

Minutes of the Litchfield Budget Committee Meeting

Held on February 12, 2013

The Litchfield Budget Committee held a meeting on Tuesday, February 12, 2013 at Campbell High School, 1 Highlander Court, Litchfield, NH 03052.

PRESENT: J Harte (Chairman), A Cutter, C Pascucci, C Couture, R Peeples, D Barka (School Board Representative).

Absent: B Spencer, G Lambert (Selectmen's Representative)

Mr. Harte called the meeting to order at 7:02 p.m.

1. PLEDGE OF ALLEGIANCE

2. PUBLIC INPUT

Jason Guerrette, 11 Perry Court, made the following statement: Every argument made by Town and School Board attorneys regarding RSA 32:5 is good advice. Changing votes is outlined in this law. There is a very specific and finite method to change recommendations on the warrant. Upon speaking to Shelly at the DRA, Mr. Guerrette explained the situation and her response is the RSA has nothing to do with Article 3. It is not a warrant as described by the law under the purview of Budget Committee. She said this is the reason the DRA prefers not to have recommendations on the warrant. Mr. Guerrette supported the practice of including recommendations on the warrant. Some elected officials did not like the fact that the Budget Committee chose not to support the article. They like spending money any way they want. Mr. Guerrette believes that the RSA does not apply to Article 3. He commented it appears on the ballot as written, but that does not include the recommendation. Mr. Guerrette commented that he asked Mr. York what "up to 2.5%" as stated in the warrant means regarding funding and he answered that the Board can choose to take less than that percentage. Mr. Guerrette believes Mr. York's answer is incorrect and stated that it has to be funded to the full capacity. He indicated the Board cannot choose to fund less than 2.5%. The School Board has the option of publishing its own or the Budget Committee's recommendations. He indicated that they can continue to publish the Budget Committee's original recommendation, but it would be wrong. Mr. Guerrette commented that he asked people what Article 3 means and none understood the wording. He indicated those people asked what the Budget Committee recommended. He commented that the Budget Committee's recommendations weigh heavily on what people decide. He asked the Budget Committee not to get sidetracked on this issue.

John York, 26 Bear Run Drive, commented that the School Board can elect to take a lower percentage of the funds (referred to in Article 3) and the remainder in excess of that number will be returned to the taxpayers. He referred to the recommendation tallies and indicated that the fact remains that the Budget Committee discussed Article 3 twice and elected to support the article. He commented if the Budget Committee had any concerns, they should have communicated their concerns through the School Board representative.

The School Board met and supported Article 1, informing the School Board representative he could support that article if he so chooses. The School Board, through the process of many meetings, discussed whether Article 3 should move forward or if the Board should restore the capital reserve funds. The decision was made when the article was supported by the Budget Committee. Mr. York commented if the Budget Committee voice their concerns with the article, more information would have been provided. He noted that no one asked for additional information and no questions were asked of the article. Mr. York commented it is unfair to the School Board and the taxpayers to take a vote without asking any questions.

Mr. York acknowledged that he contacted Mr. Harte via email indicated that he believed the Budget Committee violated an RSA when they revoted their recommendations. He apologized for any inappropriate comments he made in that email communication. He commented that this issue escalated and one Budget Committee member stated the Board was trying to hide things from the public, giving the perception that this was subversive. He noted that same Committee member applauded the Budget Committee and School Board for their work. Mr. York indicated that there are two legal opinions that pertain to this issue. He commented that if there were issues or concerns with the article this situation did not need to occur, as there is a process. Mr. York noted that this is not an issue for the School Board or Selectmen, but an issue of the Budget Committee and certain members that created the issue. He expressed hope that the Budget Committee take responsibility and resolve the issue.

Jason Guerrette, 11 Perry Court, commented that he had personal conversation with many Budget Committee members up to Saturday. He noted that he lobbied hard and provided much information, which he believes most likely attributed to their reconsideration of Article 3. He indicated that certain Committee members made their own decisions to support or not to support Article 3. Mr. Guerrette stated he was not aware of any discussions that occurred among Committee members, but indicated he was the driver of the issue. He noted that he spoke with the DRA and Mr. York did not. He commented that the warrant was not appropriate with regard to the RSA. Mr. Guerrette indicated that the DRA stated they will remove the funds from the budget in accordance with the passage of Article 3 and the School Board will not have a choice. He does not believe that Mr. York's characterization of the Board is correct.

3. PRIOR MEETING MINUTE APPROVAL

MOTION: by Mr. Cutter

Move to approve the minutes of January 10, 2012 as written

SECOND: by Mrs. Couture

VOTE: 6-0-0

The motion carried.

Mr. Peebles requested that the minutes of February 6, 2012 be tabled as he would like more time to provide revisions. Committee members were in agreement.

The meeting minutes of February 6, 2012 will be tabled until the next meeting of the Budget Committee.

4. BUDGET COMMITTEE BUSINESS

Mr. Harte explained the meeting was called because of issues with the warrant articles. He indicated it was noted by school counsel the revote may not be appropriate. We made a decision to revote as committee. He noted that Mr. York did send an email asking for further clarification. Mr. Harte commented if someone feels that the Budget Committee's actions are inappropriate, we ensure our actions are pure. Mr. Harte explained that he reached out to Jason Hoch, Town Administrator, to ask the Town's legal counsel about this issue. The Town's legal counsel indicated our action was inappropriate. He noted that several emails are going through the system and we do have to be careful with statements that are made. Mr. Harte indicated that he was contacted by the HLN as well as the Telegraph because of these discussions. He noted that he forwarded the email sent to the Budget Committee that contained legal counsel's advice.

Mr. Harte commented that Mr. Spencer requested clarification on the RSA as was expressed by Town counsel. He noted that he sent an email and communication from the School Board. He indicated he reached out to the Moderator and Vice Moderator for their opinions. Mr. Harte explained that all four opinions were of the same conclusion: they did not recommend going forward with the new recommendations. He noted the official vote on the warrant will reflect the original vote. Mr. Harte noted that the Budget Committee did revote on Article 3, which was a tie vote. He acknowledged that he made comment in the past never to vote an item on same night it is received. Mr. Harte noted that we had an opportunity to revote prior to Deliberative and we did not. He suggested the Budget Committee take responsibility. He indicated the ballot has been sent to the printer with the original votes of the Budget Committee. Mr. Harte commented that the Moderator was not of the opinion or position there was enough information to go against Town counsel. He indicated we should not put the town in that position. He noted that he supports the Moderator's decision. Mr. Harte commented that we owe it to the town to ensure people have the complete story. Mr. Harte indicated that as Chair he has to cover all bases and reach out to those people.

Mr. Pascucci commented that this seems like the issue is closed and asked for the purpose of the meeting.

Mr. Harte indicated in the email exchange there was a request to have that discussion to inform public of our decision. It was suggested that we may have withheld information by not being televised after Deliberative Session. He indicated this is the opportunity for Committee members to voice any opinions and get closure. Mr. Harte indicated that in the end, the Budget Committee, School Board, nor Selectmen make the decision about what is printed on the ballot. The Moderator said once it is stated that the article stands as written, it cannot be changed.

Mr. Peeples commented that he was prepared to come and ask that we remove the Budget Committee's recommendations as it does not reflect what the Committee was thinking.

He indicated it is unclear whether the percentage of money stated in the article is retained each year. Mr. Peebles indicated having been a Selectman and seen laws with unintended consequences, he believes this is a law with unintended consequences. He commented after reading it, he is in agreement with Mr. Spencer that this is a solution looking for a problem and that it may be wise to wait a year until the law is clarified.

Mr. Pascucci commented that this Committee took a vote and the School Board ignored that vote. He commented if you do not combine the two, the vote we took is legal and they can choose not to publish that vote.

Mr. Barka indicated the Moderator makes that decision. Mr. Pascucci commented that someone from the School Board chose not to publish the vote.

Mr. Barka commented that legal counsel advised if the Budget Committee did not revote, the recommendations could have been excluded. Mr. Pascucci commented that the Moderator sealed the warrant and the recommendations are not part of the warrant. He indicated that they do not have to be included legally and are separate from the warrant.

Mr. Barka commented it is an action that became part of the warrant. Mr. Pascucci commented that we can come to a compromise and not give up principle. He noted they can choose not to print the recommendations instead of printing incorrect recommendations.

Mr. Barka agreed and commented that the attorneys have given advice that is the law.

Mr. Cutter commented if legal counsel states it is illegal, he agrees that we should not have revoted. He pointed out there are several opinions that are the same.

Mr. Peebles commented he is in agreement, but will read everything carefully going forward. He noted that he was not under the impression that we had a pre-decided position before we assembled. Mr. Harte noted that he conveyed in an email that the School Board attorney recommended we not move forward.

Mr. Pascucci asked how a lawyer can overtake a legal vote. Mr. Harte indicated the legal vote was what was presented and we revised that vote. He noted that the issue is what can be printed on the ballot and not that the vote was revised.

Mr. Pascucci commented that the vote was taken at a meeting and is a legally revised vote. He indicated they are printing the incorrect original vote. Mr. Harte clarified they are printing the original vote.

Mr. Pascucci asked how we inform people that we did not mislead them and that we believe the vote on the warrant is not the true vote of the Committee.

Mrs. Couture commented that Mr. Pascucci and Mr. Spencer expressed their opinions at Deliberative Session. She indicated it is reasonable to expect that if Mr. Peebles and Mr. Lambert choose to express their opinions in the press the Budget Committee will be in

support. She indicated there are other avenues as well.

Mr. Pascucci commented that we can request the Chair issue a press release regarding the true intent of the Committee. Mr. Harte indicated that this Chair will not issue a press release as he is one of the members that recommended the Committee not revote and one of the votes in favor of the article. He indicated that if the Vice Chair would like to do so, he would not object.

Mr. Pascucci commented that he feels the Chair would be representing the accurate will of the Committee.

Mr. Harte indicated that it will be difficult to express the will of the Committee with a split vote. He noted that if Mr. Pascucci personally express his opinion in the media, he would not object.

Mr. Peeples expressed concern that actions of the Budget Committee in the past surrounding Deliberative Session may be called to light. He commented that the Committee has held meetings after Deliberative Session in the past and this is the first time this has occurred.

Mr. Harte indicated there was a issue last year. He commented that we are all human and review much information over a relatively short period of time (financial, legal, historical). He noted that there is nothing wrong with saying something makes sense today and thinking about it later. Mr. Harte noted that no one is at fault; however, there is a law that dictates the process for modification of votes.

Mr. Pascucci commented that there was no obligation to approach the School Board to inform them the Committee changed their minds. He indicated that what is relevant is how or why we changed our minds.

Mr. Harte commented there is no legal obligation, but as professional courtesy that is what should have been done.

Mr. Peeples commented that there is word from Concord that changes will happen to this law. He indicated that the law states 2.5% will be taken, not the word of the Board.

Mr. Barka commented that the School Board has the authority to release the money to offset the tax rate next year regardless of the percentage.

Mr. Pascucci indicated the School Board has no authority to spend this money. Mr. Barka commented they have authority to offset the tax rate.

Mr. Peeples commented that it was expressed here that the Budget Committee was inserted in that role. He indicated after reading the law, the Committee is only inserted in two instances and the School Board has more authority in another instance. He commented that is why he changed his mind.

5. MEMBER INPUT

Mr. Harte conveyed his appreciation for serving with the Budget Committee.

Mr. Barka commented that he prefers that the warrant contain no recommendations. He indicated that if Committee members express their positions through the newspaper, that it is expressed we are legally bound to print the Warrant as is.

Mr. Pascucci requested a letter from the School Board or letters from Board members as citizens. He indicated that the letter he writes will explain the true intent of the Committee and that the recommendations are not printed accurately on the ballot.

Mr. Harte cautioned Committee members on commenting on the true intent of the Committee. He indicated that it is not definite that the Committee opposed the article.

Mr. Peeples commented that he was not against the article until he realized the Budget Committee was not inserted in a specific area of the law.

6. PUBLIC INPUT

Mr. York commented that Mr. Pascucci speaks of the Moderator as if he holds a school district position. He indicated that the Moderator is elected to serve the Town and School District. He commented that according to the law the Budget Committee has control of certain areas: expenditures, but not revenue. He asked Mr. Peeples to explain why he spoke in favor of Article 3 and then reconsidered his view of that argument, as well as why revenue is an issue.

Mr. Peeples commented that his view of the Article is as an expenditure. He commented that the Board can choose not to return the money to the town. Mr. Peeples indicated after some research, it became clear we were not included in that instance, which is the reason for his reconsideration. He commented that there are unintended consequences and this will not be the first interpretation of this law.

Mr. Pascucci commented that he never spoke of the Moderator.

Jason Guerrette, 11 Perry Court, commented that it does not matter how many times Mr. York or Mr. Barka comment as they are not attorneys. He noted they are following advice. He indicated the DRA is the authority as to the amount of the funds that will be retained. Mr. Guerrette noted the DRA stated emphatically they will take 2.5%. He indicated that the Budget Committee's recommendation was 4-4 for Article 3 and that is the position that should be represented. He commented that Mrs. Couture was instrumental in his understanding of that process. The Budget Committee has taken a position and must represent it regardless of the vote. Mr. Guerrette commented that this issue is debated as if the RSA applies. He indicated that the Budget Committee ignored all statements and continues to believe that Municipal Budget Laws apply. He suggested to speak with the DRA for clarification. He believes the Moderator is using the incorrect premise and that the RSA has nothing to do with Article 3.

- **Upcoming meetings**

The next meeting of the Budget Committee is to be determined.

MOTION: by Mr. Cutter

Move to adjourn.

SECOND: Mrs. Couture

VOTE: 6-0-0

The motion carried unanimously.

There being no further business, the meeting adjourned at 7:55 p.m.

Note: An email discussion involving a quorum of Committee members will be attached to the approved minutes.

Minutes by: *Michele E. Flynn (Recording Secretary)*

Date approved: