

FIFTEEN ROPE FERRY ROAD
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Legislation & Administration Committee

Meeting Minutes—Feb. 13, 2025

Members Present: Susan Driscoll, Tom Dembek, Mark Campo, Ursula Moreshead

Members Absent: Christina Jessuck

Also Present: Town Attorney Rob Avena, Ethics Commission Chair Betsy Ritter, Adam Stone (Ethics Commission member),
Human Services Administrator Dani Gorman

1. Call to order: Chair called the meeting to order at 7:05 p.m.

2. Public comment:

- HS Administrator Gorman addressed her concerns with the Committee's charge to review the YFSB and Senior Citizens Commission ordinances, stating that everyone, including her union, was happy with the reorganization; L&A should defer to how the two groups have performed over the past 2.5 years and be aware that they saw a \$150,000 savings in FY24; attorneys were present throughout the process; both groups have remained autonomous; and that Childs and Driscoll were challenging the authority of the First Selectman. She noted that the new arrangement is considered a model by other towns and that when she retires we will return to the original model of two directors. *(She declined offer to include full written comments in the record.)*
- Ron Elkin addressed his concerns with the three changes proposed by the Ethics Commission. *(Full comments attached.)*
- Mindy Stone asked the Committee to consider revising ordinance to specify that, if multiple respondents were subject of a single-incident complaint submission, separate complaint forms should be filed for each respondent. Such a revision should also address confidentiality issues if multiple respondents were allegedly involved in a single incident—e.g., would one respondent opting to allow the investigation to be public (rather than closed) make related investigations public or would investigations remain confidential unless all respondents involved requested public hearings. She would also like to add language that requires the Ethics Commission, once a complaint is resolved or dismissed, to issue public notification of a decision finding that a respondent did not commit a violation.

3. Previous Minutes: Motion by Campo, second by Moreshead, to approve the Aug. 15, 2024, minutes as presented.
Voice vote: Unanimous

4. Initial consideration of Review of Ethics Ordinances (RTC 10/07/24):

Ethics Chair Ritter explained that the Commission was requesting the 1st and 3rd revisions in an effort to clarify the need for confidentiality from the moment of filing the complaint through, at least, the preliminary hearing to determine whether probable cause exists. Should information about the complaint become part of public discussion (e.g., social or news media) before the respondent (individual named in complaint) formally cedes the protection of confidentiality, the Ethics Commission is required to dismiss the complaint outright and/or terminate the investigation.

Upon receipt of any complaint, the Ethics Commission sends the respondent a copy of the complaint, asks for a written response, and schedules the first private interview. The respondent is also informed that all Ethics Commission hearings/interviews/discussions/documents remain confidential unless the respondent requests that hearings be open to the public. In response to L&A members' questions, Ritter and Attorney Avena explained that confidentiality is the standard throughout any complaint investigation, and applies to Commission members, the complainant, the respondent, and anyone contacted for information or documents during the investigation. If the Commission finds there was no probable cause, or that the activity described in the complaint did not constitute a violation described in ordinances, the case is closed and all records locked in special confidential file—unless the respondent asks that the opinion be made public. Should the Commission determine that there was an ethics violation, the decision is made public when the Commission submits its findings and recommended penalty actions to the respondent's department head, appointing body or, if the respondent is an elected official, to the RTM.

The 3rd revision is aimed at situations where multiple respondents are named as participants in an alleged violation. Currently, an individual named as a respondent who felt their name could be "cleared" by public disclosure cannot cede confidentiality alone;

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all respondents must agree to public disclosure or the complaint remains confidential. Questions from L&A members included whether complaint form would/should be changed to specify that separate forms are required for complaints against individual respondents, and how would this affect the respondents who did not want the issue made public—e.g., would the complainant and the respondent who wanted to go public be restricted from mentioning the others involved?

Ritter noted that the Commission has decided to revise the violation complaint form to include a warning that the “complaint will not remain viable” if confidentiality is breached, and that they are holding off on the final revisions so they can reflect any ordinance revisions. Moreshead suggested that stronger phrasing, such as “complaint will be dismissed” might be more effective.

Attorney Avena assisted Ritter with the discussion on the Commission’s 2nd request, since it is relatively uncharted territory. The Commission is requesting “appropriate enforcement language” out of concerns that the current process could be abused by individuals with a personal agenda or for purposes not intended by the ordinances with no negative consequences. Ritter offered an imaginary scenario where a woman filed a complaint claiming that a local landscaper had violated the public trust by making personal gain from his service on the town’s Parks Commission. The woman has her own reasons for not wanting the landscaper to be successful and, despite being instructed on the confidentiality requirement, posts information on her complaint on social media. The Ethics Commission must terminate the complaint and refuses to discuss the matter in public; but social media comments harmed the landscaper’s reputation and his business suffered; the woman intentionally used the ethics process to cause harm, with no retribution.

L&A members agreed that that was an abuse of the system, but suggested that there was, if one was so inclined, another way to warp the system for personal benefit—for example, a respondent who had actually committed an ethics violation could decide against ceding confidentiality and then breach it or enlist a friend or relative to leak the complaint. The Ethics Commission would then be forced to dismiss the valid complaint.

Attorney Avena stated that attempts at enforcement would involve walking a fine line. Confidentiality is critical, since it protects respondents who might be absolved of all claims and eliminates the risk of a dismal of a valid claim. While the officials in the room don’t want to enable someone to weaponize the ethics process, he said, we all want citizens to have the right to file what they consider a legitimate complaint without fear of retribution or punishment. Discussion included questions on types of penalties envisioned (e.g., fines, public statements by Ethics Commission) and how would the “crime” be adjudicated or would people be arrested? Driscoll noted that a state legislative report showed that only half of CT towns have Ethics Commissions, and that only a handful of them had some sort of enforcement process—and most seemed to cede that responsibility to other parts of their town government. She added that Waterford has an enforcement process for parking violations, but that involves a hearing officer or court, and violations are cited for laws based on state regulations. Ethics Commission members noted that they had not yet found a case where an effective enforcement process was in place. Attorney Avena pointed out that enforcement was not currently with the Commission’s purview and he anticipated that it would be difficult to accomplish.

5. Update of issues previously referred:

- Review of YFSB/Senior Citizens Commission ordinances (RTC 8/5/24)

HS Administrator Gorman reiterated some of her concerns stated in public comment, and urged the Committee to report the YFSB/SCC ordinances issue out of committee because they did not have the authority to overrule the First Selectman.

Moreshead explained that RTM is a separate government branch established under traditional checks-and-balances system; Driscoll noted that the RTM is the legislative body charged with not just reviewing ordinances, but with writing them; and Campo pointed out that we are simply following the request to determine the organizational changes that have taken place and then consider whether ordinance revisions are needed to accurately reflect the current operations. Chair added that YSFB staff and Senior Citizens Commission members would be invited to future meetings to provide information and ask questions and, if the Committee decided revisions were needed, they would continue to be involved throughout the public hearing on the proposed revisions, as well as at the RTM meeting to consider proposed changes.

Consensus that discussion on the four other issues referred to L&A before this term could be deferred to a future meeting. Chair will make another attempt to determine former RTM member’s intended focus or continued interest in the request regarding PA 22-3. Before the next meeting, L&A members will review the ethics ordinances and their notes on information provided during this meeting’s discussions in order to determine language and placement of revisions for the first draft.

6. Tentative date for next meeting/Adjournment: Date of next meeting to be determined after Atty Avena returns in March.

Motion by Moreshead; second by Campo to adjourn at 8:55 p.m. Voice vote: Unanimous.

Submitted by
Susan Driscoll, L&A Chair

encl: Elkin public comment

Madame Chair person, I would like to discuss the three request to changes to the Waterford code of ethics violation form. Please be advised that I am not going to list them in order that is listed on Chairperson Ritter's form.

Concerning requested changes number 2.

"Be amended with addition of appropriate enforcement language to protect the confidentiality of complaints". When a person or a person's make a valid ethics complaint, they should be celebrated, not silence by the threat of imprisonment or monetary fine. That person or person should be thanked for standing up, having the ethics and courage to file a just complaint and not be afraid that the rules will be used against them. Do you want to arrest them and throw them in jail or did you want to put a financial burden on an ethical person who stands up for what is right and just. You cannot threaten ethical people with a fine or imprisonment. We do not live in Nazi Germany nor do we live in a communist society.

Concerning requested change number 3.

"Be amended with the addition of the following complaints alleged against more than one individual with the same violation must be made separately. "

I wonder what motivated the ethics commission to even think of something like this. Has there been a rash of multiperson violations that has stymied the ethics Commission? When a person or persons have the courage of doing what is right in filing an ethics complaint now you want them to file several ethic complaints burdening the commission with multiple violations to investigate. Listing multiple people on a single form and filing a single complaint of the unethical or illegal topic will serve the purpose in the same manner and not over burden the ethics commission with a multitude of the same single complaints.

Concerning requested change number 1.

I am curious why the ethics commission and full RTM have had so many meetings on the topic of ethics complaints to be filed. They have spent countless legal hours discussing this for no apparent reason. The legislated and legally approved state of Connecticut form is the "States Standard" for most of Connecticut s towns and cities. The verbiage is clear and concise. It has been legally approved and time tested. The town of Waterford has wasted your time and countless hours of Attorney fees looking over the state of Connecticut approved regulations. If the ethics commission has a problem with the complainant or complainants not knowing the rules. All that has to be done is attach a copy of the rules. Have that person or persons read it and sign it. This would also apply to the respondent or respondents as well. Simple solution to a topic. The town did not have to have an ethics board member act as a dime store attorney and question the town hired attorney over the validity of the approved state of Connecticut formate.

If the ethics commission wanted to tweak the rules of filing a complaint why did they not address the opposite. Let's try this scenario. What if the respondent or respondents tells a friend or associate that they did something unethical or illegal and wants it known to a public official or an elected official just in passing . What if the unethical behavior or illegal behavior was seen by others who did not file a complaint that just mentioned in passing to a town official or a town resident or to somebody at the New London Day Newspaper that they saw something that looked odd. Then what would happen? The answer is CASE CLOSED. Complaint closed.

Should not the ethics commission be more upset that they could not rule on just complaint instead of wanting to imprison or fine a person or persons that are ethical enough to stand up and make a complaint. Why have they not addressed that? Why are the complainant or complainants being hung out to dry and not the respondent or respondents that have caused the action? They go Scott free on their merry way while the ethical complainant or complainants are fined or jailed. Doesn't sound too fair does it?

In chairperson's Ritter's note dated October 3, 2024, I quote "these changes come from the result of experiences in conducting the business of the commission". Where does it say that the commission was upset that they could not do their job and investigate an alleged issue. If there is truly transparency, the ethics commission should have requested changes that the commission can investigate for the good of the town, for good of the townspeople a violation even if confidentiality is breached in error by the complainant or complainants or on purpose by the respondent or respondents or just by a casual bystander.

I strongly urge the RTM legislative committee Chairperson Driscoll to not open this discussion and send this ill thought out, extremely bias and politically motivated changes back to the Waterford Ethics Commission without bias.

Submitted on 2/13/2025

Ronald Elkin
Waterford CT