

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: For the Meeting of June 27, 2011

TO: Members, Wisconsin Government Accountability Board

FROM: Kevin J. Kennedy
Director and General Counsel
Government Accountability Board

Prepared Kevin J. Kennedy and Presented by:
Shane Falk and Michael Haas, Staff Counsels

SUBJECT: Challenge to Nomination Papers of John Nygren

Introduction:

June 21, 2011 was the deadline for filing nomination papers for offices to be elected in the July 19, 2011 Recall Elections for Senate Districts 12, 22, and 30. On Friday, June 24, 2011 Sarah Scott and Jacob Hajdu each submitted separate challenges to the nomination papers of John Nygren, a candidate for the office State Senator from the 30th Senate District. Candidate Nygren did not file any correcting affidavits by Friday, June 24, 2011, as required by GAB §2.05(4), Wis. Adm. Code.

Challenges:

The challenges consisted of essentially seven categories of allegations, which are more fully identified and explained in the Candidate Nygren Challenge Worksheet which accompanies this Memorandum. On June 25 and June 26, 2011, staff reviewed the challenges and evidence provided by the challengers. Based upon only the challenges and without the aid and benefit of any response from Candidate Nygren, staff recommended that the Board affirm 30 challenges. This would have left Candidate Nygren with only 394 verified nomination paper signatures, leaving him below the required 400 need for nomination and ballot placement.

Candidate Nygren's Response to Challenges:

On June 27, 2011, Candidate Nygren filed a response to the challenges, which included argument in affidavit form, several explanatory affidavits from signatories, several explanatory statements from signatories, and several photographs.

Staff has had an opportunity to review Candidate Nygren's response and recommends that the Board make the following adjustments to the total verified signatures found in the Candidate Nygren Challenge Worksheet accompanying this Memorandum.

A. In Section 10(B) of the Candidate Nygren Challenge Worksheet accompanying this Memorandum, staff recommended affirming the challenges to the signatures at page 47, lines 6 and 7 because “1506 Droeger St.” was not a valid address in Green Bay. However, in response Candidate Nygren points out in argument and via allegedly confirming photos that the address identified on the nomination paper is actually “1506 Traeger St.” which is a valid address in Green Bay and is within the 30th SD. Staff agrees and has verified via Voter Public Access that this address falls within the 30th SD. Staff recommends that the Board deny the challenges to the signatures at page 47, lines 6 and 7.

Also in Section 10(B), staff recommended affirming the challenge to the signature at page 52, line 1 because “205 Weedy Street” was not a valid address in Green Bay. However, in response Candidate Nygren points out that the address identified is actually “2105 Weedy Street,” Green Bay, Wisconsin, which is in the 30th SD. Staff agrees and has verified the address and district in the Voter Public Access. Staff observed that the first address listed on line 6 clearly appears to be “Traeger Street,” but initially ditto marks were used for the address at line 7 and someone wrote what appears to be “Droeger Street” over the top of the ditto marks. Staff recommends that the Board deny the challenge to the signature at page 52, line 1.

Recommendation: Increase Attached Verified Total by 3.

B. In Section 10(C) of the Candidate Nygren Challenge Worksheet accompanying this Memorandum, staff recommended affirming the challenge to the signature of Kathy Adams found on page 22, line 2 for her having previously signed the nomination papers for David Vander Leest for the same office. While someone from Ms. Adams’ residence signed David Vander Leest’s nomination papers prior to Ms. Adams signing Candidate Nygren’s nomination papers, she has submitted an affidavit swearing under oath that she only signed for Candidate Nygren. The signature on David Vander Leest’s nomination papers does not exactly match Ms. Adams’ signature. Staff recommends that the Board deny the challenge to her signature at page 22, line 2.

Recommendation: Increase Attached Verified Total by 1.

Revised Number of Verified Signatures:

Total Initially Verified by Staff:	424
Minus Recommended Challenges:	<u>30</u> (From Candidate Nygren Challenge Worksheet)
Total Verified After Challenge:	394
Plus Response Additions:	<u>4</u>
FINAL RECOMMENDED TOTAL:	398

Recommendations and Proposed Motion:

Staff recommends the Board adopt the following motion:

MOTION: Affirm 26 signature challenges, verify that Candidate Nygren’s nomination papers contain 398 valid signatures as reflected by the staff analysis set out in this Memorandum and accompanying challenge worksheet which are adopted by the Board and incorporated by reference in this motion, and deny Candidate Nygren ballot access.