

MUNICIPAL ETHICS BOARD

April 30, 2012

CALL TO ORDER

Ms. Bacon called the meeting to order at 8:12 p.m. in the Council Conference Room in the Municipal Complex. Ms. Bacon read the following statement:

“In accordance with Section 5 of the Open Public Meeting Act, Chapter 231, Public Law 1975, be advised that adequate notice of this Meeting of the Municipal Ethics Board of the Township of Franklin, County of Somerset was made by the posting on the bulletin board at the Municipal Complex and transmitted to the officially designated newspapers indicating that this Meeting would take place at the Municipal Complex, 475 DeMott Lane, Somerset, NJ 08873 at 8:00 p.m. on Monday, April 30, 2012. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk.”

ROLL CALL

Present: Patricia Bacon, Martin Lokomowitz, Agnes Messineo, John Paff

Absent: Catherine Barrier, Cynthia Voorhees

PUBLIC DISCUSSION

A motion was made by Mr. Lokomowitz to open the meeting to the public. Said motion was seconded by Mr. Paff and carried unanimously upon voice vote.

Jeff Carter, Somerset, started to speak about Complaint No. 11-01. Mr. Paff stopped him from speaking of this matter further since both he and Ms. Bacon have recused themselves on this matter.

Ms. Bacon stated the Board is dealing with new situations and mistakes may be made along the way. She stated upon advice by counsel, she and Mr. Paff have recused themselves from all matters pertaining to Complaint No. 11-01. She stated it was her understanding a portion of the hearing was held at the last meeting and those members involved were awaiting a document/information regarding this matter. She stated that to date this document/information has not been presented.

Mr. Carter asked if the hearing was to be continued and if so he would hold his comments until then.

Ms. Bacon stated the Board is in the hearing process and no disposition has been made in relation to this case to date. Ms. Messineo stated the members involved with said complaint are waiting for information that has not yet been received. She stated that no determinations or motions have been made. She also stated that since they have not received this information, the hearing would not be continued this evening. Mr. Paff stated it is unclear if the record on this matter has been closed. Ms. Bacon stated she was of the understanding that the members involved with this matter are unable to deliberate without this document/information and the hearing cannot continue without it.

Mr. Carter asked for clarification if the Board is not prepared to move forward on this matter this evening. He stated he respected how the committee has handled this matter to date and how

they have maintained ethical procedures during this matter. He stated that he respected that both Mr. Paff and Ms. Bacon have recused themselves on this matter and understood the reason. He stated it is crucial that the Board continues to act ethically. He stated that he has heard inaccurate statements on this matter and would like to address them. He stated he would not address these issues until the Board has consulted with their counsel.

Ms. Bacon expressed her concerns regarding the right to be present during a hearing and the right to speak at a hearing versus speaking during a public portion of a meeting. She asked Mr. Carter if he was asking for the opportunity to speak at the hearing regarding this matter. Mr. Carter replied yes. Ms. Bacon noted that Mr. Carter has requested to participate in the hearing as the complainant and this request should be transmitted to the Board Attorney. Ms. Bacon disclosed that she and Mr. Carter have known each other for many years and have various associations through the fire department.

Jeff Kusmick, Franklin Park, stated he was of the understanding that the matter involving Complaint No. 11-01 has not been closed. He started to speak to specifics about the hearing and Ms. Bacon stopped him from making further comments. There were questions regarding if the hearing was closed or adjourned.

There being no further comments made by the public at this time, a motion was made by Mr. Paff to close the public discussion. Said motion was seconded by Mr. Lokomowitz and carried unanimously upon voice vote.

APPROVAL OF MINUTES

February 8, 2012 Regular

Mr. Paff moved the adoption of the February 8, 2012 Regular Minutes as amended. Said motion was seconded by Ms. Messineo and carried as follows upon call of the roll:

AYES: Bacon, Messineo, Paff
NAYS: None
ABSENT: Barrier, Voorhees

Mr. Lokomowitz did not vote on this matter since he was absent from the February 8th meeting.

January 11, 2012 Executive Session –Part 2

These minutes were held since there was not a quorum of members to take action upon them.

February 8, 2012 Executive Session

Mr. Paff moved the adoption of the February 8, 2012 Executive Session Minutes as submitted. Said motion was seconded by Ms. Messineo and carried as follows upon call of the roll:

AYES: Bacon, Messineo, Paff
NAYS: None

ABSENT: Barrier, Voorhees

Mr. Lokomowitz did not vote on this matter since he was absent from the February 8th meeting.

REPORTS

2012 Financial Disclosure Statements

The Board reviewed the following report:

“Memorandum

TO: Municipal Ethics Board
FROM: Ann Marie McCarthy, Township Clerk
DATE: April 30, 2012
RE: Financial Disclosure Statements – 2012

Attached please find the 2012 Roster for Financial Disclosure Statement Remittals for the Township of Franklin.

Out of the 166 forms required to be submitted, please be advised of the following:

3 forms have been returned for missing information and I am awaiting their return:

Patricia Bacon, Municipal Ethics Board (Missing signature)
Henry Lasch, Fire Commissioner District #2 (Missing income information)
Christina Klam, Fire Commissioner District #4 (Missing signature)

4 forms have not been submitted to date:

Keith Silverman, Fire Prevention Board
Bruce McCracken, Board of Adjustment
John Darby, Rent Leveling Board
Franklin McLaughlin, Shade Tree Commission

Changes will need to be made to the Rules and Regulations regarding submission of financial disclosure forms as per new rules from the Local Finance Board. I will prepare an amendment for your review for your next meeting.”

Ms. Bacon reported that she has since signed and submitted her financial disclosure statement. After a brief discussion by the Board, no action was taken on those who have not filed since the Board is unsure if those listed have filed since the preparation of this report. The Board will act on this matter at their next meeting.

Attorney Billing

The Board discussed the following report:

“Memorandum

TO: Municipal Ethics Board
Financial Oversight Committee
FROM: Ann Marie McCarthy, Township Clerk
DATE: April 30, 2012
RE: Municipal Ethics Board Attorney Billing

A contract was awarded to Dennis Galvin in July, 2011 in the amount of \$8,000.00 for services as the Municipal Ethics Board Attorney for the period of August 1, 2011 through July 31, 2012.

To date, the following has been billed and paid:

August/September 2011	\$ 1,419.07
October 2011	\$ 575.78
November 2011	\$ 140.00
December 2011	\$ 1,529.12
January 2012	<u>\$ 1,882.03</u>
	\$ 5,546.00

In addition, I have received the following bills and they have not been paid:

February 2012	\$ 2,770.19
March 2012	<u>\$ 2,152.47</u>
	\$ 4,922.66

The total of all bills received is \$10,468.66 which does not include April 2012.

After speaking with the Purchasing Administrator, it was recommended that any billing over the \$8,000.00 be held and a non-fair and open professional services agreement be awarded. The reason is that you cannot amend or award change orders on a professional services agreement that went out to bid.

Please note that \$15,000.00 has been allocated in the CY2012 Budget for the Ethics Board Attorney. Some of the \$15,000 is part of the original \$8,000 contract. Therefore, the new contract should be in an amount not to exceed \$10,663.97 for CY2012. This amount would cover \$316.19 of February’s billing, March’s billing and any other billing that comes in for 2012.”

After a brief discussion by the Board, the Board requested the Township Clerk provide the detailed billing invoices for review by the Board.

OLD BUSINESS

Proposed Changes to the Code and/or Rules and Regulations

The Board started to discuss how their rules and regulations compare to what the Attorney has advised and how they have proceeded with complaints. They expressed their surprise that a hearing could be held publicly which is opposite of what their rules and regulations stated.

Motion – Re-open the Meeting to the Public

A motion was made to re-open the meeting to the public by Mr. Paff, seconded by Ms. Messineo and carried unanimously upon voice vote.

Phillip Kramer, Councilman Ward 3/Deputy Mayor, spoke with the Board regarding concerns the Financial Oversight Committee has with the costs associated with the Board's attorney. Ms. Bacon stated the Board is also concerned and have requested the detailed attorney invoices. She stated that the Board has worked hard to keep all matters confidential for all parties involved and the attorney determined to have the hearing in public. Mr. Paff stated the Board has needed clarification and direction from the attorney and when the process has been drafted they will not need the attorney as much. He noted there is no rule book and the Board is trying to do the right thing in these matters. Ms. Bacon stated the Board appreciates Council's support.

A motion was made to close the meeting to the public by Mr. Paff, seconded by Mr. Lokomowitz and carried unanimously upon voice vote.

Proposed Changes to the Code and/or Rules and Regulations (continued)

Ms. Messineo stated in regards to the open hearing that there was sworn in testimony.

Mr. Paff stated that the requirement of confidentiality in #7 of the regulations no longer fits with a public hearing. He stated that the Board needs to figure out how to match the regulations with what they do in the hearing process. Mr. Paff stated the Board needs to determine the point in the process when everything becomes public and is no longer confidential.

Ms. Messineo stated that during a hearing, the subject of the complaint has the option to choose a hearing or submit a statement. Ms. Bacon stated that the Board is concerned with protecting both the complainant and the subject of the complaint.

NEW BUSINESS

Attorney Bills

Mr. Paff requested that the Township Clerk keep the Board apprised of the Attorney's billing. He requested that it be an item on the agenda.

Cable Television Advisory Board Video Pilot Program

Mr. Paff reported that the Cable Television Advisory Board has begun a pilot program that involves volunteers videotaping board meetings. He brought up the possibility of the Board participating in this program. This matter will be discussed at the Board's next meeting.

Next Meeting

Ms. Bacon will send out an email regarding dates for the next meeting.

ADJOURNMENT

A motion to adjourn the meeting at 9:50 p.m. was made by Mr. Lokomowitz, seconded by Mr. Paff, and carried unanimously upon voice vote.

Approved:

Date:

Ann Marie McCarthy, Township Clerk