

Defendants Reply to Burdiss Lawsuit

By Linda Cicoira

Cape Charles Wetlands Board Member Scott R. Walker Jr. says he was wrongly accused of besmirching the reputation of Town Councilman John W. Burdiss.

Burdiss made that charge in a lawsuit filed late last year in Northampton Circuit Court.

Walker entered a motion Tuesday requesting that Burdiss pay "attorney's fees and costs to defend against this baseless suit. He should be sanctioned accordingly."

"There are only two possible conclusions to be drawn from plaintiff's actions," Walker's motion states. "Either he conducted a reasonable investigation, knew defendant Walker had not defamed him and filed the complaint simply to harass, or plaintiff failed to conduct a reasonable investigation ... prior to filing the suit."

Burdiss, an attorney who joined Cape Charles Town Council in July 2006, filed the complaint against four town residents. He claims they marred his reputation when they circulated petitions and attempted to have him removed from Town Council by alleging he acted improperly.

He is asking for a total of \$600,000 in damages and that a petition asking for his removal be expunged from court records.

"So far it's (the lawsuit) cost me \$31,000" said Walker. "I ran against him for Town Council four years ago ... he's playing hard ball."

Burdiss filed his complaint against Walker, a Washington Street resident; Cape Charles Planning Commissioner Joan L. Natali of Blue Heaven Road; Karen Jolly Davis, a former town planning commissioner of Randolph Avenue; and Lenora Mitchell-Fields of Tazewell Avenue.

Burdiss said in the court document that the four "formulated and carried out a plan" to have him removed because his decisions and actions "displeased" them. The lawyer said they were motivated by "personal spite, ill-will and malice."

"I think he's just trying to be the alpha male of Cape Charles," Walker said this week. "He's capable, he's conscientious," Walker said of Burdiss. "He wants it his way or the highway. Someone has to push back ... I'm a bachelor ... and can afford it" more than the others.

Walker said he "never circulated a petition to any citizen of Cape Charles and did not draft, compile, publish or circulate the list of grievances." He "never even signed the petition himself. In fact, the first time," Walker said, he "saw the petition with the attached documents was when he read the plaintiff's complaint."

Walker speculated that Burdiss named him

because he spoke during a public participation session of a council meeting in February 2009. Walker admitted asking those who might sign the petitions to see him or Natali. "I had seen the blank forms but not the attachments," Walker continued. "In reality I thought better of it" and never participated.

Burdiss led the move to fire Town Manager Joe Vaccaro, Walker said, adding that he was opposed.

Walker said the lawyer would have to prove collusion and enmity with intent to defame. "That's tough to prove, said Walker. "He has no evidence of that. All four of us were individually acting."

Burdiss said (in the lawsuit) that the four residents allegedly filed a petition in the court and the action adversely affected his job as a lawyer and expert witness."

He claims they discussed their plans and grievances against him on various occasions, including a Town Council meeting.

Natali, Walker and Mitchell-Fields distributed the petitions, according to the lawsuit. It listed reasons why Burgiss should be recalled. All four "repeatedly, openly and notoriously published the recall petitions despite their knowl-

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edge" that they "contained numerous false and defamatory statements," Burdiss charged.

Mitchell-Fields answered the suit saying she "was not involved in formulating and carrying

out a plan to have Burdiss recalled as a member of the Town Council" or in a plan "that resulted in the publication of defamatory falsehoods to residents of Cape Charles and others. Fields had no motivation to harm Burdiss in any way."

According to Mitchell-Fields' response, she "signed a petition at the request of Natali and agreed to circulate a petition." She also admitted to obtaining 25 signatures on one petition "and started another which was left at Sullivan's Office Supply for Natali to pick up."

Mitchell-Fields said she "had no knowledge that the attachments to the recall petitions were false and defamatory and believed the statements to be accurate."

Mitchell-Fields also said the petition caused no harm to Burdiss and that the recording of the document was performed by office personnel in the court.

Walker filed an objection to Burdiss' complaint. He said the lawyer "failed to join all necessary parties to this lawsuit. As such this court cannot render a valid judgment."

In addition, Walker said Burdiss did not name the exact words spoken or written and "failed to specify all of the alleged defamatory statements which is necessary to correctly pleaded a viable cause of action."

In her response, Davis denied discussing plans to recall Burdiss or to "defame his reputation."

Davis admitted criticizing Burdiss at the January 2009 Town Council meeting regarding his participation "in votes and discussion of projects before the council for companies which were represented by his wife ... her criticism was accurate in as the county attorney had come to the same conclusion that Burdiss had a conflict of interest. She also criticized two other members ... Stephen Bennett and Bruce Evans."

Davis said the first time she saw that her speech was attached to the petition was at Sullivan's business where she "immediately protested." Her answer said she was told it was a matter of public record. Davis also said she did not initiate, distribute or file the recall petitions. She said she has no knowledge regarding the court action alleged in Burdiss' complaint and asked that all claims against her be dismissed and that Burdiss be sanctioned.

Natali asked that the case be dismissed as the complaint failed to state a cause of action under Virginia law. She said there were insufficient facts and Burdiss failed to set forth "any statements or conduct on the part of Natali that exhibited a reckless disregard for the truth."



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