

Webber Township

2286 W. Springtime St.
Baldwin, MI 49304
Special Meeting
April 3, 2024
231-745-3471

Call to Order: 10:00AM

Pledge of Allegiance

Attendance: Kelly McCune-Here, Pat Williams-Here, Deb Hanes-Here, Dan Cousar-Here,
Ernie Wogatzke- present

Business at hand: Disciplinary hearing for Jackie Jacobs and Andrew Harter.

Ernie recused himself on the first complaint against Jackie Jacobs. He stated the board must go by the Planning Commission By Laws which describes malfeasance, misfeasance, and nonfeasance, and not the Employee Handbook. The complaints will be read and the employees may choose to go into closed session to discuss the charges against them with the board.

As Ernie had recused himself Deb Hanes read Ruth Riley's charges against Jackie Jacobs and Andrew Harter's report of the incident. At this point Jackie Jacobs request closed session.

Motion to go into closed session made by Deb with support by Pat. 4 Aye votes, 1 Abstain.
Motion carries. Board went into closed session at 10:12AM.

Motion to return to open session made by Deb with support by Kelly. 4 Aye votes, 1 Abstain.
Motion carries. Board returned to open session at 10:59AM.

Andrew was asked to read his complaint against Jackie Jacobs. Deb explained Andrew did not file a complaint. As Planning Commission Chair, Andrew was asked to prepare a written report on the incident, per Township Personnel Disciplinary protocol.

Motion to table discussion regarding the complaint against Jackie Jacobs by Ruth Riley till later in this meeting made by Pat with support by Kelly. 4 Aye votes, 1 abstain. Motion carries.

Andrew stated if the complaints against him were read in open session, he will respond in open session.

Open discussion on Jackie Jacobs' complaints against Andrew Harter. Pat Williams read Jackie's complaints.

Dan Cousar stated that any complaint needs to meet the threshold of Malfeasance, Misfeasance, or Nonfeasance. He asked Jackie Jacobs which of her three complaints violated the Planning commission Bi-laws, and which section was violated in each. Jackie was asked for a response. She stated she had nothing to say.

Deb Hanes addressed #2 on Jackie's complaint regarding Andrew contacting the ZAs other employers regarding his performance. Deb stated that anyone can ask this info at any time. If

they are requesting written info or reports, they must file a FOIA, in fact Chris' time sheets have been FOIA'd several times prior to this time. This is public info and readily available to anyone. It was also pointed out Andrew was reaching out to the other townships in support of our ZA to refute allegations by members of the public accusing Chris of misrepresenting hours he had worked. Allegations that had already been refuted by the Township Clerk who was also in the office on Christmas Day and witnessed Chris in his office.

Jackie stated this was not a Planning Commission complaint. She felt Andrew went too far by reading his letter in support of Chris at a Planning Commission meeting. If the comments by the public were made at a board meeting, he should have addressed it at a board meeting. Deb agreed, and Jackie continued to state if this matter was on the agenda and a part of a Planning Commission meeting then every member should have received a copy of the letter prior to Andrew reading it. Dan asked what by-laws were broken by him doing this. Jackie did not know. Dan stated he was asking because when charges are brought against someone it must be back up with how the action violated the rules that were broken. The discussion turned to whether or not it was a chargeable offense to fail to provide copies of an agenda item to all commission members. It was decided it is not.

At this point Andrew Harter read his response to Jackie's charges. He began by stating he felt all charges were retaliatory.

Regarding charge #1: At no time did he make ultimatums or accusations.

Regarding charge #2: He did defend Chris on 3/4/24. He had asked Chris' permission to contact his other employers. Chris gave his permission and had advised his other employers that Andrew would be contacting them. Andrew also advised Jackie on 2/15/24 what he was planning to do in support of Chris. Andrew also read the letter he had read in the Planning Commission meeting in support of Chris.

Regarding #3: Andrew did not direct his expletive toward a member of the public. He had stated to Jackie that he didn't appreciate her using the F word. Note: it was confirmed via Jackie's recording that she did not use that word. Her comment "It's talked out" was misunderstood as "It's F'd up".

Andrew also advised the board and public he has tendered his resignation from the Planning Commission effective 4/10/2024. He thanked the board for the pleasure of serving the Township.

Dan asked Jackie if she had anything to say regarding her complaints against Andrew, especially Andrew has refuted each one and we need proof they are legitimate complaints. Jackie replied she stands on her claims and feels Andrew's rebuttal was a personal attack on her, and she doesn't have any more to say on the matter.

Dan asked her for proof of her claims. She was upset because she feels she has to prove her complaints but Andrew doesn't have to prove his rebuttal. Dan explained that according to MCL125.3B15 any complaint launched must be a legitimate complaint, it cannot be a retaliatory action. Ernie initiated a discussion regarding providing copies of agenda items to all Commission members. It was determined that Andrew not providing a copy of his letter regarding his support of the ZA did not meet the threshold of malfeasance, misfeasance, or

nonfeasance. It was mentioned the complaint against the ZA was made at a board meeting and should have been addressed at a board meeting, not Planning meeting. It was determined it should have been address at a board meeting, however, this is not a chargeable offense.

Ernie was reminded he had recused himself and needs to refrain from any discussion regarding Jackie Jacobs.

Dan explained the legal ramifications of filing false or retaliatory complaints against another person. That is why we need to verify Jackie's claims are valid. All three claims were again reviewed. Andrew again read his response to charge 1 in which he states he did not demand Jackie to stop posting about Sheriff Martin. He did state they made him uncomfortable and if she didn't refrain he would feel it necessary to resign from the Planning Commission. Jackie contended she felt that was a demand for her to stop posting and a threat that he would resign if she didn't. Again Dan asked what charges were malfeasance, misfeasance, or nonfeasance. Pat stated Jackie's charge that Andrew demanded she stop posting about Sheriff Martin was her claim, however he stated her posting made him feel uncomfortable.

Ernie read the definitions of malfeasance, misfeasance, and nonfeasance.

Kelly stated she believes we have what we need to show these charges are not valid. Dan again brought up the severity of filing false charges against another person. Deb stated she did not believe Jackie intentionally filed false charges. She was acting on her feelings. A discussion ensued regarding false charges. It was agreed and a motion was made by Pat that the charges made by Jackie Jacobs against Andrew Harter do not meet the criterion of Misfeasance, Misfeasance, or Nonfeasance. Support by Kelly. 4 Aye votes, 1 Abstain. Motion carries.

Kelly made a motion to untable the disciplinary action discussion regarding Jackie Jacobs. Dan supported. 4 Aye votes, 1 Abstain. Motion carries.

The board took some time to thoroughly read the information received by our attorney prior to the meeting. It was agreed to allow Ruth some time for comments as everyone else has had time to speak. As the conversation resumed Jackie was not in the building. It was decided, since it was her choice to leave her own hearing, we would proceed without her present. Ruth read from the Planning Commission By-laws and noted sections indicating Jackie's actions at the 3/4/24 meeting where she made an obscene gesture met the threshold of malfeasance. She read the definition of malfeasance. She detailed the events of that evening. Dan asked if anything happened that night that would have provoked Jackie into making this gesture. Ruth responded, No. Jackie then stated there was provocation, as there is at nearly every meeting with negative comments and eye rolling. The Zoning Administrator then spoke on Jackie's behalf stating comments had been made directed at Jackie. Ruth then asked Andrew if she had interrupted the meeting with any comments, etc. He stated she had not. There was a discussion as to how exactly the gesture was made and how obvious it was, then about Jackie's attitude. Kelly spoke up on Jackie's behalf stating what a good PC Secretary Jackie has been. She also stated everyone has a breaking point, however what Jackie had done is not acceptable. The standard you are willing to walk past is the standard you are willing to accept. Kelly stated she is not willing to accept this standard and recommended that Jackie be removed from the Planning Board due to misfeasance of the By-laws. Pat stated, per our attorney, Jackie committed nonfeasance by not respecting the public and maintaining professionalism required by the by-laws. Kelly read a definition of misfeasance and malfeasance.

Dan stated, based on the attorney's information, we are not here to terminate Jackie. We are here to determine if there are valid charges and what the appropriate discipline may be. Not simply to terminate her. He stated Jackie had admitted to making the gesture, he then asked her if she was right to make the gesture because she felt provoked and if she had anything more to say about it.

. Jackie said she said all she had to say in closed session. She has nothing more to say. She is not making excuses for it, even though it was provoked it wasn't right, but she did not say or do all the other things Andrew had accused her of. Ernie then asked her if she would apologize. She said, "I could apologize, if that's what you're asking me to do." She then went into an apology. Ruth took exception to the fact Ernie had to ask Jackie to apologize and stated she did not accept it. Ernie was again reminded that he had recused himself early in the meeting, but continues to speak.

A member of the Planning Commission then spoke up and stated that Jackie had been visibly distraught during the entire meeting that night. She obviously was dealing with something that night and whatever happened just pushed over the edge. It was also pointed out that Jackie has taken personal abuse from the public in nearly every meeting, and the Employee Handbook quoted in Ruth's complaint has not been signed by the employees yet. Kelly mentioned that it is unfortunate, but we all have choices. If she was feeling provoked she could have simply excused herself. We all need to maintain professionalism while representing the Township. We all face abuse from the public, but we must conduct ourselves properly.

Ruth also responded stating she also took abuse from the public while she was on the Planning Commission, but was able to conduct herself respectably. She also stated if you don't want to use the current Employee Handbook as a reference to employee conduct, there were handbooks in force back to 2016 that all include the same language regarding employee conduct and ethics. Kelly stated she stands by her previous recommendation.

Deb said she believes disciplinary action is due, but hesitates to go directly to termination. There is normally a procedure that calls for verbal or written warning with verbiage that repeating the action would result in termination. In the name of fairness and possibly legality, Deb believes we should pursue discipline less than termination at this time and possibly several meeting suspension. Pat agreed with Deb but said she is really bothered that Jackie only apologized after being prompted to after it had been discussed in closed session. She was given an opportunity to do so when we resumed open session, but said she had nothing to say. She is sitting in this meeting not engaged, she is blaming others, Pat agrees that this doesn't warrant termination, but if things don't change termination would be in order.

Dan then said he feels this can't just be brushed away, something needs to be done so it is clear this type of behavior is not appropriate and won't be tolerated. He also said a statement from Andrew's report struck him as important, even though he wasn't sure it was appropriate for Andrew to suggest potential disciplinary action. He stated from Andrew's report, (paraphrasing) Jackie seems to be under a lot of stress at the present time and had suggested she take some voluntary time away from the Planning Commission to get herself together and come back renewed. Dan felt time away may be helpful. He thought perhaps putting a written statement in her file and perhaps some time off would be adequate. He added, our attorney had advised we do not have to go to the most severe end. It's clear there was a violation and he would also like to see ownership, a sincere apology to make her employer feel comfortable this type of action

won't happen again, because it's clear the anger is still there. Dan believes the only way to get rid of the anger is either termination so you can eliminate it, a few meetings off so there's a separation so she can get her head together, or everybody just decides everything is fine and looks the other way and this isn't brought up again. He believes this warrants something in her file, time off to gather herself together and change her attitude. He acknowledges there are several problems within the Planning Commission but he asked Jackie if she is able to conduct herself appropriately going forward and won't be flipping people off during board meeting in the future. Jackie answered, "Yes, but if what you decide is to take some time off, then I'll put my resignation in." Dan asked if one of the steps in discipline is time off. Deb responded, Yes, and told Jackie we will not take a threat. Jackie again repeated, "If you choose to not have me go to planning meetings anymore and not do my job, I'll put my resignation in. Deb asked her when she will tender her resignation. Jackie's response was, "whenever." Dan said that is an ultimatum and Jackie disagreed. Dan said telling us either we do something along your lines or you'll resign is an ultimatum. She replied, "I'm sorry you feel that way." Pat asked, but if you don't go to two meetings?" Jackie replied, "If that's what you decide, you'll have my resignation!"

Jackie became argumentative claiming everyone in this building should be treated the same. It was pointed out by Dan that no one else had given the middle finger to a member of the public. We are trying to be as fair as possible regarding the issue at hand. At that point Jackie mentioned that Nikki had yelled obscenities in the office. Nikki clarified that she had been given a verbal warning and had apologized to all involved immediately afterward, prior to her verbal warning.. Jackie felt it unfair that Nikki was able to go back to work and she can't. Pat commented this is a large part of the problem. She is not taking accountability for her actions. Jackie said she is taking accountability she had admitted that she did do this, but didn't do A, B, and C. Dan clarified that the only issue that is being addressed here is the one she had admitted to. Nothing else. Our attorney gave us latitude as how to handle this issue. Termination is not being recommended but she is trying to tie our hands by stating she won't accept disciplinary action and threatening to quit if we discipline her. He went on to say he doesn't know if it's appropriate for an employee to tell her employer what discipline she will accept. He reminded her that a few meetings off is not termination. He understands she was going through a lot, but putting her right back into a stressful situation probably isn't the best thing for her. Deb stated that this attitude goes along with Dan's statement. Jackie doesn't believe she has an attitude. She doesn't feel discipline is being fairly administered among employees. Dan explained that not all discipline is the same. It is dealt out according to the incident. Not all issues are as severe as others. Jackie said, then I should have just thrown a cow and yelled and screamed at Ruth, then my bad, and I would have gotten a verbal warning. At this point Pat said, OK, let's finish this.

Pat made a motion to give Jackie a written warning with a two meeting suspension. Deb seconded the motion. Jackie asked what we meant by a bad attitude. Pat responded, "I think when you're talking to your employer you don't say how you'll have it done and that's it. You don't say that to your employers. You say I'll be glad to work with you." Deb added you accept the discipline and move on. Jackie said if the discipline was fair and equal among all employees she'd accept it, but it isn't. At this point Kelly made the statement there is a motion on the table, we need to vote on it. Roll Call: Kelly-No, Pat-Yes, Dan-Yes, Deb-Yes, Ernie-Abstain. 3 Yes votes, 1 No vote, 1 Abstain. Motion Carries.

Questions were asked who will write up the written warning and who will take over as Planning Commission Secretary for these two meetings. It was Decided Deb will write up the warning and the secretary position will need to be addressed.

Public Comments:

A member of the public stated he thought the board made a mistake because we hadn't considered Chairman Harter's feelings on this matter. They haven't always seen eye to eye, but he feels Chairman Harter is doing a great job. Chairman Harter had stated he wouldn't be willing to continue to work with a person like this. Board members advised the public that Chairman Harter has already tendered his resignation letter. The gentleman stated it was a shame we were willing to lose a good chairman and leave someone like this on the board. Deb said it was a matter of procedure and she was reminded this was public comment time.

Chairman Harter then spoke. He admonished Ernie for recusing himself at the beginning of the meeting but then continued to speak throughout the meeting. He did not feel that appropriate. He thanked the board for seeing his side on the retaliatory accusations levied against him. He apologized that his last meeting was a mess and took personal responsibility for it. It will never happen again. He agreed with Pat that Jackie is completely disengaged. She was texting. No apologies, no remorse or taking accountability. Stepping out of the meeting to have a smoke once or twice. That's not someone who cares about their job. He can't be a member of a Planning Commission with people like that. He can't get anything done. The Planning Commission at this point is dysfunctional. He's disappointed we decided to keep her on because we know in our hearts she's not going to change to get better. He told Jackie since she threatened to resign he hopes she will because as a taxpayer in this community he doesn't want her on the Planning Commission. He apologized for his personal comments, but said it's how he feels.

Another member of the public spoke up in support of Chairman Harter saying he put teeth in the planning board and she has come to respect him.

Dan then spoke up and said Chairman Harter is not resigning because we are not going to accept his resignation. and Jackie is coming back better, and they are going to learn to work with each other. We have no reason to accept his resignation because of all the positive comments that were just made about him. He hopes Andrew and Jackie can come back and work together.

Another member of the public spoke up saying he and Andrew don't see eye to eye on many things but feels he did a great job and he doesn't believe things will change with Jackie.

Ruth Riley, who made the formal complaint against Jackie, asked Ernie if he had spoken to our attorney about this matter after receiving this complaint. He responded Yes he did. She asked why because he was to recuse himself from this matter. Deb spoke up stating the board realized this was happening and has spoken with the attorney asking him to deal with board members only, that Ernie has recused himself from this matter. Deb also mentioned she had spoken with Seth, our attorney, with concerns that he is advising both sides appearing as a conflict of interest. Both Seth and Jackie stated they have not spoken, but Ernie has spoken with him about this matter after recusing himself. Ernie said he spoke with the attorney for protection for the Township. He was told he needs to leave this matter to other board members. He said he knows that now.

Deb stated she wanted it on the record that Jackie had stated if the board gave her disciplinary action including time off she would resign. It was so noted.

Dan made a motion that we do not accept Andrew Harter's resignation at this time. Pat Supports. Dan stated he hopes that after Jackie has time off and Andrew brings stability back to the planning board, he will reconsider his resignation. However, if he still feels strongly about resigning, we will consider it in the future. There was a discussion to clarify the motion. The motion is to Not accept Andrew's resignation. Therefore a No vote is a vote to accept his resignation. Roll Call: Kelly voted No because she believes if he wants to resign, he should be able to resign, Pat-Yes, Dan-Yes, Deb-Yes, Ernie-Yes. 4 Yes votes. 1 No vote. Motion carries. Andrew's resignation is not accepted.

Pat made a motion to adjourn with support from Dan.

Adjourned: 12:23PM

Respectfully submitted,

Deborah L Hanes, clerk