

From: [Geoff Wilson](#)
To: [Anissa Hollingshead](#); lisa.m.cunningham@protonmail.com
Cc: [Sara Arfmann](#); [Carrie Daggett](#)
Subject: [EXTERNAL] RE: Notice of Protest Filed and Protest Hearing Scheduled
Date: Sunday, December 10, 2023 4:06:48 PM

Good afternoon:

I am the hearing officer for the Protest filed by Ms. Cunningham (the Protester) in the office of the Fort Collins City Clerk on December 6, 2023, pursuant to Art. X, Section 5(f)(3) of the City Charter. The hearing on this Protest will be at 9:30 am on Wednesday, Dec. 13 in the City Council Chambers (the Protester should have already received a notice to this effect).

As set forth in Art. X, Sec.5(f)(3) of the City Charter, Protester here objects to “a determination by the City Clerk that a petition is...sufficient.”

The City Clerk’s determination of petition sufficiency involves primarily a review of the signatures on the petitions. Specifically, Art. X, Section 5(f)(1) of the Charter directs that the City Clerk “ascertain... whether the petition is signed by the requisite number of registered electors and contains the required particulars and affidavits.” The reference to “particulars” is to the other items on the signature line of a petition, besides the signature itself. Thus, the process to protest this determination by the City Clerk is *also* focused on the adequacy of the signatures on the petition. That is why Art. X, Sec.5(f)(3) directs that a protest brought pursuant to that section “shall set forth *with particularity* the grounds of protest and *the names and defects in form protested.*” (emphasis added).

In **Section 1** of her Protest, Protester fails to identify specifically which names on the petition she is seeking to invalidate, beyond her own. Protester implies that she means to protest other signatures, but does not identify them with particularity. I am overlooking this defect in the Protest as to these additional signatures, but I will be looking for the Protester, at the outset of our hearing, to cure this defect by identifying with particularity which signatures she is protesting, should she wish to protest any signatures other than her own.

In **Section 2** of her Protest, Protester raises an objection to the petition that does not concern the determination of the sufficiency of signatures that is the lawful scope of this Protest, pursuant to Art. X, Section 5(f)(3) of the Fort Collins City Charter. Whatever merit Protester’s objections may have (and I express no opinion here), this Protest hearing is not the lawful forum. Accordingly, I will not be taking testimony or receiving other evidence in connection with Section 2 of the Protest on Wednesday morning, and I will be dismissing this portion of the Protest.

Pre-hearing Requests of the Protester.

The following will greatly assist me, as your Hearing Officer, as well as expediting our hearing.

1. Exhibits: Should Protester wish to submit any documentary (written/graphic/pictorial) materials for consideration at the hearing in connection with Section 1 of the Protest, please letter these materials individually (a, b, c, etc) for your use as exhibits, and provide them to the City Clerk by the *close of business on Monday*. The Clerk will make copies of the exhibits

for me.

2. Witnesses: Should the Protester wish to provide testimony of any witnesses, please provide the City Clerk with a list of these witnesses and a brief statement of their intended testimony by the *close of business on Monday*. The Clerk will forward to me this list.

Order of the Hearing.

The hearing on Wednesday morning will begin at 9:30 am and proceed as follows:

1. Introduction of Hearing Officer and opening remarks of the Hearing Officer.
2. Protester is administered oath.
3. Protester presents her case and answers questions from the Hearing Officer. Protester's witnesses, if any, are sworn in and may be examined by the Protester and the Hearing Officer. The Protester's burden of proof in this proceeding is a "preponderance of the evidence," meaning that Protester must show that it is more likely than not that the signature protested is invalid.
4. Protester concludes her case; may make closing statement.
5. Hearing is closed; Hearing Officer takes case under advisement.
6. Hearing Officer will issue decision within ten days following the hearing.

This will be a public hearing, and the public is welcome to attend. However no public comment or testimony will be taken.

I will expect polite decorum by the public observing this proceeding.

Should I have omitted some detail or can answer any questions about our hearing on Wednesday morning, please send me an e-mail.

Best Regards.

Geoff Wilson
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From: Anissa Hollingshead <ahollingshead@fcgov.com>
Sent: Friday, December 8, 2023 9:17 AM
To: lisa.m.cunningham@protonmail.com
Cc: elections <elections@fcgov.com>
Subject: Notice of Protest Filed and Protest Hearing Scheduled

Attached please find a notice of a protest hearing for the protest you have filed that has been scheduled to begin Wednesday, December 13, at 9:30 a.m. Also attached is a copy of your protest as received.

The hearing will be held in Council Chambers at City Hall and will be before a neutral hearing officer appointed by the City Manager. Remote participation via Zoom is possible. Please let us know if you would like remote participation arrangements.

The timeframe for scheduling this hearing is tightly constrained by the City Charter. Wednesday, December 13 is the only possible day to schedule a hearing that meets the requirements both for when a hearing must start after the filing of a protest and the window required to provide notice:

City Charter Article Section 5. Petitions.

- (f) Sufficiency of petition.
 - (3) Protests. Registered electors desiring to protest a determination by the City Clerk that a petition is either sufficient or insufficient may file a written protest, under oath, in the office of the City Clerk within ten (10) days of the filing of the petition. The protest shall set forth with particularity the grounds of protest and the names and defects in form protested. **Upon the filing of a protest, the City Clerk shall set a time for hearing such protest, which shall be no more than seven (7) days thereafter. At least five (5) days prior to the hearing, the City Clerk shall mail a copy of the protest to all of the designated petition representatives together with a notice of the time for hearing.** All hearings shall be before a hearing officer appointed by the City Manager who shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. All records and hearings shall be public, and all testimony shall be under oath. The hearing shall be summary in nature and concluded within thirty (30) days after the petition was filed. Said hearing officer shall decide and certify the results of the hearing within ten (10) days after the hearing is concluded. The City Clerk shall make any final determination regarding the sufficiency or insufficiency of a petition and shall base such determination on the protest hearing results certified by the hearing officer. A petition for referendum which has been deemed insufficient after protest may not be amended or circulated further.

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ANISSA HOLLINGSHEAD
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