Mayor Zartarian called the meeting to order at 7:00 p.m. in Room L-101

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL
Councilor Anest
Councilor Arace
Councilor Budrejko
Councilor DelBuono
Councilor Manke
Councilor Marocchini
Councilor Miner
Councilor Serra
Mayor Zartarian

Staff Attendees:
Tanya Lane, Town Manager
Janet Murphy, Finance Director
Lisa Rydecki, Deputy Finance Director
Ben Ancona, Town Attorney
Tom Molloy, Highway Superintendent
Robert Hillman, Highway Assistant Superintendent
James E. Krupienski, Town Clerk
Susan Gibbon, Council Clerk

III. APPROVAL OF AGENDA

Motion to approve the agenda by Councilor DelBuono seconded by Councilor Manke. Motion passed 9-0.

IV. PUBLIC PARTICIPATION – IN GENERAL (In Person/Via Telephone: 860-665-8736)
(3 MINUTE TIME LIMIT PER SPEAKER ON ANY ITEM)

- Mayor Zartarian stated to Mr. Bachand he has one opportunity at the beginning of the meeting and at the end of the meeting. There is a letter from the previous meeting, it is your decision.

- John Bachand, 56 Maple Hill Avenue stated that he is not going to read that letter. If you think it is relevant and if you want to read it today it is up to you. I hope you at least submit it for the record. I think that letter has a lot of relevant information. I don’t know why you wouldn’t let me address it at the last meeting. I think it was super relevant because I was talking about the no charter territory and we went with that contingency clause. I think I proved my point in that letter. I’m surprised there is no one from the public here. I think you are going to come up with another way to find that $2.5 million. I sent you a letter very late this afternoon regarding an opinion letter on a referendum issue from an attorney addressing a former town manager. The letter made it very clear, it is does not matter where the money
comes from, the project is costing more and needs to go back to referendum. I hope you will at least give the public an opportunity to speak about it. It comes down to taking risk, do you take the risk of going to referendum which could be very risky, or do you take the risk of not following the charter which could be very risky too. You should be honest with the public and state exactly what you are doing. Like I said before both sides of the table should come together. I still like the strict interpretation of the Charter. If Downes is watching, there are actually Charter provisions that if you violate the Charter, you can be held liable. Thank you.

- Rose Lyons, 46 Elton Drive stated that she vowed not to the Town Hall Community Project take up any more room in her head and over the weekend she watched a council meeting from November 13, 2012 and there was a discussion about the town hall and the community center, but I’m not going to go in to that. There was one comment by Ben Paige, an Eagle Scout at the time, who was working on a project at a cemetery. He asked if some money could be put aside to repair headstones that were there, because there are some historic families in town, being we are going to have the big hoopla in a couple years. I’m not sure who would take care of that, maybe Parks and Grounds; I know they maintain other cemeteries in town. As a senior who will be paying my taxes once I get the bill, the three things I get for my taxes, other than fire and police protection, are snow removal, garbage and leaf collection. I am here to thank Mr. Molly and Mr. Hillman for all that they do and to you, please don’t take my leaf collection away.

- Deputy Mayor DelBuono read a letter from Joe Harpie, 36 Baldwin Court, Chairperson Project Building Committee.

V. REMARKS BY COUNCILORS ON PUBLIC PARTICIPATION

- Mayor Zartarian stated that Mr. Bachand sent a letter today but the rules of procedure require that it be received at least 4 hours prior to the meeting and his came in at 6:51. Regarding the issue of the past meeting and not letting the letter be read. It was a special meeting and had specific budgetary items on the agenda. Our Rules of Procedure and Connecticut State Law, with regard to special meetings, say that the only items we can consider are those on the agenda. A general statement on the budget and the town hall referendum was not on the agenda; we had specific departments being reviewed. I was not trying to be arbitrary, capricious or tyrannical. I was going by the law as I promised I would uphold my duties.

VI. CONSIDERATION OF OLD BUSINESS (Action May Be Taken)

A. Motion to Rescind Resolution 2019-17: Guaranteed Maximum Price (GMP) for the Town Hall/Community Center Building Project, and Adopt a New Resolution

- Town Manager Lane stated that as it says in the cover memo from the Town Manager to the Town Council, this is from an action initiated by Downes Construction following the February 19th meeting. A resolution passed at the special meeting on the 19th did have contingencies within the body of the resolution, that these funds would be available upon the passing of the budget. Their [town] attorney advised them not to enter in to an agreement, the way the funding was structured was questionable and they didn’t like the contingencies placed upon the actions within the resolution. So, at their request, this is not something town staff did erroneously, this is not something that Council did erroneously, this is strictly driven by Downes Construction attorney. That is why we are sitting here. I did have their attorney look at the resolution, I had Bond counsel look at the resolution and I had our town attorney look at it. It is here for you for your discussion. My suggestion is that you rescind it and have a new motion.

- Mayor Zartarian asked Attorney Ancona to come to the table.
• Attorney Ancona stated that he wanted to clear something up. He does not give advice to outside contractors, my advice is to the town.
• Town Manager Lane stated that she is sorry, she did not mean to say that. I meant their attorney, I apologize.
• Attorney Ancona stated they didn’t like the like the contingencies and didn’t understand the funding mechanism. I still don’t understand funding mechanism. The resolution, on its face, looks proper to me. The legal or funding side does not, but you know my opinion.

Motion by Councilor Marocchini

RESOLVED:
The Newington Town Council hereby rescinds the acceptance of the Guaranteed Maximum Price Proposal of Downes Construction Company for the Town Hall/Community Center Project, as adopted in Resolution 2019-17, dated February 19, 2019, and

BE IT FURTHER RESOLVED:
That the Newington Town Council hereby accepts the Guaranteed Maximum Price (GMP) proposal of Downes Construction Company of New Britain, Connecticut, for the amount of $25,371,168 and dated February 6, 2019, which includes Alternate #2: Basement for $768,838, and Alternate #7: Parks/Rec Kitchen for $171,176, in addition to the Alternate Pricing for Alternates 9 through 12, inclusive, for an additional $923,527. The Guaranteed Maximum Price Proposal, including the cost of Alternates 9 through 12, comes to a combined $26,294,695. The Alternate Pricing for Alternates 9 through 12, inclusive, is:

• Alternate #9, Police Department, $503,233.
• Alternate #10, Remove Contaminated Soils and Abandon Junior High Foundations, $270,294.
• Alternate #11, Temporary Heat/Enclosures/Winter Conditions, for $75,000.
• Alternate #12, Addendum #5, for $75,000.

The Newington Town Council hereby further accepts the Alternate Pricing for Alternates #1, #3, #4 - #6, #8 that was presented with the Guaranteed Maximum Price Proposal dated February 6, 2019 from Downes Construction Company of New Britain, Connecticut. These include the following listed Alternates:

Alternate #1, Gym Expansion, for $413,422.
Alternate #3, Generator, $231,471.
Alternate #4, Kitchenettes, for $138,158.
Alternate #5, Spray Foam Insulation, $120,409.
Alternate #6, Gymnasium Equipment, for $174,325.
Alternate #8, Roof Screen, for $388,509.

All items listed above are accepted and the Revised Total Construction GMP with Alternates is $27,760,989. The Newington Town Council hereby authorizes the Town Manager, Tanya D. Lane, to execute the Guaranteed Maximum Price Proposal Agreement for the construction of the new Town Hall and Community Center Project.

• Mayor Zartarian stated that he sees a lot of these Alternates in the CIP book as well. Is the intent with the resolution to bond them out and reduce CIP by that amount?
• Town Manager Lane stated that the intent is to put the Add/Alternates at the bottom of this resolution 1, 3, 4-6 and 8 in CIP. The funding at the top that includes Alternates 9, 10, 11 and 12; they are alternates that must be included in the Guaranteed Maximum Price or Downes can’t
deliver anything, so that would be part of the bonded amount. At the moment, the other alternates are proposed to being funded by CIP.

- Councilor Marocchini stated that basically the last paragraph is not included in the $27 million.
- Mayor Zartarian stated it does, but you are going to be paying it out of different pockets.
- Councilor DelBuono stated that Alternates 1, 3, 4, 5, 6 and 8 total $1,466,294. In looking at last week’s motion and this week’s motion, I am still trying to figure out the differences which I am still unclear on. In my mind nothing has changed in terms of the funding and the only difference I can see is that the new resolution does not acknowledge the fact that the funds are not available yet until we pass the budget.

- Town Manager Lane stated not technically. Technically you can look at this as our contingency is currently covering all of this at the moment. So when we go out to bond, and the Bond counsel has to certify that the funds are available for was put in the resolution and the resolution that was passed the first time was contingent upon the passage of the budget, so it was out in the future and they did not like that wording. So now, what we have done, staff and I, is we sat down and pulled together the resources that we have and this money is currently available and if someone were to ask, and we had to certify this tomorrow, we could say the funding is there for this entire project.

- Councilor DelBuono asked where?
- Town Manager Lane stated that it is in the contingency.
- Janet Murphy, Finance Director stated that it is the unencumbered portion of the project along with the money we have set aside in CIP as I had mentioned before.
- Councilor Manke stated that it is already set aside?
- Ms. Murphy stated yes it is, it has been there.
- Councilor Marocchini stated that going back to the Building Committee meetings, the town has $868,000... for out soft costs. That is built in to this.

- Town Manager Lane stated $871,190.
- Councilor DelBuono stated that she is still trying to make sense of it.
- Councilor Marocchini stated that he would still plan to budget in CIP also, because we don’t want to spend out contingency before the project starts.
- Councilor DelBuono stated that she wants to make sure we discuss it out loud. If I am asking questions, the public certainly doesn’t understand where the funding is coming from. My other concern when comparing the two motions, is the one on the table this week ends with $27,760,989 and it sounds wonderful and sounds like it is under $28.8 the proposed cost of the project in referendum. The resolution last week clearly accounted for the total of the contingencies added in which would bring the total cost of the project to $31,208,179. Is it true that would still be the total cost of construction even though this is omitted from the current resolution?

- Town Manager Lane stated yes. She did have that language at the bottom of the current resolution, but Bond counsel said either remove it or make provisions to appropriate money for the $31 million.
- Mayor Zartarian stated that the bottom line is still going to be $31.2 million.
- Town Manager Lane stated that at the end of the day, yes.
- Councilor DelBuono stated that we are committing to the $31,208,179, but we can’t really say we have that money is what you are saying.
- Town Manager Lane stated that is what she is saying. Yes.
- Councilor Marocchini stated that the part we are forgetting is that the reimbursement from any grant comes off of what we can actually borrow. So the bond gets reduced and our cash gets adjusted, hence that is why there is money in CIP.
- Councilor Budrejko stated that what we are saying is that Alternates 1, 3, 4, 5, 6 and 8 right now, we are taking the contingency funds, which every project includes and are supposed to be used
for unanticipated costs or overages, has been included in the GMP. But what we are doing now, for the sake of getting this passed legally, is we are going to use those funds, the soft costs, to pay or allocate for 1,3, whatever, but in actuality, once the budget gets passed, and we are assuming that CIP, the Alternates 1, 3, 4, 5, 6 and 8 are going to go back through CIP and then the contingency will be restored to its $870,000.

- Councilor Miner stated yes.
- Councilor Marocchini stated that to make it even better and if we get lucky enough to not have any issues during construction, then we replenish ourselves or put it back in the project.
- Town Manager Lane stated that just for clarification of these Alternates at the bottom, the reason they are here is there was a desire to lock in the prices that Downes has given us for these items and if we didn’t put them in this resolution, these would increase by the time we passed the budget and figured out CIP was available, the prices would have invariably increased.
- Councilor Miner stated that is no guaranty but a probability.
- Attorney Ancona stated that he wasn’t included in the chain of correspondence with Bond counsel, but the last draft he has ends with $31,208,179. Maybe I missed it, but why do we need to omit that from the public now?
- Town Manager Lane stated that because Bond counsel stated either provide appropriation for that amount or take it out.
- Attorney Ancona asked the reason for that is?
- Town Manager Lane stated that we don’t have that money on hand at the moment.
- Mayor Zartarian stated that because Bond counsel stated either provide appropriation for that amount or take it out.
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- Attorney Ancona asked the reason for that is?
• Councilor Budrejko stated that is where I have an issue. Personally, I don't think any voter should have to go in to a voting booth and have to interpret the one, two or three different ways of what a decision or what question is supporting. Good government, or a transparent government, should create referendum language that is written in plain English and has a clear intent. I am very much struggling with this. I don't think I could go in voting on a referendum, most voters would want to go in and say “yes I am voting on the amount that could be borrowed for a major CIP project, I don't really care what the project costs, but I am going to say that town can borrow this, who cares what the final outcome is, we will get that money from our budget.” I don't think that is how questions on major CIP projects work. A voter wants to know what is it going to cost the town to build this. Not, “I really don't care how much is costs the town to build it but this is what we want to bond.” I also believe that the notifications that went out to residents were very clear, whether it should have been $28.8 or not, it was very clear what was fed to voters and what they absorbed and the question that was put before them. I don't see how anybody can interpret it as a question authorizing borrowing and not authorizing total costs. I just find that difficult and I would hope that the town would not do something like that. This is going to cost more, because we know, as much as we hope there won't be any additional costs, we know that there are risks which the construction managers at the town hall building reno have talked about. They've talked about the soil, the foundation, the water, costs are going to go up and that is what the contingency is supposed to cover and is supposed to be part of the GMP. It's not like everybody knows the project is going to cost more, that is why a contingency is built in, hopefully to cover most of that. After the shovel goes in the ground and we find things, then yeah, maybe the town can find alternate ways to do it, but in this way we are changing, for add alternates, before we even put the shovel in ground we are adding almost $2.1 million which does matter. To be manipulating a words intent with meaning is dangerous and I think it does a disservice to the people who came out to vote. Legally, yeah we can do it. But just because we can do something doesn't mean we should. To me I think it violates the spirit of what the resolution was intended to portray to the voters and I think the voters that went in there believing they were voting for a cost need a voice.

• Attorney Ancona stated he wanted to clear something up. By state statute there cannot be interpretations for referenda. Period.

• Deputy Mayor DelBuono stated that she agrees with everything Councilor Budrejko said. The project is still over budget. I don’t love that we are taking out the last line that states $31,208,179 is the true total cost of the project. I think is it misleading to the public to not have it in there, when we had it in there previously. It looks like all of a sudden we lost $3 million off the top; so I don't love that. I understand that the Town Manager explained why that needs to be. But that is another concern for me is the why, is it because we don’t have the money to say we have it and that is a concern if we can’t fund this project. We don't know what the next several months, or year or two years are going to be hold. We didn’t anticipate a diesel fuel spill where we had to dip in to every account to cover the cost, I am being exagerative, but it was a huge cost we needed to come up with money for and if we use over $2 or $2.5 million to cover this and we saw in the public hearing earlier the increase to CIP is roughly $2.5 million, it is basically the same amount we are looking to put in to this project from CIP. I know some of it is already in there, and some of it is for next year, I do understand that. I am looking at the total cost of this. I would rather see this either go back to committee or be modified. It just doesn’t make sense to me that we have add alternates that are mandatory. Add alternates are meant to be if there is money left at the end we can add or deduct or we can change. There are add alternate that we are saying a mandatory, up front, have to do. If that is the case, we should just change the scope of the project and include them as part of the project, because that is what this really is. These are not add alternates in my opinion. We are still over budget by $3 million approximately. We have had no choice determining which add alternates would be in, it was presented to us as a package deal, all or none and I just don’t agree with that, there are things we should look at individually in that
regards to that. There are things that are in direct conflict with sprit of the referendum and appropriation is clear, it is not interpreted to be one thing or another. Appropriation is the total amount if you look in the dictionary, is very clear. There are risks inherent with the project as Councilor Budrejko said. The purpose for contingencies is to address risks should they arise, and we are essentially we are not going to have that, at least up front until we see how it shakes out. Well, there are no guarantees as to how it will shake out. So I am beside myself, to me, tonight this makes it look even sloppier and messier than it was the first time we passed it on the 19th. It makes me even more uncomfortable to think we are saying for sure, not contingent upon, that we have this money in CIP because that has not been passed yet. All of these are huge concerns to me and my opinion on this has not changed and it will not be something that I can support.

- Councilor Manke stated that he agrees, he prefers the resolution from last time, it did spell out the total cost, so the public was well aware of the total cost. This seems like a shell game; taking money from one shell and moving it to another. I still think that the project needs to go forward, I think the project needs to get moving. I would prefer it go back to committee to take a look at it, but I am afraid there is not enough time between now and the 3rd of April or whatever the date in April is.

Seconded by Councilor Miner. Motion passed 6-3 (roll call vote).

Councilor Anest - Yes
Councilor Arace - Yes
Councilor Budrejko - No
Councilor DelBuono - No
Councilor Manke - Yes
Councilor Marocchini - Yes
Councilor Miner - Yes
Councilor Serra - Yes
Mayor Zartarian - No

B. Public Works (Engineering, Highway, Solid Waste)

Activity Code Change
Engineering 310 +2.22%
Highway - Administration 321 +0.77%
- 8101 Fulltime Salaries increased due to contractual AFSCME raises
- 8217 Consultants/Special Contractor - Annual hearing test increased
Highway - Operations 322 +3.16%
- 8101 Fulltime Salaries increased due to contractual AFSCME raises
Highway - Snow & Ice Control 324 +1.18%
- 8102 Overtime increased due to contractual AFSCME raises
Highway - Traffic 325 +0.27%
- 8102 Overtime increased due to contractual AFSCME raises.
Highway - Vehicles & Equipment 327 +1.33%
- 8102 Overtime increased due to contractual AFSCME raises.
- 8103 Part time parts employee added
Highway - Leaf Collection 328 +1.43%
- 8102 Overtime increased due to contractual AFSCME raises.
Solid Waste Services - Refuse Collection 351 +1.02%
- 8220 Other Contractual Services increased due to additional dwelling units
Solid Waste Services - Refuse Disposal 352 +23.65%
- 8102 Overtime increased due to contractual AFSCME raises.
- 8220 Other Contractual Services increased due increase in TIP fees

Solid Waste Services - Recycling 353 None

- Councilor Budrejko stated that in the 2017-2018 budget, what did we do last year, the equipment maintenance has gone up, for 8212, It was 88, then it went up to 1000.
- Mr. Molloy stated that was probably a transfer. Those numbers haven't gone up.
- Councilor Budrejko stated under 327 it was a part time position. Was that a new position? It was unfilled and now there it a need to fill it?
- Mr. Molloy stated that it was an open for a short period of time and it was filled. The position paid $10.50 and we bumped it to $12 and we were barely able to get someone at $12.
- Councilors Budrejko had a general question regarding the summary of overtime. It says 41, what is that?
- Ms. Murphy stated that those are hours.
- Mr. Molloy that when our regular land fill attendant is out we need to cover it with union employees. Don't think we used any of it last year.

C. Community Development and Improvements (Town Planner, TPZ, ZBA, Building Department, Conservation Commission, Economic Development Commission)

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<tr>
<th>Activity</th>
<th>Code</th>
<th>Change</th>
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<tbody>
<tr>
<td>Planning and Development</td>
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| • 8202 Dues and Subscriptions to cover costs for Assistant Town Planner
• 8204 Conferences, Meetings, Training increased to get Assistant Town Planner certified
• 8310 Other Materials needs to buy hard copies of books not available online |
| Town Planning & Zoning | 430 | +0.43% |
| • 8204 Conferences, Meetings, Training increased due to fees for attending CT Bar Association Land Use Seminar |
| Zoning Board of Appeals | 440 | -10.58% |
| • 8201 Public Notification does fluctuate but there is decrease to reflect what was actually spent last year |
| Building Department | 450 | +1.06% |
| Conservation Commission | 460 | -0.19% |
| Economic Development - Development Director | 471 | +0.20% |
| • 8202 Dues and Subscriptions increased due to LoopNet fees |
| Economic Development - Development Commission | 472 | +0.00% |

- Councilor Anest asked what 8220 under the Development Commission consists of.
- Ms. Murphy stated that those are promotional events.

B. Departmental Budget Review: Health (CCHD) 511 +3.73%

C. Departmental Budget Review: Revenues

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<tr>
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<tbody>
<tr>
<td>Taxes</td>
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<tr>
<td>PILOTs</td>
<td>5001</td>
<td>0.0%</td>
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Assessments 5200 0.0%
Licenses and Permits 5300 0.0%
Rentals 5400 +2.0%
Investment Income 5500 -50.0%
Fines 5600 -0.13%
Charges for Services 5700 -2.3%
  • 5702 Conservation Commission increased due to application fees
  • 5712 Scrap Metal Curbside is down, we are no longer receiving payments for this
Refunds and Reimbursements 5800 -21.4%
Sale-Town Property 5900 0.0%
State Aid 6000 +2.4%
  • 6062 Education Cost sharing grant increased
  • 6007 Alcohol and Drug Abuse cut to trend
  • 6056 School Building Grants increased, anticipate money back for the High School Career technical project.
Federal Aid 6100 0.0%
  • Federal Aid Grant to the town from the Greater Hartford Transit District

- Councilor Budrejko asked about 5712 Scrap metal curbside, when you said we are no longer receiving payments, is that payment for residents?
- Ms. Murphy stated that we are no longer receiving payment for some of it from our trash collection company. They were actually paying us $5 for scrap metal.
- Councilor Budrejko stated that we will have to look at some point looking at the fees that we charge. If we are getting payment for it. It is relatively inexpensive for curbside pickup.
- Councilors stated there is no charge.
- Councilor Budrejko stated that she paid $10 to get a metal chair picked up.

D. Departmental Budget Review: Insurance/Misc

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<th>Activity</th>
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<tbody>
<tr>
<td>Municipal Insurance</td>
<td>910</td>
<td>-2.21%</td>
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</table>
  • 500 Transfer to Other Funds reduced due to the 2018-19 projected performance
  • 922 Agent Fees. Our Agent of Record for Property and Casualty has decreased because it went out to RFP this year.
| Greater Hartford Transit District | 930  | 0.0%     |
| Employee Benefits             | 940  | +4.86%   |
  • Health Insurance is flat, but increased due to OPEB and lift insurance
| Donations and Contribution    | 950  | 0.0%     |
| Manager’s Contingency         | 961  | 0.0%     |
| Special Contingency           | 962  | +27.86%  |
  • 8220 Other Contractual Services includes wages for the police and the admin group and admin part time wages

E. Departmental Budget Review: MDC
F. Departmental Budget Review: Employee Leave Liability

<table>
<thead>
<tr>
<th>Activity</th>
<th>Code</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metropolitan District Tax</td>
<td>1051</td>
<td>+2.70%</td>
</tr>
<tr>
<td>Employee Leave Liability Reserve Fund</td>
<td>3000</td>
<td>+0.0%</td>
</tr>
</tbody>
</table>

G. Departmental Budget Review: Special Revenue Funds/Other Funds

- LOCIP is down $72,000
- Recreation Programs Fund is capped at $1.2 million, but they anticipate spending $66,500 more this year.
- Insurance Payments will decrease by $48,845
- Public School CIP will decrease by $155,000
- Recreation Capital Improvement Projects is new. The first year for this fund. This comes from the Recreation Program Fund.

- Councilor Budrejko asked about the Cemetery Funds transfer to General Fund
- Ms. Murphy stated that what we spend for expenditures is fully covered by the cemetery fund.
- Mayor Zartarian asked on the pension funds, the actuaries are satisfied that we are on target.
- Ms. Murphy stated yes, they are very proactive.

VII. CONSIDERATION OF NEW BUSINESS (Action May Be Taken by Waiving the Rules)

A. Discussion-Creation of Anna Reynolds PBC

- Mayor Zartarian stated that we are just discussing now. By bipartisan agreement this was put on hold until the town hall project was put to bed.
- Councilor DelBuono stated that she requested this agenda item, when there was a Republican majority, they made a promise that once the town hall project was moving forward we would put together the Anna Reynolds Building Committee to see what that is going to look like, what the cost might be, etc. Hopefully there will be a new superintendent coming on board July 1st. Form the committee, get things in motion knowing that we will want input from the new superintendent. Know that there are rules for creating a committee.
- Councilor Marocchini stated that it is a good time to start discussing it.
- Councilor Miner agrees that it is time to look at Anna Reynolds. Would hate to repeat the method and delivery for the new town hall. Highly recommend we budget for architectural costs that get us to a point of hard numbers. It also looks like there may be issues regarding state grant reimbursement in the future.
- Councilor Manke stated that he agrees that Anna Reynolds has waited its turn and its turn is coming. Also agree that we should wait to see what the new superintendent may want. It is important to look at all of our school facilities, and town facilities, to see what needs to get fixed. Not just piece meal.
- Councilor Serra stated that she remembers that we all agreed and voted that Anna Reynolds will be next. Agree, committee needs to be formed and to wait to see what the new superintendent wants.
- Councilor Anest stated that she agrees with everything that was said. In the meantime, can we see what steps need to be taken to form the building committee. So when that July 1 time comes around we will be prepared.
Councilor Budrejko stated that she imagines when the finalists are chosen, they will be
taken on tours of the schools. We are going to get a superior superintendent, and I am
sure that there is a lot of history that can be provided to them.
Councilor Miner asked if there was ever an all town overall committee to look and see
what needs to be done. Don’t think anyone at this table disagrees that Anna Reynolds is
number one, but layer down from there and start to get estimates of what we need to do.
Councilor DelBuono stated that we looked at something like that a couple of years ago
but got bogged down by the logistics of it. Because the formation of the type of
committee with people from the BOE side and the town side and we got stuck in the
legalities. It is certainly something to be looked at further. Think it is important to look at
the overall needs and prioritize things as we go.
Councilor Minor stated that he believes Windsor has a joint, with the school and all the
town owned buildings, it is some type of quasi committee.
Mayor Zartarian stated that it is a Public Building Commission.
Councilor Anest stated that a few towns have them.
Councilor Miner stated that it is a real concern, it is not going to get any better.
Mayor Zartarian stated absolutely, we have a lot of money tied up in our real estate.
Councilor Manke stated that maybe it is time we look in to something like that, we need
to be more proactive.
Councilor Anest stated that we did look in to doing something like that. We can go
through our files to see what we have. Maybe at the next meeting we can start discussing
it.
Mayor Zartarian stated that he hopes that both bodies will agree.

VIII. RESIGNATIONS/APPOINTMENTS (Action May Be Taken)

A. Appointment-Parks & Recreation Board

Motion by Councilor Anest

RESOLVED:
That the Newington Town Council here by makes the following appointment:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Party</th>
<th>Term</th>
<th>Replaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alan Nafis</td>
<td>49 Whitewood Road</td>
<td>D</td>
<td>Immed. - 11/30/2019</td>
<td>Replaces vacancy due to Resignation of J Crowley</td>
</tr>
</tbody>
</table>

Seconded by Councilor Serra. Motion passes 9-0.

IX. TAX REFUNDS (Action Requested)

A. Approval of March 12, 2019 Refunds for an Overpayment of Taxes

Motion by Councilor Budrejko

RESOLVED:
That property tax refunds in the amount of $1,386.46 are hereby approved in the individual
amounts and for those named on the “Requests for Refund of an Overpayment of Taxes,” certified
by the Revenue Collector, a list of which is attached to this resolution.

Seconded by Councilor Marocchini. Motion passed 9-0

X. MINUTES OF PREVIOUS MEETINGS

Newington Town Council Meeting Minutes (3/12/2019)
A. February 19, 2019 Special Meeting Minutes
B. February 26, 2019 Regular Meeting Minutes

Motion by Councilor Serra. Seconded by Councilor DelBuono. Motion passed 9-0

XI. WRITTEN/ORAL COMMUNICATIONS FROM THE TOWN MANAGER, OTHER TOWN AGENCIES AND OFFICIALS, OTHER GOVERNMENTAL AGENCIES AND OFFICIALS AND THE PUBLIC
• None

XII. COUNCIL LIAISON/COMMITTEE REPORTS
• Councilor Manke stated that the Youth Adult Council Annual Hoopla basketball tournament is on March 22nd. It starts at 5:30 and goes until all the teams are finished.
• Councilor Serra stated that a majority of us were at the NEMS awards dinner on Saturday night at Indian Hill and would like to thank all the members of the Newington Emergency Medical Services for their dedication and their service to our town, it is greatly appreciated.

XIII. PUBLIC PARTICIPATION – IN GENERAL (In Person/Via Telephone: 860-665-8736)
(3 MINUTE TIME LIMIT PER SPEAKER ON ANY ITEM)
• Dana Haven, 113 Stoddard Avenue stated that she had a question. Tonight’s new resolution that was passed, I could be wrong, but every time there is a new resolution it is in the packet, and I didn’t see it. Wondering if it is required that you post it to the public before voting on it. If I had seen it I would have been here for the first public participation.
• John Bachand, 56 Maple Hill Avenue stated that actually raises the specific relevant point or spending and the Charter. You have to have public notice for any spending over $375,000. It is very clear and how you are stretching your imagination is ridiculous. Like I said before you had a choice. I can appreciate you chose a certain risk. Wanted to start off by complimenting you and your work on the budget. Impressed on how you can switch gears. I just want to clarify that my letter this evening is for reference and does not need to be read. Regarding the resolution that just passed this evening, very anticlimactic again. Where is this Bond counsel we keep hearing about? Also, am I to understand that our town attorney was not involved with the negotiations for this resolution, that seems problematic. Heard a couple of times tonight it is probably legal, it is not. As far as the Charter, I cannot find anything in there for spending a large amount of money without public participation. Again, there is no ambiguity. It is the aggregate sum of the referendum, it doesn’t matter if you have the money in the bank, that is what the Schatz letter talks about. We made a certain choice. Think that we should have tried to address some of the things I warned about and that is bringing on more of the public and the two sides coming together, because I think that is going to bite us in the backside in the middle of this project if we have troubles. Just want to read a part of Section 818 of the Charter “Any person or persons who make or cause to be made any payment from Town monies in violation of the provisions of this Charter, or who receive such payment shall be jointly and severally liable to the Town for the full amount of such payment. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any person or employee of the Town who violates any of the provisions of this Charter shall be subject to a penalty in such amount as shall be determined by ordinance, and such a violation may be grounds for removal.” That is very sobering language.
• Steven Silvia, 45 Basswood Street stated that he wanted to applaud the effort and discussion this evening, was amazed at the creative accounting. You took appropriated funds set aside for other capital improvements applied it to this situation. I see beyond the issues that have already be raised by Mr. Bachand. Of the perspective, I have to applaud the creativity, the funds have been appropriated and you have allocated them as you deemed most appropriate given the moment. Though I find it distasteful, I do understand that is within your authority to do so. Do want to say to the six that voted in this manner, the monies you approved is
equal to the monies spent on the diesel spill and you got various amounts of reimbursements and after this budget is over with you will basically reimburse the CIP funds that you currently have available and it will all be good, so in fact our residents are paying additional taxes for the town hall because you raised the CIP, from my humble opinion. That being said, I am going to close by saying the six of you that voted in the manner and pass it in the manner it was done, I think it is going to end up being your diesel spill. But that is just one vote. Also, I was encouraged with the discussion on Anna Reynolds.

XIV. REMARKS BY COUNCILORS

- Mayor Zartarian stated that with regards to Ms. Haven's inquiry on the need to post is part of the public packet any resolution, I believe is FOI, we need to publish the agenda items, we have to publish votes within 48 hours on any resolution and that when it will be made available. As far as Mr. Bachand's spending $375,000, here is where I differ with the town attorney because the Charter does say special appropriations and it does require a special appropriation. Appropriations through the budget process are one thing and special appropriations for unencumbered unexpended money are subject specific restrictions in the Charter kicking in at $975,000.

- Councilor Miner stated that it is his understanding that there is written opinion from Bond counsel that is in existence. Let me rephrase that, there is a written opinion on whether or not we are within our authority. Am I correct in that?

- Councilor Anest stated that since Councilor Miner brought this up, it needs to be put out there that we did receive a third legal opinion from someone who doesn't have skin in the game from Attorney Richard Roberts and Halloran and Sage and it stated that what the council has done is within their full authority to do. So this gave the five us a little more comfort level in our decision making. [A copy of this Opinion is attached hereto.]

XV. ADJOURNMENT

Motion by Councilor Marocchini to adjourn meeting at 8:35 p.m. Seconded by Councilor Serra. Motion passed 9-0.

Respectfully submitted,

Susan Gibbon
Council Clerk
Good evening council members

As you deliberate tonight on the steps and process required for continuing the advancement of the town hall and community center project from a vision, to a design and now a reality well within our grasp; you no doubt must feel a significant sense of pride and satisfaction. Your sense of pride is of a special value given the long and rugged road that the town has walked, which at every turn has tested your commitment and your resolve. You have collectively always kept your eye on the goal and tonight perhaps more than at any other time you will be tested again. The test I’m referring is the deliberations in acting upon other funding sources outside of the public’s authorization of the approved referendum.

As a resident and as chairperson of the project building committee I would encourage to stay within the dollars of November 7th 2017 referendum and moreover to the spirit of the commitment to both those who voted in favor of the referendum and those who rejected it. What is being offered up to night for additional funding is well intended and perhaps legal but can reasonably be interpreted as a misplacement of the spirit and trust of the original commitment. I would offer this as a possible middle ground resolution of this matter as follows

1: Vote to approve the execution of the GMP (the GMP is $ 27,760,989 covers the cost of all alternates the dollar difference between the $28,818,358 and the GMP is $1,057,369 to the good (which covers the town’s contingency of $868,405 and if not needed can be applied to the shortfall in other soft cost

2: Move away at this point from trying to encumber funds which require your budget process to accomplish (you can’t encumber by intent and you must admit its problematic

3: It will be an accounting challenge to move monies from CIP to the project separating bond expenditures from CIP funding (who needs the headache)

Tonight should not be about a charter legal debate rather it should be about a united front to maintain a long history of spending what we committed to the public and finding a united will to move the project forward absence of matters that distract us.

Joe Harpie

36 Baldwin Court

Chairperson Project BLD Committee

March 12th 2019
February 27, 2019

Ms. Tanya D. Lane, Town Manager
Town of Newington
131 Cedar Street
Newington, CT 06111

Re: Town Hall/Community Center Appropriations Question
Our File No. 26609.2

Dear Ms. Lane:

You have asked for our opinion on the issue of whether the wording of the resolution adopted by the voters at the November 7, 2017 referendum precludes the Town of Newington from appropriating additional funds to be applied toward the Town Hall-Community Center construction project. For the reasons stated below, we do not believe that the Town is precluded from appropriating additional funds toward the project if those appropriations are made in accordance with the provisions of the Charter.

In connection with this opinion, we have reviewed the following documents:

1. Resolution adopted at November 7, 2017 referendum attached as Exhibit A (the "Bond Resolution");
2. Email from Janet Murphy to Michael Botelho dated February 5, 2018 attached as Exhibit B;
3. Email from Michael Botelho to Janet Murphy dated February 6, 2018 attached as Exhibit C;
4. Email from Benjamin Ancona, Jr. to Tanya D. Lane, Mayor Roy Zartarian and others attached as Exhibit D; and
5. Copy of Newington Town Charter, effective December 6, 2012, as found on the Town of Newington website on February 20, 2019 (the "Charter") (copy not attached).

As you know, the Bond Resolution authorizes the appropriation by the Town of the sum of $28,818,358 for costs related to the Town Hall and Community Center project and enumerates many of the components of that project. It further authorizes the Town Council to determine the scope and particulars of the project and to reduce or modify the scope if the funds are insufficient. The Bond Resolution authorizes the Town to issue bonds or notes in an amount not to exceed $28,818,358, deducting any grants applied to the project.
The Charter contemplates at least three manners in which funds may be appropriated for a particular purpose. First, as was the case with the Bond Resolution, Sections C-406, C-407 and C-408 of the Charter allow the issuance of bonds, and notes in the amount of more than $375,000, through the process of adoption of a resolution by the Town Council which is subsequently approved by a referendum of the voters. That is what was done on November 7, 2017 and the manner in which $28,818,358 was appropriated for use in conjunction with the project.

Section C-408 of the Charter also establishes the process for special appropriations, i.e., appropriations which are not done in conjunction with the annual budget. Special appropriations in excess of $975,000 must be approved by the voters at a referendum, as is the case with the authorization of bonds and notes in excess of $375,000. Special appropriations of $975,000 or less but more than $375,000 may be made by ordinance adopted by the Town Council. Section C-807 authorizes the Town Council to make special appropriations during the course of the fiscal year, subject to the restrictions described above.

In addition to the provisions noted above for special appropriations and the issuance of bonds and notes, the Charter, in Article VIII, sets forth the process by which an annual budget is developed and adopted. Section C-805 enumerates the powers of the Town Council and describes the manner by which that body sets and adopts the budget which, under C-806, constitutes an appropriation for all of the purposes set forth in the budget. Section C-805(B) also establishes the Town Council as the entity that may create and expend funds from capital and non-recurring reserve accounts. It appears from Janet Murphy's email to Michael Botelho that this is the process by which the Town proposes to appropriate additional funds necessary to complete the project.

The principal issue appears to be whether the approval of the Bond Resolution and the appropriation of $28,818,358 in accordance with that resolution would prevent the Town from making any additional special or budgetary appropriations to be applied to the project in excess of that amount. The Charter does not indicate that any one of the three manners by which funds may be appropriated is exclusive of the other two. Such a provision would be problematic in practice. In addition, there is nothing in the Bond Resolution that indicates that it is the only mechanism by which funds may ever be appropriated to be applied to the project. The Bond Resolution sets a limit on the amount that may be raised by the sale of bonds or notes to be applied to the project. While the Bond Resolution does allow the Town Council to reduce the scope of the project if the funds generated from the bonds and notes are insufficient, it does not expressly prohibit or enjoin the Town from making additional appropriations to cover any such shortfalls. It is likely that any such prohibition, either explicit or implicit, could be found to be an improper infringement on the Town Council's lawful powers as the legislative body of the Town under Section C-402 of the Charter.

It seems clear that, if additional funds were needed, that the Town could go through a second, identical process to authorize the issuance of bonds or notes to
generate any such additional funds. Likewise, there is nothing in the Charter that states that it may not appropriate additional funds either through the special appropriations process or the annual budgetary process. One of the core principles of statutory (or charter) interpretation is that where there are multiple provisions addressing similar subjects, they should be read in such a manner as to give effect to each of the provisions and to interpret them such that they form a harmonious whole which does not lead to conflicting, absurd or unworkable results. Because there are at least three methods in the Charter for appropriating funds for a particular purpose and none of them specify that they are to be used to the exclusion of either of the others, they should be read to allow each of them to be used independently. Therefore, it is our opinion that the amount of money raised for the project and appropriated through the Bond Resolution may properly be supplemented by additional funds which are appropriated either through the special appropriation procedures or the annual budget adoption process.

Attorney Ancona also noted that the explanatory text for the referendum at which the Bond Resolution was passed indicated that the total project cost was stated to be $28,818,358, of which $25,148,358 was total construction costs and $3,670,000 was soft costs. (Note that we have not reviewed the explanatory text but assume that the information in the email is accurate.) While the "bottom line" figure is followed by the abbreviation "GMP", for guaranteed maximum price, the chart is also headed by the phrase "estimated construction budget" which conveys the implication that the amounts are not known with absolute certainty. Finally, as noted above, the Bond Resolution provides that $28,818,358 is only the maximum amount that can be funded through bonds and notes issued pursuant to that resolution. While there may have been an understanding by voters reading the explanatory text that the project would not cost more than that amount, such an interpretation does not prevent the Town Council from exercising its independent powers under the Charter to make additional appropriations if necessary.

We hope this letter is helpful in resolving the issue. Please feel free to contact me with any questions you may have in this regard.

Very truly yours,

Richard P. Roberts

RPR/
Attachments
EXHIBIT A

BOND RESOLUTION

TOWN OF NEWINGTON
TOWN COUNCIL

RESOLUTION AUTHORIZING AN APPROPRIATION OF $28,818,358 FOR THE TOWN HALL AND COMMUNITY CENTER PROJECT AND THE FINANCING OF SAID APPROPRIATION BY THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE TOWN AND NOTES IN ANTICIPATION OF SUCH BONDS IN AN AMOUNT NOT TO EXCEED $28,818,358, AS WELL AS ESTABLISHING A DATE FOR A REFERENDUM

RESOLVED, (1) That the Town of Newington (the "Town") appropriate the sum of $28,818,358 for costs related to the Town Hall and Community Center project, consisting of (a) the demolition of the existing Newington Town Hall and Mortensen Community Center located at 131 Cedar Street, (b) the planning, design and construction of a building containing a new town hall, Board of Education offices, Transition Academy and community center and comprising approximately 72,960 square feet to be located at 131 Cedar Street, which shall include, without limitation, (i) the following town hall and Board of Education improvements: construction of offices, conference rooms, meeting room space, public areas, Transition Academy, lavatories, and storage space and other support areas; and (ii) the following community center improvements: two gymnasiums including a walking track and two full-sized (high school sized) basketball courts, locker rooms, three multi-function rooms, a pre-school program room, administrative offices for the Town's Parks and Recreation Department, a kitchen, an arts and crafts room, meeting room space, storage space and other support areas, public areas and lavatories, (c) the installation of windows, exterior walls, doors and roofing systems, (d) room, wall and floor construction, (e) electrical, mechanical, plumbing, lighting, HVAC system and other building system improvements, (f) the purchase of information technology and telephone infrastructure, technology improvements and equipment and materials related thereto, (g) on-site and off-site improvements, including parking and regrading, (h) the preparation and printing of bid documents, cost estimate reports and studies, environmental reports, informational materials and other preliminary materials, studies and reports related to the project, and (i) design, demolition, construction, site work, engineering, construction management, architectural, permit, insurance, testing and inspections, legal, administration, temporary and permanent financing costs and expenses and any other costs and expenses related thereto, all of the above with such changes as the Town Council may approve (the "Project"). The Town Council is authorized to determine the scope and particulars of the Project. The Town Council may reduce or modify the scope of the Project if funds are insufficient to complete all components of the Project, and the entire appropriation authorized hereby may be spent on the Project as so reduced or modified.

(2) That to finance said appropriation for the Project, the Town issue bonds or notes in an amount not to exceed $28,818,358 (or so much thereof as may be necessary after deducting grants or other sources of funds received by the Town for said project). The bonds or notes shall be issued pursuant to Chapter 109 of the Connecticut General Statutes, Revision of 1958, as amended (the "Connecticut General Statutes"), including, without limitation, Section 7-369 of the Connecticut General Statutes, and any other enabling acts.
(3) That the Town issue and renew temporary notes from time to time in anticipation of the receipt of the proceeds from the sale of the bonds or notes for the Project or the receipt of grants for the Project. The amount of the notes outstanding at any time shall not exceed $28,818,358. The notes shall be issued pursuant to the Town Charter and Section 7-378 of the Connecticut General Statutes. The Town shall comply with the provisions of Section 7-378a of the Connecticut General Statutes with respect to any notes that do not mature within the time permitted by said Section 7-378.

(4) That the Town Manager and the Director of Finance of the Town (the "Officials") be authorized to sign said bonds or notes by their manual or facsimile signatures and to determine the amounts, rates of interest, dates, maturities, dates of principal and interest payments on such bonds or notes, the form of such bonds or notes; the provisions for protecting and enforcing the rights and remedies of the holders of such bonds or notes and all other terms, conditions and particular matters regarding the issuance and securing of such bonds or notes and to execute, sell and deliver the same, and provide all supporting documentation as may be necessary or desirable to accomplish such purposes and to comply with the requirements of the Internal Revenue Code of 1986, as amended, Securities and Exchange Commission Rule 15c2-12, the Town Charter, the provisions of the Connecticut General Statutes and any other applicable provision of law thereto enabling. The bonds and notes authorized hereby shall be general obligations of the Town secured by the full faith and credit of the Town.

(5) That the Officials are hereby authorized to designate a bank or trust company to be the certifying bank, registrar, transfer agent and paying agent for such bonds and notes; to provide for the keeping of a record of the bonds or notes; to designate a financial advisor to the Town in connection with the sale of the bonds or notes; that the law firm of Updike, Kelly & Spellacy, P.C., Hartford, Connecticut, is designated as the attorneys at law to render an opinion approving the legality of such issue or issues.

(6) That the Officials are authorized to sell the bonds and notes at public or private sale; to deliver the bonds or notes; and to perform all other acts which are necessary or appropriate to issue the bonds or notes. If the bonds or notes authorized by this resolution are issued on a tax-exempt basis, the Officials are authorized to bind the Town pursuant to such representations and covenants as they deem necessary or advisable in order to maintain the continued exemption from federal income taxation of interest on the bonds or notes, including covenants to pay rebates of investment earnings to the United States in future years.

(7) That the Town hereby declares its official intent under Federal Income Tax Regulations Section 1.150-2 that project costs may be paid from temporary advances of available funds and that (except to the extent reimbursed from grant moneys) the Town reasonably expects to reimburse any such advances from the proceeds of borrowings in an aggregate principal amount not in excess of the amount of borrowing authorized above for the Project. The Officials are authorized to amend such declaration of official intent as they deem necessary or advisable and to bind the Town pursuant to such representations and covenants as they deem necessary or advisable in order to maintain the continued exemption from federal income taxation of interest on the bonds or notes authorized by this resolution, if issued on a tax-exempt basis, including covenants to pay rebates of investment earnings to the United States in future years.

(8) That the Officials are authorized to make representations and enter into written agreements or otherwise covenant for the benefit of holders of the bonds or notes to provide secondary market disclosure information, which agreements may include such terms as they deem advisable or appropriate in order to comply with applicable laws of rules pertaining to the sale or purchase of such bonds or notes.
(9) That the Town Manager is hereby authorized, on behalf of the Town, to execute any contracts with engineers, contractors, architects and other persons for the Project, to apply for and accept state grants to finance the appropriation for the Project, and to execute and file any application or enter into any grant agreement or other obligations prescribed by the State of Connecticut.

(10) That the Officials are authorized to take all other actions which are necessary or desirable to complete the Project consistent with the foregoing and to issue bonds or notes to finance the aforesaid appropriation.

(11) That this resolution shall become effective after it has been voted on and approved by a majority of the qualified electors voting thereon at referendum duly called and held for such purpose.

BE IT FURTHER RESOLVED,

(1) That should the Town Council adopt the foregoing resolution, pursuant to Section C-408 of the Town Charter, said resolution shall be submitted to the voters at referendum to be held on Tuesday, November 7, 2017, between the hours of 6:00 a.m. and 8:00 p.m., for a yes or no vote, in the designated voting locations in the manner provided by said Charter and the Connecticut General Statutes, Revision of 1958, as amended, and that the Town Clerk is directed to post and publish notice of such referendum in accordance with the provisions of said Charter and the Connecticut General Statutes, which notice shall state the question to be voted on as follows:

"Shall the resolution entitled, 'RESOLUTION AUTHORIZING AN APPROPRIATION OF $28,818,358 FOR THE TOWN HALL AND COMMUNITY CENTER PROJECT AND THE FINANCING OF SAID APPROPRIATION BY THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE TOWN AND NOTES IN ANTICIPATION OF SUCH BONDS IN AN AMOUNT NOT TO EXCEED $28,818,358", be approved?

Yes No 

The ballot label for said question shall read as follows:

"Shall the Town of Newington appropriate $28,818,358 for the Town Hall and Community Center project and authorize the issuance of general obligation bonds and notes in the same amount to finance said appropriation?

Yes No 

BE IT FURTHER RESOLVED, that the Town Council hereby authorizes the preparation and printing by the Town Clerk, subject to the approval of the Town Attorney, of explanatory text for the question approved hereby for submission to the voters at referendum on November 7, 2017 specifying the intent and purpose of the Project in accordance with Section 9-369b of the Connecticut General Statutes. Subject to the approval of the Town Attorney, the Town Council further authorizes the preparation and printing of materials concerning the question approved hereby for submission to the voters at referendum in addition to the explanatory text in accordance with Section 9-369b of the Connecticut General Statutes.
EXHIBIT B

From: Murphy, Janet [mailto:JM Murphy@NewingtonCT.Gov]
Sent: Tuesday, February 05, 2019 11:38 AM
To: Michael P. Botelho
Subject: RE: Bonding

Mike,

I just wanted to put in writing what we just discussed regarding the bonding project. Please confirm that I have the facts correct regarding the following:

- The $28.8 amount from referendum is the amount that we are allowed to go out to bonding for.
- If the amount of the project goes over this amount we can get additional appropriations by going through our annual CIP budgeting process under section 805.
- Any funds received from grants from the state for educational construction should be applied to the cost under the project. The amount of the grants along with the $28.8 bonding funds can be used to finance the total project.

There was one question that I also had for you which was can I fund items for this building outside the project? We already had planned in CIP an account that was separate from the project to handle some of the other expenses. It is funded through the budget process and is not being offset by any grants. The idea was to use this account for a gymnasium expansion, spray foam and FF&E.

Thanks.

Janet Murphy

Janet Murphy
Director of Finance
Town of Newington
(860) 665-8525
EXHIBIT C

From: Michael P. Botelho
Sent: Wednesday, February 06, 2019 12:04 PM
To: 'Murphy, Janet'
Subject: Bonding

Janet,

Here are my responses to your questions below. First, the Town may issue up to $28.8 million in bonds less any grants received for the project. This means that if the Town were to receive a grant for the BOE offices/Transition Academy work, the total bond amount would be reduced by the grant amount. For example, if the grant amount is $2,000,000, the Town would be able to issue up to $26.8 in bonds and then apply such bond proceeds and the $2 million grant against the cost of the project.

To the extent the cost of the project exceeds $28.8 million, the Town could seek an additional appropriation by going through its annual town budget process in accordance with Charter section 805 so long as such appropriation is not financed by the issuance of bonds or notes.

As I indicated above, to the extent the BOE offices/Transition Academy work is encompassed within the $28.8 million project, the amount of bonds that can be issued for the project would be reduced by the amount of any grant received.

The Town may be able to fund items for this building (i.e., gymnasium expansion, spray foam and FF&E) outside the approved project through seeking an appropriation under the annual town budget process.

Please let me know if you have any other questions.

Mike
Dear Mr. Mayor, Councilors and Town Manager:

You asked for my opinion regarding whether the town may exceed the referendum amount of $28.8 million for the town hall building project and use CIP funds to supplement the project as opposed to going back to referendum. I answer in the negative for the following reasons:

On May 10, 2016 and pursuant to § 8-39 of the Newington Code of Ordinances, the Council established and charged the Town Hall Renovation Project Building Committee with the oversight of the building project and directed the Committee as follows:

* Work with the Town Manager (or designee) and Town Staff in the oversight of renovation or modification to the Town Hall and Mortensen Community Center.
* Collaborate with the Library Expansion Building Committee to coordinate the designs of both projects and eliminate redundancies.
* The committee remain mindful of taxpayer concerns and keep the project below $25 million.

Newington Town Charter § C-408 dictates that "[N]o resolution making a special appropriation in excess of $975,000, shall become effective until the same has been approved by a majority of the qualified electors voting thereon at a regular election or referendum called by the Council for that purpose." Accordingly, on August 8, 2017 and pursuant to § C-408, the Council passed a resolution approving the Town Hall & Community Center Project and directed the Town Clerk to craft the referendum question that would be subject to approval or disapproval by the electors pursuant to C.G.S. § 9-369 et seq.

Said referendum question, which by statute is required to be answered "Yes" or "No," queried:

"Shall the Town of Newington appropriate $28,818,358 for the Town Hall and Community Center project and authorize the issuance of general obligation bonds and notes in the same amount to finance said appropriation?"

Additionally, the Town Clerk was also under statutory obligation to craft explanatory language pursuant to C.G.S. § 9-369b. Said explanatory language included the aforementioned directives by the Council and added the following chart:
The referendum passed by more than a 2.5 to 1 margin. Accordingly, the electors of the Town of Newington voted in favor of the project, however, it is my opinion that pursuant to § C-408 they did not vote to exceed the stated total sum of $28,818,358. As you will note, the explanatory text which was provided to the electors by the Town of Newington included the language, "Total Project Cost (GMP)" that articulated a very specific sum; please also note that the acronym "GMP" was used to indicate, "Guarantee Maximum Price." As such, I believe it would be illegal to circumvent the obligations of our Charter and the intent of the electors by applying taxpayer funds from other accounts to exceed $28.8 million without the prior further consent of the electors.

Respectfully submitted,
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