



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

February 9, 2016

Steven Boron
34214 Fernwood
Westland, Michigan 48186

Dear Mr. Boron:

The Department of State (Department) has completed its investigation of the complaint filed by you against Bill Johnson, Adam Hammonds, and the City of Westland (Respondents), which alleged that each violated section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257. This letter concerns the disposition of your complaint.

You filed your complaint on June 22, 2015. Mr. Johnson filed an answer on August 7, 2015, Mr. Hammonds filed an answer on August 11, 2015, and Mr. Fausone, Westland City Attorney, filed an answer on August 11, 2015 on behalf of the City of Westland. You filed a rebuttal statement on August 26, 2015.

The MCFA prohibits a public body or an individual acting on its behalf from using or authorizing the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the nomination or election of a candidate. MCL 169.204(1), 169.206(1). A person who knowingly violates this provision may be charged with a misdemeanor offense. MCL 169.257(4).

Your complaint alleged that Respondents improperly expended public funds when Mr. Johnson and Mr. Hammonds endorsed certain candidates for the November 2015 City of Westland Election during the June 15, 2015 Westland City Council meeting.

In support of your complaint, you provided a link to the June 15, 2015 Westland City Council meeting.

In his answer to the complaint, Mr. Johnson stated that when he made his statements on June 15, 2015 he was not acting on behalf of the public body; rather, he was speaking for himself as a private citizen. He further stated that a number of people had made statements at Westland City Council meetings endorsing specific candidates. Finally, he stated that his comments were made during general comments and after the business portion of the meeting was finished.

In his answer to the complaint, Mr. Hammonds stated that he was not speaking for the City of Westland or the city council, but as a voter and citizen Westland. He stated that he did this in the "same manner as other citizens had recently endorsed other candidates [.]"

On behalf of the city, Mr. Fausone stated that citizens spoke at the April 20, 2015, May 4, 2015, May 18, 2015, and June 1, 2015 Westland City Council meetings to endorse certain candidates for city council. It was only after these citizens used the public comment time on several occasions that the council members made their statements of endorsement. Mr. Fausone argued that the statements made by the councilmembers fit into one of the narrow exceptions to section 57 in the Act. The Department agrees.

Section 57(1) provides that the subsection does not apply to:

The use of a public facility owned or leased by, or on behalf of, a public body if any candidate or committee has an equal opportunity to use the public facility.

MCL 169.257(1)(d).

Under the Westland City Council Policies and Procedures, there are three opportunities for attendees to speak at the City Council meetings. Additionally, there is time set aside at the end of the meeting for councilmembers to make comments. Based on the Policies and Procedures, it appears that citizens are afforded the opportunity to address the board on any subject matter during one of the times set aside for public comment. Additionally, there does not appear to be any restriction on the subject matter of the councilmembers' comments during the councilmember comment time at the end of the meetings.

After reviewing several Westland City Council meetings, including the meetings held on April 20, 2015, May 4, 2015, May 18, 2015, and June 1, 2015, it appears to the Department that citizens used the opportunity to speak on any subject matter to support or oppose certain city candidates. On April 20, 2015 and May 18, 2015, Donna DeWitt used this opportunity to state, incumbents nay, newbies yea [.]” indicating her support for the non-incumbents and opposition to the incumbents. On May 4, 2014, Burke Rock used this opportunity to state, “let your vote do the talking in the August primary [.]” and “tell Reeves, Hammons, and Godbout they are barking up the wrong trail and throw the bums out and elect council members who represent you [.]” indicating his opposition to 3 of the incumbents. On June 15, 2015, Donna DeWitt used this time to indicate her support for Jodie White for City Clerk.

After these 2 citizens, on 4 separate occasions, used their opportunity to speak at a council meeting in support or opposition of a candidate, 2 city councilmembers then used their opportunity to speak during the councilmember comment time at 1 meeting to give their endorsements of certain candidates.

The evidence provided here supports a conclusion that each person was afforded the same opportunity to utilize the meeting, the meeting space, and the city equipment involved in the broadcast of the meetings to support or oppose a candidate. Further, no evidence has been provided to show that any attendee was prevented from using his or her opportunity to speak on any subject to support or oppose a candidate. This equal opportunity to use city resources falls within the exception in MCL 169.257(1)(d).

Steven Boron
February 9, 2016
Page 3

Because the evidence supports a conclusion that the alleged activity falls within one of the narrow exceptions to section 57, your complaint is dismissed.

Sincerely,

A handwritten signature in blue ink that reads "Lori A. Bourbonais". The signature is written in a cursive style with a large, stylized "L" and "B".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

