

STATE OF SOUTH CAROLINA
STATE ETHICS COMMISSION

STATE ETHICS COMMISSION
RECEIVED 10/6/24 11:11:12

FOR COMMISSION USE ONLY:
CASE NUMBER

c. 2024-068

COMPLAINT FORM

COMPLAINANT: John David

ADDRESS: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

TITLE: Councilman

RESPONDENT: Jake Evans

ADDRESS: [REDACTED]

TELEPHONE NUMBER: [REDACTED]

TITLE: Holdover Mayor

Set forth in detail specific facts upon which you based your complaint against above-named respondent (only detailed, clear factual allegations will be considered. If additional space is needed, attach supplemental sheets).

- Jake Evans (Holdover Mayor – did not run in 11/7/24 election, TERM EXPIRED 12/31/23),
- Jacqueline Gore (in holdover status due to Isom/Swinson Challenge to Carla Taylor elected/certified/sworn-in seat),
- Josephine Isom (ran for Mayor NOT Town Council in November 7, 2023 election, her Council TERM EXPIRED 12/31/23) have been and stand to continue to personally benefit financially for an indefinite period of time beyond their intended term.

All their terms expired 12/31/23 and they all have been receiving Town compensation beyond their elected and intended terms and are making policy that will affect the town forever.

These 3 failed to recuse themselves even as they clearly stood to gain financial benefit from the outcome of all votes and decisions made effective November 9, 2023, to alter this election process.

All their actions appear to be a clear violation of Article 7, Section 8-13-700(B) as they all have personally benefited financially for an indefinite period of time beyond his intended term and as such should have recused themselves from votes to amend the ordinances and votes that would allow them or their family to gain financially.

Timeline:

Jake Evans served as poll watcher for Josephine Isom. Jake Evans and Irene Armstrong Evans as owners of 4 hotel/motels in Atlantic Beach, SC (Evans Motel (Jake Lives lives here also), Woods Villas, Woods Apartments, Atlantic Pearl Shores) served as intimidators and influencers to any and all voters who rent from them by poll watching and overseeing the voters as they walked in the door.

11/10/23, the Town Council of Atlantic Beach (then consisting of Mayor Jake Evans and council members Edward Lamar Campbell, Josephine Isom and Jacqueline Gore) held a so-called "Emergency Meeting." 3 holdovers voted to fire the MEC 3 to 1 vote.

11/28/23, in the face of John David's case pending before the Supreme Court and intense public scrutiny, the 3- holdovers backtracked and "reaffirm[ed] and recoven[ed] the Town's" Municipal Election Commission Called its actions on November 10, 2023, an "erroneous" act "of desperation." Then voted (3 to 0 votes) no other council members attended) to remove Joe Montgomery as chairman (of 10 plus years) of the Atlantic Beach Municipal Election Commission

12/11/23, the 3-holdovers of the then four members of the Town Council met—Jake Evans, Josephine Isom, and Jacqueline Gore. Councilmember Campbell was not present. During this meeting, they voted to fill the vacant spot on the MEC with Derrick Stevens is the long-time live-in boyfriend of Jacqueline Gore, a sitting council member, candidate for re-election in the November 7, 2023, municipal election, and the daughter of Mrs. Carolyn Gore, one of the members of the Municipal Election Commission (MEC). Voted 2 to 0 (Isom recused herself)

4/3/24, the MEC voted 2 to 1 (Derrick Stevens long-time live-in boyfriend of Jacqueline Gore, holdover council member, and her mother Mrs. Carolyn Gore were the 2 yes votes) to throw out 13 votes in an attempt to make

Isom mayor. New election was ordered. Isom appealed in circuit court and is on hold. The MEC certified the results of the two Town Council seats, in writing, that Jacqueline Gore (71 votes) and Carla Taylor (69 votes) received the most votes. Ms. Taylor was sworn in later that 4/5/24.

5/6/23 The 3 Holdovers (Jake Evans, Jacqueline Gore, and Josephine Isom ordered Carla Taylor to be removed from the Town Council Meeting. As they do not recognize her election and certification.

5/6/24 The 3 holdovers hired (3 to 2 vote) Town Manager Orton Bellamy as Town Manager and new election attorney Dwayne Greene.

5/20/24, Evans, Gore and Isom voted to appoint Jamir Woods (Councilmember Gore's son), Titus Leakes (Mayor Evans' nephew) along with Angela Metts to the Town of Atlantic Beach Planning Commission.

5/20/24 Holdovers voted \$12,500 cleaning contract to Jeffrey Gore (Jacqueline Gore's brother)

7/25/24 Planning Commission (Jamir Woods (Councilmember Gore's son), Titus Leakes (Mayor Evans' nephew) along with Angela Metts) voted 3 to 0 to approve a high-rise condotel ordinance.

July/August 2024 the 3 holdovers hired (3 to 2 vote) made Orton Bellamy as Town Manager and Dwayne Greene as town attorney.

8/5/24 The law firm Davis & Boykins LLC that represents holdover Josephine Isom submitted a letter that they are representing Shaun Swinson (4th place finisher in November 2023 election) who submitted an untimely protest that the 3-holdover used as an excuse to keep Isom as a holdover on council after Carla Taylor had been certified and sworn in. Swinson moved to Richmond, VA after the November 2023 election. How is he paying for the same legal services of Josephine Isom who he filed an untimely protest so Isom could remain a holdover councilmember?

8/29/24 Town Council Public Hearing scheduled for the high-rise condotel

The composition of the Town Council, hastily pursuing an expedited timeline since January 2024 for a high-rise condotel. Following the municipal election of November 7, 2023, several lawsuits were followed. In one, a candidate for Town Council (Carla Taylor) was declared the winner of her race by the municipal election commission, but the Town Council is refusing to recognize her position. In the other, a candidate for Mayor and incumbent councilmember asked that she be "declared the winner of the Election for Mayor of the Town of Atlantic Beach." which she lost. On information and belief, two of the currently recognized members of Town Council (Edward Campbell and John David) are opposed to this CondoTel project, along with Ms. Taylor. On the other hand, holdover Mayor Jake Evans, and holdover council members Josephine Isom and Jacqueline Gore are all in favor of this project. The 3 holdover members have made appointments to the planning commissions to override the 11/7/23 election and to further push the processing of this high-rise.

As the Post and Courier Editorial Staff noted, "**Atlantic Beach Election Coup Demands Action,**" November 15, 2023, https://www.postandcourier.com/opinion/editorials/editorial-atlantic-beach-election-coup-demands-state-action/article_06642134-8309-11ee-9970-27420ac2a714.html

To summarize the supporting documents. Then Mayor Evans, three days after the Municipal Elections in November 2023, interrupted an in-progress meeting of the Municipal Election Commission for the Town of Atlantic Beach and demanded it cease to continue for an unfounded reason. Once the meeting ended Mayor Evans called an emergency meeting of the Town of Atlantic Beach Council where he and two other members of the council, Jackie Gore (on the ballot for re-election of council seat) and Josephine Isom (current councilwoman who ran for mayor), voted to remove all members of the Atlantic Beach's Municipal Election Commission. This action resulted in the mayor retaining his seat as allowed for according to SC election law's holdover provision. The incumbents, including the mayor continue to collect a monthly stipend (\$500 per month for mayor and \$400 for council members) and continue to vote to place family members in commissioner positions to move through a multi-million-dollar development that ONLY the mayor and the other two incumbents' support.

Please see the attached documents for further information.

<https://www.postandcourier.com/opinion/editorials/editorial-atlantic-beach-election-coup>

<https://www.yahoo.com/news/atlantic-beach-councilwoman-ordered-removed-231645795.html>

https://www.postandcourier.com/myrtle-beach/atlantic-beach-town-council-member-presents-case-to-judge-sc/article_107fb8f6-11f5-11ef-ba4b-335615d95b41.html?fbclid=IwY2xjawERqr5leHRuA2FlbQIxMQABHVeydLERvda_M5tWTrX7iX1FN3l4vQ_eM7e2H1oPEe-e4KMO8yLED50VoA_aem_Lb4N6z4WFaDqiUAsokpbXw

<https://mail.google.com/mail/u/1?ui=2&ik=2c1d4022ef&attid=0.1&permmsgid=msg-f:1805729669257526368&th=190f3d91287a7c60&view=att&disp=safe>

https://www.myhorrynews.com/news/atlantic-beach-election-commission-disbanded-hours-before-vote-certification/article_90cd4ff6-8022-11ee-881e-87688acc579.html

<https://www.wmbfnews.com/video/2023/11/11/town-atlantic-beach-removes-election-commission/>

<https://wpde.com/news/local/atlantic-beach-election-commission-certification-mishaps-contested-ballots-infighting-race-undecided-chair-joe-montgomery-removed-position-conflict-interest-mayoral-candidate-josephine-isom-protested-results-south-carolina-november-10-2023>

<https://www.myrtlebeachonline.com/news/local/article281698763.html>

<https://www.wmbfnews.com/2023/11/10/atlantic-beach-removes-election-commission-after-issues-certifying-mayoral-race-results/>

<https://www.myrtlebeachonline.com/news/politics-government/election/article281655353.html>

Attachment: John David's NOTICE OF MOTION AND MOTION TO INTERVENE

If there is a finding of probable cause, the following documents become public records: the complaint, the response (if any) by respondent, and the notice of hearing. If a hearing is to be held, the final order and all exhibits become a public record. If no hearing is held following a finding of probable cause, the final disposition of the matter becomes a public record.

STATE OF SOUTH CAROLINA
COUNTY OF Horry

Personally appeared before me John David who, first being duly sworn, says that he/she has read and knows the contents of the above complaint and that the allegations contained therein, are true and correct to the best of his/her own knowledge, except for those matters therein based upon information and belief, and as to those he/she believes them to be true.

Sworn to and subscribed before me this 27 day of August, 2024

[Redacted Signature]

VANESSA GOFF
Notary Public - State of South Carolina
My Commission Expires November 5, 2031

Complainant Signature

Notary Public for South Carolina My Commission expires 11/05/2031

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FOR THE FIFTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-26-02537

Josephine Isom,)
Appellant,)
v.)
Town of Atlantic Beach Municipal)
Election Commission,)
Respondent.)

**PETITIONER JOHN W. DAVID'S
NOTICE OF MOTION AND
MOTION TO INTERVENE**

TO: Josephine Isom, Appellant, and Town of Atlantic Beach Municipal Election Commission, Respondent:

YOU WILL PLEASE TAKE NOTICE that Petitioner, John W. David ("Petitioner David"), by and through his attorneys, Ian T. Duggan and Demetri K. Koutrakos of Callison Tighe & Robinson, LLC, pursuant to Rule 24, SCRCP, file this Motion for leave to intervene as a Respondent in the above-captioned matter, and for leave to file a response to Appellant, Josephine Isom's Notice of Civil Appeal filed April 12, 2024. For the reasons set forth herein, this Court should grant this motion to intervene.

 **FACTUAL & PROCEDURAL BACKGROUND** 

Ms. Isom's appeal is but the latest chapter in a lengthy and controversial saga involving the November 7, 2023, municipal election in the Town of Atlantic Beach and the following narrative is intended to provide important factual context for the prudence of permitting John David to intervene in this appeal.

The Town of Atlantic Beach employs a council-manager form of government, provided for in title 5, chapter 13 of the South Carolina Code. S.C. Code Ann. § 5-13-10 - 100. The

governing body of Atlantic Beach is the “[Town] Council, composed of a mayor and four . . . councilmen.” *Id.* § 5–13–20(a).

On November 7, 2023, the Town of Atlantic Beach held a municipal election for Mayor and two Town Council seats. Appellant, Josephine Isom, and Petitioner/Intervenor, John David, both ran for Mayor. On November 7, 2023, eighteen provisional ballots were cast under S.C. Code Ann. § 7-13-830 when the qualifications of most of these voters was challenged at the polling station by Irene Armstrong-Evans, apparently acting at the behest of Councilwoman Jackie Gore—who was running for re-election—as Ms. Gore’s “poll watcher.”

On November 9, 2023, the Municipal Election Commission of Atlantic Beach (then composed of Chairman Joe Montgomery and members Kenneth McIver, and Carolyn Gore—the mother of candidate/councilwoman Jacqueline Gore) held a hearing to take evidence and consider the objections made to the qualifications of these 18 voters. When a vote is challenged at the polling station, a voter is put on notice of the challenge to their vote. Accordingly, when the Municipal Election Commission met on November 9, 2023, to resolve these challenges, almost all the challenged voters attended in person with documents corroborating their residency and qualification to vote in the November 7, 2023, election. See **Exhibit A**¹, Transcript of November 9, 2023, Municipal Election Commission Hearing with Attachments.

After considering all the evidence presented, the Municipal Election Commission determined that each challenged voter met the qualifications to vote in the November 7, 2023, election and under state law, this “decision is final.” S.C. Code Ann. § 7-13-830.

Therefore, each of the provisional ballots was removed from its provisional ballot “envelope, mingled, and counted and the totals added to the previously counted ballot total.” *Id.*

¹ Please refer to Petitioner’s *Final Exhibit Index* as **Exhibit K** for reference.

As a result of the “final” decision of the Municipal Election Commission John David was determined to have received 65 votes in the mayoral race, Josephine Isom, 64 votes, and there were two write-in votes cast. Exh. A.

Thereafter, because of the close results of the mayoral race, the Municipal Election Commission scheduled a recount for the following morning, Friday, November 10, 2023, and announced that it would consider any protests of the election Friday afternoon.

Later on November 9, 2023, though, Appellant Josephine Isom, at the time the “Mayor Pro Tem” and sitting Councilwoman, apparently submitted a letter to the Municipal Election Commission, a true copy of which is appended here as **Exhibit B**. Ms. Isom’s letter was submitted to “protest the certification of the Election for Mayor” and asserted it “attached a list of 19 provisional ballots which were properly challenged” at the hearing the Municipal Election Commission held earlier on November 9, 2023, because “each of these ballots represents a voter who . . . is not a resident of the Town of Atlantic Beach” and that “[t]he inclusion of these ballots improperly changed the outcome of the election” therefore, Ms. Isom asserted, she should “be declared the winner of the Election for Mayor of the Town of Atlantic Beach.” *Id.*

However, of the list of 19 names on the second page, everyone, except James J. Chappell, Timaj G. Divine, and Jamar McLaurin, had an asterisk next to his or her name. Accordingly, Ms. Isom appears not to have challenged 19 votes cast in the November 7, 2023, election, not even 16, but only 15, as listed below:

- i. Carlisle Cooper
- ii. Noble P. Cooper, Jr.
- iii. Noble P. Cooper, III
- iv. Traci Y. Cooper
- v. Glynes E. Cheatham
- vi. Knowledge Divine
- vii. Colleen T. Finney
- viii. Elaine G. Finney
- ix. Jerry L. Finney

- x. Jerry L. Finney, Jr.
- xi. Julianna Hines
- xii. Nadiyah D. Vaughan
- xiii. Marvistine Y. Briggs-Fisher
- xiv. Diane Hill
- xv. Erica Vaughan
- xvi. "Vaughans's (daughter)."²

On November 10, 2023, the Municipal Election Commission met at 10:00 a.m. to proceed forward with its recount. However, before the Municipal Election Commission could proceed, the incumbent Mayor of Atlantic Beach, Jake Evans, interrupted the meeting and declared that it was an unlawful proceeding because no court reporter was present to transcribe the hearings.

Apparently seeking to address Mayor Evans' concerns, the Municipal Election Commission recessed and agreed to continue its hearing later that afternoon upon the arrival of a court reporter.

However, Mr. Evans' actions were a pretext to interrupt the lawful counting of the vote, though. At 12:30 p.m. on November 10, 2023, the Town Council of Atlantic Beach (then consisting of Mayor Jake Evans and council members Edward Lamar Campbell, Josephine Isom and Jacqueline Gore)³ held a so-called "Emergency Meeting."

During this meeting, Town Council (including Appellant Isom) voted to "remove Atlantic Beach's Municipal Election Commission" over the single dissenting voice of councilmember Edward L. Campbell. *See Exhibit C.* The Town Council's decision generated a firestorm of public protest and was wholly unauthorized under the law.

² It is unclear who Ms. Isom meant by this.

³ At the time, there were only four members of the Town Council because one of the members of Town Council passed away in October 2022. John David succeeded to this fifth seat following a special election in January 2023 to fill the vacancy. However, his success at the ballot box was challenged by appellant's son, Michael Isom. Following the Supreme Court's decision in *Michael Isom v. Town of Atlantic Beach*, Appellate Case No.: 2023-000888, Petitioner John David was sworn into office as a Councilmember on January 19, 2024.

Thereafter, on Tuesday, November 14, 2023, John David filed his Complaint and Petition for original jurisdiction before the Supreme Court of South Carolina seeking a judgment and declaration that “any decision made by the Town Council [of Atlantic Beach, South Carolina] on November 10, 2023, to remove the members of the Municipal Election Commission or “dissolve” it entirely is void and without legal effect.” *See* Complaint, ¶ 106, Case No. 2023-001778, Supreme Court.

On November 28, 2023, in the face of John David’s case pending before the Supreme Court and intense public scrutiny, the Town Council backtracked and “reaffirm[ed] and recoven[ed] the Town’s” Municipal Election Commission, *see* Case No. 2023-001778, Town of Atlantic Beach December 4, 2023, Return to Petition for Original Jurisdiction at 3, and called its actions on November 10, 2023, an “erroneous” act “of desperation.” *Id.* During this same meeting, the Town Council (including Appellant Josephine Isom), without required cause, due process, and without meeting other legal requirements, voted to remove Joe Montgomery from his position as chairman of the Atlantic Beach Municipal Election Commission.

On December 11, 2023, three of the then four members of the Town Council met—Jake Evans, Josephine Isom, and Appellant Jacqueline Gore. Councilmember Campbell was not present. During this meeting, counsel for the Town of Atlantic Beach, Attorney Joseph Dickey, addressed the public and recommended that the Town Council “fill the vacant spot” on the Municipal Election Commission. Subsequently, Mayor Evans sought nominations for this position. At this point, Josephine Isom “recused herself” from the proceedings, left the room through a door behind the Town Council table, and did not return to the meeting. As such, only Mayor Evans and Candidate for Town Council//Councilmember Jacqueline Gore were present for the meeting (along with Attorney Joseph Dickey and Town Staff)—as illustrated in the “before” and “after” images below:



Once Ms. Isom left the room, someone in the audience stated, “need to have a quorum” before being silenced by Mayor Evans.

Courts in South Carolina have long recognized that “no valid act can be done in the absence of a quorum.” *Gaskin v. Jones*, 198 S.C. 508, 513, 18 S.E.2d 454, 456 (1942). “**A majority of the total membership of the council shall constitute a quorum for the purpose of transacting council business.**” S.C. Code Ann. § 5-7-160 (emphasis added). “**A member who recuses himself** or is disqualified to participate in a matter due to a conflict of interest, bias, or other good cause **may not be counted for purposes of a quorum** at the meeting where the board acts upon the matter.” *Garris v. Governing Bd. of S.C. Reinsurance Facility*, 333 S.C. 432, 453, 511 S.E.2d 48, 59 (1998) (emphasis added).

Despite only two members of the Town Council remaining in the room after Ms. Isom recused herself, the Town Council putatively voted to approve the nomination of Derrick Stevens as a member of the Town's Municipal Election Commission.

Derrick Stevens's purported appointment to the Municipal Election Commission was problematic for other reasons, too. First, Derrick Stevens was, at the time, a member of the Town of Atlantic Beach Planning Commission. As a member of the Town of Atlantic Beach Planning Commission, Mr. Stevens could not sit as a member of the Municipal Election Commission without violating this State's prohibition on dual office holding. *See, e.g.* S.C. Const. Article XVII, § 1A; Article VI, § 3; *Darling v. Brunson*, 94 S.C. 207, 77 S.E. 860 (1913) (providing that prohibition against dual office holding applies to municipal offices). In numerous opinions, the Office of the Attorney General has concluded that "a member of a . . . municipal planning [or election] commission holds an office for purposes of dual office holding." *See, e.g.*, 2011 WL 3346433, at *1 (S.C.A.G. July 19, 2011) (collecting opinions regarding planning commissioners); 1991 WL 632920, at *1 (S.C.A.G. Feb. 8, 1991) (collecting opinions regarding election commissioners). And it is unclear when (if ever) his resignation from his position on the Town Planning Commission occurred.

Second, on information and belief, Derrick Stevens is the long-time live-in boyfriend of Jacqueline Gore, a sitting council member, candidate for re-election in the November 7, 2023, municipal election, and the daughter of Mrs. Carolyn Gore, one of the members of the Municipal Election Commission.

Still, even after the putative appointment of Mr. Stevens, several weeks went by and the Municipal Election Commission still took no action to finalize the November 7, 2023, election. On January 5, 2024, counsel for Atlantic Beach, Attorney Joseph Dickey, wrote a letter to Governor Henry McMaster, "humbly request[ing]" on behalf of the Town, that the Governor direct

the State Election Commission (“SEC”) to “take over the administration of the November 7, 2023[,] Town of Atlantic Beach Municipal Election proceedings.” See **Exhibit D**.⁴

On January 10, 2024, Attorney Thomas Limehouse, Chief Legal Counsel for Governor McMaster responded to Attorney Dickey’s letter. While acknowledging that S.C. Code § 7-13-1170 provides the Governor with some authority to direct an election under certain circumstances, “neither the South Carolina Constitution nor the South Carolina Code of Laws authorizes the Governor to intervene in (or direct the SEC to assume control of) an uncertified municipal election.” As such, Governor McMaster could not take action “to end this embarrassing episode . . . by resorting to a procedure that is not authorized by state law.” See **Exhibit E**.

The Municipal Election Commission continued to delay further proceedings in an inexplicable and unjustified way. Josephine Isom’s protest of the November 7, 2023, municipal election was apparently filed on November 9, 2023.

. . . Within *forty-eight hours after the filing of such [protest] notice*, the Municipal Election Commission shall, after due notice to the parties concerned, conduct a hearing on the contest, decide the issues raised, file its report together with all recorded testimony and exhibits with the clerk of court of the county in which the municipality is situated, notify the parties concerned of the decisions made, and when the decision invalidates the election the council shall order a new election as to the parties concerned.

S.C. Code Ann. § 5-15-130 (emphasis added). “[T]he main purpose of this law is to expeditiously finalize protested municipal elections in the interest of realizing the voters’ will and seamlessly

⁴ But the Governor’s Office has been forced to intervene in the electoral process in Atlantic Beach in the past. See Executive Order No. 2012-03 (highlighting the “problems in the Town [of Atlantic Beach’s] electoral process such as: poll workers not following proper procedures for challenged ballots (*Taylor v. Town of Atlantic Beach Election Commission*, 363 S.C. 8, 609 S.E.2d 500 (2005)); voters being denied the right to vote despite establishing residency (*Armstrong v. Atlantic Beach Municipal Election Commission*[,] 380 S.C. 47, 668 S.E.2d 400 (2008)); and the Municipal Election Commission failing to comply with the statutory procedure for contesting election results (*Cole v. Town of Atlantic Beach Election Commission*, 393 S.C. 264, 712 S.E.2d 440 (2011).”).

transitioning governmental offices.” *Cole v. Town of Atl. Beach Election Comm'n*, 393 S.C. 264, 275, 712 S.E.2d 440, 446 (2011)

Despite this forty-eight-hour requirement under S.C. Code Ann. § 5-15-130 and its purpose of “expeditiously finaliz[ing]” contested elections, the Municipal Election Commission did not hold a meeting in January 2024.

On February 28, 2024, the Municipal Election Commission met, but it failed to consider or resolve Josephine Isom’s protest or do anything else required of it under S.C. Code Ann. § 5-15-130.

Instead, at this meeting, the Municipal Election Commission directed that its counsel investigate the backgrounds of various voters in the November 7, 2023, election and that its counsel issue putative subpoenas to various voters attempting to secure their presence at the next hearing of the Municipal Election Commission. Such investigative materials gathered by the Election Commission’s counsel included “screenshots” from the Facebook pages of young residents of Atlantic Beach attending social functions and other pastimes while away at college.

On Monday, March 18, 2024, the Town of Atlantic Beach issued a public notice and agenda for a meeting of the Municipal Election Commission on Wednesday, March 20, 2024, a true copy of which is appended here as **Exhibit F**.

However, the meeting was called off on short notice. According to public reporting, both Carolyn Gore and Derrick Stevens had “family emergenc[ies]” that prevented them from attending the hearing. *See, e.g.*, Julia Richardson, Kristin Nelson, “Absolutely Unacceptable: Atlantic Beach Election Protest Hearing Canceled,” WMBF NEWS, March 20, 2024.⁵

⁵ <https://www.wmbfnews.com/2024/03/20/absolutely-unacceptable-atlantic-beach-election-protest-hearing-canceled/>

Finally, on April 3, 2024, the Municipal Election Commission met. After a multi-hour hearing in which most of the challenged voters submitted sworn statements and documents corroborating their eligibility to vote in the November 7, 2023, and in which Appellate Josephine Isom withdrew several of her challenges and offered *de minimis* contrary testimony from herself and Irene Evans-Armstrong, the Election Commission overturned its previous ruling (“final” under S.C. Code Ann. § 7-13-830) and declared 13 ballots fraudulent. *See Exhibit G.*

Regarding one such ballot,⁶ the Commission voted unanimously. For the other 12, Mr. Stevens and Mrs. Gore, over Mr. McIver’s dissenting vote, voted to throw out the 12 additional votes. Accordingly, the Election Commission elected to “invalidate” the election and recommended to Town Council that it “order a new election as to the parties concerned.” S.C. Code Ann. § 5-15-130.

However, while the results of the mayoral race in the November 7, 2023, election remained uncertain after this April 3, 2024, hearing, the Municipal Election Commission was also charged with certifying the results of the two Town Council seats. Thankfully, the Municipal Election Commission did precisely that and declared, in writing, that Jacqueline Gore (71 votes) and Carla Taylor (69 votes) received the most votes. **Exhibit H.** Ms. Taylor was sworn in later that same week.

However, while the Municipal Election Commission’s written certification of the Town Council results at Exhibit H seem plain enough, at some point thereafter, Shaun Swinson, the last place finisher in that election with only 48 votes purportedly filed yet another protest.

⁶ Mr. McIver remarked during this April 3, 2024, proceeding that it was his understanding that this single vote he voted to discount was cast by a voter not found to be an eligible elector by the Election Commission on November 9, 2023. It appears though, that Mr. McIver’s recollection was incorrect. *Cf.* Exhibit A.

On April 15, 2024, Joseph D. Dickey, Jr., Esq. (one of the three attorneys from the well-respected law firm of Haynsworth Sinkler Boyd present to advise the Municipal Election Commission on April 3, 2024) asserted in an April 15, 2024, letter that “[t]o accomplish certification, it required the [Municipal Election Commission] to consider a proper motion to certify the election of those Town Council seats and take an affirmative vote to certify.” **Exhibit I.**⁷

According to Attorney Dickey,

Whether formal and legal certification took place or not, the results of the [Municipal Election Commission] hearing triggered one of the candidates for the open council seats, Mr. Shaun Swinson, to submit a written protest of the election based on the grounds that fourteen (14) [*sic*] votes were deemed fraudulent and his belief that this factual finding should have affected vote counts in the council seat elections as well.⁸

Id.

Still, Attorney Dickey recognized that “[s]tate law provides that such a protest should be filed within forty-eight (48) hours of the closing of the polls. S.C. Code Ann. § 5-15-130.” But, while conceding that the law makes Mr. Swinson’s appeal untimely and thus, outside of the limited jurisdiction of the Municipal Election Commission,⁹ Attorney Dickey “recommend[ed] that a public meeting of the Municipal Election Commission be scheduled as soon as possible” and that

⁷ While Attorney Dickey’s letter appears to constitute legal advice, it was shared with undersigned counsel, amongst other members of the public, directly by Attorney Dickey.

⁸ According to the Municipal Election Commission certification, Mr. Swinson received only 48 votes in the November 7, 2023, election. Exh. H. As noted above, Jacqueline Gore and Carla Taylor received 71 and 69 votes, respectively. Accordingly, even if were presumed that all 13 (or 14 votes, as Mr. Dickey’s letter incorrectly asserts) were cast aside by the Election Commission were for Ms. Gore and Ms. Taylor, both Ms. Gore and Ms. Taylor would still have more votes than Mr. Swinson. The fourth candidate, Jerry Finney, Sr., Esq. has not protested the results of this election.

⁹ *See, e.g., Taylor v. Town of Atl. Beach Election Comm’n*, 363 S.C. 8, 14, 609 S.E.2d 500, 503 (2005) (“The right to contest an election exists only under the state constitutional and statutory provisions, and the procedure proscribed by statute must be strictly followed.”) (internal quotations omitted, cleaned up).

the members “vote on whether it will proceed to hear the election protest or whether it will summarily dismiss the protest as untimely filed.” *See* Exhibit I.

But, as noted above, it took several months for the Municipal Election Commission to schedule the April 3, 2024, hearing that was originally supposed to occur on November 10, 2023, until interrupted by the dissolving of that body by Appellant Josephine Isom and her co-conspirators on Town Council.

But, as Attorney Dickey’s letter points out, pending this additional meeting of the Municipal Election Commission, in the meantime **“the composition of Town Council should remain as it has until the November 2023 election, protests, and appeals, if any, regarding the same are resolved.”** Exhibit I. In an email accompanying this letter, Attorney Dickey also admonished the recipients that “[w]hile certainly the Town and individuals can decide to act in contrary to legal advice, those actions, after receiving written correspondence, **would be deemed outside the scope of his/her official capacity.**” *See* Exhibit J (emphasis added).

The Chairman of the Municipal Election Commission, Kenneth McIver, responded to Mr. Dickey’s letter. *Id.* He asserted that “no further action is required from the [Municipal Election] Commission” regarding Shaun Swinson’s putative protest and that because of the signatures of each of the Election Commissioners on the written certification of the Town Council election results “[t]here is no further action required by the Atlantic Beach Election[] Commission with regard to certification of the November [7, 2023,] Town Council Election.” *Id.*

LAW AND ANALYSIS

On April 11, 2024, Ms. Isom filed her instant appeal, asserting that she “be declared the winner of the Election for Mayor of the Town of Atlantic Beach.” Dramatically opposed to this position is John David—an individual who retired after 30 years of honorable service to our Nation; an individual who believes that the rule of law in South Carolina matters; and an individual

who wants the democratic voice of the people of Atlantic Beach to be respected. Accordingly, Mr. David brings this Petition to Intervene.

While the South Carolina Appellate Court Rules appear silent on the subject, it is well settled that “[a] party may move to intervene in an appeal or other appellate proceeding.” Toal et al., *APPELLATE PRACTICE IN SOUTH CAROLINA* 378 (3d ed. 2016).

Moreover, the South Carolina Rules of Civil Procedure (in this proceeding before the Circuit Court exercising its statutory appellate authority) are instructive. *See* Rule 24(a), SCRCF (providing “anyone shall be permitted to intervene [as of right] . . . when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties”); Rule 24(b), SCRCF (“anyone may be permitted to intervene . . . when an applicant’s claim or defense and the main action have a question of law or fact in common”). “In exercising its discretion [for permissive intervention,] the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” Rule 24(b), SCRCF.

Here, the Court should permit Mr. David to intervene as a matter of right, or, at a minimum, on permissive grounds. Mr. David’s interests, as the only other candidate for Mayor in the November 7, 2023, municipal election, are directly affected by Ms. Isom’s assertions that, despite the ruling of this second of the Municipal Election Commission (albeit with a modified composition), she should be “declared the winner of the election for Mayor of the Town of Atlantic Beach.”

And, respectfully, Mr. David’s interests are not fully represented by the original parties here. First, a municipal election commission is charged with overseeing the proper conduct of the electoral process—not to exercise favor toward any one candidate. And, as the expansive narrative

above shows, it is not even clear today who oversees the Town of Atlantic Beach, the Municipal Election Commission, or its elections. And, that Mr. David and Ms. Isom—two candidates for the same political office—have adverse interests, requires no further elaboration. Furthermore, Mr. David is not just a candidate for election, he is a voter as well. That this “‘fundamental political right’ that is ‘preservative of all rights’” is threatened by Ms. Isom’s appeal is an additional ground to support his intervention here. *Williams v. Rhodes*, 393 U.S. 23, 38 (1968) (citing *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886)). Finally, Mr. David’s presence as a party will not unduly delay or prejudice this case between the original parties. *Cf.* Rule 24(b), SCRC. It was Ms. Isom who asked this Court to overturn the Election Commission’s decision to recommend a new election, not Mr. David.

Ms. Isom apparently brought her appeal *pro se* and no attorney has yet filed a notice of appearance on behalf of the Municipal Election Commission or the Town of Atlantic Beach. Still, before filing this Motion, undersigned counsel sought consent from those who he understood are or who have formerly represented the parties—Attorney Joseph Dickey on behalf of the Town of Atlantic Beach and Kenneth Davis, Esq. for Ms. Isom. While Attorney Davis confirmed his representation of Ms. Isom in this appeal, he did not inform undersigned whether he consented to John David’s intervention or not. Attorney Dickey neither confirmed nor denied he represented the Town in this appeal—only that “[w]hen I receive word from Town Council. . . I’ll make sure you’re the first to know.” It is unclear when such word will be received, though, given that the composition of the Town Council of Atlantic Beach today, as it has for over six months and counting, remains uncertain.

CONCLUSION

For these reasons, and in the interest of judicial economy, fairness and the avoidance of prejudice, Petitioner David respectfully requests that this Court grant his Motion to Intervene and grant such other and further relief as is just and proper.

Respectfully submitted,

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**ATTORNEYS FOR
PETITIONER/INTERVENOR
JOHN W. DAVID**

April 24, 2024
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) BEFORE THE STATE ETHICS COMMISSION
))
IN THE MATTER OF:)
COMPLAINT C2024-068)
))
John David,) **DECISION AND ORDER**
Complainant.)
))
Jake Evans,)
Respondent.)
_____)

This matter came before the South Carolina Ethics Commission (Commission) by way of a Complaint filed on August 29, 2024. The Commission’s Executive Director reviewed the Complaint, determined it contained facts sufficient to warrant an investigation, and ordered an investigation. On September 18, 2025, the Commission reviewed the Complaint and investigative findings to determine whether probable cause existed to charge Jake Evans (Respondent) with violating the South Carolina Ethics, Government Accountability, and Campaign Reform Act (Ethics Act). For the reasons stated herein, the Commission finds probable cause exists but waives further proceedings.

STATEMENT OF FACTS

1. At all times relevant, Respondent served as Mayor on the Atlantic Beach (Town) Town Council (Council). Prior to the filing of the Complaint, Respondent’s most recent election was held on November 5, 2019. His term was scheduled to expire on January 2, 2024, upon the swearing in of the new Mayor.
2. On November 7, 2023, the Town held an election wherein two (2) candidates ran for mayor – Complainant John David (Complainant) and Josephine Isom (Isom). Respondent did not seek re-election in the 2023 election due to health issues.
3. The initial results of the November 7, 2023 mayoral election showed Isom with 62 votes and

JA #1

Complainant with 49 votes, with a total of 111 votes cast. Following the election, nineteen (19) votes were challenged.

4. On November 9, 2023, the Town's Municipal Election Commission (MEC) conducted a provisional ballot hearing¹ and denied each challenge. On this date, the MEC was comprised of Joe Montgomery, Carolyn Gore, and Kenneth McIver. At the hearing, the MEC accepted the provisional ballots and commingled them with the remaining ballots, declaring Complainant as the victor with 65 votes, followed by Isom with 64 votes, with a total of 129 votes cast.
5. On the afternoon of November 9, 2023, Isom filed a notice of protest with the MEC to contest the results of the election, claiming that the provisional ballot voters were not residents of the Town. See S.C. Code Ann. § 5-15-130 ("within forty-eight hours after the closing of the polls, any candidate may contest the result of the election as reported by the managers by filing a written notice of such contest together with a concise statement of the grounds therefore with the [MEC].").
6. On November 10, 2023, the MEC convened to recount the votes and certify the election. Prior to certification, Respondent interrupted the meeting and objected to the MEC continuing without a court reporter to transcribe the proceedings. The MEC recessed to obtain a court reporter. During the recess, Council (including Respondent) held an emergency meeting and disbanded the MEC due to the alleged political activity of MEC member Montgomery.
7. On November 28, 2023, Council (including Respondent) met and voted to reinstate Gore and

¹ S.C. Code Ann. § 7-13-830 allows for a provisional ballot hearing when a voter is challenged at the poll. In such instances, the challenged vote is deemed provisional and kept separate in an envelope, which is given to the MEC. The MEC then meets to hear evidence regarding the challenged voter and determines whether he is qualified to cast a ballot.

JX #2

McIver to the MEC and to remove Montgomery from the MEC for his alleged political activity.

8. On December 11, 2023, Council (including Respondent) met and appointed Derrick Stevens to the MEC.
9. On April 3, 2024, the MEC held the election protest hearing. The MEC received evidence, heard testimony, and ultimately concluded that fourteen (14)² voters challenged by Isom were not Town residents and had therefore improperly voted in the election. The MEC found that the ballots cast by these individuals had been “inextricably commingled with the other remaining and validly cast ballots” so that the results of the election were “in the least, significantly doubtful.” As a result, the MEC declared the 2023 mayoral election invalid and requested that Town Council order a special election specific to Isom and Complainant.
10. Throughout these proceedings, Respondent continued to serve as Mayor in a hold-over status. In this regard, Respondent attended meetings as his health permitted and continued to receive a monthly stipend for his service. Despite continuing to serve as Mayor, Respondent did not file a Statement of Economic Interests (SEI) by March 30 in 2024 or 2025.
11. Following the filing of the Complaint, Respondent filed his 2024 and 2025 SEIs.

LAW

Pursuant to Section 8-13-320, the Commission is empowered to receive complaints and conduct investigations related to violations of the Ethics Act. Following the receipt of a Complaint and completion of a corresponding investigation, the Commission must determine whether there is probable cause to believe a violation of the Ethics Act occurred. S.C. Code Ann. § 8-13-

² Complainant is involved in civil litigation related to the same or a similar set of facts in which he asserts that thirteen (13) ballots were commingled with the other valid ballots. For purposes of this Order, this apparent discrepancy in the number of challenged ballots is immaterial.

JX #3

320(10)(i). If the Commission determines probable cause exists, it may order a hearing on the merits or, if the Respondent has acted to remedy or correct the alleged violation, it may waive further proceedings. S.C. Code Ann. § 8-13-320(10)(i). The decision to waive further proceedings lies within the sound discretion of the Commission.

Section 8-13-700 prohibits a public official from using his position to obtain an economic interest for himself. “Economic interest” is defined as an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which the public official may gain more than fifty (50) dollars. Section 8-13-100(11)(a). In such instances, public officials are required to recuse themselves in writing pursuant to Section 8-13-700(B). Moreover, Section 8-13-1140 requires public officials to file a SEI on or before March 30 of each year.

DECISION

In this case, Respondent clearly voted to disband the MEC on November 10, 2023, then voted to reconstitute the MEC on December 11, 2023. However, the question that must be answered by the Commission is whether Respondent took action to obtain an economic interest for himself beyond what he was entitled to as a result of his service as Mayor. In this instance, Respondent’s actions did not cause him to continue in hold-over status past January of 2024, which was the natural expiration of his existing term of office. Rather, the MEC failed to hold a hearing between December 11, 2023 and April 3, 2024 and the Commission’s investigation revealed no evidence to suggest Respondent played any part in this delay by the MEC. Accordingly, the Commission finds that probable cause does not exist to find Respondent in violation of Section 8-13-700.

However, as a result of this hold-over status, Respondent remained and was seated as

JX#4

Mayor as of March 30 in 2024 and 2025 and was therefore required to file a SEI in each year. Respondent failed to file an SEI in 2024 or 2025. Thus, the Commission hereby determines there is probable cause to believe that Respondent violated Section 8-13-1140 of the Ethics Act by failing to timely file 2024 and 2025 SEIs. Given that Respondent has since filed his 2024 and 2025 SEIs, the Commission hereby waives further proceedings with regard to this Complaint.

THEREFORE, pursuant to Section 8-13-320(10)(i), and the rules and regulations promulgated thereunder, the Commission hereby finds probable cause and waives further proceedings.

AND IT IS SO ORDERED THIS 11th DAY OF November, 2025.

SOUTH CAROLINA ETHICS COMMISSION



F. XAVIER STARKES, CHAIR

Columbia, South Carolina