

**BAY COUNTY ELECTION COMMISSION
RECALL CLARITY HEARING
AUGUST 2, 2018**

**RECALL PETITION FOR
DENNIS BRAGIEL, KAWKAWLIN TOWNSHIP SUPERVISOR**

THE ELECTION COMMISSION MET FOR A RECALL MEETING ON THURSDAY, AUGUST 2, 2018, IN THE FOURTH FLOOR BAY COUNTY BOARD OF COMMISSIONER'S CHAMBERS IN THE BAY COUNTY BUILDING. THE MEETING WAS CALLED TO ORDER BY JUDGE JAN MINER AT 8:04 A.M. WITH THE FOLLOWING MEMBERS AND GUESTS PRESENT.

ELECTION COMMISSION: CYNTHIA A. LUCZAK, BAY COUNTY CLERK
RICHARD BRZEZINSKI, BAY COUNTY TREASURER
JAN MINER, BAY COUNTY PROBATE JUDGE

THIS MEETING OF THE ELECTION COMMISSION WAS CALLED PURSUANT TO THE OPEN MEETINGS ACT OF 267, 1976, THE MEETING WAS POSTED, MICHIGAN STATUTE FOUND AT MCL 168.952 WHICH GOVERNS ELECTIONS IN THE STATE OF MICHIGAN.

THE MEMBERS OF THE BAY COUNTY ELECTION COMMISSION, AS DEFINED BY STATUE ARE: MCL 168.23, THE COUNTY CLERK, CYNTHIA A. LUCZAK, SERVES AS THE SECRETARY OF THE COMMISSION. COUNTY TREASURER, RICHARD BRZEZINSKI, SERVES AS A MEMBER OF THE COMMISSION AND JAN A. MINER, PROBATE JUDGE, SERVES AS THE CHAIRPERSON OF THIS COMMISSION.

AS DEFINED BY STATUTE, THE PURPOSE OF TODAY'S MEETING WAS "TO DETERMINE WHETHER EACH REASON FOR THE RECALL STATED IN THE PETITION, WAS FACTUAL AND OF SUFFICIENT CLARITY TO THE OFFICER, WHOSE RECALL WAS SOUGHT, AND THE ELECTORS, TO IDENTIFY THE COURSE OF CONDUCT THAT WAS THE BASIS OF THE RECALL", MCL 168.952(3). THE RECALL COMMISSION DOES NOT DETERMINE THE TRUTH OF ANY ALLEGATIONS. ALLEGATIONS OF FACT MAY BE TRUE OR FALSE, AND THE COMMISSION DOES NOT HAVE THE STRUCTURE, THE RESOURCES OR PROCEDURAL AUTHORITY TO INVESTIGATE, TO SWEAR IN WITNESSES OR TO SUBPOENA TO DETERMINE IF ALLEGATIONS ARE TRUE OR NOT.

THE RECALL COMMISSION WILL CONSIDER ONLY WHETHER THE ASSERTIONS IN THE PETITION ARE STATED CLEARLY AND FACTUALLY. ANY ALLEGATION OF FACT MAY BE TRUE OR FALSE, AND THE TEST EMPLOYED BY THIS COMMISSION WILL BE TO FIND OUT WHETHER THE ALLEGATIONS STATES FACTS AND ARE CLEAR, SO THAT THE RESPONDING OFFICIAL MAY DEFEND.

PLEASE NOTE: IF ANY REASON FOR THE RECALL WAS NOT FACTUAL OR OF SUFFICIENT CLARITY, THE ENTIRE RECALL PETITION SHALL BE REJECTED. (MCL 168.952(3))

IN ADDITION, EACH REASON FOR THE RECALL, "SHALL BE BASED UPON THE OFFICER'S CONDUCT DURING HIS OR HER CURRENT TERM IN OFFICE".

MATTERS OF OPINION ARE NOT FACTUAL.

IF THE COMMISSION APPROVES THE RECALL LANGUAGE, A COPY OF THE APPROVED LANGUAGE WILL BE FORWARDED TO THE FILING OFFICIAL WHO WILL LATER RECEIVE THE SIGNED RECALL PETITION SHEETS. WE WILL MAKE OUR DETERMINATION AT THE END OF THIS MEETING BY VOTE.

OUR RULING ON THE CLARITY AND FACTUAL NATURE OF THE RECALL LANGUAGE MAY BE APPEALED BY THE OFFICER WHOSE RECALL WAS SOUGHT, OR BY THE SPONSOR OF THE RECALL PETITION, TO THE CIRCUIT COURT IN THIS COUNTY, AND IT MUST BE FILED WITHIN 10 DAYS AFTER OUR DETERMINATION. (MCL 168.952(6))

THESE PROCEEDINGS ARE BEING RECORDED, THEREFORE, I ASK THAT EVERYONE TREAT EACH OTHER WITH RESPECT AND COURTESY. IF THERE ARE UNNECESSARY COMMENTS WHILE SOMEONE IS SPEAKING, IT COULD RESULT IN A DISTORTED RECORD. ALL COMMENTS WILL BE SPOKE AT THE PODIUM AND THEY SHALL BE DIRECTED AT THE COMMISSION, NOT TO EACH OTHER.

THE PROCEDURE FOLLOWED WAS TO FIRST HEAR FROM THE SPONSOR OF THE PETITION, THEN THE OFFICER, IT WILL THEN BE OPENED TO GENERAL PUBLIC FOR COMMENT, INCLUDING COMMENTS FROM THE COMMISSIONER'S, IF THEY SO DESIRE.

RECALL PETITION FOR DENNIS BRAGIEL
KAWKAWLIN TOWNSHIP SUPERVISOR

WE, THE UNDERSIGNED, REGISTERED AND QUALIFIED VOTERS OF THE TOWNSHIP OF KAWKAWLIN, IN THE COUNTY OF BAY, AND STATE OF MICHIGAN, PETITION FOR THE CALLING OF AN ELECTION TO RECALL DENNIS BRAGIEL FROM THE OFFICE OF KAWKAWLIN TOWNSHIP SUPERVISOR FOR THE FOLLOWING REASON(S): AT THE JULY 9, 2018 TOWNSHIP BOARD MEETING DENNIS BRAGIEL VOTED "NO" ON A MOTION BEING CONSIDERED BY THE BOARD TO PUT A 120 DAY MORATORIUM ON FURTHER IMPLEMENTATION OF THE TOWNSHIPS WIND ENERGY ORDINANCE. SIGNED BY JENNIFER ZIELINSKI.

JENNIFER ZIELINSKI, 1615 8 MILE ROAD, KAWKAWLIN, MI 48631
JOHN KNIGHT (P23429), ATTORNEY FOR JENNIFER ZIELINSKI, WILL BE ADDRESSING THE COMMISSION ON HER BEHALF.

AS STATED, THE PETITION IS CLEAR AND FACTUAL, I CANNOT BELIEVE ANYTHING IS CLEARER THAN WHAT IS STATED ON THE PETITION. THERE IS A 2018 COURT OF

APPEALS DECISION RIGHT ON POINT WHICH DESCRIBES SIMILAR LANGUAGE, AND FOUND THAT THE LANGUAGE WAS CLEAR AND WAS APPROPRIATE FOR THE PETITION. DONIGAN V OAKLAND COUNTY ELECTION COMMISSION, 279 MICH APP 80. THIS IS THE LATEST CASE, THAT ADDRESSES THE SITUATION. I WOULD APPRECIATE YOUR FAVORABLE INPUT ON THIS PETITION AS I THINK IT MEETS THE CRITERIA OF THE STATUTE.

JUDGE JAN MINER CALLED FOR DENNIS BRAGIEL OR A REPRESENTATIVE FOR MR. BRAGIEL TO COME TO THE PODIUM. THERE WAS NO ONE PRESENT.

PUBLIC COMMENTS

ERIC KOCH, 645 EAST BEAVER ROAD, KAWKAWLIN MI 48631
A LOT OF THIS COULD HAVE BEEN AVOIDED. THERE WERE 250 PEOPLE AT THE LAST MEETING. WE JUST WANT TO LOOK AT THE WIND ORDINANCE, FOR THE HEALTH, SAFETY AND WELL BEING OF THE PEOPLE. WE ARE NOT SAYING, ANTI-TURBINE, OR NOT MY BACK YARD. WE HAVE BEEN ASKING THE SUPERVISOR SINCE JUNE TO TALK ABOUT IT AND HE SAID "NO". HE STATED, WE DID THIS EIGHT YEARS AGO AND IT IS NOT OPEN FOR DISCUSSION. THE BOARD LISTENED TO THE PEOPLE AND VOTED AGAINST HIM THREE TO ONE ON THE MORATORIUM.

JUDGE JAN MINER QUESTIONED, ARE YOU SUPPORTING THIS RECALL PETITION?

ERIC KOCH REPLIED THAT YES, HE WAS.

JOHN CLASS, 961 SOUTH LINWOOD BEACH ROAD, LINWOOD
I WANT TO BE PUT ON THE RECORD THAT I ALSO SUPPORT THE RECALL PETITION. THE GENTLEMAN BEFORE ME HAS ECHOED ELOQUENTLY THE SITUATION IN THE TOWNSHIP. WE HAVE A SUPERVISOR WHO BASICALLY TELLS US "NO" WITHOUT ANY CONSIDERATION OF THE PUBLIC INPUT.

MICHELLE KIRCHMAN, 309 SOUTH LINWOOD BEACH ROAD, LINWOOD
I ALSO SUPPORT THE RECALL PETITION. I HAVE FOR THE RECORD, TWO LETTERS. THE FIRST ONE I WROTE TO MR. BRAGIEL ON JUNE 27TH, ASKING HIM TO PUT THE TOPIC OF THE DISCUSSION OF THE WIND TURBINES ON HIS JULY 9TH MEETING AGENDA. THIS LETTER WAS SIGNED BY MYSELF, MY HUSBAND AND TWO OTHER NEIGHBORS. IT WAS IGNORED. THIS CAME AFTER A PERSONAL MEETING IN THE SUPERVISOR'S OFFICE ON JUNE 21ST. OUR NEIGHBORHOOD GOT TOGETHER AND WROTE ANOTHER LETTER ON JULY 8TH WHICH WAS SIGNED BY 42 OF THE NEIGHBORS. I HAND DELIVERED THE LETTER ON THE MORNING OF JULY 9TH WITH ALL ORIGINAL SIGNATURES, TO HIM AGAIN, REQUESTING THIS TOPIC TO BE ON THE JULY 9TH BOARD MEETING. WE ARE CONCERNED ABOUT OUR HEALTH, SAFETY, WELFARE, AND OUR QUALITY OF LIFE IN

THE TOWNSHIP I PERSONALLY HAND DELIVERED IT TO THE SUPERVISOR, ONE OF OUR TRUSTEES AND THE TREASURER. HE JUST STATED, "THIS IS NOT HAPPENING". WE HAVE ALSO HAD MANY NEIGHBORS WHO HAVE SENT EMAILS, BECAUSE THIS IS HOW WE HAVE TO COMMUNICATE WITH THE TOWNSHIP, IS VIA EMAIL, REQUESTING THAT THIS TOPIC BE PLACED ON THE JULY 9TH MEETING. OUR BOARD DOES NOT USE THE OPEN MEETINGS ACT NOR ROBERTS RULES OF ORDER. THEY DO NOT ACCEPT ANY TOPICS ON THEIR AGENDA, EXCEPT WHEN MR. BRAGIEL PLACES ON THE AGENDA. THEREFORE, AFTER THE MEETING IS CLOSED AT THE END OF THE MEETING THE PUBLIC CAN SPEAK ABOUT ANY TOPIC FOR THREE MINUTES, BUT IT IS NOT A PART OF THE PUBLIC RECORD. EACH PERSON THAT SPOKE THAT NIGHT HAD TO SAY, WITH WHATEVER THEY WERE SPEAKING ABOUT; "WOULD YOU PLEASE, BOARD MEMBERS, SOMEONE MAKE A MOTION TO PUT A MORATORIUM ON WIND TURBINES IN PLACE SO THAT THE PUBLIC CAN HAVE THE OPPORTUNITY TO TALK ABOUT IT". THE PUBLIC SPOKE FOR ONE HOUR AND 45 MINUTES MAKING THIS PLEA, UNTIL THE TREASURER ACTUALLY MADE THE MOTION, SECONDED BY A TRUSTEE AND THEN THE VOTE WAS HELD, EVERYONE VOTED YES, OUR CLERK WAS ABSENT THAT NIGHT, SO HE WAS NOT THERE TO PARTICIPATE, AND MR. BRAGIEL BASICALLY SCREAMED AT THE PUBLIC "NO!" AND THAT WAS IT. SO WE WERE LEFT WITH NO CHOICE, BECAUSE WE HAVE A SUPERVISOR WHO DOES NOT WANT TO ENGAGE WITH THE PUBLIC AND IS BASICALLY TREATING IT LIKE A DICTATORSHIP. WE HAVE ASKED EVERY WAY POSSIBLE TO GET TO A POSITIVE RESOLUTION AND WITH ZERO SUCCESS. I WANT TO THANK YOU FOR LISTENING TO US TODAY.

CYNTHIA LUCZAK ASKED ABOUT THE LETTERS AND DATES ON THE LETTERS, STATING THAT, SO YOUR REQUESTS TO BE ON THE AGENDA WOULD HAVE BEEN BEFORE ANY AGENDA DEADLINE.

MICHELLE KIRCHMAN ANSWERED, THAT YES, IT WOULD HAVE BEEN IN TIME FOR THE MEETING. I WENT TO VISIT MR. BRAGIEL PERSONALLY ON JUNE 21ST WHEN I HAD HEARD THE TOPIC IN OUR TOWNSHIP. MR. BRAGIEL WORKED AS A CONSTRUCTION LABORER ON OUR HOME, WHEN IT WAS BEING BUILT. I JUST WENT IN TO ASK, "WHAT IS GOING ON WITH THE WIND TURBINE THING?" AS I APPROACHED HIS OFFICE DOOR HE YELLED OUT AT ME, "IF YOU ARE HERE TO TALK ABOUT WIND TURBINES, YOU CAN TURN AROUND AND WALK OUT". I SAID, WELL I AM, AND I'M NOT LEAVING. I THEN WENT INTO HIS OFFICE AND SPOKE. I FELT IT WAS AN UNPRODUCTIVE MEETING, I THEN WROTE THE FIRST LETTER SAYING WE RESPECTFULLY ASK YOU, PLEASE PUT THIS TOPIC ON THE AGENDA. HIS POSITION HAS BEEN, THE ORDINANCE WAS PUT INTO PLACE IN 2010 AND IT IS NON-NEGOTIABLE. IT IS EIGHT YEARS LATER, AND THE POINT IS, TECHNOLOGY HAS CHANGED SO DRAMATICALLY WITH EVERYTHING. THE RESEARCH THAT I HAVE DONE SO FAR, ON HOW MANY LEASES ARE SIGNED THAT HAVE BEEN RECORDED IN THIS COUNTY FOR THE END OF JUNE, THERE WERE 27 LEASES, SIGNED BY 44 INDIVIDUALS OR CORPORATIONS. THERE IS OVER 3,000 REGISTERED VOTERS IN OUR TOWNSHIP AND WE ARE GOING TO LET ONE PERSON AND 44 PEOPLE WHO CAN

GAIN FINANCIALLY FROM THIS, TOTALLY DICTATE TO EVERYONE ELSE WITHOUT HAVING ANY SAY? ALL WE ARE SAYING IS THESE REGULATIONS NEED TO BE REVIEWED AND TIGHTENED UP.

COMMENTS FROM THE BOARD

CYNTHIA A. LUCZAK, QUESTIONED IF THERE HAD BEEN NO DISCUSSION OF THIS IN THE LAST EIGHT YEARS?

JANICE PINTER, 1017 BERSSET BEACH, KAWKAWLIN THIS HAS NOT BEEN DISCUSSED PER OUR KNOWLEDGE. ONE OF THE ISSUES WE HAVE IS THERE ARE NO MEETING NOTES PUBLISHED, ONLY AGENDA'S. NOT ALL OF THE TOPICS ARE NECESSARILY ON THE AGENDA, IT IS HARD TO KNOW WITHOUT PERSONALLY ATTENDING EACH MEETING, BUT IT DOES NOT APPEAR TO BE.

RICHARD BRZEZINSKI, BAY COUNTY TREASURER, STATED THAT HE WANTED TO REPEAT WHAT JUDGE MINER SAID AT THE BEGINNING OF THE INSTRUCTIONS. THAT THE PURPOSE OF THE MEETING AND THIS BOARD IS TO ENSURE THAT THE LANGUAGE IS CLEAR AND FACTUAL, FACTUAL BEING NOT OPINIONATED AND THAT WE DO NOT HAVE RESOURCES OR ABILITY TO INVESTIGATE OR GO INTO GREAT DETAIL. WE SIMPLY HAVE TO TAKE THESE WORDS THAT ARE PROVIDED TO US AND VOTE YES OR NO BASED ON THE LAW OF THIS STATE.

VOTE

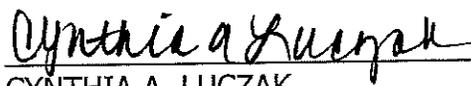
JUDGE JAN MINER CALLED FOR A VOTE: CYNTHIA LUCZAK, YES; RICHARD BRZEZINSKI, YES; AND JUDGE JAN MINER, YES. THE PETITION LANGUAGE PASSED.

RECESS/ADJOURNMENT

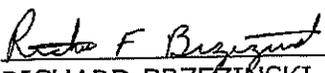
JUDGE JAN MINER MOVED TO ADJOURN THE MEETING OF AUGUST 2, 2018. THE MEETING CONCLUDED AT 8:25 A.M..



JAN MINER
BAY COUNTY PROBATE JUDGE



CYNTHIA A. LUCZAK
BAY COUNTY CLERK



RICHARD BRZEZINSKI
BAY COUNTY TREASURER