

BOARD OF ETHICS

June 11, 2024

Special Meeting – 6:30 pm

SUBJECT TO APPROVAL

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Lynne O'Farrell
Town Clerk

I. Call to Order

Chairman Lyn Connery called the Board of Ethics Committee Special Meeting to order at 6:33 pm.

II. Roll Call & Determine Quorum

Commissioners Present

(Ellen) Lyn Connery

Robert Gerrol

Edwin Zacharias

Nancy Cappello

Kristen Wagner

Frank Marci

Commissioners Absent

Mary Camilli

Spencer Lombard

We do have a quorum.

III. Public Participation

Rose Lyons – 46 Elton Drive: First, thank you. I am here tonight because I am disappointed, not in the Committee, but in the process. Looking at the minutes from the last meeting, I am even more disappointed that there was discussion when there is ongoing litigation—a lawsuit against the Town—that's bothersome to me. Maybe that is allowable, but I guess my point in being here tonight is to find out whether or not this Committee is going to publish its findings and how they came to the conclusion of the findings and not just little bits here and there and things leaked out—lawsuits that tell it all. I want to hear if there's something official coming from this Board to the Town Council or you are just going to call it quits. Personally, the process isn't working, in my opinion. Get rid of the whole Ordinance and start all over again or don't have it at all. The Respondent, in my opinion, has more power than the Claimant, and that's bothersome to me. I'm not saying they are wrong or right because I didn't hear the testimony, nor do I want to hear the testimony; but just the way it played out. If you do something, all you have to do is quit the Committee or Board that you are on and walk away.

IV. Remarks by Board Members

Robert Gerrol stated that one of the concerns that he has is that it seems that the voracity of the testimony has left me a little bit anxious because I have trouble believing things that I hear because we are absent any corroboration. That, of course, makes this very difficult for us. The other thing that I find is that when I was re-reading the second Complainant, and it is also filled with suppositions and concerns except for something which was really bothersome for me, and I'm not sure that I can say it here, so I will not say anything further at this point. I will talk more in Executive Session.

Frank Marci wanted to piggyback on what Robert Gerrol said and stated that therein lies the problem—we cannot say anything—it is not publishable. To respond to what you said about how the Respondent has more rights than the Complainant, if you look at the initial process where, when you are given a complaint, it takes the majority (I believe 4 out of 5) of the people to say the complaint is dead to dismiss the complaint initially. If you couldn't dismiss, it moves to investigation. It's very hard to dismiss a complaint. If you are meeting with 5 people and the vote is 3 to 2, it goes to investigation.

Attorney Needelman stated that, under the Ordinance Section 10.15.B. subsection 2, “upon sworn complaint or upon the vote of 3 members investigate the actions and conduct of elected and appointed Town officials, members of the etc., etc.”, so it requires 3 affirmative votes.

Frank Marci stated that was not what he recalled, and Attorney Needelman noted that he read straight out of the Ordinance.

Rose Lyons indicated that she was concerned about how all of this went down because the way she read it, you decided you either had probable cause or not probable cause, then you went to testimony, and then you decided the case. Now that's fine, and that's the way it should be, whatever you decide, you decide. But the Respondent was able to speak to the Complaint prior to the Commission even meeting, was able to speak afterward, and able to file a lawsuit, yet unless he or she gives you permission to release your findings, you can't say a word and neither can the Claimant. Now, it's all spelled out in the lawsuit, and just bits and pieces; and with all due respect, Mr. Gerrol, I don't think you should have even spoken to your thoughts that were things that happened in Executive Session. I have a problem with the Respondent not giving you permission—and I don't think he or she had—to release the Complaint or release your findings and how you determined what you determined. How does the whole Town of Newington know? They can see what the charges were and everything else, but you can't speak unless he or she gives you permission to do so. “Shall” and “may” are always a gray area.

Frank Marci wanted to clarify one thing that Attorney Needelman said. Complaint: Upon receipt of a written complaint from any person on a form prescribed by the Board signed under penalty of false statement, the Board shall notify the Complainant by registered, certified mail (which was done) of the receipt of the Complaint within 5 days of receiving said Complaint. Within 15 days of receipt of the written Complaint, the Board shall meet (which was done) to determine if there is sufficient evidence to warrant an investigation. If the Board, by a vote of 4 members determines that the Complaint does not merit investigation, the Complaint shall be dismissed, and notice of dismissal shall be mailed Registered or Certified Mail to the Complainant within 5 business days. Therefore, we met that night with 5 people, so 4 out of the 5 people had to vote to dismiss, so 3 to 2 would not have gotten it done. This is exactly what we went on that night, and it's not our business to say if the There are things that I wish I could say right now that I think would set your mind at ease; however, because of the confidentiality involved which the Respondent was allowed to break

Robert Gerrol inquired as to what Rose Lyons meant relative to his comments. Rose indicated that she didn't feel they should have been on the record/in the minutes.

Attorney Needelman stated the documentation he referenced said "upon sworn complaint OR upon the vote of 3 members" (subsection B2).

Frank Marci stated he was looking at subsection G1 in the Town Code of Ethics Chapter 32-11 Section G where it says Complaint Prior to Investigation.

Staff member Heather Shonty stated on the top of Section D that 4 members of the Board shall constitute a quorum, and 4 votes of the Board shall be required for action.

Attorney Needelman stated that he was never provided with that section.

V. Approve Minutes

- A. May 14, 2024
- B. May 21, 2024
- C. May 28, 2024

Chairman Connery made a motion to approve minutes from May 14, 2024, May 21, 2024, and May 28, 2024. Frank Marci stated that he could not approve the May 28, 2024 minutes at this time and wanted to discuss further in Executive session. Chairman Connery made a motion to approve minutes from May 14, 2024 and May 21, 2024. Motion was seconded by Robert Gerrol All were in favor. May 14, 2024 and May 21, 2024 minutes were approved, and May 28, 2024 minutes will be discussed in Executive session and voted on in the next meeting.

**VI. Executive Session – CGS §1-200(6)(A), Newington Code §32-12A,
Investigation/Interviews re: Ethics Complaint #4**

Chairman Connery made a Motion: Resolve that the Newington Board of Ethics, in accordance with CGS §1-200(6)(A), Newington Code §32-12 hereby moves to go into Executive Session with the following to be in attendance: Board of Ethics' members, Board of Ethics' clerk, Attorney Marc Needelman, Complainant(s) and Attorney(s), Respondent(s) and Attorney(s), Complainant's witness for the purpose of investigating pending Ethics' Complaint #4. Motion was seconded by Nancy Cappello and voted on. Vote was passed. They went into Executive Session at 6:50 pm.

Adjourned from Executive Session at 8:49 pm.

VII. Schedule Meetings

Next scheduled meeting is Monday, June 17th at 8:15 pm via Zoom.

Approve minutes for May 28, 2024 and June 11, 2024 minutes. Attorney Needelman will prepare whatever is needed for June 17th meeting and then whatever we decide on Monday, and a letter will go out appropriately like the last time.

The public will be notified about the June 17th meeting via the website.

VIII. Public Participation

None.

IX. Adjournment

Robert Gerrol made a motion to adjourn the meeting, and Kristen Wagner seconded it. Meeting was adjourned at 8:54 pm.