

**MUNICIPAL ETHICS BOARD REGULAR SESSION
MARCH 30, 2011**

The Regular Session of the Municipal Ethics Board of the Township of Franklin, County of Somerset, New Jersey, held at 475 DeMott Lane, Somerset, was called to order by Chairperson Bacon at 8:25 pm.

The Deputy Township Clerk called the roll.

Present: Ms. Bacon, Ms. Barrier, Ms. Messineo, Mr. Paff (telephonically)

Absent: Mr. Lokomowitz, Ms. Voorhees

Also present: Virginia M. Woodbury, Deputy Township Clerk

Public Discussion

Motion was made by Ms. Barrier and seconded by Ms. Messineo to open the meeting for public discussion. Motion was carried.

No one from the public spoke.

Motion was made by Ms. Messineo and seconded by Ms. Barrier to close the public portion of the meeting. Motion was carried.

Review of Regular Session Minutes

The Board reviewed the Regular Session minutes of the February 24, 2011 meeting.

Ms. Bacon stated she would entertain a motion to accept the minutes of the Regular Meeting of February 24, 2011 with the following changes:

- Page 1 – Correct misspelling of “Vorhees” to “Voorhees”;
- Page 2 – Add to the first paragraph, second line of the sample letter after “Code” – add “even in certain circumstances”;
- Page 2 – third line of sample letter, add “Municipal” between “violate the” and “Code”;
- Page 2 - The entire letter should be offset or indented to separate it from the regular text of the minutes;
- Page 3 – second paragraph, last line – the word “Municipal” should be inserted after the word “marked” to “Municipal Ethics Board Material - Confidential”;
- Page 3 – third paragraph from the bottom – delete “Ms. Barrier” and insert “Mr. Lokomowitz”;
- Page 4 – third paragraph, after “Ms. Barrier suggested” insert “the following: “adding, in the first paragraph, line two, “even in certain circumstances,” between “and” and “levy”; and in the first paragraph, page 2, line 3, insert “Municipal” between “marked” and “Ethics Board” and insert “- Confidential” after “Board”

- Page 4 – under “Old Business”, item 2, line 2 “appointed by the Fire Chief” insert “s” (s apostrophe) after “Chief”
- Page 6 – the following motions should be added:

“Motion was made by Mr. Paff to direct the Clerk to send a letter to the subject of complaint #10-01A as modified in Executive Session, simultaneously by regular mail and by certified mail return receipt requested. Motion was seconded by Ms. Barrier and carried unanimously.

Motion was made by Mr. Paff to direct the Clerk to send a letter to the subject of complaint #10-03 as modified in Executive Session, simultaneously by regular mail and certified mail return receipt requested. Motion was seconded by Ms. Barrier. Motion was carried unanimously.

Motion was made by Mr. Paff to direct the Clerk to send the draft of the December 20, 2010 letter to the Clerk of Fire District #1 if, and only if, the letter has not been sent already. Motion was seconded by Mr. Lokomowitz and carried unanimously.”

Motion to make the changes to the February 24, 2011 Regular Session minutes as discussed was made by Ms. Messineo and seconded by Ms. Barrier. Motion was carried unanimously.

Ms. Bacon noted that the Board would postpone reviewing the Executive Session minutes of the previous meeting until the end of the Executive Session of the current meeting. No objection was raised.

Reports

Ms. Bacon stated that item #3 of “Old Business” (Reminder letters to 2010 filers whose forms were filed with incomplete information) should be removed from the list of old business because it has been completed.

Ms. Bacon noted that the Clerk has submitted a list of those filers who have returned forms with corrected information and read the list to Mr. Paff. Mr. Paff confirmed that the twelve people who had not submitted their 2010 Financial Disclosure Statements or submitted incorrect or incomplete information, had now submitted completed forms.

Ms. Bacon noted that in the Board members’ packets tonight are copies of letters to three individuals whose schedule filing date is March 10, 2011 and who have not filed. The letter informed those three individuals that the Municipal Ethics Board would be meeting on March 5, 2011 and a decision would be made as to what the Board would do if Financial Disclosure forms have not been received by the Clerk on or before March 10, 2011. Ms. Barrier noted that, in the past, a one hundred dollar (\$100.00) fine had been levied and, to be consistent, the three individuals should be notified that they are being fined accordingly. Mr. Paff questioned whether any of the three individuals are people who have been fined in the past for not submitting their forms on time, noting that, if one is a “second offender”

they should receive more than a one hundred dollar (\$100.00) fine. Ms. Barrier offered that she does not recognize the names, having been *one of* the Board member to contact violators in the past.

Ms. Bacon, referencing the list of government officials who are required to file on or before March 30, 2011, noted that John Walker, who had not yet filed, was a member of one Board, resigned that appointment and was subsequently appointed to another Board. It was suggested that perhaps Mr. Walker was not aware that it was necessary to file additional forms. Ms. Bacon mentioned that Anthony Mazzola, who had filed in the past, is also delinquent in filing for 2011; Iris Kislin is also delinquent. Motion was made by Mr. Paff that the Board levy a one hundred dollar (\$100.00) fine against John Walker, Iris Kislin and Anthony Mazzola if, and only if, they have not filed their Financial Disclosure Statements on or prior to March 30, 2011. Motion was seconded by Ms. Barrier. Motion was carried unanimously.

Ms. Bacon noted that she is looking at the February 24, 2011 minutes under the "Old Business" heading to determine if there are any items that should be retained in the current Old Business agenda. Ms. Bacon asked if there were any items that Board members would like to discuss at this time.

Mr. Paff referred to item #5 (Chairwoman Bacon's discussion with the Local Finance Board regarding collection of fines mechanism"), asking Ms. Bacon *is if* she had received any reply from the Local Finance Board. Ms. Bacon answered that she had not really gotten to do anything on that at this point and she and Mr. Paff agreed that that item should stay on the "Old Business" agenda.

Ms. Barrier questioned item #1 (Letters to those officers with filing deadline of February 3, 2011) asking if information could be obtained from the Clerk as to whether or not all the other letters have been mailed out to those with later filing dates, so that the item could be updated to include subsequent filing dates. Mr. Paff noted that he was looking at the Clerk's memorandum of February 9, 2011 and there were three other deadline dates for filing, February 3, February 24 and March 8, 2011. Mr. Paff stated that he would change Item #1 to include filing deadlines of February 3, February 24 and March 8, 2011. Ms. Bacon said that she would contact the Clerk and ask that information be given to the Board before the next meeting as to what response has been made by filers who had been given those deadline dates.

Ms. Bacon questioned item #2 (Tracking the member and alternate of the Fire Prevention Board who are appointed by the Fire Chiefs' Association to make sure that they file Financial Disclosure Statements). Mr. Paff noted that the people who are appointed by the Fire Chiefs' Association to the Fire Prevention Board are required to submit Financial Disclosure Statements and, in subsequent years, the Clerk should be asked to request information from the Fire Chiefs' Association as to who is appointed to the Fire Prevention Board so that they can be added to the list of filers.

Ms. Bacon noted that the Board is adding an item to the Old Business agenda - checking with the Clerk to learn if the letter of December 20, 2010 was sent. Ms. Bacon stated that she will contact the Clerk regarding item #1 and #2 and she will contact the Local Finance Board as indicated in item #5. Mr. Paff mentioned, regarding item #4

(Proposed amendments to complaint procedures), that he had drafted several versions of the procedure and emailed the final version incorporating all changes.

Mr. Paff noted that there are only two versions of the Code that should be looked at – the existing and the one he had proposed that has changes clearly marked with strikeouts and underlines, deleting or adding text. Ms. Bacon asked Mr. Paff if his goal in revising the complaint procedure is to bring the Board’s version more in line with the State’s version. Mr. Paff answered yes and added that, to him, the Board’s regulations are not clear. Mr. Paff went on to say that, since he has been working on the procedure, he has wondered if some of the confusion is intentional regarding the kind of advice that was given but was rejected by a previous membership of the Board. Mr. Paff added that he is not clear as to what the current Board’s desire is; he believes that all members agree that some parts of the Code need to be regulated.

Ms. Messineo discussed the issues of hiring an attorney and keeping the confidentiality of the Board’s hearings. Mr. Paff again referred to the need for contact with the Local Finance Board to gain more insight as to just what the procedure should be regarding hearings. This issue needs to be carried as an agenda item, Mr. Paff continued, but the Board needs to get the guidance necessary to proceed with any necessary hearing.

Ms. Bacon reiterated that the Local Finance Board has not always been of real help, saying that “they don’t know” in answer to her general or specific questions. She added that she does not believe that they have any particular background with Municipal Ethics Boards doing certain things. The goal of the changes in the Board’s procedure that were proposed prior to this time was to make a complainant feel secure in filing a complaint. Also, she added, as the Board reduced the complaint to writing, we tried not to use legal terms, to make it citizen friendly and easily understood and, in doing that, the procedure might have become less clear.

Ms. Bacon expressed the view that a subject wants to be heard and that, if hearings were held, they would most likely be done in Executive Session requiring the presence of an attorney.

Mr. Paff noted that there will be times when the Board will need to hold hearings and it is wise to do due diligence now. If the State will not help the Board with guidance, it is a compelling argument that the Board needs approval to hire an attorney; if the Board can not do its job, there is no reason to have a Municipal Ethics Board. The Board needs to approach the Township Council to have assurance that it will be willing to finance the hiring of an attorney; the changes being made to the Municipal Ethics Code and the current cases have make this clear.

Ms. Bacon agreed that, as the Board is proceeding in the process, it is clear that an attorney is needed but she is not certain what to ask the State regarding the situation. Mr. Paff added that, what the Board is trying to establish is whether it is the State or an attorney who handles Municipal Ethics questions; the State is not going to provide regulations or processes. The Board cannot postpone a case because we do not have an attorney .

Ms. Bacon agreed that the Board does need the services of an attorney although we do not need an attorney at this point in time. If the subject of a complaint does dispute the facts and if the Board can follow local Finance Board regulations and an appeal is filed, it is out of the Board's hands. Ms. Bacon said again that she will contact the Finance Board.

Mr. Paff cited Code 22.24 stating how complaints are handled in the manner prescribed by law. The subject receives the statement of information and, if there is a reasonable doubt, the Board has to hold a hearing. When do we go to the Council, Mr. Paff asked? Ms. Bacon replied that the Board could approach the Township Council who certainly knows how to get an attorney, or the Local Finance Board that would not necessarily know a local attorney who is familiar with Municipal Ethics Board requirements.

A discussion ensued regarding the procedure and the need for approaching the Township Council for a budget for the Municipal Ethics Board. It was suggested by Mr. Paff that Councilman Kramer be contacted to schedule a meeting to formalize a plan for accomplishing that goal.

Motion was made by Mr. Paff to approve the following Resolution:

Resolved: That Chairperson Bacon is directed to contact Councilman Kramer to learn about the timing and form for funds to be budgeted for Municipal Ethics Board's use.

Ms. Barrier seconded the motion. Motion was carried unanimously.

Executive Session

The following resolution was moved by Ms. Bacon, seconded by Ms. Barrier and carried unanimously upon voice vote:

WHEREAS, Section 8 of the Open Public Meetings Act, (N.J.S.A. 10:4-12 (b) (1-9), Chapter 231, P.L. 1975, permits the exclusion of the Public from a meeting under certain circumstances; and

WHEREAS, the Municipal Ethics Board of the Township of Franklin is of the opinion that such circumstances do exist;

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

- 1 The public shall be excluded from discussion of and action upon the hereinafter specified subject matters;
- 2 The general nature of the subject matter to be discussed is as follows: *Review of February 24, 2011 Executive Session Minutes; Complaints Nos. 10-01A; 10-03 and 10-04.*

- 3 The Municipal Ethics Board may take official action on those items discussed in Executive Session upon completion of the Execution Session.
- 4 The minutes of the discussions shall be made available to the public as soon as the matters under discussion are no longer of a confidential or sensitive nature.
- 5 This resolution shall take effect immediately.

A motion was made by Ms. Barrier seconded by Mr. Paff to come out of Executive Session at 11:00 p.m. Said motion carried unanimously upon voice vote.

APPROVAL OF EXECUTIVE SESSION MINUTES

February 24, 2011

A motion was made by Ms. Barrier to approve the aforesaid minutes as amended during tonight's Executive Session. Said motion was seconded by Ms. Messineo and carried as follows upon call of the roll:

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

Motion - Next Meeting

The Board members present selected April 25, 2011 as the next meeting date. The members who were not present will be advised.

Adjournment

A motion to adjourn was made by Ms. Barrier and seconded by Ms. Messineo, and carried unanimously upon voice vote. The meeting was adjourned at 11:05 pm.

Date: *April 25, 2011*

Approved: *As Amended*

Virginia M. Woodbury
Deputy Township Clerk