

MINUTES OF THE MEETING OF THE BOARD OF ELECTIONS

September 24, 2020

7:00 P.M.

Mr. Rick Stewart called the Board of Elections Meeting to order at 7:00 p.m. with the following present: Mr. Howard Greene, Ms. Susan Lepter and City Solicitor Dan Griffith. Vice-Mayor Dan Henderson, City Manager, Charles Anderson, City Clerk, Tracy Torbert and Director of Economic Development and Community Relations, Trisha Newcomer were also present.

New Business

Mr. Stewart presented New Business Item #1: Hear a complaint regarding the 2020 Municipal Election that was held on May 16, 2020. Mr. Stewart then turned the meeting over to Mr. Dan Griffith, City Solicitor. Mr. Griffith thanked each board member for attending tonight's meeting.

Mr. Griffith explained that the meeting was called to address a pre-election complaint. He further explained that a pre-election complaint referenced a specific State of Delaware statute that addresses Municipal Elections. He added that the Statute is 15 Delaware Code 7552 so this meeting is being conducted relating to that statute. Mr. Griffith provided a copy of the statute to each committee member. Mr. Griffith then read Statute 7552 (a) which reads a citizen of the municipality may submit a written complaint, regarding any aspect of pre-election activity that is contrary to the provisions of subchapters IV and V of this chapter, to the municipality's Board of Elections. The municipal Board of Elections shall meet in a special public meeting held as soon as practicable in compliance with the Delaware Freedom of Information Act (Chapter 100 of Title 29), but in no event later than 10 days following receipt of the complaint to determine if the complaint has any merit. Within 24 hours of the special public meeting, the municipal Board of Elections shall issue a written decision on whether the pre-election action or activity was legally incorrect and ordering lawful action necessary to correct such legal error in the pre-election action or activity. Mr. Griffith explained that this is the purpose of the meeting tonight; to address the pre-election complaint.

Mr. Griffith shared that each of the committee members has received a copy of the complaint. He added that he will provide the City's response to the complaint. Mr. Griffith advised the board that there are three ways to address the complaint: sustain the complaint, sustain part of the complaint and overrule part of the complaint or overrule the complaint. He added that if the committee decides to sustain the complaint or sustain part of the complaint, a remedy would need to be provided. Once a decision is made by the committee, it needs to be shared with Mr. Griffith since a written decision needs to be provided within 24 hours of the meeting and will be made public.

Mr. Griffith then read the complaint starting with part A: The City of Seaford has improperly configured parts of the organization and functions of two groups of volunteer election officials (the BOE and Election Officers/Standing Board) in violation of 15 Del Code Chapter 75. He then read part B: The City of Seaford has failed to appoint five (5) qualified electors as members of its Board of Elections as required by Seaford's Chapter 7, Section D "Board of Elections". (Note: Under 15 Del Code Chapter 7551 (f), "Municipal Board shall consist of an odd number of members as stated in the municipality's charter or code..."). He then read part C: The City of Seaford has failed to post the names and contact information of its Board of Elections at City Hall as required under 15

Del Code 7551 (j). He added that there is no opportunity during this meeting for public comment or public input.

Mr. Griffith then explained the frame work of the election board as stated in the City Charter and the Delaware Code. He added that the code provides for election officials who are in charge of the running the day-to-day process of the election. The Delaware Code also provides a board of elections who hear appeals and challenges if any problems arise. The City's charter states the following: the Mayor shall submit to Council the names of individuals to serve as the Board of Elections whose purpose shall be to oversee the Municipal Election in conformity with Chapter 75 Title 15 of Delaware Code. Said Board shall consist of five (5) qualified electors of the City and shall serve for such term as determined by the City Council. Mr. Griffith added that when you read the City Charter and the Delaware Code together, the City is required to have a Board who are in charge of running the day to day operation of the election and a Board responsible to oversee challenges. Mr. Griffith provided each member of the committee information from a January 28, 2020 City Council meeting that showed the two boards that were appointed at that meeting. The standing board which consisted of five members: Pastor Isaac Ross, Cynthia Cummings, Sharon Drugash, Rick Peterson and Elaine Vincent. He added that these are the five people that are required as stated in the City's Charter who run the day-to-day operations of the election. At that same City Council meeting on January 28, 2020, the Municipal Board was appointed consisting of three members: Howard Greene, Susan Lepter and Rick Stewart. Mr. Griffith stated that what was done at the January 28, 2020 City Council meeting; exactly what is stated in the City Charter and Delaware Code. He added that the City is in complete compliance with what is outlined; however, he believes that the language has been confused by the person making the complaint. Mr. Griffith explained that when the City appointed the two boards, they used titles that were not either one listed in the Delaware Code or City Charter (Standing Board & Municipal Board). However, the boards served the purpose as outlined in the Delaware Code and City Charter.

Mr. Griffith then moved on to the last part of the complaint, the City of Seaford has failed to post the names and contact information of its Board of Elections at City Hall as required under 15 DE Code 7551 (j). Mr. Griffith said that the City did indeed comply with this obligation by posting the information at City Hall and on the City's website. He added that once the Boards were appointed in January through the election the information was posted as required in both of those places. He added that that complaint is factually incorrect. He added that the information may not be up there now because the committee for next year has not been formed yet. He also stated that the information is still up on the City's website under the election tab.

Mr. Griffith stated that was the City's position on the complaint. The City does comply with the City Charter and Delaware Code. He then asked for any questions from the committee.

Mr. Stewart called for a motion to adjourn to go into Executive Session for the purpose of a strategy session for potential litigation. Ms. Lepter made a motion to adjourn to go into executive session; Mr. Greene seconded. The motion so passed. The Board of Elections meeting was adjourned to go into Executive Session at 7:16 p.m.

Mr. Stewart called for a motion to open the Board of Election committee meeting. Mr. Greene made a motion to open the Board of Election committee meeting; Ms. Lepter seconded. The motion so passed. The Board of Elections meeting was brought back into public session at 7:38 p.m.

Mr. Stewart called for a motion to adjourn the Board of Election Committee meeting. Mr. Greene so moved; Ms. Lepter seconded; motion so passed. The Board of Election Committee meeting was adjourned at 7:39 p.m.

Charles D. Anderson, City Manager

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