

MINUTES
Town of Greenburgh Board of Ethics
Thursday, MAY 15, 2025
Greenburgh Town Hall, Lee F. Jackson Conference room

Board Members Present: Timothy Hays, Chair; Seth Segall, Secretary; Darra Boyd, Member; Andrea Reed, Alternate Member.

Also Present: Joseph S. Malara, Esq., Volunteer Counsel; Joseph Danko, Esq., Town Attorney; Amanda Magana, Esq., First Deputy Town Attorney; Ms. Jillian Marciante, Official Court Reporter; Detective Michael Marino, Greenburgh Police Department; Mr. Hal Samis.

- 1) The meeting was convened at 6:36 p.m. The roll was called and Chairman Hays determined a quorum of the Board of Ethics (BoE) was present.
- 2) AGENDA: Secretary Segall moved to adopt the agenda and Ms. Boyd seconded the motion. The agenda was unanimously adopted.
- 3) MINUTES: Chairman Hays moved to accept the minutes of the April 17, 2025 meeting and Ms. Boyd seconded the motion. The minutes were unanimously accepted.
- 4) ETHICS TRAINING: First Deputy Town Attorney Magana reported everyone was up to date with ethics training.
- 5) FINANCIAL DISCLOSURE FORMS: Today is the final day financial disclosure forms are due. First Deputy Town Attorney Magana reported that 100% of the management and staff have submitted financial disclosure forms, and 87% of the board members have done so. There are four board members with forms outstanding, and two board members whose submitted forms were deemed incomplete and in need of correction.
- 6) CORRESPONDENCE: Twenty-seven items of correspondence were received between 4:00 p.m. April 17th and 12:00 p.m. today:
 - a. An email dated 4/17/25 from Attorney Vincent Toomey stating 1) as a member of the Planning Board Mr. Schwartz is not entitled to attorney client privilege as he is not the Town Attorney's client—only elected members of the Town Board have that privilege, and 2) there is no legitimate reason to reconsider BoE Opinion 2025-3.
 - b. An email dated 4/17/25 from Attorney Janet Linn claiming Attorney Toomey mischaracterized her reference to the respondents' waiver of attorney-client privilege. She also states that *sua sponte* dismissals ought to be rare and that normal motion practice be followed. She asks the BoE to advise Mr. Toomey to cease *ad hominem* attacks.

- c. An email dated 4/17/25 from Attorney Toomey standing by his submissions and denying any breach or waiver of attorney client privilege. He states given the behavior of some of the claimants after the dismissal of the Haber complaint, he believes his comments have been rather restrained.
- d. An email dated 4/18/25 from Mr. Schwartz objecting to the tone of Attorney Toomey's comments and describing it as an attempt to "intimidate and bully" complainants and counsel.
- e. An email dated 4/18/25 from Mr. Schwartz objecting to Attorney Toomey's claim that his communications with the Town Attorney seeking legal advice for the Planning Board were not protected by attorney client privilege. If this claim was correct it would make all communication between the Town Attorney's Office and land use boards, staff members, and police officers subject to FOIL requests. The Planning Board goes into executive session when discussing legal matters with the Town Attorney's Office and takes care who it copies on correspondence to maintain attorney client privilege.
- f. An email dated 4/18/25 from Attorney Toomey stating the Town possesses attorney client privilege as a corporate entity and it can only be waived by the Town Board acting as a Board.
- g. An email dated 4/21/25 from Mr. Schwartz claiming that correspondence between the Planning Board and the Town Attorney is privileged. The Planning Board is part of the legal entity of the Town of Greenburgh and the Town Attorney's Office represents the Planning Board in legal matters. He states it seems "odd and possibly improper" to grant a waiver on one document without granting a waiver on all.
- h. An email dated 4/21/25 from Attorney Linn stating the respondents breached attorney client privilege in their response to interrogatories 9 and 10 which disclosed advice the Town Attorney's office gave to the Town Board. She again requests full disclosure of all relevant communications between the Town Attorney's Office and the Town and a withdrawal of the respondents' privilege objections. She is considering making a formal motion to compel discovery as part of moving to vacate BoE Opinion 2025-3. She again requests the respondent's memorandum of law be submitted before complainants' so the complainants can submit a responsive pleading.
- i. An email dated 4/21/25 from Attorney Toomey rejecting Attorney Linn's claims about breach and waiver of attorney client privilege and her request to reopen BoE Opinion 2025-3.
- j. An email dated 4/21/25 from Mr. Walter Simon stating that Attorney Vincent Toomey did not provide a legal rebuttal to Attorney Janet Linn's argument.
- k. An email dated 4/21/25 from Mr. Schwartz objecting to a sentence in Attorney Vincent Toomey's 4/21/25 email that incorrectly states the complainants are not volunteers. He believes Attorney Toomey has been disrespectful towards Attorney Linn, requests he either apologize or resign, and states he will launch an investigation into Attorney Toomey's billing of the Town.
- l. An email dated 4/28/25 from Attorney Linn stating she will be submitting a motion to compel discovery on behalf of the complainants along with a request to a stay of proceedings until the motion is decided. She requests an extension of her

memorandum of law on immunity until 5/5/25. She states she is unlikely to be available until after 6/9/25.

- m. An email dated 4/28/25 from Chairman Hays granting Attorney Linn and extension until 5/5/25.
- n. An email dated 4/28/25 from Attorney Toomey stating he will file his memorandum of law on immunity on 5/5/25. He also states the respondents object to Attorney Linn's intended discovery motion. He states BoE rules provide only for discovery by the BoE and not by the parties as part of a Phase 1 investigation, and that the sought after materials are covered by legislative privilege.
- o. An email dated 5/2/25 from Mr. Snaggs to Volunteer Counsel Malara stating he was surprised to get meeting transcripts from Attorney Malara instead of Town Attorney Joseph Danko and wondering whether the transcripts had been withheld from him, or whether Attorney Malara had delayed sending them.
- p. An email dated 5/2/25 from Chairman Hays to Mr. Snaggs stating that the BoE had just received the transcripts and that Volunteer Counsel Joseph Malara had copied them to the complaints the same day they were received.
- q. An email dated 5/2/25 from Mr. Snaggs thanking Chairman Hays for his transparency.
- r. An email dated 5/2/25 from Mr. Schwartz stating there was no excuse for the delay in delivering the transcripts except to withhold pertinent information from the complainants and wondering whether the BoE ought to investigate the delay and consider sanctions.
- s. An email dated 5/2/25 from Volunteer Counsel Malara reminding the complainants that the BoE has no control over when transcripts are submitted, and that it is not the BoE's responsibility to send transcripts to the complainants, and that the BoE only does so as a courtesy. Expedited transcripts can be requested from the court stenographer at the complainant's own cost. The transcripts contain no sworn testimony that could be used in a legal argument. He also states that the CoE does not provide an appeal process. Finally, he wonders why, since Mr. Schwartz is represented by counsel he is also speaking for himself. He expresses surprise Attorney Toomey has not objected to this, and that it is up to the BoE Chairperson to rule on whether this courtesy will continue to be extended.
- t. An email dated 5/2/25 from Mr. Snaggs stating the claimants, up until today, were not aware that transcripts were transmitted as a courtesy, but they are puzzled by the delay in the transcripts being made ready given that an earlier transcript was readied more promptly. He would like more consistency. He understands that BoE decisions are final but defends Mr. Schwartz for presenting his own perspective. He apologizes if the BoE is wearying of their requests but asks the BoE to understand their perspective. If the BoE informs them of appropriate methods and courses of action the complainants will comply.
- u. An email dated 5/2/25 from Mr. Schwartz to Volunteer Counsel Malara stating that the delay in transcripts is highly unusual. He also states that an discussion of a motion to appeal or for consideration is premature.
- v. An email dated 5/2/25 from Attorney Toomey suggesting that if Mr. Schwartz is still represented by counsel he should desist from directly communicating with the BoE or his office.

- w. An email dated 5/5/25 from Attorney Linn with an attached complainants' memorandum of law on legislative immunity.
- x. An email dated 5/5/25 from Attorney Toomey with an attached respondents' memorandum of law on immunity.
- y. An email dated 5/7/25 from Attorney Linn containing an attached motion to compel and to stay.
- z. An email dated 5/12/25 from Mr. Schwartz addressed to Chairman Hays stating that Attorney Linn is dealing with a personal medical issue, will not be available until late June, and requesting a stay on all actions re: Snaggs et al. vs. Sheehan, et al. until she is able to resume her role as counsel.
- aa. An email dated 5/12/25 from Chairman Hays agreeing to the requested stay.

Chairman Hays asked if any Board members wished to discuss matters contained in the correspondence. There being none, Chairman Hays expressed his wishes for Attorney Linn's speedy recovery. He also concurred with Volunteer Counsel Malara's and Respondents' Attorney Toomey's opinion that as Mr. Schwartz is represented by Attorney Linn all correspondence regarding Snaggs et al. vs. Sheehan, et al. should come from her office alone.

- 7) CITIZEN COMPLAINT: Re: Johan Snaggs, Hugh Schwartz and Walter Simon vs. Francis Sheehan, Gina Jackson, Joy Haber, and Ellen Hendrickx. Chairman Hays announced this complaint is continued until the June meeting.
- 8) PUBLIC COMMENT/DISCUSSION: Mr. Hal Samis stated that he had sent an email to the BoE on May 12, 2025 that was not recorded in the record of correspondence. All the Board members present did not recall receiving the email. Mr. Samis then explained that the email reported that the BoE webpage on the Town's website was still not up to date. Some current Board members were not listed, and the site still did not list the correct Chair and Secretary. In addition, appointment terms and party affiliations of Board members were still not listed. As a point of information, Secretary Segall stated he had requested the current information be posted in January but had not followed up on it. Chairman Hays pointed out the BoE has no direct control over the Town website. Town Attorney Danko said Parks and Recreation Commissioner Joseph Lucasey was in charge of updating the website, and Secretary Segall agreed to send updated information to Mr. Lucasey. Chairman Hays stated he had changed his opinion about the listing of political affiliations and now thought they were unnecessary and irrelevant. Mr. Samis stated that posting affiliations and term lengths would inform the public about when vacancies might be upcoming and who might be qualified to fill them. The discussion did not reach a final conclusion and decision.

Mr. Samis thought the BoE's following of courtroom procedure was both time consuming and expensive, pointing out that the Town Board had just allotted an additional \$200,000 to cover Attorney Toomey's expenses. Mr. Samis noted that the BoE is not a court. Couldn't the BoE find a better way to expedite its process? Volunteer Counsel Malara replied the BoE only follows Civil Procedure Laws and Rules when it comes to motions.

All other procedural matters are governed by the rules as described in the CoE. Town Attorney Danko clarified that the monies allocated to Attorney Toomey by the Town Board were not just for duties defending the Board before the BoE. Town Attorney Danko further stated that Attorney Toomey represents the Town in multiple matters. Mr. Samis asked if he could expect the same level of care and attention as the BoE had given this matter to complaints he might bring before the BoE in the future. Secretary Segall and Chairman Hays assured him that the BoE intends to extend the same degree of consideration, attention, and care to every matter brought before it no matter who brings it to the BoE's attention.

- 9) DELIBERATIONS: Volunteer Counsel Joseph Malara requested the BoE go into executive session to discuss matters related to the motions raised by the complainants' attorney in Snaggs et al. vs. Sheehan et al. but without the intent to issue any decisions. Chairman Hays moved the meeting go into executive session, and Secretary Segall seconded the motion. Secretary Segall left the room along with all non-BOE members, and executive session began at 7:11 p.m. Executive session ended at 7:30 p.m. when the open meeting was resumed.

10) NEXT MEETING DATE: June 26, 2025 6:30 p.m., Thursday, Lee F. Jackson Conference Room, Greenburgh Town Hall. Secretary Segall with check with Martha Salciccia to confirm the Conference Room is available on that date.

11) MEETING ADJOURNED: There being no other business, Secretary Segall moved the meeting be adjourned and Ms. Reed seconded the motion. Without objection, the meeting was adjourned at 7:35 p.m.

SUBMITTED BY: Seth Segall, Secretary on June 1, 2025