

We would like to offer some remarks regarding one aspect of the work of the Ad Hoc Committee on Education Taxes (AHC). We are given to believe that there is some unhappiness and even suspicion abroad in some quarters about at least one aspect of our work. Although only one person has had the initiative and courtesy to address their questions to people who were actually involved with the committee, there may be an undercurrent of dissatisfaction and even mistrust of some of the people involved. Our purpose is to address those feelings with the goal of putting them to rest.

The specific issue involves a bill from the town attorney, Bob Fisher, for charges incurred in answering questions originated by the Ad Hoc Committee (AHC). The background is that the AHC was formed to explore the nature and the remedies for an approaching education property tax increase, which coming as it did on the heels of an earlier punishing increase left Windham taxpayers facing a financial crisis.

The clock was running, and options were few. The founding chair of the AHC had stepped away from that role after being elected, in a development surprising to most, to the School Board. Since there was important work still to be done, Bill Dunkel and I volunteered to co-chair the AHC.

Conversations in several of the AHC meetings, weeks before Town Meeting, had involved questions of whether there might be short term tax relief available through any of three avenues: administrative, injunctive or legislative/statutory means. A key question involved the state's formula for penalizing expenditures beyond the established per-pupil spending limits by doubling the amount of taxes due on the overage. The AHC's analysis revealed that the over spending in our case was due to the new rules regarding funding for PreK special education and the payment for new statewide health insurance coverage required for all teachers and administrators. We undertook to make contact with the Agency of Education and the Department of Taxes, specifically, the Office of the Taxpayer Advocate. Our question was, "Given that in spite of many years of successfully controlling and reducing costs, we are now suddenly spending above the per pupil limit because of these new mandatory charges, incurred beyond our control and without warning, between one year and the next, what options can you offer us to avoid a cataclysmic tax consequence for our taxpayers? We made the point that although we had some question about the fairness of these mandated levies, we were not refusing to pay them. We were, however, asking why should we be penalized for doing what the law requires?"

The answers we got were, effectively, no help. The Education people basically said, "The excess spending formula is in the law. We can't change the law." The Tax Advocate said, "To my knowledge nobody has ever asked that question. I'll see if I can find you an answer."

The AHC decided that given our mission to seek relief for Windham taxpayers we needed to know whether we had any legal options that could a. halt. b. reduce, or c. at least "smooth-out," the approaching tax increases either through injunctive or administrative intervention. At Town Meeting, in the immediate wake of the surprising election outcome and the less surprising rejection of the education budget, Bill and I both spoke to the Room, in behalf of the AHC, and among the things we said was that we would be exploring all possible avenues of tax relief and had initiated the search for legal advice in the process. It was a public promise to do everything possible to get relief.

One member of the Select Board had regularly attended AHC meetings, and at the next meeting the Chair(s) asked where we could go for some legal clarification. The answer chosen was the long-time town attorney, Bob Fisher.

An appointment was made for a phone conference. Because the AHC had no standing to deal with the town attorney, the Select Board member made the appointment and was on the call when the first round of questions was asked. The initial answer we got, as I recall, was, "These are good and important questions, many of them unprecedented. We are going to need to look into it some. There may be constitutional questions in addition to regulatory and administrative questions. There are certainly other towns facing the same issue for the same reasons, so there may be some advantage in numbers, if it comes to that."

At this point three things happened in quick succession: 1. We adopted the "single teacher" solution at WES, which effectively solved the overspending issue for the coming year. 2. The State said they would approve budgets for the following year equal to the budgets and ADM for the current year, resulting in 2 years of tax "safety" for our taxpayers. 3. The pandemic resulted in the closing of schools and the shuttering of state offices – as well as the discontinuation of local in-person meetings.

The AHC -that is, Bill and I - took the view that the problem was solved for the near term, and given the uncertain outlook for the future, any press for further action might be action for the wrong thing. It was time to accept things as they were, and await developments.

Sometime after the AHC stopped meeting, for the reasons above, a letter arrived from the attorney's office. Bill and I think we had the conversation with Fisher in the last days of February, before Town Meeting. The letter from his office is dated April 9th and, appropriately, was sent to the Select Board member, who promptly forwarded it to Bill and me. In the intervening time between the phone conference and the letter the entire world was turned on its head. We concluded that in that moment, there was nothing further we could do with the information. We couldn't even have meetings with people in town or in Montpelier, or with other towns. And anyway, the problem for the moment had gone away: taxes were back down at a level we could live with. We agreed that we would put the letter, now no longer timely, in the drawer, and make use of it at such time as the administrative, judicial and statutory landscape began to clarify.

There was no intent to deceive or conceal anything. The contact with the attorney was made at the request of the AHC leadership *in behalf of the taxpayers of Windham*. The Select Board member made the phone call, because the AHC co-chairs had no standing to do so. The decision not to send the attorney letter out was made by the leadership of the AHC. I suggested that approach in my email comments on the letter, and Bill concurred. The Select Board member acquiesced. My email was sent April 16th to Bill, Kord and Russ and my record says a copy of the Fisher letter was attached. We did not discuss the question further, because the issue for us was one of timeliness and efficacy. In my email comments, I said as much. There were other things commanding the attention of the town and the state. I think it's fair to say nobody considered that there might be a meter still running at the lawyer's office. And I, for one, gave it virtually no more thought until I heard the legal bill was resulting in

criticism that was unfounded, or at least mis-directed. There is nothing controversial or sensitive in the memo. By the time we got it so much had changed there didn't seem to be any point in distributing it, except to those of us who were directly involved: Bill, Kord, Russ and me.

When the bill arrived from the lawyer *a year after the fact* there is little wonder it raised eyebrows. The first eyebrow for me was why only one bill a year? But that's an administrative issue, and apparently consistent with long practice. The amount of the bill also raised eyebrows. And here we get to the core of my message.

This time and money were spent at a time of looming crisis for our taxpayers. If we had asked, (we didn't) and been told how much it would cost to answer these questions, would we have said, "Oh well, in that case we'll just keep quiet."? I don't think so. And as an amount of money, \$6,800 is barely a rounding error in relationship to the tax increase we were trying to mitigate. Would I do it again? Absolutely. Do I personally think the contents of the letter is worth the amount billed? No, but whether to challenge the attorney on his billing practices is a separate issue best addressed by those who have the working relationship, and best undertaken when a bill for services is rendered on a timely basis.

01/19/2021

To the Windham, Vermont Selectboard:

I hereby resign from the Windham, Vermont Selectboard, effective Tuesday, January 19, 2021, 08:00 AM.

Peter Chamberlain

Yankee Generator, Inc.

PO Box 21
Lunenburg, Vt. 05906
(802) 892-1348

Generator Sales & Service from Lunenburg and Thetford, Vermont

Quote

January 23, 2021

Quoted for Kord Scott - **Town of Windham**

Description of Repair:

Complaint of unit going out on Over-crank. At arrival, unit had no spark. During diagnostics, unit misfired, causing damage to exhaust system and radiator. Unit needs replacement of radiator, mufflers and ignition module.

Estimated cost to replace radiator (**New radiator**), mufflers, and ignition module:

Total: \$3,850.00

Estimated cost to replace radiator (**Recored radiator**), mufflers, and ignition module:

Total: \$3,150.00

Lead time 2-3 weeks for new radiator, 1-2 weeks for recored radiator.

Please call or email with any questions.

- Jacob M. Fournier
President, Yankee Generator, Inc.

To initiate repair, please check desired option above, sign below and return to Yankee Generator, Inc. with initial deposit.

_____ Date: _____