

TOWN OF MANSFIELD

Ethics Board

Thursday, October 30, 2008

Audrey Beck Municipal Building, Conference Room B

7:00pm

Minutes

Members Present: Nora Stevens, Mike Sikoski, David Ferrero, Eleanor Plank, Win Smith

Staff Present: Maria Capriola, Assistant to Town Manager

I. SELECTION OF RECORDER/SECRETARY

Ms. Capriola will serve as the secretary for the Board; it was noted that one of her predecessors had staffed the Committee in the mid-1990's.

II. SELECTION OF VICE CHAIR

Ms. Stevens was nominated by Mr. Sikoski to serve as Vice Chair. The motion was unanimously approved.

III. APPROVAL OF MINUTES FROM 10/23/08

Mr. Sikoski presented an alternative version to the minutes of 10/23/08. The Committee approved the corrections discussed.

#### IV. PUBLIC COMMENT

None.

#### V. DISCUSSION OF PUBLIC COMMENT (WHEN AND HOW)

Mr. Sikoski stated that he would like to be able to allow public participation throughout the meeting. Ms. Plank and Mr. Smith stated that they believed doing so would be difficult, but that the Board could allow for one public comment section on the agenda. Mr. Ferrero and Ms. Stevens concurred and Ms. Stevens added that public comment should be allowed once, early in the agenda, and not at the end of a meeting. By consensus, the Board decided that it would allow for one public comment section on the agenda at the beginning of the meeting. Ms. Stevens further recommended that if a citizen stated during public comment that they wish to speak to a specific agenda item, that the Board may choose to allow public comment at the start of that specific agenda item; the Board, by consensus, was in agreement with that recommendation.

#### VI. DISCUSSION OF CURRENT CODE SECTIONS

Ms. Capriola reported on a follow-up item from a previous meeting; Ms. Capriola consulted with the FOI Commission regarding discloseable Ethics Board information. FOI stated that Ethics Boards fall outside of FOI. When hearing/reviewing complaints the meeting should be non-noticed. If there is no probable cause or an allegation is not substantiated, all information and documents remain confidential and are not releasable. If probable cause is determined or an allegation is substantiated, some documents may be releasable.

Members of the Board reviewed their recommended revisions to the code, per the sections they were assigned (Sikoski sections 7, 10; Ferrero sections 1-3 and 8; Stevens section 4; and Plank section 6) at the 10/23/08 meeting. Recommended deletions and revisions reached by consensus or majority of members present are attached to these minutes and so noted. Items flagged for follow-up/future action are as follows:

- Pertaining to 4(c) (7), the Board asked Ms. Capriola to provide a sample “one year cooling off period” definition for a future meeting.
- Pertaining to 4(c) (8), the Board asked Ms. Capriola to provide excerpts from the collective bargaining agreements regarding outside employment for reference purposes.

- Pertaining to Section 6, the Board also asked Ms. Capriola to provide draft language regarding recordkeeping pursuant to FOI and statutes governing ethics boards.
- Pertaining to Section 7, Mr. Sikoski stated that he would like for the code to have an informal advisory opinion component. Discussion occurred as to the difference between formal and informal opinions, allegations and advisory opinions. Smith, Plank, Stevens and Ferrero agreed that there is a difference between an individual seeking advice for him/herself versus an individual raising an allegation against another individual, in which the alleged individual has a right to due process. Ms. Stevens recommended that the Board table the “advisory opinion” item for further discussion at a future meeting; the Board approved the motion unanimously.
- Pertaining to Section 10, the Board has requested a referral to the Town Attorney regarding the appeals process laid out in state statutes.

## VII. PUBLIC COMMENT

The Board concurred that the second public comment was not necessary and would not be utilized at future meetings. Mr. Sikoski recognized Mr. Ric Hossack for comment. Mr. Hossack commented to the use of the Town Attorney.

## IX. ADJOURNMENT

The meeting adjourned at 9:40pm.

Respectfully Submitted,

Maria E. Capriola

Assistant to Town Manager

## Chapter 25: ETHICS, CODE OF

### Notes on Recommended Changes Decided at 10/30/08 meeting:

- **Strikethrough** = recommended deletions reached by consensus or majority of members
- **Bold/Italics** = recommended revisions by consensus or majority of members
- **Comment boxes** indicate items for further discussion

[HISTORY: Adopted by the Town Council of the Town of Mansfield 6-26-1995, effective 8-7-1995. Amendments noted where applicable.]

#### § 25-1. Title.

This chapter shall be known and may be cited as the "Code of Ethics."

#### § 25-2. Purpose.

- A. The purpose of these standards is to guide town officials, elected and appointed, town employees and citizens by establishing standards of conduct. ~~for persons in the decisionmaking process~~. It is intended to strengthen the tradition of government in the town.
- B. Good government depends on decisions which are based upon the merits of the issue and are in the best interests of the town as a whole, without regard to personal gain.
- C. In pursuit of that goal, these standards are provided to aid those involved in decisionmaking to act in accordance with the public interest, use objective judgment, assure accountability, provide democratic leadership and uphold the respectability of the government.

#### § 25-3. Definitions.

As used in this chapter, the following words or phrases shall have the meanings ascribed to them in this section:

**CONFIDENTIAL INFORMATION** — Any information ~~concerning the property, business or affairs of the town not generally available to the public~~. ***not discloseable under or subject to FOI rules.***

**EMPLOYEE** — Any person receiving a salary, wages or compensation from the town for services rendered.

IMMEDIATE FAMILY — Any parent, brother, sister, child spouse or co-habiting partner of an individual as well as the parent, brother, sister or child of said spouse or co-habiting partner, and the spouse or co-habiting partner of any such child or any dependent relative who resides in said individual's household.

INTEREST IN A PERSONAL OR FINANCIAL SENSE — The same meaning as the courts of this state apply, from time to time, to the same phrase as used in §§ 8-11 and 8-21, C.G.S.

OFFICIAL — Any person holding elective or appointive town office, including members and alternate members of town agencies, boards and commissions, and committees appointed to oversee the construction or improvement of town facilities, or any other board, commission or agency that perform legislative or judicial functions or exercise financial authority (collectively hereinafter referred to as "body").

#### **§ 25-4. Guidelines established.**

- A. Use of town assets. No official or employee shall use or permit the use of town funds, services, property, equipment, owned or leased vehicles or materials for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established town policies for the use of such officials or employees.
- B. Fair and equal treatment. No official or employee shall grant or accept any special consideration, treatment or advantage to or from any person beyond that which is available to every other person.
- C. Conflict of interest.
  - (1) Disqualification in matters involving a personal or financial interest. No employee or official shall participate in the hearing or decision of the body of which he or she is a member upon any matter in which he or she is interested in a personal or financial sense. The fact of such disqualification shall be entered on the records of such body. Nothing contained herein shall be construed as to prevent any elected official or employee from submitting a competitive sealed bid in response to an invitation to bid from any body of the town, provided that such person does not thereby violate Subsection C(2) of this section.
  - (2) Disclosure of confidential information. No official or employee shall disclose or use any confidential information obtained in an official capacity for the purpose of advancing his or her financial or personal interest or that of others.
  - (3) Gifts and favors. No official or employee or member of his or her immediate family shall solicit or accept any gift or gifts having a value of fifty dollars (\$50.) or more ~~in value in~~

any calendar year, whether in the form of service, loan, thing, promise or any other form, from any person or persons who to his or her knowledge is interested directly or indirectly in business dealings with the town. This prohibition shall not apply to lawful political contributors as defined in § 9-333(b), C.G.S.

- (4) Use of influence. No official or employee shall solicit any business, directly or indirectly, from another official or employee **especially one** over whom he/**she** has any direct or indirect control or influence with respect to tenure, compensation or duties.
- (5) Representation of private or adverse interest. No official or employee shall appear on behalf of a private interest before any body of the town, nor shall he or she represent an adverse interest in any litigation involving the town.
- (6) Disclosure of interest. Any official or employee who has a personal or financial interest in any matter coming before any body of the town shall make the same known to such body in a timely manner, and such interest shall be disclosed on the records of such body.
- (7) First year after termination. No official or employee shall, during the first year after termination of service or employment with the town, appear before any body of the town or apply to any department in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration.
- (8) Private employment. No official or employee shall engage in or accept private employment or render service that is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of official duties or give the appearance of impropriety, unless otherwise permitted by law.

#### § 25-5. Board of **Ethics**.

- A. There is hereby established a Board of **Ethics** consisting of five (5) members who shall be electors of the town. The members shall be appointed by the Town Council and shall serve for a term of three (3) years, ~~except that, of the initial Board, two (2) members shall serve for a term of two (2) years, and one (1) member for a term of one (1) year.~~
- B. Alternate members. In addition to the regular members, the Town Council shall appoint two (2) alternate members who shall serve in the absence of a regular member. ~~The initial appointments shall be for a term to expire on June 30, 1996. Thereafter, all **Alternate member** appointments shall be for two-year terms.~~
- C. No more than three (3) members and no more than one (1) alternate member shall be of the same political party at any time.
- D. No member or alternate shall contemporaneously be an employee or official of the town *on any other board*.

#### § 25-6. Organization and procedure.

The Board of **Ethics** shall elect a **Chair, Vice Chair, and Secretary annually. Rules and procedures shall be established. Confidentiality must be maintained in order to protect the privacy of public officials, employees and citizens, including the provisions of Sec 1-82(a)-(f) of the Connecticut General Statutes. The Board shall keep records of its meetings, planning to meet at least four times a year and at such other times as deemed necessary by any member.** ~~Chairperson and a Secretary and shall establish its own rules and procedures, which shall be available to any elector of the town through the Town Clerk's office. Rules and procedures shall be established within six (6) months of the initial appointment of all members and alternates. The need to maintain confidentiality in order to protect the privacy of public officials and employees and citizens [including the provisions of § 1-82a(a) through (f), C.G.S.] shall be considered when establishing the rules and procedures. The Board shall keep records of its meetings and shall hold meetings at the call of the Chairperson and at such other times as it may determine.~~

#### **§ 25-7. Powers and duties.**

- A. The Board of **Ethics** shall render advisory opinions with respect to the applicability of this Code of **Ethics** in specific situations to any body, or any official, employee or elector pursuant to a written request or upon its own initiative. The Board may also issue guidelines on such issues as, for example, ex parte communication. Such opinions and guidelines, until amended or revoked, shall be binding on the Board and reliance upon them in good faith by any officer or employee in any action brought under the provisions of this chapter. Any request or opinion the disclosure of which invades the personal privacy [as that term is used in C.G.S. § 1-19(b)(2)] of any individual shall be kept confidential in a personnel or similar file and shall not be subject to public inspection or disclosure. The Board may make available to the public such advisory opinions which do not invade personal privacy and take other appropriate steps in an effort to increase public **and officials'** awareness of this Code of **Ethics**.
- B. The Board shall establish procedures by which the public may initiate complaints alleging violations of this Code. The Board itself may also initiate such complaints. The Board shall have the power to hold hearings concerning the application of this Code and its violation and may administer oaths and compel attendance of witnesses by subpoena. Such hearings shall be closed to the public unless the respondent requests otherwise. If the Board determines the respondent has, in fact, violated the provisions of this Code, it shall file a memorandum of decision which may include a recommendation for action, with the Town Council or other appropriate body. The recommended action may include reprimand, public censure, termination or suspension of employment, removal or suspension from appointive office or termination of contractual status, except that no action may be recommended which would violate the provisions of the state or federal law. In the case of union employees, such recommended action does not constitute a unilateral change in conditions of employment. No such recommendation shall limit the authority of the Town Council under the Charter of the town or under any ordinance, statute or any other law. Any discussion by the Town Council or other body of an individual affected by the memorandum of decision shall be in executive session, unless the individual affected requests that such discussion be held in open session.
- C. Any complaint received by the Board must be in writing and signed under oath by the individual making said complaint, under penalty of false statement (C.G.S. § 53a-157b).

#### **§ 25-8. Annual report.**

Each year, at a time to be determined by the Board, it shall prepare and submit to the Town Council an annual report of its actions during the preceding twelve (12) months and its recommendations, if any. Additional reports, opinions and recommendations may be submitted by the Board to the Town Council at any time. In all such submissions, the Board shall be scrupulous in its avoidance of the ~~undue~~ invasion of the personal privacy of any individual.

#### **§ 25-9. Distribution of Code of Ethics.**

In order that all public officials and employees are aware of what constitutes ethical conduct in the operations of the government of the Town of Mansfield, the ~~Town Clerk~~ **appropriate officials** shall cause a copy of this Code of **Ethics** to be distributed to each and every official and employee of the town.

#### **§ 25-10. Appeals.**

A decision by the Board of **Ethics** may be appealed in the manner allowed by the general statutes.

#### **§ 25-11. Severability; conflicts with other provisions.**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter. Furthermore, should any such provisions of this chapter conflict with any provisions of the Personnel Rules of the Town of Mansfield, the collective bargaining agreements of the Town of Mansfield or the Connecticut General Statutes, the relevant provisions of the Personnel Rules, collective bargaining agreements and/or the Connecticut General Statutes shall prevail.

May revise definition; Capriola to provide sample definition from MA statutes.

Board has asked Capriola to provide excerpts from CBAs regarding outside employment for reference purposes.

The Board has requested Ms. Capriola to provide draft language regarding recordkeeping pursuant to FOI and statutes governing ethics boards.

Interpretation of advisory opinions were discussed. Majority of members were in agreement that there is a distinction between an individual seeking an advisory opinion and one making an allegation, in which the accused needs to be afforded due process. Tabled for future discussion.

Means for distribution was discussed, but not decided.

The Board has referred review of the appeals process pursuant to statutes to the Town Attorney.