

**MEETING:                   REGULAR MEETING OF THE ETHICS BOARD**  
**DATE & TIME:           Wednesday, March 26, 2025 at 5:30 PM**  
**LOCATION:                   Germantown Village Hall Board Room**  
**N112 W17001 Mequon Road**

**NOTICE:** Citizens not wishing to attend the meeting personally or virtually may submit any public comments by sending an email to [comments@germantownwi.gov](mailto:comments@germantownwi.gov) by 4 p.m. on the day of the meeting so that it can be provided to the members of the body for their consideration.

### **AGENDA**

- I.     **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II.    **ROLL CALL:**
- III.   **NEW BUSINESS:**
  - A.     Memorandum: Roles and Responsibilities of the Ethics Board
  - B.     Accept Complaint of Melanie Smythe dated January 24, 2025
  - C.     Schedule meeting for Preliminary Investigation of Complaint
- IV.   **ADJOURNMENT:**

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, please contact the Village Clerk at (262)250-4745 at least 2 days prior to the meeting.

## **BUSINESS OF THE ETHICS BOARD**

MEETING DATE: March 26, 2025

PLACEMENT: Discussion

ITEM TITLE: Memorandum: Roles and Responsibilities of the Ethics Board

SUBMITTED BY: Donna Ott, Village Clerk

SUMMARY EXPLANATION:

ATTACHMENT:

1. Memo re Roles and Responsibilities.pages

STAFF RECOMMENDATION:

ACTION BY Committee:



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**MEMORANDUM**

TO: Germantown Ethics Board  
FROM: Brian C. Sajdak, Village Attorney  
DATE: March 20, 2025  
RE: Meeting of March 26, 2025; Introductory Matters

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Given that the March 26, 2025 meeting will be the first meeting of the Ethics Board in at least thirteen years, none of the current members has familiarity with the Board. Accordingly, I thought an brief overview of the Board and its responsibilities would be appropriate.

To begin, a review of the source of the Boards power is necessary. In Wisconsin, the conduct of all local officials is governed by Wis. Stat. § 19.59, which provides a code of ethics for all local government officials, employees and candidates (for office). The statute further provides that, “[i]n addition to the requirements of [the statute], any county, city, village or town may enact an ordinance establishing a code of ethics for public officials and employees of the county or municipality and candidates for county or municipal elective offices.” Wis. Stat. § 19.59(1m). A local ordinance enacted under this section may include:

(d) A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. A board created under this paragraph may issue subpoenas, administer oaths and investigate any violation of the ordinance on its own motion or upon complaint by any person. The ordinance may empower the board to issue opinions upon request. Records of the board’s opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.

(e) Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of local public officials and other employees of the county or municipality or on the part of former local public officials or former employees of the county or municipality.

(f) A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding \$1,000 for each offense. A minimum forfeiture not exceeding \$100 for each offense may also be prescribed.

Wis. Stat. §§ 19.59(3)(d)-(f). The Village of Germantown has enacted such an ordinance.

The Village's ethics code, as enacted by ordinance, is located in section 1.064 of the municipal code. While largely similar, there are slight differences between the conduct outlined in the state versus the conduct outlined in the municipal code. For the purposes of this memo, there is no need to dive into those differences other than to simply note they exist.

Under the code, the Ethics Board has two primary functions. First, the Board may, upon request, issue an advisory opinion with respect to the interpretation and application of the code. Under this provision, the Board would meet to consider specific requests for an opinion relating to the propriety of matters in which an individual is or may become involved. Upon receiving the opinion, the individual could utilize the opinion as a guide for their conduct in the matter. Provided that the individual follows the opinion, they are protected from future penalties for their conduct. An opinion of this nature generally starts with a written request from the individual. The Board would meet to consider the request, including the provision of an opportunity for the individual to present their position. Following the meeting, the Board would issue its opinion and may in certain circumstances issue a public summary of the opinion to provide guidance to others in the future.

The second function of the Ethics Board is to consider a complaint alleging a violation of the ethics code. Under the municipal code, this process starts with the filing of a verified complaint. Upon receipt of such a complaint, the Ethics Board is to meet to accept the complaint and direct that a copy of the complaint be mailed to the subject of the complaint. This is the purpose of the current meeting. After this meeting, the Board may undertake a preliminary investigation of violations alleged in the complaint. The subject of the complaint must be notified of the "exact nature and purpose of the investigation, the individual's specific actions or activities to be investigated and a statement of such person's due process rights." Municipal Code § 1.064(8)(b)5. As such, the Board at this meeting should also determine what type of preliminary investigation will be undertaken. After the preliminary investigation, the Board can either dismiss the complaint if there is no probable cause to believe the violations occurred, or it may conduct a full hearing on the matter if there is probable cause. Upon the conclusion of the hearing, the Board may refer the matter to the appropriate body together with a recommendation for suspension, removal from office or employment, or other disciplinary action. Of note, the municipal code does not adopt the statutory penalty of a forfeiture.

The code does not provide a description of what a preliminary investigation entails. Based upon the code's use of "preliminary investigation" and "hearing," it appears that a preliminary investigation is something short of a hearing on the matter. In similar cases, ethics boards in other communities have completed preliminary investigations by reviewing the complaint and deciding whether, on the basis of the complaint itself, that a violation may likely have occurred. This would include an analysis of whether the conduct complained of meets the terms of violations specified in the code or statute.

BCS

**BUSINESS OF THE ETHICS BOARD**

MEETING DATE: March 26, 2025

PLACEMENT: Action Item

ITEM TITLE: Accept Complaint of Melanie Smythe dated January 24, 2025

SUBMITTED BY: Donna Ott, Village Clerk

SUMMARY EXPLANATION:

ATTACHMENT:

STAFF RECOMMENDATION:

ACTION BY Committee:

**BUSINESS OF THE ETHICS BOARD**

MEETING DATE: March 26, 2025

PLACEMENT: Action Item

ITEM TITLE: Schedule meeting for Preliminary Investigation of Complaint

SUBMITTED BY: Donna Ott, Village Clerk

SUMMARY EXPLANATION:

ATTACHMENT:

STAFF RECOMMENDATION:

ACTION BY Committee: