

**Approved:** August 9, 2011

## **ETHICS POLICY REVISION COMMITTEE**

### **PUBLIC MEETING MINUTES**

**July 26, 2011**

The meeting was called at 7:17 PM in the New Durham Town Hall by Dot Veisel, Chair.

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

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

**Public Input:** Chair Veisel asked if there was any public input at this time. There was none. Dot read from an email she received from Terry Jarvis after the July 12<sup>th</sup> meeting saying how much she has appreciated the open mindedness of the EPRC when accepting her comments, and that it is apparent that the committee knows how to compromise and reach consensus.

**Approval of minutes:** Chair Veisel moved for the review, additions, and omissions in the minutes of July 12, 2011. There being none, motion to approve: Gelinias. Second: Veisel. Vote: unanimously approved.

#### **Business:**

Hunter reminded the committee that the selection of a Vice Chair is still unmet. Chair Veisel said she is waiting for a full committee, which was the case for only 3 meetings.

Chair Veisel said since Stephanie MacKenzie has resigned from the committee, she asked Cecile Chase, Town Moderator, about appointing another member to represent employees. Cecile is hesitant to do so because it is so late in the revision process. Discussion followed emphasizing the value of having employee input before Town counsel's review and the public hearing. Chair Veisel said she went around asking employees if they would be interested and Carole Ingham was definitely interested. However, Ingham was concerned since her brother, Mike Gelinias is a member, and it might be perceived as she is pushing his agenda. Chair Veisel wondered if before the public hearing Ingham is invited to review the policy representing the employees. Gelinias questioned if there is a conflict for two family members to serve on a committee. Hunter said given the task of the committee she didn't see it as a conflict since she would be reviewing the policy with employee eyes and not making a decision on circumstances that might be in conflict or a matter of nepotism. She strongly felt that we should have employee input. Gelinias agreed and felt there shouldn't be a problem if Ingham served.

Since it is the responsibility of the moderator to select committee members, it was decided that Chair Veisel will contact Alison Rindenaro, Administrative Consultant, to request that she send out an email to all departments inviting employees who are interested in serving on the committee to contact Chase.

**Policy review —**

## Purpose:

Page 1 - Correction third bullet, the word expect was omitted. Remove hyphen in second paragraph after government and replace code with policy in third paragraph. It was decided to remove THE CODE in the sidebar and just include the bullets as there is not a need to restate it with THE POLICY. Also, with the same reasoning on page 5, Section II Code Provisions, remove code. In the third paragraph the use of its government was questioned and Chair Veisel will research whether it should be their government.

Page 2 – It was noted that the bullet Duty to cooperate is on hold till that section is decided when the complaints section is reviewed.

Section I. Definitions –After this meeting, Chair Veisel would like members to divide all the tabled definitions amongst themselves and cross reference them throughout the document for the next meeting.

Employee: Chair Veisel said Vickie Blackden, Financial Assistant, said there are a lot of independent contractors working for the town. After much discussion distinguishing between contractors who represent the town and those who do not, and attempting to include something like “who is not an independent contractor but is a town official”, it was decided to check with the state for its definition of employee. Item tabled.

Appearance: Hunter shared the following definition for consideration in place of the present one which she said that it doesn't relate well to the intent of the policy. “To someone without knowledge of relevant facts, a public servant's involvement in a matter appears to be in violation of the standards set forth in the Town's Ethics Policy.” By consensus it was decided to replace this one with one change, insert “seems” for appears.

Hunter suggested that the term “electioneer” be added to the definitions section to clarify what is meant in Section II Provisions A. (viii). She recommended using the definition used in RSA 659:44-a Electioneering by Public Employees — “to act in any way specifically designed to influence the vote of a voter on any question or office.” The committee agreed to add that definition to the policy.

Discussion followed about referencing RSA's in the policy. Gelinis said that it was decided to list them at the end in an addendum. Chair Veisel said we could do that after, Town counsel, the public hearing and to the Board of Selectmen, to legitimize the document if people are still willing to work on it. Hunter reminded the committee that it also has to decide the fate of the existing Board of Ethics, whether it will continue to exist to carry out the policy or identify another body to do that.

## Section II Provisions:

H. Nepotism - Chair Veisel referred the committee to the attachment that she included with the present policy draft. It was received from Terry Jarvis from the nepotism section in the draft New Durham personnel policy. Gelinis felt it could replace the first paragraph while Chair Veisel felt it could replace the entire section. Gelinis suggested striking the first paragraph and retaining (a) and (b) as written emphasizing that he doesn't want local people being denied specifically because they are family. Hunter said they are not as it doesn't say family members can't work or serve in the town nepotism has to do with favoritism in the cited circumstances; it's like a managerial firewall to prevent favoritism from happening. Gelinis said he has a problem when it comes to the Fire Department when it says you can't

have the supervisor of the supervisor being related to someone. He questions if having someone two supervisors away is possible and stating that “we don’t want to lose anyone on the department.”

Chair Veisel stated that what is being targeted here is preferential treatment. Gelinas questioned if the same standard needs to be applied to part-time and seasonal employees. Hunter said it is still a position and the amount of time someone works for a town shouldn’t determine whether or not we want to have fair and ethical guidelines or not.

Hunter stated that after reading the information from the Fremont Policy, our draft employee personnel policy and our original code she felt the original made a lot of sense, is clear and asked what is it that is not liked or missing from that original paragraph? Gelinas said that with respect to the fire department it’s difficult to make it work. He understands that they are separated by one management level but not two.

It was noted that the concern regarding police officers, fire fighters, and other emergency personnel being prevented from managing immediate family members during emergencies is addressed in Section III.Exclusions.

Hunter supported keeping the first paragraph as is but adding appointment before hiring in the first sentence stating that it clearly covers all situations dealing with preventing favoritism of immediate family members. Chair Veisel said she agrees with the first sentence in the first paragraph.

Allen said she doesn’t see why the second level is needed in the second sentence. David Bickford, as citizen, stated that the second sentence is not unethical and that it belongs in the employee personnel policy. Hunter felt that it also belongs in the ethics policy since it is communicating to the public what nepotism looks like in terms of all public servants.

After much discussion, by consensus it was agreed to strike the second sentence from the first paragraph with the following to read for:

#### H. Nepotism

No public servant shall influence or attempt to influence the appointment, hiring, transfer, suspension, promotion, discharge, assignment, reward, discipline, direction of work, or the adjustment of grievances of an immediate family member.

(a) Officials and Boards: No person serving in a public position shall appoint or vote for an appointment of any person in his/her immediate family for any public position. If a proposed appointee is a member of the immediate family of any board member that member shall remove himself/herself completely from the process.

(b) Employees: As spelled out in the personnel policy.

**Next Meeting:** Tuesday, August 9 at 7:00. Chair Veisel will need to let us know where since the Town Hall is unavailable. Since Hunter is going away the next morning for a week, Chair Veisel will take minutes and have them posted within 5 business days.

**For the next meeting:** Pages 10-11 including exclusions and complaints will be reviewed.

Chair Veisel said her target date is that by mid-September Town counsel will have reviewed the policy and there will be the public hearing.

The issue of who approves the policy was raised noting that the committee was told at its first meeting that it was up to them to do that. Gelinas said when it is sent to Town counsel he wants that specific question to be asked. Hunter questioned since it was originally adopted at Town Meeting and converted to a policy at Town Meeting, should it go there for adoption?

To expedite access to counsel, Chair Veisel will make a formal request to the Board of Selectmen at their August 1<sup>st</sup> meeting.

David Bickford, from the floor, raised an issue with department heads under nepotism stating that they can have a tremendous amount of influence as the selectmen do not have much involvement in the process. He raised the question as to whether they should disclose to the selectmen when an immediate family member is a candidate being recommended to be hired. He asked, is that or should it be in the policy? Chair Viesel, referred to the first paragraph under nepotism. Bickford asked if that would prevent a department head from bringing the best candidate forward. Chair Viesel noted this relationship will be discussed at the next meeting.

**Adjournment:** Motion – Gelinas. Second – Hunter. Vote unanimously in favor. Adjourned at 9:25 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.