



REPORT TO VILLAGE BOARD

ITEM NAME:	Proposed Revisions to Chapter 41 Elections
MEETING DATE:	July 13, 2026
PRESENTING COMMITTEE:	CLIPP Committee
COMMITTEE CONTACT:	Trustee Aaron Myszka
STAFF CONTACT:	Jennifer Poyer
PREPARED BY:	Jennifer Poyer

ISSUE: Between March 2024 and November 2024, five complaints were filed with the Wisconsin Elections Commission (WEC) alleging that the Village's administration of election-inspector appointments, scheduling and the public test of voting equipment violated Wis. Stat. Ch. 5–7 (EL 24-26, EL 24-68, EL 24-89, EL 24-110, and EL 24-126). On February 16, 2026, the WEC issued a consolidated decision resolving four of those complaints. The Commission found probable cause of a violation or abuse of discretion in three of the four (EL 24-26, EL 24-89, and EL 24-126), dismissed the fourth (EL 24-68), and issued four specific corrective orders directing the Village Clerk to change certain practices going forward.

The Village's current election ordinance, Chapter 41, is three sections long and simply incorporates Wis. Stat. § 7.30 by reference; it does not independently address the practices the WEC's orders identify. In response, the CLIPP Committee spent its 2025–2026 meetings drafting a substantially expanded Chapter 41 intended to add local clarity and help prevent recurrence of these issues. Village Attorney Remzy Bitar and Attorney Lucas Logic reviewed the CLIPP draft (letter dated May 26, 2026) and recommend against adopting it in its current form, identifying numerous places where the draft's language conflicts with, narrows, or inconsistently restates the governing statutes.

OBJECTIVES:

- Bring the Village's election administration practices into compliance with the four corrective orders in the WEC's February 16, 2026 decision.
- Determine whether, and in what form, Chapter 41 should be amended to add local clarity, consistent with the Village Attorney's legal review.
- Avoid ordinance language that conflicts with, or imposes a stricter standard than, Wis. Stat. Ch. 5–7, which could expose the Village to further WEC complaints or to a legal challenge over rejected ballots.

ISSUE BACKGROUND/PREVIOUS ACTIONS:

CLIPP set out to review the WEC complaints and any other election issues raised in committee, and to draft a revision to Chapter 41 that would clarify procedures and remove ambiguity. The committee reviewed each complaint and, over its 2025 and 2026 meetings, developed the attached proposed ordinance language. The CLIPP Committee voted to recommend that language to the Village Board. The language was sent to Village Attorney Remzy Bitar; he and his associate reviewed it and responded with the attached letter dated May 26, 2026. Attorney Bitar does not support moving forward with the language as drafted and instead recommends the Village continue to rely primarily on incorporation of the state election statutes, as the current Chapter 41 already does.

WEC Decision on Pending Complaints (February 16, 2026)

The Commission's consolidated decision addressed four complaints against former Clerk Bobbi Birk-LaBarge (and, in one complaint, several Village Board members) and made the following findings and orders, which now bind the current Village Clerk's office under Wis. Stat. § 5.06(6):

- EL 24-26 (Charneski): Abuse of discretion found. Order - the Clerk must ensure all appointed partisan election inspectors are at least considered/contacted for staffing at each election, and that as many partisan inspectors serve as the number of available slots and inspector availability allow. Order. The Clerk must publicly disclose which nominees were submitted by each political party when presenting appointments to the Village Board, rather than presenting an undifferentiated list.
- EL 24-68 (Baker, et al.): Dismissed. The Commission found the Village's existing ordinance and resolutions adequately support the use of a combined polling place, multiple voting machines, additional inspectors, and clerk-set working hours, and found no violation in the partisan balance actually achieved.
- EL 24-89 (Buchberger): Probable cause found. Order - whenever a temporary or permanent election-inspector vacancy arises, the Clerk must first attempt to fill it from the applicable political party's list (including supplemental names) before appointing an unaffiliated individual, as long as doing so would not disturb the required partisan balance.
- EL 24-126 (Kindelberger): Probable cause found. Order – the Clerk must administer the public test of voting equipment under Wis. Stat. § 5.84 without applying the election-observer restrictions of Wis. Stat. § 7.41 (which do not apply to the public test); members of the public, including Mr. Joling, must be permitted to record the proceeding.
- The Commission separately cautioned, outside of any formal order, that it is improper for a clerk to spoil, or to allow a voter to spoil, an absentee ballot that has already been validly returned in order to let the voter revote in person; that practice should be discontinued.

Village Attorney's Review of the CLIPP Draft Ordinance (May 26, 2026)

Counsel's letter recommends against adopting the CLIPP draft in its current form and identifies the following principal concerns:

- The draft goes well beyond the approach used by neighboring Marathon County municipalities and by the Village's own current ordinance, which simply incorporates Wis. Stat. § 7.30 rather than restating its provisions. Restating creates a risk of inconsistency with the statute.
- The draft is not in final ordinance form and lacks a preamble, recitals, and other standard ordinance provisions.
- The draft refers specifically to the “Republican” and “Democrat” parties, when the statute actually refers to whichever two parties received the largest number of votes for president or governor – a different party could technically qualify.
- The 35-worker cap and Village Board authority to raise or lower that number, and to waive Wis. Stat. § 7.33(2) requirements, may conflict with the statutory formula for the number of inspectors and misassigns to the Village Board an exemption authority that § 7.33(2) gives to the municipal clerk.
- The appointment provisions omit part of Wis. Stat. § 7.30(4)(a) (the special-meeting appointment option) and improperly give the Village President, rather than the Village Board, authority to appoint unaffiliated applicants.
- The residency qualification in the draft is stricter than the statute, which requires only the chief inspector to be a Village elector; other inspectors need only be electors of the county.
- Several sections (tabulators, chief inspectors, special voting deputies, training, removal, and filling vacancies) restate or summarize statutory standards inexactly, which counsel recommends replacing with direct incorporation of the applicable statute (e.g., Wis. Stat. §§ 6.875, 7.30(6)(c), 7.37(5)).
- Proposed §41.4 (equipment testing) requires 72 hours' public notice, which is stricter than the 48-hour requirement in Wis. Stat. § 5.84(1) and would create a higher, self-imposed standard the Village would have to meet.
- Proposed §41.5 (absentee voting) restates Wis. Stat. §§ 6.84–6.89 (which apply automatically) and states that ballots cast in contravention of specified procedures “may not be counted,” broader than the statutory rejection standards and a potential source of ballot-rejection challenges.

Side note: In contrast to Attorney Bitar's recommendation to rely primarily on the state statutes, the Clerk Poyer was able to speak with a Wisconsin Elections Commission attorney during a training session, who expressed general support for municipalities adopting local ordinances to clarify election procedures, rather than relying on state statute alone.

PROPOSAL:

Staff and CLIPP present the Board with three options:

- Option A – Adopt the CLIPP draft ordinance largely as presented. Not recommended by Attorney Bitar.
- Option B – Do not adopt a comprehensive rewrite. Retain the current Chapter 41 approach of incorporating Wis. Stat. § 7.30 by reference, and address the WEC's four orders through written internal Clerk's office procedures rather than an ordinance amendment.
After the WEC's decision was released, Clerk Poyer began implementing corrective actions to bring past practices that were not in line with election law into compliance.
- Option C – Direct staff and the Attorney Bitar to prepare a narrower ordinance amendment that (1) incorporates statutory cross-references rather than restating statutory text, (2) removes party-name-specific language, (3) corrects the specific conflicts identified in counsel's May 26, 2026 letter, and (4) codifies the procedural fixes the WEC ordered, for consideration at a future Board meeting.

ADVANTAGES:

- Directly addressing the WEC's four orders reduces the Village's exposure to further complaints and Commission scrutiny.
- A narrower amendment built on statutory cross-reference, rather than restatement, lowers the risk of the internal ordinance/statute conflicts counsel identified throughout the CLIPP draft.
- Removing party-specific language keeps the ordinance accurate regardless of which two parties qualify as the dominant parties under Wis. Stat. § 8.17 in a given cycle.
- Written internal procedures for inspector scheduling, party-list vacancy-filling, and public-test administration give the Clerk's office (and future clerks) a consistent reference and a documented paper trail if another complaint is filed.

DISADVANTAGES:

- The CLIPP draft as written is not in final ordinance form and, per counsel, contains provisions that conflict with Wis. Stat. § 7.30, including inspector-count and waiver-authority conflicts, misassigned appointment authority, and stricter-than-statutory residency qualifications.
- Proposed §41.5 could expose the Village to a ballot-rejection challenge by stating ballots "may not be counted" in circumstances broader than the statute allows.
- Proposed §41.4's 72-hour notice requirement is stricter than the statutory 48-hour standard; failing to meet the Village's own higher bar would itself violate the ordinance even where the statute was satisfied.
- Preparing a narrower replacement ordinance (Option C) will require additional attorney time and will delay adoption of any new ordinance language beyond this meeting.

ITEMIZE ALL ANTICIPATED COSTS (Direct or Indirect, Start-Up/One-Time, Capital, Ongoing & Annual, Debt Service, etc.):

Village attorney fees have already been incurred for the May 26, 2026 review letter. Additional attorney fees would be incurred if the Board directs preparation of a narrower ordinance amendment (Option C); amount to be confirmed with the attorney. No additional cost is anticipated for Option B (internal procedures only) beyond existing Clerk's-office staff time.

RECOMMENDED ACTION: Approve one of the three options provided.

OTHER OPTIONS CONSIDERED:

TIMING REQUIREMENTS/CONSTRAINTS:

**FUNDING SOURCE(s) – Must include Account Number/Description/Budgeted Amt CFY/% Used
CFY/\$ Remaining CFY**

Account Number:

Description:

Budgeted Amount:

Spent to Date:

Percentage Used:

Remaining:

ATTACHMENTS (describe briefly):

- Current Village Code Chapter 41 – Elections
- CLIPP Committee proposed Chapter 41 ordinance draft (including proposed §41.5 Absentee Voting redline)
- Village Attorney letter re: Elections Ordinance Review, dated May 26, 2026
- CLIPP Report to Committee, “Review and Revision of Chapter 41 Elections,” June 2, 2025
- Wisconsin Elections Commission Decision Letter, EL 24-26 / EL 24-68 / EL 24-89 / EL 24-126, dated February 16, 2026