



Town of Wayland Massachusetts

Finance Committee

Tom Abdella
Nancy Funkhouser (Vice Chair)
Thomas Greenaway (Chair)
Carol Martin
Bill Steinberg
Dave Watkins
Gil Wolin

Finance Committee Meeting Minutes, November 12, 2014

Attendance: T. Greenaway (Chair) (arrived late), C. Martin, B. Steinberg, G. Wolin, T. Abdella, N. Funkhouser and Finance Director Brian Keveny.

1. Call to Order

The meeting was called to order at 7:00 pm by Vice Chair Nancy Funkhouser in the Senior Center of the Wayland Town building. The meeting was recorded by WayCam.

2. Public Comment and Committee's Response to Public Comment

Dorothy Dunlay, Sherman's Bridge Road: The FinCom should vote not to use to use Town funds to pay the School Committee fine. Residents shouldn't be punished for (SC members') misdeeds. The taxpayers should not have to pay the legal fees the SC used to fight the fine.

Molly Upton, Bayfield Road: Commended the FinCom for revisiting the long-range Planning, and cautioned not to go too fast. She also asked if there were a new a better way to approach long-range planning. She suggested that we look into Lexington's model of establishing a 501(c)(3) nonprofit organization to house the school's adjunct programs, such as BASE, food services, etc., which are supposed to be self-supporting.

Donna Bouchard, Concord Road: School Committee member, speaking as a private citizen, said in July 2013, the Attorney General levied a \$1000 fine on the SC. The AG warned the SC in December of '09 and again in February '11 of OML violations. This violation occurred in June 2013. The SC spent \$14,000 in payments to Town Counsel to fight this and other OML violation fines, and to negotiate this one down to \$500. The fine was levied due to lack of agenda specificity. There is no benefit to the public (Wayland residents) for the Town to pay the fine, so the Town should not pay it. SC members should pay the fine themselves. The fine is there to ensure the violation does not happen again. She also requested that – should the FinCom vote to transfer funds to reimburse the SC funds, from which the fine has been paid - that the transfer be \$400, not \$500, as she would personally pay her share of the fine.

Anette Lewis, Claypit Hill Road: She questioned from which MUNIS account the fine would be paid. Brian Keveny said it would be from the Legal Services account. Ms. Lewis said it was not appropriate to pay the fine from this account, as the fine is not a legal service. She added that she agrees with the previous residents that the fine should be paid personally by the SC members.

Margo Melnicove, Lakeshore Drive: This is her second comment to protest the SC's request that the Town pay the fine. She believes strongly that it is inappropriate and an affront to Town residents. The FinCom fund can be used only in case of extraordinary or unforeseen events, and this violation does not meet that test. She

added that in 2011, the Board of Selectmen personally paid their fine for an OML violation. This violation was neither unforeseen nor extraordinary, and she referred back to Ms. Bouchard's statement of prior warnings. She added: "Don't add insult to lying."

George Harris, Holiday Road: Said that the transfer is basically a "done deal," and found it interesting that Donna Bouchard was the only member here from the SC. He said that on October 6, at the SC's public meeting, Chairman Ellen Grieco reported on a telephone conversation she had earlier in the day with Chairman Tom Greenaway, who said that he was "comfortable with the transfer." That SC meeting is available for review on WayCam. Mr. Harris proceeded to counter the two arguments made in favor of the Town paying the fine. The first, that it would "chill" volunteers from running for public office, is a "bogus" argument, as evidenced by the fact that we had six candidates for the recent Board of Selectmen's seats, after it had paid an OML violation fine. The second, that having the SC pay the fine from their budget would "cheat the students out of educational funds" is wrong because that \$500 represents only 1/1000th of 1% of the school's annual budget. He stated the fine is a penalty to make the SC pay attention and comply with the law. Finally, having the fine paid via a transfer would set a bad precedent.

Rich Turner, Nob Hill Road: As a taxpayer, he felt the SC should pay their own fine. "They made the mistake; they should pay."

Alice Boelter, Lakeshore Drive: Spoke in support of all previous speakers. She said it is important to demonstrate transparency. Having the FinCom pay the fine sets a bad precedent. Making the SC pay their own fine will encourage more scrutiny.

Ms. Funkhouser reported that she had received "six or seven" emails supporting the SC's request, which will be attached to this meeting's minutes.

Ms. Martin asked Molly Upton for more detail on the 501(c)(3) concept. Molly said more research was needed. Mr. Abdella said that his experience indicated that it provides some tax benefits to those who contribute, but that downside was that if the program was ever halted, there was no way for any money remaining to be transferred to the General Fund; it must go to another [MA] 501(c)(3) [with a similar mission].

In response to Ms. Funkhouser's question, Ms. Bouchard said that yes, the SC personnel who were fined are the same SC members who had been warned about open meeting law violations twice before.

Mr. Watkins asked if there was now a process in place to prevent this from recurring, if the issue was agenda vagueness. Ms. Bouchard responded that the AG said it was the SC members' responsibility insure that they understood their agendas, and to request Chair clarification if needed to avoid such future OML violations. The SC now must make sure that it understands how deficient its agendas were. She added that the SC could resolve the issue locally by dealing directly with the complainant, as the complaint goes to the SC before it goes to the AG, and thus can prevent it from being filed with the AG.

Ms. Funkhouser asked what is the problem in listing more general topics on executive session agendas? Ms. Bouchard said that there are very specific approved reasons for entering into executive session, and one of those must be stated on the agenda. The AG held that the actual reason for the executive session did not qualify under the OML.

Mr. Wolin commented that community sentiments as expressed this afternoon in a *Wicked Local Wayland* online poll ran 97% in favor of the SC members paying their own fine, and that not one respondent said the Town should pay.

Mr. Watkins asked about any further appeals. Ms. Bouchard responded that, while some members of the SC felt that the fine could be overturned, it was not worth the estimated \$10,000 additional legal expense charged to the taxpayers

3. School Committee CIP Review

Ms. Bouchard introduced the Town's new Facilities Manager, Ben Keefe. Also presenting were Susan Botta, School Business Administrator, and Leisha Simon, Director, Technology & Accountability.

Ms. Martin, FinCom liaison to the SC, spoke on behalf of SC member Barb Fletcher and stated that some CIP requests were for facilities assessment, and asked is the current configuration the best one for educating the Town's children. Many CIPs may be place holders.

- The primary concern is that some buildings may be too old to invest in, as per John Moynihan.
- Therefore, the question is: can we get sufficient additional years (20?) out of those buildings to justify the cost of repairs and upgrades (doors, windows, tiles, etc.)? Mr. Keefe will assist here.
- We may need to work through some issues with the consultant to make a proper determination.

Ms. Martin and Ms. Botta reviewed current actual multiyear capital projects already underway as per a 10/6 email from SC member Barb Fletcher:

- Classroom furniture replacement: \$35,000 each for the elementary schools, and \$25,000 for the Middle School. Claypit and Happy Hollow.
- Claypit Hill and Middle School window and door replacement.
- Loker is in the 2nd of a 5 year plan; Middle School will run through 2019.

Discussion followed regarding the number of classrooms affected at each school and what kind of furniture. Ms. Botta indicated that the Town is using the same vendor as before, as all were happy with quality and price.

Ms. Bouchard said that the SC will be retuning \$10,000 in unspent furniture funds this year. Ms. Martin added that the SC is reviewing all current capital accounts, and that they are doing an excellent job of closing facilities accounts.

There is a question about additional capital funds needed for Claypit School for doors and windows, possibly as much as \$200,000. \$1.1 million was previously approved, but cost is now projected to be \$1.9 million. The Town should qualify for a 37% MSBA reimbursement, which lowers the out-of-pocket to \$1.25 million.

Discussion followed between Ms. Martin and Mr. Keefe regarding this increase. The Town will have to go back to the MSBA with the new amount. We may need a contingency vote at Town Meeting to approve the increased expenditure. Lead paint, asbestos removal and a 10% design fee are driving the cost increase, discovered during an environmental assessment. Mr. Keefe indicated that it could qualify for a 35.42% MSBA reimbursement. Further discussion may be required.

Chairman Greenaway arrived at approximately 8:50 PM.

Middle School windows are now estimated to cost \$250,000, added to last year's \$250,000, now totaling \$500,000. The current windows were found not to be anchored to the structure during the assessment, much worse than originally thought. The additional \$250,000 is a place holder, as the cost could be significantly less. Mr. Steinberg asked how an estimate could virtually double – is the review and bid process broken? Mr. Keefe agreed that the process needed review, and that would be one of his first projects. Discussion followed on the need for precision in these CIP estimates, with two of the six CIPs still placeholders,

Placeholder CIPs have been filed:

- | | |
|---|--|
| • Tile replacement at Happy Hollow and Loker Schools | \$110,000 |
| • Renovation of cafeteria, art room & nurse's station at Happy Hollow | Was \$85,000 + \$20,000
Now + \$195,000 |
| • Paving at Happy Hollow (top coat) | \$52,000 |
| • Loker doors & windows (pulled forward from 2018, due to conditions) | |
| • Phone upgrade at elementary and middle schools | \$120,000 in 2016
\$140,000 in 2017 |

These elementary school CIPs have been filed as placeholders, pending more detailed recommendations which might result from the facilities assessments. This also gives Mr. Keefe a chance to catch up with projects already planned and in process. Discussion followed, and FinCom recommended that more details be provided for the TM warrant. Chair Greenaway suggested Mr. Keefe not rush, and that a lighter capital budget for 2016 would be welcome

Ms. Simon explained that the telephone system upgrade was in response to the school's adopting A.L.I.C.E. safety protocol: (Alert, Lockdown, Inform, Counter, Evacuate), which requires a phone in every classroom to enable them to contact 911 directly. Currently only intercoms are available to contact the respective Administration offices. It will be done collaboratively with Facilities to control cost. Depending upon cost, it may be VOIP, the standard set by the new high school. This is being done because cell phones do not work well in schools.

Discussion followed regarding outsourcing and whether this is a "nice to have" or a "need to have." Ms. Bouchard stated that A.L.I.C.E. is supported by the Police Department for public safety and is addition to safety programs already in place.

Chair Greenaway cautioned regarding adding significant costs to the five-year plan. Ms. Simon indicated that cost increases are due to an upgrade to CAT6 network standards, applying the new network standards set by the new high school. Chair Greenaway stated that if future capital costs dictate network switches be replaced or upgraded every 6 to 7 years, they should be budgeted for. There will not be a "just in case" reserve or contingency fund for those.

Ms. Martin said that the SC would close out more projects this Friday.

Chair Greenaway said that the FinCom will vote on the draft budget on December 1. The FinCom may go back to the SC once, in February, but urged the SC to bring their capital budget as close to final as possible. Ms. Martin has told the SC they need to indicate which numbers are precise and which are place-holders.

Chair Greenaway introduced discussion regarding payment of the SC Open Meeting Law \$500 violation fine, asserting that is as a "town obligation." Mr. Wolin disagreed. Chm Greenaway indicated that there is federal law that protects volunteers in such circumstances. Mr. Abdella added that the Volunteer Protection Act of 1997 also provides protection except in cases of sexual harassment or terrorism.

Discussion followed. Ms. Funkhouser recommended that, as it was early in the fiscal year and the FinCom reserve fund was designated for emergencies, that the FinCom defer voting at this time, and turn it back to the SC. Chair Greenaway agreed; the SC had already paid the fine and that there was no rush for a FinCom decision. Mr. Wolin said that members of the Board of Selectmen personally paid their own fine for a similar violation, and having the Town pay the fine absolved members of any committee from personal responsibility for observing the OML. Mr. Abdella said that this is a larger issue, that OML issues like this are making it more difficult to find volunteers to serve on Town committees. Mr. Watkins said that it appears that the process needs to be reviewed to insure future compliance.

Mr. Steinberg agreed with that it was too early to look at a current year transfer, but that this was part of a broader issue regarding the time spent and often wasted on responding to OML violation, affecting the ability of volunteers to do their job.

Mr. Greenaway closed the discussion, saying that the AG's office indicated that repeated OML filings in a single community are usually indicative of some other conflict or problem within the town. That warrants a broader conversation for another time. Ms. Funkhouser moved that the FinCom table the request at this time. Ms. Martin seconded, and the motion passed 7-0.

4. Finance Director Report

Mr. Keveny said that the draft financial statements were in as well as a draft letter. He met Monday with the Audit Committee for review audit RFP responses from five firms, and they selected two finalists. They likely will meet with the BoS on Dec. 15 to select an audit firm for 2015-17. The firm selected also will be asked to produce a Comprehensive Annual Financial Report (CAFR) for the town for those three years. This type report will be about 3x the size of the Town's current annual report. The incremental cost for CAFR should run about \$15,000 more than the typical \$60,000 for a regular audit.

The Town received four critical notes to improve on the 2014 audit, three of which were new ones. This is down from seven or eight notes in recent years' audits. There are three levels of criticism, and these four fall into the least critical category. Chair Greenaway and others commended Mr. Keveny on the good work done by his department.

The Middle School had two appropriations for roof repairs in each of the past two fiscal years, one of which was MSBA reimbursable. The treasurer exercised his authority to borrow \$525,000 in February 2014 when the project was essentially complete. This was written up as a deficiency in the management letter. A new procedure requiring quarterly review reports was installed to avoid what happened with the high school project. These are now mandatory, Ms. Balmer supports them, and they will be scheduled now that Mr. Keefe is on board.

Mr. Keveny recommended that Eastern Ban transfer the \$525,000 on a twenty-year project from the Middle School project, we can vote to transfer it to the Claypit CIP for doors and windows. This would be a current year transfer with prepaid interest. Discussion followed, focused on the new procedure which would prevent this kind of unnecessary borrowing, with a need for improved communications among departments and committees.

5. Liaison Reports

Mr. Watkins stated that a \$50,000 CIP for renovations was coming from the Board of Health, which would be forwarded to Mr. Keefe and Ms. Balmer for review, then onto the Selectmen.

Mr. Wolin updated the Minuteman Vocational School status, saying that the school was arranging an orientation tour for Ms. Balmer. In order to withdraw from Minuteman, the Town must demonstrate that it has provisions for students who chose a vocational curriculum, including transportation.

Ms. Martin two meetings on the Community Center project to present a report to BoS, so that they can prepare a warrant for Town Meeting. The subcommittee toured the Natick Community/Senior Center, and will go before the Conservation Committee next week,

Mr. Watkins discussed the Town's computer purchasing process with Ms. Martin, both agreed it needed to be reviewed. Chair Greenaway said it used to be a capital budget item, but was moved to the operating budget as it was supposed to make schools and departments more efficient.

Mr. Steinberg reported that the River's Edge group had recommended a law firm, and the Selectmen would vote on it in two weeks.

Mr. Abdella said that the Wastewater operating budget came in up 2.5%, with debt up 7.7%. There was still some question about how to handle the budget due to lack of closure on the betterment issue. Mr. Keveny said that was still an open item.

Ms. Martin stated that the Housing Authority had issued an RFP for the sprinkler system, with bids due by December 15. It will not make the December 1 submission deadline, but they are making progress.

Mr. Greenaway said that new Town Clerk Beth Klein is stepping up nicely. Lois Toombs former clerk has been assisting in the transition under contract. Those funds have run out, and a reserve fund transfer may be required if Toombs is needed to help through the 2015 Town meeting. Discussion followed as to how much was appropriate to spend on this transition, and what resources might be available(e.g. election budget, etc)..

6. Long Range Planning

Chair Greenaway reviewed the pertinent slides from the presentation deck.

In preparation for the new long range plan, Anette Lewis and Mr. Steinberg reviewed the 2009 Long Range Plan Presentation to highlight what had been accomplished.

Mr. Keveny said that the FTE (Full-Time-Equivalent) Benefit Comparison was a qualified success according to John Senchysyn, based on expenditures vs. budget. Much discussion followed after a suggestion that Wayland coordinate with peer towns like Concord for comparison. Molly Upton observed that commuter rails service now makes towns like Duxbury a peer commuter town.

Dave Watkins will tinker with the model, with December 1 as a deadline. Chair Greenaway stated that our selection of peer towns may differ from the SC, and that we might coordinate selections with the SC, adding in factors like college matriculation rates.

Financial policies were reviewed by Alice Bolter, Chair Greenaway, and Ms. Martin. Primary objectives are

- Maintain Responsible Fund Balances
 - General Fund: Target 5-8% of Next Year's Operating Budget
 - Free Cash Should [Not] Include Reserve Funds
- Keep Sustainable Debt Profile
 - Aim for 5-10% Debt Service in General Fund Operating Budget
- Strengthen Capital Improvement Program
 - Enforce five-year capital planning process
 - Evaluate impact of capital projects on future operating budgets
- Review All Fund Management Practices
 - Use Stabilization Fund for Long-Term Projects
 - Monitor Mitigation, Developer Funds, Endowments, & Grants
- Stay Current with OPEB Funding

Ms. Martin observed that the stabilization fund still has \$1.5 million. Chair Greenaway said that the fund had not been used since 1990. The Town needs to determine its future exposure for funds, endowments, and grants, in order to establish some sense of control that all residents can share.

Also, the Town needs a more accurate advance sense of CIP cost.

The Town will continue to review OPEB and other long-term liabilities. Chair Greenaway commented that the Town should not be a slave to its bond rating, for the sake of the Town and its residents.

Gretchen Schuler, Chair of the Wayland Historical Commission, said that the Town needed municipal space planning for land and facilities. Interim plans are in place, scheduled for review by the Selectmen on 11/17, by the Planning Board on 11/20, and the FinCom on 12/1.

The Planning Board has asked for \$20,000 to add to its legal fund for 2016 to cover the cost of a zoning bylaw change.

Mr. Keveny passed around a five-year budget projection for review, and discussion on December 1.

7. **Members' Concerns**

Mr. Steinberg suggested that there are too many open items to vote a capital budget on December 1, that we would be better served to review and vote a draft budget then. Ms. Martin said she wants to see the impact that the CIP requests have on long-term debt, and added that there may be split tax rate for 2016.

Ms. Martin said that Dr. Stein will roll out his budget on December 15, and suggested that the FinCom attend.

Chair Greenaway said that the FinCom's December 1 meeting will start at 6 PM and will focus on the CIP, the tax recap and long-range planning, in order to attend the SC meeting that day. The December 15 meeting will start at 7 PM.

8. **Chair's Report**

Chair Greenaway reported that five OML violations had been filed against the FinCom. One had been withdrawn and four were still active. He has responded to three:

- Two are now into the AG for decision.
- One has been dropped
- Two require responses.

The latest one was filed on October 31. Town Counsel has reviewed the draft response, suggesting minor changes. The FinCom then reviewed the changes. Ms. Funkhouser moved that the FinCom accept the changes,, Ms. Martin seconded, and the committee voted 7-0 to approve.

There was discussion about the FinCom response letter to the September 30 violation letter. Ms. Funkhouser moved that the FinCom accept the letter subject to Town Counsel's review. Mr. Steinberg seconded, and the committee approved 7-0.

Chari Greenaway said that he was speaking with complainant George Harris about his filings. Mr. Steinberg suggested that town residents should complain about the taxpayer expense generated by all of these OML violation filings, running as much as \$3,500/response. Mr. Abdella suggested that it might be simpler and more cost effective for the FinCom to send a form letter to the AG with a check for \$500 for each violation. Ms. Funkhouser observed that these responses placed an unfair burden on the Chair, and sets a bad precedent for his successor.

9. **Executive Session**

Chair Greenaway moved that the FinCom enter into executive session to discuss and vote to declassify and the release executive session minutes from 2011 pursuant to Mass General Law 30A Section 22. Mr. Abdella seconded. The FinCom will return to open session only to adjourn. The roll call vote was 7-0.

At 11:20 pm Mr. Steinberg moved to adjourn the Executive Session and Ms. Martin seconded the motion. The motion was approved unanimously (7-0).

- 10. Adjournment:** At 11:25 pm Mr. Steinberg moved to adjourn the meeting and Ms. Martin seconded the motion. The motion was approved unanimously (7-0).

Respectfully submitted,
Gil Wolin

Documents:

1. L. Anderson – email dated November 12, 2014
2. C. Reynolds – email dated November 12, 2012
3. K. Issacson - letter dated ?? 2014
4. M.Melnicove - letter dated ??
5. L. Valone – email dated November 12, 2014
6. S. Burke – email dated November 12, 2014
7. C. Lavenson – email dated November, 2014