

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY

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**MINUTES
CITY OF DELAWARE CITY
SPECIAL MAYOR AND COUNCIL MEETING
Tuesday, September 5, 2017 at 6:30 p.m.
City Council Chamber
407 Clinton Street**

CALL TO ORDER – MAYOR AND COUNCIL MEETING

The Honorable Mayor Green called to order the Special Meeting of the Mayor and Council at 6:30 pm.

PLEDGE OF ALLEGIANCE

Mayor Green led the Pledge of Allegiance to the Flag.

ROLL CALL

Present were The Honorable Mayor Green, Vice Mayor Malinowski, Council Members Barrett, Titus, Fitzwater and Greene. City Manager Houck, Chief Police Baylor, and City Solicitor Walton were also present.

NEW BUSINESS

Mayor Green begins the Special Meeting by announcing the order of the agenda has been changed. The Council Discussion regarding the complaint against Council Member Greene will be first. He lays out rules that will be followed during this discussion:

- As things are presented please remain respectful
- Allow each person to speak uninterrupted

- No accusations made; this is not a hearing but a discussion to bring facts before Council
- The public remains neutral and silent unless Council makes an exception to allow comments.

Mayor Green asks City Solicitor Walton what are the Parliamentary rules going to be in terms of presentation of facts and discussion based on what is known today?

City Solicitor Walton explains there has not been an investigation as of yet. However this meeting is to layout what is known to date: there have been two (2) complaints against Council Member Greene.

(1) Based on Facebook (social media) posts and

(2) Regarding events that took place at the August 21st Council Meeting.

These matters have been referred to the Board of Ethics where they will be heard when the Board of Ethics sets their own procedure.

Concerning tonight

- Council should appoint an attorney for the Board of Ethics. Barrett Edwards is suggested
- Although Council may discuss these two (2) complaints, the fact-finding will be the responsibility of the Board of Ethics.
- Council Members may enter into dialogue concerning the issues saying what they want on the topic but cannot ask questions directly to Council Member Greene.
- If legal questions are posed, City Solicitor Walton will answer if possible.

Council may or may not make a motion based on the matters addressed in City Solicitor's confidential memo.

COUNCIL DISCUSSION

Mayor Green asks for a motion to appoint Barrett Edwards as attorney for the Board of Ethics. Council Member Barrett makes the motion. Vice Mayor Malinowski seconds the motion. *Roll call was taken. The motion carried.

*Council Member Fitzwater said he is currently in litigation with Barrett Edwards as is Council Member Greene. City Solicitor Walton clarifies the appeal filed is in Superior Court not with Barrett Edwards.

Mayor Green opens the time for Council Members to speak reminding them to keep to the protocol that was set forth.

Council Member Barrett

Although she does not agree with some of the remarks she is aware that they surfaced through Facebook (social media) and are Council Member Greene's personal opinions. Council Member Barrett adds that as a Council Member personal opinions don't count but there should be care taken with the comments made on social media because as Council Members we represent the residents of Delaware City.

If this matter goes before the Board of Ethics Council Member Barrett hopes all five (5) members will preside.

Council Member Titus

Admits she is very disturbed about the posts without any true evidence. The idea of spoofing numbers goes on all the time. As for the name-calling, she believes Council Member Greene has used worse names against others than the term Mud shark.

Council Member Titus is upset that once again money has to be spent to defend Council. She believes calling John Buchheit and Dale Slotter racists is untrue. She gives mention to their business in Maryland where the employees are mostly black.

She points out in the ethics code personal and private conduct should be the same for a person in office.

Council Member Titus says the City needs Council Members who stand behind the citizens and the businesses to promote good in the town. She feels that the posts, comments and behavior of Council Member Greene will not cease.

Council Member Fitzwater

Begins his comments by saying, its safe to say that we don't like everything that each other does. He explains the two (2) ethics complaints that were brought against him and found guilty of a charge that was not in the two (2) complaints which is why he is in an appeal process now in Superior Court at his expense. He accepts the veto of the Mayor and is willing to be financially responsible for the costs because he is unwilling to compromise his integrity.

He is alarmed at what it has cost the City to date for this process. This town is not a large financial institution. There are more beneficial areas to spend the money than on appeals and lawyers.

Council Member Fitzwater admits he does not have a strong opinion about the situation between Council Member Greene and Mr. Buchheit. He does feel Council is out of line with their reaction to the situation. He reminds Council that in the past a Council Member violated the code of ethics on two (2) occasions and nothing was done.

He strongly believes not everyone is going to agree or like each other but the bleeding has to stop with the spending. Council Member Fitzwater does not believe Council Member Greene should be removed for what she has said but it definitely was inappropriate. He believes her anger gets the best of her. People say bad things to and about each other. You have to brush it off.

He doesn't care about pictures or Facebook posts or what another Council Member does. He really would like to see Council sit down and work on the Town and not fight with each other. If he didn't run for office again and the others wouldn't either he would leave just to make room for people to come on Council who care about the Town.

Once again Council Member Fitzwater mentions the charges he was found guilty of but nothing has happened to him. He has not been thrown off Council, didn't have to pay a fine but it cost the City about \$100,000.00 which could have gone towards fixing potholes and wherever tax money should be spent to benefit the City.

Mayor Green and City Solicitor discuss the costs that Council Member Fitzwater quoted. Council Member Fitzwater said that it is approaching that amount. It's costing him \$1500. to go before Superior Court and says that is just a drop in the bucket compared to what Delaware City has spent. He refuses to put a price tag on his integrity.

Returning to the matter at hand, he does believe what Council Member Greene has said is inappropriate even if she doesn't and he asks is it worth more money spent and then, what will be done to her?

Council Member Fitzwater said he took to heart when Mr. Buchheit said he was putting Council on notice and he has also said that he hasn't done so yet because of the cost to the City. Mr. Buchheit knows we don't have any power. Council Member Fitzwater has also read the code and sees only the Board of Ethics has the power to dismiss any Council Member.

Council Member Fitzwater believes we should not be telling Council Members what they can and can't do. He urges anyone interested in running for Council should do so.

Council Member Greene

Council Member Greene opens her remarks explaining how spoofing works and how you can tell where the call originated. She is waiting for her phone records to be sent and will enter them into evidence as proof of Mr. Buchhiet's and his son's phone calls.

She answers Council Member Titus's question that yes she does know personally the woman she has referred to as a terrorist and yes this woman and she have exchanged emails and she knows how Council Member Greene feels about her.

Council Member Greene says she does not hide her feelings and she will not allow anyone to bully her. She is appalled that a man would use her personal cell phone to issue racist slurs, which is what occurred between she and Mr. Buchhiet between the end of March and into April. She also mentioned that Mr. Buchheit tagged her in Facebook posts when he was tearing down Council Member Barrett and another person who was at the time running for a position on Council.

Council Member Greene said she never heard the term Mud shark until she overheard Mr. Buchheit tell Kelly McVey to control her Facebook posts. She adamantly says no one can control her Facebook posts. She will not be bullied no matter the cost to the City. She stands on her first amendment right.

Council Member Greene said when she took the oath of office she swore not to use offensive language in Council however, when she's on the street, and as long as it's not offending or causing anyone to be in a ruckus it is her right as a resident and being racially targeted as a public official to call out racism where she sees it happening.

Council Member Greene brings up the question is she suppose to respect a member of the Board of Ethics who was removed by police for violating a candidate's space on election day? She also reminds Council of the businessman who had been asking for a street and the lengths he went through all the channels and she was fined for being impartial because she would not accept another Council Member's offer.

Mayor Greene interrupts Council Member Greene that she has gone off topic.

Regarding a post in which Mr. Buchheit questions her abilities as a parent. She responded on her Facebook wall because that is her only means of answering his posts. She again invokes her first amendment right and states she will not be silenced.

To make her point, Council Member Greene called herself a ghetto fabulous belligerent nasty nasty mud shark who was elected by over 200 votes for who she is. She feels she is being racially targeted in a town where she's related to 90% of the black population. It is an insult to her family.

Referring to the threat, she defines "wants to" as not meaning "going to" carry it out. She tells Council she has kept her family at bay because they became livid over the situation. Council Member Greene says she has family members who have been incarcerated in the past and wouldn't mind going back again. She states this is not a threat but actual, factual reality. Mayor Green interrupts her. She may proceed but not

with threats. She says she asked her family to allow her to handle this matter and not to make it worse for her. She then asks Chief Baylor if anything has happened in town that her family was involved in. Chief Baylor was unable to answer as instructed by City Solicitor Walton. Council Member Greene said she would always fight against racism when it comes to her door.

Council Member Greene said, yes she has said bad things, everyday of her life. Even all through her campaign but she was still elected. She refuses to be targeted or have her black family targeted. She is fifth generation in this town and will not be bullied by anyone regardless of who they are.

Mayor Green thanks Council Member Greene for her comments and asks if there are any more comments. Vice Mayor Malinowski says he would like to speak.

Vice Mayor Malinowski

Vice Mayor read a prepared statement to make sure he says what he intends. He begins with a brief history of the government of Delaware City being focused on the survival and viability of the business district more than a quarter of century ago. Because of that vision and care in executing their plan, the current leaders are left with the responsibility to protect and grow that vision for the residents.

Vice Mayor is appalled by the recent statements of Council Member Greene and feels she has put the integrity of the Council into question and made the City vulnerable to potential lawsuits. She is also in violation of the protocol and Charter of Delaware City that she swore an oath to defend.

Council Member Greene has used her elected status to urge the boycotting of businesses in our City. Her comments are in stark contrast to the efforts of what City officials have made over the years to promote a healthy, vibrant and prosperous community for all our people.

Discussion erupts between Mayor Green and Council Member Greene.

Mayor Green closes the time of discussion and asks for a motion. Council Member Fitzwater made the following motion:

To suspend the authority of the Board of Ethics for an unknown time until this can be sorted out and not flood the Board of Ethics with complaints.

Council Member Greene seconded the motion. Roll call vote was taken: Council Member Barrett - Aye; Vice Mayor Malinowski - Nay; Council Member Titus - Nay; Council Member Fitzwater - Aye and Council Member Greene - Aye. Mayor Green announces the vote is to temporarily suspend the Ethics Board until such a time, as more information is available.

Council Member Titus questions if this was on the agenda. City Solicitor Walton replied no but it related to the topic. He told Council that this will be on the agenda for the next meeting and in the meantime they will be receiving a memo from him regarding this action. He asks City Manager Houck to assign this matter to next month's agenda.

Discussion between Council Member Fitzwater and City Solicitor took place with Council Member Fitzwater offering to make another motion to vote again. To clarify, he made the motion to prevent more complaints being submitted to the Board of Ethics and not to protect anyone.

City Solicitor Walton said he did not have a problem with temporarily suspending the Board of Ethics until it can be re-discussed at the next meeting. He will address his thoughts in an attorney/client memo because he felt it inappropriate to discuss it in a public meeting. The vote is up and after reading his memo Council may reconsider it or not. Mayor Green suggests Council listen to City Solicitor's advice.

City Manager Houck reminds City Solicitor that there are a certain amount of days before providing Board of Ethics with complaints. City Solicitor says his advice is to forward any complaints through the normal channels but no action should be taken on them.

Recess the Discussion

Mayor Green asks for a motion to recess the meeting and enter into the Executive Session. Motion was made by Council Member Barrett and seconded by Vice Mayor Malinowski. All members were in favor. Council entered into the Closed Executive Session.

Reconvene the Special Mayor & Council Meeting

Mayor Green asks for a motion regarding the severance package being offered to Michelle Hartman. Vice Mayor Malinowski:

I make the motion to accept the severance package as presented to Michelle Hartman.

Council Member Barrett seconded the motion. Roll call vote was four (4) ayes and one (1) nay. Mayor Green asked that the record show Council Member Greene changed her vote to aye. The motion carried.

Mayor Green entertained a motion to remove City Treasurer Michelle Hartman from her current position. Council Member Fitzwater:

I make a motion to remove Michelle Hartman from her role as City Treasurer only and not as a City Clerk employed by the City of Delaware City.

Vice Mayor Malinowski seconded the motion. Roll call vote was taken and was all ayes. The motion was passed.

Since the vote was in favor to remove the City Treasurer, Mayor Green asks for a motion to appoint City Manager Carol Houck as interim treasurer for a period of 90 days. During this time period a search will go out to fill this position. Council Member Titus responds *so moved*. Council Member Barrett seconded the motion. All members were in favor.

ADJOURNMENT

Council Member Barrett made a motion to adjourn the Special Mayor and Council Meeting. Council Member Fitzwater seconded the motion. A vote was taken, all ayes, motion carried. The meeting was adjourned at 7:49 pm.

Respectfully submitted,

Bonnie Lynn Hanna

City Secretary



ATTENDANCE SHEET – PLEASE SIGN IN

MEETING: Mayor & Council Special Mtg DATE: Sept. 5, 2017

NAME:

ADDRESS:

Deb Sellers / Mike Hendry	400 Clinton St.
CHASE RENOLL	120 Clinton St.
Kelly Smith	93 Clinton St.
Jeff + Liz Gorman	89 Clinton
Tim DILLIPLANE	118 CLINTON ST
Denise Luback	500 Madison St.
Todd Luback	305 Monroe
John Haugh; Ann Campen	525 Clinton St.
Kelly Mickey + guest	302 CANAL ST
Tim Konkors	3315 W. Villa Theresa Phoenix AZ
Lauren Kormylo + Tom K.	607 5th St.
Edith Mallow	607 5th St
MICHAEL CANE	124 Clinton St
KERRY RHOADES	108 Clinton
Amelia Burrell	