

**Town of Newbury
Finance Committee Meeting
Tuesday March 5, 7:00 pm, Town Hall
Meeting Summary**

Committee (alphabetical): Gene Case (Vice Chair), Larry Guay, Erica Jacobsen, Marshall Jespersen, Frank Remley (Chair)

Ex-Officio: Tracy Blais, Town Administrator/Finance Director

1. **2.26.13 Meeting Summary:** Unanimously approved as is.
2. **February 2013 YTD Revenue and Expense Summaries:** The February financial reports were not yet available; January reports were reviewed at the Feb 26 meeting.
3. **Reserve Fund update:** There were no new reserve fund transfer requests.
4. **Fiscal Impact of Transfer Station outsourcing:** Steve Fram, chair of the BOH, was not able to attend. He reported by email that the new contract for Mello to operate the Transfer Station would reduce the BOH line item by \$160,000. It was emphasized that, while it has no authority to approve or disapprove the contract, the Finance Committee needs to know its fiscal impact. Key questions involve three issues including (i) revenues (fees) lost; (ii) expected reduction in operating expenditures; (iii) income to be expected (e.g. from “profit sharing” clause).
5. **Other:**
 - **Review role and mission of the Finance Committee:** Frank Remley distributed a copy of Chapter 11 of Town Bylaws which defines the appointive process and duties of the Finance Committee; same for the Capital Planning Committee. Included was a copy of the role and mission of Town Finance Committee’s from the ATFC handbook (see attached). Because there is some conflicting language in the bylaw, and its broad understanding, he urged that the Committee clarify its role, mission, and authority in Newbury, and recommend any clarifications or revisions to the Bylaw wording it deems necessary. It was decided to continue this discussion as needed in the next and future committee meetings as needed
 - **Candidates for vacant position on Finance Committee:** There are currently two applicants. Both appear to be highly qualified. It was decided to keep the invitation for interested persons to apply open until March 25, with a decision by the Finance Committee on its recommendation by the scheduled April 2 meeting. This would enable an appointment by the BOS at its April 9 Meeting.

- **TRSD update:** There is no new news. A meeting of the TRSD Communications Committee is scheduled for Thursday, March 6 at TRSD, 7:00 pm.
- **Current projection of new growth revenues for FY13 (permits and tax impact?):** The Town Administrator has invited Bud Kelly, chair of the Board of Assessors to the April 2 Meeting of the Finance Committee to discuss the process for assessing and initiating RE Tax collections for new properties.

6. **Next Meeting: Tuesday, April 2, 2013, 7:00 pm, Town Hall (Tentative)**

ATTACHMENT

TOWN OF NEWBURY BYLAWS CHAPTER 11: FINANCE COMMITTEE

[HISTORY: Adopted by the Annual Town Meeting of the Town of Newbury 3-17-1925 by Art. 15; amended in its entirety by the Annual Town Meeting 4-24-2001 by Art. 11. Subsequent amendments noted where applicable.]

§ 11-1. Committee appointed; terms.

The Board of Selectmen shall, at each Annual Town Meeting, appoint members to a committee of seven (7) registered voters which shall be known as the Finance Committee. Members shall be appointed for three (3) year terms on a staggered basis so that at least two members' terms expire each year. No member of the Finance Committee shall be an elected official, a paid board or committee member, or an employee of the Town (except that a person rendering service to the town as an independent contractor and who has been designated a "special municipal employee" under G.L. c. 268A shall not be disqualified from serving on the Finance Committee).

§ 11-2. Effective date; removal of disqualified members; vacancies.

This bylaw shall become effective upon its approval by the Attorney General under G.L. c. 40, § 32. Unless disqualified from service by the provisions of § 11-1, above, any duly appointed member whose term has not expired shall continue in office until the expiration of his/her term. The Board of Selectmen shall remove from the Finance Committee any member disqualified from service by virtue of his/her holding of elective office in the town office or by his/her employment as a town employee or paid committee member. In the event of the death, resignation or disqualification of any of a duly appointed member of the Finance Committee prior to the expiration of his/her term, the Board of Selectmen shall appoint a replacement for the unexpired portion of that person's term in accordance with the preceding section.

§ 11-3. Powers and duties.

It shall be the duty of the Finance Committee to consider all municipal questions affecting the revenue, indebtedness or expenditures of the funds of the town, and for this purpose the Committee shall have access to all books and records of the town, and to make reports and recommendations at each annual town meeting, and particularly with reference to the appropriations to be made for the year next ensuing. They may annually choose their own Chairman, who may call meetings of the Committee whenever he deems it advisable and shall so call meetings whenever requested by a majority of the Committee. The Committee shall confer with all boards, officers and department heads in the town as it deems necessary and appropriate to prepare a proposed budget for the next ensuing year. It shall be the duty of the Finance Committee to consider all articles of the warrant or warrants referred to it which call for the appropriation and/or expenditure of funds, and make report thereon in writing, with the estimates and recommendations for the final action of the town, at the Annual Town Meeting and at any Special Town Meeting, unless otherwise directed by a vote of the town.

CHAPTER 12: CAPITAL PLANNING COMMITTEE

[HISTORY: Adopted by the Annual Town Meeting of the Town of Newbury 5-22-2007 by Art. 18. Amendments noted where applicable.]

§ 12-1. Committee Appointed; terms.

There is hereby established a Capital Planning Committee consisting of the Director of Municipal Finance, two members of the Finance Committee annually chosen by it, and two members appointed by the Selectmen from among the registered voters of the Town, who shall be appointed for a term of two years on a staggered basis so that one such member's term expires each year. Any vacancy shall be filled for the unexpired term in the manner of the original appointment. The Capital Planning Committee shall annually choose a chairman and such other officers as it deems appropriate.

§ 12-2. Powers and duties.

It shall be the duty of the Capital Planning Committee to develop a long-range capital planning program to serve as a guideline for capital improvements in the Town with an eye towards ensuring the maintenance of its public infrastructure and planning for new capital improvements. The Capital Planning Committee shall be specifically concerned with physical facilities such as land, buildings, or other structures, as well as pieces of equipment requiring a relatively large investment and having a relatively long useful life. The first capital plan covering the fiscal years 2009-2014 inclusive shall be submitted to the Board of Selectmen and Finance Committee at the same time as the submission of the fiscal year 2009 annual budget and shall take effect, once approved, on July 1, 2008. The first capital plan and an updated five year plan shall be submitted each year as aforesaid, and included in the Warrant for consideration by the Annual Town Meeting. The Committee will meet as often as necessary to review capital needs and requests and to update the plan. The Committee shall also recommend appropriate methods of financing the proposed capital improvements and shall summarize in more general terms the major improvements anticipated during the five-year period. Guidelines for the planning process, defining what constitutes a capital improvement for the purposes of this by-law, specifying minimum cost and useful life of capital improvements to be considered in the plan, the proportion of the total budget to be devoted to outstanding and current capital projects, and any restrictions of methods of financing, shall also be established on the recommendations of the Capital Planning Committee.

THE ROLE OF THE FINANCE COMMITTEE

(From the Association of Town Finance Committees ATFC Handbook)

The ATFC has received many calls involving the duties and power of the finance committee. These have usually been instigated by clashes with the board of selectmen or town administrator, who are often getting more assertive in claiming a role, or even asserting sole responsibility, in presenting the budget to town meeting. This preface will duplicate parts of the following chapters, but I feel it important to bring together key elements of this issue.

This preface will summarize this “discussion” into the broader framework of the division of powers within local government. I see this division of powers as comparable to that at the state and federal government. The board of selectmen and town manager/administrator/executive secretary are part of the executive branch of government. It is their job to collect budget information, develop budget priorities and formulate a balanced budget, the same as a president or governor. Once developed, that budget is presented to the finance committee, representing the legislative branch, the town meeting. In effect, the local finance committee has the same role as the House Ways and Means Committee in the State Legislature. It is the finance committee’s responsibility to receive the budgets from the executive branch (either as a collective whole or individually by department), analyze them, have hearings where the department heads and the public can testify, and present a balanced budget to town meeting. That budget should reflect the finance committee’s decisions based upon their best judgment of the issues and finances of the town. The budget before town meeting is the finance committee’s and it is their job to explain and defend it. This does not preclude department heads or the town administrator, if any, from being called upon to answer questions or explain items in more detail, but it is the finance committee’s budget. If the board of selectmen or town administrator disagrees with any item, they can submit a substitute motion, as is the right of any participant at town meeting. At this stage, the board of selectmen has an advantage over a governor in that they can participate in the town meeting process. However, they have the disadvantage of not being able to veto what town meeting passes. The statutory backing for this analysis is Chapter 39, Section 16, of the Massachusetts General Laws.

It states: “Every town.....shall....by by-law provide for the election or the appointment and duties of appropriation, advisory or finance committees, who shall consider any or all Municipal questions for the purpose of making reports or recommendations to the Town...” “Town” means town meeting. Section 16, quoted above, and is contained within the “Town meeting” section of Chapter 39 between two sections on the town moderator. Most finance committees are appointed by the town moderator, an official of the legislative body, town meeting. Section 16 goes on to read: “In every town having a committee appointed under authority of this section, such committee, or the selectmen if authorized by a by-law of the town, and, in any town not having such a committee, the selectmen, shall submit a budget at the annual town meeting” In other words, unless no finance committee exists, or a by-law of the town specifically authorizes the selectmen to submit the budget, the budget shall be submitted by the finance committee. The Department of Revenue, Division of Local Services, reinforces this with an “In Our “Role of Finance Committees and Boards of Selectmen in Budget Preparation and Submission to Town Meetings” A board of selectmen in a town with an elected or appointed finance committee has no statutory role in the preparation and submission of the annual budget, unless it is expressly given a role by bylaw. If not, the finance committee is responsible for preparing, submitting and distributing the budget under G.L. Ch. 39 S16 and Ch. 41 S59 and S60. ”This does not mean the finance

committee should have an adversarial relationship with the board of selectmen or town administrator. In fact, the finance committee should develop a good working relationship with both. By being open to suggestions and other opinions and working out compromises on key issues, the finance committee can be more effective in presenting its recommendations to town meeting. When compromises cannot be made, the issues should be narrowed to provide town meeting with a clear choice. Obviously, the content of the town by-laws, as well as the Home Rule Charter if applicable, are critical elements in the role of the finance committee. They often spell out the details of the budget process and the role and powers of the finance committee. Committee members should read these laws very carefully and be vigilant of attempts to bypass their critical function of providing independent and carefully considered advice to the town meeting. Without finance committee independent review, the town meeting would be at a severe handicap in voting on financial matters when all of the recommendations are coming from one source.

Separation of powers was designed by our founding fathers for a reason—defend It.

Respectfully,
Allan Tosti,
Chair, Arlington Finance Committee
Treasurer, ATFCr Opinion”
93-310 issued on April 27, 1993 titled