



United States Department of Justice

United States Attorney

District of Connecticut

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CITIZEN'S COMPLAINT FORM

Please note: **The United States Attorney** is responsible for the prosecution of violations of federal laws and for representing officers and agencies of the federal government in civil actions. Accordingly, our office can only undertake those cases falling within our authority.

If you will provide us with the facts of your complaint, inquiry will be made to determine whether the facts merit action by this Office.

If you have any questions, please indicate them on this form.

You make take this form with you and when you have completed it, mail it back to the above address.

DO NOT WRITE ABOVE THIS LINE

Today's Date: _____

Your Name: _____

Address: _____

Phone Number: _____

Your E-Mail: _____

Were you referred to this Office by any agency or, public official? Yes No

If yes, please name them: _____

If you have an attorney representing you in this matter, please give the full name and address: _____

Have you advised your attorney of the complaint to this office? Yes No

Is there a court action pending which pertains to this matter? Yes No

If yes, please give case number and court: _____

List all public agencies you may have contacted regarding this complaint: _____

May 27, 2020

Mr. John Durham, Esq.
US Attorney's Office
New Haven Office
Connecticut Financial Center
157 Church Street, Floor 25
New Haven, CT 06510
(203) 821-3700
USACT.Citizenscomplaint@usdoj.gov

INTRODUCTION

I, the undersigned, **Cynthia Jean McCorkindale**, request that this document be considered a formal complaint against His Excellency, **NED LAMONT, GOVERNOR OF THE STATE OF CONNECTICUT**, in his official capacity; **First Selectman Matthew Knickerbocker, Selectmen Richard Straiton and Paul Szatkowski**, aka the **BOARD OF SELECTMEN, TOWN OF BETHEL CONNECTICUT**, in their official capacity; and the **HEALTH DEPARTMENT DIRECTOR, TOWN OF BETHEL, CONNECTICUT: Laura L. Vasile**, in her official capacity.

Currently, I serve as a member Bethel Board of Finance, in year two of my second four-year elected term. I am the Chair of the Bethel Independent Town Committee, and former Chair of the Bethel Action Committee, a taxpayer advocacy group founded in 1986.

BACKGROUND

Bethel, Connecticut is a town of approximately 19,000 residents. Like 60+ other Connecticut municipalities, Bethel operates under a **TOWN MEETING FORM OF GOVERNMENT** and a **TOWN CHARTER**. This means that over the course of our fiscal year (July 1 to June 30) the Board of Finance proposes what they consider to be a reasonable budget to Bethel taxpayers at a **PUBLIC HEARING**, and subsequently, at the **ANNUAL TOWN MEETING**. It is the Town Meeting that, by Connecticut General Statute and the Bethel Town Charter, serves as the voting body that sends the final proposed budget on to referendum for a machine vote.

COMPLAINT

It is my contention that, by denying us our right to vote on our annual budget, **CONNECTICUT GOVERNOR NED LAMONT**, by issuance of Executive Orders 7c, 7i, 7s and 7hh, has, in effect, modified, albeit temporarily, our **TOWN CHARTER**, which, by statute, can be changed only by an appointed Charter Revision Commission and subsequent referendum. Therefore, Governor Lamont has, more importantly, usurped the right to vote from the taxpayers of Bethel, and from every municipality in Connecticut that operates under a Town Meeting form of government and Town Charter.

THE BETHEL BOARD OF SELECTMEN are complicit in their failure to challenge these Executive Orders, further demonstrated by their total lack of intercession or advocacy on behalf of the voters to appeal or request additional information or permission for any alterations to the Executive Orders. Attached are communications between myself and the First Selectman, Matthew Knickerbocker, as well as Facebook posts where he emphatically states that he does not intend to push back or "insult" the Governor by asking the same question repeatedly. **(EXH 9)**

What Mr. Knickerbocker did not disclose (to me or anyone else for that matter), was that he had issued a signed, notarized statement dated March 27, 2020 **(EXH 1)**, declaring his intention to follow the Governor's Executive Orders AND uphold the Bethel Town Charter. I believe that the two

commitments are mutually exclusive and CANNOT be kept simultaneously – in other words, one can either adhere to the Governor’s Executive Orders OR uphold the Town Charter, but not both.

Connecticut General Statutes Chapter 98 Municipal Powers

147 C. 60. When charter provision requires that act be done by ordinance, action taken in some other form cannot receive effect unless it is established that it was taken with all the formalities of, and published in the same manner as, an ordinance.

Bethel Town Charter § C4-5 Power to Enact Emergency Ordinances.

On a declaration by the Board of Selectmen that a state of public emergency exists endangering the lives, health or property of citizens, the Board of Selectmen may enact ordinances to meet such emergency. No public hearing shall be required for emergency ordinances. Emergency ordinances shall become effective immediately and shall be published in a newspaper having a general circulation in the town as soon as possible thereafter.

The local **HEALTH DEPARTMENT** Director, Laura Vasile, is also complicit as it is her rendered opinion (EXH 2), on which the Board of Selectmen based the decision to not hold an in-person referendum.

This decision was contradictory to the process outlined by the State Board of Education, which laid out a “safe” program for the distribution prepared meals, called “The Emergency Feeding Program,” which has been in operation for several months already, without incident. People queue up in their cars. The meals are prepared in advance in the school’s kitchen. The meals are then packed up by volunteers and then hand-carried to the recipient’s car and placed inside. All wear masks and gloves.

Similarly, the Bethel Registrars laid out a proposal for safe in-person voting. These procedures were nearly identical to those proposed by the State Board of Education.

See table below:

For complete information, see attachments. I have just pulled out a few from each for comparison:

EMERGENCY FEEDING PROGRAM – STATE OF CT BOARD OF ED	IN-PERSON VOTING PROPOSAL – BETHEL CT REGISTRARS
<p>All staff involved in the preparation, handling, distribution or delivery of food and educational materials/supplies and cleaning of frequently used areas and surfaces must:</p> <p>Wipe down all touched surfaces (pens and pencils, pin pads, clip boards, oven and steamtable knobs, refrigerators, milk coolers, tables, counters, etc.) with sanitizer solution often, at set up, during take down, and when any possible contamination</p>	<p>When the Registrars, Assistant Registrars and Moderators, set up the polling places on March 9th, they used Clorox or Lysol Wipes to clean the privacy booths, voting tabulator and the Accessible Voting System (AVS). Throughout March 10th, the Assistant Registrars and Relief Workers wiped down the privacy booths and pens periodically. Hand sanitizer was available for poll workers and voters. Note that at Stony Hill, someone during the day stole the hand sanitizer.</p>
<p>If appropriate, serving tables should have boxes of gloves, hand sanitizer, disinfectant and wipes, probe thermometers, thermometer probe sanitizing wipes, production record/ temperature logs, etc., and bags or wastebaskets for safe disposal of all items.</p>	<p>Poll workers will be provided gloves and masks. Poll worker training will include instruction on how to wear a mask and how to remove gloves. Workers will be instructed to safely remove and discard gloves prior to taking a restroom break or a food break. The Moderator will issue new gloves to workers as needed.</p>
<p>Maintain a minimum distance of 6 feet between people, including staff. Security or crowd management staff should make announcements throughout the process to reiterate</p>	<p>The sidewalks and floors leading up to the polling place as well as inside the polling place will be marked off with blue tape indicating 6’ separation.</p>

the importance of social distancing protocols.	
Wipe down high-touch office areas and items with sanitizer solution often (door handles, phones, keyboards, mouse/mouse pads, light switches, etc.).	As the new pen supply dwindles at the Ballot Clerk's table, the Assistant Registrars or Relief Worker will sanitize the used pens collected at the Tabulator Station and give them to the Ballot Clerk for reuse.

NOTE: (EXH 3). The memo from the State Board of Education regarding the "Emergency Feeding Program," contains no identifying information on the Department of Education's memo, nor is there any signature or date. This protocol does not appear to be co-sanctioned by the State Department of Health.

TOWN MEETING FORM OF GOVERNMENT

- 1) As you know, New England comprises six states: Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. Within each state are multiple municipalities which, like Bethel, operate under a Town Meeting form of government.
- 2) NONE OF THE GOVERNORS IN ANY OF THESE STATES, with the exception of CONNECTICUT, has issued an Executive Order or series of Executive Orders which specifically targeted the annual budget process and authorized the Boards of Selectmen to empower the Boards of Finance to be the sole decision-makers and approve the annual budget and subsequent establishment of a mill rate, thus divesting the voters of their voice.
- 3) The fact that the decision-making was laid solely on the Board of Finance created an almost chaotic atmosphere in a town in an already factious political climate. While some taxpayers were lackadaisical about not voting, a good many were extremely angry that the Governor, seemingly arbitrarily, abrogated this right. The Governor's Executive Orders took a long-serving process with built-in checks and balances and turned it into a partisan exercise, and the Board of Finance members voted with their party, four to three.

EXECUTIVE ORDERS ISSUED BY GOVERNOR LAMONT

1. **EXECUTIVE ORDER 7c** ISSUED 15 MARCH 2020

#5 of this order extends budget adoption deadlines and otherwise allows the Town Meeting process of Public Hearing, Annual Town Meeting, and machine vote referendum. Note the language in the Executive Order - #2, 3 and 4 begin with the word "Flexibility." In terms of our referendum, there was no flexibility offered.

5. **Extension of Municipal Budget Adoption Deadlines.** Notwithstanding any provision of the Connecticut General Statutes, including Title 7, or any special act, municipal charter or ordinance, that conflicts with this order, all municipal budget deadlines for the preparation of the municipal budget for the fiscal year ending June 30, 2021 that fall on any date prior to and including May 15, 2020 are extended by thirty (30) days. The legislative body of the municipality, or in a municipality where the legislative body is a town meeting, the board of selectmen, may alter or modify the schedules and deadlines pertaining to the preparation and submission of a proposed budget and the deliberation or actions on said budget by the legislative body or other fiscal authority, including any required public hearing(s), publication, referendum or final budget adoption. All submission dates may be postponed until such time as the legislative body approves said modified schedule and deadline, consistent with the thirty (30) day extension.

2. [EXECUTIVE ORDER 7i](#) ISSUED 21 MARCH 2020

#13 of this order suspends the requirement for an Annual Town Meeting and gives the Board of Selectman the power to bestow all budget-making authority to the Board of Finance, thus usurping the voters' right to vote on the annual budget. This is a radical transformation of the traditional role of a Board of Finance. The role of the Board of Finance (an ELECTED board) is to submit what we believe to be a reasonable budget for the taxpayers of Bethel, the legal legislative body, to approve or reject at referendum. This decree by the Governor cedes so much power to the fiscal authority, devoid of any legislative action, that my participation in this process has created a conflict inside my own mind as to whether I should participate at all.

13. Suspension of In-Person Budget Adoption Requirements for Municipalities. Notwithstanding any contrary provision of the Connecticut General Statutes, including Title 7, or any special act, municipal charter or ordinance that conflicts with this order, the legislative body of a municipality or, in a municipality where the legislative body is a town meeting, the board of selectmen, shall authorize the budget-making authority within said municipality to adopt a budget for the July 1, 2020 – June 30, 2021 fiscal year and to set a mill rate sufficient, in addition to the other estimated yearly income of such town and in addition to such revenue surplus, if any, as may be appropriated, not only to pay the expenses of the municipality for said fiscal year, but also to absorb the revenue deficit of such town, if any, at the beginning of said fiscal year without holding votes required by charter or without complying with any in-person budget adoption requirements, including but not limited to, annual town meetings requiring votes, referendum, and special town meetings. In so acting, the budget-making authority of the municipality shall comply with public meeting requirements consistent with requirements set forth in Executive Order 7B and shall thereby take all reasonable steps to publicize the draft municipal budget for said fiscal year and to receive public comment thereon, including but not limited to publishing draft budgets on the website and providing an email address or other means for the public to submit timely comments on the proposed budget.

3. [EXECUTIVE ORDER 7s](#) ISSUED 01 APRIL 2020

#7 of this order appears to remove all in-person voting requirements for time-sensitive issues i.e. annual budget, and yet, specifically states that statutory process including public hearing, annual town meeting and subsequent voting can occur if first vetted by State OR local health authority.

On 21 April 2020, our very capable Registrar of Voters. Mr. Tim Beeble presented a voting protocol that significantly reduced risks for contracting COVID19, which was in line with the Governor's Executive Order. (attachment votingproc.pdf). It also included a succinct timeline of the progression of the Executive Orders affecting the voting process. Mr. Beeble's process proposal is a response is to Executive Order 7s (EXH 4).

7. Allowance of Suspension of In-Person Voting Requirements for Critical and Time Sensitive Municipal Fiscal Deadlines. Notwithstanding any contrary provision of the Connecticut General Statutes, including Title 7, or any special act, municipal charter, ordinance or resolution that conflicts with this order, the legislative body of a municipality, or in a municipality where the legislative body is a town meeting other than a representative town meeting, the board of selectmen, and the budget-making authority of said municipality if different from the legislative body or board of selectmen, by majority vote of each such body, as applicable, may authorize (i) any supplemental, additional or special appropriations under Section 7-348 of the Connecticut General Statutes or comparable provisions of any special act, municipal charter or ordinance, (ii) any tax anticipation notes to be issued under Section 7-405a of the Connecticut General Statutes or comparable provisions of any special act, municipal charter or ordinance, or (iii) municipal general obligation bonds or notes to be issued in anticipation of such bonds to be issued pursuant to Chapter 109 of the Connecticut General Statutes for capital improvement purposes, without complying with any requirements for in-person approval by electors or taxpayers, including but not limited to, annual or special town meetings requiring votes or referenda. Notwithstanding the foregoing, if the legislative body and budget-making authority, if they are separate entities, are taking any action specified in (ii) or (iii) above, or any action under (i) above, which involves an appropriation in an amount in excess of 1% of the current year's total municipal budget without complying with any in-person approval requirements normally required by statute, special act, municipal charter, ordinance or resolution, such body(ies) shall make specific findings that such actions are necessary to permit the orderly operation of the municipality and that there is a need to act immediately and during the duration of the public health and civil preparedness emergency in order to avoid endangering public health and welfare, prevent significant financial loss, or that action is otherwise necessary for the protection of persons and property within the municipality. In so acting, the legislative body and, if different from the legislative body, the budget-making authority of the municipality, shall comply with open meeting requirements set forth in Executive Order No. 7B. All conditions precedent to any such approval, including without limitation, public notices, hearings or presentations, shall proceed in a manner as closely consistent with the applicable statutes, special acts, town charters, municipal ordinances, resolutions or procedures as possible, and in compliance with the open meeting provisions set forth in Executive Order 7B. Nothing in this order shall be construed to prohibit a municipality from conducting any in-person meeting, approval process, or referendum, provided such municipality first consults with local or state public health officials and conducts such meeting, approval process, or referendum in a way that significantly reduces the risk of transmission of COVID-19

The contradiction here is that The Connecticut State Department of Education issued **GUIDELINES** to Connecticut School Districts outlining a detailed procedure for the safe distribution of subsidized lunches and school supplies, while our Local Health Department warns against having a referendum for health reasons.

I find it outrageous that the Bethel Board of Selectmen, who requested an opinion exclusively from the Bethel Health Department, and, knowing about the lunch guidelines, failed to request opinion from the State of Connecticut Health Department or consult with the State Board of Education. Additionally, several Connecticut towns, for example, [Vernon](#), have gone forward with "drive-up" voting as a safe voting procedure, with no negative consequences or sanctions.

4. [EXECUTIVE ORDER 7hh](#) ISSUED 01 MAY 2020

#1 of this Executive Order appears to be a clarification of a previous order, 7i. This Order was so poorly worded that it provoked a firestorm of confusion amongst Connecticut boards and commissions, including Bethel. It is this order, 7hh, that finally closes the door on all in-person

voting on annual budgets, safe or otherwise, while, at the same time, allowing public hearings and special town meetings on any other issue. Apparently, the Governor felt the need to clarify his prior order.

- 1. Clarification of Executive Order No. 7I, Section 13 - Mandatory Suspension of In-Person Voting Requirements by Members of the Public on Municipal Budgets.** Executive Order No. 7I, Section 13 shall be deemed to require the budget-making authority of every municipality to adopt a budget for the July 1, 2020 - June 30, 2021 fiscal year and to set a mill rate sufficient, in addition to the other estimated yearly income of such town and in addition to such revenue surplus, if any, as may be appropriated, not only to pay the expenses of the municipality for said fiscal year, but also to absorb the revenue deficit of such town, if any, at the beginning of said fiscal year using the procedures set forth therein, and to suspend any requirement for a vote on such budgets or mill rates by residents, electors, or property owners, including, but not limited to, any vote by annual town meeting or referendum. All conditions precedent to any such adoption, including without limitation, public notices, hearings, or presentations, shall proceed in a manner as closely consistent with the applicable statutes, special acts, town charters, municipal ordinances, resolutions or procedures as possible, and in compliance with the open meeting provisions set forth in Executive Order No. 7B. Nothing in this order shall invalidate or repeal the results of any vote on a budget or tax rate held by annual town meeting or referendum before the effective date of this order.

CASE REFERENCES

- Citing a Connecticut Superior Court MEMORANDUM OF DECISION by Judge H. Hammer, dated 07 November 1979, in the case of Vydra vs. Syrliac et al. (EXH 5)

The relative roles of the Board of Finance and the Town Meeting were aptly delineated by the State's Supreme Court in Benham v. Potter, 77 Conn. 185 (at p. 199) as follows:

"Nothing is plainer than that the Board of Finance was never intended to be the dominant power in respect to the finances of the town. Its work is required to be submitted to and considered by the voters in town-meeting assembled. The power of revision by the majority action is carefully preserved. Its influence as a conservative and restraining force is recognized; its dominance is not, and any attempt to import it into the Act by construction is in violation of its evident spirit."

- Darren Bailey vs Governor Jay Robert Pritzker in his official capacity; Case No. 2020-CH-06 (EXH 6)

#5. Plaintiff has shown he has a clearly ascertainable right in need of immediate protection, namely his liberty interest to be free from Pritzker's executive order of quarantine in his own home.

- WASHINGTON STATE OPINION AGO 1991 No. 21, opinion of Attorney General Ken Eikenberry: "Can a Governor, without statutory authority, create obligations and responsibilities having the force and effect of law by issuing an Executive Order for the protection of wetlands?"

The answer to this question is no. (EXH 7).

- MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL AND ALL UNITED STATES ATTORNEYS – 27 April 2020. (EXH 8).

From: The Attorney General

Subject: Balancing Public Safety with the Preservation of Civil Rights

- [ONLINE PETITION](#) signed by 593 Connecticut voters as of date of this complaint, was launched 26 April 2020.

CONCLUSION and REQUESTED REMEDY

The opportunity to vote in a machine vote referendum on the 2020-21 annual budget has now passed. On Thursday, May 14th, the Bethel Board of Finance majority voted to approve a nearly 1% tax hike, with a \$1.5 million of new spending. After nearly seven years on the Board of Finance, it has been my experience that, time after time, if the voters believe that a proposed budget increase is wrong, they will vote it down at the machine vote. This is the built-in safety that disperses power and thus obviates partisan decision-making on the annual budget.

The Governor's Executive Orders denying this right not only disenfranchised the voters of Bethel, but also several other Board of Finance members, like myself, who struggled with having been given what we considered unconstitutional authority that we neither anticipated nor wanted. As for my participation, I chose to "abstain" from the vote, citing that I did not believe it was a legal proceeding.

The Governor of Connecticut has stepped outside his authority in the selective abrogation of our voting rights, an act which is contradicted by the State-issued guidelines for the safe distribution of meals, citing procedures effectively identical to those outlined by the Bethel Registrar of Voters. Further, neither the Bethel Board of Selectmen nor the Bethel Health Director offered any criteria or references to clarify their position on the cancellation of our budget referendum, and simply, without question, implemented the Governor's orders.

Therefore, I respectfully am requesting that you do, here, as Attorney General Barr requested in his Memorandum dated April 27, 2020, ([EXH 8](#)), and open an investigation to determine whether the Governor or the local Board of Selectmen and Health Director crossed the line from an appropriate exercise of authority to curtail the spread of COVID-19 into an overbearing infringement of constitutional and statutory protections, is issuing, and implementing, the above cited Executive Orders that disenfranchised not only the people of Bethel, but also their elected Board of Finance members. To quote Attorney General Barr, "The Constitution is not suspended in times of crisis."

As Attorney General Barr stated in his memo, the Department of Justice has been directed to oversee and coordinate efforts to monitor state and local policies, and, if necessary, take action to correct them. I am asking that, as part of the Department's directive, you utilize your oversight authority to review the above Complaint, to investigate the facts, and to take all corrective action necessary, including, but not limited to, addressing this overreach in federal court.

The overarching irony here is that, Connecticut, (later nicknamed The Constitution State), issued The Fundamental Orders of Connecticut in 1639, considered by many to be the first "Constitution." The Orders outlined a Government based in the rights of an individual. Today, the individual rights in the Orders, with others added over the years, are still included as a "Declaration of Rights" in the first article of the current Connecticut Constitution, adopted in 1965.

In conclusion, the only remedy I seek is for a fair investigation into the constitutional violations, and, if necessary, for you to bring any overreach to the attention of the federal court for an appropriate opinion and corrective action. This is the first time in my life that I have deprived of a basic right. If your investigation reveals, or if the court, rules that there is a good reason for that, I will defer to that decision. I believe in the American justice system.

Whatever judgment or opinion you arrive at, it should apply to all the Towns in Connecticut with a government structure like Bethel's – Town Meeting plus a Town Charter – as the Executive Orders were expected to be followed by them as well.

Thank you for your time and attention to this matter. I look forward with great anticipation to your response.

A handwritten signature in black ink, appearing to read 'Cm', with a long horizontal flourish extending to the right.

Cynthia J. McCorkindale
19 Elgin Avenue
Bethel, CT 06801
(203) 733-7554
mccorked@gmail.com

ATTACHMENTS



FIRST SELECTMAN OFFICE

Clifford J. Hurgin Municipal Center, 1 School Street
Bethel, Connecticut 06801 Telephone: (203) 794-8501

Matthew S. Knickerbocker, First Selectman
Richard C. Straton, Selectman
Paul R. Szankowski, Selectman
Martin J. Lawlor, Town Counsel

Dionise Craig, Office Administrator
Phyllis Karsky, HR/Giants Director
Mary Churchill, Benefits Assistant

LOCAL CIVIL PREPAREDNESS EMERGENCY

TOWN OF BETHEL, CT

WHEREAS, the First Selectman does find:

1. That due to The COVID-19 Pandemic the Town of Bethel is facing a Public Health Emergency.
2. That due to the National, State, and Local Public Health Pandemic it necessitates the declaration of a Local Civil Preparedness Emergency;

NOW, THEREFORE, it is hereby declared in accordance with Ct General Statutes 28-8a(a), 28-1 (8), and 28-22 that a Civil Preparedness Emergency now exists throughout said Town of Bethel; and

IT IS FURTHER DECLARED AND ORDERED that during the existence of this Civil Preparedness Emergency the First Selectman shall exercise those powers, functions and duties prescribed by State law, the Town Charter, and all applicable ordinances, resolutions, special acts, and the Town's Emergency Operations Plan in order to minimize the effects of said emergency.

Matthew Knickerbocker, First Selectman

March 17, 2020

Date

IN WITNESS WHEREOF:

The undersigned has executed this certificate this 17th day of March 2020.

Lisa Bergh, Town Clerk





BETHEL HEALTH DEPARTMENT

Clifford J. Hurgin Municipal Center, 1 School Street,
Bethel, Connecticut 06801
(203) 794-8539

To: Matthew Knickerbocker, First Selectman Date: April 23, 2020
From: Laura L. Vasile, Director of Health
Subject: COVID-19 Risk of Exposure at a Bethel Referendum Held At this Time

The State of Connecticut, Department of Public Health, Epidemiologists, and local directors of health, utilize COVID-19 ACT Now for modeling information concerning the risk for COVID-19 illnesses, hospitalizations and possible deaths. See COVID-19 ACT NOW for current modeling data at <https://covidactnow.org/>

I am seriously concerned about the Town of Bethel providing a referendum that attracts residents out of their homes to vote on the town budget while the COVID-19 pandemic is still at a high level of concern. Voters may feel it is their responsibility to come out and vote. The Governor's Declarations went from limiting groups from 250 to five (5), required significant closures of businesses and organizations, ordered use of safe store procedures, and use of face coverings in public. Even with use of limiting the number of residents in a group setting and maintaining six (6) feet separation, there is still a significant risk that voters and others are exposed to COVID-19 in the referendum setting. Based on present modeling information *it appears that the Town of Bethel would be increasing the risk of COVID-19 exposure and possible illness, if a referendum is held.*

The national news has several articles deliberating the rate of COVID-19 exposure and illnesses attributed to Wisconsin's vote that occurred earlier in April 2020. That Voting activity and the potential related increase in COVID-19 exposure and illnesses are being reviewed at this time.

There is no current method to provide a referendum in a manner that would meet Governor Lamont's criteria for *conducting such meeting, approval process, or referendum in a way that significantly reduces the risk of transmission of COVID-19. No matter what measures are implemented together, there is still a risk of exposure and potential for illness to occur at a referendum held now.* The Bethel population of 19,714 includes approximately 14% of older adults 65 years & over. Many have chronic diseases and other health problems making them more susceptible to COVID-19. Illnesses and death are occurring in every age group.

Based on the discussions held with the State of Connecticut, Department of Public Health, Epidemiologist's, and with the Registrar of Voters, concerning the COVID-19 pandemic status in the town and state, together with the COVID-19 ACT NOW modeling, there are no public meeting procedures that would prevent the risk to residents from COVID-19 exposure and illness. A referendum should not be held at this present time since it would increase the risk of exposure and transmission of COVID-19 and not protect the health of Bethel voters and residents.

Cc: Martin J. Lawlor, Town Counsel



STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION



COVID-19 Considerations for Distribution of Emergency Meals and Educational Materials/Supplies

Below are recommendations to ensure the health and safety of staff and the public in the distribution of meals and educational materials/supplies during the COVID-19 outbreak. It is important to note that each school district and local health department or health district may have different or additional requirements, instructions, guidance and recommendations for staff involved in the district's operations.

This guidance is not intended to supersede policies from local authorities.

All staff involved in the preparation, handling, distribution or delivery of food and educational materials/supplies and cleaning of frequently used areas and surfaces must:

- Reinforce sanitation, food safety, and food handling principles, regulations and training.
- Avoid touching eyes, nose, and mouth at all times. Wash hands or use sanitizer that contains at least 60% alcohol after touching face.
- Cough or sneeze into a tissue or into elbow. Dispose of tissues in a lined wastebasket. Wash hands after coughing or sneezing.
- Wash hands frequently. Wash hands for at least 20 seconds with soap and warm running water.
- If soap and water are not readily available, use a hand sanitizer that contains at least 60% alcohol. Cover all surfaces of your hands and rub them together until they feel dry.
- Stay home if feeling ill and report any illnesses to supervisors.
- Wear gloves for all tasks. Change gloves frequently, between tasks and/or if they are possibly contaminated (e.g., someone sneezes).
- Wipe down all touched surfaces (pens and pencils, pin pads, clip boards, oven and steamtable knobs, refrigerators, milk coolers, tables, counters, etc.) with sanitizer solution often, at set up, during take down, and when any possible contamination occurs (e.g., someone sneezes).
- Wipe down high-touch office areas and items with sanitizer solution often (door handles, phones, keyboards, mouse/mouse pads, light switches, etc.).
- Try to limit doorknob usage. Have paper towels adjacent to doors to use for opening. If gloves are used to open a doorknob, discard, wash hands and replace gloves.
- Limit touching cell phones and remove gloves before touching cell phones. After putting cell phones away, wash hands and replace gloves.

COVID-19 Symptom Self-monitoring:

- If an employee has had a fever with cough or shortness of breath, whether or not they have been diagnosed with COVID-19, the employee should stay home and away from others until 72 hours after the fever is gone, symptoms are improving, and it has been at least 7 days after symptoms started.
- If an employee has been identified as a close contact or household contact of a person with confirmed COVID-19, it is recommended the employee stay home for 14 days after the last exposure.

Food and Educational Materials/Supplies Distribution Protocols:

- Maintain a minimum distance of 6 feet between people, including staff.
- Enforce strict protocols that recipients line up at least 6 feet apart to receive meals or educational materials/supplies.
- Security or crowd management staff should make announcements throughout the process to reiterate the importance of social distancing protocols.
- Avoid touching anyone when handing out food and educational materials/supplies (no handshakes, high-fives, elbow touches, hugs, etc.). If accidental contact is made, wash hands and replace gloves before returning to distribution.
- Hand food or materials/supplies to recipients at arms-length or place on tables for recipients to take.
- Do not lean into car windows to distribute food or materials/supplies.
- Restrict recipients from handling any items (such as milk cartons, meal kits, educational packets, or electronic devices) they will not be taking.
- All delivery vehicles should have gloves, tissues/Kleenex, disinfectant, wipes, and bags or wastebaskets for safe disposal of all items.
- If appropriate, serving tables should have boxes of gloves, hand sanitizer, disinfectant and wipes, probe thermometers, thermometer probe sanitizing wipes, production record/temperature logs, etc., and bags or wastebaskets for safe disposal of all items.

BETHEL REGISTRAR OF VOTERS - NANCY RYAN (D), TIM BEEBLE (R)**Timeline**

- March 10th** Bethel Registrars hold a Capital Expenditure Referendum with some safety measures.
- March 14th** Executive Order 7
Suspension of in-person meeting requirements, permitting video meetings whereby public has access to listen to or view meeting in real time.
- March 15th** Executive Order 7c
Closed public schools in CT.
Extended Charter deadlines for adopting annual budget, permitting 30-day extension.
- March 16th** Executive Order 7d
Closes gyms, eat-in restaurants, bars, theaters.
Prohibits gatherings of more than 50 people.
- March 19th** Executive Order 7g
Postpones Presidential Primary to June 2nd.
- March 20th** Executive Order 7h
Stay at Home Order – closing of non-essential businesses.
- March 21st** Executive Order 7i
Mandates that in towns with a Town Meeting form of government, the Board of Selectmen shall appoint the Board of Finance to adopt a budget and set a mill rate without holding in-person votes or a referendum as required by Charter.
- March 22nd** Executive Order 7j
Modifies E.O. 7h to permit non-essential businesses to offer only remote ordering combined with delivery or curbside pickup of products.
- March 25th** Vernon Registrars conduct drive-through voting following a video Special Town meeting.
- March 26th** Executive Order 7n
Modifies E.O. 7d to further restrict social gatherings to no more than 5. This does not apply to government operations and private workplaces.
- April 1st** Executive Order 7s
Allows in-person voting if the balloting process is approved by the State Health Department as significantly reducing the risk of transmission of COVID.

Coronavirus Safety Measures in Voting – Bethel, CT

On March 10, 2020, the Bethel Registrars of Voters administered a Referendum on a Capital Project for a Water Storage Tank. While not required to do so by any government order, the Registrars instituted the following safety measures and modified our voting procedure to reduce voter/worker interaction:

Checker:

- inspect the Voter ID but do not touch it.
- after crossing out the voter name, the Checker asks the voter to pick up a ticket from the table.

Ballot Clerk:

- directs the voter to place the ticket in the box,
- slips a single ballot from the plastic wrapped pack, and
- directs voter to take a privacy folder from a stack on the table **if they want one**. (Note: most voters opted to decline a privacy folder. Also, tickets were not reused during the day)

Tabulator Tender:

If a voter took a privacy folder, the Tabulator Tender directs the voter to place it in a cardboard box after feeding the ballot into the scanner. The folders were not reused again that day.

Sanitizing:

When the Registrars, Assistant Registrars and Moderators, set up the polling places on March 9th, they used Clorox or Lysol Wipes to clean the privacy booths, voting tabulator and the Accessible Voting System (AVS). Throughout March 10th, the Assistant Registrars and Relief Workers wiped down the privacy booths and pens periodically. Hand sanitizer was available for poll workers and voters. Note that at Stony Hill, someone during the day stole the hand sanitizer.

Refinements of the March 10th Coronavirus Voting Procedure for the Future:

PPE:

Poll workers will be provided gloves and masks. Pollworker training will include instruction on how to wear a mask and how to remove gloves. Workers will be instructed to safely remove and discard gloves prior to taking a restroom break or a food break. The Moderator will issue new gloves to workers as needed.

If the State is under an order to wear a mask, voters will not be allowed in the polling place without wearing some form of face covering. Press releases, posts to social media, and a Reverse 211 call would inform voters of the need for compliance with the mask order when voting. If available, Polling Places will be provided with a small supply of extra masks that could be made available for any voter who insists that they do not have one. Hand sanitizer will be available at the Checker, Ballot Clerk, Tabulator Tender, Moderator and Assistant Registrar stations.

Social Distancing:

The sidewalks and floors leading up to the polling place as well as inside the polling place will be marked off with blue tape indicating 6' separation.

Plexiglass screens will be erected at the Checker and Ballot Clerk tables. A box or table will be placed in front of the Checker and Ballot Clerk tables in order to block voters from stepping up to the edge of the staffed tables.

One Assistant Registrar will be stationed immediately outside the polling place to If any voter is not found in the Poll Book, the Checker will direct them to see the Assistant Registrar outside of the Polling Place, rather than having them walk through the Polling Place to the Moderator's Table.

Tabulator Tenders will be stationed 6' from the Tabulator (normally 3').

The Moderator will limit the number of poll workers who take a meal break at the same time based upon the size of the break room at the polling place.

Minimizing Hand Contact:

The Checkers will not issue tickets to the voters once they are checked off the poll books. The Checkers will direct voters to proceed to the Ballot Clerk table to receive their ballot.

The Registrars will buy a large supply (3,000+) of marker pens which the Ballot Clerk will hand to each voter along with a ballot, before directing them to the Privacy booths and telling them to return the pen at the Tabulator Station.

Tabulator Tenders will direct voters to place their ballot into the tabulator, and their privacy folder and pens into designated boxes.

Sanitizing:

Assistant Registrar will also direct voters to sanitized booths. Registrars are required to set up one privacy booth for every 250 registered voters. While we will have enough privacy booths available for the Moderator, the Polling Places will initially be set up with fewer privacy booths in order to allow Assistant Registrars to focus their sanitizing effort on booths as they are used. Additional booths may be set up if needed.

As the new pen supply dwindles at the Ballot Clerk's table, the Assistant Registrars or Relief Worker will sanitize the used pens collected at the Tabulator Station and give them to the Ballot Clerk for reuse.

4/21/2020

On March 10th as the COVID public health crisis was beginning to hit Connecticut, Bethel's Registrars of Voters administered a referendum for a capital budget Item. Without any state mandates forcing us to do so, we instituted a number of modifications to our polling place process in order to protect voters and poll workers. This included, cleaning of voting equipment periodically during the day, a no-touch inspection of voter ID, privacy folders were offered to voters as an option, privacy folders were not re-cycled for use that same day, and Tabulator Tenders directed voters to place their privacy folders into a box.

On March 14th, **Executive Order 7b** suspended in-person meeting requirements, permitting video meetings whereby the public can access the meeting by audio or video in real time.

On March 15th, **Executive Order 7c** gave towns a 30-day extension of Charter defined deadlines for adopting a budget. Thereafter, the First Selectman advised the Registrars that the Referendum vote would be moved from April 21st to May 12th.

On March 25th, Vernon CT conducted a Special Town Meeting using the video option. Immediately upon moving the question for a vote to approve the expenditure under consideration, the residents then drove to their Town Hall for a drive-through vote.

Having seen the news coverage of the drive-through voting process, Bethel's Registrars began making plans for how we would modify the Vernon process for Bethel's Budget referendum. The Registrars conceived of setting up three stations where voters would present their ID and get checked off as voting, then pull forward to a station where a gloved/masked poll worker would give them a ballot and privacy folder, and finally pulling forward to a where the voter would hand their

privacy folder with ballot (completed with their own black pen) through a cracked window to a gloved/masked poll worker. While in the voter's view, the poll worker would feed the ballot into a tabulator. To protect against possible rain, we would have tents at each of the three stations.

The Registrars felt that they could lay out a loop in the parking lots at the Municipal Center, Stony Hill and Berry School where voters could cue up for the drive-through balloting.

It wasn't until the following week that we learned of **Executive Order 7i** that was issued on March 21st and ordered towns with Town meeting Form of government to direct their Board of Finance to adopt a budget without a referendum vote. At that point, the Bethel Registrars curtailed their planning for a drive-through vote.

Executive Order 7s that was issued on April 1st, opens the door to the possibility of towns holding a budget referendum provided that the State Department of Health approves our safety measures.

I do not know how to reconcile Executive Order 7i and 7s. However, we must assume that each executive order expands upon and modifies the prior orders.

Whether we hold a budget referendum within the confines of the Executive Orders is up to the Board of Selectmen. If the decision was to hold a referendum vote, it would be the responsibility of the Bethel Registrars to devise a voting process that "significantly reduces the risk of transmission of COVID" and would be subject to approval by the State Health Department.

A town has the right to adopt an ordinance limiting spending.

EXCERPTS FROM JUDGE H. HAMMER'S MEMORANDUM OF DECISION DATED NOV. 7, 1979 in re

Julie D. Vydra vs. Cyrille F. Syrlia: et als, Superior Court, Judicial District
The relative roles of the Board of Finance and the Town Meeting were aptly delineated by the State's Supreme Court in Benham v. Potter, 77 Conn. 186 (at p. 199), as follows:

"Nothing is plainer than that the Board of Finance was never intended to be the dominant power in respect to the finances of the town. Its work is required to be submitted to and considered by the voters in town-meeting assembled. The power of revision by majority action is carefully preserved. Its influence as a conservative and restraining force is recognized; its dominance is not, and any attempt to import it into the Act by construction is in violation of its evident spirit".

It may reasonably be argued that the purpose of the proposed ordinance is entirely consistent with the historical functions and duties of Boards of Finance, and that if it is adhered to it may tend to bring to light and resolve differences as to funding of governmental functions at an earlier and less critical stage of the budget making process.

This ordinance does not seek to revise validly imposed tax rates, nor does it challenge the procedure by which the rates are to be set. It attempts instead to limit the figures which must be inserted into the formula set out in General Statutes Sec. 7-344. At the same time, it makes allowances for those expenditures which are mandated by both statute and judicial decisions.

The people may propose by initiative a statement of policy where the power of the people to initiate is as broad as the powers of the Legislative Body. 42 Am. Jur. 2d, Initiative and Referendum Para. 9.

The Supreme Court has recently affirmed the principle that the imposition of real estate taxes and budgetary matters are peculiarly and properly issues of local concern that are most logically resolved locally. Caulfield v. Noble, 40 C.I.U. No. 52, p. 15 (June 26, 1979).

"The closer those who make and execute the laws are to the citizens they represent, the better are those citizens governed in accordance with democratic ideals".

The ordinance at issue in this case does not appear to be either in conflict with state law or violative of public policy. It appears to come within the town's authority to "establish and maintain a budget system" within the meaning of Sec. 7-146(a)2. In view of the relatively broad powers granted towns in dealing with local budgetary matters, the objectives embodied in the petition presented to the Defendants are lawful ones.

The refusal of the Defendants to warn a special town meeting as requested by Petition submitted to them was improper. Accordingly, judgment may enter ordering that a "Writ of Mandamus" issue ordering the Defendants as Selectmen of the Town of Woodstock to call a Town Meeting forthwith in accordance with the Plaintiff's application.

signed H. Hammer
Harry Hammer, Judge

Windham,
Nov. 4, 1979

IN THE CIRCUIT COURT
FOR THE FOURTH JUDICIAL CIRCUIT
CLAY COUNTY, ILLINOIS

FILED

APR 27 2020

Cynthia B. Borek
CIRCUIT CLERK OF THE
FOURTH JUDICIAL CIRCUIT
CLAY COUNTY ILLINOIS

Darren Bailey)
)
 Plaintiff,)
)
 vs.)
)
 Governor Jay Robert Pritzker,)
 in his official capacity.)
)
 Defendant.)

Case No. 2020-CH-06

TEMPORARY RESTRAINING ORDER WITH NOTICE

This Cause coming to be heard on Plaintiffs' Motion for Temporary Restraining Order, notice having been given, the Court finds as follows:

1. Plaintiff has filed a verified Complaint and verified Motion for Temporary Restraining Order and Preliminary Injunction.
2. Plaintiff also filed a brief in support along with a supplemental brief and accompanying documentation.
3. Defendant has filed his written response.
4. The Court has considered the pleadings filed to date and has further considered the arguments of counsel made in open court on this date.
5. Plaintiff has shown he has a clearly ascertainable right in need of immediate protection, namely his liberty interest to be free from Pritzker's executive order of quarantine in his own home.
6. Plaintiffs' Verified Complaint, Verified Motion for Temporary Restraining Order and Preliminary Injunction, along with his accompanying legal brief as well as its supplement, show Plaintiff has a reasonable likelihood of succeeding on the

merits.

- 7. Plaintiff has shown he will suffer irreparable harm if the Temporary Restraining order is not issued.
- 8. Plaintiff has shown he has no adequate remedy at law or in equity in that absent a Temporary Restraining Order being entered, Plaintiff, will continue to be isolated and quarantined in his home.

WHEREFORE, based on the above findings of this Court, IT IS HEREBY ORDERED:

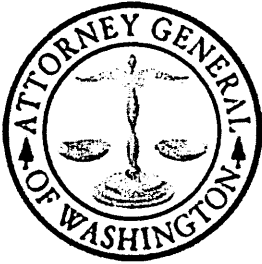
- A. Governor Jay Robert Pritzker, or anyone delegated by him, is hereby enjoined from in anyway enforcing the March 20 Executive Order against Darren Bailey forcing him to isolate and quarantine in his home;
- B. Governor Jay Robert Pritzker is hereby enjoined from entering any further Executive Orders against Darren Bailey forcing him to isolate and quarantine in his home;

C. This Temporary Restraining Order shall remain in full force and effect for ~~ten~~ ~~days from the date hereof or~~ until A DATE TO BE AGREED UPON BY THE PARTIES, NOT TO EXCEED 30 DAYS FROM TODAY, WHEREIN A PRELIMINARY INJUNCTION WILL BE HEARD ON THAT DATE. ~~2020 unless sooner modified or dissolved by this Court.~~

D. This Temporary Restraining Order is entered at 3:15 [a.m.]
 ([p.m.]) on APRIL 27, 2020

DATED this 27 day of April, 2020.

Michael A. May
 JUDGE

EXH 7

Published on *Washington State* (<https://www.atg.wa.gov>)

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Attorney General Ken Eikenberry

**GOVERNOR -- EXECUTIVE ORDER -- LEGISLATURE -- WETLANDS
-- AUTHORITY OF GOVERNOR TO ISSUE EXECUTIVE ORDER
HAVING THE FORCE AND EFFECT OF LAW**

The legislative authority of the State of Washington is vested in the Legislature. In absence of a statute or constitutional provision that serves as a source of authority authorizing the Governor to act, the Governor cannot create obligations, responsibilities, conditions or processes having the force and effect of law by the issuance of an executive order.

June 11, 1991

Honorable George L. Sellar
State Senator, District 12
312 Legislative Building, AS-32
Olympia, Washington 98504

Cite as:

AGO 1991 No. 21

Dear Senator Sellar:

By letter previously acknowledged you have asked for our opinion regarding the Governor's authority to issue executive orders. In particular, you have directed our attention to Executive Order 90-04. This order was issued by Governor Gardner on April 21, 1990, and it relates to the protection of wetlands.

We paraphrase your question:

Can a Governor, without statutory authority, create obligations and responsibilities having the force and effect of law by issuing an executive order for the protection of wetlands?

The answer to this question is no.

[[Orig. Op. Page 2]]

ANALYSIS

We begin our analysis with two preliminary observations. First, while governors frequently issue statements which are entitled "executive order," these statements serve a wide variety of purposes. There are three basic types of statements commonly labeled as "executive orders" and a single "executive order" may combine elements from each type. The three basic types are:

1. General Policy Statements. An executive order may be a general policy statement made by the Governor. The order does not have the force and effect of law. The purpose of such an order is to persuade or encourage persons, both within and without government, to accomplish the Governor's policy set out in the order.

2. Directives. An executive order may be a directive from the Governor to state agencies, communicating to those agencies what the Governor wants the agency to accomplish. The order does not have the force and effect of law. However, compliance by state agency heads who serve at the pleasure of the Governor is normally expected. If such an agency head does not comply with the Governor's policy enunciated in the order, the Governor may decide to remove the agency head from office.

3. Operative Effect. An executive order issued by the Governor may require that certain actions be taken. Such an order has the force and effect of law and serves as a source of authority for actions taken in response to the order.

Your question focuses on the third type of order and presents two interrelated legal issues:

(1) Does the Governor have the authority to create legally binding obligations or conditions having the force and effect of law by issuing an

executive order for the protection of wetlands?

(2) Does the Governor have the authority to override statutes enacted by the Legislature, by issuing an executive order for the protection of wetlands?

Both of these issued relate to the Governor's power to issue executive orders that have operative effect. For this reason we have combined these issues into a single question.

Our second preliminary observation relates to executive orders that have operative effect. In certain situations the Legislature has enacted statutes that specifically authorize the Governor to issue orders that have operative effect. For [[Orig. Op. Page 3]] example, RCW 43.06.010(12) authorizes the Governor to declare a state of emergency under certain circumstances. Once the Governor has declared an emergency, RCW 43.06.220 empowers the Governor to issue orders related to the emergency such as establishing a curfew. RCW 43.06.220 also provides that: "Any person wilfully violating any provision of an order issued by the governor under this section shall be guilty of a gross misdemeanor."

In such situations executive orders have the force and effect of law and serve as a source of authority for those who act in response to the orders. However, the ultimate authority is a delegation of power by the Legislature to the Governor in a statute. As the court said in Cougar Business Owners Ass'n v. State, 97 Wn.2d 466, 474, 647 P.2d 481 (1982), which concerned Governor Ray's executive order establishing the red zone around Mt. St. Helens: "These statutory powers evidence a clear intent by the Legislature to delegate requisite police power to the Governor in times of emergency."

Your question concerns an executive order pertaining to the protection of wetlands. We have reviewed Executive Order 90-04 and the statutes relating to the protection of wetlands. We find no statute similar to RCW 43.06.220 that authorizes the Governor to issue orders relating to the protection of wetlands, which have the force and effect of law. Thus, the essence of your question is whether the Governor, in the absence of specific statutory authority, can create obligations and responsibilities for the protection of wetlands having the force and effect of law by the issuance of an executive order. In our judgment the answer to this question is no.

The only Washington case directly on point is Young v. State, 19 Wash. 634, 637, 54 Pac 36 (1898), wherein our Court adopted the view that the Governor

possesses only those powers as are conferred upon the office by constitutional or statutory provisions. While there are a number of references to the Governor in the Constitution, we believe that the pertinent provisions to your inquiry are in article 3. Section 2 declares "[t]he supreme executive power of the state shall be vested in a governor" Section 5 states that the Governor may require information in writing from the officers of the state upon any subject relating to the duties and the obligation of their respective offices. The same section also directs the Governor to "see that the laws are faithfully executed." Article 3, section 6 authorizes the Governor to communicate messages to the Legislature concerning "the condition of the affairs of the state" and grants authority to "recommend such measures as he shall deem expedient for their action."

[[Orig. Op. Page 4]]

In Young v. State, the court concluded that neither constitutional provisions nor any statute authorized the Governor's action challenged in that case. The court held that the Governor lacked legal authority and ruled that his powers were limited to those conferred by either constitutional or statutory provision.^{1/}

In this case, there is no statutory authority authorizing the Governor to issue an executive order for the protection of wetlands that has the force and effect of law. Accordingly, we must examine the Governor's power under the Washington Constitution.

The Constitution treats in separate articles executive legislative powers.^{2/}

In discussing the extent of the Governor's power that is not dependent upon legislation, it is necessary to consider the interrelation of constitutional powers between the Governor and the Legislature.

Article 2, section 1 (amendment 72) of the Washington Constitution, provides: "The legislative authority of the state of Washington shall be vested in the legislature" ^{3/}

By virtue of a state's police power, the legislative branch of government has all legislative powers not withheld or limited by the Constitution. In other words, the Legislature may enact into [[Orig. Op. Page 5]] law any measures which are not expressly or by necessary implication prohibited either by the State Constitution or Federal Constitution. Fain v. Chapman, 89 Wn2d 48, 53, 569 P.2d 1135 (1977). Under the separation of powers doctrine, only the Legislature may

undertake to perform legislative acts. Such power is not vested by the Constitution in the executive who, therefore, cannot act in a legislative manner without an appropriate delegation of authority from the Legislature.

Executive power given to the Governor by Washington's Constitution closely resembles, for obvious historical reasons, similar powers given to the President by the Federal Constitution. Thus, the Question of the extent of presidential power has instructive value in the interpretation of a state's Constitution with respect to the powers of its chief executive officer. Brown v. Barkely, 628 S.W.2d 616, 622 (Ky. 1982); Chang v. University of Rhode Island, 375 A.2d 925, 928, 118 R.I. 631 (1977).

The leading case regarding the extent of executive power under the Federal Constitution is Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 96 L. Ed. 1153, 72 S. Ct. 863 (1951). The majority opinion rejected the argument that President Truman's authority to seize the steel mills could be implied from the aggregate of executive powers delegated to the President under the Constitution. While the President has the power to see that the laws are faithfully executed, that power does not confer the authority to affirmatively be a lawmaker. Justice Black, speaking for a majority of the Court, stated:

The Constitution limits his (the President's) functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. . . .

The President's order does not direct that a congressional policy be executed in a manner prescribed by Congress--it directs that a presidential policy be executed in a manner prescribed by the President. The preamble of the order itself, like that of many statutes, sets out reasons why the President believes certain policies should be adopted, proclaims these policies of rules of conduct to be followed, and again, like a statute, authorizes a government official to promulgate additional rules and regulations consistent with the policy proclaimed and needed to carry that policy into execution.

[[Orig. Op. Page 6]]

343 U.S. at 587-88.

Justice Jackson's concurring opinion, in Youngstown, posited three kinds

of "practical situations in which a President may doubt, or others may challenge, his powers". 343 U.S. at 635.

1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate. In these circumstances, and in these only, may he be said (for what it may be worth) to personify the federal sovereignty. If his act is held unconstitutional under these circumstances, it usually means that the Federal Government as an undivided whole lacks power. . . .

2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. In this area, any actual test of power is likely to depend on the imperatives of events and contemporary imponderables rather than on abstract theories of law.

3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive Presidential control in such a case only by disabling the Congress from acting upon the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.

343 U.S. at 635-38.

As previously discussed, under Young v. State the Washington court is committed to the view that the Governor lacks inherent power except as delegated by the Constitution or a statute.

Under the approach of either Justice Black or Justice Jackson in Youngstown, the President likewise possesses no [[Orig. Op. Page 7]] inherent power to issue executive orders which have the force and effect of law. According to Justice Black, presidential authority must be predicated upon some provision of the Constitution, or an act of Congress. 343 U.S. at 585, 587-88. Under Justice

Jackson's approach, even an emergency would not justify issuance of an executive order, having the force and effect of law, absent an act of Congress authorizing it. He explained:

In view of the ease, expedition and safety with which Congress can grant and has granted large emergency powers, certainly ample to embrace this crisis, I am quite unimpressed with the argument that we should affirm possession of them without statute.

343 U.S. at 653.

The Executive, except for recommendation and veto, has no legislative power. The executive action we have here originates in the individual will of the President and represents an exercise of authority without law. . . . With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

343 U.S. at 655.

Similar expressions have been made by state courts respecting the Governor's authority to, by order, create legally binding obligations or conditions. We will briefly note such decisions from Alabama, Kentucky, Massachusetts, New Jersey, New Hampshire, New York, Pennsylvania and Rhode Island.

In Chang v. University of Rhode Island, 375 A.2d 925, the issue was whether Rhode Island's governor could, by executive order, override a directive of the legislature. The court concluded:

The governor lacked authority to act with respect to that subject (of his executive order). By express constitutional grant, that power belonged to the Legislature; and it had delegated a portion thereof to the Board of Regents, not to the governor.

375 A.2d at 929.

[[Orig. Op. Page 8]]

In Brown v. Barkley, 628 S.W.2d 616, the Supreme Court of Kentucky indicates that even if the governor be deemed to possess "inherent" powers, such powers are subordinate to statute.

This means, we think, that when the General Assembly has placed a function, power or duty in one place there is no authority in the Governor to move it elsewhere unless the General Assembly gives him that authority.

628 S.W.2d at 623.⁴/

In Pennsylvania in Pagano v. Pennsylvania State Horse Racing Comm., 413 A.2d 44, 45, 50 Pa. Commw. 499 (1980), the Court held that proclamations or communications issued as executive orders without authority "cannot be enforced by the courts." Such proclamations are of the two types we earlier noted (general policy statements and directives) when we referred to the variety of what are commonly denominated as executive orders. See infra at 2-3. See also Wilt v. Department of Rev., 436 A.2d 713, 714, 62 Pa. Commw. 316 (1981).

New Jersey law requires that an executive order must find support for its validity either in the constitution, statutes or "a state of facts which gives rise to an emergent situation". De Rose v. Byrne, 343 A.2d 136, 144, 135 N.J.S. 273 (1975).

Although somewhat ambiguous on the point, Alabama law provides that the governor possesses no authority to issue executive orders in the absence of a clear grant of power from the legislature or the Constitution. An executive order was invalidated which conflicted with a statute on the ground of gubernatorial lack of authority. Jetton v. Sanders, 275 So.2d 349, 352, 49 Ala. 669 (1973).

Some jurisdictions recognize inherent gubernatorial power but, in all cases, the exercise of an inherent power may not derogate from a valid exercise of legislative power.

[[Orig. Op. Page 9]]

Massachusetts recognizes inherent executive powers in the office of governor. This authority of the governor to nominate and appoint judicial officers conferred by the state constitution provided an adequate basis for an executive order creating a judicial nomination commission to make recommendations to him to fill judicial vacancies. Opinion of the Justices to the Council, 334 N.E.2d 604, 609, 368 Mass. 866 (1975). However, the Massachusetts governor may not, by executive order, suspend or modify the operation of duly-enacted legislation. Massachusetts Bay Transp. Auth. Advisory Bd. v. Massachusetts Bay Transp. Auth., 417 N.E.2d 7, 13, 382 Mass. 569 (1981).

New Hampshire has a similar view to that of Massachusetts but has ruled that inherent executive power may not be used to frustrate valid legislative enactments. Opinion of the Justices, 381 A.2d 1204, 1208, 118 N.H. 7 (1978). Thus, where there is a conflict between an executive order and a statute, the statute must prevail. O'Neil v. Thompson, 316 A.2d 168, 173, 114 N.H. 155 (1974). Where no conflict between an executive order and legislation was found, the executive order was upheld. The Court "presumed" that the governor was within the exercise of his constitutional powers in the absence of conflicting legislation. Opinion of the Justices, 392 A.2d 125, 130, 118 N.H. 582 (1978).

In New York when the executive acts in a manner inconsistent with the legislature "or usurps its prerogatives," the doctrine of separation of powers is violated. Inherent power to determine methods of enforcement of existing law is accorded the executive, but executive orders have been struck down in the absence of legislative authorization. Clark v. Cuomo, 486 N.E.2d 794, 495 N.Y.S.2d 936, 939-40 (1985). Compare Hase v. Civil Serv. Dep't, 535 N.Y.S.2d 338, 340-341, 141 Misc.2d 868 (1988).

Based on these authorities, we reach two conclusions. First, the Governor cannot by an executive order, create an operative effect that conflicts with a statute enacted by the Legislature. The authorities we reviewed are essentially unanimous on this point. Second, in absence of a statute authorizing the Governor to act (e.g., RCW 43.06.220), the Governor cannot create obligations, responsibilities, conditions or processes having the force and effect of law by the issuance of an executive order. This is true even if the order does not conflict with a statute enacted by the Legislature. We acknowledge that some states such as Massachusetts and New Hampshire recognize some inherent executive power in the office of governor. However, in 1898 the Washington Supreme Court declined to follow this path when it decided Young v. State.

Accordingly, it is our opinion that the Governor does not have the authority to create obligations and responsibilities, [[Orig. Op. Page 10]] having the force and effect of law, for the protection of wetlands by issuing an executive order. More specifically, Executive Order 90-04 does not have operative effect. It does not have the force and effect of law and cannot serve as a source of authority for persons or agencies that take action with regard to wetlands.

Executive Order 90-04 merely serves the general policy statement or directive function we discussed at the outset of this opinion. For example, Section 1 of the order states: "All state agencies shall rigorously enforce their existing

authorities to assure wetlands protection". This section does nothing more than set out the Governor's policy with regard to wetlands. Many of the sections in Executive Order 90-04 expressly state that agencies shall exercise their authority to protect wetlands "to the extent legally permissible."5/

Other sections of the order are more specific but these specific sections have no more operative effect than Section 1. For example, Section 12 provides a definition of mitigation to be used by state agencies with the first preference being to avoid "the impact altogether by not taking a certain action or part of an action" to the least preferred definition, "monitoring the impact and taking appropriate corrective measures". This section does not establish as a matter of state law either a definition of mitigation or a priority of preferences. It is simply a policy statement by the Governor of which options are preferable, if there is a choice between those options. Individual agencies for various programs may not have the statutory authority to avoid "the impact altogether by not taking any action." If so, the first preference expressed by the Governor is simply not available legally to that agency for that particular program. Agencies also may have in their statutes other orders of preference expressed. For example, see RCW 90.58.020 of the Shoreline Management Act reflecting a specific order of preference.

In summary, the Governor does not, by the issuance of an executive order for the protection of wetlands, have the authority to create obligations and responsibilities having the force and effect of law. Executive Order 90-04 can only be read as a general policy statement by the Governor and/or a directive communicating the Governor's policy to agency heads that serve at the Governor's pleasure. However, it is not a source of authority for agencies to take action with regard to wetlands.

[[Orig. Op. Page 11]]

The only authority for agency action are statutes duly enacted by the Legislature.

We trust that the foregoing will be of assistance to you.

Very truly yours,

KENNETH O. EIKENBERRY
Attorney General

WILLIAM B. COLLINS

Assistant Attorney General

*** FOOTNOTES ***

1/Young v. State was distinguished but cited with approval in State ex rel. Hartley v. Clausen, 150 Wash. 20, 25, 272 Pac. 22 (1928), which viewed the source of authority more broadly than was done in Young, but both cases recognize a need to find a source of authority.

2/The Governor's veto authority is confirmed in article 3, section 12, which pertains to the executive. However, when the Governor exercises the veto power, he is acting in a legislative rather than an executive capacity. Washington Ass'n. of Apartment Ass'ns. v. Evans, 88 Wn.2d 563 565, 564 P.2d 788 (1977).

3/Prior to amendments, article 2, section 1 originally read:

The legislative powers shall be vested in a senate and house of representatives, which shall be called the legislature of the State of Washington.

[Constitution of Washington, 1889.]

4/See also, Legislative Research Comm. v. Brown, 664 S.W.2d 907 (Ky. 1984) which reaffirms the separation of powers doctrine (that the legislative branch has all powers which are solely and exclusively legislative in nature). 664 S.W.2d at 913. Kentucky adopts the view that gubernatorial power is limited to that conferred by the Constitution or duly enacted legislation. Martin v. Chandler, 318 S.W.2d 40, 44 (Ky. 1958).

5/Sections 2, 3, 4, 6, and 13.



Office of the Attorney General
Washington, D. C. 20530

April 27, 2020

MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS AND
ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL *W.P. Barr*

SUBJECT: Balancing Public Safety with the Preservation of Civil Rights

The current national crisis related to COVID-19 has required the imposition of extraordinary restrictions on all of our daily lives. Millions of Americans across the nation have been ordered to stay in their homes, leaving only for essential and necessary reasons, while countless businesses and other gathering places have been ordered to close their doors indefinitely. These kinds of restrictions have been necessary in order to stop the spread of a deadly disease—but there is no denying that they have imposed tremendous burdens on the daily lives of all Americans.

In prior Memoranda, I directed our prosecutors to prioritize cases against those seeking to illicitly profit from the pandemic, either by hoarding scarce medical resources to sell them for extortionate prices, or by defrauding people who are already in dire circumstances due to the severe problems the pandemic has caused. We have pursued those efforts vigorously and will continue to do so. Now, I am directing each of our United States Attorneys to also be on the lookout for state and local directives that could be violating the constitutional rights and civil liberties of individual citizens.

As the Department of Justice explained recently in guidance to states and localities taking steps to battle the pandemic, even in times of emergency, when reasonable and temporary restrictions are placed on rights, the First Amendment and federal statutory law prohibit discrimination against religious institutions and religious believers. The legal restrictions on state and local authority are not limited to discrimination against religious institutions and religious believers. For example, the Constitution also forbids, in certain circumstances, discrimination against disfavored speech and undue interference with the national economy. If a state or local ordinance crosses the line from an appropriate exercise of authority to stop the spread of COVID-19 into an overbearing infringement of constitutional and statutory protections, the Department of Justice may have an obligation to address that overreach in federal court.

I am therefore directing the Assistant Attorney General for Civil Rights, Eric Dreiband, and Matthew Schneider, the U.S. Attorney for the Eastern District of Michigan, to oversee and coordinate our efforts to monitor state and local policies and, if necessary, take action to correct them. They should work not only with all Department of Justice offices and other federal agencies, but with state and local officials as well.

Many policies that would be unthinkable in regular times have become commonplace in recent weeks, and we do not want to unduly interfere with the important efforts of state and local officials to protect the public. But the Constitution is not suspended in times of crisis. We must therefore be vigilant to ensure its protections are preserved, at the same time that the public is protected.

I thank you for your attention to this important initiative and for your service to our country.

efforts to mean anything, the governor would need to modify his executive order, right?

3) If we do not have a budget by the end of the fiscal year which I assume is June 30th, wouldn't we need to shut down all aspects of town government with the exception of public safety? If the answer is no, why have there been major pissing contests at the state/federal level with employees being furloughed if agreements are not made by the end of the fiscal year?

I am really trying to get educated here. Nothing inflammatory, no talk of the boogey man sneaking into Bethel to take our rights away. I want to stick to the actual facts and not personal interpretations.

Thanks!

Like · Reply · 2w

Hide 31 Replies

Dennis Bailey Greg Henry it's been nearly impossible to get the details in layman's terms. Whether for or against the budget in its current form, I think we all can agree that a referendum is the best way to pass a final budget. If the Governor can change or suspend rules by executive order, which he has, he can fix whatever technical detail is preventing a referendum.

Like · Reply · 2w

Hide or report this

Cynthia McCorkindale I suggest you tag Matthew Knickerbocker

Like · Reply · 2w

Matthew Knickerbocker Greg Henry Answers to your questions:

1). Yes, under EO 7C we are bound to a 30 day limit from the budget timeline in our charter. The May 15th deadline set by the BOS is based on that limit.

2). Yes, to be allowed to hold a referendum, the governor would need to modify several of his previous EO's.

Ladies and gentlemen, I see absolutely no way for that to happen. In fact, just yesterday the governor pushed back the previously delayed presidential primary all the way to August. As long as the 5-person limit is in place, there can be no town meetings and no referenda. This is not my personal interpretation; this is the guidance all mayors and first selectmen are receiving from the governor's office.

If other towns are waiting until August in the hope the restrictions will be lifted by then, they must have different language in their town charters.

3). Correct. If our town did not have a budget by June 30, yes, operationally we would have to suspend almost all non essential work. This means there could be no summer school for kids who need help, nor would our school leadership be able to hire teachers to fill key vacancies.

Like · Reply · 2w · Edited

Cynthia McCorkindale Matthew Knickerbocker - Easton does not have a Town Charter. But why would you not advocate for the taxpayer by contacting the Governor's office? These Executive Orders are coming fast and furious - he can pretty much do as he likes. Why wouldn't you ask for an extension?

Love · Reply · 2w

Cynthia McCorkindale Matthew Knickerbocker - And regarding your reply to Greg Henry, please refer to C6-3(2) of the Town Charter.

"If either the Town Operating Budget or the Board of Education Budget or both are not approved by Budget Referendum by the start of the next fiscal year, the previously approved town budget, including both the Town Operating Budget and Board of Education Budget, for the prior fiscal year shall be deemed to be the temporary budget for the new fiscal year, with expenditures being made thereunder on a month-to-month basis, until such time that each the Town Operating Budget and the Board of Education Budget has been approved by Budget Referendum."

We can take all the time in the world.

Love · Reply · 2w · Edited

Greg Henry Thanks to both of you for your answers.

Like · Reply · 2w

Jeff Casey Greg did she tell you what you didn't want to hear? Funny how easily the minority vote can figure out a solution to a temporary problem although I suspect the majority of the board won't like that outcome.

Like · Reply · 2w

Greg Henry Jeff Casey Just trying to understand the process minus the emotion and bickering.

Like · Reply · 2w

Dennis Bailey Answer 2 doesn't make sense. I think most would be comfortable skipping the Town Meeting and having the budget go straight to the voters. We vote in large spaces that are comparable in size to a large store. The limit of five people doesn't apply there, why here where things are already spaced for voter privacy and could be spaced out even further. People could queue up outside like they would at a store.

Answer 3 needs further clarification based on the quote posted from the town charter. It sounds as though we could maintain status quo and vote on the budget on August 11 with the primary elections.

Also, this isn't a Democrat or Republican issue. It's a citizen voter issue...

Like · Reply · 2w · Edited

Cynthia McCorkindale Dennis Bailey - yes yes yes!

Like · Reply · 2w

Jeff Casey Seems black and white now although "could be no summer school for kid" and "unable to fill key vacancies" seems to add fear to the confusion.

Like · Reply · 2w

Matthew Knickerbocker Cynthia McCorkindale It has been requested and discussed very thoroughly.

Like · Reply · 2w

Cynthia McCorkindale Matthew Knickerbocker - Well, request and suggest some more. You need to fight for the taxpayer on this one. It's unprecedented and plain wrong. And, the excerpt from the Town Charter at the very least demonstrates that the EOs are subject to interpretation.

Like · Reply · 2w

Christopher J Brown Cynthia, how about you let Matt decide what he "needs to" fight or against, then explain and defend that position as he sees fit? You're under no obligation to agree, and I suspect (based on a long and distinguished history here) that you won't. But it's rather presumptuous of you to dictate to others what their priorities "need" to be.

Like · Reply · 2w

Cynthia McCorkindale Christopher J Brown - Why wouldn't I? We pay his salary. What is happening here is that the budget process has been hi-jacked by the "Emergency Declaration" by our Governor. If Matt believes in voter rights, he should be doing everything possible to preserve them.

It's not like I'm ordering him to install another water fountain in the Town Hall or demanding free electricity from the town.

Obviously it is of no concern to you that we are now powerless to participate in the budget process. That's fine. I think it's presumptuous of you to falsely identify my passion for civil rights as presumptuous.

Like · Reply · 2w · Edited

Dennis Bailey Christopher J Brown that is absolutely not how it works. I've voted for him each time he's run including when he was on the BoE. I think he's done a really good job leading the town. That doesn't mean people can't ask uncomfortable questions and say what we need. It makes me nauseous to agree with some of the people on here but it's starting to feel like the budget is going to be rammed through with the EO as an excuse.

Like · Reply · 2w

Christopher J Brown Dennis Bailey, I'm not against people asking tough questions. I'm against people telling others what their priorities "need to" be. You and I can argue topics all day but I'll never try to tell you what you should or should not value as important. There's a difference.

Like · Reply · 2w

Dennis Bailey Christopher J Brown Listen, I'm still not over "printer-gate" from last year. I'm letting the FS know that I'm a supporter of his and am dissatisfied with the fact that the budget process has been changed and that won't be a referendum. I'm not satisfied with the explanations so far as to why it has to be that way.

Like · Reply · 2w

Christopher J Brown Dennis, that's fine. I'm not arguing with you on any of that. I can argue a point (as can you) without telling you what your personal or professional priorities should be. "I think this is the best course of action and here's why" is different from "you need to care about X above all else." Perhaps I'm nitpicking, but there's a difference (to me at least) between arguing a point or course of action and dictating values.

Like · Reply · 2w

Matthew Knickerbocker Cynthia McCorkindale No, they are not. I have discussed this with the attorneys who have written the orders.

Like · Reply · 2w

James Hancock Christopher J Brown With all due respect, I understand your point but I don't think that telling an elected official that he needs to fight for his constituents is a dictation of values. I'm also not going to assume that Matt is not doing so already. I would hope he doesn't "need" to be told to.

Like · Reply · 2w · Edited

Ken Klinefelter Matthew Knickerbocker How about drive through voting.

Like · Reply · 2w

Ken Klinefelter Has that been discussed?

Like · Reply · 2w

Marissa Allen Amundsen Christopher J Brown exactly.

Like · Reply · 2w

Matthew Knickerbocker Cynthia McCorkindale Because this issue has been thoroughly vetted, weeks ago. CT has 136 municipalities with "town meeting" government who all want the same thing. The governor is well aware of the impact this order has. I'm not going to insult him or waste his time rehashing an issue that has been firmly closed. I'm spending my energy advocating for better unemployment benefits for people who have lost their jobs and for small businesses that are struggling to stay alive.

Like · Reply · 2w

Matthew Knickerbocker Ken Klinefelter Yes it has, and rejected. Too many problems with logistics and election security.

Like · Reply · 2w

Jennifer Nicoletti Jeff Casey Shutting summer school is a scare tactic. Just like when the federal government doesn't have a budget they threaten to shut down national parks. Whatever will cause maximum pain to constituents so that the arms of the politicians get bent. As Cynthia noted there doesn't need to be a shut down. They are to assume that they have the previous year's budget.

Like · Reply · 2w · Edited

Joey Gee Ken Klinefelter or a drive by? 🤔

Like · Reply · 2w

Jeff Casey Jennifer that was my point its amazing how they always push the suffering onto our children god forbid those who claim they care so much about our kids have to sacrifice for their future. Be safe everyone 🙏💙

Like · Reply · 2w

Cynthia McCorkindale I think the Feds are taking care of small businesses. Unemployment obviously is calculated by the State. So, while you're having that conversation with Hartford, maybe put in a word for our constitutional rights.

Like · Reply · 2w

Cynthia McCorkindale Matthew Knickerbocker - Imagine if the colonists stayed home because they didn't want to insult King George! This is no different - just on a smaller scale.

Well, I'm happy to insult him, and I hope others are who will send their emails in a flurry over the next few weeks.

I've never known you to be a "people pleaser" - I guess it depends on who the "people" are.

Like · Reply · 2w

Write a reply...

Bill Hillman <https://www.history.com/.../battles-of-lexington-and-...>

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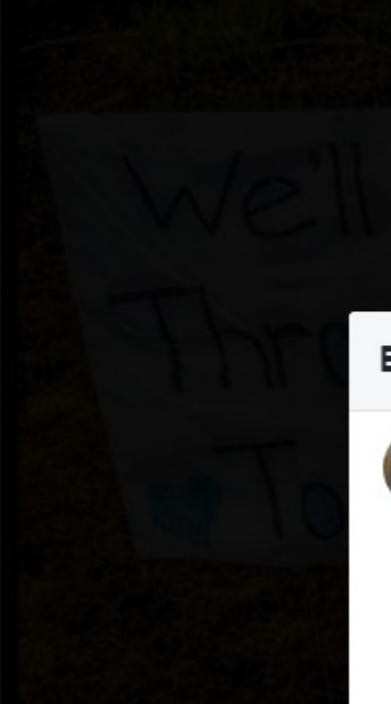
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this is actually my first post

Filter Results



Joined

Ann Huminski and 2 others



Stephanie

March 22 at 10:00 AM

This is actually my first post. I'm a newly empowered town leader and I would like to know what you think.

You, Cynthia



Matthew Knickerbocker

Over the next 30 days

“representative democracy,” which is what 95% of American towns and cities already have. Example: Danbury approves its budgets by a vote of the city council, not by town meeting or referendum.

Basically, our Board of Selectmen and Board of Finance will become a city council for just this budget year. This is because it is not safe to hold large public gatherings, like our public budget hearing and annual town budget meeting, which both typically draw

Edit History



Matthew Knickerbocker Let me try to clarify the governor's order. First, to the question above about what Bethel will do, we will follow the governor's order. However, since this landed in my email at 7:30 just last night, I do not yet have details. I will need to discuss with the town attorney and chair of the BOF.

Secondly, this order does not remove the democratic process; it simply changes it temporarily from “direct democracy” to “representative democracy,” which is what 95% of American towns and cities already have. Example: Danbury approves its budgets by a vote of the city council, not by town meeting or referendum.

What the governor has done is effectively turned our Board of Selectmen and Board of Finance into a city council for just this budget year. This is because it is not safe to hold large public gatherings, like our public budget hearing and annual town budget meeting, which both typically draw about 130 people. Nor is it considered safe for the time being to draw people to the polls to vote. This is why the Connecticut presidential primary was postponed to June.

Also, the governor's order still requires public posting of the budget and a means of gathering public input before a final vote is taken.

I hope this info helps.

9w



Bethel Business Netw 5



Easton Community Ga 9



Bethelcommunitygazette 9

CONTACTS



Bill Ochs 5



Bill Hillman 5



Cynthia McCorkindale 5



Bryan Terzian 20w



Mike Flanagan 5



Kris Peterson 14w



Marion Lynott 20w



Damon John Wade 5



James Fiorilla 5

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Bethel Public S... 5

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Matthew Knickerbocker Kathy Leddy Ellis Hi, Kathy. Your question puts me in the position of trying to speak for the governor, but I will share what I believe to be the intent of his order.

First, there is no safe way to operate "town meeting" form of government. Right now it is not possible to conduct public hearings or town meetings. Any such meeting would violate the current standing orders to limit open meetings to 50 people or less (and this is a standard that could possibly be lowered further in the near future).

Second, there is no way to tell how long this restriction will exist. The governor's previous executive order (#7b) allowed towns to push back their budget process by up to 45 days. It is increasingly looking like that will not be enough time. Restrictions will almost certainly still be in place.

Third, local governments in our state and around the nation MUST have budgets in place soon in order to continue to operate. We are in an emergency posture. It has been my experience that in times like this, financial burdens on local governments actually increase, not decrease. There is more burden on the health department; fire departments must still operate; police must still be on duty to answer calls; teachers will still be conducting classes through distance learning; roads still must be maintained. When people who are frightened because they think they might have been exposed and they call their local health department for answers, they expect someone to be there to answer the phone.

This was undoubtedly a tough decision by Governor Lamont that will probably have political ramifications. But it was absolutely the right thing to do. We need to take that budgetary uncertainty off the table and get on with serving the residents of this town through this crisis.

9w



Matthew Knickerbocker Kathy Leddy Ellis Hi, Kathy. Your question puts me in the position of trying to speak for the governor, but I will share what I believe to be the intent of his order.

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This was undoubtedly a tough decision by Governor Lamont that will probably have political ramifications. But it was absolutely the right thing to do. We need to take that budgetary uncertainty off the table and get on with serving the residents of this town through this crisis.

Hope this helps. Please feel free to send me an email if you have more questions. Glad to help answer as best I can.

9w

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Matthew Knickerbocker Tim, I would have to disagree with you on one point: it's not us who have to make the tough choices, it's you, the voters. If you think this budget is too high, then look it up online and tell us what you want to live without.

Here' what's driving the increases:

- Schools; Higher enrollment, our town is growing
- Schools: The increased debt for the two renovations that we all voted for
- Police: One new hire to handle the 44% increase in work load

-We have seen a 99% increase in work load on the health department in just the past year, because of new inspection requirements from the state. The work load in the building department continues to climb, as this town continues to grow. We still have to repave roads. We still have to replace at least one of the old highway trucks (now 27 years old and can't get parts). We still have to buy fuel, sand, salt and maintain town and school buildings.

As you know, we vote on both "town" and "school" budgets. It is a fact the increase in the "town" side of the budget

9w



Matthew Knickerbocker Tim, I would have to disagree with you on one point: it's not us who have to make the tough choices, it's you, the voters. If you think this budget is too high, then look it up online and tell us what you want to live without.

Here' what's driving the increases:

- Schools; Higher enrollment, our town is growing
- Schools: The increased debt for the two renovations that we all voted for
- Police: the work load has increased by 44% over several years. They are asking for one new officer.

-We have seen a 99% increase in work load on the health department in just the past year, because of new inspection requirements from the state.

Please take some time to look at the budget and educate yourself. There's nothing frivolous in this budget. It's just paying the bills for we have.

9w

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Matthew Knickerbocker To all on this thread: Very easy to gripe and snark. Over the next day or so the full budget proposal will be posted on the town website. If you're going to gripe and make snide comments, every one of you at least needs to look at those numbers, the reasons for the increases and educate yourselves and be ready to have an intelligent conversation about the pro's and con's.

You also need to understand that in times of crisis, town expenses actually go UP. The health dept is working 7 days a week, and they've had to add part time staff to man the new "COVID-19 InfoLine."

The building department's workload has increased so much in the past few years that at one point they were three months behind in logging permits into the system. And remember both of those departments MUST issue their permits within 30 days of submission. One thing I am really tired of hearing is that old expression, "they need to do more with less." BS. This kind of work, walking into place for inspections, pouring over plans and drawings, is pure man-hours. There are no shortcuts. These departments need adequate staff to do the jobs they are charged to do.

The other increase in this budget is schools. This town voted to support the double school renovation, and that represents the VAST MAJORITY of the budget increase.

Remember that your town has to keep paying its own bills, too. It has to continue to have cops who respond to your calls; it has to continue to replace fire equipment; it has to still buy fuel and pay the utility bill. We still have to have men on the road making sure you can get to work when it snows.

In 1990 we had 19 men in the highway crew. Today we have 12, but the number of miles of road they maintain has gone up. There is only one new thing in this budget, and that is the request for one new police officer. Before you condemn that request, look back on previous posts in this forum and count the number of times people have complained about speeding, loud trucks and other traffic related problems. It's not rocket science. If you want more done, it takes more man-hours.

So I am going to respectfully ask that everyone stop treating your town budget like this is something that is imposed upon you by some nameless politicians. The budget you will have before you is simply the bill for running your town. It's YOUR town and it's YOUR budget. if you want it lower, you have to tell us what you can live without.

Let me also stress that nothing is going to be voted on until this budget and all its numbers are available to the public and you have a chance to send in feedback and ask questions, sort of like a public hearing by other means. That requirement is front and center in Lamont's Exec Order 7-I.

Again, watch for the budget presentation to go up online over the next two days. I will post it an announcement here as well.

Thanks for reading.

Matt K.

9w



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Matt K.

9w

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Matthew Knickerbocker Brad Koltz No, you are correct, all those things will occur but probably not in that order. The first thing will be to publish the preliminary budget proposal that the BOF already approved for the now-cancelled public hearing so people can study it. The second step is to give them a means of sending in feedback, questions and comments. I believe the finance dept can have the budget posted online by Wednesday at the latest, and then we need at least 10 days or so for people to see it. We will also allow people to call to have a paper copy sent to them if they don't use a computer. After that, the BOF will need to meet via video and audio conference to finalize the budget, taking public comments into consideration. And yes, at some point in the middle of all that, the BOS has to vote to enable all these things to occur (which I kind of don't understand why it was set up that way, but that's what the EO says).

9w



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And then, the final step is for the BOF to vote on the revised budget.

Hope this info helps.

9w

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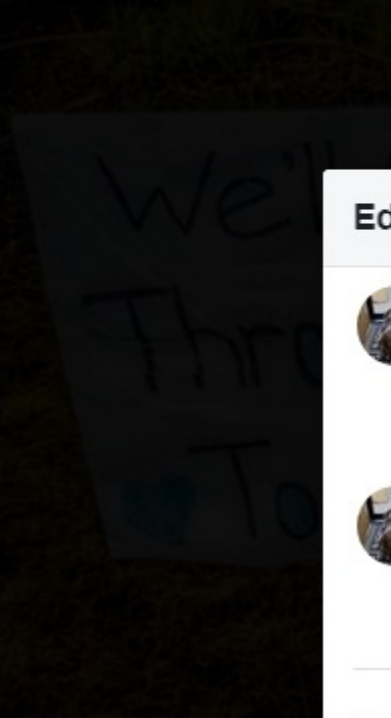
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Joined * ✓ Not

Ann Huminski and 2 others

Stephanie Griff
March 22 at 10:11

This is actually my first post
empowered town leaders
I would like to know what

You, Cynthia McC

Matthew Knickerbocker
Over the next day or

don't know what our share will be, why would we do a budget that doesn't take that into account??

Like · Reply · 8w

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Matthew Knickerbocker Ann Huminski Ann, come on! You can't bring in anybody; you have to hire state certified health inspectors.

8w



Matthew Knickerbocker Ann Huminski Ann, come on! You can't bring in just anybody; you have to hire state certified health inspectors.

8w

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now. But, this is government after all.....

Like · Reply · 8w



Matthew Knickerbocker Ann Huminski No. At times like this, police OT goes up, not down

Like · Reply · 8w



Matthew Knickerbocker Ann Huminski Ann, come on! You can't bring in just anybody; you have to hire state certified health inspectors.

Like · Reply · 8w · Edited



Matthew Knickerbocker Just like we have to hire certified teachers.

Like · Reply · 8w

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- Easton Community Ga 9
- Bethelcommunitygazette 9

CONTACTS

- Bill Hillman
- Cynthia McCorkindale
- Tony Heslin
- Bryan Terzian
- Bill Ochs
- Maryann Simmons
- Mike Flanagan
- Kevin L. Cleary
- Kris Peterson

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Matthew Knickerbocker Cynthia McCorkindale Precisely why we need to get the budget process behind us instead of waster tens of thousands of dollars in lost revenue dragging it out.

8w



Matthew Knickerbocker Cynthia McCorkindale Precisely why we need to get the budget process behind us instead of wasting tens of thousands of dollars in lost revenue dragging it out. By the way, there is no rush. We are actually behind the schedule defined in the charter.

8w

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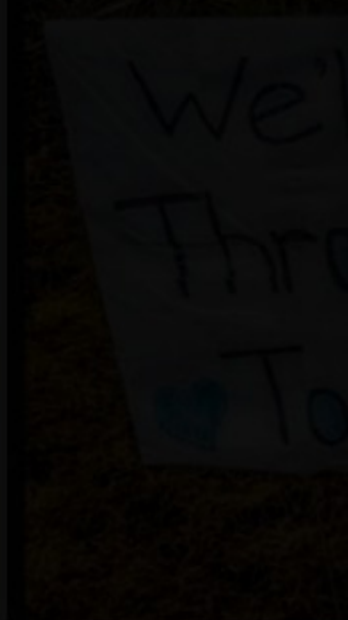
Photos

Files

Recommendations

Watch Party

this is actually my first post



Joined

Not

Ann Huminski and 2 o



Stephanie

March 22 at

This is actually my first post. I'm excited to be part of this empowered town. I would like to know

You, Cynthia

who decoded the orders. Here's how it works:

1) EO 7-I makes the BOS the "legislative body" for the purpose of setting the parameters and procedures for creating a budget.

2) But the "budget authority" is still the BOF. Only they can vote on the budget number.

3) The BOS is required to vote to instruct the BOF to make a budget (I know, that seems redundant but that's how it reads)

4) The BOF must hold some kind of a virtual public hearing to gather feedback from the public. We are working out the dates for that now. it will probably be a system where we publish the budget online, send it to homes and then have people send in their comments. This could also be done by teleconference.

5) After the public has had a chance to send in comments, then the BOF will be required to meet to approve the budget. They will have the authority to consider the public comments and change the budget as they see fit.

So, in the end, the BOS only votes to establish the timeline and empower the BOF to create a budget; the BOS does not vote on the budget itself.

Let me add one more personal comment. I do not know what the BOF intends to do. I would expect them to take all comments to heart with consideration of the financial conditions we are facing. But as I have said in many other posts, our town budget is not just an abstract number. It pays for cops, teachers and road workers. I am well aware that these decisions are difficult when the town is facing its own cost increases. I am asking everyone who writes to me to look at the budget (it's on the town website), study the numbers and tell me what you want cut. We can cut road construction and not pave several roads, but those are in neighborhoods that have waited



Easton Community Ga 9

Bethelcommunitygazette 9

CONTACTS



Bill Hillman



Cynthia McCorkindale 20



Tony Heslin



Bryan Terzian



Bill Ochs



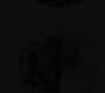
Maryann Simmons



Mike Flanagan



Kris Peterson 140



Marion Lynott

GROUP CONVERSATIONS



Create New Group

----- Forwarded message -----

From: Cynthia J McCorkindale <mccorked@gmail.com>
Date: Tue, May 5, 2020 at 9:37 AM
Subject: BUDGET DEADLINE EXTENSION
To: Matt Knickerbocker <KnickerbockerM@bethel-ct.gov>
Cc: Marty Lawlor <martin.j.lawlor@snet.net>

Dear Mr. Knickerbocker,

I want to make sure that I understand this correctly - that you will not be requesting an extension from the Governor on the approval of the annual budget, although I among others in the community have requested it multiple times since the issuance of Governor Lamont's relevant Executive Orders.

Further, that, although the State Health Department has issued procedures for safe distribution of school lunches and supplies, you do not intend to pursue the possibility of a safe referendum as presented by our Town registrars.

Please respond by Thursday, May 7th. Based on your responses, I will be able to decide what form of legal redress, if any, I should pursue.

Sincerely,

Cynthia J. McCorkindale
Member, Board of Finance
(203) 730-8298

On Mon, May 4, 2020 at 4:11 PM Cynthia J McCorkindale <mccorked@gmail.com> wrote:

I'm very aware of 7HH - which appears to have been a tailor-made response to all of the statewide opposition. Further, it is, whether or not you agree, a blatant abrogation of our Constitutional rights. You chose to just go along with it - even though you could have and could STILL request an extension.

As the President of the CT Council of Small Towns, you have the perfect forum to push back on this usurpation of our fundamental rights. The very LEAST you can do is promise a public comment session prior to May 12th. Orders 7c, 7i, 7s, and 7HH are nothing less than dictatorial and alien to not our country but to the State of Connecticut, The CONSTITUTION State.

By the way, this is a non-partisan - Republicans and Democrats alike are outraged at having this loss of freedom.

Sincerely,

Cynthia J. McCorkindale
(203) 730-8298

On Mon, May 4, 2020 at 3:25 PM Matt Knickerbocker <KnickerbockerM@bethel-ct.gov> wrote:

As I said, I will take that under advisement, but the referendum question is completely out of my hands, as you know. The governor reiterated and clarified the previous order over the weekend in EO 7HH. There is no local option. You can read the order here:

<https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7HH.pdf?la=en>

MK

Matthew S. Knickerbocker, MPA
First Selectman
Clifford J. Hurgin Municipal Center
1 School Street
Bethel, CT 06801

Office: 203-794-8501
Mobile: 203-482-6731
Fax: 203-778-7520

*Please note my direct email: *knickerbockerm@bethel-ct.gov

On Mon, May 4, 2020 at 3:21 PM Cynthia J McCorkindale <mccorked@gmail.com> wrote:

All I can tell you is that if you do not provide a forum for people to make comments prior to May 12th, it will not be taken well. Many people have opinions on the referendum topic. They have tried to voice them at a prior BoF meeting, but was shut down and given the explanation that it would be a BoS meeting that would be more appropriate.

That said, many assumed that there would be a meeting tomorrow evening where they could share their opinions. This way the two issues - i.e. the referendum and budget issues would not be conflated.

I would encourage you to 1) schedule an additional meeting prior to May 12; or 2) Add Public Comment to tonight's agenda. It has been done in the past.

Sincerely,

Cynthia J. McCorkindale
(203) 730-8298

On Mon, May 4, 2020 at 3:15 PM Matt Knickerbocker <KnickerbockerM@bethel-ct.gov> wrote:

Thanks for your input.

Tomorrow night's regular BOS meeting cannot be held because of a schedule conflict. Regarding the minutes of the previous meeting, you are correct, they were mistakenly not included in the meeting materials for tonight's meeting. But those minutes have been posted on the town website in the usual manner since April 22nd, so they do comply with the executive orders.

I am not going to try to schedule a separate special meeting tomorrow night, but I will take that under consideration for a future special meeting prior to May 12th, if the need arises.

Matt K.

Matthew S. Knickerbocker, MPA
First Selectman
Clifford J. Hurgin Municipal Center
1 School Street
Bethel, CT 06801

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Mobile: 203-482-6731
Fax: 203-778-7520

*Please note my direct email: *knickerbockerm@bethel-ct.gov

On Mon, May 4, 2020 at 3:07 PM Cynthia J McCorkindale <mccorked@gmail.com> wrote:

Hi,

I was looking for information on the regular BOS meeting, which I assumed would be taking place tomorrow evening, but it is not on the calendar.

What I do see is a posting for a meeting tonight, whose agenda is effectively identical to May 1 Special Meeting, which I see was cancelled.

I have two concerns.

1) That the meeting tonight is not a recessed meeting from May 1, so by the governor's orders it needs to post relevant materials i.e. minutes from April 21 meeting-- it would not be a problem had you recessed but you did not, it was canceled; and

2) That by not holding a regular BoS meeting on the regular first Tuesday, the public will have no opportunity for public input prior to the BoF public hearing and subsequent vote.

It appears that the meeting tonight violates the governor's orders regarding posting materials to be discussed.

You may want to consider having a Special Meeting tomorrow evening at 6, and then a regular meeting at 7, where you can approve the April 21 minutes, AND give an opportunity for public comment.

At the very least, you should reschedule tonight's meeting to a time that gives ample opportunity to post accompanying materials.

Sincerely,

Cynthia J. McCorkindale
(203) 730-8298