



**Town of Amherst
Town Council Meeting
Monday, June 7, 2021
Virtual Meeting
Executive Session Minutes**

Councilors participating remotely: Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, Swartz

Councilors absent: None

Others participating remotely: Town Manager Paul Bockelman, Clerk of the Council Athena O'Keeffe, and KP Law Attorney Lauren Goldberg

President Griesemer called the executive session to order at 5:07 p.m. pursuant to the provisions of MGL c.30A §21(a) 3, to discuss strategy with respect to litigation: case number SJ-2021-0187: Terry Y. Allen, et al. v. Board of Registrars of the Town of Amherst; as an open meeting may have a detrimental effect on the litigating position of the body.

Griesemer confirmed participants can hear and be heard and that no others are present and can hear the discussion at their remote location.

Town Manager Bockelman gave an update on the litigation regarding the Jones Library voter veto petition. An amendment to the complaint has been filed. Bockelman stated the complaint essentially addresses the issue that was not addressed in the previous complaint: the certification of signatures. The evidence provided is the percentage of names not certified and affidavits of signatories. Plaintiffs seek damages and attorney fees.

Brewer asked for clarification of the roles of the Town Council and Board of Registrars.

Attorney Goldberg responded that under the Charter the Town Manager controls litigation, he has the exclusive right to settle, compromise, or continue to pursue litigation. KP Law represents the Town, not a specific public body or individual department of the Town. Boards and committees do not have authority to make decisions that affect the entire Town; the Charter makes it very clear that it is the Town Manager that makes litigation decisions.

Bockelman added that the Board of Registrars cannot decide to pursue a settlement themselves. The Town Council is involved at this stage because it would be a Council decision to place a question on the ballot. A judge could order the Council to do so, but the Council would have to act.

Brewer asked about the Board of Registrars meeting in executive session to discuss litigation.

Bockelman spoke about an opportunity to inform the board about details regarding the suit.

Hanneke asked if the plaintiffs have sought an injunction to stop payments or borrowing, asked about the relief sought, and the different scenarios and outcomes.

Goldberg responded that the path forward becomes clearer as the case progresses.

Schreiber asked about individuals who have asked that their names be removed from the petition.

Goldberg responded that no decision has been made about how to proceed; the lawsuit does not address the signatures of voters who requested to withdraw, and that it would be up to those individual voters to pursue action against the petitioners.

Pam spoke about her own personal review of the signatures and her experiences in New York with petitions.

Goldberg spoke about the procedures for certifying signatures in Massachusetts.

Councilors asked about the cost of litigation and the opinion of the MBLC regarding legal impediments.

Bockelman stated the MBLC is aware of the litigation.

Goldberg stated KP Law cannot accurately predict how a judge will rule in the suit.

Brewer asked that communications regarding the case be shared with the Council in a timely manner, and suggested posting additional special meetings to update the Council on the litigation.

Goldberg spoke about the withdrawal of the previous case and the intent to keep the Council abreast of the new case so that decisions can be made and input can be sought from the Council.

Councilors discussed scheduling additional special meetings for executive session.

Griesemer declared the special meeting adjourned in executive session at 6:19 pm.

Respectfully submitted,



Athena O'Keeffe, Clerk of the Council