

The Theresa Town Board held a Special meeting/hearing August 4, 2021 at 6:00 p.m. in the Town Office at 215 Riverside Ave. and the following were present:

Steven Marcinkowski	Supervisor
Timothy Busler	Councilman
Charles Folsom	Councilman
Kevin McCarthy	Councilman

Kim Delles	Town Clerk
------------	------------

Others present: Edward Klepacz

The meeting was called to order by Supervisor Marcinkowski at 6:18 p.m.

Supervisor Marcinkowski stated the purpose of the meeting/hearing was for the sole purpose to discuss the vacancy of Town Justice. He stated the ground rules for the meeting were to do a fact-finding mission. Everyone there was a professional and should act accordingly. The Town Board would first state what the Town has for evidence and then Mr. Klepacz would present his side to the Board.

Supervisor Marcinkowski stated:

- That Alexandria Supervisor Sweet told him that Mr. Klepacz was running for Judge in Alexandria Bay for 2022.
- Indirectly Assessor Brad Millett said that Mr. Klepacz lived with his stepdaughter in Redwood.
- At the April 14th Board meeting Mr. Klepacz was asked where he lived and he stated Mill Street, Theresa.
- At the end of June a FOIL request was made for Mr. Klepacz's petition, from Board of Elections, to run for Judge in Alexandria Bay. The Statement of Witness (dated March 3, 2021) on the petition, signed by Mr. Klepacz, reads that he now lives at 25238 NYS Route 26, Redwood, NY.
- Attorney Burrows told Supervisor Marcinkowski because of that Statement of Witness on the petition; Judge Klepacz has created his own vacancy as Theresa Town Judge. He directed the Supervisor to give a letter to Mr. Klepacz explaining that he was no longer Judge.

Councilman Busler told that he had heard that Mr. Klepacz lived in Redwood but has since moved back to the Village of Theresa. Councilman Folsom said that the last meeting it was discussed that Mr. Klepacz did not live in Theresa. Councilman McCarthy stated that he had a conversation with a County Legislator, who knew of the petition to run for Alexandria Bay Justice. Supervisor Marcinkowski had a conversation with the same County Legislator who asked how it was possible that Judge Klepacz was still the Town of Theresa's Judge.

Supervisor Marcinkowski stated the following:

- A Justice that is elected must be a resident of the Town they are elected to.
- By moving it creates a vacancy.
- If the Town Board knows that someone has moved, and they continue to let them hold office, then the Town Board is complacent and would have broken their own oath of office.
- Since the time the Judge has moved all cases might have to be re-heard or dismissed.

Councilman McCarthy asked what residency is? What is the definition? No-one could answer.

Edward Klepacz stated:

- The answer is simple. He showed the Board his driver's license and fishing license with his 314 Mill Street address on it. He then threw several bills on the Board table that showed his 314 Mill Street address.
- He told the Board that he maintains his residence at 314 Mill Street, Theresa.
- His intent was to finish his term.
- He is renting a place in the bay.
- The letter from Board of Election states he would have to move to the Bay.
- BOE said that as long as his permanent residence as of January 1, 2022 was Alexandria Bay he could run for Alexandria Bay Justice.

- As of July 17th, he has been shut out of his Judge's office so he cannot participate with arraignments for Jefferson County.
- He stated he has two different residences one at Redwood, NY and one at 314 Mill Street.
- He said that it was a personal vendetta against him because he hasn't done things the Board wanted, so therefore the Board is doing this.
- He told the Board to keep in mind that he has spoken to an attorney. The Town Board has cost him money. He has already lost out on (3) arraignments at \$250.00 a pop. He is on call for (8) more days this month.
- He said that the Town has locked him out without due process.
- He stated that he has an opinion from Judge Gideon saying that he did not vacate his position.

Supervisor Marcinkowski said that anyone can get their mail delivered to anywhere. Councilman McCarthy said the Board was given legal advice that the position was terminated when the petition was filed with BOE stating his residence was in another Town.

The Town Board will follow up with the Town Attorney. The Supervisor said it might ultimately end up in court.

Res. #50

Motion by: Steven Marcinkowski
Seconded by: Kevin McCarthy

Resolved, that the Town Board table the discussion of a vacancy for Town Justice and seek additional advice from the Town Attorney on what the definition of residency and domicile is.

VOTE: Mr. Busler – aye, Mr. Folsom – aye, Mr. McCarthy – aye, Mr. Marcinkowski – aye.
Motion carried.

Res. #51

Motion by: Steven Marcinkowski
Seconded by: Timothy Busler

Resolved, that the meeting be closed at 6:44 p.m.

VOTE: Mr. Busler – aye, Mr. Folsom – aye, Mr. McCarthy – aye, Mr. Marcinkowski – aye.
Motion carried.

Respectfully submitted,

Kim A. Delles
Town Clerk