

**EAST HAVEN BOARD OF ETHICS
SPECIAL MEETING MINUTES
WEDNESDAY, JULY 27, 2016**

The East Haven Board of Ethics held a special meeting Wednesday, July 27, 2016, at 7:00PM at the East Haven Senior Center, 91 Taylor Avenue, East Haven in order to transact the following.

Chairwoman Marlene Asid calls the meeting to order at 7:00PM.

Item #1


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

Item #2

Pledge of Allegiance.

**RECEIVED FOR FILING
JUL 29 2016
TOWN CLERK'S OFFICE
EAST HAVEN, CONN.**

Item #3


TOWN CLERK

To consider and act upon a complaint dated April 24, 2015 (Complainant: Parrett, Charles).

- Chairwoman Asid summarizes the complaint indicating that the previous board of Ethics reviewed it in June of 2015 and the complaint was tabled until a later date.
- Commissioner Anthony Naclerio asks if this issue was resolved or if it is still outstanding.
- Chairwoman Asid says that the complaint is still outstanding because it has not been officially determined as to whether or not it has merit to move to a hearing of if they want to close it. They learned at the last meeting that the pool has been taken down.
- Commissioner Joseph Polio says he had conversation with Charles Parrett last year to ask if he wanted to move forward if the pool was gone and he was adamant he wanted this to go before the Board. He was notified of the meeting in the letter. Frank Biancur was arrested by the feds so he was already adjudicated and no longer works for the Town.
- Chairwoman Asid says he was the one who issued the permit; Mr. Falcigno approved the appeal to move forward but that was based on bad information so then Mr. Falcigno acted and said to come to some sort of agreement in so many days or tear the pool down. Mr. Onofrio's property was infringed upon, he couldn't sell his property because the parcel would be too small and the insurance company wouldn't let it infringe on his property because he would be

liable and if he wanted his own pool he couldn't because he would have two. After all that, a cease and desist order was issued and was eventually adhered to and the pool is gone. In her mind she thinks Mr. Biancur is gone so whatever violation there may have been, he has been properly adjudicated. The only issue left then is Mr. Falcigno who, in her opinion, acted in good faith on the information he was presented at the time.

- Commissioner Naclerio asks how long he was on the Board. Chairwoman Asid clarifies he wasn't on the Board he was the Zoning Officer that issued the permits.

Chairwoman Asid allows public comment.

- Robert Falcigno explains to the Board that the Orvalles had the pool infringement on their neighbors property and when it was brought to his attention he told Ms. Orvalles who was there on behalf of her father that she had to either withdraw the application or if she did not do so he recommends that the Board deny the petition and she then withdrew the application so the Board never made any decisions; any permits that were given were given by Mr. Biancur because the Board has no jurisdiction over permits. As soon as they had knowledge of an infraction, they had no jurisdiction to grant a variance to them. The Board never made a decision as to whether they could keep the pool there or not.
- Chairwoman Asid says in her opinion, Mr. Falcigno didn't issue any of the permits and then it was withdrawn.
- Commissioner Polio says the complainant should be Mr. Onofrio since he is the one that is being fowled; there is only the one letter from him in the packet.
- Chairwoman Asid says unless Mr. Parrett feels there is a reason why it needs to go any further; her opinion is that it doesn't.
- Attorney Zullo says he thinks while it is generous of them to give him deference to move forward they don't necessarily have to; they are there to make a probable cause determination and they are more than entitled to vote how they feel. There is a presumption the letters went out and he got it and the agenda was posted properly. He also could re-file if they didn't find probable cause tonight. The issue in each one is going to be in light of the provisions they have is there probable cause that any of these actions violated those provisions.
- Commissioner Polio says that Mr. Parrett also told him on the phone that whatever decisions they made he would respect.
- Commissioner Asid says one person was adjudicated and she doesn't think Mr. Falcigno willfully did anything wrong.
- Commissioner Polio adds that he thinks there was some concern that the Board went into executive session so there were no notes on it; he doesn't believe there was any information given as to what was discussed but Mr. Parrett was just suspicious.

Chairwoman Asid makes a motion to rule that this issue has been properly addressed and does not merit a hearing moving forward.

Commissioner Naclerio seconds the motion.

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

Chairwoman Asid amends the motion to rule that this issue has been properly addressed and does not merit a hearing moving forward and a letter will be sent regarding the determination to the parties previously named.

Commissioner Naclerio seconds the motion.

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

Item #4

To consider and act upon a complaint dated June 1, 2015 (Complainant: Capone, Frank).

- Chairwoman Asid summarizes the complaint.
- Commissioner Naclerio says from what he can see it is vacant land and it says that it is wetlands and landlocked. If that is the case, he thinks maybe it is just bad judgment that she sat and did the appeal but he doesn't think she did anything with grounds for removal from the Board.
- Commissioner Polio says the concern he has is that initially it was listed at \$57,550 and the question is has it been altered. Why at this time does it have a lower value? From what he knows, a reassessment generally goes up because of new things that have occurred. He concurs with Anthony and in his mind it at least reaches the appearance of impropriety. Personally he would like to hear more about it, maybe signing off on it is not the appropriate thing to do.
- Chairwoman Asid agrees and not to discredit Mrs. Cianelli, she would like to hear what their process is and how these applications come about and how they process them and how/why she accepted or approved it if that was the case.
- Commissioner Polio asks how the complainant got the information, why they got it unless they are on the Board and have access to it.
- Attorney Zullo says it is public record but he knows the gentleman was requesting copies of it; presumably he heard about it and felt it was improper so he got the records and filed a complaint.
- Chairwoman Asid says she thinks it needs to go forward to a hearing to get more information on the process, whether there were any improprieties or not and whether or not she should have recused herself, she can't see in this whether she did or did not recuse herself.
- Commissioner Polio says basically the acquisition is that she allowed her daughter to get a tax break on a piece of property and the violation he is talking

about is that she signed off on it. Whether the Board approved it and she just signed off on it is a different story so he thinks they need to hear more. He thinks they need to make sure Mr. Capone is present and ask him how he got involved in it.

- Commissioner Naclerio asks if the complaint is withdrawn do they still have to rule on it.
- Attorney Zullo says there is nothing in the standing rules about that, once something comes here he thinks they have an obligation to rule on it.

Chairwoman Asid makes a motion that they move this forward to a hearing at a date to be named and notify the parties.

Commissioner Polio seconds the motion.

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

Item #5

To consider and act upon a complaint dated August 25, 2015 (Complainant: Capone, Frank).

- Commissioner Asid summarizes the complaint and solicits comment.
- Commissioner Polio says that State Marshal's are not connected to Police; it is their job to process and serve. In some instances they used to work in the Court House and he believes they are per diem, he's not sure that they get a full salary. Anyone that would give him information from the Board of Police Commissioners to pursue someone would be a direct violation of ethics and Department rules. At that portion of the complaint, he doesn't see it as a conflict of interest as a State Marshal. He has some concern with the complaint saying that he is a contributor to the Mayor and he has not disclosed this financial benefit to the Town Council, but what is the form included in the attachments, there is disclosure there so did he just not disclose it to the Town Council.
- Chairwoman Asid says she thinks the disclosure he is talking about is that he has a job as a State Marshal and he didn't notify the Town Council that he has a paid position. She reminds that the Mayor appoints the Police Commissioners not the Town Council; she would think the Mayor knew of his employment.
- Commissioner Naclerio says the charter and provisions they are using say that an appointee can't hold two positions, he definitely is; it is a State position and a Town position. The complaint states that he is a State Marshal on behalf of the Town, does that mean he is an employee of the Town?
- Town Attorney Joseph Zullo says the Town does use Mr. Illingworth for various services along with several other marshals. At the end of the day they have to determine if there is a conflict based on whether the discharge of his official duties as a member of the Board of Police Commissioners require him to vote on

anything involving his financial interest. It is okay to have a job that pays and have a position on the Board, there are several people in Town who serve on Boards that work for the Town and they recuse themselves from voting on certain things when they have to. The question they have to consider is whether or not in the performance of his regular duties is there evidence or probable cause to believe he voted on anything pertaining to his own financial interests.

- Chairwoman Asid says the only proof or evidence he has given them is the third issue, which is contributing to the Mayor's election campaign, and that is disclosed. There is only supposition as to whether or not someone on the Commission gave him information that he could use.
- Attorney Zullo says they can't act on a potential violation and the fact that he may have information or that it could cause a conflict. They are there to determine if there is probable cause that something did happen.
- Chairwoman Asid says there is only supposition; she doesn't see an actual example. In terms of the contribution, most of the people in the Town are party affiliated and if they had to worry about every time someone contributed there wouldn't be any Boards/Commissions. The piece about whether or not he could get information from the Commission is all supposition.
- Commissioner Naclerio says okay so he is a State Marshal, when he was elected as Chairman of the Police Board, didn't the Board know if it would be a conflict. The Mayor appointed him, why should it come before this Board. If there are no grounds here, dismiss it and move on.
- Attorney Zullo says again the question is whether or not there is an actual issue/conflict that occurred.
- Commissioner Naclerio says he agrees that there is no reason to move forward because they can always sit around and say what if, but there is nothing there.
- Commissioner Polio says if he processed paperwork and there was proof that he got monies for a job he took on, that would be intent and a different story.

Chairwoman Asid makes a motion that they close the issue and deem that it does not have merit to move forward and they will notify the parties named.

Commissioner Naclerio seconds the motion.

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

Item #6

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

- Attorney Zullo explains that for the most part sections A-E are relatively similar to most Boards in Town; essentially Section F is very specific to this Board. He thought it was important to spell out what people can expect so when they file a

complaint they know what they are expected to bring and when someone is complained about they know what to expect when they come.

- The Commission thanks him for putting this together and specifying everything.
- Attorney Zullo explains that his only correction is item 11 on page 2 should read that the role of the Board is adjudicatory not investigative. They are there to make decisions, not to investigate. He explains that upon passage of these, in the motion they should specify an effective date and they will get filed in the Town Clerk's Office so that future boards have them for their reference.

Chairwoman Asid makes a motion to adopt the standing rules as drafted based on the amendment of item 11 as discussed effective 7/27/16.

Commissioner Polio seconds the motion.

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

Item #7

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

Discussion arose to determine that the meetings will be held at the Town Hall unless there is a need for a change in location, the Board would like to meet in two weeks to leave enough time to send out notification letters. The Clerk will check the room availability and notify the members of the date.

Item #8

Adjournment.

Councilwoman Asid makes a motion to adjourn.

Commissioner Naclerio seconds the motion.

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

Meeting is adjourned at 7:45PM.

Respectfully Submitted,



Danelle Feeley
Clerk, Board of Ethics