

VILLAGE OF DANSVILLE
INGHAM COUNTY MICHIGAN
Resolution No. 01-2018

Resolution Declaring Votes Cast for Person in Default to the Village of Dansville Void

WHEREAS, The Village of Dansville is a General Law Village in the County of Ingham, State of Michigan, and

WHEREAS, the General Law Village Act, Act 3 of 1985, MCL 62.1 *et seq* as amended, provides that "...All votes in an election for or any appointment of a person in default to the village are void...", and

WHEREAS, the Act, in MCL 62.7(2) defines "in default" to mean when a person is "...delinquent in property taxes or a debt owed to the village....remains unpaid 90 days after the due date, unless the debt is the subject of an administrative appeal or a contested court case..." and

WHEREAS, Amanda Nevills utility bill, Invoice # 16188, due and payable on August 6, 2018, remained unpaid as of the date of the fall election held on November 6, 2018, and

WHEREAS, Ms. Nevills had thus been indebted to the Village of Dansville for at least 90 days at the time of the election and was therefore "in default" and votes cast for her void by statute.

NOW THEREFORE BE IT RESOLVED:

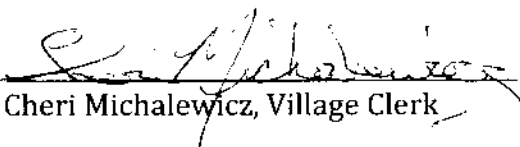
That the Village of Dansville has determined that the candidate for Dansville Village Treasurer, Amanda Nevills, was in default to the Village for unpaid utility bills at the time of the election, votes cast for her in the election are void, and the Village Clerk is directed to provide this information and Resolution to the appropriate Ingham County election officials.

Ayes: Carlson, Smith, Cerasano, Kirby, Hitzner, Schubert, Johnson

Nays: C

Absent: C

Date: 11-12-2018

BY: 
Cheri Michalewicz, Village Clerk

Shane Bolley
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November 9, 2018

Ms. Cheri Michalewicz, Clerk
Village of Dansville
P.O. Box 236
Dansville, Michigan 48819

Re: General Law Village Qualifications for Office

Dear Ms. Michalewicz:

You have asked whether the candidate for the Village of Dansville Office of Treasurer is qualified for office in view of the provisions of the General Law Village Act inasmuch as she is in default to the Village for utility bills. As you know, prior to amendment in 1998, the Act provided that a person in default to a Village (even at any time in the past), was not qualified for either appointed or elected office. The General Law Village Act, Act 3 of 1985, as amended in 1998, deleted the disqualification for past defaults, and limits disqualification to current default (MCL 62.1 *et seq*). In pertinent part the Act provides in MCL 62.7(2) (emphasis added):

(2) A person in default to the village is not eligible for any office in the village. All votes in an election for or any appointment of a person in default to the village are void. As used in this subsection, "in default" means delinquent in payment of property taxes or a debt owed to the village if 1 or more of the following applies:

- (a) The taxes remain unpaid after the last day of February in the year following the year in which they are levied, unless they are the subject of an appeal.
- (b) Another debt owed to the village remains unpaid 90 days after the due date, unless the debt is the subject of an administrative appeal or a contested court case.

...

You state that the Village of Dansville utility billing invoice #16188, dated July 7, 2018, and sent to Amanda Nevills for her utility service at 905 Union Street, indicates an amount due of \$96.00 with a due date of "8/6/2018", which remains unpaid as of the date of this correspondence. Further, the successive invoice (#164095, dated October 9, 2018) added the new billing period, itemized the past due amount, and added late fees. You report that there has been no appeal of either invoice nor is there a related contested court case. Given that no payment for the utility invoice due on August 6, 2018 has yet to be received by the Village, you have determined that Ms. Nevills was in default to the Village of Dansville at the time of the election held on November 6, 2018, for a period of time in excess of ninety (90) days.

In my opinion the provisions of the Act are clear and given the facts and circumstances you have provided, any votes cast for a person in default to the Village of Dansville for a period of ninety (90) days, pursuant to the General Law Village Act (MCL 62.1, *et seq*) are void. As the Village is not the final stop in the election process I recommend the Village Council approve a Resolution stating its position in this matter and provide it to the Board of Canvassers and the Ingham County Clerk's Office.

I trust this opinion is responsive to your request. If you have any questions or would like further assistance regarding this matter please contact me.

As always, it was my pleasure to be of service to the Village of Dansville.

Sincerely,

Shane Bolley