

TO: GREENBURGH TOWN BOARD

**BOARD OF ETHICS ANNUAL REPORT TO TOWN BOARD,
PURSUANT TO SECTION 11G OF CODE OF ETHICS, FOR YEAR 2007**

I. OVERVIEW

The Board of Ethics was reconstituted during the Year 2007, first with the appointment of two new members in the winter and then with the appointment of two additional new members in the summer. There were no published internal rules or procedures for the Board of Ethics. There was an outstanding request for an advisory opinion, which was over two-years old. There was a legislative initiative to promulgate a massive revision to the original Code of Ethics adopted in 1991. There were no published opinions of the Board of Ethics to give guidance on municipal ethical matters.

We understand that the "old" Board of Ethics did not hold regular meetings; had not met for over a year; and when it did meet, did so by telephone. We understand that meetings were not open to the public; agendas were not posted in advance; and minutes of the meetings were not posted. After the appointment of the two new members in the winter of 2007, two members of the old Board of Ethics resigned.

In this context, the "new" Board of Ethics devoted the bulk of its efforts during the Year 2007 to:

(i) begin developing institutionalized processes for the Board of Ethics and begin developing information and forms for the public, all of which for the first time was published on the Town website;

(ii) after study of other municipal codes of ethics, providing its views to the Town Board as to legislative matters; and

(iii) issuing formal opinions, filed with the Town Clerk, to begin to form a framework of guidance for Town officials and the public.

II. SUMMARY OF ACTIVITIES

A. Institutionalizing and Publishing Procedures

Immediately, the Board of Ethics initiated the practice of holding regularly-scheduled meetings and publicly filing agendas and minutes on the Town's website. In April 2007, the Board of Ethics adopted and published an initial set of Internal Rules and Regulations to provide for the efficient working of the Board. Among other things, the Rules and Regulations provide that the public is encouraged to attend the open portions of the Board of Ethics meetings. All meetings of the Board of Ethics have been in public session, with the exception of those portions of several meetings where the Board of Ethics went into executive session.

After the adoption of the new Code of Ethics, the Board of Ethics developed a legend that candidates for public office may place on campaign materials regarding the new rules pertaining to political contributions. The Board of Ethics also developed (i) general information for the public concerning political contributions and (ii) a form that citizens may use if they file a citizens complain authorized under the new Code of Ethics.

With the assistance of the Town's Webmaster, the Board of Ethics has established a "document page" on the Town's website. In addition to its Opinions and its Internal Rules and Regulations (which have now been amended several times as the "new" Board of Ethics gains more experience), postings on the Board of Ethics page include:

"General Information Concerning Gifts and Contributions to Greenburgh Town Officials" and "Code of Ethics Citizen Complaint Form".

B. *Legislative Matters*

The Board of Ethics responded to two requests for input from the Town Board, During the period March - July 2007, the Board of Ethics analyzed the Town Board's proposed changes to the original Code of Ethics adopted in 1991, studied codes of ethics of other municipal entities within New York State, and received and assessed numerous comments from members of the public regarding the legislative proposals. The Board of Ethics presented two statements to the Town Board providing its views on proposed changes to the Code of Ethics. These statements included draft legislative language to implement various proposals made by the Town Board, suggested modifications and related legislative language to other proposals made by the Town Board, and suggestions of its own for substantive provisions to be included in the Town's Code of Ethics. The Town Board adopted virtually all of the Board of Ethics suggestions.

The Board of Ethics presented testimony at several public Town Board hearings on the proposed new Code of Ethics.

After the new Code of Ethics was adopted, the Board of Ethics developed for the Town Board a request for an informal opinion from the New York State Attorney General's Office regarding the interrelationship of the State's Election Law with certain provisions of the Town's new Code of Ethics.

C. *Opinions*

In August 2007, the Board of Ethics issued *Opinion 2007-1*, responding to a request of a Town official as to whether she/he could accept a political contribution from the chair of a not-for-profit corporation which has a contract with the Town.

In October, the Board of Ethics issued *Opinion 2007-2*, responding to a request of a Town official as to whether she/he could accept political contribution from a PAC of a trade association for a consortium of developers.

In November, the Board of Ethics issued *Advisory Opinion 2007-3*, responding to a Town official's October 2004 request for an opinion relating to certain aspects of a fundraiser held in March 2004 (which request had not been acted on by the "old" Board of Ethics). The inquiry conducted by the Board of Ethics spanned seven months and is summarized in Part II of *Advisory Opinion 2007-3*, and included several sets of written interrogatories, review of numerous documents, and after-the-fact development of the applicant status of approximately 100 contributors during the relevant time frame in 2004.

In November, the Board of Ethics also issued *Opinion 2007-4*, with respect to the first citizens complaint filed under the new Code of Ethics. *Opinion 2007-4* focused on the statutory requirement of "good cause" in order to proceed with a full investigation of a citizens complaint.

All of the opinions of the Board of Ethics are filed with the Town Clerk pursuant to Section 11C of the Code of Ethics.

III. RECOMMENDATIONS

A. *Section 7(A)(1)*

Section 7(A)(1) of the new Code of Ethics provides that "no public officer or agency member shall, directly or indirectly, solicit or accept any contribution or money, services or thing of value . . . from any applicant or from an applicant's affiliates or from an applicant's legal representatives or professional consultants or their respective affiliates."

So that Town officials may have a reliable data base against which to check whether a contribution would be able to be solicited or accepted from a statutorily-proscribed party, the Town Board *recommends* to the Town Board that it have one or more appropriate Town employees develop, keep up-to-date and publish a list of those who fall within the parties from whom contributions may not be solicited or accepted under the new Code of Ethics.

B. Legislative Refinements

As is common when there has been a major statutory revision, technical amendments and refinements to the new legislation may be appropriate. The Board of Ethics *recommends* that such an initiative be undertaken in the second half of 2008, after the Town Board, the Board of Ethics and the community have had a full year's experience under the new Code of Ethics.

IV. BOARD OF ETHICS INTENDED EMPHASIS FOR 2008

The Code of Ethics is an important and integral part of Town government and of relations of Town officials with Town citizenry. The Board of Ethics believes that steps to prevent potential problems are in the interest of good government and the goals of the Code of Ethics. The Board of Ethics believes that it is crucial that guidance be available for Town officials and the public through published opinions, guidelines, standards, forms and procedures so as to provide guidance in advance to Town officials, prevent misunderstandings in the public domain regarding the reach and scope of the Town's Code of Ethics, and help facilitate the fairness goals of the Code of Ethics.

Two of the projects started in 2007 and which are continuing in 2008 are standards for interpreting Section 6 of the Code of Ethics (pertaining to the use of Town-owned property, including electronic property) and refinement of the procedural processes for investigation, hearing, deliberation and decision-making with respect to complaints filed with the Board of Ethics. Additionally, in 2008 the Board of Ethics would like to continue working with the Town's Webmaster to make the published ethical materials as easily accessible as possible and would like to commence working with the Legal Department to implement the training materials and programs called for by Section 10F of the Code of Ethics.

The Board of Ethics presently intends to devote a major portion of its work in the Year 2008 on continuing its work on facilitating guidance and compliance with respect to the Code of Ethics by developing standards, forms and procedures, increasing the ease of public access, and developing training and program materials. If the Town Board adopts Recommendation B above, the Board of Ethics would also in the second half of 2008 be devoting a major portion of its time on legislative refinements.

February 11, 2008

Respectfully submitted,

GREENBURGH BOARD OF ETHICS

Kenneth Bunting

Bruce Jennings, Secretary

Jack McLaughlin, Chair Rules and Regulations Committee

Mike Sigal, Chair

James Robinson

cc: Town Clerk