

**Board of Finance
Regular Meeting**

**December 13, 2016
MINUTES**

Present: Chairman Jim Fitzgerald, Members: Ben Witte, Steve Tuxbury, Bart Baxter; Alternate Members Bob Nilsson, Maria Moore; First Selectman Dan Jerram, Bookkeeper Annie Witte; Superintendent of Schools Brian Murphy, Board of Education Chairman Jen Benaitis, Members of the Public Bob Howson, Karl Hermanot, Tom Buzzi, Denton (Bud) Butler; Gina Maroney, Bill Michaud, Laura Polakow, John Burdick, Kelly Howard, Kelly O'Dell; Republican American Newspaper reporter Kathryn Boughton, Administrative Assistant Christine Hayward.

Chairman Fitzgerald called the meeting to order at 7:00 PM.

I. Seating of Alternates:

Mr. Fitzgerald stated that Board members Reggie Smith and Dan Charest were absent and that Member Reggie Smith had requested that Alternate Bob Nilsson be seated in his stead. Mr. Fitzgerald then stated that Maria Moore would not be seated as she was unable to be seated for the absent member Dan Charest, due to party affiliation requirements.

Ms. Moore informed Mr. Fitzgerald that she had recently changed her party affiliation from a registered Republican to Unaffiliated and requested that she be seated for Mr. Charest. Mr. Fitzgerald replied that he was not certain she would be able to be seated since she was appointed to the Board as a member of the Republican party. Board Member Witte stated that he was aware that the Town Clerk was looking into this matter and he felt that no seating should occur until the Town Clerk had completed her due diligence and was able to provide some guidance. Ms. Moore challenged this, stating that it was her belief that being Unaffiliated would afford her the opportunity to be seated for both major parties – Democrat or Republican. Mr. Witte countered that “you switched your party affiliation to Republican a while back, were brought onto this Board as a Republican to fill a Republican slot; and now you’ve changed your party affiliation and are Independent --- we need the to let the Town Clerk look into this.” Ms. Moore corrected Mr. Witte, noting that she is Unaffiliated, not Independent and explained her reasons for changing her status; saying “Unaffiliated feels more comfortable.” Mr. Fitzgerald chose not to seat Ms. Moore; but stated that she could participate in the meeting; but would not be able to vote on any matters.

First Selectman Jerram offered to have the Town Attorney opine on the party affiliation matter. Chairman Fitzgerald stated that he would wait for information provided by the Town Clerk.

II. Adoption/Revision of Agenda:

Mr. Fitzgerald commented that Item IX – Discussion on State of Connecticut Mandated 2.5% Municipal Budget Cap – had been placed on the agenda at the request of Board Member Reggie Smith. Due to the

fact that Mr. Smith was not able to be at the meeting, Mr. Fitzgerald asked for a motion to remove that item from the agenda.

MOTION: by Witte to remove Item IX from the agenda; seconded by Baxter.

Unanimous.

III. Approval of Minutes from November 9, 2016 Special BOF meeting:

MOTION: by Witte to approve the minutes of the November 9, 2016 Board of Finance Special Meeting as presented; seconded by Tuxbury.

Unanimous.

IV. New Hartford Public Schools, Superintendent Murphy and BOE Chair Jennifer Benaitis, regarding a deficit in Special Education and Transportation:

Chairman Fitzgerald distributed a letter dated December 8, 2016 that had been sent to the First Selectman and Board of Finance Chairman alerting them of a projection of a deficit in the Special Education Tuition and Transportation accounts. The letter indicated that there are unanticipated expenses associated with an out of district placement of a student after the conclusion of the budget process for the 2016-2017 school year.

Chairman Fitzgerald questioned what measures the Board of Education would be taking to see how much of this expense could be absorbed within the approved budget. Mr. Murphy replied that there will be some savings within some of the projected Capital Expenditures; specifically savings in the approved allocations for the phone system, the new stove/oven at Ann Antolini School and some savings in the cost of doors that were replaced. He estimated these savings to be \$39,000. Mr. Murphy added that there should be an additional \$15,000 extra in Excess Costs coming back to the Town that will offset this expense.

Chairman Fitzgerald stated that he was not certain that Capital Expenses could be used to offset general operational expenses. First Selectman Jerram stated that he believed that such a transfer had occurred in the past and he would be happy to check into this for the Board. Mr. Tuxbury questioned if the Board of Finance would have to approve of this, and member Witte suggested that questioning the process be deferred until an opinion could be rendered by the Town Attorney.

V. Enrollment Projection Analysis report November 2016 from the Superintendent and BOE Chair:

Mr. Fitzgerald noted that this agenda item was at the request of a few of the members of the Board of Finance. They had requested to him that this be on the agenda so that they could get copies of the report that was recently completed by the consultant hired to evaluate data regarding future enrollment. Superintendent Murphy stated that the report is available on the website and can be downloaded from there. Mr. Fitzgerald noted that there didn't seem to be any reason to have a discussion on the matter since copies of the report were not available at the meeting. Mr. Fitzgerald confirmed that a meeting of the Enrollment subcommittee was scheduled for Thursday, December 15 at

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7:00 pm at Ann Antolini School. Board of Finance alternate member Maria Moore commented that she had reviewed the report and stated that it is a good report.

VI – Draft Audit:

Chairman Fitzgerald distributed DRAFT copies of the June 30, 2016 Annual Audit. He noted that it was not yet fully complete and that the draft is not available for public distribution. He asked that the Board members review the material and be ready to pose questions directly to the auditors at the January 2017 Board of Finance meeting. First Selectman Jerram commented that, at first blush, the report looks good; noting that there was savings and surplus.

The Management Letter was also distributed, with the Chairman asking that this, too, remain for personal use and not public distribution. He noted that there would be no discussion of this letter yet, as the First Selectman needs a chance to respond to the letter, as is normal procedures. Mr. Fitzgerald asked that questions regarding the audit and/or letter be emailed to him so that he could pass them on to the auditors in preparation for the January meeting.

VII. Line Item Transfers:

First Selectman Jerram reported that there were no requests for line item transfers at this time. He pointed out that one line item – Torrington Water Company hydrants shows a slight overage and he will be discussing this with the Board of Selectmen at their next meeting to see how they wish to handle this, but repeated that the Board had no specific request for transfer at this time.

VIII- Reports

Mr. Tuxbury questioned the status of the bond refunding /refinancing. Mr. Jerram replied that the transactions have been completed. Funds have been transferred in and out as required. Mr. Tuxbury questioned the issuance costs reported as being \$48,100. The First Selectman responded that the figure was correct; the number includes fees for rating costs, legal fees, and consultant fees ; noting that a breakdown of specific costs is available for review if Mr. Tuxbury wanted to see them.

Discussion of revenues and potential hold back from the State occurred. Mr. Jerram noted that it is common knowledge that the State has a huge deficit and no one knows what impact that may have on revenues anticipated by the Town. No one knows what may be held back, if anything. There is no certainty at this point of what may transpire. Jerram commented that with respect to the town budget, winter is just beginning and it is the winter season that can “make or break the budget.” It is “too early” to tell what impact weather may have.

Alternate Board of Finance Member Moore asked if there was any way to include the current balance of the General Fund each month. There was consensus that the General Fund balance changes daily and would not be as meaningful as having the Treasurers report available on a regular monthly basis. The Treasurers report shows more of a history of the account which is useful for comparison purposes. Chairman Fitzgerald will ask the Treasurer to send a written report each month to Board of Finance members and noted that the physical presence of the Treasurer each month would not be required.

The First Selectman updated the Board members on operations and noted specifically the following: WUCC – Water Utility Coordinating Committee has asked that all towns submit a declaration of their water service areas. The First Selectman/Board of Selectmen declared the current proposed sewer service area as the water service area and asked that the remainder of the town be designated as “unassigned service area.” Mr. Jerram noted that the declaration of water service areas and the potential sale of water assets are totally unrelated topics. It is just a coincidence that these issues are occurring at the same time. With regards to the potential sale of assets, Jerram stated that the Asset Evaluation committee had decided to “kick back” the RFP to the attorney for another look at language. They want to be certain that the language is very tight and says what it needs to say.

The Building Department continues to be active, with several large permits being issued. Land use and Building are areas of supply and demand; and currently there is demand for services. Mr. Jerram gave a “heads up” that there may be a need to alter the current Building Inspector position.

The First Selectman also informed the Board of Finance that the State has changed some regulations regarding storm water management that has an impact on the way New Hartford is required to conform to Storm water regulations. The new regulations are much more intense than in the past and will require additional engineering assistance for guidance in the proper implementation of mandated procedures.

Jerram informed the Board of Finance Board that all 3 bargaining units are up for re-negotiations. Discussions will soon begin.

New LED lighting will be installed in Town Hall. Grant funds from the Connecticut Green Bank will be used to offset the cost of installing new energy efficient lighting. Jerram explained that part of the building received lighting upgrades following the re-build that occurred after the sprinkler flooding. The lighting in the areas of the building that were not affected by the incident are the targeted replacement areas. Capital funds in addition to grant funds will be used for this expense.

Recreation program account remains healthy. There was a slight loss of camp revenue due to summer camp being shortened by one week; but beach sticker sales increased.

Carpenter Road Bridge project has had some problems with finding an effective way to dewater the area. Best practices have been used, but the soils being encountered are causing some difficulty with being able to properly contain silt. The contractor and engineers are in discussion regarding the best way to proceed. Chairman Fitzgerald asked if there are additional costs being incurred. Jerram replied that the project remains under budget at this time. Jerram noted that planned winter shut down will soon be occurring.

Following the completion of the First Selectman’s report, alternate Board of Finance member Moore asked Mr. Jerram if any thought had been given to having a regional building official. She mentioned that the Northwest Council of Governments had proposed having an engineer be shared by towns and wondered if this could be done with a Building official. Jerram replied that he, himself, has had conversations with a few towns to see if they would be interested in sharing the services of a building inspector, but has come up empty handed. There are fewer and fewer individuals who hold the professional license of a building inspector and those that do want full time employment with full benefits.

Ms. Moore also commented on the established water service area; asking if the Board of Selectmen had given consideration to allowing Torrington Water Company to provide water to the South end of Town. She noted that they have infrastructure in place and available and it seemed prudent to her to allow them to be the provider for this area so that additional construction of houses could be accomplished in that section of town. This, she opined, would allow for more children to be available to be enrolled in the schools. She noted that school enrollment projections are showing decreased numbers of children. Additional housing in this area would provide the children needed to maintain enrollment at 3 schools. Mr. Jerram replied that this is not the area of town that has been slated for growth in the approved Plan of Conservation and Development. He stated that he agreed that more growth is needed, but it should be in the Route 44 corridor. This would allow for additional users on the water and sewer system. The sewer system needs additional users in order to help defray costs to the current users. Ms. Moore commented that the growth that is occurring on the Route 44 corridor is not working – it is “ugly growth.” She added that the development that has occurred has not benefited the sewer users. Jerram rebutted that it is commercial growth that has occurred, which will result in Grand List growth which benefits all taxpayers. Members Witte and Tuxbury added that they were not in agreement with the statement that additional children coming into New Hartford schools would be a benefit. Member Baxter and Alternate member Nilsson agreed that business and commercial development is needed.

X. Discussion and any Legal Representation/Counsel for the Board of Finance:

Alternate Member Nilsson opened the discussion on this agenda item by stating that he was in support of the Board of Finance seeking independent counsel to act on their behalf. He stated that “things have been divisive for a while” and felt it would be prudent to have an attorney who specialized in Municipal Finance answer questions and concerns independent of Town Counsel. First Selectman Jerram asked Mr. Nilsson to provide specific examples of instances where there may have been a lack of clarity of an opinion. Mr. Nilsson stated that line items would be an example of where he felt independent counsel was needed. Member Witte disagreed, saying that opinions have been rendered and he (Witte) felt that hiring a separate attorney would be asking attorney to fight against attorney and then the Town would be in court seeking a ruling at huge expense to taxpayers.

First Selectman Jerram interjected that the hiring of an attorney goes beyond the purview of the Board of Finance. He stated that the Municipal Town Attorney serves on behalf of the best interests of the town, not personally to the First Selectman. Jerram also stated that the Board of Finance has no administrative authority. They are statutorily given the power to engage the auditor and prepare the Annual town report. Operation of the town is outside of their scope of duties. Alternate Member Moore stated that other Boards have had the opportunity to engage attorneys other than the Town attorney and she felt that the Board of Finance should be able to engage the services of an attorney with expertise in Municipal Finance. She cited specifically that Planning and Zoning and the Water Pollution Control Authority have the services of attorneys other than the Municipal Attorney. Chairman of the WPCA Bud Butler was present and he interjected that the WPCA asked the First Selectman to check with the Municipal Attorney to see if the Municipal Attorney had time to devote to some complex

issues that the WPCA was dealing with. The response was that the Land Use Counsel had some specific expertise with some of the matters at hand and it was deemed that the Land Use Attorney would be more suited for those particular matters.

Member Moore countered that this is exactly what she was seeking ; an attorney who specializes in a concentrated area; which in this case, is Municipal Finance. She further stated that having an attorney available to the Board of Finance would be a thing of comfort. She feels the need to have certain questions answered and stated that if questions cannot be asked, "you don't know if you have gone astray." She cited a recent meeting where the Town's auditor "hemmed and hawed" with respect to answering a specific question posed to him and then replied that the response should come from legal counsel. First Selectman Jerram relied that the Town does have an attorney who specializes in Municipal Finance and that attorney is the "go to" legal counsel for bonding matters. He asked for specific instances where responses to procedural questions have gone unanswered. He stated that the budget process question has been asked and legal opinions have been rendered; noting that the answer may not have been to the satisfaction of the questioner, due to it being in conflict to what the individual had hoped for in a response, however, it was a legal response. Member Baxter also asked Ms. Moore, "When has the Town Attorney not provided an answer to a question; or is this more a matter of a decision has been rendered but you don't agree with it? Mr. Baxter stated that the Board of Finance can go to the Selectmen with questions and concerns and they bring it to the Town attorney for resolution. Mr. Jerram echoed that statement, reiterating that there have been many legal opinions sought pertaining to matters that involve the Board of Finance and/or procedures. He noted that the Town Attorney has been the Town Attorney during several administrations. The attorney represents the Town, not the First Selectman. Jerram further stated that if the Board of Finance feels strongly about the matter of legal representation, it is a matter that should be addressed before the Board of Selectmen and they are welcome to come before the Board with that request. Ms. Moore retorted that "had the Board of Finance had access to their own legal counsel, a certain member of the Board sitting at this table may not be here." Jerram stated that Town Counsel has stated that The Board of Finance has no authority to hire legal counsel. It is an operations matter that requires approval of the Board of Selectmen. Mr. Fitzgerald commented " we need an opinion on that." Mr. Jerram responded that he did, indeed, have such a document in his office and would be happy to provide it to the Board for review. Mr. Fitzgerald noted that the auditor had mentioned that the Town of Morris Board of Finance has engaged the services of an attorney ; therefore he questions how that occurred.

Member Tuxbury stated that legal opinions are based on interpretation and opined that interpretations can differ. The letter written by Town Attorney Roraback was distributed to the Board of Finance members and Jerram stated that if the Board of Finance wished to discuss the matter further with the Board of Selectmen and make a recommendation to the Selectmen, "we will hear you." Board of Finance Chairman Fitzgerald closed the discussion by stating that "this item will not go anywhere tonight"

XI. Discussion and any action on the topic of Electronic Purchase Orders and Time and Attendance, Integration with the Chart of Accounts and the General Town Operating and Capital Budgets:

Member Moore questioned if this agenda item would be discussed as it was her understanding that this item was requested by Member Smith, who was not present at the meeting. Mr. Jerram asked if there was a general concern about the current reporting. He noted that the Revenue and Expenditure reports are distributed each month and there are never any concerns expressed about what they show and very few questions are asked. Mr. Tuxbury replied that the use of electronic purchase orders comes as a recommendation of the auditor. He added that it is an acceptable form of internal control that people and towns use all over the state and questioned the apparent reluctance to use such a system. Member Baxter noted that the audit report does recommend the practice; stating that the auditor claims that it eliminates questions and increases transparency. Mr. Jerram stated that he found it hard to understand how transparency could be increased, it exists now noting that the current paper system requires that the Selectmen review the individual purchase orders and this allows for transparency. However, he added that if the Board of Finance wishes to make a formal recommendation for consideration of an electronic system, the Board of Selectmen would be willing to hear that recommendation.

Chairman Fitzgerald commented that it was his understanding that an electronic purchasing system would prevent a line item from exceeding its allocation. For example, if a purchase order is entered that requires \$500.00 in expenditure and that amount is not available in that line; the purchase order would not be able to be processed.

Bookkeeper Witte challenged this statement, saying that "it doesn't work like that." She noted that all software has overrides. She also asked if any thought had been given to the matter of the number of licenses currently available for the software in use. It is her opinion that there will be additional costs incurred if such an electronic procedure were to be implemented. These comments led to a discussion of "what do we have with the current software and what is it capable of?"

MOTION: by Tuxbury to request that the Board of Selectmen research electronic purchase orders, time and attendance, integration with the Chart of Accounts and the General town operating and capital budgets as far as cost and possible savings incurred as a result of such use; seconded by Nilsson.

Unanimous.

XII. Communication to the Board of Finance regarding open space land preservation, Butler Property

Chairman Fitzgerald noted that he had sent, electronically, to all members of the Board some correspondence related to an Open Space initiative that is currently being reviewed. The State of Connecticut Department of Agriculture is also involved. Mr. Jerram remarked that this is something that the Open Space Preservation Commission will most likely want to come before the Board to discuss this initiative. This will also need to go before Planning and Zoning and Board of Selectmen for discussion and approval.

At this point in the meeting, Mr. Fitzgerald asked to circle back to Item number X – legal representation and asked that the completion of the discussion of this item be tabled until the next meeting to allow the Board sufficient time to read and process the legal opinion that was distributed.

MOTION: by Nilsson to table the item "Discussion and any action on Legal Representation/Counsel for the Board of Finance" until the next Board of Finance meeting; seconded by Tuxbury.

Unanimous.

XIII. Opportunity for Public to Speak

New Hartford resident Bill Michaud stated that he was present on behalf of the Open Space Preservation Commission. Mr. Michaud remarked that the OpenSpace Commission stands behind and is in full support of the Butler Open Space initiative and they will promote this acquisition.

Alternate Member Moore asked if this is through the Agriculture Commission or the Open Space Commission; to which Mr. Michaud replied "they are the same; Open Space Commission is the Agriculture Commission."

New Hartford resident Bob Howson asked the Board of Finance Chairman a question regarding accessibility of the Town attorney to the Board of Finance. He questioned what the process was with respect to being able to speak to the Attorney. Mr. Fitzgerald noted that there was only one time in recent history that he attempted to contact the Town Attorney and was told that it needed to go through the First Selectman. Administrative Assistant Christine Hayward asked and was granted permission to provide historical knowledge of the matter. She noted that the procedure has always been that if a Board or Commission has an issue for which they would like legal counsel to provide assistance with, they have contacted the Office of the First Selectman so that the attorney can be notified that a call will be coming to his attention. There is no blanket authorization that affords anyone direct access to the Town Attorney. The Town Attorney always needs to know that his services have been approved by the First Selectman/Board of Selectmen as there will be fees associated with the services and the Board of Selectmen is the entity that authorizes payment. She noted that this practice has been in place for the 16 years of her employ and there has never been an occasion where a request to discuss a matter with the Town Attorney by a Board or Commission has been denied. Direct access is provided with approval.

XIV. Other Items or communications to come before the Board:

Chairman Fitzgerald distributed a packet of correspondence to all Board of Finance members. The packet included:

Correspondence dated November 10, 2016 from Dr. Judith Palmer

Correspondence dated November 16, 2016 from Superintendent of Schools Brian Murphy

Letter dated December 12, 2016 from resident Tom Buzzi

Letter dated December 12, 2016 from Tim Goff

Correspondence dated December 6, 2016 consisting of the agenda and data discussed at the December 6 meeting of Elected Officials

Mr. Fitzgerald commented that he was unable to attend the December 6 meeting regarding the budget development for Regional; but noted that Member Smith had attended. Mr. Jerram stated that he, too, attended the meeting and informed the Board that concerns were expressed regarding special education costs.

Mr. Tuxbury informed the Board that the New Hartford School teachers are currently in mediation and it is not certain if arbitration will be needed.

Having no other business to discuss, the Chairman asked for a motion to adjourn the meeting.

MOTION: by Witte to adjourn at 9:00 PM; seconded by Tuxbury.

Unanimous.

Respectfully Submitted,

*Christine Hayward, Administrative Assistant
Substitute Recording Secretary for Penny Miller*

Attachments:

**Correspondence dated December 8, 2016 from Jen Benaitis, Board of Education Chairman and Brian Murphy, Superintendent of Schools*

**Bookkeeper Report prepared by Annie Witte*

**Correspondence dated December 13, 2016 from Roraback & Roraback re: Board of Finance Statutory Powers*

**Correspondence dated November 28, 2016 from First Selectman Daniel V. Jerram re: Open Space/Farmland Preservation Butler Farm*

**Correspondence dated November 10, 2016 from Dr. Judith Palmer*

**Correspondence dated November 16, 2016 from Superintendent of Schools Brian Murphy*

**Letter dated December 12, 2016 from resident Tom Buzzi*

**Letter dated December 12, 2016 from Tim Goff*

**Correspondence dated December 6, 2016 consisting of the agenda and data discussed at the December 6 meeting of Elected Officials*