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Members of the public who wish to provide public comment are encouraged to submit those via email in advance of the meeting. For these comments to be read into the record, they should be submitted at least three hours in advance of the meeting start time. Please email Brian Candela at bcandela@norwalkct.org to provide written public comment prior to the meeting.

REGULAR MEETING

BOARD OF ETHICS

Thursday, July 27, 2023 at 7:00 p.m.

Teleconference/Videoconference

AGENDA

1. ROLL CALL:

2. New Introduction:

3. Public Participation:

4. ACCEPTANCE OF MINUTES:

- April 27, 2023

5. OLD BUSINESS:

- Discuss Board of Ethics' draft slides concerning education and training programs for the City and its Officers and Employees.

6. NEW BUSINESS:

7. EXECUTIVE SESSION:

8. ADJOURNMENT:

CITY OF NORWALK
BOARD OF ETHICS
REGULAR MEETING
APRIL 27, 2023

ATTENDANCE: Michael Church, Chair; Patricia Agudow, Pat Toni, Lori Torrano,

OTHERS: Atty. Brian Candela, Associate Corporation Counsel

CALL TO ORDER

Mr. Church called the meeting to order at 7:00 p.m. A quorum was present.

NEW INTRODUCTION

Mr. Church welcomed new member Pat Toni and asked her to give an overview of her background. Ms. Toni spoke of her life-long resident of Norwalk and involvement with civic organizations and summarized her career as a nurse and hospital administrator having served on the Hospital Ethics Committee for 17 years.

Mr. Church noted one of the key attributes of serving on the Board of ethics is confidentiality and explained the standard response to questions of claims is no confirmation or denial.

PUBLIC PARTICIPATION

Atty. Candela said that there were no emails or requests to comment from the public for meeting participation.

ACCEPTANCE OF MINUTES – January 26, 2023

Ms. Toni noted the last motion on page 2 had Mr. Miklos, that should be Mr. Koleszar.

- ** MS. AGUDOW MOVED THE MINUTES OF THE JANUARY 26, 2023 MEETING AS AMENDED WITH CORRECTION NOTED.
- ** MR. CHURCH SECONDED.
- ** THE MOTION PASSED WITH TWO ABSTENTIONS (TONI, TORRANO)

NEW BUSINESS

Mr. Church said he had requested that meetings be held in person, but that the City is not able to accommodate hybrid meetings at this time, so meetings will continue to be held as Zoom conferences until further notice.

OLD BUSINESS

Discuss Board of Ethics' draft slides concerning education and training programs for the City and its Officers and Employees.

Atty. Candela summarized that the Board has completed edits of slides for the following sections of the Code of Ethics: 32.9-10, 11, 14, 15, 16, 17, 18.

The Board then reviewed the following sections and made several notes for clarifications:

- 32-1 Title Administration
- 32-2 Declaration of Policy
- 32-3 Definitions

There was discussion on wording to reduce the amount of text and to address the bullet points in the first person using "You..." rather than Officers/Employees, etc. Atty. Candella agreed to review the slides and provide edited versions for the next meeting.

The Board then previewed the following sections:

- 32-5 Prohibited Representations

There was further discussion on the date for the training and how the presentation would be done to enforce compliance with employee requirements. Atty. Candela explained that H.R. wants the presentation to be completed first, then the training can be scheduled. Mr. Church read from the Code of Ethics that the Board's charge is to provide a presentation for employee and officer training. He explained this task is not to enforce implementation but to create a power point presentation for training.

Mr. Church asked who would do an independent review, and Ms. Torrano offered to review this and bring back recommended edits to the Board for approval.

- ** MR. CHURCH MOVED TO DO AN INDEPENDENT REVIEW OF SECTIONS 32.5-6 AND BRING RECOMMENDED EDITS TO THE BOARD FOR APPROVAL.
- ** MR. TORRANO SECONDED THE MOTION.
- ** MOTION PASSED UNANIMOUSLY.

Atty. Candela mentioned that the state has seminars on municipal ethics that he has attended in the past. Mr. Church asked for the schedule of future presentations and virtual seminar options that might be available. There was further discussion on how the slides can reference the code and Citizens Guide without repeating the legal wording, with the goal of simplifying the context.

Atty. Candela displayed the slide for Section 32-8 and noted that it was very complex. Mr. Church offered to do an independent review, and bring back his recommended edits to the Board for approval.

Mr. Church said that the Board Members should keep in mind that these slides are for the purpose of a training session and the actual code and the Citizen's Guide to Ethics will be provided to the City employees and officers.

Atty. Candela will email links to the City codes and Citizen's Guide documents.

OTHER BUSINESS

Mr. Church asked Ms. Agudow to report on the League of Women Voters event that she recently attended. She shared that it was a great 'meet and greet' gathering of City officials and it was good to meet members of committees.

EXECUTIVE SESSION

There was no Executive Session.

ADJOURNMENT

There was no further business and the meeting was adjourned at 8:25 p.m.

Respectfully submitted

M. Knox
Telesco Secretarial Services

32-1 TITLE; ADMINISTRATION

- When fully staffed, the Board of Ethics is made up of five full members and two alternate members.
- The Board of Ethics members must be electors of the City of Norwalk and cannot be an Officer or Employee of the City.
- No more than two members of the Board and one alternate shall be members of the same political party.
- Board of Ethics members are appointed by a supermajority of the Common Council (require eleven affirmative votes).

32-2 DECLARATION OF POLICY

- Appointed and Elected Officer as well as Employees of the City (including the Board of Education) are all bound by this Code.
- As an Officer or Employee, you shall be impartial and responsible to the public.
- Public office/employment shall not be used for personal or financial gain.
- You shall not participate in any personal, business or financial activities that may influence your decision making.

32-3 DEFINITIONS

- This is the definition section of the Code of Ethics.
- If you have any questions about a particular definition, please see Section 32-3 of the Code of Ethics.

32-7 Prohibited Use of Influence and Information

- You shall not attempt to influence any other Officer, Employee or Agency concerning the handling of any matter or transaction.
- This does not prohibit you from communicating with other Officers, Employees or Agencies about a matter in which they have a financial or other legally protected interest, provided that such contact does not have, as its goal, the exertion of undue influence over the outcome and if the communication conforms to the following:
 - It is limited to communications with an Officer, Employee or Agency responsible for the matter on behalf of the City.
 - It is reasonable and necessary in terms of the customary conduct of the matter and is limited to lawful means and terms available to members of general public generally in similar circumstances.
- The City's Law Department shall assist the Board of Ethics in implementing its responsibilities and shall serve as staff to the Board and to any Hearing Board appointed under the Code.

32-7 Prohibited Use of Influence and Information (continued)

- You shall not disclose confidential City information, unless otherwise required by federal, state or local law.
- You shall not use any confidential City information to your advantage to advance your financial or personal interest (including any member of your Immediate Family).
- You shall not be required to participate in political campaigns.
 - Nothing in this Code of Ethics shall preclude you from seeking elective office and campaigning in connection therewith or voluntarily participating in any political campaigns, parties, political organizations or public issues.

32-8 Prohibited Gifts

- You shall not personally solicit or accept any gift, form of service, compensation or any item of property of a value exceeding \$150. However, this subsection does not prohibit the following:
 - Gifts or social courtesies related to a family relationship or established personal friendship.
 - Attendance at events of a charitable, public governmental, informational or business nature where refreshments may be served, and small souvenirs of the event may be distributed to all attendees which are not designated to influence your judgment in the execution of your duties.
 - Political contributions received in compliance with applicable laws and regulations.
 - Loans obtained according to prevailing commercial practices at the prevailing public rates of interest.

32-8 Prohibited Gifts (continued)

- Customary performance and merit awards.
- Certificates, plaques, awards having a value of not more than \$300 given to Officers or Employees as part of an official recognition/incentive program.
- Meals and refreshments provided to an Officer or Employee.
- Goods or services provided by the City.
- Meals and refreshments served in an Individual's personal home.
- A rebate or discount on the price of anything sold for value made in the ordinary course of business.
- Printed or recorded information, photographs, or maps relevant to governmental actions or functions.

32-8 Prohibited Gifts (continued)

- The Board of Ethics may periodically review the monetary exceptions listed herein to determine if the amount should be adjusted and submit any recommendations for adjustment to the Common Council.

32-9 Specific Violations

- Suggestion: This section of the Code of Ethics discusses specific violations.
- If you have any questions about a specific violation, please see Section 32-9 of the Code of Ethics.

VS.

- ORDINANCES: Willful violations of any provisions of concerning the purchasing of supplies, materials, equipment and services
- REMOVAL OF ORIGINAL RECORDS: No officer or employee or former officer or employee shall take for personal or other non-City use any original records, files or documents belonging to the City
 - With authorization copies of non confidential documents can be made available to the public
- ACCESS TO INFORMATION BY BOARD OF ETHICS: No officer or employee shall deny access to information requested for an investigation or public hearing (unless such information is exempt from disclosure or otherwise privileged under relevant federal, state or local law)

- **WHISTLE BLOWER PROTECTION:** Current or past officers and employees shall not retaliate against an individual in employment, benefits or contracting as result of that individual making an ethics complaint or providing truthful information as part of any investigation of or hearing on an ethics complaint.
- **VIOLATION OF CONFIDENTIALITY:** It shall be a violation if current or past officers and employees to intentionally violate any confidentially requirement provided for under the Ethics Code
- **ADDITIONAL SPECIFIC VIOLATIONS:** The Common Council may, from time to time, pass ordinances with the specific intent that said ordinances are to be incorporated into and enforced through the ethics process
- **EXAMPLES ONLY:** Violations of the Code of Ethics are not limited to the specific examples listed herein
 - ***May include other circumstances and actions that contravene the purpose and Intent of the Code

32-10 NEGOTIATION OF FUTURE EMPLOYMENT

- An Officer or Employee:
 - Shall not solicit future employment with any Person who has a substantial matter pending before the Agency which that Officer or Employee serves.
 - A matter is "substantial" if it involves a financial value of \$1,000 or more or involves a question of significant public policy for the City.

32-11 Subsequent Employment

- If you have served as an Officer or Employee, you shall not within one year after termination, assist any person, other than the City, for monetary or other valuable compensation before the Agency for which you served or were employed.
- No Agency shall employ any Individual who has served as an Officer of the Agency during the preceding 18 months or any immediate family member of an Individual who has served as an Officer of the Agency during the preceding 18 months.

32-14 Time Limits on Complaints

- Except in situations where active concealment has occurred:
 - No allegation in a complaint of a violation of the Code of Ethics shall be ruled upon by the Board of Ethics if six months or more has passed between the time of the alleged violation and the filing of the complaint.
 - In the event of multiple violations, only those alleged within six months of filing may be subject to a hearing.
- In the event a violation or evidence has been actively concealed, such action shall have the effect of tolling the period of limitation during said period of concealment until violation is discovered.
- If an officer or employee under investigation leaves office or employment, the Board of Ethics, by a majority vote, shall have the power to continue the investigation.

32-15 Proposed Revisions

- The Board of Ethics may propose revisions to the Code of Ethics to the Common Council:
 - To ensure its continuing effectiveness.
 - To hold public hearings, in its discretion, on matters pertaining to the administration of the Code of Ethics.

32-16 Incurring of Costs by Board of Ethics; Staff

- The Board of Ethics shall be authorized to incur costs for providing education and training programs for the City and its Officers and Employees. The Board of Ethics shall also be authorized to incur costs for investigating and prosecuting any alleged ethics violation(s) and in responding to requests for advisory opinions. Both subject to the City's annual budget.
- The Board of Ethics shall seek an annual appropriation to be used to cover such costs during the year and may also seek increased appropriations, if necessary, to carry out its responsibilities.
- The Law Department of the City shall assist the Board of Ethics in implementing its responsibilities and shall serve as staff to the Board of Ethics and to any Investigating Panel or Hearing Board appointed under this Code.
- The Board of Ethics, in appropriate circumstances, may retain independent counsel to represent the Board, any Investigating Panel or any Hearing Board.

32-17 Representation of Respondent by the City

- The Complainant (the person filing the ethic's complaint) and the Respondent (the person who is the subject of the ethic's complaint) may be represented by legal counsel at their own expense.
- If the Hearing Board finds that the Respondent did not violate the Code:
 - The Board of Ethics may recommend to the Common Council that the Respondent's reasonable legal expenses be reimbursed all or in part.
 - Common Council reimbursement is discretionary and subject to availability of funding.

32-5. Prohibited Representation

- No officer or employee shall represent a person or entity, other than the City
 - Before/belief of any agency they are a member of
 - By which he/she is employed
 - Under his/her supervisory authority
 - This provision shall not preclude an officer/employee from representing constituents in the course of his/her responsibility to the city
 - No officer/employee shall not accept any compensation or gift for such representation
 - An officer/employee whose immediate family is employed under retainer by a person having a matter pending before the agency
 - participation in any deliberation, discussion, vote or other action relating to the matter shall be disclosed to the City Clerk
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32-6. Prohibited use of City Property and Facilities

- No officer or employee shall use or authorize others to use City-owned property (vehicles/facilities) for any purpose other than City-business, except as follows:
 - Purposes/on terms available to the public, city officers/employees
 - In Accordance to the officers/employees work or employment
 - Minor incidental/non-incidental use for personal purposes that is without cost to the city
 - Charity, professional/volunteer work

Section 32-12

Organization and Duties of the Board of Ethics

Ethics Complaint Procedures

Powers and Duties

- Advisory Opinions
 - Investigate Complaints
 - Conduct Hearings on Complaints
 - Notify the Mayor, Common Council, City Clerk, Corporation Counsel and other Officers, as appropriate, of its memorandum of decision on complaints.
 - Annual Education Programs on the Code of Ethics
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Advisory Opinions

- Board of Ethics may receive written requests from any Officer, Employee, or Agency to render an advisory opinion.
 - Advisory Opinions are binding, until amended or revoked.
 - Good faith reliance on advisory opinion is an absolute defense to any Ethics complaint.
 - Advisory Opinions rendered within 120 days of request and shall be filed with the City Clerk.
 - Advisory Opinions are available to the public.
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Complaint Procedure

- The Complaint must:
 - Be in writing and on the required Complaint Form;
 - Be signed under penalty of false statement (i.e.: truthful);
 - Contain details of a specific act or acts allegedly in violation of the Code of Ethics;
 - Be in good faith;
 - Not be intended to harass the Respondent or the Board (i.e.: vexatious);
 - Be timely (See section 34-14 for time periods); and
 - Be **Confidential**
-

First Step: Ethics Board Reviews Complaint

- Board of Ethics reviews complaint to determine whether it should be accepted.
- If the Board rejects the complaint, it must do so in writing.
- Reasons to reject a complaint, include but are not limited to:
 - Number of complaints filed and pending by Complainant;
 - The scope of the complaint;
 - The nature, content, language and/or subject matter of the complaint;
 - The nature, content, language or subject matter of other written communications to the Board; or
 - A pattern of conduct resulting in an abuse of process or interference with the Board.

Rejection of the Complaint

- A Complaint must be:
 - In good faith;
 - Truthful; and
 - Not intended to harass the Respondent.
- If a Complaint is found to be in bad faith, untruthful or vexatious, the Board may:
 - Provide appropriate relief, commensurate with the conduct; and/or
 - Order that the Board of Ethics need not accept complaints from the Complainant for a designated period of time.

Second Step: Investigating Panel

- Upon receipt of Complaint
 - Board of Ethics meets at next, regularly scheduled meetings;
 - Board reviews complaint;
 - If complaint is accepted, Investigating Panel is appointed within 21 days; and
 - Complainant and Respondent notified within 10 days after Investigating Panel is formed.

Investigating Panel– Confidentiality

- Investigating Panel proceedings are **confidential**.
- Breach of confidentiality can be direct or indirect.
- Breach of confidentiality may result in dismissal of complaint.
- Board of Ethics may ban Complainant from filing future complaints due to breach of confidentiality.

Investigating Panel Process

- Investigating Panel determines whether there is Probable Cause that Respondent has violated the Code.
 - Investigating Panel may delete, defer, reject or expand any part of the complaint.
 - Investigating Panel may receive oral or written testimony from Complainant, Respondent, and witnesses, may retain legal counsel and investigators.
 - Investigating Panel must complete investigation and decide initial complaint within 60 days.
-

Decision by Investigating Panel

- Two outcomes:
 - No-Probable Cause = dismissal of complaint
 - Probable Cause = referral to Hearing Board
- Finding of No Probable Cause
 - Complaint dismissed.
 - Board of Ethics notified of dismissal with a copy dismissal sent to Respondent and Complainant.
- Finding of Probable Cause:
 - Two (2) affirmative votes required.
 - Written report to Board of Ethics stating the basis for the finding.
 - Board of Ethics appoints a Hearing Board within 45 days of written report.

Third Step: Hearing Board

- Investigating Panel presents all evidence to Hearing Board.
 - Hearing Board notifies Respondent and Complainant within 10 days of receipt of report by Investigating Panel of the hearing process.
 - All hearings are **Public hearings** and are not confidential.
 - Public has a right to access the hearings.
-

Public Hearing Process

- The Investigating Panel presents the Complaint to the Hearing Board on behalf of Complainant.
 - Investigating Panel and Respondent rights:
 - To be represented by counsel;
 - To present relevant oral or written evidence; and
 - To exam and cross-examine witnesses; and
 - To have the hearing conducted in such a manner as to afford both parties due process under Federal, State, and local law.
 - Subpoenas may be issued by Hearing Board for both witnesses and records/documents.
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Public Hearing Process

- Evidence and Burden of Proof
 - A violation of the Code must be proven by Clear and Convincing Evidence
 - Investigating Panel has the burden of proving the complaint.
 - A 2/3rd vote of the Hearing Panel is required to make a finding of a violation of the Code of Ethics.
- Extensions of time within the discretion of the Hearing Board.

Decision by the Hearing Board

- The decision of the Hearing Board must be rendered within 120 days of appointment.
- Within 30 days after rendering a decision, the Hearing Board must state its findings of fact and conclusions of law in a written Memorandum of Decision.
- Memorandum of Decision is:
 - Filed with the Mayor, City Clerk, Corporation Counsel;
 - May be filed with any other Officer, as appropriate; and
 - Provided to the Complainant and Respondent.
- Penalties for violation of the Ethics Code are set forth in section 32-13.

Miscellaneous Provisions

- Stipulations of Parties and Settlement
 - The Respondent may enter into a settlement with the Board of Ethics, Investigating Panel or Hearing Board at any time.
- Educational Programs
 - The Board shall hold or sponsor at least one educational program annually.
 - The Board of Ethics has a Citizen's Guide available to the public and other interested parties.

32-4 CONFLICTS OF INTEREST

- This section describes any actions, whether indirect or direct, that may cause conflicts of interest for Officers or Employees.
- Direct conflicts arise when you act on a matter from which you receives a Financial Benefit or an improper personal impact (nonfinancial).
- Indirect conflicts arise when the Financial Benefit or improper personal impact (nonfinancial) is received by an Immediate Family member or a business associate.

32-4 CON'T: PROHIBITED ACTIONS AND TRANSACTIONS

- Any actions that influence another Employee, Officer, or Agency to appoint an Immediate Family member to a city position
- Any actions involving personnel that would affect an Immediate Family member, whether a Financial Benefit is obtained or not
- Provide Financial benefit to a business operated by an Immediate Family member
- Participate in business or transactions that may impair your judgement or course of action in the proper completion of your official duties
- You shall not participate in any potential matters in which you, or an Immediate Family member, has any interest in the matter or would be likely to gain or lose any benefit that is not common to the general public.
- Grant any special treatments above which are generally available to the public.
- Receive any special treatments above which are generally available to the public or to other Officers or Employees.

32-4 CON'T: EXCEPTIONS

- Any actions that provide personal or Financial Benefits that are no greater than any other Persons generally affected by the decision (such as):
- Employment by contract to a Person that is available to members of the general public, if the contract is not before your agency, and the relationship is disclosed in writing to the City Clerk.
- Transactions involving property between you and the City, as long as the transaction is approved by an independent source.
- Contracts between you, or an Immediate Family member and the City that occur before hiring or appointment.
- Employment of an Officer or Employee through a publicly posted document as required by law.
- Serving on the board of a nonprofit/charity, provided that you make written disclosure of the relationship to the City Clerk, and you shall take no action with regard to that nonprofit/charity.
- Any programs or perks offered to you by the City.
- City's Ordinance List Employees may represent the City for labor contract negotiation or grievance procedure.