



Somersworth City Council

Ethics Commission

Minutes

Non-Approved

November 20, 2012

Somersworth City Hall, Executive Conference Room

Members attending:

Commissioner Todd Marsh, John Joyal, Mark Richardson, Dan DeSantis, Alan Marquis.

Staff:

None

Guests in attendance at beginning of, or arriving during the course of the meeting:

Councilor Dale Sprague, Councilor Jennifer Soldati, Real Roseberry

Press:

Dave Anderson, WTSN Radio

Meeting called to order at 6:31 P.M.

1. Reading of the Code of Conduct Preamble.

Chairperson Marsh read the Code of Conduct's Preamble. Article VI, 6.1

Public service is a public trust. It is the intent of this Charter to promote public confidence in representative government, uphold and expect the highest standards of ethics and conduct from all of its employees and officials, whether elected, appointed or hired. They shall maintain the highest standards of personal intent, integrity, honesty and fairness in discharging their public duties and never abuse their positions or powers for improper or personal gain. This is in the best interest of all citizens and serves to protect the integrity and reputations of city employees and residents dedicated to public service.

1. Election of Chairperson

Commission members discussed how in accordance with the City Charter 6:13 A "The Ethics Commission shall elect annually from among its members its own chair." Chairperson Marsh indicated he has served as chairperson since the formation of the Ethics Commission and that he would welcome giving another Ethics Commission member the opportunity to serve. Commissioner Joyal complimented Chairperson Marsh on his chairpersonship and nominated Commissioner Richardson for chairperson. Commissioner Richardson declined nomination due to time constraints. Ethics Commission member DeSantis asked Chairperson Marsh to remain as chairperson, as the three year term is ending next year.

Decision: Commissioner DeSantis motioned and seconded by commissioner Joyal to elect Commissioner Marsh to continue serving as chairperson of the Ethics Commission. The vote passed unanimously. Marsh thanked members of the Ethics Commission for their support.

3. Review/Discussion of Code of Conduct Complaint

A. The Ethics Commission discussed an Ethics Complaint submitted by Somersworth resident Timothy Cournoyer received by the City Clerks office on October 30, 2012. Commissioner Richardson questioned if the complaint was submitted within the ninety (90) days from the alleged conflict of interest event. Richardson questioned if the complainant's alleged encounter with a City of Somersworth Public Work's employee on August 23, 2012 met the criteria of being a conflict of interest event. Richardson also stated all other alleged code of conduct violations occurred prior to the ninety (90) day time limit for filing an ethics complaint. Commissioner DeSantis also questioned the ninety (90) day time limit. DeSantis shared his belief that the matter could be more of an internal city management issue, than an elected official conflict of interest issue. DeSantis suggested the Ethics Commission focus its efforts reviewing the city government's vendor bidding procedures and practices. Commissioner Marquis also stated it could be an "internal" situation. Chairperson Marsh reminded commission members the Ethics Commission is charged with investigating complaints filed against municipal elective and appointive officials only. Marsh stated a review of city vendor bidding procedures could be part of that investigation. Commissioner Joyal stated he believed the people formed the Ethics Commission to investigate potential conflict of interest issues with elective and appointive officials. He believes the complaint should be reviewed further.

The Ethics Commission further discussed Article VI Section 6.13 (E):

"Complaints must be filed in writing, by a resident of Somersworth, on a form approved by the City Attorney, supplied by, and available at, the office of the City Clerk, and must be filed no later than ninety (90) days from the alleged conflict of interest event."

Discussion centered on determining if the complainant's August 23, 2012 alleged communication with an unnamed city employee about Councilor Sprague allegedly working along side city employees should be considered a conflict of interest "event." Commissioner Joyal shared that he believes it could be considered an "event." However, Joyal indicated the complainant should submit the name of the employee not named as part of the complaint. Commissioners agreed the Ethics Commission should communicate with the complainant to better determine if the August 23rd communication with an unnamed city employee could reasonably be considered an "event" for accepting the complaint. Also, which other alleged events prior to the ninety (90) day complaint time limit cited in the ethics complaint form are determined to be linked to the August 23rd alleged conflict of interest event.

The Ethics Commission reviewed each question the complainant indicated on the complaint form. Commission members agreed additional information is needed to verify Councilor Sprague recused himself from the decision making process at all potential conflict of interest events he was involved in. Chairperson Marsh informed members Public Works and The Environment minutes are not currently available online for the year 2012. They are available for previous years. The Ethics Commission was verbally informed by a City Councilor present at the meeting that Councilor Sprague recently recused himself from a finance committee meeting, as he was bidding on a project.

Chairperson Marsh shared with the board that Councilor Sprague's low bid of \$74.00 plus \$100.00 was \$1.00 less per hour than the second lowest bid of \$75.00 per hour plus \$50.00. However, a bill dated on 06/15/2012 from Dale R. Sprague Construction Co., Inc, indicates a billed hourly rate of \$75.00 per hour plus \$100.00. Commission members agreed more information would be helpful, including original bid documents, minutes from meetings and communication with city management regarding the city's bidding process.

Ethics Commission members agreed to schedule a second meeting to discuss the complaint, including if the alleged complainants communication with a city employee on August 23rd 2012 met the ninety (90) day time limit criteria of being a conflict of interest event. The complainant and Councilor Sprague plan to attend. Chairperson Marsh agreed to seek original bid documents, minutes from meetings, communication with city management regarding the city's bidding process and other pertinent information regarding the ethics complaint.

Future Agenda Items and Dates for Discussion

Ethics Complaint Discussion

Adjournment:

There being no further business to come before the Ethics Commission, Commissioner Richardson motioned to adjourn and seconded by Commissioner Joyal. The vote passed unanimously at 7:45 P.M.

Future Meeting Date(s):

Tuesday, December 11, 2012 at 6:30PM.

Respectfully Submitted,

Todd M. Marsh, Ethics Commission Chairperson

cc: City Manager
City Clerk

