

Keith W. Babb, Jr.  
MAYOR

Regina Bohlen  
VICE-MAYOR

Greg Thompson  
CITY MANAGER

Tijauna Warner  
CITY CLERK



*"Building a City and Community of Choice"*

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**COMMISSIONERS:**

Clara "Tasha" Murvin

Juan Gonzalez

Sara Perez

Gary Brandenburg  
CITY ATTORNEY

**NOTICE OF  
CITY COMMISSION OF THE CITY OF PAHOKEE  
RECALL ELECTION FOR REGINA BOHLEN  
CANCELLED**

**Tuesday, February 1, 2022 7:00 a.m. – 7:00 p.m.**

**PUBLIC NOTICE IS HEREBY GIVEN THAT THE PAHOKEE CITY COMMISSION HAS CANCELLED THE RECALL ELECTION FOR REGINA BOHLEN FOR TUESDAY, FEBRUARY 1, 2022 AT THE EDDIE L. RHODES GYMNASIUM, 360 EAST MAIN STREET, PAHOKEE, PALM BEACH COUNTY.**

CITY OF PAHOKEE  
TIJAUNA WARNER  
CITY CLERK

POST IN CITY HALL/CITY WEBSITE  
E-MAIL TO: City Manager, Directors, City Attorney, PBCFR, PBSO, and others

DATE POSTED/E-MAILED: January 18, 2022

cc: Honorable Mayor and Commissioners

IN THE CIRCUIT COURT OF THE  
FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY,  
FLORIDA

CIRCUIT CIVIL DIVISION AA  
CASE NO. 50-2021-CA-013673-XXXXMB

REGINA BOHLEN, VICE MAYOR  
OF THE CITY OF PAHOKEE and  
CITY OF PAHOKEE, a Florida municipal  
Corporation,

Plaintiffs,

vs.

COMMITTEE FOR THE RECALL OF  
CITY OF PAHOKEE COMMISSIONER REGINA  
BOHLEN and SANQUETTA COWAN, CHAIR OF  
THE RECALL COMMITTEE,  
And  
SUPERVISOR OF ELECTIONS FOR PALM  
BEACH COUNTY, FLORIDA, WENDY SARTORY-  
LINK, in her capacity as Supervisor of Elections for  
Palm Beach County.

Defendant(s).

\_\_\_\_\_ /

**ORDER ON PLAINTIFFS EMERGENCY MOTION  
FOR TEMPORARY AND PERMANENT INJUNCTION**

THIS CAUSE came before the Court on January 5, 2022 for a specially set evidentiary hearing upon Plaintiffs' Emergency Motion for Temporary and Permanent Injunction. The Court having reviewed and considered the testimony of all witnesses, all records and documents received in evidence (which includes but is not limited to the Court having taken judicial notice of proceedings and depositions and transcripts and rulings in Wallace v. Pahokee, Case No. 50-2021-

CA008960XXXXMB as requested), all legal authority submitted on behalf of the parties, Florida Statute Section 100.361 and related case law, arguments of counsel for the various parties, and being otherwise fully advised in the premises, the Court makes findings of fact and conclusions of law as follows:

1. For the reasons set forth herein, the Court finds that for the purpose of their requested injunction, Plaintiffs have a substantial likelihood of prevailing in this cause. The Court finds that the three substantive grounds set forth in the Recall Petition at issue (attached as Exhibit “A” to the Plaintiffs’ Verified Complaint for Declaratory and Injunctive Relief and at times referred to herein as the “subject Recall Petition”) are stricken as legally insufficient. Because at least one of the substantive grounds set forth in the Recall Petition is stricken as legally insufficient, the subject Recall Petition cannot be placed before the electorate for a vote, and is stricken.
2. The recall election of Vice Mayor Regina Bohlen set by Chief Judge Glenn Kelley for either January 11<sup>th</sup>, 2022, or February 1<sup>st</sup>, 2022, is canceled, and the Supervisor of Elections of Palm Beach County and the City of Pahokee are enjoined from holding a recall election for Vice Mayor Regina Bohlen based upon the subject Recall Petition, until further Order of the Court.
3. The subject Recall Petition organized and submitted to the Supervisor of Elections by the Committee for the Recall of City of Pahokee Commissioner Regina Bohlen is based on grounds set forth in three allegations:
  - a. **Allegation One:** “She has committed Misfeasance by being involved in unlawful meetings prohibited by Section 2.08 of the City of Pahokee’s Code of Ordinances and the Sunshine law, Chapter 286, Florida Statutes. She has violated the Sunshine Law

by privately meeting with other Pahokee elected officials for the purpose to [sic] conducting City business. Section 286.011, F.S., requires that meetings of government boards must be open to the public.”

- b. **Allegation Two:** “She violated City Ordinance Section Sec. 2-63 by not having a clerk present to take minutes taken or having meetings promptly recorded.”
  - c. **Allegation Three:** “She violated Section 2.06 of the City’s Code of Ordinances by Interfering with day to day operations of city where the code of ordinances specifically prohibits elected officials from interfering.”
- 4. The Court notes that Chief Judge Kelley was required by statute to take the ministerial act of setting the election date, but was not required to, and did not, review the legal sufficiency of the subject Recall Petition.
  - 5. The Supervisor of Elections of Palm Beach County was required by statute to verify the signatures on the subject Recall Petition, but was not required to, and did not, review the legal sufficiency of the subject Recall Petition.
  - 6. The language in Allegation One (see above) of the subject Recall Petition is vague and is not sufficiently descriptive to allow voters, or those signing the subject Recall Petition, to ascertain the allegation. There is no information setting forth what meeting, when the meeting occurred, who was present, what topics were discussed, or what action was taken. The Court is bound by what is contained within the four corners of the subject Recall Petition, which in this case is legally insufficient as a matter of law to support a Recall Petition. Florida Statute § 100.361 limits the petition to 200 words. “However, while that requirement severely limits the ability to expand on specifics, it is obviously not intended to allow a petitioner to speak only in vague generalities.” Moultrie v. Davis, 498 So.2d 993,997 (Fla. 4<sup>th</sup> DCA 1986).

The Defendant, Committee For the Recall of City of Pahokee Commissioner Regina Bohlen, argues that with regard to Allegation One above, similar language in the recall petition against William Thompson in the City of Winter Gardens was found legally sufficient by the Fifth District Court of Appeal. *See, Thompson v. Napotnik*, 923 So.2d 537 (Fla. Fifth DCA 2006). From that case it appears the specific allegation in the recall petition against Commissioner Thompson as Commissioner of the City of Winter Garden read as follows: “COMMISSIONER THOMPSON’S MALFEASANCE IN OFFICE CONSISTING OF MEETING OUTSIDE A PROPERLY NOTICED PUBLIC MEETING OF THE CITY COMMISSION TO DISCUSS WITH OTHER CITY COMMISSIONERS THE CLOSING OF TRAILER CITY IN VIOLATION OF FLORIDA’S SUNSHINE LAW, SECTION 286.011, FLORIDA STATUTES.” The Court finds that there is an important difference between the language in the Thompson petition and the subject Recall Petition that distinguishes the Thompson decision. In Thompson, the petition language included a description that Mr. Thompson improperly held a meeting to discuss with other City Commissioners “the closing of Trailer City”. While the Thompson petition does not contain very many details of the allegedly improper meeting, that petition does give some reference for City of Winter Garden voters to understand the alleged malfeasance involved Mr. Thompson being involved in an improper meeting related to the closing of a local trailer park.

In the case before this Court now, Allegation One seeking the recall of Regina Bohlen in the subject Recall Petition contains no description whatsoever of an alleged unlawful meeting involving Regina Bohlen. While the record of the hearing includes

some detail of a meeting, the subject Recall Petition does not contain any detail for the voters of Pahokee to know and understand what they are voting on. The subject Recall Petition only alleges too generally that Regina Bohlen privately met with other Pahokee elected officials (without identifying them in any way) “for the purpose to conducting city business” (without any description what the city business may involve or any other reference).

Allegation One in the subject Recall Petition also contains a vague generality that Regina Bohlen violated Section 2.08 of the City of Pahokee’s Code of Ordinances, but contains no specific reference as to how she may have violated any portion of Section 2.08. Section 2.08 does not appear to contain language similar to the Sunshine Law requirements, and the subject Recall Petition in Allegation One does not specifically seem to reference any violation other than of the Florida Sunshine Law. While violation of the Sunshine Law could properly and legally be the subject of a recall petition against a City Commissioner, the Court finds that Allegation One in the subject Recall Petition is legally insufficient as stating only vague generalities.

7. The language in the subject Recall Petition, Allegation Two (see above) alleges that the Vice Mayor violated § 2-63 of the Code of Laws and Ordinances of the City of Pahokee. Section 2-63 of the City Code sets forth the powers and duties of the City Clerk. The ordinance does not require any action of the Vice Mayor. There is no reference in Allegation Two to any Section of the Code of Laws and Ordinances of the City of Pahokee that would require the Vice Mayor to take any action or be responsible with regard the Clerk being present at meetings. There is also no reference to any particular

meeting where the City Clerk was not present. Therefore, this Allegation Two cannot, as a matter of law, provide the basis for the recall of the Vice Mayor.

8. The portion of the Recall Petition referred to in Allegation Three (see above) involves alleged violation of Section 2.06 of the City's Code of Ordinances titled Commission-employee relationship. The allegation is vague and does not sufficiently enable an individual signing the subject Recall Petition or voting, to ascertain what conduct is the subject of the allegation. This allegation does not contain any information regarding a timeframe, description of the matter, topic of the alleged interference, or what employee was allegedly interfered with.

Additionally, one portion of Section 2.06 does not allow a City Commissioner to "dictate the appointment or removal of any city employee except Charter officers" and there is no allegation or evidence that Regina Bohlen has violated this portion of Section 2.06. The other portion of Section 2.06 does not allow a City Commissioner to "give orders to any employee other than commission orders to a Charter officer" and there is no allegation or evidence that Regina Bohlen has violated this portion of Section 2.06. Allegation Three in the subject Recall Petition only vaguely alleges Regina Bohlen of "interfering with day to day operations of city" which is too vague a generality to meet the legal requirements of a recall petition. This Allegation Three is insufficient as a matter of law to serve as a basis to recall Vice Mayor Bohlen. See, Moultrie, supra, and Bent v. Ballantyne, 368 So.2d 351, 353 (1979), where the Florida Supreme Court analyzed a recall petition that alleged a violation of a noninterference clause. The Florida Supreme

Court in Bent analyzed the requirements for a prima facie charge of malfeasance in

Florida Statute Section 100.361(1)(b) and invalidated that petition, indicating;

The truth or falsity of a charge is ultimately for electorate to decide and is not subject to judicial inquiry, but the mere recital of a statutory ground, without an allegation of conduct constituting that ground, is insufficient.

Id. At 353.

9. When any one of the ground for a recall fails, the entire recall petition fails. See, Garvin v. Jerome, 767 S0.2d 1190 (2000) where the court noted:

We also agree that approval of a ballot containing invalid grounds would almost certainly lead to abuse. For example, to garner support for a recall petition, an astute draftsman could couple legally insufficient (but politically charged) allegations with legally sufficient (but less politically compelling) grounds. While the valid grounds might not generate support for the recall petition, the invalid grounds might. Unless, upon judicial review, a defective petition endorsed by voters is invalidated, the legitimate purposes served by the recall statute would be severely undermined...

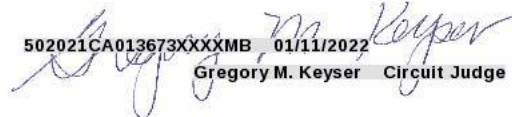
Accordingly, public officials should not face removal from the office they were lawfully and properly elected to on a ballot that contains illegal grounds for recall in express violation of the statute. Id. At 1193.

Therefore, based upon the above,

IT IS ORDERED AND ADJUDGED that the recall election for Vice Mayor Bohlen is hereby enjoined and the Palm Beach County Supervisor of Elections and the City of Pahokee are ordered to cease all activity with respect to the recall of Pahokee Vice Mayor Regina Bohlen and, further, the City of Pahokee is ordered to reimburse the Supervisor of Elections for Palm Beach

County for all expenses incurred as a result of the recall up until the date of this Order.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida.

502021CA013673XXXXMB 01/11/2022  
  
Gregory M. Keyser Circuit Judge

502021CA013673XXXXMB 01/11/2022  
Gregory M. Keyser  
Circuit Judge

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