

APPROVED MINUTES OF THE EXECUTIVE SESSION OF THE BOARD OF TRUSTEES OF THE
COMMUNITY COLLEGE DISTRICT OF THE COUNTY OF MACOMB

An executive session of the Board of Trustees of the Community College District of the County of Macomb was held Tuesday, October 18, 2016, in Room 109, Professional Development Center, Center Campus, 44575 Garfield Road, Clinton Township, Michigan for the purpose of discussing a legal matter.

1.0 CALL TO ORDER

The meeting was called to order by Chairperson Kelly at 7:25 p.m.

2.0 ROLL CALL

Present: James F. Kelly, Chairperson
Vincent Viviano, Vice Chairperson
Jennifer Haase, Secretary
Roseanne DiMaria, Treasurer
Frank Cusumano, Trustee
Elizabeth Lucido, Trustee

Absent: Joseph DeSantis, Trustee

Also present: James Jacobs, President
Sharon Kowal, Executive Administrative Assistant to the President
Hunter L. Wendt, General Counsel/Executive Director, College Police

3.0 COLLECTIVE BARGAINING, PERSONNEL MATTERS, LEGAL MATTERS, ATTORNEY/CLIENT PRIVILEGE

Mr. Wendt indicated that there is a possibility that a complaint may be filed in Federal Court against the College alleging a hostile work environment, retaliation and a failure to accommodate a disabled person. The Board is being made aware of this complaint due to the outside possibility that this case could come out in the media.

The complainant made a discrimination complaint in April, 2015 with Human Resources against members of her department. Human Resources initiated an investigation despite the complaints being vague and no reports of sexual assault.

Mr. Wendt was made aware of "other issues" and urged the complainant to meet with him and Ms. Williams, Vice President of Human Resources. She met with them, along with her union president and disclosed sexual assaults for the first time.

Mr. Wendt advised the complainant that the College would support her in bringing criminal charges and at his urging she agreed to meet with investigators from the Macomb County Sheriff's Office. As a result of the meeting, the perpetrator was arrested and ultimately pled guilty to two counts of assault and battery.

After the perpetrator was fired from the College, the complainant returned to work. Upon her return she indicated that she felt as though she was being treated differently than her male counterparts. Through the College's Human Resource department she was offered whatever support she might need to deal with the assault situation. Due to concern and the possible impact the assaults had upon her, in the presence of her union president, she was offered the opportunity to take a fully paid leave during which time the College would have an independent medical/psychological examination conducted to determine her ability to continue to work. She admitted to having issues with the assaults and agreed to take the leave and attend an examination.

At about the same time she engaged an attorney and filed complaints with the EEOC. In April of 2016 the EEOC dismissed the complaints. However, after a dismissal, a complainant still has the right to sue even though the conclusion states the information/facts failed to establish any violation of her rights.

At this point she refuses to return to work due to her belief that everyone is against her. The complainant has filed for Worker's Comp, Short term disability and Long term disability. The Short term disability was paid. The Long term and Worker's Comp carriers ordered an independent medical and psychological exam. They both denied benefits and concluded that the complainant is capable of returning to work without restrictions. She has been ordered to return to work as of October 31st.

Trustee Cusumano asked if General Counsel would be defending this case. Mr. Wendt said that the law firm of Clark Hill will be handling it.

Trustee Cusumano asked if there is a limit on the time they spend on the case. Mr. Wendt said they were able to settle on a reasonable amount.

Trustee Haase asked if insurance would cover this and Mr. Wendt said no.

Trustee Cusumano asked about the right to sue letter and stated he wants the Board to vote on a law firm to defend this case.

Trustee Kelly said he doesn't believe that the Board has ever done that before. Historically the Board delegates that task to General Counsel and his professional opinion.

Trustee Kelly thanked Counsel for the update and requested he keep the Board informed.

MOTION by Cusumano, supported by Viviano, to revisit the retention of the attorney for this litigation and to receive an update on the matter with regard to Clark Hill's billings to date.

ROLL CALL:

Ayes: Cusumano, Viviano

Nayes: DiMaria, Lucido, Haase, Kelly

Absent: DeSantis

Motion failed.

Trustee Kelly requested that at the November meeting, Mr. Wendt provide an update on the case, inform the Board as to Clark Hill's involvement to date, and to find in the bylaws where General Counsel has the authority to hire a legal firm to represent the College in legal matters.

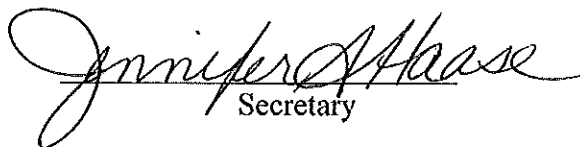
4.0 ADJOURNMENT

MOTION by DiMaria, supported by Haase, to adjourn the meeting.

Motion carried.

The meeting adjourned at 8:00 p.m.

COMMUNITY COLLEGE DISTRICT OF THE COUNTY OF MACOMB
BOARD OF TRUSTEES


Secretary