

Ethics Commission Minutes
October 1, 2008 Meeting

Members Present: Walker Beeson, MaryAnn Bramble, Danny Hill, Pam O'Brien, Sue Off, Julian Toporek

Members Absent: Nancy Anderson

Ex-Officios Present: Janice Elliott, Recording Clerk, Bubba Hughes, City Attorney

Invited Guests:

Roll:

Walker Beeson called the meeting to order. Roll was taken.

Minutes:

Minutes of the September 15, 2008 meeting were approved upon motion by Sue Off. Julian Toporek seconded. Minutes were approved.

Review and Commentary on draft Ethics Ordinance 21-2008 (9-22-08):

The chairman asked for discussion and recommendations on the draft copy of the new ordinance dated 9/22/2008.

Pam discussed concerns of Bubba's letter to the Mayor and Council dated September 22, 2008 regarding the misunderstanding. Pam stated that a motion was made to use the current ordinance and incorporate Frank Jenkin's comments yet the Cedartown ordinance was what was used. Bubba stated that he understood the current ordinance to be the ordinance that had been sent to the Commission by Mayor and Council (Cedartown) not the one that was currently on the books. The Cedartown ordinance was the one that was sent in draft form after it had gone to the Mayor and Council as something that they wanted reviewed and then include within the motion was to incorporate Mr. Jenkins's comments and include the advisory committee was part of the discussion. It was a misunderstanding. Pam stated that it was bothersome because the Commission expressed a desire to use the ordinance that the Ethic Advisory Committee worked on for many months. The Commission did not want to disregard that ordinance. Julian Toporek understood the same as Bubba. It was hard to take the old ordinance and restructure it according to what Council wanted was almost impossible. Bubba stated that he had attempted to adjust the current ordinance prior to the Cedartown ordinance. Very lengthy process and so he stopped until he got further direction from Council. Pam stated that motions will be repeated a second time so that it is understood before a vote is taken.

Pam stated that a cover letter with a summary of the highlights of the ordinance needs to be written from the Commission to the Mayor and Council. For example, the old ordinance had a limit of \$500 for campaign contribution and the new one follows Georgia's Law, also the new ordinance does not contain an employee section. She also stated that training for the Council needs to be addressed.

The following modifications to the draft ordinance of 9/22/2008 were discussed and agreed upon:

Page 9, Section 10, 2: omit “with confirmation by City Council.”

Page 10, (C) 5: omit entire section.

Page 10, (D) 6 (a): omit “clear and convincing evidence” replace with “preponderance or greater weight of the evidence.”

Page 4, Section 14: The 3rd sentence should read, “Further, in cases involving intentional acts, the general penalties of the Code of Tybee Island may be used as disciplinary action for violations of the Code of Ethics.”

The underline words were added to distinguish between the codes.

Page 5, Section 2, 2: correct typo from “recusal when the” to “recusal when they.”

Page 8, Section B, 1: omit “to members of the Ethics Advisory Board serving at the time this Code is enacted and.”

Page 2, Section 1, c: omit “sharing household expenses with the official.”

Page 3, Section 8: omit “vote” replace with “participate in any manner and shall recuse him/herself.”

Page 6, Section 4, 2: omit “after 2007” and “after 2008. No terms will expire in 2007 and 2008.”

Page 7, Annual Appointments, 1: “2008” needs to be changed to “2009.”

Page 6, Section 4: Add a number 1 for those currently serving and renumber 1, 2, and 3 to 2, 3, and 4. Bubba will work on the wording for this.

A copy of the ordinance with corrections will be sent to Ethic Commission for review. Meeting scheduled for Tuesday, October 21st, at 4:30 pm. Pam O’Brien will write a draft cover letter for the Mayor and Council regarding the ordinance and email to members before the next meeting.

Opening of complaint received at City Hall on 9/30/2008:

Reviewed the process in receiving a complaint: Open and decide if the complaint is legitimate, the Commission decides if it warrant an investigation, if it does warrant an investigation then a

registered letter is sent to the complainant with a copy of the complaint, complainant has time to respond, a hearing is schedule for the complaint.

Compliant was opened by the Chair and read to the Ethic Commission members. The ethics violation complaint was against Councilman Charles Brewer regarding his active involvement in the discussions on whether or not motorized golf cards should be permitted use on city streets. The complainant, David Postle, felt that both the appearance of impropriety and a direct conflict of interest had occurred since Mr. Brewer owned an electric car rental business located within the city and referenced the violation of Section 2.04 and Section 3.06 of the current Tybee ordinance.

There was discussion. Bubba excused himself. It was decided amongst the members that is was not a deficient complaint. It was unanimously decided to forward a copy of the complaint to Mr. Brewer and give him the allotted time to respond. A hearing is to be set up once a response is received.

There was discussion on hiring an attorney since Bubba Hughes would not be able to advise the Commission on this issue. The ordinance states that the Commission may appoint someone and that person must be confirmed by the City Council. Julian Toporek may know of someone that will be interested.

Registered letter must be submitted to the complainant within 7 days. The complainant has 30 days from the date of receipt to respond. The response is reviewed by the Commission in an investigatory review within 30 days. If it is decided that a public hearing is warranted, it must be scheduled within 30 of the investigatory review. This compliant will be conducted under the current ordinance even if another ordinance is passed during this time.

Walker will send a cover letter with a copy of the complaint via registered mail. A complaint procedure will be enclosed.

Next meeting scheduled for Tuesday, October 21st, at 4:30 pm in the auditorium.

Adjournment:

Pam O'Brien motioned to adjourn. Danny Hill seconded. Meeting adjourned.

10/06/2008je