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March 27, 2008

John Florek, Esq.
Chairman
Charter Revision Commission
Town of Stratford
2725 Main Street
Stratford, CT 06615

Re: "Instant Runoff Voting"

Dear Commission Chair Florek:

At your request, as Town Attorney, I have reviewed your inquiry concerning "instant runoff voting" elections, wherein voters rank mayoral candidates in a municipal election in order of preference on a single ballot, and, if no candidate receives fifty percent of the votes cast, the candidate with fewest first choices is eliminated, and ballots submitted by voters who ranked the eliminated candidate first have their ballots counted for their second choice. The process continues until one candidate receives a majority.

Section 9-173 of the Connecticut General Statutes provides, in relevant part, that "Unless otherwise provided by law, in all municipal elections a plurality of the votes cast shall be sufficient to elect." The phrase "otherwise provided by law" has been interpreted by the Connecticut courts to mean state and/or federal statutory law. See, ie, Sansone v. Board of Police Commissioners, 219 Conn. 179 (1991). There is no Connecticut statute which allows municipalities to elect mayors, selectmen or other such officials by means of an "instant runoff voting" election, should there be less than a plurality of votes cast.

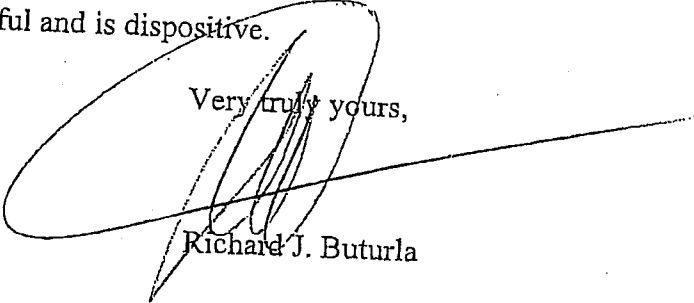
To the contrary, as you will undoubtedly recall from my prior opinions, Section 7-192a of the Connecticut General Statutes provides, in pertinent part, as follows:

No provision of this chapter shall be deemed to empower any municipality . . .to adopt a charter, charter amendments or home rule ordinance amendments which shall affect matters concerning . . .conduct of any procedures at elections; hours of voting; canvass of electors. . .warning of elections; election officials and their duties and responsibilities; election canvass and returns; election contests;. . .

This statutory provision pre-empts this entire field, and prohibits a municipality, by Charter or otherwise, from establishing "instant runoff voting" as aforesaid. The Town of Stratford, like all other municipalities, may not make laws which affect the state election process. Furthermore, we have consulted with Arthur Champagne of the Connecticut Secretary of the State's Office, Legislation and Elections Administration Division, who has agreed with the above interpretation.

I trust this proves helpful and is dispositive.

Very truly yours,



Richard J. Buturla

RJB:jlc

cc: Honorable James Miron, Mayor
Honorable Members of the Charter Revision Commission