

City of Saratoga Springs

Board of Ethics Minutes

Thursday - April 13, 2017

Present: Justin Hogan – Chair, Brendan Chudy, John Ellis, and Marilyn Rivers, with Tony Izzo as Advisor and Trish Bush.

Absent: None

Public: Commissioner Mathiesen

Meeting was called to order at 5:35 PM in the City Council Room.

Minutes from January & March meetings were reviewed and approved via email previous to this meeting, and posted on the City website.

OLD BUSINESS: Code of Ethics revisions. The meeting began with the review of the previously discussed “reciprocal” changes to the Code of Ethics. Tony Izzo invited Commissioner Mathiesen to join the Board at the table for the discussion. The discussion continued with the definition of Customer or Client. Marilyn Rivers suggested language that would include “supplied and/or received” and the word vendor should be added so the Code would read “customer, client or vendor” where ever it is referenced in the Code. Commissioner Mathiesen indicated that after talking with some members of the City Council, they would like to see the time frame referenced, reduced from 24 months to 12 months. The Board discussed the possibilities and determined that 24 months would stand. Tony will update the language with the changes proposed above to be reviewed at the May meeting. The discussion continued with the question of recusal. Commissioner Mathiesen feels that guidelines for Land Use Boards needs to be stronger and guidelines for required recusals needs to be included however the Board fees that standards that may apply for Land Use Boards are not applicable across all boards and commissions and therefore it is up to the individual to determine their recusal guidelines. Commissioner Mathiesen advised that he brought his changes to the Board for their input. After careful review and previous discussions, the Board feels that the changes that are being proposed are in direct response to Commissioner Mathiesen’s document and can be applied across all boards and commissions.

After review and discussion of the Commissioner’s document, the Board found three topics that they felt would benefit in clarifying the Code: 1) reciprocal language (as discussed above); 2) broader language for 13-3 g. and 3) Ex-parte.

To address #2, Marilyn distributed the email dated 3.8.17 from Tony showing the language regarding 13-3 G “Disclosure of interest”. The Board reviewed the proposed underlined language and after a discussion the language was approved. Commissioner Mathiesen commented that this is not strong enough and that recusal should be required to strengthen confidence in our Board members especially when disclosure would not be an available option due to confidentiality issues. Justin Hogan suggested that the prescriptive nature of recusal is essentially the Board member’s responsibility, not the Code of Ethics. Marilyn Rivers said that this section is about disclosure and does not include recusal and Tony agrees that recusal should be a separate section if the Board agrees to include it.

Commissioner Mathiesen commented that it's great that the Board is clearing things up and making sure the Ethics Code is properly worded and provides the appropriate guidance which is important but he does think that adding his document at some point in time would be more specific to what they are trying to pursue here which is to call out certain specific requirements for recusal and disclosure for Land Use Boards.

The meeting was moved to the Mayor's office at 6:30 due to Planning Board meeting in City Council Room. Commissioner Mathiesen left the meeting at that time.

To address #3 Ex-Parte – Tony provided the Department of State direction regarding ex parte. This information does not define or outline in any detail what is or what is not considered to be an ex parte communication. Tony also provided Professor Patricia Salkin's section of New York Zoning Law and Practice § 31:08 Ex parte contacts. The Board has asked Tony to put a short paragraph together to acknowledge ex parte communication based on this section, to be considered for inclusion in the Code.

Tony will update the language in the Code of Ethics with all of the changes proposed above for final review and approval at the May meeting.

NEW BUSINESS: 2017 Disclosures. Trish Bush has collected almost all 2017 Disclosure forms. Marilyn Rivers and Trish Bush will review these and update the Board at the May meeting.

Dates for future meetings was discussed in order to avoid the conflicting meeting times with the Planning Board. It was determined the Board would stay with the City Council room and move to the Mayor's office if business wasn't completed prior to the start of the Planning Board meeting.

UPDATE #1-2017 INQUIRY: Tony is still researching the issue and will provide a draft for review soon.

Motion to adjourn the meeting was made by Brendan Chudy, second: Justin Hogan.

Meeting Adjourned at 7:10 PM.

Next meeting: scheduled for May 24, 2017 at 5:30 PM – LOCATION TO BE DETERMINED

Respectfully submitted: Trish Bush, City Attorney's office