

MEMORANDUM

FROM: OFFICE OF THE CITY ATTORNEY
MIDDLETOWN, CONNECTICUT 06457

TO: Thomas J. Serra, Mayor

DATE: January 19, 1995

RE: Legal Opinion Request

QUESTIONS PRESENTED:

- 1) How many members from each political party may run for each of the Planning & Zoning Commission's positions?
- 2) How will it be determined who will be the four year term members and alternates and who will be the two year term members and alternates?

ANALYSIS:

The newly adopted Charter provides as follows:

At the Biennial Election next following the adoption of this Charter, there shall be elected four members and two alternates to serve for a term of four years and there shall be elected three members and one alternate to serve for a term of two years; thereafter, upon the expiration of the terms herein provided, members and alternates shall be elected for terms of four years.

Charter of the City of Middletown, Ch. VIII, §2.

Section 9-167a of the Connecticut General Statutes provides, in pertinent part, as follows:

. . . . the maximum number of members of any board, commission, legislative body, committee or similar body of the state or any political subdivision thereof, whether elective or appointive, who may be members of the same political party, shall be as specified in the following table:

COLUMN I	COLUMN II
Total Membership	Maximum from one Party
3	2
4	3
5	4
6	4
7	5

8
9
More than 9

5
6
Two-thirds of total
membership

C.G.S. §9-167a(a)(1), as amended.

An opinion of the Attorney General concerning Zoning Boards of Appeal advises that minority representation should be calculated considering the board as a whole, regular members as well as alternates for a total of ten. 31 Op. Atty. Gen. 66 (1959).

This opinion construed C.G.S. §8-5 and provides that "[s]ince the statute constitutes the regular and alternate members as a single board, it must follow that the entire membership must be taken into consideration in the application of Public Act No. 665." Id.

Although this opinion concerns Zoning Boards of Appeal, its reasoning is equally persuasive in this situation. C. G. S. §8-1b provides for the appointment or election of alternate members of combined Planning and Zoning Commissions. This statute provides that "[s]uch alternate members shall, when seated as herein provided, have all the powers and duties set forth in the general statutes or any special act relating to such municipality for such commission and its members." C.G.S. §8-1b, as amended. Accordingly, it is apparent that the members and alternates function as a single board.

Therefore, as the new Charter creates a ten member commission, seven members and three alternates, not more than six individuals may be from the same political party.

However, the Charter clearly contemplates separate ballots for members and alternates and, further, for the 1995 election, the Charter specifies separate ballots for the four year and the two year term members and alternates.

Therefore, for the 1995 election, the following offices should be listed separately on the ballot:

- A) P & Z Commission member - 4 year term;
- B) P & Z Commission alternate - 4 year term;
- C) P & Z Commission member - 2 year term;
- D) P & Z Commission alternate - 2 year term.

The Charter specifies the following number of vacancies for the offices listed above:

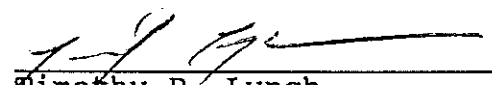
- A) 4 four year term members;

- B) 2 four year term alternates;
- C) 3 two year term members;
- D) 1 two year term alternate.

The minority representation statute mandates that not more than six individuals on the Commission may be members of the same political party. C.G.S. §9-167a(a)(1), as amended. As discussed above, this statute clearly contemplates the composition of the Commission as a whole. Therefore, the possible impact of this statute on the 1995 election must be analyzed.

Although the new Charter's directions concerning the 1995 election are not as explicit as those of the prior Charter regarding the election of the Board of Education, the Charter does set out the four year term positions first in its requirements for the election. This prioritizing of the four year term positions gives a clear indication that these offices should be filled initially at the election.

Accordingly, it is my opinion that the Charter directs that the four year term positions be elected first and that any effect which the minority representation statute might have on the election will be with regard to the two year member and alternate positions.



Timothy P. Lynch
Deputy City Attorney

TPL/es

cc: John L. Robinson, Council Majority Leader
Joseph E. Milardo, Jr., Council Minority Leader

MEMORANDUM

FROM : OFFICE OF THE CITY ATTORNEY
MIDDLETOWN, CONNECTICUT 06457

TO : Thomas J. Serra, Mayor

DATE : July 17, 1995


RE : Addendum to Legal Opinion
Election of Planning and Zoning Commission

On January 19, 1995 a legal opinion was issued detailing the manner in which the 1995 election of the Planning and Zoning Commission should be conducted and the possible impact of the minority representation statute on the election results.

To recap, the opinion provides that not more than six individuals may be from the same political party and that the four (4) four-year members and the one (1) four-year alternate are elected first. Therefore, the minority representation statute's probable impact on the election will be with regard to the three (3) two-year members and the one (1) two-year alternate.

When determining minority representation on the Commission, the Charter's direction on this issue must be kept in mind. Chapter II §5 of the Charter provides that "not more than four (4) members and not more than two (2) alternate members of the Planning and Zoning Commission may be members of the same political party at any time." Charter, Ch. II, §5, at page 5.

Therefore, if one party wins all four (4) four-year term member seats, the three (3) two-year term member positions must go to the other party.


Timothy P. Lynch
Deputy City Attorney

TPL/dw

cc: John L. Robinson, Council Majority Leader
Joseph E. Milardo, Jr., Esq., Council Minority Leader

RECEIVED
CITY ATTORNEY'S OFFICE

MEMORANDUM

TO: Timothy Lynch
City Attorney

DATE: November 10, 1994

FROM: John Robinson
Majority Leader, Common Council

RE: Election of the Planning and Zoning Commission

Now that the public has voted to have an elected Planning and Zoning Commission, we need to have an opinion as to how the election should be conducted to elect the seven regular members and three alternate members.

Minority Representation for Planning and Zoning is stated as ". . .not more than four members and not more than two alternate members of the Planning and Zoning Commission may be members of the same political party."

The section dealing with Planning and Zoning states that "At the Biennial election next following the adoption of this Charter, there shall be elected four members and two alternates to serve for a term of four years and there shall be elected three members and one alternate to serve for a term of two years; thereafter, upon the expiration of the terms herein provided, members and alternates shall be elected for terms of four years."

Questions have arisen as to how many members from each party may run for each of the Planning and Zoning Commission's positions; how do you determine who will be the four-year term members and alternates; and who will be designated the two-year term members and alternate.

Please look into this matter and determine how we should conduct the election of these Commissioners. We would like this legal opinion rendered by November 18, 1994.

cc: Mayor Thomas J. Serra