

**DRAFT**

Chairperson Teager called the meeting to order at 5:35 P.M.

**ROLL CALL:**

Members Present - Michael Teager, Chairperson  
Amy Carpenter, Vice-Chairperson  
Theresa Funk  
Lawrence Kavanaugh, Jr.  
Rodney Montgomery  
Jon Minear, Deputy Town Attorney  
Tina Hawthorne, Town Attorney

Absent - Amy Kobler, Town Clerk

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**APPROVAL OF MINUTES**

Motion by Chairperson Teager, seconded by Ms. Funk, to approve the Minutes of the November 17, 2021, meeting.

Ayes: All

Noes: None

Motion Carried

**COMMUNICATIONS**

**Ethics Code & Ex-Officio Composition**

Chairperson Teager referred to a request from Town Clerk Kobler to remove the Town Clerk from the Ethics Board and asked for feedback from the members, noting a change to the Ethics Code would need to be voted on by the Town Board. Chairperson Teager stated he would prefer to group all the changes to be presented to the Town Board at the same time.

Chairperson Teager stated there are pros and cons to have the Town Clerk on the Ethics Board and made the following observations:

- ✓ Ethics complaints are filed with the Town Clerk, could there be a perceived conflict?
- ✓ Regardless of the Town Clerk's membership, complaints would be filed with the Town Clerk and then forwarded to the Ethics Chairperson.

Vice-Chairperson Carpenter stated it is a good idea to have the Town Clerk on the Ethics Board to inform the members of town processes and procedures. The current secretary, Ms. Martin, can facilitate this, but should there be a different secretary this connection would be lost.

Chairperson Teager noted while Ms. Martin is the Deputy Town Clerk, the ethics complaints filed in the Town Clerk's Office are not seen by the members of the office.

Mr. Kavanaugh stated for the record it is §13-7 in the Ethics Code, and asked if the Town Clerk were removed, who would replace that position.

Chairperson Teager stated he is not certain if that position would be eliminated or replaced.

Mr. Montgomery and Mr. Kavanaugh stated they agreed with Ms. Carpenter's statement.

Chairperson Teager asked Town Attorneys Hawthorne and Minear if they had an opinion on this subject. Mr. Minear stated while the Town Clerk's membership on the board has always been this way in the code, he is not aware of any legal reason behind it; he is indifferent.

Ms. Carpenter stated in 2014 the Town Clerk was the Chair of the Ethics Board.

Ms. Hawthorne stated the members should review the composition of other Ethics Boards and if it is a common practice and agreed with Mr. Minear there are no legal implications either way.

Chairperson Teager stated having someone involved with the town is a benefit to the Ethics Board.

### **Training and Continuing Education**

Chairperson Teager referred to his prior email regarding training/continuing education opportunities for the members and stated he completed his annual training and questioned if this should be filed with the town. Ms. Martin advised other boards, for example the Planning Board, do file their required training with the Town Clerk's office.

Ms. Funk requested the exact training be entered into the minutes. Chairperson Teager listed them:

- Webinar from JCOPE: Online Ethics Orientation Training Video (and associated documents) regarding ethics requirements at the state level
- Webinar from the Office of the State Comptroller: Conflict of Interests and Ethics for Municipal Officers and Employees (and associated documents) regarding municipal ethics requirements as defined in New York State's General Municipal Law
- Information regarding transparency and ethics changes recently enacted by the Governor, including Executive Order 10: Updating the State's Ethics Training Requirements

### **Recusal**

Mr. Kavanaugh stated the topic of recusal is not addressed in the Ethics Code and shared the attached document. Mr. Kavanaugh stated it should be added to the code, possibly as 13-8. Chairperson Teager and Ms. Carpenter agree with this addition.

Ms. Funk stated in the coming year the board members should review the Ethics Code and make revisions where needed. Additionally, Ms. Funk came across some information in the training for the board members to review.

Town Attorney Hawthorne stated adding the recusal process was a good idea but advised the board that there still needs to be training provided to the other committees. Ms. Hawthorne encouraged the board members to collaborate to achieve board training. Chairperson Teager stated the current requirement, as he understands it, is that the Ethics Code needs to be made freely available to people when they join the town and then annually, and asked Ms. Hawthorne what she envisioned. Ms. Hawthorne stated everyone needs to be trained

required for new board members and open to all board members. Chairperson Teager speculated holding a single event for all board members to attend might be preferable. Ms. Hawthorne agreed and stated holding training in January would be ideal. Chairperson Teager questioned if a requirement should be added to the code. Ms. Hawthorne stated they should immediately impress upon the committees that there is an expectation they attend. Mr. Teager stated training by the second half of February would be achievable. Ms. Carpenter questioned if training could be done electronically. Ms. Hawthorne stated it could be done this way. Chairperson Teager stated it may even be more desirable to go this route instead of an in-person training event and provide a deadline for completion. Ms. Funk offered to send the PowerPoint presentation she has to Mr. Teager. Ms. Carpenter questioned if there should be a question and answer section. Ms. Hawthorne suggested providing hypothetical situations. Ms. Carpenter suggested including examples of real life violations that have appeared in the news.

### **Recognition of Board Members**

Chairperson Teager recognized Amy Carpenter and Rodney Montgomery and thanked them for their service on the Ethics Board as their terms end this month. Mr. Kavanaugh stated his appreciation also. Ms. Carpenter thanked the members.

Mr. Kavanaugh asked if new members have been selected. Chairperson Teager is not aware of any at this time.

Mr. Kavanaugh left the meeting, as he had previously recused himself from complaints 2021-1 and 2021-2.

### **EXECUTIVE SESSION**

Motion by Chairperson Teager, seconded by Ms. Carpenter, to enter into executive session to discuss ethics complaints 2021-1, 2021-2, and 2021-3, as they pertain to 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

### **PUBLIC SESSION**

Motion by Chairperson Teager, seconded by Ms. Carpenter, pursuant to Complaint 2021-1 and 2021-2 to dismiss.

Ayes: All

Noes: None

Motion Carried

Motion by Chairperson Teager, seconded by Ms. Carpenter, pursuant to Complaint 2021-3 to dismiss.

Ayes: All

Noes: None

Motion Carried

Chairperson Teager stated the board would briefly re-enter executive session to review the newly submitted disclosure forms.

Mr. Montgomery and Mr. Minear left the meeting.

**EXECUTIVE SESSION**

Motion by Chairperson Teager, seconded by Ms. Carpenter, to enter into executive session to review disclosure forms, as they pertain to 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. Funk, to adjourn the meeting at 7:08 PM.

Ayes: All

Noes: None

Motion Carried

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Margaret A. Martin  
Deputy Town Clerk/Secretary to the Ethics Board



# Recusal Policy and Procedure

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## 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.