

Lansing

313 S. Washington Square
Lansing MI 48933

Detroit

333 W. Fort Street – Suite 1400
Detroit MI 48226

Walter S. Foster
1878-1961
Richard B. Foster
1908-1996
Theodore W. Swift
1928-2000
John L. Collins
1926-2001

Webb A. Smith
Allan J. Claypool
Gary J. McKay
Stephen I. Jurmu
Scott A. Storey
Charles A. Janssen
Charles E. Barbieri
James B. Jensen, Jr.
Scott L. Mandel
Michael D. Sanders
Brent A. Titus

Stephen J. Lowney
Jean G. Schtokal
Brian G. Goodenough
Matt G. Hrebec
Nancy L. Kahn
Deanna Swisher
Thomas R. Meagher
Douglas A. Mielock
Scott A. Chernich
Paul J. Millenbach
Dirk H. Beckwith
Brian J. Renaud
Bruce A. Vande Vusse
Lynwood P. VandenBosch
Lawrence Korolewicz
James B. Doezeema
Anne M. Seurnyck
Richard L. Hillman
Steven L. Owen
John P. Nicolucci

Southfield

28411 Northwestern Highway, Suite 500
Southfield MI 48034

Holland

151 Central Avenue – Suite 260
Holland MI 49423

Michael D. Homier
David M. Lick
Scott H. Hogan
Richard C. Kraus
Benjamin J. Price
Frank T. Mamat
Michael R. Blum
Jonathan J. David
Frank H. Reynolds
Pamela C. Dausman
Andrew C. Vredenburg
John M. Kamins
Jack A. Siebers
Julie I. Fershtman
Todd W. Hoppe
Jennifer B. Van Regenmorter
Thomas R. TerMaat
Frederick D. Dilley
David R. Russell
Zachary W. Behler

Joshua K. Richardson
Joel C. Farrar
Laura J. Genovich
Liza C. Moore
Karl W. Butterer, Jr.
Lisa J. Hamameh
Mindi M. Johnson
Ray H. Littleton, II
Jack L. Van Coevering
Barbra E. Homier
Anna K. Gibson
Patricia J. Scott
Nicholas M. Oertel
Alicia W. Birach
Adam A. Fadly
Michael J. Liddane
Glen A. Schmiede
Gilbert M. Frimet
Mark J. Colon
Paul D. Yared

Ryan E. Lamb
Stephen W. Smith
Clifford L. Hammond
Brett R. Schlender
Drew L. Block
Mathew S. Fedor
Nicolas Camargo
Trevor J. Weston
Liam K. Healy
Andrea Badalucco
Mark T. Koerner
John W. Mashni
Allison M. Collins
Leslie A. Dickinson
Julie L. Hamlet
Michael C. Zahrt
Taylor A. Gast
Rachel G. Olney
Tyler J. Olney
Mark J. DeLuca

Grand Rapids

1700 E. Beltline NE – Suite 200
Grand Rapids MI 49525

St. Joseph

728 Pleasant Street – Suite 204
St. Joseph MI 49085

Stefania Gismondi
Thomas K. Dillon
Robert A. Easterly
David S. Nows
Robert A. Hamor
Michael A. Cassar
Hilary J. McDaniel
Toufic R. Saati
Emily R. Wisniewski

Writer's Direct Phone: 616.726.2230

Fax: 517.367.7120

Reply To: Grand Rapids

E-Mail: MHomier@fosterswift.com

August 28, 2018

Hand Delivered

City Council
City of Potterville
319 North Nelson Street
Potterville, MI 48876

Dear Council Members:

Re: City of Potterville's Investigation of City Manager

The purpose of this letter is to provide the City Council a Summary of Findings with respect to the City's investigation of the City Manager.

Nature of Investigation

Pursuant to City Council's "Preliminary Resolution to Remove City Manager and Conduct Investigation" adopted unanimously on July 19, 2018 (the "Preliminary Resolution"), the City has conducted an investigation as authorized by Section 3.09 of the City Charter as to whether the City Manager has committed misfeasance, malfeasance and/or nonfeasance in office, made misrepresentations to City Council, neglected her duties as City Manager, or violated the City's Code and Charter. The Preliminary Resolution further advised that the City Council would hold a public hearing unless the City Manager, Wanda Darrow, waived such hearing. To date, no such waiver has been received by Ms. Darrow.

Pursuant to notice dated August 17, 2018, the City advised Ms. Darrow, through her counsel, Linda Widener, of the date and time of the public hearing. The City Council will conduct a public hearing for

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the purpose of allowing Ms. Darrow and her counsel to be heard and will consider any documentation that they submit at or prior to the public hearing. Following the public hearing, the City Council will determine whether the City Manager has engaged in one or more of the following:

1. Mismanagement, misappropriation, or grossly negligent supervision of funds in the City's Rural Development bank accounts.
2. Misrepresentation to City Council with the intent to defraud in connection with the City's Rural Development/Community Facilities bank account.
3. Mismanagement, misappropriation, or grossly negligent supervision of funds in the Tax Increment Finance Authority bank account.
4. Mismanagement, misappropriation, or grossly negligent supervision of City funds used in connection with the City's "Dump Your Junk" event.
5. Intentional concealment of the theft of City property and/or the misappropriation of City funds.
6. Negligent supervision of City employees, resulting in the theft of City property and/or the misappropriation of City funds.
7. Intentional or negligent destruction of public records, specifically including e-mail messages sent and received by City Council members.

Findings of Investigation

I. Rural Development Bank Accounts

The City has reviewed documents and statements showing that at least **50 payments** were made to the City Manager's son, James Edward Darrow III ("Eddie"), and two apparent friends of Eddie, Erik Lager and Lukas Lager, from the City's bank accounts funded in whole or in part from bond proceeds received from the United States Department of Agriculture's Rural Development program ("RD"), between March and June 2018. It does not appear that these expenditures were authorized by RD or by City Council.

a. Summary of Payments

The payments are summarized as follows. Copies of the checks are attached as **Tab A**.

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Payments to James Darrow III (Eddie)

Date	Check No.	Amount	Account/Source	Check Memo
3/29/18	711	\$400.00	City of Potterville (xxxx729)	Contract Labor
3/30/18	712	\$300.00	City of Potterville (xxxx729)	Contract Labor
3/30/18	713	\$360.00	City of Potterville (xxxx729)	Contract Fee
4/6/18	708	\$633.00	City of Potterville (xxxx716)	Parks Repair
4/13/18	709	\$387.00	City of Potterville (xxxx716)	Contract Labor
4/19/18	4317	\$247.00	City of Potterville (xxxx703)	Contract Labor
4/20/18	4318	\$347.00	City of Potterville (xxxx703)	Contract Labor
4/25/18	6158	\$475.00	City of Potterville R.D. Project (xxxx703)	Contract Supplies
4/27/18	6160	\$617.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
4/30/18	6170	\$600.00	City of Potterville R.D. Project (xxxx703)	Contract Supplies
5/1/18	6168	\$525.00	City of Potterville R.D. Project (xxxx703)	Supplies Contract
5/4/18	6167	\$727.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
5/7/18	6171	\$675.00	City of Potterville R.D. Project (xxxx703)	Supplies
5/8/18	6165	\$387.00	City of Potterville R.D. Project (xxxx703)	Phase II
5/9/18	6206	\$370.00	City of Potterville R.D. Project (xxxx703)	Pay Permit
5/10/18	6208	\$570.00	City of Potterville R.D. Project (xxxx703)	Contract End
5/11/18	6217	\$357.00	City of Potterville R.D. Project (xxxx703)	Phase II
5/15/18	6218	\$270.00	City of Potterville R.D. Project (xxxx703)	Phase II
5/16/18	6213	\$475.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
5/17/18	6215	\$377.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
5/21/18	6209	\$637.00	City of Potterville	Work Supplies

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			R.D. Project (xxxx703)	
5/24/18	6219	\$525.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
5/25/18	6216	\$300.00	City of Potterville R.D. Project (xxxx703)	Phase II
5/30/18	6173	\$427.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
6/1/18	6178	\$276.00	City of Potterville R.D. Project (xxxx703)	"Dump Your Junk"
6/4/18	6177	\$285.00	City of Potterville R.D. Project (xxxx703)	"Dump Your Junk"
6/5/18	6229	\$300.00	City of Potterville R.D. Project (xxxx703)	"Contract labor"
6/11/18	6222	\$712.00	City of Potterville R.D. Project (xxxx703)	"Contract labor"
6/12/18	6225	\$637.00	City of Potterville R.D. Project (xxxx703)	"Contract labor"
6/15/18	6224	\$577.00	City of Potterville R.D. Project (xxxx703)	"Contract labor"

Payments to Erik and Lukas Lager

Payee	Date	Check No.	Amount	Account/Source	Check Memo
Erik T. Lager	4/10/18	710	\$567.00	City of Potterville (xxxx716)	Contract Labor
Erik T. Lager	4/23/18	6156	\$417.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
Erik T. Lager	4/23/18	6157	\$557.00	City of Potterville R.D. Project (xxxx703)	Contract Supplies
Erik T. Lager	4/26/18	6159	\$433.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
Erik T. Lager	5/1/18	6169	\$575.00	City of Potterville R.D. Project (xxxx703)	Supplies
Erik T. Lager	5/2/18	6164	\$547.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
Erik T. Lager	5/3/18	6162	\$550.00	City of Potterville R.D. Project (xxxx703)	Supplies
Erik T. Lager	5/4/18	6166	\$637.00	City of Potterville R.D. Project (xxxx703)	Contract Labor

Erik T. Lager	5/7/18	6163	\$375.00	City of Potterville R.D. Project (xxxx703)	Contract Supplies
Erik T. Lager	5/11/18	6211	\$657.00	City of Potterville R.D. Project (xxxx703)	Phase II Labor
Erik T. Lager	5/14/18	6210	\$437.00	City of Potterville R.D. Project (xxxx703)	Supplies
Erik T. Lager	5/17/18	6212	\$575.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
Erik T. Lager	5/21/18	6227	\$657.00	City of Potterville R.D. Project (xxxx703)	Contract Labor Phase II
Erik T. Lager	5/24/18	6220	\$370.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
Erik T. Lager	5/25/18	6221	\$557.00	City of Potterville R.D. Project (xxxx703)	Contract Labor
Erik Lager	5/30/18	6180	\$376.00	City of Potterville R.D. Project (xxxx703)	“Contract labor”
Erik Lager	6/4/18	6179	\$477.00	City of Potterville R.D. Project (xxxx703)	“Dump Your Junk”
Erik Lager	6/5/18	6174	\$450.00	City of Potterville R.D. Project (xxxx703)	“Dump Your Junk”
Erik Lager	6/11/18	6223	\$465.00	City of Potterville R.D. Project (xxxx703)	“Contract labor”
Lukas Lager	6/8/18	6176	\$637.00	City of Potterville R.D. Project (xxxx703)	“Dump Your Junk”

Of the above payments, \$2,125.00 represents checks purportedly paid from the RD accounts to Eddie, Erik, and Lukas for the City’s “Dump Your Junk” program. These payments are not included in the invoices issued to the City by “Dump Your Junk & Recycle” for the Dump Your Junk program (discussed below).

Based on the sequence of checks, the City believes that **29 checks remain missing**, or unaccounted for, from the RD/Community Facilities account.

b. Lack of Authorization of Checks

The City has reviewed numerous documents from the USDA RD program and has not found any documents referencing or authorizing the checks described above. **(Tab B, USDA Approvals.)** The

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City's Engineer, Brandon Mieras, was unaware of any reason why the City would need to write small checks to individual laborers (i.e., other than contractors or companies). It does not appear that City Council approved these checks.

c. Unknown Origin of Checks

The checks are purportedly signed by the City Manager and by Council Member Douglas Hartson. As of the date of the report, it is unclear whether the City Manager signed the checks or whether her signature was forged. Member Hartson believes that his signature was forged. It is unlikely the City Manager participated directly in the issuance of the checks.

d. City Manager's Possible Knowledge of Checks

1. Inquiries by City Clerk

According to an interview with the City Clerk, the checks first came to her attention in May 2018 when she attempted to reconcile the bank accounts. According to the City Clerk, she inquired with the City Manager about numerous checks that were written out of sequence. The City Clerk observed that they normally would not see checks in such small amounts drawn from the RD accounts. The City Manager indicated that she would call the bank. The City Manager later told the City Clerk that the checks were "bank errors." The City Clerk did not witness the City Manager's telephone call with the bank.

According to the City Clerk, the City Manager handwrote the word "ERROR" on the May bank statement for the RD/Community Facilities account. Also according to the City Clerk, the City Manager entered "error" in the City's General Ledger for each check. The notations on the bank statements are attached as **Tab C**, and relevant excerpts from the General Ledger are attached as **Tab D**. The ledger reflects the checks as "errors," but some are noted as credits rather than debits.

In June 2018, the following month, the City Clerk again noticed unusual checks while performing the bank reconciliation. The City Manager again told the City Clerk that they were "bank errors." The City Clerk wrote "check errors – 5013" on the bottom of the June bank statement, which she indicates was based on the City Manager's statement that the checks were all bank errors. (\$5,013 was the total amount of "check errors" on that statement.) Also according to the City Clerk, the City Manager again entered "error" in the City's General Ledger for each check.

We note that the dates of the questionable checks range from March until June, meaning that some checks were written after the City Clerk states that she brought the issue to the City Manager's attention in May.

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2. Inquiries by Council Member Bussard

Sometime in May 2018, City Council Member Jeff Bussard inquired with the City Clerk about the status of her bank reconciliations, as it was known to him that the City was behind on its reconciliations. Member Bussard states that the City Clerk told him that she was having trouble getting some accounts to balance. According to Member Bussard, he asked the City Manager about the bank reconciliations, and the City Manager told him there were “a couple of bank errors.” The City Manager did not disclose to Member Bussard that any checks were written to Eddie Darrow, Lukas Lager, or Erik Lager.

3. Inquiry by RD Program

It does not appear that the Area Specialist for RD working with the City, B.J. Haire, was aware of the checks in question. However, in e-mail correspondence concerning the City’s RD accounts, Ms. Haire asked the City Manager on May 8, 2018, to confirm the current balance in the RD/Community Facilities accounts:

In the CF Construction account right now **there should be monies in the amount of \$236,457.34.** The funds of \$235,000 4/12/18 had to be advanced from Phase 1 before they were taken from National Office. Please check out your construction account and make sure the balances match. (Tab E, RD E-mails, emphasis added.)

On May 8, 2018, the City Manager responded, “I’m checking now.” (Tab E.)

In an e-mail on May 9, 2018, following further inquiry from Ms. Haire, **the City Manager represented that the balance in the RD/Community Facilities account was \$236,457.34.** (Tab E.) However, as of May 9, 2018, the actual balance in the account was \$227,108.24, which is \$9,349.10 less than the amount that should have been in the account according to RD. (Tab C, Bank Statements.)

Between April 1, 2018, and May 9, 2018, checks written to Eddie Darrow and Erik Lager totaled \$9,061.00 – close to the amount that the RD/Community Facilities account was “short” as of May 9, 2018.

After the City Manager “confirmed” the amount in the RD/Community Facilities account, the USDA advanced \$32,000 to the City’s RD/Community Facilities account on May 15, 2018. (Tab C, Bank Statement.) Two large checks were then written for project related expenditures, which ultimately resulted in the RD/Community Facilities account being overdrawn by \$39,109.90, on or around June 7, 2018. \$40,000 was transferred from the RD/Sewer Account on June 8, 2018, to cure the overdraft.

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On or about June 6, 2018, the City Manager signed and submitted to RD a Federal Cash Transactions Report (Form 272) covering the period of May 11, 2018, to June 11, 2018. **(Tab F.)** The report represents that the “cash on hand” related to the Community Facility loan was **\$236,457.64** as of May 11, 2018; that the entire amount on hand was disbursed, and that the cash on hand as of June 11, 2018, was zero. However, according to the bank statements, the balance in the RD/Community Facilities account on May 11, 2018, was **\$226,538.24**, and the balance on June 11, 2018, was \$27,507.10. (It appears that if the \$40,000 had not been transferred from the RD/Sewer Account to the RD/Community Facilities Account on June 8, 2018, then the account would have had a negative balance on June 11.¹)

The report states in the remarks section that “all funds [were] advanced.” The report further includes a certification stating as follows: “I certify to the best of my knowledge and belief that this report is true in all respect and that all disbursements have been made for the purpose and conditions of the grant or agreement.” (Tab F.) It appears that the City Manager signed the certification.

e. Deposits into RD Account

Around the time of the City Manager’s suspension, an unknown person (or more than one unknown person) made the following deposits in the City’s RD/Community Facilities account (which is the account from which most of the questionable checks were drawn):

7/18/18, 2:45 PM:	\$3,693.00
7/18/18, 2:47 PM:	\$5,000.00
7/20/18, 5:23 PM:	\$6,400.00
7/23/18, 11:47 AM:	\$6,435.00
7/23/18, 4:58 PM:	\$100.00

(Tab G.) The deposits total \$21,628.00. The total amount paid to Eddie, Erik, and Lukas from the three RD accounts appears to total \$24,091.00, leaving the City “short” the amount of \$2,463, even following these unknown deposits.

II. TIFA Check to Eddie Darrow

The City Manager currently serves as the Director of the City’s Tax Increment Financing Authority (“TIFA”). After the above-discussed checks were discovered, the City reviewed records located at City Hall for the TIFA’s bank account. The City discovered Check No. 722, attached as **Tab H**, which was written to James Darrow from the TIFA account on April 3, 2018, for the amount of \$433.00. The memo reads “over payment,” and the check is purportedly signed by Douglas Hartson and Wanda

¹ The report was signed on June 6, 2018, prior to the June 11 end-date for the period.

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Darrow, although it is unknown whether the signatures are forged. The back of the check appears to show that it was cashed by Eddie.

On or about June 4, 2018, Ms. Darrow prepared a “Treasurer Report” for the TIFA², with an end date of April 30, 2018. Under “Checks Disbursed,” the report lists the check for \$433.00 dated April 4, 2018. A handwritten note next to the date of the check reads either “Ledger” or “L. Edger”. (Tab H.) According to the City Clerk, the handwriting on the report appears to be Ms. Darrow’s handwriting.

Based on the records and documentation available, there does not appear to be an invoice or contract supporting payment from TIFA to Eddie.

On August 22, 2018, TIFA member Elise Ross hand-delivered a MoneyGram to TIFA Chairman, Joe French. The MoneyGram was written for the amount of \$433.00 and indicates that the purchaser/signer is James E. Darrow III. **Tab L.**

III. “Dump Your Junk”

The City operates an annual recycling program known as “Dump Your Junk,” during which City residents can drop off waste materials such as steel, metal, glass, appliances, paper, plastic, and other items. It appears that City Council does not formally approve the contractor used by the City to collect and dispose of the waste materials; rather, the City Manager selects the contractor, without any competitive bidding process.

In 2018, the “Dump Your Junk” event was held on June 1, 2, and 3, 2018. According to invoices and checks in the City’s records, work was performed by James Darrow (the City Manager’s husband); James “Eddie” Darrow III (the City Manager’s son), and Ross Kemp, a City employee, under the unincorporated business name of “Dump Your Junk & Recycle.” The purported address of “Dump Your Junk & Recycle” is the City Manager’s home address.

On June 5, 2018, “Dump Your Junk & Recycle” issued an Invoice to the City for the total amount of \$5,800. (**Tab I.**) The invoice included the following breakdown of costs:

² The bottom of the report says “WJD 06/04/18.”

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Cost Breakdown

Labor: 4 days (3/1 clean up x 6 Manpower)

James Darrow III - \$1,000 ✓

Ross Kemp - \$300 ✓

James Darrow - \$2,200 ✓

Steve Hamilton

Rodney Ross

JC

Equipment Reimbursement/Charges

1 Lg Truck - \$1,800

2 Trailers - \$200

1 Sm. Truck - 3 days - ED (\$300.00)

Gas: by Contractor

Large Dumpsters (8) - J&M Hauling (2), Waste Management (6)

All labor, hauling, trailers, gas, and truck - Provided by Contractor

Large Dumpsters, Backhoe, and location by City of Potterville

Meals - City of Potterville

Earnings - Donations and Recycling Collections to City of Potterville

Please make separate checks to Laborers: James, Ross, James II (R.Ross/Steve/JC)

Rental Equipment - Check to James Darrow II/III

The bottom of the invoice includes the following handwritten remarks:

for Friday
Cut Spec. checks
101-441-810.00
OK
L. Darrow
use

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These notes appear to reflect the City Manager's approval of the invoice and directive to "cut special checks" "for Friday."

On June 6, 2018, the City issued the following checks (**Tab I**), which were signed by Member Hartson and another check signer for the City, Harry Zenker:

Eddie Darrow	017228	6/6/18	\$1,300.00	For labor (\$1,000) and use of small truck (\$300)
James Darrow (Sr.)	017228	6/6/18	\$4,200.00	Labor: \$2,200 Use of large truck: \$1,800 Use of 2 large trailers: \$200
Ross Kemp	017230	6/6/18	\$300	Labor: \$300

Additionally, members of the public may have been charged various fees to drop off items like mattresses (\$5.00 each) and tires (\$4.00 each, with the first two being free). It is unclear how much was collected in fees and who retained those funds.

Following the Dump Your Junk event, the City received \$610.75 for the value of scrap metal and batteries. (**Tab J**.) The scrap revenue was substantially less than the \$5,800 paid to James Darrow, Eddie Darrow, and Ross Kemp.

Of further note, the City paid Eddie Darrow for the use of his small truck and paid James Darrow for the use of a large truck and two large trailers, according to the invoice. It is unclear why the City's own trucks and trailers were not used.

It is also not clear why Eddie Darrow was paid as an independent contractor for this work, given that he was, at the time of the event, an employee of the City who was paid an hourly rate of \$12.00. At \$12.00/hour, Eddie would have needed to work more than 83 hours to earn the \$1,000 he was paid for labor during the three-day Dump Your Junk event.

The above expenditures do *not* include the \$2,125.00 of checks paid from the RD accounts to Eddie, Erik, and Lukas that were also purportedly for the City's "Dump Your Junk" program.

IV. Alleged Thefts of City Equipment by City Manager's Son

A. *Alleged Thefts*

The complaint that initially gave rise to this investigation alleged that the City Manager's son, Eddie Darrow, had stolen equipment from the City, and that the City Manager knew or should have known

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about the thefts, or concealed the thefts after the fact. Based on multiple interviews and reviews of security footage, the City has discovered the following:

- On a Monday morning in June 2018, DPW Director Don Stanley discovered several items missing from the DPW garage, including a cordless impact wrench and a gas-powered weed trimmer. Stanley approached the City Manager, who advised that Eddie and Ross Kemp had been in the DPW garage over the weekend to do some work. The City Manager reportedly said, “Don’t blame Eddie” with regard to the missing items. The City Manager later called Stanley and said that she had called Eddie and that he claimed he did not take the items.
- On July 4, 2018, video footage shows Eddie and another individual with a City-owned generator in Eddie’s truck. DPW Director Don Stanley discovered the generator missing from the DPW garage on July 5, 2018, and contacted the City Manager. The City Manager reportedly checked with Eddie and said that Eddie did not take the generator.
- Also on July 4, 2018, video footage shows Eddie removing cases of soda pop from the concession stand at the ball field.
- Also on July 4, 2018, video footage shows Eddie attempting to use a credit or some other card to unlock doors inside City Hall. After gaining access to the City Clerk’s office, the video shows Eddie rummaging through the City Clerk’s desk, and eventually taking a bucket of car wash supplies that were intended to be a raffle prize for a cancelled City event.
- The thefts were reported to the Michigan State Police. Subsequently, an MSP detective informed Stanley that the missing equipment – specifically, the hedge trimmer, impact wrench, and generator – had been located at pawn shops in the Lansing area. It was also discovered that two City pitching machines from the ballfields had been stolen, but were subsequently recovered.
- The City Manager reportedly told Stanley that she had “taken care of it” and that Stanley could pick up the items. Stanley went to Dicker and Deal and found that someone had redeemed (paid for) the pawned impact wrench and trimmer, so Stanley collected them from the pawn shop. Stanley also went to Capital Discount Cash, which had the generator. That item had not been redeemed, but the pawn shop released it to Stanley without payment.

It is unclear how Eddie gained access to City Hall, the DPW garage, and the ball fields. It is possible that Eddie saw the access codes in Chris Zenker’s desk at the DPW garage. It is also possible that someone gave Eddie access to the buildings.

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B. Alleged Concealment by City Manager

It does not appear that the City Manager reported the thefts, or her redemption of some of the stolen items, to City Council.

In an e-mail to Mayor Kring on July 9, 2018, the City Manager stated that “[t]here has been been a situation regarding an employee, please be advised this matter has been resolved.”

The City Manager also had the following exchange with Council Member Twichell:

From: Duston Twichell [mailto:dtwichell@pottersvillemi.org]
Sent: Saturday, July 07, 2018 6:18 PM
To: Wanda Darrow

Subject: Eddy Darrow Employment

Wanda,

I have some concerns about a couple things. I was talking with someone today and they told me that they heard from one of our city staff, that your son, Eddy, has been stealing from the city. The person wouldn't tell me the employee that told them, and asked I keep their name out of it as well. I would like to know if there is any truth to this. Also, I would like to know if he has still been working for the city? It was my understanding, that he was released months ago. Please let me know at your earliest convenience, if there is any truth to these rumors. If there is, I would like to know whats being done about it.

I've copied Chief Bartlett, to see if he can squash anything in the rumor mill from an official law enforcement end.

Duston Twichell
Council member - City of Pottersville

On Jul 9, 2018, at 8:25 AM, Wanda Darrow <wdarrow@pottersvillemi.org> wrote:

Good Morning Member Twichell,

I have taken the necessary steps to handle any employee situation that arises. I will act accordingly and will treat confidentiality as such. This matter has been dealt with and the employee has been terminated with all items being recovered.

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I appreciate you keeping this between us or in confidentiality as to not violate any law or rights of others. It is unfortunate and all staff should be using the same method of confidentiality.

Wanda Darrow, City Manager
City of Potterville
319 N Nelson
Potterville, MI 48876
(517) 645-7641 ext 204

(Tab K, emphasis added.)

During an interview with the Michigan State Police and the City Police Chief on July 5, 2018, the City Manager was presented with evidence of Eddie's alleged involvement in the thefts. During that interview, the City Manager stated that she would "prefer that this stuff keep [sic] confidential . . . just because of the situation with council, I don't want to get blamed for anything."

V. Handling of Electronic Public Records

In June 2018, the City received two FOIA requests for e-mails sent and received by City Council members. The City understands that to process the FOIA request, the City Manager requested that the City's Informational Technology company, IT Right, to move the City Council members' e-mails into the City Manager's e-mail account. Following that move, several Council members have reported that some of their e-mail messages remain "missing" or that their e-mail messages have been found in different members' accounts. It is unclear whether the City Manager is responsible for the deletion or relocation of the Council members' e-mail messages.

Additionally, the City Attorney requested an electronic/Microsoft Word copy of the City Manager's contract from the City Manager on numerous occasions, including by way of an e-mail message on June 14, 2018. The City Manager did not produce an electronic copy of the contract. It is unclear whether the electronic version is missing, was deleted, or simply was not produced to the City Attorney.

Summary of Proceedings

This concludes the City's investigation as of the date of the public hearing. During this public hearing, the City Manager – on her own or through her attorney – may make a presentation and provide documents for the City Council's consideration. This is a public hearing on an employment decision and not a trial, so the City Council will not be presenting or receiving any witness testimony, other than the City Manager's presentation. Following the City Manager's presentation and submission of

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documents, the City Council may make inquiries of the City Manager and discuss the issues presented in open session. At the conclusion of its discussion, the City Council will render a decision as to whether the City Manager engaged in one or more of the following:

1. Mismanagement, misappropriation, or grossly negligent supervision of funds in the City's Rural Development bank accounts.
2. Misrepresentation to City Council with the intent to defraud in connection with the City's Rural Development/Community Facilities bank account.
3. Mismanagement, misappropriation, or grossly negligent supervision of funds in the Tax Increment Finance Authority bank account.
4. Mismanagement, misappropriation, or grossly negligent supervision of City funds used in connection with the City's "Dump Your Junk" event.
5. Intentional concealment of the theft of City property and/or the misappropriation of City funds.
6. Negligent supervision of City employees, resulting in the theft of City property and/or the misappropriation of City funds.
7. Intentional or negligent destruction of public records, specifically including e-mail messages sent and received by City Council members.

The Council may adopt a resolution memorializing its decision.

Sincerely,

FOSTER SWIFT COLLINS & SMITH PC

Michael D. Homier

MDH:bsa
Attachments