

**BOARD OF ESTIMATE & TAXATION MEETING ACTIONS**

**AUGUST 2, 2004  
NORWALK, CONNECTICUT REGULAR MEETING**

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

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

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**APPROVAL OF THE MINUTES**

**\*\* MR. CLARK MOVED APPROVAL OF THE MINUTES AS AMENDED.**

The following corrections were made:

Throughout the document change they or their to this Board.

**\*\* MOTION PASSED SEVEN VOTES IN FAVOR, ONE ABSTENTION (MR. BUZZEE) BY VOICE VOTE.**

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**SPECIAL APPROPRIATIONS**

List of Resolutions – Advertised Items – 1

1. RESOLVED THAT A SUM NOT TO EXCEED \$36,230 BE AND THE SAME IS HEREBY TRANSFERRED FROM CONTINGENCY TO THE DEPARTMENT OF PUBLIC WORKS TO PAY FOR A MAINTAINER 1 POSITION (ACCOUNT NO. 01-4021-5110).

Mr. Hamilton indicated that this is a request from the DPW to fund an additional maintainer position in the highway department. Mr. Hamilton referred to the city contracting out the parking operations to Laz and in that agreement a decision was made to maintain four existing enforcement officers as city positions. The Director of the DPW

has determined that it is in the city's best interest to not fill the parking enforcement position rather to hire the maintainer 1 position, as there is a backlog in that department. Both positions have the same salary and grade and the finance department have identified funds that are available in the DPW operating budget to cover a portion of this position, therefore finance is recommending an appropriation of \$15,280.

Ms. Court asked if this would be creating a new position.

Mayor Knopp replied that the Maintainer position had been cut in prior budgets, so they would be re-creating the position.

Mr. Hamilton said the total head count of the city staff would not go up, as there will be one less enforcement officer.

Mr. Avery asked if this was being taken out of the 04/05 or the 03/04 contingency.

Mr. Hamilton responded that it was coming from the 04/05 contingency.

Mr. Avery asked what did they do with the money that was in the 03/04 contingency year-ends.

He asked if the report is a summary of the appropriations of July 12, 2004 and is that the final amount being rolled into the fund balance.

Mr. Hamilton said there are outstanding contingencies so it is not closed out yet and they would continue to get updates.

**\*\* MR. CLARK MOVED THE ITEM WITH THE SUBSTITUTE FIGURE OF \$15,280 AS RECOMMENDED BY THE FINANCE DEPARTMENT.**

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

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#### TRANSFER AGENDA

Mayor Knopp asked if the figures are finalized for the end of the year.

Ms. Twomey indicated that some transfers were done to clean up accounts.

Mayor Knopp asked if these were all amounts that would come under the discretion of the finance department.

Mr. Hamilton stated that these items would need approval from this Board.

Ms. Twomey went through the transfer items provided in the back-up material.

Mr. Avery asked when using this information in the future, since this Board is talking about transfers from the 2003/04-year as this Board needs to plan for the next tax year of

2005/06 these are reductions that did not have to be appropriated to those lines. He asked if there was any way they can tag the next budget to show that money has been appropriated to those lines in that year and where the money went. When looking at budget requests and what was funded the year before, it might make sense to look at what the money was spent on.

Mr. Hamilton said that the budget document has last year's actual expenses.

Ms. Twomey said they could have them show the transfers. Mr. Avery acknowledged that this would be very useful.

Mr. Hamilton addressed the final transfers regarding snow removal.

Mr. Avery said this points to the fiscal control being exercised by the finance department in anticipating the areas where transfers are needed and plus reserving the expenditure in these accounts. He said the existence of the transfer agenda demonstrates the fiscal control of departments that changes of this magnitude were anticipated and prepared for by withholding expenditures on certain lines that could have been expended. He congratulated the Finance Department and departments heads on having this money for retaining control of these monies so that they could be transferred.

**\*\* MR. AVERY MOVED TO APPROVE THE TRANSFERS LISTED UNDER SECTION B.**

Mayor Knopp asked the total of the transfers. To which Mr. Hamilton replied \$923,934.00 excluding the last two pension transfers.

**\*\* MOTION PASSED UNANIMOUSLY BY VOICE VOTE**

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#### ADDITIONAL INFORMATION

##### Oak Hills Authority

Mr. Hamilton indicated that Oak Hill Authority have ended up with a short fall in their expenses and although he has not followed up with them yet, he said this was likely because of the adverse weather conditions that impacted the course. The good news, Mr. Hamilton continued was that their final balance sheet was positive and they have cash in various different accounts. The course is still above water and he hoped the results would be better for this year.

Mr. Hamilton stated that he would be meeting with a number of members of Oak Hill Authority to go over a number of issues that they have outstanding regarding the lease agreement and this is another item that he would take the opportunity to discuss with them at that time.

Special Appropriations for fiscal year 2003/04 and 04/05

Mr. Hamilton said this is a compilation of items that have already been approved.

Mayor Knopp asked if the Finance Department keep comparative charts on a year-to-year basis regarding the budget and special appropriations.

Mr. Hamilton said they could do this, even though they have not done so in the past.

Mayor Knopp said it would be interesting to look at the commentary of the forecasting process.

#### Capital Budget

Mr. Hamilton said there are two reports in the back-up material. He said they are all familiar with the on-going capital projects and referred to the latest report from Gilbane giving a final draft.

#### Operating Budget

Mr. Hamilton indicated that they are still working on the final results, however next month the finance department would be able to provide an un-audited actual. Most items on the city side are fully posted; they still need the final number from the Board of Education.

Ms. Twomey went through the accounts and departments that they are watching closely including police overtime, combined dispatch and solid waste.

Mr. Burnett asked if they would monitor the DPW's summer activity with regard to insecticides and spraying.

Ms. Twomey indicated that that would come under the health department and there have been no problems with them in the past.

Mr. Buzzee made mention of the vacancies in the police department.

Mr. Hamilton explained that after a candidate has gone through the police academy there is a period of in-house training and the city would pay the candidate while they are in that training.

Mr. Burnett asked if this is a summary they would see every month.

Mr. Hamilton said they could put the highlights onto one sheet for the Board to see each month.

#### Board of Education

Mr. Hamilton said the finance department has given out the 2003/04 Board of Education financial report that was generated on July 20, 2004 that indicated a \$2 million (approximately) available balance in their budget. There are still some un-resolved issues in terms of the insurance fund for the city that the Board of Education utilizes in terms of medical benefits. He said it does not appear to them that all contributions to the insurance fund have been made yet; there also may be other finance issues that the finance department is not aware of. Mr. Hamilton said they do know that the final payrolls for the year have been posted and other than the insurance issue they do not know of any other outstanding issues.

Mayor Knopp stated that last year they had a consultation with the superintendent's office about the budget so they would be aware of the status of budget items and at that time they had asked Dr. Corda (or his representative) to appear at the Board of Estimate and Taxation's meetings on a quarterly basis. He added that they had invited Dr. Corda to appear at this evening's meeting, but was unable to do so and had asked for a delay of one month and would attend the next meeting to discuss the Board of Education's 2003/04 budget and to make a recommendation of what they intend to do in the future. Dr. Corda and Mr. Hamilton have had several discussions regarding reserving funds for textbooks for which they will need this Board's approval. Also, at some time, the Mayor continued they would need to get a clearer picture of the budget reconciliation that Dr. Corda did for the 2004/05 educational operating budget; he added that this Board did not receive a briefing on how this reconciliation was done especially as there were some significant changes.

Mr. Hamilton indicated that the finance department had included some additional information on salaries and overtime. He stated that the need for executive session would not be necessary this evening as there are a number of outstanding questions regarding the health insurance, the executive session will be postponed until September.

Mr. Avery asked about a representative from this Board being present during the teachers' contract arbitration.

Mayor Knopp said that today the Board of Education filed with the town clerk of the city of Norwalk, an arbitration award that is the result of the stipulation between the Board of Education and Norwalk Federation of Teachers (NFT). It appears to be identical to the agreement that was negotiated earlier that was rejected by the Common Council. Under the Statute the matter now goes to the Common Council for approval and the thirty-day clock starts as of today; he reiterated that they only received this today. Mayor Knopp said there could have been a number of different possible outcomes of the arbitration and because of this he had asked Mr. Hamilton to prepare a financial statement as evidence of testimony of the city's financial capacity to be presented during the proceedings. At the proceeding, however, on July 28, 2004, the arbitrator concluded that as both parties had stipulated to an agreement that no presentation by Mr. Hamilton would be required. Therefore the matter is now before the Common Council in the form of a stipulated agreement.

Mayor Knopp said that because the filing had occurred today, Mr. Hamilton did not have enough time to prepare any additional information for tonight's meeting; he added that there is no negotiation pending so there would be need to appoint a representative. The part of the issue tonight is whether they wish to discuss any aspect of the agreement.

Mr. Avery asked for an explanation of the thirty-day period that the Mayor referred to.

Mayor Knopp explained that under the statute when a voluntarily negotiated agreement that has been filed with the town clerk between the NFT and the Board of Education it is subject to rejection by the Common Council. Once the arbitrator makes a decision, based on last, best offers or a stipulated agreement then the arbitration award goes to the legislative body of the municipality which requires a two-thirds affirmative vote to be rejected. Hypothetically, the Mayor said if the Common Council rejects the arbitrated decision it goes back for subsequent binding arbitration process in which the arbitrator's report is not subject to a decision by the legislative body of the municipality. He said this is the same agreement as last time and asked if there were any questions about the agreement.

Mr. Avery referred to section 10-50 3A saying that it provides that at the post Council rejection of the contract agreement the city's finance body (the Board of Estimate and Taxation) shall be given the opportunity to have a representative present information to that arbitrator.

Mr. Hamilton said he did go to the arbitration indicating that he had prepared financial testimony for presentation but when the arbitrator asked the Board of Education and NFT if they had any comments on his request, both parties stated that there was a stipulated agreement and any financial testimony on the financial capability of the city was irrelevant and would have no bearing on the decision. Therefore it was ruled by the arbitrator that financial testimony was not in order. He said that he did ask again, and was told that the testimony was not required.

Mr. Avery requested a special meeting of the Board of Education to be held within the next ten days at which the City Corporation Counsel be present to give the Board of Estimate and Taxation its legal rights with regard to the actions of the arbitrator so that this Board can consider whether it wishes to undertake legal action to protect its responsibilities under the statutes. He suggested they needed a legal opinion from Corporation Counsel as to whether or not the action the arbitrator took is contrary to state law and if they wish to make a remedy of it. Mr. Avery stated that these are their (the Board of Estimate and Taxation) responsibilities, not the Mayor's or the Common Council's – the statute empowers this Board to have a representative present and the fact that the representative wished to present information and was not allowed is something they should determine if it was proper. The fact that the Common Council rejected this agreement on July 13, 2004 and within two weeks of rejecting the agreement the same parties that knew they had a rejected agreement stipulated before an arbitrator seemed to Mr. Avery that is furtherance of the entire effort of the Board of Education to block the finance board of the city of Norwalk to have any input on these contracts. He said he did

not think they could any longer avoid this responsibility. He asked since this requires further comment and did not want people to be shut out from comment, they should have a special meeting within ten days to have Corporation Counsel present advice on legal rights relative to disallowing Mr. Hamilton to offer testimony at the arbitration.

Mayor Knopp suggested that in the first case they make sure who has the ability to call a special meeting; he said they would first check in the Charter to find out who has the right to call a special meeting.

Mr. Avery said it was the Board's request.

Mayor Knopp said the other issue was with reference to a discussion they had during the previous meeting regarding the consequences of rejecting the contract. He said because of the customary format in which contract disagreements arise, customarily the arbitration process is one that is somewhat adversarial in which the arbitrator has to select different last/best offers and the decision of the fiscal authority may influence the arbitrator's decision. Mayor Knopp said that this Board might wish to ask Corporation Counsel's opinion but the Statute gives the arbitrator discretion on whether or not to accept a stipulated agreement.

Mr. Avery said what is striking is that an unnecessary step was created - why should the Common Council reject the contract only to have the parties who are in prior agreement submit a controlling stipulated agreement so then it goes back to the Common Council for a two-thirds majority vote. He said this is either a horribly crafted statute or it is not what the statute intended. Mr. Avery said in his opinion, that something is amiss and it doesn't empower them as board to express the finance authority pertaining to this contract in order to have it be escaped by another procedure that is applicable when the parties of the Board of Education and the NFT were in dispute.

Mayor Knopp said if the premise to have a special meeting is based on the anticipated opinion of the Corporation Counsel, he suggested it was wiser to obtain the opinion first.

Mayor Knopp said that there are two different issues, one is the right of this Board to appoint an observer in the negotiations and the second is the right of the city to be heard during arbitrations.

Mr. Clark said he was in favor of any clarification on an on-going basis.

Mayor Knopp said the consequences of rejecting a contract are not always what one might expect.

Ms. Court asked for clarification on the Board's role with regard to the relationship with the Board of Education.

Mayor Knopp explained the procedure of arbitration.

Mayor Knopp read the chapter on the Board of Estimate and Taxation from the city Charter saying that the majority of the Board of Estimate and Taxation shall have the power to call a special meeting.

**\*\* MR. AVERY MOVED TO OPEN THE AGENDA TO ADD AN ACTION ITEM TO ALLOW THE ESTABLISHMENT OF SPECIAL MEETING.**

Mr. Buzzee asked what the impact would be if Mr. Hamilton had been allowed to have input into the arbitration.

Mayor Knopp replied that what the arbitrator did was not irrational. He suggested that Mr. Avery specify the purpose to the special meeting in the motion.

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

Mayor Knopp stated that an action item had been added to the agenda to hold a special meeting.

**\*\* MR. AVERY MOVED THAT THEY SCHEDULE A SPECIAL MEETING OF THE BOARD OF ESTIMATE AND TAXATION IN THE NEXT FOURTEEN (14) DAYS. AT WHICH TIME THE AGENDA SHALL INCLUDE THE RIGHTS AND OBLIGATIONS OF THE BOARD OF ESTIMATE AND TAXATION UNDER THE TEACHER' S AND SUPERINTENDENT'S STATUTES OF THE STATE OF CONNECTICUT, SECTION 10-153D AND SECTION 10-153F.**

Mr. Avery requested that the Mayor contact the Corporation Counsel to answer certain questions.

Mayor Knopp pointed out that under state law, the agenda of a special meeting cannot be amended. He asked that other than a general discussion – what did Mr. Avery want to be acted upon during the special meeting. He stated that the majority of this Board would have to decide on what is to be on the agenda of the special meeting.

**\*\* MR. AVERY AMENDED THE MOTION: THAT THE AGENDA SHALL BE AN ADVERTISED RESOLUTION FOR A SPECIAL MEETING OF THE BOARD OF ESTIMATE AND TAXATION. THE RESOLUTION BEING THAT BOARD OF ESTIMATE AND TAXATION DIRECT THE CORPORATION COUNSEL TO UNDERTAKE LEGAL REVIEW OF THE ACTIONS OF THE BOARD OF EDUCATION RELATIVE TO THE TEACHERS' CONTRACT EXTENSION 2004 IN REGARD TO APPARENT VIOLATIONS OF SECTION 10-153D, SUBSECTION A AND SECTION 10-153F AND TO TAKE APPROPRIATE ACTION IN RESPONSE THERETO.**

Mr. Avery explained the contents of the sections mentioned in the motion. He said this would give the public legal notice of what this Board is there to talk about and it would give Corporation Counsel time to research for the meeting and provide any

recommendations. Mr. Avery added that nothing that has been said by this Board in the last month has been heard by the Board of Education.

Mr. Burnett said in light of the comment about not being able to change the agenda of a special meeting, he offered a friendly amendment that they also have discussion on how this Board have a clear input in the negotiation process going forward. Beyond the opinion of a legal entity that they as a Board have the also undergo discussion on at what time they can enforce any influence on this process. He said it appears from discussion tonight that they cannot influence the Board of Education at all and if that is the case then they should be clear on what the position is.

Mr. Avery said he accepted Mr. Burnett's comments, but with regard to the tag line of take appropriate action sort of suggests that the discussion will include that kind of thing. He said what Mr. Burnett just said could be discussed during the special meeting without being ruled as out of order.

Mayor Knopp said he found himself in an awkward position with regard to this being a possible conflict of interest. In this case, this presents a difficult position as to whether he would be able to vote or not. He stated that this approach is so prosecutorial and unconstructive in trying to resolve these things for the future that it would hammer the wedge deeper and he did not see this as a constructive thing.

Mr. Avery replied that he had phrased it this way because any general description of this issue was thought to be unfair in terms of not advising the public of what they might do. He said that he had phrased it in the form of a proposition so that the proposition could be voted up or down. He added that he would be happy to change the wording if the Mayor wished to make a suggestion

Mayor Knopp said this mechanism for the kind of dialogue to get everyone to acknowledge the errors that were made and how they can act in the future requires some time and consideration. To have the Corporation Counsel point out the violations would make the issue fester worse.

Mr. Avery asked if he could put it another way, he imagined that the Charter is silent as to when the majority of the Board of Estimate and Taxation has to schedule a special meeting – he asked if they could schedule such a meeting by agreeing to such a meeting in conversation with the staff of the finance department. In other words, he asked if the only time a special meeting could be scheduled is during a live meeting.

Mayor Knopp explained that there are rules set out in the Statutes so that Boards cannot manipulate these things so that telephone conferences, simultaneous emails of when there is a meeting are not done during a live meeting, but it has to be done at some meeting. He said it was his feeling that these are big and important issues because the Board of Estimate and Taxation is a critical connection in the city between the Board of Education and the Common Council. This Board is the city's fiscal authority and for them to come up with constructive ways to deal with things in the future are very important. He said

being frustrated over what has happened is not a sufficient reason to have a special meeting to make things more difficult to resolve. There should be a constructive way to structure a recommendation or proposal.

Ms. Court suggested that the special meeting be held to talk about the rights and obligations of the Board of Estimate and Taxation and to have Corporation Counsel an overview and then to discuss a strategy for future interaction with the Board of Education.

Mayor Knopp said it was a good thing to have the discussion of what the statutes entail and to get some overall picture of the relationship between the Board of Education and the City. He suggested they review the big picture and then to hold a public hearing. The Mayor mentioned that after listening to the tapes of the Common Council meeting on July 13, 2004 when the contract was rejected that there were many members of the public including PTO leaders who had very constructive ideas and recommendations about the budget process.

Mr. Coley stated that he agreed with Mr. Avery in principle, but the end results of what they are trying to obtain there might be other ways to solve the problem. He asked if there was any response from the Board of Education with regard to the motion that was made at the end of the previous meeting.

Mr. Avery commented that the only people trying to avoid a controversy is this Board and they have let it go and let it go and have tried to be cooperative but the other party in this equation has never shown that they will cooperate; they always said they would but have always failed to do so. The timing of it is such that they will not meet again before this contract becomes a fiscal responsibility of this city. If this Board held a special meeting on the subject matter they might be able to have a say in it. Mr. Avery said they are acting like if they hold a meeting then the Board of Education will all of sudden be more forthcoming – he asked why this would happen. He said that Mr. Davidson had resigned this Board as a final frustration over this one budget that is so big and an important part of the budget, as it could never be part of this Board's control and they as a group would never say that is the last straw. There is no evidence, accept to the contrary that the Board of Education will be forthcoming with information.

Mayor Knopp said it would seem to him that the most constructive way to go forward would be first to have a special meeting in three parts; one would be a presentation on legal and policy relationships between the Board of Educations and municipalities in terms of budgeting. They would seek to have legal background by the Corporation Counsel and invite some special guests (from CCM and different Boards of Education) on the reasons why the policies in Connecticut are in this condition. Secondly, to hold a public hearing to receive suggestions from members of the public, PTO's and members of the Common Council. Thirdly, to schedule a working session of this Board to follow up on the discussion and to draft a series of recommendations and proposals in terms of access to information. Mayor Knopp said he felt that this series of meetings would be very useful and helpful.

Mr. Avery stated that he did not phrase his motion out of frustration. He said the meetings that the Mayor described should definitely be held but stated that he would like his motion to be voted upon.

Mayor Knopp indicated that if this motion were to fail then he would offer a substitute motion that they hold the three special meetings as described earlier.

Mr. Burnett asked if the Mayor had any suggestions with regard to when the meetings would be held.

Mayor Knopp said he considered it appropriate to have the first meeting in September and the second in October.

**\*\* MOTION FAILED ONE VOTE IN FAVOR (MR. AVERY), FIVE VOTES OPPOSED (MR. BUZZEE, MR. COLEY, MR. BURNETT, MS. COURT, MR. CLARK) AND ONE ABSTENTION (MAYOR KNOPP) BY VOICE VOTE.**

**\*\* MAYOR KNOPP MOVED THAT THE BOARD OF ESTIMATE AND TAXATION RECOMMEND THREE SPECIAL MEETINGS. THE FIRST MEETING WOULD BE AN INFORMATIONAL PRESENTATION ON THE LEGAL POLICY AND RELATIONSHIPS BETWEEN MUNICIPALITIES AND BOARDS OF EDUCATION IN CONNECTICUT WITH INVITED SPEAKERS TO OCCUR IN SEPTEMBER 2004. THE SECOND SPECIAL MEETING WOULD BE IN THE FORM OF A PUBLIC HEARING FOR RECOMMENDATIONS TO APPROVE COMMUNICATIONS AND THE WORKING RELATIONSHIP BETWEEN MUNICIPAL FINANCE AUTHORITIES AND THE BOARD OF EDUCATION. THE THIRD SPECIAL MEETING WOULD BE A WORKING SESSION OF THE BOARD OF ESTIMATE AND TAXATION TO DEVELOP RECOMMENDATIONS AND PROPOSALS RELATIVE TO THE IMPORTANCE OF THE RELATIONSHIP BETWEEN THE MUNICIPAL FINANCIAL AUTHORITY AND THE NORWALK BOARD OF EDUCATION AND RECOGNITION AND ENFORCEMENT OF THE RIGHTS UNDER THE STATE STATUTE.**

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

Ms. Court referred to the motion made during the last meeting if this could be officially communicated in a letter to the Superintendent.

Mayor Knopp suggested that the finance department prepare a draft letter.

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ADJOURNMENT

**\*\* MR. BURNETT MOVED TO ADJOURN.**

**\*\* MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 10:45 pm.

Respectfully submitted,

Kate Kye  
Telesco Secretarial Services

