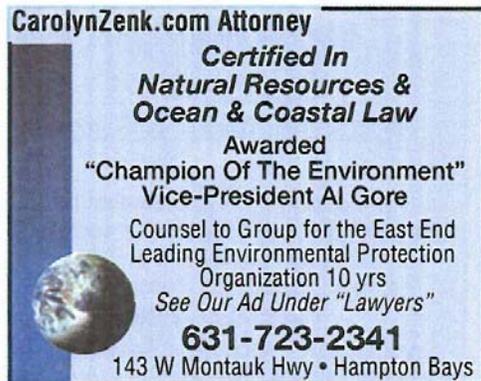


EFFECTIVE ADVOCACY BEFORE MUNICIPAL BOARDS: HOW TO BE AN EFFECTIVE ACTIVIST.

By Carolyn Zenk, Attorney at Law/Mediator/Activist, former General Counsel Group for the East End, and Southampton Town Councilwoman: 631-723-2341



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I have worked for many years attempting to influence various municipal boards in favor of protecting the environment. I was an environmental activist/lobbyist for nearly five years before I went to law school. When I returned from law school, I spent another ten years as the General Counsel with the East End of Long Island's leading environmental advocacy organization, Group for the South Fork (now Group for the East End), which attempted to influence various town boards, planning boards, and zoning boards of appeal to make decisions in my organization's favor.

After awhile, I decided it might make more sense to challenge government decisions from the inside or make those decisions myself. I became a Town Councilwoman in Southampton Town, New York for four years from 2000 to 2004. I worked in my own environmental law firm for sixteen years, often representing citizens groups attempting to challenge government decisions.

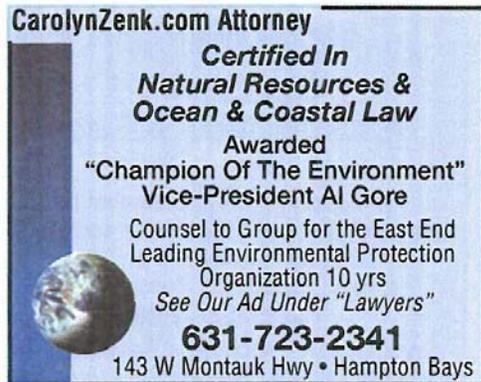
What works? What does not work? What remains a mystery? This article discusses these questions.

SUPPORT GOOD GOVERNMENT OFFICIALS.

The most important thing you can do to persuade government officials is to make sure that officials who answer to the public have been elected. Get the right people into office in the first place. Find out who is really working in the public's interest. Encourage good people to run for office. Contribute time, money, and energy to their campaigns. If you don't like the government, consider becoming a government official yourself.

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SUPPORT LAWS THAT PROHIBIT THOSE WITH VESTED INTERESTS FROM MAKING DECISIONS.

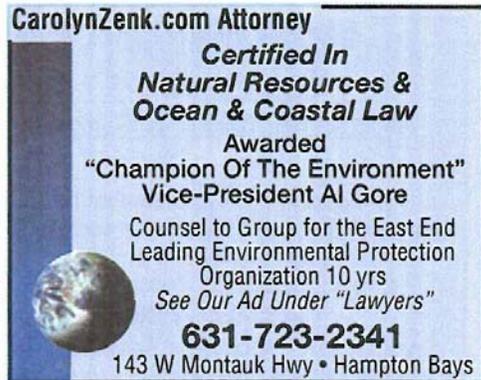
Try to get stricter laws prohibiting those with vested interests from serving in government or making decisions on projects where they stand to make a profit. You may need to hire an attorney to find out the kinds of laws that are necessary to do this. The attorney can research the necessary background, examine the laws already on the books, draft amendments to existing laws and/or propose new laws. Your attorney can find a government sponsor to bring the law forward. You may wish to prohibit professional developers from serving on planning boards, for example.

FIND OUT WHO AND/OR WHICH GROUP GOVERNMENT OFFICIALS RESPECT.

There are many entities and individuals who follow the activities of government and government officials. Officials respond more or less favorably to different organizations or individuals. A project can rise or fall depending upon who supports and/or opposes it. Find a person or group towards whom a government official or officials are inclined. If possible, get that person to present your case. You will stand a better chance of winning.

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**EFFECTIVE ADVOCACY BEFORE MUNICIPAL BOARDS: HOW TO BE AN
EFFECTIVE ADVOCATE.**

USE PRIVATE MEETINGS WITH OFFICIALS

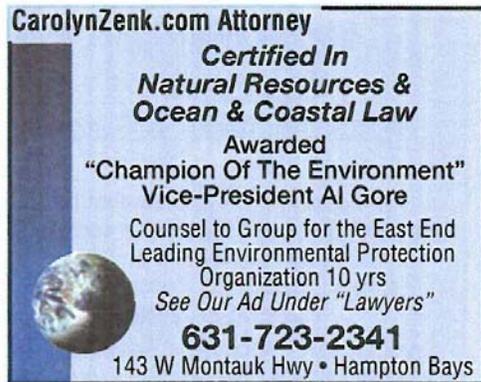
You can meet with individuals on certain boards in private. For example, you may be able to meet with one or two Town Board members at one time. These kinds of meetings have the advantage of privacy. This privacy allows the official to state his or her mind more freely. In this way, you can address his/her concerns about upcoming decisions. By hosting several initial meetings with government officials you can tailor future presentations, taking into account the concerns your officials have voiced or present data that they expressed that they need to make their decisions. This will help you be successful.

FIND A SPONSOR AND DO THE WORK FOR THEM.

Many laws are passed as the result of sponsors. Sponsors bring laws forward for other board members to consider. Government officials are busy people. Many are well-intentioned and want to get things done. They often have pet projects of their own. It is good to "flow with" the things that a government official wishes to accomplish. You may conduct the necessary factual and legal research for them and present them with a draft of the law you wish to pass. They can help guide your group by letting you know what their

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colleagues may find acceptable and actually pass. This can save you a lot of work and help you better reach your goals.

USE OF WORK SESSIONS.

Some government entities host pre-arranged work sessions in which it is possible for your group to present a formal presentation to them. These sessions have the advantage of a "give and take" discussion. You may receive a half hour or more to present your concerns. (Hearings can be rushed.) You can find out the concerns that your officials have about your given issue. You may be able to bring in experts on your issue to talk with officials.

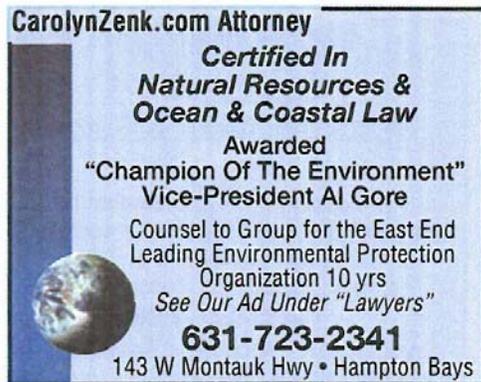
These sessions have the PR advantage of being covered by the press, unlike private meetings. This can put additional pressure on government officials to make a decision in your favor. By the same token, officials may be less willing to speak their mind as they would in a private interview, so you may not be able to address their real concerns. It's best to hold a private meeting first to best prepare your public presentation.

USE LAWYERS, EXPERTS, AND KEY SPEAKERS AT PUBLIC HEARINGS.

Public hearings matter. Find out when they are held. If legal issues are involved, you may wish your lawyer to spearhead your presentation. The lawyer can bring in experts to make the necessary scientific or factual points in the most compelling manner. Then, identify your best remaining speakers. If there are three fundamental points to be made about a particular topic or piece of legislation, each speaker can make the point briefly using different examples and/or language. Distribute the remaining topics amongst your

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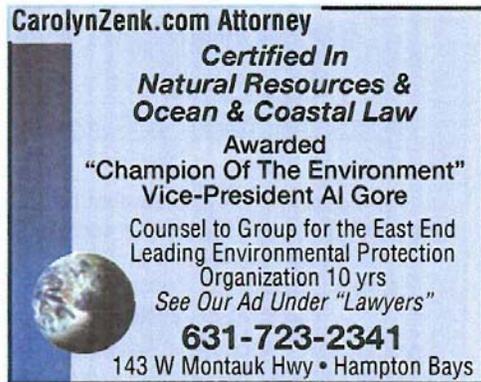
remaining "me too" speakers. Each presentation should be compelling, filled with facts, and brief.

The remaining members of your constituency can applaud loudly as your leaders make their presentations. They may wish to carry placards to make various points. These can be helpful. They should never be offensive. It's important to remember that administrative agencies have a lot of power and discretion. When they are challenged in court, the "scope of review" or the matters that judges may consider are very limited. It is best to win in the first instance, not challenge decisions after the fact.

As a matter of law, the Courts often use the "arbitrary and capricious" standard. The Courts don't necessarily judge who was right or who was wrong. They may only ask if the law was violated or whether a government decision was completely "irrational." This is a very hard standard for citizen groups to meet. Worse, even when citizen groups win against government officials in a court of law, decisions are often simply remanded to the same agency which made the bad decision in the first place. You can win an expensive lawsuit and lose your case anyway. Persuade your officials whenever you can, in the first place.

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**FOCUS YOUR RESOURCES AT THE ADMINISTRATIVE LEVEL FIRST
RATHER THAN IN THE COURTROOM.**

Many environmental and civic groups make the mistake of not investing their resources at the administrative level. That is the time to invest in changing the government's mind, not later in a court of law. The expense involved in making your case earlier rather than later is about one quarter or less of the expense you might face later. Litigation can be very expensive. The standard at the agency level is much more generous to the citizen's group. The question asked is: "Who is right and/or who is wrong or what is the right thing to do?"

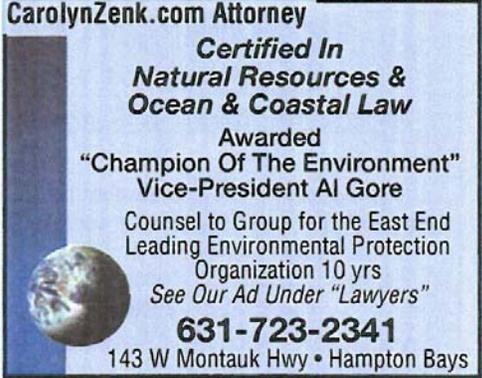
Many citizens are surprised to learn that if they did not make their case before the administrative agency, they cannot make it later in court. In regular litigation, you can introduce your witnesses and evidence for the first time in court. This is not true for the review of administrative decisions, which are treated more like appeals. The "preclusion doctrine" may stop you from introducing evidence government officials never saw in the first place. Invest your money, time, and energy in lawyers and experts before the administrative agency in the first place. This gives you a much better chance of winning.

ATTENDING FUND-RAISERS FOR OFFICIALS.

Not that attending fund-raisers for officials to count, but unfortunately, it does. Officials are human beings and feel indebted to those who show them support. Spend a little money to attend that fund-raiser. It won't hurt for your official to see you there supporting them.

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LETTERS TO GOVERNMENT OFFICIALS. Letters to government officials may or may not be read given the crush of mail officials receive, but this is still a worthwhile venue. Make the letter short and to the point. You may wish to title your letter with the subject involved.

PETITIONS: Petitions can be worthwhile. However, make sure that the petition is well-written and makes your point. You may wish to use an attorney to draft your initial petition. Why take the trouble to circulate a petition widely that is poorly drafted?

PRESS CONFERENCES.

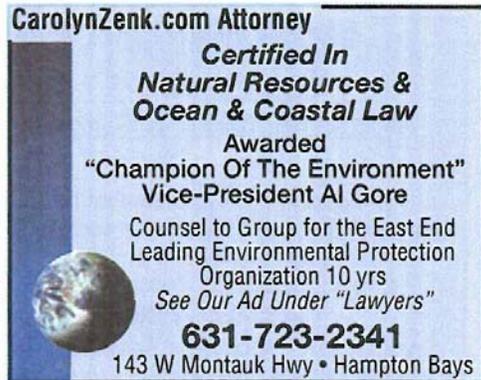
The press conference can be an effective tool. You set a time, place, and topic for your conference. You identify key media players and send out a press release informing them of the nature of the conference. You may wish to follow up with a phone call. Identify your best speaker and/or speakers; gather a dozen or so supporters in a highly visible place. Set up a podium and you are good to go. You may wish to have printed material available at the conference to make sure reporters get the story right.

THE PRESS RELEASE.

The press release is a nice device to "heat up" your issue in your group's favor. One usually includes the words, "PRESS RELEASE" across the top. It usually looks something like this:

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PRESS RELEASE

To: All local press
From: Carolyn Zenk, Attorney at Law
Re: The dangers bulkheads present to Southampton's beaches
Date: May 25th, 2016
Contact information: Carolyn Zenk, Attorney at Law at 631-723-2341.

Title: **ZENK PREDICTS THAT BURIED BULKHEADS IN ERODING AREAS OF SOUTHAMPTON TOWN WILL ULTIMATE SEVERELY SHORTEN PUBLIC BEACHES AND CALLS FOR REVISIONS TO THE COASTAL EROSION HAZARD AREA LAW**

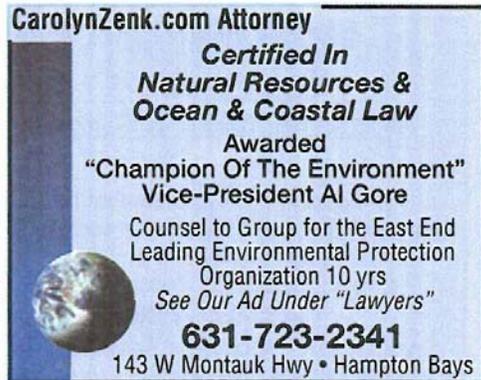
[Explain story here and include some juicy quotes. You may wish to provide a picture that illustrates your point.]

LETTERS TO THE EDITOR.

Letters to the editor are an inexpensive way to influence government in your favor. Many government officials keep in touch with the pulse of their constituencies by reading the local papers. Find the local papers in your area. Find out whether your government officials have an official paper that they receive or determine whether they prefer one paper to another. Form a small committee of persons to draft letters to the editor. Make

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the letters short and punchy. Make a point or two in one or two paragraphs. Most studies show that the first paragraph of such a letter is read the most. Letters two to three paragraphs long are the most likely to be read. An example of a letter to the editor might read as follows:

August 15th, 2016

BULKHEADS DESTROY BEACHES

Dear Editor,

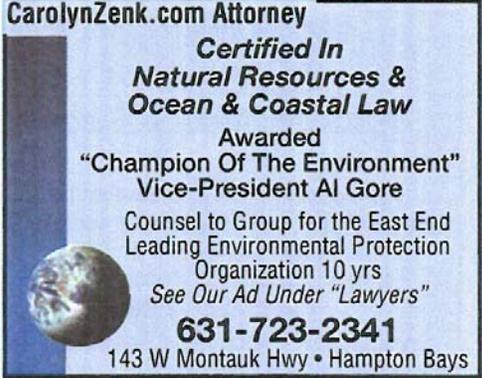
I support the legislation currently sponsored by Councilwoman Zenk, which prohibits steel bulkheads from our ocean beaches.

I have taken many beautiful walks along our local beaches. I find it disturbing when I am forced into the sea in order to walk around an exposed bulkhead. It's my understanding that the public owns the beach up to the mean high tide line. This legislation is vital. I urge all citizens to support it at the public hearing coming up in Southampton Town Hall, Hill Street, on September xx, xxxx.

Sincerely, Jane Doe

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IGNORANCE, INCOMPETENCE, CORRUPTION, OR IMPROPER INFLUENCE.

Sad to say, sometimes citizens are ignored. Why does this happen? This is where the mystery part of this article comes in. Despite watching government officials in action for nearly twenty-five years, I don't know why the public is often ignored. Sometimes, the wrong person is in office, an official is incompetent, does not do his home work, thinks he knows better than the public when he does not, or he simply does not care. Proper pay for government officials helps to increase competition for these important jobs and puts better people in the right seats. Town and planning boards wield power over millions of dollars in real estate. Paying them poorly is penny wise and dollar foolish.

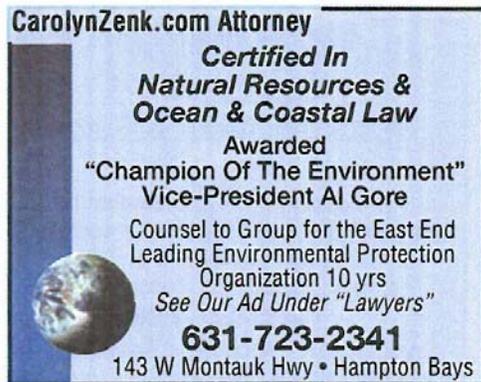
If things simply don't make sense, someone may be making some money somewhere that they shouldn't be. Always "follow the money." If you find improper influences, expose them. Insist that government officials with vested interests step aside and give up their vote on that issue.

USE OF ATTORNEY ACTIVISTS.

The use of attorney activists at the administrative level is a wise investment that pays for itself in spades for years to come. Try to win at the administrative level rather than using up your precious financial resources in expensive court actions.

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However, if the administrative level fails you, you may wish to sue. This can be a good investment mostly because it makes you and your group a "force to be contended with" not only for the issue at stake but for future issues.

THE ARTICLE 78

Government agencies are challenged in New York by bringing an Article 78, named for the rules of Civil Procedure. Find an attorney well-qualified in this specialized field. I have been involved with over twenty Article 78s.

CONCLUSION.

I hope you have found this article helpful. I have been aiding environmental groups, civic organizations, and neighbors opposing or supporting projects for over twenty-five years. You are welcome to call me for a free fifteen minute consultation on your issue. **631-723-2341**. Good luck trying to change the world or at least your neighborhood! "Think globally. Act locally!"

This article was written by Attorney and long-time Activist Carolyn Zenk, a former Councilwoman of Southampton Town, Suffolk County, Long Island, New York. Ms. Zenk is certified in OCEAN and COASTAL LAW and ENVIRONMENTAL and NATURAL RESOURCES LAW. To contact Ms. Zenk for a free fifteen minute phone consultation, call 631-723-2341.

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