

SUSAN BISIO
[REDACTED]
CLARKSTON, MI 48347

July 30, 2018

Hon. Lisa Brown
Oakland County Clerk/Register of Deeds
1200 North Telegraph Road, Building 12 East
Pontiac, MI 48341

Oakland County Election Division
1200 North Telegraph Road,
Building 14 East, West Wing
Pontiac, MI 48341

Ms. Sandy Miller
City Clerk
City of the Village of Clarkston
375 Depot Road
Clarkston, MI 48346

**Sworn Complaint Regarding the Validity of Nominating Petitions for
Eric Haven, for the Office of Mayor of the City of the Village of Clarkston
and
David Marsh, for the Office of City Council Member
for the Term Expiring on November 11, 2019**

This complaint is filed under MCL 168.552(2) and any other applicable law to challenge the validity of the nominating petitions of the candidates above.

Invalidity of Haven Nominating Petitions

Eric Haven was a member of the city council of the City of the Village of Clarkston, elected to a term beginning on November 12, 2017 and expiring on November 11, 2019.¹

¹ Section 3.7 of the Charter of the City of the Village of Clarkston ("Charter") provides "The term of office for the Councilpersons and Mayor shall commence on the second Monday in November at 7:30 p.m. local time next following the date of the regular city election at which they were elected." Haven was elected to the city council at the 2017 general election held on November 6, 2017. The second Monday in November 2017 was November 12, 2017. Council members serve a term of two years. Charter, § 3.7. His term therefore would have ended on November 11, 2019, the second Monday after the 2019 November election. Exhibit 1 is a copy of the Charter.

Section 4.18 of the Charter provides: “An incumbent elective city officer shall not become a candidate for any elective city office, except to succeed oneself, without first resigning from city office, provided, that the provisions hereof shall not apply to any incumbent elective city officer whose term of office will expire with the election at which the incumbent is to be a candidate for another elective city office.” City charter provisions govern elections to the extent they do not conflict with state law. MCL 168.321(1).

Haven submitted his resignation from city council to the city clerk on July 20, 2018. See exhibit 2. The resignation was effective on that date. Charter, § 4.20 (“[A] vacancy shall be deemed to exist in any elective office on the day when the officer ... files a resignation with the Clerk ...”).

Haven submitted nominating petitions for the office of mayor. Exhibit 3. Section 3.8 of the Charter requires that nominating petitions “shall be signed by not less than twenty (20) nor more than forty (40) registered electors of the City” Haven’s petitions, which he signed as circulator, contain 30 signatures.

Twenty-five of Haven’s petition signatures are dated before his resignation from city council was effective on July 20, 2018. The following 25 petition signers and the dates of their signatures pre-date July 20:

Nancy Haven	7/12/18
Kim Coleman	7/12/18
Alfred Avery Jr.	7/12/18
David Marsh	7/12/18
Melissa Luginski	7/12/18
Jason Kneisc	7/12/18
John Norton	7/12/18
Frank Schoebel	7/12/18
Jennifer Radcliff	7/12/18
Steven D. Arkwright	7/12/18
Sharron Catallo	7/12/18
Carol Eberhardt	7/12/18
Carey Stricklin	7/12/18
Bradley M. Stricklin	7/14/18
Kay Robertson	7/17/18
Charles Robertson	7/17/18
William K Basinger	7/17/18
James W. Schultz	7/17/18
Virginia D. Schultz	7/17/18

Dominic S. Mauti	7/17/18
Carolyn Birtsas	7/17/18
Harry S. Radcliff Jr.	7/17/18
Joe Luginski	7/18/18
Robert A. Cook	7/18/18
Evelyn E. Bihl	7/18/18

These signatures should be disqualified because Haven obtained them before he was eligible to become a candidate and acted as a candidate in violation of the city charter. Section 4.18 of the Charter states that he “shall not become a candidate for any elective city office ... without first resigning from city office” This means that he was prohibited from becoming a candidate for mayor before resigning his city council office. In circulating his nominating petitions and soliciting signatures before his resignation was effective on July 20, 2018, Haven acted as a candidate and violated that charter provision. He also filed an Affidavit of Candidacy, sworn to on July 13, 2018, that requested his name be placed on the November general election ballot for the office of mayor (exhibit 4), further showing that he was acting as a candidate before his resignation was effective on July 20, 2018. The 25 signatures he obtained before July 20 should be disqualified. At best he submitted only five valid signatures, which is insufficient for him to appear as a candidate for mayor on the November general election ballot.

I request that Haven’s nominating petitions be rejected and that he not be certified as a candidate for mayor of the City of the Village of Clarkston on the November general election ballot.

Invalidity of Marsh Nominating Petitions

David Marsh submitted nominating petitions for the one-year remaining term of the city council position from which Haven resigned (the “partial term”). Exhibit 5. Section 4.22 of the Charter provides that the city council will fill a vacancy on the council. The person appointed to fill a vacancy “shall serve until the next general city election at which time a successor shall be elected and installed to fill the office for the remainder of the term, if any.”

Marsh was the only person who submitted petitions for the partial term. He (and his two petition circulators) obtained his petition signatures during the three-day period of July 20-22—after the position became open due to Haven’s July 20 resignation and shortly before the July 24, 2018 deadline for filing nominating petitions with the city clerk.

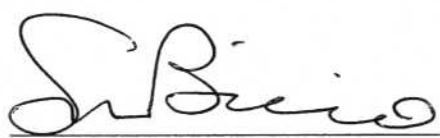
Marsh’s petitions should be disqualified because the city clerk did not give proper notice that there would be an election for the partial term so as to enable other persons

interested in running to have the opportunity to solicit and submit nominating petition signatures.

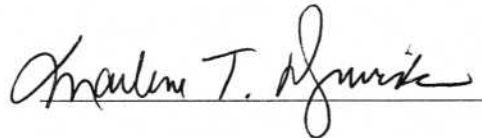
Section 3.8 of the Charter provides: “The Clerk shall publish notice of the last day permitted for filing petitions and of the number of persons to be elected to each office at least one (1) week and not more than three (3) weeks before such last day.” To my knowledge, the city clerk did not publish such a notice. Indeed, it would have been impossible to comply with this requirement to give notice at least one week before petitions were due to be filed on July 24 because such a notice would have to have been given by July 17. The notice could not have been given by July 17 because, at that time, there was no partial term for which an election could have been held because that vacancy did not come into being until Haven submitted his resignation on July 20.

The purpose of the notice requirement is to inform all citizens who may be interested in running or supporting a candidate to have time to circulate and submit nominating petitions. Marsh was aware of the upcoming partial-term vacancy, since he signed Haven’s petition on July 12, 2018. So did his two other petition circulators, council members Sharon Catallo and Jason Kneisc, who also signed Haven’s petition on July 12. Thus it appears that these insiders deliberately planned this sequence of events so that their chosen candidate, Marsh, would be aware of the vacancy and would be able to submit nominating petitions and run unopposed but no one else would be aware of it or have the time to solicit nominating petitions.

Since the city clerk did not publish proper notice of election to the partial-term vacancy so as to provide the citizenry of notice and allow a fair opportunity for other candidates to gather and submit nominating petitions, Marsh's petitions should be deemed invalid and his name should not appear on the November general election ballot.


Susan Bisio

Signed and sworn to before me
on July 30, 2018.



Notary Public, State of Michigan,
County of _____, MI
Acting in _____ County, MI
My Commission Expires: _____

MARLENE T. DZIURDA
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Oct 31, 2023
ACTING IN COUNTY OF Wayne

cc: Ruth Johnson, Michigan Secretary of State
State of Michigan, Bureau of Elections
895411