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Attorney: McManus case should be dismissed

By Brian McGillivray and Bill O'Brien

TRAVERSE CITY -- Former Garfield Township Treasurer Judy McManus is scheduled for trial today for allegedly altering township financial records, in part for attempting to hide payments to an agency that collected delinquent taxes.

But McManus' attorney said the case should be dismissed because documents he obtained show the township's lawyer granted the long-time treasurer permission to hire the collection agency.

"There is not and never was a single shred of evidence of anyone saying (McManus' actions) weren't authorized, yet the prosecutor refuses to withdraw the criminal charges," said **Lawrence LaSusa**, McManus' attorney. "It's an abuse of process."

Prosecutors said they considered dismissing a misdemeanor charge against McManus after new details emerged last week, but said they'll let a jury sort out whether she broke the law by improperly recording delinquent tax payments.

"The charge is based on entries made in the township books which were not correct," Grand Traverse County Prosecutor Alan Schneider said. "We have a case to present that there were false entries made." McManus, who quit in December 2007 after 19 years as Garfield's treasurer, is accused of making a false statement related to finances as a public officer, a 90-day misdemeanor.

'Contrary to what we know now'

In June, Schneider charged McManus and said she approved a contract with a tax collection agency despite contrary warnings from township legal representatives and without township board approval. But Schneider said he learned last week that Garfield's attorney reviewed and approved the contract in 2005 and the township board supported the plan. "The way it was represented is contrary to what we know now," Schneider said.

LaSusa subpoenaed the billing records of the township's law firm, Running, Wise and Ford. Those documents showed the firm billed Garfield to review the proposed contract. Schneider's office on Oct. 9 acknowledged to **LaSusa** that Running, Wise and Ford attorney Thomas Grier had granted permission to McManus to enter into the collections contract. Grier is not the township's main attorney, but often assists the lead township counsel. Grier said Monday he reviewed the contract four years ago and submitted the document both to the Michigan Townships Association and the State Tax Commission.

Grier said it's not illegal for the township to utilize a collection agency, but said he told officials that collection fees can't be added to the delinquent tax bills or deducted from payments made to other taxing units. "We clearly did look at (the contract)," Grier said. "I don't know what happened afterward." Grier said he expects to be called as a witness.

No evidence of embezzlement

Township board minutes from April 28, 2005, show the township board unanimously voted to hire a collection agency to address a backlog of about \$400,000 in uncollected personal property taxes from

local businesses. The agency kept 25 percent of any taxes it collected. County Treasurer Bill Rokos stopped the collections when he informed McManus the township couldn't give collected taxes to a collection agency as a fee. Those taxes had to go to the different taxing units such as the library, county, schools and Commission on Aging. The township had to reimburse the other governments \$21,000 in fees kept by the collection agency.

The investigation of McManus started shortly after she resigned from office in December 2007 following a lengthy dispute with other township officials over medical leave, job attendance and other issues. Dennis Habedank, who followed McManus in the treasurer's job, sought a Michigan State Police investigation in August 2008 after his staff discovered several discrepancies while attempting to collect the back taxes.

Police records show that over a six-year period there were "3,645 transactions that have been modified, changed, voided, or otherwise manipulated from the original transaction records." Though some funds were never fully tracked, according to police reports, Schneider said investigators found no evidence of embezzlement by McManus.

Two audit firms that reviewed township records, one in 2006 and another this year concluded McManus may have altered records to cover the tax money the collection agency withheld as its fee. **LaSusa** said the tax software wouldn't allow McManus to enter certain fees so she used her best judgment to record entries. Accountants may disagree how to record certain items, but her acts weren't criminal, he said.

"Every dime has been accounted for down to the last penny," **LaSusa** said. "Not a single dime was missing. Why (Schneider) would pursue this is beyond me."

Township Supervisor Chuck Korn, who wasn't on the board in 2005, said it was his understanding McManus never took the issue to the township's attorney for review. Korn was surprised to learn Running, Wise and Ford billed the township for reviewing the contract and that one of their attorneys approved it.

"It's pretty common knowledge you can't give away another taxing entity's money," Korn said. "If I was giving advice and getting paid to do it and screwed it up that bad ... well, I think the law firm would have at least a moral obligation if they were that far off to cover our costs."