



Thomas S. Scarpati  
First Selectman

**TOWN OF MADISON CONNECTICUT 06443-2563**  
**BOARD OF SELECTMEN**

William Gladstone  
Noreen Kokoruda  
Kathi Traugh  
Charles F. Walz

**SPECIAL BOARD OF SELECTMEN MEETING**

**MEETING DATE:** THURSDAY, JUNE 1, 2006

**MEETING PLACE:** HAMMONASSET ROOM, TOWN CAMPUS

Selectman Scarpati called the Special Meeting to order at 7:10 p.m. Present were Selectmen Scarpati, Walz, Traugh, and Gladstone. Selectman Kokoruda was absent.

1. Discuss Planning and Zoning - Appointed vs. Elected

Selectman Scarpati said that Selectmen have to take a position and the purpose of this evening's meeting was to hear from persons from both sides of the issue and have a working/information meeting with the Selectmen.

Selectman Walz said this is an information meeting to hear both sides cogently, not a decision meeting.

Herb Gram, 287 Boston Post Road, said he was one of the original circulators of the petition that started this question. He said that it was the petition's contention that this question be put to the citizen's directly; asking that it be put on a ballot. Mr. Gram reiterated that the Board of Selectmen were the ultimate appointers for a Planning & Zoning Commission, that in turn makes law and does so without the accountability back to the people that comes from an elected position (i.e. impeachment).

Joe MacDougald, Chairman for the Planning & Zoning Commission then gave a video and PowerPoint presentation. He began by saying there are three areas he examined for considering elected or appointed commission members:

A) Legal conflict of interest with elected positions. He said there is an ironic paradox worth remembering: "if you have an elected commission in a contested town with rising real estate values, you give inordinate leverage to the developer." This was due to the legal issue of predisposition that tips the scale for the other side of what you campaigned. Mr. McDougal showed a clip from Bill Moyers' NOW where a candidate running for Town Supervisor had a platform of being against a big project and when he

was elected he was soon confronted with a legal warning from the applicant that said he either recuse himself from any matters concerning this development or face liability.

B) Personal, ethical considerations. Mr. McDougal said that each member of the commission is sworn in with an oath to discharge all the laws for municipal planning & zoning in Connecticut and he added that most of Madison's commission's time spent is administrative.

He said that the commission is the vetting place of review when locally undesirable land use needs are proposed: whether its sewers, fire stations, ball fields, that all have to go somewhere. He said that this is an example of what makes the commission structure important, and having a commission without agendas is something to consider.

C) Municipal Policy. Mr. McDougal said that waterfront towns have development pressure. He cited that it took four years for the Planning & Zoning Commission to adopt two new regulations: the Village District, and the Floating Zone after considering the environmental, the economic and the cultural impact analyses before adopting the regulations.

Mr. McDougal emphasized that with regard to municipal policy, more coordination is needed not less, and that the zoning conditions are different now and don't give rise to this petition's charge.

Herb Gram said that the reason why the town has an elected Board of Finance and an elected Board of Education is a check and balance system.

Sylvia Lowrey said you cannot remove appointed people unlike elected and those people who volunteer on these commissions face lawsuits as appointed like she did on the Inlands Wetlands Commission.

Herb Gram said that when the Planning & Zoning Commission came up with Special Exceptions those were serious changes of legal use in a zone and now, they call it a Floating Zone instead of calling it a special exception. He said that the Planning & Zoning Commission can make zones and say what can go where and he thinks they should be elected.

Bob Roxborough said the power to shape the values and quality of life in the town therefore should be elected. As far as Mr. Dougal's point about the elected town supervisor being sued to recuse himself, that we will have to take that chance. He cited the Town of Killingworth having an elected commission for over 25 years. Mr. Roxborough said that the people of Madison needed to decide the question in a vote and they're looking for that opportunity.

Elisa Ring said she has been with the Zoning Board of Appeals as both elected and appointed and mentioned that the two political committees has an extremely extensive and thorough review of who they recommend for appointed positions. She said she believed that elections would dissuade some qualified

applicants and she doesn't see a compelling reason to change to 'elected' for the Planning & Zoning Commission.

Terry Macy, member of the Planning & Zoning Commission, said that serving as an elected member puts you in a political position taking political positions. He said that he and the other members of the Planning & Zoning Commission are severely regulated as to what grounds decisions can be made. He added that any major project that comes forward in Madison also has to comply with the Town's Plan of Conservation & Development. As an aside, Mr. Macy said that there are few commercial options available in Madison and the commission studies them.

Mr. Macy said that being appointed hardly makes them arbitrary because commission members are constrained and framed by regulations and the Plan of Conservation & Development, and that needs to be clearly understood.

He then cited opinions from two places on elected versus appointed – 1) League of Women Voters: a) the personal cost to candidates is high in time and money; b) the political psychology and skills do not translate to the best and the brightest fit; c) appointers will be responsible and accountable to the public for appointees.

2) Connecticut Conference of Municipalities: appointed boards may result in greater expertise and responsiveness while the need to campaign discourages some community members.

As Chairman of Madison's Democratic Committee, Mr. Macy said that the Committee would never subject themselves in recommending a reappointment for someone who has displayed negative conduct while in their board or commission position.

Selectman Walz asked Mr. Macy to describe the review process the Democratic Town Committee takes before they recommend persons for election or appointment.

Mr. Macy said that an interested party comes forward and applies for an opening and is then formally interviewed, deposed of what their views are, and then they and the nominating committee chairman make presentation speeches to the whole body of the committee, and if the applicant is approved by the voting of the whole committee then the committee sends their recommendation to the Selectmen.

Peter Sakalowski, 50 Mendingwall Circle, said he is in favor of an elected position and in favor of this going to a public vote. He said that an appointed person can have the same opinion against something as someone who campaigns in an election – either one should not speak their opinions publicly.

He said that when he would offer to recuse himself when he was against the Leyland application doesn't mean he couldn't participate in other development applications. He added that when there is a significant opinion expressed by the public that the commission should listen.

Selectman Gladstone asked Mr. Sakalowski if the commission is supposed to respond to public outcry or are they supposed to enforce the regulations, etc.

Mr. Sakalowski said that when there is a large majority coming out for something, either way, for or against, that the commission would try to balance and weigh these comments with what kind of town do we want – for example some may prefer to pay more taxes in lieu of developments.

Selectman Scarpati said that he has been First Selectman for five years and one of the changes the Board of Selectmen insisted on was requiring the town committees improve their vetting process: with applications and interviews – and the Board of Selectmen will not rubberstamp and make an appointment if they don't feel the process was followed. Mr. Scarpati added that you can't tell someone when he or she get into a position that they now must be neutral, but rather to compartmentalize their feelings and do what's best for the town.

Mr. Scarpati said that what the petition group was unhappy about was five years ago and to say now, that the status quo needs to be changed is to say that there is something wrong, now and that the town should hear what the specifics for this is now.

Selectman Walz begged the question that electing a person was better than appointments when you look at how many elected positions run unopposed; and as a practical matter, do we take more of the Town influence out of the appointments, out of the commissions by making it an elected position. He added that as elected Selectmen for example, if they don't respond to their constituencies they get removed.

Selectman Scarpati brought up the question of should the Town of Madison require there be challengers since an election should be a choice between two candidates, not just an approval of single name appearing for a position.

Selectman Gladstone concurred and said if we go through the nomination committees of the town committees and then that goes to an election – then we've abrogated the whole process of the town committees.

If it goes through the Board of Selectmen, it provides one further opportunity for elected officials to pass judgment, to vet those candidates. Where if it just goes to an unopposed election --- essentially they're coronated by the town committees and is that better?

Selectman Traugh said that the committees have difficulty-finding people to run for elective offices and the appointed process brings more people out.

Selectman Scarpati said the point Selectman Gladstone made is – to get on the ballot, the Board of Selectmen have no say--- but at least the Selectmen have the ability to overrule what's presented – and the Selectmen have done this on several individuals. He said that that's one area there is Selectmen autonomy

in deciding, unlike some of Selectmen decisions that go beyond the Selectmen: issues referred to Board of Finance for example. He added that the Board of Selectmen is really the public's representative to protect the town.

Herb Gram said that there is rather broad language in the Plan of Conservation & Development – for example it says “... we will work for the economic development of the town while keeping in mind the environmental aspects...” so that then becomes the guideline. Mr. Gram brought up that, in opposite to a candidate making a platform with a particular issue they instead could say they are for conservative development or minimal impact on the Hammonasset River and be broader about it.

Selectman Scarpati disagreed and said that even using the word ‘minimal’ could be legally challenged by a developer for instance.

Selectman Walz brought up the need to respect a landowner's rights to change their property as well as the Town rights have to be respected.

Christine Poutot, member of the Planning & Zoning Commission brought up that Madison's Planning & Zoning had been appointed for more than forty years and the town turned out the way it did because of those appointed people. She said that if the group opposing the Leyland development thinks something was done wrong then they should be going to the state, but to change the whole process to being elected is very wrong for all the reasons said here tonight.

She said that with regard to elections that the town is not going to get many people to run and that they'd lose people. She also said that the longevity of the people that have come on the Planning & Zoning Commission and that yields to continuity in the lengthy deliberations the commission has undertaken. And that an elected person may want to use being on the commission as a stepping stone to something else or not stay on long.

Neil Payne, alternate member of the Planning & Zoning Commission said he disagrees with the idea people have that the commission makes law. He said that the commission makes regulations applied against state statutes.

Town resident Odessa Taft said the current members of the Planning & Zoning may or may not run if there were to be elected positions but perhaps new people would want to run. She said the town needs to be careful with how we develop because once it's gone; it's gone.

Bob Roxborough said that that the petition includes 1,338 signatures, more than 10 percent of the town, and the final solution is for the people to be able to vote up or down for an elected Planning & Zoning Commission.

Holly Allgood, alternate member of the Planning & Zoning Commission said she would personally be concerned about who would want to run.

Chairman of Planning & Zoning Joe MacDougald said the largest grouping of people on state Planning & Zoning Commissions are realtors and Madison has on its Planning & Zoning 2 PhD's, 3 lawyers, architects, environmental professionals and expanding the Town's Grand List is not their charge.

He said that on a process point that when the Hearth was developed the Planning & Zoning Commission responded by creating the Village District. He added that with Leyland's site-specific special exception that those are no longer done; instead the Planning & Zoning Commission responded and created the Floating Zone.

He added that his reappointment process was very extensive.

Charter Revision Commission Chairman Tom Banish pointed out they added a provision to the Charter to remove commission members that wasn't there before.

Selectman Scarpati said that he prefers the appointed to the elected, that the Board of Selectmen worked hard to ensure there be a process of vetting and through the discussion in the Board of Selectmen of who goes forward that the town wound up with a very good Planning & Zoning Commission line-up. He added that he doesn't always agree with their votes but he recognizes that it is the process of putting qualified and capable people on there.

Selectman Scarpati brought up the issue of minority voting and representing the "interests" of the town and stated the fact that at a Town Meeting 51 people are required to form a quorum and can decide something for the Town, and 26 people can then overrule that. In addition, Mr. Scarpati said that whether it's at a Board of Finance Public Hearing or a Selectmen's when a group is heard that the Selectmen or the Board of Finance try to gauge if the group speaks for the Town.

Herb Gram said that they are not asking for the Selectmen to make a decision; that they are asking the Selectmen to take it to the Town for a vote.

Selectman Scarpati asked for a motion to close the special meeting.

**MOVED** by Selectman Gladstone and seconded by Selectman Traugh to adjourn the special meeting at 9:53 p.m. This was unanimously approved.

Respectfully submitted:

Recording Secretary  
Pro Tem