

# **T O W N O F G R E E N W I C H**

## **Board of Ethics**

### **Notice of Special Meeting**

**Tuesday, September 8<sup>th</sup>, 2009  
5:30 P.M.**

**Gisborne Conference Room**

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### **A G E N D A**

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- 1. Approval of Minutes**
- 2. Chairman's Report:**
  - a. Hotline Enhancements**
  - b. Reporting Project**
  - c. Annual Disclosure Statements**
  - d. Annual Report of the Board**
  - e. Schedule of Meetings for FY09-10**
- 3. Request for Advisory Opinion dated August 7, 2009**
  - a. Proposed Statement of Facts**
  - b. Jurisdiction**
  - c. Issues Presented**
  - d. Draft Opinion**
- 4. Other Matters**
- 5. Adjournment**

**Att.: Proposed Statement of Facts**

# PROPOSED STATEMENT OF FACTS

## Request for Advisory Opinion dated 08-07-09

A person who is a part owner in an engineering firm is also a member of the Greenwich Flood Erosion Control Board (the "FECB"). The FECB was established by the RTM in 1957 and consists of five members, the First Selectman and four members appointed by the RTM. The FECB establishes policies for the Department of Engineering with respect to erosion and flood control, including master plans and prioritization and other criteria for selection of storm water management and drainage control projects and is responsible for monitoring and making recommendations concerning storm water utilities, erosion and flood control matters generally.

The engineering firm that the FECB member is a part of provides a variety of engineering services, including environmental and flood studies and management plans, pond and lake studies, stream and wetlands restoration and mitigation plans, topographic, hydrographic and other property surveys, and engineering for storm water management, runoff, coastal projects, septic systems, sanitary sewers, pumping stations and sediment and erosion control systems. The firm also assists in applications for local, state and federal planning and zoning, inland wetlands, health department, traffic and other permits.

The firm's clients are both private individuals and public agencies and have included the Town of Greenwich. Services for private clients have included representation before the Planning and Zoning Commission, the Board of Zoning Appeals and the Inland, Wetlands and Watercourses Agency in Greenwich. Services for the Town have included various surveying and civil engineering projects. During the last fiscal year, the FECB member's firm provided engineering services on two projects for the Department of Parks and Recreation and received compensation from the Town of over \$100.

In requesting an advisory opinion the FECB member indicated that the votes taken by the FECB "have not pertained directly to our client's projects" and the member indicated that the FECB works "to establish design criteria for flood control projects and to prioritize the order in which flood control projects get done. I am not aware of any instance where a client's property has benefited by the projects that have been voted to move forward." The member also indicated that the firm had stopped providing services to the Town in connection with smaller drainage systems in order to avoid the appearance of a conflict, because the FECB had begun to be more involved with those issues, where in the past it had been involved only in larger flood control issues.

The member had read the unpublished recent decision in *Frank v. Westport Planning and Zoning Commission* 2005 WL 2435841 (Conn.Super.) and had discussed it with Special Counsel to the Law Department, who had suggested that he request an Advisory Opinion from the Board of Ethics concerning whether the member should continue to be on the FECB in view of the member's potential representation of clients before the Planning and Zoning Commission, the Board of Zoning Appeals and the Inland, Wetlands and Watercourses

Agency. It was noted that in Westport, the Planning and Zoning Commission refers their applications to the Westport Flood & Erosion Control Board for comments, while the Planning and Zoning Commission in Greenwich does not refer applications to the FECB.