



**Town of Amherst  
Town Council Meeting  
May 13, 2021  
Virtual Meeting  
Executive Session Minutes**

Councilors Participating Remotely: Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Steinberg, and Swartz

Councilors Absent: Schreiber

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 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 spoke about the pending litigation, that the Town's interests are of primary concern and that discussion during executive session should remain confidential.

Goldberg gave an update on the litigation, stating that the preliminary injunction was denied, the case itself is still pending in superior court. There is a time limit to appeal to a justice of the appeals court. The rest of the complaint is still open and pending.

Goldberg spoke about decisions the Town can make regarding the litigation and the implications of those options. Goldberg spoke about the allegations made by the plaintiffs regarding signatures not certified. The law does not allow the registrars to re-examine signatures, but the Court may act on additional evidence like the affidavits from voters that they signed.

Goldberg reviewed rules from the Secretary of State about how to certify signatures; because the petition was not certified, there is no objection that the registrars can act on.

Goldberg stated there is also an open meeting law complaint filed on May 4, the Town has 14 business days to resolve it and the allegation is that the meeting notice was not sufficient. KP Law does not find an error in the meeting notice.

There is also a records request for the signature voter registration cards from all signatures that were not certified, and for correspondence between the Town and attorneys regarding the meeting.

Corbo advised on litigation risks in terms of time and cost, and spoke about the motion for a preliminary injunction made by plaintiffs to extend the deadline for signatures, decrease number of signatures required, and allow electronic signatures. The claim is that because of the state of emergency that the requirements of the charter it interferes with the ability to collect signatures.

Bockelman stated the Council has an option to call an election, and spoke about the Massachusetts Board of Library Commissioners' approval of the grant and request that the Town provide a statement that there are no legal impediments in moving forward.

Brewer asked about theoretical litigation and the Town's ability to make that statement, and about a different standard of evidence in a courtroom versus in the Town Clerk's office when examining signatures.

Pam spoke about signature requirements in New York.

Hanneke spoke in opposition to calling a special election and asked if the case is settled if another resident can file a similar suit.

Schoen spoke in favor of holding an election.

De Angelis spoke in support of the Council's vote and spoke about the chaos caused by the perception of errors.

Bahl-Milne asked about people who submitted statements requesting their names removed from the petition and tactics used to collect signatures.

Corbo asked about the Council's willingness to consider settlement, and stated he would need to consult before could conclude that there is no legal impediment. The Council cannot unilaterally call an election, could request a court order to hold an election.

Steinberg spoke about the cost of delay in the project and jeopardizing the grant with lengthy litigation.

Hanneke spoke in opposition to calling an election, stating that going to a vote may be the easiest path forward but damaging for the Charter.

Members discussed calling another meeting to continue the discussion.

Griesemer declared the meeting adjourned at 1:20 pm.

Respectfully submitted,



Athena O'Keeffe, Clerk of the Council