

STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

DANIEL RICHARD

v.

SHERMAN PACKARD & CHUCK MORSE

No. 217-2021-CV-00178

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS

NOW COME the Defendants, Sherman Packard and Chuck Morse, by and through counsel, and respectfully submit this Memorandum of Law in support of their Motion to Dismiss. The Plaintiff seeks three forms of relief from this Court: (1) an order addressed to the Speaker of the House and the President of the Senate, using judicial power to compel them to assemble the House and the Senate as a committee of the whole to consider and act on his remonstrance; (2) an order enjoining the Speaker and the President from “concealing or omitting” lawfully-filed documents; and (3) an order “preventing the removal” of his “right of due process of law and allow his constitutional right to redress of grievances. This Court is without authority to provide the relief sought in counts A and B, and the Plaintiff has not adequately alleged a violation of his rights as to count C. Accordingly, the petition should be dismissed.

STANDARD OF REVIEW

In ruling on a motion to dismiss, this Court determines “whether the plaintiff’s allegations are reasonably susceptible of a construction that would permit recovery.” *Harrington v. Brooks Drugs*, 148 N.H. 101, 104 (2002). The Court assumes the truth of the plaintiff’s well-pleaded allegations of fact and construes all reasonable inferences in the light most favorable to the plaintiff. *Hacking v. Town of Belmont*, 143 N.H. 546, 549 (1999). However, the Court need

not accept allegations in the complaint that are merely conclusions of law. *Konefal v. Hollis, Brookline Coop. Sch. Dist.*, 143 N.H. 256, 258 (1998). Rather, the Court must “consider whether the allegations in the pleadings are reasonably susceptible of a construction that would permit recovery.” *Weare Bible Baptist Church, Inc. v. Fuller*, 172 N.H. 721, 725 (2019). The Court must “assume the pleadings to be true and construe all reasonable inferences in the light most favorable to the plaintiff.” *Id.* The Court must “then engage in a threshold inquiry that tests the facts in the complaint against the applicable law.” *Id.*

ARGUMENT

1. The Court Should Dismiss Counts A and C on Separation of Powers Principles.

The relief sought in counts A and C would require the Court to issue an order directing the constitutional officers of a coordinate branch of government, the Speaker of the House (Pt. II, Art. 22) and President of the Senate (Pt. II, Art. 36) to take actions in violation of longstanding separation of power principles set forth in Part I, Article 37 of the New Hampshire Constitution and to decide a nonjusticiable question. Part I, Article 37 provides:

In the government of this state, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

“[T]he political question doctrine is essentially a function of the separation of powers, existing to restrain courts from inappropriate interference in the business of the other branches of Government, and deriving in large part from prudential concerns about the respect we owe the political departments.” *Nixon v. United States*, 506 U.S. 224, 252–53 (1993) (Souter, J., concurring) (quotations and citations omitted). “The nonjusticiability doctrine prevents judicial violation of the separation of powers by limited judicial review of certain matters that lie within

the province of the other two branches of government.” *Hughes v. Speaker, N.H. House of Representatives*, 152 N.H. 276, 282 (2005). The New Hampshire Supreme Court has stated that:

Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government;

Baines v. New Hampshire Senate President, 152 N.H. 124, 129 (2005) (quoting *Baker v. Carr*, 369 U.S. 186, 217 (1962)).

The question of justiciability is inextricably intertwined with the underlying question of whether Part I, Article 32 places a mandatory duty on the General Court to act in response to individual petitions, remonstrances, or other correspondence sent to the body by citizens. The express language of Part I, Article 32 does not state that the Speaker of the House or the President of the Senate are required to take up the plaintiff's remonstrance. The New Hampshire Supreme Court has observed that “the legislature is not organized to determine the merits of such claims and the time consumed in their consideration adds materially to the legislative costs.” *Sousa v. State*, 115 N.H. 340, 344 (1975) (citation and internal quotation omitted). The Court has further held that, in interpreting Part I, Art. 32, it would, “rely upon federal cases interpreting the First Amendment to the Federal Constitution for guidance.” *Opinion of the Justices (Voting Age in Primary Elections II)*, 158 N.H. 661, 667 (2009)). Thus, federal case law construing the rights of citizens under the Petition Clause of the First Amendment should guide this Court in construing Part I, Art. 32. No federal case law supports a claim that a legislative body or other government policymaker is required to take action on a citizen's petition or remonstrance, absent specific statutory or constitutional dictate, which is not present here.

In *Minnesota State Bd. for Community Colleges v. Knight*, 465 U.S. 271(1984), faculty members in the state college system asserted that the state practice of negotiating only with the union as the exclusive representative of the employees, to which the plaintiffs did not belong, violated their First Amendment rights, since they were denied the opportunity to a “meet and confer” session during contract negotiations. *Id.* at 273-74. The Supreme Court held that “the Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy.” *Id.* at 284-84. Continuing, the Court found:

Policymaking organs in our system of government have never operated under a constitutional constraint requiring them to afford every interested member of the public an opportunity to present testimony before any policy is adopted. Legislatures throughout the nation, including Congress, frequently enact bills on which no hearings have been held or on which testimony has been received from only a select group. Executive agencies likewise make policy decisions of widespread application without permitting unrestricted public testimony. Public officials at all levels of government daily make policy decisions based only on the advice they decide they need and choose to hear. To recognize a constitutional right to participate directly in government policymaking would work a revolution in existing government practices.

Id. The court therefore held, “Appellees thus have no constitutional right as members of the public to a government audience for their policy views.” *Id.* at 286. “However wise or practicable various levels of public participation in various kinds of policy decisions may be, [the Supreme Court] has never held, and nothing in the Constitution suggests it should hold, that government must provide for such participation . . . Nothing in the First Amendment or in this Court's case law interpreting it suggests that the rights to speak, associate, and petition require government policymakers to listen or respond to individuals' communications on public issues. *Id.* at 285; *see also Smith v. Arkansas State Highway Emp., Local 1315*, 441 U.S. 463, 464-65 (1979) (First Amendment does not impose any affirmative obligation on the government to listen to or respond to citizen complaints.); *Cook v. Gralike*, 531 U.S. 510, 520-21 (2001) (rejecting the

argument that citizens have the right to give “legally binding” nonadvisory instructions to their elected representatives).

The *Knight* case relied substantially on *Bi-Metallic Investment Co. v. State Board of Equalization*, 239 U.S. 441 (1915), in which the United States Supreme Court rejected a claim of a right to be heard founded on the Due Process Clause of the Fourteenth Amendment. Speaking for the Court, Justice Holmes explained:

Where a rule of conduct applies to more than a few people it is impracticable that everyone should have a direct voice in its adoption. The Constitution does not require all public acts to be done in town meeting or an assembly of the whole. General statutes within the state power are passed that affect the person or property of individuals, sometimes to the point of ruin, without giving them a chance to be heard. Their rights are protected in the only way that they can be in a complex society, by their power, immediate or remote, over those who make the rule.”

Id. at 445. “Government makes so many policy decisions affecting so many people that it would likely grind to a halt were policymaking constrained by constitutional requirements on whose voices must be heard. There must be a limit to individual argument in such matters if government is to go on.” *Id.*

The same logic used to decide *Bi-Metallic Investment, Co.* applies to the Plaintiff’s claim here. A legislature forced to respond to each and every citizen with a complaint would scarcely have the time required to do the work that, in the judgment of the people’s elected representatives, is important enough to warrant introduction of legislation and such other matters that they deem appropriate. *See Sousa v. State*, *supra*.

A citizen of Tennessee recently brought an action similar to the Plaintiff’s petition in the present case. In *Gentry v. Former Speaker of the House Glen Casada*, 2020 WL 5587720 (Tenn. Ct. App. Aug. 6, 2020) (copy attached at **Exhibit A**) the Tennessee appellate court hearing the case found, “Mr. Gentry asks this court to determine whether the right of petition includes the

right to have the legislature hear or consider his petition.” *Id.* at *3. The *Gentry* court held that, “this question has been answered in the negative by the United States Supreme Court.” *Id.* (citing *Smith v. Arkansas State Highway Employees, Local 1315*, 441 U.S. 463 (1979). Mr. Gentry was denied all relief. *Id.*; see also *Courtyard Manor Homeowners’ Ass’n, Inc. v. City of Pelham*, 295 So. 3d 1061 (Ala. 2019) (state constitution’s right of petition does not require legislative body to accept or reject citizens’ proposed legislative initiative); *Richards Furniture Corp. v. Board of County Commissioners of Anne Arundel County*, 196 A.2d 621 (Md. Ct. App. 1964) (constitutional provision relating to redress of grievances does not require that a hearing be held by legislature); *Piekarski v. Smith*, 153 A.2d 587 (Del. 1959) (right of petition limited to right to present a petition or remonstrance setting forth a protest or grievance but does not include the right to debate in person or through counsel the subject matter of the remonstrance).

This Court should not be concerned that ruling against the Plaintiff here will hollow out the substantive protections of Part I, Art. 32. The Plaintiff retains the right to continue to seek relief from the General Court, and further, the Plaintiff cannot face retaliation for engaging in the exercise of these rights. This is an important substantive protection. See *Pickering v. Board of Education*, 391 U.S. 563, 574-575 (1968). The New Hampshire General Court has a long tradition of openness and of allowing public participation in the legislative process. Every single bill has a hearing at which all members of the public may testify and every bill is brought to the floor for final action. But this history and tradition of public participation has been chosen by the House and the Senate pursuant to its authority under Part II, Arts. 22 and 37. It has not been imposed by citizens petitioning their elected officials and it has not been imposed by judicial intervention. This Court should conclude that the Plaintiff has no substantive right to compel the General Court to hear his remonstrance, and that the General Court has no affirmative duty to

meet as a committee of the whole to hear his claims. Alternatively, to the extent that the Plaintiff seeks a writ of prohibition to prevent the General Court from acting in a particular way, this Court's discretionary power to issue such a writ should only be exercised "with caution and forbearance and then only when the right to relief is clear." *Petition of CIGNA Healthcare*, 146 N.H. at 687. The Plaintiff's right to relief is far from clear, based upon the previously cited jurisprudence. Therefore, this Court should conclude that the matter is nonjusticiable and dismiss Counts A and C for this reason.

2. Mandamus Will Not Lie Against the General Court

"A writ of mandamus is used to compel a public official to perform a ministerial act that the official has refused to perform, or to vacate the result of a public official's act that was performed arbitrarily or in bad faith." *Petition of CIGNA Healthcare*, 146 N.H. 683, 687 (2001). The court may issue a writ of mandamus, at its discretion, "only where the petitioner has an apparent right to the requested relief and no other remedy will fully and adequately afford relief." *Id.*; see also *Guarracino v. Beaudry*, 118 N.H. 435, 437 (1978) (mandamus "should be restricted to the amelioration of exigent circumstances, the correction of a plain legal error by the government").

"A ministerial duty . . . is one in respect to which nothing is left to discretion. It is a simple, definite duty, arising under conditions admitted or proved to exist, and imposed by law." *Mississippi v. Johnson*, 71 U.S. 475, 498 (1866). By their very nature, "ministerial acts" are executive, not legislative, in nature: "A writ of mandamus will not issue to a legislative body or its officers to require the performance of duties that are purely legislative in character and over which such legislative bodies have exclusive control." *State ex rel. Grendell v. Davidson*, 716 N.E.2d 704, 709 (Ohio 1999) (cleaned up), see also *Lamson v. Secretary of Com.*, 168 N.E. 2d

460, 484 (Mass. 1960) (“Mandamus **of course** does not lie against the Legislature.”) (emphasis added); *LIMITS v. President of the Senate*, 604 N.E.2d 1307, 1309-1310 (Mass. 1992) (finding that mandamus is “not available” against the legislature due to separation of powers principles). Decisions related to whether to take up petitions, when and how to do so, whether to introduce legislation (or not) are entirely legislative decisions, committed to the General Court by the Constitution. *See* N.H. CONST. Pt. II, Art. 5. “The courts have no supervisory powers over the legislature, a separate and coordinate branch of government.” *Wells v. Purcell*, 592 S.W.2d 100, 105 (Ark., 1979). “To undertake to compel the presiding officers to act contrary to the action of their respective houses would constitute an attempt to supervise those actions, in violation of [the state Constitution]. *Id.* Mandamus cannot be used to undo legislative action or to compel revocation or rescission of legislative action in violation of the doctrine of separation of powers. *Id.* (quoting *State v. City of Shreveport*, 93 So.2d 187 (1957); *see also Gentry v. Former Speaker of the House Glen Casada*, *supra*, at *5 (plaintiff did not have a clearly established right to mandamus to have the petition heard or considered by the legislature in light of the legislature’s constitutional authority to establish its own rules of proceeding).

3. The Court Should Dismiss Count B

In Count B, the Plaintiff requests and order enjoining the President and Speaker, “from concealing or omitting lawfully-filed documents address [*sic*] to the General Court from the legislature to act upon.” Based on the petition, it is unclear what relief the Plaintiff seeks. However, to the extent that the Plaintiff seeks an order from this Court requiring the Defendants to maintain records in some specific form or alter policies or practices related to document retention and availability, the requested relief should be denied.

First, as set forth above, separation of powers principles militate against judicial intervention into matters within the exclusive discretion of a coordinate branch of government. Second, to the extent that the petition relies on an allegation that that the House or the Senate did not follow their own rules, that question was resolved in *Hughes v. Speaker of the House of Representatives*, 152 N.H. 276 (2005), which held that Part II, Articles 22 and 37, “contain textually demonstrable commitments to the House and Senate to adopt their own rules of proceedings,” *id.* at 284 (quoting *Baines v. Senate President*, 152 N.H. 124, 132 (2005), and that “[t]he legislature, alone, “has complete control and discretion whether it shall observe, enforce, waive, suspend, or disregard its own rules of procedure.” *Id.* (quoting *Des Moines Register v. Dwyer*, 542 N.W.2d 491, 496 (Iowa 1996)). To the extent that legislative document retention is the subject of this claim, it falls squarely within the General Court’s authority under to make its own rules of proceeding. To the extent that the complaint is alleging something else, that allegation is unclear and should be dismissed.

4. Injunctive Relief Is Unwarranted

The issuance of an injunction is also an “extraordinary remedy”. *N.H. Dep’t of Envtl. Servs. v. Mottolo*, 155 N.H. 57, 62 (2007). An injunction should not issue unless there is an immediate danger of irreparable harm to the party seeking injunctive relief, and there is no adequate remedy at law . . . [and] a party seeking an injunction must show that it would likely succeed on the merits.” *Id.* It is within the trial court's sound discretion to grant an injunction after consideration of the facts and established principles of equity. *Id.*

Here, where the Plaintiff has requested both mandamus and injunctive relief, he does not “fare any better by asking in the alternative for injunctive relief, there being no substantial distinction between mandamus and a mandatory injunction directing the performance of official

public duties.” *Guy J. v. Commissioner*, 131 N.H. 742, 747 (1989). “Because a mandatory preliminary injunction alters rather than preserves the status quo, it ‘normally should be granted only in those circumstances when the exigencies of the situation demand such relief.’” *Braintree Labs., Inc. v. Citigroup Global Mkts. Inc.*, 622 F.3d 36, 41 (1st Cir. 2010). (quoting *Mass. Coal. of Citizens with Disabilities v. Civil Def. Agency*, 649 F.2d 71, 76 n.7 (1st Cir. 1981)).

The plaintiff has failed to prove that he will suffer immediate threat of irreparable harm such as would require this Court to alter the status quo. To the contrary, although not required by law, the Plaintiff’s remonstrance has in fact been noticed on two separate occasions in the House Calendar, *see* House Calendar 2 (January 10, 2020) and House Calendar 5 (December 31, 2020) (copies attached at **Exhibit B**) and on February 25, 2021 the full House voted to table a motion to refer the matter to committee, *see* House Journal 4 (February 25, 2021) (copy attached at **Exhibit C**) Further, the weight of the substantive law arrayed against the plaintiff clearly indicates that he is unlikely to succeed on the merits. As such, injunctive relief is unwarranted.

CONCLUSION

WHEREFORE, in light of the foregoing, the Defendant respectfully requests that this Court:

- A. Dismiss Plaintiff’s petition;
- B. Deny Plaintiff’s request for injunctive relief;
- C. Award such other relief as may be just and equitable.

Respectfully submitted,

SHERMAN PACKARD
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By their attorneys,

Date: April 13, 2021

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent to all parties and counsel of record pursuant to the Judicial Branch's e-filing system.

Date: April 13, 2021

/s/ James S. Cianci

James S. Cianci, Esq.

Exhibit A

2020 WL 5587720

Only the Westlaw citation is currently available.

SEE COURT OF APPEALS RULES 11 AND 12

Court of Appeals of Tennessee,
AT NASHVILLE.

John Anthony GENTRY

v.

FORMER SPEAKER OF the HOUSE GLEN CASADA et al.

No. M2019-02230-COA-R3-CV

|
August 6, 2020 Session

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FILED 09/17/2020

Appeal from the Chancery Court for Davidson County, No. 19-644-I, Patricia Head Moskal, Chancellor

Attorneys and Law Firms

John Anthony Gentry, Goodlettsville, Tennessee, pro se.

Herbert H. Slatery, III, Attorney General and Reporter, Andrée Blumstein, Solicitor General, and Janet Irene M. Kleinfelter, Deputy Attorney General, for the appellees, House Speaker, Senate Speaker, Chief Clerk of the House, and Chief Clerk of the Senate.

Andy D. Bennett, J., delivered the opinion of the Court, in which Frank G. Clement, Jr., P.J., M.S., and W. Neal McBrayer, J., joined.

OPINION

Andy D. Bennett, J.

*1 A citizen filed a petition of remonstrance with the Tennessee General Assembly and then filed a petition for writ of mandamus in chancery court requesting that the legislative chambers be ordered to hear and consider his petition of remonstrance. The trial court dismissed the petition for writ of mandamus on the basis that the petitioner was not entitled to mandamus relief. We affirm.

Factual and Procedural Background

In January 2019, John Anthony Gentry, a Tennessee citizen, filed a petition of remonstrance with the Chief Clerk of the Tennessee Senate and the Chief Clerk of the Tennessee House of Representatives (“the House”). The petition was announced on the floor of both chambers on January 18, 2019, but the entire petition was not read before either chamber. During February and March 2019, Mr. Gentry met with various legislators and officers of the General Assembly to discuss the petition and his

claim that he was entitled to have the petition heard by the General Assembly. He also emailed a copy of the petition to every member of both legislative houses.

In May 2019, Mr. Gentry filed a petition for writ of mandamus in the chancery court against Former Speaker of the House Glen Casada, Lieutenant Governor McNally, and the chief clerks of the House and the Senate. The petition sought an order mandating that the House and Senate clerks “properly announce” the petition of remonstrance in accordance with Senate Rule 22 and House Rule 15 and an order requiring the Senate and House “to hear and decide” the petition of remonstrance pursuant to [article 1, sections 1, 23, and 35 of the Tennessee Constitution](#). The defendants filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

Mr. Gentry subsequently filed an amended petition for writ of mandamus asserting three causes of action: (1) violation of a duty, pursuant to [article 1, section 23](#), and [article 10, section 1 of the Tennessee Constitution](#), to properly present the typewritten form of the Constitution to the public; (2) violation of a duty, pursuant to [article 1, section 23](#), and [article 11, section 16 of the Tennessee Constitution](#), to “receive and read Petitions at the table”; and (3) pursuant to [article 1, section 17](#) and [article 11, section 16 of the Tennessee Constitution](#), conspiracy “to deny due course of law through abuse of process and violation of local court and state rules of procedure” and by tendering to the court “a fraudulent and materially altered, counterfeit version” of the petition of remonstrance. In addition to the relief requested in the original petition, Mr. Gentry asked that the Clerk of the Senate correct the last phrase of [article 1, section 23 of the Tennessee Constitution](#) on the General Assembly’s website “to properly read ‘by address *or* remonstrance.’ ” Mr. Gentry later requested that the case be tried before a jury.

In a memorandum and order entered on September 11, 2019, the trial court denied Mr. Gentry’s amended petition and dismissed the action. The court ruled that Mr. Gentry was not entitled to mandamus relief. He had “exercised the clear right he is granted under [Art. I, § 23](#) to apply for redress of his grievances by address or remonstrance.” As the court explained, Mr. Gentry did not satisfy the elements required to obtain a writ of mandamus. Mr. Gentry had “no clear right to compel” the specific acts he requested, and the General Assembly had no “clear duty to perform the acts” he sought to compel.

*2 Mr. Gentry filed a Tenn. R. Civ. P. 59 motion to alter or amend and a motion to recuse the chancellor, both of which the trial court denied. Mr. Gentry then filed a motion to reconsider under Tenn. R. Civ. P. 60, and the trial court denied that motion on December 18, 2019.

On appeal, Mr. Gentry raises a number of issues, which we restate as follows:

1. Whether [article 1, section 23 of the Tennessee Constitution](#) requires the General Assembly to hear and decide a petition of remonstrance filed by a citizen of the state of Tennessee.
2. Whether [Supreme Court Rule 10B](#), House Rule of Order 15, and Senate Rule of Order 22 are repugnant to the state constitution and violate or oppress constitutionally protected rights.
3. Whether Mr. Gentry was denied due process as a result of gross procedural errors.
4. Whether it was an abuse of discretion by the trial court to involuntarily dismiss the case while there was no operating motion to dismiss before the court.
5. Whether the defendants and their counsel can falsify evidence and make false statements to a chancery court with impunity.
6. Whether the state government has a duty to present an accurate version of the Tennessee Constitution to the public.

Analysis

Mr. Gentry is representing himself on appeal, as he did at the trial level. As a pro se litigant with no legal training, Mr. Gentry is “entitled to fair and equal treatment by the courts.” *Young v. Barrow*, 130 S.W.3d 59, 62 (Tenn. Ct. App. 2003) (citing *Whitaker v. Whirlpool Corp.*, 32 S.W.3d 222, 227 (Tenn. Ct. App. 2000); *Paehler v. Union Planters Nat’l Bank, Inc.*, 971 S.W.2d 393, 396 (Tenn. Ct. App. 1997)). The following principles apply to pro se litigants:

The courts should take into account that many pro se litigants have no legal training and little familiarity with the judicial system. However, the courts must also be mindful of the boundary between fairness to a pro se litigant and unfairness to the pro se litigant’s adversary. Thus, the courts must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe.

Young, 130 S.W.3d at 62–63 (citations omitted); see also *Hessmer v. Hessmer*, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003). We grant pro se litigants “a certain amount of leeway” in the preparation of their appellate briefs. *Hessmer*, 138 S.W.3d at 903 (citing *Whitaker*, 32 S.W.3d at 227; *Paehler*, 971 S.W.2d at 397). This means that courts “measure the papers prepared by pro se litigants using standards that are less stringent than those applied to papers prepared by lawyers.” *Id.* (citing *Hughes v. Rowe*, 449 U.S. 5, 9–10 (1980); *Baxter v. Rose*, 523 S.W.2d 930, 939 (Tenn. 1975); *Winchester v. Little*, 996 S.W.2d 818, 824 (Tenn. Ct. App. 1998)).

I. Article 1, section 23—the right of petition.

The basis of Mr. Gentry’s petition of remonstrance is [article 1, section 23 of the Tennessee Constitution](#), which states:

That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.^[1]

As Mr. Gentry points out, Tennessee caselaw contains little discussion of the right of petition embodied in article 1, section 23—the right “to apply to those invested with the powers of government for redress of grievances ... by address or remonstrance.” The right of petition is, however, “an ancient right” and “the cornerstone of the Anglo-American constitutional system.” Norman B. Smith, “*Shall Make No Law Abridging ...*”: *An Analysis of the Neglected, But Nearly Absolute, Right of Petition*, 54 U. Cin. L. Rev. 1153 (1986).

*3 Under Magna Carta, noblemen petitioned the king to secure their rights. Smith, *supra*, at 1153. Parliament used the Petition of Right to “gain popular rights from the king,” and the people eventually “used petitioning as the means to secure their own rights against parliament.” *Id.* Thus, “[t]he development of petitioning is inextricably linked to the emergence of popular sovereignty.” *Id.* The drafters of the United States Constitution guaranteed the right of petition in the First Amendment:

Congress shall make no law ... abridging ... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

It should also be noted that “[v]igorous exercise of the right to petition has been associated with forward strides in the development of speech, press, and assembly.” Smith, *supra*, at 1179.

Mr. Gentry asks this court to determine whether the right of petition includes the right to have the legislature hear or consider his petition. This question has been answered in the negative by the United States Supreme Court. In *Smith v. Arkansas State Highway Employees, Local 1315*, 441 U.S. 463 (1979), the state highway commission refused to consider grievances by employees of the Arkansas highway department unless the employees submitted their complaints directly to a designated employer representative. The district court held that this procedure violated the First Amendment by denying the employees’ union the ability to submit grievances effectively on behalf of the employees. *Smith*, 441 U.S. at 463. The Eighth Circuit affirmed. *Id.* The Supreme Court granted certiorari and reversed the judgment of the court of appeals. *Id.* at 464. While recognizing that procedures bypassing the union “might well be unfair labor practices” if federal statutes applied, the Court found no constitutional violation. *Id.* In reaching this conclusion, the Court reasoned:

The First Amendment right to associate and to advocate “provides no guarantee that a speech will persuade or that advocacy will be effective.” [*Hanover Twp. Fed'n of Teachers v. Hanover Cmty. School Corp.*, 457 F.2d 456, 461 (1972)]. The public employee surely can associate and speak freely and petition openly, and he is protected by the First Amendment from retaliation for doing so.... But the First Amendment does not impose any affirmative obligation on the government to listen, to respond or, in this context, to recognize the association and bargain with it.

Id. at 464-65 (citations and footnote omitted). The union's complaint was that the commission “refuses to consider or act upon grievances when filed by the union rather than by the employee directly.” *Id.* at 465. The Court concluded that the Constitution did not prohibit such an “impairment.” *Id.* at 466. In the Court's view, “all that the Commission has done in its challenged conduct is simply to ignore the union. That it is free to do.” *Id.*; see also *Minn. State Bd. for Cmty. Colls. v. Knight*, 465 U.S. 271, 286-87 (1984) (citing *Smith* and upholding state public employment labor statute restricting participation in “meet and confer” sessions to union representative).

In the Tennessee case of *Vincent v. State*, No. 01A-01-9510-CH-00482, 1996 WL 187573, at *1 (Tenn. Ct. App. Apr. 19, 1996), Ms. Vincent filed a mandamus action to force state officials to include on the ballot for the November 1994 election “a question concerning the process of ‘initiation and referendum’ (I & R).” The trial court granted the defendants’ motion to dismiss for failure to state a claim upon which relief can be granted. *Vincent*, 1996 WL 187573, at *1. On appeal, the court found no statutory or constitutional authority for citizens to require that an issue be placed on a ballot. *Id.* at *2. Responding to Ms. Vincent's reliance upon [article 1, section 23 of the Tennessee Constitution](#) as a source of authority, the court stated that this provision “guarantees the right of peaceable assembly, to ‘instruct’ representatives, to ‘apply’ to officials for redress of grievances, or other purposes ‘by address or remonstrance.’ ” *Id.* Thus, the court concluded, [article 1, section 23](#) did not empower a group of citizens to compel officials to place a certain question on a ballot. *Id.*

*4 This court addressed the right of petition again in *State ex rel. Potter v. Harris*, No. E2007-00806-COA-R3-CV, 2008 WL 3067187, at *1 (Tenn. Ct. App. Aug. 4, 2008), a case involving a petition for referendum to repeal a local options sales tax. The relators circulated the petition for signatures and submitted it to the county election commission for certification and placement on the ballot. *Harris*, 2008 WL 3067187, at *1. Pursuant to the statutory procedure, the commission checked the authenticity of the signatures and the registration of the signatories. *Id.* The commission determined that the petition did not include enough valid signatures and refused the relators’ demand for certification. *Id.* at *1-2. The relators then filed a petition for writ mandamus in chancery court to compel certification; the petition included allegations that the commission's actions violated constitutional rights. *Id.* at *2. The trial court granted summary judgment in favor of the commission under an arbitrary and capricious standard of review. *Id.* at *3.

One of the relators’ constitutional arguments on appeal was that the commission's rejection of signatures based upon the signers’ addresses or lack of voter registration at the time of signing deprived them of their right of petition under [article 1, section 23 of the Tennessee Constitution](#). *Id.* at *8. The court responded:

While some states, e.g. Colorado and Arizona, have provided for referendum in their state constitutions, Tennessee has not done so. As we noted in *Vincent v. State*, No. 01A-01-9510-CH-00482, 1996 WL 187573 at *3 (Tenn. Ct. App. M.S., filed April 19, 1996), “[t]he Constitution of Tennessee conveys to the three designated departments all governmental power of the state. It contains no reservation to the people of the powers of initiative or referendum.” And we do not agree that either the cited Petition Clause of the Tennessee Constitution or its federal counterpart pertain to a petition to initiate a referendum. Tennessee courts have recognized that [Article I, § 23 of the state constitution](#) serves to protect the citizen's rights “to ‘instruct’ representatives [and] to ‘apply’ to officials.” *Vincent*, at *2 (emphasis added), and the U.S. Supreme Court has construed the Petition Clause of the federal constitution as a guaranty “that people ‘may communicate their will’ through direct petitions to the legislature and government officials.” *McDonald v. Smith*, 472 U.S. 479, 482 (1976).

Id. at *9. Thus, the court found no violation of the right of petition.

Also instructive is a Maryland decision interpreting a similar provision of that state's constitution. In *Richards Furniture Corp. v. Board of County Commissioners of Anne Arundel County*, 196 A.2d 621, 623-25 (Md. Ct. App. 1964), a furniture company

challenged the validity and constitutionality of a legislative enactment regulating its operations. The Maryland appellate court rejected all of the company's challenges, including its assertion that the act violated Maryland's constitutional provision stating that "every man hath a right to petition the Legislature for the redress of grievances in a peaceable and orderly manner." *Richards Furniture*, 196 A.2d at 626; MD Const. Declaration of Rights art. 13. The court stated that the constitution "does not require that a hearing be held upon suggested legislation." *Richards Furniture*, 196 A.2d at 626. Addressing the impact of article 13, the court reviewed the history of the right of petition:

The right of petition first appeared in Magna Carta, Chapter 61, and was incorporated in the English Bill of Rights of 1689. Corwin, Constitution, United States, 82 Congress, 2d Session Senate Document No. 170, p. 805. However, the meaning of the "right to petition the Legislature for redress of grievances" can best be understood in the context of the pre-Revolutionary period between the enactment of the Stamp Act in 1765 and the Declaration of Independence by the Colonies in 1776. Morgan, The Stamp Act Crisis, pp. 53-70; Rossiter, Seedtime of the Republic, 319. The celebrated trial in 1734 of John Peter Zenger, the newspaper editor and pamphleteer, for seditious libel had shown the colonists the fate to be expected by outspoken critics of British policy. Drinker, The Four Freedoms of the First Amendment, p. 5. The suppression by the British of written and spoken criticism by the Colonists of British colonial policies was one of the real fears of the period. Cooley, op. cit. 498; 1 Blackstone; Commentaries (Lewis ed.), 142(3). And the rights of the Colonists, as Englishmen, to the freedom of speech, press, assembly and petition were among the most cherished rights of the citizens of that time. It was in the light of this background that the framers of the Declarations of Rights of the original States and the Bill of Rights of the Federal Constitution drafted the provisions relating to the "right to petition" the legislative branch of the government.

*5 It is clear, we think, that the authors and the people who actually adopted our Declaration of Rights intended no more than to permit any person or peaceable assembly of persons, without fear of reprisal or prosecution, to communicate directly with the legislative body by way of a statement of grievances and a petition requesting a correction of wrongs previously committed. The appellant is seeking herein not a right to petition for the *redress* of an alleged grievance after the passage of a law which it does not like, but the right of a hearing and a right to petition *before* the passage of the law. The right guaranteed by Article 13 provides no assistance to the appellant in this regard.

Id. at 626-27; see also *Courtyard Manor Homeowners' Ass'n, Inc. v. City of Pelham*, 295 So. 3d 1061, 1064-65 (Ala. 2019) (holding that state constitution's right of petition did not require legislative body to accept or reject citizens' proposed legislative initiative); *Piekarski v. Smith*, 153 A.2d 587, 592 (Del. 1959) (stating that, "[h]istorically, the right of petition means just what it says: the right to present to the sovereign a petition or remonstrance setting forth a protest or grievance," and that the right does not include "the right to debate in person or through counsel the subject matter of the remonstrance").

Under Tennessee law, a court may issue a writ of mandamus only "where a plaintiff's right to the relief sought has been clearly established, the defendant has a clear duty to perform the act the plaintiff seeks to compel, and 'there is no other plain, adequate, and complete method of obtaining the relief to which one is entitled.'" *Manhattan, Inc. v. Shelby Cnty.*, No. W2006-02017-COA-R3-CV, 2008 WL 639791, at *7 (Tenn. Ct. App. Mar. 11, 2008) (quoting *Cherokee Country Club, Inc. v. City of Knoxville*, 152 S.W.3d 466, 479 (Tenn. 2004)). Even if the plaintiff establishes a "clear legal right," the issuance of the writ remains within the discretion of the trial court. *Harris v. State*, 34 S.W. 1017, 1022 (Tenn. 1896). As discussed above, Mr. Gentry does not have a clearly established right to have his petition heard or considered by either house of the General Assembly.

In arguing that the General Assembly had a clear duty to consider his petition of remonstrance, Mr. Gentry points to House Rule of Order 15 and Senate Rule of Order 22. House Rule of Order 15 states: "Before any petition or memorial addressed to the House shall be received and read at the table, a brief statement of the contents of the petition or memorial shall be filed with the Chief Clerk." The Senate rule is similar. Mr. Gentry interprets these rules to mean that both chambers "have a duty to receive and read petitions at the table." We do not agree.

Article 2, section 12 of the Tennessee Constitution addresses the power of the legislature to regulate itself:

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the Legislature of a free State.

Our Supreme Court has interpreted this provision to give the legislative houses the right to make their own rules and to be the judge of those rules. *State v. Cumberland Club*, 188 S.W. 583, 585 (Tenn. 1916). The role of the courts is limited “to ascertain[ing] whether the Constitution has been complied with.” *Id.*; see also *Mayhew v. Wilder*, 46 S.W.3d 760, 772-74 (Tenn. Ct. App. 2001). Thus, the General Assembly had no duty to read at the table or to hear and decide Mr. Gentry's petition of remonstrance.

In light of the absence of a clear right to have his petition heard and no clear duty on the part of the General Assembly to hear it, we conclude that the trial court acted within its discretion in denying Mr. Gentry's petition for a writ of mandamus.

II. Constitutionality of [Supreme Court Rule 10B](#) and House and Senate rules.

*6 Mr. Gentry asserts that [Supreme Court Rule 10B](#),² House Rule of Order 15, and Senate Rule of Order 22 are repugnant to the Tennessee Constitution and violate or oppress constitutionally protected rights.

Mr. Gentry did not raise these constitutional arguments concerning the House or Senate procedural rules until he filed his Rule 59.04 motion to alter or amend the trial court's final order denying his amended petition. Motions pursuant to Tenn. R. Civ. P. 59 “should not be used to raise new, previously untried theories or to present new, previously unasserted, legal arguments.” *Local Union 760 of Int'l Bhd. of Elec. Workers v. City of Harriman*, No. E2000-00367-COA-R3-CV, 2000 WL 1801856, at *4 (Tenn. Ct. App. Dec. 8, 2000). The trial court acted properly in declining to address Mr. Gentry's constitutional challenge.

With respect to Mr. Gentry's challenge to the constitutionality of [Supreme Court Rule 10B](#), the trial court declined to address the issue in part because Mr. Gentry did not raise it until he filed his reply brief on his Rule 60.02 motion. A reply brief cannot be used to raise new issues. See *Tenn. R. Civ. P. 7.02(1)*; *Regions Fin. Corp. v. Marsh USA, Inc.*, 310 S.W.3d 382, 392 (Tenn. Ct. App. 2009). Moreover, “only the Tennessee Supreme Court may determine the facial validity of its rules.” *Long v. Bd. of Prof'l Responsibility of the Supreme Ct. of Tenn.*, 435 S.W.3d 174, 184 (Tenn. 2014). Thus, the trial court properly declined to address this constitutional issue.

III. Due process issues.

Mr. Gentry further argues that he was denied due process as the result of “gross procedural errors” that allegedly occurred with respect to his original petition for writ of mandamus.

We begin with a review of the relevant procedural history. The defendants filed a motion to dismiss Mr. Gentry's original petition for writ of mandamus on June 7, 2019. On June 12, 2019, Mr. Gentry filed a motion to strike the defendants' motion to dismiss for failure to adhere to local rules. After a hearing on June 21, 2019, the trial court entered an order denying Mr. Gentry's motion to strike. On July 8, 2019, the trial court entered a separate order based on the same hearing stating that it reserved ruling on the defendants' motion to dismiss and requesting copies of caselaw cited by the defendants. The court allowed Mr. Gentry additional time to respond to the defendants' supplemental authority, “without further oral argument.” The court then took the motion to dismiss under advisement. On July 8, 2019, Mr. Gentry filed a motion to alter the court's order denying his motion to strike.³ He filed a corrected and amended motion to alter the same order on July 13, 2019.

*7 On July 29, 2019, Mr. Gentry filed a motion for leave to amend his petition for writ of mandamus.

The trial court heard Mr. Gentry's motion to alter the order denying his motion to strike on August 16, 2019. Relying on the requirements of *Tenn. R. Civ. P. 12.06*, the court found that Mr. Gentry's motion “was not directed to a pleading containing an insufficient defense or a pleading containing any redundant, immaterial, impertinent or scandalous matter.” The court entered

an order on August 19, 2019, denying Mr. Gentry's motion to alter, which the court treated as a motion to revise because the order at issue was not a final order.

On August 19, 2019, the trial court also entered an order granting Mr. Gentry leave to file his amended petition for writ of mandamus, which was filed the same day.

Mr. Gentry's argument regarding procedural violations stems from the defendants filing their motion to dismiss on June 7, 2019, and setting it for hearing on June 21. According to Mr. Gentry's interpretation of the local rules, the motion should not have been set for hearing until at least 37 days after the filing date.⁴ We need not, however, decide how the local rules apply in this situation. The motion to dismiss about which Mr. Gentry claims he was denied due process was never ruled upon by the trial court. Once Mr. Gentry filed his amended petition, the original petition (and all related motions) became moot. An amended petition "supersedes and destroys the original complaint as a pleading." *H.G. Hill Realty Co., L.L.C. v. Re/Max Carriage House, Inc.*, 428 S.W.3d 23, 35 (Tenn. Ct. App. 2013) (citing *McBurney v. Aldrich*, 816 S.W.2d 30, 33 (Tenn. Ct. App. 1991)).

The trial court properly rejected Mr. Gentry's due process argument.⁵

IV. Dismissal of amended petition without motion.

Mr. Gentry asserts that the trial court abused its discretion in dismissing the amended petition for writ of mandamus with no motion before the court.

*8 Our Supreme Court has interpreted the Tennessee Rules of Civil Procedure to allow a trial court "under certain circumstances and upon adequate grounds" to "[s]ua sponte^[6] order the involuntary dismissal of an action." *Harris v. Baptist Mem'l Hosp.*, 574 S.W.2d 730, 731 (Tenn. 1978). The Court advised that "this power must be exercised most sparingly and with great care that the right of the respective parties to a hearing shall not be denied or impaired." *Id.* A trial court has the authority to dismiss a case sua sponte for failure to state a claim for which relief can be granted. See *Huckeby v. Spangler*, 521 S.W.2d 568, 571 (Tenn. 1975).

To evaluate the actions of the trial court in the present case, it is important to bear in mind that mandamus is a "summary remedy" that is "to be applied only when a right has been clearly established." *Peerless Constr. Co. v. Bass*, 14 S.W.2d 732, 733 (Tenn. 1929). A defendant is not obligated to answer a petition for writ of mandamus "that does not present a prima facie case to justify granting the writ." *Jellicorse v. Russell*, 1 S.W.2d 1011, 1012 (Tenn. 1928). As discussed above, the plaintiff must establish a clear right to the relief sought and a clear duty on the part of the defendant to perform the requested act(s) to be entitled to a writ of mandamus. See *Manhattan, Inc.*, 2008 WL 639791, at *7. In *Cotten v. Tennessee Board of Paroles*, No. M2001-00875-COA-R3-CV, 2002 WL 1484446, at *1 (Tenn. Ct. App. July 12, 2002), this court affirmed the trial court's sua sponte dismissal of a petition for writ of mandamus "because mandamus was not the appropriate remedy and the Petitioner was not in custody of the State of Tennessee for the purposes of parole revocation." In the present case, the trial court acted within its discretion in dismissing the petition for a writ of mandamus sua sponte because, as discussed above, Mr. Gentry could not establish a clear right to the relief he sought or a clear duty on the part of the defendants to perform the requested acts. The trial court set out the reasons for its decision in a detailed memorandum.

V. Falsifying evidence.

Mr. Gentry frames this issue to be whether the defendants and their counsel can falsify evidence and make false statements to a chancery court with impunity. The crux of his argument is that the defendants attached a "falsified counterfeit version" of his petition of remonstrance to the memorandum in support of their motion to dismiss Mr. Gentry's original petition for writ of mandamus.

After the defendants filed their motion and memorandum, Mr. Gentry filed a true copy of his petition of remonstrance as an attachment to his response to the defendants' motion to dismiss and supporting memorandum.⁷ On September 6, 2019, the trial court held a hearing on several of Mr. Gentry's motions, including motions for sanctions under the Tennessee Rules of Civil Procedure and Davidson County local court rules based upon his assertion that the defendants and their counsel "maliciously and materially altered and concealed evidence" by attaching an "inaccurate and incomplete" version of the petition of remonstrance to their memorandum. In an order filed on September 11, 2019, the trial court denied Mr. Gentry's motion for sanctions and supplemental motion for sanctions.

*9 Appellate courts review a trial court's imposition of sanctions pursuant to Tenn. R. Civ. P. 37 under an abuse of discretion standard. *Amanns v. Grissom*, 333 S.W.3d 90, 98 (Tenn. Ct. App. 2010). Likewise, we review a trial court's ruling on a Rule 11 motion under an abuse of discretion standard. *Hooker v. Sundquist*, 107 S.W.3d 532, 535 (Tenn. Ct. App. 2002). A trial court abuses its discretion when its decision "has no basis in law or fact and is therefore arbitrary, illogical, or unconscionable." *Id.* (citing *State v. Brown & Williamson Tobacco Corp.*, 18 S.W.3d 186, 191 (Tenn. 2000)).

a. Spoliation.

In his motion for sanctions, Mr. Gentry argued that the defendants should be sanctioned under Tenn. Rs. Civ. P. 34A.02 and 37. Rule 37 of the Tennessee Rules of Civil Procedure governs sanctions for failure to make or cooperate in discovery. Rule 34A.02 provides: "Rule 37 sanctions may be imposed upon a party or an agent of a party who discards, destroys, mutilates, alters, or conceals evidence." Tenn. R. Civ. P. 34A.02. The trial court rejected Mr. Gentry's argument for alleged spoliation of evidence for three reasons. First, there was no spoliation of evidence. In *Tatham v. Bridgestone Americas Holding, Inc.*, 473 S.W.3d 734, 746-47 (Tenn. 2015), our Supreme Court established the following factors to be considered by a trial court in determining the sanctions, if any, to impose for the spoliation of evidence:

- (1) the culpability of the spoliating party in causing the destruction of the evidence, including evidence of intentional misconduct or fraudulent intent;
- (2) the degree of prejudice suffered by the non-spoliating party as a result of the absence of the evidence;
- (3) whether, at the time the evidence was destroyed, the spoliating party knew or should have known that the evidence was relevant to pending or reasonably foreseeable litigation; and
- (4) the least severe sanction available to remedy any prejudice caused to the non-spoliating party.

The implication from these factors is that spoliation requires the destruction of the evidence, which did not occur in the present case. Because Mr. Gentry provided the trial court with a copy of the complete version of his petition of remonstrance, Mr. Gentry suffered no prejudice. Moreover, the defendants' copy of the petition of remonstrance was not submitted as evidence; it was an attachment to a memorandum in support of a motion.

The second reason that the trial court rejected Mr. Gentry's spoliation argument was that, as previously stated, the copy of the petition for remonstrance attached to the defendants' memorandum was not submitted as evidence. In making their motion to dismiss for failure to state a claim and lack of subject matter jurisdiction, the defendants admitted the truth of all relevant and material allegations in Mr. Gentry's petition for writ of mandamus. See *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011). The attachment of the petition of remonstrance served only to confirm that Mr. Gentry filed such a petition with the clerks of the House and the Senate.

Third, as discussed above, Mr. Gentry's original petition became moot when he filed his amended petition for writ of mandamus.

b. Rule 11.

Mr. Gentry argued in a supplemental motion for sanctions, filed on August 22, 2019, that the defendants should be sanctioned under Tenn. R. Civ. P. 11. This motion was heard on September 6, 2019. *Tennessee Rule of Civil Procedure 11.03(1)(a)* requires

a party moving for sanctions under Rule 11.02 to serve the motion upon the opposing party at least 21 days before filing the motion with the court. The trial court denied Mr. Gentry's motion pursuant to Rule 11 for his failure to comply with this “safe harbor” provision. The court further noted the lack of factual support for Mr. Gentry's motions for sanctions and the mootness of the defendants’ motion to dismiss in light of Mr. Gentry's filing of the amended petition.

***10** We find no abuse of discretion in the trial court's denial of Mr. Gentry's motions for sanctions.

VI. Copy of Constitution on website.

Finally, Mr. Gentry argues that the trial court erred in failing to order the defendants to present an accurate version of the Tennessee Constitution to the public. This argument stems from the fact that, when Mr. Gentry presented his petition of remonstrance to the General Assembly, the Tennessee Constitution on the General Assembly website contained a typographical error so that [article 1, section 23](#) stated that citizens have a right “to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address *of* remonstrance,” instead of “address *or* remonstrance.”⁸ The trial court ruled that, because the defendants have no duty to display the Tennessee Constitution, the court had no authority to order them to correct the version posted voluntarily on the General Assembly website.

We find no merit in Mr. Gentry's argument that he is entitled to mandamus relief for the General Assembly's typographical error. As discussed above, [article 2, section 12 of the Tennessee Constitution](#) gives the legislature the power to regulate itself and includes “all other powers necessary for a branch of the Legislature of a free State.” Pursuant to the doctrine of separation of powers found in [article 2, sections 1 and 2 of the Tennessee Constitution](#), “ ‘The legislature has unlimited power to act in its own sphere, except so far as restrained by the Constitution of the state and of the United States.’ ” *Mayhew*, 46 S.W.3d at 774 (quoting *Bank of Commerce & Trust Co. v. Senter*, 260 S.W. 144, 146 (Tenn. 1924)).

Furthermore, as the trial court pointed out, the General Assembly has no duty to display the Tennessee Constitution. The official version of the Tennessee Code, including the Constitution, appears in volumes of Tennessee Code Annotated certified by the Tennessee Code Commission. Tenn. Code Ann. §§ 1-1-110–1-2-114. The General Assembly is under no duty to perform the act of correction requested by Mr. Gentry in his mandamus action.

Thus, the trial court acted within its discretion in dismissing Mr. Gentry's petition for a writ of mandamus. We would, however, encourage the General Assembly to make the correction.

Conclusion

The judgment of the trial court is affirmed. Costs of appeal are assessed against the appellant, John Anthony Gentry, for which execution may issue if necessary.

All Citations

Slip Copy, 2020 WL 5587720

Footnotes

- 1 In *Courtyard Manor Homeowners’ Ass’n, Inc. v. City of Pelham*, 295 So. 3d 1061, 1065 (Ala. 2019), the Alabama Supreme Court interpreted a similar provision, § 23 of that state's constitution, which gave citizens the right “to apply to those invested with the power of government for redress of grievances or other purposes, by petition, address, or remonstrance.” In that context, the Court stated: *Black's Law Dictionary* defines “remonstrance” as “[a] formal document stating reasons for opposition or grievance.” *Black's Law Dictionary* 1549 (11th ed. 2019). Garner's dictionary defines “address,” a verb, as “to direct (a question, etc.) to (someone).” *Garner's Dictionary of Legal Usage* 20 (3d ed. 2011). The use of the words “address” and “remonstrance” in § 25 merely denotes

various methods of applying to the government for the redress of grievances; this Court is not at liberty to broaden the meaning of those words to impose on the government a duty to hold a hearing or otherwise to respond, as Courtyard Manor suggests. The right to petition or complain about governmental action or inaction is clearly within the Alabama Constitution; nothing can prevent citizens from asking their government to consider a request. But, requiring a response, or in this case mandating that a city hold a hearing, imposes a duty that does not exist under our law. We must respect the legislative function of governments and not intrude on their separate, but coequal, power to decide when, where, and whether to conduct hearings or respond to petitions. Legislative inaction in this case is cured not by court intervention, but at the ballot box.

Courtyard Manor, 295 So. 3d at 1065.

- 2 Supreme Court Rule 10B concerns disqualification or recusal of a judge, the subject of Mr. Gentry's petition of remonstrance.
- 3 A few days later, Mr. Gentry filed a motion to alter the July 8, 2019 order of the court regarding the motion to dismiss. The trial court entered an order on July 10, 2019, entitled Order Clarifying Order on June 21, 2019 Hearing. In this order, the court clarified that "it is only the Court's consideration of the Motion to Dismiss that is 'without further oral argument.' " Mr. Gentry thereafter struck his motion concerning the July 8, 2019 order.
- 4 Mr. Gentry bases his analysis on Davidson County local court rule 26.03, which addresses motions for summary judgment. *See* Tenn. 20th Dist. Ct. Rules of Practice § 26.03. It is only when a court chooses to consider evidence outside the pleadings that a motion to dismiss is converted to a motion for summary judgment. *See Schodowski v. Tellico Vill. Prop. Owners Ass'n, Inc.*, No. E2015-01145-COA-R3-CV, 2016 WL 1627895, at *8 (Tenn. Ct. App. Apr. 23, 2016). Local court rule 26.03 did not apply here because the trial court did not consider the petition of remonstrance in ruling on the defendants' motion to dismiss.
- 5 Mr. Gentry also argues that he was denied due process because the trial judge was not impartial. Mr. Gentry did not raise this issue until he filed a post-judgment motion to recuse. A litigant must bring alleged errors to the attention of the trial court in a timely manner in order to preserve those issues for appeal, and "objections to the competency of the trial judge are deemed waived if not raised before trial." *Woodside v. Woodside*, No. 01-A-01-9503-PB00121, 1995 WL 623077, at *9 (Tenn. Ct. App. Oct. 25, 1995) (Koch, J., concurring) (citing *Dupuis v. Hand*, 814 S.W.2d 340, 342 (Tenn. 1991); *Grozier v. Goodwin*, 69 Tenn. 125, 128 (1878)).
- 6 "Sua sponte" is Latin for "of one's own accord; voluntarily." Black's Law Dictionary (11th ed. 2019). Black's Law Dictionary defines the term to mean: "[w]ithout prompting or suggestion; on its own motion." *Id.* An example of its use is: "The court took notice sua sponte that it lacked jurisdiction over the case." *Id.*
- 7 In its September 11, 2019 order, the trial court stated that the defendants attached to their memorandum "a copy of the thirteen-page Remonstrance, although the cover page of Respondents' exhibit was different from the cover pages Mr. Gentry had exhibited to his mandamus petition." Mr. Gentry provided as an exhibit to his memorandum "his 72-page Remonstrance," "but without approximately 700 additional pages of appendices that he stated were filed with the Remonstrance in the House and Senate."
- 8 According to Mr. Gentry's brief, he learned of the correct wording at a hearing on June 21, 2019. As of the date of the filing of this opinion, the error remains on the General Assembly website.

Exhibit B



State of
New Hampshire

HOUSE RECORD

Second Year of the 166th General Court Calendar and Journal of the 2020 Session

Web Site Address: www.gencourt.state.nh.us

Vol. 42

Concord, N.H.

Friday, January 10, 2020

No. 2

Contains: House Deadlines, Meetings and Notices

HOUSE CALENDAR

MEMBERS OF THE HOUSE:

The next House session will be at the call of the chair.

Thank you all for your efforts this week as we spent two days working through the 2019 retained bills; your continued cooperation is greatly appreciated.

Continuing Education will resume on January 15th, with the two presentations outlined below.

The House and Senate will assemble in Joint Convention for Governor Sununu to deliver his State of the State Address on Thursday, February 6, 2020, at 10:00 a.m.

For future planning, please note that state offices will be closed in observance of Martin Luther King, Jr., on Monday, January 20th, as well as Monday, February 17th in observance of Presidents' Day. There will also be no legislative activity scheduled for New Hampshire Primary Day, Tuesday, February 11th. We are not planning session during the winter break week of February 24th through the 28th; however, committees may choose to meet at the discretion of the chair.

Stephen J. Shurtleff, Speaker of the House

NOTICE

There will NOT be a meeting of chairs and vice chairs next week.

Stephen J. Shurtleff, Speaker of the House

NOTICE

A remonstrance has been filed with the New Hampshire House regarding House Bill 687. It is available for inspection in the Office of the Clerk of the House.

Paul C. Smith, Clerk of the House

HOUSE CONTINUING EDUCATION

SOLID WASTE CHALLENGES FACING MUNICIPALITIES AND MORE

Date: Wednesday, January 15th

Time: 1:00 p.m. to 3:00 p.m.

Place: Representatives Hall

Please see the Members' Notice in the back of the calendar for more information.

HOUSE CONTINUING EDUCATION

MENTAL HEALTH SERVICES AND THE ROLE OF FIRST RESPONDERS

Date: Wednesday, January 23rd

Time: 10:00 a.m. to 12:00 p.m.

Place: Rooms 210-211 Legislative Office Building

Please see the Members' Notice in the back of the calendar for more information.

NOTICE FROM THE CLERK

Pursuant to RSA 14:2-a, it is my obligation to inform you that the House will vote to elect a new Speaker from among its members on Wednesday, January 6th when the House meets in session at the University of New Hampshire. Further information will be forthcoming.

Paul C. Smith, Clerk of the House

NOTICE

LEGISLATIVE ETHICS COMMITTEE

Required Disclosure Filing

The “**2021 Financial Disclosure Form**” and the “**General Disclosure of Non-Financial Personal Interests Form**” have recently been posted on the **My GCNH Portal**. Please visit the portal to complete your forms. All legislators and legislative officers are required to complete and file the Financial Disclosure Form **no later than January 15, 2021**.

Richard M. Lambert, Executive Administrator
Legislative Ethics Committee

NOTICE FROM THE CLERK

The calendar being mailed on Thursday, December 31st will be the last House Calendar mailed to all 400 members. If you would like to continue receiving the printed House Calendar, you must contact the Clerk's Office and opt-in to request the mailed service.

Paul C. Smith, Clerk of the House

NOTICE FROM THE ADMINISTRATIVE OFFICE

If you have not yet completed and submitted your legislative forms in the *My GCNH Portal*, <https://mygcnportal.leg.state.nh.us>, we kindly ask that you do so immediately. Completion of forms is required for ALL members and needed for the processing of your legislative salary and mileage reimbursements. If you require any assistance please call the Administrative Office at 603.271.3162 or email accounting@leg.state.nh.us.

Jennifer Becker, Director - General Court Administrative Office

NOTICE

A remonstrance has been filed with the New Hampshire House regarding several RSAs and their constitutionality. It is available for inspection in the Office of the Clerk of the House.

Paul C. Smith, Clerk of the House

NOTICE

A petition has been filed with the House of Representatives regarding the emergency and executive orders of Governor Sununu during the Covid-19 Pandemic. It is available for inspection in the Office of the Clerk of the House.

Paul C. Smith, Clerk of the House

NOTICE

There are many sites available for COVID-19 testing. Please click below for a list of sites in New Hampshire: <https://www.dhhs.nh.gov/dphs/cdcs/covid19/documents/covid-testing-options.pdf>

Exhibit C

MOTION TO REFER TO COMMITTEE

Rep. Howard moved that a remonstrance regarding several RSAs and their constitutionality be referred to committee.

MOTION TO LAY ON THE TABLE

Rep. Ley moved that the motion to refer the remonstrance to a committee be laid on the table.

Rep. Binford requested a roll call; sufficiently seconded.

YEAS 204 - NAYS 137**YEAS - 204****CARROLL**

Burroughs, Anita
Knirk, Jerry
Umberger, Karen

Crawford, Karel
Marsh, William
Woodcock, Stephen

Deshaies, Brodie
McAleer, Chris

MacDonald, John
Nelson, Bill

CHESHIRE

Abbott, Michael
Fenton, Donovan
Hunt, John
Rhodes, Jennifer
Weber, Lucy

Ames, Richard
Fox, Dru
Ley, Douglas
Schapiro, Joe

Bordenet, John
Gomarlo, Jennie
Parshall, Lucius
Toll, Amanda

Faulkner, Barry
Harvey, Cathryn
Qualey, James
Von Plinsky, Sparky

COOS

Davis, Arnold
Theberge, Robert

Hatch, William
Thompson, Dennis

Laflamme, Larry
Tucker, Edith

Merner, Troy

GRAFTON

Abel, Richard
Egan, Timothy
Ladd, Rick
Stavis, Laurel

Adjutant, Joshua
Fellows, Sallie
Massimilla, Linda
Smith, Suzanne

Almy, Susan
Gordon, Edward
Muirhead, Russell
Sykes, George

Depalma IV, Joseph
Hakken-Phillips, Mary
Murphy, James
Weston, Joyce

HILLSBOROUGH

Alexander, Joe
Beaulieu, Jane
Bouchard, Donald
Connors, Erika
Espitia, Manny
Graham, John
Heath, Mary
Infantine, William
Klee, Patricia
Laughton, Stacie-Marie
Murray, Megan
McGhee, Kat
Notter, Jeanine
Pedersen, Michael
Plett, Fred
Ober, Russell
Shaw, Barbara
Vail, Suzanne

Bouldin, Amanda
Berry, Ross
Bradley, Amy
Cornell, Patricia
Freitas, Mary
Griffith, Willis
Herbert, Christopher
Jack, Martin
Klein-Knight, Nicole
Leishman, Peter
Mangipudi, Latha
Mooney, Maureen
Nutter-Upham, Frances
Perez, Maria
Porter, Marjorie
Rice, Kimberly
Smith, Timothy
Vann, Ivy

Bouldin, Andrew
Boehm, Ralph
Chretien, Jacqueline
Smith, Denise
Goley, Jeffrey
Hamer, Heidi
Homola, Susan
Judy, Jean
Sanborn, Laurie
Long, Patrick
Marston, Dick
Moran, Melbourne
Nutting-Wong, Allison
Pickering, Daniel
Query, Joshua
Rung, Rosemarie
Telerski, Laura
Veilleux, Daniel

Griffin, Barbara
Booras, Efstathia
Cleaver, Skip
Dutzy, Sherry
Gorski, Ted
Harriott-Gathright, Linda
Hyland, Stephanie
Kelsey, Niki
Labranche, Tony
King, Mark
Mayville, Mary
Mullen, Sue
O'Brien, Michael
Piedra, Israel
Newman, Ray
Newman, Sue
Toomey, Dan
Wilhelm, Matthew

MERRIMACK

Bartlett, Christy
Gallager, Eric
MacKay, James
Pimentel, Roderick
Shurtleff, Steve
Wazir, Safiya

Caplan, Tony
Klose, John
Mason, James
Pitaro, Matthew
Soucy, Timothy
Wolf, Dan

Ebel, Karen
Lane, Connie
McGuire, Carol
Schuett, Dianne
Wallner, Mary Jane
Woods, Gary

Ellison, Arthur
Luneau, David
McWilliams, Rebecca
Schultz, Kristina
Walz, Mary Beth

ROCKINGHAM

Altschiller, Debra
Cushing, Robert Renny
Gilman, Julie
Harb, Robert
Loughman, Tom
Major, Norman
Paige, Mark
Somssich, Peter
Vandecasteele, Susan

Bunker, Lisa
DiLorenzo, Charlotte
Grossman, Gaby
Janigian, John
Lynn, Bob
Malloy, Dennis
Read, Ellen
Sweeney, Joe
Vose, Michael

Cahill, Michael
Dolan, Tom
Grote, Jaci
Murray, Kate
Pearson, Mark
Meuse, David
Pearson, Stephen
Sytek, John
MacDonald, Wayne

Cali-Pitts, Jacqueline
Edgar, Michael
Hamblet, Joan
Katsakiores, Phyllis
Maggiore, Jim
Milz, David
Simpson, Alexis
Thomas, Douglas
Weyler, Kenneth

STRAFFORD

Bixby, Peter
Fontneau, Timothy
Horrigan, Timothy
Oxaal, Ariel

Cannon, Gerri
Frost, Sherry
Kenney, Cam
Schmidt, Peter

Chase, Wendy
Grassie, Chuck
Levesque, Cassandra
Rich, Cecilia

Conley, Casey
Groen, Fenton
Smith, Marjorie
Wall, Janet

SULLIVAN

Cloutier, John
Stapleton, Walter

Gottling, Suzanne
Sullivan, Brian

Merchant, Gary
Tanner, Linda

O'Hearne, Andrew

NAYS - 137**BELKNAP**

Aldrich, Glen
Harvey-Bolia, Juliet
Lang, Timothy
Silber, Norman

Bean, Harry
Hough, Gregg
Littlefield, Richard
Sylvia, Michael

Bordes, Mike
Howard, Raymond
Mackie, Jonathan
Terry, Paul

Comtois, Barbara
Johnson, Dawn
Ploszaj, Tom
Trottier, Douglas

CARROLL

Avellani, Lino

Cordelli, Glenn

Smith, Jonathan

McConkey, Mark

CHESHIRE

Kilanski, Ben

Santonastaso, Matthew

COOS

Dostie, Donald

Kelley, Eamon

GRAFTON

Alliegro, Mark
Sanborn, Gail

Berezhny, Lex
Greeson, Jeffrey

Binford, David
Ham, Bonnie

Folsom, Beth
Simon, Matthew

HILLSBOROUGH

Lekas, Alicia
Burt, John
Erf, Keith
Greene, Bob
Kofalt, Jim
Lewicke, John
Post, Lisa
Sheehan, Vanessa
Ulery, Jordan

Ammon, Keith
Creighton, Jim
Foster, William
Gunski, Michael
Ober, Lynne
McLean, Mark
Prout, Andrew
Somero, Paul
Warden, Mark

King, Bill
Cushman, Leah
Griffin, Gerald
Healey, Robert
Lanzara, Tom
Nunez, Hershel
Renzullo, Andrew
Lekas, Tony

Blasek, Melissa
Kelley, Diane
Gould, Linda
Hopper, Gary
Lascelles, Richard
Pauer, Diane
Rouillard, Claire
Tausch, Lindsay

MERRIMACK

Allard, James
Hill, Gregory
Pearl, Howard
Wells, Natalie

Andrus, Louise
Kennedy, Margaret
Seaworth, Brian
White, Nick

Boyd, Stephen
Leavitt, John
Testerman, Dave
Yakubovich, Michael

Cambrils, Jose
Moffett, Michael
Walsh, Thomas

ROCKINGHAM

Abrami, Patrick
Baxter, Tim
DeSimone, Debra
Elliott, Robert
Green, Dennis
Layon, Erica
McMahon, Charles
Potucek, John
Torosian, Peter
Verville, Kevin

Abramson, Max
Bernardy, JD
Dodge, Dustin
Emerick, Tracy
Harley, Tina
Litchfield, Melissa
Melvin, Charles
Prudhomme-O'Brien, Katherine
Tripp, Richard
Wallace, Scott

Acton, Dennis
Bershtein, Alan
Doucette, Fred
Ford, Oliver
Hobson, Deborah
Love, David
Osborne, Jason
Soti, Julius
True, Chris
Welch, David

Baldasaro, Al
Copp, Anne
Edwards, Jess
Gay, Betty
Kimball, Mary Ann
Lundgren, David
Piemonte, Tony
Spillane, James
Tudor, Paul
Yokela, Josh

STRAFFORD

Ankarberg, Aidan
Hayward, Peter
Newton, Clifford

Bailey, Glenn
Horgan, James
Pitre, Joseph

DeLemus, Susan
Kaczynski, Thomas
Turcotte, Leonard

Harrington, Michael
Kittredge, Mac
Wuelper, Kurt

SULLIVAN

Aron, Judy

Callum, John

Rollins, Skip

Spilsbury, Walter

and the motion was adopted.

MOTION TO REFER TO COMMITTEE

Rep. Ammon moved that a remonstrance regarding RSA 4:45 and its constitutionality be referred to committee.

MOTION TO LAY ON THE TABLE

Rep. Ley moved that the motion to refer the remonstrance to a committee be laid on the table.
Rep. Roy requested a roll call; sufficiently seconded.

YEAS 202 - NAYS 146**YEAS - 202****CARROLL**

Burroughs, Anita
Knirk, Jerry
Umberger, Karen

Crawford, Karel
Marsh, William
Woodcock, Stephen

Deshaies, Brodie
McAleer, Chris

MacDonald, John
Nelson, Bill

CHESHIRE

Abbott, Michael
Fenton, Donovan
Hunt, John
Rhodes, Jennifer
Weber, Lucy

Ames, Richard
Fox, Dru
Ley, Douglas
Schapiro, Joe

Bordenet, John
Gomarlo, Jennie
Parshall, Lucius
Toll, Amanda

Faulkner, Barry
Harvey, Cathryn
Qualey, James
Von Plinsky, Sparky

COOS

Davis, Arnold
Merner, Troy

Dostie, Donald
Theberge, Robert

Hatch, William
Thompson, Dennis

Laflamme, Larry
Tucker, Edith

GRAFTON

Abel, Richard
Egan, Timothy
Ladd, Rick
Stavis, Laurel

Adjutant, Joshua
Fellows, Sallie
Massimilla, Linda
Smith, Suzanne

Almy, Susan
Gordon, Edward
Muirhead, Russell
Sykes, George

Depalma IV, Joseph
Hakken-Phillips, Mary
Murphy, James
Weston, Joyce

HILLSBOROUGH

Alexander, Joe
Boehm, Ralph
Chretien, Jacqueline
Smith, Denise
Goley, Jeffrey
Hamer, Heidi
Herbert, Christopher
Klee, Patricia
Laughton, Stacie-Marie
Murray, Megan
McGhee, Kat
Nutter-Upham, Frances
Perez, Maria
Porter, Marjorie
Rice, Kimberly
Smith, Timothy
Vail, Suzanne

Bouldin, Amanda
Booras, Efsthathia
Cleaver, Skip
Dutzy, Sherry
Gorski, Ted
Harriott-Gathright, Linda
Hyland, Stephanie
Klein-Knight, Nicole
Leishman, Peter
Mangipudi, Latha
Mooney, Maureen
Nutting-Wong, Allison
Pickering, Daniel
Query, Joshua
Rung, Rosemarie
Telerski, Laura
Vann, Ivy

Bouldin, Andrew
Bouchard, Donald
Connors, Erika
Espitia, Manny
Graham, John
Healey, Robert
Jack, Martin
Sanborn, Laurie
Long, Patrick
Marston, Dick
Moran, Melbourne
O'Brien, Michael
Piedra, Israel
Newman, Ray
Newman, Sue
Toomey, Dan
Veilleux, Daniel

Beaulieu, Jane
Bradley, Amy
Cornell, Patricia
Gagne, Larry
Griffith, Willis
Heath, Mary
Judy, Jean
Labranche, Tony
King, Mark
Mayville, Mary
Mullen, Sue
Pedersen, Michael
Plett, Fred
Ober, Russell
Shaw, Barbara
Ulery, Jordan
Wilhelm, Matthew

MERRIMACK

Allard, James
Ellison, Arthur
Luneau, David
McWilliams, Rebecca
Schultz, Kristina
Walz, Mary Beth

Bartlett, Christy
Gallager, Eric
MacKay, James
Pimentel, Roderick
Shurtleff, Steve
Wazir, Safiya

Caplan, Tony
Klose, John
Mason, James
Pitaro, Matthew
Soucy, Timothy
Wolf, Dan

Ebel, Karen
Lane, Connie
McGuire, Carol
Schuett, Dianne
Wallner, Mary Jane
Woods, Gary

ROCKINGHAM

Abbas, Daryl
Cali-Pitts, Jacqueline
Dolan, Tom
Hamblet, Joan
Loughman, Tom
Major, Norman
Milz, David
Simpson, Alexis
Thomas, Douglas

Altschiller, Debra
Cushing, Robert Renny
Edgar, Michael
Harb, Robert
Lynn, Bob
Malloy, Dennis
Paige, Mark
Somssich, Peter
Tripp, Richard

Bunker, Lisa
DeSimone, Debra
Gilman, Julie
Janigian, John
Pearson, Mark
McMahon, Charles
Read, Ellen
Sweeney, Joe
Vandecasteele, Susan

Cahill, Michael
DiLorenzo, Charlotte
Grossman, Gaby
Murray, Kate
Maggiore, Jim
Meuse, David
Pearson, Stephen
Sytek, John
MacDonald, Wayne

STRAFFORD

Bixby, Peter
Fontneau, Timothy
Horrihan, Timothy
Schmidt, Peter

Cannon, Gerri
Frost, Sherry
Kenney, Cam
Rich, Cecilia

Chase, Wendy
Grassie, Chuck
Levesque, Cassandra
Salloway, Jeffrey

Conley, Casey
Groen, Fenton
Oxaal, Ariel
Wall, Janet

SULLIVAN

Cloutier, John
Stapleton, Walter

Gottling, Suzanne
Sullivan, Brian

Merchant, Gary
Tanner, Linda

O'Hearne, Andrew

NAYS - 146**BELKNAP**

Aldrich, Glen
Harvey-Bolia, Juliet
Lang, Timothy
Ploszaj, Tom
Trottier, Douglas

Bean, Harry
Hough, Gregg
Littlefield, Richard
Silber, Norman

Bordes, Mike
Howard, Raymond
Mackie, Jonathan
Sylvia, Michael

Comtois, Barbara
Johnson, Dawn
O'Hara, Travis
Terry, Paul

CARROLL

Avellani, Lino

Cordelli, Glenn

Smith, Jonathan

McConkey, Mark

CHESHIRE

Kilanski, Ben

Santonastaso, Matthew

COOS

Kelley, Eamon

GRAFTON

Alliegro, Mark
Sanborn, Gail

Berezhny, Lex
Greeson, Jeffrey

Binford, David
Ham, Bonnie

Folsom, Beth
Simon, Matthew

HILLSBOROUGH

Lekas, Alicia
Berry, Ross
Cushman, Leah
Freitas, Mary
Gunski, Michael
Kelsey, Niki
Lascelles, Richard
Nunez, Hershel
Renzullo, Andrew
Lekas, Tony

Ammon, Keith
Blasek, Melissa
Kelley, Diane
Griffin, Gerald
Homola, Susan
Kofalt, Jim
Lewicke, John
Pauer, Diane
Rouillard, Claire
Tausch, Lindsay

Griffin, Barbara
Burt, John
Erf, Keith
Gould, Linda
Hopper, Gary
Ober, Lynne
McLean, Mark
Post, Lisa
Sheehan, Vanessa
Warden, Mark

King, Bill
Creighton, Jim
Foster, William
Greene, Bob
Infantine, William
Lanzara, Tom
Notter, Jeanine
Prout, Andrew
Somero, Paul

MERRIMACK

Andrus, Louise
Kennedy, Margaret
Seaworth, Brian
White, Nick

Boyd, Stephen
Leavitt, John
Testerman, Dave
Yakubovich, Michael

Cambriis, Jose
Moffett, Michael
Walsh, Thomas

Hill, Gregory
Pearl, Howard
Wells, Natalie

ROCKINGHAM

Abrami, Patrick
Baxter, Tim
Copp, Anne
Elliott, Robert
Green, Dennis
Katsakiores, Phyllis
Love, David
Piemonte, Tony
Soti, Julius
Tudor, Paul
Welch, David

Abramson, Max
Belanger, Cody
Dodge, Dustin
Emerick, Tracy
Grote, Jaci
Kimball, Mary Ann
Lundgren, David
Potucek, John
Spillane, James
Verville, Kevin
Weyler, Kenneth

Acton, Dennis
Bernardy, JD
Doucette, Fred
Ford, Oliver
Harley, Tina
Layon, Erica
Melvin, Charles
Prudhomme-O'Brien, Katherine
Torosian, Peter
Vose, Michael
Yokela, Josh

Baldasaro, Al
Bershtein, Alan
Edwards, Jess
Gay, Betty
Hobson, Deborah
Litchfield, Melissa
Osborne, Jason
Roy, Terry
True, Chris
Wallace, Scott

STRAFFORD

Ankarberg, Aidan
Hayward, Peter
Smith, Marjorie
Wuelper, Kurt

Bailey, Glenn
Horgan, James
Newton, Clifford

DeLemus, Susan
Kaczynski, Thomas
Pitre, Joseph

Harrington, Michael
Kittredge, Mac
Turcotte, Leonard

SULLIVAN

Aron, Judy
Smith, Steven

Callum, John

Rollins, Skip

Spilsbury, Walter

and the motion was adopted.

MOTION TO PRINT IN HOUSE CALENDAR

Rep. Verville moved that the remonstrances be printed in the House Calendar.
Rep. Verville spoke in favor.

MOTION TO LIMIT DEBATE

Rep. Callum moved to limit debate on the motion to print remonstrances in the House Calendar.
Rep. DeLemus requested a roll call; sufficiently seconded.

YEAS 140 - NAYS 206**YEAS - 140
BELKNAP**

Harvey-Bolia, Juliet
Terry, Paul

Lang, Timothy

Littlefield, Richard

Silber, Norman

CARROLL

Knirk, Jerry
Nelson, Bill

Marsh, William
Umberger, Karen

McAleer, Chris

McConkey, Mark

CHESHIRE

Abbott, Michael
Schapiro, Joe

Faulkner, Barry
Von Plinsky, Sparky

Qualey, James

Rhodes, Jennifer

COOS

Davis, Arnold
Merner, Troy

Dostie, Donald
Theberge, Robert

Hatch, William
Thompson, Dennis

Laflamme, Larry
Tucker, Edith

GRAFTON

Abel, Richard
Fellows, Sallie
Weston, Joyce

Alliegro, Mark
Hakken-Phillips, Mary

Almy, Susan
Ladd, Rick

Depalma IV, Joseph
Simon, Matthew

HILLSBOROUGH

Beaulieu, Jane
Cleaver, Skip
Gagne, Larry
Hopper, Gary
Klee, Patricia
Lascelles, Richard
Marston, Dick
Pickering, Daniel
Renzullo, Andrew
Smith, Timothy
Veilleux, Daniel

Berry, Ross
Creighton, Jim
Gorski, Ted
Hyland, Stephanie
Kofalt, Jim
Lewicke, John
Mayville, Mary
Plett, Fred
Rice, Kimberly
Tausch, Lindsay
Warden, Mark

Boehm, Ralph
Dutzy, Sherry
Graham, John
Jack, Martin
Ober, Lynne
King, Mark
Mooney, Maureen
Porter, Marjorie
Shaw, Barbara
Toomey, Dan

Bradley, Amy
Erf, Keith
Healey, Robert
Kelsey, Niki
Sanborn, Laurie
Mangipudi, Latha
Nutter-Upham, Frances
Post, Lisa
Lekas, Tony
Vann, Ivy

MERRIMACK

Allard, James
Gallager, Eric
Schuett, Dianne
Walz, Mary Beth

Bartlett, Christy
MacKay, James
Schultz, Kristina
Wolf, Dan

Caplan, Tony
Moffett, Michael
Shurtleff, Steve
Woods, Gary

Ellison, Arthur
Pitaro, Matthew
Wallner, Mary Jane
Yakubovich, Michael

ROCKINGHAM

Abbas, Daryl
DeSimone, Debra
Elliott, Robert
Hamblet, Joan
Lundgren, David
Meuse, David
Piemonte, Tony
Soti, Julius
Tudor, Paul
Weyler, Kenneth

Abrami, Patrick
DiLorenzo, Charlotte
Gay, Betty
Harb, Robert
Lynn, Bob
Milz, David
Prudhomme-O'Brien, Katherine
Sweeney, Joe
Vose, Michael
Yokela, Josh

Abramson, Max
Dolan, Tom
Green, Dennis
Janigian, John
Pearson, Mark
Osborne, Jason
Pearson, Stephen
Sytek, John
MacDonald, Wayne

Baxter, Tim
Edwards, Jess
Grossman, Gaby
Katsakiores, Phyllis
Major, Norman
Paige, Mark
Somssich, Peter
Tripp, Richard
Welch, David

STRAFFORD

Bixby, Peter

Groen, Fenton

Kittredge, Mac

Rich, Cecilia

SULLIVAN

Callum, John
Smith, Steven

Cloutier, John
Tanner, Linda

Rollins, Skip

Stapleton, Walter

**NAYS - 206
BELKNAP**

Aldrich, Glen
Hough, Gregg
O'Hara, Travis

Bean, Harry
Howard, Raymond
Ploszaj, Tom

Bordes, Mike
Johnson, Dawn
Sylvia, Michael

Comtois, Barbara
Mackie, Jonathan
Trottier, Douglas

CARROLL

Avellani, Lino
Deshaies, Brodie

Burroughs, Anita
MacDonald, John

Cordelli, Glenn
Smith, Jonathan

Crawford, Karel
Woodcock, Stephen

CHESHIRE

Ames, Richard
Gomarlo, Jennie
Ley, Douglas
Weber, Lucy

Bordenet, John
Harvey, Cathryn
Parshall, Lucius

Fenton, Donovan
Hunt, John
Santonastaso, Matthew

Fox, Dru
Kilanski, Ben
Toll, Amanda

COOS

Kelley, Eamon

GRAFTON

Adjutant, Joshua
Folsom, Beth
Ham, Bonnie
Stavis, Laurel

Berezhny, Lex
Sanborn, Gail
Massimilla, Linda
Smith, Suzanne

Binford, David
Gordon, Edward
Muirhead, Russell
Sykes, George

Egan, Timothy
Greeson, Jeffrey
Murphy, James

HILLSBOROUGH

Lekas, Alicia
Bouldin, Andrew
Booras, Efstathia
Connors, Erika
Smith, Denise
Griffin, Gerald
Griffith, Willis
Heath, Mary
Klein-Knight, Nicole
Leishman, Peter
McLean, Mark
Nunez, Hershel
Pedersen, Michael
Query, Joshua
Rung, Rosemarie
Telerski, Laura

Alexander, Joe
Griffin, Barbara
Bouchard, Donald
Cornell, Patricia
Espitia, Manny
Goley, Jeffrey
Gunski, Michael
Herbert, Christopher
Labranche, Tony
Long, Patrick
Moran, Melbourne
Nutting-Wong, Allison
Perez, Maria
Newman, Ray
Newman, Sue
Ulery, Jordan

Bouldin, Amanda
King, Bill
Burt, John
Cushman, Leah
Foster, William
Gould, Linda
Hamer, Heidi
Homola, Susan
Lanzara, Tom
Murray, Megan
Mullen, Sue
O'Brien, Michael
Piedra, Israel
Ober, Russell
Sheehan, Vanessa
Vail, Suzanne

Ammon, Keith
Blasek, Melissa
Chretien, Jacqueline
Kelley, Diane
Freitas, Mary
Greene, Bob
Harriott-Gathright, Linda
Judy, Jean
Laughton, Stacie-Marie
McGhee, Kat
Notter, Jeanine
Pauer, Diane
Prout, Andrew
Rouillard, Claire
Somero, Paul
Wilhelm, Matthew

MERRIMACK

Andrus, Louise
Hill, Gregory
Leavitt, John
McWilliams, Rebecca
Soucy, Timothy
Wells, Natalie

Boyd, Stephen
Kennedy, Margaret
Luneau, David
Pearl, Howard
Testerman, Dave
White, Nick

Cambrils, Jose
Klose, John
Mason, James
Pimentel, Roderick
Walsh, Thomas

Ebel, Karen
Lane, Connie
McGuire, Carol
Seaworth, Brian
Wazir, Safiya

ROCKINGHAM

Acton, Dennis
Bernardy, JD
Cali-Pitts, Jacqueline
Doucette, Fred
Gilman, Julie
Murray, Kate
Loughman, Tom
McMahon, Charles
Roy, Terry
Tosorian, Peter

Altschiller, Debra
Bershtein, Alan
Copp, Anne
Edgar, Michael
Grote, Jaci
Kimball, Mary Ann
Love, David
Melvin, Charles
Simpson, Alexis
True, Chris

Baldasaro, Al
Bunker, Lisa
Cushing, Robert Renny
Emerick, Tracy
Harley, Tina
Layon, Erica
Maggiore, Jim
Potucek, John
Spillane, James
Verville, Kevin

Belanger, Cody
Cahill, Michael
Dodge, Dustin
Ford, Oliver
Hobson, Deborah
Litchfield, Melissa
Malloy, Dennis
Read, Ellen
Thomas, Douglas
Wallace, Scott

STRAFFORD

Ankarberg, Aidan
Conley, Casey
Grassie, Chuck
Horrigan, Timothy
Smith, Marjorie
Pitre, Joseph
Wuelper, Kurt

Bailey, Glenn
DeLemus, Susan
Harrington, Michael
Kaczynski, Thomas
Newton, Clifford
Salloway, Jeffrey

Cannon, Gerri
Fontneau, Timothy
Hayward, Peter
Kenney, Cam
Oxaal, Ariel
Turcotte, Leonard

Chase, Wendy
Frost, Sherry
Horgan, James
Levesque, Cassandra
Schmidt, Peter
Wall, Janet

SULLIVAN

Aron, Judy
Spilsbury, Walter

Gottling, Suzanne
Sullivan, Brian

Merchant, Gary

O'Hearne, Andrew

and the motion failed.

The question now being adoption of the motion to print the remonstrances in the House Calendar. Reps. Andrew Bouldin and Wuelper spoke against.

Rep. Prout moved to amend the motion to post the remonstrances on the General Court website.

Rep. Comtois requested a roll call; sufficiently seconded.

YEAS 173 - NAYS 171

YEAS - 173

BELKNAP

Aldrich, Glen
Harvey-Bolia, Juliet
Lang, Timothy
Ploszaj, Tom

Bean, Harry
Hough, Gregg
Littlefield, Richard
Sylvia, Michael

Bordes, Mike
Howard, Raymond
Mackie, Jonathan
Terry, Paul

Comtois, Barbara
Johnson, Dawn
O'Hara, Travis
Trottier, Douglas

CARROLL

Avellani, Lino

Smith, Jonathan

McAleer, Chris

McConkey, Mark

CHESHIRE

Abbott, Michael
Santonastaso, Matthew

Hunt, John

Qualey, James

Rhodes, Jennifer

COOS

Davis, Arnold
Tucker, Edith

Dostie, Donald

Kelley, Eamon

Merner, Troy

GRAFTON

Alliegro, Mark
Folsom, Beth
Ham, Bonnie

Almy, Susan
Sanborn, Gail
Simon, Matthew

Berezhny, Lex
Gordon, Edward

Binford, David
Greeson, Jeffrey

HILLSBOROUGH

Lekas, Alicia
Burt, John
Smith, Denise
Gorski, Ted
Healey, Robert
Jack, Martin
Lanzara, Tom
McLean, Mark
Plett, Fred
Ober, Russell
Somero, Paul
Ulery, Jordan

Ammon, Keith
Creighton, Jim
Erf, Keith
Gould, Linda
Homola, Susan
Kelsey, Niki
Lascelles, Richard
Mooney, Maureen
Porter, Marjorie
Renzullo, Andrew
Lekas, Tony
Warden, Mark

King, Bill
Cushman, Leah
Foster, William
Greene, Bob
Hopper, Gary
Kofalt, Jim
Leishman, Peter
Nunez, Hershel
Post, Lisa
Rouillard, Claire
Tausch, Lindsay

Blasek, Melissa
Kelley, Diane
Griffin, Gerald
Gunski, Michael
Infantine, William
Ober, Lynne
McGhee, Kat
Pauer, Diane
Prout, Andrew
Sheehan, Vanessa
Toomey, Dan

MERRIMACK

Andrus, Louise
Kennedy, Margaret
Pearl, Howard
Testerman, Dave
Wolf, Dan

Boyd, Stephen
Klose, John
Pitaro, Matthew
Walsh, Thomas
Woods, Gary

Cambrils, Jose
Leavitt, John
Seaworth, Brian
Wells, Natalie
Yakubovich, Michael

Hill, Gregory
McGuire, Carol
Shurtleff, Steve
White, Nick

ROCKINGHAM

Abbas, Daryl
Baldasaro, Al
Copp, Anne
Edwards, Jess
Gay, Betty
Janigian, John
Pearson, Mark
Osborne, Jason
Read, Ellen
Spillane, James
Toriosian, Peter
Vandecasteele, Susan
Welch, David

Abramson, Max
Belanger, Cody
Dodge, Dustin
Elliott, Robert
Green, Dennis
Kimball, Mary Ann
Major, Norman
Piemonte, Tony
Roy, Terry
Sweeney, Joe
Tripp, Richard
Verville, Kevin
Weyler, Kenneth

Acton, Dennis
Bernardy, JD
Dolan, Tom
Emerick, Tracy
Harley, Tina
Layon, Erica
McMahon, Charles
Potucek, John
Pearson, Stephen
Sytek, John
True, Chris
Vose, Michael
Yokela, Josh

Altschiller, Debra
Bershtein, Alan
Edgar, Michael
Ford, Oliver
Hobson, Deborah
Love, David
Melvin, Charles
Prudhomme-O'Brien, Katherine
Soti, Julius
Thomas, Douglas
Tudor, Paul
Wallace, Scott

STRAFFORD

Ankarberg, Aidan
Hayward, Peter
Pitre, Joseph

Cannon, Gerri
Kaczynski, Thomas
Rich, Cecilia

DeLemus, Susan
Kittredge, Mac
Turcotte, Leonard

Harrington, Michael
Newton, Clifford
Wuelper, Kurt

SULLIVAN

Aron, Judy
Stapleton, Walter

Callum, John

O'Hearne, Andrew

Rollins, Skip

NAYS - 171
BELKNAP

Silber, Norman

CARROLL

Burroughs, Anita
MacDonald, John
Woodcock, Stephen

Cordelli, Glenn
Knirk, Jerry

Crawford, Karel
Marsh, William

Deshaies, Brodie
Umberger, Karen

CHESHIRE

Ames, Richard
Fox, Dru
Ley, Douglas
Von Plinsky, Sparky

Bordenet, John
Gomarilo, Jennie
Parshall, Lucius
Weber, Lucy

Faulkner, Barry
Harvey, Cathryn
Schapiro, Joe

Fenton, Donovan
Kilanski, Ben
Toll, Amanda

COOS

Hatch, William

Laflamme, Larry

Theberge, Robert

GRAFTON

Abel, Richard
Fellows, Sallie
Muirhead, Russell
Sykes, George

Adjutant, Joshua
Hakken-Phillips, Mary
Murphy, James
Weston, Joyce

Depalma IV, Joseph
Ladd, Rick
Stavis, Laurel

Egan, Timothy
Massimilla, Linda
Smith, Suzanne

HILLSBOROUGH

Alexander, Joe
Beaulieu, Jane
Bouchard, Donald
Connors, Erika
Freitas, Mary
Griffith, Willis
Herbert, Christopher
Klein-Knight, Nicole
Lewicke, John
Mangipudi, Latha
Mullen, Sue
O'Brien, Michael
Piedra, Israel
Rung, Rosemarie
Telerski, Laura
Wilhelm, Matthew

Bouldin, Amanda
Berry, Ross
Bradley, Amy
Cornell, Patricia
Gagne, Larry
Hamer, Heidi
Hyland, Stephanie
Sanborn, Laurie
Long, Patrick
Marston, Dick
Notter, Jeanine
Pedersen, Michael
Query, Joshua
Newman, Sue
Vail, Suzanne

Bouldin, Andrew
Boehm, Ralph
Chretien, Jacqueline
Dutzy, Sherry
Goley, Jeffrey
Harriott-Gathright, Linda
Jeudy, Jean
Labranche, Tony
King, Mark
Mayville, Mary
Nutter-Upham, Frances
Perez, Maria
Newman, Ray
Shaw, Barbara
Vann, Ivy

Griffin, Barbara
Booras, Efstathia
Cleaver, Skip
Espitia, Manny
Graham, John
Heath, Mary
Klee, Patricia
Laughton, Stacie-Marie
Murray, Megan
Moran, Melbourne
Nutting-Wong, Allison
Pickering, Daniel
Rice, Kimberly
Smith, Timothy
Veilleux, Daniel

MERRIMACK

Allard, James
Ellison, Arthur
MacKay, James
Pimentel, Roderick
Wallner, Mary Jane

Bartlett, Christy
Gallager, Eric
Mason, James
Schuett, Dianne
Walz, Mary Beth

Caplan, Tony
Lane, Connie
McWilliams, Rebecca
Schultz, Kristina
Wazir, Safiya

Ebel, Karen
Luneau, David
Moffett, Michael
Soucy, Timothy

ROCKINGHAM

Abrami, Patrick
Cali-Pitts, Jacqueline
Doucette, Fred
Hamblet, Joan
Loughman, Tom
Malloy, Dennis
Simpson, Alexis

Baxter, Tim
Cushing, Robert Renny
Gilman, Julie
Harb, Robert
Lundgren, David
Meuse, David
MacDonald, Wayne

Bunker, Lisa
DeSimone, Debra
Grossman, Gaby
Murray, Kate
Lynn, Bob
Milz, David

Cahill, Michael
DiLorenzo, Charlotte
Grote, Jaci
Katsakiores, Phyllis
Maggiore, Jim
Paige, Mark

STRAFFORD

Bailey, Glenn
Fontneau, Timothy
Horgan, James
Smith, Marjorie
Wall, Janet

Bixby, Peter
Frost, Sherry
Horriggan, Timothy
Oxaal, Ariel

Chase, Wendy
Grassie, Chuck
Kenney, Cam
Schmidt, Peter

Conley, Casey
Groen, Fenton
Levesque, Cassandra
Salloway, Jeffrey

SULLIVAN

Cloutier, John
Smith, Steven

Gottling, Suzanne
Sullivan, Brian

Merchant, Gary
Tanner, Linda

Spilsbury, Walter

and the motion was adopted.

The question now being the motion to post the remonstrances on the General Court website.

MOTION TO LAY ON THE TABLE

Rep. Andrew Bouldin moved that the motion to post the remonstrances on the General Court website be laid on the table.

Rep. Prout requested a roll call; sufficiently seconded.

YEAS 182 - NAYS 160**YEAS - 182****CARROLL**

Burroughs, Anita
MacDonald, John
Umberger, Karen

Cordelli, Glenn
Knirk, Jerry
Woodcock, Stephen

Crawford, Karel
Marsh, William

Deshaies, Brodie
McAleer, Chris

CHESHIRE

Ames, Richard
Fox, Dru
Schapiro, Joe

Bordenet, John
Gomarlo, Jennie
Toll, Amanda

Faulkner, Barry
Ley, Douglas
Von Plinsky, Sparky

Fenton, Donovan
Parshall, Lucius
Weber, Lucy

COOS

Dostie, Donald
Theberge, Robert

Kelley, Eamon
Tucker, Edith

Hatch, William

Laflamme, Larry

GRAFTON

Abel, Richard
Egan, Timothy
Massimilla, Linda
Smith, Suzanne

Adjutant, Joshua
Fellows, Sallie
Muirhead, Russell
Sykes, George

Almy, Susan
Hakken-Phillips, Mary
Murphy, James
Weston, Joyce

Depalma IV, Joseph
Ladd, Rick
Stavis, Laurel

HILLSBOROUGH

Alexander, Joe
Berry, Ross
Bradley, Amy
Cornell, Patricia
Goley, Jeffrey
Harriott-Gathright, Linda
Jack, Martin
Sanborn, Laurie
King, Mark
Mayville, Mary
Mullen, Sue
Perez, Maria
Query, Joshua
Rung, Rosemarie
Telerski, Laura
Veilleux, Daniel

Bouldin, Amanda
Boehm, Ralph
Chretien, Jacqueline
Dutzy, Sherry
Graham, John
Heath, Mary
Judy, Jean
Labranche, Tony
Murray, Megan
McGhee, Kat
Nutting-Wong, Allison
Pickering, Daniel
Newman, Ray
Newman, Sue
Toomey, Dan
Wilhelm, Matthew

Bouldin, Andrew
Booras, Efstathia
Cleaver, Skip
Espitia, Manny
Griffith, Willis
Herbert, Christopher
Klee, Patricia
Loughton, Stacie-Marie
Mangipudi, Latha
Mooney, Maureen
O'Brien, Michael
Piedra, Israel
Ober, Russell
Shaw, Barbara
Vail, Suzanne

Beaulieu, Jane
Bouchard, Donald
Connors, Erika
Freitas, Mary
Hamer, Heidi
Hyland, Stephanie
Klein-Knight, Nicole
Long, Patrick
Marston, Dick
Moran, Melbourne
Pedersen, Michael
Porter, Marjorie
Rice, Kimberly
Smith, Timothy
Vann, Ivy

MERRIMACK

Allard, James
Ellison, Arthur
Luneau, David
Pimentel, Roderick
Wallner, Mary Jane

Bartlett, Christy
Gallager, Eric
MacKay, James
Schuett, Dianne
Walz, Mary Beth

Caplan, Tony
Klose, John
Mason, James
Schultz, Kristina
Wazir, Safiya

Ebel, Karen
Lane, Connie
McWilliams, Rebecca
Soucy, Timothy
Woods, Gary

ROCKINGHAM

Altschiller, Debra
Cali-Pitts, Jacqueline
Doucette, Fred
Grote, Jaci
Murray, Kate
Lynn, Bob
Meuse, David
Pearson, Stephen
Sytek, John

Baxter, Tim
Cushing, Robert Renny
Edgar, Michael
Hamblet, Joan
Katsakiores, Phyllis
Maggiore, Jim
Milz, David
Simpson, Alexis
Vandecasteele, Susan

Bunker, Lisa
DiLorenzo, Charlotte
Gilman, Julie
Harb, Robert
Loughman, Tom
Major, Norman
Paige, Mark
Somssich, Peter
MacDonald, Wayne

Cahill, Michael
Dolan, Tom
Grossman, Gaby
Janigian, John
Lundgren, David
Malloy, Dennis
Read, Ellen
Sweeney, Joe

STRAFFORD

Cannon, Gerri
Frost, Sherry
Kenney, Cam
Schmidt, Peter

Chase, Wendy
Grassie, Chuck
Levesque, Cassandra
Rich, Cecilia

Conley, Casey
Horgan, James
Smith, Marjorie
Salloway, Jeffrey

Fontneau, Timothy
Horrigan, Timothy
Oxaal, Ariel
Wall, Janet

SULLIVAN

Gottling, Suzanne
Sullivan, Brian

Merchant, Gary
Tanner, Linda

O'Hearne, Andrew

Smith, Steven

NAYS - 160**BELKNAP**

Aldrich, Glen
Harvey-Bolia, Juliet
Lang, Timothy
Ploszaj, Tom
Trottier, Douglas

Bean, Harry
Hough, Gregg
Littlefield, Richard
Silber, Norman

Bordes, Mike
Howard, Raymond
Mackie, Jonathan
Sylvia, Michael

Comtois, Barbara
Johnson, Dawn
O'Hara, Travis
Terry, Paul

CARROLL

Avellani, Lino

Smith, Jonathan

McConkey, Mark

CHESHIRE

Abbott, Michael
Rhodes, Jennifer

Hunt, John
Santonastaso, Matthew

Kilanski, Ben

Qualey, James

COOS

Davis, Arnold

Merner, Troy

GRAFTON

Alliegro, Mark
Gordon, Edward

Berezhny, Lex
Greeson, Jeffrey

Binford, David
Ham, Bonnie

Sanborn, Gail
Simon, Matthew

HILLSBOROUGH

Lekas, Alicia
Blasek, Melissa
Kelley, Diane
Griffin, Gerald
Greene, Bob
Hopper, Gary
Ober, Lynne
Lewicke, John
Pauer, Diane
Renzullo, Andrew
Lekas, Tony

Ammon, Keith
Burt, John
Smith, Denise
Gagne, Larry
Gunski, Michael
Infantine, William
Lanzara, Tom
McLean, Mark
Plett, Fred
Rouillard, Claire
Tausch, Lindsay

Griffin, Barbara
Creighton, Jim
Erf, Keith
Gorski, Ted
Healey, Robert
Kelsey, Niki
Lascelles, Richard
Notter, Jeanine
Post, Lisa
Sheehan, Vanessa
Ulery, Jordan

King, Bill
Cushman, Leah
Foster, William
Gould, Linda
Homola, Susan
Kofalt, Jim
Leishman, Peter
Nunez, Hershel
Prout, Andrew
Somero, Paul
Warden, Mark

MERRIMACK

Andrus, Louise
Kennedy, Margaret
Pearl, Howard
Testerman, Dave
Wolf, Dan

Boyd, Stephen
Leavitt, John
Pitaro, Matthew
Walsh, Thomas
Yakubovich, Michael

Cambrils, Jose
McGuire, Carol
Seaworth, Brian
Wells, Natalie

Hill, Gregory
Moffett, Michael
Shurtleff, Steve
White, Nick

ROCKINGHAM

Abbas, Daryl
Baldasaro, Al
Copp, Anne
Elliott, Robert
Green, Dennis
Layon, Erica
McMahon, Charles
Potucek, John
Spillane, James
True, Chris
Wallace, Scott

Abrami, Patrick
Belanger, Cody
DeSimone, Debra
Emerick, Tracy
Harley, Tina
Litchfield, Melissa
Melvin, Charles
Prudhomme-O'Brien, Katherine
Thomas, Douglas
Tudor, Paul
Welch, David

Abramson, Max
Bernardy, JD
Dodge, Dustin
Ford, Oliver
Hobson, Deborah
Love, David
Osborne, Jason
Roy, Terry
Torosian, Peter
Verville, Kevin
Weyler, Kenneth

Acton, Dennis
Bershtein, Alan
Edwards, Jess
Gay, Betty
Kimball, Mary Ann
Pearson, Mark
Piemonte, Tony
Soti, Julius
Tripp, Richard
Vose, Michael
Yokela, Josh

STRAFFORD

Ankarberg, Aidan
Harrington, Michael
Newton, Clifford

Bailey, Glenn
Hayward, Peter
Pitre, Joseph

DeLemus, Susan
Kaczynski, Thomas
Turcotte, Leonard

Groen, Fenton
Kittredge, Mac
Wuelper, Kurt

SULLIVAN

Aron, Judy
Spilsbury, Walter

Callum, John
Stapleton, Walter

Cloutier, John

Rollins, Skip

and the motion was adopted.

MOTION TO PRINT DEBATE

Rep. Ammon moved that the debate on printing and posting the remonstrances be printed in the Permanent Journal.

Rep. DeLemus requested a roll call; sufficiently seconded.

YEAS 154 - NAYS 185**YEAS - 154
BELKNAP**

Aldrich, Glen
Harvey-Bolia, Juliet
Lang, Timothy
Ploszaj, Tom

Bean, Harry
Hough, Gregg
Littlefield, Richard
Sylvia, Michael

Bordes, Mike
Howard, Raymond
Mackie, Jonathan
Terry, Paul

Comtois, Barbara
Johnson, Dawn
O'Hara, Travis
Trottier, Douglas

CARROLL

Avellani, Lino
Umberger, Karen

Cordelli, Glenn
Woodcock, Stephen

Smith, Jonathan

McAleer, Chris

CHESHIRE

Abbott, Michael
Santonastaso, Matthew

Hunt, John

Kilanski, Ben

Qualey, James

COOS

Davis, Arnold

Dostie, Donald

Merner, Troy

Theberge, Robert

GRAFTON

Alliegro, Mark
Greeson, Jeffrey

Berezhny, Lex
Simon, Matthew

Binford, David

Sanborn, Gail

HILLSBOROUGH

Lekas, Alicia
Blasek, Melissa
Kelley, Diane
Griffin, Gerald
Homola, Susan
Klein-Knight, Nicole
Lascelles, Richard
Mullen, Sue
Pauer, Diane
Rouillard, Claire
Smith, Timothy
Warden, Mark

Alexander, Joe
Bradley, Amy
Smith, Denise
Gorski, Ted
Hopper, Gary
Kofalt, Jim
Leishman, Peter
Notter, Jeanine
Porter, Marjorie
Sheehan, Vanessa
Tausch, Lindsay

Ammon, Keith
Burt, John
Erf, Keith
Gould, Linda
Infantine, William
Ober, Lynne
McLean, Mark
Nunez, Hershel
Post, Lisa
Somero, Paul
Ulery, Jordan

King, Bill
Cushman, Leah
Foster, William
Gunski, Michael
Kelsey, Niki
Sanborn, Laurie
Mooney, Maureen
Nutter-Upham, Frances
Prout, Andrew
Lekas, Tony
Vann, Ivy

MERRIMACK

Andrus, Louise
Kennedy, Margaret
Seaworth, Brian
White, Nick

Boyd, Stephen
Leavitt, John
Testerman, Dave
Yakubovich, Michael

Cambrils, Jose
Pearl, Howard
Walsh, Thomas

Hill, Gregory
Pitaro, Matthew
Wells, Natalie

ROCKINGHAM

Abramson, Max
Bernardy, JD
DeSimone, Debra
Edwards, Jess
Green, Dennis
Janigian, John
Love, David
Prudhomme-O'Brien, Katherine
Thomas, Douglas
Vandecasteele, Susan
Yokela, Josh

Baldasaro, Al
Bershtein, Alan
Dodge, Dustin
Elliott, Robert
Harb, Robert
Kimball, Mary Ann
Pearson, Mark
Read, Ellen
Torosian, Peter
Verville, Kevin

Baxter, Tim
Cali-Pitts, Jacqueline
Doucette, Fred
Ford, Oliver
Harley, Tina
Layon, Erica
Melvin, Charles
Soti, Julius
True, Chris
Wallace, Scott

Belanger, Cody
Copp, Anne
Edgar, Michael
Gay, Betty
Hobson, Deborah
Litchfield, Melissa
Piemonte, Tony
Spillane, James
Tudor, Paul
Welch, David

STRAFFORD

Ankarberg, Aidan
Harrington, Michael
Kittredge, Mac

Bailey, Glenn
Hayward, Peter
Pitre, Joseph

DeLemus, Susan
Horrigan, Timothy
Wuelper, Kurt

Groen, Fenton
Kaczynski, Thomas

SULLIVAN

Aron, Judy
Spilsbury, Walter

Callum, John
Stapleton, Walter

Cloutier, John

Rollins, Skip

**NAYS - 185
BELKNAP**

Silber, Norman

CARROLL

Burroughs, Anita
Marsh, William

Deshaies, Brodie
McConkey, Mark

MacDonald, John

Knirk, Jerry

CHESHIRE

Ames, Richard
Fox, Dru
Rhodes, Jennifer
Weber, Lucy

Bordenet, John
Gomarlo, Jennie
Schapiro, Joe

Faulkner, Barry
Ley, Douglas
Toll, Amanda

Fenton, Donovan
Parshall, Lucius
Von Plinsky, Sparky

COOS

Kelley, Eamon

Hatch, William

Laflamme, Larry

Tucker, Edith

GRAFTON

Abel, Richard
Egan, Timothy
Hakken-Phillips, Mary
Muirhead, Russell
Sykes, George

Adjutant, Joshua
Fellows, Sallie
Ham, Bonnie
Murphy, James
Weston, Joyce

Almy, Susan
Folsom, Beth
Ladd, Rick
Stavis, Laurel

Depalma IV, Joseph
Gordon, Edward
Massimilla, Linda
Smith, Suzanne

HILLSBOROUGH

Bouldin, Amanda
Berry, Ross
Chretien, Jacqueline
Creighton, Jim
Gagne, Larry
Hamer, Heidi
Herbert, Christopher
Klee, Patricia
Lewicke, John
Mangipudi, Latha
Moran, Melbourne
Perez, Maria
Query, Joshua
Rice, Kimberly
Telerski, Laura
Wilhelm, Matthew

Bouldin, Andrew
Boehm, Ralph
Cleaver, Skip
Dutzy, Sherry
Goley, Jeffrey
Harriott-Gathright, Linda
Hyland, Stephanie
Labranche, Tony
Long, Patrick
Marston, Dick
Nutting-Wong, Allison
Pickering, Daniel
Newman, Ray
Rung, Rosemarie
Toomey, Dan

Griffin, Barbara
Booras, Efsthathia
Connors, Erika
Espitia, Manny
Graham, John
Healey, Robert
Jack, Martin
Lanzara, Tom
King, Mark
Mayville, Mary
O'Brien, Michael
Piedra, Israel
Ober, Russell
Newman, Sue
Vail, Suzanne

Beaulieu, Jane
Bouchard, Donald
Cornell, Patricia
Freitas, Mary
Griffith, Willis
Heath, Mary
Judy, Jean
Loughton, Stacie-Marie
Murray, Megan
McGhee, Kat
Pedersen, Michael
Plett, Fred
Renzullo, Andrew
Shaw, Barbara
Veilleux, Daniel

MERRIMACK

Allard, James
Ellison, Arthur
Luneau, David
McWilliams, Rebecca
Schultz, Kristina
Walz, Mary Beth

Bartlett, Christy
Gallager, Eric
MacKay, James
Moffett, Michael
Shurtleff, Steve
Wazir, Safiya

Caplan, Tony
Klose, John
Mason, James
Pimentel, Roderick
Soucy, Timothy
Woods, Gary

Ebel, Karen
Lane, Connie
McGuire, Carol
Schuett, Dianne
Wallner, Mary Jane

ROCKINGHAM

Abbas, Daryl
Bunker, Lisa
Dolan, Tom
Grote, Jaci
Lynn, Bob
McMahon, Charles
Paige, Mark
Simpson, Alexis
Vose, Michael

Abrami, Patrick
Cahill, Michael
Emerick, Tracy
Hamblet, Joan
Maggiore, Jim
Meuse, David
Potucek, John
Somssich, Peter
MacDonald, Wayne

Acton, Dennis
Cushing, Robert Renny
Gilman, Julie
Murray, Kate
Major, Norman
Milz, David
Roy, Terry
Sweeney, Joe
Weyler, Kenneth

Altschiller, Debra
DiLorenzo, Charlotte
Grossman, Gaby
Katsakiores, Phyllis
Malloy, Dennis
Osborne, Jason
Pearson, Stephen
Sytek, John

STRAFFORD

Bixby, Peter
Fontneau, Timothy
Kenney, Cam
Oxaal, Ariel
Turcotte, Leonard

Cannon, Gerri
Frost, Sherry
Levesque, Cassandra
Schmidt, Peter
Wall, Janet

Chase, Wendy
Grassie, Chuck
Smith, Marjorie
Rich, Cecilia

Conley, Casey
Horgan, James
Newton, Clifford
Salloway, Jeffrey

SULLIVAN

Gottling, Suzanne
Sullivan, Brian

Merchant, Gary
Tanner, Linda

O'Hearne, Andrew

Smith, Steven

and the motion failed.

MOTION TO REMOVE FROM THE TABLE

Rep. Dolan moved that **HB 586-FN-A-L**, relative to training and procedures for zoning and planning boards and relative to financial investments and incentives for affordable housing development, be removed from the table. Rep. Adjutant requested a roll call; sufficiently seconded.