

September 14, 2005
Board of Finance Regular Meeting
Marlborough Elementary School Library
7:30 p.m.

A. CALL TO ORDER, ALTERNATE APPOINTMENT

Chairman Mike Gut called the regular monthly meeting of the Board of Finance to order at 7:31 p.m. Board of Finance members in attendance were Mike Gut, Cathi Gaudinski, Joseph LaBella, William Secord, Carl Cavaliere, Brian Breeden, and alternates John Cunningham and Donna Mosher. First Selectman Nancy Bader, Second Selectman Sharon Reiner and Third Selectman Bill Black were also present.

B. RECOGNITION OF GUESTS

Jack Murphy	Ken Hjulstrom
Tom Blaney	Daniel Coleman
Anthony J. Maiorano	Jeanne Shannon
Sheila Chervenak	Robert Chervenak
Ruth Kelly	Margaret Denno
Richard Denno	Roseanna Carlson
Joan Fykse	Dorothy Newsch
Rick Samolis	Sharon M. Seckla
Victoria N. Seckla	Robin Hodge
Barbara C. Murray	Karen B. Budd
Sarah Schultz – PRESS	Bob Hannon
Al Daigle	Scott Foley
Debbie Bourbeau	Bill Grant
Gordon Isleib	Howard Dean
Peter Hughes	Dennis Hawrylko
Joanne Goode	Jim Cherry
Linda Cherry	Debby Rihm
Jane Boston	David Boston
Evelyn Godbout	Carolyn Gatesy
Beth Petroni	Al Covino
Shari Covino	Alex Ulloa
Donna Ulloa	Harold White

C. REVIEW OF CORRESPONDENCE

Mr. Gut said that he has given responses regarding the issue of transfer of funds and delegation of duties, including e-mails and other correspondence, to members of the Board of Finance.

D. REQUEST FOR TRANSFERS

Nancy Bader opened with remarks to the BOF members and the guests assembled with a reminder that primary projects that have been funded are sewers and the business park and the focus is to accomplish implementation of these. She gave credit to the town

employees who know their jobs and work hard at them and are there to support her. In an attempt to better accomplish the work at Town Hall she has recommended getting Peter Hughes, Town Planner, out of enforcement work. Because the town's staff is not large, Ms. Bader has spent time working with key people such as Mr. Hughes, Tom Giola, Director of Physical Services and Jill Oguschewitz, Assistant Treasurer. She has tried to maximize the work output without adding to the staff. She emphasized that Mr. Hughes should be in the office to lead the sewer project and the business park project and the village center plan. She feels strongly that the future of Marlborough hinges on the work that Mr. Hughes is now doing. At this time, Ms. Bader said she does not feel she has been as active as she would like to be in an attempt to obtain revenue, adding that Marlborough is now number 126 on a State of Connecticut priority list for the sewer project. A concentrated effort will be needed to get timely funding for it. Mr. Hughes needs an additional person in the Building Department who can handle wetlands enforcement, zoning enforcement, and the hope is that the candidate will have municipal sewer knowledge and experience. He or she would have the title of Building and Land Use Director. Mr. Hughes would then take over some of the administrative responsibilities of Ms. Bader. Ms. Bader would be able to focus on strategy, policy setting, and revenue raising. Team work would continue as it has in the past.

When Ms. Bader heard the townspeople's concerns about taking money out of the First Selectman's position, she decided that it might be better to re-think the request. She thought it might be best to cut back on some of the contracted services and move the money into professional services category and have her salary stay at the same level. Therefore she said that the BOS voted yesterday (September 13th) to withdraw the request for moving money out of the First Selectman's salary line and move a smaller amount of money out of the contracted services line item and into professional services. In summary, she said that the request before the BOF tonight is to move \$15,000 out of contracted services into professional services.

Mr. Gut referred at this time to communications received from the town attorney regarding issues that Board members had addressed with an emphasis on the broad wording of the Town Charter. He added that job descriptions are available for review by townspeople and have already been reviewed by the town attorney for appropriateness. At this time Mr. Gut opened the meeting to only Board of Finance members for questions regarding the request by Ms. Bader.

Mr. Cunningham questioned the area of contracted services that would be reduced to accomplish this request and Ms. Bader explained that the records management project would be tapped and will need to be slowed or continued during the next budget year.

Mr. LaBella asked how much more money will be needed this year and next year for this reorganization. Ms. Bader said there will be no impact on this year's budget and it is not known what the figure will be next year as the budget has not been put together for next year. Mr. Gut added that it is all within the same line item account in the budget. Professional personnel category would receive \$15,000 in total and this amount would cover the remainder of the year.

Ms. Gaudinski questioned what account he is referring to and Mr. Gut said it is in 0109-51155 (professional personnel). Mr. Gut explained that there is more than \$30,000 in the professional personnel account as that account includes many positions within Town Hall. There is an unexpended \$30,000 in the account which was originally anticipated for the hiring of an Assistant Building Official. The goal is to hire a person by mid-November and the assumption is that a qualified person for this position would receive a salary of \$63,000 annually.

Mr. Secord asked if the professional personnel account is contracted services within that account. Mr. Gut said it was a different account – professional services account - 0175-54360 is a totally different account.

Ms. Gaudinski asked why this is it not considered a special appropriation. Mr. Gut answered that it is within the professional personnel account. It is moving money into that account within the same budget. At this time Mr. Gut read a portion of the legal opinion of the attorney. “The Board of Finance when requested by the Selectmen may transfer unexpended balances from one line appropriation to another in accordance with Section 7347 of C.G.S.”

Anthony Maiorano said that by charter there should be no transfer over \$10,000 out of the salary account and Mr. Gut explained that this is transferring money in. Mr. Gut explained the difference by saying that the town attorney said that within the confines of the town charter, this transfer can be made. Mr. Maiorano said that the charter does not say that and that Mr. Gut should read below that portion. Mr. Secord asked Mr. Maiorano if he is talking about Section 6.7.1 and Mr. Secord said that his understanding is that the “BOS may transfer line item amounts up to \$2,000 within any account except salary accounts and shall notify the BOF of such transfer within 14 days after said transfer.” What is being asked is not what that refers to and what it refers to is the BOS operating without having to go to the BOF.

Ms. Gaudinski asked about the job descriptions in question. They have been reviewed by the town attorney recently said Ms. Bader. Discussion followed about the various job descriptions and the overlapping duties of such. Ms. Gaudinski said she is concerned due to the fact that a new position was added two years ago with duties involved with public sewers. The Director of Physical Services job is part of the sewer project. Ms. Bader answered that he will be involved in the sewer project as well as improving roads. Ms. Moser added that the position that is being referred to is the position that was used to free Mr. Giola to oversee the sewer project after the school project was finished. Ms. Bader said that a title change was voted on as Mr. Giola took a leadership role in the school project. At this time Mr. Hughes explained his position in detail and the new responsibilities and duties involved with the hiring of a new and a hopefully-experienced person.

E. PUBLIC FORUM

Tony Maiorano said that the BOS may transfer line items of \$2,000 into any account except for salary accounts. Mr. Maiorano said that it was a violation of the charter to transfer money to increase the salary of the Assistant Treasurer. Mr. Gut answered that to retain that employee, transfer of money was done within one line item – no transfer of funds was done to accomplish that. It was done within line item 0109-51155. Mr. Maiorano said that then it was a special appropriation – a transfer of money within the same account. Mr. Gut said there was no transfer in or out of that account. The request of \$15,000 will increase the proposal if approved. Mr. Gut explained there are two things in the budget – a contingency line and a town operations line. The interpretation of taking money out of the contingency and moving it into town operations budget is not the case. The request for the \$15,000 transfer is within the approved town operations budget and is not coming out of the contingency fund. He further said that he agreed with Mr. Maiorano in part as the charter has been worded in such a manner that a broad interpretation is possible. Mr. Maiorano asked for an explanation as to why the transfer of money to give a raise was done and then the request to the BOF was made. Mr. Maiorano added that he was involved in the wording of the charter and he knows the intent of the wording of the charter and that the damage was done and the raise was given and then the BOF said it was o.k.

Howard Dean said he supported Ms. Bader’s request for additional services as the job now entails more work. Mr. Dean explained transfers that could have occurred during his administration and the reasons why some transfers did not occur. The Charter he explained is a 1985 charter. He emphasized another charter revision must be started. A five-member board rather than a three-member board is preferable. He did not agree with the method of transfer of money being requested however.

Beth Petroni said she supports the need for additional help and said she was concerned about obtaining a new First Selectman with a reduced salary. Mr. Gut pointed out that the request for that has been withdrawn. It has been proposed to have the money come out of the contracted services account.

Bill Black spoke to the group regarding his past experiences being involved with charter revision. Precedent played a role he said. He said that interpretation may cause some disagreement but the key role of the 1985 Charter was to ensure that funding on wages and salary be established and approved by the voters at a town meeting and it became the salary structure. He emphasized that it is not possible to allow administrative people to move salaries. Admitting the limit of \$10,000 is low by today’s standards he said, anything of significance should go before a town meeting. Still there is also a responsibility to go before the BOF. He added if an item is not in an approved town budget, it has to go to a special town meeting.

Nancy Bader countered by saying that all should be careful not to confuse issues. This BOF has transferred amounts higher than \$10,000 without going to a public hearing. The BOS has voted unanimously to reflect those changes. She added that the town attorney

said that the transfers being requested were appropriate. She agreed that there are many ways to “read” the charter.

Richard Denno said he feels that the way in which Bill Black was “brought into the process” (four days before the vote) was not right. He asked Mr. Black when he first heard about the proposal. Mr. Black answered one week before and a special meeting was established and then another meeting was held a few days later and the vote was taken to transfer. Mr. Denno added that he felt the public is “out of the loop” as Mr. Black is. If there was a concern that employees were over worked during the time of budget process, why did these concerns not appear in the letters of Ms. Bader’s in the *Rivereast*. He asked the BOF if benefits would be paid to the potential hire in addition to a salary of \$63,000. Mr. Gut answered yes. Mr. Denno thinks that this situation is a “back door proposition”. He felt a public hearing should be held. He also suggested tableing the request for four months in order to give people time to process it.

Dennis Hawrylko gave a short background of his prior involvement with the town administration – that being - at one time a selectman and another time a member of the BOF and so he said he feels he is able to speak from both sides. This new position being given to Mr. Hughes sounds like a town manager’s position. He added that he believes that the word “delegation” means if the First Selectman is not present, the second Selectman is in charge and if not, then the Third Selectman is in charge. It is not a situation where duties and responsibilities can be distributed over the town’s government. He seriously questioned the legality of the transfers. The fundamental form is being changed. Peter’s expertise as a planner would not be used in the way intended if he is to be responsible for some duties of a First Selectman. And he added Peter presently has an impact on each commission in which he is involved. If there is any doubt about this transfer, go to the public and have a meeting.

Ms. Bader emphasized again that the work is needed to be done now. Delegation can be done as the charter indicates she said. She reiterated that the job has changed over the years. She feels strongly that Peter Hughes is the one to do the work. She said she continues to believe that this is best for the town and the future of the town. She added that this is a critical time for the town.

Gordon Islieb addressed the issue before the BOF. He said that all should be very careful how to do business in this town and it should be done by being efficient and using talents that are available. He emphasized that the BOF not just “blink” at the charter just because they want to do something now. Some serious questions have arisen about the advisability and legality of transferring funds in this manner. Some other professional opinions do not agree with Mr. Fish’s. Considering that the position being asked to be funded is not in the original budget, this is a special appropriation and it comes under different rules. There is high public interest and a town meeting can be called or a town meeting can be petitioned. He added he felt that it would be unwise for the BOF to proceed without a public hearing and a town meeting. “Take the careful course” he urged the Board.

Ken Hjulstrom spoke about the point made by Richard Denno referring to Selectman Black's lack of knowledge of this proposal until the "11th hour". He questioned the method of the vote taken by the BOS after the BOS came out of an executive session (a closed-door session to discuss personal issues) and he questioned whether it should have been held in executive session at all. This adds to a feeling of secrecy.

Joanne Goode referred to the recent survey in town and said clearly the town supported the projects started under the leadership of Howard Dean. The sewer project, for example, has gotten behind due to the funding problem and it is important to move it up on the list that Ms. Bader referred to earlier in the meeting. She said that she is looking at this situation as an opportunity for the town to see if this is a change that the town can "live with" and she encouraged the BOF to support Ms. Bader.

George O'Brien said he has not heard any opposition to the recommended modifications in the structure of work at town hall but he has heard oppositions to the process. He asked what the disadvantage is of going to a town meeting.

Ms. Bader said that the charter is written so that she could have done all of the delegation and reassigning of work without coming to the BOF. Significant risks are run if the present work cannot be accomplished in time.

Judy Denberg said if Nancy Bader is going to transfer her work to another person, what is she doing? If she is going to be a lobbyist, then she should step down as the First Selectman and apply for a job as a lobbyist.

Marilyn Murphy wanted clarification on the people who are doing the jobs now. For example, what does Chris do? Ms. Bader answered that he is the Building and Grounds foreman. She asked if his qualifications would lend themselves to helping Mr. Hughes. Ms. Bader said that he had a different background. Ms. Murphy asked about Tom Giola and Ms. Bader gave the details of Mr. Giola's job. Ms. Murphy suggested Ms. Bader place a small portion of her job on each of the key people in the town and the two other selectmen. Ms. Bader did not agree with that suggestion saying that everybody is doing about three jobs already. Ms. Murphy wondered if it is possible to find a qualified person in three months' time to help Mr. Hughes.

Howard Dean defended Ms. Bader by saying "you don't know what the job is until you are in it". Ms. Bader is attempting to tell everyone that the job is changing. He told the group that there has been a change in the town's demographics. In past years the taxpayers did not demand so many services – he added that the people present at this meeting are getting off track and a public hearing should be held so that comments can be made. He cautioned involving the town attorney in more of the disagreements as the legal fees are high. He requested the BOF take this proposal to a public hearing.

Dan Coleman requested Mr. Gut ask for a show of hands to see how many people present would like to have a town meeting. Mr. Gut answered that subject is not on tonight's agenda.

Tony Maiorano agreed with Howard Dean. He asked Ms. Bader if it is an emergency and can she wait a month for an answer from a town meeting.

Harold White who is another ex-selectman spoke. He said he did not understand the urgency. He asked how much would be paid to Mr. Hughes and Mr. Giola if these changes go through and how many hours Ms. Bader would work today and how many would she work next week. Ms. Bader did not answer this question but said that she does work a tremendous amount of hours and she also said to Mr. White that his question is offensive.

Dennis Hawrylko said if a public hearing is held much information will be given to the public and it will be easier to “sell” charter revision. In this way, this effort will have much value.

Al Daigle said this is another angle to get a town manager. He also suggested a town meeting – put it to a vote “do you want a town manager?” He suggested that the town charter might be violated and a class action suit could be brought by the townspeople. He said further that he did not feel that Mr. Hughes was the man for the position Ms. Bader is suggesting. He also asked if the recent article written in the *Rivereast* is fair and balanced news. He held the newspaper and the minutes of the BOF August 24th meeting taken from the web site and said that although the minutes had been edited, the newspaper article was written so that it was not at all the same as the words written in the minutes.

Mr. Gut said he wants it to be clear – there is no intent to have a town manager position.

Gordon Islieb spoke to say that arguments seem to be going quite a bit afield and that the arguments would be better served at a future public hearing. He urged the people present to confine comments to the issue. We cannot “blink” at the charter just for expediency.

Carolyn Gatesy said that Nancy Bader puts in a lot of hours beyond a day’s work and that Nancy is trying to get the job done and “so let’s get the job done”. The town attorney has said that a precedent has been set and that the transfer can take place. She added that it will cost more than \$5,000 to set up a public hearing and she urged the BOF to pass a motion to transfer the funds now.

Tony Maiorano asked how the BOF will discuss a special appropriation and Mr. Gut answered that once the motion is made it will be discussed.

Howard Dean said he thought the deadline for putting the question on the voting ballot for November has passed. He suggested putting a notice in the newspaper five working days before the hearing.

Sharon Reiner says she has asked several hundred residents of the town if they have any concerns about the current elected team presently in office and the changes that may

occur. She said that this change has no budget impact, no new bodies are being added. Most said they have no concerns about the changes and in 2007, there will be a chance to do a performance evaluation on all officials. Everyone she added is “doing the job they are elected to do”.

Betty O’Brien said that the town has nothing to lose and everything to gain by having a town meeting. It will show respect for the community and it will bring the community together. She added she has no complaints about the job that Nancy Bader does.

Sharon Reiner added her thoughts about obtaining a grant writer saying that a grant writer will not do the work needed.

David Boston said that tonight other former selectmen have spoken and given their thoughts on what has been done in the past. In spite of what the town attorney has said that the procedure to transfer might be legal, it might not be ethical.

Howard Dean added that there is a big difference between a grant writer and a lobbyist.

Discussion followed about the cost of hiring a lobbyist and the description of jobs that are in question at the moment. Ms. Bader emphasized that progress is made in the area of obtaining money/help for the town by communicating one-on-one.

Ken Hjulstrom questioned Ms. Bader about the amount of time she thought it would be necessary to be out of Town Hall. Ms. Bader answered about one-half of the time on an average. Again she emphasized the necessity of being able to focus and how difficult it was to get focused now.

Tony Maiorano spoke to Ms. Bader saying that he belonged to a number of committees and he got to the meetings because he delegated work as a former First Selectman. He added that he took vacation time to go to Washington to attend a special meeting and it did not cost the town any money. He advised delegating work to the two other selectmen when she is out of the office.

Norm Friday asked Ms. Bader if it is true that she can delegate work and asked how critical is it that the town is so far down the list for funding on the sewers. Mr. Gut answered Mr. Friday by saying that “if we are 126th down the line, it is very critical”.

Ted Pesce said that there does not seem to be cooperation between the three selectmen and added that he thought that it is a major problem.

Beth Petroni said that she had been a lobbyist and she does not think that it takes a substantial amount of time to go before the legislature to present a cause. She added that her concern is that this transfer is being done at the last minute.

Sheila Chervenak said she saw Nancy Bader recently and saw her working very hard and believes that all present should know that she is doing her job. However the way in

which she is trying to proceed with the transfer may be unethical. She added that Sharon Reiner's remarks about meeting and talking to people in town might be "hearsay" as Judy Judy may say. We do need a town meeting she said.

Evelyn Godbout stated that she knew other people in town who could not come to the meeting and are concerned about the process.

Board member Pasquale Amodeo entered the meeting at this time but was not seated.

F. POSSIBLE ACTION – REQUEST FOR TRANSFERS

A MOTION was made by Joseph LaBella for the Board of Finance to call a Public Hearing on the issue of transfer of delegation of duties and to submit the issue with its recommendations in accordance with the Charter, along with any financing considerations, to a duly warranted special Town Meeting within 30 days of this date. This motion was seconded by Cathi Gaudinski. Members voting in favor were Mike Gut, Cathi Gaudinski, Bill Secord and Joseph LaBella. Members voting in opposition were Carl Cavaliere and Brian Breeden. **MOTION PASSED.**

Mr. LaBella spoke to say that he has heard this night that the people want to be heard on this issue. A question that was submitted by the BOF to the town attorney and has not been answered by him is the question of precedence for creating this type of officer or position. A town officer is different from a town employee said Mr. LaBella. Although a job description is available now for this town officer, there is no indication what could be added or subtracted from the job.

Ms. Gaudinski said that she concurs with the action being taken this night as she feels that this will have long-term effects and reconfiguration must be done as there is cost associated with this move. She added that the Board is not far from the town's budget that was voted in May but this particular item was not heard during budget deliberations. It needs to be looked at realistically in terms of finances.

Mr. Gut said he has had the good fortune to have worked closely with Ms. Bader over the past few years and he supports this recommendation on the reorganization. He considered the feedback received this night and he agrees that a public hearing should be held with a town meeting following. He values Ms. Bader's recommendations and believes that anyone who says that Ms. Bader is unethical is using a poor choice of words. He cautioned people present this night and asked that they pass the word to others that may intend to participate in the next meeting to take care to continue to focus on the issue and to take personalities out of the issue in going forward.

Carl Cavaliere said he supported the recommendation and the BOF's recommendation as he thinks it is the right thing to do. He added that the town is very different than it was two years ago. With \$30M in capital projects to manage, he is confident that at a public meeting, the recommendation will pass. He added that he knows that Ms. Bader works very hard for the town and the disrespect is unfortunate. He felt that the town is lucky to have her as well as Ms. Reiner and Mr. Black.

Bill Secord said he supports the motion and he agrees with what has been said by the members of the BOF. The reorganization and the redefinition of duties is much needed. He said he probably would have voted this night for the transfer as it stands except for the concern expressed by the public and “fuzziness” of the Town Charter on this part. However he does not believe it is a special appropriation thus he feels the Board has the ability to approve it. He would like to obtain further advice from counsel to clear up the distinction between special appropriation and transfer of funds. He believes that it is a transfer of funds.

Brian Breeden said that he agrees with Mr. Secord as transfer of funds has been done over the \$10,000 limit in the past. He also would have agreed to support this transfer this night but would like to see some type of opinion coming from counsel.

A MOTION was made to have the Chairman of the BOF set a hearing date followed by a town meeting within 30 days by Cathi Gaudinski and seconded by Bill Secord. Members voting for the motion were Mike Gut, Cathi Gaudinski, Bill Secord and Joe LaBella. Members opposing the motion were Brian Breeden and Carl Cavaliere.
MOTION PASSED.

G. APPROVAL OF MINUTES

A MOTION was made to accept the minutes of the June 8, 2005 Board of Finance meeting by Cathi Gaudinski and seconded by Mike Gut with the following amendment to be added to the minutes: “Carl Cavaliere said he is in support of Nancy Bader’s position to give a raise to Jill Oguschewitz, Assistant Treasurer, of \$11,000. He further said that he supports her quick reaction and follow-up of questions to other towns and to Scully & Wolf, the auditors, and he further said he believed that it saved money for the Town in the long run.” Five members voted in favor. One member abstained. **MOTION PASSED.**

A MOTION was made to accept the minutes of the August 24, 2005 Board of Finance meeting by Bill Secord and was seconded by Mike Gut. A change to be noted in the first paragraph on page one is “Pasquale Amodeo was seated for Carl Cavaliere.” The following change in the minutes is to be made to page 4, paragraph 3: delete the sentence “Transferring of duties is in fact a transferring of Town Manager duties” and replace it with the sentence “Transferring of duties is creating a de facto Town Manager”. On page 5, second paragraph add the word “assistant” in the first sentence before the words “Building Official”. All members voted in favor. **MOTION PASSED.**

H. MONTHLY FINANCIAL REPORTS

No comments.

I. OTHER BUSINESS TO COME BEFORE THE BOARD

A MOTION was made to approve the bill to Scully & Wolf for services rendered in connection with audit of financial statements as of June 30, 2005 for \$5,000 by Joseph LaBella and seconded by Mike Gut. All voted in favor. **MOTION PASSED.**

A MOTION was made by Cathi Gaudinski and seconded by Brian Breeden to accept the memo from Barbara Murray, Tax Collector to reflect corrected figures on the Suspense List. The figure for 2001 should be increased by \$242.66 for a total of \$2,362.85 and the figure for 2003 should be increased by \$357.38 for a total of \$2,310.25. All members voted in favor. **MOTION PASSED.**

A MOTION to adjourn was made by Joe LaBella and seconded by Brian Breeden at 9:45 p.m. **MOTION PASSED.**

Respectfully submitted,

Ann Preissner
Board Clerk