

COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

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CITY OF MADEIRA, EX REL.,	)	
DOUGLAS OPPENHEIMER,	)	
	)	
Relator,	)	
	)	
vs.	)	CASE NO. A1702034
	)	
CITY OF MADEIRA, ET AL.,	)	
	)	
Respondents.	)	

- - -

PARTIAL TRANSCRIPT OF PROCEEDINGS

- - -

APPEARANCES:

George M. Parker, Esq.,  
On behalf of the Relator.

Brian W. Fox, Esq.,  
Steven P. Goodin, Esq.,  
On behalf of the Respondents City of  
Madeira and City Manager of Madeira.

David T. Stevenson, Esq.,  
On behalf of the Respondent Board of  
Elections of Hamilton County.

BE IT REMEMBERED that upon the hearing  
of this cause, on April 27th, 2017, before the  
Honorable Robert C. Winkler, a said judge of the  
said court, the following proceedings were had,  
to wit:

1 MORNING SESSION, April 27, 2017

2 \* \* \*

3 CHRISTINE DOYLE

4 having been first duly sworn, was examined and  
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. PARKER:

8 Q. Ma'am, can you tell the judge your  
9 name?

10 A. Christine Doyle.

11 Q. And you live in the city of  
12 Madeira?

13 A. I do.

14 Q. Do you have a position with the  
15 city of Madeira government?

16 A. Yes. I'm the Clerk of Council.

17 Q. Who do you report to?

18 A. I report directly to the council  
19 itself.

20 THE COURT: Can I ask you a  
21 question? Are you elected or are you  
22 appointed by the council, ma'am?

23 THE WITNESS: Appointed.

24 THE COURT: Okay. Go ahead.

25 Q. Do you have authority to appoint an

1 acting clerk?

2 A. No.

3 Q. Is there any procedure for the  
4 appointment of an acting clerk in the City of  
5 Madeira?

6 A. Not that I'm aware of.

7 Q. Explain why your signature is  
8 affixed on ordinances of resolutions as the  
9 Clerk of Council. What's the reason for that?

10 A. The reason is to verify that the  
11 document is what was approved by council.

12 Q. And you have to be in attendance at  
13 that meeting to know what happened?

14 A. I have to know that it was what was  
15 approved by council.

16 Q. Okay. By way of background, are  
17 you familiar with particular ordinances by  
18 number? If I were to reference an ordinance  
19 number, would that refresh your recollection  
20 about an ordinance?

21 A. Starting in the 17s, yes.

22 Q. Okay. Good. 17-02, do you  
23 remember that ordinance?

24 A. I do.

25 Q. How many readings were there of

1 that ordinance?

2 A. Three.

3 Q. Why were there three readings?

4 A. I believe that that is what's done  
5 with ordinances typically.

6 Q. I'm sorry. That's what?

7 A. I mean, I believe that's what's  
8 normally done with ordinances, is to have three  
9 readings.

10 Q. Do you know when that ordinance was  
11 passed?

12 A. That was --

13 MR. PARKER: May I approach the  
14 witness, Judge?

15 THE COURT: Yeah.

16 Q. This might refresh your  
17 recollection.

18 A. This was the one that was passed  
19 first, which I believe was on the last -- was it  
20 February 27th?

21 Q. Well, it should say on there.  
22 Yeah. Okay. You say February 27th?

23 A. Yes, February 27th.

24 Q. Do you remember Ordinance No.  
25 17-03?

1 A. Yes.

2 Q. Do you know when that was passed?

3 A. That was passed at a special  
4 meeting on March 2nd or 3rd -- 2nd.

5 Q. How many readings of that were  
6 there?

7 A. There was just one reading.

8 Q. And what date did the council pass  
9 that ordinance?

10 A. On March 2nd.

11 Q. Why were there not three readings?

12 A. It was passed as an emergency  
13 measure.

14 Q. Does it list inside the ordinance  
15 itself that it's an emergency?

16 A. Not that I'm aware of.

17 MR. FOX: Objection, Your Honor.  
18 This whole line of questioning calls for  
19 a legal conclusion of a part-time clerk.

20 THE COURT: I'm sorry? Say that  
21 again, the last part again.

22 MR. FOX: Objection, Your Honor.  
23 This whole line of questioning calls for  
24 legal conclusions of a part-time clerk.

25 THE COURT: All right. I'm going

1 to overrule it at this time.

2 BY MR. PARKER:

3 Q. Explain as best you can Ordinance  
4 17-04.

5 THE COURT: This is 17-04?

6 MR. PARKER: 17-04.

7 Q. Do you know what that is?

8 A. Yes.

9 Q. What is that? Ordinance 17-04?

10 A. That is the one that creates the  
11 Board of Zoning Appeals.

12 Q. And how many readings were there of  
13 that ordinance?

14 A. There was one.

15 Q. What was the date that it was  
16 passed?

17 A. That was also March 2nd.

18 Q. Was that passed as an emergency?

19 A. Yes.

20 Q. Does it contain in the language in  
21 the ordinance itself that it was an emergency?

22 A. Not that I'm aware of.

23 THE COURT: I didn't hear your  
24 answer.

25 THE WITNESS: Not that I'm aware

1 of.

2 THE COURT: All right.

3 Q. Do you know what your  
4 responsibilities are as the Clerk of City  
5 Council?

6 A. Yes.

7 Q. Ma'am, I'm going to ask you to  
8 identify -- see if you recognize what's handed  
9 to you as proposed Exhibit 1. Do you recognize  
10 that document?

11 A. Yes. This was mailed to the  
12 citizens of Madeira regarding the charter  
13 amendments.

14 Q. Okay. That was mailed to them?

15 A. Yes.

16 Q. Did you mail them?

17 A. I did not put them in the mail.

18 MR. PARKER: Okay. Can I approach  
19 the witness, Judge?

20 THE COURT: Yes.

21 Q. Proposed Ordinance 17-06, do you  
22 remember that document?

23 A. Yes.

24 Q. How many readings were there of  
25 that document?

1 A. One.

2 Q. Do you know when it was passed?

3 A. That was passed on March 13th.

4 Q. Why not three readings?

5 A. It was passed as an emergency  
6 measure.

7 Q. Does it include language in the  
8 ordinance itself that it was passed as an  
9 emergency and the reasons for it?

10 A. Not that I'm aware of.

11 Q. Were you at the emergency meeting  
12 of -- were you at the meeting on March 13th when  
13 that ordinance was passed?

14 A. No.

15 Q. Where were you?

16 A. I was on vacation.

17 Q. Do you know that 17-06 was taken to  
18 the Board of Elections and it was represented to  
19 the Board of Elections that it was certified, a  
20 certified ordinance?

21 A. Yes.

22 Q. Did you authorize that to be done?

23 A. I -- no.

24 MR. PARKER: One moment, Your  
25 Honor.



1 I have nothing further, Judge.

2 THE COURT: Okay. Thank you.

3 Any questions, Mr. Fox?

4 MR. FOX: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. FOX:

7 Q. Ms. Doyle, you testified that  
8 17-03, 04 and 06 were passed as emergency  
9 ordinances. Are you sure about that?

10 MR. PARKER: Objection, Judge. I  
11 know that -- well, she's --

12 THE COURT: I'm going to overrule  
13 it. I mean -- yeah. Okay. Maybe she  
14 has residual doubt, but I'll go ahead and  
15 let her answer it.

16 Do you remember the question,  
17 ma'am?

18 THE WITNESS: I do.

19 THE COURT: Are you sure about  
20 that?

21 A. Quite frankly, no.

22 Q. And why wouldn't you be sure? How  
23 long have you been with the City as the clerk?

24 A. Since February 13th of this year.

25 Q. Okay. So not a long time, correct?

1 A. Correct.

2 Q. Okay. And in your time as the  
3 clerk, have you committed yourself to exhaustive  
4 examination and study of the City charter?

5 A. I have read the City charter, it  
6 has not been exhaustive.

7 Q. Okay. And you do sign documents  
8 for the City, correct?

9 A. Correct.

10 Q. Okay. And part of that is that you  
11 will affix your signature as a component of  
12 certifying an ordinance, correct?

13 A. Correct.

14 Q. Okay. And why is that done?

15 A. It is to verify that the document  
16 is what was approved by council.

17 Q. Okay. And is there any -- to your  
18 knowledge, is there any specific requirement  
19 about certification in the charter?

20 A. There are for some purposes --

21 Q. For some --

22 A. -- but not for ordinances.

23 Q. Okay. In what circumstances would  
24 it be required that you certify a document?

25 A. If an elector would come up with an

1 initiative to have something become a law, they  
2 would need to present that to me and I would  
3 need to certify that. That's also the case for  
4 referendums.

5 And then in the case of a tax levy,  
6 I would need to certify something to take to the  
7 electors, or to the election officials.

8 MR. FOX: Okay. And I want to show  
9 you a demonstrative. And we can maybe  
10 talk through each of those sections and  
11 inform the court.

12 THE COURT: And if the attorneys  
13 want -- if they want to look, or move  
14 around, you can move around the room.

15 MR. STEVENSON: That's what I'm  
16 going to do. Because I think we can put  
17 it someplace over here where --

18 THE COURT: Just so --

19 MR. STEVENSON: Can you see it?

20 THE COURT: No. Why don't you turn  
21 it. You can sit in the jury box if you  
22 like. Is that -- Mr. Stevenson, if you  
23 want to sit --

24 MR. STEVENSON: Yeah, that would be  
25 fine.

1 THE COURT: It's up to you, if you  
2 want to move. Mr. Parker, if you want to  
3 move, you can move, move around the room.

4 BY MR. FOX:

5 Q. Okay. And your testimony a little  
6 bit ago was there were three circumstances in  
7 which a certification is required. And I'm  
8 displaying for the court Madeira Charter,  
9 Article XII, Section 2 B that relates to one of  
10 the three processes. And looking at that  
11 language, does that relate to an initiative  
12 petition?

13 A. Correct.

14 Q. Okay. And what is your  
15 understanding of an initiative petition?

16 A. My understanding is that that is  
17 when a person, or a citizen, decides to  
18 circulate a petition to have something become a  
19 law.

20 Q. And you would acknowledge that  
21 there is some form of certification requirement  
22 included in that section?

23 A. Yes.

24 Q. I'm going to show you this next  
25 section, Article XII, Section 3 E. And this

1 section relates to referendum. And what would  
2 you describe -- in your understanding, what is a  
3 referendum?

4 A. Referendum would be when council  
5 passes something as a law, and again, someone, a  
6 citizen, could circulate a petition to stop that  
7 from being a law.

8 Q. Okay. And in that section you see  
9 plenty of mentions of the word certified or  
10 certification, correct?

11 A. Correct.

12 Q. And one of the provisions says a  
13 certified copy should be obtained by petitioner  
14 from the clerk, correct?

15 A. Correct.

16 Q. Okay. So, in looking at that  
17 section, you see an affirmative obligation there  
18 as well, right?

19 A. Yes.

20 Q. Okay. And this is the -- I believe  
21 the third section that you referenced, which  
22 relates to levies, tax levies. This is Article  
23 X, section 2. And looking at the highlighted  
24 section there, you see -- can you read that?

25 A. Such resolution shall take effect

1 upon its adoption and shall be certified by the  
2 clerk forthwith to the election authorities who  
3 shall place said question upon the ballot.

4 Q. Okay. So three clear affirmative  
5 obligations upon the clerk to do some action,  
6 correct?

7 A. Correct.

8 Q. Okay. The section that relates to  
9 amending the charter is Article XIV, would you  
10 agree with that?

11 A. Yes.

12 Q. Okay. And is there an affirmative  
13 certification requirement for purposes of  
14 amending the charter?

15 A. Yes.

16 Q. Okay. And when does the language  
17 of that charter provision require a  
18 certification to take place?

19 A. After it has been --

20 MR. PARKER: Objection. Asking the  
21 witness to draw a legal conclusion. If  
22 the law is what it is, then you don't  
23 need to have her tell us what it is. If  
24 it's in the charter, it's --

25 THE COURT: If you want her to,

1 I'll just have her read it to me, and  
2 I'll just conclude myself. I mean, I'm  
3 looking at it. It's overruled.

4 Q. And could you read that section of  
5 the charter for the court?

6 A. The highlighted part or the whole  
7 thing?

8 Q. You can read the whole thing.

9 A. Okay. If any such charter  
10 amendment is approved by a majority of the  
11 electors voting thereon, it shall become a part  
12 of this charter. A copy of any approved charter  
13 amendment must be certified by the Clerk to the  
14 Secretary of State within 30 days after  
15 adoption.

16 Q. And could you -- what is the second  
17 to the last word there?

18 A. That would be after.

19 Q. Okay. So after its adoption by the  
20 voters, correct?

21 A. Correct.

22 Q. Okay. And reviewing your role  
23 within the City of Madeira --

24 Opposing counsel, can you sit down,  
25 sir?

1 THE COURT: He can stand.

2 MR. FOX: He can stand? Well, I'm  
3 just not sure if he's going to interject  
4 here in my --

5 THE COURT: Oh, you're going to use  
6 that exhibit?

7 MR. FOX: I'm done using that.  
8 Yeah. Thanks, Your Honor.

9 THE COURT: Okay. Thank you.

10 MR. FOX: I'll even take it down.

11 BY MR. FOX:

12 Q. So in reviewing your role, they  
13 made a great deal of questioning about  
14 certification of ordinances. Do you know of any  
15 other affirmative obligation upon you, the  
16 clerk, to certify ordinances other than those  
17 that we've just discussed?

18 A. Not per the charter.

19 Q. Okay. One of your roles is that --  
20 well, you -- one of your roles is signing  
21 documents. What's another role that you have  
22 within the City?

23 A. I take the minutes for the council  
24 meetings.

25 Q. Okay. And how do you compose the



1 minutes? Or how do you prepare the minutes?

2 A. I attend the council meetings. And  
3 I have a laptop there that I take notes as  
4 things happen. Then I listen to the audio tape,  
5 often more than once, to fill in any blanks and  
6 get all the details correct.

7 Q. Okay. And was there an audio  
8 recording of the meeting that took place on  
9 February 27th?

10 A. Yes.

11 Q. Okay. Was there an audio recording  
12 of the meetings that took place on March the  
13 3rd?

14 A. Yes.

15 Q. What about an audio recording of  
16 the meeting that took place on March the 13th?

17 A. Yes.

18 Q. Okay. So there were audio  
19 recordings of all of those meetings?

20 A. Correct.

21 Q. Okay. Is there any -- to your  
22 knowledge -- any affirmative obligation or  
23 requirement upon you to attend a meeting in  
24 order to prepare minutes?

25 A. No.

1 Q. Would it be fair to say that you  
2 could listen to a recording in order to  
3 determine whether something actually took place?

4 A. Yes.

5 Q. Would it also be fair to say that  
6 if somebody else within your office attended a  
7 meeting, that you could rely upon what they  
8 represented to have taken place?

9 A. Yes.

10 Q. Okay. And were you in attendance  
11 at the early March special meeting, March 3rd  
12 meeting?

13 A. Yes.

14 Q. Okay. And did you personally  
15 witness with your own eyes council dispensing of  
16 the three-reading requirement?

17 A. Yes.

18 Q. So you observed that they debated  
19 and discussed the ordinances, and then following  
20 up with that, that they voted to dispense with  
21 the three-reading requirement?

22 A. Yes.

23 MR. FOX: Okay. Nothing further.

24 THE COURT: Okay. Mr. Goodin, any  
25 questions? Mr. Stevenson, I assume you

1 don't have any questions, do you, sir?  
2 or do you?

3 MR. STEVENSON: I've got nothing.

4 THE COURT: All right. Mr. Parker,  
5 anything further, sir?

6 MR. PARKER: No, sir.

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## CERTIFICATE

I, Donna Franer, the undersigned, an Official Court Reporter for the Hamilton County Court of Common Pleas, do hereby certify that at the same time and place stated herein, I recorded in stenotype and thereafter transcribed the within 19 pages, and that the foregoing Transcript of Proceedings is a true, complete, and accurate transcript of my said stenotype notes.

IN WITNESS WHEREOF, I hereunto set my hand this 5th day of May, 2017.



DONNA FRANER, RPR  
Official Court Reporter  
Court of Common Pleas  
Hamilton County, Ohio