

SPECIAL SESSION

July 20, 2009

The Council of the City of Chardon met in Special Session Thursday, July 20, 2009 at 6:30 P.M. in Council Chambers of the Chardon Municipal Center.

Karen Simpson, President of Council presiding.

The meeting opened with the pledge of allegiance and roll call.

Members of Council present: Leslie Bednar, Mary Bramstedt, Jefferey Campbell, Jr., Robert Cromwell, Philip King, Deborah Reiter, Karen Simpson.

Members of Council absent: none.

Others present: City Manager David Lelko, Finance Director Jeffrey Smock, Assistant Manager Randy Sharpe, Law Director James Gillette, Clerk of Council Amy Day, Planning & Zoning Administrator John Sheehan, Sue Schade, Ken Ovarik, Richard Haynes, Joyce Campbell, Joe Koziol, Jacob Park, Dan Meleski, Karen Baptie, Nancy McArthur, Arlene Hill, Gwen Sheehan, Mitch Hewitt, Eric Reiter, John Sheehan, Dennis Pavella, Dennis Ibold.

Mayor Simpson mentioned the passing of Planning Commission member, Gary Hanlon.

ORDINANCE 2548

AN ORDINANCE AMENDING APPROPRIATIONS IN THE CITY OF CHARDON TREASURY AND DECLARING AN EMERGENCY was read for the second time by title only.

Mrs. Bednar moved and Mr. King seconded to read the Ordinance for the third time by title only.

Mayor Simpson noted that City residents provided input at the July 16, 2009 Special Session of Council and urged Council to authorize funding to continue the investigation into who leaked information from Executive Session.

Mr. Cromwell asked why Council did not vote on the Ordinance on July 16, 2009 after hearing from residents.

Mr. Gillette stated that in order to read the Ordinance for the second and third time, it needed to have 5 votes on July 9, 2009 which it did not.

Council members asked if Council could have reconsidered the motion to have the Ordinance for the second and third time on July 16, 2009 after public comment was received.

Mr. Gillette stated that Council could have reconsidered reading the Ordinance for the second and third time on July 16, 2009.

Upon roll call vote the motion passed unanimously.

Mrs. Bednar moved and Mr. King seconded for the adoption of Ordinance No. 2548.

Mr. Campbell read a prepared statement which stated that he did not think that when Council passed the ethics code, that anyone envisioned spending tens of thousands of dollars to uphold the code. This has turned into a very expensive investigation into innuendos, rumor and heresay. He, like everyone else on Council has worked to uphold high, ethical standards. Over the years, he has requested many legal opinions of the Ohio Ethics Commission and the Law Director regarding questionable issues. He stated that he respects every member of Council enough to believe that when they say they did not leak any information, that is the truth. The money and time that has been wasted on this issue could have gone towards repaving roads, lessening the impact of water and sewer costs, or pushing along the construction of the

City's new service garage. He feels it is time for Council to move forward and work together on the issues in the City that need addressed.

Mrs. Simpson stated that bringing back integrity to Council is one of the issues that need to be addressed.

Mrs. Reiter stated that from the beginning, it was inferred that the person who leaked the information was "one of the three". This threw into play that it was only one of three people. This information was given to the newspaper by Council or staff which has affected her integrity and reputation. From the beginning of the investigation, not one member of staff or Council has approached her to ask her if she was the one who leaked the information. She feels that she has supported the investigation and went up to \$15,000 to continue it. The leak was wrong but the manner in which the investigation was handled was wrong and it puts everything into question. She suggested that putting integrity back on Council can be done by handling the investigation how it should have been handled from the beginning by not continuing to spend taxpayers' money. She has spoken with people who are not comfortable coming to speak at a Council meeting who feel that she is their voice and they have said 10 to 1 not to spend anymore money on the investigation.

Mr. Cromwell stated that no one on staff or Council called into question, the integrity of anyone on Council. The union representative provided reliable information that was specific that referred to "one of three"; however, he feels that there is a cloud over all seven members of Council and the City and felt there was no question that the investigation needed to continue.

Mrs. Reiter asked Mr. Cromwell and members of Council if anyone has asked them if they were the source of the leak.

Mr. King stated that a resident at the last meeting asked Council members if they were the source of the leak.

Mrs. Reiter clarified that she wanted to know if anyone from staff had asked Council if they were the source of the leak before the \$15,000 was authorized.

Mr. Cromwell stated that no one from staff has asked him if he was the source of the leak.

Mrs. Bednar stated that maybe it was too serious of a matter to handle in that way. She noted that she had not been asked by anyone other than the resident at the last meeting. She noted that she has to voice on the side of ethics and feels no stone should be left unturned. She stated that she understood Mrs. Reiter's comment about integrity about every step that is taken and she has no judgment about whether the phrase "one of the three" was made available to the public because it was the words of someone involved in the situation and bringing it to light. The public gains a lot of information and has a right to hear a lot of information.

Mrs. Reiter stated that the information was given to the public that the union representative mentioned "one of the three", yet when she asks about the status of the investigation, she is told that it is an ongoing investigation. She suggested that before spending anymore money, the City should do its own investigation.

Mr. King stated that the City can not investigate itself.

Mrs. Reiter stated that talk about integrity, how about the integrity of the investigation. She feels the investigation is tainted already because it was guilt before evidence.

Mrs. Bednar stated that she did not think that the information that was provided tainted the investigation. She felt that it was only evidence that there had been a misstep and to bring the issue to Council's attention.

Mrs. Reiter stated that this was done by picking and choosing the information that was given.

Mayor Simpson stated that she was given a memo from the City Manager that there had been a breach and she attached her memorandum to Council with the City Manager's. In his memo, it states "one of the three". She did not label anyone that way. It was part of the memorandum. She stated that she would think that 2 of 3 people would be very upset at the third person whoever that may be.

Mr. Campbell asked why he would assume that the accusation of one person who has not come forward, would be the actual truth. He stated that as he stated previously, he believes that every member of Council when they had said that they knew nothing about the leak and he would like to believe this is true.

Mr. King asked why this is being debated. The investigation is to establish the truth and factual basis of what happened. The public has expressed that all of Council is at risk of being held responsible.

Mrs. Reiter stated that she felt personally attacked at the last meeting and she felt that she needed to defend herself.

Mr. King stated that the message was to all of Council.

Mrs. Reiter stated that there were some specifics there.

Mr. Lelko asked Mr. Campbell who is not telling the truth if he feels that all of Council is.

Mr. Campbell stated that he does not know that anything was ever leaked. He does not necessarily believe that one person's comment that something happened is the truth.

Mr. Lelko asked Mr. Campbell if he believes that he fabricated the information.

Mr. Campbell stated that the union representative may have told Mr. Lelko that information, he may be angry or he may have some other motive. Mr. Campbell stated that he does not know the union representative and he does not know his reasons for presenting this information.

Mrs. Bednar asked how the union representative would know specifics that were only discussed in Executive Session.

Mr. Campbell stated that at that point, most of the things were made public that were in the contract. He does not know the point that the union representative presented this information but he is one person that made the comment and in a court of law that person would be questioned by the other members that they are making the accusation of.

Mr. Lelko stated that the statement in his memo was in quotes for a reason and every word of his memo was written for a reason. He stated that it is not his responsibility to police Council. Charges were brought to him by someone else. It is his responsibility to get this information to the leadership of Council which is what he did. He stated that the information was given to him by a third party and he did what he was supposed to do and he would do it again the exact same way.

Mr. Campbell stated that he did not recall Council saying that staff did not do anything proper. He thought that it was said that when it came to Council, Council should have handled it differently.

Mr. Lelko stated that Mrs. Reiter had stated that staff should have done this or staff should have done that. He stated that he did what he is paid to do and this was dumped in his lap. He asked Council to put themselves in his position where a third party tells him that a member of Council who have engaged in either illegal or unethical activity.

Mrs. Reiter asked how Mr. Lelko chooses which letters or memos Council receives because she knows that there are both that she

has not received.

Mr. Lelko stated that he sends memos to everyone when he thinks it is of general interest or when everyone should be made aware of the information. There is no specific rule that he follows.

Mrs. Reiter stated that she has been told to put requests for information in writing now so she was just wondering.

Mr. Lelko stated that he did what he felt he was supposed to do.

Mrs. Reiter stated that she just thought that Mr. Lelko could have come to her first.

Mr. Lelko stated that his job is not to police Council and asked why he would investigate this matter. This information was given to him and he had to do something with it so he took it to the leadership of Council. Then it is no longer his responsibility.

Mr. King stated that he did not think the City Manager should approach a member of Council with information such as this.

Mrs. Bednar stated that Mrs. Reiter has stated that she has received comments from the public regarding the investigation, noting that they did not feel comfortable coming to Council to speak. She asked staff if they have received comments from the general public regarding the investigation, noting that this is a way for the public to voice their opinion.

Mr. Sharpe, Mrs. Day and Mr. Smock stated that they have not received any telephone calls or e-mails from the public.

Mr. Lelko stated that he has mainly had questions which he will not answer because the investigation is ongoing.

Richard Haynes, 305 N. Hambden St., spoke to say that it is time to put the issue to rest. He asked Mr. Lelko if the person who brought this information to him is unwilling to give him a name, it should have stopped at his desk because in a court of law, it means nothing.

Mr. Lelko stated that he will absolutely not bury this type of information.

Mr. Haynes stated that if there is no name being brought out, then it should be disregarded and he thinks that the Law Director would probably agree with him.

Mr. Gillette stated that he disagreed with Mr. Haynes and felt that an investigation would be necessary to find out what is going on.

Mrs. Bednar asked if Council and the City Manager should also ignore information that they receive information regarding theft in office or embezzlement.

Mr. Haynes stated that it is ridiculous since there has been no name provided. He added that he thinks Mrs. Reiter, Mrs. Bramstedt and Mr. Campbell have been very patient about all of this. Personally, since it has been brought out that it was "one of the three" that has done this, he would consider bringing a slander lawsuit about the person that brought this information to Mr. Lelko and possibly some of the City Council and staff. He asked Mr. Gillette if he felt that this could be a successful lawsuit.

Mr. Gillette stated that a slander suit would be up to Mr. Campbell, Mrs. Bramstedt and Mrs. Reiter to determine if they wanted to pursue such action and they would have the right to discuss this with legal counsel and pursue it with them.

Mr. Haynes stated that if he were them, he would consider it.

Jacob Park, 418 N. Hambden St., stated that each member of Council is guilty until an investigation proves otherwise. He stated that if Council is running again, it will be hard for them to win

unless someone is found guilty. He asked how he can trust the members of Council. He stated that Council can not use the excuse that it is taxpayer's money and maybe it shouldn't be spent because at the last meeting, 100% of the people said to spend money to pursue the investigation so it should be a 6-1 vote in favor of the ordinance to spend the money to continue the investigation. He stated that Mrs. Reiter had stated that 9 out of 10 people she spoke to did not want the money spent but if those people are not willing to come to a Council meeting to express their opposition to the expenditure then maybe they don't believe it. He stated that if she did not do it then she should vote in favor of the ordinance because right now, her word means nothing.

Mrs. Reiter stated that the memo is being taken at its word that this incident happened. So this is going forward on that too.

Mr. Park stated that he voted for Council and he didn't vote for the union representative. What Council does affects his life but what the union representative does not affect his life.

Mrs. Reiter asked Mr. Park if his word is more valuable than the people who did not come forward to speak in front of Council.

Mr. Park stated that his word is not more valuable; however, he does not know that what Mrs. Reiter is saying is true. When Council calls for a specific meeting as to whether the investigation should continue and 100% of the people say to continue with it, he feels Council should continue with it.

Dan Meleski, 301 Water Street, stated that at the last Council meeting, 100% of the residents who spoke were in support of the investigation but now it is being sidetracked and now the City Manager is being thrown under a bus. The City Manager received the information and put together a memo which he gave to the Mayor which is what he should have done. The Mayor should be the judge as to how to proceed with the information. To put the City Manager on trial is disgusting to him. He questioned if there is a problem with a sidewalk plow, does he need to put this information in a memo to all of Council. He stated that this is a community where he is raising his children and he felt it was important to come forward. He stated that he wants integrity on Council and there is doubt about everyone on Council until this dark cloud is removed. He asked how many times public input will be sought when it was clear that the July 16th meeting was specified for public input. He asked how much ethics is worth and stated that trust is earned.

Ken Miller, 112 Court Street, spoke to state that ethics are black or white. He was brought up in the ethics of Bob Eldredge who guided and browbeat Council at the slightest breach of Council. He asked the Law Director what the penalties are for someone who violates the ethics code.

Mr. Gillette stated that assuming that there was no criminal offense as a result of the investigation, it would be those sanctions included in the code of conduct which may be censure, removal from a committee and others of that nature.

Mr. Miller asked if it precludes their continuing to serve on Council and follow the code of ethics.

Mr. Gillette stated that the only way a member could be removed from Council would be by a petition filed with the board of elections and an election on that person's removal.

Mr. Miller requested Council suspend any further Executive Sessions until the matter has been resolved.

Bill Niehus, 292 Thwing Road, spoke to request a continuation of the investigation.

Joyce Campbell, 325 Chardon Avenue, spoke against spending anymore money on the investigation.

Results of the roll call vote:

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| Bednar: | Yes | King: | Yes |
| Bramstedt: | No | Reiter: | No |
| Campbell: | No | Simpson: | Yes |
| Cromwell: | Yes | | |

Motion passed. (not as emergency)

EXECUTIVE SESSION - none.

ANY OTHER BUSINESS - none.

ADJOURN

Mr. King moved and Mrs. Bednar seconded to adjourn. Upon voice vote the motion passed unanimously.

The meeting adjourned at 6:35 P.M.

KAREN S. SIMPSON, Mayor
President of Council

Attest:

AMY DAY
Clerk of Council