

**MINUTES OF A SPECIAL MEETING OF THE TOWN OF FAIRFIELD  
AUGUST 31, 2011**

A Special Meeting of the Town of Fairfield was held on Wednesday, August 31, 2011, at the Education Center, 501 Kings Highway East, Fairfield, Connecticut.

The meeting was called to order at 8:00 P.M. by Moderator Jeff Steele.

PRESENT: 37                      ABSENT: 13                      VACANCY: 0

PRESENT: Becker, Herley, Richmond, Sundman, Ambrose, Jones, Steele, Varian, Bateson, Conley, Ference, McCullough, Santalesa, Palmer, Garskof, Smey, Stamler, Brogan, DeSanctis, Dyer, Marmion, Vahey, Hochberg, Hoffkins, Llewellyn, Schwartz, Braun, Harrison, Hoffmann, McCarthy, Dillon, Felner, Millington, Mirabile, Farnen, Mears, Way

ABSENT: Challinor, Stewart, DeMartino, Hug, R. Parker, S. Parker, Gall, McAleese, Lynch, Takami, McGinty, Cafferelli, Rubino

**ITEM NO. 1 ON CALL:            PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE**

The Moderator introduced First Selectman Mike Tetreau, Police Chief Gary MacNamara, Fire Chief Richard Felner and Public Works Director Richard White to lead the Body in the Pledge of Allegiance, and thanked them for their service during the recent storm. He asked those present to remember Mike Herley's father, who recently passed away, and those who suffered Hurricane Irene's destruction, for the Moment of Silence.

**CONSENT CALENDAR:** The Moderator reported that items numbered 3, 4 and 7 were eligible for the Consent Calendar.

**VOTE:** Items 3, 4 and 7 were approved unanimously by voice vote.

**ITEM NO. 2 ON CALL:            APPROVAL OF MINUTES**

Upon motion made, duly seconded and carried unanimously, the minutes of the Regular Meeting held on June 27, 2011; the Special Meeting held on July 5, 2011; and the Special Meeting held on August 8, 2011 were approved as submitted.

**ITEM NO. 3 ON CALL:**            RESOLVED, THAT MICHAEL TETREAU, FIRST SELECTMAN OF THE TOWN OF FAIRFIELD, IS EMPOWERED TO EXECUTE AND DELIVER IN THE NAME AND ON BEHALF OF THE TOWN OF FAIRFIELD A CONTRACT WITH THE CONNECTICUT STATE LIBRARY FOR AN HISTORIC DOCUMENTS PRESERVATION GRANT

This item was on the Consent Calendar.

**ITEM NO. 4 ON CALL:**            RESOLVED, THAT IN ACCORDANCE WITH A REQUEST FROM THE PARKS AND RECREATION DIRECTOR, THE TOWN OF FAIRFIELD ACCEPT THE 2011-2012 FAIRFIELD YOUTH SERVICES BUREAU STATE GRANT IN THE AMOUNT OF \$28,738, AND HAS AUTHORIZED THE NECESSARY MATCHING FUNDS FROM THE TOWN'S ANNUAL BUDGET, AND FURTHER

RESOLVED, THAT UPON RECEIPT OF SUCH GRANT, IT MAY BE EXPENDED AS SET FORTH IN THE GRANT APPLICATION

This item was on the Consent Calendar.

**ITEM NO. 5 ON CALL:** RESOLVED, THAT THE TOWN OF FAIRFIELD MAY ENTER INTO AN AGREEMENT WITH THE STATE OF CONNECTICUT DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, DIVISION OF EMERGENCY MANAGEMENT AND HOMELAND SECURITY, AND FURTHER RESOLVED, THAT FIRST SELECTMAN MICHAEL C. TETREAU IS AUTHORIZED TO EXECUTE ANY DOCUMENTS NECESSARY TO CARRY OUT THE TERMS OF SUCH DOCUMENTS

The Moderator moved this item as distributed with the Call, duly seconded.

\*\*See Committee Reports Attached Hereto

**VOTE:** The resolution to enter into the Homeland Security agreement with surrounding towns was approved with 36 in favor, 1 opposed (Santalesa).

**ITEM NO. 6 ON CALL:** RESOLVED, THAT THE BOND RESOLUTION ENTITLED, "A RESOLUTION APPROPRIATING \$250,000 FOR THE COSTS OF THE RESTORATION OF FAÇADE CORNICE AT TOMLINSON MIDDLE SCHOOL AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION," CONSISTING OF FOUR PAGES, BE, AND HEREBY IS, APPROVED

The Moderator moved this item as distributed with the Call, duly seconded.

\*\*See Committee Reports Attached Hereto

Jamie Millington, District 9, questioned whether, since the train station is going to cost the Town more money than previously thought, and after the hurricane the roof at McKinley is leaking, and additional funds are going to be necessary for the Sherman School project, this is a priority for capital projects.

Special Services Director Tom Cullen explained that the Tomlinson project is a priority but perhaps not a top priority at this time. He pointed out that the fire doors do not close on their own.

Mr. Millington said that at this time he cannot support this request. The kitchens at Mill Hill are being looked at since the parents noted that Sherman is getting an additional lunch line and there is no safety concern of Tomlinson's collapse.

Josh Garskof, District 5, asked Mr. Cullen to address the safety issue.

Mr. Cullen affirmed that the fire doors are not closing on their own and that they need to be pulled shut. He noted that wood surrounding the doors at the front and back entrance is rotted.

Mr. Garskof said that the problem is only going to get worse and will cost more to repair later. He said we should support this resolution now.

Liz Hoffmann, District 8, asked what the cost for repairing the fire doors is.

Mr. Cullen said that the cost for replacing the fire doors is \$22,500 to \$27,500, but that figure does not include the cost of abatement.

Ms. Hoffmann said that this item is not a top priority at this time but if it is, the replacement of fire doors should be separated and addressed separately.

Sheila Marmion, District 6, said that this is a potential safety issue at the school and she fully supports approving this item at this time.

Hank Ference, District 3, asked where the concern about how the fire would spread lies, since the doors are outside doors.

Mr. Cullen said that the doors are included in the safety rating for classification of the building facility and the doors must be closed manually.

Mr. Ference said that if the doors do not shut on their own, they should be pulled closed.

Board of Education Vice Chairman Pam Iacono said that there are no current plans to address the lunch lines at Mill Hill. She pointed out that the Town Facilities Commission supports this plan and reminded the Body that McKinley cost more because maintenance work had been delayed. When projects get pushed off, they cost more in the long run.

**VOTE:** The bond resolution for \$250,000 for repairs to Tomlinson failed with a vote of 14 in favor, 22 opposed and 1 abstention.

**IN FAVOR:** Varian, Conley, McCullough, Garskof, Stamler, Brogan, Dyer, Marmion, Vahey, Hochberg, Hoffkins, Schwartz, Mears, Way

**OPPOSED:** Becker, Richmond, Sundman, Ambrose, Jones, Steele, Bateson, Ference, Santalesa, Palmer, Smey, DeSanctis, Llewellyn, Braun, Harrison, Hoffmann, McCarthy, Dillon, Felner, Millington, Mirabile, Farnen

**ABSTAINED:** Herley

**ITEM NO. 7 ON CALL:** RESOLVED, THAT, IN ACCORDANCE WITH A REQUEST FROM THE DIRECTOR OF PUBLIC WORKS, AN APPROPRIATION OF \$78,000 BE MADE FROM THE WATER POLLUTION CONTROL AUTHORITY (WPCA) RESERVE FUND FOR A COMBINED HEAT AND POWER FEASIBILITY STUDY AT THE WASTEWATER TREATMENT PLANT, TO BE OFFSET BY A \$50,000 GRANT FROM THE CONNECTICUT CLEAN ENERGY FUND

This item was on the Consent Calendar.

**ITEM NO. 8 ON CALL:** RESOLVED, THAT IN ACCORDANCE WITH A REQUEST FROM THE TOWN PLAN AND ZONING COMMISSION, THE DONATION OF CERTAIN PROPERTY ON THE CORNER OF KINGS HIGHWAY EAST AND VERMONT AVENUE FROM HH EAST PARCEL LLC CONTAINING .26 ACRES, MORE OR LESS, BE ACCEPTED

The Moderator moved this item as distributed with the Call, duly seconded.

\*\*See Committee Reports Attached Hereto

**MOTION:** Peter Ambrose, District 2, moved to postpone this item until the next regularly scheduled meeting of the RTM, duly seconded.

Mr. Ambrose noted that several items the RTM requested had not been received, such as the certificate of title, the environmental study and the warranty deed.

Cristin McCarthy Vahey, District 6, agreed with Mr. Ambrose and said that the item should be postponed.

**VOTE:** The motion to postpone this item until the September meeting was approved by unanimous voice vote.

**ITEM NO. 9 ON CALL:** TO HEAR, CONSIDER AND ACT UPON AN ORDINANCE ENTITLED, "ORDINANCE CONCERNING AMENDMENT OF MUNICIPAL UNION LABOR CONTRACTS," SPONSORED BY PETER AMBROSE, DISTRICT 2 AND ANN STAMLER, DISTRICT 5

The Moderator moved this item as distributed with the Call, duly seconded.

\*\*See Committee Reports Attached Hereto

Mr. Garskof spoke in support of the ordinance and encouraged the sponsors to continue to work on this type of item on a broader scale in order to include all "side letters of agreement."

**MOTION:** Ms. Stamler moved to waive the re-reading of this item into the record, duly seconded and carried unanimously.

**VOTE:** The Ordinance Concerning Amendments of Union Labor Contracts was approved by unanimous voice vote.

**ITEM NO. 10 ON CALL:** TO HEAR A REPORT FROM THE METRO STATION AUDIT SUBCOMMITTEE OF THE BOARD OF FINANCE

**ITEM NO. 11 ON CALL:** TO HEAR A REPORT FROM THE METRO STATION SPECIAL COMMITTEE OF THE RTM

The Moderator noted that the reports had been given during Committee Meetings the night before. There was no discussion this evening on these two items.

**ITEM NO. 12 ON CALL:** RESOLVED, THAT THE BOND RESOLUTION ENTITLED, "A RESOLUTION APPROPRIATING \$7,500,000 FOR THE COSTS OF COMPLETING THE THIRD TRAIN STATION (FAIRFIELD METRO CENTER) AND RELATED IMPROVEMENTS AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF \$7,500,000 TO FINANCE SUCH APPROPRIATION," CONSISTING OF FOUR PAGES, BE, AND HEREBY IS, APPROVED

The Moderator moved this item as distributed with the Call, duly seconded.

\*\*See Committee Reports Attached Hereto

Kathy Braun, District 8, said that we have not received a written legal opinion on whether the First Selectman was able to enter into a contract which changed the terms of the tri-partite agreement. We have not received a budget for the requested \$7.5 million. The Board of Finance audit recommended that a budget be put in place. We are being told we have to rush into approving this resolution by October 31 or we will not receive the State funding. The Body received a letter from Kurt Wittek that we are being told is six months old. She asked if that is the case, why we are being told about it only now. She asked if the 45 day expiration date starts now or when and when the Town became aware of it.

First Selectman Tetreau said that he is not aware of a 45 day period and said that is between Mr. Wittek and the DOT. He said that negotiations between the Town and Blackrock Realty should not be discussed in public. He said that the offer dated back to April and that this is not "new" news. The DOT made a promise and the letter from Mr. Wittek promises something we already have.

Ms. Braun asked if the \$835,000 Conservation Bond is included in the amount.

Mr. Tetreau said that the bond can be released at the end of the project and used toward the project.

Ms. Braun expressed concern about the wording in the bonding resolution which admits we became responsible for overages before we have a written legal opinion about whether we are responsible. We should be able to seek recourse and the language should be taken out of the bonding resolution.

Joe Palmer, District 4, asked for an update on the commercial aspect of the project. He asked what the goals are for pursuing tenants for the property.

Mr. Tetreau said that the property could include up to 100,000 square feet in commercial space. Blackrock Realty mentions interest of tenants but no names are known at this time.

Mr. Palmer asked if multiple companies are interested.

Mr. Tetreau said there is no way to confirm who is interested. Some tenants could occupy 15 to 20 square feet and some could occupy 80 square feet. The only known thing is that Blackrock has pulled building permits for footings.

Economic Development Director Mark Barnhart said that an economic analysis was conducted in 2003 but things have changed significantly since then. The footing phase should be completed in November and it is anticipated that building permits will be pulled in December for occupancy by 2013.

Ms. Marmion spoke in support of this item. It has been a difficult process but we need to complete this project and the tax base will benefit the grand list.

Ms. Hoffmann asked if there is a process in place in order to approve what tenants go in since different franchises could change the town.

Mr. Tetreau said that the developer rents the space and TPZ decides what type of business is appropriate. He noted that Section 2.2 of the tri-partite agreement lists restrictions on renters which exclude casinos, theatres and "big box" stores.

Ms. Hoffmann said that Ms. Braun's questions are on target; that we need legal opinions in writing and that we are always called on for last-minute decision-making.

Carolyn Richmond, District 1, said that she understands \$1,000,000 of the requested funding is for contingency and she urged that the expenditure be kept as low as possible. She said she will support this request but that it must be done responsibly.

Mr. Tetreau said that the project has a budget and will be tracked to a penny. He said we will work hard to keep the project under \$7.5 million.

Ms. Vahey said that she will vote for this item. Legal experts have given us their opinion that we have to vote for this. The project will benefit the town.

Nick Mirabile, District 9, said that this project will benefit us and neighboring towns, and he urged the Body to vote for it.

Bill Llewellyn, District 7, said that there has been a recent recurring theme, to wit, "if you don't vote for this, it will cost that." He expressed annoyance that nobody is ever held accountable for these blunders except the taxpayers. We are wasting money on mismanagement. He asked why the deadline is October 31.

Mr. Tetreau said that he is not sure why the date is set at October 31 but the tracks are in place and the station is finished.

Patti Dyer, District 6, said that we have had hours of discussion on this project and there are lots of unanswered questions. Whether or not every question gets answered, we cannot push this vote off any further. Whether one plans to vote yes or no, we need to vote on this tonight.

Jim Brown, South Pine Creek Road, said he had written his RTM representatives to vote yes on this item but he urged them to instead vote no. The bond resolution gives away certain rights.

Roger Autuori, Melville Avenue, said that the October 31 deadline was placed because the new train schedules come out that day.

Mr. Garskof asked if the clauses Ms. Braun referred to can be stricken from the bond resolution.

Atty. Fisher, independent counsel for the Town, said that the clauses do not impair the Town against Blackrock Realty. Whether or not it was legal for the former first selectman to enter into the agreement at the time, it is enforceable now since all bodies knew about it.

Bond Counsel John Stafstrom noted that Ms. Braun referred to the third paragraph in the recitation of facts in the bond resolution. It would not prejudice the Town's rights against Blackrock Realty.

Mr. Ambrose said he will vote in favor of this item. He said he believes the former first selectman violated our bond of trust and there has been a lack of transparency for the duration of this project. He urged the Town to proceed in an open, transparent manner.

Ed Bateson, District 3, said he does not support this item. We must see it to the end, but he asked why we are paying for it. However, he noted, if we vote no, we could be on the hook for \$21 million.

Faith Dillon, District 9, said that she did not want to enter into this agreement from the beginning. The property should have been taken by eminent domain, as the State had done in the past. Unfortunately, she said, former First Selectman Flatto trusted Mr. Wittek. Fairfielders should not be footing the bill.

Mr. Millington said that there have been multiple opportunities to ask dozens of questions. Those who advised Mr. Flatto are still in place. Ms. Braun's questions are valid but we have come to a decision point. We have to vote, and this is far from a "rubber stamp" approval. He asked if it comes down to whether we vote for this \$7.5 million, or, if we fail to meet our obligations, will we have to bond over \$20 million.

Mr. Tetreau said that according to counsel, we would be obligated to reimburse the State \$19 million, the builder Guerrera \$2 million, plus any litigation brought by Blackrock Realty.

Mr. Millington said that it would cost \$7.5 million to complete the project or we could pay \$21 million and have no train station. Approving this item is the best financial move, but he urged Mr. Tetreau to follow up on Ms. Braun's questions.

Mr. Tetreau noted that the RTM subcommittee continues to work. He said that although the resolution asks for up to \$7.5 million, he hopes it will cost less. The goal is to finish the project with the least cost to taxpayers.

Kevin Hoffkins, District 7, said that he shares the frustration expressed by other members of the Body, but we have got to move forward. We should learn from this situation rather than look for accountability.

Ms. Hoffmann objected to always having to vote in reactionary mode. This project is in the best interest of the State and Blackrock Realty. We are giving up quality of life with increased traffic and unknown vendors.

Ms. Braun expressed continued concern regarding the lack of a budget for the funding.

**VOTE:** The bond resolution to appropriate \$7,500,000 to complete the third train station was approved with 32 in favor, 5 opposed.

**IN FAVOR:** Becker, Herley, Richmond, Sundman, Ambrose, Jones, Steele, Varian, Conley, Ference, McCullough, Palmer, Garskof, Smey, Stamler, Brogan, DeSanctis, Dyer, Marmion, Vahey, Hochberg, Hoffkins, Llewellyn, Schwartz, McCarthy, Dillon, Felner, Millington, Mirabile, Farnen, Mears, Way

**OPPOSED:** Bateson, Santalesa, Braun, Harrison, Hoffmann

**ADJOURNMENT**

There being no further business and upon motion made, duly seconded and carried unanimously, the meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Elizabeth P. Browne  
Town Clerk

Recorded by: Ann Roche

**MINUTES OF THE RTM SUBCOMMITTEE MEETING**

A committee meeting of the Town of Fairfield was held on Tuesday, August 30, 2011, at 7:00 P.M. at the Education Center, Board of Education Offices, 501 Kings Highway East.

The meeting was called to order at 7:15 P.M. by L&A Chair Ed Bateson who led the committee in the Pledge of Allegiance.

PRESENT: 35                      ABSENT: 15                      VACANCY: 0

PRESENT: Becker, Challinor, Richmond, Sundman, Ambrose, Jones, Steele, Varian, Bateson, Conley, Ference, McCullough, Santalesa, Palmer, Garskof, McAleese, Smey, Stamler, Brogan, DeSanctis, Dyer, Marmion, Vahey, Hochberg, Hoffkins, Llewellyn, Braun, Harrison, McCarthy, Dillon, Felner, Millington, Mirabile, Mears, Way

ABSENT: Herley, Stewart, DeMartino, Hug, R. Parker, S. Parker, Gall, Lynch, Schwartz, Hoffmann, Takami, McGinty, Cafferelli, Farnen, Rubino

3. To hear, consider and act upon the following resolution as recommended by the Board of Selectmen:

“RESOLVED, that Michael Tetreau, First Selectman of the Town of Fairfield, is empowered to execute and deliver in the name and on behalf of the Town of Fairfield a contract with the Connecticut State Library for an Historic Documents Preservation Grant.”

*(Referred to Standing Committee on Legislation & Administration)*

Town Clerk Betsy Browne explained this is an annual grant based on revenue from land record recordings that is remitted to the State and returned to the Town in the form of a grant. The grant has been reduced from \$10,000 to \$6,000. This year’s grant will be used for the restoration of burial records and vital records from the early 1900s.

Cristin McCarthy Vahey asked if the additional \$4,000 would come from this year’s budget. Ms. Browne indicated that it would not as she submitted a project that was smaller in scope this year.

VOTE: 6-0-0

4. To hear, consider and act upon the following resolution as recommended by the Board of Selectmen:

“RESOLVED, that in accordance with a request from the Parks and Recreation Director, the Town of Fairfield accept the 2011-2012 Fairfield Youth Services Bureau State Grant in the amount of \$28,738, and has authorized the necessary matching funds from the Town’s annual budget, and

FURTHER RESOLVED, that upon receipt of such grant, it may be expended as set forth in the grant application.”

*(Referred to Standing Committee on Education & Recreation, Finance and Legislation & Administration)*

Parks & Recreation Director Gerry Lombardo explained that the Town’s share is the salary of the Youth Recreation Coordinator.

Cristin McCarthy Vahey questioned the donation to Fairfield Counseling Services as part of the grant. Mr. Lombardo said he could absorb some of the program costs into his budget if the funding was cut, but he would not be able to fund the counseling services. They will know better in a few weeks when the State determines the grant amounts. They have applied for and received this grant annually.

VOTE:            Education & Recreation            6-0-0  
                     Finance                                    7-0-0  
                     Legislation & Administration        6-0-0

5. To hear, consider and act upon the following resolution as recommended by the Board of Selectmen:

“RESOLVED, that the Town of Fairfield and its Board of Selectmen and Representative Town Meeting may enter into with and deliver to the State of Connecticut Department of Emergency Services and Public Protection, Division of Emergency Management and Homeland Security, any and all documents which it deems to be necessary or appropriate; and

FURTHER RESOLVED, that Michael C. Tetreau, First Selectman of the Town of Fairfield, is authorized and directed to execute and deliver any and all documents on behalf the Town of Fairfield, its Board of Selectmen and the Fairfield Representative Town Meeting, and to do and perform all acts and things which he deems to be necessary or appropriate to carry out the terms of such documents, including, but not limited to, executing and delivering all agreements and documents contemplated by such documents.”

*(Referred to Standing Committees on Legislation & Administration and Public Health & Safety)*  
Asst. Town Atty. Eileen Kennelly explained that we must renew the agreements we have pertaining to regional emergency management and homeland security because there is a new first selectman.

Chris Brogan said this seemed pretty broad and more than just the memorandum of understanding that was included as backup documentation. He asked if this is the same format as prior years. Atty. Kennelly indicated that it was the same as in the past.

Ann Stamler questioned the summary reference to 2010 grant funding. Atty. Kennelly explained that the federal fiscal year starts October 1<sup>st</sup> so we are still in federal FY10.

VOTE:            Legislation & Administration        6-0-0  
                     Public Health & Safety                no quorum; no vote

6. To hear, consider and act upon the following resolution as recommended by the Board of Finance:

“RESOLVED, that the Bond Resolution entitled, “A Resolution Appropriating \$250,000 for the Costs of the Restoration of Façade Cornice at Tomlinson Middle School and Authorizing the Issuance of Bonds to Finance Such Appropriation,” consisting of four pages, be, and hereby is, approved.”

*(Referred to Standing Committees on Education & Recreation, Finance and Legislation & Administration)*

Tom Cullen was present to answer questions regarding this item that was postponed from June. Cristin McCarthy Vahey asked if there was any storm-related damage at the schools which would reorder priorities. Mr. Cullen said there was no damage, but eight schools have no power.

VOTE:            Education & Recreation            5-0-1  
                     Finance                                    No quorum; no vote  
                     Legislation & Administration        1-2-4

7. To hear, consider and act upon the following resolution as recommended by the Board of Finance:

“RESOLVED, that, in accordance with a request from the Director of Public Works, an appropriation of \$78,000 be made from the Water Pollution Control Authority (WPCA) Reserve Fund for a combined heat and power feasibility study at the Wastewater Treatment plant, to be offset by a \$50,000 grant from the Connecticut Clean Energy Fund.”

*(Referred to Standing Committees on Finance, Legislation & Administration and Public Works & Planning)*

Public Works Director Rich White explained that this will allow us to study ways to optimize the production of and higher quality of methane gas at the WPCF in order to generate heat and electricity at a lower cost.

Tom McCarthy asked if there is a payback period for the expenditure. Mr. White indicated 3-4 years. Ed Bateson asked if language should be included authorizing someone to apply for the grant. Atty. Kennelly said she would double check the language.

VOTE:            Finance                                        7-0-0  
                     Legislation & Administration        6-0-0  
                     Public Works & Planning            7-0-0

8. To hear, consider and act upon the following resolution as recommended by the Town Plan and Zoning Commission:

“RESOLVED, that in accordance with a request from the Town Plan and Zoning Commission, the donation of certain property on the corner of Kings Highway East and Vermont Avenue from HH East Parcel LLC containing .26 acres, more or less, be, and hereby is, accepted.”

*(Referred to Standing Committees on Finance, Legislation & Administration and Public Works & Planning)*

There was no presentation as the environmental report and title certificate were not received.

9. To hear, consider and act upon an ordinance entitled, “Ordinance Concerning Amendment of Municipal Union Labor Contracts,” sponsored by Peter Ambrose, District 2 and Ann Stamler, District 5:

The First Selectman shall not execute any alteration or amendment to any municipal union labor contract by way of a side letter or any other document in any way which would bind the town to a significant expenditure or impose a significant financial impact upon the town without the approval of the Representative Town Meeting. A

“significant expenditure” and a “significant financial impact” are deemed to be an expenditure which would obligate the town to the payment of \$10,000 or more per year.

The foregoing restriction shall not apply to the following labor proceedings: interest arbitrations; grievances; unfair labor practices; or municipal prohibited practices.

*(Referred to All Standing Committees)*

Peter Ambrose and Ann Stamler were present for questioning, but no members had any concerns.

VOTE:	Education & Recreation	6-0-0
	Finance	No quorum; no vote
	Legislation & Administration	10-0-0
	Public Health & Safety	No quorum; no vote
	Public Works & Planning	8-0-0

10. To hear a report from the Metro Station Audit Subcommittee of the Board of Finance.

Kevin Kiley, chair of the BOF Metro Station Audit Subcommittee thanked his committee for their diligence and dedication. Although there was no fraud or malfeasance, the metro station project is sorely lacking in financial oversight, budget supervision, projections and inclusiveness. The former first selectman excluded the CFO from the project’s planning and implementation, but the CFO did not express his concerns with the ongoing project. This stood out in particular with expenditures outside appropriations and purchasing guidelines. There is also concern with a lack of a formal budget and supervision when the project was disseminated to various town employees in addition to their normal job functions. There was no project manager or financial reporting other than the first selectman that led to inaccurate interpretations of funding and expenditures.

Work was performed and contracts were amended regardless of funding availability. Grants were assumed and spent without confirmation of receipt. The administration did not inform town bodies of changes within the project or seek approvals when spending was outside previous appropriations.

The committee recommends that the BOF review and update the purchasing and bidding policies and that the internal auditor review bond appropriations for proper expenditures and documentation as well as ensure that all town policies are being followed. The CFO should be included in all projects requiring funding from planning through completion. A formal budget should be maintained for all bond appropriations with quarterly reporting to the BOF.

The amended contract reduced or eliminated the funds for the intersection improvements which led to a funding shortfall at the same the costs escalated. The subcommittee supports project completion in a timely fashion.

Joe Centofanti of Kostin Ruffkess referred to exhibits ES-2 and ES-4 regarding significant contracts and changes for the metro center and intersection improvements. He noted the inappropriate charges for the Brewster Street Bridge. Project financial management did not function properly for the metro center and intersection improvements as the project was decentralized. A project manager was not utilized and financial reporting was informal and only between the town project managers and the first selectman.

Mr. Centofanti also referred to exhibits MC-4 and MC-5 for the comparison of amounts earned by the vendors and the approved contract amounts through 6/30. The change order approval process by the state is extremely slow. 5% retainage is held until project completion.

Tom McCarthy said it appears from exhibit D that we need about \$10.5 million to finish the project. The first selectman's presentation will address the funds necessary from 6/30/11 going forward.

Jamie Millington said he was shocked by the lack of oversight and the failure of the project by Ken Flatto and his administration. He asked if anyone other than Mr. Flatto had left Town employment. Mr. Kiley replied not to his knowledge. Mr. Millington felt that the break down was Mr. Flatto's fault, but the administration continues on. He said there should be more accountability.

Jeff Steele questioned the obligation for the intersection improvements. Mr. Centofanti explained that there was no amount remaining from the authorized appropriation for the town portion of the intersection improvements since it had been appropriated to the metro center.

Kathy Braun asked if any of the legal questions on pages 6 & 60 addressed. Mr. Centofanti said these are legal questions referred to outside counsel for their review. Cristin McCarthy Vahey said the findings are very upsetting and is glad that we are moving forward. She asked if the subcommittee intends to implement the recommendations.

Mr. Kiley said it is the committee's and first selectman's intention to meet regarding the recommendations and implement them. The BOF already has a subcommittee working on updating the purchasing policies.

11. To hear a report from the Metro Station Special Committee of the RTM.

David Becker and Patti Dyer distributed the special committee's report and noted that it is an evolving document intended to answer the RTM's questions prior to the bonding appropriation vote. Although the committee chose not to meet with the new construction manager they conducted several interviews with current and former officials, and will continue to meet in September and October to resolve the remaining open questions. The committee broke the questions into the areas of financial, project management, contractual and legal. The committee has over 200+ pages of supporting documentation available.

Ann Stamler acknowledged the work of the committee and found the assemblage of supplemental documents invaluable.

Kathy Braun asked if we knew who was responsible for the erroneous soil estimates. Mr. Becker said there was a document from Mark Barnhart of "major cost variances" and they have asked for further updates. Ms. Braun asked if the outside legal counsel has told us if we have recourse. Mr. Becker said that question has been submitted to the first selectman.

Peter Ambrose said since we have legal counsel here tonight why prolong this further when many members have questions to be answered. Mr. Becker replied that all legal questions were submitted through the first selectman so the outside legal counsel would have time to prepare and address them.

First Selectman Mike Tetreau said two independent counsels have been hired. Tim Fisher is present tonight while another was hired to look at the approval process for contracts and appropriations. They will be coming back to the BOS with their understanding of the contract approval and appropriation process. Mr. Ambrose said since we are paying counsel to be present tonight he would like to get to the item.

12. To hear, consider and act upon the following resolution as recommended by the Board of Finance:

"RESOLVED, that the Bond Resolution entitled, "A Resolution Appropriating \$7,500,000 for the Costs of Completing the Third Train Station (Fairfield Metro Center) and Related Improvements and Authorizing the Issuance of Bonds in the Principal

Amount of \$7,500,000 to Finance Such Appropriation,” consisting of four pages, be, and hereby is, approved.”

*(Referred to All Standing Committees)*

First Selectman Mike Tetreau gave a project status update as of 6/30/2011. Regarding the expense summary he noted that nothing has been done on the excess soil disposal. From 6/30/11 – 9/15/11 \$12.5 million is estimated to complete the project. Total revenues by source and project are \$37.8 million. The project team is meeting daily for status updates, a full-time construction manager is onsite and weekly financial updates are held with the Town CFO and Controller. The BOS has retained independent counsel for a review of the contract approval process.

With the help of Senator McKinney offsite disposal options were explored with CTDEP, but the only offsite option would be Pennsylvania. Based upon legal review, the signed agreement is a valid contract. The State’s objective is to open the train station by October 31<sup>st</sup>. Black Rock Realty has agreed to nothing and his position has not changed, although now he wants a deck which the State would have to agree to. The air rights have to be sorted out. Additional grants would reduce the amount we have to bond next year for the project.

Cristin McCarthy Vahey asked if we are still eligible for the grant from GBRPA if this is voted on tomorrow night. Mr. Tetreau replied affirmatively.

Tom McCarthy asked if these are the best numbers we have. Mr. Tetreau said the \$1 million contingency was not included in the numbers to the BOF.

Michael Mears asked if the parking revenue is still going to the State. Mr. Tetreau explained that in the side agreement between the State and the former first selectman the costs were taken against the parking revenue. The State is controlling the permit parking fees.

Jeff Steele asked if the commuter parking fees will be the same as the downtown station. Mr. Barnhart said he has not heard anything regarding the charges. Mr. Steele asked if the Aug. 23, 2011 letter from the State DOT had been agreed to yet. Mr. Tetreau said he has not signed the letter pending approval by the RTM of the bonding resolution.

Mr. Steele asked if there is anyway to pinpoint where the miscalculations on the environmental remediation took place. Mr. Barnhart said Parsons Brinkerhoffer prepared the bid documents and estimates for the project. It was in anticipation of the presence of PCBs in the soils. They were still sampling in June. 1,220 linear feet of the 36” sanitary sewer line was measured incorrectly.

Jamie Millington stated that he was happy with article 10 of the bonding resolution pertaining to grants which would reduce the amount to be bonded. He is in favor of the resolution. Mr. Tetreau stated that if we don’t get the \$7.5 million it will cost us more in the long run. Bond counsel specifically included article 10 in the resolution.

Josh Garskof asked if the State controlled whether or not a deck is built instead of a garage and if there are two pools of money out there. Mr. Tetreau said after discussing this for 6 months there is nothing new. Black Rock Realty has clients that want parking closer to the building, but the deck would not be available for commuters. The parking ratio used for the project is from ten years ago, but the State is looking to the future in that they know the air rights have value.

Peter Ambrose asked if the Town has any say in approving an application from Black Rock Realty or State to build a replacement deck. Town Attorney Dick Saxl indicated TPZ would require a special permit in a special district.

Kathy Braun questioned the priorities of the project since the 8/23/11 letter from DOT says we will get the money if certain criteria are met. Mr. Tetreau indicated that the roadway and parking lot are priorities to get the station open. Mr. Barnhart said the excess soil had not been fully excavated. Ms. Braun suggested leaving the soil on the developer's property since he has not done anything to help the Town at this point. She asked for a written legal opinion as to the contracts and any leverage we may have with Black Rock Realty.

Attorney Tim Fisher explained that the agreements from 2010 are still enforceable based on case law. When a Town body with authority approves a contract and accepts the benefit of it then it is determined to be valid and enforceable. Ms. Braun asked if other approvals were required or was the first selectman outside his authority. Atty. Fisher said that has not been determined by his colleagues.

Ms. Braun asked about the exposure for the cost overruns and recourse. Atty. Fisher said he understood that DOT approval was for \$19 million with unit pricing and no cap because it changes the risk analysis. The general rule regarding the statute of limitations is seven years from substantial completion. Under the doctrine of mitigation of damages the town has a duty to limit the amount of damages that occur. If the Town stops the project it would not limit the amount of damage it was suffering. Ms. Braun asked for these opinions to be in writing.

Mike Mears asked for clarification of our bond rating. CFO Paul Hiller explained that 13 AAA communities in Fairfield and New Haven counties were placed with negative outlooks by Moody's because the US government was given a negative outlook. Their primary concern is the labor market. Their latest discussions with Moody's were inconclusive. Moody's asked for our hurricane preparedness plan and they were favorable to it. We are prepared to defend our AAA rating. S&P reaffirmed the AAA rating on the BANs sold in July, and all three ratings agencies have said our debt load is manageable. Our per capita ratio is around the median. Mr. Mears asked if we were taking a risk by waiting until next summer to have a bond sale. Mr. Hiller said we have other budgetary pressures – OPEB, pension, BOE, paving costs that we are looking at in a macro sense. We also had a 10% decrease in the grand list.

Cristin McCarthy Vahey asked if Black Rock Realty will be attending the RTM meeting to which Mr. Tetreau replied that it's a public meeting that he's welcome to attend.

Ann Stampler asked if any hurricane-related damage occurred at the metro center site. Mr. Barnhart said he was onsite and there was no damage since they had prepared early with additional drainage and securing material and equipment. Ms. Stampler questioned p. 27 of the presentation exhibit A. Mr. Tetreau said it was 90 pages describing the site plan topography.

Selectman Jim Walsh asked about Black Rock Realty's recent offer to which Mr. Tetreau felt was negotiating in public. Mr. Walsh said he would follow up at the BOS executive session. He asked if there was a budget for the \$7.5 million to complete the project. Mr. Tetreau said there was not because they do not know what will be complete by 9/15 with the shifting priorities. He will report the new budget to the RTM in September and October.

Mr. Walsh asked if the agreement regarding the parking revenue was binding. Mr. Tetreau said it was under review by the independent counsel. Mr. Walsh asked if we were to get out of the side letter agreement legally so we could get the \$6 million in revenue that the Town bodies were lead to believe we were getting. Atty. Fisher said he did not believe it could be void as on its face it's part of the \$19 million

so the most likely immediate effect would be here's the \$19 million as a quid pro quo. The DOT believed the first selectman was authorized to negotiate and sign on behalf of the Town.

Mr. Walsh stated that it could have been part and parcel of the \$19.4 million since there was obviously a reason for this. It was approved by the BOS after Selectman Bowley passed away when only Ms. Steeneck and Mr. Flatto were on the board to vote and Ms. Steeneck was not aware of the side agreement. The State recognizes there are difference forms of government and understand the different authorities. They knew the \$19.4 million had to go to the BOS so why was only one agreement for \$6 million in revenue authorized by the first selectman.

Mr. Walsh asked if Mr. Tetreau negotiated with DOT to get the \$300,000 in annual revenue back. Mr. Tetreau said they talked for 8 weeks but they said no. Mr. Walsh asked if Mr. Redeker is authorized to sign the agreement for the DOT. Mr. Tetreau said he is now the DOT Commissioner. Mr. Walsh asked if Parsons Brinkerhoffer was still on the job. Mr. Barnhart replied they are the site civil engineer.

VOTE:	Education & Recreation	5-1-0
	Finance	No quorum; no vote
	Legislation & Administration	3-0-7
	Public Works & Planning	7-1-0
	Public Health & Safety	No quorum; no vote

Respectfully submitted,

Elizabeth P. Browne  
Town Clerk