



## *Town of Plaistow ♦ Budget Committee*

*145 Main Street ♦ Plaistow ♦ NH ♦ 03865*

### **BUDGET COMMITTEE MEETING**

**Meeting: December 22, 2020**

**Call to Order: 6:31pm**

#### **ROLL CALL:**

Maxann Dobson, *Chair*  
Sam Cafiso, *Vice Chair*  
Peter Bracci, *Budget Committee*  
Darrell Britton, *Budget Committee*  
Bob Hamilton, *Budget Committee*  
Dennis Heffernan, *Budget Committee* - remotely  
Laurie Milette, *Budget Committee*  
Robert Zukas, *Budget Committee*  
Julian Kiszka, *Selectmen's Representative*

Also present were:

Mark Pearson, *Town Manager*, remotely  
Greg Colby, *Finance Director*, remotely

#### **Agenda Item 5: Budget Related Public Comment**

Ty Vitale, Park Ave., Plaistow addressed the Committee. He said that at the Town Meeting on March 12, 2019 \$30,000 was appropriated to fix and pave the sidewalks in and around Pollard Park. He said at this had been voted on by the BOS and recommended by the Budget Committee, but the Town issued a RFP that changed the purpose of the warrant article from "in and around Pollard Park" to "interior sidewalks only." The contract called for completion date of Fall 2019, but the completion date was pushed by the contractor into 2020 without modifying the contract in writing or encumbering the funds. He said the contractor was to acquire permits, which were not applied for. He said the appropriated funds will lapse on 12/31/2020 and the contract cannot be completed and the funds have been misappropriated. He said Park Ave.'s sidewalks have not been excavated and made ADA compliant, and are in need of repair so that another warrant article will be needed even though the Townspeople had already said yes. He said this has cause a safety hazard as they Park Avenue sidewalks are not shoveled or visible.

Point of Order: D. Heffernan asked how this relates to the Budget Committee. Ch. Dobson said it is public comment and Mr. Vitale could proceed.

T. Vitale commented that that the Town Manager and BOS would have the liability of any harm caused by these conditions. He said the insurance budget should be adjusted accordingly.

D. Heffernan asked J. Kiszka to comment, who replied he doesn't have any comment, and deferred to the Town Manager. P. Bracci noted that Ty had spoken about the sidewalks not being plowed and asked why not plow the sidewalks around Town Hall. T. Vitale read the warrant article which notes the sidewalks are too narrow to be ADA compliant and are cracked and blocked creating a potential tripping hazard.

Ch. Dobson said the Committee would look at the warrant articles this year with due diligence and be sure everything included is correct. D. Britton noted that if M. Pearson is on the call he should answer this. S. Cafiso noted that funds were appropriated for the outside perimeter sidewalk in back of Town Hall that comes down Park Ave. and if funds were appropriated what happened to them. P. Bracci thought \$60,000 had been spent on the project. T. Vitale noted that Planning Board Chairman Jim Peck went before the BOS and asked this question on April 20, 2020 and M. Pearson said he had used value engineering to reduce the cost from \$60,000 to \$40,000 and that the BOS encumbered the funds in order to push the project forward into 2020.

Ch. Dobson noted the Budget Committee cannot tell the governing body how to spend the money but can give them budget recommendations.

#### **Agenda Item 6: Discuss Budgets**

**Water:** Ch. Dobson asked if the Committee had reviewed the materials sent to them and asked for a motion to open discussion.

- **D. Britton moved, second by S. Cafiso to approve the Water Department Budget for \$431,300.**

Discussion: L. Milette asked how much money is in the Water Enterprise Fund and G. Colby said as of 1/1/2020 there was \$621,000 in the Fund and approximately \$200,000 has been spent so far, and water bills have not been issued yet so his best guess is there is some \$500-550,000 in the Fund as of this date. L. Milette asked how much revenue is coming into the Fund and was told that last year it was approximately \$100-125,000 and it is unlikely it will be less than \$125,000 this year.

Ch. Dobson noted there is a public hearing for the water bond of \$406,000 at the next BOS meeting and asked if that is the money in the budget. L. Milette said it is to help water users hook up to the water and is separate. J. Kiszka said the bond is paid out of the water fund which is funded by the users. He said it is very low interest and will only be used as needed for people who don't have the upfront money to connect and will be paid back through their bill. P. Bracci asked what the \$80,000 purchase of water for resale through MWW. G. Colby said the Town will purchase water from Manchester Water Works and resell to the Town's users. Ch. Dobson asked if that rate will go up over time. M. Pearson noted there is the MWW which is regulated by the PUC and then there are various charges to get the water through the towns to the Plaistow line (water wheeling rate.. Added up these are the actual costs and then the users are charged a retail rate. The PUC regulates rate increases. L. Milette asked if the Town must pay for the bond right away and was told no, that only the people borrowing from the Bond to connect to the

water will pay as part of their bill; and he noted that could be paid back in 10 years. J. Kiszka noted the water wheeling rate does not increase; it is a fee to use their pipes to deliver the MWW water to Plaistow. B. Hamilton asked if bond money goes into the Water Department Enterprise Fund and was told yes. He then asked if interest on the Bond will be passed on to the users who borrow. M. Pearson said it is a policy decision to be made by the BOS. J. Kiszka asked for clarification that the \$450,000 is not given and deposited and then interest is paid, it is an option and drawn as it is needed. G. Colby said there are different loan programs and if this passes the water commissioners would decide what they want to do. Ch. Dobson asked if the BOS are the water commissioners and was told yes. She asked how to go about creating a separate water commission if the Town desired. M. Pearson cited RSA 38-4 that make the BOS the water commissioners. D. Britton asked to review how to borrow the money will there be time to make the decision. G. Colby said the bond bank sales are in July and there is time if we go that way, and there is no restriction if we do it as a line of credit. Several committee members suggested a line of credit would be preferred. It was suggested a public hearing would help to clarify the issue.

B. Hamilton made a recommendation that during the public hearing for the water bond the Enterprise Fund is explained clearly to the public so they understand it is totally separate from the Town's General Fund.

R. Zukas asked if the water entity will be evenly funded by the users who are connected to it and he was told that is the case. He asked if they will be encumbering the costs of flushing throughout the year. J. Kiszka said that would be maintenance and would be incorporated into the running of the system which is part of the rate, but suggested there may not be much need to do the flushing once the water is circulating to users.

D. Heffernan asked about the budget lines for heating and electric share with PWG. G. Colby said the Public Works Garage which has square footage for the Water Department and there will be an allocation of expenses between the Water Department and General Fund.

**VOTE: 9 (M. Dobson, S. Cafiso, D. Heffernan, L. Milette, R. Zukas, D. Britton, P. Bracci, B. Hamilton, J. Kiszka)-0-0. The motion carried.**

**Legal:** Ch. Dobson noted she had emailed the members information she received the previous week.

- **D. Britton moved, second by R. Zukas to approve the Legal Budget for \$81,000.**

Discussion: D. Heffernan asked for clarification that the motion on the floor was to approve this budget. P. Bracci asked if this includes the \$16,000 extra the BOS had added and Ch. Dobson said it did.

- **D. Heffernan moved, second by S. Cafiso to amend the motion to approve the Legal Budget for \$75,000.**

Discussion: D. Heffernan said he could justify the \$75,000 based on what he had reviewed before. D. Britton asked for input from J. Kiszka who said he didn't know the reasons for lowering the request and that he didn't know the current status of the monthly bills coming in. Ch. Dobson noted that the 2020 budget was \$75,000 and the November expenditure numbers the Committee had received were \$60,552. He asked M. Pearson about the monthly expenditures. M. Pearson referred to the memo in the folder which contains new information and asked it to be read into the record. After determining what the new information was, J. Kiska read the following into the record:

"The Board of Selectmen have been made aware of the significant "legal budget" costs the Town has incurred since September. The monthly legal costs have now escalated to a recent bill of \$3,600 for the most recent monthly billing. Using this rational to project and estimate the "legal cost for 2021" would be around \$43,200. I proposed to the Board of Selectmen the original 2021 Legal budget of \$65,000. Subsequently, I asked the Board to increase the legal budget in the amount of \$16,000 based on the frequency and the monthly legal bills at the time. I will ask the Board to increase this amount by another \$30,000 to \$34,000. This would place the total legal budget, if approved, at \$111,000 to \$114,000."

P. Bracci noted that the Committee has heard a lot about the Legal budget being increased due to recent Right-to-Know requests and asked how much these have cost the Town by month and whether to expect they will continue in the future. M. Pearson said the most recent rate is \$3,600 per month for Right-to-Know requests if it continues at this pace approximately \$43,000 thus far for Right-to-Know requests if it continues at this rate and this does not include other normal legal billing. Ch. Dobson asked if there is another \$25,000 for December. G. Colby said the Legal Budget has over \$62,000 expended from it as of right now. Ch. Dobson said if the report was run today the \$75,000 is reasonable. R. Zukas said he didn't see much that needed legal clarification as it had nothing to do with personnel and should be readily available and asked what cost so much in legal fees for simple questions. B. Hamilton said at this time of year there are lots of requests for legal advice pertaining to review of encumbrances, warrant articles, and other year-end issues and felt that the legal expense of the last month could not accurately be pinned to Right-to-Know requests.

**VOTE: 8 (M. Dobson, S. Cafiso, D. Heffernan, L. Milette, R. Zukas, D. Britton, P. Bracci, B. Hamilton)-0-1 (J. Kiszka). The Heffernan-Cafiso motion carried.**

### **Agenda Item 7: Review Encumbrances**

P. Bracci said that the Committee had tried to do things right this year and conform with RSA 32-7 and the Town's operating procedures. He noted that around June 2020 a change was made to get the encumbrances one week prior to the last BOS meeting of the year. He said he now understand there will not be another BOS meeting before the end of the year and feels it an underhanded way to stymie the efforts of the auditors and Budget Committee to comply with the

law and the operating procedures. He noted if there is not another BOS meeting the Committee cannot get their recommendation to the BOS before the end of the year. He read from RSA 32-7 "All appropriations shall lapse at the end of the fiscal year and any unexpended portion thereof shall not be expended without further appropriation, unless: I. The amount has, prior to the end of that fiscal year, become encumbered by a legally-enforceable obligation"

J. Kiszka noted that the decision had been made the previous night that it would be done at the next BOS meeting next year and that they had been informed the actual encumbrances did not have to be voted on by December 31. He said some of the contracts were still be written and finalized and there were no numbers to be voted on. D. Britton and R. Zukas said they had understood it needed to be done by the end of the year. J. Kiszka said the encumbering vote didn't need to be done by December 31 but the contracts must be done by then, and this had been recommended by the Town Manager and Finance Director. P. Bracci said he believes the Budget Committee should still do its duty and get the recommendations to the Board of Selectmen as soon as possible. He asked the minutes be done by noon on Thursday to give to the BOS prior to the weekend.

R. Zukas asked G. Colby and M. Pearson why it was recommended to wait. G. Colby note the RSA 32-7 does not require a vote by the BOS. He said he was asked his opinion and reported that RSA 32-7-1 says "The amount has, prior to the end of that fiscal year, become encumbered by a legally-enforceable obligation, created by contract or otherwise," and no vote by the BOS is required by it. He noted that in school districts that use a purchase order, hundreds of thousands of dollars are encumbered this way. He also said he has seen boards vote on encumbrances into February because their books are not closed and they don't know if they have enough money to encumber and not legally overspend the budget.

S. Cafiso asked that "or otherwise" be explained, and if an estimate conform to the rules of a binding legal contract. G. Colby said yes and they will have approved purchase orders by the end of the year. P. Bracci noted a purchase order is not legally binding without two signatures. D. Britton said it would be good to have a signed estimate and a legal opinion going forward. B. Hamilton noted that a legal obligation between two parties is what is under discussion and has to have the vendor agreeing to something for a price and a Town official's signature needs to be on it as well to have an agreement. There was a discussion about purchase orders and contracts and whether a PO can be legally binding, what keeps the price what is on an estimate, and what happens to an encumbrance that is not spent.

G. Colby said they are still analyzing contracts and that encumbrances noted are likely to change. He said the list of encumbrances sent to the BOS was preliminary and they will be adjusted before the end of the year and signed purchase orders sent to the vendors. He noted several projects were delayed due to COVID.

D. Heffernan asked if something costs \$10,000 could \$5,000 be moved from the current year's budget into the following year. Ch. Dobson noted she was thinking the same way. G. Colby said you could. J. Kiszka said if you took something that wasn't encumbered and put it in the next year's budget could you return it to the General Fund and then take it out again in the next year's budget. P. Bracci said if we encumber money which comes from the 2020 budget it does

not have to be added to the 2021 budget and that would lower the 2021 budget because you don't need to add it back in. B. Hamilton asked if money has been spent on an item such as culvert repair could we encumber more for that same thing. G. Colby said yes as long as you don't overspend the budget bottom line; one line item can be overspent as long as another is underspent.

S. Cafiso commented on recommending encumbrances. He said he would have no problem with a signed purchase order, estimate or contract in front of him he would have no problem recommending something. He noted that in January 2020 he ran into one of the vendors who had an encumbrance from last year and congratulated them on the contract they won and they had no clue they had won it. He would not approve anything without a signed contract before him.

Assessing contract: P. Bracci noted he had copies of contracts with Vision and money has been spent, but he doesn't understand the encumbrance for Corcoran & Associates when Vision had been paid for the work. J. Kiszka said Vision was not paid for the entire contract as they did not fulfill the contract and it was terminated. He said Vision would not be able to complete the contracted work on schedule and the BOS was obliged to get the tax bills out so Corcoran finished the job and there is a signed contract for that. He said Vision's work is still being legated. L. Milette noted that the request is in addition to the spreadsheet and the assessing contract is \$76,800 and so the \$45,000 would be on top of the contracted amount.

D. Heffernan said there has not been enough time to review all this information. Ch. Dobson suggested this be addressed on December 29 and she will email the BOS of our recommendation before December 31.

J. Kiszka asked to get something in writing from the Legal Department saying that we (the BOS) don't have to sign until after the end of the year. G. Colby said he would try to get an answer.

P. Bracci noted the Committee needs to look at a reply from the DRA that says the Budget Committee has the review authority of the encumbrances. Ch. Dobson said there was a letter from the DRA saying the encumbrances fall under the Budget Committee. B. Hamilton explained that last year there were questions about encumbrances and the DRA was asked to make a judgement on what was questioned but they don't have that authority but that the Budget Committee under RSA 32: 22+23 has the authority.

### **Agenda Item 8: Review November Expenditures**

Ch. Dobson referred to a spreadsheet she had created which showed the 2020 budget and what the BOS approved, what the Budget Committee approved and what the Town Meeting approved, as well as what the Town Manager recommended for 2021, what the BOS approved and possible recommendations based off what happened last year. She asked why the budget is going up if last year's number worked, and then that everyone review this after looking at the November expenditures.

J. Kiszka noted that in the past the budget was way over what was actually spent and that being more realistic on the budget brings the numbers closer together. Budgets are an educated guess and you need to be realistic and still leave yourself money to spend if needed. B. Hamilton said he has dealt with budgets all his life and has never see a budget that in the 11<sup>th</sup> month has only spent 81.4% of the total budget. D. Britton said he believes there always need to be a rainy day fund and that over a million dollars is more than a town the size of Plaistow needs. He suggested as much as possible should be given back to the Town. J. Kiszka said the Committee should cut where it needs to cut but he has only seen one line item cut and is anxious about when voting will happen. S. Cafiso said that in his opinion going line-by- line is a waste of time since the budget is a bottom line budget and money gets moved from one area to another as needed.

Ch. Dobson said a budget was delivered last year and money was added to it at the Deliberative Session. She asked everyone review the spreadsheet and email any questions to her.

P. Bracci asked how much is left on the Continental Paving contract. G. Colby said they proposed a \$45,000 encumbrance which is the balance of the Highway Block Grant. Historically there is no formal contract with Continental Paving. This is the balance in order to finish out the Grant revenue which was delayed due to COVID and scheduling issues. P. Bracci said the answer to this before was that you cannot encumber Highway Block Grant money and asked if that had been changed. G. Colby said they are encumbering the balance of the paving appropriation and the Grant is the source of the money to finish the highway appropriation. Ch. Dobson said that last year the Committee had voted to leave in the paving line the money from the Grant but money was added to it at the Deliberative Session.

P. Bracci asked about the Landfill Cap warrant was for \$150,000 and asked how much has been spent as the end of this year. G. Colby said to date \$111,496 has been spent if there is ongoing work he does not know yet how much more will be spent by the end of the year.

P. Bracci asked how much remains unspent on the Solar Panels and G. Colby said he would try to dig it out but P. Bracci said it would be ok if he couldn't find it.

#### **Agenda Item 9: New Business/Old Business**

Ch. Dobson thanked J. Kiszka for requesting that the warrant articles be sent to the Budget Committee and noted she had received the Voters Guide with the Warrant Articles. She noted since these will be discussed on January 12, 2021 they are needed to be reviewed prior to that.

D. Heffernan noted that there are two weeks left before the Public Hearing and we have only approved one budget and more need to be voted on. Ch. Dobson said the plan for next week is to do exactly that, though it won't be line-by-line but voting on the department budget.

**Agenda Item 10: Adjournment**

There was no additional business presented and the meeting was adjourned at 8:28 pm.

Respectfully Submitted,  
Charlene Glorieux  
Recording Secretary