

Brooklyn Fire Commission:

I am addressing the Commission this evening to make certain you are all aware of the ongoing discussions that my husband and I have been having with the First Selectman Austin Tanner regarding the Brooklyn Fire District. We have provided action items to Selectman Tanner that we would like to see accomplished but to date have not received. We are hoping by bringing them to the attention of this Commission we can see some movement on any or all of the items.

Action item #1

We are requesting the town follow up with the Brooklyn Fire District and or Attorney McCoy regarding our recent FOIA request to the Brooklyn Fire District, and the fact that they are in fact a public agency who is required to comply with FOIA requests.

Attorney McCoy states in part "It is the position of the Brooklyn Fire District, Inc. that it is not a public agency as defined by FOIA, required to produce the documents which you requested." (full email attached)

a. ***We contest that claim and say: The Brooklyn Fire District is a Special Taxing District.***

The "Independent Special Taxing Districts in the State of Connecticut" document states that
(page 10 attached)

"The full gamut of freedom of information statutes apply to special districts."

b. In addition, the Brooklyn Fire Districts own by-laws state:

Section 2.

"The district board's duties, which are required for operation and management of the district, are set forth in these by-laws and pertaining to resolution of the General Assembly of the State of Connecticut..."

and

Section 3.

"The District Board Shall abide by all resolutions passed by the General Assembly of the State of Connecticut."

**These are from the 2021 by-laws since the 2022 do not appear to be filed with the town hall yet.*

c. It should also be noted that Attorney McCoy uses a different name and mailing address nearly every time he writes about or files documents on behalf of the Brooklyn Fire District. In this particular email he references to them as the Brooklyn Fire District, Inc. which is an organization that does not exist.

Action item #2

Town of Brooklyn to follow up with Attorney Rule regarding October 26, 2022 EBFD Facebook post where Chief Pepin wrote (in part):

“This Fire Department was placed on this lawsuit illegally. Department by-laws were not followed, and an attorney was hired to represent the department by past leadership with no vote by the membership. Per our department by-laws the Fire Chief has no authority to conduct business on behalf of the fire department. The only representative with that authority is the department president. Again, the department members did not vote to be placed on this lawsuit. The Brooklyn Fire District and the East Brooklyn Fire Department are two separate entities.

The EBFD can perform its own action here action item regarding the statement above. They can request that they be discharged from Attorney McCoy’s representation of their department in the lawsuit.

Action item #3

The town of Brooklyn to follow up conversation/action regarding our lengthily discussion last week with Fire Marshal Doug Kramer regarding the validity of the “Fire Lane” on the easement as well as the “No Parking Fire Lane” signs on South Main Street.

I strongly urge this Fire Commission to make a statement to the Board of Selectman regarding the above-mentioned items. Each day that goes by without action costs the town of Brooklyn and its taxpayer’s more and more money. For example: we spent hours on the phone today with our attorney regarding the case – we were specifically discussing the fact that Brooklyn Fire District President William Wheaton Sr. has opposed our liquor license due to “lack of parking”. For Citizens to be repeatedly told that there is no new action taking place towards our business is a fallacy.

A note to the Commission that is not relevant to the lawsuit but we feel is equally important:

Earlier this year it was brought to our attention by a town employee that current fire department building was located outside of the Brooklyn Fire District. After learning this we looked into the meeting minutes and such to see how the District was allowed to purchase property outside of the district back in 2003. When we couldn’t find anything on the minutes or a record of a mortgage ourselves, so we inquired with the town clerk. Her response is as follows:

“Unless it’s under a different name, there’s no record of a mortgage or release under Brooklyn Fire District recorded on the land records.”

We bring this up as concerned citizens since there are strict laws governing the bonding of public buildings. Even if everything with the District is on the up and up, the fact alone that the documents are not easily accessible in records for the public to review or to be found by the town Clerk is alarming.

I could go on all night with all the things we have uncovered, and we have shared all of this already with the First Selectman. But the fact of the matter is that in the best interest of this Fire Commission and the Town of Brooklyn to take a deep dive into the Brooklyn Fire District to make sure that they are in compliance with all policies and procedures set forth by the State of Connecticut.

I am asking you here tonight to be the people to take that dive.

I have attached nine pages of documents in support of this statement and ask that they be entered into the public record in their entirety along with this two-page statement I will email them all to the recording secretary.

Thank you for your time.

Re: Item 1
A
10

Legal Requirements on Connecticut Districts

In addition to the provisions of chapter 105 and any special act provisions, special districts, by their nature as political subdivisions of the state, are subject to numerous other state statutes. The following are identified as clearly being applicable. Additional laws may also have applicability in some or all cases.

1. **Freedom of Information (CGS 1-18a to 1-21k)**. The full gamut of freedom of information statutes apply to special districts. This includes such areas as notices, meetings, minutes and access to public information and documents. In fact, since the FOI law was adopted in 1975, there have been 14 decisions in cases involving special districts, 13 of which found fault with district operations. One case was dismissed. None appears to have involved major, willful violations, nor did any result in fines or penalties. The issues most prevalent involve: (a) meeting notices and agendas; (b) executive session requirements; and (c) production and availability of meeting minutes and other public documents.⁶
2. **Public Records Storage and Handling (CGS 1-7 to 1-19)**. All of the statutes which pertain to the preparation, protection and storage of public records apply to special districts. There are requirements that all permanent records be printed on paper and with ink specified by the State Administrator of Public Records. They must be stored in fireproof, locked facilities which assure their protection, and copies must be provided to the public at reasonable fees. This set of statutes is probably one of the least understood and most frequently violated of all statutes by districts (as well as by most other governmental agencies).
3. **Municipal Auditing Act (CGS 7-391 to 7-397)**. Each district must keep financial records in accordance with state law and provide reports as required. Details of this statute are discussed in the Accountability Section of this report.
4. **Bonding Act (CGS 7-369 to 7-380a)**. Any district borrowing funds on a long term debt basis must do so in accordance with the Municipal Bonding Act. Informal borrowing procedures which can be practiced by private agencies are not allowed for public

⁶ Derived from a search of FOI case decisions 1975-86.

Re: Item 1
B

ARTICLE I

MISSION STATEMENT

The Brooklyn Fire District Committee shall provide for the proper administration and safety of the Brooklyn Fire District, which is located in the community known as East Brooklyn. This shall be done primarily through its support of the East Brooklyn Fire Department. This shall also be done by maintaining tax collection procedures along with spending and saving authority on behalf of the District taxpayers.

ARTICLE II

DUTIES OF THE BOARD OF DIRECTORS

Section 1. Shall be comprised of the following officers by their titles: President, Vice-President, Clerk and Treasurer. A maximum of five directors shall also comprise the district board as members but are not considered as officers.

Section 2. The district board's duties, which are required for the operation and management of the district, are set forth in these by-laws and pertaining to resolution of the General Assembly of the State of Connecticut passed at its January session 1899 and approved March 15, 1899, and as from time to time may have been amended. The purposes of the district are more particularly detailed in C.G.S. 7-326.

Section 3. The District Board shall abide by all resolutions passed by the General Assembly of the State of Connecticut.

Section 4. The District Board shall review the by-laws of the Brooklyn Fire District once a year prior to the annual District Meeting and present revisions at said meeting for approval, or the District President may call a special meeting at any time for said purpose.

Section 5. Changes to the District by-laws shall be done following the process listed below:

ITEM #4

From: William McCoy <bmccoy@hellermccoy.com>
Sent: Wednesday, November 2, 2022 11:51:50 AM
To: Jenn Nemeth <jenn@theiceboxct.com>
Cc: wswheaton1@charter.net <wswheaton1@charter.net>
Subject: Brooklyn Fire District

Dear Ms. Nemeth:

The Brooklyn Fire District, Inc. has asked me to respond to your request under FOIA for records of the Brooklyn Fire District including monthly meeting minutes of Brooklyn Fire District from 2018 to present, a request for current board members for the Brooklyn Fire District, a request for when funding for a mortgage on property at 15 South Main Street was obtained and further documentation concerning the payoff of a certain mortgage on property at South Main Street from the Brooklyn Fire District.

It is the position of Brooklyn Fire District, Inc. that it is not a public agency or agency as defined by FOIA, required to produce the documents which you requested. This email is to firstly, indicate that we have received your October 31, 2022 and November 2, 2022 requests and to respond to the same. The Brooklyn Fire District, Inc. is currently reviewing its records to determine whether or not the requested information may be voluntarily provided to you, although it is its position that it is not covered under FOIA as a public agency or agency.

We assume, based upon the email trail of your emails, these requests have been made on the Town of Brooklyn, as well, and this correspondence is not intended to implicate the Town concerning any request for records that you are making directly to them. I would point out to you, also, this was sent to the personal email of one of the members of the Board but we are treating this as a request that has been received and are taking the request as a serious matter that the Brooklyn Fire District, Inc. will, in due course, respond to.

Very truly yours,

William E. McCoy

Heller, Heller & McCoy
736 Norwich-New London Turnpike
Uncasville, CT 06382
Telephone: (860) 848-1248
Facsimile: (860) 848-4003

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Item # 2

From: Kate Bisson <K.Bisson@Brooklynct.org>

Sent: Thursday, November 3, 2022 11:50:52 AM

To: Jenn Nemeth <jenn@theiceboxct.com>; wswheaton1@charter.net <wswheaton1@charter.net>

Cc: Austin Tanner <A.Tanner@Brooklynct.org>; Melissa Bradley <M.Bradley@Brooklynct.org>; Matt Nemeth <matt@theiceboxct.com>

Subject: RE: FOIA request - Brooklyn Fire District

Hi Jenn,

I've attached the annual report to this email that lists the Fire District Board members. I will also forward your FOI request to the Finance office regarding the funding request.

Unless it's under a different name, there's no record of a mortgage or release under Brooklyn Fire District recorded on the land records.

Mortgage info mixed w/
FOIA
discussion

Unfortunately I don't have an email address for William Wheaton so I can't confirm you have the correct one.

Katherine Bisson, CCTC
Town Clerk
860-779-3411 ext. 36
4 Wolf Den Road
P.O. Box 356
Brooklyn, CT 06234

From: Jenn Nemeth <jenn@theiceboxct.com>

Sent: Tuesday, November 01, 2022 11:21 PM

To: wswheaton1@charter.net

Cc: Austin Tanner <A.Tanner@Brooklynct.org>; Kate Bisson <K.Bisson@Brooklynct.org>; Melissa Bradley <M.Bradley@Brooklynct.org>; Matt Nemeth <matt@theiceboxct.com>

Subject: Re: FOIA request - Brooklyn Fire District

As a follow up to our FOIA request for the public meeting documents we are also requesting the following detailed below.

Side note- Per State FOIA rules an agency must acknowledge receipt of all FOIA request within four days. For this reason, I am asking the town hall employee copies on this email help me confirm I have the correct email address for the Brooklyn Fire District President William Wheaton prior to that time lapsing.

Addition FOIA requests:

-A listing of current Brooklyn Fire District board members. There is typically a listing on each annual meeting minutes but the May 2, 2022, minutes state: "Election of Board Members: Motion was made by Jon livernocho to keep the same Board positions as last year. Seconded by Raymond Gallup Motion Carried."

-Per section 7-328 of the Connecticut General Assembly Public and Special Acts we are requesting the Tax District and/or The Town provide a copy of the request made by the Fire District when they obtained funding for the "mortgage" at 15 South Main Street.

ITEM #2

See 7-328 taxation and bonds:

“... The clerk of the district shall give written notice to the treasurer of the town in which the district is located of any final decision of the board of directors to borrow money, not later than thirty days after the date of such decision. The district may adopt ordinances, with penalties to secure their enforcement, for the purpose of regulating the carrying out of the provisions of sections 7-324 to 7-329, inclusive, and defining the duties and compensation of its officers and the manner in which their duties shall be carried out.”

-Lastly per the May 2, 2022 Brooklyn Fire District annual meeting minutes stating that the mortgage at 15 South Main Street was “paid off” we are requesting from the District and or the Town, documentation to that effect.

Original request sent on 10/31/22:

We are requesting the public monthly meeting minutes from the Brooklyn Fire District from 2018-present.

We understand that there may be a nominal copy fees associated with making copies of the forms are willing to pay associated costs

Jenn Nemeth
The Ice Box
#noscooptillbrooklyn
www.theiceboxct.com

From: Jenn Nemeth <jenn@theiceboxct.com>

Sent: Monday, October 31, 2022 12:09:05 PM

To: wswheaton1@charter.net <wswheaton1@charter.net>

Cc: Austin Tanner <A.Tanner@Brooklynct.org>; Kate Bisson <K.Bisson@Brooklynct.org>; Melissa Bradley <M.Bradley@Brooklynct.org>; Matt Nemeth <matt@theiceboxct.com>

Subject: FOIA request - Brooklyn Fire District

Mr. Wheaton:

We are requesting the public monthly meeting minutes from the Brooklyn Fire District from 2018-present.

We understand that there may be a nominal copy fees associated with making copies of the forms are willing to pay associated costs.

Jenn Nemeth
The Ice Box
#noscooptillbrooklyn
www.theiceboxct.com

Re: Item 3

Attachment #1 Complete EBFD Facebook Statement from Chief Pepin posted October 26, 2022:

I am writing this statement on behalf of the East Brooklyn Fire Department and with permission from the fire department President. This statement has no reflection on the Brooklyn Fire District as they are their own separate entity. I have been the Fire Chief here in East Brooklyn for the last 8 months. It has taken me this long to wrap my head around this on-going situation with the Ice Box. Let me be clear with the information that is not being disseminated. It is very unfortunate that we have been placed in this position due to the negligence of the past leadership of this organization. This Fire Department was placed on this lawsuit illegally. Department by-laws were not followed, and an attorney was hired to represent the department by past leadership with no vote by the membership. Per our department by-laws the Fire Chief has no authority to conduct business on behalf of the fire department. The only representative with that authority is the department president. Again, the department members did not vote to be placed on this lawsuit. The Brooklyn Fire District and the East Brooklyn Fire Department are two separate entities. As the Fire Chief I have no authority or say when it comes to the Brooklyn Fire District, as they are above me. I represent the membership only. However, with all of this being said, I am quite saddened and disturbed over statements made towards my members over the past week and 24 hours. 90 percent of my membership have no desire to be a part of this. As a matter of fact- the majority of them were not members when all of this started. Over the past 8 months we have obtained some new membership, including cadet and junior members. Members have been harassed in local establishments, in public, and on social media. We have received harassing messages on our own social media. My junior membership (all under 17years old) has had to deal with negative comments in public. I have had to cancel public relation and fund-raising events because I refuse to let my membership be berated in public. All in which 90 percent of our volunteers have had nothing to do with any of this. I find this entire situation to be absolutely disgusting. In the past 8 months there has never been an instance where a member has spoken to or harassed any patron of the Ice Box. As a leader, I understand that it is my responsibility to take the blow of this mess that was left behind. However, I feel incredibly sad for the hard-working men and women of this organization that continue to answer the call for service despite all of this negative attention. I am so proud of their resistance to respond in public and on social media. They are proud to display East Brooklyn Fire Department on their clothing and should do so without harassment. We will keep moving forward and serve the public we protect with respect and compassion. The East Brooklyn Fire Department is continuing to move forward to resolve this on-going issue. Thank you.

Brian M. Pepin
Fire Chief

East Brooklyn Fire Department