The Town Tea – Resignations

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Panelists: Sarah Brancatella, Esq., Katie Hodgdon, Esq. and Lori Mithen-DeMasi, Esq.
Link to recording: https://us02web.zoom.us/rec/play/leNziPhva7g3ywn0V6iFxTMsfHFOafriPjWaZYDkBPkars8j5g93h8FrPVngrY73pGyItJ6ZiYRuVSSjIP.WJI1BCshi1AqZKq?continueMode=true&x_zm_rtaid=AgMsQxEBRJWUMq0_3BeARA1636568263364.eb14afa25286fb1a3df953e40aaf5804&x_zm_rhtaid=565

Statutory Authority- Town Law § 26 and Public Officers Law § 31

Resignations:
- Must be in writing; and
- Must be addressed to the town clerk and delivered and/or filed in the town clerk's office (see Public Officers Law § 31 [2], [3])

Town Clerk Resignation:
- Elected clerk: Must file resignation with the Secretary of State
- Appointed clerk: Must file resignation with the town board (see Public Officers Law § 31 [1] [k]); Scriven v. Wade, 208 AD2d 1035 [3d Dept 1994])

Town Justice Resignation:
- Town justices are both town officers and officers of the Unified Court System (see NY Const, Art VI, §1 [a]; Op. Atty. Gen. (I) No. 90-46; Op St. Comp. No. 81-222)
- Town justices must submit a written letter of resignation to both the town clerk and the chief administrative judge (see Public Officers Law § 31 [1] [d] [g])

Legal Sufficiency of Resignations:
- The officer with whom the letter of resignation is filed determines whether it meets the legal requirements (Op. Atty. Gen (I) No. 96-26). For example, if an officer files their resignation with the town clerk, the town clerk determines whether the resignation is valid.
- Consultation with the town attorney is recommended

Effective Date: Letters of resignation may take effect immediately upon receipt. Alternatively, town officials may choose a delayed effective date:
- Town Justice may delay their resignations up to 90 days from the date the letter of resignation if filed.
• All other officers may delay their resignations up to 30 days from the date the letter of resignation if filed. (see Public Officers Law §31 [2])

Withdrawal of Resignations:
• A town officer needs the consent of the town clerk (or the filing official) to withdraw, cancel, or amended their letter of resignation (see Public Officers Law § 31 [4])

Notification of Resignation:
• Elected Officers – Board of Elections must be notified (Public Officers Law § 31 [5]) and the appointing authority should also be notified
• Appointed Officers – Town board or other appointing authority should be notified