

Approved: February 22, 2011

**BOARD OF ETHICS
PUBLIC MEETING MINUTES
February 8, 2011**

The meeting of the Board of Ethics (BOE) was called to order by Barbara Hunter, Chair at 7:02 PM. The meeting was held at the Fire House meeting room.

Present: Barbara Hunter, Chair, Jan Bell, Mike Gelinas, Skip Fadden.
Anneleen Loughlin, Recording Clerk.

Absent: Marcia Clark.

Also Present: Cathy Orlowicz and Scott Drummey.

Agenda Review: Chair Hunter called for a review of the agenda and asked if anyone had any addition to the agenda. Chair Hunter stated that she had an addition which was to discuss comments made at the Board of Selectman meeting on Monday night regarding an addition to be made by the BOS to the Warrant Articles. The added Article calls for the repeal of the Town's Ethics Ordinance which was approved by a town vote at the Town Meeting 3 years ago. This topic will be discussed under Old Business of the agenda. She also added Town Warrant Call-in under New Business.

Public Input - 1: Chair Hunter asked if the public had any input at this time. After being informed by the public that there was none at this time, Chair Hunter moved on to the next item on the agenda.

Approval of minutes: Chair Hunter called for a review of minutes of the January 11, 2011 BOE meeting.

Following the initial review of the minutes for the January 11, 2011 BOE meeting, the board decided to postpone the approval of the minutes until the next BOE meeting for Clark's clarification.

Motion- Bell. Second- Chair Hunter. Vote two yes. Abstain two: Fadden and Gelinas as they had been absent for the January 11, 2011 meeting.

Old Business:

Chair Hunter informed the board that at the BOS's meeting on Monday night; the BOS stated that they would enter a Warrant Article, which is listed as Article 13, to repeal the Ethics Ordinance, at the Town Meeting. Selectman Bickford asked Selectman March if he wanted the listing of Article 13 to appear before the BOE Articles 14-20, then followed by Mike Gelinas's Articles 21-23, or appears after the BOE & Mike Gelinas' Articles. She reported that Mr. March indicated that he was satisfied with the current location of Article 13.

Chair Hunter mentioned that the addition of Article 13 for repeal of the Ethics Ordinance before the BOE presents the Ethics Articles could make the other ethics articles moot if it passes.

This information generated a great deal of discussion with the inclusion of this Article 13 by the Board of Selectman to the Warrant Articles to be presented at the Town Meeting.

Bell stated that she found it interesting that the Selectmen are suggesting the repeal of the Ethics Ordinance.

Fadden stated he found it appalling to eliminate the Town Code of Ethics. He stated that it reflected the behavior by the BOS of interfering with the BOE for the past year.

Chair Hunter stated that she would mirror the same type of comments made by members. She reported that David Bickford attributed the lack of applicants for the open selectman position this year because the Town has a Code of Ethics and people are afraid to apply.

Chair Hunter recognized input from the public present at this time.

Drummey queried if there was a possibility that the BOE could place a notice in the paper requesting that the town citizens review the Articles before the Town Meeting.

Orlowicz suggested that the BOE request a change of order for the Warrant Articles, so that the BOE Warrant Article would come before the BOS Warrant to repeal the Ethics Ordinance.

Fadden commented that it is important that the BOE not support the repeal of the Ethics Ordinance. He suggested that the Board pass a motion against Article 13.

Fadden made a motion that as a board the Board of Ethics opposes Article 13 for repeal of the Ethics Ordinance. Second- Bell. Vote 3 yes: 1 opposed: Mike Gelinas stated he opposed the motion because he does not support the BOE Warrant Articles as it is currently written.

Chair Hunter stated that she will inquire as to the proper procedure for a change in order for the Warrant Article. The members discussed the preferred order, and came to the conclusion that the BOE Articles ought to appear, followed by Mike's Articles, then followed by the BOS' Article for repeal.

Orlowicz stated that she was quite surprised by the actions of the BOS. She stated that she felt the BOE had followed proper procedure. BOE held discussion, researched, evaluated, had voted on each change, and everyone had the opportunity to participate.

She raised the question whether the repeal applies only to the new changes or does it apply to the original code, which was voted in by the community 3 years ago.

Chair Hunter inquired if there were any further comments, hearing none; she thanked Drummey and Orlowicz for their public input during this session.

Chair Hunter reported that the BOE Articles went to Town Counsel, and last night at the BOS meeting, there were no comments on the Articles from Town Counsel. She reported that this afternoon, she received a telephone call from Alison Rendaro informing her that Town Counsel had a suggestion on Article 16 number 3, the last sentence. Town Counsel suggested removal of provided and replace with the board collects and is made part of the record.

Following this information, the board members discussed the pros and cons for making this change at this time.

Chair Hunter recognized public input at this time.

Drummey stated that he believes, since the BOS approved the BOE Articles last night, that no change can be made at this time.

Orlowicz confirmed that it is too late to make any changes since the BOS approved the Articles as written last night.

Gelinas inquired if the suggested changes made by Town Counsel could be presented as an amendment at the Town Meeting.

Chair Hunter stated she appreciated the questions and comments tonight as they serve as preparation for the questions and comments which can be anticipated from the people at Town Meeting.

Drummey suggested that the BOE might provide each person at Town Meeting with copies of the entire BOE Warrant Articles. Discussion followed, and it was determined that it would be too expensive to make so many copies. The BOS would not approve that expenditure.

Fadden mentioned that depending on how much time the BOE would be allocated at the town Meeting that he could make a brief power point presentation for each Article. He also suggested that each individual member write to the newspapers some comments of the individual's opinions on the action by the BOS.

Chair Hunter stated that she will follow-up with our Town Administrative Consultant, and Bell will speak with the Town Moderator for clarification of all these various questions.

Chair Hunter inquired of the members of the BOE who would stand and speak with her at Town Meeting about each Article. She informed the members that the BOE will have to briefly explain the changes that the board made to the original ordinance and why the changes were made. She explained that a member of the board will be needed to make a motion and one will need to second the motion. After a brief discussion, it was decided to wait until the next BOE meeting before making the decision.

Educational Presentation: Chair Hunter inquired of Fadden how the Educational Presentation was progressing since she had returned the slides to him after the last meeting.

Fadden suggested that the Educational Presentation ought to be postponed until after the Town Meeting vote awaiting the outcome of the vote to repeal the Ethics Ordinance. He stated that if the Ethics Ordinance is repealed, there will not be any need for the Educational Presentation.

Discussion followed and the members agreed to put the education presentation project on hold until after the March 9, 2011 Town Meeting.

Drummey inquired if the board had surveyed other towns across the State to ascertain how many towns currently have Boards of Ethics. The question was followed by discussion, which also included the number of towns that had BOEs at the time that New Durham voted to develop a Code of Ethics, and established a Board of Ethics.

Chair Hunter said, last summer more towns were gathering information regarding a Code of Ethics.

Public Input-2: Chair Hunter queried if the public had any input at this time.

Orlowicz pointed out that the Town of New Durham had ethics policies in place for a long time prior to the establishment of the BOE and the Ethics Code that broadly expands to public servants.

Fadden pointed out that there is a difference between ethics policy and ordinance. Ordinance has the rule of law behind it and a policy does not.

New Business:

Expiring BOE Terms: Chair Hunter informed the board that Jan Bell's term on the BOE expires next month. She inquired of Bell if she would consider returning for a new term on the board. Bell stated, she would not be returning at the end of her term.

Since Clark is absent, Chair Hunter earlier had asked her about her wishes. She will be willing to continue should the Selectmen reappoint her.

Chair Hunter asked the members if they had any recommendations for possible candidates. No one proposed any names.

Gelinas mentioned that the State requires that one State employee serve on the State Board of Ethics.

Chair Hunter stated that our code does not have that, but when the board was looking for a recording clerk, it was decided it would present too much of a conflict should an employee serve in that position. Even if someone could remain neutral, it could be a deterrent to someone filing a complaint.

Any Other Business: Chair Hunter informed everyone present that on Wednesday February 23 at 7:00PM in the Town Library a Warrant Call-in forum for the public will be held. The town citizens can call in with any questions regarding items on the Town Warrant. The call-in can be viewed on channel 25.

Discussion ensued regarding this information about the call-in, and how individuals without cable would be able to view and listen to the call-in session.

The discussion lead to questions as to when the Warrant Article would be printed, and how would the public know what to question if the Warrant has not been printed by February 23rd.

Chair Hunter responded that the by-laws state that the Warrant has to be printed at least one week before the Town Meeting.

Once the discussion on this topic ended, Chair Hunter moved on to the next agenda item.

Schedule Next Meeting: Discussion ensued that since the next monthly meeting would fall on the day before the Town Meeting, it would be better to meet earlier in order to prepare for the Town Meeting presentation of the BOE Articles. The board decided to meet in two weeks on **February 22, 2011 at 7:00 PM**. Chair Hunter will inform the board of the location when she sends out the new agenda.

Adjournment: Motion- Fadden. Second - Gelinas. Vote unanimously in favor. Adjourned: 8:36 PM.

Respectfully submitted,

Anneleen J. Loughlin, Recording Clerk