

BAY COUNTY ELECTION COMMISSION
PORTSMOUTH TWP. CLARITY
MAY 23, 1991

THE BAY COUNTY ELECTION COMMISSION MET ON THURSDAY, MAY 23, 1991, IN THE COMMISSIONER'S GROUND FLOOR CONFERENCE ROOM OF THE BAY COUNTY BUILDING FOR THE PURPOSE OF DETERMINING CLARITY OF TEN (10) RECALL PETITIONS FILED IN REGARD TO PORTSMOUTH TOWNSHIP OFFICIAL POSITIONS. THE MEETING WAS CALLED TO ORDER BY THE CHAIRMAN OF THE COMMISSION, JUDGE DONER, AT 9:10 A.M. WITH THE FOLLOWING MEMBERS AND GUESTS IN ATTENDANCE.

ROLL CALL: PAUL N. DONER, PROBATE JUDGE
GEORGE MULLISON, PROSECUTOR
BARBARA ALBERTSON, CO. CLERK
CYNTHIA A. LUCZAK, SECRETARY
DONALD KRZEWINSKI, PETITIONER
KARLA ROSEN, TWP. ATTORNEY
JOHN MCQUILLAN, ATTORNEY
ROBERT PAWLAK, TWP. SUPERVISOR
JUDY BUKOWSKI, TWP. CLERK
JAMES BANASZAK, TWP. TRUSTEE
CHARLES PAWLAK, TWP. TRUSTEE
VIRGIL GATZA, TWP. TRUSTEE
DALE DAVIS, TWP. TRUSTEE
EDWARD BRISTOL, TWP. RESIDENT

PORTSMOUTH TWP. TREASURER HENRY BRANDT DID NOT APPEAR AT THIS CLARITY HEARING.

JUDGE DONER CONFIRMED THAT ALL MEMBERS HAD RECEIVED COPIES OF THE PETITIONS, NUMBERED ONE THROUGH TEN. IT WAS NOTED, THE LANGUAGE CONTAINED IN PETITIONS ONE THROUGH NINE WAS THE SAME. PETITION NUMBERED TEN WAS OF A DIFFERENT CONTENT MATTER AND BASED ON ACTS OF THE TOWNSHIP CLERK.

AS THE MEETING WAS CALLED IN ACCORDANCE WITH THE OPEN MEETINGS ACT, CHAIRMAN DONER ACCEPTED PUBLIC COMMENT AT THIS TIME.

PORTSMOUTH TWP. RESIDENT, EDWARD BRISTOL, REFUTED A COUPLE OF STATEMENTS MADE BY THE TOWNSHIP SUPERVISOR AT FORMER MEETINGS. MR. BRISTOL FELT AS THOUGH THE TOWNSHIP OFFICIALS VIOLATED THE MICHIGAN CONSTITUTION AND HAD NOT UPHELD DUTIES TAKEN WITH THEIR OATH OF OFFICE.

TOWNSHIP SUPERVISOR, BOB PAWLAK, RESPONDED TO THE COMMENTS MADE BY MR. BRISTOL BY INDICATING AN OATH OF OFFICE HAD BEEN ADMINISTERED TO ALL TOWNSHIP BOARD MEMBERS. FURTHER CLARIFIED WAS THE HISTORY OF THE TOWNSHIP ASSESSOR DUTIES AS FAR AS MR. PAWLAK HAD BEEN CONCERNED SINCE HIS TERM OF OFFICE IN 1988.

IT WAS MR. PAWLAK'S OPINION, THE RECALL PETITIONER WAS EXPRESSING PERSONAL OPPOSITION TO THE BOARD MEMBERS AND NOT DIRECTLY THE SANITARY SEWER ISSUE. MR. PAWLAK CITED THE GOVERNOR ENGLER RECALL IN WHICH NUMEROUS ATTEMPTS TO RECALL THE GOVERNOR HAD BEEN DETERMINED A FORM OF HARASSMENT BY THE STATE BUREAU OF ELECTIONS. QUESTIONED WAS, WHETHER OR NOT MR. LES JOHNSON HAD ANY INPUT WITH THE RECALL EFFORT. NOTED WERE RECENT POLITICAL ARTICLES PUBLISHED IN THE BAY CITY TIMES IN REGARD TO THIS RECALL ATTEMPT. THESE ARTICLES SPECIFIED THE USE AND ABUSE OF RECALL RIGHTS, STATING THE RECALL WOULD BE WARRANTED WHEN THE OFFICIAL DID NOT PERFORM THEIR JOBS NOT WHEN THE PUBLIC WAS UNHAPPY WITH THEIR DECISIONS.

ONE TOWNSHIP RESIDENT QUESTIONED ATTORNEY JOHN MCQUILLAN AS TO THE STATUS OF FORMER PETITIONS FILED IN REGARD TO CONSTRUCTION OF A ROADWAY. JUDGE DONER ADVISED MR. MCQUILLAN NOT TO RESPOND TO THIS ISSUE DURING THIS CLARITY HEARING IN REGARD TO RECALL OF THE TOWNSHIP OFFICIALS.

JUDGE DONER INDICATED THE PUBLIC COMMENT PORTION OF THE MEETING WAS CONCLUDED AND THE COMMENTS OF COUNSEL AND COMMISSION MEMBERS WERE WELCOMED AT THIS TIME.

ATTORNEY KARLA ROSEN ADDRESSED THE COMMISSION WITH CONCERNS THAT THE PETITION WORDING SHOULD NOT BE ADOPTED AS IT WAS UNCLEAR, CONCLUSIVE OR BOTH, THUS MAY BE CONFUSING TO THE ELECTORATE. MS. ROSEN ADDRESSED PETITIONS NUMBERED ONE THROUGH TEN SEPARATELY, STATING THE REASONS SHE HAD DETERMINED THE WORDING EITHER UNCLEAR/CONCLUSIVE.

ATTORNEY JOHN MCQUILLAN ADDED TO THE COMMENTS EXPRESSED BY MS. ROSEN IN REGARD TO PETITION #5. FORMATION OF A SPECIAL ASSESSMENT DISTRICT WAS NOT THE SAME AS CONSIDERING THE CREATION OF A SEWER PROJECT. INFORMATION NOTED ON PETITION #5 IN REGARD TO THE SPECIAL ASSESSMENT DISTRICT WOULD THEREFORE BE CONFUSING AND INCORRECT INFORMATION FOR THE ELECTORATE.

PETITIONER DON KRZEWSKI INDICATED A MEETING HELD AT THE TOWNSHIP HALL WAS CALLED SPECIFICALLY FOR THE PURPOSE OF FORMING A SPECIAL ASSESSMENT DISTRICT IN WHICH TOWNSHIP RESIDENTS HAD NOT AGREED TO ASSUME THE ADDITIONAL COSTS OF A SPECIAL ASSESSMENT WITH THEIR TAXES. ALSO, THAT THE PETITIONS HE HAD SUBMITTED TO THE BOARD, WOULD BE CLEAR TO TOWNSHIP RESIDENTS WHO WERE FAMILIAR WITH EVENTS LEADING TO THE RECALL.

PROSECUTOR MULLISON STATED THE LAWS FOR RECALL REQUIRE A SPECIFIC ACT OR ACTS TO BASE RECALL ON, NOT A SITUATION AS BASED ON IN THIS PARTICULAR INSTANCE.

CHAIRMAN DONER ALSO NOTED THE RECALL PROCESS WAS NOT A SUBSTITUTE FOR THE REGULAR ELECTIVE PROCESS. THAT EVIDENCE OF IMPROPER ACTIONS, MALFEASANCE, OR ILLEGAL ACTS BY TOWNSHIP BOARD MEMBERS, MUST BE PROVEN TO WARRANT RECALL EFFORTS.

- MOTION #1: CHAIRMAN DONER MOVED PETITION #1 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. CLERK ALBERTSON SUPPORTED THE MOTION AND IT WAS PASSED BY UNANIMOUS ROLL CALL.
- MOTION #2: CHAIRMAN DONER MOVED PETITION #2 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. CLERK ALBERTSON SUPPORTED THE MOTION AND IT WAS PASSED BY ROLL CALL VOTE OF 3 YEAS, 0 NAYS.
- MOTION #3: CHAIRMAN DONER MOVED PETITION #3 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. GEORGE MULLISON SUPPORTED THE MOTION AND IT WAS CARRIED BY UNANIMOUS ROLL CALL.
- MOTION #4: CHAIRMAN DONER MOVED PETITION #4 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. CLERK ALBERTSON SUPPORTED THE MOTION AND IT WAS ADOPTED BY ROLL CALL VOTE OF 3 YEAS, 0 NAYS.
- MOTION #5: CHAIRMAN DONER MOVED PETITION #5 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. GEORGE MULLISON SUPPORTED THE MOTION AND IT WAS PASSED BY UNANIMOUS ROLL CALL.
- MOTION #6: CHAIRMAN DONER MOVED PETITION #6 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. GEORGE MULLISON SUPPORTED THE MOTION THEREAFTER CARRIED BY UNANIMOUS VOTE.
- MOTION #7: CHAIRMAN DONER MOVED PETITION #7 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. GEORGE MULLISON SUPPORTED THE MOTION AND IT WAS ADOPTED BY UNANIMOUS ROLL CALL VOTE.
- MOTION #8: CHAIRMAN DONER MOVED PETITION #8 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. CLERK ALBERTSON SUPPORTED THE MOTION AND IT WAS PASSED BY ROLL CALL VOTE OF 3 YEAS, 0 NAYS.

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MOTION #9: CHAIRMAN DONER MOVED PETITION #9 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. BARBARA ALBERTSON SUPPORTED THE MOTION TO DENY AND IT WAS THEREAFTER CARRIED BY A ROLL CALL OF 3 YEAS, 0 NAYS.

MOTION #10: CHAIRMAN DONER MOVED PETITION #10 BE DENIED FOR NOT MEETING THE REQUIREMENTS OF THE CLARITY STATUTE. GEORGE MULLISON SUPPORTED THE MOTION AND IT WAS ADOPTED BY A ROLL CALL VOTE OF 3 YEAS, 0 NAYS.

CHAIRMAN DONER NOTED ALL TEN PETITIONS SUBMITTED FOR CLARITY AND TO BE PLACED ON RECALL PETITIONS, WERE UNANIMOUSLY DENIED.

MOTION #11: BEING NO FURTHER BUSINESS TO COME BEFORE THE ELECTION COMMISSION, PROSECUTOR MULLISON MOVED THE MEETING BE ADJOURNED. CLERK ALBERTSON SUPPORTED THE MOTION & THE MEETING WAS ADJOURNED AT 9:45 A.M. BY A UNANIMOUS VOICE VOTE.

RESPECTFULLY SUBMITTED

BARBARA ALBERTSON
BAY COUNTY CLERK