

1. AMENDED AGENDA_BET Law Comm. Meeting Agenda_03-15-2022

Documents:

[AMENDED AGENDA_BET LAW COMM MEETING AGENDA 03-15-2022.PDF](#)

2. BET Law Comm. Meeting Packet_03-15-2022

Documents:

[BET LAW COMM MEETING PACKET 03-15-2022.PDF](#)

3. SUB_TO_APP_BET Law Comm. Meeting Minutes_03-15-2022

Documents:

[SUB_TO_APP_BET LAW COMM MEETING MINUTES_03-15-2022.PDF](#)

4. APPROVED_BET Law Comm. Meeting Minutes_03-15-2022

Documents:

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**BET LAW COMMITTEE
REGULAR MEETING**

**Tuesday, March 15, 2022 - 9:00 A.M.
Law Department Conference Room**

AMENDED AGENDA

1. Executive Session
 - Discussion of Legal Strategy for pending litigation for the following matters:
 - Birdies Restaurant II, LLC v. Town of Greenwich
 - Erika Casas v. Town of Greenwich and Greenwich Board of Education
 - Fludd v. Berry, et al.
 - Jackson v. Town of Greenwich, et al.
 - Mason v. Town of Greenwich, et al.
 - Teresa Massey, ppa Alesha Pivalo v. Town of Greenwich and Greenwich Board of Education
2. Approval of Minutes:
 - February 14, 2022 - Regular Meeting
 - February 24, 2022 - Special Meeting
3. Old Business
 - COVID19 Update
 - Year to Date Law Department Budget Update
 - Discussion of Potential Post Road Tree Plantings
4. New Business
5. Recent Court Filings
6. Adjournment

The next meeting of the BET Law Committee is scheduled for April 13, 2022 at 3 PM and will be either a virtual meeting, hybrid meeting, or in-person meeting, depending on the status of COVID restrictions.

The Town complies with all applicable federal and state laws regarding non-discrimination, equal opportunity, affirmative action, and providing reasonable accommodations for persons with disabilities. If you require an accommodation to participate, please contact the Commissioner of Human Services at 203-622-3800 or demetria.nelson@greenwichct.org as soon as possible in advance of the event.



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**TOWN OF GREENWICH
BOARD OF ESTIMATE AND TAXATION
LAW COMMITTEE
REGULAR MEETING MINUTES**

Monday, February 14, 2022
Law Dept. Conference Room

Committee: Karen Fassuliotis, Chair, Stephen Selbst

Law Department: Barbara Schellenberg, Town Attorney, Abby Wadler, Assistant Town Attorney

BET: Laura Erickson, Leslie Moriarty, Dan Ozizmir, Jeff Ramer, Leslie Tarkington

Guests: Christina Downey, Board of Education, Toni Jones, Superintendent, Board of Education

The Chair called the meeting to order at 3:06 P.M.

1. Approval of the Minutes

Upon motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the members approved by a vote of 2-0-0 the Minutes of the Special Meeting of the Law Committee held on December 23, 2021 and the Regular Meeting of the Law Committee held on January 13, 2022. Both motions carried by a vote of 2-0-0.

2. Old Business

Covid 19 Update. Town Attorney Schellenberg reported that although some employees had been working remotely during the spread of the omicron variant, all were now working on site. She noted that masks in Town Hall would become optional after February 18, 2022.

Budget Update. Ms. Schellenberg reported that the Law Department continues to monitor outside counsel fees and noted that in the event of the settlement of any of the pending claims or cases against the Town, there may be a need for an additional appropriation.

3. New Business

Peluso v. Town of Greenwich. Ms. Schellenberg reported that Aamina Ahmad of the Law Department was arguing the pending appeal before the Connecticut Supreme Court in *Peluso v. Town of Greenwich*, a case where the Town had successfully won dismissal of the lawsuit and the dismissal of which had been affirmed by the Connecticut Appellate Court.

Claims Review Process. Abby Wadler of the Law Department briefed the Law Committee on the Town's claim review process. Ms. Wadler reviews all claims as they come in and notifies PMA Companies, which is the outside firm used by the Town as a claims administrator. PMA monitors reserves set for lawsuits, coordinates notice to insurance carriers

where necessary and also conducts investigations of claims when requested. PMA also maintains a database of pending claims and cases involving the Town.

Ms. Wadler advised the Law Committee that if the claim is not complex, the Law Department may conduct its own investigation, but if the claim is complex, it may request PMA to assist in the investigation. If the claim can be resolved for less than \$5,000, the Law Department may settle the claim. If a settlement exceeds \$5,000, approval is sought from the Office of the First Selectman, the BET Law Committee, the BET Budget Committee and the Representative Town Meeting.

FOI Update. Ms. Schellenberg reported that Aamina Ahmad of the Law Department was investigating whether meetings between caucuses from the same political party, but comprised of members from different bodies, such as the BET and Board of Education could hold private meetings, or whether such meetings were subject to the Connecticut Open Meetings Law. Ms. Schellenberg reported that she expected that there would be a memorandum on this issue next week.

Post Road Tree Planting Indemnification Clause. Margarita Alban of the Planning & Zoning Commission and JoAnn Messina of the Greenwich Tree Conservancy made a presentation to the Law Committee on the proposal for an indemnity in favor of the State of Connecticut for the planting of trees along US-1 in Greenwich. Under the program, the Greenwich Tree Conservancy would make gifts of the trees, and would obtain insurance for the trees, which would be planted along the sides of US-1. US-1 is owned by the State of Connecticut, which is requiring an indemnity. The Law Committee reviewed the form indemnity agreement approved by the City of Norwalk. Leslie Moriarty of the BET questioned whether the BET should be accepting this liability. Leslie Tarkington of the BET asked whether there is a deductible on the insurance. Leslie Moriarty asked whether the Town could accept this liability be adopting as part of the budget. It was suggested that the Law Department ask Aamina Ahmad for advice on the liability issue. The Risk Manager, Megan Damato, will also be consulted.

Fiscal Year 2023 Budget. Town Attorney Schellenberg reported that the Law Department budget contained contractual increases for permanent and temporary staff. The salaries reflect an increase of 0.6%, with no increase in headcount. She also reported that the professional services portion of the budget consisted of outside counsel fees and expert services. Because the Town's Grand List is being revalued this year, she estimated that there may be approximately 150 tax appeals. The retainer agreement for the Town Attorney was changed in May 2021 and approved by the Office of the First Selectman. It calls for an increase of approximately 7.3% over fiscal 2022. Ms. Schellenberg reported that the budgeted amount for the Town Attorney was \$200,000, but that actual billings were typically not that high.

Preliminary Review of Fiscal Year 2023 Budget Resolutions. The proposed fiscal year 2023 budget resolutions were distributed at the meeting, but the Chair determined to defer consideration of the budget resolutions until the Law Committee had an opportunity to review them.

Department Legal Services Budgets.

Human Resources Department. Mary Pepe of the Human Resources Department reported that the department uses Shipman & Goodwin for all human resource issues, and that its fees were paid out of the Human Resources Department budget. It also uses Shipman & Goodwin for grievance issues, and that those fees were part of the labor budget of the Office of

the First Selectman and overseen by Ben Branyan. Human Resources also investigates complaints; if they are routine, the department may investigate them. If they are complex, the department notices the Law Department and the investigation is conducted through the Law Department.

Board of Education. Dr. Toni Jones, the Superintendent of Schools, made a presentation on behalf of the Board of Education. She explained that the BOE tried to resolve claims informally and internally, but where those efforts are unsuccessful, the BOE will coordinate with the Law Department and outside counsel. Claims where outside counsel may be required include Title IX claims, student discipline issues, special education issues and human resource issues. She also reported that Shipman & Goodwin had been used for some litigation and negotiations. Under BOE Policy 91-25, the Board of Education is permitted to retain its own counsel. Law Committee chair Karen Fassuliotis suggested that BOE Policy 91-25 may conflict with section 235 of the Town Charter and suggested that the Board of Education should review that issue with the Town Attorney.

4. Recent Court Filings. Town Attorney Schellenberg reported that there are two new cases, 1) *Leysa v Benson et al.*, which alleges a failure to accommodate in employment and employment discrimination claims, and 2) *Los v Rondini et al.*, a federal civil rights case alleging false arrest.

Mr. Stephen Selbst, the Law Committee voted 2-0-0 to go into executive session at 4:27 p.m. to discuss pending cases and claims.

5. Executive Session. Upon a motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the Committee entered an executive session to discuss pending litigation at 4:27 p.m.

Upon a motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the Committee exited the executive session at 6:12 p.m.

6. Adjournment. Upon a motion made by Mr. Selbst, seconded by Ms. Fassuliotis, the Committee voted unanimously to adjourn the meeting at 6:12 p.m. Motion carried.

Respectfully submitted,

Stephen Selbst, Recording Secretary

Karen Fassuliotis, Chair, Law Committee

**TOWN OF GREENWICH
BOARD OF ESTIMATE AND TAXATION
LAW COMMITTEE
SPECIAL MEETING MINUTES**

Thursday, February 24, 2022
Law Dept. Conference Room

Committee: Karen Fassuliotis, Chair, Stephen Selbst
Law Department: Aamina Ahmad, Assistant Town Attorney
BET: Leslie Tarkington

The Chair called the meeting to order at 9:06 A.M.

1. Review of FY2023 Budget Resolutions

Prior to the meeting, Ms. Fassuliotis had circulated the proposed FY2023 budget resolutions. At the meeting, the Law Committee considered whether to approve a resolution to authorize the acceptance of gifts of landscaping material and cash to augment the landscaping at Greenwich High School. Following discussion, the members of the Law Committee that gifts of trees would be covered by Resolution 49, which authorizes gifts of trees by the Greenwich Tree Conservancy. As to gifts of cash and/or landscaping services, the Law Committee determined that any such future gifts should be given to the Parks and Recreation Department 501(c)(3) entity with instructions for their use.

The Law Committee also considered whether to approve a resolution authorizing the Department of Public Works to accept cash gifts in connection with the Glenville Center Neighborhood Improvement project. At the meeting, the Law Committee noted that the proposed resolution was unclear as to the amount of gifts requested to be authorized (and any appropriate limits), and asked for a better definition of the project, one that would be more clearly tied to the Department of Public Works' capital plan. Ms. Ahmad agreed to liaise with the Department of Public Works for additional information regarding the requested resolution, and tabled further consideration of the resolution at this time.

The members of the Law Committee next considered whether to approve grants to the Board of Education under ESSER-3 funding without further BET or RTM approval. In light of the substantial size of the expected ESSER-3 grants, the Law Committee determined that any ESSER-3 grants should be subject to the existing resolution for approval of ESSER-3 grants from the State of Connecticut or Federal government (BET and RTM approval).

Upon motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the members approved by a vote of 2-0-0 the proposed FY2023 budget resolutions as presented with a few minor scrivener changes.

2. FY2023 Law Department Budget

Ms. Fassuliotis said that after speaking with Town Attorney Barbara Schellenberg, the Law Department was requesting an additional \$20,000 for temporary salaries to cover a short-

term vacancy caused by the upcoming family leave of a Law Department staff member and some additional costs incurred as a result of overlapping summer vacations. Ms. Fassuliotis explained that due to the family leave and the pre-approved vacations, the additional temporary staff expense was unavoidable. The Law Department will be preparing their request for submission to the BET Budget Committee.

Upon motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the members approved by a vote of 2-0-0 the proposed FY2023 budget resolutions. Ms. Fassuliotis will request the change to the BET Budget Committee.

3. Risk Fund

The Law Committee next considered whether to recommend an increase in the Risk Budget to the BET Budget Committee. After a discussion of the status of the existing cases and claims against the Town, the existing calendar of cases, and the slow speed at which cases are being resumed in the Connecticut courts, the Law Committee determined to recommend no increase at this time.

Upon motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the members approved by a vote of 2-0-0 to recommend no increase in the Risk Fund for the FY2023 budget.

4. Adjournment.

Upon a motion made by Mr. Selbst, seconded by Ms. Fassuliotis, the Committee voted unanimously to adjourn the meeting at 9:47 a.m. Motion carried.

Respectfully submitted,

Stephen Selbst, Recording Secretary

Karen Fassuliotis, Chair, Law Committee



**TOWN OF GREENWICH
BOARD OF ESTIMATE AND TAXATION**

**LAW COMMITTEE
REGULAR MEETING MINUTES**

Tuesday, March 15, 2022

- Committee:** Karen Fassuliotis, Chair, Stephen Selbst, Member
- Law Department:** Barbara Schellenberg, Town Attorney; Aamina Ahmad, Assistant Town Attorney
- BET:** Leslie Tarkington
- Departments:** Megan Damato, Risk Manager; Jim Michel, Deputy Commissioner, Department of Public Works
- Commissions:** Margarita Alban, Chair, P&Z Commission
- Other:** Joann Messina, Executive Director, Greenwich Tree Conservancy

The Chair called the meeting to order at 9:00 A.M.

1. Executive Session.

Upon motion made by the Chair and seconded by Mr. Selbst, the Law Committee voted 2-0-0 to go into executive session.

Upon a motion made by Ms. Fassuliotis, seconded by Mr. Selbst, the Committee exited the Executive Session at 11:08 a.m.

The Committee exited the Executive Session.

2. Potential Post Road Tree Plantings

Upon motion made by the Chair and seconded by Mr. Selbst, the Law Committee voted 2-0-0 to consider the Post Road tree plantings out of order. Motion carried.

In attendance for this discussion were Joann Messina, Executive Director of the Greenwich Tree Conservancy, Jim Michel, Deputy Commissioner, Greenwich Department of Public Works, Margarita Alban, Chair, Greenwich Planning and

Zoning Commission, and by telephone, Megan Damato, Risk Manager, Town of Greenwich, Aamina Ahmad, Law Department.

Ms. Damato explained that the proposed Post Road tree planting program would be covered by the Town's insurance, but that the policy would not provide first dollar coverage. She advised that a separate policy providing first dollar coverage would cost between \$235-\$255 per year, but if the Town's self-insured retention was increased, the premium for the first dollar coverage would increase. Ms. Damato explained that once the project was over the insurance would wrap into the town's overall insurance for liability. The cost for that insurance would be approximately \$2,500 per year in perpetuity (which will naturally escalate over time).

There was a brief discussion of the Town's recent history regarding tree claims, which are a mixture of property and personal injury claims. Attorney Ahmad said that although various factors impact the severity of the claims, most do not present significant damage exposure. Ms. Albans explained that the proposed Post Road tree planting program would primarily involve ornamental trees, which are relatively small. Their small size would likely lead to less risk exposure, she said, because there was less risk of interference with power lines and even if a tree limb fell, it would cause less damage.

Attorney Ahmad said that in connection with the proposed Post Road tree planting program, the State of Connecticut requires that the Town indemnify the State in accordance with State policy. The agreement would also obligate the Town to maintain the trees planted in the State's right-of-way.

There followed a discussion that the Department of Public Works would also be seeking approval for an indemnity agreement with the State for a portion of the Cardinal Stadium improvements at Greenwich High School.

Mr. Michel said that he would contact the State to get the form of indemnity agreement that the State would require. The parties agreed that approval of the indemnity agreement would be deferred until after the Board of Estimate and Taxation and the Representative Town Meeting approved the indemnity agreement for the Cardinal Stadium project.

Mr. Michel said he would get the planting and maintenance agreement from the State by the end of the week, following which the Law Department would review it and the quote on the insurance would be formalized. The Law Committee would then review and approve the proposal.

When those items were assembled, a package of supporting documents would be prepared and submitted to the Office of First Selectman for review. After approval by the Office of First Selectman, the proposal would be placed on the BET agenda for approval.

3. **Old Business**

COVID19 Update. Ms. Schellenberg reported that the several employees of the Law Department had been exposed to COVID-19, but that there had been no disruption of operations. A remote schedule for employees has now become permanent, per Town policy.

Year to Date Budget. Ms. Schellenberg reported that she continued to monitor outside counsel fees and expenses. She said that those fees could decrease if some of the Town's pending claims were settled or otherwise resolved. She also said that she would advise the Law Committee by May if there would be a need for a supplemental authorization for the current fiscal year.

4. **Approval of Minutes**

February 14, 2022 - Regular Meeting. Upon motion made by the Chair and seconded by Mr. Selbst, the Law Committee voted 2-0-0 to approve the minutes of the February 14, 2022 regular meeting. Motion carried.

February 24, 2022 – Special Meeting. approve the minutes of the February 24, 2022 special meeting. Motion carried.

5. **Recent Court Filings**

CHRO Case #2220215 – Shamain Johnson v. Town of Greenwich Board of Education. Ms. Schellenberg advised the Law Committee that Shamain Johnson, a Board of Education employee has brought an action before the Connecticut Commission on Human Rights and Opportunities alleging that she was discriminated against on the basis of her race and age. The CHRO complaint also names several Town employees as additional defendants. Ms. Schellenberg advised that Attorney Michael Lynch of Lynch Law Group has been retained to handle this case.

Dylewsky v. Town of Greenwich. Ms. Schellenberg advised the Law Committee that William Dewey has filed an action against the Town of Greenwich arising from injuries he allegedly sustained in a fall at or near the intersection of Delevan Avenue and Mead Avenue. Attorney De Arango of the Law Department will be handling this matter.

5. **Adjournment.**

Upon motion made by the Chair and seconded by Mr. Selbst, the Law Committee voted 2-0-0 to adjourn the meeting at 12.06 p.m. Motion carried.

Respectfully submitted,

Stephen Selbst, Recording Secretary

Karen Fassuliotis, Chair, Law Committee



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Stephen Selbst, Recording Secretary



Karen Fassuliotis, Chair, Law Committee