

# Saratoga Springs charter change petition does not meet requirements, Saratoga Citizen will go to court

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SARATOGA SPRINGS — Charter change group Saratoga Citizen plans to challenge the city in court after Accounts Commissioner John Franck said Thursday the group had not met the legal requirements that would allow the City Council to consider its petition for referendum.

The group is advocating for a ballot referendum this November that would give residents a choice to retain the commission form of government or enact a council-manager form, in which a professional municipal manager would handle administrative duties while an elected council acted as policymakers.

Six days after being presented with 1,280 signatures — more than the 1,137 required for consideration — the City Council voted unanimously to retain Albany-based firm Brown & Weinraub at a rate of \$200 per hour for counsel related to the petition.

Franck said the city has not yet been billed by the law firm for their work on the matter, but that the cost was likely "substantial" due to the amount of time spent on analysis.

Since the presentation of the initial batch of signatures, the petitioning group has publicly provided documentation to the council showing additional signatures totaling 2,014.

"It doesn't just challenge us, it challenges over 2,000 people who signed this petition," Wilkes said of the decision.

Franck's determination, based on attorney advisement, said both the petition submitted to the council on July 20 and the charter documents submitted July 15 were not certifiable under the law.

"It's my understanding that these signatures are dead," Franck said after the announcement.

In a report given to Franck on Wednesday, attorneys said the petition was invalid because it was not properly fastened and petitioners failed to submit the required minimum of 1,137 signatures needed for the referendum to be considered.

Counsel invalidated 287 signatures, claiming several signatories were not registered voters in the last gubernatorial election. Entire pages of signatures were also invalidated because alterations had been made to witness statements — which the petitioner signs to certify that they are signatories and are eligible — without petitioners initialing where the changes were made.

Counsel also said the amended charter itself is "legally deficient" because it does not include a financing plan, which they said is necessary under Municipal Home Rule Law section 37.11

Franck cited case law provided by attorneys showing a portion of a 1986 Court of Appeals decision that led to the adoption of the section of the law which states a financing plan is required, "so that the electorate would be aware of

the fiscal consequences of the proposal and exercise that franchise intelligently."

Kane said the group's counsel, Michael Whiteman of Whiteman, Osterman and Hana, had previously shown them case law out of Rochester refuting the claim that a financial statement is required with the revised charter.

"If this is all they had, that is a lot of money wasted," said Kane, calling the evidence against the signatures "flimsy at best."

"I'd like to see every petition submitted to the county in the last 20 years," he said, showing entire pages of signatures that had been discounted because zip codes were written out of place or the number of signatures was revised without initials.

"This is not what the voters want to hear," Kane said, noting that the group now has over 2,300 signatures.

"The law must be followed in all aspects," said Mayor Scott Johnson, adding that he found it alarming that 22 percent of the group's signatures had been decertified.

The council reserves the right to form a charter review commission, but Johnson said he would wait to see what happens with this proposal before discussing a city-appointed committee.

"I'd be more than happy to address the issue once this issue is solved," he said, noting that he understood the issue was important to residents based on the significant grassroots support that led to the filing of the Saratoga Citizen petition.

According to state law, the group has five days from Thursday to submit a written objection to the, "Supreme Court, or any justice thereof, of a judicial district in which such local government or any part thereof is located."