

THESE MINUTES ARE SUBJECT TO APPROVAL BY THE BOARD OF ETHICS

The Board of Ethics held a regular meeting on Thursday, January 5, 2017 at the Municipal Center, Meeting Room 3, 3 Primrose Street, Newtown, CT. Chairman Villa called the meeting to order at 7:00pm.

Present: Jackie Villa, Thomas Fuchs, Joyce Murty, Suzanne Copp

Absent: Laurie Kilchevsky, Kristen Provost-Switzer

Minutes: Joyce Murty moved to approve the minutes of the December 1, 2016 meeting. Tom Fuchs seconded, motion unanimously approved.

Correspondence: Jackie Villa received correspondence from Attorney Grogins regarding a Complaint Petition Form, Advisory Request Form and Complaint Processing Procedures (Attachment A). Attorney Grogins explained that the Complaint Petition and Advisory Request form are within the authority of the Board, however, amendment of the complaint processing procedure is more complicated because the procedures are also set forth in the Charter.

UNFINISHED BUSINESS

Presentation of proposed amendments for the administration of the Code of Ethics – Jackie Ville presented the Complaint Petition Form, Advisory Request Form and Complaint Processing Procedure (Attachment B) to be posted in the office of the Town Clerk's office 10 days prior to the February 2, 2017 minutes. At the February 2, 2017 after public comment the board will then vote.

Public Comment – none

Having no further business the meeting was adjourned at 7:26pm

Respectfully Submitted,
Arlene Miles, Clerk

Attachment A

I have been on vacation. I will be back in the office today and will try to get you a response shortly.

Sent from my iPhone

On Dec 26, 2016, at 3:09 PM, "jacfab5@aol.com" <jacfab5@aol.com> wrote:

Dear Attorney Grogins,

The Board of Ethics would like to adopt a (A)Complaint Petition Form, (B)Advisory Request Form and (C)Complaint Processing Procedures. The Board respectfully requests that you confirm that the correct process to follow is set forth in Chapter 303-9 B of the Code of the Town of Newtown. For your convenience, I have included the language of Chapter 303-9 B below:

"B. The administration of the Code of Ethics may be amended by the affirmative vote of four members of the Board of Ethics, provided that such amendment had been presented to the Board in writing at a preceding regular meeting and posted in the office of the Town Clerk for 10 days prior to the final approval. Comments from the public will be allowed before the voting."

Pending your confirmation, the Board of Ethics contemplates that the aforementioned will be posted and presented at the regular meeting to be held on January 5, 2017 and then after the comment period and incorporating any changes or comments, voted on for final approval at the February 2, 2017 meeting.

Thank you very much and Happy Holidays,

Jacqueline Villa, Chairman
Board of Ethics
Town of Newtown

From: jacfab5 <jacfab5@aol.com>

To: DGrogins <DGrogins@cohenandwolf.com>

Subject: Re: Chapter 303-9 B, Code of the Town of Newtown

Date: Wed, Jan 4, 2017 12:06 pm

Attachments: 11-16 Draft Newtown BofEthics Procedures.docx (38K), 12-16 Draft Newtown BofEthics Advisory Opinion Request Form.docx (30K), 12-16 Draft Newtown BofEthics Complaint Form.docx (31K)

Dear Attorney Grogins,

Absolutely. Please review the attached drafts.

Jackie

-----Original Message-----

From: Grogins, David L. <DGrogins@cohenandwolf.com>

To: jacfab5 <jacfab5@aol.com>

Sent: Wed, Jan 4, 2017 11:45 am

Subject: RE: Chapter 303-9 B, Code of the Town of Newtown

Jackie, The development of a complaint petition and an advisory request form is within the authority of the Board of Ethics per Section 303-9 B of the code of ethics and section 9-10 of the Charter. However, amendment of the complaint processing procedures is more complicated, since the procedures are also set forth in the Charter. I would like to see what the Board has in mind before I comment.

From: jacfab5@aol.com [<mailto:jacfab5@aol.com>]

Sent: Wednesday, January 04, 2017 11:25 AM

To: Grogins, David L.

Subject: Re: Chapter 303-9 B, Code of the Town of Newtown

Good Morning Attorney Grogins,

I would like to post an agenda later today and anticipate that our Board can move forward with regards to Sec. 303-9 B as indicated in my previous email correspondence below.

I hope you enjoyed your holiday and look forward to your reply.

Thank you very much,

Jacqueline Villa, Chairman
Board of Ethics
Town of Newtown

-----Original Message-----

From: Grogins, David L. <DGrogins@cohenandwolf.com>

To: jacfab5 <jacfab5@aol.com>

Sent: Wed, Dec 28, 2016 6:52 am

Subject: Re: Chapter 303-9 B, Code of the Town of Newtown

Town of Newtown
Board of Ethics
3 Primrose Lane
Newtown, CT 06470

COMPLAINT PETITION

Please type or print the following information and submit to: Chairman, Newtown Board of Ethics, c/o Newtown Town Clerk, in a sealed envelope marked "Confidential".

Your Name: _____

Your Address: _____

Telephone Number(s): _____

Email Address: _____

1. What is the full name of the person you believe has violated the Code of Ethics?

 2. What position does this person hold in town? _____
 3. What specific section(s) of the Code of Ethics do you believe the above named individual has violated? _____
 4. When and where did the alleged violation occur? _____
 5. Please attach a brief statement of the facts and circumstances and any documents that will support your allegation.
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THIS SECTION MUST BE COMPLETED IN THE PRESENCE OF A NOTARY:

OATH: I, the person bringing this complaint, do affirm and say that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.

Signature of Complainant: _____

To be completed by the Notary Public:

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____.

Signature of Notary Public: _____

Print/Stamped name of Notary Public: _____

Draft Form November, 2016

Once a complaint petition has been submitted to the Board of Ethics, the complaint must remain Confidential as prescribed by Connecticut State Statute 1-82n.

Town of Newtown
Board of Ethics
3 Primrose Lane
Newtown, CT 06470

ADVISORY OPINION REQUEST

*****This form is intended for elected or appointed officials of the Town of Newtown to request a prospective advisory opinion from the Board of Ethics. It is NOT used to file a complaint with the Board.*****

Please type or print the following information and submit to: Chairman, Newtown Board of Ethics, c/o Newtown Town Clerk, in a sealed envelope marked "Confidential".

Your Name: _____

Your Address: _____

Telephone Number(s): _____

Email Address: _____

Please provide the following information, attach additional sheets if necessary:

- 1. What specific action or decision concerns you as a possible violation?**

- 2. What specific section(s) of the Code of Ethics concerns you?**

- 3. Please provide details on the potential violation:** _____

This form must be filed with the Town of Newtown Board of Ethics, c/o Town Clerk's Office, 3 Primrose Street, Newtown, CT 06470. An opinion will be rendered by the Board of Ethics within 25 business days.

Draft Form November, 2016

Newtown Board of Ethics

COMPLAINT PROCESSING PROCEDURES

(November, 2016 Draft)

I. Definitions:

- a. Board – Refers to the Newtown Board of Ethics (“Board”). All actions shall be by a majority of the Board.
- b. Complainant – Person or persons filing a complaint.
- c. Complaint Petition – Form used in filing a complaint with the Board, hereinafter referred to as Complaint.
- d. Days – Business days. The days listed for various events shall be amended by the Board only for the most extraordinary reasons, and for the briefest period of time practicable.
- e. Findings of Fact – Facts provided in the Complaint and during any hearing that the Board will use to compile the facts pertinent to the Complaint.
- f. Probable Cause – Reason to believe that the violation alleged and the evidence provided would enable a person to conclude that the alleged violation could have occurred.
- g. Respondent – Person(s) against whom a Complaint has been filed.

II. Filing a Complaint Petition

- a. The Complaint shall be sent to the Chairman, Newtown Board of Ethics, c/o Newtown Town Clerk on the form adopted by the Board. The form is available on the Town of Newtown website and in the Newtown Town Clerk’s office.
- b. The Board Chairman will make an appropriate number of copies of the Complaint and shall inform, by email, within five (5) business days, the members of the Board and the Respondent of the receipt of a Complaint.
- c. The Board will acknowledge receipt of the Complaint to the Complainant within five (5) business days.
- d. The Board members and Respondent shall pick up their copies of the Complaint at the Newtown Town Clerk’s office.

III. Probable Cause

- a. The Board shall conduct a Probable Cause investigation of the Complaint within twenty (20) business days of being notified by the Board Chair of the Complaint being filed.
- b. The Board shall determine the following:
 - i. Whether Respondent is an elected or appointed official of the Town of Newtown or an employee of the Town of Newtown.
 - ii. Whether the act(s) alleged in the Complaint, if proven, would constitute a violation of the Newtown Town Charter and/or Code of Ethics.

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- iii. Whether sufficient evidence has been provided to warrant further proceedings.
- iv. Whether the Complainant or the circumstances complained of, are governed by a collective bargaining agreement, personal employee contract, or other agreement or policy, the provisions of which would take precedence over the Town Charter and/or Code of Ethics.
- c. The Board will determine, by majority consensus, whether Probable Cause is present, and will inform, in writing within five (5) business days of the conclusion of the Probable Cause investigation, the Complainant and Respondent.
- d. If the Board determines that the circumstances complained about are subject to a collective bargaining agreement, personal employee contract, or other agreement or policy applicable to the Respondent, the Board shall pursue one of the following:
 - i. Transmit, within five (5) business days of the conclusion of the Probable Cause investigation, copies of the Complaint and the Board's Probable Cause determination, to the appropriate forum having jurisdiction.
 - ii. The Board shall further take one of the following actions:
 - 1. Retain jurisdiction, but defer any further action until the appropriate forum has rendered a decision on the matter, or;
 - 2. Relinquish jurisdiction to the appropriate forum and close the file on the Complaint.
- e. If the Board determines that the subject of the Complaint is not covered by a collective bargaining agreement, personal employee contract, or other agreement or policy, and that Probable Cause exists that the Complaint might be a violation of the Newtown Town Charter and/or Code of Ethics, the Board shall, within twenty (20) business days of the conclusion of the Probable Cause investigation, schedule a hearing to determine the merits of the Complaint.
- f. Once Probable Cause has been determined, the Board shall make public the Complaint and all documents related thereto.

IV. Hearing

- a. The following persons that appear at the Board's hearing:
 - i. Complainant
 - ii. Respondent
 - iii. Witnesses called by Complainant or Respondent.
 - iv. Respondent may also bring counsel.
- b. The Board Chairman shall swear in all parties, including any witnesses.
- c. The Complainant shall be allowed to present evidence, including documentation and witnesses.

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- d. The Respondent (and their counsel, if any) shall have the right to cross-examine all witnesses against him or her, and present evidence and witnesses on his or her behalf.
- e. The Board shall schedule additional hearing sessions if needed.
- f. At the conclusion of the presentation of evidence by both Complainant and Respondent, the Board shall deliberate. Such deliberation may occur immediately at the conclusion of the hearing, or may be scheduled for another time, provided that deliberation is finished within ten (10) business days after the conclusion of the hearing. Deliberations and voting shall be conducted in public session.
- g. The Board shall, within five (5) business days after the conclusion of its deliberations:
 - i. Publish written Findings of Fact and,
 - ii. Render a decision as to the merits of the Complaint.
 - 1. If the Board determines the Complaint is with merit, the Board shall forward to the Board of Selectmen its Findings of Fact and a recommendation as to the disposition of the Complaint.
 - 2. If the Board determines the Complaint is without merit, the matter will be closed with no further action.

v. Board of Selectmen

- a. The Newtown Board of Selectmen shall consider any Findings of Fact and recommendation of the Board for any Complaints found to have merit.

Draft Form November, 2016