

Norwood Township Board of Trustees Meeting
Approved Meeting Minutes
April 18, 2022
Norwood Township Hall

Call to Order – Meeting called to order at 7:00 P.M. by Supervisor Freds

Pledge of Allegiance – by all present

Roll Call – Pirie-present, Brenda Freds-present, Ben Freds-present, Smolenyak-excused absence, Warner-present

Approval of March 21, 2022, Meeting Minutes, MM by Warner to approve March 21, 2022 Meeting Minutes, 2nd by Brenda Freds. Motion carried to approval 4-0.

Approval of Agenda – MM by Warner approve Agenda as presented, 2nd by Pirie. Motion carried to approval 4-0.

Supervisor’s Report –

Supervisor Freds stated he is looking into buying a Zoom System Application. It would be a program that would allow meetings to be viewed by people that cannot attend. This would include a camera and teleconference system. He also said he would like a projector screen and a dry erase board for presentations. Freds stated he will research and have as an Agenda item for discussion at the May meeting.

Treasurer’s Report – Given by Clerk Freds

Fund Balances as of 3/31/2022:	General:	\$216,273.26
	Road:	95,881.90
	Emergency:	74,379.56
	ARP	38,057.83
	Phragmites:	7,925.05
	(Includes \$1,055 for Frank Hamilton fund)	
	Tax Fund:	12,461.41

Clerk’s Report –

Preapproved: \$ 353.16 (GLE/Truestream)
Unapproved: \$ 4,444.73
Totals: \$ 4,797.94

MM by Warner to approve Clerk’s Report, 2nd by Pirie. Motion carried to approval 4-0.

Trustee’s Report –

Trustee Warner report-
Lot Split for Ciesielczyk approved by Planning Commission and Special Use Permit application for Lost Cellars Tasting room approved. Master Plan is going to the Attorney for review. Warner also asked for funds in budget for S.U.P follow ups by ZA.

Trustee Pirie Report - None

Zoning Administrator's Report-ZA report is online.

Old Business –

Road Construction Projects –

Supervisor stated he has been doing some fact finding and talking to the Charlevoix County Road Commission regarding funding and costs to work on Beatty and Warner Roads. Beatty Road has 11 residences and should be focused on first. Supervisor said there is approximately \$95,000 currently in the Road Fund and the road millage will be up in two years. He stated there is \$15,000 per year revenue so in two years there will be approximately \$104,000 plus \$45,000 from revenue totaling \$155,000 that will be available. The CCRC gave an estimate of \$330,000 to repair Beatty Road from US 31 to Vratana which is approximately .5 miles. After the funding the Township will be approximately \$10,000 short. Discussion on funding included a possible loan from the County, ARP funds and possibly taking the roads back down to gravel the first year and then possibly paving on the 2nd year. **MM by Warner to table the Road Construction Projects to the May meeting in order to gather more information on funding and getting further estimate, 2nd by Pirie. Motion carried to approval 4-0.**

New Business -

Resolution for Fire Millage Ballot Proposal –

Supervisor read the proposed ballot language. **MM by Pirie to approve Fire Millage Ballot language, 2nd by Warner. Roll call vote: Warner-aye, Ben Freds-aye, Brenda Freds-aye, Pirie-aye. Motion carried to approval 4-0.**

Resolution for Bank Account Signers –

Resolution to update signers on Township bank account. **MM by Brenda Freds to approve Resolution to add Mark Pirie and Doug Warner as signers on bank account along with Clerk Brenda Freds and Treasurer Lynn Smolenyak, 2nd by Warner. Roll call vote: Ben Freds-aye, Brenda Freds-aye, Pirie-aye, Warner-aye. Motion carried to approval 4-0.**

Guest Speaker, Melissa Skiendziel, MRM Agency –

Discussion on Township Insurance Coverage. Skiendziel wants to make sure that all appointed positions are covered, asked how many miles of Township Roads there and stated there are \$5,000 Grants available every six months. These Grants go towards projects that help minimize any liability issues that could cause a claim. The first Grant is available before March 31, 2022. MRM will send out someone to do a risk assessment.

Planner/Zoning Administrator –

ZA Leslie Meyers stated she would help the Township out with the ZA position for six months until they could find a replacement and the Supervisor stated that six months is close to being up. Meyers stated she would take on the role of full time Planner and Zoning Administrator but would like to hire a part time seasonal zoning enforcement officer. Currently there is a budget for \$1,000 per month for ZA & Planner but \$500 more per year would be needed. Discussion on how enforcement would work without the ZA. ZA told the

Supervisor that she would write up a job description for the enforcement officer. Supervisor asked to bring ideas to next meeting so it can be discussed and how it will affect the budget.

2022-2023 Township Budget –

Draft budget was distributed to the Board. Supervisor stated there will be a 10% increase in wages for the Board of Trustees and the Planning Commission. This will not pertain to the Zoning Board of Appeals or the Board of Review. The Bi-annual budget is also budget in on the draft. Supervisor would like to review the fee schedule also along with the budget at the May Meeting.

Correspondence/Announcements-

Correspondence was received from residents of Beatty Road, Rachel Coen that lives on Warner Rd and Tina Whitley regarding the Master Plan, which will be read later in the meeting by Ian Grey.

Public Comment-

Michael Spilis, 4505 Lakeshore Dr., had questions for Melissa Skiendziel of MRM Agency regarding Beach signage and if that could be covered under the available Grants and she stated that is a possibility. Spilis also was concerned about the insurance company doing a risk control assessment on the old Township Hall and feels it should be considered a warehousing location and second location. There was also discussion at this time on the Historical Society being names as an Additional Insured.

Kelly Morris, 4224 Lakeshore Dr., stated she walked many times up and down the Norwood Township beaches with Carol Apol discussing the Phragmite issues. Since Carol has moved out of Norwood Township Kelly said she and her husband Chris would like to volunteer to head up the Phragmite committee. She was concerned about when Site Planning last sprayed and she stated the minutes from the December 2018 meeting showed that is the last time Site Planning was paid for spraying.

Scott Hankins, Charlevoix County Commission for District 5, wanted to let the Township know that the County wide Audit took place and Charlevoix County is in debt for \$17.5million and they are working on a plan to decrease that deficit. Hankins said most of this is from the Pension and Benefits plan. Hankins also stated that there are funds available for up to \$10K from the Parks Millage for Norwood Township. There will be a Michigan Township Association meeting in Boyne Valley Township on Tuesday April 26 at 7:00pm.

James Furlong, 4494 Lakeshore Dr., asked if the Township can put the road work out for bids without going through the Road Commission? He also asked Hankins if the \$10K for parks could be used for Fire Remediation Services? Supervisor asked if he was talking about Fisherman’s Island State Park and if so, that is a State jurisdiction, not Township. Furlong felt the cost has gone up for the road construction due to the cost of crude oil and petroleum. He also asked what the Swamp Tax is that was in the budget. Supervisor stated it was money that we receive from the State. Supervisor also stated that if we put road work out for bids and don’t use the CCRC then there are too many unknowns and may be oversight so in that case it would be the CCRC’s responsibility.

Ian Grey, 4831 Lakeshore Dr., asked how the Township Attorney gets chosen or hired? Supervisor stated that the Township uses Bryan Graham as he is a municipality attorney that

is familiar with Township law. Ian went on to read a letter submitted by Norwood Township Resident Tina Whitley. That letter is attached to the minutes.

Supervisor Freds announced that if anyone is interested in running for the Supervisor or Trustee positions that are available, they must have their paperwork in to the County by 4:00pm Tuesday April 19, 2022.

Howard Campbell, Beatty Rd., stated Beatty Road has been terrible for years and feels the work on Beatty Road should not be tabled too much longer.

Meeting Adjourned at 8:19 p.m.

Respectfully submitted by,
Shari Jones, Recording Secretary/Deputy Clerk

April 14th, 2022

To the residents of Norwood Township;

We have been informed that our referendum petition has been denied as it had too many grammatical errors and therefore the Norwood Township Board (Township Clerk- Brenda Freds) has denied the petition. Letter of Denial is attached.

We needed 64 signatures of registered voters of Norwood Township and were successful in obtained 90 plus signatures of which over 80 plus were validated by Township Clerk as being registered voters for Norwood Township. The Township Clerk contacted us on March 25th, 2022 stating that the Referendum was valid and the Norwood Township Attorney would be getting the wording together to have it placed on the Ballot for August primary.

We cannot thank you all enough for having taken the time to talk with me and your willingness to understand the unfairness to what the Norwood Township Board had passed with little to no effort on the Norwood Township Board or Planning Commission part to truly identify if it was in the best interest of those in the Clipperview Subdivision or in fact in the best interest of Norwood Township as a whole. Nor take into account that it went against the Master Plan. Thank you again for signing the petition and promoting democracy in our Township.

Attached you will find the Challenge to the Petition letter that was submitted by Roger Soldano and James Furlong, who had hired the law firm of Hirzel Law, PLC that specializes in Real Estate Law, etc.

Also attached you will find a copy of the initiative petition that Roger and James had delivered to the Norwood Township Board asking for restrictions of Short Term Rentals in Norwood Township. Please note that nowhere in that petition does it state that they were seeking an overlay district.

Ben Freds, Norwood Township Supervisor, had decided to file an overlay district recommendation to the Planning Commission on behalf of what he believed to be in the best interest of the community. Ben had voiced his opinion that he does not like the idea of Short Term Rentals in Norwood Township. Again, no one on the Norwood Township Board nor Planning Commission every communicated this outside of the four walls at Norwood Township monthly or special meetings. When I would ask if this was in the best interest of the community or other property owners in the Clipperview Subdivision; I was met with various verbiage forms that alluded to essentially that the Boards opinion was that no one was showing up at the meetings and therefore must not care.

One would think that if a Township Board was about to take away a portion of some ones property rights they could at least be kind enough to send a letter out regarding same. However, we have noticed this before where decisions are made by the Norwood Township Board as being in the best interest of their community, but we are not notified by the Township Board. The Boards view on notification is that it is our responsibility as residents, and not the Boards, to make sure we are involved and either show up to the monthly meetings, buy the Charlevoix County New once a week on Thursday (yes there is such a thing) or get online to www.norwoodtwp.org and check for updates and information on what is about to

take place. Legally this all the Board needs to do, but as far as morally we think this is not very friendly or neighborly. However, if you have an agenda you are trying to achieve, you probably do not want to bring it to the attention to those that it might affect and have a room full at a meeting, so the legal aspect is much easier. Again, the above is just my opinion and hopefully having an opinion and voicing it is still legal.

So in summarization; yes being a bully and having money to back it up will give you a win (not a win I myself would be proud of, but a win).

My husband and I are going to take away something positive out of all this though. We have been blessed to meet new neighbors, not just in our subdivision but throughout Norwood Township. We have had great conversations with you, the residents of Norwood. I would be lying if I said I was confident in knocking on doors and asking for signatures, it was difficult for me and I was a nervous wreck, but felt strong in how unfair I thought this decision was. Everyone we talked to whether they did sign or just wanted the information to think it over was appreciative of our efforts and was kind in their words and we are truly thankful to you for that. Please know that we are more adamant than ever to be the voice of those who are not being heard. However, as we are coming to find out just because you find it unfair and voice our opinion or petition the ordinance or amendment, if you don't have the money to hire an attorney you probably will not be heard if the Board agenda is of importance to them (again just an opinion).

Sincerely,

Mike and Tina Whitley
18684 Clipperview Rd
Charlevoix, MI 49720



NORWOOD TOWNSHIP

00640 Lakeshore Dr.

P.O. Box 113

Charlevoix, MI 49720

April 13, 2022

Tina Whitley
18684 Clipperview Rd.
Charlevoix, MI 49720

SUBJECT: Referendum Petition

Dear Tina:

After speaking with the township attorney I have reluctantly determined that the petition you filed with me on Thursday, March 24, 2022 seeking a referendum on Ordinance No. 1 of 2022 is legally deficient and therefore inadequate. Section 402 of the Zoning Enabling Act, MCL 125.3402, governs the procedures for a referendum petition on a zoning ordinance amendment. Specifically, Section 402(4), MCL 125.3402(2), provides:

A petition and an election under this section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

Section 482 of the Michigan Election Law, MCL 168.482, specifies the requirements for a petition, including a petition for a referendum. The Michigan Supreme Court in *Stand Up For Democracy v Sec'y of State*, 492 Mich 588 (2012), addressed the requirements of Section 482 of the election law. The Court ruled that the requirements of the statute must be strictly complied with and that substantial compliance was legally insufficient. The Court's opinion stated:

However, because MCL 168.482(2) uses the mandatory term "shall" and **does not, by its plain terms, permit certification of deficient petitions** with regard to form or content, a majority of this Court holds that the doctrine of substantial compliance is inapplicable to

referendum petitions submitted for certification. *Id.*, p. 594. (Emphasis added.)

Because I have determined that your petition is legally inadequate, Ordinance No. 1 of 2022 will go into effect today, pursuant to Section 402(3)(b) of the Zoning Enabling Act, MCL 125.3402(3)(b).

As an initial observation, your petition was prepared in two parts, the front page and the back page. The fact that your petition was written in two parts has legal significance, which will be explained in this letter.

There were a number of legal deficiencies in your petition. I will explain these deficiencies by citing the statutory requirement and then noting the deficiencies.

1. Section 482(2), MCL 168.482(2), requires the following:

If the measure to be submitted proposes a constitutional amendment, initiation of legislation, or referendum of legislation, **the heading of each part of the petition must be** prepared in the following form and **printed in capital letters** in 14-point boldfaced type:

INITIATIVE PETITION

AMENDMENT TO THE CONSTITUTION

OR

INITIATION OF LEGISLATION

OR

REFERENDUM OF LEGISLATION

PROPOSED BY INITIATIVE PETITION

(Emphasis added.)

Your petition did not strictly comply with these statutory requirements in the following ways:

- a. The heading of your petition, **Referendum of Ordinance**, was not written in all capital letters.
- b. The heading of the petition was not printed on each part of the petition, but was only included on the first page.

2. Section 482(7), MCL 168.482(7), requires the following:

Each petition under this section must provide at the top of the page check boxes and statements printed in 12-point type to clearly indicate whether the circulator of the petition is a paid signature gatherer or a volunteer **signature gatherer**. (Emphasis added.)

Your petition did not strictly comply with this statutory requirement because your petition indicates that the circulator was a "Volunteer Circulator."

3. Section 482(8), MCL 168.482(8), requires the following:

Each petition under this section must clearly indicate **below the statement required under subsection (7)** and be printed in 12-point type that **if the petition circulator does not comply with all of the requirements of this act for petition circulators, any signature obtained by that petition circulator on that petition is invalid and will not be counted**. (Emphasis added.)

Your petition did not strictly comply with this statutory requirement because there was no statement below the "Volunteer Circulator" notation that stated:

If the petition circulator does not comply with all of the requirements of the Michigan election law for petition circulators, any signature obtained by that petition circulator on that petition is invalid and will not be counted.

While you can see from the above statutory requirements, various portions of the petition must be printed in different size fonts: 14-point boldfaced type, 12-point type, and 8-point type for the full text of the amendment, as required in Section 402(3), MCL 168.482(3), that was not quoted above. I am not, however, in a position currently to determine whether these font size requirements were or were not met and, therefore, am not basing my determination on these font size requirements.

Sincerely,

Brenda Freds
Township Clerk

cc: Norwood Township Board

Let's work with the Norwood Township Board to protect the character and serenity of our neighborhoods.

We the undersigned, property owners of the Clipperview subdivision, petition the Norwood Township Board to ban Short Term Rental (STR) in residential zoning districts.

The Clipperview community wants a change in the Short Term Rental ordinance:

1. With the advent of sophisticated marketing schemes, utilizing digital platforms, STRs have grown in popularity. Not only are more individual property owners now renting their properties on a weekly basis, but investment groups are purchasing housing in lakeside communities and turning them into vacation rentals.
2. The influx of out-of-town visitors upsets the peaceful enjoyment of long-standing residential neighborhoods. Short term renters have no stake in the community, and therefore no reason to care how the neighborhood around them suffers from their vacation activities.
3. Ordinances designed to address noise and other complaints inherent in short term renters' activities are next to impossible to enforce. Township enforcement officials and police forces are reluctant to get involved, but if they do respond the remedy is short lived. The following week's renters are again ripe for commotion and another complaint from the same neighbor only causes the enforcement agencies to become frustrated.
4. As STRs multiply in Clipperview, security and increased traffic will become more alarming. In most residential neighborhoods long-term home owners develop relationships with each other and trust ensues. Not so with renters from outside the area. We have no knowledge of renters' background to include – personal disposition, criminal record, or medical situation. When renters' rely on roadside parking to accommodate their vehicles, boats, trailers, and other watercraft, the resulting road congestion can make it difficult or impossible for emergency vehicles to get past.
5. Because of Clipperview's proximity to Lake Michigan, our community is in danger of losing its character and valued serenity if the township does not take immediate action in banning STRs.

Lot # Address Signature Date

67	4819 LAKE SHORE DR.	Mary Soldano	7/31/2021
		<i>[Signature]</i>	7/31/21

RV

March 31, 2022

To: Norwood Township Clerk
PO Box 113
Charlevoix, MI, 49720

From: Roger Soldano, James W. Furlong

Re: Challenge to Referendum on Ordinance No. 1 of 2022

Dear Brenda:

We challenge the petitions submitted for a referendum vote relating to the Clipper View Overlay, Ordinance No. 1 of 2022.

To avoid confusion as this analysis is read, Michigan's election law allows the use of state-wide or county/township forms for referendum petitions. Since the township does not offer a petition template and the submitted petitions conform somewhat to the state-wide form, we assume it is the model used. That said, it's difficult to be sure of the sponsor's intent because of multiple errors.

We are challenging each of the signatures included on petitions submitted by Tina Whitley because the form and content of the petitions fail to adequately comply with the applicable requirements under the Michigan Election Law, particularly MCL 168.482a (ref 1)

MCL 168.482a(4) provides:

If a petition under section 482 is circulated and does not meet all of the requirements under section 482, any signature obtained on that petition is invalid and must not be counted.

Michigan law now requires that every element of a referendum petition must comply with each requirement relating to a referendum petition under MCL 168.482, including those in MCL 168.544c referenced within MCL 168.482.

The issue of the constitutionality of MCL 168.482a(4) was analyzed by Michigan's Attorney General (May 22, 2019) and found constitutional (ref 2):

“Subsection 482a(4) acts as a general, catch-all penalty provision for a form or content violation of § 482 not covered by another more specific statute. See, e.g., MCL 168.544c. For example, if a petition circulated under § 482 failed to include the new summary of the proposal required by § 482(3) or the warning to electors required under § 482(5), § 482a(4) would require signatures on that petition sheet to be discounted. **In *Stand Up for Democracy v Secretary of State*, the Michigan Supreme Court held that mandatory petition form and content requirements must be complied with, and that nonconforming petitions are not entitled to placement on the ballot.** 492 Mich 588,

601–619 (2012). “Entitlement to be placed on the ballot requires a showing of actual compliance with the law.” *Id.* at 619. Subsection 482a(4) essentially implements that holding by confirming that form and content errors will result in the invalidation of signatures.

...

It is my opinion, therefore, that subsection 4 of MCL 168.482a, as amended by 2018 PA 608, requiring the invalidation of signatures on a petition sheet that does not comply with a mandatory form or content requirement, does not violate the speech clause of the Michigan Constitution or the U.S. Constitution.”

A subsequent Michigan Supreme Court decision upheld the constitutionality of the AG’s decision concerning 482a – (*League of Women Voters of Michigan v Secretary of State*, Jan 24, 2022, ref 3).

The Norwood Township Board is now obligated to implement the strict compliance requirements for petition formatting required by MCL 168.482a(4). If a petition does not comply with the formatting requirements in MCL 168.482, the Norwood Township Board has a statutory duty to refrain from counting any signatures on that petition. We have reviewed the petition submitted by Tina Whitley and discovered significant formatting deficiencies that mandate the exclusion of all signatures.

Our findings:

1. 482(2) specifies that there must be an identification of the petition type on the signature side of the sheet and, if applicable, on the reverse side. In this case, the title must be printed in capital letters in 14-point boldface type. Though required, the title does not appear on the signature sides of the nine sheets. Additionally, although the title does appear on the reverse side on each of the nine sheets, its point size is 13, not the required 14.
2. In the lower right-hand corner of the petition sheet, the following circulator instruction must be printed in 12-point boldface type: **CIRCULATOR – Do not sign or date until after circulating the petition.** Although this statement appears on the petition sheets, it is printed in the wrong location and type font.
3. On the front and back of each petition sheet, a statement is included on the bottom left of the form stating, “Refer to front page for Ordinance 1 of 2022”. Although the information is logical on the signature side of the petition, it is confusing to have it shown on the side that indicates the ordinance’s text. More importantly, there is no requirement to do so.
4. There is a requirement to state on the signature side of the form, in 8-point type, the following statement: “We, the undersigned qualified and registered electors, residents

in the township of Norwood, state of Michigan, respectively petition for referendum of Ordinance Number 1 of 2022”. This statement is not on the signature side as required but on the reverse side.

5. 482(7) states that a check box must appear at the top of the petition sheet indicating whether the circulator of the petition is a paid signature gatherer. The statement must be printed in 12-point type on the signature side of the petition sheet. In this instance, the signature sides have the required information in the correct location with the mandatory 12-point type. However, there is an error on all nine sheets because the same checkboxes are also included on the reverse side of the petitions.
6. 482(8) specifies that a circulator compliance statement must appear at the top of the petition sheet. This statement is missing from all nine sheets.
7. Under the Certificate of Circulator, the bold checkbox is missing immediately before: “If the circulator is not a resident of Michigan...”
8. 482(3) defines the Summary of the Petition requirements. It states that the Summary is no more than 100 words and should define the purpose or question proposed in a 12-point type following the identification of the petition type. The sponsor failed to include the petition title and summary on the petitions’ signature page. It must also consist of an accurate and impartial statement in language that does not create **prejudice for or against the proposal**. The summary as written by the sponsor is misleading, deceptive, and creates a prejudice against the overlay:

Summary of Petition as written on the petition:

“This petition is regarding amendments to the Norwood Township Zoning Ordinance which will change the definition of a ‘Dwelling Unit’ and add a definition of a ‘Short-Term Rental’. Furthermore, these amendments will create an Overlay District in Clipper View Subdivision and prohibit Short-Term Rentals within that district and require Short-Term Rentals throughout Norwood Township to acquire a License to operate within the Township...”

The summary does not need to be legally precise, but it must not be misleading, deceptive, or create prejudice. Its content should not be a regurgitation of the ordinance’s definitions which can be found elsewhere on the petition, but a written statement describing the purpose of the petition. Here is an example that clearly explains the purpose of the petition. There is no misleading or deceptive language:

On 21 March 2022, the Norwood Township Board adopted Ordinance No. 1 of 2022, banning new short-term rentals while grandfathering existing licensed short-term rentals in the township’s Clipper View R1 district. We believe the township electorate should decide whether to accept or reject said ordinance at the next available election.

The first misleading statement of the sponsor's summary is: "Furthermore, these amendments will create an Overlay District ...". The amendments themselves do not create the authority for the overlay district; section 5.03A – 5.03A.5 of the ordinance gives the overlay its legal description.

The second misleading statement is: "... create an Overlay District in Clipper View Subdivision ...". Without explicitly stating that the overlay will be confined to the R1 district in the Clipperview subdivision (a region encompassing fewer than half the properties within the subdivision and less than one-third of its area), the statement may have misled petition participants to deduce that the overlay district was designed for the entire subdivision, thereby deceptively influencing their support.

The third misleading statement is: "... create an Overlay District in Clipper View Subdivision and prohibit Short-Term Rentals within that district ...". The amended ordinance actually permits the currently licensed short-term rentals within the overlay district to remain in operation. It only prohibits further expansion of similar business entities within that small R1 district of the subdivision. This misrepresentation of the ordinance would engender sympathetic support from community members who do not wish to put existing owners of licensed short-term rentals out of business.

The fourth misleading statement is: "... and require Short-Term Rentals throughout Norwood Township to acquire a License to operate within the Township." The short-term licensing ordinance is a separate township ordinance that should have no alliance with the overlay ordinance referendum. No matter the referendum's outcome, the licensing of short-term rentals will continue. The sponsor presents this statement firmly (capital "L" in the word license), leading those who view the summary to conclude that if they support the petition, there is a chance that a no-vote on subsequent ballot language will eliminate the licensing requirement throughout the township. This is deceptive and may have enticed otherwise uninterested participants to support her petition for a referendum.

There are sources for assistance available to petition sponsors to have their petitions checked for accuracy and language before canvassing voters. The Michigan Board of Canvassers offers this service and encourages sponsors to solicit assistance. The Township Clerk is also a source for petition guidance. A 16 March 2022 FOIA request to the Township Clerk asked if Tina Whitley or any of her allies asked the township for advice on constructing the referendum petition? The Clerk replied the same day, stating: "Tina did not ask for guidance on the creation of the petition ...".

The reference to the licensing ordinance in the summary statement, with emphasis, does indeed appear to have sidestepped available guidance of truth that the Clerk would have provided on the differences between the two ordinances, thereby permitting prejudice against the overlay proposal. Although Michigan election law does not require the pre-approval of the petition form, the Michigan Secretary of State's office opined that such approval greatly reduces the risk that signatures collected on the form will be ruled invalid due to formatting defects.

Outside all other identified format errors, the content of the Summary of Petition statement provides a basis for all petition signatures to be invalidated.

9. Another issue of concern is an admission from the sponsor that she distributed supplemental information during canvassing. In response to a 16 March 2022 FOIA request to the Township Clerk inquiring whether the sponsor asked for assistance, part of the clerk's reply stated that the sponsor told her she was handing out an information sheet. Later, the clerk indicated that the sponsor did not turn in the additional sheet with the petitions.

This situation raises concerns. The primary objective of the Summary of Petition statement is to present information to voters in a manner that does not introduce misleading or deceptive language. We have already questioned the language used in the Summary. But an admission by the sponsor that additional information was being presented to voters amplifies our unease regarding further tainting of the petition's overall purpose. Since the sponsor indicated to the clerk that an information sheet would be circulated, we feel this sheet of extra information is material for determining whether or not the information provided to potential signatories created additional prejudice. We ask that one of the township officers request a copy from the sponsor.

10. The statutes that govern the form of the petition mandate the use of specific font sizes. Best practices encourage specific font families to ensure these sizes are correct after printing. It is also recommended that the "Printer's Affidavit" form available from the Michigan Bureau of Elections be used. It serves as a quality control measure to ensure all font size requirements are met. Upon completion, the person responsible for printing the petition sheets must sign the form before a Notary Public. The Printers Affidavit was not included with the submitted petitions.
11. On 28 February 2022, Tina Whitley wrote a letter of intent (LOI) as required by MCL 125.3402(1) to the township, informing them that she was going to "file a Petition of Referendum of Ordinance No.1 of 2022 and a petition of protest to amendments of the Norwood Township Ordinance." The LOI was confusing and misleading. We have no understanding of what a "petition of protest" consists of and why the conjunction "and" was used to join it with the "petition of referendum." When the Township Clerk was asked why the letter was approved, Soldano was told: "the letter was run by our attorney and is adequate, and she was given the go-ahead to circulate the petition."
12. On 25 March 2022, the Norwood Township Attorney replied to a request from the Township Clerk asking for a review of the submitted petitions. In reply, the attorney cites MCL 125.3402 (Michigan Zoning Enabling Act) as the legal authority for the petition process. He further states that the language of the petition meets the legal requirements of Sec. 402(2). 402(2) addresses the referendum petition *process* (publication, letter of intent, number of required signatures, etc.) but does not deal with petition *format or content* requirements. He then finishes the paragraph by writing: "As a result, you must begin processing the petition to determine whether it meets the

requirements of Section 402.” This is a critical part of the attorney’s letter because the remaining clauses in 402 refer to ensuring that the petitions themselves are adequate. 402(4) is most relevant because it states: “A petition and an election under this section are subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.” Between this spread is MCL 168.482a(4). These clauses appear to have been overlooked in the review process. In summary, based on the documentation provided to us under FOIA, we conclude that the attorney’s review dealt with procedural matters relating to the Zoning Enabling Act and did not provide guidance on the form and content adequacy of the petition sheets.

For the reasons stated above, we challenge all of the signatures included on the referendum petition on Ordinance No. 1 of 2022. As the Attorney General indicated in her #7310 opinion and upheld by the Michigan Supreme Court: “form and content errors will result in the invalidation of signatures.”

We believe that the Township has a duty to review these deficiencies, particularly under MCL 168.482a(4), before drafting a resolution for submitting a proposition to the voters concerning the acceptance or rejection of the ordinance.

We look forward to your reply following legal review.

Respectfully,

James W. Furlong
Roger Soldano

References

1. [http://www.legislature.mi.gov/\(S\(c5xxzin1auvwtbpxzbex3sxz\)\)/mileg.aspx?page=getobject&objectName=mcl-168-482](http://www.legislature.mi.gov/(S(c5xxzin1auvwtbpxzbex3sxz))/mileg.aspx?page=getobject&objectName=mcl-168-482)
2. [Opinion #7310 \(state.mi.us\)](#)
3. [lwv-op.pdf \(michigan.gov\)](#)