

**CITY OF NORWALK
BOARD OF ETHICS
AD HOC COMMITTEE
FEBRUARY 16, 2017**

ATTENDANCE: Haroldo Williams, Chairman; Michelle Coppola; Miklos Koleszar; Kara Murphy

1. CALL TO ORDER

Mr. Williams called the meeting to order at 7:05PM and called the roll.

2. STATEMENT OF PURPOSE OF THIS AD HOC COMMITTEE MEETING

Mr. Williams stated that the purpose of the Ad-Hoc and of this meeting is to review the Code of Ethics and identify changes that are needed. He said that any changes that are identified will be brought before the Board of Ethics for approval before being referred to the Common Council.

3. GUIDANCE & COMMENTS REGARDING THE REVIEW PROCESS

No discussion.

4. PUBLIC PARTICIPATION

No one from the public attended the meeting.

5. ACCEPTANCE OF MINUTES OF PREVIOUS MEETINGS

January 24, 2017

**** MR. KOLESZAR MOVED TO APPROVE THE MINUTES
** MOTION PASSED
** ONE ABSTENTION- MS. MURPHY**

6. OLD BUSINESS

No discussion.

7. NEW BUSINESS

a. CONTINUE REVIEW OF THE CODE OF ETHICS, AND PROVIDE RECOMMENDED MODIFICATIONS/UPDATES TO THE CODE DOCUMENT.

Mr. Williams said that Ms. Murphy has made some recommendations and changes to Section 32-12 of the Code of Ethics. Ms. Murphy said that at the last regular meeting she had mentioned that the numbering in section 32-12 is very confusing, and does not make sense, and said that she went through the sections and tried to renumber it and that she added some language just to clarify. She said that with the exception of one paragraph she did not move anything around, and that the majority of the proposed changes are renumbering to make it easier for anyone to follow who is facing an ethics complaint. Ms. Murphy presented her proposed changes.

§ 32-12. Board of Ethics.

A.

Appointment of members. The Board of Ethics shall be comprised of five full members and two alternate members, each of whom shall be electors of the City of Norwalk. No more than two of the members of the Board and one of the alternates shall be registered members of the same political party, and no member of the Board of Ethics shall be an employee or officer of the City. Except for the original appointments, replacement members shall be appointed each year after the effective date of the enactment of this chapter to serve for terms of three years. At the origination of the Board of Ethics after the first effective date of this amendment to Chapter 32, the Common Council shall appoint: two members and one alternate for three-year terms, two members for two-year terms and one member and one alternate for one-year terms. All council appointments to the Board of Ethics shall require the affirmative vote of 11 members of the Common Council.

B.

Organization. The Board of Ethics shall elect a Chairperson. The Board shall keep minutes of its meetings, which shall be filed in the office of the City Clerk, and the Board shall hold meetings at the call of one member of the Board and at such times as a majority of the Board may determine. Four members present, including sitting alternates, shall constitute a quorum in order for the Board of Ethics to conduct official business. An alternate serving in place of an absent member of the Board shall have all of the powers and responsibilities as a full member during the meeting at which such alternate member shall sit.

C.

Powers and duties. The powers and duties of the Board of Ethics shall include rendering advisory opinions, investigation of complaints, hearings on complaints, notification of the Mayor, City Clerk, Corporation Counsel and any other public office as it deems appropriate of its memorandum of decision on any complaint, annual reports to the Mayor, Common Council, and Corporation Counsel on its activities and recommendations, and annual educational programs for municipal officers, employees, and agencies on the Code of Ethics.

D. (4)

Advisory opinions. The Board, when requested to do so in writing by any officer, employee, agency, or member of the public, or upon its own motion, may render advisory opinions concerning officers and employees and other issues with respect to this Code of Ethics. Such advisory opinion shall be binding on the Board, until amended or revoked, and reliance on a controlling advisory opinion in good faith is an absolute defense in any action or proceedings brought under the provisions of this Code of Ethics. The Board shall file said advisory opinion with the office of the City Clerk, and such advisory opinions shall be available to the public. The advisory opinion so filed may contain such deletions as may be necessary to prevent disclosure of the identity of the officer or employee involved, if agreed to by both the individual involved and the Board.

~~E. (2)~~

Probable cause hearings and subsequent procedures.

~~(1) (a)~~

Filing of the complaint; notification and amendment.

~~(a) H1~~

Any person, including a member of the Board of Ethics, may submit a written complaint, in a form prescribed by the Board of Ethics and signed under penalty of false statement, alleging a violation of this Code of Ethics by an officer or employee or an individual who was an officer or employee within the preceding year. The complaint shall contain the specific act or acts which allegedly constitute the violation.

~~(2) (b)~~

Upon receipt of said complaint by the Board of Ethics members, an investigating panel will be appointed, within 21 days, consisting of three individuals who are electors of the City of Norwalk. The members of the investigating panel shall not be officers or employees from the agency at which the individual(s) alleged to be involved in the facts of the complaint currently serves or formally served within one year as officers or employees. The investigating panel members may delete, defer or reject any part of a complaint that does not conform to the requirements specified by the Board of Ethics. If any member of the Board of Ethics initiates or is involved in a complaint, he or she will recuse himself or herself from the Board of Ethics for the purposes of that complaint, including the appointment of the investigating panel and any hearing board, and an alternate of the Board shall serve in his or her place as to all further proceedings on that complaint.

~~(3) (2) Investigation of Complaint, Notification of Parties, Investigation Panel~~

~~(a) Notification of Parties.~~ The Board of Ethics shall notify, by registered or certified mail, or by personal service by a ~~State Marshal~~ sheriff, constable or indifferent person, any respondent against whom a complaint is filed not later than 10 business days after the investigating panel is formed. A copy of such complaint, the name of the complainant(s) and any subsequent changes to the complaint shall accompany such notice. The Board shall also notify the complainant in writing of its receipt of such complaint not later than 10 business days after the investigating panel is formed.

~~(4)~~

~~(b) Supplementation of Complaint by Investigation Panel:~~ Subsequent to the filing of the original complaint, the investigating panel or the Board of Ethics may, at its discretion, supplement any complaint filed with the Board of Ethics to include other violations which it reasonably suspects to have occurred, based on allegations in the original complaint. Any such supplementation shall be in writing, and a copy shall be sent by registered or certified mail, or by personal service by a sheriff, constable or indifferent person to the respondent and complainant within seven days of such amendment.

~~(b) (c)~~

Investigation of probable cause. The investigating panel members shall investigate the complaint and any supplement thereto. For this purpose, hearings and meetings may be held to determine whether or not there is probable cause to believe that the respondent

has violated the Code of Ethics. Any investigation and probable cause hearing, if held, shall be confidential and shall not be open to the public unless the respondent requests that such investigation and hearing be open. Pending the outcome of the probable cause hearing, no member of the Board of Ethics or investigating panel shall disclose his or her knowledge of the probable cause investigation to a third party. The respondent shall have the right to appear and be heard and to offer any information by way of answer or denial of the allegations. The respondent may be represented by counsel of his or her choice in the probable cause hearings before the investigating panel. The investigating panel may, in its discretion, hear testimony or take written statements from the complainant and any other witnesses it deems necessary to its investigation. The investigating panel may retain counsel or investigators to assist it in the probable cause hearing process.

~~(c)~~

~~Finding of probable cause and hearings before an ethics hearing board.~~

~~(d) [1]~~

A decision regarding probable cause shall be made by the investigating panel within 60 days after the date that the Board of Ethics served notice of the formation of the investigating panel to the respondent and complainant. A finding that probable cause to believe that the respondent has violated the Code of Ethics exists shall require two concurring votes from the members of the investigating panel.

~~(e) [2]~~

If the investigating panel fails to determine that there is probable cause that the respondent has violated the Code of Ethics, the investigating panel shall dismiss the complaint for the Board of Ethics and shall report such dismissal to the Board of Ethics, and copy of the report of dismissal shall be sent by registered or certified mail or by personal service by a ~~State Marshal~~ sheriff, constable or indifferent person to the respondent and complainant within seven days of its receipt by the Ethics Board.

~~(f) [3]~~

If the investigating panel determines that there is probable cause that the respondent has violated the Code of Ethics, it shall submit a written report to the Board of Ethics stating the basis for the finding of probable cause. Upon receipt of the report of the investigating panel finding probable cause, the Board of Ethics shall appoint a hearing board, which shall initiate a public hearing process within 30 days, to determine whether the respondent(s) committed a violation of the Code of Ethics. In any public hearing held to determine a violation of the Code of Ethics, the investigating panel members shall have the responsibility of gathering and presenting evidence to the hearing board.

3. Report to the Hearing Panel: Hearings: Extensions of Time

~~(a) [4]~~

The hearing board shall give notice of any report of probable cause made by the investigating panel in writing, and a copy of the report shall be sent by registered or certified mail or by personal service by a ~~sheriff~~ ~~State Marshal~~, constable or indifferent person to the respondent and complainant within 10 business days of its receipt by the hearing board.

~~(b) [5]~~



The hearing board shall hold hearings in accordance with its regulations and procedures adopted under this Ethics Code and shall call such witnesses and admit such evidence as the hearing board determines to be appropriate. The investigating panel and the respondent shall each have the right to present evidence and witnesses subject to the rules and regulations adopted by the Board of Ethics under this Ethics Code.

~~(c) [6]~~

The hearing board shall determine whether a violation of the Code of Ethics has been proven by clear and convincing evidence. In conducting such hearings the investigating panel shall have the burden of proving the claim. A finding of a violation of the Code of Ethics shall require the affirmative vote of two of the three hearing board members that there is clear and convincing evidence that the respondent has violated the Code of Ethics.

~~(d) [7]~~

Upon completion of the hearings before the hearing board, the complainant and respondent shall be notified in writing of the decision of the hearing board not later than 10 business days after such decision has been made. Such notification shall be either by registered or certified mail, or personal service by a sheriff, constable or indifferent person. If the hearing board determines a violation of the Code of Ethics has been proven by clear and convincing evidence, the hearing board shall state its findings of fact and conclusions of law in writing and shall specify the Code section violated. The Hearing Board shall file its memorandum of decision with the Mayor, City Clerk, Corporation Counsel, and any other public office it deems appropriate.

~~(e) [8]~~

Extension of time.

~~(i) [a]~~

For good cause, the hearing board may grant extensions of time to any of the time limitations specified herein upon an affirmative vote of a majority of the hearing board. However, in no event shall the total extended time period, i.e., the original time period plus the extension(s), exceed double the original time periods prescribed by this chapter.

~~(ii) [b]~~

The hearing board shall give written notice of any extension(s) of time to the respondent and the complainant.

~~(iii) [c]~~

Notwithstanding the foregoing: No extensions of time may be given for time periods required for notification(s), and no extensions may be given for the time limitation for ruling on actions unless otherwise specified herein.

~~(iv)~~

No extensions may be given for time periods required for notification(s).

~~(v)~~

No extensions may be given for the time limitation for ruling on actions unless otherwise specified herein.

~~4. [9]~~

Rules and procedure for public hearings.

~~(a) [a]~~

Public hearings shall be conducted under the rules and regulations adopted by the Board of Ethics, which shall include the following: or all evidence shall be taken under oath; documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; and upon request, parties and the hearing board shall be given the opportunity to compare the copy to the original.

~~(b) [b]~~

Rights of panel and respondent.

~~[i]~~

The investigating panel and respondent shall have the right in any such hearing before the hearing board:

~~[i] [A]~~

To be represented by counsel.

~~[ii] [B]~~

To present oral or written documentary evidence which is not irrelevant, immaterial or unduly repetitious.

~~[iii] [C]~~

To examine and cross-examine witnesses required for a full and true disclosure of the facts.

~~(c) [c] Evidentiary rules.~~

All decisions regarding the introduction and admissibility of evidence not hereinbefore specified and which is to be introduced or precluded, is to be determined by a majority of the hearing board.

~~(d) [d] Rules of Procedure~~

The Board of Ethics shall have the power to adopt and amend rules of procedure for hearings conducted pursuant to the Code of Ethics, provided such rules are approved by a majority vote of the entire Common Council, after publication of the text of the proposed rules of procedure or amendments thereto in a newspaper having a general circulation in the City. Any rules of procedure or amendments thereto shall become effective 30 days after adoption, and the full text of the rules for procedure, adopted in accordance with this section, shall be published and maintained as part of the Code of the City of Norwalk.

~~(e) [e] Due Process~~

All Board of Ethics hearings shall be conducted in such a manner as to provide the respondent(s) with all due process that is required by federal, state and local law.

~~(f) [f] Recording and transcription of hearings.~~

Upon the request of the complainant, the respondent, the investigating panel or a member of the ethics hearing board, the ethics hearing board shall cause the hearings to be recorded and a transcription to be made thereof. If either the respondent or complainant requests a copy of the transcript, the requesting party shall bear the costs for the same.

~~(g) [g] Witnesses; Issuance of Subpoenas~~

The hearing board may subpoena witnesses to testify and may compel production of documents and other effects as evidence, and such subpoena may be enforced as provided under the Code of the City of Norwalk and state law.

~~(h) [g]~~

In order to insure the public's right of access to the proceedings held in accordance with the provisions of this chapter, the Board of Ethics in conducting hearings before the hearing board shall follow the requirements of the Connecticut Freedom of Information Act.^[1]

[1]

Editor's Note: See C.G.S. § 1-200 et seq.

5. Stipulations of Parties and Settlement

~~At any time after an ethics complaint has been made, the Board of Ethics or a duly constituted hearing board may accept stipulated findings and/or a settlement from a respondent.~~

F. ~~[[~~ Annual Report

On or before June 1 of each year, the Board of Ethics shall submit to the members of the Common Council, the Mayor, and the Corporation Counsel a written report, which shall include, but not be limited to, a summary of its activities and recommendations for improvements in the Code of Ethics.

G. ~~[[~~ Educational Programs

(a) The Board of Ethics shall hold or sponsor at least one educational program for the City and its employees, officers and agencies before March 31 of each year.

~~(b) [[~~

The Board of Ethics may create and maintain a handbook to be distributed, together with this chapter, to all officers and employees. If created, a copy of the handbook shall be kept at the City Clerk's office and shall be available for inspection by the public.

~~[10]~~

~~At any time after an ethics complaint has been made, the Board of Ethics or a duly constituted hearing board may accept stipulated findings and/or a settlement from a respondent.~~

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Mr. Koleszar suggested in Section C, Powers and Duties to change “of the Mayor” to “to the Mayor”. Mr. Williams suggested on the last line of Section C to change “on the code of ethics” to “educational programs on the code of ethics for municipal officers, employees, and agencies.

Mr. Koleszar suggested in Section (b) “Supplementation of complaint” to “Expansion of complaint” He also suggested changing “investigation” to “investigating” Mr. Williams suggested it be capitalized. Mr. Murphy said she would do a word search and change it throughout the code of ethics.

Ms. Murphy said in Section (d) she had to take out the “Finding of probable cause and hearings before an ethics board” but said that a heading can be put back in under section (d), (e), and (f). After further discussion it was decided (d) heading of finding probable cause, (e) written report upon finding of probable cause. (f) finding of no probable cause. There was discussion on combining the sections. Ms. Murphy said that she will go through the sections and see what she can do to move it and clean it up and discuss the changes at the next meeting.

Mr. Koleszar said that in Section 3 to change “Hearing Panel” to “Hearing Board” and said that it should also be changed throughout the entire code of ethics.

There was discussion on Section (c) “to burden of proving the claim” and it was decided that it should be discussed with Mr. Coppola.

Mr. Koleszar said in Section (d) on the last line to change “public office” to “public officer”

Mr. Koleszar said in Section (ii) to change “and the complainant” to “to the complainant”

Mr. Williams asked for clarification from Mr. Coppola on Section (d) entire Common Council. He also suggested changing “as part of the code” to “The City of Norwalk code of ethics”

Ms. Coppola said in Section (g) to change “effect” to “affect”

Ms. Murphy said Section 5 was originally number 10 at the bottom of the page of the original code, but it was out of sync with the sections immediately before it on the annual report and educational programs, so she took the text and gave it a heading and moved it up to number 5. Mr. Williams said to change “respondent” to (respondent (s)).

Ms. Murphy said that she will incorporate the changes and at the next regular meeting will provide clean copy and a red line copy for the next regular meeting.

There was discussion on Section 32-13 through Section 32-17 and the proposed changes were recommended:

Section 32-13

Mr. Williams said in Section A (3) to change “by a employee” to “by an employee”.

There was discussion on Section “C” and it was decided to refer to Mr. Coppola for clarification and intent.

Ms. Coppola said that in Section “E” that she thinks the \$250 fine is too low and recommended that it be raised. After further discussion it was decided to look at what the State does for a fine.

Section 32-16

Ms. Coppola said in Section A to add an (s) to violations.

Mr. Koleszar said in Section B to delete “as it shall determine”

After further discussion it was decided to have Mr. Coppola review the entire Section B for the mechanics.

Mr. Koleszar said that a revision date should be included.

8. EXECUTIVE SESSION

There was no executive session held.

9. ADJOURNMENT

**** MR. KOLESZAR MOVED TO ADJOURN**
**** MS. MURPHY SECONDED THE MOTION**
**** MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 9:00 PM

Respectfully submitted,

Dilene Byrd
Telesco Secretarial Services

DRAFT