

Windham VT Selectboard Meeting Minutes  
February 1, 2021 Regular Meeting

Present via Zoom web conference:

Maureen Bell, Selectboard Chair	Kord Scott, Selectman
Joyce Cumming, Selectboard Clerk	Heath Boyer, Ad-hoc Committee
Bill Dunkel, Ad-hoc Committee	Louise Johnson, Meeting House Committee
Tom Johnson, Energy Committee	Kathy Jungermann, Auditor
Mike McLaine, Town Clerk	Jeff Rubin
Kathy Scott, Treasurer	Gail Wyman, Asst. Treasurer

**Call to order**

Maureen announced the meeting and called the meeting to order at 6:33 p.m.

**Additions to Agenda/Announcements/Reminders**

There were no additions to the agenda.

Maureen noted she hadn't thanked Kathy and Gail at the last meeting and acknowledged all their hard work on the budget.

Maureen mentioned an oversight in a recent News & Notes article re: questions to be voted at Town Meeting. The N&N article mentioned that an article question would be voted on at Town Meeting re: whether to increase the Selectboard from 3 to 5 members. The petition to have this article question included at Town Meeting was recently withdrawn. As such, this question will not be voted at the March 2, 2021 Town Meeting. Kathy will contact Ellen McDuffie.

**Approve minutes from January 18, 2021 Regular Meeting**

Motion: To approve minutes of the January 18, 2021 Regular Selectboard Meeting as submitted—moved by Maureen—Kord and Maureen in favor.

**Public Comment**

Maureen granted Heath Boyer an opportunity to speak. Heath noted that he and Bill Dunkel, co-chairs of the Ad-Hoc Committee on Education Taxes, had requested time to speak re: the work of the Ad-Hoc Committee. He offered to read his comments and submit them for the public record (see attached).

Heath was informed of unhappiness and suspicion about at least one aspect of their work—namely a bill from the Town Attorney for charges incurred in answering questions posed by the Ad-Hoc Committee. He explained that the committee was formed to explore the nature and possible remedies for an anticipated education property tax increase. Discussion at committee meetings in late-January and February 2020 involved potential for short-term tax relief through three possible means: (1) administrative, (2) injunctive, and/or (3) legislative/statutory. A key question focused on the State formula of penalizing school district expenditures beyond the established per-pupil spending limit. Representatives of the committee contacted the Dept. of Taxes (specifically the Office of the Taxpayer Advocate), and the Agency of Education in the hopes of getting information that would avoid devastating consequences for the taxpayers of Windham. The responses they received were of little help. Therefore the committee decided to look into any legal options that could halt, reduce or smooth out over a period of years the anticipated tax increases through either administrative intervention at the dept. level or through the courts.

At Town Meeting in March 2020, Russ was elected to the School Board, the education budget was rejected, and Heath and Bill, on behalf of the committee, spoke to the voters and vowed to explore all possible avenues of tax relief and initiated the search for legal advice in the process.

Heath explained that one member of the Selectboard (Kord) regularly attended the committee meetings in an ad-hoc capacity. At the meeting following Town meeting, Russ felt it was inappropriate to continue heading the committee given his recent election to the School Board. Heath and Bill then assumed co-chair leadership of the committee. In seeking a source of legal advice, it was decided to contact the town attorney, Bob Fisher, and an appointment was made for a phone conference.

Because the committee had no authority to deal with the town attorney directly, the Selectboard member made the contact and participated in the conference call for the first round of questions. The attorney validated the inquiries but could not provide answers and agreed to look into it. Shortly thereafter, the education spending issue was resolved through the adoption of a school budget that provided for a single teacher for grades K-6 at Windham Elementary School, and action by the State which granted school districts tax safety in allowing use of pre-pandemic enrollment numbers in calculating their Average Daily Membership. The pandemic brought the ad-hoc committee's efforts to a halt in the spring. By this time, the problem was resolved for the near term.

Heath recalls that he, Bill and Kord had the discussion with Attorney Bob Fisher in late-February, before Town Meeting. Bob Fisher's letter, dated April 9, 2020 was sent to Kord who promptly forwarded it to Heath and Bill. By April, the pandemic was a major concern on everyone's mind, and they put the letter in the drawer to make use of it at such time when conditions allowed. Heath explained they had no other real options at that point, since meetings couldn't be held, and the tax situation was resolved for the near-term.

Heath stressed that there was never any intent to hide anything and that the contact with Bob Fisher was made at the committee co-chairs' request on behalf of the taxpayers. Heath said the decision not to share Bob Fisher's letter with the general public or even the rest of the committee was his and Bill's. Heath communicated this decision via email on April 16<sup>th</sup> to Bill, Kord & Russ with his comments re: Bob Fisher's letter. There was no further discussion of the memo/letter. Heath said that no one even considered that there might be a meter still running at the lawyer's office. He gave it no further thought until he heard that the bill was creating criticism which he considered unfounded. He also noted that the bill was not received until a year later. Heath noted that in seeking advice of the attorney, no one thought to request a quote from Atty. Fisher. Had they been informed that it would cost \$6,800, Heath said they would have proceeded anyway. He viewed that amount a rounding error in relationship to the tax increase.

Maureen thanked Heath for his thorough and eloquent explanation. Joyce asked Heath for a copy of his comments to attach to the minutes; Heath said he would send his comments to Maureen.

Bill added to Heath's comments, saying he understood why people would be upset with the amount of the bill. He was distressed that people thought there was some clandestine effort to hide things, which he found even more troubling. He felt it was important to remember the timeline of the events. He, Kord and Heath had the conversation with Bob Fisher on February 28, 2020. Less than a week later, Town Meeting was held and the education budget was rejected. On March 11, a group of six community members went to Montpelier to lobby the House Education Committee and Senate Education Committee and raised two important issues: (1) "We felt Windham was penalized for obeying the law, the State passed an unfunded mandate that required us to pay for pre-K Special Education, we're doing it, resulting in excess spending penalties, and that's unfair." (2) "We felt the weighting formula used by the State to calculate the Equalized Pupils discriminates against small rural school districts and the formula is not based on any rationality—it's just a guess." On March 25, Governor Scott issued a stay-home order. The Ad-Hoc Committee was not meeting, and the legislature was not meeting.

On March 18, Bill sent an email to Russ Cumming, Antje Ruppert, Bob Bingham, Carolyn Partridge, Eileen & Tom Widger, Gail Wyman, Heath Boyer, Imme Maurath, Kord & Kathy Scott, and Pete and Beth McDonald saying he “didn’t feel that the committee needs to meet for the next couple of weeks. Phase 1 of the work helping to reduce the tax rate has been accomplished, we lobbied in Montpelier and the ball is in the legislature’s court once they re-open. Conversations with Bob Fisher about possible legal action can be pursued without a group meeting. Researching the cost and consequence of closing the school and providing school choice is a longer term project that doesn’t have to be completed before the (re)vote on the school budget in April. Heath and I think our committee can afford to take a break for a while. Does that sound okay to everyone?” Bill said the recipients were either fine with that path or didn’t register an objection. Bill felt that represented a clear sharing of information.

Bill also noted that he, Kord and Heath had asked Bob Fisher to look at the same two questions posed to the legislature: (1) Do we have a case to be made if we have to go to court that Windham is being treated unfairly by being taxed excessively because we obeyed their unfunded mandate for pre-K Special Education spending? (2) Can we make a case that the way they’ve been calculating pupils is not correct based on the study the State did? Attorney Fisher responded that “in Windham’s case, the excess spending is caused by mandated services over which Windham has no control. Further, there are inequities in the way the State calculates Equalized Pupils. We believe these inequities are significant to merit legal action if the legislature does not act quickly.”

Bill summed it up saying that he was told Windham may have a legal case but will need to wait to see what the legislature does. What the legislature did was shut down. At that point, the immediate crisis had passed and the school board found a way to get the tax rate down to a reasonable level. Bill didn’t feel there was any conspiracy to hide anything from anybody. He understood why voters would be upset about the bill but didn’t see much evidence of anyone trying to pull the wool over anyone’s eyes.

Maureen thanked Bill and offered comments of her own. She noted that she and other Selectboard members don’t serve for personal gain, citing the number of emails and phone calls received for remuneration of approximately \$48 per week. After five years, she said she still makes mistakes and is not infallible. What matters is that she learns from the mistake and moves forward. She said her colleagues on the Selectboard, past and present, shared that point of view. Maureen referenced the division evidenced nationally and the lack of room in Windham for similar partisanship. She feels that if residents find a way to work together, Windham will be better off.

Kord thanked Bill and Heath for speaking up and also for their leadership, describing them as the perfect pair to take over and lead that committee. He said he hopes one day, they can pick up on those questions that were left open because he thinks they’re still important. He expressed his respect for Heath and Bill and apologized for any negativity that resulted.

Bill stated his comments were not intended as a criticism of the Selectboard or the Ad-Hoc Committee. He appreciates the efforts of the Selectboard and he also hoped there was no animosity.

Joyce noted that some of the attitude of suspiciousness arose when a committee member (Kord) asked why Russ was asking for the memo. Kord claimed Russ received the memo but Kord sent it only to Heath and Bill. Heath and Bill then responded in an email thread that included Russ. But because Kord’s initial email that contained the memo did not include Russ, Russ did not receive the memo. That miscommunication fostered some of the sentiment of a lack of transparency in her opinion. She felt it clearly could have been avoided.

### **Correspondence**

Maureen reported no correspondence of significance other than road magazines and catalogs for Kord.

**New Business:**

**Peter Chamberlain's resignation from the Selectboard**

Maureen mentioned that regrettably Peter Chamberlain resigned from the Selectboard on January 19, 2021. She explained that the Selectboard had 3 options: (1) to appoint a Selectboard member to serve until Town Meeting on March 2<sup>nd</sup>; (2) to continue with a 2 member Selectboard until the March 2<sup>nd</sup> Town Meeting, or (3) to hold a Special Election to vote on a member to fill the vacancy. Kord expressed his opinion that a two-member Selectboard is fine until Town Meeting. Maureen concurred that there are no critical decisions to be made in the next few weeks noting that the FY 21 budget and the warning for Town Meeting were completed—she speculated it was Peter's intent to see those projects through. Kord said that if there is an issue on which he and Maureen disagreed, it could be delayed until after Town Meeting when the incoming member would have the deciding vote. Maureen reported that one person has submitted a consent form to serve on the Selectboard.

Motion: To continue with a 2-member Selectboard until Town Meeting on March 2, 2021—moved by Kord—Maureen and Kord in favor.

**Possibility of mailing Town Meeting ballots to all voters**

Mike McLaine reported that the Secretary of State's office recently announced availability of funds to reimburse Towns for election-related expenses such as the cost of mailing, postage, envelopes, and/or hiring a third party to handle the mailing of the ballots. Mike didn't feel a third party was required for mailing the ballots, but he expressed relief at the knowledge that the Town didn't have to fund the cost of postage and return mailing of ballots. Mike explained that the absentee ballot procedure requires that a voter return his/her ballot in a signed affidavit envelope. Mike has about 200 of these affidavit envelopes which is insufficient for the approximately 350 registered voters in Windham. Mike has requested additional affidavit envelopes as well as outer envelopes from the Secretary of State's office but doesn't know when to expect receipt. He is currently working on the multiple-page ballots.

At present, the procedure for early/absentee voting requires that a voter contact Mike by phone, email, or in person to request a ballot. Brief discussion followed on whether it was Mike's decision or that of the Selectboard to change that process and instead mail early/absentee ballots to all registered voters as was done for the November general election. Maureen thought the decision was up to Mike as the Town's voting official. Mike explained that just as the Selectboard moved to adopt Australian balloting for 2021, it is up to the Selectboard to determine whether to send early/absentee ballots to all registered voters in Windham. Kathy said she would appreciate the Town supporting the idea of making sure that every registered voter gets a ballot for Town and School issues to allow voters to stay home.

Maureen noted that ballots must be available by February 10<sup>th</sup> and she assumes that would be the date by which ballots need to be mailed. Brief discussion followed on the additional work involved in mailing absentee ballots to all registered voters. Mike feels confident that he can get the mailing done assuming the additional affidavit and outer envelopes are received in a timely manner. Mike noted that the recent announcement from the Secretary of State's office was intended to reduce the risk of exposure to COVID-19 by reducing person-to-person contact as well as for purposes of transparency. Kord noted that some voters were inconvenienced in November by the waiting time due to restricting one voter at a time to enter the Meeting House.

Motion: To approve mailing early/absentee ballots to all registered voters in Windham for Town Meeting assuming the necessary complement of affidavit and outer envelopes is received in a timely manner—moved by Maureen—Kord and Maureen in favor.

### **Covid-19 Vaccination reminder**

Kord noted that vaccines are currently available to Vermont residents aged 75 or older.

### **Old Business:**

#### **Town Office Generator**

Kord offered a follow-up status report on the problem with the generator at the Town Office. The generator is currently non-functional. Kord explained that the ignition module failed but gas continued to flow. When the ignition module tried to fire, the fuel exploded, and pieces of the muffler blew apart and damaged the radiator. The generator needs a new ignition module, muffler, and either a new radiator or repair of the existing radiator.

Kord got a proposal from Yankee Generator which provided two options for repair:

- Option 1: Replace the ignition module, mufflers and replace the radiator with a new radiator at a total cost of \$3,850; or
- Option 2: Replace the ignition module, mufflers and replace the radiator with a recored radiator at a total cost of \$3,150.

Brief discussion followed. In response to a question from Maureen, Kord explained that the repairs are not covered by a service contract. Kord was in favor of the recored radiator option. Not only it is \$700 less expensive, but the repairs can be done in 1 to 2 weeks rather than 2 to 3 weeks for the new radiator option. Kord called PACIF to determine whether it might be covered by insurance; he will double-check with PACIF now that he has the proposal, but he doubts insurance will cover it.

Motion: To contract with Yankee Generator for repair of the Town Office generator by replacing the ignition module, mufflers, and radiator with a recored radiator at a total cost of \$3,150—moved by Maureen—Kord and Maureen in favor.

### **Payroll/Bills**

Maureen opened discussion on payroll and bills and said she felt they were all in order. Kord had no questions.

Motion: To approve payroll and bills presented for this meeting and authorize Kord to sign off on same—moved by Maureen—Kord and Maureen in favor.

### **Adjournment**

Motion: To adjourn the Regular Meeting at 7:17 p.m.—moved by Kord—Maureen and Kord in favor.

Respectfully submitted,

Joyce Cumming  
Selectboard Clerk

Attachments:

- Comments by Heath Boyer
- Letter of Resignation from Peter Chamberlain
- Quote from Yankee Generator on repair of Town Office generator