

Transcript of Jeffrey Donofrio Speech at Annual Town Meeting
September 25, 2007

Following my speech, and after introducing himself as the Town Attorney, Jeffrey Donofrio said:

First, with respect to the last speaker's comments regarding the need or legal requirement as he asserted exists with regard to transfers from the Contingent Fund, Connecticut General Statutes section 7-348 provides that municipalities, through their board of finance, at the "annual town meeting or annual budget meeting may include a recommended appropriation for a contingent fund in an amount not to exceed 3% of total estimated expenditures for the current fiscal year." I'm reading directly from the statute. "No expenditure or transfer shall be made from the contingent fund until such expenditure or transfer has been approved by the board of finance."

Now, my recollection of the 2006-2007 budget is that it had a contingent fund that was part of the budget well below the 3% allowed by law, \$1 million. I think the 2006-2007 budget, you can correct me if I'm wrong, was around \$72 million, which would have given you the ability to have a contingent fund over double what was in the budget.

Secondly, my opinion, which is in disagreement with the prior recitation of what the speaker believes the law to be is based upon my reading of Connecticut Supreme Court case law, which discusses the legislative history behind the creation of the Contingent Fund and discusses the purpose of the board of finance and makes absolutely no reference whatsoever, in this 1963 Connecticut Supreme Court case, which is still good law today, makes no reference whatsoever to Town Meeting approval of transfers from a contingent fund in the budget to cover other items.

And I'm not going to get into a lot on the contingent fund, because there's absolutely nothing in the call of the meeting tonight, of the town meeting, that has anything to do with transfers from the contingent fund, and therefore this town meeting, pursuant to charter and state law, has no jurisdiction to deal with anything other than what's in the call.

With regard to the last speaker's first comment regarding the inter-department transfers, what he didn't tell you is that there's another general statute that deals with transfers, Connecticut General Statute 7-347, and I want to read it to you. It's only a few sentences long, so if you'll

indulge me... “the board may transfer (talking about the board of finance) may transfer unexpended balances from one appropriation to another, but no amount appropriated for any purpose, whether general or special, shall be used or appropriated for any other purpose unless the same is recommended by the board.”

So there's a question about whether or not, when you're doing what you're being asked to do here tonight, which is approve inter-departmental transfers... Mr. ... the last speaker made a comment that you're being asked to do the same thing year after year, or something to that effect. You're not being asked to appropriate any new money from the unappropriated fund balance, you're asked to approve transfers from underexpended department budgets to overexpended department budgets. The net result of which, according to the first speaker, the First Selectman's statements, resulted in an \$108,000 operating surplus. So there's no appropriation from the unappropriated fund balance being sought this year, unlike some of the previous years.

The board of finance is a bipartisan, elected watchdog of town finances, and they've recommended these approvals, approval of these transfers, excuse me.

My understanding is that the board of finance and the Town Meeting have handled these types of transfers at the annual town meeting for at least thirty years, based in part upon the practical reality of the desire to keep department heads' expenses down, keep department expenses down. And the check and balance is that the board of finance sees every line item every month and is aware of the status of all line items all the time. The overexpenditure reporting is done at public meetings on a monthly basis, meetings that are usually taped and televised by NHTV.

And as I indicated before, with regard to the transfers that are on the agenda for tonight, the only transfers on the agenda tonight are inter-department transfers, and there is a question whether Town Meeting approval is even necessary by virtue of Connecticut General Statutes 7-347.

So I apologize if that's all a little bit legalese, but I just wanted to let you know that from my perspective, the transfers that you are being asked to make are not illegal transfers.