

**BAY COUNTY ELECTION COMMISSION
CLARITY HEARING- AUBURN CITY COMMISSION
NOVEMBER 12, 2009**

THE BAY COUNTY ELECTION COMMISSION MET ON THURSDAY, NOVEMBER 12, 2009 FOR CONSIDERATION OF THE LANGUAGE PRESENTED FOR CLARITY AS SUBMITTED BY AUBURN CITY RESIDENT GERALD JANOWICZ. IT WAS THE INTENT OF MR. JANOWICZ TO CIRCULATE PETITIONS FOR THE RECALL OF BRIAN RAAB AND WILLIAM REDER FROM THE AUBURN CITY COMMISSION. THE MEETING WAS CALLED TO ORDER AT 3:00 PM IN THE FOURTH FLOOR COMMISSION CHAMBERS OF THE BAY COUNTY BUILDING. THE FOLLOWING MEMBERS AND CITIZENS WERE PRESENT:

ROLL CALL: RICHARD BRZEZINSKI, TREASURER
 CYNTHIA A. LUCZAK, COUNTY CLERK
 KAREN TIGHE, JUDGE OF PROBATE

ALSO PRESENT: GERALD JANOWICZ, PETITIONER
 BRIAN RAAB, COMMISSIONER
 WILLIAM REDER, COMMISSIONER
 NEWSMEDIA

JUDGE TIGHE EXPLAINED TO MEMBERS AND GUESTS IN ATTENDANCE, THAT AUBURN CITY ATTORNEY, TOM BOCK, WAS HER HUSBAND BUT UPON REVIEW OF THE DISQUALIFICATION LAWS, DID NOT FEEL IT WAS NECESSARY TO REMOVE HERSELF FROM THIS CLARITY HEARING. MR. BOCK WAS NOT A MEMBER OF THE RECALL EFFORT COVERED BY LAW.

EVEN THOUGH THE RULES PERTAINING TO A RECALL DID NOT ALLOW PUBLIC COMMENT, JUDGE TIGHE OFFERED TO ACCEPT THE COMMENTS OF CITIZENS WISHING TO ADDRESS THIS BODY PURSUANT TO MCL 15.263 (5) OF THE OPEN MEETING ACT. NO ONE WISHED TO COMMENT.

JUDGE TIGHE READ SOME BRIEF COMMENTS FROM A SCRIPT PREPARED SPECIFICALLY PERTAINING TO RECALL LAW OF THE STATE OF MICHIGAN.

JUDGE KAREN TIGHE READ THE FOLLOWING LANGUAGE FROM THE PETITIONS SUBMITTED FOR THE RECALL OF BRIAN RAAB AND WM. REDER. THE LANGUAGE WAS THE SAME FOR BOTH PETITIONS.

“Abuse of Power and wasteful spending of taxpayers monies by contracting with the Bay County Sheriffs Dept. For Protection. For trying to eliminate the Auburn Police Dpet. For willful disregard of the residents written and voiced concerns at public meetings. We expect our elected officials to do no harm and hold them accountable for their actions.”

AT THIS TIME, JUDGE TIGHE ACCEPTED THE COMMENTS OF THOSE NAMED ON THE PETITION FOR CIRCULATION.

B. RAAB: MR. RAAB FELT THAT FROM A CLARITY STANDPOINT, THE LANGUAGE PRESENTED WAS UNDERSTANDABLE EVEN THOUGH HE DID NOT AGREE WITH THE STATEMENTS MADE. IN ADDITION, IT WAS HIS POSITION THAT THE CONTRACT EXECUTED WITH THE BAY COUNTY SHERIFF DEPARTMENT WAS NOT INTENDED TO CAUSE HARM TO THE CITIZENS OF THE CITY OF AUBURN BUT ONLY TO PROVIDE POLICE PROTECTION AT A LOW COST.

W. REDER: NO COMMENT AT THIS TIME.

G. JANOWICZ: MR. JANOWICZ THANKED THE MEMBERS OF THE ELECTION COMMISSION FOR THE REVIEW OF THE PETITION LANGUAGE. MR. JANOWICZ FELT THE LANGUAGE WAS PRESENTED IN A MANNER EASY FOR THE VOTERS TO UNDERSTAND. FURTHER, THAT HE WAS ENCOURAGE TO PURSUE THIS COURSE OF ACTION WITH THE SUPPORT OF MANY AUBURN RESIDENTS.

C. LUCZAK: CLERK LUCZAK CONFIRMED THAT MR. JANOWICZ WAS A REGISTERED, QUALIFIED VOTER IN THE CITY OF AUBURN. SINCE FILING THE PETITION, MR. JANOWICZ HAD CONTACTED THE CLERK AND SPECIFIED THE “CITY OF AUBURN” ON THE PAPERWORK. AS PER LAW, THE CLERK CONFIRMED THAT THE MEMBERS SUBJECT TO THE RECALL WERE NOT WITHIN THE FIRST SIX MONTHS OR THE LAST SIX MONTHS OF THEIR TERM.

CLERK LUCZAK PROCEEDED TO EXPLAIN WHICH STATEMENTS WITHIN THE LANGUAGE SHE DID NOT FEEL WERE "CLEAR" ENOUGH FOR THE ELECTORATE TO UNDERSTAND. FIRST, "ABUSE OF POWER", THE CLERK FELT IT WAS WITHIN THE SCOPE OF THE POWER OF A COMMISSION AND THEREFORE AN UNCLEAR STATEMENT. NEXT, "WASTEFUL SPENDING" SHOULD HAVE BEEN QUANTIFIED TO SOME EXTENT AS ONE VOTER MAY HAVE A DIFFERENT DEFINITION OF "WASTEFUL" COMPARED TO OTHERS. FURTHER, "CONTRACTING FOR PROTECTION", WHAT TYPE OF PROTECTION WAS INVOLVED AND MIGHT HAVE BEEN MORE SPECIFIC TO "POLICE" AND LASTLY "HARM", CIRCULATORS MAY FIND THEMSELVES EXPLAINING ON THE PORCH THE "HARM".

JUDGE TIGHE TOLD THE MEMBERS AND GUESTS PRESENT, AT ONE TIME, THE LAW PROVIDED APPROVAL OF PETITION LANGUAGE EVEN IF ONLY ONE PORTION OF THE ENTIRE STATEMENT WAS CLEAR. AS THE LAW HAD CHANGED, A CLEAR ENTIRE STATEMENT WAS NOW REQUIRED TO PASS. IN HER OPINION, SENTENCE ONE WAS CLEAR. SENTENCE TWO, CLEAR, BUT NOT FOR THIS PANEL TO DECIDE IF TRUE OR FALSE. SENTENCE THREE WAS TOO VAGUE AND SENTENCE FOUR WAS AN ALLEGATION THAT LEAD TO A PRE-DETERMINED CONCLUSION.

TREASURER BRZEZINSKI HAD NO COMMENT REGARDING THE LANGUAGE.

FOLLOWING THE DISCUSSION TO APPROVE THE CLARITY PETITION LANGUAGE PRESENTED ON BEHALF OF BRIAN RAAB, AUBURN CITY COMMISSION. A ROLL CALL VOTE WAS TAKEN WITH ZERO YEAS AND THREE NAYS. THE PETITION FOR BRIAN RAAB WAS NOT APPROVED.

SECONDLY, UPON CONSIDERATION OF THE LANGUAGE PRESENTED ON BEHALF OF WILLIAM REDER, AUBURN CITY COMMISSION A ROLL CALL VOTE WAS TAKEN WITH ZERO YEAS AND THREE NAYS. THE PETITION FOR WM. REDER WAS NOT APPROVED.

JUDGE TIGHE CONCLUDED THE PROCEEDINGS BY CONFIRMING THE PASSAGE OF PETITION LANGUAGE WAS UNCLEAR AND PREVENTED FROM BEING CIRCULATED TO THE ELECTORS WITHIN THE CITY OF AUBURN AND WAS VOTED BY THE COMMISSION BY 0 NAYS, 3 NAYS. IN ADDITION, MR. JANOWICZ WAS NOT PROHIBITED FROM SUBMITTING ANOTHER FORM OF THE LANGUAGE TO THE COUNTY CLERK IN AN ATTEMPT TO HAVE "CLEAR" LANGUAGE APPROVED.

CLARITY HEARING

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SHOULD MR. JANOWICZ WISH TO APPEAL THE DECISION OF THIS PANEL,
HE WAS WELCOME TO FILE A CASE WITH THE 18TH JUDICIAL CIRCUIT
COURT FOR THE COUNTY OF BAY.

THE MEETING WAS THEREAFTER ADJOURNED AT 3:25 P.M. BY A VOTE
OF 3 YEAS, 0 NAYS.

RESPECTFULLY SUBMITTED
CYNTHIA LUCZAK, CLERK