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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 must be submitted by 12:00 p.m. the day of the meeting. Please email Brian Candela at bcandela@norwalkct.gov with the subject line "Public Comment" to provide written public comment prior to the meeting.

REGULAR MEETING

BOARD OF ETHICS

Thursday, March 28, 2024 at 7:00 p.m.

Teleconference/Videoconference

AGENDA

1. ROLL CALL:

2. New Introduction:

3. Public Participation:

4. ACCEPTANCE OF MINUTES:

- July 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:

**Board of Ethics
Regular Meeting
July 27, 2023**

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

STAFF: Attorney Brian Candela, Associate Corporation Counsel

1. CALL TO ORDER

Brian Candela called the meeting to order at 7:08 pm. A quorum was present.

2. NEW INTRODUCTION

None

3. PUBLIC PARTICIPATION

None

4. ACCEPTANCE OF MINUTES

- APRIL 27, 2023 – Amend Other Business to include “Ms. Agnudow sent an extended summary concerning the League of Women Voter’s event.

****MS. TORRANO MOVED TO ACCEPT THE MINUTES AS AMENDED**

****MR. CHURCH SECONDED THE MOTION**

****THE MOTION PASSED UNANIMOUSLY**

5. OLD BUSINESS

Continued discussion on Board of Ethics’ draft slides for power point presentation regarding education and training programs.

Mr. Candela summarized that the Board has completed edits of slides for the following sections of the Code of Ethics:

32-1 Title; Administration
Previously discussed – Agreed On

32-2 Declaration of Policy
Previously discussed – Agreed On

32-3 Definitions – Previously Discussed -Agreed On
Ms. Agudown noted there was discussion at a charter revision meeting regarding the code of ethics to expand scope to be all inclusive, examples of unwanted behavior, and expansion of who needs to take

the training. Mr. Candela read the "Employee" definition. The consensus was it incorporates all the people employed and people employed by contract. The commission will wait to see what the Charter Revision comes up with.

32.7 Prohibited Use of Influence and Information

Previously discussed – Agreed On

32.8 Prohibited Gifts

Previously discussed – Agreed On

32.9 Specific Violations

Previously discussed with recommendations. – Revisit

- 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.

Discussion took place to add examples by Ms. Agudow & Ms. Toni. Ms. Torrano noted this is a power point presentation representing an overview with the expectation of a more in-depth training which would include examples and case studies. Mr. Candela summarized the committee revamped the entire code and the citizens guide as part of the concern was to make sure the people who work, elected, or appointed know the Code of Ethics exists; and they have a general idea of what it is about. The power point presentation is a good starting point.

Mr. Candela will prepare a list of what sections we have an agreement on and what sections we do not.

32.10 – Negotiation of Future Employment

Previously Discussed – Agreed On

32.11 – Subsequent Employment

Previously Discussed – Agreed On

32-14 – Time Limit on Complaints

Previously Discussed – Agreed On

32-15 – Proposed Revisions

Previously Discussed – Agreed On

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

Previously Discussed – Agreed On

Mr. Church noted previous feedback regarding below, we have previously requested an annual appropriation and there will be no line item but a budget on an as needed basis. It was noted that the word shall is consistent with the Board of Ethics Document.

- 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.

32-17 – Representation of Respondent by the City
Previously Discussed – Agreed On

32-18 – Effective Date – Agreed On previously.

32-5 – Prohibited Representation – Agreed On
Discussion took place to capitalize definitional terms.

32-6 – Prohibited use of City Property and Facilities – Agreed on
Discussion took place to capitalize definitional terms.

****Mr. Candela asked committee members to voice if in favor of making changes regarding definitional terms.**

**** UNANIMOUS ALL IN FAVOR**

32-12 - Organization and Duties of the Board of Ethics – Ethics Complaint Procedure – In Review
Mr. Candela recommended adding flow charts to the back of the power point presentation prepared by Kara.

32-4 - Conflicts of Interest – In Review
Mr. Candela noted the legal intern prepared this.

32-9 – In Review

The committee will review 32-12, 32-4, and 32-9 and discuss at next meeting. Mr. Candela will send members the updated versions of agreed upon and not agreed upon. He will also send the proposed versions for review and recommendations and the flow charts for 32-12. Mr. Church noted the last updated version emailed was on July 17, 2023. He recommended focusing on 32-12 for the next meeting only and 32-4 the following meeting as these sections are in depth.

5. NEW BUSINESS

No new business.

6. EXECUTIVE SESSION

No executive session

8. ADJOURNMENT

****MS. TORRANO MOVED TO ADJOURN THE MEETING**

****MS. TONI SECONDED THE MOTION**

****MOTION APPROVED UNANIMOUSLY**

The meeting was adjourned at 7:58 pm.

Respectfully Submitted,
Michele Watson
Telesco Secretarial Services

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

32-13 EFFECT OF VIOLATION

- Officers who violate the Code of Ethics may be censured, impeached, or removed from office
- Employees of an Agency who violate the Code of Ethics may be censured, or disciplined accordingly, which may include demotions, or discharge
- The City may recover any damages incurred by the unethical conduct of an Individual through civil actions
- Any violations committed will be placed in the Officer or Employee's personnel file
- The validity of any actions or decisions that were effected by a violation of the Code of Ethics will be determined by general principles of CT law
- A fine of up to \$250 per violation may be imposed on an Officer or Employee found in violation of the Code of Ethics, and may be in addition to other discipline
- Any contracts or rulings that have been influenced by a violation may be voided

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.

Section 32-12

Organization and Duties of the Board of Ethics

Ethics Complaint Procedures

Powers and Duties

- Encourage a culture of high ethical standards throughout the City
- 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

Membership and Organization of the Board

- Membership
 - Five (5) full members, two (2) alternate members
 - Must be electors (voters) in the City
 - No more than two (2) members and one (1) alternate shall be registered members of the same political party
 - No member can be an Employee or Officer of the City
 - Three (3) year term
 - In the event of a vacancy, the replacement member shall be appointed to serve the balance of the term
 - Appointed by the Common Council; Affirmative vote of eleven (11) Common Council members required for appointment

Membership and Organization of the Board

- Organization
 - Board of Ethics elects its Chairman
 - Minutes of Meetings to be maintained and filed with City Clerk
 - One full member of the Board can request a meeting but a majority of the full members shall determine the date and time of the meeting
 - Quorum: Four (4) members, including alternate members
 - Alternate members have all the powers and duties of a full member during any meeting at which the alternate is present

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 **Confidential**
 - 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); and
 - Be timely (See section 34-14 for time periods).

Complaint Process

Confidential

- Confidential Complaint filed with the City Clerk's Office
- City Clerk's Office refers Confidential Complaint to Board of Ethics
- Board of Ethics reviews Complaint to ensure compliance with the Code of Ethics
- If Complaint complies with the Code, Complaint referred to Investigating Panel
- If Complaint is not compliant, Board requests compliance and/or dismisses the Complaint

Confidential

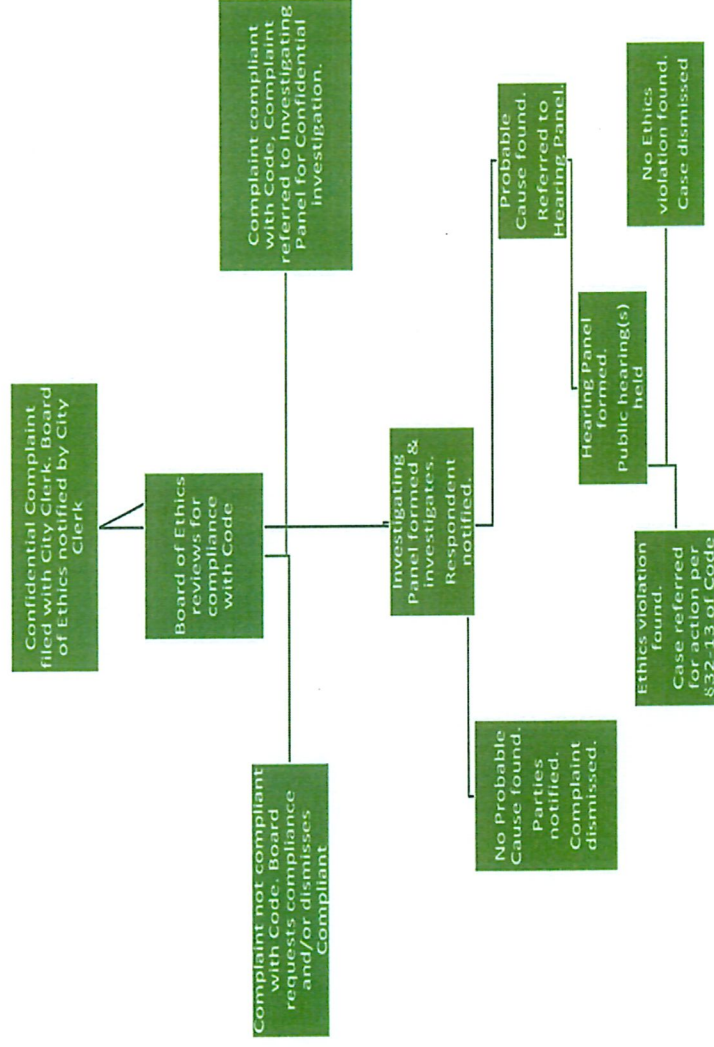
- Three Member Investigating Panel assembled and begins investigation
- Person making the complaint is the Complainant; Person against whom the complaint is made is the Respondent
- Respondent is notified of the Complaint
- If Investigating Panel finds "No Probable Cause", Complaint is dismissed, Notice of Dismissal sent to Complainant & Respondent, and file is closed
- If Investigating Panel finds "Probable Cause", written report is sent to Complainant & Respondent, and Hearing Board is formed

Public

- If Probable Cause is found by the Investigating Panel, Three Member Hearing Board is formed
- Public Hearing(s) are held
- Hearing Board issues a written memorandum of decision
- If an Ethics violation is found, a determination of violation is issued in writing and the matter is referred for further action
- If an Ethics violation is not found, the case is dismissed

Ethics Complaint Process

1. City of Norwalk's Code of Ethics Complaint Process



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.