

Ready To Lead: Critical Tools for Newly Elected Local Legislators



CONNECTICUT
CONFERENCE OF
MUNICIPALITIES

THE VOICE OF LOCAL GOVERNMENT™

900 Chapel Street
New Haven, CT 06510
203-498-3000
ccmtraining@ccm-ct.org

Saturday, January 28, 2012
Nathan Hale Inn, Storrs, CT

Speaker:



Duncan J. Forsyth

Duncan is a member of the firm's municipal law & governmental liability and commercial litigation practice groups. The primary focus of his practice is in the areas of: labor & employment law, zoning & land use law and business litigation. He is a former Assistant State's Attorney with Connecticut's Division of Criminal Justice where he was responsible for the investigation and prosecution of major felonies and acts of organized crime and political corruption. He has lectured at various police and prosecution seminars as well as several seminars on municipal issues sponsored by CCM. He can be reached at 860-297-4696 or at forsyth@halloran-sage.com.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

2



ETHICAL CONSIDERATIONS

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

3



- **Applicable Statutes**
 - **7-148** - *sets forth all municipal powers*
 - **7-148h**
 - **1-82a**
 - **1-79**

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

4

Purpose of Ethics Codes



- Serve the public's interest.
- Utilize the proper governmental structure.
- Position is not to be used for personal gain.
- Public must have confidence in the integrity of its government

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

5

Municipal Property or Services



- No official should use municipal property or services for his/her personal benefit
- No official should grant any consideration or advantage to any person beyond that which is available to every

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

6

Conflict of Interest



- Official should not become involved in any matter in which he/she would have a conflict of interest.
- Conflict of Interest: Any action or matter which involves:
 - Financial Interest
 - Personal Interest
 - Close Relative or Friend

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

7

Financial Interest



- Any interest in the outcome from which the official expects to, or does, derive economic gain in excess of that which is expected to be or is derived by members of the public generally.
- Any close relative or friend would derive economic gain greater than the public generally.
- Official holds greater than a 5% interest in any company which is subject to receiving economic gain.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

8

Confidential Information



- No official shall disclose confidential information concerning the property, business or affairs of the municipality – except as required by law.
- No official shall use such confidential information to advance the financial or political interests of himself or close relative, friend or business associate.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

9

Gifts



- No official shall accept or solicit any improper favor, service or thing of value which may tend to influence him/her improperly in the discharge of his/her duties.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

10

Appearance on Behalf of Private Interests



No official shall render any service for compensation to any person before an agency on which he/she serves for one year after service terminates.

- Exceptions:
 - On your own behalf
 - Official spokesperson for an organization

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

11

Caveats



- 8-11: Zoning Commission and ZBA Members
- 8-21: Planning Commission Members

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

12

Disclosure



- Prompt disclosure of any conflict, or potential conflict is required.
- No participation, promotion or influence with regard to such matter.
- Violations:
 - Removal from agency
 - Decision may be voidable

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

13

Violations of the Ethics Code



- Formal Charge
- Due Process Hearing
 - Removal
 - Censure (upon mitigating circumstances)
- Appeal to the Superior Court
 - Questionable (See, Bateson v. Ethics Commission of Fairfield)

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

14

Ethics Commission



- Render advisory opinions to any agency or legislative body.
- Provide guidance to an official upon his/her request.
 - Advisory opinion may be relied upon by the official.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

15

Freedom of Information Act



- Connecticut General Statutes
- Sections 1-200 to 1-241

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

16

Policy



- The general rule under FOIA is disclosure
- The public's right to governmental information is not absolute
- FOIA tries to strike a balance between the public's right to know and both private and governmental needs for confidentiality

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

17

Policy



- Exceptions to open meetings and disclosure of documents should be limited and the burden of establishing any exception rests upon the party claiming it.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

18

Topics Under FOIA



- Documents: 1-210 to 1-219
- Meetings: 1-225

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

19

What Constitutes a Meeting?



- Any hearing or other proceeding.
- Any quorum of a multimember public agency.
- Any communication by or to a quorum of a multimember public agency whether in person or by electronic equipment, to discuss or act upon a matter over which the agency has authority or advisory power.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

20

What is NOT a Meeting?



- Caucus of members of a single political party.
w/o Party Chair.
- Administrative or staff meeting of a single member public agency.
- Communications regarding the notice of meetings or their agendas. *OK - TIME & ITEMS, NOT MEETS RE: TOPICS.*
- Quorum which is present at an official meeting of another agency.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

21

When Can the Public be Excluded? (Executive Session)



- Discussion concerning the appointment, employment, evaluation, health or dismissal of a public official or employee provided that such person may require that the discussion be held in public.
- Strategy and negotiations regarding pending claims or pending litigation.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

22

When Can the Public be Excluded? (Executive Session)



- NO
MINS.*
- Matters related to site selection or the lease, purchase or sale of real estate when discussion would likely lead to an increase in price.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

23

Executive Sessions



- Attendance limited to members of the agency and persons invited to present testimony or opinion pertinent to matters before the agency.
- Minutes must reflect all persons in attendance except for job applicants.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

24

Meetings – In General



- Meetings shall be open to the public.
- No member of the public shall be required to sign in, furnish any other information, complete a questionnaire or meet any condition as a prerequisite to attendance.
- Meetings may be recorded, photographed or broadcast in an inconspicuous manner and in a way so as not to disturb the proceedings of the public agency.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

25

Meetings – In General



- Votes of members must be reduced to writing and made available for public inspection within 48 hours.
- Minutes of meetings must be made available for public inspection within 7 days.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

26

Regular Meetings



- Schedule of regular meetings for the upcoming year must be filed with the town/city clerk by January 31st.
- Agenda of regular meetings shall be filed not less than 24 hours before the start of the meeting in the agency's regular office or, if none, with the town/city clerk.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

27

Regular Meetings



- Items not on the agenda of a regular meeting can be added and acted upon with the vote of 2/3 of those members present and voting.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

28

Special Meetings



- Notice must be posted with the town/city clerk at least 24 hours before any special meeting.
- Notice shall state the time and place of the meeting and the business to be transacted.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

29

Special Meetings



- Notice must be delivered to the home of each member of the agency prior to the special meeting unless a member files notice with the town/city clerk that delivery of notice is not required. *email ok.*
- Requirement of home notice is waived if the member is present at the meeting.
- No other business may be transacted at the special meeting.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

30

Once We've Established What is A Meeting, How Do You Run An Effective Meeting?

With An Effective Chair!



CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

31

8 Key Duties of a Presiding Officer (Chair):



- 1 – Be on time and start on time - If a person is late (e.g. police chief), amend agenda and postpone his report until the end;
- 2 – Be organized – create an agenda and stick to it – make sure you have a quorum – without a quorum can only move to recess or adjourn;
- 3 – Be prepared – have by-laws, standing rules, Roberts Rules, list of committee members;
- 4 – Be in control of the floor – try as best as you are able to alternate between those in favor and those against;

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

32

8 Key Duties of a Presiding Officer (Chair): (cont.)



- 5 – Be impartial – although a presiding officer has the right to debate, that right should be used cautiously;
- 6 – Be composed;
- 7 – Be precise – restate motion, be clear in voice vote, if necessary use hand vote (make sure everyone knows what is being debated / voted on);
- 8 – Be focused – do not allow irrelevant discussion and if necessary request a member to “confine their remarks to the motion on the floor.”

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

33

Control / Focus



- Freedom of speech is not absolute – a violation only occurs when the restricted speech is constitutionally protected and when the government's justification for the restriction is insufficient.
 - Restriction must be content neutral or based on a legitimate government interest (i.e. restricting public conversation about a lawsuit); see *Zapach* 134 F. Supp. 694;
 - Any speaker can be stopped whose speech becomes irrelevant – it is a judgment call – always avoid / stop personal attacks; see *Scroggins* 2 F. Supp. 2d 1374;
 - Personal remarks in a debate are always out of order – debate must be directed at motions and not motives, principles, not personalities;
 - Speaking time – no person may speak more than two times on any one motion on any one day with each speech less than 10 minutes – with a larger group you can limit it even further, 2-5 minutes, and offer additional time at the end, if available.
 - All comments should be directed to the Chair.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

34

Rules of Parliamentary Procedure



The first edition of Robert's Rules Of Order appeared in 1876 and is currently being utilized by approximately 85% of all US organizations.

Mason's Manual of Legislative Procedure, first published in 1935, is used by the vast majority of state legislature's, including Connecticut's.

Demeter's Manual of Parliamentary Law and Procedure was first published in 1948 and is used by some Unions.

Sturgis' Standard Code of Parliamentary Procedure is used by approximately 10% of US organizations, mostly physicians and dentists.

Bourinoit's Rules of Order is used by many organizations in Canada.

Courts have required all organizations (business, professional, educational, governmental and non-profit) to observe parliamentary rules.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

35

Robert's Rules

Robert's first edition was 1876



- Some Motions debatable, some not, some can be amended, some not, some require a majority vote, some two-thirds – these are called the “standard characteristics” of a motion – they depend on the type of motion – see handout;
- The National Association of Parliamentarians (NAP) has two levels of Parliamentary proficiency or two designations:
 - RP – Registered Parliamentarian – multiple choice test re Robert's;
 - PRP – Professional Registered Parliamentarian – RP + education and continuing education every six years.
- The American Institute of Parliamentarians (AIP) has three levels of designations:
 - CP – Certified Parliamentarian – passed a multiple choice test based on Robert's and others;
 - CPP – Certified Professional Parliamentarian – oral exam;
 - CP-T or CPP-T – teacher of Parliamentary Procedure – further education and 15 hours teaching.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

36

Governing Documents



- Different rules that govern your organization are called “Governing Documents” and, in order of hierarchy, include:
 - Federal laws
 - State statutes
 - Articles of Incorporation
 - Governing documents of parent organization
 - Constitution – should have no rules that are procedural in nature;
 - Bylaws – should not have both constitution and bylaws – should include all rules that the group considers important enough that members at a single meeting can not change on a whim and can not be suspended – amendment requires notice and 2/3 vote;
 - Special Rules of Order – rules contained in the parliamentary authority are called rules of order. Sometimes organizations feel a need to have additional rules of order, which differ from said authority;
 - Parliamentary Authority – i.e. Robert's Rules;
 - Standing Rules – govern the administration of the organization (i.e. unusual duties of officers);
 - Policies and Procedures

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

37

Two Types of Motions



- Two types of Motions: Main and Secondary (a resolution is simply a formal motion)
 - Main Motions - a motion which introduces a substantive question as a new subject (content does not determine whether a motion is main or secondary – it's the motion's relationship to the other motions that establishes the type of motion – i.e. motion to recess can be both main and secondary).
 - Needs a second unless it is a motion from a committee;
 - Can be debated, amended, referred... (see subsidiary motions)
 - Needs a majority of those voting to pass (i.e. 9 member council, 4 absent, 2 abstain, 2-1 vote – does it pass?)
 - Maker of a motion has the first right to speak, except that the Chair has the right to speak out of order;
 - Chair can require long motions be in writing;
 - Maker of a motion can vote against a motion but can not speak against the motion they move;
 - 6 Steps of a motion: 1- make the motion (avoid "so moved"); 2 - second; 3 - chair restates and asks "Any discussion?"; 4 – debate - motion is pending or on the floor "Any further discussion?"; 5 - repeat motion and call vote; 6 - chair states result after again restating the motion;
 - Ownership of the motion is with the maker until step 3 then the group owns the motion.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

38

Four Classes of Secondary Motions



- 1 - Subsidiary Motions – relate directly to the motion on the floor;
- 2 - Privileged Motions – motions of an emergency nature that do not relate to the motion on the floor but rather to the welfare of the group – not debatable;
- 3 - Incidental Motions – procedural motion that must be decided before business can proceed;
- 4 - Restorative Motions – also procedural but generally occur later in the process.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

39

1 - SUBSIDIARY MOTIONS

Relate directly to motion on floor
and all must be seconded



- Motion to Postpone – Indefinitely, next meeting or to? Debatable, no amend;
- Motion to Amend – may only have 2 amendments pending at any time on a single motion – amendment must be germane but does not have to be consistent (i.e. “I move we censure the President” – I move we amend the word “censure” to “thank”) - debatable;
- Motion to Commit or Refer – sends the question on the floor to a committee or small group to be studied and/or put into proper form – the committee ends after the report but if you want the committee to end before the report make a motion to discharge a committee - debatable;
- Motion to Limit or Extend Limits of Debate – can reduce the number of speakers and length of speeches – two-third vote needed (2x no = # yes needed) – NOT DEBATABLE – is amendable but can't debate amendment;
- Motion to Move the Previous Question or all questions – cuts off debate – two-third vote needed – NOT DEBATABLE nor amendable;
- Motion to Lay on the Table – most misapplied motion – if done to kill a motion or postpone, it is out of order – NOT DEBATABLE nor amendable - #6 on ladder – think of it like dialing 911, emergencies only;
 - Used when need to bring another motion to the table – i.e. if a commissioner has to leave but wants to vote on a more important motion, you can table the one being debated;

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

40

2 - PRIVILEGED MOTIONS

Emergency in nature that do not relate to the
motion on the floor but rather relate to the
welfare of the group – not debatable



- Motion to Take Up Business in the Proper Order or Call for the Orders of the Day – is used when the agenda is not being followed – no second, need 2/3 to continue out of order, can only call once until issue decided;
- Motion to Raise a Question of Privilege – rights of the organization or any of its members (i.e. can not hear speaker, speaker misstating remarks...) – may interrupt, no second, chair decides;
- Motion to Recess – need a second, may be amended, no debate, and majority vote needed;
- Motion to Adjourn – need a second, no debate, no amendment allowed, and majority vote needed;
- Motion to Fix the Time to Adjourn – need a second, no debate but may be amended – also this is the only non-subsiary motion which may be reconsidered.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

41

*needs
action
that meeting*

3 - INCIDENTAL MOTIONS

Procedural – None debatable, except Appeal



- Point of Order – if you feel the chair or anyone is failing to operate within the rules - the chair makes the ruling or submits the question to the assembly—no second, no debate nor amend;
- Appeal of Chair's Decision on Point of Order – must be seconded and no one but the chair can speak twice – this is the only incidental motion that may be debated;
- Objection to Consideration of the Question – no second needed but no amendment allowed, no debate and it needs a 2/3 vote;
- Motion to Divide the Question – each must stand on its own or it is out of order – needs second, no debate, amenable but only as to how to divide the question – majority vote.
- Motion to Close Nominations or Close Polls – may be amended but no debate and need two-thirds vote;
- Motion to Suspend the rules – need second along with two-third majority but can not debate nor amend;
- Division of the Assembly – requires a standing vote after a voice or hand vote – no second, no debate, no amendment.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

42

4 – RESTORATIVE MOTIONS

Brings the question back before the body –
all such motions need a second



- Motion to Take From the Table – only restorative motion that is not debatable and no amendments;
- Motion to Rescind – used to quash or nullify a previous motion (there can be no action taken as a result of the original vote)
 - With advance written notice only need a majority vote
 - Without advanced written notice, need a 2/3 majority of those present & voting
 - Debatable and amendable
- Motion to Amend Something Previously Adopted – May be amended and is debatable – same voting as above.
- Motion to Reconsider – debatable if original motion debatable but may not be amended
 - Same or succeeding day, majority vote
 - Motion made by person voting on the prevailing side

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

43

The Ladder Or Precedence of Motions

(pre SEED ens)



- When a motion on the following list is pending, any motion above it on said list can be made at that time while any motion below it can not:
 1. Fix the time to which to adjourn
 2. Adjourn
 3. Recess
 4. Raise a question of privilege
 5. Call for the orders of the day
 6. Lay on the table
 7. Previous question
 8. Limit or extend limits of debate
 9. Postpone to a certain time (definitely)
 10. Commit or refer to a committee
 11. Secondary amendment – amend an amendment
 12. Primary amendment – amend a motion or resolution
 13. Postpone indefinitely
 14. Main motion

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

44

Smaller Meetings

(Fewer than a Dozen)



- In smaller meetings, formal procedure may actually hinder business and, therefore, Robert's recommends that the following less formal procedures be allowed:
 - Members not be required to obtain the floor and can make motions and speak while seated, including the chair when calling a vote;
 - Motions need not be seconded;
 - Motions can be reconsidered, regardless of when the motion was made;
 - There is no limit to the # of times a member can speak to a question and that motions to close or limit debate not be entertained;
 - The presiding officer can speak in discussion, make motions and vote.

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

45

Conclusion



- One thing at a time
- One person at a time
- One time per meeting (unless reconsidered by “winning” member)
- Quorum
- Protection of minority / absent members
- Majority v. 2/3 vote – if adding rights, majority, if taking rights away 2/3
- Silence = consent to decision made by group
- Everyone is equal

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

46

Contacts:



- Maria Korenowski
Mkorenowski@ccm-ct.org
 203-498-3035
- Duncan J. Forsyth
forsyth@halloran-sage.com
 860-297-4696

CCM MUNICIPAL LEADER TRAINING

January 28, 2012

Newly Elected Local Legislators

47

CCM - THE STATEWIDE ASSOCIATION OF TOWNS AND CITIES



The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities. CCM is an inclusionary organization that celebrates the commonalities between, and champions the interests of, urban, suburban and rural communities. CCM represents municipalities at the General Assembly, before the state executive branch and regulatory agencies, and in the courts. CCM provides member towns and cities with a wide array of other services, including management assistance, individualized inquiry service, assistance in municipal labor relations, technical assistance and training, policy development, research and analysis, publications, information programs, and service programs such as workers' compensation and liability-automobile-property insurance, risk management, and energy cost-containment. Federal representation is provided by CCM in conjunction with the National League of Cities. CCM was founded in 1966.

CCM is governed by a Board of Directors, elected by the member municipalities, with due consideration given to geographical representation, municipalities of different sizes, and a balance of political parties. Numerous committees of municipal officials participate in the development of CCM policy and programs. CCM has offices in New Haven (headquarters) and in Hartford.

900 Chapel Street, 9th Floor
 New Haven, Connecticut 06510-2807
 Tel: (203) 498-3000 Fax: (203) 562-6314
 E-mail: ccm@ccm-ct.org
 Web Site: www.ccm-ct.org