

Executive Sessions

Definition: “Executive Session” is a portion of an open meeting during which the public may be excluded.

Procedure: The procedure to call an executive session is set forth in Public Officers Law 105. A town board member must move to enter into executive session, and the motion must be approved by a majority of the entire town board. Additionally, the motion must identify the general area or areas of the subject or subjects to be considered during executive session. A motion for entry into an executive session must provide sufficient detail to enable the public to know whether an executive session is appropriate; however the motion is not required to identify the person or persons who are the subject of discussion.

Items that may be discussed: Only the following matters specified in Public Officers Law 105 may be discussed and acted on in an executive session:

- a. A matter that will imperil public safety if it is disclosed.
- b. A matter that may disclose the identity of a law enforcement agent or informer;
- c. Information with respect to investigation or prosecution of a criminal offense would jeopardize effective law enforcement if disclosed;
- d. Discussions relating to proposed, pending or current litigation;
- e. Matters relating to collective negotiations under the Taylor Law;
- f. Medical, financial, credit or employment history of a particular person or corporation, or relating to appointment, promotion, demotion, discipline or removal;
- g. Preparation, grading or administration of examinations;
- h. Acquisition, lease or sale of real property or securities when publicity would substantially affect the value.

Personnel matters or litigation: Executive sessions are most frequently used to discuss personnel matters or litigation.

Minutes: Summary minutes must be made of any final determination taken by formal vote. However, such summary should not include any matter that is not required to be made public under the Freedom of Information Law.

If no formal action was taken in an executive session, as is often the case, then no executive session minutes need be taken.

Public Monies: Public monies cannot be appropriated by formal vote in an executive session.

Attendance: The Open Meetings Law provides that attendance at executive sessions must be permitted to any member of the “public body” (the town board members) and any other individual authorized by such body.