

School Administrative Unit #101
Wakefield School Board
September 3, 2019
Paul School Library
Minutes – Approved

Present: Bob Ouellette, Chair, Tracey Kolb, Vice Chair, Jen McCawley, Sandy Johnson, Relf Fogg; Administration: Superintendent Jerry Gregoire, Principal Jim Lampron, Business Administrator Marie D’Agostino, Facilities Manager Joe Williams, Admin. Asst. Larissa Mulkern; Public: Deb Miller, Clearview TV, Dave Mankus, Priscilla Colbath, Randie Fox, Mary Wing Soares;

Special guests Bruce Kneuer, Supervisor, Municipal & Property Division of the NH Department of Revenue Administration; Attorney Gordon Graham of Soule, Leslie, Kidder, Sayward & Loughman, PLLC

Call to Order: Mr. Ouellette called the meeting to order at 6 p.m.

Motion: Mr. Ouellette made a motion seconded by Mrs. Kolb to adjust the agenda to allow our guest speaker from NHDRA to address the board for one hour plus a 15-minute question and answer period. Members voted all in favor 5-0.

NH Department of Revenue Administration Presentation:

Mr. Kneuer discussed the role of the NH DRA Municipal & Property Division, a five-member team whose primary task is the setting of the property tax rates each fall. To accomplish that, between the four advisors they have 569 entities, this district being one of the entities of cities, counties, village districts, regional and local school districts. They review the voted appropriations approved by ballot and approve to expend. The Commissioner can approve or disapprove the expenditure of non-property tax revenues. The division’s work is not to approve or disapprove expenditures – we will often be asked both by officials and the public, about expenditures. DRA’s jurisdiction does not extend to expenditures. Its not unusual to be asked the question; this is the best segue as to why I’m here this evening, during the last school fiscal year, there’s going to be some events taking place which the school board and Mr. Gregoire could speak to in detail with respect to special education. Again, the Department of Revenue will not be monitoring that, nor intervene, regarding special education expenditure questions. Our experience, working with the budget laws and school districts, can help us lay out options.

He reviewed the timeline over the past nine months or so as the Wakefield School District became aware of a shortfall or deficit in the special education budget lines. The need for additional special education funding was identified to such a magnitude that a warrant article requesting for \$200,000 was developed, which was counterintuitive because of introducing to the voters in March of 2019 a need for appropriations for a fiscal year that was already voted on in March 2018. This was acceptable – the Legislature saw fit in 1998 to add a section in RSA 197:3, part 5, which added this ability to go to the voters and say, ‘we have a need in the current year we are in, we want permission for more appropriations.’ That’s a key point. You don’t want to expend without an approved appropriation or a valid explanation as to why you should be expending more. The district prepared the warrant article approved by voters and DRA. The record indicates the need was greater than that. A second option, which the board utilized as previously approved b the voters, to use an expendable trust fund for this type of expenditure – special education – and for authority for the school board to expend. DRA would have asked if there are any reserve funds and are the board members agents to expend? To the credit to everybody involved – the taxpayers who decided to entrust their money in that

capacity, knowing it was protected in the sense it was for a specific purpose and however the article came to be. It's worth was proven right here. But, looking at in March, somebody is saying the need has grown to upwards of \$350,000; then the question is, 'now what?' The options are becoming more limited. At that point, I was introduced to the topic and working with my teammate. The district is trying to land the plane on the runway they have and that is an art as much as a science. Its at that point, and I welcome Attorney Graham's comments, in exploring the statutes it appeared the Legislature back in 1999 introduced part of the special education chapter, a specific subsection, RSA 186-c: 18, X, "unexpected special education costs, incurred by a school district which are eligible for reimbursement from the State pursuant to RSA 186-c: 18, III... and which could not be identified prior to the adoption of the local district budget shall be exempt from the provisions of RSA 32:8, 32:9 and 32:10, 32:8 in particular call that the great rule: don't expend without an appropriation. ... In this case the budget was the one in 2018, the one that began in July 2018 and is being if you will in one area battered by the realities. It is exempt, assuming it meets that criteria for reimbursement. That's important because as the district or anybody tries to land that appropriations/expenditures on the runway of their approved appropriations its very possible that the actual expenditures will take the plane right over the end of it. Nobody wants that, but this law seems to be saying... these expenditures are exempt. To my team, this would mean (I'm going to make this number up), if Wakefield School District had appropriations of \$4 million and it reports \$4,400,000 in expenditures at first blush you would say 'you overshot the runway. You over expended.' However, \$300,000 of those expenditures are exempt... this law is saying it's OK... under the chapter on special ed.

Options: Approaching the Department of Education and the Commissioner of Education for an emergency over expenditure authorization, same concept here as seeing with (RSA) 186-C, knowing you're not supposed to over expend but you can be given permission. At DRA we handle the requests from towns and the districts and cities... but when it comes to school districts that request goes to the Commissioner of Education. However, an important caveat, the Legislature said if there is a budget committee, if the budget committee does not approve making the request, end of request. The Commissioner of Education does not have the authority to grant the over expenditure. As I understand it... the budget committee overseeing Wakefield School District said 'no.' ... on to the next option(s). All of this is playing out over the course of months. Moving towards June 30... no one is going to know for certain what the end of the year, and they are unaudited numbers at this point, what happened. Marie is reminding me of the option of excess revenue. Quick lesson here... back in March 2018 voters are presented on budget. Most of the focus is on first part of the budget, the appropriations, the recommended spending. The second part is the first estimate at offsetting non-property tax revenues. Districts and towns get a second attempt to clarifying those revenues as of September 1. So last September Wakefield School District will come back in, say we've had a few months, we can revise revenues, we're going to have revenues we get from the Department of Education to clarify for every district, this is what it its going to be in certain revenues, but the district does not change as of Sept. 1. ... we see it as simply one number. It remained the same from the time of the budget through the revised estimate in September and it becomes part of the calculation that will give you your tax rate and last fall part of your tax bills. But there is a revenue estimate... the district knows the actual amount of money coming from (I'll call it Medicaid) in that revenue line is now higher than the estimate. It is an acceptable school of thought that the money

Mr. Fogg asked about the \$340,000 unanticipated fund balance.

Mr. Kneuer: In June 2018 the district will present to DRA and DOE the end of the year unaudited financials; and there's a balance sheet with an equity section and part of that section is the 'unassigned fund

balance,' which, by law... that number is going to move over into the MS 24R, which is the revised revenue estimates in the fall, to offset taxes, and it shows up, it moves over.

Mr. Kneuer invited questions.

Mrs. Kolb: You're saying we followed the process, followed the protocol when we started to realize Special Education was going to be over expended in September 2018.

Mr. Kneuer: No precise protocol, but each law and each option is going to be conditioned by the statute, i.e. the unanticipated revenue is going to require a hearing; it also requires the prior vote that gave you the authority. Our role: nonbinding technical assistance; if we think 'X' and you're leaning towards saying 'Y', we do respect the fact you have this gentleman to tell you 'Y' makes sense to him because if we really disagree he would be defending your use of theory 'Y' and we would have to defend theory 'X'. In this case this is not at all unique in that what you were experiencing last fall. This is happening in any number of places.

Mr. Fogg said he reviewed invoices from vendors and receipts; reviewed new hiring and lines; it added up to \$1,206,192.72 on the 1200 function lines; the appropriation of \$1,959,050 is appropriated for the 1200 function line; \$752,930.28 is not accounted for. He had said he didn't believe lines were over expended and with invoices it still doesn't add up. Would ask DRA representative, what is legal ramifications to not have all your eggs in row; misrepresent a situation; take monies out of capital reverse. The overall operating budget is overspent in other areas; why wouldn't invoices add up.

Mrs. D'Agostino said Mr. Fogg was looking at one component of that 1200 function line; between 65 and 70 percent of any function is salary and benefits and the remainder would be operational. What you're looking at are invoices only; you have to look at each individual contract and the benefits associated with that. If you look at 1200 detail halfway down the page is all salary and benefits; anything below that relates to the increases in the 91:A request. Need to look at total cost of 1200 line – not just invoices.

Attorney Graham: It's important to remember the deficit was larger but for the withdrawal from trust fund; you still had \$400,000 in Special Education expenses that were not anticipated and many of those are eligible for treatment under the statute that allows district to expend the bottom line of the budget. Deficits are possible for a variety of reasons. One of the reasons is because of over expenditures that occur in special education among other things. In addition, districts can overestimate the amount of revenues they are going to receive and that can result in year end deficit. Deficits in and of themselves are not something that's illegal or unusual. They occur for a variety of reasons. The statutes recognize that when a deficit occurs that on an annual basis the district report that there was a deficit and what the district is doing to get out of the deficit. What's interesting is because of the management of both your budget, the eagle eyes of the budget committee, the willingness of the voters in March to approve the appropriation to the deficit appropriation, you ended up the year **not** in a deficit. You ended up end of the year in a surplus. Next year on the MS-25 you will be returning \$154,000 to voters to reduce taxes next year. As we said at the meeting you're all to be – you should celebrate the fact you managed this extremely well and took all the steps that were necessary to get out of a situation where you didn't want to find yourself, which was, as it was alluded to, a substantial sum of additional expenditures that the district was required to make.

On a general basis you have to put an article on your warrant to retire that general fund deficit until you get back in the black. You have to keep asking voters to appropriate the amount necessary in order to overcome that deficit, to allow you to end the year with a balance sheet in the black.

Public comments:

Mrs. Colbath asked if any portion of an 'Adequacy' grant was used to offset the deficit. Mrs. D'Agostino replied \$7,000 of Adequacy aid was unanticipated; the \$9,393,160 revenue line includes all unanticipated revenues. Mrs. Colbath said the \$7,000 shouldn't have been used to offset the deficit. Mr. Graham said there was more in other revenue that was unanticipated and that the \$7,000 was not used.

Mr. Brown said Wakefield has the highest number special education population of any town...what's to protect the taxpayers of Wakefield from manipulating the pile of cash from regular ed and sliding into special ed?

Mr. Graham: The law. The law allows you to over expend in a few situations; one is to the extent you receive additional aid in special education aid you hadn't anticipated and the second is to allow you to expend for students who are eligible for reimbursement under the state laws.

Mrs. Wing Soares would like the Board and Superintendent to clarify there are strict criteria that everyone has to go through to be identified as a special education student and needs special education services.

Superintendent Gregoire said special education(needs) identification is done by a team, not by any one individual. The Board does not have a say in what students are identified or not. It's a team approach.

Mrs. Kolb added that over the past couple years Mrs. Kebler has worked to make sure all identifications are done properly and correctly.

Ms. Randie Fox asked if there any statistical data on students identified with IEPs that we could look at and correlate it with demographic population and high incidents of trauma such as domestic violence, addiction and incarceration. She said Paul School is taking it upon themselves to implement a multi-faceted approach to looking at the whole child, which at some point may result in a higher special education identification with children.

Mr. Kneuer concluded by saying his team tries very hard to speak for all – they do not take sides. His team is bright and energetic and caring. Board members thanked him.

Public comment:

Mrs. Wing Soares said she thought it inappropriate for school board members to toss out highly controversial items on social media and not be cognizant of the misinformation that can cause. The School Board should have a policy that requires vetting before information is posted.

Mrs. McCawley said the law they learned of recently preventing three or more Board members from commenting on the same post on Facebook; we can be prosecuted for having an unpublished meeting.

Mrs. Wing Soares added then as a Board, she would like to see as a policy that requires that doesn't happen, that you are off social media unless you are coming together as a board in a public meeting and saying this is

what we're going to put out there. You're putting yourself out there as a town official and you can make that decision to limit that First Amendment right because you are part of a board.

Mrs. Kolb said anyone can start a petition, but you can't stop someone from commenting.

Ms. Fox said there is knowledge of inappropriate posts she felt were degrading, narrow minded, perpetuating hatred amongst different groups of people; she looked at the policies. The Wakefield School Board has a School Board Member Ethics Policy; Ms. Fox read some of it: seeks systematic communication with students, staff and community; works respectfully with other board members to achieve the educational goals of the school district by encouraging the free expression of opinions by all board members; recognize that one individual board member does not have the authority to speak or act for the entire board except as specifically designated by board action; recognize that final board actions will be supported by all members of the board, take no private action that will compromise the board or administration and refrain from private actions that undermine or compromise official board action; and display and demonstrate courtesy and decorum towards fellow board members at all public meetings and in all public statements. Ms. Fox quoted some of Mr. Fogg's posts on social media she found disrespectful. She has an issue with the amount of controversial posts that are being posted and that it reflects badly on the school board and causes a disturbance to our town.

Mrs. Kolb: The only people who can get rid of a school board member are the voters.

Ms. Fox: what happens when we have a school board member who is not following the policies?

Mrs. McCawley: I had said at last meeting to the Chair of the School Board he needs to do something about Relf because he's out at meetings, he does not support what we come to as a group.

Ms. Fox: The school has worked hard this past year to implement Social Emotional Learning; he's also blasting that on social media. How do you sit as part of a school board and not support the efforts that are being made as administrators, staff and children that are coming to the school every day.

Mr. Fogg: So you're saying I should not propose any information that's contrary to the embraced metric.

Ms. Fox: If you're sitting on the school board you need to embrace the ethics policy and you're not.

Mr. Brown: The First Amendment always supersedes board policy. Parents have a right to opt out of any class.

Consent Agenda: Motion to approve Consent Agenda (AP & Payroll manifests) made by Mrs. Johnson seconded by Mrs. Kolb; members voted 4-1 in favor, with Mr. Fogg opposed.

Minutes: Motion to approve minutes, with amendment submitted by Mrs. Johnson. to the Aug. 20 minutes, by Mr. Fogg seconded by Mrs. Kolb, all in favor 5-0.

Superintendent's Report: Mr. Gregoire reviewed highlights of his report: He met with Administrators at Spaulding High School to discuss transitions to the High School, programming, and future meetings. Food Service: Food Service Director Mary Connors replaces Chris Barnes, who has been promoted. Mr. Gregoire, Mrs. D'Agostino, Mrs. Kolb and Mr. Fogg attended a day-long negotiations workshop in

Concord he found very informative and enlightening. Transportation: School bus routes are up and running smoothly; he commended Transportation Director Brennan Peaslee. Mr. Fogg said the Transportation Committee will meet quarterly, with the next meeting December 3. The new bus has not yet been delivered. Mr. Gregoire said not everyone is happy with the new bus routes, but they need to stick with it for now. Feasibility Study: We have had several visits from architectural firms who have toured the building to prepare estimates to help the school district make an informed decision regarding the need for a full feasibility study.

Old Business:

- a) **Assurances:** A copy of the State Plan NH DOE Assurances was included for informational purposes in the packet, per request.
- b) **Draft CIP:** Mrs. Kolb reviewed highlights of the draft CIP planning document, a priority list of projects through 2025. It will be presented to the CIP Committee on Sept. 19.

Other Business:

- a) SEL Query: Mrs. Johnson said there have been posts on social media regarding Social, Emotional Learning (SEL) at the Paul School. She asked Mr. Lampron to reiterate why the school is doing this. Mr. Lampron said they are trying to make the six-and-a-half-hour day here at the school a positive school experience for children. One way to do that is to build trusting relationships. Small groups have been created where children can feel safe and learn better, to know that they can feel vulnerable and that would be OK and accepted; school would become a more positive environment conducive to learning. Mr. Fogg said there was concern that academic achievement was perceived as not quite as important as the Social Emotional Learning part. Will Paul School make sure academic achievement is still part of it? He asked if there was going to be more emphasis on Social Emotional Learning than there is on academic achievement. Mr. Lampron said academic achievement maintains a priority; what they're doing with SEL is having a conversation that we've never had and create new opportunities. In no way is SEL meant to replace academics. Mrs. McCawley said she ran for School Board because she felt her daughter was not being challenged in school. She still doesn't see why the kids are not separated more by ability or why academic achievement is a big part of the school. She doesn't feel every student is being challenged at their own level. Mrs. Johnson said when her kids were in school there was more segregation (based on academics) and they are moving away from that. It can work both ways. Mrs. Kolb added that school opening has been spectacular. One thing that was said last week, in choosing teachers, the interview was not to take the place of the candidates' academic achievement and ability in the classroom. Mrs. McCawley added that overall there has been huge improvement and she's very happy with the direction of the school.
- b) 91-A Right to Know requests: Mrs. Kolb asked for an update on 91-A requests, who filed them and how many? Mr. Gregoire said he's received one request regarding a statement at last week's Budget Committee meeting; it will cost his time, but nothing beyond that.

Public Comment:

Steve Brown asked about the \$750,000 being requested for transportation over the next five years; The feasibility study ... don't know why we must hire engineers to figure out how to fit 100 kids in building; do we need to freeze the budget now? Mrs. Kolb responded that the request this year for buses was \$50,000.

Ms. Fox said Social Emotional Learning increases educational standards because children feel safe and encouraged to be OK with not being OK; SEL is an amazing approach to encouraging learning.

Resignations/Nominations

- a) Keri Restivo Resignation: Mr. Fogg made a motion to accept, with regret, Ms. Restivo's resignation, seconded by Mrs. Kolb. Members voted 5-0 in favor.

Correspondence:

- a) NH School Board Association – submission to 2020 Delegate Assembly. Nomination to attend the assembly: Mrs. McCawley nominated Mrs. Johnson, seconded by Mrs. Kolb; Mrs. Johnson went last year and did a great job and represented Wakefield well. Mr. Fogg noted that the whole board can attend if they desired; he supported Mrs. Johnson's nomination. Members voted all in favor 5-0.
- b) Para employee evaluation committee – Mr. Gregoire related correspondence from the employee's union regarding evaluation committee, which requires three people. The committee meets right after school. By consensus, Mrs. Kolb and Mrs. Johnson agreed to participate, with an administrator (Mr. Gregoire, Mr. Lampron or Mrs. Spector.)

Non-Public Session: Motion: Mrs. Kolb made a motion, seconded by Mrs. Johnson, at approximately 8 p.m. to enter nonpublic session, citing RSA 91-A:3 II, (c) – Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an opening meeting. This exception shall extend to any application for assistance or tax abatement or waiver of a fee, find, or other levy, if based on inability to pay or poverty of the applicant; and (j) consideration of confidential, commercial or financial information that is exempt from public disclosure under RSA 91-A:5, IV in an adjudicative proceeding pursuant to RSA 541 or RSA 541-A, roll call vote, 5-0, Ouellette, aye, Kolb, aye, McCawley, aye, Fogg, aye, Johnson, aye.

Motion to exit nonpublic session: made by Mr. Fogg seconded by Mrs. Kolb at 8:08 p.m., members voted all in favor, roll call vote, 5-0, Ouellette, aye, Kolb, aye, McCawley, aye, Fogg, aye, Johnson, aye.

Mr. Fogg announced in public session that Mrs. Johnson was to serve on the negotiating team with Mrs. Kolb.

Adjournment: Mr. Ouellette made a motion to adjourn, seconded by Mrs. Kolb, at approximately 8:10 p.m. Members voted all in favor 5-0.

Respectfully submitted:
Larissa Mulkern
Administrative Assistant