

The Village Board special meeting was called to order on April 14, 2014, at 7:03 p.m. by President Walsten with Trustees McCallum, Hawkey, McNaughton, Leavy, Klahn, Frandy present. Others present were Clerk Strause, Jessica Hawkey, Michael Christopher, Chief Barger, LaVorn Dvorak, Jerry Elmer, Paul Douglas, Heather Kirkpatrick, Mark George, Nancy Thompson. All stood for the Pledge of Allegiance.

President Walsten recused herself from the Board after calling for a temporary chair for the meeting. McNaughton moved, second Leavy, carried to appoint Trustee Klahn as chair. Klahn abstained.

Attorney Christopher stated this was not an evidentiary hearing to get into evidence of who did what. The purpose of this meeting is 1)for the Board to be advised on the legal standard for removal of a trustee and 2)what options the Board has to deal with the Jessica Hawkey petition filed for the removal of President/Trustee Walsten.

Chair Klahn stated those wishing to speak shall give their name and address and would be held to three minutes per person. The speaker will be called out of order and shall stop speaking if comments or attacks are made toward President Walsten. Jessica Hawkey, 100 Bowman St, was the first to speak questioning Atty Christopher's response to the Board as being a personal interpretation which is biased and questioned why he has not followed his own guidelines in advising the Board. Hawkey's three minutes expired and Lavorn Dvorak finished reading Jessica Hawkey's comments directed at Atty Christopher ending with requesting the Board to proceed with an evidentiary hearing on the removal of President/Trustee Walsten.

There were no other comments from the audience.

Atty Christopher stated this is a very serious and very drastic step. As this step is not often taken, there is not very much case law on removal. Wis Stats 17.13 is very clear talking about physical incapacity which is not involved in this situation or a gross neglect of duty. A Village Board member can be removed by majority vote by the Board, while a city council needs a 2/3 vote. In the case of a Village trustee removal, the standard is gross neglect of duty which is two parts. 1) What is the duty of a trustee? Three exhibits are attached to Atty Christopher's memo detailing what Trustee duties and responsibilities are as exhibit #1 "Handbook for Trustees of the Village Board of Brooklyn" which goes into great detail in terms of how a Trustee is to act and what the responsibilities of the Village President are. #2) Gross neglect of duty needs to have strong evidence that Walsten has continuously and substantially neglected her duties as a Trustee/Village President. If appealed, there is a 99% chance the Circuit Court would uphold whatever decision is made tonight by the Board.

Trustee McCallum asked Atty Christopher about his conflicting opinions on outlining the removal process. McCallum stated a month ago, it was on the agenda to set an evidentiary hearing date in another petition. Christopher stated we have never gone to a hearing in any petition; if a hearing is conducted, witnesses are sworn, direct testimony is given, witnesses are cross examined; we have never reached that point. McCallum stated your counsel gave direction to go to an evidentiary hearing but

now your opinion is conflicting. Christopher stated his role is not to represent one Trustee against another but to represent the entire board.

Chairperson Klahn called the discussion to end. Trustee Hawkey stated she is new to the Board but reading the minutes they are conflicting from one meeting to another. Chairperson Klahn stated this has no reflection on what the Board needs to decide now. If Jessica Hawkey does not like the Board's vote, she may take to appeals court. Atty Christopher continued to state in terms of the petition, the Board has two choices: #1) is to proceed to an evidentiary hearing. If you do that, you have authority to appoint an attorney to investigate the petition, and if probable cause, then prosecute it. The hearing is like a trial. #2) Having the authority to appoint an attorney, the Board has the ability to require the petitioner, Jessica Hawkey, to post a \$1,000 bond as a precondition to proceeding with the evidentiary hearing. Christopher continued "Chapter 17 states this should be dealt with in a speedy fashion. Let's assume that every fact is true in the Jessica Hawkey petition for removal of President/Trustee Walsten; this does not even come close to the standard of gross neglect of duty. Then the question is does the board agree with my opinion or not. If they do, you should dismiss the petition. This is merely a recommendation; this is your decision; you decide how this is going to be handled." Atty Christopher asked the Board to take a look at the petition and not to consider other evidence, stating he is not biased and did not come here with any preconceived notions.

Asked who can vote, Atty Christopher stated this is not a hearing but has to be a vote to dismiss or go ahead with an evidentiary hearing. Christopher recommended that Walsten not be able to vote or participate in the discussion as it would be unrealistic to expect her to vote on her own removal. As to all the other trustees, if they affirm that they are unbiased, fair, and that they do not have any preconceived judgments, then they can vote. The one possible exception, strictly fact and common sense, is Trustee Hawkey has a personal interest in the petition with her daughter Jessica filing the petition. The Village Handbook states: if there is personal involvement, that they should not vote. However, the Board does not have the authority to say another trustee cannot vote. This could have been a closed meeting but it is inconsistent with what Chapter 17 is all about. Christopher recommended that this be entirely open making this a difficult situation for all involved.

Chairperson Klahn asked Trustee Hawkey if she wrote any part of the petition. Trustee Hawkey stated, Jessica Hawkey came on her own accord with the petition. Trustee Hawkey stated she had nothing to do with this and is "appalled" that the Chair would ask this question. Trustee Frandy requested to move on with the meeting. Trustee McNaughton moved, second Frandy, to dismiss the Jessica Hawkey petition to remove Trustee/President Walsten. Trustee McCallum stated there have been seven violation of our handbook. Trustee Hawkey stated there was a violation of the open records law. Trustee Leavy stated he would like more information, just not in this setting. Roll call vote on the motion: AYE: McNaughton, Leavy, Klahn, Frandy NAY: McCallum, Hawkey. Motion carries.

McCallum moved, second Leavy, carried to adjourn at 7:41 p.m.

Carol A Strause, MMC