



**Stevensville Committee of the Whole
Agenda for
THURSDAY, FEBRUARY 07, 2019
6:30 PM**

1. Call to Order and Roll Call
2. Discussion on the Following Items
 - a. [Draft Code of Conduct](#)
3. Public Comment
4. Adjournment

Guidelines for Public Comment

Public Comment ensures an opportunity for citizens to meaningfully participate in the decisions of its elected officials. It is one of several ways your voice is heard by your local government. During public comment we ask that all participants respect the right of others to make their comment uninterrupted. The council's goal is to receive as much comment as time reasonably allows. All public comment should be directed to the chair (Mayor or designee). Comment made to the audience or individual council members may be ruled out of order. Public comment must remain on topic, and free from abusive language or unsupported allegations.

During any council meeting you have two opportunities to comment:

1. During the public comment period near the beginning of a meeting.
2. Before any decision-making vote of the council on an agenda item.

Comment made outside of these times may not be allowed.

Citizens wishing to speak during the official public comment period should come forward to the podium and state their name and address for the record. Comment during this time maybe time limited, as determined by the chair, to allow as many people as possible to comment. Citizens wishing to comment on a motion for decision before any vote can come forward or stand in place as they wish. Comment must remain on the motion before the council.



**TOWN COUNCIL
Council Communication**

**COW Meeting
February 7, 2019**

Discussion on a Draft Code of Conduct

Other Council Meetings	January 24, 2019 January 10, 2019 December 10, 2018
Exhibits	A. Draft Code of Conduct with Town Attorney's Comments

This agenda item provides Council with the ability to discuss a draft Code of Conduct for Elected and Appointed Officials.

Background:

In response to an internal personnel complaint involving the conduct of Council members, Mayor Brandon Dewey and Town Attorney Brian West recommended that Council adopt a Code of Conduct. At the December 10, 2018 meeting, Council, through consensus agreed to adopt a Code of Conduct. Councilmember Phillips was selected to work with the Mayor and create a draft document that could be brought back to Council for consideration and possible adoption.

Councilmember Phillips researched a number of other Communities and reviewed their documents. Mr. Phillips used his research findings to draft a possible document; this draft was distributed by Mr. Phillips via email on December 16, 2018.

Mayor Dewey formed an informal internal committee to review the Draft prior to bringing it forward for Council consideration. The Committee was comprised of Mayor Dewey, Councilmember Phillips, Finance Officer/Human Resource Representative April Van Tassel, Police Commissioner Sue Devlin and Town Clerk Audree Tribbensee. The Committee reviewed the draft and made several amendments. Town Council considered the Committee's draft on January 10, 2018. At that meeting Council asked that a Committee of the Whole meeting be scheduled to allow for further consideration and discussion. At Council's January 24, 2019 meeting, Council set a Committee of the Whole meeting for Thursday, February 7, 2019 at 6:30.

Attached is a draft Code of Conduct which includes the Committee's suggestions as well as the Town Attorney's comments.

Board/Commission Recommendation: Applicable - Not Applicable

MOTION

I move to: NO MOTION – discussion only



Town of Stevensville
Code of Conduct
for
Elected and Appointed Officials

"Always do right. This will gratify some people and astonish the rest." – Mark Twain

Glossary of Terms:

Attitude	The manner in which one shows one's dispositions, opinions and feelings
Behavior	External appearance or action; manner of behaving; carriage of oneself
Boards	Official Town Boards, Commissions, and Committees established to participate in proceedings related to Town business
Civility	Politeness, consideration, courtesy
Conduct	The way one acts; personal behavior
Courtesy	Politeness connected with kindness
Decorum	Suitable; proper; good taste in behavior
Manners	A way of acting; a style; method or form; the way in which things are done
Members	Individuals formally elected or appointed to participate in proceedings related to Town business – Council, Mayor, Boards, and Town staff
Membership	The body of Members – Council, Mayor, Boards and Town staff
Protocol	The courtesies that are established as proper and correct
Respect	The act of noticing with attention; holding in esteem; courteous regard

It is the policy of the Town of Stevensville to expect, promote, and uphold the highest protocol of conduct from its elected and appointed officials. The Mayor, Councilmembers, Board members, and For local government and Democracy, Town staff are dedicated to promoting values, integrity, and committed to governing efficiently and effectively. After taking the Oath of Office as a Councilmember and Mayor, they agree to conduct themselves in accordance with the following Code of Conduct (Code).

Brian West 1/3/2019 12:14 PM
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Brian West 1/3/2019 12:14 PM
Deleted: of local government and democracy

A. CONDUCT GUIDELINES

Elected and appointed officials have the responsibility to take the high road on conduct and to treat everyone as they would like to be treated. This Code is designed to describe the manner in which all elected and appointed officials should treat one another, Town staff, constituents, and others they come into contact with while representing the Town of Stevensville. Stevensville's Town Council adopts this Code to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operations and integrity of Stevensville's Town government. The term "Members" referenced throughout this Code includes elected and appointed officials, Town Board and Commission members as well as Town staff.

Brian West 1/3/2019 12:12 PM
Comment [1]: It is implicit that the Council has authority to adopt policies.
Brian West 1/3/2019 12:10 PM
Deleted: The Council has the authority to set the policies for the Town.
Brian West 1/3/2019 12:12 PM
Deleted: The Town of

1. General

The professional and personal conduct of Members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, displaying negative attitudes, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees, Commissions, staff or the public.

Brian West 1/3/2019 12:15 PM
Comment [2]: I would caution using this clause for disagreement on policy issues.

Members shall perform their duties in accordance with the processes and rules of order established by the Town Council with respect, courtesy and integrity.

Members shall support the maintenance of a positive and constructive workplace environment for its members, the Mayor, Town staff and for citizens and businesses dealing with the Town. Members shall conduct themselves when dealing with Town employees to, in no way, create the perception of inappropriate direction to staff.

Brian West 1/3/2019 12:16 PM
Comment [3]: The code cannot legally grant authority to supersede administrative powers or duties.

The Council or individual Council members and Board members shall not attempt to supersede the Administration's powers and duties.

Brian West 1/3/2019 12:15 PM
Deleted: Unless otherwise provided in this Code, the

2. Elected and Appointed Officials' Conduct with Each Other in Public Meetings

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. All have chosen to serve in public office in order to preserve and protect the present and the future of the Town of Stevensville. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue by doing the

Brian West 1/3/2019 12:15 PM
Comment [4]:
Brian West 1/3/2019 12:16 PM
Comment [5]: "Despite this..." has a connotation that "diversity" is an impediment.
Brian West 1/3/2019 12:16 PM
Deleted: Despite this diversity, all

following.

- a. Honor the role of the chair in maintaining order. It is the responsibility of the Chair to keep the comments of Members on track during public meetings. Members should honor efforts by the Chair to focus discussion on current agenda items. If there is disagreement about the agenda or the Chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- b. Practice civility and decorum in discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- c. Avoid personal comments that could offend other Members. If a Member is personally offended by the remarks of another Member, the offended Member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other Member to justify or apologize for the language used. The Chair will maintain control of this discussion.
- d. Demonstrate effective problem-solving approaches. Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

3. Elected and Appointed Officials' Conduct with the Public in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of a Member toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- a. Be welcoming to speakers and treat them with care and respect. While questions of clarification may be asked, the official's primary role during public testimony is to listen.
- b. Be fair and equitable in allocating public hearing time to individual speakers. The Chair will determine and announce limits on speakers at the start of the public hearing process.
- c. Practice active listening. It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the room gives the appearance of disinterest.
- d. Members shall try to be conscious of facial expressions and avoid those that could be interpreted as "smirking," disbelief, anger or boredom.
- e. Maintain an open mind. Members of the public deserve an opportunity to provide input in the decision-making processes of their elected and appointed officials.
- f. Ask for clarification, but avoid debate and argument with the public. Only the chair, not individual Members, can interrupt a speaker during a presentation. However, a Member can ask the Chair for a point of order if the speaker is off the topic or exhibiting behavior or language the Member finds disturbing.

- g. Members make a commitment to attend and partake in discussions. It is important that discussions on issues be relative to the topic at hand. It is not appropriate to discuss other issues not related to the topic at hand.
- h. Members should not disrupt other Members during discussions and from performing their respective roles.

4. Elected and Appointed Officials' Conduct with Town Staff

Governance of the Town of Stevensville relies on the cooperative efforts of elected and appointed officials who set policy and the Town staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community. The Town of Stevensville has a Personnel Policy in place for all Town employees. That Policy should be used in conjunction with this Code of Conduct.

- a. Treat all staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff will not be tolerated. The employees of the Town of Stevensville are also expected to adhere to this Code.
- b. Do not disrupt Town staff from performing their jobs. Elected and appointed officials should not disrupt Town staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend Town staff meetings unless requested by staff. Even if the elected or appointed official does not say anything, his or her presence may imply support, show partiality, intimidate staff, and/or hamper staff's ability to do their job objectively.
- c. Never publicly criticize an individual employee. Elected and appointed officials should never express concerns about the performance of a Town employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the Mayor through private correspondence or conversation.
- d. Limit contact with Town staff. Members have the same rights and access to information as the general public. However, limitations to staff resources must be considered. Staff will make every effort to ensure that general information will be available online. Requests that may require substantial staff time must be approved by the Mayor. If the Mayor is not available, he shall be copied on or informed of such request. Directions to staff should be made only through the Mayor. When in doubt about what staff contact is appropriate, Members must consult with the Mayor. Materials related to an item under the Council's or Board's consideration, supplied to a Member, will be made available to all members so that all have equal access to information.
- e. Attorney-Client Relationship: The Town Attorney represents the Town and not individual Members. Members ~~cannot~~ not establish a ~~personal~~ attorney-client relationship with the Town Attorney. ~~Members shall not seek to establish an attorney-client relationship with the Town Attorney for personal purpose.~~ Members may ~~contact the Attorney in accordance with policies and protocols established by the Town.~~

- Brian West 1/3/2019 12:18 PM
Deleted: Members shall not seek to establish an attorney-client relationship with the Town Attorney.
- Brian West 1/3/2019 12:17 PM
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- Brian West 1/3/2019 12:17 PM
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- Brian West 1/3/2019 12:17 PM
Deleted: ;
- Brian West 1/3/2019 12:18 PM
Deleted: however,
- Brian West 1/3/2019 12:18 PM
Deleted: do so in accordance with the
- Brian West 1/3/2019 12:18 PM
Deleted: Attorney Access Resolution adopted by Council.

5. Elected and Appointed Officials' Conduct with Boards

The Town of Stevensville has established several Boards, as a means of gathering more community input. Citizens who serve on Boards become more involved in government and serve as advisors to the Town Council. They are a valuable resource to the Town's leadership and should be treated with appreciation and respect.

- a. Councilmembers may attend any Board meeting which is open to any member of the public.
When attending a Board meeting in a personal capacity, Councilmembers should be careful to only express personal opinions regarding the issues. However, they should be sensitive to the way their participation, especially if it is on behalf of an individual, business or developer, could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board meeting should be clearly made as individual opinion and not a representation of the feelings of the entire Town Council.
- b. It is inappropriate for a Councilmember to contact a Board member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board members in order to clarify a position taken by the Board.
- c. Respect that Boards serve the community, not individual Councilmembers. The Town appoints individuals to serve on Boards, and it is the responsibility of Boards to follow policy established by the Town. Board members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Board members with removal if they disagree about an issue. Appointment and re-appointment to a Board should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board appointment should not be used as a political "reward."
- d. Be respectful of diverse opinions. A primary role of Boards is to represent many points of view in the community and to provide the Town with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, but must be fair and respectful of all citizens serving on Boards.

Brian West 1/3/2019 12:20 PM

Moved (insertion) [1]

Brian West 1/3/2019 12:20 PM

Moved up [1]: Councilmembers may attend any Board meeting which is open to any member of the public.

Brian West 1/3/2019 12:20 PM

Deleted: Limit contact with Board members to questions of clarification.

6. Elected and Appointed Officials' Conduct Outside of Public Meetings

- a. Make no promise on behalf of the Town, the Mayor, or Council without the express authority or permission to do so granted by a majority vote of the Council and/or the Mayor.
- b. Members will frequently be asked to explain a Council/Board action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of the issue and to refer to Town staff for further information. Overt or implicit promises of specific Council action or promises that Town staff will take some specific actions will not be tolerated.

- c. Members must ensure that in expressing their own opinions they do not mislead any listener into believing that their individual opinion is that of the entire Membership, unless a vote has been taken on that issue and the Member's opinion is the same as the decision made by the Membership. Likewise, no Member should make a statement in writing that implies it is the position of the entire Membership.
- d. Members shall not make any personal comments about other Members. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Members, their opinions or actions.
- e. Members are constantly being observed by the community every day that they are in office. Their behaviors and comments serve as models for proper deportment in the Town of Stevensville. Honesty and respect for the dignity of everyone should be reflected in every word and action taken by a Member, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

B. SANCTIONS

1. Behavior and Conduct

The Stevensville Code of Conduct expresses standards of conduct expected for Members of the Stevensville Town Council, Mayor, Boards and Town staff. Members themselves have the primary responsibility to assure that conduct standards are understood and met, and that the public can continue to have full confidence in the integrity of government. Additionally, the responsibility to intervene, when the actions of Members appear to be in violation of this Code, falls on all Members.

2. Councilmembers

It is the responsibility of the Council to educate and, when necessary, discipline other Councilmembers who violate this Code. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes that the progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving the matter, including the intent of the one accused of wrongdoing.

Possible Penalties and Sanctions may include:

- a. An informal censure by the Council, which would only be made as part of a motion in a public meeting.
- b. A formal censure by the Council, which would be made by motion in a public meeting and then published in the newspaper as a public notice.
- c. Mandatory community service.
- d. Attendance at counseling or mediation sessions.

- e. Imposition of a monetary fine of up to \$500.00.
- f. Any other sanctions available by law by an appropriate tribunal.

The imposition of any of these penalties or sanctions will require a 2/3 vote of the Council, other than an informal or formal censure which shall only require a majority vote of the Council. A violation of the penalties imposed by Council may constitute grounds for removal from office under Montana law and in accordance with Stevensville Municipal Code.

Town staff and citizens should also point out to the Mayor any perceived infractions of this Code. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the President of the Town Council. It is the responsibility of the Mayor or President of the Town Council to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor or President of the Town Council, then the alleged violation(s) can be brought up with the full Council.

3. Board Members

Counseling, verbal reprimands, and written warnings may be administered by the Mayor to Board members failing to comply with this Code. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the Chair of the respective Board, the Town Clerk, the Town Attorney, and the Town Council.

The Town Council may impose sanctions on Board members whose conduct does not comply with this Code, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of a Board member's conduct. The Mayor or Town Council shall ask for an investigation into the allegation and the findings must be reported to the Membership.

4. Public Disruptions

Members of the public who do not follow proper conduct, after warning by the Chair in a public meeting, may be barred from further testimony at that meeting or removed from the Council Chambers.

5. Inappropriate Staff Behavior

Any Town employee who does not follow proper conduct in their dealings with Membership, other Town staff, or the public should be referred to the Mayor. If an incident involves the

Brian West 1/3/2019 12:40 PM
Comment [6]: I have been weighing the legal validity of sanctions C, D, & E. There is some support at the national level for financial punishment and inter-branch assessments of punishments, see, for example: <https://fas.org/sgp/crs/misc/RL31382.pdf>
 It is not as well supported in Montana law. Arguably, it would be supported by SMC §2-55
 I would encourage cross-reference inclusion in the Council Rules.

Brian West 1/3/2019 12:26 PM
Comment [7]: The Council cannot serve in lieu of the City or District Court

Brian West 1/3/2019 12:28 PM
Comment [8]: Example §2-119

Brian West 1/3/2019 12:33 PM
Comment [9]: I would advise that the Council's authority to sanction the Mayor is limited due to separation of powers, which equally applies to the Mayor's ability to sanction councilmembers. This section should be drafted to be more precise.

Brian West 1/3/2019 12:34 PM
Comment [10]: I do not believe there is a basis for keeping any admonishment private under our laws.

Brian West 1/3/2019 12:33 PM
Deleted: These lower levels of sanctions shall be kept private to the degree allowed by law.

Brian West 1/3/2019 12:35 PM
Comment [11]: Cross reference with §2-119

Brian West 1/3/2019 12:35 PM
Comment [12]: If this code of conduct is addressing elected and appointed officials, why does it address members of the general public?

Brian West 1/3/2019 12:36 PM
Comment [13]: Same comment as above.

Mayor, the matter should be referred to the Town Attorney. The staff member may be disciplined in accordance with the Town's Personnel Policy for such actions.

Brian West 1/3/2019 12:36 PM

Comment [14]: You could refer the matter to me for legal advice, but I have no process, procedure, or authority to discipline anyone.

C. IMPLEMENTATION

This Code of Conduct is intended to be self-enforcing and is an expression of the standards of conduct for Members expected by the Town of Stevensville. It therefore becomes most effective when Members are thoroughly familiar with it and embrace its provisions.

Brian West 1/3/2019 12:38 PM

Comment [15]: The word choice or intent is unclear. The document itself is not self-enforcing, but can express a desire that adherence by members is self-enforcing.

For this reason, this document shall be included in the regular orientations of candidates for Town Council, Town Clerk, Town Treasurer, applicants to Boards, and newly elected and appointed officials. Members entering office shall sign a statement acknowledging they have read and understand the Code of Conduct. In addition, the Code of Conduct shall be periodically reviewed by the Town Council, Mayor, Boards, and staff, and updated as necessary.

1. Principles of Proper Conduct include:

- Serving as a model of leadership and civility to one another and the community
- Inspiring public confidence in Stevensville's Town government
- Demonstrating honesty and integrity in every action and statement
- Keeping promises
- Being dependable
- Building and maintaining a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles
- Listening attentively
- Studying thoroughly
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner, attitude and appearance

2. Proper Conduct is not:

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness

- Acting in a self-righteous manner
- Attempting to supersede the Administrations powers and duties

3. It all comes down to respect:

- Respect for one another as individuals.
- Respect for the validity of different opinions.
- Respect for the democratic process.
- Respect for the community that we serve.

4. Checklist for Monitoring Conduct:

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my ulterior motives and the spirit behind my actions or words?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?
- Even if my conduct is not illegal or unethical, is it done at someone else's expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- Does my conduct give others reasons to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas and opinions?
- Will my conduct cause public embarrassment to someone else? The Town? The Council? The Mayor? Staff?