

October 10, 2017

Norwich City Council
100 Broadway
Norwich, CT 06360

TOWN OF NORWICH
NORWICH, CT

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Dear Members of the City Council:

The members of the Norwich Ethics Commission have worked diligently to handle several complaints over the past few years, most notably those involving the well-publicized trip to the Kentucky Derby. Through these cases we have acquired experience acting on the complaints within the constraints and mandates of the charter, the ordinance and the current Ethics Commission rules and procedures. While the existing process has merit and has afforded us the opportunity to deal with complaints that come before us, it is apparent to us and to others outside the Commission that there is room for improvement in the scope and procedures.

As a starting point, we have developed some improvement ideas as discussion points introduced below that should be further crafted via the appropriate process, some by modifying the Ethics Commission rules and procedures, some perhaps by updating the ordinance, and others perhaps by considering a charter change at some point. Perhaps an appropriate resolution by the NPU Board would be sufficient and avoid the need to address any concerns through a charter revision. Our purpose is to identify the gaps and leave it to the Council to decide how best they should be addressed.

Authority

A significant concern was the allegation from counsel for respondents that the Commission rules and procedures are not part of the ordinance. More clear authority and endorsement of the Commission rules and procedures needs to be included in a revised ordinance.

Timing

The goal of the process of investigating a complaint, determining probable cause, and conducting a public hearing is to allow fair investigation of the claim. A timeline is specified in the Commission rules and procedures in order to keep the process moving forward and thereby provide respondents with a fair and speedy resolution of the complaint. However, the rules and procedures need to clearly empower the

Commission to combine related cases and modify the timing to allow reasonable time for all respondents of related cases to present their responses.

The current language also does not address a case where a respondent might agree with the claim and express remorse and an intention to make correction and/or restitution where possible. It would be best to allow the commission to investigate if needed, and maintain confidentiality during that process. Once the investigation is complete, it would be appropriate for the claim to be made public, as a determination of probable cause is the point where a case is no longer confidential. A public hearing might be avoided, but a discussion and a subsequent motion outlining the details of the corrective action and perhaps a statement by the respondent to the Ethics Commission would suffice. It would be wise to outline a process for this possibility.

The 18-month timeframe limitation needs to be modified. The Ordinance states that no complaint may be received by the Commission more than 18 months after the alleged infraction, except where the respondent has fraudulently concealed the existence of the action. Any revisions need to consider whether the clock starts ticking at the time of alleged violation, or from the time the claimant or the Commission becomes aware of the alleged violation, whether it was fraudulently concealed or not.

During the investigation phase, if similar violations are uncovered these should be rolled into the current case, thereby allowing the Commission to go back further to establish a pattern or a culture of ethical concern.

The Commission should also be allowed to amend an existing complaint or generate a new complaint with a new respondent, if further involvement is discovered as part of the initial investigation.

Separately, a Commission member should also be allowed to file a complaint on any matter, just as any member of the public can do.

Travel Policy

All City employees, whether or not such employees report up through channels to the City Council, Board of Education, Norwich Department of Public Utilities, or any other organization, should be constrained by clear travel policies and guidelines. Such policies and approval procedures should remove temptation to abuse business necessary travel privileges. As a general rule, travel expenses for spouses, family members and friends should not be reimbursable. Guidelines and policies should permit travel expenses that are only prudent and necessary, and certainly not lavish, for accommodation, meals, transportation, training, etc.

Penalties

While the current scope of the Ethics Commission receives complaints, determines probable cause, investigates, conducts hearings, deliberates and considers appropriate penalties, it only can recommend, not impose penalties. Now that the City has experienced serious violations of the code of ethics, it is time to revisit the question of the Commission having the responsibility of imposing penalties.

Norwich penalty guidelines could be developed after studying penalties found in the State of Connecticut code of ethics, the town of Preston's code of ethics, and others. The Town of Preston code, for example, states "*Upon the finding of a violation of the Code, the Commission, in its discretion may seek outside counsel and impose penalties.*" As an example, penalties from the Town of Preston code of ethics include the following:

1. *Censure.*
2. *Reprimand.*
3. *Removal or suspension from appointed or elected office.*
4. *Suspension or termination from employment.*
5. *A civil fine of not more than the maximum allowed under State law per violation payable to the Town general fund.*
6. *Restitution for any financial loss to the Town.*
7. *Restitution of any benefits received by the respondent.*
8. *Termination or revocation of any contract with the Town.*
9. *Debarment from entering into any future contract or employment with the town.*
10. *Referral of information obtained or generated by the Commission to the appropriate authorities for further civil action or criminal prosecution.*

Commission Membership Structure

The Ethics Commission recommends staggering the terms of the members so that the entire membership does not expire the same year. Perhaps half should expire each year so that experience and continuity is retained.

The ordinance limits a member to serving only three terms, but is silent on the ability to return for another appointment after an absence. Since we are not fully staffed and an alternate position remains vacant, it would be beneficial to allow experienced members to re-apply after an appropriate absence. This would give others a chance to serve, but would not prohibit an experienced member from returning at some point.

Conclusion

The Ethics Commission looks forward to helping the City bring its Code of Ethics to be more effective in completing the tasks put before the Commission. It is our hope that

the City Council could direct resources to study these issues further, in concert with the Ethics Commission, and draft appropriate tools, ordinances, etc., to improve the process of recognizing, administering and adjudicating ethics complaints.

Sincerely,

A handwritten signature in cursive script that reads "Carol Menard".

Carol Menard
Chair, on behalf of the
Norwich Ethics Commission