



**Town of Amherst
Town Council Meeting - Workshop
Thursday, March 14, 2019 4:30 p.m.
Town Room, Town Hall
4 Boltwood Avenue**

Minutes

Video of the first part of the meeting is available online: <https://amherstmedia.org/content/amherst-town-council-31419>

1. Call to order and declaration of a quorum

President Griesemer declared the presence of a quorum and called the meeting to order at 4:31 p.m.

Councilors present: Councilors Bahl-Milne, Brewer, DeAngelis, DuMont, Griesemer, Hanneke, Schoen, Steinberg, and Swartz.

Councilors absent: Councilors Pam, Ross, Ryan, and Schreiber.

Councilors participating remotely: None

Others present: Town Manager Paul Bockelman, Acting Clerk of the Council Athena O’Keeffe

President Griesemer announced audio and video recording by Amherst Media.

2. Presentations and Discussion

a. Presentation on the Open Meeting Law, Public Records Law, and Conflict of Interest Law – Lauren Goldberg, Town Attorney, KP Law

Town Attorney Lauren Goldberg spoke about the Open Meeting Law, Public Records Law, and Conflict of Interest Law. There were questions and answers throughout the presentation; this is a summary of topics discussed and answers provided. Town Councilors, Town staff and members of boards and committees participated in the presentation.

Meeting: any time a quorum of members of a board or committee are addressing a matter within their jurisdiction. Can be via email, forwarded email, phone, or serially (one person speaks to another and so on).

Deliberation: anything substantive about which you have feelings, ideas, beliefs, & concerns that are shared within a quorum is considered a deliberation.

Best practice is to use email only for scheduling meetings. Emails are subject to the Public Records Law. If using a personal email address (like gmail), copy a Town email address to create a repository for public records purposes.

Social media: Board and committee members have to be careful if they post to town's social media page. Individual members of a board have no authority unless that body has given the member authority to speak on their behalf.

Having a dialog with the public about your opinions can be tricky: you want to make sure you are judging items on the agenda based on what is presented at the meeting, and not pre-judge before a meeting.

Reply all to email directed to all councilors may be a violation. A best practice is to treat the reply all button like it doesn't exist.

If the Town Council votes to designate a member to convey a statement or position to another multiple-member body, then it is clear they are conveying that information only, and not speaking on behalf of the Council. If a Councilor is designated to serve on a committee, they are not representing a specific position or opinion of the Council; role is more like that of a liaison.

Members of a board can go to a posted meeting of another board. The law allows a quorum of a board to attend a meeting of another board, however they cannot deliberate at the meeting. Best practice is to officially post meetings of both bodies. Sitting together, whispering during a meeting, sharing a car to/from meetings, etc. can create the *appearance* of a violation.

If the Town Council were to have a retreat or other informal gathering, the meeting must be posted & minutes taken.

Minutes: only minute-taker is required to take minutes that are subject to public records. Anyone else can take minutes and as long as they are not shared, they are not a public record.

Minutes must contain time, date, place, people present/absent, motions made & votes taken, & enough detail that someone who is not at the meeting would understand what happened at the meeting.

Attorney General would like to see general outline of what was said, questions and answers. Minutes do not need to be a transcript. While the standard is high, it is best to get as close to the standard as possible.

Subcommittees must post meetings and take minutes. The focus should be on properly reflecting the substance of the conversation. Must have actual minutes prepared, even if there is an audio or video recording. Draft minutes are a public record as of the time they are created, once minutes are approved, drafts & notes can be destroyed unless there is a public record request before they are approved.

Minute-note-takers should not write anything in their notes that they would not be comfortable having published or distributed. No impressions, comments about physical appearance, etc. Assume your notes will be read. Write draft & date of draft on every side of draft minutes.

When bodies vote to approve minutes, you are not attesting to the validity of the minutes, just approving the record of the meeting. Approval of minutes does not require a vote of the body; body can approve through a vote of the body, or consent calendar – at the end of the meeting notice, have sets of minutes and unless it is brought up at the meeting, the minutes are deemed approved; or can vote to give an individual the authority to approve minutes.

If a member created the minutes, they should not share draft minutes for editing with a quorum of members; bodies may not collaborate on minutes. If a staff person sends out minutes to members, “do not

reply all, and get back to me with edits.” A body can write rule that specifies the method of approving minutes. Best case scenario is having a non-member take minutes.

Agenda items not anticipated 48 hours prior to the meeting can be brought up, discussed & voted as long as the chair didn’t anticipate the item. If the chair did anticipate and chose not to include it, then it cannot be addressed at the meeting. Best practice is to place it on a future agenda unless it requires immediate action.

The Town Council took a short recess, during which time the meeting was moved to the First Floor Meeting Room due to a room scheduling conflict.

The meeting reconvened at 6:00 p.m. in the First Floor Meeting Room.

Public Records: Email, text messages and voicemail are all considered public records. Any document or record made by a public employee is considered a public record. Any email regarding official business is subject to public record law.

Ethics: Financial interest is something that affect can you positively or negatively, big or small financial impact. Immediate family: for example, husband’s sister is immediate family, brother’s wife is not considered immediate family. Appearance of conflict of interest—would a reasonable person conclude you would act in a way that is not impartial. Members can file a disclosure stating that though they have a relationship, they can be fair & neutral; or the member can recuse himself or herself if they cannot be fair and neutral. When you recuse yourself, leave the table, and you become a member of the public – may not participate in discussions, can speak only during a public comment period. Conflict of interest disclosures are filed with the clerk & appointing authority. Call Ethics division for advice about potential conflicts *before* participating in a discussion or vote.

3. Adjourn

President Griesemer adjourned the meeting at 6:56 p.m.

Respectfully submitted,



Athena O’Keeffe
Clerk Pro-Tem

Approved April 1, 2019



Margaret Z. Nartowicz
Clerk of the Council