

# Excellence in Local Government:

## *Building on Commitment, Civility and Cooperation*

By C. Christine Fillmore, Esq.

In New Hampshire, our system of local government depends heavily upon dedicated men and women who are willing to accept the responsibility of public service, often on a volunteer basis. These hard-working people devote incredible amounts of time and effort to what can be, at times, be a thankless job. We are fortunate in New Hampshire to have too many wonderful local officials and employees. Every role in local government is an important role. When the work of local government is done properly, many citizens may not realize how much effort it took, and results can be taken for granted. When problems arise, however, local officials are quick to bear the brunt of public discontent, regardless of the cause. The willingness of local officials to take on this challenge is what makes our system of local government possible.

Local officials have a lot on their plates from the moment they are elected or accept an appointment. First of all, there is a lot to learn. New board members or officials quickly realize how much there is to know about their communities and about state and federal law, local ordinances, and the functions of their boards or positions. No matter how long an official has been involved in municipal government, there is always something new to learn. Laws change, practices and policies shift, and new priorities arise. Over time, officials must perform their day-to-day duties while keeping one eye on the future as they map out their goals. It can be very challenging to stay ahead of all this (or even to stay current!), and it is natural at times to become narrowly focused on immediate issues and short-term results. An action plan, a working knowledge of the

extent of the board's legal authority and a focus on results all contribute to productivity. These things are important for all officials.

Of equal or perhaps greater importance, however, is a clear sense of the larger goal of all local government service: protecting and promoting the welfare of the community. With this ultimate goal in mind, questions about who is in charge and what the limits are of a particular board's or official's authority become somewhat less important. In fact, despite the best intentions, a focus on the "territorial" aspects of local government can actually make it more difficult to reach the true goal of public service.

Perhaps a more beneficial approach is one focused on commitment, civility and cooperation in local government. These general principles were the basis of a set of 39 aspirational guidelines for public board members developed

in 1967 by the late Fred Riggins, former chairman of the Phoenix, Arizona Planning Commission (see sidebar). Forty years later, the *Riggins Rules* still ring true. Although certain references reflect the times

in which Mr. Riggins lived (for example, all-male references and an assumption that a jacket and tie are standard attire), the wisdom of the guidelines is as relevant today as it was then.

### **Commitment**

Before accepting any position, it is always a good idea to find out how much time will really be required. If a person decides to accept a position, other board members and the

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citizens in the community have the right to expect this person to show up on time and prepared to most, if not all, meetings. There may be additional

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work required between meetings as well. After all, local government must continue to operate, even during the summer months and holiday seasons. In addition, the public has the right to expect board members and officials to be accountable for their actions while they hold a position of trust in the community.

### Civility

The most productive boards are those operating in an atmosphere of mutual respect. Local officials are frequently called upon to make difficult choices. Tensions can run high when a board is faced with the unpleasant task of choosing the “least bad option.” Reasonable people can (and do) disagree on important issues. These differences of opinion are inevitable but don’t have to be disastrous. It is often helpful in these situations to remain calm and thoughtful, with personal emotions in check, and with an open mind. This is not always easy. However, when board members are able to remain respectful of one another, it is far easier to resolve the issue than when tempers flare. Effective boards are populated with members who can each hold a minority viewpoint when voting on an issue and then openly support the majority decision once it has been made.

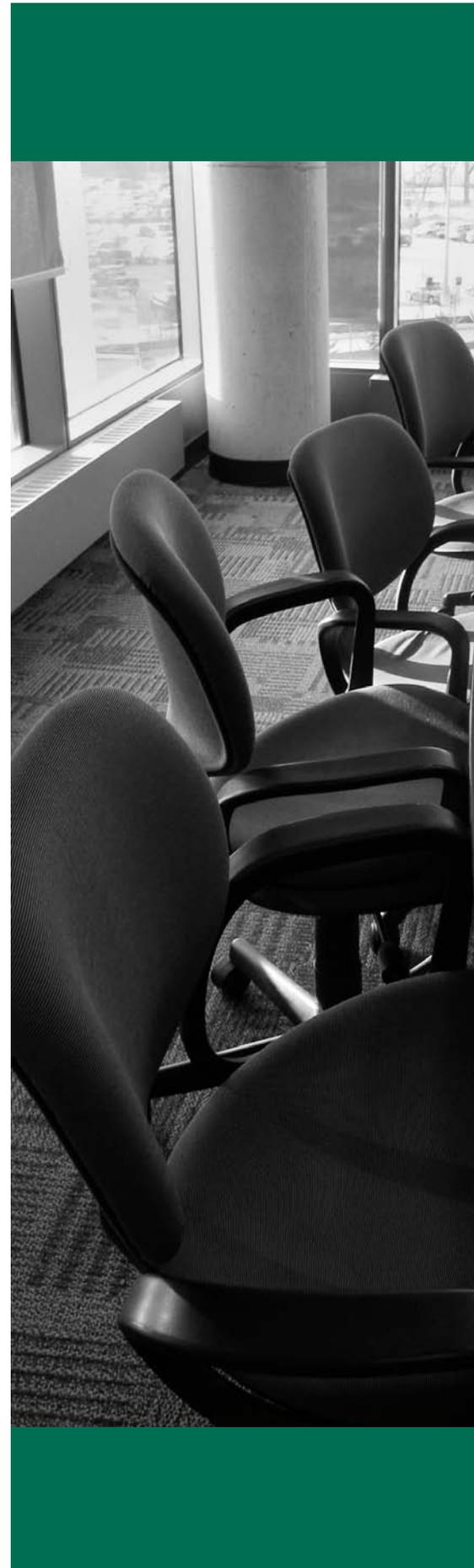
### Cooperation

Local government is a system made up of many boards, officials and employees. Each is a part of the whole, but this does not mean that they will agree on everything. Many facets of this system are

designed to ensure that more than one set of minds considers an issue, such as the give and take on a town budget between a board of selectmen, an official budget committee and the voters. In the heat of the process, it can be easy to get caught up in “who is in charge” or “who is right.” What is really important, however, is that a good decision is made for the community at the end of the process. It can be much easier to reach that goal when board members can communicate effectively and remain open to the possibility that alternate solutions may exist. Of course, giving in merely to avoid confrontation or disapproval is not helpful, but compromise is necessary at times to reach the best result.

The fortieth anniversary of the Riggins Rules is a perfect time to refocus on the goal of local government. Our local officials and employees across New Hampshire have a long tradition of excellence in public service. We look forward to a future where that tradition remains strong.

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# THE RIGGINS RULES

## *Suggested Do's and Don'ts for the Conduct of Public Hearings and the Department of Chairmen and Members of Boards, Commissions and Other Bodies*

1. **DON'T** accept an appointment or nomination to a Board, Commission, or Council unless you expect to attend 99.9999 percent of the regular and special meetings, including inspection trips, briefings, and public functions where your presence is expected. If your participation falls below 85 percent during any six months' period, you should tender your resignation. You aren't doing your job. You aren't keeping well enough informed to make intelligent decisions, and you are making other people do your work for you and assume your not inconsiderable responsibility. Your effectiveness and the regard given to your opinions by other members will be in direct ratio to your attendance.

2. **DO CREATE A GOOD IMPRESSION OF CITY GOVERNMENT.** Remember that this is the **FIRST** important contact that many of the people in the audience have had with the administration of their city and for some this is the most important matter in which they have ever been involved. Many will never be back again and many will never have another such contact and experience. Your performance will create in their minds the picture which they will always carry with them of "the way the City is run." Make it as pleasant and comforting a picture as possible.

3. **DO BE ON TIME.** If the hearing is scheduled at 7:30, the gavel should descend at the exact hour, and the hearing begin, if there is a quorum. If you have to wait ten minutes for a quorum and there are 100 people in the room, the straggler has wasted two full working days of someone's time besides creating a very bad beginning for what is a very important occasion for most of those present.

4. **DON'T DRESS LIKE A BUM.** Shave, wear a tie, and remember that a coat is never out of place. The people in the audience think you are a very important person. Don't disappoint them by your appearance, conduct, and attitude.

5. **DON'T MINGLE WITH FRIENDS, ACQUAINTANCES, UNKNOWN APPLICANTS OR OBJECTORS IN THE AUDIENCE** before the meeting or during a recess period, if it can be politely avoided. You will invariably create the impression with the uninformed that there is something crooked going on, especially when you vote favorably on the case of the applicant you were seen conversing with. When the other fellow's case comes up and you deny it, he says, "Well, it's easy enough to see that you've gotta know the right people if you ever expect to get anywhere around here." Save your socializing and fraternizing for some other time and place.

6. **DON'T DISCUSS A CASE** privately and as a single member of a body with an applicant or objector prior to the filing and prior to the hearing if it can be politely avoided. In the event that it is not avoidable, and many times it is not, be very non-committal, don't be too free with advice, and by all means explain

that you are only one member of the body, that you have not had an opportunity to study the matter thoroughly, that you have not seen the staff recommendation, and that you have no way of knowing what opposition there may develop or what will occur at the public hearing. Be certain that the person concerned understands that you cannot commit yourself in any manner, except to assure him that he may expect a fair and impartial hearing. Even if the case looks pretty good to you, it is wise to be pessimistic about his chances of securing approval. If you give him any encouragement and any advice and he is then denied, he will hate you until your dying day and tell everyone in town that he did just exactly what you told him to do and then, like a dirty dog, you voted against him.

7. **DO YOUR HOMEWORK.** Spend any amount of time necessary to become thoroughly familiar with each matter which is to come before you. It is grossly unfair to the applicant and to the City for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. And you will make some horrible and disturbing decisions.

8. **DON'T INDICATE BY WORD OR ACTION HOW YOU INTEND TO VOTE** during the portion of the hearing devoted to presentations by the applicant, presentations by any persons appearing in objection, and comments by member of the staff. During this period your body is the judge and the jury and it is no more appropriate for you to express an opinion as to the proper decision, prior to hearing **ALL** of the testimony, than it would be for a judge or jury member to announce his firm conviction in the middle of a court trial regarding the guilt or innocence of the defendant. This is not clearly understood by a majority of persons sitting on hearing bodies. It is not too difficult to phrase one's questions/comments in a manner that implies that you are seeking information rather than stating an irrefutable fact and that your mind is closed to further argument. One does **NOT** say, "I happen to know that the applicant has no intention of placing an apartment building on this site. In fact, it has been sold subject to zoning and the purchaser intends to put a mobile home park here if he can get a Special Permit." Rather than this, one could say, "We have been furnished with some information which indicates that perhaps your plans are not too firm regarding the development you propose. In fact, there are some who are concerned about a rumor that the property is being sold and that the new owner planned to put a mobile home park at this location, if he can secure the necessary permit. Would you care to comment on this

concern of the neighborhood and tell us if there is any truth in this rumor?" The same result is accomplished, the information is brought out and made part of the record and you don't look as if you are leading the attack to secure defeat of the applicant's request.

9. **DON'T FAIL TO DISQUALIFY YOURSELF** if either directly or indirectly you have any financial interest in the outcome of the hearing, **AND** let your conscience be your guide where it could be said that moral, ethical, political, or other considerations, such as personal animosity, would not permit you to make a fair and impartial decision. In disqualifying yourself, **DO NOT** state your reasons inasmuch as the mere stating of your reasons can be construed as exerting undue influence on your fellow members. To avoid all accusations of undue influence, it is generally wise to leave the room and ask that the record show that you did so and that you did not indicate by word or action whether you were in favor of, or opposed to the matter under discussion.

10. **DO ROTATE THE SEATING** in some regular manner each successive meeting to prevent a "strong" member from gradually dominating a "weak" and indecisive member always seated next to him. This will also prevent the forming of little cliques or a not infrequent grouping of members to the left of the Chair who always oppose those to the right of the Chair, regardless of the merits of the case, to the great detriment of the applicant, the City and other interested parties.

11. **DO BE POLITE AND IMPARTIAL;** as helpful as possible to the nervous, the frightened and the uneducated, and patient with the confused.

12. **DO BE ATTENTIVE.** Those appearing before you have probably spent hours and hours preparing and rehearsing their arguments. The least you can do is **LISTEN** and make them think that you are as interested as you should be. Refrain from talking to other members, passing notes and studying unrelated papers.

13. **DON'T INTERRUPT A PRESENTATION** until the question period, except for very short and **NECESSARY** clarifying remarks or queries. Most applicants have arranged their remarks in a logical sequence and the thing about which you are so concerned will probably be covered if you can force yourself to be quiet for a few minutes. You can wreck his whole case by a long series of unnecessary questions at the wrong time. He will be your enemy forever.

14. **DON'T PERMIT MORE THAN ONE PERSON** at the podium and microphone at any one time.

15. **DON'T PERMIT A PERSON TO DIRECTLY QUESTION** or interrogate other persons in the audience. All questions should be addressed to the Chair and to the hearing body. When this person has finished his discussion and stated the questions to which he would like to have answers, then the Chair will permit those who care to make an answer to come forward and do so, but only voluntarily. Do not permit anyone to **DEMAND** answers to all and sundry questions especially if it is obviously done for the purposes of harassment.

16. **DON'T USE FIRST NAMES** in addressing **ANYONE AT ALL** during the course of the hearing. This includes audience, applicants, members of your particular body, even if the person concerned is your brother or your best friend. **NOTHING**, repeat **NOTHING** creates a more unfavorable impression on the public than this practice. It is poor "hearing manners," destroys the formality of the occasion, and makes the uninformed certain that some sort of "buddy-buddy deal" is about to be consummated. If you just can't bring yourself to calling someone Mr. or Mrs., use the third person form and call him "the applicant," or "the person

who is objecting," or "the gentleman (or lady)," who is appearing here in connection with this case.

17. **DO SHOW GREAT RESPECT FOR THE CHAIR**, always addressing the Chairman as "Mr. Chairman," "The Chairman," or "Chairman Jones," and always wait to be recognized before continuing. This will set an example for applicants and others wishing to be heard and will contribute a great deal toward the orderliness of the proceedings.

18. **DON'T BE TOO CRITICAL** of attorneys who sometimes feel impelled to give unnecessarily lengthy presentations on behalf of their clients. Avoid the strong temptation to make matters as difficult as possible for them. They are just trying to make a living and must convince their client that they are really earning the rather substantial fee which they feel their service merits.

19. **DON'T INDULGE IN PERSONALITIES** and don't permit anyone else to do so.

20. **DON'T TRY TO MAKE THE APPLICANT OR ANY OTHER PERSON** appearing before you look like a fool by the nature of your questions or remarks. This is often a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony. But don't do it. If you **MUST** "expose" someone, do it as gently and kindly as possible.



21. **DON'T BECOME INVOLVED IN ALTERCATIONS.** Some persons seem to come to hearings with the express purpose of “telling them guys down there how the cow ate the cabbage.” If you answer their irrelevant rantings, you are immediately involved in a **FIGHT**. Don't answer or try to defend yourself. You are there to hear testimony and make decisions based thereon, not to head up a debating society. Remember, you are the judge and the jury. In most cases, it is sufficient to say, “thank you very much for coming here and giving us the benefit of your thinking. I am sure that the members of this body will give your remarks serious consideration when they are making their individual determinations on the merits of this case. Is there anyone who wishes to be heard?”

22. **DO INVITE INTERESTED PERSONS TO COME FORWARD** where they can see when an applicant is discussing or talking from a diagram, site plan, or exhibit which is not visible to the audience.

23. **DO NOT PERMIT PEOPLE** to speak from the audience. If it is important enough for them to speak at all, it is important enough for them to be recognized, come forward, give their name and address and say what they care to, if their remarks are pertinent.

24. **DO NOT PERMIT PEOPLE TO** leave the podium and microphone and approach closer to the hearing body except in unusual circumstances, usually to show a small exhibit or to explain some detail. This ordinarily breaks down into a small mumbling session at one end of the dais with one or two members of the hearing body; the others are uncertain about what is going on. The conversation usually does not get recorded, cannot be heard by the audience, and is almost impossible to control from the Chair.

25. **DON'T BECOME INVOLVED IN NEIGHBORHOOD QUARRELS** or wind up as the referee even if you are a veritable Solomon. No matter how fair or impartial you should be, both sides will be mad at you. Stick to the merits of the case and rule out-of-order testimony which is irrelevant, personal, hearsay, and not pertinent to the matter being heard.

26. **DON'T BE VINDICTIVE** and “punish” the applicant for some real or imagined affront to you or your Body on some previous occasion, perhaps bearing no relation to the present hearing. It must be assumed that he is there legally, he has a right to be heard, and he has a right to a fair and impartial hearing on the merits of his present case without

reference to something which he might or might not have done in the past or will perhaps do in the future.

27. **DON'T TRY TO BE A HERO** to beautiful women, little old ladies, widowed mothers with tiny infants in their arms, and the financially and socially distressed. Be sympathetic, but objective and don't get carried away with such a strong desire to help that you throw the rule book out the window. Ninety-nine times out of a hundred you will do them some questionable service at the expense of their neighbors or the City and your kind-hearted action will come back to haunt you much sooner than anyone could have imagined. Stick to the rules.

28. **DON'T ASSUME THE ROLE** of a fairy godfather to those who have become involved in bad business deals or other self-imposed difficulties.

29. **DO NOT FAIL TO GIVE A REASON** when making a motion for approval **OR** denial of an applicant's request. If you fail to do this, the applicant, any objectors, a reviewing body of higher authority, or the **COURTS** may well assume that your decision was an arbitrary one not supported by the facts and should be reversed. Always mention the staff recommendation.

30. **DO NOT TAKE STAFF RECOMMENDATIONS LIGHTLY.** These recommendations are made after much study by professional people with years of experience in their field and are based on pertinent laws, ordinances, regulations, policies, and practices developed by you and your predecessors. The recommendations of a good staff in possession of all the facts will almost always produce a **TECHNICALLY CORRECT** recommendation. Your job is to temper this recommendation with information developed during the hearing which was not available to the staff. It is not unusual for a staff to voluntarily reverse or change the details of its recommendation during the course of a hearing. Always announce the staff recommendation prior to hearing any testimony and always make appropriate mention of it in the final decision.

31. **DON'T FORGET THAT THE STAFF IS THERE TO HELP** you in any way possible. It is composed of very capable professional people with vast experience. Lean on them heavily. They can pull you out of many a bad spot if you give them a chance. Or they may just sit and let you stew, if you do not give them the respect which is their due. Remember that their usual practice is to remain silent unless they are specifically asked to comment. Most of

them consider it presumptuous and unprofessional to inject any unsolicited comments into the hearings. Always ask them to comment prior to the final vote.

**32. DON'T TRY TO ANSWER TECHNICAL QUESTIONS** even if you are sure that you know the answer. You probably **DON'T** and will wind up looking like a fool. Refer these matters to the staff. That is one of the things they are there for. They have intimate day-by-day working experience with all pertinent ordinances and can nearly always give a timely, up-to-the-minute, professional dissertation on any subject in their field. And besides, it makes them more important and helps create an image of competency which is most helpful in assuring the public that their case has received more than a cursory glance and an arbitrary decision. Lay members of a hearing body who "explain" ordinances to the audience usually wind up their less than accurate remarks with the pretty lame comment, "That's the way I understand it and if I am wrong, I would appreciate it if the staff would correct me." The staff usually does correct them and ordinarily at some length. **DON'T** try to show how smart you are, because you're **NOT**.

**33. DON'T TRY TO EASE YOUR CONSCIENCE AND TOSS THE APPLICANT A BONE** by granting him something less than he asked for, something he doesn't want, and something he can't use. In **ALL** cases where it is appropriate, **GIVE HIM WHAT HE ASKED FOR OR DENY IT**. To do otherwise will only encourage applicants to ask for the "moon and the stars" in the hope that they will, at the worst, get the minimum requirements. A reputation for approving or denying applications as filed will result in much more realistic requests and make your job much easier.

**34. DO VOTE BY ROLL CALL**, except for routine administrative matters. This is wonderful character training for each member of the body and emphasizes the "moment of truth" when he must look the applicant in the eye, make his own individual decision, and say "**AYE**" or "**NAY**" in a loud clear voice, all alone, with no one to hide behind. The alternate voting method is difficult for the Secretary to record, doesn't mean anything on a tape recording, is many times quite confusing, and gives cowards an opportunity to change their minds and vote twice when they are caught in the minority.

**35. DON'T SHOW ANY DISPLEASURE OR ELATION**, by word or action, over the outcome of a vote.

This is **VERY BAD** hearing manners and won't lead to the maintenance of a friendly co-operative spirit among members of a Body. It will lead to the creation of little cliques whose members vote in a block and become more interested in clobbering each other than in making fair and equitable decisions.

**36. DO DISCOURAGE ANY POST-MORTEM REMARKS** by applicant, objectors, or members after the final vote and decision is announced, especially those afterthoughts designed to reopen the case. It will invariably result in an unpleasant wrangle. Just say, "I'm sorry, but the final decision has been made. If you wish to submit additional testimony, it will be necessary for you to state your reasons by letter and the Body will decide at a subsequent meeting whether or not they wish to reopen the case. The next case on the agenda will be -----."

**37. DO NOT HESITATE TO CONTINUE A CASE OR TAKE IT UNDER ADVISEMENT** if more information or greater deliberation is truly necessary, but do not use these administrative actions merely to avoid or delay making a decision before a hostile applicant or audience.

**38. DO SIT DOWN AND HAVE A LONG SOUL SEARCHING SESSION WITH YOURSELF** if you find that you are consistently "out in left field," that no one seems inclined to second your profound motions, and that you are quite often a minority of one. You might be theoretically right, and probably are, but give some thought to what is practical, possible, and just. Don't be "stiff-necked" in your opinions. **GIVE** a little.

**39. DON'T SELECT CHAIRMEN ON A SENIORITY BASIS ALONE** and **DON'T** pass the office along from member to member as a reward and honor. The nicest guy in the world, the hardest working, the most interested and your most valuable member can be indescribably horrible in the Chair. This is just one of those facts of life which is hard to explain, but, unfortunately, all too true. As occasion presents itself, give prospective chairmen a chance to preside, head up a sub-committee, report on special projects, and otherwise prepare themselves and demonstrate their abilities and leadership under pressure.

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