

BAY COUNTY ELECTION COMMISSION

BANGOR TWP. SCHOOL CLARITY HEARING  
FEBRUARY 21, 1997

THE BAY COUNTY ELECTION COMMISSION MET ON FRIDAY, FEBRUARY 21, 1997 IN THE COMMISSION GROUND FLOOR CONFERENCE ROOM OF THE BAY COUNTY BUILDING TO CONSIDER THE CLARITY OF PETITIONS FILED FOR THE RECALL OF FOUR (4) BANGOR TOWNSHIP SCHOOL BOARD TRUSTEES. THE MEETING WAS CALLED TO ORDER BY PROBATE JUDGE KAREN TIGHT AT 8:15 A.M. WITH THE FOLLOWING MEMBERS AND GUESTS PRESENT.

ROLL CALL: KAREN TIGHE, PROBATE JUDGE  
JEANETTE NEITZEL, TREASURER  
LINDA TOBER, CHIEF DEPUTY CLERK

ALSO PRESENT: CYNTHIA A. LUCZAK, SECRETARY  
CHARLES HEWITT, ATTNY./CITIZENS GROUP  
GEORGE PHILLIPS, ATTNY/TRUSTEES  
JOHN SHARP, BANGOR TRUSTEE  
DICK KOWALSKI, BANGOR TRUSTEE  
WM. ROESE, BANGOR TRUSTEE  
KENT HUBER, BANGOR TRUSTEE  
BUZZ ROGGENBUCK, CITIZEN GROUP  
DARLENE SNIDER, CITIZEN GROUP  
SUE ROGGENBUCK, CITIZEN GROUP  
BEV THEISEN, CITIZENS GROUP  
KATHY WALSH, BOARD SUPPORTER  
KIM SHARP, BOARD SUPPORTER  
KATHLEEN ASCH, BOARD SUPPORTER  
DAN ASCH, BOARD SUPPORTER  
FRANK C. LEE, BAY CITY TIMES

MEMBERS OF THE ELECTION COMMISSION, BOARD OF TRUSTEES, CITIZENS GROUP AND BOARD SUPPORTERS WERE INTRODUCED.

JUDGE TIGHE ANNOUNCED THE PURPOSE OF THIS MEETING WAS TO CONSIDER THE CLARITY OF RECALL PETITION LANGUAGE AS FILED IN THE CASE OF BANGOR TOWNSHIP SCHOOL BOARD TRUSTEES JOHN SHARP, DICK KOWALSKI, WILLIAM JORDAN AND LINDA CAPRATHE.

ATTORNEY FOR THE CITIZENS GROUP, CHARLES HEWITT, STATED THE PETITION PRESENTED FOR AT THIS CLARITY, HAD BEEN DRAFTED WITH CONSIDERATION OF THE COMMENTS EXPRESSED BY THE ELECTION COMMISSION AT THEIR JANUARY 31, 1997 SESSION. A REQUEST FOR APPROVAL OF THE LANGUAGE WAS MADE SINCE THE CITIZENS GROUP FELT THIS POLITICAL ISSUE SHOULD BE PRESENTED TO THE ELECTORATE.

GEORGE PHILLIPS ADDRESSED THE CONTENT OF PARTICULAR VERBIAGE OF THE PETITIONS. FIRST, "THE ATMOSPHERE OF MISTRUST" WAS A PHRASE WHICH PRESUPPOSED AN ATMOSPHERE OF MISTRUST ALREADY EXISTED. SECONDLY, THE LANGUAGE WHICH ADDRESSED "THE FAILURE TO EXTEND THE CONTRACT CONSISTANT WITH THE BOARD POLICY AND ALSO FAILING TO TIMELY EVALUATE CONSISTENT WITH BOARD POLICY" WOULD BE CONFUSING TO THE BANGOR TOWNSHP ELECTORATE AS THEY MAY NOT BE AWARE OF BOARD POLICY. REFERRED TO WAS THE MEYER CIRCUIT CASE WHICH INVOLVED A RENEWAL OF A SCHOOL SUPERINTENDENTS CONTRACT. THE LANGUAGE DID NOT ACCOMPLISH THE INTENT OF THE CITIZENS GROUP IN THIS INSTANCE AND WAS UNCLEARLY STATED. LASTLY, THE "POOR ATTENDANCE" CONTENTION WAS A VAGUE STATEMENT. THESE STATEMENTS WERE SUPPOSED TO BE CLEAR TO THE ELECTORATE AND SINCE THIS DID NOT MAKE REFERENCE TO A PERCENT OF MEETINGS, MAY NOT SATISY THE PUBLIC. THE PETITIONS WERE TO BE CLEAR, DELIBERATE AND INFORMATIVE FOR THOSE INDIVIDUALS ASKED TO SIGN THEM. FURTHER, THE PETITION WORDING WAS TO ENABLE THE OFFICERS TO IDENTIFY THE TRANSACTIONS AND KNOW THE CHARGES MADE THEREOF. MR. PHILLIPS PRESENTED ARGUMENTS TO SPECIFIC PORTIONS OF THE INDIVIDUAL PETITIONS. J. SHARP-THE "EXCESSIVE COMPENSATION LAW" HAD BEEN REPEALED. WHAT TYPES OF COMPENSATION CONSTITUTED THIS ALLEGATION? WAS THIS WORKERS' COMPENSATION, SALARY, EXPENSES OR PER DIEM? TOO VAGUE. L. CAPRATHE-"HOLDING INCOMPATABLE OFFICES" WAS NOT A CLEAR STATEMENT AS MS. CAPRATHE HELD A "JOB" WITH WORK-FIRST AT THE SAME TIME AS HOLDING AN OFFICE AS TRUSTEE. IT DID NOT CONSTITUTE THE "HOLDING OF TWO (2) OFFICES" IN HIS OPINION. WM. JORDAN-CASELAW WAS CITED WHICH INDICATED A RECALL OF AN OFFICAL COULD NOT OCCUR AFTER THE OFFICIAL BEGAN HIS CURRENT TERM OF OFFICE. MR. JORDAN HAD BEEN RE-ELECTED IN JULY 1996 AND COULD THEREFORE NOT BE RECALLED IN HIS CURRENT TERM FOR THINGS WHICH OCCURRED DURING HIS PRIOR TERM.

- C. HEWITT: ATTORNEY HEWITT RESPONDED THAT IT WAS NOT THE RESPONSIBILITY OF THE ELECTION COMMISSION TO DETERMINE THE "FACTS" OF THE MATTER BUT TO ONLY DECIDE IF THE PETITION LANGUAGE WAS CLEAR AND TO BE SUBMITTED TO THE ELECTORATE. IT WAS A POLITICAL QUESTION IN MR. HEWITT'S VIEW AND WAS ALSO CLEAR ENOUGH FOR THE ELECTORATE TO UNDERSTAND.
- L. TOBER: CHIEF DEPUTY TOBER QUESTIONED THE CLARITY OF PETITION LANGUAGE IN THE CASE OF MR. SHARP. THE PETITION MADE REFERENCE TO A MICHIGAN COMPILED LAW ANNOTATED (MCLA) WHICH MS. TOBER FELT THE ELECTORATE MAY NOT UNDERSTAND BECAUSE THEY MAY OR MAY NOT HAVE ACCESS TO THIS LAW.
- C. HEWITT: THIS ISSUE HAD BEEN RAISED AT A PREVIOUS CLARITY HEARING AND DETERMINED TO BE SUFFICIENT BY THE ELECTION COMMISSION CITING AN ENROLLED HOUSE BILL, WHICH ALLOWED THE USE OF CASELAW, AND WAS DETERMINED SUFFICIENTLY CLEAR. THE STATEMENT WOULD BE TOO VAGUE AND UNACCEPTABLE IF THE CITIZENS GROUP ONLY REFERRED TO "RECEIVING EXCESSIVE COMPENSATION" AND PROVIDED NO SUPPORTING EVIDENCE.
- J. SHARP: TRUSTEE JOHN SHARP QUESTIONED WHAT TYPE OF "COMPENSATION" THE CITIZENS GROUP REFERRED TO AND OF WHICH HE HAD TO DEFEND. WAS IT FEES PAID FOR MEETINGS, THE PER DIEM OR WHAT?
- L. TOBER: CLERK TOBER RESPONDED, THE MCLA REFERRED TO IN THE PETITION LANGUAGE HAD ADDRESSED THE COMPENSATION RECEIVED BY MR. SHARP FOR PER DIEM PAY. THIS SPECIFICALLY STATED, "THE PERSON WAS NOT TO BE COMPENSATED FOR ANY MORE THAN A TOTAL OF 52 MEETINGS PER YEAR".
- G. PHILLIPS: ATTORNEY PHILLIPS EXPLAINED THE RECALL LAWS WERE QUITE DIFFERENT FROM REGULAR ELECTION LAWS. THE RECALL WAS TO FOCUS ON THE CONDUCT OF THE ELECTED OFFICIAL AND A CAMPAIGN WOULD BE BASED ON THAT ISSUE AND NOT A NUMBER OF GENERAL MATTERS AS IN A REGULAR ELECTION. A

G. PHILLIPS: PERSON ASKED TO SIGN THESE PETITIONS WILL NOT BE IN A LAW LIBRARY BUT IN SHOPPING MALL, DOORSTEP, AND ON THE SPUR OF A MOMENT. MR. PHILLIPS FELT THE INTENT OF THE CITIZENS COMMITTEE WAS THE RECALL OF BOARD MEMBERS FOR THE WAY THE RENEWAL OF THE SUPERINTENDENT'S CONTRACT HAD BEEN HANDLED BUT DID NOT SPECIFICALLY STATE THIS.

J. NEITZEL: TREASURER NEITZEL INDICATED THE RESPONSIBILITY OF EXECUTING A PETITION WAS IN THE HANDS OF THE PERSON SIGNING THE PETITION. IT WAS NOT HER DUTY TO DETERMINE THE TRUE OR FALSE OF THE MATTER, BUT ONLY THE CLARITY OF THE LANGUAGE.

FOLLOWING THE COMMENTS FROM THE FLOOR, JUDGE TIGHE CALLED FOR A VOTE ON EACH RECALL PETITION.

JORDAN #1- JEANETTE NEITZEL MOVED TO ACCEPT THE RECALL PETITION PRESENTED FOR MR. JORDAN. JUDGE TIGHE SUPPORTED THE MOTION AS CARRIED BY ROLL CALL VOTE OF 3 YEAS, 0 NAYS.

KOWALSKI- LINDA TOBER MOVED TO APPROVE THE RECALL PETITION PRESENTED ON BEHALF OF MR. KOWALSKI. JEANETTE NEITZEL SUPPORTED THE MOTION WITH A ROLL CALL VOTE OF 3 YEAS, 0 NAYS, RECORDED BY THE CHIEF DEPUTY CLERK.

CAPRATHE- JEANETTE NEITZEL MOVED TO ACCEPT THE RECALL PETITION LANGUAGE SUBMITTED TO RECALL TRUSTEE LINDA CAPRATHE. LINDA TOBER SUPPORTED THIS MOTION. BOARD MEMBERS CONCURRED BY ROLL CALL VOTE OF 3 YEAS, 0 NAYS.

SHARP #4 - JEANETTE NEITZEL MOVED TO ACCEPT THE RECALL PETITION WORDING TO RECALL TRUSTEE JOHN SHARP FROM OFFICE. KAREN TIGHE SUPPORTED THE MOTION AND THE ROLL CALL VOTE TALLIED REFLECTED TWO (2) YEAS, 1 NAY- LINDA TOBER.

IT WAS THE DETERMINATION OF THE ELECTION COMMISSION THAT ALL FOUR (4) RECALL PETITIONS WERE

TO BE SUBMITTED TO THE ELECTORATE FOR SIGNATURE.  
THE CITIZENS COMMITTEE WOULD HAVE 180 DAYS TO  
COLLECT 1,481 SIGNATURES PER BOARD MEMBER.

JUDGE KAREN TIGHE MOVED FOR AN ADJOURNMENT  
OF THIS CLARITY HEARING AT 8:35 A.M. CLERK TOBER  
SUPPORTED THE MOTION AND IT WAS CARRIED BY A  
VOICE VOTE OF 3 YEAS, 0 NAYS.

RESPECTFULLY SUBMITTED

LINDA L. TOBER  
CHIEF DEPUTY CLERK