

FIFTEEN ROPE FERRY ROAD
WATERFORD, CT 06385-2886



PHONE: 860-442-0553
www.waterfordct.org

RTM LEGISLATION & ADMINISTRATION COMMITTEE

PUBLIC HEARING AGENDA

Wednesday, Dec. 2, 2020 6:30 p.m.

ZOOM REMOTE ACCESS ONLY

Meeting ID: 850 842 2407 1915

Passcode: 818629

One tap mobile

+16465588656,,84224071915#,,,,,0#,,818629# US (New York)

+13017158592,,84224071915#,,,,,0#,,818629# US (Washington D.C)

Dial by your location: +1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 312 626 6799 US (Chicago)

1. Call to Order
2. Public Comment on proposed changes to Chapter 2.50—Ethics Commission ordinances (Draft #4; 11/23/20)
3. Adjournment

COMMITTEE MEETING AGENDA

immediately following public hearing

1. Call to Order
2. Public Comment
3. Consideration/Approval of Nov. 23, 2020, meeting minutes
4. Consideration and possible action on Proposed Ethics Ordinances Changes (RTC 8/3/20)
5. Adjournment

encl: Minutes—L&A Nov. 23, 2020
Ethics Ordinance Draft #4

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MINUTES
LEGISLATION & ADMINISTRATION COMMITTEE
Nov. 23, 2020 Meeting 7:00 p.m. Zoom Remote Access Only

Members Present: Susan Driscoll, Tim Fioravanti, Richard Morgan, Danielle Steward-Gelinas, Bob Swansen

Also Present: Town Attorney Robert Avena, RTM Moderator Tom Dembek, Ethics Commission Chair Marty Zeldis, EC members Betsy Ritter and Laurie Wolfley

1. With quorum confirmed, Chair called meeting to order at 7:00 p.m.
2. Public Comment: None
3. Consideration/approval of Sep. 17, 2020, minutes: Motion by Steward-Gelinas to approve minutes as presented; second by Fioravanti. Voice vote: Unanimous.
4. Consideration/possible action on proposed Ethics Ordinance changes (RTC 8/3/20): Motion by Steward-Gelinas to discuss; second by Fioravanti. Voice vote: Unanimous.
Consensus to make the following changes in Draft #4 based on advice from Attorney Avena in response to questions forwarded to him following Sep. 17, 2020, meeting:
 - * Add one encompassing citation at end of chapter that states "This chapter was amended through RTM action on December 7, 2020."
 - * In Sec. 2.50.110(A), eliminate reference to "effective after publication in newspaper" and add at very end of the chapter: "This ordinance shall be effective 15 days after passage by the RTM."
 - * In Section 250.040(B) restore the original language laying out the schedule of staggered terms for members and insert the phrase "in 1992" to ensure that no glitches in terms result when the current partial citation for the 1992 amendment creating staggered terms is replaced with the 2020 citation.
 - * The Ethics Commission members were reminded of the need to revise their newly designed violation complaint form and deliver it to the Town Clerk, who would keep copies on hand for the public and post a printable form on the town website.Motion by Steward-Gelinas; second by Morgan, to schedule a public hearing on the proposed ordinance changes (Draft #4) on December 2 at 6:30 p.m. Voice vote: Unanimous.
Motion by Steward-Gelinas; second by Fioravanti, to allow the Town Clerk to summarize the proposed changes in the legal notice to appear in the paper and include information on office and online access of the complete draft. Voice Vote: Unanimous.
5. Motion to adjourn at 7:23 p.m. by Fioravanti; second by Morgan. Voice vote: Unanimous.

Submitted by
Susan Driscoll, L&A Chair

encl: Ethics Commission ordinances—Draft #4

Chapter 2.50 - ETHICS COMMISSION

2.50.010 - Preamble and declaration of policy and purpose.

- A. —Public office is a ~~public trust~~; conferred by public authority for a public purpose. The trust of the public is essential for government to function effectively. Public policy developed by ~~government officials and employees affects every citizen of the municipality, and it must be based on honest and fair deliberations and decisions. Policy development~~ This process must be free from threats, undue influence, and all forms of impropriety, so that the confidence of the public is not eroded. By enacting this code of ethics, the Town of Waterford seeks to avoid any loss of trust and to maintain and increase the confidence of our citizens in the integrity and fairness of their government.
- B. —The proper operation of the town government of the town requires that all public officials ~~and town employees, whether elected or appointed, paid or unpaid,~~ shall be impartial and responsive to the public interest; ~~that public office and employment should not be used for personal gain or advantage, ; and that that public office is a trust conferred by public authority for a public purpose. p~~Public officials and town employees should not place themselves in positions where private interest conflicts with public duty. ~~The administration of legislative or quasi-judicial power demands the highest public confidence. Anything which tends to weaken such confidence and to undermine the sense of security of individual rights which the citizen is entitled to feel is against public policy.~~
- C. —In recognition of these principles and pursuant to Sections 7-148(c)(10)(B) and 7-148h of the Connecticut General Statutes, there is established a code of ethics for all town public officials and employees, whether elected or appointed, paid or unpaid;
~~of the town.~~

(R.T.M. 6-1-92 (part))

(Amend. of 2-4-13(1))

2.50.020 - Definitions.

- A. —"Business with which he is ~~they are the individual is~~ associated" means any sole proprietorship, partnership, firm, corporation, trust, or other entity through which business for profit or not for profit is conducted in which the public official or town employee or member of ~~their his that individual's~~ immediate family is a director, officer, owner, limited or general partner, beneficiary of a trust, or holder of stock constituting five percent or more of the total

outstanding stock of any class; ~~provided, a~~ unless the public official or town employee, or member of his ~~their~~ that individual's immediate family, ~~shall not be~~ is deemed to be associated with a not-for-profit entity solely by virtue of the fact that ~~the public official or town employee~~ they the public official or town employee or member of his ~~their~~ immediate family member is an unpaid director or officer of the not-for-profit entity. "Officer" refers only to the president, executive, or senior vice president, or treasurer of such business.

- B. —"Gift" includes, but is not necessarily limited to, ~~means~~ a payment, subscription, advance, forbearance, rendering of service, deposit of money, favorable treatment of consequence, or anything of value, ~~which that~~ is directly and personally received, ~~unless consideration of equal or greater value is given in return.~~ Gift shall not include:
1. — A political contribution otherwise reported as required by law;
 2. — Services provided to support a political candidate or political party without compensation by persons volunteering their time;
 3. — A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;
 4. — Anything of value received because of a family or close personal relationship with the donor;
 5. ~~Food or beverage or both, consumed on a single occasion, the cost of which is less than fifty dollars per person;~~
 - 5.6. ~~An occasional~~ A nonpecuniary gift, including food or beverage, insignificant in value; not to exceed \$25.00 in value;
 67. — An award publicly presented in recognition of public service; or
 78. — Any gift ~~which that~~ would have been offered or given to the individual regardless of the individual's status as a public official or town employee.
- C. —"Immediate family" means dependent relatives who reside in the household and any spouse, children, parents, parents-in-law, siblings, and spouses of children.
- D. — "Individual" means a natural person.
- E. — "Town employee" means an individual working for salary or wages from the town, including board of education employees, whether on a part-time or full-time basis and whether the position is reviewed by personnel review board or not, but does not include the town attorney or any public official.

- F. ___ "Official act or action" means any legislative, administrative, appointed, or discretionary act of any public official or town employee or of any department, agency, board, committee, or commission of the town.
- G. ___ "Person" means any individual, business, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.
- H. ___ "Public official" means any elected official, including members of the board of education and board of selectmen; or, any individual, including the town attorney, appointed to any town office, commission, agency, committee, board, or department by the representative town meeting (R.T.M.), board of finance, board of education, the first selectman, or board of selectmen.

(R.T.M. 6-1-92 (part))

2.50.030 - Code of ethics.

- A. ___ ~~Public A public officials or town employees have~~ has an interest ~~which that~~ is in substantial conflict with the proper discharge of duties or employment in the public interest and of responsibilities as prescribed by the laws of this state, if ~~they have the public official or town employee has~~ reason to believe or expect that ~~the public official or town employee, his spouse or a dependent child, they, their immediate family, or a business with which he is they are~~ associated, will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of ~~the public official or town employee's~~ their official activity.
- B. ~~The Public A public officials or town employees do~~ does not have an interest ~~which that~~ is in substantial conflict with the proper discharge of duties in the public interest and of responsibilities as prescribed by the laws of this state, if any benefit or detriment accrues to ~~the public official or town employee them, his their~~ immediate family, or a business with which ~~he they or his immediate family is are~~ associated as a member of a profession, occupation, or group to no greater extent than any other member of such profession, occupation, or group.
- BC. ___ A public official or town employee may not take official action on any matter ~~where in~~ which a substantial conflict (as defined in subsection A of this section) exists. If the conflict is disclosed, a public official or town employee may participate in discussions with or give opinions or recommendations to a town board, agency, commission, committee, department, or another public official or town employee.

~~GD.~~—Public officials and town employees shall refrain from using their positions for personal gain and shall will-keep confidential all information not available to all citizens that is acquired by virtue of their position in the town government.

~~DE.~~—Public officials and town employees shall not request, permit, or engage in the unauthorized use of town-owned vehicles, equipment, materials, or property for personal convenience or profit.

~~EF.~~—Public officials and town employees shall not accept any gift from the public which that might reasonably tend to influence the impartial discharge of their official acts.

~~FG.~~—No public official or town employee shall enter into any non-bid contract with the town exceeding five hundred dollars\$500.00 or a series of non-bid contracts exceeding two thousand dollars\$2,000.00 in any one year. Nothing contained herein shall be construed to prevent any public official or town employee from submitting a competitive, sealed bid in response to an invitation to bid from the town purchasing agent or any commission, board, agency, or committee provided such person does not violate subsection A of this section. Town employee union contracts with the town are not subject to the prohibition of this section. Employee contracts by nonunion personnel are also not subject to the prohibition of this section.

~~GH.~~—No public officials or town employees shall seek for themselves, or grant to any citizen, any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen. No town employee shall seek any special consideration regarding the employee's employment from any town employee or public official. No town employee shall use the employee's position to directly benefit any political party or candidate for public office.

(R.T.M. 6-1-92 (part))

2.50.040 - Establishment of an ethics commission and operating procedures.

A. In accordance with the provision of Section 7-148h of the Connecticut General Statutes, there is created an ethics commission. This commission is empowered to investigate or to cause to be investigated allegations levied against any town board, agency, commission, committee, official, or employee of unethical conduct, corrupting influence, or illegal activities. Allegations of criminal misconduct or violations of the state penal code shall be referred to the police department or State's Attorney's office whenever such allegations come to the attention of the commission, whether upon receipt of a complaint or during the

course of an investigation. Notwithstanding provisions herein to the contrary, established internal complaint procedures of any town board, agency, commission, or committee, as such procedures may be amended, shall take precedence over the procedures established herein as to allegations levied against any town employee of such board or commission. Complaints ~~which~~ that fall under the purview of an established complaint procedure of an agency shall be referred to that agency for disposition. The commission may issue subpoenas or subpoenas duces tecum, enforceable upon application to the superior court, to compel the attendance of persons at hearings and the production of books, documents, records, and papers. The commission shall not initiate investigations on its own volition.

- B. The commission shall be comprised of seven resident electors, none of whom shall be town employees or public officials. Two of the appointed members will be designated as alternates by the representative town meeting (R.T.M.). All members shall be appointed by majority vote of the R.T.M. No more than four members shall be members of the same political party. ~~Of the five members initially appointed, three shall be appointed for a term of two years and two for a term of one year. One of the alternates shall be appointed for a term of two years and one shall be appointed for a term of one year. All subsequent~~
aAppointments Of the five members initially appointed in 1992, three shall be appointed for a term of two years and two for a term of one year. Of the alternates initially appointed in 1992, one shall be appointed for a term of two years and one for a term of one year.
Subsequent appointments to the commission shall be for a term of two years. Any regular member having served three consecutive two-year terms shall be ineligible for reappointment to the commission for a period of two years. For individuals filling a vacancy, consecutive terms of service shall commence with the beginning of the next appointment term. The two alternative members may fully participate in all hearings and discussions but may not vote unless a regular member steps aside or is not present at the time of the vote.
- C. A quorum of four members shall be present in order for the Commission to transact the business that comes before it.
- D. Notwithstanding the quorum requirement contained herein, nNo more or less than five members shall ever vote on any decision relative to a complaint that comes before of the commission and, to be eligible to vote, the members must have been in attendance at all meetings at which testimony was presented.
- E. A person will not be disqualified from serving on the commission if a member of ~~his~~ their immediate family is employed by the town or by the Waterford board of education or is a public official; ~~however~~ However, if an accused person is an immediate family member or an immediate family member's supervisor or employed in the same department as ~~an~~ a member

of his immediate family member, the commission member will be disqualified from voting on that particular matter.

(R.T.M. 6-1-92 (part))

2.50.050 - Adoption of rules of procedure.

The commission shall adopt rules of procedure and regulations ~~which~~ that it deems necessary to carry out the intent of this chapter, and the same and any amendments thereto shall be filed in the office of the town clerk and be available for public inspection. The discussions of the commission held in executive session are to be confidential. The minutes of the commission are public information and, unless confidential, will be made available to the public on the town's website and through the town clerk's office.

(R.T.M. 6-1-92 (part))

2.50.060 - Advisory opinions.

A. ___ The ethics commission shall issue advisory opinions with regard to the requirements of the code of ethics of the town upon the written request of any public official or town employee. Advisory opinions rendered by the commission, until amended or revoked, shall be binding on the commission and shall be deemed the final decisions of the commission.

B. ___ Any advisory opinion concerning the public official or town employee who requested the opinion and who acted in reliance thereon, in good faith, shall be binding upon the commission. ~~and it~~ shall be an absolute defense in any action brought under the provisions of the code of ethics (Section 2.50.030 of this code) that the accused party acted in reliance upon such advisory opinion, assuming there are no relevant facts of which the commission was not aware when the opinion was rendered that would change the opinion of the commission.

C. ___ Each opinion of the ethics commission shall include a disclaimer to the effect that the opinion may be different if different facts are presented to the commission at a later date.

(R.T.M. 6-1-92 (part))

2.50.070 - Procedure for receiving and hearing complaints.

A. ___ The commission shall receive complaints from any person of any alleged violation(s) of the code of ethics. ~~Any~~ Complaints received by the commission must be in writing and signed ~~under oath and~~ acknowledged by the individual making the complaint ~~and before~~ (1)

a judge of a court of record;¹ (2) a clerk or deputy clerk of a court having a seal;¹ (3) a ~~the~~ ~~commission of deeds or town clerk;~~¹ (4) a notary public;¹ (5) a justice of the peace;¹ ~~(6) or (6)~~ an attorney admitted to the bar of this state. (Complaint of Violation of Code of Ethics forms are available on the Ethics Commission page of the town website and in the town clerk's office.) A town employee who discloses illegal activities or unethical practices is protected by Section 31-51m of the Connecticut General Statutes from discharge, discipline, or other penalty unless the town employee knows the report is false. If the person makes a false statement, the person shall be subject to fines under the provisions of Section 53a-157 of the Connecticut General Statutes. See the recommended complaint form in the appendix at the end of the Code.

- B. ~~Unless the commission makes a finding of probable cause,~~ A a complaint alleging a violation of the code of ethics shall be confidential except upon the request of the respondent. ~~The subsequent A commission evaluation of a possible violation of the code of ethics prior to the filing of an opinion by the commission shall be confidential except upon the request of the respondentsubject of the evaluation.~~ If the evaluation is confidential, any information supplied to or received from the commission shall not be disclosed to any third party by ~~the respondent~~ a subject of the evaluation, a person contracted for the purpose of obtaining information, ~~or by a commission, board or agency, or staff member.~~ No provision of this subsection shall prevent the ethics commission from reporting the possible commission of a crime to the police department or State's Attorney's office as appropriate.
- C. ~~An investigation conducted prior to a finding of probable cause finding shall be confidential except upon the request of the respondent. If the investigation is confidential, the allegations in the complaint and any information supplied to or received from the commission shall not be disclosed during the investigation to any third party by a complainant;~~ respondent;¹ witness;¹ designated party;¹ or board, commission, ~~or agency,~~ or staff member.
- D. ~~Upon receiving a complaint of an alleged violation of the code of ethics, the commission shall, within seven days, notify in writing the respondent in writing, advising the respondent of the specific nature of the complaint made and being investigated by the commission, and enclosing therewith a copy of the complaint. The respondent shall have the right to file a response within ten 10 days after receipt of the notice of complaint. After notifying the respondent, the commission shall make a preliminary investigation of the validity of the complaint including interviews or discussions with the complainant, town personnel, or members of other public or private agencies. The preliminary investigation shall be completed within ninety 90 days after notifying the respondent unless the commission notifies the complainant and the respondent in writing that additional time is required. Any~~

person interviewed by the commission during its investigation shall be entitled to representation by a union representative (where applicable) or an attorney, or both, at any meeting or inquiry during which the person may be subject to an interrogationinvestigatory interview.

- E. —Not later than three business days after the termination of the investigation, the commission shall inform the complainant and the respondent and, at the discretion of the commission, the respondent's appointing authority or elected body, of its opinion as to probable cause and provide them a summary of its reasons for forming that opinion. Upon the respondent's request, the commission shall ~~publish~~ announce its opinion and may also ~~publish~~ announce a summary of its reason for forming such opinion. Such an announcement shall be made, at a minimum, on the town website.
- F. —If the commission finds no probable cause for such complaint, the commission shall dismiss the complaint. In that event the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent and except that some or all of the record may be used in subsequent proceedings. No complainant, respondent, witness, designated party, or commission, board, or agency, or staff member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint which the disclosing party would not otherwise have known. If such a disclosure is made, the commission may, after consultation with the respondent if the respondent is not the source of the disclosure, ~~publish~~ announce its opinion and a summary of its reasons therefor. Such an announcement shall be made, at a minimum, on the town website.
- G. —The commission shall make public an opinion of probable cause not later than five business days after the termination of the investigation. At such time the entire record of the investigation shall become public, except that the commission may postpone examination or release of such public records for a period not to exceed ~~fourteen~~ 14 days for the purpose of reaching a stipulation agreement pursuant to subsection (c) of Section 4-177 of the Connecticut General Statutes.
- H. —Within ~~ten~~ 10 days after receipt of notice of an opinion of probable cause, the respondent may waive the right of a hearing by the commission; such waiver must be in writing. If a hearing is not waived, it shall be convened within ~~thirty~~ 30 days of the date of giving notice of probable cause to the complainant and respondent. If a hearing is held, the hearing shall be recorded and a written transcript made of said hearing.
- I. The mailing address of the ethics commission shall be Ethics Commission, Town Clerk's Office, 15 Rope Ferry Road, Waterford, Connecticut 06385-2886.

Jl. —In the event a hearing is held, the respondent shall have the right to counsel; to the presence of a union representative, if requested; to confrontation of all witnesses to cross examination; and to present evidence. The hearing shall be open. No hearing shall be conducted with less than five members of the commission in attendance.

J. —~~The mailing address of the ethics commission shall be: Ethics Commission, Town Clerk's Office, 15 Rope Ferry Road, Waterford, Connecticut 06385-2886.~~

(R.T.M. 2-2-98 (part): R.T.M. 6-1-92 (part))

2.50.080 - Notice of hearing and decision.

A. —All notices required under this chapter shall be sent to the complainant and the respondent by registered or certified mail, return receipt requested.

B. —In the event a hearing is held, the commission shall render a decision within ~~ten~~ 10 business days of the final day of the hearing. In the event no hearing is held, the commission shall render a decision within ~~thirty~~ 30 days of the receipt of the respondent's waiver-of-hearing-from-the-respondent.

(R.T.M. 2-2-98 (part): R.T.M. 6-1-92 (part))

2.50.090 - Report of findings and opinions and recommendations.

A. —The ethics commission shall make its report as to a violation of the code of ethics in the form of findings, opinions, and recommendations. Depending on the severity of the violation, the ethics commission's recommendations may include reprimand, suspension, dismissal, or resignation from office.

B. —If requested by the respondent and prior to ~~publicly reporting its findings and opinions and recommendations~~ submission of its report, the commission shall state its findings and opinions and recommendations in the respondent's presence in executive session.

C. —The commission shall submit its report ~~its findings as to a violation of the code of ethics, together with its opinions and findings~~ to the board, commission, or agency to which the respondent is responsible and to the representative town meeting should the respondent be an elected official or an R.T.M. appointee.

D. —The person or governmental body receiving the report shall consider the findings and opinions and recommendations of the ethics commission in deciding the disposition to be made of the ethics complaint.

- E. —The person or governmental body receiving the report shall determine the disposition of the ethics complaint and notify the respondent orally immediately and in writing by certified mail within ~~thirty~~ 30 days of the receipt of the report from the commission.
- F. —The person or governmental body receiving the report shall also report back to the ethics commission the decided findings and ~~deposition~~ disposition in writing within ~~thirty~~ 30 days of the receipt of the report from the commission.
- G. —If the respondent is a member of a town employee bargaining unit or board of education employee bargaining unit, the grievance procedures outlined in the bargaining ~~units'~~ unit's contracts shall take precedence over other procedures outlined in this chapter.

(R.T.M. 2-2-98 (part); R.T.M. 2-7-94 § II; R.T.M. 6-1-92 (part))

2.50.100 - Finances and compensation.

- A. —The financial needs of the commission shall be funded in the same manner as those of other town boards and commissions listed in the Town of Waterford Code of Ordinances (Section 2.24.010).
- B. —The members of the ethics commission shall receive no compensation for their services as such; but shall be reimbursed for their necessary expenses incurred in the performance of their duties.

(R.T.M. 2-5-03 (part); R.T.M. 6-1-92 (part))

2.50.110 - Effective date and reports.

- ~~A. —The ordinance codified in this chapter and any amendments thereto will be effective thirty~~
~~30 days after publication in a newspaper regularly distributed in Waterford.~~
- ~~A.B.~~ —In the event any provision of this chapter is contradictory to any provision of a contract negotiated by an organized bargaining unit, the provisions of such contract shall prevail.
- ~~B.C.~~ —In the event any provision of this chapter (other than provisions rendered ineffective as to particular employees by reason of subsection B of this section) is contradictory to any provision of the conflict of interest provisions of the Town of Waterford Code of Ordinances (Section 2.08.050), the provisions of this chapter shall prevail.
- ~~C.D.~~ —By September 15th of each year, the ethics commission shall prepare and submit to the board of selectmen and to the R.T.M. an annual report of its actions and recommendations from ~~during the preceding fiscal year, and its recommendations.~~

Additional reports and recommendations may be submitted by the commission to the board of selectmen and the R.T.M. at any time.

(R.T.M. 2-2-98 (part); R.T.M. 6-1-92 (part))

2.50.120 - Distribution of the code of ethics.

The town clerk shall cause a copy of this code of ethics and any amendments thereto to be distributed to every public official and town employee within thirty 30 days after the enactment of this code of ethics and subsequent amendments. Each public official and town employee elected, appointed, or engaged thereafter shall be furnished a copy before entering upon the duties of the office or employment. Not receiving a copy of this chapter or any amendments thereto or not signing a receipt therefor does not exempt a public official or town employee from the provisions of the code of ethics.

(R.T.M. 2-2-98 (part); R.T.M. 6-1-92 (part))

This Chapter was amended through R.T.M. action on December 7, 2020.

These ordinances shall be effective 15 days after passage by the R.T.M.