



East Greenwich Public Schools

111 Peirce Street ■ East Greenwich, RI 02818

Dr. Brian G. Ricca
Superintendent of Schools

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January 23, 2024

Via Electronic Mail

Commissioner Angélica Infante-Green
Rhode Island Department of Education
Shepard Building
255 Westminster Street
Providence, RI 02903

Re: Request for Declaratory Order Concerning Control Over School Building Project

Dear Commissioner Infante-Green:

Please be advised, that on behalf of the East Greenwich School Committee (hereinafter “School Committee”), I am requesting a Declaratory Order from your office determining that the East Greenwich School Committee, not the East Greenwich Town Council, has the ultimate control over the scope and direction of an extensive school building project.

The East Greenwich School District (the “School District”) has received RIDE Stage I approval for an upcoming school building project that is to include a new construction of Frenchtown Elementary School (Grades 1-5); a new construction of Hanaford Elementary School (Grades 1-5); a significant renovation/addition to Meadowbrook Elementary School (Grades PK-K); and additional improvements to East Greenwich High School. The Stage I process was overseen by a School Building Committee, appointed pursuant to RIDE School Construction Regulations, and consisting of thirteen members including three members of the School Committee as well as the Superintendent and other members of School District administration.

Subsequently, the General Assembly passed standard legislation authorizing the Town of East Greenwich to issue bonds in a principal amount not to exceed \$180M to finance the project.

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See, 2023 – H 6376, a copy of which is attached hereto as Exhibit 1. The School Committee acknowledges that Section 3 of this legislation provides as follows:

The town shall appoint a school building committee in accordance with RIDE School Construction Regulations § 4.9.2. The projects shall be carried out and all contracts made therefor on behalf of the town by the town council, or the town council may delegate such authority to the school building committee, the school construction committee, or to the town school committee.

It is the School Committee’s understanding, in light of a Memorandum dated January 5, 2024, and drafted by the East Greenwich Town Manager (a copy of which is attached hereto as Exhibit 2), as well as certain correspondence directed to the Superintendent, that the Town Council intends to rely upon the above-quoted legislative provision to exert improper control over the school building project.

In particular, the Town Council is considering the dissolution of the current School Building Committee and the creation of a new Construction Committee to be appointed by the Town Council that is beholden to the Town and controlled by the Town. As currently proposed, there will be more seats held by Town Council members than School Committee members. In fact, the number of proposed seats to be held by Town Council members, Town officers, and residents to be appointed directly by the Town Council, exceeds that to be held by the School Committee and other School Department administrators. This will enable the Town Council to control the school building project in derogation of the authority and responsibilities of the School Committee as set forth in General Laws Section 16-2-9 and other applicable school construction laws and regulations.

The Memorandum interjects the Town as a party to the post-Stage II Memorandum of Agreement and proposes the delegation of the responsibility for the school building project, including its oversight, to this Construction Committee. This will effectively provide the Town Council with full authority over the scope and direction of said project. The Town Council’s intent is evident by its proposed charge to this Construction Committee which includes the following specific functions:

5. Select and Recommend for Award all contracts involving Architects and/or Engineering firms to develop addressing the school building plans through a public Request for Proposal process that adheres to all Town bid policies and procedures. . . . The Construction Committee, in coordination with *Town Legal Counsel*, shall negotiate a contract to be entered into by the Town and said firm(s) subject to the approval of the Town Council.

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9. The [Construction] committee shall approve the final plans, specifications, bid documents, and contract documents for the School Building Project, as delegated to them by the Town Council, while others may remain in the form of a recommendation to the Town Council for their consideration and approval.

11. Provide recommendation to the *Town Council* seeking Authorization for the start of construction of the School Building Project.

20. Upon completion of the project, the Construction Committee shall make a complete and final report to the *Town Council* and other Public Bodies and Local and State Agencies, as required....

See, Exhibit 2, pp. 4, and 10-12 (emphasis added).

Through the Town Council's proposed charge, the School Committee is rendered an afterthought - to be kept informed of progress, but given no authority to provide for and resolve what it determines to be the educational needs of the School Department. The School Committee asserts that the Town Council's delegation of authority to a School Construction Committee as proposed, unlawfully undermines its own well-established authority and responsibilities.

As the Commissioner is well aware, General Laws Section 16-2-9, vests "the entire care, control, and management of all public school interests" with the School Committee, and bestows upon it a number of specific powers and duties including:

- (1) To identify educational needs in the community.
....
- (2) To provide for and ensure the implementation of federal and state laws, the regulations of the council on elementary and secondary education, and local school policies, programs, and directives.
....
- (5) To have responsibility for the care and control of local schools.
....
- (8) To provide for the location, care, control, and management of school facilities and equipment.
....
- (18) To enter into contracts. . . .

Thus, the prominent position in the determination of the scope and direction of any school building project adheres to the School Committee. Any ambiguity to this point is

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dispelled in the applicable school construction statutes and regulations. For example, General Laws Section 16-7-41.1(a) states: “School districts, *not municipalities*, may apply for and obtain approval for a project under the necessity of school construction process set forth in the regulations of the council on elementary and secondary education” *Id.* (emphasis added). This statute also provides: “A project for new school housing or additional housing shall be deemed to be completed when the work has been officially accepted by the school committee or when the housing is occupied for its intended use by the school committee, whichever is earlier.”

Moreover, the Council’s School Construction Regulations clearly place the authority and responsibility for a school building project on the School Committee. Section 4.3 thereof clearly defines an “Applicant” as “the school district and the superintendent or other chief administrative agent of the district, regional district, or charter school.” Pursuant to Section 4.9.3(6)(b), following Stage II approval, a Memorandum of Agreement is required – “The Superintendent, or other chief administrative officer of the District, as well as all members of the School Committee must sign the agreement.” The regulatory structure clearly assumes that the School District, by and through its School Committee, is the entity responsible for the school building project.

For the reasons set forth above, the School Committee respectfully requests a Declaratory Order pursuant to R.I. Gen. Laws § 42-35-8, resolving the following:


1. The School Committee is responsible for the scope, nature, and management of school building projects.
2. To what extent is the Town Council permitted to exert authority over a school building project pursuant to the afore-referenced Bond Act legislation?
3. The Town Council is not an appropriate, party to the Memorandum of Agreement required under Section 4.9.3(6)(b) of the School Construction Regulations.
4. The Town Council is not entitled to dissolve the current School Building Committee that was duly appointed pursuant to Section 4.9.2 of the School Construction Regulations, and create a new Construction Committee as proposed in the attached Memorandum.
5. If Town Council appointment of the new proposed Construction Committee is permissible, the School Committee has the authority to select which of its member(s) will serve thereon.
6. The proposed charge to the Construction Committee set forth in the attached Memorandum improperly vests control of the school building project with the Town Council.
7. Paragraph 5 of the proposed charge, empowering the Town Legal Counsel, in cooperation with said Construction Committee, to negotiate school building contracts for the approval of the Town Council, without any input or say from the School Committee, is not lawful.

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8. Paragraph 9 of the proposed charge, effectively vesting all authority over the final plans, specifications, bid documents, and contract documents to the Construction Committee as delegated by the Town Council with further approval authority by the Town Council, all with the exclusion of the School Committee, is not lawful.
9. Paragraph 11 of the proposed charge, vesting authorization to start the school building project with the Town Council, is not lawful.

Thank you for your consideration of this request.

Sincerely,

Dr. Brian G. Ricca
Superintendent of Schools
East Greenwich Public Schools

cc: Aubrey Lombardo, Esq.
Michael J. Polak, Esq.

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