

A. Jeffrey Capeci, Chairman
Mary Ann Jacob, Vice Chair
Dan Amaral
Jan Andras
Kathy Fetchick
James S. Belden



Gary Davis
George T. Ferguson
Kevin Fitzgerald
Bob Merola
Ben Spragg
Dan Weidemann

TOWN OF NEWTOWN

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**Minutes from the regular meeting of the Legislative Council
Held in the Board Room in the Newtown Municipal Center,
3 Primrose Street, Newtown, Connecticut
Wednesday, August 17, 2011**

** These are draft minutes and as such are subject to correction by the Legislative Council at the next regular meeting. All corrections will be determined in minutes of the meeting which they were corrected.*

Chairman Capeci called the meeting to order at 7:00 pm.

Present: Jeffery Capeci, Gary Davis, George Ferguson, Kathy Fetchick, Ben Spragg, Daniel Amaral, James Belden, Kevin Fitzgerald (by phone), Dan Weidemann (after being sworn in)

Absent: Jan Andras, Mary Ann Jacob, Robert Merola

Also Present: Town Clerk Debbie Aurelia, Robert Tait, Bill Hart, Chairman of the BOE, Andrew Buzzi of the BOE, 15 members of the public and 3 members of the press

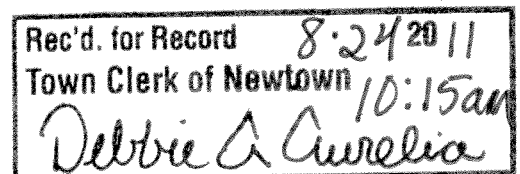
Voter Comment: Lorraine Santor, 6 Buck Trail. Spoke of a personal experience from 2007 of not getting a solution from the school system on overcrowding on her daughters bus so she started introducing herself to Owner Operators and told them her concerns. A transportation committee was formed. Some owner operators were on the committee and were not paid to do this. The head of the transportation department said that the only way to solve the problem was to add three buses. The committee met once to twice a month and restructured the routes to alleviate the problem. She requests that the transportation bid is negotiated legally and fairly.

George Schmidt, 12 Old Castle Drive – Read from an e-mail that he sent the four council members representing district one. He stated that the Legislative Council is prohibited to take action and requests that the resolution be tabled on out of scope.

Donna Monteleone, 4 Erin Lane - She asked the Legislative Council to leave the negotiating of the transportation bid to the Board of Ed. The LC ran for their seat as did the member so of the BOE. Let them do their jobs. She loves her neighbor bus drivers but the BOE should be dealing with it.

Minutes – Ms. Fetchick moved to accept the minutes of the August 3, 2011 meeting, Mr. Spragg seconded, motion unanimously accepted.

Communications – None



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Committee Reports – None

First Selectman's Report – None

Unfinished Business – None

New Business

Appointment of a replacement for 2nd District Council Member Woycik – Ms. Fetchick moved to appoint Dan Weidemann to the second district councilman, George Ferguson seconded, motion unanimously approved. After motion was approved, Mr. Weideman was sworn in by Town Clerk Debbie Aurelia.

Ms. Fetchick moved to A Resolution: Whereas the Owner/Operators (O-Os) have given Newtown nearly 80 years of excellent service;

Whereas the O-Os enjoy overwhelming support by the public;

Whereas the O-Os have trusted records in both safety and public service;

Whereas the Newtowners who comprise the O-O cooperative are trusted members of our community;

Whereas the dissolution of this tradition has the potential ending it in perpetuity;

Whereas the Board has a fiduciary responsibility to the taxpayers of Newtown and bid offered by the O-Os in its current form is not competitive;

RESOLVED that the Newtown Legislative Council requests that the Board of Education give the Owner/Operators every legal opportunity to narrow the gap between their bid and the lowest other viable bids. Means may include separate negotiations with the O-Os and an open, fair and transparent opportunity for the O-Os to narrow the gap and provide a best final offer. The Legislative Council believes these actions are in the best interest of the Town with respect to finance, quality of life and safety. Seconded by Mr. Ferguson.

Ms. Fetchick brought this to the LC. She has been hearing from many residents as well as elected officials who have expressed concerns about the O-Os. According to town charter, the council is not allowed to commit these dollars without a town meeting or town referendum. Ms. Fetchick stated that she feels if they are going through the bid process it should be a fair bidding process.

Mr. Amaral will abstain because he has buses parked on his property and he also services some of them.

Mr. Fitzgerald read his statement that was sent by e-mail to council member. (attachment A).

Bill Hart and Andy Buzzi represented the BOE. Mr. Hart read a statement (attachment B). A list of questions were given to the BOE (attachment C). Mr. Hart and Mr. Buzzi were ready to answer any question but there was no prepared written response to the questions. Council members read through some of the questions on the list. Mr. Capeci explained that the resolution was not intended as giving O-Os special status.

Mr. Buzzi said that they constructed a bid document that is very permissive. They have given the BOE the widest possible latitude to conduct the bidding so they can have a fair process and get the best bid for the town. It does not give them the ability to act unethically; it does not give them the ability to deal with one bidder with the exclusion of other bidders.

Mr. Davis asked what the factors were that they are going to use to determine the low bid, and what are the overall criteria's? Mr. Hart replied that it was safety, cost, quality of service, ability to manage, reliability, and the ability to offload as much administration as possible. Ms. Fetchick questioned the purpose of the TV show and how come all the bidders were not invited. Mr. Hart replied that it was for public information. They did

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not invite all bidders because they only had 30 minutes. However, all bidders were invited to the meeting that is being held on Saturday, August 20th.

ot all the components of bus transportation are part of the bid. There are the bus routes, Special Ed which is run by MTM and athletic/field trips which are run by McCutchan Transportation. Special Ed and athletic/field trips are not part of bid.

The current O-Os are part of the emergency response team and that is a great concern for the town. Mr. Hart's responded that it doesn't mean that whoever gets the bid will bring in out of town drivers. All of the bidders said that they would consider hiring local bus drivers. If there was an emergency, Mr. Hart has no doubt that the bus company would help out.

Mr. Ferguson applauded the fact that this is being bid out because the citizens are getting more value for their dollars. There is an inherent value that there are committed professionals who have provided something that is difficult to come by. He is hopeful some of these intangible items are taken into account. Mr. Hart said that they cannot demand that everyone who works and is employed by the town live in town. Mr. Davis asked if there is anything the LC can do to help the BOE with their decision which Mr. Hart replied that the best thing they can do let them do their process.

Mr. Hart said the resolution on the table is inappropriate and puts the town in a bad position. When the BOE goes out to bid, companies bidding need to know that they are going to have a fair shot. The resolution will hurt that process.

Mr. Ferguson made motion for a five minute recess, Mr. Davis seconded, motion unanimously accepted.

Mr. Spragg moved to end the recess, Mr. Davis Seconded, motion unanimously accepted.

Mr. Davis commends Ms. Fetchick for bringing this to the Council and the BOE for being responsive. There are those members of the council that wants the O-Os to win the contract. The resolution clearly demonstrates that they are trying to favor the O-Os which was not the intention. This may also be violating the town's code of ethics. Other than showing support for O-Os, Mr. Davis doesn't see a purpose of supporting this resolution. This exposes the town to law suits; individuals can be attacked and hopes that the resolution will be taken off the table. He supports the O-Os but the tax payers should get the most for their money.

Mr. Spragg moved to amend the current resolution to; The Legislative Council requests the school board to use is its discretion in multiple factors in awarding the busing contract. Mr. Ferguson seconded. Mr. Fitzgerald questioned why they are choosing a resolution for only the O-Os. It is inappropriate for the council to manage the BOE. The resolution would only hurt the process. Mr. Ferguson said that Mr. Spraggs motion is ok but could be improved by calling out some core values and traditions that have been a significant part of the process. We have had a long tradition of highly personalized caring for our children and peace of mind for our community. Mr. Ferguson removed his second.

Mr. Belden said that he appreciates the information that was given tonight. The undue influence of this body taints the bidding process. The LC has done its duty by flushing out the questions. Putting a resolution on paper is dangerous regardless of how it is worded.

Ms. Fetchick, moved to table the resolution and get advice from legal counsel, seconded by Mr. Ferguson, motion unanimously accepted.

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Voter Comments – NONE

Announcements – Mr. Capeci has been in communications with Pat Llodra and Liz Stocker. Liz Stocker will be in-front of the council in September to discuss the future of economic development.

Mr. Spragg moved to approve the transfers from account 01270-2002 FICA for \$817,005 to various FICA accounts per attachment D (totaling \$817,005). Seconded by Ms. Fetchick motion unanimously accepted.

Mr. Spragg moved to approve the Pension transfers from account 01260-2001 Town & Police plan for \$815,615; account 01260-2002 Elected Officials for \$15,774 and account 01270-2006 Misc benefits for \$14,000 to various pension accounts per attachment E. Ms. Fetchick seconded, motion unanimously accepted.

Mr. Spragg moved to approve the transfer from account 01270-2001 Medical Benefits for \$2,806,855 to various medical benefit accounts per attachment F (totaling \$2,806,855). Mr. Belden seconded, motion unanimously accepted.

Mr. Spragg moved to transfer \$20,455 from 01570-2000 Contingency to \$18,992, 01300-0101 Full Time Operators and \$1,453 to 01300-0202 FICA. Mr. Ferguson seconded, motion unanimously accepted.

Mr. Ferguson moved to adjourn the meeting at 11:08pm, Mr. Weidemann seconded and the motion was unanimously carried.

Arlene Miles, Clerk Pro-Tem

Kevin Fitzgerald Legislative Council Member for District 1
Statement Against Resolution To The Board of Education Regarding Transportation Bid
August 17, 2011

I am opposed to the Legislative Council using a resolution to interrupt the Board of Education's review of the Transportation bid. While my family and I personally support the Owner Operators and I have publicly stated my willingness and commitment to help privately fund the Owner Operators if they require it, I cannot support this Council's involvement for the following reasons:

1. **To Do So May Violate Newtown's Ethics Ordinance** - Specifically items B and/or D which include members of the Legislative Council and of the Board of Education and read as follows: Item B: "*Officials and employees shall not render preferential treatment to others on the basis of such factors as family ties, financial interests, friendship or political consideration.*" Item D: "*Officials and employees shall refrain from attempting to influence anyone concerning the awarding of Town contracts on the basis of such factors as family ties, financial interests, friendship or political consideration.*" The lack of formal communication from the public to this Council on this issue directly raises the question of what is driving this intervention if not the taxpayers.
2. **We Agreed On An Alternative To A Resolution** - As I understood our meeting on August 3rd, we agreed as a Council to put questions together to ask of the BOE in an effort to ensure that the Transportation bid review process was not biased AGAINST the Owner/Operators. This approach was decided as an alternative to creating a resolution. Yet, after the meeting, this resolution was drafted by the Chair and has since been circulated to the public, without any input or review by any other Council members.
3. **The Opposite Of Our Objective** - The resolution as drafted does not reflect what the Council at its August 3rd meeting, agreed would be our objective related to the Transportation bid review. Again, our objective was to put questions together to ask of the BOE in an effort to ensure that the Transportation bid review process was not biased AGAINST the Owner/Operators. However, the resolution as drafted after our meeting by the Chair does exactly the opposite in that it pressures the BOE to intervene only on the Owner Operator's behalf.
4. **A Disturbing Pattern Of Resolutions** - The pattern of internally produced resolutions is disturbing and thwarts our efforts to engage the public to participate in town government. For example; the resolution created earlier this year encouraging the Fairfield Hills Authority to review the proposal for apartments at Cochran House overlooked the fact that the public was overwhelmingly against housing at Fairfield Hills. Similarly, this resolution encourages an action for which the LC has received no official support from the public. Clearly, this is a dangerous pattern in that it suggests the Legislative Council has its own agenda, rather than that of our constituents.
5. **Not this Council's Purview** - Once this Council has determined the size of the Education budget and the taxpayers have approved that budget, State statutes and Newtown's Charter make clear that it is not the purview of the Legislative Council to direct how the BOE should assign those funds on a line item basis. Therefore, I believe this resolution as drafted violates both State statutes and Newtown's Charter.

6. **Not Past Practice And Sets A New Precedent** - The Education Program in Newtown has lost 50 or more positions in the recent years, many coming as a result of cuts to the Education budget as dictated by this Council. Earlier this summer as a result of this Council's budget directive to the BOE, a number of Educational Assistants were laid off and many others had their hours reduced. At no point did this Council create a resolution in support of those positions, many of which were held by Newtown residents. This dramatic show of support for the Owner Operators by the LC is inconsistent with past practices and only sets a new precedent that I doubt the LC would be willing to support in the future.
7. **Factually Unsupported** - This resolution as drafted includes statements that cannot be supported by evidence and may only reflect the opinions of some Council members.
8. **The Legislative Council's Credibility Would Be Called Into Question** - Only a few months ago, the BOE and Town-requested budget was defeated by voters and this Council responded by directing the BOE to reduce \$750,000 through "structural cuts." The LC determined that the message from taxpayers was that both the BOE and the Town must learn to do more with less funding. This Transportation bid is an attempt by the District to cut spending by millions of dollars over the next five years without affecting the classroom. Therefore, this Council should not interfere with that effort in any way.

LC Meeting 8/17/11

Thanks for the opportunity to discuss the Board of Education's transportation bid process. I think that it is important to maintain an open dialog between all parts of our town's government.

When I moved to Newtown nearly 2 decades ago, I was happy to see that the school buses were run by independent contractors. As a small businessman myself, I am glad to see successful entrepreneurs anywhere. As my 3 children have gone through the school system, we have enjoyed good service from our bus drivers and have gotten to know some of them well. In the mornings I liked chatting with our elementary school bus driver, Mary Ellen Sideleu, and enjoyed watching her daughter, who we first met riding in the car seat next to her, grow up over the years.

However, when I became involved with the BOE 2 years ago, I learned that all was not as it appeared with this system. While Newtown clearly has a highly cost effective educational system – our cost per pupil is 5.7% below our District Reference Group average and 10.1% below the state average; our cost for transportation was more than 40% higher than either the DRG or the state. This seemed pretty counterintuitive to me, since one would expect small business to have lower overhead and costs than the big companies.

The first explanation I heard was that Newtown was geographically very large and had unusually twisty roads increasing our travel costs. However, the results of the competitive bid conducted for the District's special needs transport conducted in 2009 didn't bear this out. The competitively bid rate was about 30% less.

Normally the costs for the District are controlled by a system of checks and balances that protect the tax payer. For our unions, it is the binding arbitration process. For services, it is the competitive bidding process. And for the most part it has worked well. For example, our largest union, the teachers, earn on average 5.7% less than the average for the DRG. However, I was surprised to learn that the regular bus transportation has apparently never gone out to bid. It hasn't ever been subject to the same checks and balances as our other costs. And the suppliers hadn't felt the same competitive pressures that other business people are used to.

Clearly, both to meet the policies of our board and the town, and to uphold the fiduciary responsibility that we were elected to fulfill, it was imperative that work of this magnitude be put through the competitive bidding process. It is the execution of a legal and fair bidding process to which we are committed.

I recognize that this could be potentially disruptive for the owner/operators. They are dedicated people who have provided good service to the community. There are many examples of the good service that they have given. However, they are not the only group of dedicated people who serve this community. Newtown is truly fortunate to be well served by people in all areas: our custodians, policeman, teachers, snow plow drivers, etc. will all frequently go out of their way to help. I had a chance to watch this winter as our custodians became aerial snow shovelers clearing the roofs, and see Don Roos' backyard plumbing at the Middle School to stop the leaking water. Several years ago, when my wife became ill, educators such as Gale Lynch, Carol Wexler, and Donna Pagé went out of their way to help my children and me.

The dedication of all our public servants is what makes Newtown a good place to live. Creating a special status for one single group simply isn't fair. The economic reality is that all of us have to be competitive. I am sure that no one on our board wants to see anyone lose their job. However the economic realities of the past 3 years, which have required that we eliminate nearly 60 positions, has taught us that we have to be prepared to make tough choices.

The intrusion of the LC into our bidding process is also I believe inappropriate. State law clearly vests this decision exclusively in the hands of the Board of Education. Second, for the LC to attempt to grant favored status to one of our bidders compromises the bidding process and may hurt the ability of the District and the Town to attract bidders in the future.

We as a Board are committed to conducting a fair and legal bidding process. We have retained expert technical and legal advisors to ensure that our bid protected the tax payers, the Board, the town, and the bidders. We have also made every effort to provide information to the public.

The Board of Education has not yet made a decision. We are going through a process to carefully, and publically, examine the bids. This isn't easy for any of us. Your support in helping us conduct this process is greatly appreciated.

QUESTIONS FOR THE BOARD OF EDUCATION REGARDING THE TRANSPORTATION BID

1. Did the BoE authorize the study to be done by Transportation Advisory Services (TAS)?
2. It is stated in the TAS letter, dated 1/28/2011, a data collection instrument was created by TAS and distributed to school districts identified by Newtown Public Schools. What were the original school districts identified, how were they determined and who determined the school districts?
3. Is the school district required to accept the lowest bid?
4. Is the school district allowed to reject all bids?
5. Is the school district allowed to negotiate with a single proposer who's not the lowest bid?
6. Has the bussing contract ever been bid out? If not, why not?
7. Please provide clarification as to how the review questions were developed. Please provide the questions asked, the responses and the comments by the reviewers.
8. Please provide the analysis and explanation of the proposals from each remaining bus proposers.
9. It is our understanding the school district requested of the Owner/Operators to appear on a local public television program with the BOE attorney, the BOE chair and a "Newtown Resident". The following are my questions:
 - a. What was the purpose of this program?
 - b. Please comment on the identity of the "Newtown Resident" and how this individual was chosen.
 - c. Were the other bidders extended an invitation? If not, why?
 - d. It is my understanding part of the program was to include discussion about the legal issue with regard to the Owner/Operators. Why would the district talk about an unresolved legal issue outside of an executive session?
10. How often has each bidder been contacted by school district personnel? Please provide documentation associated with correspondence.
11. Please provide the documentation associated with the All-Star bid prior to their allowed adjustment and after.
12. Has there been any effort on the part of the school district to try to reach a compromise with the Owner/Operators relative to the bid and the legal issue? Please provide an explanation for the direction taken. Were the Owner Operators afforded a similar opportunity?
13. The BOE chair released a statement to local publications – see attachment A. Please clarify the reason for the release of the statement.
14. Assuming all proposed pricing was the same, what are the factors about the O/O bid that make it more or less attractive than the other bids?
15. Does the O/Os relationship with the district currently and in recent years help or hurt their bid? Financials aside, does the relationship between the O/Os and the District warrant a change?
16. Some people point to the district administration, the Superintendent and the Business Director specifically, as "wanting to get rid of the Owner Operators" for a long time. Is that the case and if so, what was the reason the district wanted to make a change?
17. Is there any information not being provided to the BOE by the District that would be relevant to its decision or that would prevent the BOE from making a well-rounded decision?

Questions for the Board of Education Regarding the Transportation Bid

18. The wording of question #14 “Can the town save money by hiring a company” and question #17 “What is the benefit of a change in providers?” suggest the decision was already made to change providers. Is this accurate? Where these questions designed to convince readers of the virtues of this decision or to answer questions the public was asking?
19. Two years ago, did the O/Os offer reduced pricing to the District in response to the struggling economy? Did the Board accept their offer? Please explain.
20. How, if any, does the BOE assign a value to the other benefits to Newtown that would be lost if the O/Os are not awarded the contract? What is that value?
21. Does the BOE intend to calculate and tally the overall financial net impact on Newtown (inside and outside the District) if the O/Os were replaced by an alternative provider?
22. Did the OO bus drivers take voluntary pay cuts in 2008-2009?
23. Please explain how you will evaluate the final four bidders in awarding a bus transportation contract. Which of the factors you evaluate will carry more weight than the others?
24. How might accepting the low bid for the bus transportation contract impact the education budget during the life of the new bus contract?
25. Please detail what you have learned to date about the safety and vehicle inspection records of the final four bidders. How much will the safe transportation of Newtown children weigh as a factor compared to other factors being considered in awarding the new bus transportation contract?
26. Assuming it was the winning bid, please discuss the administrative cost increases and decreases that may result from each of the individual bids and how that may impact the school district budget and operations.
27. Currently, the bid from the owner/operators is not the low bid. If the town were to agree to pay the difference between the cost of the low bid and the cost of the bid from the owner/operators, would that make a difference in your decision-making?
28. How do you believe the Legislative Council might assist you in retaining the owner/operator bus transportation system, as some members of the public and of the Legislative Council have requested? What role might municipal government play, if any?