



Michigan Department of State
Campaign Finance Complaint Form

BUREAU OF ELECTIONS • RICHARD H. AUSTIN BUILDING - 1st Floor
430 W. ALLEGAN STREET • LANSING, MICHIGAN 48918

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (MCFA). For instructions on how to complete this form, see the Campaign Finance Complaint Guidebook & Procedures document. All spaces are required unless otherwise indicated.

Section 1. Complainant			
Your Name DAVID E THOMAS		Daytime Telephone Number 248 872 9001	
Mailing Address 2945 W HICKORY GROVE RD			
City Bloomfield Hills	State MI	Zip 48302	
Email (optional) [REDACTED]			

Section 2. Alleged Violator			
Name BRIAN KEPES			
Mailing Address 4615 PICKERING RD			
City Bloomfield Hills	State MI	Zip 48301	
Email (optional) [REDACTED]			

Section 3. Allegations (Use additional sheets if more space is needed.)			
---	--	--	--

Section(s) of the MCFA alleged to be violated: PA 269 of 2015 SECTION 57 of the MCFA

Explain how those sections were violated:

MR. KEPES USED HIS TOWNSHIP VEHICLE TO DELIVER
CAMPAIGN SIGNS FOR THE VOTE YES S.A.D. BALLOT
PROPOSAL TO PRECINCTS DURING THE AUGUST 6, 2019
BALLOT VOTE

Evidence included with the submission of the complaint that supports the allegations:

PICTURES OF MR. KEPES WITH SIGNS IN VEHICLE


AND REMOVING THEM AT COWANT SCHOOL VOTING PRECINCT.
AND Birmingham Eccentric Newspaper ARTICLE
CONFIRMING HIS ACTIONS

Section 4. Certification (Required)

I certify that to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.

X


Signature of Complainant


Date

Section 5. Certification without Evidence (Supplemental to Section 4)

If, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence as indicated above, you may make the following certification:

I certify that to the best of my knowledge, information, or belief, there are grounds to conclude that the following specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry. Those specific contentions are:

X

Signature of Complainant

Date

Section 15(8) of the MCFA provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. The person may be required to pay a civil fine of up to \$1,000.00 and some, or all, of the expenses incurred by the Michigan Department of State and the alleged violator as a direct result of the filing of the complaint.

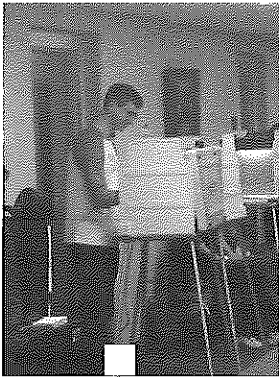
Section 6. Submission

Once completed, mail or hand deliver the complaint form with your evidence to the address below. The complaint is considered filed upon receipt by the Bureau of Elections.

Michigan Department of State
Bureau of Elections
Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing, Michigan 48918

Bloomfield Township voters reject higher tax for police, fire

Susan Bromley, Hometownlife.com Published 10:20 p.m. ET Aug. 6, 2019 | Updated 10:24 p.m. ET Aug. 6, 2019



Matthew Welch votes on the Bloomfield Township S.A.D. proposal at St. Paul Methodist Church on Aug. 6, 2019. (Photo: Susan Bromley | Hometownlife.com)

No S.A.D. won the day Tuesday in Bloomfield Township.

Voters defeated a proposal that would have raised their taxes to largely fund retiree healthcare for township police and firefighters.

The final unofficial vote was 6,678 no to 4,058 yes.

"I've looked at both sides, and I'm voting no," Lise-Pauline Barnett said before walking into Marian High School to cast her ballot. "This is lack of budgeting on the township's part and mismanagement of funds. It's about pensions and retirement and they kicked the can down the road. Now they think it's up to the taxpayers to fund a deficit they've been ignoring for years."

Kathryn Liesveld voted yes, telling supporters wearing Bloomfield Township first responder T-shirts outside of Marian that they helped her mother who broke her hip two weeks ago.

"I'm a nurse and they're my people," Liesveld said, nodding toward the men. "One team, one dream."

Buy Photo



Margie Runyan, a retired Bloomfield Township dispatcher, sits outside of Brother Rice High School on Tuesday, urging voters to support the S.A.D. proposal. (Photo: Susan Bromley | Hometownlife.com)

The proposal wasn't a dream for Ryan and Anna Read, who voted no at Conant Elementary.

"I don't think they've been transparent," Ryan said. "I understand we pay higher taxes around here because of services, but this is more for pensions... Regardless of mistakes in the past, no other municipality comes close to what we'll pay. I am a small business owner. Everyone should contribute more to their own retirement."

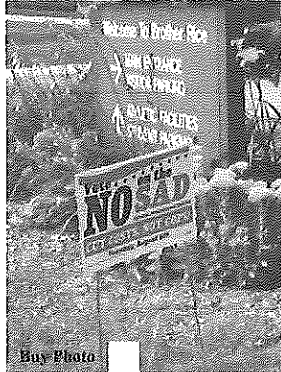
ADVERTISING

Anna added that she "didn't appreciate the scare tactics."

Angie Witkowski declined to say how she had voted, but said she knew of several people who voted no but were telling others they were voting yes.

"They are afraid of vindictiveness," she said. "And they are fearful that their calls to police or EMS will get a slower response."

The special assessment district proposal would have levied up to a 2.3-mill tax for 15 years to fund retirement benefits, primarily healthcare, for township police officers and firefighters.



A sign outside Brother Rice urges voters to oppose the S.A.D. proposal in Bloomfield Township. (Photo: Susan Bromley | Hometownlife.com)

If it were approved, an existing 1.25 general millage due to expire in 2019 would not have been renewed, and taxpayers would have seen ([/story/news/local/bloomfield-township/2019/07/24/bloomfield-township-sad-proposal-raises-taxes-15-years/1796520001/](https://story/news/local/bloomfield-township/2019/07/24/bloomfield-township-sad-proposal-raises-taxes-15-years/1796520001/)) an increase of 1.05 mills from what they currently pay.

Brian Kepes, township treasurer, was putting signs in support of a yes vote up at Conant Elementary on Tuesday afternoon, replacing ones he said had been taken down.

"I think it's important to keep the best of township services," said Kepes. "We need to pay our financial obligations and obligations we've made to employees."

More: [36 Birmingham, Bloomfield, Bingham food establishments cited for priority violations in June \(/story/news/local/birmingham/2019/07/26/36-birmingham-food-establishments-cited-priority-violations-june/1812949001/\)](https://story/news/local/birmingham/2019/07/26/36-birmingham-food-establishments-cited-priority-violations-june/1812949001/)

More: [Rye Guys Deli brings avocado, kale and other modern goodies to Bloomfield Township \(/story/life/food/2019/06/19/new-bloomfield-township-deli-goes-modern-twist-classic-foods/1436480001/\)](https://story/life/food/2019/06/19/new-bloomfield-township-deli-goes-modern-twist-classic-foods/1436480001/)

He noted the state had recently changed laws requiring municipalities to have a higher percentage of their liabilities funded, including other post employment benefits (OPEB).

Kepes said the township is underfunded for these liabilities by about \$5 million per year.

David Thomas, treasurer for the No S.A.D. Committee which opposed the proposal, said the benefits for township employees were off the chart.

"This is a vote to prevent our 401Ks from becoming their 401Ks," Thomas said. "The township has mismanaged funds and they're holding police and fire hostages in a spending spree."

Patti Oppenhauser, who voted yes, said she doesn't like the situation the township is in, but "either way we have to pay."

"We will either lose services or pay extra taxes," she said. "People say the funds are mismanaged and I don't know, but it doesn't matter because we have to fix it. I'd rather pay more taxes and not lose services."

Contact Susan Bromley at sbromley@hometownlife.com. Follow her on Twitter @SusanBromley10.

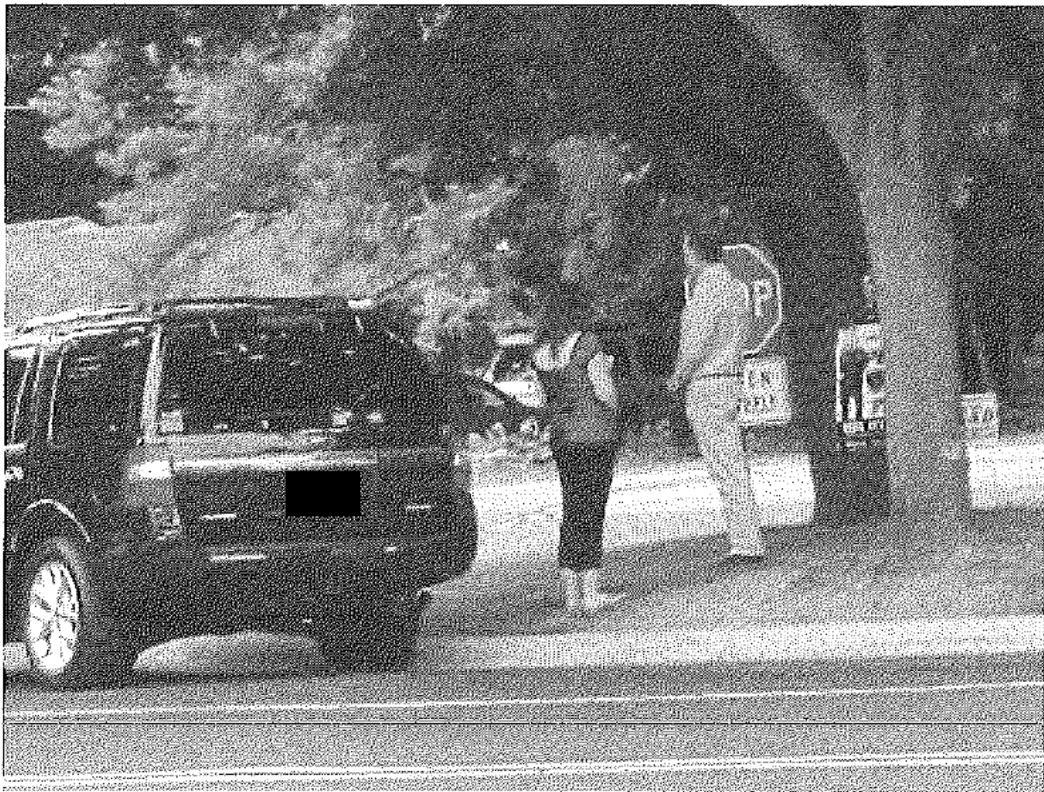
YOU MAY ALSO LIKE

Yesterday's top stories



- [Minor injuries, damaged sculpture sustained in Canton Township crash](https://www.hometownlife.com/story/news/2019/09/22/crash-injures-driver-and-topples-art-work/2410826001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)
(https://www.hometownlife.com/story/news/2019/09/22/crash-injures-driver-and-topples-art-work/2410826001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)
- [Livonia Franklin football fights off Stevenson in high-scoring battle](https://www.hometownlife.com/story/sports/high-school/2019/09/21/livonia-franklin-football-fights-off-stevenson-high-scoring-battle/2391520001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)
(https://www.hometownlife.com/story/sports/high-school/2019/09/21/livonia-franklin-football-fights-off-stevenson-high-scoring-battle/2391520001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)
- [Construction coming to super-busy Northville Township intersection](https://www.hometownlife.com/story/news/local/northville/2019/09/20/construction-project-slow-northville-township-traffic/2379708001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)
(https://www.hometownlife.com/story/news/local/northville/2019/09/20/construction-project-slow-northville-township-traffic/2379708001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)
- [In rare move, RCOC agrees to lower speeds on these Lyon Township gravel roads](https://www.hometownlife.com/story/news/local/south-lyon/2019/09/23/road-commission-lower-gravel-road-speed-limits-lyon-township/2379219001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)
(https://www.hometownlife.com/story/news/local/south-lyon/2019/09/23/road-commission-lower-gravel-road-speed-limits-lyon-township/2379219001/?utm_source=oembed&utm_medium=onsite&utm_campaign=storylines&utm_content=news&utm_term=1447466001)

Read or Share this story: <https://www.hometownlife.com/story/news/local/bloomfield-township/2019/08/06/bloomfield-township-voters-reject-higher-tax-police-fire/1935016001/>

















An injunction issued on February 5, 2016 by U. S. District Judge John Corbett O'Meara, from the U.S. District Court in Ann Arbor prevents the enforcement of PA 269 of 2015 as it affects Section 57 of the MCFA only. PA 269 of 2015 signed by the Governor in January of 2016 with immediate effect made changes to the Michigan Campaign Finance Act relative to the use of public funds for communications prior to the election. See PA 269 of 2015 for details. Section 57 of the Michigan Campaign Finance Act (MCFA) stipulates a public body or person acting for a public body must not use or authorize the use of public funds or resources to make a contribution or expenditure to further the nomination or election of a candidate or the qualification, passage or defeat of a ballot question. The inclusion of Section 57 in the MCFA does not restrict the constitutionally protected right to associate or to engage in political speech. It is intended to prevent those who control public resources from using those resources to influence the outcome of an election. It is up to the people and not public bodies to decide elections. This means that a public body is prohibited in participating in elections for: • State and Local Ballot Questions • Federal Candidates • State Candidates • Local Candidates This means that a public body cannot contribute to or make expenditures on behalf of committee's registered to support or oppose candidates and ballot questions. This prohibition includes Candidate Committees, Ballot Question Committees, PACs, SuperPACs and Political Party Committees.



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 7, 2019

Brian Kepes
4615 Pickering Road
Bloomfield Hills, Michigan 48301

Dear Mr. Kepes:

The Department of State (Department) received a formal complaint filed by David Thomas against you alleging violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* A copy of the complaint and supporting documentation is enclosed with this letter.

In Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize 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 qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4).

Mr. Thomas alleges that you used your township-owned vehicle to deliver campaign signs to precincts which urged voters to vote yes on the S.A.D. ballot proposal.

The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true. The investigation and resolution of this complaint are governed by section 15 of the Act and the corresponding administrative rules, R 169.51 *et seq.* For more information on the investigative process, please see the enclosed manual.

If you wish to file a written response to this complaint, you are required to do so within 15 business days of the date of this letter. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your answer will be provided to Mr. Thomas, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe

Brian Kepes
October 7, 2019
Page 2

that a violation of [the MCFA] has occurred [.]” MCL 169.215(10). Note that the Department’s enforcement powers include the possibility of entering a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 57(4) of the Act.

If you have any questions concerning this matter, you may contact me at (517) 335-3234.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi". The signature is fluid and cursive, with a large loop at the end.

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: David Thomas



Bloomfield Township

Leo C. Savoie, Supervisor • Janet Roncelli, Clerk • Brian E. Kepes, Treasurer
David Buckley, Trustee • Neal J. Barnett, Trustee • Michael Schostak, Trustee • Dani Walsh, Trustee

October 14, 2019

Mr. Adam Fracassi

Bureau Of Elections

Michigan Department of State

Richard H. Austin Building, 1st Floor, 430 West Allegan Street

Lansing, Michigan 48918

RECEIVED
2019 OCT 18 AM 9:39
CLERK OF COURT
JANET RONCELLI

Dear Mr. Fracassi:

This is in response to your letter dated October 7, 2019 with regard to the examination of my actions as they relate to the Michigan Campaign Finance Act. More specifically it alleges that I used a township owned vehicle, to deliver campaign signs to precincts which urged voters to vote yes on the SAD ballot proposal. To be very clear, I am not in violation Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201. as I utilized a township owned vehicle for personal purposes on personal time as specifically provided for by Bloomfield Township.

Pursuant to the Bloomfield Township Employee Benefits Handbook (pertinent section of the handbook attached); "If an employee has a Township vehicle as part of their compensation, they are eligible to use the vehicle for their own personal use and enjoyment outside of working hours. Payroll taxes will be withheld from the employee as required by the IRS for personal use of the auto".

This vehicle is deemed to be part of my compensation as the Bloomfield Township Treasurer. This vehicle was utilized during the alleged violation for my own personal use outside of working hours. Both State and Federal payroll taxes are withheld as required by the IRS for personal use of the auto.

In summary, there is absolutely no merit to believe that a violation of the Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 has occurred.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Kepes', written over a horizontal line.

Brian Kepes, Treasurer

BLOOMFIELD TOWNSHIP

EMPLOYEE BENEFITS HANDBOOK



April 1, 2019

TABLE OF CONTENTS

	<u>PAGE</u>
EMPLOYEE BENEFITS.....	1
Longevity Pay	1
Holidays	2
Vacation	3
Health, Life and Disability Insurance for Employees.....	4
Retiree Life and Health Insurance	5
Retirement Plan.....	5
Personal Use of Township Vehicle.....	5
LEAVES OF ABSENCE	6
Family and Medical Leave Act.....	6
Sick Leave.....	6
Work Connected Injury or Illness.....	11
Leave of Absence Without Pay.....	13
Military Leave.....	14
Jury Duty and Witness Subpoena	14
Death Leave	14
Outside Employment During A Leave of Absence	15
APPENDIX A - RETIREE HEALTH INSURANCE	
APPENDIX B - FAMILY AND MEDICAL LEAVE	

may, as a result, lose insurance coverage or may be unable to obtain insurance coverage. The Township is not obligated to obtain alternative insurance coverage for those employees who lose or are unable to obtain insurance coverage. Employees eligible for insurance have the option to opt out of medical coverage. If opting out, the employee will receive additional pay of \$500 (single) or \$1,000 (family) spread equally over the 26 biweekly pays. The amount is prorated if there are less than 26 pay periods left in the year.

The Township, in its discretion, may change insurance carriers, insurance policies or may become self-insured. The Township may also change or modify an insurance plan or benefit in its discretion.

Retiree Life and Health Insurance

The Township offers life insurance to retirees who are receiving retirement benefits from the Township's Retirement Plan and who retired from the Township. For complete details, see the Defined Benefit Plan Summary. Defined Contribution Plan participants will vest for life insurance in the same manner and at the same schedule as Defined Benefit Plan participants.

Retiree health insurance is available only to those employees who meet qualifications and criteria set forth in Appendix A.

Retirement Plan

In addition to Township payments toward your Social Security benefits, the Township has also established two Township Employee Retirement Plans for eligible employees. These plans may allow for a death benefit to be paid to the beneficiary designated by an employee participant. Complete details on eligibility requirements and the extent of retirement coverage are outlined in the summary plan descriptions which are updated periodically and distributed to eligible employees by the Accounting Department through the Benefits Administrator.

Personal Use of Township Vehicle

If an employee has a Township vehicle as part of their compensation, they are eligible to use the vehicle for their own personal use and enjoyment outside of working hours. Payroll taxes will be withheld from the employee as required by the IRS for personal use of the auto. See the Accounting Department for details.



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 22, 2019

David Thomas
2945 West Hickory Rove Road
Bloomfield Hills, Michigan 48302

Via Email

Re: *Thomas v. Kepes*
Campaign Finance Complaint
No. 2019-10-33-57

Dear Mr. Thomas:

The Department of State received a response to the complaint you filed against Brian Kepes, which concerns an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

If you elect to file a rebuttal statement, you are required to send it within 10 business days of the date of this letter to the Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

A handwritten signature in cursive script, appearing to read "Adam Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Brian Kepes

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Tuesday, October 22, 2019 12:16 PM
To: [REDACTED]
Subject: Thomas v. Kepes - Answer Received
Attachments: Answer Letter.pdf; 20191022121134.pdf

Mr. Thomas,

Please find attached correspondence from the Department regarding your campaign finance complaint filed against Mr. Kepes. You have 10 business days to file a rebuttal should you choose to. If you have any questions, please let me know.

Adam Fracassi, Election Law Specialist
Michigan Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901

Fracassi, Adam (MDOS)

From: DAVID THOMAS [REDACTED]
Sent: Friday, November 1, 2019 9:41 AM
To: Fracassi, Adam (MDOS)
Subject: Re: Thomas v. Kepes - Answer Received
Attachments: Rebuttal.docx

Mr. Fracassia,

Attached is my rebuttal to Mr. Kepes' response.

If you need me to mail this document snail mail, I will do so. Please let me know.

I appreciate your taking this issue on.

With regards,

David C. Thomas

On October 22, 2019 at 12:15 PM "Fracassi, Adam (MDOS)" <FracassiA@michigan.gov> wrote:

Mr. Thomas,

Please find attached correspondence from the Department regarding your campaign finance complaint filed against Mr. Kepes. You have 10 business days to file a rebuttal should you choose to. If you have any questions, please let me know.

Adam Fracassi, Election Law Specialist

Michigan Bureau of Elections

P.O. Box 20126

Lansing, Michigan 48901

October 30, 2019

Mr. Adam Fracassi

Bureau of Elections
Michigan Department of State
Richard A Austin Building, 1st Floor 430 West Allegan Street
Lansing, MI 48901

RE: Response to Brian Kepes Rebuttal to the Election Law Violation

Mr Fracassi,

Mr. Kepes stated in his first sentence that he used a township vehicle for election purposes. The employee handbook does not supersede state the law nor does it change the ownership of the vehicle in question.

The law is clear in stating that no government resources shall be used for political use. This includes campaigns, campaigning during normal business hours, creating any campaign flyers or other campaign literature using government supplies. It even applies to running copies for the campaign on the government coping machine. Using a vehicle that is owned by the township, washed by the township, serviced by the township, maintained by the township, is gassed up by the township, and insured by the township clearly denotes that the vehicle is a township resource and that it cannot be used for campaign purposes, regardless of arbitrary statements to the contrary.

The employee handbook of April 2019 that Mr. Kepes referenced was never approved by the Bloomfield Township Board of Trustees. The addition of the section on vehicles for elected officials was added in April of 2019 by Supervisor Savoie but was never approved or codified by the Board of Trustees. Without formal approval, it is not valid. Mr. Kepes should know this being an elected official of the township, and who was a former trustee.

We have used FOIA's to verify the validity of the above statement. One example of this evidence is contained in Exhibit 1.

Please begin reading from the bottom to the top of the emails inserted into this document. Note also that this was not the only request FOIA request that was made for this information and they were all answered in the same manner, there are no written contracts with the elected officials specifying their compensation for the job they are doing.

Further, the pay and benefits for the elected officials have never been established per the requirements of either by vote of the Trustee's or The Charter Township Act 359 Of 1947. The specific language of the CTA follows contained in Exhibit 2.

Based on the Exhibit 3, Mr. Kepes appears to be habitually flaunting campaign finance and election laws. The Supervisor, Leo Savoie whom he references in his rebuttal has also flaunted the same laws. Exhibit 3 contains a copy of a complaint drawn after the 2016 election, but that complaint was never filed.

Note on page 3 and the last page of Exhibit 3, there are photographs of Mr. Savoie's township vehicle loaded with his campaign signs. The mere factor that those signs are in his vehicle is a campaign violation!

The continued and habitual refusal by Mr. Kepes to adhere to the campaign laws deserves the strongest penalties allowed by law.

Sincerely,

A handwritten signature in black ink that reads "David C Thomas". The signature is written in a cursive style with a large, stylized "D" and "T".

David C Thomas
2945 W Hickory Grove Rd
Bloomfield Hills, MI 48302
248-872-9001



EXHIBIT 1

• **From:** Mondock, Deana
Date: October 28, 2019 at 3:05:45 PM EDT
To: Linda Ulrey [REDACTED]
Subject: RE: Bloomfield Township FOIA Request

Good afternoon,

No records exist in regards to your request for: Further please provide the board meeting minutes that further established the benefits and "intangible benefits" that were awarded or provided to the current officers of the charter township of Bloomfield by the trustees and the results of the vote on that motion or resolution.

Sincerely,

Deana

Deana Mondock, CMC

*Deputy Clerk
Charter Township of Bloomfield*

Exhibit 1 Continued

From: Linda Ulrey [REDACTED]
Sent: Saturday, October 26, 2019 11:38 AM
To: Mondock, Deana <DMondock@bloomfieldtwp.org>
Subject: Re: Bloomfield Township FOIA Request

Clarification question please: No records at all exist in regard to my question of benefit approval for the three elected officials, or specifically only no meeting minutes exist for the same item?

Thank You,

L. Ulrey

| On Sep 17, 2019, at 9:12 AM, Mondock, Deana <DMondock@bloomfieldtwp.org> wrote:

| The second part of your request asked for meeting minutes that established the benefits for the current elected officials. This portion of your request was denied because no records exist.

| Deana

| *Deana Mondock, CMC*
| *Deputy Clerk*
| *Charter Township of Bloomfield*

Exhibit 1 Continued

From: Linda Ulrey [REDACTED]
Sent: Tuesday, September 17, 2019 8:37 AM
To: Mondock, Deana
Subject: Re: Bloomfield Township FOIA Request

Right, I am unclear on what specific portion of my FOIA request is being denied?

L. Ulrey

On Sep 17, 2019, at 8:00 AM, Mondock, Deana <DMondock@bloomfieldtwp.org> wrote:

I'm sorry, I accidentally hit "Send" before I completed the response.

There is no redaction. A redaction is only included when you "black out" a word, number or phrase on a document that is given to the requestor. Since no documents were sent to you in regards to the request below, there was nothing to redact.

Sincerely,

Deana

Deana Mondock, CMC

*Deputy Clerk
Charter Township of Bloomfield*

Exhibit 1 Continued

From: Linda Ulrey [REDACTED]
Sent: Tuesday, September 17, 2019 7:56 AM
To: Mondock, Deana
Subject: Re: Bloomfield Township FOIA Request

Please provide a completed response. You did not indicate the subsection of 13 to indicate the specific reason for the redaction.

L. Ulrey

On Sep 17, 2019, at 7:53 AM, Mondock, Deana <DMondock@bloomfieldtwp.org> wrote:

Good morning,

Per the Notice of Final Determination of FOIA Request attached, a portion of your request has been granted and a portion has been denied.

Pursuant to Section 4(5) of the Freedom of Information Act, MCL 15.234(5), your request for Township board meeting agenda and minutes is granted and available at no cost from the Bloomfield Township Documents on Demand website. The web address is <https://bloomfieldtwpmi.documents-on-demand.com/>; further, Township Board motions, votes, and resolutions are also reflected within Township Board meeting minutes which are available at no cost from the Bloomfield Township Documents on Demand website. Again, the web address is <https://bloomfieldtwpmi.documents-on-demand.com/>. Information regarding departmental salaries may be found in the Township budget at <https://www.bloomfieldtwp.org/Government/Annual-Reports/Accounting-Financial-Reports.aspx>

No records exist in regards to your request for meeting minutes that established benefits for current officers.

At this time, we will consider your FOIA request completed and closed. You are entitled to appeal the denial portion of your request (see attached for additional information).

Sincerely,

Deana Mondock, CMC

Deputy Clerk

Charter Township of Bloomfield

4200 Telegraph Road

Bloomfield Hills, MI 48302

dmondock@bloomfieldtwp.org

Phone: (248)433-7780

Fax: (248)642-7610

Bloomfield Township office hours are 7:00 AM to 5:30 PM Monday - Thursday.

Offices are closed on Fridays.

<image003.jpg>

- Don't wait for the perfect moment;
take the moment and make it perfect.*

Exhibit 1 Continued

From: [REDACTED]
Sent: Monday, September 9, 2019 11:06 PM
To: Roncelli, Jan
Cc: Mondock, Deana
Subject:

Please consider this a formal request for FOIA.

Please provide the board meeting agenda and minutes that reflect that the board of trustee was presented with a motion/resolution to approve the salaries of the current elected township officers of Bloomfield. Please provide the minutes that indicate the salary was approved and the dollar amount of that salary for each current officer.

Further please provide the board meeting minutes that further established the benefits and "intangible benefits" that were awarded or provided to the current officers of the charter township of Bloomfield by the trustees and the results of the vote on that motion or resolution.

L. Ulrey

From Michigan Compiled Law Chapter 41, Townships 41.95

(3) Elected officials, determination by township board, petition and referendum. In a township that, pursuant to section 8, does not hold an annual township meeting and in a charter township created under Act No. 359 of the Public Acts of 1947, as amended, being sections 42.1 to 42.34 of the Michigan Compiled Laws, the salary for officers composing the township board shall be determined by the township board.

L. Ulrey

Exhibit 2

"42.6a Ordinance establishing procedure for determining salary of elected official; contents; conducting business at public meeting; public notice; resolution implementing ordinance; petition for referendum; change of procedure; decreasing salary of elected township official.

Sec. 6a. (1) In place of the procedure in section 6 for determining the salary of each elected official, the township board may establish by ordinance the procedure described in this section. The ordinance shall provide the following:

(a) A local officials compensation commission is created. The commission shall determine the salary of each township elected official. The commission shall consist of 5 members who are registered electors of the township, appointed by the supervisor subject to confirmation by a majority of the members elected and serving on the township board. The terms of office shall be 5 years, except that of the members first appointed, 1 each shall be appointed for terms of 1, 2, 3, 4, and 5 years. All first members shall be appointed not more than 30 days after the effective date of the ordinance. Members other than the first members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of an unexpired term. An officer or employee of a government agency or unit or a member of the immediate family of that officer or employee shall not be appointed to the commission.

(b) The commission shall determine the salary of each township elected official which determination shall be the salary unless the township board by resolution adopted by 2/3 of the members elected to and serving on the board rejects the determination. A determination of the commission shall be effective 30 days following its filing with the township clerk unless rejected by the township board. If a determination is rejected, the existing salary shall prevail. An expense allowance or reimbursement paid to an elected official in addition to salary shall be for expenses incurred in the course of township business and accounted for to the township.

(c) The commission shall meet for not more than 15 session days in each odd numbered year and shall make a determination within 45 calendar days of the first meeting. A majority of the members of the commission constitutes a quorum for conducting the business of the commission. The commission shall not take action or make a determination without a concurrence of a majority of the members appointed and serving on the commission. The commission shall elect a chairperson from among the commission's members. As used in this section, "session days" means a calendar day on which the commission meets, and a quorum is present. The members of the commission shall not receive compensation, but shall be entitled to actual and necessary expenses incurred in the performance of official duties.

(2) The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(3) The township board may implement the ordinance by resolution including the date for convening the commission.

(4) Not more than 60 days after the effective date of the ordinance, a petition for a referendum on the ordinance may be filed with the township clerk containing the signatures of at least 5% of the registered electors of the township on the effective date of the ordinance in which case the election shall be conducted in the same manner as an election on a charter amendment. If a petition for a referendum is filed, a determination of the commission shall not be effective until the ordinance has been approved by the electors.

(5) After 1 year following the effective date of the ordinance, the procedure for establishing the

Exhibit 2 Continued

compensation of township elected officials may be changed by ordinance.

(6) The salary of an elected township official shall not be decreased during the official's term of office as long as the responsibilities and requirements of that office are not diminished during the term of the official's term of office, and the salary of an elected township official shall not be decreased during the official's term. Rendered Thursday, September 19, 2019 Page 4 Michigan Compiled Laws Complete Through PA 48 of 2019 § Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov of office unless the official consents in writing to the reduction in salary. Notwithstanding the above, if a township in setting a township supervisor's salary has designated a portion of the supervisor's salary to be paid the supervisor for directly performing the property tax assessing function within the township and the supervisor subsequently fails to perform that function, the salary of the supervisor may be reduced by that portion of the supervisor's salary designated for the direct performance of the property tax assessment function; provided that in no event may that portion of a supervisor's salary designated for nonassessment functions be decreased during the supervisor's term of office without the supervisor's written consent."

Exhibit 3

The complaint begins on the following pages.

Hatch Act Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, DC 20036-4505

Fax 202-254-3700

hatchact@osc.gov

July 28, 2017

2945 W Hickory Grove Rd
Bloomfield Hills, MI 48302

To the Special Counsel,

This is a formal complaint about violations of the Hatch act by Mr. Leo Savoie in the recent primary election held August 2, 2016, in Bloomfield Township, Oakland County Michigan (Referred to as Township going forward). I am personally making this claim as the aggrieved party from overt actions done by Supervisor Savoie and other elected officials. I was the challenger for the Supervisors position in the August primary,

The following complaint outlines what I believe to be the major violations of the Hatch Act. Mr. Savoie at the time of the election was the Township Supervisor, and because the Township received Federal Funds and Grants to departments that reported to him; he is subject to conduct elections with full regard to the Hatch Act.

I verify that the information contained in this complaint is as truthful as I am able to verify. The evidence provided in this complaint has not been materially altered, tampered with, or misrepresented.

Sincerely,

David C Thomas


248-872-9001

Exhibit 3 Continued

The Complaint

Mr. Savoie, as the incumbent Supervisor in the Township during the primary election was/is covered by the Hatch Act. The Hatch Act is applicable to Supervisor Savoie because the Township receives federal funds for several initiatives and programs. All the departments that receive the funding, the Roads, Senior Services, Police, and Fire departments report directly to Supervisor Savoie.

The organization chart shows the reporting of departments to Mr. Savoie:

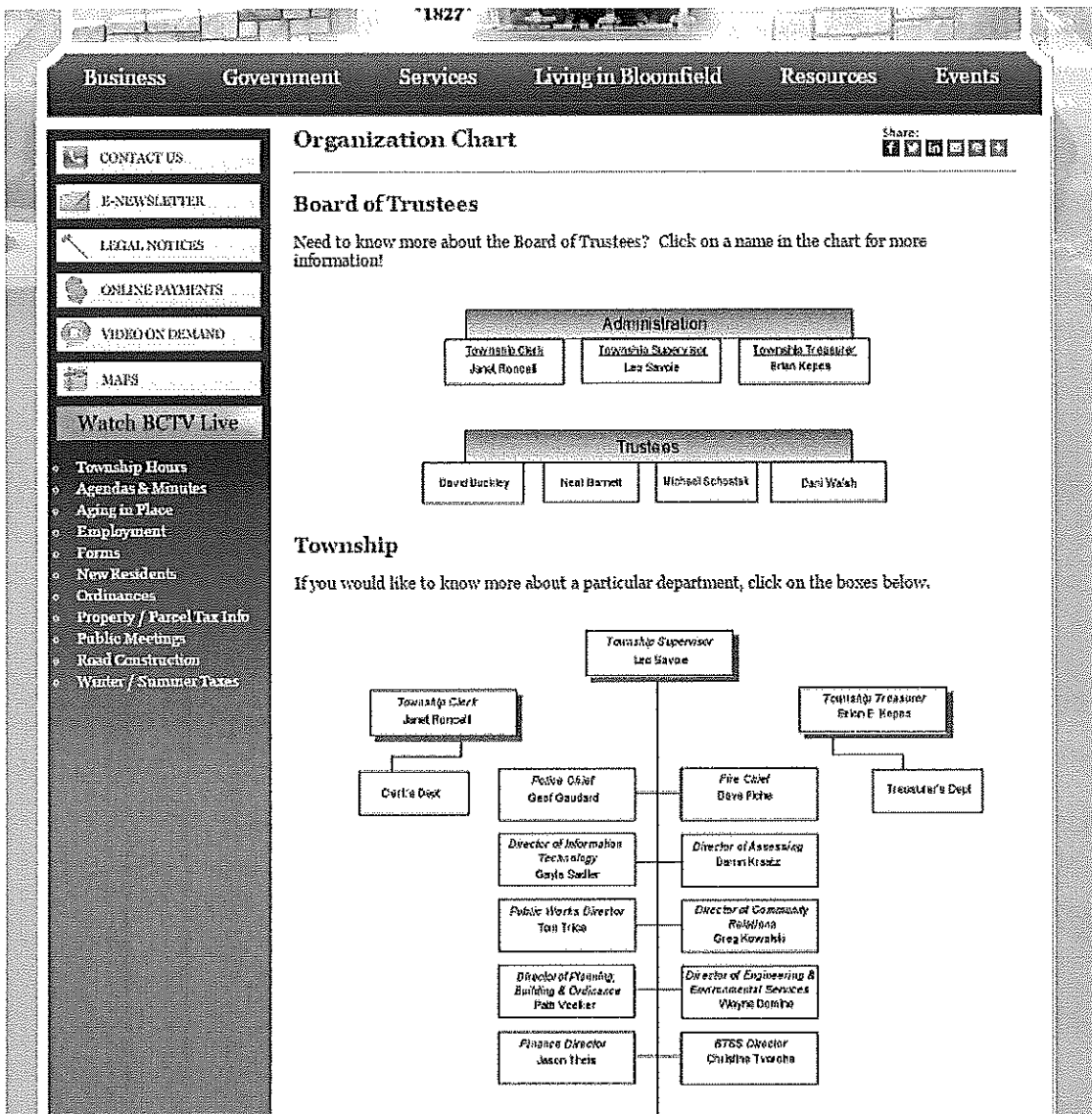


Exhibit 3 Continued

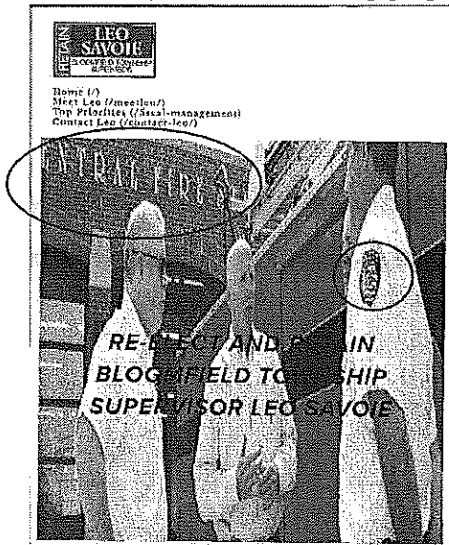
Bloomfield Township received the actual following federal funds in 2016 (source 2017-2018 Budget Report):

Roads	\$ 6,500.00
Senior Care	\$ 57,365.20
Senior Meals	\$ 12,366.34
Police	\$ 77,976.46
Fire	<u>\$156,558.80</u>
Total	\$310,766.80

As such, Supervisor Savoie must comply with the Hatch Act under both federal and Michigan laws for his campaign.

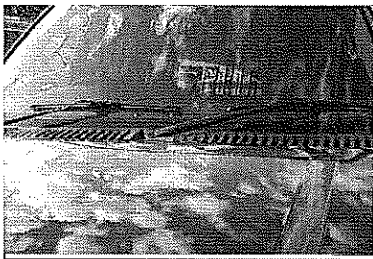
Mr. Savoie directly violated the Hatch Act on numerous occasions.

1. He illegally used the Township property and employees in campaign ads.



See the Bloomfield Township insignia on the firefighter's arm and the front of the fire station. (Blue circles)

2. He used Township vehicles to transport and post campaign literature. (Multiple occasions in June and July).



Campaign signs in Township Vehicle



License plate of the vehicle Savoie used.

Exhibit 3 Continued

3. He violated Township ordinances regarding campaign signage. Mr. Savoie used his influence over the folks directly reporting to him again to violate the Township's own sign ordinance (Item b below). Specifically, the requirement that the signs cannot be 5' above the ground and should be 15' from the property line and the road right of way. Mr. Savoie testified in a Trustee meeting that the Ordinance Officer had in fact said the signs were okay.

Yet the Clerk, Jan Roncelli sent a copy of the sign ordinance to all the candidates that states specifically that this is a violation (Exhibit E). This leads to the assumption that there was coercion in the form of boss to direct report (Exhibit D).

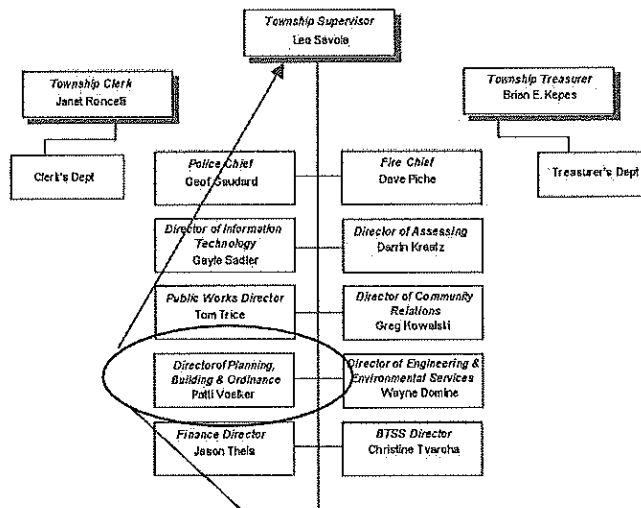
Supervisor Savoie, Clerk Jan Roncelli, and Trustee Neal Barnett and Trustee Brian Kepes ran as a slate. The signs used the names of Mr. Savoie, Mr. Barnett, and Mr. Kepes with Mrs. Roncelli acting as the Clerk and enforcing the campaign laws. This raises the question of conspiracy and goes to potential R.I.C.O. violations.



a.

Township

If you would like to know more about a particular department, click on the boxes below.



b.

Planning, Building and Ordinance Department

[Overview](#) | [Building Division](#) | [Code and Ordinances Division](#) | [Planning Division](#)

Planning, Building and Ordinance Department



Exhibit 3 Continued

4. Supervisor Savoie coerced or conspired with the Township Clerk to employ the private email addresses of Township residents and members of the Township's Senior Center for his/their own political gain.

Supervisor Savoie, Clerk Jan Roncelli, and Trustee Neal Barnett and Trustee Brian Kepes ran as a slate.

- a. Deliberately sent out an email promoting himself and six other candidates including the clerk that looked like an official correspondence from the Township (The Townships eNews) (Exhibit B) (Sent June 30, 2016)
- b. The Township Clerk then refused access to the same information to his opponent (myself) based on privacy laws. (Exhibit A) Key part of the response follows.
 - i. "Your request has been denied.

This item is exempt from disclosure under MCL 15.243(1) (a).

"A public body may exempt from disclosure as a public record under this Act any of the following: Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy."

Bloomfield Township has determined that releasing this email list under the Freedom of Information Act (FOIA) would invade the privacy of persons listed, which would outweigh the potential benefits derived by the public. Disclosure of the requested list would reveal nothing about the Township's conduct nor would it further public benefit."

- ii. This raises the issue of conspiracy and possible violations of the RICO act.
 - c. The Savoie email was issued to look like an official Township mailing advocating himself, the clerk, and five other candidates.
 - d. The timing of the distribution of the email was coordinated with the initial mailing of the absentee ballots by the Township.
5. The gathering of the emails used in the campaign promotional materials previously mentioned were gathered during normal Township work hours and were done via a FOIA. The value of the FOIA was reported as \$0.33 for the cost of a DVD disk. Mr. Savoie's campaign showed the cost of the FOIA being \$40.00. I am unsure if this mismatch was deliberate or a reporting error by the Clerk's Office. Regardless, the email list of the residents has a commercial value far in excess of either value or may be worth thousands of dollars.

Mr. Savoie admitted to the email activity in the Township Trustee's Meeting dated July 11, 2016. The video of that meeting is on the Township's website. At approximately the 1-hour 21-minute mark, he admits to the inappropriate usage of the email lists. He further states that he had sought the Township's legal counsel on the usage of that information and was assured by Mr. Hampton (legal advisor) that it was okay to use that material. When citizens and candidates like myself asked for the same information in the following week's we were denied the information because it violated the citizens' privacy. They used this logic to deny our access to the material. Again, I am one of those aggrieved parties.

Exhibit 3 Continued

Exhibit 3 Continued

By working with Mr. Hampton (Legal counsel) and Clerk Jan Roncelli to gain access to and to employ the email list, Supervisor Savoie, in my opinion, engaged in conspiracy and violated the Hatch Act by:

1. Employing Mr. Hampton and Ms. Roncelli to improperly gain illegal access to emails that were withheld from the public. This was done by first saying it was public information; then then ruling it wasn't.
2. People providing their emails to the Township were told via the application process and disclaimers that their information was private and would not be used for anything other than official township business. (exhibit below)
3. There was coordination to synchronize the release of the email to mailing of the absentee ballots.
4. There was a reversal ruling by Mr. Hampton per statements made by Mr. Savoie in the July 11, video at the 1 hour 21-minute mark in the video.
 - a. <http://www.bloomfieldtwp.org/Services/cable/Videos/BoardOfTrusteeMeetings.asp>
5. The misleading email was sent with the sender address being:
 - a. Bloomfield Township Elections
info@bloomfieldtownshipelections.com
 - b. As opposed to the normal Township emails senders address being:
 - i. Bloomfield Township
gkowski@bloomfieldtwp.org
 - ii. Bloomfield Township Seniors
jpatzelt@bloomfieldtwp.org
6. The email in question was sent from a Township computer (Per a witness testimony to me).

These actions alone clearly violated Michigan and Federal Laws governing the Hatch Act.

Bloomfield Township E-mail List

This is a news update service from Bloomfield Township. It is available to anyone wishing to receive periodic e-mail updates from Bloomfield Township on items related to Township services, government and events in the community. To finish signing up, click Sign Up.

* Email Address

Email Lists

- ☐ Senior eNews
- ☐ Township eNews

Sign Up

By submitting this form, you are granting: Bloomfield Township, 4200 Telegraph Road, Bloomfield Township, MI, 48303-0489 United States, <http://www.bloomfieldtwp.org/> permission to email you. You can revoke permission to mail to your email address at any time using the [SafeUnsubscribe@](#) link, found at the bottom of every email. We take your privacy seriously (to see for yourself, please read our [Email Privacy Policy](#)). Emails are serviced by Constant Contact.

Township e-mail application from the Bloomfield Township website

Exhibit 3 Continued

The photo of the Birmingham Eccentric below has Leo Savoie admitting to using the email information in a public newspaper (Circled in blue.) He claims in the statement that he did not know it was illegal. I find that hard to believe because almost immediately afterwards the Township denied a citizen's request for the same information because it was inappropriate.

He was the Township's Supervisor, the person in charge. He should have known about the Hatch Act for employee compliance issues, if for no other reason. Regardless, ignorance of the law is not a legal defense.



Overview of events

June	27 Savole FOIA's private emails of residents and creates deceptive URL	30 Savole emails thousands of citizens on list	30 Rabovitsky FOIA's list on the same day	27 - 30 Absentee ballots delivered to thousands
July	11 Savole admits guilt at Trustee Meeting amid citizen protests	22 Savole files inaccurate Campaign Finance Statement	22 Rabovitsky FOIA request for same emails denied	24 Normal Trustee Meet canceled to avoid pre-election discussion
August	2 Savole won primary by only 452 votes			

6

The impact on primary election results

- Just over 8,000 votes were cast for Savole and Thomas with Savole receiving 4,244 votes (or 52.77%)
- Savole narrowly won the primary against an under-funded challenger who had no experience running for public office
- With such a small margin, the email likely changed the outcome of the race for supervisor and perhaps other offices as well

2016 Bloomfield Township Primary Supervisor Vote Totals

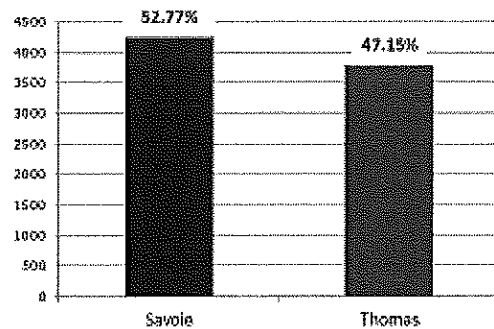


Exhibit 3 Continued

Michigan Law regarding the Hatch Act is clear:

§ 15.404. Political activities; time restriction

The activities permitted by sections 2 and 3 shall not be actively engaged in by a public employee during those hours when that person is being compensated for the performance of that person's duties as a public employee.

§ 15.405. Coercion of contributions by public employees

A public employer, public employee or an elected or appointed official may not personally, or through an agent, coerce, attempt to coerce, or command another public employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for the benefit of a person seeking or holding elected office, or for the purpose of furthering or defeating a proposed law, ballot question, or other measure that may be submitted to a vote of the electors.

The Federal Government is even clearer regarding the Hatch Act and what is a violation of the Act by an elected official and what they can and cannot do during working hours:

- Use their official authority or influence to interfere with or affect the result of an election, e.g.:
 - o may not use official title/position while engaged in political activity
 - o may not invite subordinate employees to political events or otherwise suggest to subordinates that they attend political events or undertake any partisan political activity
- Solicit, accept, or receive a donation or contribution for a partisan political party, candidate for partisan political office, or partisan political group, e.g.:
 - o may not host a political fundraiser
 - o may not invite others to a political fundraiser
 - o may not collect contributions or sell tickets to political fundraising functions
- Volunteer in any capacity in connection with a partisan candidate or partisan election
- Campaign for or against a candidate in a partisan election
- Make a campaign speech
- Distribute campaign material printed by a partisan political organization
- May not use any e-mail account or social media to distribute, send or forward content that advocates for or against a partisan political party, candidate for partisan political office or partisan political group (* at all times, further restricted employees may not post links to web sites created by or leading to information created by a political party, partisan candidate or campaign)

5 C.F.R. § 734.101-702 SOCIAL MEDIA AND THE HATCH ACT

As a general matter, the Department of Justice authorizes some limited personal use of government time and equipment, including the Internet, where there is negligible cost to the government and no interference with official business. However, partisan political activity in the workplace is treated differently than other personal use activities. The Hatch Act prohibits partisan political activity in the workplace. Employees may not use the Internet or any other government equipment to engage in partisan political activities.

Exhibit 3 Continued

Penalties

Removal from office is the only penalty authorized for violation of the Hatch Act, under 5 U.S.C.S. § 1505. The Merit System Protection Board (MSPB) has plenary jurisdiction under § 1505 to determine after a hearing whether the violation warrants the removal of the officer or employee from his office or employment.

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES PART II - CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES CHAPTER 15 - POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES

§ 1501. Definitions For the purpose of this chapter—

- (1) "State" means a State or territory or possession of the United States;
- (2) "State or local agency" means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;
- (3) "Federal agency" means an Executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and
- (4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—
 - (A) An individual who exercises no functions in connection with that activity; or
 - (B) An individual employed by an educational or research institution, establishment, agency, or system, which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

From the US Department of Justice, we have definitions of fraudulent acts regarding wire fraud laws:

949. Proof of Fraudulent Intent

"The requisite intent under the federal mail and wire fraud statutes may be inferred from the totality of the circumstances and need not be proven by direct evidence." *United States v. Alston*, 609 F.2d 531, 538 (D.C. Cir. 1979), cert. denied, 445 U.S. 918 (1980). Thus, intent can be inferred from statements and conduct. *United States v. Cusino*, 694 F.2d 185, 187 (9th Cir. 1982) (citing *United States v. Beecroft*, 608 F.2d 753, 757 (9th Cir. 1979)), cert. denied, 461 U.S. 932 (1983). Impression testimony, that is, testimony of victims as to how they had been misled by defendants, is admissible to show an intent to defraud. See *Phillips v. United States*, 356 F.2d 297, 307 (9th Cir. 1965), cert. denied, 384 U.S. 952 (1966). Also consider complaint letters received by defendants as relevant to the issue of intent to defraud. The inference might be drawn that, since the defendant knew victims were being misled by solicitation literature and other representations, the continued operation of the business despite this knowledge showed the existence of a scheme to defraud.

Fraudulent intent is shown if a representation is made with reckless indifference to its truth or falsity. *Cusino*, 694 F.2d at 187. In addition, "[f]raudulent intent may be inferred from the modus operandi of the

scheme." *United States v. Reid*, 533 F.2d 1255, 1264 n. 34 (D.C. Cir. 1976) ("[T]he purpose of the scheme 'must be to injure, which doubtless may be inferred when the scheme has such effect as a necessary result of carrying it out.'" (quoting *United States v. Regent Office Supply Co.*, 421 F.2d 1174, 1180-81 (2d Cir. 1970) (quoting *Horman v. United States*, 116 F. 350, 352 (6th Cir.), cert. denied, 187 U.S. 641 (1902))). "Of course, proof that someone was actually victimized by the fraud is good evidence of the schemer's intent." *Id.* (quoting *Regent Office Supply Co.*, 421 F.2d at 1180-81). In *United States v. D'Amato*, the court explained the government's burden of proving fraudulent intent as follows:

The scheme to defraud need not have been successful or complete. Therefore, the victims of the scheme need not have been injured. However, the government must show "that some actual harm or injury was contemplated by the schemer." Because the defendant must intend to harm the fraud's victims, "[m]isrepresentations amounting only to a deceit are insufficient to maintain a mail or wire fraud prosecution." "Instead, the deceit must be coupled with a contemplated harm to the victim." In many cases, this requirement poses no additional obstacle for the government. When the "necessary result" of the actor's scheme is to injure others, fraudulent intent may be inferred from the scheme itself. Where the scheme does not cause injury to the alleged victim as its necessary result, the government must produce evidence independent of the alleged scheme to show the defendant's fraudulent intent.

Referenced websites:

<https://osc.gov/Pages/The-Hatch-Act-Frequently-Asked-Questions-on-Federal-Employees-and-the-Use-of-Social-Media-and-Email.aspx>

<https://www.justice.gov/usam/criminal-resource-manual-949-proof-fraudulent-intent>

<https://www.justice.gov/usam/criminal-resource-manual-941-18-usc-1343-elements-wire-fraud>

<https://www.justice.gov/usam/criminal-resource-manual-956-rico-prosecutions-18-usc-1961-68>

Because of the egregious and deliberate actions by Mr. Savoie employed against me during the election in direct violation of the Hatch Act and the potential wire fraud during the election process, I am seeking the only remedy prescribed by law; Mr. Savoie's immediate removal from office and banning him from running for the any elected office in the future.

Further there should be a new election held with all the candidates that were registered for the office of Supervisor at the time of the August 2, 2016, primary.

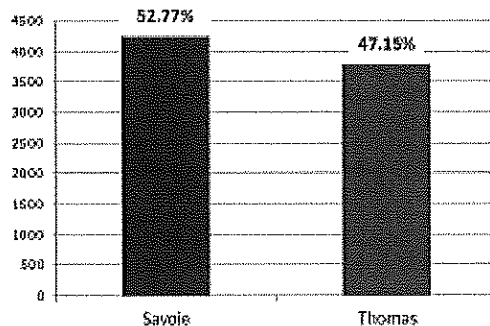
The illegal actions provided above clearly gave him the advantage for his narrow victory of just 452 votes (less than 3% of the total votes).

Exhibit 3 Continued

The Impact on primary election results

- Just over 8,000 votes were cast for Savole and Thomas with Savole receiving 4,244 votes (or 52.77%)
- Savole narrowly won the primary against an under-funded challenger who had no experience running for public office
- With such a small margin, the email likely changed the outcome of the race for supervisor and perhaps other offices as well

2016 Bloomfield Township Primary Supervisor Vote Totals



11

Exhibit A – Copy of FOIA Request and the Township FOIA Request Response

Original Response

FOIA Request Response

Debra Mondock
To: dmondock@comcast.net

11/2/2016 4:35 PM

Quick reply as Reply Forward Delete

1 attachment View Open in browser Download

Re: Final Determination of Request for Records

This notification is the final determination of your request for records that was filed under the "Freedom of Information Act".

Your request has been denied.

This item is exempt from disclosure under MCL 15.242(1) (a).

"A public body may exempt from disclosure as a public record under this Act any of the following: Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy."

Bloomfield Township has determined that releasing this email list under the Freedom of Information Act (FOIA) would invade the privacy of persons listed, which would outweigh the potential benefits derived by the public. Disclosure of the requested list would reveal nothing about the Township's conduct nor would it further public benefit.

Notice of Requester's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the Township Board or to commence an action in the circuit court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the Township has not complied with MCL 15.240 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and costs as provided in MCL 15.240.

FREEDOM OF INFORMATION ACT (EXCERPT) Act 442 of 1976

15.240 amended Options by requesting person; appeal; action by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following within 60 days after the date of the denial:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is adverse, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part. (d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the nature de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court may award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the public body.

History: 1976, Act 442, I.R.S. 1977;—Am. 1978, Act 329, I.R.S. 1978;—Am. 1980, Act 553, I.R.S. 1981;—Am. 2014, Act 553, I.R.S. 2015

Deana Mondock, COM/NO/CLERK

Deputy Clerk

Clerk of the Township of Bloomfield

4000 Westpark Road

Bloomfield Hills, MI 48304

Phone: 248.864.1100

Fax: 248.864.1100

Bloomfield Township office hours are 7:00 AM to 4:00 PM Monday - Thursday

Office is closed on Fridays



Exhibit 3 Continued

Readable version:

11/2/2016 4:36 PM

Deana Mondock

To [REDACTED]

Re: Final Determination of Request for Records

This notification is the final determination of your request for records that was filed under the "Freedom of Information Act".

Your request has been denied.

This item is exempt from disclosure under MCL 15.243(1) (a).

"A public body may exempt from disclosure as a public record under this Act any of the following: Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy."

Bloomfield Township has determined that releasing this email list under the Freedom of Information Act (FOIA) would invade the privacy of persons listed, which would outweigh the potential benefits derived by the public. Disclosure of the requested list would reveal nothing about the Township's conduct nor would it further public benefit.

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the Township Board or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the Township has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240.

FREEDOM OF INFORMATION ACT (EXCERPT) Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Exhibit 3 Continued

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part. (d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the

head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

Exhibit 3 Continued

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977; -- Am. 1978, Act 329, Imd. Eff. July 11, 1978; -- Am. 1996, Act 553, Eff. Mar. 31, 1997; -- Am. 2014, Act 563, Eff. July 1, 2015

Deana Mondock, CMMC/CMC
Deputy Clerk
Charter Township of Bloomfield
4200 Telegraph Road
Bloomfield Hills, MI 48302
dmondock@bloomfieldtp.org
Phone: (248)433-7780
Fax: (248)642-7610

Bloomfield Township office hours are 7:00 AM to 5:30 PM Monday - Thursday.
Offices are closed on Fridays.

Description: Bloomfield Logo3

From: David C [REDACTED]
Sent: Tuesday, November 01, 2016 2:00 PM
To: Roncelli, Jan
Cc: Savoie, Leo C.; Barnett, Neal; Buckley, Dave; Devine, Dan; Kepes, Brian
Subject: FOIA Request

To the Honorable Jan Roncelli,

Please consider this email as my FOIA request for the following information:

The email lists that were referenced in the July 11, 2016, Trustee meeting that Mr. Savoie referenced. Those email lists of the Township residents who signed up for the e-Newsletter and the Senior Center were given to Mr. Savoie via a FOIA request; who then gave them to Constant Contact and who used the email lists of the residents for the campaign of Mr. Savoie, Mr. Kepes, Mr. Barnett, and yourself. All of you materially benefitted from access to those email lists.

Because these emails are already available, and time is of the essence, I also request that they be available to me in the same format as they were given to Mr. Savoie within 24 hours.

According to the FEC I have the right as a registered candidate, the ability to the access of all the same government resources as any other candidate. Please comply.

Exhibit 3 Continued

With regards,

David C. Thomas

Exhibit B – Emails – Election endorsements and a normal Township eNotification. (Sent June 30, 2016 the same time the absentee ballots went out to the residents.)

Bloomfield Township Primaries are August 2, 2016. Please read this important information regarding your right to vote and make a difference.

BLOOMFIELD TOWNSHIP CANDIDATE ENDORSEMENTS

Township Primary August 2, 2016

Dear Township Resident,

All cities and townships across Michigan will vote on Tuesday, August 2, 2016. People who aren't registered to vote have until Tuesday July 5 to register at any Secretary of State Office, or at their county or local Clerk's office. Check your registration status at the Michigan Voter Information Center at www.michigan.gov/vote. You also can view your sample ballot if your community is holding an election as well as find your polling location and track your absentee ballot.

Eccentric Newspaper Announces Bloomfield Township Endorsements

Originally published by O&E Media June 25, 2016

Don't believe any of it.

Don't believe the misguided rumors that Bloomfield Township is facing any type of financial crisis. Don't believe the township board is filled with corrupt people who have no other interest

BLOOMFIELD TOWNSHIP E-News

December 29, 2015

Township assists B'ham in fighting blaze

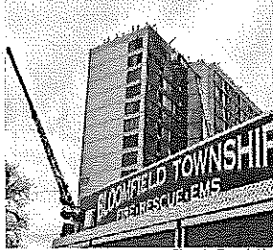


Photo by Doug Ashby

The Township Fire Department also responded to the fire at the 555 Building in Birmingham.

Unit sent to help
When fire broke out in the 555 Building in Downtown Birmingham last Thursday the potential for a major disaster erupted.
The blaze started on the 16th floor of Birmingham's

General Info

4329 Telegraph Road
P.O. Box 489
Bloomfield, MI 48303-5429
ph: 248-433-7755
General Office Hours
7:30 AM to 5:00 PM
Monday-Thursday,
Closed Friday
www.bloomfieldmi.org

Important Numbers

Police, Fire and EMS
Emergency 911
Water/Sewer Emergency
248-433-7755
General Administration
248-433-7759
Assessing
248-433-7718
Building
248-433-7715
Community Television
248-433-7739
Clerk
248-433-7754
Engineering and Environment
248-584-2523
Fire Administration
248-433-7743
Ordinance
248-584-2545

Exhibit 3 Continued

board is filled with corrupt cronies who have no other interest than to seek out backroom deals with greedy builders. Don't believe any of it, because it simply isn't true.

For the Aug. 2 primary, we are endorsing Leo Savoie for supervisor; Jan Roncelli for clerk; and Brian Kepes for treasurer. We're also endorsing Neal Barnett, Corrine Khederian, Michael Schostak and Geoff Hockman for the four trustee positions.

A change of leadership is needed, starting with the removal of Treasurer Dan Devine. To put it simply, Devine is disrupting business and giving the township a bad reputation. He continues to offer up whimsical resolutions at board meetings with no real purpose in mind other than to garner political support - or to make someone look bad. He keeps asking to audit items that were already audited.

That's no way to run a township.

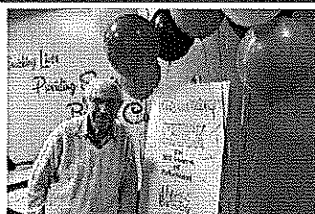
Devine's duress dates back several years, to when former Supervisor Dave Payne stepped down and the board appointed Savoie to replace him. Devine thought he was going to get the appointment and was outright bitter when someone else got the nod.

Since then, Devine has continually tried to undermine Savoie as the township supervisor. He filed an election complaint against Savoie that was quickly dismissed by the state. He filed a whistleblower lawsuit against the township that was tossed out of court. He keeps throwing the proverbial plate of spaghetti against the wall, praying something will stick.

It now appears he has strung together a slate of candidates to take down Savoie and several other incumbents. The group itself is composed of well-qualified people who must certainly want the township to flourish, since they all have a vested interest as

The blaze started on the 14th floor of Birmingham's tallest building and spread up through a heating vent to the 16th floor. Birmingham firefighters responded to the alarm at about 10:15 a.m., and seven other area departments were called in to assist, including Bloomfield Township firefighters, who brought in a unit. The blaze apparently was sparked by a welder working near the top of the building. Constructed in the 1970s, the 555 Building is undergoing a major renovation. Roads around the building were closed until the early afternoon as the fire was quickly contained. No one was injured.

Marking a century of good cheer



Happy birthday, Charles Barkdull.

Still going strong

In some ways, Tuesday was like most other days for Charles Barkdull. He got a ride to the Township Senior Center where he did his regular brisk workout. But when that was done he took a break to meet with some friends and enjoy some cake.

Not a bad way to celebrate one's 100th birthday. Barkdull is a regular visitor to the Senior Center, where he has been coming for the past several years and now has many friends there.

"He's my favorite," said Frank Smith, a driver who regularly brings Barkdull to the Senior Center. "He's a fun guy to be with."

Barkdull moves a bit slower these days and the hearing and eyesight aren't what they used to be, but "he's sharp," Smith said.

Sharp indeed. "He had 182 IQ (in college) and still has it now," said his son, Robert, who came to the surprise birthday celebration at the Senior Center with wife, Karen, and daughter, Brooke. Brooke, who is 19 and a student at Rutgers, said of her grandfather, "He still is very amazing."

243.504.2842
Planning
243.533.7195
Police Administration
248.433.7755
Police Non Emergency
243.433.7755
Animal Welfare
248.433.7752
Police Investigations
243.433.7755
Police Records
243.433.7779
Road Division
243.531.2600
Water & Sewer Division
243.504.2500
Senior Services
243.723.3550
Treasurer
243.433.7755
Bloomfield Township Public Library
248.642.5350

Holiday closings

Township offices will be closed Monday, Jan. 2, and will reopen at 7 a.m. Tuesday, Jan. 3. However, the Treasurer's Office will be open 7 a.m. to 5:30 p.m. Friday, Dec. 30, for tax payments only.

The Senior Center will be closed Saturday, Dec. 31 and Monday, Jan. 2. The Bloomfield Township Public Library will be closed Sunday, Jan. 1 and will reopen at 9:30 a.m. Monday, Jan. 2. Trash pickup in the Township will not be delayed by the holiday and will proceed on schedule as usual this week and next.

Township seeks ZBA alternate candidate

The Bloomfield Township Board of Trustees is seeking qualified candidates to fill a vacant position for an alternate on the Zoning Board of Appeals. The ZBA considers requests for relief from



Bloomfield Township Board of Trustees

Meeting at Township Hall

Monday, July 11, 2016 -- 7:00 P.M.

PLEDGE OF ALLEGIANCE

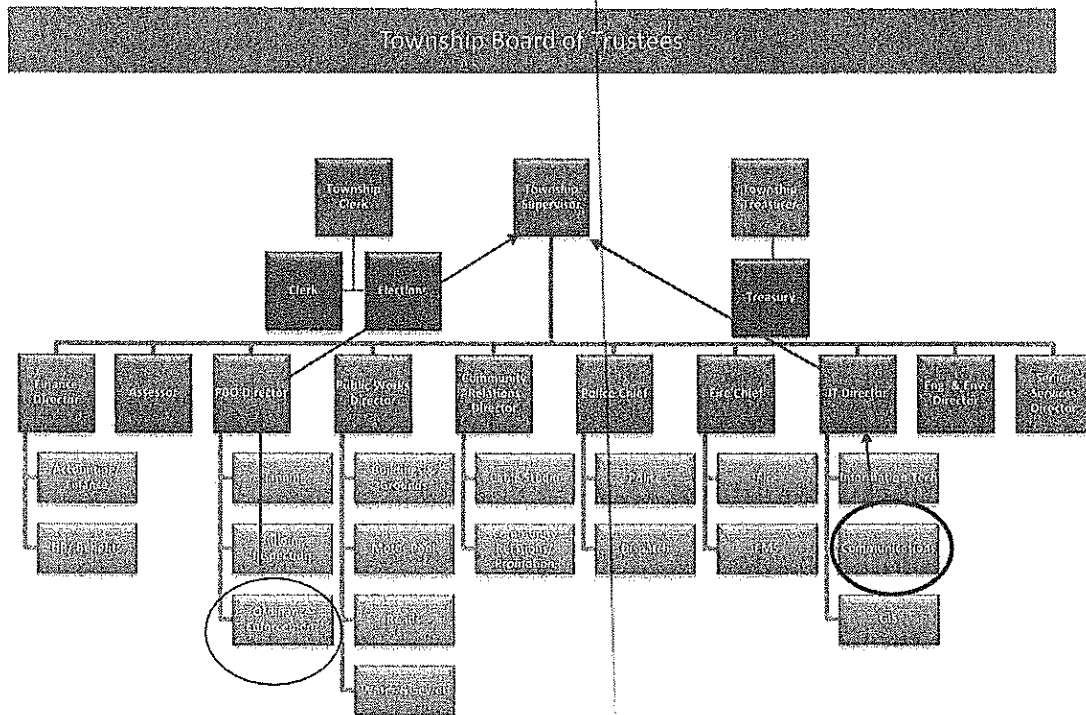
1. Approve Board Minutes of June 27, 2016
2. Proclamation to Honor Brielle Ashford, Comcast Leaders & Achievers Scholarship Recipient -- Presented by Clerk Roncelli
3. Police Department Awards -- Presented by Police Chief Geoff Gaudard
4. Consider Approval of Resolution of Participation in the Oakland County Law Enforcement Mutual Aid Agreement Dated May 11, 2016 -- Presented by Chief Geoff Gaudard
5. **PUBLIC HEARING** -- Final Site Plan -- Bloomfield Town Square Shopping Center, 2105 S. Telegraph Rd. -- Presented by Patti Voelker, Planning, Building and Ordinance Director
6. Consider Approval of FY 2015 Pre-Disaster Mitigation Grant Program Grant Agreement -- Presented by Olivia Olszyn-Budry, Township Engineer
7. Legal and Financial Update -- Presented by Attorney Hampton and Jason Theis, Finance Director
8. Discuss Township E-News E-mail Address Database -- Presented by Supervisor Savoie
9. Approve Payroll and Vouchers for 07/11/2016
10. Public Comment

4200 Telegraph Road Bloomfield Hills MI 48302
www.bloomfieldtp.org

Exhibit 3 Continued
Exhibit D – Township Organization Chart

FY 3/31/17 Budget

Township Organization Chart



Showing of undue influence in mailings and ordinance enforcement.



Exhibit E – Township Sign Ordinance

Bloomfield Township.

Leo C. Savoie Supervisor • Janet Roncelli, Clerk • Dan Devine, Treasurer
David Buckley, Trustee • Neal J. Barnett, Trustee • Brian E. Kepes, Trustee • Corinne Khederian, Trustee

June 2016

Dear Candidate:

Subject: Posting of Political Signs Within Bloomfield Township

Campaigning for the up-coming election is underway and the posting of political signs within Bloomfield Township has begun. In an effort to ensure that political signs are placed in accordance with Township Ordinance requirements, we are sending this information to all candidates in the hope that it will be shared with all campaign staff that are tasked to distribute your political signs. Also enclosed is a copy of Political Sign Ordinance Sec. 42-5.9 (D) for your reference.

The following general guidelines should be observed:

- All temporary signs must be placed on private property and not within the road right-of way. Guidelines for placement should be on the private property side (*not the street side*) of:
 - Sidewalks
 - Utility Poles
 - Ditches
 - Hydrants
 - OR if the above items are not present, a general setback of 15 feet from the road's edge is usually considered out of the right-of-way.
- Temporary signs should not be placed along the road frontage to cause a distraction, hazard, or visual obstruction to pedestrians or motor vehicles.
- Size requirements are limited to 4 sq. ft. in area, per face, with a maximum of two faces and shall not be illuminated.
- All political signs must be removed within 3 business days following the election.

I trust that these guidelines, along with a copy of the Political Sign Ordinance, will ensure that all candidates will have a successful campaign as well as ensuring the integrity of the Bloomfield Township ordinance. Should you or your campaign staff have additional questions or concerns, please do not hesitate to contact our office at 248-594-2845.

Sincerely,

Bloomfield Township
Code & Ordinance Enforcement

Enc.

4200 Telegraph Road P.O. Box 489 Bloomfield Township, MI 48303-0489

Phone: 248-433-7700 Fax: 248-433-7711 www.bloomfieldtwp.org

billboard on the same side of the street:

Minimum Spacing on the same Side of the Street

Along freeways 1,000 feet apart

Along major thoroughfares 600 feet apart

- D. Political signs. Political signs shall be permitted in all zoning districts in the Township subject to the following conditions:

The face of the sign shall not be more than four (4) square feet in area per face, with a maximum of two (2) faces.

- ii. The sign that is displayed shall not be more than (5) feet in height measured from grade or surface of surrounding ground level.
- iii. All political Signs relating to the election of a person to public office or relating to a political party, or a matter to be voted upon at an election called by a public body, shall be removed within three (3) business days after the date of the election for which the sign pertains.
- iv. Except as otherwise provided in this Section, all signs shall be located a minimum distance of fifteen (15) feet from all property lines. In no instance shall a sign be located in the public right-of-way.
- v. There shall be no illumination of political signs.
- vi. In addition to the other sign setback requirements contained herein, all political signs shall be subject to the requirements of subsection 1.C. of this Section in order to provide adequate sight lines for motorists and pedestrians.
- vii. For parcels of three (3) acres or more in area, one (1) sign of up to thirty-two (32) square feet in area per face, with a maximum of two (2) faces may be displayed. Such signs, with no exception, shall be set back at least fifteen (15) feet from the road right-of-way.

3. Sign permits required. It shall be unlawful for any person to erect, repair, paint, alter or relocate any sign within the Township as defined in this Chapter without first obtaining a

permit from the building inspector with the exception of the following:

A. Exceptions.

- i. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or aluminum not to exceed three (3) square feet in area;
- ii. Traffic or other municipal signs, legal notices, danger and such temporary emergency or nonadvertising signs as may be approved by the Township;
- iii. Sign advertising the rental, sale or lease of the property upon which it is located;

iv. Window signs; and

v. Political signs.

B. Application for sign permit; procedure.

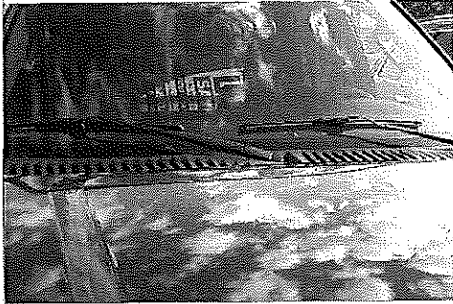
Applications for permits shall be made upon forms provided by the building inspector and shall contain or have attached thereto the following information:

- i. Name, address and telephone number of the applicant.
- ii. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
- iii. Position of the sign or other advertising structure in relation to nearby buildings or structures.
- iv. Two (2) blueprints or drawings of the plans and specifications and methods of construction and attachment to the building or in the ground.
- v. Copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances of the Township. Provided, further, that where the building inspector deems it advisable, he or she may require the approval of the structural design by a registered architect or engineer.
- vi. Name of person, firm, corporation or association erecting structure.
- vii. In all cases where wiring is to be used in connection with the structure, it shall comply with the National Electrical Code. The electrical



The photos are of Savoie's Township vehicle

4



1.





STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 5, 2019

Brian Kepes
4615 Pickering Road
Bloomfield Hills, Michigan 48301

Re: *Thomas v. Kepes*
Campaign Finance Complaint
No. 2019-10-33-57

Dear Mr. Kepes:

This letter concerns the complaint that was recently filed against you, which relates to a purported violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* The Department of State has received a rebuttal statement from the complainant, a copy of which is enclosed with this letter.

Section 15(10) of the MCFA, MCL 169.215(10), requires the Department to determine within 45 business days from the receipt of the rebuttal statement whether there is a reason to believe that a violation of the Act has occurred. The complaint remains under investigation at this time.

If the Department needs more information, you may be contacted. The complaint will remain under investigation until a final determination has been made. At the conclusion of the review, all parties will receive written notice of the outcome of the complaint.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: David Thomas

Fracassi, Adam (MDOS)

From: Theis, Jason <JTheis@bloomfieldtp.org>
Sent: Wednesday, January 15, 2020 6:27 PM
To: Fracassi, Adam (MDOS)
Cc: Kepes, Brian
Subject: RE: Thomas v. Kepes - Campaign Finance Complaint
Attachments: doc01788120200115182336.pdf

Mr. Fracassi,

Please see the attached paystub per your request. There is a line titled Automobile Use. Please let me know if you need anything else.

Jason A. Theis, CPFO
Finance Director
Charter Township of Bloomfield
4200 Telegraph Rd
Bloomfield Hills, MI 48303
248-433-7712 (office)
248-594-2831 (fax)
www.bloomfieldtp.org

From: Kepes, Brian <BEKepes@bloomfieldtp.org>
Sent: Wednesday, January 15, 2020 11:33 AM
To: Theis, Jason <JTheis@bloomfieldtp.org>
Cc: 'FracassiA@michigan.gov' <FracassiA@michigan.gov>
Subject: FW: Thomas v. Kepes - Campaign Finance Complaint

Jason,

Pursuant to the request from Mr. Adam Fracassi, Election Law Specialist of the Michigan Bureau of Elections, please provide him the information that he has requested below.

Thanks,

Brian E. Kepes
Bloomfield Township Treasurer
Charter Township of Bloomfield
4200 Telegraph Road
Bloomfield Hills, MI 48302
bekepess@bloomfieldtp.org
Phone: 248.433.7704
Fax: 248.433.7714
Bloomfield Township office hours are 7:00 AM to 5:30 PM Monday - Thursday.
Offices are closed on Fridays



From: Fracassi, Adam (MDOS) <FracassiA@michigan.gov>
Sent: Tuesday, January 14, 2020 3:31 PM
To: Kepes, Brian <BEKepes@bloomfieldtwp.org>
Subject: Thomas v. Kepes - Campaign Finance Complaint

Mr. Kepes,

I am writing regarding the campaign finance complaint filed against you by David Thomas alleging violations of the Michigan Campaign Finance Act. You indicated in your response that payroll taxes are withheld for personal usage of your township vehicle. I am requesting that you provide me documentation that payroll taxes have been withheld for the personal use of your township vehicle on the date in question. This can be the form of an affidavit from your payroll administrator, a paystub, etc. I would like this document by Friday, January 31, 2020, if possible.

Please let me know if you have any questions.

Thank you,

Adam Fracassi, Election Law Specialist
Michigan Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

March 5, 2020

Brian Kepes
4615 Pickering Road
Bloomfield Hills, Michigan 48301

Dear Mr. Kepes:

The Department of State (Department) has finished investigating the formal complaint filed by David Thomas against you alleging violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the resolution of the complaint.

Mr. Thomas filed his complaint on October 2, 2019 and alleged that you improperly used your township vehicle to deliver campaign materials that expressly advocated for the passage of a local ballot question. Submitted with the complaint were pictures of you by your car removing yard signs and placing them into your vehicle.

The Department notified you of your right to file an answer on October 7, 2019. You submitted an answer on October 18, 2019 and stated that the Bloomfield Township Employee Handbook allows you to use the vehicle for your own personal use and enjoyment so long as it is considered part of your compensation and you pay appropriate taxes required by the IRS for the personal use.

By letter dated October 30, 2019, Mr. Thomas filed a rebuttal statement and argued that the employee handbook was not effective and that pay and benefits for elected officials have not been established. As evidence to the rebuttal, Mr. Thomas provided a FOIA request he submitted to the Township Clerk's office and a complaint he drafted in 2016.

By request dated January 14, 2020, the Department requested a copy of your paystub demonstrating that taxes have been withheld from your paycheck representing the personal use of a vehicle. This paystub was provided to the Department.

In Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize 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 qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4).

Upon review, the Department concludes that the evidence is insufficient to conclude that a potential violation of the Act has occurred. While section 57 prohibits township resources from being utilized to support or oppose a candidate or ballot question, the Department has long held that where an employee handbook¹ authorizes the personal use of a vehicle subject to payment to the Township, no violation has occurred. Here, because payment has been withheld from your paycheck representing the authorized personal usage of your vehicle, there is insufficient evidence to conclude a violation has occurred. This payment represents a reimbursement to the Township for the personal use.

Accordingly, the Department dismisses this matter and no further enforcement action will be taken. In accordance with MCL 169.215, the Department's file will be placed on its website.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi", with a stylized flourish at the end.

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: David Thomas

¹ The Department takes no position on whether the handbook was approved or authorized by the Township as that is outside the scope of the Department's authority under the MCFA.