

WOOLMINGTON, CAMPBELL, BERNAL & BENT, P.C
ATTORNEYS AT LAW

Merrill E. Bent, Esq.
*Also admitted in New York
Merrill@greenmtlaw.com
802.362.2560

Via email to greenmountainsam@vermontel.net

July 18, 2016

Mr. Samuel Battaglino
P.O. Box 120
Grafton VT 05146

Re: Complaint of Violation of Grafton Code of Conduct

Dear Mr. Battaglino:

Upon your request, we have reviewed your June 1, 2016 letter to the attorney for the Town of Grafton concerning the residents' Complaint that the Chair of the Grafton Selectboard, Allan Sands, violated the Grafton Code of Conduct ("Code"). We also reviewed the June 6, 2016 email and July 1, 2016 letter from the Town's attorney to the Selectboard addressing the same subject matter.

Rather than focus on the plain language of the Code, the analysis in the July 1, 2016 letter instead turns focus to Vermont's Municipal Administrative Procedures Act ("MAPA"). The Code references two limited MAPA subsections, for purposes of supplying an applicable procedure to be followed (§ 1207(a)) and a definition (§ 1201(4)), but is in fact not incorporated as a whole or made the basis for the Code. This reliance on MAPA and the position that Section IV of the Code of Conduct applies only to quasi-judicial proceedings (i.e., formal hearings before the Board that are similar to court proceedings) fails to take into account that the Code *is not* strictly limited to the confines as MAPA, and instead reflects Grafton's decision to establish its own criteria for what conduct is and is not permissible for members of a public body.

Neither of the two, specific MAPA provisions referenced in the Code are by their terms strictly applicable to quasi-judicial proceedings (neither provision even mentions quasi-judicial proceedings). In fact, the Code sets forth its own definition for "party," which incorporates but is not limited to, the definition of "Party" set forth in MAPA (§ 1201(4)). In sum, there is nothing in the plain language of the Code to suggest that Section IV applies only to quasi-judicial proceedings.

Additionally, the June 6, 2016 email to Board members makes it clear that, even if it were appropriate for a Board Member to attend a meeting with a party, "transparency is critical," and the member should disclose the substance of any such meeting to the Board. As I understand it, Mr. Sands has failed to make such disclosure at any Board meeting subsequent to his meeting with Iberdrola.

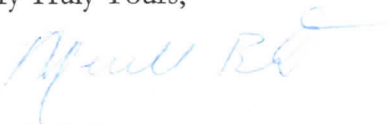
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JOHN D. STASNY

Finally, this is not a situation in which a resident has a specific interest in a matter to be considered by the Board; rather, Iberdrola is actively seeking to enter an agreement with the Town in connection with its proposed project.

We have also considered, preliminarily, the question of Iberdrola's potential offer of funds to the Town. By accepting any funds from Iberdrola, the Selectboard runs the risk of creating the appearance of partiality, or that it is entering negotiations having received an incentive to reach a conclusion favorable to the donor. At the very least, prudence would suggest that it could be a dangerous proposition for the Town to accept such monies unless they will be entirely under the control and discretion of the Selectboard without any conditions imposed by a third party.

As always, please do not hesitate to contact our office should you have any questions or concerns.

Very Truly Yours,



Merrill E. Bent