

To: Old Lyme Zoning Commission

From: Old Lyme Parks and Recreation Commission

Date: May 5, 2016

Subject: Special Permit Application for expanded Boathouse in Hains Park

The Old Lyme Parks and Recreation Commission (PRC) believes that the current application before the Old Lyme Zoning Commission is incomplete and has been submitted for review prematurely. The plans submitted do not include all of the planned improvements to Hains Park as part of the Boathouse Hains Park Improvement Project scope, and have not been approved by the Old Lyme PRC.

The planned improvements missing from the partial plans submitted to the Zoning Commission include: Handicapped parking and walkways, renovation of the Bathhouse making it ADA compliant, and installation of a Pavilion.

The Americans with Disabilities Act (ADA) requires all new construction and additions to existing facilities to be in full compliance with ADA standards. The Pavilion replaces the "public assembly space" promised to the community when \$405,000 in Town funds was approved for the project in Oct 2014, but subsequently removed from the current Boathouse plans when the second floor was eliminated.

The PRC has requested the Boathouse Hains Park Improvement Committee complete a full project plan with a cost estimate that is within budget prior to PRC approval.

Old Lyme Town Ordinance 20-8 defines the duties of the Parks and Recreation Commission: *The responsibility for the management, control and development of the Town's recreational facilities and expenditures made in connection therewith is vested in a Parks and Recreation Commission.* Enclosed, please find a legal review of ordinance 20-8 and a copy of the PRC approval on record for the municipal review performed for the original Boathouse Project in 1987.

The Parks and Recreation Commission has communicated its concerns to the Boathouse Hains Park Improvement Committee and First Selectwoman; however, they have decided to proceed to the Zoning Commission with an incomplete plan and without PRC approval.

Best regards,

Robert Dunn and John Flower,  
Chair and Vice Chair, Old Lyme Parks and Recreation Commission

2 enclosures

# **McGARRY, PRINCE, McGARRY, P. C.**

**COUNSELOR AT LAW**

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Thomas F. McGarry

John J. McGarry  
(1900-1973)  
S. Victor Prince  
(1892-1991)

December 15, 2015

Robert Dunn, Chair  
Old Lyme Parks and Recreation Commission

Re: Boathouse Hains Park Improvement Project Committee

Dear Bob:

As requested by a client that I render an opinion as to the authority of the Park and Recreation Commission of the Town of Old Lyme. In order to do that one must first examine the responsibilities of the various entities of the Town that are charged with creating ordinances for the Town.

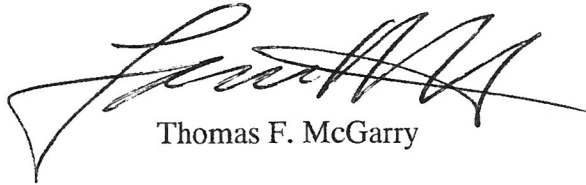
The Town of Old Lyme's legislative body is by statute, Connecticut General Statutes 7-6, the Town Meeting, and as such is empowered to adopt ordinances presented to the meeting. This is confirmed by the provisions of the Town Code, specifically Sections 1-2 and 1-6 as both of these sections recognize the Town Meeting as the legislative body.

Based upon that legislative authority, the Town Meeting adopted an Ordinance entitled "Parks and Recreation Commission" as set forth in Article IV of the Town Code. The operative section is Section 20-8, which sets forth the duties of the Commission. This section states: "The responsibility for the management, control and development of the Town's recreational facilities and expenditures made in connection therewith is vested in a Park and Recreation Commission". Based upon rules of construction adhered to by Connecticut Courts, one has to accord the words and phrases used their ordinary and common meaning unless there is some ambiguity in the adopted ordinance. The two operative words in the Ordinance are "management" and "control", both are defined as granting the full authority over the subject matter. I do not find any ambiguity in this authority nor is there any words or phrases restricting the Commission's full authority with respect to the Town's recreational facilities.

Robert Dunn, Chair  
December 15, 2015  
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Therefore is it my opinion that the Park and Recreation Commission is vested with the full authority to manage and control all the Town's recreational facilities.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tom McGarry', with a large, stylized initial 'T' and 'M'.

Thomas F. McGarry

TFM:cjr

March 30, 1987

At a special meeting of the Parks and Recreation Commission on Monday, March 23, 1987, the Commission voted to approve the plans of the boat house at Hain's Park as proposed by the Regional District 18 Board of Education.

It is the wish of the Commission that we be kept informed of the progress in the plans and of any changes that occur to the plan.

Sincerely,

*Ann L. Lander*  
Ann L. Lander

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~~Park and Rec Commission~~