



Town of Westport
Planning and Zoning Commission
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Process Efficiency Subcommittee of the Planning and Zoning Commission

**Thursday, Jan. 16, 2020, 7:00 PM
Room 307/309 – Westport Town Hall**

Meeting Minutes

In Attendance

P&Z Commissioners:

Greg Rutstein, Subcommittee Chair, and P&Z Commission Secretary
Jon Olefson, Subcommittee Member, and P&Z Commission Member
Cathy Walsh, Subcommittee Member, and P&Z Commission Member
Danielle Dobin, P&Z Commission Chair
Chip Stephens, P&Z Commission Vice Chair

Other Elected or Appointed Officials:

Jim Ezzes, Zoning Board of Appeals Chair
Helen Garten, Selectman's Real Property Committee Member

Town Staff:

Eileen Lavigne Flug, Assistant Town Attorney
Mary Young, Planning and Zoning Director

Public in Attendance

Mel Barr, Planning Consultant and former Westport Planning and Zoning Director
Michael Calise, Westport resident

P&Z Process Efficiency Subcommittee Chairman Greg Rutstein welcomed meeting attendees. He identified hard copies of materials under discussion are available, including:

- 1/16/20 Meeting Agenda;
- Minutes from the last Process Efficiency Subcommittee meeting, dated 1/8/20;
- Draft Explanatory Statement for Text Amendment RE: Process Changes for CAM applications, prepared by M. Young, dated 11/15/19;
- Draft Text Amendment for Process Changes for CAM applications, prepared by M. Young, dated 11/15/19;
- Draft §8-24 Guidelines, Version #8, prepared by E. Lavigne Flug; and
- Email received on 1/16/20 from William Achilles offering support for the proposed process changes for CAM applications.

Cathy Walsh additionally distributed her mark-up of Eileen Lavigne Flug's Draft §8-24 Guidelines which meeting attendees referred to as Version #9 for discussion purposes.

1. Potential Process Efficiency Enhancements:

A. Continued Discussion of Coastal Site Plan Review Procedures

Review draft Zoning Regulation amendments discussed at last meeting to:

- i. Remove language from §31-10.7.5 requiring a public hearing for Coastal Site Plan Applications; and
- ii. Remove language from §43-5.2 requiring a public hearing for “activities located within the Coastal Boundary;” and replace it with new language requiring a public hearing only for non-residential activities pursuant to §31-10.6 and any Shoreline Flood and Erosion Control Structure as defined in CGS §22a-109.

Mr. Rutstein reminded meeting attendees this was a continued discussion from last week. He proceeded to summarize the proposal providing a high-level review and described the draft amendment is to take the “small deals” and modify the review process to schedule these items for Work Session review by the Planning and Zoning Commission taking it out of the public hearing portion of the agenda consistent with the general statutes. Mr. Rutstein highlighted the proposed changes if implemented will reduce resources spent by applicants, residents, the Commission, and P&Z Staff. Mr. Rutstein clarified the documents are in draft form pending further review and approval by the full P&Z Commission at a subsequent Work Session. He further noted that subcommittee member Jon Olefson was not present at the 1/8/20 subcommittee meeting, and his vote tonight would determine whether there is majority support among the three subcommittee members to bring the proposal before the seven elected members of the Planning and Zoning Commission at a subsequent Work Session. Mr. Rutstein additionally acknowledged that at the last meeting Chip Stephens voiced his reservations concerning the proposal. Mr. Rutstein inquired of Mr. Stephens if he still held these reservations?

Chip Stephens confirmed *“yes, in fact his concerns has increased.”* He said I’m going to repeat what I said last time, *“You’re solving a problem that doesn’t exist.”* He stated he was persuaded by Alicia Mozian who observed at the last meeting CAM is needed particularly for those areas her department doesn’t cover located outside the WPLO, where CAM helps. He described *“Review of a CAM application doesn’t take long, it gives us a bite at the apple, and allows us to fix things when needed.”* He countered that in Westport there are no “small deals” as described by Mr. Rutstein, as these houses are sold for millions of dollars. *“It’s important to keep our hands on this and to see what’s going on and hear what’s going on, and address problems when they arise, whether it’s a cupola, or setbacks or whatever.”* Mr. Stephens noted, *“We obviously can’t use these kinds of problems in our determinations of passing or denying a CAM application, but it does give us a chance to see it and discuss it and I would say 99.9% of the time when it happens, and it happens often, the developer or builder or owner, listens to us and changes things.”* He further noted he didn’t believe the proposal if adopted would take much off of staff, in fact he thought this would add to staff’s workload. He additionally noted the proposal would not take much off the table of the Commission in his view. He concluded by saying, *“The process should remain as it is and as it has been for many years.”*

Mr. Rutstein asked meeting attendees to address the proposal in front of them and stated he did not believe Mr. Stephens was accurately assessing the proposal. Mr. Rutstein clarified the proposal is not to remove CAM reviews from the Commission nor limit the Commission's ability to have a dialogue about any proposal; the only change is move the discussion out of the public hearing section and into the administrative session or Work Session of the Commission's agenda. He reminded Mr. Stephens of their prior discussion at the 1/8/20 meeting wherein he reported what the proposal is. He described the Commission is reviewing the application. The same packet of information would be supplied to the Commission as they have received in the past from staff, residents within the vicinity of the proposal would continue to be notified of an application submission, and the Commission would continue to discuss and evaluate a CAM application before rendering a decision using the plans and comments received from Town departments as well as any correspondence received from neighbors who were notified or written comments received from anyone else who became aware of the application listed on the agenda or by reviewing pending applications posted on the Town's website. He further stated if Mr. Stephens wanted to talk about a cupola and it was within his authority to do so, then he could talk about the cupola.

Mr. Stephens replied he fully understood the proposal. He stated he is concerned not having the interaction between the presenter and the Commission. He shared he fully understood the difference between a public hearing and a Work Session. He stated he did not think the Work Session was the proper place to evaluate something. He suggested the proposal cuts out the critical go-between involving the Commission and the presenter.

Mr. Rutstein inquired, *"And you feel that is necessary?"*

Mr. Stephens replied, *"Absolutely, it is extremely necessary."*

Mary Young asked to be recognized. She observed at the last subcommittee meeting concerns were raised Cathy Walsh who inquired of Town Attorney Ira Bloom what suggestion he had if the Commission during a Work Session determined additional information was needed before a decision could be rendered. Ms. Young described Attorney Bloom informed Ms. Walsh if the applicant was present and a factual question could be answered by the applicant during a Work Session, the Commission could seek that information from the applicant. Ms. Young further described that Attorney Bloom stated if the Commission alternatively wanted to have a dialogue with an applicant, he recommended the matter be postponed to allow for a public hearing notice to be published allowing the applicant and anyone else to appear before the Commission to engage in a dialogue and offer testimony. Ms. Young reminded meeting attendees Attorney Bloom's recommendation was referred to as a "safety valve" or "exit strategy" available if the Commission was confronted with the hypothetical posed by Ms. Walsh.

Ms. Walsh inquired of Ms. Young whether Mr. Stephen's suggestion that the proposal would create more work for staff was accurate?

Ms. Young replied since the same information would be generated by staff the workload would not vary much; however by removing the public hearing requirement, the application could be processed more efficiently as there would be no delay waiting for public hearing notices to be published and there would be no need to postpone public hearings if/when the public hearing notices failed to be published by the WestportNews that had failed to publish more than one notice in the past due to no fault by P&Z Staff. By relieving staff of the burden of drafting a notice and tracking the publication of the notice, "yes," the proposal would relieve staff of some work.

Mr. Rutstein suggested he believed Mr. Stephens' concerns about potentially increasing staff's workload related to the need for staff to make sure if an application is reviewed in a Work Session it better be "tight" with all questions asked and answered requiring staff to do more work ahead of time doing the back and forth with the applicant when warranted.

Mr. Stephens offered Mr. Rutstein was putting words in his mouth.

Jon Olefson asked to be recognized. He stated since he wasn't present at the last subcommittee meeting, he was interested in hearing from Ms. Young whether the proposal would put more work on P&Z Staff?

Mr. Stephens said he wanted the chance to reply to Mr. Rutstein and then would yield to Ms. Young to respond to Mr. Olefson. Mr. Stephens clarified the hypothetical Ms. Walsh raised and the response received from Attorney Bloom to re-notice the application as a public hearing would cause delays and not be efficient for anyone. The "safety valve" would create more steps and more work.

Ms. Young re-iterated what she stated before in response to Mr. Rutstein and Mr. Olefson. P&Z Staff, under the proposal, will continue to prepare the same reports and solicit comments from relevant Town departments and will continue to address all relevant issues associated with the CAM application, and supply a packet for the Commission's review.

Mr. Olefson clarified his question to Ms. Young, and asked does this make you job easier?

Ms. Young responded that criteria was not relevant in her opinion.

Mr. Olefson stated he was trying to make sure there would be no unintended consequences.

Ms. Young offered she hoped the proposal if adopted would provide the Commission and staff more time and energy to dedicate to initiatives and applications that require discretion to be applied. She described the Commission acts in their legislative capacity when reviewing or authoring a text amendment or map amendment requiring time and attention and expenditure of resources. She distinguished a Site Plan requires an administrative review wherein the Commission is obligated to approve the application when it complies with the Zoning Regulations, and the Commission is limited to making modifications only when necessary to make the application comply with the Zoning Regulations.

Mr. Rutstein asked if others wanted to be heard. He also made reference to an email received from William Achilles a frequent applicant who has appeared before the Planning and Zoning Commission who offered in his 1/16/20 email his support for the proposal. Mr. Achilles commented in part:

“The PZ staff develops a CAM application review and normally is quite extensive.

Comments at the PZ staff level are normally resolved by the applicant before the hearing and most applications are approved as submitted.

In many years working in the Town of Westport, I cannot recall many CAM applications that resulted in any significant changes or conditions of approval as a result of the PZ CAM review at a public hearing...

I am in favor of the proposed changes which would allow residential application to be reviewed at PZ administrative sessions as opposed to public hearings.

The ultimate benefit would be to streamline the approval process for these residential applications, but still allow for PZ Commission input, and free up time for the Commission’s other work.”

Mel Barr asked to be recognized. Mr. Barr stated he agrees with Mr. Achilles and suggested the proposal will expedite application reviews.

Mr. Rutstein described he hoped more would be gained beyond moving things quickly through the process. He hoped money would be saved by applicants not needing to compensate spokespersons to appear on their behalf and that the work of P&Z staff will be reduced even if marginally.

Mr. Stephens shared he rues the day when a member of the public who receives a public notice comes to a meeting and is not allowed to speak.

Danielle Dobin asked to be recognized. She observed there is an important carve out in the proposal; the shoreline flood and erosion control structures (aka sea walls) down at Compo Mill Cove that generate the public testimony will remain subject to public hearing review by the Planning and Zoning Commission. She shared beyond the sea walls she didn’t recall any other CAM applications bringing out residents wanting to offer testimony over the past three years.

Mr. Stephens offered there had been prior occasions such as when applications were submitted at Owenoke Park.

Ms. Dobin inquired who came? Neighbors? The owner?

Mr. Stephens replied it was the owner and it was very contentious as he recalled.

Jim Ezzes asked to be recognized. He asked Mr. Rutstein whether having a public hearing is so onerous? He asked how many applications are we talking about? He stated the existing process doesn’t seem to be a big deal.

Ms. Dobin replied by identifying the Commission receives many CAM applications and she supports the proposed process change. She offered if somebody comes forward and there is an issue the Commission can immediately turn the Work Session into a public hearing.

Mr. Stephens clarified it won’t be immediate; it will have to be noticed.

Ms. Dobin agreed with Mr. Stephens. She clarified she supports the proposal observing that beyond the carve out already included in the proposal for sea walls, there has been only one time cited by Mr. Stephens when public testimony was needed, and it was the applicant who offered the testimony not a concerned neighbor.

Mr. Ezzes asked Mr. Rutstein, *“So in the name of transparency which we all want to have, do you believe that the notice to the neighbors within the 250’ radius is sufficient transparency?”*

Mr. Rutstein added the neighbors would be informed how to communicate any concerns for consideration by the Commission.

Mr. Ezzes offered he doesn’t believe the current process is a big deal warranting change.

Mr. Rutstein clarified the neighbors would be told on the notice letter to submit an email to pandz@westportct.gov

Ms. Young offered the existing notice letter could be modified to provide additional clarity to address Mr. Stephens’ concern related to neighbors potentially showing up at a meeting and being disappointed upon learning their testimony would not be received during a Work Session.

Mr. Rutstein stated he wanted to address Mr. Ezzes’ question...

Mr. Ezzes clarified his question was a comment not a question...

Mr. Rutstein explained why he sees value in modifying the process even if the gain associated with how much time the Commission currently designates to public hearing review of CAM applications may not be significant. He described the small gains combined add up to making a significant difference. He reminded meeting attendees of the time gained by the Commission not having to read aloud the multi-page resolution letters/decision letters before voting on an application following the Town Attorney’s Office agreeing the findings and references to plans submitted are already on record in the P&Z Staff report. He described the Commission now may simply recite out loud they are relying upon information contained in the staff report available for public review in the P&Z Office, and Commissioners now limit their reading of the resolutions on non-contentious applications to the reasons why they are rendering their decision and who voted how.

Ms. Walsh said she wanted to hear from Mr. Barr as well as Michael Calise and Helen Garten. Ms. Walsh asked Mr. Barr how he perceived the potential unintended consequence from his client’ perspective involving a Work Session item that could be converted into a public hearing item if the Commission determines a dialogue is needed with an applicant or others?

Mr. Barr clarified if Ms. Walsh was referring to the delay associated with needing to notice the public hearing and waiting for a subsequent meeting?

Ms. Walsh confirmed, *“Yes.”*

Mr. Barr responded I don’t think it’s going to be a problem because I don’t think it’s going to happen.

Mr. Rutstein made an analogy to don’t throw the baby out with the bath water when cautioning about eliminating something good when trying to get rid of something bad.

Mr. Rutstein asked Michael Calise if he wanted to say anything?

Mr. Calise responded he didn't believe public testimony should be eliminated. He acknowledged that most of the time no one wants to speak during public hearings on CAM applications. He made an analogy to handicap parking stating most of the time the spaces are empty, but when someone needs the space, they have it available. He offered in his view most residents are not savvy enough to engage with the P&Z Staff and/or come down to the P&Z Office before an application is scheduled for review, but they are more likely to attend a public hearing and speak their mind. He stated he thinks it would be shame if someone shows up, but is denied the right to speak.

Mr. Rutstein identified he thought that scenario had been addressed via the safety valve offered by the Town Attorney and he thanked Mr. Calise for raising the concern that he agreed should be fully considered before the proposal is adopted if adopted.

Ms. Dobin re-stated her observation that people don't come out to the public hearings and cited an example she previously perceived would be contentious involving historic drainage problems, wherein she asked P&Z staff to contact the relevant RTM representative and neighbors who were affected, and still no one came. She stated, *"If once every 4-years there is a need to re-notice a Work Session item for a public hearing, that's worth it, to allow all the other applications to move faster through the review process."*

Mr. Calise shared the missing link in his view is that at one time there used to be an Administrative Review Committee (ARC) charged with reviewing these smaller applications.

Ms. Walsh confirmed she remembered.

Mr. Rutstein clarified that we have learned the Commission is required to review CAM applications.

Ms. Young agreed clarifying that the Town Attorney years ago confirmed those CAM applications that are not exempt from Commission review, must be reviewed by the Commission and cannot be delegated to others for review.

Mr. Calise suggested some other forum should be considered like the ARC where the public could be heard.

Mr. Rutstein responded that it wouldn't matter if ultimately the Commission must review it.

Ms. Dobin re-stated that she is comfortable with the proposal as in her experience there is very little public comment on CAM applications, a safety valve as offered by the Town Attorney can be employed to solicit public comments, and there is a carve out built in for those CAM applications that do generate public comments associated with shoreline flood and erosion control structures that will remain subject to a public hearing.

Mr. Rutstein replied that he shares Ms. Dobin's view and he acknowledged Mr. Stephens did not as he still holds reservations. Mr. Rutstein described there appears to be diminishing returns on continued dialogue as all who have spoken appear to have stated their peace and ultimately the subcommittee needs to determine whether the proposal should move forward for consideration by the seven member Commission unless anyone has any new information.

Ms. Walsh reminded Mr. Rutstein she wanted to hear from Helen Garten before concluding the discussion and taking a vote.

Helen Garten offered, *“I think sometimes we underestimate the sophistication and boldness of members of the public. It’s hard for me to imagine a member of the public is going to attend a Work Session and hold up their hand and ask to speak. I would be in favor of making it as easy as possible for members of the public to speak.”*

Ms. Young asked to be recognized to share one additional fact for consideration before the subcommittee members vote. She shared the proposal if adopted is consistent with what neighboring coastal communities do and cited Greenwich as an example...

Ms. Walsh added the Town of Fairfield also manages CAM reviews during their Work Sessions. She offered she would be O.K. to try out the proposal, and then suggested after six months the process can be reevaluated and the regulations restored if deemed appropriate.

Ms. Dobin responded she thought it was a great idea suggested by Ms. Walsh.

Mr. Stephens asked to be recognized and shared he knows Mr. Rutstein will not agree, but he does not believe the public’s opportunity to participate should be retarded and that he doesn’t mind sitting there and hearing a CAM application, and suggested if the CAM’s are so easy than they don’t take a lot of time to review at a meeting. He cautioned if however, there is an issue than it may take time. He stated he believes there are issues that are going to be missed. He also reflected on a comment made at the last meeting complimenting him and Al Gratrix for fleshing out these issues and he cautioned that Al as an alternate is not there every time, and he described he will not be there every time, and he emphasized the coastline and the aquifers are extremely important in this Town, and he really didn’t care what Greenwich or Fairfield is doing, as he concluded we do things different in Westport and he’s proud of it and he’d hate to see us lose part of the autonomy we have, and he still doesn’t see what the problem is keeping things as is.

Jon Olefson offered, *“I’m really torn.”* He stated he likes the idea of a trial period. He offered he’s willing to try it.

Mr. Rutstein clarified the question for Mr. Olefson is whether the proposal should be further discussed by the seven member Commission; his vote tonight will not equal automatic change.

Mr. Olefson repeated, *“I’m willing to try it.”*

Mr. Rutstein confirmed that after a trial period the matter would be revisited and reversed if the exception becomes the rule wherein a CAM Work Session item needs to be re-noticed for a public hearing. Alternatively, if after the trial period things seem to be working than “great” we’re in a better situation. I am opened minded. I think we should weigh the risks and the rewards and I’m excited to hear what other Commissioners have to say.

Ms. Walsh offered she wants to try it, but she predicts it will play out the way Mr. Stephens suggested.

Mr. Rutstein predicted it unlikely that someone will show up at a meeting who hasn’t previously notified the Commission through an email or hadn’t contacted P&Z staff to identify they have a problem.

Mr. Stephens responded he knows why Mr. Rutstein cannot imagine it, because both Mr. Rutstein and he are alpha's who have no problem speaking up and being heard. Mr. Stephens cautioned he is going to give a lot of push back to Mr. Rutstein and Ms. Dobin if during a CAM review he wants to raise an issue that is not directly related to the CAM review and is informed he cannot raise the issue. He stated by the way Mr. Rutstein is reacting he can see that's the way he wants it, and he stated, "That troubles me."

Mr. Rutstein responded, "*I don't write the rules.*"

Mr. Stephens responded, "*But you are writing the rules...*"

Mr. Rutstein responded, "*The CAM rules; I don't write the CAM rules.*"

Mr. Stephens responded, "*But you're taking away our autonomy to take care of other things.*"

Mr. Rutstein restated he believes he's aware of where everybody stands and once again asked for a vote of the subcommittee to allow the discussion to go before the seven member Commission. Mr. Rutstein made a motion to move the item for consideration by the full Commission.

Mr. Olefson seconded the motion. He went on record stating his vote today should not be construed to mean he endorses the idea, but he too sees value in hearing from the other Commissioners, and he wants to consider more information.

Ms. Young suggested if subcommittee members or other Commission members need information beyond what has been supplied to date to please let her know.

Ms. Walsh reminded Ms. Young that she had not yet had a chance to vote on the motion.

Ms. Young apologized to Ms. Walsh and inquired how her vote should be recorded.

Ms. Walsh responded she was abstaining from the vote.

Mr. Ezzes asked why Ms. Walsh abstained?

Ms. Walsh replied to Mr. Ezzes, "*Because I felt like it.*"

Mr. Olefson identified he is interested in hearing whether there is any public comment on the proposal before it is reviewed by the full Commission.

Mr. Rutstein responded he predicts some people will suggest there will be a loss of transparency and cited, "*the guy with the cowboy hat will probably go nuts.*"

Ms. Walsh clarified Mr. Rutstein was referring to Dan Katz. She stated she agrees with Mr. Olefson that other Commissioners should weigh-in.

Mr. Rutstein confirmed if a majority of the Commission doesn't believe the rewards outweigh the risks than it won't go any further.

VOTE: The vote of the subcommittee to support the text amendment modifying the Coastal Site Plan review process was: 2-0-1 with Mr. Rutstein and Mr. Olefson voting in favor, and Ms. Walsh abstaining.

NEXT STEPS: This item will be scheduled for the 2/6/20 Work Session for consideration by the seven member Planning and Zoning Commission to determine if the amendment should be scheduled for a future public hearing.

B. Continued Discussion of CGS §8-24, Municipal Improvement, Draft Guidelines Review draft guidelines in anticipation of seeking endorsement by the Planning and Zoning Commission at a future meeting.

Mr. Rutstein introduced the item describing revisions are proposed to a policy document prepared by the Planning and Zoning Commission last updated in 2005 that when finished will be circulated by the First Selectman to Department Heads and others involved in Municipal Improvement projects to ensure that those projects that require review by the P&Z Commission are brought before the P&Z Commission.

Mr. Rutstein referenced it was Ms. Walsh in mid-2019 who identified a need in her view for department heads, Town officials, and others to be informed of the Municipal Improvement process as several recent Town projects had not obtained the required Commission review pursuant to CGS §8-24.

Mr. Rutstein described Assistant Town Attorney Eileen Lavigne Flug prepared Version #8 of the revised document based upon feedback received at the 1/8/20 subcommittee meeting and copies had been circulated in advance of today's meeting. Mr. Rutstein additionally described Ms. Walsh brought a subsequent revision of the document inclusive of changes she recommends, and copies were circulated to meeting attendees and referenced as Version #9, and he thanked Ms. Walsh for her work.

Mr. Rutstein described the most significant change made in Version #9 by Ms. Walsh directs any questions not easily answered by the Department Heads and/or P&Z Chair to the full P&Z Commission to determine whether an §8-24 review is required. Mr. Rutstein identified he agrees with this revisions made by Ms. Walsh.

Mr. Rutstein inquired of Ms. Walsh whether all leases as described in the General Statutes shall come before the Commission or whether a carve out or exemption is proposed for leases that do not exceed one year in length.

Ms. Dobin inquired whether there are any leases that fit this criteria and suggested no carve out be made if the situation does not exist. She also suggested that the duration of the lease may not be the best measure to determine if there is a planning component for which the Commission should weigh in and cited at 6-month lease at a sensitive location might warrant review by the Commission.

Attorney Flug asked whether Ms. Walsh wanted to see the one-year housing leases to rent the cabins at Longshore?

Ms. Walsh responded, "Yes."

Ms. Garten asked Ms. Walsh whether she wanted to see these same leases if they were renewals?

Ms. Walsh responded, "Yes, she wanted to see every lease and every renewal and added she wanted to see the leases before the Board of Finance."

Ms. Garten offered the discussion of the appropriate sequencing of reviews is a different matter.

Ms. Dobin inquired of Attorney Flug whether it was appropriate for the Commission to review a lease renewal if a contract provides an automatic renewal option to a lessee?

Attorney Flug replied an §8-24 review would not make sense in that scenario as it could result in the Town breaching a contract if there is an automatic renewal.

Mr. Stephens cited there have been breaches in contract terms made by the lessees.

Attorney Flug suggested going forward language could be added to a lease stating renewals are subject to approval by the Town allowing the Commission to weigh-in before any lease is renewed.

Mr. Stephens cited there is a situation at Longshore that is ridiculous.

Mr. Rutstein asked Mr. Stephens to educate him on what he was referring to.

Mr. Stephens described every lease at Longshore has been broken; it's crooked.

Mr. Rutstein inquired whether it would have made a difference if the lease had been brought back to the Commission before it was renewed?

Mr. Stephens answered, "*Absolutely.*"

Ms. Walsh observed a lot of the wording of the original leases has led to the bad behavior Mr. Stephens referenced.

Ms. Dobin offered she doesn't see the value in bringing before the Commission a lease renewal when the lessee based upon the current contract language has an automatic right to renew. She shared that she believes Mr. Stephens rightfully has concerns when leases are automatically renewed when the lessee has not met the terms of his/her obligations and has breached the contract and violated the terms of the lease. In those circumstances the Town Attorney's Office should be taking action not renewing these leases. Political theater comes into play where certain bad actors have found a work around to extend their leases.

Mr. Olefson offered his perspective as an attorney, distinguished from a P&Z Commissioner, and made several suggestions on how the document should be reformatted to make better sense to the reader.

Mr. Rutstein agreed with Mr. Olefson as did Ms. Dobin.

Ms. Dobin additionally suggested the earlier version that simply attached CGS §8-24 rather than summarizing it in the policy memo was preferable.

Attorney Flug was amenable to this suggestion.

Ms. Walsh also highlighted her suggestion that references to "Department Heads, etc." should be replaced with "Responsible Party," to recognize that an §8-24 applicant could be a member of the public such as when a mainline sewer extension is proposed.

Mr. Stephens inquired if there is any safety-valve to ensure something is not missed?

Ms. Dobin responded it will work the way it always has. She shared she met with the RTM Moderator who recommended the P&Z Commission should review the §8-24's earlier in the process before funding approval is sought from the RTM, not afterwards.

Attorney Flug identified the statutes allows an appropriation to be approved prior to the §8-24 Review.

Ms. Dobin inquired, *"Must the appropriation occur first?"*

Attorney Flug responded in can go in any order, it will be determined on a case by case basis. She described money may be needed to design a project before it can evaluated by the Commission suggesting in that case the Commission's review would come after not before an appropriation was approved.

Ms. Dobin shared the RTM Moderator Velma Heller described the value of hearing from the Commission prior to the RTM's review.

Attorney Flug responded the Moderator in that case should not agree to put something onto her agenda if she doesn't believe it is timely to do so; she should instead direct the applicant to seek an §8-24 Review from the Planning and Zoning Commission.

Ms. Dobin responded with thanks and she identified she would share that feedback with the RTM Moderator.

Ms. Garten inquired of Ms. Walsh how important is it to go before the Commission before going to the Board of Finance in cases of leases? She cited there is often a timing problem associated with scheduling the items on the various agendas and recommended the sequencing remain flexible. Ms. Garten cited that Version #9 prepared by Ms. Walsh requires the Board of Finance review follow the §8-24 review, and she reminded Ms. Walsh often members of the Commission inquire during their review what did the Board of Finance recommend? Ms. Garten advised that typically in the cases of leases she has gone to the Board of Finance first and cited the Kempner Gun and 99 Myrtle Ave. leases.

Attorney Flug agreed with Ms. Walsh the timing needs to remain flexible due to the scheduling constraints and cited the Linxweiler lease as an example of how the term was going to expire in October last year, the various boards were going to be in recess in August...

Mr. Rutstein asked Ms. Walsh why she added the language in Version #9 requiring the Board of Finance follow the Planning and Zoning Commission.

Ms. Walsh replied that was her recollection of what the sequencing had been recently.

Ms. Dobin advised she had to leave the meeting early and she encouraged the remaining attendees to determine what role the Town Attorney has in helping to determine whether an §8-24 Review is required as she noticed Ms. Walsh had deleted that section in Version #9 wherein the P&Z Director and P&Z Chairman should consult with the Town Attorney before rendering their decision on whether an §8-24 Review is required.

Mr. Rutstein inquired of Ms. Walsh whether she objected to the Town Attorney being consulted offering in his view it is helpful.

Ms. Dobin agreed with Mr. Rutstein.

Ms. Walsh identified she had no objection.

Attorney Flug agreed she would add the language back in regarding the need for consultation with the Town Attorney and it was agreed by the group that the sequencing of approvals between the Commission and the Board of Finance should be revised to remain flexible to allow for the scheduling.

Mr. Rutstein asked for clarification on whether the group wanted to hear “all” leases or whether a carve-out for short-term leases was going to be written in.

Ms. Walsh responded, “Yes, all leases.” She suggested for the next year or two all leases should be reviewed, and the process can be re-evaluated and changed if appropriate.

Mr. Stephens asked whether all renewals would come before the Commission?

Attorney Flug responded, “Yes, if the contract allows.” She inquired why would Mr. Stephens want to see a renewal?

Mr. Stephens responded if a lessee was in breach of the contract, he would want to recommend the lease not be renewed.

Attorney Flug inquired whether Mr. Stephens perceived the Commission’s role as including enforcement of leases?

Mr. Stephens responded, “Yes.”

Mr. Rutstein offered in his view it is the job of the Town Attorney’s Office not the Commission to address a contract breach.

Ms. Garten suggested it is ultimately up to the First Selectman whether or not to renew a lease if the lessee is in breach.

Attorney Flug asked Ms. Walsh for clarification on her intent regarding who should be noticed when a mainline sewer extension is proposed so she can capture her intent in Version #10.

Mr. Rutstein inquired whether the subcommittee members were prepared to move this item for discussion by the seven member Commission at a future Work Session.

Ms. Walsh made a motion in the affirmative and Mr. Rutstein seconded the motion.

VOTE: The vote of the subcommittee to support the Draft §8-24 Guidelines, as modified by Cathy Walsh (aka Version #9), to be further modified by Eileen Lavigne Flug to incorporate revisions made during the 1/16/20 subcommittee meeting, was: 3-0-0 (Mr. Rutstein, Mr. Olefson, Ms. Walsh).

NEXT STEPS: Attorney Flug agreed to incorporate the modifications to “Version #9” discussed at the 1/16/20 meeting upon her return to the office at the end of the month, and release a new Version #10 to be scheduled for the 2/6/20 Work Session for consideration and potential adoption by the seven member Planning and Zoning Commission.

The meeting concluded at 8:30p.m.

Respectfully Submitted By:

Mary Young, Planning & Zoning Director, Jan. 21, 2020