

Athens Selectboard Meeting Minutes  
December 21, 2023  
7:00 pm at the Athens Town Office

In attendance: Sandi Capponcelli, Hannah Regier, Janet Perry, FACT TV (Cody), David Bemis, Denise Randall, Krista Gay, Amber Stevens, Carol Bingham, Dennis Mirante, David Burns, April Lyman, Carmen Dresser, Don Capponcelli, Maggie Foley, Isaac Leslie, Charles Peoples III, Sherry Maher, Tim Stevenson,

**Called to order at 7:04**

David says that people can make public comments during that agenda item, but he doesn't want there to be constant discussion between the public and board during the meeting.

Isaac Leslie asks for clarification and says that they can be slow to understand and asks that the meeting go slowly so they can process it. They want to know when they can comment on the Driveway and Development Standards part of the agenda. David says during the public comments slot. Janet gives Isaac a copy of the proposed policy.

Tim Stevenson asks to clarify that the business part of the meeting will be discussion amongst the selectboard and not engage the public who are present. David confirms.

**Adjustments to Agenda**

Krista asks to discuss a sample conflict of interest policy she printed from VLCT. David asks how it is different from the current one the town has. Krista says that this one deals with when and how a conflicted board member needs to act during a vote, including process and repercussions. David agrees to bring it up during the policy agenda timeslot.

Isaac Leslie asks if it is possible that there will be a vote on the policy at this meeting. David says yes. Isaac is concerned that they may not be able to engage with the town government in discussion before the board votes on a policy that they (Isaac) think is likely retaliation from a neighbor of theirs who is on the selectboard. Krista and David say that can be discussed during public comments. Isaac says they only heard about the policy as a bullet point in the Athenian and thinks it is something that will really affect them as a business and landowner. David says the policy was brought up at prior meetings and this is the meeting where the board is going to discuss and vote on it. Isaac asks for an adjustment to the agenda to add another comment period, so they get a chance to comment on the Development and Driveway Access standards policy before there is a vote on it. Isaac says the board's process is a mockery of democracy.

Krista thinks that additional public comments could be taken on the policies if the public has questions.

Isaac says it's surprising how quickly the town has moved on the Development and Driveway Standards policy when there have been negative and quick reactions to other zoning-like

policies. They say they have been discriminated against publicly by the ex-town clerk and others over roads and access issues and they won't have another attack on their ability to develop their household and business in town without their right to due process to discuss and organize with their neighbors and understand what is happening before decisions are made.

The board says that there can be more discussion on it when that agenda item comes up.

### **Minutes of Prior Meetings**

*David makes a motion to approve the minutes from the two prior meetings. Krista seconds. Put to a vote: all in favor.*

### **Public Comments**

Tim Stevenson asks what the board thinks about his previous suggestion to have selectboard meetings at the Community Center for the sake of the public's comfort during executive session. David says it hasn't been discussed yet. Sandi says there is currently a plumbing situation up there, but the building should be available by January.

*Sandi makes a motion that if the plumbing situation is taken care of, that January's meeting be held at the Community Center at 7:00pm. Krista seconds. Put to a vote: all in favor.*

Dennis Mirante says that he had requested previously that another block of time be set aside for people to ask questions and get answers from the selectboard. Denise responds that they haven't given it more consideration, but she doesn't think it would be an issue to do that. Dennis also asks about a prior meeting where David was questioned about a business relationship being a conflict of interest. David had said he had never paid the individual anything. Dennis thinks that might not have been the whole truth and David must have profited somehow from the business relationship, and maybe he should have recused himself. Dennis asks that David take that into consideration for all selectboard meetings. Dennis thinks there should be an article for "Acting on the town report" in the town meeting warning. He noticed it wasn't in the town report the last couple of years. David says that it isn't a statutory requirement to have that article. Dennis thinks that without that article, the public is denied the opportunity to speak out on whatever they have concerns about.

Sherry Maher has a question with regard to the roads: she is curious about the ledge work that was done on route 35. She says the pile of stone looks dangerous and wants to know when it will be cleared up. Denise says that someone also contacted her about that spot being a safety issue during the rain last week. David says that he thinks Matt will be cleaning it up soon, but there might not be enough people working to do the loading and driving.

Issac Leslie asks if this is their only chance to comment on the driveway policy. David says no, that they would be able to talk during the agenda item. Isaac introduces himself as Dr. Ike, Isaac Leslie, Farmer Ike, or Doctor. They use they/them pronouns.

Dr. Ike says they want to educate the town, and reads the definition of zoning from Merriam Webster. In Vermont, municipal government is responsible for zoning. Dr. Ike says that the town

is proposing a single zone of development standards, which they think is being slipped by quietly without proper public input. They say that no further action should be taken on the policy until further assessment has been done on how the policy impacts the town. The assessment should include whether or not all the communities affected understand what the policy means and how it will affect them as homeowners and businesses. They think the policy is biased because they were told by the chair of the selectboard that the policy isn't zoning, and the community hasn't been involved in defining who is impacted by the policy. Dr. Ike wants to know what "adverse impacts" the policy is minimizing. And who is included in the "Town of Athens." They say that in a democratic process, that all should be spelled out with the involvement of the community. They say that the responsibility of the selectboard is to represent the people of the town and to execute the democratic process lawfully.

Dr. Ike asks for accurate responses and encourages the selectboard to check their remarks for accuracy. They say they appreciate responses that are grounded in data instead of feelings, emotion and intent. David says he can't give great insight into things, but he says that the policy isn't zoning, it's just a policy.

Krista asks for more information from Dr. Ike on how they think the policy is targeting them specifically. Dr. Ike asks more about the history of the policy. They say they have a business and farm at 126 Brookline Rd., close to selectboard member Janet Perry's house. They put in a driveway on their land close to the Perry's house and shortly afterwards saw a note in the Athenian about this having come up in a meeting and there was a new policy — which they think is the same as zoning. They say that looks very suspicious. Krista says that Janet did propose the policy. Dr. Ike says this looks like a reaction to their driveway and it isn't democratic, ethical or ok.

David says he has never heard anything about the driveway. Dr. Ike says that everyone can live their own lives and coexist, but when a policy has an impact on a queer individual in the town, the town is affecting their home and business. They say they will always be a good neighbor to Janet and this isn't personal. Janet says she started the draft of the policy over two years ago. Other towns have similar, but more involved, driveway and development policies. She says it was to protect the town from large developments. She says there have been several large acreages sold in the last several years. She says the policy would protect the town from a developer putting in a shabby driveway to several houses and then asking the town to take it over at the town's cost. Janet says she doesn't even notice the driveway Dr. Ike put in, except while it was being created.

Dr. Ike thanks Janet for the explanation. They reiterate that the policy is a set of standards that is the same as zoning and needs to be done democratically. They point out that there are power relationships that Janet has in town, and she shouldn't be working on zoning rules, on her own, for two years without public input. They ask to discuss it democratically and appropriately in a future meeting.

David says he doesn't know of anyone who doesn't support farming in this community. Dr. Ike disagrees and says there are and that they know of cases of hetero-patriarchal discrimination from the town government. David also says that the policy wasn't brought up publicly until recently because of the previous lawsuit between the Taylor Hill Rd. residents and the town. The selectboard didn't want the policy to affect or appear to affect the decision or lawsuit. Dr. Ike says that their economic interests and political rights are affected by the policy — or zoning — and its process. David says that he is willing to have another hearing on the policy.

Donald Capponcelli says that there is the issue of having to replace the broken soil pipe in the community center which he thinks can be taken care of next week. He says if the selectboard is going to have an executive session up there, there needs to be an effort to sort out what was the teachers' office so there can be a meeting space in there. Don recalls that a couple of years ago, Matt started putting down 1.5" stone in muddy places during mud season. Don observes that stone has been more effective than crushed gravel. On Reed Rd. where A.S. Clark put in crushed gravel, according to specifications, the road is very soft again. Don says that when Tina White read the driveway policy at the last meeting it seemed to be a boilerplate policy for the purpose of having safe access for emergency vehicles. Don thinks that the proposed 1.5 feet of crushed gravel might not be necessary for all places in town and might be an excessive burden for new homeowners.

April Lyman has something about the driveway policy that she will wait until that agenda item. On conflict of interest issues, April says that when there is a conflict of interest, she hopes anyone conflicted would leave the room, as Krista has said she would do when she is conflicted.

### **WRC / MTAP Program**

Maggie Foley, the MTAP consultant, gives an update. She asks the board to review the spreadsheet of projects. She says the garage will be the hardest money to find because it is considered by the state to be an essential town function that should be maintained through taxes. She suggests trying to get a lot of mileage from the MERP money. She wants to know if planning funds became available, if the town is already aligned on the planning for the Community Center / Town Office project, or if there are any planning conversations that she could help with. Sandi says the town is still working on the list of what they want the building to be, including town office, community commercial kitchen, emergency shelter, etc. Maggie says there is a lot of interest in supporting projects that include community resilience in the face of disasters. David says the town does want to get input from a lot of people, beyond the committee that is working hard on bringing the building back to life. Maggie offers to join a committee meeting to get a better understanding of the ideas in play. Maggie says there is a slight chance that the MTAP program itself might be able to fund planning projects directly, and if that happens, she wants Athens to be ready to go in applying for the resources. Sandi says she is interested in similar models to the West Townshend community store. Hannah says that a lot of these ideas are captured in the proposal from Jon Saccoccio to do the scoping work for the Community Center project. David suggests having a separate meeting that Maggie leads to get input from the public. Maggie says that is something that her role can facilitate if it isn't something included in Jon's scoping study. Hannah doesn't think a community forum is part of

the architectural scoping. A simple community forum will be scheduled for January or February. Sherry Maher points out that ADA accessibility will be important. She hopes that if there is a commercial kitchen, there should be information gathered from the farmers in town who might need to use it.

Dr. Ike says that one of the beautiful things in the valley on the Bull Creek is having fields this high in the watershed. They say they are one of the farmers that people are talking about and they look forward to sitting down and discussing how the Community Center could be useful for them and other farmers.

Maggie points out that ADA is a requirement of MERP. Don says that any state construction permit requires that 20% of costs need to go towards ADA. Sandi says that the building was ADA compliant in 1981 but is no longer.

Maggie says she wants Athens to be positioned to move quickly if funds become available for planning, if Athens would want to submit applications for those. These funds might also help the Planning Commission work on a Town Plan. John Oberling is already talking to Mike McConnell about it.

*David makes a motion that Hannah be able to submit an application for planning funds on the town's behalf. Denise seconds. Put to a vote: All in favor.*

Maggie will be in touch with Sandi to arrange the community forum for the Community Center. Katie Buckley of VLCT has been helping figure out the gap funding for projects. Dr. Ike will give Sandi their email and she will reach out regarding other farmers to include in the forum.

Sherry Maher asks Maggie if there is any space to ask for ADA assistance for the Meetinghouse as well. David says that the selectboard has focused on the Garage and Community Center because they need quite a bit of work and the town has already put a lot of work into the Meetinghouse. Sherry says that ADA access to the Meetinghouse would open up other sources of funding for the other work they want to do. Maggie says she can add it to the project list as a secondary project and monitor possible funding sources for it.

### **Boards and Officials / Treasurer's Report**

Hannah says this is the final budget report for the end of the year, with just a couple things to fix in it. She thinks that except for the emergency road work on Reed Rd., the town is in pretty good shape with everything else. The freightliner truck is considerably over budget, and she doesn't know how much will be reimbursed for the stormwater program work that was done. And the town is still waiting to know how much FEMA money will help with the emergency road work. She shares some detailed reports for the unbudgeted line items that are grant funded, and the grant revenue line items that fund them. The expected / estimated grant revenue to reimburse some of the projects should go into next year's budget. \$123,685.30, the amount for the Reed Rd. work, is close to the amount that the town is over budget for the year. David says that if all goes well with FEMA, the town will get 90% of that back. Hannah also points out that the town is a little over on contracted services for when Ivor Stevens was hired to help after Eugene

passed. Hannah asks what the board would like to know as far as the exact deficit for the year. Denise says it would be helpful to know what FEMA will reimburse.

Hannah points to the balance sheet and the amount that is currently allocated to the general/highway fund is \$55,594.00. In theory, that is what there is to cover operating expenses until taxes come in again. Clearly it won't last more than a couple of months, but as has been done in the past, the town can digitally borrow from the other funds as needed. There is \$724,922.80 in the savings account, mostly dedicated to other capital funds.

Hannah shares Jon Saccoccio's drawings of the town garage that have been sent to a cost estimator. Hannah, Don and Matt have been working with Jon on the scoping project. The cost estimate will include the insulation, roof, heating system and some interior plywood for the existing structure as well as the new addition.

Don Capponcelli – The cemetery commission is asking for \$3,500 in the budget for next year. The surplus they had was used up last year. He has accounted for all of the cemetery reserve funds in the Cemetery Commission report for the town report.

Don has talked with Michael Cutts about fixing the roof leak around the vent pipe at the Community Center. Krista asks what the costs for running the cemetery actually are. Don says the contract with Ivor Stevens is \$3,000 a year. And they also fix tipped stones, buy flags, etc. Krista wants to thank Don for all the volunteer work he does for the Community Center and Meetinghouse Committee.

Sherry Maher says the meetinghouse committee met and agreed to return to their \$2,500 request for funds this year and want to submit it as a standalone article in the warning so that the voters can specifically support the Meetinghouse and the amount might not get cut if there are budget cuts. David suggests that the Cemetery Commission could do the same. Don says he could call a special meeting to discuss that.

Sherry says Nathaniel Noyes and Ivor Stevens have been doing their part of the current project work on the building. She expects the remaining cost to be \$26,109.00. There is a \$20,000 reimbursable grant for the work. She asks if she can give Hannah a check for the \$6,109.00 balance, and the town could front the rest until the reimbursement comes in. David asks how long the reimbursement would take. Sherry doesn't think it would be very long at all, she says she'll check with Kaitlin.

*David makes a motion for the town to pay the Meetinghouse bill with the understanding that the Historic Society will pay the \$6,109.00 and the town will be reimbursed for the \$20,000.00 by the Vermont Division for Historic Preservation. Denise seconds. Four in favor. Krista recuses herself because she's on the committee.*

Tim Stevenson asks again about having a meeting to discuss communication during an emergency. He requests that David get back to him in the beginning of the year with a list of dates. David agrees and says to pull in Matt as well.

Krista Gay – Schoolboard: The Windham school is “outsourcing” their students for the rest of the year and Grafton is one of the schools that has been suggested to take some of the students. There was a resignation of the Grafton member on the high school board and the elementary school board needs to recommend someone to the HS board. There is a special meeting on Dec 28<sup>th</sup> to discuss who that will be. There is also a vacancy still on the elementary school board from Athens. Denise asks if the new students from Windham would be tuition students. Krista says they would. David says that there are 15 students in total, and he thinks they are trying to go to Townshend. Krista says the budget for the school is very strong for the next three years.

Janet says the Planning Commission met on December 5<sup>th</sup>. They are reviewing the last version of the town plan. John is talking to Mike at Windham Regional Commission about updating the maps and charts. WRC might have some funds for the town through the MTAP program. The commission will meet again on January 2<sup>nd</sup> at 10:30 am. They have a revolving chair between Andy, John and Janet. David says with the selectboard being ex-officio members, they can attend meetings but not vote. David asks Krista if the selectboard would have to warn a special meeting if they attend a Planning Commission meeting. The board would not be acting in their capacity as selectboard, but as planning commissioners. Krista will check with VLCT. Janet says they want to have the Town Plan ready for next fall so they can have all the meetings for it and be able to vote on the plan by Town Meeting in 2025.

### **Benefits**

Sandi has not gotten quotes on benefits because she has been incapacitated for the last week. The next step is for Sandi to get quotes for Dental, Vision, Life, and Short- and Long-term Disability insurance.

David asks about the percentage of health insurance that the town contributes to. Krista says she thinks the town should contribute more. Currently the town contributes 80% of the premium. Hannah shares the full amount for an individual plan: \$1,132.59 / month. 90% would be \$1,019.33/ month. Hannah says that Matt actually has the family plan and there isn't currently anyone on the individual plan. Krista says that if other nearby towns are including 90% contribution as a benefit, and it's just a \$100/month difference, it seems like the right thing to do. Sandi says that the VLCT booklet indicates that 80% is the low end and more towns are in the 90% range, with bigger towns doing 100%. Denise agrees that 90% isn't a big difference from 80%. Krista thinks as a government employer the town providing health insurance to the employees is the right thing to do. The family plan costs \$3,182.58/ month. David points out that would be a difference of \$318/ month.

*Krista makes a motion to up the insurance contributions for employee health insurance plans to 90% as of January 1st. Sandi seconds. Four in favor. Janet recuses herself.*

Sandi will have the figures for other benefits by the next meeting.  
Krista thanks the board for considering and improving the benefits.

### **Policies: Delinquent Tax and Driveway Access**

The board suggests putting off discussing the policies and hold an informational session on them. Krista asks if there's a reason the board would act on the policies instead of putting them before the voters as ordinances. She thinks it would make more sense to allow voters to vote on it than to have the board adopt it. David says his understanding is that for an Ordinance, the board would vote on it first and then if people are aggrieved by it, they could bring a petition forward; then, a special town meeting would be held for people to vote on it. But this is a policy not an ordinance. Krista says she thought an ordinance needs to go before the voters. Denise asks Krista to clarify the process for an ordinance with VLCT. Sherry Maher asks Krista to explain the difference between a policy and an ordinance. Krista says a policy doesn't have legal teeth, it's more of a strong suggestion with no enforcement. An ordinance is a law and can have actual stated consequences for not following it.

David says the town does have two ordinances: an outdated sewage ordinance and a dog ordinance.

Krista briefly describes the VLCT standard Conflict of Interest Policy. It is more detailed than the current Conflict of Interest policy that the town has. The hearing will include this policy also.

Sherry asks that the proposed policies be posted with the minutes on the website.

Dr. Ike requests that the language of the policies be accurate and say "Policy" in the title of the documents. Janet will update the title of the Development and Driveway standards.

The informational session will be scheduled at one of the next selectboard meetings, for some time in February. Then the policies could be voted on at the regular meeting following.

Dr. Ike has some additions to the policy. David asks them to submit the comments to Hannah, but Dr. Ike insists on speaking because they have been waiting for an hour and a half and say this is what democracy is. They want a section called "Definitions" that has any confusing terms, like "Standards," "Developments," and "Adverse Impacts" defined. A section called "History," which includes why this policy is being proposed, and by whom. A section that defines "Adverse Impacts," or what is the problem that this is trying to address. They say the current language has assumptions in it as to what the town of Athens considers adverse impacts and who is being impacted. They say they are asking for a more transparent and data-driven process.

April asks if the public will be able to ask questions and get answers at the informational session. Krista and David say yes.

*David makes a motion to have an informational meeting on the policies sometime in early February. The date will be set at the January regular selectboard meeting. The board will not take action on the policies until after the informational session. Krista seconds. Put to a vote: All in favor.*

David goes back to the Benefits section to discuss hours at the town office and Hannah's workload. Krista suggests accepting Hannah's proposal. David says that he thinks 24 hours sounds reasonable. The board asks if 24 hours is enough. Hannah says she thinks it will be, with some weeks being more and some being less. She has proposed a weekly salary that represents 24 hours and will accommodate the fluctuation in workload between tax season, elections, and quieter weeks. She will track the hours and let the board know how it works out. Krista asks if Hannah is FLSA exempt. There is discussion about if Hannah is elected or an employee, or both. Krista is nervous about an unpaid wages suit. The board says that Hannah is an elected official who is paid. Hannah will continue to do the job functions of the specific elected positions she has, as well as additional admin work that is helpful to the functioning of the town.

*David makes a motion to follow the proposal presented by the town clerk, including receiving the VMERS benefit, and the board will investigate a health insurance benefit, to start January 1, 2024. Krista seconds. Put to a vote: all in favor.*

Sandi says that Duane Snide was hired to be on the road crew and will start after the 1<sup>st</sup> of the year.

### **Warrants and Mail**

Denise asks about the roads. Sandi says that Matt has fixed everything he needed to from the flood. There was some flooding on Valley Cemetery Rd. and Walker Rd. and the Ober Hill bridge had water flowing around it.

Warrants were signed and mail opened.

David says that VLCT is recommending that ARPA funds be obligated by March 31<sup>st</sup> 2024. Janet says that it isn't actually mandated until December 31, 2024. Hannah points out that April 15<sup>th</sup> is the ARPA reporting deadline and that is why VLCT is making the recommendation.

Carmen Dresser asks if there are going to be updates on the roads. David says the ledge work on route 35 has been done. The storm on Monday caused some washed out, with Cemetery Rd. being the worst, and Ober Hill and Walker Rd. Those have all been repaired. The big truck is back from being repaired. Janet says Matt is hoping to get new tires on the little truck soon and get a light fixed.

David says that the board should obligate ARPA funds by the March meeting.

Sandi proposes that Matt get a bonus going back to 2020-2022 for all the work he did during the beginning of Covid and also for working on his own this summer due to Eugene's illness. Krista says it's also because the town gave Eugene's family a gift after he passed, and Matt's bonus would be to match that. Carmen Dresser asks how the bonus was given to the family. Hannah says it was given as a gift, in check form, to Eugene's partner. Sandi suggests Matt's bonus

also be a month's salary to come out of ARPA funds. Sandi says this is permissible according to the ARPA rules.

Carmen Dresser asks if the money left over from Eugene's salary in the budget was used to pay the contractor. David says yes, that the budget line items can be flexible as circumstances require.

Sherry says she appreciates the gift to Eugene's family, but she isn't clear about why an equivalent bonus is needed for the other employee who was compensated for the work he has done. Sandi says that originally, they had discussed a bonus for both employees since ARPA money can be used for that purpose. She says that when Eugene passed, they wanted to hurry and get the money to his family. It was her error to not include Matt at that time. Krista says the ARPA money was specifically for employees who worked during Covid. Sherry asks if this isn't the same ARPA money that the town received \$130,000 that the public could give input on? David says it is the same pool of money. Sandi says the majority of the ARPA money will be going in the direction that the residents of the town have asked for it to go in. The board is taking a small portion to be used as a bonus.

*Sandi makes a motion to give Matt a bonus, equal to one month's salary, out of the ARPA money. Denise seconds. Put to a vote: four in favor. Janet recuses herself.*

### **Further Business / Adjourn**

*Sandi makes a motion to adjourn. Krista seconds. All in favor.  
Adjourned at 9:21*

Respectfully submitted,  
Hannah Regier, Town Clerk

# **STANDARDS FOR DEVELOPMENTS & HOME Driveways**

**In order to minimize the adverse impacts on the Town of Athens, VT. The following standards must be met by any access roads( driveways) or enlarged developments to provide for the adequate provisions for life safety services for residents and visitors.**

## **DEVELOPMENT ROADS TO BE TOWN HIGHWAYS AND ACCESS ROADS**

Must conform to ALL Town Highway standards as outlined in Vermont Agency of Transportation Standard A-76.

### **ACCESS ROADS:**

Access Roads are roads that serve (6) or more house sites or driveways. They are to be a minimum of 18 feet wide with 2-foot-wide shoulders with a minimum of 18" of gravel with a 4" crusher run stone wearing surface. The usable road must be able to bear the weight of a 50,000 lb. (25 ton) fire truck on all 18' of road. The maximum grade shall not exceed 12% at any time. If the access road is not a through road, it must have a turnaround at the end large enough to accommodate at least 3 emergency vehicles (40' X 40' Hammerhead or 80' diameter circular turn around). Tree limbs and any other obstructions are to be removed to a height of 12'. All access roads longer than 500' will have vehicle bump-outs (15' X 50') at or near the half-way point or every 600 feet.

### **DRIVEWAYS:**

Driveways serve 1-5 house sites or driveways. They shall be a minimum of 14' wide with 2-foot-wide shoulders with a minimum of 18" gravel with a 4" crusher run wearing surface. The usable road must be able to bear the weight of a 50,000 lb. fire truck. The maximum grade shall not exceed 12% at any time.

All driveway entrances intersections must be at least 18' wide for the first 20' of driveway, tapering to 14' to allow for emergency vehicles to turnaround. Driveways longer than 500' or more in traveled length shall have a turnaround at the end large enough to accommodate at least 3 emergency vehicles (40' X 40' Hammerhead or 80' diameter circular turn around). Trees and other obstructions are to be removed to a height of 12'. All driveways longer than 500' will have vehicle bump-outs (15' X 50') at or near the half-way point or every 600 feet.

# VLCT Conflicts of Interest and Ethical Conduct Model Policy

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## Conflicts of Interest and Ethical Conduct Model Policy [Name of Municipality]

**Article 1. Authority.** Under the authority granted in 24 V.S.A. § 2291(20), the *[name of municipality]* 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 this municipality will be conducted in such a way that no public officer of the municipality will gain a personal or financial advantage from their work for the municipality 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 municipality.

**Article 3. Application.** This policy applies to all individuals elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions of the *[insert name of municipality]*.

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

### A. Conflict of interest

A real or seeming incompatibility between a public officer's private interests and their public or fiduciary interests to the municipality they serve. A conflict of interest arises when there is a direct or indirect personal or financial interest of a public officer or a person or group closely tied with the officer including their 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 an official act or action, or any other matter pending before the officer or before the public body in which the public officer holds office.

A conflict of interest may take any of the following forms:

1. A direct financial conflict of interest arises when a public officer acts on a matter that has a direct financial impact on that officer.
2. An indirect financial conflict of interest arises when a public officer acts on a matter that has a financial impact on a person or group closely tied to the officer.

3. A direct personal conflict of interest arises when a public officer acts on a matter that has a direct impact on the officer in a non-financial way but is of significant importance to the officer.
4. An indirect personal conflict of interest arises when a public officer acts on a matter in which the officer's judgment may be affected because of a familial or personal relationship or membership in some organization and a desire to help that person or organization further its own interests.
5. 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.
6. A situation where a public officer has not disclosed ex parte communication(s) related to a quasi-judicial proceeding that is before the body to which that officer belongs.

A "conflict of interest" does not arise in the case of an official act or action in which the public officer 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 municipality. This term does not apply to ministerial acts or actions wherein no discretionary judgment is exercised.
- E. Public body** means any board, council, commission, or committee of the municipality.
- F. Public interest** means an interest of the municipality, conferred generally upon all residents of the municipality.
- G. Public officer** means a person elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include municipal employees.

**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, whether real or perceived, in the matter under consideration.
- B.** A public officer shall not personally – or through any member of their 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 their public office that are not available to the public in general.
- D.** A public officer will not request or accept any reward, gift, or favor for taking an official act or action or advocating for or against an official act or action.
- E.** 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.
- F.** A public officer who is a member of a public body shall not give the impression that he or she has the authority to make decisions or take actions on behalf of that body.

**Article 6. Disclosure.** A public officer who, while serving on a public body, may have a conflict of interest, whether real or perceived, in a matter under consideration by that public body shall, prior to taking an official act or action or participating in any official act or 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, whether real or perceived.<sup>1</sup>

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<sup>1</sup> 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.<sup>2</sup> 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, whether real or perceived, may be grounds for discipline or removal from office.<sup>3</sup>

**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

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<sup>2</sup> 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.

<sup>3</sup> Certain appointed public officers such as a Zoning Administrator and members of the Zoning Board of Adjustment 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.

discussions about that official act or action in any manner in their 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, date, and place 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 procedures in Articles 6 through 10, the [*insert name of municipal legislative body*] may, in its discretion, take any of the following disciplinary actions against such elected officer as it deems appropriate:

1. The chair of the [*name of municipal legislative body*] 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 [*name of municipal legislative body*] 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 [*name of municipal legislative body*] may admonish the offending public officer in private.
3. The [*name of municipal legislative body*] 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 [*name of municipal legislative body*] may request (but not order) that the offending public officer resign from their office.

- B. **Enforcement Against Appointed Officers.** The [*name of municipal legislative body*] may choose to follow any of the steps articulated in Article 11A. In addition to or in lieu of any of those steps, the [*name of municipal legislative body*] 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 [*name of municipal legislative body*] determines 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 *[name of municipal legislative body]*.

Signatures:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

# DELINQUENT TAX POLICY

## Town of Athens

### PURPOSE

The purpose of this policy is to establish clear guidelines so that all delinquent taxpayers will be treated fairly and will know what to expect.

### INTEREST AND PENALTIES ON DELINQUENT TAXES

- Interest: 1% on the principal each month or fraction thereof
- Penalty: 8% on the principal (onetime fee)

### DELINQUENCY

- A. Any taxpayer who doesn't pay their taxes by the due date will be added to the delinquent tax warrant (32 V.S.A. § 4793).
- B. As soon as the warrant has been received, and each month afterwards, notice will be sent to each delinquent taxpayer indicating the amount of taxes, penalty and interest owed.
- C. Taxpayers who have a genuine hardship should contact the Delinquent Tax Collector immediately to discuss and formalize a payment agreement. **The payment agreement must be sufficient to pay the balance before the next year's tax bill is due.** Special circumstances will be considered.
- D. Partial payments will be applied proportionally between the 8% penalty, the accumulated interest and the principal.
- E. **For delinquent amounts of less than \$1000**, if no satisfactory payment agreements have been made, or if the prior agreement has not been met, the Delinquent Tax Collector may file a complaint with small claims court, and the taxpayer will be responsible for all additional costs incurred.

### TAX SALE

**For amounts over \$1000, if no satisfactory payment agreements have been made within 30 days of the first notice to the taxpayer, or if the prior agreement has not been met**, the tax collector can begin the following actions to conduct a tax sale of the property or as much of the property as is necessary to pay the tax, plus costs and fees.

- A. The taxpayer and all mortgage and lien holders will be notified of the tax sale decision, the date by which full payment must be received, and the costs to expect once the sale process begins.
- B. If the deadline has passed and full payment has not been received, the collector will proceed with a tax sale according to the procedures specified in 32 V.S.A. § 5252.

- C. Costs of preparing and conducting the sale, including legal fees up to a maximum of 15% of the amount of the delinquent tax, will be charged to the delinquent taxpayer. (32 V.S.A. § 5258)

**ADDITIONAL COLLECTION METHODS**

In the event that no one purchases the property at tax sale, or, if in the Delinquent Tax Collector's judgement, proceeding with the tax sale is inadvisable, delinquent taxes will be collected using any or all of the methods permitted by law.

**ABATEMENT**

Each taxpayer has the right to apply for abatement of property taxes based on any of the grounds listed in 24 V.S.A. § 1535.

Anyone wishing an abatement of taxes must request (in writing) a hearing before the Board of Abatement. Requests shall be sent to the Board of Abatement, Town Clerks Office, 25 Brookline Rd., Athens, VT 05143.

The foregoing policy is hereby adopted by the selectboard and the delinquent tax collector of the Town of Athens, Vermont, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ and is effective as of this date until amended or repealed.

\_\_\_\_\_  
Chairperson

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\_\_\_\_\_  
Delinquent Tax Collector