

**Approved:** July 26, 2011

## **ETHICS POLICY REVISION COMMITTEE**

### **PUBLIC MEETING MINUTES**

**July 12, 2011**

The meeting was called at 7:10 PM in the New Durham Town Hall by Dot Veisel, Chair.

**Present:** Carol Allen, Mike Gelinias, Dot Veisel, Barbara Hunter

**Absent:** Stephanie MacKenzie

**Also Present:** Mary McHale, Terry Jarvis, David Bickford

**Approval of minutes:** Chair Veisel moved for the review, additions, and omissions in the minutes of June 28, 2011. There being none, motion to approve: Gelinias. Second: Allen. Vote: unanimously approved.

**Business:**

#### **Section II policy review —**

J. Nepotism – Gelinias questioned why the original statement wasn't removed when the other was added at the last meeting. Upon review of the minutes it was noted that the Fremont section was included but it wasn't decided to delete the original.

At this point, Terry Jarvis asked if public input was going to be included. Chair Veisel, apologized and then began the public input session.

#### **Public Input:**

Jarvis, as citizen, made the disclaimer that during her professional career she's spent a considerable time writing suggestions for law and regulations regarding court documents and conducting investigations. She emphasized the need to pay attention to the details so there won't be problems related to the enforcement of the policy in the future. She began to bring many items of concern to the attention of the committee starting with the purpose section through section II A (iv). At that point, due to the detailed discussion resulting in the public input session, it was closed for the committee to go through the review of the sections identified by Jarvis for the committee to discuss and receive public input.

#### **Policy review continued —**

Purpose – In line with previous changes, references to "town officials, board members and employees" were replaced with public servants e.g., "The purpose of this code is to establish guidelines for the ethical

standards of conduct for all public servants.” Also, to include employees, the last bullet was changed to read “We expect that public servant positions in our town not be used for personal gain.” Motion Gelinis to approve page one with the above changes. Second Allen. Vote unanimous in favor.

Motion to remove “For town officials, board members and employees” from the title of the policy, Gelinis. Second: Allen. Vote: unanimous.

## Section I. Definitions

**Board:** Jarvis brought to the committee’s attention that “elected or appointed by governing bodies” does not include all public servants. As a result, it will now read, “Any board, committee or commission, permanent or special, established in accordance with New Hampshire statutes.”

**Conflict of Interest:** Jarvis commented that as written it is not in definition format. To address that concern, a semi-colon was inserted between the first and second sentence creating one sentence.

**Employee:** Jarvis stated that the Town Assessor and the Town Forester are two independent contractors that have been contracted by the town for many years and they represent the town and thus are held to the guidelines in the ethics policy. Chair Veisel will ask Stephanie MacKenzie to check with Vickie Blackden, Financial Assistant to see if there are any other independent contractors in that category. Item tabled until more information is received.

**Family:** Jarvis, as Selectman, is working with the employee benefit committee regarding labor law. She shared the following definition of immediate family that has been suggested for the town’s personnel manual.

Immediate Family: a spouse, civil union partner, children, step children or foster child of the employee, a person that the employee is the legal guardian of or where the employee or their spouse is a person standing “in loco parentis” of another, mother, father, grandparent or sibling of either the employee or the employee’s spouse or relative living in the employee’s domicile or a person that the employee is otherwise in an intimate relationship with and residing in the same household as the employee.

Consensus was reached to replace the original definition with Jarvis’, replacing employee with public servant and family with immediate family member. In the future, references to family will be edited in line with this term as appropriate.

**Official:** Replace officer, board member, or agent with public servant. In the future, cross reference how it official used throughout the policy.

**Public Servant:** Decided at the June 14 EPRC meeting but not removed in the present draft, the following sentence needs to be removed: “A person is considered a public servant upon his or her election, appointment or other designation as such, although she/he may not yet officially occupy that position.”

Recuse: The committee reworked this entry so it is in definition format to read, “Completely removing or excusing oneself from participation as a public servant in a specific action or discussion due to a conflict of interest.”

Town: Tabled to see how it is used in the document when completed so the definition would fit all references. Also, at that time, the committee will consider if there is a need to include employees, residents and taxpayers.

Motion to approve changes made to the definitions section, Gelinas. Second: Allen. Vote: unanimous.

Chair Veisel opened discussion for public input on Section II – Code Provisions.

A. (ii) Jarvis questioned if it is legal as written regarding the conditions to be met. The committee felt it should remain as written noting that when the final review is complete, the policy will be sent to Town counsel for review.

A. (iv) To include all public servants, remove official so it will read “. . . discharge of his or her duties.”

A. (vi) Edit change now to read “. . . or otherwise, any other public servant to engage in political activities.”

A. (ix) Jarvis stated that there are situations when grants are involved that would require changing this provision to read, “No public servant shall receive compensation for performing any official duty except from the Town or a grant.” The committee by consensus accepted this change.

F. No Improper Gifts - Jarvis questioned the section “is likely to have a matter pending before . . .” asking how can someone tell what might be coming before the board years from now? Discussion followed regarding the removal of such or substituting reasonable probability is aware of, etc. Hunter stated several reasons why a pending situation coming before a board should be included. It was also noted that gifts are limited to \$25 in value and no gift over \$25 can be accepted. After much discussion, the committee reached consensus to replace the section in question with “or is planning to have a matter pending . . .”

G. Duty to Cooperate – Jarvis questioned that cooperation being required. Gelinas stated that as noted, there is a possibility it will be moved to the complaints section or deleted in the future. Gelinas motioned to remove it from Section II and move it to the complaints section to be discussed when that is reviewed. Second – Veisel. Vote unanimous.

J. Nepotism – Jarvis said that in the town’s personnel manual there is no difference between a relative in a full and part-time basis. She shared the draft language related to nepotism from the NH Local Government Center that as Selectman, she is presently working on with the employee benefit committee. Jarvis will get a copy of the draft section to the committee for consideration. She was informed that the committee included verbiage from the Fremont policy to provide clarification through (a) and (b) while noting that it needs to be in line with our town’s policies.

After discussion, It was decided to remove (c) with the reason being that voting on an appointment is included in (a) above.

Jarvis said that she has appreciated the committee's willingness to listen to her concerns.

**For the next meeting:** Start with Nepotism and Section III. Exclusions then the committee will go back over the entire policy until all tabled items are removed before addressing Section IV. Complaints.

**Next Meeting:** July 26 at 7:00 PM in the Town Hall.

**Adjournment:** Motion – Hunter. Second – Allen. Vote unanimously in favor. Adjourned at 9:15 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.