



**TOWN OF GREENWICH
BOARD OF ESTIMATE AND TAXATION
LAW COMMITTEE MEETING
MINUTES**

Monday, July 13, 2020
Regular Meeting
Virtual Meeting Room

Committee: Karen Fassuliotis, Chair; Elizabeth K. Krumeich

Law: Vincent Marino, Town Attorney; Valerie Maze Keeney, Assistant Town Attorney; Abby Wadler-Shin, Assistant Town Attorney; John K. Wetmore, Special Counsel

BET: Michael Mason, Chair; Laura Erickson; Miriam Kruezer; Leslie Moriarty; Jeffrey Ramer; Leslie Tarkington; David Weisbrod

BOE: Peter Bernstein, Chair, Board of Education; Dr. Toni Jones, Superintendent of Greenwich Public Schools (GPS); Sean O'Keefe, Chief Financial Officer, GPS

Counsel: Robert B. Mitchell, Partner, Mitchell & Sheahan, outside counsel for Town of Greenwich in several cases

The Chair called the meeting to order at 3:03 PM.

1. Executive Session of Pending Cases in Litigation

Upon a motion by Ms. Krumeich, seconded by Ms. Fassuliotis, the Committee voted unanimously to go into Executive Session at 3:03 PM to discuss pending cases in litigation. Motion carried.

The Committee entered into an Executive Session.

Upon a motion by Ms. Krumeich, seconded by Ms. Fassuliotis, the Committee voted 2-0-0 to come out of Executive Session at 4:55 PM. Motion carried.

The Committee exited the Executive Session.

2. Law Department – COVID-19 Update

The Town Attorney updated the Committee as to how the Law Department is operating within the COVID-19 restrictions with the reopening of Town Hall on June 1, 2020. The Department is continuing to follow the protocols established by the Town of Greenwich and are looking to resume more normal operations in the near future. There are still some individuals working remotely and it has not been problematic for the Department. The Town Attorney indicated that the biggest concern is when the Town will be discontinuing Zoom and when. With respect to the community at large, there have been questions as to when individuals who are not residents of Greenwich will be allowed to frequent Greenwich beaches and parks. The Town is working on steps to reopen these sites within Town.

3. Cardinal Stadium

The Committee received an update from Attorney Wetmore as to the legal status surrounding Cardinal Stadium. He recounted the legal history of the Stadium site relating to the Stipulation entered into between the Town and the abutting neighbors in 2001, including Bill Effros as the lead plaintiff. In 2001, the Board of Education (BOE) was looking to add lights to Cardinal Stadium to allow for night games. The Planning and Zoning Commission (P&Z) denied a Municipal Improvement (MI) application for the installation of the lights. The denial of the MI was appealed to the Representative Town Meeting (RTM) and was ultimately granted by the RTM, which led to a site plan, variances and special permits being granted. These approvals then prompted a legal action by the abutting neighbors which was, at the time, being prepared for trial. The complaint named P&Z, Planning Board of Appeals and the RTM as defendants. The BOE, wishing to avoid protracted litigation, asked to settle the lawsuit prior to the legal action reaching trial. A Stipulation was entered into among the parties. Attorney Wetmore explained that the Stipulation addressed only the lights in Cardinal Stadium – including how often the lights can be used, and the conditions for their use (e.g., Greenwich High School cannot be in operation when night games are played with lights). Attorney Wetmore stressed that the BOE may still seek another site plan, variances or special permits in the event that the BOE decided that it needed to change the Greenwich High School site plan.

Mr. Effros, an abutting neighbor and lead plaintiff in the case, regularly contends that the BOE and Town are in violation of the stipulation. Attorney Wetmore recalled only two times when there were violations – once when there was a night game and the high school had adult continuing education classes scheduled, and once when the fixtures weren't retracted). Mr. Effros has threatened contempt and actually brought a contempt claim last September when the bleachers were repaired, but he never marked it ready and there was no follow-up by him. During the remediation of the fields he notified the Army Corp of Engineers, federal and state environmental officials, who have dismissed his claims. Freedom of Information (FOI) requests relating to the site have also been made and responded to.

4. Procedure for Law Department Requested Services

Overview: Town Attorney Marino reviewed with the Committee the procedure for requests for Town legal services. He related that all requests for legal services goes through the Town Attorney, who reviews the requests and then assigns in-house or outside counsel. Factors in making the decision include case load, subject matter and expected turnaround time.

In determining who is the client, the Town Attorney advised that the Law Department represents the entire Town of Greenwich and the Town department making the request is the client. The client may not, however, have the final decision-making authority. With respect to settlements for litigation, the Law Department must seek the approval of the Board of Selectmen, the Board of Estimate and Taxation (BET) as recommended by the BET Law Committee, and finally the RTM Claims Committee in that order.

The Town Attorney also explained that it is the discretion of the Town Attorney to assign outside counsel, which usually occurs in legal actions brought against the Town that involve potential liability that may well impact the Self Insured Retention under the Town's general liability coverage. In determining whether or not to use outside counsel, the Town Attorney considers: the facts involved in the case; the strengths and weaknesses of the case under a risk analysis; the time involved to prepare and manage the case; and the workload of the assistant town attorneys.

BOE: Attorney Abby Wadler-Shin and Peter Bernstein, Chair of the BOE, described the relationship of BOE legal matters, outside counsel and the Law Department. All major projects undertaken by the BOE that require legal review are discussed with the Town Attorney. The law firm of Shipman & Goodwin is engaged when there are employment matters involving certified staff and collective bargaining agreement negotiations with the various unions involved with the school district. Attorney Wadler-Shin is the lead town counsel for Special Education issues. Recently, since Attorney Wetmore is representing P&Z and the Town with respect to Cardinal Stadium, separate outside counsel was approved by the Town Attorney to represent the BOE before P&Z and the Zoning Board of Appeals. General legal matters are referred to the Town's Law Department.

Contracts: The Town Attorney indicated that the heaviest volume for contract review typically comes in June of each fiscal year as departments plan to start projects at the commencement of the new fiscal year on July 1. In determining the turnaround time, the first question asked by the attorney is, "when do you need this by" so attorneys can manage expectations of the clients. The Law Department is looking at procedures to enhance the contract review process.

FOI: FOI requests are an area identified by the Town Attorney for process improvement. Currently in many cases departments are responding directly to FOI requests and in some cases the department may copy the Law Department on the department's response. This is an area that is being discussed with Risk Management in an effort to develop a FOI response process that is more accountable and transparent.

Record Keeping: The Town Attorney indicated that he will be looking toward digitalizing legal records going forward to preserve legal records in a less cumbersome fashion so Staff will have access to documents and records on line.

Other Legal Matters: The Committee once again recognized Aamina Ahmad for her stellar effort to settle a case in which the Town had been a party with the settlement proceeds paid entirely by a third party. The Town was not responsible for the settlement payment.

5. Approval of Minutes

Upon a motion by Ms. Krumeich, seconded by Ms. Fassuliotis, the Committee voted 2-0-0 to approve the Minutes of the Regular BET Law Committee Meeting held on June 3, 2020. Motion carried.

6. Adjournment

Upon a motion by Ms. Krumeich, seconded by Ms. Fassuliotis, the Committee voted 2-0-0 to adjourn the meeting at 5:55 PM. Motion carried.

The next regular meeting of the Law Committee shall take place virtually on Monday, September 14, 2020, at 3 PM.

Respectfully submitted,



Karen Fassuliotis, BET Law Committee Chair