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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, April 27, 2023 at 7:00 p.m.

Teleconference/Videoconference

AGENDA

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

- January 26, 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
JANUARY 26, 2023**

ATTENDANCE: Michael Church, Chair; Patricia Agudow, Miklos Koleszar,
Haroldo Williams

OTHERS: Atty. Brian Candela, Associate City Attorney

CALL TO ORDER

Mr. Church called the meeting to order at 7:06 p.m. A quorum was present.

NEW INTRODUCTION

There were no new introductions at this time.

PUBLIC PARTICIPATION

Atty. Candela said that he had received an email from Ms. Diane Lauricella who was unable to attend the meeting due to prior engagements and proceeded to read her statement into the record.

Brian and Mario's Corporation Counsel, please give a copy of this to the Commission and read it into the official record.

Michael Church, Chair of the Norwalk Ethics Commission, and Commissioners:

Dear Ethics Commissioners – I hope that this email finds you well and ready to tackle the new year. I regret that I cannot attend tonight's meeting due to another obligation but from time to time I take a look at the important work that the Ethics Committee conducts.

Tonight I ask the following:

- When will this body hold a meeting or a webinar for the public so that they understand that an Ethics Commission exists?
- Two – when will this body hold an introductory Ethics and Conflict of Interest Training session for sitting, appointed and elected officials?
- Three – will you include accessible languages in order to advertise the public meetings?

In addition, as I read the back-up materials, I noticed several typos, but more importantly, was a bit puzzled by some of the language used. Let's always make sure that we use non-legalistic phrases when possible. One example that may need clarification is found on back-up page 31, 32-11 about future employment. I strongly suggest that the word termination be substituted with the word separation so that it includes limitations for those staff that resign voluntarily.

Thank you for your work. Sincerely, Diane Lauricella.

Atty. Candela said that the Board had reviewed and updated the Code of Ethics and had been working on webinars for the public. He said that the material were in draft format and said that once that is completed, they will work with the City Departments to make them available.

ACCEPTANCE OF MINUTES

-- October 27, 2022

**** MS. AGUDOW MOVED THE MINUTES OF THE OCTOBER 27, 2022 MEETING.**

**** MR. KOLESZAR SECONDED.**

**** THE MOTION TO APPROVE THE MINUTES OF THE OCTOBER 27, 2022 MEETING AS SUBMITTED PASSED UNANIMOUSLY.**

NEW BUSINESS

Mr. Church said that he would like to request that February 2023 meeting be in person. He said that if City Hall is not able to accommodate this request, the Board can meet at his office in the conference room there.

OLD BUSINESS

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

Atty. Candela displayed the slide for Section 32-7 on screen. The Board then reviewed the wording and made several notes for clarifications. Mr. Church noted that the usage of pronouns had changed while the review of the Code was underway. He encouraged anyone to contact the Board if they see one that was not noticed.

**** MR. MIKLOS MOVED TO CHANGE ALL USES OF THE PRONOUNS "HIS" OR "HER" TO THE GENDER NEUTRAL PRONOUN "THEIR".**

**** MR. WILLIAM SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

Atty. Candela displayed the slide for Section 32-8 on screen. The Board then reviewed the wording of the section. Mr. Church said that the Board Members should remember that this slide

was for a presentation rather than the actual code or the Citizen's Guide to Ethics. Several minor spelling errors were identified and corrected. There was also a discussion regarding the use of "germane" which was changed to "relevant".

Atty. Candela displayed the slide for Section 32-9 on screen. The Board then reviewed the wording of the section. Several stylist changes were noted along with a re-wording of the confidentiality code and retaliation.

Atty. Candela displayed the slide for Section 32-11 on screen. The Board then reviewed the wording of the section. A discussion followed about the length of time that a former officer must wait before a potential rehiring.

EXECUTIVE SESSION

There was no need for an Executive Session at this time.

ADJOURNMENT

**** MR. KOLESZAR MOVED TO ADJOURN.**

**** MR. WILLIAMS SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 8:31 p.m.

Respectfully submitted

S. L. Soltes
Telesco Secretarial Services

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.

32-3 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.
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- 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

32-4. 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
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- (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
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(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.
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(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)

32-5. Prohibited Representation

- No officer or employee shall represent a person or entity, other than the City
 - Before/behalf 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

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 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.
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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.