

TOWN OF WINDSOR, CONNECTICUT

Special Meeting Notice



Board of Ethics
January 9, 2007
7:00 PM – Dr. Primus Room

AGENDA

1. Call to Order
2. Public Comment
3. Old Business
 - a) *Review of proposed amendments of Code of Ethics ordinance
4. New Business
 - a) *Request for advisory opinion from Town Manager
5. Minutes of Preceding Meeting
 - a) *October 10, 2006
6. Adjournment

*Attachments

Public Act 75-312 requires notice of Special Meetings to be posted in the Town Clerk's Office not less than 24 hours prior to the time of such meeting. No other business shall be considered at this meeting than that listed on this Agenda.

Code of Ethics
Proposed Amendments
3/03

Agenda Item Summary

Date: March 10, 2003
To: Members of the Special Projects Committee
Prepared by: Peter Souza, Assistant Town Manager
Reviewed by: Leon Churchill, Town Manager
Subject: Amendments to Code of Ethics Ordinance

The Board of Ethics met to discuss further the potential amendments to the ethics ordinance with particular attention to sections 2-30 (c) and (d) which related to former employees. These sections as proposed in October are as follows:

(c) No former town employee shall appear for compensation before any town board, commission or agency any time within six months after terminating service with the town.

(d) No former town employee shall work for a private firm who has a contract with the town any time within six months after terminating service with the town.

After further review the Board of Ethics voted to recommend that the proposed language in subsections 2-30(c) and (d) be revised as follows:

(c) No former town employee in Administrative Pay Grade 3 or above and no former Board of Education employee in a Cabinet Level position or above shall appear for compensation before any town board, commission or agency any time within six months after terminating service with the town.

(d) No former town employee in Administrative Pay Grade 3 or above and no former Board of Education employee in a Cabinet Level position or above shall work for a private firm who has a contract with the town any time within six months after terminating service with the town. If this occurs, the vendor could be subject to penalties up to and including contract termination.

Attached is a list of positions in Grade 3 of the town's administrative pay plan. The Board of Education's Cabinet Level positions include Director of Human Resources, Director of Business Services, Assistant Superintendent of Instruction and Assistant Superintendent of Pupil Personnel.

The Special Projects Committee also requested staff to review proposed changes to section 2-25(b) as to requiring an annual release or receipt to be signed by elected officials, Town Manager, School Superintendent, Department Directors, and board and commission members

acknowledging they have received and read the ethics ordinance. The suggested changes are reflected below.

2-25(b) The Town Clerk shall cause a copy of the code of ethics to be distributed to each appointed member of a town board or commission as well as each elected member of the Town Council and Board of Education prior to the member entering office. The town manager and school superintendent or their designees shall distribute a copy of the code of ethics to each town employee before entering upon the duties of his/her employment. A signed receipt for all copies shall be returned to the town clerk and retained on file. On an annual basis the Town Clerk shall request that a receipt be signed by each elected official, appointed board and commission member, town manager, school superintendent, employees in the town pay grade 3 or above and Board of Education employees in a Cabinet Level position or above, acknowledging they have received and read the ethics ordinance. The signed receipt shall be returned to the town clerk and retained on file.

Section 1. Sec. 2-20. Board of ethics--Created; purpose.

There is hereby created a board of ethics for the purpose of rendering advisory opinions and making recommendations with respect to the drafting and adoption of amendments to this article.

(Code 1961, §1.09.09; Ord. No. 70-5, 5-15-70)

Section 2. Sec. 2-21. Appointments.

The board of ethics shall consist of five (5) regular members, electors of the town, who are known for their personal integrity. The members shall be appointed by the council for a term of five (5) years, except that of the initially appointed members one (1) shall serve for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years. No member of the board of ethics shall knowingly render or agree to render for compensation or otherwise any service to any person or party other than the town in connection with any cause, proceeding, application or other matter which is before any town agency, nor shall such member serve as a member of any other town agency.

(Code 1961, §.09.010; Ord. No. 70-5, 5-15-70)

Section 3. Sec. 2-22. Organization and procedure.

The board shall elect a chairperson and secretary and shall establish its own rules of procedure. It shall keep records of its meetings and shall hold meetings at the call of the chairperson and at such other times as the board may determine.

(Code 1961, §.09.011; Ord. No. 70-5, 5-15-70)

Section 4. Sec. 2-23. Duties and powers.

The board may make recommendations for amendments to this code of ethics and rules and regulations for adoption by town agencies. The board shall render advisory opinions:

- (1) Concerning town officials and employees, excluding members and employees of the board of education, with respect to the code of ethics upon written request of the town manager or upon written request of any member of the town council submitted at a regular meeting of the town council. Such advisory opinions shall be submitted to the agency or person requesting them.
- (2) Concerning board of education members and employees with respect to the code of ethics upon written request of the superintendent of schools or upon written request of any member of the board of education

submitted at a regular meeting of the board of education. Such advisory opinions shall be submitted to the board of education.

- (3) In the conduct of its investigation of alleged violations of the code, the board shall have the power to hold hearings, under oath, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and require the production for examination by the board any books, records and papers which the board deems relevant in any matter under investigation or in question. In the exercise of such power, the board may use the services of the municipal police, who shall provide the same upon the board's request.

(Code 1961, §.09.012; Ord. No. 70-5, 5-15-70; Ord. No. 81-6, §,6-1-81)

Section 5. Sec. 2-24. Same--Expenses and compensation.

The members of the board shall serve without compensation for their services. In the performance of its duties and in the exercise of its powers the board shall not incur any expense in excess of the funds appropriated by the council for such purpose.

(Code 1961, §.09.013; Ord. No. 70-5, 5-15-70)

Section 6. Sec. 2-25. Applicability.

- a) The provisions of this article shall apply to all town officials and employees, whether elected or appointed, paid or unpaid. The term "town officials," as used in this Code, shall include members of the town council, members of the board of education, and all officials appointed by the town council, board of education or the town manager. The term "town employees," as used in this Code, shall include all employees of the town and the board of education.
- b) The Town Clerk shall cause a copy of the code of ethics to be distributed to each appointed member of a town board or commission as well as each elected member of the Town Council and Board of Education prior to the member entering office. The town manager and school superintendent or their designees shall distribute a copy of the code of ethics to each town employee before entering upon the duties of his/her employment. A signed receipt for all copies shall be returned to the town clerk and retained on file. On an annual basis the Town Clerk shall request that a receipt be signed by each elected official, appointed board and commission members, town manager, school superintendent, employees in the town pay grad 3 or above and Board of Education employees in a Cabinet Level position or above, acknowledging they have received and read the ethics ordinance. The signed receipt shall be returned to the town clerk and retained on file.

...

(Code 1961, §.09.02; Ord. No. 70-5, 5-15-70; Ord. No. 81-6, §,6-1-81; Ord. No. 82-2, §, 1-18-83)

Section 7. Sec. 2-26. Conflict of interest.

No town official or employee shall accept any employment or have any interest, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of such official's or employee's duties in the public interest or which will impair such official's or employee's independence of judgment or action in the performance of official duties.

(Code 1961, §.09.03; Ord. No. 70-5, 5-15-70)

State law reference(s)--Conflict of interest, G.S. §-479.

Section 8. Sec. 2-27. Disclosure of interest.

Any town official or employee who has a financial interest, direct or indirect, in any property or matter which is the subject of any pending or proposed proceeding before any town agency, shall disclose such official's or employee's interest to such agency upon hearing of such proceeding and if such official or employee is a voting member of such agency, such official or employee shall not participate in the discussion or vote upon such matter. The disclosure shall become a permanent part of the record before the agency.

(Code 1961, §.09.05; Ord. No. 70-5, 5-15-70)

Section 9. Sec. 2-28. Use of town property; equal treatment.

No town official or employee shall use or permit the use of town-owned vehicles, equipment, materials or property for personal convenience or profit where prohibited by state statute, town ordinance, or administrative regulation. No town official or employee shall grant any consideration or advantage to any person beyond that which is available to every other person.

(Code 1961, §.09.04; Ord. No. 70-5, 5-15-70)

Section 10. Sec. 2-29. Gifts and favors.

- (a) No town official or employee in his capacity as an official or employee of the town shall solicit or accept any valuable gift, favor, service, loan at less than prevailing interest rates, thing or promise from any person, firm or corporation which would tend to weaken public confidence in the recipient or present a temptation which might undermine the official's or employee's unselfish devotion to the public interest.
- (b) Endorsements. No town official or employee in his capacity as an official or employee of the town shall publicly endorse products or services. Notwithstanding the foregoing, nothing herein shall prohibit any town official or

employee from answering any inquiry by another governmental official or consumer organization or product information service regarding any produce or service.

- (c) No town official or employee, or member of such individual's immediate family or business with which he is associated, shall solicit or accept anything of value, including but not limited to a gift, loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgement of the town official or employee would be or had been influenced thereby.

(Code 1961, §.09.06; Ord. No. 70-5, 5-15-70; Ord. No. 71-1,1-18-71; Ord. No. 84-3, §, 9-4-84)

Section 11. Sec. 2-30. Representing private or public interests before town agencies.

- (a) No town official or employee shall render or agree to render for compensation any service to any person or party other than the town, in connection with any cause, proceeding, application or other matter which is before any town agency. This does not prohibit any town official or employee from appearing before any board or commission on such person's own behalf or as official spokesman for an organization of which he/she is a member, provided such appearance does not violate Connecticut General Statutes sections 8-11 and 8-21 or any other provision of the Code. Connecticut General Statutes sections 8-11 and 8-21 prohibit any town planning and zoning commission or zoning board of appeals member from appearing before either the town planning and zoning commission or the zoning board of appeals on his/her own behalf.
- (b) No member of the town council may participate in a meeting of any board, agency, or commission appointed by the council other than on his or her own behalf as specified herein or other than at the express direction of the councilor other than at the invitation of the board, agency, or commission.
- (c) No former town employee in Administrative Pay Grade 3 or above and no former Board of Education employee in a Cabinet Level position or above shall appear for compensation before any town board, commission or agency any time within six months after terminating service with the town.
- (d) No former town employee in Administrative Pay Grade 3 or above and no former Board of Education employee in a Cabinet Level position or above shall work for a private firm who has a contract with the town any time within six months after terminating service with the town. If this occurs, the vendor could be subject to penalties up to and including contract termination.

(Code 1961, §.09.07; Ord. No. 70-5, 5-15-70; Ord. No. 82-2, §,1-18-83; Ord. No. 94-4, §, 8-1-94)

Section 12. Sec. 2-31. Confidential information.

No town official or employee, without proper authorization, shall disclose confidential information concerning the property, affairs or government of the town, nor shall such official or employee use such information to advance the financial or other private interest of such person or others.

(Code 1961, §.09.08; Ord. No. 70-5, 5-15-70)

Section 13. Sec. 2-32. Penalties.

A violation of this article by any town official or employee shall constitute grounds for disciplinary action, including removal.

(Code 1961, §.09.014; Ord. No. 70-5, 5-15-70)

Savings Clause

The enactment of this Ordinance shall not operate as an abatement of any action or proceeding now pending under or by the authority of any existing law or ordinance. All of said actions and proceeding are hereby ratified to be continued.

Severability

All provisions of the Windsor Town Code in conflict herewith are hereby repealed. If for any reason any word, clause, paragraph or section of this Ordinance shall be held to make the same unconstitutional, this Ordinance shall not hereby be invalidated and the remainder of the Ordinance shall continue in effect. Any provision herein that is in conflict with the *Connecticut General Statutes* is hereby repealed, it being understood that said *Statutes* shall take precedence over this Ordinance.

Effective Date

This Ordinance shall become effective ten (10) days after publication in a newspaper having a circulation in Windsor.

Secs. 2-33--2-40. Reserved.

Town Attorney's opinion
re: suggested
amendments to
procedure of having
citizens come directly to
the Board of Ethics with
complaints for review

8/04

O'MALLEY, DENEEN, LEARY, MESSINA & OSWECKI

ATTORNEYS AT LAW

20 MAPLE AVENUE

P. O. BOX 504

WINDSOR, CONNECTICUT 06095

TELEPHONE (860) 688-8505

FAX (860) 688-4783

ANDREW G. MESSINA, JR.

(1940-2000)

487 SPRING STREET

WINDSOR LOCKS, CT 06096

TELEPHONE (860) 623-9835

FAX (860) 623-2981

REPLY TO: WINDSOR

THOMAS J. O'MALLEY
DONALD J. DENEEN
WILLIAM C. LEARY
VINCENT W. OSWECKI, JR.
MICHAEL R. DENEEN
KEVIN M. DENEEN
MARGARET M. BYRNE

August 11, 2004

Peter P. Souza, Acting Town Manager
Windsor Town Hall
275 Broad Street
Windsor, CT 06095

AUG 16 2004

RE: Amendment to Code of Ethics

Dear Peter:

Through you the Board of Ethics has requested an opinion as to the merit and legality of changing the Code of Ethics from the current procedure for submitting complaints. As presently constituted the Board of Ethics is an advisory body to the Council, Board of Education, Town Manager, and Superintendent. Whenever any member of the Council or the Board of Education or the Manager or the Superintendent requires an opinion involving the Code of Ethics or believes that an ethical violation has taken place, the Board or Council member or Superintendent or Manager can submit that issue to the Board of Ethics for an advisory opinion. Under the present setup, the Board of Ethics is advisory to the Board, Council, Superintendent, and Manager. Per Section 2-32, violation of the Code can lead to disciplinary action including removal. It is only the Council, the Board, the Superintendent, or the Town Manager that have the legal authority to begin a disciplinary action within their respective fields of jurisdiction. There are personnel rules and contracts which must be followed to effect ultimate discipline. The advisory opinion is to the officials who have the authority to take disciplinary action. The Board of Ethics has no such authority.

In addition to being consistent with the ultimate disciplinary authority, the present system whereby the Board acts as an advisor to these bodies tends to discourage non-meritorious complaints. Simply being the subject of an ethics complaint can be injurious to a person's reputation regardless of the ultimate decision of the Board of Ethics. An individual who rightly or wrongly feels injured by a town official in some way could easily use the Board of Ethics as an offensive tactic on one or more than one occasion. On each complaint, the Board would be required to provide due process and fairly consider the complaint before rendering a decision. I can recall situations in the past where direct access to the Board of Ethics could have resulted in complaints against the Town Manager, the Finance Officer, and other public officials who were subsequently exonerated in court. The rules of the court with respect to evidence, discovery, and other procedures take time but constitute the best method we have for obtaining the truth. Had

Peter P. Souza
August 11, 2004
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complaints gone directly to the Board of Ethics, the Board would most likely have ruled before the court. Regardless of the Board's decision, the very fact of the local proceeding would have impacted adversely staff time and added to the expense and complexity of an already complex case that was before the court.

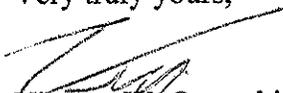
While it does not necessarily follow that direct access by complainants to the Board of Ethics could result in full due process trials, nevertheless that could very well be the result where a person's reputation or ability to make a living is to be impacted. I cannot project in every circumstance what the accusations might be and how the hearing will be conducted nor what any individual Ethics Commissioner may state on the record. Consequently, I cannot predict whether any disgruntled person (accuser or accused) would try to bring a slander or libel complaint against the Commission or individual commissioners. Except for civil actions based on intentional or malicious conduct, I believe our town insurance would provide coverage for the Commission and, in most cases, for the commissioners. In addition there may well be an immunity defense.

While I believe it would be legal to amend the ordinance to provide for direct complaints, I believe Council should carefully consider both the benefits of direct complaints and potential for abuse as well as the cost of due process hearings if they are required. I think one relevant consideration should be the number of complaints that have been referred to the Town Manager or the Superintendent or Board members or Council members that have not gone forward to the Board of Ethics. The procedure currently in effect does not require a vote by either the Council or the Board to refer a matter to the Board of Ethics but simply the action of any individual member. I do not know whether this is considered an insurmountable barrier and how many citizen complaints have been made to Board members, Council members, Superintendent, and the Town Manager which have not been brought forward. Before amending the Code, this may be a statistic that you would want to have.

However, I am aware of no legal impediment to amending the Code of Ethics if Council chooses to do so.

Thank you.

Very truly yours,



Vincent W. Oswecki, Jr.

VWO:drm



Date: January 9, 2007

To: Members of the Board of Ethics

From: Peter Souza, Town Manager

A handwritten signature in black ink, appearing to read "Peter Souza", written over the printed name in the "From:" field.

Subject: Suffield Code of Ethics

At its last meeting, staff was asked to provide a copy of Suffield's ordinance which is attached for your review.

On Page 6, Section 2-178, you will find language relative to the procedures Suffield has established for receiving requests for advisory opinions. Their code allows for any agency, officer, official, employee or individual to request in writing an advisory opinion.

ARTICLE V. CODE OF ETHICS

DIVISION 1. GENERALLY

Sec. 2-161. Declaration of policy.

- (a) Public office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by government officials, employees, and volunteers affects every citizen of the Town, and it must be based on honest and fair deliberations and decisions. This process must be free from threats, undue influence, and all forms of impropriety so that the confidence of the public is not eroded. By enacting this Code, the Town of Suffield seeks to avoid any loss of trust and to maintain and increase the confidence of our citizens in the integrity and fairness of their government.
- (b) The purpose of these ethical standards is to guide town officials, elected and appointed, town employees, and citizens by establishing standards of conduct for persons in the decision-making process. These standards are intended to strengthen the tradition of good government in the town.
- (c) Good government depends upon decisions based on the merits of an issue in the best interests of the town, without regard to personal gain.
- (d) The overall goal of this Code of Ethics is to create an understanding among all individuals involved with or on behalf of Town Government that all decisions, actions and activities should be transparent. Therefore, all government officials and volunteers, elected and appointed, and Town employees shall disclose, at the time a given subject is to be given consideration, any relationships or interests that could potentially result in a conflict of interest.
- (e) When a conflict does arise, the individual involved should recuse himself/herself and leave the room.

Sec. 2-162. Definitions.

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

Confidential information is any information concerning the property, business or affairs of the town that is not a matter of public record or public knowledge.

Employee is any person receiving a salary, wages or compensation from the town government for services rendered.

Official is any person holding elective or appointive town office including members and alternate members of town agencies, boards, and commissions, committees and subcommittees.

Person means an individual, sole proprietorship, trust, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.

Probable Cause means determining whether the facts would warrant a reasonable person to believe that an official, officer, employee or other person violated this Code; the belief should be more than a mere suspicion, but less than proof beyond a reasonable doubt.

Sec. 2-163. Use of town assets restricted.

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.

Sec. 2-164. 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.

Sec. 2-165. Conflict of interest.

(a) Disqualification in matters involving a personal or proprietary interest. No employee or official shall participate in the hearing or decision of the board or commission of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense. In the event of such disqualification, such fact shall be entered on the records of the commission or board. No employee or official shall appear for or represent any person in any matter pending before the commission or board of which he is a member.

(b) Disclosure of confidential information. No persons governed by this Code shall disclose or use any confidential information concerning the Town of Suffield affairs nor shall he or she use such information for the purpose of advancing the financial or personal interest of himself or herself or others.

(c) Gifts and favors. No official or employee or member of his immediate family shall solicit or accept any gift having a substantial value greater than \$50.00, in any one year, whether in the form of service, loan, thing, promise or any other form, from any person or persons who to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the town.

(d) Use of influence. No official or employee shall solicit any business, directly or indirectly, from another official or employee over whom he has any direct or indirect control or influence with respect to tenure, compensation or duties.

(e) Representation of private interests. No official or employee shall appear on behalf of another person's interests before any board, commission or agency of the town, nor shall he represent another person's interests in any action or proceeding

against the town in any litigation when such appearance or representation would be in conflict with or would impair his independence of judgment and action in the performance of his official duties as such officer or employee.

(f) Representation of self. Any public official or public employee may appear before any board or commission of the Town of Suffield on his/her behalf, or be a party in any action, proceeding, or litigation brought by or against a public official or public employee to which the Town of Suffield is a party.

(g) Disclosure of interest. Any official or employee who has, or thinks he or she has real, pecuniary or personal beneficial interest in any matter coming before any board, commission, or agency of the town should disclose to such body that they have interests and/or relationships that could be perceived as a conflict of interest. If a conflict does exist, he or she should recuse themselves and leave the room.

(h) Fee or honorarium. No employee or official shall accept a fee or honorarium for an article, appearance, speech, or for participation at an event, in his or her official capacity.

(i) Incompatible dealing. No employee or official shall engage in or participate in any business or transaction, including outside employment with a private business, or have an interest, direct or indirect, which is incompatible with the proper discharge of his or her official responsibilities or which would tend to impair his judgment or action in the performance of his or her official responsibilities.

(j) Financial benefit. A person subject to this Code may not use his or her position or office for personal financial benefit, or for the financial benefit of a business with which he or she is associated, or for the financial benefit of a member of his or her immediate family.

(k) Competitive bidding. Persons governed by this Code, or business with which he or she is associated, or member of that person's immediate family, shall not enter into a contract with the Town unless it is awarded through a process of public notice and competitive bidding

(l) Multiple positions. No officer, official, or employee shall hold two or more positions in Town government (whether paid or unpaid) which have a conflict of interest or have the appearance of a conflict of interest.

(m) Consultants and Contractors. The Code shall be incorporated by reference into all RFP's (Request for Price Proposal) and into all contracts entered into by the Town with a Consultant or a Contractor and the Code will also apply to all persons doing business with the Town. Persons or firms who are engaged by and receive compensation from other government entities, such as the state or federal government, and who are in a position to influence any decision of a town board, commission, committee, official or employee shall be guided by the Code

(n) Disclosure of interest. Contractors, subcontractors and consultants shall be responsible for disclosing all interests and relationships that could be perceived as a possible conflict of interest.

(o) *Outside influence.* No employee or official, or member of such individual's immediate family or business with which he or she is associated, shall solicit or accept anything of value, including but not limited to, a gift, loan, political contribution, reward or promise of present and/or future gifts and present and/or future employment based on any understanding that the vote, official action or judgment of the public employee or public official would be or had been influenced thereby.

Sec. 2 – 166.

(a) *Distribution of Code.* Each employee and official shall be furnished a copy of the Suffield Code of Ethics before entering upon the duties of his or her office or employment. Simultaneously, each individual will sign the Acknowledgement and Commitment Form which will be retained on file in the Town Clerk's office.

(b) *Duty to Disclose.* All officials or employees, who have knowledge of or probable cause to believe that there are violations of any provisions of this Code, shall report these violations to the Suffield Ethics Commission. Such reports shall be in good faith and the Town in turn guarantees that no reprisals against a reporter of such violations will be taken (provided that such charges are not later proved to have been malicious and false). All persons against whom such charges have been made will have full access to all the protections of due process as spelled out in this Code. It shall be a violation of this Code for a person to falsely and maliciously charge another with violations of this Code. The Commission, in its sole discretion, will determine if a charge is false and malicious.

Sec. 2 – 167.

The Suffield Ethics Commission may employ necessary staff or outside counsel within available appropriations.

Sec. 2 – 168.

(a) Any former employee or official may appear before any town board, commission, or agency, by whom he or she was formerly employed or was a member of. If said appearance is within a period of one year after termination of his or her service on that board, commission or agency, that person shall disclose on the record his or her former position to the board, commission, or agency.

(b) No former public employee or public official shall disclose or use confidential information acquired in the course of and by reason of his or her official duties, for financial gain for himself or herself or others, except such information which may be disclosed under the Connecticut Freedom of Information Act.

(c) No former public employee or public official who participated

substantially in the negotiation of award of a municipal contract obliging the town to pay an amount of \$100,000 or more, or who supervised the negotiation or award of such a contract shall accept employment with a party to the contract other than the municipality for a period of one year after the contract is signed. For the purposes of this subsection, "substantially" shall mean drafting of the contract documents, negotiating the terms for the contract, and either approving the award of the contract or recommending the approval of the contract to the cognizant board(s) or commission(s), including the Board of Selectman.

Sec. 2-169-2-175. Reserved.

DIVISION 2. BOARD OF ETHICS*

Sec. 2-176. Established.

(a) There is hereby established an Ethics Commission consisting of five (5) members who shall be electors of the town, no more than two (2) of whom shall be of the same political party. The members shall be appointed by the First Selectman with the approval of the Board of Selectmen and shall serve for a term of five (5) years, except that of the initial board a member shall be appointed *seriatum* for a term of one (1) year, two (2) years, three (3) years, four (4) years and five (5) years. No member shall serve as a member of any other town board, commission, authority, or committee or the Board of Education nor be employed by the town or Board of Education.

(b) Alternate members. In addition to the regular members, the First Selectman shall appoint two (2) alternate members, not of the same party, with the approval of the Board of Selectmen. The two (2) alternate members shall serve in the absence of a regular member on a rotational basis with the same powers and authority as a regular member. No alternate member shall serve as a member of any other town board, commission, authority, or committee or the Board of Education nor be employed by the town or Board of Education. The initial appointments shall be for a term to expire on July 1, 1990. Thereafter, all appointments shall be for four-year terms.

(c) No candidate for political office may disseminate information which indicates that a Commission member supports his or her candidacy except for legally required disclosures.

Sec. 2-177. Organization and procedure.

The Ethics Commission shall elect a chairman and a secretary and shall establish its own rules and procedures, which shall be available to any elector of the town upon request to the Commission. The first rules and procedures shall be established within six (6)

months of the date this ordinance becomes effective. The need to maintain confidentiality in order to protect the privacy of public officials and employees and citizens shall be considered when establishing the rules and procedures. The Ethics Commission 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.

Sec. 2-178. Powers and duties.

(a) The Ethics Commission shall render advisory opinions with respect to the applicability of this Code of Ethics to specific situations to any agency, or any officer, official, employee or individual pursuant to a written request or upon its own initiative. (Advisory Request Forms to be available at the Town Clerk's office and on the Town web site.) The Ethics Commission may also issue guidelines on such issues. Such opinions and guidelines, until amended or revoked, shall be binding on the Ethics Commission and reliance upon them in good faith is an absolute defense in any action brought under the provisions of this section or the town charter. Any request or opinion, the disclosure of which invades the personal privacy of any individual (as that term is used in section 1-19(b)(2) of the general statutes, by the state freedom of information commission and the courts) or the provisions of section 10-151c of the general statutes, shall be kept confidential in a personnel or similar file and shall not be subject to public inspection or disclosure. The Ethics Commission may make available to the public such advisory opinions which do not invade an individual's privacy and take other appropriate steps in an effort to increase public awareness of this Code of Ethics.

(b) *Complaints.* The Ethics Commission shall establish procedures by which the public may initiate complaints alleging a probable cause violation of this Code. The Board of Ethics itself may also initiate such a complaint.

(1) Upon receipt from any person of a Complaint Form (with these forms to be available on the Town's web site and from the Town Clerk along with an envelope addressed to the Ethics Commission), signed under penalty of false statement, the Commission shall conduct promptly an inquiry to decide whether there is probable cause to believe a violation of the Code has occurred and to warrant an investigation.

(2) The Complaint Form shall document the name of the person accused (Respondent), the specific acts alleged to constitute the violation, when these acts occurred, and whether these allegations have been presented to other Town authorities

(3) No complaint can be made under this Code except within two (2) years after the violation alleged in the complaint has been committed.

(4) All information supplied to or received by the Commission during the evaluation and investigation shall remain confidential, as specified by provisions of the Connecticut General Statutes, sections 1-200(6) and 1-206.

(5) No person shall take or threaten to take action against an individual for such individual's disclosure of information to the Commission. Such retaliatory actions will be considered a violation of the Code.

(c) *Investigation.* If the Commission finds that the complaint has sufficient evidence to warrant an inquiry, the Commission shall promptly notify the Complainant and the Respondent(s). A copy of such complaint shall accompany such notice. The Commission shall have the power to hold hearings, concerning the application of this Code, administer oaths, examine witnesses, receive oral and documentary evidence, compel the attendance of witnesses by subpoena, and require the production for examination by the Commission of any books and papers which the Commission deems relevant in any matter under investigation or in question. In the event of a hearing during the investigation, the complainant and the respondent shall have the following rights: to appear before the Commission and be heard; to be represented by legal counsel; and to examine and cross-examine witnesses, including their accusers. Such hearings shall be closed to the public unless the respondent requests otherwise.

(d) *Criminal Offense.* During any stage of the investigation, if the Commission believes a criminal offense may have occurred, the Commission shall notify the appropriate authorities.

(e) *Disposition of Complaint.* At the conclusion of its investigation, the Commission shall promptly state its findings in a written decision. Confidential copies shall be delivered to the complainant and the respondent. A copy will be maintained in a CONFIDENTIAL FILE of the Ethics Commission.

(1) The Commission may dismiss the complaint, with the grounds for dismissal set forth, while continuing to protect the identity of both the respondent and the complainant.

(2) The Commission may find that there has been a violation of the Code and to identify in the decision the particular provision(s) violated, while continuing to protect the identity of both the respondent and the claimant.

(3) If the complaint is dismissed, the Commission shall not entertain any other similar complaint based on substantially the same evidence.

(f) *Penalties.* If the Board of Ethics determines the respondent has, in fact, violated the provisions of this Code, it shall file a memorandum of decision which shall include a recommendation for action with the Board of Selectmen and the appropriate agency, board or commission. The authority affected will report back within 30 days to the Ethics Commission the action taken or lack of action and the reasons therefore. In the case of a consultant, it shall also be filed with the contracting agency. The recommended action may include:

- (1) Reprimand and public censure;
- (2) Termination, suspension of compensation for elected positions, or suspension of employment for not more than 90 days without pay;
- (3) Termination of contractual status and/or debarment or suspension from being a contractor or subcontractor under Town contracts;
- (4) A civil penalty of not more than \$1,000 per violation;
- (5) Restitution of any pecuniary benefits received because of the violation committed.

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 Board of Selectmen under the charter of the town or under any ordinance, statute, or any other law. Any discussion by the Board of Selectmen or other agency, board or commission or contracting agency 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 and be done in accordance with due process.

Any person who knowingly files a false statement under this Code is subject to criminal prosecution for perjury under the laws of Connecticut.

2-179. Appeals.

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



First in Connecticut. First for its citizens.

TO: Members of the Board of Ethics

FROM: Peter Souza, Town. Manager

DATE: January 9, 2007

RE: Request for Advisory Opinion

I am respectfully requesting an advisory opinion from the Board of Ethics relative to a member of the Windsor Volunteer Fire Department who is employed in a part-time position with a fire and safety equipment company.

Mr. Jack Regier is a volunteer firefighter and has recently become employed with Shipman's Fire Equipment Company of Waterford, CT as an equipment specialist. Mr. Regier is not an officer in the fire department and is not involved in making policy or purchasing decisions for the Windsor Volunteer Fire Department. Mr. Regier has been generally assigned to the Hartford area service region. His compensation from Shipman's Fire Equipment is salary based and is not based on a sales commission or a quota system.

In terms of purchasing, the Fire Department is required to follow the town wide procurement processes which are overseen by the Finance Department. The Fire Department has one full-time staff person, the Fire Administrator. The Fire Administrator working under the direction of the Fire Chief coordinates all purchases for the department utilizing the town's procurement standards.

In speaking with Mr. Regier and Fire Chief Bill Lewis, they agree it would be appropriate to have the Board of Ethics review the situation to assess if there is any potential conflict of interest or prohibition per the Town's Code of Ethics (attached) prior to Mr. Regier engaging in representing his employer on business with the Town of Windsor.

Your attention and input regarding this topic is much appreciated. Please do not hesitate to contact me if you would like further information prior to your consideration of this item.

Attachment

c: Bill Lewis, Fire Chief

ARTICLE IV. CODE OF ETHICS*

***Charter references:** Proper official conduct, § 4-1.

State law references: Authority to adopt code of ethical conduct, G.S. §§ 7-148(a)(24), 7-194 (60).

Sec. 2-20. Board of ethics--Created; purpose.

There is hereby created a board of ethics for the purpose of rendering advisory opinions and making recommendations with respect to the drafting and adoption of amendments to this article.

(Code 1961, § 1.09.09; Ord. No. 70-5, 5-15-70)

Sec. 2-21. Same--Appointments.

The board of ethics shall consist of five (5) regular members, electors of the town, who are known for their personal integrity. The members shall be appointed by the council for a term of five (5) years, except that of the initially appointed members one (1) shall serve for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years. No member of the board of ethics shall knowingly render or agree to render for compensation or otherwise any service to any person or party other than the town in connection with any cause, proceeding, application or other matter which is before any town agency, nor shall such member serve as a member of any other town agency.

(Code 1961, § 1.09.010; Ord. No. 70-5, 5-15-70)

Sec. 2-22. Same--Organization and procedure.

The board shall elect a chairperson and secretary and shall establish its own rules of procedure. It shall keep records of its meetings and shall hold meetings at the call of the chairperson and at such other times as the board may determine.

(Code 1961, § 1.09.011; Ord. No. 70-5, 5-15-70)

Sec. 2-23. Same--Duties and powers.

The board may make recommendations for amendments to this code of ethics and rules and regulations for adoption by town agencies. The board shall render advisory opinions:

- (1) Concerning town officials and employees, excluding members and employees of the board of education, with respect to the code of ethics upon written request of the town manager or upon written request of any member of the town council submitted at a regular meeting of the town council. Such advisory opinions shall be submitted to the agency or

person requesting them.

(2) Concerning board of education members and employees with respect to the code of ethics upon written request of the superintendent of schools or upon written request of any member of the board of education submitted at a regular meeting of the board of education. Such advisory opinions shall be submitted to the board of education.

(Code 1961, § 1.09.012; Ord. No. 70-5, 5-15-70; Ord. No. 81-6, § 2, 6-1-81)

Sec. 2-24. Same--Expenses and compensation.

The members of the board shall serve without compensation for their services. In the performance of its duties and in the exercise of its powers the board shall not incur any expense in excess of the funds appropriated by the council for such purpose.

(Code 1961, § 1.09.013; Ord. No. 70-5, 5-15-70)

Sec. 2-25. Applicability.

The provisions of this article shall apply to all town officials and employees, whether elected or appointed, paid or unpaid. The term "town officials," as used in this Code, shall include members of the town council, members of the board of education, and all officials appointed by the town council, board of education or the town manager. The term "town employees," as used in this Code, shall include all employees of the town and the board of education.

(Code 1961, § 1.09.02; Ord. No. 70-5, 5-15-70; Ord. No. 81-6, § 1, 6-1-81; Ord. No. 82-2, § 1, 1-18-83)

Sec. 2-26. Conflict of interest.

No town official or employee shall accept any employment or have any interest, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of such official's or employee's duties in the public interest or which will impair such official's or employee's independence of judgment or action in the performance of official duties.

(Code 1961, § 1.09.03; Ord. No. 70-5, 5-15-70)

State law references: Conflict of interest, G.S. § 7-479.

Sec. 2-27. Disclosure of interest.

Any town official or employee who has a financial interest, direct or indirect, in any property or matter which is the subject of any pending or proposed proceeding before any town agency, shall disclose such official's or employee's interest to such agency upon hearing of such proceeding and if such official or employee is a voting member of such agency, such official or employee shall not participate in the discussion or vote upon such matter. The disclosure shall become a permanent part of the record before the agency.

(Code 1961, § 1.09.05; Ord. No. 70-5, 5-15-70)

Sec. 2-28. Use of town property; equal treatment.

No town official or employee shall use or permit the use of town-owned vehicles, equipment, materials or property for personal convenience or profit where prohibited by state statute, town ordinance, or administrative regulation. No town official or employee shall grant any consideration or advantage to any person beyond that which is available to every other person.

(Code 1961, § 1.09.04; Ord. No. 70-5, 5-15-70)

Sec. 2-29. Gifts and favors.

(a) No town official or employee in his capacity as an official or employee of the town shall solicit or accept any valuable gift, favor, service, loan at less than prevailing interest rates, thing or promise from any person, firm or corporation which would tend to weaken public confidence in the recipient or present a temptation which might undermine the official's or employee's unselfish devotion to the public interest.

(b) Endorsements. No town official or employee in his capacity as an official or employee of the town shall publicly endorse products or services. Notwithstanding the foregoing, nothing herein shall prohibit any town official or employee from answering any inquiry by another governmental official or consumer organization or product information service regarding any produce or service.

(Code 1961, § 1.09.06; Ord. No. 70-5, 5-15-70; Ord. No. 71-1, 1-18-71; Ord. No. 84-3, § 1, 9-4-84)

Sec. 2-30. Representing private or public interests before town agencies.

(a) No town official or employee shall render or agree to render for compensation any service to any person or party other than the town, in connection with any cause, proceeding, application or other matter which is before any town agency. This does not prohibit any town official or employee from appearing before any board or commission on such person's own behalf or as official spokesman for an organization of which he/she is a member, provided such appearance does not violate Connecticut General Statutes sections 8-11 and 8-21 or any other provision of the Code. Connecticut General Statutes sections 8-11 and 8-21 prohibit any town planning and zoning commission or zoning board of appeals member from appearing before either the town planning and zoning commission or the zoning board of appeals on his/her own behalf.

(b) No member of the town council may participate in a meeting of any board, agency, or commission appointed by the council other than on his or her own behalf as specified herein or other than at the express direction of the council or other than at the invitation of the board, agency, or commission.

(Code 1961, § 1.09.07; Ord. No. 70-5, 5-15-70; Ord. No. 82-2, § 2, 1-18-83; Ord. No. 94-4, § 1, 8-1-94)

Sec. 2-31. Confidential information.

No town official or employee, without proper authorization, shall disclose confidential

information concerning the property, affairs or government of the town, nor shall such official or employee use such information to advance the financial or other private interest of such person or others.

(Code 1961, § 1.09.08; Ord. No. 70-5, 5-15-70)

Sec. 2-32. Penalties.

A violation of this article by any town official or employee shall constitute grounds for disciplinary action, including removal.

(Code 1961, § 1.09.014; Ord. No. 70-5, 5-15-70)

Secs. 2-33--2-40. Reserved.

**Board of Ethics Commission
October 10, 2006
Dr. Primus Room – Windsor Town Hall
Unapproved Minutes**

Present: Commissioners Ruth Jefferis, George Morgenthaler, James Parker
Absent: George Griffin, James Mason
Staff: Peter Souza, Town Manager, Emily Moon, Assistant Town Manager

1. CALL TO ORDER

The meeting was called to order at 7:05 p.m. by George Morgenthaler (Acting as Chair Pro-tem)

2. PUBLIC COMMENT

None.

3. OLD BUSINESS

Mr. Parker requested that the next meeting in January that the Board review the proposed amendments from two or three years ago. These have been held in abeyance awaiting State Legislative action on the State Statute governing local code of ethics.

Mr. Parker also asked staff to request a copy of a report which the Suffield Board of Ethics completed earlier in the Spring of 2006. As Mr. Parker understood, this report was going to include a number of recommended changes to the Suffield Code of Ethics, including information on allowing citizens to bring complaints directly to the Board of Ethics.

Town Manager Souza stated staff would prepare information for the Board's meeting in January as well as request the above report from the Suffield Town Hall.

4. NEW BUSINESS

a) Establish Meeting Schedule for Calendar Year 2007

Mr. Parker made a motion, seconded by Ms. Jefferis, to approve the proposed 2007 meeting dates as outlined in the attached memo dated October 10, 2006 from Town Manager Souza.

Motion Passed 3-0-0

b) Review of Annual Report to Town Council

Mr. Parker made a motion seconded by Ms. Jefferis, to approve the attached 2006 Annual Report to the Town Council.

Mr. Parker noted that he thought the attendance figure for the June 26 and July 18 meetings was incorrect and should reflect five (5) members were in attendance at each of the meetings. The Board asked staff to recheck attendance at each of the other meetings.

Ms. Jefferis asked if it was common practice not to list the individual board member's name as part of the report. Town Manager Souza stated there was never a set practice amongst boards and commissions for that purpose.

Motion Passed 3-0-0

5. MINUTES OF PRECEDING MEETING

Moved by Ms. Jefferis, seconded by Mr. Parker for purposes of discussion, to accept the July 18, 2006 meeting minutes as presented.

Ms. Jefferis asked that minutes be corrected to reflect "Ms." not Mrs. when referring to her.

Motion Passed 2-0-1 (Parker abstained)

6. ADJOURNMENT

Moved by Mr. Parker, seconded by Ms. Jefferis to adjourn the meeting at 7:15p.m.

Motion Passed 3-0-0

Respectfully submitted,

Peter Souza, Town Manager
Recording Secretary