

BOARD OF ESTIMATE & TAXATION MEETING ACTIONS

**SPECIAL MEETING
OCTOBER 20, 2004**

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

ABSENT: Randall Avery

Also present were: Pam Stark, City Clerk; Thomas Hamilton, Director of Finance; Ann Twomey, Director of Management and Budgets. Guest Speakers: Jim Finley, Associate Director of CCM, Public Policy and Advocacy and Patrice McCarthy, Deputy Director and General Counsel Connecticut Association of Board of Educations(CABE).

Mayor Knopp called the meeting to order at 7:50 pm.

1. Presentation and Discussion of the Relationship between Boards of Education and Municipalities

Mayor Knopp thanked both speakers for coming to Norwalk. He introduced Patrice McCarthy, a member of CABE noting that they have sponsored many very informative and useful events in the region. The Mayor indicated that they are here as part of an on-going effort to deal with the relationship between the Board of Estimate and Taxation and the Board of Education; he said they thought it would be useful that both Ms. McCarthy and Mr. Finley have a lot of experience on both local and state levels and are able to speak to the relationship between boards of finance and boards of education on a state-wide basis and maybe give out some recommendations about keeping the communication level high and best practices.

Each member of the audience including the Board of Estimate and Taxation members introduced themselves.

Ms. McCarthy commended everyone on having these discussions because being willing to have these conversations is the first important step in having a working relationship. She gave her background information noting that she did have a good understanding of the issues at hand.

Ms. McCarthy said that it has become clear to her, over the years, that there is a natural tension built in between boards of education and boards of finance; there are different sets of rules and responsibilities that will inevitably conflict. However, if they can agree that they are all volunteers for the community there is in fact a lot of common ground – they are all trying to do the best they can for Norwalk. With respect to the Board of Education their priority is to try and provide the best education possible. In terms of productive relationships they ebb and flow over the years – it begins with trust between the individuals that have to deal with one another at both the elective level and at the staff level. Information sharing is also critical, i.e. cost over-runs, when the willingness to give the other entity the heads up when the Board of Education sees those happening, to forewarn municipal officials. The other side is the municipal officials willing to retrieve that information and not to transfer blame. Understanding some of the real uncontrollable costs that are built into the education budget is also very important, special education being a prime example; they have got to meet mandates that have been established at both federal and state level. The tension is greater now than at any other point because of the fiscal pressure; they are all trying to do the best they can but the state and federal governments have not been meeting their funding commitments.

Mayor Knopp introduced Mr. Finley. He agreed with the remarks of Ms. McCarthy adding that the Board of Education is not the enemy nor is the Board of Estimate and Taxation or any other Board. The problem is the environment that pits one against the other. The state of Connecticut has said that the property tax has to finance public education; what that means is the educational needs of the communities are hard pressed to meet the funding needs. The tension that comes is because the Mayor and the Board of Estimate and Taxation have to reconcile the fact that they know the children are the city's future and they also have to have a property tax rate that doesn't drive the middle class and businesses out of the city. Mr. Finley said the best thing to do is to have a working relationship that is based on trust and a full understanding of the mutual obligations of the education and the general government side; part of it is not to be in a position where you end up fighting over the crumbs. There are eight communities in Connecticut who have decided because the finance aspect is so important that they have a shared finance function. That is a trend that some communities are looking at or areas where there are cross over responsibilities. Referring again to the tension, Mr. Finley stated that when you are in this system where the majority of property tax dollars have to go to fund education and the State is not meeting its funding responsibilities it means that other services in the city go unmet. There are also the elderly, on a fixed income who have lived in the community for a long number of years who have made the communities what they are today they are finding themselves forced out because of the increasing cost of education and other services and that puts a real strain on the people who are the real bedrock of our communities. He said once you can understand the system you are in, and be truthful about the needs, then people of goodwill come together and find a way to make the decisions and allocate the resources.

Mayor Knopp asked for more detail on the eight communities that Mr. Finley had referred to.

Mr. Finely said there are eight communities that have a joint finance function where there the financial officer is not only the financial officer for the local government side but is also financial officer for the Board of Education side and they try to do that in a way so there is a seamless way to understanding where the financial revenues and expenditures go; there is not a separate side-by-side function. This may work better in some communities than in others, but there is an attempt to figure out new ways to get to the other side so there is a better understanding of what the resources are and better allocation methods.

Ms. McCarthy said from the perspective of the Board of Education, she cautioned them sharing the finance function, because once the budget allocation has been made the Board of Education does have independent authority. In an environment where there is a great relationship of trust and understanding that shared model could work. The problem is people come and go from positions and situations change and it could end up being a situation that isn't how it was originally intended.

Mr. Finley said from a statewide perspective, politically it is difficult for Mayors, First Selectmen etc. who are accountable for the people based on tax rates and other items. To deal with a situation where the education side of the budget is increasing at about 6% a year, but the general government is about 2% a year. There has been negative growth on the general government side over the last ten years because of the difficult economy so there is a political tension that builds because elected officials are held accountable for a tax rate that by and large goes into the education side. He agreed with Ms. McCarthy in that it is important not to look at each other like combatants on the local level but to try and figure out a way to understand that the system is stacked against them and the real target is to get a better deal from the state government.

Mayor Knopp said one of the built in tensions is the issue about line item control on the operating budget. He said that he thought it was fair to say that in Norwalk despite some disagreement there is a consensus to increase education spending and over the last three years it has increased by 30% over the prior six years. He said sometimes the question comes down to what are reasonable ways to get the most use out of each dollar that is spent. There are areas in the budget, because the process starts so early, that they do not know the outcome; two areas for example are teacher retirement and enrollment. They are always working from guesstimates and because there is no line item control the result is that when items that were over-budgeted are freed up and not actually needed – those funds then become part of the generalized surplus fund. Meanwhile there are things in the city budget that are not funded and this creates more and more pressure.

Ms. McCarthy pointed out that for many line items in the Board of Education's budget where there may be lower costs than anticipated there are just as many line items that are higher than anticipated. Part of the responsibility of the Board of Education is to make those transfers. The good news is that there is someone watching and making those transfers and the bottom line is that the Statute lays out that this is the responsibility of the Board of Education.

Mr. Finley said the system overall between the Board of Education side and the general municipal government side is that there is no incentive for the Board of Education to acknowledge their surplus. It is rare for an entity to acknowledge that because they want to keep that base going from year to year. If a real working relationship can be developed and there is the trust so the Board of Education does not feel jeopardized so they are acknowledging that there are some areas where there are monies that are freed up; those funds can be used in the best possible manner. The other aspect is that 80% of a local education budget is personnel based; there is an opportunity for fiscal authority to play a role in negotiations and arbitration. He encouraged the city to take advantage of this in a way that was not threatening to the Board of Education but to provide them with additional information.

Mayor Knopp indicated that there are efforts in watching Boards of Education over time that there are ways to build in surpluses because they need flexibility, however this creates a little fuzziness to the budget. It means that it is more difficult to have a dialogue about things that are being predicted eight months in advance.

Ms. McCarthy commented that the law really doesn't offer that flexibility – the law states that the Board of Education has to provide their itemized estimate by a certain date to make the appropriation.

Mr. Finley added that the State does not prevent the Board of Education if there is an unanticipated surplus in some of their accounts to be able to turn that money back to the local government instead of keeping it. There is ability but this is based on trust.

Ms. McCarthy mentioned that what a few communities have done is to encourage the funds that are not needed for transfer to not spend the money unless they have to. The money can be placed into a contingency fund, by agreement that money is put aside.

Mr. Krummel (Common Council) referred to the eight communities mentioned earlier asking if there are any examples of communities that have adopted procedures for communications between the Board of Education and city bodies.

Ms. McCarthy said she was not aware of any formal strategies, she said a lot of what they see is quite informal.

Mr. Kimmel (Common Council) referred to the shared financial function between Boards of Education and municipalities, he asked how did it work in a very large city; what would the finance director's relationship to the Superintendent of School and the Mayor, would that person be serving two masters. He also asked if this had ever been tried and given up on.

Mr. Finley listed the eight communities with the shared financial function. He suggested that it was difficult to get out of the mindset of having two masters; it doesn't necessarily mean that this has to be an antagonistic relationship because there is a tendency to protect

the budget on each side of the ledger. It does give the ability to contact and to find out more detail on how it works well.

Mr. Hamilton indicated that he knows the majority of the finance directors in those eight communities and they all speak fairly highly of the outcome that they think has been realized; he did agree that in a larger community it does present other issues in terms of budget preparation and oversight.

Mr. Kimmel asked in the case of negotiations if the Common Council or another financial board have the formal responsibility to be involved with negotiations or does the Board of Education have the option to exclude a financial board of a municipality.

Ms. McCarthy replied that there are a couple of statutory provisions. Firstly referring to certified employees; the Statute says the Board of Education has the duty to meet and confer with the fiscal authority between 240 days and 210 days before the bargaining process starts. During the bargaining process a member of the Board of Finance shall be permitted to be present negotiations and provide fiscal information that is requested by the Board of Education. The other thing is to remember is that the bargaining process is generally covered by ground rules and one of those rules is confidentiality between the parties during the course of the negotiations. So that Board of Finance representative would be bound by that confidentiality when they leave to not discuss the nature of the negotiations. They would only be there as a representative to provide financial information to the Board of Education. With respect to non-certified employees of the Board of Education there is no provision for the involvement of the fiscal authority. In addition if the contract is re-opened during mid term negotiations there is no express requirement in the Statute that there be participation by the fiscal authority. The State Department of Education has said they should have that opportunity but there have not been any court rulings so that maybe this is an area where there may be different opinions.

Mr. Finley added that with non-certified employees there is no statutory right for the fiscal authority to be there, but that can be worked out. Secondly, one of the biggest nubs of contention in the arbitration process where the Board of Education has the ability to stipulate, on the general government side there is a way to get around the local legislative body.

Mr. Kimmel asked why the law was written that way.

Ms. Finley said this is not usually a stipulation on a single item, they are normally multiple; the end result is that both parties are better off. He added from a municipal prospective there is a concern about this being perceived as a loop hole with regards to local review; he said they would like to see this closed so that when both parties when they enter arbitration would feel fully at risk.

Mayor Knopp said in Norwalk they did have a stipulated agreement after the Council had rejected the negotiated agreement. For two years in a row there have been re-openers

between the teachers and the Board of Education to extend the contract each time for a year; the end result was that it seems to be the spirit of the statute gives the Board of Estimate a role in these decisions.

Ms. McCarthy said the issue of collective bargaining is such a complex one that the issue of the relationships between the Board of Education and its employees and issues around maintaining moral relationships can lead to decisions that are not fiscally driven. The Board of Education's role has shifted in many cases to be the ones to say they need more resources to develop and maintain a competent staff.

Mr. Sutton asked about filing the results of awards with the Town Clerk.

Ms. McCarthy stated that the negotiated agreement has to be filed with the Town Clerk and this is the responsibility of the Board of Education.

Mayor Knopp explained the current situation in Norwalk regarding a re-opener for retirees and the city suggested that this should also be submitted to the Council.

Mr. Finley responded that there may be a legal interpretation and there is also a good faith interpretation. The idea of filing with the Town Clerk is that it affords the public to see what has been arrived at. It seems a small thing to fight, as it is a public document anyway.

Mayor Knopp said the spirit of the act gives the Board of Finance some role to participate in a second agreement between the Board and the teachers that changes the rate of pay in some teacher duties. This has a fiscal impact as it modifies the underlying agreement. To say that only the initial agreement should be submitted to the legislative body and to not submit side agreements that affect the rate of pay, he said makes an exception to the rule. The Board negotiates it, the Board of Finance observes, the Council acts on it and at the end there is an arbitration process that finally resolves things and to say that only certain agreements should be in that process does not honor the checks and balances that the system has set up.

Mr. Finley agreed noting that the re-openers do then become the contract and they should be under the same scrutiny.

Ms. McCarthy added that the law is silent in terms of the requirements of the fiscal authority with respect to re-opener.

Dr. Corda (Superintendent of Schools) said the Board of Education would have the right unilaterally to extend the contract.

Ms. McCarthy said this would have to be discussed with the union the early, it does not have to become part of the contract.

Mayor Knopp said in looking at the bigger picture, not necessarily what is going on in Norwalk. In Connecticut the mandate is that the Board of Finance and the Legislative

Body are involved in these decision to a certain degree and that has to be honored. He asked how this might differ in other states and how the end result is affected.

Ms. McCarthy said that in more states than not, the Board of Education has the authority to levy its own taxes. In many states the county service is still alive and many services are delivered through the county government including education.

Mr. Kimmel said regard the spirit of the statute – it seemed to him that the Legislative Body has total control over the amount of money spent. Within the context set the Board of Education has a very high degree of autonomy and no matter how you look at it, the statute allows the Board of Education to control what happens within that framework.

Mr. Finley said with regard to arbitration it all hinges on the last/best offer and if the school board makes a very low last/best offer and the union is closer to the marker, regardless of whether the Council rejects it or not, it comes down to last/best offers. The key is getting that early work done so the fiscal authority can provide the Board of Education with information to give it the strongest position during arbitration.

Mr. Davidson (former member of Board of Estimate and Taxation) commented that the opening statement regarding natural tension were very appropriate. With regard the Board of Education being voted out of office if they don't do a good job, he said if the Board of Education's purview is limited to education, as it is and the Board of Estimate and Taxation's include, the fire, police and the other services then the Board of Education's natural tendency would be to ask for the maximum amount (14%). Their positions to the voters would then be we asked for 14%, we only got given 5%, don't be critical of us, be critical of the Board of Estimate and Taxation. So the comment to them being voted out of office is very unrealistic.

Mayor Knopp referred to a comment made last year made by Mayor Malloy (Stamford) in that he refused to give a number. Mayor Knopp said through the finance department, they look at the requests that are made from around the state and last year they were all at 10% or 11% and they all ended up settling at 5% or 6%. If the numbers are so high it seems to contribute to the lack of trust or the dispute about numbers because it would be impossible to finance it. The Mayor said they ended up in a political dilemma where it looks like they are cutting education even though they are adding 6% of the budget.

Ms. McCarthy said on the other hand, the Board of Education have to implement the educational interests of the state and they have to put on the table what they think would appropriately meet the needs of the children of the community.

Mr. Finley said that both sides should try and figure out what the actual fixed costs of the Board of Education are for the following year and then they will be able to see what the additional requirements are. It can be a very elusive process to try and find out the fixed costs but it is a key question to ask.

Dr. Corda suggested that what might be effective is a formalized protocol by the various bodies. With regard to the comments about the initial budget offering about what they think would lead to a good educational program; because the discussion and should take place in public then it creates the opportunity for those who wish to, make a comment about what the status of that process is. To a certain extent that adds to the issues about mistrust and all the stuff that goes along with this. He asked if there was a formalized process about how Board of Educations could present themselves and the nature of the comments also how the Board of Estimate will conduct itself in the public sector. To be able to say this how they are going to do it and not to deviate from the rules and then they might be able to create some more effective communication.

Ms. McCarthy replied that she had not come across any formalized process but she would certainly look to see if there are any models around the country.

Mr. Finley said once they start working on ground rules, he said because they all want is best for Norwalk to work on your own mechanism to have an honest exchange of information.

Mr. Clark said he would appreciate any information about protocols being established because informality worked better in the smaller communities and in a city of this size it would be more difficult. He said it might be good to see if there is a need for this.

Mr. Finley said that he and Ms. McCarthy would come up with a joint survey and try to get some of the information requested.

Mayor Knopp thanked Ms. McCarthy and Mr. Finley.

The meeting was adjourned at 9:20 pm.

Respectfully submitted,

Kate Kye
Telesco Secretarial