

**Approved:** September 27, 2011

## **ETHICS POLICY REVISION COMMITTEE**

### **PUBLIC MEETING MINUTES**

**September 13, 2011**

The meeting was called at 7:00 PM in the New Durham Town Hall by Dot Veisel, Chair.

**Present:** Mike Gelinas, Dot Veisel, Barbara Hunter

**Excused Absence:** Carol Allen

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

**Approval of Minutes:** Chair Veisel moved for the review, additions, and omissions in the minutes of August 23, 2011. There being none, motion to approve: Gelinas. Second: Hunter. Vote: unanimously approved.

#### **Business:**

Chair Veisel said that she sent Town counsel the questions posited by the committee as in the minutes of August 23 along with the up to date Work In Progress (WIP) document. A response has yet to come.

Hunter wondered why under Purpose on page one, the asterisk(\*) after matters in bullet one as well as the footnote stating: *\*"Interests" in the context of this policy means material or substantial interests and excludes trivial or transient interests which are the natural result of living in a small town.*" is not included in the WIP document. Since it was a typing omission, it will be returned.

Hunter suggested that the length of committee member terms be included in Section IV: Formation of Ethics Committee. By consensus it will now read:

The Board of Selectmen shall appoint a committee of no less than 3 and no more than 5 persons, with staggered 3 year terms, such committee will be named Ethics Committee.

Chair Veisel informed the committee that she has updated Cecil Chase, Town Moderator, as to the progress of the committee and remaining tasks. She asked the members what their understanding is regarding the present status of the Board of Ethics. It was agreed that it exists and it is up to the EPRC to decide if it continues and becomes the Ethics Committee or a new committee is established. Realizing in either case the BOS will decide who will be appointed. Bickford, from the floor said that he would like the EPRC committee to disband the BOE and start fresh and establish new committee.

Chair Veisel suggested the committee to reconsider the membership of the committee as stated in Section IV stating: "No public servant shall serve on the committee." She suggested that public servant be replaced by "no BOS or Department Chair . . ." She asked whether present EPRC members would be excluded from serving on the EC. Hunter said that in the case of the EPRC, they would not because it is an ad hoc committee formed specifically for this purpose and when done, won't exist. Chair Veisel asked Bickford his understanding about this situation; he said that as long as the EPRC exists members are public servants. If the BOE becomes the EC then the present members will not need to be reappointed. Bickford suggested that be brought up with Town counsel.

Chair Veisel suggested an alternative saying "no BOS or department head shall serve on the committee; one member may be a public servant." Discussion followed regarding the strengths and weaknesses of other public servants e.g., employees being represented on the committee. One critical aspect to consider is the purpose of the EC and the advantages of having members who don't have any public servant relationships to really be looking at the issues with the eyes of the townspeople in mind. Also, included in the discussion was that having a public servant serving could be a deterrent to someone coming forward with an inquiry or complaint. After much discussion, it was decided to include the below and table the discussion to the next meeting when member Allen will be present.

No Board of Selectmen or Department Head shall serve on the committee; one member may be a public servant.

It was noted that the Section IV: Inquires and Complaints, "and complaints" should be removed from the title since complaints will be dealt with in section five. Also, in that section numbers 1-2 should be deleted to continue with the previous format.

Chair Veisel referred to paragraph two under Purpose on page one asking when a process is established. Gelinis commented that it would be once the committee is formed. Bickford stated that there is confusion as written. To prevent confusion, the following change will be made:

This policy establishes a committee that will develop a process by which one may obtain guidance regarding potential ethical issues and it establishes a course of action for resolving disputes in a manner that is fair to all of the parties involved.

Gelinis asked how far the committee should proceed with complaints. Hunter referred to Section IV third bullet stating that committee will hear complaints and provide a process toward a resolution.

Chair Veisel suggested that under complaints the second paragraph should be the first. Gelinis felt that the complaints should be referred to the BOS. Discussion followed with inherent problems with going directly to the selectmen.

Gelinis suggested a flow chart to show the steps of dealing with complaints. The committee explored various approaches, levels of listening to complaints, the need for comments from the respondent, the committee deciding if the complaint has merit, problems with making a judgment between the complainant and the respondent. The minutes of the August 9 meeting, page 2 were referred to regarding the roles of the committee.

Bickford, from the floor, stated that it is his desire to avoid a full blown hearing when there is a complaint. He thought the committee should determine if the complaint is valid and then refers it to the BOS.

Gelinas suggested that a flow chart be developed with the steps involved when a complaint is brought to the committee. For example, exploring all avenues to resolve an issue, go before the BOS with a complaint or go to the Ethics Committee with an inquiry.

Discussion followed regarding the legal responsibility of the committee to continue should a complainant decide to withdraw it.

After some unanswered questions about public and non-public meetings, Hunter said she'll email members information on the Right to Know Law from the Local Government Center that might be helpful.

It was decided that more work needs to be done prior to further decisions in Section V: Complaints. Homework for the next meeting: each member should come with four copies of their written suggestions regarding dealing with complaints. Hunter said that it might be helpful to review the BOE Rules of Procedure document during that process. She will email it to the committee.

**Next Meeting:** Tuesday, September 27 at 7:00 at the Town Hall. Should the Conservation Committee need the room, Chair Veisel will make other arrangements.

**Adjournment:** Motion – Gelinas, second – Hunter. Vote unanimously in favor. Adjourned at 9:10 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.