



CITY AND BOROUGH OF WRANGELL
INCORPORATED MAY 30, 2008

Office of the Borough Clerk

P.O. Box 531
Wrangell, AK 99929

907-874-2381
907-874-3952

February 17, 2021

Donald McConachie Sr.
PO Box 361
Wrangell, AK 99929

cc: email mcconachie@gci.net

Re: Recall Application – Mayor Stephen Prysunka

Dear Mr. McConachie:

Your application for recall petition of Mayor Stephen Prysunka received on February 8, 2021, contains paragraphs alleging different violations as grounds for recall. AS 29.26.250 and WMC 2.40.020, Grounds for Recall state that the grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties. None of the allegations set forth in your application for recall cite the specific ground(s) for recall, with particularity. The alleged conduct, standing alone, does not rise to the level of ‘misconduct of office or incompetence.’ Moreover, the allegations contained in the application do not include any statements that Mayor Prysunka has some demonstrated lack of ability, legal qualification, or fitness to discharge his required duties. However, the allegations do appear to allege ‘failure to follow prescribed duties.’

The Alaska Attorney General has opined that under the Open Meetings Act, special emergency meetings may be called for situations which call for immediate action to protect the public peace, health, or safety.¹ In such situations, special and emergency meetings require only 24-hour notice or less.² In response to Governor Dunleavy’s November 11, 2020 video speech urging immediate action by all Alaskans to slow a rapidly accelerating pandemic and an official State of Alaska Emergency Alert SMS text message stating that COVID-19 cases are escalating and directing individuals to the video sent to cellular devices all over Alaska the following day, the Borough Manager (not the Borough Mayor) called the special emergency meeting referenced in the application for recall petition.

As to failure to perform prescribed duties, the law in Alaska is settled that “where recall is required to be for cause, elected officials cannot be recalled for legally exercising the discretion granted to them by law.” The substance of the allegations contained in the application, even if taken as true and assumed to be factually sufficient, appear to voice disagreement with the discretionary positions taken by Mayor Prysunka rather than particular ‘misconduct of office, incompetence or failure to follow prescribed duties.’

¹ See 1981 Inf. Op. Att’y Gen. (May 11; J-66-655-81).

² See www.Boards.alaska.gov/resources.

As discussed above, the allegations of a petition are inadequate when they indicate only disagreement on matters of policy or political criticism. Together the allegations of the application appear as instances to which the petitioners object to Mayor Prysunka's political positions which are apparently contrary to those of certain voters.

For the foregoing reasons, and after consultation with our Borough Attorney, the application for recall of Borough Mayor Stephen Prysunka is hereby denied and not certified as it has been determined to be legally insufficient.

A decision by the Borough Clerk on a recall petition is subject to judicial review by direct appeal to the Superior Court of the State of Alaska. Failure to appeal the Borough Clerk's decision within 30 days from the date the Borough Clerk distributes the decision shall constitute a waiver of the right of appeal.

Sincerely,



Kim Lane MMC, Borough Clerk
City and Borough of Wrangell