

**BOARD OF TRUSTEES  
VILLAGE OF WARWICK  
DECEMBER 4, 2023, 6:00 P.M.  
WORK SESSION**

9894

A Work Session of the Board of Trustees of the Village of Warwick was held on Monday, December 4, 2023, at 6:00 p.m. in Village Hall, 77 Main Street, Warwick, NY. Present was: Mayor, Michael J. Newhard, Trustees: Barry Cheney, Carly Foster, Mary Collura, and Tom McKnight. Also, present was Deputy Village Clerk, Jennifer Mante and Village Attorney, Stephen Gaba. Others present: Beverly Braxton

The Mayor called the meeting to order and led in the Pledge of Allegiance. The Deputy Village Clerk held the roll call.

**Discussion**

1. Draft Film Code & permit fees.

Topic was not discussed.

2. Draft Cash Management Policy.

Topic was not discussed.

3. Draft Code of Ethics.

Mayor Newhard referred to the Village Attorney, Stephen Gaba, for guidance on the topic and agreed with all the edits Mr. Gaba had made since the previous discussion.

Mr. Gaba stated that the ethics code would do two things; set a standard of conduct for officers and employees that they must obey and establish a code of ethics. A reading of the definitions took place by Mr. Gaba, who took slight issue with the word 'dependent' but thought it was generally understood. Mr. Gaba clarified to Mayor Newhard that spouses were included in that definition.

Trustee Foster expressed concern about family relationships and suggested expanding the term to include non-genetic connections, such as those formed through guardianship and stepchildren.

Mr. Gaba said the definition of children could be expanded to be more encompassing.

Both Trustee Cheney and Trustee Foster wanted clarification regarding corporation membership, partner owner, or any amount of ownership.

Mr. Gaba emphasizes the importance of disclosing any ownership interests in a corporation that is seeking board approvals. He suggested that even minimal benefits can

create conflicts of interest, advising individuals to disqualify themselves or, at the very least, disclose such interests. He cited examples of court cases where employees, despite receiving only financial compensation, were still considered to have a conflict of interest in voting on approvals.

Trustee Cheney inquired about such things as 401k stock funds.

Mr. Gaba highlighted the distinction between owning individual stocks and mutual funds. While mutual funds were not typically subject to board approvals, owning individual stocks in a corporation that requires approvals poses a potential conflict of interest. He clarified that owning a mutual fund with interests in a corporation, such as Exxon, does not constitute a direct or indirect interest in the well-being of that corporation. Despite the challenge of distinguishing between the two, he emphasized that a difference existed.

Trustee Foster raised two questions; whether the term "family relationship" should encompass more than just spouses, children, and dependents, as well as sought clarification on whether the term "association" included non-profit organizations, such as a historical society. Trustee Foster shared her own experience of resigning from all board positions upon becoming a Village Board Member due to potential conflicts of interest and raised the question whether Trustee Collura should recuse herself from Historical Society matters as she was both the Village Board's liaison as well as a Historical Society board member.

Mr. Gaba shared an example from another municipality where a historical society had a contract with the municipality to plow snow on their property in exchange for community privileges. He explained that a board member who was also a member of the Historical Society had to recuse themselves during discussions about the contract. Mr. Gaba emphasizes that while a liaison to a non-profit organization isn't necessarily required to recuse themselves, it may create a potential conflict of interest. He suggested that the liaison's loyalty might be perceived as leaning towards the non-profit, possibly affecting their objectivity in reporting to the board. While not mandatory, he underscores that it is generally a good idea for the liaison to exercise caution and consider the potential impact on their impartiality.

A discussion ensued regarding liaison roles with additional examples given by Mr. Gaba and Trustee Foster, as well as Trustee Collura's own experience on the Historical Society's board. Mr. Gaba reiterated that although it was not prohibited to be a liaison to each other's boards, it did not create a good look.

It was discussed if Trustee Collura should step down from the Historical Society Board or possibly give up the liaison role, as well as questioning whether Trustee Collura gained

anything personally from the situation; it was determined that she did not, but Trustee Foster stated that it was still considered a conflict of interest.

Mr. Gaba gave another example from a different municipality where they faced an issue with installing lights in a stadium for Little League. Initially, Little League was willing to fundraise \$250,000, but the liaison, also a Little League board member, had conflicting interests on payment commitments, and eventually had to disqualify himself from Little League matters. Mr. Gaba emphasized the importance of avoiding conflicts of interest whenever possible.

Trustee McKnight questioned the restriction on Planning Board members engaging in real estate activities and disagreed with the limitation, suggesting that if there was a conflict of interest, members should recuse themselves. Trustee McKnight stated that Planning Board members were citizens volunteering to help and should not be penalized for pursuing real estate endeavors independently of their board duties.

Trustee Foster thought that it was a conflict of interest and gave the example of her giving up her real estate license when she became a certified planner.

A discussion ensued between the Board and the Village Attorney about the restriction on Planning Board members and whether to keep the restriction, remove it, or modify it. No conclusions were made.

Mr. Gaba explained the purposes of a board of ethics. Many questions and scenarios were posed by the Board. A lengthy discussion ensued which included recapping the Planning Board restriction topic and what constituted a conflict of interest. The Board was divided on opinion and no final decisions were made, but the Board did want the code in place by the beginning of the new year. Further information on the topic would be gathered by looking at other municipalities.

The discussion shifted to how public officers and office employees should treat all members of the public with respect, which was redlined for removal.

Trustee Cheney and Mr. Gaba suggested the policy belonged in the employee handbook, while others proposed it should remain in the ethics code.

Trustee Foster differentiated between ethical issues, citing using one's position to bully for self-gain as unethical, while expressing frustration and using strong language was not considered an ethical concern.

Further discussion continued with the Board going over different scenarios.

Mr. Gaba explained the concept of ethics within a code of ethics for municipalities. He distinguished between actions that are morally wrong (*malum in se*) and those that were wrong because they are prohibited by society (*malum prohibitum*). The municipal ethics code lists actions that are prohibited, not necessarily morally wrong. The purpose of the code is to specify what actions individuals shall not do, and violations result in a breach of the ethics code, not necessarily a moral transgression. Mr. Gaba suggested that including behaviors like being rude to people in the code is acceptable, even if it duplicates the employee handbook, as it serves the purpose of prohibiting certain actions, rather than delving into a moral debate.

Trustee Collura and Mayor Newhard both voiced their preference for this topic to remain in the ethics code.

The discussion shifted to the possibility of appointing an ethics board, which was already written in the code and at one point had appointed members.

Mr. Gaba went over the typical schedule of an ethics board and the process of appointment. Several questions were asked by the Board such as qualifications for appointees and if any members needed to be elected or if all could be appointed.

The Board had a discussion regarding possible candidates for appointees and the attributes they would be looking for.

Trustee Cheney moved on to the topic of gifts and asked specially about section 9-5, E; as written, 'did not apply to unsolicited election campaign contributions, and fees paid for attendance at an election fund raising event.' Trustee Cheney asked to define the section and how it would be enforceable.

Mr. Gaba stated that enforcement was a real problem.

Trustee Cheney asked for clarification regarding fees paid for attendance at an election event and sponsorship. Trustee Cheney was under the impression that one could spend \$1,000 of their own money, but if one was to accept contributions from others then a committee would have to be formed and reported to the state.

A discussion amongst the Board occurred, concluding that the code of ethics could have a section to refer to the New York State election laws. Mr. Gaba stressed that forming a committee was the key.

Moving on to another topic, Trustee Cheney wanted clarification on soliciting interest in appointments.

Mr. Gaba responded that sending emails and informing the Mayor or Board Members that someone desires an appointed position would be considered soliciting. He added that expressing willingness to accept a position differed from attempting to influence one's way into an appointed position, acknowledging the difficulty of proving such intentions.

Trustee Foster suggested changing the language from soliciting to lobbying, as she felt expressing interest in a position was different from lobbying for a position.

Trustee Cheney moved onto another article regarding the appointment of the chairman. The article required only the mayor to appoint a chairman. Trustee Cheney suggested that appointment should also require board approval.

Trustee Cheney also pointed out that there was no written guidance for appointing vacant positions. A discussion ensued regarding how the Board wanted to handle vacant positions within the ethics policy. The Board determined that the process would be managed in accordance with the standard procedures.

A discussion ensued about the most efficient way to handle signing the annual ethics policy as well as to what extent the disclosure statements should entail, such as the affiliation of businesses located outside of the Village.

No final decisions on disclosure statements were made and the discussion would continue at a later date.

4. Draft Short-Term Rental Code.

Topic was not discussed.

5. Professional Agreements.

Topic was not discussed.

6. Regular monthly Village Board meetings proposed to begin at 6:30 p.m. instead of 7:30 p.m.

Topic was not discussed.

**Adjournment**

A **MOTION** was made by Trustee Cheney, seconded by Trustee Foster, and carried to adjourn the work session at approximately 7:25 p.m.

The vote on the foregoing **motion** was as follows: **APPROVED**

Trustee Cheney Aye    Trustee Foster Aye    Trustee Collura Aye

Trustee McKnight Aye    Mayor Newhard Aye

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Jennifer Mante, Deputy Village Clerk