

TOWN OF SOUTH WINDSOR
PLANNING & ZONING COMMISSION

MINUTES

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OCTOBER 25, 2016

MEMBERS PRESENT: Gary Bazzano, Bart Pacekonis, Stephanie Dexter, Betty Kuehnel, Kevin Foley, Frank Bonzani, Kevin Greer

ALTERNATES PRESENT: Michael LeBlanc, William Flagg

STAFF PRESENT: Michele Lipe, Director of Planning; Jeff Doolittle, Town Engineer; Lauren Zarambo, Recording Secretary

SPECIAL MEETING / MADDEN ROOM

CALL TO ORDER: Chairman Bazzano called the Special Meeting to order at 6:34 p.m.

1. Executive Session with Town Attorney to discuss preliminary draft proposed text amendments to zoning regulation pursuant to C.G.S. Sec. 1-200(6) and 1-210(b)(1)

Chairman Bazzano introduced Attorney Morris Borea, the newly appointed town attorney, who stated he was asked to prepare amendments for this evening to discuss. Chairman Bazzano stated it is his opinion, after speaking with the Director of Planning and Vice Chairman Pacekonis, that if amendments are to be discussed it should be done in a public forum. He looked to the Commission for an opinion on how to proceed if not all commissioners are in agreement about changing the regulations and then take a vote on whether or not to go into executive session.

Attorney Borea stated he wanted to speak to the Commission in regard to having made the request for an executive session. He was asked and wrote preliminary draft text amendments for the corridor development zone. The attorney stated as the charter position of town attorney he is legally entitled to an executive session by Connecticut General Statutes Section 1-200(6) in regard to discussion concerning the preliminary draft documents which in themselves are not disclose-able under the freedom of information act. A preliminary draft, under C.G.S. Sec. 1-200(b)(1), is exempt from disclosure as long as the public agency makes the determination that this is in the best interest of the public and that the public interest does not outweigh the need for confidentiality. The attorney stated since the Commission has not seen anything they cannot make a determination whether it is in the public interest or not.

As an agency of the town, the town attorney has decided at this point that disclosure does not serve the public interest because he has chosen an approach to make the amendments to accomplish a purpose he was asked to do that may never be used. The attorney's purpose in executive session is to describe the particular approach he used and to describe what that approach would accomplish. The Commission may decide a different approach or different language is preferable and that the draft written by the attorney may never actually be presented for public discussion. The executive session will allow a way to look at the language and what it does, rather than policy, for discussion and feedback, and to change the specific language to whatever the Commission chooses to use if they choose to do so.

Commissioner Foley voiced support to go into executive session.

Commissioner Kuehnel asked for an example of a document not subject to public disclosure. The attorney stated preliminary drafts are not subject to disclosure as long as determination has been made that it is in the best interest not to do so and that the public interest does not outweigh the need for confidentiality. Commissioner Kuehnel noted the example is based on the attorney's determination. Attorney Borea clarified it is his determination at this point but once the Commission is apprised of the subject they can they make the

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determination whether the public interest outweighs the need for confidentiality and come out of executive session.

Vice Chairman Pacekonis asked Attorney Borea that as the Commission's council is he entitled to make that determination. The attorney replied he is in order to start the process. Pacekonis clarified that Attorney Borea is making the determination as an agency of the town that it is in the best interest of the public not to disclose it to the public at this point in time but this is a sensitive subject and violations to the freedom of information act happen all the time. The Vice Chairman stated he contacted the freedom of information office with the information he presently had and was told it was not proper and also conferred with another planning and zoning attorney who said it was not proper. Vice Chairman Pacekonis stated he is not comfortable with an executive session and would rather have an open session.

Commissioner Bonzani voiced support to go into executive session stating the attorney is being paid by the Town and is in the opinion that it is best to have an executive session at this time.

Vice Chair Pacekonis stated nowhere in the statute says an executive session can be called for a draft. Attorney Borea cited the statute and noted FOI is very aggressive in disclosure of everything always which he does not agree because the exemption clearly says preliminary drafts are exempt. From a practical point of view, determination of whether or not the public interest is outweighed cannot be done until the commission sees a preliminary draft.

Chairman Bazzano noted a preliminary draft is the attorney's written opinion but if and when the commission starts amending it, we will come out of executive session into a public meeting.

Commissioner Foley made a motion to go into the executive session

Seconded by Commissioner Greer

Vice Chairman Pacekonis stated the motion should include who will be in that executive session

Chairman Bazzano stated including the full commission and alternates and the town attorney pursuant to C.G.S. Sec. 1-200(6) and 1-210(b)(1)

Commissioner Foley concurred

The motion carried and the vote was unanimous.

Commissioner Foley made a motion to include Director of Planning Michele Lipe in the executive session

Seconded by Commissioner Greer

The motion carried and the vote was unanimous

Commissioner Foley made a motion to come out of executive session at 7:29 p.m.

Vice Chairman Pacekonis seconded the motion

The motion carried and the vote was unanimous.

ADJOURNMENT:

Motion to adjourn the Special Meeting at 7:30 p.m. was made by Commissioner Foley

Seconded by Vice Chairman Pacekonis

The motion carried and the vote was unanimous.

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Respectfully Submitted,
Lauren L. Zarambo
Recording Secretary