

Board of Ethics
Town of Weston, Connecticut

November 21, 2022

TO: Mr. Mark Harper

RE: Ethics complaint of November 8, 2022

Dear Mr. Harper:

On November 8, 2022 a complaint was transmitted via email to the Chair of the Board of Ethics. The Complaint was submitted by Mark Harper, a Weston resident, in his capacity as Chair of the Weston Town Hall Employees' Union, Local #866, Council #4, AFL-CIO.

The subject of the Complaint is Weston Selectman Amy Jenner. The allegations in the Complaint are that at a November 3, 2022 meeting of the Weston Board of Selectmen, Selectman Jenner violated Section 64-4 of the Weston Code of Ethics by seconding a motion in which she herself was the subject of the Motion. The Motion, made by Selectman Martin Mohabeer, was to table discussion relating to a memorandum (a copy of which was submitted with the Complaint) that had been sent to First Selectman S. Nestor on October 28, 2022 by Mr. Harper (the "Memorandum"). The Memorandum made two requests: first, that Selectman Jenner be censured for statements that she allegedly made regarding the town's Tax Collector; and second, that the Selectmen pass a resolution prohibiting the Selectmen, the Town Manager, and the Town Supervisor from making false, disparaging, or negative remarks in any public forum respecting town employees, and requesting that any violation of such a resolution result in that official's immediate removal. According to the Complaint, because Selectman Jenner's alleged remarks were the source of the request for the Board of Selectmen to censure her, it was a violation of the Code of Ethics' prohibition for her to second the motion to table discussion of the Memorandum.

The Weston Code of Ethics provides that a Town official who has become "aware of facts or circumstances which demonstrate that he has a personal or financial interest in a pending matter," they "shall" recuse themselves from that matter, and "shall not take any action on or exert any influence with respect to the pending matter." [cite 64-4 (A).]

The Board agree unanimously that the conduct described breaches the Code of Ethics. A review of the publicly-available video recording of the meeting in question shows that Selectman Jenner took action and exerted influence on a matter in which she had a personal or financial interest by seconding the Motion in order to advance it to a vote, thus taking action that would delay discussion of whether she should be censured. Furthermore, we observe that Selectman Jenner committed a separate and distinct breach by voting to pass the motion, effectively ensuring that her conduct would not be discussed in that meeting.

There is no evidence in the record affirmatively indicating when Selectman Jenner was made aware of the Memorandum; however, the recording of the meeting shows that when the Selectmen arrived at this agenda item, all members of the Board of Selectman appeared to have reviewed the Memorandum and did not appear to have any questions about the topic, subject matter, or individuals involved. Because of this, the Board can infer that Selectman Jenner was aware that she was the subject of the Memorandum. With that knowledge in hand, she should have recused herself either in advance of the Meeting, or having failed to take that action, she should have refrained from taking any action that advanced Selectman Mohabeer's motion to a vote.

Even assuming for the sake of argument, that Selectman Jenner's act of seconding the motion was procedural rather than substantive, her subsequent act of voting to table discussion of the Memorandum was a clear violation of her mandatory obligation that she "shall not take any action on or exert any influence with respect to the pending matter."

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We have no opinion on whether Selectman Jenner's comments were appropriate or whether the relief requested by Mr. Harper would have been the correct response to any inappropriateness in those comments. We also express no opinion as to whether Selectman Jenner had any malicious intent in her actions. Nevertheless, she should have recused herself from the discussion so that citizens would arrive at their own conclusions about those matters. The Code of Ethics exists to ensure that those questions are entertained only by those who do not have a stake in the outcome so that Town decision makers cannot be accused of corrupt motives. Here, Selectman Jenner took two distinct actions that delayed the Board of Selectman's discussion of her own conduct and whether she should be publicly censured, and those actions raised the question of whether she was acting out of self-interest rather than to further the interest of the Town. In this way, Selectman Jenner's conduct breached the Weston Code of Ethics.

Sincerely,

A handwritten signature in black ink that reads "William Weiss, III". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

William Weiss, III Chair

N.B. This unanimous Opinion by the Board was drafted by Ruth Israely, Esq., member of the Board.