

TOWN OF CALAIS
CONFLICT OF INTEREST POLICY
Adopted by Town of Calais Selectboard
To supersede all previous versions
Amended and approved November 20, 2017

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the Calais Selectboard hereby adopts the following policy concerning conflict 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 official 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 will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officials are based on the best interest of the community at large.

Article 3. Application. This policy applies to all public officers and individual members of a public body as the terms are defined below.

Article 4. Definitions. For the purposes of this policy, the following definitions shall apply:

A. Board means the members of the Calais Town Selectboard.

B. **Conflict of interest** means any of the following:

1. A direct or indirect personal or financial (pecuniary) interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, civil union partner, 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;
2. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding that is before the board on which the public officer sits. This shall not apply to a member's particular political views or general opinion on a given issue; and
3. A situation where a public officer fails to disclose ex parte communications with a party in a proceeding before the board.

A Conflict of Interest does not arise in the case of votes or decisions on matters in which the public officer has a personal or pecuniary 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.

- C. **Emergency** means an imminent threat or peril to the public health, safety or welfare.
- D. **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.
- E. **Official act or action** means any legislative, administrative or quasi-judicial act performed by any elected or appointed officer or employee while acting on behalf of the municipality.
- F. **Public body** means any board, council, commission or committee of the municipality.
- G. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.
- H. **Public officer or public official** means a person elected or statutorily-appointed to perform executive, administrative, legislative or quasi-judicial functions for the municipality.
- I. **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. A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.
- B. A public officer shall not personally – or through any member of his or her household, business associate, employer or employee – 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.
- C. 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.
- D. A public officer shall not use resources unavailable to the general public – including but not limited to municipal staff time, 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, take the following action:

- A. Publicly disclose at a public meeting or public hearing of the body that he or she has an actual or perceived conflict of interest in the matter under consideration; and
- B. 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. Such request shall not be considered an order for the officer to recuse him or herself.

Article 7. Consideration of Recusal. Once there has been a disclosure of an actual or perceived

conflict of interest, other public officers shall 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 shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

Article 8. Recusal.

A. Recusal of Appointed and Elected Officers. After taking the actions listed in Articles 6 and 7, a public officer, whether appointed or elected, shall 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. Otherwise, the public officer shall recuse him or herself from the matter under consideration. A public officer who recuses himself or herself may explain the basis for that decision, but is not required to do so.

Notwithstanding the expectation set out in this policy that public officials, whether elected or appointed, will recuse themselves in cases of real or perceived conflict, 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 express concerns with or about a fellow member who they believe fails to handle conflicts appropriately.

B. 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.

Under Vermont state law, the Zoning Administrator may only be removed by the Board for cause and after being afforded with procedural due process protections, including notice and a reasonable opportunity to be heard.

Article 9. Recording. The minutes of the meeting or the written decision from the hearing shall document the actions taken in Articles 6 through 8.

Article 10. Post-Recusal Procedure.

- A. 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, hearing, or discussion as a member of the public body in any capacity, though such member may still participate as a member of the public.
- B. 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 11. Enforcement.

A. 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 10 above, the Board may take progressive action to discipline such elected officer as follows:

1. The Board or a designated member shall meet informally, in private, with the public officer to discuss possible conflict of interest violation.
2. The Board 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(4). The public officer may request that this meeting occur in public. If appropriate, the Selectboard may admonish the offending public officer in private.
3. If the Board decides that further action is warranted, the board may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment verbally and in writing, which shall be maintained as part of the official record.
4. Upon majority vote, the Board may request that the offending public officer resign from the board.

B. Enforcement Against Appointed Officers. The Board may choose to follow any of the steps articulated in Article 11A. In addition to or in lieu of any of those steps, the Board may choose to remove an appointed officer from office, subject to state law.

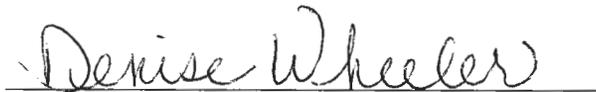
Article 12. Exception. The recusal provisions of Article 6 shall not apply if the Board determines that an emergency exists and that actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 5.

Article 13. Effective Date. This policy shall become effective immediately upon its adoption by the Board.

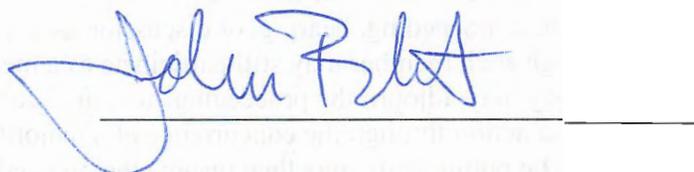
Revised by the Selectboard, November 2017

Signatures:

Denise Wheeler, Chair



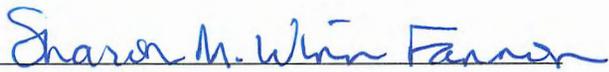
John Brabant, Vice-Chair



Rose Pelchuck, Member



Sharon Winn Fannon, Member



Clif Emmons, Member