



# Town of Groton, Connecticut

## Meeting Minutes

### Town Council Committee of the Whole

45 Fort Hill Road  
Groton, CT 06340-4394  
Town Clerk (860)441-6640  
Town Manager  
(860)441-6630

**Mayor Harry A. Watson, Councilors Peter J. Bartinik, Jr., Natalie Burfoot Billing, Heather Sherman Bond, Catherine Kolnaski, Frank O'Beirne, Jr., Paulann H. Sheets, Thomas J. Skrmetti, and Elissa T. Wright.**

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**Tuesday, March 23, 2004**

**7:00 PM**

**Town Hall Annex - Community Room 1**

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#### **REGULAR MEETING**

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**1. CALL TO ORDER**

*Mayor Watson called the meeting to order at 7:05 p.m.*

**2. ROLL CALL**

Members Present: Mayor Watson, Councilor Bartinik, Jr., Councilor Billing, Councilor Bond, Councilor Kolnaski, Councilor O'Beirne, Jr., Councilor Sheets, Councilor Skrmetti and Councilor Wright

*Also present were Town Manager Mark Oefinger, Assistant to the Town Manager Lee Vincent and Executive Assistant Nicki Bresnyan (7:30 p.m.).*

**3. Calendar and Communications**

**4. Approval of Minutes**

*None.*

**5. UNFINISHED BUSINESS**

*None.*

**6. NEW BUSINESS**

**2003-0050 Policy concerning utilization of Copp Property**

**Discussed**

*Town Manager Oefinger provided a brief history of the project, noting that all approvals are in place. The Manager is now looking for authorization for construction, which should begin in the summer. The Copp Foundation received a grant, which will be assigned to the Town, to construct the parking lot. Public Works, with assistance from Parks and Recreation, will build the project, which consists of a paved apron, gravel parking lot, and trail system leading to the dog park. The dog park itself would be installed by the association involved with the park and they are paying for the fencing. Town costs are associated with installation and maintenance of the parking lot. The Town has owned the property for ten years and this is a fairly minimal improvement that will allow safe access and egress onto and off of the property.*

*Councilor Sheets expressed a number of concerns. First, she has not seen a Memorandum of Understanding as noted in the September 2003 Committee of the Whole minutes. The Town Manager stated that he did not understand that the Memorandum of Understanding was required before the project could proceed, but he expressed a willingness to have one prepared if desired by the Committee. To develop the agreement, there should be a meeting with the Copp Board.*

*Councilor Sheets' second concern deals with approval of the dog park. She noted that a special act was introduced to the legislature last year that addressed towns of a certain size operating a well serving an administrative facility of a school system, one of them being the Town of Groton. As a result of a Supreme Court decision and Department of Public Health (DPH) ruling, the Town of Groton was made a water company for purposes of water company legislation and as such, could not change the use of land draining to a water supply without a DPH permit meeting*

stringent requirements. However, the special act noted above determined that the Town is not a water company and this property is not subject to the DPH permit. She expressed concern with fecal contamination of the reservoir.

A motion was made by Councilor Skrmetti, seconded by Councilor Kolnaski, to recommend a resolution authorizing the Town Manager to proceed with construction of the parking lot and dog park project at the Copp property.

Town Manager Oefinger explained that there are two separate projects, shown on one plan for simplicity and permitting reasons. The parking lot will be paid for with state funds; the dog park will be paid for by the people proposing it. The park will be built in one of the existing meadows. Management of the park consists of people picking up after their dogs, and depositing the material in trashcans, which will be hauled away as necessary.

Councilor Wright asked that the two projects be considered and voted on separately. Discussion followed on the status of the project. Councilor Billing stated she would need more information before acting on it. The Town Manager explained that the Council previously authorized him to secure all necessary permits, and now he needs the Council's authorization to construct. Councilor Wright cited Robert's Rules and noted that parliamentary procedure requires separation of the two projects at the request of a Councilor. Councilor Skrmetti asked that the issue be referred to the Rules Committee. The Town Manager noted that the two components were approved as a single project by the Planning Commission.

**2003-0177 Renovations & Additions to Groton School Facilities - Phase I**

**Discussed**

Town Manager Oefinger stated he expects the environmental and geotechnical reports to be completed soon, and he asked how the Council would like to see the information presented. The Manager recommended that the consultants come to the April 6th Town Council meeting for a presentation, and the consensus of the Committee was to do that.

**2004-0023 Response to 1/9/04 Editorial in The Day Newspaper**

**Recommended for Deletion**

Mayor Watson responded to Gladys Alcedo's request for information with a series of e-mails that were provided to the Town Attorney by the five Councilors who signed the letter to editor.

Councilor Skrmetti stated he requested this referral because of his concern that an action was taken by five Councilors, a majority of the Council, which could constitute an illegal meeting. Subsequently, the Town received an FOI request from Gladys Alcedo. Councilor Skrmetti noted that the e-mails start with a completed letter, and he feels there is an incomplete chain of information. He indicated he is looking for an opinion from the Town Attorney about whether it was an illegal meeting or not.

Councilor O'Beirne stated the e-mails regarding the response to the editorial do not meet the statutory definition of a public meeting. A Councilor checked with the FOI Commission and was told it was not a meeting.

Councilor Skrmetti stated he is also concerned with individual Councilors going to the state for an opinion and the opinion not being shared with the entire body. For five Councilors to sign the document, there must have been deliberative action. Councilor Skrmetti noted that when he has written letters to the paper in the past, it was as an individual, which he feels is very different than a majority of the Council writing a letter.

Councilor Billing asked about the FOI presentation by the Town Attorney. The Town Manager stated it is scheduled for April 13 at the Committee of the Whole meeting. Councilor Billing

*explained her concern that the e-mails included an analysis of the cost scenarios, which was inaccurate. She feels that sharing that information with other Councilors comes close to a violation because it was discussion of a substantive issue that was before the Council. Councilor Billing originally thought it was good for Councilors to talk to each other, but now she feels that conversations outside of the public meetings may not be a good thing. The reason that FOI laws exist is so that the public knows what has happened and why people have arrived at their particular decisions.*

*Mayor Watson stated that it is the Town Attorney's opinion that the e-mails did not constitute a meeting, but the Mayor's personal opinion is that it was a meeting because it constituted action by a quorum. Councilor O'Beirne reiterated that it was not a meeting, not because of the number of councilors, but because of the subject matter. Writing a letter to the editor is not a matter over which the Council had jurisdiction. Councilor Bond does not feel that being a Councilor takes away First Amendment rights. Councilors have the ability to respond to what is said in the paper.*

*Councilor Skrmetti asked for a copy of the Town Attorney's opinion in writing. He agreed that individual Councilors have rights, but not a majority of the Council acting together. Town Manager Oefinger noted that the Town Attorney has stated verbally he does not think this constitutes a meeting, and he is not preparing a written opinion at this time. The Town Manager feels this issue can be addressed at the FOI workshop.*

*Councilor Bartinik stated that we have Town staff who are qualified to give an FOI workshop and there is no need to pay the Town Attorney. Mayor Watson explained that the Town Attorney is conducting the workshop for free. Councilor Bartinik took issue with the idea that the chain of information is not complete. All e-mails were turned over to the Town Attorney and there was no meeting whatsoever. Councilor Skrmetti reviewed the packet of information and he cannot trace a chain of where the letter was generated, reviewed, edited and ultimately agreed to by the five Councilors.*

*Councilor Sheets stated that she wrote the first letter. She shared it with Councilor Wright and Councilor Bond, and it was not satisfactory to Councilor Wright who then prepared a separate letter on her own. There were three very small changes to that letter by other Councilors. The final draft was contributed by Councilor Sheets and sent to The Day. Councilor Sheets was then contacted by Greg Stone and she authenticated all five Councilors' involvement.*

*Councilor Skrmetti stated his concern is with the end product. Councilor O'Beirne expressed his objection stating that nobody else has the right to his e-mails absent a ruling from the Town Attorney that it was an illegal meeting. The process assumed the Councilors were guilty and they had to produce the paperwork to prove they weren't. Mayor Watson suggested that the point of producing the e-mails was to prevent an FOI hearing and Councilors gave them up willingly. Councilor Skrmetti noted that he never asked for anything - everything produced was in response to The Day's FOI request.*

*Councilor Kolnaski stated that after reviewing the packet, she wonders how the public feels about the Town Council. If this action took place outside of Council Chambers, then what else is happening? She suggested that the issue could have been discussed at a Committee of the Whole meeting. Mayor Watson agreed that he did not like the surprise factor. Councilor Wright stated this was a response to an editorial, not an action of the Council.*

*Discussion followed on deleting the referral. Councilor O'Beirne suggested that the facts of the case be sent to the FOI for a ruling to settle the issue.*

*The Town Manager stated that the issue is not whether it was a meeting, but whether or not the Council wants to continue to operate like this. He wondered if it would have hurt for the five*

*Councilors to engage the other four in the discussion. The e-mails may have been legal, but why not reach out and try to engage the entire Council? The Town Manager was not party to any of it so he would not be in a position to put it in writing to the FOI Commission. The Council should concentrate on how to avoid this type of situation in the future. The Manager suggested that from a group dynamic standpoint, this was not a good thing to have happen.*

*Councilor Bartinik stated that he wants to know what he can and can't do. Councilor Billing feels that the presentation on FOI will clarify things. Mayor Watson noted that people have compromised on both sides of the school issue and a healthy discussion in the open on this issue would have been a good thing. He emphasized that the Council has to work together as a team and respect each other, and it is alright to disagree and work to find common ground. The consensus of the Council was to not send anything to FOI.*

**2004-0096 Future Polling Locations**

**Discussed**

*The Board of Education has backed off of their decision and will allow use of the schools for the upcoming presidential election. A modified letter was sent by the Mayor to the Board of Education and the Town Manager is recommending that the Council and Board of Education meet after the budget to talk about polling places.*

**1999-0206 Noank Hatchery Proposal**

**Discussed**

*Mayor Watson noted there was a flaw in the property description in the original legislation, which will be corrected this session. He stated that he would call the hatchery to set up a tour, especially for the new Councilors. Mayor Watson provided a brief history of the project and asked that a copy of the lease be provided to all Councilors.*

**2004-0010 Pending Litigation (2004 Standing Referral)**

**Discussed**

*Town Manager Oefinger stated that the Grove Avenue Subdivision expired last October. The Town Council has been visited many times by concerned neighbors. Staff has been working with the Town Attorney and will need an executive session at the April 13th meeting to discuss the issue. Three duplexes have been built, but not completed and the site is torn up. There are multiple parties involved. With spring coming, residents will want an update. The Town Manager noted that the Town is in the process of pulling the bond. Councilor Billing requested a background memo on the issue.*

*Councilor Skrmetti asked for an update on the Library Street project. The Town Manager believes that no work has been done in well over a year. He will check with Inspection Services staff and see if there has been any response to DOT from the property owner regarding the sidewalk being undermined.*

**7. Consideration of Committee Referral Items as per Town Council Referral List**

*The Council decided to look at the referral list individually and make suggestions to the Town Manager for deletions.*

**8. OTHER BUSINESS**

*Councilor Bartinik asked for copies of all labor contracts. Councilor Wright asked for information on the contract cycle.*

*Councilor Sheets asked for a presentation by staff at the next Committee of the Whole meeting regarding alternatives for Mouse Island residents for pump out services, and she suggested that residents be notified of the meeting.*

*Councilor Billing noted the presence of representatives from the Groton Good Government PAC, and stated that the Council has received information about two bills in the state legislature concerning MM&E and revaluation. She suggested that citizens should be contacting their legislators on these two issues.*

**9. ADJOURNMENT**

*A motion was made by Councilor Kolnaski, seconded by Councilor Skrmetti, to adjourn at 8:30 p.m.*

*The motion carried unanimously.*