

Approved: December 13, 2011

ETHICS POLICY REVISION COMMITTEE

PUBLIC MEETING MINUTES

November 29, 2011

The meeting was called at 7:04 PM in the New Durham Fire Station Community Room by Dot Veisel, Chair.

Present: Carol Allen, Mike Gelinas, Dot Veisel, Barbara Hunter

Also Present: Diane Thayer, Cathy Orlowicz, Terry Jarvis, David Bickford, Mary McHale

Public Hearing on the Ethics Policy:

Chair Veisel opened the public hearing on the New Durham Ethics Policy. She provided background of the Ethics Policy Revision Committee: at the March 2010 Town Meeting, residents voted to repeal the Ethics Ordinance and gave Cecil Chase, Town Moderator, the authority to establish a committee to revise and rewrite the ordinance into a policy. The committee was to consist of two members of the Board of Ethics, two residents at large and a town employee. Since its inception, three resignations resulted in the committee working without employee representation since July. The committee has been revising and rewriting the ordinance into the present policy.

Chair Veisel, noted that there may be additional changes as a result of the hearing and that the EPRC has the authority to adopt the policy without a hearing but the committee wanted to invite public comments.

Cathy Orlowicz thanked the committee for their work. She inquired why the definition of public servants includes employees and what protections are guaranteed to employees should a complaint come forward. She declared that she is not assured that her rights as an employee are protected.

Chair Veisel stated that the Ethics Committee will not be receiving complaints, the Board of Selectmen will. She emphasized that all public servants including employees are expected to maintain the ethical standards set forth in the policy.

Hunter mentioned that in the policy employee's rights are protected by referencing the Town Personnel Policy in Section VI. as well as, under the New Hampshire Right to Know Law.

Orlowicz felt that employees should not be included under the Ethics Policy because they are under the employee Personnel Policy.

Diane Thayer said that the policy should include anyone associated with the town; without employees, she would question why they would be excluded.

Hunter asked how many people in the town read the Personnel Policy and that the Ethics Policy is also a way to educate people in the town about expectations of their public servants.

Terry Jarvis, attending as a resident but as Selectmen shared that she is presently involved in revising the New Durham Personnel Policy and the Ethics Policy will be referenced in the ethics section. She acknowledged that the Ethics Policy sets the standards expected of all employees, saving the personnel committee a lot of additional work. She thanked the committee for including the section regarding dealing with employees thus protecting the rights of employees. She said she does not see the Ethics Policy as being in conflict with the personnel manual.

David Bickford noted that “personal friend” needs to be defined. He specified that in Section VI when it states that complaints shall be handled in accordance with the procedures outlined in the Personnel Policy it means that employees are excluded from the Ethics Policy. He suggested either removing the last sentence or adding “complaints shall also be.” Gelinas commented that statement is referring to only complaint procedures. With that understanding, Bickford was okay with it as written.

Bickford said he doesn’t have any subjective changes as he is quite pleased with the policy. He suggested: replacing standards with behavior in the first sentence page one, adding “interest in matters” and “close personal friend” to definitions, changing the heading to Section II H or adding “no” before nepotism. He questioned requiring a quorum of three or more committee members to hear an inquiry.

Jarvis wondered if that quorum statement referring only to an inquiry would mean other business could take place with less than three.

Discussion followed as to why there is a statement about complaints to the BOS under inquiries. Chair Veisel said it is identifying the next step as the committee does not have the authority to receive complaints.

Chair Veisel reminded the public that once the EC is appointed by the BOS, it is the committee’s responsibility to develop their rules and procedures.

Bickford advised that in Section V: Inquiries, the second sentence be changed so that “shall” is replaced by “may.” Gelinas stressed that the committee felt when an inquiry is submitted in writing there should be a written opinion.

Thayer questioned the inclusion of officers in the definition of public servants. It was noted that it was in the original Ethics Ordinance and needs to be removed.

Jarvis encouraged the committee to rework the definition for public servants and officials so they do not repeat the each other. She also noted that on page one second bullet “interest in matters” should be defined. In addition, in the final draft pecuniary and official authority terms are not included.

Jarvis, referring to Section II A. (ii), felt the board member shouldn’t be required to publically declare the reason for stepping down. Gelinas commented that if a board member is appearing before a board about

an issue coming before the board on behalf of someone, it is expected that they fully disclose the conflict and step down from the board.

Jarvis suggested that in Section II A. (viii), town property be included. Mary McHale said government property could mean the school during elections. Jarvis suggested adding physical property.

At 8:35 PM, Chair Veisel thanked the public for their comments and closed the public hearing.

Approval of Minutes: Chair Veisel moved for the review, additions, and omissions in the minutes of October 25, 2011. She noted the omission of the date in approval of minute's section along with several edits that should be made. Motion to approve the minutes as amended: Gelin. Second: Allen. Vote: unanimously approved.

Business:

The committee continued work on the policy addressing the issues brought up during the public hearing. It was decided to make the following changes:

- Page one, first sentence to read "The purpose of this code is to establish guidelines for the ethical behavior of the conduct for public servants."
- Move the box on page 1 to page 6.
- Remove the asterisk at the bottom of page one and include that intent in the second bullet to now read: "We expect public servants to disclose any personal, financial, material or substantial interests in matters affecting the town which come before them for action, excluding trivial or transient interests which are the natural result of living in a small town."
- Add the following to the end of the last paragraph on page one: "This policy establishes a committee that will develop procedures by which one may obtain guidance and education regarding potential ethical issues. This committee conducts inquiries and advises individuals. All complaints will be handled by the Board of Selectmen."
- Search "official authority" and "pecuniary" and remove if not used in the document.
- Include a note to rework the definitions for public servants and officials.
- Remove officer from public servant definition.
- Delete respondent from definitions.
- Include a note to define close personal friend.
- Change Section II A.(viii) to read: "No public servant shall electioneer while in the performance of his/her official duties or use town property, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering, unless such use is available to residents and taxpayers on equal terms."
- In Section IV: Formation of the Ethics Committee, replace with the original description from the Code of Ethics to read: The Board of Selectmen shall appoint a committee of no more than 5 or less than 3 persons, with staggered 3 year terms, such committee will be named the Ethics Committee.
- In Section V Inquiries change residents to individuals first sentence. Second sentence to spell out what is to be written and now read: Upon review of written inquiries, the Ethics Committee shall

reference how the policy relates to the inquiry in writing. Drop the next two sentences down to begin a new paragraph and note that a bridge to the issue needs to be developed.

- In addition, the other needed edits regarding typos and consistency e.g., immediate family, residents and taxpayers will be made.
- In Section VIII remove "Office."

Hunter will make the above changes to the October 25 WIP creating a November 29 WIP document and email it to members.

Gelinas will research a definition for close personal friend for the next meeting.

Chair Veisel stated that after the committee adopts the policy, it needs to make a decision about the Board of Ethics; since the policy states that the BOS will appoint a committee it is assumed that it will be disbanded.

Next Meeting: Tuesday, December 13, 2011 at 7:00 PM in the Town Hall.

Adjournment: Motion – Allen. Second – Hunter. 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.