

Joint Meeting

North Stonington Board of Finance Meeting

North Stonington Board of Selectmen- Special Meeting

Meeting Minutes, Wednesday, June 3, 2020

North Stonington Zoom Meeting @7:00pm

North Stonington, CT

1. **Call to Order:** 7:05pm, Board of Selectmen members present: 1st Selectman Mike Urgo, Nita Kincaid, Bob Carlson. Board of Finance members present: Chairman Dan Spring, Dan Smith, Paul Simonds, Carolyn Howell, Anne Akin, Michael Anderson
Absent: Chris Hundt. Also Present: Town Attorney Nick Kepple
2. **Legal Guidance: Town Attorney Suisman & Shapiro represented by Nick Kepple:** Nick gave a concise summary of the governor's executive orders and how they pertain to the budget process for municipalities. He then answered questions from both boards on what the ordinances mean for NS.
 - a) Executive Order 7c- (March 2020) If a town has a deadline for adoption of their budget, it extends that deadline by 30 days.
 - b) Executive Order 7i Item 13- Establishes that for towns operating under the town meeting form of government, the BoS shall vote to authorize the budget making authority to adopt the budget for the 2020/2021 fiscal year and set the mil rate sufficient to meet said budget. Establishes that the process for adopting the budget was going to be significantly different for town meeting governments than it has been in the past.
 - c) Executive Order 7? - Attempted to identify that maybe under certain circumstances there could be a town meeting about things other than the budget if they had the approval of their local health director. Town meetings in this sense equate to a vote on a topic. This is how Vernon managed to hold their budget referendum, they got clearance from town health director. Ordinance just created confusion and furor.
 - d) Executive Order 7hh- clarification of 7i section 13, and is titled "mandatory suspension of in person voting requirement by members of the public on municipal budgets". It states that 7i section 13 shall be deemed to require the budget making authority of every municipality (NSBoF) to adopt a budget for July 1, 2020-June 30, 2021 fiscal year and to set a mil rate sufficient for that budget, and to suspend any requirement for a vote on that budget and mil rate, including but not limited to any vote by annual town meeting or referendum. This makes it crystal clear that we cannot vote on the budget.
 - e) Also in Guide to Executive Orders document issued May 30th, page 49, under budgeting options, Executive Order 7hh, it states the relative elected body/bodies "must" (in bold letters) adopt a budget for 2020/2021 without in person vote by residents.
 - f) This is the law until Sept 9 or until the governor rescinds these executive orders.
 - g) Nothing says that the BoF must adopt a budget or set a mil rate by July 1st. We could wait and hope the executive order is lifted, but how long can we wait? Pros and cons to waiting. There are administrative and economic implications for

waiting. Postage cost for sending out supplemental tax bill is approximately \$4K. This does not include labor cost.

When asked if he had any further comments, Nick Kepple discussed the implications of the recent election of the BoF alternate..

- a) Following on opinion from last week regarding impact of statute 9-167a, by choosing a republican alternate, the board make up is now 4 republicans, 1 democrat, and 1 unaffiliated with 2 republican alternates.
- b) Statute 7-340a states that a regular board member who can't make a meeting is allowed to choose an alternate to fill in for them. If they neglect to do so, it is the board's responsibility to fill the vacancy.
- c) By adding a second republican alternate, this nullifies the ability of the democrat and unaffiliated board members to lawfully select an alternate since this would put 5 republicans on the board. It also means that the board can't lawfully choose an alternate to fill in for the absent member since again, this would seat 5 republicans on the board. Statute 9-167a states you cannot seat 5 members of one party on a 6 member board. Secretary of State and statute say it can't happen. The bond council also weighed in on the possibility of repercussions for bonding and bond rating but we were not told what their decision was.
- d) This scenario would also cause under-representation of the community's interests since the BoF would have to function with only 5 members of the possible 6.

3. Public Comments:

- a) Mark Leonard- The BoF went against the town attorney's advice and seated a republican alternate. He calls for the board to rescind the election of Brett Mastroianni to the alternate position.
- b) Gary Urbino- Nothing prevents us from passing a flat budget at this time and amending it later when we can have a referendum and the town can weigh in on it.
- c) Christine Wagner- We have gone through months and months of this budget process. Have asked repeatedly to have the subject of the RISA put on the agenda for discussion and approval. If the issue is not decided within the next couple of days, the BoE will lose the ability to act on it.
- d) Mike Noonan- 1) thanks Mike Urgo for transparency. 2) Disagrees that we have an extra \$4K to spend on sending out supplemental tax bills. 3) Thinks the BoF is stalling since they don't want to accept the governor's ordinance. The town elected the BoF to do a job, and expects them to do that job no matter the extenuating circumstances.
- e) Brian Rathbun- Before the BoF adopts any budget, we should get the state reps to knock on the governor's door and ask him when the ordinance will be lifted. Failing that, the BoF should set a flat mil rate and propose increasing it later when we can vote on it.
- f) Shawn Murphy- 1) Glad we could take advantage of town attorney to discuss BoF seating issue. 2) Town ordinance states we will have a town meeting in the first week of May. Governor's ordinance gives us an additional 30 days from the first week of May in which we can hold the town meeting. Since there is no town

- ordinance on when we have to pass a budget, 7C does not affect when we have to approve our budget. 3) The executive order allows BoS to set mil rate to fund normal approved expenditures if we don't have a budget by July 1st, therefore BoS can set mil rate at 29 now and continue business as usual. Could set the budget at any time and wouldn't necessarily need additional billing. Additional increase could be covered by adjusting January billing. 4) Agrees with Paul that if an additional billing is needed, \$4K is a small price to pay to allow taxpayers a chance to vote on the budget. 5) Passing the budget tonight will not give the public sufficient time to comment as per the executive order. We need to provide an email address and a deadline for comments. 6) The final proposed budget will not be provided to the public prior to passage as required by town ordinance and state statute. 7) We are bypassing the normal procedures referenced in the executive ordinance by not having a town meeting. By passing the budget tonight without having the town meeting would be in violation of the executive order. 8) BoF should provide more time for public input. This would also allow them more time to consider the attorney's opinion and allow them more time to deliberate on the budget.
- g) Connie Burrie- Is of the opinion that the nomination process was not fairly executed since applicants were not given a chance to discuss with the board their qualifications. Stacking the board does not allow her voice to be heard.
 - h) Joe Cassata- Pushing again to have Per Diem firefighters put back into the BoS budget. It is paramount to town safety.
 - i) Nicole Porter- is a new member of a town commission is excited and thankful for the opportunity to serve. In the last few BoF meetings she has observed, has seen more politics being played and less genuine representation of all residents, and this does not serve the town. Reminds BoF that they were elected by the residents of the town and should serve all members of the town. Wants everyone to work together to move the town forward.
 - j) Shawn Murphy-Attorney Kepple states he does not understand where in executive order it required us to go to a town meeting. EO 7HH states "shall proceed in a manner as closely consistent with the applicable procedures as possible" and for us that is a town meeting. We can hold a town meeting (virtually), we just can't vote at that town meeting. We can still hold town meeting to ask questions and discuss the budget.
 - k) Beth Vetolino- Discussing BoF alternates, did like how the BoF ran the meeting. There was no discussion of the candidates. Called out board members for changing party affiliations.
 - l) Pam Potemri-Has significant concerns with the BoF discussions on 20May2020 and 27May2020. There was no discussion on appointment of alternate with minority representation, and this violates state statute. The discussion is concerning, the blatant disregard of attorney's advice is shocking. The board's duty is to uphold the collective interest of the town. To intentionally position our town in violation of the law and the state statutes does not do this. Remediation is not to wait for the next election to correct the issue, this is an arrogant response. Would ask the town attorney for recourse to address the board's actions as well as implications to board members, specifically whether they

would be subject to section 7-349, the penalty section. 1) Would they be subject to civil action in the name of the town, and what is recourse to address violation of minority representation of alternate board members. 2) What is attorney's opinion on minority representation statute that she raised? 3) Are text messages exchanged between board members while conducting business during an open meeting subject to freedom of info act?

Nick Kepple's replies: 1) Since the deliberations of a public body are supposed to be in the sunshine it is inappropriate to be communicating, especially about the substance of a matter, during the meeting. 2) on minority representation question he respectfully takes a different position. This is a 6 person board, by statute, so for 9-167 purposes compliance is measured based on a six person body which states there cannot be more than 4 members of any single party, not based on an 8 person body. 3) does not like to render opinions on topics he has not examined, and in 30 years he has not come across the impact of 7-349 and the civil liability question so point to board earlier is just to caution board not to get themselves or the town in a jam by violating 9-167A by having 5 people of one political party vote on a motion at a meeting. For there to be personal liability there has to be significantly grievous behavior.

- m) Toulia Balestracci (Chair of the Democratic Town Council)- The BoF is not a healthy board. Concerned that the board's democrat member does not get to pick his replacement if unable to attend a meeting. Also, not giving candidates a chance to represent themselves discourages people from volunteering to sit on town boards and committees, people do not want to be involved in the political drama. We have struggled to get people to join committees and boards and this is why. We are in essence hiring someone, and should vet all candidates.
- n) Bill Ricker- Champions fair and honest government. Does not think this has happened with the latest appointment. Moral and ethical consideration was not given to the choice of alternate.
- o) Jessica Deary- Not sure how much more she can add. After 2.5 hours it feels like a lot of the meetings just go in circles and nothing gets accomplished and this is very frustrating. Feels the BoF should have given more consideration to the attorney's interpretation of the law. Wants to know how the BoF inequality will be rectified, and how will the public be notified of how the situation was resolved.
- p) Sarah Nelson- 1) Regarding obscenities, there is no place for that in a public meeting. 2) Felt that the process to choose a BoF alternate went out of order. The attorney should have spoken before the alternate was chosen. 3) Felt that the BoF could have been more fair and transparent. 4) We need to put party lines aside and work as a team.
- q) Joe Gross- Felt that everybody knew we don't believe in a 2 party system anymore. Feels that all members should be heard, and there should not be a time limit on decisions. Also believes that we need to seat Christine Diaz as a member of the BoF, because she could get us straightened out in short order.
- r) Chris Nelson- 1) Echoes Toulia, Jess and Beth. 2) Thinks it is disingenuous to switch political party affiliation just to make things work. 3) Would like clarity on whether the BoF approves the budget for the Economic Development

Committee, and is this now a conflict of interest. If so, will Brett resign his seat as Chair of the EDC?

Chairman Dan Spring replied that there is no conflict of interest. Several of the BoF members sit on other town committees.

- s) Charlie Steinhart IV- Confused about the major concern over the BoF alternate position. Diana Urban switched party affiliation while in office. The alternate does not have to be seated unless needed for a quorum, and how often would 3 members be absent at the same time. Also, if neither minority party board member is present, the 4 republicans are still a quorum and can conduct business and vote.

Chairman Dan Spring states the town has no mandate to seat the alternate when another board member is absent, a quorum of 4 republicans can conduct business and vote, but there is a perceive prejudice if you don't have minority parties represented by alternates.

- t) Joe Potemri-Asks for clarification, his understanding is if you switch political parties, it will take 90 days for this change to go into effect.

Nick Kepple- responds he is not clear on this, Chairman Dan Spring- responds he will reach out to Secretary of State to get clarity on this.

4. **Review: Public Hearing, June 1, 2020:**

10 speakers were in favor of adding weed mitigation back into budget.

Motion by Chairman Dan Spring to put \$15K back into the BoS budget for weed mitigation. 2nd Dan Smith. Discussion

Vote: 6/0/0 Motion passes

Motion by Mike Anderson to rescind the vote to appoint Brett Mastroianni to the BoF alternate position. 2nd Dan Spring. Discussion- since Brett is already sworn in, rescinding vote may not be an option. Motion withdrawn by Mike Anderson. Mike Anderson put forth creating an ordinance to have 3 elected BoF alternates. Consensus of board that this would be a good thing.

5 speakers were in favor of adding Per Diem firefighters to the budget.

Motion by Carolyn Howell to add \$100K to the BoS budget for 2 Per Diem firefighters. 2nd Anne Akin. Discussion.

Vote: 3/3/0 Motion does not pass.

Motion by Mike Anderson to add \$50K to the BoS budget for 1 Per Diem firefighter. 2nd Carolyn Howell. Discussion.

Vote: 6/0/0 Motion passes

3 speakers were in favor of funding land acquisition.

Motion by Chairman Dan Spring to bring the Land acquisition budget up to \$5K for this fiscal year. 2nd Mike Anderson. Discussion

Vote: 2/4/0 Motion fails.

5. **BoF: Budget 2020-2021 Finalization**

Motion by Chairman Dan Spring for the Board of Finance to approve the amended budget for fiscal year 2020/2021:

BoE: \$14,119,738

BoS: \$5,108,664

Debt Redemption: \$1,204,204

Capital: \$320,175

Total Budget: \$20,752,781

2nd Paul Simonds. Discussion.

Vote: 6/0/0 Motion passes. Three members voted for budget with the understanding that the voters would have a say on the budget before it is adopted.

6. **BoS: Authorization; Budget Adoption & Mil Rate Levied:**

Town attorney has made it clear that it is extremely unlikely that we will be able to hold a referendum on the proposed budget.

Motion by 1st Selectman Mike Urgo that the Board of Finance be given the authority to pass the budget. 2nd Selectman Nita Kincaid. Discussion.

Vote: 2/1/0 Motion passes.

Chairman Dan Spring states that having added \$65K to the budget, we can set the mil rate at 29.9 by taking \$2K from the undesignated fund or we can set it at 29.92 and add \$3K to the undesignated fund.

Discussion covered the following points:

- a) Delaying passing the budget until later in the summer/fall- this might allow taxpayers to vote, but it constrains the town's ability to conduct business. Without an approved budget, town can only spend 1/12 of the budget per month, and many of the town's expenses are front loaded at the beginning of the fiscal year. It would also necessitate a supplemental tax bill which tends to confuse taxpayers.
- b) Drop the proposed mil rate to 29.8 by taking the added \$65K out of the undesignated fund This takes the undesignated fund down by a total of \$290,232 to 13.5%
- c) Drop the proposed mil rate to 29.5 by taking a total of \$390,232 from the undesignated fund. This drops the fund down to 13.0%
- d) Drop the proposed mil rate to 29.25 by taking a total of \$505,640 out of the undesignated fund. This drops the fund down to 12.5%

Motion by Mike Anderson to take the additional \$65K added to the budget tonight from the undesignated fund. 2nd Dan Smith. Discussion. Motion withdrawn.

Motion by Mike Anderson to move an additional \$150768 from the undesignated fund to the revenue side to drop the proposed mil rate to 29.5. 2nd Paul Simonds.

Vote: 4/2/0 Motion passes

Motion by Dan Spring to levy the mil rate at 29.5. 2nd Dan Smith.

Vote: 5/1/0

Motion passes

7. **Previous Minutes:** Tabled
8. **Adjournment:** Motion to adjourn at 11:22pm by Chairman Dan Spring, 2nd by Dan Smith. Approved 6/0/0.

Respectfully submitted,

Anne Akin
BoF Secretary