



RECORD OF PROCEEDING

SPECIAL COMMITTEE-OF-THE-WHOLE MEETING OF THE CITY COUNCIL OF THE CITY OF CHESTERFIELD AT 690 CHESTERFIELD PARKWAY WEST

NOVEMBER 4, 2015

The meeting was called to order at 5:30 p.m.

President Pro Tem Connie Fults led everyone in the Pledge of Allegiance and followed with a moment of silent prayer.

A roll call was taken with the following results:

PRESENT

ABSENT

Councilmember Barry Flachsbart
Councilmember Bridget Nations
Councilmember G. Elliot Grissom
Councilmember Mike Casey
Councilmember Dan Hurt
Councilmember Bruce DeGroot
Councilmember Connie Fults

THOSE ALSO IN ATTENDANCE: Mayor Bob Nation, City Administrator Michael G. Herring, and Interim City Attorney Harry O'Rourke.

INTRODUCTORY REMARKS

Hearing Officer Harry O'Rourke, Interim City Attorney, noted that the purpose of this special meeting was for City Council to consider adopting a Resolution of Censure against Mayor Bob Nation, for violating certain policies of the City contained in the City's policy manual. Mr. O'Rourke continued by stating that the specific charges issued

by City Council against the Mayor, are detailed in the document that was unanimously adopted by Council, and served on the Mayor, on October 19, 2015. City Council authorized hiring an attorney to investigate complaints made by City employees, regarding interactions between the Mayor and these employees on July 1, 2015, and unanimously agreed to issue the charges being considered.

Mr. O'Rourke gave an overview of the meeting agenda by stating that details of the charges being considered against the Mayor, and specific details of City policies, would be presented by Mr. Kevin O'Keefe, the attorney who conducted the investigation on behalf of City Council. After Mr. O'Keefe's presentation, Mayor Nation and his attorney, Mr. Chet Pleban, would have an opportunity to respond to the charges. Mr. O'Rourke stated that once Council has concluded its business regarding the proposed Resolution, the public would have an opportunity for comment. He explained that all public comments would be limited to three minutes per speaker, and that anyone wishing to speak during this time should complete and submit a speaker's card to the City Clerk right away.

Mr. O'Rourke continued by explaining the rules of conduct, adopted by City Council, regarding this meeting. Mr. O'Keefe and Mr. Pleban were given notice of the rules in advance. Mr. O'Rourke explained that since this was not a trial or evidentiary hearing, there would be no witnesses and no one would be sworn under oath. He explained that his role was to keep order and see that the proceedings were fair and expeditious for all involved. Mr. O'Rourke concluded by emphasizing the City's longstanding custom for conducting business has been to work together and treat others with courtesy and respect, and he reminded everyone that would be the expectation for this meeting as well.

DETAILS OF CHARGES

Mr. Kevin O'Keefe began reading a recitation of details of the findings for the charges against Mayor Nation. Councilmember DeGroot made a motion, seconded by Councilmember Flachsbart, to proceed with the charges and skip the recitation of details, stating that the details have already been released into the public domain, therefore it is not necessary to read them aloud. A roll call vote was taken with the following results: Ayes – Flachsbart, Nations, Fults, Hurt, Grissom, DeGroot and Casey. Nays – None. Whereupon President Pro Tem Fults declared the motion passed.

Mr. O'Keefe proceeded to summarize the investigation and charges issued by City Council against Mayor Bob Nation. Charge number one states that on July 1, 2015, at the Chesterfield City Hall Mayor Bob Nation violated the Chesterfield No Harassment Policy with regard to the persons identified in the accompanying report as Jane Doe and Mary Roe, employees of the City of Chesterfield. Mr. O'Keefe went on to explain the City's No Harassment policy states that all relationships among persons in the workplace will be businesslike and free from harassment of any kind. This includes verbal conduct. It encompasses not only supervisor, subordinate relationships, but also actions between co-workers, vendors, customers and other non-employees. Appropriate remedial action will be taken against offenders of this policy up to and including termination.

Charge number two states that on July 1, 2015, at the Chesterfield City Hall Mayor Bob Nation violated the Chesterfield conduct policy with regard to the persons identified in the accompanying report as Jane Doe and Mary Roe, employees of the City of Chesterfield. Mr. O’Keefe further explained the City’s Conduct policy provides a definition of unacceptable conduct including discourtesy and interfering with the work performance of others, as well as disruptive activity in the workplace.

Mr. O’Keefe concluded by stating that this Resolution of Censure is a balanced statement of the circumstances created by the actions of the Mayor. It is not a reduction of authority of the Mayor going forward, it does not shorten his tenure in office, and it does not compromise his ability to fulfill the duties imposed upon him by the voters of Chesterfield. It does, however, express that City Council does not condone this sort of misconduct, and it puts the City on record that its policies should be respected and adhered to.

RESPONSE TO CHARGES

Attorney Chet Pleban, Legal Counsel for Mayor Nation, began by stating that the Mayor objects to this entire process. He then continued by responding point by point to the charges and items in Mr. O’Keefe’s report.

Mr. Pleban stated his disagreement with the City’s position that this should be a public meeting. He stated that this dispute could have been settled quietly and informally. Mr. Pleban spoke of the requirement for the City to apply its No Harassment policy in good faith, he stated that the allegations brought against Mayor Nation were brought in bad faith in an effort to force him to resign in order to avoid public embarrassment. He further stated that Mayor Nation could not have violated the City’s No Harassment policy because that policy applies only to employees, not elected officials; therefore, there is no basis for any individual to sue this Mayor or this Council.

Mr. Pleban defined due process as the right to be heard in a meaningful manner as well as the right to present conflicting evidence in a timely manner. He stated that the rules for this meeting do not provide Mayor Nation due process because he is not allowed to call witnesses, give testimony, or take sworn statements.

MAYOR’S STATEMENT

Mayor Bob Nation made a statement of apology for his behavior in what he believed to be venting over a variety of frustrations that had accumulated over time. He voiced frustration that the rules devised by Council for the conduct of this hearing do not allow public input until after the vote is conducted, nor do they allow issues to be addressed that have already been made public. He stated that substantial sums of taxpayer dollars have been obligated over this issue. He continued by stating that he thought it best to apologize, and move on as opposed to prolonging and escalating this unfortunate incident through the courts. He concluded by stating that he hopes in the future we can conduct

business on behalf of our City in a more civilized manner that is deserving of the respect we seek, and he hopes decisions will be motivated by fact and principle and what is best for our citizens as opposed to politics, perception and personality.

At the conclusion of Mayor Nation's statement, Mr. Pleban noted that he has prepared a memorandum of law similar to the one given on October 3 that basically recites many of the points made here with regard to legal aspects of the allegations brought against the Mayor, and Council's inability to legally censure him based upon violation of a City policy that does not apply to him.

RESOLUTION

Councilmember Nations made a motion, seconded by Councilmember Casey, to adopt Resolution No. 417 (Resolution of Censure of Mayor Bob Nation). Councilmember Flachsbart stated he does not want Mayor Nation to resign because he is an outstanding fiscal conservative and has done a great deal to improve the unfair sales tax situation; however, Council has an obligation to express disappointment with the Mayor's conduct. Councilmember DeGroot stated he also appreciates the Mayor's fiscal conservatism, but will vote in favor of censure based on conscience. President Pro Tem Fults stated that there were missed opportunities for an apology from the Mayor, and it was Council's duty to react to the complaint that was filed. A roll call vote was taken with the following results: Ayes – Casey, Grissom, DeGroot, Fults, Nations, Flachsbart and Hurt. Nays – None. Whereupon President Pro Tem Fults declared the motion passed.

PUBLIC COMMENT

Mr. Norman Baxter, 1879 Stenton Path, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mrs. Louise Nation, 17669 Bridgeway Drive, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Maurice Hirsch, 354 Willow Weald Path, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Eric Winschel, 1678 Ansonborough Drive, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Senator Jane Cunningham, 1602 Timberlake Manor, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Chet Pleban, 2010 S. Big Bend, St. Louis, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Mark Edelstein, 1884 Schoettler Valley Drive, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Ron Cawood, 16992 Riverdale Drive, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Former Councilmember Jane Durrell, 177 Gunston Hall Court, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Former Mayor Fred Steinbach, 237 S. Greentrails Drive, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Former Mayor Bruce Geiger, 14787 Greenloch Court, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Former Councilmember Randy Logan, 14597 Harleston Village Drive, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Harvey Rosenberg, 217 S. Greentrails Drive, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Representative Sue Allen, 702 Willow Spring Hill Court, Town & Country, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Gary Cunningham, 1602 Timberlake Manor, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

Mr. Lawrence Koessel, 1530 Candish Lane, expressed concern pertaining to Resolution No. 417 (Resolution of Censure of Mayor Bob Nation).

ADJOURNMENT

There being no further business to discuss, President Pro Tem Fults adjourned the meeting at 7:38 p.m.

President Pro Tem Connie Fults

ATTEST:

Vickie J. Hass, City Clerk