

1 **Minutes of the Litchfield Budget Committee Meeting**
2 **Held on September 30, 2014**

3
4 The Litchfield Budget Committee held a meeting on Tuesday, September 30, 2014 at Campbell
5 High School, 1 Highlander Court, Litchfield, NH 03052.

6
7 **PRESENT:** C Couture (Chair), A Cutter (Vice Chair), R Peeples, C Pascucci, D Vaillancourt,
8 K Douglas, B Bourque (School Board Representative), F Byron (Selectmen’s Representative)

9
10 **Absent:** W Spencer

11
12 Mrs. Couture called the meeting to order at 7:02 p.m.

13
14 **1. PLEDGE OF ALLEGIANCE**

15
16 **2. PRESENTATION BY NH MUNICIPAL ASSOCIATION ATTORNEY CORDELL**
17 **JOHNSTON about the role of the BUDGET COMMITTEE**

18
19 Mrs. Couture commented that New Hampshire Municipal Association (NHMA) offers training
20 and advice to municipal agencies in NH. She indicated that Mr. Cordell Johnston is here to
21 explain the roles and responsibilities of budget committees. She noted that the Budget
22 Committee invited the town officials, committees and the School Board to attend. Mrs. Couture
23 introduced Budget Committee members to Mr. Johnston.

24
25 Cordell Johnston, Government Affairs Counsel, explained that he spends most of his time at the
26 legislature dealing with bills that affect city and town government. He invited Committee
27 members and those in attendance to ask questions as he presents information. He provided
28 printed information for those in attendance.

29
30 **Nature of a Municipal Budget Committee**

31 The biggest questions we receive have to do with tension between the budget committee and
32 board of selectmen, often the school board as well. Often it pertains to “turf wars” or
33 disagreements about who is the boss (i.e. do we work for them or do they work for us). This is
34 the source of many issues. The answer to the question is neither – you work together. These are
35 two different bodies that have clear responsibilities. There are places where they overlap. To the
36 extent that you can understand those responsibilities and that you can work together will help
37 you avoid issues. Like a legislative appropriations committee or a finance committee, the
38 municipal budget committee receives budget recommendations from the governing body, drafts
39 its own budget and submits the budget to the legislative body at the annual meeting for
40 consideration.

41
42 Mr. Johnston referred to a processional illustration of the budget process:

- 43 • Department heads and other officials prepare statements of estimated expenditures and
- 44 revenues
- 45 • The governing body reviews the estimates, prepares budget recommendations and
- 46 submits to the budget committee

- 1 • The budget committee drafts the budget, holds hearings, finalizes the budget and submits
2 it to the legislative body
- 3 • The legislative body debates, amends and approves the budget.

4 When it gets to the voters it is the budget committee's budget.
5

6 **Establishment of the Budget Committee**

7 At some point the town voted to establish a budget committee. The town can also vote to abolish
8 it; however, it is unusual to see a successful abolition of a budget committee.
9

10 Membership of the committee consists of 3-12 members who are either elected by the voters or
11 appointed by the moderator. In the case of a town, one member is a selectmen's representative
12 and one is a school board representative. The Chair must be an at large member. In the statute it
13 states an at large member will immediately cease to hold office upon four consecutive missed
14 meetings without excuse automatically. The budget committee can only act as a committee – no
15 individual member of the committee has any more authority than any other citizen of the town.
16

17 **Responsibilities and Principal Duties:**

18 The budget committee prepares the budget for submission to the annual or special town meeting
19 (town and school district). There is a schedule to follow:

- 20 • Confer with governing bodies and other officials and department heads. This is once
21 instance in which the selectmen work for you in that they are required to provide that
22 information to you when requested.
- 23 • Conduct budget hearings prior to the annual town meeting and school district meeting.
24 The NHMA publishes a calendar of important dates and it lists all the dates for towns
25 with SB2 or traditional town meeting.
- 26 • Forward final budgets and recommendations on special warrant articles, signed by a
27 quorum of the committee, to the town clerk and school district clerk 20 days prior to the
28 annual meeting to be posted. It is important to have a clear schedule for the budget
29 review.
- 30 • Meet periodically during the year to review comparative statements of appropriations and
31 expenditures which governing bodies are required to provide upon request. One
32 important limitation is the budget committee does not have authority over expenditures.
33

34 Mrs. Couture asked why does the budget committee review comparative statements if they have
35 no authority to challenge or question them? Regarding the remedy to initiate removal
36 proceedings in superior court if it finds that the governing body or town manager has violated the
37 law regarding expenditures, why does the budget committee have no authority and how does the
38 budget committee determine if there is a violation?
39

40 Mr. Johnston explained if the town does something and does not overspend the bottom line the
41 budget committee does not have authority to challenge or override it. They have the right to
42 question. Review of comparative statements is an ongoing process to understand what money is
43 being spent on and is helpful through the course of the year as to how they match up against
44 appropriations.
45

1 Mr. Pascucci commented that the budget committee would have the right to questions something
2 the board of selectmen or school board does and discuss it, but in reality it ends there.

3
4 Mr. Johnston explained that there are always solutions where there are not legal remedies. If you
5 find the governing body continually going astray you can challenge and redirect.

6 7 **Duties and Authority of the Governing Body**

8 The governing body (selectmen and school board) is responsible for review of the statement of
9 estimated expenditures and revenues and submission to the budget committee by a date they
10 shall fix.

11
12 Mrs. Couture commented that the board of selectmen and school board prepare a schedule and
13 submit it to us and we work cooperatively with them.

14
15 Mr. Johnston explained that they are responsible to make recommendations and submit them to
16 the budget committee. The budget committee now prepares the budget and once completed is
17 presented at the hearing(s). The budget committee then comes up with a final recommended
18 budget for the town and school district. The budget committee submits their recommended
19 budget(s) to the board of selectmen, town clerk and school district clerk who post the warrant.

20
21 Mrs. Couture commented once the budget committee receives the budget it is our time to work it
22 over. She asked if it is appropriate for the budget committee to request department heads attend
23 and answer questions or should the budget committee go through the board of selectmen?

24
25 Mr. Johnston indicated it is appropriate for department heads to come because it is your budget.
26 You can request their attendance, but you cannot make anyone come and talk to you. It is a
27 working relationship and most department heads recognize that it is best to attend voluntarily.

28
29 Mrs. Couture commented that the board of selectmen and school board do not want department
30 heads on the front line,

31
32 Mr. Johnston indicated that there is a provision in the statute that states you can request them to
33 come. He noted if the board of selectmen prefer questions to be directed to them it is best to
34 work it out.

35
36 Mrs. Couture indicated in RSA 32:16 it says “if the budget committee deems necessary”, which
37 can be construed to mean if more information is needed we can talk to department heads.

38
39 Mr. Johnston commented that you cannot be stopped from contacting the department heads. He
40 indicated the split of responsibilities is clear and we then get into some areas with an overlap of
41 responsibility.

42 43 **Recommendation on Warrant Articles**

44 The statute states with respect to special warrant articles, the warrant shall indicate the
45 recommendations of the governing body and the budget committee. Those recommendations are
46 not always the same.

1
2 Mr. Cutter asked what happens with a tied vote on the recommendations.
3
4 Mr. Johnston commented ordinarily if there is a tied vote the action fails. He indicated you note
5 the split recommendation as “the budget committee is evenly divided in its recommendation”.
6 He suggested the numerical tally of the vote be included.
7
8 Mrs. Couture was curious if a tied vote is a recommendation at all.
9
10 Mr. Cutter commented that there have been tied votes in the past and we debated about the word
11 “not” (i.e. not recommended) included on the article.
12
13 Mr. Johnston commented that he has a reservation about the wording “not recommended”
14 because it sounds like a recommendation against the article. He suggested more neutral wording.
15
16 Mr. Pascucci suggested “no recommendation due to tied vote”. Mr. Cutter commented if there is
17 specific language we have to use it.
18
19 Mr. Johnston indicated there is no specific language.
20
21 Mr. Peeples asked if it would be better to strive for consistency from year to year. He suggested
22 adopting a policy or procedure that would be contiguous over the life of the budget committee.
23
24 Mr. Cutter commented that he would like to be as transparent as possible and to make sure the
25 voter understands.
26
27 Mr. Johnston commented that it is a good idea to agree on what it will be and to be consistent
28 before the occasion arises. He noted that with a nine member committee, tied votes may never
29 happen. He pointed out that although some committees have members that have a conflict of
30 interest and have to abstain from a vote, there should be no conflict of interest on the budget
31 committee. Mr. Johnston indicated that a member should not abstain just because s/he does not
32 know whether to vote yes or no. He stated you are elected to make decisions, albeit hard
33 decisions.
34
35 Mr. Vaillancourt asked if the tied vote has to be included on the warrant at all.
36
37 Mr. Johnston indicated the answer is yes because the town voted to do so.
38
39 Mr. Johnston explained with respect to a warrant article that is amended at deliberative session,
40 the governing body and the budget committee may revise their recommendations and the revised
41 recommendations shall appear on the ballot for the second session. With respect to the operating
42 budget, if it is on the warrant it is the budget the budget committee recommended. Based on
43 legislation this year, if the operating budget is amended, the budget committee and the board of
44 selectmen can vote whether to revise the operating budget.
45

1 Mr. Johnston commented in Allenstown they had a \$10M budget going into deliberative session
2 and someone amended it by 10% and it passed. Neither the school board nor the budget
3 committee felt they had authority to put on the ballot that they recommended it, so they launched
4 a campaign to have people vote against it so they could get the default budget. As a result, the
5 legislation was amended to make it clear.

6
7 Mrs. Couture asked about the budget committee revoting on an article that did not change at
8 deliberative session.

9
10 Mr. Johnston indicated that the article first must be amended.

11
12 Mr. Johnston indicated that the town can vote to require the tax impact can be stated on the
13 warrant. It is up to the governing body to determine whether an article has a tax impact and to
14 approve the calculation of that impact.

15
16 Mrs. Couture asked if there is a standard for the impact listed on the warrant. She indicated that
17 the school district used the incremental difference between what the rate was and what the rate
18 will be. She noted that the town listed the whole tax rate on the warrant, which confused people.

19
20 Mr. Hoch clarified that people were confused that was an increase.

21
22 Mr. Johnston suggested being consistent. He commented it is better to list what the actual tax
23 impact will be.

24 25 **Ten Percent Limitation**

26 The total amount appropriated at the annual meeting cannot exceed the budget committee's
27 budget by more than 10%. This includes all amounts appropriated, whether in the operating
28 budget, special warrant articles or other separate articles. Fixed charges are excluded from the
29 10% limitation (i.e. bond payments, note payments, mandatory assessments, collective
30 bargaining agreements). Even if the budget committee does not recommend a bond article, the
31 governing body can still include it in the warrant.

32 33 **Default Budget**

34 If the operating budget is not approved, the default budget takes effect. The default budget is
35 defined as the amount of the same appropriations as contained in the operating budget authorized
36 for the previous year, reduced and increased, as the case may be, by debt service, contracts, and
37 other obligations previously incurred or mandated by law, and reduced by one time expenditures
38 contained in the operating budget. For this purpose, the definition of the default budget refers to
39 the operating budget and the statute makes clear that the operating budget means the statement of
40 recommended appropriations and anticipated revenues submitted by the budget committee
41 exclusive of special warrant articles and other appropriations voted separately.

42
43 Mr. Guerrette commented if a warrant article passes this year it is not included in the next year's
44 operating budget.

45

1 Mr. Johnston responded unless it is something that can be appropriated into the budget, as in a
2 contract.

3
4 Mr. Cutter asked who owns the default budget.

5
6 Mr. Johnston indicated the board of selectmen (or school board) unless the town has voted to
7 give that responsibility to the budget committee.

8
9 Mrs. Couture asked if a special warrant article contains a three year contract and passes, can that
10 type of article be included in the default budget because it is a continuation and was approved?

11
12 Mr. Johnston commented if it is expected to be repeated (i.e. fire hydrants).

13
14 Mrs. Couture asked if new positions would be included in the default budget the following year?
15 She asked how their intention is determined.

16
17 Mr. Johnston indicated on a case by case basis. He suggested if you are not sure you can talk to
18 legal counsel or call our staff as we answer general legal questions.

19
20 Mr. Pascucci commented it is clear that the budget committee has no authority over the default
21 budget, but is it safe to believe committee members can ask questions about the default budget
22 and how it was calculated.

23
24 Mr. Johnston answered in the affirmative.

25
26 Mr. Pascucci commented the budget committee has no authority to change it, but can have a
27 discussion about it. He noted that the NHMA takes calls from elected officials for general legal
28 opinions. He asked if budget committee members can call if they have a question.

29
30 Mr. Johnston indicated that committee members can call, unless the governing body has voted to
31 restrict who they allow to call and/or receive those answers.

32
33 Mr. Guerrette asked if it would be appropriate for a member to copy the Chair to submit the
34 question.

35
36 Mr. Brunelle indicated that the town adopted a policy not to restrict, but more to understand the
37 question that was being asked. He commented there is no intent to block anyone.

38
39 Mrs. Couture commented that we have to keep in mind about authority outside the meeting. She
40 indicated if nine members wanted to ask questions it would have to be by authority given in this
41 room by this committee.

42
43 Mr. Johnston commented unless the town has imposed some type of restriction, we will take
44 questions from any board or committee. He indicated that there are times when different
45 members call with different interpretations. He noted the best way to proceed is if the governing
46 body specifies who the question can come from.

1 Mr. Pascucci commented any one of us can ask any question of anybody without approval from
2 anyone from this room to help educate them and then bring that into a meeting and discuss it.

3
4 Referring to an earlier conversation regarding speaking to department heads, Mrs. Couture asked
5 if there is any rule against emailing a department head to ask a question of clarification.

6
7 Mr. Johnston indicated to keep in mind that we have the Right to Know law and whether it is a
8 member of the budget committee or any citizen, if you want to know specific information
9 regarding governmental records you ask for that particular information. A budget committee
10 member has the same right to request a copy of any governmental record, but only if it is in a
11 governmental record can it be requested. He suggested it is best to have such requests come
12 from the committee as a whole rather than a person responding to several different members.

13 14 **Transfer of Appropriations**

15 The governing body retains the right to transfer money from one appropriation to another as
16 needed during the course of the year once the budget is approved. The budget committee has no
17 authority to challenge the discretion of the governing body in making transfers. The governing
18 body cannot overspend the bottom line.

19
20 Mr. Pascucci commented that questions can still be asked. Mr. Johnston responded in the
21 affirmative.

22
23 Mr. Guerrette asked if a multiyear lease out of the default budget with a non-appropriation clause
24 is placed in the next year's operating budget, which fails, the second year of the lease cannot be
25 included in the default budget.

26
27 Mr. Johnston commented to keep in mind that the budget, whether the approved operating
28 budget or the default budget, it is a bottom line budget, so if you did not have the lease payment
29 in your budget, but it is a payment for a department you have in your budget, as long as it is for
30 the purpose included in your budget and you do not overspend the bottom line, the governing
31 body can include it. He indicated that the number that goes into the default budget is the amount
32 of the budget from the previous year, no matter what you spent the money on.

33
34 Mr. Guerrette indicated that on the website there is an example of a lease. He commented that a
35 different question was asked and answered. He did not believe that it answers the questions. He
36 asked if the board of selectmen enter a lease with a non-appropriation clause and take money out
37 of the default budget can they continue that multiyear lease in subsequent years?

38
39 Mrs. Couture suggested that if Mr. Guerrette has a specific question it would be best to put it in
40 an email. Mr. Johnston suggested he send the question by email.

41
42 Mr. Byron indicated the question has to go through the Board of Selectmen Chair.

43
44 Mr. Cutter asked what types of checks and balances are at the state level to ensure the default
45 budgets are correctly calculated?

46

1 Mr. Johnston indicated that the NH Department of Revenue Administration has a form to use to
2 calculate the default budget. He commented that the board of selectmen should be consulting
3 with the DRA if there are any questions.

4
5 Mr. Cutter commented that the challenge is that the default budget must be disclosed at the
6 budget hearing. He noted that the budget committee may not see it prior to the hearing. He
7 asked how the budget committee can challenge it?

8
9 Mr. Johnston indicated that the budget committee has no authority to challenge the default
10 budget.

11
12 Mr. Cutter commented we have no way to question it and have to accept it. Mr. Pascucci
13 commented that no one goes through our numbers to check them. He noted that it has to be an
14 individual who questions it.

15
16 Mr. Johnston indicated that the calculation of the default budget has been an issue in many
17 towns. There is legislation almost every year to deal with that concern. He noted there is no
18 good solution. He indicated the best solution is if you think it is being manipulated, bring it out
19 in public.

20
21 Mr. Guerrette commented that appropriation is entirely different than level of service.

22
23 Mr. Johnston indicated it is the dollar amount from the previous approved operating budget. He
24 noted if there is a contractual obligation, it is different.

25
26 Mr. Peebles believes that when they designed SB2 and the default budget laws, they did not
27 conceptualize that we would go to default budget yearly. He indicated money was looser and
28 things were different then.

29
30 Mrs. Couture commented the operating budget contains five first grade teachers and the
31 following year enrollment declines. She indicated that you are under no obligation to reduce the
32 number of positions in the default budget. She asked if the default budget stays at the same level
33 as the previous year?

34
35 Mr. Johnston indicated that you keep the higher amount. He commented that is one of the ways
36 where the issue about inflating the default budget comes up. He noted you can have a situation
37 where the default budget is higher than the operating budget, which leads to questions where the
38 board of selectmen or school board has inflated the default budget. He indicated there are times
39 when that is legitimate. He commented the default budget is what it is and if the proposed
40 budget is less, then that ought to be a good thing.

41
42 Mr. Cutter commented that this committee has no visibility in validating that.

43
44 Mr. Johnston suggested attending the meeting in which the default budget is determine.
45
46

1 **Right to Know**

2 You are a public body subject to the right to know law. Sub-committees are subject to the right
3 to know law. If a majority of the committee members engage in substantive discussions of a
4 matter within the committee's jurisdiction outside of a properly noticed public meeting, they are
5 violating the law. This includes discussion by email or other electronic communications. For
6 example, if one of you sends an email to everyone else on committee, the statute states if a
7 quorum, that email is governmental record and subject to disclosure. You are discouraged from
8 doing this. Sequential communication is subject to the right to know law as well. If one person
9 sends an email to an individual member and not all other members it is not subject to disclosure.

10
11 Mrs. Couture indicated the committee has chosen that all correspondence goes through the Chair.

12
13 Mr. Johnston indicated that the NHMA has been getting questions about texting during meetings.
14 He commented that although it is not clearly illegal, it is a bad idea for many reasons. He
15 suggested adopting a policy for no cell phone use during a meeting except for emergencies with
16 prior permission of the Chair.

17
18 Mr. Byron asked who deliberative session is scheduled by.

19
20 Mr. Johnston indicated it is scheduled by the governing body. He noted it is not a budget
21 committee issue because they only deal with the budget.

22
23 Mrs. Couture asked whose responsibility it is to present the budget at deliberative session?

24
25 Mr. Johnston indicated it should be presented by the budget committee, although there is no law
26 that says this.

27
28 Hearing no further questions, Mrs. Couture thanked Mr. Johnston for his presentation and his
29 time.

30
31 • **Upcoming meetings**

32
33 The next meeting of the Budget Committee is scheduled on October 23, 2014.

34
35 **MOTION:** by Mr. Cutter

36 *Move to adjourn.*

37 **SECOND:** Mr. Peeples

38 **VOTE:** 8-0-0

39 **The motion carried unanimously.**

40
41 There being no further business, the meeting adjourned at 8:50 p.m.

42
43 **Minutes by:** *Michele E. Flynn (Recording Secretary)*

44
45 **Date approved:**