

**APPROVED
PROCEEDINGS OF THE OTTAWA COUNTY
BOARD OF COMMISSIONERS
CLOSED SESSION**

The Ottawa County Board of Commissioners met in Closed Session on Monday, November 6, 2023, at 9:06 a.m.

Present: Gretchen Cosby, Lucy Ebel, Douglas Zylstra, Jacob Bonnema, Joe Moss, Kyle Terpstra, Rebekah Curran, Sylvia Rhodea, Roger Belknap, Roger Bergman, Allison Miedema. (11)

Also present: David Kallman, Steve Kallman, Jack Jordan, Lanae Monera, all Corporation Counsel, Justin Roebuck, County Clerk/Register, Rachel Sanchez, Chief Deputy Register of Deeds.

The session started out with Steve Kallman explaining what will be discussed during the closed session regarding settlement proposals with Adeline Hambley.

Hambley's attorney proposed this settlement late Thursday evening, and it was sent to the Board on Friday.

There were discussions on how it would look if she stayed and if she goes.

According to Hambley's attorney, she is not interested in any scenario where she is here but not in her current role.

Pension is a big issue for Hambley. Her attorney has proposed the figure of \$3.9 million as the potential value of her pension.

Commissioner Bonnema said that he sat down with Marcie VerBeek about the interviews and process for when Adeline had applied.

Pension discussions took place.

Jack Jordan went to get Marcie VerBeek at 9:15 a.m. to answer questions related to pension buyout, etc. (MERS questions)

Marcie VerBeek joined the meeting at 9:20 a.m.

Steve Kallman mentioned that they are checking to see if any settlement funds can come from the Insurance Authority.

Commissioner Cosby asked Marcie how Hambley may have come up with the \$3.9 million for pension.

Marcie VerBeek said that it is likely that Hambley reached out to MERS to get the estimate. But those numbers aren't final because of life span estimates. It would be 6 years until fully vested. It is not possible to buy the 6 years from what Marcie knows.

Discussions on what funds would equal the pension max, best to try to find out what that number is to help with negotiations.

Commissioner Curran requests information on the Marcia Mansaray offer to resign. The proposal is 1 year severance with full benefits to resign as of January 5, 2024. She would like to know the cost of this.

Marcie gave a rough estimate, Marcia is a DB employee, her salary is \$117,300 and benefits are roughly \$64,000. Marcie confirms it would be \$180,000 with benefits.

The offer also included an extra week of vacation for all the Health Department workers. What is the cost of this?

Commissioner Terpstra stepped out of the meeting at 9:38 a.m.

Commissioner Bonnema asked what other negotiation offers were on the table?

Steve Kallman said they asked, is there a scenario where you agree to resign? That's when they came back with this offer.

Commissioner Cosby said they are looking at roughly 114 employees, what does this look like for cost to the county for an extra week of vacation?

Marcie figured out the cost, and it would roughly be \$118,050 for one extra week vacation.

Commissioner Terpstra returned to the meeting at 9:41 a.m.

Commissioners Rhodea, Cosby and Curran are asking for some hard numbers regarding the pension.

Marcie left to calculate MERS at 9:42 a.m.

Commissioner Terpstra said there must be a reason that we think we are losing in Court otherwise, why would we not just proceed?

Steve Kallman said that it is not that, it's a matter of risk and we are attempting to calculate that risk and then the potential of losing in court comes with a risk. MCL 46.11(n) has no case law, there was an unpublished case in 2012.

Break at 9:46 a.m.

Back from break at 9:52 a.m.

Commissioner Terpstra asked how much we are in for?

Steve Kallman confirms \$102,000 roughly in their fees and Howard has discounted her fees to the amount of roughly \$80,000.

Steve Kallman confirms that the resolution issue is a moot point. The Board's decision in February to correct the prior resolution is moot because of the court of appeals.

Commissioner Curran stated that she sees three options:

1. Settlement with Adeline Hambley.
2. Go with the offer provided with counter offers on the Marcia resignation and one week vacation.
3. Hambley going to deputy role and finding someone that her and the Board agree on.

Chairperson Moss asked if the Board could trust Officer Hambley?

Commissioner Terpstra stated that if we can't trust her, she's horrible, why do we want her as a deputy? Would it matter if Nate Kelly wasn't up for the position? Open a nationwide search?

Marcie returned to the meeting at 10:02 a.m.

She stated that she is going on Adeline Hambley's MERS statement from 2022 and if she stayed 32 years, she would be making \$105,000. Her 2022 statement had her making \$44,000. That is a \$60,000 difference of pay she would not be receiving without a cost-of-living raise. If you factor in a 25% cost of living raise, she would roughly be leaving at the end of her employment making \$164,000. The total liability, very conservatively, is \$3.7 million.

Marcia Mansaray has been here roughly 17 years and is over 60 years old and can collect.

Marcie left the meeting at 10:11 a.m.

Commissioner Curran offered up four scenarios:

1. Offer settlement to cut ties \$3.8 to \$4 million.
2. Everything in email \$381,000-\$400,000.
3. Negotiate with Hambley to keep in deputy role with raise and she is part of the hiring process for Officer that Board approves.
4. No to everything and continue forward.

Add that Marcia is unable to speak to the agreement. Legal said that NDAs haven't ever been tested in court.

Steve Kallman confirms that they have raised the option of Hambley staying on in some other capacity, but she was not interested in this at all.

Commissioners Miedema, Cosby, and Rhodea would like to entertain what it would take for her to walk away.

Commissioners Terpstra and Bergman stepped out of the meeting at 10:38 a.m.

Commissioner Terpstra back at 10:43 a.m.

Commissioner Bergman back at 10:43 a.m.

Discussion on possible negotiations with Hambley's attorney: Does Board have concession on going back to Hambley with an alternative offer of \$1.8 million (which is the hard number of what the pension payout would be without any cost-of-living increases in wages over the next 11 years).

Steve Kallman stated that in addition to the \$1.8 million there would be severance and attorney fees in the amount of \$300,000-\$400,000.

More discussion on trust, the optics of how a settlement would look, and the reason why they are here and why they ran for office.

Commissioner Ebel asked why they haven't gone point by point on the bullet points presented from Hambley.

Commissioner Curran continued to push for an option where Hambley continues to serve at the Health Department but not as Health Officer.

Board leadership is not interested in this option.

It was agreed that they would settle with a national search for a new Health Officer and Hambley and Mansaray would resign.

They are asking legal counsel to talk to her counsel to explore options with an amount of \$1.8 million.

Break at 10:50 a.m.

Back from break at 11:25 a.m.

Commissioner Curran said a prayer over the Board.

Corporate Counsel proposed what does it look like for her to leave? They communicated with Howard, and she is reconvening with Hambley.

Steve Kallman is looking at possible settlement figures less than the \$1.8 million based on actuarial tables in the event that we aren't looking at funding retirement until age 90.

Break at 11:32 a.m.

Back from break at 1:44 p.m. Commissioner Bonnema was not present.

Kallman came back after negotiations with:
\$8 million.

Hambley and Marcia would leave.

\$2.6 million of that would go to Sarah Howard (contingency later on).

\$5.4 million to Hambley.

\$3.9 million of that would be pension 60-90 years of age.
(no explanation for remaining amount)

Legal counsel took it that she wasn't really interested in negotiating.

Commissioner Bonnema came back to the meeting at 1:47 p.m.

Continued discussion on potential solution to retaining Hambley. Continued discussion on counter-offering the original \$8 million amount.

Consensus at the moment is to counteroffer by doubling the attorney fees for Howard to \$200,000 and \$3 million to Hambley. 6 months' severance for Marcia with no stipulations.

Chairperson Moss indicated that this \$3 million offer is a good offer and Kallman confirmed.

Break at 2:04 p.m.

Back from break at 3:23 p.m. Commissioner Terpstra was absent.

They came back with \$4.455 million, 1 year severance and benefits, and Marcia Mansaray would resign with 1 year severance. Also, attorney fees would be worked out between Hambley and Howard. Hambley would leave November 30, 2023 or as late as December 15, 2023. Marcia Mansaray is requesting to stay on until January 31, 2024.

They discussed that with the 1-year severance the total would be \$4.6 million for Hambley. That is an additional \$1,525,000 to the County's latest offer.

Commissioner Curran is concerned about the financial impacts. She is still in favor of the option where Hambley remains.

Chairperson Moss is not comfortable with Marcia Mansaray staying on.

There was discussion on Mansaray staying on an additional 3 weeks.

Commissioners Curran and Bonnema voiced their concerns that this is a frivolous use of taxpayers' dollars. Why would we do this unless we do not believe we could win in Court.

Commissioner Miedema and Chairperson Moss explained that more litigation and more time in Court with the risk of a wrongful termination suit going the wrong way could cost more money.

Steve Kallman said there is a high risk that the case could go back to Judge McNeil and that is a major risk.

This termination litigation would be costly and the likelihood of Hambley staying in office

Chairperson Moss said that we need to get back to business and there is a cost of that as well.

Commissioner Curran stated that they should have an intermediary help to build trust.

Chairperson Moss said that this will not work, there has been too much trust lost.

Commissioner Rhodea asked if they could try to re-negotiate? Go lower than the \$3.5 million?

Chairperson Moss said from her perspective, why would she take this? I would rather negotiate in terms of Marcia:

Commissioner Rhodea's proposal of a potential offer of \$3.8 million plus \$180,000 for Marcia.

Chairperson Moss said he would rather do a flat \$4 million with no severance or benefits. Marcia would get severance for 1 year (or severance through December 31, 2024, 14 months).

There was discussion on the Mansaray offer.

Steve Kallman asked for clarification: Mansaray offer is to leave immediately and a \$100,000 payment. \$4 million for Hambley?

Commissioner Bonnema said he doesn't see a jury awarding Hambley \$4 million.

Kallman said that he agrees with that.

Chairperson Moss said that we are figuring out the cost to get this over with.

Commissioner Bonnema said we are setting a precedent. These issues will not go away. He said he warned them about this a year ago.

Recess for legal counsel at 3:58 p.m.

Reconvene at 4:45 p.m.

Steve Kallman presented the most recent offer:

Hambley will accept \$4 million.

Mansaray will go on Administrative leave tomorrow, but is very interested in benefits, so would like 12 months benefits/severance.

No future legal issues.

Hambley and Mansaray both want liability coverage for the period of time they service in Ottawa County.

Commissioner Zylstra said he would like to make it known to the community that Hambley wanted to stay.

Kallman said that the email itself is confidential and part of a settlement offer.

There was discussion on the confidentiality of the negotiation process. Commissioner Zylstra said that the residents have a right to know.

Commissioners Cosby and Ebel asked how does continually talking about this heal our community?

Commissioner Bonnema asked if he is simply saying he would like to say that she made an offer to stay?

Kallman said that is perfectly fine to say. The full explanation would be that we had a day of negotiations.

Chairperson Moss said that we need some sort of motion directing the attorneys to work on an agreement as discussed in closed session.

The consensus is to start the meeting at 9am on November 14, 2023, and the regular Board meeting would start subsequent to adjournment of the special meeting.

There was discussion on NDA.

Roger Bergman motions to rise from closed session at 5:01 p.m. The motion passed.

JUSTIN F. ROEBUCK, Clerk/Register
Of the Board of Commissioners

JOE MOSS, Chairperson
Of the Board of Commissioners