

**Town of Newtown  
Board of Ethics  
Regular Meeting  
April 6, 2017**

**THESE MINUTES ARE SUBJECT TO APPROVAL BY THE BOARD OF ETHICS**

The Board of Ethics held a regular meeting on Thursday, April 6, 2017 at the Municipal Center, Meeting Room 3, 3 Primrose Street, Newtown, CT. Chairman Villa called the meeting to order at 7:00pm.

**Present:** David Camputo, Jackie Villa, Thomas Fuchs, Joyce Murty, Suzanne Copp, Laurie Kilchevsky

**Minutes:** Ms. Copp moved to approve the minutes from 3/2/17 meeting. Mr. Fuchs seconded, motion unanimously approved.

**Correspondence:** Mrs. Villa received 2 e-mails from Attorney Grogins answering questions from the Board. She also received an e-mail from the First Selectman explaining that Ann Peters is disqualified for the Board of Ethics because of her service on in-land wet lands (Attachment A).

**UNFINISHED BUSINESS**

*Review/edit and possible presentation of proposed amendments for the administration of the Code of Ethics* – The board reviewed the most current draft (Attachment B) and made the following changes:

Section 1 – no change

Section 2 – no change

Section 3 (a)– “confidentially” is added before investigate the complaint, “within 20 business days of being notified by the board chair of the complaint being filed” is added after complaint and the rest of the sentence is deleted.

Section 3 (b) – no reads “An investigation of any complaint shall be and remain confidential until either (1) a determination by a majority of the Board that Probable Cause exists that a violation of the Code of Ethics has occurred and that the complaint warrants a public hearing or (2) the Respondent demands a public hearing. In order to maintain confidentiality, the complaint shall receive a number upon its receipt and shall be referred to by said number. If the Board determines Probable Cause exists, the Board shall, within twenty (20) business days of the conclusion of the Probable Cause investigation, schedule a public hearing to determine the merits of the complaint. Once Probable Cause has been determined, the Board shall make public the Complaint and all documents related thereto.

Section 4 (f)– The last sentence changes to “Deliberation may be conducted in executive session unless the Respondent requests that it be conducted in public. Voting shall be conducted in public.”

Section 5 – Last sentence change to Code of Ethics not Ethic Code.

*Q&A form (Attachment C)*

1 – statutes is corrected to statutes

2 - last sentence changes from covers to applies to.

3 – violated is changed to violation

4 – called in second sentence changes to held

Last sentence in 4, 6, 7, 8 changes from Board of Ethics Procedures to Board of Ethics Complaint Processing Procedures.

9 - now reads "What happens if the respondent is found to have violated the Code of Ethics? The Board of Ethics recommends action to the Board of Selectman who then take action as they deem appropriate. Please see Chapter 303-6B in Newtown Charter."

The contact information to be included is Jackie Villa, PO Box 127, Stephenson, CT 06491. (203)364-1255

Mr. Fuchs moved to vote on the draft Complaint Process Procedures and Q&A as modified to be posted at least 10 days prior to the May 11, 2017 meeting. Ms. Murty seconded, motion unanimously approved.

*Public Comment – None*

Having no further business the meeting was adjourned at 8:49pm  
Respectfully Submitted,  
Arlene Miles, Clerk



Attachment A

Arlene Miles <arlene.miles@newtown-ct.gov>

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**Fwd: Newtown Board of Ethics (correspondence)**

1 message

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**jacfab5@aol.com** <jacfab5@aol.com>  
To: arlene.miles@newtown-ct.gov

Thu, Apr 6, 2017 at 9:39 PM

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

Sent: Mon, Mar 6, 2017 3:15 pm  
Subject: Fwd: Newtown Board of Ethics

Hi All. See forwarded message.

Jackie

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

From: Grogins, David L. <DGrogins@cohenandwolf.com>  
To: Jackie Villa  
Sent: Mon, Mar 6, 2017 2:49 pm  
Subject: FW: Newtown Board of Ethics

Jackie, Here is the case you requested, plus comments from my associate.

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**From:** Nathanson, Dina E.  
**Sent:** Monday, March 06, 2017 2:44 PM  
**To:** Grogins, David L.  
**Subject:** RE: Newtown Board of Ethics

Hi David,

In response to Jackie's questions:

First, I believe that the requirement of making a vote a matter of public record stands regardless of whether there is a determination of probable cause. While the case cited – Somers Ethics Comm'n v. Freedom of Info. Comm'n of Connecticut – did involve a finding of probable cause, the statute requiring that a vote must be public does not consider the outcome of the vote in making such a requirement. See Conn. Gen. Stat. § 1-225; Somers Ethics Comm'n v. Freedom of Info. Comm'n of State of Connecticut, No. CV 97 64413 S, 1998 WL 417523, at \*3 (Conn. Super. Ct. July 16, 1998). I have attached the case as requested to be forwarded to the Ethics Board.

Second, deliberations may generally be held in executive session, and only need to be public when requested. Conn. Gen. Stat. § 1-82a states: "A [board of ethic's] evaluation of a possible violation . . . shall be confidential except upon the request of the subject of the evaluation." Additionally, Connecticut's Freedom of Information provisions provide that executive sessions are permitted for discussions of the performance or dismissal of a public official, "provided that such official may require that discussion be held at an open

meeting." Conn. Gen. Stat. § 1-200(6)(A). In Somers Ethics Comm'n, the court interpreted these statutes together to determine that where the subject of the evaluation had requested that everything the ethics commission did be public, the commission could not deliberate in executive session. 1998 WL 417523, at \*2-3. Generally, though, such deliberations should be able to occur in executive session.

Last, Jackie asked for clarification on Newtown Code 303-1. That section does not specify who should qualify as an "official of the Town in any capacity." Code section 4-60, which establishes the Board of Ethics, mentions complaints against any "officer, official, or employee of the Town." This distinguishes "officials" and "officers" as distinct positions. Unfortunately, there are few mentions of officials in Newtown's Code beyond that section, and I was unable to find its definition anywhere in the Code. Connecticut General Statute § 7-148, which provides the scope of municipal powers, permits municipalities to "[p]rovide for and establish pension systems for the *officers* and employees of the municipality and . . . [e]stablish a merit system or civil service system for the selection and promotion of public *officials* and employees." (Emphasis added). The way "officials" and "officers" are used seems interchangeable here. The Newtown Code, while lacking references to officials, mentions officers throughout. Code section 5-100, which is preceded by a few sections outlining specific officer and municipal employee positions, instructs the First Selectman to appoint "such other officers . . . as are required by the General Statutes." Therefore, it seems that despite the seeming distinction between "officers" and "officials" in Code section 4-60, "officials" for the purpose of Code 303-1 may just be Newtown's officers, who should be readily identifiable through the Code and General Statutes, and of whom the Town Clerk might have a list. If the Town is currently working to reform its Code pertaining to its Board of Ethics, as I think you indicated it is, it would benefit from clarification in the form of a definition section.

Please let me know if you have any other questions I can assist with.

Thanks,

Dina

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**From:** Grogins, David L.  
**Sent:** Friday, March 03, 2017 3:29 PM  
**To:** Nathanson, Dina E.  
**Subject:** FW: Newtown Board of Ethics

Dina, Please review this email and contact me.

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**From:** Jackie  
**Sent:** Friday, March 03, 2017 3:18 PM  
**To:** Grogins, David L.  
**Cc:** McEvoy; Suzzane Copp; Tom Fuchs; Laurie Kilchevsky; Kristen Provost-Switzer; Tom Hennick; Guerra-Holguin, Cynthia  
**Subject:** Newtown Board of Ethics

March 3, 2017

Good afternoon Attorney Grogins.

Thank you for your memo and suggested revisions of the Complaint Processing Procedures draft. During the Board of Ethics meeting last night, the following three questions arose.

1. Referencing your memo dated 2/27/17, addressing the answer to question number 3: [The Board of Ethics may not, however, have a private vote on whether an ethics complaint should progress to a full hearing. In Somers Ethics Comm'n v. Freedom of Info. Comm'n of State of Connecticut, an ethics commission conducted such a vote in private and failed to record individual responses in writing. Somers Ethics Comm'n v. Freedom of Info. Comm'n of State of Connecticut, No. CV 97 64413 S, 1998 WL 417523, at \\*2 \(Conn. Super. Ct. July 16, 1998\)](#)The court there, affirming the decision of the Freedom of Information Commission, found that the ethics commission had faltered when it conducted a vote during an executive session and failed to record its votes in writing, making them available to the public. Id. at \*3 citing C.G.S. 1-18a(e)(1) and 1-21(a), now 1-225. Therefore, Newtown's Board of Ethics should be prepared to make its votes a matter of public record.

Question 1: Has this analysis been made with the presumption that there has been a determination of probable cause?

B. Board members are having difficulty finding the above referenced decision. Would you please send a link to the Somers case referenced above?

2. Referencing the Complaint Processing Procedures draft, under section [IV. Hearing, 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.](#)

Question 2: It was previously determined that deliberations were to be held in Executive Session. Is it required by FOIA that deliberations be held in public session or is it permissible to deliberate in Executive Session during the hearing?

3. Referencing the Newtown Code, [Chapter §303-1 Membership; terms of office. B. The First Selectman may not appoint an elector to the Board of Ethics who has been a Town employee or official of the Town in any capacity within three years prior to the date of appointment. Any such appointment shall be void. \[Ammended 8-22-2007by Ord. No. 90\]](#)

Question 3: Can you please clarify this section, particularly the phrase, "official of the Town in any capacity". Is this definition inclusive of all Town Boards and Commissions?

Thank you very much. I look forward to your responses. Have a pleasant weekend.

Jackie  
Jacqueline Villa, Chairman  
Board of Ethics  
Town of Newtown

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 **Somers Ethics Comn v Freedom of Information Comn of State of Connecticut.pdf**  
66K



Arlene Miles <arlene.miles@newtown-ct.gov>

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## Fwd: Newtown Board of Ethics (correspondence)

1 message

---

**jacfab5@aol.com** <jacfab5@aol.com>

Thu, Apr 6, 2017 at 9:39 PM

To: arlene.miles@newtown-ct.gov

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

From: Jackie Villa

To: McEvoy; Laurie Kilchevsky; Suzzane Copp; Kristen Provost-Switzer; Tom Fuchs; D Camputo

Sent: Sat, Mar 25, 2017 11:10 am

Subject: Fwd: Newtown Board of Ethics

Hi All,

See forwarded message below w/attachment.

Jackie

Begin forwarded message:

**From:** "Drucker, Pamela" <PDrucker@cohenandwolf.com>

**Date:** March 24, 2017 at 1:39:40 PM EDT

**To:** Jackie Villa

**Cc:** "first.selectman@newtown-ct.gov" <first.selectman@newtown-ct.gov>, "Mary Ann Jacob" <mjacob4404@charter.net>, "ryan.w.knapp@gmail.com" <ryan.w.knapp@gmail.com>,

"Grogins, David L." <DGrogins@cohenandwolf.com>

**Subject:** Newtown Board of Ethics

Dear Ms. Villa:

Attached is a letter (with attachment) from David Grogins. Kindly contact Mr. Grogins with any questions or comments.

Thank you.

Pam

**Pamela Drucker** | Legal Assistant to Neil R. Marcus and David L. Grogins | **Cohen and Wolf, P.C.**

158 Deer Hill Avenue | Danbury, CT 06810 | P: 203.792-2771 | F: 203.791-8149

[pdrucker@cohenandwolf.com](mailto:pdrucker@cohenandwolf.com) | [www.cohenandwolf.com](http://www.cohenandwolf.com)

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**Villa ltr 3-24-17.pdf**

348K

March 24, 2017

HERBERT L. COHEN  
(1928-1983)

AUSTIN K. WOLF  
RICHARD L. ALBRECHT  
JONATHAN S. BOWMAN  
IRVING J. KERN  
NEIL R. MARCUS  
G. KENNETH BERNHARD  
DAVID L. GROGINS  
GRETA E. SOLOMON  
ROBIN A. KAHN  
RICHARD SLAVIN  
DANIEL S. NAGEL  
RICHARD J. DI MARCO  
DAVID B. ZABEL  
MARK A. KIRSCH  
DAVID M. LEVINE  
JOSEPH G. WALSH  
MATTHEW C. SUSMAN  
DAVID A. BALL  
JOCELYN B. HURWITZ  
STUART M. KATZ  
MONTE E. FRANK  
PATRICIA C. SULLIVAN  
VINCENT M. MARINO  
JULIE D. KOHLER  
ARI J. HOFFMAN  
COURTNEY A. GEORGE  
BARBARA M. SCHELLENBERG  
RACHEL A. PENCU  
JASON A. BUCHSBAUM  
L. JOYELLE MAINI  
DAVID M. MOROSAN  
ANN L. FOWLER-CRUZ  
PHILIP C. PIRES  
JOHN PATRICK C. O'BRIEN  
DAVID DOBIN  
ROBYN H. DRUCKER  
JARED L. SHWARTZ  
ALEXANDER COPP  
MATTHEW A. CIARLEGLIO  
CHRISTINE M. BREW  
JOSHUA PEDREIRA  
CLIFFORD A. MERIN  
BRITTANY M. REHMER  
JOSEPH D. SZEREJKO  
DINA E. NATHANSON

OF COUNSEL  
ANNMARIE P. BRIONES  
MARCIA M. ESCOBEDO  
EILEEN LAVIGNE FLUG  
THEMIS KLARIDES  
ROSAMOND A. KOETHER  
SUZANNE B. SUTTON

Via E-Mail

Jacqueline Villa, Chairman  
Board of Ethics  
Town of Newtown  
3 Primrose Street  
Newtown, CT 06470

Re: Newtown Board of Ethics

Dear Jackie:

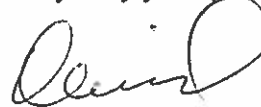
Please forgive me for taking so long to respond to your email of March 3, 2017. I have enclosed herewith the decision you requested. I am of the opinion that if no probable cause is found, the discussion can take place in executive session and remain confidential. I suggest that any vote be taken in open session but until the determination is made that probable cause exists the identity of the respondent be kept confidential unless the respondent specifically request it be disclosed. Voting can be kept confidential by assigning a number to the respondent's case and only referring to the respondent by name if probable cause is found to exist.

As to question #2, you may deliberate in executive session unless the respondent requests that it be in open session.

Question #3, an official of the Town of Newtown is one of the following: 1) an officer of the Town, i.e. Selectman, administrative officer of the Town per Chapter 4 of the Charter, an employee of the Town, a member of any Commission (appointed or elected), a Town Body listed in the Charter or a Trustee of the Cyrenius H. Booth Library.

Please do not hesitate to contact me with any other questions.

Very truly yours,



David L. Grogins

DLG/pld  
Enclosure

cc: Hon. E. Patricia Llodra  
Mary Ann Jacob, Chairman Legislative Council  
Ryan Knapp, Legislative Council



1998 WL 417523

KeyCite Yellow Flag - Negative Treatment

Distinguished by Kelly v. Trumbull Ethics Com'n, Conn.Super.,  
February 19, 2015

1998 WL 417523

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK  
COURT RULES BEFORE CITING.

Superior Court of Connecticut.

SOMERS ETHICS COMMISSION et al.

v.

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

No. CV 97 64413 S.

|  
July 16, 1998.

#### MEMORANDUM OF DECISION

SULLIVAN.

\*1 This is an appeal by the Somers Ethics Commission, appealing from a decision of the Freedom of Information Commission of the State of Connecticut. The Freedom of Information Commission, by notice of June 6, 1997 adopted the final decision of its Commissioner Berman by vote of the Commission on May 28, 1997.

The complaint made to the Freedom of Information Commission, hereafter referred to as FIC pertains to a proceeding conducted by the Somers Ethics Commission, hereafter SEC on August 22, 1996. The complainant before the FIC is one Mark V. Jones, complaining individually as a member of the public. Mark Jones represented an individual, one George Boisvert, at the SEC proceedings, a complaint having been lodged against Mr. Boisvert. Counsel have specified at oral argument, that a layman, the complainant Jones may represent another person at such a proceeding. In any event Mr. Jones is not representing Mr. Boisvert at the FIC proceedings, Mr. Boisvert not having appealed to the FIC. Hence Mr. Jones's appeal is in his individual capacity as a member of the public.

The FIC, adopting the findings of its Hearing Officer Rosalind Berman, found as follows:

(1) It is concluded that the respondents violated the provisions of §§ 1-18a(e)(1) and 1-21(a)GS by convening in executive session at the August 22, 1996 meeting of the Somers Ethics Commission, notwithstanding the subject's request that the proceedings be held in public, and thereby denying the complainant and the public from observing the deliberations of the respondents in public session.

(2) Section 1-18a(e)(1)GS merely permits "discussion in executive session"; and it is therefore concluded that the respondents violated § 1-18a(e)(1)GS by voting in the August 22, 1996 executive session.

(3) It is found that the respondents failed to record their votes in the minutes of the August 22, 1996 meeting; and it is concluded that such failure violated the provisions of § 1-21(a)GS.

A

The record before the FIC reveals that when the SEC served upon Mr. Boisvert its letter setting forth the complaint and the probable cause notification, which is the notice of the probable cause proceedings to be held on August 22, 1996 the following notification appears in handwriting.

Respondent accepted the envelope and then stated:

Just so you understand, I want  
everything in public.

This court notes that the said appellant does not contest that, it the SEC, did not have this notification before it when it conducted the proceedings on August 22, 1996. The letter to Mr. Boisvert had stated "In the event the Respondent does not waive his right to confidentiality, the proceeding will be held in executive session." The handwritten note is in obvious response to the delivery by John Nejfelt, Commission Chairman, of the letter of August 7, 1996 and states Mr. Boisvert's oral response to the letter.

The probable cause proceedings were held on August 22, 1996. The minutes of the meeting consist of a

1998 WL 417523

single page. No transcript of the meeting is furnished. The minutes reveal that Mr. Jones represented the respondent, the meeting was called to order at 7:02 PM; Mr. Boisvert arrived at 7:07 PM; Commissioner Rainey moved to enter executive session, unanimously approved; Executive session commenced at 7:46 PM; Executive session concluded at 8:35 PM and hearing adjourned at 8:37 PM.

\*2 There is no indication in the minutes that the SEC inquired of Mr. Jones or Mr. Boisvert as to whether they had any objection to the commission going into executive session. There is no testimony or evidence before the FIC to the effect that this subject was inquired into or alluded to at the SEC meeting.

## B

There is evidence before the FIC to indicate that a vote was taken by the Commission members as to a finding of probable cause. There is no record by the SEC of any vote having been taken. There was evidence before the FIC, from the testimony of John Nejfelt, the chairman of SEC, testifying at the FIC hearing that he was unaware of the necessity for a formal vote, and that the decision "was based on discussions and a consensus of the commission during that closed session." However the testimony of Gordon Mello, an alternate member of SEC who was in attendance at the executive session revealed each voting member did say yea or nay for finding a probable cause. This individual voting was not reduced to writing.

## I

The entering into and conducting of Executive Session.

The appellant SEC takes the position, in this appeal, that confidentiality throughout these proceedings are required under General Statutes § 1-82a. Further, however, it contends that although confidentiality can be waived by the person who is subject to the proceedings, waiver is only allowed as concerns the investigation part of the proceedings. This, it claims, is confined to the gathering of evidence, including the evidentiary hearing conducted by the SEC. This position is not, however, supported by the Statute. CGS § 1-82a provides:

A Commission *evaluation* of a possible violation of this part prior to the filing of a complaint by the Commission shall be confidential, except upon the request of the subject of the evaluation.

It should be obvious that term evaluation means something different than the gathering of information. Evaluation is an analysis of evidence which was gathered through the process of investigation.

Second, General Statutes § 1-21 provides: "(a) the meetings of all public agencies, except executive sessions as defined in subsection (e) of section 1-18a shall be open to the public."

General Statutes § 1-18(e) allows executive sessions for the following purposes: "(1) Discussions concerning the appointment, employment, performance, evaluation, health or dismissal of a public official, *provided* that such official may require that discussion be held at an open meeting."

In essence the FIC determined that when the official Mr. Boisvert said "everything" he meant "everything." This conclusion by the FIC is neither unreasonable nor irrational nor in abuse of discretion. Bearing in mind the all encompassing use of that word "everything" the court can discern no necessity for the use of further terminology so as to include any of the parts which are parts of "everything."

The appellant SEC also contends that Mr. Boisvert waived the right to have the deliberations conducted in public. This matter is dealt with by the Supreme Court in *Board of Police Commissioners v. Freedom of Information Commission*, 192 Conn. 183, 470 A.2d 1209 (1984). There the court determined that because the appellant used the limited word "hearing," in his request that "the *hearing* be open to the public," he was referring to *that portion* of the proceedings at which proofs and arguments are presented prior to a determination of the issues (*supra* p. 189). Further, in that proceeding the requestor was represented by an attorney, who is presumed to be familiar with the procedural ingredients of legal proceedings, and their terminology, and whose inaction was interpreted as a voluntary and knowledgeable interpretation and affirmation that the client's request concerning the

ambiguous term "hearing" was so limited. That is not the case in the present circumstances. There is no ambiguity in the word "everything."

\*3 The court determines that the decision of FIC in the instant case as to the request that *everything* be public is supported by the record, and is not illegal, arbitrary or in abuse of discretion.

## II

### The Vote

The second and third finding of the FIC pertains to the failure of the SEC to record their vote in the minutes of the August 1996 meeting.

General Statutes § 1-21(a) provides that: "The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection ..." The finding that a vote was taken is supported by the record, reflecting that each member expressed themselves by yea or nay, supports the conclusion that a vote was taken.

The votes were not recorded by the SEC. The term consensus as used by Mr. Nejfelt may properly describe the conclusion of, the result of the vote, but the terminology of "consensus" does not relieve the SEC of its statutory duty to record each individual's vote. The statute itself, CGS § 1-21(a) specifically requires that where the members determine an issue the vote of each member shall be reduced to writing.

This was not accomplished in the instant case. The FIC specifically found that this was a violation of General Statutes § 1-21(a). That finding was fully supported by the record, and was neither arbitrary, illegal or in abuse of discretion.

For the reasons set forth herein the decision of the Freedom of Information Commission in this appeal is affirmed.

Accordingly, the appeal is dismissed.

### All Citations

Not Reported in A.2d, 1998 WL 417523



Arlene Miles <arlene.miles@newtown-ct.gov>

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## Fwd: Recommendation for appointment to Board of Ethics (correspondence)

1 message

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**jacfab5@aol.com** <jacfab5@aol.com>  
To: arlene.miles@newtown-ct.gov

Thu, Apr 6, 2017 at 9:39 PM

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

From: Susan Marcinek  
To: Jackie Villa  
Cc: Miles, Arlene  
Sent: Mon, Mar 6, 2017 10:44 am  
Subject: Fwd: Recommendation for appointment to Board of Ethics

Jackie,

please see the email trail. We made a mistake in recommending Anne Peters do to the fact that she was recently on the Inland Wetlands commission. See the emails for further explanation. I apologize for the confusion.

*Sue Marcinek  
Executive Assistant  
Office of the First Selectman  
3 Primrose Street  
Newtown, CT 06470  
(203) 270-4203  
(203) 270-4205 (FAX)*

----- Forwarded message -----

From: **Pat Llodra** <pat.llodra@newtown-ct.gov>  
Date: Mon, Mar 6, 2017 at 10:33 AM  
Subject: Re: Recommendation for appointment to Board of Ethics  
To: "M. Anne Peters" <APeters@carmodylaw.com>  
Cc: "SugrBrk@aol.com" <SugrBrk@aol.com>, "herb.rosenthal@newtown-ct.gov" <herb.rosenthal@newtown-ct.gov>, Susan Marcinek <susan.marcinek@newtown-ct.gov>, "dgrogins@cohenandwolf.com" <dgrogins@cohenandwolf.com>

Good morning Anne.

As you know, the Code for Board of Ethics denies the eligibility for appointment of any person who has served in an appointed or elected position within the government for the three years prior to consideration. It seemed so long ago that you were with Wetlands - but not so. We checked this morning to learn that it has been just a bit longer than one year since your term ended. Sorry for the confusion, and sorry, too, that we cannot appoint you to serve with Ethics. I hope when an opportunity arises for such an appointment that you remain available and interested!

Pat

On Sun, Mar 5, 2017 at 3:37 PM, M. Anne Peters <[APeters@carmodylaw.com](mailto:APeters@carmodylaw.com)> wrote:

Dear Board of Selectmen,

Thank you, again, for recommending my appointment to the Board of Ethics. Unfortunately, my recent service on the Inland Wetlands Commission disqualifies me for a position on the Board of Ethics and I must therefore withdraw my request. Please forward this message to the Board of Ethics, as well.

Yours Truly  
Anne Peters

---

**From:** M. Anne Peters

**Sent:** Friday, February 24, 2017 2:29 PM

**To:** [pat.llodra@newtown-ct.gov](mailto:pat.llodra@newtown-ct.gov); [SugrBrk@aol.com](mailto:SugrBrk@aol.com); [herb.rosenthal@newtown-ct.gov](mailto:herb.rosenthal@newtown-ct.gov)

**Cc:** Susan Marcinek; [dgrogins@cohenandwolf.com](mailto:dgrogins@cohenandwolf.com)

**Subject:** Recommendation for appointment to Board of Ethics

Dear Board of Selectmen,

Thank you for recommending my appointment to the Board of Ethics. I am forwarding my request that the Ethics Board consider my appointment, for your files.

Cordially

Anne

**M. Anne Peters** | [Bio](#)  
**Carmody Torrance Sandak & Hennessey LLP**  
195 Church Street | P.O. Box 1950  
New Haven, CT 06509-1950  
Direct: [203-575-2647](tel:203-575-2647) | Fax: [203-784-3199](tel:203-784-3199)  
[APeters@carmodylaw.com](mailto:APeters@carmodylaw.com) | [www.carmodylaw.com](http://www.carmodylaw.com)

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HTML

—  
E. Patricia Llodra  
First Selectman  
Town of Newtown  
3 Primrose Street  
Newtown, CT 06470

(203) 270-4201 - Office  
(203) 270-4206 - FAX

# Attachment B

## Newtown Board of Ethics

### COMPLAINT PROCESSING PROCEDURES

(November, 2016 Draft)

#### I. Definitions:

- a. Board – Refers to the Newtown Board of Ethics (“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. Probable Cause – “Probable Cause” means more than a mere suspicion. There must exist facts and circumstances within the Boards’ knowledge, and of which they have trustworthy information, sufficient to justify the belief of a reasonable person that a violation of the Code of Ethics has occurred.
- e. 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 shall 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.

#### III. Procedure Upon Receipt of Complaint

- a. Upon receipt of a complaint and notification to Respondent, the Board or designated members of the Board shall investigate the complaint and may hold a private investigatory meeting to discuss the results of the investigation.
- b. An investigation of any complaint including private meetings of the Board shall be and remain confidential until a determination by a majority of the Board at regular or special meeting that probable cause exists that a violation of the Ethics Code has occurred and that the complaint warrants a hearing. In order to maintain confidentiality, the complaint shall receive a number upon its receipt and shall be referred to by said number only at a meeting whereupon a vote is taken on the issue of whether or not a hearing is warranted. The Respondent may request that his or her name be revealed at such a meeting.
- c. Notwithstanding the above, in the event 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:

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**Deleted:** All actions shall be by a majority of the Board.

**Deleted:** <#>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.¶

<#>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.¶

<#>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.¶

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<#>Probable Cause¶  
The Board shall conduct a Probable Cause

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**Deleted:** <#>The Board shall determine the following:¶

<#>Whether Respondent is an elected or appointed official of the Town of Newtown or an employee of the Town of Newtown.¶

<#>Whether the act(s) alleged in the Complaint, if proven, would constitute a violation of the Newtown Town Charter and/or Code of Ethics.¶

<#>Whether sufficient evidence has been provided to warrant further proceedings.¶

<#>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.¶

<#>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.¶

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## Newtown Board of Ethics

### COMPLAINT PROCESSING PROCEDURES

(November, 2016 Draft)

- 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.

#### iv. Hearing

- a. The following persons ~~in addition to the Respondent may~~ appear at the Board's hearing:
  - i. Complainant
  - ii. Witnesses called by Complainant or Respondent.
  - iii. 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.
- 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.

**Deleted:** <#>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.¶  
<#>Once Probable Cause has been determined, the Board shall make public the Complaint and all documents related thereto.¶

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Newtown Board of Ethics

COMPLAINT PROCESSING PROCEDURES

*(November, 2016 Draft)*

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 constitute a violation of the Ethic Code.

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*Draft Form November, 2016*

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The Board shall determine the following:

Whether Respondent is an elected or appointed official of the Town of Newtown or an employee of the Town of Newtown.

Whether the act(s) alleged in the Complaint, if proven, would constitute a violation of the Newtown Town Charter and/or Code of Ethics.

Whether sufficient evidence has been provided to warrant further proceedings.

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.

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.

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