

Recall ~ City of Albion

(Refer to Michigan Election Law, 168.951 ~ 976)

Petition filed 2/25/19 to recall

Albion City Precinct 3 Council Member Sonya Brown (NonPartisan); Term December 5, 2016 to December 7, 2020 (4 yr. term)

Address: 713 Orchard Drive, Albion, MI 49224; Phone: 517.240.7292

Email: Precinct3@cityofalbionmi.gov

Sponsor:

Albion City Precinct 3 registered voter Bruce Nelson, 107 Irwin Avenue, Albion, MI 49224;

Phone: 517.945.8662; Email: westerntext@msn.com

Recall Wording submitted to the County Clerk's Marshall Office on Monday, February 25, 2019.

The officer, the sponsor and the city clerk were notified within 24 hours via email, phone, and/or by letter.

Council Member Sonya Brown recall language: "On 30 November 2018, Councilmember Sonya Brown violated Section 5.8 of the Albion City Charter by sending an electronic message directing City Manager Latonya Rufus to remove Scott Kipp as the Head of Albion's Public Safety Department – stating "Get rid of him! He's untrustworthy."

Number of signatures required: (The petitions shall be signed by registered and qualified electors equal to not less than 25% of the number of votes cast for all candidates for the office of governor at the last preceding general election in the district the officer is sought to be recalled.)

Council Member, Precinct 3 recall: 132 valid signatures are needed to recall Sonya Brown
25% of 528 votes cast for all Governor candidates in the 11/06/18 Gubernatorial Election in the City of Albion, Precinct 3.

The Clarity/Factual Review Hearing was held Monday, March 11th (14th day after filing), 10:00am, at the Calhoun County Building, 315 W. Green Street, Marshall, MI 49068, Boardroom 3-C08 (the Board of Commissioner's Chambers on the third floor). Probate Judge Jaconette recused himself from these proceedings; County Prosecutor David Gilbert was appointed to this vacancy for the hearing.

- The sponsor Bruce Nelson spoke to the Election Commission to share his concerns about the petition language being clear and factual. The officeholder nor a representative were in attendance.
- The County Election Commission unanimously voted to approve the recall petition as clear and factual in nature; therefore, the petition meets statutory criteria. The petition was APPROVED.

The Determination of Election Commission was signed by County Election Commissioner members following the Clarity/Factual Review Hearing, and was forwarded to the sponsor, officeholder, and City Clerk.

- Once the County Election Commission approves a recall petition for clarity/factuality and the 10-day appeal period has elapsed; OR any appeal to the Circuit Court has concluded (or 40 days has elapsed since the filing of the appeal), the petition sponsors are free to circulate their petition.
- An appeal to the Clarity/Factual Determination can be made to Circuit Court within 10 days of determination (by close of business on March 21, 2019).

Continued

Appeal Filed with Circuit Court:

On March 21, 2019, 3:30 pm a Claim of Appeal was filed with the 37th Circuit Court Clerk against the Calhoun County Elections Commission (County Clerk Anne Norlander, County Treasurer Brian Wensauer and County Prosecutor David Gilbert), claiming their March 11, 2019 ruling was invalid. The proper filing fee was paid. The Appeal was assigned to Circuit Court Judge Brian K. Kirkham, Case # 2019-766 AA.

- Petitions may not be circulated until a determination of whether each reason is factual and of sufficient clarity is made by the circuit court or until 40 days after the date of the appeal (April 30, 2019), whichever is sooner.

As of March 22, 2019, Judge Kirkham has disqualified from this case. At this time the court will decide if another Calhoun County Judge will take the case. If not, it will be assigned to a Judge outside our county.

As of April 3, 2019, Judge Alexander C. Lipsey, 9th Circuit Court, in Kalamazoo County has been assigned to the SCAO on Case #2019-766 AA. Transfer of the file will be handled today.

On the afternoon of April 30, 2019, Judge Lipsey affirmed the finding of the Calhoun County Election Commission and denied the Appellant's appeal. The Election Commission correctly fulfilled its statutory duty in its review of the recall petition language. The Appellant's (Sonya Brown) appeal is denied. The sponsors can now begin circulating petitions.

- Once the County Election Commission approves a recall petition for clarity/factuality and the 10-day appeal period has elapsed; OR any appeal to the Circuit Court has concluded (or 40 days has elapsed since the filing of the appeal), the petition sponsors are free to circulate their petition. Signatures on a recall petition dated more than 60 days before the filing of the petition are invalid.
- Petition language is valid for 180 days after approval of language by County Election Commission or Circuit Court ruling.

Filing of signed recall petitions: must be filed by August 2, 2019 to appear on the November 5, 2019 ballot. 18 petitions sheets were filed at 9:40a on June 11, 2019 containing 204 signatures. Ms. Brown was notified of the filing by 10:50a, and in writing later the same day.

- Officer with 2-year term or less: signed/circulated petitions cannot be filed during first or last 6 months of term. Officer with greater than 2-year term cannot be filed during first or last year of term.
- No additional signatures may be submitted. ([MCL 168.961.1](#))
- The headings on recall petitions must be *exactly* the same wording that was approved by the County Election Commission.
- Signatures that are submitted must not be over 60 days, or acquired before the Clarity/Factual Review Hearing held March 11, 2019.
- The county clerk notifies the officeholder whose recall is sought by phone of the filing of the recall petition. Written notification must be forwarded no later than the next business day.
- Within 7 days the county clerk completes a preliminary review of petitions.
 - The Preliminary/Facial Review/examination by the County clerk will determine:
 1. if the recall petitions are in proper form
 2. the gross number of facially valid signatures contained on the petition sheets meets or exceeds the minimum number of signatures required on the petition, and
 3. invalidate any incomplete entries of petition signers (such as: signer did not date signature, did not fill in complete address, etc.)

Upon completion of the preliminary review, the County Clerk-Elections Staff determined the following invalid signatures: 12 signatures (an entire sheet) were invalid as the circulator did not date the certificate, two individuals signed after the date the circulator signed the petition, one individual did not sign his/her first name, one individual did not date his signature, and one individual dated his petition signature prior to the current year. Eliminating these errors result in a total of 187 signatures.

- The County clerk does not count any signatures on a petition sheet if:
 1. the execution of the certificate of circulator is not in compliance.
 2. the heading of the petition sheet is improperly completed.
 3. the reasons for recall are different than those determined by the board of county election commissioners during the Clarity Factual Review Hearing on March 11, 2019.
- The County clerk does not count individual signatures on a petition sheet if:
 1. the signer did not enter his/her complete address, the post office or zip code serving the address, and the date of signing.
 2. the signer dated the signature after the date appearing on the circulator’s certificate.
 3. the signature was obtained before the date when the recall wording was approved (April 30th)
 4. the signature was obtained more than 60 days before the filing of the petitions.
- The County clerk will next use the Qualified Voter File (QVF) to determine if the signers of the petition are properly registered. (as an alternative, the filing official may forward the petition sheets to the city clerk for the performance of the registration verifications.) The registration verifications must be completed no later than the 22nd day after the filing. The County Clerk-Elections Staff reviewed the 204 petition signatures.

- Within 22 days after receipt of the petitions, the clerk completes registration checks and indicates the number of signers on each petition sheet that are registered electors in the district.
 - The clerk shall compare the names on the petition with the Qualified Voter File.

Upon completion of the registration check, the County Clerk-Elections Staff determined one individual signed twice, and three individuals signing the petitions were not registered voters. Eliminating these errors result in a total of 182 valid signatures.

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NEXT:

- Officeholder has up to 30 days after the filing of the petitions, July 11th, to challenge the validity of the registration or the validity and genuineness of the signature of a person signing the recall petition or may challenge the validity and genuineness of the signature of a circulator who collected signatures on the recall petition. A challenge must list the signatures in question on the petition and specify the reason for each challenge. The filing official uses the Qualified Voter File to resolve the challenges.
- After the signature challenges have been resolved, but no later than the 35th day after the filing of the petitions (July 16th), the County Clerk shall make an official declaration of the sufficiency or insufficiency of the petitions.
 - The County Clerk will notify the sponsor of the recall effort with copies of the notice being forwarded to the officer.
 - If there are NOT sufficient valid signatures, the process stops at this point.
- If there are sufficient valid signatures, the special recall election will be scheduled for the next regular election date that is not less than 95 days after the petition is filed, and falls on the May or November regular election date. ([MCL 168.963.2](#)) ... Special Election date November 5, 2019.

Official Call of Election

Once Recall petitions have been reviewed, the opportunity for challenges has expired, and the County Clerk-Election’s staff has determined the minimum petition signatures required to affect a recall have been found valid, the Calhoun County Elections Office will announce the Official Call of Election.

The County Election Commission is responsible for the production of the ballots. The County Clerk will notify the Albion City Clerk to give public notice of the election, provide election supplies, and do all details necessary to conduct the election.

Filing deadline for nonpartisan candidates

10 days after the Official Call of Election for a NonPartisan office, candidates may file NonPartisan Nominating Petitions or a \$100 nonrefundable filing fee no later than 4 pm. ([MCL 168.972](#)). The Nominating Petitions shall be filed with the clerk of the electoral district and signed by 10% of the qualified and registered electors of the electoral districts as required under section [MCL 168.544f](#).

The Recall Election:

Legislative changes in 2012 changed the concept of a recall election from a two-election process (if the recall was successful) to combining the concepts of a recall election and a special election to fill the possible resulting vacancy. The incumbent automatically is made a candidate in the election unless he/she withdraws within 10 days after the filing of the recall petition. There is one election and the candidate who receives the highest vote total is elected to serve the remainder of the unexpired term. There is no primary.

Expense of Election: the expenses of the recall election shall be payable in the same manner as are the costs of a regular election to fill the office in question. ([MCL 168.967](#))

Resignation of officeholder:

- If the officer targeted for recall resigns from office at any point during the canvass of the recall petition, the canvass ceases and no recall election is held. The vacancy is filled in accordance with existing law.
- If the officer targeted for recall resigns from office after the call for a recall election has been issued, the recall election is cancelled. The vacancy is filled in accordance with existing law.

Board of Canvassers: the board of county canvassers will meet within 5 days after the election. If it is determined that a majority of the votes are in favor of recall, they will immediately certify the results to the county clerk. The candidate receiving the highest number of votes in the recall election is elected for the remainder of the term.

After the filing of a recall petition that has been circulated AND after conducting a recall election, no further recall petition shall be filed against the same incumbent of that office during the remainder of the unexpired term.