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Norwich Ethics Commission

Complaint 2016-2 – Respondent Diana Boisclair

TOWN CITY CLERK
NORWICH CT

Introduction:

On October 16, 2016, a local paper published a front page article with details about a 2016 trip to the Kentucky Derby sponsored by the Connecticut Municipal Electric Energy Cooperative (CMEEC), of which Norwich Public Utilities (NPU) is a member. The article reported that two NPU employees, two members of the NPU Board of Commissioners, and the Mayor of Norwich had attended, some bringing a guest. Pursuant to the Norwich Ethics Code, the Ethics Commission works under its procedures and considers complaints against Norwich officers, officials and employees. During the weeks that followed, a total of five ethics complaints were submitted on the prescribed forms by Norwich residents. These complaints were taken up at the November and December meetings of the Ethics Commission. Complaint 2016-2 was received on October 19, 2016, and is directed against Diana Boisclair, Chair of the Board of Public Utilities Commissioners, who is identified as the respondent in this case. As part of her service as a commissioner on the Norwich Public Utilities Board and as its chair, she represents NPU on the board of CMEEC. The complaint was discussed at the November meeting of the Ethics Commission in executive session. A subcommittee was formed to investigate the relevant facts and issues to determine the validity of the complaint. The members of the sub-committee were Robert Ballard, Gregory Schlough, Christopher Dixon, and Anthony Black. The sub-committee reported back at the December 12, 2016 meeting in executive session, and recommended the matter be considered by the entire commission on the basis of probable cause found. When the commission returned from executive session, Greg Schlough made a motion that the commission find that there was probable cause to believe that an ethical violation had occurred in this case. The motion was carried by all voting commissioners present: Menard, Lord, Dixon, Schlough, and Ballard.

The complaint alleged that by participating in a trip sponsored by CMEEC to the Kentucky Derby, Ms. Boisclair violated section 2.54 (c) of the Code of Ethics.

The language of the Ethics Ordinance relating to this complaint is in Section 2-54 (c) Gifts and Favors, and provides:

“No officer, official or employee shall accept or solicit any gift from any person who, to his or her knowledge, is interested, directly or indirectly, in any manner whatsoever, in business dealings with the city, or which gift may tend to influence him or her in the discharge of official duties or in granting any improper favor, service or thing of value.”

A gift is defined in the ethics ordinance at section 2-52 (d) as:

“A payment, subscription, advance, forbearance, rendering of service, deposit of money, or anything of value unless consideration of equal or greater value is transferred in its place. The term “gift” shall not include a political contribution otherwise reported as required by law; services provided to support a political candidate or political party without compensation by persons volunteering their time; a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business; anything of value received because of a

family or other close personal relationship with the donor; food or beverage or both, consumed on a single occasion, the cost of which is less than fifty dollars (\$50) per person; an occasional non-pecuniary gift, insignificant in value; an award publically presented in recognition of public service or any gift which would have been offered or given to the recipient if he or she were not a public official or municipal employee.”

The Kentucky Derby trip identified in complaint 2016-2 took place in May of 2016. There were similar trips taken in the three previous years, but the timeframe for filing ethics complaints is 18 months; earlier trips were not considered by the commission.

Following the finding of probable cause on December 12, 2016, a public hearing was scheduled. The hearing was held on January 19th to consider this complaint and also, as part of one hearing by the consent of all respondents, the other complaints (Mr. Robert Groner - 2016-3, Mayor Deberey Hinchey - 2016-4 and 2016-5, Mr. John Bilda - 2016-6 and Mr. Steven Sinko - 2016-9). The hearing was continued to February 13, 2017, the next regular scheduled meeting of the ethics commission.

Findings:

Commissioner Boisclair has been on the NPU board since her appointment by the City Council in 2003. She was chosen to be Chairman of the NPU Board in 2015, becoming Norwich’s representative on the CMEEC Board. She had been alternate on the CMEEC board for the past 5 years. Ms. Boisclair testified as to the details of the trip under oath at that hearing. The commission finds by clear and convincing evidence the following: Ms. Boisclair participated in this trip and brought her spouse. The expenses for her and her spouse were paid by CMEEC, and she never saw nor paid a bill for any items or events procured as arranged by CMEEC, including the following major items. The flight was on a chartered plane out of the Groton Airport with CMEEC staff, CMEEC board members and alternates, and invited guests being the only people on the plane. The accommodations were at the Galt House Hotel while in Louisville, Kentucky. All attendees, including Ms. Boisclair and her husband, did not see a bill, which was paid entirely by CMEEC. All meals were arranged and paid for by CMEEC, including tips. Tickets to the Kentucky Derby events were given to all participants by CMEEC. Per the table of calculations below, the board found that the value of the trip for her was \$7,730.23, and her husband was \$7,780.23.

Kentucky Derby Trip Cost per person:	
Total trip cost:	342,330.00
divided by number of participants	44
Cost per person	7,780.23
NPU commissioner or employee gift allowance	50.00
Price for NPU Representative	7,730.23
Price for guest	7,780.23
Cost for NPU Commissioner/employee plus one guest	\$15,510.46
25% of NPU representative and guest	3,877.62

Ms. Boisclair was asked if there was an agenda for any business activities on the trip, and her response that there has never been an agenda on these trips that she had seen. It was just an opportunity to meet the other board members. There were no meetings, no specific team building events, no speakers, and no training. When asked if she had any ethical concerns about the trip, she indicated that she did not. Further, she stated she was not aware that there was a Norwich code of ethics that she was bound by. She testified that the trips were never discussed at NPU board meetings, and she was not required to report back to the board or otherwise on the trip. These facts regarding the trip are not disputed. Ms. Boisclair freely admitted her participation.

Decision:

After completion of the testimony and presentation of evidence on January 19, 2017, the hearing was continued to February 13, 2017. At the February 13, 2017 meeting of the Ethics Commission, the facts determined at the public hearing and the provisions of the Norwich Code of Ethics were discussed at length. The commissioners determined that Ms. Boisclair's participation in any CMEEC events was due to her position as an NPU Commissioner. No one participates as a representative on the CMEEC board unless they are representing a member utility, and any participation by NPU board members or employees, are a representative of NPU. In the opinion of the Ethics Commission, the trip cannot be construed as a business trip for the following reasons:

- There was no agenda outlining business items. There were no speakers, no specific team building events, and no training.
- Of the 44 participants, there were only 4 CMEEC employees and 8 CMEEC board members or alternates. All of the remaining 32 participants were guests.

The Ethics Commission finds on complaint 2016-2 on the basis of clear and convincing evidence that Ms. Diana Boisclair violated the code of ethics, specifically section 2-54 (c) by participating in this trip. The vote to find that this violation had occurred was taken at the February 13, 2017 meeting. Motion was carried by all voting commissioners present: Menard, Lord, Dixon, Schlough, and Ballard.

Recommendations:

Based on this violation, the Ethics Commission makes the following recommendations:

1. The Board of Commissioners of the Norwich Public Utilities should not select her as chairman or vice chairman for the remainder of her appointed term. We request that she not be selected as a representative of Norwich Public Utilities to CMEEC as well.
2. The Ethics Commission recommends that the Norwich City Council not re-appoint her as a NPU Commissioner at term expiration.
3. The Ethics Commission recommends that Ms. Diana Boisclair make reimbursement in the amount of \$3,877.62. This figure was arrived at by calculating the value of the trip and using a figure of 25% as the portion of the funds that would parallel Norwich's approximate ownership of CMEEC. The Ethics Commission recommends that any reimbursement be given to a fund that helps those in Norwich who struggle financially.

4. The Ethics Commission also requests that a letter outlining this ethical violation be included in Ms. Diana Boisclair's file with the City of Norwich in the City Clerk's office.

Matter for Norwich City Council:

While it was not a subject of the hearing, nor was it a material fact in the decision made by the commission, the ethics commission recommends that the Council review its ordinance with respect to payment of attorney fees by respondents.



Carol A. Menard, Chairman

Kathryn Lord, Vice-Chairman

Christopher Dixon

Robert Ballard

Gregory Schlough

Anthony Black, alternate