Somersworth Joint Meeting City Council and School Board

January 21st 2014 Somersworth CTC Conference Room 5:30pm

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1. **Call to Order-Roll Call- Pledge of Allegiance**: The meeting was called to order at 5:30pm. The following members were present: Ken Bolduc, Jessica Paradis, Marty Pepin, Supt. Mosca, Marie D'Agostino, Scott Smith, Don Austin, Mayor Dana Hilliard, Dana Rivers, Marcel Hebert, Denis Messier, Rene Philpott, Kelly Brennan, Joanne Pepin, Bob Gibson, Jennifer Soldati, Dale Sprague, John McCallion, Dave Witham and Bob Belmore.
2. **Discussion**: Mayor Hilliard stated that he would like to start the discussion with a presentation on the implementation of the tax cap and where we go from here. Bob Belmore stated that Scott Smith developed a presentation on the tax cap and shared it with the Department heads and the SAU staff in order for them to provide feedback so we can all be on the same page. He stated that he asked Scott to do some research and ask his peers in other communities on how they interpret the language. Scott Smith stated that as the Mayor mentioned the discussion tonight is to focus on the major points of the tax cap and how it will impact us. He stated that they should feel free to ask questions as we go. He stated that in the charter under Section 7.4.1 Limitation on Budget Increase it states:
   - **Recognizing that final tax rates for the City of Somersworth are set by the Department of Revenue Administration pursuant to RSA 21 J: 35 I, the Manager shall submit a proposed budget and an accompanying message to the Council and the Council shall adopt its annual budget proposals and shall act on such proposals, in accordance with the mandates of this section.**
   - **In establishing a municipal budget, the Manager and Council shall be allowed to assume an estimated property tax rate in an amount not to exceed the tax rate established during the prior fiscal year increased by a factor equal to the change in the National Consumer Price Index-Urban as published by the United States Department of Labor for the calendar year immediately preceding the year of the budget adoption.**

   Smith stated that the definition of the **National Consumer Price Index-Urban** is:
   - **The average of the twelve month changes entitled annual percent change for the calendar year proceeding the year of budget adoption of the "Consumer Price Index-All Urban Consumer (Current Series), U.S. All items, 1982-84= 100, Series CUUR0000SA0, not seasonally adjusted, as published by the United States Department of Labor available on the federal government website www.bls.gov.**

   Smith stated that there are two rates one which is the average year over year and one which is an average December over December. He stated that they are usually fairly close and for 2013 they are the exact same. He stated that our intent is to use the year over year versus the December over December. Witham stated that our budget fiscal year is July to June so do we use July to June or January to December. Smith stated that it states Calendar year so we would use January to December. He stated that the 2013 CPI is 1.5% which is the number right now that we are looking at. He stated that it has been running between 1.5-3.2% since 2010. He stated that the tax cap limits the increases in the amount that can be raised by Property taxes.

He stated that the basic formula is the Total Appropriations less Revenues gives you the Property Taxes Raised. He stated that estimated changes in non-tax revenues have a direct impact on changes in appropriations. He stated that there are four components included in the calculation of Property Taxes:

- Municipal (City)
- School Local
- School State
- County

He stated that the School State and County are out of our control but they have an impact on what is raised by Property Taxes. He stated that the school would adjust increase/decrease for the State and the city would adjust for the county tax. Messier stated that the county budget is within the tax cap. Smith stated that the county budget right now is about $9000 more than what we would anticipate. Witham stated that we are still early in the game and it is only proposed. Smith stated that under the City Charter Section 7.4.1 (C) it states that:

- **Budget Limitation with annual changes in assessments. When annual changes in real estate values occur as a result of the State of New Hampshire assessing requirements, the Manager and Council should adhere to a maximum increase in real estate tax revenues as follows: The real estate taxes raised from the prior year shall be increased by a factor of no more than the change in the National Consumer Price Index-Urban as published by the United States Department of Labor for the calendar year immediately preceding budget adoption, plus real estate taxes calculated by applying the prior year real estate tax rate to the net increase in new construction. "net increase in new construction" is defined as the total dollar value of building permits less the total dollar value of demolition permits issued for the period of April 1- March 31s preceding budget adoption.**

He stated that the moving number as we prepare the budget is an estimate of $6.5 million. He stated that in terms of timing the recommendation is that the City Manager shall notify the School Board by February 1st of each year of the maximum permitted school tax levy the City Manager intends to include in the City Manager's proposed budget on behalf of the School Board. The School Board shall notify the City Manager by March 1st of each year of the estimated non property tax revenues and the final spending amount for the School Department for inclusion in the City Manager's proposed budget. Witham stated that the city manager delivers a budget by March 15th and we need to pass it as early as possible in order to avoid pink slips and asked if they are still able to pass it early. Smith stated that he thinks that they can make reasonable estimates by the time it is presented to the council in March. Mayor Hilliard stated that nothing would prevent us from readjusting under the deadline of the budget there is always room for a special session. Austin stated that the timing shortens our window significantly and we only have two weeks to put together the budget before we have to have the public hearing on it which makes it quite difficult. He stated that maybe we could look in the future to push the date out. Smith stated that this is a recommendation and can be massaged by the council. Supt. Mosca stated that this is tight but it is harder for us to be

waiting on the other end as we have a deadline with the staff. Soldati asked when the deadline is. Supt. Mosca stated it is around mid-May that we have to let the staff know to not have to hold contracts back. Dale Sprague asked what building permits have to do with it. Smith stated that it was written in the charter amendment and he thinks that the intent was to allow for some growth through the tax base. Sprague stated that when you go for a permit you don't apply for a permit based on the land only on the dwelling. Smith stated that the value doesn't translate into net assessed value; it is an attempt to provide for growth with the CPI. Belmore stated that it won't be apples to apples on the assessment of the property; this is the way it came in on the petition. Smith stated that ours is the same as Rochester, Laconia and other do it a little different. Belmore stated that Dover went back and amended the tax cap to adjust the language. Smith stated that there are exceptions such as the override provision which states:

- **Override Provision. Budgetary restrictions described in any part of Section 7.4.1 may be overridden upon a vote of two thirds of all elected members of the council. Such override expires following adoption of the annual budget. Subsequent budgets or supplemental appropriations require additional two thirds override vote, or the limitations expressed in this section will apply.**
- **Exception to the budget increase limitation. Capital Expenditures, and the total or any part of the principal and interest payments of any municipal bond, whether established for school or municipal purposes, may be excepted from being included in expenditures that are subject to the prior limitation of two thirds vote of all members of the City Council. The exception made under this section shall expire upon adoption of the budget for the next budget year, unless two thirds of all members of the City Council vote to renew the exception for the next budget year.**

Smith stated that there is no timing in this; the City can take that action at any point only in the budget that they are dealing with any future budgets would require a two thirds vote. Witham asked if this was done through a resolution. Smith stated yes. Witham stated that we could make a resolution for 7.4.1A and the city manager can have clear direction going in. Smith stated yes. Witham stated that he is leaning toward one going into the budget. Mayor Hilliard stated that his gut is that we wouldn't need a resolution that it could be a floor amendment. Belmore asked if his intent is to do it before the City Manager presents the budget. Witham stated yes. Mayor Hilliard stated that you would need a resolution to do it prior to the budget. Witham stated that he wouldn't mind if the City Manager drafted that for his signature. He stated that this council has approved a number of bonds for projects that were set in motion before the voters voted the tax cap and that is why in his view that this is a sales pitch he is willing to make. McCallion stated that we need to know what that number is. Sprague stated that if you take out every bond that would deflate the tax cap entirely. He stated that we can pull out the road bond but it would be disingenuous to pull out a bond from seven years ago. Mayor Hilliard stated that we need to let Scott finish the presentation. Smith gave a preliminary calculation for discussion purposes of what the increase would be allotted for each of the four portions city, School, State and County. He stated that the city would be approximately $192,851, School $294,812, State $43,933 and County $51,469. Supt. Mosca asked if they could add the state portion to the $294,812. Smith stated that it would be a combination of what the state is increasing and the 43,933, so you could add an

additional $10,000. McCallion asked what the percentage is of the $583,064 increase. Smith stated 2.2%. He stated that the tax rate is never going to match the CPI. He stated that it depends on the net assessed valuation and is contingent on what is raised by taxes. Messier stated that the reality is that people can get upset but they are ignorant to the fact on how it is generated, we are doing it on the rules of the game. Mayor Hilliard stated that we are interpreting the rules of the game and they are not clearly spelled out. He stated that this will be historic for both boards. He stated that there are options here for the city manager to explore. He stated that when it first came around it was all based on interpretation. He stated that the end result is that if we go 1.6% we will get litigation but on the other end there is positive litigation as well. He stated that the rules are not clearly defined and we are interpreting their language which was not well crafted which could inhibit us moving forward. He stated that when we start the journey we set precedent and it is very difficult to back track legally. He stated that we need to develop some clear direction on how we move forward from here and what road are we willing to take. He stated that it is not going to be easy no matter what road we take, we have to start putting our thinking cap on and examining how we keep the high level of service in this city. He stated that he is always in favor of going the litigation route if it favors us. Soldati asked if there is a history of decisions and asked if there have been challenges. Mayor Hilliard stated that we are on the cutting edge of a community to challenge it. He stated that the way it is written it is not clear in direction on what we can use. He stated that we had Dale raise the question on building permits and that in itself has not been clearly defined. He stated that he doesn't know if this community would have a case and tonight at our meeting he will be seeking guidance on where we are going with this. Austin asked if there is a legal opinion out there that says that we can't educate the community on what they can't have because of the tax cap. He stated that if we propose a budget that meets the tax cap there are things that we can't have and he heard somewhere that we can't tell the community what those are. Sprague stated that he would like to see what you need and let the council get it down. Witham stated that the city manager can't craft a budget that is over the tax cap. Sprague stated that it should be the budget in totality not compartmentalized. He stated that this can be repealed why we can't get someone to put it on the ballot to get it repealed. Smith stated that the city manager under charter has to submit a budget that meets the tax cap; there are moving parts on how we divide things up. Sprague stated that it gives more power to the city manager and takes us out of the equation. Witham stated that to Dana's point on challenging, the lack of clarity could be as much political fallout as overriding it. He asked how much of the $583,064 has already been spoken for on action that has already been taken. Smith stated that he can get him that figure. Gibson stated that whether or not you get repeal you are still dealing with two budgets that have to follow it. Sprague stated that let's not sit around; we can draft something that can take effect immediately. Messier stated that the conversation is people and their taxes so if you try to get a petition you need to show the need and why if we formulate a budget on a tax cap it will destroy the city. He stated that we need to show that the tax cap is not beneficial to our community. McCallion stated that what we do now affects next year, things can happen and we need to work together and be open and honest to try to hit that number. Belmore stated that respectfully he would like to clarify that when we talk about building permits we feel pretty firm on how we are interpreting this. He stated that they are not sure procedurally on the city absorbing the county and the school absorbing the state, that is where

the clarity can come in. He stated that we are pretty comfortable that the city manager has to abide by the tax cap and we are comfortable with the average approach for the CPI. We don't agree with it necessarily but we are pretty comfortable. Supt. Mosca stated that from the school side we are talking about budget now and we are over the cap with just contractual obligations. She stated that she level funded the administration. She stated that we are about $250,000 over the cap and that includes no CIP. Phillpott asked if the bond was built in the CIP budget can we take that out. Smith stated that it is provided for in the override provision but it would require action by the council. Sprague stated that we don't have to have CIP set aside the city can bond it. He stated that when we paid down taxes last year we hurt ourselves. Smith stated that we all need to be prudent on the use of the fund balance on the impact on future budgets as well as one time revenues. He stated that they can help immediately but we are setting ourselves up for future issues. Belmore stated that is the same for one time bond issues as well. Mayor Hilliard stated that there is nothing that is preventing us from having a joint meeting in the future as we navigate through this process. He stated that the way we define success in this community is the same goal to build a strong community and to keep the community moving forward. He stated that D day is here and it behooves us to do this successfully and give very clear leads to the city manager. He thanked the board and council for coming.

3. **Adjournment**: Hilliard closed the joint meeting at 6:34pm.

Katie Krauss Pending Board Approval

Board Secretary