Regular Beavercreek Trustee's Meeting

Monday, April 18, 2011

Mr. Glaser called the Regular Trustee Meeting to order at 2:01 P.M. Those present were Trustees: Robert Glaser and Bob Stone. Fiscal Officer, Christy Ahrens and Legal Advisor Robert Surdyk were also present. Staff present: Assistant to the Fiscal Officer James Barone, Fire Chief David VandenBos, Deputy Fire Chief(s) Scott Dorsten and John Mercs, and HR Manager Trish Gustafson. Shawn Emerson from Taft, Stettinius, & Hollister and Brad Anderson from Rion, Rion, and Rion were also present. Mr. and Mrs. Keith Holloway were also present. As was Fairborn Police Officer Dan Foreman.

2011-172 Mr. Stone made a motion to approve the Agenda for April 18, 2011. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

2011-173 Mr. Stone made a motion to approve the April 20, 2011 Payroll in the amount of $256,836.21. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

2011-174 Mr. Stone made a motion to approve the Bills in the amount of $521,423.12. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

2011-175 Mr. Stone made a motion to approve the Regular Meeting Minutes of April 4, 2011. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

2011-176 Mr. Stone made a motion to approve the Special Meeting Minutes of April 7, 2011. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

RESIDENTS/GUESTS DESIRING TO SPEAK: None.

FIRE:
Hiring of Temporary Office Manager:
Fire Chief VandenBos spoke to the Trustees regarding the Fire Office Manager, Michelle Grogean, going on maternity leave soon and the need to hire a temporary replacement to cover her duties while she is out on maternity leave. General discussion occurred.
2011-177 Mr. Stone made a motion to approve the temporary hiring of an Office Manager through Access Staffing at a rate of $16.00 per hour for a time period of ten weeks plus four days for training with a total cost not to exceed $6912.00. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

OLD BUSINESS:
Personnel Hearing:
Shawn Emerson, acting as moderator, stated that this was a Hearing of the Beavercreek Board of Trustees to hear charges filed by Fire Chief VandenBos against Firefighter Keith Holloway. Discussion occurred as to whether this Hearing should be held in Executive Session or in public.

2011-178 Mr. Stone made a motion to conduct the Hearing for Firefighter Holloway in Open Session with the opportunity for Mr. Holloway's attorney to ask to go into Executive Session for sensitive information. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

Mr. Emerson outlined the procedure for the Hearing stating that each side would be allowed an Opening Statement, and then the Fire Department would present their case, with Mr. Anderson asking questions in cross examination. Following

that, Mr. Anderson will be asked to provide information with the Fire Department asking questions in cross examination. Rebuttals are allowed and both sides will be asked to provide a Closing Statement.

Chief VandenBos gave his Opening Statement regarding: phone calls made while on duty, progressive behavior, a warrant for arrest, and violations of the Township Handbook.

Mr. Anderson gave his Opening Statement regarding: phone calls in a long series of behavior with Mrs. Holloway's ex-husband, Mr. Quigley, in order to get more time with their kids, and the ex-husband's continued stalking and harassment of Mrs. Holloway.

The Fire Department called their first witness: Deputy Chief Scott Dorsten. Chief Dorsten was sworn in by Shawn Emerson.
Chief Dorsten outlined his duties in the Fire Department as Deputy Chief and discussed his role and interaction with Firefighter Holloway. Chief Dorsten summarized the investigation that the Fire Department conducted against Firefighter Holloway and listed sections of the Township Handbook that had been violated. Chief Dorsten reviewed how he found out about a warrant for Firefighter Holloway's arrest in the State of Utah and other incidents that were filed against him. Items were entered into evidence: phone voice mail message, phone calls, and time sheets. Mr. Anderson objected to introducing these materials. Mr. Emerson stated that the Board can listen and decide what to include and what not to include in their decision making. Mr. Anderson objected to all the prior incidents as they were introduced. Mr. Anderson also objected on the basis of hearsay and the fact that there are no witnesses to cross examine or validate the statements. Mr. Emerson stated that the Trustees can take the objection into consideration. Several timesheets were introduced as evidence and all were objected to by opposing counsel. Discussion occurred on the misspelling of Keith Holloway's name on several documents. The Beavercreek Township Work Place Violence Policy from the Beavercreek Township Employee Handbook was presented and summarized. Chief Dorsten stated that he believes Firefighter Holloway violated the Employee Conduct Policy in the Township Employee Handbook. Chief Dorsten described what happened once the Beavercreek Fire Department found out about this situation including: unacceptable behavior, warrant for arrest, and the position of a fire fighter being one of trust and a role model.

Mr. Anderson cross-examined Deputy Chief Scott Dorsten. Questions were asked and answered concerning the following: downtime on duty and complying with standards; early incidents and the fact no charges were brought against Mr. Holloway; temporary protection orders; warrant for arrest in the state of Utah; the Work Place Violence Policy and how that policy deals with situations at work with other employees; the Employee Code of Conduct; presumption of innocence; Paid Administrative Leave; discussion at a meeting with Chief VandenBos, Deputy Chief Dorsten, Deputy Chief John Mercs, Human Resource Manager Trish Gustafson, and Firefighter Keith Holloway where one person said, "Why are we punishing what any of us would have done?"; and credibility, trust and role model issues and the fact that no public input has been addressed to the Fire Department because of this incident.

Chief VandenBos had Rebuttal. Questions were asked and answered concerning the following: downtime, purpose of the investigation, the Township Employee Handbook Policy on Work Place Violence and the Employee Code of Conduct. Mr. Anderson asked Chief VandenBos to ask open ended questions and not lead the witness. Questions were asked and answered concerning: trust and being a role model.

Mr. Anderson had Rebuttal. Questions were asked and answered concerning: a threat to family and a custody battle.

Mr. Glaser asked Chief Dorsten if he had talked to Mr. Quigley. He asked when and what was discussed. Chief Dorsten stated that he had talked to Mr. Quigley and that Mr. Quigley didn't think that Beavercreek Township was doing anything about the situation. Chief Dorsten stated that Mr. Quigley called the Fire Department and initiated conversation concerning this situation.

The Trustees took a ten minute break. The meeting reconvened at 3:52 P.M.

The Fire Department called their second witness: Battalion Chief David Young. Battalion Chief Young was sworn in by Shawn Emerson.
Battalion Chief Young outlined his duties in the Fire Department as Battalion Chief and discussed his role and interaction with Firefighter Holloway. Fire Chief VandenBos asked questions of Battalion Chief Young that were answered concerning the following: chain of command; following of orders; relationship with police departments; scheduling issues and rumors.

Mr. Anderson cross-examined Battalion Chief Young. Questions were asked and answered concerning the following: Firefighter Holloway's job performance; any situations of not following direction; only asking a person to do what they can do; no issues with Mr. Holloway as a firefighter; the difference between being asked to be away from the job and wanting to be away from the job; three shifts to make the situation go away; discussion of the conversations with Firefighter Holloway concerning his wife's ex-husband; discussion of the meeting with the Fire Chiefs and Human Resource Manager. Battalion Chief Young does not remember saying, "Why are we punishing someone for something we all would have done?"

Chief VandenBos had Rebuttal. Questions were asked and answered concerning the following: job description; answering the warrant for arrest; control and anger issues; and administrative leave and why Firefighter Holloway was placed on this leave.

Mr. Anderson had Rebuttal. Questions were asked and answered concerning the following: the police officer notifying the Fire Department that Firefighter Holloway was not trustworthy; immoral conduct; profanity - situations and use; and the presumption of innocence.

The Fire Department called their third witness: Greene County, Fairborn City Police Officer Dan Foreman. Officer Foreman was sworn in by Shawn Emerson. Chief VandenBos asked questions of Officer Foreman that were answered concerning the following: a welfare check at the Holloway residence, as Mr. Quigley had called the police since he was not being able to talk to his kids who were at the Holloway residence. Officer Foreman described the situation with Mr. Quigley and Mr. and Mrs. Holloway concerning custody. Officer Foreman offered possible alternatives to deal with the situation for the kids.

Mr. Anderson cross-examined Officer Foreman. Questions were asked and answered concerning the following: an incident in Colorado concerning Mr. Quigley and how Mr. Quigley told Officer Foreman that the incident was blown out of proportion; discussion on possible alternatives and that they were suggestions not orders; that Mr. Holloway was upset with the ex-husband, not with the policeman; that Mr. Holloway was not contemptuous; and discussion occurred on the warrant for arrest in Utah.

Chief VandenBos had Rebuttal. Questions were asked and answered concerning the following: familiarity with both the Quigley and Holloway names at the Clearfield Township Police Department; the warrant for arrest and not answering it; and the status of a person with a warrant and what the police department does in a situation like this or other situations.

Mr. Anderson had Rebuttal. Questions were asked and answered concerning the following: menacing – to threaten someone with bodily harm; fugitive versus wanted; and pick up radius in association with a warrant for arrest.

Mr. Stone asked how the welfare check at the Holloway residence came about. Officer Foreman stated that Mr. Quigley called the Fairborn Police Department because he was not allowed to talk to his kids on the phone and he wanted to make sure his kids were ok.

Mr. Anderson had Rebuttal. Questions were asked and answered concerning the following: how many times Mr. Quigley had called to ask for welfare checks, welfare checks used as harassment tools in custody battles; the welfare of the kids; why Officer Foreman did not get the incident report from Colorado when he got information from Clearfield Township but not from Colorado.

Chief VandenBos stated that he had no further witnesses or evidence.

Mr. Anderson called his first witness: Bridget Holloway.

2011-179 Mr. Stone made a motion to go into Executive Session per ORC 121.22 (G)(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee at 4:44 P.M. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

2011-180 Mr. Stone made a motion to come out of Executive Session at 5:27 P.M. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

Mr. Anderson called his second witness: Beavercreek Township Firefighter Keith Holloway. Firefighter Holloway was sworn in by Shawn Emerson.
Mr. Anderson asked Firefighter Holloway questions that were answered concerning the following: his marriage, kids, and joint custody; what things have been done to work things out with Mr. Quigley; Paid Administrative Leave; reprimand; contact with Mr. Quigley; conversations with the Fairborn Police Department and the Utah Police; timesheets, incident reports, phone calls; no contact with Mr. Quigley after February 25, but the kids have; the meeting with the Fire Chiefs and Human Resource Manager; the March 4-6, 2011 meeting with Mr. Quigley in Dayton with no issues or problems; and possible ways to resolve the warrant issue with legal entities in Utah.

Chief VandenBos cross-examined Firefighter Holloway. Questions were asked and answered concerning the following: police reports and who called or text first; letter from Mr. Quigley; discipline; mindset for phone calls; emotion versus on-the-job performance; and legal options that could have resolved this issue.

Mr. Glaser asked questions of Firefighter Holloway and were answered concerning the following: the letter that Mr. Quigley would drop charges; and the Prosecutor in Utah.

Mr. Anderson stated that he had no other witnesses and asked that all evidence be admitted even if duplicative.

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Chief VandenBos gave a Closing Statement explaining the position of the Beavercreek Township Fire Department with regard to Firefighter Holloway's actions and poor judgment. Chief VandenBos recommended that the Trustees terminate Firefighter Holloway from the Beavercreek Township Fire Department.

Mr. Anderson gave a Closing Statement questioning why Beavercreek Township would deny a person due process in presuming innocence. He stated that you cannot act on a warrant which is one-sided, and suggested that there were other ways to discipline other than termination. Mr. Anderson stated that it's not grossly immoral.

2011-181 Mr. Stone made a motion to go into Executive Session per ORC 121.22 (G)(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee at 6:08 P.M. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

2011-182 Mr. Stone made a motion to come out of Executive Session at 7:41 P.M. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

Mr. Shawn Emerson stated that the Board of Trustees could make a decision or could take thirty days and continue the Hearing.

2011-183 Mr. Stone made a motion to continue Firefighter Keith Holloway's Hearing until the Monday, May 16, 2011 Regular Trustee Meeting. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

2011-184 Mr. Stone made a motion that based on today's information, the Board of Trustees position is to have Firefighter Holloway return to active duty pending the decision to be made at the May 16, 2011 meeting. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

Mr. Glaser said to Firefighter Holloway, "You have a problem. You need to solve it."

2011-185 Mr. Stone made a motion to Adjourn at 7:43 P.M. Mr. Glaser seconded. Roll Call: Mr. Stone, yes; and Mr. Glaser, yes.

Trustee: _____

Fiscal Officer: _____