

Justin Katz
189 Cottrell Rd.
Tiverton, RI 02878

Monday, October 2, 2017

Nancy Mello
Tiverton Town Clerk
343 Highland Rd.
Tiverton, RI 02878

Dear Mrs. Mello,

As a qualified elector of the Town of Tiverton, I hereby file this sworn statement as a complaint charging the School Committee members, individually (excepting Deborah Pallasch), and the School Committee as a body with a violation of the town's Home Rule Charter.

During the public session of the committee's regularly scheduled April 11 meeting, the members discussed submitting an elector petition under Section 301(d)(1). The discussion included a decision about who should submit the petition as well as the budget amounts for which they would petition. The committee then effectively held a vote of the members present to approve the proposed elector petition. (See Attachment A.)

Section 301(d)(1) of the Tiverton Home Rule Charter provides a mechanism to any elector of the town to submit a budget petition. (See Attachment B.) The subsection states that elected officials are not barred from submitting such petitions *as electors*, but the process is intended for "electors of the town," not for government bodies. The School Committee's access to the ballot comes in the separate subsection, 301(c)(2). (See Attachment B.)

In acting as a body to exercise rights reserved for individual electors, the committee abused the democratic processes for which our charter allows and claimed the right to act officially through all three separate mechanisms for accessing the ballot. The rationale that the committee's third swing at the budget involved an activity in their private capacities is a mere pretense, as the committee decisively proved when it subsequently voted to authorize its attorney to represent the petitioners following a complaint that the petition was invalid.

Per Charter Section 1211(a)(3), I request that you forward this complaint to the Town Administrator and that he schedule a public hearing before the Town Council, acting as Charter Monitoring and Complaint Review Board. In the scheduling of that hearing, be it understood that Council Members Joan B. Chabot and Randy J. Lebeau should recuse on the grounds that they were also signatories to the elector petition. Additionally, Council Member John G. Edwards, V, should recuse on the grounds that this complainant has filed a matter against him currently pending before the state Ethics Commission.

Sincerely,

Justin Katz

April 11. School Committee meeting.

William Rearick (Superintendent)

“If you put forward what you did on Saturday, it runs the risk of it being rejected by the town attorney, therefore leaving us with nothing. At that point, we’d have no alternate budget because we’d be out of time.”

...

Jerome Larkin (Chairman)

“Which is our other option, which is essentially to put in a petitioners budget, and the Charter explicitly says that you’re not prevented doing so by virtue of the fact that you’re an elected official or a member of any board or appointed position in town, which then allows us, if we were to do so, either one or some collection of us as the petitioners, we can then modify the number as we see fit, which I think, personally, is in some ways the most transparent thing to do is to say, ‘This is the number that we would like to put forward to the townspeople. This is what we believe is the best thing for the town.’

...

“So, Mrs. Black, can I ask, would you be joining me in being the petitioner if we so choose to do such a thing..”

Sally Black (Vice Chairwoman)

“Well, I don’t know if we can be petitioners. I’m sure we have many people...”

Larkin

“No, we can be petitioners.

...

“We are not representing ourselves as School Committee, we are petitioners.”

Black

“Alright, I would love to join you.”

Stephen Robinson (Attorney)

“You can have a majority of the elected officials of the School Committee be petitioners, the way this is written.”

Black

[To Larkin] "But if you and I just put it in, I think it would be less likely to say there was something wrong with it. You know how they're going to call us from the Town Hall and say it's illegal."

...

"But I would put a petition in with you, if that's OK with everyone else."

Diane Farnsworth (Member)

"Sure, I would support it."

Black

"Would you? Elaine?"

Elaine Pavao (Member)

"Yes. That's fine."

Attachment B

- 15.) Town Clerk: Budget Proposal elector petitions made available no later than 35 days prior to the Financial Town Referendum.
- 16.) Electors: Budget and Resolution elector petitions due to the Town Clerk no later than 28 days prior to the Financial Town Referendum.
- 17.) Board of Canvassers: Certification of all elector petitions complete no later than 21 days prior to the Financial Town Referendum.
- 18.) Town Clerk: The Financial Town Hearing shall occur no later than 14 days prior to the Financial Town Referendum.
- 19.) Financial Town Referendum: The Financial Town Referendum shall occur on the third Tuesday in May.
- 20.) [If Necessary] Financial Town Referendum Runoff: The Financial Town Referendum Runoff shall occur 14 days after the Financial Town Referendum.

(b) Ballot

The Financial Town Referendum ballot shall be approved by the Board of Canvassers.

- 1.) **Budget Proposals:** Pursuant to Section 301 (c), Budget Proposals shall appear on said ballot and shall include:
 - A. the dollar amount to appropriate for the School Department budget,
 - B. the dollar amount to appropriate for the Municipal budget (including the Town Clerk and Town Treasurer),
 - C. the dollar amount to raise by taxation including maximum dollar amounts for the Motor Vehicle, Real & Tangible Property, and resulting Total Property tax levies,
 - D. the percentage increase or decrease to the prior year's certified Net Tax Levy, and
 - E. if necessary, the dollar amount of the Total Property Tax Levy that is in excess of the maximum levy as calculated in accordance with R.I.G.L. 44-5-2 (b).

Electors shall be instructed to "Vote For Only One of the following Budget Proposals".

- 2.) **Resolutions:** Pursuant to Section 301 (c), a resolution or ballot question may be included on said ballot, provided that if adopted it shall not alter the ballot entries of Section 301 (b) 1.) A. through E. Electors shall be instructed to "Approve or Reject" resolution(s).

(c) Access to Ballot

- 1.) The Budget Committee Budget Proposal shall appear first on the ballot in accordance with Section 301(b) 1.). Resolutions submitted by the Budget Committee shall appear on the ballot.
- 2.) At the request of either the Town Council or School Committee or both, an Optional Budget Proposal shall appear on the ballot in accordance with Section 301(b) 1.). At the discretion of the Town Council, said Optional Budget Proposal shall include the Budget Committee recommended municipal budget or the municipal budget request. At the discretion of the School Committee, said Optional Budget Proposal shall include the Budget Committee recommended school budget or the school budget request. The dollar amount used for non property tax revenue (excluding education aid) in the determination of the Total Property tax levy of Section 301 (b) 1.) C. shall be at the discretion of the

Town Council. The dollar amount used for education aid in the determination of the Total Property tax levy of Section 301 (b) 1.) C. shall be at the discretion of the School Committee. The dollar amount used for the Motor Vehicle Property tax levy in the determination of the Total Property tax levy of Section 301 (b) 1.) C. shall be at the discretion of the Town Council. Resolutions submitted by the Town Council and or the School Committee shall appear on the ballot.

- 3.) Qualified Elector Budget Proposals in accordance with Section 301(b) 1.) submitted by elector petition in accordance with Section 301 (d) shall appear on the ballot in an order determined by a Board of Canvassers lottery. Qualified Resolutions submitted by elector petition in accordance with Section 301 (d) shall appear on the ballot.

(d) Petitions

- 1.) **Electors Budget Proposals:** Electors of the town may petition that an alternate budget proposal be included in the Financial Town Referendum. No later than 35 days before the Financial Town Referendum the Town Clerk shall make petition forms available which include fields for the name of the elector who is the petition originator and the ballot entry amounts of Section 301(b)1.A through E. The Town Clerk shall record the dollar amounts sought by the petition originator on the petition form, shall prepare a typed version of this petition form to be verified by the petition originator, and record a petition originator's statement, if any, as to the purpose of the petition. The petition originator shall provide and the Town Clerk shall record either (1) the specific docket line item(s) to be increased, decreased, or created, or (2) a statement to remand the docket to the Budget Committee for final determination of docket line item(s) in accordance with said petition originator's budget proposal. Any person obtaining signatures must be a legal resident of voting age. Petitions must be returned to the Town Clerk no later than 28 days prior to the Financial Town Referendum. Any language added to a petition, or any alteration of the language thereof subsequent to the verification by the petition originator of the Town Clerk's typed version, shall be of no force or effect. There shall be no limit to the number of separate petitions which an elector may sign. Nothing in this charter shall prevent an elected official or any appointed member of a Board, Committee or Commission from being a petition originator or signatory. Nothing in this Charter shall prevent an elector, a majority of an elected body or Board, Committee or Commission from circulating a petition. An elector may originate no more than one Budget Proposal petition.
- 2.) **Electors Resolutions:** No later than 28 days before the Financial Town Referendum electors may petition that a Resolution pursuant to Section 301 (b) 2.) be included on the ballot for the Financial Town Referendum.
- 3.) **Qualification of Petitions:** The Town Clerk shall cause petition signatures to be verified by the Board of Canvassers, such verification to be completed no later than 21 days before the Financial Town Referendum. All Elector Budget Proposals and Elector Resolutions shall be included on the ballot for the Financial Town Referendum and presented at the Financial Town Hearing provided that they are accompanied by 50 qualified elector signatures.