

TOWN OF NEWTOWN
Board of Finance:
Joint Board of Education, Board of Finance & Legislative Council Work Group

MINUTES
Thursday, April 1, 2021 Virtual Meeting

Present: Dan Delia, Chris Eide, Debbie Leidlein, John Madzula II, Cath Reiss, Ned Simpson and
Deborra Zukowski
Also Present: One member of the press

Ned Simpson called the meeting to order at 7:31 p.m. Attendees saluted the American Flag.

VOTER COMMENTS - None

COMMUNICATIONS - See Old business discussion

APPROVAL OF MINUTES

Deborra Zukowski moved that Approval of March 22, 2021 Minutes be added to the Agenda,
Dan Delia seconded. All in favor and motion passed

John Madzula moved approval of March 22, 2021 Minutes Deborra Zukowski seconded. All in
favor and motion passed

NEW BUSINESS: - None

OLD BUSINESS:

- Discussion: Policy related to a Newtown Non-Lapsing Educational Fund
 - A Common Baseline – Information Gathering
 - Document Review

Ned Simpson highlighted that Work Group members should have the following documents:

1. Board of Education Policy and Procedures circulated March 22, 2021 by Deborra Zukowski
 - a. Policy 3160 - Budget Procedures Line Item Transfers
 - b. Policy 3171_1 - Non-Lapsing Education Fund
 - c. BOE Non-Lapsing Account Regulation Ritter 6-24-20
2. Text of old and current statute Section 10-248a and an extract from Section 10-222 circulated March ,30 2021 by Ned Simpson
3. A year by year back to 2011/12 report of BOE budget vs actual and encumbered, Special education expenditure and variance to budget, and Non-Lapsing fund additions and expenditures circulated March ,30 2021 by Ned Simpson
 - Pertinent documents

The following documents will be distributed to the Work Group

1. Excerpts form 2014 Board of Finance meetings where establishment of a non-lapsing fund was discussed

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2. October 20, 2020 letter from David Grogins to First Selectman and Chair Legislative Council regarding: Procedure to Transfer Board of Education Surplus at the End of the Fiscal Year
3. Dan Delia will look for any communications from Matthew Ritter to the BOE regarding Non-Lapsing Fund. If any will send to Chair Simpson who will circulate to the entire Work Group

- Current State Non-Lapsing

In the context of a hypothetical case that this Joint Work Group does not produce or conclude anything, how will the BOE handle deposits to and withdrawals from the Non-Lapsing Education Fund, Dan Dahlia described the process.

- The BOE would forward their request to transfer remaining funds to Non-Lapsing to the Board of Finance. It would then be up to the BoF to act and whether/how LC would be involved. There was discussion regarding the Town Attorney's opinion that if this transfer is considered like a Special Appropriation, LC has the final say on Special Appropriations.
- For expenditure from Non-Lapsing, Section 3 of the Regulation (which follows from BOE Policy) would be followed: BOE request BoF approve expenditure. That this would be for uses outlined in the regulation. Regarding the use of Non-Lapsing for the \$300,000 engineering contract for Hawley HVAC, Dan Dahlia indicated that it could be categorized as an extraordinary use in the time of COVID.

Debbie Leidlein described that long ago there was no vehicle for the BOE to store left over money. They could not coordinate and level expenses over time. There were other comments about how Sec. 10-248a was meant to deter the potential practice of spending down of budgets that some school districts across the state might adopt.

Dan Delia suggested there should be more looking through the windshield and less looking in the rear-view mirror. Chris Eide concurred that there was a lot of focus on the past and that the Work Group should look to clarification and what we want. Debbie Leidlein repeated her concern that any future process not be cumbersome and limiting flexibility.

The discussion turned to the relationship of this group and the Charter Review Commission. In particular elimination of the BoF will be considered by the Charter Review Commission. Chris Eide pointed out that by the end of the current fiscal year the BOE may want funds transferred into the Non-Lapsing Educational Fund and any Town Charter revision would be off in the future. Cathy Reiss added that one of three things could happen: 1) follow the process as in past years, 2) LC would make a determination, or 3) both BoF and LC would review the request. It was concluded that the Work Group will continue working under the current Town Charter. Later in our work, it may be appropriate for the Work Group to communicate with the Commission.

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○ Questions for attorneys

Both BOE council, Matthew Ritter, Shipman & Goodwin, and Town Attorney David Grogins, Cohen and Wolf, will be at Special Meeting of the Work Group Monday May 3, 7:30

Work Group discussed timing, logistics and FOIA considerations of submitting questions to the attorneys before the May 3 meeting. The next regular Work Group meeting is April 26. It was concluded that if we waited to finalize questions at that meeting there would not be time for the Attorneys to write their responses. The group did not want to have a special meeting in April. It was concluded that Work Group Chair would send the attorneys the questions in this meeting's minutes and that Work Group Members could ask follow-up questions May 3. Cathy Reiss expressed concern over legal fees. John Madzula pointed out that we cannot have lay people interpreting the statutes.

From the discussion the following questions will be sent to the attorneys:

1. What is your interpretation of Sec. 10-248a and do you think a mutually agreed to policy can restrict BOE use of funds and compel financial board action?
2. Regarding 10-248a, we plan to develop a policy or suite of policies where the following items are defined. Please provide your interpretation of any legal guidelines we need to be aware of regarding:
 - a. Roles and responsibilities of the BOE and town fiscal authority relative to the Non-Lapsing account,
 - b. Purpose of Newtown's Non-Lapsing Educational Account under the umbrella of "educational use,"
 - c. Why and how funds go into the Non-Lapsing Account,
 - d. When, why and how funds come out of the Account,
 - e. The maximum amount of Non-Lapsing Educational Fund Balance (if any),
 - f. Annual reporting regarding the Non-Lapsing Educational Fund.
3. Some specific questions regarding the above:
 - a. Are there statutory or other considerations for funds other than unexpended funds from the prior fiscal year from the budgeted appropriation for education being deposited?
 - b. What is your interpretation of designating the use of funds when deposited for a particular purpose thus avoiding the need for approval to take funds out for that designated purpose?
 - c. Is your interpretation regarding funds coming out influenced by different uses of funds coming out?
 - d. Is there any limit to how narrowly our policy defines educational use?
4. Regarding structuring and establishing a joint agreement between multiple town bodies:
 - a. In 2018 and early 2019, Dr R reported that some other school districts have Memorandum of Understanding (MOU) between their board of education and town (board of finance/board of selectman/ fiscal authority) What are the pros and cons of utilizing an MOU vs policy?
 - b. Are there state statutes regarding establishing policy that crosses multiple town bodies?

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- c. Are there legal considerations of one policy approved by all bodies or each body having and approving their own policy which has been reviewed and agreed to as consistent by the other bodies?
5. Regarding the October 20, 2020 Cohen and Wolf description that “The statute referred to above (C.G.S. 10-248a) provides a method of dealing with excess funds of the BOE which, given Newtown’s Charter, treats the funds similar to a ‘special appropriation’” (Charter Section 6-35) would funds added to the Non-Lapsing account be counted as part of the limit on the LC’s power to appropriate funds (charter 6-35(e))?
6. Regarding the Sec. 10-248a clause: “the board of finance in each town having a board of finance, the board of selectman in each town having no board of finance or the authority making appropriations for the school district for each town.”
 - a. Why would not the Newtown Board of Finance be considered “the board of finance”?
 - b. If not the board of finance, why doesn’t the responsibility go to the next on the list, the ‘board of selectman’?
 - c. If there is agreement between BOE, BOS, BoF and LC could Newtown chose to have the
 - i. Board of Finance serve the role relative to Sec. 10-248a?
 - ii. Board of Selectmen serve the role relative to Sec. 10-248a?
 - d. If a town body (e.g. BOE, BoF or BOS) does not agree that LC should serve the town role relative to Sec. 10-248a, what recourse do they have to challenge that interpretation?
 - e. How should the decision of BoF, BOS or LC Sec. 10-248a roles be formally made binding on all groups, implemented and memorialized?
 - f. How will the choice of BoF, BOS or LC for Sec. 10-248a impact Newtown voters? Public education?
7. After a budget and CIP requests have passed referendum, what financial transactions require an appropriation.

ADJOURNMENT

Cathy Reiss made a motion to adjourn. Chris Eide seconded. All members were in favor and the meeting was adjourned at 9:02 pm.

Respectfully submitted,

Ned Simpson, Chair

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