

Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

Board of Selectmen/Board of Finance Joint Subcommittee

Meeting Minutes

March 13, 2019

Town Hall, Room 3 @ 6:00 PM

Members Present: S. Soby, R. Coyle, R. Tarlov & A. Bisbikos

Others Present: A. Shilosky

RECEIVED
TOWN OF COLCHESTER
2019 MAR 14 PM 9:59

1. Call to order

A. Shilosky called the meeting to order at 6PM

2. Review of Charge

A. Shilosky read the charge.

3. Review of Information from Town Counsel

A. Shilosky turned the meeting over to R. Coyle as the Vice chair of the BOS and the subcommittee. All members previously read the statement and have no further questions.

4. Development of Memorandum of Understanding regarding FY 2019-2020 Budget Process

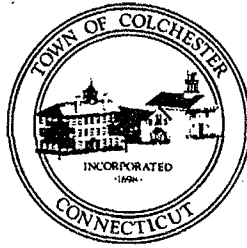
S. Soby moved that the draft language in the MOU be adopted as the policy statement to go forward to both BOF and BOS, with the policy coming from the BOS, seconded by R. Tarlov. R. Tarlov stated that he liked the simplicity of the MOU. He also feels the last statement allows for the BOS to change their mind at any point in time. Subcommittee members agreed to change the sentence from "...unless amended or ended by vote of the Board of Selectmen or superseded by revision of section C-601C..." to "until superseded by revision of Section C-601 C..." R. Coyle called for a vote, all members present voted in favor. Motion Carried. 4/0

5. Adjournment

A. Bisbikos motioned to adjourn the meeting at 6:17 PM, seconded by R. Tarlov. All members present voted in favor. Motion Carried. 4/0

Respectfully Submitted,

Joanie Campbell, clerk



**Board of Selectmen/Board of Finance Joint Subcommittee
Charge
March 13, 2019**

1. The Subcommittee will consist of two bipartisan members from the Board of Selectmen and two bipartisan members from the Board of Finance.
2. The charge is to draft a joint policy between the Board of Selectmen and Board of Finance that will specify the process for preparing the town budget for the 2019-2020 fiscal year.
3. This policy's purpose is to solve the immediate issue of the language change during the revision of the Charter, which eliminated the word 'develops' in Section C-601, Section C

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

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.