

TOWN COUNCIL
Town of Trumbull
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TOWN HALL
Trumbull

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LEGISLATION & ADMINISTRATION COMMITTEE
MINUTES
SEPTEMBER 29, 2015

The Vice-Chair called the meeting to order at 7:03 p.m. All present joined in a moment of silence and the Pledge of Allegiance.

The Clerk called the roll and recorded it as follows:

PRESENT: Enrico Costantini, Vice Chairman, Joseph Pifko, Edna Colucci, Ken Martin, Sr., Alternate, Scott Wich, and Daniel Marconi.

ABSENT: Suzanne Testani, Chairman, and Mary Beth Thornton, Alternate.

ALSO PRESENT: First Selectman Timothy Herbst, Town Council Chairman Carl A. Massaro, Jr., Chief of Staff Lynn Arnow, Town Council members Cindy Penkoff (arrived at 7:20 p.m.) and Vicki Tesoro.

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1. RESOLUTION TC25-204: Moved by Mr. Pifko, seconded by Mr. Marconi.
BE IT RESOLVED, That the First Selectman is hereby authorized to accept on behalf of the Town of Trumbull, a Department of Social Services grant in the amount of \$150,000 to undertake renovation and improvements to the kitchen facilities at the Trumbull Senior Center, and
BE IT FURTHER RESOLVED, that First Selectman is hereby authorized to enter into and execute any and all agreements, contracts and documents necessary to obtain and administer the aforementioned Department of Social Services Grant.

First Selectman Herbst explained the Town has received funds to renovate the kitchen at the Senior Center. There is a building committee in place currently researching the construction of a new center. The funds are now in limbo due to two separate state agencies have two different opinions with respect to how this money can be used. If this money is spent at Priscilla Place for new equipment and/or renovations the question is

whether those could be transferrable to a new Senior Center. The Dept. of Social Services says yes, the Dept. of Mental Health Services says no. The Chief of Staff has recommended processing the application to avoid risking losing the funds while waiting for the state agencies to make a determination. First Selectman Herbst agrees with the recommendation. If there is an administrative glitch between the two agencies our legislators can be engaged.

First Selectman Herbst explained for Ms. Colucci it should be permissible to give the funds back if it is determined the funds are not transferable. Chairman Massaro stated this application had been before the council before but had never been acted upon. It has been brought back due to the application's filing deadline. First Selectman Herbst stated the Director of Public Works had assisted in developing the estimate along with the on-call architects. As with any project when taking down walls there may be other ancillary costs not anticipated. They are planning on renovating the existing space, not adding space. First Selectman Herbst and Chairman Massaro confirmed there is a deadline for the application, they are unsure of the exact date but believe it is within the next couple of months. First Selectman Herbst recommended filing the application.

VOTE: VOTE: CARRIED unanimously.

2. RESOLUTION TC25-207: Moved by Mr. Martin, seconded by Mr. Marconi
BE IT RESOLVED AND ORDAINED, That Chapter 2. Article II- Officers and Employees, Section 2-55 Municipal Contracts with Public Officials Prohibited, of the Trumbull Municipal Code is hereby enacted. (Full Ordinance Attached)

First Selectman Herbst explained this ordinance is part of a series of ordinances that will begin the process of addressing this issue and also the process of amending the Ethics Code. The Ethics code is antiquated it has not been amended since 1989. In 2013 there was a complaint considered by the Ethics Commission that was dismissed. There has always been the question why was it dismissed. Was it procedural or was it substantive? This resulted in a discussion as to whether a person is defined as a public official or a vendor, contractor or consultant therefore not subject to the Ethics Code. This ordinance establishes a clear line and eliminates the ambiguity. If you hold a public office or sit on a board, commission or committee of the Town or BOE you don't bid on a contract or part of a bid waiver.

Mr. Wich stated Chapter III, Section 6, subsection g. 4, pg. 20 of the Charter conflicts with this ordinance. After review of the section First Selectman Herbst did not interpret that as a conflict. The section of the Charter pertains to notice requirements. Mr. Wich stated if you go through the process as outlined on the Charter and sit on a board then it would be allowed but the ordinance says you can not even if the Charter's process is followed. This ordinance is in conflict with Charter. First Selectman Herbst stated there are standards written in the Charter in Chapter III, Section regarding the Tree Warden and believes those standards should be applied to all officials.

Mr. Martin stated this does provide a check and balance. Ms. Colucci spoke in favor of the ordinance. Mr. Pifko raised a concern that someone in Town who serves on a board who also may own a restaurant could not send a food truck to the Fall Festival under this ordinance. First Selectman Herbst suggested the ordinance could be amended to include a phrase such as: “in excess of a certain dollar amount.” This would address that scenario.

Ms. Tesoro agreed with Mr. Pifko the ordinance may be too restrictive but also agreed with First Selectman that the Code of Ethics needs to be updated. Ms. Tesoro likes to look to other towns to see what they do and asked that information be brought to the full Town Council meeting. Ms. Penkoff agreed with Mr. Pifko but does not think it pertains to vendors paying to bring their wares to the Fall Festival. Mr. Constantini is in favor of not allowing a public official bid on Town contracts. His concern would be that someone who works for a large firm & doesn't know that they may be violating the ordinance because he is affiliated with the large company that may do business with the Town that he or she would not be aware of. First Selectman Herbst and Chairman Massaro stated the ordinance would be part of the bid package.

First Selectman Herbst stated this ordinance avoids Ethics complaints being filed and people having to hire a lawyer, defending themselves or possibly being sued. He does not want anyone having to go through that. This protects people.

Chairman Massaro stated the ordinance repeals the “Conflicts of Interest” paragraph of the Purchasing Policy. Under Purchasing Policy there is a section entitled The Ethics Procurement and there is the Conflict of Interest section, this ordinance would specifically repeal it. If this ordinance did not repeal that the policy it would be in conflict with this ordinance.

VOTE: CARRIED 5-1 (AGAINST: Wich).

3. RESOLUTION TC25-188: Moved by Mr. Wich, seconded by Mr. Pifko
BE IT RESOLVED AND ORDAINED, That an ordinance entitled Protection of Private Personal Information is hereby established. (Full Ordinance Attached)

Mr. Massaro stated Town Attorney Kokenos could not be present at this meeting. Mr. Wich stated the bullet points of this ordinance had been distributed to the Town Council as requested at last month's meeting. He had reached out to Atty. Kokenos with regard to the BOE aspect for this ordinance. He is still reviewing and will get back to Mr. Wich. Atty. Kokenos also had brought up that we should know what policies are in place currently. He requested copies of the policies so they could be sent to the Town attorney for review. Mr. Wich explained to First Selectman Herbst that he is not aware of any other towns in the area that have this ordinance. He is aware of state and federal laws but not at the municipal level. This ordinance is based on state and federal. When he drafted the definitions he did not have the BOE in mind. First Selectman Herbst stated the BOE has student rosters with information pertaining to the children and their parents and is shared with the PTSA. First Selectman Herbst questioned whether using the list to cross

reference to see how many voters are in the house would be a violation of this ordinance. Mr. Wich stated that he would have to defer to the Town attorneys; they are more familiar with municipal law.

First Selectman Herbst stated it was his understanding the genesis of this ordinance was a result of what had occurred at the Trumbull Nature Center when the information of who and how many were participating in the programs was requested. If the BOE is not subject of the ordinance that would be a double standard. Parents in the school who have paid a PTA due get the student/parent rosters. First Selectman Herbst stated he numbers of those participating at the Nature Center is small compared to thousands at the schools.

Ms. Colucci there are certain laws in place already, and noted since the rosters are already being distributed this could affect that hugely. The committee discussed how this ordinance would affect the BOE's tradition of printing and distributing these rosters and how the rosters are disseminated by a third party. It was agreed the BOE should be included under this ordinance. Mr. Pifko noted that it comes down to risk benefit and noted that if it has not been a risk for the BOE which has thousands of children then it should not be a risk for a small group at the Nature Center. There has to be a standard throughout the Town including the students in school, a program at the library or Nature Center. Ms. Colucci stated this has not been a problem for the BOE now or in the past. This ordinance would affect the ability of the BOE to provide this roster and questioned how the ordinance would be enforced. This ordinance may be overregulation.

Mr. Wich stated this did come about from the Trumbull Nature Center request. Mr. Wich stated we need to research what laws are in place for the BOE and how this would fit with those. Ms. Colucci stated the BOE roster is opt-in book. The families decide if they want to be included. First Selectman Herbst stated if we are going to apply a standard to the Nature Center then it should be applied throughout the Town. There is a provision in the Ethics Code that applies to the protection of this information.

Ms. Colucci stated the dissemination of the roster can not be enforced, it is your book you can share it with anyone. Mr. Pifko reiterated that this is a risk benefit issue. Ms. Colucci stated the roster is a great tool and believes if this ordinance prevents the roster it is overregulation. This ordinance is tricky and dangerous if it is over applied.

The First Selectman Herbst stated the purpose of requesting the information from the Trumbull Nature Center was because the Town of Trumbull spent a lot of money purchasing the property we have the right to know how many participants, programs we have and how many of those participants are Town residents v. how many are non-residents. This information is important to know if we are providing the correct programs to the demographic. This will help us know what the tax payers are subsidizing that perhaps could be avoided if we expand the programming or have better integration with our science programs. The list is not going to be published. The FOI Act does not require us to create lists and/or spreadsheets. The FOI Act requires you to provide a document

that is in your custody. The document does not have to be provided it meets a qualifying exemption. Ms. Penkoff stated we require the Park & Rec Department to keep lists of this information. Asking the Trumbull Nature Center to do the same as what the other agencies are doing should not be a problem. This ordinance should be applied across the board or it doesn't get applied at all. As a parent the thought of the BOE booklets not being made available would take away from the school experience. We have the rules/laws in place already. She applauds wanting to protect the children but does not think this ordinance does that. It is too far reaching.

Mr. Wich stated everything discussed at this meeting was helpful and believes it is worthwhile to hold this at the committee level so the issues raised can be looked at along with the Town attorney and to see what is place at the BOE level.
Moved by Mr. Wich, seconded by Ms. Colucci to HOLD IN COMMITTEE.
VOTE: CARRIED unanimously.

There being no further business to discuss the L&A Committee adjourned at 8:24 unanimously.

Respectfully Submitted,

Margaret Mastroni
Town Council Clerk

RESOLUTION TC25-207

AN ORDINANCE CONCERNING PUBLIC OFFICIALS AND TOWN CONTRACTS

WHEREAS, the Town of Trumbull recognizes that public officials, by virtue of the trust placed in them by the citizens of the Town of Trumbull, must recognize that their primary responsibility is to the citizens and taxpayers of the Town of Trumbull; and

WHEREAS, the Town of Trumbull seeks through procurement practices paid services to be provided on behalf of the citizens and taxpayers of the Town of Trumbull; and

WHEREAS, "public official" shall be defined as any elected or appointed town official, officer or employee of the Town of Trumbull and the Board of Education; and

WHEREAS, "Town Work" shall be defined as any bid or bid-waived requests covered by the Town's Purchasing policy and/or any professional service performed on behalf of the Town of Trumbull or its Board of Education and paid for by the Town of Trumbull or the Board of Education.

Now Therefore, BE IT RESOLVED AND ORDAINED

1. Public officials shall be prohibited from receiving any town work procured through a public bid or bid waived process so as to avoid any appearance of impropriety or conflict of interest; and;
2. Public officials cannot circumvent the intent of this ordinance by receiving town work through a bid waiver, as proscribed by the Trumbull Town Charter.
3. The Town of Trumbull Purchasing Policy "Conflicts of Interest" is hereby repealed and superseded with the provisions of this ordinance.

RESOLUTION TC 25-188:

Personal Information Privacy Ordinance

Whereas, the Town of Trumbull recognizes the significance of maintaining and protecting the private information of its residents and intends to protect such information to the greatest extent practicable, the Town of Trumbull hereby enacts the following Personal Information Privacy Ordinance.

1. Definitions.
 - a. “Disclose” shall mean to reveal, release, and transfer, disseminate or otherwise communicate Protected Information orally, in writing or by electronic or any other means other than to the subject of the Protected Information.
 - b. “Protected Information” shall mean the Social Security Number, Driver’s License Number, State Identification Card Number, Credit or Debit Card Number, Taxpayer Identification Number, Date of Birth, Financial Account Number, Health Information, Home Address and, in the case of minor children, Name, recorded or maintained by any means, including through physical or electronic records, of any resident of the Town of Trumbull.
 - c. “Town” shall mean The Town of Trumbull, including all officials, employees, departments, boards and commissions of the Town, but excluding the Town’s Board of Education and its officials, employees or volunteers while in the performance of their duties to the Board of Education;
 - d. “Town-Related Organization” shall mean all organizations which enter into contracts or other agreements with the Town for: (i) the use of Town facilities or properties in order to provide goods, services or programs within the Town; or (ii) the use of Town-provided services to assist in the maintenance or operation of the organization.
2. Collection of Protected Information. The Town and Town-Related Organizations, as the case may be, may only collect Protected Information to the extent reasonably necessary to: (a) comply with legal obligations, or (b) conduct their operations.
3. Maintenance of Protected Information. The Town and Town-Related Organizations, as the case may be, shall implement reasonable safeguards to prevent the unauthorized disclosure of Protected Information.
4. Use and Disclosure of Protected Information. The Town and Town-Related Organizations, as the case may be, shall not disclose Protected Information except: (a) to the extent necessary to comply with legal obligations, or (b) as may be reasonably

- necessary to carry out the functions of the organization. In all such instances, use or disclosure shall be limited to the greatest extent practicable. Nothing herein shall be construed to prohibit the use or disclosure of such information by or among employees, volunteers or officials of the Town or Town-Related Organization, as the case may be, in the course of performing their regular duties.
5. Disposal of Protected Information. With regard to the disposal of records containing Protected Information, the Town and Town-Related Organizations shall: (1) shred the record before the disposal of the record; or (2) destroy the Protected Information contained in the record; or (3) modify the record to make the Protected Information unreadable; or (4) take actions consistent with commonly accepted industry practices that it reasonably believes will ensure that no unauthorized person will have access to the Protected Information contained in the record.
 6. Notice of Breaches. The Town and Town-Related Organizations, as the case may be, shall promptly give written or electronic notice to the affected individual(s) of any unauthorized disclosure of Protected Information to entities or individuals other than as permitted by this ordinance.
 7. Policies. Within sixty (60) days following enactment of this ordinance, the Town shall implement a written policy effecting the terms herein. Starting sixty (60) days following enactment of this ordinance, the Town shall require any Town-Related Organization to have a written policy implementing this ordinance as a condition for entering into contracts or other agreements with the Town. Town-Related Organizations that adopt the model policy, attached hereto, by approving the policy in accordance with their by-laws or equivalent internal procedures and having the policy signed by the organization's chief executive officer or his/her equivalent, shall be considered as in compliance with this section.
 8. Violations. Violations of this ordinance by Town employees, volunteers or officials will subject the violator to appropriate action. Repeated or willful violations of this ordinance by Town-Related Organizations shall, within the reasonable discretion of the First Selectman, result in the disqualification of the Town-Related Organization from using Town facilities or properties, or the use of Town-provided services to assist in the maintenance or operation of the organization, for a period not to exceed two (2) years.
 9. Non-Assumption of Liabilities. Nothing herein is intended nor shall be construed as an assumption by the Town of any obligations or liabilities of any Town-Related Organization, including but not limited to those that may arise by reason of this ordinance.
 10. Savings Clause. Nothing in this Ordinance is intended nor shall be construed to abridge or diminish any additional or greater protections afforded to the residents of Trumbull under federal or state law.

MODEL POLICY

In recognition of the importance of maintaining the privacy of certain information that _____ (name of organization) may collect in the course of its operations, _____ (name of organization) implements the following policy for its Board members, executives, employees and volunteers.

We will safeguard Protected Information (i.e., the Social Security Number, Driver's License Number, State Identification Card Number, Credit or Debit Card Number, Taxpayer Identification Number, Date of Birth, Financial Account Numbers, Health Information, Home Address and, in the case of minor children, Name, recorded or maintained by any means, including through physical or electronic records, of any resident of the Town of Trumbull) in the following manner.

1. We will only collect Protected Information to the extent reasonably necessary to: (a) comply with legal obligations, or (b) conduct our operations.
2. We will implement and maintain reasonable safeguards to prevent the unauthorized disclosure of Protected Information.
3. We will not disclose Protected Information except: (a) to the extent necessary to comply with legal obligations, or (b) as may be reasonably necessary to carry out the functions of our organization. In all such instances, use or disclosure shall be limited to the greatest extent practicable.
4. With regard to the disposal of records containing Protected Information, we will: (1) shred the record before the disposal of the record; or (2) destroy the Protected Information contained in the record; or (3) modify the record to make the Protected Information unreadable; or (4) take actions consistent with commonly accepted industry practices that we reasonably believe will ensure that no unauthorized person will have access to the Protected Information contained in the record.
5. We will promptly give written or electronic notice to the affected individuals of any unauthorized disclosure of Protected Information.

Signed:

Chief Executive Officer

Dated: _____

(name of organization)