

 <b>City of WHITEWATER</b>	<b>Council Agenda Item</b>
<b>Meeting Date:</b>	<b>January 20, 2026</b>
<b>Agenda Item:</b>	<b>Candidate Removal From Ballot</b>
<b>Staff Contact (name, email, phone):</b>	<b>Steven T. Chesebro, <a href="mailto:schesebro@whitewater-wi.gov">schesebro@whitewater-wi.gov</a>, 262-458-2780</b>

## BACKGROUND

(Enter the who, what, when, where, why)

Teresa Golembrowski is an employee of the City of Whitewater within the Whitewater Aquatic & Fitness Center. Ms. Golembrowski filed a declaration of candidacy and nomination paperwork to seek a position of Council Member – At Large for the Spring 2026 election. After filing the declaration and nomination paperwork, Ms. Golembrowski's learned that her position as an employee for the City and as Council Member for the City would be incompatible offices.

The concept of incompatibility of office is a common law development meaning that it preexists state statutes and is a foundational governmental principal. It is also adopted in state statutes under Wis. Stat. § 66.0501 which provides eligibility for office within municipalities and under Wis. Stat. 946.13 which prohibits private interest in public contracts and makes doing so a felony. In addition, City Ordinance 7.04.070 prohibits Public officials and employees from having a financial or other personal interest which is incompatible with the proper discharge of official duties in the public interest. That is to say that it would be inappropriate for any Council Member to be employed by the City of Whitewater with some minor exceptions included in Wis. Stat. § 66.0501, that are not relevant here. Incompatibility of office has been interpreted to apply “if one office was superior to the other in some of its principal or important duties so that the exercise of such duties might conflict, to the public detriment, with the exercise of other important duties in the subordinate office, then the offices are incompatible.” *State v. Jones*, 130 Wis. 572, 110 N.W. 431 (1907), See also *Otradovec v. Green Bay*, 118 Wis. 2d 393, 347 N.W.2d 614 (Ct. App. 1984). In Otradovec v. Green Bay a residential appraiser for the City of Green bay was determined to have violated the common law doctrine of incompatibility of office and Wis. Stat. § 946.13 by accepting the office of alderman within the City of Green Bay.

Wis. Stat. § 8.35 provides legal authority for placing individuals on a ballot for spring elections. It provides: “Any person who files nomination papers and **qualifies to appear** on the ballot may not decline nomination. The name of that person shall appear upon the ballot except in case of death of the person.” Wis. Stat. § 8.35. (emphasis added.) Once a candidate files nomination paperwork the Clerk is required to review the paperwork and determine if the candidate is eligible for placement on the ballot. Wis. Stat. § 8.30 provides that candidates are ineligible for ballot placement if:

- a. The nomination papers are not prepared, signed, and executed as required under this chapter.
- b. It conclusively appears, either on the face of the nomination papers offered for filing, or by admission of the candidate or otherwise, that the candidate is ineligible to be nominated or elected.
- c. That candidate, if elected, could not qualify for the office sought within the time allowed by law for qualification because of age, residence, or other impediment.

On January 7, 2026 Teresa Golembrowski filed an affidavit with the City Clerk identifying the position she holds that is incompatible with the position of Council Member – At Large, that she would not resign from the incompatible position even if she was elected, and that she understood refusing to resign would make her ineligible for the office of Council Member – At Large.

Based upon the affidavit filed by Teresa Golembrewski with the City Clerk, the City Clerk determined that the Ms. Golembrewski was ineligible for placement on the ballot. A letter was sent to Ms. Golembrewski notifying her of the Clerk's determination, and requesting Ms. Golembrewski contact the City Clerk if she had any questions or objections to the determination.

It should be noted that if a City Clerk makes an initial determination that someone is qualified to be placed on the ballot, another individual is permitted to challenge the City Clerk's determination and seek to have the individual determined to be ineligible for ballot placement. This is not a situation where a candidate has been permitted to withdraw their nomination paperwork after qualifying for the position and filing the appropriate paperwork. Instead, a person filed paperwork for the office of Common Council – At Large who was ineligible for the position. While they may have been able to cure the ineligibility, the affidavit is an admission by the candidate that they are ineligible to be elected to the position.

#### PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS (Dates, committees, action taken)

On December 22, 2025 Teresa Golembrewski filed a declaration of candidacy and nomination paperwork for the office of Council Member – At Large with the City of Whitewater City Clerk's office.

On January 7, 2026 Teresa Golembrewski filed an affidavit acknowledging that she was employed by the City of Whitewater and understood that her position of employment was incompatible with the office of Council Member – At Large. The Affidavit made clear that Teresa Golembrewski had no intention of accepting the office of Council Member – At Large as she would retain the incompatible position instead. Teresa Golembrewski also acknowledged that she believed herself to be ineligible to be elected to the office based upon the incompatible position.

On January 8, 2026 the City Clerk sent Teresa Golembrewski notice that based upon her representations in her affidavit dated January 7, 2026 the City Clerk was finding Teresa Golembrewski to be ineligible for office of Council Member – At Large and pursuant to Wis. Stat. § 8.30 Teresa Golembrewski would not be placed on the ballot for Spring 2026 election for the office of Council Member – At Large.

#### FINANCIAL IMPACT (If none, state N/A)

At this time there has been minimal financial impact on the City in the form of staff time responding to the additional filing and disqualification. If the candidate was placed on the ballot the City would have incurred costs in holding a primary, which is highly likely to have ended up resulting in the two remaining candidates being selected to proceed to the spring 2026 election.

It is possible that a legal challenge would arise from the City Clerk's determination that Ms. Golembrewski is unqualified for the position. If that occurred, the City may incur some additional minor expense and staff time responding to the legal challenge.

#### STAFF RECOMMENDATION

No additional action is recommended as this is purely a staff report to inform the council of unique situation that occurred and the response provided that was within the authority of the City Clerk's office to provide. If the Common Council has any concerns with the actions that have been taken, a request for the City Clerk to reconsider the decision could be made.

#### ATTACHMENT(S) INCLUDED (If none, state N/A)

1. Wis. Stat. §§ 8.30 - 8.35