



BOARD OF FINANCE

Clifford J. Hurgin Municipal Center, 1 School Street
Bethel, Connecticut 06801 Telephone: (203) 794-8501

MINUTES OF REGULAR MEETING

Tuesday, August 10, 2010

7:00 p.m.

CJH Municipal Center – Meeting Room “A”

PRESENT: J. Philip Gallagher, Chairman, John Dietter, William Kingston, William Slifkin, James Roden, Gary Regan and Timothy Draper. Also in attendance was Interim Comptroller Robert Kozlowski.

Call to order/Pledge of Allegiance: J. Philip Gallagher called the Regular Meeting to order at 7:00 p.m.

Public Comment: Norman Loveless, Lisa Finn, Mary Jo Magrone, Kathleen Koch, Chris Todd, Judy Serfillippi, Eileen Costello, David Gesualdi, Bob Green, Lori Eaton, Stacy Bland, Carrier Cholak, Robert Crnic, Robert Burke, Christine DeCarie, Cheryl Baldwin, Robert Manfreda, and Alan Whitney all spoke in support of the YMCA; what it offers to the community and supports funding the repairs to the building. Daniel Gaita also spoke.

Correspondence: Letter from Daniel Gaita and letter from Town Counsel Martin J. Lawlor.

James Roden made a motion, which was seconded by William Slifkin, to add the letters to tonight’s agenda, under New Business Item # 5. Vote, all in favor, motion unanimously approved.

Minutes of July 13, 2010 Regular Meeting: John Dietter made a motion, which was seconded by William Slifkin, to approve the minutes as presented. Vote, all in favor, motion unanimously approved.

Chairman’s Report: J. Philip Gallagher presented the following written document:

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TOWN OF BETHEL
TOWN CLERK

CHRONOLOGY OF THE SHORT TERM BOND ISSUE FOR ROADS AND CAPITAL ITEMS FOR BETHEL BUDGET YEAR OF 2010—2011

March 9, 2110...Highway Department: The **Board of Selectmen recommends** to the Board of Finance that \$615,371 out of a \$1,115,371 request for road construction be removed from Account **240-404** and be funded through a bond package. This would leave a **\$487,180** request for road construction in account 240-404 for the fiscal year 2010-2011.

Building Maintenance: The **Board of Selectmen recommends** to the Board of Finance the following budget requests be removed from account **260 -406** and be considered for funding in a bond package

Municipal Center roofing & gutters	\$71,000.
Paint trim on Municipal Center	\$15,000.
Replace shingle roof & decking YMCA Building	\$50,000.
Repoint brick and remove part of chimney YMCA	\$55,000.
Replace garage at Animal Shelter	\$20,000.
Paint building & replace lights at Animal Shelter	\$20,000.
Repairs to storage building at Public Works	\$32,000
Replace boilers at Johnson School	\$215,000
Replace Pedestrian Bridge at Bennett Park	\$20,000

March 10, 2010: The Bethel Board of Finance by a margin of 6 to 1 and with the advice of the Town Comptroller voted to fund **\$1,142,571 in Bond Anticipation Notes** for the following list of capital projects:

Municipal Center roofing & gutters	\$71,000.
Paint trim on Municipal Center	\$15,000.
Replace shingle roof & decking YMCA Building	\$50,000.
Repoint bricks and remove part of chimney YMCA	\$55,000.
Replace garage at Animal Shelter	\$20,000.
Paint building/replace lights at Animal Shelter	\$20,000.
Repairs to storage building at Public Works	\$32,000
Replace boilers at Johnson School	\$215,000
Replace Pedestrian Bridge at Bennett Park	\$20,000
Road Construction	\$615,371.

It was the assumption of the Board of Finance that the Board of Selectman would place the question of the Bond Anticipation Notes on the ballot with the annual budget referendum in May.

April 20, 2010: The Bethel Board of Selectman, in approving the Legal **Notice or Call** for the annual Town meeting of May 3, 2010, **altered** the Bond Anticipation Notes proposal recommended to the voters by the Board of Finance by **deleting the \$615,371 for Road Construction and \$20,000 for the Bennett Park Pedestrian Bridge and adding \$34,000 for the replacement of a tennis court and \$28,000 to replace a ramp at the entrance to the Municipal Center Gym.** This **action** by the **Board of Selectmen** was **contrary to the Town Charter and State Law** and taken **without the knowledge or consent of the Board of Finance.**

ITEM # 3 OF THE CALL proposed borrowing for the following:

Municipal Center roofing & gutters	\$71,000.
Paint trim on Municipal Center	\$15,000.
Replace shingle roof & decking YMCA Building	\$50,000.
Repoint brick and remove part of YMCA chimney	\$55,000.
Replace garage at Animal Shelter	\$20,000.
Paint building & replace lights at Animal Shelter	\$20,000.
Repairs to storage building at Public Works	\$32,000
Replace boilers at Johnson School	\$215,000
Tennis Court Replacement	\$34,000
Concrete Ramp at Municipal Center	\$28,000
Total:	\$535,200

May 3, 2010: At the Annual Bethel Town Meeting Item # 3 of the Call, which contained the **altered Bond Anticipation Note proposal**, was **stricken** from the Call by a **motion of the Town Counsel** after the **Chairman of the Board of Finance** pointed out to **him and the First Selectman**, just prior to the commencement of the meeting, that the **Board of Selectmen had no legal authority to change the recommendation of the Board of Finance.**

May 11, 2010: the Board of Finance approved a Board of Selectmen request to appropriate **\$20,000** to replace the **Bennett Park Pedestrian Bridge** so that the property could be rented out safely to summer users.

May 13, 2010: **Both the 2010 Town & School budgets recommended by the Board of Finance pass at the annual budget referendum.** However the **\$1,142,571 in Bond Anticipation Notes recommended for a vote** does not pass because of the failure of the Board of Selectmen to place it on the ballot. It should be noted that if the Bond Anticipation Notes had been placed on the ballot and passed the two projects at the

YMCA Building totaling \$105,000 would be well on the way to being done. It should also be pointed out that **\$1,115,371** for needed road construction would have also been approved at this time, for the fiscal year 2010-2011, from the **combined totals** of the Bond Anticipation Notes and Account 240-404

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May 18, 2010: The Board of Selectmen recommends to the Board of Finance a Bond Anticipation Note of \$535,000. For the following items:

Municipal Center roofing & gutters	\$71,000.
Paint trim on Municipal Center	\$15,000.
Replace shingle roof & decking YMCA Building	\$50,000.
Repoint brick and remove part of YMCA chimney	\$55,000.
Replace garage at Animal Shelter	\$20,000.
Paint building/replace light at Animal Shelter	\$20,000.
Repairs to storage building at Public Works	\$32,000
Replace boilers at Johnson School	\$215,000
Tennis Court Replacement	\$34,000
Concrete Ramp at Municipal Center	\$28,000
Total:	\$535,200

Neither the **Tennis Court Replacement** or the **Concrete Ramp for the Municipal Center** were items that were included in the **original Board of Selectman presentation of March 9, 2010** or in the **Board of Finance referendum recommendation of March 10, 2010**.

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May 25, 2010: The Board of Finance **tabled** a May 18, 2010 recommendation of the Board of Selectman regarding a \$535,000 Bond Anticipation Notes.

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June 1, 2010: The Board of Finance **voted** to fund the **\$215,000. Boiler Replacement** for Johnson School by expending \$140,000 from the Capital Non-recurring Account (420-270) and \$75,000 from the Unreserved, Undesignated Fund Balance.

Finance Board Chairman J. P. Gallagher remarked that the Finance Board could deal with the other items in the altered Bond Anticipation Note after July 1, 2010 when the new Fiscal Year began and possibly fund some or all from Account 420-370, which would have an additional \$225,000 to work with. The removal of the \$615,371 for Road Construction by the Board of Selectmen lessened or removed the need for short term borrowing at this time. **Money appropriated from account 420-370 does not increase the budget or taxes since the voters have already approved the budget. It does need Town meeting approval if the amount is over \$30,000.**

June 13, 2010: The Board of finance voted to appropriate \$114,000 from Account 420-370 for Municipal Center repairs (Shingles & Roofing \$71,000, Painting, \$15,000 and replacing metal stairs \$28,000)

A motion to appropriate \$105,000 from account 420-370 for YMCA Building repairs failed after a 3 to 3 split vote. The discussion regarding this motion centered on the relatively low rent paid by the YMCA in comparison to the high cost of repairs.

July 28, 2010: The Board of Selectmen recommends to the Board of Finance an appropriation of **\$105,000** for repairs to the YMCA building.

J. Philip Gallagher also noted that he has found no further information on the Library fundraising event with the film festival.

Old Business

1.) Consideration of remaining capital items to be funded

Selectman Szatkowski was present at tonight's meeting and presented some information about the YMCA, noting that since 1991, over \$400,000 +/- has been received in rental income, yet only \$55,000 +/- has been spent by the town on repairs. He noted the Board of Selectmen's recent endorsement of sending the repairs back to the Board of Finance for funding and also authorized the First Selectman to renegotiate the lease with the YMCA.

William Slifkin expressed concern over the amounts requested by the Board of Selectmen, wondering whether the cost estimates are accurate and suggested that the funding should come from the existing building maintenance account.

J. Philip Gallagher made a motion, which was seconded by William Kingston, to fund the YMCA repairs (\$105,000) from the capital nonrecurring account. Voting in favor of the motion: J. Philip Gallagher, John Dietter, William Kingston, Gary Regan and Timothy Draper. Voting against the motion: William Slifkin and James Roden. Motion passed.

The remaining items will be referred back to the Board of Selectmen for prioritization.

2.) Status of \$9,500 for drainage improvements on Old Hawleyville Road

Board of Finance members questioned the status of the project, believing that it had come to a standstill. Selectman Szatkowski noted that a Notice to Proceed was issued to the Contractor, drainage was completed by the highway department and it was his understanding that work will commence in 2-3 weeks.

New Business

1.) Interim Comptroller's Report – reports discussed

Interim Comptroller Robert Kozlowski presented status reports. James Roden and William Slifkin questioned the funds left from the High School project, believing that there was approximately \$80,000 left in the account. William Slifkin offered that every invoice associated with the project has been paid. Mr. Kozlowski will look into this and report back to the Board of Finance.

2.) Consideration of Board of Selectmen request for funding Bethel Fire Department's request for All Terrain vehicle

John Dietter made a motion, which was seconded by William Slifkin, to approve the funding request of an amount not to exceed \$30,000 (\$25,000 for vehicle - \$5,000 for trailer), said funding to come from the fund balance. Vote, all in favor, motion unanimously approved.

J. Philip Gallagher made a motion, which was seconded by Gary Regan, to move Item # 4 to Item # 3 to this point on the agenda. Vote, all in favor, motion unanimously approved.

3.) Letters from Gaita - Lawlor

A letter (attached) was received this evening from Daniel Gaita with a response (attached) from Town Counsel Martin J. Lawlor regarding the use of town funds for litigation. Town Counsel Martin J. Lawlor, in part, advised that it is standard practice and part of municipal insurance coverage that all employees, board and commission members of municipalities are entitled to representation in matters where their actions are even remotely related to their positions and the business conducted on behalf of the municipality. J. Philip Gallagher noted that there really is nothing more to discuss.

4.) Consideration of Comptroller recommendation(s) to Board of Selectmen (Executive Session anticipated)

William Slifkin made a motion, which was seconded by John Dietter, to go into Executive Session at 8:28 p.m. for the purpose of consideration of Comptroller recommendation(s) to the Board of Selectmen. Vote, all in favor, motion unanimously approved.

Executive Session ended at 8:46 p.m.

J. Philip Gallagher made a motion, which was seconded by John Dietter, to recommend to the Board of Selectmen, three (3) well qualified candidates for consideration to fill the Comptroller position, the candidates are Robert Kozlowski, Paul Rizza and Gabriella DiBlasi. Voting in favor of the motion: J. Philip Gallagher, John Dietter, William Kingston, William Slifkin, James Roden and Gary Regan. Abstention: Timothy Draper (as he was not present during the interviews)

As there was no further business on tonight's agenda, Gary Regan made a motion, which was seconded by William Kingston, to adjourn the meeting at 8:47 p.m. Vote, all in favor, motion unanimously approved.

Respectfully submitted,

A handwritten signature in cursive script that reads "Wendy Smith".

Wendy Smith, Recording Secretary

Daniel R. Gaita
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Bethel CT 06801
danielgaita@comcast.net
203 994 2987

Town of Bethel
Board of Finance
1 School St
Bethel CT 06801

8/10/2010

SUBJECT: POTENTIAL MISAPPROPRIATION OF TOWN FUNDS FOR PERSONAL LEGAL DEFENSE

Gentleman,

I am requesting the honorable members of our town Board of Finance investigate the ongoing use of tax payer dollars for the legal defense being provided in the ongoing Slander, Libel and Defamation lawsuit involving our current First Selectman, Mr. Matthew Knickerbocker, Superintendent of Bethel Schools, Dr. Gary Chesley, Chairman of the Bethel Board of Education, Mr. Larry Craybas and Bethel resident, Mr. William Hillman.

While Mr. Hillman appears to be funding his own personal defense, I am concerned the other three defendants have been using tax payer dollars to fund their ongoing legal defense even though the charges in the case are against each of them each as individuals.

Please note, the civil lawsuit herein referred to (*CV 09 5008537 Danbury Superior Court*) was filed against the four named defendants and **not against the Town of Bethel.**

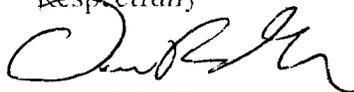
The lawsuit was not filed against any town agency or board but specifically against the individuals.

I am unaware of any state statute that authorizes the use of tax payer dollars to fund individuals in this type of lawsuit. Resultantly, I am concerned an ongoing misuse and misappropriation of funds is occurring specific to their legal defense costs.

The legal counsel representing those in question is: Law Offices of Charles G. Walker, P.O. Box 2138, Hartford CT 06145-2138 (Attorney Jeffery G. Schwartz is their counsel)

Please feel free to contact me if more information is needed.

Respectfully



Daniel R. Gaita

MARTIN J. LAWLOR, JR.

Attorney at Law

99 Greenwood Avenue
Bethel, Connecticut 06801

Telephone (203) 790-9398
Facsimile (203) 744-0678

August 10, 2010

Board of Finance
Hurgin Municipal Center
1 School Street
Bethel, CT 06801

Re: Correspondence - Daniel Gaita
Dated: August 10, 2010

Gentlemen,

I was presented with a copy of Mr. Gaita's correspondence dated August 10, 2010 in regards to "Funds For Personal Legal Defense" addressed to your Board.

I have no particular knowledge of the current status of the proceedings in the litigation that is being referred to other than having read the complaint some time ago. I have no opinion as to the merits of the matter or the facts other than what was stated in the complaint and have not consulted with counsel for the Defendants nor had any dealings with any of the pleadings/discovery which may or may not have taken place. However, I was asked and will comment on the legal merits of what the Mr. Gaita, the Plaintiff in this matter is requesting

To my knowledge, there are no direct funds of the Town of Bethel being used to defend the Defendants named in this litigation. The Town's insurance carrier has hired and is paying for an attorney to represent Dr. Gary Chesley, Superintendent of Schools and then Board of Education members, Larry Craybas and Matthew Knickerbocker. I am unaware as to the status of the defense of and costs incurred by Mr. Hillman relating to this matter.

It is standard practice and part of municipal insurance coverage that all employees, board and commission members of municipalities are entitled to representation in matters where their actions are even remotely related to their positions and the business conducted on behalf of the municipality. Bethel is no exception. Without this type of coverage, municipalities would be hard pressed to hire competent employees and have individuals volunteer to serve on boards and commissions. Being in the public eye always makes for an easy target.

Despite the writer's statement that the action was brought against the Superintendent and the Board of Education members individually, this does not mean nor should it be assumed it was not related to Town business or the individuals are not entitled to representation. The Town of Bethel has a responsibility to provide representation for its employees, board and commission members on the same basis as the determining factors

Correspondence - Daniel Gaita
Dated: August 10, 2010

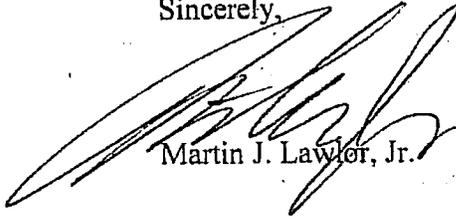
of the insurance carrier and does provide this representation through its insurance coverage.

In the present case, Bethel's insurance carrier has made a determination that the subject matter complained of is within the parameters and the scope of doing Town business which warrants that the Superintendent and the Board of Education members are entitled to this representation. There is neither misuse nor misappropriation of funds.

The matter is in the hands of the court and should remain there without further interference. In due respect to your Board as to this particular matter, the Board of Finance has no investigatory powers and the request is outside of the Board's scope of authority. For these reasons, the request is without merit.

If you have any further questions or concerns regarding this matter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Lawler, Jr.", written over a printed name.

Martin J. Lawler, Jr.

MJLJR: cjb