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**1992 Wis Eth Bd 12**  
LOCAL OFFICIALS - DISQUALIFICATION

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Members of local landfill negotiating committees or other local officials, whose financial interests are likely to be affected by negotiations concerning a landfill expansion, should not participate in those negotiations or any decisions to ratify an agreement reached through those negotiations.  
OEB 92-12

January 13, 1992

Facts

- [1] This letter is based upon these understandings:
- a. A town board supervisor has been appointed to a local committee to negotiate a landfill expansion under § 144.445, *Wisconsin Statutes*.
  - b. The supervisor is a neighbor of the proposed landfill and is likely to be financially affected by the outcome of the local committee's negotiations.

Question

- [2] The Ethics Board understands your question to be:

Does the Code of Ethics for local officials restrict the town board supervisor's service on the local committee?

Discussion

[3] In our view, both town board supervisors as well as members of local committees under §144.445 are local public officials subject to the Code of Ethics. Town board supervisors are local public officials because they hold an elective office of a local government. Section 19.42(7u), (7w), (7x), *Wisconsin Statutes*.<sup>1</sup> Members of local committees are local public officials because the local committees are instrumentalities of affected municipalities and

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<sup>1</sup> § 19.42(7u), (7w), (7x), *Wisconsin Statutes*, provides:

**19.42 (7u)** "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.

**(7w)** "Local public office" means any of the following offices, except an office specified in sub. (13):

members serve at the pleasure of the appointing authorities. *Id.*; §144.445 (7), *Wisconsin Statutes*.<sup>2</sup>

[4] Section 19.59, *Wisconsin Statutes*, prohibits a local official from using his or her public position to obtain financial gain or anything of substantial value for private benefit, to take any official action substantially affecting the matter in which the official has a substantial financial interest, and to use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official. If an official who owns land adjacent to or in the proximity of a proposed landfill would be substantially affected by the conditions imposed on the landfill, or have a financial interest in those conditions, we would advise against the individual's service on the local committee. Moreover, we would advise a town board supervisor in similar circumstances to refrain from participation in the town board's decision concerning the negotiations or ratification of any agreement reached pursuant thereto.

[5] There is no conflict between the Ethics Code and any provision or policy stated in §144.445. Indeed, §144.445 requires members of local committees to identify their financial interests that would be affected by a proposed solid waste facility.<sup>3</sup> We understand the purpose of this

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(a) An elective office of a local government.

(b) A county administrator or administrative coordinator or a city or village manager.

(c) An appointive office or position of a local government in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.

(d) An appointive office or position of a local government which is filled by the governing body of the local government or the executive or administrative head of the local government and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action or a position filled by an independent contractor.

**(7x)** "Local public official" means an individual holding a local public office.

<sup>2</sup> § 144.445(7)(a) and (d), *Wisconsin Statutes*, provide:

**(7) Local committee.** (a) *Appointment of members.* Members of the local committee shall be appointed by the governing body of each affected municipality passing a siting resolution, as follows:

1. A town, city or village in which all or part of a facility is proposed to be located shall appoint 4 members, no more than 2 of whom are elected officials or municipal employees.

1m. A county in which all or part of a facility is proposed to be located shall appoint 2 members.

2. Any affected municipality, other than those specified under subd. 1 or 1m, shall appoint one member.

(d) *Removal; vacancies.* A participating municipality may remove and replace at will the members it appoints to the local committee. Vacancies on the local committee shall be filled in the same manner as initial appointments.

<sup>3</sup> § 144.445(7)(b) and (c), *Wisconsin Statutes*, provide:

requirement, at least in part, to be to enable challenges to the appointment of individuals to negotiate in instances in which those individuals might place a personal financial interest above the interest of the municipality they are appointed to represent.

Advice

[6] A local public official whose financial interests are likely to be affected by negotiations concerning a landfill expansion should not participate in those negotiations or any decisions to ratify an agreement reached through those negotiations.

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**(7)(b) *Disclosure of private interests.*** Each member of a local committee shall file a statement with the board within 15 days after the person is appointed to the local committee specifying the economic interests of the member and his or her immediate family members that would be affected by the proposed facility and its development.

(c) *Failure to disclose private interests.* If a person fails to file a statement of economic interest as required under par. (b), he or she may not serve on the local committee and the position to which he or she was appointed is vacant.