

Testimony of Scott Woodward on the subject of Public Records

January 23, 2020

Dear Members of the Senate Committee on Government Operations,

My name is Scott Woodward and I am a resident of Pomfret, Vermont. I currently serve as a Selectboard member in Pomfret. I have served in local government for approximately eight years as a Planning Commission member, a Selectboard member and a member of the Pomfret Capital Planning Committee. I come to you today as a single board member to express my individual views in regard to the possibility of legislation that would allow for charging of preparation to inspect public records (reference: <https://vtdigger.org/2020/01/16/key-senator-says-public-records-inspections-should-include-preparation-fees/>).

My testimony is as follows.

Would it be fair and appropriate to charge for preparation costs where the public entity does not have efficient record keeping practices?

The short answer is no. There are practical record keeping considerations to take into account if preparation costs are charged to a person requesting public records. While my experience is limited to Pomfret, I suspect many towns in Vermont do not have efficient record keeping practices. I know this to be true in Pomfret.

For example, last year, the Pomfret Selectboard received a records request for all email from all board members for a specified period of time. Different board members have different skill levels with computers and different board members use different methods of managing their email. For example, some of us use Microsoft Outlook, while others use the mail program that comes with the Mac operating system. One board member only reads his email online. To fulfill the request, the board collectively spent three hours to finally be able to export our respective email messages into PDF format and to then upload the files to a location where the records requester could retrieve the files. The records request totaled over six hundred pages of email. If the board had charged for preparation, the cost to the records requestor would have been \$270 (\$.30 cents per minute x 3 hours x 5 people). In my view, however, especially in this day in age where requests for email is more commonplace, I believe it to be incumbent on government to establish record keep practices that would more easily facilitate fulfilling records requests.

Another real example is that many of town government documents exist in paper and/or electronic format. A lot of towns are in the midst of transitioning from paper-based systems to electronic systems, but the transition process is slow and subject individual preferences (some people in local government are simply more comfortable with paper

records). It's not always clear where documents are stored and which version is the most current and accurate version. In Pomfret, we literally have public records all over the place – on a file server, in the cloud in Microsoft Office 365 (Sharepoint), on individual computers, or on paper kept with the Town Clerk or the Town Treasurer. Sometimes, it's clear which is the original, but sometimes the only record of a document is in electronic format, e.g., the multitude of PDF documents associated with applying for Public Assistance (PA) grants through FEMA. It would be burdensome and inefficient to print these documents only to stick them in a filing cabinet. But, sometimes the electronic documents reside on different computers and there are often questions which document is the most current. It takes time to find and organize records. That would be time for which a records requestor might be charged if “preparation” costs were included in the fees.

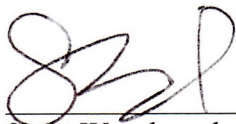
Is there a fair and equitable way to charge for preparation costs?

Maybe, if there's also an overarching policy reason to do so and if certain conditions are met beforehand. If the Committee chooses to formulate legislation that would allow charging for preparation costs, then I strongly encourage the Committee to include conditions that would need to be satisfied before charging for preparation. Here are a few suggestions for the Committee to consider:

- Require towns adopt record schedules available through the Secretary of State's Office (<https://www.sec.state.vt.us/archives-records/records-management/records-retention/general-record-schedules.aspx>),
- Require a certification or at a publicly available self-audit that towns are complying with the adopted record schedules,
- Require charges to be itemized so that there's a transparent record of the composition of preparation charges, and
- Optionally, provide incentives to adopt e-government practices

If the Committee goes down the path of pursuing legislation to charge for preparation costs, then I hope that legislation will have the ability to distinguish between poor record keeping practices versus true preparation costs. I also hope the Committee might use this as an opportunity to help local government transition to e-government practices.

Thank you for the opportunity to testify today.



Scott Woodward

Pomfret Selectboard