

Town of Trumbull

CONNECTICUT

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TOWN HALL
Trumbull

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MINUTES

November 8, 2012

CALL TO ORDER: Chairman Carl A. Massaro, Jr. called the regular meeting to order at 7:03 p.m. at the Trumbull Town Hall. The Chair asked all present to remember Stefano Altieri, the father of previous Town Council Chairman Mark Altieri, who passed away since the Council's last meeting and the 20 year old nephew of former Councilman John Rotondo, Dominick Mongone, who was tragically killed in a car accident. All present joined in a moment of silence and the Pledge of Allegiance.

ROLL CALL: The clerk called the roll and recorded it as follows:

PRESENT

Suzanne S. Testani	Jane Deyoe	Vicki Tesoro
James Blose	Michael J. London	John A. DelVecchio, Jr.
Kristy Waizenegger	Martha A. Jankovic-Mark	Debra A. Lamberti
Chadwick Ciocci	Carl A. Massaro, Jr.	Thomas Whitmoyer
Jeff S. Jenkins	Tony J. Scinto	James F. Meisner
Mark LeClair	Ann Marie Evangelista	
Gregg Basbagill	Fred Palmieri, Jr.	

ABSENT: David R. Pia and Jeff Donofrio

ALSO PRESENT: Chief of Staff Daniel Nelson, Economic and Community Development Director Mr. Edward Lavernoich and Attorney J. Mogan.

Mr. Palmieri, Chairman of the NIA Jingle Bell Run cordially invited all present to attend the event on Saturday December 1, 2012 as his guest. The Chair stated that this a great tradition and encouraged participation.

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

APPROVAL OF MINUTES: Moved by Mr. Palmieri, seconded by Ms. Testani to approve the October 1, 2012 meeting minutes.

VOTE: Motion CARRIED unanimously.

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1. RESOLUTION TC24-83: Moved by Ms. Deyoe, seconded by Mr. London.

BE IT RESOLVED. That funding for a labor contract between the Town of Trumbull and AFSCME, LOCAL 818 – COUNCIL 4 (Trumbull DPW Supervisors) beginning July 1, 2012 and ending June 30, 2017 is hereby approved.

Committee Report: The Legislation & Administration Committee met on November 1, 2012 and voted unanimously.

VOTE: ADOPTED 17-1 (Against: Scinto)

2. RESOLUTION TC24-82: Moved by Ms. Lamberti, seconded by Mr. Palmieri.

WHEREAS, the Town of Trumbull adopted Resolution TC19-211, an ordinance to create the Town of Trumbull Assessment Fixing Program; and

WHEREAS, the Trumbull Economic and Community Development Commission endorses and recommends the Town of Trumbull Business Tax Incentive Program Ordinance to replace the Town of Trumbull Assessment Fixing Program;

NOW THEREFORE BE IT RESOLVED AND ORDAINED, that Chapter 18 – Taxation, of the Trumbull Municipal Code is hereby amended to include Article IV, a Business Tax Incentive Program (see attached).

Committee Report: The Legislation & Administration Committee met on November 1, 2012 and voted unanimously.

Mr. Lavernoich explained the specific purpose of this ordinance is to create a competitive situation for the Town where they will match the lowest real estate taxes in the region for new commercial real estate development. It is based on the state law CGS12-65(b) which allows for fixing assessments for projects that meet certain thresholds. The threshold established in this ordinance is a 70% base assessment, a 30% exemption for projects that are \$3 million or more for a five (5) year period. The ordinance also sets up administrative procedures, standardized requirements for record keeping, and criteria for both the Tax Partnership Screening Committee and the Town Council to evaluate the proposals and agreements that go before them all of which that never existed before.

The Chair opened the PUBLIC HEARING at 7:19 p.m.

There was no one from the public present to speak.

The Chair CLOSED the PUBLIC HEARING at 7:20 p.m.

Mr. Lavernoich confirmed for Mr. DelVecchio that the ordinance is designed to make Trumbull business friendly and does not see a negative. If it is unsuccessful or has unintended consequences or does not attract potential investors it would automatically sunset within three (3) years. If problems are found in the interim the ordinance could be amended or removed.

Mr. Lavernoich explained for Mr. Basbagill that the ordinance would apply to existing

businesses only if they were going to undertake hard construction costs that meet the threshold.

Mr. Lavernoich explained for Mr. Whitmoyer that the former ordinance had a \$ 15 million base

requirement, which is 5 times the standard of the state law. Perhaps it was too high for anyone to feel it would benefit. There is a customized program at the 70%. If someone was to make a case for competitive reasons or if the difficulty of the project required something deeper or longer, that a greater abatement agreement was warranted, they would be required to make a full disclosure of all the funding for the project and if necessary would hire an outside expert to evaluate the assumptions of the capital structure of the project, where they are going to get the money from, what they are going to spend the money on, what the operating costs of the proposed project are, what the financing assumptions are, it would then be brought before the Town Council for approval. There is a possibility that they would get a break separate and apart from the customized break offered in the ordinance but it would require public disclosure of a lot of information that developers typically do not like to give out. So he does not expect a lot of traffic under that particular passage of the ordinance. This is the best introductory offer for your best taxpaying client. They typically do not use all of the services that they pay for in their business taxes. Business taxpayers usually pay more in taxes than the services they use. They would have a reduced level of taxes under this ordinance, although it is still more than what the Town receives for the property currently. The increment is based on the new investment and they will get a competitive rate to convince them to invest here in Trumbull as opposed to another Town. If a company has made a capital investment of many hundreds of thousands of dollars, the business does not typically leave after five (5) years. Mr. Palmieri stated that any project that would currently be applicable and falls under the guidelines of the existing program would still be available to go under the guidelines of the new program and would not be penalized if they meet the new threshold. The program would increase the tax grand list of the Town. Mr. Lavernoich stated that there is no provision in the ordinance to reduce taxes, this would all be new revenue to the Town on any given property. Mr. Palmieri added that before anyone was allowed to take advantage of the program it would have to come before the Town Council for approval. Mrs. Jankovic-Mark spoke in favor of encouraging new business in Town but indicated that the residential tax payer would have to pick up the slack. Mr. Lavernoich disagreed and stated that each individual project would have a net benefit to the Town. Mr. Lavernoich stated that the construction would and could take place on current projects. The Chair indicated that the former ordinance was handed out to the L&A Committee

Ms. Jankovic-Mark moved to postpone in order to review the former ordinance.
Hearing no second the Chair called for the vote on the resolution.

Mr. London called the question, seconded by Mr. LeClair.
VOTE: Motion CARRIED 14-2-2 (AGAINST: Tesoro and Jankovic-Mark) (ABSTENTION: DelVecchio and Testani).

VOTE: ADOPTED 17-0-1 (Abstention: Jankovic-Mark)

3. RESOLUTION TC24-84: Moved by Mr. DelVecchio, seconded by Mr. London.
BE IT RESOLVED, That the appointment of John Karpowich of 29 Ellsworth Street by the First Selectman to the Trumbull Day Commission for a term extending until September 2, 2013 is hereby approved.

Committee Report: The Rues & Research Committee met on November 1, 2012 and voted unanimously.

Mr. DelVecchio spoke in favor of seeing Trumbull Day brought back for the children.

VOTE: ADOPTED unanimously.

4. RESOLUTION TC24-85: HELD IN COMMITTEE UNTIL NEXT MONTH.
5. RESOLUTION TC24-86: HELD IN COMMITTEE UNTIL NEXT MONTH.
6. RESOLUTION TC24-87: HELD IN COMMITTEE UNTIL NEXT MONTH.
7. RESOLUTION TC24-88: Moved by Mr. Palmieri, seconded by Mr. DelVecchio.
BE IT RESOLVED, That the appointment of Elizabeth Mastroianni of 4288 Madison Avenue by the First Selectman to the Trumbull Day Commission for a term extending until September 5, 2016 is hereby approved.

Committee Report: The Rues & Research Committee met on November 1, 2012 and voted unanimously.

The Chair stated that he had checked with the First Selectman's office and had been advised that all nine (9) seats of the Trumbull Day Commission are vacant.

VOTE: ADOPTED unanimously

8. RESOLUTION TC24-89: HELD IN COMMITTEE UNTIL NEXT MONTH.
9. RESOLUTION TC24-90: Moved by Mr. Basbagill, seconded by Ms. Waizenegger
BE IT RESOLVED, That Tony Scinto of 32 Lindberg Drive, be and the same, is hereby appointed as the Town Council representative to the Emergency Management Shelter Building Committee.

Committee Report: The Rules & Research Committee met on November 1, 2012 and voted 4-0-1 (ABSTENTION: Scinto).

VOTE: ADOPTED: 16-1-1 (Against: DelVecchio) (ABSTENTION: Scinto)

ADDENDUM ITEM:

1. RESOLUTION TC24-91: Moved by Ms. Lamberti, seconded by Mr. Palmieri.
BE IT RESOLVED, That the Town Attorney is hereby authorized to settle a claim known as Barbara Falkowski v. Town of Trumbull.

Committee Report: The Legislation & Administration Committee met on November 1, 2012 and voted unanimously.

The Chair indicated for Mr. Meisner that there is an out of pocket cost to the Town and there is a shared cost between the insurance company and the Town. All claims by the plaintive with respect to the Town are settled and there will be no future exposure to the Town for future compensation or damage claims.

VOTE: ADOPTED: 17-0-1 (ABSTENTION: Basbagill)

There being no further business to discuss and upon motion made by Mr. London, seconded by Ms. Deyoe the Trumbull Town Council adjourned by unanimous consent at 7:41 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Margaret D. Mastroni". The signature is written in black ink and is positioned above the printed name.

Margaret D. Mastroni, Town Council Clerk

Town of Trumbull, CT

Business Tax Incentive Program

Town of Trumbull, Connecticut

Business Tax Incentive Program Ordinance

Section 1 –DEFINITIONS

“Agreement” or “Agreements” shall refer to a written tax incentive agreement or written tax incentive agreements between the Town and those Applicants granted a business tax incentive under this Ordinance.

“Applicant” shall mean any property owner applying for the business tax incentive as established by this Ordinance.

“Application” shall mean such forms as may be created or amended thereafter pursuant to Section 3 hereof to allow a business property owner to apply for a tax incentive hereunder.

“Committee” shall mean the Tax Partnership Screening Committee as established by this Ordinance, consisting of . of the following voting members: The Chairman of the Town Council; Two other members of the Town Council appointed on an annual basis by the Chairman; and Two members of the Economic & Community Development Commission, appointed on an annual basis by the First Selectman. The Town’s First Selectman, Finance Director, Tax Assessor, and Economic & Community Development Director shall be ex-officio, non-voting members.

“Council” shall mean the Town Council of the Town of Trumbull.

“Construction Cost of Improvement” or “Construction Costs of Improvements” shall mean the cost to create new or substantially rehabilitated space for private business activities, the purposes of which are more fully set out in Section 4(A.) of this Ordinance.

“Director” shall mean the Economic & Community Development Director of the Town.

“Principal” shall mean any person or entity that is an owner, member, partner or officer in or of the Applicant or Property Owner.

“Program” shall mean the Business Tax Incentive Program as established by this Ordinance.

“Project” or “Projects” shall mean real estate development projects.

“Property” shall mean any or all of the real estate parcel, the location, the existing improvements, or the improvements constructed as part of the Project.

“Ordinance” shall refer to this Business Tax Incentive Program Ordinance unless otherwise specified.

“Town” shall mean the Town of Trumbull, Connecticut.

Section 2 - PURPOSE

In an effort to promote new private investment in business facilities, as well as attract, retain and expand current businesses, the Town of Trumbull has adopted this Business Tax Incentive Program Ordinance, hereinafter referred

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Business Tax Incentive Program

to as the “Ordinance”. Pursuant to Section 12-65b of the Connecticut General Statutes, this Ordinance establishes the requirements and procedure for the Town to grant real estate tax incentives for certain types of real estate development Projects, hereinafter referred to as the Project or Projects, and to enter into written tax incentive agreements, hereinafter referred to as Agreement or Agreements, with qualifying property owners.

Section 3 - ADMINISTRATION

The Program will be administered by the Economic & Community Development Director of the Town, hereinafter referred to as the Director. The Director shall be responsible for the following: 1) The creation of an Application form, which may be amended from time to time as requested by the Council or the Committee; 2) The maintenance of files including all Applications to the Town, whether ultimately approved or not approved, with attendant documentation, filed pursuant to this Ordinance; 3) The preparation of any analysis or supporting documentation that may be requested by the Committee, or Council in their consideration of Applications; 4) The creation of Agreements, as contemplated by this Ordinance, working in conjunction with the Town Attorney; and 5) All other related tasks as determined by the First Selectman to be necessary for the consideration of Applications received by the Town pursuant to this Ordinance.

In the event that the Director’s position is vacant, or the Director is otherwise unavailable to administer the Program, the First Selectman may elect to administer the Program or may designate another Town employee to administer the Program.

Section 4 - MINIMUM REQUIREMENTS AND ELIGIBILITY

An Applicant shall submit an Application to the Director. As part of the Application, the Applicant shall be required to: 1) Disclose the names and addresses of all its Principals; 2) Provide a written confirmation from all Town Departments that the Applicant and/or the Principals are in good standing and are not in violation with any Town’s Zoning Regulations, Building Code, or any other ordinance, which shall include but not be limited to being a taxpayer in good standing for any and all payments of real property, personal property, or motor vehicle taxes due and payable by the Applicant or the Principal. 3) Provide evidence of the Applicant’s qualifications and current capacity to undertake and complete the proposed Project; and 4) Provide a detailed description of the proposed Project that demonstrates it meets the following minimum eligibility requirements, to wit:

- A. The Project will create new or substantially rehabilitated space for private business activities, which for the purposes of this Ordinance will include: office space, retail space, manufacturing space, warehousing space, distribution space, space for information technology equipment, space for telecommunications equipment, parking structures intended to serve any of the above types of space, or any combination of the above uses that may be allowed to co-exist pursuant the Town’s Zoning Regulations. Home Occupations (as defined by the Trumbull Zoning Regulations), and all other land uses are not eligible tax incentives pursuant to this Ordinance.
- B. The Project will constitute an investment in new building or buildings, or building rehabilitation, for which the construction costs shall be documented at completion to be Five hundred Thousand (\$500,000) or greater, which costs of shall not include the purchase of real property or the acquisition of real property by any other means.
- C. The Project will create new, permanent full-time jobs.
- D. The Project, notwithstanding the tax incentive, will result in an increase in property tax revenues due from the Property relative to the tax year immediately preceding the approval of the tax incentive. The Council may waive this requirement by resolution if the Project involves demolition of a structure that

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- 1) the Applicant represents and 2) the Committee determines is functionally obsolete; or the Project remedies conditions of significant blight or other symptoms of abandonment on the Property that the Committee determines were caused by the neglect of a previous owner of the Property.
- E. The Project will be compatible with the Town's Plan of Conservation and Development at the time Application is made.
 - F. The Applicant is the current owner of the Property or can offer definitive evidence that it has entered into an agreement to purchase the real property to be developed for the Project.
 - G. The Project's construction will commence within twelve (12) months of the Council's approval, and shall be completed within twenty-four (24) months of the Council's approval, unless the time frame for completed construction of the Project is stated to be more than 24 months at the time the Application is approved. In the event that the Project's construction is not commenced and/or completed within a the time frame specified in the Council's approval, then any approval granted by the Council shall immediately terminate and the full amount of the tax (including accrued interest) that would otherwise be due shall immediately become due and payable, unless otherwise authorized by an action of the Council.
 - H. The Project and Property Owner or Principal of Property Owner shall remain in good standing with the Town, shall not be delinquent on real estate, personal property or motor vehicle taxes, and shall not be in or violation of the Town's Zoning Regulations, Building Code, or any other ordinance, statute or code, that may be applicable to the Project or the Property. If payment of annual real estate taxes is not made within thirty (30) days of the real estate taxes becoming due and payable, the Town may elect to revoke any tax incentive for the current year and the Project and Property will be subject to the normal assessment and levy practices of the Town for that year. If payment of annual real estate taxes is not made within 60 days of the real estate taxes becoming due and payable the Town may elect to terminate the Tax Incentive Agreement and the Project and Property will be subject to the normal assessment and levy practices of the Town on a going-forward basis. If a Project or Property is found to be in violation of a zoning regulation, building code or any other ordinance, statute or code, and the Applicant or Owner fails to remedy to the violation within 60 days notice from the Town, the Town acting through the First Selectman, may elect to terminate the Agreement. The First Selectman may, at his sole discretion and subject to notice to the Council, elect to provide the Applicant or Owner with as much as an additional 60 days to remedy a violation if he determines that the Applicant or Owner is making a good faith effort to remedy a violation.
 - I. Council approval under this ordinance must be obtained prior to the initial application for a Building Permit for the Project.
 - J. Council approval of a tax incentive pursuant to this Ordinance shall be made at its sole and absolute discretion.
 - K. The Project will attain Leadership in Energy and Environmental Design (LEED) Certification. A Project not planned to achieve LEED Certification shall not receive consideration pursuant to this Ordinance unless: a) the Application includes an explanation of the Project's inability to achieve the Certification; b) such explanation is deemed to be acceptable by the Committee in its report to the Council; and c) an exemption of the LEED Certification requirement is noted in the Council's resolution to approve a tax incentive. All Agreements entered into pursuant to this Ordinance will specifically require or exempt the Project from obtaining LEED Certification, as provided for in the Council's approval.
 - L. Any Applicant, which for purposes in this subsection shall include any owner, member, principal, partner or officer in or of the Applicant or Property Owner, who is delinquent in any real estate, personal property or motor vehicle taxes, interest or liens that are due to the Town, shall be ineligible to enter into any such Agreement or receive any benefit pursuant to this Ordinance until such delinquencies or liens are remedied.

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Section 5 – TAX INCENTIVE SCHEDULE

- A. Subject to the approval of the Council and the execution of an Agreement, for a proposed Project with a construction cost of improvements of Five Hundred Thousand Dollars (\$500,000) or more, but less than Three Million Dollars (\$3,000,000), the taxable assessment of the Project's real property improvements will be fixed at 70% of the normal assessment for the Property for a two year period subsequent to the completion of the Project. The Agreement will specify the Grand List years for which the fixing of the taxable assessment will occur.
- B. Subject to the approval of the Council and the execution of an Agreement, for a proposed Project with a construction cost of improvements of Three Million Dollars (\$3,000,000) or more, the taxable assessment of the Project's real property improvements will be fixed at the following percentages of the normal assessment for the years subsequent to the completion of the Project: In year 1, 70%; in year 2, 70%; in year 3, 70%; in year 4, 70%; in year 5, 70%. The Agreement will specify the Grand List years for which the fixing of the taxable assessment will occur.
- C. For a Project with a construction cost of improvements of Three Million Dollars (\$3,000,000) or more, an Applicant may request a Tax Incentive Schedule that is different than provided for in Paragraph B of this Section. Such a request must be accompanied by a full disclosure of the finances of the proposed Project, including but not limited to, as applicable: real property acquisition costs, pre-development cost estimates, construction cost estimates, financing assumptions, rental or other income assumptions, and post-construction property operating cost estimates. Pursuant to this paragraph, any of the Director, the First Selectman, the Committee or the Council may retain outside expertise to evaluate and analyze the financial information provided, and may request that the Applicant pay the reasonable costs of the outside expertise as a requirement of the Application review process. Such a determination shall be made at the sole and absolute discretion of the Council.

Section 6 - APPLICATION PROCEDURE

- A. An Applicant shall apply for a tax incentive pursuant to this Ordinance in writing to the Economic & Community Development Director on such Application forms provided by the Economic & Community Development Office. The Applicant shall provide all required information in sufficient detail to allow the Council to determine costs and benefits associated with the implementation of the requested tax incentive.
- B. Upon receipt of the completed Application the Economic & Community Development Director shall refer the Application to the Committee, which shall convene at the request of the First Selectman. The Committee will review an Application for eligibility, completeness and appropriateness, including the criteria provided in Section 4 Minimum Requirements and Eligibility. Applicants will be notified within 14 calendar days of any deficiencies in the Application submission, or the Committee's need for additional information from the Applicant related to the Project. Within thirty (30) days of its receipt of the Application, the Committee will submit a recommendation and written analysis to the Council for its consideration.
- C. The Committee may, if it deems necessary, request a determination from the Planning & Development Director as to whether the proposed Project is compatible with the Town's Plan of Conservation and Development.
- D. The Council, in its sole discretion and after having held at least one public hearing (not required by 12-65b; may not want to do this, as it would set up special notice requirements), shall: 1) approve the tax incentive

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with those terms requested in the Application; or 2) approve the tax incentive with modifications or conditions to those terms requested in the Application; or 3) deny the Application; acting within 60 days from the date of the first regularly scheduled meeting at which the referral from the Committee appears on the Council's agenda. Granting of the tax incentive shall require a majority vote of the Council among those present and voting. The Council's decision shall be in its sole and absolute discretion and conform with applicable provisions of the Connecticut General Statutes, while considering both the information and request provided in the Application package, and the recommendation provided by the Committee.

- E. The Council may elect to require, as a condition of its Approval, that any Agreement entered into pursuant to this Ordinance contain a provision that the Applicant provide full documentation of the construction costs of the Project upon the Project's completion. In the event that an Agreement requires such documentation to occur within a specified timeframe, and it does not occur, the Agreement will provide for the First Selectman to take any and all necessary actions to terminate the Agreement.

Section 7 – AGREEMENT

- A. Pursuant to the Council's resolution to approve a tax incentive, the First Selectman will be authorized to enter into a Tax Incentive Agreement with the Applicant.
- B. The Agreement shall only apply to real estate property taxes, and shall not apply to personal property taxes, or motor vehicle taxes.
- C. Fees associated with obtaining local permits or licenses of any type are not shall not be abated, waived, reduced, forgiven or deferred pursuant to this Ordinance.
- D. Any and all terms of the Tax Incentive Agreement entered into between the Applicant and Town pursuant to this Program shall be drafted, amended and/or otherwise prepared at the sole and absolute discretion of the Town.

Section 8 – TRANSFERABILITY

Tax Incentive Agreement entered into pursuant to this Ordinance shall not be subject to assignment unless a) the assignee is identified and the transaction is specifically provided for in the Council's original approval of the tax incentive; or b) the assignment is approved by a subsequent action of the Council. In the event it is determined that an assignment, transfer and/or sale not specifically provided for by the Council has occurred the Agreement shall terminate effective on the date of the assignment, transfer and/or sale, and the full amount of the real estate taxes that would otherwise be due to the Town shall immediately become due and payable, and shall be a Municipal Tax Lien as provided for in Chapter 205 of the Connecticut General Statutes. In this event, nothing herein or contained in any Agreement entered into pursuant to this Ordinance shall be interpreted as preventing the Town from applying the normal assessment and levy practices of the Town in regard to current or future property taxes due from the Project or Property, or outstanding interest and/or lien fees applicable thereto.

Section 9 - TOWN COUNCIL AUTHORITY

Nothing in this Ordinance shall require the Council to approve any tax incentive Agreement. This Ordinance may be amended or repealed by action of the Council. The Ordinance will expire on the date three (3) years after its initial passage by the Council, unless specifically renewed or re-adopted by Council action.

Section 10 – SEVERABILITY

The provisions of this Ordinance are severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid or that the application of any part of the provision to

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any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.