

TOWN COUNCIL  
**Town of Trumbull**  
CONNECTICUT  
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TOWN HALL  
Trumbull

TELEPHONE  
(203) 452-5005



MARCH 3, 2014  
MINUTES

CALL TO ORDER: Chairman Carl A. Massaro, Jr. called the regular meeting to order at 8:11 p.m. at the Trumbull Town Hall. All present joined in a moment of silence and the Pledge of Allegiance.

The clerk called the roll and recorded it as follows:

PRESENT:

Suzanne S. Testani	Daniel Marconi	Joseph G. Pifko
Vincent DiMasi, Jr.	Vicki Tesoro	Edna Colucci
Johnna M. Dineley	Mark S. LeClair	James P. Blose
Ennio DeVita	Tony J. Scinto	Cynthia L. Penkoff
Enrico R. Costantini	Carl A. Massaro, Jr.	Lori Rosasco Schwartz
Bethany Llodra Gilman	Ann Marie Evangelista	Kenneth M. Martin, Sr.
Thomas Christiano (arrived at 8:46 p.m.)		

ABSENT: Patrick Helfrich

ALSO PRESENT: First Selectman Timothy M. Herbst, Chief of Staff Lynn Arnow, Superintendent of Schools Dr. Gary Chialfi, Town Attorney Vincent Marino, Steven Kennedy of BOE Facilities, Al Babarotta of AFB, John Barbarotta of AFB, and Brian Holmes of O&G Ind.

DISCUSSION ITEMS:

Trumbull High School Building Committee Update

Mr. A. Barbarotta reported:

- CM contingency is \$679,000.
- Owner's contingency is \$1 million.
- They are confident there will be no other money spent from either of those accounts.
- Currently in the closeout process, (manuals and training).
- Will be meeting with BOE IT Director and Facilities to review and try to resolve the remaining issues, (items that do meet their expectations but have been built to the design and plans, i.e. heating). At some point in the future they will most likely confer with the Town Attorney to address these items.
- The project is 95% complete, with one item remaining, (one light on the roof) Bismark's contract is still outstanding.
- Commissioning is complete - awaiting the final commissioning report.
- Punch list items have been reduced; very few are left.

As they went through the commissioning process issues identified were addressed, they are still in the process of doing some and there will still be some to come. After all items are complete they will be able to get the final certificate of occupancy. The next THSBC meeting is scheduled for Wednesday, March 5,

2014. They are working on change orders (c/o) with the State, it is their goal to reduce the number of c/o's to get as close to 5% as possible, that will take some work. There has been change in personnel at the BSF (Bureau of School Facilities). The concession stand had a bid waiver therefore it would not be reimbursable by the State

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\* The Chair reserved the right not to vote unless otherwise noted.

Moved by Mr. LeClair, seconded by Mr. Marconi to take Item #6 out of order.

VOTE: Motion CARRIED unanimously.

1. RESOLUTION TC25-35: Moved by Mr. DiMasi, seconded by Ms. Tesoro, BE IT RESOLVED, That Kimberly Vecchione of 655 Booth Hill Road, be and the same is hereby appointed as a member of the Trumbull Day Commission for a term extending to September 3, 2018.

Committee Report: The L&A Committee met on Feb. 24, 2014 and voted unanimously to send without recommendation.

Ms. Vecchione of 655 Booth Hill Road was present and indicated her party affiliation as republican. Ms. Vecchione had served on the Trumbull Day commission three years ago and is willing to serve again.

VOTE: ADOPTED unanimously.

Moved by Ms. Testani, seconded by Ms. Penkoff to pass RESOLUTION TC25-35 as Emergency Legislation. VOTE: Motion CARRIED unanimously.

Moved by Mr. Constantini, seconded by Ms. Rosasco Schwartz to take Item #17 out of order.

VOTE: Motion CARRIED unanimously.

2. RESOLUTION TC 25-46: Moved by Ms. Penkoff, seconded by Mr. Blose. BE IT RESOLVED, That a special election shall be held on Tuesday, July 2, 2014 in the Town of Trumbull to fill the vacant seat on the Board of Finance for the remainder of the term ending the first Monday in December, 2015. The Town Clerk and the Registrars of Voters are directed to establish the ballots, polling places and dates for party endorsement and a primary election, if necessary, pursuant to law.

Committee Report: The L&A Committee met on Feb. 24, 2014 and voted unanimously to amend and unanimously as amended.

Atty. Marino explained it is the Town Council's responsibility to set the date of the special election pursuant to Section 9-164 of the CGS. The date selected is the date used for calculating the primary date, caucus nominating date and notification date. The original date chosen was July 1<sup>st</sup> meaning the notice of the special election had to be sent out on Feb. 25<sup>th</sup>. He had directed the Town Clerk to send out the notice after the petition had been filed. The notice has been sent out. If this body wants to choose a different date Atty. Marino suggested not picking a date sooner than July 15, 2014 in order to afford enough time for notice requirements. Procedurally if the council wants to proceed with the July 1<sup>st</sup> date it could be done. Atty. Marino had distributed the attached timeline of the notice requirements to the council prior to this meeting.

Ms. Tesoro suggested amending resolution by changing the date of the special election due to a possible issue with the original date. The Chair stated the Town Clerk will be unavailable the week of July 15<sup>th</sup> due to her attendance at a Town Clerks' convention.

Moved by Mr. London, seconded by Mr. LeClair to amend by striking ~~July 2, 2014~~ and replacing it with July 22, 2014.

Atty. Marino stated the outside date of the notice of the election would be March 18, 2014 based on the July 22, 2014 date. Atty. Marino will confirm this date after this meeting. The Chair read the attached timeline into the record.

VOTE: Motion CARRIED unanimously.

VOTE: ADOPTED as amended 18-0-1 (ABSTENTION: Penkoff)

Moved by Ms. Tesoro, seconded by Mr. Marconi to pass RESOLUTION TC25-46 as Emergency Legislation. VOTE: Motion CARRIED 18-0-1 (ABSTENTION: Penkoff)

Moved by Ms. Dineley, seconded by Mr. LeClair to take Item #16 out of order. VOTE: Motion CARRIED unanimously.

3. RESOLUTION TC25-45: Moved by Mr. Pifko, seconded by Ms. Evangelista.  
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.

Committee Report: The Public Works committee met February 26, 2014 and voted to amend unanimously and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Ms. Penkoff, seconded by Mr. De Vita to amend RESOLUTION TC25-45 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”.*

Atty. Marino submitted the final form of the affidavit (Attached) and confirmed it conforms to the red-lined version discussed in committee. The owner had accepted all of the proposed changes. The Affidavit of Facts recites the facts as they are known it does not make any representations of the validity of any easement. The Town has done their due diligence and has not discovered any easements. The affidavit of facts will clear the title. Atty. Marino stated that he had a copy of the state map discussed in committee available at this meeting. There is nothing of record filed to support the existence of the easement. Mr. Martin had reviewed the map and confirmed that the purported easement did not extend beyond the borders of 2415 Reservoir Avenue; this alleviated his concerns with the affidavit.

VOTE: Motion CARRIED unanimously.

VOTE: ADOPTED as amended unanimously.

Moved by Mr. London, seconded by Ms. Penkoff to take Item #8 out of order. VOTE: Motion CARRIED unanimously.

4. RESOLUTION TC25-37: Moved by Mr. London, seconded by Ms. Tesoro.  
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.

Committee Report: The Public Works committee met February 26, 2014 and voted unanimously.

Mr. A. Barbarotta explained the project is being fast tracked. In order to make application to the State for reimbursement a Building Committee is required. After a project number is assigned, the architect

(Antonozzi) will add the number to the drawings, they will then be reviewed at the State PCT meeting after which the project would then be authorized by the State to go out to bid.

(Mr. London recused himself at 8:47 p.m. Antonozzi Associates is a client of his.)

If this resolution were adopted at this meeting they would go to the State tomorrow to get the authorization to go out to bid. The State reimbursement is 31.92% on eligible items, (maintenance items are not reimbursable). They are expecting \$200,000-\$300,000 in reimbursement on this project. The project is to be completed over the summer; their main focus is to be able to open Middlebrooks School at the beginning of the next school year. Dealing with PCB issues with the federal government is a slow process. No windows will be taken out that can not be put back in by the start of the school year. Ms. Penkoff voiced her concern that the project would not be completed by the start of the school year and questioned if the project needed to be completed at a later date how much would that increase the cost of project. Mr. A. Barbarotta stated it is their intent to finish the project this summer. They will be working with the Dept. of Energy Protection and will work nights and weekends if need be. Testing of every window for environmental issues is still being done; they do not expect the scope to include every window. There is a specific process to follow and the State has indicated that the process can not be facilitated any faster. All of the school windows will be replaced, but not all windows will have the environmental issues. Mr. A. Babarotta confirmed for the Chair that the council will need to approve the design and scope of the project in addition to forming the building committee. Antonozzi has the plans and specifications almost completed. \$1,042,000 had been appropriated by bond in the capital project resolution of last year.

VOTE: ADOPTED unanimously.

Moved by Ms. Dineley, seconded by Ms. Penkoff to pass RESOLUTION as Emergency Legislation.

VOTE: Motion CARRIED unanimously.

Moved by Mr. Blose, seconded by Ms. Testani to take Items #9 - #15 out of order.

VOTE: Motion CARRIED unanimously.

5. RESOLUTION TC25-38: Moved by Ms. Evangelista, seconded by Ms. Rosasco Schwartz.  
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.

Committee Report: The Public Works Committee met on February 26, 2014 and voted unanimously to amend and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Ms. Tesoro, seconded by Ms. Evangelista to amend RESOLUTION TC25-38 to read as: BE IT RESOLVED, That Thomas Christiano of 831 White Plains Road, be and the same is hereby appointed as the Town Council representative for the Middlebrooks Elementary School Building Committee.

VOTE: Motion CARRIED unanimously.

VOTE: ADOPTED as amended unanimously. (*\*Passed as Emergency Legislation*)

6. RESOLUTION TC25-39: Moved by Mr. LeClair, seconded by Ms. Testani.  
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.

Committee Report: The Public Works Committee met on February 26, 2014 and voted 4-0-1  
(ABSTENTION: De Vita)

Ms. Llodra Gilman called Point of Order, noting the RESOLUTION TC25-38 needed to be passed as Emergency Legislation.

\*Moved by Ms. Llodra Gilman, seconded by Mr. Pifko to pass RESOLUTION TC25-38 as Emergency Legislation. VOTE: Motion CARRIED unanimously.

VOTE: ADOPTED 17-0-1 (ABSTENTION: De Vita)

(Mr. London was not present to vote)

Moved by Ms. Testani, seconded by Mr. Marconi to pass RESOLUTION TC25-39 as Emergency Legislation.

VOTE: Motion CARRIED 17-0-1 (ABSTENTION: De Vita).

(Mr. London was not present to vote)

7. RESOLUTION TC25-40: Moved by Ms. Llodra Gilman, seconded by Ms. Penkoff.  
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.

Committee Report: The Public Works Committee met on February 26, 2014 and voted unanimously to amend and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Mr. LeClair, seconded by Mr. Pifko to amend RESOLUTION TC25-40 to read as: BE IT RESOLVED, That Joseph Peddle of 40 Merrimac Drive, be and the same is hereby appointed as the Board of Education representative for the Middlebrooks Elementary School Building Committee.

VOTE: ADOPTED as amended unanimously.

Mr. LeClair called point of order the vote to amend had not been called.

VOTE: Motion to amend CARRIED unanimously

VOTE: ADOPTED as amended unanimously. (Mr. London was not present to vote)

Moved by Ms. Llodra Gilman, seconded by Ms. Rosasco Schwartz to pass as Emergency Legislation.

VOTE: Motion CARRIED unanimously (Mr. London was not present to vote)

8. RESOLUTION TC25-41: Moved by Mr. Constantini, seconded by Ms. Penkoff.  
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.

Committee Report: The Public Works Committee met on February 26, 2014 and voted unanimously to amend and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Mr. Pifko, seconded Ms. Testani to amend RESOLUTION TC25-41 to read as:

BE IT RESOLVED, That Michael Ward of 38 Pemberton Road, be and the same is hereby appointed as the Board of Education representative for the Middlebrooks Elementary School Building Committee.

VOTE: Motion CARRIED unanimously

VOTE: ADOPTED as amended unanimously. (Mr. London was not present to vote)

Moved by Ms. Llodra Gilman, seconded by Mr. Constantini to pass as Emergency Legislation. VOTE: Motion CARRIED unanimously (Mr. London was not present to vote)

9. RESOLUTION TC25-42: Moved by Mr. De Vita, seconded by Ms. Dineley.  
BE IT RESOLVED, That \_\_\_\_\_ of \_\_\_\_\_, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

Committee Report: The Public Works Committee met on February 26, 2014 and voted unanimously to amend and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Ms. Tesoro, seconded by Ms. Evangelista to amend RESOLUTION TC25-42 to read as: BE IT RESOLVED, That James Meisner of 62 Driftwood Lane, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

VOTE: Motion CARRIED unanimously. (Mr. London was not present to vote)

VOTE: ADOPTED as amended unanimously. (Mr. London was not present to vote)

Moved by Ms. Tesoro, seconded by Ms. LeClair to pass as Emergency Legislation.

VOTE: Motion CARRIED unanimously (Mr. London was not present to vote)

10. RESOLUTION TC25-43: Moved by Mr. Blose, seconded by Mr. LeClair.

BE IT RESOLVED, That \_\_\_\_\_ of \_\_\_\_\_, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

Committee Report: The Public Works Committee met on February 26, 2014 and voted unanimously to amend and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Ms. Testani, seconded by Mr. De Vita to amend RESOLUTION TC 25-43 to read as: BE IT RESOLVED, That David Preusch of 19 Woodcrest Avenue, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

VOTE: Motion CARRIED unanimously. (Mr. London was not present to vote)

VOTE: ADOPTED as amended unanimously. (Mr. London was not present to vote)

(Ms. Rosasco Schwartz left the meeting at 9:07 p.m.)

(Ms. Rosasco Schwartz and Mr. London returned to the meeting at 9:08 p.m.)

Moved by Mr. Constantini, seconded by Ms. Llodra Gilman to pass as Emergency Legislation.

VOTE: Motion CARRIED unanimously.

11. RESOLUTION TC25-44: Moved by Ms. Tesoro, seconded Ms. Evangelista.

BE IT RESOLVED, That \_\_\_\_\_ of \_\_\_\_\_, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

Committee Report: The Public Works Committee met on February 26, 2014 and voted unanimously to amend and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Ms. Penkoff, seconded by Ms. Colucci to amend RESOLUTION TC25-44 to read as: BE IT RESOLVED, That Michael Giaquinto of 18 Elberta Avenue, be and the same is hereby appointed as a member of the Middlebrooks Elementary School Building Committee.

VOTE: Motion CARRIED 18-0-1 (ABSTENTION: London)

VOTE: ADOPTED as amended 18-0-1 (ABSTENTION: London).

Moved by Mr. LeClair, seconded by Ms. Llodra Gilman to pass as Emergency Legislation.

VOTE: Motion CARRIED 18-0-1 (ABSTENTION: London).

Moved by Ms. Dineley, seconded by Mr. De Vita to take Item # 18 out of order.

VOTE: Motion CARRIED unanimously.

12. RESOLUTION TC25-47: Moved by Mr. Pifko, seconded Mr. Blose.

BE IT RESOLVED, That the Trumbull Town Council hereby authorizes a five (5) member commission and has initiated a third revision of the Charter of the Town of Trumbull as approved November 3, 1981, as revised November 4, 2003 and as revised November 8, 2011.

Committee Report: The L&A Committee met on February 24, 2014 and voted unanimously.

(Mr. De Vita left the meeting at 9:11 p.m.)

(Mr. De Vita returned to the meeting at 9:13 p.m.)

First Selectman Herbst stated this resolution is not about politics, it is about math. The pension prior to his administration was funded at 27% primarily due to the market. Funding the pension in previous years was not a priority. A series of reforms is necessary to get the pension to a point of prosperity and for the bond agencies to recognize that. Mandating funding to the arc in the Town Charter will be the catalyst to bring the Town's bond rating to AAA. This is critical due to the fact that 5 of the 6 elementary schools are older than high school and need renovations. The Town will need to borrow funds. The Town has already taken the following steps to reform the pension:

- Negotiating and implementing a Defined Contribution Plan for new hires with the bargaining units.
- Increased pension contribution in the operating budget for the last 4 years. Have met the arc for the Town pension and are very close to the arc for the police pension.
- Diversify the Town's investment strategy.

These steps have been discretionary. First Selectman Herbst recommends making funding to the arc (actuarial recommended levels) mandatory as a Town Charter provision. This will take the politics out of the pension fund. The better the pension fund does the better the Town's fiscal health and bond rating is. First Selectman Herbst also recommended if the commission is empanelled that language be inserted to this provision that would provide for a check and balance so if in the event the arc could not be funded in a particular year that the council could override the provision by a 2/3 vote. The bond agencies have cited this as a positive proposal. First Selectman Herbst stated for the record that this Charter Revision does not have to be a wholesale revision of the Charter, this needs to be a targeted revision. The council should give the commission 90 days to complete the revision and put it on the November 2014 ballot. First Selectman Herbst indicated for Mr. Christiano the Town pension is currently funded at 33% - 34%. Mr. Christiano spoke in favor of this proposal, but spoke against the council being able to override the provision by a 2/3 vote, noting it would bring back the political element. Ms. Tesoro stated that Section 6 j. of the Norwalk City Charter includes language that says the City shall time to time put said funds as necessary to said plan, noting this is different than being mandatory. First Selectman Herbst disagreed and believes using the words *shall* and *necessary* make it mandatory. Ms. Tesoro disagreed and spoke in favor of exception language and questioned why the commission has five members v. the previous 6-member commission. First Selectman Herbst indicated that would be the decision of the council. The people selected for the commission should be based upon their understanding of how the Town government works and maybe they should not be politically active but rather would look at this from the point of view as what is the right thing to do. The pension can not be kicked down the road anymore. Trumbull's unfunded liability has been compared to Bridgeport, Stratford and Waterbury. The Town will not be able to invest their way out of this issue. The pension needs to be corrected. First Selectman Herbst indicated for Ms. Tesoro that there are other provisions in the Charter that need to be looked at, i.e. the Arts Commission is in the Charter yet has not met in three years, also there is provision that the Ethics Commission's hearings should be held in private this contradicts FOI.

Ms. Penkoff stated that she would be voting against this resolution, she agrees with 99% of what First Selectman Herbst stated about the Town's financial health, but spoke against mandating funding to the arc. First Selectman Herbst has done the right thing for the Town's financial health, and has shown that this works and would hope that whoever comes into office after this administration would do the right thing; good behavior can not be mandated. Mr. Scinto spoke in favor of First Selectman Herbst's ideas but spoke against opening up the Charter and believes there are other ways to accomplish this legislatively. Mr. Marconi suggested the following language to the resolution: "The principal focus of this revision is to generate revisions to the Town's pension funding practices. A timeframe of 90 days has been determined to be sufficient to complete this task." The Chair clarified by statute the charter revision needs to be initiated first and within 30 days of that there would be a resolution creating the commission. The Chair indicated for Ms. Penkoff it has not been his experience that you can not specifically limit the inquiries of the Charter Revision Commission.

Moved by Ms. Tesoro, seconded by Mr. Marconi to amend the resolution by striking the phrase ~~five (5) member~~ and replacing it with six (6) and that there be two Republicans to Democrats and two on affiliated members.

Mr. London called for roll call vote and called the question.

Point of Order was called by Mr. LeClair noting that if the question has been called that needs to be voted on. Mr. London withdrew his calling the question.

The Chair explained if the resolution is adopted the ensuing resolution states the composition of the membership this resolution sets the number of people on the commission. Ms. Tesoro withdrew her resolution.

Moved by Ms. Tesoro, seconded by Mr. Marconi to amend the resolution by striking the phrase ~~five (5) member~~ and replacing it with six (6).

The clerk called the roll call vote and recorded it as follows:

\*The Chair voted.

	AYE	NAY	ABSTAIN		AYE	NAY
Suzanne S. Testani	<input type="checkbox"/>	X		Carl A. Massaro, Jr.	X	<input type="checkbox"/>
Vincent DiMasi, Jr.	<input type="checkbox"/>	X		Michael J. London	X	<input type="checkbox"/>
Johnna M. Dineley	<input type="checkbox"/>	X		Lori Rosasco Schwartz	X	<input type="checkbox"/>
Ennio DeVita	<input type="checkbox"/>	X		James P. Blose	X	<input type="checkbox"/>
Daniel Marconi	X	<input type="checkbox"/>		Vicki Tesoro	X	<input type="checkbox"/>
Cynthia L. Penkoff	<input type="checkbox"/>	X		Ann Marie Evangelista	X	<input type="checkbox"/>
Edna Colucci	<input type="checkbox"/>	X		Mark S. LeClair	<input type="checkbox"/>	X
Tony J. Scinto	<input type="checkbox"/>	<input type="checkbox"/>	X	Enrico R. Costantini	<input type="checkbox"/>	X
Bethany Llodra Gilman	<input type="checkbox"/>	X		Joseph G. Pifko	<input type="checkbox"/>	X
Kenneth M. Martin	X	<input type="checkbox"/>		Tom Christiano	X	<input type="checkbox"/>

VOTE: Motion FAILS 9-10-1(AGAINST: Testani, Di Masi, Dineley, De Vita, Penkoff, Colucci, Llodra Gilman, Le Clair, Constantini and Pifko) (ABSTENTION: Scinto)

The Chair called the vote.

Mr. London requested a roll call vote.

The clerk called the roll call vote and recorded it as followed:

\*The Chair voted.

	AYE	NAY	ABSTAIN		AYE	NAY
Suzanne S. Testani	X	<input type="checkbox"/>		Carl A. Massaro, Jr.	X	<input type="checkbox"/>
Vincent DiMasi, Jr.	X	<input type="checkbox"/>		Michael J. London	<input type="checkbox"/>	X
Johnna M. Dineley	X	<input type="checkbox"/>		Lori Rosasco Schwartz	X	<input type="checkbox"/>
Ennio DeVita	X	<input type="checkbox"/>		James P. Blose	X	<input type="checkbox"/>
Daniel Marconi	<input type="checkbox"/>	X		Vicki Tesoro	<input type="checkbox"/>	X
Cynthia L. Penkoff	<input type="checkbox"/>	X		Ann Marie Evangelista	X	<input type="checkbox"/>
Edna Colucci	X	<input type="checkbox"/>		Mark S. LeClair	X	<input type="checkbox"/>
Tony J. Scinto	<input type="checkbox"/>	X		Enrico R. Costantini	X	<input type="checkbox"/>
Bethany Llodra Gilman X	<input type="checkbox"/>			Joseph G. Pifko	X	<input type="checkbox"/>
Kenneth M. Martin	X	<input type="checkbox"/>		Tom Christiano	X	<input type="checkbox"/>

VOTE: ADOPTED 15-5 (AGAINST: Marconi, Penkoff, Scinto, London and Tesoro)

First Selectman Herbst requested that the minutes reflect the following with regard to a statement made earlier at this meeting about bids for the concession stand at the high school.

First Selectman Herbst stated there was a meeting and a question was asked whether bids were sought. There was discussion about a bid waiver. The Public Works Director was in the hallway during that meeting. First Selectman Herbst left the podium and asked Mr. Marsilio if they had gotten bids on that project. His response was yes, there were four bids on that project and the Town went with the lowest bidder. He came back to the meeting and said there was no bid waiver when he should've said we got bids but went with the low bidder. The bid waiver was executed after more funds were sought and Trumbull went with the low bidder. The bid waiver was signed so procedurally the project could be done in the summer to make sure that the concession stand and the bathrooms were operational before school reopened. First Selectman Herbst stated he misspoke and apologized.

(Ms. Dineley left the meeting at 9:58 p.m.) (Ms. Dineley returned to the meeting at 9:59 p.m.)

13. RESOLUTION TC25-09: Moved by Mr. London, seconded by Mr. Pifko.

BE IT RESOLVED, That Section 5, Order of Business of the Town Council Rules and Procedures is hereby amended to include Public Comment. (Full Resolution Attached)

Committee Report: The L&A Committee met on February 24, 2014 and voted 5-1 (AGAINST: Marconi) to amend and 5 -1 (AGAINST: Marconi) as amended.

Mr. Scinto stated the current rule is stronger than the one proposed.

Mr. London stated that the current rule allows for public comment at any Council meeting or subcommittee meeting at the discretion of the Chairman. Public comment can be accommodated without a formal rule change. The Council has to be mindful of FOI. In his opinion the public comment should become part of the minutes and spoke in favor of public comment being televised, if Channel 17 chooses to do so. The Chair stated it is his understanding under FOI it is not required to include public comment in minutes, only the motions and votes are required to be recorded. Ms. Penkoff spoke in favor of public comment but against this resolution based on the fact that by the time the Council is considering the resolution they had done their due diligence and have come to their decision. Public comment should be at all subcommittee meetings. Mr. Marconi reiterated that the original intent of Ms. Tesoro's resolution has been changed by keeping public comment germane to the agenda and agreed with Ms. Penkoff that the Council has already decided by the time they get the full Council. Ms. Penkoff spoke in favor of public comment being germane to the agenda. The public comment always has multiple options to discuss their concerns with their Council members.

The Chair clarified for the Council the original resolution is on the floor for discussion.

Moved by Ms. Tesoro, seconded by Mr. London to amend to read as attached.

Ms. Tesoro stated that she had combined the original resolution with the resolution that was presented in committee.

The main differences are as follows:

- Public comment will be on the agenda every month.
- Public comment will be germane to the agenda items.
- Public comment will be limited to two minutes and this will be by the discretion of the Chairman.
- Written statements presented by speakers will be part of the minutes. Ms. Tesoro stated that would be at the discretion of the Chair and to save our clerk from having to take all statements and put them into the record.

Ms. Tesoro reiterated Mr. London's point with regard to a quorum being established if public comment was held prior to the meeting and spoke in favor of giving the public an opportunity to speak to the full Council.

Ms. Testani stated this is not a time sensitive issue and spoke in favor of taking their time, doing their due diligence in order to do this right. Ms. Tesoro explained for Mr. Scinto that her proposed resolution is different from the current rule by placing public comment on the agenda. Mr. Scinto stated under the current rules public comment is available. Mr. London spoke in favor of the compromise and the subcommittee chairman's discretion to allow public comment. Mr. Constantini reviewed the substantive differences of the proposed amendment as follows: the ability to submit written statements to be considered part of the record and the speaking takes place on the record. The Chair noted the amendment made in committee is not on the floor. Ms. Tesoro agreed hypothetically. Mr. Martin explained that he had researched several towns, Monroe, Bridgeport, , Shelton and Fairfield. All allowed public comment and were part of the minutes. Mr. Martin spoke in favor of public comment and noted that he has as a resident come to the Council and had been referred to the committee to make public comment.

VOTE: Motion CARRIED 9-8-2 (AGAINST: Testani, De Vita, Pifko, Constantini, Gilman, LeClair, Di Masi and Colucci) (ABSTENTION: Penkoff and Scinto)

Moved by Mr. Constantini, seconded by Ms. Llodra Gilman to substitute with the amendment made in committee, (Attached).

Mr. Constantini stated the amendment made in committee addresses the concerns raised when first proposed. There would be a time before the meeting at the public to address any item on the agenda by the Chairman's discretion. Council members are available at all times whether it is by telephone, email etc. The only difference between the proposed amendment and the amendment made in committee is putting public comment on camera which is political. Mr. London reiterated his concern with regard to quorums and FOI requirements. Ms. Tesoro disagreed with Mr. Constantini and also voiced her concern with regard to quorum issues if public comment was held at the pre-meeting. First Selectman Herbst stated representatives of Channel 17 have indicated to him the tapes of meetings are not subject to FOI, but disagrees and believes any of the recordings are subject to FOI. There has been past practice where tapes of public meetings have been altered to either include or exclude certain material. First Selectman Herbst stated that if public comment is going to be taped, the videotape itself is a public record subject to the FOI. He has never seen a member of the public go to the floor of the U.S. State Senate or the Connecticut House of Representatives and offer public comment and we have not seen it here for the last 40 years. First Selectman Herbst spoke in favor of public comment at the committee level, there should be public comment at every board or committee meeting but noted the Town Council is different because it has subcommittees. The purpose of the Town Council subcommittee is to vet legislation, hear the public in order to be able to either recommend or not recommend adoption to the full Council, recommending televising the subcommittee meetings. Subcommittee chairman should allow this. The role of public comment is to allow the public to speak on matters that are before the body. Ms. Colucci spoke in favor of this amendment and supports public comment noting that it adds an additional level for public comment. Mr. Constantini spoke in favor of public comment to items on the agenda. Mr. Blose spoke in favor of public comment and noted their peers include public comment. Ms. Gilman spoke in favor of public comment being germane to the agenda. Ms. Penkoff spoke in favor of public comment at the committee level explaining that this would give the Council time to listen and make a decision based on the testimony.

Mr. London, seconded by Mr. Christiano to call the question.

Ms. Tesoro called point of order asking for clarification on the question is. The Chair stated the Council is voting on the rule/amendment in committee. If this amendment passes it will substitute the previous amendment. Ms. Tesoro stated that she would offer another amendment. The Chair stated the motion would be out of order because the Council has to dispose the motion on the floor first. After this motion is voted on another amendment could be made.

VOTE: Motion CARRIED 17-2 (AGAINST: Martin and Tesoro)

VOTE: Motion FAILS 8-10-1 (Against: Dineley, Marconi, Scinto, Martin, London, Rosasco-Schwartz, Blose, Tesoro, Evangelista and Christiano) (ABSTENTION: Penkoff)

Mr. DeVita spoke against any change to the rule. Ms. Testani spoke in favor of public comment; although she preferred the amendment in committee she would support this amendment. Ms. Gilman stated she would also support the newly revised amendment. The Chair stated proposal goes beyond what the FOI requires. Ms. Colucci asked for clarification that this is the last proposal on public comment before the council. The Chair confirmed. Ms. Colucci supports the amendment because she is in favor of public comment. Mr. Constantini stated the amendment is not clear as to whether or not a person can submit written comment for someone who is not present at the meeting. The Chair stated the line reads, "Written statements presented by speakers during the public comment section shall be included in the minutes of the meeting." It is a matter of interpretation.

VOTE: ADOPTED 15-2-2 (Against: De Vita and Di Masi) (ABSTENTION: Penkoff and Martin)  
(Mr. DeVita left the meeting at 11:02 p.m.)

14. RESOLUTION TC25-23: Moved by Ms. Testani, seconded by Mr. Pifko.  
BE IT RESOLVED AND ORDAINED, That Chapter 7, Article II, Fire Protection Board is hereby amended and disbanded for a job well done.

Committee Report: The L&A Committee met on February 24, 2014 and voted unanimously.

VOTE: ADOPTED unanimously.

15. RESOLUTION TC25-24: Moved by Mr. Marconi, seconded by Ms. Testani.  
BE IT RESOLVED AND ORDAINED, That the Insurance Commission is hereby disbanded for a job well done.

Committee Report: The L&A Committee met on February 24, 2014 and voted unanimously.

VOTE: ADOPTED unanimously.

16. RESOLUTION TC25-33: Moved by Mr. Di Masi, seconded by Mr. LeClair.  
BE IT RESOLVED, That Daniel Marconi of 40 Brookhedge Road, be and the same is hereby appointed as the Town Council representative for the Emergency Management Shelter Building Committee.

VOTE: ADOPTED unanimously.  
(Mr. Blose and Mr. De Vita returned at 11:10 p.m.)

17. RESOLUTION TC25-34: Moved by Ms. Colucci, seconded by Ms. Tesoro.  
BE IT RESOLVED, That Anne Fers of 257 Pinewood Trail, be and the same is hereby reappointed as a member of the Trumbull Day Commission for a term extending to September 3, 2018.  
Mr. Blose returned at 11:11 p.m.

Committee Report: The L&A Committee met on February 24, 2014 and voted unanimously.

VOTE: ADOPTED unanimously.

18. RESOLUTION TC25-36: Moved by Ms. Rosasco Schwartz, seconded by Mr. London.  
BE IT RESOLVED AND ORDAINED, That Resolution TC18-17 as adopted on July 6, 2000 is hereby modified as follows:

There shall be a commission known as the Trumbull Day Commission consisting of seven (7) members, appointed by the First Selectman with the approval of the Town Council. The budget for any event planned by the commission shall be subject to approval by the Board of Finance and the Town Council.

Committee Report: The L&A Committee met on February 24, 2014 and voted to amend unanimously and as amended unanimously.

The Chair recognized the amendment in committee.

Moved by Mr. London, seconded Ms. Testani to amend by striking the phrase ~~seven (7) members~~ and replacing it with nine (9) members.

VOTE: Motion CARRIED 17-2 (ABSTENTION: Di Masi and De Vita)

VOTE: ADOPTED as amended 17-2 (ABSTENTION: Di Masi and De Vita)

Motion made by Mr. Scinto, seconded by Ms. Penkoff to approve the minutes of the regular February meeting as submitted.

VOTE: Motion CARRIED unanimously.

(Mr. De Vita left the meeting at 11:12 p.m.)

There being no further business to discuss the Town Council adjourned by unanimous consent at 11:13 p.m.

Respectfully Submitted,

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Margaret D. Mastroni  
Town Council Clerk

TC25-09  
FULL RESOLUTION

In original agenda form:

RESOLUTION TC25-09: BE IT RESOLVED, That Section 5, Order of Business of the Town Council Rules and Procedures is hereby amended to include Public Comment;

4) Public Comment

- (A) The Town Council welcomes comments from the public. On the agenda of each meeting of the Town Council, a period shall be set aside and designated as an opportunity for the public to address the Council on any issue of importance to the Town. Each speaker will be allowed an opportunity to speak for a maximum of five minutes. Speakers are not permitted to yield any portion of their time to another speaker(s). Any citizen so speaking shall identify him/herself by name and address, and if the speaker is speaking for a group or organization, she/he may so state. Citizen comments will be accepted as presented. Written statements presented by speakers during the public comment section shall be included in the minutes of the meeting. Immediate replies to questions/concerns should not be expected (Chairman's discretion). The Town Council will not permit any expression of personal complaints or defamatory comments about Town Council members nor against any person connected with the Town of Trumbull or any other individual, firm or corporation.

ADOPTED

To consider and act upon a resolution which would amend the Town Council Rules and Procedures, Section 5, Order Of Business, to include the following:

4) Public Comment

(A) The Town Council welcomes comments from the public. On the agenda of each meeting of the Town Council, a period shall be set aside and designated during said meeting as an opportunity for the public to address the Council on items scheduled to be considered on the agenda for that meeting. The Chairman at his discretion may limit the time allotment for public comment and may limit individual comment to a maximum of 2 minutes. Speakers are not permitted to yield any portion of their time to another speaker(s). Any citizen so speaking shall identify him/herself by name and address, and if the speaker is speaking for a group or organization, she/he may so state. Written statements presented by speakers during the public comment section shall be included in the minutes of the meeting. Immediate replies to questions/concerns should not be expected (Chairman's discretion). The Town Council will not permit any expression of personal complaints or defamatory comments about Town Council members nor against any person connected with the Town of Trumbull or any other individual, firm or corporation.

Public comment referenced herein shall not substitute for public hearing requirements as otherwise provided for in these rules.

*Amended and Repealed by Resolution*

TOWN COUNCIL PUBLIC COMMENT

3. MEETINGS

The public is encouraged to communicate with members of the Town Council at any time, personally, or through designated e-mail addresses provided on the Town's website.

At the discretion of the Chairman of the Town Council or the Chairman of any of its Committees, members of the public may offer comment prior to the commencement of any meeting of the Town Council or its Committees.

Public comment shall be directed solely to items scheduled to be considered on the agenda of the meeting. The Chairman of the meeting may limit the time allotment for public comment and may limit individual comment to a maximum of 2 minutes. The Chairman shall announce the parameters of public comment in advance.

Each person speaking shall pre-register to speak by providing their identity and residence address. Individuals may provide oral commentary which shall not become part of the official minutes of any meeting. No individual may yield any portion of their allotted time to any other person. Immediate replies to individual comment should not be expected (Chairman's discretion). The Town Council discourages any disparaging personal complaints or defamatory comments against any Town Council member or any other Town official or personnel.

Public comment referenced herein shall not constitute nor substitute for Public Hearing requirements as otherwise provided for in these rules.

Final Version

**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's search of the Town's land records does not reveal any instrument creating the Purported Easement and has found no other evidence to support the existence of the Purported Easement.
6. The Town investigated the existence of the Purported Easement and has not located any document on its land records or in other Town Departments that supports the notation on the DOT Map.
7. The execution of this affidavit has been authorized by resolution of the Trumbull Town Council adopted at its meeting held on March 3, 2014.
8. This affidavit does not relate to or in any way affect that certain 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 Clerk's office and numbered 1446.

Witnessed by:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Timothy M. Herbst  
First Selectman of the Town of Trumbull

Personally appeared, Timothy M. Herbst, as First Selectman of the Town of Trumbull, who made solemn oath and subscribed to and swore to the truth of the foregoing, before me, on March \_\_\_\_ , 2014 in Trumbull, Connecticut.

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Commissioner of the Superior Court