

Town of Pomfret SPECIAL Selectboard Meeting Agenda
Town Offices

5238 Pomfret Road
 No Pomfret, VT. 05053
 Wednesday January 20, 2021
 5:00 p.m.

Agenda	Presenter	Time Frame
1. Call to Order	Chair	5:00
2. Public Comment		
3. Enter Executive Session Confidential Discussion between Client and Attorney		
4. Adjourn Executive Session Agenda Item 5 d. @Selectboard meeting. Decision on Action to be Taken if Necessary re: Statutory Deadlines for Submitting Voter Backed Petitions 24 V.S.A. § 2642(a)(3)(A),		

- <https://zoom.us/j/95395079923?pwd=ZjBEed3ZuZWgvWmx2M0tpOE8zbjg2dz09> to start or join a scheduled Zoom meeting
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Scott D. Woodward 2354 Allen Hill Rd. Pomfret, Vermont 05053

January 15, 2021

Town of Pomfret
Attention Town Clerk and Selectboard 5218 Pomfret Rd.
Pomfret, Vermont 05053

Dear Town Clerk and Selectboard:

As the Town Clerk and Selectboard are aware, in my role as a Pomfret resident, I sponsored three voter-backed petitions for the March 2021 Town Meeting Day. While I regret needing to write this letter, justice and fairness demands it. I believe the Town Clerk made a grave error in responding to a listserv post at 6:04pm on January 14th stating that the “[t]he statutory deadline for submitting [voter-backed] petitions passed at 5pm this evening.”

The relevant statute for submission of voter-backed petitions is 24 V.S.A. § 2642(a)(3)(A), which states in pertinent part that “[t]he warning shall also contain any article or articles requested by a petition signed by at least five percent of the voters of the municipality and *filed* with the municipal clerk not less than 47 *days* before the *day* of the meeting.” (emphasis added). The relevant words in the statute are “filed” and “day.” Notably, the statute *does not* contain a reference to a 5pm filing deadline. Contrast the language of 24 V.S.A. § 2642(a)(3)(A) with 17 V.S.A. § 2681(a)(1)(A), the latter of which references a specific 5:00pm deadline for submission of candidate consent form petitions. While the Town Clerk’s error may have been inadvertent, it was not a harmless error.

In documented email correspondence between the petitions sponsor and the Town Clerk on January 8th, the Town Clerk offered use of the Town Office mailbox as a means to “file” petitions without any specified time restriction. Mailboxes are available 24 hours, 7 days a week. The proper statutory interpretation of a “day” is a full twenty-four hours. Taken together with the Town Clerk’s documented acceptance of using the mailbox as a method of filing, petitions should have permissibly been filed up to midnight on January 14th. Additionally, at no time did the Town Clerk give notice to the petitions sponsor prior to the 6:04pm listserv post that she was imposing a 5pm deadline on use of the mailbox and nor did the Town Clerk post a notice on the Town website.

In response to a 5:43pm final listserv appeal by the petitions sponsor for more signatures, the sponsor received three confirmed signatures at 6:18pm, along with two other pledged signatures, all five of which could have been filed before midnight. Together with previously filed petitions, the total signature count as of 6:18pm would have been forty signatures for the cannabis retail petition, thirty-seven signatures for the

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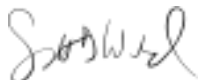
reserve fund consolidation petition and thirty-three signatures for the independent audit petition, leaving only three signatures needed for reserve fund petition and seven signatures needed for the independent audit petition to be collected in the approximately six hour period before midnight to meet the 40 signature requirement. As of 6:18pm, the petitions sponsor had collected fourteen signatures for each petition on January 14th alone.

It is not inconceivable that the remaining necessary signatures for the reserve fund and independent audit petitions could have been collected before midnight on January 14th. But, the Town Clerk's 6:04pm listserv post terminated the possibility of obtaining any further signatures before the actual deadline. People are going to listen to the Town Clerk and the listserv is the only broadly available means to engage with the public because of pandemic restrictions. The Town Clerk's listserv post was the "kiss of death," substantially impacting the ability to obtain any remaining signatures needed to meet the 40 signature requirement. Given the facts that transpired here, the Town Clerk's 6:04pm listserv post is a potential violation of 24 V.S.A. § 2642.

I am prevailing upon the Pomfret Selectboard to do the right thing to remedy this error by voluntarily placing on the warning all three petitioned articles as there is no other recourse to obtain the remaining necessary signatures with the statutory deadline of 24 V.S.A. § 2642(a)(3)(A) now having passed.

Respectfully,

Scott D. Woodward Petitions Sponsor

A handwritten signature in cursive script, appearing to read "Scott Woodward".