

From The Desk Of Ellen Difalco
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To: Elisa Tinti, City Clerk
Andrea Shaut, Council President
Laws and Rules Committee Members

RE: Public Comment for Laws and Rules Public Hearing

DATE: September 21, 2022

Please be reminded there are procedural requirements in place when scheduling a public hearing.

Again, it is unacceptable that many of the property owners and residents who live in the immediate area of this proposed housing development on Golden Hill did NOT receive notification of the rescheduled public hearing.

May I point out the Department of State's definition of public hearings which appears in the Department of State's Guide: Conducting Public Meetings and Public Hearings:

What Are Public Hearings? — A public hearing is an official proceeding of a governmental body or officer, during which the public is accorded the right to be heard. It bears emphasizing that any hearing held by a public body will necessarily constitute “conducting public business” within the meaning of the Open Meetings Law. The body must therefore have a quorum present, and must comply with the requirements of the OML as well as with the specific requirements found elsewhere that relate to the hearing itself.

Many public hearings are required by law on particular matters, such as those that must be held prior to adoption of a local law(29), or prior to a determination by a planning board on a subdivision plat application(30). Many others need only be held at the option of a public body, because it may desire merely to gauge public opinion on a matter. Where a public hearing is required by law, the particular statute governing the subject matter usually sets forth the applicable procedural requirements (refer to other publications in this Technical Series for the particular requirements relating to public hearings held with regard to the subjects treated therein).

In this guide, it clearly states the following:

CONDUCTING A PUBLIC HEARING The following is a list of steps and suggestions to help in preparing for a public hearing. 1. Determine Hearing and Notice Requirements — The board should consult with its attorney in order to determine what hearing and notice requirements must be satisfied, as well as the **possible necessity of sending special notices to specific individuals, other municipalities, boards or other levels of government affected by the proposed action.**

Public Comment for Laws and Rules Public Hearing

Page 3

September 21, 2022

CONCLUSION Actions taken at meetings at which the Open Meetings Law is not complied with are at serious risk of being overturned in court. Fortunately, the goal of most local governments is service to the community, not the mere avoidance of legal hassles. For this reason, municipal officials should regard open meeting procedures as serving more than just the State's objective of keeping local government business open to the public. These procedures give the public the full opportunity to observe and to participate in its own governance, and they help confirm the local government's accountability to its constituents. In addition, fairness in applying hearing procedures results in proper accord for the rights of all parties, a better airing of public opinion on community issues, and ultimately greater public confidence in the decisional process."

Submitted by

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