

STATE OF WISCONSIN
WISCONSIN ELECTIONS COMMISSION

IN THE MATTER OF
The Recall Petition of Town of Westfield Town Chair Sharon Galonski,

TERRY JOHNSON,

Complainant,

v.

Case No. EL 24-86

TOWN OF WESTFIELD TOWN BOARD,

Respondent.

RESPONSIVE PLEADING

Respondent Town Board of the Town of Westfield, by its attorneys Municipal Law & Litigation Group, by Attorney Eric J. Larson, hereby responds to the Complaint in this matter as follows;

1. Complaint Allegation: *On August 13, 2024, the Town Clerk issued a Certificate of Sufficiency of Recall Petition. This action was taken within the allowed 31 days. (Copy of certificate of sufficiency which was handed to board members after the Town Board meeting is attached.)*

Respondent's Response: Admit.

2. Complaint Allegation: *At the Town Board regular meeting, the Town clerk stated that the certificate of sufficiency was issued, and she was requesting a recall election date of September 24.*

Respondent's Response: Admit in part and deny in part. Admit that at the meeting the Town Clerk stated that the certificate of sufficiency was issued. Affirmatively state that the Town Clerk did not request a recall election date of September 24, the Town Clerk merely reported that the recall election date was September 24. This date arises by operation of State law. Wisconsin Statutes Section 9.10(4)(d), states:

Promptly upon receipt of a certificate under par. (a), the governing body, school board, or board of election commissioners shall call a recall election. The recall election shall be held on the Tuesday of the 6th week commencing after the date on which the certificate is filed, except that if

Tuesday is a legal holiday the recall election shall be held on the first day after Tuesday which is not a legal holiday. (emphasis added)

The date of the election is strictly defined by the foregoing and must be held on the Tuesday of the 6th week commencing after the date on which the certificate is filed. The recall petition was filed August 13 so the recall election date is September 24, and that is what the clerk announced at the meeting.

3. Complaint Allegation: *The Town Board is a three-member board with one chairperson and two supervisors. One supervisor stated that the election should be tabled because he heard someone filed a complaint with the WI Election Commission. No proof of complaint was provided to the board. The other supervisor stated that we should follow the law and set the September 24 date. The chairperson stated that we shouldn't have a recall election because she didn't do anything wrong, and she shouldn't be recalled. The chairperson allowed public comment to protest the recall election because it was too expensive.*

Respondent's Response: Admit that the Town Board is a three-member board with one chairperson and two supervisors. For all remaining allegations, neither admit nor deny as not relevant to the issues arising in the Complaint, and affirmatively state that the record of the public meeting speaks for itself.

4. Complaint Allegation: *As a result, no action was taken by the board. (Copy of the Town Board meeting agenda is attached.)*

Respondent's Response: Admit that no action was taken by the board. Admit that a copy of the meeting agenda was attached to the Complaint, and affirmatively note that the Town Board meeting agenda lists the recall election issue under a "Clerk's Report" agenda item. While the agenda says "Set date for recall election," that is part of the "Clerk's Report" agenda item, and at that time in the agenda the Town Clerk reported that the election date is September 24, as required by State law.

5. Complaint Allegation: *FYI - Throughout the recall process, the chairperson has been using her position of authority to derail the recall efforts of many town citizens.*

Respondent's Response: Deny as argumentative and inflammatory.

6. Complaint Allegation: *The Town Board should be ordered to set the recall election date as required by law.*

Respondent's Response: Admit and Deny as follows. The Town Board admits that the recall election must be held, per Wisconsin Statutes Section 9.10(4)(d). That process is under way. The Town Board denies that the Town Board sets the date of the recall election, however. The Town Board cannot be ordered to do

something it has no legal ability to do. As correctly announced by the Town Clerk at the meeting held on August 19, 2024, the recall election will be held on September 24th as required by Wisconsin Statute Section 9.10(4)(d). Ballots have been ordered and received, absentee ballots have been mailed to electors, and the election will be held as required on September 24th.

The law is the law. The Town Board cannot change the dictates of the statute, even if one or more of the Town Board members thought they could. If members of the public, or the petitioner, did not understand the election dates and deadlines established in the state law, that also does not change the dictates of the statute. The WEC cannot change the dictates of the statute. The statute says "The recall election shall be held on the Tuesday of the 6th week commencing after the date on which the certificate is filed." That date is September 24th. The recall election will be held that day as required.

While we believe this response of legal counsel does not require a jurat, we have no objection to swearing to the truth of the responses provided as requested in the Notice, so hereby swear upon oath that the foregoing responses are wholly truthful to the best of our knowledge and belief.

Respectfully submitted this 5th day of September, 2024


TOWN OF WESTFIELD TOWN BOARD



By its Town Attorneys Municipal Law &
Litigation Group, SC
By Attorney Eric J. Larson

STATE OF WISCONSIN)
) ss.
COUNTY OF WAUKESHA)

Personally came before me on this 5th day of September, 2024, the above-named Eric J. Larson executed the foregoing instrument and acknowledged the same.



NOTARY PUBLIC, STATE OF WI
Print Name: Luke Martell
My Commission Expires: Permanent

