INSTR # M2015000207
DATE FILED 02/11/2015 10:37:15 AM
CHRISTINE HALLORAN
TOWN CLERK
EASTON CT

March 24, 2014

MOTIONS AND MINUTES
Easton Town Meeting
March 24, 2014 – 7:00 p.m.
Samuel Staples Elementary School, 515 Morehouse Road, Easton

Present:
Adam W. Dunsby, First Selectman; Scott Centrella, Selectman; Robert Lessler, Selectman; Christine Halloran, Town Clerk

Attendees:
Over 400 members of the public

The First Selectman convened the meeting at 7:06 p.m.

The First Selectman asked for a motion to appoint a Moderator. Ray Martin nominated Bill Kupinse. The motion was seconded. The nomination was approved by unanimous voice vote.

The Moderator called upon the Town Clerk to read the call of the meeting. A copy is attached. The Moderator then proceeded with the agenda items.

Item 1: Discuss and take possible action on a proposed ordinance submitted by petition as follows: "The Town shall neither acquire, lend, borrow, lease, nor dispose of any real Town property by any means whatsoever without the prior express approval of its legislative body, the Town Meeting."

MOTION:
The Moderator called for a motion to adopt the ordinance as presented. A resident moved.
Gowen Dacey (who drafted the original proposed ordinance) moved to change the wording of the proposed ordinance to read as follows: "The Town shall not acquire, sell, lease nor dispose of any Town real property by any means whatsoever without the prior approval of its legislative body, the Town Meeting, except this shall not apply to acquisitions or sales less than $10,000, leases less than one year or less than $10,000 total lease payments, or properties acquired by foreclosure." The motion was seconded.

Chris Miles, Easton resident, gave a brief visual presentation on behalf of himself in favor of the proposed ordinance as amended. He commented on the simplicity of the ordinance; instead of having a hearing on town matters, the town should take a vote. Mr. Miles commented that his belief was that the ordinance is only relating to significant matters and major pieces of property. There has been no problem in the past. This is sensible, good government.

Town Officials Comment:
Adam Dunsby commented that this is a bad ordinance the town does not need and encourages the town to vote against it. Many of the people in town may not understand the implications of this ordinance. The proposed ordinance was presented 19 days ago to the town with no prior attempt at a public dialogue for an ordinance that has significant implications on how the town operates. The ordinance contains legal uncertainty with no problem that it solves. It will be expensive and burdensome for the town to deal with minor real property transactions and leases at a town meeting. Mr. Dunsby urges the town to vote no on this ordinance and any amendments.

Robert Lessler fully concurs with Mr. Dunsby's comments and agrees that this ordinance is unnecessary when it deals with purchases which already go to a Town Meeting. The proposed ordinance is overbroad and will touch on the work of conservation and planning and zoning issues going forward. The fees for a Town Meeting are approximately $800 per meeting to coordinate. Mr. Lessler urges residents to vote against this proposed ordinance as amended.

Public Comment:
Over 20 residents commented on the proposed ordinance and amendment.

After lengthy public and town officials' comments, a resident requested a "Call the Question" signifying a motion for a stop to the discussion and a movement to a vote on the amendment and the ordinance as amended or not. The Moderator indicated that "aye" signifies no further discussion, and "nay" signifies continuing the discussion regarding the proposed ordinance.

MOTION:
The Moderator called for a motion to vote on the "Call to Question." The "aye" wins. Motion carried overwhelmingly by voice vote. No further public comment or questions.

MOTION:
The Moderator called for a motion to vote on the amendment to the ordinance. The "nay" wins. Motion carried overwhelmingly by voice vote.

MOTION:
The Moderator called for a motion to vote on the ordinance as proposed. The "nay" wins. Motion carried overwhelmingly by voice vote.

Item 2: Adjournment

Bill Kupinse called to adjourn the meeting. Ray Martin moved. The motion was seconded. Motion carried unanimously by voice vote, and the meeting adjourned at 8:15 p.m.

Respectfully submitted,
Christine Halloran, Easton Town Clerk

on calendar 3/28 & 4/4

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BERCHEM, MOSES & DEVLIN, P.C.

ATTORNEYS & COUNSELORS AT LAW

MEMO

DATE: MARCH 10, 2014

TO: MEMBERS, EASTON BOARD OF SELECTMEN

FROM: IRA W. BLOOM, ESQ.

RE: PETITION FOR TOWN MEETING

A group of electors has petitioned the Selectman pursuant to Connecticut General Statute §7-1 to warrant a special Town Meeting to consider and vote on a proposed ordinance. The ordinance reads as follows: "The Town shall neither acquire, lend, borrow, lease nor dispose of any real Town property by any means whatsoever without the prior express approval of its legislative body, the Town Meeting."

You have asked for my opinion as to whether this proposed ordinance is a proper purpose to warrant a Town meeting.

Of course, the Town of Easton has no charter, so we are left with statutory procedures regarding the sale or acquisition of Town property. With regard to sales, it should be noted that there are already two (2) existing statutes which govern the sale of municipal property:

1. Connecticut General Statute §8-24: This statute requires the Planning and Zoning Commission to review proposed sales (along with purchases and leases) and to issue a report as to whether the proposal is consistent with the Town Plan of Conservation and Development.

2. Connecticut General Statute §7-163e: This statute provides that in towns where the legislative body is a town meeting, the board of selectmen shall conduct a public hearing on the sale, lease or transfer of real property owned by the municipality prior to final approval of such sale, lease or transfer.

Accordingly, there are already two (2) statutory procedures, one requiring a review by the Planning and Zoning Commission, and the other requiring a review and hearing by the Board of Selectmen.

The petitioners' proposed ordinance set forth above appears to seek to add an additional layer of review for municipal transactions in addition to the above statutory requirements. An ordinance adding such an additional layer of approval by the town meeting for sales or purchases would be a proper purpose to warn a town meeting. In other words, it would be possible to draft an ordinance requiring town meeting approval, for example, of a sale by the town, perhaps with a monetary threshold, upon a petition to the Board of Selectmen within ten (10) days of their action pursuant to Connecticut General Statute Section 7-163e. Other variations could also be drafted and would be valid public purposes.

The ordinance presented by the petitioners, however, is not in clear or proper form: As examples of some of the problems, consider the following: a) The proposed ordinance does not acknowledge the statutory reviews by the Planning and Zoning Commission or the Board of Selectmen. Where and under what circumstances does the Town meeting meet in the sequence of approvals? b) The proposed ordinance does not acknowledge that property acquired by the municipality by foreclosure, for instance, is excluded from Connecticut General Statute §7-163e. c) The proposed ordinance strings along phrases such as "borrow" and "lend," which appear to implicate the Town's bonding authority. Bonding is handled pursuant to other statutes and already requires Town meeting approval. These defects and potential others in the proposed ordinance would lead to confusion and legal uncertainty. The proposed ordinance should be revised.

Accordingly, I do not recommend passage by the Town meeting of the proposed ordinance. The Board of Selectmen may still choose to warn the special Town meeting to consider this ordinance as is, in which case both the proper wording and the merits of the proposal would have to be debated and resolved at the Town meeting. Alternatively, the Board of Selectmen may decline to warn the special Town meeting based upon the ordinance's lack of clarity and potential legal uncertainty. The petitioners would then have an opportunity to rewrite the proposal and present a petition once again to the Board of Selectman with new signatures.

IWB/kaa