

MONTCALM COUNTY BOARD OF COMMISSIONERS

Special Meeting

Thursday, September 14, 2023

10:00 AM

The regular meeting was called to order by Chairman Carr at 10:00 a.m.

The meeting opened with the Pledge of Allegiance.

Members present at roll call: Commissioners Baker, Petersen, Painter, Mahar, Carr and Kohn. Members absent: Commissioners Johnston.

Others present: Kristen Millard, Brenda Taeter, Michelle Becker, Clay Thomas and Elisabeth Waldon.

Moved by Commissioner Petersen, supported by Commissioner Painter to approve the agenda as presented. Motion carried.

Public comments were offered. None were given.

Discussion took place on the Board's decision to deny Clay Thomas' FOIA appeal. Commissioner Petersen stated that given that Mr. Thomas stated during Public Comment of the September 11<sup>th</sup> meeting that he intended to file a lawsuit against the county, he feels the decision to deny his appeal needs to be revisited.

Moved by Commissioner Petersen, supported by Commissioner Baker to reconsider the vote on Clay Thomas' FOIA appeal. Roll call vote: Ayes: Commissioners Baker, Kohn, Mahar, Painter, Petersen. Nays: Commissioner Carr. Motion carried.

The motion for reconsideration:

Moved by Commissioner Petersen, supported by Commissioner Mahar to uphold the Controller and County Attorney's decision to deny the FOIA request filed by Clay Thomas and deny his the FOIA appeal. Motion carried.

Commissioner Petersen estimated that the cost to fulfill Mr. Thomas' FOIA request would require a \$15,000 down payment as the total cost for the Controller's office to fulfill the FOIA would be approximately \$35,000.

Ms. Taeter stated that she has a little different numbers, as to have the attorney fulfill the FOIA request would be \$266,000, and that would be at 100 emails per day on the average. Therefore it would be a \$130,000 deposit for the county attorney to do complete the FOIA.

Ms. Taeter also informed the Board that Mr. Thomas' next step would be to file an appeal in Circuit Court. If the County were to lose the appeal in Circuit Court then the penalty would be \$1,000 plus attorney fees. She feels the County would win the appeal.

Commissioner Petersen stated that Mr. Thomas indicated during public comment at the last meeting that the Board has set themselves up for a lawsuit. He would like the board to approve the FOIA request for an amount of \$35,000 with a 50% downpayment up front.

Ms. Taeter stated that she would send this FOIA request to the County Attorney to fulfill just to make sure the county is protected. She also stated that it would take approximately 9 months to complete.

Moved by Commissioner Petersen, supported by Commissioner Painter to grant Clay Thomas' FOIA appeal and have the Controller communicate the costs associated with filling his FOIA the request. Roll call vote: Ayes: Commissioners Baker, Kohn, Mahar, Painter and Petersen. Nays: Commissioner Carr. Motion carried.

Public comments were offered. Clay Thomas addressed the Board and stated that he has filed a new narrowed FOIA request. He stated that communication is very important and that one of the board members should have text or emailed him like they have done in the past and they would have known he was filing a new FOIA request. He stated that putting a high price tag on a FOIA request is bad government and no one on this board could afford this FOIA request.

Moved by Commissioner Petersen, supported by Commissioner Painer to adjourn at 10:25 a.m. Motion carried.

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Kristen Millard, County Clerk

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Patrick Q. Carr, Chairman