

## Recall ~ City of Albion

(Refer to Michigan Election Law, 168.951 ~ 976)

### **SECOND Petition filed 11/03/17 to recall**

Albion City Mayor Garrett Brown (NonPartisan); Term December 5, 2016 to December 3, 2018 (2 yr. term)  
Address: 1016 S. Superior Street, Albion, MI 49224; Phone: 517.648.7090;  
Email: [Mayor@cityofalbionmi.gov](mailto:Mayor@cityofalbionmi.gov)

### **Sponsor:**

Albion City registered voter Chad Everett Baase, 1021 Burr Oak Street, Albion, MI 49224;  
Phone: 517.945.1236; Email: [chad.baase@gmail.com](mailto:chad.baase@gmail.com)

**Recall Wording** submitted to the County Clerk's Marshall Office on Friday, November 3, 2017. The officer, the sponsor and the city clerk were notified within 24 hours via email, phone, and by letter.

Mayor Garrett Brown recall language: "Whereas, on October 5<sup>th</sup>, 2017, Garrett Brown, gave Dr. Sheryl Mitchell scores as low as 2 out of 5 in Judgement and Decision making. Whereas, on October 13, 2017 a personal protection order was issued against Garrett Brown for allegedly stalking an Albion Resident. Whereas, on October 16<sup>th</sup>, 2017, Councilman Maurice Barnes and Councilman Andrew French drafted and submitted to council resolution 2017-40 which reflects Dr. Sheryl Mitchell has articulated concern with the mayors behavior towards her."

**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.)

Mayor recall: 439 valid signatures are needed to recall Garrett Brown  
25% of 1,756 votes cast for all Governor candidates in the 11/04/14 Gubernatorial Election in the City of Albion.

**The Clarity/Factual Review Hearing** is scheduled for Monday, November 20<sup>th</sup> (17<sup>th</sup> day after filing), 9:00am, 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).

The officer and the sponsor may appear before the Commission members and present arguments.

**The Clarity/Factual Review Hearing** held November 20, 2017 at 9:00 am.

- Both the sponsor Chad Baase and officeholder Garrett Brown spoke to the Election Commission to share their concerns about the petition language being clear and factual.
- 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 (November 30, 2017).

**Appeal Filed with Circuit Court:**

On December 1, 2017, 11:40 am Garrett Q. Brown, Mayor of the City of Albion filed a Claim of Appeal with the 37<sup>th</sup> Circuit Court Clerk against the Calhoun County Elections Commission (Anne Norlander, David Gilbert, Brian Wensauer), claiming their November 20, 2017 ruling was invalid. The Appeal was assigned to Circuit Court Judge Brian K. Kirkham, Case # 2017-3468-AA.

- Petitions may not be circulated during this appeal. Circuit Court makes final determination on appeal within 40 days.

\* \* \* \* \*

**NEXT:**

- Once an appeal to the Circuit Court has concluded (or 40 days has elapsed since the filing of the appeal), the petition sponsor is free to circulate the petition.
- Petition language is valid for 180 days after approval of language by County Election Commission or Circuit Court.
- Signatures on a recall petition dated more than 60 days before the filing of the petition are invalid.

**Filing of signed recall petitions:**

- 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. [Signatures cannot be filed before December 5, 2017].
- 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 November 20, 2017.
- 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.)
  - 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 November 20, 2017.
  - 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 (Nov. 20<sup>th</sup>)
    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 22<sup>nd</sup> day after the filing.
- 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.
- Officeholder has up to 30 days after the filing of the petitions, 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 35<sup>th</sup> day after the filing of the petitions, 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)

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.

- 10 days after 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). Petitions shall contain at least 10% of the required number of signatures for the electoral district (MCL 168.544f) [according to Albion City Charter approximately 10 valid signatures would be required]

**The Recall Ballot:** ~~(MCL 168.966 content)~~ REPEALED 2012, immediate effect 12/20/12.

- ~~The reason for demanding the recall as set forth in the petition shall be printed on the recall ballot used at the election in not more than 200 words.~~
- ~~The officer whose recall is sought, in not more than 200 words, may submit a justification of conduct in office. The justification shall be submitted to the official preparing the ballot within 72 hours after receipt of the notification. If submitted in the prescribed time, the justification shall be printed on the ballot.~~
- ~~There are restrictions regarding words, phrases and emphasizing.(MCL 168.966 (3)).~~
- ~~The following question shall be printed on the ballot: Shall (name the person against whom the recall petition is filed) be recalled from the office of (title of the office)? Yes, No.~~

**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 offer 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 determine 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.