



WESTPORT CONNECTICUT

OFFICE OF THE
TOWN ATTORNEY

To: Representative Town Meeting Members

From: Gail Kelly, Assistant Town Attorney *G.K.*

Date: August 18, 2009

Re: Appeal of Planning & Zoning Decision of July 30, 2009 on Amendment # 594 regarding Lighted Athletic Fields on Town Owned Property

In accordance with Section C10-4 of the Town Charter, the Representative Town Meeting (the "RTM") is being asked to review the July 30, 2009 decision of the Planning & Zoning Commission (the "Commission"). The Commission approved, with conditions, amendments to various sections of the Westport Zoning Regulations ("Regulations") to provide for lighting on athletic fields on Town owned property.

I have been asked to provide the RTM with guidelines for its review of the Commission's decision

I. General

Section 10-4 of the Town Charter sets forth the procedure for review by the RTM of certain actions of the Commission. The action of the Commission amending the Regulations to provide for lighted athletic fields on Town owned property is one such action. This provision in our Charter was part of our original special act charter, and it is a provision not shared by many municipalities. It provides an opportunity for the Town's legislative body to essentially step into the shoes of the Commission in limited areas.

The RTM will be presented with a resolution reversing the action of the Commission. Section C10-4B of the Town Charter states that such a resolution must be adopted by the affirmative vote of 2/3 of the total number of RTM members. This is in contrast to other sections of the Charter which require a percentage vote of those RTM members "present and voting". Accordingly, the resolution will need the affirmative vote of 24 members to void or reverse the decision of the Commission.

The RTM's authority is limited to either adopting or rejecting the resolution. The RTM has no authority to modify or amend the decision of the Commission nor can it delay or otherwise postpone acting upon the resolution to a later date.

Finally, if the RTM does not adopt the resolution (i.e. if it affirms the decision of the Commission), then the decision of the Commission becomes effective as of the date provided in the published notice.

II. Scope of Review

In conducting its review, the RTM may limit itself to the record or it may request that other information be submitted that is not in the record.

Unlike other matters that have come before the RTM for its review, in this case the RTM, like the Commission, will be acting in its legislative capacity. Accordingly, it has broad discretion whether to affirm or reverse the decision of the Commission being guided, however, by the general provisions of the Town plan and zoning regulations. As stated above, the RTM essentially steps into the shoes of the Commission.

Ira and I will be available to answer any further questions you may have with respect to this matter.

cc: Gordon F. Joseloff, First Selectman
Hadley Rose, RTM Moderator
Matthew Mandell, Chair, RTM Planning & Zoning Committee
Ron Corwin, Chair, Planning & Zoning Commission
Larry Bradley, Director, Planning & Zoning Department
Stuart McCarthy, Director, Parks & Recreation
Patty Strauss, Town Clerk
Ira Bloom, Town Attorney