

## Special Meeting

The 1415<sup>th</sup> meeting of the Town of Stonington's Planning and Zoning Commission was held on Tuesday, February 16, 2010 at Mystic Middle School, 204 Mistuxet Ave., Mystic. The meeting was called to order at 5:38 p.m. by Chairman John Swenarton. Present were Commissioners Lynda Trebisacci, Ben Tamsky, and Bob Mercer; Alternates Rob Marseglia, Chris Regan and Gardner Young; Town Planner Keith Brynes, and Director of Planning Bill Haase. Commissioner Paul Holland was absent.

Seated for the meeting were John Swenarton, Lynda Trebisacci, Ben Tamsky, Bob Mercer and Chris Regan.

### Administrative Process & Procedures Workshop with Town Attorney Londregan:

Attorney Londregan summarized his written responses to six previously submitted questions:

1. How long a period of time is required to lapse before a denied decision can reappear before the Commission (even if posed under a different premise as long as the property, owners and outcome are basically the same)?  
 Unlike ZBA, there is no statutory time limit for PZC. The Commission has the option to decide whether a newly submitted application has changes or there is a "change of circumstance."
2. Are members of the public allowed to submit additional written correspondence to the Commission after the public comment section of a public hearing is done? (i.e., during or after an applicant's rebuttal statement, up to close of hearing).  
 Provided that the applicant has the opportunity for rebuttal to any new information presented, public comment or correspondence should be heard and/or accepted. This may require continuation of the public hearing.
3. What exactly is *ex-parte* communication?  
 This refers to "non-record" information presented to the Commission outside of the public hearing, typically received after the close of the public hearing. It is communication that the applicant would not have had an opportunity to comment on, rebut, or refute.
4. Appropriateness of staff emailing submitted public comments to the Commission before a public hearing officially opens, given that the comments are also placed in the application file and forwarded to the Commission when the hearing is opened.  
 Public comments would be classified as subjective in nature (usually for or against an application). The Commission members should not receive any comments of a subjective nature before the opening of the public hearing. Therefore, the Commission should not receive these public comments until after the public hearing is opened in order to avoid a claim of *ex parte* communication or that Commission members have pre-judged the application.
5. What sort of documents does the current zoning regulation's "15 day rule" allow to be submitted by an applicant as exhibits at the hearing itself?  
 The "15 day rule," as we read it, relates to all documents that are required for the completeness of an application. It is not a limit or prohibition of any exhibits submitted during the public hearing process. An applicant may submit anything that it wants as an exhibit during the public hearing; and an applicant may supplement its application during a public hearing with additional exhibits.
6. Role of alternates after close of public hearing.  
 Alternate members of the Commission who were not needed for the vote on an application after the close of a public hearing should not participate in the deliberations. Moreover, if something comes up for a regular member and an alternate is needed for purposes of voting, alternates should only participate on a vote if they are sufficiently familiar with the application and the proceedings that took place during the public hearing. This means a review of the complete file, and listening to any audio tapes of a public hearing that may be necessary.  
 Stating a reason for recusal from an application is not necessary; the commissioner need only state he has a personal or financial conflict.  
 On the discussion of an applicant requesting waivers of specific application information, the commission can request the applicant provide the information.

Chairman Swenarton called for a 5-minute break.

**Minutes:**

Mrs. Trebisacci made a motion to approve the February 2, 2010 minutes. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

**Correspondence:**

Mr. Haase recommended the Commission review the Mystic Mobility Study available at [www.mysticmobility.org](http://www.mysticmobility.org) .

**Administrative Review:**

CGS 8-24 Review of Town Acceptance of Red Oak Lane (PZ0621SD)

Mr. Brynes described the State mandated process for town road acceptance. Mr. Tamsky made a motion to find that the request is consistent with the POCD. Mrs. Trebisacci seconded. The motion was unanimously approved, 5-0.

**New Submittals:**

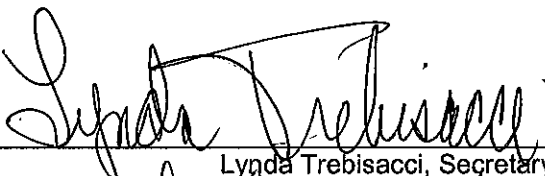
**PZ1002BR Paul Linehan** - Application for release of remaining \$108,500.00 Road Construction & Public Improvement bond associated with PZ0621SD United Congregational Church of Westerly. Bond reduced to \$20,150.00 on 12/18/07 (\$88,350.00 released). Property located at 9 Castle Hill Rd. (Red Oak Lane), Pawcatuck, CT. Map 15 Block 9 Lot 1. Zone RA-20.

As no public hearing was necessary, Mr. Brynes recommended the Commission act on this bond reduction application. Mr. Brynes presented the bond history and the recommendation of Town Engineer Larry Sullivan for a reduction to a 10% maintenance bond.

Mrs. Trebisacci made the motion to reduce the remaining \$20,150.00 Road Construction & Public Improvement bond to a \$10,850 Maintenance bond. Mr. Tamsky seconded. The motion was unanimously approved, 5-0.

Attorney Theodore Ladwig was present to discuss the public hearing scheduling for application **PZ1006SUP & GPP Keith L. Main (NERP)**. The public hearing was scheduled for April 6, 2010.

Mr. Tamsky made the motion to adjourn the meeting. Mrs. Trebisacci seconded. The meeting was adjourned at 8:04 p.m.

  
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 Lynda Trebisacci, Secretary

*recused from shea*

*Wm T. Swenarton*  
 Chair