

E-mail from Town Attorney on Citizens Petition on VT Gas Systems Easement for Service to 3 Mill Street

From: Benjamin Putnam <benj@pmlawvt.com>
Sent: Thursday, September 08, 2022 4:29 PM
To: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Cc: Ann Webster <AWebster@townofmiddlebury.org>
Subject: RE: VGS Service Installation

Hi Kathleen,

I have been working on responding to your question, but have not been able to find a lot of guidance, so all we really have to look to is the plain language of the statute. It reads as follows:

If a petition signed by five percent of the legal voters of the municipality objecting to the proposed conveyance is presented to the municipal clerk within 30 days of the date of posting and publication of the notice required by subdivision (1) of this subsection, the legislative body shall cause the question of whether the municipality shall convey the real estate to be considered at a special or annual meeting called for that purpose.

While it seems like a waste of time and money to proceed with the vote now that the request is essentially moot, the highlighted language in the statute is phrased as a mandatory requirement (“shall cause the question ... to be considered at a special or annual meeting”), and there is nothing in the statute that specifically authorizes the Town to rescind the notice and cancel the town vote if there is a change of circumstances (such as a withdrawal of the original request for the easement).

Also, if VGS withdraws its request for the moment, and the vote is canceled, but then VGS decides to renew its request at a future date, I could see the petitioners objecting to having to go around and gather signatures all over again for a new petition.

So all of this is a long way of saying that the safest approach is probably to proceed with the vote. If the voters end up approving conveyance of the easement, I think VGS would be free at that point to change its mind and decide to accept the easement after all, if it chose to do so. And if the voters decline to approve, that puts the matter to rest once and for all.

Regards,
Benj

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From: Kathleen Ramsay <KRamsay@townofmiddlebury.org>
Sent: Tuesday, August 30, 2022 3:55 PM
To: Benjamin Putnam <benj@pmlawvt.com>
Cc: Ann Webster <AWebster@townofmiddlebury.org>
Subject: FW: VGS Service Installation

Hi Benj,

Vermont Gas has withdrawn its request for an easement to service the Stone Mill.

Should the Selectboard act to rescind the 1061 notice? Is the citizens petition null and void?

Thanks,
Kathleen