

Dunbarton Ethics Committee Meeting
Thursday, October 27, 2005

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

Present: Nick Holmes, Brigitte Cook, Gayle Troy, and Gary MacCubbin.

Nick called the meeting to order at 7:35 p.m.

1. The minutes of the September meeting were approved without modification.
2. A Preliminary Meeting was held on a complaint submitted by Mr. and Mrs. Gagne against Mr. Tim Terragani. Both Mr. and Mrs. Gagne and Mr. Terragani were present.

Committee members started with disclosures and/or recusals.

- Brett St.Clair is not present at today's meeting as he has recused himself from this matter.
- Nick Holmes disclosed that his wife has bought jewelry from Mr. Terragani's wife in the past.
- Brigitte Cook disclosed that she knows Mr. Terragani from town.

Nick reviewed the purpose of the Preliminary Meeting and how it would proceed.

Mr. and Mrs. Gagne were given a copy of the Ethics Code and confirmed that the complaint was based on alleged violation of Section I(h) of the Code.

Nick started with clarification of the alleged violations taken from the Gagne's Ethic complaint. There are three specific alleged violations.

1. July 2005
2. 2003
3. 2004

Mr. and Mrs. Gagne stated that they had learned of some additional information in support of their case. It was explained that they needed to amend their complaint in writing to use this new information, and they agreed to add the information.

Therefore a recess was taken so the Gagne's could submit this new information.

The meeting was called back to order and Mr. and Mrs. Gagne submitted their new information in writing therefore creating a 4th alleged violation (Oct 2005).

Copies of the 4th violation were given to Mr. Terragani, Mr. and Mrs. Gagne and members of the Ethics committee. Mr. Terragni declined an offer to have the balance of the Preliminary Meeting postponed so he could consider the new information.

Mr. and Mrs. Gagne were asked what they did to exhaust all avenues and they stated that they had sent a letter, outlining their complaints, to the Board of Assessors, Board of Selectman and e-mailed the Ethics committee. (Nick stated that the Ethics Committee had not received the letter). Mr. Terragani confirmed that the Board of Assessors received the letter.

Ethics Committee agreed to go into private deliberation and would not accept any input from the public (although the public was present to hear the Committee's deliberations):

- Discussion ensued with the committee in regard to exhaustion of all avenues. It was agreed that the letter that was sent to the Board of Assessors and the Board of Selectmen was sufficient for exhausting all avenues.
- The committee broke from private deliberations momentarily to ask Mr. Terragani if he believed that the 4th complaint, which was submitted at this meeting, should be considered at this time, or if the Gagnes should first raise it with the Board of Assessors. Mr. Terragni asked that all four complaints be considered together.
- Discussion then focused on the complaints and whether, assuming for the sake of argument that the facts alleged are true, the complaints allege a violation of the Ethics code. The Committee voted to proceed on three of the four complaints; the second complaint alleging a violation in 2003 was dismissed.

The Committee discussed the process going forward with the Gagnes and Mr. Terragni. By agreement of the Parties, a Prehearing Conference was scheduled on Tuesday, November 8, 2005 at 7:30 PM. Gary will reserve a room and post the meeting. No witnesses are required for this conference; the Committee will meet with the Parties to make sure they understand how the Hearing will be conducted, clarify the issues to be resolved, and narrow the focus of the Hearing.

Both parties agreed to receive further mail via regular mail, not certified.

The Committee emphasized that it has not made any decisions regarding the Complaint against Mr. Terragni. An ethics complaint is merely an accusation and the respondent must be presumed innocent until and unless an adverse finding is made after a full hearing.

3. Nick reported that he met with the Weare Ethics Committee earlier this week and they are drafting an Ethics Code for their town. The towns of Pittsfield and Merrimack have also adopted a Code of Ethics which is substantially similar to Dunbarton's.

4. Comments from the public.

- John Swindlehurst, II suggested a \$2,500.00 fee be required before a citizen could file an Ethics complaint against a town official. He proposed that if the official is found to have violated the Ethics Code, then the filing fee is returned to the complainant. Otherwise, the filing fee would be given to the person who had been accused of violating the Ethics Code. Mr. Swindlehurst feels this would prevent people from filing an Ethics complaint just to tarnish someone's reputation. Mr. Swindlehurst also expressed concern that the Ethics Committee did not have the power to either punish a town official found to have violated the Ethics Code or to remove them from office.
 - Nick explained that the philosophy of the committee was to give people a forum to resolve Ethics complaints, and that under the Ethics Code it was the Selectmen and the voters who retained the power to remove town officials from office. Nick reviewed a prior case where after the Ethics Committee had made its finding, the Selectmen held a separate hearing and took the actions they believed were appropriate under the circumstances.
 - Gary stated that the Committee could not amend the Ethics Code as it had been adopted by the voters at the Town Meeting.
 - There was no further discussion of Mr. Swindlehurst's ideas.
- John Swindlehurst III suggested that the even though elected board members are not under "control" of the Selectman, town people should bring complaints directly to the Board of Selectman before they are brought to the Ethics Committee.

5. The next Ethics Committee meeting was tentatively scheduled for Thursday, November 17, 2005, at 7:30 PM (one week earlier than the regular meeting due to Thanksgiving).

- The Gagne's complaint will be heard on that date. Nick will contact both parties to notify them of this date. If either party is not available on the 17th, we will consider other dates.
- Gary will reserve a room and post the meeting.

The meeting was adjourned at 8:41 PM

Submitted by
Brigitte Cook