



PLEASE REPLY TO Bridgeport
WRITER'S DIRECT DIAL: (203) 337-4124
e-mail address: psullivan@cohenandwolf.com

June 6, 2005

Mr. Donald L. Saltzman
Weston Zoning Board of Appeals
Town Hall
P.O. Box 1007
56 Norfield Road
Weston, CT 06883-1007

Dear Don:

Connecticut General Statutes section 8-2(a) authorizes a municipality to exempt itself from zoning regulations by a vote of its legislative body. You have attached to your letter the minutes of a meeting of the Board of Selectmen held in 1971. During that meeting a vote was taken and passed to exempt the Town of Weston from the zoning regulations. You ask "Was this vote valid?" and if not "is the Town of Weston now subject to zoning regulation?" You note what you call "discrepancies" in connection with the 1971 vote of the Board of Selectmen.

It is the role of the Town Attorney's Office to give advice, render opinions and litigate on behalf of the Town of Weston and its Boards and Commissions. Any decision of the Board of Selectmen is presumed to be valid. The Town Attorney is not in a position to declare a vote, which occurred 34 years ago, invalid or to declare the Town now subject to local zoning regulations.

The "discrepancies", you note, are issues that could be raised by a party challenging the validity of the zoning exemption. You raise the issue that the decision was made in an executive session. While it is true that under current law a vote may not be taken in executive session, a party challenging the Town's zoning exemption would have to show that applicable law at the time also prohibited voting in executive sessions. If you believe that the Board of Selectmen was not the appropriate body to take up the issue in 1971, then a challenge would need to be raised on those grounds. If you believe that the Board of Selectmen breached their fiduciary duties, a challenge would need to be raised on those grounds. A threshold issue would be whether a challenge to the validity of the adoption of the exemption could be raised at this late date. Our research leads us to believe that none of these

COHEN & WOLF
ATTORNEYS AT LAW
122 PROSPECT STREET
STAMFORD, CT 06904
TEL: (203) 337-4124
FAX: (203) 337-4124

COHEN & WOLF
ATTORNEYS AT LAW
122 PROSPECT STREET
STAMFORD, CT 06904
TEL: (203) 337-4124
FAX: (203) 337-4124

122 PROSPECT STREET
STAMFORD, CT 06904
TEL: (203) 337-4124
FAX: (203) 337-4124

issues is subject to a definitive resolution. It is, however, the burden of the party challenging the exemption to marshal evidence supporting that position and to overcome the presumption that the action of the Board of Selectmen was legitimate.

Very truly yours,



Patricia C. Sullivan

PCS/chs

Special Selectmen's Meeting, March 6, 1971, 10:00 A.M.

Present: Selectmen Hogg and Fromson, Mr. O'Connor, Mr. Rothberg, Mr. Frisk, Mr. Sasseen, Mrs. Milmore, Mrs. Heifetz, Mr. Canevari and two other citizens, residents of Tobacco Road.

Mr. Hogg began the meeting at 10:10 A.M. explaining that its purpose was to consider a resolution which would exempt all municipal property of the Town of Weston from the zoning regulations. Mr. Canevari began the discussion indicating that he would not want to live near anyone who wasn't held to the zoning regulations and feels that his equity in his home will be lessened, citing the possibility of having garbage trucks operate from nearby his home. Mr. Fromson explained why this resolution was being considered; being that the proposed Middle School addition would be less than the required distance from Mrs. Revson's property line should the lower court decision be overturned in that matter. Mr. Frisk asked why the Selectmen did not seek a variance first and if rejected, resort to this action. Mr. Fromson and Mr. Rothberg explained the legal technicalities and likelihood of appeal by Mrs. Revson's attorney in such a case. Mrs. Milmore echoed Mr. Frisk's viewpoint. Mr. Sasseen asked if we weren't just as likely for a law suit in this case as we would be if seeking the variance.

The Meeting went into executive session at 11:05 A.M.

Timothy B. Louvo
Secretary, pro tem

1
I will check the minutes as I am not sure
if there is anything
I checked the minutes as I am not sure if there is
anything


Special Selectmen's Meeting, March 6, 1971, Executive Session 11:05 A.M.

At an Executive Session, the Selectmen voted unanimously to adopt the following resolution:

RESOLVED, that all municipal property of the Town of Weston is hereby exempt from the Zoning Regulations, as amended, prescribed, or to be prescribed, by the Planning and Zoning Commission of the Town of Weston.

Dated: March 6, 1971.

Executive Session closed 11:28 A.M.


Secretary, pro tem

Selectmen's Meeting, March 15, 1971, 8:00 P.M.

Present: Mr. Russell, Mr. Hogg, Mr. Fromson, Mr. O'Connor, Mr. Cartelli, Mr. Gannon and Mr. Coley.

Meeting was called to order at 8:20 P.M.

The minutes of the previous meeting were approved as read. Minutes of the Special Meeting held on March 6, 1971 were approved as read. Minutes of Special Meeting held on March 9, 1971 were approved as read. Copies will be filed with the Town Clerk and sent to all board chairman.

Mr. Russell advised that the First Selectmen is required under the Charter to present the budget to the Board of Selectmen by March 15, 1971. He recommended that the Board of Selectmen accept the Aspetuck Valley Health District Budget which has been trimmed some \$6000, which is included in the budget presentation.

Mr. Gannon, the Town Treasurer, spoke on behalf of his own budget. He had asked for an increase in salary, and reported that he had given it a lot of thought and was spending considerably more time on the job now than when he was appointed. He felt the increase was in line with his responsibilities.

Mr. Russell suggested that the Board of Selectmen accept the increase in salary for the Dog Warden of \$1200 per year and Mr. O'Connor reported that the troopers overtime had been cut, decreasing their budget by \$2000.

Mr. Coley and Mr. Cartelli answered some questions by Selectmen on Highway budget. They are over on their Snow Removal Account because of all the "nuisance" storms this year and the use of sand and salt on the road.

A motion was made and seconded that the Selectmen appropriate the sum of \$64.45 to pay Holzhausen for installation of a new pressure valve and refill heating system at Town Hall and was passed unanimously. Motion was also made and passed unanimously to appropriate the sum of \$360.77 for the installation of a urinal at Norfield Firehouse, to be paid to the Weston Builders.

Mrs. Eileen Spadone had been recommended to replace Shirley Nielsen who resigned from the Library Board. Mr. Russell will check acceptance by Republican Town Committee and make the appointment.

A request to name a U.N. Day Chairman was tabled.

The budget as recommended by the First Selectman was turned over to the Board of Selectmen. A conference to discuss this budget will be held on Saturday, March 20, 1971 at 10:00 A.M. in the Selectmens Office.

A discussion was held on the request by the Conservation Commission for an additional \$700 for a 14 page mailing to the townspeople. Contents of the mailing was not explained. Selectmen would like to look at this.

Mr. Fromson spoke on behalf of the Weston Youth and Adult Drug Council. A proposal has been received from Catholic Family and Community Service, a non-sectarian counseling service. They propose a contractual arrangement with Weston for counseling those in need. Their proposal was for \$24,000. Mr. Fromson and his sub-committee feel that this program can initially be carried out for \$12,000, \$6,000 for a coordinator on a contractual arrangement and \$6,000 for supporting aid to Renaissance or Hall-Brooke Hospital with a member of the Town on their board. Mr. Fromson has requested that \$12,000 be put into the budget for this purpose.

Selectmen's Meeting, May 3, 1971, 8:30 P.M.

Present: Mr. Russell, Mr. Hogg, Mr. Fromson, Attorney McKeon, Town Refuse Collectors and/or their representatives and interested citizens of the Town.

Meeting was called to order at 8:33 P.M.

Minutes of the last meeting were accepted as read and will be filed with the Town Clerk and copies sent to committee chairmen.

A motion was made and accepted that an appropriation of \$490 be made to pay expenses of the Charter Referendum.

A report was read from Mr. Cartelli re: Cedar Lane right of way. It was decided to ask Mr. Cartelli to attend the next Selectmen's meeting to discuss further.

Selectmen Russell reported that Mrs. Alexander Accardi had been asked to serve as United Nations Day Chairman.

Mrs. Thomas Milmore has been accepted to replace Mr. Rosenau on the Planning and Zoning Commission. Mr. Russell will make the appointment on behalf of the Board of Selectmen.

Mr. Canevari's offer of land for town use will be discussed again at the June meeting after consultation with the Land Acquisition Committee.

Mr. Frank O'Dwyer has resigned from the Historic District Commission effective July 1, 1971. Mr. Russell will ask Republican Town Committee for recommendations to fill the vacancy.

Mr. Anthony Flack has resigned effective immediately from the Library Board. Mr. Russell asked those attending the meeting to recommend to Selectmen someone to fill any vacancy and will ask the Republican Town Committee for nominations also.

Mr. Fromson moved that the Selectmen request an appropriation of \$3369 from the Board of Finance to replace the boiler in the Town Hall furnace. Bids were sent out and low bid will be accepted after Finance Board approval.

Mr. O'Connor, Administrative Assistant will be asked to represent the Selectmen at the Fairfield County Selectmens Meeting which will be held at the State Capitol on May 5, 1971.

Appraisers bills for Revson have been given to the Town Attorney. Selectmen will await a report from Mr. Glazer who wishes to review the appraisals.

It was reported by Mr. Fromson that \$13,000 which was left in the High School Building Fund Account be put towards building of tennis courts at Middle School addition. This recommendation has come from members of the General Building Committee.

Discussion was held on a letter received from Mr. Turner, Chairman of Planning and Zoning Commission with reference to Selectmen voting to exempt town property from zoning regulations. This action will be revoked if approved by Town Counsel.

A general discussion was held on the landfill operation and the refuse collection in Town. Mr. Reynolds reported that he was not happy about the survey that was held re refuse collection because of the manner in which it was presented to the people. The consensus