

CHARTER COMPLIANCE COMMISSION

Meeting Date: February 9, 2021

Meeting Location: Conference Call

Meeting Time: 1:00 pm

Attendees:

Members - Robert Klytta, Julia Perry

Participants - Charles Sumner, Acting Town Manager; David Gardner, Assistant Town Manager; Lise King, Select Board Member; and Mark Del Franco, Complainant

Moderator – Emmett Catanese

Public – Laura Rood

The Charter Compliance Commission for the Town of Provincetown held a Public Meeting on Tuesday, February 9, 2021, starting at 1:01 p.m. The meeting was held by conference call pursuant to Governor Baker's March 12, 2020, "Order Suspending Certain Provisions of the Open Meeting Law". Emmett Catanese, Town Clerk, served as Moderator.

1. The first item on the Agenda was Public Statements.
 - 1) Laura Rood – oral statement
 - 2) Dorie Seavey – via email A Public Statement on the matter was received in writing from Dorie Seavey, a registered Provincetown voter, by email to the Town Clerk dated February 8, 2021, forwarded to the Charter Compliance Commission. The email states that the attached Statement, which is attached hereto, is for consideration by the Commission at its Meeting. Therefore, it was read into the Public Record of the Meeting.
2. The second item on the Agenda was Review & Discussion of the Charter Violation Complaint received from Mark Del Franco dated January 26, 2021, with interested parties. Statements were made by the following, with follow-up questions noted:
 - Mark Del Franco – After he made his statement, Chair Robert Klytta asked about his reference to a Code of Conduct. He replied that, to his knowledge, there is no actual Code of Conduct, but the Select Board has discussed creating one.
 - Lise King – Initial memo was only intended as a request for clarification of a process. It was filed in response to constituent complaints. The Finance Committee has a code of conduct. She confirmed in response to a question from Secretary Julia Perry that the reference to Code of Conduct in her Memorandum dated November 29, 2020, is to the Town Personnel Rules.
 - Charles Sumner – Confirmed that Elizabeth Paine was the first to refer to an Investigation in writing.
3. The third item on the Agenda was the Discussion by Commission in preparation of the Consideration and Decision. That discussion is reflected in the Consideration and Decision 2021-1, dated February 9, 2020.

4. The fourth item on the Agenda was Any Other Business. Julia asked if the letter discussed at the Meeting prior offering that the Commission provide educational opportunities about the Charter had been forwarded to the Select Board and if there had been any reply. Bob stated that it was forwarded to the Select Board and the only reply to date had been from Select Member Venden. Julia asked whether Bob thought the Commission should ask to be on the Select Board's Agenda, and Bob replied that he thought it should wait until buildings reopened, per the Governor's Order. Julia agreed.

The Meeting adjourned at 2:46 pm.

Secretary: Julia L. Perry

Dorie Seavey
P.O. Box 123
Provincetown, MA 02657

Via E-Mail on February 8, 2021 to Elizabeth Paine for the Select Board (Meeting on February 8th) & Emmett Catanese for the Charter Compliance Commission (Meeting on February 9th)

Select Board
Charter Compliance Commission
Town of Provincetown

RE: Mark Del Franco Matter

Dear Select Board and Charter Compliance Commission:

Regarding the specific Charter and other violations alleged by Mark Del Franco's petitions and questions before you, I am not qualified to comment. However, I do wish to raise one preliminary question that may have bearing which is: Under what authority did Mr. Del Franco make his remarks during the public statement period of the Select Board meeting on November 23, 2020?

At the time, Mr. Del Franco served as a member of the Finance Committee (he has since resigned). I interpret Chapter 5, Section 4(f), of the Town Charter to mean that, someone serving on a Board or Committee cannot go before another Board and discuss, ask questions, offer explanations or make statements that in any way relate to the business of the Committee or Board on which one serves. The referenced Charter section reads in full:

Members of Town Boards, including the officers, have no authority in their individual capacities except as delegated by majority vote of the Board, except that administrative matters, such as the posting of Agendas, may be handled by officers without prior approval.

I actually learned this lesson the hard way, having once asked a question during the public statements period of a Select Board meeting about the alternative legal pathways for amending the Town's Charter. At the time, I was a newcomer to FinCom and the FinCom Chair was working on such an amendment to be presented as a Warrant Article. The FinCom Chair promptly reprimanded me, stating that it was inappropriate for me to speak to the Select Board even as a citizen about something related to a Committee matter unless I first cleared my proposed remarks or questions with the Finance Committee. I came to appreciate that I had acted in error.

There is no record of a public meeting of FinCom held prior to the Select Board's November 23rd meeting wherein a majority of the Committee voted to ask or allow Mr. Del Franco to address future Select Board meetings regarding possible critical public statements made about FinCom. Perhaps like myself Mr. Del Franco was reprimanded by the FinCom Chair after the November 23rd meeting. In any case, if this line of reasoning holds water, then it may be that Mr. Del Franco was unfortunately in violation of a Town Charter provision when he made public comments related to FinCom at the Select Board meeting at issue.

Sincerely,



Dorie Seavey