

Can a selectboard member also serve as the town's zoning administrator?

Legally, yes, as there is no legal prohibition against it. In some rural towns where it is difficult to find people to serve local government, selectboard members wear several hats, including this one. As a matter of practice, however, VLCT does not recommend that selectboard members serve as zoning administrator as it creates potential conflicts that could stand in the way of effective administration of your municipality's zoning program.

For example, conflicts may arise due to the employer/employee relationship between the zoning administrative officer and the selectboard. *The planning commission, with the approval of the selectboard, appoints the zoning administrator. The selectboard ultimately oversees the zoning administrator for the purpose of setting the zoning administrator's salary. The selectboard also has the authority to remove the zoning administrator for cause at any time "after consultation" with the planning commission, not concurrence. 24 V.S.A. §§ 1121(b), 4442(a).* It is extremely awkward to have the zoning administrator be a member of the board that sets his or her salary and evaluates that person's performance. Even if the zoning administrator recuses him or herself from these decisions, it may create tension between the administrator and board colleagues if the board makes decisions with which the administrator does not agree. Worse yet, it may create the public perception that the board is biased with regard to supervising one of its own members as an employee.

Another potential conflict exists because the selectboard has the legal authority to settle suits brought against the town. This authority extends to settling zoning appeals filed with the Environmental Court as a result of actions and/or decisions of the zoning administrator or zoning and planning boards. Again, it places both the zoning administrator and the selectboard in a difficult situation if the board is not willing to support in court actions that the administrator has taken.

Finally, the selectboard's principal focus is on public policy and broad community and economic development issues that involve a considerable amount of discretionary authority. Conversely, the zoning administrator's official duties and legal authority are narrowly defined by statute, with no discretionary authority when administering the town's bylaws. As a result, whether justified or not, the duality of office may raise public questions of perceived lack of impartiality on the part of the zoning administrator in the administration of the bylaws.

Balancing these divergent roles of being both the zoning administrator and a selectboard member presents a challenging situation that deserves thoughtful consideration before a municipality decides to engage in this practice.

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