Special Beavercreek Trustee's Meeting

Friday, December 19, 2014

Ms. Graff called the Special Trustee Meeting to order at 9:01 A.M. Those present were Trustees: Carol Graff, Dan Paxson, and Tom Kretz. Legal Advisors Dawn Frick (Surdyk) and Doug Anspach (Taft) were also present. Staff present: Assistant to the Fiscal Officer James Barone.

The Purpose of this Special Meeting is to meet in **Executive Session** pursuant to ORC 121.22(G)(1) to consider the appointment, employment or compensation of a public employee or official and to meet in **Open Session** to discuss personnel.

Mr. Paxson wished to read a statement for the record:

At the November 3, 2014 Special Meeting, Mr. Kretz made a motion based off the Novak Group presentation, the motion number is 2014-420. Mr. Kretz made that motion based upon the Novak Group report to move from a part time administrator to a full time administrator and authorize the HR manager to work with labor council (Taft) to develop a revised position description and to draft a contract to reflect that full time position for a full time administrator by the first pay in January.

He explained that as that motion reads, it was approved by unanimous vote on November 10, 2014, that is the motion he voted yes for.

Mr. Paxson went on to ask a few questions:

1. Who instructed the HR manager to draft a job description for the position of Safety Director? The Board of Trustees did not do that and we operate as a Board.
2. Who directed Taft to go into negotiations with Alex Zaharieff? The Board of Trustees did not do that and we operate as a Board.

He went on to question how we arrived at the point we are at today? The job description was for a Township Administrator. The position of Safety Director was never mentioned in the Novak Report presented to the Board. He has concerns with this now including the position of Safety Director, as that is not what he based his yes vote on.

Mr. Kretz explained that he had requested the audio recording from the meeting held on November 3, 2014 and when he is provided that information, they can compare notes, as he stated as they are all aware of, the minutes are not verbatim.

Mr. Kretz went on to explain that at the last meeting, we advised Taft to float that public safety job description by the pension review board and we have now received a response from them.

Mr. Paxson expressed concerns that those were conversations in Executive Session and decisions cannot be made in Executive Session. Ms. Graff and Ms. Frick intervened and stated those were not decisions made in Executive Session, those were directives.

Mr. Paxson went on to state that the decision to enter into negotiations with Mr. Zaharieff was not a Board decision.

Ms. Graff stated that at the November 3, 2014 meeting it was her impression that they had authorized going into negotiations and to put together the contract and the job description and to see what the contract could be and to come back before the Board of Trustees. She went on to state the words in the motion do not always reflect exactly what it was that the intentions of the Board of Trustees were. She continued that she has objected to minutes until she is blue in the face in the past,

and that she does not object as much anymore because the minutes essentially say more or less what the board was going to do. From her point of view, what the minutes indicate are little bits and pieces of what truly has taken place.

Mr. Paxson stated that the Board cannot say one thing and do another, because business must be done in public.

He expressed his concerns again that what is going on with this has changed his vote, because Mr. Zaharieff's name was never mentioned. He went on to state by doing what is being done, it changes his vote to a yes vote and that is not what his intention was. He continued that there was no name mentioned and if there was a name mentioned his vote on November 3, 2014 would have been no. He expressed his concerns again that his vote has been changed by negotiating with Mr. Zaharieff when there was never a name mentioned. He stated that he voted for the creation of a Township Administrator job description.

Mr. Paxson expressed another concern that one of the Trustees was negotiating directly with Mr. Zaharieff because it was mentioned that Mr. Zaharieff waived his rights under the Ohio Revised Code. Mr. Paxson stated that no one approved for one Trustee to negotiate directly with Mr. Zaharieff, because we have to act as a Board.

Mr. Kretz stated that it was not a negotiation.

Mr. Paxson stated again that he has major concerns for the Township on the way this has transpired.

Mr. Paxson went on to explain that he had made some contacts on his own to the Ohio Attorney General's office and the Greene County Prosecutor's office. He stated that the representative with the Ohio Attorney General's office had concerns that there would be a conflict of interest with the dual job descriptions. He continued that there was a manual available that may provide some guidance and he feels the Township should look into it. He also mentioned that the ORC does not mention a safety director position, only a township administrator position.

Mr. Kretz stated that he has no problems with looking into any additional concerns, and that the pension review board had been contacted and provided an e-mail.

Mr. Paxson explained that the Greene County Prosecutor's office had some concerns as well such as where the safety director position would fit in on the organizational chart, and how exactly does the safety director position fit into the chain of command. He went on to state the Prosecutor's office does not feel that rights granted under the ORC can be waived.

Ms. Graff stated that there is a severability clause that will protect the Township.

Mr. Paxson went on to state a concern he has with the fact that the Township has a hiring requirement of the passage of a CPAT exam, and wanted to make sure we were now going to require Mr. Zaharieff to pass the same type of exam.

Ms. Graff stated that the job description of safety director states that all certifications must be in place and maintained.

Mr. Kretz explained that at the last meeting the term firefighter was removed from the position of safely director. Mr. Anspach conquered that the position of firefighter was removed from the Safety Director Job description and was presented to Ohio Police and Fire without the term firefighter.

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Mr. Paxson reiterated his concern with the chain of command especially at fire scenes.

Ms. Graff suggested modifying the organizational chart.

Ms. Frick stated that Ms. Ellis contacted her after she spoke with Mr. Paxson regarding her concerns. She explained that some of these concerns will need to be addressed by the Board of Trustees such as the Chain of Command issue. She addressed the pension issue with Ms. Ellis and explained that it had already passed the pension review board. As far as the conflict of interest posed by the Ohio Attorney General's office, she is unaware of such a conflict, but she could look into it should the Board of Trustees wished her to. She also explained that the Greene County Prosecutor's office could look into some of these issues and issue an opinion if the Board of Trustees would like them to.

Mr. Paxson went on to voice his concerns over annexation and succession issues from the City of Beavercreek. He stated those are real concerns now that all four fire stations are within the City of Beavercreek boundaries.

Ms. Graff stated there are two different job descriptions and they would be combining both of those for whomever they hire, and that the organizational chart would need to be modified accordingly.

Mr. Kretz stated that the job descriptions answers the organizational chart issues but they do not address the chain of command concerns which he acknowledges are viable concerns. He went on to state the reason for the two separate job descriptions is because they are separable meaning at some point they could be separated if you chose to eliminate one or the other. He did have a concern that the contract does not address the elimination of one of the job descriptions as it relates to compensation. He continued that the level of risk for the Township is to terminate the contract without cause and pay the severance which is currently set at six months.

Mr. Paxson addressed the CPAT certification again and the fact that all the firefighters that are being hired on Monday December 22, 2014 are required to have that certification, and if we are not requiring Mr. Zaharieff to have that certification he is concerned about a grievance being filed by the Union.

Ms. Frick was instructed to go ask Mr. Zaharieff if he currently holds a CPAT certification. Ms. Frick returned and explained to the Board that Mr. Zaharieff was not required to hold that certification at the time of his hiring but he did pass the pension physical at that time and does have yearly physicals.

2014-487 Mr. Kretz made a motion to go into Executive Session pursuant to ORC 121.22 (G)(1) To consider the appointment, employment or compensation of a public employee or official at 9:46 A.M. Ms. Graff seconded. Roll Call: Mr. Kretz, yes; Ms. Graff, yes; and Mr. Paxson, no.

2014-488 Mr. Kretz made a motion to come out of Executive Session at 12:51 P.M. Mr. Paxson seconded. Roll Call: Mr. Kretz, yes; Mr. Paxson, yes; and Ms. Graff, yes.

2014-489 Mr. Kretz made a motion to approve the job description as presented to the Board of Trustees for the position of Township Administrator. Mr. Paxson seconded. Roll Call: Mr. Kretz, yes; Mr. Paxson, yes; and Ms. Graff, yes.

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2014-490 Mr. Kretz made a motion to approve the job description as presented to the Board of Trustees for the position of Public Safety Director. Ms. Graff seconded. Roll Call: Mr. Kretz, yes; Ms. Graff, yes; and Mr. Paxson, no.

2014-491 Mr. Kretz made a motion to approve the employment agreement as presented for Alex Zaharieff as the Township Administrator and request Taft to share a copy of that agreement with the Fiscal Officer Christy L. Ahrens, and present an offer to Mr. Zaharieff in this contract package conditional upon the certificate of encumbrance from the Fiscal Officer and approval of the Board of Trustees. Ms. Graff Seconded. Roll Call: Mr. Kretz, yes; Ms. Graff, yes; and Mr. Paxson, no.

2014-492 Mr. Paxson made a motion to Adjourn at 12:56 P.M. Mr. Kretz seconded. Roll Call: Mr. Paxson, yes; Mr. Kretz, yes; and Ms. Graff, yes.

Trustee: _____

Fiscal Officer: _____