

TOWN COUNCIL
Town of Trumbull
CONNECTICUT
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TOWN HALL
Trumbull

TELEPHONE
(203) 452-5005



PUBLIC WORKS COMMITTEE
FEBRUARY 26, 2014
MINUTES

The Chair called the Public Works Committee to order at 7:12 p.m. The clerk called the roll and recorded it as follows:

Present: Ken Martin Sr., Chairman, Tony Scinto, Vice Chairman, Ennio DeVita, Thomas Christiano, Daniel Marconi and Vicki Tesoro, Alternate

Absent: Vincent DiMasi, Jr. and Michael London, Alternate.

Also Present: Town Council Chairman Carl A. Massaro, Jr., Town Attorney Vincent Marino and Steven Kennedy of the BOE Facilities Department

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1. RESOLUTION TC25-37: Moved by Mr. Christiano, seconded by Mr. Marconi.
BE IT RESOLVED, That the Middlebrooks Elementary School Building Committee is hereby formed to plan and oversee the window replacement and related improvements;
BE IT FURTHER RESOLVED, That the membership of the Middlebrooks Elementary School Building committee shall consist of two (2) Town Council members, two (2) Board of Education members and three (3) residents of the Town of Trumbull.

Mr. Kennedy explained the BOE is requesting the building committee be formed because it is a State requirement in order to apply for reimbursement. They would like to complete the project this summer. There are three specific actions that the State requires for eligibility reimbursement:

1. Formation of a building committee.
2. Authorization of the drawings and specifications and;
3. Authorization of the filing of the grant application.

Mr. Kennedy reported the anticipated cost of the project as \$1.3 million to \$1.5 million. He had just received revised cost estimates from the architect but had not reviewed the detail yet. The architects referenced are Antonoizzi & Associates, the Town's On-Call Architects selected through the bid process. An architect's services are required in order to qualify for State reimbursement. Reimbursement is approximately 30% on eligible costs. Mr. Massaro stated that once the building committee is seated the bid requirements for professional services in place will be looked at. The BOE and the Town Council will approve the schematic designs and the project's budget will need to be approved by the BOF and the Town Council. Mr. Kennedy clarified that the BOE has some funding for this project but will need more to complete the project due to the environmental issues (asbestos and PCB's are contained in the caulk and sealant). The architect has almost completed the plans. All of the school's exterior windows will be replaced. Removal of asbestos is a

straightforward process, but the management of PCB's in this region has a different testing protocol than every other region in the country. The estimated cost of the project includes the removal of the asbestos and PCB's. The BOE believes the architect is carrying a higher contingency due to the environmental issues. Not every window contains asbestos and/or PCB's; each window will be tested.

VOTE: Motion CARRIED unanimously.

2. RESOLUTION TC25-38: Moved by De Vita, seconded by Mr. Scinto.
BE IT RESOLVED, That Patrick Helfrich of 23 Evelyn Street, be and the same is hereby appointed as the Town Council representative for the Middlebrooks Elementary School Building Committee.

Moved by Mr. Marconi, seconded by Mr. De Vita to amend by striking the name and address ~~Patrick Helfrich of 23 Evelyn Street~~ and replacing with Thomas Christiano of 831 White Plains Road.

Mr. Helfrich was not present. Mr. Christiano was present and indicated that he would be happy to serve on the Middlebrooks Elementary School Building Committee.

VOTE: Motion CARRIED unanimously.

VOTE: As amended CARRIED unanimously.

3. RESOLUTION TC25-39: Moved by Mr. Scinto, seconded by Mr. Martin.
BE IT RESOLVED, That Ennio De Vita of 305 Buckskin Court, be and the same is hereby appointed as the Town Council representative for the Middlebrooks Elementary School Building Committee.

VOTE: Motion CARRIED 4-0-1 (ABSTENTION De Vita)

4. RESOLUTION TC25-40: Moved by Mr. Christiano, seconded by Mr. Martin.
BE IT RESOLVED, That _____ of _____, be and the same is hereby appointed as the Board of Education representative for the Middlebrooks Elementary School Building Committee.

Moved by Mr. Martin, seconded by Mr. Christiano to amend by inserting the name Joseph Peddle after the word "That" and the address 40 Merrimac Drive after the word "of".

Mr. Massaro stated Mr. Peddle is the chairman of the BOE Facilities Committee.

VOTE: Motion CARRIED unanimously.

VOTE: As amended CARRIED unanimously.

5. RESOLUTION TC25-41: Moved by Mr. Martin, seconded Mr. Christiano.
BE IT RESOLVED, That _____ of _____, be and the same is hereby appointed as the Board of Education representative for the Middlebrooks Elementary School Building Committee.

Moved by Mr. Scinto, seconded by Mr. Marconi to amend by inserting the name Michael Ward after the word "That" and the address 38 Pemberton Road after the word "of".

VOTE: Motion CARRIED unanimously.
VOTE: As amended CARRIED unanimously.

6. RESOLUTION TC25-42: Moved by Mr. Scinto, seconded Mr. Martin.
BE IT RESOLVED, That _____ of _____, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

Moved by Mr. Martin, seconded by Mr. Scinto to amend by inserting the name James Meisner after the word "That" and address 62 Driftwood Lane after the word "of".

VOTE: Motion CARRIED unanimously.
VOTE: As amended CARRIED unanimously.

7. RESOLUTION TC25-43: Moved by Mr. Martin, seconded Mr. Christiano.
BE IT RESOLVED, That _____ of _____, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

Moved by Mr. Martin, seconded by Mr. Marconi to amend by inserting the name David Preusch after the word "That" and address 19 Woodcrest Avenue after the word "of".

After review of Chapter VIII, entitled Electoral Process, Sec. 1, Eligibility of the Trumbull Town Charter it was confirmed for the committee that Mr. Preusch could serve on the building committee as well as the Planning & Zoning Commission.

VOTE: Motion CARRIED unanimously.
VOTE: As amended CARRIED unanimously.

8. RESOLUTION TC25-44: Moved by Mr. Christiano, seconded Mr. Marconi.
BE IT RESOLVED, That _____ of _____, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

Moved by Mr. Christiano, seconded by Mr. Marconi to amend by inserting the name Michael Giaquinto after the word "That" and address 18 Elberta Avenue after the word "of".

Mr. Massaro stated that Mr. Giaquinto is a member of the BOE Facilities Committee and also the former Sacred Heart University Facilities Director.

VOTE: Motion CARRIED unanimously.
VOTE: As amended CARRIED unanimously.

9. RESOLUTION TC25-45: Moved by Mr. Martin, seconded by Mr. Christiano.
BE IT RESOLVED, the Town of Trumbull does hereby release and extinguish all of its right, title and interest in and to a purported easement affecting a portion of real property known as 2415 Reservoir Avenue in the Town of Trumbull First Selectmen Timothy M. Herbst is authorized to execute the necessary documents to complete the same.

Atty. Marino explained during the process of the P&Z proposed Memory Care Center project at 2415 Reservoir Avenue an easement in favor of the Town had been discovered. As a result of Atty. Marino's and the Town Engineering Department's research nothing has been found to support the existence of the purported easement. Nothing has been filed on the Town's land records, or on any

subdivision map. Atty. Marino and the Town's Engineering Dept. believe it to be a nullity. Atty. Marino stated there is a separate drainage easement located at the front of the property near the roadway. This easement is recorded on the land records and is not the subject of this resolution. An affidavit of facts has been prepared by Atty. Sobel and has been modified by Atty. Marino. The affidavit will clean the title. The modification includes language indicating any action by the Town Council would not affect the actual drainage easement recorded in Volume 195, page 569.

(Mr. Christiano recused himself at 7:47 p.m. because he knows the people involved. He technically is not part of this but in some ways could be).

Atty. Marino explained the prior council had recommended a quitclaim deed, but the research has shown there is nothing to quick claim. Atty. Marino recommends an affidavit of facts. The facts simply state that the Town is unaware of any documents that would support the existence of the purported easement and that the Town is not claiming any rights to it. This will enable the title company to insure. Mr. De Vita stated he agreed the easement does not exist and suggested that the resolution be changed to reflect that. (Mr. Christiano left the meeting at 7:51 p.m.)

Mr. Massaro suggested the following amendment:

“RESOLUTION TC25-45: BE IT RESOLVED, the Town of Trumbull does hereby authorize First Selectman Timothy M. Herbst to execute an Affidavit of Facts relating to real property known as 2415 Reservoir Avenue in the Town of Trumbull”.

Mr. Martin noted he had concerns with the proposed affidavit. Atty. Marino reviewed the affidavit and the proposed modifications in detail with the committee. (See Attached Affidavit and Modifications). Atty. Marino stated that he could circulate an electronic copy of the changes to the council before the full Town Council meeting. Mr. Martin stated that the DOT map refers to Map C-431. Mr. De Vita explained that the State map is a Class 4 and is not certified; therefore it is for reference only and does not have any meaning. Atty. Marino stated that he did not recall any specific P&Z stipulation with regard to drainage from this point on the property. Atty. Marino indicated that he would get the State map for Mr. Martin to review before the full Town Council meeting; the focal point of the State map is the Merritt Parkway. (Mr. Scinto left the meeting at 8:09 p.m.) Atty. Marino stated the redlined copy of the affidavit had been sent to the owner in the late afternoon of this day and is awaiting a response. The council will be advised if there are any further changes to the affidavit.

Moved by Mr. Scinto, seconded by Mr. De Vita to amend to read as:

“RESOLUTION TC25-45: BE IT RESOLVED, the Town of Trumbull does hereby authorize First Selectman Timothy M. Herbst to execute an Affidavit of Facts relating to real property known as 2415 Reservoir Avenue in the Town of Trumbull”.

VOTE: Motion CARRIED unanimously.

VOTE: As amended CARRIED unanimously.

There being no further business to discuss the Public Works Committee adjourned by unanimous consent at 8:17 p.m.

Respectfully Submitted,

Margaret D. Mastroni, Town Council Clerk

Attachment - Modifications to the Affidavit of Facts as detailed by Atty. Marino at the 2-26-14 Town Council Public Works Committee meeting:

There are no changes to paragraph #1, #2, #3 or #4. Changes to the proposed affidavit paragraphs are as follows:

- :5. The Owner's ~~claims that a search~~ of the Town's land records **does not reveal** ~~discloses no~~ **any** instrument creating the Purported Easement **and has found no other evidence to support the** ~~and that no such easement exists in favor of the Town.~~ **existence of the Purported Easement.**

This explains that there is nothing to suggest that the easement exists, but if something were to be found in the future the Town's would reserve its right to say in the future that they found it.

- 6. On becoming aware of the Owner's claim, the Town investigated **the existence of the Purported Easement and has not located any document on its land records or in any other departments that supports the notation on the DOT map.** ~~whether it owns the Purported Easement and has determined it does not.~~
- Paragraph 7 was modified to reflect the date of the Town Council meeting as March 3, 2014 not March 6, 2014.
- Paragraph 8 was added in its entirety as follows:
 - 8. **This affidavit does not relate to or in any way affect that certain drainage easement in favor of the Town which is recorded on the Trumbull land records in Volume 195 at page 569 and as shown on that certain map filed in the Trumbull Town Clerk's and numbered 1446.**

Frank M. Smeriglio, PE
Town Engineer

**TOWN OF TRUMBULL
CONNECTICUT**

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February 25, 2014

Carl A. Massaro, Jr.
Town Council Chairman
5866 Main Street
Trumbull, CT 06611

**RE: 2415 Reservoir Avenue
Resolution TC25-45**

Dear Chairman Massaro,

This is written in regards to the purported easement at 2415 Reservoir Avenue. The purported easement, as shown on "Plan of Survey, 2415 Reservoir Avenue" (see attached -Area 1) runs east/west along the center of the property. Based on our review and research at this time, it appears that there is no easement in favor of the Town of Trumbull running east/west through the center of the property.

Please note, it appears that Area 1 was used to convey drainage from the neighboring property to the west. Therefore, as part of the proposed design plans for the development of the property as prepared by the developer's Design Engineer, the existing path of water runoff from the neighboring property must be evaluated to properly convey the flow of water either through or around 2415 Reservoir Avenue. As part of the recent Zoning approval condition, final construction plans and drainage report shall be submitted to the Engineering Department for review and approval prior to the issuance of the Building Permit.

Furthermore, during our recent research, an easement exists along Reservoir Avenue in favor of the Town of Trumbull. (Volume 195, Page 569, and shown on Map 1446 on file with the Town Clerk) This easement runs north/south adjacent to Reservoir Ave and shall not be released or extinguished by the Town of Trumbull. (See attached -Area 2)

If you have any questions, please do not hesitate to call.

Sincerely,

Frank M. Smeriglio
Town Engineer
Town of Trumbull

CC: Jamie Bratt

AFFIDAVIT

This affidavit is made by Timothy M. Herbst, as First Selectman of the Town of Trumbull, pursuant to Connecticut General Statutes Section 47-12a, and sets forth facts concerning real property known as 2415 Reservoir Avenue and adjacent land to the north, located in Trumbull, Connecticut, referred to herein as the "Premises," and more particularly described as follows:

The real property located in Trumbull, Connecticut shown as Lot Nos. 101 and 102 on a certain map entitled "Resubdivision of Properties in Trumbull, Connecticut for Gellatly Construction Co. and the Southern Connecticut Gas Co.," prepared by Fuller and Co., Inc., dated Nov. 10, 1978, and on file in the Trumbull Land Records as Map No. 2043.

The affiant hereby states as follows:

1. The record owner of the Premises as of the date hereof is 2 M Partners, LLC (the "Owner").
2. It has come to the attention of the Town of Trumbull (the "Town") that a notation was made on a State of Connecticut Department of Transportation map (the "DOT Map") purporting show an easement in favor of the Town (the "Purported Easement").
3. The DOT Map is a map entitled "Connecticut Department of Transportation, Bureau of Highways, Right of Way Map, Town of Trumbull, Colonel Henry Mucci Highway, From The Bridgeport-Trumbull Town Line Northerly to Little Plain Road," Sheet 9 of 9, approved by the Chief of Surveys and Chief Engineer as of May 17, 1990, and on file in the Trumbull Land Records as Map No. C-431
4. The Purported Easement is shown on the DOT Map as two parallel lines to the west of Reservoir Avenue and south of the Merritt Parkway, oriented diagonally to Reservoir Avenue, and labeled "SUBJECT TO EASEMENT IN FAVOR OF TOWN OF TRUMBULL."
5. The Owner claims that a search of the Town's land records discloses no instrument creating the Purported Easement and that no such easement exists in favor of the Town.
6. On becoming aware of the Owner's claim, the Town investigated whether it owns the Purported Easement and has determined that it does not.
7. The execution of this affidavit has been authorized by resolution of the Trumbull Town Council adopted at its meeting held on March 6, 2014.

Witnessed by:

Timothy M. Herbst
First Selectman of the Town of Trumbull