

MEMORANDUM

FROM : OFFICE OF THE CITY ATTORNEY  
MIDDLETOWN, CONNECTICUT 06457

TO : Mayor Maria Madsen Holzberg

DATE : January 9, 1996

RE : Legal Opinion Request

QUESTION PRESENTED:

Can the Planning & Zoning Commission bylaws be changed to permit alternates as well as regular members to vote in the election of officers?

ANSWER: No.

ANALYSIS:

The Charter provides that "[t]he Planning and Zoning Commission shall annually elect a Chairman, Vice Chairman, and Secretary from among its regular voting members. Charter, Ch. VIII, §1(2), at 32 (emphasis added).

Additionally, the statutes provide that alternates are only empowered when seated in replacement of regular members.

Connecticut General Statutes §8-1b provides as follows:

Any town, city or borough, in addition to such powers as it has under the provisions of the general statutes or any special act, shall have the power to provide by ordinance for the appointment or election of alternate members to its zoning commission or combined planning and zoning commission. Such 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. Such alternate members shall be electors and shall not be members of the zoning board of appeals or planning commission. Such ordinance shall provide for the manner of designating alternates to act.

C.G.S. §8-1b, as amended (emphasis added).

Similarly, Connecticut General Statutes §8-19a provides that:

Any municipality, in addition to such powers as it has under the provisions of the general statutes or any special act, shall have the power to provide by ordinance for the appointment or election of alternate members to its planning commission. Such 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. Such alternate members shall be electors and shall not be members of the zoning commission or zoning board of appeals. Such alternates may attend all meetings and executive sessions of said commission. Such ordinance shall provide for the manner of designating alternates to act.

C.G.S. §8-19a, as amended (emphasis added).

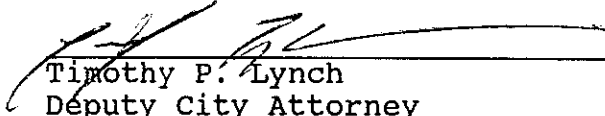
Connecticut General Statutes §8-21 provides that alternates sit in replacement of disqualified members of the commission. This section states as follows:

No member of any planning commission and no member of any municipal agency exercising the powers of any planning commission, whether existing under the general statutes or under any special act, shall appear for or represent any person, firm or corporation or other entity in any matter pending before the planning or zoning commission or zoning board of appeals or agency exercising the powers of any such commission or board in the same municipality, whether or not he is a member of the commission hearing such matter. No member of any planning commission shall participate in the hearing or decision of the commission of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense.

In the event of such disqualification, such fact shall be entered on the records of the commission and, unless otherwise provided by special act, replacement shall be made from alternate members pursuant to the provisions of section 8-19a, of an alternate to act as a member of such commission in the hearing and determination of the particular matter or matters in which the disqualification arose.

C.G.S. §8-21, as amended (emphasis added).

Additionally, the Charter provides that [t]he Planning and Zoning Commission shall consist of seven regular voting members. ... A quorum shall consist of six commissioners ...." Charter, Ch. VIII, §1(2)(3), at 32-33. Therefore, alternate members also sit in replacement of regular members when needed to achieve a quorum.

  
Timothy P. Lynch  
Deputy City Attorney

TPL/dw

cc: William Warner, AICP  
Planning & Zoning Director

REQUEST FOR OPINION, ADVICE OR OTHER LEGAL SERVICE

(Submit to Mayor in Duplicate)

CITY ATTORNEY'S OFFICE

95 DEC 19 AM 10:06

TO: MAYOR'S OFFICE

FROM: William Warner, AICP, Director, Planning & Zoning

SUBJECT: Planning & Zoning Election of officers

FACTS: (In brief Statement tell WHO, WHAT, WHEN, WHERE, WHY & HOW.)  
The P & Z Commission is currently reviewing their by-laws. Under election of officers the current by-laws state "A candidate receiving a majority vote from those present and voting....." A proposal has been made to change the language to " a majority vote from regular and alternate members present....."

Significant debate arose over whether or not alternates are allowed to vote when not filling a vacant seat of a regular member.

LAW: (Cite appropriate ORDINANCE, REGULATION, STATUTE, OR CASE LAW that you think applies to this Question.)

State Statutes regarding the make-up of Planning & Zoning Commissions and the powers of alternates

City Charter  
Roberts Rules of Order

QUESTION: (What, in your own words is the precise question you wish to have answered?)

When voting for Planning & Zoning Commission Officers do only the seven regular members vote or does the entire membership (regulars and alternate vote?

ESTIMATE OF PRIORITY:

Check one.

X EMERGENCY by 1/10/96

       STANDBY FOR FUTURE ACTION

       URGENT

       APPLICANT SHOULD KNOW FOR FUTURE AC

Date:

12-14-95

Signed: 