

**APPROVED
BOARD OF FINANCE
MINUTES
AUGUST 15, 2013**

CALL TO ORDER

Chairman Hammers called the Board of Finance meeting to order at 7:05 p.m. at the Town Hall, Trumbull, Connecticut. All those present joined in the Pledge of Allegiance.

PUBLIC COMMENT

There was no public comment.

ATTENDANCE

Board of Finance members:

PRESENT

Elaine Hammers, Chairman
Andrew Palo
Steve Lupien
Paul Lavoie
Tom Tesoro
Cindy Penkoff, Alternate
Susan LaFrance, Alternate
Vincent DeGennaro, Alternate
Dave Rutigliano

ABSENT

Also present:

Maria Pires, Finance Director; Jim Henderson, Internal Auditor; Joseph Laucella, EMS Director; Edward V. Walsh, III, Esq.; John Ponzio, Treasurer; Chief Thomas Kiely; Deputy Chief Michael Harry; Lisa Labella, Board of Education.

TREASURER'S REPORT – John Ponzio

Mr. Ponzio presented his report, highlighting the following items:

- The total cash balance is \$69 million, and this includes our investments, and is the same as it was last year at this time.
- July is our best collection month; \$38 million tax revenue.
- We had \$33,000 in earnings for the month.
- We purchased a CMO at 1.6% with a 4 year term.
- We had one payment to make in the month of July; we paid \$470,000 interest on Bonds. We have a \$10 million dollar principal and interest obligation coming due the first week of September.
- We met with 3 rating agencies today via conference call. They are pleased with our progress on our pension fund and that we only need \$3.7 million in new debt compared to \$17 million in new debt last year that bled over in part due to the high school renovation and sewer debt that we inherited. We are seeing the light at the end of the tunnel regarding those projects. We are trying to get out bond rating increased to AA1 from AA2.
- The Pension Board met last night and we have over \$23.5 million in the Pension Fund up from the \$21.7 million at the end of the first quarter, which is the highest anyone can recall.
- We made the requested actuarial contribution of \$4.5 million; the first payment to the Town was made in the first quarter. We made a contribution to the Police Fund of \$425,000.
- The Pension Board is reviewing our investment strategies; we made no changes last night.
- Tax collection rate is 99%.
- Mr. Ponzio indicated that we are currently 32% funded in the Town Pension and 75% funded in the Police Fund.
- A better bond rating would mean a lower interest rate to the Town.

FISCAL YEAR 2013-2014 SUPPLEMENTAL APPROPRIATION

8-13-01	Joseph Laucella EMS Director	FROM: Fund Balance	\$13,500
		TO: #01022600-590014 Utilities-Telephone	\$13,500
		Emergency Dispatch phone line	

The Chair indicated that after speaking with Mr. Laucella it was decided to withdraw this request and address it at a later time.

FISCAL YEAR END 2013-2014 TRANSFER

8-13-02	Joseph Laucella EMS Director	FROM: #01022600-501102 Salaries-PT	\$329,170
		TO: #01022600-522202 Professional Services	\$329,170
		Department no longer hires PT employees but instead hired a staff company (Vintech)	

Mr. Lavoie moved, seconded by Mr. Lupien to transfer \$329,170 from account #01022600-501102 Salaries-PT to account #01022600-522202 Professional Services, since the department no longer hires part time employee, but instead hired a staffing company (Vintech).

Mr. Laucella indicated that this was not expected last year when the budget was prepared. A similar transfer was done at the end of last year. At this time, they are covering 96% of their call volume, up from 74%. Bids went out to staffing companies and 2 responded.

Vote: 6-0-0 motion carries

FISCAL YEAR END 2013-2014 TRANSFER

8-13-03	Mark DeVestern Tax Assessor	FROM: #01011600-556601 Prof. Dev-seminars	\$1,950
		TO: #01011600-581888 Capital Outlay	\$1,950
		Replace damaged furniture	

Mr. Lavoie moved, seconded by Mr. Tesoro, to transfer \$1,950 from account #01011600-556601 Professional Dev-seminars to account #01011600-581888 Capital Outlay to replace damaged furniture.

Mrs. Pires indicated that there is enough in the Professional Development Seminars account to cover the cost of new furniture. When asked, she indicated that the damage is normal breakdown due to age.

Vote: 6-0-0 motion carries

FISCAL YEAR END 2012-2013 CONTINGENCY TRANSFERS

8-13-04	Maria Pires Director of Finance		Year End 2012-2013 Contingency Transfers – See Attached Schedule	
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Mr. Lavoie moved, seconded by Mr. Tesoro, to transfer \$328,879 from the Contingency Account to various accounts listed on the attached schedule. *(See schedule A, which is attached hereto and made a part hereof.)*

Vote: 6-0-0 motion carries

FISCAL YEAR END 2012-2013 SUPPLEMENTAL APPROPRIATIONS

8-13-05	Maria Pires Director of Finance		See Attached Schedule	\$29,955
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Mr. Lavoie moved, seconded by Mr. Tesoro, to transfer \$29,955 from the General Fund to the various accounts listed on the attached schedule. *(See schedule B, which is attached hereto and made a part hereof.)*

Mrs. Pires indicated that funds are needed for Legal Notices for the Town Council, Purchasing Department and Inland Wetlands. The Tree Warden expenses are a result of the storms. Mr. Tesoro indicated that funds should not be taken out of the General Fund unless the department heads are present to explain.

Mr. Tesoro asked that the proper back-up be provided at the next meeting to substantiate the appropriation. The Chair indicated that the documentation should be provided prior to the next meeting.

The Chair went on to add that the Fund Balance is currently \$17,211,142 and includes the supplemental appropriations requested this evening.

Vote: 5-1-0 (Opposed: Palo) motion carries

FISCAL YEAR END 2012-2013 SUPPLEMENTAL APPROPRIATIONS

8-13-06	Thomas H. Kiely Chief of Police		FROM: Fund Balance	\$222,132
			TO: #01022000-501105 Salary Overtime	\$222,132

Mr. Lavoie moved, seconded by Mr. Tesoro, to transfer \$222,132 from the Fund Balance to account #01022000-501105 Salary Overtime.

Chief Kiely indicated, along with Deputy Chief Harry, that the overtime shortage was impacted as a result of the following:

- Contract retro
- Storm Sandy and Sandy Hook
- 4 officers currently as the Academy
- 3 officers out on long term compensation
- 2 unfilled openings

Basically, we were operating the department with 66 out of 75 officers. The first 6 months of the year it cost \$196,123 in overtime for minimum manning and \$168,000 for Special Events. We budgeted \$472,000 for the year. The driving force is minimum manpower.

Mr. Rutigliano requested an explanation of Special Events. The Chief indicated that it includes the Memorial Day parade, Black Friday, the day after Christmas, Trumbull Day, etc. Mr. Rutigliano asked what Trumbull Day cost. The Chief indicated about +/- \$21,000.

Mrs. Penkoff was told in answer to her question that the Trumbull Day Commission will reimburse the Police Department for Trumbull Day overtime. Mrs. Pires indicated that the funds go directly to their Special Duty 72 Fund account and not to overtime. The Chair asked why the funds come out of the overtime account and not the Special Agency account. Mrs. Pires indicated that the funds did not come out of the overtime account and the Chair then noted that the \$21,000 for special events was not part of the overtime problem.

Deputy Chief Harry indicated that there was an application put in for a \$22,000 DUI Grant and that we should be receiving the funds shortly. He went on to add that Special Events was the wrong term; it actually should have been "Special Circumstances", which included coverage for extra patrol officers around the schools after Newtown, extra officers at the Mall, and hurricane predications. Mr. Rutigliano asked if the \$21,000, although in a different account, was part of the \$168,000. He was informed that it was not part of the \$168,000, since it was not overtime.

Mrs. Pires indicated that we had not yet received all the FEMA Funds. We spent \$1,200,000 and expect to receive a total of \$900,000, \$300,000 of which is for Nemo.

Mr. Tesoro asked that a full accounting of Trumbull Day be provided at the next Board of Finance meeting.

The Chief indicated that since 3 of the positions getting paid are on sick leave and the other 4 positions, hired at base pay, are being paid but are still at the Academy, there were no extra salary funds to transfer to overtime.

Vote: 6-0-0 motion carries

FISCAL YEAR END 2012-2013 TRANSFERS

8-13-35	Maria Pires Director of Finance		Year End Transfers – See Attached Schedule	\$63,102
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Mr. Lupien moved, seconded by Mr. Tesoro, to take item 08-13-35 out of order.

Vote: 6-0-0 motion carries

Mr. Lavoie moved, seconded by Mr. Tesoro, to waive the reading of the account numbers and to address this as a whole transfer.

Vote: 6-0-0 motion carries

Mr. Lavoie moved, seconded by Mr. Tesoro, to transfer \$63,102 from the accounts listed on the spreadsheet to the accounts listed on the spreadsheet within the Police Department. *(See schedule C, which is attached hereto and made a part hereof.)*

Vote: 6-0-0 motion carries

FISCAL YEAR END 2012-2013 TRANSFERS

8-13-07 To 8-13-34	Maria Pires Director of Finance		Year End Transfers – See Attached Schedule	
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Mr. Lavoie moved, seconded by Mr. Rutigliano, to waive the reading of the account numbers and to address these 9 pages as a whole transfer.

Vote: 6-0-0 motion carries

Mr. Lavoie moved, seconded by Mr. Rutigliano, to make the year-end transfers within each department as presented on the spreadsheet. *(See schedule D, which is attached hereto and made a part hereof.)*

Vote: 6-0-0 motion carries

FISCAL YEAR END 2012-2013 DIRECTOR OF FINANCE YEAR END TRANSFERS

8-13-36 To 8-13-38	Maria Pires Director of Finance		Director of Finance Transfers – See Attached Schedule	
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No vote is needed on these items; only notice that these have been done. *(See schedule E, which is attached hereto and made a part hereof.)*

INTERNAL AUDITORS REPORT – Jim Henderson

The Chair indicated that she wanted to clarify a few things before starting. She went on to add that Mr. Henderson is an employee of the Board of Finance; he is the internal auditor; he is charged with looking into a variety of items. What we are considering tonight is his report and questions on his report. We are not considering, nor will we consider, anything relating to the Ethics Commission. Under normal circumstances, we would not even have any awareness of what they do; it is not our concern. All we are concerned with is to hear our report as we normally do. Since the items involve the BOE, we will have Dr. Cialfi address them or if he needs assistance, he is welcome to ask, but I do not want anyone to be confused as to what our purpose is. Please come through the Chair with your questions so we remain somewhat organized. Any information regarding the ethics complaint is not on the table for discussion this evening. The attachment we have in our report is available through the Freedom of Information Act and is not on the table for discussion this evening. Attorney Walsh is here this evening to make sure we are mindful of the rules.

Mr. Lavoie asked for a recap as to how the audit report came about. Mr. Henderson indicated that he read the minutes of the special meeting between the Town Council and the Board of Finance regarding the costs of snow removal at the schools associated with the storms of 2011-2013 and the questions that were raised.

Mr. Tesoro indicated that he was told by Attorney Nicola that the audit report was generated due to the questions that the Board of Finance wanted answered.

Attorney Walsh indicated that their position was that there were issues regarding the cost and documentation concerning the snow removal. This was placed before the Town Council and First Selectman Herbst presented the issues. It was also presented to the Board of Finance on several occasions. The Board of Education cooperated getting some of the documentation. At the direction of the Board of Finance, the internal auditor, pursuant to the Charter is required to examine the operations and the finances of the BOE and other town entities.

Mr. Tesoro stated that he wanted to know what generated the audit, since Mr. Henderson and Attorney Nicola were giving different versions. Attorney Walsh went on to state that the presentations made by Mr. Herbst and the questions regarding the snow removal were on the record with the Town Council and the Board of Finance.

Mr. Tesoro indicated that he understood that these issues were in the minutes; he wanted to know why Mr. Henderson did not give him that answer but instead would not answer the question. Mr. Lavoie asked when Attorney Nicola spoke and Mr. Palo read the quote found in a newspaper article.

The Chair indicated that Mr. Henderson told the Board of Finance that he read something in the minutes and he was looking into it; he did not know where it was going, and didn't want to discuss it until he had something to report. We knew when and where it started, and I asked if we should stop him because he had started it without telling us first. No one wanted to stop him from pursuing this.

Mr. Tesoro went on to add that he has questions about the process that affects this Board. Mr. Tesoro reiterated that he wants to know why Mr. Henderson did not answer the question the last time, but said no since it was the commentary by the Board of Finance that generated him to perform the audit. Attorney Walsh indicated that it may have been for unrelated reasons to the process here.

Mr. Lavoie asked that Mr. Henderson establish his credibility with the Board. Attorney Walsh concurred that it is essential for him to do so. The Chair asked Mr. Henderson to summarize his qualifications. Mr. Henderson indicated that he had over 40 years of experience in accounting in both the private and public sectors. This included the position of Finance Director of the Town of Middlebury for 7 years, and working for an oil company for 3 years.

Mr. Lavoie asked that Mr. Henderson address Finding 6 in the report. Mr. Tesoro objected to this being read into the minutes, since these findings formed the basis of the complaint which has been adjudicated by the Ethics Commission.

The Chair indicated that Mr. Tesoro had asked that this to be discussed in the meeting. Mr. Tesoro then asked to withdraw that request and ask a question regarding the process.

The Chair indicated that the Ethics issue is not public and the Board did not get involved. The Chair then told him to ask his process question. Mr. Tesoro then asked why Mr. Henderson did not come to the Board with his report after his investigation prior to going to the Ethics Commission, assuming he went to the Ethics Commission. The Chair indicated that if he chose to file an Ethics Complaint, he could not come to the Board first because it must be kept quiet until he has brought it to the Ethics Commission.

Mr. Tesoro then asked what was being reviewed and the Chair indicated that we were reviewing Mr. Henderson's audit report. Mr. Tesoro then asked if the audit report had anything to do with the Ethics Complaint, and the Chair indicated that Mr. Henderson could not answer the question. Attorney Walsh indicated that since the Ethics Complaint must be kept confidential, you cannot go to your employer first. We are here to discuss the internal auditor's report and the documentation that he prepared for the Board of Finance.

Mr. Lavoie asked Mr. Tesoro if he did not feel that it was necessary to review the procedures addressed in the report in order to protect the best interests of the Town. Mr. Tesoro indicated that we should address these procedures, but not in this format because certain individuals would be dragged through the mud and they have already been adjudicated. Attorney Walsh indicated that Mr. Henderson has a duty and an obligation to should present the facts to the Board of Finance and it is up to the Board of Finance to decide what occurs after hearing the report and reviewing the findings.

Mr. Palo indicated that he was concerned that this is very similar to the Ethics Complaint based on the responses from Mr. Barbarotta and worries that we would be discussing things that were supposed to be sealed. Attorney Walsh indicated that there is no liability to the Town, since they are two separate items.

The Chair indicated that there are no action items for the Board of Finance in this report. It is up to the Board of Education to act or not act; the Board of Finance does not vote on this. The Chair went on to add that she is concerned that she keeps hearing that it is similar to the Ethics Complaint, since she has not seen the complaint and to her knowledge neither has anyone else on the Board. Mr. Tesoro reiterated that he felt this report should not go forward.

Mr. Lavoie indicated that he is not being motivated to pursue hearing the report to hurt anyone but to discuss the processes, to make sure that problems do not come up again and to discuss what procedures we going to implement. We do not speak to people, but to procedures.

Mrs. Penkoff agreed with Mr. Lavoie and she indicated that our job as the Board of Finance is to protect the finance of this Town and each taxpayer. Given the questions brought up regarding the snow removal and the high school, we need to ask if we have the proper controls in place. The audit report addresses those issues that should have been addressed sooner.

Mr. Lavoie requested that Mr. Henderson begin with Finding 6 – Snow Removal.

Finding 6

Mr. Henderson reported that:

- In accordance with our Charter, expenditures in excess of \$10,000 need to be put out to bid, and if not, requires a bid waiver signed by the First Selectman. In this case, neither was done. The work was put out without a bid and after the work was performed one of the invoices was signed off by the facilities manager without the business manager and the superintendent seeing the bill.
- **Recommendation:** Services in excess of \$10,000 must go out to bid or a bid waiver must be sign. Bill payments must be approved by both the Business Manager and the Superintendent.
- **Outcome:** The bill in question was approved by Mr. John Barbarotta, and then paid. Since then, a process has been put in place where all invoices in excess of \$10,000 must be approved by Mr. O’Keefe prior to the check being cut. In addition, all work in excess of \$10,000 must go out to bid; the invoice in question that was not put out to bid was an oversight due to an emergency situation. The Chair indicated that Mr. Al Barbarotta provided documentation that the original for \$91000 was negotiated down to \$81,000.

Finding 1

- Mr. Rutigliano indicated that according to the report the owner’s representative had a contract not to exceed \$506,400; however, to date have been paid \$985,382. How did this occur and what is now owed to owner’s representative? Mr. Henderson indicated that the information was not in the report; however, it would be the BOE or the Building Committee.
- Mr. Lupien indicated that the Building Committee would approve the overage and they are under the purview of the Town Council and the information would be in the meeting minutes. Mr. Henderson indicated that he did not see any notes nor did he pursue looking for an approval in the Building Committee minutes. Mr. Lupien indicated that it would be important to review the minutes prior to making any recommendations. Mr. Rutigliano and Mr. Lavoie agreed.
- Mr. Tesoro then read a section which indicated that “based upon the language in both contracts AFB Management is essentially overseeing their own work and can make recommendations in one capacity and create monetary benefit in another capacity.” Mr. Tesoro indicated that this is not possible since AFB Management is under contract with the Board of Education for a fixed amount and any changes recommended must go through the Building Committee and they cannot receive monetary benefits without approval.

- Mr. Rutigliano asked for documentation to support the increase in the contract amount to \$985,382. Mr. Lupien did not feel that there was any conflict of interest given the oversight. However, he too wants to see the documentation.
- **Recommendation:** Mr. Henderson indicated that the owner's representative is supposed to be the eyes and ears of the Town. Mr. Henderson is to review the Building Committee minutes for documentation. Mr. Henderson should review the minutes in order to substantiate the overages.

Finding 2

- There is a question of whether or not Mr. Al Barbarotta is an independent contractor or an employee. The State of Connecticut has a set of rules to be followed. It was suggested that Mr. O'Keefe look into this.
- **Recommendation:** The Chair recommended that the Board of Education needed to review.

Finding 3

- Dr. Cialfi indicated that prior to his election to the Town Council, Attorney Jeffrey Donofrio wrote the contract for the Building Committee. The Chair indicated that the Board of Education should have an opportunity to respond to this finding.
- Mr. Tesoro indicated that Mr. Henderson referred to having "read the minutes" and did not attend the meeting or watch the tape. Mr. Tesoro advised him to view the tape because the interpretation of the minutes may differ.
- Mrs. Penkoff asked Mr. Henderson what lead to Findings 3-4-5 regarding the particular energy company and how did it relate to the Town. He indicated that it came up with the high school insofar as it was supposed to act as a shelter in the event of an emergency and it did not meet the requirement. She indicated that someone dropped the ball on this; the plans did not include a generator, etc. Mrs. Penkoff then asked Mr. Henderson if he found any evidence of how this happened. Mr. Henderson indicated that a meeting was held where Mr. Al Barbarotta made a Conveo Energy presentation. He also indicated that since no other presentations were made he assumed that it was be added into the contract. He went on to add that Conveo Energy was able to use inside information that AFB had access to thereby giving them an unfair advantage.
- **Recommendation:** Mr. Palo indicated that at the July 21, 2012 meeting Mr. Al Barbarotta handed out packages of information; however, there was no discussion with the Board of Education. Mr. Henderson should review the tape.

Finding 5

- Mr. Lavoie indicated that the finding 5 states that Mr. Al Barbarotta attempted to influence individuals to install fuel cells and a generator and he lobbied for Conveo Energy. Mr. Henderson indicated that this should have gone out to bid. Mr. Lavoie indicated that it is necessary that the Board of Education go through the proper process if there is state money available
- Mrs. Labella indicated that the Board of Education never took any action on this at all. Mr. Barbarotta handed out the packages and no presentation was given. She went on to add that she spoke to Mr. Lassogna after the meeting and told him that if we were to go forward with the (Conveo) we will go out to bid and check with the Town. Nothing ever came of it; Conveo did not make the presentation and we never heard from them again and he never presented to the Emergency Committee.

- Attorney Walsh indicated that it must be on the Agenda in order to be presented; we are here to protect the Town and make sure effective controls are in place.

Finding 7

- Mr. Lavoie indicated that there is a lawsuit pending on this; therefore, we should move on.

In summary, the Chair indicated that Mr. Henderson should watch the 2 meetings as discussed by Mr. Tesoro and Mr. Palo and review all of the Building Committee minutes. Once that has been done, he will submit his revisions to the Board of Education, and once they comment the Board of Finance will review it again.

Mr. Tesoro indicated that he does not support this document as presented. Mr. Lupien mentioned that in some instances items are stated as fact when it is actually opinion. He went on to add that he has no problem with him stating his opinion, but it should be stated as such.

The Chair called a recess at 9:10 p.m. The meeting was reconvened at 9:20 p.m.

RECOMMENDATIONS FOR SPECIAL FUND ACCOUNT CLOSURES – Jim Henderson

The Chair was not sure that all listed would not be reinstated at some point. The Chair asked that we put this on hold until next month pending review. It was decided that the Beautification Commission was no longer functioning; however, it might come back as well as others. Mr. Henderson indicated that some of the accounts have not seen activity from 2-5 years. The Chair indicated that she wanted Mrs. Pires to review the accounts and go over with her before closing them.

FISCAL YEAR END 2012-2013 SUPPLEMENTAL APPROPRIATION

8-13-39	Gary Cialfi Superintendent of Schools	FROM: Fund Balance TO: #01060000-522205 Program Expenses To cover legal fees relating to the complaint from the Trumbull Ethics Commission	\$18,823 \$18,823
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Mr. Lavoie moved, seconded by Mr. Tesoro, to transfer \$18,823 from the Fund Balance to account #01060000-522205 Program Expenses to cover legal fees relating to the complaint from the Trumbull Ethics Commission.

Dr. Cialfi indicated that the Board of Education voted in favor of requesting a Supplemental Appropriation for the payment of the legal fees incurred by 2 employees and 1 volunteer in connection with the complaint from the Trumbull Ethics Commission. Mr. O’Keefe indicated that there is a surplus of \$25,000 from the last budget year.

Mrs. Labella indicated that at the time it was presented, the Board of Education thought it was coming out of the new budget, 2013-2014, not the previous budget and they had no budgeted for this.

Vote: 0-6-0 motion fails

DISCUSSION ITEMS

- Year to Date Budget to Actual Report – Expenditures FY 2013, FY 2014
- Fund Balance Report FY 2013
The actual figure is \$17,229,968 and includes the transfers; add \$18,000. This figure also assumes the \$900,000 coming in.

Mr. Lupien requested that Mr. Henderson's report be removed from the web-site since it is in the package. It was suggested that the report be indicated as a Draft.

APPROVAL OF MINUTES – June 13, 2013

Mr. Lavoie moved, seconded by Mr. Palo, to approve the minutes of the June 13, 2013 meeting as presented.

Vote: 5-0-1 (abstained: Mr. Lupien) motion carries

By unanimous consent the Board moved to withdraw the vote.

The Board moved to amend the minutes on page 9 to read "Grant Thornton" not "Mr. Thornton".

Vote: 6-0-0 motion carries

The Board moved to approve the minutes as amended.

Vote: 5-0-1 motion carries

ADJOURNMENT

By unanimous consent, the meeting was adjourned at 9:40 pm.

Respectfully submitted

Phyllis C. Collier, Board of Finance Clerk