

BOARD OF ESTIMATE & TAXATION MEETING ACTIONS

**JULY 12, 2004
NORWALK, CONNECTICUT REGULAR MEETING**

PRESENT: Mayor, Alex Knopp Randall Avery
Ron Coley Gregory Burnett
James Clark Tanya Court

ABSENT: Tim Buzzee

Also present were: Pam Stark, City Clerk; Thomas Hamilton, Finance Director; Ann Twomey Director of Management and Budgets.

Mayor Knopp welcomed Ms. Court.

APPROVAL OF THE MINUTES

**** MR. CLARK MOVED APPROVAL OF THE MINUTES OF JUNE 12, 2004 AS AMENDED.**

The following corrections were made:

Page two, second paragraph, in the third line, insert the word approach (after comprehensive). Page three, fifth paragraph, delete the word the. Page eight, second paragraph under Other Business, in the first line change contract to contact. It was noted that the emailed corrections from Mr. Davidson would be attached to the minutes.

**** MOTION PASSED FIVE VOTES IN FAVOR, ONE ABSTENTION (MS. COURT) BY VOICE VOTE.**

SPECIAL APPROPRIATIONS AGENDA

List of Resolutions – Advertised Items – 2

1. RESOLVED, THAT A SUM NOT TO EXCEED \$210,000 BE AND THE SAME IS HEREBY TRANSFERRED FROM CONTINGENCY TO THE POLICE

DEPARTMENT TO COVER AN OVERAGE IN THE OVERTIME AND REGULAR WAGE ACCOUNTS DUE TO INCREASED VACANCIES AND HOMELAND SECURITY REQUIREMENTS. (ACCOUNT NO. VARIOUS)

Ms. Twomey stated that the city practice has been to cover a shortfall in wages with any surplus funds in the regular wages. Regular wages has a surplus of \$144,300 and overtime wages has an overage of \$320,294 bringing the total to \$175,994. They have \$45,000 in various other accounts that can be transferred that would reduce the total funds needed to \$139,944. Ms. Twomey noted that the figure of \$139,944 was the amended figure.

**** MR. AVERY MOVED TO APPROVE \$139,944 AS RECOMMENDED BY THE FINANCE DEPARTMENT.**

Mr. Burnett asked if the Police Department was aware of the recommended change. Mr. Hamilton replied that they were.

**** MOTION PASSED UNANIMOUSLY BY VOICE VOTE.**

2. RESOLVED, THAT A SUM NOT TO EXCEED \$8,000 BE AND THE SAME IS HEREBY TRANSFERRED FROM CONTINGENCY TO THE FIRE DEPARTMENT TO COVER AN OVERAGE IN THE OVERTIME AND REGULAR WAGE ACCOUNTS DUE TO SEVERANCE PAYMENTS. (ACCOUNT NO. VARIOUS).

Ms. Twomey said the Fire Department did a fairly good job with their overtime and they only had a shortfall of \$3,948; they had severance payments of \$214,823 that caused the overage that was paid from regular wages. Funding was found in the emergency management account and a few other small accounts so finance is recommending an appropriation of \$81,796.

**** MR. CLARK MOVED TO APPROVE \$81,796 AS RECOMMENDED BY THE FINANCE DEPARTMENT.**

**** MOTION PASSED UNANIMOUSLY.**

TRANSFER AGENDA

There were none this evening.

OTHER BUSINESS

1. Designate Board of Estimate & Taxation member to Norwalk Facilities and Construction Commission (NFCC).

2. Designate Board of Estimate and Taxation member to Water Pollution Control Authority (WPCA).

Mayor Knopp stated that they have set up two entities to provide oversight for two areas of the city's service operations, one is the NFCC, the city's permanent building committee and the other is the WPCA is to oversee the operation of the plan. In the ordinance it says the Chairman of the Board of Estimate should be the one to attend these meeting unless another is designated. Mayor Knopp said he thought it was a lot to ask the chairman to chair this Board and attend two other meetings. He asked the members if they would designate Mr. Burnett to be the representative to the NFCC.

**** MR. AVERY MOVED TO NOMINATE GREGORY BURNETT TO REPRESENT THE BOARD OF ESTIMATE AND TAXATION ON THE NORWALK FACILITIES CONSTRUCTION COMMISSION.**

**** MOTION PASSED UNANIMOUSLY.**

Mayor Knopp said the WPCA meets once a month at 5:30 pm on the second Monday of each month. He asked members if they would designate Mr. Buzzee to be the representative to the WPCA.

**** MR. BURNETT MOVED TO NOMINATE TIM BUZZEE TO REPRESENT THE BOARD OF ESTIMATE AND TAXATION ON THE WATER POLLUTION CONTROL AUTHORITY.**

**** MOTION PASSED UNANIMOUSLY.**

Mayor Knopp requested that Item 3 be taken up at the end of the agenda. There were no objections.

ADDITIONAL INFORMATION

Press Release – Operating Surplus

Mr. Hamilton said he would be releasing a press release on the expected results of the operating budget for the end of the fiscal year; he said this was not to be confused with the audited version. At the end of the fiscal year the city is expecting a surplus of \$1.8 million (.8% of the budget) due to tight control over city spending and a reduction in operating costs. Mr. Hamilton said that savings were also realized in employee health insurance costs by moving employees to a new plan and by taking advantage of the low interest rate.

On the revenue side, Mr. Hamilton said the estate conveyance tax had brought in \$1.3 million and this was due to very strong real estate in Norwalk; tax collection performance was also strong. Mr. Hamilton said they will be refining these numbers and they will then be subject to an outside audit.

Mayor Knopp indicated that the year-end operating surplus is the result of high quality financial management by the finance department, continuing reforms on items like overtime and the continued attractiveness of the city in terms of property values. The surplus is not the result of over taxation since the projections that remain was adopted in the spring of 2003. The impact of this is to help build up the rainy day fund and this was a concern to Moodys regarding the credit rating. Mayor Knopp congratulated Mr. Hamilton, Ms. Twomey and the rest of the Finance Department.

Mr. Hamilton said it is always preferable to have a surplus rather than a deficit, with the surplus projected at just .8% of expenditures, if demonstrates that the city's budget assumptions for the fiscal year 2003-04 were accurate. He reiterated the Mayor's point in that the surplus did not come from over-taxation.

Mr. Hamilton said at the Board's request they are going to produce a short one page of bullet points to highlight the major issues throughout the year, for example this would show the accounts that are running ahead/behind, any significant issues as well as an update on the surplus for the year.

Oak Hill Park Financial Status – May 2004

Mr. Clark referred to page two; court maintenance asking if this was a reasonable figure for this.

Mr. Hamilton said they could expect a significant portion of money to be expended in the spring as the courts do require a lot of maintenance to get them in shape for the year. So far for this item, they have spent 80% of their budget and half of it was spent in May. Year to date Capital Budget Report (FY 2004)

Mr. Hamilton said the major on-going projects are Brien McMahan High School as well as the police facility. They have recently issued \$139 million worth of new bonds in order to finance the on-going capital program and hoped this will be sufficient to carry them through to next summer.

Board of Education Budget Report – FY 2004

Mr. Avery referred to the year-end budget in terms of how the Board of Education does business saying that when they approve line items the Board of Education controls how they are spent. They don't have to spend the money on the line items, they can spend the money however they see fit. In looking at the variances, he pointed out on the last page, number 730 - instructional equipment where they elected to spend \$377,000 more on instructional equipment than they said they planned to, so they took the money from somewhere else. There are also control questions like page two, number 563 – special education tuition, whatever that was meant to cover they ended up with a \$700,000 overage expenditure on that item. He said it is not within their power to try and do anything about these things except to try and understand it when they come around to

asking for budgets. He asked other Board members to take this into consideration when budget time comes around at the end of the year.

Mayor Knopp said in practice over the last year, they have asked central office to provide a quarterly report and suggested they were due for another update and asked if one could be given in either the August or September meeting.

Ms. Court suggested that it might be helpful if at the beginning of the fiscal year that outcome measures be tied to the budget.

Mr. Hamilton replied that this operating budget does contain performance measures for DPW and the Health Department and they were included in the recommended budgets. He said they are working with the other city departments to roll out performance measurements for the next fiscal year; he added that the Board of Education is a separate entity.

Ms. Court said other trends to be aware of health care costs and how costs might increase.

Mr. Hamilton said Board of Education is projecting an end of year surplus of \$1.2 million. The plan was \$400,000 directed toward the health insurance reserve fund that will be used to meet the cash flow requirements as a result of switch in insurance carriers and a requirement to make any payments to CIGNA in run outs claims. The other major area that the Board of Education is pursuing is setting up a reserve for textbooks. They also know that the capital budget that Board of Education has submitted for the five-year plan; for 2005/06 it is greater than the city is able to afford. From now until 2007/08 they are going to request \$5-6 million a year and given the other capital needs of the city, basic infrastructure, roads, bridges, sidewalks etc. the most they can give to the Board of Education will be about \$1 million. They have sent a letter to the Board of Education suggesting that they prepare their financial plans knowing their budget will be limited to \$1 million. He said that he and the Superintendent have had further discussions about this and for the current fiscal year.

Mr. Avery pointed out that the report is showing a zero surplus.

Mr. Hamilton indicated that he assumed that the Board of Education would spend its budget as they have identified ways to spend that surplus.

Mr. Avery asked if the Board of Education knew about the surplus when they were requesting this Board to refund money into the existing budget.

Mayor Knopp suggested this question be directed to the Board of Education itself.

Mayor Knopp asked for a report to be provided on the subject of the Board of Education voting on the utilization of funds.

OTHER BUSINESS (Continued)

3. Discuss Finance Department's Analysis of Teachers' Contract

Mayor Knopp stated that he would not be participating in any Council deliberations on whether to reject the contract in order to avoid the appearance of impropriety, as his wife is a teacher and this issue had been raised by several individuals. Well before this item was raised, the Mayor said he had decided not to attend any Board of Education meetings in which there discussions during the negotiating period. He said he has always believed that they should avoid distractions to the central issue of the Board of Education providing timely information on the budget to the Board of Estimate that is why he urged the funds to be restored from contingency. Having said that, he did not believe there is any justification by the Superintendent or the central office to have withheld information from the finance department or the Board of Estimate and Taxation. Under state law it requires the Board of Estimate and Taxation to be kept informed about the status of negotiations. He quoted the State Statute. However, in a memo from Dr. Corda he quoted that negotiations protocol precludes the Board of Education from sharing the information until the negotiations are complete. Mayor Knopp said under state law there is no exception.

Mr. Hamilton stated that his analysis is not a statement about whether the contract is a good or bad contract; it is not a recommendation to the Common Council whether they should or should not reject the settlement. He said it is an attempt to provide accurate and complete financial information to the Common Council and Board of Estimate and Taxation. He said he was troubled by some of the procedural roadblocks in trying to complete this and apologized that it was not quite ready to go out. He said he put a request into the Superintendent on June 10, 2004 and asked at that time if he (Mr. Hamilton) could contract the Board's health insurance consultant who he has known for fifteen years so that he could enter into a discussion because he had a number of unanswered questions. He was directed not to contact the health insurance consultant but was directed to put any questions in writing to the assistant superintendent. The meeting that did eventually occur with the health insurance consultant that the Board of Education set up happened last week when he was away on vacation. Mr. Hamilton said he had spent most of the day trying to understand the results of that meeting. He said although his numbers are not yet finalized, there do appear to be real savings associated with the switch in health insurance. Over a two-year period, Mr. Hamilton said he calculated the savings to be approximately \$1.5 million, not \$2.7 as predicted by the Board of Education. Secondly, the net cost of the contract settlement based on their re-calculations of the savings, is \$536,000 the Board of Education projected \$1.4 million, therefore the net cost of the teachers' contract is calculated at 3.6%. The third point is that the issue of dealing with the run-out claims, and the approach is conservative, but there are a number of complicated issues and will require further clarification between the city and the Board of Education.

Mr. Avery said he understood why the Mayor is choosing to recuse him and said it is probably right to do so. He said he would seem to him by extension of the argument made against the Mayor to recuse himself, a person whose spouse is an employee of the Board of Education should also not be negotiating contracts for the Board of Education, which was his understanding of Thomas Vetter negotiating contracts and his wife being an employee of the Board of Education, although not necessarily a teacher. In light of the fact that the Statute obligating the Board of Education to have them participate in these discussions is clear, in light of the fact that they have deprived them of having the information necessary to make anything other than an informed guess about whether this is a good contract or not, the Board of Estimate has no option but to vote tonight to request the Common Council to reject the contract extension for failure to comply with the statute and for failure to timely disclose the information to evaluate the claims made. He said right now all the information they have is a claim; this cannot be doubted it is clear and they cannot let it pass in this fashion. Mr. Avery went on to say that it was a completely avoidable circumstance and it may prove upon later analysis that such a contract should be offered to the teachers, but they don't know that and they will never know it. They have only one role before them to approve a resolution that the Common Council reject the contract extension for the reasons stated. In the law, when someone gains an advantage over a situation or deprives the other party of information they are precluded from using it or taking advantage of it. This is the only remedy or recourse that is left to them and he said he found it very disheartening to make this motion. He said he was amazed that they sat here two months ago with the negotiating chairman, Thomas Vetter, the chairman of the Board of Education, Jody Bishop-Pullan and Dr. Corda speaking to the Board of Estimate and Taxation members pretending to begin the process of sharing information on next year's negotiation contract strategies. It was a game of pretend and those officials need to answer for that. Mr. Avery said he did not know what control Dr. Corda has over those elected officials who have the statutory responsibilities; he did not know why those elected members of the Board of Education allowed this to occur. First after the Common Council rejects this contract, the elected officials must apologize to the taxpayers of the city of Norwalk, to the electors of the city of Norwalk, to the Board of Estimate and Taxation and to the Mayor for putting everyone through this.

**** MR. AVERY MOVED RESOLVED: THAT THE COMMON COUNCIL REJECT THE TEACHERS' CONTRACT EXTENSION FOR WILLFUL FAILURE OF THE BOARD OF EDUCATION TO COMPLY WITH STATUTORY LAW ENABLING THIS BOARD AND THIS BOARD'S OFFICIALS TO EVALUATE THE CONTRACT TERMS.**

Mayor Knopp said procedurally they should see if there are enough votes to add a new agenda item. He also suggested that they should give some advance notice of an item like this. He said one of the difficulties in determining this is if they agree that central office acted in an unauthorized fashion, the consequences under the statute is that the matter goes to arbitration and this must be done within five days. He read the statute section 10-153c.

Mr. Clark noted his concern regarding the relationship between the city and the Board of Education and how this has become an issue of distraction. He agreed with the comments of Mr. Avery and asked what would happen if it goes to arbitration.

Mayor Knopp explained that a contract goes to arbitration when both parties are trying to find common ground, and it comes down to the last best offer. In this case there is a difference because the Board of Education and the union have reached an agreement so the arbitration rules would not operate accordingly.

Mr. Avery said this is the reason why the Common Council has the power to reject it. He said the Mayor was suggesting that there is no room for an arbitrator to understand what to do when the legislative body rejects the offer made by the Board of Education. This is a matter of our responsibility; they did not create this situation, the elected members of the Board of Education created it by willfully choosing to disregard their statutory obligations to this Board. They have just had a press release tonight to celebrate their control of their finances. He said he did not feel it was consistent to go ahead and say since they would rather not make this messy, they would rather stay out of it. Historically, Mr. Avery said the Board of Education members have chafed at any attempt to control their statutory authority to run education, yet they always have to account to finance boards and they have to come finance boards in good faith to obtain funds. The fact that there is some kind of conflict between the two boards is not unusual, regardless of the political parties. What is extraordinary is this willfulness in not providing the information to this board. This was not an accident that they were not informed, or an accident that road blocks were put in the way, not an error or someone not knowing the rules, instead every effort has been made so that thirty day period will lapse before any body knows what they might have known to act in a responsible fashion on this contract. He said they are sitting here with their finance director as the days dwindle away saying probably this, possibly that, maybe this, and he has to give some more to an elected body tomorrow morning. This is not an acceptable situation and he did not like making this motion and said he was certainly not making as part of an agenda; he was just astounded at what they have been put through. He stated that he had made a motion and asked for it to be voted upon at some point.

**** MR. AVERY MOVED TO SUSPEND THE RULES TO ADD AN ITEM TO THE AGENDA.**

Mr. Coley said he agreed in principle with what has been said, but asked if this is efficient in what they are trying to prove. If this resolution does pass, will they have a gain.

Mr. Avery said they would not gain anything. They have stated their resolve of this Board with respect to the situation. He said there are other more stern motions he could make to authorize the Mayor to engage into a law suit for setting us into possible of not being able to exercise their statutory responsibility over the financial affairs of the city of Norwalk. He said he did not make that resolution, as he did not want to sue anyone. He said he has asked this body to exercise its fiscal responsibility by resolving that the

Common Council reject the contract for the reasons stated. If the Common Council should vote to accept the contract then they can make that call, as it is their call. He felt that this Board should not let this go by because if it does it would allow other people to come forward and manipulate information in the same way. He said if this was under their direct power they would not stand for this.

Mayor Knopp said that Mr. Hamilton has drafted a memo and there will be a written report for the Council. He said he did not disagree in the position of wanting to send a message but rejection would not automatically follow.

Mr. Clark said that he agreed with the premise but felt it was important to put things in place for the future. He said he was not sure that they have to send a message by rejecting the contract.

**** MOTION TO SUSPEND THE RULES FAILED ONE VOTE IN FAVOR (MR. AVERY), FOUR VOTES OPPOSED (MAYOR KNOPP, MR. CLARK, MR. BURNETT, MR. COLEY), ONE ABSTENTION (MS. COURT) BY ROLL CALL VOTE.**

Mr. Clark said it was important to express their disappointment to the Board of Education.

**** MR. CLARK MOVED RESOLVED: THAT THE BOARD OF ESTIMATE AND TAXATION EXPRESSED ITS PROFOUND DISAPPOINTMENT THAT THE BOARD OF EDUCATION HAS NOT GIVEN THE INFORMATION REQUIRED BY STATE STATUTE TO ALLOW US TO FULFILL THE RESPONSIBILITY TO TAX PAYERS.**

Mr. Avery commented that he would not be voting in favor of the motion because this is probably the eighth strike at this. This Board has spent years trying to get the Board of Education to comply with the statute and to be more forthcoming about their contracts and they have said you may take your idea and put it wherever you like. To vote on a resolution like this in a kind nature, noting that this is how the Mayor has tried to approach this, but felt exhausted in speaking in those terms to the Board of Education. He said he appreciated the motion.

Mr. Burnett said there is still an opportunity for them to take a higher ground. This board should make the Board of Education aware of their concerns and frustrations. He said this board can get to higher ground without coming in the day before the Common Council vote to try block the contract. This board can make their position known and that this board have some very serious concerns and they will not forget what has happened this year.

**** MR. CLARK MOVED TO SUSPEND THE RULES.**

**** MOTION PASSED FIVE VOTES IN FAVOR (MAYOR KNOPP, MR. BURNETT, MR. COLEY, MR. CLARK, MS. COURT) ONE VOTE OPPOSED (MR. AVERY) BY**

VOICE VOTE.

ADJOURNMENT

** MS. COURT MOVED TO ADJOURN.

** MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 9:30 pm.

Respectfully submitted,

Kate Kye
Telesco Secretarial Services

