

## **Ethics Commission Minutes**

**August 6, 2008**

**Members Present:** Nancy Anderson, Walker Beeson, Danny Hill, Pam O'Brien, Sue Off, Julian Toporek

**Ex-Officis Present:** Janice Elliott; Recording Clerk; Bubba Hughes, City Attorney

**Members Absent:** Mary Ann Bramble

**Invited Guest(s):**

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

Pam O'Brien made a motion to approve the February minutes provided that the minutes reflect one change that Danny Hill be listed as Vice-Chair rather than Co-chair. Danny seconded. Minutes were approved.

It was recognized that Nancy Anderson was appointed as a regular member of the Ethics Commission, however, was not able to participate in the voting because she had not been officially sworn to office.

The chairman made opening remarks that consisted of the history of how the current ethics ordinance was written and adopted and to why the Ethic Commission had been called together for the meeting at hand. The meeting was called to respond to the Council's request from their last meeting. According to the synopsis the Council voted to send the Cedartown Ethics Ordinance as a model for the future, to the Chairman of the Ethics Commission along with the current ethics procedure and ask them to look at developing a simplified readable version and then an ethics handbook that matches that requirement. Walker noted that there have been no specifics as far as complainants of what they want changed other than making it simple and he opened the meeting for discussion.

Julian commented that the current ordinance is too complicated and difficult for a town that has 3000 inhabitants. The contacts with the inhabitants and council members are so intimate that it is very difficult to compile with all the provisions of the ordinance. He agreed with all of Mr. Jenkins comments and felt that he had excellent ideas for improving the ordinance and making it more workable.

Pam agreed with Julian. She felt that if Mr. Jenkins comments were incorporated into the current ordinance that it would simplify things and make it much more understandable.

Sue discussed the creation of the ordinance since she was one of the members of the Ethics Advisory Committee. The whole purpose was to make the ordinance a user friendly document. The final document was more complicated than expected.

Bubba stated that the ordinance was not expanded after the committee approved it, but the order with the definitions at the end became intimidating. Ms. Hudson's comments to Mr. Jenkins were that there were too many inter-dependent definitions and that the goal of the Ethics Advisory Committee was to provide an ordinance that attempted to answer as many conceivable questions as possible. Bubba stated that there are not many decisions that come before the council or any appointed body that would come out differently under either version or any version of an ethics ordinance. The basic premises are the same. What is unique in the current ordinance include members of appointed bodies who decide to become candidates for the elected office immediately have to suspend their participation in their appointed office, the Ethic Commission and it's ability to give advisory opinion, the 500 ft rule and the \$500 in campaign contribution. A good example of the complexity is the rule in defining an associative property interest as far as having a conflicting interest. A person would have to go to

three definitions to find out where they could participate in a zoning decision. The more précised it is the more complicated it gets. Philosophically, it makes it appear there is more disagreement than there actually is. Bubba stated that he and Mr. Jenkins have a difference of opinion in the consequences of campaign contributions and whether or not a municipality can set its own standard and result in a disqualification. Bubba feels that a local has the power to do that. Mr. Jenkins feels that it's preempted because the state law sets what the standards are and it also give the disclosure requirements. These are the critical points. There are others, but most related interdependency of the definition.

Julian stated that a community this size that full disclosure should be done, but a person should not be disqualified because they received a campaign contribution from someone that has a matter in front of council. Financial interest is another matter.

Walker stated that the Ethics Commission was not asked for an opinion. We were asked to write a new one. He sees where there is concern, but he doesn't feel that this is the duty as specified in the current ordinance of the Commission. If the council wants to appoint another committee to re-write it or charge the city attorney to write the amendments then the Commission can give an opinion on it and put it to a vote.

Julian agreed. We were not charged to write an ordinance. We were appointed to administrate it.

Danny stated we need to revise our current ordinance.

Julian made a motion to advise council to readmit and consider the ordinance, but we, as a Commission, do not feel that it's our providence to make any recommendations as to amend the ordinance. The council should appoint a committee other than the Ethics Commission.

Danny seconded the motion.

There was discussion and there were two scenarios discussed – 1) that the council could adopt the Cedartown ethics ordinance or 2) that the council could send the current ordinance with Mr. Jenkins comments back to the committee. They could continue to work under the current ordinance until a revision happens.

Bubba stated that the reason that this was sent to the Ethics Commission because one of the duties of the Ethics Commission is to review and make proposals or recommendations to council for the adoptions of revisions or amendments to ethics code. (Section 4.02)

It was discussed that the council did not want revisions, they wanted it re-written in a simplified and readable version and the Commission did not feel they were charged to do that.

Bubba stated that it would be hard to revise this ordinance because the definitions were so inter-dependant on each other that it would lose its value.

Pam stated that the Commission should move forward constructively as a group and help the council. No one on the Commission has disagreed with Mr. Jenkins comments which cover everything. As a group, she wanted the Commission to make a motion to help council make this.

Julian withdrew his motion so that Pam could make a motion and Danny agreed.

Pam made a motion to instruct Bubba to incorporate Frank Jenkins's comments in the current ordinance and bring a draft to the Commission and check the draft for simplicity. If it is not enough then the Commission will deal with it at the time.

Julian seconded.

There was discussion.

Sue brought up the point that to do that it would be too difficult with the current ordinance. Bubba stated that because the principles of most ethics ordinance are the same, it is not that hard to start from scratch and go forward. It is hard to start with what we have and go back, but he would try and incorporate the comments in the current ordinance. Bubba stated that the definitions were what caused Frank and Ms. Hudson's concerns. Pam stated that the Commission could set specifications, but possibly leave those blank until the "meat" is incorporated. Sue stated that we could use the Cedartown and add the pertinent components and create a handbook to go with it for an explanation. Pam's concern with that approach is missing something substantive that is the current ordinance that is not in Cedartown's ordinance. Bubba stated that the only conceptual difference between the current ordinance and the Cedartown ordinance is the employees should be excluded because they are subjected to the same rules under the personal ordinance, but the Ethic Commission that exist in the Cedartown ordinance does not issue advisory opinions.

Walker called for the vote on the motion. Motion carried with a vote 4 to 1: In favor: Danny Hill, Julian Toporek, Pam O'Brien and Walker Beeson, Opposed: Sue Off.

### **New Business not on the Agenda**

Pam made a motion in the letter to the complainant that the clerk gives to those that submits complaints that the first bullet "Did the problem in the last 6 months" be stricken from the letter effective within the next week.

Sue seconded.

There was discussion and it was decided that a time limit should be set by council and not the Commission.

Sue stated the Commission could make a recommendation to council for a time limit. Walker stated that this may be in the new revised ordinance.

Motion approved by unanimous vote.

### **Other Business**

Janice will email Employee's handbook and Commission list. Members were unable to open newer version.

Bubba will report the decision of the Commission to the Council.

**Sue motioned to adjourn. Pam seconded. Meeting adjourned.**

**Je/Updated/10/01/2008**