


Memorandum

Suisman, Shapiro, Wool, Brennan, Gray & Greenberg, P.C.

CONFIDENTIAL
ATTORNEY- CLIENT PRIVILEGED

To: Bonnie Reemsnyder, First Selectwoman, Town of Old Lyme (via email)

Cc: John A Collins (via email)

From: Michael P. Carey 

Date: September 5, 2017

Subject: "Petition" to Withdraw from Ledge Light Health District

Ms. Reemsnyder:

A "Petition for: A Town Meeting to Terminate the Agreement between Ledge Light Health District and the Town of Old Lyme Dated October 31, 2016," consisting of three pages ("Petition"), was recently submitted to the Town Clerk. A copy of the Petition marked Exhibit A is attached. You have asked our office to review the Petition for legal sufficiency. In our opinion, the Petition, for many reasons, is legally insufficient and the Board of Selectmen should not schedule the Town Meeting it requests.

Connecticut General Statutes § 7-1(a) states that the selectmen of a town "shall warn a special town meeting on application of twenty inhabitants qualified to vote in town meetings, such meeting to be held within twenty-one days after receiving such application." However, several Connecticut court decisions have held that a board of selectmen need not schedule a town meeting pursuant to an "application" under § 7-1 unless the purpose of the requested meeting is "legitimate and proper," i.e., is within the town's authority. See, e.g., *Morris v. Congdon*, 277 Conn. 565 (2006); *State ex rel. Feigl v. Raacke*, 32 Conn. Supp. 237 (1975); *Willis v. Sauer*, 19 Conn. Supp. 215 (1954).

Thus the court in *State ex rel. Feigl* upheld the decision by the New Fairfield board of selectmen to decline to call a special town meeting pursuant to a petition that sought the meeting to compel the town to rebate to the taxpayers tax revenue that the petitioner claimed had been levied in excess of the amount called for by the town budget. The court found that under Connecticut law a municipality had no authority to make such a rebate, and that therefore the board of selectmen's decision not to warn a town meeting for that purpose was "quite correct."

Similarly, the Town of Old Lyme has no statutory authority to vote to leave the Ledge Light Health District at this time. C.G.S. § 19a-246(a), a copy of which marked Exhibit B is attached, allows a town to withdraw from a health district of which it has been a member, "by vote passed prior to January first, in any year ... **provided such ... town ... shall have been a member of the district for at least**

twenty-four months prior to such vote of withdrawal ...” (Emphasis added). You have advised us that the Town became a member of the Health District on November 1, 2016. Therefore, the statute prohibits the Town from voting to withdraw until after November 1, 2018. The “Petition” that has been submitted is therefore premature and out of order and the Board of Selectmen should not schedule a Town Meeting on account of it. It should also be noted that § 19a-246(a) provides that a vote to withdraw from a health district must be taken before January 1st in any year and shall become effective no earlier than the first day of July following. Thus, there is an at least six month waiting period even after a proper vote to withdraw.

The “Petition” also suffers from several defects of form. For example, C.G.S. § 7-9, a copy of which marked Exhibit C is attached, requires that a petition “for a vote by the electors of voters of a municipality” (1) must be on a form prescribed or approved by the town clerk; (2) that each page contain a statement signed under penalty of false statement by the person who circulated the petition stating the circulator’s name and address, and stating that each person whose name appears on each page signed in person in the presence of the circulator and that the circulator either knows each signer or that the signer satisfactorily identified himself to the circulator; and (3) that all the signatures on each page were obtained not earlier than six months prior to the filing of the petition. Per the statute, any page of a petition that does not contain the statement by the circulator shall be invalid. The “Petition” does not appear to meet any of these formal requirements.

WESTLAW

NOTES OF DECISIONS (7)

Connecticut General Statutes Annotated
Title 7. Municipalities

Chapter 90. Town and Other Community Meetings (Refs & Annos)

§ 7-9. Petitions for vote. Form. Statement by circulator

Connecticut General Statutes Annotated Title 7. Municipalities (Approx. 2 pages)
C.G.S.A. § 7-9

Form, sufficiency
Mandamus
Referendum
Validity of petition

§ 7-9. Petitions for vote. Form. Statement by circulator

Currentness

Whenever under the provisions of the general statutes or any special act, any action for a vote by the electors or voters of a municipality is to be initiated by the petition of such electors or voters, in addition to such other requirements as such statute or special act may impose, such petition shall be on a form prescribed or approved by the clerk of such municipality, and each page of such petition shall contain a statement, signed under penalties of false statement, by the person who circulated the same, setting forth such circulator's name and address, and stating that each person whose name appears on said page signed the same in person in the presence of such circulator, that the circulator either knows each such signer or that the signer satisfactorily identified himself to the circulator and that all the signatures on said page were obtained not earlier than six months prior to the filing of said petition. Any page of a petition which does not contain such a statement by the circulator shall be invalid. Any circulator who makes a false statement in the statement hereinbefore provided shall be subject to the penalty provided for false statement.

Credits

(1957, P.A. 347; 1971, P.A. 871, § 58.)

Notes of Decisions (7)

C. G. S. A. § 7-9. CT ST § 7-9

The statutes and Constitution are current with enactments of the 2017 January Regular Session effective on or before August 15, 2017.

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Document

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Connecticut General Statutes Annotated
Title 19a. Public Health and Well-Being (Refs & Annos)
Chapter 368F. District Departments of Health (Refs & Annos)

C.G.S.A. § 19a-246

§ 19a-246.W withdrawal from district

Currentness

(a) Any constituent town, city or borough may, by vote passed prior to January first in any year, withdraw from the district, such withdrawal to become effective on the first day of July following, provided such city, town or borough shall have been a member of the district for at least twenty-four months prior to such vote of withdrawal. A city, town or borough on withdrawal shall at once resume such status with respect to the appointment of its director of health, employees and board of health as it held prior to becoming a member of the district as provided in section 19a-244. Employees shall not lose any benefits or civil services status as a result of the withdrawal from the district.

(b) Notwithstanding the provisions of subsection (a) of this section, no withdrawal or termination of participation by any constituent municipality shall affect any pledge, agreement, assignment or mortgage of any income, revenue proceeds or property of a district made for the benefit or security of any borrowing of the district entered into pursuant to subsection (b) of section 19a-243.

(c) Notwithstanding any other provision of the general statutes, no district shall cease to exist until such time as payment or provision for payment of the outstanding balance of borrowings of such district entered into pursuant to subsection (b) of section 19a-243 is made.

Credits

(1949 R ev., § 3882; 1958 R ev., § 19-111; 1961, P.A. 391, § 3; 1969, P.A. 688, § 3; 1999, P.A. 99-234, § 12, eff. June 29, 1999.)

C.G.S.A. § 19a-246, CT ST § 19a-246

The statutes and Constitution are current with enactments of the 2017 January Regular Session effective on or before August 15, 2017.

Petition for:
A Town Meeting to Terminate the Agreement
between Ledge Light Health District
and the Town of Old Lyme
Dated October 31, 2016

	Signature	Print Name	Address	
A	<i>Michael Moran</i>	Michael Moran	46 Beech Hole Rd	Jr?
A	<i>T. Anastasio</i>	THEODORE ANASTASIOU	1 Butterwick Ln	
A	<i>Peter B. Huff</i>	PETER B. HUFF	20 Griswold Point Rd.	?
R	<i>Steven Champion</i>	Steven Champion	561 Rowland Rd	
R	<i>Phil Carney</i>	Phil Carney	1 Hastings Lane	
	<i>Aaron Eighan</i>	AARON EIGHAN	308 Seaside View Ave	?
	<i>Greg S. Johnson</i>	Greg S. Johnson	2 W. Grand St	EA?
	<i>Stan Gochter</i>	STAN GOCHTER	Box 103 So. Lyme	EA?
	<i>Tony Brozak</i>	Tony Brozak	W. Hill Ct	?
	<i>Lenny Certo</i>	Lenny Certo	85 Hartford Ave	?
	<i>Math Hayward</i>	Math Hayward	3 Cyrus Ct.	
	<i>William Ferguson</i>	William Ferguson	7 Lake Drive	
	<i>Connor Carberry</i>	Connor Carberry	16 Lords Meadow Ln	
	<i>David McFarfield</i>	DAVID MCFARFIELD	22 Bailey Rd. O.L.	?
	<i>Dan Chene</i>	Dan Chene	20 Old Colony Rd	OL, CT?
	<i>Jeff Murtz</i>	JEFF MURTZ	11 Beckwith Ln.	
	<i>Darcy Murtz</i>	DARCY MURTZ	11 Beckwith Lane	
	<i>James Kesnan</i>	JAMES KESNAN	34 Mile Creek Rd	
	<i>Greg Landry</i>	Greg Landry	8 Littlefield Lane	
	<i>Al Peter</i>	AL PETER	211 Whymorewell Rd	?
	<i>Bill Buscotti</i>	Bill Buscotti	3-1 Humbley Rd.	?
	<i>Craig McDonald</i>	Craig McDonald	19 Corsino Ave	?
	<i>Rich Modica</i>	Rich Modica	5 Corsino Ave	?
	<i>Holly Modica</i>	Holly Modica	5 Corsino Ave	?
	<i>Patricia Dean</i>	PATRICIA DEAN	43 Rogers Lake Trail	
	<i>Ann Locks</i>	ANN LOCKS	43 Rogers Lake Trl	
	<i>Chris Garvin</i>	Chris Garvin	6 Otter Rock Road	
	<i>Peter Garvin</i>	Peter Garvin	3 Tyler Street	
	<i>Harry S. Raut</i>	Harry S. Raut	362-1 Shore Road	

Petition for:
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Signature Print Name Address

Signature	Print Name	Address
David Root	David Root	117 Shore Rd OL
Eric Jensen	ERIC JENSEN	137 MILE CREEK RD
Azam Khan	AZAM KHAN	277 Shore R.D
Kayla LeDuc	KAYLA LEDUC	32 Old Colony Rd
Abdul Rehman	Abdul Rehman	281 Shore Rd
W. L. Anastasio	W. L. Anastasio	2015 Shore Rd
Fauz Burdick	Fauz Burdick	38 Jericho Drive
Ken Coffee	Ken Coffee	169 Bedford Post Rd
Kirsten Siuranza	Kirsten Siuranza	61 Shore Rd OL
Richard Decker	Richard Decker	25 Corsina Ave OL
Jim Caramante	Jim Caramante	19 Halls Rd
Cyndie Caramante	Cyndie Caramante	19 Halls Rd
Judith Read	Judith Read	35 Ben Franklin Rd.
Azam Khan	AZAM KHAN	277 Shore R.D Duplicate
Valerie Corsino	Valerie Corsino	124 Fox Mile River Rd
Robert Dunin	Robert Dunin	7 SQUIRE Hill, O.L.
ASHLEY SIBLEY	Ashley Sibley	86-1 Lyme Ct. Registered Lyme
John Anelli	John Anelli	61 Salford Dr. OL CT
Nancy Hutchinson	Nancy Hutchinson	7 Squire Hill
Michelle	Michelle	624 Oxford Lane
Rita Bartalino	Rita Bartalino	160 Mile Creek R.O.L.
Jacqueline Rodriguez	Jacqueline Rodriguez	14 Noyes Rd OL
Kathleen Hillborn	Kathleen Hillborn	24 Griswold Pt-OL
Tanna Pappaceno	Tanna Pappaceno	36 Hartford Ave
Carol Colangeli	Carol Colangeli	26 Browns LA
Rick Colangeli	Rick Colangeli	26 BROWNS LA
Mike Summy	Mike Summy	14 Evans Wood Rd
R. Kodeliques	R. KODELIQUES	14 NOYES RD OL CT
Azam Khan	Azam Khan	277 Shore Rd Duplicate

agree
i/panel (2)

Joe Jewett	Joe Quarantello	4 Manswood Rd, Old Lyme, CT
Dino DiWino	Dino DiWino	69 Hartford Ave Old Lyme, Ct
Heidi DiWino Fields	Heidi DiWino Fields	101 Hartford Ave Old Lyme, Ct
Even Rowe	Even Rowe	65 Hartford Ave Old Lyme Ct.
Deborah Corto	Deborah Corto	33 Hawks Nest/Old Lyme Ct.
Jim Jewett	Jim Jewett	7 Grassy Hill Rd/Old Lyme CT
Amanda Brune	Amanda Brune	7 Grassy Hill Rd Old Lyme CT
Richard Texesse	Richard Texesse	5 Sunset Dr. Old Lyme CT
Robert DiNapoli	Robert DiNapoli	31 Mile Creek Rd. Old Lyme CT
Bentram Dean	Bentram Dean	30 Hillsbore Old Lyme Ct
John P. McCarthy	John P. McCarthy	54 Buttonball Rd Old Lyme Ct.
Carlton Ellis Jewett	Carlton Ellis Jewett	9 Grassy Hill Rd. O.L. Ct.
Arthur A. Beebe	Arthur A. Beebe	89 Boston Post Rd. O.L. Ct.
Tom Brown	Tom Brown	62 Tolon Meadows Rd O.L. Ct.
John Duddy	John Duddy	225 Splice Rd OL
Ethin Temple	Ethin Temple	23 Homestead Circle OL
Robert Doyen	Robert Doyen	7 Devitt Rd
Patrick Pryor	Patrick Pryor	41 Tricho Dr
Jason Casper	Jason Casper	139 4-Mile Trues Rd
Mike McCarthy	Mike McCarthy	69-1 Flat Rock Hill Rd
JAMES OLDFIELD	JAMES OLDFIELD	59 Brown Lanes Old Lyme
Dan Handeen	Dan Handeen	3 Mile Creek Rd Old Lyme
Jessica Gromarty	Jessica Gromarty	jessicalynnkay@gmail.com
TOM RISOM	TOM RISOM	tomrisom@gmail.com
Steven Davis	Steven Davis	2 Mile Creek Rd Old Lyme
John L. McGersa	John L. McGersa	17 Mile Creek Rd Old Lyme Ct
Mary Beebe	Mary Beebe	89 Boston Post Rd Old Lyme
Barbara Doyen	Barbara Doyen	
Judith O. McCarthy	Judith O. McCarthy	54 Buttonball Rd, Old Lyme CT
Sue Campbell	Sue Campbell	27 Wildwood Dr.
Theodore Kuoik	Theodore Kuoik	60 Ridge Road Rd
Frank Marston	Frank Marston	Rt 1A
Marilyn O'Sullivan	Marilyn O'Sullivan	36 Champ Drive Dr

no Casper here
req. (ESSEX)