

Town of Beacon Falls
Senior Center
57 North Main Street
Bernadette Dionne, president
203-723-2344

Sept 8, 2020

Board of Selectmen
10 Maple Ave
Beacon Falls, Ct. 06403

Dear Sir,

It has been brought to my attention that various organizations in town have held meetings at the Beacon Falls Senior Center. I trust that all State mandated Covid 19 safety practices have been strictly in place.

In view of this, I would like your approval for the Beacon Falls Seniors to hold their monthly business meetings at the Beacon Falls Senior Center. Be assured that all Covid 19 Safety practices (temperature taking, masking, social distancing along with all those attending being required to sign in verifying their name, address and phone number along with email if applicable) will be strictly adhered to.

If you should need anything further, please contact me. I will request your prompt attention regarding this matter so that I can keep the members informed.

Respectably Yours
Bernadette Dionne
B. F. Senior Center Pres

Kerry McAndrew

From: Mary Ellen Fernandes <msjtj@sbcglobal.net>
Sent: Friday, August 21, 2020 8:42 AM
To: kmcandrew@tofbct.com
Subject: COMMISSION MEETINGS

To the Board of Selectman:

It has become very clear that the current Administration is doing everything possible to keep the citizens uninvolved. The public are not allowed to attend Commission meetings (under the guise of COVID restrictions), however, when the public was needed in order to push forward a bond package, you were able to have the public attend. Weird, right? When dialed into ZOOM, the public can not tell who is talking, who is in attendance, which board members are showing up and comments are a joke. Why submit comments after the fact? Once a decision is made, a comment from the public has no bearing on commission decisions. What happened to Transparency? I think it is time for this administration to allow the citizens to once again have a choice to participate in town issues.

Mary Ellen Fernandes
5 Sharon Drive

MEMORANDUM

TO: Board of Selectmen

FROM: Planning & Zoning Commission

DATE: August 25, 2020

SUBJECT: Former Clerk Town Issued Equipment

Dear Selectmen,

At the Planning & Zoning meeting held on Thursday, August 20, 2020, the board members passed a motion to inquire if the Board of Selectmen would return the former clerk of Planning & Zoning her town issued laptop and printer equipment to keep indefinitely.

Please let this correspondence serve as a formal request for the Board of Selectmen to discuss this request at their next monthly meeting to be held on September 14, 2020.

Thank you.



MEMORANDUM

To: Hon. Gerard Smith, First Selectman
Beacon Falls Board of Selectmen

From: Stephen Studer

Date: September 1, 2020

Re: Proposed Ordinance Regarding Racism

The Board of Selectmen referred a recently received request for a new ordinance to me under step 2 of the Town's procedure for adopting a new ordinance. After reviewing the proposed ordinance, despite the laudatory objective of the person, or persons, who proposed it, it is my legal recommendation that the Town of Beacon Falls not adopt the proposed ordinance for the reasons briefly set forth below.

First, a municipal ordinance is a statement of a "rule" or "law" of general application within the Town with provisions for its violation. See Connecticut Gen. Statutes 7 – 148 (b) (1) and (2). What was presented to the Selectmen does not propose a new law, rather it requests the Town to take a position on an important issue facing the nation as a whole. As such, what it requests is more like a resolution or proclamation than an ordinance. A resolution is, essentially, a formal statement of opinion or intent with respect to a matter which would not properly constitute an ordinance.

Among other things, the proposal before the Board of Selectmen seeks a legislative determination by the Town that, as a matter of fact, racism is a public health crisis affecting not just Beacon Falls, but "all of Connecticut". Such a broad factual finding is beyond the authority of the Town's legislative body. Finally, since the proposal claims that the concerns it expresses affect people of color broadly throughout Connecticut, such general claims are better addressed at the state level.

Second, a legislative determination by the Town that racism is a public health crisis may have unintended, adverse legal consequences since it could be construed as an admission of

discrimination by the Town which may be admissible against the Town in future litigation. Specifically, a number of municipal attorneys, looking at the same or a similar proposal, believe that such an admission might be used to satisfy a plaintiff's initial evidentiary burden in a case for racial discrimination; thereby, shifting the burden of proof from the plaintiff to the Town. Consequently, adoption of the proposal may result in an increase in litigation against the Town; however, even if it did not result in an increase in the number of claims of discrimination, if such a claim were brought, it very well could weaken the Town's position. In either case, it could entail additional cost in the form of a greater commitment of Town resources and personnel, including attorney's fees and litigation costs (e.g. expert witness fees).

Although the proposal may have been submitted for enactment as a municipal ordinance, it does not propose the adoption of a specific rule or law; rather, it requests a resolution regarding what many consider a pervasive and repugnant inequality in society. Accordingly, my recommendation is that the Selectmen, if they wish, adopt a resolution similar to the following expressing solidarity without the risk of adverse legal consequences as described above.

"The Town of Beacon Falls stands united with other municipalities and organizations throughout Connecticut and the nation which are opposed to racism and fundamental inequality. The Town supports those who fight peacefully against historic and systemic racism, for individual justice and for a safer, more inclusive, more just society. As a community, Beacon Falls is committed to confronting racism and to working for equality under the law for all."

Sent to ATTY
8-12-2020

PROCEDURE

INTRODUCE A NEW ORDINANCE OR REVISE AN EXISTING ORDINANCE

Bansons Benkowitz

NAME OF ORDINANCE

1. Commission, Board or a Town Resident, who is a Registered Voter, presents Ordinance proposal to Board of Selectmen for review.
2. Board of Selectmen reviews Ordinance, then submits to Town Counsel for review and proper verbiage.
3. Board of Selectmen posts Notice of Public Hearing on Ordinance.
4. Board of Selectmen posts notice of Town Meeting to vote on whether or not to adopt the Ordinance.
5. Town Clerk publishes approved Ordinance in the most widely circulated newspaper.
6. Ordinance goes into effect, fifteen (15) days after publication.

PROCEDURE TO FOLLOW

(Date and Sign Check-off List as Procedure is Followed)

Date <u>8/3/20</u>	Signature <u><i>[Signature]</i></u>	Ordinance presented to BOS for review. (1 st Selectman or designee)
Date <u>8/10/20</u>	Signature <u><i>[Signature]</i></u>	BOS reviews ordinance, submits to Town Counsel for Review (1 st Selectman or designee)
Date _____	Signature _____	Town Counsel reviews. Prepares proper verbiage. (Town Counsel)
Date _____	Signature _____	Public Hearing (Moderator)
Date _____	Signature _____	Town Meeting (Moderator)
Date _____	Signature _____	Town Clerk publishes Ordinance (Town Clerk)
Date _____	Signature _____	Effective Date of Ordinance (Town Clerk)

ORDINANCE/RESOLUTION REQUEST

WHEREAS, racism is a social system with multiple dimensions: individual racism that is interpersonal and/or internalized or systemic racism that is institutional or structural, and is a system of structuring opportunity and assigning value based on the social interpretation of how one looks.

WHEREAS, race is a social construct with no biological basis.

WHEREAS, racism unfairly disadvantages specific individuals and communities, while unfairly giving advantages to other individuals and communities, and saps the strength of the whole society through the waste of human resources.

WHEREAS, racism is a root cause of poverty and constricts economic mobility.

WHEREAS, racism causes persistent discrimination and disparate outcomes in many areas of life, including housing, education, employment, and criminal justice, and is itself a social determinant of health.

WHEREAS, racism and segregation have exacerbated a health divide resulting in people of color in Connecticut bearing a disproportionate burden of illness and mortality including COVID-19 infection and death, heart disease, diabetes, and infant mortality.

WHEREAS, Black, Native American, Asian, and Latino residents are more likely to experience poor health outcomes as a consequence of inequities in economic stability, education, physical environment, food, and access to health care, and these inequities are, themselves, a result of racism.

WHEREAS, more than 100 studies have linked racism to worse health outcomes; and

WHEREAS, the collective prosperity and well-being of Beacon Falls depends upon equitable access to opportunity for every resident regardless of the color of their skin.

Now, therefore, be it *Resolved*, that the Board of Selectmen of Beacon Falls—

- 1) Assert that racism is a public health crisis affecting our town and all of Connecticut;
- 2) Work to progress as an equity and justice-oriented organization, by continuing to identify specific activities to enhance diversity and to insure antiracism principles across our leadership, staffing, and contracting;
- 3) Promote equity through all policies approved by the Board of Selectmen and enhance educational efforts aimed at understanding, addressing, and dismantling racism and how it affects the delivery of human and social services, economic development, and public safety;
- 4) Improve the quality of the data our town collects and the analysis of that data—it is not enough to assume that an initiative is producing its intended outcome. Qualitative and quantitative data should be used to assess inequities to impact and continuously improve;
- 5) Continue to advocate locally for relevant policies that improve health in communities of color, and support local, state, regional, and federal initiatives that advance efforts to dismantle systemic racism;
- 6) Further work to solidify alliances and partnerships with other organizations that are confronting racism as a public health crisis;

- 7) Support community efforts to amplify issues of racism and engage actively and authentically with communities of color wherever they live; and
- 8) Identify clear goals and objectives, including periodic reports to the Board of Selectmen, to assess progress and capitalize on opportunities to further advance racial equity.

8/10/2020

First Selectman Smith,

On 6/3/2020, I submitted a letter of correspondence to the Board of Selectmen regarding a Freedom of Information Act (FOIA) complaint I filed against the Clerk of the Planning and Zoning Commission.

Due to COVID-19, I indirectly know you have been busy trying to get the Town of Beacon Falls up and running as all local governments have been doing.

You will find a copy of my correspondence following this letter with hopes you are able to address it this evening at the Board of Selectmen meeting, perhaps as a new item on the agenda.

Kind regards and please keep safe.

Shawn Styfco

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6/3/2020

First Selectman Smith,

As a follow up to the Freedom of Information Act (FOIA) complaint I filed in February against the Clerk of the Planning and Zoning Commission, I'd like to extend a thank you for the action taken.

Unfortunately, due to COVID-19, this FOIA complaint took longer than normal to be investigated and resolved. While I am no longer a Beacon Falls resident, the allegations in my FOIA complaint were proven to be true and took place while I was a resident.

While these efforts were well appreciated, I still have some concerns.

I am going to layout several recent instances where P&Z Chairman McDuffie failed the residents of Beacon Falls by failing to uphold his duties as P&Z Chairman. At this time, I am asking you and the Board of Selectmen to investigate the Beacon Falls Planning and Zoning Commission further and seek legal counsel for an opinion if necessary.

From my understanding:

- P&Z Chairman McDuffie oversees the operation of the P&Z Commission
- Former P&Z Clerk Fernandes reported directly to P&Z Chairman McDuffie

FOLLOW UP TO THE FOIA COMPLAINT

Minutes not being submitted by former Clerk Fernandes within the timeframe designated in the FOIA statute are also the responsibility of Chairman McDuffie since it is his job to oversee the Clerk's actions and give her direction when necessary. It is clear that McDuffie failed to oversee the actions of the former Clerk, which was proven true.

PUBLIC HEARING 2/27/2020

A Public Hearing about the indoor shooting range took place on 2/27/2020. This meeting was voided due to the legal notice not being published and or not submitted to the newspaper as shown in the voided meeting minutes: (https://www.beaconfalls-ct.org/sites/beaconfallsct/files/minutes/20200227_pz_public_hearing_meeting_mins.pdf).

As you may know, there is a legal requirement about publicizing public hearings:

Notice of the hearing must be published at least twice in a newspaper. The notices must be at least three days apart, with the first one published between 10 and 15 days before the hearing and the second one published at least two days before the hearing (CGS § 7-163e(a))

- Did Chairman McDuffie know the legal notice was not published and or not submitted to the newspaper?
- Is there proof of payment to the newspaper from the Town of Beacon Falls for this legal notice?
- Was former Clerk Fernandes paid for taking minutes for a public hearing that was voided due to her own negligence if it was not submitted to the newspaper?

As Chairman, McDuffie should have done his due diligence and checked to see if a legal notice was published per legal guidelines. McDuffie also wasted the applicant's money since their Attorney was

present. Additionally, McDuffie also wasted taxpayer money and time of all parties involved. How is Beacon Falls expected to add new businesses when the simplest tasks could not be completed?

P&Z CLERK BEING INVOLVED IN MEETING 11/21/2019

I was present at the Planning and Zoning meeting on 11/21/2019 where I witnessed former Clerk Fernandes voluntarily recite ordinances and speak as if she was a Commissioner on P&Z. I called a Point of Order since I found this behavior unacceptable and I was told by Chairman McDuffie that I was "Out of Order". From my understanding, the Clerk's job is to take minutes, clarify previous minutes and see that Roberts Rule of Order is followed. I understand that former Clerk Fernandes has a history of speaking as if she is a member of the Commission and Chairman McDuffie has never stopped her from doing so.

https://www.beaconfalls-ct.org/sites/beaconfallsct/files/minutes/20191121_pz_monthly_mtg_minutes_.pdf

As P&Z Chairman, McDuffie should know the role of a clerk at a meeting and know what they're not supposed to do. However, if he doesn't, that also poses a problem.

TRAINING

The Beacon Falls Planning and Zoning Ordinance states:

"All members of the Planning and Zoning Commission are required to attend at least one (1) training per year, specific to the Planning and Zoning Commission. This training will provide useful information needed to make decisions in the best interests of the Town of Beacon Falls. Failure to attend such training and provide documentation of the attendance will be cause for removal from the Commission by the Board of Selectmen."

Does documentation exist of what trainings each commissioner attended while McDuffie has been Chairman of P&Z? While some trainings may have a cost (like one I attended when I served on Inlands/Wetlands), the Town would have a record of the payment.

REAL ESTATE LICENSE PERCEPTION

Tiverton is a development on Fairfield Place where P&Z heard from the public and eventually approved the project to move forward. The Real Estate agent used to sell properties on the Tiverton Development was Realty 2000.

Chairman McDuffie holds a Real Estate License in Connecticut. On May 21, 2019, McDuffie changed the sponsoring broker for his Real Estate license from JWB Realty, LLC to Preferred Referrals, LLC. Preferred Referrals, LLC is owned by the same individual/entity who owns Realty 2000. Whether or not there was ill intent, this opens up a perception issue for Chairman McDuffie. All of a sudden, the broker holding McDuffie's Real Estate license also is selling properties for a development which the Commission McDuffie oversees, approved – interesting timing.

Real Estate agents also make money from referrals. This money is not publicly reported since the referring agent did not make the sale, they only made a referral.

These are only a few things I noticed in the short time while I was involved in Beacon Falls, how many other actions went overlooked prior?

For the 15 years McDuffie served for the Housing Authority of Ansonia and 16 years he served on Planning and Zoning for Beacon Falls. There is only one answer, McDuffie should know better.

Beacon Falls can do better than this and I'm suggesting P&Z Chairman Kevin McDuffie be immediately removed from Planning and Zoning and replaced with a person who knows the rules, knows the ordinances and someone who will have the best interest of Beacon Falls.

Sincerely,

Shawn Styfco

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