

PRESS RELEASE

Contact:

Marla Jamate

marlagonow@gmail.com

Call (413) 253-0765

Text (413) 222-9937

FOR IMMEDIATE RELEASE

May 17, 2021

Wrongfully Discarded Signatures Still Need to be Addressed/ Petitioners Question Why Board of Registrars Abruptly Cancelled Last Thursday's Meeting

New Open Meeting Law Complaint Filed, Seeking Minutes of Prior Meetings

Petitioners who claim that numerous signatures they submitted to the Town on April 20 were wrongly disqualified by the Town Clerk's Office have received no answer from the Clerk as to why a Board of Registrars' meeting set for Thursday, May 13, was abruptly cancelled that morning.

"Very significant issues, involving the right of Amherst residents to petition local government and receive due process, are now pending before the Board," said Carol Gray, the petition drive's legal counsel. "We question why the Board cancelled this meeting, and urge it to reschedule quickly."

The Board of Registrars currently has no permanent chair, and it is unclear who decided the meeting to address the petitioners' appeal and objections would be cancelled or why. Town Clerk Susan Audette, who is an ex-officio member of the Board, chaired its meetings on May 7 and May 10.

At both those meetings, the Board failed to take action to remedy the wrongful disqualification of numerous registered voters who live in Amherst.

The agenda for the Board of Registrars' meeting cancelled on Thursday called for a report on the "outcome/resolution" of an Open Meeting Law complaint filed by

the petitioners' group, along with continuation of a May 7 meeting to discuss the petitioners' appeal.

“There has been no resolution, and we believe the Board still should act to nullify its meeting of April 21, where it delegated authority to certify petitions to the Town Clerk's Office. The Board of Registrars should count the petition signatures anew,” said Gray. “This would be the quickest way to determine the true count, and it is the appropriate legal remedy considering the clear violations of the Open Meeting Law.”

Although the Board of Registrars cancelled its meeting, on Thursday the Town Council held a special meeting at noon, where it went into closed session to “discuss strategy” regarding a lawsuit filed by the petitioners in Hampshire Superior Court in April. That lawsuit sought use of electronic signatures and other COVID-19 accommodations, which were granted to political candidates and ballot-question committees under a Supreme Judicial Court ruling last year. The Town Council has set another executive session to discuss the lawsuit for Tuesday, May 18 at 4 p.m.

Meanwhile, the petition group, after seeking minutes of prior Board of Registrars meetings, learned that there are few records of Board meetings. In an email exchange between Gray and Town Clerk Susan Audette, Audette noted that “the folder that contains the total sum of minutes (of Board of Registrars meetings) has only 9 meetings from 2006-present.”

“Since the Board of Registrars meets very infrequently, there are very few sets of minutes from years past, which is why I think they've never posted online,” Audette stated.

Petitioners have requested copies of the nine sets of minutes, to determine if the Board of Registrars met only 9 times during the past 15 years, or if it met more frequently and didn't create or post minutes as required by the Open Meeting Law.

In a new Open Meeting Law complaint filed by the petitioners on Friday, May 14, Gray noted that the law requires a public body to “create and maintain accurate minutes of all meetings.” At the Board's meetings on May 7 and May 10, there was no discussion of approving any prior Board minutes, such as should have been recorded on April 21.

“We believe that the residents of Amherst, and the current Board members, who were appointed in 2019 and 2020, would like to see a more active and engaged Board of Registrars,” said petitioner Marla Jamate. “The Board of Registrars does not need to delegate all of its authority to the Town Clerk’s Office. It can and should conduct certification processes on its own, as an independent body.”

Boards of Registrars statewide are responsible for certifying signatures on nomination papers and petitions, issuing party enrollment and voter registration certificates, and investigating objections and challenges to local nomination papers, according to the Massachusetts Secretary of State’s Office. Registrars take an oath to perform their duties faithfully, and can face penalties under Massachusetts General law for prevention of registration, fraud, and refusing to perform their duties.

The petitioners are seeking a referendum on the Town Council’s April 5 decision to borrow \$35 million to reconstruct the Jones Library. They submitted 1,088 signatures to the Town on April 20, according to the Town Clerk’s Office. The office announced the following day that the petition group was 22 certifiable signatures short of the 864 needed to trigger a Voter Veto referendum under the Amherst Home Rule Charter.

In analyzing the rejected signatures, the petitioners found many provided by long-term registered voters, and appealed over 100 rejections to the Board. The petitioners have also submitted 92 affidavits from residents who state that they signed the petition in their normal manner, and would like their signatures to be counted.

[On May 10, at meeting that last more than three hours](#), the Board of Registrars discussed whether Open Meeting Law violations took place related to its three-minute meeting on April 21, where it delegated signature certification to the Town Clerk’s Office.

Registrar Demetria Shabazz sought to nullify the April 21 meeting due to Open Meeting Law violations, including the posting of a notice which did not explain the meeting’s purpose sufficiently for the public to understand. Constitutional lawyer John Bonifaz of Amherst has said that nullification would allow the Board to revote its motion to delegate authority to the Town Clerk’s Office, and instead begin certification of signatures anew.

The Town's attorney, Gregg Corbo of KP Law, said at the May 10th meeting that the Board has no authority to act, and maintained that the Registrars couldn't redo the signature certification, because they were beyond the 10 day window allowed by the Amherst Home Rule Charter. However, Corbo didn't acknowledge or explain why the Town Clerk's Office failed to promptly notify the Board of Registrars that the petitioners had filed an appeal.

"Essentially, the Town Clerk's Office and Town Council made it impossible for the Board of Registrars to fulfill its duties properly, by failing to provide the Registrars with memos that were addressed to it for the entire duration of the 10 day window to act under the Town Charter," said Gray.

Shabazz's motion to nullify the April 21 meeting was supported by Registrar Jaime Wagner, while Registrar Jacquelin Gardner voted against it. Audette, who is an ex-officio member of the Board as Town Clerk, chose to weigh in on the matter, and voted against Shabazz's motion, causing it to fail.

Video excerpts from the May 10 meeting are here: [Audette re: possible "mistakes", KP Law Attorney Gregg Corbo speaking about the petitioners](#); [Audette and Corbo on whether Atty. John Bonifaz of Amherst will be allowed to speak](#).

####