



## **Legislative & Rules Committee – Board of Representatives**

Eileen Heaphy, Chair

Arthur Layton, Vice Chair

# **Committee Report**

**Date:** Monday, January 23, 2012

**Time:** 7:00 p.m.

**Place:** Democratic Caucus Room, 4<sup>th</sup> Floor Government Center, 888 Washington Boulevard, Stamford, CT

The Legislative & Rules Committee met as indicated above. In attendance were Chair Heaphy, Vice Chair Layton and Committee Member Reps. Day, Fountain, Merritt, Mitchell, Rauh, Uva and Zelinsky. Also present were Reps. Fedeli and Loglisci; Greg Ladestro, Interim Associate Corporation Counsel; Anne McCrory, Chancellor, Diocese of Bridgeport; Teri Dell, Chair, Planning Board; Mike Lipp, Day Pitney, LLP; Mike Myer, Student Support Services, Stamford Public Schools; Reverend Joseph J. Malloy, Pastor, St. Clement's Church; Dante Fedeli and Tom Cassone, Esq.

Chair Heaphy called the meeting to order at 7:02 p.m.

<b>Item No.</b>	<b>Description</b>	<b>Committee Action</b>
1. <a href="#">LR28.037</a>	RESOLUTION & <u>public hearing</u> approving a lease with St. Clement's Parish Corporation for space and parking for the Stamford Board of Education to operate an alternative high school program.	<b>Approved 7-1-0</b>

Representative Merritt recused herself from discussion of this item. Chair Heaphy opened the public hearing. Mr. Dante Fedeli of 32 Carlyle Place, a trustee of St. Clement's Church, strongly recommended that the committee approve this lease. He stated that it is a win/win for the City, which needs a spot for the program and for the church which can use the income. Father Joe Malloy, the pastor of St. Clement's also spoke in favor of the lease, stating that the school and the Parish have a great relationship and the church is happy to have the school in the building. Mike Myer also spoke in favor of the lease, noting that the ARTS program has had many homes, and that since this is a 5 year lease, it will allow the program to develop and provide improved services to some of Stamford's most needy students. The public hearing was closed.

Greg Ladestro described the key terms of the lease, which is for 55 months, with an initial rent of \$6,000/month, with annual increases of 3%. The utilities are shared 80% City/ 20% St. Clement's. Representative Uva expressed concern about whether the provisions in Section 4 of the lease regarding the use of the premises violate Constitutional provisions regarding the separation of church and state. Mr. Ladestro explained that St. Clement's would not enter into the lease without this provision and that it was negotiated by Deputy Corporation Counsel Richards and Corporation Counsel Larobina. He noted that the lease also provides an opportunity to cure. Representative Rauh explained that the Board of Education received a legal opinion on this lease and is comfortable with the lease as a result. Representative Day stated that this lease is

important to approve for the needs of the City and that he believes the legal opinion is very strong and that the lease neither establishes religion nor inhibits the practice of religion. Ms. McCrory stated that this provision is in numerous leases the with municipalities and public entities and the purpose is to preserve the exercise of religion for St. Clement's Parish and to reinforce the separation of church and state. She noted that the lease contains a provision that it is not the intent of the lease to infringe the constitutional rights of the parties, teachers, or students. Ms. Rauh stated that other districts also have leases with similar provisions and stated that this is a wonderful facility and the last option for some of these students, who cannot be on school property. It was approved unanimously by the Board of Finance. Ms. Uva explained her continuing concern that the Section 4 raises other First amendment concerns that were not addressed in the legal opinion that was provided to the Department of Education. Mr. Myer explained that when the subject of religion comes up in a conversation, a good teacher will be able to take the opportunity to lead a discussion without taking a position. Health education can be done offsite either through technology or in other locations. Representative Mitchell stated that this lease is in her district, so she researched this. Her constituents are in favor of the lease; other districts have entered into leases with similar restrictions and it is important for the alternative school program to have a permanent home. A motion to approve this lease was made, seconded and approved by a vote of 7-1-0 (Reps. Heaphy, Layton, Day, Fountain, Merritt, Mitchell, Rauh and Zelinsky in favor. Rep. Uva opposed.)

5. [LR28.033](#) REVIEW; Board of Ethics annual report/letter and suggestions for changes to the Ethics Ordinance. **Report Made**

The Committee considered this item next. Chair Heaphy announced that she has formed a subcommittee to draft possible changes to the Ethics Ordinance, consisting of Mr. Layton and Mr. Fountain. She stated that she asked Mr. Cassone, former Corporation Counsel, to address issues of immunity and the payment of legal fees. In response to questions from the Committee, he stated that:

- State statutes protect municipal employees who act within the scope of their responsibilities and not willfully or maliciously and the employee would be entitled to indemnity
- An employee found guilty would not be able to receive a return of legal fees
- Corporation Counsel represents both the boards and employees and officers acting within the scope of their responsibilities, although in the event of a conflict, Corporation Counsel would select special counsel to act
- The City's agreement with the Police Union sets out that if there is a complaint from outside the department but the officer is found to act within the scope of his/her duties, the officer is entitled to reimbursement of legal fees. What are reasonable fees are negotiated up front
- Having a definition of reasonableness in the Code would be difficult, but could include a provision that Corporation Counsel has the authority to negotiate and determine what is reasonable
- No provision in the Code can conflict with the Charter or collective bargaining agreements, so including a penalty in the Code, such as impeachment of elected officials or other penalties for employees would be difficult.
- The Code of Ethics is a guide to appropriate behavior, not an enforcement vehicle
- The Code could provide for an ethics officer, so long as that officer is disqualified from participating in Board of Ethics procedures
- There will always be vindictive individuals and the Board of Representatives may not be able to draft a code to protect against the actions of such individuals.

- Drafting a code that reacts to recent occurrences may have unintended consequences
- It makes sense for the Code of Ethics to remain in the Code rather than be in the Charter, because the Charter is a structural guide which is difficult to change
- Whether there is a conflict of interest and how to address it is a judgment call by Corporation Counsel
- Although the Code says to avoid the appearance of impropriety, there should not be sanctions for an appearance
- Including political interest could be very broad
- Making wholesale changes to the Code, which was very carefully drafted, in order to react to a situation, might not be a good idea

4. LR28.036 PROPOSED ORDINANCE; for publication; requiring that the Planning Board, Zoning Board and Zoning Board of Appeals videotape all meetings and have them available on the city's website. **Held in Committee 9-0-0**

Ms. Dell stated that

- She has reservations about this proposed ordinance because she does not feel it is essential, the Boards meet on the 7<sup>th</sup> floor in an open area; and their public hearings are often held in the cafeteria
- Most weekly work is mundane, relating to subdivisions and referrals to the zoning board with interested parties present at the table
- Land Use has a very small budget and would not be able to pay for this

Ms. Rauh noted that the Board of Education is holding a meeting at the Ferguson library which needs to be taped because of the current ordinance, although the library does not have the equipment and can't have meetings in schools because the schools don't have the equipment. She also stated that the Board of Education has had to pay someone to tape its meetings.

Ms. Dell noted that Land Use will sometimes meet in school auditoriums if there is large public interest.

Ms. Heaphy stated that Mr. Pensiero previously told the committee that the audio quality on the 7<sup>th</sup> floor would be poor and the cost of installing the equipment is \$40-50,000 per space

Representatives discussed whether it is appropriate to require this of non-elected board members, whether this would unduly restrict movement of committees and boards, whether the public is interested in these boards, whether this should apply to all volunteer boards and commissions, and whether the time was right to incur these costs. The Committee also discussed the possibility of providing one large, centralized public space where all Boards could hold public hearings that could be recorded. A motion to hold this item was made, seconded and approved by a vote of 9-0-0. (Reps. Heaphy, Layton, Day, Fountain, Merritt, Mitchell, Rauh, Uva and Zelinsky in favor.)

2. LR28.035 APPROVAL; of a lease renewal by Cox Radio, Inc. for **Rejected 0-9-0** property at Magee Avenue.

Ms. Heaphy stated that this item had previously been held in order to address why the rent is lower than the current rent and why the increases are so low. Mr. Ladestro stated that these were the terms presented to the Legal Department, and someone from the police, fire or operations department would need to explain the terms. He stated this

lease is necessary as a backup for emergency safety. Committee members stated that the lease is silent as to this purpose. Ms. Uva noted that this item may also require the prior approval of the Health Department under Code §160. Ms. Heaphy stated that she is under the impression that Cox Radio has sold all of its WSTC assets to Sacred Heart University's broadcasting service, which would require approval under the lease. A motion to hold this item was made, seconded and defeated by a vote of 0- 9-0. (Reps. Heaphy, Layton, Day, Fountain, Merritt, Mitchell, Rauh, Uva and Zelinsky opposed.) A motion to approve this item was made, seconded and defeated by a vote of 0- 9-0. (Reps. Heaphy, Layton, Day, Fountain, Merritt, Mitchell, Rauh, Uva and Zelinsky opposed.)

3. [LR28.032](#) PROPOSED ORDINANCE; for publication; amending Section 158-1, Loitering, to include a penalty/fine provision.

**Held in  
Committee  
9-0-0**

A revised draft of this proposed ordinance was distributed at the meeting. Ms. Rauh stated that she would like to expand the provisions to address loitering on school property during the daytime, on weekends and during school vacations. She also noted that some school properties are very large and can't be monitored completely. A motion to hold this item was made, seconded and approved by a vote of 0- 9-0. (Reps. Heaphy, Layton, Day, Fountain, Merritt, Mitchell, Rauh, Uva and Zelinsky opposed.)

Chair Heaphy adjourned the meeting at 9:20 p.m.

Respectfully submitted,

Eileen Heaphy, Chair

*This meeting is on [video](#)*