

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

ELECTORS OF THE CITY OF YORK,
HENRY NIXON, 312 North Newberry
Street, York, PA 17401; KATHERINE
YOUNG, 367 Madison Avenue, York, PA
17401; STEVEN YOUNG, 367 Madison
Avenue, York, PA 17401; BURTON
PARRY, 404 West Market Street, York,
PA 17401; ELIZABETH CULP, 104 East
Springettsbury Avenue, York, PA 17403;
JUDITH MCKEE, 353 East Market Street,
York, PA 17403; THOMAS MCKEE, 353
East Market Street, York, PA 17403;
JUDY RITTER-DICKSON, 528 South
Duke Street, York, PA 17401; DARNELL
BOWMAN, 100 West Cottage Place,
York, PA 17401; SHILVOSKY
BUFFALOE, 744 West Princess Street,
York, PA 17401; CARLA EVETTE
FREELAND, 274 West Maple Street,
York, PA 17401; LOIS GARNETT, 450
Wilson Court, York, PA 17403; TIM
GARNETT, 450 Wilson Court, York, PA
17403; SARAI KEARSE, 452 Wilson
Court, York, PA 17403; WAJID
DESHIELDS, 836 Wayne Avenue, York,
PA 17403; MARCUS DESHIELDS, 538
East Boundary Avenue, York, PA 17403;
SHAREEF HAMEED, 383 Albemarle
Street, York, PA 17403; and
ANTONIETTA SMITH, 825 Chanceford
Avenue, York, PA 17404,

Petitioners

No.

v.

MICHAEL HELFRICH,

Respondent

**ORDER GRANTING PETITION PURSUANT TO 11 PA.C.S. § 10801(B) TO FILL
VACANCY IN THE OFFICE OF MAYOR OF YORK CITY**

AND NOW, this _____ day of _____, 2022, upon consideration of Petitioners' Petition pursuant to 11 Pa.C.S. § 10801(b) Requesting the President Judge of this Honorable Court Fill the Vacancy in the Office of Mayor of York City, any answer filed by the Respondent, and the respective briefs of the parties, if any, it is hereby ORDERED and DECREED that the Petition is granted, Michael Helfrich is deemed disqualified from holding the office of Mayor of the City of York, and _____ is hereby appointed to fill the vacancy in the Office of Mayor of the City of York.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

<p>ELECTORS OF THE CITY OF YORK, HENRY NIXON, 312 North Newberry Street, York, PA 17401; KATHERINE YOUNG, 367 Madison Avenue, York, PA 17401; STEVEN YOUNG, 367 Madison Avenue, York, PA 17401; BURTON PARRY, 404 West Market Street, York, PA 17401; ELIZABETH CULP, 104 East Springettsbury Avenue, York, PA 17403; JUDITH MCKEE, 353 East Market Street, York, PA 17403; THOMAS MCKEE, 353 East Market Street, York, PA 17403; JUDY RITTER-DICKSON, 528 South Duke Street, York, PA 17401; DARNELL BOWMAN, 100 West Cottage Place, York, PA 17401; SHILVOSKY BUFFALOE, 744 West Princess Street, York, PA 17401; CARLA EVETTE FREELAND, 274 West Maple Street, York, PA 17401; LOIS GARNETT, 450 Wilson Court, York, PA 17403; TIM GARNETT, 450 Wilson Court, York, PA 17403; SARAI KEARSE, 452 Wilson Court, York, PA 17403; WAJID DESHIELDS, 836 Wayne Avenue, York, PA 17403; MARCUS DESHIELDS, 538 East Boundary Avenue, York, PA 17403; SHAREEF HAMEED, 383 Albemarle Street, York, PA 17403; and ANTONIETTA SMITH, 825 Chanceford Avenue, York, PA 17404,</p> <p><i>Petitioners</i></p>	<p>No.</p>
--	------------

v.	
MICHAEL HELFRICH, <i>Respondent</i>	

**PETITION PURSUANT TO 11 PA.C.S. § 10801(B) TO FILL VACANCY IN THE OFFICE
OF MAYOR OF YORK CITY**

The undersigned Electors of the City of York, by and through their undersigned counsel,
file the following Petition pursuant to 11 Pa.C.S. § 10801(b) Requesting the President Judge of
this Honorable Court Fill the Vacancy in the Office of Mayor of York City, and in support
thereof aver as follows:

1. The following are Qualified Electors of the City of York:

- (1) HENRY NIXON, 312 North Newberry Street, York, PA 17401;
- (2) KATHERINE YOUNG, 367 Madison Avenue, York, PA 17401;
- (3) STEVEN YOUNG, 367 Madison Avenue, York, PA 17401;
- (4) BURTON PARRY, 404 West Market Street, York, PA 17401;
- (5) ELIZABETH CULP, 104 East Springettsbury Avenue, York, PA 17403;
- (6) JUDITH MCKEE, 353 East Market Street, York, PA 17403;
- (7) THOMAS MCKEE, 353 East Market Street, York, PA 17403;
- (8) JUDY RITTER-DICKSON, 528 South Duke Street, York, PA 17401;
- (9) DARNELL BOWMAN, 100 West Cottage Place, York, PA 17401;
- (10) SHILVOSKY BUFFALOE, 744 West Princess Street, York, PA 17401;
- (11) CARLA EVETTE FREELAND, 274 West Maple Street, York, PA 17401;
- (12) LOIS GARNETT, 450 Wilson Court, York, PA 17403;
- (13) TIM GARNETT, 450 Wilson Court, York, PA 17403;
- (14) SARAI KEARSE, 452 Wilson Court, York, PA 17403;
- (15) WAJID DESHIELDS, 836 Wayne Avenue, York, PA 17403;
- (16) MARCUS DESHIELDS, 538 East Boundary Avenue, York, PA 17403;
- (17) SHAREEF HAMEED, 383 Albemarle Street, York, PA 17403; and
- (18) ANTONIETTA SMITH, 825 Chanceford Avenue, York, PA 17404

(collectively, the "Petitioners").

2. Petitioners assert that there is a vacancy in the Office of Mayor of the City of York.

3. Respondent, Michael Helfrich (“Respondent”), was elected Mayor of the City of York in the November 2021 General Election.

4. As such, Respondent is an “elected official” as defined in the Third Class City Code (“Code”). See 11 Pa.C.S. § 10701(a)(1).

5. Respondent did not attend or otherwise participate in the York City Council’s reorganization meeting held on Tuesday January 4, 2022.

6. Respondent did not hold or otherwise participate in any inauguration or swearing-in ceremony on Tuesday January 4, 2022, or within fourteen (14) days thereof.

7. Respondent did not take the oath of office on Tuesday January 4, 2022, or within fourteen (14) days thereof.

8. On January 24, 2022, Respondent, via a livestream video platform, finally took the oath of office – some twenty (20) days following the York City Council’s reorganizational meeting.

9. Upon information and belief, Respondent did not present a signed affidavit to the City Clerk certifying that he was a resident of York City for not less than one (1) year prior to the date of his election as required by Section 11201 of the Code, 11 Pa.C.S. § 11201(3)-(4).

10. Respondent’s failure to attend the York City Council’s reorganizational meeting, failure to be inaugurated, failure to timely take the oath of office, and failure to submit the

required affidavit result in the Respondent being disqualified to hold the office of Mayor of York City, thereby creating a vacancy therein.

11. Pursuant to Section 10701 of the Code, “[a]n individual elected to a city office who fails to qualify in accordance with sections 10904 (relating to offices to be held until qualification of successors) and 10905 (relating to oath of office, violation of oath and penalty) . . . shall be ineligible to qualify. A vacancy shall exist in the office, and an individual shall be appointed to fill the vacancy in the manner provided under this part.” 11 Pa.C.S. § 10701(b) (emphasis added).

12. Section 10904 of the Code requires that “[i]f an elected official fails to appear at the organizational meeting of council to demonstrate the official's qualifications for office and to take the oath of office either: (1) the official must fully qualify for office and take the oath of office within 14 days of the date of the organizational meeting of council; or (2) the office of that elected official shall be deemed to be vacant and the vacancy shall be filled in the manner provided by this chapter.” 11 Pa.C.S § 10904(b)(1)-(2).

13. Respondent failed to appear at the organizational meeting of the York City Council on Tuesday, January 4, 2022, to demonstrate his qualifications for office and to take the oath of office.

14. Respondent failed to qualify for office and take the oath of office within 14 days of the January 4, 2022, organizational meeting of the York City Council.

15. Pursuant to Section 10905 of the Code, “[e]ach officer of the city, whether elected or appointed, shall, before entering upon the officer's respective duties, take and subscribe an

oath or affirmation of office pursuant to 53 Pa.C.S. § 1141 (relating to form of oaths of office).”

11 Pa.C.S § 10905(a).

16. Respondent failed to timely take and subscribe an oath of affirmation of office as required by Section 10905 of the Code.

17. Pursuant to Section 11201 of the Code, “[t]he qualifications for office of mayor shall be as follows: . . . “(4) Before being sworn into the office of mayor, an individual elected to mayor must present a signed affidavit to the city clerk certifying that the individual is in accordance with the requirement under paragraph (3).” 11 Pa.C.S § 11201.

18. Upon information and belief, Respondent failed to present a signed affidavit to the City Clerk certifying that he was a resident of York City for not less than one (1) year prior to the date of his election as required by Section 11201 of the Code. 11 Pa.C.S. § 11201(3)-(4).

19. Pursuant to Section 11202 of the Code, “[t]he mayor shall be inaugurated and take the oath of office in accordance with sections 10904 (relating to offices to be held until qualification of successors) and 10905 (relating to oath of office, violation of oath and penalty) on the first Monday of January after the regular municipal election. If the first Monday is a legal holiday, the mayor shall be inaugurated and take the oath the first day after that day or as soon after that day as possible.” 11 Pa.C.S § 11202.

20. As set forth above, Respondent failed to be inaugurated and take the oath of office in accordance with Sections 10904 and 10905 on the first Monday of January after the regular municipal election.

21. In this case, the first Monday of January was a City of York government holiday, however, the City Council's reorganizational meeting was held on the following Tuesday, January 4, 2022.

22. Respondent was not inaugurated on Tuesday January 4, 2022, and was not inaugurated "as soon after that day as possible"; rather, Respondent simply took the oath of office via a livestream video platform twenty (20) days later on January 24, 2022.

23. The Optional Third Class City Charter Law, 53 P.S. §§ 41101, et seq., and the York City Codified Ordinances, do not impact the applicability of the relevant provisions of the Code. See 53 P.S. § 41301. In fact, the City's Codified Ordinances repeatedly cite to and cross-reference the Code, and, in any event, do not attempt to provide additional or different qualifications for the Office of Mayor. See Codified Ordinances of York, Pennsylvania, Art. 123.02.

24. As a result of Respondent's failure to appear at the organizational meeting of the York City Council to demonstrate his qualifications for office and to take the oath of office, or, failing that, fully qualify for office and take the oath of office within 14 days of the date of the City Council's January 4, 2022 organizational meeting of Council, "the office of [Mayor] shall be deemed to be vacant and the vacancy shall be filled in the manner provided by this chapter. 11 Pa.C.S § 10904(b)(2).

25. Section 10801 of the Code provides that "[w]ithin 30 days of a vacancy in the office of mayor or other member of council or if an elected mayor or council member has failed to qualify under section 10701 (relating to elected officers, term, reelection and vacancy) prior to

taking office, council must, by a majority of council's remaining members, appoint a qualified individual to fill the vacant office. 11 Pa.C.S § 10801(a).

26. Section 10801 of the Code provides further that “[i]f a council does not fill a vacancy within 30 days under subsection (a) or if a vacancy exists in the offices of at least a majority of the members of council, including the position of mayor, the president judge of the court of common pleas having jurisdiction within the city, must fill each vacancy upon either the petition of at least 10 qualified electors of the city or the petition of a majority of the remaining members of council.” 11 Pa.C.S § 10801(b).

27. Petitioners pray this Honorable Court fill the vacancy in the Office of the Mayor of York City as required by Section 10801(b) of the code, 11 Pa.C.S § 10801(b).

WHEREFORE, Petitioners, respectfully request that this Honorable Court grant their Petition, declare Respondent, Michael Helfrich, disqualified from holding the office of Mayor of the City of York, and make an appointment to fill the vacancy in the Office of Mayor of the City of York.

BARLEY SNYDER

By: 
Justin A. Tomevi
PA 313661
jtomevi@barley.com
100 East Market Street
York, PA 17401
717-846-8888
Fax: 717-843-8492
Attorneys for Petitioners

VERIFICATION

I verify that the facts set forth in the foregoing PETITION PURSUANT TO 11 PA.C.S. § 10801(B) TO FILL VACANCY IN THE OFFICE OF MAYOR OF YORK CITY are true and correct to the best of my knowledge, information and belief. To the extent that any of the averments in the foregoing document are based upon an understanding or application of law, I have relied upon counsel in making this Verification.

This Verification is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Dated: 3.31.2022


HENRY NIXON

VERIFICATION

I verify that the facts set forth in the foregoing PETITION PURSUANT TO 11 PA.C.S. § 10801(B) TO FILL VACANCY IN THE OFFICE OF MAYOR OF YORK CITY are true and correct to the best of my knowledge, information and belief. To the extent that any of the averments in the foregoing document are based upon an understanding or application of law, I have relied upon counsel in making this Verification.

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Dated: 04/01/2022

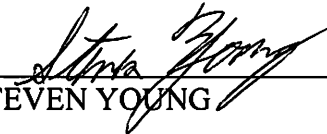
Katherine Young
KATHERINE YOUNG

VERIFICATION

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Dated: 4/1/2022

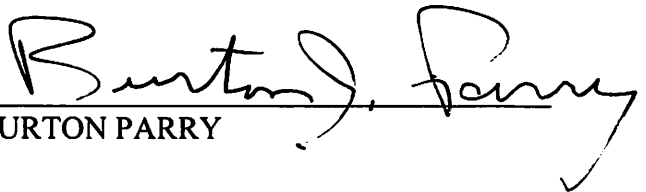

STEVEN YOUNG

VERIFICATION

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Dated: 4 APRIL 2022


BURTON PARRY

VERIFICATION

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Dated: 4/6/22



ELIZABETH CULP

VERIFICATION

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Dated: April 4, 2022

Judith McKee
JUDITH MCKEE

VERIFICATION

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Dated: 4-4-2022

Thomas McKee
THOMAS MCKEE

VERIFICATION

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Dated: 4-1-22


JUDY RITTER-DICKSON

VERIFICATION

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Dated: 4-1-2022


DARNELL BOWMAN

VERIFICATION

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Dated: 4.1.2022


SHILVOSKY BUFFALOE

VERIFICATION

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Dated: 3-31-2022


CARLA EVETTE FREELAND

VERIFICATION

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Dated: 3/31/2022



LOIS GARNETT

VERIFICATION

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Dated: 3.31.2022



TIM GARNETT

VERIFICATION

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Dated: 3/31/22

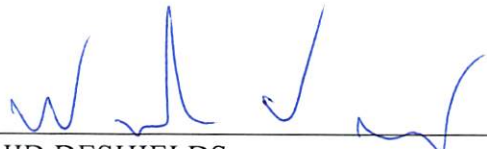

SARAI KEARSE

VERIFICATION

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Dated: 4/1/22



WAJID DESHIELDS

VERIFICATION

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Dated: 4-1-22



MARCUS DESHIELDS

VERIFICATION

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Dated: 4-5-22

Shareef Hameed
SHAREEF HAMEED

VERIFICATION

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Dated: 4/6/22



ANTONIETTA SMITH

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Barley Snyder

Signature:  _____

Name: Justin A. Tomevi

Attorney No. 313661