

# TOWN OF BRANFORD



## CODE OF ETHICS

**Approved by the Branford Representative Town Meeting on March 11, 2009**

**BE IT ORDAINED THAT** Part I, Administrative Legislation, Code of Ethics, Chapter 38 of the Municipal Code of the Town of Branford is hereby amended by deleting the present Chapter 38 in its entirety and replacing it with a new Chapter 38 as follows:

### § 38-1. Declaration of Policy and Establishment

A Code of Ethics is hereby established for officials and employees of the Town of Branford, as are hereinafter defined. The purpose of this Code is to establish clear ethical standards of conduct for all who serve the Town, whether in a paid or volunteer capacity, without discouraging participation in Town government by the talented and committed individuals on whose service the Town relies.

To this end, the Code sets forth those actions that are in conflict with the best interests of the Town, and requires disclosure of any financial or personal beneficial interest in matters affecting Branford. This Code seeks to deter conduct that is incompatible with the proper discharge of duties in the public interest or that would impair independence of judgment or action in the performance of those duties as set forth herein, and to establish procedures for determining whether such conduct has occurred or would occur.

### § 38-2. Definitions

- a. "Board" means the Branford Board of Ethics.
- b. "Business" means any entity through which business for profit or not for profit is conducted, including, but not limited to a corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, limited liability company, limited partnership, or self-employed individuals.
- c. "Business With Which He/She Is Associated" means a business of which the person or a member of his/her Immediate Family is a director, officer, owner, employee, member, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stock of any class. In determining said five percent, the interest of the person shall be aggregated with that of his Immediate Family.
- d. "Complainant" means a person who files a complaint alleging a violation of the Code of Ethics.

- e. “Confidential Information” means information, whether transmitted orally, in writing or by any other means, that is obtained by reason of the public position or office held and is of such nature that it is not, at the time of transmission, a matter of public record or public knowledge.
- f. “Financial Interest” means any interest with a monetary value to the Public Employee, Public Official or his/her Immediate Family, and which is not common to the interests of the other citizens of the Town, of \$100 or more, or which generates a financial gain or loss of, or confers any benefit with a value of, \$100 or more in a calendar year.
- g. “Gift” means anything of value, including but not limited to entertainment, food, beverage, travel, and lodging given or paid to a Public Official or Public Employee to the extent that consideration of equal or greater value is not received. A Gift does *not* include:
  - 1. A political contribution otherwise reported as required by law, or a donation or payment as described in subdivision (9) or (11) of subsection (b) of Section 9-601a of the Connecticut General Statutes;
  - 2. Services provided by persons volunteering their time;
  - 3. A commercially reasonable loan made on terms not more favorable than loans made at arm’s length in the ordinary course of business;
  - 4. A gift received from: (A) an Immediate Family member; (B) the parent, brother or sister of such Immediate Family member; or (C) the child of such Immediate Family member or the spouse of such child;
  - 5. Goods or services that are provided to the Town and facilitate Governmental action or functions;
  - 6. A certificate, plaque or other ceremonial award costing less than \$100;
  - 7. A rebate or discount on the price of anything of value made at arm’s length in the ordinary course of business without regard to that person’s status;
  - 8. Printed or recorded informational material germane to governmental action or functions;
  - 9. Items of nominal value, not to exceed \$10, containing or displaying promotional material;
  - 10. An honorary degree bestowed upon a Public Official or Public Employee by a public or private university or college, or other school of learning;
  - 11. A meal provided in the home of an individual; or a meal provided at an event and/or the registration or entrance fee to attend such an event, in which the Public Official or Public Employee participates in his/her official capacity;

12. Gifts in-kind of nominal value, specifically excluding gifts of cash, not to exceed \$50, tendered on gift-giving occasions generally recognized by the public including Christmas, Hannukah, birthdays, the birth or adoption of a child, weddings, confirmations or bar/bat mitzvahs, provided the total value of such gifts received from any one source, person or entity in any calendar year do not exceed \$250.
- h. “Immediate Family” means spouse, civil union partner, child, parent, sibling or their spouses/civil union partners.
  - i. “Individual” means a natural person.
  - j. “Individual With Whom He/She Is Associated” means an individual with whom the person or a member of his/her immediate family mutually has an interest in any Business With Which He/She Is Associated.
  - k. “Official Responsibility” means the direct administrative or operating authority, whether intermediate or final and whether exercisable personally or through subordinates, to approve, disapprove, or otherwise direct governmental action.
  - l. “Person” means an individual, sole proprietorship, trust, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.
  - m. “Personal Interest” means an interest in any action taken by the Town in which an individual will derive a non-financial benefit or detriment but which will result in the expenditure of municipal funds.
  - n. “Public Employee” means a person employed, whether part-time or full-time by the Town of Branford, or any of its boards, commissions, agencies, or other entities.
  - o. “Public Official” means an elected or appointed official, whether paid or unpaid or full or part-time, of the Town of Branford, or any of its boards, commissions, agencies, or other entities, including candidates for office.
  - p. “Respondent” means a person who is alleged, in a complaint filed with the Board of Ethics, to have committed a violation of the Code of Ethics.
  - q. “Town” means the Town of Branford.

### § 38-3. Key Provisions

#### (1) Gifts Prohibited

No Public Official or Public Employee, or any member of his/her Immediate Family, shall accept any Gift, as defined herein, that might tend to influence the performance or nonperformance of his/her duties or otherwise create an appearance of impropriety.

#### (2) Disclosure of Interest

Within 30 days after the end of each fiscal year (June 30), each Public Official or Public Employee having a Financial Interest in one or more transactions with the Town totaling \$500 or more in the year shall file a written statement disclosing his/her position as a Town officer, the nature of his/her interest in each transaction and the total amount received from such transactions during each year. Disclosure of any such known interests of the Immediate Family shall also be prepared. Such statements shall be signed under oath and in a form prescribed the Board of Ethics and shall be filed in the office of the Town Clerk and reviewed by the Board of Ethics.

(3) Conflicts of Interest.

- A. No Public Employee or Public Official shall engage in or participate in any business or transaction, including outside employment with a private business, or have any financial interest, direct or indirect, or engage in any transaction or professional activity or incur any obligation of any nature that is in conflict with the proper discharge of his/her official responsibilities in the public interest, or which would tend to impair his/her independent judgment or action in the performance of his official duties or responsibilities.
- B. 1. No Public Employee or Public Official shall solicit or accept any Gift from any individual who or entity that to his knowledge has a Personal Interest or Financial Interest in any pending matter within such Public Employee's or Public Official's official responsibility.  
  
2. If a Gift is offered, he/she must refuse it, return it, or pay the donor the full value of the Gift, or donate it to a non-profit organization, provided he/she does not take any corresponding tax write-off. Alternatively, it may be considered a Gift to the Town provided it remains in the Town's possession and use permanently and is available for the enjoyment and benefit of the Town and its residents.
- C. No Public Official or Business With Which He/She Is Associated shall appear or act in any material capacity on behalf of private interests before any board on which he or she serves, or represent any such interests in litigation involving an action of that board. Disclosure and recusal will not suffice to cure a violation of this provision. Nothing contained herein shall prevent a Public Official from appearing in his or her own behalf on a matter before the Town or a board, provided he or she abstains from deliberating, deciding or acting with respect to the matter.
- D. Nothing contained in this Code shall prohibit or restrict a Public Employee or Public Official from appearing before any board or commission of the Town on his/her own behalf, or from being a party in any action, proceeding or litigation brought by or against the Public Employee or Public Official to which the Town is a party.
- E. No Public Employee or Public Official shall disclose Confidential Information concerning Town affairs, nor shall he/she use such information for the financial interests of himself/herself or others.
- F. No Public Employee or Public Official shall request or permit the use of Town-owned vehicles, equipment, facilities, materials or property for personal convenience or profit, except when such are available to the public generally or are provided as municipal policy for the use of such Public Employee or Public Official in the conduct of official business.
- G. No Public Employee or Public Official, or a Business With Which He/She Is Associated, or member of his/her Immediate Family shall enter into a contract with the Town unless it is awarded through a

process of public notice and competitive bidding.

- H. No Public Employee or Public Official may use his/her position or office for the financial benefit of himself/herself, a Business With Which He/She Is Associated, an Individual With Whom He/She Is Associated, or a member of his/her Immediate Family, if such benefit is not common to the interests of the other citizens of the Town.
- I. No Public Employee or Public Official shall accept a fee or honorarium for an article, appearance, or speech, or for participation in an event, in his/her official capacity, unless the fee or honorarium is donated to the Town or to a non-profit charity.
- J. No Public Employee or Public Official, or member of such individual's Immediate Family or Business With Which He/She is Associated, shall solicit or accept anything of value, including but not limited to, a Gift, loan, political contribution, reward, employment or the promise of future employment, based on any understanding that the vote, official action or judgment of the Public Employee or Public Official would be or had been influenced thereby.

#### § 38-4. Board of Ethics: Establishment and Composition

- A. There is hereby established a Branford Board of Ethics for the purpose of receiving, investigating and acting upon complaints alleging violations of the Code of Ethics, making recommended rulings regarding complaints and advisory opinions regarding the enforcement of the Code of Ethics, and making recommendations with respect to the drafting and adoption of amendments and revisions to the Code of Ethics.
- B. The Board of Ethics shall consist of five regular members, electors of the Town, who are known for their personal integrity. The members shall be appointed by unanimous vote of the Board of Selectmen for terms of five years, except that, of the initially appointed members, one shall serve for one year, one for two years, one for three years, one for four years and one for five years. Three members shall constitute a quorum sufficient to conduct the ordinary business of the Board at a meeting, for any action by the Board with respect to any action on any complaint alleging a violation of the Code of Ethics, or for any advisory opinions. In the event that two or more members of the Board recuse themselves from participating in any actions with respect to a complaint alleging a violation of the Code of Ethics or an advisory opinion, a majority of a quorum shall be sufficient for such action by the Board.
- C. The Board shall elect a Chairperson and a Secretary and shall establish its own rules of procedure. It shall keep records of its meetings and shall hold meetings at the call of the Chairman and at such times as the Board may determine.
- D. The Board may adopt, after a public hearing, reasonable rules and regulations not inconsistent with the Code of Ethics for the administration of the Code of Ethics.

#### § 38-5. Issuance of Advisory Opinions

The Board shall render advisory opinions with regard to the requirements of the Code of Ethics or possible ethical conflicts or other issues thereunder upon the written request of a Public Official or Public

Employee concerning the requirements of this Code as applied to him or her. The request shall be made in writing and be sent in a sealed envelope addressed to the Board in care of the Town Clerk. The request shall state the name and address of the person making the request and all facts relevant to the matter in question.

The Board may request further information from the person making the request. It shall issue its advisory opinion as soon as practicable. The opinion shall be in writing and shall be mailed to the person making the request. Advisory opinions shall be recorded in the minutes of the Board of Ethics and shall be available to the public except as prohibited by law.

A person requesting an advisory opinion may rely on that opinion, provided the person has disclosed all relevant facts and acts in good faith consistent with those facts.

#### § 38-6. Complaints – Form, Procedure, Substance, Investigations, Hearings, Confidentiality and Determinations

A. Making a complaint – Any Town resident who has a good faith belief that there has been a violation of this Code, may file a complaint as follows:

1. Form of complaint – It must be:

- a. In writing;
- b. Signed (original signature required);
- c. Acknowledged under oath, by a notary public or Commissioner of the Superior Court, under penalties of false statement;
- d. Filed with the Board in a sealed envelope addressed to the Board and marked "confidential." It shall be delivered to the Town Clerk either by hand or by certified mail, return receipt requested. The complaint shall be deemed to have been filed on the date of its receipt by the Town Clerk and shall be treated by the Town Clerk as a confidential document. The Town Clerk shall forward all correspondence to the Board.

2. Substance of complaint – It must:

- a. Identify the name of the person or persons who are alleged to have committed the alleged violation.
- b. Specify the act or acts that are claimed to constitute the alleged violation and identify the section(s) of the Code of Ethics, to the extent possible, that the act or acts allegedly violate.
- c. Specify the facts that should be considered by the Board of Ethics.
- d. Concern acts that have occurred within five (5) years of the date of the complaint.

B. Board of Ethics - Procedure upon receipt of complaints.

1. Upon the receipt of a complaint, properly submitted, the Board shall investigate any alleged violation of this Code. The Board shall have no authority to present matters for inquiry or investigation on its own initiative.

- (a) In the conduct of an investigation of an alleged violation of this Code, the Board shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and require the production for examination by the Board of any books and papers that the Board deems relevant in any matter under

investigation or in question. In the exercise of such powers, the Board may use the services of the Town police, who shall provide the same upon the Board's request. The Respondent and Complainant shall have the right to appear and to be represented by legal counsel and to examine and cross-examine witnesses. All witnesses will be sworn.

- (b) Until such time, if any, that the Board makes a determination of probable cause relative to the allegations of a complaint, any allegations and information supplied to or received from the Board shall not be disclosed to any third party by a Complainant, witness or Board member, except upon the written request of the Respondent unless such information is required to be disclosed pursuant to the Connecticut Freedom of Information Act.
2. Not later than fifteen (15) days after the receipt of a complaint, the Board shall provide notice of receipt and a copy of the complaint, by registered or certified mail, to any Respondent(s) against whom such complaint is filed, and the Board shall provide notice of receipt of such complaint to the Complainant(s) in the same manner.
  3. Within thirty (30) days of receipt of a complaint, as set forth above, the Board shall meet and review the complaint to determine whether or not the allegations contained therein, if proved, would constitute a violation of the Code. If the Board determines that the complaint does *not* contain sufficient facts to constitute a violation, the Board shall dismiss the complaint and duly notify the Complainant and Respondent by registered or certified mail. All records of said complaint shall remain confidential except upon the written request of the Respondent unless such information is required to be disclosed pursuant to the Connecticut Freedom of Information Act.
  4. If the Board determines that the complaint alleges sufficient facts to constitute a violation, the Board shall retain the complaint for further investigation and duly notify the Complainant and Respondent by registered or certified mail within three (3) business days; and then within thirty (30) days after so determining, the Board shall commence a preliminary investigation on the allegations contained therein for the purpose of determining probable cause as set forth below.
  5. If the Board determines that the complaint alleges sufficient facts to constitute a violation, the Board shall investigate the complaint to determine whether probable cause exists for further proceedings. Any investigation conducted prior to a probable cause finding shall be confidential unless confidentiality is waived in writing by the Respondent. The Respondent may submit a preliminary written reply to the Board within ten (10) days after receiving notice that the complaint has been retained for further investigation and before a probable cause finding issues.
  6. If the Board finds that the complaint does not warrant further investigation because of its lack of factual basis, its de minimis nature, or otherwise, it shall issue a finding of no probable cause dismissing the complaint. The finding and the complaint shall remain confidential unless confidentiality is waived in writing by the Respondent. A finding of no probable cause shall be final. The Board shall forward copies of the finding to Complainant and Respondent by certified mail, return receipt requested, within three (3) business days thereafter.
  7. If the Board finds that there is probable cause, the Board shall forward copies of the finding to Complainant and Respondent by certified mail, return receipt requested, within three (3) business days thereafter. Upon a finding of probable cause, the complaint, the finding, and the

information gathered during the investigation, if any, shall be made available to the public, and all filings and proceedings that follow shall be public except as required by law; provided, however, that deliberations may be held in executive session to the extent permitted by the Connecticut Freedom of Information Act.

8. Respondent shall have thirty (30) days after his or her notification of a finding of probable cause to file a response with the Board. The Board may, upon reasonable grounds, extend this deadline for filing.
9. The Board shall hold a hearing on any complaint as to which it has found probable cause unless Respondent waives a hearing in writing and the Board decides not to hold one. The hearing shall be held on written notice of no less than thirty (30) days to Complainant and Respondent sent by the Board by certified mail, return receipt requested. The Board may, upon reasonable grounds, extend the date of the hearing at the request of the Respondent.
10. If a hearing is held, Complainant and Respondent shall have the opportunity to be represented by legal counsel, to present evidence, and to examine and cross-examine witnesses including the complainant. For purposes of its investigation and at the hearing, the Board is empowered to administer oaths or affirmations and may compel the attendance of witnesses by issuance of subpoenas. It may also require the production of documents, whether in hard copy or electronic format, by issuance of subpoenas for their production. The Board shall give effect to the rules of privilege recognized by the law. The Board may examine any witness who appears before it, including Complainant and Respondent. The Board may limit the number of witnesses and the scope of testimony to matters it believes relevant, material, not unduly repetitious, and necessary to reach a reasoned determination.
11. Following the hearing, the Board shall issue a determination as soon as practicable and shall mail copies to Complainant and Respondent within three (3) business days thereafter. No member may vote on a determination unless he or she has attended the entire hearing, if any, and participated in all deliberations. Deliberations may be held in executive session to the extent permitted by the Connecticut Freedom of Information Act. A determination of violation requires a majority vote of members eligible to vote. In the event of a tie vote, the determination shall be that there is no violation.
12. A determination of no violation of this Code shall be final.
13. If a violation is found, the Board may, but need not, also recommend in its determination sanctions which may include, but need not be limited to, censure, required recusal, disclosure of conflicts, and removal from appointive office or employment. Any sanctions imposed under this Code shall be separate from, and not in limitation of, any other actions that may be taken against Respondent in any proceedings outside this Code.
14. A determination of violation of this code shall be submitted by the Board within three (3) business days to the Board of Selectmen and Representative Town Meeting for such action as they deem appropriate.
15. The receipt of evidence at any contested public hearing conducted by the Board shall be governed by the Uniform Administrative Procedures Act as set forth in Section 4-178 of the

Connecticut General Statutes, as amended.

C. Board of Ethics – Confidentiality of Complaints and Procedures in Investigation, Hearings and Determinations:

1. In accordance with Sections 1-82a(a)-(b) and 7-148h(a) of the Connecticut General Statutes, as amended, until and unless there is a finding of probable cause the allegations in a complaint and any information supplied to or received from the Board of Ethics shall not be disclosed during the investigation to any third party by a Complainant, Respondent, witness or Board member except at the request of a Respondent, unless such information is required to be disclosed pursuant to the Connecticut Freedom of Information Act.
2. No Person shall take or threaten to take official action against an individual for such individual's disclosure of information to the Board under the provisions of this Code. Such retaliatory actions will be considered a violation of the Code. After receipt of information from an individual, the Board shall not disclose the identity of such individual without his consent unless the Board determines that such disclosure is unavoidable during the course of the investigation.
3. Upon the request of either the Complainant or the Respondent, 14 days prior to the start of the hearing, and at the expense of the party requesting it, the Board shall cause the hearings to be recorded and also a transcription to be made.
4. If the Board makes a finding of no probable cause, the complaint and the record of its investigation shall remain confidential, except upon the request of the Respondent unless such information is required to be disclosed pursuant to the Connecticut Freedom of Information Act. No Complainant, Respondent, witness, designated party, or Board Member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known.
5. If the Board makes a finding of probable cause, the entire record of the investigation and hearing shall become public.

§ 38-7 Penalty for False Complaints

The Complainant is hereby advised and provided notice that if he or she intentionally makes a false statement, he/she may be subject to fines of up to one thousand dollars (\$1,000.00) and penalties of up to one (1) year imprisonment under the provisions of C.G.S. Section 53a-157b of the Connecticut General Statutes, as amended, a Class A misdemeanor.

§ 38-8. Recommendations

Violation of any provision of the code may be punished by public censure and reprimand. The Board of Ethics may recommend to the Board of Selectmen and/or the Representative Town Meeting or other appropriate body (in the case of a Public Employee) dismissal or suspension from employment, restitution of any pecuniary benefits received, or other appropriate recommendations based on the violation committed.

#### § 38-9. Expenses and Compensation of Board

The members of the Board shall serve without compensation for their services. In the performance of its duties and in the exercise of its powers, the Board shall not incur any expenses in excess of the funds appropriated by the legislative body for such purpose.

The Board shall have access to Town Counsel and to special legal counsel of the Board's choosing if Town Counsel is disqualified from assisting the Board or recuses, or if the Board deems it inadvisable to proceed with advice from Town Counsel in the circumstances. If special counsel is retained, the Town's Finance Director or his or her designee shall negotiate terms of engagement for special counsel.

#### §38-10. Distribution of Code

The Town Clerk shall cause a copy of this Code of Ethics to be available to every Public Employee and Public Official within 60 days after enactment of this code. Each Public Employee and Public Official shall read a copy before entering upon the duties of his/her office or employment. A signed statement certifying that he/she has done so shall be returned to the Town clerk and retained on file. The Code will be available on the Branford web site, or by hard copy if requested.

CODE OF ETHICS

TOWN OF BRANFORD BOARD OF ETHICS COMPLAINT FORM

PURSUANT TO THE BRANFORD CODE OF ETHICS, ALL COMPLAINTS ARE **STRICTLY CONFIDENTIAL** UNTIL SUCH TIME AS THE BOARD OF ETHICS MAKES A PROBABLE CAUSE DETERMINATION. BY SIGNING THIS COMPLAINT, **YOU AGREE NOT TO DISCLOSE THE MATTERS CONTAINED HEREIN** TO ANY PERSON UNTIL AUTHORIZED TO DO SO BY THE BOARD OF ETHICS.

Please read this form carefully before you fill it out. Your Complaint may be dismissed if you do not complete this form properly.

Town of Branford

SAMPLE FORM

Complaint

BY HAND DELIVERY OR CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED

**CONFIDENTIAL**

[written both here and on the face of the sealed envelope]

Board of Ethics  
c/o Town Clerk  
Town of Branford  
1019 Main Street  
P.O. Box 150  
Branford, CT 06405

Dear Board of Ethics:

The name of the public official/employee you claim violated the Branford Code of Ethics.

NAME: \_\_\_\_\_ TITLE IF KNOWN: \_\_\_\_\_

DEPARTMENT OR AGENCY IF KNOWN: \_\_\_\_\_

Give a description of your claim and identify the section(s) of the Town of Branford Code of Ethics that you claim the above named public official/employee has violated. PLEASE AVOID STATEMENTS OF OPINION. Please confine your statements to matters of fact. You should attach to this form a more detailed statement of the facts supporting your claim, if you wish the Board to consider a detailed explanation.

DATE(S) OF OCCURRENCE(S) \_\_\_\_\_ 20

DESCRIPTION:

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SECTION(S) OF THE TOWN OF BRANFORD CODE OF ETHICS THAT YOU CLAIM HAVE BEEN VIOLATED:

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I hereby request that the Board of Ethics investigate this complaint.

Sincerely,

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[Signature]  
[Printed or typed name]  
[Address]  
[Phone number]

\_\_\_\_\_ of [address] appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, signed this letter in my presence, and swore or affirmed that the contents of this letter is a true and accurate statement to the best of his or her knowledge.

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[NOTARY PUBLIC]

This Complaint form is signed by you under the penalties for false statement declaring that the statements contained herein are true to the best of your knowledge.

DATE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

CERTIFICATION PURSUANT TO § 38-10

I, \_\_\_\_\_ (please print) have received and reviewed a copy of the Town of Branford Code of Ethics. I acknowledge that as a Public Official or Public Employee as defined in the Code, I am subject to all provisions and requirements contained therein.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Permanent Address

\_\_\_\_\_  
Position Held

**Purpose:** The legislative intent in enacting the new Code of Ethics is that the prohibitions under the prior Code of Ethics that is being replaced shall remain in full force and effect continuously through its amendment and replacement with the new Code of Ethics that is being enacted. While the new Code of Ethics does add some new provisions, for the most part it seeks to clarify the same standards of conduct that were set forth in the previous Code of Ethics and make them easier to implement and apply, as well as to harmonize the procedures for confidentiality and probable cause with those set forth in the State statutes and enabling legislation.

This ordinance was approved by the Branford Representative Town Meeting on March 11, 2009.