

Board of Trustees Supplemental Meeting & Work Session Agenda

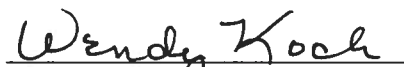
January 2, 2024 ~ 6:30 pm

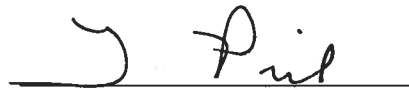
Remote Meeting using the Zoom Platform Meeting ID: 839 6434 1481 Passcode: 923008

<https://us02web.zoom.us/j/83964341481?pwd=QIVXSUS5BU3lhb1Rna2lMM2l1TVRadz09>

We will not hold Public Comment at this supplemental meeting. There is one actions item that does not require discussion, and the remainder of the meeting is a work session, which is not open for discussion. We always hold Public Comment at the Regular Monthly Meeting on the third Tuesday of the month.

1. **Call Meeting to Order**
2. **Roll Call** – The Empire Board of Trustees requires a simple majority of four trustees present at the meeting for a quorum.
3. **Approval of Agenda**
4. **Resolutions:**
 - a. **Resolution 24-01: A Resolution to Set Mill Levy**
5. **Announcement: 2024 Elections**
 - a. Election packets are available to pick up in Town Hall starting today, January 2nd, for our April 2nd Empire Elections
 - b. The staff will schedule a Candidate Information Session early in January for anyone interested in running for Town Board or Mayor (Date TBD)
 - c. Candidates for Mayor will be invited to a Town Hall Meeting to participate in a debate (Date TBD)
6. **Work Session:**
 - a. Recommendations from the Board of Trustees for the upcoming election:
 - i. An Ordinance to change terms from 2 years to 4 years after the upcoming 2024 term
 - ii. A Resolution to put an initiative on the ballot to eliminate Term Limits
 - iii. A Resolution to create a Code of Conduct Policy for elected and appointed officials
 - b. Other Discussion Items for upcoming Ordinances or Resolutions
7. **New Business from Board of Trustee Members**
8. **The Next Board of Trustees Work Session is February 6th, 2024, at 6:30 pm.**
9. **The Next Board of Trustees Regular Meeting is Tuesday, January 16th, 2024, at 6:30 pm. In-person with remote access.**
10. **Adjourn Meeting**


(Mayor Wendy Koch)


(Town Clerk Jeannette Piel)

Town of Empire
30 East Park Avenue/P.O. Box 100 Empire, Co 80438
303.569.2978 - 303.569.2282 fax

Board of Trustees Supplemental Meeting & Work Session Minutes
January 2, 2024 ~ 6:30 pm

We will not hold Public Comment at this supplemental meeting. There is one action item that does not require discussion, and the remainder of the meeting is a work session, which is not open for discussion. We always hold Public Comment at the Regular Monthly Meeting on the third Tuesday of the month.

In Person and Remote Meeting using the Zoom Platform

1. **Call Meeting to Order** – Mayor Wendy Koch called the meeting to order at 6:33 PM. The meeting was held in person and through Zoom.

2. **Roll Call** – The Empire Board of Trustees requires a simple majority of four trustees present at the meeting for a quorum.

Present: Mayor Wendy Koch, Mayor Pro-Tem Linda Robertson, Trustee Denise Tennant, and Trustee Jacob Belcher. Also in attendance was Town Clerk Jeannette Piel.

Absent: Trustee Lorry Singmaster and Trustee Randy Horning.
A quorum was present.

3. **Approval of Agenda**

TRUSTEE BELCHER MOTIONED TO APPROVE THE AGENDA FOR JANUARY 2, 2024, TRUSTEE ROBERTSON SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The Agenda was approved.

4. **Resolutions:**

The State made changes to the property tax law, and changed the mill levy certification deadline; the County sent us mended mill levy numbers because of that change. We amended our certification; therefore, we were required to adopt a new resolution.

a. **Resolution 24-01: A Resolution to Set Mill Levy**

TRUSTEE ROBERTSON MOTIONED TO ADOPT RESOLUTION 24-01: A RESOLUTION TO SET MILL LEVY, TRUSTEE BELCHER PROVIDED THE SECOND, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

Resolution 24-01 is adopted and is effective immediately.

5. **Announcement: 2024 Elections**

- a. Election packets are available to pick up in Town Hall starting today, January 2nd, for our April 2nd Empire Elections
- b. The staff will schedule a Candidate Information Session early in January for anyone interested in running for Town Board or Mayor (January 9, 2024 at 6:30 pm)
- c. Candidates for Mayor will be invited to a Town Hall Meeting to participate in a debate (March 12, 2024 at 6:30 pm)

Other important dates include:

TOWN OF EMPIRE GENERAL ELECTION

April 2, 2024

January 2, 2024	First day to circulate nomination petitions.
January 22, 2024	Last day to circulate nomination petitions. Completed petitions, Affidavit of Candidacy, and Affidavit of Circulator and due in the Town Clerk's office by 5 pm . Signature must be notarized on both forms; Town Clerk is a Notary Public.
January 29, 2024	Last day candidates may withdraw from nomination. Last day nomination petitions may be amended to correct or replace signatures. Last day for filing Affidavit of Intent for write-in candidates, signature must be notarized.
March 29, 2024	Last day for absentee voter application pick up.
April 2, 2024	Election Day.
April 12, 2024	Final Results of Election will be posted.
April 16, 2024	Swearing in of the newly elected Mayor and Board of Trustees at the Town Board Meeting at 6:30 pm.

NOTE: These dates are determined according to the Uniform Election Code. Failure to meet a deadline will result in candidate disqualification. If you are unclear on a deadline, please contact the Town Clerk's Office 303-569-2978.

6. Work Session:

a. Recommendations from the Board of Trustees for the upcoming election:

i. An Ordinance to change terms from 2 years to 4 years after the upcoming 2024 term. This must be passed by the Board of Trustees 180 days before an election. Current election candidates would be elected for 2 year terms, and the candidates in 2026 would be elected for 4 years if passed. The Board discussed reasons to change, including Empire is one of the few statutory municipalities who currently have 2-year terms; holding elections every 4 years would be a cost-saving measure; and giving candidates more time to learn their roles and accomplish more.

ii. A Resolution to put an initiative on the ballot to eliminate Term Limits.

Board discussion included going ahead with this election even in the case there are not enough Board candidates so this issue can be put in front of voters this election cycle. The Board expressed commitment to providing citizens with transparency, as well as recruiting new volunteer candidates and therefore view eliminating term limits as a path forward.

At the regular January meeting, this language will be put into a resolution in order to put the matter on the ballot.

iii. A Resolution to create a Code of Conduct Policy for elected and appointed officials.

The Board revisited the following previously discussed items:

- Attendance: if a Trustee misses 7 meetings, which is 30% of 23 meetings per year, a conversation will be triggered with the Board. There will be no distinction for excused or unexcused absences and removal will not be automatic.
- Spouses: previous discussions included preventing spouses from serving on the same board but state law prevents this. Instead, we will include language encouraging candidates to be aware of conflicts if you and your partner are serving on the same governing body within the Code of Conduct being drafted.

In addition, Trustees reviewed a CML document and the code from Parker, CO as examples of Code of Ethics and decided to engage the Town Attorney for guidance and continue this discussion further at the regular January meeting.

b. Other Discussion Items for upcoming Ordinances or Resolutions

Hard Rock Cafe'

- In order to assist Michal with the opening of the new business in the Hard Rock Cafe', the Board discussed providing a letter of intent to sign a lease for her vendors, as well as offering a grace period for reduced rent.
- The consensus was to reduce the rent to \$120 (10% of the \$1,200 regular rent) for 6 months to show the Town's commitment to her success. The security deposit will remain at \$2,400. In addition, rent will be required every month with no "mud-season" months off.
- When the business owner and the Town's attorneys are comfortable with the lease provisions, a resolution may be approved so the lease can be officially signed to start on February 1st, 2024.
- The Board suggested discussing a possible opening date with the client that would be amenable to both the Town and to her vendors; as well as days of anticipated days of operation.

Town Administrator Timing

The consensus of the Board is to begin paying the current Town Clerk, acting as interim Town Administrator, at the new Town Administrator salary rate previously approved beginning January 1st, 2024.

Other Administrative changes to Ordinance 170

Previously tabled items, including tightening the language about providing minutes and the number of planning commission members, will be discussed at the February regular meeting.

7. New Business from Board of Trustee Members

No new business.

8. The Next Board of Trustees Work Session is February 6th, 2024, at 6:30 pm.

Clerk Piel will be sending an email that includes all Board of Trustee trainings and meetings and a link for the calendar and zoom meetings.

9. The Next Board of Trustees Regular Meeting is Tuesday, January 16th, 2024, at 6:30 pm. In person with remote access.

10. Adjourn Meeting

TRUSTEE ROBERTSON MOTIONED TO ADJOURN, TRUSTEE BELCHER SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The meeting was adjourned at 8:30 PM.



(Mayor Wendy Koch)



(Town Clerk Jeannette Piel)

**RESOLUTION 24-01
RESOLUTION TO SET MILL LEVY**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EMPIRE, COLORADO, LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2024 TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF EMPIRE, COLORADO FOR THE 2024 BUDGET YEAR.

WHEREAS, The Board of Trustees of the Town of Empire, Colorado has reviewed a proposed budget for the ensuing year 2024 in accordance with the Local Government Budget Law; and

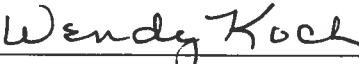
WHEREAS, the 2024 valuation for assessment for the Town of Empire, Colorado as certified by the Clear Creek County Assessor is \$4,325,560; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EMPIRE, COLORADO:

That for the purpose of meeting all general operating expenses for the Town of Empire, Colorado during the 2024 budget year, there is hereby levied a tax of 8.272 mills upon each dollar of the total valuation for assessment of all taxable property within the Town of Empire, Colorado for the year 2024.

That the Town Clerk is hereby authorized and directed to immediately certify to the County Commissioners of Clear Creek County, Colorado, the mill levy for the Town of Empire, Colorado as herein above determined and set, and as approved by the Board of Trustees of the Town of Empire, Colorado, on January 2nd, 2024.

APPROVED AND ADOPTED, this 2nd day of January 2024



Mayor Wendy Koch



ATTEST: Town Clerk Jeannette Piel

CANDIDATE CHECKLIST

Attachment to the Minutes

Name (please print): _____

Street Address: _____

Mailing Address: _____

Email: _____

Home Phone: _____ Cell Phone: _____

How long have you lived in Empire? _____

PICK UP

Roles & Responsibilities for the Position of Mayor & Board of Trustees
CML Candidate Guide

Affidavit of Candidate Declaration (NP)
Completed when packet & petition are picked up Date: _____ Received by: _____
Make copy of ID

Candidate Guidelines Packet:
General Information & Instructions
Candidate Election Calendar
Candidate Biographical Information
Affidavit of Candidate Acceptance (NP)

Nomination Petition Packet:
Nomination Petition Mayor
Nomination Petition Trustee
Affidavit of Circulator (NP)

FCPA Packet:
Fair Campaign Practices Act Disclosures
FCPA Candidate Affidavit (NP)
FCPA Statement of Non-Receipt of Contribution (3 copies)

DROP OFF

Petition completed with minimum of 10 signatures Date: _____ Received by: _____

Affidavit of Circulator (NP) Date: _____ Received by: _____

Affidavit of Candidate Acceptance (NP) Date: _____ Received by: _____

Candidate Biographical Information Date: _____ Received by: _____

FCPA Candidate Affidavit (NP) Date: _____ Received by: _____

FCPA Statement of Non-Receipt of Contribution Date: _____ Received by: _____

FCPA Statement of Non-Receipt of Contribution Date: _____ Received by: _____

FCPA Statement of Non-Receipt of Contribution Date: _____ Received by: _____

COLORADO STATUTORY PROVISIONS CONCERNING ETHICS AND CONFLICTS OF
INTEREST FOR MUNICIPAL OFFICIALS AND EMPLOYEES

by

Dianne Criswell, CML Legislative Counsel

Applicable Statutes

Ethics and conflicts of interest for local government officers and employees are addressed in three areas of the Colorado Revised Statutes:

- I. Article 18 of Title 24. Part 1 is Colorado's "Code of Ethics" for public officers and employees. Part 2 addresses proscribed interests in contracts;
- II. Sections 31-4-404(2) and (3), concerning restrictions on members of municipal governing bodies voting on matters in which they have a personal or private interest; and
- III. Section 18-8-308 of the Colorado Criminal Code, imposing certain disclosure requirements on public officials.

Caveat: Be sure to check for local charter or ordinance provisions that may also bear on these issues.

Colorado "Code of Ethics" for Public Officials and Employees-

[C.R.S. 24-18-101, et seq.; C.R.S. 24-18-201, et seq.]

Violation of Public Trust and Fiduciary Duty- Standard of Proof

The Code of Ethics identifies several rules of conduct for local government officials and employees. Violation of these rules is declared to be a breach of fiduciary duty and the public trust. [C.R.S. 24-18-103(2)] A local government official or employee whose conduct departs from his fiduciary duty is "liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust." The district attorney in the district where the trust is violated is authorized to bring "appropriate judicial proceedings" on behalf of the people, and money collected in such proceedings is paid to the general fund of the local government. Successful prosecution under the Code of Ethics for breach of fiduciary duty requires proof beyond a reasonable doubt of the commission of any act proscribed in the Code.

Code of Ethics: Rules of Conduct

[C.R.S. 24-18-101, et seq]

The Code of Ethics specifies "Rules of Conduct", violation of which constitutes breach of fiduciary duty and the public trust. (The Code also specifies non-binding "Ethical Principles", which are intended as guides to conduct.)

1. Use of Confidential Information for Personal Benefit. [C.R.S. 24-18-104-(1)(a)]

A local government official or employee shall not:

"Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interest."

- Note that this section restricts only use of "confidential" information.
- "Financial interest" is defined as a substantial interest held by an individual which is:
 - (a) An ownership interest in a business
 - (b) A creditor interest in an insolvent business
 - (c) An employment or prospective employment for which negotiations have begun
 - (d) An ownership interest in real or personal property
 - (e) A loan or any other debtor interest
 - (f) A directorship or officership in a business.(24-18-102-(4), C.R.S)

2. Accepting Gifts or Economic Benefits as Rewards or Inducements. [C.R.S. 24-18-104-(1)(b)]

A local government official or employee shall not:

"Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

- 1) *Which would tend to improperly influence a reasonable person in his position to depart from the faithful discharge of his public duties; or*
 - 2) *Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken."*
- This prohibition utilizes an objective "reasonable person" standard. Thus it is no defense to argue that the gift or benefit did not actually induce improper conduct or was not actually understood to be a reward for official action.
 - *Inclusions: "Economic benefit tantamount to a gift if substantial value"*
 - I. A loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans, and
 - II. Compensation received for private services rendered at a rate substantially exceeding the fair market value of such services. [C.R.S. 24-18-104(2)]

- *Exclusions: Economic benefits*". The Code does not define "gift of substantial value"; however, it does identify several items that are not considered "gifts of substantial value" or "economic benefits tantamount to gifts of substantial value." [See C.R.S. 24-18-104(3)] Among these exclusions are:
 - Campaign contributions reported under the Fair Campaign Act,
 - Honoraria
 - "Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses or tickets to sporting, recreational, educational, or cultural events."

3. Transactions With Those One Supervises or Inspects. [C.R.S. 24-18-109(2)(b)]

A local government official or employee shall not:

"Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties."

4. Acts Benefitting Ones Business or Client. [C.R.S. 24-18-109-(2)(b)]

A local government official or employee shall not:

"Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative or agent."

- "Official act" is defined as including any "vote, decision, recommendation, approval, disapproval, or other action, including in action, which involves the use of discretionary authority." [C.R.S. 24-18-102(7)]

Exclusions: Section 24-18-109(4) provides that it is not a breach of fiduciary duty or the public trust for a local government official or employee to:

- (i) Use local government facilities or equipment to communicate with constituents, family members or business associates, or
- (ii) Accept or receive benefits as an indirect consequence of transaction local government business

Defense: Disclosure

- A. Section 24-18-110 provides for voluntary disclosure by a local government official or employee of the "nature of his private interest" prior to acting in a manner that may impinge upon fiduciary duty and the public trust. Proper disclosure is an affirmative defense to "any civil or criminal action or any other sanction." (Emphasis added)
- B. Proper disclosure:
 - 1. For local government officials and employees, disclosure must be in writing to the Secretary of State. Disclosure may be accomplished online: go to the Secretary of State website, www.sos.state.co.us; click on "Elections" and then "Conflict of Interest".

2. Elements of the disclosure
 - (i) Amount of financial interest if any,
 - (ii) Purpose and duration of services rendered, if any,
 - (iii) Compensation received for services, or
 - (iv) "Such other information as necessary to describe" the interest.
3. If the act is then performed, the official or employee shall state for the record the fact and nature of the interest involved.

Code of Ethics: Prohibited Interests in Contracts

[C.R.S. 24-18-201, et seq.]

Rule: Local government officials and employees "shall not be interested in any contract made by them in their official capacity or by any body, agency or board of which they are members or employees."

- **Note:** See particularly part (e) below, concerning compliance with the "Disclosure and Abstention" statutes.
- **"Safe Harbors":** The statute states that certain types of transactions are not "contracts" for purposes of these restrictions. [C.R.S. 24-18-201(1)(b)] Excluded transactions include:
 - a. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;
 - b. Merchandise sold to the highest bidder at public auction;
 - c. Investments or deposits in financial institutions which are in the business of loaning or receiving monies;
 - d. A Contract with an interested party if, because of geographical restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than 10% of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.
 - e. A contract with respect to which any... local government official or employee has disclosed a personal interest and has not voted thereon or with any respect to which any member of the governing body of a local government has voted thereon in accordance with Section 24-18-109(3)(b) or 31-4-404(3), C.R.S. Any such disclosure shall be made: To the governing body, for local government officials and employees.
- **Noncompliance- contract voidable:** Violation of the prohibitions described above shall render the contract voidable at the instance of any party to the contract except the officer interested therein. [C.R.S. 24-18-203]

Rule: "Revolving Door" Provision: Former employees may not within six months of the end of their employment contract or be employed by any employer that contracts with a local government during his employment.

Title 31-Municipal Governing Body Members –Disclosure/Abstention

[C.R.S. 31-4-404(2) and (3)]

Rule: "Disclosure and Abstention", a member of the governing body of a city or town who has a personal or private interest in any matter proposed or pending before the governing body shall:

- A. Disclose such interest to governing body,
- B. Not vote and
- C. Not attempt to influence the votes of other members of the governing body. [C.R.S. 31-4-404-(2)]

Exception

A member of the governing body may vote notwithstanding his or her personal or private interest if:

- A. Such member's participation is necessary to achieve a quorum or otherwise enable the body to act, and
- B. Disclosure is made pursuant to Section 24-18-110 C.R.S. of the Colorado Code of Ethics for Public Officials and Employees (which, as noted above, requires disclosure in writing to the Secretary of State prior to official action). [31-4-404-(3)] C.R.S.

Criminal Code Disclosure Requirements

[C.R.S. 18-8-308]

Section 18-8-308 of the Colorado Criminal Code contains additional disclosure requirements affecting local government officials and employees.

Rule: When the disclosure requirement of section 18-8-308 C.R.S. is triggered, "actual advance written notice" to the Secretary of State and to the governing body is required 72 hours before any action is taken.

What triggers the Law (When you pay attention to this rule): An impending exercise of "substantially discretionary function with respect to a government contract purchase, payment or other pecuniary transaction" where a "potential conflicting interest" is known by the official or employee to exist.

- A "potential conflicting interest" exists when the public servant is a director, president, general manager or similar executive officer or owns or controls directly or indirectly a substantial interest in any non-governmental entity participating in the transaction in question.

Code of Conduct Examples

Parker, CO:

CHAPTER 2.05 - Code of Ethics

2.05.010 - Definitions.

For the purpose of this Chapter the terms listed below shall have the following meaning:

Board member means any person appointed to a Town board or commission by the Town Council or the Mayor under authority of the Charter, ordinance or State law (collectively referred to as *board*).

Confidential or privileged information means matters required by state or federal law or regulation to be kept confidential, attorney-client communications, and other matters which may be discussed in executive session.

Councilmember means a member of the Town Council (collectively referred to as *Council*).

Member means any board member or Councilmember.

(Ord. 1.61 §1, 1994)

2.05.020 - Restrictions generally.

(a)

Members shall not disclose or use any confidential or privileged information in furtherance of any personal or pecuniary interest or to further the personal or pecuniary interest of any other person.

(b)

Members shall not vote or render a final decision on an issue that directly affects a business or project in which the member either has a financial interest or is engaged as counsel, consultant, representative or agent.

(c)

Members shall not solicit or accept any gift, compensation, reward, gratuity or any item of value which would tend to influence a reasonable person in the member's position to depart from the faithful and impartial discharge of their public duties; or which the member knows or which a reasonable person in a similar position should know is primarily for the purpose of influencing public action.

(d)

Members shall not assist any person for a fee or other compensation in obtaining any contract, claim, license, permit, permission, approval or other economic benefit from the Town.

(e)

Members shall not hold a substantial financial interest in any business or enterprise which is a party to a Town contract made by the Council or board upon which the member has been appointed or elected, except that this Subsection shall not apply to a Town sponsorship or scholarship program that benefits the Town.

(f)

Members shall not accept a fee, contingent fee or any other compensation for promoting or opposing passage of legislation, except the member's official compensation as provided by the Town Charter, ordinance or contract.

(g)

Members shall not appear on behalf of any private person, business or entity before the Council or board upon which the member has been appointed or elected.

(Ord. 1.61.1 §1, 2016; Ord. 1.61 §1, 1994)

2.05.030 - Appearances by members.

(a)

Members shall not appear on their own behalf before the Council or board upon which they are a member. If the member is affiliated with a person or organization appearing before the Council or board, it is conclusively presumed that there is a conflict of interest, and the member must comply with [Section 2.05.060](#) below.

(b)

No member shall appear on behalf of another person concerning any matter before the Municipal Court, unless ordered to do so by subpoena of the Court.

(c)

Nothing in this Section shall be construed as prohibiting members from addressing a Council or board of which they are not a member.

(Ord. 1.61 §1, 1994)

2.05.040 - Misuse of confidential information.

A member shall not knowingly disclose confidential or privileged information to any third party, unless the Council authorizes the disclosure of the information. This Section is not intended to impair or limit public access to information that is otherwise publicly available.

(Ord. 1.61 §1, 1994)

2.05.050 - Participation in civil lawsuits.

Members who are attorneys shall not represent or affiliate with law firms that represent persons in their transactions with the Town, unless the Council permits otherwise.

(Ord. 1.61 §1, 1994)

2.05.060 - Disclosure of conflict of interest.

(a)

Members who have any personal or property interest, or any other kind of interest which may conflict or interfere with, influence or be perceived by the public as influencing the member's conduct shall prior to acting or voting disclose the nature of the conflict.

(b)

The remaining members of the Council or board shall establish by a majority vote whether the interest does in fact constitute a conflict of interest. In deciding whether there is a conflict of interest, it shall consider, among other criteria, the following:

(1)

Whether the conflict of interest impedes independence of judgment;

(2)

The effect of the member's participation on the public confidence in the integrity of the governing body;

(3)

Whether the member's participation is likely to have any significant effect on the ultimate disposition of the matter; and

(4)

The member's fiduciary obligations to the Town.

(c)

If the majority concludes that there is no conflict, then the member may perform the official act involved. However, the member shall state for the record the nature of the interest at the time of performing the act. Such disclosure shall constitute an affirmative defense to a violation of this Chapter.

(Ord. 1.61 §1, 1994)

2.05.070 - Disqualification from voting and influencing.

(a)

If a majority of the Council or board concludes there is a conflict, the member shall be disqualified from acting or voting on the matter or any related business. In addition, the disqualified member shall refrain from attempting to influence the decisions of other members of the Council or board in voting on the matter, and refrain from participating in any manner in the deliberations of the Council or board.

(b)

The disqualification of the member shall not preclude the existence of a quorum, nor result in the loss of a quorum, of the Council or board. However, the disqualification of a member from voting on an issue that requires the affirmative vote of a specific number of votes shall automatically be reduced by the number of members disqualified, except for matters before the Council.

(Ord. 1.61 §1, 1994)

2.05.080 - Enforcement.

(a)

The Council shall have primary responsibility for enforcement of this Chapter. The Council shall have the power to investigate any complaint and to initiate any suit. Any person who believes a violation of this Chapter has occurred may file a complaint with the Council, which

shall promptly investigate such complaint. The Council may thereafter take such action as it shall deem to be appropriate.

(b)

The Council may retain a special prosecutor to investigate or prosecute any violation of this Chapter. In all cases the determination of the Council as to whether there has been a violation shall be final.

(c)

The various provisions of this Chapter are cumulative, and not exclusive, and shall not be construed to limit any administrative, civil or criminal action or proceeding which may be instituted by the Town pursuant to Colorado statutes.

(Ord. 1.61 §1, 1994)

2.05.090 - Hearing.

Upon the sworn complaint of any Council member alleging facts which, if true, would constitute improper conduct under the provisions of this Chapter, the Council shall conduct a public hearing in accordance with all of the requirements of due process of law, and, in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct alleged and shall take whatever action necessary to address the improper conduct.

(Ord. 1.61 §1, 1994)

2.05.100 - Violations and penalties.

Members who violate any of the provisions of this Chapter shall be subject to the following penalties: In the case of a Council member, the Council may officially reprimand the Council or board member if a violation is established to a majority of the Council by clear and convincing evidence; or expel or remove the Council or board member if good cause is shown by clear and convincing evidence and two-thirds (2/3) of the Council vote to expel or remove the member. The Council shall have good cause to expel or remove if a member knowingly violates this Chapter.

(Ord. 1.61 §1, 1994)

