



RULES OF PROCEDURE FOR PUTNEY SELECTBOARD

A. PURPOSE

The Selectboard of Putney, is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law. 1 V.S.A. §§ 310-314. Meetings of the Selectboard of Putney must be open to the public at all times, except as provided in 1 V.S.A. § 313.

B. APPLICATION

This policy setting forth rules of procedure shall apply to the Selectboard of the Town of Putney, which is referred to below as "the body." These rules shall apply to all regular, special, and emergency meetings of the body.

C. ORGANIZATION

1. The body shall annually elect a chair and a vice-chair. The chair of the body or, in the chair's absence, the vice-chair shall preside over all meetings. If both the chair and the vice-chair are absent, a member selected by the body shall act as chair for that meeting.
2. The chair shall preserve order in the meeting and shall regulate its proceedings by applying these rules and making determinations about all questions of order or procedure.
3. A majority of the members of the body shall constitute a quorum. If a quorum of the members of the body is not present at a meeting, no meeting shall take place.
4. No single member of the body shall have authority to represent or act on behalf of the body unless, by majority vote, the body has delegated such authority for a specific matter at a duly-noticed meeting and such delegation is recorded in the meeting minutes.
5. Motions made by members of the body do require a second. The chair of the body may make motions and may vote on all questions before the body. A motion will only pass if it receives the votes of a majority of the total membership of the body.
6. There is no limit to the number of times a member of the body may speak to a question. A member may speak or make a motion *only after* being recognized by the chair. Motions to close or limit debate *will* be entertained.
7. Any member of the body may request a roll call vote. Pursuant to 1 V.S.A. § 312(a)(2), when one or more members attend a meeting electronically, a roll call vote is required for votes that are not unanimous.
8. Meetings may be recessed to a time and place certain.
9. These rules may be amended by *two thirds majority* vote of the body, and must be readopted annually.

D. AGENDAS

1. Each regular and special meeting of the body shall have an agenda, with time allotted for each item of business to be considered by the body. Those who wish to be added to the meeting agenda shall contact the Town Manager to request inclusion on the agenda. The chair shall determine the final content of the agenda.
2. At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be posted in or near the municipal office and at the following designated public places in the municipality: Town Hall, Putney Post Office, Putney Public Library and the town website at www.putneyvt.org. The agenda must also be made available to any person who requests such agenda prior to the meeting.
3. All business shall be conducted in the same order as it appears on the noticed agenda, except that any addition to or deletion from the noticed agenda must be made as the first act of business at the meeting. No additions to or deletions from the agenda shall be considered once the first act of business at the meeting has commenced. Any other adjustment to the noticed agenda, for example, changing the order of business, postponing or tabling actions, may be made by *two-thirds majority* vote of the body.

E. MEETINGS

1. Regular meetings shall take place on *every other Wednesday at 5:30 p.m.* at the Putney Town Hall, 127 Main Street.
2. Special meetings shall be publicly announced at least 24 hours in advance by giving notice to all members of the body unless previously waived; to an editor, publisher or news director, or radio station serving the area; and to any person who has requested notice of such meetings. In addition, notices shall be posted in the municipal clerk's office and at the following designated places in the municipality: Town Hall, Putney Post Office, Putney Public Library and the town website at www.putneyvt.org.
3. Emergency meetings may be held without public announcement, without posting of notices, and without 24-hour notice to members, provided some public notice thereof is given as soon as possible before any such meeting. Emergency meetings may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.
4. A member of the body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location, so long as the member identifies him or herself when the meeting is convened, and is able to hear and be heard throughout the meeting. Whenever one or more members attend electronically, voting that is not unanimous must be done by roll call. If a quorum or more of the body attend a meeting (regular, special, or emergency) without being physically present at a designated meeting location, the agenda for the meeting shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the body, or at least one staff or designee of the body, shall be physically present at each designated meeting location.

F. PUBLIC PARTICIPATION

1. All meetings of the body are meetings in the public, not of the public. Members of the public shall be afforded reasonable opportunity to express opinions about matters considered by the body, so long as order is maintained according to these rules.
2. At the *conclusion of discussion* of each agenda item, but before any action is taken by the public body at each meeting, there may be ten minutes afforded for open public comment. By *two-thirds majority* vote, the body may increase the time for open public comment and its place on the agenda.
3. Comment by the public or members of the body must be addressed to the chair or to the body as a whole, and not to any individual member of the body or public.
4. Members of the public must be acknowledged by the chair before speaking.
5. If a member of the public has already spoken on a topic, they may not be recognized again until others have first been given the opportunity to comment.
6. Order and decorum shall be observed by all persons present at the meeting. Neither members of the body, nor the members of the public, shall delay or interrupt the proceedings or the peace of the meeting or interrupt or disturb any member while speaking. Members of the body and members of the public are prohibited from making personal, impertinent, threatening, or profane remarks.
7. Members of the body and members of the public shall obey the orders of the chair or other presiding member. The chair should adhere to the following process to restore order and decorum of a meeting, but may bypass any or all steps when he or she determines in their sole discretion that deviation from the process is warranted:
 - a. Call the meeting to order and remind the members of the applicable rules of procedure.
 - b. Declare a recess or table the issue.
 - c. Adjourn the meeting until a time and date certain.
 - d. Order the constable to remove disorderly person(s) from the meeting.

ADOPTED:

DocuSigned by:
Joshua Laughlin

Joshua Laughlin, Chair

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Joshua Laughlin, Chair

David Babbitt, Vice Chair

DocuSigned by:

Aileen Chute

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Aileen Chute, Clerk

Adopted by the Putney Select Board on this 24th day of March, 2021.

CAN A SELECTPERSON ALSO SERVE ON THE PLANNING COMMISSION OR ZONING BOARD OF ADJUSTMENT/DEVELOPMENT REVIEW BOARD? CAN A SELECTPERSON SERVE AS THE ADMINISTRATIVE OFFICER?

Yes and yes. These are not statutorily incompatible offices. However, holding these dual positions presents multiple opportunities for the appearance of, as well as actual, conflicts of interest. While most of the conflicts discussed below are direct personal conflicts of interest for a selectperson, a direct financial conflict of interest can also arise in towns where the selectboard sets the compensation for town officers and employees. 24 V.S.A. § 933.

We'll take these dual positions in reverse order, starting with the **administrative officer**. State law expressly allows an administrative officer to "hold any other office in the municipality other than membership in the zoning board of adjustment or development review board..." 24 V.S.A. § 4448(a). Do not take this statutory permission as an endorsement, as opportunities for conflict abound. Examples may include:

- **Scenario:** Administrative officer is nominated by the planning commission and appointed by the selectboard. 24 V.S.A. § 4448(a). **Conflict:** Selectperson votes for him or herself as administrative officer.
- **Scenario:** Selectboard has the authority to adopt personnel policies governing the administrative officer's behavior, evaluate the administrative officer's performance, and remove the administrative officer at any time for cause after consultation with the planning commission and a public hearing. 24 V.S.A. § 4448(a). **Conflict:** Selectperson evaluates his or her own performance, lobbies and votes against his or her removal from office.
- **Scenario:** Selectboard is authorized by statute to settle lawsuits brought against the town in an appeal of an administrative officer's action or decision. **Conflict:** Selectperson votes against overturning his or her own action or decision as administrative officer.

The statutes are silent as to whether a selectperson may also serve on the **zoning board of adjustment (ZBA)/development review board (DRB)**. Therefore, the Municipal Assistance Center considers the practice permitted, but does not recommend it because of the following possible scenarios:

- **Scenario:** ZBA/DRB members are appointed by the selectboard. 24 V.S.A. § 4460(c). **Conflict:** Selectperson votes for him or herself as ZBA/DRB member.
- **Scenario:** Selectboard may remove ZBA/DRB member for cause, upon written charges and after public hearing. 24 V.S.A. § 4460(c). **Conflict:** Selectperson votes against his or her removal from the ZBA/DRB.
- **Scenario:** Selectboard has authority to represent the town in appeals to the Environmental Court and, in limited circumstances, may initiate an appeal of a ZBA/DRB decision as an interested person. **Conflict:** Selectperson votes against overruling a decision he or she approved or denied as a ZBA/DRB member.

Selectpersons in rural towns, by virtue of their office, are already nonvoting *ex officio* members of the **planning commission**. Again, state law does not prohibit selectboard members from

serving as full members of the planning commission so the Municipal Assistance Center considers it permitted, though not advised, because of the following possible scenarios:

- **Scenario:** Planning commissioners may be appointed by the selectboard. 24 V.S.A. § 4323(a). **Conflict:** Selectperson votes for him or herself as planning commissioner.
- **Scenario:** If appointed, planning commissioners may be removed at any time by unanimous vote of the selectboard. 24 V.S.A. § 4323(a). **Conflict:** Selectperson's vote blocks his or her own removal.
- **Scenario:** Selectboard may vote to adopt the town plan and/or bylaws. 24 V.S.A. § 4442(c). **Conflict:** Selectperson votes on the very town plan/bylaws that he or she had a hand in drafting and approving as a planning commissioner. 24 V.S.A. § 4325.

All of the above scenarios bring into question a selectperson's ability to impartially represent the public. For the other officers, questions arise as to their ability to impartially create, administer, and interpret a town's bylaws. Remember, too, that an appearance of conflict can be just as damaging to the public's faith in a town's system of zoning administration as an actual conflict.

As noted above, VLCT does not recommend that a selectperson hold any of these offices unless appropriate measures are taken to mitigate the impact of these potential conflicts. Such measures could include adopting a conflict of interest policy that requires a selectperson to recuse him or herself from all decisions involving his or her role as administrative officer, planning commissioner or ZBA/DRB member (with the caveat that the final decision of whether or not to recuse rests with the individual board member and cannot be compelled by other members of the board).

Finally, appropriate municipal panels (ZBAs/DRBs and planning commissions that exercise development review authority) must adopt rules of ethics with respect to conflicts of interest. Those rules could address the possible membership and participation of a selectperson. 24 V.S.A. § 4461(a).

Garrett Baxter, Attorney, VLCT Municipal Assistance Center

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