

CITY OF STAMFORD
Board of Ethics

ANNUAL REPORT

Pursuant to
Section 19-14 E(2) of
The Stamford Municipal Code of Ethics

June 17, 2020

This Annual Report has been prepared by the Board of Ethics of the City of Stamford (the "Board"), and is delivered to the Mayor and the President of the Board of Representatives pursuant to Section 19-14 E(2) of the Stamford Municipal Code of Ethics (the "Code"). It is for the period beginning June 28, 2019 (the date of the Board's last Annual Report) and ending May 31, 2020 (the "Report Period").

The Board engaged in the following activities during the Report Period:

1. Advisory Opinions

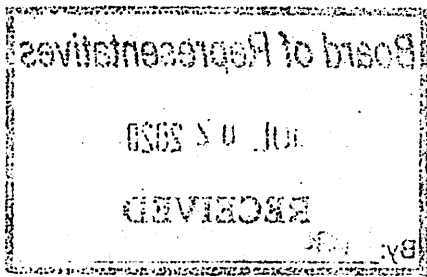
During the Report Period the Board received six requests for and issued five Advisory Opinions. The response to one request is pending the receipt of additional information from the party seeking the Opinion. The requests mostly involved questions of conflict of interest.

2. Formal Complaints

During the Report Period there were two Ethics Complaints received and investigated. One Complaint was dismissed upon a finding of no probable cause. The other Complaint, where probable cause was found, was resolved by a stipulated agreement being reached between the Board of Ethics and the respondent at a Public Hearing.

3. Board Members

The Board welcomed Kevin Quinn as an Alternate as of October 23, 2019. Member John Morgan resigned from the Board in August 2019. The Code calls for a body of seven members and two



alternates. Functionally, as has been the practice in past years, alternate Board members are "considered working members of the Board" pursuant to Code Sec. 19-14 (A)(6) and participated in all meetings. During this Report Period the Board continued to operate at less than full strength, with two vacancies existing. While the existing vacancies have not impaired the progress of our work, there can be situations in which a less than full complement of members could have a significant impact on our fulfilling our responsibilities. Therefore, we ask that the process move forward as quickly as possible to find replacements when vacancies exist.

In a previous year the Board voted to report the attendance record of each Board member in the Board's Annual Report. The following is the attendance of Board members for this reporting period:

Member Name	Meetings Present	Possible Meetings	Attendance %
Christine Dzujna	4	7	57%
Thomas Hynes	7	7	100%
Allan Lang	6	7	86%
Kevin Quinn	5	5	100%
Myrna Sessa	7	7	100%
Monica Smyth	7	7	100%
Fred Springer	4	7	57%

4. Other Activities

Although the position is not required by the Code, the members agreed that having a designated officer to preside in the absence of the Chair is a good idea. Thomas Hynes was elected Vice Chair at the October 23, 2019 meeting.

5. Administrative Support

Richard Evans, who had been serving as our administrative assistant moved on to another position. Kimberly Hawreluk became our administrative assistant during the year and did valuable research tracking down previously issued Advisory Opinions and coordinating with the City and Town Clerk to update our website, and provide us with administrative guidelines. We thank them both for their support.

6. Recommendations

Attached are the Board's Recommendations for Improvements to the Municipal Code of Ethics.

CHAPTER 19. - CODE OF ETHICS

GENERAL REFERENCES

City-owned property—See Ch. 9.

Officers and employees—See Ch. 40.

Personnel—See Ch. 47.

Sec. 19-1. - Title.

This chapter shall be known and referred to as "The Stamford Municipal Code of Ethics.

Sec. 19-2. - Declaration of policy.

- A. Public service is a public trust, and the proper operation of the City of Stamford requires that all city officers and employees, whether elected or appointed, paid or unpaid, be impartial and responsible to the public. Public office and employment must not be used for personal or financial gain or advantage. The public needs and deserves to have confidence in the integrity of the municipal government of our city.
- B. Officers and employees of the City of Stamford must refrain from personal, business and financial activities that can reasonably be interpreted to reflect adversely on the individual's fidelity and impartiality, having regard for the nature and scope of their official responsibilities.
- C. In recognition of the aforementioned principles, there is hereby established a Code of Ethics for all city officers and employees.

Sec. 19-3. - Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Agency. Includes a board, agency, commission, department or other entity of the city.

Business. An association, commercial entity, corporation, enterprise, firm, franchise, holding company, organization, partnership, sole proprietorship, trust or other legal entity established to earn money.

Business with which he or she is associated. A business in which an officer or employee or a member of his or her immediate family is a paid employee, director or officer, or is a limited or general partner, beneficiary of a trust or holder of stock constituting five percent (5%) or more of the total outstanding stock of any class, or the owner of five percent (5%) or more of the equitable ownership interest, provided an officer or employee, or a member of his or her immediate family shall not be deemed to be associated with a not-for-profit entity solely by

virtue of the fact that the officer or employee or member of his or her immediate family is an unpaid director or officer of the not-for-profit entity.

Clear and convincing evidence. The evidence supports the allegation that the respondent has violated the Code of Ethics, when considered fairly and impartially, and induces a reasonable belief in the minds of the Hearing Board Members that the allegations are true. Said evidence must indicate to said members that the probability that the respondent has committed a violation is substantially greater than the probability he or she has not.

Complainant. An individual who filed a written complaint with the Board of Ethics that alleged that a violation of the Code of Ethics has occurred under §19-14(D). The complainant may consist of more than one person.

Employee. An individual employed by the city, whether as a classified employee, unclassified, permanent or temporary, full-time or part-time, or employed by contract on a continuing basis, and all employees of the Board of Education.

Hearing board members. Three (3) individuals who are selected by the Chairperson from among the members of the Board of Ethics, including alternates, to hold a public hearing(s) and to determine whether there is clear and convincing evidence that the respondent has violated the Code of Ethics. No more than two (2) hearing board members shall be registered with the same political party, unless vacancies on the Board of Ethics or recusals of Board members prevents full compliance.

Immediate family. Includes a spouse, child, grandchild, brother, sister, in-laws, parent or grandparent or persons who reside in the same household.

Individual. A natural person.

Investigating ~~board~~ Committee members. Three (3) individuals who are selected by the Chairperson from among the members of the Board of Ethics, including alternates, to investigate a complaint and to determine whether there is probable cause to believe an officer or employee violated the Code of Ethics, and, if so, to proceed to a public hearing. No more than two (2) ~~investigating-board~~ Committee members shall be registered with the same political party, unless vacancies on the Board of Ethics or recusals of Board members prevents full compliance.

Officer. An individual elected to a municipal office or appointed by the Mayor, including but not limited to ad hoc committee members and members of the Board of Education, but excluding Justices of the Peace and constables.

Person. Includes associations, firms, partnerships and bodies politic and corporate, as well as individuals.

Probable cause. More than mere suspicion. There must be facts and circumstances within the Investigating ~~Board~~ Committee members' knowledge, and of which they have trustworthy information, sufficient to justify the belief of a reasonable person that a violation of the Code of Ethics has occurred.

Prohibited source. Any person who: (1) is seeking official action by the officer, the employee or their agency; or (2) does official business or seeks to do official business with the officer, the employee or their agency; or (3) conducts activity regulated by the officer, the employee or their agency; or (4) has interests that might be substantially affected by the

performance or non-performance of the official duties of the officer, the employee or their agency.

Respondent. An individual against whom a written complaint was filed with the Board of Ethics that alleged that a violation of the Code of Ethics has occurred under §19-14(D).

Sec. 19-4. - Conflicts of interests; interference with duties.

No officer or employee shall engage in any business or transaction or have a personal, immediate family or business interest, directly or indirectly, which is in material conflict with or incompatible with the proper discharge of his or her official duties or that by creating a divided loyalty might influence or impair his or her independence of judgment and action in the performance of said duties. A conflict of interest exists whenever an officer or employee will more likely than not benefit, disproportionately from other citizens of the city, directly or indirectly, from a decision over which they have influence.

Sec. 19-5. - Prohibited interests.

- A. Unless otherwise provided by law, an officer or employee shall not deliberate or participate in a decision or action by the agency of which the individual is a member or is employed if said individual or any member of his or her immediate family or a business with which he or she is associated would be likely to gain or lose a material benefit that is not common to the general interest of other citizens of the city.
- B. An officer or employee shall not grant special consideration, treatment or advantage to any person beyond that which is generally available to other citizens of the city.
- C. An officer or employee shall not receive special consideration, treatment or advantage in any activity or business transaction in which the city is a client or a customer beyond that which is generally available to other citizens of the city.
- D. Subsections A, B and C of this section do not prohibit:
 - (1) An officer or employee being employed by a person having a contract of a kind available to all through open bidding with the city if the preparation, procurement and performance of the contract are not before the officer's or employee's agency.
 - (2) A purchase or sale between the city and an officer or employee of the city of property or an interest in or acquisition by condemnation by the city, if the transaction is conducted according to applicable procedure. The officer or employee must take no part in the transaction on behalf of the city. The terms of the transaction must be approved, in writing, by an officer or board independent of or having authority over the officer or employee.
 - (3) An officer or employee entering a contract or transaction with the city, not within his or her agency, of a kind available to all through open bidding.

- (4) Performance of a contract entered prior to an individual's having become an officer or employee of the city if the contract is disclosed in accordance with § 19-11 of this chapter.
- (5) An officer or employee being employed by a newspaper that publishes a public notice, resolution, ordinance or other document, the publication of which is required by law.
- (6) An officer or employee being employed by a public utility regulated by the Public Utilities Commission.
- (7) An officer voting on a proposed municipal or Board of Education budget or appropriation provided that the total financial interest to the officer's immediate family, including, but not limited to, salary, health benefits, and pension, is insubstantial compared to the budget or appropriation being considered, or the appropriation is substantially unrelated to such total financial interest, and it is reasonable to expect that any likely action on said budget or appropriation will not financially or otherwise impact such officer or his or her immediate family.
- (8) A municipal or Board of Education employee, or Commission or Board member preparing and advocating budgets that are acted upon by the Board of Education, and/or the Planning Board, Board of Finance and/or Board of Representatives.

Sec. 19-6. - Prohibited representation.

- A. No officer or employee shall represent a person, other than the city, before the agency of which he or she is a member or by which he or she is employed, or an agency under his or her supervisory authority, except for representation of constituents by an officer in the course of his or her responsibilities as such. No compensation or gift may be accepted in connection with such representation.
- B. An officer or employee who is employed or under retainer by a person having a matter pending before the agency of which the officer or employee is a member shall disclose that fact and shall abstain from participation in the matter. Participation includes but is not limited to discussion and/or voting on the matter.

Sec. 19-7. - Prohibited use of city property and facilities.

No officer or employee shall use or authorize others to use city-owned property, including vehicles and facilities, except:

- A. For city business;
- B. For purposes and on terms generally available to other persons; or
- C. According to a contract of employment with the city in which use of such property is part of the compensation or term of employment.

Sec. 19-8. - Prohibited use of influence and information.

- A. An officer or employee shall not attempt to influence any other officer or employee about any matter before any city agency from which said officer or employee would be likely to gain or lose a material benefit that is not common to the general interest of other citizens of the city. This subsection does not prohibit an officer or employee from communicating about a matter in which he or she has a property, contract or other legally protected interest as a citizen of the city, if the communication is:
 - (1) With an officer or employee responsible for the matter on behalf of the city; and
 - (2) Reasonable and necessary in transacting the matter and is conducted by means and in terms that other persons generally might lawfully use in the circumstances.
- B. Unless otherwise required by state law, an officer or employee shall not disclose city information other than in accordance with established city procedure where it is reasonably foreseeable that disclosure of the information will permit the officer or employee or any other person to obtain a material benefit that is not common to the general interest of other citizens of the city.
- C. An officer or employee shall not use information concerning the property or governmental affairs of the city, other than that which is generally available to the public, for the purpose of advancing the personal interest of himself, herself or others.

Sec. 19-9. - Prohibited gifts.

- A. Except as provided for by his or her office or under the terms of his or her employment, no officer or employee, or member of his or her immediate family, or business with which he or she is associated, shall solicit or accept anything of value, including, but not limited to, a gift, service, loan, political contribution, or promise of future employment in exchange for providing confidential information or based on an understanding that the vote, official action, or judgment of the officer or employee is to be, or has been, influenced thereby.
- B. No officer or employee may knowingly accept, nor may the spouse, child or parent of an officer or employee, or any person who resides in the household of an officer or employee knowingly accept, with said officer's or employee's express or implied consent, anything having a value of fifty dollars (\$50.00) or more from a prohibited source, and the aggregate value of all things received from that source by any such recipient in a calendar year shall not exceed one hundred fifty dollars (\$150.00). Each officer or employee shall be bound by this section for a period of one (1) year after the officer or employee has left his or her position with the city.

This section does not prohibit:

1. Gifts or social courtesies between the officer or employee and donors who are immediate family (as defined in Section 19-3 above).
2. Gifts or social courtesies, given to celebrate major life events such as weddings, births, religious milestones or major holidays, given to the officer or employee from donors, who are: (a) other relatives that are not "immediate family" as defined in Section 19-3 above, or (b) close personal friends.

Gifts made under Section 19-9.B.(2) must be disclosed in writing within ninety (90) days to the Board of Ethics. In the event of a complaint of a violation of Section 19-9.B.(2), the officer or employee shall have the burden of proving that the gift is a bona fide gift or social courtesy customarily made for the occasion.

3. Public, governmental-sponsored or informational events generally accepted as a condition of office or employment, where food may be served and small souvenirs of the event, of a minor monetary value, may be distributed to all attendees, which are not designed to influence the proper judgment or action of the officer or employee in a matter within his or her authority.
4. Political contributions received in compliance with law.
5. Loans obtained according to commercial practice at the prevailing rate of interest.
6. Customary performance, merit awards, retirement gifts or honorariums, consistent with municipal practice.
7. Awards, plaques, gifts or other things of value given to employees as part of an official Employee Recognition/Incentive Program.

Sec. 19-10. - Specific violations.

- A. Ordinances. It shall be a violation of the Stamford Municipal Code of Ethics for any city officer or employee to willfully violate the provisions of:
 - (1) Chapter 23, Article II of the Code of Ordinances, as amended, concerning the purchasing of supplies, materials, equipment and services.
 - (2) Chapter 52, Article II of the Code of Ordinances, guaranteeing legislative access [to] city records and data.
- B. Budget line items. It shall be a violation of the Stamford Municipal Code of Ethics for any city officer or employee to intentionally misrepresent any matter concerning budget line items.
- C. Board of Ethics' access to information. It shall be a violation of the Stamford Municipal Code of Ethics for any city officer or employee to intentionally deny access to information requested by the Board of Ethics in the course of an investigation or a public hearing, except to the extent that said city officer or employee is required or entitled to do so under relevant federal, state or local law.

- D. Additional specific violations. The Board of Representatives may, from time to time, pass ordinances with the specific intent that said ordinances are to be incorporated into and enforced through the ethics process.
- E. Examples only. The violations listed in this section are merely specific examples of Code of Ethics violations. Violations of the code are not limited to said examples.

Sec. 19-11. - Disclosure of interests.

- A. *Disclosure of conflict of interest.* Any municipal officer or employee who has, knows he or she will have or later acquires a conflict of interest, as provided in Section 19-4, as a result of any matter under consideration before him or her, or his or her department, in his or her or its official capacity shall disclose the existence of the conflict of interest, in writing or on the record, to the chairperson of the agency, commission or board of which he or she is a member, or in the case of an employee, to his or her superior. Such persons shall not debate the matter in his or her official capacity as part of the agency, commission or board and shall disqualify himself or herself from voting or acting on such matter.
- B. *No discussion by disqualified individuals.* No officer or employee, disqualified due to a conflict of interest, shall discuss the matter under consideration with the intent of influencing any person who will participate in the action to be taken on that business. Prior to any public or private discussion on the matter, the disqualified officer or employee must notify the person to whom he or she is speaking about his or her conflict of interest.
- C. *Cooperation with Board of Ethics.* Any officer or employee whose conduct occasions an inquiry by the Board of Ethics concerning his or her compliance with this code shall, upon request by the Board, supply relevant information as detailed by the Board, except to the extent he or she is entitled to decline to do so on the basis of constitutional rights or governing state or federal law. Failure to supply information as requested shall result in a violation of this code.

Sec. 19-12. - Negotiation of future employment.

An officer or employee shall not solicit future employment with any person who has a substantial matter pending before the agency in which the officer or employee is employed during said period of employment or during the period of time said officer holds office. A matter is "substantial" if it involves a financial value of one thousand dollars (\$1,000.) or more or involves a question of policy of comparable significance.

Sec. 19-13. - Subsequent employment.

An individual who has served as an officer or employee shall not:

- A. Assist any person, other than the city, in any matter in which said individual participated personally and substantially during his or her service with the city.
- B. Within one (1) year after termination of his or her service, assist any person, other than the city, in any matter that was pending before the agency in which he or she was employed; or appear before the agency in which he or she was a member or employed, or assist any other person to make such an appearance.

Sec. 19-13.1. - Prohibited actions.

No person shall take or threaten to take official action against an individual in retaliation for such individual's good faith ethics complaint or disclosure of information to the Board of Ethics under the provisions of this Code of Ethics.

Sec. 19-14. - Board of Ethics.

A. *Appointment of members and alternates.*

- (1) The Board of Ethics shall consist of seven (7) members, no more than four (4) of whom shall be registered with any one political party, and two (2) alternates neither of whom shall be registered with the same political party.
- (2) All Board members and alternate Board members shall be resident electors of the City of Stamford. They shall be appointed by the Mayor and approved by a vote of two-thirds (2/3) of the members of the Board of Representatives present and voting. No nominee for appointment by the Mayor to be a Board member or alternate Board member shall have been an officer in a political party, a candidate for any office within the City of Stamford, or a chair of a campaign of a candidate for any office within the City of Stamford, for the period of one (1) year prior to such nomination. Upon appointment by the Mayor, all Board members and alternate Board members shall continue to refrain from such activity throughout their terms on the Board.
- (3) All members and alternates shall serve without compensation for a term of three (3) years, which shall expire on December 1 of the final year of a member's term, subject to continuance in office for a period not to exceed the lesser of six (6) months or until his or her successor has been nominated by the Mayor and approved by the Board of Representatives. No member may serve for more than three (3) consecutive terms, ~~except that those members who are currently serving on the Board of Ethics may serve for an additional term beyond their present term.~~
- (4) In order to preserve continuity on the Board, the first terms of the two (2) alternates shall be staggered so that one (1) of the alternates serve a term of two (2) years and the other shall serve for three (3) years. Upon the expiration of the original terms, all alternates shall then serve three (3) year terms as stated in § 19-14A(3) above.

- (5) Notwithstanding the foregoing, the term of a member or an alternate shall not end until the conclusion of any case, initiated during the member's or alternate's term, provided that, in no event shall a member or alternate's term extend more than six (6) months beyond the expiration of such term.
 - (6) Alternates shall be considered working members of the Board, and, at the discretion of the Chairperson, they may ask questions and otherwise participate in the hearing process. The Chairperson shall have the right to limit such participation in any manner that he or she deems necessary.
- B. *Organization.* The Board shall elect a Chairperson and a Secretary. The Board shall keep minutes of its meetings, which shall be filed in the office of the Town and City Clerk, and shall hold meetings at the call of the Chairperson and at such times as the Board may determine. Four (4) members present shall constitute a quorum in order for the Board to conduct official business. For the purposes of this section, alternates may be considered as members for the purpose of establishing that a quorum is present.
- C. *Opinions and advice.*
- (1) *Advisory opinions.*
 - (a) The Board shall render advisory opinions pursuant to:
 - 1. a written request from any officer or employee concerning his or her behavior with respect to this Code of Ethics; or
 - 2. a written request concerning any officer or employee or any group of officers or employees, made by the Mayor, Corporation Counsel, President of the Board of Representatives, any six (6) members of the Board of Representatives, Town and City Clerk, a majority of the Board of Finance or a majority of the Board of Education; or
 - 3. a written request concerning any member, alternate, employee or any group of members, alternates, or employees of any board or commission, made by the President, Chairperson or one-third (1/3) of the membership, including alternates, of any such board or commission; or
 - 4. a written request concerning any supervised employee or employees, made by an officer or employee with supervisory authority over such employee.
 - (b) The Board may, by a majority vote of the entire Board, decline to consider any request or may expand the scope of the opinion to include other officers, board or commission members or alternates, or employees not specifically named in the request or to exclude any officer(s), member(s), alternate(s) or employee(s) named in the request.
 - (c) An advisory opinion shall only be issued when all hearings concerning the request are held in open public meeting. Such advisory opinion shall be binding on the Board, the officer(s), board or commission member(s) or alternate(s), or employee(s) until amended or revoked, and reliance on it in good faith shall be an absolute defense in any action or proceedings brought under the provisions of this Code of Ethics.

- (d) Within one hundred (100) days of valid receipt of the request, the Board shall render its opinion, or act not to consider such request, and shall file such opinion or action with the office of the Town and City Clerk.
- (e) The Board of Ethics may amend or revoke any advisory opinion. Written notification of such amendment or revocation shall be made to the Mayor, Corporation Counsel, President of the Board of Representatives, and Town and City Clerk within thirty (30) days of such amendment or revocation.
- (2) *Personal advice.* Upon the written request from any officer or employee to obtain personal advice for that individual with respect to potential future official actions and this Code of Ethics, and a request that such advice or hearings be kept confidential, the Chairperson of the Board may request that one (1) member hear any such request and offer advice with respect to this Code of Ethics pursuant to that specific request. Said board member may offer such advice without holding open public hearings concerning the request, and, provided that the employee or officer appears to be acting in good faith and that no crime has been or will be committed, shall maintain any requested confidentiality, but only to the extent permitted by law and unless compelled by legal process. Such advice shall not be binding on the officer or employee, or the Board of Ethics. Reliance on such advice shall not be a defense in any action or proceedings brought under the provisions of this Code of Ethics, although the Board may consider such advice in any such proceedings. The member so appointed for the purpose of giving such advice shall recuse himself or herself from any and all future action concerning the said officer or employee, including, but not limited to, ethics complaints or requests for advisory opinions on the issue or issues involved in the specific request.

D. *Ethics complaints, investigation and procedures.*

(1) *Filing of the complaint, notification and amendment.*

- (a) Any person may submit a written complaint, on a form prescribed by the Board of Ethics and signed under penalty of false statement, alleging a violation of this Code of Ethics by an officer or employee or a person who was an officer or employee within the preceding year. The complaint shall contain the specific act or omission acts which allegedly constitute the violation. No member or alternate member of the Board of Ethics may initiate a complaint.
- (b) Upon receipt of said complaint by the Chairperson, or by the Secretary of the Board in the Chairperson's absence, the Chairperson of the Board of Ethics shall select, on a rotating basis, as practical, three (3) members from among the regular and alternate Board members, to be the three (3) Investigating Board Committee members, as defined above. If a complaint is brought against a Board member, the member may not participate in any proceedings that involve said complaint until that complaint is resolved. The Investigating Board Committee members may delete, defer or reject any part of a complaint that does not conform to its requirements. No member or alternate member of the Board of Ethics may initiate a complaint.
- (c) The Board shall notify, by registered or certified mail, by electronic mail, or by personal service by a sheriff, constable or indifferent person, any respondent

against whom a complaint is filed not later than seven (7) days after receipt of such complaint. A copy of such complaint and any subsequent changes shall accompany such notice. The Board shall also notify the complainant in writing of its receipt of such complaint, and any subsequent changes, not later than seven (7) days after receipt of the complaint.

- (d) Subsequent to the filing of the original complaint, the Investigating ~~Board~~ Committee members may, ~~at its discretion~~ in its discretion, amend any complaint filed with the Board to include other violations which ~~they~~ Committee reasonably suspects to have occurred, based on allegations in the original complaint. Any such amendments shall be in writing, and a copy shall be sent by registered or certified mail, by electronic mail, or by personal service by a sheriff, constable or indifferent person to the respondent and complainant within seven (7) days of such amendment.

(2) *Investigation of probable cause.*

- (a) The Investigating ~~Board~~ Committee members shall investigate the complaint and such amendments as ~~they~~ Committee may have ~~made~~ added. For this purpose, informal hearings may be held to determine whether or not there is probable cause to believe that the respondent has violated the Code of Ethics. Notes and other work-product made by an Investigating Committee member will remain confidential, except at the discretion of the Investigating Committee member.
- (b) Any investigation and hearing, if held, shall be confidential and shall not be open to the public unless the respondent requests that such investigation, hearing and disclosure be open or if there is a finding of probable cause. By filing a complaint with the Board of Ethics, the complainant shall be bound by the requirement of confidentiality in the investigative phase. A violation of the requirement of confidentiality by the complainant, whether direct or indirect, shall be grounds, at the discretion of the Investigating Committee or Board of Ethics, to dismiss the complaint. Pending the outcome of the probable cause determination hearing, no member of the Board of Ethics shall disclose his or her knowledge of such investigation to a third party, except to the extent necessary to conduct their investigation. The respondent shall have the right to appear and be heard at the informal hearing, if any, conducted by the Investigating Committee, and to promptly offer any information by way of answer or denial of the allegations.

(3) *Finding of probable cause.*

- (a) A decision regarding probable cause shall be made by the Investigating ~~Board~~ Committee members within sixty (60) days after the date that the ~~Committee~~ Board received the complaint. A finding ~~that of~~ that probable cause ~~to believe~~ exists that the respondent has violated the Code of Ethics ~~exists~~ shall require two (2) concurring votes.
- (b) If the Investigating ~~Board~~ Committee members determines that no probable cause ~~exists~~ exists that the respondent has violated the Code of Ethics ~~does not exist~~, they Committee shall dismiss the complaint. Submissions received by the Investigating

Committee during its investigation, will remain confidential except at the request of the respondent.

- (c) If the Investigating Board Committee members determines that probable cause exists that the respondent has violated the Code of Ethics ~~does exist~~, they Committee shall submit a written report to the Chairperson of the Board of Ethics to initiate public hearings, unless they Committee and the respondent reach a stipulated agreement to resolve the complaint. Once probable cause has been determined, any ~~such~~ stipulated agreement shall require the approval of a majority of the non-Investigating Board Committee members. ~~Notwithstanding the foregoing, in the event an A stipulated agreement reached is stipulated to or a withdrawal of the complaint is filed~~ prior to a determination of probable cause, requires approval by a majority of the ~~non~~-Investigating Board Committee members ~~shall not be required~~. If the Committee determines that probable cause exists that the respondent violated the Code, and if no stipulated agreement is reached, public hearings shall commence within thirty (30) days of receipt by the Chairperson of the aforesaid written report.
 - (d) In any public hearing held to determine a violation of the Code of Ethics, the Investigating Board Committee members with the assistance of the Office of Legal Affairs or other counsel, shall have the responsibility of gathering and presenting evidence, together with the complainant, to the Hearing Board members. If necessary, outside counsel should be retained to represent the Hearing Board with respect to any public hearings, ~~assuming if~~ the Office of Legal Affairs is will be unable to do so because of its prior and/or continuing representation of a party, a witness, or the Investigating Board Committee. The Investigating Board Committee members shall not participate in any manner in the vote of the Board to determine a violation of the Code of Ethics.
 - (e) The complainant and respondent shall be notified in writing by the Chairperson of the Investigating Committee of the Committee's decision regarding probable cause not later than seven (7) days after such decision has been made. Such notification shall be ~~either~~ by registered or certified mail, by electronic mail, or by personal service by a sheriff, constable or indifferent person.
- (4) *Extension of time.* Upon extraordinary circumstances, reasonable extensions of time to any of the time limitations specified herein may be granted by the Board upon a vote of four (4) sitting members.
- (a) The Board shall give written notice of any extension(s) of time to the respondent and the complainant.
 - (b) Exceptions.
 - 1. No extensions may be given for time periods required for notification(s).
 - 2. No extensions may be given for the time limitation for ruling on actions unless otherwise specified herein.
- (5) *Rules and procedure for public hearings.*

- (a) Public hearings shall be conducted under the Board's rules and regulations, which shall include the following: oral evidence shall be taken under oath; documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, and upon request, parties and the Board shall be given the opportunity to compare the copy to the original; and the complainant and respondent shall have the right:
 - 1. To be represented by counsel.
 - 2. To present oral or written documentary evidence which is not irrelevant, immaterial or unduly repetitious.
 - 3. To examine and cross-examine witnesses required for a full and true disclosure of the facts.
 - 4. To receive by registered or certified mail, by electronic mail, or by personal service by a sheriff, constable or indifferent person, copies of the memorandum of decision by the Board within thirty (30) days after the conclusion of hearings on said complaint.
- (b) The Board of Representatives shall have the power to adopt rules of procedure for hearings conducted pursuant to the Code of Ethics, in addition to those contained in Subsection C(54)(a) above, by resolution adopted by a majority vote of the entire Board, after publication of the text of the proposed rules of procedure or amendments thereto in a newspaper having a general circulation in the city. Any rules of procedure or amendments thereto shall become effective thirty (30) days after adoption, and the full text of the rules for procedure, adopted in accordance with this section, shall be available for public inspection at the office of the Town and City Clerk.
- (c) All Board of Ethics hearings shall be conducted in a manner in which they provide the respondent(s) with all due process that is required by federal, state and local law.
- (d) Upon the request of either the complainant, the respondent or any member of the Board, the Board shall cause the hearings to be recorded and a transcription to be made. If a copy of the transcript is requested by either the respondent or complainant, the requesting party shall bear the costs for the same.
- (e) The Board may subpoena witnesses to testify and may compel production of documents and other effects as evidence, and failure to obey such subpoena shall constitute a misdemeanor.
- (6) *Finding of a violation of the Code of Ethics.*
 - (a) A finding of a violation of the Code of Ethics shall require the affirmative vote of two (2) of the three (3) Hearing Board members that there is clear and convincing evidence that the respondent has violated the Code of Ethics.
 - (b) The written final decision shall specify the code section violated and a factual explanation supporting each violation and shall be on the form prescribed.

- (c) The Board shall file its memorandum of decision with the Mayor, Town and City Clerk, Corporation Counsel, Clerk of the Board of Representatives and any other public office it deems appropriate or is required under ~~section 19-15.C~~ of this chapter.

E. *Other powers and responsibilities.*

- (1) *Freedom of Information Act.* In order to ensure the public's right of access to the proceedings held in accordance with the provisions of this chapter, the Board of Ethics shall follow the requirements of the Connecticut Freedom of Information Act.
- (2) *Annual Advisory Report.* On or before June 1 of each year, the Board shall submit to the Mayor and the President of the Board of Representatives a written report which shall include but not be limited to:
 - (a) A summary of its activities; and
 - (b) Recommendations for improvements in the Municipal Code of Ethics.

Sec. 19-15. - Effect of violation

A. *Grounds for removal.* A violation of this Municipal Code of Ethics:

- (1) By an elected officer may be considered dereliction of official duty, a cause of removal from office under Sec. C1-90-1 of the Stamford Charter.
- (2) By a member of an appointed board or commission may be considered misconduct in the performance of duties, a ground for removal under Sec. C6-00-3(c)(1) of the Stamford Charter.
- (3) By a municipal employee may be a ground for demotion in rank or grade discharge, suspension with or without pay and/or a recommendation to his or her supervisory authority for appropriate disciplinary action under Sec. C6-140-8(14) of the Stamford Charter.

B. *Public reprimand.* Any individual who is found in violation of this chapter may be issued a public reprimand by the Board of Ethics.

C. *Recovery of damages by city.* Any individual who is found in violation of this chapter may be subject to a lawsuit by the city to recover damages, if any, that are incurred by the city as a result of said individual's unethical conduct. The costs of the Ethics Ordinance hearing process shall not be included in the aforementioned damages and shall not be recoverable under the provisions of this subsection.

D. *Placement in File.* Any city officer or employee who is determined to have violated the provisions of this chapter shall have a copy of said decision placed in his or her official personnel file.

E. *Voiding of action.* Where there has been a violation of the Stamford Municipal Code of Ethics, the city may void any municipal purchase, contract or ruling which the Board of

Ethics has found to have been influenced by that violation, pursuant to Section 7-479 of the Connecticut General Statutes.

Sec. 19-16. - Jurisdiction.

- A. Time limitation for ruling on actions. No allegation in a complaint of a violation of the Stamford Municipal Code of Ethics shall be ruled upon by the Board of Ethics if three (3) years or more have passed between the time of the alleged violation and the filing of the complaint. In the event that multiple violations have been alleged, only those violations alleged in the complaint which have occurred within three (3) years of the filing of the complaint to the Board may be ruled upon.
- B. Tolling of period of limitation. In the event that a violation or evidence of a violation of this Code of Ethics has been actively concealed, such action shall have the effect of tolling the period of limitation during said period of concealment.
- C. *Continuing investigations.* If an officer or employee under investigation by an Investigating Committee, leaves office or employment, the ~~Board- Investigating Committee~~ by a majority vote shall have the power to continue ~~theits~~ investigation and, if the Investigating Committee determines probable cause exists~~necessary~~, the Board may hold a public hearings under §19-14(D)(5). If the Investigating Committee determines no probable cause exists, the Committee shall dismiss under §19-14(D)(3)

Sec. 19-17. - Legal Representation and Attorney's Fees.

- A. *Right to legal representation.* Any appointed or elected officer or employee of the city who is the subject of an ethics complaint shall have the right to legal representation by Corporation Counsel in such ethics action unless Corporation Counsel determines that a conflict of interest prevents such representation. If Corporation Counsel determines that a conflict of interest exists, such officer or employee shall have the right to retain outside counsel for legal representation in such ethics proceedings.
- B. *Reimbursement of attorney's fees.* If an appointed or elected officer or employee retains outside counsel for legal advice or representation in an ethics action due to a conflict of interest as determined by the office of Corporation Counsel, the City of Stamford shall reimburse such officer or employee for reasonable attorney's fees incurred in the action subject to the following conditions:
 - (1) A written agreement defining the proposed scope of work and hourly rate or other fee agreement of such outside counsel shall be submitted to Corporation Counsel for review and approval prior to the start of covered services.
 - (2) Corporation Counsel shall have the authority to establish a reasonable scope of work, maximum hourly rate, a schedule of reimbursable and non-reimbursable fees and expenses, and/or a reasonable monetary cap on the fees and expenses that may be paid by the city as a part of such written agreement. Attorney's fees for services outside the scope of work or in excess of the approved fees in the written agreement shall be the responsibility of the officer or employee.

- (3) The city shall reimburse such attorney's fees in accordance with the terms of the written agreement at the conclusion of the ethics proceedings if the complaint is withdrawn, dismissed, settled by stipulation (except as provided hereinafter) or there is no finding of probable cause of violation of the Code of Ethics. The city shall not reimburse attorney's fees in the event the Board of Ethics finds a violation of the Code of Ethics or if an officer or employee has stipulated in a settlement agreement to violating the Code of Ethics.

Sec. 19-18. - Ethics training.

- A. *Ethics training.* The Director of Human Resources is responsible for developing and delivering, or contracting with other entities to develop and deliver, training programs for all officers and employees of the City of Stamford, whether elected or appointed, paid or unpaid, concerning the requirements of ethical behavior, as encompassed in the Code of Ethics. Such training shall be required promptly following the initial appointment, election or hiring of any officer or employee of the City of Stamford and mandatory follow-up training shall take place every four (4) years. The Director of Human Resources shall be responsible for certifying and maintaining records that all officers and employees have received such training.
- B. *Ethics Handbook.* The Director of Human Resources shall create and maintain a handbook regarding the Code of Ethics, to be distributed, together with a copy of the Code of Ethics, to all officers and employees during training. A copy of the handbook shall be kept at the office of the Town and City Clerk.