



OFFICE OF THE
STATE'S ATTORNEY
LAKE COUNTY, ILLINOIS
MICHAEL G. NERHEIM
STATE'S ATTORNEY

September 24, 2020

Mr. Terry Wilke
Supervisor, Avon Township – awilke@avonil.us

Dear Supervisor Wilke,

The State's Attorney's Office was contacted regarding an attempt to call a special meeting of the township electors without proper notice as required by state statute. We have reviewed information received and are providing you with the following review of the facts as were provided to this Office and the relevant statutes.

Background

As a result of COVID-19, the annual meeting held by the electors in townships was postponed per the Governor's disaster declaration and the Township Code was amended to reflect this. The Avon Township Board had tentatively set the date of September 15, 2020 to hold the annual meeting if it could be conducted within the Phase 4 restrictions. At a special meeting held by the township board on September 10th, it was determined that an annual meeting of the electors could not be held safely and comply with the Phase 4 guidelines. One of the restrictions, limiting attendance to lesser than 50 people, could not be enforced because it would conflict with the Open Meetings Act which would require the township to hold the meeting at such a place where all that wished to attend could do so.

A petition with signatures of township electors was supposedly filed with the Township Clerk's Office on September 14, 2020. It also seems that the same petition was refiled with the Township Clerk's Office and back dated to September 9, 2020. The initials indicating it was received are "TFW." Per the Township Code, a special township meeting may be held when at least 15 voters of the township file in the office of the township clerk a written statement that a special meeting is necessary for the interests of the township. There are some additional timing and notice requirements that must also be met.

Review

According to the Township Code, 60 ILCS 1/35-5:

§ 35-5. Special township meeting. Special township meetings shall be held when the township board (or at least 15 voters of the township) file in the office of the township clerk a written statement that a special meeting is necessary for the interests of the township. The statement also shall set forth the objects of the meeting, which must be relevant to powers granted to electors under this Code. The special township meeting shall be held no less than 14 nor more than 45 days after the written request is filed in the office of the township clerk. Special township meetings may not begin before 6 p.m.

**Lake County
Building**
18 N. County St.
Waukegan, IL 60085
(847) 377-3000
Fax (847) 360-1538

Child Support
18 N. County St.
Waukegan, IL 60085
(847) 377-3131
Fax (847) 360-1097

**Children's Advocacy
Center**
123 N. O'Plaine Rd.
Gurnee, IL 60031
(847) 377-3155
Fax (847) 360-6850

Civil Division
18 N. County St.
Waukegan, IL 60085
(847) 377-3050
Fax (847) 360-0661

**Felony Division
Drug Division
Cyber Division
Special Investigations**
18 N. County St.
Waukegan, IL 60085
(847) 377-3000
Fax (847) 360-1538

Felony Review Division
Robert H. Babcox
Justice Center
20 S. County St.
Waukegan, IL 60085
(847) 377-3025
Fax (847) 263-6179

Juvenile Trial Division
Robert W. Depke
Juvenile Justice Complex
24647 N. Milwaukee Ave.
Vernon Hills, IL 60061
(847) 377-7850
Fax (847) 634-8831

**Misdemeanor Division
Traffic Division**
18 N. County St.
Waukegan, IL 60085
(847) 377-3000
Fax (847) 625-7129

This timing requirement for holding the special township meeting within so many days of filing the petition must be considered in conjunction with the notice requirement found in Section 35/10, titled Notice of special meeting: business at meeting:

(a) Notice of a special township meeting shall be given in the same manner and for the same length of time as for regular township meetings.

The notice for the annual meeting is as follows under Section 30-10:

(a) Notice of the time and place of holding the annual and any special township meetings shall be given by the township clerk (or, in the clerk's absence, the supervisor, assessor, or collector) by posting written or printed notices in 3 of the most public places in the township at least 15 days before the meeting and, if there is an English language newspaper published in the township, by at least one publication in that newspaper before the meeting. The notice shall set forth the agenda for the meeting.

The statute requires a very specific amount of notice be given prior to the special township meeting being held. According to information this office has received, the amount of notice does not meet the requirements of §30-10 (or even §35-5 – if the first date stamped on the petition – September 14th – is the true date the petition was initially filed) therefore holding the meeting would be in violation of the law because there was no compliance with the notice provisions and action taken at the meeting would be void and unenforceable.

A file-stamped copy of the petition first indicated the date September 14, 2020, and the initials "TFW" was left in the Township Clerk's Office. The understanding is that those are your initials. They are not the initials of the Township Clerk or one of the Clerk's employees. According to the statute, the petition should have been accepted by the Clerk or an employee, file-stamped and initialed by one of those individuals in order to be considered properly "filed" in the office of the township clerk as intended by the statute. While §30-10 above states "notice of the time and place of holding the annual and any special township meetings shall be given by the township clerk (or, in the clerk's absence, the supervisor ...)," there is no information that the township clerk was "absent" as required by the statute that would allow the township supervisor to act in her place.

In addition, there is a photo of another copy of said petition showing an additional stamp of September 9, 2020. If the petition was filed on the 9th, then the filing would at least comply with §35-5 (per the petition the special meeting would be held on September 24th – which would meet at least the minimum requirement of no less than 14 days after the petition was filed with the Clerk's office). However, the original stamp of September 14th would not comply with the statute if the meeting as stated in the petition were to be held on September 24th.

Finally, the annual meeting was tentatively rescheduled by the township board as a result of the pandemic for September 15, 2020 but was then cancelled at a special meeting of the township board held on September 10th. So, it is peculiar as to why a petition for a special meeting requested by the electors would have been filed (on September 9th) the day before the township board met and decided to cancel the September 15th meeting. Prior to the special board meeting of September 10th, the annual meeting of the electors was still scheduled to be held on September 15th.

Based upon information from the township clerk, there may also be some issues regarding the signatures on the petition and whether they are all registered voters within the township and if not, whether there are at least 15 valid signatures on the petition as required by the statute. If at least 15 of those signatures are not valid, the petition would be in violation of the law requiring a petition of 15 voters of the township. As already stated above, if the state statutes are not followed when setting the special township meeting, actions taken at the meeting would be void.

Based on the review of the information provided, there are a number of serious issues with this attempt to schedule and hold a special township meeting. There is a question of whether the petition contains signatures of 15 voters of the township, there is a lack of compliance with the statutory notice provisions required to hold a special township meeting and finally, there is a question about the date of filing of the petition with the township clerk's office as required by statute.

If you have any questions, please do not hesitate to contact me at (847) 377-3050.

Sincerely,

MICHAEL G. NERHEIM
State's Attorney of Lake County

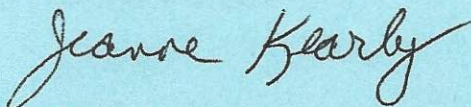
Karen D. Fox

KAREN D. FOX
Chief Deputy, Civil Trial Division

The September 24, Annual Town Meeting has been cancelled.

The Avon Board is committed to holding a meeting of electors to fully discuss the issues brought to the Board at the January Special Town Meeting as soon as it is safe to do so. Unfortunately, the venue we were proposing to use denied access due to the potential of compromising safety protocols as outlined by the Illinois Department of Public Health.

Jeanne Kearby



Clerk, Avon Township

- ✓ **Posted on the window on September 19**
- ✓ **Sent to the Newspaper on September 19**
- ✓ **Discovered the notice was removed from the window by the Supervisor on Monday, September 20**
- ✓ **Replaced the Cancellation with additional Board action on September 23**

8:52



Re: Avon



Mendoza, Donn

Terry Wilke, McDowell, Andrew

Yesterday



Supervisor Wilke:

After gathering more information on what a townhall meeting looks like which includes our inability to predict the number of people who may or may not attend which could create issues with the safety protocols outlined by the Illinois State Board of Education and the Illinois Department of Public Health, we are going to respectfully decline hosting this type of meeting at this time.

We appreciate your willingness to reach out and we are more than willing to partner with you in the future when the situation is more predictable.

Sincerely,

Donn P. Mendoza, Ed.D.
Superintendent of Schools
Administrative Services Center
884 W. Nippersink Road

⏪ ∨ Reply to all