

March 12, 2026

VIA EMAIL

Mayor Peter Dvorak
Village of Essex
219 W. Main Street
Essex, IL 60935
mayordvorak@villageofessex.org

Re: Ethics and Conflicts of Interest
Village of Essex

Dear Mayor Dvorak:

As you have expressed to me, the Village's staff and elected officials aim to adhere to the highest standards of ethical conduct to ensure that the Village is not a place where the knowledge and power of officials are used to further private interests. When private interests compete with the performance of duty, a conflict of interest arises. Conflicts of interest are prohibited by common law and statute not only to prevent the actual abuse of power, but also to prevent elected officials and officers from being placed in a situation that carries within it the potential of abuse.

I understand that Constellation Energy Generation, LLC ("Constellation") has recently purchased large tracts of property in and adjacent to the Village, and at public meetings its representatives have indicated that large development concepts are under consideration, such as a data center. Constellation has already submitted a Petition for Annexation (dated November 26, 2025) seeking to annex property that is currently outside Village boundaries, and additional applications for zoning and land use relief are anticipated from Constellation. The Village is engaging with Constellation to reach an understanding as to as to minimum standards for any development and mitigation of the costs and impacts a development would impose on the Village.

Given the desire of the Village and its elected officials to adhere to the highest of ethical standards, and pursuant to your request, I have conducted an ethics review of the Village elected officials (Mayor and Board of Trustees) in the context of anticipated applications from Constellation.

In the first section below, I summarize applicable Illinois statutory and common law concerning ethics and conflicts of interest. In the second section, I analyze whether there are likely to be any conflict of interest situations for individual elected officials and, if so, how those situations should be handled.

I. Applicable Illinois law concerning ethics and conflicts of interest.

Public officers may not have an interest in contracts with the governmental body they serve, subject to a few limited exceptions. The common law rules prohibiting interests in contracts by public officers were codified in statutory form and are found in the Illinois Municipal Code and the Public Officer Prohibited Activities Act.

Section 3.1-55-10(a) of the Illinois Municipal Code states:

A municipal officer shall not be financially interested directly in the officer's own name or indirectly in the name of any other person, association, trust, or corporation in any contract, work, or business of the municipality, or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid either from the treasury or by an assessment levied by statute or ordinance. A municipal officer shall not be interested, directly or indirectly, in the purchase of any property that (i) belongs to the municipality, (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the municipality.

65 ILCS 5/3.1-55-10(a).

The Public Officer Prohibited Activities Act states:

No person holding any office, either by election or appointment under the laws or Constitution of this State, may be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Nor may any such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character.

50 ILCS 105/3(a).

In addition to statutory prohibitions, the common law addresses conflicts of interest. Common law conflicts of interest are not found in the statutes of Illinois, but, rather, are generated from precedential court rulings over the years. These types of conflicts usually occur when a matter comes before the public body in which an official has a personal interest. The Illinois Supreme Court provided this succinct description:

The faithful performance of official duties is best secured if a governmental officer...is not called upon to make decisions that may advance or injure his individual interest. *Brown v. Kirk*, 64 Ill. 2d 144, 149 (1976).

However, it should be noted that not all relationships rise to the level of a conflict of interest. For example, every municipal board member is also a resident of the municipality. Board members vote on the taxation of the entire municipality, and even though such votes affect the board member's own interests, is not a conflict of interest. Similarly, a board member voting to resurface a public road near his or her home would not be a conflict of interest.

When there is a common law conflict of interest, the public body is not barred from considering the matter, but the official with the conflict of interest is required to disqualify himself or herself from voting on the issue and from otherwise participating in the public body's consideration of the issue.

II. Analysis of possible conflicts of interest involving anticipated Constellation application.

In order to render this opinion, I spoke with members of the Village of Essex Board of Trustees and the Mayor of Essex. Although Ed Foley has resigned from the Village Board and therefore this ethics opinion is moot with respect to him, Mr. Foley's situation is still discussed below for transparency.

Former trustee Foley sold real property to Constellation last year. The real property sold to Constellation is likely to be included in any application that may be filed by Constellation for land use or zoning relief. Importantly for this analysis, the property sale to Constellation is finalized and not contingent upon Constellation obtaining zoning or other relief from the Village or any other event. In my legal opinion, since Mr. Foley's sale of property last year was finalized, the fact of the past sale to Constellation does not create a conflict of interest. Additionally, Mr. Foley is not employed by Constellation.

Last year, Village Trustee John Bohac sold real property to Constellation. The real property that was sold to Constellation is likely to be included in any application that may be filed by Constellation with the Village for land use or zoning relief. Critical for this analysis, the property sale was finalized last year before Constellation ever approached the Village and the sale is not contingent upon Constellation obtaining zoning or other relief from the Village or any other event. In my legal opinion, since Trustee Bohac has no remaining property interest whatsoever in the real property that was sold and no remaining obligations to Constellation in connection with the sale, the fact of the past sale to Constellation does not create a conflict of interest.

Trustee Bohac is employed by a Constellation related corporate entity but he has no ownership stake in Constellation. He works in the Dresden Plant as a Principal Project Manager where he oversees the initiation and execution of projects at the facility. For this reason, Trustee Bohac has indicated to me that he plans to disqualify himself from any vote or consideration on any issues that comes before the Village Board concerning Constellation. This is a prudent course of action and consistent with my legal opinion that there is a risk of an indirect conflict of interest based on Trustee Bohac's employment relationship with Constellation. See *Kruse v. Streamwood Utilities Corp.*, 34 Ill. App. 2d 100 (1962) and *People v. Sperry*, 314 Ill. 205 (1924).

With respect to Mayor Dvorak, it is my opinion that Mayor Dvorak does not have a conflict of interest concerning Constellation. Mayor Dvorak is employed with the Godley Park District. He is also on the Board of the South Wilmington Sportsman's Club, a local not-for-profit corporation. Neither of these relationships present a conflict of interest with respect to Constellation. Mayor Dvorak has no past or current employment relationship with Constellation, has no ownership

interest in Constellation, and has no past or current contractual relationship with Constellation for the sale of property.

Trustee Bruce Masulis has no past or current employment relationship with Constellation, has no ownership interest in Constellation, and has no past or current contractual relationship with Constellation for the sale of property. Therefore, it is my opinion that Trustee Bruce Masulis does not have a conflict of interest with respect to Constellation.

Trustee Mike Masulis has no past or current employment relationship with Constellation, has no ownership interest in Constellation, and has no past or current contractual relationship with Constellation for the sale of property. Therefore, it is my opinion that Trustee Mike Masulis does not have a conflict of interest with respect to Constellation.

Trustee John Lord has no past or current employment relationship with Constellation, has no ownership interest in Constellation, and has no past or current contractual relationship with Constellation for the sale of property. Therefore, it is my opinion that Trustee Lord does not have a conflict of interest with respect to Constellation.

Lastly, Trustee George Persak has no past or current employment relationship with Constellation, has no ownership interest in Constellation, and has no past or current contractual relationship with Constellation for the sale of property. Therefore, it is my opinion that Trustee Persak does not have a conflict of interest with respect to Constellation.

Conclusion

In accordance with the above analysis, in my legal opinion Trustee Bohac is correct in his decision to recuse himself from voting on and considering Constellation matters that may come before the Village Board. Trustee Bohac has already informed me that he will recuse himself and has always recognized the need to do so.

Other than Trustee Bohac, no Village trustees have a conflict of interest that would prevent consideration of Constellation matters.

Should you have any questions, or if I have misstated any of the above factual information, please contact me to further discuss the issues.

Very truly yours,

BOND CONWAY LAW FIRM, LTD.

By: /s/ M. Neal Smith
M. Neal Smith, Partner