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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, October 27, 2022 at 7:00 p.m.

Teleconference/Videoconference

AGENDA

1. ROLL CALL:
2. New Introduction:
3. Public Participation:
4. ACCEPTANCE OF MINUTES:

- May 26, 2022

5. OLD BUSINESS:

6. NEW BUSINESS:

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

7. EXECUTIVE SESSION:

8. ADJOURNMENT:

**CITY OF NORWALK
BOARD OF ETHICS
REGULAR MEETING
MAY 26, 2022**

ATTENDANCE: Michael Church, Chair; Patricia Agudow; Miklos Koleszar; Kara Murphy; Haroldo Williams; Lori Torrano

STAFF: Brian Candela, Esq

OTHER:

I. CALL TO ORDER

Mr. Church called the meeting to order at 7:03.

II. APPROVAL OF THE MINUTES

**** Ms. Murphy moved to approve the minutes from the April 28, 2022 meeting.

**** Mr. Williams seconded the motion.

**** The motion passed with Ms. Agudow and Ms. Cerano abstaining.

III. PUBLIC PARTICIPATION

There is no public participation at this time.

IV. NEW INTRODUCTION

Ms. Agudow is new to the committee and Chairman Church asked her to take a few minutes to introduce herself. The committee welcomed Ms. Agudow.

V. OLD BUSINESS

The committee has created a series of five pods that as a whole present the entire Code of Ethics. By breaking the code into pods, city employees can watch one pod at a time at their convenience. Each committee member has created a pod, and quickly presented them to the committee to get a sense of the overall presentation. The goal with each pod is to be concise and clear. The pods will later be edited for cohesiveness.

City of Norwalk
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Pod 1 is sections 32-1, 32-2 and 32.4 and was created by Chairman Church.
Pod 2 is sections 32-7, 32-8, and 32-16 and was created by Mr. Koleszar.
Pod 3 is sections 32-12 and 32-17 and was created by Ms. Murphy.
Pod 4 will be created by Mr. Williams and Ms. Terrano.

It was decided that the pods will be edited and revised before the next meeting when they will again be presented to the committee. Each pod will be reviewed and edited by one other committee member.

Attorney Candela will send each committee member a copy of each pod as well as the Code of Ethics for editing.

VI. NEW BUSINESS

There was discussion about returning to in person meetings. If this should happen, there will always be an option to attend via zoom.

VII. ADJOURNMENT

******Mr. Koleszar moved to adjourn the meeting.**

******Mr. Williams seconded the motion.**

******The motion passed unanimously.**

The meeting was adjourned at 8:05

Respectfully submitted,

Amy Chaple
Telesco Secretarial Services

City of Norwalk
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Section 32-17

Representation of Respondents by the City

Representation by Legal Counsel

- The Complainant and the Respondent will be represented by legal counsel at their own expense.
- If the Hearing Board finds that the Respondent did not violate the Code:
 - 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.

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

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.

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 meeting;
 - 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.

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.

32-7 Prohibited Use of Influence and Information

- An officer or employee shall not attempt to influence any other officer, employee or agency concerning the handling of any matter or transaction.
- This subsection does not prohibit an officer or employee from communicating with other officers, employees or agencies about a matter in which he or she has a financial or other legally protected interest, if 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 the general public generally in similar circumstances.
- The Law Department of the City 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.

- An officer/employee shall not disclose confidential City information, unless otherwise required by the federal, state or local law
- An officer/employee shall not use any confidential City information to his/her advantage to advance his/her financial or personal interest (including any member of his/her immediate family)
- No officer/employee shall be required to participate in political campaigns
 - Nothing in this Code of Ethics shall preclude an officer or employee from seeking elective office and campaigning in connection therewith or in voluntarily participating in any political campaigns, parties, political organizations or public issues

32-8 Prohibited Gifts

- An officer or employee shall not personally solicit or accept any gift, form of service, compensation or any item of property of a value exceeding \$150. Notwithstanding the foregoing, 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 designed to influence the proper judgement of an Officer or Employee in the execution of his or her 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.
 - 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.
- The Law Department of the City shall assist the Board of Ethics in implementing its

32-8 Prohibited Gifts (continued)

- Meals and refreshments provided to an officer or employee.
- Goods or services provided to 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, and maps germane to governmental action or functions.

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.

32-16 Incurring of Costs by Board of Ethics and 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 violations 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 appropriation 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 and to any Hearing Board appointed under the Code.
- The Board of Ethics, in appropriate circumstances, may retain independent counsel to represent the Board, any Investigating Panel or any Hearing Board.

32-7 Prohibited Use of Influence and Information

- An officer or employee shall not attempt to influence any other officer, employee or agency concerning the handling of any matter or transaction
- This subsection does not prohibit an officer or employee from communicating with other officers, employees or agencies about a matter in which he or she has a financial or other legally protected interest, if 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
 - It is reasonable and necessary in terms of the customary conduct of the matter and is limited to lawful means

- An officer/employee shall not disclose confidential City information, unless otherwise required by the federal, state or local law
- An officer/employee shall not use any confidential City information to his/her advantage to advance his/her financial or personal interest (including any member of his/her immediate family)
- No officer/employee shall be required to participate in political campaigns
 - Nothing in this Code of Ethics shall preclude an officer or employee from seeking elective office and campaigning in connection therewith or in voluntarily participating in any political campaigns, parties, political organizations or public issues

32-8 Prohibited Gifts

- An officer or employee shall not personally solicit or accept any gift, form of service, compensation or any item of property of a value exceeding \$50. Notwithstanding the foregoing, 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, of a minor monetary value
 - Political contributions received in compliance with applicable laws and regulations.
 - Loans obtained according to prevailing commercial practices at the prevailing public rates of interest.
 - Customary performance and merit awards or honorariums
 - Awards, gifts or other items of value given to employees as part of an official employee recognition/incentive program

32-8 Prohibited Gifts (cont.)

- Meals and refreshments provided to an officer or employee
- Goods or services provided to 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, and maps germane to governmental action or functions.
- Certificates, plaques or other ceremonial awards having a value of not more than \$200
- The monetary exceptions listed herein shall be adjusted annually based on the Consumer Price Index for the proceeding year commencing on January 15, 2009

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

- The Board of Ethics shall be authorized to incur costs in investigating and prosecuting any alleged ethics violation and in responding to requests for advisory opinions
 - Subject to the City's annual budget process
- The Law Department shall assist the Board of Ethics in implementing its responsibilities under this Code and shall serve as staff to the Board of Ethics and any hearing board appointed under this Code.
 - may retain independent counsel to represent the Board (investigating panel or hearing board)

32-9 Specific Violations

- **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
 - 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

- Individuals who has served as an officer or employee shall not within one year after termination, assist any person, other than the City, for monetary or other valuable compensation
- 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 as provided in Subsection B of this section:
 - no allegation in a complaint of a violation of the Code of Ethics shall be ruled upon by the Board of Ethics if 6 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 6 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 assure its continuing effectiveness
 - to hold public hearings, in its discretion, on matters pertaining to the administration of the Code of Ethics

32-1 Title; Administration

- This chapter shall be known and referred to as "the Norwalk Code of Ethics."
- The Common Council of the City of Norwalk shall be charged with the administration of the Norwalk Code of Ethics.
 - there shall be established an independent committee of five members and two alternates to be known as the "Board of Ethics."
- The Board of Ethics (the Board) shall be appointed by the Common Council and comprised as provided for in § 32-12 of this chapter.

32-2 Declaration of Policy

- Officers & employees (elected/appointed, paid/unpaid) shall be impartial and responsible to the public.
 - Public office/employment must not be used for personal or financial advantage.
- Officers & employees must refrain from personal, business & financial activities that may affect the individual's fidelity and impartiality.
- Principles are established in the Code of Ethics, applying to all City officers and employees.

32-4. Conflicts of interests; interference with duties; prohibited interests; exceptions

- (A) Officers and employees should avoid engaging in any business or transaction & should refrain from direct or indirect interest regarding the matter
 - In the event that an officer/employee has a known conflict, he/she shall disclose it in writing to the City Clerk
 - If such conflict is material, he/she shall recuse himself/herself from taking an action

- (B) Officers and employees shall not deliberate/participate in a decision or action by the agency of which the individual is a member or is employed if any member of his/her immediate family has an interest in the matter or would be likely to gain or lose any benefit that is not common to the general interest of the public as a result of the decision or action before that agency
 - Nothing herein shall prohibit any of the City's ordinance list of employees from representing the City's interests in any municipal labor contract negotiation or grievance procedure
- (C) Officer or employee shall not grant any special consideration to any person beyond that which is generally available to the public
- (D) Officer or employee shall not receive any special consideration in any activity/business transaction beyond that which is generally available to the public or officers and employees of the City generally

- (E) Subsections A, B, C, and D of this section do not prohibit the following:
 - The employment of an officer/employee by a person who has or who may enter into a contract with the City that is available to the public, if the preparation, procurement or performance of the contract is not before the officer's or employee's agency or the officer or employee is not responsible for any aspect of the transaction underlying the contract
 - Employee's or officer's relationship is disclosed in writing to the City Clerk
 - A purchase, sale, foreclosure or condemnation of property or any interest therein involving the City and an officer or employee of the City, if the transaction is conducted to applicable public procedures.
 - Officer/employee must take no part in the transaction
 - An independent officer/agency must approve the terms in writing to the City Clerk

(E) Subsections A, B, C, and D of this section do not prohibit the following: (cont.)

- A contract or transaction between an officer or employee and the City that does not involve his/her agency & is available to the public through open bidding/other process
- Performance of a contract involving the City and an officer or employee or a member of his or her immediate family, which was executed to the date of hire of such officer/employee
 - Written disclosures of the terms shall be filed in accordance to the Code of Ethics with the City Clerk
- Employment of an officer or employee by a newspaper that publishes a public notice, resolution, ordinance or other document, the publication of which is required by law
- Employment of an officer or employee by a public utility regulated by the Public Utilities Commission.

(E) Subsections A, B, C, and D of this section do not prohibit the following: (cont.)

- Nothing herein shall preclude an officer or employee of the City from serving on the board of charitable or nonprofit entities or agencies, provided that a written disclosure of the relationship to the City Clerk and the officer/employee is submitted
- Nothing herein shall preclude an officer or employee of the City from serving on the board of an entity or agency as a designated representative of the City
- An officer or employee participating in any program offered by the City to employees and officers. (i.e. discount purchase programs, health programs, education programs, recreational events)

32-3 Definitions

- AGENCY- A board, agency, commission, department or other entity of the City, including the Common Council, Board of Education and the Norwalk Public School System.
- CLEAR AND CONVINCING EVIDENCE – Sufficient evidence to support the allegation that the respondent has violated the Code of Ethics.
 - Considered fairly & impartially
 - Induces a reasonable belief that the allegations are true
 - Evidence of the alleged violation is substantially greater than the probability he/she has not
- EMPLOYEE – an individual employed by the City or any of its agencies
 - Classified/unclassified/permanent/temporary/full time/part time/contractual/all employees of the Norwalk Public School System

- **HEARING BOARD:**

- Shall be comprised of 3 members of the Board of Ethics
- In the event of conflict or vacancy, an alternate is chosen by the Board of Ethics
- In the event that a member of the Board of Ethics has a conflict/interest in the complaint at issue, the Common Council may appoint one or more City officials
- Once impaneled, the hearing board shall continue to serve until it completes the hearing process
- No more than 2 members of the hearing board shall be of the same political party
- The hearing board are permitted to hold public hearing(s) to determine clear and convincing evidence that the Code of Ethics has been violated
- **IMMEDIATE FAMILY** – includes, but is not limited to a spouse, child, grandchild, brother, sister, in-law, parent, grandparent, stepparents, stepchildren or persons residing in the same household.

- **INDIVIDUAL** - A natural person.
- **INVESTIGATING PANEL:**
 - Shall consist of 3 individual electors from the City of Norwalk
 - Appointed by the Board of Ethics to investigate an ethics complaint if there is a probable cause to proceed in a public hearing
 - No more than 2 members of the investigating panel shall be of the same political party
 - There should at least be 1 member that shall be an unaffiliated voter
- **OFFICER** – an individual elected/appointed to a City office by the Mayor and/or Common Council
 - Including, but not limited to, ad hoc committee members and members of the Board of Education.
- **PERSON** - Includes associations, firms, partnerships and bodies politic and corporate, as well as
- individuals.

- PROBABLE CAUSE - A state of facts constituting more than mere suspicion and establishing that a state of facts is more likely than not.
 - There must be facts and circumstances, based on trustworthy information, sufficient to justify that the Code of Ethics has been violated.
 - Investigating panel shall be guided by established law in the State of Connecticut

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

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

32-13. Effect of Violation

- A Violation of this Code of Ethics:
 - By an elected officer shall be considered dereliction of official duty
 - Cause for censure, impeachment, or removal from office
 - By an officer of an appointed board or commission shall be considered misconduct in the perf
 - Cause for censure or removal from office
- By a employee of an agency shall be considered misconduct and therefore a ground for censure or discipline
 - Cause for demotion in rank/grade, termination of contract, discharge

32-13. Effect of Violation (cont.)

- Any individual who is found in violation may be subject to a civil action to recover damages
- Any officer or employee who is determined to have violated the provisions of this chapter shall have a copy of said decision
- The effect of a violation on the validity of a decision/action shall be determined by general principles of law
- Any officer or employee who is determined to have violated the provisions of this chapter may subject to a fine in an amount up to \$250