



Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

**Board of Finance Minutes
Meeting Minutes
Wednesday, February 20, 2019
Colchester Town Hall**

Immediately following the Joint BOS, BOF meeting at 6:30pm

MEMBERS PRESENT: Chairman Rob Tarlov, Mike Egan, Nilda Negron, Andrea Migliaccio, and Andreas Bisbikos

MEMBERS ABSENT: none

OTHERS PRESENT: First Selectman Art Shilosky, CFO M Cosgrove, Town Clerk G Furman, Registrar D Mrowka, BOS R Coyle, BOE B Bernier and M Bylone, Tax Clerk M Wyatt, J Walsh, L Akerman, S Coyle, T Rudko, I Rudko, J McNair, D Bouchard, D Malcolm, two residents and clerk T Dean

1. Call to Order

R Tarlov called the meeting to order at 8:10 pm.

2. Additions to the Agenda

R Tarlov asked to add #8 Discussion and Possible Action Regarding Legal Opinion from Shipman on Charter Review, renumber remaining items accordingly.

N Negron moved to approve the added agenda item as presented, seconded by A Bisbikos. Unanimously approved. MOTION CARRIED.

3. Interview of Applicants for Board of Finance Vacancy

1. Rob Esteve – was interviewed
2. Evan Evans – was interviewed

4. Approval of Minutes: February 6, Regular Meeting

A Bisbikos asked to amend the minutes #2, first page, to change "He states a lot of mysteries are coming from the state in form of tax proposals". A Bisbikos also requested to add his statement not in the minutes; "Work with the Fire Department on working things along with the paramedic program."

M Egan moved to approve the February 6, 2019 meeting minutes as amended, seconded by N Negron. Unanimously approved. MOTION CARRIED.

5. Citizen's Comments

James McNair – stated that his correspondence was added into the agenda packet. Expressed his concern with the Charter Revision deletion of the word 'develop' regarding the Board of Finance responsibilities.

Deanna Bouchard – stated that the Charter redline revision needs to be looked at and the spreadsheet recording all the changes as well. Also stated some errors on the website.

Taras Rudko – stated the change in the wording in Charter invalidates the power of the Board.

Dave Malcolm – stated deleting the word "develop" removes the BOF power. Stated his support in adding the word back.

Rosemary Coyle – urged the Board to talk to the Charter Revision Board to see if that was the intent of the group.

- 6. Correspondence** – entered into agenda packet. A Bisbikos asked if any other Board members received the correspondence from J McNair regarding the survey analysis. R Tarlov stated that correspondence was entered into this meetings agenda packet. A Bisbikos asked First Selectman A Shilosky why in his FOI request some emails did not show up from R Tarlov. A Shilosky stated that it was a query problem due to emails being transferred to an organization folder on email that the IT person needed to get access to, the IT coordinator is working on that now.

7. BOF Vacancy – Discussion and Possible Action

Discussion on Board on both candidates. Vote was taken on appointing a candidate; Rob Esteve – 3, Evan Evans – 2. Town Clerk G Furman swore in Rob Esteve as Board of Finance member for a term to expire on the next municipal election in November 2019.

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2019 FEB 22 AM 8:53
TOWN OF COLCHESTER

8. Discussion and Possible Action Regarding Legal Opinion from Shipman on Charter Review

R Tarlov reviewed memo from legal counsel (attached). Stated he felt the review committee didn't think removing the word "developing" would fundamentally change the process. He feels the voters didn't realize what they were voting on. Also expressed he feels it was an oversight with unintended consequences. Discussion on the Board and with the First Selectman A Shilosky regarding the process to revert the changes. Discussion on it being only one attorneys interpretation, and they need to find out the intent of the Charter Revision Commission. The Board also stated that if removing the word was the Commission's intent, it should have been highlighted and brought to the Board directly, that they felt no one had a clue that this was going to be removed.. A Shilosky agreed to get information from the commission, as well as documentation of the process. He will also discuss with the Board of Selectmen.

9. Department Reports

- a. **Tax Collector** – M Wyatt stated that they are running on track. January cycle is done and there is a 94% collection rate for the 2017 Grand List. 2,000 delinquent statements went out February 6th. 100 additional demand letters sent out. (report attached)
- b. **Finance** – M Cosgrove stated they are behind in Finance due to the recent resignation due to retirement in her office. Interim person assisting on the revenue report. Also working on the BOE budget.

10. First Selectman's Report

- a. **Transfer Request** – A Shilosky stated the town will be expending \$12,000 to replace the public computers in the library due to the current computers not currently supporting Microsoft.
- b. **First Selectman Report** – Applied for a grant to do work on the Town Green that originally was declined, but has now been approved for \$396,000. Work will include replacing the Gazebo, fencing, and bus stop hut. He will work with the Historic District Commission.

11. Old Business

a. Opengov.com – Discussion and Possible Action

R Tarlov, A Migliaccio, and A Bisbikos have reviewed the reports and they would like to add a budget trend report as well. A Bisbikos stated he feels this is a valuable program and thinks the community will love it. The Board asked when the BOE will be added, B Bernier stated they are still working on reports and it will be open soon. M Cosgrove stated that some integration still needs to be fixed to show current reports, and that should happen soon. R Tarlov stated that this will not impact the public reports as they are as of 12/31. A Shilosky and M Cosgrove were asked if anything is preventing us from going public and M Cosgrove stated she wasn't sure who had that decision.

A Bisbikos moved that Opengov go forward to the public for use, seconded by A Migliaccio. Unanimously approved. MOTION CARRIED.

- b. **Paramedic Program** – tabled
- c. **Budget Discussion**
 - i. **Survey** – tabled

12. New Business

a. Real Estate Transaction – Discussion and Possible Action

A Shilosky stated the property is located at 108 Mill Street. The estate owners want to sell it to the town due to blight and hazard of the house being so close to the road. The intent is to remove the house and the brush, the town will apply for a grant to cover the cost. Discussion on the Board of not knowing what the agenda item was for and what they were approving. The budget transfer/appropriation sheet was handed out (attached). Discussion on what additional information was needed. A Bisbikos and A Migliaccio had concerns about approving the appropriation due to not receiving the appropriation sheet before the meeting and not knowing whether the grant would be received.

M Egan moved to approve the appropriation from General Fund Unassigned Fund Balance to fund the purchase of the property at 108 Mill Street and associated legal fees for an amount not to exceed \$45,000 pending approval by the Board of Selectmen on 2/21/2019, seconded by N Negron. 4 in favor, with A Bisbikos and A Migliaccio opposed. MOTION CARRIED.

b. Election of Vice Chairman – Discussion and Possible Action

R Tarlov moved to nominate R Esteve as Vice Chair, seconded by M Egan. No other nominations. Unanimously approved. MOTION CARRIED.

13. Liaison Reports – none

14. Citizens Comments

Deanna Bouchard – stated her hopes of a resolution to the Charter elimination of the word “develops” for the Board of Finance authority. Stated her concerns of purchasing the property at 108 Mill St due to condition and expending funds.

Evan Evans – Stated his feeling on the Charter revision and his feelings toward the attorney’s responsibility in the matter. State his favor in fixing the issue. Thanked the Board for the opportunity to interview.

Dave Malcolm – stated if the Charter revision is correct, all that BOF has done is in violation of the Charter. Stated the purchase of the property 108 Mill St might be more of a cost than the town realizes. Questioned what would be included in the Town Green grant. Stated his feelings of the state of CT being unbearable to live in due to the financial situation. State his support of the ALS program.

15. Adjourn

A Migliaccio moved to adjourn at 10:03 p.m., seconded by N Negron. Unanimously approved. MOTION CARRIED.

Attachment: Shipman & Goodwin Legal Memorandum
Tax Collector Report
Budget Transfer/Additional Appropriation

Respectfully submitted,



Tricia Dean, Clerk

MEMORANDUM

TO: Art Shilosky, First Selectman, Town of Colchester

FROM: Matthew D. Ritter, Shipman & Goodwin LLP

DATE: February 18, 2019

RE: Authority of Board of Finance to Amend the Board of Selectmen's Proposed Budget

QUESTION; BRIEF ANSWER

You have asked me to review and analyze the Town Charter and the Connecticut General Statutes to determine whether the Board of Finance has the authority to amend the Board of Selectmen's proposed budget before the budget is acted upon by the Annual Budget Meeting.¹

In summary, the Board of Finance does not have the authority to amend the Board of Selectmen's proposed budget before the budget is acted upon by the Annual Budget Meeting. The revisions to the Town Charter approved by voters of the Town in November 2017 demonstrate an intent to limit the role of the Board of Finance in developing the Board of Selectmen's proposed budget.

KEY FACTS

In November 7, 2017, the voters of the Town approved various revisions to the Town Charter, including revisions to the provisions concerning the powers and duties of the Board of Selectmen and Board of Finance with respect to the annual budget process.

TOWN BUDGET OVERVIEW

A. Board of Selectmen Duties and Powers.

§ C-1105a. A. of the Town Charter provides that the "Board of Selectmen shall convene a special Town Meeting (the "Annual Budget Meeting") for the purpose of considering the annual Combined Budget²" and requires that the Town's Chief Financial Officer, or his or her designee, and at least two representatives from the Board of Education, Board of Selectmen (one being the First Selectman, or his or her designee in extenuating circumstances) and Board of Finance "be

¹Annual Budget Meeting is defined in § C-1105a. A. of the Town Charter.

² Combined Budget is defined in the Town Charter as "the combined projected expenditures of the Town, including the Board of Selectmen Budget and Board of Education Budget."

present at the Annual Budget Meeting” and that they “shall be available to respond to questions of the Town Voters³.”

§ C-1105a. B. of the Town Charter provides that:

“At the Annual Budget Meeting, the members of the Boards of Selectmen and Education shall, with respect to their respective budgets:

- (1) provide their proposed budget to the Town Voters;
- (2) have available for review by the Town Voters a summary of each department’s proposed budget with a comparison to the amount budgeted in the current fiscal year;
- (3) if feasible, have available for review by the Town Voters a summary of each department’s proposed budget and the amount estimated to be actually expended in the current fiscal year.”

B. Board of Finance Duties and Powers.

§ C-601. C. of the Town Charter provides that:

“The Board of Finance shall be responsible for presenting to the Town Voters the budgets for all Town Departments and the Combined Budget and shall have all of the powers and perform all of the duties conferred or imposed upon Boards of Finance by the General Statutes.”

§ C-601. C. (2) of the Town Charter provides that the Board of Finance shall “hold at least two Public Hearings for the purpose of presenting the Combined Budget to interested Town Voters for their comments and suggestions” prior to the Annual Budget Meeting.

C. Town Voters’ Duties and Powers.

§ C-1105a. C. of the Town Charter permits “Town Voters” in attendance at the Annual Budget Meeting to “reduce, but not increase, the Board of Selectmen and/or the Board of Education Budget upon the passage of a proper motion(s) (as hereinafter defined).” Pursuant to the Town Charter, a proper motion shall:

- “(1) stipulate a specific dollar amount for reduction;
- (2) stipulate the budget to which such reduction shall be charged (either the Board of Selectmen or the Board of Education budget);

³ Town Voters is defined in the Town Charter as “electors and other persons eligible to vote at any Town Meeting other than a regular or special Town Election, in accordance with the provisions of Section 7-6 of the General Statutes.”

(3) in the case of the Board of Selectmen Budget, the specific department's budget to be reduced must be stipulated. Reductions may not be made to the capital expenditures or debt service line items of the budget;

(4) in the case of the Board of Education Budget, only the bottom line may be reduced.”

SUMMARY OF LEGAL ANALYSIS

A. Town Charter Revisions.

It is important to consider the revisions that were made to the Town Charter in November 2017 when analyzing the relative budgetary powers of the Board of Selectmen and Board of Finance. In particular, there are revisions that enhance the powers of the Board of Selectmen with respect to its proposed budget.

One key amendment to the Town Charter is the language contained in § C-601. C. Under the language of the prior Town Charter, the Board of Finance was responsible for “developing and presenting” to the Town Voters the budgets for all Town Departments and the overall Town government budget.” However, under the revised Town Charter, the Board of Finance is only responsible for “presenting” the Combined Budget to the Town Voters. The deletion of the word ‘developing’ is important because it demonstrates an intent to limit the involvement of the Board of Finance in the creation of the Board of Selectmen’s proposed budget.

For example, § C-1105a. B. of the Town Charter, states that the Board of Selectmen shall provide its “proposed budget to the Town Voters” and “if feasible, have available for review by the Town Voters a summary of each department’s proposed budget and the amount estimated to be actually expended in the current fiscal year.” Together, these provisions indicate that the Board of Selectmen is obligated to deliver its proposed budget for submission to the Town Voters at the Annual Budget Meeting. If the Board of Finance can amend the Board of Selectmen budget prior to its submission to the Annual Budget Meeting, then it would be impossible for the Board of Selectmen to unilaterally provide its “proposed budget” to the Town Voters. The Board of Finance still plays a role in the budget process prior to the Annual Budget Meeting but it does not appear to have the authority to amend the budget developed by the Board of Selectmen. The deletion of the word ‘developing’ in § C-601. C. is particularly important in reaching that conclusion.

It is also worth noting that § C-1105a. C. of the Town Charter provides a very detailed process by which the Board of Selectmen’s budget can be reduced at the Annual Budget Meeting. For example, § C-1105a. C. (3), provides that the Town Voters may approve a motion which lists the “specific department’s budget to be reduced.” There is no similar authority given to the Board of Finance in the Town Charter. Furthermore, the previous Town Charter allowed the Town Voters to “stipulate a specific line item or the specific line items to be reduced” by the Town Voters at the Annual Budget Meeting. However, in the revised Town Charter there is no authority for the Town Voters or any other board or entity to make reductions to a specific line item. The removal of the reference to “specific line items” and the specific delegation of the

authority to reduce a department in the Board of Selectmen's budget to the Town Voters, is further evidence that the Board of Finance is not authorized under the Town Charter to amend the Board of Selectmen's proposed budget during the annual budget process.

B. General Statutes Provisions vs. Town Charter Provisions.

It is worth noting that the Board of Finance still has a pivotal role to play in the budgetary process and in the overall governance of the Town's finances. The Board of Finance holds public hearings on the proposed budget, is involved in presenting the proposed budget to the Town Voters at the Annual Budget Meeting and establishes the Town's mill rate for each fiscal year. In addition, § C-1111a. of the Town Charter provides that supplemental appropriations to the Board of Selectmen budget must be approved by the Board of Finance.

There is also language contained in § C-601. C. of the Town Charter which provides that the Board of Finance shall have all of the powers and duties "conferred or imposed upon Boards of Finance by the General Statutes." There are statutory provisions dealing with budget adoption that govern local boards of finance that conflict with the Town Charter. For example, § 7-344 gives a local board of finance the authority to recommend to the town meeting "an itemized estimate of expenditures of such town for [the] ensuing fiscal year." Conversely, the Town Charter, as discussed above, appears to limit the involvement of the Board of Finance in developing the Board of Selectmen's budget prior to the Annual Budget Meeting. The Town Charter now limits the Board of Finance to only "presenting" the budget to the Town Voters.

When interpreting the general provision contained in § C-601. C. of the Town Charter, there is a great deal of case law which indicates that specific provisions are to prevail over those that are more general in nature. In Cook-Littman v. Town of Fairfield, the Connecticut Supreme Court held that "the provisions of one statute which specifically focus on a particular problem will always, in the absence of express contrary legislative intent, be held to prevail over provisions of a different statute more general in its coverage." In the *Cook-Littman* case, the plaintiffs claimed that the general statutes should control over the Town Charter with respect to filling a vacancy on the Board of Selectmen because a section in the Fairfield Town Charter provides that the town and its inhabitants shall "have all powers and privileges conferred upon towns under the General Statutes." The Supreme Court held for the defendant, the Town of Fairfield, citing the specificity of a town charter provision dealing with the vacancy issue and ruled that the specific town charter provision prevails over a general reference to the General Statutes. The Supreme Court also noted that deference to a local town charter is particularly necessary when the issue under review is a matter of purely local concern. (*See Board of Naugatuck v. Naugatuck*, "[i]n an area of local concern, such as *local budgetary policy* (*emphasis added*), general statutory provisions must yield to municipal charter provisions governing the same subject matter. Our constitutional home rule provision . . . prohibits the legislature from encroaching on the local authority to regulate matters of purely local concern, such as the organization of local government or local budgetary policy").

CONCLUSION

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The Board of Finance does not have the authority to amend the Board of Selectmen's proposed budget prior to its submission to the Annual Budget Meeting. The revisions to the Town Charter and the specificity of the Town Charter provisions detailing the annual budget process demonstrate an intent to grant the Board of Selectmen the authority to develop its budget and the Town Voters the authority to make amendments to the budget prior to the annual budget referendum.

Tax Collector's Report for the Month of - January 2019

Collection Rate: 94.7%

Current Taxes Collected: \$10,984,490.77

Interest on Current Taxes Collected: \$3,241.25

of Demands: _____ sent on _____

Delinquent Taxes Collected: \$4,981.64

Interest on Delinquent Taxes Collected: \$16,537.05

Lexis Nexis Summary:

Accounts Active: _____

Money Collected: \$14,796.66

Notes:

- Tracking to make collection rates by June 30th
- Approx 2000 Delinquent letters sent beginning of Feb
- Additional 100 Demand Letters for old account send Feb 1

FY 18/19

Town of Colchester
General Fund
Budget Transfer/Additional Appropriation

Department:

Reason for Request:

Appropriation from General Fund Unassigned Fund Balance to fund the purchase of the property at 108 Mill Street and associated legal fees for an amount not to exceed \$45,000 as approved by the Board of Selectmen on 2/7/19

Reason for Available Funds:

Appropriation from General Fund Unassigned Fund Balance

From:

Account Number	Account Name	Amount
<input type="text" value="18501-36250"/>	<input type="text" value="Use of G/F Unassigned Fund Balance"/>	<input type="text" value="45,000"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

To:

<input type="text" value="18501-50500"/>	<input type="text" value="Trsf to Capital Fund - Land Acquisition"/>	<input type="text" value="45,000"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Date Requested


Department Director or Supervisor - Signature

Print Name

Date Reviewed


Chief Financial Officer

Date Approved


First Selectman

Date Approved

Board of Selectmen Clerk

Date Approved

Board of Finance Clerk