

Josh Janney Feature or General News Writing W12

FCEA president accuses Back Creek supervisor of intimidating behavior at the polls; Graber says he was recording 'unlawful acts'

By Josh Janney
The Winchester Star

WINCHESTER — Some Frederick County residents are calling for the Board of Supervisors to hold Back Creek Supervisor Shawn Graber accountable for allegedly harassing someone at the polls on Election Day.

Frederick County Education Association President Shaniqua Williams, who was outside the Senseny Road School polling location on Nov. 2, called police because Graber took pictures of her without her consent.

Williams said in a phone interview that she was passing out red sheets of paper saying which candidates the education association endorsed for Frederick County School Board — Eric Reifinger, John Lamanna and Ellen White, as well as Shontya Washington for the Red Bud District seat on the Board of Supervisors. All of the candidates ran as independents.

As Williams spoke to voters, she said Graber — a Republican — started taking pictures of her. At first, she said he was three to four steps away from her. She then told him she didn't permit him to take photos of her.

“I don't know, that definitely rubbed him the wrong way,” Williams said. “He just walked back and forth on the side of me and stopped where my arm would normally hang. He was close enough where if he had moved or I had moved, I would have stepped on his shoe — he was that close to me. And he said, 'I can do what I want as long as I don't put my hands on you.’”

Williams said she then told Graber, “You need to get out of my face, out of my circle. I placed a boundary and you are too close to me.”

While she acknowledged that Graber was on public property, she said his actions made her uncomfortable, so she called the police.

“I just felt it was really weird and creepy for no reason,” Williams said.

The Frederick County Sheriff's Office responded to the polling location for a “suspicious situation.” According to the police report and body camera footage obtained by The Winchester

Star from the Sheriff's Office through a Freedom of Information Act request, one of the deputies who went to the scene was Sean M. Kennedy. Williams told Kennedy what had happened and said Graber was intimidating her with his tactics.

When deputies questioned Graber, he said he was taking pictures because he had been made aware that illegal sample ballots were being handed out. Graber then pulled out a white piece of paper and stated that you can't — per Virginia code — use a white sample ballot and with anything less than 24 font size.

Williams said she only passed out red ballots. Body camera footage of Williams' interaction with police shows a red sheet of paper in her hand.

The body camera footage shows Graber telling the deputies that he didn't talk to Williams, raise his voice, or get in her face. Kennedy told Graber that while he was legally allowed to take pictures, that bickering back and forth and taking pictures of people when they ask you not to is "probably not the best idea."

Graber then asked Kennedy, "I can legally take pictures, right?" Kennedy then responded, "What did I say?"

Kennedy told Graber that while he wasn't breaking the law, taking photos of someone who objects likely would cause a scene. Graber kept reiterating that it was not against the law for him to take photos of Williams.

Kennedy ultimately advised Graber to stay away from Williams and for her to stay away from him. He also advised them not to speak to each other.

During Wednesday night's Board of Supervisors meeting at the County Administration Building, a few county residents tried to register complaints about the situation during the meeting's public comments portion. Shawnee District resident Cary Kimble said that at around 4:30 p.m. on Election Day, he received a phone call about Williams feeling "threatened" by Graber at a polling location.

Before he could continue, Board of Supervisors Chairman Charles DeHaven Jr. said, "I'm going to stop you right there."

Kimble responded that a report with the Sheriff's Office had been filed and that it was a matter of public record.

"I've worked the polls for nearly 20 years," Kimble said. "This is the most disrespectful election that I've been a part of, and I'm sorry to see it happen in Frederick County. It's been disappointing. I'm very sorry to see the sheriff's department had to be called out for this. I'll step

aside, but I wanted to bring this to the board's attention. I think it's a chronic matter, and I think it's getting worse. From my point of view —"

Before he could finish, DeHaven said firmly, "I had asked you to stop."

Shawnee District resident Katie Vance later asked, since DeHaven wouldn't let concerned citizens talk about the matter, "What is the process for us to go through to hold Mr. Graber accountable for the behavior that occurred that day?"

DeHaven replied, "My only suggestion is that you speak with him."

Vance shot back, "So there's nothing that the Board of Supervisors will do to also hold him accountable?"

DeHaven said Graber was "duly elected" and told her "end of discussion."

Vance then told DeHaven that Graber's actions are "a reflection of the entire board" and that his behavior on Nov. 2 was "abusive and aggressive."

Back Creek District resident Mollie Brannon, who was handing out Republican ballots at Senseny Road School, said people were civil and disputed that "it was complete chaos and there was no civil discourse."

Grabber said at the meeting that the Democratic Party was handing out an illegal white paper ballot and that he has a copy of the sample ballot. He told the voter registrar about white paper ballots that he alleged were being handed out at four precincts.

Frederick County Voter Registrar Rich Venskoske said in a phone interview that he received calls about white paper ballots being handed out in the Back Creek District on Election Day, so he sent election officials to check. Venskoske said Electoral Board Vice Chair Craig Lambert only found white paper ballots at one location — the Kernstown 103 precinct, which has a polling location at Orchard View Elementary. Venskoske said Lambert told the people handing out the white ballots to stop immediately and they did so.

Regarding the Senseny Road School incident, Grabber told the crowd at the meeting he was taking pictures "to capture the evidence of an unlawful act that was being committed." He said people were upset that he was documenting that "unlawful acts were occurring."

After the board meeting, Grabber was asked by a reporter if he actually saw Williams handing out white ballots when he started taking pictures of her. Grabber said that a cluster of people at the Senseny Road School was "actively handing out white ballots there." When asked if he had a photo of Williams handing out a white ballot, Grabber said, "I have no further comment."

Graber threatens legal action against Sheriff's Office deputy

By Josh Janney

The Winchester Star

WINCHESTER — Back Creek Supervisor Shawn Graber has threatened to press charges against a Frederick County Sheriff's Office deputy over an Election Day incident at the Senseny Road School polling location.

On Nov. 3, the day after the election, Frederick County Sheriff Lenny Millholland returned a phone message to Graber, placed through the dispatch center, regarding Graber's concerns about how Deputy Sean M. Kennedy handled the call for service at the polling location. The Star obtained a copy of the conversation between Millholland and Graber through a Freedom of Information Act request.

Graber told Millholland he was "thoroughly frustrated" and maintained that Kennedy violated federal and state laws. He said he wanted to talk with Millholland before pursuing charges and making the Sheriff's Office "look bad."

On Election Day, Kennedy responded to a "suspicious situation" at the Senseny Road School polling location. Frederick County Education Association President Shaniqua Williams, who was outside the school handing out information to voters about the candidates the FCEA supported, called police because Graber kept taking photos of her after she asked him to stop. She said his behavior was intimidating and "creepy."

Graber has said he was documenting "unlawful acts" of people passing out white sample ballots. State Code says white sample ballots cannot be used with anything less than 24-point font size.

Williams has said she only passed out red sheets of paper with a list of candidates endorsed by the FCEA.

Kennedy, who was the first deputy to arrive at the scene, told Graber that while he was legally allowed to take pictures, it was "probably not the best idea" to continue to do so if someone asks you to stop. The Star previously obtained the deputy's body camera footage from the Sheriff's Office through a Freedom of Information Act request.

Graber then asked Kennedy, "I can legally take pictures, right?" Kennedy responded, "What did I just say?"

Kennedy told Graber that while he wasn't breaking the law, taking photos of someone who objects would likely cause a scene. Graber kept reiterating that it was not against the law for him

to take pictures of Williams. When Kennedy told Graber he didn't say Graber did anything wrong, Graber said, "So why are we having this conversation?"

During his Nov. 3 phone call with Millholland, Graber claimed Kennedy obstructed justice, failed to enforce the code of Virginia and committed "voter intimidation." He told Millholland he had "hard evidence" that illegal sample ballots were being handed out. He also claimed that Kennedy told him he could not take photos of Williams.

"If you're going to tell me I can't take photos because it pisses them off while they are committing a crime, I'm sorry, but you are in the wrong," Graber told Millholland. "So all I'm gonna say is this. I am planning to press federal and state criminal charges against that deputy if you and I can't get this figured out."

He told Millholland he would like a one-on-one meeting with him to discuss the matter. Graber also said Kennedy's attitude gave him a "sour taste toward the Sheriff's Office" and referred to Kennedy as a "knucklehead" and "a complete ass****."

Millholland told Graber he had not reviewed any of the videos related to the incident and couldn't make an assessment until he investigated it further.

As the conversation became tense, Graber said, "I don't think then we even need to meet," and he told Millholland he planned to take legal action. "You're going to have to do what you have to do," Millholland responded.

Graber told Millholland that he wants deputies to be better trained on handling election situations. He said other supervisors have similar concerns and suggested having a meeting with Millholland behind closed doors so the matter doesn't get "blown up."

"However, if that Frederick County Educators Association, that woman that placed that call, comes out and starts running her mouth about it, I'm gonna defend myself, and I'm gonna throw that deputy as far under the bus as I have to," Graber said.

Millholland told The Star that his office and the Frederick County Commonwealth's Attorney's office have investigated the matter and found no wrongdoing by Kennedy. The deputy's body camera footage shows Kennedy telling Graber he was legally allowed to take photos of Williams. Millholland said it was frustrating to take time away from other duties to prove that his deputy didn't do anything wrong.

"It puts me in a bad position because [Graber's] one of the people who is a decision-maker on my budget," Millholland said.

He said Graber's comments about Kennedy were untrue and "almost borderline bullying."

"I think it was just completely and totally uncalled for," Millholland said. "I'd like him to apologize to my deputy and everything else for what he said about him. Because that is a matter of public record. Everybody knows what he said about my deputy."

Commonwealth's Attorney Ross Spicer, who reviewed the bodycam footage, said he believes Kennedy did not act inappropriately and "he most assuredly did not do anything that was against the law."

As for Graber taking photos of Williams, Spicer said, "You certainly can take a photo of someone in public. But just because you can do something doesn't mean that you should. "

Spicer declined to comment on whether any of Graber's actions at the polling location would be considered illegal, saying it would be inappropriate of his office to comment about whether someone engaged in illegal conduct, "short of statements in a courtroom."

When asked on Thursday if he intended to pursue legal action against Kennedy, Graber told The Star, "I have no comment for you in any format because I am pursuing things through the channels at the state."

Millholland pointed out that bodycam footage of Williams' interaction with police shows a red sheet of paper in her hand and that the only white ballot seen on camera was the one Graber pulled out of his pocket.

Graber countered that if people were breaking the law by handing out white paper sample ballots, they wouldn't want the police to see them breaking the law when they showed up. He claimed there were white ballots in three of the four people's hands at the polling location. When the phone call to the police was made, he said those white ballots "suddenly disappeared" into a pickup truck.

Graber told The Star that he was not singling out Williams but recording evidence of all people he claimed were handing out illegal sample ballots. He maintained white sample ballots were being passed out by Democrats at at least four polling locations, including Senseny Road School. He said the photos he took were not just of Williams but of everyone allegedly involved. Graber added that he "pretty consistently" wears a body camera and that he can usually verify or back up what he has to say.

Last week, Frederick County Voter Registrar Rich Venskoske told The Star that Electoral Board Vice Chair Craig Lambert only found white paper sample ballots at one location — the Kernstown 103 precinct, which has a polling location at Orchard View Elementary School. Venskoske said Lambert told the people handing out the white ballots to stop immediately and they did so.

Graber, a Republican, said he wants to investigate whether there was a concerted effort by Democrats to rig or illegally manipulate the election. He said he has photographs that can prove everything he's said regarding illegal ballots, but he declined to provide the evidence.

Graber said he wants to wait until Virginia gets a new attorney general in January before he submits "everything." Current Attorney General Mark Herring is a Democrat. Republican Jason Miyares will soon replace him.

Graber apologizes to Deputy Kennedy amid backlash

By Josh Janney

The Winchester Star

WINCHESTER — Back Creek Supervisor Shawn Graber apologized to Deputy Sean M. Kennedy Wednesday night for comments he made about him during a Nov. 3 phone call to Frederick County Sheriff Lenny Millholland. The apology comes amid a significant backlash and a recall campaign from Frederick County residents.

During Wednesday night's Board of Supervisors meeting, several residents voiced concerns about Graber threatening to press federal and state criminal charges against Kennedy. They were also upset that Graber called Kennedy a "knucklehead" and "a complete ass****" in the phone conversation with Millholland. Last month, The Star obtained the recording of the call via a Freedom of Information Act request. The phone recording has been widely shared on social media and featured in other media outlets' [news reports](#) of the incident.

Gainesboro District Resident Bryan Smith read aloud a statement on behalf of the Northern Virginia Chapter of the Virginia Police Benevolent Association, saying the association "expresses extreme concern" over Graber's actions. The PBA said that Graber attempted to have disciplinary action brought against Kennedy "without merit and in contradiction to video evidence."

On Election Day, the Frederick County Sheriff's Office received a call from Frederick County Education Association President Shaniqua Williams, who was concerned over Graber continuing to photograph her at the polls at Senseny Road School after she requested him to stop. Graber claimed he was documenting "unlawful acts" of people passing out white sample ballots. State Code says white sample ballots cannot be used with anything less than 24-point font size.

Williams has said she only passed out red sheets of paper with a list of candidates endorsed by the FCEA. Bodycam footage shows a red sheet of paper in Williams' hand.

Kennedy, who was the first deputy to arrive at the scene, told Graber that while he was legally allowed to take pictures, it was “probably not the best idea” to continue doing so if someone asks you to stop. Graber then asked Kennedy, “I can legally take pictures, right?” Kennedy responded, “What did I just say?”

Kennedy told Graber that while he wasn’t breaking the law, taking photos of someone who objects would likely cause a scene. Graber kept reiterating that it was not against the law for him to take pictures of Williams. Kennedy told Graber several times that he was legally allowed to take photos.

The Police Benevolent Association (PBA) said Graber “repeatedly misrepresented the actions of the deputy and attempted to have Sheriff Lenny Millholland issue discipline against the deputy without a legal basis.”

A statement from PBA North Virginia chapter President Mark Ramey says “I am completely shocked and appalled by the actions taken by this elected official in Frederick County. This is a deliberate and unwarranted attack on law enforcement in a world where their jobs are already tough enough.”

Smith said the PBA “urgently encourages” Frederick County residents to express concern over Graber’s actions and “also asks all citizens to join the recall effort against Supervisor Graber.”

A Change.org [petition](#) with more than 560 signatures asks Graber to be recalled from the Board of Supervisors. However, not all of the signatures are from Back Creek District residents.

Opequon Resident Bryan Nuri said the events of Election Day were “shocking to say the least” and Graber's threats against a member of the Sheriff’s Office were “completely unacceptable for someone who affects their budget.”

“As a sitting member of this board, that is unacceptable,” Nuri said. “That is completely unacceptable behavior.”

Shawnee District resident Robbie Dalton, who identified himself as a Republican, said he was particularly troubled by Graber telling Millholland he would “throw that deputy as far under the bus as I have to” and asked Graber what he meant by that.

“Was the goal to get Deputy Kennedy in trouble, get him suspended, take away his livelihood?” he asked.

Dalton accused Graber of having a vendetta and attempting “to take away money and resources from law enforcement who are just trying to do their jobs.”

“Clearly there was a malicious plan to somehow damage the reputation of Deputy Kennedy and/or Frederick County law enforcement,” he said. “For what reason? Because he respectfully asked you to act civil and stop your childish behavior?”

Dalton also criticized the other supervisors for not condemning Graber’s actions.

“Your silence is deafening,” Dalton said. “There’s no place on this board for individuals pushing their own agenda and willing to throw good people under the bus to accomplish their own personal goals. The deputy’s actions were respectful, professional, and thank goodness were documented by camera, so any attempts to throw him under the bus will be unsuccessful.”

Red Bud District Resident Jodi Yeggy believed Graber violated the roles and responsibilities of the board that were adopted in January and asked that he step down from all committees and "potentially resign from the board."

A few citizens defended Graber.

Stonewall District resident Christie Scarborough said Kennedy should have “left his opinion out of it” and said Graber “did absolutely nothing wrong.”

“He did not break the law,” Scarborough said. “He was fully allowed to take the photos that he did and he was doing it in order to keep election integrity. I would have been frustrated and wanted to complain to the sheriff myself if I were in his position. I think that this was extremely blown out of proportion.”

Back Creek District resident Mollie Brannon and Shawnee resident Gayle Ferreira shared similar sentiments about the situation being blown out of proportion, with Ferreira saying “to make this a mountain out of an anthill is ludicrous.”

Brannon, who the board appointed to the Planning Commission Wednesday night, expressed support for Graber. She called him “a conservative force that we need on the panel.”

“I understand he lost his cool in a phone call with the sheriff,” Brannon said. “I’ve talked to him. He knows, I think, it was a mistake. He regrets some things he said.”

Responding to the controversy, Graber said he received a verbal apology from Kennedy on Election Day that was documented in the police report. He said he contacted Millholland on Nov. 3 “in frustration over a lack of what I perceive to be investigative efforts.” He said he “referenced deputy Kennedy’s actions in an unflattering light” during his conversation with Millholland.

“And for that, I must apologize to Deputy Kennedy and kindly ask that he also accept my apology as I have accepted his,” Graber said. Graber also showed appreciation for Sgt. Smith, who also arrived at Senseny Road on Election Day.

While Millholland laments that the Sheriff’s Office will never get the time back it spent trying to prove Kennedy’s innocence, he told The Star in a phone call Thursday he appreciated Graber’s apology to Kennedy.

“At least he did admit that his actions on that day may not have been in the best interests of Frederick County and definitely not in the best interests of my personnel,” Millholland said. “At the end of the day, we have to move on because we go from call, to call, to call.”

It remains to be seen what will happen regarding Graber’s allegations that white sample ballots were being handed out at Senseny Road.

Frederick County Voter Registrar Rich Venskoske told The Star last month that Electoral Board Vice Chair Craig Lambert only found white paper sample ballots at one location — the Kernstown 103 precinct, which has a polling location at Orchard View Elementary School. Venskoske said Lambert told the people handing out the white ballots to stop immediately and they did so. Venskoske also said there were no issues with the red papers Williams said she was handing out.

Millholland has previously noted that that bodycam footage of Williams’ interaction with police shows a red sheet of paper in her hand and that the only white ballot seen on camera was the one Graber pulled out of his pocket. Moreover, during Wednesday night’s meeting, Nuri pointed out that Graber had not shown proof that white paper ballots were being handed out at Senseny Road.

“... We’ve never seen this piece of paper that he claims that he had in the video,” Nuri said. “It’s time to pony up, Shawn. Your cards are being called.”

However, Graber still declined on Wednesday night to reveal the evidence of white paper ballots. He previously told the press that he intended to take his concerns about the election to Republican Attorney General-elect Jason Miyares once he is sworn in.

During Wednesday’s meeting, Graber said “I will not be issuing additional comments regarding this matter, nor revealing evidence until all the evidence can be compiled, verified and sorted through as it would be inappropriate for me to comment on those items while additional information is continuing to be received.”