



CITY OF DOVER

ETHICS COMMISSION - MINUTES

Meeting Type: **Public and Non-Public Session**
Meeting Location: **Room 305, McConnell Center**
Meeting Date: **Friday, January 17, 2014**
Meeting Time: **6:30 pm**

1. CALL TO ORDER

Mr. Lariviere called the meeting to order at 6:35 pm.

2. ROLL CALL

Present: Rose Forcillo, Brendan Licata, Herman Stolzenburg, Dana Lariviere, and Peter Mathieu.

Mr. Lariviere moved to add "Discussion of Ethics Complaint" as an agenda item; seconded by Ms. Forcillo.

Vote: 5/0.

Mr. Lariviere started a discussion on amendments to the Public Meeting Minutes from the December 11, 2013 Ethics Commission meeting. He said were just to clarify why they entered into a Non-Public Session. He said he cited the RSA 91-A incorrectly and he cited the reason for going into and coming out of the Non-Public Session, which is not reflected in the minutes. Mr. Mathieu moved to accept the minutes of the Public Session as amended; seconded by Mr. Licata.

Vote: 5/0.

Mr. Lariviere said he would entertain a motion to entered into a Non-Public Session pursuant to RSA 91-A:3II(c), to discuss matters which if discussed in public would likely affect adversely the reputation of any person other than a member of this body to discuss the Non-Public Minutes.

Mr. Licata so moved; seconded by Ms. Forcillo.

Roll Call Vote: 5/0.

3. NON-PUBLIC SESSION PURSUANT TO RSA 91-A:3II(c)

Mr. Lariviere asked Mr. Mathieu to keep a separate set of minutes.

Mr. Lariviere started a discussion on minor changes to the Non-Public Minutes from the December 11, 2013 Ethics Commission meeting. He referred to Page 3/6, four lines from the bottom; and said it was Mr. Stolzenburg who asked what the complainant's connection was. He referred to Page 4/6, first line; and asked the minutes reflect that "Mr. Lariviere said Mr. Clay said the Board ..." He also asked to change the last line of the paragraph to insert the word "if" to "there is something here," and end it with "we should have a look at it." He referred to the 11th line and said the word should be sufficiently instead of efficiently. He said the 11th line from the bottom it was Mr. Stolzenburg and not Mr. Licata who said "that isn't to say that there isn't enough evidence out there." He referred to the 4th line from the bottom and said he said "...if there was evidence of a crime he would refer it to the Police Department." He referred to Page 5 and noted that the citation of coming out of Non-Public Session was incorrect, but the actually conversation was correct. He said there was a total of five corrections. He asked the Commission if they had any other corrections or wished for more time to review them.

Mr. Stolzenburg said with the correction he felt the minutes were accurate.



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Mr. Lariviere talked about why they sealed the minutes. He said the people affected have now been notified and no longer a reason to have the minutes sealed. He asked the Commission if they felt there was a reason to prevent them from unsealing the minutes.

Mr. Licata said he didn't see a reason.

Mr. Lariviere said they will adjourn the Non-Public Session and vote on unsealing the Non-Public Minutes.

Mr. Licata moved to adjourn the Non-Public Session and enter into Public Session; seconded by Mr. Stolzenburg.

Vote: 5/0.

Mr. Lariviere made a motion to unseal the Minutes from the December 11, 2013 Ethics Commission Non-Public Minutes; seconded by Mr. Stolzenburg.

Vote: 5/0.

Mr. Lariviere said the Non-Public Minutes have been unsealed with the corrections as amended.

Mr. Lariviere started a new discussion about the new Ethics Complaint received by the City Clerk on January 14, 2014. He said it was his personal contention to recuse himself from discussion on this complaint. He said he felt it was a clear conflict of interest and violation of ethics for him to personally entertain any conversation or entertain the merits of this particular complaint. He told the Commission that each one of them would have to make a decision on their own position regarding this complaint.

Mr. Licata asked what the nature of his specific conflict.

Mr. Lariviere said his conflict is that the complaint is about the Ethics Commission.

Mr. Licata said that would include all of them; correct?

Mr. Lariviere said the Board can't as a unit recuses itself.

Mr. Licata asked what happens to the complaint if each member recuses themselves.

Mr. Lariviere said there would not be a quorum, they couldn't deal with it, and his intent is to refer it back to the City Clerk for action that she would deem appropriate.

Mr. Licata started a discussion about how in court this has already being adjudicated since no new facts, new laws, or something they have missed have been provided. He said there was nothing new.

Mr. Lariviere said he felt considering this complaint against himself and the Board smacks of conflict. He said rather than say he can't have a position on this complaint.

Mr. Licata asked what the City Clerk would do.

Mr. Lariviere said he expects the City Clerk to refer it to the City Council. He explained that as an advisory board their recommendation would go to the City Council in any event.

Mr. Licata wanted the gentleman have an avenue to go to. He asked Mr. Lariviere if he was going to notify the City Council why they were turning it over to them.

Mr. Lariviere said the Minutes will reflect that.

Mr. Licata said he felt he had to recuse himself.



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Mr. Stolzenburg said he felt he had to recuse himself, because Mr. Clay is saying the Commission didn't look at all the evidence.

Mr. Licata asked if Mr. Clay was saying that they didn't come to the same conclusion as he did. Mr. Stolzenburg said he wasn't certain, but felt this new complaint came about because they didn't agree with him. He again stated that he recuse himself.

Mr. Mathieu said he recused himself, because her preferred to have another body look at their decision.

Ms. Forcillo said she recused herself, because she felt they should back off and have someone above them deal with this complaint.

Mr. Lariviere said since all five present Ethics Commission members have stated they will recuse themselves because they feel that they cannot consider the ethics complaint, then with their consent he will send this back to the City Clerk with the recommendation that the City Council make a determination or other action that they see fit

Moved by Mr. Licata; seconded by Ms. Forcillo.

Mr. Stolzenburg said he believed there would be repercussions from the City Council if they did make some sort of decision on this complaint.

Vote: 5/0.

Mr. Lariviere said he would like to set the time for their next meeting for discussion on Election of Officers. He said he will contact the Appointments Committee regarding openings on the Committee. He stated that he would like to continue serving on the Commission, but would like to pass the torch as Chairperson to someone else.

The Commission set the next meeting for Monday, February 10, 2014 at 5:30 pm., in City Hall.

Mr. Lariviere asked the members to forward any agenda items to him before the meeting.

Mr. Stolzenburg moved to adjourn; seconded by Mr. Licata.

Vote: 5/0.