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**Town of Amherst  
Town Council Meeting  
May 18, 2021  
Virtual Meeting  
Executive Session Minutes**

Councilors Participating Remotely: Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen (joined at 4:06 pm), Schreiber, Steinberg, and Swartz

Councilors Absent: None

Others Participating Remotely: Town Manager Paul Bockelman, Clerk of the Council Athena O’Keeffe, and KP Law Attorneys Lauren Goldberg and Gregg Corbo

Griesemer called the executive session to order at 4:10 pm, pursuant to MGL c.30A §21(a) 3, to discuss strategy with respect to litigation: case number 2180CV00043 Gray, Carol et al vs. Susan Audette in her capacity Acting Town Clerk; as an open meeting may have a detrimental effect on the litigating position of the body, and confirmed members can hear and be heard, and that no other person is present or able to hear the discussion at the remote location.

Bockelman reported the plaintiffs have submitted public records requests and open meeting law complaint, which are being handled by the Town Clerk. Goldberg added that, due to the litigation, there may be a point that the Town responds that they need to go through court right of access process for materials.

Hanneke asked about legal impediments to moving forward with the Massachusetts Board of Library Commissioners (MBLC). Bockelman stated the MBLC knows there is pending litigation and that is why they are concerned about moving forward with the grant. If the Town were awarded a grant and litigation prevented the Town from accepting it, the MBLC could not reallocate the funds to another town.

Goldberg and Corbo spoke about the following:

- Council’s ability to call a special election or place a question on the November ballot
- Timeline for calling an election – cannot call an election sooner than 35 days from a Council vote
- Town option of requesting relief from a judge to hold an election & subsequently dismiss litigation
- Preferable to wrap up via settlement agreement
- Going agreement or solo route, would not be an admission of wrongdoing or legitimacy of claims
- Risk of reversal on appeal or trial, signature challenges, etc.

Bockelman spoke about the MBLC’s position and desire for a resolution prior to awarding grant funds.

Councilors spoke about the timeframe, perceptions of what occurred with the certification of signatures in the Clerk’s office, and perceptions that there were errors, what the MBLC would consider sufficient to move forward with signing grant documents, and the possibility of other legal action from the plaintiffs if this particular issue is resolved.

Corbo advised there is little left to contest if the Town calls an election.

Councilors spoke about the following:

- Dissatisfaction on the part of the plaintiffs or library supporters if an election is called in the summer
- Risk of loss of the grant
- What the MBLC would consider a “legal impediment”
- Setting precedents regarding signatures and referendum petitions and settling litigation
- Timing of an election while students are at school at UMass, Amherst College, and Hampshire College
- Concern that there will be future legal challenges if this matter is settled

Bockelman stated the MBLC has asked for referendum vote or letter from the Town’s attorney that there are no legal impediments, and has given the Town until November to act.

Councilors discussed the possibility of an extension.

Schreiber, Ryan, and DuMont spoke in favor of a referendum vote.

Hanneke spoke in opposition to a referendum vote.

Goldberg spoke about risks of pursuing litigation in terms of time, cost, and risk of an unfavorable outcome.

Councilors agreed the Town needs to know what will satisfy the MBLC in terms of certifying a lack of legal impediments.

Councilors discussed potential meeting times for a continuation of the discussion.

Bahl-Milne left the meeting at 6:14 pm.

Griesemer declared the meeting adjourned at 6:18 pm.

Respectfully submitted,



Athena O’Keeffe, Clerk of the Council