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**TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
MUNICIPAL ETHICS COMMITTEE
OCTOBER 1, 2019 6:30 PM
NORTH HAMPTON TOWN HALL**

DRAFT MINUTEES

MEMBERS PRESENT: Chairman Jonathan Pinette, Vice-Chairman Susan Leonardi, Mark L. Janos, Kathleen Kilgore, Tim Harned

ALSO PRESENT: Town Administrator Bryan Kaenrath

AGENDA

Chairman Pinette welcomed everyone to the October 19, 2019 Ethics Committee Meeting and called the meeting to order at 6:34 pm.

OLD BUSINESS – None

NEW BUSINESS

Approval of the Minutes of the Ethics Committee Meeting of October 1, 2019

Selectwoman Kilgore suggested a link to the meeting tape be added to the Minutes of Ethics Committee Meetings going forward.

Motion: To approve the minutes of the Ethics Committee Meetings of September 19, 2019

Motioned: Mr. Janos

Seconded: Vice-Chair Leonardi

Vote: Motion approved by a vote of 4-0, with 1 abstention

A recording of the meeting can be found at: http://www.townhallstreams.com/towns/north_hampton_nh, and a DVD recording is available at the North Hampton Town Administrative Offices, 233 Atlantic Avenue, North Hampton, New Hampshire 03862.

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Preliminary Investigation of the Complaint received September 20, 2019

Chairman Pinette said Mr. Frank Ferraro filed an Ethics Code Violation against Larry Miller for violating multiple provisions of the North Hampton Code of Ethics, showing a lack of transparency, respect, and personal integrity, and failing to comply with RSA 91-A as required by Section 4.02 of the Code of Ethics and by State Law, and violated his oath of office by not carrying out his duties according to Part 1, Article 8 of the New Hampshire State Constitution. The complaint was received and stamped by Susan Buchanan, and read in full to the Ethics Committee by Mr. Tim Harned.

The complaint stated that Mr. Miller sent an email to Town Administrator Kaenrath on July 23, 2019 discussing Town Business and his position on that business, and directed the Town Administrator to forward the email to Select Board Members, wherein Mr. Miller laid out his proposal and specific actions he intended to take. The complaint alleged that Mr. Miller has shown a pattern of 91-A violations.

In conclusion, Mr. Ferraro said Mr. Miller violated the Code of Ethics, failed to comply with RSA 91-A, and violated his oath of office by failing to comply with public right-to-know. Mr. Ferraro recommended that the Ethics Committee find Mr. Miller to be in violation of the Code of Ethics and be sanctioned by the Select Board.

Discussion:

Chairman Pinette said he had received a legal opinion from Town Attorney Steve Bennett, and personally felt there were no violations with the email from Mr. Miller, as he did not solicit opinions or a vote but asked that the Select Board discuss the items at the next meeting. He said it was pretty clear there was no violation and he recommended dismissing the complaint. Town Administrator Kaenrath pointed out that the opinion from the Town Attorney was *Confidential* unless the Committee decides to release it.

Mr. Harned asked if the Town Attorney had indicated that the memo not be released to the public. Town Administrator Kaenrath said it was the advice of the Town Attorney that the opinions was confidential and only for the eyes of the Committee. Mr. Jonas asked if Mr. Miller’s conduct was standard Select Board procedure, and Selectwoman Kilgore said the Board does not generally conduct business in that way. Vice-Chair Leonardi asked if there was a procedure for Select Board members and said the Library Trustees had received information from NHMA.

Town Administrator Kaenrath said in his experience it is very common for Select Board members to email him with items they would like to place on the agenda at future meetings. Mr. Harned said documents to be discussed by your board should be distributed in advance so members are prepared for discussion. He said Mr. Miller went through the Town Administrator to distribute the email and did not contact the other Select Board members. Town Administrator Kaenrath he had not received any consensus from other Select Board Members. Selectwoman Kilgore said Select Board information is typically distributed in their packet, which is posted on the website as a public document.

Mr. Harned said another part of the complaint was for violation of RSA 91-A. He said the RSA itself does not talk about individuals but about entities and agents of the Town, and said the complaint did not seem to have merit. Mr. Janos asked when the email became public record, and Town Administrator Kaenrath

84 said all emails were public record, and Mr. Ferraro had made an inquiry and a copy of the email was
85 forward to him. Chairman Pinette recommended that the Complaint be dismissed.

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87 **Motion:** For the Ethics Committee to dismiss the Complaint received September 20, 2019 from Mr. Frank
88 Ferraro.

89 **Motioned:** Mr. Janos

90 **Seconded:** Mr. Harned

91 **Vote:** Motion approved 3-1, with 1 abstention

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93 **Any other Item that may Legally come before the Committee**

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95 Selectwoman Kilgore said a number of deficiencies and concerns in the Code of Ethics have come up about
96 not really having a procedure, and asked if the Committee would entertain a meeting to look at and amend
97 the Code. Mr. Harned said there were inconsistencies, and Vice-Chair Leonardi felt it was worthwhile to
98 clarify the document. Selectwoman Kilgore said the Committee should meet in a Public Meeting, and Mr.
99 Janos said he thought the Committee should meet first and make recommendations to address the Code
100 of Ethics before holding the Public Meeting. Mr. Harned recommended that Chairman Pinette and Town
101 Administrator Kaenrath work out a schedule, and felt the meeting should include Ethics Committee
102 Members and Alternates.

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104 **Adjournment**

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106 Mr. Janos made a motion to adjourn which was seconded by Mr. Harned.

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108 Chairman Pinette adjourned the meeting at 6:34 pm.

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110 Respectfully submitted,

111 Patricia Denmark, Recording Secretary