

BAY COUNTY ELECTION COMMISSION
PORTSMOUTH TWP. CLARITY
OCTOBER 25, 1991

THE BAY COUNTY ELECTION COMMISSION MET ON FRIDAY, OCTOBER 25, 1991, IN THE EXECUTIVE'S GROUND FLOOR CONFERENCE ROOM OF THE BAY COUNTY BUILDING. THE MEETING WAS CALLED FOR THE PURPOSE OF CLARITY HEARING CONDUCTED IN REGARD TO SEVEN RECALL PETITIONS AS FILED BY MR. EDWARD BRISTOW AGAINST PORTSMOUTH TOWNSHIP SUPERVISOR, ROBERT PAWLAK. MEETING CALLED TO ORDER BY THE CHAIRMAN OF THE BOARD, JUDGE DONER, AT 2:20 P.M. THE FOLLOWING MEMBERS & GUESTS WERE IN ATTENDANCE.

ROLL CALL: JUDGE PAUL DONER, CHAIRMAN
GEORGE MULLISON, PROSECUTOR
BARBARA ALBERTSON, CO. CLERK

OTHERS: CYNTHIA A. LUCZAK, SECRETARY
ROBERT PAWLAK, SUPERVISOR
JUDY BUKOWSKI, TWP. CLERK
CHARLES PAWLAK, TRUSTEE
JOHN MCQUILLAN, ATTORNEY
EDWARD BRISTOW, PETITIONER

MR. MULLISON WAS NOT PRESENT WHEN THE MEETING WAS CALLED TO ORDER. CHAIRMAN DONER INDICATED THE TWO REMAINING MEMBERS WOULD CONDUCT THE CLARITY AS THEY WERE CONSIDERED A QUORUM. SHOULD A SPLIT VOTE FROM THE TWO MEMBERS BE EVIDENCED, ANOTHER SESSION WOULD BE SCHEDULED TO VOTE ON THE ISSUE.

CHAIRMAN DONER STATED HE WOULD ACCEPT PUBLIC COMMENT AT THIS TIME IN ACCORDANCE WITH THE OPEN MEETING ACT. NO ONE WISHED TO ADDRESS THE COMMISSION

MR. MULLISON HAD ARRIVED FOLLOWING THE CITIZEN INPUT OF THE BOARD SESSION.

JOHN MCQUILLAN, ATTORNEY, COMPARED ALLEGATIONS OF THIS RECALL TO THE SEVENTH RECALL CONDUCTED BY THE COMMISSION ON SEPTEMBER 3, 1991. AT THAT SESSION, PETITIONER BRISTOW CONTENDED THE TOWNSHIP SUPERVISOR "WAS TO ATTEND ALL MEETINGS OF THE TOWNSHIP BOARD WITH THE RIGHT TO PARTICIPATE IN DISCUSSIONS BUT WITHOUT THE RIGHT TO VOTE, BUT HE DOES VOTE". THE ELECTION COMMISSION AT THAT SESSION CONCURRED, AN OFFICER OF THE TOWNSHIP COULD NOT BE RECALLED FOR PERFORMING/EXERCISING HIS LEGAL RIGHT TO VOTE. THE DUTIES OF TOWNSHIP SUPERVISOR VERSUS SUPERINTENDENT POSITION WERE DISCUSSED. IT WAS MR. MCQUILLAN'S OPINION, THE RECALL PETITIONS CONSIDERED AT THIS

HEARING, CONTAINED LANGUAGE REFERRING TO PERFORMANCE OF DUTIES OF A TOWNSHIP SUPERINTENDENT, NOT THAT OF A TOWNSHIP SUPERVISOR. SHOULD THE TOWNSHIP HAVE DESIGNATED A SUPERINTENDENT, THEY WOULD HAVE SPECIFIC DUTIES TO PERFORM EXCLUDING THE RIGHT TO VOTE. MR. MCQUILLAN PROVIDED EXAMPLES OF STATUTORY DUTIES TO BE PERFORMED BY OTHER ELECTED OFFICIALS WHO COULD NOT BE RECALLED FOR PERFORMING SUCH. THE ATTORNEY QUESTIONED IF THE ISSUE OF RECALL AROSE OUT OF MR. PAWLAKS ACT OF VOTING OR BECAUSE OF THE WAY/TYPE OF VOTE HE CAST ON THE ISSUES NOTED ON PETITIONS NUMBERED 1-7. AS MICHIGAN CASE LAW (MCLA 168.952) REFERRED TO THE FILING OF A RECALL PETITION IN A SINGULAR SENSE, THE ATTORNEY FELT THE FILING OF MULTIPLE PETITIONS CAUSED GREATER AMBIGUITY.

SUPERVISOR ROBERT PAWLAK, REFERRED TO A MICHIGAN TOWNSHIP ASSOCIATION HANDBOOK WHICH STATED "THE REASONS FOR A RECALL MUST BE CLEARLY STATED ON A PETITION IN SUCH A MANNER THAT THE OFFICIAL WHOSE RECALL IS SOUGHT, AND THE ELECTORS CAN IDENTIFY THE COURSE OF CONDUCT WHICH IS THE BASIS OF RECALL." IT WAS MR. PAWLAK'S OPINION THE RECALL PROCESS WAS A PRIVILEGE BEING ABUSED BY MR. BRISTOW. HE CONCLUDED BY STATING HE TOOK HIS TOWNSHIP SUPERVISOR POSITION VERY SERIOUSLY DID NOT UNDERSTAND THE REASONS FOR RECALL.

PETITIONER BRISTOW FELT THE SEVEN PETITIONS SUBMITTED ON THIS DATE WERE SPECIFIC ENOUGH FOR THE ELECTION COMMISSION TO UNDERSTAND.

CLERK ALBERTSON QUESTIONED WHETHER OR NOT MR. BRISTOW UNDERSTOOD THE DIFFERENCE BETWEEN SUPERVISOR & SUPERINTENDENT. MR. BRISTOW FELT A SUPERINTENDENT POSITION WAS OF HIGHER RANK THAN A SUPERVISOR AS HAD BEEN THE INSTANCE THROUGHOUT HIS EMPLOYMENT.

CLERK ALBERTSON INFORMED MR. BRISTOW, THE SUPERVISOR HAD A DUTY TO APPEAR AT THE TOWNSHIP BOARD MEETINGS AND TO VOTE. MR. BRISTOW REFERRED TO A WRITTEN OUTLINE OF DUTIES AS IN THE STATE CHARTER.

CHAIRMAN DONER INTREPRETED THE SECTION OF CHARTER MR. BRISTOW REFERRED TO, STATING THE DUTIES OF THE SUPERINTENDENT SHOULD THEY BE DESIGNATED BY TOWNSHIP SUPERVISOR. IT WAS NOT THE DUTY OF THE ELECTION COMMISSION TO DETERMINE IF THE MATTER WAS TRUE OR FALSE, ONLY IF IT PROVED LACK OF ACTION TO THE ELECTORATE.

MOTION #1: CHAIRMAN DONER MOVED THE ELECTION COMMISSION CONSIDER ALL SEVEN (7) PETITIONS AND THEY BE REJECTED ON

MOTION #1: ON THE BASIS THAT THEY DID NOT MEET
THE STANDARDS OF CLARITY REQUIRED.
BARBARA ALBERTSON SUPPORTED THE MOTION
AND IT WAS CARRIED BY A UNANIMOUS VOTE
OF 3 YEAS, 0 NAYS.

CHAIRMAN DONER INDICATED HE BASED THE MOTION TO DENY
THE PETITIONS ON INFORMATION PROVIDED BY ATTORNEY MC-
QUILLAN UP TO THE POINT WHERE REFERENCE WAS MADE TO
THE FILING OF MULTIPLE PETITIONS AS AMBIGUOUS.

MOTION #2: GEORGE MULLISON MOVED TO RECESS TO
THE CALL OF THE CHAIR. BARB ALBERT-
SON SUPPORTED THE MOTION TO RECESS
AND THE MEETING CONCLUDED AT 2:45
P.M. BY UNANIMOUS VOICE VOTE.

RESPECTFULLY SUBMITTED

BARBARA ALBERTSON
BAY COUNTY CLERK