

TO: GREENBURGH TOWN BOARD

**CC: GREENBURGH TOWN CLERK
GREENBURGH TOWN ATTORNEY**

BOARD OF ETHICS ANNUAL REPORT TO TOWN BOARD FOR 2020

I. OVERVIEW

During 2020, the principal activities of the Board of Ethics were: (1) administering the Annual Statement of Financial Disclosure process, (2) issuing one opinion on a request for an advisory opinion, (3) opinions with regard to four Citizen Complaints, (4) reporting on the status of promulgation of the Code of Ethics and Ethics Training, both of which are required by the Code of Ethics, (5) in conjunction with Deputy Town Attorney Fried, developed Online Ethics Training to be used during pandemic and recommendation to the Town Board for use as a tool to comply with mandatory Ethics Training going forward

II. SUMMARY OF ACTIVITIES IN 2020

A. Annual Statements of Financial Disclosure

In 2020, with no exceptions, all Town public officers and employees who were required to submit the Annual Statement of Financial Disclosure did so. All agency members, with the exception of one, did submit the Financial Disclosure Form. It was later determined that this agency member resigned his position and was no longer required to file a Financial Disclosure Form. Letters were sent by the town to those who were non-compliant.

B. Opinions

In 2020 the Board of Ethics issued one advisory opinion in response to a confidential request and issued four opinions regarding Citizen Complaints brought against various members of the Town Board. All opinions are posted on the Board of Ethics Section of the Town's website.

ADVISORY OPINION 2020-1. In July 2019, a confidential request for an opinion was received by the Board of Ethics asking whether the requesting individual can accept an appointment to a Greenburgh advisory board even though an employee of the town who interacts and receives advice from the advisory board is a client of his firm. The requesting individual has asked that he and the town employee remain anonymous

The members of the BOE found no reason not to honor the request for anonymity. The firm is not located within the Town of Greenburgh, has no contracts with the town, does no business with the town and derives no income or revenue from town government. There are no actions or decisions which the employee has made or could make in his capacity as an employee of the town that could foreseeably have any financial benefit to the requesting individual or his firm. See Sections 570-3, 570-4, 570-4 (b).

The BOE could not at this time under the facts presented see any reason for the requesting individual to recuse himself in the decisions of the Advisory Board. Such a requirement would render his service to the Town and the Advisory Board pointless and non-productive.

It should be noted that this request was made and decided in 2019; however, due to the lack of a quorum, the opinion could not be voted on by the Board of Ethics until January 2020 when a quorum was in place.

C. Citizen Complaints

The Board was presented with two Citizen Complaints in 2019, but due to lack of a quorum, were not heard until 2020. Two additional Citizen Complaints were brought in 2020. By the year's end, all four Citizen Complaints have been decided and are posted on the Board of Ethics Section of the Town's Website. *(See Opinions 2020-2, 2020-3, 2020-4, 2020-5.)*

OPINION 2020-2:

On June 26, 2019, a verified complaint alleging a violation of the Town of Greenburgh's Code of Ethics was filed with the Town Clerk of Greenburgh by Hal Samis against S. Kenneth Jones, Town Councilman alleging that Mr. Jones solicited and accepted campaign contributions in violation of Greenburgh Town COE Section 570-4.

The BOE, had concerns with six of the seventy-five contributions, and sent correspondence to the six contributors to ascertain whether their contributions were solicited or unsolicited. The BOE received replies from five of the six inquiries sent. Since it was determined that at least two of the seventy-five contributions received by Mr. Jones were in violation of the Code, the BOE made no further attempt to elicit a response from the sixth contributor.

Mr. Jones was informed of the BOE's findings in this matter and was sent a list of recommendations by the BOE on how to avoid such violations in the future. Mr. Jones reported to the BOE in July 2020 what steps he has taken to ensure there would be no recurrence in the future. The BOE thanked Mr. Jones for his efforts to comply with the BOE's recommendations, and was satisfied that following the BOE's recommendations, that would obviate any similar violations in the future.

OPINION 2020-3:

On June 12, 2019, a verified complaint was brought by Mr. Rodney Lederer-Plaskett against S. Kenneth Jones, Town Councilman, alleging a violation of the Code of Ethics in Mr. Jones' failure to recuse himself from any town decisions involving the Bozeman Law Firm as recommended by the Board of Ethics on May 8, 2018.

The Board of Ethics after moving to a Phase I investigation, sent interrogatories to both Mr. Jones and Mr. Lederer-Plaskett. The process was somewhat delayed due to lack of a quorum of the BOE and Mr. Lederer-Plaskett's inability to retrieve records from his office to reply to the interrogatories because of the 2020 pandemic.

On May 15, 2020, Mr. Lederer-Plaskett, in his response to the interrogatories, informed the BOE that Exhibits 1 through 10 attached to his Citizen Complaint were submitted to the Attorney General of the State of New York in a complaint that Mr. Lederer-Plaskett filed against Mr. Jones with the office of the Attorney General. Said complaint predates the complaint heretofore filed with BOE and mirrors the complaint herein.

Mr. Lederer-Plaskett further advised the BOE that, to the best of his knowledge, this was an active, ongoing investigation by the Attorney General.

Internal Rules & Regulations 6-26-13, Section 5 (3) specifically states, "The Board of Ethics will use its best efforts to avoid interference with criminal investigations and will refrain from acting while a criminal investigation known to it is pending." Upon motion, the BOE unanimously approved to suspend and reserve any further action in this matter pending the outcome of the Attorney General's investigation, with leave to the complaining party to renew at such time.

OPINION 2020-4:

On July 22, 2020, a verified complaint alleging a violation of Town of Greenburgh Code of Ethics was filed with the Town Clerk of Greenburgh by Hal Samis against S. Kenneth Jones alleging Mr. Jones was in receipt of campaign contributions in violation of Section 570-4 A (1) (b) of the Code of Ethics.

After reading the complaint, the BOE noted the instant complaint included the names of contributors heretofore found not to be in violation of the code in a Citizen Complaint previously brought by the same complainant. (*See Opinion 2020-2*)

The BOE unanimously found that Mr. Samis brought the exact same charges against Mr. Jones as in his complaint of June 26, 2019 wherein the board found two violations, thus effectively acquitting Mr. Jones of any further violations from this same list of contributors. The board declared that the matter was previously decided in Opinion 2020-2, thereby rendering this complaint res judicata. The BOE further noted to reverse itself would be a violation of Mr. Jones' Fifth Amendment rights, his protection from double jeopardy.

OPINION 2020-5:

On June 26, 2020, a verified complaint was brought by Mr. Murray Bodin against Mr. Francis Sheehan, Town Councilman.

It should be noted that Mr. Bodin's complaint failed to mention any section of the Code Mr. Sheehan is alleged to have violated. The Chair sua sponte contacted Mr. Bodin for clarification as to what he is alleging Mr. Sheehan did or did not do that may constitute a violation of the Code of Ethics. While Mr. Bodin did respond to the Chair's correspondence on July 17, 2020 and July 23, 2020 respectively, Mr. Bodin was unable to cite any section of the Code that Mr. Sheehan allegedly violated. At the September 24, 2020 Zoom meeting, Mr. Bodin was requested once again for clarification on what section(s) of the code Mr. Sheehan is alleged to have violated, at which time Mr. Bodin failed to cite any section of the Code.

While the BOE granted extensive leeway to Mr. Bodin on numerous occasions to supplement his complaint, his failure to cite any section of the Code that Mr. Sheehan allegedly violated, the BOE unanimously summarily dismissed the complaint.

C. Code of Ethics Promulgation and Training

In September 2012, the Town Board made changes to the Town Code of Ethics. Over the past seven years the Board of Ethics has worked cooperatively with the Office of the Town Attorney and the Town Clerk's Office on promulgation of the revised code and with the Office of the Town Attorney on ethics training. In 2013 Greenburgh elected officials were given the required training. In 2014 the Office of the Town Attorney provided training to appointed officials and certain employees. Agency members still need to be trained. This is an ongoing process, which will continue into 2021.

Due to the pandemic, Deputy Attorney David Fried, at the request of the BOE, prepared an online method of doing Ethics Training. After much dialogue with Mr. Fried, the BOE was satisfied that Mr. Fried's online course not only met the requirements for Ethics Training, but also contained therein a method of verifying the candidate's completion of the required training.

Recommendation was made to the Town Board to implement this training, not only for use during the pandemic, but, hopefully, be adopted as a tool for Ethics Training going forward.

The BOE is awaiting additional feedback from the Town Board as to how and when to implement the online training.

D. Review and Enhancement of Board of Ethics Section of Town Website

In 2007, the Board of Ethics Section of the Town website was implemented. It contains among other things opinions, advisory opinions, Rules of the Board of Ethics, forms, Board of Ethics Reports on various ethics issues, Annual Reports of the Board of Ethics and information on the members of the Board of Ethics. This material was placed on the website to assist those individuals covered by the Code of Ethics to comply with the Code of Ethics and to provide visibility concerning ethics matters to the citizens of Greenburgh. In 2014, the Board of Ethics completed work begun in 2013 to review and enhance this section of the Town website. Included in this effort was a focus on ease-of-use of the site by users and on the completeness and currency of Section 570 and its various components. The process continued in 2018. Amendments to the Code of Ethics created by the Board of Ethics have been submitted to the Town Board of Greenburgh for ratification.

III. MEMBERSHIP AND COUNSEL

A. Membership

In January 2020, Blase J. Spinozzi was elected as Chairperson of the Board of Ethics. Trudy Holand was elected to serve as Secretary of the Board of Ethics.

In 2020, Mr. David Schwartz resigned from the Board of Ethics. The BOE acknowledged Mr. Schwartz' service, extended the gratitude of the BOE, and wished him well in his future endeavors.

On October 15, 2020, the Board welcomed new members Michael D'Alessandro and Claire Pizzuti to the Board. Mr. D'Alessandro will fill David Schwartz' vacancy, and Ms. Pizzuti will serve as an alternate member.

B. Independent Counsel

The Board of Ethics does not have compensated independent counsel. NYS Law (General Municipal Law Section 802 (2) states that a municipal board of ethics "shall have the advice of counsel employed by the board." Joseph S. Malara has served as pro bono independent counsel to the Board of Ethics since 2010. His advice and counsel have been indispensable and very helpful to the board.

IV. 2021 PRIORITIES AND RECOMMENDATIONS

A. Code of Ethics Promulgation and Training

In 2010, a New York State Ethics audit found the Town to be deficient in the area of ethics training. To date a great deal of progress has been made, but more is required in order to reach all who need the training. Although significant progress has been made, the Ethics Board will continue to work with the office of the Town Attorney to continue the successful progress and the board will continue to monitor the progress of this activity in 2021.

In 2020, as stated earlier in this report, the BOE had approved the Online Ethics Training course prepared by Deputy Attorney David Fried. The BOE will seek the Town Board's approval to implement this course and begin utilizing it in lieu of in-person Ethics Training.

B. Update of the Code of Ethics

For ministerial reasons, the BOE will seek to amend Section 470-8 (a) of the Code of Ethics, which reads as follows: "The Board of Ethics shall report to the **Town Clerk** anyone required to file the Annual Statement of Financial Disclosure for the Town of Greenburgh who fails to file the form within 30 days of the due date therefor, and the Town Clerk shall notify such persons by certified mail ...", to read as follows: "The **Board of Ethics** shall notify anyone who is required to file the Annual Statement of Financial Disclosure for the Town of Greenburgh who fails to file the form within 30 days of the due date therefor..."

Dated: January 25, 2021

Respectfully submitted,

GREENBURGH BOARD OF ETHICS

Blase Spinozzi (2025)
Trudy Holand (2024)
Doris Friedman (2022)
Tim Hays (2023)
Michael D'Alessandro (2025)
Claire Pizzuti (2025) (Alternate)

cc: Joseph Malara, Esq., Counsel

