

Robert B. Barton

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November 15, 2014

Regina DiLego  
Old State Rd.  
Berkshire, MA 01224

Dear Regina,

This letter is to advise that, pursuant to provisions of M.G.L. c. 30A, s.21, I am bringing complaints and charges against you based on inappropriate actions and erroneous public statements you have made during the past six months as a member of the Lanesborough Elementary School Committee.

I am requesting that the Executive Session for this matter be on the Lanesborough Elementary School Committee agenda for November 19 or for a meeting in early December. Your rights under the Law are as follows:

- (i) to be present at such executive session during deliberations which on this matter
- (ii) to have counsel or a representative of your own choosing in attendance to advise you
- (iii) to speak on your own behalf
- (iv) to cause an independent record to be created of said executive session

Specific issues:

1. At the Lanesborough Annual Town Meeting you seemingly purposefully misled the assembled public regarding the LES budget they were evaluating.
  - Mr. Ron Tinkham proposed the budget be reduced by \$50,000
  - As chair of the school committee, I replied we had a \$30,000 contingency reserve in the proposed budget, and that our ability to absorb any reduction would depend on extraordinarily favorable outcomes in our contract negotiations with teachers, paras, and transportation.
  - You stood-up and said I was mistaken, indicating that there were no reserves in the proposed budget.
  - At several LESC meetings leading up to the 4/30 Public Hearing on our budget, we had discussed the amount of reserve being in the \$30,000 range, and you subsequently voted to approve minutes from our June 12 meeting (2 days after the ATM) that state: "...the FY15 budget approved at Annual Town Meeting has contingencies/reserves totaling about \$30,000." Clearly nothing had changed in two days, so to put it kindly, you mis-spoke at Town Meeting.
2. You made several false statements in an email to PTO President Jen Duchaine on October 27 (I have added the underlines for emphasis): *"Hi Jen— Thank you for your work and interest in our school."*



*I will have to defer the answers to all of your questions to Mr Barton and Mr Moriarty as the date, time and agenda all belong to them. They have compelled the meeting at the date and time it is being held with the agenda items as written by Mr Barton.*

*Gentlemen?*

*If they do not answer prior to Wednesday I will certainly present your questions for answer at the meeting itself.*

*Regina"*

As our Chair, you have an obligation to represent the overall committee, not publicly divide it, nor speak officially against committee decisions. You also have a fundamental obligation to be truthful, and the truth here is that Jim and Bob did not "compel" the meeting nor set the time. These were agreed to by all of us: at the LESC meeting on 10/22, Jim and I proposed verbally to you that there be an LESC meeting for an hour on 10/29 at 4:30 to cover items I had been requesting of you by email for many weeks. You agreed we should meet, but said you needed the meeting to be at 4:00 since you had child-care responsibilities that evening. Jim and I agreed to your proposal of the earlier time. No vote was taken. Your words to Jen Duchaine were simply false.

3. At the October 29 meeting you allowed the Public Comment portion of the meeting to go on for more than 30 minutes, despite our policy of limiting it to 15 minutes. You allowed outbursts and interruptions by the public later in the meeting. I believe it is fair to say that the outbursts supported your views and were opposed to the position held by other members of your committee. You repeatedly nodded your head during the outbursts, as if in agreement, and allowed them to continue. This is not acceptable behavior from a chair person.

If you cannot act as a balanced leader for our committee, I request that you resign as chair. Further, if you cannot be truthful in your communications to the public about our work, I request that you resign from the committee altogether.

Sincerely,

Robert B. Barton

cc: James Moriarty, Fred Dupere



12/15/14

Bob-

This is my response to your letter dated November 15, 2014 containing complaints and charges against me pursuant to MGL c30A s21.

I would first like to note that your letter directed that these charges and complaints be heard in Executive Session with an "independent record to be created of said executive session". MGL c30A s21 provides for the subject of charges and/or complaints to decide whether they will be heard in open or executive session. This decision is not the right of the individual who is bringing forth the charge/complaint. I have elected to have your charges and complaints against me be heard in open session.

Issue #1:

During the meeting after the Public Hearing on the budget on April 30<sup>th</sup>, you attempted to cut money from the proposed school budget for FY15. You had previously, through e-mails to myself and Jim Moriarty, made proposals of the various ways in which you felt that the posted budget could and should be cut. At the meeting on 4/30, I stated that, despite your assertion that there were reserves in the budget, I had serious concerns about the FY15 budget. I questioned whether or not it was, in fact, adequately funded, let alone contained reserves. I did not support your suggestions for cutting the budget and ultimately neither did Jim. We voted two to one to support the budget as presented at the public hearing. The minutes of June 12<sup>th</sup> state that it was "confirmed the FY15 budget approved at Annual Town Meeting has contingencies totaling about \$30,000." As I could find no DVD recording of this meeting (in fact I believe it was one of the meetings where taping failed), I can not produce the exact conversation that unfolded. I also do not make a habit of scrutinizing minutes to see if they are being designed to ensnare me. This sentence does not say that I agreed that there was \$30,000 in contingency money in the FY15 budget. It does not say who confirmed this fact. It only states that it was "confirmed". In reality we learned at the meeting on November 19<sup>th</sup> that the appropriated FY15 budget, which is the only portion of the budget approved at annual Town meeting, did NOT contain any reserves/contingencies according to Business Manager Lynn Bassett. In fact, any so called contingency money was in the non appropriated accounts and, according to Bassett on Nov 19<sup>th</sup>, was all earmarked for specific negotiation settlements. Curious that the June 12<sup>th</sup> minutes which you wrote state that this reserve was confirmed in the appropriated budget and yet the Nov 19<sup>th</sup> minutes state that it was never in the appropriated budget at all. I did not feel then and I did not feel on June 10<sup>th</sup> that there were reserves in the FY15 budget. Now here we are in December and the FY15 budget is showing a deficit. How did I lie?

Issue #2:

You state that I made "several" false statements in an email to PTO President Jen DeChaine, and yet your follow up presents only two –that the meeting and its date and



time were compelled, neither of which are falsehoods. Let me address your statement that I need to "represent the overall committee, not publicly divide it, nor speak officially against committee decisions." First, I did not speak officially against anything – and your quote shows that. I deferred the questions to you and Jim. Second, you say that you and Jim did not compel the meeting or set the time. If, as you assert, you and Jim did not in fact take a vote to compel the meeting and the agenda, then there was no official position of the Committee, therefore I could not have spoken against it. You can not say that you did not take a position and then assert that I spoke against your position. That is not possible. Third, I have not publicly divided the committee. In votes that are taken I have every legal right to vote as I see fit. I was not at the table when you and Jim had your conversation. I do, however, know that our meeting had not been officially adjourned and you have admitted this to myself and Attorney Dupere. This means that yours and Jim's discussion was still an official meeting. Not having been there, I do not know what was said. I do know that when I returned to the table you informed me that you and Jim had set a meeting for the following Wednesday for 4:30 pm and you would be setting the agenda which you would send to me. I said "oh" and you both asked if that time did not work for me and Jim stated that it absolutely could not be any later than 5:30. I said that in that case, if we could not meet later, I would prefer it to be at 4 as I have my granddaughter at 5:30 on Wednesday and there was no sense disrupting that if we could not meet later. You both agreed to the time. I did not "set" the time but requested an amendment to it based on the parameters that were given to me. My understanding at that point, based on the two of you conferring and being told by you that the two of you had set a meeting and that you had agreed that you would be sending me the agenda, was that you had voted this in my absence from the table. A vote is the only way that the Committee can tell the chair when to have a meeting and what to put on the agenda. *Mia Culpa* for not asking exactly what the vote had been but trusting that this had been done. You did not, however, question my saying that the meeting and agenda had been compelled when I replied to Jen. You did not correct me at the meeting that afternoon when I stated it at the outset, and you did not challenge it in the minutes that were voted for that meeting on Oct 29th. In fact you did not challenge it until the OML violation was filed. I have the copy of the email you sent with your agenda items "as promised" – which were put on the agenda as sent. The only answer I had for why the meeting was being held the following week was the comments you had made to me prior to the meeting when you told me that you were going to "force me to have a meeting and vote to leave Union 71" I asked why a vote to leave when I thought you wanted to explore options and you told me that you were "tired of me blocking you" so you were no longer interested in exploring options. You were going to force me to have a meeting with a vote to leave. Jim was not aware of this conversation as he arrived after that. I didn't think I should reply to Jen that that was why the meeting was next week. It is, however, the only reason I know.

### Issue 3:

School Committee policy BEDH states "The time allotted for public comment normally will not exceed 15 minutes unless decided otherwise by the chair." The chair decided otherwise in this instance. I did not "allow" outbursts. Two outbursts occurred and I



spoke up. The policy states that "If a speaker persists in improper conduct or remarks, the chairperson may terminate that individual's privilege of address." The key word here is persists. I also allowed you to make a presentation and public comment policy does not allow for that either, but I don't see your objection to that here. The policy also states that members of the committee are not "expected to respond to matters raised during public comment". That you and Jim chose to respond was a decision you made on your own. Those conversations were your own doing – not mine. If you watch any of our DVDs, you will note that I nod my head a good deal while listening to what is being said. It is more an acknowledgement that I am listening than an agreement with the speaker. There are many things said at our meetings that I nod while listening to that I do not necessarily agree with. This does not make me an unbalanced leader. It means I nod when I listen.

I find it particularly interesting that the individual who, as a citizen and later as School Committee chair, felt that the public comment policy did not allow for adequate input and participation by the citizens, should be the one challenging the fact that I allowed the public to have input into a decision which affects their children's education. In fact, you made reviewing the public comment policy one of our goals for last year as you felt it did not do the public justice. Yet here you are complaining that I let people have their say.

I will not resign as chair, nor will I resign from the School Committee.

Sincerely,

Regina DiLego