



**Town of Amherst  
Town Council Meeting  
Monday, August 2, 2021  
Virtual Meeting  
Executive Session Minutes**

President Griesemer called the executive session to order at 6:36 p.m. pursuant to the provisions of MGL c.30A §21(a) 3, to discuss strategy with respect to litigation: Superior Court Civil Action No. 2180CV00081 Terry Y. Allen et al. vs. Board of Registrars of the Town of Amherst; as an open meeting may have a detrimental effect on the litigating position of the body

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, KP Law Attorneys Lauren Goldberg and Gregg Corbo

Griesemer confirmed all participants can hear and be heard and no one is present and can hear the discussion at their remote locations.

Town Manager Bockelman, Attorney Corbo and Attorney Goldberg reported on the discussion with the plaintiffs' attorney, spoke about the option of a settlement and the Council exercising its independent authority to put the question on the November ballot; plaintiffs will not agree to dismiss the lawsuit. Their position is that unless the Town is willing to agree to entry of judgement against them along with other conditions, they will not withdraw the case. Goldberg and Corbo advised the Council to vote to put the question on the ballot.

Hanneke asked if the Council can require a voter turnout threshold.

Goldberg stated the Council cannot change a turnout requirement.

Pam asked what the plaintiffs are seeking aside from damages.

Corbo stated the plaintiffs do not want the question on the ballot, they are seeking the Board of Registrars to certify the signatures, as well as placing a question in the form of their petition on the ballot, and an unspecified dollar amount of attorney fees.

Schoen asked about the plaintiffs seeking attorney fees if the Council places the question on the ballot.

Corbo responded that once the question is placed on the ballot the Town has a strong argument that the case is moot.

Hanneke asked if the Council places the question on the ballot and a judge rules in the plaintiffs favor on a motion to dismiss, can the Council remove the question from the ballot.

Corbo stated he is not recommending the Town agree to any form of judgement.

Goldberg spoke about creating voter confusion in placing a question on a ballot and subsequently removing it.

Brewer asked about the plaintiffs seeking changes to certification requirements.

Goldberg proposed the following ballot question language:

QUESTION: Shall the following measure authorizing a borrowing for the expansion and renovation of the Jones Library, as voted by the Town Council on April 5, 2021, be affirmed?

BE IT ORDERED by the Town Council of the Town of Amherst that: The Town appropriate \$35,279,700 for the expansion and renovation of the Jones Library, and to meet this appropriation, authorize the Treasurer, with the approval of the Town Manager, to borrow said amount, under and pursuant to M.G.L. Chapter 44, Section 7, 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore, which borrowing shall be reduced to the extent of any grants received from the Massachusetts Board of Library Commissioners, funds received from The Jones Library, Incorporated in an amount no less than \$5,656,576 which, in addition to the \$1,000,000 previously appropriated under the Community Preservation Act, represents the Library's share of the total project cost, and/or any other source to pay costs of this project; and, further, any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to costs of issuance of such bonds or notes, may be applied to project costs approved by this vote with a reduction of borrowing authority therefore by a like amount in accordance with M.G.L. Chapter 44, Section 20.

SUMMARY: On April 5, 2021, the Town Council voted with 10 in favor, 2 opposed, and 1 abstention, to authorize a borrowing for the expansion and renovation of the Jones Library. The Massachusetts Board of Library Commissioners has awarded the Town a grant of approximately \$13.8 million for this project with payments starting this year; approximately \$5.7 million will be provided through private donations as set forth in an agreement with the Jones Library Board of Trustees; and a \$1.0 million appropriation from the Community Preservation Act funds. With these funds secured, the Town's share of the total project costs will be approximately \$15.8 million. A "yes" vote on this question means that you affirm the Council's vote to fund the Library expansion and renovation project and want the project to continue. A "no" vote means that you reject the Council's vote to fund the Library expansion and renovation project and do not want the project to continue.

Councilors discussed the proposed language.

Pam stated the question reads as though the Town is funding the whole project itself.

Goldberg responded that state law requires the question include the full amount, regardless of expected grants or other funding sources.

DuMont asked about the reason for leaving out the Council's vote count.

Goldberg responded that the question and summary cannot advocate for or against the question.

Councilors discussed parameters of the discussion in open session.

Hanneke spoke in opposition to a vote to place the question on the ballot, stating that the Town is more open to financial loss.

Bahl-Milne asked if the plaintiffs are not interested in compromising, how will the ballot question strengthen the Town's position.

Goldberg spoke about the intent to diffuse the plaintiffs' strongest argument and resolve the litigation without payment of attorney's fees.

Councilors expressed frustration that the discussion and explanation for the Council's vote to place the question on the ballot will be restricted.

**MOTION:** Griesemer moved, second by Steinberg, to return to open session.

**VOTED** unanimously, 13-0 by roll call to return to open session.

Griesemer adjourned the executive session and the Town Council returned to open session at 8:18 pm.

Respectfully submitted,



Athena O'Keeffe, Clerk of the Council