

BAY COUNTY BOARD OF CANVASSERS

RECOUNT OF BAY CITY 9TH WARD COMMISSION RACE

DECEMBER 7, 1989

THE BAY COUNTY BOARD OF CANVASSERS MET THURSDAY, DECEMBER 7, 1989 TO RECOUNT THE VOTES CAST FOR THE POSITION OF THE 9TH WARD CITY COMMISSIONER. THE RECOUNT INVOLVED CANDIDATES RUTH MOSHER AND THOMAS WACHOWIAK FROM WHICH FORMER ELECTION RESULTS HAD BEEN CERTIFIED FROM THE NOVEMBER 8, 1989, SPECIAL ELECTION. THE FOLLOWING INDIVIDUALS WERE PRESENT FOR THE RECOUNT WHICH BEGAN AT THE BAY CITY FIRESTATION #5, WENT TO THE SPRUCE & BRADLY STREETS WARD BUILDING, AND CONCLUDED AT THE BAY CITY HALL COMMISSION ROOM. THE RECOUNT BEGAN AT 9:30 A.M.

BOARD MEMBERS IN ATTENDANCE: DONALD CHEVALIER, BOARD MEMBER
WALTER WOZNIAK, BOARD MEMBER
WALLACE NIELSEN, VICE-CHMN.
RICHARD BRZEZINSKI, CHAIRMAN

ALSO PRESENT: BARBARA ALBERTSON, COUNTY CLERK
CYNTHIA A. LUCZAK, SECRETARY
MARY IDA DOAN, TALLY CLERK
DELORES NIEDZINSKI, TALLY CLERK
CONNIE DEFORD, BAY CITY CLERK
RUTH MOSHER, CANDIDATE
THOMAS WACHOWIAK, CANDIDATE
VIRGINIA HUTTER, COMMISSIONER
CANDY WACHOWIAK, REP. T. WACHOWIAK
CAROL WESENICK, REPRESENTATIVE
LORAIN LANGLIN, REP. R. MOSHER
JEFF PHILLIPS, BAY CITY TIMES
TOM BOCK, ATTORNEY

THE RECOUNT BEGAN AT BAY CITY FIRE STATION #5 WITH THE FOLLOWING OBSERVATIONS DOCUMENTED, FOLLOWING THE EXPLANATION OF CHAIRMAN BRZEZINSKI AS TO HOW THE RECOUNT WOULD BE CONDUCTED. AS TWO VOTING MACHINES WERE LOCATED ON THE PREMISES, ONLY ONE HAD BEEN ACTUALLY UTILIZED THE DAY OF THE SPECIAL ELECTION. MACHINES NUMBERED 73270 AND 73271 WERE FURTHER INSPECTED TO REVEAL THAT MACHINE NUMBER 73271 (WHICH AGREED WITH THE POLL BOOK) HAD BEEN USED FOR VOTING PURPOSES AND THAT A ZERO VOTE TALLY WAS EVIDENCED ON MACHINE 73270. IN ADDITION, THE TALLY CLERKS RECORDED SEAL NUMBER 257989; PROTECTOR COUNTER #21852; AND PUBLIC COUNTER #342 - ALL OF WHICH AGREED WITH THE CLERKS' TALLY SHEETS AS SUBMITTED. RUTH MOSHER WAS REPRESENTED BY 3A ON THE MACHINE AND THE CANVASSER ANNOUNCED THAT SHE HAD RECEIVED 152 VOTES ON THIS MACHINE. THOMAS WACHOWIAK WAS REPRESENTED BY 4A ON THE VOTING MACHINE AND THE CANVASSER INDICATED THAT HE HAD RECEIVED 170 VOTES ACCORDING TO THE VOTING MACHINE. THE RECOUNT OF THE FIRESTATION VOTING MACHINE CONCLUDED AT 9:40 A.M. AND THE CANVASSERS AND RESPECTIVE REPRESENTATIVES PROCEEDED TO THE SPRUCE & BRADLY WARD BUILDING.

MACHINES NUMBERED 73274 AND 73275 HAD BEEN HOUSED AT THE WARD BUILDING. ONLY MACHINE NUMBERED 73274 HAD BEEN USED FOR VOTING PURPOSES AS HAD BEEN REFLECTED ON THE CLERK'S TALLY SHEET. SEAL NUMBER 257950; PROTECTIVE COUNTER NUMBER 027139; AND PUBLIC COUNTER NUMBER 277, ALL COINCIDED WITH THE TALLY SHEET.

THE TOTAL NUMBER OF VOTES CAST FOR THE COMMISSION CANDIDATES WERE MOSHER, REPRESENTED BY 4A ON THIS MACHINE, 120 VOTES CAST AND WACHOWIAK, REPRESENTED BY 3A ON THIS MACHINE, RECEIVING 143 OF THE VOTES CAST. NOTED WAS THE FACT THAT THE SECOND MACHINE, NUMBERED 73275, REGISTERED ZEROS IN ALL AREAS. THIS CONCLUDED THE RECOUNT AT THE WARD BUILDING AT APPROXIMATELY 9:55 A.M.

RECOUNT PERSONNEL REACHED BAY CITY HALL AT 10:00 A.M. FOR THE PURPOSE OF REVIEWING THE ABSENTEE VOTER BALLOTS CAST FOR THE COMMISSION RACE. CHAIRMAN BRZEZINSKI INFORMED THE CANDIDATES AND THEIR REPRESENTATIVES THAT THEY WOULD BE ALLOWED TO QUESTION ANY BALLOTS THEY SO CHOOSSED; SAID BALLOTS WOULD BE SET ASIDE AND REVIEWED BY THE CANVASSERS FOR THE FINAL DETERMINATION AS TO THE VALIDITY OF THE VOTE CAST. THEREAFTER, WOULD BE REGARDED AS EITHER APPROVED FOR THE COUNTING OR NOT APPROVED FOR COUNTING. CITY CLERK, CONNIE DEFORD, RETRIEVED THE BALLOT CAN CONTAINING THE A.V. BOARD NUMBER FIVE BALLOTS FOR THE 7TH; 8TH; AND 9TH DISTRICTS. THE SEAL ON THE BALLOT CAN READ 584363 WHILE THE POLL BOOK REFLECTED SEAL NUMBER 544363 HAD BEEN USED. AS THE SEALS WERE RECORDED IN ERROR, THE CLERK INDICATED THE BALLOTS COULD ONLY BE COUNTED IF THE SEAL ON THE BAG HAD BEEN RECORDED CORRECTLY AS PURSUANT TO MICHIGAN STATE LAW. INSPECTION OF THE SEAL ON THE BAG, NUMBER 583379, WAS RECORDED PROPERLY INTO THE POLL BOOK WHICH ALLOWED THE CONTINUATION OF THE RECOUNT. UPON BREAKING OF THE BALLOT BAG SEAL, THE CANVASSERS AGREED TO SEPERATE THE 9TH WARD FROM THE 7TH AND 8TH WARDS, FIRST. THIS WOULD MAKE THE COUNTING OF 9TH WARD BALLOTS MUCH EASIER TO COMPARE WITH THE POLL BOOK DOCUMENTATION. CLERK CONNIE DEFORD ANNOUNCED THAT THERE WERE THREE DIFFERENT BALLOTS CAST FOR THIS ELECTION, CITY CHARTER QUESTION; MAYOR/COMMISSIONERS; AND STATE QUESTIONS; WHICH WOULD ALL BE STAPLED TOGETHER TO REPRESENT ONE CITIZENS VOTE.

THE CANVASSERS PROCEEDED TO DIVIDE THE BALLOTS INTO 9TH WARD AND NON-NINTH WARD SECTIONS. CONNIE DEFORD STATED THAT 427 BALLOTS HAD BEEN MAILED OUT AND THAT 419 HAD BEEN RETURNED TO THE CITY CLERK, AS RECORDED IN THE POLL BOOK. THE CANVASSERS WERE REQUIRED TO COUNT THE PILES OF 9TH WARD AND NON-NINTH WARD BALLOTS TWICE, BEFORE CONFIRMING THE TOTAL OF 419 RETURNED. (THE NINTH WARD HAD 219 BALLOTS CAST AND THE 7TH AND 8TH TOTALED 200 BALLOTS).

A QUICK REVIEW BY THE CANVASSERS RESULTED IN THE QUESTIONING OF THREE BALLOTS. ALTHOUGH THE POLL BOOK DID NOT INDICATE ANY SPOILED BALLOTS, THESE THREE WERE SET ASIDE FOR LATER CONSIDERATION BY THE BOARD.

AT THIS TIME CANDIDATE WACHOWIAK WAS GIVEN THE OPPORTUNITY TO REVIEW THE BALLOTS AS CAST FOR CANDIDATE MOSHER. A BALLOT WAS CHALLENGED FOR 'ITS' MARKINGS AND WHETHER OR NOT THE CHECK WAS IN THE BOX FOR A VALID VOTE. THE BALLOT WAS SET ASIDE AND MARKED CHALLENGED BALLOT #1 FOR THE LATER REVIEW. A SECOND BALLOT WAS CHALLENGED BY WACHOWIAK AS THE VOTER HAD CHANGED HIS/HER MIND AND ELIMINATED THE FIRST VOTE CAST BY AN ERASER TYPE MARK. THIS BALLOT WAS MARKED CHALLENGE #2 AND SET ASIDE FOR A LATER DETERMINATION. NEXT CANDIDATE MOSHER HAD AN OPPORTUNITY TO QUESTION THE VOTES CAST FOR CANDIDATE TOM WACHOWIAK. MS. MOSHER QUESTIONED A BALLOT FOR ITS MARKINGS AS THE WRITING OF THE VOTER HAD APPEARED SHAKEY, AS TO MAY HAVE BEEN AN OLDER PERSON. THIS BALLOT WAS LABELED CHALLENGE #3 AND REMOVED FOR THE CANVASSERS REVIEW. THE THREE BALLOTS FORMERLY HELD OUT BY THE CANVASSERS WERE LABELED BALLOTS #4, #5 AND #6 FOR IDENTIFICATION PURPOSES AND ALL SIX OF THE QUESTIONABLE BALLOTS WERE PRESENTED TO THE CANVASSERS FOR A VOTE ON THEIR ACCEPTANCE OR REJECTION.

- CHALLENGED BALLOT #1- AS THE MARKINGS OF THE CHECK IN THE BOX WAS QUESTIONED, UPON CLOSER OBSERVATION DETERMINED IT WAS A GOOD VOTE, BY THE CANVASSERS AND THEREFORE TO BE COUNTED FOR MOSHER. THIS WAS A UNANIMOUS VOTE OF THE CANVASSERS.
- CHALLENGED BALLOT #2- AS THE ERASER MARKS MADE BY THE VOTER HAD BEEN QUESTIONED, THE CANVASSERS DECIDED THE VOTE CAST OR THE INTENT OF THE VOTER HAD BEEN OBVIOUS AND CLEAR AND THAT THE VOTE SHALL BE COUNTED FOR CANDIDATE MOSHER. THIS DECISION WAS BY A UNANIMOUS VOTE OF THE CANVASSERS.
- CHALLENGED BALLOT #3- AS THE INTERSECTION OF THE SHAKING LINES OF AN "X" WAS QUESTIONED IN CHALLENGE #3, CLOSE INSPECTION OF THE VOTE REVEALED THE LINES INTERSECTED IN THE VOTING BOX AND THAT IT WOULD BE A VALID VOTE CAST FOR WACHOWIAK. THE BOARD OF CANVASSERS AGREED BY A UNANIMOUS VOTE.
- BD. CHALLENGE #4 - THE CANVASSERS REVIEWED THIS BALLOT THAT HAD BEEN SET ASIDE AS THE VOTER CHANGED HIS/HER MIND AND CORRECTED THE VOTE CAST WITH THE WORDS "TO BE CORRECTED". AS THESE WORDS MAY HAVE IDENTIFIED THE VOTER THE BOARD FELT AS THOUGH IT WAS A SPOILED BALLOT. WALLACE NIELSEN EXPRESSED OPPOSITION TO THE SPOILING OF THE BALLOT AS IT MAY DENY THE VOTER HIS/HER CONSTITUTIONAL RIGHT TO CHANGE THEIR MIND. THE VOTER, NEVERTHELESS, COULD HAVE CHANGED THEIR MIND BUT SHOULD HAVE NOT WRITTEN THE ADDITIONAL NOTE, STATE OF MICHIGAN RULES WERE CONSULTED FOR THE PROPER CORRECTION OF A VOTE CHANGE. THE BOARD CONSIDERED THIS BALLOT SPOILED BY A VOTE OF 3 YEAS, AND 1 NAY - WALLACE NIELSEN.
- BD. CHALLENGE #5 - AS THIS BALLOT CONTAINED NO MARKINGS AT ALL TO INDICATE THE VOTE PREFERRED BY THE VOTER, THE BOARD CONSIDERED THE BALLOT NON-VALID DOCUMENT.
- BD. CHALLENGE #6 - THE MARKINGS HAD BEEN CHALLENGED ON THIS BALLOT AS THEY WERE NEAR OR EVEN ON, THE ACTUAL LINES OF THE VOTING BOX. CLOSER REVIEW INDICATED THE INTERSECTION OF THE CHECK WAS ON THE LINE OF THE BOX AND WOULD THEREFORE BE CONSIDERED ACCEPTABLE BY A VOTE OF 4 YEAS, 0 NAYS. (VOTE CAST FOR WACHOWIAK)

THE BALLOTS IN QUESTION REVEALED THAT ONE BALLOT WAS UNMARKED AND ONE BALLOT WAS SPOILED. ONCE ACTUALLY TABULATED THE VOTES CAST FOR WACHOWIAK REMAINED 103, AS INDICATED ON THE RETURN SHEET. WHEN COUNTING THE A.V. VOTES CAST FOR MOSHER THE BOARD COUNT TOTALED 114 VOTES WHEREAS THE RETURN SHEET INDICATED 115 VOTES. THE FINAL TOTAL OF VOTES CAST WERE PRESENTED BY THE TALLY CLERKS WERE WACHOWIAK 416 VOTES AND MOSHER 386. A TOTAL DIFFERENCE OF ONE VOTE LESS FOR MOSHER THAN THE ORIGINAL RETURN SHEET REFLECTED.

CANVASSER CHEVALIER PLACED THE BALLOTS INTO THE BALLOT BAG AND RESEALED THE BAG WITH SEAL #18918. ONCE THE BAG HAD BEEN PLACED INTO THE BALLOT CAN, THE BALLOT CAN WAS SEALED WITH MICHIGAN SEAL #18911. THE SEALING OF THE BALLOTS INTO THE CAN CONCLUDED THE RECOUNT PROCEDURE AT 11:50 A.M.

Richard A. Brzezinski
RICHARD BRZEZINSKI, CHAIRMAN

Wallace Nielsen
WALLACE NIELSEN, VICE CHAIRMAN

Walter Wozniak Jr.
WALTER WOZNIAK, JR., MEMBER

Donald C. Chevalier
DONALD CHEVALIER, MEMBER

RESPECTFULLY SUBMITTED

BARBARA ALBERTSON
BAY COUNTY CLERK