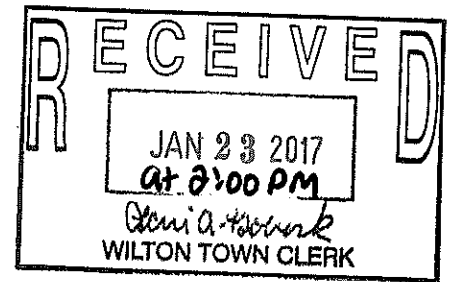


**BOARD OF FINANCE
REGULAR MEETING – January 17, 2017
MEETING ROOM B TOWN HALL**



PRESENT: Jeff Rutishauser, Peter Balderston, Richard Creeth, John Kalamarides, Walter Kress, Warren Serenbetz

Others Present: First Selectmen Lynne Vanderslice and Anne Kelly-Lenz, CFO

Call to Order

Chairman Jeff Rutishauser called the meeting to order at 7:32 p.m.

FOIA Training wit Ira Bloom

Jeff Rutishauser introduced Town Counsel Ira Bloom who presented the FOIA Training (FOIA memo is attached). Question and Answer session ensued. Mr. Bloom noted that CCM puts out training sessions from time to time and that Tom Hennick of the FOIA Commission and also offers training for Towns from time to time.

Approval of Minutes of December 20, 2016 Regular Meeting

Richard Creeth asks to amend the minutes to remove the paragraph that begins "Richard Creeth remarked on the previous meeting's public comment" as Mr. Rutishauser stated that the comment was not by the public and not on the Agenda and therefore was out of order. Public Comment section was to read "Public Comment – None" since no members of the public were in attendance and there were no public comments made. Motion moved by Jeff Rutishauser to remove paragraph from the minutes. Peter Balderston seconded and the motion carried 6-0 to amend the minutes.

Public Comment

Alex Ruskewich of Calvin Road - commented on the upcoming budget cycle and the status of school education costs and other key measures.

Marissa Lowthert , 7 year resident - thanked the Board of Finance for offering the FOIA Training with Town Counsel Ira Bloom. She spoke in more detail to FOIA and hopes the training will lead to more transparency and allow more people to participate and improve how executive sessions are held and how documents are produced. Ms. Lowthert also spoke with regard to her absence at the December 20, 2016 BOF meeting.

Discussion Related to Public Comment at Board of Finance meeting on November 15, 2016 and Board member Richard Creeth's comments at Board of Finance meeting on December 20, 2016

Before discussion with the full Board, Mr. Rutishauser made a statement regarding the public comments made by Ms. Lowthert at the November 15, 2016 BOF meeting and Mr. Creeth's comments at the December 20, 2016 BOF meeting. He stated that for his part as Chair of the BOF, he allowed Mr. Creeth to make a comment regarding Ms. Lowthert's statement at the 11/15/16 meeting on 12/20/16. As it was not on the published agenda he should not have allowed Mr. Creeth to make that statement off agenda. Mr. Rutishauser offered his apologies to the Board, to the community and to Ms. Lowthert for that mistake and opened up the discussion to the full Board for comment.

Mr. Creeth also commented on his statement made at the December 20, 2016 BOF meeting. He clarified on statements that he made and apologized for opening a subject that was not on the agenda

Minutes have not been reviewed by this Board and may be subject to revision in future minutes.

as he was unaware that it was improper to do so. He also commented on what he stated was “an omission of truth” was not correct and apologized. He stated that he was trying to correct what he perceived to be an incomplete narrative and had no intent to malign Ms. Lowthert as he inadvertently did, and he apologized.

Mr. Rutishauser asked Ms. Lowthert to comment if she wished. Ms. Lowthert thanked the BOF for their apology and accepted that apology and once again thanked the BOF for clarifying and setting the record straight.

FY18 Budget Issues

Mr. Rutishauser stated that we are at the start of budget season and wanted to note that the Board of Education has announced that their budget was a 0% increase year-over-year and that there is a presentation by the Superintendent at the Board of Education meeting on January 26, 2017 at 7:00 p.m at the Cider Mill School in the Media Room and suggested that the BOF members attend if possible.

Board discussed the budget calendar and the scheduling of the various budget meetings. Members of the BOF were to send in dates available for the BOS/BOF joint budget meeting and First Selectman Vanderslice to check with the BOS for available dates.

State Cutback in FY17 of ECS Grant and LoCIP Grant

Ms. Kelly-Lenz and First Selectmen Vanderslice reviewed the State Cutbacks in FY17. She noted that LoCIP for 2017 for approximately \$112,000 was originally a cut but the state came back and stated that it is frozen and might be still in play as opposed to completely gone. ECS Grant that was cut after budget was set was cut a further \$202,000 by the state. As of now Wilton stands to receive approximately \$463,000 out of the original \$1.4 million promised at the beginning of last year's state budget. Concerns on bonding for schools, that is a separate bond and has already been committed so cannot be cut. However, there is no guarantee that state funding wouldn't continue to be cut.

Monthly Financial Report

Ms. Kelly-Lenz asks if the Monthly Financial report could get tabled as the report has not been produced for the Board of Selectmen since they are not meeting until January 23, 2017 and she would like to have a comprehensive report for that Board first. Once the report is completed Ms. Kelly-Lenz will get it out to the Board of Finance.

Requested Approval to move Comstock Bond Proceeds Surplus to the Miller Driscoll School Building Project as per Board of Selectmen Recommendation

Mr. Rutishauser noted that the recommendation was approved at the Board of Selectmen meeting that took place on January 9, 2017 and is now been brought to the Board of Finance for approval. Ms. Kelly-Lenz noted that BOS approved the approximately \$845,000 left over in unused bonded funds from the Comstock Community Center Renovation project be used to reduce the bonds for the Miller Driscoll Building Project. First Selectmen Vanderslice officially certified to the Board of Finance that the work for which bonds are authorized and issued have been completed and the Town's financial obligations have been met. Mr. Kalamarides made the motion to approve the Board of Selectmen recommendation to move Comstock Bond Proceeds Surplus to the Miller Driscoll Building Project. Motion seconded by Mr. Serenbetz and carried 6-0.

Committee Reports

John Kalamarides – Miller Driscoll: Project is 74.49% complete. There are committed costs of \$41,700,000 as of January 12, 2017. Project is coming along well and expenses and schedule going as expected. Things are on budget and moving along.

Peter Balderston – Business Ops Subcommittee: Committee met last Thursday and got a preliminary view into what the school board is proposing for FY18 which is flat to last year (FY17). There was not a lot of detail available and have not had a chance to review what was presented last week. Mr. Balderston noted that the BOE does not have a 3-5 year projection model.

Public Participation

Ms. Lowthert commented on the Business Ops Subcommittee meeting that she attended and thanked the Board of Finance for good work that they are doing.

Mr. Ruskewich posed the question if it is possible to reach out to other schools to receive a copy of their 3-5 year projections and use it here to show that it is possible. Mr. Balderston responded to Mr. Ruskewich's question.

Having no further business, Peter Balderston moved to adjourn and the meeting ended at 9:43 p.m.

Respectfully submitted,

Jacqueline Rochester
(from video recording)

FREEDOM OF INFORMATION ACT OVERVIEW

TOWN OF WILTON BOARD OF FINANCE

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INTRODUCTION

The Freedom of Information Act (the "FOIA"), Conn. Gen. Stat. §§1-200 through 1-241, inclusive, represents Connecticut's commitment to open government and a strong policy in favor of public access to meetings and records. The laws concerning access to public meetings are strict and the Town of Wilton takes a very conservative approach in the interpretation and implementation of those laws.

Subject to narrow exceptions, the FOIA mandates that the public has access to the meetings of public agencies. The following is an overview of the FOIA to the extent it relates to the public's access to the meetings of boards, commissions, committees and subcommittees.

I. MEETINGS OF PUBLIC AGENCIES

1) What is a public agency?

Conn. Gen. Stat. §1-200 defines a public agency as any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, *including any committee of, or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official*, and also includes any judicial office, official, or body or committee thereof, but only in respect to its or their administrative functions.

Note that the definition of public agency includes any "committee" created by the public agency (i.e., a board or commission). Committees and subcommittees are subject to the same requirements of the FOIA.

2) What is a meeting?

Conn. Gen. Stat. §1-200 defines a meeting as any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power.

A conference call or other communication by means of electronic equipment may constitute a meeting (See Paragraph II 4)

In general, there is a meeting anytime a quorum of a public agency convenes to discuss or act upon a matter for which it has responsibility. But note however, that the definition actually describes three kinds of gatherings that can constitute a meeting.

3) **What isn't a meeting?**

There are several statutory exclusions in the definition of "meeting". They are:

- a) Meetings of a personnel search committee for executive level employment candidates.
- b) Chance or social meetings not for the purpose of discussing official business.
- c) Strategy or negotiations with respect to collective bargaining.
- d) Political caucuses.
- e) An administrative or staff meeting of a single-member public agency (e.g. the First Selectman).

Also note that a quorum of one public agency who are present at any event which has been noticed and conducted as a meeting of another public agency under the FOIA shall not be deemed to be holding a meeting.

4) **Do e-mail communications constitute a meeting under the FOIA?**

Yes. If distributed among a quorum of the body and the communications relate to a matter over which the body has supervision, jurisdiction, control or advisory power.

Question: Could you ever properly conduct a meeting by email communications? The Commission has stated that it is unlikely that email communications among agency members would be able to be conducted in a manner that comports with the open meeting requirements of the FOIA because those persons interested in attending the meeting would not have the opportunity to hear or see the discussion and actions as they transpired at the meeting.

5) **Types of Meetings; Notice of Meetings**

The FOIA recognizes three types of meetings.

- a) **Regular Meetings** are those for which the public agency must file a schedule with the Town Clerk by January 31 for the ensuing year. These are meeting whose times, dates and places do not typically change.
 - Agendas must be available to the public at least 24 hours in advance.
 - New business may be added to the agenda upon a 2/3 vote of the agency members present and voting.
- b) **Special Meetings** are those not included on the list of regular meetings.
 - Notice of the meeting, including the time and place and the business to be transacted must be filed with the Town Clerk at least 24 hours in advance. (Notice, as described, is the equivalent of an agenda.)

- No new business may be added.
 - Must post special meeting agenda on the Town's website.
- c) **Emergency Meetings** may be called in an emergency without advance notice (the term "emergency" will be strictly construed).
- The content of the meeting and any action taken is limited to the matter that required the emergency meeting.
 - Minutes must be filed with the Town Clerk within 72 hours.

Failure to follow proper procedures can result in voiding a public agency's action.

II. **EXECUTIVE SESSIONS**

Under certain circumstances, a public agency may exclude the public from a portion of its meeting by calling an executive session.

Executive Sessions are only allowed for:

- 1) Appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting.
- 2) Strategy and negotiations with respect to pending claims or pending litigation to which the public agency or a member thereof, because of the member's conduct as a member of such agency, is a party.
- 3) Security issues.
- 4) Discussion of the selection of a site or the lease, sale or purchase of real estate when public discussion would cause a likelihood of an increased price.
- 5) Discussion of any matter which would result in the disclosure of certain other public records (e.g., police records).

There are specific requirements for conducting business in executive session:

- 1) Only agency members may attend, except for persons invited to testify or give opinion (attendance is limited to the time during which persons are providing testimony or opinion).
- 2) 2/3 of those members of the public agency present must vote at a public meeting to go into executive session. ***Must always convene in public to go into executive session, even if the meeting is only for an executive session.***
- 3) Must state the reasons for adjourning to executive session. It is not enough to

simply recite the executive session exemption of the FOIA on which the public agency is relying. For example, in the past our boards and commissions have noticed such executive sessions simply by saying: "It is anticipated that the Board will go into executive session to discuss litigation." However, based upon Freedom of Information Commission rulings and court decisions (see Lizotte v. Town of Enfield Planning and Zoning Commission, 1999 WL 712820; Durham Middlefield Interlocal v. FOIC, 1997 WL 491574), It is recommended that the notice specify the case which is being discussed. For example, the Chairman should state the following: "It is anticipated that the Board of Finance will go into executive session to discuss the case of Bloom v. Town of Wilton." Adding the name of the case will more consistently follow the Act and the Commission's rulings.

- 4) No action taken in executive session. Only discussion is permitted. Any votes are taken in open session.
- 5) No minutes are taken during executive session. Minutes are taken only during the public portion of the meeting. The minutes of the public meeting must include the vote to go into executive session; the reason for the executive session; and the names of the persons in attendance at the executive session. The minutes should also include what time the public agency convened to go into executive session and the time it adjourned and resumed the meeting in public.

IV. MISCELLANEOUS MEETING REQUIREMENTS

1) Agendas

The FOIA doesn't provide any clear guidance as to the level of detail that is required in an agenda. However, the agenda should adequately identify the business to be transacted and the date, time and place. If possible avoid items such as:

- "Other business" or "new business" without specific items listed beneath.
- Do not use items above for special meetings (items cannot be added).
- When conducting an executive session is possible, the agenda should say "it is anticipated that the Board/Commission will go into executive session" and list potential items as specifically as possible.

2) Minutes; Filing of Minutes

Generally, minutes must be available for public inspection within seven (7) days of the meeting to which they refer (Conn. Gen. Stat. §1-225(a)). Minutes should include, at a minimum, the following:

- When the meeting was convened and adjourned.
- Time and place of the meeting.

- Which members of the public agency were present and how they voted.
- Statement of each issue discussed or acted on.
- Purpose of any executive session and who attended.

Hard copies of the minutes must be maintained and filed with the designated person in the department which oversees the particular board, commission, committee or subcommittee.

For those boards, commissions and committees for whom the Town Clerk is not the custodian of the minutes, it is nevertheless recommended that a paper copy also be sent to the Town Clerk's office to be preserved in the Town's archives.

3) Votes

The votes (as distinguished from the meeting minutes) of all members of the public agency must be reduced to writing and be available for public inspection within forty-eight (48) hours of the meeting. The votes shall be recorded in the minutes of the session at which taken.

V. Rules Governing the Conduct of Public Meetings

- 1) Members of the public have the right to attend the open portion of all meetings. Members of the public may not be required to register or sign in as a condition of attendance. The FOIA does not, by itself, give the public the right to participate in meetings.
- 2) Members of the public and the media have the right to record or broadcast meetings; however the agency may, in advance establish procedures for broadcasting.
- 3) If a member of the public creates a disturbance, the agency may remove him or her; if the disturbance persists the public agency may order the room cleared and continue in session. (The media except any members participating in the disturbance must be allowed to remain in attendance.)
- 4) Meetings may be adjourned to a specified time and place. Written notice of the time and place must be posted at the door of the place of the adjourned meeting within 24 hours of the time of adjournment. If a hearing is continued within 24 hours, posting at the place of the adjourned meeting must be immediate.