



WASHTENAW COUNTY ELECTION COMMISSION

November 29, 2005

MINUTES

A meeting of the Washtenaw County Election Commission was held in the Washtenaw County Board of Commissioners Conference Room at 220 North Main Street, Ann Arbor, Michigan on Tuesday, November 29, 2005.

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

OTHERS PRESENT: Derrick Jackson, Director of Elections
Feliziana Meyer Pittsfield Township Clerk
Christina Lirones, Pittsfield Township Treasurer
James Walters, Pittsfield Township Supervisor
Gavin Clarkson
Mary Ellen Gurewitz
Paul Backlas
Jan BenDor
Mary Lirones
Marilyn Burhop
Stuart Dowty
Steve Berger
Amy Longcore
V. Glenn Tarcea

Judge Kirkendall called the meeting to order at 12:00 p.m.

NEW BUSINESS

Judge Kirkendall requested that all present, state their names. He reminded those present that this was not a hearing to determine the truth of the language, but just the clarity of the language.

PUBLIC PARTICIPATION

Gavin Clarkson clarified to the Commission the fact that the reason for the recall petition language was not based on a dislike of WalMart. He stated that it was a petition specifically for the recall of three Township officials based on their specific actions. He reminded the Commission that they had previously agreed that some of his listed reasons were of sufficient clarity. He reviewed the criteria for acceptable language and presented arguments for acceptance of each of the three reasons stated for each of the officials to be recalled.

Gavin Clarkson discussed the use of the word "usurp" and presented argument for its acceptance. He also spoke about the structure of the submitted language, stating that all opinion and vagueness of time had been removed, and that each statement consisted of a specific timeframe as well as a specific statement or action. Mr. Clarkson

presented language that had been approved by the Election Commission at previous Clarity Review Hearings.

Gavin Clarkson presented to the Commission, a readability study that analyzed previous language approved by the Election Commission, Court approved language, and three sets of recall language that he has submitted to the Commission. He explained to the Commission that this study demonstrated that his recall language submissions were of a higher level of readability than language previously approved by the Election Commission. He urged the Commission to approved the clarity of the language, and allow the citizenry of Pittsfield Township to decide the validity.

Mary Ellen Gurewitz agreed that the first two statements provided in the three sets of language set forth by Gavin Clarkson are of sufficient clarity. She stated that reason three for each of the officials is unclear and untrue. She stated that the word usurp is not generally understood. She also stated that Mr. Clarkson is conflating something that happened with the Road Commission with something that happened with the Planning Commission and that the electorate of Pittsfield Township would be unable to understand what statement number three of each petition is referring to.

Christina Lirones stated that she understood Mr. Clarkson's rights to file recall language, but that she also understood that it was her right to be able to understand the reasons for which she was being recalled, and she argued that the language set forth in reason number three of the language submitted for her recall was not clear or understandable.

Mary Ellen Gurewitz reminded the Commission that Christina Lirones, while the Treasurer of Pittsfield Township, is also a member of the Pittsfield Township Planning Commission.

James Walter stated that in reading reason number three he feels that he cannot fully defend the allegation as it is unclear what he or the other elected officials whose recalls are being sought has stated to the Road Commission.

Marilyn Burhop stated that Mr. Clarkson's statements that WalMart is not the issue driving the recall petitions contradicts the language that he has submitted for clarity review.

Gavin Clarkson stated that this recall was not about a hatred of WalMart, but that he was dissatisfied with the way that the Township had handled certain aspects of the development of the WalMart project. He also stated that the officials whose recalls are being sought exceeded the scope of their authority by denying the safety recommendations provided by the Road Commission.

Gavin Clarkson discussed reason three of the petition language submitted, explaining that the meaning of the usurpation had been clarified.

Feliziana Meyer stated that she was confused about the petition's statement that she had usurped the authority of the Road Commission. She felt that the statement could not be defended because it was not clear what had actually occurred.

Mary Ellen Gurewitz argued that if the language was of sufficient clarity, Mr. Clarkson would not have had to continue explaining that the language was clear. She stated that if the language was not clear to the officers whose recalls were being sought, then it could not be clear to a Pittsfield Township resident who would be asked to sign the petition.

Gavin Clarkson stated that he does not need to explain the clarity of his arguments, but is simply explaining to Counsel who has stated that it is unclear language. He reiterated the argument that the factual basis of the arguments was not to be decided in this hearing.

Catherine McClary stated that she had no problem with the clarity of the first two reasons presented in the language, but that the third reason was confusing. She stated that readability was not the issue to be decided at this hearing, but rather clarity. She stated that she is not concerned with the validity of the statements. Catherine McClary stated that she looked at the Road Commission web site and called the Road Commission and found out that there was no meeting on June 10, 2005.

Catherine McClary, seconded by Judge John Kirkendall, moved that the petition language submitted be rejected on the basis that reason three has no specificity and lacks clarity. 2 Yeas, 1 No (Kestenbaum). Motion carried.

Lawrence Kestenbaum disagreed with Catherine McClary and stated that the statement is of sufficient clarity to convey that there was a discussion between the township officials and the Road Commission at which time a decision was made regarding safety recommendations provide by the Road Commission.

Catherine McClary stated that she agreed that the meaning of the word "usurp" was clear, but that third reason in the petition as a whole was unclear. There was no record of the Road Commission having met on June 10, 2005.

Judge John Kirkendall stated that he seconded the motion because he was concerned with the lack of clarity.

Gavin Clarkson stated that he felt that the Commission's votes were based on evidence not on clarity.

Judge Kirkendall stated that the petition had failed but that Mr. Clarkson did have recourse if he disagreed with the Commission's decision.

Lawrence Kestenbaum stated for the record that he opposed the motion to reject the petition language.

Catherine McClary requested that the record reflect that she was not checking the validity of the petition language by contacting the Road Commission, but was trying to verify what the issue was.

Gavin Clarkson requested that his second memo be attached to the minutes. His request was denied and his memo was returned.

APPROVAL OF MINUTES

Catherine McClary, seconded by Lawrence Kestenbaum, moved that the minutes from the November 15, 2005 meeting be approved. 3 Yeas. Motion carried.

ADJOURNMENT

Meeting adjourned at 12:05 p.m.

Judge John Kirkendall, Chair

Lawrence Kestenbaum, Secretary

Lyn Sebestyen, Deputy Clerk

APPROVED: _____

DRAFT