

Approved May 11, 2010

BOARD OF ETHICS PUBLIC MEETING MINUTES APRIL 13, 2010

Vice-chairman Barbara Hunter called a Board of Ethics meeting to order at 6:30 PM in the upper conference room of the New Durham Town Hall located off Main Street.

Present

Barbara Hunter, Vice-Chairman
Jan Bell

Marcia Clark
Skip Fadden

Also Present

Peter Rhoades

Approval of Minutes

Motion Clark, second Hunter, to accept the Minutes of February 9, 2010, as revised; vote unanimous.

Motion Bell, second Clark, to accept the Minutes of March 16, 2010, as written; three votes in favor, one abstention.

OLD BUSINESS

Board Vacancy

Vice-chair Hunter reported that she had met with Selectman Terry Jarvis regarding candidates for the vacant BOE seat, pointing out that the board must have a minimum of three and maximum of five members. Selectmen to appoint one of the two candidates (Mike Gelinas and Carleton Woods) at the BOS meeting on April 19, 2010.

Recording Secretary

Vice-chair Hunter reiterated the need to find someone to serve as recording secretary for the BOE. Despite the announcement sent to many residents via an extensive email list, no volunteers have come forward. Anyone interested should contact Barbara Hunter (859-5140; khunter@worldpath.net).

Hunter asked board members their thoughts on changing the position title from recording secretary to clerk, which is what appears in the Rules of Procedure. Fadden said the secretary title was fine. Clark agreed but stated that the job description should include specific duties since some folks might be willing to take notes and write up the minutes but would not like to participate as a board member. Bell noted that the position announcements do detail the responsibilities and suggested the use of clerk for the sake of consistency. One of the responsibilities of the chairman, Hunter added, should be to compile and post the meeting agendas. Motion Bell, second Clark, to rename the position recording clerk; vote unanimous.

Website Updating

Vice-chair Hunter noted that all BOE documents appearing on the Town of New Durham website are current and reflect the latest additions and changes. Also, all references to "Ethics Committee" now correctly say "Board of Ethics." She pointed out that the meeting schedule is vague. Bell commented that the "as needed" wording was supposed to have been in addition to and not instead of the day/month and

time. Hunter to request Carole Ingham to expand the BOE meeting schedule information to include the second Tuesday of the month at 6:30 PM, as previously posted.

Hunter pointed out that all BOE documents can be accessed via link from the BOE page, including the Code of Ethics, Rules of Procedure, and Certification Form. The same information also is available at the Town Hall.

Complaint Review

Vice-chair Hunter confirmed that all BOE members had received copies of the complaint dated March 12, 2010, forwarded by former chair Jelley. She summarized that the complaint was made against various employees and volunteers of New Durham who had signed a letter to the editor appearing in the Baysider on February 25, 2010, which conveyed a collective no-confidence vote in a BOS candidate. The complainant stated that by taking such action the signers attempted to affect the result of the upcoming town election and were in direct violation of the Town of New Durham Code of Ethics, Section I.A.viii.

As the first step, Hunter stated that the BOE needed to decide whether or not to accept the complaint for review as valid based on the Code of Ethics. She asked if there was a need for any board members to reuse themselves because of a conflict of interest or particular bias; no conflicts of interest or bias were disclosed. Clark said she did not believe people serving the town as employees or volunteers had to give up their rights as citizens and human beings. Hunter cautioned everyone that merely stating a belief or opinion might be seen as a bias. Clark reiterated that employees have a right to personal opinions once they leave work. Since there was no other discussion, Hunter asked members to weigh in on the matter and state whether they thought the complaint should be accepted or not accepted as valid. Clark said to not accept, pointing out that the letter to the paper did not identify positions or titles. Fadden said to accept, claiming that the individuals named had used the color of position or office to influence voters unfairly. Bell agreed with Fadden, noting that the Code of Ethics clearly prohibits the use of authority or influence to interfere with or affect elections. Hunter also went with accept as valid, noting that the signers had identified themselves as employees and volunteers of the town and had named a particular candidate. Motion Fadden, second Bell, to close discussion; three votes in favor, one vote against. Motion Hunter, second Fadden, to accept the complaint for review as valid based on the criteria established in the Code of Ethics; three votes in favor, one vote against.

Hunter stated the need for BOE members to discuss how to go forward with the complaint and asked them to raise certain issues involved given the complexity of the complaint. One issue she identified was the possible need for two hearings, as per the Right to Know Law nonpublic sessions can be called to protect the reputations of employees but not members of boards and committees. Bell expressed the concern that two hearings would be difficult in that the result of the first automatically would affect the second. Fadden suggested that the BOE seek legal advice from town counsel. Hunter questioned whether the need for a nonpublic session under the Right to Know Law might be negated by the fact that employees had taken a public stand and issued their thoughts in a public venue. Clark suggested that the BOE first ask town counsel whether or not the complaint is valid. Hunter replied that the BOE already had voted to accept the complaint as valid and that advice from town counsel would be to ensure that the proper steps were taken and that the BOE was dotting all i's and crossing all t's as it proceeded. In reading BOS minutes, Hunter mentioned that she had become aware of the New Hampshire Local Government Center of which New Durham is a member. Since the center has several attorneys that

provide general legal advice for free, she suggested that the BOE might also be able to benefit from the service. Motion Fadden, second Clark, to close discussion and request advice from town counsel as a group; vote unanimous. Hunter to contact BOS chairman Jarvis to determine how to set up a consultation. Hunter also to go before the BOS and request monies to cover two or three certified mailings, as needed.

Vice-chair Hunter reiterated that it is much better to do things right than quickly. She observed that the meeting with town counsel would have to happen soon for the hearing to take place at the May meeting. Both Bell and Hunter expressed the need for time to reflect and prepare after the meeting with town counsel. A question from the public suggested that the BOE must notify all parties involved now. Per BOE Rules of Procedure, Hunter clarified that all individuals named in the complaint, as well as the complainant, must be notified via certified mail a minimum of five days prior to a hearing. Since a hearing date is unknown, a discussion ensued about when the letters should go out. Bell and Clark thought it would be premature to notify folks until after the meeting with town counsel. Fadden favored notifying all parties involved now, saying that the BOE can't go wrong by giving them information. Hunter agreed, emphasizing that any perception of covering up or withholding information may be problematic. Upon further discussion, members agreed that sooner would be better than later. They also agreed that the first communication would have to be vague but should provide the basic information, including a letter of explanation from the BOE and a copy of the complaint with accompanying documentation. Hunter to assume responsibility for the mailing. Motion Hunter, second Bell, to send notification via certified mail to the individuals named in the complaint as well as the complainant; vote unanimous.

BOE Presentation

Fadden commented that the BOE is likely to be very busy the next month or two and suggested that work on the presentation be postponed for a time. In response to an earlier concern voiced by former chairman Jelley, he shared that he does have a request out for permission to use certain data. Bell distributed handouts of sample slides for future discussion and possible integration with some of the existing content. Fadden polled board members about their computer capacity to access and edit PowerPoint slides. He also brought up the possibility of creating the presentation on a CD or DVD for viewing by employees and board members, as well as by entire groups.

NEW BUSINESS

Board Elections

Motion Fadden, second Clark, to nominate Barbara Hunter for BOE chairman; vote unanimous.

Motion Fadden to nominate Jan Bell for vice-chairman; Bell declined.

Motion Bell to nominate Fadden for vice-chairman; Fadden declined.

Motion Fadden, second Clark to table the vice-chairman nomination until the next meeting when the new board member would be present; vote unanimous.

OTHER BUSINESS

Bell mentioned an email from a town resident that had been sent to a nonmember of the BOE and then forwarded. Since the message had not been addressed directly to the BOE, Hunter said that it did not require the board's attention at this time but that the individual could submit an inquiry to the BOE for consideration.

NEXT MEETING

The next meeting was scheduled for Tuesday, May 11, 2010, at 6:30 PM at the New Durham Town Hall. Hunter said that someone would need to be found to take minutes at the May meeting since Bell will be out of town. Hunter to ask former BOE chairman Debra Jelley. As another possibility, Fadden suggested that Cathy Allen might be willing to do the job as a service to the town.

ADJOURNMENT

Motion Bell, second Clark, to adjourn at 8:49 PM; vote unanimous.

*Respectfully submitted,
Jan Bell, Acting Recording Clerk*

