

1. BET Law Comm. Meeting Agenda 04-13-2022

Documents:

[BET LAW COMM MEETING AGENDA\\_04-13-2022.PDF](#)

1.I. SUB\_TO\_APP\_BET Law Comm. Meeting Minutes\_03-15-2022

Documents:

[SUB\\_TO\\_APP\\_BET LAW COMM MEETING MINUTES\\_03-15-2022.PDF](#)

2. SUB\_TO\_APP\_BET Law Comm. Meeting Minutes\_04-13-2022

Documents:

[SUB\\_TO\\_APP\\_BET LAW COMM MEETING MINUTES\\_04-13-2022.PDF](#)

3. APPROVED\_BET Law Comm. Meeting Minutes\_04-13-2022

Documents:

[APPROVED\\_BET LAW COMM MEETING MINUTES\\_04-13-2022.PDF](#)



**BET LAW COMMITTEE  
REGULAR MEETING**

**Wednesday, April 13, 2022 - 3:00 P.M.  
Mazza Conference Room**

**AGENDA**

1. Approval of Minutes:
  - March 15, 2022 Regular Meeting
2. Old Business
  - COVID19 Update
  - Year to Date Law Department Budget Update
3. New Business
  - FY 2023 Proposed Resolution 53b
4. Recent Court Filings
5. Executive Session
  - Discussion of Legal Strategy for pending litigation for the following matters:
    - *Town of Greenwich v Lowry*
6. Adjournment

The next meeting of the BET Law Committee is scheduled for May 4, 2022 at 3 PM and will be either a virtual meeting, hybrid meeting, or in-person meeting, depending on the status of COVID restrictions.

*Karen Fassuliotis*

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Karen Fassuliotis, Chair, Law Committee

*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.*



**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,

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Stephen Selbst, Recording Secretary

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Karen Fassuliotis, Chair, Law Committee

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

**Wednesday, April 13, 2022**

**Committee:** Karen Fassuliotis, Chair, Stephen Selbst  
**Town Attorney:** Barbara Schellenberg  
**Law Department:** Aamina Ahmad, Valerie Maze Keeney, Abby Wadler  
**BET:** Dan Ozizmir, Jeffrey Ramer, Leslie Tarkington  
**Town Departments:** Demetria Nelson, Commissioner, Human Services

The Chair called the meeting to order at 3.04 P.M.

**1. Approval of Minutes**

March 15, 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 March 15, 2022 regular meeting. Motion carried.

**2. Old Business**

COVID19 Update. Ms. Schellenberg reported that there were no material changes since her last report. 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.

Ms. Fassuliotis noted that certain members of the Representative Town Meeting had expressed concern recently about the costs of outside counsel. Mr. Ramer questioned whether it was efficient for outside counsel to handle tax appeals. Ms. Schellenberg said that she was reviewing the question, but believed it was appropriate to use outside counsel for this purpose.

**3. Proposed Resolution**

Upon motion made by Ms. Fassuliotis and seconded by Mr. Selbst, the Law Committee voted 2-0-0 to take up the request for a resolution for the proposed settlements of opioid litigation in which the Town is a participant.

Assistant Town Attorney Keeney and Commissioner Nelson, Commissioner, Human Services, explained that on December 23, 2021, the Board of Selectmen had approved the Town's participation in two nationwide settlements to resolve opioid litigation against three pharmaceutical distributors, McKesson, Cardinal Health and Amerisource Bergen, and manufacturer Janssen Pharmaceuticals, a subsidiary of Johnson & Johnson. The actions are pending as *In re National Prescription Opiate Litigation*, case 17-MD-2804 in the United States District Court for the Northern District of Ohio.

Under the Janssen settlement agreement, funds may be available as early as 2022 and will continue for seven years thereafter. Payments under the settlement with the distributors may continue for as long as eighteen (18) years. Under the settlement agreements, the use of funds is limited to specific purposes to address opioid addiction and treatment. Ms. Keeney circulated draft resolutions approving the settlements to the Law Committee.

Ms. Keeney and Commissioner Nelson advised the Law Committee that they did not know whether the distributor settlement or the Janssen settlement had been approved by the court overseeing the litigation. They also advised the Law Committee that she did not know the amounts the Town would receive under those settlements. Commissioner Nelson said it was likely that they would receive one payment in FY23. When asked, she also stated that it would not delay receipt of funds if the first payment went through the normal approval processes of approval by the BET and the RTM. It was suggested that the Resolution was likely premature as details of the settlement and payments were not known. After further discussion, the Law Committee determined not to take further action on the resolution relating to this matter at this time. Commissioner

#### **4. 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 at 3.22 P.M.

Upon motion made by the Chair and seconded by Mr. Selbst, the Law Committee voted 2-0-0 to exit executive session at 3.35 P.M.

#### **5. New Business**

The Law Committee considered a revision to fiscal year resolution 53b proposed by Mr. Ramer which provided, in substance, that the spending of any funds received by the Board of Education under the legislation commonly referred to as ESSER III (Elementary and Secondary School Emergency Relief Fund), would not be subject to approval of the Board of Estimate and Taxation. Mr. Ramer contended that the Board of Education acted as an agency of the State of Connecticut for purposes of administering these funds and that the BET had no legal authority to approve or disapprove any funds granted to the Board of Education under ESSER III. Ms. Fassuliotis disagreed, contending that the BET had jurisdiction because the Board of Education was a

department of the Town of Greenwich. Town Attorney Schellenberg and Assistant Attorney Ahmad both stated that Resolution was consistent with past practice and past opinions by prior Town Attorneys. Ms. Schellenberg stated that the BET was free to change the Resolution but the BET did not have to change it. No action was taken on Mr. Ramer's proposal.

**6. Recent Court Filings**

Ms. Schellenberg that an OCA complaint had recently been filed against the Town. She said she would have further information at the next meeting of the Law Committee

**7. Adjournment.**

Upon motion made by the Chair and seconded by Mr. Selbst, the Law Committee voted 2-0-0 to adjourn the meeting at 4.16 p.m.

Respectfully submitted,

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Stephen Selbst, Recording Secretary

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Karen Fassuliotis, Chair, Law Committee





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