



## DO EX PARTE EMAIL COMMUNICATIONS BY TEAM HENTSCHEL CONSTITUTE VIOLATIONS OF THE OPEN MEETINGS ACT?

June 15, 2021

Using their county email accounts, members of Team Hentschel plot strategy, mock Commissioner Betsy Coffia and other Democrats and sometimes, like scorpions, even turn on their own.

Two years of internal emails obtained by the Beacon via the Freedom of Information Act reveal a pattern of conduct by Hentschel, former commissioner Gordie LaPointe and commissioners Ron Clous and Brad Jewett in which they have used their public email accounts to discuss policy matters pending before the commission. According to Chris Johnson, general counsel for the Michigan Municipal League, if those discussions involved substantive matters, they could be construed as constituting “meetings” under the Open Meetings Act, meaning they should have included minority Democrats on the BOC as well as the public.

“There’s been very little thought as to how technology has changed in how we do business,” Johnson said in an interview. “The whole idea of an email exchange could very well violate the Open Meetings Act – not intentionally but it could do it. . . . Once you start hitting ‘reply all,’ you’re literally deliberating.”

He added: “I would not advise a client of mine to do that.”

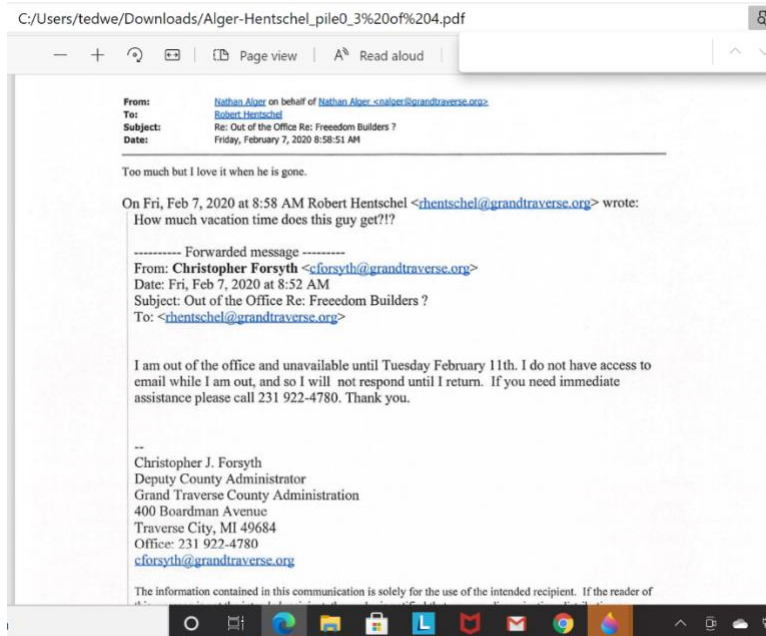
The emails show that County Administrator Nate Alger has been included in virtually all of these *ex parte* communications. Appointed in 2018 after serving as the county’s undersheriff, Alger functions as a wholly owned subsidiary of Team Hentschel. The records show that he has been included in substantive email discussions with the Republican commissioners about whether to support a millage for a new senior center, whether to withdraw from the Municipal Employees’ Retirement System (MERS) and how to handle residents’ complaints about the controversial gun range that the Sheriff’s Department uses at the former Pugsley prison.

Alger also has engaged in sometimes ethically questionable banter with the commissioners, as he did in March 2020 on the subject of whether Michigan should reduce levels of incarceration. “My how times have changed,” he wrote. “I was taught to never issue a fix it ticket for a taillight so you had a reason to stop them again.”

Alger also agreed with LaPointe when the former commissioner ridiculed President Biden as having “dementia” after Biden advocated for less lethal responses by police following a string of police shootings. And Alger had

this snarky response when Hentschel grouched about an automated bounce-back message from Deputy County Administrator Chris Forsyth.

“How much vacation time does this guy get?!?” Hentschel wrote on February 7, 2020.



“Too much but I love it when he is gone,” Alger responded.

In another potshot at Forsyth, LaPointe wrote, “Chris informed me that he was fully in charge and was in complete control of the ‘football’ and had the launch code should we be attacked by the city.”

“That makes me laugh,” Alger replied.

But it is the communications that appear to be deliberative that raise the most questions. In an email that he sent to Alger, Hentschel and Jewett last August 6, Clous wrote: “Fife Lake, Green Lake, Kingsley and Acme all have a senior center that uses milage [sic] funds for programming. None of these entities are asking the county to provide a senior center building and I’m not asking

my district to support the city in this wish. Let’s walk away.”

Five days later, during a special meeting on August 11, the Republican majority did just that, walking away by allowing the deadline for putting a millage on the November ballot to lapse. City representatives and members of the non-profit Friends of the Senior Center have been furious at the commissioners ever since.

In a similar vein, LaPointe, a proponent of withdrawing from MERS, privately lobbied Alger, Hentschel, Clous and Jewett to have the courage to leave MERS.

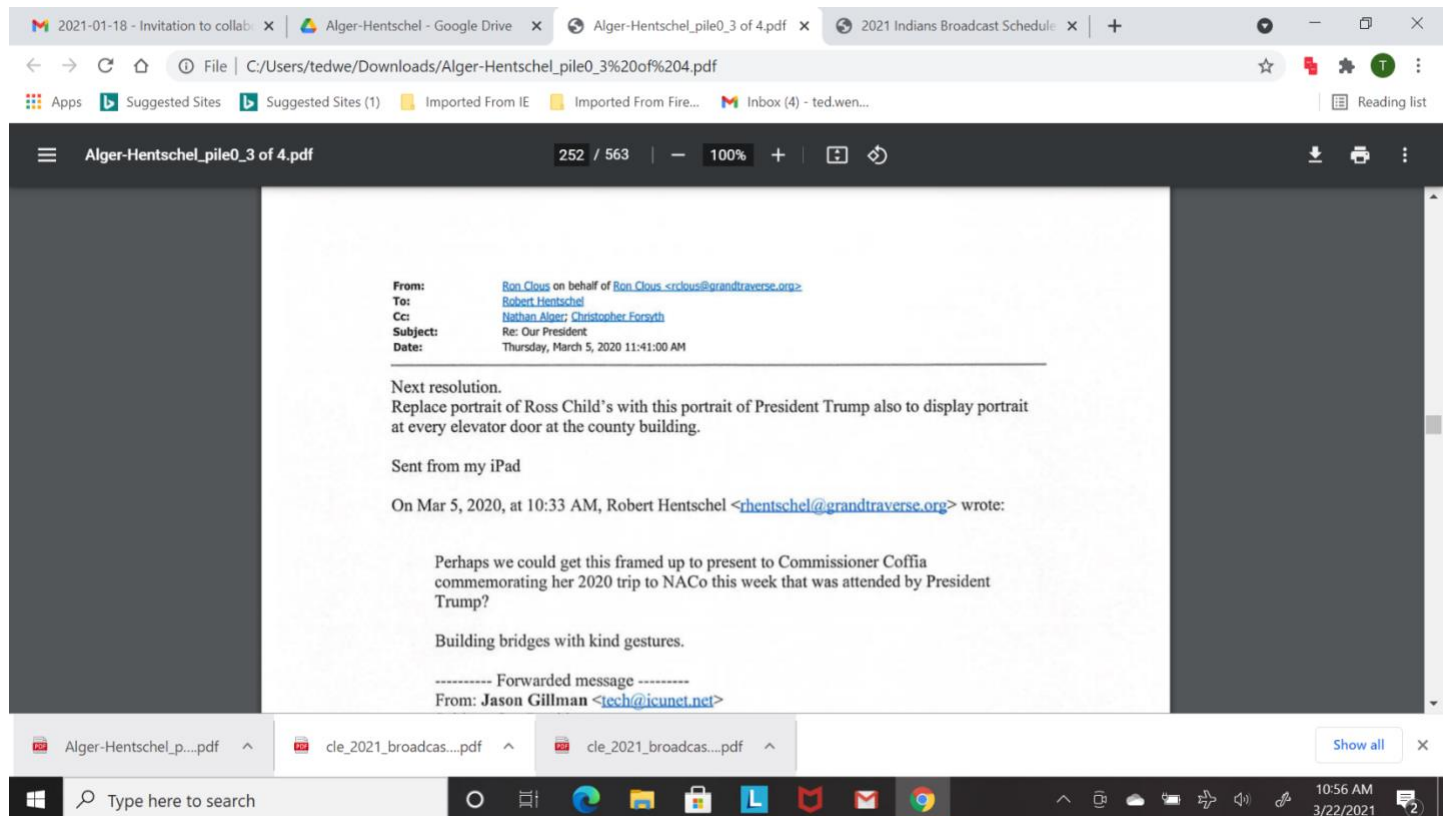


“I don’t know how many times I have been told by people who should be in the know that the obstacles, legal and otherwise, to extract the county from MERS was almost impossible (anywhere from 60% to 115% fully funded),” LaPointe wrote last July 1. “It now appears that there is no fund balance restricted and by simply asking the right question to the right person, the limitation to exiting MERS may only be those that we impose upon ourselves. . . . But if we start to go down that path be aware that every roadblock imaginable will be thrown out there by well-intentioned people opposed to CHANGE!”

Today, MERS continues to manage the county’s pension fund. LaPointe did not realize his dream before leaving the commission at the end of 2020.

The email records also are replete with cheap shots at Coffia, whom Hentschel, Clous, Jewett and LaPointe have long despised.

When Jason Gillman, the Republican commissioners' Trump-supporting appointee to the Road Commission, fawningly forwarded a large portrait of Donald Trump to the commissioners in March 2020, Hentschel wrote to Alger, Clous and Forsyth: "Perhaps we could get this framed up to present to Commissioner Coffia commemorating her 2020 trip to NaCo (National Association of Counties) this week that was attended by President Trump? Building bridges with kind gestures."



Clous then responded: "Next resolution. Replace portrait of Ross Childs (former county administrator) with this portrait of Trump also to display portrait at every elevator door at the county building."

The email trove also includes locker room banter in which the commissioners expressed their disdain for Democrats, as when Hentschel pointed out in July 2019 that he had found some "dirt" on Clous – his uncle had been a Democrat in the 1970s before he "wisened up."

"Guilty as charged," Clous responded. "Commissioner Hentschel uncovered my Democrat in the woodpile."

LaPointe then added: "I guess I better come clean before Rob ferrets it out. In college in order to get extra credit in a poli sci class I had to join either the young democrats or the young republicans. I chose the young democrats as they had the cutest gullible girls."

This is just a small sampling of the arrogant, debased, mean-spirited and ethically bereft "leadership" that Hentschel and his band of Republican lickspittles have inflicted on the citizens of Grand Traverse County. It's long past time to vote them out.

## WEDNESDAY'S BOC AGENDA: WHAT TO WATCH FOR

**ORDINANCE 'CLEANUP' PROJECT** – Forsyth is recommending that the commission repeal 12 ordinances that are illegal, not being enforced or are superseded by similar ordinances or a change in state law (agenda item 8d).

Most of the proposals are commonsensical. For instance, Forsyth is recommending the repeal of ordinances that prohibit people from storing junk vehicles on their property or selling, supplying or displaying drug paraphernalia such as marijuana and hash pipes because they are general police power ordinances that the county lacks the authority to regulate.

The only ordinance whose proposed repeal we are questioning is Funeral Demonstrations Ordinance #28, which the county adopted after the Michigan Legislature passed the Demonstrations at Funeral Services Act in 2006. States across the country passed similar statutes in response to protests staged by members of the Westboro Baptist Church. The church, a hate group based in Topeka, Kansas, picketed military funerals to express their belief that “God hates the USA” and the military for their “tolerance” of homosexuality.

Forsyth is recommending the repeal of the ordinance even though it simply requires someone who wants to protest at a funeral to obtain a permit from the Sheriff's Department.

“The Grand Traverse County ordinance is content-neutral on its face so as long as it is applied in a non-discriminatory manner, it should be upheld,” Deputy Civil Counsel Kit Tholen wrote. “I am not aware of the ordinance ever being enforced, however, so you may wish to seek repeal for that reason. Further, as you are aware, a lawsuit challenging such an ordinance would likely be in federal court and entail significant expense – even just to get the matter to summary disposition. You may also wish to seek repeal for that reason.”

Tossing this ordinance simply because no group has sought to protest at a funeral in the county reminds us of Justice Ruth Bader Ginsburg's famous dissent in *Shelby County v. Holder*, the 2013 Supreme Court decision in which the court struck down the heart of the Voting Rights Act. Saying protections established by the VRA were still necessary, Ginsburg wrote that “[t]hrowing out preclearance (a requirement that states receive clearance from the Justice Department or a court before changing voting procedures) when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”

To continue the metaphor, this country is awash in hate groups and political lunacy. Just because the Westboro Baptist Church or its ilk haven't yet shown up at one of our cemeteries is no reason to throw away our umbrellas.

## HIGH (AND LOW) LIGHTS FROM THE LAST MEETING

**BONDING OF THE COUNTY'S PENSION FUND** – Not that anyone should have been surprised because Alger presents nothing to the commission without previewing it to Hentschel, but commissioners, led by Hentschel, enthusiastically embraced Alger's request at the June 2 meeting to take advantage of historically low interest rates to bond the unfunded portion of the county's pension fund – about \$40 million.

“I'll be the first to say I've certainly been against bonding for a long time,” Hentschel said after listening to presentations from Alger and Finance Director Dean Bott. “I have to say I have changed my tune on this because the stars have aligned for bonding this pension – that money will never be cheaper. It's actually, in my mind, largely due to COVID. The federal government unleashed billions, billions and trillions of money into our economy. Money is now cheap. It's cheap to borrow it.”



Noting that the county has undertaken a wage study after losing more than 15% of its workforce since January due to low wages, Hentschel and other commissioners said that bonding the pension debt will give the county the flexibility to pay more competitive wages and thereby have an easier time retaining employees.

Hentschel's change of heart is not without more than a touch of irony. Five months ago, he, Clous and Jewett teamed up to deny a request from administrators at the county-owned Pavilions nursing home to bond the much smaller unfunded liability in the Pavilions' pension fund. Refusing to recuse themselves even though they have conflicts of interest because they own nursing homes that compete for patients with the Pavilions, Clous and Jewett – abetted by Hentschel – denied the Pavilions' request because they object to a county-owned facility competing with their private business interests.

When Coffia noted that the Pavilions had, under the same market conditions, been turned down by commissioners, Hentschel sloughed off the implied criticism that he was being a hypocrite.

“To me, it seemed like they weren't going all in in how they were doing business,” Hentschel said of the Pavilions. “They were just kind of like putting a Band-Aid on it, in lay terms. That's why I didn't support it then. If they came back now under current market conditions, I would take another look at it.”

You can expect that to happen in the very near future. This time, Hentschel, Clous and Jewett may have to grit their teeth and support the request.

And that's a wrap. Stay safe, get vaccinated and enjoy this beautiful summer weather. Thanks for reading.

**NOTE TO OUR READERS: THE BEACON WILL BE ON HIATUS UNTIL JULY 20.**

## HELPFUL LINKS & INFO

BOC meetings are held at 8 a.m. on the first and third Wednesday of the month. The next meeting is June 16.

You can find a link to the agenda and minutes at:

<https://grandtraversecounty.civicweb.net/Portal/MeetingInformation.aspx?Org=Cal&Id=231>

You can watch a livestream of the meetings and view replays of previous meetings online at:

<http://www.co.grand-traverse.mi.us/184/Board-of-Commissioners>

You will have to attend the in-person meeting in order to make a public comment. The BOC permits public comment for three minutes at the beginning and end of each meeting.

The BOC has seven commissioners – five Republicans and two Democrats – each of whom represents a district. You can find your commissioner at this link:

<https://www.grandtraversedems.com/boc>

You can find contact info for the BOC members here:

<http://grandtraverse.org/184/Board-of-Commissioners>

You can email all the commissioners at this address:

[commissioners@gtcountymi.gov](mailto:commissioners@gtcountymi.gov)