

MUNICIPAL ETHICS BOARD

April 05, 2013

CALL TO ORDER

Ms. Bacon called the meeting to order at 7:09 p.m. in the Council Chambers 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 7:00 p.m. on Friday, April 5, 2013. 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, Catherine Barrier, Agnes Messineo, John Paff, Shanel Robinson, Cynthia Voorhees
Absent: No One.

PUBLIC DISCUSSION

A motion was made by Ms. Voorhees to open the meeting to the public. Said motion was seconded by Ms. Robinson and carried unanimously upon voice vote.

There being no comments made by the public at this time, a motion was made by Ms. Barrier to close the public discussion. Said motion was seconded by Ms. Voorhees and carried unanimously upon voice vote.

APPROVAL OF MINUTES

May 30, 2012 Regular Meeting

While reviewing the aforesaid minutes, the Board discussed differing legal opinions regarding ethics boards and jurisdiction matters. It was noted there are some cases that Ms. Bacon and Mr. Paff have recused themselves from and therefore remain recused. Mr. Paff expressed his desire to remove himself from the discussion regarding the approval of the May 30, 2012 minutes. He left the meeting at 7:24 p.m.

A discussion ensued amongst the remaining Board members regarding the redaction of names from the resolutions or keeping the minutes as is. The Township Clerk explained the minutes reflect how the resolutions were acted upon. The Board discussed the Attorney's opinion regarding these resolutions being acted upon in open session with the names of the subject of the complaints included and how the Board adhered to this opinion even though they did not agree with it.

Ms. Barrier moved to approve the minutes of May 30, 2012 Regular Meeting as submitted. Said motion was seconded by Ms. Voorhees and carried as follows upon call of the roll:

AYES: Barrier, Messineo, Voorhees
NAYS: None
ABSTAIN: Robinson

Ms. Bacon and Mr. Paff did not participate in the vote for the aforesaid minutes. Mr. Paff returned to the meeting.

March 4, 2013 Regular Meeting

Ms. Bacon provided additional information to be included in her report of her meeting with the Financial Oversight Committee.

Mr. Paff questioned why his executive session minutes needed to be redacted. It was noted that it had been the position of the Board to provide members of the Board with un-redacted executive session minutes after the complaint was completed. It was the consensus of the Board to discuss this at a later date.

Ms. Robinson moved to approve the minutes of March 4, 2013 Regular Meeting as amended. Said motion was seconded by Ms. Messineo and carried as follows upon call of the roll:

AYES: Bacon, Barrier, Messineo, Robinson, Voorhees
NAYS: None
ABSTAIN: Paff

March 4, 2013 Executive Session

It was noted the year needed to be changed from 2012 to 2013.

Ms. Barrier moved to approve the minutes of March 4, 2013 Executive Session as amended. Said motion was seconded by Ms. Robinson and carried as follows upon call of the roll:

AYES: Barrier, Messineo, Robinson, Voorhees
NAYS: None

Ms. Bacon and Mr. Paff did not participate in the vote for the aforesaid minutes.

April 11, 2012 Regular Meeting

The Township Clerk explained she has been having difficulty in preparing the minutes as a result of the poor recording of the meeting. She stated she would collaborate with the Board members in attendance at that meeting and have them completed at the next meeting of the full Board.

CORRESPONDENCE/REPORTS

2013 Financial Disclosure Statements

The Board and the Township Clerk discussed the new procedure for filing Financial Disclosure Statements as stated in Local Finance Notices issued by the Local Finance Board. Further discussion on this matter will take place at a later date.

Township Council Meeting

Ms. Bacon reported on the Township Council meeting where the Municipal Ethics Board was discussed on March 12, 2013. She reported that she made a presentation providing general background information on the creation, purpose and function of the Franklin Township Municipal Ethics Board and responded to a question which arose during a Finance Committee meeting which she and Ethics Board Vice Chair Agnes Messineo recently attended.

She reported she spoke on the specific question which was whether the Ethics Board has jurisdiction over fire commissioners as well as the process of when the Ethics Board receives a signed complaint and the three determining factors they use to decide whether to proceed or not: whether the complaint is frivolous; whether the alleged action, if found to have occurred, would constitute a violation of the Code of Ethics; and whether the Ethics Board has jurisdiction over the subject of the complaint. She reported she spoke on how the Board felt they had jurisdiction over the fire districts.

She reported she spoke to the attorney fees issue and how the Board also decided not to pay the attorney over the not to exceed amount. She reported on the discussion that ensued between Ms. Bacon, Mr. Rainone and the Township Council regarding whether the Township should retain the local ethics board or disband the local ethics board; the attorney fee issue and the procedures used when hearing complaints. She reported it was determined by Council that they need to review this matter and need to make a decision.

A discussion ensued by the Board addressing the issues reported on Ms. Bacon's report.

Motion – Request Funds for Board Attorney for 2013

A motion was made by Ms. Voorhees to request from the Township Council funds in the amount of \$7,000.00 for an Ethics Board Attorney for 2013. Said motion was seconded by Ms. Barrier and carried unanimously upon call of the roll.

OLD BUSINESS

Mr. Paff stated the Board's procedures are flawed and need to be addressed. It was determined by the Board to address the procedures after the complaints are completed.

The Board reviewed the remaining complaints: Complaint #10-01A, Complaint #10-04 and Complaint #11-01 to see what is needed to move these matters forward.

In regards to Complaint #11-01, the Board is awaiting a resolution from the Board Attorney and a determination was made in Executive Session. The Board addressed the matter that Ms. Robinson was not a member of the Board when the hearing was held and a determination was made. The Board discussed the appeal process. The Township Clerk was directed to provide Ms. Robinson with all materials regarding this complaint.

In regards to Complaint #10-04, it was the consensus of the Board to move this matter forward and the Doctrine of Necessity was discussed in relation to said complaint. Ms. Robinson stated she may have a conflict with this matter and disclosed that she worked with the sister or sister in law of someone involved with the complaint.

In regards to Complaint #10-01A, the Board reviewed the response received from the Local Finance Board denying their request the Local Finance Board take jurisdiction of this complaint. It was the consensus of the Board to review the Administrative Procedures Act.

It was the consensus of the Board that the four members that do not have a conflict with Complaint #11-01 can move the matter forward. It was also the consensus of the Board that the four members without conflict should schedule meetings to discuss and possibly take action on the three remaining cases. Mr. Paff would prepare a presentation of the Administrative Procedures Act for the next meeting of the full Board.

EXECUTIVE SESSION

Ms. Bacon read the following resolution:

**RESOLUTION APPROVING EXECUTIVE SESSION
FOR THE
FRANKLIN TOWNSHIP ETHIC'S BOARD**

WHEREAS, NJSA 10:4-12 of the Open Public Meetings Act permits the exclusion of the public from a meeting in certain circumstances set forth in paragraph (b); and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED by the Ethics Board of the Township of Franklin, County of Somerset, State of New Jersey, as follows:

1. The public shall be excluded from the Board's discussions of the hereinafter specified matters.
2. The general nature of the subject matter to be discussed is as follows: ***Matters concerning Complaints 10-01A; 10-04 and 11-01*** which may result in disclosure of

personal and private information, if the public was not excluded, pursuant to NJSA 10:4-12(b)(3) and **Matters concerning pending or anticipated litigation with regard to Complaints 10-01A; 10-04 and 11-01** wherein the Board is or may become a part, pursuant to NJSA 10:4-12(b)(7).

3. It is anticipated at this time that the above matter will be made public at the conclusion of this matter to the extent as permitted by law.
4. This Resolution shall take effect immediately.

The aforesaid resolution was moved by Ms. Voorhees, seconded by Ms. Barrier and carried as follows upon call of the roll:

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

The Board went into Executive Session at 10:30 p.m. Ms. Bacon and Mr. Paff left the meeting at this time.

A motion was made by Ms. Barrier, seconded by Ms. Robinson to come out of Executive Session at 10:35 p.m. Said motion carried unanimously upon voice vote.

NEXT MEETING

The Board scheduled a meeting for Friday, April 12, 2013 to discuss and take action on Complaint No. 11-01. The Board scheduled a meeting for Friday, April 26, 2013 to discuss and possibly take action on Complaints #10-01A and #10-04. Both meetings would begin at 7 p.m. and there would be executive sessions on all three complaints.

ADJOURNMENT

A motion to adjourn the meeting at 10:37 p.m. was made by Ms. Barrier, seconded by Ms. Robinson, and carried unanimously upon voice vote.

Approved: *As Amended*

Date: *June 20, 2013*

Ann Marie McCarthy, Township Clerk