

SPECIAL MEETING

APRIL 6, 2010

5:00 p.m.

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 5:00 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Paul, Vice-Mayor Starkey and Councilmembers Caletka, Luis and Hattan. Also present were Town Administrator Shimun, Town Attorney Rayson and Town Clerk Muniz recording the meeting.

3. TERMINATION OF TOWN ADMINISTRATOR

Mayor Paul explained that the meeting had been called because Councilmember Caletka had requested it. She had decided to call a special meeting to address this situation because she anticipated the Regular Council meeting scheduled for the following evening would be lengthy.

Councilmember Caletka stated that overall he had a very good working relationship with Mr. Shimun, but in the past two weeks, he had questioned certain facts that had been presented to Council regarding the Regional Activity Center Land Use Amendment. Councilmember Caletka had pointed out some serious flaws he felt were contained in the land use amendment to Assistant to the Town Administrator Kristi Caravella, and requested either an adjustment in the land use amendment or the data to prove he was incorrect. He stated that the data staff had sent to him was "garbage" and Mr. Shimun had indicated he relied upon staff for his information. Councilmember Caletka had spoken with the finance director and planning and zoning staff, who had not read the land use amendment. He had consulted the Utilities Director, who was able to answer all of his questions, and confirm his suspicions. Councilmember Caletka stated, "So basically, we have a bunch of incompetent staff who is riding a bus."

Councilmember Caletka had also pulled staff emails regarding his concerns about the land use amendment, and discovered that "it's a vote count issue that I find to be unacceptable." He believed that in many instances in the recent past, many policy decisions had been made by counting votes. Councilmember Caletka referred to a conversation he had with Mr. Shimun regarding the new Town Hall during which Mr. Shimun indicated he had already moved ahead after speaking with three Council members.

Councilmember Caletka believed that "when somebody calls a question such as I have and I'm calling today, I think it paralyzes the Town, it paralyzes the Town Administrator's ability to do good and to move forward because once again he's going to be put in a position of counting votes, whether it's three-two in favor of keeping him or three-two until that final third vote when the shoe drops and it happens."

Councilmember Caletka said one reason to terminate someone was that this person was "not a good fit..." and he felt it unacceptable that staff had not properly examined data regarding an issue and the Town Administrator had condoned this.

Councilmember Caletka believed that if the Town Administrator lacked the Council's confidence, he was effectively paralyzed in his position and he intended to call for a vote of no confidence on Mr. Shimun's leadership.

Mayor Paul stated she too had been concerned about Mr. Shimun and had tried to work things out on many occasions. She said after her evaluation of Mr. Shimun, she anticipated he would call her to work on the problems she had brought up, but he had not done this and she felt it was because he had seen the ratings from other Councilmembers and felt he was okay. Mayor Paul said other allegations had been

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made regarding other departments that were “very disturbing” and she intended to follow up on these. What she was most concerned with was the fact that they were “dealing with a subject that Mr. Caletka is telling us we don’t know enough about and that staff hasn’t told us enough about”, and “there’s a lot of money at stake...”

Mayor Paul had requested a meeting with staff regarding the density issue and asked what could be done to make this more palatable and staff had shown her a map with “everything, I think it was all west of 61st Avenue they were counting on properties, not redevelopment, just properties like...six or eight thousand units, and, probably closer to six, which is almost double what the request is in the RAC; that was of interest to me.” Mayor Paul said in this case, Mr. Shimun “knew he had his votes, so he chose not to share information which may have been readily available to us if we had been guided appropriately.”

Councilmember Luis was not clear as to what Councilmember Caletka was upset about. Councilmember Caletka said he still had questions about where the residential units would go, and staff had sent him a map depicting a commercial area 1.25 million square feet in which to locate almost 7,000 units which would necessitate creating 500 square foot apartments.

Councilmember Luis asked if Councilmember Caletka would be satisfied if he recommended putting Mr. Shimun on 90-day probation. Councilmember Caletka recommended a vote of no confidence.

Vice-Mayor Starkey said she had experienced what Councilmember Caletka had experienced but she had continued to work with Mr. Shimun. She felt she had not been provided information on the land deal. Vice-Mayor Starkey acknowledged there were “issues out there that are looming” but these problems did not warrant this special meeting. Vice-Mayor Starkey had been bothered by the termination of 38 people over the summer while Council was on recess. She did not feel things that had occurred had risen to the level of recommending Mr. Shimun’s termination, but that he should follow the same disciplinary process as any other employee. Regarding the RAC, Vice-Mayor Starkey had been concerned about the number of units as well, and staff had done a good job of addressing her concerns.

Councilmember Hattan agreed there were problems they needed to work on, but did not feel this rose to the level of considering termination.

Mayor Paul wanted to feel that Mr. Shimun respected her and that her ideas were not just “part of a vote counting.” She said they must determine measurable goals and deadlines for Mr. Shimun. Mayor Paul stated that she had experienced a problem with Town employees refusing to speak with her. She felt this was due to their misunderstanding instructions from Mr. Shimun which was not to take direction from Councilmembers. Mayor Paul had also heard from employees that certain things warranted investigation, but employees feared for their jobs. She said there must be a way to investigate without any employee fearing retaliation or the loss of his/her job.

Councilmember Caletka stated, “There are only a couple of positions that we actually do decide who works with us and I have lost the confidence to work with Gary on this.” He also felt that by having called this meeting, his relationship with Mr. Shimun had been substantially damaged.

Councilmember Luis asked Mr. Rayson to explain a vote of no confidence. Mr. Rayson stated a vote of no confidence would not be a vote to terminate, but would indicate to Mr. Shimun what the votes would be if there were a vote to terminate were taken. Mr. Rayson believed Mr. Shimun’s position was based on the employment agreement he had with the Town. In the event of a vote of no confidence, Mr. Shimun could take no action and force Council to vote on a motion to terminate him.

Councilmember Luis had been confident that he had all the facts regarding the recent land purchase, and had been surprised at the comments of other Councilmembers that they had not received all

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the facts. He acknowledged that different people might need different amounts of information. Councilmember Luis stated that Mr. Shimun had assembled an excellent staff and this had made a tremendous difference in the Town. But he was very uncomfortable with how Mayor Paul and Councilmember Caletka were feeling and if they went ahead with a probationary period, he wanted to be sure Mayor Paul felt she could work with Mr. Shimun for the next 90 days. Mayor Paul said she could work with anyone who was willing to work with her.

Mr. Shimun stated he worked for five people, and one Councilmember could not unilaterally decide to remove something from an agenda when the rest of Council wanted to hear the item again. Mr. Shimun thought the key to getting the information one sought was to ask the right question of the right person. He stated Councilmember Caletka had “used some figures that you and I...cannot come to an agreement upon because neither one of us see the same vision.” He thought this should be okay, and wondered how he could do his job when he disagreed with Councilmember Caletka one time and Councilmember Caletka wanted him fired. Mr. Shimun said it was important to have open debate on the dais so the public could witness it.

Vice-Mayor Starkey wanted to be specific about how staff should interact with Council. She thought a previous Town Attorney had determined that requests from Council should not require more than 15 minutes of an employee’s time. Vice-Mayor Starkey said she had been accused of interfering with staff when she was just trying to get information.

Vice-Mayor Starkey would also like to see communication improve, and said all Councilmembers should be provided the same information. She asked that Council briefings be resumed.

Vice-Mayor Starkey suggested that if progress was not made at the end of a probation period, Mr. Shimun could agree that he would forfeit pay for a period of time.

Councilmember Caletka said Mr. Shimun had a pattern of lashing out when a Councilmember was upset with him. He said no one on staff had been able to satisfactorily answer his questions. Councilmember Caletka did not feel he could work with Mr. Shimun any longer, and he thought that nothing would move forward and department heads would not be responsive for Mr. Shimun’s probation period.

Councilmember Caletka made a motion to call for a vote of no confidence in Mr. Shimun. Motion died for lack of a second

Councilmember Luis said since the vote had no real meaning in light of Mr. Shimun’s employment contract, he wondered why Councilmember Caletka wanted it. Councilmember Caletka thought that if the Council did not support Mr. Shimun in his position, he should create an exit strategy for leaving.

Mayor Paul understood where Councilmember Caletka was coming from, but said she would not second his motion because she knew he did not have the votes. She said she had lost confidence as well, but she was willing to keep trying. Mayor Paul hoped that Mr. Shimun would “bend over backwards” to be more amenable to all Councilmembers. She suggested Council present a list of measurable goals to Mr. Shimun. Mayor Paul also asked that some of the allegations made by some employees be investigated. Councilmember Luis felt many people were angry and fearful because employees had been laid off and Council would “probably hear things that probably aren’t true...”

Councilmember Luis made a motion, seconded by Councilmember Caletka to give Mr. Shimun a 90-day probationary period. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Starkey - yes; Councilmember Caletka - yes; Councilmember Hattan – yes; Councilmember Luis – yes. (Motion carried 5-0)

4. ADJOURNMENT

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There being no further business to discuss and no objections, the meeting was adjourned at 6:32 p.m.

Approved _____

Mayor/Councilmember

Town Clerk