municipal Ethics Committee Meeting
June 6, 2019

opinion. He said assuming they reached a conclusion tonight their process would be concluded if they also engaged in that second motion.

Attorney Eckert again said you are going to vote on a motion, and if the motion passes you will have made a decision. He said they could sit and draft a decision as a Committee and sign it, but the Committee could authorize the Chair to write it, put signature lines on it and circulate it for signatures. He said that would conclude the matter and a formal meeting would not be needed. He suggested they do a roll call vote so they would know if they had a dissenting vote.

Roll Call Vote: Mr. Wilson – yes, Ms. Leonardi – yes, Mr. Harned – yes, Mr. Janos – yes, Chairman Pinette – yes; vote is unanimous 5-0 in favor of the motion

Motion: That the Chair of the Ethics Committee, if necessary with assistance of Counsel, draft a decision to be circulated to each member for their signature in accordance with procedures.

Motioned: Mr. Janos

Seconded: Mr. Wilson

Vote: Motion approved 5-0

Chairman Pinette asked Attorney Eckert if he would be willing to draft the recommendation for the Committee and he agreed. Mr. Wilson said he would suggest that it have the introduction that: At a duly constituted meeting of the Ethics Committee on June 6, 2019, the following motion was passed unanimously and this is the recommendation as required by the Code of Ethics to be forwarded to the Town Administrator.

Any other Item That May Legally Come Before the Committee

Adjournment

The final meeting of the Standing Ethics Committee was adjourned at 8:22 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary