

RECEIVED

NOV 05 2019



BOARD OF SUPERVISORS OF ELECTIONS CITY CLERK'S OFFICE
COMPLAINT FORM

PLEASE PRINT ALL INFORMATION

Name of Complainant Michelle Whittaker

Street Address 3203 UNIVERSITY Blvd W Apt 22

City Kensington State MD Zip 20895

Daytime Phone Number 2027018420 Fax Number _____

E-mail Address michelle@mcwcreativegrp.com

Complaint against the following person(s) (include contact information, if known): _____

Kuan Lee

Section of Chapter 8 - Elections allegedly violated: Electonearm in vote center and giving assistance without voter declaration

Please explain the basis for your complaint. If necessary, attach additional sheets.

A Kuan Lee supporter repeatedly walked voters into the voting center in city hall while talking to them about Rockville Forward slate. I also saw her inside the voting center standing next to voters in the voting booth assisting voters. She never declare herself to assist and after Election judges warned her she continued to do so.

Date alleged violation occurred: 11/5/2019

I, Michelle Whittaker, hereby declare, under the penalties of perjury, that the information provided in connection with this complaint is, to the best of my knowledge, true and correct.

[Signature]
Signature of Complainant

11/5/19
Date

City Clerk's Office Use Only
Date & Time Received:



Photos by [unreadable]



**Board of Supervisors of Elections
Minutes
Black-Eyed Susan Conference Room
Monday, November 11, 2019 1:00 PM**

The Board of Supervisors of Elections convened in open session at its duly advertised meeting held on Monday, November 11, 2019 at 1:00 p.m. in the Black-Eyed Susan Conference Room, City Hall, 111 Maryland Avenue, Rockville, Maryland.

Present

Chair Lois Neuman, Boardmembers Graham Johnson, Robert Kurnick, Sofya Orlosky, and Stephen Weiner.

City Attorney Debra Daniel, Sara Taylor-Ferrell City Clerk/Director of Council Operations.

After convening in open session, the Board voted in open session to meet in closed session to consult with counsel to obtain legal advice pursuant to Section 3-305(b)(7) of the General Provisions Article of the Annotated Code of Maryland.

Boardmember Kurnick made the motion to convene in closed session, which was seconded by Boardmember Johnson and passed unanimously.

Closed Session Summary

The Board obtained legal advice from City Attorney Debra Daniel regarding four complaints received to the Board from Drew Powell, Kuan Lee, Donald Masters and Michelle Whittaker.

Boardmember Johnson moved to adjourn the closed session. Boardmember Weiner seconded the motion, and the motion passed unanimously.

The Closed Session adjourned at 1:50 p.m.

Open Meeting Minutes

The Board reconvened into Open Session at 1:50 p.m. and welcomed all those present.

The Board discussed the complaint from Michelle Whittaker submitted November 5, 2019, and asked that she follow-up with more information on the person in question identified in the complaint. The Board tabled the decision until more information became available for discussion.

Future Meetings

Wednesday, November 20, 2019 (6:00 p.m. – 8:00 p.m.)

Tuesday, November 26, 2019 (6:00 p.m. – 8:00 p.m.)

Thursday, December 5, 2019 (6:00 p.m. – 8:00 p.m.)

Tuesday, December 10, 2019 (6:00 p.m. – 8:00 p.m.)

Thursday, December 19, 2019 (6:00 p.m. – 8:00 p.m.)

Adjournment

There being no further business, the meeting adjourned at 3:00p.m.

Motion: to adjourn.

Moved by Boardmember Johnson, seconded by Boardmember Orlosky, and approved unanimously.

November 7, 2019

City of Rockville
111 Maryland Ave
Rockville, MD 20850

Rockville Board of Supervisors of Election / City Clerk:

Please consider this letter as my formal challenge to
the results of the November 5, 2019 Rockville City
Election.

Sincerely,



Kuan Lee
209 Poplar Spring Rd
Rockville, MD 20850



Fax Cover Sheet

Date 11/7/19

Number of pages 2 (including cover page)

To:

From:

Name ~~Rockville~~ City of Rockville

Name Roma Inc

Company _____

Company _____

Telephone _____

Telephone _____

Fax 240 314 8289

Comments _____


7 90363 00711 1
Fax - Local Send


7 90363 00714 2
Fax - Domestic Send


7 90363 00720 3
Fax - International Send

fedex.com 1.800.GoFedEx 1.800.463.3339



City of Rockville
111 Maryland Avenue
Rockville, Maryland
20850-2364
www.rockvillemd.gov

240-314-5000
TTY 240-314-8137

November 21, 2019

Mr. Kuan Lee
209 Poplar Spring Road
Rockville, Maryland 20850

Dear Mr. Lee,

This is in response to your challenge to the results of the City of Rockville's 2019 Election dated November 7, 2019. The Board of Supervisors of Elections reviewed your challenge at its meeting on November 11, 2019, and has determined that you have provided no factual or legal bases for your challenge. Based on the foregoing, the Board has dismissed your challenge.

Pursuant to Section 8-41(m) of the Rockville City Code, any person aggrieved by this decision of the Board may appeal to the Circuit Court for the County, according to the Maryland Rules governing administrative appeals.

Sincerely,

Dr. Lois Neuman, Chair
Board of Supervisors of Elections
City of Rockville

MAYOR

Bridget Denrell Newton

COUNCIL

Boris E. Feinberg
Virginia D. Orley
Mark Pierzchala

CITY MANAGER

Robert Disprito

CITY CLERK

DIRECTOR OF COUNCIL OPERATIONS

Sara Taylor Ferrell

CITY ATTORNEY

Debra Yerg Danzel

RECEIVED

NOV 07 2019

CITY CLERK'S OFFICE

4:53 SELF

November 7, 2019

City of Rockville
111 Maryland Avenue
Rockville, MD 20850
Attn: Rockville Board of Supervisors of Elections
and Office of the City Clerk

Re: Formal filing of challenge of November 5, 2019 Rockville City Election results

Rockville Board of Supervisors of Elections/City Clerk:

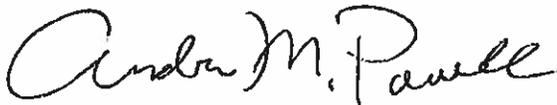
Pursuant to ARTICLE III. - CONDUCT OF ELECTIONS, Section 8-41. - Election procedures generally, subparagraph (k),

all challenges to the results of an election shall be submitted to the Board of Supervisors of Elections within forty-eight (48) hours of the initial announcement of the results,

this letter and thirty-one (31) page attachment, which was submitted on November 4, 2019, constitute my formal challenge of the results of the November 5, 2019 Rockville City Election.

Thank you for your attention to this matter.

Sincerely,



Andrew M. Powell
1035 Carnation Drive
Rockville, MD 20850

From the desk of Drew Powell
1035 Carnation Drive, Rockville, Maryland 20850
Phone: 301-520-2642 • email: drewpowell@verizon.net

November 4, 2019

Office of the State's Attorney
Montgomery County Maryland
50 Maryland Avenue
5th Floor, North Tower
Rockville, MD 20850
Attn: John McCarthy,
State's Attorney
states.attorney@montgomerycountymd.gov

Maryland State Board of
Elections
151 West Street,
Suite 200
Annapolis, MD 21401
Attn: Michael R. Cogan,
Chairman
info.sbe@maryland.gov

Montgomery County Board of
Elections
18753 North Frederick Avenue
Suite 210
Gaithersburg, MD 20879
Attn: Margaret Jurgensen,
Election Director
elections@montgomerycountymd.gov

Re: Erroneous/Falsified Candidate Certification in 2019 City of Rockville Election

Dear Concerned State and/or County Official,

As you know, the City of Rockville is conducting the first "vote-by-mail" election in the State of Maryland. In addition to several documented procedural irregularities and election costs, which currently exceed \$355K, there were at least TWO persons, both running on the same slate, that were erroneously certified as candidates, who in fact, did not secure the mandated number of valid signatures on their "City of Rockville – Nomination Petitions."

According to established City of Rockville Election procedures:

A person wishing to appear on the ballot as a candidate must be nominated via a petition meeting certain requirements and approved by the Board of Supervisors of Elections:

(a) The petition must be filed with the Board of Supervisors of Elections at least sixty (60) calendar days preceding the general election. The 2019 filing deadline is Friday, September 6.

(b) The petition must be signed by at least one hundred (100) registered voters who reside within the incorporated limits of the City of Rockville.

(Above found at: <https://www.rockvilleind.gov/DocumentCenter/View/35231/Candidate-Packet-2019>)

With the use of the "must" in stipulation (b) above, the City of Rockville makes it clear that the "one hundred (100) registered voters who reside within the incorporated limits of the City of Rockville" requirement is a legally binding mandatory obligation placed upon the prospective candidate in order to potentially qualify to run for elected office in the City of Rockville.

For the 2019 election cycle, most candidates were held to a rigorous standard regarding their official City of Rockville – Nomination Petitions. Signatories of candidate petitions were not counted if they were not registered voters, who resided within the incorporated limits of the City of Rockville or who failed other requirements (the way in which the form had been filled out). One candidate in particular obtained well in excess of the required one hundred signatures, but had to discard those and obtain all new signatures, because that candidate had used City of Rockville – Nomination Petitions from the 2015 election cycle.

Candidate **James Hedrick**, a member of the "Team Rockville" slate, received a total of 111 signatures on his official City of Rockville – Nomination Petitions. 101 were deemed to be valid by the Rockville City Clerk's office as well as by the Rockville Board of Supervisors of Elections (BSE). In fact, Mr. Hedrick only received 92 valid signatures falling short of the required 100 signatures by 8. Reviewing Page 12 of Mr. Hedrick's official City of Rockville – Nomination Petitions is missing any reference to the candidate, legally invalidating the page. Page 12 is devoid of the mention of Mr. Hedrick's name anywhere on the page. There would have been no way for signers to know who they were requesting to be placed on the ballot. How were the Rockville City Clerk Office or BSE officials to know to whom to attribute this page (Page 12)? In a scenario, were election documents became comingled, how would anyone know to whom to attribute Page 12? Therefore, the nine signatures on Page 12 cannot be counted toward Mr. Hedrick's total, leaving only 92 valid signatures. See Appendix A.

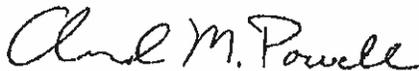
Candidate **David Eric Myles**, a member of the "Team Rockville" slate, received a total of 120 signatures on his official City of Rockville – Nomination Petitions. 102 were deemed to be valid by the Rockville City Clerk's office as well as by the Rockville Board of Supervisors of Elections (BSE). In fact, Mr. Myles only received 99 valid signatures. At least 3 signatures on Mr. Myles official City of Rockville – Nomination Petitions were either from non-City of Rockville residents or people, who are not registered to vote. See Appendix B and C.

According to City of Rockville Election code and rules as set forth in the Official Candidate Packet, a person, who does not fulfil the requirements for valid signatures on their official City of Rockville – Nomination Petitions by September 6, 2019 will not be a candidate in a City of Rockville Election, whether that person has erroneously been placed on the ballot or not.

This matter also calls into question procedures and methods employed by the Rockville City Clerk's Office and the Rockville Board of Supervisors of Elections (BSE). A complete audit and review of these procedures may be required.

Thank you for your attention in this matter.

Most sincerely,



Andrew M. Powell
1035 Carnation Drive
Rockville, MD 20850

cc:

City of Rockville
111 Maryland Avenue
Rockville, MD 20850
Attn: Mayor and Council
mayorcouncil@rockvillemd.gov
clerk@rockvillemd.gov
lhneuman@verizon.net

Attachments: Appendices A, B and C

Sara Taylor-Ferrell

From: Drew Powell <drewpowell@yahoo.com>
Sent: Monday, November 11, 2019 12:37 PM
To: elections; Lois Neuman
Cc: mayorcouncil; clerk; citymanager
Subject: Formal Challenge to 2019 Rockville City Election
Attachments: Challenge_Letter_Receipt_with attachments_11-07-19.pdf

November 11, 2019

Rockville Board of Supervisors of Elections:
111 Maryland Avenue
Rockville MD, 20850

Re: Formal Challenge to 2019 Rockville City Election

Rockville Board of Supervisors of Elections:

At least one formal challenge was filed with the Rockville Board of Supervisors of Elections and the Rockville City Clerk's Office prior to close of business on November 7, 2019.

A copy of the receipted challenge is attached to this email.

Please address the following questions prior to close of business today (November 11, 2019):

- 1.) Why did the Rockville Board of Supervisors of Elections fail to notify the Rockville Mayor and Council of this challenge?
- 2.) Why did the Rockville Board of Supervisors of Elections fail to notify all 2019 City of Rockville Election candidates of this challenge?
- 3.) When do you plan to notify the Rockville Mayor and Council and all 2019 City of Rockville Election candidates of this challenge?
- 4.) Were select candidates or entities informed of this challenge officially or unofficially via email, text or phone conversation?
- 5.) Will this and other possible challenges be fully adjudicated *prior* to the Rockville Board of Supervisors of Elections' certification of Election results?
- 6.) Although November 12, 2019 is mentioned at <https://www.rockvillemd.gov/415/Voting-Elections> as the date that "Certified results [will be] announced," there's seems to be no indication of the exact time or location of the certification process in order that the public may attend, which could facilitate transparency. Exactly what is the time and location is the Rockville Board of Supervisors of Elections' Certification of Results to take place?

Thank you in advance for providing responses to the above concerns.

As a courtesy, this email was blind copied to all 2019 Rockville City Election candidates.

Sincerely,

Drew Powell

Sara Taylor-Ferrell

From: Sara Taylor-Ferrell
Sent: Monday, November 11, 2019 4:05 PM
To: Drew Powell; elections; Lois Neuman
Cc: mayorcouncil; clerk; citymanager
Subject: RE: Formal Challenge to 2019 Rockville City Election

Mr. Powell:

The Board of Supervisors of Elections (Board) met today and authorized me to send you the following response to your email below.

The Board first notes that your allegations do not constitute a "challenge" to the election results under the City Code. This is underscored by the fact that your allegations were originally sent to the County and State on November 4, 2019. The Board finds that your allegations are actually a complaint. A formal written response to your complaint will be forthcoming.

With respect to your questions below regarding why certain individuals were not notified of your complaint, the Board does not, as a matter of course, notify the Mayor and Council nor the candidates on the ballot of complaints as they come in. The Board notifies individuals of complaints as necessary to make a determination on the merits. As far as the Board is aware, no "candidates or entities" were informed of your complaint beyond those you notified.

Your complaint was decided prior to certifying the election results which took place today. As stated above, a formal response to you will be sent as soon as it is finalized and approved by the Board.

Sara Taylor-Ferrell
City Clerk/Director of Council Operations

City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850
Office 240-314-8283
EFax 240-403-9283

From: Drew Powell <drewpowell@yahoo.com>
Sent: Monday, November 11, 2019 12:37 PM
To: elections <elections@rockvillemd.gov>; Lois Neuman <lhneuman@verizon.net>
Cc: mayorcouncil <mayorcouncil@rockvillemd.gov>; clerk <clerk@rockvillemd.gov>; citymanager <citymanager@rockvillemd.gov>
Subject: Formal Challenge to 2019 Rockville City Election

November 11, 2019

Rockville Board of Supervisors of Elections:
111 Maryland Avenue
Rockville MD, 20850

Re: Formal Challenge to 2019 Rockville City Election

Rockville Board of Supervisors of Elections:

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- 3.) When do you plan to notify the Rockville Mayor and Council and all 2019 City of Rockville Election candidates of this challenge?
- 4.) Were select candidates or entities informed of this challenge officially or unofficially via email, text or phone conversation?
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- 6.) Although November 12, 2019 is mentioned at <https://www.rockvillemd.gov/415/Voting-Elections> as the date that "Certified results [will be] announced," there's seems to be no indication of the exact time or location of the certification process in order that the public may attend, which could facilitate transparency. Exactly what is the time and location is the Rockville Board of Supervisors of Elections' Certification of Results to take place?

Thank you in advance for providing responses to the above concerns.

As a courtesy, this email was blind copied to all 2019 Rockville City Election candidates.

Sincerely,

Drew Powell



City of Rockville
 111 Maryland Avenue
 Rockville, Maryland
 20850-2361
 www.rockvillemd.gov

240-314-5000
 TTY 240-314-8137

November 21, 2019

Mr. Andrew Powell
 1035 Carnation Drive
 Rockville, MD 20850

Dear Mr. Powell,

This is in response to your complaint which was submitted to the Board on November 7, 2019. The Board of Supervisors of Elections reviewed your allegations at its meeting on November 11, 2019, and has dismissed your complaint for the reasons set forth below. While you have characterized your complaint as a "challenge of [the] November 5, 2019 Rockville City Election results," the Board notes that your allegations do not constitute a "challenge" to the election results under the City Code. This is underscored by the fact that your allegations were originally sent to the County and State on November 4, 2019, the day before election day. Since the basis of your "challenge" existed prior the posting of the election results, the Board finds that your allegations are actually a complaint.

Your complaint sets forth allegations that two candidates, James Hedrick and David Myles, did not obtain the 100 signatures required by Article III, Section 3 of the City Charter. Specifically, you allege that because Page 12 of Mr. Hedrick's petition did not have his name filled in at the top of the page, the 22 signatures on that page should not be counted towards the 100 signatures and, therefore, Mr. Hedrick only obtained 92 signatures. With respect to Mr. Myles, you allege that, while the City deemed 102 of the signatures collected by Mr. Myles to be valid, you have determined that three of the 102 signatures were either from non-City of Rockville residents or from people not registered to vote and, therefore, Mr. Myles only obtained 99 signatures.

Since your allegations constitute a complaint, the Board finds that your complaint is untimely under the Board's Administrative Complaint Procedure (Complaint Procedure). Specifically, the Complaint Procedure states as follows:

A complaint must be filed within 20 calendar days after the occurrence of the actions or events that form the basis for the complaint. If a complaint is filed later than 20 calendar days after the occurrence, the complaint must set forth the extenuating circumstances for the late filing. The Board of Supervisors of Elections may, at its sole discretion, decide whether to consider a late-filed complaint.

Both Mr. Hedrick and Mr. Myles were certified as candidates on May 15, 2019. It is the Board's understanding from the City Clerk's staff that you obtained copies of Mr. Hedrick's and Mr. Myles' petition and signatures on September 12, 2019. Using either of these dates, it is clear that your filing of this complaint with the Board on November 7, 2019, is well-beyond 20 calendar days after the occurrence. In addition, you did not provide the Board with any extenuating circumstances for the late filing. Based on these facts, the Board finds that your complaint is untimely.

MAYOR

Bridget Donnell Newton

COUNCIL

Beryl L. Feunberg
 Virginia D. Onley
 Mark Pierzchala

CITY MANAGER

Robert DiSpirito

CITY CLERK

DIRECTOR OF COUNCIL OPERATIONS
 Sara Taylor Ferrell

CITY ATTORNEY

Debra Yerg Daniel

Moreover, well-settled Maryland law supports the Board's additional finding that your complaint is barred by the equitable doctrine of laches. Laches applies when there is an unreasonable delay in the assertion of one's rights and that delay results in prejudice to the opposing party. In the context of election cases, the Court of Appeals has said that any claim must be "expressed expeditiously." This is because once a jurisdiction has expended resources and made irrevocable decisions (such as printing a ballot), there is prejudice to the jurisdiction. The Maryland Court of Appeals has stated that, in election cases, the delay in raising a claim against the eligibility of a candidate not only prejudices the candidate, it also prejudices the jurisdiction and even the electorate because it interferes with the rights of voters. In this case, the complaint was filed two days after the election. In accordance with the Court of Appeals precedent, the Board finds that this complaint is untimely and barred by laches.

Pursuant to Section 8-41(m) of the Rockville City Code, any person aggrieved by this decision of the Board may appeal to the Circuit Court for the County, according to the Maryland Rules governing administrative appeals.

Sincerely,

A handwritten signature in black ink, appearing to read "Lois Neuman", with a long horizontal stroke extending to the right.

Dr. Lois Neuman, Chair
Board of Supervisors of Elections
City of Rockville

RECEIVED

NOV 8 2019

City Attorney's Office

Donald A. Masters
307 Seth Place
Rockville, MD 20850
240-292-8175
masters.donald@gmail.com

November 7, 2019

By Hand Delivery

Ms. Debra Yerg Daniel
City Attorney
City of Rockville
111 Maryland Avenue
Rockville MD 20850

Re: 2019 Election

Dear Ms: Yerg Daniel,

Pursuant to my protestations and verbal complaint to staff, and subsequent complaint to the assistant city attorney on election day 2019, neither of which were acknowledged or responded to, herein please accept this letter as my formal complaint.

On election day, November 5, 2019, I was directed to Ms. Judy Penny as the Chief Election Judge for the Rockville City election poll so I may present my Certificate as an Election Challenger/Watcher. I was subsequently allowed to sit and watch the election room processes for a short period of time without being challenged. Subsequent to this, near the end of the election, officials of the USPS arrived with the last of the ballots collected by carriers on election day. As I followed them into city hall, they were met by several staff members and taken behind locked doors into city offices. As I followed, I was stopped by staff who refused me entry to watch the process despite my protestations and statement of having a certified right to "watch" the process, and was left outside of the locked city offices door.

Due to the refusal and lack of reasons for being refused, I am requesting that the City provide a list of the names of all persons, who through this election ballot collection process, handled, had access to, or were present where ballots were processed or exposed from secure containers inside city offices. For the sake of clarity, persons shall include but are not limited to: members of City officials, staff, employees both full-time and temporary, contractors, and others not herein defined.

THANK YOU!

Respectfully,



Donald A. Masters



City of Rockville
 111 Maryland Avenue
 Rockville, Maryland
 20850-2364
 www.rockvillemd.gov

240-314-5000
 TTY 240-314-8137

November 21, 2019

Mr. Donald Masters
 307 Seth Place
 Rockville, Maryland 20850

Dear Mr. Masters,

This is in response to your letter to Debra Yerg Daniel, City Attorney, regarding your complaint related to your efforts to watch the processing of ballots on November 5, 2019, the day of the election. The Board of Supervisors of Elections has reviewed your complaint and has dismissed your complaint for the reasons stated herein.

Preliminarily, it is important to note that, in accordance with well-settled election protocol and in accordance with the document you signed to become a watcher, a watcher is entitled to do the following:

- Enter the Vote Center at least 30 minutes before voting hours begin.
- Enter or be present in the Vote Center at any time during voting hours.
- Remain in the Vote Center until all post-voting tasks have been completed and the election judges leave the Vote Center.
- Be positioned near the election judges so that you may see and hear each voter as the voter checks in to vote.

It appears from your letter that you have misunderstood what a watcher is entitled to observe. As set forth above a watcher is entitled to be in the vote center to observe voters as they vote. You state in your letter that you tried to follow USPS and election officials into the secured area where ballots are kept for transportation to the ballot processing center. No member of the public, including a candidate, is allowed to access the secured area where ballots are kept. The only persons allowed in the secured area are the City Clerk and her staff and other election officials. Please note that none of the ballots are opened in the secured area.

The Board hopes that this clarifies why you were not provided access to the secured area.

Sincerely,

Dr. Lois Neuman, Chair
 City of Rockville Board of Supervisors of Elections

MAYOR
 Bridget Dounell Newton

COUNCIL
 Ben L. Feutberg
 Virginia D. Onley
 Mark Pierzchala

CITY MANAGER
 Robert DiSpirito

CITY CLERK
 DIRECTOR OF COUNCIL OPERATIONS
 Sara Taylor Fennell

CITY ATTORNEY
 Debra Yerg Daniel