



TOWN OF WESTPORT, CONNECTICUT

OFFICE OF THE TOWN ATTORNEY

EILEEN LAVIGNE FLUG
ASSISTANT TOWN ATTORNEY

MEMORANDUM

To: Jeff Wieser, Moderator, Representative Town Meeting

Cc: Jennifer S. Tooker, First Selectwoman
Jeff Dunkerton, Town Clerk
Ira Bloom, Town Attorney

Date: August 14, 2023

Subject: Petition Regarding a Review of Goals, Process and Plans for Parker Harding

You asked me to review a petition from John McCarthy and over 20 other electors received by the Town Clerk on June 27, 2023, requesting that you place on the September 5, 2023 Representative Town Meeting (“RTM”) agenda, “A review of the [Downtown Plan Implementation Committee’s (DPIC’s)] goals, process and proposed plan for Parker Harding, to be led by the lead petitioner [John McCarthy], with an invitation of the Chair of the DPIC to present if desired, with time reserved for RTM member and public comments following the review.”

Section C5-6(C) requires the Moderator to place on the RTM agenda “such matters as...20 electors...may request.” It is your decision as Moderator to determine whether the petition requests an agenda item that is actually within the RTM’s purview. I understand from your email to Mr. McCarthy that you have already advised him that this is not an actionable item by the RTM, and I agree. This memo will elaborate on legal advice I gave you in our prior discussions about this.

The Supreme Court of the State of Connecticut has stated that:

“Common sense is to be employed in the construction of a charter.... A city charter ... ‘must be construed, if possible, *so as reasonably to promote its ultimate purpose.*’ ... ‘The unreasonableness of

the result obtained by the acceptance of one possible alternative interpretation of an act is a reason for rejecting that interpretation in favor of another which would provide a result that is ... reasonable.”¹

Section C5-6(C) cannot reasonably be read to require that *any* item presented as described in that section must be placed on an agenda. Moderators have determined several times in recent years that petitioned items are not appropriate for the RTM agenda, including while I myself was Moderator. Petitions to the RTM that have been denied in the past include a petition to overturn a Planning and Zoning Site Plan and Special Permit (which the RTM does not have the authority to do), and petitions to add an RTM rule or adopt an ordinance that would conflict with the Town Charter.

The purpose of an RTM meeting is to consider actionable items within the RTM’s purview. The purpose is not to provide a public forum for a discussion of any topic that 20 or more electors wish to discuss in a televised meeting in the Town Hall auditorium. There are other venues and forums for such discussions.

The RTM has an essential role in Town government. The RTM’s role in the proposed Parker Harding reconstruction is to consider whatever upcoming appropriations may be requested by the administration and recommended by the Board of Finance. In addition, if the P&Z were to issue a negative 8-24 or approve a map or text amendment relating to the project, the RTM may be asked to review that. There will be ample time for the public to express its views on the plans and the desirability of the project at the RTM committee meetings and the meetings of the full RTM when any such item is on the agenda.

¹ *Stamford Ridgeway Associates v. Board of Representatives*, 214 Conn. 407, 429 (1990) (internal citations omitted; emphasis added)