

Chairperson Teager called the meeting to order at 6:00 P.M.

ROLL CALL:

Members Present - Michael Teager, Chairperson
Teresa Funk, Vice-Chairperson
Anna Garvey
Lawrence Kavanaugh, Jr.
Kayla Leonard

Absent - Amy Kobler, Town Clerk
Jon Minear, Deputy Town Attorney

MINUTES TO BE APPROVED

Motion by Chairperson Teager, seconded by Vice-Chairperson Funk, to approve Minutes of the June 8, 2022, meeting.

Ayes: All

Noes: None

Motion Carried

COMMUNICATIONS

Ethics Code Bylaws

Chairperson Teager stated he revised the existing Ethics Board bylaws to conform with the Ethics Code and invited the members to provide any comments and suggestions on the highlighted aspects including absences and amendment.

Vice-Chairperson Funk referred to No. 5 under Ethics Complaints – review of a complaint and stated footnote No. 4 does address the process the Ethics Board would follow when investigating a complaint.

Mr. Kavanaugh referred to the acronym "RRV" and questioned if anyone was aware of what this refers to and if it is included in the revised version. Chairperson Teager stated he does not know what it stands for and Councilmember Kims, in attendance, did not recall either when asked.

Chairperson Teager referred to the absences and stated in his opinion that although the bylaws could state a number of absences he understands the members are unpaid volunteers and conflicts arise that prevent members from attending meetings. Ms. Garvey referred to a previous discussion about unexcused absences and that it would be problematic as opposed to identifying the percentage of meetings that must be attended. Chairperson Teager stated he would be in favor of an honor policy and limiting the number of unexcused absences in a 12-month period to a determined number.

Mr. Kavanaugh suggested not more than three consecutive or 40% in a 12-month period. Ms. Funk stated another board she is on follows the rule of no more than three consecutive absences of in-person meetings. Ms. Garvey stated she agrees with three consecutive absences as well. Ms. Leonard stated the wording does state "may" be removed, so based on the circumstances a person would not necessarily be removed.

Chairperson Teager referred to Amendment and questioned the wording the Ethics Board would like to include. Mr. Kavanaugh questioned if the current wording means four votes are necessary to pass an amendment. Chairperson Teager confirmed this is correct. Ms. Funk stated she agrees with the way it is written and it should be harder to make changes. Ms. Garvey requested clarification. Chairperson Teager stated the majority of the membership plus one, or four people. Ms. Garvey and Mr. Kavanaugh stated they agree.

Chairperson Teager stated one addition under "General" will the Ethics Board will default to Roberts Rules of Order and asked the members if they were ready to vote on adopting the bylaws at this meeting. All members agreed they were ready to adopt the bylaws. Chairperson Teager referred to Footnote No. 3 and stated while JCOPE was recently dissolved, the its recusal document remains, and that the Ethics Board would defer to said recusal policy and procedures.

Motion by Chairperson Teager, seconded by Ms. Leonard, to adopt the West Seneca Ethics Board bylaws with the changes noted regarding regarding Organization, Attendance Policy, General, and Amendment text as discussed.

On the question, Mr. Kavanaugh requested clarification on the Attendance. Chairperson Teager stated he has three consecutive absences but can add in a percentage if the members prefer. Ms. Garvey stated she understands it will be meetings that were held and questioned how a percentage will be figured. Chairperson Teager stated that the percentage would be helpful in the event of meetings being canceled (e.g., only 10 meetings instead of 12 due to lack of quorum), and that it would be over a consecutive twelve-month period instead of a single calendar year.

Ayes: All

Noes: None

Motion Carried

EXECUTIVE SESSION

Motion by Chairperson Teager, seconded by Mr. Kavanaugh, to enter into executive session to review disclosure forms, as they pertain to past employment history, future employment plans, employment history of a corporation or limited liability company, and/or matters that may lead to the employment, demotion, discipline, suspension, dismissal, or removal of a particular person or business entity.

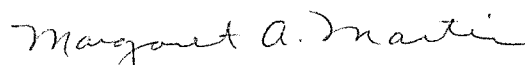
Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Chairperson Teager, seconded by Ms. Leonard, to adjourn the meeting at 6:46 P.M.



Margaret A. Martin

Deputy Town Clerk/Secretary to the Ethics Board

WEST SENECA ETHICS BOARD
BYLAWS

Per the Town of West Seneca's Code of Ethics (referred to hereafter as "the Ethics Code") §13-7, C¹, bylaws to govern the Ethics Board are as follows:

General

The term *board* as used in these rules shall mean the duly appointed Ethics Board of the Town of West Seneca.

The standards in any applicable local law or state statute shall take precedence over the standards of these bylaws whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

The board shall default to *Robert's Rules of Order Newly Revised* (latest edition) for parliamentary procedure, except where superseded by town, county, state, or federal law.

Board Organization

Officers. The officers of the board shall consist of a Chairperson, Vice Chairperson, and any other officers as deemed necessary by the board.

Chairperson. A candidate for Chairperson shall be a member of the Ethics Board and nominated by a fellow member of the Ethics Board. Upon such nomination, a majority vote of the Ethics Board would be required. The Chairperson shall preside at all meetings of the board and shall call all meetings in accordance with NYS Public Officers Law and these bylaws. The Chairperson shall decide on all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the board. The Chairperson shall appoint any committees found necessary to carry out the business of the board. The Chairperson may administer oaths and compel the attendance of witnesses as necessary to carry out the business of the board. The Chairperson's signature shall be the official signature of the board and shall appear on all decisions as directed by the board.

Vice Chairperson. A candidate for Vice Chairperson shall be a member of the Ethics Board separate from the Chairperson and nominated by a fellow member of the Ethics Board. Upon such nomination, a majority vote of the Ethics Board would be required. Should the Chairperson be absent from a meeting, the Vice Chairperson shall fulfill all of the Chairperson's duties during such absence. Should the Chairperson and Vice Chairperson both be absent from the same meeting, the most senior of the remaining Ethics Board members shall conduct the meeting.

Training. Each member shall complete, at a minimum, two hours of training each year. Training received in excess of two hours may be carried over into succeeding years.

Resignations. Resignations from the board shall be in writing to the Town Board and filed with the Town Clerk.

¹ "Rules and regulations. The Board of Ethics shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings."

Meetings

The regular meeting of the Ethics Board shall be held monthly on the second Wednesday of each calendar month.

Special meetings may be called by the Chairperson with the following requirements: (a) If the meeting is scheduled one week in advance, notice shall be given to the public and the news media not less than 72 hours prior to the meeting. Notice to the public shall be accomplished by posting in one or more designated public locations. (b) When a meeting is scheduled less than a week in advance, notice shall be given to the public and the news media to the extent practicable at a reasonable time prior to the meeting. Notice to the public shall be given by means of posting.

The Chairperson shall call a meeting within ten days of receipt of a written request from a majority of the entire membership of the Ethics Board, which request shall specify the matters to be considered at such meeting.

The order of business at meetings shall be as follows:

Roll call and establishment of quorum

Reading and approval of minutes of preceding meeting

Public hearing (when scheduled)

Old business

Correspondence

New business

General public comments

Adjournment

A meeting's agenda is drafted by the Chairperson and published by the Secretary, but any member is welcome to add an agenda item, either in advance or at a meeting.

Participation by and input from all members, voting and non-voting, is encouraged and welcome. There will be an opportunity at every meeting for all members to raise any item or concern they like.

The board shall keep minutes of its proceedings showing the vote of each member upon every question and shall also keep records of its examinations and other official acts. Every rule, regulation, decision or determination of the board shall be filed within five business days in the office of the Town Clerk, which shall be made part of the official record of the town and be kept at town offices.

All Freedom of Information Law (FOIL) requests for any rule, regulation, decision or determination of the board shall be made to the official FOIL officer of the town. All FOIL requests shall be in writing.

Voting

A quorum shall consist of a majority of the constituted membership of the board. No hearing or meeting of the board shall be held nor any action taken in the absence of a quorum; however, the members present shall be entitled to request the Chairperson to call a meeting for the subsequent date.

All matters shall be decided by a roll call vote.

Decisions on any matter before the board shall require the affirmative vote of a majority of the voting members present at a given meeting.

No member of the board shall sit in a hearing or vote on any matter in which they are personally or financially interested. Said member shall not be counted by the board in establishing the quorum for such matter. In addition to §13-3, D of the Ethics Code², the Ethics Board shall follow the recusal policy as outlined in the Joint Commission on Public Ethics Recusal Policy and Procedure.³

Attendance

Voting members may not miss more than three consecutive meetings or 40% of total meetings in a consecutive 12-month period. Attendance below this threshold, unless considered reasonable by the other board members (voting and ex-officio), may result in removal from the board. The remaining voting board members may submit an advisory opinion of removal to the Town Board by majority vote.

Whistleblower Policy

The Town of West Seneca's whistleblower policy is outlined in §13-6 of the Ethics Code.

Ethics Complaints

Per §13-6, C of the Ethics Code⁴ and the Town of West Seneca's Ethical Misconduct Complaint Form⁵, official ethics complaints are to be filed with the Town Clerk's office. From there:

1. The Town Clerk shall notify the Chairperson of the filing of said complaint without disclosing the substance or identifying characteristics of same.
2. The complaint shall be labeled as follows: [year]-[complaint #] (e.g., 2021-01).
3. The Chairperson shall retrieve the complaint from the Town Clerk's office either in person or via post—not electronically.
4. The Chairperson shall discreetly prepare materials for the other applicable Ethics Board members (voting and ex-officio) for distribution and review in executive session only. (The secretary may assist with related documentation that does not involve sensitive, identifying data reserved only for executive session.)
5. The Ethics Board shall review the complaint in executive session. If an alleged complaint is found to have merit, an investigation shall be conducted per §13-6, C of the Ethics Code.

² "A Town Board member, official, officer or employee shall promptly recuse himself or herself from acting on a matter before the Town when acting on the matter or failing to act on the matter may provide a financial benefit to the persons or entities listed in § 13-3A above. A Town Board member shall promptly recuse himself or herself from voting on the appointment, hiring, or other matter involving a person or entity described in § 13-3A above."

³ <https://jcope.ny.gov/sites/g/files/oee746/files/documents/2017/10/recusal-policy-and-procedure.pdf>

⁴ "Once a complaint has been submitted, the Ethics Board will investigate the allegations of the complaint. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, issue subpoenas pursuant to Article 23 of the New York Civil Practice Law and Rules, compel witness attendance and require the production of any books or records which it may deem relevant and material. The Ethics Board shall require clear and convincing evidence before determining that a violation has occurred."

⁵ http://www.westseneca.net/application/files/1815/9659/3483/TOWS_Ethical_Misconduct_Complaint_Form_07-20_Fillable.pdf

6. At the conclusion of an investigation, the Ethics Board shall vote on whether a violation occurred and issue an advisory opinion to the Town Board.

Adoption and Amendment of Bylaws

Adoption. Upon adoption of these rules by the board, the Chairperson shall file a copy with the Town Clerk and they shall be a public record.

Amendment. These rules may be amended by an affirmative vote of not less than a vote of a majority plus one of the entire membership of the board, provided that such amendment is presented in written form at a meeting at which the vote was taken. All amendments adopted shall be filed in the same manner as provided for above.



Recusal Policy and Procedure

Addendum to Member's Code of Conduct

Recusal Policy:

Members of the Joint Commission on Public Ethics ("Commission") should recuse themselves from Commission deliberations or votes on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned.

Members should review on an ongoing basis for potential conflicts, their employment and other associations and relationships, abide by the Commission's recusal policy and procedures and seek guidance in accordance with those procedures when necessary and appropriate.

I. PERSONAL AND FINANCIAL INTERESTS

Recusal should occur when:

There exists any financial or personal interest, direct or indirect, that is incompatible with the discharge of the member's duties, or might reasonably be expected to impair a member's objectivity and independence of judgment in the exercise of his or her official duties.

A financial or personal interest includes, but is not limited to:

- Employment
- A debtor/creditor relationship
- A fiduciary relationship
- A source of income
- A matter pertaining to a known relative (i.e., a spouse, domestic partner or person who is a direct descendant of the individual's grandparents or the spouse of such descendant)
- A matter pertaining to a business investment or contractual relationship
- Investments, whereby a decision of the Commission could reasonably be expected to result in any material impact on the value of such investment, either positive or negative
- A leadership role or other substantial role in a professional, trade, charitable or not-for-profit organization

An incompatible financial or personal interest may exist in other situations which are not clearly within the provisions of the above, depending on the totality of the circumstances. A member is encouraged to contact the Commission's Executive Director or others for guidance.

Recusal may be required in other situations even in the absence of financial or personal interests depending on the totality of the circumstances.

II. POLITICAL ACTIVITIES

- In accordance with Executive Law §94(9-b), a member shall refrain from making or soliciting from other persons, any contributions to candidates for election to the offices of Governor, Lieutenant Governor, Member of the Assembly or the Senate, Attorney General or State Comptroller during the term of his or her service to the Commission.
- A member's nomination to office by a statewide elected official or legislative leader does not, absent other factors (*e.g.* the existence of a personal relationship between the member and elected official that could affect the judgment of the member) constitute grounds for recusal from a matter before the Commission involving such elected official.

III. OTHER MATTERS WHICH MAY REQUIRE RECUSAL

Situations where recusal may be required:

- A member should recuse himself or herself from an official matter that involves any private sector individual, association, corporation or other entity that employed or did business with the member within two years prior to the member's appointment. This recusal shall remain in effect for two years after the commencement of the member's service to the Commission
- A member should recuse himself or herself from an official matter if he or she had any involvement in that matter, prior to commencement of his or her Commission service.

IV. PROCEDURE FOR RECUSAL

At such time and in the normal course of Commission operations, a matter may require review by the Commission for consideration, guidance and possible action. Members will be apprised of the identity of all persons who may be the subject of their consideration or action, in advance of such discussion so as to afford an opportunity for appropriate recusal.

- Commission staff shall prepare a list of all persons or entities that will have matters before the Commission at its upcoming meeting.

- Such list shall be sent to members with their pre-meeting agenda and package.
- Members should review this list and identify any party that may raise a question of a conflict of interest (as defined in the Commission Code of Conduct).
- Members who recognize a conflict should notify staff of their intent to recuse themselves from any matter where they believe a conflict may exist and state their intent to seek recusal from such matter.
- Members may request Counsel to review what they believe may be a conflict and request an opinion from Counsel or other designee as to such possible conflict. Such opinion may be advisory in nature.
- Such requests for an opinion and the opinion itself shall be deemed confidential.
- Thereafter, the member shall determine if he/she should seek a recusal. The opinion of Counsel is not binding upon the requesting party and is only advisory. The final decision on any recusal is the member's alone.
- It is possible that matters may be added to the Commission Meeting Agenda before notice can be communicated to members. These additions may be the basis for a member to recuse. Staff shall be available to advise as to such possible recusal, if requested. However, the final decision on any recusal is the member's responsibility.
- If a member chooses to recuse him or herself, he/she shall so inform the Chair before the meeting or as soon as practical. The reason for such recusal should be given, but should not compromise or jeopardize the rights of any party related to the reason for recusal nor any rights, duties or privileges of the member or any party in interest.
- If a member recuses him or herself from a matter he/she will;
 - Remove him or herself from that segment of the Commission meeting wherein the matter is to be discussed and avoid discussion of the matter with other members.
 - Receive no further information from the Commission or Commission staff regarding the matter.
 - Receive copies of minutes of the meeting containing deletions so as to not disclose the matter to the member, except for those Commission matters that are part of any public proceeding or meeting of the Commission.