

THESE MINUTES ARE SUBJECT TO APPROVAL BY THE BOARD OF ETHICS

The Board of Ethics held a regular meeting on Monday, November 7, 2016 at the Municipal Center, Meeting Room 1, 3 Primrose Street, Newtown, CT. Chairman Villa called the meeting to order at 7:00pm.

Present: Jackie Villa, Thomas Fuchs, Kristen Provost-Switzer, Joyce Murty, Suzanne Copp
Absent: Laurie Kilchevsky

Minutes: Ms. Provost-Switzer moved to approve the minutes from the October 6, 2016 meeting. Ms. Murty seconded, motion unanimously approved

Correspondence: NONE

UNFINISHED BUSINESS

Discuss possibility of subcommittee/caucus formation for continued below research – It was determined that more research is needed before it can be discussed.

Continue discussion related to research results to present: JM-complaint procedures, TF-internal procedures, JV-hearing procedures. Discuss adoption process if applicable – Ms. Murty provided the complaint and procedures form the Town of Brookfield (Attachment A). Mr. Fuchs articulated that he looked at the surrounding towns and found that Brookfield had comprehensive procedures that are clear, easy to follow, and is centered on transparency. Mr. Fuchs will take the document and revise it for Newtown and turn it into a working draft.

It was discussed that the Complaint Petition will be sent to the Board of Ethics chair c/o Town Clerk and will be required to be notarized.

The board then reviewed the Procedures. The definitions will remain the same. The Board of Ethics Chair shall make complete copies and distribute to all board members. The complainant will need to specify what section is being violated. The board will also acknowledge receipt of complaint. There was a question of how the documents become public after probable cause if determined and if the complainant would have council. Mr. Fuchs will contact Brookfield to answer questions the board had.

Mr. Fuchs moved to take the document from Brookfield and produce a rough draft of the complaint form, processing procedures and advisory opinion request, incorporating tonight's discussion, and circulate to the board for the next meeting. Ms. Murty seconded, motion unanimously approved.

Ms. Murty moved to have the board review the Q&A about the board of ethics presented tonight (Attachment B) and discuss at the next regular meeting. Mr. Fuchs seconded, motion unanimously approved.

Having no further business the meeting was adjourned at 8:37pm

Respectfully Submitted,
Arlene Miles, Clerk

Attachment A

**TOWN OF BROOKFIELD
BOARD OF ETHICS
TOWN HALL
100 POCONO ROAD
BROOKFIELD, CT 06804**

ADVISORY OPINION REQUEST

Print or type the following information:

Your Name: _____

Your Address: _____

Telephone Number(s): _____

Email Address: _____

Please provide the following information: (Attach an additional sheet if necessary.)

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

2. What specific section of the Town Charter or Code of Ethics concerns you?

3. Provide details on the potential violation.

**This form must be filed with The Town of Brookfield Board of Ethics, C/O The Town Clerk's office, 100 Pocono Road, Brookfield, CT. 06804.
An opinion will be rendered within 25 business days.**

Received By _____
Brookfield Town Clerk's Office

Date Received: _____

Brookfield Board of Ethics
c/o Town Clerk's Office
100 Pocono Road
Brookfield, CT 06804

COMPLAINT PETITION

Please type or print the following information and submit to Town Clerk:

Your Name: _____

Your Address: _____

Telephone Number(s): _____

Email Address: _____

1. What is the full name of the person you believe has violated the Town Charter/Code of Ethics _____

2. What position does this person hold in town? _____

3. What specific section of the Town Charter/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.

THIS SECTION MUST BE COMPLETED IN THE PRESENCE OF A NOTARY:

OATH: I, the person bringing this complaint, do depose on oath or affirmation 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 or stamp name of notary public _____

Once a complaint petition has been submitted to the Town Clerk, the complaint must be confidential. This is mandated under State Statute 1-82n.

Brookfield Board of Ethics
Brookfield, Connecticut 06804

Procedure for Processing a Complaint (12/03/14 rev.)

I. Definitions:

Board: refers to the Board of Ethics. All actions shall be by a majority of the Board.

Respondent: person(s) against whom complaint has been filed

Complainant: person(s) filing complaint

Complaint Petition: form used in filing a complaint, hereinafter referred to as Complaint.

Days: business days. The days listed for various events shall be amended by the Board of Ethics only for the most extraordinary reasons, and for the briefest period of time practicable.

Probable cause: reason to believe that the infraction alleged and the evidence provided would enable a person to conclude that the alleged infraction could have occurred.

Findings of Fact: facts provided in the Complaint and during the hearing that the Board will use to compile the facts pertinent to the Complaint.

II. Filing a Complaint Petition

A. The Complaint shall be sent to the Town Clerk on the form adopted by the Board of Ethics. The form is available on the Town website and in the Town Clerk's office.

B. The Town Clerk will make four (4) complete copies of the Complaint and shall inform, by email, within five (5) business days, the members of the Board of Ethics and the Respondent. The Board and Respondent shall pick up the complaint information at the Town Clerk's office.

C. All Board procedures related to the Complaint shall be confidential until the Board determines probable cause, unless Respondent wishes the proceedings to be made public.

III. Probable Cause: The Board shall conduct a probable cause investigation of the Complaint and any material provided within twenty (20) business days of being notified by the Town Clerk of the Complaint's having been filed.

A. The Board shall determine the following:

1. Whether the Respondent is an elected or appointed official in Town or an employee of the Town.
2. Whether the act(s) alleged in the Complaint, if proven, would constitute a violation of the Charter or Code of Ethics Ordinance of the Town of Brookfield.
3. Whether sufficient evidence has been provided to warrant further proceedings.
4. 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 this article.

B. The Board will determine, by majority consensus, whether probable cause is present, and will inform in writing within five (5) days of the conclusion of the hearing, the Complainant and Respondent.

C. 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:

1. Transmit, within five (5) business days of the conclusion of the probable cause investigation, copies of the Complaint and the Board's probable cause conclusion, to the appropriate forum having jurisdiction.
2. The Board shall further take one of the following actions:
 - a. Retain jurisdiction, but defer any further action until the appropriate forum has rendered a decision on the matter
 - b. Relinquish jurisdiction to the appropriate forum and close the file on the complaint.

D. 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 Charter 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.

E. Once probable cause has been determined, the Board shall make public the Complaint and all documents related to that.

IV. Hearing:

A. The following persons shall appear at the Board's hearing: Complainant and Respondent, and witnesses called by the Complainant or Respondent. Respondent may also bring counsel.

B. The Chair of the Board 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 that person's counsel) shall have the right to cross-examine all witnesses against him/her, and present evidence and witnesses on his/her behalf.

E. The Board shall schedule additional hearing sessions if needed.

F. At the conclusion of the presentation of evidence by both parties, the Board shall deliberate. Said 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) days of the conclusion of the hearing. Deliberations will be conducted in public session.

I. The Board shall, within five (5) days after the conclusion of its deliberations,

1. Produce Findings of Fact.

2. Render a decision as to the merits of the Complaint.

a. 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.

b. If the Board determines the Complaint is without merit, the matter will be closed and no recommendation shall be made to the Board of Selectmen.

V. Board of Selectmen

Board of Selectmen shall consider the Findings of Fact and recommendation of the Board of Ethics.

Date of approval: May 20, 2008

Revised and approved: January 23, 2014

Revised and approved December 3, 2014

Attachment B

**Town of Brookfield
Board of Ethics
Brookfield, CT 06804**

**Aug. 4, 2014
Rev. December 3, 2014**

QUESTIONS AND ANSWERS ABOUT THE BOARD OF ETHICS

We received a request to explain how the Board of Ethics operates and we decided to take the opportunity to clear up some of the misinformation that some might have. We thought it would be easier to use a question and answer format.

1. Where does the authority for the Board of Ethics come from? Our authority comes first from the State of Connecticut, especially in state statute 1-82a, and also from our Town Charter and Code of Ethics ordinance. Nothing we do can violate either state laws or our Charter or Code. If there's a conflict, state law comes first.

Our procedure for considering complaint petitions and our bylaws are posted on the Town website under Board of Ethics. Copies of blank complaint petitions and requests for opinions are also on the site.

2. How many complaint petitions have you received? From 2008 to October of 2013, we received eight complaints. From November 2013 to December 2013, we received seven complaints. So far this year, we have received ten complaints.

3. Who may file a complaint petition and why would they? Any citizen of the town may file a complaint using the form found on our section of the town website. Forms are also available in the town clerk's office. People file complaints when they believe an officer (anyone appointed or elected to a board, commission, or public office) or employee has acted in an unethical manner.

4. Who is involved in a complaint petition? There are three key players. The complainant is the person filing the complaint. The respondent is the person against whom a complaint has been filed. The Board of Ethics investigates, determines probable cause and, if warranted, holds a complaint hearing.

5. What happens after you receive a complaint petition? First, we ensure that the respondent was an officer or employee at the time the alleged ethics violation occurred.

Second, we determine whether the alleged violation falls within our scope of authority. The Code of Ethics ordinance lists a number of ethical violations. We encourage anyone considering filing a complaint petition to look for the violation in the Code of Ethics.

If both of the above two conditions are not met, the complaint ends with a finding of no probable cause.

If both of the above two conditions are met, we investigate to determine if probable cause exists. For us, probable cause simply means that there is sufficient evidence to consider that an ethics violation may have occurred.

6. Why are probable cause investigations conducted in executive session? We are required

to do so under State statute 1-82a to do so.

7. When does the public learn about a complaint petition? If we find probable cause that an ethics violation may have occurred, we vote in public that we found probable cause and we schedule a public complaint hearing. We write a letter to the respondent, with a copy to the complainant, outlining what has been alleged and what evidence we looked at. All documents related to the complaint become public as soon as -- and only if --we find probable cause.

If we do not find probable cause, the complaint ends and everything remains confidential, according to State statute 1-82a. We write a confidential letter to the complainant and respondent summarizing the facts and our decision. The only person who can request that the complaint become public at this stage is the respondent.

8. What happens at a complaint hearing? Our step-by-step procedure is posted on the Town website under Board of Ethics.

The public may attend but there is no opportunity for public comment.

The complainant presents his/her case to the Board of Ethics that the respondent violated the Town Charter or Code of Ethics Ordinance.

Then the respondent presents his/her case to the Board of Ethics that no violation occurred as alleged in the complaint.

Either side may bring witnesses and documentary evidence, and the respondent may bring a lawyer to participate in the hearing.

After both sides have presented their cases, the Board of Ethics deliberates in public session. Usually additional deliberation meetings are scheduled.

The Board of Ethics then votes in public session on whether the respondent did or did not violate the Charter or Code of Ethics and compiles findings of facts and a recommendation for disposition of the complaint. These are submitted to the Board of Selectmen who may accept or reject the recommendation. If the Board of Selectmen rejects our recommendation The Board of Ethics may hire counsel to pursue enforcement of the recommendation.

9. Can you recommend that an appointed or elected official's position be terminated?

While the Charter and Code list termination as an option, under state law, we have no authority to recommend termination of an elected official. We highly support this. Otherwise, a small group of people would be able to overturn a town-wide election. We do have authority to recommend termination of an appointed official and termination of specific employees, respecting contractual agreements.

10. What happens when someone violates the Town Charter? The town attorney advised the Board of Selectmen on March 19, 2009, "Not every violation of the charter or of state statute constitutes an ethics code violation. Accordingly, not every violation of the charter or of a state statute constitutes a matter that is within the jurisdiction of the Brookfield Board of Ethics to review." This may explain why we find probable cause to schedule a hearing for some violations of the Charter, and do not find probable cause for other violations.

11. How often do you meet? We are required to meet at least once a year in January or February, and we meet throughout the year when we have business to discuss.

12. May the public attend your meetings? All of our meetings and agendas are filed in the Town Clerk's office, and the public may attend any part of any meeting other than executive sessions.

13. What happens if you receive a Freedom of Information request? We release any and all documents, except for those, which are exempt under FOI and other statutes. One that is clearly exempt under state statute 1-82a is a complaint petition for which we did not find probable cause.

If you have general questions about our functions and operations, please email them to any member of the Board of Ethics, or mail them to the Board c/o the Town Clerk's office. Our email addresses are listed on the Town website.

The Board of Ethics: Alice Carolan, chair; James Sullivan, vice chair; Joni Park, secretary