

## Norwich Ethics Commission Complaint 2012-1

In order for any ethics complaint to be sustained, the Ethics Commission must first determine if the respondent(s) was an officer, official or employee of the City of Norwich at the time of the alleged incident. Only after the Ethics Commission has established jurisdiction in that the Ethics Ordinance applies to the Respondent(s) can the Commission determine whether or not the respondent has committed one or more violations of the City of Norwich Ethics Ordinance.

Section 2-52(g) of the Ethics Ordinance defines officer, official or employee as “members of all departments, boards, commissions, committees or other agencies of the City of Norwich, including the city council, whether they be elected or appointed, paid or unpaid, full or part time, and all classified and unclassified employees of the City of Norwich.”

In the case before us, the Respondent Joanne Philbrick served as a volunteer in City Hall and was a member of both the Personnel and Pension Board and Harbor Commission at the time of the violation, the Norwich Ethics Ordinance clearly applies.

Following the Ethics Commission's determination that there was probable cause to believe the respondent did violate one or more sections of the Norwich Ethics Ordinance following a complaint filed by Bonnie Cuprak on May 11, 2012, a public hearing was held on July 31, 2012.

During said public hearing the Ethics Commission received and considered written, sworn testimony from Town Manager Executive Assistant Jill Brennan, verbal testimony Complainant the Mayor's Executive Assistant Bonnie Cuprak, City Manager Alan Bergren, Human Resources Manager Brigid Marks and the Respondent and a video recording from the Town Hall security camera system. As a result of the testimony and evidence offered, the Ethics Commission finds the following:

That on March 23<sup>rd</sup> 2012, Mrs. Philbrick, while volunteering at City Hall, removed a string-closed envelope containing a confidential letter addressed to the Mayor from the Mayor's City Hall mailbox by opening and reading the letter at least two times. While she initially claimed she was reading an agenda that had been placed in Mr. Sewart's mailbox, she later retracted that assertion and admitted opening and reading the contents as asserted. On April 2<sup>nd</sup> 2012, she confronted the City Manager Alan Bergren with the fact she had seen the letter, the contents of which pertained to confidential negotiations regarding the purchase of private property, informing the City Manager she felt “conflicted” by the information. While the Respondent told the City Manager she had seen the letter, she did not inform the City Manager how she had come about obtaining this information. As the contents of the letter on March 23<sup>rd</sup> were only known to the City Manager, his Executive Assistant Jill Brennan and Complainant Bonnie Cuprak, the fact that the Respondent had gained access to the letter, placed the negotiations for the property at risk and cast a shadow on the reputations of Brennan and Cuprak, the only two employees (besides City Manager Bergren) known to have access to the letter.

After becoming aware that the Respondent had gained access to the letter, Brennan and Cuprak discussed the issue to determine how her knowledge of the letter could have come about. While reviewing a video recording from the Town Hall security camera system, Respondent was observed removing the confidential letter from the Mayor's mailbox, opening the envelope and reading the letter on two occasions in quick succession. On May 16<sup>th</sup> 2012, Mr. Bergren and Mrs. Marks, the Human Resources Manager, confronted the Respondent with the information that she was observed opening and reading the confidential letter and informed her that her services as a Docent were terminated.

The facts of this issue are not disputed. During the hearing the Respondent admitted that she opened the envelope obtained from the Mayor's mailbox and read its contents. The letter in fact contained confidential information and would not have been subject to disclosure under Freedom of Information rules.

Accordingly the Commission finds that Respondent Joanne Philbrick violated the General Conduct section, 2-54(a) of the Norwich Ethics Ordinance. Not only were her actions a violation of the common definition of General Conduct, her actions were in conflict with the discharge of her duties in the public interest. As a volunteer for, and member of two City Boards or Commission, she was vested with a level of public trust to act in the best interest of the citizens of

Norwich. Her intentional action to read a confidential letter not addressed to her is a serious breach of that public trust. The Commission also finds that Respondent Joanne Philbrick violated section 2-54(b) by disclosing confidential information for her own personal interests and purposes.

Whether her intentions were for good or ill purposes is irrelevant. The information she gained was of a confidential nature concerning negotiations over the purchase of real property by the City. Her knowledge of this information and possible dissemination to unauthorized persons could have lead to a serious disruption of said negotiations. Ms. Philbrick states that she brought the fact of her knowledge of the letter to Mr. Bergren because she was feeling "conflicted." This appears to suggest that she was seeking his counsel regarding an apparent ethical dilemma. Her contention that she brought the fact of the letter's disclosure to Mr. Bergren to either inform him, or to obtain his advice, is not compelling. Her disclosure to Mr. Bergren that she knew the contents of the letter could have allowed her to hold considerable sway over his actions as City Manager dealing with the negotiations pertaining to the property concerned, jeopardizing Mr. Bergren's work on behalf of the City. Accordingly, there appears to be no other motive for her disclosure to Mr. Bergren other than to have an interaction with him from a position of power and control.

Mrs. Philbrick's candor during the Public Hearing is certainly appreciated, but in no way lessens the severity of her offenses. Had the Respondent not resigned from her positions on the Personnel and Pension Board and Harbor Commission prior to the public hearing, the Commission would have recommended that her service on both be immediately terminated and that she never be considered for future appointments to any city positions.

In many areas, Norwich is caught between old-fashioned informal social relations and formal modern precautions against any possible abuse. In several cases, we have found it hard to hold people accountable because the expectations for their project or position were not written down, or even that they were not bound by city policies – like the Ethics code – when acting on behalf of the city. As the City has already taken steps to ensure that confidential material is handled in a more secure manner to minimize the possibility of inadvertent disclosure, the Commission makes no additional recommendations.

For the Ethics Commission,

Joseph R. Sastre Vice-Chair