

Minutes Nassau County Board of Ethics

- Public Session

Meeting date and place: May 1st, 2018 at 9:00 A.M.
One West Street, Mineola, New York 11501

Board Members Present: Jared Kasschau, County Attorney
Kenneth Gartner, Member
Michael Pernick, Member

Board Counsel: Steven G. Leventhal

Also in attendance (Public Session): - 3 employees of the Nassau Comptroller's office
- Ken Gray of law firm Bee Ready Fishbein Hatter & Donovan LLP
- Sean Berman, Accountant II, taking minutes

County Attorney Kasschau called the meeting to order at 9:00 a.m.

Counsel to the Board of Ethics ("Board") Steven G. Leventhal began the meeting by addressing the general public and Board Members in attendance. He discussed the goals and functions of the Board, which includes providing education and advice to all employees/officers of the County, taking preventative measures in effort to avoid punitive measures, receiving requests for ethical advice, rendering opinions and investigating complaints. Most decisions by the Board, he explained, follow a 3 step analysis: Applying Article 18 of the General Municipal Law, then the Nassau County Code of Ethics, and finally Common Law if neither of those provide a certain answer. He also described the Board's duty to administer Financial Disclosure law. This involves overseeing the compilation of lists of those required to file, ultimately confirming and reviewing filings for completeness and possible conflicts.

Counsel Leventhal continued on to mention the Board's policy of Confidentiality. He explained that some items discussed by the Board are reserved for Executive Session, both to protect privacy and encourage people to seek the Board's advice.

Next he discussed the application of open meetings law. The Board is required to post notices of set meeting times in advance to the public, which has been done via the Board's department webpage as well as physical notices at various County locations. He then began to discuss FOIL policy, particularly concerning financial disclosures. It has been Board policy to immediately notify a person whose financial disclosure form has been FOIL requested, allowing them time to review copies of their past filings and advise if they request any particular redactions. By policy, the Board has practiced the automatic redaction of home address and phone numbers, names of minor aged children, and any information indicating dollar values of items disclosed. A question

from the public was asked if the identities of those placing the FOIL request is shared. Counsel Leventhal stated that is not policy of the Board, however FOIL requests themselves are subject to FOIL.

County Attorney Kasschau then stated how Deputy County Executive for Compliance John Chiara wishes to incorporate electronic filing of financial disclosure forms in the near future. For this reporting year the County Executive's office has become more involved in the financial disclosure process, as such County Attorney Kasschau motioned (seconded by Member Pernick) to designate DCE Chiara's office as a repository for completed disclosure forms, pursuant to Section 2218(10)(g) of the County Charter. The motion carried unanimously.

Member Michael Pernick asked how some county employees and officers are deemed "policymakers" and thus required to file the financial disclosure form. Counsel Leventhal stated that is typically proposed by their department heads or superiors which is accepted/denied by the Board. The policymaker distinction was originally based on guidelines developed by the Temporary State Commission on Local Government Ethics, and adopted by the Board of Ethics.

Materials were handed out to the new Members of the Board (Gartner, Pernick), including the Plain Language Guide / Conflicts of Interest booklet, recent Executive Orders and Amendments, the Rules of Procedure for Conducting Investigations, and Article 18 Hypotheticals.

Also distributed and discussed was the Code of Ethics. Counsel Leventhal has drafted a new version, reviewed by Deputy County Attorney Gerald Podlesak, which intends to incorporate changes made through the Legislature in 2017.

The Board brought up the need to elect a new Chairperson. Former Chair Owen Smith and Member John Ryan's terms have expired, however they technically remain as holdovers until new people are appointed in their place. Counsel Leventhal suggested it should be someone other than County Attorney Kasschau, who agreed citing relevant law. The term of Chair is one year. Kenneth Gartner suggested the Board revisit this issue when two more members have been appointed, but that someone could hold the title on an interim basis. Michael Pernick motioned to nominate Kenneth Gartner as interim Chairperson, seconded by County Attorney Kasschau. The motion passed unanimously.

Counsel Leventhal stated that the Board should meet at least on a quarterly basis, allowing for more frequent meetings on an as needed basis. The Board agreed to set a tentative meeting for May 30th, 2018 at 8:00 A.M., same location.

With the agenda for Public Session having been covered, Counsel Leventhal opened the discussion to members of the public in attendance. Three of the four attendees were employees of the Nassau Comptroller's office, who were just there to observe the Board. The fourth person identified himself as Kenneth Gray, of law firm Bee Ready Fishbein Hatter & Donovan LLP. He spoke to the Board in regards to a pending matter for executive session, providing further background and answering questions to assist the Board's basis for making a decision.

At 9:43 a.m., County Attorney Kasschau motioned to adjourn the Public Session and enter into Executive Session, seconded by Michael Pernick. Motion carries unanimously.

At 10:56 a.m., County Attorney Kasschau motioned to adjourn executive session back to public session and conclude the meeting, seconded by Kenneth Gartner. Motion carries unanimously.