

STATE OF WISCONSIN  
BEFORE THE ELECTIONS COMMISSION

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Faye Buchberger

824 W. Nelson Road

Kronenwetter, WI 54455

Complainant,

v.

Bobbi Birk-LaBarge

Clerk for the Village of Kronenwetter

1582 Kronenwetter Drive

Kronenwetter, WI 54455

Respondent

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COMPLAINANT'S REPLY

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Complainant submits the following Reply in response to Respondent's Response (dated September 25<sup>th</sup>, 2024), and in support of WEC Complaint EL 24-89:

**1. Response 1** from Birk-LaBarge has opened the contents of EL24-26 and EL 24-68 to be introduced as evidence into this case, EL 24-89. Therefore the documents and comments submitted by Birk-LaBarge are now allowable evidence in this case.

**2. Response 2** from Birk-LaBarge enclosed an email from the archives of Lee D. Turonie, counsel for the Village of Kronenwetter. It is dated October 10, 2023 at 4:30pm. It is unlabeled in the Respondent's materials and is on page 4 of the Respondent's response.

-It was sent to Vicki Coleman. Respondent does not make copy available which shows additional people this was emailed to. I believe that this email, or similar email, is what Complainant received on October 10, 2023.

## Lee D. Turonie

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**From:** Bobbi Birk-LaBarge <bbirklabarge@kronenwetter.org>  
**Sent:** Tuesday, October 10, 2023 4:30 PM  
**To:** Vicki Coleman  
**Subject:** Poll Workers Information

All:

Since this is an odd-numbered year, the political parties once again have the responsibility of submitting names of **poll workers** to the clerks. If any of my current poll workers would like to continue, please reach out to the party of your choice to be added to their lists. As of right now, I (the Village of Kronenwetter) officially have no poll workers – I have to wait to see what the party lists look like and then I can fill in my fabulous poll workers from there. Many of you are long-time, faithful poll workers and take great pride in being unaffiliated, which is a great thing. However, state statute allows for the parties to submit names to the clerks and I do not have a choice. I must use the people on the list. Please cc me on the email you send to your party of choice. That way, if I get a list that doesn't include you, I'll have proof that you requested to be added before our board needs to do the official appointment in December. Here are your party contacts:

RPMC – [rpmc@marathonwisgop.com](mailto:rpmc@marathonwisgop.com), chair is Kevin Hermening

DPMC – [marathondems@gmail.com](mailto:marathondems@gmail.com), chair is Bill Conway

-Per the complaint, it was noted that a response was sent to [marathondems@gmail.com](mailto:marathondems@gmail.com) at 5:34 pm, together with a cc: to Birk-LaBarge as requested.

-Text of the email suggests Respondent has a fondness for 'her' poll workers, and reinforces this belief via comments like 'I do not have a choice' and 'I must use the people on the list'.

- Respondent states 'Please cc me on the email you send to your party of choice. *That way, if I get a list that doesn't include you, I'll have proof that you requested to be added before our board needs to do the official appointment in December*'.

-- Complainant's email to [MarathonDems@gmail.com](mailto:MarathonDems@gmail.com) with cc to Birk LaBarge, was confirmed as received during a telephone call between Complainant and Respondent.

--Respondent confirmed that the cc email had been received on October 10, 2023, yet when Birk LaBarge received a list on 11 9 2023 from Bill Conway, Democratic Party, and Complainant was not on the list, Birk LaBarge did not follow through with her request regarding a cc email.

--Respondent failed to recognize that Complainant had submitted a request, and that it was missing from the List provided by Bill Conway.

--Had respondent followed through on her email, by contact with Bill Conway or Complainant, it could have corrected the situation before the Village Board met in December.

--Per the email, Respondent had the duty to confirm that there was a missing poll worker and failed to do so.

**3. Response 3** from Birk LaBarge included correspondence from both parties, along with their lists. These lists are self-evident.

**4. Response 4** from Birk LaBarge indicates that there were no first choice nominees. This is undisputed.

**5. Response 5** from Birk LaBarge included dated letter and spreadsheet signed on 11 9 2023 and received on 11 27 2023. This is already established.

**6. Response 6** is not disputed, but defines the issue in this case.

**7. Response 7** is repetitive, having been produced in the cases revolving around Birk-LaBarge (Exhibit O in EL 24-26, P 18 & 19 in EL 24-68, and this case, EL 24-89). Birk LaBarge created Resolution 2023-16. Birk LaBarge establishes that this is a new procedure, and that previous clerks followed a different approach. The Board met on 12 11 2023 and approved the list presented by Birk LaBarge 6:1 with Trustee Charneski dissenting.

--The democratic list arrived on 11/27/2023. *The Republican Party list of election inspectors did not arrive until 11/30/2023.* Yet, in a letter dated **11 28 2023**, Birk LaBarge sent out requests for poll workers to 'verify' their willingness to work. This letter seems premature and wrought with possible errors since it went out prior to receiving the republican lists. Letter from Birk LaBarge to Republicans is in EL 24-26, while the letter to Democrats is located on page 11 in EL 24-68 under 03.2 Response, dated 7.2.24.

--Republican letter from Kevin Hermening arrived on 11/30/2023, *after* Birk LaBarge sent out requests to the possible election inspectors. **How did Birk-LaBarge know which Republicans to send the letter to?**

-- The letter from the Republican Party clearly states that ALL nominations on the list are to be appointed. It clearly outlines that any non-appointment from the list MUST be authorized under WEC 7.30(4)(e): *"If the Board has good cause not to appoint individuals whose name is submitted, it may request WEC (Wisconsin Elections Commission) to authorize a NON – appointment and the board MAY NOT decline to appoint individuals until receiving WEC authorization."* Birk LaBarge removed three nominations from the Republican list of nominees based upon emails she received. She DID NOT seek permission, nor was she granted permission to remove these names.. The list submitted to the village board, did not include Mark Hoffman, Dan Joling or Cheryl Kempe. These emails are included in the supporting documentation.

-- Further, Respondent did not notify the Republican party of Marathon County that 3 of the nominees had declined to serve. The letter of 11/17/2023 from the Republican Party CLEARLY STATES, "If you do not intend to appoint ALL nominations, you must contact Chairman Hermening". This did not happen per the email exchange included in Respondent's Response in EL 24-26.

--There were 32 names on the Resolution , 2023-16, A Resolution Appointing 2024-2025 Elections Inspectors. Of these names, there were 5 Democrats, 18 (3 deleted from the 21 submitted) Republicans and 9 Independent appointed to serve as election inspectors for 2024-2025. The board voted 6:1 to pass this resolution with Trustee Charneski declining because of his concerns about the clerk's decisions.

--Interestingly, Wisconsin Statute 7.30 states that the total number of party inspectors must be an odd number. **32 is not odd.**

**8. Response 8** indicates that on Feb 29, 2024 Claimant was officially added to the Democratic Supplemental List, shown by email from Bill Conway, chair of the Marathon County Democratic Party. This email is included as Exhibit E in EL 24-89 and in the attachments provided by Birk-LaBarge.

--According to EL 24-26, Deb Hadley, Chair of the Republican Party submitted an additional name on 3/26/2024. This Republican on a supplemental list was Audrey Gray.

**9. Response 9:** No Response needed.

**10. Response 10.** Birk LaBarge applies *her interpretation* of Wis. Stat. § 7.30(2)(b) 'to mean that there is currently no permanent vacancy position amongst the already Village-Board appointed Democratic party nominees to appoint a supplemental Democratic party Nominee, such as Faye Buchberger'.

-- Wis. Stat. § 7.30(2)(b) states

(b) When a vacancy occurs in an office under this section, the vacancy shall be filled by appointment of the municipal clerk. Unless the vacancy occurs in the position of an inspector appointed under sub. (1)(b), the vacancy shall be filled from the remaining names on the lists submitted under sub. (4) or from additional names submitted by the chairperson of the county party committee of the appropriate party under sub. (4) whenever names are submitted under sub. (4)(d). If the vacancy is due to candidacy, sickness or any other temporary cause, the appointment shall be a temporary appointment and effective only for the election at which the temporary vacancy occurs. The same qualifications that applied to original appointees shall be required of persons who fill vacancies except that if a municipal clerk or deputy clerk fills the vacancy, the clerk or deputy, but not more than a total of 2 individuals in any municipality, may serve without regard to the clerk's or deputy's county of residence, if the clerk or deputy meets the other qualifications.

--We are not talking about a vacancy under sub. (1)(b), (greeters), so this section should apply.

--§ 7.30(2)(b) does not indicate that a vacancy is dependent upon party.

--§ 7.30(2)(b) does not declare that a vacancy must be permanent.

--§ 7.30(2)(b) specifically states that “the vacancy shall be filled from the remaining names on the list submitted under sub (4) *OR from additional names submitted by the chairperson of the party committee of the appropriate party under sub (4) whenever names are submitted under sub (4)(d)*”.

--Based upon the preceding statements, the interpretation offered by Birk LaBarge goes outside of § 7.30(2)(b), and hence is questionable.

**11. Response 11** suggests that reaching out to the County Clerk, Kim Trueblood, makes the assertions and interpretations presented factual. Birk LaBarge offers no evidence as to the conversation that ensued between herself and Ms. Trueblood, hence is dependent upon her opinion. This is then hearsay and opinion. WEC is the authority on election matters, not the County Clerk.

**12. Response 12** suggests that the WEC documents supersede § 7.30. Again, it is a personal interpretation. Birk LaBarge’s interpretation does not imply accuracy.

Birk LaBarge cites the bottom of page 2 and top of page 3 in FAQs from Wisconsin Elections Commission (WEC) at

<https://elections.wi.gov/sites/default/files/documents/Appointing%20Partisan%20Inspectors%20FAQ%20%282023%29.pdf> to validate her response.

“A: Whether an inspector position is considered Republican, Democratic or Unaffiliated is determined at the December meeting of the governing body when appointments are made. If there are insufficient names on the list received on November 30th to fill the number of positions to which the party is entitled, the remaining positions are filled by unaffiliated inspectors. **If there is a vacancy in a position that had been filled by a party appointee, the position is filled from any additional names the party may have submitted after November 30th . A vacancy in a position that was filled with an unaffiliated inspector due to a lack of names on the original list should be filled from the list of additional names submitted by the party if that will maintain the partisan imbalance.** Supplemental lists submitted prior to November 30th are treated as part of the original list of nominees. Names submitted after that date are only used to fill vacancies. An unaffiliated inspector does not lose their position as an inspector just because the party submitted additional names’.

--Definition of vacancy:

----an unoccupied position

----a position which requires hiring a person

----a vacant position is a job or position that is empty and available for a new hire

---- a position that currently has no one serving it

----a position that is unoccupied and awaiting a new hire to fill it.

Birk LaBarge appears to claim that ONLY vacancies among the party affiliated persons are entitled to be filled by party nominees. Birk LaBarge claims there are no vacant positions among the party lists. It clearly states that if there is a vacancy among positions that WOULD have been attributed to a party, but the names were added after the NOV 30th date, that those vacant positions should be *'filled from the list of additional names submitted by the party if that will maintain the partisan imbalance'*.

Our party balance (D/R) on 2/20 was 3/8, on 4/2 was 3/12, on 8/13 was 0/7 in Wards 1-5 and 8/13 was 5/6 in Wards 6-11. The only area in which partisan balance COULD have been affected was 8/13 Ward 6 – 11. Birk LaBarge does not offer this as a reason for her decision to not add complainant to poll workers list. These party balances, seem to show a severe imbalance among the parties. Instead of contacting the 'Short Party' for additional names as is suggested, Birk-LaBarge seems to prefer to add unaffiliated poll workers instead. There is no evidence that she has ever done this to ensure party balance.

More importantly, on page 3, center of page, in WEC FAQs it states 'If due to a lack of names on the party list, an unaffiliated inspector was appointed to fill the party position, and the position later becomes vacant, the supplemental list from the party should be used to fill that position. If there are NO MORE names remaining from the ORIGINAL OR SUPPLEMENTAL list, the position again is filled with an unaffiliated inspector'.

*--Please see attached Excel spreadsheet.*

--1. On the right side, elections for 8/9 2022, 11/8/2002, 2/21/2023 and 4/4/2023 are tabulated. This material coincides with the materials presented in EL-24-26 by Ken Charneski. On the left are all of the 2024 elections to date.

-On the right, of the 34 people appointed to positions, 9 of the people never served in an election (column T).

This seems to imply that there were too many poll workers appointed. Yet, on the right you will note that 12 people were 'hired' after the board approved the list. Obviously, these people were hired because Birk LaBarge felt she had VACANT positions to fill.

The new hires are presumably unaffiliated. Except for **Audrey Gray**. **Audrey Gray** was added to the Republican supplemental list on 3/24. This is confirmed in the emails provided in EL 24-26 between Deb Hadley & Birk LaBarge. *It certainly appears that she has done exactly what she refused to do in this case; A person was added from a supplemental party list, submitted after board approval, to a position.* Certainly this exemplifies inconsistent behavior in

her decision making.

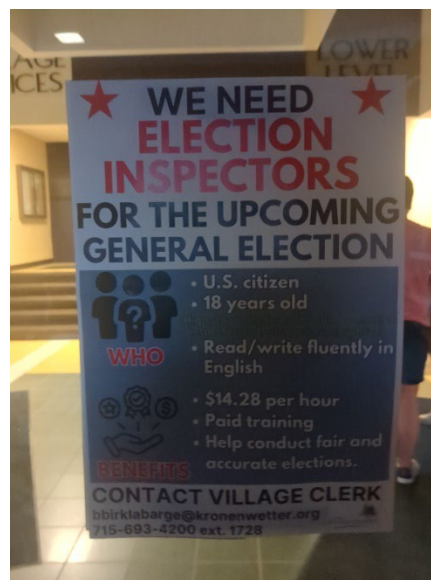
The behavior is repeated on the left.

On the left, of the 33 people appointed to positions, 9 of the people never served in an election Column H.

This again, seems to imply that there were too many poll workers appointed. Yet on the left you will note that 8 additional persons (excluding myself) were 'hired' after the board approved the list. Obviously, these people were hired because Birk LaBarge felt she had VACANT positions to fill. These new hires were hired around 8/1/2024 and given their oaths in August 2024.

<https://www.facebook.com/photo/?fbid=893400136153853&set=pcb.893401132820420>

The following photo of a poster, posted mid-September on the Village Municipal Center Doors, certainly suggests that there are VACANT positions available.



There are clear repetitions in behaviors by Birk LaBarge between EL 24-26 and EL-24-89.

- Assigned poll workers not being used in any elections
- Vacant positions exemplified by hiring of additional workers
- Hiring of party affiliates after the board has approved the lists
- Adding SOME supplemental list party people to the list already approved by the board, but not all.

I would also like to point out that persons who hold Chief inspector status, who also serve as elections inspectors, should be consistently added to the Board Approved List in order to serve in that capacity. Cindy Aucutt has served in both positions.

**13. Response 13** appears to be an attempt to justify the behavior and mistakes of Birk LaBarge.

--Numerous examples of failure to follow the statutes in EL 24-24 and EL-89:

----Admitting to adding party people without board approval

----Admitting removal of inspectors based upon her 'understanding'

----Not utilizing numerous specific appointed inspectors in any elections

----Selectively eliminating persons from the party lists, without asking WEC authorization

----Selectively not notifying the parties of a nominated inspector removal

----Selectively choosing to remove party designation from the resolution, hindering the board's ability to ensure the required partisan balance

----Choosing to not communicate with the parties for additional party nominees in order to ensure party balance

----Selectively choosing WHICH people from supplemental lists to add, while refusing others

----Numerous examples of an unwillingness or inability to take constructive criticism and correct her behavior

---- Birk LaBarge defiantly obstructed Trustee Charneski in his attempt to ensure election transparency

----Birk LaBarge has also been confrontational with Deb Hadley, of the Republican party. Birk LaBarge was unprofessional and threatening in her correspondence with Deb Hadley. Instead of focusing on the issue presented by the Republican Party and how to resolve it, she became defensive, accused Hadley of lying and refused to take responsibility for the errors pointed out.

I find Response 13 to be self-serving, avoidant of the raised issue, and without responsibility. Worse yet, the arguments presented herein, seem to imply that her 'the best of her ability' abilities just do not suffice. It suggests that the position of Municipal Clerk is ABOVE her abilities.

### **Conclusion**

Complainant is not an attorney and does not pretend to be one. These issues are presented as an inexperienced citizen presenting information to the commission. If I have failed to follow principles that are generally accepted, I apologize to the commission. My intent was to connect the issue I presented (with personal knowledge) by noting the same information as was presented in Charneski vs. Birk LaBarge and Baker vs. Birk LaBarge. Thank you for your understanding with my inexperience.

Please carefully consider everything that has been placed in front of you with regards to Birk LaBarge and the issues that have been presented to you. There are now three cases in front of you with regard to the same person and issues. Obviously, the behaviors continue to occur, and it



appears that filing a complaint has no effect upon Birk LaBarge's opinions. Concern abounds about the perceived legality and integrity of our election processes run under Birk LaBarge.

I await your interpretation of the issues presented to you, and welcome your timely decisions in these matters.

Sincerely

Faye L. Buchberger

Dated this 16<sup>th</sup> day of October, 2024

EL 24-89

I Faye L. Buchberger, declare under penalty of false swearing under the law of Wisconsin that the foregoing is true and correct.

Signed on the 16th day of October 2024, at Kronenewetter, Wisconsin.

Faye L. Buchberger

*F. L. Buchberger* 10/16/2024