To: Town Board
Cc: Town Clerk
Re: Corrective Action Plan re NYS Comptroller Ethics Report Examination Letter on Ethics Audit

The Board of Ethics has reviewed the NYS Comptroller Report on "Ethics Oversight in New York State Municipalities", March 2010 (2009-MR-4), the NYS Comptroller Examination Letter to the Town of Greenburgh S4-09-109 dated March 18, 2010, and the proposed amendments to the General Municipal Law pertaining to municipal codes of ethics (S 7400 introduced April 7, 2010; A 10682 introduced April 14, 2010) and the related press statement of NYS Comptroller Thomas P. DiNapoli supporting such legislative initiative.

With regard to the issues raised in the Examination Letter and the Corrective Action Plan ("CAP") required to be submitted by the Examination Letter and General Municipal Law ("GML") Section 35 by June 18, the Board of Ethics has the following comments:

**Recusal**

S 7400 and A 10682, supported by the NYS Comptroller, propose to amend GML Section 803-a to provide for recusal of municipal officers, including members of municipal boards, and employees "where the matter relates to (a) a contract on which the [individual] or his or her spouse has in interest [defined as a direct or indirect pecuniary or material benefit] or (b) an application, petition or request by an applicant in which the [individual] has an interest that must be disclosed pursuant to section [809] of [General Municipal Law]." This would apply to all Town officials, agency members and employees.

**Board of Ethics Recommendation:** The Town Board should state in the CAP that it notes the scope and standards in S 7400/A 10682 and that it will amend the Code of Ethics consistent therewith. The Board of Ethics will develop such a provision and forward it to the Town Board.

**Hiring and Supervising Relatives**

The Code of Ethics does not have any provisions directed to the hiring and supervising of relatives.

**Board of Ethics Recommendation:** The Town Board should state in the CAP that it will amend the Code of Ethics to provide that no Town official or employee shall participate in any decision to hire, discipline or fire relatives or shall supervise or evaluate the work of any relatives employed by the Town. The Board of Ethics will develop such a provision and forward it to the Town Board.

**Training and Distribution of Code of Ethics**

Section 10 of the Code of Ethics deals with these subjects.

Sections 10 A - E contain provisions for the distribution of the Code of Ethics to Town officials and employees and to person and legal entities having a contract with the Town providing for payments in excess of $ 100,000. Distribution is to be made by the Town Attorney or Town Clerk, as specified in those sections. The Board of Ethics has no information, one way or the other, as to whether these sections have been complied with.

Section 10 F deals with training. The Town Attorney's Office is required to develop training materials, which materials are to be submitted to the Board of Ethics for review. Each person who is required to file an annual financial disclosure statement is required to attend a Code of Ethics training program conducted by the Town Attorney's Office at least once every two years. The Board of Ethics has never received any training materials prepared by the Town Attorney's Office, so it presumes that no training materials have been developed by the Town Attorney's Office and that no training programs have been conducted by the Town Attorney's Office.

**Board of Ethics Recommendation:** The Town Board should state in the CAP that it has complied (or if appropriate, will institute procedures to comply) with the Code of Ethics distribution requirements. In the CAP, the Town Board should also commit to have the Town Attorney's Office obtain or develop training materials and conduct training programs as required by the Code of Ethics.

**Annual Financial Disclosure Statements**
This process takes several months. After consultation with the Board of Ethics, letters transmitting the annual financial disclosure forms are originally sent out by the Town Attorney's Office. At each following Board of Ethics meeting, there is an update on the status of responses, and coordination with the Town Attorney's Office as to "next steps" to take with respect to non-filers. This is all reflected in the minutes of the Board of Ethics. The response level has been virtually 100%. This was recognized in the NYS Comptroller Report (p 10): "The aggressive process [of the Town of Greenburgh] to pursue compliance was effective and provides a good model for other localities to consider." When the financial disclosure statements are received, the process is that the Town Attorney's Office reviews the statements, except those filed by elected officers (Town Board, Town Clerk, Town Judges) which are reviewed personally by the Board of Ethics as reflected in the Board's minutes. To avoid the Town Attorney's Office reviewing its own statements, going forward the Board of Ethics will add those statements to the ones reviewed by it.

Under Section 8E of the Code of Ethics, "the Town Board shall determine the list of persons who are subject to the disclosure requirements of this Section." This is as important part of the process, so that the annual financial disclosure forms are sent to the proper individuals. The Town Board has not done this since the Board of Ethics was reconstituted in 2007. With regard to municipal boards, the annual financial disclosure forms have been sent to the members of municipal boards generally consistent with pre-2007 practice (although there appear to be some inconsistencies as to which boards are included/excluded).

Board of Ethics Recommendation: The Town Board should state in the CAP that it will determine and publicize the individuals who are required to file the annual financial disclosure statements and that it will update and publicize the list annually. The Town Board should also state, as recommended by the NYS Comptroller, that it will develop internal procedures to maintain a list of outside business interests disclosed on the annual financial statements and supply that list internally to appropriate municipal departments who buy or who are in the process of contracting to buy goods and services on behalf of the Town.

THE BOARD OF ETHICS
Adopted at the May 19, 2010 Meeting
By: Mr. McLaughlin
    Mr. Rivera
    Mr. Scott
    Mr. Sigal