

MEMORANDUM

FROM: OFFICE OF THE CITY ATTORNEY
MIDDLETOWN, CONNECTICUT 06457

TO: Stephen T. Gionfriddo, Chairman, Planning & Zoning Commission

DATE: March 4, 1987

RE: Alternate Schedule of Planning & Zoning Commission 2/25/87

ISSUE:

In light of the alternate schedules printed on the Planning and Zoning Commission Agendas for January 28, 1987, and February 11, 1987, was the alternate schedule as printed on the Planning and Zoning Commission Agenda dated February 25, 1987, the correct alternate schedule under the By-Laws of the Planning and Zoning Commission?

FACTS:

The Planning and Zoning Commission Agenda dated January 28, 1987, listed the alternate schedule as follows: C. Lindquist, F. Patnaude, G. Roccapriore, and R. Thompson.

The Planning and Zoning Commission Agenda dated February 11, 1987, listed the alternate schedule as follows: F. Patnaude, G. Roccapriore, R. Thompson and C. Lindquist.

The Planning and Zoning Commission Agenda dated February 25, 1987, listed the alternate schedule as follows: C. Lindquist, F. Patnaude, G. Roccapriore, and R. Thompson.

BY-LAWS:

The By-Laws of the Planning and Zoning Commission, Middletown, Connecticut, adopted on October 11, 1972 (A. 3. - Alternates - Effective December 14, 1977 provides SECTION 9 DUTIES OF OFFICERS AND OTHERS et seq. d. Alternates:

- (1) Alternate members shall serve as members whenever a regular member is absent or disqualified. Alternates shall serve on a rotating basis with the next scheduled alternate serving for an entire meeting.
- (2) In the event of the absence or disqualification of additional regular members, the next scheduled alternates shall serve as needed for the entire meeting.
- (3) If an alternate replaces a regular member because of disqualification on any issue, rather than absence, the same alternate shall serve until the issue is resolved even if extended beyond a single meeting.
- (4) If a regular member is absent from a public hearing he may vote on the topics of the hearing, at a subsequent meeting, if he has read the transcript of the hearing. The fact that an alternate member replaces an absent regular member does not entitle the alternate member to act when the regular member is present.

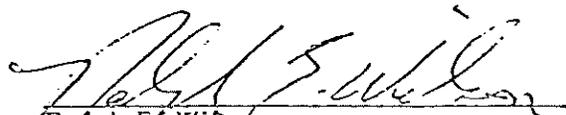
(5) A schedule of alternates' service shall be kept by the Secretary who shall notify the Chairman of the next alternate who shall serve.

DISCUSSION:

The By-Laws of the Planning and Zoning Commission are quite clear. Under 9. d. (1) "Alternates shall serve on a rotating basis with the next scheduled alternate serving for an entire meeting." Furthermore, under Section 9. d. (3) "If an alternate replaces a regular member because of disqualification on any issue, rather than absence, the same alternate shall serve until the issue is resolved even if extended beyond a single meeting." Furthermore, Section 9. d. (5) provides that: "A Schedule of alternates' service shall be kept by the Secretary who shall notify the Chairman of the next alternate who shall serve."

The facts disclose that the Planning and Zoning Commission Agenda for February 25, 1987, improperly listed the rotating schedule of alternates. Although the schedule of alternates should have appeared as follows: G. Roccapriore, R. Thompson, C. Lindquist, and F. Patnaude, it was printed as C. Lindquist, F. Patnaude, G. Roccapriore, and R. Thompson. Acting upon the alternate schedule as printed, the Chairman of the Planning and Zoning Commission appointed C. Lindquist as the alternate at the February 25, 1987, meeting relying upon the alternates' rotating schedule as listed on the Agenda that night. Since C. Lindquist was replacing a regular member, who had disqualified himself, under Section 9. d. (3) of the By-Laws, C. Lindquist would normally serve until the issue on which the disqualification was based, is resolved, even if extended beyond a single meeting. In actuality, if the alternate rotating list had been correctly printed on the Planning and Zoning Commission Agenda on February 25, 1987, G. Roccapriore would have been the next serving alternate.

In view of the By-Laws of the Planning and Zoning Commission of the City of Middletown regarding alternates, and the facts of this case, the following advice is hereby given. Since the Planning and Zoning Commission Agenda printed for the February 25, 1987, meeting incorrectly listed the alternates' rotating list, that list should not be utilized to establish the alternates' list for the next regularly scheduled meeting. Moreover, G. Roccapriore, who should have been listed as the first alternate on the February 25, 1987, alternates' list and who would have been named to replace the regular member, who disqualified himself, if the alternates' list had been printed correctly, should replace C. Lindquist, who was named to replace said regular member based upon the incorrectly printed alternates' list. Finally, the Planning and Zoning Commission Agenda for the meeting of March 11, 1987, should list the alternates as follows: R. Thompson, C. Lindquist, F. Patnaude and G. Roccapriore.


Ralph E. Wilson
City Attorney

REW/es

cc: Sebastian J. Garafalo, Mayor
George Reif, Director of Planning & Zoning
Richard W. Tomc, Corporation Counsel

- (3) Discussion with the public, if present;
- (4) Approval or modification of minutes of previous meetings;
- (5) Old business;
- (6) New business;
- (7) Reports;
- (8) Adjournment.

SECTION 7 RULES OF PROCEDURE

All meetings of the Commission shall be conducted in accordance with Robert's Rules of Order.

SECTION 8 OFFICERS

The officers of the Commission shall consist of a Chairman, Vice Chairman, and a Secretary, elected by the Commission at the organizational meeting for a term of one year. In the event the Secretary is absent from any meeting, the officer presiding shall designate an acting Secretary.

SECTION 9 DUTIES OF OFFICERS AND OTHERS

The duties and powers of the officers of the Commission shall be as follows:

a. Chairman:

- (1) To preside at all meetings of the Commission.
- (2) To call special meetings of the Commission.
- (3) To sign official documents of the Commission.
- (4) To see that all actions of the Commission are properly taken.

b. Vice Chairman:

During the absence, disability or disqualification of the Chairman, the Vice-Chairman shall exercise or perform all the duties and assume all the responsibilities of the Chairman.

c. Secretary

The City Planning Director and other staff members shall fulfill the routine duties of the Secretary which shall be:

- (1) To keep minutes of all meetings of the Commission.
- (2) To give or serve all notices required by law.
- (3) To prepare the agenda for all meetings of the Commission.
- (4) To be custodian of Commission records which shall be stored in the Commission office in the Municipal Building.
- (5) To inform the Commission of correspondence relating to business of the Commission and to attend to such correspondence.
- (6) To handle funds allocated to the Commission in accordance with its directives, the law, and City regulations.

d. Alternates:

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- (1) Alternate members shall serve as members whenever a regular member is absent or disqualified. Alternates shall serve on a rotating basis with the next scheduled alternate serving for an entire meeting.

BYLAWS - continued

(2) In the event of the absence or disqualification of additional regular members, the next scheduled alternates shall serve as needed for the entire meeting.

(3) If an alternate replaces a regular member because of disqualification on any issue, rather than absence, the same alternate shall serve until the issue is resolved even if extended beyond a single meeting.

(4) If a regular member is absent from a public hearing he may vote on the topics of the hearing, at a subsequent meeting, if he has read the transcript of the hearing. The fact that an alternate member replaces an absent regular member does not entitle the alternate member to act when the regular member is present.

(5) A schedule of alternates' service shall be kept by the Secretary who shall notify the Chairman of the next alternate who shall serve.

SECTION 10 VACANCIES

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Should any vacancy occur among the members of the Commission by reason of death, resignation, disability or otherwise, notice thereof shall be given to the Mayor by the Secretary. Should any vacancy occur among the officers of the Commission, the vacant office shall be filled by vote of the members. Such an officer is to serve the unexpired term of the office in which the vacancy shall occur.

SECTION 11 STAFF AND CONSULTANTS

A Commission staff and consultants may be employed within the limits of funds available. The top staff position shall be the City Planning Director who may recommend, for Commission approval, employment of other staff personnel and/or consultants necessary to carry out the Commission work. Employment shall be in accordance with the City procedures and all regular staff personnel shall be entitled to those fringe benefits offered by the City to its employees.

SECTION 12 REPEALER

These bylaws constitute a replacement for the procedural policies for the City Planning and Zoning Commission and Staff dated 1/22/69.

SECTION 13 AMENDING BYLAWS

These bylaws may be amended at any meeting of the Commission provided that notice of said proposed amendment is given to each member in writing at least five days prior to said meeting.

RECEIVED

REQUEST FOR OPINION, ADVICE OR OTHER LEGAL SERVICE

(Submit to Mayor in Duplicate)

MAY 08 1987

RECEIVED

CITY ATTORNEY
MIDDLETOWN, CT.

1987 MAY -4 AM 10:29

CITY OF MIDDLETOWN
MAYOR'S OFFICE

TO: MAYOR'S OFFICE

FROM: JAMES MONOPOLI, ZEO

SUBJECT: BONDING FOR SITE COMPLETION

FACTS: (In brief Statement tell WHO, WHAT, WHEN, WHERE, WHY & HOW.)

HOMAR, Inc., Developers of Northwoods Apts., Westlake Drive are seeking their final C.O. Site completion is still pending in the form of paving, grading, and landscaping, while the building is completed. HOMAR, Inc. is seeking release of the C.O., and wishes to bond for the estimated amount of unfinished work. The dollar amount they've indicated is approximately \$189,000.00 and estimated time for completion is 6 weeks.

LAW: (Cite appropriate ORDINANCE, REGULATION, STATUTE, OR CASE LAW that you think applies to this Question.)

There is no specific provision in our local zoning code, but Section 8-36 of the Connecticut General Statutes may apply.

QUESTION: (What, in your own words is the precise question you wish to have answered?)

Is bonding for pending site plan improvements a possibility? ^{Yes} Subject to Planning and Zoning approval. If so, can final C.O. be released with a bond in hand? Yes, if they bond for the total amount of the improvements.

ESTIMATE OF PRIORITY:

Check one.

Lina A. Salarik
5-21-87

EMERGENCY

STANDBY FOR FUTURE ACTION

URGENT

APPLICANT SHOULD KNOW FOR FUTURE ACTION

Date: 5/1/87

Signed: James Monopoli