

Board of Finance
December 22, 2009

The **Board of Finance** held a special meeting on Tuesday, December 22, 2009 in the Council Chamber, Newtown Municipal Center, 3 Primrose Street, Newtown, CT. John Kortze called the meeting to order at 7:30 p.m.

PRESENT: John Kortze, James Gaston, Marty Gersten, Joseph Kearney, Harry Waterbury and Michael Portnoy

ALSO PRESENT: First Selectman Llodra, Finance Director Robert Tait, Town Attorney David Grogins, four members of the public and two member of the press.

VOTER COMMENTS: none noted.

COMMUNICATIONS: Mr. Kortze talked about a document he received from Mr. Tait from Standard and Poors (Att. A). He also spoke of a document on the forecast of the State (Att. B). Mr. Kortze reported that Redding has been downgraded because they took money from the rainy day fund.

ACCEPTANCE OF MINUTES: Mr. Gaston moved to accept the meeting minutes of October 22, 2009. Mr. Gersten seconded. All in favor. Mr. Gaston moved to accept the meeting minutes of November 9, 2009. Mr. Waterbury seconded. All in favor.

FIRST SELECTMAN REPORT: First Selectman Llodra suggested the Board choose budget dates soon so that can be planned for with the Board Room. Mrs. Llodra told the Board that the Selectmen reviewed the CIP at the meeting the night before and will complete the CIP process on January 4, 2010. Municipalities need to be prepared to receive about 3% less in State grants for the current budget. The bottom line won't be known until February.

FINANCE DIRECTOR REPORT: Mr. Tait explained the revenue side is the problem and talked about budgeted amounts compared to actuals. We are short \$910,000 in revenues. Some accounts appear they will have a balance at the end of the year and there is refunding savings. A budget amendment will reduce the revenue and expense side. The education side is down in excess cost grants. Kathy Fetchick, vice chair of the Board of Education said to date there is a deficit of \$568,000 in the excess cost grant; overtime has been frozen, some maintenance projects have been reduced.

Mr. Kortze spoke about the Board of Education minutes of December 1. Kathy Fetchick stated the Board of Education has had no meeting to direct the Superintendent on the budget. Bill Hart stated they are trying to establish a baseline. Mr. Kortze stated a budget directive is a policy type decision that should be set by the Board. There was discussion about ten additional students placed by the State into Newtown and the cost involved. Mrs. Fetchick said the cost for nine is \$568,000,

NEW BUSINESS:

Discussion and possible action:

Election of Chair and Vice Chair: Mr. Gaston moved John Kortze as Chair of the Board of Finance. Mr. Gersten seconded. All in favor. Mr. Kortze moved Jim Gaston as Vice Chair of the Board of Finance. Mr. Gersten seconded. All in favor.

Resolution: Mr. Gaston moved to waive the reading of the entire resolution with respect to the authorization, issuance and sale of not exceeding \$3,500,000 Town of Newtown general obligation refunding bonds. Mr. Gersten seconded. All in favor.

Mr. Gaston moved the resolution with respect to the authorization, issuance and sale of not exceeding \$3,500,000 Town of Newtown general obligation refunding bonds.

Mr. Gaston moved the RESOLUTION PROVIDING FOR A SPECIAL APPROPRIATION IN THE AMOUNT OF \$3,500,000 TO REIMBURSE THE NEWTOWN YOUTH ACADEMY FOR CERTAIN COSTS RELATIVE TO PARKING FACILITIES REQUIRED PURSUANT TO A LEASE DATED SEPTEMBER 28, 2007, AND AS AMENDED ON JUNE 26, 2008, AND AS FURTHER AMENDED ON DECEMBER 5, 2008, AND AS FURTHER AMENDED ON NOVEMBER 23, 2009 BETWEEN THE TOWN OF NEWTOWN AS LANDLORD AND THE NEWTOWN YOUTH ACADEMY AS TENANT

RESOLVED:

Section 1. The sum of \$3,500,000 is a special appropriation made pursuant to Chapter 6, Section 6-30 (a), (b) and (c) of the Town Charter of the Town of Newtown to reimburse the Newtown Youth Academy for certain costs relative to parking facilities required pursuant to a lease dated September 28, 2007, and as amended on June 26, 2008, and as further amended on December 5, 2008, and as further amended on November 23, 2009 between the Town of Newtown as landlord and the Newtown Youth Academy as tenant, said appropriation to be inclusive of administrative, financing, printing and legal costs related thereto, and any and all State and Federal grants-in-aid thereof.

Section 2. This resolution shall be in effect until December 31, 2010. Mr. Gersten seconded.

Mr. Kortze learned by state statute refunding doesn't require Board of Finance action. This should be addressed by Charter. Mr. Gersten is concerned about the underlying predicate for the bond. Is there a problem with the integrity of the bond? Attorney Grogins stated the original obligation was created as a part of the lease. Peter D'Amico funded the parking lot, the Town agreed to reimburse him with periodic payments under the lease. The language of the lease in the amendment provided that this was an annual obligation and would be part of the budget process, to be voted on every year by the town. This was characterized by the auditors and the Finance Director as a long term debt. Under the Statutes any debt can be refunded. Transformation of the debt to a bond is appropriate. Mr. Gersten is concerned about using up the 10% capital. Mr. Gaston stated provisions in the Charter were not followed. The guaranteed maximum price for the parking lot and the demolition of Greenwich Hall was \$3,500,000 and was done by Claris Construction. Mr. Gaston stated he is uncomfortable that the process of checks and balances has not been followed. He would like this submitted in the CIP, ranked, discussed and documentation of the cost. Mr. Portnoy asked if this could happen again. Attorney Grogins said the lease was not a capital expenditure, it was an operational lease. The process entails a Town Meeting. Mr. Waterbury asked if there was something official to make sure this didn't happen again.

Motion passed 4-2 (YES: Gersten, Kearney, Waterbury, Kortze. NO: Portnoy, Gaston).

Board of Finance
December 22, 2009

Mr. Gaston moved the RESOLUTION WITH RESPECT TO THE AUTHORIZATION, ISSUANCE AND SALE OF NOT EXCEEDING \$3,500,000 TOWN OF NEWTOWN GENERAL OBLIGATION REFUNDING BONDS

Section 1. Not exceeding \$3,500,000 General Obligation Refunding Bonds (the "Refunding Bonds") of the Town of Newtown (the "Town") may be issued in one or more series and in such principal amounts as the First Selectman and Financial Director shall determine to be in the best interests of the Town for the purpose of (i) maximizing net present value savings, (ii) moderating debt service payments, and/or (iii) to refund the obligation of the Town to reimburse the Newtown Youth Academy for certain costs expended by the Newtown Youth Academy (the "Obligations") pursuant to that certain Indenture of Lease by and between the Town as Landlord and the Newtown Youth Academy as Tenant, dated as of September 28, 2007, as amended by the Amendment to Lease, dated as of June 26, 2008 (as amended, the "Lease"). Pursuant to Section 7-370c of the Connecticut General Statutes, the Refunding Bonds are hereby authorized to refund all or any portion of the Town's outstanding Obligations pursuant to the Lease (the "Refunded Bonds"). The Refunding Bonds shall be issued and sold either in a negotiated underwriting or a competitive offering, and at such time or times as the First Selectman and Financial Director shall determine to be most opportune for the Town. Each series of Refunding Bonds shall mature in such amounts and on such date or dates as shall be determined by the First Selectman and Financial Director provided, that no Refunding Bonds shall mature later than the final maturity date of the last maturity of any Refunded Bonds being refunded by such series. The Refunding Bonds shall bear interest payable at such rate or rates as shall be determined by the First Selectman and Financial Director, shall be executed in the name and on behalf of the Town by the manual or facsimile signatures of the First Selectman and Financial Director, bear the Town seal or a facsimile thereof and be approved as to their legality by Robinson & Cole LLP, Bond Counsel. The Refunding Bonds shall be general obligations of the Town and each of the Refunding Bonds shall recite that every requirement of law relating to its issue has been duly complied with, that such bond is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The aggregate denominations, form, details, and other particulars thereof, including the terms of any rights of redemption and redemption prices, the designation of the certifying, paying, registrar and transfer agent, shall be subject to the approval of the First Selectman and Financial Director. The net proceeds of the sale of the Refunding Bonds, after payment of underwriters' discount and other costs of issuance, shall be deposited in an irrevocable escrow account in an amount sufficient to pay the principal of, interest and redemption premium, if any, due on the Refunded Bonds to maturity or earlier redemption pursuant to the plan of refunding. The First Selectman and the Financial Director are authorized to appoint an escrow agent and other professionals and to execute and deliver any and all escrow, investment and related agreements necessary to provide for such payments on the Refunded Bonds and to provide for the transactions contemplated hereby. The First Selectman and Financial Director are authorized to prepare and distribute a preliminary and final Official Statements of the Town for use in connection with the offering and sale of the Refunding Bonds, and they are hereby authorized to execute and deliver on behalf of the Town a Bond Purchase Agreement, a Continuing Disclosure Agreement and a Tax Regulatory Agreement and such other documents necessary or desirable for the issuance of the Refunding Bonds and the payment of the Refunded Bonds.

Section 2. This resolution shall be effective until December 31, 2010.

Motion passed 4-2 (YES: Kearney, Portnoy, Waterbury, Kortze) (NO: Gersten, Gaston).

Board of Finance
December 22, 2009

Transfer: Mr. Gaston moved the transfer from Contingency to Regional Brownfields in the amount of \$800. Mr. Portnoy seconded. All in favor

Mr. Gaston moved the transfer from Contingency to Lake Zoar Authority in the amount of \$1,000. Mr. Gersten seconded. All in favor.

Approval of 2010 Meeting Calendar: Mr. Gaston moved to approve the 2010 meeting calendar. Mr. Portnoy seconded. All in favor.

Discussion on CIP: The Board of Selectmen will be prepared to present the CIP to the Board of Finance on January 11, 2010. The Board of Education CIP can be addressed at a later meeting.

Board of Education Monthly Financial Report and Budget Summary Report: Mr. Kortze requested a Town side monthly budget report also and asked that both be put on the agenda once a month.

Unfinished Business

Discussion and possible action: None noted

ANNOUNCEMENTS: none noted.

ADJOURNMENT:

Having no further business, the Board of Finance adjourned their regular meeting at 9:20 p.m.

Respectfully Submitted,

Susan Marcinek, Clerk

Att A: Standard and Poors

Att. B: Fiscal Accountability of State Government