Trumbull Town Council Chairman’s Statement

Regarding The Initiative Petition to Change Trumbull’s Voting Districts

I am aware of the filing of an Initiative Petition (Petition) which sought to have the Trumbull Town Council act to increase the number of the voting districts in Trumbull from four to seven. I also acknowledge the receipt of many inquiries as to the status of that Initiative Petition and of the Trumbull Town Council’s position thereon.

Over the past two weeks, I prepared for and attended a religious retreat in Montana, which restricted my ability to receive or send communications for the most part.

Prior to my departure, the Petition had been submitted to both the Town Clerk and the Town Attorney for their respective review. The Town Clerk was tasked with confirming the number and the sufficiency of the signatures on the Petition. The Town Attorneys were asked to determine the legality of the Petition. Both reviews were incomplete at the time of my departure and were not completed in time to satisfy the legal notice requirements for the Trumbull Town Council’s regular monthly meeting scheduled for August 7, 2017 or its related L & A meeting scheduled for July 31, 2017.

I am aware of the provisions of Chapter VIII, Section 6 of the Trumbull Town Charter under which the Petition was initiated. Those provisions have not been met. Although the Petition signatures were certified by the Town Clerk, the petition was not formally sent to me as required by Chapter VII, Section 6. In addition, the Town Attorneys have opined that the Petition cannot be utilized to
reapportion voting districts as it is a power reserved exclusively to the Town Council by State Statute 9-169, which power cannot be delegated to the voters of the Town of Trumbull. If the Town Council were to consider the Petition and thereafter elected to deny it, an argument could be raised that the denial required that the matter be noticed for a Special Election. Since the authority to reapportion voting districts cannot be delegated, there is no basis to even consider the Petition. I will not place the Council membership in that position.

It is important to understand that the Town Charter is silent on the formation of Municipal voting districts, other than a general reference to the possibility of voting districts in Chapter II, Section 1.

Voting district formation is controlled by State Statute and is an elaborate process undertaken most recently in 2012, following the issuance of the United States Census and the State of Connecticut’s redrawing of State Senate and Representative District lines. It is intended to insure that the principal of “one person, one vote is adhered to.

The opinion of the Town Attorney upon which my actions are based is appended hereto.

Carl A. Massaro, Jr.
Chairman Trumbull Town Council
July 28, 2017

Carl Massaro  
Chairman  
Trumbull Town Council  
Trumbull Town Hall  
5866 Main Street  
Trumbull, CT 06611

Dear Mr. Massaro:

An Initiative Petition (Petition) has been filed seeking to amend Chapter 6 - Elections, Section 6-1 – Voting Districts of the Trumbull Municipal Code to reapportion the Town of Trumbull’s (Trumbull) four (4) current Voting Districts into seven (7) new Voting Districts. The Petition has been certified by the Trumbull Town Clerk.

Chapter VIII, Section 6A of the Charter of the Town of Trumbull (Charter) allows the filing of an Initiative Petition (Petition) to hold a Special Election for the purpose of voting on any question within the legislative authority of the Trumbull Town Council (Council). The Petition must specify the resolution or resolutions for which a vote is requested. If the Petition is certified by the Town Clerk, it is forwarded to the Chairman of the Council. Section 6 C mandates that the Council “shall cause the resolution(s) to be warned for a Special Meeting or for the next Regular Meeting of the Council”. If the Council adopts the resolution(s) the Petition becomes void. If the Council fails to adopt the Petition, the Town Clerk “shall call a special election to be held within thirty (30) days after the meeting unless a regular election is to be held within ninety (90) days thereafter".
Chapter II, Section 1 of the Charter states “the legislative power of the Town shall be vested in the Town Council”. Section 2 of said Chapter II states that members of the Council “shall be elected from and by voting districts of the Town for terms of two (2) years. There shall be one (1) Council member for such number of Town residents or fraction thereof as shall be determined by the Town Clerk. It is the duty of the Town Clerk to allocate the number of council members in each district “on a proportionate basis”.

It is clear that the Charter adhere to the concept of “one person, one vote” as required by the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. It was this very issue which led to the creation of the four voting districts in 2012. Prior to that reapportionment, four (4) of the then seven (7) voting districts were imbalanced and exceeded the ten (10%) percent differential which raised the presumption that the reapportionment plan was discriminatory. See Daly & Hunt 93F 3d 1212, 1220 (4th Cir. 1996). The reapportionment to the current four (4) Voting Districts eliminated that imbalance and created almost equally balanced voting districts. It also reduced the number of voting districts, not totally located in an existing State Assembly District from two (2) to one (1). It further resulted in reducing the voting precincts from twelve (12) to five (5), which was both less costly to the Town and less confusing for the voters.


The Initiative and/or Referendum procedures in the Town Charter are properly classified as provisions of general application. It is our opinion that Voting Districts, being inextricable intertwined with both local, state, and federal elections, as well as raising constitutional concerns arising under, among other things, the equal protection clause, are properly classified as matters of statewide concern. Given the foregoing, the express authority conferred upon the Town Council to designate voting districts must prevail over initiative and/or Referendum procedures in the Town Charter which, as applied, serve to usurp that authority by establishing voting district by way of a Special Election. Caulfield v. Noble, 178 Conn. 81, 87 (1979). Where charter

The State legislature expressly delegated the authority to establish voting districts to the Trumbull Town Council. Specifically, § 9-169 provides that “(t)he legislative body of any town, ... may divide and, from time to time, redive such municipality into voting districts.” (Emphasis added) Further, Conn. Gen. Stat. § 9-169 does not contain discretionary language, such as “except as otherwise provided by Town Charter”. To the contrary, § 9-169 expressly states that “The provision of this section shall prevail over any contrary provision of any charter or special act”.

Section 9-169 (f) of the Connecticut General Statutes delegates the obligation to adopt a reapportionment plan to that community’s legislative body. Said statute in its entirety reads as follows:

§ 9-169f. Reapportionment required for certain municipal legislative bodies

Not later than June first in the year after the first regular general assembly election following a reapportionment of the general assembly, each municipal legislative body whose members are elected wholly or partially on the basis of a geographical division of the municipality shall adopt a reapportionment plan for such legislative body. Any such municipal reapportionment plan (1) shall be based on population data for the municipality from the most recent decennial census of the United States and (2) may provide for geographical divisions which use the same borders as general assembly districts in the municipality.

This reconfirms that the Connecticut State Legislature delegated the authority to redistrict a municipality to that municipalities “legislative body where members are elected wholly or partially on the basis of the geographic division of the municipality”. The statute further mandates that any reapportionment SHALL be based on population data for the municipality from the most recent census of the United States and also gives the Legislative Body the additional discretionary authority to provide for geographic divisions which use the same borders as the General Assembly Districts in the municipality.

In my opinion, the power to establish voting districts rests with the Trumbull Town Council as specifically stated in C.G.S. § 9-169. The provisions in C.G.S. § 9-169 establishing said power prevail over any charter language to
the contrary. As such, the Trumbull Town Council is without the requisite statutory authority to act upon the Petition.

Very truly yours,

Robert J. Nicola

RJN:jg