

**Board of Finance
Regular Meeting**

**Tuesday, January 9, 2018
Minutes**

Present: Chairman Jim Fitzgerald, Members Dan Charest, Reggie Smith, Ben Witte, Steve Tuxbury, Regina Wexler; Alternate Members Kerry Guilfoyle, Paul Leclair.

Others Present: First Selectman Dan Jerram, Selectman Alesia Kennerson, Town Treasurer Gordon Ross, Member of the Press Kathryn Boughton (Republican-American), Administrative Assistant Christine Hayward (substitute recording secretary); Invited Guests Chris King and Debbie Franklin (auditors); and members of the public.

Chairman Fitzgerald called the meeting to order at 7:00 PM. He announced that all members of the Board were present; therefore no seating of alternates was needed.

The fiscal year 2016-2017 Audit Presentation by appointed Auditor – King, King & Associates, CPAs:

Chairman Fitzgerald introduced Chris King and Debbie Franklin to those in attendance and stated that Mr. King and Ms. Franklin were present to review the 2016-2017 audit and answer any questions Board members may have regarding the audit.

Mr. King gave a brief overview of the contents of the audit; highlighting several areas as he went along. He explained that page 18 has the first set of financials that appear in the report. This report is done in the full accrual/full GAP accounting method. This type of method includes the value of depreciable buildings and equipment that are included in “business type” activities; such as the water and sewer assets of the Town. Page 20 of the audit shows the financials using the modified GAP accounting; which does not take into consideration depreciable assets.

There are differences in the reported fund balance within the audit. This is due to the fact that there are projects that are currently in progress; which has an effect on the way the fund balance is determined. Page 24 of the audit shows the fund balance in accordance with budgetary results; whereas page 11 takes construction balances into consideration.

Page 26 of the audit shows the WPCA (water and sewer) audited figures. Page 28 shows the pension fund.

Mr. King explained that business type activities include the activity of the WPCA whereas governmental activity does not.

Mr. King commented that favorable investments have helped to close the gap in the pension liability.

Page 52 of the audit document has information pertaining to the Teachers Retirement Plan. Mr. King stated that there is currently no obligation on the part of the Town to fund this; but noted that there has been some discussion of this at the state level as a potential future liability for municipalities. The State audits their retirement fund and the information is distributed to local towns for them to include in their local audit reports.

Mr. Witte questioned the fund balance reported on page 24. He asked if the beginning balance of the fund balance was the revised figure from the prior year's audit. Mr. King replied to this in the affirmative

Mr. King turned his focus to the "findings" of the audit, outlined in the State Single Audit report. He explained that the most significant finding of the audit was finding 17-01 which states "the central general ledger should be reconciled to subsidiary ledgers and systems." Mr. King stated that although bank statements are reconciled to the general ledger, there are some areas where there are different software programs in use and those are not always reconciled to the ledger. Mr. King explained that the Town has evolved over the years and it is his belief that there is a need for a 'business manager' type of position to oversee and pull everything together. He explained that both the Board of Education and the Town have bookkeeping departments that record transactions. However, these transactions are compartmentalized and are lacking reconciliation as a whole. Mr. King explained that the lack of reconciliation makes it difficult to track projects and know where things stand. He noted that the Town currently uses the service of a CPA consultant on a semi regular basis to review transactions and make adjustments as needed. However, this has not been done at the Board of Education level.

First Selectman Jerram interjected that New Hartford is a bit unique in its financial activities. Mr. King agreed, stating that New Hartford is a small town that has many of the larger towns financial reporting requirements. Having its own elementary schools and not being part of a regional school district at the elementary level creates a level of accounting that is challenging. Jerram stated that it is his intent to have the CPA consultant work with the Board of Education as well as the town.

The discussion of the finding continued, with Mr. King pointing out that reconciliation of the recreation department program account was another area that could use some 'pulling together.' He indicated that the recreation finances are recorded on one type of software, yet are manually entered into the bookkeeping software and sometimes things do not match. He noted that it would be better if the software would bridge together.

Of greater concern to the Chairman of the Board of Finance was the finding related to the reconciliation of the BAN refinancing. Mr. Fitzgerald questioned why this transaction was not properly recorded to begin with. First Selectman Jerram explained that it was a complicated transaction due to the fact that it involved several wire transfers between different vendors. He noted that there were closing statements provided that outlined each of the transactions, which created a paper trail and this was the first time that the town did this type of a transaction and it was a learning experience regarding how to book it properly; again noting that all funds were accounted for, just not in complete accordance with accounting principles. It was confirmed by the auditors that the consultant was able to reconcile and make a journal entry to rectify this; but that it occurred after the close of the audit.

Mr. Fitzgerald also questioned the reference made to the Small Cities Revolving Fund. He asked Ms. Franklin to explain her concerns in this area. Ms. Franklin replied that this is the first time that this particular fund has been 'tested.' She noted that there is some discrepancy in what was received in funding as compared to what was expended as loans/routine expenses and what has been paid back versus what is outstanding. First Selectman Jerram explained that the loans are recorded as liens on properties and there have been a couple of foreclosures which means that those funds will never be returned to the town. Those loans need to be 'written off.' A spreadsheet will be created that will track the outstanding loans and will make note of those foreclosures.

King explained the management letter. He stated that one of the concerns expressed in the management letter was the fact that the Board of Education could not provide a direct answer as to the outstanding anticipated reimbursements due to the town for the school construction project. Mr. King commented that this is an additional area where a project manager position would be beneficial. Oversight of all projects and communication between the town and the Board of Education bookkeeping departments would allow for a better understanding of what is reimbursable and what is not, which would lead to a better grasp of anticipated revenues.

Mr. Fitzgerald questioned the Neighbor to Neighbor fund since it was listed by the auditors as an account that they did not have access to reconciled statements. Administrative Assistant Hayward commented that she took full responsibility for failure to provide the documents to the auditors. She stated that she did not get that information to the auditors within their required timeframe, but has the information available for anyone who may want to review it. It was noted that the account is funded by donations, not tax dollars and there are checks and balances in place before funds can be expended. The Board of Finance Chairman asked the auditors why this account even exists in the Town's name. Mr. King explained that many towns have accounts like this; it is not an unusual practice. He commented that Social Services in smaller towns is generally handled by the First Selectman's Office and therefore this is an appropriate fund for that purpose.

Mr. Fitzgerald asked the auditors for clarification of the status of loan payments due to the town from the WPCA. He commented that page 62 shows that it is outstanding; adding that he was told by the First Selectman that the loan was current, but the audit seems to show otherwise. Mr. King replied that it was his understanding that a payment was made after June 30, the close of the audit period. The payment was late and therefore is listed on the audit as outstanding. Mr. Jerram interjected that the WPCA was current with the payments; but noted that the Board of Selectmen has approved a temporary reprieve from making two future payments.

Review and take any action on King, King & Associates, CPAs, Engagement Letter for Fiscal Year July 1, 2017, to June 30, 2018:

Chairman Fitzgerald presented the proposed letter of engagement for audit services for the 2017-2018 fiscal year as prepared by King, King & Associates, CPAs. He informed the Finance Board members that the fee for services is not expected to exceed \$29,390. This fee is based on a bill of \$27,580 to the Town and \$1,810 to the WPCA for services anticipated to complete the audit requirements. It was noted that should there be a need for a Federal Audit, an additional fee of \$1,700 would be added to the total. A federal audit would only need to be done if the threshold for grant funding is exceeded. It seems unlikely that these thresholds will be met.

Member Wexler asked if these fees are considered to be within range of what audits cost. She noted that she is 'new to this' and was just asking because she has no knowledge of what a typical expense is for this service. Mr. King replied that this quote does include a fee increase, but the fee remains below the market level. He noted that the audit is complex due to the CAFIR reporting requirements.

MOTION: by Smith to accept the audit fees as proposed for the 2017-2018 audit; \$27,580 for the town portion and \$1,810 for the WPCA portion; with a possible addition of \$1,700 if a federal audit is required; seconded by Wexler.

Unanimous.

Chairman Fitzgerald executed the agreement.

Review and take any action on the New Hartford Budget Timeline for Fiscal Year July 1, 2018, to June 30, 2019:

Chairman Fitzgerald distributed the New Hartford 2018/2019 budget timeline for consideration and approval.

MOTION: by Tuxbury to approve the 2018/2019 budget timeline as proposed; seconded by Charest.

Unanimous.

Review and take any action on Attorney for the Board of Finance:

Chairman Fitzgerald asked for direction from the finance board members regarding how to proceed with obtaining an attorney to be used as the consulting attorney for the Board. He stated that he hoped that they would guide him by providing him with some names of possible attorneys to consider. He noted that the money is in the budget.

MOTION: by Tuxbury to appoint Mr. Fitzgerald and Ms. Wexler to interview prospective attorneys and make recommendations to the Board of Finance for consideration to hire; seconded by Smith.

A discussion occurred regarding this matter. Ms. Wexler, herself an attorney, commented that she has had some brief initial discussions with colleagues of hers to see what could be expected as far as hourly rates were concerned. She stated that the rates she was quoted ranged from \$180.00 to \$200.00 per hour.

First Selectman Jerram interjected that the Board of Finance has no authority to draw a purchase order and “it should be made clear to any attorney that is contacted that they will not be paid.” Jerram stated that the town has a municipal attorney and hiring another attorney would be a waste of taxpayer dollars and redundant.

Wexler replied that she will share that as the opinion of the Board of Selectmen with any attorney that is considered.

Chairman Fitzgerald countered that the Legislative Body approved the budget with the expenditure for an attorney, therefore it is approval to spend that appropriation as designated in the budget.

The subject of whether or not the Finance Board has the authority to expend funds was a topic of debate. Member Witte stated that although he was not in favor of having an attorney specifically for the Board of Finance; he asked how it would be any different than the Land Use Boards who already have counsel specifically for their issues. Jerram replied that the town attorney is used for guidance with municipal matters and it is the attorney who has deferred to attorneys who specialize in Land Use for matters pertaining to land use issues.

Ms. Wexler commented that she did not understand the discord that seems to be apparent between the Board of Finance and Board of Selectmen. She stated that it seems to stem from the issue of line item

transfers; which she understood to be an area where the boards seem to have differing opinions as to how transfers should occur. She said that she has read an opinion written in 2009 that stated that there is no statutory definition of department and further states that the Board of Finance is the authority to transfer unexpended balances. Jerram replied that there is a difference between transfers within a department and transfers between departments; adding that transfers within a department can be done as needed, otherwise productivity would be adversely affected. Jerram stated that the attorney has opined on this matter and the current practice of transferring funds within a department is acceptable. Wexler countered that she has asked for a copy of an opinion that supports the current practice, yet has not received it. She remarked that if there is a second opinion that is in conflict with the original opinion, it would seem appropriate that there be a “sit down” with the attorney to reconcile the difference. She also added that it was her opinion that any professional would welcome and encourage a second opinion when there are conflicting interpretations.

Ms. Wexler stated that it is her understanding that the responsibility of the Board of Finance is to oversee that funds are being expended appropriately. Line item transfers, in her opinion, are part of the process and if there is a difference as to how those should occur, it should be clarified. She added that her concern is that many times “custom” becomes “law” and past practice becomes the norm and many times checks and balances are lost when this occurs. She would like to be able to be certain that how things are done today is not in conflict with approved practices.

Member Smith expressed his displeasure with how the First Selectman feels that contact with the town attorney should be handled. He stated that, in the past, the Board of Finance could go directly to the town attorney and now it appeared that questions had to be posed to the Selectman for him to bring to the attorney. He commented that if that is the case, then he would support the Board of Finance having its own attorney.

Member Charest stated that he did not believe that the Board of Finance should incur legal fees. He suggested that the town attorney be brought to a meeting and have the question of line item transfers be posed directly to him. Charest remarked that the past history of line item transfers has been that the First Selectman has the latitude to make adjustments. For many years, line item transfers have been done at the end of the year. Mr. Charest commented that the expense reports are available and reviewed at every meeting and if there are questions regarding spending, they should be asked when reviewing the reports.

Alternate Member Kerry Guilfoyle stated that she feels that a separate attorney is not needed, but does support having access to the town attorney when there is a complex issue. The line item and expense for a separate attorney is not needed.

Alternate Member Leclair stated that although the budget included a line item for an attorney for the Board of Finance, it was his opinion that most voters have no idea about the specifics of individual line items and therefore approval of the budget does not mean approval of an attorney. Mr. Leclair commented that he would prefer to see improvement in dialogue occur between the Board of Finance and Board of Selectmen, rather than hire an additional attorney.

Member Witte agreed that something needs to be done “‘if this is a lightning rod issue’ between the Boards; and added that if a second opinion would help to settle the issue, then the Selectmen should

support getting it.” However, he was not in favor of the Finance Board having an individual attorney. He added that he does not want there to be a habit of seeking a second opinion whenever there is a disagreement. He felt that direct contact with the town attorney would be a preferred method of conflict resolution. If a written opinion is offered, then it is important to have the question reiterated in the response so that everyone is comfortable with what has been asked and knows what is being answered. Mr. Witte supported Mr. Charest’s comments regarding how line item transfers have been handled. He stated “we’ve done this for many years.”

Member Tuxbury stated that the 2009 opinion to which Ms. Wexler referred to earlier is clear. He stated that “we need to do this.”

Chairman Fitzgerald stated that line item transfers appear on the agenda of the Board of Finance each month and rarely is there a request for a transfer; however, at the end of last year, the Board was presented with a list of transfers amounting to thousands of dollars. He used the example of bond costs being paid by transferring unexpended funds from the ambulance line item. Mr. Fitzgerald stated that there are transfers occurring within departments all the time without any notice or approval by the Board of Finance. He stated that it is his opinion that “an appropriation is an appropriation.” He commented that the bookkeepers report generally states that things are in balance within departments; however, individual line items are not addressed.

Mr. Smith reiterated that he wanted the Chairman to interview attorneys and get a fee schedule for the Board to consider.

Chairman Fitzgerald called for a vote on the motion on the floor.

In favor: Fitzgerald, Tuxbury, Wexler, Smith
Motion carries.

Opposed: Charest, Witte

Bookkeepers Report, Revenue and Expenditures:

The bookkeeper was not present at the meeting. Board members reviewed the reports that were available for their review.

Mr. Fitzgerald asked the First Selectman for an update on the status of Carpenter Road Bridge, noting that it appeared that there were additional expenses charged to the line item. Mr. Jerram replied that payment had been issued to the property owner as “rent” for the easement in place for the bridge project.

Line Item transfer requests, if any, for consideration and approval by the BOF for FY 2017-2018 YTD:

Chairman Fitzgerald asked First Selectman Jerram if he had any requests for consideration. Mr. Jerram replied that all departments are within budget. He added, however, that it is winter and winter drives the budget; especially when there are snow storms to deal with which equate to overtime costs and expenses incurred for sand and salt, equipment repairs, breakdowns, etc.

Opportunity for Public Comment:

No comments

Other items or communications to the Board:

First Selectman Jerram presented a letter to the Chairman and Board of Finance updating them on the status of the Butler Farm preservation initiative. This project is still viable and state grant funding remains in place should the Town of New Hartford choose to participate in this acquisition. The Open Space Commission and Board of Selectmen are prepared to present information at the February 13, 2018 meeting of the Board of Finance. It was agreed to include that item on the February agenda. (letter attached to the minutes filed with the Town Clerk)

Choose BOF Chairman:

Steve Tuxbury nominated Jim Fitzgerald to serve as Chairman of the Board of Finance; seconded by Reggie Smith.

Dan Charest nominated Ben Witte to serve as Chairman of the Board of Finance; seconded by Regina Wexler.

Nominations were closed by Smith, seconded by Tuxbury.

A brief discussion regarding the Chairman position ensued. Member Wexler asked if it was true that in the event of a tie vote, the Board of Selectmen would then have the authority to appoint a Chair for the Board of Finance. The response was yes.

Ms. Wexler stated that she found herself in a difficult position concerning her vote, (which she felt would ultimately be the 'tie breaker') due to the fact that she was new to the Board and had the least familiarity with what has transpired in the past at meetings. She commented that she was aware that a lot of conflicts have arisen during Chairman Fitzgerald's tenure as Chairman. She said that Mr. Fitzgerald has a strong personality and she suspects that she will disagree with him on issues in the future. She stated that she respects his commitment to the Board and his work ethic is unquestioned. However, "his leadership style has been an obstacle to respectful discourse." Mr. Witte, on the other hand, she stated, "has an excellent temperament, a positive leadership style and I would be more comfortable with him being Chairman." Ms. Wexler went on to say that her difficulty lies with the fact that if there is a tie vote, the Selectmen step in to choose a Chairman and it is her opinion that such action would disturb the underlying interplay of balance between the Boards and would create a blow to the independence of the Board of Finance. She finds this to be a larger issue than who should serve as Chairman, and announced that due to this larger issue, she would cast her vote for Mr. Fitzgerald.

A vote was called for and Mr. Fitzgerald was elected Chairman of the Board of Finance by a vote of 4 -2.

The votes were as follows:

All in favor of Fitzgerald: Wexler, Fitzgerald, Tuxbury, Smith

All in favor of Witte: Charest, Witte

Choose BOF Clerk:

Chairman Fitzgerald stated that the Board of Education has chosen to meet on the same night at the Board of Finance and noted that the current recording secretary is a member of the Board of Education and therefore will not be available to take minutes at meetings. Mr. Fitzgerald indicated that this will be a problem for the Board of Finance. He also commented that having a recording secretary is an expense to the Board. He suggested that the Board might want to consider having just a clerk --- someone who would capture the votes and record members present. Member Wexler objected to this, stating that

there needs to be accurate minutes of the meeting. She stated that the public expects to have transparency and recording votes does not capture the full essence of the meeting.

Chairman Fitzgerald asked if any members present had any suggestions of who might be able to fill the position of recording secretary/clerk. Without any viable suggestions for consideration, Mr. Fitzgerald asked the Board to think about some names for consideration at the next meeting.

MOTION: by Charest to adjourn at 9:23 PM; seconded by Smith.

Unanimous.

*Respectfully Submitted,
Christine Hayward, Administrative Assistant*