

TOWN OF ELLINGTON

55 MAIN STREET – PO BOX 187
ELLINGTON, CONNECTICUT 06029-0187

Ethics Commission

Derek Reed
VICE CHAIRMAN

Julia Marquis
Charles McCleary
Jane Roets



Wilfred A. Duchesneau
CHAIRMAN

Ethics Commission Meeting

Minutes

April 23, 2019

Members Present: Wilfred Duchesneau, Charles McCleary, Derek Reed, Julia Marquis [via speaker phone]

Member Absent: Jane Roets

Others Present: Nancy Nicolescu

I. Call to Order:

Chairman Duchesneau called the meeting to order at 7:04 p.m. in Commission Room A located on the lower level of Town Hall.

II. Citizens' Forum: No one came forward.

III. Approval of Minutes: March 5, 2019

MOVED (REED), SECONDED (MCCLEARY) AND PASSED [AYE: DUCHESNEAU/REED/MCCLEARY; ABSTAIN: MARQUIS] TO APPROVE THE MINUTES OF THE MARCH 5, 2019 ETHICS COMMISSION MEETING.

IV. Old Business:

A. Code of Ethics – Review and Recommend Revisions:

Ms. Marquis said that she had reviewed the minutes from the last meeting and it is her understanding that the Commission is looking to revise the Code to cover the issues that came up during the recent complaint that was reviewed. She said that during that process, the Commission discovered that the Code is very specific, limiting the abilities of the Commission to act, such as not allowing for guidance, amendments or a letter to be added to a complaint. She said the Commission needs to ask themselves if the Code was intentionally written to be restrictive.

Mr. McCleary added that he suggests that a Statement of Purpose be added to the Code to indicate its intention. Is it to address situations where someone may be currying favor and/or to address potential misuse of authority or influence for financial or non-financial gain? The Code as it is written is not clear. Mr. McCleary added that the Code needs to be grounded in principles and expanded.

Mr. Duchesneau said that it is important to clearly indicate what is considered a "conflict of interest" and to define how it is related to the Code, as the term is indicated in Section 2: "Definitions", but then not again in the Code. Mr. McCleary added that in Section 4.A the subject of "conflict of interest" is addressed and therefore Section 4-A should be titled as such. The Commissioners agreed to this revision.

Mr. Reed added that the expectation of the Code is that not only are the Town employees to abide by it, but it is the expectation that everyone will be treated the same as well.

Ms. Marquis said the Commission needs to consider if they are revising the present Code or if they are looking to rewrite the Code in totality. She suggested if the Commission is going through the Code anyway, they may as well clean it up. She suggested that the members take the Code outside of the meeting setting and mark up their recommended revisions and then bring it to the next meeting for review and discussion, in the interest of being more productive.

Mr. McCleary expressed concern about tuning up the code as it stands and he noted that one of the biggest complications is the sword rattling about due process that occurred recently; he added that he is not sure how much of it is just sword rattling and how much of it is a true problem.

Ms. Marquis added that she sees three issues that need attention; (1) general authority within the framework of the Code; (2) conflict of interest and (3) due process. She said that the Commissioners don't want to diminish their authority by relying on the Town attorney all the time. Once the Commission's authority to revise the Code is established, the Commissioners should go through it. Mr. Reed said that he believes the Commission has the authority to review the Code and make recommendations to the Board of Selectmen. The Board of Selectmen has the final authority.

The Commissioners decided to ask the Town Attorney to attend the next meeting to dialogue about the issues they've identified so far and to have a general discussion about the Code and the Commission in an advisory capacity. One additional question was added to the list for the Town Attorney: Is it advisable for the Commission to recommend that on Page 7 Section 7 the complaint submission requirements be relaxed to some degree.

V. **New Business:** There was no new business.

VI. **Correspondence:**

- A. Letter received April 10, 2019: The Commission members discussed the correspondence sent to the Board of Education and copied to the Ethics Commission. It was determined that for several reasons the letter did not meet the criteria of a Code of Ethics complaint as currently specified in Section 7 of the Code.

VII. Adjournment

MOVED (REED), SECONDED (MCCLEARY) AND PASSED UNANIMOUSLY TO ADJOURN THE ETHICS COMMISSION MEETING AT 7:58 P.M.

Respectfully submitted,



LouAnn Cannella
Ethics Commission Recording Secretary

Ethics Commission – Questions for the Town Attorney***Section 7: Procedures for Receiving Complaints, Jurisdiction, Preliminary Reviews, Evaluations and Hearings***

Does this section as written, adequately protect the due process rights of the complainant and respondent alike? (page 7).

When it is appropriate to provide the respondent with a copy of the complaint and any back-up material that was included?

What revisions to Section 7 do you recommend to ensure that due process rights are afforded to the complainant and respondent?

If the Town Attorney represents Town employee, then town employee should be required to use Town attorney or her designee or the employee should pay for their own attorney personally.

Under what circumstances can the town attorney assist/represent the Ethics Commission?

Is it advisable for the Commission to recommend that on Page 7 Section 7 the complaint submission requirements be relaxed to some degree?

Section 4: Interest in Conflict with Discharge of Duties and Standards of Ethical Conduct

Rewrite Section A to include all persons subject to the code; expand to include employees.

If the Ethics Commission members find that the complainant has identified an incorrect part of the code in their documentation, is the Ethics Commission authorized to guide them to the part of the code that may have actually been violated.

Should there be a second paragraph after the intro paragraph as follows: The Ethics Commission will find a conflict of interest when a person subject to the code participates in decision making in matters involving direct or indirect personal, financial or proprietary interest.

Recognizing that behavior can be of self-interest that isn't financial, shouldn't that be included in Section 4?

The focus on personal direct or indirect financial interest is too narrow; is self-interest too broad?