

# **Minutes**

## **Kalamazoo City Election Commission**

### **October 25, 2022**

A special meeting of the Kalamazoo City Election Commission was held on Tuesday, October 25, 2022, at 4:00 p.m., in the City Commission Chambers at City Hall, 241 West South Street.

#### **Call to Order/Roll Call**

##### **Members Present:**

City Clerk Scott Borling  
City Assessor Aaron Powers  
City Attorney Clyde Robinson

##### **Members Absent:**

None

##### **Staff Present:**

Shelby Moss, Deputy City Clerk  
Amanda McMillon, Elections Manager

#### **Approval of Minutes**

Commissioner Robinson, seconded by Commissioner Powers, moved to approve the minutes from the Election Commission meeting on October 17, 2022. With a voice vote the motion passed.

#### **Discussion/Action Items**

##### Consideration of a Demand from the Michigan Republican Party and Republican National Committee Regarding the Appointment of Election Inspectors

Commissioner Borling reported that on Monday, October 24<sup>th</sup> at approximately 10:30 a.m. the Election Commission had received a demand letter from the Michigan Republican Party and Republican National Committee. Commissioner Borling read the demands into the record:

1. A demand that the Election Commission appoint as election inspectors for the upcoming November 2022 general election the individuals set forth in the appended list attached hereto as Exhibit B;
2. A demand that the Election Commission reallocate five Republican election inspectors from precinct polling places to the City's AVCB;

3. A demand that the election Commission appoint no less than 15 Republican election inspectors as chairpersons and 10 as assistant chairpersons;
4. A demand that the Election Commission take affirmative actions to recruit additional Republican election inspectors, including but not limited to educating city staff about the requirement to recruit and appoint Republican inspectors, and publicly posting a call for Republicans to volunteer to serve as inspectors.
5. A demand that the Election Commission assist each prospective Republican election inspector that contacts the City to inquire about serving in that role in a manner consistent with this Commission's ongoing duty under MCL168.674(5), rather than turning those individuals away; and
6. A demand that the Election Commission cease accepting prospective Democrat election inspectors in order to permit the above referenced actions an opportunity to work toward a more equal balance of Republican and Democrat election inspectors as required under Michigan law.

Commissioner Robinson suggested that the attorneys who drafted the letter, if present, be given five minutes to address the Election Commission.

Jonathan Koch introduced himself and indicated he was representing the Michigan Republican Party and Republican National Committee. Mr. Koch thanked the City Election Commission for holding this meeting, and he thanked Clerk Borling for his work and responsiveness to their communications. Mr. Koch stated the current election inspector list had a 2:1 ratio of Democrats to Republicans, which they believed did not comply with Michigan Election Law. Mr. Koch stated a list of approximately 100 names was included with the letter: 50-60 people on the list were already credentialed as poll challengers in the City of Kalamazoo, which indicated they were registered electors and willing to serve in the City for the whole day; some people on the list were registered electors contacted after the August Primary who indicated their willingness and availability to be election inspectors; and the rest of the people on the list were from the lists submitted to the City in May and September. Mr. Koch noted there were 15 Democrats and 10 Republicans on the Absent Voter Counting Board, and he asked that these numbers be equal. Mr. Koch remarked on the disparity between Democratic and Republican precinct chairpersons and assistant chairpersons (24 Democrats to 7 Republicans and 25 Democrats to 4 Republicans, respectively) and stated that it was not as nearly as possible to make this equal. Mr. Koch acknowledged that not all 100 people on the list provided with the letter would be available, but they would like to see 20-30 people from that list appointed as election inspectors.

In response to a question from Commissioner Robinson, Mr. Koch stated he was not aware whether any of the people on the list submitted with his letter had been appointed as election inspectors by other jurisdictions.

In response to a question from Commissioner Robinson, Mr. Koch stated he was not aware, at that moment, of an obligation in the law for the number of Republican and Democrat chairpersons and assistant chairpersons to be equal.

*Staff Presentation*

Commissioner Powers requested that Commissioner Borling or Deputy City Clerk Shelby Moss describe their efforts to reach out to the individuals on the lists provided by the Republican Party.

Commissioner Borling introduced Deputy Clerk Moss and Elections Manager Amanda McMillon. Commissioner Borling explained his staff had provided the Election Commission with a timeline of their efforts to reach out to people on the Republican Party's various lists [*2022 Republican Election Worker Recruitment Efforts*] as well as a version of the worker list submitted with the demand letter that included notes on the status and outreach efforts for each person [*Exhibit B with Notes*].

Deputy City Clerk Moss reviewed the document *2022 Republican Election Worker Recruitment Efforts* and described how staff worked with Charley Coss of the Kalamazoo County Republican Party to recruit Republican election inspectors for multiple jurisdictions. Regarding these efforts, Deputy City Clerk Moss provided the following information:

- Mr. Coss combined a list of potential election inspectors in his possession with the initial list of potential election inspectors from Matthew Seifried, Michigan Election Integrity Director, which resulted in a combined list of 311 names.
- some of the names on the combined list were sent to other jurisdictions.
- for the names that were retained by the City of Kalamazoo, correspondence was sent to confirm the availability of individuals to work in the August and November elections.
- 26 new election workers from the list were assigned to precincts and worked the August 2<sup>nd</sup> election.
- on August 24<sup>th</sup> the City Clerk's Office sent correspondence to people from the list with whom the Clerk's Office had not had prior contact or who had not responded to earlier outreach efforts.
- in September Mr. Seifried sent a list of 101 names, some of which were already assigned to work the November election. The City Clerk's Office sent letters to people from this list, some of whom responded.
- throughout the process the City Clerk's Office communicated with anyone who reached out to the City, and Clerk's Office staff made phone calls to people.
- approximately one week before the Election Commission meeting, Mr. Coss sent an email to people asking for more election inspectors. Several people responded: some were already assigned to work in November, and some were unavailable to work.

- at the beginning of October, the City reached out to jurisdictions that had been sent names from the original list to see if those jurisdictions had not used any of those individuals, so the City could reach out to them.

### *Commissioner Questions*

In response to questions from Election Commissioners, Deputy City Clerk Moss and Elections Manager McMillon provided the following information:

- “TBNT” stood for Thanks-But-No-Thanks.
- of the jurisdictions the City contacted at the beginning of October, all but three had responded. Most jurisdictions had used at least one or two of the workers from the list the City had sent them. Oshtemo Township provided the most names of people they had not appointed. Election Manager McMillon made calls on October 8<sup>th</sup> to the individuals returned to the City from other jurisdictions, and she knew of three that were placed in City precincts.
- the City had 6 full election inspector applications out of the 82 people to whom the City initially reached out, and 25 people from the list were appointed to work in August. Staff did not know the overall response rate to the initial outreach, which would have included people who could not work in August but committed to working in November.
- all of the people from the list who worked the August election had originally committed to work the November election.
- seven people who worked the August election, and had originally committed to work the November election, withdrew their availability.
- the notes in the spreadsheet *Exhibit B with Notes* identified the people who were appointed to work in November. Staff did not know the total number of people on the list who were appointed for November but confirmed Commissioner Robinson’s estimate of 41-42 people.
- the City had election inspector applications on file for the people on Exhibit B who had been appointed to work the November election; staff did not know whether the City had applications on file for the other individuals on the list.
- Gary Mitchell was a candidate for office but was not on the City’s ballot. Commissioner Borling stated it was his understanding that a candidate could not serve as a poll worker in a precinct where they were on the ballot.
- the communication sent to prospective election inspectors included the City’s election inspector application and a “Dear Neighbor Letter” which provides information on what to expect when working elections for the City. The City’s election inspector application includes the state application form and a supplemental page that asks the applicant to indicate their availability and contact preferences, and to provide information needed for the City’s payroll system.

*(Commissioner Questions, cont'd)*

- on the *Exhibit B with Notes* spreadsheet, if the note next to a person's name indicated some form of contact was made (letter, email, voicemail) but there were no other notes, that person had not responded to the City's efforts to contact them.
- to the best of staff's knowledge, the City had not turned away anyone who was willing to work as an election inspector and who was otherwise qualified.
- to facilitate poll workers being able to work any position in the precinct on election day, including working on a laptop computer, the City looked for people who had at least a mid-level comfort with computers. Staff confirmed for Commissioner Robinson that screening for this skill addressed the requirement in Michigan law that "...the individual have sufficient education and clerical ability to perform the duties of the office."
- the people listed on Exhibit B who were not appointed to work for the City in November had not attended the City's school of instruction for election inspectors; but it was not known whether any of them had attended schools of instruction given by other clerks.
- the City looked for experience and willingness when considering people for appointment as chairpersons and assistant chairperson. It would be unusual for a person with no experience to be appointed as a chairperson or assistant chairperson.

In response a question from Commissioner Robinson, Deputy City Clerk Moss described her experience working as an election administrator: appointed as an election worker for Schoolcraft Township in 2004; appointed to be a precinct chairperson in May 2005, appointed Deputy Clerk for Schoolcraft Township in 2006 where she was responsible for administering elections for the Township; and appointed Deputy Clerk for the City of Kalamazoo in 2012 where she had been responsible for administering elections for the City.

In response to questions from Commissioner Robinson, Deputy City Clerk Moss affirmed the following:

- she was partly responsible for submitting names of people to the Election Commission for appointment as election inspectors.
- the list of workers the Election Commission approved one week prior provided, as nearly as possible, an equal number of election inspectors from each major political party, based on her experience and the conditions under which the City was operating.
- after the Election Commission approved the appointment of precinct workers for the upcoming election, the list of inspectors was sent to the local county chairs of the major political parties as required by law.
- the City Clerk's Office had not received any challenges to the election worker list from the major political parties.

In response to a question from Commissioner Powers, Commissioner Borling indicated the document *2022 Republican Election Worker Recruitment Efforts* was part of the meeting agenda.

Commissioner Powers stated it was evident the Election Commission wanted to comply with the statute to the best of its ability and in the process be forthright and transparent about the steps that had been taken to comply. Commissioner Powers stated the information provided by the Clerk's Office gave evidence of those steps, and he questioned what other actions could be taken.

Commissioner Robinson suggested the Election Commission discuss and take an up-and-down vote on each demand. Commissioner Robinson indicated he was prepared to make the motions, which would be worded positively so that a "yes" vote would be a vote to agree with the demand, and a "no" vote would be a vote to reject the demand.

#### *Consideration of Demand #1*

Commissioner Robinson, seconded by Commissioner Borling, moved that the Election Commission direct the City Clerk to appoint as election inspectors for the upcoming November 2022 general election the individuals set forth in the appended list attached to the letter dated October 21, 2022 from the Smith Haughey law firm.

Commissioner Powers questioned whether the persons on the list had submitted applications or had the required training.

Commissioner Robinson noted that, based on the answers given by Ms. Moss and Ms. McMillan, and except for those on the list that the Election Commission had already appointed, it was unclear whether the City had applications for people on the list, whether the people on the list had attended the required training within the past two years, and whether they were otherwise qualified under the law.

Commissioner Borling noted there were a number of people on the list who had not responded to the City's outreach efforts, which is why the information about their qualifications was not available. Commissioner Borling stated it was difficult to move people towards being appointed as election inspectors when the City had not heard back from them.

With a roll call vote, the motion failed 0-3.

YES, Commissioners: None

NO, Commissioners: Borling, Powers, Robinson

ABSTAIN, Commissioners: None

Commissioner Robinson noted the failure of the motion did not rescind the appointment of those individuals who the Election Commission appointed the previous week. Those individuals remained appointed.

*Consideration of Demand #2*

Commissioner Robinson, seconded by Commissioner Borling, moved that the Election Commission direct the City Clerk to reallocate five Republican election inspectors from precinct polling places to the City's Absent Voter Counting Board (AVCB).

Commissioner Robinson noted the statute required the Election Commission to make election inspector appointments not less than 21 days prior to an election. The statute allowed the Election Commission Chair to fill vacancies as they arose, which could include moving election inspectors between precincts or appointing new inspectors, but it did not permit the Election Commission to change appointments once they were made.

In response to a question from Commissioner Borling, Deputy City Clerk Moss stated the training for AVCB workers was not as lengthy or intense as the training for precinct workers.

Commissioner Borling stated granting the demand would take Republican workers from the polling places, which would exacerbate any imbalance that already existed in the precincts.

Commissioner Powers noted the AVCB was more balanced than the precincts, and he stated pulling Republican workers from the precincts would reduce the balance there.

Commissioner Robinson expressed agreement with Commissioners Borling and Powers and noted there was one Republican chair and one Republican vice chair appointed to the AVCB.

With a roll call vote, the motion failed 0-3.

YES, Commissioners: None

NO, Commissioners: Borling, Powers, Robinson

ABSTAIN, Commissioners: None

*Consideration of Demand #3*

Commissioner Robinson, seconded by Commissioner Powers, moved that the Election Commission direct the City Clerk to appoint no less than 15 Republican election inspectors as chairpersons and 10 as assistant chairpersons.

Commissioner Robinson stated there was no requirement in the statute that chairpersons and assistant chairpersons be divided equally between the two major political parties. Commissioner Robinson highlighted Ms. Moss's remarks, that she looked for experience and willingness when recommending people for appointment as chairs and assistant chairs.

In response to a question from Commissioner Powers, Deputy City Clerk Moss indicated no Republican election inspectors had expressed interest in being chairpersons or assistant chairpersons for the November election, although some had expressed interest in those positions for the future.

With a roll call vote, the motion failed 0-3.

YES, Commissioners: None

NO, Commissioners: Borling, Powers, Robinson

ABSTAIN, Commissioners: None

#### *Consideration of Demand #4*

Commissioner Robinson, seconded by Commissioner Powers, moved that the Election Commission direct the Office of the City Clerk to take affirmative actions to recruit additional Republican election inspectors, including but not limited to educating city staff about the requirement to recruit and appoint Republican inspectors, and publicly posting a call for Republicans to volunteer to serve as inspectors.

Commissioner Robinson stated the Election Commission had a responsibility under the law to, as nearly as possible under the circumstances, appoint an equal number of poll workers from the major political parties, but there was no requirement in the law for the City Clerk or city staff to affirmatively recruit. The only obligation was for the parties themselves to provide names.

In response to a question from Commissioner Robinson, Deputy City Clerk Moss confirmed that voters were given an opportunity to express their interest in being poll workers through a sign-up list in the precincts on election day.

Commissioner Robinson noted there was an opportunity under the law for the local political parties to provide names of potential election inspectors by May 15<sup>th</sup> of each year, but there was no opportunity for the state or national parties to provide names. Commissioner Robinson pointed out the City Clerk's Office voluntarily chose to work with those entities.

In response to a question from Commissioner Borling, Deputy City Clerk Moss confirmed there was an intention to think creatively about addressing the issue of party balance and to work across jurisdictional lines to support all the clerks in the county. Deputy City Clerk Moss pointed out that poll workers were local community members interested who served as a civic duty. Deputy City Clerk Moss stated one idea for the future was the creation of a multi-jurisdiction election worker pool that would allow jurisdictions to share workers.

Commissioner Borling remarked there was an effort to think creatively about poll worker recruitment in general and to recruit poll workers from both major parties.

In response to a request from Commissioner Powers, Commissioner Borling stated the City Clerk's Office had not recruited poll worker in general or workers from specific parties in 2022; the new workers who had applied to the City had done so of their own initiative.

Commissioner Robinson stated he would not support the motion because the City Clerk's Office had made efforts and future commitments to work with both parties, and there was no legal obligation for the City Clerk to focus on poll worker recruitment or advertising based on party affiliation. Commissioner Robinson noted the City Clerk held a non-partisan office, and it could undermine the non-partisan credibility of the Clerk's Office if staff were seen to be recruiting workers from one party. Commissioner Robinson stated he was satisfied, based on the testimony given, that the City Clerk's Office was attempting to address the election worker disparities.

With a roll call vote, the motion failed 0-3.

YES, Commissioners: None

NO, Commissioners: Borling, Powers, Robinson

ABSTAIN, Commissioners: None

#### *Consideration of Demand #5*

Commissioner Robinson, seconded by Commissioner Borling, moved that the Election Commission direct the City Clerk to assist each prospective Republican election inspector that contacts the City to inquire about serving in that role in a manner consistent with this Commission's ongoing duty under MCL168.674(5), rather than turning those individuals away.

In response to a question from Commissioner Robinson, Commissioner Borling stated he was not aware of instances when qualified individuals were turned away.

Commissioner Robinson stated that if this were a question posed in a courtroom he would object because it assumed facts not in evidence and mischaracterized the duty under the statute cited [MCL168.674(5)].

With a roll call vote, the motion failed 0-3.

YES, Commissioners: None

NO, Commissioners: Borling, Powers, Robinson

ABSTAIN, Commissioners: None

#### *Consideration of Demand #6*

Commissioner Robinson, seconded by Commissioner Borling, moved that the Election Commission direct the City Clerk to cease accepting prospective Democrat election inspectors in

order to permit the above referenced actions an opportunity to work toward a more equal balance of Republican and Democrat election inspectors as required under Michigan law.

Commissioner Robinson noted the statutory language was “...an equal number as nearly as possible...,” and he stated Kalamazoo was not unique in being challenged this way. Commissioner Robinson suggested other metropolitan areas probably faced the same challenge, and there were probably areas where the challenge was reversed – where jurisdictions had a difficult time finding Democrat poll workers. Commissioner Robinson stated it would undermine the non-partisan credibility of the Clerk’s Office for them to cease accepting election inspector applications from people who identified as Democrats. Commissioner Robinson discussed the need for the Clerk’s Office to keep a pool of applicants to replace people who could no longer work.

Commissioner Borling stated the issue was a need for more Republican applicants, not fewer Democrats. Commissioner Borling described how the City Clerk’s Office started each year with a pool of potential election inspectors and sent multiple mailings through the year to confirm and reconfirm the inspectors’ willingness and availability to work each election. Commissioner Borling explained that staffing an election was a continual process of going back to the pool of poll workers to fill vacancies.

With a roll call vote, the motion failed 0-3.

YES, Commissioners: None

NO, Commissioners: Borling, Powers, Robinson

ABSTAIN, Commissioners: None

### **Public Comments**

When an opportunity was given for public comments, the following people addressed the Election Commission:

Kathy Southerland-Notghi stated she should be on the current list and noted she had been a poll challenger in the past two years. Ms. Southerland-Notghi stated she lived in Van Buren County. Ms. Southerland-Notghi stated she had signed up to be an election inspector in June, but she had not received any communication from Kalamazoo County despite numerous calls. Ms. Southerland-Notghi indicated she was a systems analyst and would be a good candidate.

The meeting adjourned at 5:07 p.m.

Scott A. Borling, Election Commission Chairperson

Approved by the Election Commission on: \_\_\_\_\_