

CLERK COMMON
PLEAS COURT
LICKING CO. OHIO

IN THE LICKING COUNTY COMMON PLEAS COURT

2024 NOV -4 AM 11:20

Board of Trustees of Etna Township,
Licking County, Ohio, :

Appellant, :

-vs- :

Etna Township, Licking County, Ohio,
Board of Zoning Appeals, et al. :

Appellees. : Judge W. David Branstool

OLIVIA C. PARKINSON
CLERK

Case No. 2024 CV 00385

**ORDER GRANTING APPELLEE 8900 NATIONAL ROAD'S
MOTION FOR ATTORNEY FEES**

This matter came before the Court on Appellee 8900 National Road Co., LLC's ("8900 National Road) Motion for Attorney Fees Resulting from Appellant's Frivolous Conduct, filed on July 25, 2024. Appellant Board of Trustees of Etna Township, Licking County, Ohio, ("Trustees"), filed a Memorandum in Opposition on August 8, 2024. The Court held an evidentiary hearing on September 6, 2024. This matter is now ripe for a decision. For the reasons set forth below, the motion is granted.

I. Background

The facts relevant to this motion begin with Nita Hanson's brief employment with Etna Township as Township Administrator. She is also the owner of 8900 National Road, the Appellee in this case. On March 7, 2023, the Trustees adopted a resolution hiring Hanson as Township Administrator. Following her hiring, Trustee Mark Evans began conducting personal attacks against Hanson by filing public records requests for records that he already had in order to make busy work for her, by speaking in public about terminating her employment, by posting derogatory comments about her on Facebook,

and by accusing her and other township officials of lying. These actions ultimately led to Hanson filing an employee complaint against Trustee Evans. The Trustees hired a third-party investigator to conduct an investigation into the complaint. The investigator determined that Trustee Evans had engaged in bullying behavior in violation of Etna Township's personnel policies and Trustee Evans was publicly reprimanded for his conduct related to Hanson and others. Ultimately, Hanson's employment with the Township did not last and Hanson received a settlement to compensate her for the treatment she received during her employment.

The Board of Trustees filed this appeal from the decision of the Etna Township Board of Zoning Appeals ("BZA") to approve a variance to Richard Kennedy. The variance permitted a billboard to appear closer to a road and nearby residences. The variance application was brought by Richard Kennedy. Kennedy is a tenant of 8900 National Road, which owns the premises at 8900 National Road, Etna, Ohio. The variance was approved at a meeting on January 30, 2024.

The Trustees filed a Notice of Appeal with this Court on April 1, 2024, challenging the BZA's decision to grant the variance. The Trustees named the BZA and 8900 National Road as Appellees. Significantly, Kennedy was not named as an Appellee, although he later joined the case after he moved to intervene. The Trustees did not file a praecipe for filing the transcript or record of the BZA, as required by R.C. 2506.02, until eight weeks after the filing of the Notice of Appeal, and only did so after 8900 National Road moved to dismiss the appeal.

Between the filing of the appeal and the filing of the praecipe, Kennedy and 8900 National Road filed motions to dismiss. The Trustees filed timely memorandums in

opposition to these motions. 8900 National Road's motion to dismiss was granted due to the Trustees' lack of standing to pursue the appeal.

II. Analysis

8900 National Road brings this motion under R.C. 2323.51, which governs frivolous conduct in civil actions. Under R.C. 2323.51, "the court may assess and make an award to any party to the civil action or appeal who was adversely affected by frivolous conduct..." R.C. 2323.51(B)(1). Conduct includes the filing of a civil action. R.C. 2323.51(A)(1)(a). R.C. 2323.51(A)(2)(a)(i) defines frivolous conduct to include the conduct of a party in a civil action or a party's counsel of record that "obviously serves merely to harass or maliciously injure another party to the civil action or appeal or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase to the cost of litigation."

Based on the arguments and testimony, the Court agrees that there is substantial evidence that the Trustees filed this appeal to harass or maliciously injure Appellee 8900 National Road's owner, Nita Hanson.

First, the Trustees named only the BZA and 8900 National Road as Appellees, but did not name Kennedy, the actual applicant for the variance, in the appeal. If the Trustees intended to dispute the decision of the BZA on the merits, it would have named Kennedy as an Appellee as he played the most direct role in getting the variance application approved by the BZA, and was the tenant actually seeking the variance to construct the billboard. Kennedy would have been the best suited to argue this case on the merits, and Trustees' failure to name Kennedy as an Appellee and to name 8900 National Road instead, was suspect, at best.

Second, the Trustee's failure to timely file a praecipe is also suspicious. Under R.C. 2506.02, the appellant is required to file a praecipe requesting the administrative body from which the appeal is taken to prepare a record. Without a record, a court is unable to consider any evidence. *Wickliffe Firefighters Assn., Local 1536 etc. v. Wickliffe*, 66 Ohio App. 3d 681 (11th Dist. 1990). In this case, the Trustees initially failed to file a praecipe, and only did so after 8900 National Road raised the issue in its motion to dismiss. Ultimately, the praecipe in this case did not get filed until May 30, 2024, almost two months after the Notice of Appeal was filed with the Court on April 1, 2024, and after the Trustees' brief was due. The Trustees assert that the failure to file a praecipe was inadvertent, however, after considering record, the Court disagrees. The failure to file a praecipe clearly suggests that Trustees did not bring this suit to determine the appeal on the merits, as a determination on the merits would be impossible without the records from the BZA. The Court agrees that failing to file a praecipe is additional evidence the Trustees' purpose in filing the appeal was to harass Hanson and force her to expend time and resources in obtaining a dismissal.

Third, the Trustees' failure to file a brief in this case demonstrates that the Trustees did not intend to litigate and decide this case on the merits. On April 14, 2024, this Court entered a judgment entry setting a brief schedule for this case. The Appellant Trustee's brief was set to be due on or before May 27, 2024. Despite this order, the Trustees failed to file a brief in this case, nor did the Trustees ever request an extension to the briefing schedule to allow for a brief to be timely filed. This stands in stark contrast to the Trustees' actions in regards to the Appellees' motions to dismiss, to which the Trustees made sure to file timely memorandums in opposition. The fact that Trustees were quick to respond

to any motion to dismiss, but failed to prosecute their case by filing a timely praecipe or brief further demonstrates that Trustees did not bring this appeal to decide this case on the merits, but rather to harass Hanson by forcing her to seek dismissal of this case.

The failure of Trustees to take the required action necessary to prosecute their appeal and come to a resolution of the merits in this case, combined with Trustee Evans' history of interactions with Hanson; the result of investigation into her complaint; and the settlement the Trustees reached with Hanson, leads the Court to conclude that this appeal was brought to harass Hanson. The filing of this appeal therefore constitutes frivolous conduct under R.C. 2323.51(A)(2)(a)(i).

R.C. 2323.51 requires a trial court to determine whether the challenged conduct adversely impacted any party. *Olthaus v. Niesen*, 2024-Ohio-1953 (1st Dist.). The evidence shows that 8900 National Road incurred substantial attorney fees by defending and seeking a dismissal of this appeal. Therefore, it is clear that the challenged conduct, the appeal, adversely affected 8900 National Road and the award of attorney fees and other costs under R.C. 2323.51 is proper.

III. Conclusion

For all the foregoing reasons, Appellee 8900 National Road's Motion for Attorney Fees is granted.

The Court finds no reason to depart from the lodestar figure and therefore, Appellee 8900 National Road is awarded judgment against the Appellant Trustees for attorney fees in the amount of \$27,030.72.

The Clerk of Courts is hereby ORDERED to serve a copy of the Judgment Entry upon all parties or counsel.

It is so ordered.



Judge W. David Branstool

Copies to:

Brodi J. Conover, Esq., Carly M. Sherman, Esq., Benjamin J. Reeb, Esq., *Attorneys for Appellant, Board of Trustees of Etna Township, Licking County, Ohio*
Bricker Graydon LLP, 2 East Mulberry Street, Lebanon, OH 45036

W. Douglas Lowe, Esq. and Richard 'Hart' Main, Esq., *Attorneys for Appellee, 8900 National Road Co. LLC*
23 East Church Street, Newark, Ohio 43055

Connie J. Klema, Esq., *Attorney for Appellee, 8900 National Road Co. LLC*
P.O. Box 991, Pataskala, OH 43062

Etna Township, Licking County, Ohio Board of Zoning Appeals
81 Liberty Street, P.O. Box 188, Etna, OH 43018-0188

Jonathan A. Veley, Esq., *Attorney for Richard Kennedy*
2034 Cherry Valley Road, Newark, OH 43055



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IN THE LICKING COUNTY COMMON PLEAS COURT

2024 JUL 19 AM 9:07

Board of Trustees of Etna Township,
Licking County, Ohio,

OLIVIA C. PARRISON
CLERK

Appellant,

-vs-

Case No. 2024 CV 00385

Etna Township, Licking County, Ohio,
Board of Zoning Appeals, et al.

Appellee.

Judge W. David Branstool

JUDGMENT ENTRY

This matter is before the Court on Appellee 8900 National Road LLC's ("8900 National Road") Motion to Dismiss, filed on May 22, 2024. Appellant Board of Trustees of Etna Township, Licking County, Ohio ("Trustees") filed a Memorandum in Opposition to the Motion to Dismiss on June 5, 2024. 8900 National Road filed a reply on June 10, 2024. The matter is ripe for a decision. For the reasons set forth below, the motion is granted.

I. Background

The matter is before the Court arising from an approval of a variance by the Etna Township Board of Zoning Appeals ("BZA") permitting a billboard to appear closer to a road and to nearby residences. The variance was approved at a meeting on January 30, 2024. The billboard would be placed along U.S. 40, a state highway. The Trustees filed a Notice of Appeal with this Court on April 1, 2024, challenging the BZA's decision to grant the variance.

II. Analysis

8900 National Road contends that the Trustees lack standing to challenge the

decision of its own BZA. The Trustees contend that they have private party standing to appeal the decision of the BZA. "The burden of proof to establish standing lies with the party seeking to appeal and therefore must ensure that the record support his or her claim of standing." *Olentangy Local School Dist. Bd. of De. v. Delaware Cty. Bd of Revision*, 5th Dist., 2024-Ohio-2141, ¶ 23.

"A private party has standing if it can 'demonstrate a present interest in the subject matter of the litigation'" *Symmes Twp. Bd. of Trustees v. Hamilton Cty. Bd. of Zoning Appeals*, 110 Ohio App.3d 527, 529, 674 N.E.2d 1196 (1st Dist. 1996), quoting *Willoughby Hills v. C.C. Bar's Sahara, Inc.*, 64 Ohio St.3d 24, 31, 591 N.E.2d 1203 (1992). A private party has standing to appeal a decision by an administrative agency to grant a variance when the private party actively participated in the administrative hearing and has been directly affected by the decision. *Safest Neighborhood Assoc. v. City of Athens Bd. of Zoning Appeals*, 4th Dist. Athens No. 12CAA32, 2013-Ohio-5610, ¶24. Additionally, the private party must indicate to the administrative agency that he or she intends to appeal an adverse decision by the agency. *Groffre Invs. v. City of Canton Bd. of Zoning Appeals*, 5th Dist. Stark No. 2012-CA-00091, 2013-Ohio-1227, ¶ 31, citing *Roper v. Bd. of Zoning Appeals, Twp. of Richfield*, 173 Ohio St. 168 (1962).

In this case, the Trustees lack standing because they cannot establish (1) that they actively participated at the hearing on the variance; (2) that they have been or will be directly affected by the decision to grant the variance; or (3) that they indicated to the BZA that they intended to appeal a decision to grant the variance.

A. The Trustees cannot establish that they actively participated in the hearing on the variance.

A private party must establish that they actively participated in the administrative proceedings concerning the issuance of a variance to establish they have standing to appeal the decision to grant a variance. *Safest Neighborhood Assoc.* at ¶ 23. If a private party can show that they attended the administrative hearing and spoke out in opposition to the agency's proposed action, then the private party can establish active participation. ¶ 25. If a private party did not attend the administrative hearing, the private party can still establish active participation if the private party's attorney attended the administrative hearing, indicated that they represented the private party, and spoke out in opposition to the proposed action. ¶ 25.

There is no indication that any member of the Trustees made an appearance at the BZA's hearing on the variance, much less that they spoke out in opposition to the proposed variance. There is also no indication that the Trustees' attorney attended the hearing, indicated that they represented the Trustees, and spoke out in opposition to the proposed variance. Therefore, the Trustees have failed to meet their burden of proving that they actively participated in the hearing on the variance.

B. The Trustees cannot establish that they been or will be directly affected by the BZA's decision to grant the variance.

"A private party litigant has 'standing to complain of harm that is unique to himself,' as opposed to an entity whose 'injury does not differ from that suffered by the community at large.'" *Symmes Twp.* at 529, quoting *Willoughby Hills* at 29. To demonstrate a unique harm, it is not adequate to point towards concerns shared equally by the public at large,

such as increased traffic in the area or the general effect on the status or character of the city as a whole. *Groffre Invs.* at ¶ 21.

The Trustees argue that this case is identical to *Symmes Twp.*, where the First District found that the board of township trustees had private party standing to appeal the decision of the board of zoning appeals granting a variance to permit the construction of a large sign closer to the road, because it directly affected the board of township trustee's duty to maintain roads in a safe and navigable condition. *Symmes Twp.* at 528-529. However, this case differs from *Symmes Twp.*, because the road in *Symmes Twp.* concerned the construction of a sign on a township road while the sign in this case is being constructed along U.S. 40, a state highway. "It is clear pursuant to R.C. 5535.01 and R.C. 5535.08 that the state is responsible for maintaining state roads, ... and the township is responsible for maintaining township roads." 1988 Ohio Atty.Gen.Ops. No. 1988-036. Thus, the Trustees, unlike the board of township trustees in *Symmes Twp.*, do not have a duty to maintain the road on which the billboard permitted by the variance is to be placed. Because the Trustees have no duty to maintain U.S. 40, they have not been directly affected by the BZA's decision to grant the variance.

The Trustees also argue that the granting of the variance will directly affect their duty to maintain township roads that are adjacent and connected to U.S. 40. They argue that the billboard granted by the variance would distract and obstruct traffic along U.S. 40 and the adjacent and connecting township roads. However, this is not any more than a generalized concern about traffic that the 5th District in *Groffre Invs.* specifically stated was not unique injury for the purposes of private party standing. Additionally, the Trustees have provided no explanation as to how the billboard being closer to the road would

increase traffic in the area. Therefore, the Trustees have not met their burden of proving that the BZA's decision to grant the variance directly affects the Trustee's duty to maintain township roads.

C. The Trustees cannot establish that they indicated to the BZA an intent to appeal a decision to grant the variances.

To establish standing in an administrative appeal, a private party must advise the administrative agency, on the record, that if the decision of the agency is adverse to him, he intends to appeal from the decision to a court. *Groffre Invs.* at ¶ 31. An explicit statement that the private party plans to appeal is not required if there are sufficient other indicia in the record demonstrating the property owner's intent to appeal. ¶ 32.

Because the Trustees did not actively participate at the BZA's hearing on the variance, they cannot establish that they noticed an intent to appeal the BZA's decision to grant the variance. There is no evidence that the Trustees took any action to signify their intent to appeal before actually filing this appeal with the Court. Therefore, the Trustees do not meet their burden of proving that they indicated an intent to appeal a decision of the BZA to grant the variance.

The Trustees do not have standing because they cannot establish (1) that they actively participated at the hearing on the variance; (2) that they have been or will be directly affected by the decision to grant the variance; or (3) that they indicated to the BZA that they intended to appeal a decision to grant the variance. Because the Trustees do not have standing, the Court will not consider the merits of the appeal.

III. Conclusion

Appellee 8900 National Road Co. LLC's Motion to Dismiss is GRANTED and this case is DISMISSED because the Appellant, Board of Trustees of Etna Township, Licking County, Ohio, lacks standing to appeal the Etna Township, Licking County, Ohio, Board of Zoning Appeals' decision.

All other pending motions are DENIED AS MOOT.

This is a final appealable order. There is no just cause for delay.

It is so ordered.

The Clerk of Courts is hereby ORDERED to serve a copy of the Judgment Entry upon all parties or counsel.



Judge W. David Branstool

Copies to:

Brodi J. Conover, Esq., Carly M. Sherman, Esq. Benjamin J. Reeb, Esq., Counsel for Appellant, Board of Trustees of Etna Township, Licking County Ohio
Bricker Graydon LLP, 2 East Mulberry Street, Lebanon, Ohio 45036

W. Douglas Lowe, Esq., Richard 'Hart' Main, Esq., Counsel for Appellee, 8900 National Road LLC
23 East Church Street, Newark, Ohio 43055

Jonathan A. Veley, Esq., Counsel for Appellee, Richard Kennedy
2034 Cherry Valley Road, Newark, Ohio 43055

IN COMPLIANCE WITH CIVIL RULE 58, IT IS VERIFIED
THAT COPIES HAVE BEEN SENT TO PARTIES AND/OR
THEIR ATTORNEY OF RECORD IN A MANNER
PRESCRIBED BY CIVIL RULE 5(B) ON THIS 19th
DAY OF July, 2024.

Lori Parkes

SETTLEMENT AGREEMENT AND RELEASE

This Joint Stipulation of Settlement Agreement and Release (hereinafter the "Agreement") is made and entered into by and between Nita Hanson, (hereinafter "Hanson"), and Etna Township (hereinafter "the Township"). Collectively, Hanson and the Township will be referred to hereinafter as the "Parties."

WHEREAS, this Agreement is the product of discussions between Hanson and the Township, and Hanson has been afforded an adequate opportunity to read and consider the terms of this Agreement and to consult with an attorney of her choosing;

WHEREAS, the Parties now desire to bring about an end to the employment relationship between Hanson and the Township, as well as fully and completely settle and dispose of any and all claims of whatever kind or nature Hanson ever had, or may now have, whether known or unknown, against the Township (including its elected officials, employees, agents, insurers and counsel); and Hanson understands and agrees that this Agreement settles, bars and waives any and all claims that she has or could possibly have against the Township as of the date she signs it;

THEREFORE, the Parties, for the good and valuable consideration stated below, the sufficiency of which is acknowledged, agree as follows:

1. **Settlement Amount.** In consideration of the promises made by Hanson as set forth below, the Township shall pay Hanson Eighty Thousand Dollars (\$80,000.00) (the "Settlement Amount") as follows: After final execution of this Agreement and within fourteen days of the expiration of Hanson's rights under Paragraph Seven of this Agreement, on Hanson's request, the Township shall:
 - 1.1 Deliver two checks, each made payable to "Nita Hanson and Cooper and Elliot, LLC" and each in the gross amount of \$40,000, both of which shall be reflected on an IRS Form 1099 issued to Hanson.
2. **Further consideration.** As further consideration, in addition to the Settlement Amount, for the promises made by both Parties herein, the Parties further agree as follows:
 - 2.1 ***Tax indemnification:*** Hanson understands and acknowledges that she is solely responsible for all tax liability related to payments described in Paragraph 1. Hanson further agrees to defend, indemnify, and hold harmless the Township and Releasees identified in Paragraph 4 on, of, from, against, and related to all taxation issues related to payments made under this Agreement.
 - 2.2 ***Withdrawal of Unemployment Claim:*** Within seven days of Hanson's receipt of the payments outlined in Paragraph 1, she agrees to withdraw and forever waive all unemployment claims and applications against the Township.

3. **Withdrawal of any pending actions.** Hanson represents that she knows of no other actions, besides the Unemployment Claim referenced above, at law or in equity before a court or arbitral tribunal, nor of any administrative proceedings or complaints, currently pending and filed by her or her attorney or agents that relate to her interactions with the Township. If any such actions, complaints, or proceedings are currently pending, then Hanson agrees to dismiss them, with prejudice.

4. **Hanson: Release in Full of All Claims.** In exchange for the conditions outlined above, Hanson does hereby release and forever discharge the Township, including any of the Township's affiliated agencies, departments, or organizations and any and all of its past, present and future, Trustees, officers, directors, agents, employees, insurers, including not limited to the Public Entity Risk Services of Ohio ("PERSO"); Sedgwick Claims Management Services, Inc.; the Ohio Township Association Risk Management Authority ("OTARMA"), and their parents, subsidiaries, divisions, boards, affiliates, insurers, lawyers, including administrators, benefit plans, and their successors and assigns, and their respective officers, directors, employees, insurers, re-insurers, trustees, or agents, in both their official and personal capacities for any actions or omissions up to and including the date of this agreement but shall not include claims that arise after the date Hanson signs this Agreement . These entities are collectively the "Released Parties."

This Release is intended to be a broad release and shall apply to any relief or benefit, no matter how denominated, including, but not limited to, claims for breach of contract, physical or mental injury, pain and suffering, prejudgment interest, post-settlement interest, insurance coverage, attorney fees or costs, future employment, wages, backpay, front pay, compensatory damages, liquidated damages, or punitive damages, and all other claims, of whatever nature or kind, at law or in equity, and whether known or unknown, direct or indirect, which Hanson or her heirs, representatives, or assigns has, claims to have, or has ever had, from the beginning of time until the date they sign this Agreement. In addition, Hanson agrees to waive the right to receive any recovery under any charge or lawsuit filed by them or any other part which lawsuit was filed prior to the date upon which this Agreement was executed. and attorneys (the "Beneficiaries") from any and all causes of action, claims and demands whatsoever in law or equity, whether known or unknown, which she now has or may have against the Beneficiaries by reason of any cause whatsoever to the date of this Agreement, whether arising out of a 42 U.S. § 1983 civil action or a constitutional claim, or whether based in tort (including claims for physical injury or physical illness), contract, or any federal, state or local law, statute or regulation, including but expressly not limited to claims arising under the Fair Labor Standards Act ("FLSA"), Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 ("ADA"), the Age Discrimination in Employment Act of 1967, as amended ("ADEA"), the Older Workers Benefit Protection Act ("OWBPA"), the Family and Medical Leave Act ("FMLA") or similar state law, the Employee Retirement Income Security Act ("ERISA"), the Genetic Information Nondiscrimination Act ("GINA"), Ohio's anti-discrimination or wage-hour laws, any and all common law causes of action, and any other federal and state civil rights laws or laws relating to employment or public employees.

- 4.1 This Release specifically and without limitation includes, to the fullest extent permitted by law, a release of any claims for violation of due process, employment discrimination, wrongful discharge, breach of contract, physical or emotional injury, or promissory estoppel, claims for violations of any constitution, § 1983 claims, and extends to all claims of every nature and kind, whether known or unknown, suspected or unsuspected, presently existing or resulting from or attributable to any act or omission of the Township or the Beneficiaries occurring prior to the execution of this Agreement.
 - 4.2 This Release excludes any claim which cannot be released by private agreement, such as workers' compensation claims, unemployment compensation claims, claims arising after the effective date of this Agreement, and the right to file administrative charges with certain government agencies.
 - 4.3 Hanson represents and acknowledges that the Settlement Amount identified herein is fair, reasonable, and adequate and constitutes payment in full for all of her potential claims under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*; Ohio wage and hour laws; and Section 34a of the Ohio Constitution, including claims for minimum wages, overtime pay, liquidated damages, and attorneys' fees and costs. By signing this Agreement, Hanson represents and acknowledges that upon receipt of the Settlement Amount and her last paycheck, she will be paid in full for any and all wages of any kind and any amount owed by the Township for work Hanson performed for the Township through the date of her resignation.
5. **Township: Release in Full of All Claims.** The Township does hereby release and forever discharge Hanson, from any and all causes of action, claims and demands whatsoever in law or equity, whether known or unknown, which it now has or may have against Hanson by reason of any cause whatsoever to the date of this Agreement.
- 5.1 This release excludes any causes of action, claims, and/or demands where Hanson was involved as an employee of the Township where her release would affect the determination of insurance/risk pool/or other liability coverage for the cause of action, claim and/or demand.
 - 5.2 This release excludes any issue related to tax liability, as outlined above in Section 1(D).
6. **Knowing and Voluntary Act.** Hanson acknowledges and agrees that the release set forth above is a general release. Hanson, having been encouraged to and having had the opportunity to be advised by counsel, expressly waives all claims for damages which exist as of this date, but of which Hanson does not now know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known would materially affect Hanson's decision to enter into this Agreement. Hanson further agrees that she

accepts the Settlement Amount as a complete compromise of matters involving disputed issues of law and fact and assumes the risk that the facts and law may be other than Hanson believes. Hanson further acknowledges and agrees that all the terms of this Agreement shall be in all respects effective and not subject to termination or rescission by reason of any such differences in the facts or law, and that Hanson provides this release voluntarily and with full knowledge and understanding of the terms hereof.

7. **OWBPA Release.** Hanson specifically acknowledges and understands that this Agreement is intended to release and discharge any claims she may have under the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act. Accordingly, Hanson agrees that she has twenty-one (21) days from the date of receipt to sign the Agreement. Hanson understands and is advised that she should discuss any concerns she may have with her attorney before executing this Agreement. After Hanson signs this Agreement, she has seven (7) days from that date in which she may change her mind and rescind this Agreement. Hanson agrees that she must clearly communicate any decision to rescind in writing within the seven (7) day period to Patrick Kasson, Reminger Co. LPA, 200 Civic Center Drive, Suite 800, Columbus, Ohio 43215. This Agreement will be effective and enforceable once the revocation period has expired, provided that during such time Hanson does not revoke her acceptance (the "Effective Date"). If Hanson revokes/rescinds any part of the Agreement, all of the Township's obligations under this Agreement will be null and void at the Township's option.
8. **No Reinstatement or Reemployment.** Hanson agrees that she will not seek, apply, or reapply for employment with the Township or its affiliated agencies or organizations (the "Affiliated Entities") at any time. She further acknowledges that she understands now that, based on events prior to the date hereof, she is not eligible for employment by the Township or Affiliated Entities.
9. **Non-Admission.** This Agreement is not to be construed as an admission of liability or wrongdoing on the part of Hanson or the Township. Except to the extent necessary to enforce this Agreement or as otherwise required by law, it is further agreed between the Parties that neither this Agreement nor any part thereof is to be used or admitted into evidence in any proceeding of any character, judicial or otherwise, now pending or otherwise instituted.
10. **Release of Monetary Damages in Administrative Actions.** Nothing in this Agreement limits Hanson's ability to file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission, or any other federal, state or local governmental agency or commission ("Government Agencies"). Hanson also understands that this Agreement does not limit her ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Township.

Dated: 4/5/2024

Nita Hanson
Nita Hanson With Full Agreement

WITNESSED BY:
K.A. Editt

Dated: April 16, 2024 Etna Township

By: Gary Burkholder

Its: Trustee, Board President

WITNESSED BY:

Jaqueline Cotugno

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I. Background

The facts relevant to this motion begin with Nita Hanson's brief employment with Etna Township as Township Administrator. She is also the owner of 8900 National Road, the Appellee in this case. On March 7, 2023, the Trustees adopted a resolution hiring Hanson as Township Administrator. Following her hiring, Trustee Mark Evans began conducting personal attacks against Hanson by filing public records requests for records that he already had in order to make busy work for her, by speaking in public about terminating her employment, by posting derogatory comments about her on Facebook,

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II. Analysis

8900 National Road brings this motion under R.C. 2323.51, which governs frivolous conduct in civil actions. Under R.C. 2323.51, "the court may assess and make an award to any party to the civil action or appeal who was adversely affected by frivolous conduct..." R.C. 2323.51(B)(1). Conduct includes the filing of a civil action. R.C. 2323.51(A)(1)(a). R.C. 2323.51(A)(2)(a)(i) defines frivolous conduct to include the conduct of a party in a civil action or a party's counsel of record that "obviously serves merely to harass or maliciously injure another party to the civil action or appeal or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase to the cost of litigation."

Based on the arguments and testimony, the Court agrees that there is substantial evidence that the Trustees filed this appeal to harass or maliciously injure Appellee 8900 National Road's owner, Nita Hanson.

First, the Trustees named only the BZA and 8900 National Road as Appellees, but did not name Kennedy, the actual applicant for the variance, in the appeal. If the Trustees intended to dispute the decision of the BZA on the merits, it would have named Kennedy as an Appellee as he played the most direct role in getting the variance application approved by the BZA, and was the tenant actually seeking the variance to construct the billboard. Kennedy would have been the best suited to argue this case on the merits, and Trustees' failure to name Kennedy as an Appellee and to name 8900 National Road instead, was suspect, at best.

Second, the Trustee's failure to timely file a praecipe is also suspicious. Under R.C. 2506.02, the appellant is required to file a praecipe requesting the administrative body from which the appeal is taken to prepare a record. Without a record, a court is unable to consider any evidence. *Wickliffe Firefighters Assn., Local 1536 etc. v. Wickliffe*, 66 Ohio App. 3d 681 (11th Dist. 1990). In this case, the Trustees initially failed to file a praecipe, and only did so after 8900 National Road raised the issue in its motion to dismiss. Ultimately, the praecipe in this case did not get filed until May 30, 2024, almost two months after the Notice of Appeal was filed with the Court on April 1, 2024, and after the Trustees' brief was due. The Trustees assert that the failure to file a praecipe was inadvertent, however, after considering record, the Court disagrees. The failure to file a praecipe clearly suggests that Trustees did not bring this suit to determine the appeal on the merits, as a determination on the merits would be impossible without the records from the BZA. The Court agrees that failing to file a praecipe is additional evidence the Trustees' purpose in filing the appeal was to harass Hanson and force her to expend time and resources in obtaining a dismissal.

Third, the Trustees' failure to file a brief in this case demonstrates that the Trustees did not intend to litigate and decide this case on the merits. On April 14, 2024, this Court entered a judgment entry setting a brief schedule for this case. The Appellant Trustee's brief was set to be due on or before May 27, 2024. Despite this order, the Trustees failed to file a brief in this case, nor did the Trustees ever request an extension to the briefing schedule to allow for a brief to be timely filed. This stands in stark contrast to the Trustees' actions in regards to the Appellees' motions to dismiss, to which the Trustees made sure to file timely memorandums in opposition. The fact that Trustees were quick to respond

to any motion to dismiss, but failed to prosecute their case by filing a timely praecipe or brief further demonstrates that Trustees did not bring this appeal to decide this case on the merits, but rather to harass Hanson by forcing her to seek dismissal of this case.

The failure of Trustees to take the required action necessary to prosecute their appeal and come to a resolution of the merits in this case, combined with Trustee Evans' history of interactions with Hanson; the result of investigation into her complaint; and the settlement the Trustees reached with Hanson, leads the Court to conclude that this appeal was brought to harass Hanson. The filing of this appeal therefore constitutes frivolous conduct under R.C. 2323.51(A)(2)(a)(i).

R.C. 2323.51 requires a trial court to determine whether the challenged conduct adversely impacted any party. *Olthaus v. Niesen*, 2024-Ohio-1953 (1st Dist.). The evidence shows that 8900 National Road incurred substantial attorney fees by defending and seeking a dismissal of this appeal. Therefore, it is clear that the challenged conduct, the appeal, adversely affected 8900 National Road and the award of attorney fees and other costs under R.C. 2323.51 is proper.

III. Conclusion

For all the foregoing reasons, Appellee 8900 National Road's Motion for Attorney Fees is granted.

The Court finds no reason to depart from the lodestar figure and therefore, Appellee 8900 National Road is awarded judgment against the Appellant Trustees for attorney fees in the amount of \$27,030.72.

The Clerk of Courts is hereby ORDERED to serve a copy of the Judgment Entry upon all parties or counsel.

It is so ordered.



Judge W. David Branstool

Copies to:

Brodi J. Conover, Esq., Carly M. Sherman, Esq., Benjamin J. Reeb, Esq., *Attorneys for Appellant, Board of Trustees of Etna Township, Licking County, Ohio*
Bricker Graydon LLP, 2 East Mulberry Street, Lebanon, OH 45036

W. Douglas Lowe, Esq. and Richard 'Hart' Main, Esq., *Attorneys for Appellee, 8900 National Road Co. LLC*
23 East Church Street, Newark, Ohio 43055

Connie J. Klema, Esq., *Attorney for Appellee, 8900 National Road Co. LLC*
P.O. Box 991, Pataskala, OH 43062

Etna Township, Licking County, Ohio Board of Zoning Appeals
81 Liberty Street, P.O. Box 188, Etna, OH 43018-0188

Jonathan A. Veley, Esq., *Attorney for Richard Kennedy*
2034 Cherry Valley Road, Newark, OH 43055

BOARD OF TRUSTEES
ETNA TOWNSHIP, LICKING COUNTY, OHIO

RESOLUTION NO. 23-03-07-01

**A RESOLUTION HIRING AND ESTABLISHING THE TERMS AND CONDITIONS OF
EMPLOYMENT FOR THE ETNA TOWNSHIP ADMINISTRATOR**

The Board of Trustees of Etna Township, Licking County, Ohio met in a regular meeting on March 7, 2023 at 81 Liberty Street with the following members present:

Rozland McKee, President Jeff Johnson, Vice-President Mark Evans, Trustee

Trustee McKee moved the following:

PREAMBLE

WHEREAS, the Board desires to employ Nita Hanson as Township Administrator and establish the terms and conditions of his employment; and WHEREAS, it is in the best interest of the Township and its residents to provide certain benefits, including, in certain circumstances, severance pay, to this employee as a form of compensation;

RESOLUTION

NOW THEREFORE, be it resolved by the Board of Trustees of Etna Township, Licking County, Ohio (the "Board") that the following Resolution be and it hereby is adopted: RESOLVED, that effective April 3, 2023, the Township hereby employs Nita Hanson (hereinafter referred to as "Employee") as the Etna Township Administrator, subject to the following terms and conditions of employment:

1. Term. **THE EMPLOYEE IS AN EMPLOYEE AT WILL AND SERVES AT THE PLEASURE OF THE BOARD.** The Employee is to be employed by the Township on an indefinite basis until such employment is terminated in the manner hereinafter set forth in paragraph 14, hereof.
2. Job Description and Duties. The Employee shall serve as the Etna Township Administrator and shall perform those jobs and duties outlined in the Ohio Revised Code and perform such other lawful and reasonable duties as may, from time to time, be requested by the Board. Without limiting the generality of the foregoing, the duties of the Employee shall include the items set forth on the Job Description attached hereto and marked "Attachment A". The Employee shall not be engaged in any business activity in conflict with his position and duties other than on behalf of and as directed by the Board, whether or not such business activity is pursued for gain, profit or other pecuniary advantage, without the prior written approval of the Board. The Employee's full working time and effort shall be devoted to such employment.
3. Rules, Regulations, and Conditions. The Employee shall observe such rules, regulations, and conditions as may, from time to time, be adopted by the Board, including, but not limited to, the Etna Township Policies and Procedures Manual, Employee Handbook (collectively hereafter referred to as "Employee Handbook") and such other rules governing the operation and personnel of Etna Township and all applicable federal, state and local laws and regulations.
4. Compensation. The entire compensation to be paid to the Employee by the Township for all services performed by the Employee while employed on a regular full-time basis as the Etna Township Administrator shall be One Hundred and Thirty Thousand Dollars (\$130,000.00) per calendar year of employment (or such higher salary as the Board may, in its absolute and sole discretion, from time to time, determine). The Employee's annual salary will be paid on a biweekly basis (or such other pay

BOARD OF TRUSTEES
ETNA TOWNSHIP, LICKING COUNTY, OHIO

period the Board determines from time to time) during each calendar year. All compensation shall be subject to withholding for federal, state, and local income taxes, and such other taxes and charges as may be subject to the withholding from employee wages, and further subject to withholding required for pension contributions and further subject to withholding for any other deductions or charges as may, from time to time, be authorized in writing by the Employee and agreed to by the Board. The Employee shall be exempt from the overtime provisions of the Fair Labor Standards Act (29 U.S.C. §§201 et seq.) under the Executive Employee Exemption. As an Executive Employee under the FLSA, the Employee will not be eligible for compensation at a time and one-half rate, and he will not be compensated in the form of pay for hours worked in excess of forty (40) hours per work week. Nothing contained herein shall be deemed as a guarantee of continued employment by the Township. The Employee shall also be entitled to the use of a Township issued cell phone and laptop. Use of the cell phone and laptop is subject to all applicable Township rules and regulations.

5. Performance Evaluations. In the first year of employment, the Board will perform a six month and twelve month evaluation of the Employee's performance. Thereafter, the Board will perform an annual evaluation of the Employee's performance to occur no later than January 31st of each calendar year. In its sole and absolute and sole discretion, after the annual evaluation the Board may make appropriate increases in Employees compensation.
6. Work Hours. Commencing April 3, 2023, the regularly scheduled work hours for the Employee shall total at least forty (40) hours during each work week. In addition, the Employee shall work at such other and/or additional hours as may be necessary to fulfill his duties as the Etna Township Administrator and/or as may, from time to time, be requested by the Board.
7. Benefits. Except as otherwise herein provided, the Employee shall be entitled to all of the benefits provided to full-time employees contained in the Employee Handbook. The Employee receipt and use of such benefits shall be governed by the Employee Handbook. Prior to commencement of employment, Employee shall sign an acknowledgment of review and understanding of the Employee Handbook.
8. Vacation Time. Upon commencement of employment, the Employee shall be credited with eighty (80) hours of vacation time for immediate use. On April 3, 2023, and continuing each January 1st thereafter, the Employee shall accrue vacation time governed by the Employee Handbook. The Employee's vacation preferences shall be scheduled in advance with and are subject to the approval of the Board.
9. Holidays governed by the Employee Handbook.
10. Sick Leave. The Employee shall be entitled to accrue and use sick leave in accordance with the applicable Sick Leave provisions in the Employee Handbook.
11. Insurance Coverage. Upon commencement of employment, health care insurance, dental care insurance and vision insurance uniformly provided to all full-time employees of the Township will be made available to the Employee at his option in accordance with applicable law. All such insurance shall be subject to the terms and conditions contained in the applicable insurance policies and/or plan documents maintained, from time to time, by the Township.
12. Professional Membership Fees. The Township shall pay reasonable membership fees to appropriate professional organizations on behalf of the Employee upon the Employee's written request therefor. The Board, after consultation with the Employee, shall determine which organizations are "appropriate" and what fees are "reasonable," and the Board's decision shall be final.
13. Disciplinary Actions. The Township, through the Board, is authorized to take such disciplinary actions as it deems necessary in the event the Employee does not fulfill the Employees' employment duties, or in such other instances as the Board, in its sole discretion, deems necessary. Nothing contained herein shall impair or otherwise alter the Employee's status as one of employment at will, and the Employee's status shall be as set forth in paragraph 14 hereof.

BOARD OF TRUSTEES
ETNA TOWNSHIP, LICKING COUNTY, OHIO

14. Status and Termination of Employment. The Employee shall serve at the pleasure of the Board and is employed by the Township at will and on an indefinite basis until such time as the Employee or the Board terminates such employment. This Resolution is not a contract of employment and the Employee or the Township, by majority vote of the Board, may terminate the Employee's employment with the Township at any time, with or without cause, for any reason or for no reason whatsoever, and, in the case of the Township, in the sole and absolute discretion of the Board, subject to the following terms and conditions:
- (a) For Cause. The Board may initiate termination of the Employee's employment for cause. The term "for cause" shall mean that the Employee has engaged in one or more of the following types of actions: misconduct, insubordination or lack of cooperation; possession, use, sale or being under the influence of alcohol or a controlled substance on work premises or during work hours; poor or inadequate performance; incompetence or inability to perform the duties of the position; bribery; neglect of duty; abuse of Township property; removing Township property without prior authorization; falsification of employment application or other personnel records; falsifying Township reports or records; conviction of any felony; conduct involving theft, dishonesty or moral turpitude; improper physical or verbal harassment; sexual harassment; abuse or improper use of sick leave; or any other failure of good behavior. Upon termination of the Employee's employment for cause, the Employee shall not be entitled to any further wages or benefits hereunder.
 - (b) Without Cause. Either the Board or the Employee may initiate termination of the Employee's employment at any time without cause as follows:
 - (i) The Board shall notify the Employee in writing of his termination thirty (30) days prior to the effective date of such termination. If the Township terminates the employment of the Employee without cause, the Township agrees to pay the Employee "severance pay" as hereinafter defined.
 - (ii) If the Employee desires to terminate his employment, the Employee shall so notify the Board in writing sixty (60) days prior to the effective date of such termination. The Employee understands that if he terminates employment, no further salary or benefits shall be paid to him after the effective date of his termination.
 - (c) Job Abolishment. If the Employee's employment is terminated due to the abolishment of the position, it will be considered termination "without cause" pursuant to the provisions of subparagraph (b)(i) of paragraph 14 of this Resolution.
 - (d) Severance Pay. As a form of compensation and an incentive for the Employee to terminate prior employment and commence employment with Etna Township, the Board hereby approves severance pay to the Employee. Severance pay shall be owed to the Employee in the event the Board terminates his employment without cause, under the provisions of subparagraph (b)(i) of paragraph 14 of this Resolution. Severance pay shall also be owed if the Board acts to rescind or modify subparagraph (b)(i) of paragraph 14 of this Resolution without the written consent of the Employee. Severance pay shall be comprised of twelve (12) monthly installments of the base annual salary, provided that the Employee has been employed by the Township for a six (6) month period. In the event the Employee has been employed less than six (6) months, severance pay shall be the number of monthly installments of the base annual salary equal to the number of calendar months that the Employee has been employed by the Township. The base annual salary is defined as the annual salary being paid to the Employee during the calendar year in which termination occurs, without the addition of benefits or other compensation whatsoever. Severance pay shall be subject to all required deductions. Severance pay shall not be owed to the Employee

BOARD OF TRUSTEES
ETNA TOWNSHIP, LICKING COUNTY, OHIO

in the event his employment is terminated with just cause or in the event he resigns from his position.

15. Interpretations, Determinations and Decisions. To the fullest extent permitted by law, all interpretations, determinations, and decisions with regard to this Resolution and all matters relating thereto and contained therein shall be made by the Board and such interpretations, determinations, and decisions on such matters shall be final and binding on all persons.
16. Entire Understanding. Unless otherwise changed or modified by the Board after the effective date of this Resolution, or unless otherwise specifically required by applicable law, this Resolution constitutes the entire compensation and benefits afforded to the Employee named above if and while the Employee continues to serve as the Etna Township Administrator, and, for these purposes, all prior Resolutions, directives, and practices establishing or relating to any such benefits or compensation are hereby superseded in their entirety.
17. Amendment, Modification and/or Termination of Resolution. The Township, through the Board, shall have the right and authority to amend or otherwise modify this Resolution, from time to time, provided that no amendment or modification shall deprive the Employee of previously accrued and vested vacation and/or sick leave benefits standing to the Employee's credit or, without the written consent of the Employee, his entitlement to severance pay pursuant to subparagraph (d) of paragraph 14 of this Resolution. Furthermore, while it is the expectation of the Township to continue this Resolution in substantially its present form, no obligation, contractually or otherwise, to do so is assumed by the Township, and the Township expressly reserves the right to discontinue and/or rescind this Resolution, in whole or in part, at any time.
18. Duration of Resolution. This Resolution shall become effective on or as of March 7, 2023, and will continue in full force and effect until otherwise amended, modified and/or terminated by the Board; provided, however, that the Employee's employment with the Township is at will and may be terminated at any time as hereinbefore provided, and the Township, through the Board, has the right and authority to amend, modify and/or terminate this Resolution as set forth above.
19. Acknowledgment. As a condition of employment, the Employee shall sign a statement, which is to be returned to the Board, stating, in effect, that the Employee has read the foregoing Resolution and fully understands and agrees with its terms.

This Resolution shall take effect and be in force from and after the earliest time provided by law.

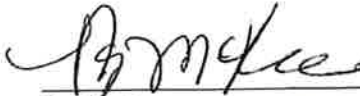
Trustee Johnson seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:

YEAS: _____ * Johnson * McKee
 NAYS: Evans * _____ *

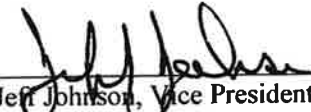
The motion carried and the Resolution was adopted.

Adopted: March 7, 2023

BOARD OF TRUSTEES
ETNA TOWNSHIP, LICKING COUNTY, OHIO



Rozland McKee, President



Jeff Johnson, Vice President

Attest: 

Julie Varian, Fiscal Officer

Mark Evan, Trustee

CERTIFICATE

State of Ohio, Licking County
I, the undersigned Fiscal Officer of Etna Township, Licking County, Ohio, hereby certify that the foregoing Resolution Number 23-03-07-01 is a true and complete copy of the Resolution adopted by a majority of the full membership of the Board of Trustees of Etna Township at its regular meeting held on March 7, 2023 as was recorded in the official proceedings of the Board.



Julie Varian, Fiscal Officer

STATEMENT OF ACKNOWLEDGMENT

The undersigned, being the newly appointed Township Administrator for Etna Township, has read Resolution No. 23-03-07-01 and understands, accepts and agrees to be bound by the terms and conditions contained therein.

March 7, 2023

Date



Nita Hanson

ETNA TOWNSHIP, LICKING COUNTY
BOARD OF TRUSTEES

RESOLUTION No. 23-1121-07

The Board of Trustees of Etna Township, Licking County, Ohio met in a regular meeting on November 21, 2023 at 81 Liberty Street with the following members present:

Rozland McKee, President Jeff Johnson, Vice-President Mark Evans, Trustee

Trustee McKee moved the following:

WHEREAS, on or around August 31, 2023, the Board of Trustees (the “Board”) of Etna Township, Licking County, Ohio, received an employee complaint against a Trustee submitted by the Township Administrator, attached hereto as Attachment 1, and incorporated herein by reference (the “Complaint”); and

WHEREAS, upon receipt of the Complaint, the Board authorized the Chair to search for an independent third-party investigator to conduct an investigation into the Complaint, to determine if the Trustee engaged in conduct that violates the Township’s policies and procedures or violates applicable Ohio law; and

WHEREAS, on or around October 3, 2023, the Board adopted Resolution 23-10-03-02 for the purpose of hiring a third-party investigator (the “Investigator”) to conduct an investigation into the Complaint, consistent with the provisions of Section 14.4.4 of the Etna Township Personnel Policies and Procedures Manual (the “Personnel Manual”); and

WHEREAS, on or around November 14, 2023, the Investigator issued her report, attached hereto as Attachment 2, and incorporated herein by reference (the “Report”); and

WHEREAS, the Report concluded that the Trustee has engaged in conduct that is considered to be “bullying”, which is prohibited under the Personnel Manual; and

WHEREAS, it is in the best interest of the Township and its residents for the Board to reprimand Trustee Evans for violating the Personnel Manual and establish a mechanism for engaging in constructive comment, criticism, and feedback on work performance for the Township Administrator.

RESOLUTION

NOW THEREFORE, be it resolved by the Board of Trustees of Etna Township, Licking County, Ohio, that the following Resolution be and it hereby is adopted:

Section 1. The Board hereby formally reprimands Trustee Mark Evans for engaging in conduct that constitutes “bullying”, in violation of the Personnel Manual. The Board requests that Trustee Evans carefully review the Personnel Manual; in particular Section 14.4, and immediately cease any and

all prohibited conduct set forth within the Personnel Manual.

Section 2. The Board strives to promote a respectful working environment. To that end, trustees shall provide comment, criticism, and feedback on work performance to an employee's immediate supervisor, and, with respect to the Township Administrator, to Trustee Jeff Johnson. Any discussion or deliberation regarding said comment, criticism and/or feedback submitted to Trustee Johnson shall be held during a public meeting or in executive session.

Section 3. It is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of the Board and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall be in force and effect immediately upon its adoption.

Trustee Johnson seconded the Resolution and the roll being called upon its adoption the vote resulted as follows:

YEAS: McKee Johnson
NAYS: _____

Evans - Abstain

The motion carried and the Resolution was adopted.

Dated: November 21, 2023

**BOARD OF TOWNSHIP TRUSTEES
OF ETNA TOWNSHIP, LICKING
COUNTY OHIO**

Mark Evans, Trustee

Jeff Johnson

Jeff Johnson, Trustee

Rozland McKee

Rozland McKee, Trustee

ATTEST:

Julie Varian
Julie Varian, Fiscal Officer

ATTACHMENT 1

Nita L. Hanson

51 Ridgewood Drive SW

Etna, Ohio 43062

614.209.3615

NitaHanson2008@gmail.com

August 31, 2023

Rozland McKee-Flax, President
Etna Township Board of Trustees
81 Liberty Street
Etna, Ohio 43018

Jeff Johnson, Vice-President
Etna Township Board of Trustees
81 Liberty Street
Etna, Ohio 43018

Mark Evans, Trustee
Etna Township Board of Trustees
81 Liberty Street
Etna, Ohio 43018

Dear Ms. McKee, and Messrs. Johnson and Evans:

It is with a heavy heart, and only after prayerful consideration, that I bring this complaint against Mark Evans as provided at least by Article 4.5 of the existing Personnel Policies and Procedures Manual.

Mr. Evans' continued conduct (about which I have emailed him directly, and copied the other Trustees) is unfavorable, and discriminatory. The conduct rises to harassment and impermissible gender based conduct. Since I have asked multiple times over the brief five months that I have been employed by the Township for the conduct to stop and it has not, I have reached the obvious conclusion that enduring the offensive conduct is a condition of continued employment. The harassment is severe and pervasive enough to the work environment that any reasonable person would consider the conduct to be intimidating, hostile, discriminatory, and abusive.

Indeed, Mrs. McKee has acknowledged that Mr. Evans' conduct is intimidating, hostile, discriminatory, and abusive. His frequent name calling, intimidation, ridicule, mockery, and interference with work performance can only be received as harassment. Others, including Mrs. McKee, Mr. Johnson, Mrs. Brown, and Mr. Singleton have also been affected by the offensive conduct.

I have attached examples of the emails from Mr. Evans (most often sent between midnight and the very early hours of the morning) that are indicative of this conduct. In addition, Mr. Evans has impugned my integrity in public on his Mark Evans Etna Township Trustee Facebook page and on comments to other pages by accusing me of not being truthful on at least two separate issues. Mr. Evans will often repeat prior accusations even when it has been proven that his

Complaint
August 31, 2023
Page 2

observation is patently incorrect. Most recently, Mr. Evans has stated in a public meeting that he does not expect my employment with the Township to continue even for the next two years, let alone for any longer period of time. You may recall that I left a very secure, long-term private practice of commercial and fiduciary litigation to join the Township in April of this year.

I am left with the only alternative to ask the Board to consider publicly condemning or renouncing Mr. Evans' conduct. This formal statement of disapproval that has been previously stated in internal emails will hopefully serve as a deterrent to future conduct.

I know that you will investigate this formal complaint, give it due consideration, and take whatever action you believe to be wise and necessary.

Respectfully submitted,

A handwritten signature in blue ink that reads "Nita L. Hanson". The signature is written in a cursive style with a large initial "N".

Nita L. Hanson

Nita Hanson

From: Rozland McKee
Sent: Friday, July 21, 2023 10:13 AM
To: Mark Evans; Nita Hanson
Cc: Jeff Johnson
Subject: Garage Video PW

Mark,

As a master deceiver, you are projecting onto our Administrator, Nita Hanson, the very things that define the qualities and attributes of your life, “derelict in your duty lack of proper due diligence.” They are false charges and misrepresentations meant to defame and damage Ms. Hanson's reputation and dispirit her.

As has been previously documented in Ms. Hanson's responses to you, your emails continuously slander her work product and character and your presence creates hostile work environment harassment for our entire office staff, including former consultant Bill Vance, Laura, John and me. We have all been victims of your workplace hostility harassment.

Your 19-month tenure as a Trustee has been a complete failure marked by continuous hubris, coupled with non-stop workplace hostility and harassment, misogyny, verbal and non-verbal insults and unwelcome behavior, and ceaseless lies. With this trail of brokenness, failure and chaos, it is clear to any reasonable person that you are the problem. Your behavior demonstrates that you have decided to work **against** Etna Township, attacking me, the staff, and our accomplishments while lying to residents about what you plan to do and have actually done – which amounts to nothing. It's truly a disgrace.

As more and more residents wake up to your lies and the social media smokescreens you spew regularly, the truth about your putrid character and do-nothing record is nevertheless being revealed to residents. They know who you are and what you represent. We know who you are and what you represent. You work **against** us and never with us, but for yourself and your own selfish gain.

Thank you.

Rozland

Rozland McKee-Flax
President – Board of Trustees
rmckee@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188
740-927-7717-O
740-814-9419-C
etnatownship.com

From: Mark Evans <mevans@etnatownship.com>
Sent: Thursday, July 20, 2023 12:49 PM
To: Nita Hanson <nhanson@etnatownship.com>

Cc: Rozland McKee <rmckee@etnatownship.com>; Jeff Johnson <jjohnson@etnatownship.com>; Julie Varian <jvarian@etnatownship.com>
Subject: Re: Garage Video PW

Nita,

The password and quick access code is retained by the fiscal officer.

When John Carlisle left without any transition, and his pseudo father-in-law who was provided numerous security work with the township did not provide any of the passwords, I had to gain access to the system myself.

Once I set the access, I provided the fiscal officer the required information as not only the right thing to do but as it was required. This was on or around 4/18/22.

I do not feel it is appropriate to provide passwords over unsecured email. Please contact the fiscal officer for the passwords.

Once you receive the passwords, if they are changed, I expect them to be provided to not only the fiscal officer but myself.

Additionally, I am concerned you are still attempting to delete public records illegally. Just because the board passed the changes does not allow for the destruction of those records. Proper procedures must be followed.

If you change the system at this moment and delete records without a properly approved policy, you will be complicate in additional illegal destruction of public records.

It appears there continues to be a lack of proper due diligence on your part.

With all the records requests and notification of illegal overwriting of records, why are you only now attempting to access the security system which was under your preview as administrator and being over the road department? I am greatly concerned about your inactions.

Additionally, any video previously requested cannot be destroyed. This includes video you have denied as I have been told that will be challenged.

This includes video on the SD cards on the security cameras.

To date, you have been derelict in your duty to properly maintain and produce public records while knowingly allowing records to be illegally destroyed. Can you explain why you have done this?

Sincerely,

Mark Evans

Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell
mevans@etnatownship.com

81 Liberty Street

P.O. Box 188
Etna, OH 43018-0188

etnatownship.com

On Jul 20, 2023, at 11:32 AM, Nita Hanson <nhanson@etnatownship.com> wrote:

Please provide me with the garage video password which appears to be either a pattern and/or a more traditional password. State Security needs the pw in order to adjust the network video recorder to conform with the records retention policy adopted by the Board.

Nita L. Hanson
Administrator, Etna Township



740.927.7717 Town Hall
740.814.9365 Cell

Nita Hanson

To: Mark Evans
Cc: Rozland McKee-Flax; Jeff Johnson
Subject: RE: Commissioners and Solar
Attachments: County's Position on Solar/Wind Project Restrictions

Mark – I spoke to Ken Oswalt last week. In that conversation he reiterated that the Commissioners' position on exclusionary zones remained unchanged from their April 27, 2023 letter (reattached here.) If there has been a change since last week, I am not aware of that.

I am once again asking you to stop personally attacking me on Facebook, and impugning my integrity. It is difficult enough when you do so by internal email.

Nita L. Hanson
Administrator, Etna Township



740.927.7717 Town Hall
740.814.9365 Cell

From: Mark Evans <mevans@etnatownship.com>
Sent: Thursday, July 13, 2023 6:30 PM
To: Nita Hanson <nhanson@etnatownship.com>
Subject: Commissioners and Solar

Nita,

I spoke to the commissioners at their meeting today and they stated your contention that they would not take up a request from Etna Township for an exclusionary solar zone is not true. They welcome it and stated you can contact them if you would like.

Please stop stating there is no reason to take it up because they won't. It's simply not true.

As was stated at our meeting, Tim Bubb even stated so to the reporter. Please perform proper due diligence in all matters. It was improper for you to again repeat the false claim at the CAC meeting.

Sincerely,

Mark Evans
Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell

Nita Hanson

From: Oswalt, Ken <KOswalt@LickingCounty.gov>
Sent: Friday, April 28, 2023 4:18 PM
To: Rozland McKee; Jeff Johnson; Mark Evans
Cc: Julie Varian; Nita Hanson
Subject: County's Position on Solar/Wind Project Restrictions
Attachments: Letter to Etna re solar project restriction zone.pdf

Importance: High

Township Officers and Staff:

The Commissioners discussed yesterday how they propose to handle new requests for large solar or wind projects within Licking County. After that discussion, the decision was made to send the Township a letter that explains, in essence, that the Commissioners would likely wait until a project was actually being considered and then seek the Township's position on the specific project before proceeding with formalizing any restrictions.

The letter attached hereto explains this position better than I have, so please read it and make any comments back to the Commissioners should you have any questions or concerns. I was just asked to get it out to you today.

Kenneth W. Oswalt

Compliance Officer/Staff Counsel, J.D. (0037208)
Licking County Board of Commissioners
20 S. Second Street, 4th Fl., Newark, Ohio 43055
740-670-5115 (direct); 740-403-6711 (cell)
740-670-5112 (fax); kenoswalt@lickingcounty.gov



LICKING COUNTY BOARD OF COMMISSIONERS

TIMOTHY E. BUBB • DUANE H. FLOWERS • RICK BLACK

April 27, 2023

Trustee Rozland McKee (rmckee@etnatownship.com)

Trustee Jeff Johnson (jjohnson@etnatownship.com)

Trustee Mark Evans (mevans@etnatownship.com)

Dear Trustees McKee, Johnson, and Evans:

We are responding to a recent inquiry about the possibility of the County Government formally designating Etna Township as an exclusion zone for potential development of industrial scale wind or passive solar farms. We appreciate your concern and look forward to any position the Township Board takes when you discuss this, as we understand it, in early May. Since Licking County is not considered a 'wind county' then really this pertains to the possibility of passive solar projects.

The current situation is that the Ohio Power Siting Board has approved two large scale passive solar projects. One in Harrison Township and one in Hartford Township that also includes a part of Bennington Township. The Harrison Township projects is on hold and not under construction, and the Harvey Project in northern Licking County is approved but on hold pending a court appeal. As of this writing there are no other solar projects under consideration for Licking County, or at least that we have been made aware of for consideration.

In brief, please note that if any additional solar farm discussion comes forward we will make it public, and will seek feedback and guidance from any affected township(s). It has been the long-standing policy of our Board to communicate with and respect the wishes of our townships on such matters of mutual interest. We have no plans to initiate the public process of exclusion zones unless there is an actual project on the horizon and thereafter a formal request comes from an affected township(s) to bring forth such action, which is now

permitted by Ohio law. Please stay in touch on this issue and advise if you or your township becomes aware of any proposal for a passive solar project.

Very Best Regards:

Licking County Commissioners


Timothy Bibb


Duane Flowers


Rick Black

cc: Julia Varian, Etna Township Fiscal Officer (jvarian@etnatownship.com)
Nita Hanson, Etna Township Administrator (nhanson@etnatownship.com)

Nita Hanson

From: Mark Evans
Sent: Tuesday, July 4, 2023 1:54 PM
To: Rozland McKee
Cc: Nita Hanson; John Singleton; Jeff Johnson
Subject: Re: New Firehouse

The proper word is residents. Residence is a place where someone lives.

My communications address improper behavior not gender. Shameful anyone would have such a lack of foundation to have to resort to such ludicrous claims.

Sincerely,

Mark Evans
Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell
mevans@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188

etnatownship.com

On Jul 4, 2023, at 10:56 AM, Rozland McKee <rmckee@etnatownship.com> wrote:

Again, the trustee that likes to put down women. This will not go unnoticed by the Etna residence. Mark my words on this Mark Evans. I have watched several emails from you since Saturday after the movie and music night. You have a reprobate spirit.

Rozland McKee-Flax
President – Board of Trustees
rmckee@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188
740-927-7717-O
740-814-9419-C
etnatownship.com

From: Mark Evans <mevans@etnatownship.com>
Sent: Monday, July 3, 2023 2:44 PM

To: Nita Hanson <nhanson@etnatownship.com>

Cc: John Singleton <etnatwpzoning@etnatownship.com>; Rozland McKee <rmckee@etnatownship.com>; Jeff Johnson <jjohnson@etnatownship.com>

Subject: Re: New Firehouse

Nita,

Please forward a copy of the PUD to me. Thank you.

Sincerely,

Mark Evans

Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell

mevans@etnatownship.com

81 Liberty Street

PO Box 188

Etna, OH 43018-0188

etnatownship.com

On Jul 3, 2023, at 10:55 AM, Nita Hanson <nhanson@etnatownship.com> wrote:

Mark – According to John, the PUD permits uses that were included in the old R-3 zoning district, which was still in the Zoning Resolution when the PUD was established and does allow for a fire station (Section 906.G. Governmental Buildings).

I am at a loss to understand how you consider this to be some failing on my part.

Nita L. Hanson

Administrator, Etna Township

<image001.jpg>

740.927.7717 Town Hall

740.814.9365 Cell

From: Mark Evans <mevans@etnatownship.com>

Sent: Saturday, July 1, 2023 12:04 AM

To: Nita Hanson <nhanson@etnatownship.com>

Subject: New Firehouse

Nita,

It is disappointing that I have to hear about what is going on in our fire district and township from a newspaper instead of our administrator. The lack of proper updates and reports is not acceptable.

Please forward information on this as it appears this land is zoned a PUD. Can it be built without rezoning? If so, please provide the documentation indicating so.

If not, are there plans or actions in progress for any rezoning. I am a little concerned about a fire station going in so close to residential.

https://www.newarkadvocate.com/story/news/local/pataskala/2023/06/30/west-licking-fire-district-to-relocate-fire-station-due-to-etna-growth/70319067007/?fbclid=IwAR02A_y9tRX5mVpValin5YRdLNyv3jVeHOGkzNC6CnMAHbH6uqan4xJXfqc_aem_Afppy_aB7qL3giBAV5A7Selprj8r9tfumgdS8rOUAUSZI_XLU7r1lsrz4yYzNT1ptU-E&mibextid=Zxz2cZ#ljefhat2embbw4tv8m

<image002.png>

Sincerely,

Mark Evans

Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

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mevans@etnatownship.com

81 Liberty Street

PO Box 188

Etna, OH 43018-0188

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<Cumberland Trail PUD.pdf>

<Section 906 Old R-3 Removed.pdf>

Nita Hanson

From: Mark Evans
Sent: Monday, June 12, 2023 10:48 AM
To: Nita Hanson
Cc: Jeff Johnson; Julie Varian; John Singleton; Laura Brown; Rozland McKee
Subject: Re: Special Meeting for 629 Global Way

Nita,

There are serious concerns about Mrs. McKee's behavior and actions throughout the area that are widely discussed. I will bring them to light as they need to be documented. It's not normal behavior.

Sincerely,

Mark Evans
Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell
mevans@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188

etnatownship.com

On Jun 12, 2023, at 10:32 AM, Nita Hanson <nhanson@etnatownship.com> wrote:

Mr. Evans – I have asked you not to include me in communications that only serve the purpose of name calling, and denigration. This type of communication is not conducive to promoting cohesively working together; but, rather adds to the already hostile work environment. I was gravely concerned when you referred to Ms. McKee as the “evil Trustee” at the last public meeting. At a minimum, I would hope that as adults we could refrain from name calling.

Nita L. Hanson
Administrator, Etna Township
<image001.jpg>
740.927.7717 Town Hall
740.814.9365 Cell

From: Mark Evans <mevans@etnatownship.com>
Sent: Monday, June 12, 2023 10:25 AM
To: Nita Hanson <nhanson@etnatownship.com>

Cc: Jeff Johnson <jjohnson@etnatownship.com>; Julie Varian <jvarian@etnatownship.com>; John Singleton <etnatwpzoning@etnatownship.com>; Laura Brown <etnatownship@etnatownship.com>; Rozland McKee <rmckee@etnatownship.com>

Subject: Re: Special Meeting for 629 Global Way

Everything was stripped from me due to a megalomaniac. Someone that couldn't be truthful or knowledgeable about even park land farming.

Sincerely,

Mark Evans

Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell

mevans@etnatownship.com

81 Liberty Street

PO Box 188

Etna, OH 43018-0188

etnatownship.com

On Jun 12, 2023, at 10:10 AM, Rozland McKee <rmckee@etnatownship.com> wrote:

Mark,

I am glad they are too after receiving this email back on January 11, 2023, from Jennifer.

This is the copy of the email sent to us from Jen.

From: Jennifer Huber <jhuber@bjglaw.net>
Sent: Wednesday, January 11, 2023 1:43 PM
To: Rozland McKee <rmckee@etnatownship.com>
Cc: Julie Donnan <jdonnan@bjglaw.net>; Peter Griggs <pgriggs@bjglaw.net>
Subject: CRG 629 Grant

Dear Roz,

Regarding the CRG 629 grant project (Schuster Way), just as an FYI, Mark is handling that project pretty much exclusively. I am more than happy to help anytime, and I'm fine with it, if the current setup with Mark handling is working for the Board. I'm not fully in the loop with him of goings-on with this project, but based on what I do know, I'm not aware of anything amiss at this point.

As always, please let me know if you need any additional information from me.

Best,
Jenn

Jennifer L. Huber, Member

<image001.jpg>

BROSIUS, JOHNSON & GRIGGS, LLC

1200 Dublin Road, Suite 100
Columbus, Ohio 43215
Telephone: (614) 464-3563
Fax: (614) 224-6221
Email: jhuber@BJGlaw.net
Website: www.BJGlaw.net

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Rozland McKee-Flax
President – Board of Trustees
rmckee@etnatownship.com

81 Liberty Street
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740-927-7717-O
740-814-9419-C
etnatownship.com

From: Mark Evans <mevans@etnatownship.com>
Sent: Friday, June 9, 2023 6:20 PM
To: Nita Hanson <nhanson@etnatownship.com>
Cc: Rozland McKee <rmckee@etnatownship.com>; Jeff Johnson <jjohnson@etnatownship.com>; Julie Varian <jvarian@etnatownship.com>; John Singleton <etnatwpzoning@etnatownship.com>; Laura Brown <etnatownship@etnatownship.com>
Subject: Re: Special Meeting for 629 Global Way

I'm glad the attorney is getting involved to handle it properly as I suggested to Julie. I may be able to attend Tuesday.

Sincerely,

Mark Evans
Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell
mevans@etnatownship.com

81 Liberty Street

PO Box 188
Etna, OH 43018-0188

etnatownship.com

On Jun 9, 2023, at 4:33 PM, Nita Hanson <nhanson@etnatownship.com> wrote:

In order to proceed with the processing of the 629 for Global Way, Jen Huber at Brosius, Johnson & Griggs is preparing the necessary resolution, along with step-by-step instructions for the processing of the funds. It would seem that this is most expeditiously attended to by a special meeting next Tuesday. If it is scheduled at 5:30, it should not interfere with the Zoning Commission meeting. Does this make sense? Please let me know your thoughts.

Nita L. Hanson
Administrator, Etna Township
<image001.jpg>
740.927.7717 Town Hall
740.814.9365 Cell

Nita Hanson

From: Rozland McKee
Sent: Monday, May 22, 2023 7:29 PM
To: Nita Hanson; Mark Evans
Cc: Jeff Johnson; Julie Varian
Subject: Action not on the agenda

Mark,

While you unmasked yourself to me and the public at large in January 2022, you have now fully unmasked yourself to our newest employee, Ms. Hanson. It did not take much time for you to reveal yourself to Ms. Hanson. This response, together with other email threads have revealed that along with me, she is now in your crosshairs. Importantly, your correspondences and in-person behavior are creating an indisputable record that will, in time, hoist you by our own petard.

Your continuous attempts to undermine me at every opportunity are on full display. I cannot say that I am surprised or astonished, but it nevertheless further emphasizes and underscores that my assertions below are accurate and precisely describe who you are and the affect it is having in our office.

So, in addition to creating a work environment that is intimidating, hostile, and/or offensive to the reasonable person, your last response highlighted below has once again shown that you are an unabashed classic **misogynist and sexist**. At best, these gender-biased attitudes are discriminatory and a direct personal attack on my cognitive and intellectual capabilities, displaying an attitude of superiority to women in terms of ability, intelligence, etc.

Extrapolated to the women on our staff, there is little doubt that harboring these disgusting, sexist, and misogynistic attitudes against woman affects how you treat women, impeding the progress of women on our staff. Indeed, your aggressive, public outward displays of misogyny at our Township meetings are consistent with the sentiments you have expressed in these email threads.

Predictably, you will launch further personal attacks in reply to this response. Ms. Hanson has asked you kindly to refrain from “disparag[ing] anyone” and to change your “professional conduct.”

I hope that at some point, you will look in the mirror and realize that we are not your enemies. The enemy is within you.

Thank you.

Rozland

Rozland McKee-Flax
President – Board of Trustees
rmckee@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188
740-927-7717-O
740-814-9419-C

etnatownship.com

From: Nita Hanson <nhanson@etnatownship.com>
Sent: Monday, May 22, 2023 8:34 AM
To: Mark Evans <mevans@etnatownship.com>
Cc: Rozland McKee <rmckee@etnatownship.com>; Jeff Johnson <jjohnson@etnatownship.com>; Julie Varian <jvarian@etnatownship.com>
Subject: RE: Action not on the agenda

Mr. Evans – Please do not include me in communication that is intended to disparage anyone, especially the other Trustees.

Ms. McKee – Thank you for your support. It is my privilege, and a blessing to be on the team and serve our community.

Nita L. Hanson
Administrator, Etna Township



740.927.7717 Town Hall
740.814.9365 Cell

From: Mark Evans <mevans@etnatownship.com>
Sent: Sunday, May 21, 2023 8:03 PM
To: Nita Hanson <nhanson@etnatownship.com>
Subject: Re: Action not on the agenda

Nita,

It is inappropriate that Mrs. McKee attempts to discuss township business and employees outside township meetings.

There is a reason there is an open meeting act. I understand that she does not feel a need to follow it as she has violated it numerous times.

She started out her tenure asking me to violate the open meetings act regarding the administrator position back at the 2022 OTA. She attempted to discuss the position and hiring in the hall before the presentation. When I indicated we couldn't discuss the matter, she stated "Why? Are you recording?", "No one will hear."

Any issues should be discussed in a meeting as required. Otherwise they violate the law. The violations of rules and laws must cease.

Also, based on the email, I also doubt Mrs. McKee was the author. Likely her husband wrote it like prior documents.

Sincerely,

Mark Evans
Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell
mevans@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188

etnatownship.com

On May 21, 2023, at 7:23 PM, Rozland McKee <rmckee@etnatownship.com> wrote:

Mark,

When our new Township Administrator, Nita Hanson, begun her tenure in April, I was hopeful that you would curtail your despicably boorish behavior, at least for the sake of onboarding and appearing to foster a welcoming work environment that could lead to a sustainable working relationship with her. Now, it is clear that this was too much to expect from you.

In the almost eighteen (18) months into my tenure as a Trustee, you have harassed, belittled and undermined not just me, but the entire staff. Unfortunately for us, your consistent disrespect and blatant lack of sensitivity to the feelings or values of others has now been directly visited upon Ms. Hanson. In less than one (1) month, she has been subjected to the full force of your harassment, belittling, intimidation and abuse. She is now able to clearly articulate, recognize and tell her own stories about the hostility visited upon her (which I have endured for all of my tenure). This is more than just petty slights, annoyances and unprofessionalism but is seemingly unlawful and should not be tolerated. My view, based on the totality of the facts and circumstances is that your conduct has created a work environment that is intimidating, hostile, and/or offensive to reasonable people.

While nothing I say or do will alter your behavior or character, it should be noted that Ms. Hanson is now the latest individual in our office who now has experienced your blatant hostility, intimidation and offensive behavior. Ms. Hanson has warned you that you have “impugn[ed] my integrity” and rightly considers your correspondences to her a “personal attack.” Having recently met you less than sixty (60) days ago, it is remarkable that her experience with you is similar to and parallels my relationship with you. It has been consistent and incontrovertible.

As a Trustee, you are one of her supervisors and as such, your behavior should be above reproach, respectful, professional and without malice. It is indeed embarrassing to have to tell you how to behave in the workplace but I have the responsibility to speak up. Speaking up for what is right and requesting that you conduct yourself in a professional and respectful manner (both in-person and in-correspondences) so as not to continue to create this hostile, intimidating and offensive work environment is the right thing to do. I will never stop speaking up and imploring you to conform your conduct accordingly.

Thank you.

Rozland

Rozland McKee-Flax
President – Board of Trustees

rmckee@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188
740-927-7717-O
740-814-9419-C
etnatownship.com

From: Mark Evans <mevans@etnatownship.com>
Sent: Wednesday, May 17, 2023 1:22 PM
To: Nita Hanson <nhanson@etnatownship.com>
Cc: Rozland McKee <rmckee@etnatownship.com>; Jeff Johnson <jjohnson@etnatownship.com>
Subject: Re: Action not on the agenda

Nita,

It's your professional conduct I am discussing. Period. I expect better. The residents deserve better.

Sincerely,

Mark Evans
Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township


614.831.1600 Cell
mevans@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188

etnatownship.com

On May 17, 2023, at 1:15 PM, Nita Hanson <nhanson@etnatownship.com> wrote:

Mark – Instead of recognizing the business necessity of the recommendation that ultimately resulted in unanimous agreement by the Board, you impugn my integrity. That is the personal attack.

Nita L. Hanson
Administrator, Etna Township
< >
740.927.7717 Town Hall
740.814.9365 Cell

From: Mark Evans <mevans@etnatownship.com>
Sent: Wednesday, May 17, 2023 9:51 AM

To: Nita Hanson <nhanson@etnatownship.com>

Cc: Rozland McKee <rmckee@etnatownship.com>; Jeff Johnson <jjohnson@etnatownship.com>

Subject: Re: Action not on the agenda

Nita,

Personal attacks?!? No. This is about improper administration and you not keeping your word. Period.

There was absolutely no reason not to have that on the agenda.

And to not call for an executive session, unbelievable. So unprofessional.

I'm shocked and disappointed. I expect this behavior from McKee and Johnson as they have proved time and time again they don't want to do what is right. I hoped better of you.

We have to do better for the residents.

Sincerely,

Mark Evans

Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

614.831.1600 Cell

mevans@etnatownship.com

81 Liberty Street

PO Box 188

Etna, OH 43018-0188

etnatownship.com

On May 17, 2023, at 9:22 AM, Nita Hanson <nhanson@etnatownship.com> wrote:

Mr. Evans – As I explained to all of the Trustees in my email yesterday afternoon, because of the timing of the JEDZ board meeting vis a vis the next Trustee meeting, I wanted to get before you the recommendation to approve the purchase of the equipment so that it could be presented to the JEDZ. The information was not new. And, I provided it to each of you again yesterday afternoon. It did not need to be a controversial issue. The Trustees could have denied the recommendation, and the reimbursement request made to the JEDZ at a subsequent meeting.

Your personal attacks only add to the hostile work environment that you create.

Nita L. Hanson

Administrator, Etna Township

<image001.jpg>

740.927.7717 Town Hall

740.814.9365 Cell

From: Mark Evans <mevans@etnatownship.com>
Sent: Tuesday, May 16, 2023 10:30 PM
To: Nita Hanson <nhanson@etnatownship.com>
Subject: Action not on the agenda

Mrs. Hanson,

Once again you recommended action you were fully aware of prior to the agenda and you again requested action. This is directly contrary to what you stated prior that you would not do this. This is twice. Why did you break not only your word but no even request it to be added to the agenda when I requested it? This is not proper administration nor proper procedure. This type of action cannot be excused due to your lack of experience since this is very basic.

Please explain why you do not want to be transparent to not only the full board but to the public?

Sincerely,

Mark Evans
Etna Township Board of Trustees

Committed to Serving Residents and Restoring Proper Administration to the Township

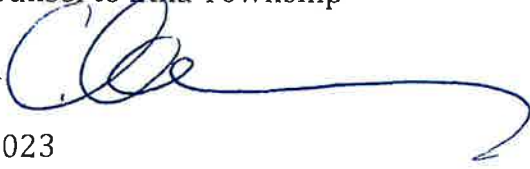
614.831.1600 Cell
740.927.7717 Township Office
mevans@etnatownship.com

81 Liberty Street
PO Box 188
Etna, OH 43018-0188

www.etnatownship.com

ATTACHMENT 2

MEMORANDUM

TO: Julie Donnan, Counsel to Etna Township
FROM: Christina L. Corl 
DATE: November 14, 2023
RE: Report Regarding Investigation of Complaint Against Township
Trustee Mark Evans

Via a resolution of the Etna Township Trustees dated October 3, 2023, I was appointed to act as an outside investigator to investigate allegations of hostile work environment and discrimination against Township Trustee Mark Evans. Section I of this report details the witnesses interviewed and video/documentation reviewed during the investigation. Section II of this report details my findings. In summary, the conduct of Trustee Mark Evans toward employees of the Township constitutes bullying, which is prohibited by the personnel policies of the township. Insufficient evidence of illegal discrimination or hostile work environment was adduced in the investigation, so those allegations are unsubstantiated.

I. Summary of Investigation.

A. Interview of Nita Hanson

Nita Hanson serves as the Township Administrator. She has been in the position since April 2023. Ms. Hanson submitted a written complaint to the Township Trustees on August 31, 2023. In the complaint, Ms. Hanson complained

that Trustee Evans created a hostile work environment by engaging in gender-based intimidation, ridicule and mockery and interfering with her official duties.

During her interview, Ms. Hanson related that when she was appointed by the Trustees, she attempted on multiple occasions to meet with Trustee Evans. Although it took a long time to schedule, Ms. Hanson stated that she eventually met with Trustee Evans and the first meeting "seemed fine." She stated that Trustee Evans gave her a list of actions he wanted her to take as the Township Administrator, including bringing meeting minutes "up to date." She stated that she immediately went to work and made it a "priority" to "catch up" the Trustee's meeting minutes, but "that was not good enough" for Trustee Evans. Even though the minutes were up to date Trustee Evans stated, "Why are these behind and what is the plan to keep them on track?" Ms. Hanson stated that she then realized that Trustee Evans is difficult to work with.

She stated that Trustee Evans is constantly critical of her and treats her in a hostile fashion. She stated that he has filed multiple public records requests for "records he already has" in order to "make busy work" for her. Ms. Hanson has also heard from multiple residents of Etna Township that Trustee Evans frequently speaks in public about terminating her employment. She stated that he frequently posts derogatory comments about her and Rozland McKee (another Township Trustee) on Facebook. Ms. Hanson provided several Facebook postings and Facebook messages where he accuses her and other township officials of lying.

Specifically, Trustee Evans asked Ms. Hanson to “solve” an issue related to a property in the township which was low lying and had issues with flooding. She addressed the issue and came up with a comprehensive plan to address the flooding when a larger park development plan was put in place. She stated that Trustee Evans then posted on Facebook that Ms. Hanson was “bulldozing a wetland,” which was untrue.

In September, Trustee Evans was invited to a Trustee’s lunch which would also serve as a birthday lunch for a Township employee. Although all other Trustees attended, Trustee Evan refused to attend because there was no video camera surveillance in the Township Hall. (9/7/23 email to Hanson). I have also been provided numerous email communications involving messages from Trustee Evans, all of which are hostile and demeaning and accuse numerous employees and others of lying. In one email communication, he accuses female Trustee Rozland McKee of having her “husband” draft her email communications. (5/21/23 email to Hanson). In other email communications, he accuses Ms. Hanson of being “derelict” and frequently accuses her of providing “false” information to residents and in Trustee meetings. I have not seen any communication by Trustee Evans which is not derogatory and demeaning to its recipients.

When asked if Trustee Evans singles out women for this treatment, Ms. Hanson stated that, although multiple people have told her the Trustee Evans “hates women,” he is hostile and demeaning to men as well. Last, Ms. Hanson stated that

the Township was seeking to hire new employees for their “road crew.” She stated that Mr. Evans actually contacted one of the road crew candidates and encouraged him to not accept the employment offer. He also stated the same thing to “Bob” who was eventually hired by the Township despite the statements of Trustee Evans.

B. Interview of Township Trustee Rozland McKee.

Trustee McKee was first elected in November 2021 and took her seat in January 2022. She stated that she and Trustee Evans were elected at the same time. She stated that Trustee Evans “had an agenda” to be President of the Trustees and she was Vice President. She stated that Trustee Evans unnecessarily prolonged Trustee meetings by criticizing prior Township Trustees which resulted in meetings lasting “hours and hours.” Because she believed this to be a waste of Township resources she ran for, and was elected, President of the Trustees. She stated that, after that, Trustee Evans has “targeted” her with hostile behavior.

Trustee McKee related her impression that Trustee Evans only wants to work with “timid” women who will do what he wants. When the Trustees are interviewing candidates for various positions, Trustee Evans favors young women with “no experience” because, in Trustee McKee’s estimation, he wants to have “someone he can push around.” She stated that Trustee Evans has sent her misogynistic emails including asking her if her husband drafts her emails for her. She also stated that Trustee Evans is constantly attacking her on Facebook. She provided me with multiple postings and messages from Trustee Evans threatening

to fire all Township employees, including Ms. Hanson and Zoning Inspector, John Singleton and email communications in which he disparages Township employees to Township residents, including stating he would bring a complaint to the attention of Mr. Singleton but “[Singleton] refuses to work together or even provide a response. It’s shameful.” (1/17/23 email to Linda Harmon). In another post, he accuses the local “school superintendent” of “kissing McKee’s ass.” He also posted a “Licking County News” post titled “Roz McKee is a liar from head to toe.” Another post refers to a female running for office and states her campaign photo “looks like she is constipated trying to take a shit.”

In addition, Trustee Evans referred to Trustee McKee as “evil” in a public meeting and, in various email communications referred to her as a “megalomaniac” (6/12/23 email to Hanson) and corrects her grammar in written communications in a demeaning fashion. (7/4/23 email to McKee).

C. Interview of John Singleton.

John Singleton is the Zoning Inspector for Etna Township. In February 2023, he stated he was in the Township offices when Trustee Evans came in, wearing a body-worn camera and demanded to the Township Secretary, Laura Brown, to produce some public records he had requested. According to Mr. Singleton, Trustee Evans had requested that records be produced within a certain time, but that the time had not yet come. He stated that Ms. Brown refused to deal with Trustee Evans while he was wearing a body camera. As a result, Ms. Brown left the office, but left

her laptop open on her desk. After Ms. Brown left, Trustee Evans began looking through the items on Ms. Brown's desk and looking at her email communications on her computer. (This fact is confirmed upon review of the video).

Mr. Singleton stated that he then received a call from Ms. Brown, asking him to go to her desk and shut her laptop. When he tried to do so, Trustee Evans "grabbed his wrist and twisted it." (This fact is confirmed upon review of the video.) Mr. Singleton called the Licking County Sheriff's Office, which "took a report and left." He stated that Trustee Evans has "berated" him on several occasions and that he "treats everyone like crap." Mr. Singleton also stated that he has heard Trustee Evans refer to Trustee McKee as a "dumb bitch" or "stupid bitch" during meetings.

D. Laura Brown.

Ms. Brown has worked for Etna Township since May 2004. She is currently Secretary to the Board of Trustees and Clerk for the Zoning Commission and Board of Zoning Appeals. After Trustee Evans was elected, Ms. Brown stated that he made a Facebook post which "put down" her office and implied that she was not competent. She stated that she has tried and tried to work collaboratively with Trustee Evans, but it never works. He is constantly threatening to "sue her" or the Township over public records issues and stated that he is "intimidating" and threatening to her. He also is constantly threatening to terminate her employment.

She stated that Trustee Evans seems to "target people who don't fight back," and that he has rifled through her desk at the Township on multiple occasions. In

February 2023 he came to the Township Offices wearing a body camera and demanded that she produce public records which he had requested. She stated that his records request had set a time to have the records ready, that the time had not yet come, but he demanded the records anyway. Because he was wearing a body camera, Ms. Brown did not feel comfortable and left the office. She later called and asked Mr. Singleton to close her laptop computer on her desk. She heard that there was an altercation between Mr. Singleton and Trustee Evans so she returned to the office and gave a statement to the Licking County Sheriff's Deputy who was taking a report.

E. Interview of Don Copely.

Don "Bubba" Copely has been the Road Superintendent at Etna Township for nearly 15 years. He stated that he has never personally had an issue with Trustee Evans but that he has heard him in meetings refer to Ms. McKee as a "bitch." He also stated that he has witnessed "talking down" to women and talking to women "like trash." He has not heard Trustee Evans take a similar tone with men.

F. Documentary and Video Evidence.

In addition to the witness interviews, I also reviewed documentary and video evidence. First, I have reviewed the Township's Policies and Procedures Manual, particularly Section 14.4, the Township's Discrimination, Harassment and Bullying Policy. The policy prohibits harassing behavior and bullying, including prohibiting "the use of abusive or offensive language . . . insults . . . threats . . . interfering with

workplace equipment . . . [and] the use of social media sites to bully others.” I have reviewed multiple Facebook posts, text messages and email communications with Trustee Evans and Township employees or residents. I have also reviewed multiple videos, including the body camera video for the February 2023 incident at the Township Offices between Mr. Singleton, Ms. Brown and Trustee Evans.

G. Interview of Trustee Mark Evans.

Despite my best efforts, I was unable to interview Trustee Evans for this investigation. The first request for an interview was sent to Trustee Evans on October 10, 2023. He responded the same day and stated that it was a “very hectic” time for him and he would “review” his schedule and “see when [he] could accommodate my request [for an interview].” Six days later, on October 16, I followed up again. Trustee Evans again responded to state he was not available and would check his schedule. He then communicated on October 24, 2023, that he would not be available during the month of October and asked for dates in November. On the same date, I provided him with available dates in November for an interview. I re-transmitted my availability in November to Trustee Evans on November 1. On November 2, 2023, Trustee Evans responded that he was not available on the November dates and that he would “give you a few dates I’m available” on Monday November 6. On November 7, he provided a date in November and a date in December on which I was not available. I then provided some alternate dates in November. Mr. Evans did not respond to that email. He

then emailed on November 10 and provided several dates in January. Because the Board of Trustees, through the Township's legal counsel, requested the investigation to be completed by month's end, and because Trustee Evans has stated he is not available to be interviewed until January, the report will be finalized without his interview.

II. Findings and Conclusions.

A. Bullying and Unprofessional Conduct.

There is no question that Trustee Evan's behavior and communications with and about Township personnel and other Trustees is violative of the Township's policy against bullying. Multiple communications and messages drafted by Trustee Evans are abusive, demeaning and insulting to Township employees and Trustee McKee. He has repeatedly and publicly accused Township employees and officials of lying, of being incompetent and consistently threatens their appointment or employment with the Township. It is one thing to hold the belief that a particular employee is not doing his or her job, it is another to repeatedly threaten the employees with the loss of their jobs and to engage in behavior designed to publicly demean and ridicule them. This is exactly the type of behavior the Township's policy is designed to address.

Further, Trustee Evans has publicly called Trustee McKee names such as "megalomaniac," "evil" and "bitch" and has referred to her as "stupid" and "dumb." In addition, Trustee Evans violated Township policy by physically grabbing John

Singleton's arm and by tampering with the "workplace equipment" of Laura Brown. It is beyond dispute that during the confrontation in February 2023 at the Township offices, Trustee Evans looked through the items on Ms. Brown's desk and was accessing her computer and/or email on her computer.

Public officials, especially elected public officials, should be setting the example of professionalism in their public communications and actions. Trustee Evans' behavior is the antithesis of this sentiment. The allegation that Trustee Evans has engaged in unprofessional and bullying behavior in violation of Township policy is substantiated.

B. Gender Discrimination and Hostile Work Environment.

Trustee Evans was also alleged to have engaged in misogynistic and gender discriminatory behavior toward female employees and Trustee McKee. This question is a much closer call. Most troubling are the statements of two male Township employees who have heard Trustee Evans refer to Trustee McKee as a "bitch," a "dumb bitch" or "stupid bitch." In addition, Trustee Evans has engaged in misogynistic communications with Trustee McKee by asking her if her "husband" drafts her emails for her. There is no question that these types of comments and behaviors are indicative of misogynistic and discriminatory attitudes. However, all witnesses interviewed also stated that Trustee Evans is an "equal opportunity" degrader. In other words, the witnesses stated that he was equally demeaning and insulting to male employees. Because all witnesses stated that Trustee Evans is

demeaning to men and women, the allegation that he engaged in illegal gender discriminatory conduct is unsubstantiated. Future demonstrations of misogyny, however, could change the opinion of this investigator (or a Court) on this subject.

Please let me know any questions. Otherwise, I will be closing my file on this matter. Thank you for the opportunity to serve the Township.

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