

Inside:
Mayor to be investigated...See /3
Off to State... See /1B
Kids ice fishing...See /4B



the Ely **TIMBERJAY**



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CITY OF TOWER

Investigation: City records systematically altered

by MARSHALL HELMBERGER
 Managing Editor

Changes to committee member terms appear to favor clerk's allies

TOWER— A *Timberjay* investigation has found compelling evidence that Tower City Clerk-Treasurer Linda Keith has systematically falsified official city records in an apparent effort to limit the ability

of newly-elected Mayor Orlyn Kringstad to make changes in the makeup of city commissions and committees and to remove individuals who have challenged her or her political allies at city hall.

A review of city council

minutes by the *Timberjay* finds no evidence that the numerous alterations to the terms of office of commission and committee members were authorized by city council action, as would be required by the city's charter.

As Clerk-Treasurer, it is Keith's job to maintain the city's roster of appointed members to city committees, and Keith provided that roster to city council members in early January, along with other city records,

at the request of Kringstad. The document was also part of the city council packet at the council's Jan. 28 reorganizational meeting.

See...TOWER pg. 9

SEASONAL CELEBRATION

Lighting the way

Volunteers behind Ely's Winter Festival success

by SCARLET STONE
 Staff Writer

ELY - Northern Minnesota winters can get to feeling long when the sub-zero temps have kept folks inside, but there's nothing like a festival to lift the spirits and bring people out.

That's what Ely resident and Winter Festival volunteer David Stone gets excited about this time of year. He is the festival's Honorary Ice Candle Illuminator and one of between 35 to 45 volunteers who have helped with various other tasks this year.

Dave moved from Havana, Ill., to Ely in 2015 with his significant other, Barb Jacobson, who is originally from Ely. He

See... ELY pg. 12



Dave Stone, above, lights ice candle luminarias in Whiteside Park during the Ely Winter Festival. Veteran Ely snow carvers Nancy Scheibe, Kit Wilson and Kitty Kennedy took third place with "It Is In the Stars," at left. photos by K. Vandervort

COUNTY SCHOOLS

Superintendent affirms support for Tower School

by MARCUS WHITE
 Cook/Orr Editor

VIRGINIA - St. Louis County Schools Superintendent Reggie Engebritson affirmed her support for the Tower-Soudan School at Tuesday's board meeting. The move came after South Ridge Board Member Chet Larson questioned the school's viability at the last board meeting.

Engebritson said the district did a cost analysis of the campus and found the Tower School costs the district about \$1.8 million to run. She said, however, that \$800,000 of that was brought in as revenue to the school and the other million are costs the district would incur from staffing and other overhead regardless of whether the school was open or not. Board Member Troy Swanson who represents the Tower area was relieved at the announcement.

"There has been a fear from people in the town," he said. "We just want to make sure there is a school there."

Engebritson said she is aiming to have a 1:14 staff-to-student ratio at the school, and with a 0.5 FTE cut to the school next year along with a projected increase in enrollment to 77 students, that should be where the school lands.

She said she doesn't want to cause angst and worry in Tower every year and said the future of the school will only be evaluated if the number of enrolled students falls substantially. Engebritson used 28 enrolled students as an arbitrary number of when the district may reconsider the

See... SCHOOL pg. 12

THE GREAT OUTDOORS

USFS set to reopen BWCAW permit system

by KEITH VANDERVORT
 Ely Editor

Rep. Pete Stauber hosts listening session in Ely

ELY — Minnesota's Eighth District Congressman, Rep. Pete Stauber, hosted a forum at the Grand Ely Lodge on Saturday to give stakeholders the opportunity to express their concerns regarding the recent failure

of the federal permit reservations system for the Boundary Waters. The Forest Service opted to suspend the system on Jan. 30, barely an hour after it went live for the season, when it failed to function as designed.

The U.S. Forest Service anticipates reopening the reservations system for Boundary Waters Canoe Area Wilderness quota permits on Wednesday, Feb. 27.

More than 100 people attended the mostly-civil

discussion on Saturday. A few made wild accusations, while others scolded Forest Service officials and complained they knew the new permit system was doomed to failure. Other

See...BWCA pg. 11



Rep. Pete Stauber



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TOWER...Continued from page 1

But the roster that Keith provided to council members included more than a dozen alterations of terms for members of certain committees, at least when compared to the official city minutes from reorganizations over the past two to three years.

The *Timberjay* provided Keith an outline of its findings and provided her an opportunity to comment. She did not respond as of presstime.

Among the more troubling of the alterations are the ones to the city's Planning and Zoning Commission, which has a wide range of oversight duties for the city.

According to official minutes from the city's 2018 reorganization, the following individuals were listed as members for various terms. Those names and the end dates of their terms are as follows:

- Victoria Meloche (2018)
- Kevin Fitton (2019)
- Steve Abrahamson (2020)
- Morgen Carlon (2019)
- Steve Altenburg (2020)

Yet in the official roster that Keith provided to councilors in early January, Altenburg's term had been extended from 2020 to 2022, while Fitton's term was extended from 2019 to 2020. Both Altenburg and Fitton have been closely aligned with Keith in the internecine battles that have waged at city hall for the past several months.

While key Keith allies saw their terms extended, others saw their terms shortened. Former Mayor and now-City Councilor Steve Abrahamson's original appointment to a three-year term continuing through 2020 had been shortened to 2019 in the roster that Keith provided to councilors. Abrahamson, who is a real estate appraiser and broker, is easily the most knowledgeable and experienced in zoning issues of any member of the commission, and has sometimes challenged Altenburg, who has chaired the committee for at least the past two years.

At the same time, Keith appeared to have extended Morgen Carlon's term from 2020, to 2021 and a new member, Jolene Herberg, was listed with a five-year appointment running through 2023. The standard term for the commission has been three years in the past and it's unclear when, or if, the council altered that schedule. The council had accepted Herberg's application to the commission in November to fill the remaining term of Meloche, who had resigned due to health reasons. Meloche's term expired at the end of 2018 and should have been up for reappointment at the city reorganizational meeting last month.

The pattern of alterations is particularly troubling since they appear politically motivated to cement Keith's influence over city operations. While neither Carlon nor Herberg have appeared involved to any extent in the city's political infighting, they are both direct subordinates of Fitton at the Vermilion Country School, which raises questions about his possible undue influence over them during their service on the commission.

City of Tower Reorganization 2018 Planning & Zoning	
Business Owner	Victoria Meloche (2018)
Council Rep	Kevin Fitton (2019)
Resident	Steve Abrahamson (2020)
Resident	Morgen Carlon (2019)
Resident	Steve Altenburg (2020)

Above on left: The 2018 Planning and Zoning Commission terms as established by the city council in January of 2018 as reflected in the Jan 22, 2018 reorganization minutes.

Above on right: The Planning and Zoning Commissions roster as presented to the city council by Clerk-Treasurer Linda Keith in January 2019. Note the alterations in the terms, extending terms for Altenburg, Fitton, Carlon, and Herberg, while Abrahamson's term was shortened.

City of Tower Reorganization 2019 Planning & Zoning	
(Resident) Vice Chairman (Council Rep)	Steve Altenburg (2022)
Resident	Kevin Fitton (2020)
Resident Business Owner (And/or Resident)	Steve Abrahamson (2019)
	Morgen Carlon (2021)
	Jolene Herberg (2023)

Tower Economic Development Authority	
2 Members shall own Businesses within Tower, 2 Shall be residents of Tower, 1 At Large Member and 2 Council Rep	Joan Broten (Resident) (2017)
	Brad Matich (Council Rep) (2018)
	Marshall Helmberger (Business Owner) (2019)
	Brooke Anderson (Council Rep) (2020)
	Marit Kringstad (Resident) (2021)
	Steve Peterson (At Large) (2022)
	Victoria Meloche (Business Owner) (2022)

Above on left: The 2017 Tower Economic Development Authority terms as established by the city council in January of 2017 as reflected in the Jan 23, 2017 reorganization minutes.

Above on right: The TEDA roster as presented by the Clerk-Treasurer to Mayor-Elect Kringstad in November upon his request. Note the alterations in the terms, switching Helmberger's original three-year term to a one-year term expiring at the end of 2017. Terms of other TEDA members were also changed, apparently by Keith, including the terms of Marit Kringstad, Victoria Meloche, Steve Peterson, and Joan Broten. Neither Keith nor the council had the authority to alter these terms once established since they are governed by state law.

City of Tower Reorganization 2017 Business & Economic Development	
Tower Economic Development Authority	
Chairman (Business Owner)	Marshall Helmberger (2017)
Vice Chairman (Resident)	Joan Broten (2019)
Treasurer (At Large)	Steve Peterson (2018)
Secretary	Terri Joki-Martin
Council Rep	Brad Matich (2018)
Council Rep	Brooke Anderson (2020)
Resident	Marit Kringstad (2019)
Business Owner	Victoria Meloche (2020)

A review of 2018 minutes by the *Timberjay* found no city council action or authorization for the changes to the terms of members of the planning and zoning commission, which raises questions about Keith's authority to make the changes. Appointments to city commissions is clearly within the purview of the city council, not the clerk-treasurer, which means the alterations by Keith could well be construed as illegitimate or false.

Minn. Stat. 609.43, Subd. 4, titled Misconduct of Public Officer or Employee, makes it a criminal act, subject to fines and possible imprisonment, for a public official to knowingly falsify an official record.

More questions

The apparent falsifications most fraught with potential legal implications are those made to the terms of the Tower Economic Development Authority, which it appears were altered in early 2018 in order to conceal an intentional violation of another state law, Minn. Stat. 469.095, Subd. 5, which generally prohibits city councils from removing members of an economic development authority before their term has expired.

In January of 2018, Mayor Josh Carlson removed then-TEDA president and *Timberjay* publisher Marshall Helmberger, in apparent retaliation for critical coverage of city decisions in the *Timberjay*. At the time, city officials had purported that Helmberger's term had expired, but official council minutes from the Jan. 23, 2017, reorganization show that Helmberger was appointed to a three-year term on TEDA, expiring at the end of 2019. Yet city officials switched Helmberger's term with TEDA member Joan Broten, who was appointed in 2017 to a one-year term according to city minutes. The falsification of Helmberger's and Broten's terms, was confirmed by an earlier roster that Keith had provided to mayor-elect Kringstad

back in November, which falsely indicated that Helmberger's term had expired in 2017 and that Broten's would continue through 2019.

Economic development authorities are considered independent bodies under state law and city councils can only remove a member for cause, such as inefficiency or neglect. Such removals require due process for the affected member, including a filing of written charges and the opportunity for a formal hearing. City officials never cited a cause for Helmberger's dismissal other than the claim that his term had expired and they never conducted a hearing as required.

If city officials coordinated these alterations, they could be subject to possible criminal prosecution for potentially multiple violations of state law.

Minn. Stat. 609.43, Subd. 3 makes it a gross misdemeanor when a public official or public employee "under pretense or color of official authority intentionally and unlawfully injures another in the other person's, property, or rights" (emphasis added). As a member of TEDA, Helmberger had legal rights to due process before being removed from office.

Subdivision 2 of the same statute makes it a crime for a public official or employee to commit an act in their official capacity that "is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity." Falsifying the term of Helmberger's appointment suggests that city officials were aware that he couldn't lawfully be removed without a proper reason but did so anyway.

If city officials coordinated their actions to remove Helmberger, that could also constitute a violation of state conspiracy laws, which make it a crime for individuals to act in concert in the furtherance of a separate violation of the criminal code.

Other TEDA terms appear to have been altered as well. A comparison of city minutes from the 2017 reorganization to the official commis-

sions roster provided to council members by Keith earlier this month shows that Meloche's original appointment through 2022 had been altered to 2020. Marit Kringstad's original appointment through 2021 was shortened to 2019, while Steve Peterson Sr.'s original appointment through 2022 has been altered to 2021.

Mayor Kringstad had made note of the apparent discrepancies in the TEDA terms during the council's Jan. 28 meeting, but Keith dismissed the concern.

"We had adjusted terms, I know," Keith told the council. "We had so many departures, and then we had some of them that were wrong, which coincided with when the councilors were done. We had them off before they were off their term."

But Keith gave no indication of who made such "adjustments" nor how systematic altering of terms was consistent with state law, which specifically sets the terms for members of an EDA.

Under state law, it appears the council would lack the authority to alter TEDA terms, and, in either case, a review of official minutes from all of 2018 found no record of such action by the council. Keith clearly lacks any authority to make the alterations on her own.

Further, the appointments made in 2017 were consistent with the terms of council representatives on TEDA, so Keith's claim that they did not align was untrue. Councilor Brad Matich was appointed through 2018, which marked the completion of his term on the city council. Councilor Brooke Anderson was

appointed through 2020, which marks the completion of her current term. The other 2017 appointments to TEDA all appear consistent with the length of terms spelled out in statute, so any change in terms would actually violate state law.

Other commissions affected as well

Alterations are also apparent in the terms and status of some members of the Gunderson Trust Board as well as the Forestry Board. On the Gunderson Trust, Keith appears to have removed all references to terms, suggesting that the current make-up of the trust board is continuing, rather than term-limited.

The altered roster also eliminates one of the two council representative positions on the trust board. The terms of both former councilor Lance Dougherty and former mayor Carlson had been set to expire in 2018, allowing the incoming council to make two new appointments to the trust board, but the alteration indicates only Dougherty's term is set to expire, while Carlson now appears to have a continuing term as a resident rather than a council representative.

Gunderson Trust board member Sheldon Majerle challenged the roster as presented by Keith during the council's Jan. 28 reorganization, noting that both Dougherty and Carlson had served as

the two designated council representatives on the board, and that both their terms had expired in 2018. Keith contended that the trust board only calls for one council representative, two forestry board representatives, three residents, and one at-large member, and that Carlson was serving as a resident rather than a council member.

"You are right that both Lance and Josh were on, but Josh was put on as a resident," said Keith.

Majerle, later in the meeting, read from the trust's authorizing court order, which confirmed his statement that the trust board is supposed to be comprised of two council members, two forestry board members, and three at-large members, who are supposed to serve three-year terms.

Keith tried a new story, however, suggesting that the trust board already has two council representatives, since councilor Brooke Anderson is also on the trust board as one of the two representatives of the forestry board.

"Then we have an open spot," said Majerle.

"We don't have any more spots," said Keith, implying that Anderson was filling two seats at once.

Kringstad sought clarification. Majerle said he was reading what the lawyer had drafted and the court had agreed to in 1991 when the trust was established.

"I also thought that was changed in that second set that was adopted in 2001," said Keith.

"Do you have a copy of that?" asked Majerle.

"I said I would get them," responded Keith.

Yet city minutes as recently as 2017 clearly outline that members of the trust board are appointed to three-year terms and that the makeup of the board is consistent with Majerle's contention. City minutes also confirm that both Dougherty and Carlson were appointed in 2015 to three-year terms on the trust board as "council representatives." Contrary to Keith's claim those terms both expired at the end of 2018, which should have left both up for replacement at the 2019 reorganization.

It's unclear if the current city council will take actions to address Keith's apparent falsifications. An effort to conduct a performance review of Keith in a closed session last week did not result in any calls for an investigation and, to date, the council has taken no steps to correct the term dates in the documents provided by Keith.

m DEPARTMENT OF AGRICULTURE

The MN Department of Agriculture (MDA) is hiring **Agric Technicians** (Forest Pest Surveyors) for the 2019 annual Gypsy Moth Survey. View job post (Job ID 29768) & apply online through Feb 28 at <https://mn.gov/mmb/careers>. MDA is an equal opportunity employer & provider. Questions: 651-201-6692 or gypsy.moth@state.mn.us

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