

TOWN COUNCIL
Town of Trumbull
CONNECTICUT
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TOWN HALL
Trumbull

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LEGISLATION & ADMINISTRATION COMMITTEE
OCTOBER 28, 2013
MINUTES

The Chair called the meeting to order at 7:09 p.m. at the Town Hall.

PRESENT: Suzanne Testani, Chairman, Fred Palmieri, Jr. and James Meisner Alternate.

ABSENT: Kristy Waizenegger, Martha Jankovic-Mark, Chad Ciocci, Vice Chairman, Jeff Jenkins and Jeff Donofrio, Alternate.

ALSO PRESENT: Chief of Staff Jesse Jablon, Director of Finance Maria Pires, Town Council Chairman Carl A. Massaro, Jr. (not voting), Economic Development Director Edward Lavernoich, Long Hill Fire Chief Doug Bogen, Donna Pelletteri of the Tax Collector's Office and Town Attorney Darin Callahan.

1. RESOLUTION TC24-159: Moved by Mr. Palmieri, seconded by Mr. Meisner.

BE IT RESOLVED AND ORDAINED, That Chapter 18 of the Municipal Code be amended to include Article V, Police and Firefighter Surviving Spouse Tax Relief Regulations, enacting a tax abatement program for spouses of police and firefighters. (*Full Resolution Attached*)

Atty. Callahan explained for Ms. Pelletteri under Section 18-64, if the surviving spouse conveyed the title to the children and preserved a life estate that would still be a conveyance therefore in his opinion they would not be entitled to the benefit.

Mr. Meisner suggested discussing capping the benefit at 100% for ten years. Chief Bogen he had originally suggested language be added if in the case the Town found that someone was abusing the benefit the Town could revoke the benefit. His concern on the length of the benefit would be to protect the surviving spouse who is 60-70 years of age during their loneliest time. The State has a one-time death benefit of approximately \$25,000 (the exact amount can be found on the State website). THE LHFD has a one-time death benefit and a supplemental policy for both disablement and death. Mr. Meisner suggested instead of a cap of ten (10) years, reapplying after ten (10) years.

Mr. Palmieri stated the points raised last month were and should still be considered this month is as follows:

- The ordinance is open to all police and firefighters who reside in Town and questioned the exposure to the Town.
- The amount of the benefit being limited to a date certain at 100% with the possibility of reapplying after ten (10) years.

Atty. Callahan explained there are two possible categories of abatements:

1. The town would have abatement for those employed by their town
2. Abatement for any property affected by the death of the firefighter or police officer irrespective of where their place of employment was.

The pure intent of the statute was to have the abatement belong to the property not the individual.

The Chair OPENED the Public Hearing at 7:26 p.m.

There was one person from the public present to speak to this resolution.

(Public Comment Attached)

The Chair CLOSED the Public Hearing at 7:30 p.m.

Mr. Massaro stated after having read the proposed ordinance he felt it needed a little more substance. Some of the eligibility requirements will create a cap to the benefit. The Tax Assessor spoke to the committee last month and stated the median value of a home in Trumbull was \$365,000, interpreting that as the equivalent to the \$7,500 benefit. Mr. Massaro stated \$7,500 is a substantial tax credit and meets the purpose of helping the surviving spouse and family. Atty. Callahan stated the State gave broad discretion to the Town and would interpret the statute to allow the Town to impose income thresholds. The Sate Legislature recently passed an amendment to the statute which would include Emergency Medical Technicians (EMT's) and was effective on October 1, 2013. Chief Bogen suggested including MRT's as well as EMT's.

Mr. Meisner suggested offering a death benefit in lieu of the abatement. Mr. Palmieri questioned how big the potential pool of people involved would be. It was estimated at 500-600 people. Chief Bogen questioned if a person in Trumbull is a volunteer in two towns, would the other town reimburse our town? Some of the towns' ordinances do provide for reimbursement, others do not.

Mr. Meisner noted the proposed ordinance, as currently written, only specifies police and firefighter who reside in Trumbull. Mr. Massaro explained the benefit is for the surviving spouse regardless of who the deceased worked for. The benefit is intended for the family who is a part of our Town and community. There are many people who reside in Trumbull who work in other towns' fire and police departments. Atty. Callahan stated in addition to Easton, Monroe and Newtown having this ordinance Danbury, Clinton, Groton and Greenwich have the ordinance as well. Fairfield, Weston, Norwalk and Bridgeport do not.

Mr. Palmieri stated \$7,500 is a significant abatement. The threshold could be changed in years to come if necessary. Atty. Callahan agreed the ordinance could be amended in the future. Atty. Callahan explained for the Chair that the Tax Assessor, per statute, would administer the program and apply the benefit within the confines of the ordinance.

The L&A committee discussed a percentage of the taxes v. the \$7,500 abatement. It was agreed the potential abatement would be a greater amount for the Town.

Mr. Meisner suggested that a non-job related death clause be written into the ordinance. Mr. Palmieri suggested redefining subsection 3 of Section 18-62 so it as specific as subsection 4. Mr.

Massaro explained the ordinance was written using statutory language. If non-statutory language is used it could prove to be problematic. The statute does not provide many definitions. "In the line of duty" contemplates a traumatic event which is why Easton included occupational diseases as an exception. Mr. Palmieri suggested creating such an exception. Mr. Massaro note he had suggested at last month's meeting a portal-to-portal exception. Mr. Meisner suggested amending the language to read as "...as of a result of the performance of duty". Mr. Massaro stated heart and hypertension could be construed "as a result of the performance of duty".

Chief Bogen suggested the difference in specificity of subsections 3 & 4 is due to the fact that a police officer is always out there in the community and is revolving, while a firefighter and EMT is purposeful driven, they go to call, fix the problem and return from a call. Mr. Meisner suggested the abatement require Town Council approval on a case-by-case basis.

Mr. Massaro explained for Mr. Palmieri all of the Town's tax relief programs are done by application and it is incumbent upon the applicant, in this case the surviving spouse, to apply for the benefit. The ordinance is defined in a tax credit format and is a logistical issue for the assessor. The Tax Assessor deals with assessments and reductions of assessments. There will have to be a reverse interpolation to figure out what \$7,500 of taxes does to the assessment. He believes it will simply involve making a note on the card.

Mr. Massaro noted there were two (2) amendments from last month. The resolution was sent back to committee un-amended by the full council.

Moved by Mr. Palmieri, seconded by Mr. Meisner to amend the resolution by adding the title Emergency Medical Technician and to direct the Town Attorney to do so by inserting the title Emergency Medical Technician throughout the resolution in the appropriate places. The statute allows for the inclusion of the EMT as of October 1, 2013.

VOTE: Motion CARRIED unanimously.

Moved by Mr. Meisner, seconded by Mr. Palmieri to amend the resolution with the two amendments made at the September 30th Legislation & Administration Committee as follows:

To add subparagraph (5) to **Section 18-64 – Eligibility**

(5) Notwithstanding subparagraphs (1) and (2) above, The tax abatement in any given case shall remain in effect for so long as the surviving spouse occupies the property as his or her primary residence and holds legal title to the property. If a surviving spouse subsequently purchases a different property in the Town of Trumbull as his or her primary residence and all other qualifying criteria are satisfied, the tax abatement shall apply to the newly purchased property. The tax abatement may only apply to one property at any time.

And;

To change Section 18-62- Definitions, subparagraph (5) to (6) and add a new subparagraph (5) to read as follows:

Sec. 18-62 – Definitions

(5) Spouse shall be defined according to the Connecticut General Statutes.

VOTE: Motion CARRIED unanimously.

VOTE: Motion CARRIED as amended unanimously.

2. RESOLUTION TC24-163: Moved by Mr. Meisner, seconded Mr. Palmieri.

BE IT RESOLVED, That the sale of Town Parcel G08-224 to Brinsmade Associates, LLC is hereby approved and the First Selectman is hereby authorized to execute the sale agreement and documents to complete the sale.

Mr. Lavernoich explained the property is a 1/10th of an acre zoned business/commercial. It is a parcel that was orphaned by a number of land transactions. Everything to the north and east of it is zoned residential. The properties, known as Trumbull Center abut it to the south and are zoned commercial. The property is too small to build on it according to the Town's zoning classifications. The property is currently used for over-flow parking for the trail and the Helen Plumb Building. The Trumbull Center Fire District and Trumbull Police Dept. Traffic Division believe the parcel to be a hazard because it encourages people to cross traffic where they should not.

The owner of 965 White Plains Road intends to tear down the existing building and replace it with a CVS with 2-3 other store fronts. The parcel will go back on the tax log. Ultimately this will allow for the section of stores that currently houses CVS and Starbucks to be taken down. The landlord has gotten feedback from larger anchor tenants that have looked at the old Porricelli's location. They do not want to lease unless the site lines are larger. All potential tenants have asked what the future holds for the building that currently houses CVS. It may be replaced with a smaller footprint building that would house a stand alone Starbucks. The Building Official and the Fire Marshal agree that building should come down.

The neighbors will not be impacted from the development at 965 White Plains Road because the trees and greenery buffer will remain. A sign will be posted per state law on the property. The retail use of the building will ultimately bring in a higher tax base than the current use. The appraisal of the parcel is \$16,800 and is in line with the Vision appraisal within the Tax Assessor's office. The buyer's have agreed to pay \$16,800. An environmental assessment has been done by Mountain Laurel Environmental. There are no environmental problems on the property per a Phase I investigation.

The property went through an 8-24 review by P&Z in August 2013. Per State law a public hearing is required. After the transaction is approved they would go to contract. The owners of 965 White Plains Road would then go through all of the necessary steps to get final approval. They will need a P&Z special permit for the retail site. Once the special permit is granted the sale will be consummated. The parking for the trail will be required to be replaced and will not be eliminated until it is replaced. There are four (4) poles from the corner of Grandview to the corner of 965 White Plains Road, this will be problematic to widen the sidewalks but they will have to make some improvement to the sidewalk per the condition of approval. The Town or the owner would be responsible for the replacement of the parking lot; the owner would be motivated by the fact that they can not eliminate it until the replacement of it is done. Mr. Massaro noted per the 8-24 approval the parking spaces will need to be replaced or maintained. The same body will hear the application for the special permit that is the control in place for this.

The Chair OPENED the Public Hearing at 8:39 p.m.
There was one person from the public to speak to this resolution.

(Public Comment Attached)

The Chair CLOSED the Public Hearing at 8:44 p.m.

Mr. Meisner stated that once the property is sold the Town will lose its leverage. Mr. Lavernoich the sale does not occur until they get their approvals and cannot eliminate the parking until it is replaced somewhere else. There could be a stipulation that the parking has to remain open until the parking is replaced somewhere else, whether it be the Town or the buyer maintaining it.

Mr. Lavernoich would like to get contractual approval in place as soon as possible because that will allow the buyer to pursue the site plan which starts the positive domino effect for the entire Trumbull Center. If this is approved at the November 7, 2013 meeting the sale will not take place until the spring. Mr. Meisner stated he believes the Town is giving up the parcel to cheaply. It is a positive for the buyer to be located across the street from the New Visitor Center. This will bring many people to the retail complex. This is a potential bargaining chip that should not be given away. Mr. Lavernoich clarified that the buyer needs to go through the special permit process and explained that is a rigorous process. There is a great deal of discretion on the part of the P&Z Commission before they grant the special permit. Reasonable conditions from the council can be inserted into the resolution.

Mr. Palmieri noted the P&Z 8-24 condition of approval for the replacement of the parking spaces was worded intentionally vague as to who is responsible. Mr. Lavernoich confirmed this. The parking could be replaced at the CVS site. The Town has a grant for the trail and believes there will be small amount of the grant dedicated to the replacement of this parking lot; there is also the potential for a donation from the Aiello Foundation. Based on conceptual plans they expect there to be 2-3 accessible spaces at grade at 579 Church Hill Road. The elevation difference from Tait's Mill to the lawn at the Visitor Center is 14' to 15' for the other spaces.

VOTE: Motion CARRIED unanimously.

3. RESOLUTION TC24-164: Moved by Mr. Palmieri, seconded by Mr. Meisner.

BE IT RESOLVED, That the filing of an application for State financial assistance by the Town of Trumbull in an amount not to exceed \$123,890 is hereby approved and First Selectman, Timothy M. Herbst is hereby directed to execute and file such application with the Connecticut Department of Economic and Community Development in order to undertake the Hillcrest Pool Project Phase II. (*Full Resolution Attached*)

Ms. Pires explained that there had been a previous \$365,000 grant, subsequent to that additional work needed to be done. There were some bond funds that had been reallocated to the Hillcrest Pool along with \$33,600 capital non-reoccurring funds. There was still additional work necessary as outlined in the back-up attached to the full Town Council November agenda. Anthony Musto was able to get an additional grant in the amount of \$123,890 which is the subject of this resolution. Authorization is required for the signing of the documents. The State is aware that the signing is late. The State has told them to continue with the work. The State will back date the agreements so they coincide with the signature of this contract. This will bring the pool to its twenty year life.

VOTE: Motion CARRIED unanimously.

By unanimous consent the Legislation & Administration Committee adjourned at 9:01 p.m.

Respectfully Submitted,

Margaret D. Mastroni
Town Council Clerk

RESOLUTION TC24-159; BE IT RESOLVED AND ORDAINED, That Chapter 18 of the Municipal Code be amended to include Article V, Police Officers and Firefighters Surviving Spouse Tax Relief Regulations, enacting a tax abatement program for surviving spouses of police officers and firefighters; and

WHEREAS, Police Officers and Firefighters provide life-saving public safety service to the Town of Trumbull; and,

WHEREAS, The Town of Trumbull is enabled by Connecticut General Statute 12-81x to provide for an abatement of all or a portion of property taxes due with respect to real estate owned and occupied as the principal residence of the surviving spouse of a police officer or a firefighter who dies in the performance of such police officer's or firefighter's duties; and,

WHEREAS, the Town of Trumbull desires to recognize the courageous service of police officers and firefighters by providing tax relief for their spouses in the event of their death in the performance of their duties;

NOW THEREFORE, BE IT RESOLVED AND ORDAINED, That Chapter 18 of the Municipal Code be amended to include Article V, Police and Firefighter Surviving Spouse Tax Relief Regulations and the following:

Sec. 18-60. – Generally.

The Town hereby enacts a tax abatement program with respect to real property owned and occupied as the principal residence of the surviving spouse of a police officer or firefighter who dies while in performance of such officer's or firefighter's duties pursuant to Connecticut General Statute § 12-81x and on the terms and conditions provided herein.

Sec. 18-61. – Purpose.

The purpose of this Ordinance is to honor police officer's and firefighter's who die while in the performance of his or her official duties and to ease the resulting financial burden on such officer's or firefighter's surviving spouse.

Sec. 18-62. – Definitions.

For purposes of this Ordinance, the following terms shall be defined as follows:

(1) Police Officer. The term "*police officer*" shall be defined as any person who is a duly employed member of a state or municipal police department in the State of Connecticut, serving in an official capacity, full-time or part-time, with or without pay.

(2) Firefighter. The term "*firefighter*" shall be defined as any person who is a duly employed or volunteer member of a fire department in the State of Connecticut, serving in an official capacity, full-time or part-time, with or without pay.

(3) Police Duties. The term "*police duties*" shall be defined as duties which an officer is obligated or authorized by law, regulation, or written condition of employment to perform.

(4) Fire Duties. The term "*fire duties*" shall be defined as duties performed while traveling to, at, or returning directly from fires or fire related calls, alarms of fires or calls for

mutual aid assistance, or tests or trials of any apparatus or equipment normally used by the fire department; while instructing or being instructed in fire duties; or while engaging in any other duty ordered to be performed by a superior or commanding officer in the fire department.

(5) Surviving Spouse. The term “*surviving spouse*” shall be defined as the spouse of a police officer or firefighter at the time such police officer or firefighter dies in the performance of his or her police duties or fire duties.

Sec. 18-63. – Tax Abatement Program

Subject to the eligibility terms and conditions set forth herein, there is hereby established effective the Grand List of October 1, 2013 an abatement of 100% of municipal real property taxes due or \$7,500 per year, whichever is less, with respect to real property in the Town of Trumbull owned and occupied as a primary residence by the surviving spouse of the following persons:

- (1) a police officer who dies in the performance of his or her police duties; or
- (2) a firefighter who dies in the performance of his or her fire duties.

Sec. 18-64. – Eligibility.

Municipal real estate taxes due on the real property shall be abated until the earlier of the following events:

- (1) the real property ceases being the surviving spouse’s primary residence;
- (2) the surviving spouse conveys legal title to the real property;
- (3) remarriage of the surviving spouse; or
- (4) 90 days after the death of the surviving spouse.

Sec. 18-65. – Administration.

The Tax Collector and the Tax Assessor shall prescribe such forms and procedures as they deem necessary and appropriate to implement this Ordinance.

The Tax Assessor, in addition, shall take steps as necessary and appropriate to satisfactorily establish the facts that support the eligibility of the surviving spouse for abatement of municipal real property taxes on an initial and continuing periodic basis.

Further, the Tax Collector and the Tax Assessor shall create and maintain records of the sum of the total monies abated as a result of this Ordinance on a fiscal and ongoing basis to be submitted for review by the Town Council and Board of Finance upon request.

Sec. 18-66. – Effective Date.

This Ordinance shall be effective upon the date of adoption.

RESOLUTION TC24-164: BE IT RESOLVED, Whereas, pursuant to C.G.S. Sec 4-66c, the Connecticut Department of Economic and Community Development is authorized to extend financial assistance for economic development projects: and,

Whereas, it is desirable and in the public interest that the Town of Trumbull make an application to the State for \$123,890 in order to undertake the Hillcrest Pool Project Phase II and to execute an Assistance Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE Trumbull Town Council, that it is cognizant of the conditions and prerequisites for the state financial assistance imposed by C.G.S. Sec. 4-66c that the filing of an application for State financial assistance by the Town of Trumbull in an amount not to exceed \$123,890 is hereby approved and that First Selectman, Timothy M. Herbst, be and the same is directed to execute and file such application with the Connecticut Department of Economic and Community Development, to provide such additional information, to execute such other documents as may be required, to execute an Assistance Agreement with the State of Connecticut for State Financial assistance if such an agreement is offered, to execute any amendments, decisions, and revision thereto, and to act as the authorized representative of Town of Trumbull.

RESOLUTION TC24-159
Public Hearing Comments

The Public Hearing was opened at 7:26 p.m.

There was one (1) person from the public present to speak:

Mr. Tony D'Aquila of 29 Valleyview Road was present and indicated he fully supports the concept of the resolution. Mr. D'Aquila stated that definitions should be included so people understand s performance of one's duty and went on to cite an example of an officer performing his job at the Records Department who chokes and dies eating a sandwich while in duty. Mr. D'Aquila raised the question of whether the officer would be entitled to the benefit. There are instances that could provide confusion and suggested to the Chair to provide definitions of the various words. There is financial aide being provided to the spouse and raised the question whether the annual income of the surviving spouse should be considered. A provision could be made to include a teacher, but understands the enabling legislation does not include teachers, but in order to be able to get around the legislation a check could be issued to them. He agrees the surviving spouse that is approaching the senior citizen portion of their lives when they are facing financial aspects of their lives where they want to be able to stay in their house. Mr. D'Aquila stated the benefit should not be limited to ten (10) years. This should be written into the ordinance now that decision should not be allowed to be made by an administrator.

The Public Hearing was closed at 7:30 p.m.

RESOLUTION TC24-163
Public Hearing Comments

The Public Hearing opened at 8:39 p.m.

There was one person from the public to speak to this resolution.

Mr. Tony D'Aquila of 29 Valleyview Road was present and indicated the sidewalk is used. It is narrow however as part of the 8-24 referral by the P&Z the new owners are to put in a sidewalk. Consistent with the proposed POCD sidewalks are becoming an integral part of their plan emphasizing pedestrians and the safety of the pedestrians over cars. There is an obligation to the public to ensure there is adequate parking available to the Helen Plumb Building. The problem is during the evening hours between 6:00 p.m. and 7:00 p.m., especially during the spring and summer, parking for the trail is overflowing, which is why those who use the Helen Plumb Building for meetings migrate to the parking lot across the street. By the time the meeting is over there are still many cars in the parking spaces that are perpendicular to the curb on Tait Road. Mr. D'Aquila is fully supportive of this transaction to occur because he believes that Trumbull Center has been a disgrace for too long and that the Town needs something better there. He believes it should not be sold until parking is provided. If they maintain the small parcel there is no guarantee to remove the snow, there will be no legal way to have them remove the snow or maintain it properly. It is an obligation of the Town to provide parking for meetings. Parking being provided behind the building that is the old train station would require climbing stairs (with the exception of the two (2) spaces that will be provided for handicap accessibility) is not appropriate. In the contract it should require adequate sidewalks, 4' wide, and does not care if they reposition the utility pole. There should be a grass area separating the sidewalk from the curb, keeping the pedestrians away from the cars that come flying down the grade. There should be a consideration for the pedestrians. It is difficult to cross the street, but most of the time when he crosses it at 7:00 p.m. or when leaving the meetings at 9:30 or 10:00 p.m. there is very little traffic.

The Public Hearing closed at 8:44 p.m.