



Providing information, education and assistance to land use decision makers, in support of balancing growth and natural resource protection.

Land Use Commissioner Training Webinar – Module 7

<https://landusecommissionertraining.com> | Center for Land Use Education and Research (uconn.edu)

October 17, 2024



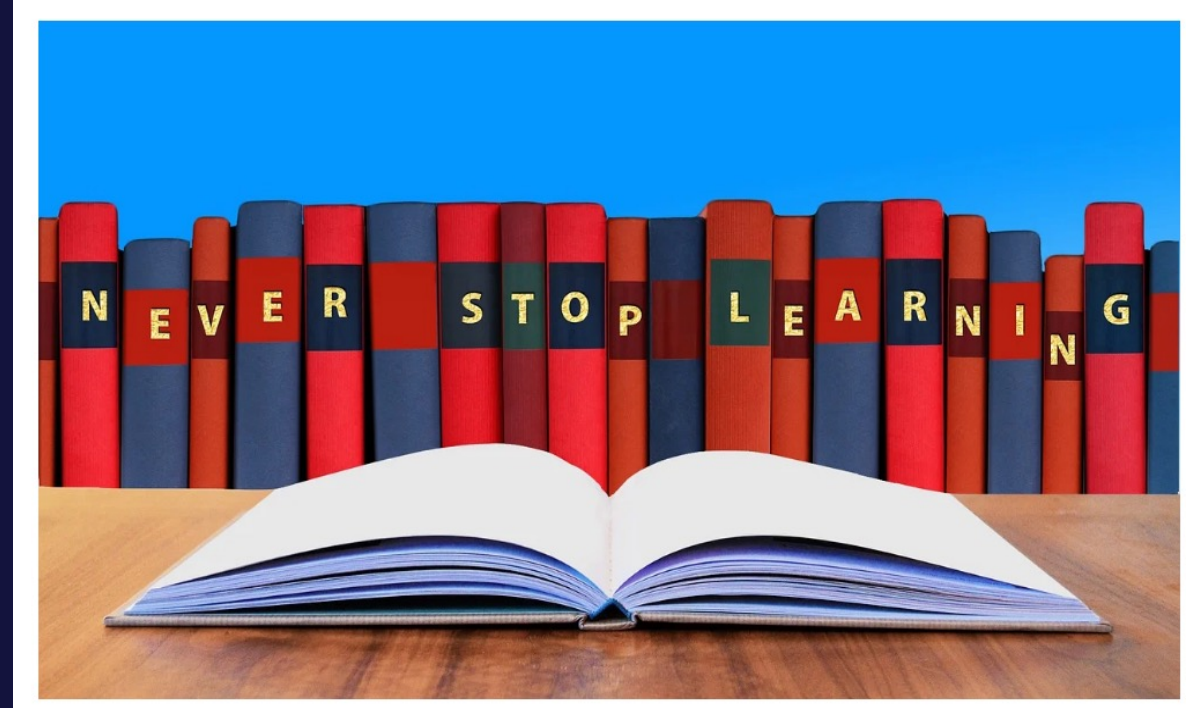
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Basic Training for Connecticut Land Use Commissioners

Important Information

- Training is not legal advice
- More training at:
<https://clear.uconn.edu/training/land-use-commissioner-training/>
- Training is recorded
- Slides and recording will be posted
<https://clear.uconn.edu/lua/>
- Interactive / use polling and chat
- Let's have fun!



- Attendance will be confirmed via email after each webinar
Please keep copy of the email for your records

About This 2024 Webinar Series

- Third Thursday of each month except for August
- 30-40 min duration
- Attendance will be confirmed via email after each webinar / **Please keep copy of the email for your records**
- Completing Basic Training (such as CLEAR LUA) is strongly recommended by the OPM to new members



Recap

So far, we covered:

- Legal Basis for Land Use Regulations
- Commissioner Training Requirements (Planning, Zoning, ZBA, Inland Wetlands and Watercourse and Aquifer Protection Commissions)
- Types of Power of Land Use Commissions
- Zone Change and Regulation Amendments v. Special Permit v. Site Plan
- Responsibilities / Fundamental Fairness
- Running a Meeting

Recap

So far, we covered:

- Role and Participation of Alternate Commission/Board Members
- Best Practices when Conducting Site Walks
- Public Hearings
- Conflict of Interest
- Bias and Predisposition

Webinar Overview: Topics Covered Today

- FOIA
- Representation by the members of the Commission
- Social Media

Upcoming Webinars -

Nov 15, Dec 20, 2024 –

Fundamentals of Site Plan Reading

Freedom of Information Act

FOIA is a complex law with numerous court interpretations of its application.



[FOIA.gov](https://www.foia.gov)

- Federal FOIA - 1967
- Connecticut FOIA - 1975

The basic function of the Freedom of Information Act is to ensure informed citizens, vital to the functioning of a democratic society.

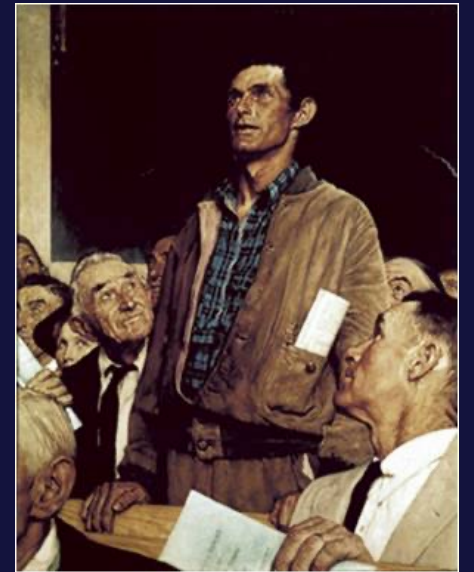
Freedom of Information Act

The Connecticut Freedom of Information Act is a series of laws enacted in 1975 that guarantee public access to public records and public meetings of governmental bodies in Connecticut. It ensures that the general public has the right to access information or data related to the conduct of public business in the state.

Selected statutes:

[Chapter 14](#) Freedom of Information Act

- [Sec. 1-200](#). Definitions.
- [Sec. 1-205](#). Freedom of Information Commission
- [Sec. 1-210](#). Access to public records. Exempt records.
- [Sec. 1-215](#). Record of an arrest as public record. Exception.
- [Sec. 1-225](#). Meetings of government agencies to be public. Recording of votes. Schedule and agenda of meetings to be filed and posted on web sites. Notice of special meetings. Executive sessions.
- [Sec. 1-231](#). Executive sessions.
- [Sec. 1-241](#). Injunctive relief from frivolous, unreasonable or harassing freedom of information appeals.



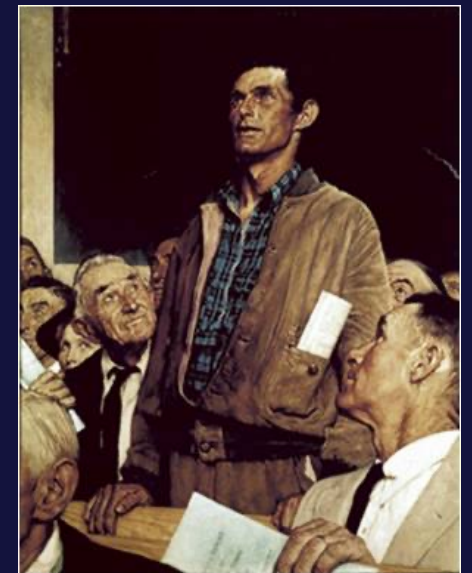
Freedom of Information Act

- What constitutes a public meeting and public records is defined in the statutes

Selected statutes:

Chapter 14 Freedom of Information Act

- [Sec. 1-200](#). Definitions.
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Chapter 14 - Freedom of Information Act

- “Meeting” 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.
- There are exemptions.
- Meetings of public agencies conducted by electronic equipment (virtual and hybrid meetings) are regulated under FOIA



pollev.com/snazzytree942

- Once logged in you will be prompted to next question automatically each time a new question is asked

**If not noticed as a public meeting under FOI,
which of the following may constitute an
illegal meeting of a commission?**

1. A chance social gathering of a quorum of the members
2. A planned meeting of a quorum of the commission members all from one political party
3. A quorum of the commission discussing a pending application while standing in the parking lot after a meeting
4. An email exchange among a quorum of the commission discussing a pending application

If not noticed as a public meeting under FOI, which of the following may constitute an illegal meeting of a commission?

A chance social gathering of a quorum of the members

0%

A chance social gathering of a quorum of the members

0%

A quorum of the commission discussing a pending application while standing in the parking lot after a meeting

0%

An email exchange among a quorum of the commission discussing a pending application

0%

If not noticed as a public meeting under FOI, which of the following may constitute an illegal meeting of a commission?

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Site Walks



- Site walks are “meetings” and are subject to all of the FOIA requirements pertaining to meetings, including posting of agendas in advance and allowing the public to attend
- “Meetings” may include gatherings of less than a quorum of the agency if the participating members have the ability to act on behalf of the agency (specifically the ZBA)
- Even if a non-quorum gathering of members is not a “meeting,” doing this still can potentially raise questions about ex parte communications
- Site walks that occur after the commencement of a public hearing must be recorded

Site Walks – Best Practices

- Must be noticed. It is a meeting.
- No comments or questions, take notes
- Public and applicants may attend
- Stay together
- Do not conduct site walks after public hearing has closed
- Does everyone have the same information?



Emails disclose Stonington school board's misplaced priorities



Published January 06, 2020 7:29PM | Updated January 07, 2020 7:48AM

By **The Day Editorial Board**

Stonington school board member Alisa Morrison tried to do the right thing. For years, female high school students ~~have~~ complained to administration officials ~~about~~ what they considered invasive and inappropriate touching by a male teacher and coach, yet the teacher long remained in place.

school system. It was disclosed only because of the digging of Wojtas, who used the state's Freedom of Information Commission law to access emails between board members in their capacities as public officials.

Two Words About Social Media

- **DO NOT** post your feelings about a project/application/applicant on Facebook/twitter/snapchat/etc.



Ex parte Communications

- Should be avoided
- How to respond if someone approaches you in a restaurant, store, at a party, etc.
- What to do if someone tells you something outside the meetings and you can't avoid it



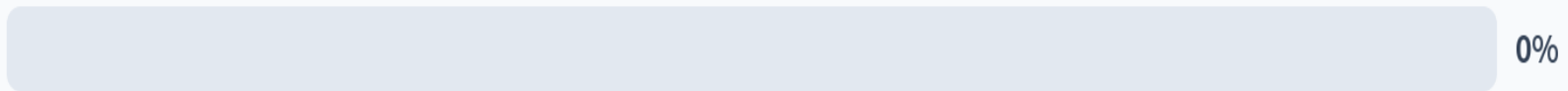
A planning commission member may represent his/her neighbor at a zoning commission hearing so long as he/she declares that he/she is a member of the planning commission but is not acting in that capacity.

1.TRUE

2.FALSE

A planning commission member may represent his/her neighbor at a zoning commission hearing so long as he/she declares that he/she is a member of the planning commission but is not acting in that capacity.

TRUE



FALSE



A planning commission member may represent his neighbor at a zoning commission hearing so long as he declares that he is a member of the planning commission but is not acting in that capacity.

- 1. TRUE**
- 2. FALSE**

What the State Statutes say

- CGS 8-11 Disqualification of members of Zoning Commission and Zoning Board of Appeals
- CGS 8-21 Disqualification of members in matters before planning commissions
- CGS 22a-42(c) Municipal regulation of wetlands and watercourses

What the State Statutes say

- **Sec. 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, whether existing under the general statutes or under any special act, 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. In the event of such disqualification, such fact shall be entered on the records of the commission or board and, unless otherwise provided by special act, any municipality may provide by ordinance that an elector may be chosen, in a manner specified in the ordinance, to act as a member of such commission or board in the hearing and determination of such matter, except that replacement shall first be made from alternate members pursuant to the provisions of sections 8-1b and 8-5a.

What the State Statutes say

- **Sec. 8-21. Disqualification of members in matters before planning or zoning commissions or zoning board of appeals. Replacement by alternates.** No member of any planning commission and no member of any municipal agency exercising the powers of any planning commission, whether existing under the general statutes or under any special act, 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. In the event of such disqualification, such fact shall be entered on the records of the commission and, unless otherwise provided by special act, replacement shall be made from alternate members pursuant to the provisions of section 8-19a, of an alternate to act as a member of such commission in the hearing and determination of the particular matter or matters in which the disqualification arose.

What the State Statutes say

- 22a-42(c) On or before July 1, 1988, each municipality shall establish an inland wetlands agency or authorize an existing board or commission to carry out the provisions of sections 22a-36 to 22a-45, inclusive. Each municipality, acting through its legislative body, may authorize any board or commission, as may be by law authorized to act, or may establish a new board or commission to promulgate such regulations, in conformity with the regulations adopted by the commissioner pursuant to section 22a-39, as are necessary to protect the wetlands and watercourses within its territorial limits. The ordinance establishing the new board or commission shall determine the number of members and alternate members, the length of their terms, the method of selection and removal and the manner for filling vacancies in the new board or commission. No member or alternate member of such board or commission shall participate in the hearing or decision of such 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. In the event of such disqualification, such fact shall be entered on the records of such board or commission and replacement shall be made from alternate members of an alternate to act as a member of such commission in the hearing and determination of the particular matter or matters in which the disqualification arose. For the purposes of this section, the board or commission authorized by the municipality or district, as the case may be, shall serve as the sole agent for the licensing of regulated activities.

Legal and Procedural Considerations-Special Mention

**When in doubt, call the town
attorney**



Questions?



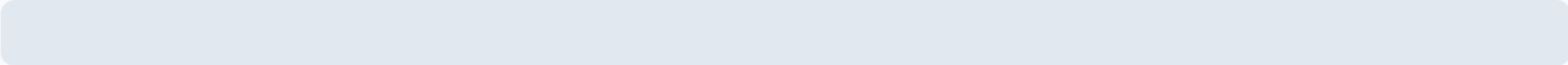
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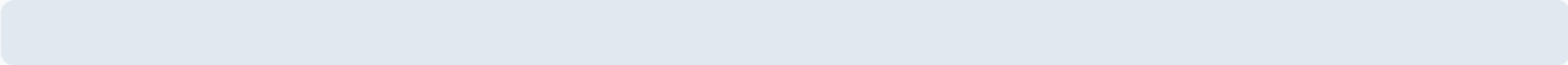
My knowledge of FOIA, Social Media and Representation by Commission

Significantly improved



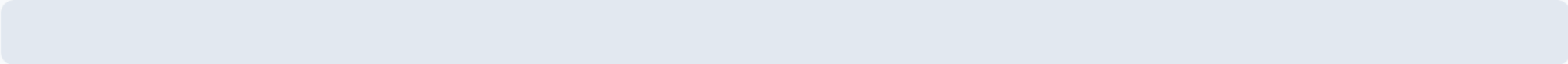
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Somewhat improved



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Did not change



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