



VILLAGE OF MORRISVILLE
WATER & LIGHT
DEPARTMENT

Policy Name:	Conflict of Interest	Department:	Management
Policy Number:	001	Version:	01
Date Authorized by BOD			

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the Village of Morrisville hereby adopts the following policy concerning conflicts of interest and ethical conduct.

Article 2. Purpose. The purpose of this policy is to ensure that the business of the Village of Morrisville will be conducted in such a way that no public officer of the Village will gain a personal or financial advantage from his or her work for the Village and so that the public trust in its officers will be preserved. It is also the intent of this policy to ensure that all decisions made by public officers are based on the best interests of the Village.

Article 3. Application. This policy applies to all individuals elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions of the Village of Morrisville.

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

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

1. A direct or indirect personal or financial 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, or employer or employee 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. This shall not apply to a member's particular political views or general opinion on a given issue.
3. A situation where a public officer has not disclosed ex parte communications with a party in a quasi- judicial proceeding.

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.

B. **Emergency** means an imminent threat or peril to the public health, safety, or welfare.

C. **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.

- D. **Official act or action** means any legislative, administrative, or quasi-judicial act performed by any public officer while acting on behalf of the Village.
- E. **Public body** means any board, council, commission, or committee of the Village.
- F. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the Village.
- G. **Public officer** means a person elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions for the Village. This term does not include any municipal employee.
- H. **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 act or 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 that has an interest in an official act or action 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, 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 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 Village, 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 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.¹ Otherwise, the public officer shall recuse him or herself from the matter under consideration. A public officer that recuses him or herself may, but not must, explain the basis for that decision.
- 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 removal from office.²

Article 9. Recording. The minutes of the meeting or the written decision/ minutes from the meeting/ 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 participating in an official act or action by a public body shall not sit with the public body, deliberate with the public body, or participate in the discussions about that official act or action in any manner in his or her capacity as a public officer, though such member may still participate as a member of the public or private party, if applicable.
- 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. **Enforcement Against Elected Officers; Consequences for Failure to Follow the Conflict-of-Interest Procedures.** In cases in which an elected public officer has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict-of-interest

¹ 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.

² Certain appointed public officers such as a Planning Commission or Development Review Board may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard.

procedures in Articles 6 through 10, the Trustees may, in its discretion, take any of the following disciplinary actions against such elected officer as it deems appropriate:


1. The chair of the Trustees may meet informally 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.
2. The Trustees 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. § 3 I3(a)(4). The public officer may request that this meeting occur in public. If appropriate, the Trustees may admonish the offending public officer in private.
3. The Trustees 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.
4. Upon majority vote in an open meeting, the Trustees may request (but not order) that the offending public officer resign from his or her office.

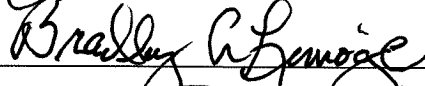
B. Enforcement Against Appointed Officers. The Trustees may choose to follow any of the steps articulated in Article 11 A. In addition to or in lieu of any of those steps, the Trustees may choose to remove an appointed officer from office, subject to state law.

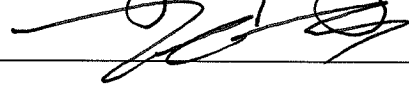
Article 12. Exception. The recusal provisions of Article 8 shall not apply if the Trustees determine that an emergency exists or that actions of a quasi-judicial public body otherwise could not take place. In such a case, a public officer who has reason to believe he or she has a conflict of interest shall only be required to disclose such conflict as provided in Article 6.

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

Signatures:







Date:

