



**NOTICE OF PONTIAC ELECTION COMMISSION
SPECIAL MEETING
JUNE 18, 2021
at 12:00 P.M.**

THE MEETING WILL BE HELD ELECTRONICALLY

The Pontiac Election Commission will hold a Special Meeting on June 18, 2021 at 12:00 p.m. This meeting will be held electronically as allowed by the amended Open Meetings Act and in compliance with the City of Pontiac Electronic Meeting Policy. The agenda for the Special Meeting is attached. The Pontiac Election Commission gives notice of the following:

1. **Procedures.** The meeting will be conducted on zoom.us.

When: June 18, 2021 12:00 PM Eastern Time (U.S.A.)

Topic: Pontiac Election Commission Meeting

Please click the link below to join the webinar:

<https://zoom.us/j/94882351804?pwd=a1o5SHR6VIZ2TGo4UTg2K1hmYURTZz09>

Passcode: 355084

Or Telephone:

Dial 1 312 626 6799

Webinar ID: 948 8235 1804

Passcode: 355084

The public may view the meeting electronically through

<http://pontiac.mi.us/council/pontiactv/index.php>

or

<https://www.youtube.com/channel/UCR9pXYP1EmHJKmbSFSHQmeQ>

Pontiac City Clerk page on youtube.com

2. **Public Comment.** For individuals who desire to make a public comment, please log onto the meeting using the zoom meeting link above. When the Pontiac Election Commission reaches the public comment portion of the meeting, please raise your hand if you wish to speak during public comment. When your name is called, please unmute yourself and you will be given three minutes to speak. If you are accessing the meeting by phone, the City Clerk will ask are there any members of the public who are joining the meeting by phone who would like to make a public comment. Public comments are limited to three (3) minutes.

3. **Persons with Disabilities.** Persons with disabilities may participate in the meeting through the methods set forth in paragraph 2. Individuals with disabilities requiring auxiliary aids or services in order to attend electronically should notify the Interim City Clerk, Garland Doyle at (248) 758-3200 or clerk@pontiac.mi.us at least 24 hours in advance of the meeting.

Dated 6-16-2021, 5:00 p.m.

Garland S. Doyle, Interim City Clerk

City of Pontiac

47450 Woodward Ave. Pontiac, MI 48342 Phone: (248) 758-3200



Pontiac Election Commission

Commission Members
Garland S. Doyle, M.P.A., Interim City Clerk
Anthony Chubb, Esq., City Attorney
Sekar Bawa, City Treasurer
Jo Lynn Williams, Elections Administrator

47450 Woodward Avenue
Pontiac, Michigan 48342
Phone (248) 758-3200
Fax (248) 758-3160

MEETING AGENDA

June 18, 2021

12:00 P.M.

- I. Roll Call
- II. Authorization to Excuse Commissioners
- III. Approval of the Agenda
- IV. Approval of the Minutes- May 24, 2021
Be it further resolved that the Pontiac Election Commission approves the minutes from May 24, 2021 Meeting
- V. Approval of the Minutes- May 28, 2021
Be it further resolved that the Pontiac Election Commission approves the minutes from May 28, 2021 Meeting
- VI. Approval of Alonzo Cash as the designee to work with Oakland County in the Absentee Voting Counting Board for the August 3, 2021 Primary Election
Be it further resolved that the Pontiac Election Commission approves Alonzo Cash as the designee to work with Oakland County in the Absentee Voting Counting Board for the August 3, 2021 Primary Election
- VII. Approval of Walt Whitman Elementary School as the New Polling Location for Precincts 7 and 8 beginning with the November 2, 2021 General Election
Be it further resolved that the Pontiac Election Commission approves Walt Whitman Elementary School 125 W Montcalm as the new polling location for Precincts 7 and 8 beginning with the November 2, 2021 General Election
- VIII. City Clerk Report
- IX. Court Rulings
Be it further resolved that the Pontiac Election Commission receive and file the Circuit Court and Court of Appeals rulings for Jonathan Townsend v Pontiac City Election Commission and Mattie McKinney Hatchett v Pontiac Election Commission.
- X. Public Comment
- XI. Adjournment

IV.

MINUTES

PONTIAC ELECTION COMMISSION
MONDAY, MAY 24, 2021, 2:01 p.m.
CITY HALL - 2ND FLOOR - VIA ZOOM
47450 WOODWARD AVENUE - PONTIAC, MICHIGAN
SPECIAL MEETING

APPEARANCES:

COMMISSIONER GARLAND S. DOYLE, M.P.A., INTERIM CITY CLERK

COMMISSIONER ANTHONY CHUBB, ESQ., CITY ATTORNEY

FRANK ANTOUN, INFORMATION TECHNOLOGY

Reported by:

AMBER HARRIS, CER 8378

Harris & Harris Court Reporting

(248) 935-1546

amber.harrisCR@gmail.com

1 Pontiac, Michigan

2 Monday, May 24, 2021 - 2:01 p.m.

3 - - -

4 COMMISSIONER DOYLE: Okay. It is -- well,
5 actually, 2:01, so I'm going to call the Pontiac Election
6 Commission meeting to order on May 24th, 2001 (sic).

7 Can everybody hear me? Can you hear me?

8 (No verbal response.)

9 COMMISSIONER DOYLE: Okay. All right. I think
10 Ms. Williams is having some technical difficulties, so I
11 am going to -- I guess until she joins us, I'll go ahead
12 and call the...

13 Bawa?

14 (No verbal response.)

15 COMMISSIONER DOYLE: He's not here.

16 Chubb?

17 COMMISSIONER CHUBB: Present attending remotely
18 from Oakland County.

19 COMMISSIONER DOYLE: I can't hear you.

20 COMMISSIONER CHUBB: Can you hear me?

21 MR. ANTOUN: Now I can't hear you.

22 COMMISSIONER CHUBB: Can you hear me?

23 Ken, can you hear me?

24 COMMISSIONER DOYLE: I can hear you now. I can
25 hear you now.

1 COMMISSIONER CHUBB: Okay.

2 MR. ANTOUN: I can hear you.

3 COMMISSIONER CHUBB: All right. Chubb attending
4 remotely from Oakland County.

5 COMMISSIONER DOYLE: Doyle present, attending
6 remotely from Pontiac.

7 So we have a quorum.

8 MR. ANTOUN: Do I have the co-host?

9 COMMISSIONER DOYLE: Do you have what?

10 MR. ANTOUN: Do I have the co-host?

11 COMMISSIONER DOYLE: Oh. I can do that. Are
12 you under Ken's name?

13 MR. ANTOUN: Yep.

14 COMMISSIONER DOYLE: Okay.

15 MR. ANTOUN: I can change that.

16 COMMISSIONER DOYLE: Nope. I'll go ahead right
17 here.

18 Okay. So I need an authorization to excuse
19 Bawa.

20 COMMISSIONER CHUBB: I move to excuse
21 Commissioner Bawa.

22 COMMISSIONER DOYLE: I'll second it.

23 Okay. Chubb?

24 COMMISSIONER CHUBB: Yes.

25 COMMISSIONER DOYLE: Doyle? Yes.

1 Next is approval of the agenda.

2 COMMISSIONER CHUBB: I move to approve the
3 agenda.

4 COMMISSIONER DOYLE: I'll second.
5 Chubb?

6 COMMISSIONER CHUBB: Yes.

7 COMMISSIONER DOYLE: Doyle? Yes.

8 Next is the approval of the minutes from May
9 7th, 2021.

10 COMMISSIONER CHUBB: I make a motion to approve
11 the minutes of May 7th, 2021.

12 COMMISSIONER DOYLE: I'll second.
13 Chubb?

14 COMMISSIONER CHUBB: Yes.

15 COMMISSIONER DOYLE: Doyle? Yes.

16 Minutes are approved.

17 Next is to approve the ballots for the primary
18 election on August 3rd, 2021. So I guess I'll make a
19 motion to approve the ballots for the primary election on
20 August 3rd, 2021.

21 Is there a second?

22 COMMISSIONER CHUBB: No.

23 COMMISSIONER DOYLE: No second. Okay.

24 Since there is no second to approve the ballots
25 for the primary election on August 3rd, 2021, okay, the

1 action cannot be addressed.

2 So next is public comment. Do I have -- anybody
3 wants to make a public comment? No?

4 I see a hand raised, so I will allow this
5 person.

6 Talk, please. State your name for the -- the
7 public.

8 Okay. Go ahead. This is S. R-u-a-r-k?

9 MR. RUARK: Yes, that's correct.

10 COMMISSIONER DOYLE: Okay. Go ahead.

11 MR. RUARK: I don't believe my camera is
12 working. I don't know if that will make a difference.

13 But as you stated, my name is Scott Ruark. I am
14 currently representing Commissioners Anthony Chubb and
15 Sekar Bawa in two pending matters, and these -- what we
16 wanted to state for the record here today is that these
17 cases, one of which was in court last Wednesday, has been
18 moved to this Wednesday. We find that this meeting today
19 was unnecessary and wholly inappropriate given the pending
20 litigation that is currently happening with the ballots,
21 and one of which was set for an evidentiary hearing on
22 Wednesday as well. We have a second case that is
23 scheduled for Wednesday at, I believe, 10:00 a.m., that is
24 addressing these issues.

25 It's also our understanding based on

1 conversations with the county clerk that there was no need
2 for a rushed meeting to approve these ballots at this
3 time, and it is our position that this was an unnecessary
4 proceeding today. And with that, I have nothing further.

5 COMMISSIONER DOYLE: Okay. Is there any --
6 okay. I see another hand raised. This is Mayor Waterman,
7 I guess.

8 Go ahead, Mayor.

9 MAYOR WATERMAN: Yes. Mayor Deirdre Waterman
10 speaking.

11 As the mayor of the City, the Election
12 Commission is a chartered function of the City, so I speak
13 on behalf of -- as mayor on behalf of the City. And I'm
14 compelled to speak because of what I just heard Attorney
15 Ruark did just state about this being called as an
16 unnecessary and inappropriate meeting. And I can just
17 witness that by the fact that this was called, apparently,
18 without any notice to the other election commissioners in
19 terms of timing, and even the agenda and notice and link
20 wasn't sent until 9:00 Friday night. So this is highly
21 unusual, and it speaks to the fact whether this was maybe
22 -- around the fact that the proper proceedings are being
23 curtailed here. So I would like to see that the proper
24 proceedings get back in place.

25 And certainly, one of the things that the

1 commission has voted on, and as the clerk has said that he
2 is, once again, in conflict with the city attorneys, as he
3 has been, I just want to bring to people's attention that
4 there is some recent notes in which this has been
5 highlighted, much to the injury to the City. And one of
6 those was, it's beginning to form a pattern now with this
7 particular interim clerk. For example, the court just
8 found on behalf of a other litigant's favor in something
9 that the interim clerk had refused to do but the court now
10 says the clerk has been in order -- in error, and has now
11 ordered the clerk to perform that act the city attorneys
12 and the administration and the other attorneys have been
13 advising him to do for more than a year.

14 We also had issued some licenses, or at least
15 ranking, in the downtown business district of the medical
16 marihuana issue, which has been lingering for two years
17 now. And as people know, this matter, by the referendum
18 that was passed, was given to the authority of the clerk
19 to handle all of the application processes. And after two
20 years and a half, almost, none of those applications have
21 received rankings until just recently. And Tuesday --
22 last Tuesday, apparently -- he issued the rankings, they
23 weren't posted anywhere. People were calling me and were
24 kind of -- thought there were some suspicious things in
25 terms of the way the awards were. I had no way of knowing

1 how to address that. But they did say that they had seen
2 it, and it was unusual for it not to be posted officially.
3 I had to send somebody down to get a copy of it from the
4 clerk's desk so -- two days later.

5 But any rate, it just brings a pattern --

6 COMMISSIONER DOYLE: That's your time.

7 MAYOR WATERMAN: -- which is troubling.

8 COMMISSIONER DOYLE: Did any other member of the
9 public want to speak?

10 Okay. That will conclude public comment. And I
11 will just state for the record that now public comment is
12 over.

13 The clerk did receive the -- so the public is
14 aware, the clerk did receive the proof of the ballots from
15 the county. The county often requires a quick turnaround.
16 Normally, we go ahead and sign off on the proof of the
17 ballots, but I wanted to make sure that everything was
18 done in proper order, so that's why I called this Election
19 Commission meeting.

20 Already applications for absentee ballots have
21 went out. People have begun to receive their -- return
22 their applications for their absentee ballots --

23 COMMISSIONER CHUBB: Garland --

24 COMMISSIONER DOYLE: -- and ballots will
25 actually be mailed out in June. So, indeed, this meeting

1 was, in essence, proper. So I just want that --

2 COMMISSIONER CHUBB: Your comments, Garland, are
3 not proper. This is not on the agenda. You could have
4 amended the agenda if you wanted closing comments. We
5 didn't do that. So I'd ask --

6 COMMISSIONER DOYLE: I took the liberty as the
7 chair of the meeting -- and there is only one chair of the
8 meeting -- so thank you for your comments, Commissioner
9 Chubb.

10 And as it relates to anything else pertaining --
11 I don't think it was germane to this particular meeting.

12 So if there is no further business before this
13 body, the meeting will stand adjourned at 2:12 p.m.

14 (At 2:12 p.m., meeting concluded.)

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CERTIFICATION

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

I, Amber Harris, a Notary Public in and for the above county and state, do hereby certify that this Election Commission meeting was transcribed by me; that this is a true, full and correct transcription to the best of my abilities; and that I am not related, nor of counsel to either party, nor interested in the event of this cause.

Amber Harris, CER 8378
Notary Public
Oakland County Michigan
My Commission Expires: 05/14/2022

V.

MINUTES

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CITY OF PONTIAC - ELECTION COMMISSION

FRIDAY, MAY 28, 2021

2:00 P.M.

A public meeting held before the
Election Commission via Zoom technology.

COMMISSION MEMBERS:

- Garland S. Doyle, MPA, Interim City Clerk
- Anthony Chubb, Esq., City Attorney
- Sekar Bawa, City Treasurer
- Jo Lynn Williams, Elections Administrator

RECORDED BY:

Quentina R. Snowden, (CSR-5519)
Certified Shorthand Reporter & Notary Public

MEMBERS OF THE PUBLIC ADDRESSING THE COMMISSION:

DR. DEIRDRE WATERMAN

1 (CALL TO ORDER 2:00 P.M.)

2 COMMISSIONER DOYLE: It is 2:00 p.m.,
3 so I'm going to call the Pontiac Election Commission
4 meeting for May 28th, 2021 to order.

5 Ms. Williams, if you will call the --
6 the roll.

7 MS. WILLIAMS: Bawa?

8 COMMISSIONER DOYLE: You have to
9 unmute yourself.

10 COMMISSIONER BAWA: Okay. Yes.

11 MS. WILLIAMS: Chubb?

12 COMMISSIONER CHUBB: Present.

13 MS. WILLIAMS: Doyle?

14 COMMISSIONER DOYLE: Present.

15 MS. WILLIAMS: We have a quorum.

16 COMMISSIONER DOYLE: Thank you.

17 And I need to authorize -- no
18 authorization to excuse any Commissioners. All
19 Commissioners are present.

20 Next on the agenda is approval of the
21 agenda.

22 COMMISSIONER CHUBB: I would make a
23 motion to amend the agenda to move public comment
24 before approval of the ballots.

25 COMMISSIONER BAWA: I second it.

1 COMMISSIONER DOYLE: So if you call
2 the roll.

3 MS. WILLIAMS: Bawa?

4 COMMISSIONER BAWA: Yes.

5 MS. WILLIAMS: Chubb?

6 COMMISSIONER CHUBB: Yes.

7 MS. WILLIAMS: Doyle?

8 COMMISSIONER DOYLE: Yes.

9 Okay. So we will have public comment
10 now. So if anybody -- make a public comment, if you
11 would raise your hand and allow you to -- okay.

12 So I thought I saw a hand raised. So
13 the first public comment is from Mayor Waterman.

14 Mayor Waterman, you have three
15 minutes.

16 MAYOR WATERMAN: Yes. I'm Mayor
17 Deirdre Waterman, and I'm happy to bring public
18 comment to this body.

19 We are in a situation in which the
20 Election Commission did vote, I take a vote for the
21 majority, to put my name on the ballot given the
22 circumstances before them. Apparently the clerk is
23 again in conflict with that. But to me, I'm going
24 to let the attorneys decide this obvious double set
25 of standards that are being applied, because that is

1 essentially what is happening in this case.

2 In my instance, for example, I applied
3 and did the petitioning, all of the things that were
4 required, the affidavit of identity, and my
5 situation as many people know, I was the first woman
6 who was elected Mayor of the City of Pontiac and
7 strong mayor. I was also the first mayor to be
8 reelected. And with that, we have had the first
9 time that as we elected consecutive terms and so we
10 have had consistency in the leadership position, and
11 that is what many people credit for the sustained
12 progress that we have had with our businesses and
13 other opportunities as you know coming to the City.

14 It seems to be there's another set of
15 rules for someone else who was brought to this
16 Election Commission's attention, also had a problem
17 with an affidavit of identity, including a statement
18 that was signed which essentially seems to challenge
19 his eligibility even to run for the mayor's
20 position. But that somehow has been overlooked by
21 those who are in my case trying to apply another set
22 of rules. As I said, I'm going to let the attorneys
23 work that out in the court.

24 But, the bottom line for us is to let
25 the people know that I am and will be a candidate

1 for Mayor of the City of Pontiac. Once again, I'm
2 doing what may not have been done before and that is
3 to run for a third term and to continue the
4 progress. I think the -- in a Democratic process it
5 should be the people who decide who they elect for
6 the officials and this shouldn't be decided by some
7 backdoor political wrangling that is going on right
8 now.

9 So, in addition, I want to tell the
10 people what the progress is and what they have at
11 stake at my continuing to be the Mayor and I hope
12 they will choose to reelect me. But I will also be
13 talking about many people know some of the benefits
14 that are coming to the City of Pontiac, including
15 the 37.7 million dollars in the American Rescue
16 Fund.

17 And I'm going to be having district
18 meetings with every citizen of the City of Pontiac
19 who wishes to attend that to get their input because
20 I want to talk to them about how this money can be
21 used to restore neighborhoods, to bring citizens
22 relief; many people impacted by COVID. How we can
23 get this to help our citizens. How we can improve
24 public safety. We can improve our infrastructure
25 and how we can fight poverty and how we can --

1 COMMISSIONER DOYLE: Mayor, that's
2 your time. Is there anyone else that wants to give
3 a public comment? Don't see any other hands raised.
4 So that will -- again, I'll ask once again, anybody
5 else that wants to give public comment? And so that
6 will conclude public comment.

7 Then we'll move on to the agenda item
8 which is to approve the ballot for the primary
9 election on August 3rd, 2021.

10 So in the agenda packet is the ballot
11 that the Oakland County Elections -- Oakland County
12 Clerk Elections Division has sent to the Commission
13 to approve.

14 This ballot is based on the
15 certification that I sent to the County. Per
16 the -- the Charter, I am the certifying officer for
17 the City of Pontiac. And I gave a certification
18 report at the meeting I believe it was on May 7th.
19 And so, this is the list of approved candidates..

20 Furthermore, there has been some
21 litigation which the judge has made rulings as to
22 who is eligible to be on the ballot and who is not
23 eligible to be on the ballot based upon State law.

24 So I just want that to be clear, that
25 it was ruled that Mayor Waterman was not eligible on

1 the ballot.

2 So do we have a motion to approve the
3 ballots for the primary election on August 3rd,
4 2021?

5 COMMISSIONER CHUBB: So moved.

6 COMMISSIONER BAWA: I support it.

7 MS. WILLIAMS: All right. Bawa?

8 COMMISSIONER CHUBB: Can we have
9 discussion?

10 COMMISSIONER DOYLE: Okay.

11 Discussion. Go ahead.

12 COMMISSIONER CHUBB: Sure. So you
13 know I just want to make sure that the residents and
14 the public do understand as the clerk just
15 referenced, this Commission has been determined by
16 the court subsequent to substantial litigation to be
17 ministerial in nature.

18 And what that means is that we are
19 reviewing these ballots to ensure that names are
20 spelled correctly, and that they are proper form,
21 and that we are limited to that scope.

22 And so, when we take action today, it
23 is solely for that purpose; and I certainly have
24 concerns about the process that has gone on, and I
25 seem to see a situation from my circumstance where

1 it appears that two mayoral candidates had the same
2 faults and even just recently was provided a letter
3 which alleges that Mr. Greimel was -- still has
4 never filed a 2016 annual report with the County,
5 and to the extent that those candidates, Mr. Greimel
6 and Dr. Waterman are similarly situated factually,
7 they should be treated the same legally.

8 And that's my concern and I just want
9 to make sure that the public understands that I do
10 have that concern. But when we take a vote on this
11 matter, that does not factor into our decision.
12 Again, our decision is ministerial, and approves
13 these ballots as to form, and it does appear that
14 they are proper as to form.

15 COMMISSIONER DOYLE: Okay. Anyone
16 else in discussion? So, Ms. Williams, if you will
17 call the roll.

18 MS. WILLIAMS: Bawa?

19 COMMISSIONER BAWA: Yes.

20 MS. WILLIAMS: Chubb?

21 COMMISSIONER CHUBB: Yes.

22 MS. WILLIAMS: Doyle?

23 COMMISSIONER DOYLE: Yes.

24 So the ballot for primary election on
25 August 3rd, 2021 is approved. And since there is no

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further business to come before this Commission, the meeting will be adjourned at 2:10 p.m. Thank you.

(Meeting adjourned at 2:10 P.M.)

Minutes certified by:



/s/ Quentina Rochelle Snowden, CSR-5519
QRS Court Reporting, LLC
800.308.0068, 810.691.4226
Dated: May 31, 2021

IX.

Court Rulings

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JONATHAN TOWNSEND,
Plaintiff(s),

v.

Case No. 21-187958-AW
Hon. Yasmine I. Poles

CITY OF PONTIAC ELECTION
COMMISSION, ET AL,
Defendant(s),

**ORDER RE: MOTIONS TO INTERVENE AND
FOR MANDAMUS OR DECLARATORY RELIEF**

The matter is before the Court on Plaintiff's Motion for Mandamus or Declaratory Relief and proposed Intervenor Timothy Greimel's Motion to Intervene. The Court having reviewed the pleadings, heard oral argument, and being otherwise advised in the premises, it is hereby ordered that proposed Intervenor Timothy Greimel's motion is GRANTED for the reasons stated on the record. It is further ordered that Plaintiff's motion is DENIED for the reasons stated on the record.

In addition, the Court finds that Greimel has complied with the requirements of MCL 168.588(4). MCL 168.588(4) provides (in relevant part):

An affidavit of identity must include a statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act . . . have been filed or paid . . .

Based on a strict reading and interpretation of the statute, the Court finds that Greimel has complied with the requirements of MCL 168.588(4). Here, Greimel did file the required reports as of the date of the affidavit as required by statute. MCL 168.588(4) does not require that the

reports must be filed without error. Plaintiff cannot identify any other false statement contained within Greimel's affidavit of identity. As such, the Court finds that Greimel did not provide a false statement on his affidavit of identity.

Further, the Court finds that there are other adequate legal or equitable remedies. Specifically, if Greimel were to survive the primary election and win the general election, Plaintiff or any other Pontiac citizen can file a *quo warranto* actions challenging whether he properly holds office.

Based on the foregoing, Plaintiff has failed to meet the standard for mandamus and is not entitled to mandamus or declaratory relief.

This is a final order that resolves the last pending claim and closes the case.

IT IS SO ORDERED.

May 27, 2021
Date

/s/ Yasmine I. Poles
Hon. Yasmine I. Poles, Circuit Court Judge

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN
COURT OF APPEALS

JONATHAN TOWNSEND,

Plaintiff-Appellant,

v

PONTIAC CITY ELECTION COMMISSION, and
PONTIAC CITY CLERK GARLAND DOYLE,

Defendants-Appellees,

and

TIMOTHY GREIMEL,

Intervenor-Appellee.

UNPUBLISHED

June 3, 2021

No. 357317

Oakland Circuit Court

LC No. 2021-187958-AW

Before: CAVANAGH, P.J., and SERVITTO and O'BRIEN, JJ.

PER CURIAM.

Plaintiff appeals of right an order denying his request for mandamus or declaratory relief seeking to compel defendants, Pontiac City Election Commission and the Pontiac City Clerk, to not certify intervenor, Timothy Greimel, as a candidate for Mayor of the City of Pontiac under MCL 168.558(4). This appeal poses the question whether MCL 168.558(4) requires that a clerk reviewing an affidavit of identity (AOI) filed by a candidate who makes only true statements nonetheless must not certify the candidate because of an error in a campaign report. MCL 168.588(4) does not impose such a legal duty; therefore, we affirm.

I. BACKGROUND

On April 16, 2021, to obtain consideration for certification to run for the Mayor of Pontiac, Greimel submitted his AOI, which referenced his address in Pontiac, where he has lived since July 2020. Two of his campaign reports, however, listed Greimel's former address in Auburn Hills, rather than his current Pontiac address. The AOI itself contained no errors in Greimel's address.

Plaintiff, a registered voter in Pontiac, brought the error to the attention of the Pontiac Election Commission on April 29, 2021. On April 30, 2021, Greimel submitted amended

campaign reports that reflected his current Pontiac address, although his former address also was referenced. On May 6, 2021, the Pontiac City Clerk certified Greimel to the Election Commission as a candidate for mayor.

On May 13, 2021, plaintiff brought the instant suit for mandamus and declaratory relief, arguing that defendants had a duty to determine Greimel's eligibility for office, and defendants should not have certified Greimel as a candidate under MCL 168.558(4) because of his false statements. Plaintiff moved for an order to show cause, arguing that Greimel's name should be removed from the ballot. Greimel, who was permitted to intervene, stated that the clerical error in his campaign reports should not disqualify him for the ballot, where his AOI did not contain any false statements. Defendants also opposed plaintiff's arguments.

The trial court ruled in relevant part that Greimel's statements in his AOI had complied with MCL 168.588(4), where he had filed the required campaign reports as of the date of his AOI. The court observed that plaintiff had not identified any false statement in Greimel's AOI, and MCL 168.588(4) did not require that campaign reports must be filed without any errors. This appeal followed.

II. MANDAMUS

Plaintiff argues that the trial court erred in denying mandamus where the clerk had a clear legal duty to not certify Greimel's name for the ballot because his AOI contained a false statement, the evaluation of the false statement was a ministerial act, and no alternate remedy is available. We disagree.

This Court reviews a mandamus decision for an abuse of discretion. *Wilcoxon v City of Detroit Election Comm'n*, 301 Mich App 619, 630; 838 NW2d 183 (2013) (citation omitted). The Court applies de novo review to any related issue of statutory interpretation. *PT Today, Inc v Comm'r of Office of Fin & Ins Servs*, 270 Mich App 110, 133; 715 NW2d 398 (2006) (citation omitted). Also, whether a defendant has a clear legal duty to perform is a question of law reviewed de novo. *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016) (citation omitted).

"To obtain a writ of mandamus the plaintiff must show that it has a clear legal right to the performance of the specific duty sought to be compelled and that the defendant has a clear legal duty to perform the act." *Stand Up for Democracy v Secretary of State*, 492 Mich 588, 618; 822 NW2d 159 (2012) (citation omitted). The plaintiff also must show that "the act is ministerial," and that "no other adequate remedy exists." *Twp of Casco v Secretary of State*, 472 Mich 566, 621; 701 NW2d 102 (2005) (citations omitted) (YOUNG, J., concurring).

Plaintiff argues that he has a clear legal right to have Greimel removed from the ballot, and that the clerk has a clear legal duty to remove him, because two campaign reports listed his former

Auburn Hills address such that Greimel did not comply with MCL 168.558(4).¹ This issue requires this Court to interpret MCL 168.558(4).

This Court's primary task in interpreting and applying a statute is to perceive and give effect to the Legislature's intent. *Bauer v Saginaw Co*, 332 Mich App 174, 199; 955 NW2d 553 (2020) (citation omitted). The words of the statute are the most reliable evidence of the Legislature's intent and this Court must give each word its plain and ordinary meaning. *Safdar v Aziz*, 327 Mich App 252, 261; 933 NW2d 708 (2019) (citation omitted). "In interpreting the statute at issue, [this Court] consider[s] both the plain meaning of the critical words or phrase as well as 'its placement and purpose in the statutory scheme.'" *Sun Valley Foods Co v Ward*, 460 Mich 230, 237; 596 NW2d 119 (1999), quoting *Bailey v United States*, 516 US 137, 145; 166 S Ct 501; 133 L Ed 2d 472 (1995). When a statute's language is clear, the Legislature must have intended the meaning clearly expressed, and the statute must be enforced as written. *Anaya v Betten Chevrolet, Inc*, 330 Mich App 210, 219; 946 NW2d 560 (2019) (citations omitted).

MCL 168.558(4) provides:

(4) An affidavit of identity must include a statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid; and a statement that the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both. If a candidate files the affidavit of identity with an officer other than the county clerk or secretary of state, the officer shall immediately forward to the county clerk 1 copy of the affidavit of identity by first-class mail. The county clerk shall immediately forward 1 copy of the affidavit of identity for state and federal candidates to the secretary of state by first-class mail. An officer shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section, or the name of a candidate who executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section.²

Therefore, where a candidate acknowledges false statements in the AOI, that is perjury, and an officer shall not certify such a candidate to the ballot. This Court has recently ruled that, under the plain language of MCL 168.558(4), "the Clerk's duty is clear—if a candidate's AOI contains a false statement, the Clerk cannot certify that candidate's name to the Election Commission." *Burton-Harris v Wayne Co Clerk*, __ Mich App __; __ NW2d __ (Docket

¹ Plaintiff relies exclusively on MCL 168.558(4). Plaintiff does not allege that Greimel's AOI failed to contain the information required by MCL 168.558(2), which requires that candidates provide their residential address, among other information. Our analysis therefore rests on MCL 168.558(4).

² The final sentence requiring a clerk not to certify a candidate was added to the statute in a 2018 amendment. 2018 PA 650.

No. 353999, issued May 7, 2021); slip op at 9. In other words, “[t]he failure to supply a facially proper affidavit of identity (AOI), i.e., an affidavit that conforms to the requirements of the Election Law, is a ground to disqualify a candidate from inclusion on the ballot.” *Stumbo v Roe*, 332 Mich App 479, 480; 957 NW2d 830 (2020) (citation omitted).

MCL 168.558(4) requires a candidate to attest in an AOI: (1) that as of the date of the AOI, all statements, reports, late filing fees, and fines required of the candidate or committee have been filed or paid; and (2) that the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine and/or imprisonment. Candidates are required to strictly comply with MCL 168.558. *Nykoriak v Napoleon*, __ Mich App __; __ NW2d __ (Docket No. 354410, issued October 22, 2020); slip op at 5.

Greimel’s AOI included the first requisite statement that “as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee . . . have been filed or paid . . .” It also included the second required statement that “the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both.” In this regard, Greimel’s AOI strictly complies with the requirements of MCL 168.558(4).

Plaintiff does not contend that Greimel’s AOI contained a false statement related to the filing of campaign reports and campaign statements, or to the payment of late filing fees or fines. Plaintiff also does not allege that Greimel failed to acknowledge potential perjury and its resulting penalties. Because both statements appear in Greimel’s AOI, and plaintiff does not allege that either is false, we conclude that the trial court correctly found that Greimel did not make a false statement in his AOI that would trigger a duty to not certify Greimel’s name to the election commissioners.³

Greimel’s campaign reports, not his AOI, contained the erroneous citation to his former Auburn Hills address. MCL 168.558(4) does not address the requirements for a candidate’s campaign reports, nor does it indicate that a clerk should not certify a candidate if the campaign reports contain errors such as the clerical error in this case. Similarly, MCL 168.558(4) does not provide that making a false statement in a campaign report constitutes perjury. Because the plain language of MCL 168.558(4) does not address clerical errors in campaign reports, plaintiff’s attempt to rely on that statute must fail.

We also observe that the campaign finance act sets forth a specific penalty for an error in a campaign statement as follows:

- (7) If a candidate, treasurer, or other individual designated as responsible for the record keeping, report preparation, or report filing for a committee required to file a campaign statement under subsection (1) knowingly files an incomplete or

³ MCL 168.558(4) further provides that an officer shall not certify a candidate who executes an AOI that contains a false statement with regard to any information or statement required under this section. As illustrated above, the AOI itself did not contain a false statement. The clerk therefore was not under a legal duty to refrain from certifying Greimel.

inaccurate statement or report required by this section, that individual is subject to a civil fine of not more than \$1,000.00. [MCL 169.235(7).]

Therefore, Greimel may have been liable for a civil fine for the inaccuracy in his campaign reports, but it does not follow that his name must not be certified as a candidate as a result. This conclusion is supported by MCL 168.558(6), which provides that “[a] violation of [MCL 168.558] for perjury is distinct and separate from any violation of the Michigan campaign finance act” We reject plaintiff’s attempt to conflate the two separate statutes and their distinct penalties.

Our most recent cases addressing MCL 168.558(4) are in line with the above analysis. In *Burton-Harris*, this Court ruled that the clerk would have had a duty to not certify the candidate if the trial court had determined that the candidate actually had falsely attested in her AOI that all campaign reports had been filed. *Burton-Harris*, slip op at 10. In contrast, here the trial court correctly determined that Greimel did not make a false statement in his AOI; therefore, the clerk’s duty not to certify was not triggered.

The *Nykoriak* Court determined that the candidate’s AOI strictly complied with the notarization requirements and the AOI contained all of the remaining statutory requirements. *Nykoriak*, slip op at 7. The same is true here, where Greimel’s AOI satisfied the statutory requirements. Additionally, this Court in *Stumbo* concluded that the alleged defect in the AOI, that the candidate’s signature date differed from the notarization date, did not constitute a fatal defect such that the officer was obliged to certify the candidacy to the election commissioners. *Stumbo*, 332 Mich App at 479. Here, like *Stumbo*, Greimel filed a compliant AOI; therefore, the clerk correctly certified his candidacy to the election commissioners.

In sum, Greimel’s AOI did not contain a false statement, as the error relied on by plaintiff was confined to two of Greimel’s campaign reports. Michigan’s statutory scheme provides a separate civil fine as an optional remedy for an inaccuracy in a candidate’s campaign reports and neither the campaign finance act nor MCL 168.558(4) provide that an error in a campaign report should result in a candidate not being certified. Where the AOI does not reflect a false statement, the clerk did not have a duty to not certify Greimel’s name to the commission, and plaintiff has not shown that he is entitled to the extraordinary remedy of mandamus.⁴

III. DECLARATORY RELIEF

Plaintiff also argues that the trial court should have granted declaratory relief as an alternative to mandamus, and offers the same substantive arguments in support of declaratory relief

⁴ In light of our conclusion that plaintiff’s suit must fail for lack of a clear legal duty, it is unnecessary for this Court to address defendants’ arguments that the doctrine of laches should bar relief, that the commission cannot be compelled to perform a legal duty at this juncture, or that plaintiff had an available alternate legal remedy in a *quo warranto* action.

as he does for mandamus. In light of our conclusion that plaintiff is not entitled to relief pursuant to the plain language of MCL 168.558(4), he would not prevail in a declaratory action.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto
/s/ Colleen A. O'Brien

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MATTIE MCKINNEY HATCHETT,
Plaintiff,

v.

Case No. 21-187935-AW
Hon. Yasmine I. Poles

PONTIAC ELECTION COMMISSION,
GARLAND DOYLE, ANTHONY K CHUBB,
and SEKAR BAWA,
Defendant,

**ORDER GRANTING IN PART PLAINTIFF'S MOTION FOR
DECLARATORY RELIEF AND WRIT OF MANDAMUS**

This matter having come before the Court on Plaintiff Mattie McKinney Hatchett's Complaint for Declaratory Relief and Writ of Mandamus, Motion for Declaratory Relief and Writ of Mandamus, First Amended Complaint for Declaratory Relief and Writ of Mandamus, and Renewed Motion for Declaratory Relief and Writ of Mandamus; the Court having conducted an evidentiary hearing on May 26, 2021 and having taken testimony in open court; and the Court being otherwise fully-advised in the premises;

IT IS HEREBY ORDERED that, for the reasons stated on the record, Plaintiff Hatchett's Motion for Declaratory Relief and Writ of Mandamus is GRANTED IN PART;

IT IS FURTHER ORDERED based on the representations of the members of the Pontiac Election Commission at the May 26, 2021 hearing, the members of the Pontiac Election Commission shall second a motion to approve the proposed ballot in its current form as they testified was their intention.

IT IS FURTHER ORDERED that the Pontiac Election Commission shall meet as soon as possible and approve the proof ballot as prepared by the Oakland County Director of Elections and transmitted to Clerk Doyle on or about May 20, 2021;

IT IS FURTHER ORDERED that no substantive changes are to be made to the list of certified candidates on the proposed ballot as originally certified by Clerk Doyle. Only typographical changes may be made to the proof ballot that was prepared by the Oakland County Director of Elections;

IT IS FURTHER ORDERED that the Court will retain jurisdiction in this matter for the purpose of ensuring compliance with this Order.

This is a final order that resolves the last pending claim and closes the case.

IT IS SO ORDERED.

May 28, 2021
Date

/s/ Yasmine I. Poles
Hon. Yasmine I. Poles, Circuit Court Judge

If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN
COURT OF APPEALS

MATTIE McKINNEY HATCHETT,

Plaintiff-Appellee,

v

PONTIAC CITY ELECTION COMMISSION,

Defendant-Appellant,

and

GARLAND DOYLE,

Defendant-Appellee,

and

ANTHONY K. CHUBB and SEKAR BAWA,

Defendants.

UNPUBLISHED

June 11, 2021

No. 357434

Oakland Circuit Court

LC No. 2021-187935-AW

Before: CAVANAGH, P.J., and SERVITTO and O'BRIEN, JJ.

PER CURIAM.

The Pontiac City Election Commission appeals as of right from the circuit court's order granting plaintiff mandamus relief and ordering it to approve ballots for the upcoming primary election which did not include the name of the city's current mayor Deirdre Waterman as a candidate for mayor. We affirm.

The relevant facts are not in dispute. Plaintiff is a resident of the City of Pontiac. Defendant Doyle is Pontiac's city clerk, defendant Chubb is Pontiac's city attorney, and defendant Bawa is Pontiac's treasurer. Pursuant to Pontiac's city charter, the Pontiac City Election Commission is made up of the city clerk, attorney, and treasurer.

Dr. Deirdre Waterman is the current mayor of Pontiac. On April 13, 2021 Waterman filed her nominating petitions and affidavit of identity with the Pontiac city clerk so that she would be listed as a candidate for mayor in the upcoming August 3, 2021 primary election. The affidavit of identity [AOI] includes the following statements followed by Waterman's notarized signature:

I swear, or affirm, that the facts I have provided and the facts contained in the statement set forth below are true.

At this date, all statements, reports, late filing fees, and fines due from me or any Candidate Committee organized to support my election to office under the Michigan Campaign Finance Act, PA 388 of 1976, have been filed or paid.

I acknowledge that making a false statement in this affidavit is perjury - a felony punishable by a fine up to \$1,000.00 or Imprisonment for up to 5 years, or both and may result in disqualification from the ballot (MCL 168.558, 933, and 936). [italics original].

The relevant part of MCL 168.558(4) states:

An affidavit of identity must include a statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid *An officer shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section, or the name of a candidate who executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section.* [emphasis added].

The Pontiac city clerk is the officer who is tasked with certifying the names of candidates to the Pontiac City Election Commission for placement on the ballot. Plaintiff challenged Waterman's eligibility to appear on the ballot, asserting that Waterman's AOI contained false statements because as of April 13, 2021 she had failed to file approximately two years' worth of campaign finance disclosure statements as required by the campaign finance act. Defendant Doyle, as city clerk, reviewed the challenges filed against certification of the proposed candidates, including Dr. Waterman. He verified that Waterman or her campaign failed to file the following reports required by the campaign finance act: a 2020 annual report, a 2020 October quarterly report, a 2020 July quarterly report, a 2019 annual report, a 2019 October quarterly report, and a 2019 July quarterly report. Since Waterman's statement on her AOI that she had filed those required documents was false, defendant Doyle did not certify Waterman to the election commission as a candidate for mayor.

When defendant Doyle presented his certification report to the election commission, defendant Chubb moved to amend the meeting agenda to allow the commission to resolve to amend the candidate certification list. Defendant Bawa seconded the motion, and the commission voted over Doyle's objections to allow the commission to amend the certification list before

approving the list of candidates. After defendant Doyle presented his certification report and explained the reasons for not certifying specific candidates, defendant Chubb moved to amend the list of certified candidates to include Waterman as a candidate for mayor. Defendant Bawa seconded that motion. Defendant Doyle objected, arguing that the commission was acting beyond the scope of its authority. Chubb and Bawa then voted to add Waterman to the primary ballot as a candidate for mayor.

In response to the election commission's vote to add Waterman's name to the ballot, plaintiff filed her complaint for declaratory and mandamus relief, asking the circuit court to order the commission to approve ballots containing only the names of candidates certified by the city clerk. After an evidentiary hearing the circuit court ordered the election commission to meet as soon as possible and approve the proof ballot prepared by the Oakland County Director of Elections, which contained only the names of candidates certified by the city clerk. The court ordered that no substantive changes be made to the list of certified candidates on the proposed ballot as originally certified by the city clerk. The election commission then met and approved the ballots without Deirdre Waterman's name listed as a candidate for mayor. The proof ballots omitting Dr. Waterman's name were sent to the printer on June 4, 2021, three days before appellant commission filed its claim of appeal on June 7, 2021. The final printed ballots were delivered to the city clerk on June 8, 2021.

Appellant appeals the circuit court's order, arguing that defendant Doyle exceeded his authority as clerk by refusing to certify Waterman as a candidate for mayor and that that the commission properly corrected the clerk's error. We affirm the circuit court's order.

First, we find that appellant's appeal is moot. An issue becomes moot where interim relief or subsequent events have made it impossible for the appellate court to provide a remedy. *Garrett v Washington*, 314 Mich App 436, 449; 886 NW2d 762 (2016). The ballots in question have been sent to the printer, printed, and delivered to the City of Pontiac for mailing to absentee voters. There is no dispute that on April 13, 2021 Deirdre Waterman submitted an AOI swearing or attesting under penalty of perjury that she had filed all statements and reports required by the campaign finance act. It is a matter of public record and not in dispute that Waterman did not file statements required by the campaign finance act for two years before signing her AOI. Regardless of whose duty it was to investigate or make determinations, there is no dispute that Waterman made material false statements on her AOI and so cannot be certified as a candidate for Mayor on the August 3, 2021 primary ballot. Since the ballots have been prepared and correctly omit Waterman's name, whether the city clerk and election commission followed proper procedures or exceeded their powers present moot issues which need not be addressed.

Furthermore, appellant brought its appeal unnecessarily late under the circumstances of this case. The circuit court's order was issued May 28, 2021 and the ballots were presented to the printers on Friday June 4, 2021. Appellant did not file its appeal until late afternoon on June 7, 2021 only one day before the printed final ballots were delivered to the city clerk for mailing to absentee voters. Granting relief to appellant at this point would cause substantial prejudice to appellees and the City of Pontiac because they would need to pursue last-minute printing of revised ballots on an expedited basis and engage in additional effort to ensure that absentee ballots were mailed by the June 19, 2021 deadline. Accordingly, even if the commission's appeal is not moot,

it is barred by laches. *Burton-Harris v Wayne County Clerk*, __ Mich App __; __ NW2d __ (2021) (Docket No. 353999) slip op at 10.

Finally, appellant has presented nothing which suggests that the circuit court abused its discretion or otherwise erred by ordering the Pontiac City Election Commission members to approve the ballots without Waterman's name as a candidate for Mayor.

The filing of nominating petitions, AOIs, and other documents by a potential candidate is governed by MCL 168.558. *Burton-Harris*, slip op p 8. Candidates and public officials must strictly comply with the requirements of MCL 168.558. *Nykoriak v Napoleon*, __ Mich App __; __ NW2d __ (2020) (Docket No. 354110), slip op at 5. MCL 168.558(4) specifically states that "An officer shall not certify to the board of election commissioners ... the name of a candidate who executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section." Recently this Court has noted that the last sentence of subsection (4), amended by 2018 PA 650, contradicts earlier unpublished caselaw suggesting that that the city clerk could only review the facial validity of the AOI. *Burton-Harris*, slip op at 9. "Under the unambiguous language of the amended statute, the Clerk's duty is clear—if a candidate's AOI contains a false statement, the Clerk cannot certify that candidate's name to the Election Commission." *Id.*

Defendant Doyle, as city clerk, was the officer responsible for receiving AOIs with regard to city elections and certifying candidates to the board of election commissioners. Waterman's affidavit contained the false statement that she had filed all necessary statements and reports required by the campaign finance act. Accordingly, under the plain language of MCL 168.558(4), defendant Doyle could not certify Waterman as a candidate for mayor to the board of election commissioners. Defendant Doyle properly complied with his statutory duty, and the commission could not certify Waterman under the guise of correcting a nonexistent error.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto
/s/ Colleen A. O'Brien