



Leslie R. Swan
Supervisor of Elections
Indian River County

Sent via email and U.S. Mail

August 6, 2020

The Honorable Lawrence M. Mirman
Chief Judge, 19th Judicial Circuit Court
100 East Ocean Boulevard, Suite A263
Stuart, Florida 34994

Re: Sebastian City Council Recall Election

Dear Hon. Judge Mirman:

A recall committee was formed for the purpose of recalling three (3) Sebastian City Council members pursuant to section 100.361 – Municipal Recall, Florida Statutes, and per section 2.12 of the City of Sebastian Charter. The three city council members: Damien Gilliams, Charles Mauti, and Pamela Parris were elected on November 5, 2019 to a two-year term and the electors of the City of Sebastian will be voting whether to recall the above named city council members based on malfeasance, per section 100.361(2)(d)(1), Florida Statutes if they do not submit their resignations by August 9, 2020. I have attached a copy of section 100.361, Florida Statutes, for your reference.

The recall committee commenced on May 20, 2020 to collect signatures from 10 percent of the total number of registered electors of the City of Sebastian as of the preceding municipal election. The City of Sebastian had 19,948 registered electors at the close of the registration books for the November 5, 2019 Sebastian City Council Election.

The Sebastian City Clerk (the "Clerk"), received the first round of petitions from the recall committee on May 29, 2020. The Clerk submitted the petition forms to the Indian River County Supervisor of Elections Office (the "Supervisor") on June 1, 2020 for verification.

The Supervisor promptly verified the signatures to determine whether the requisite number of valid registered voter signatures had been obtained for the recall petitions for each of the three city council members attempting to be recalled. The Supervisor determined that the petitioners had collected the requisite number of verified and valid registered voter signatures to move forward with the recall process and certification paperwork was provided to the Clerk.

Upon receipt of a written determination that the requisite number of signatures had been obtained, the Clerk served upon the persons sought to be recalled a certified copy of the petition. Within 5 days after service, the persons sought to be recalled, each filed a defensive statement. The Clerk prepared a document entitled "Recall Petition and Defense" and made copies sufficient to carry the signatures of 30 percent of the registered electors. Upon receipt of the "Recall Petition and Defense," the committee



Letter to Honorable Lawrence M. Mirman
August 6, 2020
Page Two (2)

circulated the petitions to obtain the signatures of 15 percent of the electors and returned the "Recall Petition and Defense" petitions within the 60-day deadline.

The second round of recall petitions were delivered to the Clerk on July 29, 2020. It is the Clerk's responsibility to assemble all signed petitions, to check to see that each petition is properly verified by the oath of a witness, and submit such petitions to the Supervisor. The Clerk delivered the second round of 10,282 recall petitions on the morning of July 30, 2020 to the Supervisor.

I had discussions with the Clerk and the Recall Committee that in order for the recall election to be on the November Presidential General Election ballot, the petitions would need to be delivered to my office, no earlier than Friday, July 31st. The July 31st date would allow the Supervisor the 30 days to verify and certify the recall petitions, then in the absence of resignation during the 5-day period following the certification date of the recall petitions, per section 100.361, Florida Statutes, the Chief Judge of the 19th Judicial Circuit shall fix a date for holding a recall election for the removal of those not resigning. Per the statute, any such election shall be held not less than 30 days or more than 60 days after the expiration of the 5-day period last-mentioned and at the same time as any other general or special election held within the period.

I surmised that since the first round of 7,491 petitions took two days to be delivered to the Supervisor, the second round of 10,282 petitions would take at least two days to diligently check to see that each petition was properly verified by the oath of a witness for delivery on July 31, 2020. The two days would provide for the necessary time frame for the recall election to be placed on the November 3, 2020 Presidential General Election ballot.

The 10,282 petitions were delivered to my office on Thursday, July 30, 2020. I had previously advised the Clerk that delivering the petitions prior to July 31st would cause the City of Sebastian to hold a recall election, prior to the November 3rd Presidential General Election, in the absence of a resignation from any of the council members being sought to be recalled. The cost for a recall election will exceed \$40,752, the cost for holding the recall election on the Presidential General Election ballot would be approximately \$10,188.

Since the November 3, 2020 Presidential General Elections falls 1 day short of the statutory election deadline of no less than 30 days or more than 60 days, pursuant to section 100.361(4), Florida Statutes, the Chief Judge of the Circuit shall set the date for the recall election.

Currently the Supervisor is in the midst of conducting the August 18th Primary Election and then immediately following the Primary Election, ballots are printed and voting machines are programmed for the November 3, 2020 Presidential General Election. I would respectfully request your honor to set the recall election date for September 9 or 10, 2020. Scheduling the election date any later than the two proposed dates would cause an extreme hardship to my office and its ability to properly prepare for the November 3rd Presidential General Election.

Letter to Honorable Lawrence M. Mirman
August 6, 2020
Page Three (3)

I am already having difficulty securing poll workers for the upcoming two elections due to the Coronavirus pandemic. In addition, almost all of our voting machines are scheduled to be programmed and deployed for the Presidential Election.

The Supervisor is statutorily mandated to send our UOCAVA (military and overseas voters) ballots on September 18, 2020. Our civilian mail ballots are scheduled to be mailed on September 24, 2020. To minimize voter confusion, the recall election needs to be completed prior to mailing of vote-by-mail ballots for the Presidential General Election. Sending out vote-by-mail ballots for two elections will undoubtedly cause voter confusion.

I am earnestly trying to accommodate the City of Sebastian, but any recall election date scheduled after September 10, 2020, would leave me no choice but to turn the election over to the City of Sebastian to conduct themselves as I do not believe that my contract with the City of Sebastian requires the Supervisor to conduct recall elections.

I appreciate your consideration of my suggested recall election date(s). The Statute directs you to set the election date but gives no guidance on the process. I am more than willing to participate in a zoom conference call with all parties in the event you determine that a conference call is necessary.

Sincerely,

A handwritten signature in blue ink that reads "Leslie Rossway Swan". The signature is written in a cursive style with a long, sweeping tail on the "n".

Leslie Rossway Swan
Supervisor of Elections

Enclosures

cc: Jeanette Williams, Sebastian City Clerk
Dylan Reingold, Esq., Indian River County Attorney