

DRAFT MINUTES
DURHAM ETHICS COMMISSION
SEPTEMBER 28, 2009

- I. **Meeting was called to order** by Bob Fulton at 7:15 P.M. Roll was called:
Present: Bob Fulton Ellen Piotrowski, Jennifer Fowler, Linda Maffei. **Absent:**
Dave Adams, Bruce Chaplin, Pat Kupcho. New member Jennifer Fowler was
introduced and welcomed to the Commission.
- II. **Approval of the Agenda.** Ellen Piotrowski moved, and Jennifer Fowler
seconded, that the Agenda be approved. Without discussion, the Agenda was
unanimously approved.
- III. **Approval of the Ethics Commission meeting minutes of August 24, 2009.**
Linda Maffei moved, and Jennifer Fowler seconded, that the draft minutes from
the August 11, 2009 meeting be approved as written, unanimously approved.
- IV. **Public Comment.** It was noted that there were no members of the public present.
- V. **Discussion of the Durham Code of Ethics and other Commission matters.**
Bob Fulton indicated that he had spoken with Atty., Forsyth and received his legal
input regarding our questions resulting from matters discussed at the public
hearing presentation.

Based upon reactions and discussion at the recent public hearing, the original language regarding vendors and/or outside contractors needed clarification. Discussion ensued regarding eliminating a monetary limit for gifts, and eliminating the wording regarding influence as it pertains to gifts in the 08112009 version. Members agreed that setting a \$0 limit on gifts from vendors would clarify and eliminate any exceptions.

The term Independent Contractor was also clarified to encompass vendor relationships in the future, current, and past with the Town.

After discussion, it was felt that gifts between employees, and employees and employers are a function of Human Resources, and are not an ethical issue to be covered by the Code.

A motion was made by Jennifer Fowler, and seconded by Ellen Piotrowski as follows:

To strike the definition of "gift" in Section 2 of the 08112009 version of the Code and replace it as follows:

“Gift – Any thing having a monetary value, including but not limited to entertainment, food, beverage, travel, lodging, given or paid, or any thing of benefit, regardless of monetary value.”

There was no discussion, and the motion was approved unanimously.

A motion was made by Linda Maffei, and seconded by Jennifer Fowler as follows:

To revise the definition of Independent Contractor in Section 2 of the 08112009 version of the Code and replace it as follows:

“Independent Contractor – any contractor, subcontractor or consultant proposing to provide, currently providing, or who formerly provided goods or services to the Town of Durham in exchange for compensation.”

There was no further discussion, and the motion passed unanimously.

A motion was made by Jennifer Fowler, and seconded by Linda Maffei as follows:

To revise Paragraph V in Section 3, entitled “Gifts or Favors” of the 08112009 version of the Code as follows:

Gifts or Favors: No officer, official or employee of the Town of Durham or member of his or her immediate family shall solicit or accept any gift from an Independent Contractor.”

There was no discussion, and the motion passed unanimously.

Bob Fulton stated that during his conversation with Atty. Forsyth, it was noted that a Justice of the Peace, under the Conn. General Statutes, has the authority to take an oath.

A motion was then made by Linda Maffei, and seconded by Jennifer Fowler as follows:

To revise the 08112009 version of the Code in Section 5, Paragraph A to add, after #5 in that section the word “;or” and then followed by “6. A justice of the peace.”

There was no further discussion, and the motion passed unanimously.

Discussion ensued regarding some of the questions brought up during the Town Meeting, and the opinion of Atty. Forsyth as to the same. In particular, we questioned whether an individual who is a member of a commission with a private interest may recuse himself and participate as an audience member. Atty. Forsyth stated that once that occurs, that individual may speak towards his own private interest; however, he must distance himself physically from the commission and also refrain from speaking of his position on the commission.

We further discussed the issue of the Historic District Commission, where 5 of 8 members must live in the district, and therefore might have a “private interest” whenever business was discussed. Atty. Forsyth indicated that the State Legislature understood this issue when drafting the applicable statute. The Ethics Commission would need to consider this deliberate legislative tension in its future deliberations

For simplicity, the latest version of the Code will be called “Town of Durham Code of Ethics as Revised by the Ethics Commission 09282009”.

Discussion was held on whether to request another Town Meeting to present the changes. It was felt that although not necessary, it would be beneficial to explain the changes and answer questions. Members were assigned sections to present:

Bob Fulton: Moderator, Sections 2,6, 9

Ellen Piotrowski: Section 3

Linda Maffei: Section 5

Jennifer Fowler: Section 7

Margie Stahl: Sections 8, 10

Ellen Piotrowski requested a clarification of language in the Code in Section 2, Paragraph III, Third paragraph within, which states:

“Furthermore, if such officer, official or employee is a member of such body, he or she shall refrain from voting upon or otherwise participating in the consideration of such matter....”

Bob Fulton explained that when he discussed this with Atty. Forsyth, his response was that the language was correct; that the meaning is that if an individual is a member of such body as described and under those conditions, he shall not participate in the consideration of the matter before the commission, board, committee or agency of which he is a member. The member is no longer doing the consideration if he is now acting as a member of the public.

Linda Maffei moved, and Jennifer Fowler seconded the following change to the first sentence of the third paragraph of section 2, Paragraph III:

That we revise the language to read: “Furthermore, if such officer, official, or employee is a member of such body, he or she will refrain from voting in the body’s consideration of the matter.”

There was no further discussion and the motion was approved unanimously.

- VI. **Old Business:** Minutes from the August 11, 2009 meeting were sent to the Town Clerk’s Office in draft form only, and never followed with a final version. With the exception of adding last names to the body of the minutes, Ellen Piotrowski

moved, and Jennifer Fowler seconded to accept the revise minutes. There was no further discussion, and the motion was approved unanimously.

The issue of how to address complaints was again renewed. The Commission felt that it should be its responsibility to respond with the appropriate letters and notifications, and not ask the Town Hall staff to do so. We discussed appointing a Corresponding Secretary. We also discussed creating a checklist of steps to be followed when a complaint is received.

VII. **New Business:** None.

VIII.

Our next meeting is scheduled for October 26, 2009

Upon a motion by Linda Maffei, seconded by Jennifer Fowler, to adjourn the meeting, there was no discussion, and the motion passed unanimously.

Respectfully submitted,

Linda Maffei, Acting Secretary, Durham Ethics Commission