

Ethics Advisory Board Minutes - Draft

March 26, 2007

Members Present: Randi Bryan, Fretwell Crider, Linda Gladin, Roma Harper, Anne Miller, Sue Off, and Carolyn Smith

Ex-Officos Present: Janice Elliott, Bubba Hughes, and Paul Wolfe

Members Absent: Charlie Brewer

Linda Gladin called the meeting to order and called roll.

Roma motioned to approve the February 26th minutes. Carolyn seconded the motion. Minutes were approved. Next scheduled meeting is for Monday, April 23rd.

Bubba has a list of minor things to work on the ordinance such as:

Page 5 line 16 – It should read: A Public Servant must not knowingly use for improper motive City position to take any action (or fail to take any action) in a manner that may:

He has a number of these and he will do and reticulate before the next meeting.

Linda asked that if any of the changes Bubba would make change the level of policy or violation or were his changes to make it readable. Bubba stated that there might be one possible exception such as the semi-judicial verse the legislative - Sections 3.12 – 3.13. He needs to spend more time on that particular part.

He will also make more accurate some of the references to Georgia Law.

Fretwell brought a couple of things to the committee such as:

Page 8 line 35 – should read: A Public Servant may request an advisory opinion from The Ethics Commission or appropriate manager if there is uncertainty as to whether or not a particular action (by self or other Public Servant) was or would be a violation of This Code.

Line 39 – should read: documented advisory from the Ethics Commission.

Line 48 – should read: By complying with an on-the-record opinion of The Ethics Commission; or

Page 2 line 6 should read: Public trust declines when citizens perceive that Public Servants are appear to be doing City business in ways

Page 12 line 22 – should read: pending City decision, the former has a responsibility to share that opinion with the latter and other members of the voting agency.

Linda will make these corrections prior to sending the document to Bubba.

There was discussion on whether this ethic code pertained to the municipal court employees. Bubba stated that the municipal staff were city employees and it would pertain to them. The question was asked if this ordinance would pertain to the Judge. Bubba stated that without this ordinance that a complaint would go to the Judicial Qualifications Commission. Bubba will look to see if this would be a situation where the over the power is preempted. In Section 5.03 under the definition of City Official b & c, c reads: Municipal court judges (including substitute judges). It was discussed that if a complaint came before The Ethics Commission concerning the Judge then The Ethics Commission should first question whether or not the issue raised by a complaint is within the jurisdiction of The Ethics Commission.

After a lengthy discussion of different scenarios, Sue stated that someone could indeed bring a complaint against the Judge to The Ethics Commission. It was agreed by Bubba, but he again stated that he would like to check to make sure the judge is not preempted.

Except for a few revisions, the ordinance has been completed by the Ethics Board. Linda will email the document to Bubba Friday, March 30th so that he can make his revision before sending to Mayor and Council. The hard points for Bubba will be the semi-judicial and parts of Article 4, but he feels that he can complete it so that Mayor and Council will have it to review. It was discussed that this ordinance will be on the 2nd meeting in April which is April 26th.

There was discussion on whether the ordinance would come back to the Ethics Advisory Board for updating once the Mayor and Council reviewed it with their corrections or would Bubba handle it from that point. Paul stated that since Mayor and Council will have the document in advance so that any problems should be able to be corrected before the final version is voted on at the April meeting. Bubba stated that we would deal with the problems as they occur.

Linda stated that there were several little things that needed to be corrected by the Ethics Advisory Board before it is actually sent to Mayor and Council. The first being in the conflicting interest part – the committee decided to lower the amount from \$1000 to \$500. The other section was in the gift definition section – the committee decided to raise the amount from \$25 to \$50 in the promotional and advertising gift area.

Paul thanked the committee for all their hard work on this ordinance.

All the interpreting capability and all the experience rest in this Ethics Advisory Board. Linda stated that it would behoove the City for those who are willing to serve from the Ethics Advisory Board to morph into that first Commission and disband the Ethics Committee. Linda will write the Council and ask them to consider a game plan for seating the first Commission. The Ethics Advisory Board will not disband until the ordinance becomes law at the second reading. The ordinance does need to state in the enactment part that upon the enactment of this ordinance we repeal the ordinance that established the Ethics Advisory Board. Before the first meeting of the Commission, Mayor and Council need to appoint a temporary Chairperson for organizational purposes. The Commission will then appoint the chairperson at the first meeting.

Anne asked when the Ethics Advisory Board would get a revised copy of the ordinance. Bubba stated that he would email a copy to Janice to distribute to the Ethics Board members.

Article 4 – Linda converted the document to the same format. Bubba stated that the inclusion of an employee on the Commission will be a problem. It is almost an inherit conflict. Bubba wants to look at to see what the County did when they were dealing with the same problem. The discipline of an employee is a difficult procedural mechanism that really between them and the City Manager. Bubba feels that rather than have another board getting involved in an employee's misconduct it could still just go to the other way. They are subject to this ordinance and the violation of this ordinance could result in their being discipline through the channels that already exist. It is an effort almost to have a civil service board by injecting the employees into this process. Ultimately Mayor and Council will need to set the rules of officials and their appointed bodies as to what the consequences would be. Bubba would like to keep the Mayor and Council out of the employees discipline business and the employees out of the Mayor and Council discipline business. Linda stated that it would be good to have liaison from staff, but not be a voting member. An employee could be an ex officio member of the Commission with no voting rights. It was discussed that Bubba take this section out and that the Commission will be made up of 7 appointed members.

Bubba liked the idea of alternates. The terms should be the same as the members. Sue stated that they are not being appointed by individual Council members. They are being appointed as a group. It was discussed that the alternates did not have a term. Everyone agreed that the ordinance Section 4.01 should read: The Mayor and Council are to appoint are to appoint seven members to the Ethics Commission and three alternates to fill vacancies, as necessary. Section 4.02 should read: Each member and Alternate of the Ethics Commission is to serve a term of two years, without compensation.

Line 33 should refer to City of Tybee Island voters – registered to vote in City Elections. Bubba stated that the other main problem he has with this section is the removal of a member – Section 4.04. He is concerned about the Council establishing a position that is only removal by a cause. Any position that Council appoints is at will. This section should read: City Council may remove a member of the Ethics Commission at will with or without cause at a public meeting. Section 4.12 – Complaints – qualified needs to be removed, anyone should be able to file a complaint.

Randi had a concern about Section 4.10, d, with the word action. It was discussed and the word advisory was added to precede action.

Sue raised a concern about stating somewhere in the ordinance that the City Liability Insurance covers the members of the Commission. Bubba stated that there is a coverage agreement with GIRMA as long as they are pointed by Council and they are doing official city business. Bubba feels that they are covered whether or not it is stated in the ordinance or not.

Bubba stated that the Recommendation Section may need to be re-worded. Linda stated that this is used as a tracking mechanism. The word cognizance should be changed to initiative.

Linda asked if affidavit have an association with an oath. Bubba stated that it is a written statement under oath. This should be in the definition of affidavit.

There was discussion on whether a complaint form should be created by the Commission.

Anne made a motion to adjourn the meeting - seconded by Roma. Meeting Adjourned.