

TOWN OF WEATHERSFIELD, VERMONT
CONFLICT OF INTEREST POLICY
ADOPTED 9/6/2016

Article 1. Authority.

Under the authority granted in 24 V.S.A. § 2291(20), the Town of Weathersfield hereby adopts the following policy concerning conflicts of interest.

Article 2. Purpose.

The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public officer of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials and employees will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officials and employees are based on the best interest of the community at large.

Article 3. Application.

This policy applies to all public officers as that term is defined below.

When management of a contract involves State or Federal Funds this policy will be followed along with the provisions of the contract and the procurement policies of those organizations (Ex. 2 CFR 200.318 - general procurement standards). The portion of each policy that is most restrictive will be followed.

Article 4. Definitions.

For the purposes of this policy, the following definitions shall apply:

- *Conflict of interest* means any of the following:

A direct or indirect personal or financial interest of a public officer, his or her spouse or partner, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, employer or employee, or perspective employer in the outcome of a cause, proceeding, application, or any other matter pending before the officer or before the public body in which he or she holds office or is employed.

A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's particular political views or general opinion on a given issue.

A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

TOWN OF WEATHERSFIELD, VERMONT
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A "conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or financial interest in the outcome, such as in the establishment of a tax rate that is no greater than that of other persons generally affected by the decision.

- *Emergency* means an imminent threat or peril to the public health, safety, or welfare.
- *Ex Parte Communication* means direct or indirect communication between a member of a public body and any party, party's representative, party's counsel or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.
- *Official act or action* means any legislative, administrative, or quasi-judicial act performed by any public officer while acting on behalf of the municipality.
- *Public body* means any board, council, commission, or committee of the municipality.
- *Public interest* means an interest of the community as a whole, conferred generally upon all residents of the municipality.
- *Public officer* means any person elected, appointed or employed by the Town of Weathersfield.
- *Quasi-judicial proceeding* means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, and which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 5. Prohibited Conduct.

A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.

A public officer shall not personally — or through any member of his or her household, business associate, employer or employee, perspective employer, or any other — represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application, or other matter pending before the public body in which the public officer holds office.

A public officer shall not accept gifts or other offerings for personal gain by virtue of his or her public office that are not available to the public in general. A public officer shall not use resources unavailable to the general public — including but not limited to municipal staff time,

TOWN OF WEATHERSFIELD, VERMONT
CONFLICT OF INTEREST POLICY
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equipment, supplies, or facilities – for private gain or personal purposes.

Article 6. Disclosure.

A public officer who has reason to believe that he or she has or may have a conflict of interest in a particular matter shall, prior to participating in any official action on the matter, publicly disclose at a public meeting or public hearing that he or she has an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a public officer may request that another public officer recuse him or herself from a matter due to a conflict of interest.

Article 7. Consideration of Recusal.

Once there has been a disclosure of an actual or perceived conflict of interest, other public officers may be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body may take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

- 1 Such request shall not be considered an order for the officer to recuse him or herself.
- 2 In any case where the Town is receiving funding through federal sources a public officer shall recuse themselves from any selection, award or administration of any contract if their is a conflict of interest, real or apparent, as defined in Article 4 of this policy or 2 CFR 200.

Article 8. Recusal.

- *Recusal of Elected Officers.* After taking the actions listed in Articles 6 and 7, an elected public officer should declare whether he or she will recuse him or herself and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believes that he or she is able to act fairly, objectively, and in the public interest, in spite of the conflict, he or she shall state why he or she believes that he or she is able to act in the matter fairly, objectively, and in the public interest.
- *Recusal of Appointed Officers.* The failure of an appointed public officer to recuse himself or herself in spite of a conflict of interest may be grounds for discipline or removal from office.
- *Recusal of employees.* The failure of an employee to recuse himself or herself in spite of a conflict of interest may be grounds for discipline up to and including termination in

TOWN OF WEATHERSFIELD, VERMONT
CONFLICT OF INTEREST POLICY
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accordance with the Weathersfield Personnel Policy and State Laws.

Article 9. Post-Recusal Procedure.

A public officer who has recused himself or herself from serving on a public body in a particular proceeding shall not sit with the public body, deliberate with the public body, or participate in that proceeding as a member of the public body in any capacity, though such member may still participate as a member of the public.

The public body may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

Article 10. Enforcement.

A. Enforcement Against Elected Officers; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures. In cases where an elected public officer has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict of interest procedures in Articles 6 through 9, the Weathersfield Select Board may take progressive action to discipline such elected officer as follows:

The chair of the Selectboard of the Town of Weathersfield and Town Manager (or Vice Chair if the officer is the Town Manager) may meet with the public officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair and the public officer together constitute a quorum of a public body. The Selectboard of the Town of Weathersfield may meet to discuss the conduct of the public officer. Executive session may be used for such discussion in accordance with 1 V.S.A. § 313(a)(4). The public officer may request that this meeting occur in public. If appropriate, the Town of Weathersfield may admonish the offending public officer in private.

Each member of an elected public body is independently elected and answers only to the voters. Therefore, unless there is a local ordinance or charter provision that states otherwise, the remaining members of the body may not force recusal. They may only express their opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately. Certain appointed officials such as a Zoning Administrator and a Town Manager may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard.

If the Selectboard of the Town of Weathersfield decides that further action is warranted, the Selectboard of the Town of Weathersfield may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public

TOWN OF WEATHERSFIELD, VERMONT
CONFLICT OF INTEREST POLICY
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officer shall be given the opportunity to respond to the admonishment. Upon majority vote in an open meeting, the Selectboard of the Town of Weathersfield may request (but not order) that the offending public officer resign from his or her office.

- B. *Enforcement Against Appointed Officers.* The Selectboard of the Town of Weathersfield may choose to follow any of the steps articulated in Article 10A. In addition to or in lieu of any of those steps, the Selectboard of the Town of Weathersfield may choose to remove an appointed officer from office, subject to state law.
- C. *Enforcement Against Employees.* The Selectboard of the Town of Weathersfield may choose to follow any of the steps articulated in Article 10A. In addition to or in lieu of any of those steps, the Selectboard of the Town of Weathersfield may choose to discipline employees up to and including termination in accordance with the Weathersfield Personnel Policy and State Laws.

Article 11. Exception.

The recusal provisions of Article 8 shall not apply if the Selectboard of the Town of Weathersfield determines that an emergency exists and that actions of the public body otherwise could not take place. In such a case, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 6.

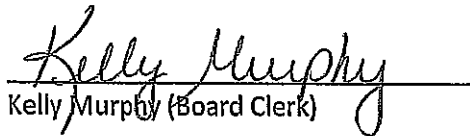
Article 12. Effective Date.

This policy shall become effective immediately upon its adoption by the Selectboard of the Town of Weathersfield.

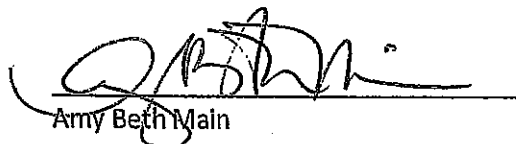
Adopted this the 16 day of SEPT, 2016.


Dan Boyer (Chairman)


Lynn Esty (Vice-Chair)


Kelly Murphy (Board Clerk)


Peter Cole


Amy Beth Main