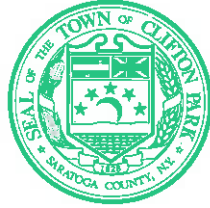


Town of Clifton Park

One Town Hall Plaza
Clifton Park, New York 12065
(518) 371-6651
FAX: (518) 371-1136

ETHICS BOARD



Ethics Board Meeting

November 28, 2017

In attendance:

Chairman, Brian Glick
Ronald Ochrym
Linda DiCaprio
James Mahon
Attorney, Tom McCarthy
Secretary, Meg Springli

Absent:

Linda Campion recused herself and was absent

Also present:

Jonathan Schopf
Robert Rybak

The meeting was called to order at: 6:43 by Board Chair, Brian Glick. It was noted that a quorum was present. Mr. Ochrym arrived at 6:45pm

Discussion Item:

Mr Glick stated that he would like to see forms posted on the website. The secretary agreed that she could obtain them from the Town Clerk's office and post them. Next, it was determined that meetings in 2018 would be the 3rd Wednesday of each month, with a 7:00 pm start time, unless otherwise stated.

Old Business:

Request for Advisory Opinion, carried over from 11/14/2017

Jonathan Schopf had requested an Advisory Opinion regarding whether a County Supervisor could represent clients in Town Court proceedings.

Tom McCarthy, counsel for the Ethics Board, summarized the issues that were discussed at the last meeting and a draft opinion that was prepared for discussion purposes. The 4 different categories of potential representation were outlined. Mr. McCarthy proposed that after reviewing

the draft, the Board take a vote to see if the draft captured the consensus of the Board from the discussion at the last meeting. The Board members took several minutes to read the draft

Mr. Ochrym stated that he had no problem with decisions #1,2, and 4 but felt # 3 in the opinion on the 5th page was of concern to him. Mr. Ochrym stated that he felt it was clear that a Town official should be prevented from appearing before judges for traffic violations. Then, Mr. Ochrym stated that he had researched State Bar Association Opinion #798 and he indicated that he was persuaded that Mr. Schopf should not be able to defend clients with traffic tickets written by the Saratoga County Sheriff's office or State Police.

Mr. Mahon asked if tickets written by the County Sheriffs would be held to the Town Ethics Code or was it a County Ethics Board issue. Discussion ensued about whether a conflict of interest was at issue. Mr. Ochrym explained that he felt that persons in position of influence can create an ethical issue, and if the perception could be that something might be wrong, then in his opinion, it would be better to avoid it.

Mr. Glick stated that the Ethics Code stated that Mr. Schopf is covered by the Code as a "Town Official". The chairman noted his opinion that Mr. Schopf defending against the Town would appear to be in conflict with the Town. Mr. Glick then noted that if his term as County Supervisor should come to an end, the conflict would also end.

The chairman also noted, however, that he felt it was important to note that the board was inclined to disagree that traffic ticket pleadings would conform to the definition of a "business dealing" with the Town. Then Mr. Glick stated that the question was whether this type of case was covered by the Town Code. Discussion ensued

Mr. Glick then asked if consensus was that #3 should be changed and board members indicated that they felt ready to decide on a motion.

The categories were listed as follows:

1. Representation of Clients charged with violation of Town Code provisions, in defending against appearances tickets written by Town employees.
2. Representation of clients charged with violation of the New York State Agriculture and Markets Law on appearance tickets written by Town employees.
3. Representation of clients on tickets written by State Police or the County Sheriff's office under the New York State Vehicle and Traffic Law, where the tickets are prosecuted by the Saratoga County DA's office, and not by Town employees.
4. Representation of private clients in civil litigation matters.

Summary of Opinion in Draft:

1. We advise against representing private clients in these cases (Animal Control/Security)
2. We advise against representation of clients in Clifton Park local court in these categories of cases. (Agriculture and Markets Law)

3. While the Town Code does not speak to the representation of clients in traffic ticket cases, and thus these cases would not represent a violation of the Town's Ethics Code, we advise Mr. Schopf of Bar Association Advisory Opinion #798, on this issue and advise that the review and be aware of this advice. (Vehicle and Traffic Law tickets)
4. We do not find any prohibition against this category of representation (Civil Litigation)

Motion

A motion was made to accept the Draft Opinion provided that Opinion # 3 was changed to advise against accepting the representation of private clients responding to tickets written by the County Sheriff's office or prosecuted by the District Attorney based on State Bar Association Opinion #798.

Moved by: Mr. Ochrym

Seconded by: Mr. Mahon

Ayes: Ochrym, Mahon, DiCaprio, Glick

Noes: None

The decision was unanimous and the Chairman then advised that the Opinion would include the following:

1. We advise against representing private clients in these cases (Animal Control)
2. We advise against representation of clients in Clifton Park local court in these categories of cases (Agriculture and Markets Law)
3. We advise against accepting the representation of private clients responding to tickets written by the County Sheriff's office or prosecuted by the District Attorney (Vehicle and Traffic Law tickets)
4. We do not find any prohibition against this category of representation. We do not find that representing these cases in Court translates into being involved in a "business dealing" with the Town. (Civil Litigation)

Other business

A motion was made to accept the Minutes as written for the Ethics Board meetings of October 24, 2017 and November 14, 2017

Moved: James Mahon

Seconded by: Linda DiCaprio

Ayes: All

Noes: None

Decision was unanimous

New Business:

Next year's calendar was briefly discussed. It was restated that meetings would be scheduled for the 3rd Wednesday of each month but if there was no business, they will be cancelled. Members agreed that forms should be submitted with enough time to allow for review, so it was decided that it will be noted on the website and with the Town Clerk's office that the deadline would be 2 weeks prior, or an item will be reviewed at the next meeting date. Any forms submitted by the deadline will be scanned and emailed to Board members. The chairman then noted that the first meeting of year, on January 17, 2018 will be reviewing the annual Town employees' disclosure forms.

Mr. Glick moved, seconded by Mr. Mahon to adjourn the meeting at 7:15pm. The motion was unanimously approved.

Respectfully submitted,


Meg Springli