

**CITY OF NORWALK
ETHICS COMMISSION
REGULAR MEETING
FEBRUARY 28, 2019**

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

STAFF: Atty. Brian Candela, Corporation Counsel's Office

CALL TO ORDER

Mr. Church called the meeting to order at 7:30 p.m. A quorum was present.

ROLL CALL

Mr. Church called the roll and announced that a quorum was present.

NEW INTRODUCTION

There were no new Commissioners to introduce at this time.

PUBLIC PARTICIPATION

There were no members of the public present.

ACCEPTANCE OF MINUTES

September 27, 2018

**** MS. MURPHY MOVED THE MINUTES OF SEPTEMBER 27, 2018.
** MR. WILLIAMS SECONDED.
** THE MOTION TO APPROVE THE MINUTES OF SEPTEMBER 27, 2018 AS
SUBMITTED PASSED WITH THREE (3) IN FAVOR (CHURCH, MURPHY AND
WILLIAMS) AND TWO (2) ABSTENTIONS (KOLESZAR AND TORRANO).**

January 24, 2019.

**** MR. KOLESZAR MOVED THE MINUTES OF JANUARY 24, 2019.
** MS. TORRANO SECONDED.
** THE MOTION TO APPROVE THE MINUTES OF JANUARY 24, 2019 AS
SUBMITTED PASSED WITH FOUR (4) IN FAVOR (CHURCH, KOLESZAR,
TORRANO AND WILLIAMS) AND ONE (1) ABSTENTION (MURPHY).**

OLD BUSINESS

Review Code of Ethics and the Citizen's Guide to Norwalk's Code of Ethics and discuss potential changes to both.

Atty. Candela said that at the last meeting they had requested several changes to the Code of Ethics, which he had made. Copies of the red lined Code were distributed to those present. Atty. Candela directed everyone to the Memo dated February 26, 2019, which was included in the packet.

Mr. Church read the following into the record:

The Board of Ethics may refuse to accept a complaint filed by vexatious filer. The conduct which the Board of Ethics relies on to make such a decision shall include, but not be limited to: a) the number of complaints filed and the total number of pending complaints; b) the scope of the complaint; c) the nature, content, language or subject matter of the complaint; d) the nature, content, language or subject matter of other oral and written communications to the Board of Ethics from the complainant; and e) a pattern of conduct that amounts to an abuse of the ethics complaint process or an interference with the operation of the Board of Ethics.

Upon receipt of a complaint, the Board of Ethics shall review the complaint and determine whether it warrants acceptance. If the Board of Ethics determines that acceptance is not warranted, then it shall notify the complainant and that it has refused to accept the complaint without establishing an investigating panel. If the Board of Ethics refuses to accept a complaint, it shall issue a written explanation of the reason for such rejection.

Upon the rejection of a complaint, the Board of Ethics may provide appropriate relief commensurate with the vexatious conduct, including but not limited to, an order that the Board of Ethics need not accept future complaints from the vexatious complainant and for a specific period of time.

Ms. Torrano asked how the Commission would respond to a filer where the Commission would be rejecting the claim. Mr. Church said that the response would be sparse and most likely cite the Statutes.

Atty. Candela then suggested changing the word "complainant" to "filer".

Mr. Koleszar asked where the Memorandum would be filed. Discussion followed regarding the location of the Memorandum in the document.

Atty. Candela reported that there had been three items on the March Ordinance agenda. Atty. Candela said that he had spoken with the Chairwoman and she suggested that this item be moved to the April agenda.

Ms. Torrano asked about the preliminary review process. Mr. Church and Ms. Murphy indicated where that process was referenced in the outline in the Code. Atty. Candela explained that the Citizens' Guild to the Norwalk Code of Ethics should have the relevant portions of the Code embedded. Discussion followed. Atty. Candela then indicated he would insert the item in 32-12E(1)[a].

**** MS. MURPHY MOVED TO APPROVE THE FOLLOWING AMENDMENT:**

THE BOARD OF ETHICS MAY REFUSE TO ACCEPT A COMPLAINT FILED BY VEXATIOUS FILER. THE CONDUCT WHICH THE BOARD OF ETHICS RELIES ON TO MAKE SUCH A DECISION SHALL INCLUDE, BUT NOT BE LIMITED TO: A) THE NUMBER OF COMPLAINTS FILED AND THE TOTAL NUMBER OF PENDING COMPLAINTS; B) THE SCOPE OF THE COMPLAINT; C) THE NATURE, CONTENT, LANGUAGE OR SUBJECT MATTER OF THE COMPLAINT; D) THE NATURE, CONTENT, LANGUAGE OR SUBJECT MATTER OF OTHER ORAL AND WRITTEN COMMUNICATIONS TO THE BOARD OF ETHICS FROM THE COMPLAINANT; AND E) A PATTERN OF CONDUCT THAT AMOUNTS TO AN ABUSE OF THE ETHICS COMPLAINT PROCESS OR AN INTERFERENCE WITH THE OPERATION OF THE BOARD OF ETHICS.

UPON RECEIPT OF A COMPLAINT, THE BOARD OF ETHICS SHALL REVIEW THE COMPLAINT AND DETERMINE WHETHER IT WARRANTS ACCEPTANCE. IF THE BOARD OF ETHICS DETERMINES THAT ACCEPTANCE IS NOT WARRANTED, THEN IT SHALL NOTIFY THE COMPLAINANT AND THAT IT HAS REFUSED TO ACCEPT THE COMPLAINT WITHOUT ESTABLISHING AN INVESTIGATING PANEL. IF THE BOARD OF ETHICS REFUSES TO ACCEPT A COMPLAINT, IT SHALL ISSUE A WRITTEN EXPLANATION OF THE REASON FOR SUCH REJECTION.

TO:

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INVESTIGATING PANEL. IF THE BOARD OF ETHICS REFUSES TO ACCEPT A COMPLAINT, IT SHALL ISSUE A WRITTEN EXPLANATION OF THE REASON FOR SUCH REJECTION.

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**** MR. KOLESZAR SECONDED.**

Atty. Candela suggested a title for the section. He also suggested that they allow him to make all the changes to the document and send out a clean copy to all the Commissioners so they can see how the final document might look.

**** MS. MURPHY WITHDREW HER MOTION TO AMEND PENDING THE CHANGES TO BE MADE BY ATTY. ATTY. CANDELA .**

The discussion then moved to the Citizens' Guide to the Norwalk Code of Ethics.

Mr. Williams had some question about the definition of the Officer in §32-3. Discussion followed.

Ms. Murphy had a question about the Conflict of Interest situation where an officer or employee is on a outside board and potentially voting on an item involving the City. The discussion moved to the fact that individuals are not prevented from serving on a board or commission, but they should refrain from voting on any City matters involving that Commission or Board. Atty. Candela said that one of the goals of the wording was to give the Board of Ethics discretion in each case.

Ms. Torrano asked what would happen if an employee was asked to do fund-raising while on the job. She wanted to know if there was anything that would protect the employee in a case like this. Mr. Church pointed out that this was a whistle blower issue. Atty. Candela noted that it would be an Union issue, also.

Ms. Torrano said that the training portion would be critical. She asked if the Ordinance Committee would be able to approve the Code of Ethics. Ms. Murphy explained that right now the City operates on a "gotcha" system. Atty. Candela pointed out that the City employees had just received training about de-escalating situations with the Personnel and Health Department taking the lead. Both the City and BOE employees were involved. He said that they might want to see if Mr. Burney would help facilitate the training.

Mr. Williams said that he was concerned about the Conflict of Interest section on gifts with the elected officials. Ms. Torrano said that \$150 seemed very low. Atty. Candela said that this would most likely need a "smell test". When the new section is inserted, it will allow the Commission to review the compliant warrants investigation.

Ms. Torrano pointed out that someone who was filing a Vexatious complaint could spin things out by not submitting all the documents to the Ethics Commission. Mr. Church explained that the new section would handle that. He reminded everyone that the Commission was focused on Ethics and was not a legal body. Atty. Candela pointed out that the burden of proof still rests on the complainant. Mr. Church agreed and commented that this was a guide to protect people.

Atty. Candela said that when the Commissioners had expressed interest in updating the Code of Ethics, he had called Stamford and Danbury to see what their process was. He explained that the work that the Commission had already done was much more detailed than the other communities that he checked. Danbury actually contacted Atty. Candela because they were about to embark on the same process.

Mr. Church reminded everyone that there would never be a document that would cover every situation, but it was up to the Commission to explain the discretion aspect of the Code and the fact that it was a guide to protect rather than an "if-then" document.

Atty. Candela agreed and said that he believed that the idea was to allow employees to perform their jobs and use their judgment and discretion. No one is perfect.

Atty. Candela said that he would make the changes and send out the updated version to the Commissioners.

Mr. Church suggested that the Commission consider the Citizens' Guide at the next meeting. This was agreeable to all.

Atty. Candela suggested that they also consider the complaint form, because people often just go directly to the form rather than reading the guide. He also said that he would add the references to the flow chart.

Atty. Candela asked if the Commissioners wanted to schedule a Special Meeting.

Ms. Murphy said that she was up for re-appointed. Atty. Candela said that he had spoken to Donna King, the City Clerk about this. He said that he would remind her to put Ms. Murphy's re-appointment on the March 10th agenda.

Mr. Koleszar pointed out that there was a member of the Commission who had not attended a meeting in some time. Atty. Candela said that he would also mention this to Ms. King because it would be important to have a full compliment of Commissioners.

NEW BUSINESS

There was no new business to consider at this time.

EXECUTIVE SESSION

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

ADJOURNMENT.

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

**** MS. TORRANO SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 8:23 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services