

MINUTES OF THE CHESHIRE TOWN COUNCIL SPECIAL MEETING AND BUDGET COMMITTEE MEETING HELD ON WEDNESDAY, APRIL 5, 2017, AT 6:30 P.M. IN ROOM 207-209, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Budget Committee Chairman Timothy Slocum, Michael Ecke and Sylvia Nichols.

Council Members: Chairman Robert J. Oris, Jr.; Vice Chairman Paul A. Bowman; Jeffrey Falk, Patti Flynn-Harris, Thomas Ruocco, Peter Talbot.

Staff: Michael A. Milone, Town Manager; Town Attorney Alfred Smith; Assistant Town Manager Arnett Talbot; James Jaskot, Finance Director; Gina DeFilio, Deputy Finance Director; Louis Zullo, Personnel Director

1. ROLL CALL

The clerk called the roll and a quorum was determined to be present.

2. PLEDGE OF ALLEGIANCE

The Group Pledged Allegiance to the Flag.

3. DISCUSSION RE: PROPOSED FISCAL YEAR 2017-2018 OPERATION BUDGET

Town Manager Milone distributed the handout for 4/5/17 with information for review with the Council.

Mr. Milone, Attorney Smith and staff have discussed what happens with the teachers retirement contribution issue after the operating budget has been adopted. The town would be forced to go back and appropriate money for this pension contribution. Attorney Smith was present to take the Council through the logical steps to be followed.

CGS 12-123 - page 1 of the handout cites this statute; section 2 is part of the chapter of the Town Charter which is applicable to a special appropriation; section 3 is the CCM survey on how other municipalities will handle the pension contribution and problems.

Section 3 - CCM posed questions to municipalities and their responses are noted in the report.

Question #1 - what authority, if any, does the town have to send out a supplemental tax bill.

Question #2 - how the municipalities would go about proceeding with a special appropriation, and if this would have to go to referendum. It is likely this would not pass at referendum.

Question #3 - is related to where the town is relative to state statute and changing the bottom line of an education budget after the budget has been adopted.

Mr. Milone said he spoke with Attorney Smith, Council Chairman Oris and Budget Chairman Slocum and his characterization of the appropriation as a "stand alone" in the budget. After discussion, he said this does not make sense; it is an education expense; and it should be part of the BOE budget. If it were adopted as a "stand alone" item it

will be very hard to absorb it into the BOE budget. It will be seen as an item to be funded, and becomes more of a burden to the town than it should be. Mr. Milone suggests that, going forward, this is the BOE budget and their contribution and part of the BOE bottom line. This makes increasing the BOE bottom line almost moot; it forces the BOE to have their bottom line increased; if it is not increased, the BOE would have to absorb this within the already appropriated budget.

Mr. Milone pointed out that the police pension contribution out there to be a burden for the Town and BOE...it is the Town's burden. Mr. Milone stated he has changed his position 180 degrees on the issue, and whether it matters or not, the statute will determine it.

Attorney Smith commented on "trying to shoot at smoke" with the issue. There is a proposal from the State; there is no decision on a contribution being required; and the State has the power to impose a new mandate, change or create new rules as to how it will be implemented. The General Assembly can state it goes in the municipal or BOE budgets. Attorney Smith is not 100% certain how this will all play out.

In terms of the laws presently on the books, Attorney Smith walked through what could be the best outcome. Some months down the road the town could be facing a revenue shortfall with a need to appropriate additional monies.

There is a State Statute, CGS 12-123, which talks about what happens when a town's current expenses exceed its revenues. The statute authorizes the legislative body, the Cheshire Town Council, to send supplemental tax bills to raise the additional money to meet expenses. This statute does not say "if and how" that money gets appropriated... whether it is through Charter provisions in place.

Attorney Smith reported there are only two cases on this statute with Connecticut Court interpretations. The facts in these cases are similar and involve a town referendum to appropriate the money failed. The town had obligations, and the voters declined to approve the appropriation of the money. The statute was invoked to say that, regardless of the failure of the referendum, the bill had to be paid and the town was authorized to send out rate bills. This raises the obvious question...if the town's usual appropriation process - referendum or action by the legislative body - is irrelevant to the outcome, the statute can be invoked whether or not the appropriation process fails. Or, is it necessary to go through the appropriation process...this is a question that has never been answered.

In order to withstand a challenge to the invocation of Section 12-123, Attorney Smith said the town would be well served to go through the special appropriation/referendum process. If it succeeds there is immediate authorization for the appropriation. If it fails, the town invokes the terms of the State Statute in order to send out the rate bills.

Mr. Slocum said there would have to be a public hearing to go through the referendum process.

Attorney Smith stated that, clearly, this statute has not been completely thought through. His recommendation to the Council is that it would take the issue off the table. Not going through the process and sending out the rate bills, someone could challenge it. This question has never been addressed by the Court.

It was stated by Mr. Ruocco that someone should inform the State that what they are suggesting is not workable; municipalities cannot enforce it; and where do the municipalities get the money.

Mr. Milone talked about the way the payment is constructed right now, with payment made in December. There is time for the State to do whatever it has to do statutorily to cover the municipalities. If it does come to a payment, December is the date, and this does leave time for further strategizing and discussing, with hope that the statute will cover municipalities. Mr. Milone thought there was a cover under the Charter, but Attorney Smith thinks otherwise.

Regarding Section 7-3(H) of the Town Charter, Attorney Smith read an excerpt into the record. In good conscience, Attorney Smith said he cannot tell the Council that this covers the situation. We are talking about a court judgment or federal authority or agency order, and State Legislatures are not agencies. An "agency" is someone acting at the behest of someone else. The Legislature is not an agency...it is the State Legislature.

Mr. Talbot asked about making the argument that DRS will request the money and if they are a State agency, as opposed to being asked by the Legislature.

Attorney Smith replied that could be if the statute were written in such a way that required a specific request from DRS.

According to Mr. Slocum this casts more doubt on whether the Legislature can even pass this bill for the retirement contribution.

Attorney Smith noted the Legislature is looking for a back door out of the mandate. There is talk about doing this mandate on a phase basis, i.e. year #1 is 25%, but things can change many times before the State budget is enacted.

Regarding the teacher pension contribution, Mr. Slocum asked if the conclusion could be that this is a BOE expenditure, and how this would impact the town's current operating budget. Is it a declaratory statement...this is going to fall on the BOE budget and that is what we will do.

Mr. Milone does not know if a statement has to be made at all, other than it has been discussed. It will be a BOE expense and the natural thing would to appropriate it in the BOE budget. Mr. Milone has conveyed this message along to Supt. Solan and Mr. Masciana. At this time we have no idea what will come out of the statute; it might dictate what this is called and how it is treated.

CCM Data - Attorney Smith has reviewed this data and noted most towns planning to address the issue, at all, are putting it in the education budget.

Mr. Oris stated it does not give the BOE an opportunity to decline any modifications. They would be hit with all \$3.5 million, have to ask for town support, or they would have to absorb the entire expense.

It may be sensible for the BOE to hold public hearings on the mandated contribution. Following that the BOE would ask for an appropriation from the Council. Mr. Milone said the BOE should formalize an appropriation request.

Mr. Ecke stated \$3.5 million is Cheshire's share of the pension contribution. He asked what expenditure this is for the town, and what is the Cheshire teachers' pension contribution history.

This is one-third of Cheshire's contribution to the Cheshire portion of the State teachers' pension. Mr. Milone advised that Cheshire has no evidence of the total for its teachers pension. One town (Berlin CT) is demanding information on its teachers pension because the last audit numbers did not jive with what the State is suggesting. The OPM person replied that is because the last audit did not reflect the most recent actuarial evaluation. Mr. Milone explained the State is asking for a contribution without showing any evidence that, in fact, the amount is owed or is one-third of the annual pension. There should be a demand for the State to provide information, as none has been provided.

Mr. Ecke wants the Town and Council to know the past history of the Cheshire teachers pension plan...what is the number, \$50 million, \$100 million. Another concern for Mr. Ecke is the State pushing this expense to the municipalities, with no ability to control the expense. He noted that in the next teacher contract the town cannot say it wants to do away with pension plans, and go into 401-K or 4093-B plans.

Mr. Milone said if this goes through the town will not be able to control its financial destiny, because of a number imposed, with no argument or basis to mitigate by negotiating this pension down.

It was stated by Mr. Ecke that the Town of Cheshire has been doing a great job until now, and the State is creating the choice, without the Town's ability to do great job going forward. He said the State is telling Cheshire it must take this expense without information.

Mr. Ruocco noted there are also teacher stipends, and asked if they are calculated into the pension numbers.

If we have to share in the liability, Mr. Milone said localities should share in management of the assets and decision making of the investments of the plan.

Mr. Bowman asked if the BOE has talked about this number, corroborated the value of the pension plan, what they paid in, and what is on their books. Teachers pay a portion of their salary into the State pension plan.

The BOE does not pay into this pension plan. Mr. Jaskot informed the Council that, on a GAP basis, what the State contributes to this pension plan, shows us as a "donated revenue" on the Town financial statements. They are paying on behalf of the Town of Cheshire; it shows up as an expense in the education function; and the State contributions are recorded.

Mr. Milone said CCM did discuss the value of the teachers' pension plan. One financial director said the State contributed on behalf of the town, and one-third of that amount is \$2 million, and this town is being told to pay \$3.25 million. The State response was that the amount was based on an old actuarial evaluation, and a more recent valuation has been done.

A question was raised by Mr. Talbot about assurances from the State that none of this "contribution money" can go to the State general fund. The issue of teacher layoff notices by a certain date was also raised by Mr. Talbot, and he asked if this is the intention of the BOE.

Mr. Milone never felt this contribution should be included in the operating budget. There was too much uncertainty, and to do this will devastate the Town...only to find out it is not \$3.5 million but a lower amount. This would come after layoffs of 30 to 40 people. He will get the answer to the notification date for layoff letters from the DOE.

Ms. Flynn-Harris said the former Superintendent has always done the layoff letters on a pro-forma basis. A letter has been sent to non-tenured teachers, with advanced notice on layoffs. Without sending out these letters, the teachers cannot, legally, be laid off.

Mr. Milone will check into the notification of layoffs to teachers from the BOE.

According to Mr. Jaskot, in FY 2016, the pension valuation was \$7.86 million; and now we are looking at FY 2018; our liability could be greater; the State is using \$8.5 million assessment, and it must be lowered.

If the Town does not send the State the mandated contribution, Mr. Milone said there could be loss of grants and other items.

Page 3 handout - CCM survey. Mr. Milone reviewed the questions and answers.

How do you plan to account for the Governor's proposed changes - 4.62% will include it as a municipal expense; 20% will have it as a BOE expense; 4.62% will have a new budget line category; 21.5% will not have it added into their budget; 32% are unsure.

Regarding the motor vehicle 32 mill rate cap, many towns are undecided on how to handle this issue. 52% do not expect to be impacted; 24.62% have a lower mill rate (below 32 mills), and will not be impacted this year, but will have impact in 2018.

(8) Supplemental tax bills - 27.42% will send a supplemental tax bill; 12.9% will reduce expenditures in other areas; 50% other; 9.68% use fund balance.

(9) Addressing non-budgeted expense with legal opinion in place - yes 18.52%
No 81.48%.

(10) Mill rate increase calculation - 100% of towns responding will have a mill rate increase, with a percentage increase of 83.33%.

Mr. Milone calculated the average mill rate increase among all the respondents, and it was 8.45%.

Mr. Milone stated the BOE should start the process on the teacher retirement pension contribution, come up with a recommendation, and send it to the Council. He will put something together to forward to Supt. Solan and Mr. Masciana.

Handout 4-1 - Summary of Potential Revisions. Mr. Milone reviewed the information with the Council.

General Government Expenditure Reductions - total \$187,000 reduction.

Pool - \$40,000; Workers Comp - \$40,000; Medical Benefits Trust Fund - \$100,000;
Public Health (Campion Ambulance) - \$7,000.

Personnel (phase II) - total \$103,191. Various Town Departments.

Various Department Revisions - \$103,000; this is for various items, and detail will be provided to the Council.

Revenue - General Government - increase of \$91,015.

Campion Ambulance will extend its contract at 2%, and the \$7,000 is cited at 1.5% increase. This contract must go to the Council for review and decision on the contract extension.

Overtime expenses are included in the \$103,000 reduction in various department.

Page 8-1 reflects the 2018 revenue adjustments; total \$133,015. \$42,000 is two education revenue items. Each month there is a trend analysis on how revenues are coming in relative to the same period over 5 years. With two more months in the fiscal year there is more confidence that these items can be pushed, and there is more contingency that can also be pushed.

Two years ago the Council expanded the excavation permit process. This has generated a healthy amount of revenue, which was never directed into the General

Fund, but into a supply revenue account for permit issues. This account now has \$150,000. The question is whether this money is intended to support additional expenses if they occur, or become revenue for the General Fund. Mr. Milone said this is unclear. \$25,000 has been taken out of this fund, and the matter will be forwarded to the Ordinance Review Committee. There is no financial use of this money for non-compliance with permits.

The revenue increase is \$133,015; \$42,000 is education revenue adjustment, and this will be used by the BOE with their cuts.

Take home vehicles - Mr. Oris requested the Council receive a list of who has "take home town cars" and the basis for this usage. He also asked about looking at this issue in the past and resulting savings.

Mr. Milone responded that he took a car away from the Deputy WWTP Director now that the project is completed. Supt. Dievert has a town vehicle. Parks and Rec car (used by Kevin Simmons) is coming out of service; Parks and Rec crew leader might need a take home vehicle, but this has not been decided at this time. A Park and Rec vehicle (truck) is coming out of service. The Parks Director is retiring; the new department head will not have a take home vehicle; the position can receive an auto allowance. The Town has a vehicle policy and Mr. Milone will provide it to the Council.

The Council was told by Mr. Milone that each take home vehicle comes with different levels of use. The CPD and CFD staff with cars must immediately respond to a call for service; they have the right to use this car; but not to go out of town unless there is privilege from the Chief.

Mr. Jaskot reported there are 8 non-public safety vehicles, and 4 for Public Works. The auto allowance information will be included in the report. For regular use of a personal car, people receive an auto allowance at 53.5 cents per mile (federal rate).

Page 5-1 Personnel Revisions Phase I in the proposed budget - this information was reviewed and clarified.

Pages 7-1, 7-2, 7-3 reflect the current job classifications.

Page 5-1 - Mr. Milone reported the following:

Tax Assessor position frozen until November 2017; salary savings of \$28,909; medical benefits pro-rated with savings of \$7,318; salary in the budget was \$86,727.

Phase II - Ms. Waller, Acting Assessor, has agreed to take the Tax Assessor position at a salary of \$88,000; a full-time position is cut to part-time with additional savings.

Electronic Media Coordinator - position filled in January 2018.

CPD police officer promoted to Sergeant; CPD \$50,000 overtime expense reduction; one police officer position frozen with \$72,434 savings.

CFD - \$6,000 to increase funding for temporary Fire Inspector.

Public Works - Parks Division into PW with salary adjustments for Mr. Noewatne, Mr. Gancarz and two positions in the Highway and Streets Division; this insures proper management hierarchy is in place for supervision and recognition of additional responsibilities (+\$21,000);

Town Engineer work hours reduction savings of \$12,507;

Library - one frozen position; increased hours for Library Associate (25 to 30 hours per week) decrease of \$25,272); Sr. Library Associate position frozen to 9/1/17, and could be frozen for entire year (decrease of \$8,874); reclassification of Assist. Director to Deputy Library Director @ cost of \$8,331.

Phase II - page 6-1. Aquatics Director \$2,000; position reclassification from N4 to E1.

Page 5-2 - Analysis P&R Foreman position. With elimination of Foreman position grand total is \$349,248.78. FY 2018 annualized w/o Foreman position - grand total is \$249,334.32.

Page 6-1 shows personnel revisions in detail; supporting each revision is a summary sheet (pages 6-2 to 6-4).

Page 6-3 Assessor's Position. The Acting Assessor, Diane Waller, has agreed to take this position at an annual salary of \$88,000; former Assessor making close to \$100,000 at retirement.

Assessment Technician becomes Assistant Assessor;

Assessment Technician (salary shows \$19,226.48) person promoted to Assistant Assessor position;

Assessment Technician position (35 hours per week) reduced to 14 hours per week;

Total savings of \$29,122.

Ms. Waller's current salary is \$77,000 as Acting Assessor with differential; as Assessor salary will be \$88,000; top salary for Assessor position is \$70,604; highest is \$105,005.

The Council was informed by Mr. Zullo that there is a dearth of Tax Assessors in Connecticut so there are not many candidates for the job.

The Assessment Technician position is lowered to 14 hours per week in Assessor's Department; 14 hours per week in Tax Collector's office; it will be one person "job sharing" position between these two departments. The Tax Collector has one part-time person whose hours will be increased from 20 to 25 hours per week.

Tax office decreases by 9 hours per week; Assessors office goes down by 21 hours; and pickup of about \$17,000 savings.

Parks and Rec Department - the Deputy Director position has many responsibilities, including camps, summer and winter activities and programs, and supervision of regular and summer staff (some part-timers).

4. PERSONNEL MATTERS - EXECUTIVE SESSION

MOTION by Mr. Talbot; seconded by Mr. Oris.

MOVED that the Town Council enter Executive Session at 7:50 p.m. to include Town Manager Milone and Personnel Director Zullo to discuss personnel matters.

VOTE The motion passed unanimously by those present.

MOTION By Mr. Talbot; seconded by Ms. Flynn-Harris.

MOVED to exit Executive Session at 9:15 p.m.

VOTE The motion passed unanimously by those present.

5. ADJOURNMENT

MOTION by Mr. Talbot; seconded by Ms. Flynn-Harris

MOVED to adjourn the meeting at 9:15 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk