



Selectmen's Office

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Good evening and thank you for providing this venue to discuss this subject. My name is Philip Miller and I am the First Selectman of Essex. Essex is part of two Councils of Government, also known as COGs and the larger one is the Connecticut River Valley Council of Elected Officials, also known as CRVCEO. We are seventeen municipalities, which include all of Middlesex County plus Lyme and Old Lyme, and I am part of a subgroup which consists of myself, Old Saybrook First Selectman Michael Pace, Deep River First Selectman Richard Smith, and East Haddam First Selectman Mark Walter.

To be succinct, we are very wary of pending ethics reform, particularly with the topic of financial disclosure. We are concerned that many generous citizens interested in serving and possibly running for office will not be comfortable with disclosure of assets and holdings and business being made public. This may then inadvertently serve to discourage good people from being willing to serve, because they want to keep such information confidential.

All of us are used to elected Board members as well as appointed Commissioners of our Boards and Commissions who periodically voluntarily disclose any conceivable conflicts of interest, and these forthright citizens will typically excuse themselves from voting when they see a potential conflict of interest. We have noted that perhaps this is less of an issue for towns where people typically know their elected and appointed citizens quite well.

Many towns have fairly extensive ethics codes that are comprehensive yet not invasive of privacy. We have studied East Haddam's document as a model, for example. There are also existing State statutes that are thorough and sensible. Our concern is that the legislature first regards the many towns who operate ethically and in open sunlight as in need of some extra kind of imposed oversight, which, in itself, is presumptive, and we believe that it is each municipality who should have the autonomy to pass our own codes of ethical conduct based on our citizens wishes. In addition, many small towns have volunteers who compile agendas and minutes, and though each municipality typically provides training from our Town Clerks and FOI, we are also concerned that some mandates under consideration would mandate municipalities to have only paid clerks, and this is a budgetary concern.

Thank you for your consideration.

Philip Miller

Adopted March 31, 2008

TOWN OF EAST HADDAM

Policy Adopted by Board of Selectmen March 5, 2008
Policy Adopted by Town Meeting March 31, 2008

Code of Ethical Conduct

Section I-Statement of Purpose

Public office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by government officials and employees affects every citizen of the municipality, and it must be based on honest and fair deliberations and decisions. This process must be free from threats, favoritism, undue influence, and all forms of impropriety so that the confidence of the public is not eroded. By enacting this Code, this municipality 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.

Section II-Applicability

1. This Code shall apply to all current Town officials, officers and employees, whether elected and/or appointed, full time or part time, paid or unpaid.
2. All of the above shall be referred to hereinafter as "persons governed by this Code."
3. This Ordinance shall not be applicable if it conflicts in whole or in part with any labor agreement, employment contract or state statute.

Section III-Definitions

1. "Business" means any entity through which activity for profit or not for profit is conducted including, but not limited to a corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, or self-employed individual.
2. "Business with which he/she is associated" means a business of which the person or a member of his/her immediate family is a director, officer, owner, partner, member, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stock of any class.
3. "Code" means this Code of Ethical Conduct.

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4. "Commission" means the municipal Ethics Commission.
5. "Complainant" means any person who signed a complaint under penalties of false statement alleging a violation of this Code.
6. "Complaint" means any complaint received by the Commission alleging a violation of this Code of Ethics.
7. "Confidential Information" means information, whether transmitted orally or in writing, which is obtained by reason of the public position or office held, that is not, at the time of transmission, a matter of public record or public knowledge.
8. "Confidential Investigation" means the examination, prior to the finding of probable cause, of both written and oral evidence, that is not to be disclosed to any third party by anyone connected with the investigation, except upon the written request of the respondent.
9. "Conflict of interest" means an interest that is in substantial conflict with the proper discharge of the official's duties or employment in the public interest and of the official's responsibilities as prescribed by the laws of this state, if the official has reason to believe or expect that the official, the official's spouse or dependent child, or a business with which he is associated, as defined herein, will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of the official's official activity.
10. "Financial Interest" means pecuniary or material benefit accruing to a town official/employee as a result of a contract, transaction, zoning decision or other matter which is, or may be, the subject of an official act or action by or with the Town of East Haddam except for such contracts of transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all persons and/or property similarly situated.
11. "Gift" means anything of value, including entertainment, food, beverages, travel, and lodging given or paid to a public official or public employee to the extent that consideration of equal or greater value is not received. A gift does not include:
 - a. a political contribution otherwise reported as required by law or a donation or payment as described in subdivision (9) or (11) of subsection (b) of Conn. Gen. Stat. 9-333b;
 - b. a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;
 - c. a gift received from a member of a person's immediate family or fiancée;
 - d. goods or services which are provided to the municipality and facilitate government actions or functions;
 - e. a certificate, plaque or other ceremonial award costing less than \$200.00;
 - f. a rebate or discount on the price of anything of value made in the ordinary course of business, without regard to that person's status;
 - g. printed or recorded information germane to government action or functions;

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- h. an honorary degree bestowed upon a public official or public employee by a public or private university;
 - i. a meal provided at an event or business meeting and/or the registration or entrance fee to attend such an event, in which the public official or public employee participates in his official capacity;
 - j. a meal provided in the home by an East Haddam resident;
 - k. gift giving occasions recognized by the public, including, Christmas, Chanukah, birthdays, the birth or adoption of a child, weddings, first communions, confirmations or bar/bat mitzvahs, provided the total value of such gifts for each event shall not exceed \$150.00.
 - l. Services provided by persons volunteering their time.
12. "Immediate family" means spouse, child, parent, grandchild, brother, sister, grandparent, daughter-in-law, son-in-law, mother-in-law, father-in-law, sister-in-law, brother-in-law stepchildren and step grandchildren.
13. "On The Record" means in writing, signed and dated or a directive to the secretary taking the minutes of a meeting to note in the minutes of the meeting a special disclosure or statement.
14. "Personal Beneficial Interest" means any interest, other than financial, which would affect the action of the official or employee, except if that interest is based solely on the responsibility of his/her town office or employment. Membership in or affiliation with a social, fraternal, charitable, service, educational, religious, governmental or similar non-profit organization is not deemed to automatically create a presumption of personal interest unless the official employee is also an employee of the organization.
15. "Probable Cause" probable cause is defined by determining whether the facts would warrant a reasonable person to believe that a town official, officer or employee violated this Code; the belief should be more than a mere suspicion, but less than proof beyond a reasonable doubt.
16. "Respondent" means any person accused of violating this Code.
17. "Town Official, Officer or Employee" means an individual whether elected or appointed, whether paid or unpaid, full or part time, including members of boards, commissions and committees in the service of the Town of East Haddam.

Section IV-Conflict of Interest

1. Persons governed by this Code shall not engage in or participate in any business or transaction, nor have an interest, direct or indirect, which is incompatible with the proper discharge of that person or persons' official duties in the public interest, or would tend to impair that person or persons' independent judgment or action in the performance of that person or persons' official responsibilities.

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2. Persons governed by this Code shall not be financially interested or have any personal beneficial interest, in any contract or purchase order for any supplies, materials, equipment or contractual services furnished to or used by the board, agency or commission of which that person or persons is or are a member, or of which that person or persons is or are an employee(s). It is further provided, notwithstanding the above, that no member of the Board of Selectmen of the Town of East Haddam and no member of the Board of Finance of the Town of East Haddam shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any supplies, materials equipment or contractual services furnished to or used by any board, agency, or commission of the Town of East Haddam.
- 3 a) Persons governed by this code shall refrain from voting upon or otherwise participating in any matter on behalf of the municipality if that employee or official, a business with which he/she is associated, or a member of his/her immediate family, has a financial or personal interest in the transaction or contract, including but not limited to the sale of real estate, materials, supplies or services to the municipality, provided, however, that the restrictions of this section 4.6(a) shall not apply if such financial or personal interest accrues to him/her, his/her spouse, a dependent child or a business with which he/she, his/her spouse, or a dependent child is associated as a member of a profession, occupation or group to no greater extent than to any other member of such profession, occupation or group.
 - b) If such participation is within the scope of the public employee's or public official's official responsibility, he/she shall be required to provide written disclosure, which sets forth in detail the nature and extent of such interest, to the Commission.
 - c) Notwithstanding the prohibition in subsection (a), a public employee or public official may vote or otherwise participate in a matter if it involves a determination of general policy and the interest is shared with a substantial segment of the population of the municipality.
4. Persons governed by this Code shall not request or permit the use of Town owned vehicles, equipment, facilities, materials, or property for personal convenience or profit, except when such are available to the public generally, or provided by a municipal policy as adopted by the Board of Selectman for the use of such town official/employee in the interest of the Town.
5. a) No person governed by this code shall solicit or accept any gift from any person which to his/her knowledge is interested in any pending matter within such employee's of official's responsibility.
 - b) If a prohibited gift is offered, he/she must refuse it, return it, pay the donor the full value of the gift or donate it to a non-profit organization provided he/she does not receive the corresponding tax benefit. Alternatively it may be considered a gift to the municipality provided it remains in the municipality's possession permanently.
6. No public employee or public official shall appear on behalf of private interests before any board, agency, or committee of the municipality, with the following exceptions, which shall be permitted:

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- A. A public official who receives no compensation for his/her service to the municipality other than per diem payments and reimbursement of expenses may so appear; and
 - B. A public official whose responsibilities in such position include advocacy for members of the public and/or businesses or other applicants (e.g., economic development, land use planner) may so appear, provided said public official is not compensated by the private interests for such appearance.
7. No public employee or public official shall represent private interests against the interests of the municipality in any litigation to which the municipality is a party, with the following exceptions, which shall be permitted.
- A. A public official who receives no compensation for his/her service to the municipality other than per diem payments and reimbursements of expenses may so testify; and
 - B. A public official may testify in any legal matter in which the municipality is a party, provided said public official is not compensated by the private interest for such a testimony.
8. Nothing contained in this Code shall prohibit or restrict a public employee or public official from appearing before any Board or Commission of the municipality on his/her own behalf, or from being a party in any action, proceeding or litigation brought by or against the public employee or public official to which the municipality is a party.
9. No public employee or public official shall disclose confidential information concerning municipal affairs, or use confidential information acquired in the course of and by reason of his/her official duties nor shall he/she use such information for the financial interests of himself/herself or others.
10. No public employee or public official shall use his/her position of office to take any action that would benefit, financially or otherwise, such employee or official or any other person or organization in a manner that is not available to all similarly situated persons or organizations, nor shall any public employee or public official take any action in his/her official capacity in exchange for or as a quid pro quo for any benefit of any kind that he/she has received from any persons or organization.
11. No public official or public 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.
12. No public employee or public official shall accept a fee or honorarium for an article, appearance or speech, or for participation at an event, in his/her official capacity.

Section V – Conflict of Interest statement

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All appointed members of town boards and commissions, elected officials and department heads must recuse themselves from any decision that would incur a conflict of interest or potential conflict of interest. Failure to do so will constitute a violation of this code.

Section VI – Distribution of Code

The Board of Selectmen shall cause a copy of this Code of Ethics to be distributed to every public employee and public official within sixty (60) days after enactment of this Code. Each public employee and public official shall be furnished a copy before entering upon the duties of his/her office or employment. A signed receipt for all copies shall be returned to the First Selectman and retained on file.

Section VII-Municipal Ethics Commission. Members; Appointment; Qualifications; Vacancies; Political Activity

1. There shall be a Municipal Ethics Commission consisting of five (5) members. The members shall be appointed by vote of the Board of Selectmen for a term of three (3) years, except that, of the initially appointed members, one (1) shall serve for one (1) year, two (2) for two (2) years, two (2) for three (3) years. No individual shall be appointed to more than two (2) consecutive three (3) year terms, provided that any member may continue in office until a successor has been appointed. No more than three (3) members shall be members of the same political party.
2. All members shall be electors of the municipality. No member shall:
 - a. have held public office or have been a candidate for public office for a two (2) year period prior to appointment;
 - b. hold office in any political party or political committee;
 - c. be a public official in any other capacity other than a Notary Public or Justice of the Peace.
3. The commission shall elect a chairperson who shall preside at meetings of the commission and a vice-chairperson to preside in the absence of the chairperson. Three (3) members shall constitute a quorum. A majority vote of the commission shall be required for action of the commission. The chairperson or any three (3) members may call a meeting.

Section VIII-Duties of Commission re: Reports, Advisory Opinions, Memoranda, and Regulations, Employment of Necessary Staff

1. The commission shall:
 - a. compile and maintain a record of all reports, advisory opinions, statements, and memoranda filed by and with the commission to facilitate public access to such reports

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- and statements;
 - b. issue advisory opinions with regard to the requirements of this code upon the written request of any person. Advisory opinions rendered by the commission, until amended or revoked, shall be binding on the commission and shall be deemed to be final decisions of the commission. Any person who requested an advisory opinion and who acts in good faith reliance on such advisory opinion shall be entitled to use such reliance as an absolute defense to any complaint brought under the provisions of the code in conjunction with the specific activities that were subject of the advisory opinion;
 - c. report annually on or before February 1st to the Board of Selectmen summarizing the activities of the commission;
2. The commission may adopt, after a public hearing, rules and regulations not inconsistent with this code for the administration and implementation of the code.
 3. The commission may employ necessary staff or outside counsel within available appropriations.

Section IX-Procedure for Receiving a Complaint

1. The commission shall receive complaints from any person alleging violation of the code. Any complaint received by the commission must be in writing on a form prescribed by the commission and signed under penalty of false statement by the individual making said complaint before:
 - a. a judge of a court of record;
 - b. a clerk or deputy clerk of a court having a seal;
 - c. a commissioner of deeds or Town Clerk;
 - d. a notary public;
 - e. a justice of the peace;
 - f. an attorney admitted to the bar of the State of Connecticut.
2. If the complainant intentionally makes a false statement he/she may be subject to fines of up to one thousand (\$1,000.00) and penalties of up to one (1) year imprisonment under the provisions of section 53a-157b of the Connecticut General Statutes, a Class A misdemeanor.

Section X-Investigation Procedures, Time Limits, Notice, Hearings

1. Upon the complaint of any person on a form prescribed by the commission, signed under penalty of false statement, or upon its own complaint, the commission shall investigate any alleged violation of this code. Until such time as the commission makes a determination of probable cause, any allegations and any information supplied to or received from the commission shall not be disclosed to any third party by a complainant, witness, or commission or staff member, except upon the written request of the

respondent.

- a. Not later than ten (10) days after the receipt or issuance of such complaint, the commission shall provide notice of such receipt or issuance and a copy of the complaint by registered or certified mail to any respondent against whom such complaint is filed and shall provide notice of the receipt of such complaint to the complainant. Complaints shall be noted as received at a scheduled meeting.
 - b. If the complaint has been filed by a member of the public, the commission shall review the complaint to determine:
 1. Whether the allegations contained therein if proved would constitute a violation of any provisions of the code. If the commission determines that the complaint does not allege sufficient facts to constitute a violation, the commission shall dismiss the complaint and duly notify the complainant and respondent by registered or certified mail.
 2. If the commission determines that the complaint alleges sufficient facts to constitute a violation, then within thirty (30) days after so determining, the commission shall fix a date for the commencement of the hearing on the allegation contained therein. Such hearing shall be conducted in two phases. In the first phase, the commission will make a confidential determination as to whether there is probable cause to believe the facts alleged in the complaint actually occurred. If the commission does not make a finding of probable cause, the complaint and all records of the hearing shall remain confidential except upon the written request of the respondent. If the commission makes a finding of probable cause, the commission shall proceed to the second phase, which shall be a public hearing to determine whether a violation has occurred. The hearing date regarding any complaint shall be not more than sixty (60) days after the filing of the complaint.
2. In the conduct of an investigation of an alleged violation of this code:
 - a. The commission shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and require the production for examination by the commission of any books and papers that the commission deems relevant in any matter under investigation or in question. In the exercise of such powers, the commission may use the services of the municipal police, who shall provide the same upon the commission's request.
 - b. The respondent shall have the right to appear and to be represented by legal counsel and to examine and cross-examine witnesses. All witnesses will be sworn.
 3. The commission shall make no finding that there is a violation of any provision of the code except upon the concurring vote of at least four (4) of its members.

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4. Any hearing conducted by the commission shall be governed by the Administrative Procedures Act Connecticut General Statutes 4-178.
5. No complaint may be made under this code except within three (3) years after the violation alleged in the complaint has been committed.
6. No person shall take or threaten to take official action against an individual for such individual's disclosure of information to the commission under the provisions of this code.

Section XI-Confidentiality of Complaints, Evaluations of Possible Violations and Investigations, Publication of Findings

1. Unless the commission makes a finding of probable cause, a complaint alleging a violation shall be confidential except upon the written request of the respondent unless such information is required to be disclosed pursuant to the Freedom of Information Act as set forth in Connecticut General Statutes Section 1-200 et. Seq..
2. Prior to any other action on a complaint, the commission may conduct a preliminary investigation to determine whether the filing of a complaint is warranted. This preliminary investigation shall be confidential except upon the written request of the respondent.
3. If the commission makes a finding of no probable cause, the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent. No complainant, witness, designated party, or commission or staff member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known. The commission shall inform the complainant and the respondent of its finding by registered or certified mail not later than three (3) business days after termination of the hearing or investigation.
4. The commission shall make public a finding of a violation not later than five (5) business days after the termination of the hearing. At such time, the entire record of the investigation shall become public
5. The commission shall inform the complainant and the respondent of its finding and provide them a summary of its reasons for making such a finding by registered or certified mail not later than three (3) business days after termination of the hearing.

Section XII-Appeals

Any person aggrieved by any final decision of the Commission may appeal such decision in accordance with the provisions of Section 4-175 or Section 4-183 of the Connecticut General Statutes. If successful, any and all reasonable legal fees will be paid by the Town of East Haddam.

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Section XIII - Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of the Code, or any part thereof, is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portion of the Code.

Section XIV-Date of Effect

This Code shall take effect 15 days after its adoption by Town Meeting.