

Welcome to Town Government:

An Overview Of Town Government and Administration

**Sarah Brancatella, Esq.
Katie Hodgdon, Esq.**



**The Association of Towns of
the State of New York**



Town Government

- Overview of town offices and functions
- FOIL
- OML

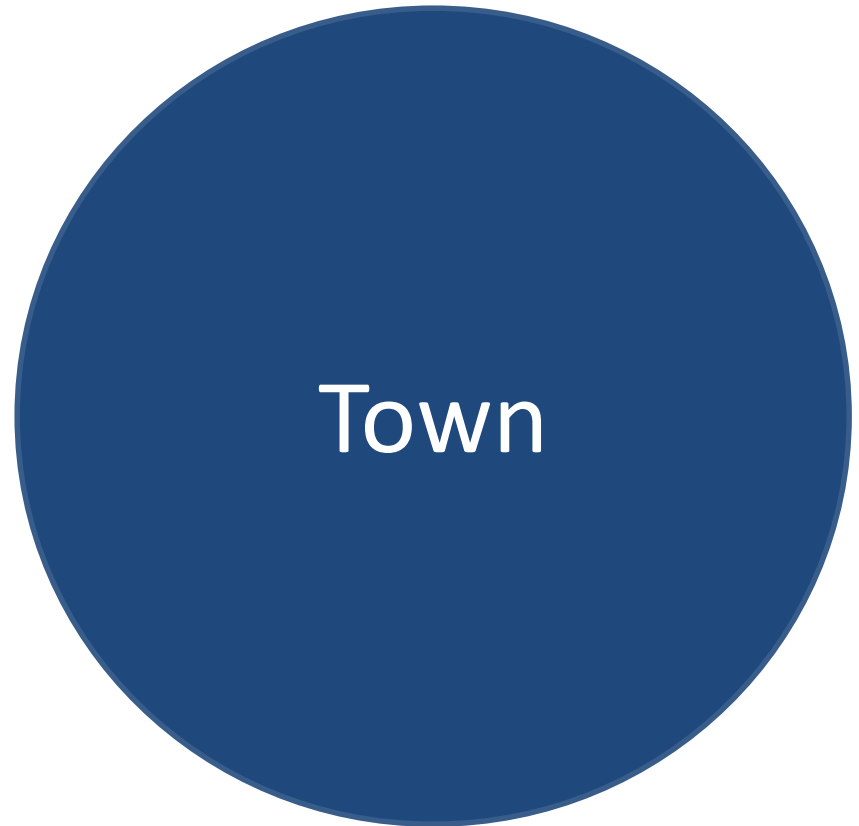


Town Services

- **Town services are provided:**
 - Town-wide: Services provided to all areas of town, including those in village(s) or special district.
 - Part-town: (Town Outside Village or TOV): Services provided to area of town outside any villages.
 - Special District: Services provided only to those residing in special district.

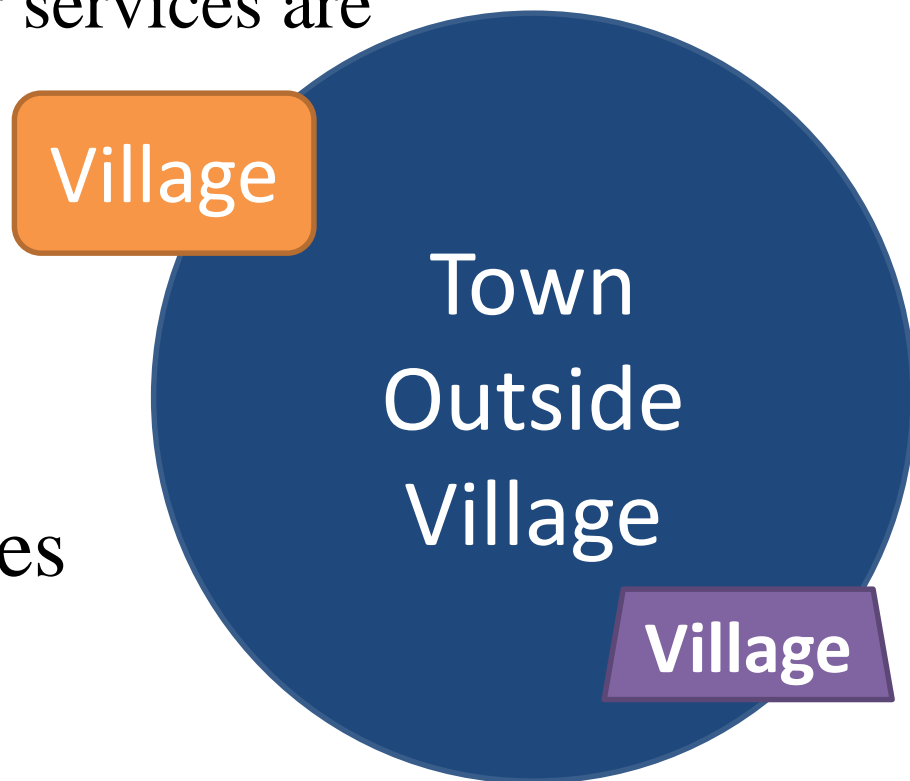
Town Services (No Villages)

- Town Wide Services
 - Highway Maintenance and Repair
 - Assessments
 - Police
 - Planning / Zoning
- Services provided to entire area of town



Town Services (With Village)

- When a town has one or more villages, certain services are provided only to the area of town outside of any incorporated villages (TOV) while other services are provided town-wide.
- Town-wide services
 - Assessment
 - Court
- TOV / Part-town services
 - Planning / Zoning
 - Code Enforcement





District Services

- Districts provide a particular service:
 - Water, sewer, fire protection, garbage, ambulance, lighting etc.
- Districts only cover part of town, but town can have multiple districts (and different types of districts may overlap)
- Only those residing in district receive and pay for service
- Vast majority administered by town board (exception – fire districts)



Funding

- How do towns get funds needed to operate?
 - State / federal aid
 - Sales tax, mortgage recording tax
 - Fees and rents
 - Real property taxation



Town Positions

Positions in town fall under 3 categories

1. Elected Officers (e.g. supervisor, town board, town justice, most highway superintendents and town clerks etc.)
2. Appointed Officers (e.g., planning board members, zoning board of appeals members, deputies etc.)
3. Traditional Employees (e.g. highway laborers, seasonal employees etc.)



Town Board

- Acts as a body – majority rules
- Supervisor equal member of town board, cannot act unilaterally
 - Supervisor has more responsibility but not necessarily more authority than the rest of the board
 - Can delegate day to day administration to supervisor



Town Board

- Legislative body - adopts local laws
- Administration of town affairs
 - Control finances, budget and property
 - Authorizes and approves purchases / contracts
 - Appoints officers and employees
 - Sets salaries
 - Sets policy
- Creates and administers improvement districts



Fiscal Administration

Town Board

- Designate depository (must be a bank)
- Establish investment policy
- Adopt budget
- Authorize budget transfers (same tax base)
- Approve all contracts and expenditures
- Can give certain officers ability to purchase items up to a certain amount before approval (eg, highway superintendent can purchase highway items up to \$500 and board approves after the fact)



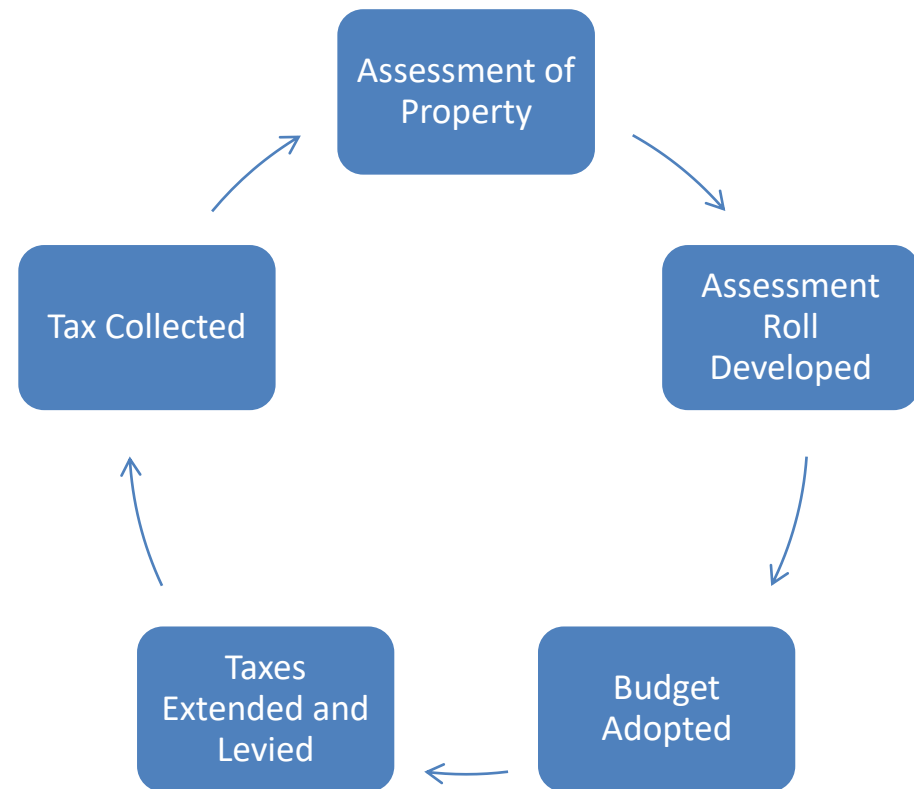
Fiscal Administration

Supervisor:

- Member of town board and chief fiscal officer of the town
- May also serve as budget officer (unless he or she appoints someone else)
- Maintains custody and care of town funds
- Disburses money / executes contracts
- Keeps accurate books
- Appoints deputy supervisor, historian, and confidential secretary and / or bookkeeper

The Real Property Tax Cycle

- **Fifty percent of revenue - real property taxes**
- **Assessment of property**
 - **Taxable Status Date 3/1**
- **Assessment roll developed**
 - **Tentative- 5/1**
 - **Grievance /BAR – Fourth Tuesday in May**
- **Budget adopted – 11/20**
- **Taxes extended and levied -1/1**
- **Taxes collected**





Assessing

Assessor:

- Public officer that calculates value of real properties situated within the town
- Assessment of property ultimately determines the real property tax bill
- Assessor can be elected or appointed
 - Sole assessor – six year term that runs pursuant to state guidelines: **October 2019-September 2025**
 - More than one elected assessor – four year term
- Assessor determines / processes exemption applications
- Assessor must be present at Board of Assessment Review hearings
- Very difficult to remove an assessor from office



Tax Collecting

- **Collecting Officer is Responsible for Collecting Real Property Taxes**
- Tax Collector- Towns of the Second Class
- Receiver of Taxes – Towns of the First Class
 - School Tax Collection
- Town Clerks
- Only the Collecting Officer (or His or Her Deputies) Have the Authority to Collect
- Warrant- Important Legal Instrument
- Collection Begins on or Before January 1



Planning and Zoning

- Town board sets policy on and legislates land use
- May regulate things like:
 - height and size of buildings
 - density of lots / size of yards
 - location and use of buildings / structures

Planning and Zoning

Town Board

- Adopts local zoning laws and ordinances
- Adopts comprehensive plan
- Appoints planning board and ZBA members
- Appoints enforcement officer

Planning Board

- Powers delegated by town board
- May help prepare comprehensive plan and special use permits
- Site plan review and subdivision review

Zoning Board of Appeals

- Mandatory in towns with zoning
- Variances
- Zoning law / ordinance interpretation
- Appeals

Code Enforcement Officer

- Enforces zoning laws as written (investigate compliance / violations)
- Issues permits





Highway Administration

- Highway superintendent has statutory authority over (Highway Law, §§140; 142):
 - Repair and maintenance of highways
 - Snow and ice removal
 - Machinery and equipment
 - Employees
- Town board responsible for appropriating money and establishing policies.
- 284 Agreement ties these respective powers together.



Town Clerk

- Town clerk's office repository for all town documents and records not needed by other officers.
- Minutes of town board meetings, local laws, employment policies, etc. all get filed with town clerk.
- Town clerk is the records management officer and can also be appointed the records access officer under the Freedom of Information Law.

FOIL Applies to Records

What is a record?

- Very broad definition under POL § 86 (4)
- Includes any record produced “by, with, or for” a town
- Can be electronic (e.g. email; recording) or physical paper copy



Records Subject to FOIL Disclosure

What records does the town have to disclose?

- Presumption that ALL records are subject to disclosure.
- Exemptions must be narrowly construed.
- Town must provide redacted record if part of the content is subject to disclosure and part is exempted.



FOIL Exemptions

- FOIL exempts certain records – there is a full list in Public Officers Law § 87 - some of the most common exemptions include:
 - ❑ State or federal law exempts it from disclosure (e.g. attorney/client
 - *communications (CPLR § 4503 [a][1];
 - *social security numbers (POL § 96-a)
 - ❑ Disclosure would impair present or imminent contract awards or collective bargaining negotiations



FOIL Exemptions

May withhold:

Inter-agency or intra-agency materials that are NOT

1. Statistical or factual tabulations of data
2. Instructions to the staff that affect the public
3. Final agency policy or determinations
4. External audits, including but not limited to audits performed by the comptroller and the federal government



FOIL Exemptions



- ❑ **Unwarranted Invasion of Personal Privacy** (Statutory examples codified in Public Officers Law § 89 [2])
 - Some examples include:
 - Public employee information not relevant to job (e.g. home phone number)
 - Medical Information

FOIL Exemptions

- ❑ **Unwarranted Invasion of Personal Privacy –**
 - **List of Names and Addresses**
 - The Records Access Officer does **NOT** have to disclose a list of all of the names of residents and their address to a solicitor seeking to use the list to sell items;
 - May ask FOIL requester to **certify** that they will not use information for a solicitation or fundraising purpose.



FOIL Timeframes

- Within **5 business days** of a FOIL request the records access officer must:
 - Make the record available;
 - Deny the request in writing including the reason for denial; OR
 - Write a letter acknowledging that the request has been received and offer a reasonable, approximate date when town can respond to the FOIL request.
 - POL § 89(3)(a)



FOIL Timeframes

- If the FOIL request is not fulfilled within **20 business days** of the acknowledgement letter, the town must provide, in writing, the following:
 - An explanation of why it was unable to fulfill the request to date
 - A reasonable date certain by which the request will be granted
 - POL §89 (3)(a)



FOIL Fees (POL § 87 [1] [b] [iii])

Up to 25¢ for up to 9x14 photocopy or

- Charge the “actual cost of reproduction”
 - If the time spent copying records takes more than 2 hours, town can charge an amount equal to the hourly salary of the lowest paid employee with the skills to prepare the copy (must notify requestor first)
 - Actual cost of storage device or media
 - Actual cost of engaging an outside professional agency (must notify requestor first)
- Cannot charge for time spent searching or administrative costs



Open Meetings Law

- Meetings are subject to Open Meetings Law
- Meeting - a quorum (i.e. a majority) of a public body convening to conduct town business. (Town Law §63; General Construction Law §41; Public Officers Law §102 [1]).
- Public Body means:
 - Town Board
 - ZBA
 - Planning Board
 - NOT advisory committees with no ability to bind town unless it carries out “critical government functions” (aka it was created by statute)



What is a Meeting?

- **Meetings Include:**

- Regular Meetings
- Special Meetings
- Workshop Sessions
- Agenda Sessions



- **Meetings Do Not Include:**

- Conversations with the town attorney to get legal advice – aka Attorney-Client Privilege
- Social Gatherings
- Training Events



Meeting Notice

Public Officers Law §104

- The time and place of all meetings be given prior to every meeting.
- If videoconferencing must include directions on how public can join video videoconference and physical location(s) of board quorum
- Post notice in 1 or more designated public locations, including town clerk's signboard and the Town's website (if available).
- Legal notice in a newspaper is **not required**.



Meeting Notice

Public Officers Law §104

- Notice to the news media **is** required – town decides how (e.g. fax, email, call local media).
- Meetings scheduled at least **one week** in advance:
 - Give notice to public and news media
 - At least 72 hours prior to meeting.
- Meetings scheduled **less than a week in advance**
 - Give notice to public and news media "to the extent practicable" at a reasonable time prior to the meeting.



Executive Session



- Purpose of Open Meetings Law is so governments will conduct business in open session where public and press can attend
- Boards allowed to discuss certain topics in “executive session” meaning the public does not have the right to observe
- Must be in open session and make a motion to go into executive session

Executive Session



Most Common Topics for Executive Session

- Imperil public safety if disclosed;
- Proposed, pending or current litigation;
- Collective bargaining negotiation discussions
- Medical, financial, credit or employment history of a particular person or corporation, or relating to an appointment, promotion, demotion, discipline or removal;
- Acquisition of, lease or sale of real property or securities when publicity would substantially affect the value.

OML Exemptions



- Political caucus
- Anything deemed confidential by law (e.g. attorney /client privilege)
- Judicial / quasi-judicial proceedings (except for ZBA)

Minutes

- Must take minutes at all open meetings, include summary of all motions, proposals, resolutions and any other matter formally
- Must take minutes in executive session if there's a vote
- Must be made available within 2 weeks of an open meeting and 1 week of an executive session.



Questions & Comments?



Association of Towns of the State of New York
150 State Street
Albany, New York 12207-1671

Phone: (518) 465-7933

<http://www.nytowns.org>

Info@nytowns.org