

STATE OF WISCONSIN
ELECTIONS COMMISSION

Ken Charneski
2604 16th Road
Kronenwetter, Wi 54455
715 310 3572
screenmaster@pcpros.net

State of Wisconsin
Before the Elections Commission

The Complaint of Ken Charneski Complainant, proceeding under Wisconsin statute 5.06 against respondent:

Kronenwetter Village clerk Bobbi Birk-LaBarge
Village of Kronenwetter
1582 Kronenwetter Drive,
Kronenwetter, WI 54455
715 693 4200
bbirklabarge@kronenwetter.org

Reply to Defendant's Response
Complaint EL 24-26

May 25, 2024

My first observation (question) is to the effect that - If a Complaint to the WEC and any amendment thereto is required to be attested to under oath as fact, and truthful to the best of the complainant's knowledge, why isn't the Response required to be sworn to as being truthful and accurate as well?

Nowhere in her response does clerk Bobbi Birk LaBarge attest that any of what she is saying is accurate or truthful, I have identified statements below, where she contradicts herself, and others where I believe she is being deceptive.

Here are my replies to the various comments in Bobbi Birk-LaBarge's (LaBarge) response.

Charge 1 -

Lack of Knowledge

LaBarge claims that she had no experience or training. This may have been true initially, but she still had resources to draw on, like the Village Administrator, experienced election inspectors, League of

Wisconsin Municipalities, and the Election Administration Manual for Wisconsin Municipal Clerks, which is written in plain language.

In any event, Ms. LaBarge applied for the job as Village Clerk and expressed confidence that she could handle it. **She accepted the pay and benefits, took the oath, and accepted responsibility for the duties of Kronenwetter Village Clerk.** Her resume shows experience in law enforcement, so she should have an understanding of the weight of legal duties and responsibilities in a position like this.

As you can see from the email exhibits and LaBarge's Response, she confidently asserted her alleged "authority" to hire and fire these workers as she saw fit, and **rebuffed efforts to inform her otherwise**, or to have her explain what made her think she could hire anyone that she decided to. **She had plenty of opportunity to correct this, but chose not to.**

Likewise, **in her own Response** to the Complaint, LaBarge said that she had a meeting with the "Chief Election Inspector" (CEI) one hour after she started her new position. This would have been a perfect time to ask questions of that person to get answers to the issues that LaBarge now claims that she had no clue to.

LaBarge does not identify who this CEI was. According to one election inspector witness who was part of a discussion on the matter at one of the elections, Cynthia Aucutt, one of the CEI's said (paraphrase) "If she had only asked us (Chief Election Inspectors), we could have explained what needed to be done".

In her response, LaBarge still attempts to skirt the issue of her violations by stating that these unapproved workers were trained and took the oath, as if this somehow excuses her violation of statutes. Training and oath taking have never been a subject of the Complaint.

She states that some of the training of election workers was given **by her**. That training information would presumably come from the Election Administration Manual for Wisconsin Municipal Clerks and other official sources that would have also described the correct process for election worker nomination, approval, and hiring. In other words- if LaBarge was doing training, she must have been

familiar with the regulations of what she was teaching. It is reasonable to expect that in this process, she would have become aware of her own legal duties, processes, and restrictions on the scope of her authority as well.

LaBarge says in July of 2022 that she "operated off of an old email chain from the previous clerk", yet she did not provide the information gathered from those emails in response to my information request for election worker schedules. She instead said that no list could be found for the Spring 2022 Election, and no emails to the workers could be found that would reveal such a list.

So we still do not know what names were gathered by LaBarge from previous clerk Sashe Menge's emails, and which ones LaBarge decided to bring in on her own. She does not mention whether or not she ever checked the list of poll workers approved by the Village Board in December, 2021 (Exhibit A).

Again, from her own words it appears that LaBarge never even asked the obvious people (Chief Election Inspectors) how to go about any of this correctly.

Election Worker Dan Joling

Joling recently stated to me that he expressed to LaBarge the problem that he had with hearing people on the other side of the plexiglass. He was told by LaBarge that if he worked as greeter, the plexiglass would need to remain in place. This is why he declined to work at that election.

Joling was disappointed to see when he came in to vote, that the plexiglass had been removed after all.

Regardless of all that, there was no reason provided by LaBarge as to why Mr. Joling could not have been put in **another position** that did not involve plexiglass barriers, or why unapproved outside workers were brought in to replace Joling, or why he was removed from the list of workers.

Joling said that the tone of LaBarge's interactions with him, and perceived discrimination against him led him to decline serving in the 2024-2025 cycle.

Exhibit K, March 31 2023 email shows plainly that LaBarge says that she "removed Dan Joling" from the list of workers.

Now in her Response, she contradicts herself by saying that she told Joling that he was still on the list, and that she only told him this **after all the elections for that cycle were over with**. In the following paragraph about James Wysocki, LaBarge again confirms that she removed Joling from the list of workers.

The email exhibits show that I tried more than once to get LaBarge to explain what made her think she could remove people like this, and hire unapproved people. Exhibit N was my final attempt at that. With the answer being basically, that she had no answer, and didn't want to discuss it.

Election Worker James Wysocki

LaBarge's story here is full of contradictions that are readily apparent.

LaBarge said that she never heard of Wysocki, but yet she says she had a poll worker list developed by Sashe Menge that had Wysocki's name on it. He was also on the list of workers approved by the Village Board.

After the Wysockis' emails with LaBarge, it appears that James Wysocki, like Dan Joling, declined working due to LaBarge's attitude and tone toward him. This interaction between LaBarge and the Wysockis all took place after the last election of the cycle was over with.

Obviously Mr. Wysocki initially wanted to work at the elections, otherwise he never would have contacted me about his exclusion to begin with.

In the last sentence, LaBarge arbitrarily asserts an authority which she does not have. The core of the problem and the complaint is **her assumption that she can dismiss and appoint whoever she wishes as election workers**. She claims to justify her actions as being "per statute", but without providing which statute she is referring to.

Nowhere in 7.30 (4) does it authorize a municipal clerk to appoint anyone to the position of election

worker, who has not been previously approved by the governing body.

Charge 2

This was not a charge in the complaint, but merely a statement of fact. As mentioned above, she did find emails from the previous clerk regarding who she called in, but did not provide the information in the open records response.

It is hard to imagine that the previous clerk or CEI did not email a worker schedule prior to election day, and that those emails do not exist today.

The fact that LaBarge was not the clerk at the time those schedules were created, is immaterial to the fact that she did not provide this potentially relevant information.

Charge 3

Repeated imbalance of workers by political affiliation.

This "personal opinion" that LaBarge disagrees with, is based on irrefutable facts shown in Exhibits C, E, G, and I, where the **highlighted** names quickly show a minimum of a 2 to 1 imbalance of workers.

LaBarge also shows no effort to contact the Democrat party to obtain more worker names. Preferring instead to use "unaffiliated workers", some of which were hired "outside of those approved by the Village Board."

Charge 4

Election inspectors designated shifts without authority to do so.

Attorney Turonie spends extensive time to raise quotes from the Village Ordinance and resolution that allow the village clerk to schedule election workers.

The Complaint has no argument with that point.

What Mr. Turonie fails to address, is the fact that the clerk's actions under these directions, do not fall within the parameters of Wisconsin statutes.

In this instance, Wis Stat 7.30 (1) (a) states:

"A municipal governing body may provide **by ordinance** for the **selection of alternate officials** or the **selection of 2 or more sets of officials to work at different times** on election day, and **may permit** the municipal clerk or board of election commissioners to establish **different working hours for different officials** assigned to the same polling place."

The governing body has not passed such an ordinance. The clerk LaBarge has not asked that such an ordinance be considered or passed, but instead has simply gone ahead and done these things without the authority of an ordinance allowing them, that this statute seems to require.

This statutory language here would be rendered absurd and meaningless if municipal clerks could simply do these things without an ordinance first authorizing them to do so.

Charge 5

Removal of an election inspector without (sufficient) cause, notification, or documentation

LaBarge herself admits to doing this by removing Dan Joling. Her excuses for doing so are mostly irrelevant, and not in any way compliant with Wis Stat 7.30 (6), or with the instructions on pages 137-138 of the Election Administration Manual to bring such matters to the governing body.

If LaBarge can remove Mr. Joling from his election duties on frivolous grounds, and effectively exclude Mr. Wysocki on an assumption based on the word "no" next to his name, then any statutory restrictions or procedures that safeguard election workers from discriminatory removal, are rendered meaningless.

LaBarge was apparently unwilling to accommodate Mr. Joling's request to remove the plexiglass, while doing so for others who took his place.

Charge 6

Never called in certain Republican workers.

Again, the "opinion" that LaBarge disagrees with, is based on the irrefutable facts shown in Exhibits C, E, G, and I.

I count 7 names that LaBarge never called in to work, in addition to removal of Dan Joling and James Wysocki. This will be addressed further in item 9.

Charge 7

Did not break down the list of names by party affiliation.

LaBarge seems to say that this practice of identifying party affiliation is merely a fluke of the previous clerk. It is not. LaBarge also implies that her research indicates that listing party affiliation of nominated poll workers is not a common practice. The truth is, that this is in fact the predominant practice, and for good reason.

She flat-out lied to the Village Board at the December meeting when she told them that most of the surrounding municipalities do not include party affiliations on their lists:

"I contacted the municipal clerks from all around us - most of them do not put the list on there to protect the privacy of the political party of these folks so they are not persuaded in any way"

The fact is, that **Five of the six** surrounding municipalities clearly **do include** party affiliation. See page 3 of Exhibit T. I can provide screen shots of the municipalities' December meeting packets, if necessary.

So, whether or not this is actually a legal requirement, it is a practical necessity for the public to identify whether or not there is a political balance of election workers conducting the election. LaBarge

seems to go out of her way to defeat that purpose

LaBarge's dishonesty to the Board and apparent attempt here to mislead the WEC with false information, are both indications that she is trying to deceptively justify her poor choice of action.

The Election Administration Manual instructs the following on page 129:

6. The municipal clerk should identify any election inspectors appointed by one of the two major political parties. The chief inspector must ensure that any Election Day tasks which require completion by two election inspectors are represented by each party, whenever possible. Wis. Stat. § 7.30 (2)(a).

So, in order to do this, identifying party affiliation becomes a practical necessity as well as legal matter.

LaBarge's reasoning, quoted above from the December 2023 Village Board meeting provides no valid reason for disregarding this instruction:

Charge 8

Removing names from party lists before submission to the governing body for approval.

The issue here is that regardless of her reasoning, **LaBarge did not immediately forward the list to the Village President as required by 7.30 (4) (b) 2.a, b.** That statute says

"the clerk **shall immediately** forward the list to the mayor, president, or chairperson of the municipality"

The word "immediately" precludes any reason for delay, with the apparent intent of avoiding such snafus, second-guessing, and bickering back and forth with a political party, such as we have seen in this case.

The instructions on 126 of the Election Administration Manual appear to contradict that statute, the WEC might consider amending the Manual to clarify this.

Be that as it may, if we follow the manual, those instructions also direct the clerk that if any such

discrepancy of names is found, it should be sent to the political party involved. **It does not give the clerk authority to remove any names on her own.**

La Barge said she "contacted the Republican Party by e-mail on several occasions".

According to LaBarge's own evidence, she did not contact the Republican Party until January. This was weeks after she took it upon herself to remove those names from the list submitted to the governing body.

In any event, and no matter what the reason , **municipal clerk Labarge has overstepped her authority and removed those names without going through the process to get WEC approval.** Wis Stat 7.30 (4) (e).

Charge 9

Hired a worker from outside the municipality in preference to others locally who were available.

For all of the verbiage that LaBarge puts forth under this item, **she sidesteps the core issue.**

That is the requirement of statute 7.30 (4) (c) which would prohibit calling in someone from outside the municipality, except if there were none remaining from within the municipality who were available.

Regardless of Cindra Falkowski's qualifications or relationship to LaBarge, it is clear that as a non-resident of the municipality, she cannot be hired ahead of others who are locally available.

LaBarge identifies Falkowski as the former Kronenwetter clerk for 10 years. As such, Falkowski knew or should have known that when she was hired to work at the November 8, 2022 election, and February 21, 2023 primary, that she was doing so without being approved or appointed by the Village Board, and thus working those elections illegally.

Falkowski's apparent collusion with LaBarge to violate election laws, along with her municipality non-resident status should be reason enough for the WEC to remove her from the list of approved election workers in Kronenwetter.

I ask that the WEC remove Cindra Falkowski from the list of approved election workers for the Kronenwetter 2024-25 cycle, because of her participation in violating section 7.30, and because she is not a resident of the municipality when there is no shortage of workers who are residents of this Village. Thus, no need for her to be on the list in the first place.

Numerous unknown, unapproved workers "appointed" by LaBarge.

Ms LaBarge states in an email (attached Exhibit U) that **no applications exist for the unaffiliated workers, and apparently none for the unapproved workers** hired outside of those approved by the Village Board. They are not vetted or nominated by either party, and that is why they are referred to here as "unknown", as there is no indication of residency, affiliation, criminal history, etc.

LaBarge does not explain how she went about locating and selecting these unapproved workers.

She admits in the email that these alleged "openings" were **not made available through public postings.**

She then goes on to emphasize that the numerous people that she brought in to work, but who were not approved by the governing body, are trained and took an oath. This assumed fact is off-point, as no one here has argued that they haven't done so, and this is not a point relevant to the Complaint.

Wis Stat 7.30 (2) (a) states:

"Only election officials appointed under this section or s. [6.875](#) may conduct an election."

That is very clear and simple to understand. The question regarding these outside workers is simple - **Were they, or were they not nominated and approved (appointed) in accordance with Wis Stat. Section 7:30?**

On page 125 of the Election Administration Manual, under "Election Inspectors" it lists **6 criteria that they must meet.** The first of which is **"They must be nominated"**. This is followed by instructions and examples, none of which give any indication that the Village Clerk can nominate, let alone appoint an election inspector.

Wis Stat &.30 (2) (b) states:

"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)."

Ms. LaBarge **openly admits** to the accusation of the complaint that her ongoing practice was to hire people who were not chosen from a list approved by the Village Board, or nominated by political parties to begin with. This **disqualifies these people**, and makes any training or oath irrelevant to their status as legally compliant workers, according to 7.30 (2) (a).

The Complaint itemizes a total of 22 unapproved poll workers who LaBarge hired and used to conduct elections illegally.

She states several times that these people were "appointed by the clerk outside of the 2022-2023 election inspector schedule approved by the Village Board on December 21, 2021", but she provides no authority that allows her to appoint any election worker that has not been approved by the governing body.

Wisc Stat 7.30 (4) (c-e) makes it clear that the Village Board is the appointing authority, and that **only those approved by the governing body may conduct elections.**

LaBarge seems to have simply ignored all that.

Artificial Shortage of Workers

The statutory outline of the process is simple - Those on the list of approved election workers are pre-screened and **are committed to work as needed for elections.** The clerk apparently never actually called them in to report for work, but **only asked for availability**, even though **they had all already agreed to be available before they were nominated and approved** for those positions..

It appears that Labarge basically asked for interested people to volunteer to work at the election,

though we have no example of such a notice, or who it is sent to. She doesn't explain why she was not pro-active in **directing** them to come in at the appointed time, and making sure that she contacted all names on the list approved by the Village Board.

There is no indication that any of those people refused to work, only that they failed to volunteer.

Apparently, when not enough people stepped forward, LaBarge used that as a reason to bring in her own people to fill the positions under the assumed premise of "not enough workers".

This alleged "shortage" seems to be of LaBarge's own making, since there were 7 people that somehow never got called in to work, nor is there documentation that anyone actually refused to work, nor were they removed from the list as Dan Joling was.

Conclusion

The facts in the Complaint, along with Ms Birk-LaBarge's Response, and this Reply make it clear that LaBarge knew, or had ample opportunity to know that her practices violated Wisconsin Statutes. She claims ignorance, yet appears to assert that she has done nothing wrong, even in the face of numerous plainly stated statutes that show that she was in violation.

In his response, attorney Turonie denounces the amendment to the Complaint as an irrelevant personal attack on LaBarge. This is not the case, but instead the Exhibits S and T shows LaBarge's personal attack on myself, due in large part to my questions regarding her election practices. The WEC can determine for itself whether or not that email can be construed as harassment or a deterrent to me for asking questions about her election practices and whether or not it indicates a culpable state of mind in attempting to evade detection of her violations.

I believe Ms LaBarge's reply indicates a tone that denies her own responsibility for her actions, and a disregard for the seriousness of her violations. It is not difficult to conclude that her actions and attitude

toward compliance with election laws only serves to further the public perception of dishonest elections, and casts a shadow of suspicion upon other municipal clerks in Wisconsin who may not deserve such doubt.

I hope that the WEC, if they find that violations have taken place, will prosecute this matter to the end of penalties sufficient to send a message to LaBarge and others, that honest elections are a cornerstone of a free government, and acts that undermine trust in that cornerstone will not be tolerated.

I believe that any less than that will only serve to reinforce her self-justification to make up whatever rules she decides to. The voters of Wisconsin need to see that the WEC is serious about enforcement of election laws.

Thank you for your time and effort put into this matter.

Ken Charneski
2604 16th Road
Kronenwetter, WI 54455
715 310 3572

Date: _____ Complainant's Signature _____

I, Kenneth M. Charneski, being first duly sworn, on oath, state that I personally read the above reply, and that the above information and allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

Complainant's Signature

STATE OF WISCONSIN
County of Marathon,
Sworn to before me this _____ day of March, 2024.

(Signature of person authorized to administer oaths)
My commission expires _____, or is permanent.
Notary Public or _____
(official title if not notary)

RE: election information

Bobbi Birk-LaBarge <bbirklabarge@kronenwetter.org>

Wed 12/20/2023 2:40 PM

To: Ken Charneski <kcharneski@kronenwetter.org>

Cc: Village Board <VillageBoard@kronenwetter.org>

Ken,

The Clerk sends an email out to all election inspectors that were used the year prior and lets them know what their options are as far as notifying the Republican party or the Democratic party that they wish to work the next election cycle and that they are AVIALABLE for all elections and that they will complete training. For those that want to work the next election cycle and choose to be "unaffiliated" they send the clerk an email.

Bobbi Birk-LaBarge

Village Clerk – Kronenwetter

From: Ken Charneski <kcharneski@kronenwetter.org>

Sent: Wednesday, December 20, 2023 2:03 PM

To: Bobbi Birk-LaBarge <bbirklabarge@kronenwetter.org>

Subject: Re: election information

Bobbi,

Thank you for the D and R lists.

If the unaffiliated workers do not send applications, then could you tell me what is the process for finding these workers, and the basis for selecting them for the list of workers for the Board to approve?

For example, are there some kind of ads posted by the Village asking for people to volunteer for these positions?

Thanks,

Ken Charneski

From: Bobbi Birk-LaBarge <bbirklabarge@kronenwetter.org>

Sent: Friday, December 15, 2023 1:41 PM

To: Ken Charneski <kcharneski@kronenwetter.org>

Cc: cdem1@charter.net <cdem1@charter.net>; Village Board <VillageBoard@kronenwetter.org>

Subject: RE: election information

TO: Ken Charneski, Trustee

kcharneski@kronenwetter.org

RE: Response to public records request sent via email December 12, 2023

Dear Mr. Charneski:

I received via email your public records request:

"As per your comments last night, can you send me the following information -

- The list of election inspectors sent to you by the Democratic Committee.
- The list of election inspectors sent by the Republican Committee.
- The applications of the unaffiliated people on your list.
- and the emails from the three people from the Republican list who said that they did not want to work the elections."

The responses to the first, second and fourth request are attached in this email.

The records for your third request involving applications of the unaffiliated people on the list do not exist. Therefore, that part of your request is denied for the reason that there are no applications.

Denial of a written request is subject to review in an action for mandamus under Wis. Stat. § 19.37(1), or by application to the local district attorney or Attorney General.

Sincerely,

Bobbi Birk-LaBarge, Clerk

cc: Dan Mahoney, Interim Administrator; Village Board

Bobbi J. Birk-LaBarge

Village Clerk

Village of Kronenwetter

(715) 692-1728

(715) 301-8326 work cell

bbirklabarge@kronenwetter.org

Village Municipal Center

1582 Kronenwetter Drive Kronenwetter, WI 54455

Population: 8,539

<https://cms6.revize.com/revize/kronenwettervillage>



***Elected Officials and Members of Village Committees:** In order to comply with the Open Meetings Act requirements, please limit any reply to only the sender of this electronic communication.*

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From: Ken Charneski <kcharneski@kronenwetter.org>
Sent: Tuesday, December 12, 2023 8:47 AM
To: Bobbi Birk-LaBarge <bbirklabarge@kronenwetter.org>
Subject: election information

Bobbi,

As per your comments last night, can you send me the following information -

- The list of election inspectors sent to you by the Democratic Committee.
- The list of election inspectors sent by the Republican Committee.
- The applications of the unaffiliated people on your list.
- and the emails from the three people from the Republican list who said that they did not want to work the elections.

Thanks,

Ken Charneski

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I hope that the WEC, if they find that violations have taken place, will prosecute this matter to the end of penalties sufficient to send a message to LaBarge and others, that honest elections are a cornerstone of a free government, and acts that undermine trust in that cornerstone will not be tolerated.

I believe that any less than that will only serve to reinforce her self-justification to make up whatever rules she decides to. The voters of Wisconsin need to see that the WEC is serious about enforcement of election laws.

Thank you for your time and effort put into this matter.

Ken Charneski
2604 16th Road
Kronenwetter, WI 54455
715 310 3572

Date: 5-23-24

Complainant's Signature [Signature]

I, Kenneth M. Charneski, being first duly sworn, on oath, state that I personally read the above reply, and that the above information and allegations are true based on my personal knowledge and, to those stated on information and belief, I believe them to be true.

[Signature]
Complainant's Signature

STATE OF WISCONSIN

County of Marathon,

Sworn to before me this 23rd day of May, 2024.

Dianne E. Drew

(Signature of person authorized to administer oaths)

My commission expires 12/04/2027, or is permanent.

Notary Public or _____
(official title if not notary)