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Open and Transparent Government Is Our Right Use It Or Lose It

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March 16-22 marks the third annual national Sunshine Week, a reminder to all citizens of our rights to expect an open and transparent town government.

Sunshine Week should also be a reminder to our town officials of their obligations under the two New York State Laws the make open government a reality:

-- The Open Meetings Law which gives us all the right to observe how our government operates and reaches decisions that affect our daily lives

-- The Freedom of Information Law which gives us all the right to access government records so that we can learn more about government actions and decisions

Used together, these two laws give us the tools we need, not only to keep informed about our community but also to challenge our government if and when it tries to draw the curtain and operate out of the public view and its actions become shrouded in secrecy.

When government conducts the people's business behind closed doors, it's because we, the citizens, let it happen. We have no one to blame except ourselves. As the saying goes: Use it or lose it.

The Freedom of Information Law or the Open Meetings Law are both quite straightforward. And the staff of the New York State Committee on Open Government (part of the Department of State) which administers the law, is available to answer questions – for free. The committee's web site, <http://www.dos.state.ny.us/coog/coogwww.html> contains several publications as well past Committee advisory opinions on a host of topics. The committee exists to serve YOU.

Summaries of both the Freedom of Information Law and the Open Meetings Law are included elsewhere in this issue.

From my vantage point as a regular observer of Yorktown Town Board meetings, I respectfully offer the following suggestions which would enhance the Board's existing compliance with the Open Meetings Law.

1. Provide more details about certain resolutions

Anyone who has watched Town Board meetings on television knows that it's standard procedure for the Board to approve a series of resolutions at the end of the meeting without any discussion of the content or cost impact of the resolution -- and with no opportunity for the public attending the meeting to ask questions about any of them and reasonably expect to have them answered. While many of these resolutions are routine, some involve a considerable expenditure of money, such as the December 18, 2007 resolution approving a request for \$120,000 from the Planning Department to redo portions of the Comprehensive Plan after the town lost a lawsuit. Or the March 4, 2008 resolution approving a request from the Engineering Department for \$183,000 for some road and bridge repairs.

While it's true that there's a second Courtesy of the Floor segment at the end of the meeting that gives residents the opportunity to ask questions about the resolutions, the Board is not obligated to answer the questions, a point that is repeatedly made, and often depends on who's asking the question and what the question is.

2. Limit closed sessions to those topics permitted by law

The Open Meetings Law permits the Board to discuss certain topics in closed or executive sessions, such as personnel matters, contract issues, lawsuits and law enforcement matters. But in the past, these exemptions,

particularly the personnel one, has been subject to abuse. Discussions relating to the employment of a particular person, including interviews of job candidates, are permitted in closed sessions. But discussions about reorganizing departments, outsourcing certain town functions and staff reductions are general policy determinations that by law must be discussed in open session.

3. Reconsider the practice of moving from open to closed and back to open meetings

By law, the Board can only move into a closed session from an open meeting. The small cadre of residents who regularly attend the Board's work sessions on the second and fourth Tuesday of each month (meetings that are not televised on Channel 20) know this, which is why they leave the meeting room after the Board completes the open portion of the agenda and votes to go into closed session. So, if the Board votes to go back into open session at the conclusion of the closed session (which has happened in the past), there's no one there to listen to the discussion. The Board has met the legal requirements of the law – but has evaded its intent.

4. Publicize Board work sessions held *prior* to regular meetings

In keeping with the spirit of the Open Meetings Law, the Board should make it more widely known that it meets in an open work session immediately prior to the regular Board meeting that begins at 7:30pm on the first and third Tuesday of each month. The work session is not held in the board meeting room but elsewhere in Town Hall.

The Freedom of Information and Open Meetings laws only have meaning if they're used. So use them, or lose them. Sunshine in government depends on your vigilance and informed monitoring and participation in town affairs.