

Open Meetings Law & the Location of Meetings

(summarized from an article that appeared in The Counsellor on March 1, 2011)

The board of fire commissioners is a body of public officers that convenes at public meetings to conduct the business of the fire district (see Article 11 of the Town Law). While scheduling these meetings within the territorial boundaries of the fire district may be preferred, it is not a statutory requirement.

Laws that relate to public meeting locations refer to making meetings accessible to the public and providing proper notice of locations. Article 11 of the Town Law does not address meeting locations, other than the meeting to prepare the rolls of registered voters for a fire district election. This refers to a meeting of the board of elections, appointed by the board of fire commissioners, which is required to be held at a location within the fire district.

Article 7 of the Public Officers Law, commonly referred to as the “Open Meeting Law,” is a set of statutes that governs the requirements for municipal boards to conduct their business in public view. It focuses on notice and access rather than location and on who is present and what is discussed rather on where it is discussed. It also goes to the extreme of making a gathering of a quorum of board members engaged in discussion of fire district business into a “meeting,” which is defined as “the official convening of a public body for the purpose of conducting public business.” (McKinney’s Public Officers Law § 102)

Section 104 of the Public Officers Law provides the procedure to give the public notice of board meetings. While the law specifies that the notice must provide the meeting location, which must be accessible to the public, the law does not define acceptable locations. It permits video conferencing and allows officials to be treated as present at a meeting by attending an approved and noticed conferencing site, but does not specify where such sites must be. As long as the site is also accessible by the public and noticed it is an acceptable site.

A number of factors will contribute to the decision to use sites outside of the boundaries of a fire district or other local government entity. The board may have purchased facilities in an area that adjoins the district; the usual in-district site may be undergoing renovations; an alternate site may be needed to accommodate a larger crowd; an attendee may require special needs or the board may need to meet a person or body at a remote location. Video conferencing sites may be selected at homes or medical care facilities to facilitate attendance of a board member under some type of disability or to bring a board member into deliberations who is away on personal businesses, but needed for a quorum or because of special involvement on an issue.

While meeting locations within the fire district may be preferable, there are situations where it will be reasonable and within the law to use an out-of-district location. The key to site selection is accessibility and notice and not its relationship to the territorial boundaries of the fire district.

One recent case where this became a problem was when a village board in a vacation community grappled with the difficulties of selecting a proper meeting location, specifically *Petersen v. Incorporated Village of Saltaire*, (77 A.D.3d 954, 957, 909 N.Y.S.2d 750, 753) (N.Y.A.D. 2 Dept., 2010). Saltaire is a small seasonal community located on Fire Island off the coast of Long Island. Since it is inaccessible by car, residents depend on ferry service, which is extremely limited during the winter months when adverse weather conditions also cause delays and cancellations. On February 4, 2006, the Board of Trustees of the village amended Chapter 34 of the village code to permit them to conduct official meetings outside the village under certain circumstances.

On February 3, 2009, the board, which includes the Mayor and four trustees, conducted a public meeting and a public hearing in an office building in midtown Manhattan.

The meeting was simultaneously broadcast via a two-way video conference hook-up to the main room of Village Hall. The petitioners, who own homes in the village, commenced this proceeding pursuant to CPLR article 78 in the nature of mandamus, to compel the board to conduct all public meetings and public hearings within the geographical boundaries of the village.

The March 1, 2011 edition of *"The Counsellor"* provides a recap of the court's decision.