

RECORD OF PROCEEDINGS

Minutes of

GENOA VILLAGE COUNCIL SPECIAL MEETING

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held _____ April 27, 2010 _____ 20 _____

Council President Dave Adams called the meeting to order at 7:30 PM.

Roll called: present were: Mr. St Marie, Mr. Bittner, Mr. Lewis, Mr. Adams, Mr. Brown, and Mr. Hise.

Also present was Garth Reynolds, Village Administrator.

Agenda Item:

Special Council meeting to consider hiring Special Counsel for Investigation of the misappropriation of public funds on Tuesday April 27, 2010 @ 7:30 PM.

Dave Adams, President of Council opened the meeting with comments criticizing Mayor Williams for not having hired a Solicitor in a more timely fashion. If Council had the legal representation right now, we would not be sitting here tonight. Our solicitor two months ago gave us a 30 day notice and we should try and find someone else for the solicitor position. The mayor has set on his hands and has basically not done what he was elected to do. There is no reason for any Council anywhere in this state not to have legal representation. It hurts us up here and you out there. I just wanted to make that clear. I think if we would have had someone we could have talked to ahead of time we would not be sitting here tonight. With that being said, President of Council Adams acknowledged Mr. Hise.

Mr. Hise as it came to light to me in the last couple of months, there was a position created in the Village and with no apparent council approval. To create any additional personnel, there is a series of actions that need to be taken. First there has to be an ordinance on the book, second there has to be an appointment, third, well actually second there has to be an interview process, third there has to be an appointment, there has to be a job description and the administration up to this point has not provided anything to that fact. What they did bring, two months ago, was themselves and a promise that coming up to the personnel committee meeting this would be addressed these documentations. Personnel committee happened, an ordinance was brought up, and there is confusion upon effect on who or what this is for. Since we don't have legal representation at this point our job as council members is to address this. The way you address this is to bring this to proper authority. Proper authority in this respect is the Sheriff's office. And that's why we are having the meeting tonight, so there is no issue with regard to the Sunshine law all council is going to be addressed on this. The public is going to know because it is your money. There is a big difference between personal money and public money. That's all I have.

Mr. Bittner: I make motion that we continue this investigation.

Mr. Hise: Darryl, I have a, that I might read a motion that I have that I have already made up. I move to give this matter, with regards of misuse of public funds, to the Ottawa County Sheriff, Robert Bratton, and let his office determine what action is needed.

Mr. Bittner: I will second that motion.

Mr. Adams: Okay we have a motion to move this onward to the Sheriff's Office and a second. Is there anybody that has anything to say?

Mr. Lewis: Yes I do believe at this time, like you said, we have no legal representation and I don't believe that it should go the route that Eric's proposing at this time. I think it should be tabled or something until future time as we have a legal representative of our own to determine what is right for the Village.

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Mr. Hise: John, along with that, once an issue comes to your attention, which it has, it has to be addressed. We're not pointing fingers. We're not assuming anything. What we are having to do is come at this in a prompt manner to the appropriate parties, which is the sheriff's office. Any delay, in that, could come back to haunt me.

Mr. Lewis: This is your opinion?

Mr. Hise: No, this is case law.

Mr. Lewis: Show me.

Mr. Hise: I don't have case law with me.

Mr. Lewis: We don't have legal representation, so I'm going , right now on it's just your opinion.

Mr. Hise: John, it's been brought to our attention.

Mr. Lewis: I was at the meeting where it was brought up, and I saw an ordinance that they think may have been it.

Mr. Hise: No

Mr. Lewis: So therefore right now at this time, there are questions.

Mr. Hise: John, we can't investigate ourselves.

Mr. Lewis: The investigation needn't go anyplace right now. That is my opinion.

Mr. Hise: Motion is on the floor.

Mr. Adams: Anyone else with anything? Any comments?

Mr. St. Marie: Garth, I have a question I guess. The ordinance that was here the other night in the Personnel meeting, was that for a position that was created in '85? Or was that for the new position?

Mr. Reynolds: We've had two ordinances introduced. One was for the new position for the Assistant Park Director. Okay? Relative to the ordinances that were discussed the other night by Chuck Brinkman, those are existing ordinances. They are on the books. They are not new. And those were the ordinances that were being referred to in regard to this particular item.

Mr. St. Marie: Is it for the position that we are talking about? Because the other night you apologized and you thought that you had gotten an ordinance but apparently you hadn't.

Mr. Reynolds: I apologized for obviously the confusion we felt that when the decision was made it was an appropriate decision to make. And that was based on how we interpreted the ordinances in place okay? and we felt that it was correct. Okay? If we felt it had not been correct, obviously we would not have proceeded and we would have come to council. Now, I've written in here the sequence of events and items that address these issues. And there is apparently, from our mind from what's going on, Councilman Hise has his opinion on the ordinances, we have our opinions on the ordinances. And obviously there is a conflict here. Okay? There is some ambiguity within the ordinance.

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And I have addressed that in this information here that I would like to hand out to council, if, Mr. Adams feels fit.

Mr. Adams: I don't have a problem with you handing out that information to council, Garth.

Mr. Reynolds: Okay.

Mr. Hise: Uh, Dave....

Mr. Adams: There is a motion on the table, I know, and that's where we are going right now.

Mr. Hise: The administration has had plenty of time and dumps this catalogue in front of us at the decision hour and expects us to digest.

Mr. Adams: At this time we have a motion on the table to move this matter onward considering we do not have, see I'm with you on this John in a sense, we don't have legal representation. And because we don't we have to move it on to someone else I feel if we did we would have someone we could have discussed this with talked to and found out ahead of time. But the way things are being drug out, who know when we will. Which I am very upset about. As a council member and as a resident of this village. But at this time there is a motion on the table, and Mr. Reynolds if you would, call the roll please.

Mr. Reynolds: There's not been a second.

Mr. Adams: Yes, there was a second. Ah Darryl's second.

Mr. Reynolds: I'm sorry.

Mr. Lewis: I have something else to say. I have more discussion. What says that we have to take this on right now? Pass it on?

Mr. Adams: There's nothing says we have to. That's why the motion was made. And if the motion is turned down, then we do not.

Mr. Lewis: Okay, then could we table it?

Mr. Hise: John, in the nicest way, the respectful way there is no reason to table it. Everything in the village gets tabled. And we have citizens here, that I'm sure, are going to want this thing addressed now rather than later.

Mr. Lewis: Genoa's got a black eye enough now we don't really need to add to it right at this point without knowing what we're doing. You're asking me to vote on an issue that I don't understand. Yea or nay. It's an issue, it's a sensitive issue. It's a legal issue I don't know anything about it. You said you don't....

Mr. Hise: All the more reason to get it to proper authority.

Mr. Bittner: That is why we are going to send it to the sheriff or the county prosecutor to get their legal opinion on it. And if they say there is nothing wrong with what they did, it's dropped. If we continue to let it go, will continue to cost us money. She is illegally hired.

Mr. Brown: Is there anybody else that has been hired without an ordinance? I mean we just did the assistant park director. We had an ordinance for that.

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Mr. Adams: That was through an ordinance, yes.

Mr. Brown: So here we have a person that, an ordinance from '05?

Mr. Adams: As far I know everyone in the village has been hired through an ordinance or a job description that is on the books, that we are lacking. Now if an electrician, a lineman retires then there is a position for a lineman to be filled. The assistant park director we had to make the position because that was eliminated few years back so we had to recreate it that is why that was brought forth, with a position and salary range.

Mr. Bittner: That position that we are talking about is a very sensitive position anyways. Involving personal taxes, personal information on everybody. So we let it continue you never know what happens, what could happen. So I think we should proceed with it and let the sheriff and the county prosecutor have their opinion on it. If they say there is nothing wrong with the way it was done, so be it. Beings that we have no legal representation right now, why wait? Compound the problem.

Mr. Lewis: Well my feeling is if we had representation it could be handled here and not gone out.

Mr. Adams: If. Is the key word there John. And I agree. That's what I stated to open the meeting, I agree.

Mr. Bittner: If we had legal representation and we discovered that we did wrong, it would go to the prosecutor anyway.

Mr. Lewis: Okay, the other thing is my agenda says the meeting is to consider hiring a special council for the investigation and your talking going to the sheriff.

Mr. Adams: I did not make out the agenda. The administrator made it out presented it to me and that's what he was under the understanding, so...

Mr. Hise: John, I talked to the Mayor on Thursday about this he notified me that afternoon we had no legal council that's going take it on because he declined. This was supposed to have been out for Monday's meeting the Mayor then advised me he would be unable to attend due to a prior commitment. So, the administration is the one that came up with the text. But the end result is the same, it has to go to proper authority.

Mr. Adams: Basically, the special council now is the county that is free of charge compared to trying to hire a private investigation. If, from my understandings, if, I'm not a lawyer, if this if the county feels that this is appropriate what they will do with it will be an audit hired to run an audit on the village if the audit finds something then it will go back to them. Okay? So, if the prosecutor/sheriff's office feels there is nothing there they're not going to spend the money. If they feel there is something there, there is going to be an audit. If the audit doesn't find anything then it's dropped. If it does, goes from there. It's the start of a process that might never happen. But that's where it's at, I mean, exactly how that goes I'm not positive.

Mr. Bittner: Protect the money, and this is the way we do it. We just sit back and table it and leave it go and then...

Mr. Lewis: Has the money been wasted?

Mr. Bittner: It isn't being spent properly.

Mr. Lewis: The person is doing the work though.

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Mr. Hise: John, you have to follow the law. Just that simple

Mr. Lewis: Okay, we have no legal representation.

Mr. Hise: John, show me an ordinance. Better yet, show me the pay ordinance reflecting this position. It's not there.

Mr. Lewis: Well I saw one they thought was correct...

Mr. Hise: They thought. That's why we need to get it to legal representation now. Motion is on the floor. Will you please call roll call, Dave. So we aren't sitting around all night long.

Mr. Adams: Do you have more you want to add to this?

Mr. Reynolds: Yeah I think I would like to make a comment. And I appreciate Councilman Lewis' comments and the reasons for them, I have no problem with this council proceeding in this direction and certainly as an administrator I do not want anything tied to me that would leave any sort of a cloud and I would welcome this in order to make sure that does not happen. Thank you.

Mr. Adams: At this time we are going to request a vote. Would you please call roll for me, Garth?

Councilman Mr. St. Marie, Yes; Councilman Bittner, Yes; Councilman Lewis, No; Councilman Adams, Yes; Councilman Brown, Yes, Councilman Hise, Yes

Mr. Reynolds: Let the record show Motion passed (5-1.)

Mr. Adams: And ah

Mr. St. Marie: I would like to make a comment. You know I'm not happy we're here wish we weren't here on these circumstances but do feel this allegation should be checked out. That's all I have.

Mr. Adams: And since this was a special meeting this is all we have tonight. At this time...

Mr. Hise: Move to adjourn. Oh anyone wish to address council?

Mr. Adams: No. Special meeting. Cannot be done.

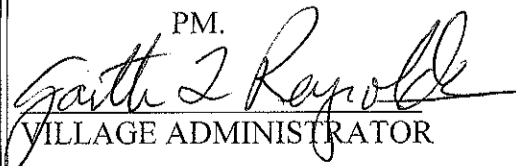
Mr. Bittner: I second. Adjourn

Mr. Adams: Roll please

Councilman Mr. St. Marie, Yes; Councilman Bittner, Yes; Councilman Lewis, Yes; Councilman Adams, Yes; Councilman Brown, Yes, Councilman Hise, Yes

Mr. Reynolds: Let the record show Motion passed (5-1.)

Mr. Adams: Thank you.

PM.

VILLAGE ADMINISTRATOR


PRESIDENT OF COUNCIL

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