

## Recall ~ Bedford Charter Township (Refer to Michigan Election Law, 168.951 ~ 976)

### **Petitions filed 3/28/18 to recall:**

Supervisor Adam Heikkila (Partisan office); Term November 20, 2016 to November 20, 2020 (4 yr. term)  
Address: 171 Pinetree Lane, Battle Creek, MI 49017; Phone: 269.425.9505  
Email: [Supervisor@bedfordchartertp.com](mailto:Supervisor@bedfordchartertp.com)

NOTE: the officer whose recall is sought continues to perform the duties of the office until the certification of the recall election results.

### **Sponsor:**

Bedford Charter Township registered voter Kraig Dingman, 23478 N. Uldriks Drive, Battle Creek, MI 49017;  
Phone: 269.317.3692; Email: [kraigdingman@icloud.com](mailto:kraigdingman@icloud.com)

**Recall Wording** submitted to the County Clerk's Marshall Office on Wednesday, March 28, 2018. The officer, the sponsor and the township clerk were notified within 24 hours via email, phone, and by letter. Supervisor Adam Heikkila recall language:

- 1) Adam Heikkila has consistently failed to fulfill the duties and responsibilities of the office of Supervisor of Bedford Charter Township. Adam Heikkila refuses to keep business hours at the Township Office and is not available for residents to walk in and speak with him.
- 2) Adam Heikkila's actions as Bedford Township Supervisor make him unfit to hold such office. Upon being elected into office as the Township Supervisor, Adam Heikkila told Township employees to dismiss an ordinance violation case pending against him.
- 3) On January 12, 2017, Adam Heikkila was threatened with being arrested by the Battle Creek Police at the Township offices due to his disorderly conduct towards Township employees. On February 22, 2018, a police report was made documenting Adam Heikkila's belligerent language against a Township trustee and veiled threats of, "You will or else" and "I'll sit by your desk and watch every move you make."
- 4) Adam Heikkila has established a pattern of intimidating and threatening behavior which has created a hostile environment for both Township employees and residents.

**Number of signatures required:** (The petitions shall be signed by registered and qualified electors equal to not less than 25% of the number of votes cast for all candidates for the office of governor at the last preceding general election in the district the officer is sought to be recalled.)

Supervisor recall: **734** valid signatures are needed to recall Adam Heikkila.

25% of 2,935 votes cast for all Governor candidates in the 11/04/14 Gubernatorial Election in the Charter Township of Bedford.

**The Clarity/Factual Review Hearing** was held Monday, April 9<sup>th</sup> (12<sup>th</sup> day after filing) at 3:00pm,

- Both the sponsor Kraig Dingman and officeholder Adam Heikkila spoke to the Election Commission to share their concerns about the petition language being clear and factual.
- The County Election Commission unanimously voted to approve the recall petition as clear and factual in nature; therefore, the petition meets statutory criteria. The petition was APPROVED.

**The Determination of Election Commission** was signed by County Election Commissioner members following the Clarity/Factual Review Hearing held on April 9, 2018, and was forwarded to the sponsor, officeholder, and Township Clerk.

- Once the County Election Commission approves a recall petition for clarity/factuality and the 10-day appeal period has elapsed; OR any appeal to the Circuit Court has concluded (or 40 days has elapsed since the filing of the appeal), the petition sponsors are free to circulate their petition.
- An appeal to the Clarity/Factual Determination can be made to Circuit Court within 10 days of determination (close of business, 5:00p, April 19, 2018).

**Appeal Filed with Circuit Court:**

On April 19, 2018, 4:19 pm Adam Heikkila, Bedford Charter Township Supervisor filed a Claim of Appeal with the 37<sup>th</sup> Circuit Court Clerk against the Calhoun County Election Commission, claiming their April 9, 2018 approval of recall petition language filed against him, was invalid as he feels the reasons are not factual nor are they clear – they are merely conclusions based on conjecture and falsehoods. The Appeal was assigned to Circuit Court Judge Brian K. Kirkham, Case # 2018-1143-AA.

- Petitions may not be circulated during this appeal. Circuit Court makes final determination on appeal within 40 days, May 29, 2018.
- A Notice of Intent to Dismiss Appeal by the Circuit Court Judge was issued April 23<sup>rd</sup> indicating a dismissal shall be entered if Appellant fails to remedy the deficiency within 14 days after service.
- The Appellant filed additional documentation (letter dated May 4<sup>th</sup>, received in Circuit Court on May 9<sup>th</sup>).
- A second Notice of Intent to Dismiss Appeal was issued by Circuit Court Judge on May 16<sup>th</sup> indicating a dismissal shall be entered if Appellant fails to remedy the deficiency within 14 days after service.

MCL 168.952(6) "... If a determination of the board of county election commissioners is appealed to the circuit court in the county, the recall petition is not valid for circulation and shall not be circulated until a determination of whether each reason is factual and of sufficient clarity is made by the circuit court or until 40 days after the date of the appeal, whichever is sooner."

40 days since the filing of the appeal elapsed on Tuesday, May 29, 2018.

On June 19, 2018 Circuit Judge Brian K. Kirkham signed his Opinion concluding "Given the clear language of the statute and the direction provided by the appellate courts, this court holds that the Commission correctly fulfilled its statutory duty in the review of the recall petition language. The finding of the Commission is affirmed." The complete Opinion is available in the 37<sup>th</sup> Circuit Court or the Calhoun County Clerk-Elections office.

**Circulating Petitions:**

- Once the County Election Commission approves a recall petition for clarity/factuality and the 10-day appeal period has elapsed; OR any appeal to the Circuit Court has concluded (**or 40 days has elapsed since the filing of the appeal**), the petition sponsors are free to circulate their petition. Signatures on a recall petition dated more than 60 days before the filing of the petition are invalid.
- Petition language is valid for 180 days after approval of language by County Election Commission or Circuit Court (or 40 days has elapsed since the filing of the appeal),

\* \* \* \* \*

**NEXT:****Filing of signed recall petitions:**

- Officer with 2-year term or less: signed/circulated petitions cannot be filed during first or last 6 months of term. Officer with greater than 2-year term cannot be filed during first or last year of term.
- No additional signatures may be submitted. (MCL 168.961.1)
- The headings on recall petitions must be exactly the same wording that was approved by the County Election Commission.
- Signatures that are submitted must not be over 60 days, or acquired before the Clarity/Factual Review Hearing held April 9, 2018.
- The county clerk notifies the officeholder whose recall is sought by phone of the filing of the recall petition. Written notification must be forwarded no later than the next business day.
- Within 7 days the county clerk completes a preliminary review of petitions.
  - The Preliminary/Facial Review/examination by the County clerk will determine:
    1. if the recall petitions are in proper form
    2. the gross number of facially valid signatures contained on the petition sheets meets or exceeds the minimum number of signatures required on the petition, and
    3. invalidate any incomplete entries of petition signers (such as: signer did not date signature, did not fill in complete address, etc.)
  - The County clerk does not count any signatures on a petition sheet if:
    1. the execution of the certificate of circulator is not in compliance.
    2. the heading of the petition sheet is improperly completed.
    3. the reasons for recall are different than those determined by the board of county election commissioners during the Clarity Factual Review Hearing on April 9, 2018.
  - The County clerk does not count individual signatures on a petition sheet if:
    1. the signer did not enter his/her complete address, the post office or zip code serving the address, and the date of signing.
    2. the signer dated the signature after the date appearing on the circulator's certificate.
    3. the signature was obtained before the date when the recall wording was approved (April 9<sup>th</sup>)
    4. the signature was obtained more than 60 days before the filing of the petitions.
  - The County clerk will next use the Qualified Voter File (QVF) to determine if the signers of the petition are properly registered. (as an alternative, the filing official may forward the petition sheets to the city clerk for the performance of the registration verifications.) The registration verifications must be completed no later than the 22<sup>nd</sup> day after the filing.
- Within 22 days after receipt of the petitions, the clerk completes registration checks and indicates the number of signers on each petition sheet that are registered electors in the district.
  - The clerk shall compare the names on the petition with the Qualified Voter File.
- Officeholder has up to 30 days after the filing of the petitions, to challenge the validity of the registration or the validity and genuineness of the signature of a person signing the recall petition or may challenge the validity and genuineness of the signature of a circulator who collected signatures on the recall petition. A challenge must list the signatures in question on the petition and specify the reason for each challenge. The filing official uses the Qualified Voter File to resolve the challenges.

- After the signature challenges have been resolved, but no later than the 35<sup>th</sup> day after the filing of the petitions, the County Clerk shall make an official declaration of the sufficiency or insufficiency of the petitions.
  - The County Clerk will notify the sponsor of the recall effort with copies of the notice being forwarded to the officer.
  - If there are NOT sufficient valid signatures, the process stops at this point.
- If there are sufficient valid signatures, the special recall election will be scheduled for the next regular election date that is not less than 95 days after the petition is filed, and falls on the May or November regular election date. (MCL 168.963.2)

The County Election Commission is responsible for the production of the ballots. The County Clerk will notify the Bedford Charter Township Clerk to give public notice of the election, provide election supplies, and do all details necessary to conduct the election.

- 10 days after Call of Election for a Partisan Office, nominations for the recall election are made by the county political party committee as specified by law (MCL 168.973a). If the incumbent candidate declines to be a candidate at the recall election, the incumbent's political party shall nominate a candidate for that office. Each nomination shall be certified to the County Elections officer with whom the recall petitions were filed. The party nomination must be filed by 5:00 pm on the 10<sup>th</sup> day after the call for the recall election. A primary is not held.

A candidate without political party affiliation who wishes to seek a partisan office can gain access to the recall election ballot by filing a qualifying petition with the County Elections officer with whom the recall petitions were filed, by 5:00 pm on the 10<sup>th</sup> day after the call for the recall election. The petition must contain at least 10% of the number of signatures required under MCL 168.544f.

#### **The Recall Election:**

Legislative changes in 2012 changed the concept of a recall election from a two-election process (if the recall was successful) to combining the concepts of a recall election and a special election to fill the possible resulting vacancy. The incumbent automatically is made a candidate in the election unless he/she withdraws within 10 days after the filing of the recall petition. There is one election and the candidate who receives the highest vote total is elected to serve the remainder of the unexpired term. There is no primary.

**Expense of Election:** the expenses of the recall election shall be payable in the same manner as are the costs of a regular election to fill the office in question. (MCL 168.967)

#### **Resignation of officeholder:**

- If the officer targeted for recall resigns from office at any point during the canvass of the recall petition, the canvass ceases and no recall election is held. The vacancy is filled in accordance with existing law.
- If the officer targeted for recall resigns from office after the call for a recall election has been issued, the recall election is cancelled. The vacancy is filled in accordance with existing law.

**Board of Canvassers:** the board of county canvassers will meet within 5 days after the election. If it is determined that a majority of the votes are in favor of recall, they will immediately certify the results to the county clerk. The candidate receiving the highest number of votes in the recall election is elected for the remainder of the term.

After the filing of a recall petition that has been circulated AND after conducting a recall election, no further recall petition shall be filed against the same incumbent of that office during the remainder of the unexpired term.