



WASHTENAW COUNTY BOARD OF CANVASSERS

August 7, 2025

MINUTES

A meeting of the Washtenaw County Board of Canvassers was held in the Lower Level Large Conference Room located at 200 N. Main Street, Ann Arbor, MI at 9:00 am.

MEMBERS PRESENT: Mary Hall-Thiam (D), Chair
Ed Clarke (R), Vice Chair
Denise Pettis (D)
Sharon Giuffre (R)

OTHERS PRESENT: Lawrence Kestenbaum, Washtenaw County Clerk
Rena Basch, Director of Elections
James N. Allen, Deputy Clerk/Elections
Michael Auten, Washtenaw County Corporation Counsel
Chris Watson, Washtenaw Democratic Party Vice Chair
William Mayhew, Resident
Catherine Murau, League of Women Voters
Steve Frahm, Resident
Bob Rorke, Resident
Holly Bea, League of Women Voters
Cheryl Depner, League of Women Voters
Anne Jackson, League of Women Voters

1. Welcome and Chair/Vice Chair memo – Clerk Kestenbaum

Clerk Kestenbaum addressed the Board and thanked them for the extremely critical job and work they do.

2. Call to Order and Roll Call

Clarke called the meeting to order at 9:00 a.m. on Thursday, August 7, 2025.

Mr. Clarke advised he would forego the Chair and return the position to Ms. Hall-Thiam.

Washtenaw County Corporation Counsel provided a legal memo confirming-advising that counsel believes the best course of action is returning the Chair to that Hall-Thiam ~~remains-the-Chair~~ until her term expires.

Motion by Clarke to nominate Mary Hall-Thiam as Chair and Ed Clarke as Vice Chair.

Yeas: Clarke, Giuffre, Hall-Thiam, Pettis
Nays: None
Absent: None

Motion carried

The question was raised in regards to who becomes the Vice Chair of the Board and Mr. Auten explained that the previous motion to nominate Ms. Hall-Thiam as Chair included nominating Mr. Clarke as Vice Chair and the matter was settled.

3. Public Comment: the following individuals spoke:

Mr. Chris Watson, Vice Chair of the Washtenaw Democratic Party thanked the Board for returning the Chair to Ms. Hall-Thiam, and provided a letter from the Party.

Clerk Kestenbaum, welcomed all members of the audience and thanked them for their presence and their interest.

4. Adoption of Agenda

Motion by Clarke, supported by Hall-Thiam, to approve the agenda with changes.

Mr. Clarke requested changes to the agenda. Items originally labeled as 7a, b, and c, were all moved back to Items 7c, d, and e, respectively.

Yeas: Clarke, Giuffre, Hall-Thiam, Pettis

Nays: None

Absent: None

Motion carried

5. Approval of Minutes May 8, 2025 meeting

Motion by Clarke, supported by Giuffre, to approve striking the phrase *Temporary Members* and only list Assistant Members.

Yeas: Clarke, Giuffre

Nays: Hall-Thiam, Pettis

Absent: None

Motion failed

Clerk Kestenbaum noted the Minutes need to reflect what happened at the last meeting.

Mr. Clarke noticed a typo on the date of the adjournment, saying "May 6," and would be changed to May 8. He also wanted it to be noted that Ms. Hall-Thiam was Chair and Mr. Boone was Vice Chair.

Motion by Clarke, supported by Hall-Thiam, to approve the Minutes of the meeting on May 8, 2025, as amended and for all members of the Board to sign.

Yeas: Clarke, Giuffre, Hall-Thiam, Pettis

Nays: None

Absent: None

Motion carried

6. New Business

- a. Discussion regarding the application of Robert's Rules of Order

Motion by Clarke, supported by Giuffre, to adopt Robert's Rules of Order as proscribed for small boards from the 12th Edition.

Yeas: Clarke, Giuffre
Nays: Hall-Thiam, Pettis
Absent: None
Motion failed

- b. Training session / review of process by which votes reach the EMS

Elections Director Rena Basch explained in detail from start to finish from how ballots are programmed all the way to how votes are tabulated and entered into the Election Management System (EMS). Mrs. Basch distributed a Secure Elections pamphlet published by the State Bureau of Elections.

- c. Selection of materials to use (checklists)

The Board was provided with two sets of canvass checklists – one from the State procedures manual, and the other created by the County Clerk's Office.

The Board took a break at 10:30 am and resumed at 10:35 am.

- d. Handling of late arriving overseas and military ballots

Discussion was held regarding how to tabulate the late arriving Absent Voter and Military Overseas (MOVE) Ballots.

- e. Any additional process changes

The Board reiterated they will work through lunch.

7. Canvass of the August 5, 2025 Election

At 10:47 am, the Board conducted a canvass of the August 5, 2025 Election held in the cities of Ann Arbor, Dexter, and Milan, and the Townships of Ypsilanti and Salem.

Motion by Clarke, supported by Hall-Thiam, to recess at 6:10 pm until Tuesday, August 12 at 2:00 pm.

Yeas: Clarke, Giuffre, Hall-Thiam, Pettis
Nays: None
Absent: None
Motion carried

At 2:08 pm, on Tuesday, August 12, 2025, the Board of Canvassers reconvened in the Small Conference Room 0105 in the Washtenaw County Building.

Motion by Hall-Thiam, supported by Pettis, to hand count the Military Overseas (MOVE), signature cured, and Provisional Envelope ballots.

Yeas: Giuffre, Hall-Thiam, Pettis
Nays: None
Absent: Clarke
Motion carried

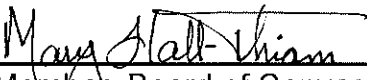
The Canvassers hand-tallied the remaining ballots. Mr. Allen and Ms. Basch entered the updated tallies into the EMS and presented the Board with updated tally sheets for signatures.

Public Comment – None.

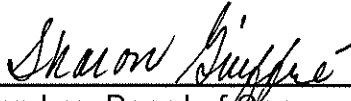
Adjournment

There being no other business to come before this Board, a motion was made by Hall-Thiam, and supported by Pettis, to adjourn the meeting at 3:18 pm.

Yeas: Giuffre, Hall-Thiam, Pettis
Nays: None
Absent: Clarke
Motion carried



Member, Board of Canvassers (D)

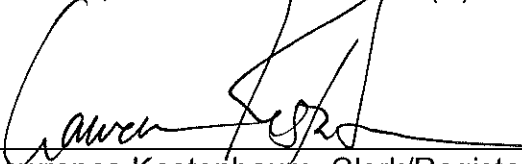


Member, Board of Canvassers (R)



Member, Board of Canvassers (D)

Member, Board of Canvassers (R)



Lawrence Kestenbaum, Clerk/Register

Approved: 11/6/2025



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TO: Clerk Lawrence Kestenbaum
Members of the Washtenaw County Board of Canvassers

FROM: Michelle Billard *MB*
Washtenaw County Corporation Counsel

DATE: August 6, 2025

RE: Recommendation on Chairperson dispute

Dear Clerk Kestenbaum and Members of the Washtenaw County Board of Canvassers:

The Office of Corporation Counsel has been asked to submit a recommendation to the Board of Canvassers regarding the dispute over which member should hold the Chairperson position in light of Mary Hall-Thiam's mistaken relinquishment of the position at the May 8, 2025 meeting.

Our understanding of the facts is taken from the draft minutes:

- Hall-Thiam said that the Board was supposed to elect a new Chair each year. She said that the Chair and Vice Chair are supposed to switch parties, and her term was over.
- Hall-Thiam nominated Clarke for Chair; Clarke seconded. Motion passed.
- Boone nominated Hall-Thiam for Vice Chair; Hall-Thiam seconded. Motion passed.

Our Office was informed by the Director of Elections that Mary Hall-Thiam recognized her mistake soon thereafter and immediately alerted the Clerk's Office of the misunderstanding. Her mistake was that she believed her term was expiring and a new, Republican Chair needed to be elected as reflected in the minutes. In fact, her term is two years (not one) and does not expire until January 2026. It is also our understanding that Ed Clarke has been asked to allow Mary Hall-Thiam to resume serving as Chair and he has declined that request. Thus, there is a dispute over whether Mary-Hall Thiam or Ed Clarke should serve as Chair.

It must be noted that there is no case law or legal precedence on point for this exact situation. Thus, our analysis relies on what we can glean from the relevant statutes, the Michigan Bureau

of Elections' Procedures and Duties of the Boards of County Canvassers ("County Board of Canvassers Manual") and general board governance practice.

The most relevant statute is MCL 168.24e, which is found in Michigan Election Law: Chapter II Boards of Election Commissioners, Boards of Canvassers, and Clerks. MCL 168.24e states that "[t]he board shall meet as necessary to transact their business, and during the month of January in each even numbered year elect 1 of their members chairperson and 1 as vice-chairperson." This mandates county boards of canvassers to meet in January of even numbered years to elect a chairperson and vice-chairperson. January is the natural start of a chair's term and it runs for a two year term. Mary Hall-Thiam was elected as Chair of the Washtenaw County Board of Canvassers in January 2024 and the natural end of her term would be January 2026 when a new Chair is elected.

It has been suggested that this situation is just like any other mid-term vacancy. For instance, a member could pass away, move out of the County, decide to run for elected office, or simply decide they no longer wish to serve on the Board of Canvassers. In those instances of a vacancy, the Board can absolutely elect a new Chairperson. That would be expected. That is not what occurred here. This suggestion completely ignores the facts that Mary Hall-Thiam remains a member of the Board of Canvassers and was elected to serve as Vice-Chair at the May 2025 meeting where she stepped down from serving as Chair. This was not an election to fill a vacancy. Rather, this was an election to replace an "outgoing Chair" who was under the mistaken belief that her term had expired.

If this is to be treated like a vacancy as has been suggested (which, again, is not a helpful comparison), the Board of Canvassers did not follow the proper protocol which is outlined in the County Board of Canvassers Manual on page 4:

If a vacancy occurs on the board of county canvassers, the county clerk shall notify the chairperson of the county committee of the party that nominated the board member who created the vacancy. Within 10 days of the notification of vacancy, the county committee of the political party shall provide the county clerk with the names of 3 persons interested in filling the vacancy on behalf of the party. Within 10 days of receiving the names from the county committee, the county clerk shall appoint 1 of the 3 persons to fill the vacancy. Prior to making an appointment, the county clerk may solicit any or all of the same materials that the County Board of Commissioners may request of persons wishing to fill a full term listed above. The newly appointed member serves until the expiration of the term of the board member who created the vacancy.

This procedure is also outlined in MCL 168.24d. There is no question that this process was not followed here. Thus, this is not a vacancy and cannot be compared to a vacancy.

If the board members present and voting believed that Mary Hall-Thiam's term was expiring and such circumstances necessitated electing a new Chair, then the Board was erroneously operating under its authority and duty as outlined in MCL 168.24e. Taking the analysis further, the board voted on an item that was "ultra vires" or "beyond the powers". When boards perform "ultra vires" acts, those actions are null and void. When actions are null and void, there

is nothing to "un-do" because the board never had the authority to do it in the first place. As such, there is a strong argument that Mary Hall-Thiam is in fact the current Chair and Ed Clarke is simply a member.

An important consideration is which party should be holding the Chair position if this was not a new term. If the Chair position went to the Democrats in January 2024, should a Democrat fill the remainder of the unexpired term through January 2026? The most current County Board of Canvassers Manual states:

Boards should split the chairperson position and the vice-chairperson position between the two political parties represented on the board. The party affiliation of the chairperson and vice-chairperson should be rotated every two years between the two parties.

The language from the Elections Bureau seems to generally support the conclusion that a Democrat should fill the remainder of the unexpired term to keep with best practices. Perhaps if this were truly a vacancy, it would have been discussed as part of the nominations that a Democrat should fill the rest of the term. The fact that the seat switched parties from the Democrats to the Republicans with little to no discussion lends itself to the conclusion that Mary Hall-Thiam (and perhaps all other members present and voting) misunderstood when her term expired. Regardless, this warrants discussion by the Board of Canvassers.

If the Board of Canvassers allows for Ed Clarke to be Chair, it creates another question as to what should happen in January 2026 when a new Chair is elected. Should the Chair switch to a Democrat or remain with a Republican? That is beyond the scope of what our Office has been asked to review, but it is worth considering when deciding on a path forward.

Given the lack of clear guidance on this issue and the complications that this issue has created, the cleanest and most logical path forward is to allow Mary Hall-Thiam to resume serving as Chair until the natural end of her term which will then allow for the Chair position to return to the Republicans in January 2026.

Respectfully,



Michelle Billard
Corporation Counsel



TO: Lawrence Kestenbaum, Washtenaw County Clerk
Katie Scott, Chair, Washtenaw County Board of Commissioners
Rena Basch, Director of Elections, Washtenaw County
Curtis Hertel, Chair, Michigan Democratic Party

FROM: Statutory Officers of the Washtenaw County Democratic Party
Theresa Reid, Chair
Chris Watson, Vice-Chair
Josephine Rood
Andrew Groat, Treasurer

DATE: August 6, 2025

It has come to our attention that the Democratic chair of the Washtenaw County Board of Canvassers, Ms. Mary Hall-Thiam, whose two-year term does not expire until January 2026, mistakenly thought that her term had expired earlier this year. Ms. Hall-Thiam has made it clear that she wants this mistake corrected, and to return to the role of chair.

The Washtenaw County Democratic Party demands and expects that the Democratic chair will, per statute, fill the full two-year term, January 2024 - January 2026.