

APPROVED 4-8-09

At 7:28 PM Chairman Charles Kimball called the Public Hearing to order. Budget Committee members present were Pat Martel, Charles Kimball, Michael Nygren, Andy Kohlhofer, Doug McElroy, School Representative Peg Pinkham, Selectman Donald Gates and Recording Secretary Jeanne Nygren. Members of the School Board present were Marion Guidoboni, Chris Kenneway, Deborah Genthner, Jeff Rowell, Principal Dawn Lewis, SAU Administrator Norman Tanguay, Financial Administrator Bonnie Sandstrom, School Attorney Dean Eggert, and Attorney Alison Minutelli. Members of the public present were Greta St. Germain, Cathy Buteau, Richard Betchem, Keith Stanton, Ida Keane, David Brown, Sharon Gerardi, Linda Zukas, Scott Boisvert, Debbie Almon, Cathy Toomey, Tracey Christilles, Cindy and Randy Grasso, Paul LeClain Bill Berard, Alice Burke and Yvonne Ouellette.

A motion to table the minutes of the January 28, 2009 and February 2, 2009 meeting was made by Pinkham. This was seconded by Kohlhofer. The vote was unanimous 7-0.

Kohlhofer asked if Keith Stanton who came up as he wanted to come in and ask some questions regarding the SB 2 warrant article that didn't make it onto the ballot for school warrant articles. Pinkham asked for this to be addressed tonight as the School has their legal representation present. There is confusion as to how the methodology of putting such a warrant on the ballot. Pinkham is asking this be addressed at the beginning of the meeting. There was a pole of the Budget Committee to allow this to be addressed. The vote was 7-0.

Stanton started by stating there was a petition with 148 signatures. Stanton wanted to know what date the School District Clerk resigned. Pinkham asked and wanted to turn this over to the legal representation to explain how you post warrants. Pinkham didn't think the Clerk every really accepted the position. Stanton called her in November to bring it to her and her husband said he didn't think she does this anymore and to call back the next day at 9:00 AM. When he called Cathy Picone said she was not the Clerk anymore. Pinkham said she was one of many write ins last year and none of them accepted the position. Stanton asked if we have a Clerk now. Pinkham stated no, they have offered it to people but no one accepted the position. Stanton said so we could not bring the petition to the Clerk because there wasn't a Clerk. Pinkham said you don't have to take it to the Clerk anyways.

After Stanton spoke with the Clerk he spoke with the Secretary of State, Dave Scanlan, and he said it has to be presented to the Clerk of the School District otherwise he will not accept it. Pinkham asked if he had this in writing. Stanton said again that it was on the phone. Kohlhofer also spoke with Mr. Scanlan and he said the same thing. Pinkham said she had people that were here that were given other information. Stanton said the RSA states they only can be given to the Clerk, the only legal person that could accept the petition charter amendment. Mr. Scanlan was told that they do not have a Clerk and asked what do we do about that and he said they need to appoint a Clerk immediately. Stanton asked what if they do not appoint a Clerk. He was told to go to Superior Court

and file a law suit. Stanton told him there was no money to file a law suit against the Fremont School District. The petition was given on January 2, 2009, at the school SAU office, and by law the Clerk was to turn the petition over to the Secretary of State within 10 days and then they have 30 days to look at it and find out if there is anything wrong with it. Stanton has a signed receipt from the School District of this petition being served. The Secretary of State is the only office to make judgment if this warrant is legal or not. Instead the school decided to send it to the school's law team, and on January 15th you got an opinion from them that you wrote in your minutes. Subsequently you then sent the petition and all the other information to the Secretary of State Attorney General on January 29th which is 27 days after you were legally required to give it over to the Secretary of State. The time line is close in this case. We had all the names signed from early November, we tried to submit it to the Clerk, and you didn't have a Clerk and finally gave it on January 2nd and still didn't have a Clerk. The law firm having it for 27 days made it impossible to make any corrections to this. This being dragged out the time line was then lost and you stated this in your letter you sent. Pinkham said she found out about this two School Board meeting ago when it was explained that the language was incorrect. Kohlhofer asked why the SAU, when it is the Secretary of State responsibility to decide whether it is legal petition or not, and not yours, why it wasn't submitted to the Secretary of State within 10 days which is what is required by law. He asked do you have an answer for that.

Then Dean Eggert, the School Board Attorney said this petition got off on the wrong foot because people didn't follow the statutory procedures for amending the charter. You are a charter school but not a typical municipal corporation without a charter. The petition then had to follow a specific process under 49B and that is where things went wrong. People read the wrong statute with regards to submitting a petitioned article. It is pretty apparent from the face of the petition that it sought to submit the typical citizen's petition. The doors to the SAU are open for consult if anyone wants to walk in and talk to them how to do it right you are certainly welcome to do that. So RSA 197-5B says if you are a charter district and you want to go to an Official Ballot Law then you basically need to follow the 49B charter amendment process. The complication is that the official ballot law says as long as this gentleman is pursuing this effort, this SAU can do nothing on its own to go to SB2. We need to tell you that right up front. As long as that petition is pending, whether it is done right or done wrong, it ties the hands of the Board because naturally the first thing he looked at was we should try to effectuate the citizen's intent. This gentleman is not any attorney and 49B is complicated, you have to form a charter committee that has to sign an affidavit to submit to the Secretary of State. There are a lot of hoops you have to go through. The first thing looked at was could the School Board do this. The problem is that RSA 40-13-VIX says that in the event of a pending effort the Board cannot put anything on the ballot until this pending effort is done. Attorney Eggert has asked Attorney Alison Minutelli from his firm to give a how to do this correctly. He also said it is important for everyone to realize that the fact that this doesn't go on the warrant at School District Meeting doesn't mean it can't ultimately go on a warrant. You could call a special meeting but it is extremely important that you get it right. If you don't get it right will it get voided so you want to amend your charter correctly. Eggert asked Minutelli if she will address the question of what happened after

it was submitted and answer this gentleman's question directly on why this wasn't in the mail within the 10 days.

Atty Montelli stated that for amending a charter petition as a group of citizens here in this instance because the 10 day limitations apply to those statutory created charter commission to be prior 60 days after the Committee has finished the charter or proposed a document charter to the School Board. The process for amending a charter by petition begins with an affidavit filed with the District saying they have formed a committee to amend this charter with at least 20 signatures to do that, the proposed amendment to the charter itself. Once that is filed the District then promptly as the Statute says submits to the Sec of state Dept the Attorney General at the Department of Revenue Administration. Those individuals then have 30 days to review the affidavit and the proposed amendment and they will say if it is legal and will make suggestions to the Committee if there is anything to correct. Assuming they approve it, it goes back to the District. The District would then present to the Petitioners Committee the official petition form and the Committee would go to the citizens for the collection of the required number of signatures. Once the required number is obtained you would bring that petition back to the District. The District then has a hearing and then following that hearing it would be placed on the amendment. There are specific deadlines and time constraints in order to have the Secretary of State and the other individuals post a notice 7 days in advance. The other is after the hearing the election has to be at least 60 days later. For the March 10 election the notice would have to have happened between the 7 day window between the 2nd and 9th of January which would have been the 60 day time period and it would also have been reviewed and okayed by Secretary of State.

Kohlhofer asked if someone submits a warrant article to the school and apparently there is no Clerk what is the obligation of the School Department to accept that warrant article. We have 3 warrant articles and one somehow made it to the Clerk and he doesn't know what Clerk. What is the obligation of the school when someone comes with a warrant article and there is no Clerk who can accept this warrant article, what is the obligation of the School. Eggert answered if a straight petition, that Statute says the School Board can accept these articles and you don't need a Clerk to accept the typical petitioned article by any given Board at any given meeting and for that matter any agent of the School Board can accept. In this case I think it was accepted by the District even though they lacked a Clerk. Kohlhofer said that was after several weeks. He said this was all time delayed that we could have gotten answers before hand, so what was the obligation the very first time he came to the school to submit his warrant article, what was the legal responsibility of the school at that point in time. Eggert said it was very clear that the Board should have appointed or found a Clerk from day one. They should have a Clerk for every School District. Apparently they failed in that effort and didn't have one. As this gentleman has properly noted it cascades all kinds of duties, you need a School District Clerk. There is a process where they can appoint one, pro tem pore, in lieu, or in the interim prior to the election of the next Clerk. But the absence of a Clerk should not generally gum up the works. Kohlhofer stated it should not gum up the works at all. Eggert cannot speak for the history and he is probably correct that the Clerk take receipt of it and that there should be a Clerk. Kohlhofer asked if the city Clerk in times like

this, acts as School Clerk if requested just to accept the petition. Eggert thinks that is possible and the School Board could and it sounds like this happened by default as the Town Clerk has served in many respects as the Clerk for the School District so that could be authorized by the Board. Stanton said the hoops Eggert was talking about is exactly what the problems was. In the middle of November when this petition which they did have a charter committee for this, and they had no Clerk to give it to and that is when he talked to the Secretary of State Mr. Scanlan. He even spoke with Lori Holmes, Town Clerk and she said absolutely not. Mr. Scanlan said that there was no way he could formerly accept it without a Clerk forwarding it to him. Consequently Stanton lost half of November and all of December by not being able to jump through these hoops which we would have been able to do, because at that point in time someone could have said you need to change the plan and tell him what he needed to do. We lost a month and a half to that and they 27 days after January 2nd and that's what has caused the failure to meet any deadlines because there wasn't anybody legally to give it to and Secretary of State would not accept it. He said Stanton could send him a copy and he may read it but as far as he is concerned it doesn't exist. Eggert said Secretary of State has to see the affidavit of the committee formation and this is the most important document that the School District needs to receive. Nygren said the petition was given on January 2nd and whether it was right, wrong or indifferent was supposed to be forwarded to the Secretary of State within 10 days and he asked why not? Eggert said the 10 day limit applied to charter amendment it is not to form a committee. Nygren thought it was the obligation of the School to do the submitting to the Secretary of State.

Citizen Ida Keane had a question regarding the warrant article. She was thinking of doing a warrant article to be added and asked for a copy of the charter. When she got the charter she read that the charter is specifically for bonds and notes and any other warrant would utilize the school open meeting process and official ballot voting. Kenneway said he was trying to amend the charter with bonds and notes to all monies. Keane asked for the attorney to address this. Eggert said the problem was on the face of the petition was "would the Fremont School District vote to approve the charter amendment printed below." This answered Keane's question.

Kohlhofer asked when did Stanton first present this. Stanton got most of the signatures on November 4th 2008 and a week later the Clerk was called. Rowell said he had no idea he was having that difficulty and Picone is not associated with the School. Stanton asked you had no idea you needed a Clerk. Guidoboni said you cannot force anybody to take this position. Stanton thought you could advertise this on the Main Street sign. Stanton's other question is last year the School Board revised the charter, and they didn't go through any rules. They didn't have a Charter Committee or go before the Secretary of State or the Attorney General. You didn't have a waiting period, so why your charter amendment is legal and ours isn't, Stanton asked.

Pinkham said they did get legal counsel on how to properly place it for a vote. Stanton asked if they had a Charter Committee. Pinkham asked for the legal counsel that told them how to do this. Eggert said there are two separate paths that the Board amends the charter there is one statutory path taken. If citizens amend the charter, they have to form

a committee. The Board has one path to take, citizens follow another direction. If you are concerned about this you need to take it up with the legislative body in Concord. They made it more difficult for citizens to come forward to change a charter for a school.

Citizen LeCain asked if the School Board now could put this on the ballot if they wanted to. Attorney Eggert said he would have to check it is really tight. This petition would have to be withdrawn because it is still possible for these folks to comply with the Statute and to get it on the ballot, it just can't get on at this meeting. The citizens would have to withdraw their petition almost instantly and even then I am not sure we could meet the time line for a hearing. Right now there are a couple of choices. The petitioners all they need to send the affidavit of formation of their committee to kick this off right. It goes through the process. You can either do a special meeting where you would be all set for next year's warrant. There is no need for the citizens to abandon this venture if they want to do this and they want to get it right. Is there time to turn it around. It is really tight and first that petition would have to be withdrawn by the petitioners and not just a lead signature. He doesn't think there is sufficient time to circulate a withdrawal petition and get sufficient signatures for this withdrawal. That is the problem he highlighted early on. The affidavit forming the committee has to be sent to the Secretary of State.

Kimball asked Stanton if he understands what he needs to do. Stanton replied he knew all along and it was the time factor that was the problem. If action was done in November then it could have been taken. Eggert wants to make sure the affidavit forming the Committee and that is what needs to be sent to the Secretary of State. Eggert said the District took receipt of what they got. It is important to get this kicked off is to get a signed affidavit, these are the members and this is what they propose to do. January 29th was when the school sent this to the Sec of State. Kimball said this has been discussed enough and the rest of the meeting needs to go on. This discussion ended at 8:00 PM.

Mrs. Grasso had a question for the attorney and was told this discussion was closed and she needed to speak to the attorney after the public hearing session of the meeting.

Tanguay asked regarding the cost items on the teacher's contract what was the question the attorney was ready to address. Kimball asked where is the contract. Pinkham said that Attorney Peahl presented this at a previous meeting. The Budget Committee said this was the tentative agreement and not the final, but Pinkham did not have it available tonight.

Attorney Eggert spoke that RSA 32-19A said that the cost items need to be submitted to folks and hopefully you have received an itemization of those that shall be presented to the Town at the annual District Meeting according to procedures established under RSA 32-5 which says cost items be submitted to the voters. The burden is on part of the School Board to make sure they have gotten those cost items to the Board in time. Pinkham said last week this was presented by Atty Peahl of the cost items for review as well as make herself present for any conversation. Kohlhofer asked when BC opened up this year they were informed that there is legal opinion stating that the Town wasn't legal

because we never voted on the Municipal Budget Act. We were told there was firm legal opinion regarding that situation. This was resolved after 20 minutes of research. Kohlhofer asked if his law firm was giving the opinion to the School Board. Eggert could recall what they did in regard to this question but he said Fremont is a Municipal Budget Act Town because of when the legislation was first passed. Kohlhofer again asked because they were told when we first met, that they School Board questioned whether we were part of the Municipal Budget Act and therefore whether the Budget Committee was legally constituted. He continued we were told by legal opinions that we weren't part of that and that there were all sorts of legal precedence. Kohlhofer asked if he was part of the law firm that informed the School Committee that in your opinion we were not part of the Municipal Budget Act. Eggert said what he shared with the Committee was that there had to be a warrant article that adopted the Municipal Budget Act. The Board went back and did the research and did not find it so they got back to his firm. Kohlhofer said this information was found. Pinkham said actually the Budget Board raised the question last year. The warrant article was found that made this determination that we are under the Municipal Budget Act from material dated back to 1934 and 1935 documents.

Kohlhofer said now we are going to discuss the Budget Committee recommendations for the School budget for FY 10. There is a sheet that Kohlhofer went through for the members present with the Budget Committee recommendation and the School proposal.

Copies needed to be made to pass out to the people present in the audience. After the sheet was distributed Kohlhofer explained what each column reflected and the total figures for both the School recommendation and the Budget Committee recommendations.

Citizen LeClain asked what was the FY 09 figure of the School budget. Kohlhofer said this figure was \$10,280,538. LeClain asked how many students were in the system. He was given the figures of roughly 800 students that also include the out of district.

Linda Zukas asked where there were 7 students at \$14,000 and this was taken out and are we not sending them to high school. Kohlhofer said what happened originally the figures given per student was actually 7 less than what was actually there and then when the principal came to the Budget Committee and said there was a certain number of students going for a fifth year to high school and she recommended we add them back into the budget. The Budget Committee decided not to. Zukas said we have to pay for them one way or another. Kohlhofer said the way the process works is the Budget Committee has to specify what line they are reducing but in reality the bottom line figure is what the School goes by. Zukas stated whether they stayed back in the earlier grades or in high school legally they have to be educated. Kohlhofer said there was a surplus of \$125,000 in tuition from last year and they kept the figures they recommended. Pinkham said this is only the Budget Committee's recommendations and the voters make the final decision at the School Board Meeting.

Citizen Alice Burke asked on the rationale that the first and second grade teacher were

taken out of the budget. Kohlhofer said the Budget Committee started out with beginning the original School budget which was 11.1% increase over the previous year. The Budget Committee's responsibility is to recommend budgets that people in the Town can afford. The Budget Committee's stance was consider the tax increase from last which was about 10%, the people could not afford another 11.1% increase in the School budget. The Budget Committee thought it reasonable to keep that increase to 2 ½ percent. Raymond's increase was .9%, and Sanborn increased by 1.25%. By keeping their figure to 2.5 percent made it that they had to make a lot of difficult decisions. The Town's portion of the budget is less than 3 percent through the warrant articles. Kohlhofer felt if the Budget Committee should continue in that same way of thinking because the revenue is \$30,000 less in automobile licenses from last year. We are running behind in all revenue figures in the Town, such as impact fees that the School relies on due to no building. In actuality the revenue could be less than last year, so 11.1% increase could actually turn into a 12 to 13% increase due to lower revenues. Kenneway asked Kohlhofer to address what percent of this increase were due to contractual items. Kohlhofer felt it doesn't matter, \$460,000 is due to tuition increases and the reality is taxes go up and people in town are taking a pay cut, what do you want. Do you want the people in the school to take pay cuts to help to afford and provide more of these services. If not then the people in town have to take pay cuts. That is the reality that we are in a tuition agreement with Sanborn that is expensive and we don't have control over the cost. The decision was made to go that route and we have to live with it for the next 17 to 18 years. Therefore the Budget Committee has to adjust around it. Would Sanborn give us a break and recalculate the tuition so we can afford to go there. Kenneway said that in relation to what is happening the tuition including capital costs is less than what Epping is charging for tuition. Again Kohlhofer stated they felt the way to do this was to propose a 2 1/2 percent decrease. He feels that for people who enjoy living in Fremont and that they need budgets that they can afford to remain here.

Citizen Berard asked how long is the contract with Sanborn? The answer was 20 years. He stated we pay \$14,269 a student. Pinkham stated to compare by going to the State of New Hampshire educational website and research surrounding communities and compare their cost per student. The contract has two factors operational and capital expense for the new building. He also asked when they built the school do we have some type of ownership because we are paying part of the bond as well as operating. Pinkham said we pay for a portion of it.

Stanton asked how much money are we giving them? Martel said \$3,960,000.

Citizen Zukas asked why Grades 1 and 2 is that because the feeling is the population has stopped. Kohlhofer calculated the classroom size that was given to the Budget Committee and felt they could eliminate a class they could still fit the remaining students in the three remaining classrooms and be under the cap in each classroom. A question of what is the cap. Pinkham said you have the maximum allowable children in a grade or class but you also have classroom physical restrictions. Pinkham said they could affectively eliminate one class in the first grade; the second grade is more difficult due to the classroom classes being smaller.

Citizen Cathy Buteau asked if the salary increases were in this budget. Kohlhofer said it was in the operational budget that has just regular step increases.

Pinkham said there increases are over \$800,000 in contractual increases this year and when talking reduction there is only one place you can go for that and that is reducing staff and positions. The school proposed budget came in cutting staff and they are not happy about this. This doesn't make for a positive school educational environment. This asks for less people to do more.

McClain said even Budget Committee's proposal is still 2 ½ percent greater than last year's budget with minimal change and he asked why is this not reasonable? Pinkham said some of the cuts are good and they are not set in educational foundation. He believes once the budget is set it becomes the School Boards job to manage that. Pinkham asked where you find that kind of money. They are open to all the help. McClain believes it is staff reduction. Kohlhofer said part of the problem the Budget Committee runs into is schools are chock full of mandates and this makes it extremely difficult to move around these mandates. There are mandated to provide free kindergarten for 3 to 5 years old, which costs about \$100,000 a year. We get about \$5,000 in IDEA grants and \$16,000 in tuition fees. There are a lot of things that drive up the cost of schools and he feels it is time to tell the State we can't afford this any more. There is an issue in Section I Article 28A in the Constitution and we have already had a discussion about this, which says that any new mandate after 1988 has to be paid by the State unless the Town chooses to pay for it. The argument is this a year to year thing or once we have started this we own it. We need to look at new mandates as they come down. The Town of Hudson is suing the State to pay for kindergarten if they make it mandatory. This is an area that makes the School Budgets very unflexible which is the sad part of it. Mr. McClain realizes everyone is mandated to pay taxes and somehow he has to manage with what he has. He believes that the School Board has not had this put upon them and at the School Hearing the budget was increased on the floor and he feels this is difficult for the people in Town to pay.

Zukas asked about the Athletic program being cut and does it mean the whole program is cut. Kohlhofer said this was a hard decision that wasn't a total agreement by the Board but it was a majority vote. This was a place that a cut could be made because this is not direct education. Kohlhofer also stated that in the Town budget they didn't recommend any purchase of new equipment and they did also with the school budget. They did recommend replacing but not new equipment.

Kohlhofer said the budget in the School Warrant at the March 14 meeting will be the Budget Committee's recommendation. From the floor you can add, amend and subtract. What cannot be done is you cannot make an amendment to move any new spending on any project that is not already in the budget. A question if you can take something away was asked. Kohlhofer said you can. Pinkham said that would have to be a warrant article.

A question how many students participate in the extra curricular activity. Lewis replied most are middle students in the middle school roughly 200 students. Pinkham spoke on charging students for sports and under their contract they can't do that. Any money that comes in would go back into the general fund and they would have to find the money somewhere it is not funded. Citizen Keane suggested maybe having a Booster Club to raise the money from sponsorships.

Citizen Ouellette stated the total increase for high school students is coming out of the elementary students. She feels this is coming out of the elementary students because this is a contractual obligation to Sanborn.

McClain asked if this information is available on the SAU website for citizens to read. Kohlhofer said this is on the Town's website under the Budget Committee section that once this is approved it will be put on this site.

Pinkham said the salary difference is \$54,948 and you can go to the SAU office for a printout. She said there will be handouts at the School District Meeting with the Budget Committee.

Kohlhofer asked by Guidoboni if he and the Budget Committee were going on the tour of the Ellis School. He confirmed the date of February 16th at 9:00 AM.

Kohlhofer said the Budget Committee did not recommend the paraprofessional contract. He felt it was a well negotiated contract but in light of the attempt to control costs they felt it wasn't affordable.

Kimball said that over 200 residents have not paid their taxes as of January which should be taken into consideration. If it keeps going up we are going to see that people will need to go on welfare. Kohlhofer said as taxes go up more people can't pay their taxes and revenues go down. The way the Town's do their budget is backwards. You should figure what your revenues are going to be and then you figure your budget. Towns in New Hampshire don't do it that way. You figure your budget and then the State tells you what you have to pay. What hasn't been collected this year could make a big chunk in the hole that we have in the School budget.

A motion to adjourn the Public Hearing was made by Kohlhofer. This was seconded by Gates. The vote was unanimous 7-0.

The Budget Committee School District meeting is Saturday, March 14, 2009 at 5:00 PM at the Ellis School. The next Budget Committee meeting will be April 8, 2009 at 7:00 PM.

Respectfully submitted by,

Jeanne Nygren
Recording Secretary