

TIMELINE

July 2023: Heaviest rainfalls in Montpelier VT since at least 1948; six feet of flood water downtown, including at 120 State Street where DMV located. Montpelier staff sent out to various DMV offices in state including Rutland, due to damage and backlogs there. Flood damage and backlogs took several months to resolve.

October 2023: Benson resident Jean Sebastien Valois duly registers to vote in Vermont at DMV when obtaining his first Vermont driver's license.

January 22 2024: Valois as registered voter files petition with Benson Town Clerk to run for Select Board, showing clerk his Vermont driver's license.

Sometime between January 22 and February 29, 2024: Benson resident Jack Helm, also candidate for same Select Board position as Valois, obtains copy of Voter Registration List from Benson Town Office. Valois not included on List.

February 29 2024: Valois added to Voter Registration List upon his request, after learning he was not included despite registering to vote at DMV in October.

March 5 2024: Benson's 238th Annual Town Meeting. No mention was made of the absence of Mr. Valois from the Registered Voter List prior to February 29. Jack D. Helm (former Select Board member and then-current candidate) assisted Select Board member Guy Charlton in passing out documents to the assembled meeting, relating to a petition put forth by Jack Helm..
OUTCOME: for the two one-year Select Board positions, the lead vote-getter was Jim Pritchard with 174 votes. Second was Linda Swarm Peltier with 162 votes. Third was Jack D. Helm with 128 votes. Fourth was Jean Sebastien Valois with 76 votes. (1 vote write-in.) The ballots were counted by Town Clerk Heidi Chandler and Board of Civil Authority head Lynn Bowen, and certified by them at approximately 10:00 p.m.

March 10, 10:49 a.m. (Sunday) Helm emails Town Clerk, subject line "Voter Fraud Investigation" and requests a recount of the vote. No request is made to invalidate the election. Helm quotes a Vermont statute as follows: "No person shall be qualified to run for or be elected to hold an elected office unless he or she is a duly registered voter and resident in the town ...¹ Supporting evidence will be presented at the hearing before the Board of Civil Authority."
[NOTE: the Board of Civil Authority was not notified of an election issue at the Emergency Meeting, see below. No BCA hearing was held. The Agenda for the Select Board meeting did not mention any evidentiary hearing.]

March 14 2024: Special Emergency Select Board Meeting held. As warned, the Agenda contains no reference to "voter fraud," a request for a recount of the Town Meeting Australian ballot for Select Board, nor any reference whatsoever to any challenge to the Town Meeting election outcome. It does note an executive session with the Town Attorney, with no explanation

¹ The Vermont Secretary of State interprets this requirement as "a town shall choose from among its legally qualified voters for selectboard, town clerk, town treasurer, and a number of other town offices. 17 V.S.A. § 2646. *So long as the person is on the checklist by the day of election, he or she is eligible for election.* ..." (Emphasis added.) Attorney Barlow was advised of this during the day of March 18..

Presented to Benson Select Board
At Regular Meeting, April 1, 2024

offered. At that meeting, the Town Attorney offered three options to the Town in response to Helms' Sunday email, one of which to file a complaint with the Vermont Superior Court, Rutland Unit, and one of which was to do nothing and simply proceed with business as usual. The third is not known. When the Board emerged from Executive Session, the two election winners – Pritchard and Peltier – agreed to leave the Select Board table and, if they wished to remain, sit with the public..

March ?, 2023: Town Attorney, Jim Barlow, drafts legal Complaint captioned “In re Town of Benson.” In that Complaint, the Town relies on 17 V.S.A. §2681(a)(1)(B): “A candidate shall be registered to vote in the town he or she is seeking office at or before the time of filing the petition.” As noted above, Valois registered to vote in October, 2023. Further, in the Complaint the Town of Benson specifically requests the Court to “declare the 2024 town meeting election of two Select Board members, each to a one-year term, invalid and order a new election.” The Town’s entire argument rests on the incorrect assertion that Valois was not a registered voter on January 22, 2024, some three months after he registered to vote through the DMV. The Town provides no authority whatsoever that his absence from the Benson List means he was not a registered voter, when in fact he was a registered voter.

March 18, 2023: Regular Select Board Meeting. The Agenda as warned makes no mention of an intended lawsuit by the Town, “voter fraud”, a challenge to the election outcome, a recount request, or any effort to invalidate the election and order a new one. The opening items of the agenda were:

- I. Call Meeting to Order
- II. Approve Agenda
- III. Animal Issue
- IV. Public Comment

Despite the Agenda, at the very beginning of the meeting Interim Chair Guy Charlton² requested a change to the Agenda such that the first item to be taken up would be the approval of and signing of the court Complaint, prior to Public Comment. The public present did not agree, and Public Comment was then had. Thus far, no copy of the court Complaint had been shared with the public in any form. A hard copy was distributed during public comment by a resident who had obtained it from the Town Attorney. After public comment, Jared Glover moved that the Select Board certify the election results, and the motion carried.

² Linda Swarm Peltier was and is Chair.

THE PRESUMPTION OF REGULARITY

The presumption of regularity compels us all to assume that government officials “have properly discharged their official duties.” *United States v. Chem. Found., Inc.*, 272 U.S. 1, 15 (1926). It is a “general working principle” that courts will “insist on a meaningful evidentiary showing” before entertaining doubts about the integrity of official acts or documents. *Nat’l Archives & Records Admin. v. Favish*, 541 U.S. 157, 174 (2004).

In this situation there is *no* evidentiary showing, meaningful or otherwise, that Mr. Sebastian Valois was not a registered voter at the time he submitted his petition, nor that he was on the Registered List by Town Meeting.

ELIGIBILITY FOR TOWN OFFICE

From <https://sos.vermont.gov/elections/town-clerks/faqs/#11>, last accessed on 3/16/24:

Who can be elected to town office?

To be eligible for election as a school board member, a person must be a legal voter in the school district. 16 V.S.A. § 558. Likewise, a town shall choose from among its legally qualified voters for selectboard, town clerk, town treasurer, and a number of other town offices. 17 V.S.A. § 2646. *So long as the person is on the checklist by the day of election, he or she is eligible for election.* The town clerk must add the names of all eligible persons who have properly completed and submitted applications to the checklist before noon on the second Monday before the election.

(Emphasis added.)

QUESTIONS

- Why was no complaint made regarding improper registration BEFORE the town vote?
- Why don't minutes reflect the attempt at invalidating the election?
- Who made the decision to file a complaint to overturn the election?
- Why wasn't the board of civil authority called in?
- What was the rush in all of this?
 - Why was no substantive investigation conducted?
- Why was Jean-Sebastien never notified of this issue or asked if he had, in fact, registered?
- Why wasn't Jean-Sebastien Valois' proof of registration entered into the minutes?
- Why ask the court to INVALIDATE rather than VALIDATE the election?
- How much was this lawsuit expected to cost the taxpayers?
 - Was any consideration given to this issue?
- Why was NO PUBLIC NOTICE given about any of this?
- Does the selectboard understand the role of town attorney?
 - Who decided which of his 3 options to follow?
- The unapproved minutes of March 14th, 2024 state that a question was asked regarding the attorney's recommendation, and the answer given is that the attorney is recommending starting the process to ask for a new election. Is this true? Weren't three distinct options offered?
- Why was there an attempt to change the Keeper of Records from the Town Clerk to Selectboard Assistant, despite this role being define by VT law?

REQUESTED REMEDIES

1. Given the extremely bad legal advice given, specifically that LEGALLY ELECTED and SWORN selectman step down despite the will of the voters, it is requested that payment for these services be denied.
2. For the above mentioned reason, it is requested that the town retain a more qualified attorney.
3. It is requested that the Board of Selectman review these recent events and provide an account to the citizens of Benson.
4. It is requested that the Selectboard, with public input, draft a formal procedure on the handling of challenges to elections and/or the outcomes of elections for use going forward.
5. It is requested that the entire agenda from the selectboard meeting of March 14th, which was held without the full board, be readdressed, and all relevant votes be reheld.
6. It is requested that this document be attached to this meeting's minutes.