

Shores refutes campaign act violation allegations

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elected to the council at that time.

An Oct. 2 response letter to the Michigan Department of State — signed by City Attorney Mark McNerney, City Manager Brian Vick and Mayor James Cooper, who were named in the complaint — alleges that the complaints “regarding the (then) village attorney’s review of the campaign fliers ... have neither legal nor factual basis.” The letter says that actions taken by city officials were for information purposes, not to support or oppose a particular candidate. Besides calling on the state to dismiss the complaints for being “without factual or legal merit,” **the letter asks the state to consider sanctions against Schulte and Pemberton, accusing them of making claims they knew were not true.**

The Shores response features several exhibits, including copies of the campaign materials in question, billing statements and written communications between Shores officials and the complainants.

In a Feb. 17 billing statement, McNerney references a “review (of) Pemberton and Schulte campaign materials” as part of 1.2 hours of work for the Shores on Jan. 28, 2009. To Schulte, this reference constitutes “the smoking gun” with regard to his and Pemberton’s charges against the city. McNerney, however, insists that, at Vick’s request, he simply looked at the literature to see if there were any charter issues that needed to be clarified for Vick. Vick, the new city manager, had not yet been hired by the city when the charter was being drafted and reviewed by the Shores Charter Commission last year.

McNerney said the actual time he devoted to looking at the campaign materials was really about 20-25 minutes, since he performed other city legal tasks during the billing period Jan. 28. In the response letter to the state, McNerney writes that “Mr. Schulte’s flier contained nothing that raised any legal or other issues of concern to ... (the) village attorney; it merely set forth some things Mr. Schulte proposed to do if elected. Dr. Pemberton’s flier was along the same lines and of no concern to ... (the) village attorney.” Pemberton’s campaign material did state that the new charter would enable the council to approve projects without bids. McNerney said he explained to Vick that the charter commission purposely didn’t address specifics of the bidding process, instead directing the council to approve an ordinance to that effect, which the council did in September 2008.

“The complaints by Mr. Schulte

and Ms. Pemberton concern some 20-25 minutes of legal time spent by the village attorney reviewing specific statements from campaign fliers and advising the new manager whether any of those statements raised issues of which the manager should be aware,” the letter to the state reads. “Nothing further was requested of Mr. McNerney by Mr. Vick or anyone else. Mr. Vick did not communicate the results of his discussion with Mr. McNerney to anyone else. Mr. McNerney’s review was sought and provided solely for the edification of Mr. Vick in his position as (Shores) ... manager.”

The letter also states that Pemberton and Schulte were aware of the reason for the campaign material review, as it was discussed during a July 21 council meeting attended by Schulte and reviewed on tape later by Pemberton.

Although Cooper is named in the complaint, the letter indicates that the mayor “had absolutely no involvement in the review of the campaign fliers in question.”

As to the charge that former Shores employee Angela Kenyon expressed support for the incumbents running for council at her Jan. 17 retirement party, the letter said her comment “was neither supported nor known about in advance by (then Council) President Cooper, Village Manager Vick or Village Attorney McNerney, and constituted a statement of political views by an individual citizen on her own time.” An allegation by Pemberton that Shores employee Laurie Duncan spoke in favor of the incumbents during business hours at City Hall could not be confirmed by any witnesses, nor could it be determined when or to whom such remarks might have been made, according to the letter.

While Schulte claims Cooper told him he didn’t want any newcomers on the council, the letter argues that Cooper only told Schulte that he was supporting other candidates and thus couldn’t endorse Schulte’s campaign. Even if Cooper had made a statement to that effect, “as a citizen, Dr. Cooper has the right to express his own views in a private conversation without violating the (Michigan Campaign Finance) Act.”

Schulte’s complaint also refers to his being stopped by a Shores Public Safety officer on Jan. 25 while he was campaigning door to door. Shores officials say the city has an ordinance that bans solicitation, and the officer — who the complaint says didn’t recognize Schulte as a resident — was just trying to enforce that ordinance by asking Schulte what he was doing and requesting a copy of the literature Schulte was reportedly handing out. When the officer and two backup officers learned Schulte was campaigning, they let him continue,

according to the Shores response letter. After Schulte received an explanatory letter from Public Safety Director Stephen Poloni, Schulte reportedly sent an e-mail — included in the response packet — in which he told Poloni he “consider(ed) this matter closed.”

Shortly after receiving a copy of the Shores’ response, Schulte called the city’s request for sanctions against him and Pemberton “completely out of line.” Schulte said campaign finance laws are on the books to allow citizens to file complaints when they believe something is wrong.

“These guys did violate campaign finance law. ... I’m surprised that McNerney would have the nerve to ask for sanctions,” Schulte said. “He’s sticking his head in a noose.”

At press time, Pemberton hadn’t

seen the Shores’ response yet and therefore wasn’t able to comment on it.

According to the Michigan Department of State, Pemberton and Schulte have the option of filing a

rebuttal with the state based on their review of the Shores’ response. It was not known at press time if they planned to file such a document or when they might take this action, if they so choose.

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