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ETHICS POLICY REVISION COMMITTEE

PUBLIC MEETING MINUTES

June 14, 2011

The meeting was called at 7:06 PM in the New Durham Town Hall by Dot Veisel, Chair.

Present: Carol Allen, Mike Gelinias, Stephanie MacKenzie, Dot Veisel, Barbara Hunter

Also Present: Dave Bickford, Mary McHale

Approval of minutes: Chair Veisel moved for the review, additions, and omissions in the minutes of June 1 2011. There being none, motion to approve the minutes: MacKenzie. Second: Veisel. Vote: unanimous. Chair Veisel moved for the review, additions, and omissions in the minutes of May 10, 2011. There being none, motion to approve the minutes: Gelinias. Second: MacKenzie. Vote: unanimous.

Public Input: None

Business:

Chair Veisel read from a communication from Terry Jarvis referring to the minutes of May 10, 2011, page 1 regarding the definition of a Board regarding governing bodies. She stated that governing bodies include selectmen, Town Meeting which is legislative and the moderator. After discussion, Gelinias motioned that the words permanent or special be removed and the definition be changed to read "Any board, committee or commission, by governing bodies elected or appointed to serve in the Town of New Durham." Second: Hunter. Vote: unanimous.

Chair Veisel read a second comment from Terry Jarvis regarding the definition of Public Servant to clarify that it is only after the oath has been taken that one becomes a public servant. Motion: MacKenzie to delete the second sentence. Second: Gelinias. Vote: unanimous.

Bickford, from the floor, commented that to save time at this stage of the review, there is no need to motion with each item. Hunter felt it is helpful after discussion to have members weigh in as to agreement or disagreement.

Section II policy review —

- A (ii) – For clarification and consistency it was decided to make the following changes:
 - replace any person with any public servant
 - remove "who is elected or appointed to a governmental body as a regular or an alternate member"
 - add "The following conditions shall be met:" after the paragraph

- A (iii) — a lengthy discussion ensued as to the need to ask someone to disclose prior to recusal or whether or not we have the right to ask that. Chair Veisel feels it is important to state the reason why someone is stepping down because they may have a comment to make from the floor.

Bickford, from the floor, stated that there is no requirement to disclose when stepping down and once stepped down you're out of the game as far as being a board member.

The two situations for recusal were discussed clarifying that when a member wants to represent someone before the board, full disclosure and recusal is needed but when recusing and not participating, disclosure is not required.

Chair Veisel queried, do we have the right to require any board member to say why they are recusing themselves when they are not representing someone coming before the board? Is there a law? After discussing many examples that would require disclosure, it was noted that there might be other issues to address about disclosure and those can be addressed when C. Duty to Disclose is reviewed. Members will come prepared for that discussion at the next meeting.

It was decided at this point in the process, to remove the last sentence requiring disclosure before recusal and change the remaining sentence to read: "Public servants shall recuse him or herself in any matter in which he/she, or a member of his/her family, has a personal interest which may directly or indirectly affect or influence the performance of his/her duties."

- A (iv) — the meaning of this provision was discussed as to whether or not it prevents people doing business in our town and serving on boards or is it only when there is a conflict of an issue being addressed.

Mary McHale, speaking as a member of the public, stated she attended many of the meetings when the code was written and the intent was that someone engaged in such business in the town should not serve on a board because he/she often can impact the passing of regulations and then personally benefit. It doesn't mean professional people can't serve.

Gelinas felt that this provision is in conflict with (iii) and also, e.g., if the town was pro development and wanted to vote for all developers that should be allowed. He motioned the board decide to change the provision to read, "Public servants shall recuse him/herself if engaged in"

Hunter stated she agrees with the intent as it raises the bar and is in the best interests of the town noting that McHale gave several examples of board members presently serving who are professionals and do not do business in our town.

Chair Veisel commented that the planning board benefits from a professional on a board but he/she is only one vote and that in the end the regulation goes to the public for a vote. Therefore, she doesn't see that someone should be prevented from being on a board and doing business in the town for that reason.

The board was asked to weigh in on the motion on the floor provision (iv) to read, “Public servants shall recuse him/herself if engaged in”

MacKenzie stated that she is stuck in between because when they are allowed to serve when their business is in conflict often and they need to step down, it impacts their effectiveness on the board and quorums. In addition, in past years she has seen what she believes are abuses when they were engaged. She feels it should remain as is and there are many other ways they could serve the town. On the other hand, she can see both sides.

Members weighed in on this issue, Gelinias and Veisel support the motion. Hunter, MacKenzie and Allen either do not agree or are on the fence considering many of the reasons stated.

Chair Veisel said we obviously aren’t in a position to make a decision now and encouraged the board to prepare to talk more about it in the future. She’ll pull together some resources from the materials Alison Rendinaro, Administrative Consultant, for the board.

- II A (v) — MacKenzie wondered when people come in to the Town Hall and ask her for an electrician, for example, and she lists several in town to help them out, does this provision prevent her from doing that? She specified that there would be no personal gain other than the satisfaction of helping someone.

Different alternatives were discussed; MacKenzie said there were reasons why she was told they couldn’t be done. Gelinias stated he has a problem that when ethics are too strict inaction results. Allen affirmed then if you’re a public servant you can’t be helpful. Bickford, from the floor, stated that this is an issue MacKenzie as an employee is held to and that this provision isn’t addressing her concern.

Allen suggested that a solution for MacKenzie would be to give them one of the Alton/New Durham phone books since everyone advertises in it and she would not be recommending anyone. Members felt it was a good way to go.

- A (vi) through (ix) were reviewed, no changes were made.
- B — no changes made.
- C. Duty to Disclose — Chair Veisel addressed the need for an editorial change so that after bulleted friendships it reads:
 - possible conflicts

All of the above conditions which may exist between public servants and their families, and the principals or the issue under consideration.

Gelinias suggested changing the title to C. Duty to Disclose a Conflict of Interest or Even an Appearance of One. After much discussion about adding the appearance and changing the above shall to should, it was tabled for more research till the next meeting.

Chair Veisel stated that there is a need to restructure or reword this section. She suggested as possible change to think about:

- A public servant should make every effort to disclose possible appearances of a conflict of interest. Public servants of the Town of New Durham shall not participate in or conduct business on behalf of the town or enter into discussion or deliberation of any matter without first, publicly and on the record stating all: followed by the list.

Hunter, supporting to disclose appearance, quoted from the Ethics & NH Local Governments April 4, 2011 seminar handout on page3 “the growing public demand for higher standards and for legislators to recognize “that they need to confront the appearance of conflicts of interest between their private and public duties.”

Chair Veisel stated that when someone is willing to stand up and disclose possible appearances of conflict of interest it holds up the standard.

For next meeting — Prepare to continue the review including Section II A. (iv) and C through F.

Bickford, from the floor, shared his observation that there are jealousies among other businesses when board members with business in town serve. He indicated that they feel it takes business away, especially when the member is chair because someone might think should they hire that person they might get something through although that might not be true. Chair Veisel commented that in the past regarding this issue she asked, “Does it give unfair advantage knowing the activity on the board?” Bickford didn’t think it affects the work of the board but there is a conflict among other business people confirming he hears about them but isn’t sure what the abuses are.

Chair Veisel asked, how can that be addressed by the committee? Bickford replied it can’t other than saying business people can’t serve on the board but trades people are needed on boards. He commented that some people feel when they do they are self-serving but he hasn’t seen that. Chair Veisel stated she has seen the highest of motives on boards. Hunter stated that from earlier comments, it sounds like our planning board has members who have raised the bar by not doing business in town.

Discussion followed citing public confusion when boards deal with legislative and quasi-judicial functions. Chair Veisel commended the Board of Ethics work clarifying the two in Section II B.

Next Meeting: Tuesday, June 28 at 7:00 in the Town Hall

Adjournment: Motion – MacKenzie . Second –Allen. Vote unanimously in favor. Adjourned at 9:20 PM.

Respectfully submitted,

Barbara Hunter, Secretary

A video recording of this meeting is on file with the Office of Town Clerk, is available for public viewing during normal business hours, and will be retained in accordance with the New Hampshire Municipal Records Board rules established under RSA 33-A:4, or for a minimum of 24 months.