

**COMMITTEE OF THE WHOLE MINUTES
WEDNESDAY, JUNE 27, 2018
6:00 PM
BOARD ROOM, MUNICIPAL BUILDING, 210 COTTONWOOD AVENUE**

Call to Order

Roll Call

Pledge of Allegiance – President Pfannerstill

Present: Trustees Anson, Dorau, Meyers, Landwehr, Swenson, Wallschlager, President Pfannerstill

Others: Administrator Cox, Clerk Igl, Village Attorney Hector de la Mora, Tom Brass, Jordyn Noennig

1. Continue review of proposed revisions to the Village's Harassment Policy and discuss same with the Village Attorney. No action will be taken regarding any matter during this session.

President Pfannerstill stated that he had called for this meeting as he thought it was best for the Village Board to get together to discuss how to move forward with revisions to the harassment policy. He stated that should a complaint be received, the investigation would include whether or not there is an appropriate policy in place and whether staff has been trained on the policy.

Attorney de la Mora provided background on the topic stating that there has been an explosion in the number of claims by individuals in protected categories of people who feel they have been mistreated. He stated that there is often no fee required to file a claim, only minimal information must be submitted and the complainant is not required to be represented by an attorney to file a harassment or retaliation claim. He estimated that it would cost between \$3,000 and \$5,000 in defense costs for an attorney just to review the details of a complaint and file an answer to the complainant.

Attorney de la Mora stated that filing of a complaint is often a means of creating a stir in the hope that someone would take note of an interpersonal problem within a department. He stated that his firm has been providing presentations to municipal groups on the need for this type of policy. He stated that his office often receives referrals from governmental entities where participants in those organizations have an elevated sense of a right to be heard about something that they are dissatisfied about. He stated that the recommended approach is to create a process to receive these complaints for review; if no merit to the complaint, it is put aside. The complainant would also be informed of the difference between harassment versus a situation in which someone is made to feel uncomfortable.

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Attorney de la Mora stated that he was asked to respond to questions about the policy and offer minor suggestions. He pointed out that the policy does draw a distinction between individuals who are employees and individuals who are Village officials and that the policy reasonably allows the board to police that behavior for both elected and appointed officials.

Administrator Cox stated that changes in the most recent version were in response to the conversation held at the last Committee of the Whole meeting to clarify how those types of complaints are handled and how actions against board members and village president are handled by the village board. He noted that the word "unlawful" was removed as he felt it was too limiting. Additionally, item "G" was added which further addresses how a complaint against an elected officeholder would be handled.

Trustee Wallschlager asked whether a false claim filed would stay in the record even if unfounded. Attorney de la Mora stated that a false claim would stay in the record but the vindication would also stay in the record. He stated that the detailed procedure is included in the policy and that if a claim is filed, the attorney should be involved immediately to determine whether it is a false claim. The claim would be investigated and the attorney would prepare a response to the complainant.

Trustee Anson expressed concerns that the policy creates a "menu" of items that may encourage people to file a claim. Trustee Dorau stated that this was her concern as well. Trustee Wallschlager expressed concern that the items included could be taken out of context.

Trustee Dorau suggested that perhaps a committee could be formed to handle any claims received. Administrator Cox responded that confidentiality is necessary and felt it would be best not to involve many people in the conversation if a claim is made. Trustee Dorau asked whether employees would have to sign stating that they received the policy and Attorney de la Mora stated that step would be included in the implementation.

President Pfannerstill stated that supervisors will have an added level of responsibility and that if a complaint is received, it will need to be provided to the proper individual for investigation. He further stated that he would never want to have a policy in place that leads to untrue claims being filed against people, however, the message of the policy needs to be that under no circumstances will these behaviors be tolerated. Additionally, he stated that no employee or trustee will be allowed to retaliate against any claimant. There was discussion related to specific examples of behaviors and how the policy would address them.

Tom Brass stated that he believes the proposed policy to be a road map of how to file a claim against the Village. He stated that the policy needs to inform employees of the proper procedure if they feel they are being harassed in any way but feels that the proposed policy is too detailed. He suggested that rather than listing specific behaviors, language be added to state that if you feel you have been psychologically harmed, a claim could be filed. He agreed that it is important for employees to understand the complaint procedure and agreed with Administrator Cox that claims need to be reviewed by a limited number of people.

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Trustee Meyers expressed concerns that a claim could be filed in an attempt to get back at someone and behaviors may be interpreted in different ways.

Trustee Dorau asked what the next steps would be for the board to proceed with the policy. Attorney de la Mora asked that items of concern or suggestions be submitted to Administrator Cox and that he will act as co-editor stating that the goal of the policy is to try to incorporate all necessary elements into it and have a policy that the board is comfortable with and can readily explain to constituents.

President Pfannerstill asked whether the board agreed that the existing policy needs to be updated. The consensus of the board was yes.

Trustee Wallschlager stated that the existing policy includes referring an individual to counseling and asked who pays for that service. Administrator Cox stated that perhaps the employee assistance program for employees would pay for a limited amount of counseling service. He stated that in Police Department matters, the Village utilizes mental health providers but that the Village only pays for a limited number of visits.

President Pfannerstill reminded the board that they are working on communications and that it is important that the board be aware of any proposed changes to policies. Trustee Anson clarified whether an employee can make a report to a Board member. It was stated that any complaint must go through the channels outlined in the policy and be reported to the administrator right away for his expertise. Anyone who receives a complaint is to maintain confidentiality.

President Pfannerstill asked that suggestions be submitted to Administrator Cox by July 6 and would hope that the policy would be approved by the board within the month so that training may proceed.

2. Motion (Anson/Meyers) to recess to closed session pursuant to State Statutes §19.85 (1)(c), considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility regarding the Village Administrator and to adjourn thereafter without reconvening into open session pursuant to §19.95(2). Roll call vote taken; all ayes. Carried (6-0).

Meeting adjourned to closed session at 7:27 p.m.

Respectfully submitted,

Darlene Igl
Village Clerk