

TOWN OF EAST WINDSOR BOARD OF SELECTMEN

GENERAL MEETING

Thursday, December 19, 2019

5:30 p.m.

Town Hall Meeting Room
11 Rye Street, Broad Brook, CT. 06016

Meeting Minutes

*** *These Minutes are not official until approved at a subsequent meeting****

Board of Selectmen:

Jason E. Bowsza, First Selectman
Marie DeSousa, Deputy First Selectman
Alan Baker, Selectman
Sarah Muska, Selectman
Charlie Nordell, Selectman

ATTENDANCE: Board of Selectmen: Jason E. Bowsza, First Selectman; Marie DeSousa, Deputy First Selectman; Alan Baker, Selectman; Sarah Muska, Selectman; Charlie Nordell, Selectman

ABSENT: All Selectmen were present this evening.

SPEAKERS/GUESTS: **Freedom of Information Commission:** Thomas A. Hennick, Public Information Officer;

Town Departments/Boards/Commissions: **First Selectmen's Office:** Melissa LaBelle, Executive Assistant; **Board of Education/CIP:** Cathy Simonelli, Chairman; **Board of Finance:** Jerilyn Corso, Chairman; **Department of Public Works/Engineering:** Len Norton, Director/Town Engineer; **East Windsor Housing Authority:** Marisa Prior, Executive Assistant; **Ethics Commission:** Tom Burnham, Chairman; **Office of Planning and Development:** Ruben Flore-Marzan, Town Planner; Judi Mosso, Assistant Town Planner/Zoning Enforcement Officer; Amanda Calve, Administrative Assistant; **Planning and Zoning Commission:** Joe Ouellette, Chairman; **Police Commission:** Bob Leach, Chairman; Ed Filipone, Vice Chairman; **Treasurer:** Amy O'Toole; **Water Pollution Control Authority:** E. Arthur Enderle, III, Superintendent; Edward Alibozek, Chief Operator; Laura Michael, Business Administrator.

Public: Paul Anderson, Jim Buckley, Jillian Hubbard, Ruth Anne Lansner, Tom Lansner, William (Bill) Loos, Tom Talamini.

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TIME AND PLACE OF REGULAR MEETING:

First Selectman Bowsza called the December 19, 2019 General Meeting of the East Windsor Board of Selectmen to Order at 5:30 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

PLEDGE OF ALLEGIANCE:

Everyone stood to recite the Pledge of Allegiance.

**FREEDOM OF INFORMATION EDUCATIONAL WORKSHOP – With Guest Speaker –
Thomas A. Hennick, Public Information Officer:**

First Selectman Bowsza welcomed everyone, noting this is the annual Town General Meeting. The meeting is being held at 5:30 p.m. to enable as many elected and appointed officials and employees to attend as possible.

First Selectman Bowsza introduced Tom Hennick, Public Officer for the Freedom of Information Commission, who will present an informational workshop this evening.

Mr. Hennick reported he does workshops all over the State. He doesn't do them to make people miserable, the purpose is to help people understand and be comfortable with the Freedom of Information (FOI) law. Mr. Hennick suggested we now all have a face to connect with the Commission; he suggested we contact him whenever we have questions.

Mr. Hennick indicated he will have been doing this for 20 years in January. He isn't an attorney so he can't give people binding legal opinions. Before he joined the FOI he was a journalist, so he sees the FOI from different perspectives. Mr. Hennick suggested for the people who serve on boards the time spent performing commission work is almost like another full time job.

Mr. Hennick noted the FOI is the law in the State of Connecticut; it's 44 years old and was the brainchild of Ella Grasso. The law was created in the middle of Watergate. Governor Grasso wanted Connecticut to have an open government law; it was approved unanimously by both sides of the House and Senate when presented for passage. The law also created the FOI Commission to which complaints can be filed if people feel they have been aggrieved. Mr. Hennick noted that East Windsor doesn't pop up that much in regard to complaints.

Mr. Hennick noted the law is called Freedom of Information; people feel it's about free information but it's about access to public meetings and access to public records. People feel the FOI is about providing free information, but people need to do some of the work themselves to get the information or records.

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Mr. Hennick referenced the FOI law, noting meetings of public agencies must be held in open, and records of public agencies are subject to disclosure and inspection by the public at large. Mr. Hennick suggested if a person is on a board, or a sub-committee, consider it a meeting, post a notice/agenda, take minutes, and post the minutes with the Town Clerk. Sub-committees are subject to the same requirements as any other meeting – post/notice a separate notice/agenda, conduct an open meeting, and file minutes.

Regarding filing of meeting notices (agendas), Regular Meeting notices are filed in compliance with the meeting schedule filed annually. Special Meetings are any meeting which falls outside the regular meeting schedule. Both types of meetings require filing agendas 24 hours prior to the meeting date. Mr. Hennick suggested specificity is key when posting agendas, as the item should fairly apprise people of the topic of discussion. During Regular Meetings items can be added to the agenda by a 2/3 vote of those commission or board members in attendance. Discussion items can not be added to Special Meetings; discussion can only occur regarding the items posted on the agenda. Other, or Old Business can be listed on the agenda for a Regular Meeting, but shouldn't be used without additional discussion information on agendas for Special Meetings.

Mr. Hennick suggested Emergency Meetings are an invitation to trouble. As an example he cited Martin Luther King's birthday is coming up; if an agenda for a meeting the following day hadn't been posted prior to the holiday the meeting can't be considered an Emergency Meeting. Emergency Meetings are about real emergencies, such as preparation for an upcoming storm, or other safety issues. People participating in an Emergency Meeting can only discuss the subject of the emergency, and minutes must be posted within 72 hours of the meeting.

Mr. Hennick noted that all meetings are open to the public; anyone can attend; anyone can video tape or record the meeting. The board holding the meeting can set parameters for recording, but recording must be allowed.

Public comments are a guaranteed right under the FOI law. A board must allow, and welcome, such comments. A commission can't deny public comment to get discussion done; boards or commissions should be considerate so people feel their comments are welcomed.

Mr. Hennick suggested there are two different paths a board can take to exclude the public from meeting discussion. One is an *Executive Session*, which is part of a larger meeting. You need to notice the meeting, convene in public, and go into Executive Session for the reason stated on the notice. Discussion can occur in Executive Session but only on the topic noticed; there's no time limit on the length of the discussion. A vote on the issue can only be made when the board comes out of Executive Session; the vote must be reflected in the record/minutes. Acceptable reasons to hold an Executive Session are: Personnel issues; pending claims or litigation; security issues; property purchases; discussions of any matter that would result in the disclosure of confidential records or information excluded from the FOI's disclosure requirements under Connecticut General Statutes §1-210(b).

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Jillian Hubbard, speaking from the audience, questioned the status of information if a document is shown during a meeting? Mr. Hennick suggested that once a document is shown publicly the exemption doesn't apply. A chairman can show the document, but not share the information.

Mr. Hennick reviewed the exemptions:

Personnel issues: You must post something in addition to "personnel matters". You must advise the person being discussed of the discussion; they have the ability to have the discussion occur in a public meeting, which would prevent the board from holding an Executive Session. Once the person waives their right to a public session they can't attend the Executive Session unless the board invites them to attend. Deputy First Selectman DeSousa asked what if there's only one person in the office; people would know the discussion was about that person. First Selectman Bowsza questioned if the agenda item could reference, as an example, a school district employee. Mr. Hennick suggested if there's only one school district superintendent people would know who the board was discussing; he would suggest adding the title of the employee to the agenda.

Pending claims or litigation: Mr. Hennick suggested this could be something like an FOI complaint, or legal issues.

Security Matters: Mr. Hennick suggested since Sandy Hook the issue of discussing security matters comes up a lot. Security personnel may want to discuss alarm systems, escape routes, safety protocols.

Mr. Hennick suggested the second path for boards to conduct business excluding the public is a ***Fact Finding Meeting***. These meetings would include union negotiations/collective bargaining negotiations, executive level search committees. These meetings are not noticed as open meetings; there are no minutes taken.

With regard to chance or social gatherings, such as going out to dinner with other members of the board, or meetings in the parking lot, keep the discussion to a surface level. Keep the detailed discussion to the board meeting.

Mr. Hennick noted there's an exception in the law regarding *caucuses* of members of a single political party. The party should limit discussion of issues.

Mr. Hennick suggested in 2019/2020 discussions via electronic equipment can be a problem. While board members can participate in a meeting via phone discussions via ***Facebook, e-mail, or twitter*** could be considered a meeting. ***E-mails*** are public records in the context of conducting business as a board member or employee.

Mr. Hennick suggested if employees use cell phones or laptops for Town business that information becomes public records.

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Mr. Hennick suggested *minutes* are not verbatim transcription of the meeting. They should be crisp and concise; the only legal requirement is the filing of a record of the motions/votes taken.

If additional information in the form of minutes is preferred they must be available in 7 days. Review of the minutes should be limited to one person so they can be filed within the 7 days. Changes to the minutes can be made at the subsequent meeting; the minutes of the subsequent meeting reflects the revisions. **Bill Loos**, speaking from the audience, questioned if it's legal for people serving on the board to communicate via phone or laptop to members of the audience during a meeting? Mr. Hennick suggested the optics are bad; he would suggest a board member put the electronics away during the meeting.

Paul Anderson, WPCA questioned if the minutes are submitted and a board approves them and that's what goes into the file does the public have any recourse if they want something changed? Mr. Hennick suggested a board is under no obligation to make changes requested by the public.

An **unidentified individual** questioned if there is any requirement to file amended minutes? Mr. Hennick replied negatively.

Judi Mosso, Office of Planning and Development, questioned what was the official record, the electronic/video of the meeting or the written record? Mr. Hennick indicated the written minutes are the legal record.

Regarding records, Mr. Hennick read the definition from the FOI law, the Public has the right to inspect records during regular business hours, and receive copies of records, subject to FOI fees and payment procedures. Connecticut General Statutes §1-210(a). Mr. Hennick suggested that sometimes people make decisions to provide records based on the person asking for the records. He suggested every town has difficult people. It's not about the person asking for the information, it's about the record. If it's public information give it to them. Towns or agencies can appeal requests for significant amounts of information if they feel they're being harassed.

A Town, or agency, has four (4) days to advise the requesting person when the information will be available. Courts have said promptness means "without undue delay", taking into consideration staff availability. Advise the requesting person of the anticipated timeframe to provide the information. If the information isn't provided within a reasonable time, or denied, the requesting person can file an FOI complaint.

As noted previously, e-mail is considered public information.

Mr. Hennick suggested when an office receives a records request try to narrow the scope of the request if the request is significant. An office, or agency, can charge up to \$0.50 per page for the paper copies of material requested. There is no charge for electronic copies; the Town could load information to a thumb drive. An **unidentified individual** questioned if people can take photos via cell phone; Mr. Hennick suggested people can use a handheld scanner. Mr. Hennick

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suggested there's nothing in the FOI law regarding taking photos via cell phone. As a compromise the use of the handheld scanner was suggested, with the office or agency having the ability to charge \$20. If the requesting person refuses to pay the \$20 the office or agency can refuse the taking of photos.

Jillian Hubbard questioned, with regard to records availability, is there a rule in favor of the Town or the Board of Education to withhold information on her child. Mr. Hennick suggested there are three reasons to deny information, they are *Exceptions, Exclusions, and Exemptions*. There is the Family Education Rights and Privacy Act (FERPA) which overrides the FOI law. Mr. Hennick suggested Mrs. Hubbard speak again with the school system; it's important to determine what exclusion or exemption they're citing. Mr. Hennick suggested Mrs. Hubbard speak with him after the meeting.

Mr. Hennick noted there is no list of *Exceptions, Exclusions, or Exemptions*; many times they are tucked into bills advanced through the legislature. Mr. Hennick gave examples of some of the reasons for Exceptions, Exclusions, and Exemptions:

- With regard to a law enforcement issue, you go to court and find the charges are nulled, the records will be erased. That exception overrides the FOI law.
- Home addresses of public service employees are taken off the public records, including land records, or voter lists. The exception often applies to judges, police employees, or correction officers.
- Medical or Personnel records can be withheld if disclosure is considered an invasion of the individual's privacy. Responding to questions from the audience Mr. Hennick noted employee salaries are public information; W-2 earnings are not.
- Information which would divulge trade secrets.

Mr. Hennick provided the audience with wallet-sized brochures which summarize the FOI law, and filing requiring requirements.

Mr. Hennick also provided paper copies of a brief summary of filing requirements – See **Attachment A.**

PUBLIC PARTICIPATION:

Public participation occurred throughout the meeting – see above discussion.

ADJOURNMENT:

First Selectman Bowsza ADJOURNED the Meeting at 7:00 to convene the Regular Board of Selectmen Meeting.

Respectfully submitted, _____
Peg Hoffman, Recording Secretary, East Windsor Board of Selectmen

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ATTACHMENTS: A – Summary of FOI filing requirements.

NOTICE OF MEETINGS

Type	Notice	Agenda/Notice Contents	Adding to Agenda/Notice	Filing Record of Votes	Filing Minutes
Regular	File yearly schedule with Secretary of the State (state) or Town Clerk (municipal) by Jan. 31 st **	Agenda available at least 24 hrs. before meeting. **	Agenda items may be added by 2/3 vote of those members present and voting.	Within 48 hrs. after meeting (if minutes not available within 48 hours).	Within 7 calendar days after meeting. ***
Special	At least 24 hrs. before meeting, file at Secretary of the State (state) or Town Clerk (municipal). *	At least 24 hrs. before meeting. Time, place and business must be included in notice. *	Not permitted.	Within 48 hrs. after meeting (if minutes not available within 48 hours).	Within 7 business days after meeting. ***
Emergency	None required if emergency is justified.	None required if emergency is justified.	Only emergency matters may be considered.	Within 48 hrs. after meeting (if minutes not available within 48 hours).	Within 72 hrs. after meeting. Must state reason for emergency. ***

* Available with Secretary of the State (state) or Town Clerk and in place of business. Also must be posted on agency website.

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Freedom of Information Commission

4/24/2018