

Dunbarton Ethics Committee
Tuesday, May 12, 2009

Minutes of meetings are subject to final approval at the next scheduled meeting.

Present: Nick Holmes, Katharine Daly, Patrick Payette, Brigitte Cook, and Tom Hathcoat.
Several citizens of the Town of Dunbarton were also present.

The meeting was called to order at 7:35 p.m.

1. A draft of minutes for the meeting held on April 7, 2009 was reviewed and approved as presented.
2. Nick Holmes asked if there was any new business to be presented. There was no new business.
3. Nick Holmes introduced the matter of a complaint filed during the April, 2009 Ethics Committee meeting and asked that the committee conduct a preliminary meeting to discuss that matter.
 - a. The complaint presented by former Selectman, Mert Mann, alleges that Selectman Leslie Hammond violated Provision I-E of the Dunbarton Code of Ethics by revealing the contents of a letter (marked "Attorney Client Privileged") to a Dunbarton Town resident.
 - b. Nick Holmes noted that Mr. Mann and Mr. Hammond were both present for the preliminary meeting. Nick also reviewed the complaint that was presented in April as well as Mr. Hammond's response which was dated April 29, 2009 and confirmed that the documents delivered to the committee were in fact, the same materials presented by each man respectively.
 - c. Nick Holmes then gave a brief explanation of the procedures relative to the Preliminary Meeting.
 - d. As a matter of procedure, the committee voted to discontinue treating a document from the Town's attorney as confidential. The document had been presented to the committee by Mr. Mann at the April meeting and since it was unclear as to whether the document was a matter of public record at that time, the committee had voted to treat the contents of the document as confidential. Mr. Hammond and Mr. Mann both agreed that it was no longer necessary to keep the document confidential.
 - e. Nick Holmes asked Mr. Mann to specify what part of the Code of Ethics he alleges was violated by Mr. Hammond. Mr. Mann indicated that the violation resulted in "personal benefit" as described in the first paragraph of Provision I-E as follows:

"No official, board member or employee of the Town of Dunbarton shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business."

- f. The committee asked Mr. Mann to explain how the disclosure of the information contained in the letter might result in personal benefit to Mr. Hammond and he stated that he could produce evidence that would prove his allegation but could not make a statement before the committee to that effect. In the discussion that continued, Mr. Mann stated that Mr. Hammond's personal gain was to keep Mr. Mann out of consideration for the town administrator position and that it would tend to promote Mr. Hammond's own personal agenda. As it was a preliminary meeting, the committee could not discuss the merits of the case. No committee member was able to form an opinion as to whether or not a violation may have occurred as it relates to the "personal benefit" provision.
 - g. The committee asked Mr. Hammond if the acts alleged in the complaint were true (i.e., that on or about October 2 or 3, 2008, he showed the letter in question to a resident of the Town of Dunbarton). Mr. Hammond affirmed he had done this, however he did not believe that his actions were in violation of the Dunbarton Code of Ethics. Mr. Hammond also stated that he believed the document was subject to the "Right to Know" law (Mr. Mann argued that the document was not subject to the "Right to Know" law).
 - h. Nick Holmes asked Mr. Mann if he had exhausted all other remedies for resolving the matter with the Board of Selectmen. Mr. Mann stated that only he and Mr. Hammond were active members of the Board of Selectmen at that time and he felt that he had no other recourse since there was no one else to hear his complaint.
 - i. The Committee suggested that since there are now two new Selectmen on the board, that Mr. Mann should return to the Board of Selectmen to see if they can determine if the alleged circumstances constitute a violation of their procedures. After further discussion, Nick moved that the committee ask Mr. Mann to return to the Board of Selectmen to request a hearing on the matter with the stipulation that he would be invited to return to the Ethics Committee if he is not satisfied with the results. The motion was seconded by Brigitte Cook and the committee agreed unanimously.
 - j. Mr. Mann asked the committee to issue a definition for the term "personal benefit" as written in the Dunbarton Code of Ethics. The committee discussed the request and declined to do so in that it would be extremely difficult to articulate every possible way in which the term could be employed.
 - k. All parties present were asked if there were any other questions related to the complaint. There were none and the preliminary meeting was ended.
4. Nick Holmes presented a letter of thanks from the Town of Litchfield for providing information and expertise as they work to develop a code of ethics for their town.

The next meeting of the Ethics Committee will be held at 7:30 PM on Tuesday, June 9, 2009.

There being no further business, the meeting adjourned at 8:40 PM.

Respectfully Submitted,

Tom Hathcoat