

Planning, Zoning and Housing Committee
of the Darien, Connecticut RTM

Regular Meeting Minutes

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Date: April 28, 2010
Place: Darien Town Hall, Room 119
Present: Adelman, Bacon, Bayne, Bishko, Cleary, Conologue, Fead, Guimond, Hennessy, Marsten, Magida, Miller, Ness, Olvany, van der Kieft, Young
Absent: Sini

This was a Regular Meeting of the Planning, Zoning and Housing Committee chaired by John van der Kieft and called to order at 7:30 PM.

The minutes of the Special Meeting of December 15 were approved as revised and the revised minutes will be submitted by Mary Ness, Clerk.

The minutes of the Regular Meeting of January 20 were reviewed and approved with revisions to reflect the attendance of David Campbell, Wayne Fox, Sam Schoonmaker, and Bruce Orr as guests. As the Acting Clerk for the meeting was absent at this meeting Mary Ness will submit the revisions.

The minutes of the Special Meeting of February 11 were approved as revised and will be submitted by Mary Ness, Clerk.

A motion to postpone approval of the minutes of March 3 to the next meeting was defeated. This had been moved and seconded in order to allow additional review of the minutes. The next meeting is not until September and in order to avoid delay the minutes were revised in the meeting. The minutes of the Regular Meeting of March 3 were approved as revised and will be submitted by Steve Olvany, Acting Clerk for that meeting.

The minutes of the Special Meeting of March 9 were approved as revised and will be submitted by Mary Ness, Clerk.

In the future minutes will be voted on even if the Clerk or Acting Clerk is not present in order to avoid delays. The minutes should include as Guests those formal participating guests and not those attending as audience members. The minutes should contain what was germane in the discussions regarding actions, decisions and reports, but not generalities and detailed discussions. Young suggested that the section of Roberts's Rules that deals with Minutes should be reviewed and van der Kieft agreed to do this. Votes must be delivered to the Town Clerk of Darien within 24 hours of the vote, this does not include votes on matters such as adjournment. The minutes must be submitted to the Town Clerk within 7 days per Connecticut FOI.

Chairman's Comments

van der Kieft led into the Chairman's Comments by stating that he had purposefully kept them vague on the Agenda as they would involve a discussion and critique of one of the Committee

members regarding a statement made to the Board of Selectmen. Previously these concerns were to have been discussed in a meeting which had been scheduled where van der Kieft and Karen Armour, Moderator of the RTM, would meet with Adelman. However, Adelman subsequently declined to attend the scheduled meeting and because of this these comments were included in the Chairman's remarks. van der Kieft's comments were in connection with a statement made by Frank Adelman to the Board of Selectmen on March 22, 2010.

van der Kieft's Chairman's comments are attached.

Adelman responded to the above comments by the Chair of the Committee and stated that he found them inappropriate. He commented that the report was in the public domain as it had been filed on the town website and that he had clearly stated that he was speaking as a private citizen using a document in the public domain. He stated that while he had necessarily identified himself as a member of PZ&H he had also clearly indicated he spoke as a private citizen. Adelman commented that the vote to establish the Study Group was by a unanimous vote of the Committee based on a need to collect facts and that all meetings of the Study Group had been open and public.

Adelman's response to van der Kieft's April 28 critique is attached.

Adelman's comments to the Board of Selectmen on March 22, 2010 are attached.

A general discussion followed regarding the ability of an individual to voice their opinion as a private citizen, expressing opinions and positions as such without permission from a Committee as balanced with the need to accurately present the Committee's resolution if it is a minority position, and not the position of the majority of the Committee.

It was noted that acceptance of the Study Group report was not voted on by the Study Group or by the PZ&H Committee and it was intended to be a Draft resource to be corrected and updated as necessary for use in connection with requests from the Rules Committee or the BOS.

It was concluded that while members are free to speak at any time to express their opinions it is incumbent on committee members to state when the opinion is a minority one and the audience is entitled to know this.

At the conclusion of the Agenda a motion by Dana Fead was seconded and approved to invite the three audience guests who had attended the meeting to comment on the meeting (off the record) if they wished. All three – David Bayne, Seth Morton, and Linda Santarella – addressed the Committee.

The meeting was adjourned at 10:00 PM.

Respectfully submitted by Mary K. Ness, Clerk

Chairman's Comments

re: Frank Adelman's comments to the Board of Selectmen on March 22, 2010

I'd like to talk about Frank's recent address to the BOS. on March 22nd.

I've written it down because I want to be clear.

Unfortunately I found it disconcerting, inappropriate and misleading.

The purpose of the 3 Study Groups is fact finding for the committee.

The gathering of information which would be useful as a resource for the committee when asked to evaluate a proposal.

It was not intended to be a reference for an outside party such as the BOS, or other town decision makers, as he commended it.

Secondly, he described the report as "the most complete collection of objective facts about 35 Leroy that he is aware of". This may be true.

However he failed to point out that there were concerns among some committee members over assumptions that were made and cost estimates --- particularly operational and conversion expenses. Reasons we agreed to consider the report a draft.

And that the committee had agreed to "put the report on the shelf" for the present. And return to it for revisions, corrections and cost updatings when the committee receives an assignment for evaluation of a proposal.

At that time corrections would be made, and more realistic and accurate cost estimates would be made.

In asking the BOS to consider including a member of PZ&H in the formation of Phase 2 to the Task Force--- and more particularly from the Study Group --- he failed to mention this idea was defeated in a committee vote (10 opposed - 6 in favor).

In my opinion, his thanking David Campbell, Jayme Stevenson and David Bayne for attending the March 9 meeting when the Report was discussed suggests, to the public, their endorsement of the report, which they did not.

Essentially his presentation constituted a minority report in which he did not explain where he differed from the committee's sentiment, nor what the majority position was. He ignored the will of the committee. And, he gave authority to an in-house report that had not been approved by the committee.

I do want Frank to know my comments are no reflection on the thorough approach and hard work of him and the Study Group in preparing the draft report.

Adelman comments to PZ&H, Wednesday, April 28, 2010

I want to remind everyone that our vote on Jan. 13 to establish the 35 Leroy Study group was unanimous. After it became clear that the First Selectman's task force would have a narrower mandate than we were told on December 15, we agreed that PZ&H would need to prepare itself for future deliberations by collecting facts relevant to the 35 Leroy property. That's what the Study Group was chartered to do, and that's what we delivered in March. Again, our decision to launch this effort was unanimous.

Second, I want to remind everyone that the Study Group's work was conducted in public meetings, with public notices and published minutes, and that this process was endorsed by John van der Kieft and Karen Armour. The Study Group's evaluation and deliberations were open, public and transparent. The draft report was presented and read aloud in the March 3 public regular meeting of PZ&H, and discussed in depth at our March 9 public special meeting. Members of the public also took hard copies at the March 3 meeting. The draft report was posted to the Town web site on March 5, and remains available to this day. After all this, to claim that the draft report is not a public document, or that it could be kept for "internal use only", simply defies common sense, and also contradicts case law of the Connecticut Freedom of Information Act. (citation:)

On March 22, the Board of Selectmen held a regular meeting. The agenda – published only 1 or 2 working days prior – indicated that the Selectmen would be considering an appropriation to fund Phase 2 of their Feasibility Study, which is directly relevant to the 35 Leroy property. Consequently, I felt obligated to speak in the public comments segment of the Selectmen's meeting, when I briefly addressed the applicability of the Study Group report to the Phase 2 Task Force. I provided a copy of my comments to the Clerk of the Board of Selectmen, I shared them with John shortly thereafter, and I'd be glad to share them with any member of PZ&H.

Importantly, I made clear to the Selectmen that I spoke only for myself, and that I did not represent the PZ&H Committee or the Study Group. There are many examples, both historically and in Darien's recent past, of people speaking for themselves as individuals, apart from any formal titles they hold, roles they play, or groups they are affiliated with. Again, I spoke only for myself, alone.

John van der Kieft has objected to my March 22 comments to the Board of Selectmen. He has called them "unauthorized", "not approved" and "inappropriate". He has asserted that my actions were improper, and he has strongly implied that I have transgressed the rules of the RTM. And he has repeated these criticisms tonight, making a special point of dressing me down once again.

These assertions are simply wrong. As an elector of the Town, and as a US citizen, I do not need authorization, or permission, to speak with my elected officials about a matter of public interest and public record. Nor do any of you. I did not surrender my rights to free expression by being elected to the RTM, and neither did any of you. I firmly and completely reject any allegation or implication that I have released anything improperly, that I have broken any rules of the RTM, or that I have done anything other than act in good faith, on my consistent principles, to serve the public in line with the oath we've all taken.

Remember back to our Special Meeting on March 9. I indicated my firm belief that this Committee has an obligation to represent the RTM in discussions of land use, and I specifically spoke strongly in favor of PZ&H taking an active, participatory role in the debate over the future use of 35 Leroy. However, this committee rejected that position. Members voted 10-6 not to request a seat at the table, and the discussion favored taking a passive, re-active stance, deferring any further action, comment or decision. I lost that vote, my views were not adopted by the Committee, but that's democracy. However, when I spoke for myself alone on March 22, my comments were completely aligned with the views I expressed on March 9. My point is simply that I have continued to act in good faith, on consistent principles, in what I believe is the best interest of the Town of Darien. For John, or anyone, to allege anything different is simply wrong.

I understand that John and I do not agree on many points. That much is OK. As much as we disagree, and as upset as I am that he has alleged I have acted improperly, he has at least contacted me personally to express his concerns, and he has spoken up in public to express his own point of view. To my knowledge, no one else on PZ&H has done either. I am told, indirectly, that "people" on this committee are "upset" with my comments, and have complained to Karen Armour and other authorities in the hope of imposing some sanction. But I haven't seen anyone besides John speak up. And no one else has had the courage, or the courtesy, to contact me directly.

So if you disagree with my comments to the Selectmen, or if, in the future, you have an issue with a position I take as we work together on this Committee, I suggest you speak with me before you call anyone else. But don't allege that I have broken any rule, released anything secret, or violated any protocol. Because it's simply not true.

And if you think my comments, or anyone else's – in any office, on any issue – are not in the best interest of the Town, I suggest that you also rise to speak in the Public Comments portion of a future meeting of the Board of Selectmen, and make your personal views known.

Good evening Mr. Campbell. I am speaking to you and the Board of Selectmen again in connection with the 35 Leroy property.

As a reminder, I am a member of the RTM from District 6, which includes 35 Leroy. I am also a member of the Planning Zoning & Housing Committee, and I was the Chair of the 35 Leroy Study Group, a sub-committee of PZ&H. However, to be clear, I am speaking only for myself in these comments – I am not here to represent the Study Group or PZ&H.

The Study Group has now completed its draft report to PZ&H. Although our draft report is not the independent best use study that some have requested since 2008, it is the most complete collection of objective facts about 35 Leroy that I am aware of, and I hope that it can serve as a helpful reference to you and to other decision-makers in Town who are considering what to do with 35 Leroy.

In brief, our Study Group found that there are several viable options for the future use of 35 Leroy. We analyzed 13 use options in depth, and considered but rejected several others that were not suitable for the site. We did not recommend any specific uses for 35 Leroy, but we observed that some of the options were clearly more feasible, financially viable, or otherwise preferable than others.

I have with me copies of the draft report for all the members of the Board of Selectmen, as we presented it to PZ&H on March 3. This draft report is also publicly available online from the Town web site. I would be glad to discuss this draft report with you in the future if that would be helpful.

I understand that you may be requisitioning funds and taking other steps to establish a Phase 2 Task Force. If you decide to proceed with Phase 2, please consider the following 3 requests.

First, please consider including, as part of your Phase 2 Task Force, at least one member of PZ&H who has no other conflicting connections to the property or other constituencies to represent. In particular the members of our Study Group have developed a depth of expertise on this property that would likely be helpful to the Phase 2 Task Force.

Second, please share our Study Group's draft report with your Phase 2 Task Force.

Third, consider broadening the scope of the Phase 2 review to include all the viable options at 35 Leroy – not only a Senior Center or the Board of Education. In particular I want to draw your attention to the possible re-use of 35 Leroy as the new home of the Darien Arts Center. This is one viable option for re-use that would serve a broad segment of the Town's population while also achieving your stated goal of freeing up significant space in Town Hall.

To close, I want to specifically recognize and thank Selectwoman Jayme Stevenson for attending and contributing to all of our Study Group meetings, and I would like to thank you, Jayme and Selectman David Bayne for attending our PZ&H meeting on March 9 where this report was discussed.

Thank you very much for your time.