

LAW OFFICES
STEVEN H. SCHWARTZ & ASSOCIATES, P.L.C.

Steven H. Schwartz

Of Counsel
Nancy L. Niemela

33228 W. TWELVE MILE ROAD, SUITE 187
FARMINGTON HILLS, MICHIGAN 48334
TELEPHONE (313) 590-3395
E-MAIL shslawyers1@outlook.com

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Ms. Linda Slopsema
Whitewater Township
5777 Vinton Road, Box 159
Williamsburg, MI 49690
supervisor@whitewatertownship.gov

RE: Township Clerk's Duties and Compensation/Via email only

CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGE

Dear Ms. Slopsema:

The Township Clerk, Wendy Hoeksema, submitted a request to Peter Wendling, the Township's general counsel, requesting "review and guidance regarding concerns that have recently been raised about timesheets submitted for additional compensation, along with several related governance matters involving interpretation of policy. Mr. Wendling referred the request to me, as the Township's attorney for employment-related matters.

Ms. Hoeksema received approximately \$2,700 in additional compensation for what she describes as non-statutory duties and working beyond her normal working hours. The Township Board previously increased her salary by approximately 50% at a regular Board meeting in 2025 to reflect additional duties that she was performing.

Township Clerk's Statutory Duties

Michigan law defines certain duties that are to be performed by a Township Clerk:

- Maintain the official records of the Township (MCL 41.65)
- Coordinate with the Township Treasurer on revenues and expenses of the Township (MCL 41.65)
- Maintain fund accounting for all Township Funds (MCL 41.65)
- Maintain the minutes of all Township Board and committee meetings (MCL 41.66)

- Serve as the Freedom of Information Act (FOIA) coordinator for the Township (MCL 41.66)
- Advise the County Clerk of the names and addresses of Township officers (MCL 41.67).

The Township's Personnel Manual

The Township's Personnel Manual incorporates the concepts of the Township Clerk's statutory duties described above. Section 3.1 designates the Township Supervisor as the Personnel Director. Under Section 3.2, the Township Board designates the Township Clerk to serve as the Personnel Administrator, to perform functions such as maintaining the personnel records of Township employees, including records of Township employees' Paid Time Off banks. Section 3.2 also directs the Township Clerk to work with the Township Supervisor in recruiting applicants, revising job descriptions, administering employee compensation, and updating personnel policies.

Section 3.11, Elected Officials, of the Personnel Manual states:

While recognizing that the duties of the supervisor, clerk and treasurer are defined by state statute, the township board expects that each official will devote sufficient hours of work, including appropriate office hours, to effectively perform the duties of their office.

In her emails, the Township Clerk stated that she worked beyond forty hours per week during the conversion of the Township to BS&A's payroll system. As a Township Clerk, under federal law, she is exempt from entitlement for overtime. Conversion of a payroll system involves considerable effort checking details and looking for errors due to the change in the payroll process. Such oversight is consistent with the duties assigned to the Township Clerk under Section 3.2 and the Township Clerk statute. Similarly, FOIA coordination being assigned to the Township Clerk is consistent with the duties assigned to that position under Section 3.2 and the Township Clerk statute.

The Township Clerk previously stated that she has assumed non-statutory duties such as working on the Township's cemetery and parks and taking out the garbage from Township Hall. Depending on what she performs for the Township cemetery, that work could be construed as maintaining official Township records, which is a statutory duty. If she is involved in receiving payment for use of the Township parks or the cemetery and maintaining records of expenses, that would be construed as a statutory duty. If, however, she was directly involved in planning programming or scheduling for the parks, those would not be statutory duties. Removing trash would not be time-consuming, but clearly is not a statutory duty.

Process to Receive Additional Compensation

Section 3.4 of the Personnel Manual, Classification and Compensation, states that the Township Board establishes the annual compensation for each employee through the annual budget. It establishes a process for non-elected officials to request additional compensation (underlining added):

Any non-salaried board, commission, committee, or society member who accepts additional occasional duties assigned by the body is eligible to request compensation through the Additional Activities Compensation Program. The request must be prepared by the body's chairperson and submitted to the supervisor or clerk for approval. The request shall be submitted in accordance with Whitewater Township's Policy and Procedure Manual Section 4.2 on an approved time sheet.

Even if this provision applied to the Township Clerk, since the additional compensation was for the Township Clerk, such a request would have to be submitted to the Township Supervisor for approval. In her email, the Township cites a Michigan law, MCL 41.96 (underlining added):

For services not otherwise provided for by law, rendered to townships by township officials in the duties of their respective offices, the township board shall audit and allow such compensation as they shall deem reasonable.

Under this statute, only the Township Board may grant an individual elected official additional compensation. As basic principle of municipal law is that township boards "act through their resolutions". Therefore, if the Township Board were to provide additional compensation to any elected official, it must do so by a resolution that it adopts in an open meeting. The appropriate process for additional compensation would be for an elected official to make a written request stating the amount requested and provide a rationale for the request, which would be voted on in an open meeting. Submitting additional compensation through the normal payroll process, even if any Township Board member could access the payroll system to look at the details of a paycheck is not the appropriate way to receive additional compensation.

Section 3.13 of the Township's Personnel Manual, Ethical Standards, states:

All elected and appointed officials, employees and volunteers shall fulfill their duties with the utmost attention to serving the best interests of the township citizens, and no official, employee or volunteer shall participate in a decision or transaction on behalf of the township that would result in a direct financial benefit to the township official, employee or volunteer.

Under this policy and MCL 41.96, any additional compensation for an elected official must go through review and approval of the Township Board based on a specific request. The elected official who made the request must abstain from voting on the request. In our opinion, processing additional compensation through the normal payroll process without making a formal, written request for additional compensation to the Township Board at an open meeting is not consistent with state law or the Township's policies.

Sincerely,

/s/ Steven H. Schwartz
Steven H. Schwartz