



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.
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August 25, 2023

Sent via Email to:

Bryn Hand, Clerk/Treasurer
15460W State Road 77
Hayward, WI 54843
townofhayward@cheqnet.net
treastownhayward@cheqnet.net

Re: The Town of Hayward's Refusal to Hold a Special Town Meeting, in Violation of the Wisconsin Statutes.

Dear Bryn Hand:

We represent Brenda Dettloff, one of several concerned citizens of the Town of Hayward. We submit this letter to demand that you notice a special town meeting, as required by Wisconsin law, or explain in detail why you believe Ms. Dettloff's petition for a special meeting was insufficient. If you do not respond **by Monday, August 28**, we are prepared to petition for a writ of mandamus against you, seeking an order requiring you to comply with your statutory duty.

As you know, on August 18, Ms. Dettloff and others submitted a petition for a special town meeting, pursuant to Wis. Stat. §§ 60.12(1)(b) and 60.14(b). Their petition was signed by over 270 town electors and seeks to revisit certain resolutions approved at the Town's annual meeting in April. This is now their *third* petition for a special meeting, yet you continue to obstruct their requests.

Wisconsin Stat. § 60.12(1)(b) requires a "special town meeting" to be convened if a specified number of electors sign a "written request" and file that request with the "town clerk." Under § 60.12(2), the request must state "the time, date, and purpose of the meeting . . ." Under Wis. Stat. § 60.14(4)(b), if the "purpose" is to reconsider actions taken at an annual town meeting, the request must note that the purpose is "reconsideration" of those actions. Under well-established canons of statutory construction, nothing further is required of the request. *See, e.g., James v. Heinrich*, 2021 WI 58, ¶18, 397 Wis. 2d 517, 960 N.W.2d 350. If the request meets these basic requirements, § 60.12(3) provides that "[t]he town clerk *shall*, not more than 20 nor less than 15 days before the date of a special town meeting, publish a class 2 notice of the meeting under ch. 985." (Emphasis added.); *see also* Wis. Stat. § 60.33(6)(b) ("The town clerk shall: . . . (b) Give notice of annual and special town meetings as required under ss. 60.11(5) and 60.12(3)."). By your own admission in an email dated August 21, 2023, "[t]he town of Hayward does **NOT** have the authority

to deny a request based on any other reason than it not meeting the statutory requirements.”

Ms. Dettloff and other town electors have provided you with three separate written requests that meet the basic requirements, and each time you have thwarted democratic self-governance by refusing to perform your plain legal duty to publicly notice the special town meeting. The third written request was provided to you on August 18, and requests a special meeting on September 15 at 6 p.m. It describes the purpose of the meeting in detail—to reconsider and rescind three actions taken at the previously held annual town meeting, each of which are identified by number and described in detail. The document was signed by over 270 electors, many more than the 165 necessary, and far more than the 20–30 electors who voted in favor of the resolutions last April. The document was accompanied by a cover letter, which stated the three resolutions to be reconsidered almost in the exact same manner as the top of the petition.

The same day you received the third written request, you once again refused to perform your plain legal duty. You opened by acknowledging receipt of the third written request, but denied it for the following reasons:

The conclusion is that the request should be denied as defective for the following reasons:

First, the cover letter of the written request and the language of the petition itself are inconsistent with one another.

Second, some of the purposes enumerated cause the request itself to be defective.

It is therefore concluded that the request for a special meeting is denied as defective because the stated purposes of the meeting are not sufficiently clear for proper notice or action by the public.

The rationale expressed in this letter is evasive and not grounded in law.

First, the cover letter is irrelevant. None of the petition’s signatures appear on the cover letter—not one. Wisconsin Stat. § 60.12 never references a cover letter: it is a document unknown to this area of law. The cover letter was there solely to assist you. Nothing more. Any inconsistencies with the petition do not matter.

Second, those inconsistencies are non-substantive and trivial. Anyone of reasonable intelligence can read the cover letter and the petition and tell they are referring to the same three resolutions. Both the cover letter and the petition even cite the reference number of the resolutions (e.g., No. 04-2023A).

So-called “magic words” are highly disfavored in Wisconsin law. *See, e.g., Marathon County v. D.K.*, 2020 WI 8, 390 Wis. 2d 50, 937 N.W.2d 901 (Rebecca Grassl Bradley, J., concurring) (“We do not impose a ‘magic words’ requirement in the law and this court has repeatedly rejected them.”).

Third, we have no idea what you mean when you say that “some of the purposes enumerated cause the request itself to be defective.” Wisconsin Stat. § 60.12(5) provides that “[a]ny business which may be transacted at an annual meeting may be transacted at a special town meeting.” Wisconsin Stat. § 60.14(4)(b) further provides that a special town meeting may be convened to “reconsider[]” the “action[s]” of an annual town meeting.

You have no right to “insulate[] local government from the oversight of the town hall meeting—a beacon of representative democracy,” thereby “subjecting the people to the whims of [] unaccountable overlord[s].” *See Becker v. Dane County*, 2022 WI 63, ¶147, 403 Wis. 2d 424, 977 N.W.2d 390 (Rebecca Grassl Bradley, J., dissenting).

You should promptly fulfill your plain legal duty and either confirm that you will provide the requisite public notice of the September 15 special town meeting, or explain, in detail, how exactly you believe the petition was insufficient. If you refuse to do so by Monday, August 28, 2023, we will petition for a writ of mandamus in circuit court ordering you to do so.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

/s/ Luke Berg
Luke Berg
Deputy Counsel

/s/ Skylar Croy
Skylar Croy
Associate Counsel