

## CPCC meeting 1/28/2013

Committee members present: Ann Wright, Alex Fischer, Tristan Toleno, HB Lozito

- Called to order 5:32 PM
- Was it duly warned?
  - Yes!
- We have several members of the public here.
- Town attorney is here.
  - We have a few questions for him to answer.
  - Hoping to pick his brain on that.
- New complaint needs to be on the agenda
  - We have been notified
  - No further action on that on this meeting.
  - There is a complaint in process.
- Anything else to add to the agenda?
  - Report out on Selectboard meeting report.
    - Ann attended
    - Got a couple pats on the back for doing a good job.
  - Proposed CPCC letter to Barb – for us to look forward and back into records and information.
- December meeting minutes
  - Any changes?
  - Minutes approved.
- New business:
  - Bob – Town’s Attorney.
  - Copies of the Open Meeting Law flier
    - Must be warned. Must take minutes. Warned at least 24 hours. Ask for public participation.
    - There are exceptions for executive session. But Bob’s not sure that we ever do that.
      - Typically we do not do that. It’s part of the law but typically doesn’t apply to our committee.
      - If we’d like to make a response to a citizen and they are at the meeting but we’d like to go into executive session...when there’s a conflict of participation/interest with the person participating in the meeting.
      - People can not just email the town attorney with random questions.
        - We had asked Barb to bring you in on the letter to Terry but the assumption is that it fell off her radar.
        - So we’re drafting a letter in response to Terry regarding that. To close the book. There is one

remaining piece of information we'd like to collect on that.

- For our committee process/records the clear statement about the boundaries around personnel files of town employees. So that when that issue comes up again in the future we will have a clear statement.
- Bob answers: with regard to this committee there is NO RIGHT to the personnel files by the committee or by participants.
  - That is under public records law, not under open meeting law.
  - There are certain exceptions to the "Discovery Process" if there is a lawsuit. It's fairly high threshold to show why CPCC might need something pertaining to a personnel file. And if it is court ordered by a judge then you can have access to those files.
  - Terry attempts to elucidate her request: it's been brought to her attention that this officer has a history of being involved with a high-profile law suit in town and she'd like that information. The Town was sued and she thinks there's enough track record where she, as a citizen, would like a statement (it's fine whether it's through CPCC, the attorney or Barb...) would like a statement that there's acknowledgement of this officer's history in his employment with the town. And that people are taking notice of his actions. In light of the last 10 years, that shooting of the man in the church, the bear shooting, it's not unreasonable for her to be concerned about this specific officer. What she finds is that it's a small town, people are protective

of each other. You become like an extended family. As a citizen, she is troubled by this specific officer's track record. And she wants documentation that the town acknowledges her concern over this particular officer.

- Tristan: we in this Committee want to know if we can have something from the Attny about what the boundaries are.
  - Bob: with regard to the gen. question: our boundaries stop with personnel.
  - Tristan: can we have that in writing to add to our training materials?
  - Bob: the town could acknowledge you have a concern. But not that they agree with its content.
  - Terry: what can you do?
  - Bob: the town will not confirm nor deny what you call a "track record"
  - Terry: you cannot acknowledge that I have a concern?
  - We can say you have expressed a concern over a particular officer. We're not going to agree that there's a problem with a particular employee.
  - This is a dialogue.
    - You can acknowledge that I have a concern.
    - Terry's been asking for a statement...
  - Terry: asking that you've acknowledged her complaint and that it's on record.
  - Tristan: That will go in the minutes.
- Tristan: is there a legal way for us to do anything via email or are we stuck doing it all
    - Bob: you can't send emails to each other. You can't 'reply all'. That's essentially akin to a conference call. If you're having a conference call and it's not warned, that's a violation.

- The Chief/TM can send information.
- Can we do that for each other?
  - “I stopped by the BPD and there’s a new complaint.” Can we dispatch that information to each other. Yes.
  - But when in doubt, don’t. the way meeting is defined it has to be a quorum. You’re discussing town business/committee business...If you canmake the round robin with emails. Someone will say you’re discussing it then, chances are you’re violating open meeting law.
  - Ann: I need some clarification. She checks the email and VM every week. What happened was, she sent out an email to the committee members that there is a complaint on file. The dispatch out is OK. But as a result of that is that you need to call a special meeting, then you need to warn a special meeting.
  - Scheduling matters are fine. Can you make it Tuesday at 6? FINE. But ‘Can you make it Tuesday at 6, and can you believe what that guy said...’ not OK.
  - If it’s truly an emergency you can have a meeting without warning. It’s very rare.
  - There’s a difference between a special meeting and an emergency meeting.
  - Is everyone more or less comfortable with that?
  - Can you go back and forth with one person or not a quorum?
    - YES. Think of email like picking up the phone. Conversation that is not quorum is ok. Between any two single members is ok. But the law will catch up with technology sometime soon hopefully.
  - Tristan: there is something being drafted.
  - At the CPCC, the facilitator rotates quarterly. That person would be what the CPCC consider a meeting chair.
- James: when you fill out a complaint isn’t that acknowledgment?
  - Ann: well, complaints aren’t notarized...so that’s a bit different.
  - Tristan: we can get stuff into our minutes so that has a bit more concrete.
- Tristan: we’d like to get back with Bob on the language to be correct. Can Tristan communicate with Bob via email and then bring a draft back?
- Bob: everything needs to go through the Town Manager and then back to Bob.

- We should come to some understanding with Barb about if we want something reviewed. It should go to Barb and then to Bob and then back through that same path.
- Bob thinks the letter we've drafted is fine.
- Can we get a sentence that acknowledges Terry's complaint specifically? As a group we need to agree that the letter to Barb is sent from the Committee and then Barb can follow up with Bob.
- CPCC members agree to send that letter to Barb. And Bob will follow up with Barb this week.
- Tristan is sending on behalf of the CPCC and members agree.
- Ann: follow-up question: there are situations that don't fall under the realm of personnel but that are not public information...are there any guidelines you can give us? It's been fuzzy for us...the guideline is to help us do our job better and more easily provide the correct information to the public.
  - Bob: a lot of these things do fall into a gray area. You're going to fall into the matters that are currently being investigated. If it's currently being investigated, then those are not open for public inspection. Many times, after there's something that goes to court, then the information is in court and that's of course public record.
  - But there's a lag time where things are confidential they might not want that getting out...how you investigate a case requires confidentiality...so those matters are not publically available.
  - Terry: when a citizen fills out a complaint and it's about a specific officer does that go on their record? Is that a way to by-pass the committee and make sure that something is on record?
  - Bob: if you just make a complaint it doesn't necessarily go into their personnel file.
  - Tristan: with respect to an open case: any settlement is public record. But if on our committee a citizen asks us to find it is that outside our scope? It's public record, the citizen could locate those files.
    - If it's public, it's public and any citizen can bring it in front of who ever.
    - Bob: That's beyond your scope. The minute you start trying to investigate yourself, you're going to be dubbed having an agenda or a bias on a particular issue and that's not your charge.
  - Bob suggests: go to Vermont.gov and the legislature Title 1 section 318,319, 320 gets in to public documents as opposed to public meetings. Section 310, 311, 312 is more open meeting. So we may want to take a closer look at that. There is a list of what the legislature says are exempt records. If it's not on that list, then it's public.
  - Bob: if you have a letter you'd like to get out, it's best to have a special meeting or bring you letter to a meeting and move that we present it to a person that has a complaint. You can make changes then and the extent you can make changes.

- Ann: can we call a special meeting and say that it's going to be about a specific topic and that we're going to call this an executive session. It's more of a deliberative session...
- When do we get the time as a committee privately to get the training we need and work on things we need to do?
  - Bob: if it doesn't fall under the accepted reasons for executive committee then you can't go in executive session.
  - Sounds like we just need to be stronger in carving out time during our meetings to do things like trainings and getting the housekeeping things out of the way.
- Alex: bylaws. We've talked about changing some of our by-laws...what power do we have to change our committee bylaws?
  - Those are the rules of conduct for your committee. You're not an organization like a home-owners association...but think of them more as rules about how you're going to operate.
  - Do we have the power to change those or would it have to go back to the Selectboard?
    - It'd have to go to the Selectboard. They would want to know if someone was missing meetings...The Selectboard created the committee.
- We need to plan our next meeting...
  - Terry: when Annie was here, she mentioned that the officer got some individual training. A group training was requested. Can we have a discussion around that?
    - About the animal control training.
    - That is a Selectboard question.
  - Follow-up with the letter piece.
  - Do we want to signal that we're going to carve out 30 minutes for training.
    - Ann: would like to have something before. It's better to come prepared.
    - Wrinn: will send out a policy beforehand.
  - Ann: revisit the process by which we are notified.
  - **Add to the agenda:** Can we forward the email to ourselves? Can we set up a rule? To the individual?

MEETING ADJOURNED 6:37PM