



Ursillo, Teitz & Ritch, Ltd.

*Counsellors At Law*

2 Williams Street  
(at South Main Street)  
Providence, Rhode Island 02903-2918

Michael A. Ursillo \*  
Andrew M. Teitz, AICP \* †  
Scott A. Ritch \* †

Tel (401) 331-2222  
Fax (401) 751-5257  
[peteskwirz@utrllaw.com](mailto:peteskwirz@utrllaw.com)

---

Troy L. Costa †  
Amy H. Goins \* †  
Peter Skwirz \* †  
Gina A. DiCenso \* † (Of Counsel)  
Admitted in RI\*, MA†, NY‡

## MEMORANDUM

**TO:** Honorable East Greenwich Town Council; Joseph Duarte, Town Manager;  
Leigh Carney, Town Clerk (for distribution to Council)

**FROM:** Andy Teitz, Town Solicitor; Peter Skwirz, Assistant Solicitor

**DATE:** May 7, 2019

**SUBJECT:** Publication of budget summary and proposed tax rates

The purpose of this memorandum is to address publication and advertisement of a budget summary and proposed tax rates prior to adoption of the current budget.

RIGL 44-35-6 provides that “[a]t least ten (10) calendar days prior to the hearing for the purpose of adopting the town or city budget, the chief elected official in each town or city shall cause to be published a notice indicating the town's or city's intent to consider adopting a property tax levy. . . . This notice shall constitute notice of public hearing which may coincide with the hearing on the proposed budget . . . .” Similarly, but not identically, RIGL 44-35-7 provides that “[a]t least ten (10) calendar days prior to . . . the first hearing on the budget for the purpose of adopting the budget, the chief elected official in each town and city shall cause to be published a budget summary in a newspaper of general circulation in the town or city.” (Emphasis added.) See also Regulation from the Department of Municipal Finance (DoMF), 280-RICR- 40-00-1.3(D)(2).

The Town Charter, Sec. C-33, requires that “[t]he Town Council shall hold a public hearing on the recommended budget on or before May 15 of each year.” Sec. C-34 allows the Council to revise the budget following the hearing and requires the Council to adopt a budget by June 10.

A public hearing has been scheduled on the budget for May 13, 2019, in accordance with Sec. C-33 of the Charter. However, a budget summary has not been published prior to that hearing. Whether this is in violation of RIGL 44-35-7 depends upon the definition of the phrase “first hearing on the budget for the purpose of adopting the budget,” as used in the statute. DoMF regulation defines the term in 280-RICR- 40-00-1.2(A)(4) as follows:

[T]hat hearing which presents a citizen with the last opportunity to have a recommendation for change in the proposed budget implemented. . . . Where home rule charters require either one or a series of budget adoption hearings, first hearing would be the first in the series. First hearing does not apply to hearings required on proposed budgets by budget commissions, mayor, manager, city or town councils, or any other local authority. In these cases, current procedures prescribed by other state law, home rule charters or local ordinances would be followed with no additional requirements from this Act or Procedures during the process. (Emphasis added.)

There is an internal conflict in this definition provided by the DoMF regulation. On the one hand, it requires publication prior to the hearing that “presents a citizen with the last opportunity” to comment on the budget. On the other hand, it requires publication prior to the first hearing required by the home rule charter. Often times, these are different hearings.

In an attempt to resolve this issue and provide for all legal public input, our recommendation is that the Council should conduct the public hearing on May 13, 2019, but, at the close of the session, the Council should not close the public hearing. Instead, the Council should continue the public hearing to a date certain providing enough time for the budget summary to be advertised pursuant to RIGL 44-35-7 prior to the continued hearing date. In this

way, both the requirements of the Charter and the requirements of RIGL 44-35-7 will be satisfied.

In the future, however, it would be advisable to account for publication of the budget summary before the public hearing required by Charter on or before May 15 of each year.

*\\SERVER\Share\East Greenwich\Memos\Memo re publication of budget summary d2 Clean.docx*