

THE TOWN OF FOREST HEIGHTS
RESOLUTION 20-13

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOREST HEIGHTS ADMONISHING, REPRIMANDING AND CENSURING COUNCILMAN LARRY M. STONER FOR FAILING TO PROPERLY COMPLY WITH THE TOWN CHARTER WHILE SEEKING ELECTION TO THE OFFICE OF MAYOR; AND, ORDERING THE REMOVAL OF COUNCILMAN STONER'S NAME FROM THE BALLOT FOR THE OFFICE OF MAYOR AT THE UPCOMING MARCH 2013 GENERAL ELECTION, AND OTHERWISE REVERSING THE DECISION OF THE TOWN BOARD OF ELECTIONS CERTIFYING SAID COUNCILMAN'S CERTIFICATE OF NOMINATION

Introduced By: Robert O. Barnes, Jr., Councilman Ward I

WHEREAS, Section 33-93 (Code of Conduct) of the Town of Forest Heights Charter (herein referred to as Town Charter), empowers the Council to suspend any public official in the Town of Forests Heights, appointed or elected who violates the Charter, and that any violation of said charter, as determined by a favorable vote of 4 members of the Council vote, shall be grounds for immediate suspension from office for a period of not more than 180 days, and that suspension from office shall only be effected with a favorable vote of the 4 members of the Council vote; and

WHEREAS, pursuant to Section 2.5(a) of the Town Ordinance Code, the Town Council may, from time to time, by resolution issue such rules and regulations governing the compensation, discipline, performance, safety, separation and all other matters pertaining to the employment, supervision or management of the Town's officers, employees, and volunteers, as it deems appropriate; and

WHEREAS, the Mayor and Council enacted Charter Amendment Resolution 03-12 ("CAR 03-12") on October 1, 2012 that apparently contained certain typographical or other non-fatal errors and should have used the word "non-concurrent" instead of "concurrent" when referencing a councilman's term of office, and

WHEREAS, the Mayor and Council find that a complete and proper reading of the entire CAR 03-12, particularly Section 33-33, that was amended by said CAR 03-12 last fall, clearly shows that the intent of the Mayor and Council was to provide a level playing field for all Councilmen by requiring those that choose to run for Mayor while in mid-term (i.e., non-concurrently with the Mayor's term) are to forfeit their seats similar to what happens to a Councilman serving during the same election cycle as the Mayor (i.e., concurrently) whose service with the Town ends when he or she chooses to run for Mayor instead of running for another term as Councilman because he or she is not permitted to run simultaneously for two (2) elective Town offices; and

WHEREAS, the Mayor and Council further find that Mr. Stoner was elected in March of 2012 and his term expires in March of 2014; therefore, if he runs for Mayor later this month he will be running "...while in mid-term...", and from a "safe seat," which under the previous charter (i.e.,

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prior to CAR 03-12) would have allowed him to remain in his council seat upon losing the race for Mayor; however, the Council finds that this is the very mischief or inequity that the Council intended to remedy with the passage of CAR 03-12, which would have terminated Councilman Stoner's term of office upon filing for office and was fully participated in, understood and debated by Councilman Stoner, when the Council legislated that in such a situation a councilman must file his certificate of candidacy earlier in January so that eligible residents would have notice to choose to run for either a 2-year or a 1-year term for the vacant seats caused when this situation occurs within a particular ward as required by Section 33-33 of the Charter; and

WHEREAS, the Council further finds that it has received a timely appeal from an aggrieved party of the decision of the Board of Elections in approving or qualifying Councilman Stoner's candidacy for election to Mayor; and

WHEREAS, the Council further finds the Board of Elections erred on February 15, 2013 in certifying said certificate of nomination filed in February by Mr. Stoner and the Board lacked adequate information including a copy of CAR 03-12 and other information in which to make an informed decision.

NOW THEREFORE BE IT RESOLVED, that the Town Council hereby reverses or modifies the recent decision of the Board of Elections of the Town of Forest Heights to certify or otherwise approve the untimely certificate of nomination for Mayor filed by Councilman Larry Stoner and hereby approves, authorizes, and orders the Town Board of Elections and/or the Town Clerk, based on the findings hereinabove, to remove and delete Councilman Stoner's name from the ballot at the upcoming March 2013 Town general election.

BE IT FURTHER RESOLVED, that the Town Council hereby admonishes, reprimands and censures Councilman Stoner having fiduciary responsibility and for failing to file a timely certificate of nomination that might have allowed another resident to file to run for office as his successor, and be placed on the ballot, or otherwise intentionally or negligently refusing to respect, uphold and diligently follow the laws and policies of the Town, and by otherwise attempting to circumvent, contest or frivolously challenge the requirements, procedures and limitations of the Charter thereby unnecessarily diverting Town's attention and needlessly expending or wasting the Town's limited resources.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage.

PASSED this 4th day of March 2013.

APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland

ROLL CALL VOTE

YEA/NAY/ABSTAIN/ABSENT

GOODALL

ABSTAIN / RECUSSED

SMITH-BARNES

YEA

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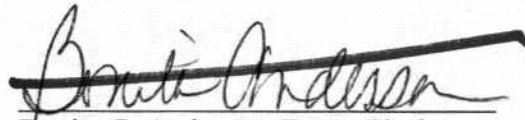
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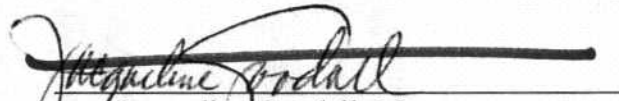
| | |
|-------------|--------------------|
| STONER | <u> NAY </u> |
| BARNES | <u> YEA </u> |
| CLARKE | <u> YEA </u> |
| KENNEDY II | <u> YEA </u> |
| REIFSNEIDER | <u> YEA </u> |

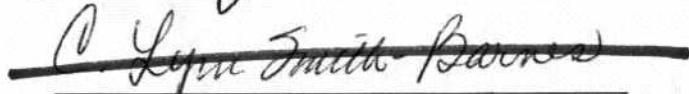
PASSED this 4th Day of March, 2013.

ATTEST:

THE MAYOR AND COUNCIL OF THE
TOWN OF FOREST HEIGHTS

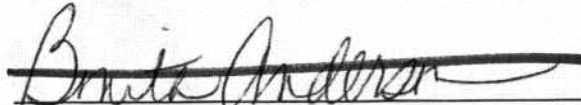

Bonita C. Anderson, Town Clerk


Jacqueline Goodall, Mayor


C. Lynn Smith-Barnes, Council President

CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 4th day of March 2013 with 5 Aye votes and 1 Nay votes the aforesaid Resolution 20-13 passed.


Bonita Anderson, Town Clerk