

Introduction

In 1870, a group of Quincy citizens banded together to restore financial order in their municipality, creating the Commonwealth's first finance committee. In 1910 the Massachusetts courts ruled that a municipal finance committee was legal (*Sinclair v. Fall River*, 198 Mass 248). In that same year the Massachusetts General Court also acknowledged the need for municipal finance committees state-wide, requiring all but the smallest municipalities to establish such committees to assist in dealing with emerging municipal challenges (St 1910, Ch. 130, s 2). Several additional legislative assists (i.e., St 1923, Ch. 388 and St 1929, Ch. 270), reinforced the mandated or permitted existence of municipal finance committees.

Basic Legislation

The present basic legislation, M.G.L. Chapter 39 s 16 reads as follows:

Every town whose valuation for the purpose of apportioning the state tax exceeds one million dollars shall, and any other town may, by bylaw provide for the election or the appointment and duties of appropriation, advisory or finance committees, who shall consider any or all municipal questions for the purpose of making reports or recommendations to the town; and such bylaws may provide that committees so appointed or elected may continue in office for terms not exceeding three years from the date of appointment or election.

In every town having a committee appointed under authority of this section, such committee, or the selectmen if authorized by bylaw of the town, and, in any town not having such a committee, the selectmen, shall submit a budget at the annual town meeting.

Almost every town across the state interprets this statute differently and has established its local finance committee to meet the community's specific needs. In some towns, for example, the finance committee may prepare as well as comment on the budget. It is generally agreed that finance committees may consider any matter they feel will have a fiscal impact on the town, as well as any other matters the committee feels are relevant. It may reasonably be argued that little comes before town meeting that does not have a potential fiscal impact on the town.

Survey Results

A survey was conducted in 2004 by the Association of Town Finance Committees (ATFC) which revealed several interesting pieces of information. First, there is wide variation in the number of members on finance committees. The most common number is nine (20 of the 81 respondents), followed by seven and five-member boards respectively. Of the towns responding to the survey, 66 finance committees are appointed and only 14 are elected. Forty-nine of the appointed committees are appointed by the town moderator, fourteen by the board of selectmen and 3 by a combination of the selectmen, town moderator and the finance committee chair.

Seventy-three of the responding finance committees serve three-year terms. Five town's committees have two-year terms, one has a one year term and one has a five year term.

There is also a great deal of variation in the frequency of meetings among the survey's respondents. Most municipalities answering the questionnaire hold meetings one, two, or even three times a week during budget season, and slow to once every two weeks, once a month, or only as needed during the rest of the year.

Only seven towns compensate some or all of their finance committee members. The amount of compensation ranges from \$25 a year for a member, to \$700 a year for a chairman.

Thirty-seven of the responding finance committees have subcommittees. Some towns have as many as 30 subcommittees, and many municipalities note that they have subcommittees for every department in the town.

Staff support is received by 39 finance committees. Often, this support is supplied on an as-needed basis by the secretary to the board of selectmen or other full-time staff paid by departments other than the finance

committee.

Sixteen of the towns participating in the survey have capital planning committees. The number of members on these committees ranges from three to 12. In several towns, the capital planning committee is not currently operational, or the municipality is in the process of reorganizing or starting such a committee.

Role of the finance committee

There are several general statutory constraints that all finance committees share. Members of finance committees are considered municipal employees for purposes of the Conflict of Interest Law (see Appendix D), and must adhere to all state statutory requirements placed on municipal employees. The standards of conduct for municipal employees, both on and off the job, are detailed in the Conflict of Interest Law (Chapter 268A M.G.L.).

Open Meeting Law

Democracy at all levels is to be open to its people. In this regard, the finance committee must be cognizant of and follow the requirements of the Open Meeting Law, Chapter 39 s 23a-23cM.G.L. (see Appendix C). All materials collected or presented during deliberations and/or meeting(s) of the finance committee are a matter of public record (Chapter 66 M.G.L.). Such public records are to be maintained and made available to the public unless specifically exempted (see Appendix B).

Americans With Disabilities Act

With the passage of the Americans With Disabilities Act in 1990, all constituent units of state and local government — including finance committees — must ensure that any forums or meetings they participate in or sponsor are accessible to people with disabilities (see Appendix A).

Taking/Leaving Office

Once elected or appointed, a finance committee member must be officially sworn in by the town clerk or the town moderator. When a member wishes to resign, his or her letter of resignation must be sent to the clerk or the moderator as well. If a member resigns prior to completing his or her term of office, a replacement is made by the appointing authority, or in some towns may be chosen by the finance committee itself.

Use of Public Resources in Elections

In addition to following the conditions found in the various laws mentioned above, finance committee members (like all municipal employees) may not use any public resources to influence the outcome of an election. Finance committee members may express their opinions at public forums or meetings (Chapter 55 M.G.L.; the Mass. Supreme Judicial Court reaffirmed this in *Anderson v. City of Boston*, 376 Mass. 178).

Bias and Conflicts of Interest

Committee members should not allow personal friendships, enmities, biases, preconceptions or partisan affiliations to interfere with the fair and impartial performance of their official duties. State conflict of interest laws forbid a finance committee member from — among other things — using the position for personal profit. Committee members also have an obligation to avoid not only actual conflicts of interest, but even the appearance of bias or favoritism when acting in their official capacity.

As active participants in town affairs, finance committee members come to the table with their own opinions, experiences and ideas. But members must nonetheless listen carefully and thoughtfully to all matters that come before them. It is difficult to keep personal biases and preconceptions out of official deliberations, but it is a goal to be actively pursued. Doing so can help the committee make better decisions overall, and can also maintain or boost public confidence in the committee's integrity (see Appendix D).

Budget Preparation and Submission

The prime function of the finance committee is reviewing departmental budgets and submitting a balanced budget to town meeting. All municipal officers authorized to spend money must annually provide the finance committee with estimates of how much funding will be needed “for the proper maintenance of the departments under their jurisdiction.”

These estimates are submitted to the town accountant, or if there is none, to the finance committee or possibly the selectman (Chapter 42 s. 59 M.G.L.). These estimates are used in the preparation of a town’s annual operating and capital budgets.

The Massachusetts Department of Revenue (DOR) has ruled that finance committees are responsible for preparing and submitting their municipality’s annual budget. (Chapter 39 s 16, Ch. 41, s 59 and s 60M.G.L), unless there is a charter bylaw giving this authority to the board of selectman (DOR’s In Our Opinion, 93-310). The exact format of an annual town budget is community specific. DOR has determined that while the law regarding annual municipal budget format is directed to cities, it should also be followed by towns.

The format found in the law addresses itself to budgetary basics. Almost all towns and cities in the Commonwealth go well beyond this in their annual budget presentation package (see Chapter 2). DOR has also ruled that only a town meeting — not the finance committee or selectmen — may determine the exact budget format to be used (see In Our Opinion, 92-145).

The state also specifies that only town meeting may transfer appropriated monies. Town meeting cannot delegate this authority to the finance committee (Chapter 44 s33B M.G.L.) , see also In Our Opinion, 92-836). Further, the courts have ruled generally that even though a town bylaw calls for the finance committee to hold public hearings, these hearings are “incidental” to the proper function of the committee and are therefore not mandatory (Young v. Westport , 302 Mass.597, reaffirmed by Illig v. Plymouth, 337 Mass. 239).

On the other hand, while finance committees may request information from a town department, they may not seek information from a quasi-governmental entity because such entities are not subject to town bylaws (Clinton Housing Authority v. Fincom of Clinton, 329 Mass. 495). Under the home rule amendment to the state constitution, however, towns and cities do have the power to subpoena witnesses and compensate them at the going rate (Article 89, s 6; also Ch. 233, s 8 and s 10). This was tested and affirmed in the courts (Bloom v. Worcester, 363 Mass. 136).

Other responsibilities

In addition to the committee’s statutory budgetary responsibilities they also have a set of specified financial management responsibilities. These concern:

- reserve funds;
- emergency winter related expenditures; and
- revolving funds.

Reserve Funds

The law (Chapter 40 s 6 M.G.L.) allows towns to appropriate money — either at the annual or special town meeting — into a reserve fund “to provide for extraordinary or unforeseen expenditures.” DOR has expressed its opinion that reserve fund transfers are appropriate:

- to provide for urgent or unforeseen expenditures that could not have been anticipated before town meeting; and/or
- to allow immediate expenditures of funds in the event of an emergency (threat to public safety or health) when the delay of having to call a special town meeting could be potentially harmful.

In either case, the finance committee must approve all proposed transfers from a reserve fund. It is also understood that a reserve fund should not be to reverse a vote of town meeting or as a “backdoor” means of increasing the budget. Finance committees should adopt their own reserve fund guidelines to supplement the state statute, and should help other town officials gain a better understanding of appropriate uses of a reserve fund.

It is also important that finance committees have a balanced approach in evaluating reserve fund transfers. For example, if budget reductions were made in a community despite legitimate warnings that there might be trouble meeting all fiscal obligations, the finance committee may expect to see an increase in reserve fund requests. It is the committee's responsibility to keep the town's best interests in mind when deciding which reserve fund transfer requests, if any, to approve.

Emergency Winter Related Expenditures

When appropriations for snow and ice removal are exhausted, finance committees — in concert with their selectman or town managers — must vote to incur "liability and make expenditure in excess of appropriations" (Chapter 44 s 31D M.G.L.). Expenses in excess of the appropriation must be raised in the tax levy for the next fiscal year. However, in order for this option to be available, towns must have appropriated at least the same amount for snow and ice removal as in the prior fiscal year.

Revolving Funds

Towns are permitted to raise revenue from selected services or programs and use those funds to support said services or programs. This type of appropriation is referred to as a "revolving fund." Once monies are raised and designated for a revolving fund, the selectman and the finance committee must approve any increase in the amount that may be spent during the fiscal year (Chapter 44 s 53E1/2M.G.L.; also see Chapter 2).

Revolving funds must be reauthorized by town meeting each fiscal year; if not, remaining balances may be transferred to another departmental revolving fund or to the general fund.

Miscellaneous Statutes

There are several other pieces of municipal government that are especially important to finance committees' functioning. These include:

- stabilization funds;
- enterprise funds;
- gifts and grants; and
- capital planning committees.

Stabilization Funds

A stabilization fund is a special reserve account. This fund may be appropriated in any fiscal year, and, with the exception of limits regarding the amount of money to be appropriated into the said fund may be appropriated for any municipal purpose (Chapter 40 s 5B M.G.L.). The monies appropriated to a stabilization fund can be earmarked, and a two-thirds vote at town meeting is required to appropriate monies to and from such a fund.

Enterprise Funds

An enterprise fund may be established to segregate monies generated from user fees to pay for the delivery of a specific town program (Chapter 44 s 53F 1/2M.G.L. ; also see Chapter 9). The state law establishing enterprise funds is a local option statute, and as such must be accepted by town meeting. Enterprise funds have specific reporting requirements and change the role of the finance committee in overseeing the financial operation of this service.

Gifts and Grants

Gifts and grants given to a town may be expended directly, i.e. without appropriation (Chapter 44 s 53 and 53A M.G.L.). In most cases, gifts or grants may be earmarked for a specific governmental unit or project. Many grants require a local share; some gifts have a challenge component that requires the raising of a certain amount of money from other sources before a gift will be presented. In either situation, the finance committee should know about all gifts and grants in their municipality.

It is recommended that all municipal departments be required to provide the selectman and finance committee with an inventory of existing gifts and grants, as well as a list of state and federal grants being

sought. Such departmental lists should detail explicitly whether there is a local share requirement, and if so whether it comes from existing funds or whether new money must be appropriated. It is preferable that any local share requirements come from existing funds. Finance committees must also be aware of potential budgetary changes resulting from gifts or grants. For example, after receiving external funding, a department budget request could possibly be reduced. On the other hand, some grants state that their funds must be used in addition to budgeted funds. In addition, the finance committee should inquire as to whether other costs such as employee pensions or health insurance will be impacted.

Federal Grants

Despite recent decreases in federal programs there is still money available. At present there are three general categories of federal grants: categorical, formula and block.

Categorical grants are awarded on a regional basis for a single purpose within a specified time frame. Massachusetts is in Region I, with federal regional offices located in Boston.

The competition in Region I is with other New England states. Categorical grants are the oldest and largest type of federal grants.

Formula grants, sometimes called “pass-through” grants, are awarded to states on a prescribed basis. The state may either distribute the funds to local governments or choose to provide a specific program (or programs) itself.

Block grants are the emerging future of the federal granting system. Under block grants, old programs, existing categorical and formula grants and any new programs are blended together into single multi-functional grants, which are then distributed to states following the formulas grant concept.

The single best resource for municipalities seeking federal domestic grants is “The Catalog of Federal Domestic Assistance (CFDA).” The CFDA lists all federal domestic assistance grants along with their application and award processes. A copy of CFDA is sent annually to each unit of state and local government. Town clerks or the municipal libraries generally have CFDA. In addition, there are also several relational data bases available; one is available through a library system called DIALOG. The Department of Housing and Community Development is a valuable resource for information and grant application assistance.

State Grants

The state plays several important roles in the search for additional funds. The state coordinates the federal pass-through and block grant processes and establishes and funds state grant programs. Massachusetts has a rich history of directly appropriating funds for state programs. However, there is no single catalog available for state grants. To seek out these funds, officials must refer to the state budget. Again, DHCD can provide assistance in identifying potential grants and with the application process.

Philanthropies

Seeking funds from a philanthropy is both easier and more complex than seeking grants from the federal or state government. One reason for this is that no single application exists. However, most philanthropic applications are simpler to complete and more flexible than governmental grant applications. There is a catalog of available philanthropies, Massachusetts Grantmakers Directory, available from the Associated Grantmaker of Massachusetts (ADM). There are also several relational data bases available, as well as several foundation centers throughout the state. Local libraries should have access to both. The main foundation center is AGM; it's Web site is www.AGMConnect.org.

Corporations

Corporations are an excellent and underutilized source of funds and products. They will give to promote their good name in the community and for income tax benefits. Municipal assessors can be asked for a list of the community's 20 largest taxpayers and fundraisers can concentrate on businesses from this list.

Capital Planning Committee

One local acceptance statute (M.G.L. Ch. 41 s 106B) permits towns to establish a capital planning committee. The duties of capital planning committees are specific, although membership requirements are not. These committees must “annually review the (municipality’s) capital improvement program.” In many towns the finance committee also does the capital planning. This is often not an ideal state of affairs, especially given the time commitment required of finance committee members even without considering capital planning matters. One possible solution is for towns to create ad hoc capital improvement committees with a seat reserved for a member of the finance committee (see Chapter 11).

Budget – Down to Basics

The budget is a finance committee’s major concern and is likely where the bulk of the committee’s time will be spent. Depending on whether a given finance committee is responsible for developing the town budget from scratch or for reviewing and making recommendations on a budget developed by the selectmen, town manager or executive secretary, the finance committee will meet fairly regularly for three to six months before town meeting. Most of that time will be devoted to budget development and review. Throughout the budget cycle, the committee’s main goals should be:

- to optimize the value of each dollar spent;
- to address the town’s long range as well as immediate needs;
- to present a balanced budget to town meeting; and
- to present budget recommendations in a clear and readable format, with sufficient detail and explanation so that town meeting members can understand the basic goals, policies, tradeoffs and constraints that shaped it.

Experienced finance committee members learn to read between the budget’s line items and see the policy decisions - and indecisions - built into the numbers. The finance committee should be willing to share that insight with town meeting.

Revenues

Under Proposition 2 1/2, municipalities cannot raise property taxes in excess of 2.5 percent of the total full and fair cash value of all real and personal property in a given community. Finance committees can make the most of limited municipal resources by encouraging thoughtful planning, improved financial management and increased productivity through computerization and improved work rules. Selective overrides and fee increases can help as well. The rate of revenue increase also depends upon the local development climate and state aid to cities and towns.

Expenditures

Education

Education is typically a town’s largest service, ranging from 35 percent in urban districts to 70 percent in more rural areas. The Education Reform Act of 1993 has limited town meeting’s latitude in setting the school budget. State and federal education mandates (e.g., special education) as well as the “maintenance of effort” requirements of education reform, place a floor under school budgets, while Proposition 2 1/2 sets the ceiling.

Legally, town meeting can only vote a bottom line budget for the schools, and cannot compel the school committee to spend this budget allocation on specific programs or line items within the schools’ budget. As a practical matter, a well respected finance committee can sometimes persuade town meeting to get the school committee’s attention on areas of concern. For the most part, the finance committee should strive to ensure that schools maintain adequate financial and cost controls and to encourage the free sharing of budget information between the town and school department, as well as between the school department and town meeting.

Personnel Costs

A majority of any municipal budget (perhaps 75% to 80%) is spent on salaries, benefits and pension costs. However, finance committees have no direct responsibility or control over collective bargaining and personnel policies. In some towns, the finance committee chair may play a role in planning collective

bargaining goals and strategies, but finance committees do not play a direct role in personnel matters. Nevertheless, finance committees must understand the financial implication of their town's personnel policies and practices. In addition, finance committees should urge the selectmen and personnel board in their town to follow two basic principles when engaging in the collective bargaining process. First, town negotiators should calculate, consider and justify the full, long-term costs of collective bargaining items like vacation time, sick leave and step raises before agreeing to them. Second, they must be prepared to layout the short- and long- term budget impacts of collective bargaining agreements to town meeting before town meeting is asked to ratify the new contracts.

Capital Budgets

Regardless who has primary responsibility for developing and updating capital budgets, a finance committee's budget recommendations always need to balance capital spending with operating budgets.

Capital budgets represent more than an edifice complex. They embody a wide range of social, political, financial and environmental concerns. To protect a town's capital assets and to promote their optimum utilization, municipalities must give capital needs their due in allocating scarce town dollars. Good capital planning includes budgeting for maintenance and repairs as well as replacement.

Building a new public facility without including sufficient funds in the operating budget for maintenance is fiscal folly. Likewise, it is fiscally unwise to continue pouring ever-increasing maintenance dollars into old, worn out or obsolete equipment when purchasing newer, more efficient equipment would both cut costs and improve service delivery.

Finance committees should encourage their towns to develop capital equipment inventories and regular maintenance and replacement schedules, and discourage town meeting from letting those schedules lapse.

In recommending a capital budget to town meeting, the finance committee should also make sure that town meeting understands the tradeoffs and costs implicit in that budget. For example, a bonding vote should be accompanied by a year-by-year estimate of the repayment schedule. Town meeting needs to understand that voting a bond issue today means less money available for other municipal endeavors until the bond is paid off.

Likewise, some estimate of the cost of not making the capital investment should also be included to help town meeting understand why the expenditure is appropriate and economically justified.

Reserves

Fiscal prudence demands that municipal budgets contain sufficient reserves to meet unexpected contingencies. The reserves can be built into department budgets, set aside in special purpose reserves or placed into the town's general reserve fund. Towns can also let some portion of their certified free cash remain unappropriated. In practice, a balance among all these methods works best.

The tradeoff in maintaining reserves is that setting aside large portions of a municipal budget for reserves leaves less available to fund direct town services in the current year. On the other hand, without adequate reserves, unexpected calamities, cost overruns or revenue shortfalls can result in disruptive and inefficient emergency cutbacks either in the current fiscal year or in the next.

In each budget cycle, earlier years' actual spending should be examined closely to see which budgets are either consistently under-budgeted or subject to large fluctuations so the finance committee can set a reasonable and responsible level of reserves.

Reserve fund transfers should be used only for truly unexpected contingencies and not to compensate for inadequate budgeting, sloppy management or predictable spending fluctuations. Above all, the reserve fund should never be treated as a slush fund in order to sidestep town meeting votes. If, for example, town meeting voted \$1 million for street repairs when the highway director and the finance committee recommended \$1.1 million, the finance committee should deny a reserve fund request for additional road repairs unless the repairs are made necessary by some unforeseen accident like a broken water main.

Likewise, if a given department consistently overspends its overtime budget, a deficit in that account can hardly be said to be an unforeseen contingency. The finance committee may feel compelled to grant the current year's request, but should consider denying future requests for the department's overtime costs unless the expenses are budgeted more accurately and brought under better control.

Fixed Costs

Most town budgets are made on an incremental basis. This means the committee takes the previous year's budget as a starting point, projects estimates of the coming year's changes in revenues and "fixed costs" such as utility bills, collective bargaining salary increases or worker's compensation costs. Any estimated surplus or deficit is then distributed across the town's programs and operating budgets.

Aside from Cherry Sheet assessments such as state and county charges, these "fixed costs" are not always truly fixed. For example, worker's compensation costs can sometimes be cut by improved safety training and better claims supervision, and some utilities costs may be reduced because of better energy conservation practices.

True zero-based budgeting, in which all programs are reviewed annually and budgets are built from the bottom up, often does not work very well in the municipal arena. Many programs are mandated by state or federal law or by the realities of everyday life.

However, it does make sense to review each department's mission and resources every few years. Finance committees, town managers, employees and citizens should work together and re-examine priorities, think about whether and how missions can be redefined and how resources can be reallocated to better meet a town's changing needs. This kind of planning, while more difficult in the short term, pays off in the long run if only by keeping the budget process from devolving into a series of ad hoc reactions to year-by-year changes in the town's financial picture.

In some towns, the finance committee is only the budget committee. In others, it is a more general advisory committee that makes recommendations to town meeting on all town meeting warrant articles. As the standing committee of town meeting, the finance committee has a broader and more consistent perspective than the town meeting as a whole, which meets only once or twice a year. Part of the finance committee's role is to point out the fiscal implications of warrant articles. But another of the committee's central roles is to present issues to town meeting in an comprehensive, thoughtful and orderly manner.

Finance committee reports and recommendations should present a clear explanation of all the relevant issues. Whatever the committee's recommendation, the report should highlight key arguments on both sides of the issue and provide as much relevant information as possible. That way the voters or representative town meeting members can vote at town meeting with at least a basic understanding of what the core issues are for a given warrant article.

Ideally, the finance committee can support its recommendations at town meeting without alienating advocates for opposing viewpoints. Where compromise is possible, the subcommittee should also work with the opposing sides come to a responsible resolution of their differences.

Although the finance committee can and should advocate for its own position, its reports should make it clear that a given position was reached after fair and thoughtful deliberation. No matter how important or controversial the issue at hand may be, the finance committee must remember that its first responsibility and loyalty is to town meeting and the integrity of the town meeting process.

Media Relations

Members of committees are public officials and thereby have chosen to put aside some of their privacy. Anything said at an open meeting by a municipal official is subject to being recorded, televised, quoted or published. Therefore, it is important that all officials be careful about what they say in public.

Finance committee members, selectmen and town administrators, etc. should work together and speak as a unit whenever possible. It is not always easy for finance committee members to work in conjunction with other municipal departments. Frequently there are conflicts whereby individuals or boards find themselves

pitted against each other. However, it is important not to allow these conflicts to be aired in public and to make every effort to achieve a consensus.

It can be beneficial for all local officials to cultivate a good relationship with the local media. The media should be kept informed of important developments, both good and bad. If town officials initiate calls to inform reporters of news before they hear it elsewhere, they can cultivate a relationship in which the reporter is more likely to present the official's side of the story. There are many municipal government issues that the finance committee, selectmen and/or chief executive officer should discuss together before dealing with the press.

Committees or boards may find it useful to designate a spokesperson to deal with the press. The spokesperson can reduce mixed messages and can ensure that the agreed upon policies are being relayed to the media. It is important to note when talking to a reporter that you must clearly state whether you are representing a position of the committee or your position as a private citizen.

Some Final Considerations

One last important part of a finance committee member's job is knowing when to leave the committee. A good finance committee member can make a real and important difference in the town's life; someone just going through the motions by rote and habit is no longer serving his or her own — or the town's — best interest.