

**Conducting the Public's Business:  
Standards of Behavior Applicable to and Expectations of the Public Officials**

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Below are some “tune up” considerations for town public officials on how to proceed effectively and responsibly to the Town’s mission, its constituents and the community it serves. These points summarize the collective experience of many of my professional colleagues and our work with local governments and quasi-governmental organizations. I offer these points in the hope that they help clarify the standards and procedures that your public officials should consider when serving towns to make their service most effective and to promote the success of the Town.

- A public official’s **first** priority is to serve their municipality, its mission and to fulfill their legal responsibilities. In doing so, public officials must not let his or her personal feelings or priorities intervene or influence their actions. Public officials have a fiduciary responsibility to serve the city or town in a fair, impartial, unbiased and civil manner. Public officials must treat fellow public officials, staff and everyone before their respective board with courtesy and respect.
- This means that public officials must participate with both civility and appropriate deference to the decorum of board process. Public officials are free to adopt formal parliamentary rules like Roberts’ Rules of Order, but such rules can be very technical and hard to apply, so most boards opt to proceed under less formal rules of decorum and procedure. The preferred course is often to work with the discussion and motion format commonly applied.
- Board proceedings are almost always public under Maine’s “open meeting law,” the Maine Freedom of Access Act. Standard practice in public proceedings is that all points of view must be given a fair opportunity to be heard and considered. However, this does not mean unlimited participation by public officials, applicants or members of the public. Where there is expected to be

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a lot of comment on an issue or matter, many boards limit each party's participation in proceedings to a time certain. Often three to five minutes of testimony or presentation to a board is what is allowed.

- Where it is apparent that the matter deserves more time, deference should be made to give it. The preferred default consideration should be in favor of a full opportunity to hear comments and discussion so that the board is duly informed of the issues. This does not mean that duplicative comments and points and all parties with the same views need to be fully vetted and presented. Your chair can expedite proceedings in such instances by asking those wishing to comment if their points are the same as the one's just made, for example. The standard should be that each point of view has been given a fair opportunity to be heard so that the collective deciding board finds it has been adequately informed of the points of view and issues before the deciding board takes action on an item.
- Matters decided and acted on by any board must be decided on the record and based on evidence heard or presented at the board proceedings. Public officials must avoid discussing among themselves, or with others, matters that are before them or that they will consider outside of the context of properly called public meetings. Decisions are not to be based on considerations not discussed or evidence not brought before the board and considered in public proceedings.
- This does not mean that board members may not rely on personal knowledge or information they may become aware of. Personal knowledge, reviewing or relying on "reports" such as articles in the paper or communications with someone outside of the board proceedings are not appropriate considerations unless they have been fully discussed in the board proceedings and all parties potentially impacted by such discussions or information are allowed to address and comment on them.
- However, boards should not conduct their own private views or investigations. If there are facts to be gathered or site inspections to

be made, these should be undertaken collectively as an official board meeting by the board and the public allowed to participate. Individual visits can be reason enough to overturn a decision, so be cautious!

- In participating in the town activities, the public officials must apply the law as it is – like it or not. Public officials may seek to revise the law by participating in towns or voicing their concerns at the legislature or in other town affairs but they do so as individuals and not representatives of the town or organization. In the context of their town activities and responsibilities, public officials must apply the law as it is written even if they find it distasteful or wrong. If public officials are advocating positions that might impact a decision on a matter, they should recuse themselves from participating in the proceeding. See bias, conflicts notes above.
- Though public officials must apply the law as written they may also have to interpret the application of the law or standard. Interpretation of the law or standards must, however, be logical and supported by facts, law and applicable standards of the body and its purposes. Interpreting the law does not mean “rewriting” or stretching standards to fit a philosophy, position or circumstances.
- Board members and public officials serve under oath of office. We expect them to be models of sincerity and honesty. We know how hard it is to be “on the firing line” but expect them to be civil and polite. Sometimes this is challenging. However, when applicants do not feel respected, the result is a protracted dispute fueled by acrimony, not an honest difference of opinion. The latter type of dispute is much easier to resolve.
- **CONFLICT OF INTEREST.** Fundamental due process under state and federal law requires that actions of a public organization be undertaken and completed in an open, fair and impartial manner. As a result, public officials must act without any bias or predisposition, actual or perceived, on all matters. Our laws require public officials to refrain from acting and to step aside if there is even the appearance of a potential conflict of interest.

- Bias means that one's profession, outlook or personal philosophy might interfere with a public official's responsibility to serve the town and to do so in accordance with impartiality and the law. Potential or even potentially perceived conflicts of interest or bias must be raised by each public official on their own or where there is any concern by a member that another member of a board may not be seen as entirely impartial or has a potential conflict of interest. All questions concerning potential or actual conflicts of interest or potential bias must be discussed and acted on by the public officials sitting in an official capacity collectively.