

Board of Finance – Special Meeting
July 1, 2009

The Board of Finance held a special meeting on Wednesday, July 1, 2009 at the C.H. Booth Library, 25 Main Street, Newtown, CT. The meeting was called to order at 7:05pm.

PRESENT: John Kortze, James Gaston, Joseph Kearney, Michael Portnoy, Martin Gersten. **ABSENT:** Harry Waterbury.

ALSO PRESENT: Legislative Council members Will Rodgers, Fran Pennarola, Jeff Capeci, Pat Llodra, Joseph Hemingway, Gary Davis, Jan Brookes, John Aurelia, Dan Amaral (7:30pm), Joseph DiCandido (7:30), Board of Education members Elaine McClure, Kathryn Fetchick, Anna Wiedemann, Richard Gaines, David Nanavaty, Board of Education Attorney Floyd Dugas, fifteen members of the public and one member of the press.

Mrs. McClure stated that the Board of Education had warned the meeting but removed the warning at the advice of the attorney that this is a non-meeting.

Mr. Rodgers noted that the meeting is a “special tri-non-meeting” of the three boards. There is a difference of opinion as to whether or not it is a meeting. It is a gathering required pursuant to Connecticut General Statutes 10-153(d) which requires that the Board of Education meet and confer with the Board of Finance and the Legislative Council. The purpose of the meeting is for non Board of Education boards to express their big picture concerns about town finances as the Board of Education enters into contract negotiations. The open session should be reserved for concerns of overall town finances, status of morale, status of education funding from other sources, etc. Discussion of appointments to the negotiation team, in general terms, can be in open session. There has been very high interest in Board of Education actions and activities in the past several weeks, the composition of the negotiations team, the administrative benefits and the awarding of the trash bid. The Boards have concerns how the negotiations will be approached given these recent actions.

Attorney Floyd Dugas stated that meetings used to be held in executive session and are now held in a non meeting context since the Statute was changed. Strategy for collective bargaining is beginning; this cannot be revealed in public session. He strongly suggested there would be a more productive dialogue in developing strategy if it happens in the context of a non meeting. Mr. Rodgers believes there is good to be gained by answering questions or correcting misperceptions of recent Board of Education activities.

Attorney Dugas stated the Board of Education is there to meet and confer about negotiations and hopes that they don't meander into things that don't have anything directly to do with negotiations.

Mr. Rodgers stated that the recent actions reflect on credibility and give rise for concern.

Mr. Kortze questioned what a non meeting is stating that the statute says “shall meet and confer (a joint discussion and collaboration, sharing of opinions)”. Are we in violation of the statute if we are not going to have a meeting or if it is a non meeting? Is this a meeting, a non meeting, an executive session?

Attorney Dugas said it is a public meeting. A non meeting, under the statute, meets certain criteria that means it is not a meeting under the statute, therefore does not have to comply with the Freedom of Information Act. Mr. Gersten questioned whether or not this gathering satisfies the statutory requirements of a meeting. Attorney Dugas answered that this gathering, and meeting in the non meeting format, would satisfy the meet and confer obligation. Subsequent meetings typically do not happen because a member from the local fiscal authority sits in as a participant in the negotiations to provide a liaison back and forth.

Mr. Rodgers stated this is a meeting that includes the Board of Finance and the ultimate fiscal authority.

Mr. Kortze asked who represents the Town from the Board of Educations perspective. Attorney Dugas said the fiscal authority that sits in as an observer during the negotiations represents the Town. The Board of Education decides who their team will be to represent the Board. Mrs. McClure said the Board of Education met last night and started with David Nanavaty and Mrs. McClure doing the negotiations and decided to discuss strategy and the size of the committee, under executive session, at the next meeting scheduled for July 14. Mr. Kortze voiced concern as to whether or not the persons on the negotiating team were up for re-election. Mr. Rodgers offered a recommendation, from the Board of Finance to the Board of Education, is that they consider the longevity of members of any negotiation team.

Mr. Nanavaty stated he is here because the statute has indicated part of the responsibility of the Board of Education is to hear from the fiscal authority, the Board of Finance and the Legislative Council, as to the fiscal situation of the Town so they can determine an appropriate approach in developing strategy. Mr. Rodgers said the statute says “meet and confer” and is asking that they go a little beyond that.

Mr. Kortze asked if the negotiating committee was going to discuss with other town unions to see what’s transpired. Attorney Dugas said they will look at other teacher contracts around the state and then look at what’s happening locally.

Mr. Rodgers read a letter from Attorney Dugas stating that the Board of Education has the sole and exclusive duty to bargain with the teachers collective bargaining agent. Prior to commencing negotiations the Board of Education shall meet and confer with the Board of Finance or the ultimate fiscal authority. The Legislative body has thirty days to reject once a contract is reached.

Attorney Dugas stated the ground rules lay out the procedure. The commencement date is July 19, 2009. The mediation date is September 7, 2009. That begins a period of 25 days in which they are required by law, if there is no agreement, to have mediation. If there is no agreement by October 2, 2009 binding arbitration commences. These dates are non waivable. Typically there are two meetings following the initial meeting for both sides to present proposals.

Attorney Dugas has a summary of every school contract that was settled last year, summer/fall period. There is no specific trend in what towns are doing. Mr. Portnoy understands asking the largest union to freeze salaries would go right to arbitration.

Mr. Gaston stated it was extremely important to see what town unions are doing, noting the Board of Education may want to meet more than once with the Legislative Council and the Board of Finance. He suggested getting information on the state of the economy the last time there was collective bargaining negotiations and compare to the economy now. Know what is in the capital improvement plan and know that the Board of Education is going to have an increased operation of over \$200,000 with the high school expansion. There will be additional operational costs related to Hawley School and the Middle School also. Mr. Gaston suggested an additional Board of Finance member be allowed to observe negotiations.

Mr. Kearney would like to avoid nasty financial surprises. Mr. Kortze questioned how you discuss cost of living increases in this environment. Attorney Dugas said this comes up because it is one of the statutory factors the arbitrators look at. The arbitrators generally use the consumer price index as a measure of the changes in the cost of living.

Mr. Dugas explained that the Board of Education decides the make up of the group. The determination is based on by laws, procedures the Board has for determining how committees and subcommittees are made up. Mr. Rodgers said it is not the discretion of the Chair of Board of Education to select members; it has to be a voting action of the Board. Mr. Rodgers asked Attorney Dugas to verify this. Attorney Dugas stated that the process, at least the negotiation component, will be done and over before the election happens. It is out of the Board of Education hands after the arbitration date (Oct. 2nd). Mr. Gersten is troubled by the confrontational nature of the Board of Education and stated that more cooperation and communication from the Board of

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Education would more likely yield a result that is best for the town. Mr. Gaston noted that the Board of Education, under the statute, has the right to bring in a second person. Attorney Dugas encouraged a lean team as the more people the longer and more difficult it is to reach a decision. Mr. Kortze stated that every single year there are items that we cannot effect, contractual obligations, salaries and benefits. Every year it is portrayed as an immovable object. This is the time to be able to try to move that object so that there may be wiggle room on fixed costs.

Mr. Rodgers stated the non meeting concept should've been related to the Boards.

Mr. Kortze moved to enter executive session. Motion seconded by Mr. Gersten and carried unanimously. Executive session was entered into at 8:10pm and returned to regular session at 9:30pm with no action taken.

ADJOURNMENT: Having no further business, the special Board of Finance meeting was adjourned at 9:30 p.m.

Susan Marcinek, Clerk