

HON. BRENDA R. GILBERT
Presiding District Court Judge
Sixth Judicial District Court
414 East Callender Street
Livingston, Montana 59047
Tel: 406-222-4130

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

GREAT FALLS PUBLIC LIBRARY
BOARD OF TRUSTEES,

Petitioner,

vs.

SANDRA MERCHANT, in her official
capacity as CASCADE COUNTY CLERK
& RECORDER and CASCADE COUNTY,

Respondent.

Cause No.: DV-23-222

ORDER

Before the Court is Petitioner's motion to appoint a Monitor under § 13-35-108, MCA, in connection with the Great Falls Public Library Mill Levy Special Election ("Library election"). The Court heard argument by the Parties on May 18, 2023. On consideration of the Parties' submissions and oral argument, it is hereby ORDERED that Petitioner's motion is GRANTED.

Under the powers vested in the Court by § 13-35-108, MCA, the Court hereby enjoins the Cascade County Election Administrator Sandra Merchant ("Election Administrator") to prevent the doing of any prohibited act and to compel the performance of any act required by the election laws of the State of Montana. To assist the Court in the exercise of its authority, the Court ORDERS the appointment of Lynn DeRoche as Monitor. The appointment, and the scope of the Monitor's duties, apply only to the Library election.

The Monitor does not supplant the Court's role in ensuring the proper administration of the Library election. The Monitor will assist the Court by obtaining information regarding the administration of the election and relaying it to the Court.

The Monitor will have direct and unfettered access to all operations of the Elections Office. If the Elections Office conducts work related to the Library election outside of normal business hours, it will notify the Monitor and arrange for access by the Monitor.

The Monitor will report to the Court regarding the administration of the Library election so that the Court may exercise its authority under § 13-35-108, MCA. The Monitor will report any acts prohibited under Montana election law, or the failure to perform any acts required by Montana election law, or other acts or conditions that would otherwise undermine a fair and transparent election.

The Monitor is not represented by either party and as such is specifically prohibited from and admonished not to engage in any Ex Parte communications with counsel for either party about the subject of the Monitor's activities and observations. Furthermore, because the Monitor is an agent of the Court, the Monitor must not publish or otherwise publicly disseminate or communicate the Monitor's observations, comments and/or opinions with regard to said activities except to report such information to the Court. When providing the information to the Court, the Monitor shall simultaneously copy counsel for each of the parties. The reports shall be emailed to the Court's chambers at nmacracken@mt.gov. The reports will be copied to counsel for Petitioner and the Respondents at brg@silverstatelaw.net, rgraybill@silverstatelaw.net, and lund@berglawfirm.com. Nothing in this Order precludes the Monitor from engaging in email contact with both counsel of record and from having other communication with both counsel simultaneously.

The Monitor and the Election Administrator are admonished to act in a professional and cordial manner to ensure that the purposes of this order are carried out and to ensure the fair administration of the election.

The Monitor may provide advice to the Election Administrator, including the provision of technical expertise, for the Election Administrator's consideration.

The Election Administrator is ordered to cooperate with the Monitor. The Election Administrator is ordered to provide information to the Monitor on request, and to allow for access by the Monitor. The Election Administrator is further ordered to ensure that others under her supervision or control in the Elections Office, including volunteers and election judges, do the same and do not obstruct the Monitor, withhold information, or otherwise interfere with the purposes of this order.

The Monitor's role is not anticipated to be a full-time endeavor. Accordingly, if her employer allows it, nothing in this Order will preclude the Monitor from engaging in her Cascade County Justice Court Clerk duties, to the extent she is able.

The Monitor shall keep a log of her time spent carrying out her role as Monitor but shall not record her time spent as Monitor in Cascade County's timekeeping system.

ELECTRONICALLY SIGNED AND DATED BELOW

CC: Lynn DeRoche
Raph Graybill
Benjamin R. Graybill
Lilla Lund
Judge Gilbert

CERTIFICATE OF MAILING

This is to certify that the foregoing was
duly served by mail upon counsel of
record at their address this _____
day of 05/22/2023, 20_____
TINA HENRY, CLERK OF COURT
By *L. Morris* DEPUTY