

PRESS RELEASE

Contact:

Marla Jamate

marlagonow@gmail.com

Call (413) 253-0765

Text (413) 222-9937

FOR IMMEDIATE RELEASE

May 11, 2021

TOWN CLERK SUSAN AUDETTE USES EX-OFFICIO ROLE ON BOARD OF REGISTRARS TO VOTE AGAINST FRESH COUNT OF PETITION SIGNATURES

Audette Defends April 21 Certification Conducted By Her Office, Denies Claim of Open Meeting Law Violations

At a virtual hearing of the Amherst Board of Registrars which lasted more than three hours on Monday (May 11), Town Clerk Susan Audette, who is an ex-officio member, voted to prevent the Board from setting aside its meeting of April 21 in order to count petition signatures afresh.

“In Town Meeting, ex-officio members rarely voted. That an ex-officio Town staff person-- who is not a resident of Amherst--would overrule the will of the citizen Registrars who voted 2-1 to allow a fresh look, is a sad commentary on how the Town is trying to control the agenda,” said Carol Gray, the petition drive’s legal counsel.

[Another meeting of the Board is set for Thursday, May 13 at 2 p.m.](#) The petitioners said they are appreciative that the Board of Registrars has convened twice, and will continue to discuss the wrongfully-discarded signatures. The group will persist in seeking proper certification for numerous long-term registered voters who want their signatures to be counted, including the 92 who thus far have submitted affidavits to the Town. The petitioners’ complaint alleging violations of the Open Meeting Law related to the April 21 Board meeting is still awaiting any remedy

that might be offered by the Board prior to submission to the Attorney General's Office for investigation.

The petitioners are seeking a town-wide referendum on the Town Council's plan to borrow \$35 million to reconstruct the Jones Library. They submitted 1,088 signatures on April 20, according to the Town Clerk's office. The next day, the office announced that the petitioners were 22 certifiable signatures short of the 864 needed to trigger a referendum under the Amherst Home Rule Charter.

The petition group, after analyzing the disqualified signatures, found many that belong to long-term registered voters, who state that they signed in their usual manner, and want to be counted. Those disqualified included former Town employees and elected officials, along with well-known residents such as professors at UMass and the colleges.

The petition group believes the Town would be best served by a new certification process conducted by the Board of Registrars, but if this does not occur, will consider additional legal action.

"Voter suppression is occurring right here in Amherst and we will not rest until we have exercised every option available to insure that Amherst's voters' voices are heard," Gray said.

State law requires that signatures be "substantially as registered," and permits several minor variations, including use of a first initial with a last name, and common or known nicknames.

Gray noted at Monday's hearing that petitioner signatures were disqualified for what appeared to be "absurd" address issues, such as abbreviating Lane to "Ln.," or "Brook" to "Brk," either on the petition or in voter registration; or for failing to include the abbreviation "St.," after writing a street name.

Audette said that things could always be better. "For whatever reason, it didn't certify," she said. Audette spoke often during the hearing in defense of the certification process conducted while she was absent.

The Town's Attorney, Gregg Corbo, made clear that KP Law has no interest in investigating or resolving the petitioners' claims, and intends to fight the group on principle. "The petitioners are adverse to the Town," he said.

"We find the bias displayed by the Town's Attorney, and his characterization of the petitioners as 'adverse to the town' to be highly disturbing," stated petitioner

Marla Jamate. “We exercised a right set out by the Amherst Home Rule Charter to conduct a petition drive seeking a town-wide referendum. Our goal has been to enable all Amherst voters to have a voice in this matter.”

Town Clerk’s Refusal to Abstain Tips Vote Against Re-do of April 21 Meeting

Registrar Demetria Shabazz’s motion to render the April 21 meeting null and void was seconded by Registrar Jaime Wagner at Monday’s hearing, which ran from 2:30 p.m. until after 5:30. However, Registrar Jacqueline Gardner and Audette voted against Shabazz’s motion, causing a tie vote and the motion to fail. Audette insisted on her right to vote as an ex-officio member, although John Bonifaz, a constitutional law attorney from Amherst, recommended that Audette abstain and allow the vote to proceed with “the duly appointed members of this board,” in order to help restore residents’ faith in Amherst government.

Audette asked Corbo of KP Law for advice, and was told to vote. “You have full power and authority,” he said.

Of the 11 members of the public who commented yesterday all expressing grave concerns about the certification process, five were local lawyers. They called upon the Board to take available steps to assure that all registered voters are counted.

Anita Sarro, an attorney from Amherst, said that her confidence in Town government is shaken. “I voted for the Charter in the naive belief that the Charter was fairly written ... and that people of integrity and good will would be elected, appointed and hired who would exercise their power fairly. It appears that I was wrong on all counts,” Sarro said. “I urge the Board ... to be faithful to the oaths you took and fulfill your duties as required by Massachusetts law to protect the voting process.”

Michael Serduck, another attorney from Amherst, said he has lived here for 49 years and been registered to vote since was 18, but his signature on the petition was disqualified. Serduck said that state law has long established that administrative agencies like the Board of Registrars possess an ‘inherent ability to revisit their decisions.’”

Other members of the public said the Board cannot ignore the erroneous rejections made by the Town Clerk’s office. “Mistakes happen. How we respond to those errors is what matters. In this case, the Board of Registrars can correct them and remedy the harm that resulted,” said resident Maria Kopicki.

Audette said there is no legal means under which the Board can review the signatures, an assertion echoed repeatedly by Corbo of KP Law. “There is certainly no authorization to go back,” Corbo said, adding that the 10 days in which the petitions could be certified has ended, and that the Board can’t “rewrite the Town Charter,” to extend the timeline.

Shabazz had not suggested any extension of the timeline set by the Charter, but urged the Board to make use of a provision in the Massachusetts Open Meeting Law, which allows administrative bodies to remedy their mistakes by nullifying a previous meeting.

Bonifaz said he consulted with a staff member in the Attorney General’s Office, and confirmed that the Board can use this legal mechanism. He said that Corbo was giving the Board “false advice.”

Bonifaz noted that there was no quorum of the Board on April 21, when only two Registrars, Gardner and Wagner, were present, while both Shabazz and Audette were absent. The meeting was run by Assistant Town Clerk Amber Martin.

Shabazz Reports Being Told that Training Was Needed to Count Signatures

Although Audette and Corbo raised repeated objections to any prospect of nullifying the April 21 meeting, they also said that the meeting wasn’t really necessary, and was only conducted by the Clerk’s office in an effort to be “extra transparent” about its actions. They claimed that the Board members, in having authorized Audette’s office to use signature stamps in the past, had effectively already delegated all signature certification authority.

Shabazz questioned why the Board even exists if it cannot oversee and resolve voting and petitioning matters. “Otherwise there is no point in our having any power as the Board of Registrars,” she said.

Boards of Registrars, according to the Massachusetts Secretary of State’s Office, 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, among other duties. Under the Massachusetts General Laws, registrars take an oath to faithfully perform their duties, and can face penalties for prevention of registration, fraud, and refusing to perform their duties.

Shabazz said she was told by Audette in a phone call in April that the Board would need training and years of experience to count petition signatures. It remains unclear why the Town apparently didn't provide such training to the Board, as Shabazz and Gardner were appointed in 2019 and Wagner in 2020. All are serving three-year terms.

Audette Describes Posted April 21 Agenda As "Short and Sweet"

In response to the petitioners' Open Meeting Law Complaint alleging inadequate notice for the April 21 Board meeting, Shabazz said that the agenda for the April 21 meeting was not sufficiently clear to make the subject of it known to the public. That agenda referred to "delegation of authority and duties listed under Charter Sections 8.2, 8.3, and 8.4 to Town Clerk Office Staff."

Audette, who described the language as "short and sweet," denied that it was insufficient, although both Gardner and Wagner said they had to look up the sections of the Charter to find out what the meeting was about. Gardner noted that the sections also "encompass a lot ... you could take years to go through all that stuff." Nonetheless, Gardner said she believes the agenda was properly advertised.

Shabazz said she didn't know what the meeting was about, and went to a previously scheduled doctor's appointment that morning unaware that petition signatures were the subject. Shabazz said that not everyone in town has sufficient computer or Internet access to enable them to conduct research into sections of the Charter.

Gray, the petition group's counsel, said the agenda item was "obscured with legalese."

"No member of the public would have known what this was talking about," she said.

Gray said the wrongful disqualification of signatures was a "travesty of justice," "You have a chance to be courageous, and correct it," she told the Board.

Shabazz, from the hearing's outset, emphasized that the Board is an independent body, and questioned Corbo's right to advise the Board, stating that he represents Audette, Town Manager Paul Bockelman, and the Town Council.

As occurred at Friday's meeting, Audette served as chair for Monday's meeting. Shabazz called upon the group to elect a chair from the appointed group, rather than Audette, who Shabazz said had a conflict of interest in chairing the meeting. The Open Meeting Law complaint filed by the petition group "involves the Town Clerk," Shabazz said.

A different KP Law Attorney, Lauren Goldberg, who represented the Town at Friday's meeting, did not appear yesterday. The *Amherst Indy* printed an article Monday morning which included several minutes of publicly-broadcast footage from before Friday's meeting. In the pre-meeting segment, Goldberg gave Audette instructions on handling Shabazz, petitioners and the public, and made a disparaging remark about Gray. The petitioners asked that Goldberg be "excluded" from participation in Monday's hearing.

Bonifaz characterized the footage of the pre-meeting as "enormously damning," and said it underscores KP Law's conflict of interest. "Ms. Goldberg coached the Town Clerk in how to handle a registrar and complainant ... it's all there for the public to see," he said.

Gray said the degree to which the Town Attorneys have sought to assert control over the Board's meetings, even suggesting to the Board adjourn yesterday. Is very concerning. "We believe this interference with what should be an independent citizen board is highly inappropriate and not in the best interest of our community," she said.