

ORDINANCE 863-22

ORDINANCE REPEALING § 2-19 OF CHAPTER II, "ADMINISTRATIVE" OF THE CODE OF LITTLE SILVER, COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY

WHEREAS, the Mayor and Borough Council have determined the sections of the code of Little Silver as they relate to Administration require updating after the passage of time; and

WHEREAS, the power of the Mayor and Borough Council to establish a municipal ethics board is set forth in N.J.S.A 40A:9-22.19; and

WHEREAS, § 2-19 provides for the establishment of a municipal ethics board within the Borough; and

WHEREAS, the Borough's municipal ethics board has no members; and

WHEREAS, in the absence of a municipal ethics board or county board of ethics, the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs has jurisdiction to govern and guide the conduct of local government officers or employees regarding ethics violations per N.J.S.A. 40A:9-22.4;

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Little Silver, County of Monmouth, and State of New Jersey, (additions to text indicated by **bold text**; deletions to text indicated by ~~strikeout~~) as follows:

~~§ 2-19 MUNICIPAL ETHICS BOARD.~~

~~§ 2-19.1 Established.~~

~~There shall be a municipal ethics board in and for the Borough in accordance with the provisions of Chapter 29, Laws of New Jersey 1991 (R.S. 40:23-6.51 et seq.).~~

~~§ 2-19.2 Membership.~~

~~The municipal ethics board shall consist of six members who are residents of the municipality, at least two of whom shall be public members. The members of the ethics board shall be appointed by the governing body of the municipality. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the ethics board shall be of the same political party.~~

~~§ 2-19.3 Term.~~

~~The members shall serve for a term of five years; except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of three years. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring in the membership of the ethics board shall be filled in the same manner as the original appointment for the unexpired term.~~

~~§ 2-19.4 Chairperson.~~

~~The members of the municipal ethics board shall annually elect a chairman from among the membership.~~

~~§ 2-19.5 Compensation, Facilities, Expenses and Personnel.~~

~~a. Members of the ethics board shall serve without compensation but shall be reimbursed by the municipality for necessary expenses incurred in the performance of their duties under this section.~~

~~b. The governing body of the municipality shall provide the municipal ethics board with offices for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.~~

~~c. All necessary expenses incurred by the municipal ethics board and its members shall be paid, upon certification of the chairman, by the municipal treasurer within the limits of funds appropriated by the municipal governing body by annual or emergency appropriations for those purposes.~~

~~d. The municipal ethics board may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this section within the limits of funds appropriated by the municipal governing body for those purposes.~~

~~§ 2-19.6 Municipal Code of Ethics.~~

~~Within 90 days after the establishment of a municipal ethics board, that ethics board shall promulgate by resolution a municipal code of ethics for all local government officers and employees serving the municipality. Local government officers and employees serving a municipal independent authority shall be deemed to be serving the municipality for purposes of this act.~~

~~The municipal code of ethics so promulgated shall be either identical to the provisions set forth in section 5 of the Local Government Ethics Act this section or more restrictive, but shall not be less restrictive within 15 days following the promulgation thereof, the municipal code of ethics, and a notice of the date of the public hearing to be held thereon, shall be published in at least one newspaper circulating within the municipality and shall be distributed to the municipal clerk and to the heads of the local government agencies serving the municipality for circulation among the local government officers and employees serving the municipality. The municipal ethics board shall hold a public hearing on the municipal code of ethics not less than 30 days following its promulgation at which any local government officer or employee serving the municipality and any other person wishing to be heard shall be permitted to testify. As a result of the hearing, the ethics board may amend or supplement the municipal code of ethics as it deems necessary. If the municipal code of ethics is not identical to the provisions set forth in section 5 of the Local Government Ethics Act, the municipal ethics board shall thereafter submit the municipal code of ethics to the Local Finance Board for approval. The board shall approve or disapprove a municipal code of ethics within 60 days following receipt. If the board fails to act within that period, the municipal code of ethics shall be deemed approved. A municipal code of ethics requiring board approval shall take effect for all local government officers and employees serving the municipality 60 days after approval by the board. A municipal code of ethics identical to the provisions set forth in section 5 of the Local Government Ethics Act shall take effect ten days after the public hearing held thereon. The municipal ethics board shall forward a copy of the municipal code of ethics to the municipal clerk and shall make copies of the municipal code of ethics available to local government officers and employees serving the municipality.~~

~~§ 2-19.7 Powers of the Board.~~

~~A municipal ethics board shall have the following powers:~~

- ~~a. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the municipal code of ethics or financial disclosures requirement by local government officers or employees serving the municipality;~~
- ~~b. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;~~
- ~~e. To forward to the county prosecutor or the Attorney General or other governmental body any information concerning violations of the~~

~~municipal code of ethics or financial disclosure requirements by local government officers or employees serving the municipality which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General;~~

~~d. To render advisory opinions to local government officers or employees serving the municipality as to whether a given set of facts and circumstances would constitute a violation of any provision of the municipal code of ethics or financial disclosure requirements;~~

~~e. To enforce the provision of the municipal code of ethics and financial disclosure requirements with regard to local government officers or employees serving the municipality and to impose penalties for the violation thereof as are authorized by this section; and~~

~~f. To adopt rules and regulations and to do other things as are necessary to implement the purposes of this section.~~

~~§ 2-19.8 Advisory Opinions.~~

~~A local government officer or employee serving the municipality may request and obtain from the municipal ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the municipal code of ethics or any financial disclosure requirements. Advisory opinions of the municipal ethics board shall not be made public, except when the ethics board by the vote of two-thirds of all of its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the ethics board in directing that the opinion be made public so determines.~~

~~§ 2-19.9 Complaints and Proceedings.~~

~~The municipal ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the municipality is in conflict with the municipal code of ethics or financial disclosure requirements, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The ethics board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the ethics board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the ethics board shall notify the local~~

~~government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the ethics board with any statement or information concerning the complaint which he wishes. Thereafter, if the ethics board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements, it shall conduct a hearing in the manner prescribed by section 12 of the Local Government Ethics Act, concerning the possible violation and any other fact and circumstances which may have come to its attention with respect to the conduct of the local government officer or employee. The ethics board shall render a decision as to whether the conduct of the officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements. This decision shall be made by no less than two thirds of all members of the ethics board.~~

~~If the ethics board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this section. A final decision of the ethics board may be appealed to local finance board within 30 days of the decision.~~

~~All statements, complaints, requests or other written materials filed pursuant to this section, and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant to this section shall be preserved for a period of at least five years from the date of filing or preparation, as the case may be.~~