



BOARD OF ETHICS REGULAR MEETING

Tuesday, November 21, 2017

7:00 p.m.

Lorraine H. Morton Civic Center, 2100 Ridge Avenue, Room 2403

AGENDA - REVISED

1. CALL TO ORDER / DECLARATION OF QUORUM

2. APPROVAL OF MEETING MINUTES of: October 17, 2017

3. PUBLIC COMMENT

4. NEW BUSINESS

A. Complaint 17 BOE 004 filed by Madelyn Ducre against all City Council members (Ald. Fiske, Ald. Braithwaite, Ald. Wynne, Ald. Wilson, Ald. Simmons, Ald. Suffredin, Ald. Revelle, Ald. Rainey, and Ald. Fleming)

B. Executive Session – Authorized by 5 ILCS 120/2(c)(15) and (21)

5. OLD BUSINESS

Discuss amendments to the Board of Ethics process contained in City Code Section 1-10-8 “*Administration of the Code*”.

6. ADJOURNMENT

Next Meeting: December 19, 2017 at 7:00 p.m. in Room 2403

Meeting minutes of October 17, 2017



MEETING MINUTES

BOARD OF ETHICS

Tuesday, October 17, 2017

7:00 p.m.

Lorraine H. Morton Civic Center

2100 Ridge Ave, Room 2402

Members Present: Kelda Harris-Harty, Jennifer Bilingsley, Elizabeth Gustafson and Vincent Thomas.

Members Absent: Jennifer Billingsley

Staff Present: Alexandra MacKey, Staff Attorney

Presiding Member: Kelda Harris-Harty, Committee Chair

1. Quorum:

Chairwoman, Harris-Harty declared that the Board had a quorum, with 4 of 5 members present and called the meeting to order at 7:04 p.m.

2. Minutes: The board approved the minutes of August 15, 2017.

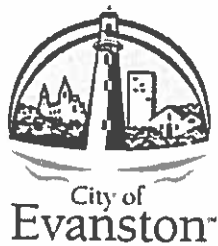
3. Public Comment: Misty Witenberg spoke about the board is reviewing the code and process to file an Ethics violation as many changes are needed. She spoke about making the process easier on citizens and the code needing to be written in plain English. She also spoke about her concerns that the Board of Ethics members are appointed by the Mayor and approved by City Council, when the Board reports to the Mayor and City Council.

4. Old Business: Code revisions continue to be discussed. Several changes were proposed including: making the Board of Ethics meeting time more flexible, clarifying if the code applies to independence contractors with the City and all hired contractors, the waiver process and sample waivers, simplifying the complaint filing process including a form to file a complaint as well as the City mailing out the complaint to the subject of the complaint, and removing the Law Department's ability to administratively dismiss a complaint.

ADJOURNMENT

Upon motion and second, the meeting was adjourned at 8:56 p.m.

**Complaint 17 BOE 004
filed by Madelyn Ducre**



INQUIRY/COMPLAINT FORM

I believe that, to the best of my knowledge, information and belief formed after reasonable reflection, the information given in this inquiry/complaint is true. I request that the City of Evanston Board of Ethics evaluate the information provided and request it take appropriate measures in accordance with the procedure outlined in the City Code, Title 1, Chapter 10.

[TYPE OR PRINT]

MADELYN DUCRE
My name (printed)

1929 Foster St.
street address

847.475.8617
My contact phone number

Evanston, IL 60201
city/state/zip code

ducresb@comcast.net
My e-mail address

City of Evanston elected official, board or commission member, or employee that I wish the Board of Ethics to review:

City of Evanston Council / All 9 members =
Name

Position or job title, if known

N/A
Department or Board/Commission Name

Aldermen: Judy Fiske 1st ward
Peter Braithwaite 2nd ward
Malissa A. Wynne 3rd ward
Donald N. Wilson 4th ward
Robert Rue Simmons 5th ward
Thomas M. Suffredini 6th ward
Eleanor Revelle 7th ward
Ann Rainey 8th ward
Lizely L. Fleming 9th ward

*Please note, if you wish to file an inquiry/complaint about more than one person, you must file a separate form (and any attachments) for each person.

Please describe the facts that you believe constitute a violation of the City of Evanston Code of Ethics in sufficient details to enable the Board of Ethics and the person who is the subject of the inquiry to understand the nature of the alleged violation. Provide as many details as possible, including names, approximate dates. If possible, please provide citations to the applicable Code of Ethics section that you believe may have been violated. Add extra sheets if needed and attach copies of any pertinent documents. A copy of this inquiry/complaint will be sent to the person who is the subject of the inquiry/complaint and may be available to the public.

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See Attachment Page 3:

In my opinion "incivility" toward me and the 5th ward residents can lead to a variety of situations. Simply put it will be hard to get things done when we cannot work through our differences with the City Council of Evanston. The Council lack of respect to our community - by not having an open full discussion on this R3-B1 zoning will cause more confusion amongst our community.

Signature

Madelyn Ducrel

Date

November 3, 2017

To: The City of Evanston Ethics Committee 2100 Ridge 60201 Nov 3, 2017

I, Madelyn Ducre, am presenting this formal complaint to the Ethic Committee, relating to the unethical behavior of the (9) nine members of the city council and their names are as follows.

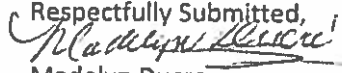
1st Ward Judy Fiske 2nd Ward Peter Braithwaite 3rd Ward Melissa A. Wynne 4th Ward Donald N. Wilson

5th Ward Robin Sue Simmons 6th Ward Thomas Suffredin 7th Ward Eleanor Revelle 8th Ward Ann Rainey
9th Ward Cicely Fleming

On September 25, 2017 this item was put on the consent agenda. Later the council gave their approval to change the R3 zoning at 1829 Simpson St to B1 zoning, giving special use to a type 2 restaurant.

On October 9, 2017 this council did not have the decency to give me nor the other residents of the 5th ward a full council discussion on this matter, which meant a lot to us residents.

Both the Zoning and the Planning committees denied granting approval to change this zoning R3 to B1. Also we would like the Ethics Committee to retrieve and review the emails regarding those who wanted the restaurant.

Respectfully Submitted,

Madelyn Ducre

1929 Foster St

Evanston, IL 60201

847.475.8617

ducreb@comcast.net

CCC: To the City Clerks Department, Legal Department, All 9 Aldermen, the Mayor and the City Manager.

**Amendments to Section
1-10-8 “Administration of
the Code”.**

10/11/14/2017

Style Definition: Normal

53-__-O-1718

AN ORDINANCE

Amending City Code Section 1-10-8 to Revise the Rules of Procedure for Matters before the Board of Ethics and Revise the Penalties Available for Violations of the Code of Ethics

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: Section 1-10-8, "Administration of the Code" of the Evanston City Code of 2012, as amended, is hereby deleted and replaced as follows:

The administration of the Code of Ethics shall be in conformance with the *Board of Ethics Rules of Procedure* attached as Appendix A and incorporated herein as though fully restated. Any future amendment(s) to the *Board of Ethics Rules of Procedure* requires approval from a majority of elected City Council members.

SECTION 2: Section 1-10-9, "*Sanctions and Penalties*" of the Evanston City Code of 2012, as amended, in hereby deleted and replaced as follows:

"1-10-9. VIOLATIONS OF THE CODE OF ETHICS"

If the Respondent to an Ethics Complaint or the individual(s) subject to an Advisory Opinion is an employee, non-elected officer or appointed official, the Board may, if it determines corrective action is necessary, notify the person's appointing authority and recommend that the appointing authority take action, including discipline. If the subject of the inquiry is an elected official, the Board may propose actions appropriate to the finding, including: (a) a recommendation that the person abstain from further action found to violate the Code, (b) cease to participate in activities relating to code violations (committee activities, voting on legislation etc) in the matter; or (c) refer the matter to federal or state authorities for possible prosecution; ~~or (d) issue a waiver from the provisions of the Board of Ethics.~~

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SECTION 3: Any findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: This Ordinance ~~53-__-O-4718~~ shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 6: If any provision of this Ordinance ~~53-__-O-4718~~ or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance ~~53-__-O-4718~~ that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance ~~53-__-O-4718~~ is severable.

Introduced: _____,
~~2017~~2018

Approved:
_____,
~~2017~~2018

Adopted: _____,
~~2017~~2018

Stephen H. Hagerty, Mayor

Attest:

Approved as to form:

Devon Reid, City Clerk

W. Grant Farrar, Corporation Counsel

CITY CODE § 1-10-8: APPENDIX A – ADMINISTRATION OF THE CODE

BOARD OF ETHICS RULES OF PROCEDURE

These Rules of Procedure (the “Rules”) for the Evanston Board of Ethics (the “Board”), as amended, replace and supersede all prior versions. The effective date is the date of adoption of Ordinance ~~53-___-O-4718~~ by the City Council, _____, 20172018.

I. ADMINISTRATION

A. Intent: It is the intent of the Evanston Board of Ethics that these Rules establish procedures that are timely and are fair to officers, officials and employees of the City and also to citizens who wish to report possible violations of the Code of Ethics. These Rules are intended to set forth the procedures to implement the requirements of Title 1, Chapter 10 “Board of Ethics”, of the Evanston City Code of 2012, as amended (the “City Code”). The City Code and these Rules govern the procedures by which the Board must operate and review matters within its jurisdiction. Adherence to the City Code and all other applicable Federal, State, and local regulations are of paramount concern and consideration. The Rules shall fully replace all prior rules of procedure for the Board. In the event of any contradiction between these Rules and the City Code, the Code shall prevail, and if the Code is silent on an issue, the Rules shall prevail.

B. Definitions:

1. “Board” or “Board of Ethics” shall mean and refer to the Evanston Board of Ethics appointed by the Mayor and approved by the City Council, pursuant to Title 1, Chapter 10 of the City Code.
2. “Board member” shall mean a member of the Evanston Board of Ethics.
3. “Board Staff Attorney” shall mean an attorney from the City Law Department who assists the Board in its purpose.
4. “Code of Ethics” shall mean and refer to Section 1-10-4 of the City Code, as it may be amended from time to time.
5. “City” shall mean the City of Evanston, Cook County, Illinois.
6. “Complainant” shall mean a person(s) that files a complaint with the Board of Ethics against an individual to be reviewed by the Board of Ethics.
7. “Corporate Authorities” shall mean the Mayor and City Council of the City of Evanston.
8. “City Code” shall mean the City of Evanston Code of 2012, as amended.

9. "Employee" shall mean any person in the employ of the City or of any of its agencies or departments.

10. "Officer" any of the following: the Mayor, the members of the City Council, City Clerk and City Manager.

11. "Official" shall mean and refer to a member of a City board or committee.

12. "Respondent" shall mean and refer to the individual that is the subject of a complaint filed with the Board of Ethics by a Complainant.

C. Board Members: The Board shall consist of five (5) members appointed by the Mayor with the advice and consent of the City Council to terms of three (3) years. The members must designate a Chairperson. At the discretion of the Mayor, each Board member may be reappointed for just one (1) additional term.

D. The Board

1. Board Roles. The Board will consist of a Chairperson, a Vice-Chairperson and a Sergeant in Arms. Each year the Board must make the appointments following the following year at the last meeting prior to January 1st of the following calendar year or at a meeting as close to that date as practicable.

2. The Chair responsibilities include:

- (a) Preside at all meetings;
- (b) Administer oaths to or accept affirmations from all persons who wish to testify at hearings;
- (c) Decide all points of order, procedure and evidence unless overruled by a majority vote of the Board;
- (d) Issue subpoenas, if authorized by the Board;
- (e) Execute written advisory opinions issued by the Board; and
- (f) If needed, the Chair may appoint a board member to be hearing scribe and take notes during testimony from the complainant, respondent and any other persons.

3. Vice Chair: In the absence of the Chair, the Vice Chair must exercise all powers of that Chair.

4. Sergeant in Arms: During meetings, the sergeant at arms keeps order. If other board members or meeting attendees are disruptive, the sergeant may warn them and, in extreme cases, eject them from the meeting. The role involves a review of the procedure for an ethics hearing to attendees.

E. Meetings:

1. Regular meetings of the Board shall be held monthly at a posted time which maybe on the third Tuesday of the month at 7:00 p.m. in the Civic Center at 2100 Ridge

Avenue, Evanston, Illinois. Notice shall be posted of all meetings and conducted in accordance with the Illinois Open Meetings Act, 5 ILCS 120/1 *et seq.*

2. Special meetings shall be open. Notice of a special meeting shall be posted at least forty-eight (48) hours prior to convening and it shall set forth the time and place of such special meeting and the specific agenda items to be discussed. No other business shall be discussed at such a special meeting except for the agenda items listed.

3. All meetings shall be open to the public except for deliberations on inquiries and advisory opinions and pursuant to those exceptions set forth in the Illinois Open Meetings Act 5 ILCS 120/1 *et seq.* During any regular or special meeting, a closed session may be held upon a proper motion made by any single member of the Board for the purpose of discussing personnel. Closed sessions may be limited to Board members and such invited persons as the Board deems necessary. The secretary will record the motion to close the meeting and keep minutes of the closed session. Closed sessions shall be taped, audibly or visually, with said tapes being maintained for a period not less than 60 days.

4. Written minutes of the Board meetings which are open to the public shall be taken either by a designated Board member or the Board staff attorney.

5. Abstention. If any member of the Board wishes to abstain from participating in a particular case, he/she shall announce that fact on the record, stating the reason for such abstention.

F. Quorum: A quorum of the Board shall be three (3) members.

G. Order of Business: The order of business shall be dictated by a packet and agenda prepared and presented to the Board in advance and the order of business shall typically be as follows:

- I. Approval of the minutes
- II. Communications
- III. Old Business
- IV. New Business
- V. Adjournment

The Chair may alter the Order of Business.

H. Rules of Procedure: The Board shall be guided by parliamentary law as prescribed in *Roberts Rules of Order*, as amended, unless in conflict with these Rules and if such a conflict exists, these Rules shall govern.

I. Amendments to the Rules: Proposed amendments to these Rules may be proposed at any open meeting of the Board and shall be done in consultation with the

Corporation Counsel. Any and all amendments proposed by the Board shall be transmitted to the Rules Committee of the City Council for its consideration and approval.

J. Citizen Comment: All meetings open to the public shall provide time for public comment. The following rules apply:

1. The comments of individual citizens shall not exceed three (3) minutes.
2. The comments of a group of citizens, such as an organization, association, or similar assemblage of individuals shall not exceed ten (10) minutes.
3. All time limits may be modified at the discretion of the chairperson. Reasonable adjustments may be made on a case by case basis to accommodate the requirements of extraordinary situations.
4. Citizen comment will be permitted at a preliminary hearing as provided in Section III(D). It will not be permitted at a full hearing as provided by Section V, in which the Board only allows testimony from the Complainant, Respondent, or counsel for either party.

II. REQUESTS FOR ADVISORY OPINIONS

A. Request for an Advisory Opinion: Any current officer, official or employee of the City may submit a written request to the Board for an advisory opinion on whether specific conduct by the subject officer, official or employee constitutes a potential or actual violation of the Code of Ethics. The Mayor or Alderman can make a verbal request for an advisory opinion at any Council or Committee meeting.

B. Request: A written Request shall be filed with the City Law Department. The Request will be presented to the Board for consideration and it shall contain a summary of pertinent facts. The Request does not need to be notarized.

C. Dismissal:

1. The chairperson of the Board may administratively dismiss a request for an advisory opinion for either of the following reasons:
 - (a) One or more requests or complaints regarding the same matter are pending.
 - (b) The Board previously addressed the subject matter.
2. At any time, the Board may dismiss the request for an advisory opinion based on any of the following reasons:
 - (a) The Board lacks jurisdiction over the person subject to the advisory opinion.
 - (b) The Board lacks jurisdiction over the subject matter.
 - (c) The person asserting the claim lacks the legal capacity to file the request for an advisory opinion without a hearing.
 - (d) The request for an advisory opinion is barred because of release, prior findings, or other disposition of the claim before the request for an advisory opinion was filed.

(e) The request for an advisory opinion on its face fails to identify any purported unethical conduct.

D. Presentation to Board: Upon presentation of a request for an advisory opinion, the Board may direct the Board staff attorney to obtain relevant additional information. Any information acquired by the Board staff attorney in the course of investigation is confidential unless disclosed by the Board. The person requesting the advisory opinion, and if applicable, any person subject to the request shall have the opportunity to speak to the Board at the meeting scheduled to address the matter.

E. Issuance of Opinion: The Board shall render an advisory opinion in writing to the person who requested the opinion no later than forty (40) calendar days from the time it received the request, unless:

- The person who requested the opinion withdrew the request in writing, or
- Requested additional information was not received by the Board, or
- The Board gave written notice to the person requesting the opinion explaining the reason for the delay and stating an expected issuance date.

If no genuine issue as to material fact exists, then the Board may issue an advisory opinion without a hearing.

F. Publication of Opinion: The Board may publish advisory opinions with such deletions as may be lawful and necessary to prevent disclosure of the identity of the individual involved. The Board may also publish guidelines based on an advisory opinion if the subject matter of the opinion may be of general interest and guidance. The Chair or his/her designee shall transmit copies of the Board's order to the Party filing the request, the person subject to the request, and other persons as the Board directs.

G. Referral of Matter: If the Board reasonably believes, based in fact, that an advisory opinion was not complied with, it shall inform the person, the person's appointing authority and the Corporation Counsel in writing and shall request the appointing authority to take appropriate action after consulting with the Corporation Counsel.

III. COMPLAINTS AND ANSWERS

A. Complaint:

1. Person(s) (the "Complainant"), may file a complaint charging a public officer, official or employee with unethical conduct. The Complaint form is attached as Exhibit A.

2. The Complaint shall comply with all of the following requirements:

(a) Be in writing;

(b) ~~Specify 1 or more of the sections of~~ Describe prohibited conduct outlined in the Code of Ethics;

(c) Include ~~evidentiary~~ facts and any documents supporting the allegations in the complaint;

- (d) Contain a statement that the Complainant read the Complaint and knows its contents, and believes the alleged violations are true; and
- (e) The signature of the Complainant(s) ~~are witnessed and attested to by a notary. must be notarized.~~

3. The Complainant must serve both the Board staff attorney at the following address: City of Evanston Board of Ethics, Attn: Law Department, 2100 Ridge Avenue, Evanston, IL 60201 and serve the subject person(s) in the complaint (the "Respondent") at their last known mailing address via certified mail. Service ~~shall mean depositing by electronic mail is valid on the answer with the United States Postal Service for Respondent if a City of Evanston email account exists (i.e. employees and elected officials). Otherwise, service will be conducted by~~ certified mail ~~delivery.~~

B. Administrative Dismissal of Complaint:

~~1. Board staff may administratively dismiss a complaint if the complaint fails to comply with Section III (2) and (3).~~

~~2.~~ 1. The chairperson of the Board may administratively dismiss a complaint for either of the following reasons:

- (a) One or more complaints regarding the same matter are pending; or
- (b) The Board previously addressed the subject matter.

~~3.~~ If it has been determined that the complaint complies with Section III A(2) and B(2), then the Board staff attorney shall notify the Complainant and the Respondent of a preliminary hearing date for the Board to review the Complaint. To the greatest extent possible, the preliminary hearing date will be conducted within 15 business days of the filing date.

C. Board Review in Preliminary Hearing:

1. The Complainant and the Respondent shall have an opportunity to address the Board at the preliminary hearing scheduled to address the complaint. There shall be no citizen comment at the preliminary hearing. Parties may be represented by Counsel, and such Counsel must file a written appearance with the Board.

2. At the preliminary hearing, the Board may dismiss the complaint with an order based on any of the following reasons:

- (a) The Board lacks jurisdiction over the person subject to the complaint;
- (b) The Board lacks jurisdiction over the subject matter;
- (c) The complainant lacks the legal capacity to file the complaint;
- (d) The complaint is barred because of release, prior judgment, or other disposition of the claim before the complaint was filed; or
- (e) The complaint on its face fails to state a claim of unethical conduct.

3. If no genuine issue as to any material fact exists, then the Board may issue a decision without a hearing.

4. If the Board determines that the complaint cannot be resolved under subsection C(3) during the preliminary hearing, the Board may schedule a hearing in accordance with Section V and subsequently issue a decision in the matter. The Complainant or the Respondent can request an expedited hearing at the preliminary hearing. The moving party for an expedited party must demonstrate irreparable harm that will occur if the issue in question is not investigated immediately. The Board may grant said motion in unique situations upon a finding that an expedited hearing is necessary to address ethical issues and conduct which is presently occurring and must be addressed in short order. In the event a formal hearing is to be convened pursuant to Section V, the Respondent may file an answer to the Complaint with the Board.

(a) The Respondent, or his/her counsel, must serve both the Board staff attorney at the following address: City of Evanston Board of Ethics, Attn: Law Department, 2100 Ridge Avenue, Evanston, IL 60201 and serve the subject person(s) in the complaint (the "Respondent") at their last known mailing address via certified mail. Service shall mean depositing the answer with the United States Postal Service for certified mail delivery.

(b) The answer shall comply with all of the following requirements:

1. Be in writing; and
2. Include a response to each allegation raised in the complaint.

5. If the Board determines that the Complaint can be resolved without a hearing, the Board shall issue a ruling and send a written copy of the Board's findings and recommendations to the Complainant and the Respondent and, unless provided otherwise in these Rules or in the Code of Ethics, shall make the findings and recommendations public.

IV. INVESTIGATIONS INITIATED BY THE BOARD

A. Board inquiries: The Board may direct its staff attorney to make an informal investigation relating to a Financial Disclosure and Affiliation Statement reviewed by the Board as required by City Code § 1-10-3, which could affect the ethical conduct of a public official or employee as it performs its duties. The investigation and its results shall not be disclosed except to the Board.

B. Reasonable cause: If the Board determines that there is probable cause to conclude that the practice could affect the ethical conduct of a public officer or employee and that substantial factual matters are in dispute, then the Board shall schedule a meeting. The Board staff attorney shall send notices of the meetings to the Complainant and Respondent.

C. Termination of Investigation: If the Board determines that there are no reasonable grounds to conclude that the practice could affect ethical conduct, then it shall terminate the investigation and the Board shall provide prompt written notice of the conclusion to all persons of whom inquiry was made. The Board may issue a report of its actions.

D. Schedule Hearing: If the Board determines that the matter cannot be resolved under subsection B or C, then the Board may schedule a hearing.

V. HEARINGS

A. Logistics

1. The Board may hold a hearing to further review the merits of a complaint, a request for an advisory opinion, or upon conclusion of an investigation.

2. Upon expiration of the time provided for written submissions, the complaint and answer, the materials shall be presented to the Board for its consideration at the noticed hearing within 14 days of receipt of the answer or at the next regularly scheduled hearing, whichever is later. The Board shall receive copies of the complaint and answer at least 5 business days prior to the hearing on the matter. Upon presentation and review of the complaint and answer, the Board may direct its staff attorney to gather additional information regarding the complaint for review at a continued hearing.

2. Not fewer than 7 calendar days before the date of the hearing, the Board staff attorney shall notify any interested party, shall post the notice on the board's website and at the Civic Center. The notice shall state the time, place, date case name, statement of facts, and issue(s) to be heard at the hearing as determined by the Board.

3. Hearings are to be held before the Board. The Board Chair shall preside over the hearings or in the Chair's absence, members of the Board shall appoint a Board member as Chair Pro Tem.

4. To ensure that the review process is fair and impartial, Board Members, the staff attorney, and parties to matters pending before the Board are held to certain standards regarding "ex parte" communication. Board members, the staff attorney, and parties shall not discuss a pending matter outside of the hearing. Parties may not, for example, present information to Board members and/or the staff attorney about the facts or merits of a case, or the interpretation of the Code of Ethics. Communication between the parties and staff attorney is allowed for procedural, scheduling, and status inquiries.

5. If any party wants to have the hearing transcribed by a court reporter, that party is solely responsible for the expense.

B. Citizen Comment: There shall not be any citizen comment permitted during the hearing on a complaint. Citizen Comment is permitted during a meeting of the Board of Ethics as provided in Section I(J).

C. Presiding Board member Roles: The Chair of the Board shall:

1. Administer oaths as deemed appropriate by the Board.

2. Request the attendance of any witnesses whose testimony, in the judgment of the Board, will aid in the conduct of its investigations.

3. Request, the production of books, papers, and other documentary evidence to aid the Board in its investigation.
4. Fix the time and form for the submission of evidence or argument.
5. Adjourn a hearing for good cause to such time, date and place as the presiding Board member or hearing officer determines to be appropriate. The Board is not bound by the Illinois Rules of Evidence in any hearing.
6. Maintain decorum during a hearing.

D. Standard of Review: The standard of review shall be clear and convincing evidence. The complainant shall have the burden of introducing the requisite evidence to prove the alleged unethical conduct by said standard. The Complainant shall have the burden of presenting facts or issues to the Board for its consideration. The Respondent has all of the following rights:

1. Be present.
2. Be represented by counsel.
3. Testify.
4. Produce and examine witnesses.
5. Cross-examine adverse witnesses.
6. Introduce other evidence that is material and relevant to the issues.

E. Deliberations: Prior to adjournment, the Chair will close the record and no additional evidence will be considered. Within 14 days of the conclusion of the hearing, the Board may meet in executive session to review the evidence and determine if the allegations in the Notice of Hearing have been proven by clear and convincing evidence. Only members who have been present for the hearing may participate in the deliberations, and any findings and recommendations must be adopted by a majority of the Board. No final action shall be taken by the Board in executive session.

F. Advisory Opinion or Recommendations/Findings: Within 7 days of the conclusion of deliberations, the Board shall issue a written decision setting forth its findings and recommendations. In the alternative, the Board where it deems it appropriate may issue an advisory opinion in lieu of making findings and recommendations. If the Respondent is an employee, non-elected officer or appointed official, the Board may, if it determines corrective action is necessary, notify the person's appointing authority and recommend that the appointing authority take action, including discipline. If the subject of the inquiry is an elected official, the Board may propose actions appropriate to the finding, ~~ranging from a recommendation that the person abstain from further action in the matter or seek a waiver.~~ If the subject of the inquiry is an elected official, the Board may propose actions appropriate to the finding, including a recommendation that the person ~~{cease}~~ or abstain from further action found to violate the code, participate in activities relating to code violations (committee activities, voting on legislation etc) ~~-in the matter or seek a waiver from the Board of Ethics,~~ or refer to the federal or state authorities for prosecution.

The Board may consider, when making findings and recommendations:

- The severity of the offense;
- The presence or absence of any intention to conceal, deceive, or mislead;
- Whether the violation was deliberate, negligent or inadvertent; and
- Whether the incident was isolated or part of a pattern.

G. Dissemination of the Advisory Opinion or Recommendations/Findings: The Board or its designee shall send a written copy of the Board's findings and recommendation to the subject of the inquiry and the person who submitted the inquiry and, unless provided otherwise in these Rules or in the Code of Ethics, shall make the findings and recommendations public.

VI. BOARD DETERMINATIONS; PUBLICATIONS

A. Opinions: The Board shall publish its decisions and opinions, including dissents, and make them available for public inspection on its website.

B. Redactions: the Board may direct the staff attorney to designate the record, or a portion of the record, supporting or concerning any complaint or advisory opinion, where public disclosure would constitute a clearly unwarranted invasion of an individual's privacy or where disclosure is prohibited by law.

C. Inspection: The Board shall deny public access to the original document and any legal analysis necessary to support the decision of the Board in a case where the record has been redacted.

D. Administrative Review: No Board opinion or determination is subject to administrative review (735 ILCS 5/3 *et seq.*).

VII. DISQUALIFICATION

A Board member or the Board staff attorney shall disqualify himself/herself from participating in any matter before the Board in which his/her impartiality might reasonably be questioned, including, but not limited to, instances where he or she has a personal bias or conflict of interest concerning a party or personal involvement in the matter to be addressed. In the event that the Board staff attorney has been disqualified from advising the Board of the subject matter, the Board shall request a different attorney from the Law Department to perform all functions the employee would otherwise perform with respect to the subject case resulting in the disqualification.

EXHIBIT A

EVANSTON BOARD OF ETHICS COMPLAINT FORM

Complainant's Name: _____

Complainant's Address: _____

Complainant's Email Address: _____

Complainant's Telephone Number: _____

Name and Position of Person to Whom this Complaint Relates:

Description of the facts and circumstances that you believe violates the Code of Ethics (Title 1, Chapter 10):

I SOLEMNLY AFFIRM UNDER PENALTY OF PERJURY THAT THE CONTENTS OF THE FOREGOING ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Complainant's Signature Date

STATE OF _____.

COUNTY OF _____, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before me, the subscriber, a Notary Public of the State of _____, in an for _____ County, personally appeared _____, who made oath in due form of law and affirmed under the penalties of perjury that the matters and facts set forth above in this Ethics Complaint Form are true and correct to the best of his/her knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

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