



MEMORANDUM

To: Ira W. Bloom, Esq.
From: Nicholas R. Bamonte, Esq. *NRB*
Date: 4/3/18
Re: Easton - Entertaining Motions at Budget Meeting
(30027-0013)

Issues:

During the town meeting on the proposed budget, is the Town obligated to entertain motions from the public to adjust budget appropriations proposed by the Board of Finance ("BOF")? Does adjourning the town meeting to a machine vote on the budget affect such potential obligation?

Short Answer:

It is my belief that the Town is not obligated to entertain any motions to adjust the budget as proposed by the BOF, regardless of whether or not the Town has adjourned to a machine vote. Under C.G.S. § 7-344, the public's opportunity to provide substantive input is during the preliminary budget development hearing before the BOF; only the BOF is authorized to recommend appropriations for final approval.

Discussion:

In an area of local concern, such as local budgetary policy, general statutory provisions must yield to municipal charter provisions governing the same subject matter. Bd. of Educ. of

Town & Borough of Naugatuck v. Town of Borough of Naugatuck, 268 Conn. 295, 308–09 (2004). Conversely, because the Town of Easton does not have a charter, C.G.S. § 7-344 controls the Town’s budget adoption process.

Under C.G.S. § 7-344, the BOF must first hold a public hearing at least two weeks prior to the annual town meeting and present its estimates of town expenditures for the next year. At the hearing, all members of the public have an opportunity to speak for or against any potential appropriation. Next, the BOF must hold an open meeting to further detail its proposed budget recommendations and generate a report for publication in the newspaper. The resulting budget estimated and recommended by the BOF may then be submitted to the town meeting for approval. Significantly, the ensuing town meeting “shall take action upon *such* estimate and recommendations, and make *such* specific appropriations as appear advisable”. The budget proposed by the BOF may be submitted to the town meeting by machine vote.

The language of C.G.S. § 7-344 only authorizes the town meeting to approve or deny each appropriation as proposed by the BOF; it does not grant the public an ability to adjust or reduce the proposed appropriations. This interpretation is consistent with the later provision that allows, in the event of a “vote by voting tabulator¹”, inclusion of a question whether the “budget is too high or too low”, but states that the vote on such question is advisory only and not binding on the BOF. At most, voters may reject a budget and indicate whether they believe it is too high or too low. See Naugatuck at 314–15; C.G.S. § 7-344. Upon a rejection as too high or too low, the BOF would readjust the budget in accordance with the vote and resubmit to the voters. Id. Therefore, under C.G.S. § 7-344, the opportunity for public input on the proposed budget is during the preliminary public hearing before the BOF, and the BOF has the final authority to determine the recommended appropriation amounts subject to vote at the town meeting.

¹ “voting tabulator” means a machine, including, but not limited to, a device which operates by electronic means, for the registering and recording of votes cast at elections, primaries and referenda.” C.G.S. § 9-1

Although C.G.S. § 7-344 expressly prohibits the town meeting from increasing the recommended appropriations or creating new appropriations, it does not prohibit the town meeting from reducing appropriations. Conceivably, this language may provide grounds for a challenge asserting that the public does in fact have the authority to substantively adjust BOF budget recommendations by motion. Further, at least two Superior Court cases mention potential budget reductions resulting from a town meeting. See State ex rel. Feigl v. Raacke, 32 Conn. Supp. 237, 243 (1975) (“the town meeting may reduce a specific recommendation...”); Winchester Bd. of Educ. v. W.L. Gilbert Sch. Corp., 1997 WL 585763, at *4 (1997) (“the [town] and its electors have the authority to reduce, and in practice have reduced, the educational budget that is submitted to the Town...”). Yet in my opinion, the hypothetical reductions referenced by the courts above contemplate BOF-initiated reductions after voter rejection, not reductions by motion of the voters themselves.

Ultimately, neither the statutes nor the case law expressly obligate the town to allow public amendment of budget appropriations recommended by the BOF and submitted to the town meeting. Absent charter provisions to the contrary, the BOF is the sole entity with authority to adjust such appropriations under C.G.S. § 7-344.

Lastly, I do not believe that Chapter 90 of the General Statutes, regarding “Town and other Community Meetings”, affects the present analysis. Given that § 7-344 is silent as to the procedure for holding a machine vote, § 7-7 could potentially apply insofar as it establishes the selectmen’s general authority to submit a town meeting proposal to a machine vote and provides further balloting details in such an event. If § 7-7 does apply, then in theory the budget vote could be considered a referendum under § 9-1: “a proposal which is submitted to a vote...pursuant to section 7-7”. Such an interpretation would not affect the question presented, but would subject the Town to additional requirements such as absentee ballots and involve the Secretary of State. But given the nature of the budget approval as an extension of the town

meeting, I do not believe that the election law requirements applicable to referenda also apply here.