



Welcome To New Britain Public Service:

A Short Guide as an Elected/Appointed/City Official of the City of New Britain



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INTRODUCTION

Whether you have just been elected to public office, or have volunteered to serve on one of New Britain's many boards and commissions, you probably have several questions about your role. This guide is designed to answer some of the questions which we have been asked over the years. It also answers questions which we have *not* been asked over the years... but should have been. Please do not feel obliged to read this guide cover-to-cover. There will not be a quiz. Everyone comes to public service with a different degree of background knowledge and comfort with their new role and our objective is to fill in any gaps. We encourage you to familiarize yourself with the overall content of this guide and to consult it as you would any other reference material.

Of course, the Corporation Counsel's Office and Town Clerk are always available via telephone, e-mail or in person to answer any specific questions which you may have about your duties as a City official. Your questions and our answers are generally protected by the attorney-client privilege as will be discussed further in this guide. Many times, however, people don't want to inconvenience staff or may feel embarrassed to ask questions to which they think they should already know the answer. Please do not feel at all uncomfortable about calling us. We would much rather have you ask a question in advance than try to fix an avoidable problem after the fact.

Because most boards/commissions meet during early morning or evening hours, you may not feel that someone is available to answer a question during one of your meetings. Hopefully this guide will provide you with enough information to allow you to proceed until you can get more detailed information from us. You may reach us using the following contact information. We encourage you to send any e-mailed questions to all four of us unless you have been working with a particular member of our offices on a matter. Doing so will ensure that you get the fastest possible response from the person who knows the most about your particular question.

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WHAT AM I DOING HERE?

Our answer focuses on your general duties as a City official.

The City of New Britain elects its Mayor, Town Clerk, Tax Collector, Treasurer, Common Council, Board of Education, Board of Assessment Appeals, Constables and Registrars of Voters. Each of these elected officials have broad duties and powers which are spelled out in New Britain's Charter and ordinances as well as in state law. In addition to our elected officials, however, New Britain benefits from the service of over 200 appointees sitting on more than thirty boards and commissions (see Appendix A). The duties of these agencies are much more subject-matter focused. Most of them are established by specific provisions New Britain's Charter or Code of Ordinances, though several *ad hoc* advisory groups also exist.

If you are reading this guide, you already have a rough sense of your role in City government. Either you ran for office with a sense of what the duties of office would entail or you were asked to serve on a specific board/commission and were given some general description of your duties. Whatever your specific situation, we strongly encourage you to start your service by reading through the provisions of the Charter and/or Code of Ordinances which describe your duties in more detail. Our Charter and Code of Ordinances are available on-line. They are indexed and searchable by going to www.newbritainct.gov and select GOVERNMENT then CHARTER and CITY ORDINANCES.

The following boards and commissions are established in Article VII of our Charter and their duties may be found there:

Parks & Recreation Commission	Police Commission
Fire Commission	Civil Service/Personnel Commission
Zoning Board of Appeals	Board of Finance and Taxation
Veterans Commission	Board of Public Works
Board of Water Commissioners	Fairview Cemetery Commission

The City's remaining boards and commissions are generally described in individual articles within Chapter 2 ADMINISTRATION of the New Britain Code of Ordinances, as are the general ordinance provisions applicable to all boards and commissions. If you do not see your specific board or commission listed there, please feel free to call us and we will be happy to discuss your duties with you.

If you were asked to serve on a City Board or Commission you will need to promptly sign the Mayor's appointment letter for that particular body. This appointment letter serves as your acceptance to serve and provides your term of office. The Town Clerk then publishes the list of all boards and commissions and retains this document in the City Records for permanent, historic retention.

MEETINGS - THE FREEDOM OF INFORMATION ACT, ROBERT'S RULES OF ORDER AND OTHER SUNDRY MATTERS

Most of your duties will take place at meetings of your agencies. Generally, “meetings” are simply that: gatherings of the members of your agency to discuss issues or other matters within your jurisdiction. Some of you may hear presentations from other groups, hold public hearings or schedule public events. Regardless of the situation, these meetings are subject to legal requirements and traditional formal procedures. If you have never before been a member of a public body, some of the rules regarding how they operate may be foreign to you. While the following information may appear daunting at first, in practice it is actually not nearly as confusing as it may seem on paper.

A. The Freedom of Information Act

Whatever your duties may be, if you are a member of an official New Britain board or commission, you are a member of what Connecticut law defines as a “Public Agency.” Please do not think - even for a moment - that “surely this doesn’t apply to me.” **It does.** Your agency is subject to the requirements of Connecticut’s Freedom of Information Act (FOIA). While the FOIA contains many subtle nuances, its provisions can generally be divided into two simple groups: (1) Public Meetings; and (2) Public Records. We will address the “Public Records” concept later. For the time being let’s concentrate on Public Meetings.

The FOIA covers much more than simply what constitutes a public meeting. It includes a number of procedural rules for the scheduling, management and recording of meetings so that the public can have access both to the meetings themselves and to a record of what happened. After all, a meeting is hardly “public” if no one can find out when it is going to take place, where it is going to be held or what happened.

1. What is a “Meeting”?

The General Rule: Quorum . In general, any time your agency gathers to conduct agency business, that event is a “Meeting” which is subject to the requirements of the FOIA. Of course, nothing in the law is ever quite that simple.

In the case of a board or commission with multiple members, the agency can generally only take official action by a vote of its members at a meeting where a *quorum* of those members is present. In the absence of a different rule, a quorum consists of a majority of the existing, appointed members of the agency *including* any members whose terms have expired, but whose successors have not yet been appointed. In other words, if the ordinance governing your agency provides that it shall have seven members, but only

five have been appointed, a quorum is three. If a sixth member had been serving, but their term has expired, under our ordinances they continue to serve until their successor has been appointed. Consequently, they are counted toward establishing a quorum.

Exceptions to the Quorum Requirement. Logically, if a quorum of the members of an agency must be present to conduct agency business, then you would think that a gathering of *less than* a quorum of the members of an agency is *not* a “meeting” of the agency. Two sets of circumstances *may* constitute an exception to this logical assumption. The first situation is where an agency delegates its authority to a single member (or a subcommittee) to take action on a specific topic. Thus, for example, if a five-member board votes to authorize its Chair to listen to a presentation and make a decision, the meetings at which the Chair listens to the presentation and makes the decision may be “meetings” of the agency.

The second circumstance, which has become more commonplace in recent years, is what has come to be known as a “serial meeting.” This situation can occur in person, by telephone or by e-mail. Usually it starts innocently enough. One member calls another to ask a question or discuss an issue of business before the agency. As a result of this discussion, each of those two members call another member and continue the discussion. Eventually, a consensus decision has been made about agency business by the full membership of the agency without the members ever gathering together physically in one place. With the advent of e-mail, the notion of a serial meeting has become even more complex because of the possibility that multiple members of an agency can participate in a discussion at the same time and to the same degree as if they were gathered around the meeting room table. Indeed, the e-mail serial meeting scenario even blurs the distinction between the “public meeting” and “public record” provisions of the FOIA. These situations are almost certainly going to be viewed as “meetings” by the Freedom of Information Commission. For reasons which will be discussed further herein, these serial meetings almost always violate the requirements of the FOIA.

When is a meeting not a Meeting? Certain narrow categories of meetings are excluded from the scope of the FOIA altogether. These meetings are not considered to be “Meetings” under the FOIA at all. They are:

- Any meeting of a personnel search committee for executive level employment candidates;
- Any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business;
- Meetings to discuss strategy or negotiations with respect to collective bargaining;
- A caucus of members of a single political party notwithstanding that such members also constitute a quorum of a public agency;
- Communication limited to notice of meetings of any public agency or the agendas thereof. *Note:* This is a clearly authorized exception to the general caution against “serial meetings.”

-A quorum of the members of a public agency who are present at any event which has been noticed and conducted as a meeting of another public agency under the provisions of the Freedom of Information Act

Before relying upon any of these exceptions, we strongly urge you to consult the Corporation Counsel's Office in order to be certain that the law has not changed and that your interpretation of the situation is sound.

2. Before the Meeting

Regular and Special Meetings. Meetings of boards or commissions fall into two categories: "Regular Meetings" and "Special Meetings." "Regular meetings" are held according to an adopted schedule. After adopting a schedule for regular meetings, the schedule must be provided to the Town Clerk and the first meeting may not be held for at least thirty days. **Consequently, we recommend adopting the schedule in November so that your January meeting will not violate the 30-day requirement.** "Special Meetings" are any *other* meetings which you may call during the course of the year as needed. For the most part, regular and special meetings are indistinguishable. The one significant difference relates to the importance of the agenda for the meeting.

The Agenda. Before any meeting is held, an agenda is prepared ***and must be posted on the Town Clerk's bulletin board at least 24 hours before the beginning of the meeting.*** For purposes of this rule, only business days count, so a meeting to be held at 8:00 am on Monday morning must be posted before 8:00 am on the preceding Friday. This requirement applies to both regular and special meetings.

With the popularity of email please follow-up with Corrine Teti (860-826-3339) or Mark Bernacki (860-826-3343) to confirm receipt of your Notice/Agenda. This is especially important if you submit your Notice/Agenda on a Friday and your meeting is Monday (or Tuesday if Monday is a legal holiday). Your Notice/Agenda **MUST** be posted **and reviewable to the public** on the Town Clerk bulletin board not less than 24 hours before your meeting.

Any action taken at an improperly noticed meeting is null and void.

The legal distinction between regular meetings and special meetings relates to the significance of the agenda. At a *regular* meeting a public agency may consider a matter which is not listed on its agenda, provided that it votes to do so by a 2/3 majority vote. Procedurally, a member moves to take up a matter not on the agenda, stating what that matter is. The body then votes on the motion before discussing the substance of the matter at all. If the motion passes by a 2/3 majority of those present, the agency can then proceed to discuss the substance of the issue. At a *special* meeting, however, *no* matters may be taken up by the agency except those listed on the agenda.

A sample agenda is appended to this guide. You are not bound to use this form. They are simply offered for your convenience.

If your meeting needs to be cancelled you **must**:

- Provide a notice of cancellation to the Town Clerk's Office.
- Post signage on all doors leading into City Hall (including the Sky Walk) and near the office where your meeting was to be held notifying the public of your meeting's cancellation. If possible, also include the date, time and location of the next regular or special meeting.
- If a special meeting will be held, provide a notice and agenda to the Town Clerk's Office following the 24-hour notice requirements.

3. The Meeting Itself:

Opening the meeting. The meeting of an agency is usually opened by the Chair. In the Chair's absence, the Vice-Chair or any other member of the agency may open the meeting. The first order of business should always be to take attendance. This serves a number of purposes. First and foremost, it allows the Chair to determine whether a quorum is present. A very practical reason for taking attendance is that some agency meetings are audio-recorded and the roll call allows subsequent listeners to more easily identify the various speakers.

On those rare occasions when the roll call demonstrates the lack of a quorum, the agency *cannot* take any formal action on its agenda items. The person presiding over the meeting simply declares a lack of a quorum and adjourns the meeting. Unless the meeting is to be cancelled altogether, the person adjourning the meeting should adjourn to a stated date, time and place. Notice of the new date, time and place for the meeting should be posted on the meeting room door within 24 hours. At this point the meeting is over and the minutes should end.

Public Participation/Executive Session : At the heart of the FOIA is a simple principle: The meetings of public agencies are presumed to be open to the public. There are, however, exceptions to this rule. Your meeting may not fall into one of the exceptions to the definition of "meeting" listed above, but certain subjects may still be discussed by the agency in private. These private portions of a meeting are referred to as an "Executive Session." For some reason, people occasionally use the term "Executive Session" to refer to the portion of a meeting where the agency votes on the agenda items before it. This is incorrect and the misuse of the term should be avoided because it has legal significance which may be misunderstood - particularly in the written minutes which are the ultimate record of the meeting. Executive sessions can only be held after a 2/3 majority vote is taken by the body to go into executive session. The motion must clearly state the purpose for the executive session and it can only be for one or more of the following very narrow purposes:

- Discussion of the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, *unless* the individual in question insists that the discussion be held at an open meeting;
- Strategy and negotiations with respect to pending claims or pending litigation involving the agency or its members until that litigation or claim has been finally resolved (including litigation being contemplated by the agency);
- Matters concerning security strategy or the deployment of security personnel, or devices affecting public security;
- Discussion of the selection of a site or the lease, sale or purchase of real estate by the City when publicity would cause a likelihood of increased price until such time as all of the property has been acquired or the transaction is abandoned;
- Discussion which would result in the disclosure of public records or the information contained therein when those records are exempt from disclosure under the FOIA.

Texting During Meetings: It is strongly recommended that you NOT text during your meeting. Several states have been determining that all text messages received and/or sent during a meeting may be subject to FOI disclosure laws. All members should turn off their cell phones prior to the meeting to eliminate any future disclosure issues.

No agency business should be discussed in executive session except the topic for which the session was called.

4. After the Meeting

Following the meeting, written minutes must be prepared and provided to the Town Clerk. The FOIA requires that a summary of all votes taken (including the votes of each member of the agency) must be reduced to writing and provided to the Town Clerk within 48 hours. Complete minutes, including that same voting information, must be turned over to the Town Clerk within seven days. For obvious reasons, it is usually more efficient to have the minutes prepared within 48 hours if possible. Please be sure to provide your minutes to the Town Clerk's Office on state approved 3-hole punched archival paper. See the Town Clerk's Office for more information.

Minutes need not be verbatim. Often, simply annotating the agenda of the meeting with a general summary of the discussion regarding each agenda item suffices. The times when the meeting is called to order and adjourned should be noted. The roll of those members of the agency who are present should also be listed. It is important to note the maker/seconder of each motion, including any procedural motions, and the vote on each motion. This will help readers to understand the final action taken. Beyond these requirements, the level of the detail provided in the minutes is up to the person taking them. More detail is always helpful to later readers, but that benefit must be balanced against the time and abilities of the person taking and transcribing them.

B. Robert's Rules of Order and Other Procedural Rules

Generally, meetings are run by the Chair of the agency or the Vice-Chair in the absence of the Chair. In the absence of a specific rule applicable to your agency, City ordinances specify that the Chair is to be elected by the members themselves. At that same time, the agency can elect any other officers which it chooses to establish. We would recommend establishing a Vice-Chair and a Secretary in addition to the Chair. Having a Vice-Chair simplifies matters when the Chair falls ill or is out of town on business when a meeting needs to be held. The Secretary is the person who takes the minutes of the meeting, writes them up afterward and provides a copy to the Town Clerk. Having a regular Secretary helps to establish a routine practice for taking minutes and avoids accidental oversights.

The Chair should certainly become familiar with Robert's Rules of Order and with any rules which the agency has adopted for itself. We also recommend that other members become familiar with these rules. Robert's Rules are the parliamentary rules of procedure which are universally recognized by boards and commissions around the world. They can become somewhat esoteric or convoluted if agency members choose to delve deeply into them. For the most part, however, they are nothing more than a set of "manners" by which members of the body are expected to behave in an extremely polite and formal society. Several websites provide tutorials on Robert's Rules as well as the text of the rules themselves. The Corporation Counsel's Office also keep copies of Robert's Rules on hand. A Quick Reference Chart is provided as an appendix to this guide, but that chart does require some familiarity with Robert's Rules and should not be used as a replacement for such familiarity.

In addition to the Charter and ordinance provisions which establish the substantive bounds of your authority, several of our boards and commissions have also adopted their own procedural rules of organization. You should find out whether your particular agency has adopted such rules or bylaws and familiarize yourself with them. If your agency has not adopted such rules, you may wish to consider doing so. These rules may cover such issues as: who may call a meeting of the agency; when and where your regularly-scheduled meetings are to be held; the regular order of items on your agenda; who sets the agenda for your meetings, etc. The Standing Rules of the Common Council are available in the Common Council office and may provide you with ideas to incorporate into your own rules.

If you do adopt rules, however, please have the Corporation Counsel's Office review them to be certain that they do not accidentally violate some applicable provision of law.

For those of you who are members of agencies which exercise land use decision-

making authority (Common Council, City Plan Commission and Zoning Board of Appeals) the topic of zoning processes and procedures is a subject for another day and another guide. From time to time (as new membership warrants), the Corporation Counsel's Office holds an evening workshop for land use agency members. It is very important that you understand the procedural and substantive rules applicable to these duties, but the topic is complex enough to warrant its own discussion.

THE CODE OF ETHICS

New Britain prides itself as a well-run, professionally managed municipality. Ours has long been a culture of ethics in which one very simple rule guides everything we do: Be above reproach. Since being above reproach is sometimes easier said than done, New Britain has adopted a formal Code of Ethics which can be found at our Code of Ordinances, Chapter 2 Article VI CODE OF ETHICS. The substantive provisions of this code should not come as a surprise to anyone, but you may never have had any reason to consider some aspects of these rules. For that reason, we offer a short bullet-summary here. Each November New Britain requires all elected officials and several department heads to submit a Disclosure of Financial Interest form which must be filed with the Town Clerk.

If you have any specific questions, you should call the Town Clerk for guidance.

Standard of Service : A basic level of principled conduct is expected of all public officials in New Britain. All public officials are expected to honor them. These expectations are found in the expressions of the electorate in elections, in New Britain's Charter and ordinances and in the programs developed by the City. Agency members should not exceed their authority or ask others to do so. They must also work in full cooperation with other public officers, officials and employees unless law, good conscience or the officially recognized confidential nature of their work prevents them from doing so.

Use of Public Property : No public official shall ask for, or permit himself or herself or others to use City-owned or -leased vehicles, equipment, materials or property for personal convenience or profit, unless those services are available to the public at large or are available pursuant to established City policies.

Special Consideration Prohibited : No public official shall grant any special consideration, treatment or advantage to anyone which is not available to every other citizen.

Conflicts of Interest : No public official may engage in any business or transaction or have a private financial interest or personal interest, direct or indirect, which is incompatible or in conflict with the proper discharge of his or her official duties in the public interest. For purposes of this rule, a "private financial interest" includes the financial interests of your spouse or minor child(ren). In addition you must avoid any conflict of interest which would tend to impair your independence of judgment or action in the performance of your official duties for the City.

This rule is a mouthful and is the most common type of ethical dilemma. For that reason, it warrants a short explanation. The rule *does not* mean that you must divest yourself of all of your investments, quit your job or sever all ties with that difficult relative you've been hoping to avoid for years. For the most part, it simply requires you to step back and recuse yourself from agency discussion of any issues where you have a specific personal or financial interest at stake. Regrettably, there may be times when your public service may mean that you forego personal or professional opportunities in order to avoid any appearance of impropriety. This is more common among our elected officials because of the nature of their duties and is a very under-appreciated aspect of their service. At those times, the rewards of public service may seem somewhat theoretical.

Nor does this requirement mean that you cannot have a personal interest in the *general* subject matter with which your agency deals. After all, if you have been appointed to an agency, you were probably asked to serve precisely *because of* your familiarity with a particular subject-matter. It would be silly to have a Senior Citizens Advisory Committee with no senior citizens on it or a Commission for Persons with Disabilities with no disabled members. You are, however, expected to evaluate those situations where an issue may be uniquely applicable to you and to recuse yourself from considering those issues. A member of the Plan and Zoning Commission, for example, should probably recuse himself or herself from considering an application involving the home next door, or an application submitted by a direct business competitor.

You do not need to disclose the nature of a conflict of interest unless you choose to do so. Nor should any of the other members of your agency press you to do so. If good conscience compels someone to step back from discussion of an issue for ethical reasons, no one should ever question or disrespect that decision.

Financial Interest Restricted : No public official shall be financially interested, directly or indirectly, in any contract with, sales to, purchases from or compensable services made with or rendered to the City, except as a minority stockholder or a director in a corporation.

This does not apply to any contract awarded to the lowest responsible bidder after public advertisement. In addition, the Corporation Counsel's Office has opined that this rule does not apply to an employee of a business if that employee's compensation is not dependent upon or tied to the contract with the City.

Confidential Information : Except when required by law, no public official may disclose any confidential information concerning the property, government business or affairs of the City, or use such information to advance his/her private financial interests or the interests of anyone else.

Acceptance of Gifts, Gratuities and Favors Restricted : No public official shall accept or solicit any valuable gift, regardless of its form, from any person who is interested in business dealings with the City, or which gift might tend to influence the public official in the discharge of his or her official duties, in granting any improper favor, service or thing of value.

Appearance on Behalf of Private Interests : No public official may appear on behalf of private interests before any agency of the City. No public official may represent private interests in any action or proceeding against the City in any litigation when said appearance or representation would conflict with or tend to impair his or her independence of judgment and action in performing his/her official duties. An elected officer or official may not appear before a City agency except on behalf of constituents in the course of performing his or her duties as a representative of the electorate. Any other official or employee may appear before a City agency in the performance of official, public or civic obligations.

Disclosure of Interests Required : On very rare occasions, you may find yourself in a situation where you simply have no choice but to participate in a discussion which might have a direct impact upon you. Sometimes, you may not even realize that you have been participating in such a discussion until it has been underway for a while. A public official who has a private financial interest in any action, legislative or otherwise, by any City agency and who is a member of, participates in discussion with or gives an official opinion to such City agency must disclose the true nature and extent of that interest. This should be done in writing if possible, but on the written minutes of the meeting at a bare minimum. This requirement does not apply to:

- (1) Contracts awarded to the lowest responsible bidder after public advertisement.
- (2) Unpaid appointed officials during a declared state of emergency.
- (3) Matters requiring disclosure to or approval by a court.
- (4) Interests by virtue of ownership of stock in a publicly held corporation in an amount less than 5% of all issued and outstanding stock.

Certain *elected* officials and department heads (see Ordinance 2-453) must file an annual statement with the Town Clerk, under oath, containing the following information:

- (1) All real estate located within the City of New Britain owned by such elected official or held under a lease for a term exceeding five years, excluding his or her principal residence. This includes all real estate owned or leased by a corporation, trust or partnership in which the official is the legal or equitable holder of at least 5% of the legal or equitable interests in said corporation, trust or partnership.
- (2) The names of any firm, proprietorship, partnership or corporation of which said

elected official is an employee or in which such elected official holds at least a five-percent interest *if* that firm, proprietorship, partnership or corporation has sold or supplied goods or services in excess of \$10,000 per annum to the City of New Britain during the two years immediately preceding such official's election to office.

(3) Any income, fees, salary or wages directly or indirectly received by such elected official from the City of New Britain or its agencies during the two years immediately preceding such official's election to public office.

Political Activities by City Personnel : No paid public official appointed by the Mayor or by the Board of Education shall use the prestige of his or her position in behalf of any political party. No public official, paid or otherwise, shall promise an appointment to any paid position under the Mayor or the Board of Education as a reward for any political activity.

Commission on Ethics : New Britain has established a Commission on Ethics which may render advisory opinions to any agency of the City and to officers, officials and employees pursuant to written request or upon its own initiative. All requests for opinions and opinions themselves are confidential. The Commission may, in its discretion, make public opinions which it believes will be in the public interest, but only after being redacted to shield the identity of the officer, official or employee involved.

Violations and Penalties : There is no provision for the recall of an elected official in Connecticut, so there is little which can be done to sanction such officials for ethical violations. If any elected official, except a member of the Board of Education, is found by the Common Council to have knowingly violated New Britain's Code of Ethics, the fact of such violation shall be noted upon the official records of the Common Council. The rule is silent with respect to members of the Board of Education, but it is presumed that any such violation would be noted upon the official records of the Board of Education itself. All other public officials who knowingly violate the Code of Ethics may be removed from office in accordance with the procedures specified in the Charter.

PUBLIC RECORDS

It may appear somewhat disjointed to discuss “Public Records” separately from “Public Meetings” Our reason for doing so is to allow for a more coherent discussion of how public meetings are to be run because that is a far more significant issue for the members of local boards or commissions. Nonetheless, as public agency members, you should be aware of how Connecticut law deals with public records.

A. Records Retention :

Under Connecticut law, the records of all public agencies must be retained for specified periods of time. The State’s Public Records Administrator has established a Records Retention Schedule which specifies the required retention periods for various classes of municipal government records. It can be found on-line at:

<http://www.ctstatelibrary.org/publicrecords/municipal>

Most formal, official correspondence which is received or generated by your agency will be retained by staff in City Hall or the Board of Education. For example, the official copies of your agendas, minutes, etc. are the copies transmitted to the Town Clerk and kept in that office. You need not retain your personal copies unless you choose to do so.

The one significant area of concern for most of you will be e-mails. E-mail messages have been divided into three categories by the Public Records Administrator, depending on the significance of their content. The vast majority of messages which you receive or send will fall into the “Transitory” category which can be deleted at will. These are routine business or casual communications similar to the types of messages which would be conveyed in a telephone call. For example, messages such as “I cannot attend the meeting tonight” or “Can you send me another copy of the agenda” would fall into this category.

The remaining two categories: “Less than permanent” and “Permanent” recognize that in some cases, important business or policy matters may be transmitted via e-mail instead of via a more formal communication. The general rule here is simply that the format of the communication is not important. It is the content which matters. Thus, if you receive an e-mail message which contains information which you would save if it was received in a letter, you should preserve the e-mail by printing it for the official records of the agency. Scrolling quickly through the Records Retention Schedules will reassure you that these messages are very rare and, where public agencies are concerned, are almost certainly being kept by other parties to the message.

B. Disclosure of Public Records :

As is the case with your meetings, the general rule is that any records in the possession of a public agency are public records and are open to public inspection. Should a member of the public file a request for access to those records under the FOIA, you are obliged to produce them “promptly” for inspection or copying. The FOIA does, however, give you three business days to provide an initial response to a request for records. This should give you ample time to consult with the Corporation Counsel’s Office about your obligations in a specific situation.

You should be aware that if an individual provides your agency or its members with documents, those documents are likely to be deemed to be public records from that moment forward unless they fall into one of the statutorily-recognized exceptions to the rule. This also applies to your correspondence with City staff or with the other members of your agency about agency matters, including e-mail messages. You may wish to create a separate e-mail address for City-related correspondence using one of the popular services such as gmail or hotmail in order to avoid having to scour through your saved messages in the unlikely event of a request to inspect those e-mail messages.

As mentioned above (Texting During Meetings, page 7) it is strongly recommended that you NOT use your cell phone during your meeting. Please review *Camara v Watertown Planning Commission* (2016-0678). If you chair the meeting you should require that all members turn off their cell phones prior to each meeting.

You should also be aware that the FOIA *does not* require you to keep records because someone might one day ask for them. That is what the Records Retention Schedules are for. If you engaged in a series of e-mail messages about a topic and destroyed those messages in the ordinary course (as the Records Retention Schedules allow), then you cannot produce them in response to a subsequent FOI request *and there is nothing wrong with that*. What you cannot do is destroy a record after a FOI request has been made for it, even if you could have destroyed it legitimately before you received that request.

You should also be aware that the FOIA *does not* require you to research and/or assemble information in responding to an FOI request. The intent of the law is to provide public access to already existing documents that is in your possession. See EXEMPT DOCUMENTS for documents that are exempt from disclosure. If you think the request is too broad in scope it is within your right to see if the requestor can narrow the request.

Due to the increased use of computers and the internet you may receive requests for information that demand you produce the information in a specific format and/or provide it digitally. Again, this is not the intent of the FOIA. If the original requested document is hard copy you are to reproduce it and charge as a hard copy. If the original requested document is in digital format you can provide that digital version at no charge

to the requestor. Again, refer to EXEMPT DOCUMENTS for documents that are exempt from disclosure.

The Town Clerk and Department Heads continually update the New Britain City website. This site can be used for certain FOI requests where the public wishes to gain information. The address is: www.newbritainct.gov

EXEMPT DOCUMENTS - The types of documents which are exempt from disclosure under the FOIA are subject to very specific requirements. If a public agency possesses such records, it may decline to disclose them. Rather than giving you a precise list of exempt documents, which would be long, complicated and difficult to parse, the following “short list” of document types should suffice to alert you that a possible exemption exists and that you may wish to consult with us:

- Preliminary drafts or notes
- Personnel or medical files and similar files
- Records of law enforcement agencies
- Records of strategy and negotiations with respect to pending claims or litigation
- Trade secrets
- Commercial or financial information given in confidence
- Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examinations;
- Real estate appraisals, engineering or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property
- Statements of personal worth or personal financial data required by a licensing agency
- Records of strategy or negotiations with respect to collective bargaining;
- Records, tax returns, reports and statements exempted by federal law or state statutes
- Communications privileged by the attorney-client relationship;
- Names or addresses of public school students without their consent
- Any information obtained by the use of illegal means;
- Records of an investigation or the name of an employee providing information under the provisions of Connecticut’s “Whistleblower” law;
- Adoption records
- Any page of a primary petition, nominating petition, referendum petition or petition for a town meeting submitted under any provision of the general statutes
- Records of municipal health complaints, including investigation information
- Educational records
- Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility
- Records of standards, procedures, processes, software and codes, not otherwise available to the public
- The residential, work or school address of any participant in the State’s address confidentiality program

- The name or address of any minor enrolled in any parks and recreation program administered or sponsored by any public agency;
- Responses to any request for proposals or bid solicitation issued by a public agency or any record or file made by a public agency in connection with the contract award process, until such contract is executed

LEGAL QUESTIONS

A. The Attorney-Client Privilege

Connecticut General Statutes §52-146r explicitly extends the traditional attorney-client privilege to confidential communications between government attorneys and their clients. For purposes of this rule, the term “confidential communications” is defined as:

...all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice

Once again, however, we are obliged to point out an important limitation here. The Corporation Counsel’s Office is counsel to *the City*. We represent you in your capacities as *officials of the City*. We do not represent you in your personal capacities. Thus, if you disclose to us that you are a Red Sox fan, that fact is not privileged and we cannot assure you that those communications will be privileged. Nor should you divulge that you have been embezzling from your employer because that conduct is unrelated to your service to the City. If, on the other hand, you wish to consult with us about whether you have a conflict of interest under our Code of Ethics, or ask a question about whether you may hold an executive session to discuss a specific topic, that communication is privileged.

We are also compelled to point out that in some cases, if a member of an agency asks us a question, we may be obliged to provide the answer to the entire agency. We are not talking about conflict of interest questions here, or when a member of an agency simply needs guidance or a “refresher” on some question. If, however, a member asks us for an interpretation of an ordinance which is integral to a decision being made by his or her agency, then *all* of the members of the agency should have that information. In these cases we will inform you that we intend to share our answer to your question(s) with the other members of the agency.

In extremely rare cases, circumstances could arise in which your legal interests and those of the City diverge. In those cases, our obligation is to protect the interests of

the City. That does not mean we will stop taking your calls and pretend we don't recognize you in the supermarket. As will be discussed in the next section, mechanisms exist for handling those situations.

B. Liability Issues: What if I Get Sued?

Several boards or commissions make decisions which can be appealed to court. Most common among these are zoning appeals and property tax appeals, though other less common examples do occur. These appeals are important, but routine. Other than taking offense at the notion that someone might disagree with, or ultimately overturn your decision, you should not be concerned by the filing of such an appeal. They are lawsuits against the City and impose no personal liability upon you or your agency. If you are the Chair of one of these agencies, there are some situations in which one of the several possible ways to serve a lawsuit upon your agency is to serve you. This happens fairly rarely because there are usually more efficient alternatives, but you may wish to let your spouse know that if they find notice of a lawsuit wedged inside your front door, it is not cause for alarm.

Other than these routine appeals, it is *extremely* unlikely that your membership on a City board or commission will ever result in you being sued. In the event you are sued please be assured that Connecticut law requires the City to defend any civil lawsuit filed against you as a result of your discharge of your official duties. As public officials, you are insured through the City's self-insurance program. The Office of Corporation Counsel, or a private attorney hired by the City, will appear in any such case on behalf of all of the City-related defendants and will defend the matter vigorously in consultation with you. The City is also generally obligated to pay any settlements or judgments against you in any such lawsuits.

In the highly unlikely event that you were to be sued as a result of your City-related activities, the Corporation Counsel's Office would immediately make arrangements to meet with you and discuss the matter fully and frankly. If you poll the other members of your board or commission, you will not find anyone who has ever had cause to participate in such a discussion with the members of the Corporation Counsel.

CONCLUSION

We hope that this guide serves to reassure you and provide you with a helpful resource rather than causing you to be overwhelmed by issues which had never occurred to you before. The procedural and other requirements discussed here are all in place for the best of reasons, but they can sometimes make it more difficult to get to the real substance why you are here: Doing good service to your community. If we can help you navigate through the various processes and procedures which are the curse of modern government, please feel free to call on us.

Welcome to New Britain's service and Good Luck!

A1

APPENDICES

APPENDIX A:
ELECTED/APPOINTED NEW BRITAIN BOARDS AND COMMISSIONS

A. Elected Officials:

Mayor
Town Clerk / Registrar of Vital Statistics
/ Council Clerk
Tax Collector
Treasurer
Common Council¹
Board of Education
Board of Assessment Appeals
Constables
Registrar of Voters

B. Officials Appointed By Charter:

Parks & Recreation Commission
Police Commission
Fire Commission
Civil Service/Personnel Commission
Zoning Board of Appeals
Board of Finance & Taxation
Veterans Commission
Board of Public Works
Board of Water Commissioners
Fairview Cemetery Commission

C. Officials Appointed By Ordinance:

Commission on Aging
Animal Welfare Commission
Board of Appeals
Arts Commission
Building Commission
City Plan Commission
Community Neighborhood Development
Commission
Conservation Commission
Commission on Persons with Disabilities
Ethics Commission
Fair Rent Commission
Board of Health
Historic Preservation Commission
Housing Authority
Human Rights & Opportunities
Commission
Information Technology Commission
Mattabasset District Commission
Parking Ticket Board of Appeals
Parking Commission
School Building Committee
Youth & Family Services Commission

¹The Common Council also organizes its membership into three standing subcommittees and appoints members to serve as liaisons to various other groups or agencies

APPENDIX
B:SAMPLE AGENDA

<<Agency Name>>
<<Meeting Date &
Time>>
<<Meeting Location>>

AGENDA

1.Roll Call

2.Public Forum

3.Approval of Minutes

a. Minutes of Meeting of <<Previous Meeting Date(s)>>

4.Designation of Agenda Items to Be Added to Consent Calendar

5.Receipt of Communications

6.Unfinished Business

7.New Business

8.Adoption of Consent Calendar

9.Staff Reports

10.Executive Session

11.Adjournment

APPENDIX C: ROBERT'S RULES OF ORDER MOTIONS CHART

Based on *Robert's Rules of Order Newly Revised (10th Edition)*¹

Part 1, Main Motions. These motions are listed in order of precedence. A motion can be introduced if it is higher on the chart than the pending motion. § indicates the section from Robert's Rules.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE
§21	Close meeting	I move to adjourn	No	Yes	No	No	Majority
§20	Take break	I move to recess for ...	No	Yes	No	Yes	Majority
§19	Register complaint	I rise to a question of privilege	Yes	No	No	No	None
§18	Make follow agenda	I call for the orders of the day	Yes	No	No	No	None
§17	Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
§16	Close debate	I move the previous question	No	Yes	No	No	2/3
§15	Limit or extend debate	I move that debate be limited to ...	No	Yes	No	Yes	2/3
§14	Postpone to a certain time	I move to postpone the motion to ...	No	Yes	Yes	Yes	Majority
§13	Refer to committee	I move to refer the motion to ...	No	Yes	Yes	Yes	Majority
§12	Modify wording of motion	I move to amend the motion by ...	No	Yes	Yes	Yes	Majority
§11	Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
§10	Bring business before assembly (a main motion)	I move that [or "to"] ...	No	Yes	Yes	Yes	Majority

¹Reprinted from <http://www.robertsrules.org/motions.htm>

Part 2, Incidental Motions. No order of precedence. These motions arise incidentally and are decided immediately.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE
§23	Enforce rules	Point of Order	Yes	No	No	No	None
§24	Submit matter to assembly	I appeal from the decision of the chair	Yes	Yes	Varies	No	Majority
§25	Suspend rules	I move to suspend the rules	No	Yes	No	No	2/3
§26	Avoid main motion altogether	I object to the consideration of the question	Yes	No	No	No	2/3
§27	Divide motion	I move to divide the question	No	Yes	No	Yes	Majority
§29	Demand a rising vote	I move for a rising vote	Yes	No	No	No	None
§33	Parliamentary law question	Parliamentary inquiry	Yes	No	No	No	None
§33	Request for information	Point of information	Yes	No	No	No	None

Part 3, Motions That Bring a Question Again Before the Assembly.

No order of precedence. Introduce only when nothing else is pending.

§	PURPOSE:	YOU SAY:	INTERRUPT?	2ND?	DEBATE?	AMEND?	VOTE?
§34	Take matter from table	I move to take from the table ...	No	Yes	No	No	Majority
§35	Cancel previous action	I move to rescind ...	No	Yes	Yes	Yes	2/3 or Majority with notice
§37	Reconsider motion	I move to reconsider ...	No	Yes	Varies	No	Majority