

1. Special Meeting Agenda - August 3

Documents:

[SPECIAL MEETING AGENDA - BET SPECIAL MEETING - 08 03 16 \(PDF\).PDF](#)

2. Voted Agenda - August 3

Documents:

[VOTED AGENDA - BET SPECIAL MEETING - 08 03 16 \(PDF\).PDF](#)

3. Special Meeting Packet - August 3

Documents:

[SPECIAL MEETING PACKET - BET SPECIAL MEETING - 08 03 16 \(PDF\).PDF](#)

4. Minutes Subject To Approval - August 3

Documents:

[MINUTES SUBJECT TO APPROVAL - BET SPECIAL MEETING - 08 03 16 \(PDF\).PDF](#)

5. Revised Minutes Subject For Approval - August 3

Documents:

[REVISED MINUTES SUBJECT TO APPROVAL - BET SPECIAL MEETING - 08 03 16 \(PDF\).PDF](#)

6. Approved Special Meeting Minutes - August 3

Documents:

[APPROVED SPECIAL MEETING MINUTES - BET SPECIAL MEETING - 08 03 16 \(PDF\).PDF](#)



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

SPECIAL MEETING

Wednesday, August 3, 2016

**Town Hall Meeting Room
8:00 A.M.**

AGENDA

1. Call to Order and Pledge of Allegiance

2. EXECUTIVE SESSION:

SE-7	First Selectman P935 57350	<u>\$ x,xxx</u>	Additional Appropriation Settlement – Gustovich v. TOG
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3. Adjournment

Michael S. Mason
Chairman, BET



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

SPECIAL MEETING

Wednesday, August 3, 2016

**Town Hall Meeting Room
8:00 A.M.**

VOTED AGENDA

1. Call to Order and Pledge of Allegiance

2. EXECUTIVE SESSION:

<u>Number</u>	<u>Department</u>	<u>Amount</u>	<u>Purpose</u>	<u>Votes</u>
SE-7	First Selectman P935 57350	\$143,000 135,000	Settlement - Lump Sum Payment Annuity Gustovich v. TOG	10-2-0

3. Adjournment

Michael S. Mason
Chairman, BET



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BOARD OF ESTIMATE AND TAXATION**

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Michael S. Mason
Chairman, BET

**Town Of Greenwich
Request Form For Budget Adjustments**

BET Meeting Date:

Apr-16
SE 7

Application #:

Department & Division: First Selectman

Action Requested: Additional Appropriation

Date of Submission: 4/9/2016

	Fund	Dept	Object	Project	Desc	Amount
To:	P	935	57350		Settlement	XXXXX
From:					Risk Fund Balance	XXXXX

Justification of Request:

Re: Pamela Gustovich v. Town of Greenwich

Board Chairman _____ Department Head: _____

Certified correct as to computations and amounts shows as appropriations to date and unencumbered balances, with any changes given.

Date: _____ Comptroller: _____

The following action was taken at a meeting of the Board of Estimate and Taxation held on:
Vote _____ Clerk of the Board: _____

Email this form as a PDF along with any supporting documentation (in PDF Format)



MINUTES of the Special Meeting of the Board of Estimate and Taxation held on Wednesday, August 3, 2016 in the Town Hall Meeting Room, Greenwich, CT.

Chairman Michael Mason called the meeting to order at 8:00 A.M., after which the members pledged allegiance to the flag.

Board members in attendance:

Michael S. Mason, Chairman
Arthur D. Norton, Vice Chairman
William Drake, Clerk
John Blankley, by phone
Mary Lee A. Kiernan
Elizabeth K. Krumeich, by phone
James A. Lash
Leslie Moriarty
Jill K. Oberlander
Jeffrey S. Ramer
Leslie L. Tarkington
Nancy Weissler

SUBJECT TO APPROVAL

Staff: Peter Mynarski, Comptroller; Captain Mark Kordick, Police Department; Barbara Heims, Office of the First Selectman

Other: First Selectman Peter J. Tesei (by phone); John Toner, Selectman; John Wayne Fox, Town Attorney; Ken Borsuk, Reporter, Greenwich Time

Mr. Mason opened the meeting by welcoming the Board Members and guests. He noted that the Board had been advised that electronic voting was permitted under the Freedom of Information Act, and he had been so advised by Attorney Wayne Fox. He noted that he would rule that electronic voting therefore be allowed today. He noted that his ruling applied to this meeting only. For the record, he noted that he did not support electronic meeting / voting for the Board's regular meetings, but would support this for a special single item meeting, such as today's. He also noted that the Policy and Procedure Committee is charged with drafting a policy to formally adopt going forward.

Ms. Kiernan interpreted the Board's policies and procedures to say that the Board meets in the Town Hall Meeting Room only. She noted that in the absence of a specific procedure for off-site voting, the rule defaults to not allowing it. She noted that the Board has no specific rule allowing telephone or proxy voting.

Mr. Ramer commented that the Board's Policies and Procedures provide for governance under Roberts' Rules, that Roberts Rules authorizes electronic voting only when the body has

provision for it in its ByLaws (Chapter 9, page 97), that the BET has no such provision in either the Charter or in its Policies and Procedures, and that Roberts Rules thus defines a meeting as an official assembly of its members in one room unless its ByLaws authorize otherwise (Chapter 8, pages 81-82). He commented that there was no item on the agenda of our Special Meeting yesterday for the BET to consider changes to its Policies and Procedures, and that the Freedom of Information Act at Connecticut General Statutes section 1-225(d) and Roberts Rules (Chapter 9, page 93) each forbid the consideration at a special meeting of any business not reflected on the posted agenda.

Ms. Oberlander noted that Roberts Rules says that at a special meeting a body is permitted to consider subsidiary, incidental or other motions that may arise in connection with the transaction of business or the conduct of a meeting, even though those items were not shown separately on the agenda. She also noted that Robert's Rules allowed small boards of up to 12 persons certain flexibility in these matters. She noted that full deliberation is a fundamental objective of Robert's Rules, and that telephone discussion is allowed, and that the Board's deliberation today with members by phone is consistent the fundamental objective of Robert's Rules.

Mr. Norton referred to Robert's Rules providing for adoption of standing rules at any meeting, which would allow today's phone deliberations.

Attorney Wayne Fox noted that the Board was deliberating on phone participation and voting only for today, not as a policy for later meetings. He noted that members who phone in are "present and deliberating". He had spoken with the FOIA Commission, who indicated that the statute defined meeting to include off-site participation. He also had spoken with Tom Mooney, outside counsel, who also saw this as a decision for today only where the Chair's ruling would be valid absent a Board vote to appeal and overturn the Chair's ruling. He found that the simultaneous nature of the phone participation made this a meeting under the statute.

Mr. Mason then ruled to allow phone voting in today's meeting.

Ms. Kiernan asserted a point of order, objecting to that ruling, which the Chair overruled. Mr. Ramer made a motion, seconded by Ms. Kiernan to appeal the Chairman's ruling. The Board voted 8-2 to sustain the Chairman's ruling, with Mr. Ramer and Ms. Kiernan opposed. Ms. Krumeich and Mr. Blankley did not vote on this matter which concerned them today.

Mr. Mason then called for an Executive Session to discuss an additional appropriation for a legal settlement.

Upon motion by Ms. Tarkington, seconded by Mr. Norton, the Board voted unanimously to enter Executive Session at 8:31 A.M.

EXECUTIVE SESSION

SE-7	First Selectman P935 57350	(Amounts below)	Additional Appropriation Settlement – Gustovich v. TOG
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The settlement amount as recommended by Mr. Fox was \$143,000 in cash and an annuity costing up to \$135,000, providing a total appropriation up to \$278,000.

Upon motion by Ms. Tarkington, seconded by Mr. Norton, the Board voted unanimously to exit Executive Session at 10:04 A.M.

Ms. Tarkington made a motion, seconded by Mr. Norton to consider the appropriation for the settlement. Ms. Kiernan noted that risk management being a key Board responsibility, the vote on the settlement and the choice of a consultant to provide findings and advice about a possible inhospitable work environment in the Police Department could not be separated. She noted she was not satisfied with the Selectmen's plan in this regard, and therefore would not support the settlement. Mr. Blankley noted that the choice of consultant was not within the Board's responsibility, and he would vote for the settlement. Mr. Lash noted that proper and effective management required that all levels of the chain of command needed to apply the proper procedures in a consistent and firm manner, and only this consistency would provide for a proper and lawful work environment.

The Board then voted 10-2 to approve the settlement in the amounts noted above, up to \$278,000 (opposed Kiernan, Ramer).

ADJOURNMENT

Upon a motion by Ms. Oberlander, seconded by Ms. Weissler, the Board voted 12-0-0 to adjourn at 10.18 A.M.

Respectfully submitted,

SUBJECT TO APPROVAL

William Drake, Clerk of the Board

Michael S. Mason, Chairman



MINUTES of the Special Meeting of the Board of Estimate and Taxation held on Wednesday, August 3, 2016 in the Town Hall Meeting Room, Greenwich, CT.

Chairman Michael Mason called the meeting to order at 8:00 A.M., after which the members pledged allegiance to the flag.

Board members in attendance:

Michael S. Mason, Chairman
Arthur D. Norton, Vice Chairman
William Drake, Clerk
John Blankley, by phone
Mary Lee A. Kiernan
Elizabeth K. Krumeich, by phone
James A. Lash
Leslie Moriarty
Jill K. Oberlander
Jeffrey S. Ramer
Leslie L. Tarkington
Nancy Weissler

SUBJECT TO APPROVAL

Staff: Peter Mynarski, Comptroller; Captain Mark Kordick, Police Department, Barbara Heims, Office of the First Selectman

Other: First Selectman Peter J. Tesei (by phone), Selectman John Toner, John Wayne Fox, Town Attorney, Ken Borsuk, Reporter, Greenwich Time

Mr. Mason opened the meeting by welcoming the Board Members and guests. He noted that the Board had been advised that electronic voting was permitted under the Freedom of Information Act, and he had been so advised by Attorney Wayne Fox. He noted that he would rule that electronic voting therefore be allowed today. He noted that his ruling applied to this meeting only. For the record, he noted that he did not support electronic meeting / voting for the Board's regular meetings, but would support this for a special single item meeting, such as today's. He also noted that the Policy and Procedure Committee is charged with drafting a policy to formally adopt going forward.

Ms. Kiernan interpreted the Board's policies and procedures to say that the Board meets in the Town Hall Meeting Room only. She noted that in the absence of a specific procedure for off-site voting, the rule defaults to not allowing it. She noted that the Board has no specific rule allowing telephone or proxy voting.

Mr. Ramer cited Chapter 9 of Robert's Rules, which provides that a proper meeting is a single meeting with a quorum, in one place. He noted that the Board's procedures were not on today's

agenda.

Ms. Oberlander noted that Robert's Rules allowed small boards of up to 12 persons certain flexibility in these matters. She noted that full deliberation is a fundamental objective of Robert's Rules, and that telephone discussion is allowed, and that the Board's deliberation today with members by phone is consistent with the fundamental objective of Robert's Rules.

Mr. Norton referred to Robert's Rules regarding standing rules, which can be adopted at any meeting, which would allow today's phone deliberations.

Attorney Wayne Fox noted that the Board was deliberating on phone participation only for today, not as a policy for later meetings. He noted that members who phone in are "present and deliberating". He had spoken with the FOIA Commission, who indicated that the statute defined meeting to include off-site participation. He also had spoken with Tom Mooney, outside counsel, who also saw this as a decision for today only where the Chair's ruling would be valid absent a Board vote to appeal and overturn the Chair's ruling. He found that the simultaneous nature of the phone participation made this a meeting under the statute.

Mr. Mason then ruled to allow phone participation in today's meeting.

Mr. Ramer made a motion, seconded by Ms. Kiernan to appeal this ruling. The Board voted 8-2 to sustain the Chairman's ruling, with Mr. Ramer and Ms. Kiernan opposed. Ms. Krumeich and Mr. Blankley did not vote on this matter which concerned them today.

Mr. Mason then called for an Executive Session to discuss an additional appropriation for a legal settlement.

SUBJECT TO APPROVAL

Upon a motion by Ms. Tarkington, seconded by Mr. Norton, the Board voted unanimously to enter Executive Session at 8:31 A.M, to discuss pending litigation.

EXECUTIVE SESSION

Upon a motion by Ms. Tarkington, seconded by Mr. Norton, the Board voted unanimously to exit Executive Session at 10:04 A.M.

SE-7	First Selectman	\$143,000	Lump Sum Payment
		\$135,000	Annuity
	P935 57350		Settlement – Gustovich v. TOG

Ms. Kiernan noted that risk management being a key Board responsibility, the vote on the settlement and the choice of a consultant to provide findings and advice about a possible inhospitable work environment in the Police Department could not be separated. She noted she was not satisfied with the Selectmen's' plan in this regard, and therefore would not support the settlement. Mr. Blankley noted that the choice of consultant was not within the Board's responsibility, and he would vote for the settlement. Mr. Lash noted that proper and effective management required that all levels of the chain of command needed to apply the proper procedures in a consistent and firm manner, and only this consistency would provide for a proper and lawful work environment.

Upon a motion by Ms. Tarkington, seconded by Mr. Norton to pay Captain Gustovich a lump sum payment of \$143,000 to cover salary and legal fees, as well as to purchase an annuity of present value of no more than \$135,000 that would replace the retirement payments she would have received if she would have remained in the employ of the Town, the Board voted 10-2 to approve this settlement (opposed Kiernan, Ramer).

ADJOURNMENT

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Michael S. Mason, Chairman