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Yorktown Officials, State Experts Disagree on Open Meeting Law

The public had little notice about a special meeting town board members had scheduled on Dec. 29.

By [Plamena Pesheva](#) | [Email the author](#) | January 9, 2013

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Before a special meeting on Dec. 29, 2012, Yorktown town officials voted themselves a waiver of notice on the state open meeting law for that special meeting which discussed the town's new insurance coverage as of Jan. 1, 2013.

Experts have cited two different sides when interpreting the law.

Robert Freeman, executive director of the New York State Committee on Open Government, said local officials can't grant themselves waivers from state laws and there was nothing in the law that refers to or authorizes a waiver of notice.

On the other hand, he noted, the Attorney General and the Comptroller have said a meeting can be held on less than two days written notice of the members of a town board as long as "all of the members had actual notice, attended and participated. If that is so, the members may waive the two day written notice requirement."

Yorktown Councilman Nick Bianco said all of the board members unanimously agreed to waive the notice and they had consented to attend the meeting and were present.

"I didn't see a problem," he said.

According to Freeman:

I believe that a town board must in all instances comply with the notice requirements found in the Open Meetings Law, for those requirements are separate and distinct from that found in the Town Law. Further, because there is no reference to the ability to waive notice included in §62 of the Town Law, with due respect to the Attorney General and the Comptroller, it is questionable in my view whether a court would reach the same conclusion as they did in consideration of the clear and unequivocal language that statute.

Freeman said if a meeting is scheduled less than a week in advance, notice of the time and place must be given to the news media and posted prior to the meeting.

According to the Town Law, Section 62, the town supervisor can call for a special meeting by giving at least two days notice in writing to members of the board of the time when and the place where the meeting would be held.

Public notice of this meeting was given 15 minutes before the meeting convened. The supervisor's office sent out an email at about 12:15 p.m. to *Patch* and other members of the press about the Dec. 29, 2012 special meeting to be held at Town Hall at 12:30 p.m.

The reasons for the meeting, according to the notice, were to "address certain matters that have to be taken up by year's end including but not limited to insurance coverage, vacation carry-overs and deputy town comptroller stipend." The town's insurance coverage expired on Dec. 31, 2012.

According to Section 104 of the Open Meetings Law:

1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.
2. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.
3. The public notice provided for by this section shall not be construed to require publication as a legal notice.
4. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.
5. When a public body has the ability to do so, notice of the time and place of a meeting given in accordance with subdivision one or two of this section, shall also be conspicuously posted on the public body's internet website.

(Read more about the Dec. 29, 2012 meeting in former Supervisor Susan Siegel's blog post on Patch [here](#).)

"Although the Open Meetings Law does not make reference to 'special' or 'emergency' meetings, if, for example, there is a need to convene quickly, the notice requirements can generally be met by telephoning or faxing notice of the time and place of a meeting to the local news media and by posting notice in one or more designated locations," Freeman wrote to Patch.

"In my opinion, the requirements imposed by the Open Meetings Law, which involve notice to the news media and to the public by means of posting, can never be waived," he said.

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Evan Bray

7:28 am on Wednesday, January 9, 2013

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We don't need no stinkin' public notice. The reason for the meeting was just to spend a big chunk of taxpayer monies. Don't you know who we are? We're Yorktown. We do our own thing. On our own time. Just like Easy Rider, but with less LSD and more chutzpah. Giddy up.

On a related note, one of the items the TB spent out money on in this secret meeting is a new insurance policy. Up over 100K from last year (Ed. note: no wonder they didn't want to notice it). Sadly, only one company will even offer insurance to YT because of all the lawsuits. Might this public notice incident generate even more litigation. Damn you, bittersweet irony !

Reply

Frankie

9:39 am on Wednesday, January 9, 2013

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What's the definition of "public". The current town board is a joke in so many ways. We live in 2013 where there is facebook, twitter and numerous social media outlets and the town board couldn't communicate this to information out to their constituents. On another note, you will notice that none of the Town Board members articulate via social media. As a last joking, Mr. Murphy was all about emailing and messaging people to exhaustion during his many last attempts to run for another office, but we all knew he had a ghost writer. Once he lost, nobody heard from him again, which was good because as you all can see he and the board members really don't have to much to say.

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5:50 pm on Wednesday, January 9, 2013

Mr. Murphy has trouble expressing himself using grammatically correct English, the chances of him being able to write it are almost nil.

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[Sharon Sutherland Ph.D.](#)

12:28 pm on Wednesday, January 9, 2013

I am very disappointed in this Supervisor and Town Board. I had hoped for some positive change after the last election. Overspending, secret meetings, unprofessional treatment of employees, hiring relatives...it is all really just an embarrassment for the citizens of Yorktown. Lets hope in the next election we can find some professional, qualified leaders because we really need to make some positive changes around here.

[Reply](#)[expose the truth](#)

3:09 pm on Wednesday, January 9, 2013

the statement that no other insurance carrier would insure the Town is just not true. What is true is Bob Spadaccia has had a monopoly on the insurance for over 20 years. the so called RFP that the previous administration conducted was a joke. i can tell you Spadaccia waited until the last minute so the Town had to accept whatever he had to offer. By law if a carrier is non renewing they must give 60 days notice atleast. it doesnt take a genius ti see what went on here. Argonaut pays 10% commission, Travelers pays 20% plus bonuses. per Insurance Department regulation 194, was this disclosed to the town? also the Town has the right to demand to see every carrier that provided a proposal, and the compensation arrangement with Spadaccia. this could be obtained thru a Freedom of Information request. Two things stand out here. 1, Spadaccia waited until the Town had no choice but to renew with him at whatever price he proposed. 2, if the Town was given notice of a non renewal, why didnt they put out an RFP to solicit proposals from other Brokers? Spadaccia has taken the taxpayers money for far too long. Time for a change. He is too cozy with this board. Joan Goldberg is gone so there should be nothing in the way of a fair RFP for any town services.

[Reply](#)[Evan Bray](#)

3:31 pm on Wednesday, January 9, 2013

Interesting information. You seem pretty well versed in insurance issues; is that what your background is in? Maybe you should be the YT broker. How does one get designated the town insurance broker? Appointment? Vote? I made that statement based on the meeting summary prepared by Ms. Siegel.

Excerpt:

"Supervisor Grace explained that because the Town's current insurance carrier (Trident) had informed the Town some time ago that it would no longer cover the Town due to the number of losses, Bob Spadaccia, the Town's insurance broker sought out other carriers. Travelers was the only company interested in submitting a proposal."

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[Francis T McVetty](#)

5:06 pm on Wednesday, January 9, 2013

There seems to be a difference of opinion here. Could the truth be some place in between? I do think that "expose the truth " has raised some interesting points that should be easily explained by the town board. No?

[Reply](#)[Layla](#)

5:52 pm on Wednesday, January 9, 2013

The Current Town Board has made a habit out of not explaining their actions. I have a few explanations for that. 1. They don't understand the intricacies of some of the decisions they are asked to make. Being men, they do not like to ask for help and information to make it clear to them . Kind of like asking for directions 2. They may be getting inaccurate information that is being presented as accurate and they believe it hook line and sinker. 3. They don't question enough. 4. They maybe playing a game of follow the leader. Some people find it easier to have someone else do the difficult job of thinking. They don't like the smell of burning brains. 5.They may think that the less questioning they do the greater their chance of "moving on up" in the Yorktown and Westchester political hierarchy will be. As to the insurance question, anyone with an insurance policy , as has been pointed out, knows they must e given notice that their policy is being terminated. I know that if my policy was being terminated I would be calling a few insurance brokers to get quotes. Even if It is not being terminated I would call different brokers every few years to see If i can get a better deal. Question, Why was Travelers the only one interested. If other companies were not interested why was Travelers? Has anyone every questioned Yorktown have so many lawsuits? I could go on and on, but dinner calls.

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**Evan Bray**

5:59 pm on Wednesday, January 9, 2013

I bet they could explain their actions (in a secret closed-door, smoke-filled meeting room with no public notice).

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**Evan Bray**

6:02 pm on Wednesday, January 9, 2013

"Smoke-filled" is not a marijuana reference. http://en.wikipedia.org/wiki/Smoke-filled_room

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**Francis T McVetty**

6:53 pm on Wednesday, January 9, 2013

Evan, that "smoke filled room" reference is NOT politically correct anymore. You are dating yourself. :)

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[Reply](#)**Layla**

10:44 pm on Wednesday, January 9, 2013

If the smoke that filled the room was from weed it might loosen them up some and get them to speak the truth.

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Layla

10:47 pm on Wednesday, January 9, 2013

Francis, when did smoked filled room go out of fashion? Am I behind the times.

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**Francis T McVetty**

6:54 pm on Wednesday, January 9, 2013

@ Layla, with your remarks, you are being a female chauvinist, or what ever that equivalent is.

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[Reply](#)**Layla**

10:42 pm on Wednesday, January 9, 2013

@ Layla" wow Francis up on the latest trends. Not a "female chauvinist" just a realist.

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**Francis T McVetty**

11:07 am on Thursday, January 10, 2013

Layla, men don't have the market on dumb when it comes to politics, you only have to look at the house of representative's with "ladies" like Nancy [you have to pass the bill before you know whats in it] Pelosi . Again in the senate, the "ladies": like Feinstein, Boxer, etc have set a very low standard. So when it comes to politicians, there is NO difference b/t the sex's.

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[Reply](#)**Layla**

12:21 pm on Thursday, January 10, 2013

Francis, accurate in some respects, but not in others. I agree, Pelosi is difficult to listen to or defend. But i believe that if we had more women in congress we would be less likely as a country to become involved in wars. If the chicken hawks of this country had not gotten us into a useless war in Iraq we would not have the economic problems we have today. But even more significantly, we would not have had so many thousands of our young men and women killed,maimed, and suffering from PTSS.

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[Reply](#)**expose the truth**

11:18 am on Friday, January 11, 2013

part of the problem with the insurance is that the Town let the current broker Bob Spadaccia(one of the Bidders!) review all the proposals from the

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last RFP, and can you believe it, his was the best!! there was an RFP a few years ago under Seigel that was looking for an insurance consultant with no ties to any carrier, or Agency to do an impartial review of the coverages, and price. this was pulled from the table as the Board was outraged that anyone would Question the all Knowing Spadaccia. This would have expose him.Nepotism at its finest.Also Joan Goldberg made statements to the effect that certain brokers (the ones that raised questions),"would never do business in Yorktown". this would be funny if we werent talking about millions of dollars of taxpayer money. In addition they Gave Spadaccia a 3 year contract. who approved that, and why! it was obvious a few years ago he was ripping off the Town when he tried to get them to switch carriers midterm to avoid an RFP. because this became public, Peters was forced to wait until the renewal. this resulted in over 250,000 in savings. had they let Spadaccia lead them by the nose (like always) they wouldnt have save that money. this is all public record. Spadaccia even tried to have the markets assigned to other broker taken away and given to him. in this way he could manipulate the marketplace in his favor. the time to expose this man and all his dirty tricks is here. this board need to step up and do the right thing,or get out.

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Layla

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6:49 pm on Friday, January 11, 2013

I all goes back to the point that educated people would encourage other brokers to submit proposals. What more can I say.

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