

GOVERNMENTAL OPERATIONS COMMITTEE
Monday, July 31, 2017, 9:00 a.m.
MINUTES



CALL TO ORDER

Chairperson Nolden called the Governmental Operations Committee to order at 9:02 a.m.



ROLL CALL

Roll Call.

Present: Nolden, Ellenburg, Courts, Young, Shapiro, Cousineau, Henry, Martin.

Absent: Clack, Henry.



Chairperson Nolden stated he was adding a closed session at the end of the meeting.

Motion: To add closed session.

Action: Approve, **Moved by** Ellenburg, **Seconded by** Cousineau.

Vote: Motion passed (**summary:** Yes = 6, No = 1, Abstain = 0).

Yes: Courts, Cousineau, Ellenburg, Martin, Nolden, Shapiro.

No: Young.



MINUTES – July 17, 2017

Motion: To approve the minutes of the July 17, 2017 Governmental Operations Committee meeting, as presented.

Action: Approve, **Moved by** Young, **Seconded by** Ellenburg.

Motion passed unanimously.



PUBLIC COMMENT TO COMMITTEE

Roy Webber, Chief Deputy Register of Deeds, requested the Committee go into closed session to discuss his personnel matter.

Commissioner Henry entered the meeting at 9:04 a.m.



John Gleason, Clerk/Register of Deeds, commented regarding Roy Webber's compensation.



COMMUNICATIONS

Human Resources – Chief Deputy Register of Deeds Unit Clarification

Ms. Galajda stated that she received this morning the final letter from MERC that they adopted the recommendation from ALJ as written. As of July 7th, the position was removed from the bargaining unit by MERC. She stated that the commissioners need to now decide some things: rate of pay, benefits come from personnel policy manual, and overtime is exempt. The other changes would be exempt from overtime, life insurance is \$100,000 instead of \$50,000, short-term and long-term disability rates are different. That's about the only differences between the two positions.

Chairperson Nolden commented that he does understand that prior to this determination that Mr. Webber had worked a considerable amount of overtime and that was part of the issue going forth that he wanted to be paid back pay. Ms. Galajda stated that there is going to be discussion regarding back pay. As an appointed exempt, he would not have received overtime – he would have gotten his annual salary as it was set. The difference in pay between the previous chief deputy register of deeds and the current chief deputy of register of deeds comes out to about \$9,000. The difference he made in overtime comes out to about \$25,000 and this is just from January. November and December is not included.

Commissioner Young commented that there was some clarification that needed to be done through MERC to determine what category or classification this position was. The request to remove this from a union position and make it exempt originated through Register of Deed Gleason's office. That is one of the things that we have prior history that says we couldn't do that and then as part of the process Clerk/Register of Deeds requested clarification. There was a lot of concern by Commissioner Cousineau at one of our earlier meetings that if we did do any resolution that it would include back pay back to when Mr. Webber originally came in to his position. He doesn't know what promises were made to the Clerk/Register of Deeds by Corporation Counsel. The only thing is it's this board that has to make some of these decisions and he thinks they are the ones that legally can make those decisions. His statement that they made promises to him I don't know if that is accurate. I'm not saying it's wrong. I just think there was probably a misunderstanding there. He further stated that he's always been willing to give the pay back retroactive to when Mr. Webber was hired. I would make that motion but again that makes him exempt from overtime—the overtime would have to be subtracted from whatever gain he has on that too going forward. You can't have the best of both worlds in this process. Commissioner Henry stated he would support that. Commissioner Cousineau stated he would too.

Commissioner Courts stated that she wanted to make it clear that we were waiting for the letter from MERC before we made that final decision and didn't do something before we should have.

Ms. Galajda stated that MERC is the commission that can remove positions from a bargaining unit. You're calling it "back pay", but my position is that the position wasn't removed from the bargaining unit until July 7, once this order to effect.

Commissioner Shapiro asked for Clerk/Register Gleason to speak.



Clerk/Register Gleason stated he wanted to thank you and thank you particularly because too many times we talk first and then you speak and then you make a decision without us having a chance to _____ what is discussed. My initial remark was that we have to get the hiring process right. When I first took office, my chief register was in the union and made close to \$30,000 in overtime as a salaried/union person. So this is not the first time that we're talking about this stuff. We just need to sit down and get the facts right and figure how we're going to hire people and how we're going to pay them. Now, Roy asked to go into closed session—we're talking about his position, and once again, it gets off track in the discussion that is undertaken now. Roy has asked to go behind closed doors to have this discussion. He has that right. When you start talking about his pay and compensation, he gets to go back there. We have to start doing things the right way in this County. We have already laid the track. I'm telling you I was on the phone call with Roy Webber and Celeste Bell. She said "please, whatever you do, don't sue". I agree that we have had too many lawsuits in this county, but eventually you have to sue to get things right. I want to thank the commissioner. I think anytime you have an elected official who holds a constitutional office and you start discussing facts that you give that individual another chance at this microphone. The track was already set with Shannon Cooper. She had the same position Roy does and she got both. I think that we have too many lawsuits. When I first took this office four years and six months ago, I said that we've got to do things a little bit better, a little bit different. Roy was promised that his pay would be right January 1st—it should be right January 1st, but it never should be wrong. You already set the track with Shannon Cooper and you already set the track with Roberta Sacharski by paying her her pay. I know there are five new ones. They didn't limit Roberta Sacharski's pay to what the union position stated it should be. Let's move forward and get things right. That's all we're asking—just do it right. If that's what our policy is then follow the policy. I do think that Mr. Webber's rights were violated when he said he wanted to go behind closed doors and talk about his compensation. I believe you should have done that. Thank you.

Commissioner Cousineau stated he would agree with Mr. Gleason that employees have rights and we should go into closed session.



Chairperson Nolden asked Corporation Counsel Bell to comment and give clarification to what she just heard.

Corporation Counsel Bell stated that there were conversations between herself and Mr. Webber and Clerk Gleason. I'm sure all of you know me better than I, of course, did

not make any promise that money would be paid or that there is any date attached to this. Our legal opinion stood behind it at the time and had a lot to do with the conversation. We have since updated our opinion based on the MERC decision. The office position has changed regarding Mr. Webber's status. The other thing that I think I need to comment on that it is certainly is Mr. Webber's right under the Open Meetings Act to request a closed session for certain discussions: dismissals, suspensions, disciplining of, or hear complaints or charges brought against a public officer. It actually does not specify that he has the right to negotiate his salary in closed session. More importantly, it is the Board's decision whether to go into closed session. He can make a request. It's your decision whether to grant or deny the request. Having this discussion is not violating any right that he has.

Commissioner Martin stated that he agrees that they waited for the letter from MERC and is sorry that there was a delay, but that's the way it is. Even though we waited for the letter from MERC, we should do no harm to Mr. Webber.



Chairperson Nolden stated that if we decide to go back and pay him the back pay and if we go back to the initial date he stated and he is receiving more compensation than what he is entitled to we're going to open up Pandora's box, I really believe. I know we need to have some discussion about that. This is my personal belief and am really concerned about that. Chairperson Nolden asked Commissioner Young to restate the motion.

Commissioner Young restated the motion: as requested, to recognize effective his hiring date for this position to pay him the higher rate of pay, which also recognizes that it's an exempt position

Commissioner Cousineau asked for clarification as to the adjustment of overtime.

Commissioner Young stated it would take off the overtime as being an exempt position.

Chairperson Nolden stated he cannot have it both ways.

Motion: To approve, effective Roy Webber's hiring date for this position, to pay him the higher rate of pay, which also recognizes that it's an exempt position.

Action: Approve, **Moved by** Young, **Seconded by** Henry.

Vote: Motion failed (**summary:** Yes = 4, No = 4, Abstain = 0).

Yes: Ellenburg, Henry, Nolden, Young.

No: Courts, Cousineau, Martin, Shapiro.

Ms. Galajda stated that as of July 7 her office recognizes the MERC ruling that the position is no longer in the bargaining unit. It will be recognized as exempt appointed. HR needs direction from this board. We need to know what the rate of pay is. If we have no other direction, we will leave it as is. We will have to go back to July 7th to see if there was any overtime.

Motion: To recognize the position effective July 7th and to adjust the rate of pay effective July 7th, without overtime, at the pay of previous employee in that position, Roberta Sacharski.

Action: Approve, **Moved by** Young, **Seconded by** Martin.

Commissioner Cousineau would like to go into closed session.

Motion: To approve going into closed session.

Action: Enter closed session, **Moved by** Cousineau, **Seconded by** Shapiro.

Motion withdrawn by Cousineau.

Assistant Corporation Counsel MacMillan asked to confer with Corporation Counsel Bell.

Prosecutor David Leyton stated the statute regarding closed sessions. "A public body may meet in a closed session only for the following purposes: to consider the dismissal, suspension, or disciplining of, to hear complaints or charges brought against, or to consider a periodic personnel evaluation of a public officer, employee, staff member or individual agent if the named person requests a closed hearing." Mr. Webber requested a closed hearing. "The person requesting the closed hearing may rescind the request at any time in which case the matter at issue shall be considered after the rescission only in open sessions."

Discussion ensued and it was decided Mr. Webber does not meet the criteria to go into closed session. Commissioner Cousineau withdrew his motion.

Commissioner Cousineau stated he wouldn't be able to support the current motion on the table, but would be able to support the previous motion that he voted no on earlier.

Motion: To recognize the position effective July 7th and to adjust the rate of pay effective July 7th, without overtime, at the pay of previous employee in that position, Roberta Sacharski.

Action: Approve, **Moved by** Young, **Seconded by** Martin.

Vote: Motion passed (**summary:** Yes = 6, No = 2, Abstain = 0).

Yes: Courts, Ellenburg, Henry, Martin, Nolden, Young.

No: Cousineau, Shapiro.



OLD BUSINESS

None



NEW BUSINESS

G073117VIIA: Prosecuting Attorney: Request approval of overnight travel for up to four employees assigned to the Family Support Division to attend the Michigan Family Support Council 2017 Annual Fall Training Conference for the period of October 4-6, 2017 in Harbor Springs, MI at a cost not to exceed \$1,600.00 – Attached (ROLL CALL VOTE REQUESTED)

Motion: To approve overnight travel for up to four employees assigned to the Family Support Division to attend the Michigan Family Support Council 2017 Annual Fall Training Conference for the period of October 4-6, 2017 in Harbor Springs, MI at a cost not to exceed \$1,600.00.

Action: Approve, **Moved by** Young, **Seconded by** Courts.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Courts, Cousineau, Ellenburg, Henry, Martin, Nolden, Shapiro, Young.



G073117VIIB: Office of Sheriff: Request approval to accept a Homeland Security grant through the Regional 3 Homeland Security Protection Board in the amount of \$86,500 for an upgrade to the Emergency Operations Center (EOC) – Attached

Motion: To approve request to accept a Homeland Security grant through the Regional 3 Homeland Security Protection Board in the amount of \$86,500 for an upgrade to the Emergency Operations Center (EOC).

Action: Approve, **Moved by** Henry, **Seconded by** Martin.

Motion passed unanimously.



G073117VIIC: Human Resources: Request approval of the NVA contracts for two retiree plans for coverage beginning January 1, 2018 – Attached

Motion: To approve the NVA contracts for two retiree plans for coverage beginning January 1, 2018.

Action: Approve, **Moved by** Young, **Seconded by** Henry.

Motion passed unanimously.



G073117VIID: IT Department: Request approval to accept the renewal quotes for Software Assurance for the County's Mitel phone system and ESNA voice mail – Attached (ROLL CALL VOTE REQUESTED)

Motion: To approve the renewal quotes for Software Assurance for the County's Mitel phone system and ESNA voice mail.

Action: Approve, **Moved by** Courts, **Seconded by** Young.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Courts, Cousineau, Ellenburg, Henry, Martin, Nolden, Shapiro, Young.



G073117VIIIE: IT Department: Request approval of overnight travel for two employees to attend the MiGMIS (Michigan Chapter – Governmental Management Information Sciences) annual conference for the period of September 10-13, 2017 in Harbor Springs, MI at a cost not to exceed \$1,144.16 – Attached (ROLL CALL VOTE REQUESTED)

Motion: To approve overnight travel for two employees to attend the MiGMIS (Michigan Chapter – Governmental Management Information Sciences) annual conference for the period of September 10-13, 2017 in Harbor Springs, MI at a cost not to exceed \$1,144.16.

Action: Approve, **Moved by** Henry, **Seconded by** Cousineau.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Courts, Cousineau, Ellenburg, Henry, Martin, Nolden, Shapiro, Young.



G073117VIIF: Veterans Services: Request approval of overnight travel for two employees to attend the Michigan Association of County Veterans Counselors Fall Conference for the period of September 14-15, 2017 in Bay City, MI at a cost not to exceed \$350.00 – Attached

Motion: To approve overnight travel for two employees to attend the Michigan Association of County Veterans Counselors Fall Conference for the period of September 14-15, 2017 in Bay City, MI at a cost not to exceed \$350.00.

Action: Approve, **Moved by** Henry, **Seconded by** Cousineau.

Motion passed. Shapiro opposed.



G073117VIIG: Controller's Office: Request approval of August 2017 overtime requests in the amount of \$115,691 – Attached (ROLL CALL VOTE REQUESTED)

Motion: To approve August 2017 overtime requests in the amount of \$115,691.

Action: Approve, **Moved by** Henry, **Seconded by** Young.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Courts, Cousineau, Ellenburg, Henry, Martin, Nolden, Shapiro, Young.



Commissioner Young stated he was reviewing Robert's Rules of Order and it says "when voting by any method except by ballot if the result of the vote has been declared you can change your vote but only with the unanimous consent of the assembly without debate". Commissioner Cousineau had requested to change his vote. If he still wants to on the original issue regarding the exempt position, which would change it from a four to four tie, if everybody here agrees to. This is not open for debate—this is just a yes or no whether or not you're going to recognize another commissioner's right to change his vote. I would ask for us to vote whether or not we will recognize to change his vote if he still wishes. I'm trying to be respectful of the commissioners. Commissioner Cousineau stated he does wish to change his vote.

Motion: To allow Commissioner Cousineau to change his vote regarding the Chief Register of Deeds' issue.

Action: Approve, **Moved by** Young, **None seconded**.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Courts, Cousineau, Ellenburg, Henry, Martin, Nolden, Shapiro, Young.

Commissioner Young stated that that the original motion to recognize Mr. Webber's position back to his hire in date in November as an exempt position which would remove him from the overtime and give him a higher rate of pay as his predecessor had, and would nullify the second vote which was to recognize it as a July 7th.

Commissioner Young asked if that statement was correct. Chairperson Nolden and Mr. MacMillan agreed to the restated motion. Chairperson Nolden asked if we needed another vote. Commissioner Young stated no.

VOTE WITH COMMISSIONER COUSINEAU CHANGING HIS VOTE (MOTION RESTATED BY COMMISSIONER YOUNG ABOVE)

Motion: To approve, effective Roy Webber's hiring date for this position, to pay him the higher rate of pay, which also recognizes that it's an exempt position.

Action: Approve, **Moved by** Young, **Seconded by** Henry.

Vote: Motion passed (**summary:** Yes = 5, No = 3, Abstain = 0).

Yes: Cousineau, Ellenburg, Henry, Nolden, Young.

No: Courts, Martin, Shapiro.



OTHER BUSINESS

Closed session – *John Gleason vs Genesee County*, Case No. 16-107118

Assistant Prosecuting Attorney/Corporation Counsel Brian MacMillan stated the Open Meetings Act statement.

Motion: To approve going into closed session.

Action: Enter Closed Session, **Moved by** Cousineau, **Seconded by** Courts.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Courts, Cousineau, Ellenburg, Henry, Martin, Nolden, Shapiro, Young.

Closed session began at 9:48 a.m.

Open session began at 10:42 a.m.



Motion: To approve following the recommendations of Corporation Counsel in *Gleason vs Genesee County*, Case No. 16-107118.

Action: Approve, **Moved by** Young, **Seconded by** Henry.

Motion passed unanimously.



ADJOURNMENT

Motion: To adjourn the Governmental Operations Committee meeting.

Action: Adjourn, **Moved by** Nolden, **Seconded by** Henry.

Motion passed unanimously.

Chairperson Nolden adjourned the Governmental Operations Committee meeting at 10:43 a.m.

Transcribed by:

Kimberly L. Cunningham

Secretary/Stenographer