
HOW TO COMMUNICATE WITH YOUR MUNICIPAL OFFICIALS AND BOARDS

Ignorance is Not Bliss!

**2014 New York State Magistrates Association Conference
Syracuse, New York**



HON. JAMES P. MURPHY

Hon. James P. Murphy was elected as a Justice of the New York Supreme Court in 2004 and currently sits in Onondaga County in the Fifth Judicial District where he is assigned to the General Civil Part. In addition to his Supreme Court duties, Judge Murphy was appointed in 2007 by then Chief Administrative Judge Jonathan Lippman to serve as District Coordinating Judge for the Town and Village Courts in the Fifth Judicial District and currently oversees 260 judges. He was an Adjunct Professor in Business Law at LeMoyne College in Syracuse, New York from 2008 – 2012 and regularly provides continuing education and training to Town and Village Judges, lawyers and law students.

Judge Murphy is a graduate of Saint Lawrence University and Syracuse University College of Law. He was in private practice for 20 years and represented several Towns and Villages. From time to time, he served as a full-time and part-time Assistant District Attorney for Onondaga County. Prior to taking the Bench, Judge Murphy was elected three times to the Onondaga County Legislature and served as Chair of the Ways and Means Committee, overseeing the County finances.

MARK G. GEBO, ESQ.

Mark G. Gebo, Esq., is the senior partner of the firm of Hrabchak, Gebo & Langone, P.C., in Watertown, New York. He is a 1977 graduate of Cornell Law School where he was an editor of the Cornell International Law Journal. The firm of Hrabchak, Gebo & Langone, P.C. specializes in representing local municipalities and serves as general counsel to 34 Towns and Villages in Jefferson, Lewis, Oneida, Oswego and St. Lawrence Counties. The firm also provides special and bond counsel services to numerous other municipalities. Mr. Gebo has served as guest lecturer at local government conferences held in Potsdam and in Watertown and has been a frequent lecturer for the New York State Tug Hill Commission. He is also a contributor to the Zoning Enforcement Publication of the New York State Department of State.

John K. Bartow, Jr.
Executive Director
NYS Tug Hill Commission

John Bartow was appointed Executive Director of the New York State Tug Hill Commission on April 22, 2004 (Earth Day). The Tug Hill Commission is a non-regulatory state agency charged with helping local governments, organizations, and citizens shape the future of the region. The Commission's region is in Northern New York between the Adirondack Park and Lake Ontario, and is part of the larger Northern Forest region. The Commission uses a grass-roots approach to help create a sound environment and economy for this special, rural region of northwestern New York State.

Prior to his service at the Commission, John served at the NYS Department of State, 8 years as the Director of the Division of Local Government Services, serving 4 years as the New York Appalachian Region Program Manager. John also represented the Department in the New York City Watershed Agreement, Adirondack Park and the Northern Forest regions.

John also served 10 years as a program manager in the Department's Division of Coastal Resources. John also worked 2 years in the New York State Senate as a Research Analyst and 2 years with the St. Lawrence-Eastern Ontario Commission.

John serves, and has served, on a number of governmental and non-governmental boards involved in community, civic and cultural activities. These appointments have complemented his professional and personal involvement both locally and throughout the State.

John was born in Buffalo New York and was raised in several upstate New York communities. John has received advanced degrees in: Natural Resource Conservation from SUNY Morrisville (A.A.S.); Environmental Studies from the SUNY College of Environmental Science and Forestry at Syracuse (B.S.); and, a Master in Urban and Regional Planning from SUNY Albany.

John and his wife Janet reside in Adams Center, Jefferson County, New York and they have one daughter, Jessmyn, who is married to Mathew Schwartz and both teach music in the Capital District, and have one child, Charlie.

I. Town Board/Village Board

A. How Created

1. Elected
2. Five Members, including Supervisor/Mayor – Town Law §201(1) Village Law § 3-301 (some Villages Three Members)

B. Powers – Town Law §64 – Village Law §4-412

1. Budget
2. Adopt Laws/Ordinances/Policies
3. Acquire Property/Equipment
4. Management and Control Town Properties
5. Obtain Insurance
6. Award Contracts
7. Install Public Improvements (Roads/Drainage/Water/Sewer)
8. Contract for Services
9. Appoint Boards (Zoning/Planning)
10. Hire and Fire Administrative Personnel (ZEO/CEO)
11. Fill Vacancies in Public Offices
12. Authorize bringing and defending law suits

C. Interaction with Court

1. Establish Budget
Includes Salary and Benefits Judge and Clerk
2. Capital Purchases or Improvements
3. Use of Town Facilities – Courtroom-Dates and Times
4. Audits Court's Finances and Records
5. Establishes Local Laws
6. Directs Litigation on Violation of Local Laws
7. Assist in applying for grants (JCAP)

II. Town of Supervisor/Village Mayor

A. Elected Town Law §20 – Village Law §3-301(3)

B. Powers – Town Law §29 – Village Law §4-400

1. Chief Executive Officer
2. Chief Fiscal Officer (Town Only)
 - Signs Checks
 - Prepares Budget
 - Annual Updates Document
3. Signs Contracts for Town
4. Carries out/Enforces Laws/Ordinances/Policies as adopted by the Town Board

III. Highway Superintendent/DPW Superintendent

A. How Created

1. Town – Elected – Town Law §20
2. Village – Appointed – Village Law §3-301(2)(c)

B. Duties – Town Law §32

1. Control of Roads
2. Control of Maintenance of Town Buildings and Facilities
3. Prepares Inventory of Roads/Equipment/Tools/Machines
4. Hires and Fire Highway Employees
5. Other dues as assigned

a) e.g. water/sewer

C. Interaction with Court

1. Very limited
2. May be authorized to issue tickets for minor violations of Town/Village Laws regarding roads (Parking, etc.)

IV. Town/Village Clerk

A. How Created

1. Town - Elected – Town Law §20
2. Village – Appointed (May be joined with Treasurer position) – Village Law §3-301(3)
3. May also collect taxes

B. Powers – Town Law §30 – Village Law §4-402

1. Keeper of Records and Books
2. Public Information Officer
3. Keeps Oaths of Office
4. Maintains Sign Board
5. Issues Some Licenses and Permits
6. Certifies Laws/Ordinances/Policies
7. In Village, if also Treasurer – Chief Fiscal Officer

C. Interaction with Court

1. Taking Oath of Office
2. Can Post Hours of Court on Sign Board
3. Can be interface for Scheduling Use of Facilities for Court

V. Planning Board

A. How Created

1. Under Local Zoning Law and Article 16 of the Town Law and Article 7 of the Village Law
2. Appointed by Town/Village Board (5-7 Members)

B. Power and Duties

1. Defined by Local Zoning/Subdivision Law
2. Administer Zoning/Subdivision Law
 - a) Site Plans
 - b) Special Permit
 - c) Subdivision
3. Can advise Town/Village Board on changes to a Zoning or Subdivision Law.

C. Interaction with Court

1. Very Little – Not an Enforcement Board

VI. Zoning Board of Appeals (ZBA)

A. How Created

1. Under local Zoning Law & Article 16 Town Law, Article 7 Village Law
2. Appointed by Village/Town Board (5-7 Members)

B. Powers & Duties

1. Defined by State Statute Art 16 Town Law/Art 7 Village Law & Local Zoning Law
2. Consider variances from strict compliance with Zoning Law

- (a) Area Variances
- (b) Use Variances

3. Interpret Zoning Law

C. Interaction with Court

1. No direct interaction – not an enforcement bond
2. On case involving Zoning Law violation – defendant may want interpretation of Zoning Law. If so, will apply to ZBA – Stays Court case.

VII. Zoning/Code Enforcement Officer (ZEO & CEO)

A. How created

1. Up to Town/Village Board to create and define duties of position
2. Zoning Officer may only enforce Zoning Law
3. Code Enforcement Officer may enforce Zoning and other local laws
4. Is appointed position
5. May be a separate Dog Control Officer

B. Duties

1. As defined by Town/Village Board
2. Zoning
 - (a) Issue permits after several applications
 - (b) May refer to Planning Board or ZBA
 - (b) Determine compliance with Zoning Law
 - (d) Stop work or issue order to comply
 - (e) Bring violation of law to Court
3. Other Codes
 - (a) States Building Code
 - (b) Property Management Code
 - (c) Flood Plan Laws
 - (d) Unsafe Buildings
 - (e) Junk Yards
 - (f) Garbage, litter and Debris
4. Assist in prosecution of cases in Court at discretion of Zoning/Village Board and Town/Village officers

C. Interaction with Court

1. File appearance ticket – where authorized to do so
2. File informally
3. Is prime witness as case goes through Court
4. Monitors ongoing compliance – on conditional discharge or ACD

VIII. Town/Village Attorney

A. How Created

1. Appointed or contracted by Town/Village Board

B. Powers & Duties

1. As directed by Town/Village Board
2. Provides general legal advice on variety of issues such as:
 - (a) Labor Issues – hiring, firing, union contracts, dispose
 - (b) Capital Projects – water/sewer system, new building, equip purchases
 - (c) Review or drafting of contracts
 - (d) Review or drafting of local laws/ordinance/policies
 - (e) Advising Board or changes in law
 - (f) Assisting Department heads or Boards
 - Ex. Highway Supt/Town Clerk/Planning Board/ZBA/ZEO/CEO
 - (g) Prosecutes case in name of Town. Defends Town when sued
 - (h) Assists Town when needs to borrow money

C. Interaction with Court

1. Prosecutes local law violations when authorized by DA to do so
2. The primary contract between Town/Village and Court on such violations for scheduling/appearances/trials, etc.

Problem Areas

1. One-on-One contract with ZEO/CEO or Town official on a pending case
 - Same for One-on-One contract with a Defendant
2. Scheduling
 - Knowing dates and times, facilities available for Court
 - Knowing dates and times, Town/Village attorney availability
 - Who serves documents – Summons/Appearance Ticket
 - Arraignments
3. Understanding Local Law/Ordinance
 - Be sure have copy
 - Clarity issue – use of ZBA
 - Be aware of definitions
 - Be aware of fine structures
 - Continuing violations

- 4. Budget Issues
 - Making budget request
 - Equipment
 - Supplies
 - Salary & Benefits
 - Capital Improvements
 - How to process vouchers
 - Applying for grants (JCAP)