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CC-24-2026-C-45
Marion County Circuit Clerk
Mary Allen

FAX COVER SHEET

page 1 of 6

TO: The Honorable Judge Patrick Wilson
Marion County Circuit Court
(304) 368-3393

RE: Informational Copy - Formal Request for Review Pursuant to W. Va. Code § 53-2-1 Regarding the Town of Worthington Mayoral Vacancy

Please find attached an informational copy of my Formal Request for Review Pursuant to W. Va. Code § 53-2-1 Regarding the Town of Worthington Mayoral Vacancy.

The attached request was submitted by email to the West Virginia Attorney General's Office and the Marion County Prosecuting Attorney's Office on August 25, 2026.

This copy is being provided for informational purposes only. No action or response from the Court is requested.

Respectfully,
/s/C. Renee Courtney

RECEIVED & FILED
in Circuit Clerk's Office
AUG 27 2026
Mary A. Allen, Circuit Clerk
AUG 27 AM 9:39

RECEIVED
AUG 26 2026
20th Judicial Circuit-Div. 1

Gmail in:sent

1 of 3,931

Request for Review Under W. Va. Code § 53-2-1 - Town of Worthington Mayoral Vacancy

C. Renee Courtney <renee.mtnstatement@gmail.com> 6:16 AM (0 minutes ago)
to jfreeman, constituent, jmccuskey

Good morning,

Attached please find my formal request for review concerning the purported appointment of Melvin Lindsey as "Interim Mayor" of the Town of Worthington and his subsequent representation that he holds the office of Mayor.

The attached correspondence outlines my concerns regarding the distinction between Lindsey's statutory authority as Recorder to perform the duties of Mayor during a vacancy and his eligibility and qualification for a separate appointment to fill the vacant elective office of Mayor.

In particular, I am requesting review of the residency requirements of W. Va. Code §§ 8-5-7 and 8-5-10, the applicable oath and qualification requirements, and whether the circumstances warrant review or action under W. Va. Code § 53-2-1 regarding Lindsey's right to hold or claim the office.

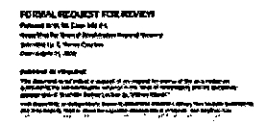
I am not asking your office to rely solely upon my interpretation of these provisions. I am requesting an independent review of the circumstances and can provide meeting records, municipal ordinance, correspondence, recordings, or other supporting documentation upon request.

Please confirm receipt and advise if additional documentation or information would assist your review.

Thank you,
/s/C. Renee Courtney

Copy will be provided separately for informational purposes to:
The Honorable Patrick Wilson, Circuit Court Judge
Via facsimile

One attachment • Scanned by Gmail Add to Drive



PDF Request for Revie...

Reply Reply all Forward

FORMAL REQUEST FOR REVIEW

Pursuant to W. Va. Code § 53-2-1

Regarding the Town of Worthington Mayoral Vacancy

Submitted by: C. Renee Courtney

Date: August 25, 2026

PURPOSE OF REQUEST

This document is submitted in support of my request for review of the circumstances surrounding the current mayoral vacancy in the Town of Worthington and the purported appointment of Recorder Melvin Lindsey as "Interim Mayor."

I am requesting an independent review to determine whether Lindsey has lawfully qualified for and may lawfully hold or claim the separate elective office of Mayor, and whether the circumstances warrant action pursuant to W. Va. Code § 53-2-1 or other applicable authority.

The facts and statutory provisions outlined below are provided for review and are not intended to substitute my interpretation of the law for that of the appropriate legal authority.

RECORDER PERFORMING THE DUTIES OF MAYOR

Following the resignation of former Mayor Deborah Heflin, Melvin Lindsey was serving as the elected Recorder of the Town of Worthington.

West Virginia Code § 8-10-3 provides that during a vacancy in the office of Mayor, the Recorder shall perform the duties of the Mayor and be invested with the Mayor's powers and authority.

The statute does not state that the Recorder thereby assumes the separate vacant office of Mayor.

Worthington Ordinance § 1-401, referenced in former Mayor Deborah Heflin's resignation letter, identifies the Recorder serving in this capacity as Acting Mayor.

The distinction is important.

An Acting Mayor remains the Recorder and performs the duties of Mayor because a vacancy exists. The Recorder does not automatically assume the separate vacant office of Mayor merely by performing those additional duties.

Accordingly, Lindsey already possessed authority, by virtue of his elected office as Recorder, to perform the duties of Mayor following Heflin's resignation pursuant to W. Va. Code § 8-10-3 and Worthington Ordinance § 1-401.

SUBSEQUENT VOTE TO APPOINT LINDSEY "INTERIM MAYOR"

An appointment to actually fill the vacant elective office of Mayor is a different matter.

Under W. Va. Code § 8-5-10, unless otherwise provided by charter or ordinance, Council fills a vacancy in an elective municipal office by appointment from among residents of the

municipality who are otherwise eligible to hold the office.

Following the acceptance of Deborah Heflin's resignation, Council subsequently voted on a motion referring to Lindsey as "Interim Mayor."

The purpose and legal effect of this action were not explained during the meeting.

As an observer of the meeting, I understood the action to be an attempt to formalize Lindsey's assumption of the additional mayoral duties that already fell to him as Recorder following the vacancy.

After the meeting, I spoke with a member of Council who participated in the vote, and she confirmed that she had understood the motion in the same manner.

After subsequently researching the distinction between the Recorder performing the duties of Mayor pursuant to § 8-10-3 and Council actually appointing someone to fill the separate vacant elective office under § 8-5-10, I became concerned that the vote may instead be treated as an appointment of Lindsey to the separate office of Mayor.

That distinction has now become material because Lindsey has begun identifying himself in official Town correspondence as "Mayor Town of Worthington," rather than Recorder or Acting Mayor.

RESIDENCY AND ELIGIBILITY FOR APPOINTMENT

My primary concern involves Lindsey's residency.

W. Va. Code § 8-5-7 provides, unless otherwise provided by charter or ordinance, that the Mayor, Recorder and Council members must be residents of the municipality and qualified voters entitled to vote for members of its governing body.

More specifically, W. Va. Code § 8-5-10 provides that a vacancy in an elective municipal office is filled by appointment by the governing body from among residents of the municipality who are otherwise eligible to hold office.

Lindsey has openly stated on multiple occasions that he no longer resides within the Town of Worthington and is currently residing in Monongalia County. He has also indicated that his current mailing address is outside the municipality.

Lindsey returned to his previously elected position pursuant to a temporary court order. During the proceedings concerning that return, Lindsey repeatedly made clear that he was no longer living in Worthington.

During recorded Council meetings I have attended, Councilwoman Janet Lindsey, his wife, has also recused herself from votes, stating that she did not believe she had a say because she and her husband no longer live there.

Most recently, during a verbal exchange following the August 18 Council meeting that I personally witnessed, Lindsey discussed the hardship and expense associated with his commute to Worthington and the cost of gasoline required to make that commute.

I understand the temporary court order to require Lindsey to return and perform the duties of the elected office of Recorder to which he had previously been elected. By virtue of that office, W. Va. Code § 8-10-3 would require him to perform the duties of Mayor during a mayoral vacancy.

I do not, however, understand that temporary order to independently establish Lindsey's

residency within the municipality or qualify him for a subsequent appointment to the separate elective office of Mayor.

Lindsey's authority to perform the duties of Mayor by virtue of his existing elected office as Recorder is therefore distinct from the question of whether he is legally eligible to be appointed to fill the vacant office of Mayor.

I respectfully request that your office review that distinction and determine whether an individual residing outside the municipality may lawfully be appointed to and hold the vacant elective office of Mayor under these circumstances.

OATH OF OFFICE AND QUALIFICATION FOLLOWING THE PURPORTED APPOINTMENT

There is an additional issue concerning whether Lindsey ever qualified for the separate office of Mayor following the Council vote.

W. Va. Code § 8-5-8 provides that every person elected or appointed to a municipal office, unless otherwise provided by the municipal charter, must take and subscribe the required oath of office within twenty days after election or appointment and before entering upon the duties of that office.

Section 8-5-8 further requires that the oath and the certificate of the officer administering it be filed, recorded and preserved in the municipal Recorder's office. A certified copy of the oath and certificate must also be filed and recorded with the county clerk.

I am not presently aware of Lindsey taking a new oath of office as Mayor following the Council action purporting to appoint him "Interim Mayor," nor am I aware of a certified mayoral oath and certificate resulting from that appointment having been filed and recorded with the Marion County Clerk.

There is also a potentially relevant provision in W. Va. Code § 6-1-5, which provides that when an oath is required for a person elected or appointed to fill a vacancy, the oath shall be taken within ten days from the date of the election or appointment and, in any event, before entering into or discharging the duties of the office.

Because § 8-5-8 contains a twenty-day requirement applicable to persons elected or appointed to municipal office, while § 6-1-5 contains a ten-day provision concerning an election or appointment to fill a vacancy, and given the resignation of the former mayor and vote to appoint occurred on July 30th, I respectfully request that your office determine which qualification requirements and deadlines apply to the purported appointment under these circumstances.

This distinction appears particularly relevant here.

If the Council action merely acknowledged Lindsey's existing authority as Recorder to perform the duties of Mayor pursuant to W. Va. Code § 8-10-3, then there may have been no appointment to a new office requiring him to separately qualify as Mayor.

If, however, the Council action is being treated as an actual appointment of Lindsey to fill the separate vacant elective office of Mayor, I respectfully request review of whether he satisfied the applicable oath, filing, residency and other qualification requirements before assuming or representing himself as holding that office.

Accordingly, I am requesting review not only of Lindsey's eligibility for appointment based

upon residency, but also whether he ever legally qualified for the separate office of Mayor following the Council action.

REQUEST FOR REVIEW UNDER § 53-2-1

This question has become more than a disagreement over terminology.

Lindsey is presently representing himself in official Town correspondence as Mayor, and the Town Council has also been asked to sign documentation identifying him as "Interim Mayor" in connection with a pending WVDEP AMLER grant.

I therefore respectfully request that your office review whether Lindsey has lawfully qualified for appointment to the vacant office of Mayor and, if he has not, whether the circumstances warrant action under W. Va. Code § 53-2-1 or other applicable authority to determine his right to hold or claim that office.

Section 53-2-1 specifically authorizes quo warranto proceedings at the instance of the Attorney General or county prosecuting attorney, including against a person who intrudes into or usurps a public office.

I can provide supporting documentation in my possession, including relevant meeting records, correspondence in which Lindsey identifies himself as Mayor, documentation concerning the Council action following Heflin's resignation, the applicable Worthington ordinance, and other records supporting the circumstances described herein.

Additional evidence concerning Lindsey's statements regarding his residency should be available through the court record and/or transcribed testimony from proceedings before the Honorable Judge Wilson concerning the order requiring resigned councilmembers, including Melvin Lindsey to return to service and subsequent related appearances.

During those proceedings, Lindsey made statements concerning his relocation from Worthington to Morgantown and asserted that he and his wife no longer resided within the municipality. Based upon the context in which those statements were made, it appeared to me that Lindsey was raising his relocation and nonresidency as a basis for why he should not be required to return to municipal service under the court's order. Those statements are particularly relevant to my present request because Lindsey is now representing himself as Mayor and the Council action is being treated as an appointment of him to that separate elective municipal office, yet Lindsey continues to assert that he currently resides in Morgantown, not Worthington. I do not presently possess copies of the court transcripts, but I am identifying those proceedings as an independent source through which Lindsey's statements regarding his residency may be verified.

I am requesting an independent review and guidance rather than asking either office to rely solely upon my characterization or interpretation of these events.

Please advise whether your office is able to review this matter, whether the circumstances fall within the authority provided by W. Va. Code § 53-2-1, and whether you require any additional documentation to evaluate Lindsey's right to hold or claim the office of Mayor.

Respectfully submitted,

/s/C. Renee Courtney