

MINUTES

The Moon Township Board of Supervisors met in special session at the Moon Township Municipal Building, 1000 Beaver Grade Road, Moon Township, PA 15108. The meeting was called to order at 5:30 p.m., Vice Chairman Jim Vitale presiding. Supervisors present: Mr. Vitale, Mr. Eicher and Mr. Gribben. Also present: Jeanne Creese, Adam McGurk and Lisa Lapaglia.

Mr. Vitale said that the purpose of this meeting is to make a determination on our paid negotiator. He asked for discussion by the Board. Mr. Eicher said that since the Board's executive session last week, an email was received from Myron Sainovich that he interprets as his resignation. Mr. Gribben and Mr. Vitale said that they received that email, and that was their interpretation as well. Ms. Creese said that she would recommend that the Board make a motion to accept his resignation so it is on the public record. Mr. Eicher made a motion that the Board accepts the resignation of Sainovich & Santicola as our representative and Myron Sainovich as our lead negotiator for the labor contract. Motion seconded by Mr. Gribben. All Supervisors present voting yes, motion carried 3-0.

Mr. Vitale said that the second part of this action is that the Board is looking for a replacement. Ms. Creese distributed a proposal from Richard Miller, labor counsel at Campbell, Durrant and Beatty. The Township has long been a member of the Public Employers Labor Relations Advisory Service (PELRAS). As a member, the Township can get legal advice—up to six questions a year. The Township also gets a discounted rate for attending labor seminars or other programs they offer. It is likely that the Board is familiar with Mr. Miller as he is the speaker that they would see at the Local Government Academy and any other seminars they attend speaking about Act 111 contract negotiations. There are two firms that represent PELRAS—one on the eastern side of the state and one on the western side of the state. Campbell, Durrant & Beatty is the western representative. Since we are a member of PELRAS, we were able to get legal advice, talk to them about the contract, what we would do in this situation and how quickly they would be able to step in. She was able to speak to Rich Miller because we have that existing contract with him. She talked to him about whether he would be able to handle this situation and he said yes. He would be willing to step in and help us deal with this and gave his strategy for doing so. He also provided a proposal for his rate. He is charging us the member rate for PELRAS, which is \$185.

She also talked to Fred Wolfe of Tucker Arensberg. The Board does have a relationship with Tucker Arensberg for land use. That firm also has an attorney that exclusively handles labor relations. Ms. Creese said that she has experience working with Rich Miller and has seen him speak a number of times. She can highly recommend him; he is very good at what he does. She has also spoken with Fred Wolfe, knowing that he was the attorney that the Township used in the past. He has terrific references. He has an attorney that also does labor exclusively. She has no reason to think that they would not be able to come in here and excel as well. Mr. Wolfe was able to talk to her about this contract with the same familiarity that Mr. Miller can. Their rate is normally \$175 an hour. However, they were willing to discount that to \$150 for the Township because they are already here doing our land use. The Board needs to decide which strategy they want to take.

Whoever is brought in for this purpose will be highly scrutinized. Once the firm decided upon, this may be their sole responsibility. She has often used this strategy in the past where the firm used for the labor contract is all they are used for. While we have not used Tucker Arensberg for

a lot yet, the things that we have used them for are excellent. We are going to need them to communicate with Mr. Santicola and does not want that relationship to be adversarial. Either firm that the Board decides upon will not be a problem. We need someone to be able to represent us in negotiations (or arbitration, if we cannot achieve a settlement) who has that background knowledge to not only talk to her and the staff, but also to talk to the Board of Supervisors. It is more important to her that the Board has someone from this point on that is educated, that the Board trusts and will give them good advice. Staff can work with either firm.

Mr. Gribben said that is how it is done in the private sector. His company has a labor firm and that keeps things separate.

Mr. Eicher said that he feels that labor issues are a separate thing. You need someone that knows labor relations and will know the contract. Ms. Creese said she has always used someone separate for labor relations. However, she has not always used someone in a separate firm. If she has used the same firm, it is only because it is a huge firm that has someone completely separate so they never see that person other than in bargaining. But, for the majority of time it has been someone completely different. She does not want her police to ever have to appear in court and have someone defend them that they feel has an adversarial relationship with them at a different point. Rich Miller can be a "shark", if that is the Board's strategy. You do not want to negotiate something or lie to them because after your attorneys leave the room, these employees work with you every day and they work for you. We do not ever advocate bargaining where you have to leave the room because you cannot make an offer to them or look them in the eye. Both of these firms have high integrity and they will not do that.

Mr. Eicher suggested that the Board debate which of the two we use and then take a vote. The Board can then go into executive session to discuss strategy.

Ms. Creese said that is the other question that we would like answered tonight so that we can get started as we have a very limited timeframe to get back to the table. We need to start getting proposals on the table. With either of these firms, it will likely take about a week to get information to them and return things to the Board. We are also going to ask the Board who they would like to have at the table beside her and Lisa along with our labor counsel. She needs information on if an elected official is going to be sent to the table and, if so, who it will be. However, if the elected official takes a position in the negotiating session that is not the position of all five Board members, they come across as being the Board's voice. She would not normally recommend that an elected official be a part of the negotiations, but if the Board is going to put one or two into the negotiations, we need to make sure we have a better communications system than we did. She has done so both ways. Either of these firms will help accomplish that. But that also starts with how well the Board is communicating among the five members and back to she and Lisa. The Board needs to take a close look at that issue tonight. The Board needs to expect accountability from her and Lisa as well.

Mr. Eicher said that he is leaning toward Rich Miller. The reason for his preference is that when he attended the PSATS convention two or three years ago, he attended a workshop on labor relations. Rich Miller was the attorney that taught that class. PSATS draws from all over the state. He and Mr. Gribben are attending the Newly Elected Officials Course. The Local Government Academy had Rich Miller and another attorney from his firm make the presentation. From that experience, he can say that Mr. Miller presents himself very well in a public meeting and answered all the questions very well. Mr. Eicher said that he does not have any experience with

how Mr. Miller does in negotiations, but Ms. Creese has experience there. He is willing to make the motion for Rich Miller but is open for discussion on another choice.

Mr. Gribben said that Ms. Creese should have a say in who she would like to work with. At the end of the day, it is going to be Jeanne, counsel and support people. He thinks that is a big factor and that is a big reason in our being here tonight. He thinks we have put a good team forward and will negotiate in good faith; the old team wasn't doing it. On that basis, he liked Rich Miller's presence in the room. He thinks Mr. Miller is very professional. But, like Mr. Eicher, he does not have any experience with how he is in negotiations. Mr. Eicher said that we are going to vote tonight and will go away. Jeanne will have to get with that attorney, whoever it is, and sit down with the police. Jeanne knows Rich but if she would be more comfortable with an attorney from Tucker Arensberg, she needs to let us know. Ms. Creese said that, at this point, she is comfortable with Rich Miller because she knows his work. But she does not want the Board to take it that Tucker Arensberg does not have someone that can do that. She thinks that with Mr. Miller's reputation and experience it would be difficult for anyone to question what we are doing—either in the Township or elsewhere. At this point she would recommend him. The only other money we would spend beyond that is that we may contact Fred Wolfe and ask him for some advice on past contracts, since we do not have a lot of that information. That fact has hurt us somewhat historically. She has talked to both attorneys about this situation because she would like to preserve the good relationship that we have with Tucker Arensberg in these other areas. That ability to separate them is her recommendation to the Board. One of the things that is factoring into that recommendation as well is that she needs someone that can get in here with her tomorrow morning to get started. She knows Mr. Miller can work independently because she needs to get some of this burden off Lisa and off herself so that they can get their other duties done, including how far behind we are on audits. They are constantly asked if we need to bring in help to do these functions and move forward. Our answer is "no" if we were actually doing our jobs and doing them well for a lot of last year. They wasted so much time just repeating this same information over and over. If we get someone in here and move forward, that takes this matter off their plate and they can go back to what their jobs should be. That is her recommendation.

Mr. Gribben made a motion that we hire Campbell, Durrant, Beatty, Palumbo and Miller to represent our labor law needs for the police contract. Mr. Eicher said that we also want to make them our labor counsel. Ms. Creese said that we also have some serious labor questions that have been hanging that we need to have answered. Mr. Gribben amended his motion that we hire Campbell, Durrant, Beatty, Palumbo and Miller as our special labor counsel for all labor needs for the Township. Motion seconded by Mr. Eicher. All Supervisors present voting yes, motion carried 3-0.

Ms. Creese said that as long as we are discussing the matter of legal counsel, she asked the Board for clarification for her and Adam McGurk on what land use means. They are clear on the Board's motion that Tucker Arensberg handle land use matters, but there was some instruction and debate from Mr. Santicola on what that definition for land use means. We get a lot of land use questions that are generated in our office that we need to send to legal counsel. If we get a question that is generated from Mr. McGurk's department, that is land use. But how that is handled at the Planning Commission or how that is handled at the workshop meeting, we need to make sure that the staff and the Board are on the same page with how that is generating expenses. The Wal-Mart matter needs to remain with Mr. Santicola. Because he has done so much work on it, it does not make sense for him not to handle it. But in going forward, the Board needs to clarify it for the staff to make sure it is being communicated correctly. Mr. McGurk cited several examples. He said that it is obvious that Tucker Arensberg will be used for the upcoming

rezoning hearing. But if there is a simple subdivision, should his review letter be given to Mr. Santicola or to the new counsel. Mr. Vitale said that if it is land use, he would think it would go to Tucker Arensberg. Mr. Eicher said if it is something for which we will be reimbursed by a developer, it should go to Tucker Arensberg. A developer would certainly not want to be billed by two firms. Mr. McGurk said that we would not do that. But what about code enforcement? Ms. Creese said that it is not unusual to have a separate land use attorney and municipal solicitor. After discussion, Ms. Creese said that when it is a land use question, it is going to the land use counsel to get the opinion. But there may be a point when the matter gets finalized that the solicitor may need to look at it because he may be answering on the Board's behalf at a public meeting. We think that we can handle that matter internally; but we want to make sure that the Board is aware that there is a distinction. There may be a time where it is not so clear and we will need to ask for Board judgment. The place where we saw that there may be some confusion is there was an email from Mr. Santicola stating that he would handle the communication with Tucker Arensberg for land use. That did not seem to match the Board's motion nor would that match what we would recommend as a practice because every one of those communications generates multiple bills. We can only reimburse for one of those. That would not be particularly logical. Mr. McGurk said that code enforcement generally is a gray area, as it crosses into land use. Other examples include stormwater, property maintenance, and other things that Dave Meinert enforces. Mr. Gribben asks who writes the better legal opinion as he would think it would have to be very clear. Ms. Creese said that the Board will see that as they begin to come in. Ms. Creese cited some an example of a recent legal opinion from the solicitor that she and staff did not agree with. After discussion, Ms. Creese said that the only other matter on which she needs a Board decision is who they would like to send into negotiations with her and Lisa. All Board members had no objection to the manager determining who, if anyone, would go into the negotiations.

There being no further business before the Board, Mr. Eicher made a motion to go into executive session. Motion seconded by Mr. Gribben. All Supervisors present voting yes, motion carried 3-0. The Board went into executive session to discuss labor negotiations and negotiating strategies.

Respectfully submitted,

Janet L. Sieracki
Assistant Municipal Secretary