





From:  "Brian Riley" <BRiley@k-plaw.com> Wednesday, December 29, 2010 3:47:38 PM 

Subject: Making changes to budget request of School Committee

To:  Francis T. Crimmins, Jr.

Cc:  reggie@stoughton-ma.gov

Attachments:  Attach0.html 10K

Frank: You requested an opinion on the following facts. You are preparing the proposed budget for FY12, which you are obligated under the Charter to file with the Board of Selectmen by December 31. The Selectmen are in turn required to file a recommended budget (which may or may not have changes from your draft) with the Finance Committee by the third Tuesday in January [Jan. 18, 2011]. Based on concerns of revenue shortfalls for next year, you asked each department to submit a budget with a 5% reduction from FY11, but the School Committee's recommended budget exceeds its FY11 budget. You wish to submit to the Selectmen a proposed budget that is balanced, but to do so you will need to recommend a smaller amount for the School Department than the School Committee has requested, and you have asked if you may legally do so.

In my opinion, you may use a different dollar figure in the Town Manager's recommended budget for the School Department than that submitted by the School Committee. The School Committee's proposed budget should also be filed with the Board of Selectmen and Finance Committee as well, and of course the School Committee will have an opportunity (through a TM Representative or the Superintendent) to make a motion to amend the budget figure up or down on the floor of Town Meeting.

The Charter directs the School Committee, in §C5-2, to submit the school department budget to the Town Manager on or before December 31st of each year "for inclusion in the annual town government budget." The Town Manager must then, under §C4-2(F), prepare a consolidated proposed budget with all departments and submit that to the Selectmen, also by December 31. The Board of Selectmen is actually responsible for preparing a budget and submitting it to the Finance Committee by the third Tuesday in January [§C3-3(E)]. The Finance Committee, in turn, is required to consider all the estimated budget needs and to come up with its own recommendation for Town Meeting. The relevant Charter provision, in §C7-14(B)(1), states as follows:

Such estimates and statements [from each department for the next fiscal year] shall be filed with the town manager who shall at once transmit the same to the selectmen... The Committee shall duly consider the estimates and statements filed by the town boards, officers and committees, and may confer with said boards, officers and committees and hold hearings. The Committee shall thereupon recommend such sums and in such division of items as it consider necessary and convenient. It shall place the recommendations of the Selectmen on the Budget Article in a way that they may be easily compared with its own.

In my opinion, these Charter provisions contemplate that the Town Manager/Selectmen's budget is not constrained by the estimates made by any department, including the School Department, and the budget you are preparing for the Board may reduce the figure you received from the School Committee. The italicized language above

presumes that the Town Manager will pass along the actual departmental estimates to the Selectmen, and subsequently to the Finance Committee, but the Selectmen's budget can reduce the estimated expenditures as the Board sees fit in order to have a balanced budget. When the Finance Committee makes a motion at Town Meeting for a departmental budget amount, including the School Department, Town Meeting may entertain any motions to amend the budget amount up (with a corresponding cut from another line item or department).

In summary, in order to prepare a balanced budget for the Board of Selectmen to consider and recommend, it is my opinion that you may reduce or otherwise alter the budget requests you received from the various Town departments, including the School Department. If you have further questions, please feel free to contact me.

Very truly yours,

Brian W. Riley, Esq.

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