

WACHUSETT REGIONAL SCHOOL DISTRICT

HOLDEN □ PAXTON □ PRINCETON □ RUTLAND □ STERLING

Minutes

Regular Meeting #1344

Tuesday, May 26, 2020
7:00 PM

MEETING CONDUCTED REMOTELY, VIA GOOGLE MEET

Wachusett Regional School District Committee

Kenneth Mills, Chair	Laura Kirshenbaum
Christina Smith, Vice-chair	Matthew Lavoie
Melissa Ayala	Linda Long-Bellil
Scott Brown	Amy Michalowski
Michael Dennis	Benjamin Mitchel
Stephen Godbout	Karl Ottmar
Maleah Gustafson	Asima Silva
Sherri Haber	Megan Weeks
Jeffrey Haynes	Linda Woodland
Robert Imber	Adam Young

Committee Members Absent:

None

Administration Present:

Darryll McCall, Superintendent of Schools
Robert Berlo, Deputy Superintendent
Daniel Deedy, Director of Business and Finance
Jeff Carlson, Director of Human Resources
Brendan Keenan, Director of Social Emotional Learning
Christine Smith, Administrator of Special Education
Barry Sclar, Supervisor of Information Technology
Rebecca Petersen, Executive Secretary to the Superintendent

Student Representatives Present:

Rianna Massoni-Nesman Leah Michalowski

Others:

District Counsel Joseph Bartulis (8:33 PM)

Chair Mills called the meeting to order at 7:03 PM.

- I. Public Hearing
- II. Chair's Opening Remarks

Chair Mills announced the meeting was streaming live on Holden TV, Channel 194, and is being conducted remotely, via Google Meet. Chair Mills extended his thanks to HCTV for assisting with broadcasting the meeting live.

Chair Mills opened the meeting explaining the Committee will be having difficult conversations in the next several weeks as the Committee and the District address the impact of school closure due to COVID-19.

Chair Mills also spoke about open seats on the School Committee, which will be brought before town residents for elections at the end of June.

Chair Mills invited Senator Gobi to address the School Committee, explaining that Representative Ferguson will not be at the meeting due to personal circumstances. Senator Gobi spoke about Federal funding under the CARES Act, noting there is not too much other information or updates that she has to share. Members were given the opportunity to ask questions of Senator Gobi, which no members had questions.

7:14 PM Senator Gobi left the meeting.

III. Student Representatives (R. Massoni-Nesman, L. Michalowski)

Student Representative Massoni-Nesman reported on the high school seniors going to the high school on May 22nd to turn in Chromebooks, textbooks, to clean out gym lockers, to pick up caps and gowns, etc. Chair Mills expressed his sincere thanks to both Rianna and Leah for their outstanding services during the past year.

IV. Superintendent's Report

A. Discussion of Report

Chair Mills turned the meeting over to Superintendent McCall before opening the meeting to questions and comments from the members.

Superintendent McCall also thanked the Student Representatives for their fine work during the past year.

Superintendent McCall reported briefly on meetings and calls he has participated in since the last School Committee meeting and is scheduled to participate in throughout the coming weeks.

At Superintendent McCall's request, Chair Mills projected the May 20, 2020 document Superintendent McCall prepared for the May 20, 2020 Business/Finance Subcommittee meeting (attachment 1). Superintendent McCall stated the District will open Fiscal Year 21 on July 1st under a 1/12th budget. Superintendent McCall walked members through the document, beginning with Tier 1 on page 2. Tier 1 does not touch staff positions. Referring to Tier 2 found on page 2, Superintendent McCall explained this tier takes into consideration some possible staff reductions. Tier 3 includes further reductions, which includes more staff, plus other expenses

including clubs, high school athletics, etc. Superintendent McCall continued with review of tiers 4 and 5.

Chair Mills spoke about possible steps moving forward, one being use of E&D (Excess & Deficiency) funds, plus the issuing of “pink slips” once it is determined what cuts will be needed. Chair Mills asked the Superintendent about the status of the task force named to address the reopening of schools. Superintendent McCall reported that Director of SEL Keenan is working on this and the first meeting is scheduled for June 4, 2020. Chair Mills asked that the membership of the task force be shared with the School Committee.

Chair Mills then asked Business/Finance Subcommittee Chair Dennis to address the Committee. Subcommittee Chair Dennis referred to his analogy of the “three valves” –

- #1 Revenue reductions to FY20 level based on 1/12th budget
- #2 Cash flow restriction due to 1/12th budget (the point at which we do not have sufficient funds to cover payroll + expenses and by how much)
- #3 Reductions to state aid from FY20 levels

Subcommittee Chair Dennis spoke about potential reductions, noting the June 15th deadline for notifying teachers of positions that are being cut. He spoke about the importance of timelines and deadlines. Superintendent McCall confirmed District administration is in the process of meeting with representatives from the bargaining units to discuss the budget. Superintendent McCall confirmed that it is only non-professional teaching staff who have the June 15th notification deadline.

Chair Mills opened the floor to members for their comments and questions.

Member Godbout – passed

Member Gustafson spoke about social emotional needs and the importance of counseling support.

Member Haber

Member Imber

Member Kirshenbaum expressed how unfortunate it is that exercises need to be taken in consideration of possible staffing reductions. She suggested an exercise if the District has to continue remote learning next school year, what will it look like for services provided if it is necessary to go through Tiers 1, 2, 3, how could remote learning be addressed with 65 positions being cut. Member Kirshenbaum mentioned stimulus funds to help mitigate the projected budget deficits.

Member Lavoie would like to see potential cuts in Tiers 2 to 5 in totality. Maybe this is an opportunity to see if remote learning is a new option for learning/teaching, for those students who embraced this method of education.

Member Long-Bellil

Member Michalowski spoke about increasing fees and prioritizing reductions based on information from the state.

Member Mitchel inquired about additional negotiations with the eight bargaining units, citing a possible salary freeze previously mentioned by Superintendent McCall.

Member Long-Bellil asked about exploring other options v layoffs, i.e. furloughs, noting that the statutory deadline of June 15th is not set in stone, so that could be altered if desired. She suggesting reaching out to legislators if this is considered.

Member Ottmar spoke about the grim picture being painted to get to where the District needs to be budget-wise, if potential cuts need to be made.

Member Silva reiterated Member Lavoie's comments about looking at a hybrid model because some students have embraced remote learning.

Vice-chair Smith

Member Weeks would support pay freezes in order to save staff, if the unions will agree. It is hoped DESE will provide clear guidance by July 1, in preparation for the fall.

Member Woodland agreed with District administration having conversations with the unions to try to address the budget shortfall. She also had a question about how schools and programs might look when school resumes if significant cuts are made.

Chair Mills asked Superintendent McCall to speak to Member Woodland's question about District administration meeting with the unions. Superintendent McCall reported on meetings already held with the eight bargaining units, plus the meeting with the PEC. Once more defined information is available, Superintendent McCall will be able to provide a more detailed report. Chair Mills agreed that talking about individual programs should not take place at this time, but a general discussion about how classrooms and schools will look under the potential cuts is appropriate. Superintendent McCall spoke about teachers v programs. He explained that once you start taking away programs (i.e. high school athletics), the District will start to loose students. Superintendent McCall also cautioned that class sizes will start to balloon under drastic cuts.

At Member Gustafson's inquiry, Superintendent McCall explained that not all paraprofessional staff are tied back to servicing special education students.

Member Young spoke about special education tuitions and cautioned the District to be mindful when making in-District cuts to still be in compliance, because out-of-District tuitions are expensive, and there are also costs associated when parents and the District go to arbitration about a placement. When asked, Director Deedy

explained there are restrictions connected to prepaying some expenses, such as out-of-District tuitions and/or transportation.

Member Ayala asked if the Committee would be provided FY21 budget numbers by June 15th, which Superintendent McCall said is unlikely due to the state budget most likely not being approved by that date. Superintendent McCall explained that approximately 30% of funding is from the state, so if state revenues drop that directly impacts school districts. Wachusett is not a needy district, so federal dollars are not as great as some districts. Superintendent McCall is hopeful that the next round of federal dollars will not have as many restrictions.

Member Brown, Chair of the Legal Affairs Subcommittee, thanked District administration for the document provided, with very sobering numbers. Member Brown reported the Legal Affairs Subcommittee has reviewed the eight union contracts, with District Counsel involved, and that only the contract with the WREA has the June 15th deadline. He also reported the District and WREA will meet to impact bargain.

Member Dennis spoke about the two important tasks ahead: budget planning for FY21 and secondly reopening of schools for the 2020-2021 school year. These tasks needs 100% attention, and he again mentioned meeting various timelines.

Chair Mills stressed the importance of contingency planning for the reopening of schools.

Member Gustafson asked about plans for ESY (Extended School Year), mentioning she had hear something about a hybrid model for the summer, but she had also heard that Wachusett could be half day and all remote.

Member Kirshenbaum spoke about the reopening of schools, stressing the importance of maximizing face time between teachers and students, as a cornerstone of moving forward. She also spoke about a lesson learned from this year is that reliable access to technology needs to be planned for, including professional development for staff.

Member Lavoie also asked that the Committee be kept apprised about plans for ESY services.

B. Recommendations Requiring Action by the School Committee

1. Motion: To support the Resolution for Enhanced Federal Funding
(R. Imber)
(L. Kirshenbaum)

Chair Mills spoke to the resolution and the need for the federal government to work together and agree on a new stimulus package. Chair Mills explained the Wachusett resolution was partially drawn from resolutions by both the Boston School Committee and the Federation of Teachers.

8:33 PM Bartulis joined the meeting.

Chair Mills read the resolution (attachment 2). Chair Mills gave members the opportunity to ask questions or to make comments.

Roll call vote:

In favor:

Kenneth Mills
Christina Smith
Melissa Ayala
Scott Brown
Michael Dennis
Stephen Godbout
Maleah Gustafson
Sherri Haber
Jeffrey Haynes
Robert Imber
Laura Kirshenbaum
Matthew Lavoie
Linda Long-Bellil
Amy Michalowski
Benjamin Mitchel
Karl Ottmar
Asima Silva
Megan Weeks
Linda Woodland
Adam Young

Opposed:

None

The motion was unanimously approved.

2. To authorize the Superintendent of Schools to sign an amendment to the Contract for School Transportation, dated June 19, 2018, between the Wachusett Regional School District and AA Transportation, Inc. of Shrewsbury, Massachusetts

No motion was made.

3. To authorize the Superintendent of Schools to sign an amendment to the Contract for SPED, In-District Transportation, dated July 1, 2019, between the Wachusett Regional School District and AA Transportation, Inc. of Shrewsbury, Massachusetts

No motion was made.

4. Motion: To authorize the Superintendent of Schools to sign the Memorandum of Agreement Between WRSD and the WREA – Amendment to Memorandum of Agreement COVID-19 Closure

Action on the motion was deferred/passed over, awaiting action by the WREA House of Delegates on this proposed MOA.

With no objection, Chair Mills altered the meeting agenda.

V. Public Hearing:

Mary Ann Coppolino, Holden resident (attachment 3)

Lynn Hanley, Holden resident (attachment 4)

Anne Ehrenworth, Rutland resident (attachment 5)

With no objection, Chair Mills altered the meeting agenda asking Business/Finance Subcommittee Chair Dennis to present his subcommittee report while District Counsel Bartulis is in on the virtual meeting.

8:45 PM Vice-chair Smith left the meeting.

VI. Business/Finance Subcommittee (M. Dennis, Chair, B. Mitchel, Vice-chair, M. Gustafson, L. Long-Bellil, K. Ottmar)

Subcommittee Chair Dennis thanked Attorney Bartulis for joining the meeting. The proposed amendments to the contracts the District has with AA Transportation of Shrewsbury were the topic of discussion (attachments 6 & 7) . The negotiated reduction in payment to AA Transportation is payment of 75% of the District financial obligation with AA Transportation for transportation services. Subcommittee Chair Dennis invited Director Deedy and Superintendent McCall to speak to the proposed contract amendments. Director Deedy provided the background about the proposed amendments to the contracts with AA Transportation for regular education and special education in-District transportation, and he spoke to the motions that were included on the meeting agenda. Director Deedy reported on discussions he had with AA Transportation President Ron Ernenwein. Attorney Bartulis spoke about the proposed amendments to the contracts, and he referenced correspondence Director Deedy shared, correspondence from Todd & Weld on behalf of STAM (School Transportation Association of Massachusetts) (attachment 8). Members were given the opportunity to ask questions and make comments about the proposed contract amendments.

9:00 Member Lavoie left the meeting.

Discussion ensued, with several members participating in the discussions. At the conclusion of discussions, and questions being asked and answered, Attorney Bartulis was thanked for his participation and he exited the meeting.

9:10 PM Attorney Bartulis left the meeting.

Chair Mills returned to the meeting agenda.

9:11 PM Member Mitchel left the meeting.

VII. Unfinished Business

There was no unfinished business to come before the School Committee.

VIII. Secretary's Report

- A. Approval of Executive Session Minutes of the Wachusett Regional School District Committee held on March 9, 2020

Deferred

- B. Approval of #1343 Regular Meeting Minutes of the Wachusett Regional School District Committee held on May 11, 2020, 2020

Motion: To approve the minutes of the regular WRSDC meeting held on May 11, 2020.

(S. Haber
(J. Haynes)

Roll call vote:

In favor:

Kenneth Mills
Melissa Ayala
Scott Brown
Michael Dennis
Stephen Godbout
Maleah Gustafson
Sherri Haber
Jeffrey Haynes
Robert Imber
Laura Kirshenbaum
Linda Long-Bellil
Amy Michalowski
Karl Ottmar
Asima Silva
Megan Weeks
Linda Woodland
Adam Young

Opposed:

None

Abstained:

The minutes were unanimously approved.

- C. Approval of Executive Session Minutes of the Wachusett Regional School District Committee held on May 11, 2020

Deferred

IX. Treasurer's Report/Financial Statements

Chair Mills reminded the Committee that if there were questions regarding the Director of Business and Finance's report that Members should contact the Superintendent; if there were questions regarding the Treasurer's Report, Members should contact the Business/Finance Subcommittee Chair.

X. Committee Reports

- A. Management Subcommittee (K. Mills, Chair, C. Smith, Vice-chair, S. Brown, M. Dennis, R. Imber, M. Lavoie, A. Young)

Subcommittee Chair Mills reported on the May 12, 2020 meeting of this subcommittee.

- B. Education Subcommittee (R. Imber, Chair, C. Smith, Vice-chair, M. Ayala, S. Haber, L. Kirshenbaum, L. Long-Bellil, A. Silva)

Subcommittee Chair Imber reported this subcommittee met immediately before this School Committee meeting and will meet next on June 8, 2020.

- C. Business/Finance Subcommittee (M. Dennis, Chair, B. Mitchel, Vice-chair, M. Gustafson, L. Long-Bellil, K. Ottmar)

Addressed earlier in the meeting.

- D. Legal Affairs Subcommittee (S. Brown, Chair, M. Lavoie, Vice-chair, R. Imber, A. Michalowski)

Subcommittee Chair Brown reported the subcommittee has not met as a subcommittee but subcommittee representatives have participated in meetings with the bargaining units.

- E. Superintendent Goals and Evaluation Subcommittee (M. Lavoie, Chair, A. Michalowski, Vice-chair, K. Mills, M. Weeks)

Subcommittee Chair Lavoie was not present, but had asked that members review the information about the Superintendent's evaluation process that was included in the

Superintendent's Report. Subcommittee Vice-chair Michalowski spoke briefly about the evaluation process, noting the evaluation process and the online evaluation tool will be reviewed at the full School Committee meeting on June 8, 2020.

- F. Facilities and Security Subcommittee (A. Young, Chair, L. Woodland, Vice-chair, S. Godbout)

Chair Young reported this subcommittee has not met since the last School Committee meeting.

- G. Audit Advisory Board (B. Mitchel, Chair)

In Chair Mitchel's absence, no report was made

- H. Ad Hoc Subcommittees

1. Ad Hoc Subcommittee to Negotiate the Superintendent's Contract (K. Mills, Chair, M. Weeks, Vice-chair, S. Brown, M. Dennis, M. Lavoie)

Chair Mills reported the contract has not yet been executed.

- I. Building Committees

- J. School Council Reports:

Central Tree Middle School (S. Haber), Chocksett Middle School (L. Woodland), Davis Hill Elementary School (K. Mills), Dawson Elementary School (L. Kirshenbaum), Glenwood Elementary School, Houghton Elementary School (M. Ayala), Mayo Elementary School (A. Young), Mountview Middle School (S. Brown), Naquag Elementary School (M. Lavoie), Paxton Center School (K. Ottmar), Thomas Prince School (A. Silva), Wachusett Regional High School (L.

Chair Mills - Davis Hill

Member Gustafson – SEPAC

Member Young – Mayo Elementary School

Member Haynes – Central Tree Middle School

Member Ayala – Houghton Elementary School

Member Woodland – Chocksett Middle School

- XI. Public Hearing

No members of the public submitted additional emails/comments.

XII. New Business

There was no new business brought before the School Committee.

XIII. Adjournment

Motion: To adjourn.

(S. Brown)

(J. Haynes)

Roll call vote:

In favor:

Kenneth Mills
Melissa Ayala
Scott Brown
Michael Dennis
Stephen Godbout
Maleah Gustafson
Sherri Haber
Jeffrey Haynes
Robert Imber
Laura Kirshenbaum
Linda Long-Bellil
Amy Michalowski
Karl Ottmar
Asima Silva
Megan Weeks
Linda Woodland
Adam Young

Opposed:

None

The motion was unanimously approved.

The meeting adjourned at 9:48 PM.

Respectfully submitted,

Darryll McCall, Ed.D.
Superintendent of Schools

DM:rlp

Attachments:

- Attachment 1 – 5/20/2020 document to the Business/Finance Subcommittee from Superintendent McCall
- Attachment 2 – Resolution in Support of Education Funding for COVID-19

- Attachment 3 – Email from Holden resident Mary Ann Coppolino
- Attachment 4 – Email from Holden resident Carolyn Hanley
- Attachment 5 – Email from Rutland resident Anne Ehrenworth
- Attachment 6 – Amendment between the WRSD and AA Transportation, Inc. of Shrewsbury MA
- Attachment 7 – Amendment between the WRSD and AA Transportation, Inc. of Shrewsbury, SPED, and In-District Transportation
- Attachment 8 – May 55, 202 correspondence to Director Deedy from Todd & Weld, LLP

To: Business and Finance, WRSDC
From: Darryll McCall, Superintendent

5/20/20

Our first exercise was to review the current FY20 budget, including any open PO's, and establish a baseline of reductions or carry forwards that did not include current employees. In attachment G, Director Deedy established a list of items that would help support the budget, including the use of E&D, revolving accounts, the reduction of proposed staff and other budgets, and more.

In order to define the personnel reductions, Deputy Berlo and I began the process of looking at strategies to reduce the budget based upon the following timeline of events:

- Initial 1/12th Budget Reduction Plan
- District 1/12th Budget Reduction Plan
- MS Budget Reductions
- Elementary Budget Reductions
- High School Budget Reductions
- CO Budget Reductions
- Development of Budget Reductions
- Review of Budget Reductions
- Input from Bus. Director
- Input from HR Director
- Input from Sped Director
- CO Review of Budget Reductions
- Presentation of 1/12th Budget Reductions to Business and Finance Subcommittee
- Presentation of 1/12th Budget Reductions to School Committee -

When creating the timeline, we established meetings with all groups that included individuals, by school level (elem., middle, high) and the district. These meetings included discussions on potential reductions to staff and brainstorming around potential savings in other areas. Principals were given directions to review current staff levels and make recommendations of possible reductions, with the understanding that reductions will be intrusive upon the running of the school no matter how small. They were extremely difficult discussions but worthwhile as a focus was developed around how best to move into our new school year.

The staffing reductions include administration, teachers, paraprofessionals, ABA PA's, secretaries, SLPA's, and custodians. When looking at custodial staff we understand that they will be working extra hard this coming school year continually cleaning surfaces throughout the day and have attempted to hold to the positions where possible. Our cafeteria requires a certain number of staff to safely provide meals within each building and they are already at the bare minimum. We also have not reduced nurses and have kept the one new position in the budget in preparation for opening this fall. Nurses will play a crucial role in helping to provide for a safe learning and working environment for our schools.

The following breakdown includes two tiers of reductions based on 1.) development of a 1/12th budget for the entirety of FY21, and 2.) further reductions to staffing based upon a 20% reduction in state aid (FY20 figures reduced by 20%) for FY21:

1/12th Budget Reduction Goal	-\$4,279,179
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	Reductions	Savings
Tier 1	FY21 Textbook Reduction	\$400,000
	FY21 Operations & Maintenance	\$70,000
	FY 21 Pupil Services	\$1,517
	FY21 New Positions and Benefits	\$650,000
	E&D to Supplement FY21	\$450,000
	School Choice Carry Forward to Supplement FY21	\$200,000
	Circuit Breaker Carry Forward to Supplement FY21	\$500,000
	Contracted Services	\$100,000
	Transportation Revolving	\$100,000
	Summer School Running Remotely	\$125,000
	Tier 1 Budget Reduction Total	\$2,596,517

1/12th Budget Reduction Goal	-\$4,279,179
Tier 1 Reductions	\$2,596,517
Remaining Reductions to Meet 1/12th Budget Goal	-\$1,682,662

	Prek-8 Reductions	Savings	HS Reductions	Savings	CO Reductions	Savings
Tier 2	18.2 Teachers	\$1,365,000	6 Teachers	\$450,000	2 Admin	\$215,000'
	27.9 Paraprof.	\$837,000	2 Paraprof.	\$60,000	1 Secretary	\$8,000
	0.5 Custodian	\$22,500	1 Custodian	\$45,000		
	1 Secretary	\$45,000	1 Secretary	\$45,000		
	MS Athletics	\$62,874				
	1 Asst. Princ.	\$100,000				
	PK-8 Total	\$2,432,374	Reduction Total	\$600,000	CO Total	\$223,000
					Grand Total	\$3,255,374
	Tier 2 Budget Reduction Total (Taking unemployment costs into account)					\$2,170,249

1/12th Budget Reduction Goal	-\$4,279,179
Tier 1 Reductions	\$2,596,517
Tier 2 Reductions	\$2,170,249
Amount Above Reduction Goal	\$487,587

Estimated Budget Reduction Goal

Based upon discussions with state and local representatives, we have also developed a contingency budget reduction that aligns with a 20% reduction of FY20 state aid.

Estimated Budget Reduction Goal	-\$10,000,000
Tier 1 Reductions	\$2,596,517
Tier 2 Reductions	\$2,170,249
Remaining Reductions to Meet Goal	-\$5,233,234

	Prek-8 Reductions	Savings	HS Reductions	Savings	CO Reductions	Savings
Tier 3	16.5 Teachers	\$1,237,500	8.4 Teachers	\$630,000	2 Admin.	\$240,000
	11 Paraprof.	\$330,000	HS Clubs, Play, Musical	\$66,797	1 Secretary	\$45,000
	7 Custodians	\$315,000	HS Athletics	\$304,000	1 Clerk	\$40,000
	0.5 Secretary	\$22,500	1 SRO	\$50,000	1 Technology	\$45,000
	PK-8 Total	\$1,905,000	HS Total	\$1,050,797	CO Total	\$370,000
					Grand Total	\$3,325,797
Tier 3 Budget Reduction Total						\$2,217,198

Estimated Budget Reduction Goal	-\$10,000,000
Tier 1 Reductions	\$2,596,517
Tier 2 Reductions	\$2,170,249
Tier 3 Reductions	\$2,217,198
Remaining Reductions to Meet Goal	-\$3,016,036

	Reductions	Savings
Tier 4	Transportation	\$464,390
	SPED Tuitions	\$200,000
	Instructional Support	\$25,000
	Operations and Maintenance	\$50,406
	Tier 4 Budget Reduction Total	\$739,796

Estimated Budget Reduction Goal	-\$10,000,000
Tier 1 Reductions	\$2,596,517
Tier 2 Reductions	\$2,170,249
Tier 3 Reductions	\$2,217,198
Tier 4 Reductions	\$739,796
Remaining Reductions to Meet Goal	-\$2,276,240

	Prek-8 Reductions	Savings	HS Reductions	Savings	CO Reductions	Savings
Tier 5	10 Teachers	\$750,000	8 Teachers	\$600,000	2 Admin.	\$250,000
	10 Paraprof.	\$300,000	4 Paraprof.	\$120,000	2 Clerks	\$90,000
	8 Asst. Princip.	\$800,000	2 Custodian	\$90,000	1 Maint.	\$80,000
			2 Secretary	\$90,000	1 Secretary	\$45,000
			2 Asst. Princip.	\$200,000	1 Technology	\$45,000
	PK-8 Total	\$1,850,000	Reduction Total	\$1,100,000	CO Total	\$510,000
					Grand Total	\$3,460,000
	FY21 Budget Reduction Total					\$2,306,667

Resolution in Support of Education Funding for COVID-19

WHEREAS, the Massachusetts Legislature and Governor enacted the *Student Opportunity Act* in 2019 because the state's school funding formula was out of date and failed to provide all students with the education to which they are constitutionally entitled; and

WHEREAS, the COVID-19 pandemic is a monumental and unprecedented challenge, emerging quickly and demanding an immediate overhaul of the instructional plans and strategies of school systems across the country, and our students' needs are even greater now due to the pandemic; and

WHEREAS, in the upcoming academic year many students will need enhanced educational opportunities, technology, health, and guidance services; and

WHEREAS, the nation's public schools remain committed to delivering high-quality instruction while ensuring the health and safety of our students and staff; and

WHEREAS, municipal and state governments are limited by revenue and their requirements to present balanced budgets to accommodate the extraordinary needs brought on by this crisis; and

WHEREAS, these challenges will persist and likely grow as COVID-19 affects our economy and destabilizes funding for public schools; and

WHEREAS, reputable economists have predicted the end of the nation's economic expansion and forecast a recession that may be deep and long-lasting; and

WHEREAS, the numbers of unemployment claims are already the highest we have seen since the Great Depression and may only grow; and

WHEREAS, revenue shortfalls will unequivocally result in budget cuts and personnel reductions in all school systems;

WHEREAS, these budget cuts will be happening at the same time that public school systems will be working to address the immense instructional challenge of unfinished learning that many students will face coming out of this school year; and

WHEREAS, the American Recovery and Reinvestment ACT (ARRA) of 2009 provided \$100 billion in education funding with investments in both the education stabilization fund and various federal categorical programs for public schools, such as Title I and the Individuals with Disabilities Act; and

WHEREAS, Congress followed ARRA in 2010 with \$10 billion in additional funding for the Education Jobs Fund to help school districts retain existing employees, recall former employees, and hire new ones; and

WHEREAS, by comparison the recent Coronavirus Aid, Relief, and Economic Security (CARES) Act provides only \$13 billion for education stabilization funding, which is less than half of one percent of the total \$2.2 trillion relief provided in the CARES Act and is far below the investment that the federal government provided in 2009 and 2010 in ARRA and the Education Jobs fund; and

WHEREAS, public education is one of the largest employers of any organization, public or private, in the nation; and

WHEREAS, published economic research has demonstrated a strong connection between a country's GDP growth and its investments in elementary and secondary education; and

WHEREAS, research has repeatedly found a strong causal relationship between levels of schooling and wages that individuals earn over a lifetime; and

WHEREAS, for public schools to thrive and for our students to realize a bright and productive future, the federal government needs to make a substantial new investment in our wellbeing; and

WHEREAS, the Council of the Great City Schools, the National Education Association, the American Federation of Teachers, the National School Boards Association, the American Association of School Administrators, and the National Parent Teachers Association, and others have called for some \$200 billion in relief for the nation's public schools; and

WHEREAS, this level of funding is the minimum needed by the nation's public schools to sustain and accelerate their academic achievement trends over the past decade, let it be

RESOLVED: That the members of the Wachusett Regional School Committee join with the Superintendent of Schools in urging the Massachusetts Congressional Delegation, including our United States Senators and House of Representative members, to advocate for and approve additional federal education funding for our nation's public schools, such that the Commonwealth can fund all public schools at the level set forth in Governor Charlie Baker's initial proposed budget for FY2021.

Wachusett Regional School District Committee

Kenneth Mills, Chair, WRSDC

5/26/2020



Rebecca Petersen <rebecca_petersen@wrsd.net>

Fwd: Meeting 5/26

1 message

Kenneth Mills <Kenneth_Mills@wrsd.net>

Tue, May 26, 2020 at 8:55 PM

To: Rebecca Petersen <rebecca_petersen@wrsd.net>

----- Forwarded message -----

From: **M.A. Coppolino** <m.a.coppolino@gmail.com>

Date: Tue, May 26, 2020 at 8:23 PM

Subject: Re: Meeting 5/26

To: Kenneth Mills <Kenneth_Mills@wrsd.net>

67 Pilgrim Drive Holden. Apologies for the delay and thank you.

Sent from my iPhone

On May 26, 2020, at 6:33 PM, Kenneth Mills <Kenneth_Mills@wrsd.net> wrote:

Can you include your address for the record when I read it? Thanks.

On Tue, May 26, 2020 at 6:27 PM M.A. Coppolino <m.a.coppolino@gmail.com> wrote:

Good evening,

Could you share the results of the district wide survey that was sent to parents on their experience with remote learning?

Thank you,

Mary Ann Coppolino

Sent from my iPhone

--

Kenneth Mills

Chair,

Wachusett Regional School District Committee



Rebecca Petersen <rebecca_petersen@wrsd.net>

Fwd: Questions for tonight's meeting

1 message

Kenneth Mills <Kenneth_Mills@wrsd.net>

Tue, May 26, 2020 at 8:18 PM

To: Rebecca Petersen <rebecca_petersen@wrsd.net>

----- Forwarded message -----

From: **Lynn Hanley** <lynnh1@charter.net>

Date: Tue, May 26, 2020 at 8:09 PM

Subject: Questions for tonight's meeting

To: <questions@wrsd.net>

As I listen to the presentation this evening, I have 2 questions:

1. If the schools are to reopen in the fall, there will be huge need for PPE, more nurses, and more custodial staff. How is that being considered in the budget plans, especially with planned staff reductions?
2. Understanding that WRHS is a division 1 school for sports, how is education being prioritized and what is the message to families, students and staff when significant staff cuts are planned in Tier 2, and athletic cuts are not made until Tier 3? If the concern is to retain students, won't the staff cuts actually be a stronger deterrent for families considering leaving Wachusett?

Thank you for your time and consideration.

Carolyn Hanley
Wyoming Drive
Holden

--

Kenneth Mills
Chair,
Wachusett Regional School District Committee



Rebecca Petersen <rebecca_petersen@wrsd.net>

Fwd: Transportation reimbursement

Kenneth Mills <Kenneth_Mills@wrsd.net>

Tue, May 26, 2020 at 8:47 PM

To: Rebecca Petersen <rebecca_petersen@wrsd.net>

----- Forwarded message -----

From: **Anne Ehrenworth** <anne.ehrenworth@gmail.com>

Date: Tue, May 26, 2020 at 8:33 PM

Subject: Transportation reimbursement

To: questions@wrsd.net <questions@wrsd.net>

Regional transportation for FY 20 was funded at 84% which is more than likely significantly higher than budgeted for. Have we seen any additional funds from this reimbursement? If so are there plans to move it into a transportation fund to have it available first thing for FY 21?

--

Anne Ehrenworth

10 Carly Circle

Rutland, MA 01543

(508)886-2574

--

Kenneth Mills

Chair,

Wachusett Regional School District Committee

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ATTACHMENT E
AMENDMENT
Between the
WACHUSETT REGIONAL SCHOOL DISTRICT
and
AA Transportation Inc. of Shrewsbury, MA

This Amendment is entered into between the Wachusett Regional School District, acting through its Superintendent and the Chair of its School Committee, (hereinafter, the “Wachusett Regional School District” or the “District”) on the one hand, and AA Transportation Co., Inc., on the other hand, (collectively referred to as the “Parties”) on this 20th day of May, 2020 to amend the Contract for School Transportation dated June 19, 2018 (hereinafter “Agreement”). It is intended to memorialize certain commitments by the Parties as outlined herein.

WHEREAS, on March 10, 2020, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID19”); and,

WHEREAS, Charles D. Baker, Governor of the Commonwealth of Massachusetts, ordered that all public and private elementary and secondary (K-12) schools in the Commonwealth, excluding residential and day schools for special needs students, shall suspend all normal, in-person instruction and other educational operations at the end of the school day on Monday, March 16, 2020 and shall not re-open for normal operations before Monday, June 29, 2020 (hereinafter the “Governor’s Mandatory Closure”); and,

WHEREAS, the Wachusett Regional School District recognizes that these unprecedented times involving COVID-19 and the attendant Governor’s Mandatory Closure will impact certain uniquely positioned vendors that primarily are in operation to support the Wachusett Regional School District; and,

WHEREAS the Wachusett Regional School District are parties to a contract with AA Transportation Co., Inc. to provide transportation to certain of the District’s students. Although the bus drivers and other support personnel associated with the Agreement are employees of AA Transportation Co., Inc., such employees play an integral role in the transportation of District students and are instrumental in the orderly operation of the District on a daily basis when school is in session; and,

WHEREAS it is the shared desire of the signatories to this Amendment that the bus drivers and other support personnel employed by AA Transportation Co., Inc. and who are regularly assigned to work transporting the District’s students have been furloughed during the period of the Governor’s Mandatory Closure be compensated as provided herein; and,

WHEREAS it is recognized that Massachusetts General Laws, Chapter 41, Section 56 only allows for the payment of services actually rendered to the Town; and,

NOW, THEREFORE, in an effort to establish some general commitments between the Parties during this period of uncertainty, the Wachusett Regional School District and AA Transportation Co., Inc. mutually agree to the following:

1. This Amendment modifies the current Agreement for School Transportation Services in place during the Governor's Mandatory Closure. All other provisions of that Agreement remain in effect.
2. AA Transportation Co., Inc. will give notice to and re-employ all drivers and support personnel and make buses, bus drivers and all other support personnel available to the Wachusett Regional School District to provide transportation services as may be needed during the Governor's Mandatory Closure. It is further expected that AA Transportation Co., Inc. will adhere to recommendations around issues of social-distancing and maximum assembly of persons issued by the Governor in connection with the transportation pursuant to this paragraph.
3. AA Transportation Co., Inc. will "make whole" from a wage and benefit standpoint (the "Make Whole Wages and Benefits") all bus drivers and support personnel in support of this contract retroactively to the first official school closure date of March 17, 2020 and forward through the end of the 2019-2020 regular school year as defined by the District's school calendar. For purposes of this Agreement, Make Whole Wages and Benefits will be based on average weekly regular route wages and charter wages paid during the month of February 2020, and benefits provided and subject to such terms and conditions hereof as of February 2020.
4. AA Transportation Co., Inc. agrees to indemnify and hold the Wachusett Regional School District harmless in connection with its transportation pursuant to Paragraph 2 above and any litigation or damages arising therefrom. AA Transportation Co., Inc. also agrees to maintain liability insurance, in at least the same coverage amount and under the same terms that it maintains pursuant to the Agreement, on all buses to be utilized in connection with the transportation of individuals as outlined in Paragraph 2 above.
5. The Wachusett Regional School District will pay AA Transportation Co., Inc. the per bus daily rate of \$328.84 for each school day that school is closed during the Governor's Mandatory Closure for "Home-to-School" buses and vans under contract. This amount represents seventy-five percent [75%] of the daily contractual cost for student transportation (i.e. "Home-to-School") based on current vehicle usage between the Wachusett Regional School District and AA Transportation Inc. pursuant to the Agreement. No other services such as field trips, athletics, special charters, or bus/van monitors will be billed or paid for during the school closure period.
6. AA Transportation Co., Inc. agrees as a condition of its receipt of the payments outlined herein at Paragraph 5 above that it will pay all employees assigned to the Wachusett

School District contract average weekly regular route wages and charter wages paid during the month of February 2020 of all such employees. AA Transportation Inc. agrees to furnish evidence of these payments, by individual, if requested by the Wachusett Regional School District.

7. By making this agreement and as a condition of its receipt of the payments outlined herein at Paragraph 5 above, AA Transportation Co., Inc. does not give up its right to apply for COVID-19 federal stimulus relief funds for which it might be eligible. Both parties acknowledge and understand that under no circumstance is it intended that AA Transportation Co., Inc. receive both payments from the Wachusett Regional School District, other school districts and customers and federal stimulus funds that would exceed the total revenue that AA Transportation Co., Inc. would otherwise receive under normal operations had the Governor's Mandatory Closure not occurred. As such, AA Transportation Co., Inc. hereby notifies the district that the company has applied for an SBA loan under the CARES act. AA Transportation Co., Inc. will notify the district upon receipt of notification of forgiveness of any portion of said CARES act loan or receipt of any other similar stimulus grant. Further, if the federal stimulus forgiveness or such other grant and or forgiveness received by AA Transportation in combination with the payments agreed upon in Paragraph 5 above received from the Wachusett Regional School District, other school districts and other customers exceed what would have totaled expected revenue had the Governor's Mandatory Closure not occurred,, then AA Transportation Co., Inc. agrees it will return such overpayments to the Town/District as either a cash payment or credit towards future services as agreed upon by the Town/District and AA Transportation on a pro rata percentage basis.
8. AA Transportation Co., Inc. acknowledges that this agreement is contingent on authority being granted to the Wachusett Regional School District to make the payments outlined herein at Paragraph 4 above. In the event that a determination is made or opinion rendered that such payments are not permissible or lawful under state, federal or local laws, regulations, or ordinances, whether issued by a court of competent jurisdiction or appropriate governmental agency or legal representative, the obligation to make such payments shall cease and this Amendment shall become null and void with no further recourse to AA Transportation Co., Inc. In addition, in the event that a determination is made or opinion rendered that such payments are not permissible or lawful under state, federal or local laws, regulations, or ordinances, whether issued by a court of competent jurisdiction or appropriate governmental agency or legal representative, any payments made hereunder shall be credited back to the Wachusett Regional School District for purposes of satisfying charges associated with any future services provided by the Wachusett Regional School District under the Agreement. In the event this Amendment shall become null and void as provided in this Paragraph, then and all claims that AA Transportation Co., Inc.'s may have under the Contract for School Transportation dated June 19, 2018 shall be fully restored.
9. It is agreed by the Wachusett Regional School District and AA Transportation Co., Inc. that this Amendment and its terms are only effective for the duration of the Governor's Mandatory Closure (i.e., end of school on Monday, March 16, 2020 through reopening

for normal operations no sooner than June 30, 2020), and any extension of the Governor's Mandatory Closure as specifically ordered by the Governor. This Amendment and its terms do not apply to any period beyond the Governor's Mandatory Closure, even if voluntarily imposed by the Wachusett Regional School District. Further, in the event that either federal or state legislation [not guidance] is subsequently enacted relating to the payments to public school transportation providers prior to June 29, 2020, then this Agreement shall be nullified and both parties will act in accordance with the new legislation and its terms and any related regulations.

10. AA Transportation Co., Inc. shall submit an invoice pursuant to this agreement to the Wachusett Regional School District in the amount of \$328.84 daily rate (75% of original daily rate) for each school day during the Governor's Mandatory Closure. Payment shall not be made for weekend days or other days that the Wachusett Regional School District would not be in session (i.e., non-school days, holidays, school vacation, etc.) in accordance with the Wachusett Regional School District 2019-2020 School Calendar which occur during the Governor's Mandatory Closure or any extension specifically ordered by the Governor. Such invoices shall include language such as; *"Maintaining bus fleet equipment, staff, facilities, and all related operations in a readiness status at the disposal of the District during Covid-19 School Closure"* so as accurately capture the rationale for such payment.

11. This Amendment does not establish any precedent nor is it any guarantee that the same commitments will be made under similar circumstances in the future.

This agreement is made on this 20th day of May 2020.

Print Name _____ Signature _____
For the Wachusett Regional School District

Print Name _____ Signature _____
For AA Transportation Inc.

ATTACHMENT F
AMENDMENT
Between the
WACHUSETT REGIONAL SCHOOL DISTRICT
and
AA Transportation Inc. of Shrewsbury, MA

This Amendment is entered into between the Wachusett Regional School District, acting through its Superintendent and the Chair of its School Committee, (hereinafter, the “Wachusett Regional School District” or the “District”) on the one hand, and AA Transportation Co., Inc., on the other hand, (collectively referred to as the “Parties”) on this 20th day of May, 2020 to amend the Contract for SPED, In-District Transportation dated July 1, 2019 (hereinafter “Agreement”). It is intended to memorialize certain commitments by the Parties as outlined herein.

WHEREAS, on March 10, 2020, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID19”); and,

WHEREAS, Charles D. Baker, Governor of the Commonwealth of Massachusetts, ordered that all public and private elementary and secondary (K-12) schools in the Commonwealth, excluding residential and day schools for special needs students, shall suspend all normal, in-person instruction and other educational operations at the end of the school day on Monday, March 16, 2020 and shall not re-open for normal operations before Monday, June 29, 2020 (hereinafter the “Governor’s Mandatory Closure”); and,

WHEREAS, the Wachusett Regional School District recognizes that these unprecedented times involving COVID-19 and the attendant Governor’s Mandatory Closure will impact certain uniquely positioned vendors that primarily are in operation to support the Wachusett Regional School District; and,

WHEREAS the Wachusett Regional School District are parties to a contract with AA Transportation Co., Inc. to provide transportation to certain of the District’s students. Although the bus drivers and other support personnel associated with the Agreement are employees of AA Transportation Co., Inc., such employees play an integral role in the transportation of District students and are instrumental in the orderly operation of the District on a daily basis when school is in session; and,

WHEREAS it is the shared desire of the signatories to this Amendment that the bus drivers and other support personnel employed by AA Transportation Co., Inc. and who are regularly assigned to work transporting the District’s students have been furloughed during the period of the Governor’s Mandatory Closure be compensated as provided herein; and,

WHEREAS it is recognized that Massachusetts General Laws, Chapter 41, Section 56 only allows for the payment of services actually rendered to the Town; and,

NOW, THEREFORE, in an effort to establish some general commitments between the Parties during this period of uncertainty, the Wachusett Regional School District and AA Transportation Co., Inc. mutually agree to the following:

1. This Amendment modifies the current Agreement for School Transportation Services in place during the Governor's Mandatory Closure. All other provisions of that Agreement remain in effect.
2. AA Transportation Co., Inc. will give notice to and re-employ all drivers and support personnel and make buses, bus drivers and all other support personnel available to the Wachusett Regional School District to provide transportation services as may be needed during the Governor's Mandatory Closure. It is further expected that AA Transportation Co., Inc. will adhere to recommendations around issues of social-distancing and maximum assembly of persons issued by the Governor in connection with the transportation pursuant to this paragraph.
3. AA Transportation Co., Inc. will "make whole" from a wage and benefit standpoint (the "Make Whole Wages and Benefits") all bus drivers and support personnel in support of this contract retroactively to the first official school closure date of March 17, 2020 and forward through the end of the 2019-2020 regular school year as defined by the District's school calendar. For purposes of this Agreement, Make Whole Wages and Benefits will be based on average weekly regular route wages and charter wages paid during the month of February 2020, and benefits provided and subject to such terms and conditions hereof as of February 2020.
4. AA Transportation Co., Inc. agrees to indemnify and hold the Wachusett Regional School District harmless in connection with its transportation pursuant to Paragraph 2 above and any litigation or damages arising therefrom. AA Transportation Co, Inc. also agrees to maintain liability insurance, in at least the same coverage amount and under the same terms that it maintains pursuant to the Agreement, on all buses to be utilized in connection with the transportation of individuals as outlined in Paragraph 2 above.
5. The Wachusett Regional School District will pay AA Transportation Co., Inc. the per vehicle daily rate of \$144.99 for mini vans, \$176.00 for 8-passenger vans, and \$166.05 for wheelchair vans for each school day that school is closed during the Governor's Mandatory Closure for "SPED In District" vans under contract. This amount represents seventy-five percent [75%] of the daily contractual cost for student transportation (i.e. "SPED In District") based on current vehicle usage between the Wachusett Regional School District and AA Transportation Inc. pursuant to the Agreement. No other services such as field trips, athletics, special charters, or bus/van monitors will be billed or paid for during the school closure period.

6. AA Transportation Co., Inc. agrees as a condition of its receipt of the payments outlined herein at Paragraph 5 above that it will pay all employees assigned to the Wachusett School District contract average weekly regular route wages and charter wages paid during the month of February 2020 of all such employees. AA Transportation Inc. agrees to furnish evidence of these payments, by individual, if requested by the Wachusett Regional School District.
7. By making this agreement and as a condition of its receipt of the payments outlined herein at Paragraph 5 above, AA Transportation Co., Inc. does not give up its right to apply for COVID-19 federal stimulus relief funds for which it might be eligible. Both parties acknowledge and understand that under no circumstance is it intended that AA Transportation Co., Inc. receive both payments from the Wachusett Regional School District, other school districts and customers and federal stimulus funds that would exceed the total revenue that AA Transportation Co., Inc. would otherwise receive under normal operations had the Governor's Mandatory Closure not occurred. As such, AA Transportation Co., Inc. hereby notifies the district that the company has applied for an SBA loan under the CARES act. AA Transportation Co., Inc. will notify the district upon receipt of notification of forgiveness of any portion of said CARES act loan or receipt of any other similar stimulus grant. Further, if the federal stimulus forgiveness or such other grant and or forgiveness received by AA Transportation in combination with the payments agreed upon in Paragraph 5 above received from the Wachusett Regional School District, other school districts and other customers exceed what would have totaled expected revenue had the Governor's Mandatory Closure not occurred, then AA Transportation Co., Inc. agrees it will return such overpayments to the Town/District as either a cash payment or credit towards future services as agreed upon by the Town/District and AA Transportation on a pro rata percentage basis.
8. AA Transportation Co., Inc. acknowledges that this agreement is contingent on authority being granted to the Wachusett Regional School District to make the payments outlined herein at Paragraph 4 above. In the event that a determination is made or opinion rendered that such payments are not permissible or lawful under state, federal or local laws, regulations, or ordinances, whether issued by a court of competent jurisdiction or appropriate governmental agency or legal representative, the obligation to make such payments shall cease and this Amendment shall become null and void with no further recourse to AA Transportation Co., Inc. In addition, in the event that a determination is made or opinion rendered that such payments are not permissible or lawful under state, federal or local laws, regulations, or ordinances, whether issued by a court of competent jurisdiction or appropriate governmental agency or legal representative, any payments made hereunder shall be credited back to the Wachusett Regional School District for purposes of satisfying charges associated with any future services provided by the Wachusett Regional School District under the Agreement. In the event this Amendment shall become null and void as provided in this Paragraph, then and all claims that AA Transportation Co., Inc.'s may have under the Contract for School Transportation dated June 19, 2018 shall be fully restored.

9. It is agreed by the Wachusett Regional School District and AA Transportation Co., Inc. that this Amendment and its terms are only effective for the duration of the Governor's Mandatory Closure (i.e., end of school on Monday, March 16, 2020 through reopening for normal operations no sooner than June 30, 2020), and any extension of the Governor's Mandatory Closure as specifically ordered by the Governor. This Amendment and its terms do not apply to any period beyond the Governor's Mandatory Closure, even if voluntarily imposed by the Wachusett Regional School District. Further, in the event that either federal or state legislation [not guidance] is subsequently enacted relating to the payments to public school transportation providers prior to June 29, 2020, then this Agreement shall be nullified and both parties will act in accordance with the new legislation and its terms and any related regulations.
10. AA Transportation Co., Inc. shall submit an invoice pursuant to this agreement to the Wachusett Regional School District the daily rate of \$144.99 for mini vans, \$176.00 for 8-passenger vans, and \$166.05 for wheelchair vans (75% of original daily rate) for each school day during the Governor's Mandatory Closure. Payment shall not be made for weekend days or other days that the Wachusett Regional School District would not be in session (i.e., non-school days, holidays, school vacation, etc.) in accordance with the Wachusett Regional School District 2019-2020 School Calendar which occur during the Governor's Mandatory Closure or any extension specifically ordered by the Governor. Such invoices shall include language such as; *"Maintaining bus fleet equipment, staff, facilities, and all related operations in a readiness status at the disposal of the District during Covid-19 School Closure"* so as accurately capture the rationale for such payment.
11. This Amendment does not establish any precedent nor is it any guarantee that the same commitments will be made under similar circumstances in the future.

This agreement is made on this 20th day of May 2020.

Print Name _____ Signature _____
For the Wachusett Regional School District

Print Name _____ Signature _____
For AA Transportation Inc.



Todd & Weld LLP

Howard M. Cooper
hcooper@toddweld.com

May 22, 2020

BY EMAIL

Daniel Deedy, Director of Business & Finance
1745 Main St.
Jefferson, MA 01522
Daniel_deedy@wrsd.net

Re: Payment on STAM Contracts During School Closures Due to COVID-19 Pandemic

Dear Mr. Deedy:

Todd & Weld LLP is counsel to the School Transportation Association of Massachusetts ("STAM"). As you know, STAM is a non-profit trade association whose constituent members are responsible for providing transportation services for students attending public schools throughout Massachusetts. Given the extraordinary difficulties currently being caused by the ongoing pandemic and resulting emergency school closures, STAM members find themselves standing by ready, willing and able to resume services as required by their contracts, yet not being paid or reimbursed for the very substantial expense in doing so. Accordingly, STAM has asked our firm to examine the questions of: (i) the entitlement of STAM's constituent members to be paid under the current circumstances, and (ii) whether cities and towns may make the required payments to STAM members consistent with G.L. c. 41, sec. 56. For the reasons discussed below, we believe that STAM members are currently entitled to be paid under their contracts and that G.L. c. 41, sec. 56 does not present a lawful or proper prohibition to municipalities which are required to make payment given the current conditions caused by the pandemic.

First, some brief background. We are informed that it is undisputed that STAM members have remained and continue to remain ready, willing, and able to provide transportation services to students across the Commonwealth and would be doing so absent the Governor's orders closing schools and then extending the closure. We note that in some districts, buses have been transporting lunches to children, as well as a few other minor exceptions in which buses are providing services. Nevertheless, buses have otherwise not been running now for nearly two (2) months. Despite this, under their contracts STAM members remain required to stay in a position to timely provide transportation as soon as school is back in session which, in turn, means that they must continue, among other things, to maintain a full work force of properly vetted drivers, maintain equipment, maintain insurance, pay vehicle registration fees, pay local excise taxes, and continue to incur all other required expenses necessary to be in compliance with their contracts.



Despite the ongoing and substantial costs being incurred by STAM members, cities and towns have refrained from making payment to STAM members out of concern that their doing so would somehow violate G.L. c. 41, § 56 (“the Statute”).¹ As you are aware, the Statute, by its plain language, prohibits payments by municipalities to a contractor absent a determination that the services charged for by the contractor were actually ordered and have been rendered. The Statute is thus a perfectly logical prohibition designed to avoid corruption. As is apparent from its plain language, however, the Statute is nowhere directed to the extraordinary circumstances in which we all find ourselves today and nowhere excuses a municipality from making payment for services actually ordered and rendered.

I. STAM Members Have Continued and Are Continuing to “Render” Services “Ordered” By Municipalities Under the Parties’ Contracts.

Although each contract between a STAM member and a municipality stands on its own language, there are numerous provisions and requirements about services to be provided which are included in all contracts. These requirements extend far beyond the transportation of students. In fact, STAM members are contractually required to “render” services every day whether or not students are transported to and from school. For example, the companies must maintain insurance at a certain amount. They must hire and train drivers as well as perform background checks on them. They must maintain their fleet of vehicles. They are required to keep expensive performance bonds in place. Many cities and towns require the vehicles to be garaged within the district or otherwise be available within thirty (30) minutes in order to be able to respond to an emergency. The contracts required by some cities and towns go so far as to require the STAM member to “give its attention *constantly* to the faithful performance of the work.” See Lowell Contract at § 12 (emphasis supplied). All of these requirements are vital services that enable the bus companies to remain in a position to drive students to and from school as required by the parties’ bid documents and contracts which incorporate those documents.

There is no doubt that the municipalities “ordered” these services. The contracts between STAM members and the municipalities all contain requirements concerning the availability of buses and qualified background checked drivers, the maintenance of insurance policies and public bonds at certain amounts, and the maintenance of equipment in conformance with outlined specifications. Any payment under the contracts is expressly conditioned on the performance of these services. To the extent not set forth in the contracts themselves, many municipalities explicitly incorporate all bid documents into their agreements, and those bid

¹ The Statute states, in relevant part: “The selectmen and all boards, committees, heads of departments and officers authorized to expend money shall approve and transmit to the town accountant as often as once each month all bills, drafts, orders and pay rolls chargeable to the respective appropriations of which they have the expenditure ... Such approval shall be given only after an examination to determine that the charges are correct and that the goods, materials or services charged for were ordered and that such goods and materials were delivered and that the services were actually rendered to or for the town as the case may be....” G.L. c. 41, § 56 (emphasis added).



documents, in turn, set forth numerous required services. *See, e.g.*, Wilmington Invitation for Bids (“IFB”) § 1.16 (“The contract...shall include the furnishing of all services necessary and required, consisting of, but not limited to, the following in general: transportation equipment, maintenance of equipment, operation, supervision, safety instructions to drivers and help with instructions to riders, inspections, registration, conformance to all applicable laws, rules, and regulations of the Commonwealth of Massachusetts, Department of Motor Vehicles, and policies of the School Committee during the term of this contract.”); Somerville IFB, § 6.2 (“The contract prices shall include the cost of everything furnished, done by, or resulting to the Contractor, including without limitation, gasoline, garaging, oil, grease, repairs, wages of drivers, taxes, fees, toll, licenses, permits, certificates, insurance costs, cleaning, overhead and such other charges as are needed in connection with the contract work and to keep the vehicles properly equipped and in good operating condition.”); Burlington IFB, § 1.1 (“The bidder...shall include the furnishing of all services necessary and required, consisting of and not limited to the following: transportation drivers, transportation equipment, maintenance of equipment, operation, supervision, inspection, registration, licensing, insurance and conformance to all applicable laws, rules, and regulations of the Commonwealth of Massachusetts, Department of Motor Vehicles, Department of Public Utilities, Town of Burlington and the District School Committee.”); Chelmsford IFB § II(A)(5) (“The successful bidder shall provide the following: Transportation equipment, maintenance of equipment, fuel, oil, tires, emergency servicing of equipment, duly licensed operators, supervision and monitoring of employees, inspection, registration, licensing, insurance and in general conformance to all applicable laws, rules and regulations of the Commonwealth of Massachusetts, the Department of Elementary and Secondary Education, the Registry of Motor Vehicles, the Town of Chelmsford and/or its School Committee and any and all other regulating agencies with jurisdiction over the transportation of school children.”). Therefore, the payment rates in each contract incorporate compensation not just for the actual transportation of students but also for the whole host of other services that cities and towns have contracted with STAM members to provide.

Put simply, STAM members have continued and will continue to provide actual services under their contracts throughout this crisis as ordered by the municipalities, and these services have been actually rendered. There is no carve-out to the “constant” nature of the requirements imposed by their contracts even in an emergency.

II. The Statute Does Not Prohibit Payment to STAM Members for Services Provided.

The Statute does not prohibit payment by the municipalities to STAM members for services ordered and provided. In its’ plain language, the Statute requires only that municipalities expend money after approval by the municipal accountant each month, and that “[s]uch approval shall be given only after an examination to determine that the charges are correct and that the goods, materials or services charged for were ordered and that such goods and materials were delivered and that the services were actually rendered to or for the town as the case may be....” As discussed above, STAM members continue to provide ordered services and there is no reason whatsoever that the necessary administrative approval should not be forthcoming.



Indeed, a review of the Governor's school closure orders and the law applicable here confirms STAM members entitlement to payment and the lack of any barrier for a municipality to make payment.

On March 10, 2020, Governor Baker declared a State of Emergency. Four days later, on March 14th, he announced that Massachusetts schools would be temporarily closed to promote social distancing in light of the COVID-19 pandemic. On April 24, 2020, the Governor announced that the closures would remain in effect through the end of the school year. The April 24th order currently permits in-person summer classes to commence no earlier than June 29, 2020. Nowhere in Governor Baker's orders does he excuse municipalities from their contractual obligations. Nowhere in his emergency orders does he excuse STAM members from being ready to resume transportation of students or from performing any of the services called for under their agreements.

Nor would such an order be lawful or proper under existing contract law. Implicit in every contract between a STAM member and a municipality is an implied covenant of good faith and fair dealing which includes that the municipality will not create a situation whereby the STAM member incurring costs to stay ready, willing, and able to perform, is denied payment for the services they are rendering. Likewise, the implied covenant of good faith and fair dealing prohibits the municipality from creating a situation where the STAM member can no longer perform. Here, the failure to make payment as required will likely render the STAM member unable to continue to perform and may very well put the member out of business altogether. The implied covenant prohibits the municipalities from taking such action that would ultimately deny STAM members the benefits of the bargains they have entered into with the municipalities. The contracts, of course, are subject to Massachusetts law, including the Statute. But as a matter of law the Statute cannot be read in a manner which would actually inhibit STAM members from rendering services which they are ready, willing and able to provide so long as payment is not improperly withheld.

It is worth noting that any interpretation of the Governor's orders as forgiving, suspending or even delaying the municipalities' payment obligations under their agreements with STAM members would likely be unconstitutional under the Contract Clause of the United States Constitution. The Contract Clause prohibits the government from substantially interfering with obligations under contracts. U.S. CONST. art. I, § 10 ("No State shall...pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility."). It applies to both private and public contracts. *U.S. Tr. Co. of New York v. New Jersey*, 431 U.S. 1, 17 (1977) ("It long has been established that the Contract Clause limits the power of the States to modify their own contracts as well as to regulate those between private parties."). When the government's own obligations are altered, as here, the level of scrutiny through which the impairment is evaluated is heightened.

In evaluating whether a law violates the Contract Clause, courts first undertake a threshold inquiry to determine whether the contractual obligation has been severely impaired. "In answering that question, the Court has considered the extent to which the law undermines the



contractual bargain, interferes with a party's reasonable expectations, and prevents the party from safeguarding or reinstating his rights." *Sveen v. Melin*, 138 S. Ct. 1815, 1822 (2018). The application of these principles here makes it clear that excusing payment by municipalities for services ordered and rendered would be improper. When the contracts at issue here were executed, STAM members expected to provide transportation and receive payment for at least the 180 days that each school year is required to be in session. *See* 603 CMR 27.03(3) ("Every school committee shall operate the schools within its district at least 180 school days in a school year."). Even if there were snow days on which buses did not run, school systems are required by law to build an additional five days into the school year to make up for those days off. *See* 603 CMR 27.03(2) ("Every school committee shall schedule a school year which includes at least 185 school days at each elementary, middle, and secondary school within the school district."). Therefore, STAM members operate with a legitimate expectation that they will be paid for all contemplated 180 days. If read to forgive or delay payment, Governor Baker's orders would improperly upend the reasonable expectations of the parties at the time of contracting and impermissibly impair the parties' contracts.

III. STAM Members Should Continue to Be Paid During the Pandemic as a Matter of Sound Public Policy.

STAM members provide a vital service to the Commonwealth and its school systems. Putting them in a position where the viability of their businesses is threatened makes no sense and risks creating a situation where transportation for all students once the pandemic passes will not be available. Again, STAM members have thousands of drivers on their payrolls, many of whom will have to be let go if they do not receive the payments they are due from municipalities. Even with potentially available federal payroll aid, STAM members will be unable to retain all of their staff and drivers cannot simply be hired the day before school is back in session given the required vetting process. Similarly, vehicle registrations, local excise taxes, insurance, performance bonds are expensive to maintain, and if they lapse due to nonpayment, STAM members will not be ready to get back on the roads until they are reinstated.

For all of these reasons, we believe that the municipalities must timely pay for ongoing services being provided, that it would be contrary to the law to read the Statute, either alone or in combination with Governor Baker's orders, as somehow prohibiting payment, and that sound public policy dictates that STAM members not be forced out of business.

We would be pleased to discuss this important matter with you.

Very truly yours,

Howard M. Cooper



Todd & Weld LLP

May 22, 2020
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cc: The Honorable Charles Baker
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