



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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November 17, 2000
GL-00-26

By Fax and First Class Mail

Dr. Alfred Tutela, Superintendent
Wachusett Regional School District
P.O. Box 1097
Princeton, MA 01541-1097

Re: Distribution of information regarding December 19 election

Dear Dr. Tutela:

This letter is in response to your November 14, 2000 fax to Director of Public Information Denis Kennedy. Because you have asked for an expedited response, I have been asked to reply.

You have stated that on December 19 voters in Holden, Paxton, Princeton, Rutland, and Sterling will be asked to approve two ballot questions to fund architectural, engineering, land purchase and other costs in connection with a proposed school renovation and expansion project.

You would like to distribute a district newsletter to residents which would contain a part of the text of each of the two questions and also would provide background information regarding each of the two questions, would encourage residents to vote, stating "[p]lease don't leave to others the future of the high school. Vote on December 19th." In addition the newsletter would state that "Based upon the careful review of the needs for renewal of the high school facility, the Wachusett Regional School Committee has voted to propose two articles for approval at a special election on December 19. The special election Articles proposed by the School committee are explained within this issue."

The newsletter would also state that in Holden residents "are encouraged to lend their support to the district's students at the special town meeting to be held on December 20 Holden citizens are asked to give their permission to the district to purchase property next to the high school for future educational uses." Holden is the only town within the district having a town meeting relating to a proposed expenditure; the other towns within the district will not be having town meetings.

The newsletter discusses other issues of interest to readers, e.g., holiday events, test



results, and enrollment projections and education reform.

Question: You have asked if the school district may, using public resources, distribute the proposed December 2000 edition of its "District Pride" newsletter to residents of the five towns in the district.

Answer: No. The newsletter may be revised, however, to ensure compliance with the campaign finance law.

Discussion:

In Anderson v. City of Boston, 376 Mass. 178 (1978), appeal dismissed, 439 U.S. 1069 (1979), the Supreme Judicial Court concluded that the City of Boston could not appropriate funds, or use funds previously appropriated for other purposes, to influence a ballot question submitted to the voters at a state election. The court stated that "the Legislature may decide, as it has, that fairness in the election process is best achieved by a direction that political subdivisions of the State maintain a 'hands off' policy." 376 Mass. at 195. The court also noted that the campaign finance law demonstrates an intent "to assure fairness of elections and the appearance of fairness in the electoral process" and that the law should be interpreted as prohibiting the use of public funds "to advocate a position which certain taxpayers oppose." 376 Mass. at 193-195.

Accordingly, this office has concluded that governmental entities should not expend public resources, including staff time (such as the time of teachers), or contribute anything of value, including paper, copying or postage, in support of or opposition to a state or local ballot question. In addition, public resources may not be used to distribute *even admittedly objective information* to voters concerning the substance of a ballot question unless expressly authorized by state law. See Interpretive Bulletin IB-91-01 (a copy is enclosed).

Therefore, public resources may not be used to distribute information urging a particular vote on a ballot question, or even "neutral" information regarding the substance of a ballot question. Public resources may be used, however, to distribute a notice that informs recipients about the time, date and place of a municipal election and urges them to vote, or which contains a brief, neutral title describing the ballot question or the text of the ballot question. See IB-91-01. Although the newsletter may contain a portion of the text of the two questions¹, it should not include the background discussion regarding the questions. We would also suggest replacing the paragraph on the first page that states that the School Committee has voted to propose the two ballot questions based on a "review of needs for renewal" with a paragraph that states, "The Wachusett Regional School Committee has voted to propose two articles at a special election on December 19. The Special Election Articles are contained within this issue."

As discussed on page 5 of the interpretive bulletin "extreme care should be taken to avoid the appearance of advocacy." Therefore, the block on the first page of the proposed newsletter, in which you state "Please don't leave to others the future of the high school. Vote on December

¹ You have stated that part of the text has been removed from the first question due to clarity and space concerns. Where a portion of the text of a ballot question is removed for such reasons from a newsletter distributed using public resources, care should be exercised to ensure that the remaining text is a fair and accurate representation of the question.

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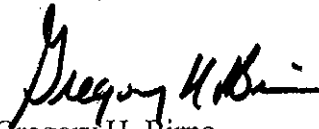
19th" should be revised to remove the first sentence, i.e., the block as revised would say only "Vote on December 19".

Alternatively, the newsletter may be distributed using private resources, perhaps by a parent teacher organization or ballot question committee. A PTO or ballot question committee would, however, have to report the expenditures in accordance with the campaign finance law.

This letter is issued solely within the context of the campaign finance law and is provided on the basis of representations in your letter.

This office appreciates your interest in the campaign finance law and encourages you to contact us in the future if you have further questions.

Sincerely,



Gregory H. Birne
Deputy General Counsel

Enclosure



District Pride

Holden - Paxton - Princeton - Rutland - Sterling

December 2000

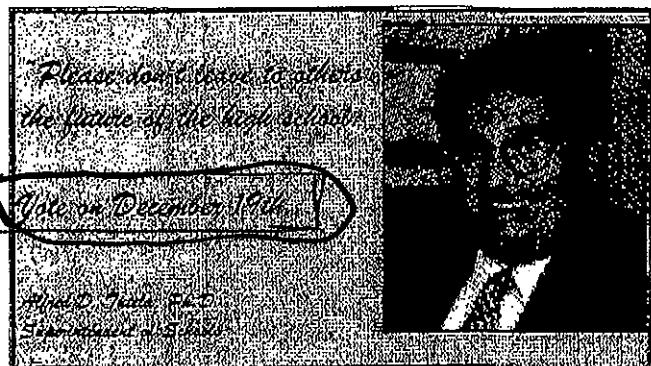
This Holiday Season is an occasion for celebration and renewal!

This month the students of Wachusett Regional High School offer the community the opportunity to enjoy classic moments onstage with their productions of Shakespeare's *The Tempest* and Handel's *Messiah*. The development of their talent and artistry reaches full expression through their performance of these classics. This holiday season the community is invited to bask in the warm glow of their talent.

The students of the District receive the gifts of talented teachers and supportive parents throughout the year. Highlights of the May 2000 MCAS results for the District in this issue provide one measure of the academic accomplishments of our students.

Learn more about the District's Model Technology program. You will understand why Wachusett Regional School District has become a leader in the use of technology among Massachusetts school districts.

The School Committee continues to work towards the goal of completing the renewal of school facilities for our students. The Committee has unanimously endorsed an educational plan based on the "House" concept that will form the basis for any high school facility option proposed for approval by the community. The School Committee has obtained an independent analysis of projected high school enrollments for the next 10 years. Learn more about the high school "House" concept and the findings of the NESDEC enrollment projection study in this issue.



Based upon the careful review of the needs for renewal of the high school facility, the Wachusett Regional School Committee has voted to propose two articles for approval at a special election on December 19. The special election Articles proposed by the School Committee are explained within this issue.

Holden residents are encouraged to lend their support to the District's students at the special town meeting to be held on December 20 at the Wachusett Regional High School auditorium. Holden citizens are asked to give their permission to the District to purchase property next to the high school for future educational uses.

We have reason to celebrate our students' success while we continue our commitment to improve the District's educational program in the years ahead!

Wachusett Regional School Committee Goal

The Wachusett Regional School District shall develop a comprehensive long-term high school facility solution, and it shall disseminate information relative to the educational and financial appropriateness of the solution.

Wachusett Regional School District

Special Election Articles

ARTICLE 1

To see if the voters of the member towns of the Wachusett Regional School District will approve the borrowing of \$175,000 by the Wachusett Regional School District for architectural, engineering and other planning costs related to the remodeling, reconstruction or extraordinary repairs and/or additions to the existing Wachusett Regional High School facility."

The Wachusett Regional District School Committee has voted to request authorization to spend \$175,000 to hire an architect to review the options of one new school OR a new school and renovations to the existing high school. Approval of Article 1 will make any final high school proposal eligible for 70% reimbursement.

Based upon the architectural review, the School Committee will recommend the high school facility option which best meets the educational needs of students and financial requirements of the member towns.

Approval for construction of the final high school facility option recommended by the School Committee will be sought during March-April 2001.

The architect will develop conceptual designs, utilizing the

existing high school site and adjacent land to be purchased upon approval of Article 2, for each of the following options:

1. Build a new high school for grades 9-12.
2. Build a new building to house grades 9-10 to implement the "Lower House" concept. Complete minimum renovations on the existing high school necessary to bring it into compliance with current building code requirements as a short-term solution. Use the partially renovated facility to house grades 11-12 using the "Upper House" concept.
3. Build a new building to house grades 9-10 to implement the "Lower House" concept. Complete permanent renovations on the existing high school necessary to bring it into compliance with current building code requirements AND meet the long-range facility needs.

ARTICLE 2

"To see if the voters of the member towns of the Wachusett Regional School District will approve the borrowing of \$695,000 to acquire by purchase land in the Town of Holden which will shall be used as an additional site for a high school facility. shall be contingent upon proper authorization by the Regional District School Committee and the voters of the District for the financing of costs of construction of a new high school facility and/or addition to the existing high school facility."

The Wachusett Regional District School Committee voted to request authorization to purchase of 22.3 acres of land adjacent to the high school for \$695,000. This land is currently owned by Weyman Lundquist. Purchase of this property will be necessary to implement any of the three high school facility options under consideration.

Purchase of the property is contingent upon the approval of the final high school vote for the total project. Approval for construction of the high school facility option recommended by the School Committee will be sought during March-April 2001.

Holden Special Town Meeting

Wednesday, December 20, 2000 7:00 PM Wachusett Regional High School Auditorium

In addition to approval by the member towns, the Wachusett Regional Agreement requires approval by the Town of Holden for purchase of land in Holden. A warrant article for purchase of the property must be approved by the Town of Holden at a town meeting to be held on December 20, 2000.

The town meeting vote to authorize the land purchase by the District must pass with a 2/3 majority as required by state law.