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Tenants say they traded vote for rent

Controversy swirls in Pontiac annexation

May 10, 2004

BY JOEL THURTELL

FREE PRESS STAFF WRITER

Six people told State Police they took free rent or other favors in return for votes -- votes that could have paved the way for a \$2-billion development that was overwhelmingly opposed by Bloomfield Township officials, according to a Free Press review of police investigative files.

Despite the statements, Attorney General Mike Cox said last September that there was not enough evidence to prosecute.

In 2001, Harbor Cos. of Bloomfield Township wanted to move 80 acres of its land from the township to Pontiac through an annexation vote. All of Pontiac's 44,455 voters were eligible to cast ballots, and the annexation passed there, 5,879-1,086. But the only part of the township that could vote was the two-street neighborhood of 20 houses owned by Harbor. So, just 40 of Bloomfield Township's 32,146 registered voters were eligible, and only 22 voted. The measure passed, 14-8.

Six of those voters told a State Police

NO CONSTRUCTION YET

Harbor Cos.' Bloomfield Park development has become a big question mark for Pontiac, where residents voted for it in 2001 after the company offered a huge infusion of property taxes from the high-rises it would put up. Now, the question is when, or if, the project will be built, and when it will produce tax revenue.

At the end of 2002, Harbor spokeswoman Tina Bassett predicted construction would begin in 2003. It didn't. Meanwhile, the project, originally described as a \$2-billion complex with buildings as high as 20 stories, has shrunk. Now it's a \$1-billion project with at most 8-story buildings, Bassett said last week.

"Hopefully, we'll be able to do it relatively soon -- I hope by fall," she said.

The main stumbling block involves the

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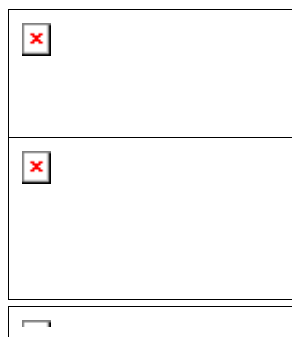
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detective they accepted offers of free rent or a waiver of late-rent fees from Harbor employees in return for their votes, according to the investigative file, which the Free Press obtained under the Freedom of Information Act.

Details of the investigation, plus records from the Michigan Attorney General's Office also obtained with a FOIA request, have not been made public until now.

The township failed to stop the Sept. 11, 2001, election in court, and the following year, township officials accepted a settlement in a civil suit that allowed Harbor to build the high-rise structures trustees had unanimously opposed. Although State Police investigated and pushed for criminal election fraud charges against some Harbor employees, Cox said there was not enough evidence to prosecute.

As voters have sworn they were offered incentives to cast ballots and Harbor employees have sworn that didn't happen, people on both sides were left to wonder what really occurred.

While the election seems long past, the controversy over the Bloomfield Park development could resurface if, as seems possible, township Clerk Wilma Cotton runs for supervisor, challenging incumbent David Payne, who voted to settle the Harbor case.

Harbor employees did not respond to repeated requests for interviews for this report. But in sworn depositions taken in a 2001 civil suit over the proposed annexation, several Harbor employees denied trying to influence tenants with any kind of incentive.

In response to a recent request for comment, Harbor spokeswoman Tina Bassett said, "The Attorney General's Office saw it and investigated it and found it not worth merit. As far as we're concerned, this matter is closed. We did everything within the law. We did nothing wrong."

What the tenants said

State Police Detective Sgt. Gary Muir was assigned to look into a complaint of vote fraud brought by Cotton, the township clerk, in late 2002. He found, according to his investigative file, that in July and August 2001, 14 new voters registered in the Harbor enclave.

Here's what the State Police file says about statements six Harbor tenants made about arrangements they allegedly had with Harbor:

- Elizabeth Johnson, a year after the election, signed an affidavit stating that Harbor controller Dawn Foulke and property manager Cynthia Jo Daly recruited her to live in a Harbor-owned house rent-free

property tax money the city thought it would get.

Harbor says the city should reimburse it for the environmental cleanup of the 80-acre site. Harbor wants the city to repay the first \$225 million in property taxes, said Doug Williams, deputy Oakland County executive.


The tax issue "didn't come up until after all the voting and all the nonsense was over," Williams said.

Williams said city officials are negotiating with Harbor to reduce the amount of the brownfield tax payback. Phone calls to several city officials seeking comment were not returned.

By Joel Thurtell


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if she would register to vote, sign an annexation petition and vote yes in the election. Johnson's affidavit says she registered to vote on Aug. 10, 2001, and "I voted as instructed in favor of annexation on Sept. 11, 2001." She moved into the house two weeks later.

- Craig Ginter stated that in summer 2001, "I received a phone call from Dawn Foulke asking me if I would be interested in free rent for 6 mos. in Bloomfield. I said I would consider it. She called back and sweetened the deal, offering 8 mos. Then 10 or more. I accepted. The only stipulation was that I had to change my address that day and register to vote in Bloomfield. I did. I voted 'yes' and I did because I had been treated very well by Harbor Cos., and this had been agreed upon before I moved in."

Besides free rent, Ginter said Harbor gave him a \$500-a-week job as company courier.

- In her statement, Shannon Harris said that she and her sister, Jeri Beth Dunn, shared a Harbor-owned house and the company "did offer them free rent for one year to vote in the election."

- According to the transcript of her tape-recorded interview with investigators, Jeri Beth Dunn said the free-rent offer came from Foulke, who is her cousin. Dunn said Foulke gave her \$500 cash each month, and Dunn said she then bought a \$500 money order to pay the rent. "What you really had to do to move in was sign this petition. That petition which led to the vote, probably. They didn't even let us really read it. They were just like, sign here and then you can move in. And I'm 18, so I'm like woo-hoo, free rent yes, you know. And I didn't really think about it."

- In his interview with Muir, according to the detective's notes, David Drazin said, "Harbor Cos. forgave him his back rent debt of \$1,500 to \$2,000. The representative from Harbor Cos. he was dealing with was Dawn. In addition, he was asking Harbor Cos. for a one-year lease instead of a month-by-month lease. Harbor Cos. agreed for a favorable vote in the election."

- In a written statement, John Gara told of his conversation with Harbor attorney Bruce Measom about \$250 in late-rent fees Gara owed Harbor. "Without ever saying that if I voted a certain way he would waive the late fees, I still came out of the conversation feeling that Bruce was implying my favorable vote would eliminate my late fees," Gara wrote.

In two other cases, a pair of Harbor employees allegedly registered to vote as residents of the enclave but never moved in. One told Muir: "I did not want to seem like I was not a team player and go against the company. My boss told me to do it."

Prosecutors can bring vote fraud charges under misdemeanor or felony laws with penalties varying from 90 days to 5 years in jail. Falsely registering to vote can be prosecuted as a felony.

The statute of limitations for prosecuting alleged vote fraud in this case

expired Sept. 11, 2003 -- two years after the election. But the statute of limitations for false registration, also called perjury, is three years after it's discovered. Because the false registrations were brought to light in fall 2001, those cases still could be prosecuted. However, the attorney general has said he won't charge.

The denials

Before the annexation election, in a sworn court deposition in Bloomfield Township's 2001 civil lawsuit, Harbor Chief Executive Officer Craig Schubiner denied that Harbor employees had offered incentives for votes. He said he didn't know how people were recruited to move into empty houses shortly before the election.

Measom, the Harbor attorney, also denied under oath that he had offered any incentives to tenants. Similarly, Daly in her deposition said she had no knowledge of any "financial incentives."

Interviewed last August by Muir, Daly also "denied offering renters anything in exchange for a 'yes' vote in the election," Muir noted in his file.

Neither Measom nor Daly responded to requests for comment for this report.

In a phone interview, Foulke, who no longer works for Harbor, said, "As far as bringing people in and having them register to vote, that was not done. How people vote is their American privilege and there is nothing anybody can tell people to do as far as how people vote."

The investigation

Almost exactly a year after the election, on Sept. 10, 2002, Elizabeth Johnson phoned Cotton, the township clerk, with her account of how she took free rent in exchange for her vote. Cotton arranged for a township attorney to take Johnson's sworn affidavit.

In December, Cotton took the affidavit to Muir.

Muir's file indicates that Robert Ianni, an assistant state attorney general, told the detective to interview voters, and if at least three reported attempts to influence the election, he should request investigative subpoenas from Lansing. The attorney general could offer immunity to witnesses for their testimony.

After speaking with Dunn, Harris and Ginter, Muir sent his report to the attorney general in late February. He heard nothing. On April 3, he called the Attorney General's Office in Lansing and was told there was no record of his report. Muir mailed a second copy. Again, he heard nothing.

On June 10, Muir called Mark Bloomer, also an assistant attorney general, who told him the case had not been assigned.

Cotton also called Lansing, her phone log confirms, and got no

response.

The reason for Muir and Cotton's sense of urgency? They knew the clock was running out. The statute of limitations for filing election fraud charges would expire that Sept. 11.

To Cotton and Muir, the inaction was puzzling. In January 2003, Cox announced he was prosecuting four people in Ecorse for election fraud. On his Web site, Cox proclaimed, "Our laws are intended to ensure that the average citizen has an equal voice in our elections" and "I will aggressively move forward to defend the rights of all voters."

On July 28, Muir and Cotton showed the report to two assistant U.S. attorneys in Detroit, according to Muir's file. The next day, Cotton said she got a call from Assistant U.S. Attorney Alan Gershel, who said he would contact Cox's office.

The same day, according to the State Police file, Thomas Cameron, another assistant state attorney general, called Muir, saying he was arranging for a judge to sign investigative subpoenas.

"It was absolutely Gershel's office who got this off the back burner," Cotton later said.

End of the leads

Muir told the Free Press that he recommended that prosecutors charge three Harbor employees with felonies. In early September, however, Muir said he was told that the attorney general's staff was preparing warrants to charge Measom, Daly and Foulke with misdemeanor counts of election fraud.

Then, on Sept. 3, Harbor's attorney, Norman Hyman, heard a news account about Muir's investigation and wrote to township attorney William Hampton "that the state attorney general was investigating claims that representatives of the Harbor Cos. had bribed a voter to vote in favor of the annexation."

"Not only is the charge without justification," Hyman wrote, but by reporting the matter to State Police, Cotton violated terms of the civil settlement between Harbor, the township and Pontiac.

Hyman wrote, "We also request that the township inform the attorney general in writing that these same charges of election law violations were made during the course of the annexation litigation and that the township dropped these charges and agreed not to pursue them."

The attorney general's file contains a copy of a Sept. 5 letter to Hyman from Hampton, noting that he had contacted state prosecutors by phone that day "to make sure that they are aware that the township released its claims" about the earlier allegations of election law violations.

In a recent interview, Hampton said, "I was encouraging prosecution" of the alleged voting irregularities. "If somebody engages in election fraud, they ought to be held accountable." But Muir said he is

convinced Hampton's call to the Attorney General's Office persuaded state prosecutors to abandon the case.

"He should not have made that call," Muir said. "I think that is what put it on the skids." On Sept. 5, the same day Hampton contacted the Attorney General's Office and six days before the statute of limitations deadline passed, Cox spokesman Sage Eastman announced, "After looking at the facts of this case, we have decided not to file charges."

Matt Davis, a spokesman for Cox, said the case is closed.

"We don't have much to say about it," he said. "We declined to prosecute a misdemeanor."

The State Police file shows Muir pushed the case after the statute of limitations expired. He tried to persuade state prosecutors to charge the two employees who admitted falsely registering to vote. But by late September, prosecutors made it clear that would not happen, and Muir said he stopped pursuing leads.

"If the Attorney General's Office doesn't want to look into it, who's left to do it?" Johnson said.

Thomas Furtaw, chief of Cox's Criminal Justice Bureau, said the attorney general didn't charge anyone because "it was one person's word against another, the reliability of the witnesses was not great -- and what would it have changed? It would not have changed the election."

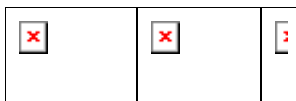
Cotton was "cynical and angry," Furtaw said.

Said Cotton, "If the AG's office had indeed charged them and ultimately they had been found guilty, then it was my objective to go to the state and ask the state to set aside the election because it was corrupt."

Muir said that if Cotton had not reported what she knew, she could have been prosecuted.

"Cynical?" asked Cotton. "Yes, I'm cynical now."

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