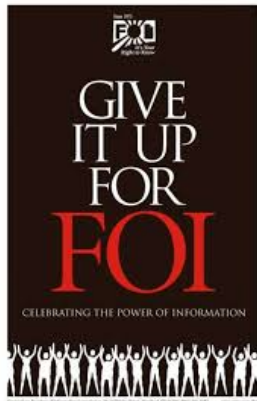


# Town of Avon

## FREEDOM OF INFORMATION ACT



ETHICS  
&



PUBLIC MEETINGS



# Speaker:

## KARI L. OLSON

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# Disclaimer

This presentation contains educational material that provides only a general overview. This presentation and materials do not constitute legal advice. Please contact us if you would like specific legal advice.

A graphic featuring the text "Freedom OF Information ACT" in a dark blue, serif font. The text is centered and overlaid on a background of red, white, and blue stripes, reminiscent of the American flag. The word "OF" is smaller and positioned between "Freedom" and "Information". The word "ACT" is flanked by two horizontal lines.

# Freedom OF Information —ACT—

# FREEDOM OF INFORMATION ACT: Gen. Stat. 1-200 et seq.

- **PURPOSES OF FOIA**
  - FOIA provides the public the right to **attend “meetings”** of and obtain **“public records”** from all **“public agencies”** with certain enumerated exceptions.
  - Promotes open government.



# Public Agency

- “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 with respect to its or their administrative functions.”

VERY BROAD – generally any person or group that serves a public function

# Open Meeting Requirements

- FOIA provides the public the right to receive information about and to attend meetings of public agencies.
- Meetings: means 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.

# Meetings Defined

- The assembly or convening of a quorum of a public agency; and/or
- Communications to or from a quorum of a public agency when the purpose is to
- Discuss or act upon any matter over which the public agency has supervision, control, jurisdiction or advisory power



# What is a QUORUM?

- In general, it is a majority of the members of a given public agency.
- May be defined differently by your Charter or Ordinances



- Note: The requirement of a quorum stems from the desire that no decisions of substance be made by an unrepresentatively small number of members.

# QUORUM REQUIREMENTS

- No substantive action may be taken at any meeting absent a quorum.
  - \*Can set the time and place for the next meeting
- If you lose your quorum, any substantive business must cease.
- Can resume business only when enough members return to have a quorum.



# Meetings

- Meetings can occur anywhere – intentionally or otherwise:
- Town Hall
- Your home
- Dairy Queen
- Telephone
- Email
- Text message, skype, internet chat, etc.



# PUBLIC MEETING EXCEPTIONS

Sometimes a quorum is not a meeting:

- Any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business;
- A personnel search committee for executive level employment candidates;
- Strategy or negotiations with respect to collective bargaining; or
- A caucus of members of a single political party.

# Other Exceptions

- Communications to or from a quorum about the time and place of a meeting.
- Communications about the published agenda.
- Attendance by a quorum at a noticed meeting of another public agency.
- Administrative or staff meetings of a single-member public agency.

# Caucusing

- Members of a single political party may meet to discuss party strategy, even if the meeting would otherwise constitute a quorum.
- The presence of third parties can negate the caucus.



# Access to Meetings

Per FOIA, Access to Public Meetings Requires;

- Public notice of the meeting
- Public notice of the agenda
- Access to meeting minutes
- Right to attend and observe the meeting
- No registration requirements at meetings
- Right to record, photograph and broadcast



THERE IS NO RIGHT TO SPEAK OR BE HEARD

If you allow public comment, must allow all to speak

# Types of Public Meetings

- Regular Meetings
- Special Meetings
- Emergency Meetings





# Regular Meeting

- **Notice:** Filed with the Town Clerk by Jan. 31 of each calendar year.
- **Agenda:** 24 hours prior to the meeting.
- **Other business:** Added by a separate, 2/3 vote of those present.
- **Minutes:** Within 7 days

# Special Meeting

- **Notice:** Filed with the Town Clerk at least 24 hours prior to the meeting.
- **Agenda:** 24 hours prior to the meeting.
- **Other business:** Cannot be added.
- **Minutes:** Within 7 days.

# Emergency Meeting

- **Notice:** None. Must be a bona fide emergency such that 24 hours notice is impossible.
- **Agenda:** None.
- **Other business:** None.
- **Minutes:** Within 72 hours.
  - Must describe the nature of the emergency.

# Moving & Rescheduling

- Relocating a meeting:
  - 30 days advance notice to Town Clerk if possible.
  - Post notice on door at time & place.
  - Last minute changes due to large crowds or facility problems.

# Agendas and Minutes

- All notices, agendas and minutes should be posted on the Town's website, if available.
- **Agendas:** Adequate to give notice to members of the public of the business that is planned to be transacted at a given meeting



# Agendas and Minutes

- Minutes:
  - Time & Place
  - Members Present
  - Business transacted
    - *Including any votes by member*
  - Executive session
    - *Including reason, but exclude detail of discussion.*
  - Time adjourned

# Notice of Votes

- Separate from the minutes requirements, notice of votes must be written and available for public inspection within 48 hours of any meeting

# Executive Sessions

- Exclude the public for specified reasons only
- 2/3 majority must vote in open session to enter executive session.
- Must state applicable basis
- Can invite others into executive session to provide information only. Must be excused once relevant participation concludes





# Bases For Executive Sessions

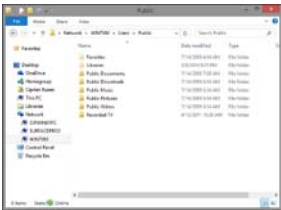
1. Appointment, employment, performance, evaluation, health or dismissal of a public officer or employee.
  - *Officer or employee can require open session.*
2. Strategy or negotiations with respect to pending claims or pending litigation.
  - *Not general legal advice*
3. Security strategy or the deployment of security personnel.
4. The selection of real estate for purchase, sale or lease.
  - *Where public disclosure is likely to affect price.*
5. Discussion which would result in the disclosure of exempt public records

# Executive Session

- Third parties may be present to provide information or opinion.
  - *Must be limited to time period necessary.*
- Cannot vote in executive session.
- Minutes must provide notice of basis for executive session, but need not disclose protected information

# Public Records

- Records or files of public agencies, including minutes of meetings, are considered “public records.”
- Must be made available to the public for inspection or copying
- Includes all types of records:
  - Typed, handwritten, tape recorded, printed, photographed or stored electronically.
  - *Recommend not using personal email or computer for public agency business. Create a separate account.*
  - Memoranda, letters, emails, voicemails, and texts.
  - Documents received and retained by the public agency



# Public Records Requests

- No required form or magic words must be used.
  - The Town may require requests be in writing.
- Documents may be inspected during regular business hours.
- Must respond “promptly.”
  - Depends on size & urgency of request.
  - Depends on size & other priorities of public agency.
- Always acknowledge requested within 4 business days

# Public Records Requests

- May charge up to \$0.50 per page for copies.
  - No charge to inspect.
  - Handheld scanners are allowed, but may charge.
- Additional fees may apply for certified copies.
- May require prepayment for fees of \$10.00 or more.
- May charge actual costs for unusual public records

# Public Records Requests

- Practical advice:
  - Respond promptly even if production will take awhile.
  - Mention possibility of applicable exemptions.
  - Can offer to narrow request for a quicker or less expensive response.
  - No obligation to “create” public records where non exist.

# Disclosure Exemptions

1. Preliminary drafts or notes where the public interest in withholding such documents clearly outweighs the public interest in disclosure;
2. Personnel or medical files under certain conditions;
3. Certain law enforcement records, including arrest records of juveniles and some witness and victim identification information;
4. Records relating to pending claims and litigation;
5. Trade secrets and certain commercial or financial information under certain conditions;
6. Test questions used to administer licensing, employment or academic examinations;
7. Real estate appraisals and construction contracts until all of the property has been acquired;
8. Personal financial data required by a licensing agency;
9. Records relating to collective bargaining;

# Disclosure Exemptions

10. Records relating to collective bargaining;
11. Tax returns and communications privileged by the attorney-client relationship;
12. Names and addresses of public school students;
13. Information obtained by illegal means;
14. Certain investigation records of reported misconduct in state government or names of state employees who report such misconduct to the state Attorney General or Auditors;
16. Certain adoption records; Election, primary, referenda and town meeting petition pages, until certified;
17. Certain health authority complaints and records;
18. Certain educational records;



# Disclosure Exemptions

19. Certain records, when there are reasonable grounds to believe disclosure may result in a safety risk;
20. Certain records, if disclosure would compromise the security or integrity of an information technology system;
21. Records of personnel search committees need if they would identify executive level employment candidates without their consent;
22. Address of participant in a confidentiality program;
23. Certain e-mail address obtained by DOT;
24. Name or address of a minor enrolled in a parks and recreation program;
25. Response to RFP, until contract is awarded, if CEO certifies public interest in disclosure is outweighed by public interest in confidentiality; and
26. Names and contact information of persons enrolled in senior center program.

# Request for Personnel, Medical or Similar Files (C.G.S. § 1-214)

- May be exempt for disclosure if
  1. Not a matter of public interest;
  2. Constitutes a undue invasion of privacy; and
  3. Individual objects.
- Give individual and union notice of request immediately.
- Seven (7) business days to file a written objection.
- Objection on a form provided by the Agency
  - Must be signed under penalties of false statement, that to the best of his or knowledge, information and belief, there is a good grounds to support objection and that objection is not interposed for delay

## Other Provisions to Note

- Non- Disclosure of Uncorroborated Allegations of Criminal Activity  
Conn. Gen. Stat. § 1-216
- Non-Disclosure of Residential Addresses of Certain Individuals  
Conn. Gen. Stat. § 1-217



# What is Ethics?

- A moral code that governs a person's or group's behavior



- *Synonyms: moral code, morals, morality, values, rights and wrongs, principles, ideals, standards (of behavior), value system, virtues, dictates of conscience*
- *The concept is very broad*
- *Focus today is on “professional” ethics; how you conduct yourself within the realm of your public service*

# Why Do We Care?

- Like it or not, you are engaged in public service, whether elected or appointed, paid or volunteer
- You are subject to enhanced scrutiny of your moral character
- You are required to comply with State and local laws regarding ethics
- The failure to act properly could have legal, employment, financial and/or embarrassing consequences

# The Purpose of Ethics Rules

- Ensure governmental decisions and policies are made through the proper channels.
- Prevent public office from being used for personal gain.
- Promote public confidence in the integrity of its government.

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- Ensure governmental decisions and policies are made through the proper channels.
- Prevent public office from being used for personal gain.
- Promote public confidence in the integrity of its government.



# Purpose of Ethics Rules

- By and large, the purpose of ethics rules in the professional context are achieved by avoiding

## CONFLICTS OF INTEREST



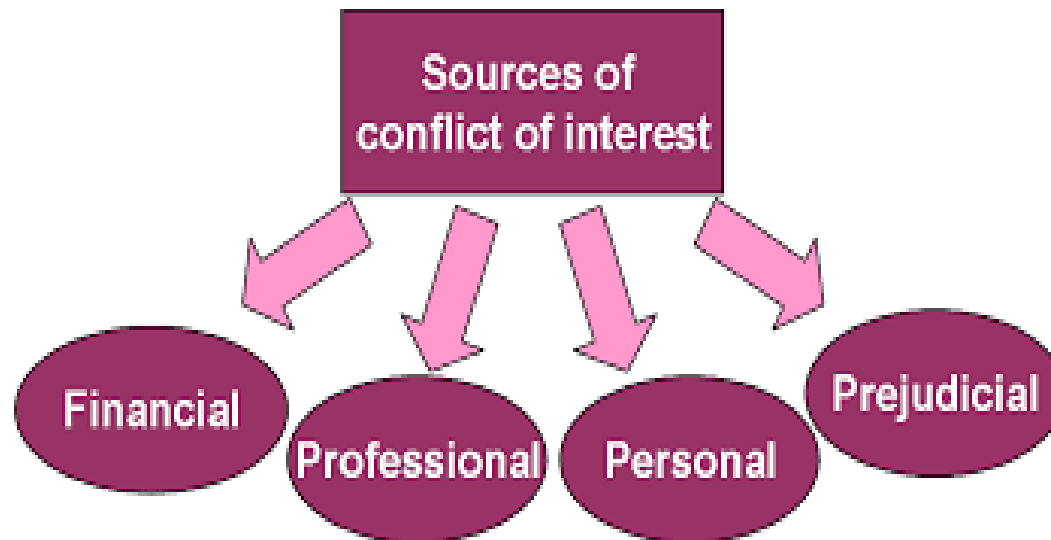
# CONFLICTS OF INTEREST

- Generally speaking, ethics rules are designed to avoid actions when the action presents a conflict of interest for the actor
- What is a conflict of interest?
  - A term used to describe the situation in which a public official or fiduciary who, contrary to the obligation and absolute duty to act for the benefit of the public or a designated individual, exploits the relationship for personal benefit, typically but not always pecuniary



# TYPICAL SOURCES OF CONFLICTS OF INTEREST

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- 



# Conflicts of Interest -Generally

Conflict of interest : Acting in one's official capacity, when one has

1.a ***personal interest***, such as a matter involving a ***close relative or business associate or your career***; or

2.a ***financial interest***; or

3.a ***personal bias or predilection that prevents you from being objective.***

# CONFLICTS OF INTEREST

- Can be Perceived or Actual
  - Not all personal interests represent a conflict of interest
- Can be difficult to identify
- Can be even harder to define by rule



# Perceived Conflicts of Interest

- Situations that present a conflict but for which there is no real improper influence.
  - Example: You are in charge of hiring and your mother-in-law applies for a job
  - She is the most qualified candidate
  - You hire her based upon merit
  - In fact, you HATE your mother-in-law



# Appearance of Impropriety

- Standard applied to judges and others by statute and common law
- Means that there need be no rule that specifically prohibits your conduct but, nonetheless, you must consider what a reasonable member of the general public would think.
- “The **appearance of impropriety** is a phrase referring to a situation which to a layperson without knowledge of the specific circumstances might seem to raise ethics questions. For instance, although a person might regularly and reliably collect money for her employer in her personal wallet and later give it to her employer, her putting it in her personal wallet may appear improper and give rise to suspicion, etc. It is common business practice to avoid even the appearance of impropriety.”
- Bottom Line: It is something to AVOID!

# Appearance of Impropriety

Have to consider what is best for the Town. Sometimes you have to swallow hard and take the “high road.”





# ACTUAL CONFLICTS OF INTEREST

- Conflicts expressly forbidden by rule or policy
- Conflicts not expressly forbidden but for which you are improperly influenced in your decision

\*Requires introspection



*"So, I'm the only one who sees a conflict of interest here?"*

# **ACTUAL CONFLICTS OF INTEREST: LAWS GOVERNING ETHICS**

- State Code of Ethics (Conn. Gen. Stat. § 1-79, et seq.)
- Statutory Agency Code of Ethics (e.g., Conn. Gen. Stat. Sections 7-148t, 8-11 and 8-21).
- Municipal Code of Ethics
- Case law
- International City/County Management Association (ICMA): [https://icma.org/sites/default/files/ICMA%20Code%20of%20Ethics%20%28Amended%20June%202017%29\\_0.pdf](https://icma.org/sites/default/files/ICMA%20Code%20of%20Ethics%20%28Amended%20June%202017%29_0.pdf)

# Avon Ethics Policy

- Like many towns, Avon prescribes ethical standards of conduct for public officials and employees
- Town Policy No. 19
- Also, a few state statutes (General Statutes § 7-148t, 8-11 and 8-21)



# Avon Ethics Policy

## I. Declaration of Policy

The Town Council and the Board of Education of the Town of Avon deem it to be in the best interests of the Town and its citizens that all elected and appointed officials of the Town, the Board of Education, and all commissions, committees, authorities and other governmental entities of the Town and the Board of Education be independent, impartial and responsible, that public office not be used for personal gain, and that citizens have confidence in the integrity of their government.

In recognition of these goals, the Town Council has adopted these standards of conduct.

# Avon Ethics Policy Definitions

II. Definitions; The following definitions shall apply to these standards of conduct.

A. "Board Entity" is defined as the Avon Board of Education and any other commission, committee, authority or governmental entity of the Board of Education.

B. "Business" is defined as a corporation, partnership, limited liability company, partnership, joint venture, sole proprietorship or any other person or entity that operates on a for-profit or not-for-profit basis.

C. "Conflict of Interest" is defined as an interest or relationship of a Public Official that has resulted or may result in a violation of these standards of conduct or the standards of conduct or conflict-of-interest rules of the State of Connecticut, the Town Charter or any Municipal Entity.

D. "Dependent" is defined as (i) a person under the age of eighteen who resides with a Public Official or (ii) a person who would qualify as a dependent on a federal income tax return.

# Avon Ethics Policy Definitions Cont'd

E. "Gift" is defined as anything of value given or paid to a Public Official, except:

1. A non-pecuniary gift of nominal value;
2. An award publicly presented in recognition of public service;
3. Meals, accommodations and/or registration or entrance fees in connection with meetings or events in which the Public Official participates in his or her official capacity;
4. A gift that would have been offered or given even if the recipient were not a Public Official;
5. A political contribution otherwise reported as required by law; or
6. Food and beverages consumed on a single occasion.

F. "Municipal Entity" is defined as a Town Entity or a Board Entity.

G. "Public Official" is defined as (i) the Town Manager, the Superintendent of Schools and the Town Treasurer, (ii) any person elected by the voters who serves without compensation on a Municipal Entity, and (iii) any person appointed by the Town Council or Board of Education who serves without compensation on a Municipal Entity.

H. "Spouse" is defined as a person to whom a Public Official is related by marriage, civil union or domestic partnership.

I. "Town Entity" is defined as the Town Council, the Board of Finance, the Board of Assessment Appeals, the Planning and Zoning Commission, the Zoning Board of Appeals, the Building Code Board of Appeals, the Water Pollution Control Authority, the Inland Wetlands Commission, and any other commission, committee, authority and governmental entity of the Town with the exception of a Board Entity.

# Prohibited Activities

- A. Gifts to Officials. No Public Official shall solicit or accept a Gift from any person or entity that is interested in a matter pending, or anticipated to become pending, before the Public Official or a Municipal Entity of which the Public Official is a member.
- B. Contracts with Town or Board of Education. No Public Official and no Business in which a Public Official has an ownership interest of more than 1% may provide, or contract to provide, goods or services to any Municipal Entity in exchange for payment or other consideration. For purposes of this Section B, goods or services shall not include employment by a Municipal Entity.
- This restriction shall remain in effect for one year following the termination of office of a Public Official.

# Disqualification of Officials

- C. Except as qualified below, no Public Official shall vote, otherwise participate on behalf of a Municipal Entity or communicate with another Public Official or employee of the Town or Board of Education concerning any matter or proceeding in which the Public Official has a Disqualifying Interest.
- For purposes of this provision, a "Disqualifying Interest" is defined as:
  - 1. A personal or financial interest of a Public Official or of the Spouse or Dependent of the Public Official;
  - 2. The financial interest of a Business of which the Public Official or the Spouse or Dependent of the Public Official is an officer or director, or in which the Public Official or the Spouse or Dependent of the Public Official has a financial interest (other than a less than 1% equity interest in a company whose shares or other units of equity are publicly traded)



Ethical standards apply to ***ALL*** Town officers, board or commission members and employees.

- Includes ***all*** Town employees, full time and part time.
- Includes ***any*** person holding government office, elected or appointed.
  - (Except justices of the peace.)
- Includes ***all*** members of commissions, boards, committees, subcommittees, etc.

# Conflicts of Interest

- *Conflict of interest* : Acting in one's official capacity, when one has
  1. a *financial interest*, or
  2. a *personal interest*, such as a matter involving a *close relative or business associate*.
  3. A *predilection or bias* that will improperly influence your action inconsistent with the best interests of the town.

# Personal Conflict of Interest

## Example

- You are the new Mayor
- You are charged with appointing various commission and board members for the Town
- A particular resident is seeking appointment to the ethics board
- He is well qualified for the job as he sits on the State Ethics Board
- He did not vote for you in the last election and is in a different registered political party
- You know he is the right person for the job and would benefit the Board but you don't like him and want to stick it to him because he did not vote for you.

# Conflicts of Interest - Close Relative or Business Associate



- A relationship that would tend to **influence improperly** that individual's **judgment**, in his official capacity, on a particular issue or item.
- New Britain: Immediate family means any spouse, dependent children, parent (birth or adoptive), or dependent relatives who reside in the individual's household.
- West Hartford – Blood or marriage relationship
- Some towns are even more specific – e.g. Norwalk: IMMEDIATE FAMILY: Includes, but is not limited to, a spouse, child, grandchild, brother, sister, in-law, parent or grandparent, stepparents and stepchildren, or persons who reside in the same household.
- **Bottom Line: Would you tend to favor or disfavor the individual based upon your familial or personal relationship?**

# Conflicts of Interest – Client Example

- You are a member of the Board of Assessment Appeals.
- You are also a dentist and most of your patients reside in town.
- You are slated to hear a current patient's appeal of his/her real estate taxes

# Financial Conflicts

May not have a financial interest in Town matters. Applies to any:

- Contract with the Town,
- Sales to the Town,
- Purchases from the Town, or
- Compensable services involving the Town.



# Financial Conflicts

- Includes outside employer or close family member.
- Includes interest as a principal, surety, officer, or partner in a company.
- Exception for competitively-bid contracts.

# Use of Town Property

May not ***use*** or ***permit the use*** of:

1. Town funds,
2. Town services, or
3. Town property, equipment or materials

Except for proper purposes of the Town.





# Use of Town Property - Example

- You are the town building inspector.
- In order to perform your daily activities, you are given a municipal car.
- Rather than drive back to the town hall after making afternoon inspections, you occasionally use the municipal car to commute to/from work.

# Confidential Information

- No Public Official may use confidential information concerning the property, government or affairs of the Town or Board of Education to advance his or her personal or financial interests or the personal or financial interests of the Spouse or Dependent of the Public Official, and, except as required by law, no Public Official may, without proper authorization, disclose such confidential information to unauthorized persons.

# Confidential Information

- Can't ***disclose*** confidential information concerning the Town's property, government business or affairs to others.
- Can't ***use*** confidential information for private benefit of self or others.

**CONFIDENTIAL**

# Confidential Information

- Knowing that the Town may buy or develop a piece of land, acquire adjoining property which is likely to increase in value.
- Advise a friend or family member about plans to develop or acquire a piece of land, so they may benefit similarly.

## Gifts, gratuities and favors

May not ***accept*** or ***solicit*** for personal gain any:

1. improper favor,
2. service, or
3. item of value

If doing so may tend to ***influence improperly*** your performance of Town duties.



# Gifts

"Gift" is defined as anything of value given or paid to a Public Official, except:

1. A non-pecuniary gift of nominal value;
2. An award publicly presented in recognition of public service;
3. Meals, accommodations and/or registration or entrance fees in connection with meetings or events in which the Public Official participates in his or her official capacity;
4. A gift that would have been offered or given even if the recipient were not a Public Official;
5. A political contribution otherwise reported as required by law; or
6. Food and beverages consumed on a single occasion.



# Appearance on Behalf of Private Interests

- Code
- Statutes



# Improper Representation

- No Public Official may appear on his or her own behalf or on behalf of any other person or entity before a Municipal Entity of which the Public Official is a member.
- No Public Official who receives compensation for services to the Town may appear on behalf of a private interest (other than his or her own interest or the interest of a member of the official's immediate family) before any Municipal Entity.
- No Public Official(or, if the official is an attorney, no attorney within the law firm of the Public Official) may for compensation represent or advise a person or entity with respect to a matter that is pending or is expected to be pending in the future before a Municipal Entity of which the Public Official is a member.



# Improper Representation - statutory

Statutes govern those who are a current member of

1. Land Use Boards
2. Boards with purchasing power
3. Zoning Board of Appeals, or
4. Planning and Zoning Commission

May ***not*** appear before either body, even on own behalf.

Must ***recuse (disqualify)*** self from any matter involving a personal or financial interest.

# Conn. Gen. Stat. §7-148t

- Conflict of interest for members of land use and purchasing commissions and boards.
  - “No member of any municipal commission or board having any jurisdiction or exercising any power over any municipal land use or purchasing decisions shall appear for or represent any person, firm, corporation or other entity in any matter pending before the commission or board.
  - “No member of any such commission or board shall participate in any hearing or decision of the board or commission of which he is a member upon any matter in which he knowingly has a pecuniary interest.”

# Conn. Gen. Stat. § 8-11

- Disqualification of members of zoning authorities.
  - No member of any zoning commission or board and no member of any zoning board of appeals or of any municipal agency exercising the powers of any zoning commission or board of appeals . . . shall **appear for or represent** any person, firm, corporation or other entity in any matter pending before the planning or zoning commission or board or said board of appeals or any agency exercising the powers of any such commission or board in the same municipality, whether or not he is a member of the board or commission hearing such matter.
  - No member of any zoning commission or board and no member of any zoning board of appeals 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.

# Conn. Gen. Stat. § 8-21

- Disqualification of members in matters before planning commissions.
  - No member of any planning commission and no member of any municipal agency exercising the powers of any planning commission . . . **shall appear for or represent** any person, firm or corporation or other entity in any matter pending before the planning or zoning commission or zoning board of appeals or agency exercising the powers of any such commission or board in the same municipality, whether or not he is a member of the commission hearing such matter.
  - No member of any planning commission **shall participate** in the hearing or decision of the commission of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense.

# Land Use Example

- You are chair of the planning and zoning commission.
- An application for a quarry comes before your commission.
- The zoning regulations allow quarries in your town subject to a special permit, and thus, your commission is given broad discretion to allow them.
- You own property near the quarry and do not believe quarries should be allowed in your town.
- Any issue with you sitting on the commission and voting on the applicant's special permit application for a quarry?

## If you *have* a conflict of interest – what should you do?

- May not act in any official town capacity to influence or affect the matter.
- Must “recuse” (disqualify) yourself from participating in the matter:
  - Voting or making a determination.
  - Discussing the matter on or off the record.
- May not in ***any*** way condone, promote, encourage, influence or otherwise attempt to affect action.
- May not act in ***any*** way that will or may conflict with your Town duties.

# Disclosure Required

- If participation in a prohibited matter or proceeding would otherwise come within the scope of the Public Official's official responsibility, the official shall, in addition to declining to participate, disclose the nature and extent of his or her Disqualifying Interest to the applicable Municipal Entity, and the disclosure shall be reflected in the minutes of the meeting of the Municipal Entity at which the disclosure is presented.



# How do I know if I have a conflict of interest?

- What does your local code or general statute say?
- Where there is no express rule, ask yourself, “Can I make a fair determination and not be influenced by the suspect relationship?”
- Remember: Appearance of Impropriety.
- Follow your avenues for assistance and/or ask the Town Manager or the Town Attorney for assistance.





# Help!

- Upon the request of a person who is either a resident of the Town or is liable to the Town for taxes on the most recent Grand List or upon its own initiative, the Town Council, the Board of Education, the Town Manager or the Superintendent of Schools may request an advisory opinion from the Town Attorney concerning a possible Conflict of Interest

Advisory  
Opinion

# Annual Disclosures



- Within 30 days following his or her election or appointment and no less frequently than annually thereafter, every Public Official shall provide to the Town Clerk in writing the following information with respect to the Public Official:
  - 1. The names and addresses of all Businesses in which the Public Official or the Spouse or Dependent of the Public Official is a director, officer, owner, employee, compensated agent, or holder of stock that constitutes one percent or more of the total outstanding stock of any class. For purposes of this disclosure, a compensated agent shall be obligated to identify only those Businesses that individually, during the preceding 12 months, provided compensation to the agent that represented more than 20% of the agent's total gross income for that period.
  - 2. The names and addresses of current employers and current position titles, and name and addresses of any other employer during the prior five years and the last position titles of the Public Official with any such prior employers.
  - 3. The addresses of all real property located in the Town of Avon that is owned, in whole or in part, by the Public Official or the Spouse or Dependent of the Public Official or held in the name of any trust or other entity for the benefit of the Public Official or the Spouse or Dependent of the Public Official.
  - 4. Any lease or other contract with the Town of Avon or any Municipal Entity held or entered into by the Public Official.

# Violations and Penalties

Possible repercussions include:

1. Termination of employment,
2. Removal from office,
3. Civil Fine
4. Censure, and
5. Possible voiding of contract, transaction or decision.



# Violations and Penalties Statutory

Various criminal statutes can apply, including the following:

- Larceny, including defrauding a public community of any value. Larceny in the first degree is a Class B felony.
  - See Conn. Gen. Stat. § 53a-122.
- Bribe Receiving. Class C Felony.
  - See Conn. Gen. Stat. § 53a-148.
- Receiving kickbacks. Class D Felony.
  - See Conn. Gen. Stat. § 53a-161c.



1. Remember the purpose of ethics rules
2. Know what rules or statutes apply
3. Be introspective
4. Remember the appearance of impropriety
5. When in doubt – seek assistance
6. Always guard your integrity jealously



# How to Run Legal and Effective Public Meetings



# Public Meetings

- To be effective, public meetings must:
  - Be Legal (FOIA and other rules or statutes)
  - Follow Proper Procedure (Robert's Rules)
  - Treat Everyone Equally and Fairly
  - Avoid Disruption



# PRELIMINARY CONSIDERATIONS

- Running an effective meeting requires advance planning
- Give your agenda appropriate attention
- Disseminate relevant information in advance



# Getting Started

- Run your meetings on time
- Follow the meeting rules



# ORDER OF BUSINESS / AGENDA

- The chair guides the meeting through the order of business. A typical order of business might be:
- 1. Call to Order
- 2. Roll call; seating of alternates
- 3. Reading of the minutes of the previous meeting, amendment and approval;
- 4. Hearing the reports of standing committees;
- 5. Hearing of the reports of select committees;
- 6. Consideration of unfinished business;
- 7. Consideration of new business;
- 8. Approval of bills for payment;
- 9. Setting the time and place for the next meeting;
- 10. Setting the preliminary agenda for the next meeting; and
- 11. Adjournment.

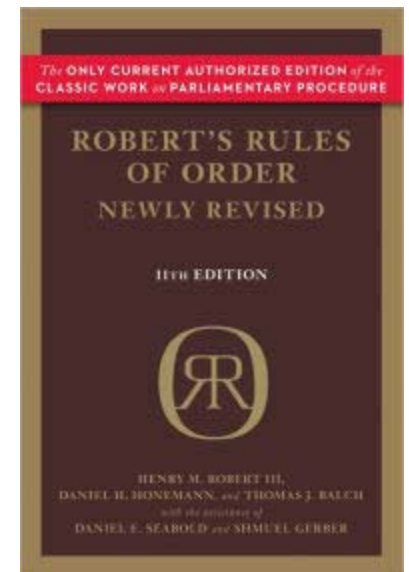
# Alternates

- Seating Alternates  
Who chooses? – Ordinance? Other law?
- Alternate Participation
  - \*Meetings
  - \*Public Hearings
  - \*Deliberations



# ROBERT'S RULES OF ORDER

- Typical parliamentary procedure
- Used by many towns, boards and commissions
- Business is conducted through the use of formal motions



# Four Basic Types of Motions

1. **Main Motions**: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and must yield to privileged, subsidiary, and incidental motions.
2. **Subsidiary Motions**: Their purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
3. **Privileged Motions**: Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
4. **Incidental Motions**: Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

## How are Motions Handled?

- Motions are always addressed to and handled by the Chairman
- Motions Should be stated in the affirmative, e.g. "I move that we ..." rather than, "I move that we do not ...".
- Motions must be seconded before discussed. Unless volunteered, the chair calls for a second. If there is no second, the motion is lost.
- If the Motion is seconded, deliberation ensues
- After deliberation, the chair “puts” the question to the board:  
  
“The question is on the adoption of the motion to.....(state the motion exactly)”

# Example

- On the agenda is the board's consideration of whether to accept a proposed road ("Park Place") in a subdivision as a public road.
- The chairman "Susan" calls the agenda item.
- The developer or town staff presents the proposal to the board
- Board member "Joe": "I move that we accept Park Place as a town road."
- Board member "Mary": "I second"
- Susan: Is there discussion?
  - Board member discussion of the proposal ensues or, if not further discussion, the motion is put to a vote

# Closing the Debate

- Motion for the Previous Question
- Requires 2/3 vote





# Voting on a Motion

The method of vote on any motion depends on the situation and the by-laws of policy of your organization. There are three methods used to vote in most public meetings:

**1.By Voice:** The Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for an exact count.

**2.By Roll Call:** Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.

**3.By General Consent:** When a motion is not likely to be opposed, the Chairman says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.

# Consent Agendas

- Appointment of commission/board members
- Resignation of commission/board members
- Tax refunds



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# Vote Requirements

- Majority – majority of those voting.  
Example: 9 members  
2 abstain from voting  
Only 4 affirmative votes required to adopt the motion.
- Two-Thirds Vote – of those voting
  - Suspend the Rules
  - Limit or extend debate
  - Amend agenda
- Majority of Membership – Majority of Entire Board regardless of vote
  - Motions to Rescind or Amend previously adopted motion.

**\*Note – the number of votes necessary to affirm or deny a motion may be defined differently by your rules or state law.**

# Vote Requirements

- Policy
- State Law
  - FOIA
  - Land Use
  - Overturning ZEO Order
  - Zoning Amendment upon Petition



# Who Can Vote?

- Every Member whose right to vote has not been formally suspended
- Chair only votes by ballot or when her or his vote will change the outcome of the vote.
  - Example: All other member votes results in tie. Chair casts the final vote.
  - Example: 2/3 vote required, if one less than 2/3 votes in favor, chair may vote to pass the motion. Conversely, if one less than 2/3 votes in the negative, chair may cast negative vote to defeat the motion
- Should not vote if you have a conflict of interest

# Amending a Motion

- Make a motion to amend.
- Amendment must be GERMANE
- Must be seconded.
- Read the amended question.
- Vote on the amendment
- If the amendment passes, the question becomes whether to adopt the original question as amended.  
If not, the original question remains pending.



# Example

- Motion pending on whether to accept Park Place as a public road.
- Board Member “Ron”: “I move that we amend the Motion to only accept Park Place upon the posting of an appropriate bond by the developer to ensure its proper construction.”
- VERSUS
- Board Member “Ron”: “I move that we amend the Motion to accept Park Place but oppose any proposed mill rate increase.”

# Changing the Vote

- Finality – Out of order to address the same matter over and over.
- Motion to reconsider – Can only be made by a member who voted IN FAVOR of the original motion if it was adopted or by a member who voted AGAINST if the motion was defeated.
- Must be made at the same meeting.
- Must be seconded.
- If Motion to Reconsider is granted, the original motion is again on the table for consideration.





# After-the Fact Changes

- Motion to Rescind or Motion to Amend
- Can be made at any subsequent meeting
- If no prior notice of the intent to make such motion, then adoption of such motion requires: 2/3 vote, or the vote of a majority of the entire membership of the voting body.



Whichever number is smaller at the time.

- If prior notice is given (i.e. placed on the agenda) then a simple majority is all that is required to adopt the motion.

# Enforcing the Rules

- Duty of the chair to enforce the rules
- Point of order!
- Chair rules on the point of order
- Claimant can appeal chair's decision to the entire board
- Motion to Suspend the Rules
  - Requires 2/3 vote



# Dealing with Disruptive or Inappropriate Behavior

**DEAL PROPERLY AND PROMPTLY WITH DISRUPTIVE BEHAVIOR.**



# The Unruly Public

- Announce the Ground Rules at the outset.
  - Examples – time limits on speaking and subject matter limitations.
- Time limits on speaking.
  - Must enforce fairly
- Request that speakers not repeat information/positions already provided.
- Make sure your rules provide grounds for ejection from the meeting, whether the disruption is caused by the member of the public or a fellow board member

# Discipline of Fellow Board Member

- *Call the member to order*
- *Name the offender*
- *Seek penalties*
  - *A motion that the member must apologize*
  - *A motion that the member must leave the hall during the remainder of the meeting*
  - *A motion to censure the member – public reprimand*



# Other Parliamentary Considerations

## **CONTROL THE FLOOR.**

- All speakers should be recognized by the Chair before speaking
- All concerns, considerations and questions from or to the public should be presented through the Chair.

## **FOLLOW YOUR AGENDA**

## **STICK TO YOUR RULES OF PROCEDURE**

## **TREAT EVERYONE EQUALLY WELL**

# ADJOURNED!





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