22a-113p. Action on applications to municipal agencies referred to commission.

Connecticut Statutes

Title 22A. ENVIRONMENTAL PROTECTION

Chapter 444A. HARBOR MANAGEMENT COMMISSIONS

Current through the 2013 Legislative Session

22a-113p. Action on applications to municipal agencies referred to commission

The commission may review and make recommendations, consistent with the plan, on any proposal affecting the real property on, in or contiguous to the harbor that is received by any zoning commission, planning commission or combined planning and zoning commission, zoning board of appeals, historic district commissions, flood and erosion control board, harbor improvement agency, port authority, redevelopment agency, shellfish commission, sewer commission, water pollution control authority or special district with zoning or other land use authority. Such agencies shall send a copy of any such proposal to the commission upon the request of such commission. The commission shall be notified of any such proposal at least thirty-five days prior to the commencement of the hearing thereon or where no hearing is held, at least thirty-five days prior to the taking of any final action on the proposal. The local agency authorized to act on the proposal shall consider the recommendations of the commission. A two-thirds vote of all the members of the local agency having authority to act on the proposal shall be required to approve a proposal which has not received a favorable recommendation from the commission, provided that the provisions of this section shall not be deemed to alter the authority of the agency having primary jurisdiction over the proposal to deny, modify or condition the proposal. Failure of the commission to submit a recommendation shall be deemed to be approval of the proposal.

Cite as Conn. Gen. Stat. 22a-113p

Source:
(P.A. 84-247, S. 6.)

House Residence back to itself, or take other action necessary under law to provide for continued receipt of SSI benefit payments or as otherwise determined to be in the best interests of the City of Stamford.

(4) In communication with the transfer of management responsibilities to a nonprofit corporation, the city will enter into a lease which shall provide for the use of the Residence premises by said nonprofit corporation.

B. Effective date. This section will take effect October 1, 1989.

ARTICLE XII. HARBOR MANAGEMENT COMMISSION[35]

Sec. 6-58. Creation of the Stamford Harbor Management Commission.

Pursuant to the provisions of C.G.S. § 22a-113k, there is hereby created the Harbor Management Commission for the City of Stamford, which Commission shall consist of seven (7) members who are appointed by the Mayor and approved by the Board of Representatives, to serve without compensation, for terms of three (3) years each. Of the seven (7) members of the Stamford Harbor Management Commission, three (3) of the members must be selected who are active members of the boating community and who meet the following criteria: one (1) member from the Ponus Yacht Club; one (1) member from the Halloween Yacht Club; one (1) member from the Stamford Yacht Club; in addition one (1) member who is in compliance at a City marina; and one (1) member must be from a conservation/preservation organization.

In addition, the following will be non-voting, ex officio members of the Stamford Harbor Management Commission: the Stamford Harbor Master, the Director Of Operations of the City of Stamford, and the Chief of Police of the City of Stamford Police Department. An ex officio member of the Stamford Harbor Management Commission may be represented in Commission proceedings by a designated substitute. A Chairman, Vice Chairman and Secretary of the Stamford Harbor Management Commission shall be elected annually by the voting membership of the Commission.

In accordance with the provisions of § 9-167A of the Connecticut General Statutes, no more than four (4) of the commissioners shall be members of the same political party. In addition, there shall be two (2) alternate members of the Stamford Harbor Management Commission appointed pursuant to section 4 of this chapter to serve in place of absent regular members of the Commission, if necessary.

Sec. 6-59. Jurisdiction of the Harbor Management Commission.

The Stamford Harbor Management Commission shall have jurisdiction within and over all navigable waters and inter-tidal areas below the mean high water line of the shoreline of Stamford and within the territorial limits of the City of Stamford and bounded by the projection of the boundary lines of the neighboring municipalities of Greenwich, Connecticut to the west and Darien, Connecticut to the east, including but not limited to Stamford Harbor and Westcott Cove.

Sec. 6-60. Required Attendance at Regular Meetings By Harbor Management Commission Members.

An unexplained failure to attend three (3) regular consecutive meetings of the Stamford Harbor Management Commission over a twelve (12) month period shall constitute evidence of sufficient cause to consider removal of any member of the Commission. Any such removal must be accomplished by a majority vote of all voting members of the Commission in good standing. In the event that such removal occurs, any replace-

[35]Ord. No. 1021, adopted Jan. 5-2004, pertaining to the Harbor Management Commission, added provisions to the Code, but did not specify manner of codification. Therefore, at the discretion of the editor, said provisions have been included as Art. XII, §§ 6-58—6-67 of Ch. 6 herein.

Editor's note—Ord. No. 1096, adopted Mar. 2, 2009, adopted the "City of Stamford Harbor Management Plan, July 2008" prepared by the City of Stamford Harbor Management Commission in accordance with sections 22a-113k, et seq. of the Connecticut General Statutes.

ment member to be appointed to the Commission shall be so appointed by the Mayor and approved by the Board of Representatives.

Sec. 6-61. Appointment and Function of Alternate Harbor Management Commission Members.

There shall be two (2) alternate Stamford Harbor Management Commission members appointed by the Mayor and approved by the Board of Representatives to serve on the Harbor Management Commission in the event of the absence of a regular Harbor Management Commission member. The terms of such alternate Commission members shall be for two (2) years and their initial terms shall be for one (1) year and two (2) years, respectively, as designated by the Board of Representatives. Should any regular member(s) of the Commission be absent from proceedings before the Commission, the Chairman of the Stamford Harbor Management Commission shall make all necessary arrangements for contacting the alternate Harbor Management Commission member(s) for attendance at regular meetings of the Commission.

Sec. 6-62. Harbor Management Commission Powers, Duties and Responsibilities.

Pursuant to the provisions of C.G.S. § 22a-113p, the Stamford Harbor Management Commission shall review and make recommendations, consistent with the Stamford Harbor Management Plan, on issues coming within the Harbor Management Commission's jurisdiction arising from any proposal affecting the real property on, in or contiguous to the Stamford Harbor and the shoreline of Stamford that are received by the City of Stamford Zoning Board, Planning Board, Environmental Protection Board, Zoning Board of Appeals, Historic District Commission, Urban Redevelopment Commission, Office of Economic Development, Water Pollution Control Authority and any other special district, board, agency or commission possessing zoning, planning or other land use authority.

Those agencies, board or commissions shall send a copy of any such proposal to the Stamford Harbor Management Commission. The Commission shall be notified in writing of any such proposal within the Stamford Harbor Management Commission's jurisdiction at least thirty-five (35) days prior to the commencement of the hearing held thereon, or where no hearing is so held, at least thirty-five (35) days prior to the taking of any final action on the proposal by the agency, board or commission to which such proposal has been submitted. The local agency, board or commission authorized to act on the proposal shall consider any recommendations of the Stamford Harbor Management Commission concerning the proposal. A two-thirds vote of all the members of the local agency having authority to act on the proposal shall be required to approve a proposal which has not received a favorable recommendation from the Stamford Harbor Management Commission, provided that the provisions of this section shall not be deemed to alter the authority of the agency, board or commission having primary jurisdiction over the proposal to deny, modify or condition the proposal.

Failure of the Stamford Harbor Management Commission to submit a recommendation shall be deemed to be its approval of the proposal. In accordance with the provisions of C.G.S. § 22a-113m, the Stamford Harbor Management Commission shall review the Stamford Harbor Management Plan on an annual basis and shall propose any additions and/or modifications to the Harbor Management Plan that the Harbor Management Commission deems appropriate. Any such proposed modification of the Stamford Harbor Management Plan by the Stamford Harbor Management Commission shall be approved in the same manner as the Stamford Harbor Management Plan was initially approved as required pursuant to the provisions of C.G.S. § 22a-113m.

Pursuant to the provisions of C.G.S. § 22a-113l, the Stamford Harbor Management Commission shall be authorized to enter into contracts, employ consultants and other assistants, and to receive and expend funds for equipment, supplies and staff to carry out the purposes of C.G.S. §§ 22a-113k to 22a-113t, inclusive. The City of Stamford may appropriate funds to the Stamford Harbor Management Commission.

Sec. 6-63. Regulation of Mooring Areas and Anchorage Areas.

All mooring activity, both permanent and transient, shall be regulated by the Stamford Harbor Management Commission and the Stamford Harbor Master. Mooring schedules, fees and plans for activities to take place in areas within the Stamford Harbor Management Commission's jurisdiction shall be developed as elements of the Stamford Harbor Management Plan and made available for review by the general public. The Stamford Harbor Management Plan shall be submitted to and approved by the Commissioners of the state of Connecticut Department of Environmental Protection and Department of Transportation, and adopted by local ordinance in accordance with the provisions of C.G.S. § 22a-113m.

For the purpose of this section, a Mooring Committee shall be established consisting of the Stamford Harbor Master, the Chairman of the Stamford Harbor Management Commission and a third member of the Stamford Harbor Manage-

ment Commission that is acceptable to both the Stamford Harbor Master and the Chairman of the Stamford Harbor Management Commission. All three members of the Mooring Committee shall be voting members of that Committee.

Sec. 6-64. Harbor Management Commission's authority to establish regulations.

The Stamford Harbor Management Commission shall have the authority to establish regulations relating to the use and maintenance of the area within its jurisdiction as delineated by Section 2 of this Chapter.

Sec. 6-65. Harbor Management Commission's authority to establish fees.

In accordance with the provisions of C.G.S. § 22a-113s, the Stamford Harbor Management Commission shall have the authority to propose a fee schedule for a permit for a mooring or anchorage or any other activity within the scope of the Stamford Harbor Management Plan. Any such proposed fee schedule is to be approved by the Stamford Board of Representatives pursuant to the provisions of § C2-10-2(6) of the Stamford Charter. The maximum annual fee for a mooring or anchorage shall not exceed the amount set by State statute. The Office of Cashiering and Permitting shall collect any and all fees authorized pursuant to the provisions of this section. Any such fees are to be approved by the Stamford Board of Representatives pursuant to the provisions of § C2-10-2(6) of the Stamford Charter.

Any fees collected pursuant to this section shall be deposited into a fund maintained by the City of Stamford, which fund shall be known as the Stamford Harbor Management Fund, and shall be utilized solely for the maintenance and improvement of the areas within the jurisdiction of the Stamford Harbor Management Commission for the benefit of the public and for expenses for personnel and equipment directly related to the function of the Stamford Harbor Management Commission and the Stamford Harbor Master.

Sec. 6-66. Harbor masters and deputy harbor masters.

The Stamford Harbor Master shall have the general care and supervision of the Stamford Harbor and the navigable waterways over which said Harbor Master has jurisdiction, subject to the direction and control of the Commissioner of Transportation of the state of Connecticut pursuant to the provisions of C.G.S. § 15-1, and subject to the provisions of the Connecticut General Statutes regulating Harbor Masters. The Stamford Harbor Master shall exercise his duties in manner consistent with the Stamford Harbor Management Plan to be adopted pursuant to the provisions of C.G.S. § 22a-113m. A Deputy Harbor Master may be appointed upon the recommendation of the Mayor to the Governor depending upon community needs.

Sec. 6-67. Coordination with other municipal agencies, boards and commissions.

The Stamford Harbor Management Commission shall consult and coordinate its activities with the other agencies, boards and commissions of the City of Stamford in furtherance of the purposes of the Harbor Management Commission as provided in this chapter.

Secs. 6-68—6-75. Reserved.

ARTICLE XIII. OLD TOWN REDEVELOPMENT AGENCY

Sec. 6-76. Creation of the old town hall redevelopment agency.

There is hereby created the Old Town Hall Redevelopment Agency (the "Agency") under the provisions of and in accordance with Chapter 130 of the Connecticut General Statutes, as amended.
(Ord. No. 1055, § 1, 5-1-06)

Sec. 6-77. Purpose of the agency.

The purpose of the Agency shall be to redevelop Stamford's Old Town Hall located at 175 Atlantic Street, Stamford, Connecticut 06901, and to take such actions as are necessary or desirable to carry out such redevelopment in accordance with the provisions of Chapter 130 of the Connecticut General Statutes, as amended.
(Ord. No. 1055, § 2, 5-1-06)

plans for all positions not included in a collective bargaining unit and not in the Board of Education.
(Referendum 11-3-1987; Referendum 11-7-1995)

Sec. C5-10-4. General Duties.[9]

It shall be the duty of each Director to organize the functions of his or her Department subject to any applicable Federal law, State law or local ordinance and in the manner best calculated to efficiently and effectively provide the municipal services for which the Department is responsible.
(Referendum 11-7-1995)

DIVISION 2. OFFICE OF LEGAL AFFAIRS

Sec. C5-20-1. Duties.

The Director of Legal Affairs shall serve as the Corporation Counsel and shall be the head of the Office of Legal Affairs. The Director of Legal Affairs shall be responsible for the administration, supervision and performance of legal and personnel matters on behalf of the City. In furtherance of these duties, the Office of Legal Affairs shall be divided into a Legal Division and a Personnel Division.
(Referendum 11-7-1995)

Sec. C5-20-2. Qualifications.

No person shall be eligible for the position of Corporation Counsel unless such person is a member in good standing of the Connecticut Bar, and has been actively practicing law in Connecticut for at least five years.
(Referendum 11-3-1987; Referendum 11-7-1995)

SUBDIVISION A. LEGAL DIVISION

Sec. C5-20-3. Legal Functions.

The Corporation Counsel shall act as legal advisor of the City, the Mayor, the Boards of Representatives, Finance and Education and all other Officers, Departments, Boards, Commissions, Authorities, Agencies and Bureaus in matters relating to their official duties. The Corporation Counsel or his/her designee shall appear for and protect the rights and interests of the City in all actions and proceedings brought by or against it or any of the municipal Officials, Departments, Boards, Commissions, Authorities, Agencies and Employees. The Officers, Departments, Boards, Commissions, Authorities, Agencies and Employees shall not employ other counsel. The Corporation Counsel shall have charge of all appeals in which the City or any Officer, Department, Board, Commission, Authority, Agency or Employee thereof is involved. Subject to the approval of the Mayor and within the appropriation therefor, the Corporation Counsel shall have the power to compromise any claim by or against the City. The Corporation Counsel shall prepare all forms of contracts and other instruments in which the City is concerned, and shall in all respects act as attorney for the City, its Officers, Departments, Boards, Commissions, Authorities and Agencies. Notwithstanding the foregoing, the Board of Representatives may, by resolution jointly presented by the Majority Leader, Minority Leader, the President and Clerk and approved by the affirmative vote of not less than thirty-one (31) members, retain independent counsel to represent the Board of Representatives with respect to a specific case or controversy in rendering opinions and appearing in any proceeding and may appropriate monies to pay the fees and costs of such counsel.
(Referendum 11-8-1977; Referendum 11-3-1987; Referendum 11-7-1995; Referendum 11-2-2004; Referendum 11-6-2012)

Sec. C5-20-4. Special Counsel, Experts; Assistant Corporation Counsels.

The Corporation Counsel, with the written consent of the Mayor, may employ counsel and experts to assist in the conduct of important cases or proceedings in which the City is interested and incur such expenses as the Corporation Counsel may deem necessary, provided an appropriation has been made therefor. The Corporation Counsel may appoint such assistant Corporation Counsels in the unclassified service as are provided for by ordinance, provided an appropriation has been made therefor.
(Referendum 11-3-1987; Referendum 11-7-1995)

[9]**Editor's note**—Former Sec. C5-10-4 (previously Sec. C-101.1), Appointment of Police and Fire Chiefs, was repealed by referendum vote 11-3-1987.

***596** A

[6] The evidentiary basis for the claim of impropriety against the office of the corporation counsel is a letter addressed to the plaintiffs' attorney and signed by assistant corporation counsel Vincent Flynn, who represents the defendant in this appeal. The letter indicates that the **mayor** requested Flynn to respond to a letter of the plaintiff Ghent, written approximately one month after the planning commission hearing and objecting to the **mayor's** participation therein and his sponsorship of the **zoning** amendments, largely on the ground that the **mayor** had exceeded his authority. The letter rejected these contentions, but also indicated that Flynn had discussed the matter with the chairman of the **zoning** commission. At a subsequent public hearing on February 10, 1988, the chairman, in responding to the concern of another commissioner over the plaintiffs' procedural claims, stated that the **mayor's** proposal "is on solid legal ground and the Corporation Counsel has attested to that fact."

On the basis of these facts, the plaintiffs claim that the office of the corporation counsel was representing the interests of both the **mayor** and the **zoning** commission, thus committing an impropriety tending to undermine public confidence. There is little substance to this claim. The corporation counsel is not the attorney for either ****1017** the **mayor** or the commission, but is a legal officer appointed to protect the city's legal interests. See 3 E. McQuillin, Municipal Corporations (3d Ed.Rev.) § 12.52. The evidence indicates no **conflict** between the **mayor** and the commission concerning the **zoning** amendments. It was the duty of the corporation counsel to advise the commission concerning the procedural irregularities claimed by the plaintiffs and also the **mayor** as an ex officio member thereof. There was nothing improper in the performance of both of ***597** these functions by the office of the corporation counsel. We have held that a municipal agency is entitled to legal advice in performing its duties. *Spero v. **Zoning** Board of Appeals*, 217 Conn. 435, 444–45, 586 A.2d 590 (1991). The plaintiffs' further claim that the advice given by the corporation counsel's office to the **zoning** commission with respect to the claimed procedural irregularities amounted to an ex parte communication on behalf of the **mayor** is wholly unsupported by the evidence.

B

[7] Section 3001 [FN7] of the **Waterbury** charter provides that the **zoning** commission "shall consist of five resident electors of this city" in conformity with the provision of § 8–1(a) [FN8] for "not less than five nor more than nine ***598** members." During the period when the **zoning** amendments were under consideration, only four commissioners were serving because of the failure to fill a vacancy on the commission. At the

ATTACHMENT V

Save Our Boatyard

September 16, 2013

Harbor Management Commission
Att. Mr. Ray Redniss, Chair
888 Washington Blvd.
Stamford, CT. 06901

Dear Mr. Redniss:

As you know, Mr. Jack Condlin, a member of the Harbor Management Commission is also the President and CEO of the Stamford Chamber of Commerce. Mr. Condlin is obviously an important employee of the Stamford Chamber of Commerce responsible for advocating its positions. The Stamford Chamber of Commerce has stated that it is in favor of Bridgewater coming to the 14 Acre site that was formerly occupied by Yacht Haven West. In addition, John Freeman, the spokesman for Harbor Point and its General Counsel is a board member of the Stamford Chamber of Commerce. A BLT entity is also a member of the Stamford Chamber of Commerce.

Because of Mr. Condlin's position with the Stamford Chamber of Commerce, he like you, must recuse himself from any deliberations or decisions relating to this project which would include but not be limited to the License Agreement relating to the Magee Avenue, the 205 Magee Ave. application and the Bridgewater application. See Sections 19-4, 19-5, 19-8 of the Stamford Municipal Code of Ethics. To do otherwise creates the appearance of impropriety.

Any potential decision coming from the Harbor Commission should not be tainted in this way. All members who have a conflict of interest should not deliberate or vote on such matters. We request at this time that Mr. Condlin recuse himself from any future votes or deliberations regarding all the applications pertaining to the above mentioned so as not to violate the provisions of the Stamford Code of Ethics

Respectfully submitted,

Kevin Dailey

Stamford taxpayer

Carolyn Goldenberg

Stamford taxpayer

Charlie Weiner

Stamford taxpayer

John P. Condlin
95 Downs Ave
Stamford, CT 06902

September 16, 2013

Harbor Management Commission
Attention: Mr. Ray Redniss, Chair
888 Washington Boulevard
Stamford, CT 06901

Re: Save Our Boatyard Correspondence

Dear Ray:

I would like to address the letter dated September 16th from Save Our Boatyard ("SOBY") requesting that I recuse myself from any deliberations or decisions relating to the Bridgewater application and 205 Magee Ave application. I strongly disagree with that letter and I do not see any basis for recusing myself.

I have reviewed the City of Stamford's Code of Ethics. Section 19-5(A) governs recusal from proceedings. Under that Section, the Stamford Chamber of Commerce either must have a direct interest in this project, or must have a likelihood of gaining or losing a material benefit that is not common to the general interest of other citizens of the City, in order for there to be a basis for any disqualification.

There can be no debate that the Stamford Chamber of Commerce will not gain any unique material benefit because of this project. The Chamber will not improve or worsen its position as a result of the outcome of this proceeding. As far as the "interest" test is concerned, the Chamber has no interest in Bridgewater, is not a party to the proceeding, and has no financial investment in BLT or the project. I am not on the board of BLT, nor do I serve BLT in any other capacity. The Chamber does not gain financially if this project is approved or disapproved. The SOBY letter does not present any evidence that the Chamber has an interest in this project, nor does it any way state any basis that would meet the requirements of the Code of Ethics.

The SOBY letter cites, as part of its purported basis that the Chamber is in support of the project. That does not constitute an "interest" under the Code. The Chamber, like any other organization or any citizen, can take a position and testify on an application. The fact that it takes a position contrary to SOBY's does not constitute an "interest" in the project or matter.

SOBY further cites that John Freeman is on the Board of the Chamber. His membership on the Board of Directors of an entity that is not a party to the proceeding and has no interest in the matter has nothing to do with this proceeding. He is one of 30 Board members. SOBY is

confusing this with the converse situation; i.e., if I were to be on the Board of BLT, which I am not.

SOBY next incorrectly claims that BLT's membership in the Chamber constitutes a conflict. The Chamber has Thousands of members of differing and often conflicting views on and interests in any particular matter. It is illogical to argue that I cannot take a position on any matter in front of this Commission in which any Chamber member is involved. Whether this application is approved or not will have no bearing on whether BLT or any other member will remain a Chamber member. It is not even closely related, and clearly does not make the Chamber an "interested" party to the proceeding before the Commission.

I am a resident of the City of Stamford. As an individual, I can take any position I want, regardless of the Chamber's position. As a Stamford resident, I am also entitled to serve on the Harbor Management Commission, without having to disqualify myself each time an application of a company that is a Chamber member appears before the Commission. It is not as if I am an employee of BLT or a participant in SOBY, which would constitute a basis for disqualification.

For the reasons stated above, I will not voluntarily recuse myself from this proceeding, since there is no conflict of interest.

Respectfully submitted,

John P. Condlin

From the Code of Ethics:

Sec. 19-5. Prohibited interests.

A. Unless otherwise provided by law, an officer or employee ***shall not deliberate or participate*** *in a decision or action by the agency of which the individual is a member or is employed* ***if said individual*** *or any member of his or her immediate family* ***or a business with which he or she is associated*** *would be likely to gain or lose a material benefit that is not common to the general interest of other citizens of the city.*