



VILLAGE OF HOMEWOOD

ETHICS COMMISSION

**Public Annual Meeting of the Ethics Commission
was held at the Homewood Village Hall
2020 Chestnut Road
Board Room – First Floor
7:00 p.m.
Wednesday, March 14, 2018**

Chairperson

David Speerbrecker

Members

Ellen Dreyfus

The regular annual meeting of the Ethics Commission was called to order at 7:03 p.m.

Susan Goldberg

Marvin Austin

Roll call was performed by Acting Chairperson, Susan Goldberg.

Robert Kyfes

Commission members present: Susan Goldberg, Robert Kyfes, Timothy Biel, Daniel Wentworth and Richard Lites.

Timothy Biel

Daniel Wentworth

Legal Liaison, Attorney Chris Cummings and Staff Liaison, Assistant Village Manager Napoleon Haney were also present.

Richard Lites

Chairperson David Speerbrecker, Commission members Ellen Dreyfus, and Marvin Austin, were unavailable for this meeting.

Ex-Officio Members

Mayor Rich Hofeld

Mayor Richard Hofeld (Ex-officio member) and Village Trustee (Board Liaison to the Commission) Barbara Dawkins were also unavailable for this meeting

Attorney Chris
Cummings

Board Liaison

Village Trustee
Barbara Dawkins

Approve Minutes: Two corrections were made to the minutes from Thursday, February 16, 2017 which included the corrected spelling of Ellen Dreyfus' last name and the corrected year "2016" for the Annual Report. A motion was made by Commissioner Robert Kyfes to approve the minutes from February 16, 2017 with corrections. The motion was seconded by Commissioner Daniel Wentworth. Roll Call: Unanimous in the affirmative.

Staff Liaison

Napoleon Haney
Assistant Manager

Public Comments:

Commissioner Goldberg made note that there were no members of the public in the room.

Agenda Items(s)

Agenda Item A: Introduction of newly appointed Ethics Commissioner(s)
Commissioner Goldberg initially acknowledged and welcomed Commissioner Lites to the meeting but realized that all of the members present were new or recently appointed members. All new and recently appointed members were recognized.

Agenda Item B. Review and Approval: Ethics Commission Annual Report for 2017.

While the Commissioners reviewed the annual report, Commissioner Goldberg explained that while former Commissioner Frima Margolin desired to serve on the ethics commission, she moved to Olympia Fields and was no longer eligible/qualified to serve on the commission. Commissioner Goldberg also shared that Frima Margolin's heart will always be in Homewood.

A motion was made by Commissioner Timothy Biel and seconded by Commissioner Daniel Wentworth to approve the 2017 annual report. Roll Call: Unanimous in the affirmative.

Agenda C. Recap of the Commission's Mission and Purpose

Legal Liaison, Attorney Chris Cummings was given the floor and explained that the ethics commission was created as a creature of state law to solicit independent evaluations in all matters related to alleged violations of the Village's Code of Ethics. Attorney Cummings continued to explain that the ethics commission could technically conduct hearings for employees that violate the ethics code. After an evaluation of the issue, the Commission, in their advisory role, would provide a recommendation to the Board of Trustees. Attorney Cummings also detailed that in his twelve years as village attorney, he could only remember one hot button issue that was heard by the ethics commission.

Commissioner Lites asked if the ethics commission was subject to the open meetings act to which Attorney Cummings responded in the affirmative. Attorney Cummings also explained that March 14, 2018 ethics commission meeting was properly noticed and posted in accordance with the open meetings act.

Before moving to the next agenda item, Commissioner Lites asked if the commission would be called upon to hear any potential ethics violation allegations that may surface as a result of the current Home Rule discussions. Attorney Cummings explained that the commission has the authority to hear any and all allegations as they are brought forward.

Various questions by the Commissioners were asked about the village's ability to engage in the home rule discussion. Attorney Cummings explained that the village could only provide factual information that would better inform and educate the public as it relates to home rule. It was made clear by Attorney Cummings that the village could neither take a position against, nor articulate an advocacy role in support of home rule.

Attorney Cummings handed documents to commission members that provided specific language from the Homewood Municipal Code and the Illinois Compiled Statutes that severely restricts the village's ability to even remotely engage as an advocate or detractor to any ballot measure. Attorney Cummings explained that because the village is conscious and aware of these

provisions, residents would never see a public works trucks driving down the street with a “vote yes for home rule” on the side of the truck.

Attorney Cummings explained that village employees could be advocates or critics of home rule on their own time (non-compensated time), but are prohibited from engaging in similar practices while operating/working in their respective professional capacities.

Attorney Cummings read a portion of state statute that pertains to Election Interference (10 ILCS 5/9-25.1) which can be extended to include a referendum on the ballot. Attorney Cummings also brought attention to the statute that read, “This Section shall not prohibit the use of public funds for dissemination of factual information relative to any proposition appearing on an election ballot...” Attorney Cummings summed up his comments by sharing that the board and employees in their official capacity can educate, but they cannot advocate. Commissioner Kyfes concurred that his church’s position is similar in that pastors are unable to advocate for political figures, one way or another. He continued to explain that pastors can state moral positions of the church, but they are unable to say, this is how you should think or vote.

Agenda Item D. Discussion: Complaint Alleging Ethics Violation

Attorney Cummings brought the commissioners’ attention to the agendized complaint alleging an ethics violation. Attorney Cummings explained that the complaint was submitted anonymously in January of 2018. Unfortunately, with the loss of three members, with one being gravely ill, scheduling a quorum proved to be challenging. It was only after the mayor and board appointed three new members that the current meeting was able to be scheduled with a quorum. Attorney Cummings explained that the complaint was signed “John Doe” with the return address for the Homewood post office. Attorney Cummings explained that the commissioners were tasked to evaluate the complaint based on its merit. In essence, was there enough information to constitute an ethics violation that would merit further investigation. Commissioner Biel shared that while he would love to go through the exercise of an evaluation to see how the commission would function, he would be in support of dismissing the complaint simply because it was an anonymous allegation. Attorney Cummings explained that as a practical matter, it would be best to evaluate the complaint and make a determination of violation.

The commissioners went through the complaint page by page and discussed the various allegations. It was found that the Village had operated within their municipal powers to inform, educate and present factual information related to a referendum question of home rule.

Commissioner Lites shared commentary explaining that one of the buzzwords that he has been hearing, as it relates to the question of home rule, is trust. He discussed the general rationale behind why home rule was approved by the state legislature in 1970. He shared with the other commissioners that the state legislature desired to provide smaller municipalities the freedom to exercise their own judgment. Commissioner Lites questioned the motive of the anonymous complainant and wondered if there was some personal motive

behind the complaint, or just a need to exert some form of influence over the home rule issue.

Commissioners Goldberg and Kyfes articulated that they were unsure of how Commissioner Lites comments were relevant to the Ethics Commission's role.

Commissioner Lites went on to explain that, as part of the home rule argument, the only angle vulnerable to attack would be the question of trust; which places the Village at a disadvantage. Commissioner Lites implied that the current legislation places the village at a disadvantage as it relates to engaging in a conversation about trust. Any response by the village to discuss trust would automatically be tied to the home rule question which would, by design, paint the village as an active advocator for home rule. Commissioner Lites likened this vulnerability to a championship boxing match where the underdog scheduled to fight the champion, now has been tasked with fighting the champion with one arm tied behind their back.

Attorney Cummings explained to the Commissioners that if they learned of any ethics related violations or improprieties created by the village or any of its employees, the commissioners have the ability to convene a meeting of the ethics commission to discuss the issues. It was suggested by Attorney Cummings that if there were no additional questions for him, that it may be appropriate to call the question.

Commissioners Kyfes and Biel asked if Attorney Cummings saw any of the allegations as troubling. Attorney Cummings shared that he did not find any of the allegations troubling. Attorney Cummings inferred that it would be reasonable for someone to mistakenly mischaracterize the Village's informational efforts as advocacy because the village is extremely good at marketing its community events and initiatives. Attorney Cummings shared that it is his position that the information presented in the allegations was disseminated to provide factual and educational information on a municipal issue. Attorney Cummings further explained that the Village created and evaluated other home rule informational initiatives but decided to abandon them so as not to violate any ethical codes.

Commissioner Goldberg asked if the allegations would have been signed by a resident of Homewood, which one of the village's posts would have been questionable? Attorney Cummings explained that the complainant would have had to identify and articulate the questionable issue. Attorney Cummings shared that the Commission would have notified the complainant of the meeting and would have requested to meet with the complainant.

Commissioner Biel shared that he read through the complaint paragraph by paragraph and performed a "gut check" on each allegation and concluded that all of the allegations were based on "informational" information. He mentioned that he initially identified the Facebook posting by Rabid Brewing as questionable, but understood that the posting was not performed on company time. Attorney Cummings clarified that the Rabid "Facebook" post

was initiated by Rabid Brewing from their Facebook page, not by any village actors.

To the point of not using village time and resources, Commissioner Kyfes explained that a certain (pro-home rule group) requested to use Sarah Hall at St. Joseph Church for an informational meeting on home rule, but St. Joseph Church was not able to accommodate the request because providing the space to this group may have implied that the church was advocating for one position or another; but this request in his mind showed that the group was going out of their way to advocate outside of their work time and village time to ensure that they were not in conflict with any ethical rules or laws.

Attorney Cummings explained that employees do occasionally attend political forums, but they show up to the forums in their personal vehicles on their own time. Staff arriving in their personal vehicle helps to remove the perception that the staff person is in attendance in an official village capacity. Attorney Cummings further explained that these practices are in place so that the village can avoid the very appearance of impropriety.

Commissioner Kyfes agreed and asserted that being an employee does not take away your right as a citizen to express an opinion about something as long as the expression is done appropriately.

Commissioner Lites shared that it would seem that it would be very difficult for staff (police, fire) to present at an informational meeting without representing the village because of their knowledge and convictions. Attorney Cummings shared that staff can share the facts in their official capacity, but when they are not acting in their official capacity (as residents at a coffee meeting) they are able to definitively say, yes you should vote for this or that because they are not speaking in their official capacity; rather as a citizen. Attorney Cummings continued and shared that when he attends a gathering as Chris Cummings the Homewood resident, he's not saying the village attorney says to vote for something, he's saying that Chris Cummings the resident is voting from something, and the fact that he has knowledge of certain issues does not disqualify him from sharing as a resident while not in an official capacity.

Commissioner Goldberg called the question: Does the complaint sufficiently allege an ethics violation? Commissioner's Biel, Kyfes and Wentworth shared that they did not see any violation of ethics.

Commissioner Goldberg asked if anyone disagreed with this response. For purposes of the minutes, Commissioner Goldberg entertained a motion to dismiss the complaint for failure to sufficiently state alleged ethics violations. The motion was moved by Commissioner Biel and seconded by Commissioner Goldberg. Roll Call: Unanimous in the affirmative.

Attorney Cummings shared that he would notify the village manager and the village board of the commissioner's motion.

After a brief discussion about setting a time for the next meeting, the Commissioners set the next annual meeting for Wednesday, March 13, 2019 at 7:00 p.m.

The meeting was adjourned at 7:59 p.m. on Wednesday, March 14, 2018.

Respectfully submitted,

A handwritten signature in blue ink that reads "Napoleon Haney". The signature is written in a cursive style with a large, looping initial "N".

Napoleon Haney, MPA
Assistant Village Manager
Staff Liaison to the Ethics Commission