



MACOMB TOWNSHIP *Michigan*

MACOMB TOWNSHIP BOARD OF TRUSTEES
SPECIAL MEETING MINUTES - APPROVED
WEDNESDAY, FEBRUARY 19, 2020

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB MI 48042

Call Meeting to Order

Meeting was called to order by Supervisor Dunn at 6:30 p.m.

Pledge of Allegiance to the Flag of the United States

Pledge of Allegiance was recited by all in attendance.

1. Roll Call

Clerk POZZI called the roll:

Present: Tim Bussineau, Nancy Nevers, Charles Oliver, Kathy Smith, Karen Goodhue, Kristi Pozzi, Janet Dunn

Absent:

2. Approval of Agenda Items (with any corrections)

MOTION by Kristi Pozzi seconded by Kathy Smith to approve the agenda as presented.

Vote Summary: (6 - 1 - 0)

Ayes - Tim Bussineau, Charles Oliver, Kathy Smith, Karen Goodhue, Kristi Pozzi, Janet Dunn

Nays - Nancy Nevers

Abstain - None

THE MOTION Passed.

PUBLIC COMMENTS, AGENDA ITEMS ONLY - (3 MINUTE TIME LIMIT)

Jim Gelios spoke regarding Item 5.

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John Parkinson spoke regarding Items 4 and 5.

Sal DiCaro spoke on behalf of AFSCME Local 1917.43 regarding items 3 and 4.

Supervisor Dunn recused herself from any action or discussion regarding agenda item 4 to avoid any conflict. She indicated her decision was based on insinuations from employee #2205 that she is acting out of retaliation to correspondence he sent to the Board.

MOTION by Kathy Smith seconded by Charles Oliver to appoint Clerk Pozzi as Chair for the remainder of the meeting.

ROLL CALL Vote Summary: (5 - 0 - 1)

Ayes - Kathy Smith, Charles Oliver, Tim Bussineau, Karen Goodhue, Kristi Pozzi

Nays - None

Abstain - Nancy Nevers

THE MOTION Passed.

CLOSED SESSION:

3. Attorney/client confidential closed session meeting to discuss the independent evaluation of employee #2205. Closed session per MCL 15.268(h)

MOTION by Charles Oliver seconded by Kathy Smith to enter into closed session to discuss the independent evaluation of employee #2205. Closed Session per MCL 15.268(h).

ROLL CALL Vote Summary: (6 - 0 - 0)

Ayes - Charles Oliver, Kathy Smith, Tim Bussineau, Nancy Nevers, Karen Goodhue, Kristi Pozzi

Nays - None

Abstain - None

THE MOTION Passed.

The Board entered into Closed Session at 6:52 PM and reconvened into Open Session at 7:53 PM.

The legal memorandum from attorney Dean Yeotis was discussed in Closed Session.

MOTION by Tim Bussineau seconded by Kathy Smith to waive attorney-client privilege on the legal memorandum received in Closed Session from attorney Dean

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Yeotis.

Vote Summary: (6 - 0 - 0)

Ayes - Tim Bussineau, Nancy Nevers, Charles Oliver, Kathy Smith, Karen Goodhue, Kristi Pozzi

Nays - None

Abstain - None

THE MOTION Passed.

MOTION by Kathy Smith seconded by Charles Oliver to include the legal memorandum received in Closed Session from attorney Dean Yeotis as part of the meeting record.

Vote Summary: (6 - 0 - 0)

Ayes - Tim Bussineau, Nancy Nevers, Charles Oliver, Kathy Smith, Karen Goodhue, Kristi Pozzi

Nays - None

Abstain - None

THE MOTION Passed.

NEW BUSINESS:

SUPERVISOR'S OFFICE:

4. Discussion and or action regarding whether or not there is just cause for discipline of employee #2205, and if so, what is the appropriate discipline up to and including discharge

The Board discussed the evaluations of employee #2205. All Board members spoke. Public comments were made by Kathy Western, Charles Pierce and Mark Grabow.

MOTION by Tim Bussineau seconded by Charles Oliver to find just cause for discipline of employee #2205.

ROLL CALL Vote Summary: (4 - 2 - 0)

Ayes - Tim Bussineau, Charles Oliver, Kathy Smith, Kristi Pozzi

Nays - Nancy Nevers, Karen Goodhue

Abstain - None

THE MOTION Passed.

MOTION by Tim Bussineau seconded by Charles Oliver to find that appropriate discipline of employee #2205 is termination of employment, effective immediately.

**ROLL CALL Vote Summary: (4 - 2 - 0)
Ayes - Tim Bussineau, Charles Oliver, Kathy Smith, Kristi Pozzi
Nays - Nancy Nevers, Karen Goodhue
Abstain - None**

THE MOTION Passed.

5. Discussion and or action regarding the merits of a work-force reorganization that would result in the elimination of the current Human Resources Director/General Counsel position

MOTION by Kathy Smith seconded by Charles Oliver to postpone this item to allow employee #2205 to exercise his right to a Loudermill Hearing.

**Vote Summary: (6 - 0 - 0)
Ayes - Tim Bussineau, Nancy Nevers, Charles Oliver, Kathy Smith, Karen Goodhue, Kristi Pozzi
Nays - None
Abstain - None**

THE MOTION Passed.

ADJOURNMENT

MOTION by Charles Oliver seconded by Kathy Smith to adjourn the February 19, 2020 Board meeting at 08:33 PM.

**Vote Summary: (6 - 0 - 0)
Aye - Tim Bussineau, Nancy Nevers, Charles Oliver, Kathy Smith, Karen Goodhue, Kristi Pozzi
Nay - None
Abstain - None**

THE MOTION Passed.

CONFIDENTIAL
ATTORNEY/CLIENT COMMUNICATION

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OVERVIEW

Macomb Township currently has 114 full-time and 142 part-time employees. Thomas Esordi has served as Human Resources Director/General Counsel since the creation of this position on January 1, 2017. Mr. Esordi's employment agreement is attached as Exhibit 1.

LAW:

QUESTION 1: When an employee has a contract stating they can only be disciplined or discharged for "just cause" the employer has the burden of proving there is in fact "just cause" for discipline and/or discharge.

APPLICATION:

The employment agreement between Macomb Township and Thomas Esordi provides in relevant part, "that all disciplinary action or discharge shall be for just cause and that disciplinary action shall be progressive except where employee's misconduct warrants immediate discharge." (Exhibit 1 at paragraph 6)

There does not appear to be any previous written discipline of Mr. Esordi. Additionally, there does not appear to be any written employment policies and/or work rules that apply to nonunion employees except for certain Macomb Township standards and Guidelines that don't seem applicable. Nevertheless, 19 employees including all department heads took part in evaluating Mr. Esordi and the results were overwhelmingly negative. A review of these evaluations as well as separate discussions with employees reveals a dysfunctional Human Resources department and an overall belief that Mr. Esordi's actions exhibit more concern for himself than Macomb Township or the welfare of its employees.

Initially there were three employees under Mr. Esordi's direct supervision:

- Sharalyn Arft
- Kristin Orlando
- Dawn Elkins

There are now two as, Ms. Elkins, requested to be moved due to what she referred to as the "toxic environment" she was working in and she is now in the engineering department.

On April 15, 2019, another HR employee, Sharalyn Arft, filed a grievance claiming, among other things that she was "verbally attacked" by Mr. Esordi and subjected to a "hostile work environment". In her and request for relief, Ms. Arft sought to be free from the hostile work conditions Mr. Esordi had caused and wanted him to be required to attend anger management classes. Ms. Arft later went off work for approximately two months due to work-related stress, all of which she attributed to the actions of Mr. Esordi.

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On April 18, 2019 a resignation letter was received by the Planning Director expressing his concerns with the conquer and control atmosphere existing in townhall, with emphasis on the human resource department's intimidating environment which strives to defeat the employee rather than come to fair terms. He stated that valuable employees are still being mistreated and disrespected in a bullying manner. Letter attached as Exhibit 2.

Also, on April 18, 2019 the Purchasing Specialist submitted a resignation letter while expressing to her department head that the way Mr. Esordi operates both the HR Department and Legal Counsel is just wrong and she cannot continue to watch it happen and no longer wishes to be a part of it.

LAW:

QUESTION 2:

Just as a municipality can create a position it can also vote to eliminate a position. A municipality has the ability to reorganize its workforce if in its business judgment it is the appropriate thing to do after being reasonably informed on the matter and having made a considered decision to do so. It is also the case, although not necessarily applicable to this situation that a reduction in force for bona fide economic reasons is considered a termination for just cause.

APPLICATION:

Many employees including, numerous department heads believe that the creation of the Human Resource Director / General Counsel position has been a terribly failed experiment that has been harmful to Macomb Township and its employees. The belief expressed by many employees is that there is a conflict of interest concerning both the manner in which Mr. Esordi performs his duties, and also in the very nature of the combined position. Please see May 8, 2019 letter signed by the 22 members of ASFCME local 1917.43 salaried employee management union. Attached as Exhibit 3. There were numerous other individuals who referred to serious problems with the combined position in their performance evaluations of Mr. Esordi.

The general consensus is that conflicts existed from the very start which have placed Macomb Township at a disadvantage. These problems began at the very inception of the newly created position as there was at best questionable independent review of the terms of the employment agreement. Moreover, it does not appear that the position was posted and no qualification for the newly created position were reduced to writing. Additionally, Mr. Esordi was not required to fill out an employment application nor was he required to submit to a psychological evaluation or drug screen like other township employees.

MR. ESORDI’S PERFORMANCE EVALUATIONS

Nineteen employees responded to Thomas Esordi’s performance evaluation including each Department Head.

Each Performance Evaluation is separated into two general categories.

Organization and Professional Standards

Exceeds Expectations	<u>6</u>
Meets Expectations	<u>16</u>
Struggles to Achieve Performance Standards	<u>36</u>
Does Not Achieve Performance Standards	<u>108</u>
Not Applicable	<u>14</u>

Management and Leadership Standards

Exceeds Expectations	<u>5</u>
Meets Expectations	<u>17</u>
Struggles to Achieve Performance Standards	<u>21</u>
Does Not Achieve Performance Standards	<u>119</u>
Not Applicable	<u>25</u>

The performance evaluations also included a section inviting comment and clarification related to “key contributions” and “areas of development.”

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DIRECT QUOTATIONS FROM THE PERFORMANCE EVALUATIONS

“He has no idea what the role of a HR director is. He has had no training in HR. He has no respect for the policies and procedures that he is responsible for as the HR Director. He continually violates them and nothing ever happens to him. Other employees have been disciplined and terminated for far less than what he has done. He is incompetent in both of his job duties.”

“He is completely incompetent not only in HR but also legal when it comes to labor relations. It has been said that he is a master in negotiations, this is simply not true. He is a COMPLETE & UTTER FAILURE at negotiations. He does not possess the personality, demeanor or knowledge, skills & abilities needed for negotiations. He is never prepared to negotiate and relies on the Union to do all of the work for him. There is not a union that respects him. His recruitment is nothing more than hiring friends and granting political favors with those that he recommends.”

“Tom’s education and work experience is in practicing law, not human resources. He does not have the knowledge base to be an effective HR director. Approaching situations with the mindset of a lawyer, focused on minimizing the Township’s legal risk, can be contradictory to the hat he wears as an HR director whom one would expect to be approachable, discrete, empathetic, and acknowledging of each employee’s value. Often, when approached for his professional opinion, Tom’s reply is to ask the presenting party what they want to do, rather than providing solid direction or advise. This does not instill confidence that decisions are being made are based on law, policies or even best practices.

Employees at the department head level in the Township should be experts in their field. Human Resources is currently being short changed.”

“Human Resources is not Tom’s area of expertise. He resists new ideas for recruiting new employees, especially at higher level positions. It should not take nearly a year to find a replacement for a Planning Director. This is an extremely important position for the Township and has been left vacant due to lack of effort to perform a thorough search. The Township Board should not have to bring the idea of hiring an outside recruiter to him, he should be presenting that, and other innovative search options, to the Board. Labor and employee relations at the Township have never been worse; we have lost good employees, partly due to frustration in dealing with Tom. This has been documented at Township Board meetings and in the local newspapers.”

“When he was being considered for the dual position he represented to the Board that it is now common for communities to combine the HR/Atty job citing the City of Ann Arbor as an example, and that clearly is a falsehood. In fact, I don’t believe there is another HR/Atty position in another Michigan community of our size. Additionally, his contract is not consistent with industry standards for municipalities, and clearly his “just cause” termination clause doesn’t exist in any Twp/City Attorney contract anywhere on the planet. In fact, this clause was deliberately inserted to ensure that he will be able to negotiate a large settlement when he separates from the Township. There are other examples of gratuitous clauses in his contract that not consistent with industry standards, which demonstrate his lack of professionalism and integrity. I believe any objective outside review of how he obtained this position; how the contract was written and reviewed for approval by a associate of his; how he employs the relatives of the same associates who reviewed and recommended approval of his contract; how he employs the associates who reviewed his contract to represent the Twp in District Court (quid pro quo) – will find that his conduct is highly unprofessional.”

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“While well intentioned, the Board’s appointment of Mr. Esordi in the dual role of Township Attorney/HR Director has not worked as hoped. There are many parallels to Mr. Esordi’s conduct and a former Trustee’s conduct in the sense that he attempts to consolidate authority, intimidate employees, obscure financial information about his legal dealings on behalf of the Township, and brings in friends of associates to work here. This conduct is detrimental to the work culture, and does not benefit the tax payers in the community as it appears he is looking only to consolidate his authority for financial gain.”

“Does not have the knowledge and is not willing to demonstrate the abilities a Human Resource Director should have. This position should be someone who is trusted by the Township residents, Township Board and employees. A Human Resource Director should be the liaison between the Township Board and employee and should be a role model for his peers. Mr. Esordi only looks out for his own interests both professionally and financially. He clearly is not interested in what is best for the Township or Township residents. He does not give the Township Board advice during Board meetings to help guide them in the right direction.

“I do not believe this arrangement has benefited either Township service. Until the board hires a HR director and bids out a legal service or person the Township will be hamstrung in both areas.”

“Tom Esordi is the most ineffective HR Attorney this Township has had. He has single handedly torn apart the professional relationships within this Township that at one time made me proud to be an employee here. There is not a single item I can recall that he has put his name to and taken ownership of. He is divisive. I would never feel comfortable confiding in him as the HR director if I had issues with the workplace. He thrives on the drama and would use anything I brought to the table to drive a wedge somewhere in the staff. My experiences have taught me that Human Resources should be a neutral zone for employees but that area is so toxic. Many times requests have been made for interpretation on personnel policies and he is the most ignorant person in the room. Many times he has said he would have to research things and there is zero follow through.”

“The only mission that he seems to support is that which will further his own ambitions. It is hard to believe that the intentions of the person are noble. He sat on the board that was supposed to hire the next HR Dept. Head along with his friend and business associate, Al Addis. They then disqualified candidates and recommended MR. Esordi for the position. Then in his new role he provides legal work to the firm Mr. Addis is in. That does not seem to be in the best interest of the Township, but in the best interest of Mr. Esordi and Mr. Addis.”

“The biggest mistake of the Township while well intended was offering employment to mister Esordi, especially his dual role. He is not able/devoted to perform his job duties as needed, he demonstrates an environment of self-gain. He does not have the interest of the township in mind but his own. His dual role employment needs to be considered and evaluated. I do not believe his performance is at par of his reimbursement package and needs to be adjusted accordingly to his job performance.”

“He pits employees against each other and pits employee against the board in an attempt to cover up his incompetence. He is never wrong and will never admit that he is wrong. He starts most of his responses by saying that he disagrees. He makes negotiations more difficult than they need to be based on his need to always be right and prove everyone else wrong.”

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“Due to his incompetence in both HR and municipal law, he has to hire experts to provide him legal opinions and direction on how to handle almost every situation that arises.”

“I do not feel Mr. Esordi respects the staff of Macomb Township as a whole in the least. I would agree that there is some respect for some the Department Heads, but I feel Mr. Esordi has very little respect for the Township Supervisor, Clerk, and Trustees. It appears that Mr. Esordi places the Township in a compromising position time and time again which causes our elected Board to appear incompetent (which would not be the case with proper legal guidance) and “look bad” to the public as well as the staff. I feel that offering poor legal guidance is disrespectful to the elected officials as well as the residents. Good legal guidance would create a professional atmosphere for the Board, staff and public.”

“Worst climate I have been associated with in my 29 years in a municipality. I have had 3 HRM, including John HB. And I have had a friendly, warm and professional relationship with all of them except Tom.”

“Tom gives the impression that he believes that he is the smartest person in the room, amongst elected officials as well as employees. He is quick to throw others under the bus to make himself appear more valuable or get himself out of trouble. He frequently does this behind the back of the intended target, when they can’t defend themselves. This promotes mistrust among the employees when having to work with Tom.”

“Tom rarely provides direction or take responsibility for providing clear guidance or recommendations regarding issues directly within his area of responsibility. It is disheartening when an employee contacts Tom for direction on a legal or HR issue, only to have him ask: “What do you want to do?” Obviously, the reason they are asking the question of Tom is that they are only experts in their fields, not his. When an employee approaches the HR director for advice, they would anticipate the Director to be the subject matter expert; one who can offer perspective on existing policy or law, past practice, the pros and cons of alternative approaches - - not to have the situation put back in their lap with the casualness of a decision on where to eat lunch.”

“Unless you are a board member, his approach is that he is superior to you and he fosters a guarded relationship rather than facilitate a positive teamwork approach. In short, he is not someone I trust.”

“He displays the exact opposite of teamwork. On more emails than I care to count, he will begin his communication with, “I have to disagree with you.” I believe the former Planner said it best, conquer and control. He is divisive and tries to pit employee against employee. This is an unfortunate characteristic for an HR Director.”

“He dropped the ball in his own department. Every department complains that he can’t get things done on time. He was permitted to hire a confidential assistant. When given this opportunity he squandered it and hired someone as a political favor. He could have hired someone to help him with HR or Legal matters. The individual that he chose has secretarial experience only. Consequently, she has provided little support in HR or Legal matters, as she does not have the appropriate experience or education in those fields.”

“He continually out-sources work that that should clearly be expected to be within his ability to perform. Some invoices incurred have been in excess of ten thousand dollars. This causes the township to pay for a service he should already be providing. As our attorney, he brokered two property deals that the Township paid far more than the assessed values.”

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“He has demonstrated on numerous occasions that he is untrustworthy. For this reason, I have heard him discuss in meetings personal information regarding employees, that only the HR Director should be privy to. I am also uncomfortable referring staff to him for HR expertise. Since his hiring I feel that we have lost the element of the HR department that used to serve as a resource for our employees. He has shown disrespect and insubordination to board members. He has also shown disrespect to department heads, all level of staff and community members. In my observations he is especially disrespectful to females. He has allowed the board meetings to become unprofessional. He gives no advice on parliamentary procedure or how to run a meeting. He has allowed and/or even encourage the board to violate the OMA. The township never had these types of spectacles while Larry Dloski was the attorney.

“When pushed for answers, he gets angered and tries to intimidate employees by yelling at them. He has been known to get so angry in meetings that after yelling unprofessionally, he then storms out of the meeting.”

“Tried to create separation within a unified management union. Not a very team like move. At the end of the day, the Township board and Management group together represent the township (i.e. the same team). The entire contract negotiation process felt nothing close to a team setting or environment.”

“Has belittled, intimidated and disrespected subordinates.”

“He has had non-union personnel doing union work at both the management level and hourly level. He has utilized temporary personnel beyond the allotted time limits.”

“The Department meets expectations because the HR Specialist ensures that the benefits are done and handles employee needs. HR issues are being dealt with by department heads due to the fact that he is non-responsive to issues. Quite often these department heads have to do the research that he should be doing. Part-time employee health care requirements is a prime example.”

“As briefly state previously, he has continuously acted in his own self-interest rather than that of the Township. He and Mr. Addis were part of the selection committee for a new HR Director to replace Mr. Brogowicz following his retirement. They rejected qualified candidates for the position based upon the fallacy that the individuals did not complete the application for the position. Their statement make it seem as though these individuals deliberately omitted information. However, they disqualified these people because they typed the information as part of their resume and attached it to the application. They then indicated on the application of employment that should “see attached.” This is a standard practice at any place of business, yet this was used to reject several candidates who had multiple years of experience with other County, local and private companies. What was left were individuals who were not qualified for the position. These were the applications that were then forwarded to the Township for review to hire. This allowed Mr. Esordi to then present his plan for combining the positions of HR & General Counsel to save the Township money. As part of the contract approved by the board, MR. Esordi is allowed to hire any firm he wants to handle legal matters for the Township. With this authority he has given prosecution work to Paul Addis the son of Al Addis. Mr. Addis helped make the pitch for him to get hired. All attorney jokes aside this lacks even the most basic sense of morality. His actions in this were deliberate and manipulative of certain board members who believed that they were taken actions for the betterment of the community. Unfortunately, it has not worked out that way and as such the Township and the employees have suffered.”

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“Cost has been bantered about regarding the combining of the positions and how much the Township has saved from a monetary standpoint. I would argue that these numbers need to be looked at much more carefully with regard to ROI (return on investment) and what the Township spends for services. The Township does not have a knowledgeable HR Director that employees feel they can go to for assistance. Rather they see a combative personality always ready to attack and who will manipulate anyone they can in order to try and get their way. Lack of an HR Director causes department heads to spend more time dealing with HR matters thereby removing them from the defined duties that they have thereby impacting their individual departments. Late reviews delay the Township from taking actions on matters that affect businesses withing the community or looking to come to the community lost time means lost revenues. The Township is paying him a salary that he has not justifiably earned and one that he has been ungrateful for as he has been trying to get an even higher raise without having a review done of his job performance.”

“How is the human Resources Director supposed to be an advocate for employees if he shares duties that make him responsible for Township representation? If I have a problem with the township, how is he a neutral platform for me to proceed?”

“In regard to the position of Human Resource Director he has not implemented any new concepts. When a problem is brought to his attention he defers the question back to the department and wants to know how the department wants the situation handled rather than giving the appropriate guidance on how the situation should be handled for the greater good of the Township.”

“Have not had much experience with his role as legal counsel. As far as the role of HR director he has not provide the leadership and guidance that was provided under the former HR Director. Clearly these two positions should not be held by one person.”

“He shows no respect for many of the individuals in the Township. Mr. Esordi does not show an interest in seeking a collaborative working relationship with many employees in the Township. He speaks to many in a rather confrontational manner rather than in a cooperative manner. This is not limited to just the employees however, it has been a very negative perception with outside vendors, developers and the general public.”

“Mr. Esordi would not have been hired by this Township if it weren’t for Mr. Bucci. He has no skill set to perform the functions in which he has been tasked with. He is unaware of how to complete most of his job duties for both positions. He relies heavily on the opinion of others and hesitates to make decisions by himself so that he will not be held accountable for his actions.”

“This statement is absolutely opposite of how Mr. Esordi reacts and behaves. On many occasions he has shown no level of professionalism to others and has brought negativity to the Township due to his lack of professionalism.”

SUMMARY / CONCLUSION

Based on the totality of the circumstances there are numerous instances where “just cause” for the discipline of Mr. Esordi can be found in this matter. Moreover, given the amount and magnitude of the improper conduct and ensuing harm there is more than enough to constitute “just cause” for Mr. Esordi’s discharge”. Additionally, eliminating the current Human Resources Director/General Counsel position is a viable option for this Board to consider based upon the multitude of serious concerns expressed by numerous employees including virtually every department head.

Sincerely,

Dean T. Yeotis