Handling High Profile Cases: Staying Calm and in Control

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Identifying a High Profile Case

- ***Subject matter*** *- real and assumed disputes, local v. national interest, "small but mighty," "sexy"*
- ***Parties*** *- public figures, the famous and the notorious, agendas of activists, groups and gadflies*
- ***Public interest*** *– real and created, actual and perceived*
- ***Media*** *- press and social media interest, more exposure, fake news and misinformation*
- ***Prior actions of agency*** *- notice, prior statements*
- ***Actual impacts and perceived threats*** *- the two-headed cat*

The Kissing Tree – Nobody told Us !

- DEEP conducts long overdue maintenance cutting of trees, shrubbery, and brush on state-owned land at the end of a dead end residential street in fairly affluent neighborhood as part of flood control project in West Hartford.

- Were mtgs with Town; its agenda
- Area used as an unauthorized "park" by entitled residents for years.
- Local Press: significant "impact to the landscape of West Hartford."
- No notice to residents. Politicians deny having notice.
  - The Mayor: "This is an extraordinary and serious situation." I am "disgusted" with DEEP and frustrated, "this is the epitome of lack of outreach."
  - Public mtg", trees and t-shirts, anger, plausible deniability of Town, racism

When Do You Know - High, Low, or No

- DEEP conducts long overdue maintenance cutting of trees, shrubbery, and brush on state-owned land at the end of a dead end residential street as part of flood control project in an affluent neighborhood.
- The brother of a former mayor seeks a permit for a small dock in a cove so his kids can access the water for recreation without having to traverse an area of tidal vegetation.
- A developer seeks a permit for an on-site septic system to construct low-income housing.
- A permit to make overdue repairs to a high-hazard dam to protect on-site and adjacent wetlands and residential properties downstream of the Dam.
- A permit to provide a path for emergency evacuation for residents of low-income housing in case of flooding.
- A permit to construct a roadway for a bus route that will impact low-value wetlands.
- A permit to install improved and more efficient turbines in a small power plant on an industrial site.
- A permit to improve the methods for discharge of water from a nuclear power plant to protect fisheries in the Connecticut River, the site of the discharge.
- A permit to install a large pipeline system to divert water from an abundant water system in a large city to a more suburban county facing possible future water scarcity.
- A permit to allow a university to receive water from a reservoir to provide drinking water for its expanded campus.
- A hearing on the suspension of a permit to recycle.

When Do You Know - High, Low, or No

- BUT
- Area used as an unauthorized "park" by residents for years.
- No notice to residents. Politicians deny having notice.
  - The Mayor: "This is an extraordinary and serious situation." I am "disgusted" with DEEP and frustrated by "the epitome of lack of outreach."
- Local Press: significant "impact to the landscape of West Hartford."

ALL had a high profile

- **Notorious or famous** public figures
- **Anger** at activities taken by agency before "notice"
- **Perceived issues** not the subject of the permit
  - Low income housing, nuclear power, zoning,
- **Mistrust** of applicant/intent of permit
  - Dock to be permitted to be used in way that will have harmful impacts on environmental, including on birds and wildlife
- **Mistrust** of DEEP, government
  - Alternatives to permitted activity not considered
- **Gadflies**
- **Agendas of national environmental groups**
- Concept of **environmental injus**tice – have and have nots, racism
- **Misunderstanding**
  - Of impacts, concept of environmental harms
  - Explaining scientific and mathematical concepts (million v. billion)
- COVID

What Now? - Questions for You

- Are You **Trained** for High-Profile Cases?
- Are You **Experienced**?
- **Impacts** on the Hearing
  - Will You Deal with the Media?
  - Will hearing be live or virtual?
    - If live, is facility safe for you and others?
    - If virtual, will you have protections from "bombers"?
    - If you need a site visit – will you have or do you need security?
- Are You **Knowledgeable** about the Issue(s)?
  - *Do you need to be?*
- Can You **Keep Calm under Pressure**? How Can You?
  - *Pressure from agency ?*
    - *Don't make agency look bad, don't screw this up!*
  - *Public pressure?*
  - *The Press?*
  - *Yourself?*

If No Training, Experience ....Resources

- Know when to seek help - and get it !
- Talk to experienced peers
  - Include the agency press office
- Get appropriate help
  - If press office can handle media, let them
  - Security issues – consult the pros and let them take control
- ID
  - Agency actions (strength of case)
  - People, groups involved
- Learn agency policies, positions re the issue(s)
- Know the limits of your hearing v. the rest of everything
- Consult resources such as NAHO
  - Training, other hearing officials, outreach

What You Cannot Control

- The Issue(s) for the Hearing
  - High Degree of Interest
  - Angry, worried, confused public
- Others
- Impact of Your Decision
  - Special scrutiny
  - Unwelcome
- Impact on the Agency – *political, legislative, mission/policies*
- You – *not just a faceless bureaucrat*

What you Can Control

- **The Hearing Process**
- **Yourself**

Managing the Hearing Process

- Manage Expectations
  - Communicate the boundaries
  - Inform the Press, the Parties, the Public about the process and the rules
  - Keep the Agency in the loop
  - Be consistent and clear
- Manage Information – at least from you

Manage the Hearing Process

- **Notice of Hearing**
  - **Time start/stop**
  - **Rules – for the parties, the public and the press**
    - **Rules of Practice – allow reasonable limits on media – no disruption of hearing**
  - **Consequences if break rules**

- **Conducting the Hearing**
  - **Make the parties aware of your expectations**
  - **Tell the media - Cameras and recording devices (where and how many), who can/cannot be filmed**
  - **The Public – Set boundaries**
    - **Where they can sit or be on camera**
    - **If/when they can speak**
    - **How or where they can make comments – "protest"**

- **Set out "Agenda"/order of hearing – stick to it**
  - **Deal with objections, procedural issues clearly and firmly**
  - **Take a break if you need it**
  - **Control any "grandstanding"**

- **Don't be intimidated by public, press or nature of case – just do your job**
  - **Stick with the process**
  - **Be consistent**
  - **Dealing with disturbances - uninvited participants**

- **Concluding the hearing**
  - **Announce when it's over and what that means**
  - **Post-hearing processes**

Dealing with the Media

- **Interactions**
  - **Don't hide, speak if you can on what you can.**
  - **Use press release on process**
  - **Media often knows nothing, or little, or only public/political info about your issue, working on deadline**
  - **Use your PR people if you have them!**
  - **If not –**
    - **Choose you words carefully. Don't get provoked. Don't be "clever." Use talking points.**
    - **Avoid discussing specifics of any ongoing case, if the case is not protected by confidentiality requirements in statute, reg or rules, inform media re procedural aspects of the case.**
    - **Be friendly, but firm. Be consistent. Again, use taking points.**
    - **You set the limits.**
  - **Social Media –** *dealing with the crazies*
- **Agency Policies or Guidelines**
  - **Media Policy – Director of Communications**
  - **Rules for the Hearing Room –** *in-person and virtual*

Making Your Decision

- **Peer review**
  - **From the beginning of the process to the end, get input**
  - **Use people you know will be honest – and tough**
  - **Don't avoid hearing criticism by avoiding peer review**
    - **Better to hear it from peers v. from a judge!**
- **Defensible But Not Defensive Decisions**
  - **Sound facts**
  - **Certainty of law**
- **Rendering an Unpopular Decision**
  - **Don't go down their "rabbit hole"**
  - **Stick to your responsibilities and final work product**

Managing You - Take Care

- **Be safe**
  - **Secure venues –** for you, staff and witnesses
  - **Social Media**
  - **The Facility**
- **Dealing with Stress**
  - **Putting it all in a box**
  - **Keep it in perspective**
  - **Be professional –** you are not a media star!
- **Handling Controversy**
  - **It's not about you!**
  - **Stay calm and in control !**
  - **At the end of the day, it's your job**
- **Rendering an Unpopular Decision**
  - **Don't make the process the issue**
  - **Let your work speak for itself**

You're not in this You're not in this job to be popular

Lessons Learned

- **Don't rush to judgment - about people or the issue(s)**
- **There will be "mistakes" – expect them and be prepared to deal with them**
- **You can't make anyone happy most of the time**
- **Don't complain or explain … let your work speak for itself**
- **Do your best ... always**
- **Keep a thick skin and a sense of humor**
- **"Pretend Plexiglass"**
- **At least your name will be spelled right….**
- **You are probably your own worst critic**
- **At the end of the day, what you see in the mirror matters**