



WASHTENAW COUNTY ELECTION COMMISSION

October 22, 2005

MINUTES

A meeting of the Washtenaw County Election Commission was held in the Washtenaw County Clerk/Register's Lower Level Conference Room at 200 North Main Street, Ann Arbor, Michigan on Saturday October 22, 2005.

Judge John Kirkendall called the meeting to order at 9:00 a.m.

MEMBERS PRESENT: John Kirkendall, Circuit Court Judge
Lawrence Kestenbaum, Clerk/Register
Catherine McClary, County Treasurer

OTHERS PRESENT: Derrick Jackson, Director of Elections
Lyn Sebestyen, Deputy Clerk
Stephen Kirschner, Deputy Clerk
Feliziana Meyer Pittsfield Township Clerk
Christina Lirones, Pittsfield Township Treasurer
James Walters, Pittsfield Township Supervisor
Mary Ellen Gurewitz
Paul Backlas
Jan BenDor
Michael-David BenDor
Andrea Urda-Thompson
Mary Lirones
Marilyn Burhop
Stuart Dowty
Doug Snow
Carolyn Kase
Michael Ignaffo
Kenneth Brostrom
Fred Steingold
Amy Longcore
V. Glenn Tarcea
Elizabeth Crane
Doug Gross

Judge Kirkendall called the meeting to order at 9:00 a.m.

APPROVAL OF MINUTES

Catherine McClary, seconded by Lawrence Kestenbaum, moved that the minutes from the August 11, 2005 meeting be approved. 3 Yeas. Motion carried.

NEW BUSINESS

Judge Kirkendall requested that all present, state their names. He informed those present that the purpose of the meeting was to review the clarity of recall language that had been submitted to the County Clerk/Register's Office. He spoke about the nature of the Commission's decision.

Judge Kirkendall asked for public participation of those present.

PUBLIC PARTICIPATION

Mary Ellen Gurewitz spoke to the Commission about a position statement submitted to the Election Commission. The statement describes the entities involved in Planning Commission decisions regarding the development of the potential Wal-Mart development. She stated that the Recall Language acknowledges decisions made at Planning Commission meetings, but is not specific as to which meetings the decisions took place at, what was specifically discussed or decided, and who held the discussions and made the decisions.

Mary Ellen Gurewitz reviewed case law regarding past recall petitions and referred to specificity and clarity. She also spoke about the necessity that the language refer to events that had occurred within the current term of office. She addressed each reason listed for each officer and provided argument for either the lack of clarity or specificity and for the inaccuracy of each reason listed.

Fred Steingold spoke on behalf of the petitioner. He referred to court of appeals case *Dimus v. McComb County* from 2003, which he submitted to the Election Commission, to discuss the current status of recall law. He spoke about the standards of clarity in prior cases. Mr. Steingold submitted that the language provided by Gavin Clarkson was in fact sufficiently clear in that it did allow for the officers whose recalls are being sought to understand which of their actions was the basis for the recall language.

Judge Kirkendall stated that he was concerned that it was not clear whether the actions for which the officers' recalls were being sought had occurred in their current terms of office.

Fred Steingold argued that the specification of time was not a requirement of acceptable language.

Christina Lirones spoke about the requirements that recall petition language shall meet, including the requirement that all events for which an officer is being recalled shall have occurred within the current term of office.

Fred Steingold stated that it could be presumed that the events had occurred in the current term of office.

Judge Kirkendall agreed that the Election Commission should have a limited function in determining the clarity of the recall petition language, but stated that the statute clearly requires that the events for which the officers' recalls are being sought, must have occurred within their current terms of office.

Lawrence Kestenbaum agreed with Judge Kirkendall's statements that the Election Commission should have a limited function, and that the events need to be identifiable as having occurred in the officers' current terms of office.

Judge Kirkendall reminded the public that the Election Commission was not present to determine the truth of the allegations, but simply the clarity.

James Walters spoke to the fact that the Planning Commission actions were not a part of the conduct of the offices of Clerk, Treasurer and Supervisor.

Catherine McClary stated that she felt that the language was confusing in that it did not clearly state when the actions had occurred, and that it was in general, unclear.

Motion made by Catherine McClary, seconded by Lawrence Kestenbaum, to reject the recall language submitted due to lack of clarity and due to the fact that the events for which the officers' recalls are being sought did not occur within their current terms of office. Motion passed unanimously.

ADJOURNMENT

Motion made by Catherine McClary, seconded by Lawrence Kestenbaum, to adjourn the Clarity Review of October 22, 2005. Motion passed unanimously.

Meeting adjourned at 9:55 a.m.

Judge John Kirkendall, Chair

Lawrence Kestenbaum, Secretary

Lyn Sebestyen, Deputy Clerk

APPROVED: _____