



State of New Hampshire

GENERAL COURT

LEGISLATIVE ETHICS COMMITTEE

State House - Room 112
Concord, NH 03301-4951

June 20, 2023

David "Skip" Murphy
9 Gilford Glen Road
Gilford, N.H. 03249

RE: Complaint 2023-5

Dear Mr. Murphy:

On June 12, 2023, the Legislative Ethics Committee completed its initial review of the complaint you filed, alleging that Harry Bean had committed violations of New Hampshire law or General Court guideline, rule, or regulation. Our review consisted of the submitted complaint form, the written response of Representative Bean provided by his Attorney Paul T. Fitzgerald, and the testimony received from both you and Mr. Bean at the hearing on May 26, 2023.

In your complaint, you allege that Representative Bean failed to follow the law, RSA 91-A and RSA 24:9-d, particularly with regard to notice of public meetings in contravention of his duty as a State Representative and member of the Belknap County Delegation. This involved two separate incidents. The first being a delegation meeting held on August 1, 2022, with only two days public notice. The second involved a series of budget subcommittee meetings which were not properly noticed.

The meeting on August 1, 2022, was called and attended by a majority of the Belknap County Delegation. Representative Bean played a leadership role in coordinating that meeting which was opposed by some members of the delegation. The chair of the delegation did not concur with the need for the meeting. When informed that the meeting may not comply with the Right to Know Law, Representative Bean sought counsel from the County Attorney. Attorney Andrew Livernois provided a written opinion in which he concluded "while the law is not clear and unambiguous in this situation, I am comfortable in advising the members of the county convention that (a) there is a defensible,

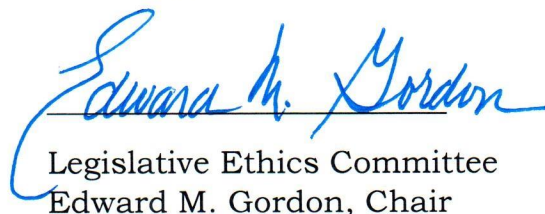
legal authority for the conclusion that the emergency meeting scheduled for tonight is legally valid, (b) that any legal suit designed to try to overturn the decisions of that meeting based upon the lack of notice under RSA 24: 9 would not likely succeed, and (c) that any insufficiency with regard to the notice of tonight's meeting can be subsequently cured at a future meeting." The August 1, 2022, meeting was held and Representative Bean was elected Chair of the delegation at that time.

In your complaint you assert that notice requirements were not met under the provisions of RSA Chapter 91-A and RSA 24:9-d. In looking at the remedies for violations of 91-A, there is no provision to find an individual culpable of a violation unless they have acted in bad faith. There is no penalty specified in RSA Chapter 24 for a violation of RSA 24:9-d. Having considered the evidence presented, the Committee can understand that there may have been differences of opinion as to whether an emergency meeting was required. It also understands that there was a question as to whether proper procedure was followed and Representative Bean was aware of that question. However, he sought a timely legal opinion from the County Attorney who concluded that the meeting was legally valid. The Committee cannot find that Representative Bean acted in bad faith.

With regard to the budget subcommittee meetings, it is clear that they were not properly noticed pursuant to RSA 91-A. It was the customary practice for the County Administrator to arrange for the required public notices. Representative Bean relied on the County Administrator, Debra Shackett, to arrange for those notices and had no reason to believe that it had not been done properly. Ms. Shackett accepted responsibility for the failure to notice the meetings and even published a written apology. Again, to the extent Representative Bean may have had responsibility, the Committee cannot find that he has acted in bad faith.

In conclusion, the Committee found that your complaint against Representative Bean is unfounded and voted to dismiss the Complaint (5-0).

Sincerely,


Legislative Ethics Committee
Edward M. Gordon, Chair

cc: Honorable Harry H. Bean
Paul T. Fitzgerald, Esq.
Members, Legislative Ethics Committee