



**CONNECTICUT FEDERATION
OF
PLANNING & ZONING AGENCIES**



**SUPPLEMENTARY WORKSHOP MATERIALS ON
GOOD GOVERNANCE**

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Prepared by Steven E. Byrne
Law Office of Byrne & Byrne LLC
790 Farmington Ave., 2B
Farmington, CT 06032
(860) 677-7355
attysbyrne@gmail.com



Guidelines for Conduct of Public Meetings and Public Hearings

Freedom of Information

1. Notice of meetings must adhere to Freedom of Information (FOI) requirements, codified in the Connecticut General Statutes (CGS) at Chapter 14 Sections 1-200 to 1-241, inclusive; staff can assist in interpreting or explaining FOI requirements applicable to municipal agencies; a separate set of guidelines prepared by the Town Clerk's office is attached.
2. Public business should never be discussed between or among members of a municipal agency outside of the agency's public meeting. If members meet by chance or at social functions, they should refrain from chatting about pending agency business.
3. Site visits pose special difficulties with respect to FOI requirements. If a municipal agency conducts a site walk or inspection as an agency, it must be treated as a special meeting; notice of it must be prepared and posted, minutes must be taken, and the public must be allowed to attend, however, because of the logistical difficulty of recording individuals' statements and questions in the open and among members who may be geographically dispersed while also providing open access by the public, members should not communicate with each other to share observations or opinions during the site walk: members should make whatever notes seem appropriate and discuss them only in open meeting at the agency's regular meeting location. Having members visit or walk a property individually avoid the public meeting problem and is recommended.

Conflict of Interest, Bias and Predetermination

1. In general members of municipal regulatory agencies that have an actual or perceived conflict of interest in a matter before the agency should disclose it for the record. It is up to each member in such circumstances to determine whether a conflict exists that would disqualify him or her from consideration of the matter: a member has a right to declare that, despite an apparent or possible conflict of interest, he or she can maintain objectivity in evaluating the merits of the issue under consideration.
2. Members of municipal regulatory agencies should not publicly state a position on a matter to be considered by the agency until the matter is reviewed by the agency and comments by all members and, if a public hearing, the public are aired and considered.



Right to Enter Private Property

Regulatory municipal agencies and their members do not gain the right to enter onto private property as a condition of accepting an application, permission to enter onto private property should always be obtained from the owner; members may, however, view land or buildings from a place where they have a right to be, such as from a public road, a neighbor's yard (with permission), an airplane, etc.; binoculars may be used.

Conduct of Meetings and Hearings

1. Meetings should be conducted according to the agency's rules or bylaws, if any, and should follow the agenda; items may be added to a regular meeting agenda only by a two-thirds affirmative vote of members present and voting; no items may be added to the agenda of a special meeting.
2. Unless the agency's agenda allows for open public comment, the public has no right to speak at a public meeting; public comments should not be permitted on a matter before the agency that is not the subject of a public hearing.
3. In conducting public hearings, the agency should establish and follow a procedure for doing so; as a courtesy, the chairman should inform the public what that procedure is; it is up to the chairman to maintain order during the hearing and to keep the hearing moving; some general guidelines:
 - a. While trying to minimize redundant testimony, do not cut off or discourage speakers; when in doubt, let them speak;
 - b. Speakers must identify themselves;
 - c. An agency is not bound by rules of evidence; hearsay may be accepted but should be given less weight;
 - d. Cross-examination must be permitted;
 - e. Letters and correspondence received at public hearing should be noted for the record but need not be read aloud; there are some exceptions, such as reports from mandatory referrals to a regional planning agency;
 - f. Agency members do not have to believe expert's opinions on an issue before the agency; for example, personal knowledge of circumstances may be grounds for discrediting expert testimony; however, if members of the agency do not believe an expert's testimony, they should say so during the public hearing and state the reasons for disbelieving the expert;
 - g. Staff and other objective advisors, such as state agencies, may offer comments after the close of a public hearing so long as the comments are confined to issues raised during the public hearing; for example, the agency



- may ask staff to evaluate technical information presented at the hearing or to clarify conflicting testimony to help the agency better understand it;
- h. A hearing may be continued and should be continued if the agency requests presentation of additional or clarifying evidence or if the hearing is prolonged and/or runs late into the evening; statutory hearing deadlines must be observed.

Making Decisions

1. Municipal regulatory agencies must render decisions on applications within time limits prescribed in the Connecticut General Statutes; extensions of time limits are available with the consent of the applicant.
2. Decisions should always be based on local regulations and standards that in turn are based on applicable provisions in the general statutes, agencies should be careful not to stray into arguments and reasons that reflect public or personal sentiments that are not found in the regulations.
3. An agency should openly discuss the merits of matters before it prior to making a decision so that the record supports the agency's decision; discussion of a motion made and seconded should state the reasons for the proposed action.

Final Thoughts

If an agency encounters difficulties or questions in the course of conducting meetings or hearings, ask staff for assistance. Pending items may usually be tabled and hearings may usually be continued if assistance is not immediately available or if additional research into a question or issue is warranted.



Conflict of Interest in Zoning and Planning Matters

- I. General Statutes Sec. 8-11 and Sec. 8-21 deal, respectively, with disqualification of members of zoning authorities and planning and zoning commissions or zoning boards of appeal. Both provide that no member “shall participate in the hearing or decision of the board or commission of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense.”
 - A. “A personal interest has been defined as an interest in either ‘the subject matter or a relationship with the parties before the zoning authority impairing the impartiality expected to characterize each member of the zoning authority.’ A personal interest can take the form of favoritism toward one party or hostility toward the opposing party; it is a personal bias or prejudice which imperils the open-mindedness and sense of fairness which a zoning official in our state is required to possess... the decision as to whether a particular interest is sufficient to disqualify is necessarily a factual one and depends on the circumstances of the particular case.” Thorne v. Zoning Commission, 178 Conn. 198, 204-205 (1979); Anderson v. Zoning Commission, 157 Conn. 285, 290-291 (1968).
 - B. “The law does not require that members of zoning commissions must have no opinion concerning the proper development of their communities. It would be strange, indeed, if this were true. The decisive question in the instant case is whether Eno had actually made up his mind, in advance of the public hearing, that he was going to approve the proposed change of zone regardless of any changes or arguments in opposition which might be urged at the hearing. To discover the truth of the matter, his state of mind as a member of the commission had to be determined as a question of fact, and the burden of proving the illegality of his action was on the plaintiffs.” Furtney v. Zoning Commission, 159 Conn. 585, 594-595 (1970).
 - C. “The administration of power of that nature, whether it be denominated legislative or quasi-judicial, demands the highest public confidence. Anything which tends to weaken such confidence and to undermine the sense of security for individual rights which the citizen is entitled to feel is against public policy.” Kovalik v. Planning & Zoning Commission, 155 Conn. 497, 499 (1967).
 - D. “The test is not whether it does conflict but whether it might conflict.” Josephson v. Planning Board, 151 Conn. 489, 495 (1964).



II. Examples of disqualifying interests.

- A. The close proximity of the zoning commission chairman's parents' and sister's residences to the property involved in the application before him, and his interests on their behalf in maintaining the residential character of the locality. Thorne
- B. A member of the zoning commission had, prior to the hearing on plaintiff's application for a zone change to build a regional shopping center, made public statements favoring the plans of another company interested in another site about two miles away for a shopping center." Mills v. Town Plan & Zoning Commission, 144 Conn. 493 (1957).
- C. "A history of antagonistic action and litigation between the residents of an improvement association and the dominating figure in the ownership and operation of the applicant before the commission, in a situation in which the commission member had brought legal action against the improvement association, had a long and continuous opposition to the improvement association, and was also friendly with and associated with the applicant, who was opposed in the application by the same neighborhood association." Lake Garda Improvement Association v. Town Plan & Zoning Commission, 151 Conn. 476, 480 (1964)
- D. "The planning board member had for twelve years prior to the hearing received free desk space and telephone service from the real estate agent who negotiated the sale of the parcel under discussion by the planning board, which sale was contingent upon the approval of the particular change by the planning Board and rezoning of the area. The accommodations for the member were provided for the mutual convenience in expediting mortgage loans between the real estate man's customers and the member's insurance company employer, which had resulted in 200 or more mortgage transactions between them." Josephson
- E. "The member had taken an unequivocal position against the plaintiffs. He had written letters to political leaders stating his position and had signed and personally circulated petitions in opposition to the project. [The member] testified during the hearing before the court that he had opposed the plaintiff's project from its inception and his opposition continued until the time of his testimony." Bartik v. Colchester Zoning & Planning Commission, 6 Connecticut Law Tribune No. 25, page 19 (March 31, 1980).



- F. "The member had known the applicant for about seven years. They saw one another socially on a monthly and sometimes weekly basis. These meetings included dinner at one another's homes. Some time prior to the date of the hearing the member, the applicant and others purchased a tract of land and proceeded to sell off portions of it. All parties to the joint venture had an equal interest. The last portions of the tract were deeded away on the very day the application was tiled." Gordon v. North Branford Planning & Zoning Commission, 6 Connecticut Law Tribune No. 26, page 13 (March 28, 1980)

III. Examples of Non-Disqualifying Interests

- A. The Waterbury zoning commission is empowered to amend the zoning regulations on its own motion, although the prescribed procedure for a referral to the city plan commission and public hearings must be followed. When the zoning commission acts to propose an amendment formulated by the commission, all of its members could be said to be similarly biased as sponsors of the proposal and, therefore, disqualified from voting on it. Such an inconceivable consequence compels the conclusion that sponsorship of a legislative proposal is not the kind of personal interest the statute was intended to preclude. Ghent v. Zoning Commission, 220 Conn. 584, 595 (1991)
- B. Local governments would ... be seriously handicapped if any conceivable interest, no matter how remote or speculative, would require the disqualification of a zoning official. If this were so, it would not only discourage but might even prevent capable men and women from serving as members of various zoning authorities. Of course, courts should scrutinize with great care and condemn anything which indicates the likelihood of corruption or favoritism. They must, however, also be mindful that to abrogate a municipal action on the basis that some remote or nebulous interest may be present would be to deprive unjustifiably, a municipality, in many important instances, of the service of its duly elected or appointed officials. The court concludes that the Commissioners Baranoff and Duval, in participating both in the Haddam Little League, the ballfields committee as well as the Commission, were in a situation similar to that of Commissioner Burns in *Hold-Lock*. Their interest was not a personal bias or prejudice, nor does the record reflect that their open-mindedness was imperiled. To hold otherwise would be to seriously limit the work of municipalities, who must rely on interested volunteers for much of their work. Brooks v. Haddam PZC, 26 Conn. L. Rptr. 397 (1998).



Highlights of the Freedom of Information Act Connecticut General Statutes Sec. 1-200 et seq.

What is a Public Meeting

Under the Connecticut Freedom of Information Act (FOIA), “[m]eeting” means:

1. “any hearing or other proceeding of a public agency,”
2. “any convening or assembly of a quorum of a multimember public agency,” and
3. “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.**”

Members of the public have a right to attend any meeting of a public agency by simply showing up at the meeting place. A public institution cannot require that a member of the public sign in or provide personal information, like their address or telephone number in order to attend a public meeting.

While the public has a right to attend public meetings, members of the public do not have a right to speak at such meetings. As a courtesy, however, a public institution may permit members of the audience to comment at a designated time during a public meeting. The public has a right to tape record, photograph and broadcast public meetings, “as inconspicuously as possible and in such a manner as not to disturb the proceedings of the public [institution].” It should also be noted that public institutions may remove disruptive members of the audience pursuant to the FOIA.

Types of Public Meetings

There are three types of public meetings under the FOIA; **Regular, Special, and Emergency.** As discussed below, each type of public meeting has specific requirements under the FOIA.

Regular Meeting

Regular meetings of public institutions are regularly recurring meetings whose times, dates and places are set forth in a schedule of regular meetings filed with the Secretary of State by January 31 of each year and made available for public inspection at the institution’s regular office or place of business.

Special Meeting

A **Special** meeting is a meeting a public institution determines it must conduct before the next regular meeting and for which it must provide at least twenty-four (24) hours advance notice by making such notice available for public inspection at the institution’s regular office or place of business.



Emergency Meeting

An **Emergency** meeting of a public institution is a meeting which the public institution determines must be convened within twenty-four (24) hours; therefore, insufficient time for notice of a special meeting. Note that there must be a bona fide emergency necessitating the meeting within 24 hours.

Non-Public Meetings and Executive Sessions

Non-Public Meetings “‘Meeting’ does not include:”

1. “[a]ny meeting of a personnel search committee for executive level employment candidates;”
2. “any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business;”
3. “strategy or negotiations with respect to collective bargaining;”
4. “a caucus of members of a single political party notwithstanding that such members also constitute a quorum of a public agency;”
5. “an administrative or staff meeting of a single-member public agency; and”
6. “communication limited to notice of meetings of any public agency or the agendas thereof.”

Executive Sessions

“Executive session” means “[a portion of a] meeting of a public [institution] at which the public is excluded for one or more of the following purposes:

- (A) Discussion concerning the 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;
- (B) 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 until such litigation or claim has been finally adjudicated or otherwise settled;
- (C) matters concerning security strategy or the deployment of security personnel, or devices affecting public security;
- (D) discussion of the selection of a site or the lease, sale or purchase of real estate by the state or a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would adversely impact the price of such site, lease, sale, purchase or construction until such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned; and
- (E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) or section 1-210.”



Only public institution members may attend an executive session portion of a public meeting, with the exception of persons invited to testify or give opinion. However, the attendance of a person invited to testify or give opinion during the executive session portion of a public meeting is limited to the time such persons are providing testimony or opinion. Members of a public institution must vote in public, by at least 2/3rds of those present and voting, to convene in executive session, and must state the purpose for executive session.

Notices

Regular Meeting Notice

Public institutions are required to annually file by January thirty-first (31) or each year, the schedule of its regular meetings in the Office of the Secretary of the State.

Special Meeting Notice

The special meeting notice must be given not less than twenty-four hours prior to the time of such meeting by filing the notice... at institution's regular office or place of business. "The notice [must] specify the time and place of the special meeting and the business to be transacted."

Emergency Meeting Notice

A public institution may hold an Emergency meeting without complying with the notice requirements under the FOIA, if there is a bona fide emergency justifying such emergency meeting.

Agendas

A meeting agenda must "fairly appraise the public of the action proposed" and of the "matters to be taken up at the meeting in order to [permit the public] to properly prepare and be present to express their views." An executive session listed on agenda must also fairly apprise the public of the reason for such session. Thus, an agenda item stating "Executive Session – Personnel Matters" is inadequate and more specificity is required based on Freedom of Information Commission (FOIC) final decision precedents.

Regular Meeting Agenda

A public institution must make the agenda of its regular and special meetings available to the public at least twenty-four (24) hours before the meetings to which they refer in such [institution's] regular office or place of business, Members of a public institution must vote in public, by at least 2/3rds of those present and voting, to add any business to the agenda to be considered and acted upon at such regular meeting.



Special Meeting Agenda

A public institution must make the agenda of its special meetings, detailing the business to be transacted, available to the public at least twenty-four (24) hours before the meetings to which they refer: in such institution's regular office or place of business. Note that no other business may be added or considered at such special meeting.

Emergency Meeting Agenda

A public institution may hold an Emergency meeting without complying with the agenda requirements under the FOIA, if there is a bona fide emergency justifying such emergency meeting. Note, however, that only emergency matters may be considered at such emergency meeting.

Minutes

The FOIA requires that the following be included in the minutes of a public institution:

1. Time of convening and adjournment.
2. Date and place of the meeting.
3. Names of institution members attending and how they voted on each issue.
4. Statement of each issue discussed or acted on.
5. Purpose of any executive session and who attended such executive session.

Regular Meeting Minutes

Minutes of a public institution's regular meeting must be made available for public inspection within seven (7) days of such meeting. Such minutes must adequately set forth the reason/agenda for the meeting and the business transacted at such meeting.

Special Meeting Minutes

Minutes of a public institution's special meeting must be made available for public inspection within seven (7) days of such meeting. Such minutes must adequately set forth the reason for the special meeting and the business transacted at such meeting.

Emergency Meeting Minutes

Minutes of a public institution's emergency meeting must be made available for public inspection within seventy-two (72) hours of such meeting. Such minutes must adequately set forth the reason for the emergency meeting and the business transacted at such meeting.

Record of Votes

A record of institution member votes must be "reduced to writing and made available for public inspection within forty-eight [(48)] hours." Note that the record of institution member votes must also be included in the minutes of public meetings.



Public Meetings Chart for Public Institutions

TYPE	NOTICE	AGENDA/ NOTICE CONTENTS	ADDING TO AGENDA/ NOTICE	FILING RECORD OF VOTES	FILING MINUTES
Regular	File yearly schedule with Sec'y Of State (state) or Town Clerk (municipal) by Jan.31 st .**	Agenda available at least 24hrs. 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 Sec'y Of 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.

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

*** Must be posted on agency website if a state agency.



Rules on Making and Amending Motions

How to Make a Motion

1. **Rise to address the presiding officer** – Address him by title, as “Mr. President” or “Mr. (or Madam) Chairman.”
2. **You are recognized by the presiding officer** – He states your name or nods to you. Now you “have the floor.” You are the only member entitled to present or discuss a motion at this time.
3. **You propose a motion** – Introduce the motion by saying “*I move that,*” followed by a statement of the proposal. This is the correct way to say it. You cannot discuss the motion until it has been seconded by someone.
4. **Another member seconds the motion** – Another member, without rising or addressing the chairman, may say, “I second the motion.” Seconding a motion means that at least two people want to consider the motion. If no one seconds, the chairman may ask, “Is there a second to the motion?” If there is none, he must declare, “The motion is lost for want of a second.”
5. **The presiding officer states the motion** – When the motion has been properly made and seconded, the chairman repeats it to the group, or “states the motion.”
6. **The members discuss or debate the motion** – After your motion has been stated by the chairman, any member may discuss it. He must get the floor as you did when you made your motion. Normally the first person who asks to speak is recognized. When several members wish to speak at the same time, these guiding principles should determine the decision of the chairman.
 - a. The chairman should show preference to the one who made the motion.
 - b. A member who has not spoken has first choice over one who has already spoken.
 - c. If the chairman knows the opinions of members discussing the measure, he should alternate between those favoring and those opposing it.
 - d. The chairman should recognize a member who seldom speaks in preference to one who often claims the attention of the assembly.
7. **The presiding officer takes the vote on the motion** – When all members have finished discussing the motion, the chairman “puts the motion to a vote.” He may, before taking the vote, ask, “Is there any further discussion?” If no one rises, the discussion is closed. The chairman will take the vote by announcing, “All in favor of the motion (STATE THE MOTION) say ‘Aye’.” Following response from the members, the chairman says, “Those opposed say ‘No’.” If the chairman cannot tell from the volume of voices which way the majority has voted, he says: “The chair is in doubt. Those in favor of the motion please rise.” After counting, he says: “Be seated. Those opposed, rise. Be seated.” Other methods are to call for a show of hands or a written ballot.



8. **The presiding officer announces the result of the vote** – The chairman states, “The motion is carried” or “The motion is lost.” As soon as the vote has been announced by the chairman, another motion is in order.

How to Change a Motion

When you want to change a motion that is on the floor, you say, “I move to amend the motion by (and state your change).” There are three ways to change a motion.

Addition – Add something to the motion.

Subtraction – Strike something from the motion at hand.

Substitution – Combine the first two methods by striking out something and inserting something else in its place. The substitution portion may be a word, a phrase, a clause, or an entirely new motion. But remember that an amendment must have direct bearing on the main motion.

An amendment may be opposed to the actual intent of the original motion. However, if it relates to the same subject matter, it is in order.

Types of amendments

Amendment of the First Rank – An amendment to a motion.

Amendment of the Second Rank – An amendment to the amendment. It must modify and relate directly to the amendment and NOT to the main motion. Otherwise, it is OUT OF ORDER. It is never in order to propose more than one amendment of each rank at one time. If you want to amend two separate and unrelated parts of a motion, you must propose two amendments of the first rank, but the first one must be voted upon before you propose the second. It is possible to have a motion, one amendment to the motion (amendment of the first rank), and one amendment to the amendment (amendment of the second rank) before the meeting at the same time.

Order of voting – Amendments are voted upon in order before the group can consider the main motion.

The amendment to the amendment (amendment of second rank) is discussed and voted on.

After discussion the vote is taken on the amendment to the motion (amendment of first rank).

After discussion on the original motion *as amended*, a vote is taken on it.



CREDITS TO SOURCES

Except for that portion of this booklet which addresses Conflict of Interest, the materials have been prepared by persons other than myself. Thus, credit is given as follows:

The 'Guidelines for Conduct of Public Meetings and Hearings' comes from the corporation counsel's office for the town of Plainville Connecticut. A copy of this document is distributed to all new municipal officials and agents.

The "Highlights of the Freedom of Information Act" is taken from a document prepared by Board of Regents for the Connecticut State Colleges and Universities. Entitled "Freedom of Information Act – Public Meeting Guide", it applies equally well to municipal land use agencies.

Finally, the section on "Rules for Making and Amending Motions" comes from a pamphlet prepared by the Cooperative Extension Service of the University of Connecticut. Originally prepared for the 4 H Club, it has found its way to a larger audience.