



**City of Auburn
Ethics Committee Agenda
08/17/2017
5:00 P.M.**

5:00 P.M.

- Discussion with City Manager on Ethics Policy

Linda Cohen

From: Peter Crichton
Sent: Monday, July 24, 2017 9:02 PM
To: Linda Cohen
Subject: FW: Ethics Policy
Attachments: Code of Ethics Policy.pdf

Linda,

Please print the attachment.

Thanks,

Peter

From: William Post [wpost@bowdoinham.com]
Sent: Monday, July 24, 2017 11:11 AM
To: jmanager@jay-maine.org
Cc: Peter Crichton
Subject: Ethics Policy

Shiloh & Peter,

Attached is Bowdoinham's Ethics Policy. It is old (2007) and definitely needs updating, but has a good foundation.

Bill

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Code of Ethics Policy

Purpose:

The proper operation of democratic government requires that Selectmen, Appointed Committees, and Employees be fair, impartial and responsive to the needs of the people and to each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office or employment not be used simply for personal gain; and that such Selectmen, Appointed Boards, and Employees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics Policy is hereby established for all Selectmen, Appointed Boards, and Employees of the Town of Bowdoinham.

1). It is the obligation of every public official and employee to support the Constitution of the United States and the Constitution of the State of Maine. The purpose of this Code of Ethics Policy is to establish standards of conduct for all Selectmen, Appointed Committees, and Employees by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the Town of Bowdoinham.

3.1 Statutory Standards: There are certain provisions of the general statutes of the State of Maine, which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all Selectmen, Appointed Committees, and Employees of the Town of Bowdoinham whenever applicable, as if more fully set forth herein, to wit:

- 17 MRSA ss 3104 Conflict of Interest; Purchases by the State
- 17-A MRSA ss 456 Tampering with Public Records of Information
- 17-A MRSA ss 602 Bribery in Official and Political Matters
- 17-A MRSA ss 603 Improper Influence
- 17-A MRSA ss 604 Improper Compensation for Past Action
- 17-A MRSA ss 605 Improper Gifts to Public Servants
- 17-A MRSA ss 606 Improper Compensation for Services
- 17-A MRSA ss 607 Purchase of Public Office
- 17-A MRSA ss 608 Official Oppression
- 17-A MRSA ss 609 Misuse of Information
- 17-A MRSA ss 903 Misuse of Entrusted Property
- 21 MRSA ss 533 Persons Ineligible to Serve as Election Officials
- 30 MRSA ss 2251 Conflicts of Interest
- 30 MRSA ss 4819 Interest of Public Officials, Trustees or Employees

2). Every citizen shall receive a fair and impartial hearing on any matter coming before the Selectmen, its appointed agencies or any employee of the Town. No public official or employee shall make any promise or pledge to any person concerning any matter to be heard before a public official or employee except upon fair, impartial and final hearing thereof.

Guidelines

Impression of Influence. Officials should conduct their official and personal affairs in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.

Fair and Impartial Hearing. This means that Public officials will await hearing all facts pertaining to a particular issue coming before them and not promise or commit to a course of action on behalf of any person until all of the facts are heard.

3). The conduct of public business shall be free of any hidden personal or financial interest of any public official or employee. No public official or employee shall advocate in any public meeting or private discussion any matter in which he has a personal or financial interest except upon full and timely disclosure of the interest.

Guidelines

Investment Conflict with Official Duties. Public officials should endeavor to avoid or hold investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with their official duties. Where such a conflict exists it should be disclosed to the governing board prior to any decision to be undertaken by that Board, and if requested by the membership of that Board, the official should recuse him/herself from taking official action.

In the case of real estate, the potential use of confidential information and knowledge to further an official's personal interest requires special consideration. This guideline recognizes that official's actions and decisions can be influenced if there is a conflict with personal investments. Purchase and sales which might be interpreted as speculation for quick profit ought to be avoided.

Personal Relationships. Public Officials should disclose any personal relationship to the governing board in any instance where there could be the appearance of a conflict of interest. For example, if the official's spouse works for a developer doing business with the local government, that fact should be disclosed.

4). It is the obligation of every public official to faithfully discharge the duties of his office. In the conduct of public business, no public official shall be excused from voting except on matters involving consideration of his own official conduct, or where his financial interests are involved. Every public official shall make full and timely disclosure of any personal or financial interest which he has in any matter of public business to be transacted before him.

Guideline.

Faithfully discharge duties. It is the obligation of every Public Official to fully and faithfully discharge his/her duties. This includes voting on all matters even when such a vote will not be popular.

Personal or Financial interest. Where there is doubt about the potential influence of an investment, holding, or personal relationship, this should be disclosed to the governing board prior to any decision to be undertaken by that Board, and if requested by the membership of that Board, the official should recuse him/herself from taking official action.

5). The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. It is the obligation of every public official and employee to refuse personal gifts, favors or special privileges in every instance where such public official or employee reasonably believes such gift, favor or special privilege would not have been extended but for the position of such public official or employee, or where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of the public official or employee, or where the gift is or may reasonably be considered to be designed to influence the actions of the public official or employee. No public official or employee shall seek personal or financial advantage by means of his public office, appointment or employment.

Guideline.

Gifts. No Public Official should directly or indirectly solicit any gift or accept or receive any gift - whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form - under the following circumstances: (1) it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or (2) the gift was intended to serve as a reward for any official action on their part.

It is important that the prohibition of unsolicited gifts be limited to circumstances related to improper influence. In *de minimus* situations, such as meal checks, some modest maximum dollar amount should be determined by the official as a guideline. This guideline is not intended to isolate officials from normal social practices where gifts among friends, associates, and relatives as appropriate for certain occasions.

6). The use of public trust for private gain is in conflict with good government. No public official or employee shall violate the provisions of Maine State Statutes. No public

official or employee shall use confidential or advance information obtained by virtue of public office, appointment or employment for personal or financial advantage.

Guideline

Confidential Information. Public Officials should not disclose to others, or use to further their personal interest, confidential information acquired by them in the course of their official duties.

7). It is the obligation of every public official and employee to carry out the lawful orders and policies of the Selectmen. No public official or employee shall knowingly take any action inconsistent with the lawful orders or policies established by the Selectmen. No public official or employee shall knowingly take any action which would be detrimental to the best interests of the Town.

Guideline.

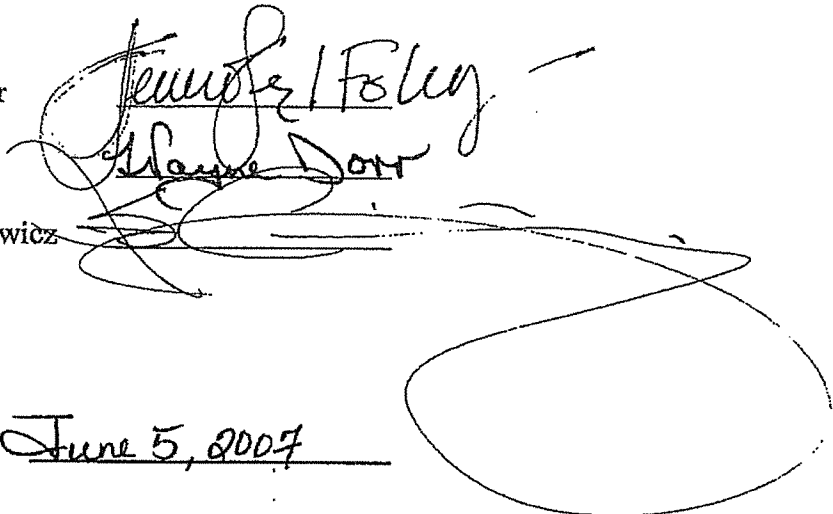
Public Confidence. Public Officials should conduct themselves so as to maintain public confidence in their government and its processes.

Policy adopted by the Town of Bowdoinham Municipal Officers on June 5, 2007

Jennifer Foley, Chair

Wayne Dorr

Stephen Ciembroniewicz



Date Adopted

June 5, 2007

Date Amended

ATTEST:

Pamela C. Ross

Pamela C. Ross, Bowdoinham Town Clerk

To Board Members:

I have received and fully understand all of the components of the

Town of Bowdoinham
CODE OF ETHICS
Standard of Conduct for Town
Officials and Employees with Guidelines

I submit the following as areas that might constitute a conflict of Interest

Signature of Board Member: _____

Print Name: _____

Date: _____

DIVISION 2. - ETHICS AND CONFLICTS OF INTEREST¹⁵¹

Footnotes:

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State Law reference— Conflicts of interest, 30-A M.R.S.A. § 2605.

Sec. 2-109. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Financial involvement means any existing (or current efforts toward achieving) ownership or investment interest, contract right, significant customer relationship, or employment relationship of or with a public official or a person with whom the public official has a personal relationship.

Municipal board means the city council, the school committee, the planning board, the board of zoning appeals, the civil service commission and the board of assessment review.

Participation in a matter means action by a public official to vote, decide, deliberate, influence or direct others in regard to matters currently before or anticipated as coming before a municipal board, or which involve the operation of municipal government or the school system.

Personal relationship means any family, affectional or social relationship that is characterized by one or more of the following:

- (1) Persons who are husband and wife, or parent and child.
- (2) Persons who share a physical intimacy with each other.
- (3) Persons who acknowledge an ongoing romantic relationship with each other.
- (4) Persons who live together in the same residence.
- (5) Persons who intermingle their financial assets without an accounting of separate ownership interests.

Public official means:

- (1) Any person holding an elected or appointed position with a municipal board;
- (2) The city manager;
- (3) The assistant city manager;
- (4) Directors of municipal and school system departments;
- (5) The city purchasing agent/deputy finance director;
- (6) The superintendent of schools;
- (7) The assistant superintendent of schools; and
- (8) School principals.

(Code 1967, § 1-4.2)

Sec. 2-110. - Policy; purpose and intent of division; adoption of additional standards.

- (a) It is the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the citizens, that public office not be used for personal gain, and that the public have confidence in the integrity of its municipal government. The purpose and intent of this division is to promote the objective of protecting the integrity of the government of the city against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.
- (b) This division shall not prevent the city council, the school committee, the city manager or the superintendent of schools from adopting additional procedures and employment standards intended to prevent the exercise or appearance of improper influence or bias in the conduct of government business.

(Code 1967, § 1-4.1)

Sec. 2-111. - Ethics panel established; membership; powers and duties.

- (a) Established; membership. There shall be established an ethics panel consisting of three regular voting members and two alternate members. Two regular voting members and one alternate member of the ethics panel shall be appointed by the mayor with approval of a majority of the members of the city council, and one regular voting member and one alternate member of the ethics panel shall be appointed by the chair of the school committee with approval of a majority of the members of the school committee. A regular voting member or alternate member of the ethics panel may not hold any other city or school department office or position or be a member of any board or commission to which the city council or school committee has appointing authority.
- (b) Term of members; chair. The regular voting members of the ethics panel shall be appointed to staggered three-year terms. When the first appointments are made, one member shall be appointed by the mayor to a three-year term, one member shall be appointed by the chair of the school committee to a two-year term, and one member shall be appointed by the mayor to a one-year term. The mayor annually shall appoint one of the regular voting members to serve as chair of the ethics panel. Alternate members shall be appointed to three-year terms.
- (c) Role of alternate members. Alternate members of the ethics panel may participate and vote in ethics panel proceedings if a regular voting member is incapable or unavailable to serve in regard to a particular referral or is disqualified from participation because of a conflict of interest. The alternate member designated shall be selected by the chair of the ethics panel.
- (d) Powers and duties. The ethics panel shall have the authority to issue advisory opinions on questions relating to conflicts of interest and the incompatibility of employment positions.

(Code 1967, § 1-4.3)

Sec. 2-112. - Conflicts of interest generally.

- (a) Standard of conduct. A public official shall refrain from participation in a matter when there exists an actual, potential or reasonably perceived conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his official capacity without self-interest or bias.
- (b) Referral of matters to ethics panel. When a public official does not voluntarily refrain from participation in a matter and there is a question as to the existence of a conflict of interest under the standard set forth in subsection (a) of this section, the matter may be referred to the ethics panel for its advisory opinion as follows:
 - (1) A public official may refer to the ethics panel the question of whether he has an actual, potential or reasonably perceived conflict of interest;

- (2) Two or more members of the city council, the school committee or other municipal board may refer to the ethics panel the question of whether another member of that body, or a public official who serves under the authority of that body, has an actual, potential or reasonably perceived conflict of interest; or
 - (3) A registered voter within the city may request an advisory opinion from the ethics panel regarding whether an elected or appointed public official who serves on a municipal board has an actual, potential or reasonably perceived conflict of interest. Such request shall be made on forms available from the city clerk and shall be endorsed by the signatures of 25 registered voters within the city.
- (c) Ethics panel determination. The ethics panel shall determine whether the public official should refrain from participation in a matter because of the actual, potential or reasonably perceived existence of a conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his official capacity without self-interest or bias.

(Code 1967, § 1-4.4)

State Law reference— Conflicts of interest, 30-A M.R.S.A. § 2605.

Sec. 2-113. - Conduct relative to municipal contracts.

No municipal officer, employee or agent shall solicit or accept any gratuity or favor or anything of monetary value from any contractor or potential contractor with the city relative to the procurement of any supplies, equipment, construction or other services with municipal, state or federal grant funds. In addition to any other penalties which may be provided by law, any municipal officer, employee or agent who violates this section shall be subject to appropriate disciplinary action, including, in the case of an officer, removal from office; in the case of an employee, suspension or discharge from employment; and in the case of an agent, termination of such agency.

(Code 1967, § 1-2.1)

Sec. 2-114. - Incompatible employment positions.

(a) Standard of conduct.

- (1) Generally. A public official, other than the city manager or the superintendent of schools, who is a municipal or school department employee shall not hold a supervisory position, or be senior in the chain of command, to an individual with whom he has a personal relationship or a financial involvement (other than the municipal or school system employment relationship), unless:
 - a. The relationship is disclosed by the public official to the city manager or superintendent of schools, whoever is the appropriate senior administrative officer;
 - b. The city manager or superintendent of schools approves a management plan that is designed to prevent favoritism or any other improper influence in connection with the employment relationship and that provides ongoing oversight by a person not subordinate to either of the individuals who have the personal relationship or financial involvement; and
 - c. The city manager or superintendent of schools reports to the city council or the school committee, whichever is the appropriate legislative body, the existence of the potential incompatibility of employment positions and the establishment of a management plan to address the potential incompatibility.
- (2) City manager and superintendent of schools. Neither the city manager nor the superintendent of schools shall hold a supervisory position, or be senior in the chain of command, to an individual

with whom he has a personal relationship or financial involvement (other than the municipal or school system employment relationship), unless:

- a. The relationship is disclosed to the city council or school committee, whichever is the appropriate legislative body, by the city manager or superintendent of schools; and
 - b. The legislative body establishes a management plan that is designed to prevent favoritism or any other improper influence in connection with the employment relationship and that provides ongoing oversight by a person not subordinate to the city manager or superintendent of schools.
- (b) Referral of matters to ethics panel. The city manager, the superintendent of schools, or a majority of the members of the city council or the school committee may request an advisory opinion from the ethics panel relating to the incompatibility of employment positions and the formulation of a management plan.

(Code 1967, § 1-4.5)

Sec. 2-115. - Procedure for determinations by ethics panel.

- (a) Referral of cases; notice of referral.
 - (1) A referral to the ethics panel shall be in writing and shall describe with particularity the factual basis of the referral.
 - (2) The ethics panel promptly shall give notice of the referral to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the referral.
- (b) Fact-finding.
 - (1) Upon receipt of a referral, the ethics panel shall determine the facts necessary to render an advisory opinion. The facts may be agreed upon and set forth in the referral. If additional fact-gathering is necessary, the ethics panel, or a person designated by it, may conduct informal interviews and solicit additional information. The ethics panel shall determine the facts through a formal hearing process only if so requested either by the public official who is the subject of a referral or by the public officials who submitted a referral.
 - (2) In regard to its gathering of facts relating to the existence and nature of a personal relationship, the ethics panel shall be limited to the voluntary statements and other information provided by the public official whose relationship is at issue.
- (c) Deliberation. Upon conclusion of its fact-finding, the ethics panel shall deliberate over the question referred to the panel. Any person may submit written comments to the ethics panel setting forth his position regarding the question under consideration.
- (d) Issuance of advisory opinion. Upon conclusion of fact-finding and deliberation, the ethics panel shall issue a written advisory opinion that includes findings of fact, application of the standards set forth in this division, and recommendations. The ethics panel shall furnish a copy of its advisory opinion to the chair of the municipal board concerned and the public official whose personal relationship or financial involvement is the subject of the opinion.
- (e) Time limits. The ethics panel shall attempt to issue its advisory opinion within two weeks of its receipt of a referral. The ethics panel may decline to consider referrals regarding conflict of interest questions relating to the final vote of a municipal board that occurred prior to the referral.

(Code 1967, § 1-4.6)

Sec. 2-116. - Effect of recommendations of ethics panel.

The opinion and recommendations of the ethics panel shall be advisory only. The members of a municipal board may vote to adopt the recommendation of the ethics panel as it relates to the participation in a matter by a public official.

(Code 1967, § 1-4.7)

Secs. 2-117—2-145. - Reserved.