

Village of Gates Mills
MINUTES OF A SPECIAL MEETING OF COUNCIL
August 26, 2014

Pursuant to written notice, a special meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, August 26, 2014 at 6:15 p.m. in the Village Hall.

Councilmembers present: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner, Welsh.

Mayor Riley advised that the first item on the Agenda is an Executive Session regarding pending or imminent litigation.

It was moved by Councilmember Schneider, seconded by Councilmember Sogg, that Council enter into Executive Session.

Roll call: Ayes: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner, Welsh.
 Nays: None.
 Motion carried.

Council returned from Executive Session at 6:30 p.m.

Mayor Riley called the Special Council meeting to order.

Roll call: Ayes: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner, Welsh.
 Nays: None.
 Motion carried.

Mayor Riley announced that Council is to consider certifying a proposed Charter Amendment to the Board of Elections for the general election being held on November 4, 2014 and declaring an emergency.

Ordinance #2014-18 entitled "An Ordinance Submitting A Proposed Charter Amendment To The Electorate At The General Election To Be Held On The 4th Day Of November, 2014, As Specified In Article XII, Section 1 Of The Gates Mills Village Charter, And Declaring An Emergency," was presented by Councilmember Schneider and read by the Clerk. It was moved by Councilmember Schneider, seconded by Councilmember Frankel, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance #2014-18 be placed upon its final passage.

Roll call: Ayes: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner, Welsh.
 Nays: None.
 Motion carried.

It was then moved by Councilmember Barnes, seconded by Councilmember Turner, that Ordinance #2014-18 be certified.

Roll call: Ayes: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner, Welsh.
Nays: None.
Motion carried.

Law Director Cannon provided a statement that Mr. Andreano sent a communication to Council wherein he purported to represent her and Mayor Riley's position regarding the merits of the issues regarding the petition signatures. Law Director Cannon stated that his communication did not accurately represent her position. She advised that it remains her opinion, under the Charter of Gates Mills, that these petitions do not contain a sufficient number of signatures. She added that it was also clear what the Secretary of State says and that if Council does not certify this matter to the Board of Elections, Gates Mills will potentially face two rounds of litigation: (1) whether it goes on the ballot; and (2) if the matter passes. Law Director Cannon expressed her advice to Council that, in light of the significant difference in opinion as to what controls with regard to the required number of signatures, unless Council wants to face litigation, the only choice is to certify this matter to the Board of Elections. Law Director Cannon clarified that the only issue before this Council, at this time, is whether the petitions contain a significant number of signatures to certify to the Board of Elections and it does not constitute any sort of endorsement, approval, disapproval or otherwise by Council regarding the merits of the petition. Law Director Cannon shared her opinion that the proposed Charter Amendment is fundamentally inconsistent with Ohio law. She opined that if Council elects to certify it to the Board of Elections and the measure passes, it is very likely that Gates Mills will face litigation regarding the legality of the proposed Charter Amendment. Law Director Cannon also shared that it is her understanding that Mr. Holman distributed a letter expressing his views regarding the fact that Council had not anticipated taking public comment at this meeting. She stated at any Council meeting, in any community, unless its Charter specifically states otherwise, or it is a public hearing, it is Council's decision whether to entertain comment and, if so, on what grounds. In her experience, she said it is particularly unusual to entertain public comment at a special meeting with a narrow purpose. The only purpose of this meeting, other than Executive Session, is for Council to determine whether this matter should be certified to the Board of Elections. Should Council wish to entertain public comment, that is Council's decision and not doing so is not a violation of any law, protocol or practice.

Mayor Riley confirmed the measure passed and would be certified to the Board of Elections to appear on the November ballot. He clarified for the record that Council's vote does not, in any way, stand as an endorsement of the Charter Amendment.

Mayor Riley conveyed that Resident Holman made a request to make a public comment. Council confirmed to allow the same. Mayor Riley suggested limiting comments in light of this being a special meeting and requested that any comments made not be offensive.

Resident Holman expressed his opinion that he continues to be disturbed by the Director of Law's legal opinions. He provided an overview that on August 8th, Law Director Cannon issued a letter stating their petition had insufficient signatures. A few days later, the group's

lawyer sent a letter stating the position that it believes Law Director Cannon's view is incorrect. On August 12th, Mr. Holman referenced the Secretary of State's position. He expressed his ongoing concern of the quality of her legal advice and considers the Law Director's advice suspect. Mayor Riley interjected with notation of the time remaining for Mr. Holman's statement and requested Mr. Holman refrain from any insulting or disrespectful comments. Mr. Holman responded that he is being respectful including with his criticism of the Director of Law. Mr. Holman voiced, as a resident, he has a right to be heard and clarified that he is not using profanity. He emphasized his point is that Law Director Cannon is incorrect and that the top election's official for the State of Ohio has offered to municipalities an opinion which is directly at odds with her view. Mr. Holman referencing Mayor Riley's comment regarding disrespect, stated that at the beginning of this meeting, he handed Mayor Riley a letter from a group of concerned citizens wherein he witnessed Mayor Riley crumble and throw such letter into the trash. He expressed such action was disrespectful and offensive. Mr. Holman stated that Mayor Riley represents all of the people, members of Council and the citizens of Gates Mills. He then highlighted that the group originally obtained 150 signatures and then, in its second attempt, obtained hundreds of additional signatures.

Resident Susan Stephens, addressing the signs held by audience members at the last Council meeting, clarified that attendees were not trying to be disrespectful but, rather, were concerned about not being heard or being given the opportunity for public comment. Resident Stephens urged Council to be aware that some disclosure is needed. She stated that she is a client of Walter Haverfield and is aware that Walter Haverfield also represents oil and gas companies. Given such representation, Dr. Stephens stated there should be some disclosure to make the public aware of inherit or perceived biases.

There being no further business, it was moved by Councilmember Frankel, seconded by Councilmember Welsh, and unanimously carried, that the council meeting be adjourned.

Roll call: Ayes: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner, Welsh.
 Nays: None.
 Motion carried.

Respectfully submitted,

Beth DeCapite, Clerk

Approved:

Shawn M. Riley, Mayor