

**EAST HAVEN BOARD OF ETHICS  
SPECIAL MEETING MINUTES  
THURSDAY, JULY 14, 2016**

The East Haven Board of Ethics held special meeting Thursday, July 14, 2016, at 7:00PM in the Mario Giaimo Room, East Haven Town Hall, 250 Main Street, East Haven, CT 06512 in order to transact the following.

**Item #1**

Roll Call-all 3 Members present- Joseph Polio, Marlene Asid, Anthony Naclerio  
Also present- Town Attorney Joseph Zullo.

**Item #2**

Pledge of Allegiance

**Item #3**

Appointment of Temporary Clerk.

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TOWN CLERK'S OFFICE  
EAST HAVEN, CONN.**

*Stacy Gravano, CTC*

**TOWN CLERK**

Commissioner Polio makes a motion to appoint Danelle Feeley.

Commissioner Asid seconds the motion.

Voice vote: all in favor-none oppose-none abstain. Motion carries.

**Item #4**

Reorganization of Board (Election of Officers).

- a. Appointment of Permanent Chairperson.
- b. Appointment of Permanent Vice-Chairperson.

- Commissioner Polio says he is not the Chairperson and doesn't choose to be; they had a Chair last time they met and it didn't work out well, meetings were postponed and they did not have any opportunity to meet, so he suggested they resign if they didn't wish to be on and they did. He says he has been on the board since 2007/2008 and it is time for him to take a step back so they need someone that would like to be the Chairperson. It involves a minimum amount of paperwork; complaints come into the Town Clerk's Office and are then mailed to the Chairperson and can then be disseminated to the rest of the Board members.
- Commissioner Asid says she has lived in East Haven for 18/19 years; she is originally from North Haven. Yesterday was her 35<sup>th</sup> service anniversary with AT&T. She is a project manager for a technical operations team. She works from home now so she has a team all over the country. She is also on her Condo Board, the Civil Service Commission and the Republican Town Committee. Personally, Karen O'Connell Maturo and herself have been best friends for over

35 years that is how she got in the mix of everything and being involved in the Town. She helped Mayor Maturo in his campaigns and was elected to the Board of Finance for one term. She is single, not married and has no children but she does a lot for herself and is rather busy.

- Commissioner Naclerio says that he has worked in East Haven his entire life; he has worked at Foxon Park Beverage full time since he graduated college in 1973, so approximately 43 years. This is out of his element, but he is looking for something different maybe as a little give back. He works 6-7 days a week and was curious to see what this would entail as far as involvement and what contribution he can make.
- Commissioner Polio says his background is in law enforcement; he was with the New Haven Police Department for 30 years, he did everything there was to do and ended up a Captain and retired with a wonderful pension. He was hired by the University of New Haven as a professor in 2000 and worked there until 2011 because students are not the same anymore it is a difficult population now. He was also a peer counselor at the Police Department for 21 years. When he went to UNH he taught community oriented policing and also ran an internship program with another fellow who was Fire Chief in New Haven which put people into numerous positions within the justice system. He taught courses on ethics and integrity, which was a wonderful experience so he brings some of that to the table. He is also a physician partially because he had a wife who was in a car accident and was a quadriplegic so he knew how to be a podiatrist, skin doctor, gynecologist, proctologist, dentist, hair dresser, nurses aide and anything else you could think of. One of the reasons he retired was because of the student population but he was also busy for 6 years being a caregiver; his wife has since died and he re-married this past year to a wonderful woman. He is on several boards; he is on the Board of Directors for an organization called Continuum of Care which deals with mentally ill as well as drug addicted. They have 500 on staff and serve over 1700 clients and save the State of Connecticut \$14million dollars per year. He also does volunteer work for a couple of organizations. He is on a Board for a nursery school/day care. For a retired guy he is on the busy side and also has a wonderful garden.

Commissioner Polio makes a motion to appoint Marlene Asid as Chairperson.

Commissioner Naclerio seconds the motion.

Voice vote: all in favor-none oppose-none abstain. Motion carries.

Commissioner Asid makes a motion to appoint Anthony Naclerio as Vice-Chairperson.

Commissioner Polio seconds the motion.

Voice vote: all in favor-none oppose-none abstain. Motion carries.



**Item #6**

Discussion of general structure, function of board, meetings, and parameters for decision making.

- Commissioner Polio says because the other two members are new he structured this to give them idea of what their role/functions are and how much input they have and impact they have. The general structure is they meet as needed; there are three outstanding complaints before them. It is embarrassing because they have been with them since June of last year and he feels terrible because it was due to a set of circumstances that maybe could have been avoided but they only had two people on the Board. The general structure is they meet once they have a complaint come in; they will need to set a date for the next meeting. The function of the Board is they are advisory, they hear complaints that come in regarding people who feel they have an ethics violation. Many times it takes place within the structure but sometimes it is without. All three of these complaints are about someone who works for the Town or has affiliation with the Town. Their determination is passed onto the Town Council who then hears their determination.
- Town Attorney Joseph Zullo says it would be this Board that makes a determination of whether or not a violation occurred. Then it is the Council who makes the decision of whether or not they want to act on that in terms of stripping someone of their board status in that case or if it is a Mayoral appointment the Mayor decides if he wants to remove that person.
- Commissioner Asid asks if there are fines.
- Attorney Zullo says there are no monetary fines.
- Commissioner Polio asks in the case of an employee, what is the nature of their hearing and coming to some type of conclusion of a violation?
- Attorney Zullo says they should think of themselves as a separate entity, they decide if there is a violation of the Town's ethics ordinances or conflict of interest ordinances. They would find that and send that determination to the Council and it would probably go to Frank Gentile in HR and Sharon Costello who would then decide if there was any collective bargaining issues and if there are any disciplinary issues. They don't need to worry about that, they just worry about making the determination in that narrow area of the conflict of interest ordinances.
- Commissioner Naclerio asks if this is step one for anyone with a complaint, they come to this Commission?
- Commissioner Polio says that is correct they submit a letter to the Board, generally a registered letter through the Clerk's Office so it is official and stamped. Once received, it is forwarded to the Commission and they make

several determinations. One determination is if it is viable; they have had incidents where a complaint was made clearly way off base; it made illusions to improprieties that were liable to the person making the complaint. They met on it as a hearing and told the complainant that if they chose to have it heard and it went public in terms of hitting the press, the person complaining against had recourse to litigation; it was clearly not an ethics violation it was an "I don't like you" situation. He says they get busy during election time, people start putting things in and it can't be assumed they do it for that reason but it does seem to be a magnet for those kinds of things and several complaints have come in from the Chairperson of the Democratic or Republican committees or people that work within that realm. Coincidentally they pop up around June, it's unfortunate because this is not a tool for political purposes, their job is to be as objective as possible and take in all the information and leave biases and political feelings at the door because it reflects directly on ethics and their integrity. At the time Mayor Capone appointed him and he told her she would come before the board and will be treated like anyone else and she did and there was no favoritism.

- Commissioner Asid asks what they are using to make their determinations. She sees the Town Charter is one of them.
- Commissioner Polio references the packets he provided the other members. **(All pages attached as correspondence)**
  - Section 3 of the face page listed as page 10, which explains the Board of Ethics. The next page under Section 3-Conflicts of Interest, on the third page there is an Ordinance- section 3 about dual jobs that Attorney Zullo says is still in effect in his ordinance book. The next page section 2-9. Also 146-conflict of interest- some of what they get regards conflicts of interest and people doing dual jobs. He says they had one when he first came on where a member of a board was accused of delivering monies to a person that was a land owner where the Town rented money; he was accused of delivering a paycheck to those people by hand and it was said that was a conflict in his role. He showed up with an Attorney and his argument was that they were friends and he was bringing his mail. A lot of what they get are improprieties or the appearance of improprieties. They found that there wasn't enough merit in that case. It could have gone either way.

## Item #5

Appointment of Permanent Clerk.

Commissioner Asid makes a motion to appoint Danelle Feeley.

Commissioner Naclerio seconds the motion.

Voice vote: all in favor-none oppose-none abstain. Motion carries.



## Item #7

Discussion possible action on proposed Standing Rules for the Board of Ethics.

- Attorney Zullo explains that every Board he sits at whether it be the Board of Finance, Town Council, Board of Police Commissioners, etc. they all have a set of what are called standing rules- rules that survive the passing of members as they resign, or terms end, etc. so there is always a set of rules governing the way a board operates. There isn't a set for this Board so after speaking to Mr. Polio he spent time last year drafting a set of rules. His advise is to take the time to read it, it is 7 pages, take them home read through it and most of it is the same for every board as to how meetings are set, special meetings are set, generic public comment information, etc. There is something a little more specific and substantive with respect to this board which is Section F-general handling of ethics complaints as far as how the people who make the complaints will be afforded the time to explain themselves and how the people who are accused have a chance to defend themselves and offer evidence. He brought copies for everyone so they can review them and at the next meeting in terms of housekeeping if they think it is appropriate they can adopt them or propose changes and adopt with amendments; but he does recommend having them so it insures that every ethics hearing is the same and will be uniformly handled with the complaint /defense being done a certain way and being afforded the same opportunity in each case and there will be uniform results.
- Commissioner Asid says it was eluded to that they are looking to rule on conflict of interest and that is reported to the Town Council. Is it just conflict of interest, or is there more such as violations of the Town Charter?
- Attorney Zullo says Mr. Polio was kind enough last year to give him a copy of North Haven's substantive ethics policy; ours is a bit scattered and is in different places within the Charter as they saw earlier. We can't change the charter but we can amend the ordinance via the Town Council to make it clearer. Essentially, they are evaluating the complaints through the various ordinances addressing this. Not everyone is as articulate as a lawyer and say they committed these acts violating this ordinance therefore they want this board to adjudicate. Instead they come in and say that "so and so" has a family member that did "this" and they think that is wrong and it is up the Commission to then look into it further and say these are the Ordinances they can look at it through- is it a conflict of interest, a dual employment issue, a criminal issue that doesn't belong here, is it a non-issue. Just because someone submits a complaint doesn't mean it has to be adjudicated here, they can look at it and say this isn't the proper forum for this, none of our ethics ordinances address this and tell them a proper forum is a complaint to HR or the PD or directly to the Council, etc.

- Commissioner Naclerio asks if that is determined the night of the complaint.
- Attorney Zullo says it can be determined at any point. Depending on if they follow the standings rules, he believes it is worded such that if they find there is probably cause to be heard they would move forward with the formal procedure but if they have one they don't believe any of the statutes address, they would hold a meeting to put that on the record and explain the reasoning. All decisions need to be issued in writing, so his recommendation is they draft a notice of formal decision in addition to the minutes and have that be mailed out to anyone that submits a complaint.
- Commissioner Asid says so at a meeting someone comes with a complaint and they review it then but may need to make further investigation. So would they then look at it at another special meeting or?
- Commissioner Polio says they usually submit them ahead of time they don't usually come in with them at the meetings.
- Attorney Zullo says all of their meetings are special because they do not have a set schedule. Generally what will happen is a complaint will be submitted to the Clerk's office and forwarded to the Chairperson who will give it to the other members to read in advance. They would come to the next meeting to make a determination as to whether or not the complaint should go forward, if there is probable cause to hear it or that the statutes don't address. If they choose to hear it, they would set another meeting for the complainant to come with their evidence and the person accused to come submit their evidence and they can either decide that night or schedule another meeting.
- Commissioner Asid says or ahead of time they can decide that it doesn't have merit to go forward.
- Commissioner Polio says that's correct, but it has to be done in a meeting, they are not allowed to discuss anything outside of a meeting. You can't call to see what the other members think.
- Commissioner Naclerio says so if a complaint comes in they all read it but they can't discuss it until the meeting?
- Commissioner Polio says yes.
- Commissioner Asid says she didn't grow up in this Town so she doesn't know everyone or everything that goes on so she can certainly be more unbiased.
- Commissioner Polio says the other thing is they don't have any investigative powers; they can't go to places mentioned and start asking questions. The onus is on the person making the complaint to justify their complaint, in some cases they submit a letter saying someone did something but there is no proof or they may not even come to the meeting. In order to get as much information, as a suggestion, is to disseminate it and tell them to show up with evidence for their discussion.



- Commissioner Asid asks how that is done when they want someone to show up to a meeting.
- Attorney Zullo says the Board would send a notice.
- Commissioner Polio says generally the Chairperson sends a notice to the complainant and the person being complained against so they have an opportunity. The letter can go out through the Town Hall but the Chairperson would draft the letter.

#### Item #8

Distribution of pending complaints to all members and general discussion regarding the same.

**NOTE:** No evidence or testimony will be accepted on any complaints from parties or members of the public. Due to a shift in board membership, complaints will simply be distributed and summarized to bring all members up to speed.

- Commissioner Polio provided copies of the three complaints to the other members. He says he did not contact one of the complainants to see if they wish to drop it because he wanted the Board to have the opportunity to read through it first and see the kinds of things they get. For the third file the Chairperson can call to see if they are still interested in doing it. But it's good to see the amount of information some people will give. He believes the pool was taken down, but it has been a long time since the complaint was submitted.
- Commissioner Asid says she did look into it a while back as to if they were in violation and she thinks she saw where they could impose a fine or a partial sale of the land.
- Attorney Zullo says he would advise that they read through the packet because it is not before this board as to whether or not there is a property line dispute or if the pool has to come down; that was all in Zoning. The issues in this he believes were with Mr. Falcigno and Frank Biancur. He doesn't even know if they specifically name what the violations were. He would say everyone read through them and come to the next meeting ready to make a determination as to whether or not they believe any of the complaints or all of them have merit to move forward to formal hearings and be prepared to discuss the reasons why and be prepared to vote on that.
- Commissioner Polio asks if he suggests having the people at the next meeting, should they send a letter notifying them.
- Attorney Zullo says he thinks it would be appropriate to send a letter to all of the parties letting them know they will be having a follow-up special meeting to make the determination as to if there is probable cause for each complaint to move forward.
- Commissioner Asid asks when the last time any of them acted or reacted on these.
- Commissioner Polio says their last meeting was very much like this one to try and get things going but there was only two of them there and it is hard to make

a committee out of two people. There was one party present at the time and they did receive an irate letter from one asking what is going to happen.

#### Item #9

To consider and act upon setting dates for the formal consideration of pending complaints.

- Commissioner Naclerio asks if all of the complaints can be heard at the same meeting and if there is a time limit on them.
- Attorney Zullo says yes, and apparently not these have been over a year now but he thinks it is important that they get resolved as quickly as possible now and in the future.
- Commissioner Polio asks if he suggests legally that when Marlene sends the letter out something be put in there to see if they still wish to move forward.
- Commissioner Asid asks if there is a way for them to say, without coming to the meeting, that they drop it or no longer wish to pursue. Can they say it via letter?
- Attorney Zullo says they can probably submit a form with the letter.
- Commissioner Asid says they can tell them that they are ready to hear their complaint and give them the date and time and then if they no longer wish to move forward they can sign the letter and send it back or they can come to the meeting to discuss it.
- Attorney Zullo says they should set an approximate range, say meet again in the next two weeks. Perhaps the Chair can call Danelle tomorrow to get dates and they can communicate through email and pick a date that works then get the letters out and move onto the next step.
- Commissioner Asid asks if they need 10-day notice or is there a time frame?
- Attorney Zullo says as of right now there are no time frames, 24-hour notice but with the letters they need to give them time to get them in the mail.
- Commissioner Asid says so they do the hearings also? And that's when they bring their Counsel and everything?
- Attorney Zullo says not every claim is as detailed as the one referred to earlier, most of the time it doesn't involve lawyers it is a citizen angry with a public official or something like that.
- Commissioner Asid says they are going to have the meeting to determine probable cause and then we are going to have the same people come to do what at the next meeting.
- Attorney Zullo gives an example of a complaint that comes in and they see and look at it for probable cause to move forward to a hearing and they find that it is not a conflict of interest, dual employment, etc. so there is no probable cause, end of story. So that is why they have the initial meeting, they would put the decision in writing saying there is no reason to move forward while it might be a concern to the complainant it does not violate any of their ordinances. If they adopt the standing rules there will be limited opportunity for the people who



brought the complaints in to tell them why there is probable cause to move forward and they can solicit that testimony from those people.

- Commissioner Asid says she will call the clerk tomorrow and come up with a date for the end of July/beginning of August so that if they have to schedule hearings they can get it done in August.

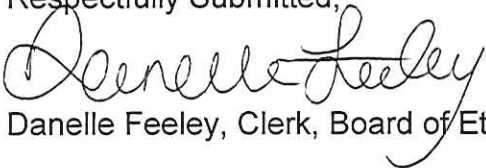
Commissioner Asid makes a motion to adjourn.

Commissioner Polio seconds the motion.

Voice vote: all in favor-none oppose-none abstain. Motion carries.

Meeting is adjourned at 7:46PM.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Danelle Feeley". The signature is written in black ink and is positioned above the printed name.

Danelle Feeley, Clerk, Board of Ethics