

## CITY MANAGER DUE PROCESS HEARING

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Mayor Chastain called the hearing to order. Present were Commissioner Carolyn B. Spooner, Commissioner Travis Woods, Commissioner Danny Nugent, Commissioner Wilbur Waters, Police Chief Jeff Johnson, City Clerk Ricky Thompson, City Manager Tom Ernharth, Fire Chief Gary Wise, and City Attorney Dan Sikes.

Mayor Chastain turned the hearing over to Attorney Sikes.

Attorney Sikes made the following comments; he received two requests from Mr. Ernharth's attorney. One; a letter requesting that if the city is going to proceed with the termination he has asked for due the process right to have specifics to address at the hearing and an opportunity to be heard at the hearing but could not make it today. He also ask if the city was to proceed forward with the termination that the commission frame the issues you have and Attorney Sikes will send it in letter form to Mr. Ernharth's attorney and schedule a hearing date.

In the interim Attorney Sikes and Mr. Ernharth's attorney have had a series of phone conversations about what is going on and negotiations, which the following offer has been made; Mr. Ernharth would tender his resignation effective December 2, which it would be the last pay period for the month of November and requested a ninety (90) day severance pay package, with the understanding it is a irrevocable resignation and will not request to come back to this city as a city manager.

Attorney Sikes added he has reviewed this and he cannot hold an executive session to discuss it. He contacted Mr. Terry Brown and went through the ins and outs. The consensus is this is a reasonable package and the recommendation is to accept the package.

If the city doesn't want to do this what we will need to do is schedule a time and date for the hearing and he would need to know the specifics the commission would like to address in the letter to Mr. Delegal.

Mayor Chastain asked Mr. Ernharth if he had any comments.

Mr. Ernharth responded; it has been his pleasure to serve as the manager of the city. Rebecca and I have come to love and respect the city, it employees, and residence. We have met a lot of real genuine people since they have been here and it hurts him deeply to have to do this. His first inkling is to not do it and what the commission believes he has done is not accurate. He believes there are inconsistencies but he believes this is best for all parties and the city needs to move forward and to help yourself as best as you can.

As far as he and Rebecca they appreciate the people that have supported us and stood by us even before he walked into this meeting people wanted to talk to him about staying and that means a lot. This is something he wants to do and he doesn't believe what has happened rises to the level of his resignation or the commission terminating him and that is his firm belief.

He suggested the city listen to the employees they are strong and the best employees you could have and are very dedicated.

Commissioner Waters responded; Mr. Ernharth knows how he feels and any charges, he doesn't know of any; so where are the charges coming from; he doesn't want Mr. Ernharth to go. There are things that need to be worked out but it is your choice and you need to do what is best for you and Rebecca. He accepts Mr. Ernharth's wishes but they are not his.

Commissioner Woods stated if this is what Mr. Ernharth wants and how to work it; he is ok with it.

Commissioner Nugent stated he agrees with Mr. Waters there have been no charges and the entire issue has been handled incorrectly, but it is his choice.

Commissioner Spooner addressed Mr. Ernharth; she cares about him as well as all the employees. She has some objections she cannot allow personnel feelings impede her judgment as a commissioner.

We have all been provided information regarding the conclusion of the investigation. With all the information she cannot ignore it and if she would she would not be responsible as what the people have elected her to do.

She is basing her decision on what information she was provided and there are some serious reasons that came out in the interviews. We as a board have a responsibility to address. If you tender your resignation she would accept it but there are lists of infractions we have to address.

Mayor Chastain commented to Mr. Ernharth that they have had their rollercoaster rides. There are just things that happened in the past he just doesn't feel comfortable working with you. He would accept Mr. Ernharth's resignation.

Commissioner Spooner ask to readdress; the areas of concern for her is the supervision that has been lacking in the particular case that has been investigated. As the manager you have the responsibility of supervision of departments that you are responsible for and what happens within those departments. There have been activities that have been unacceptable. Some examples; a few months back she ask

if there were any blood relation between the two employees, Mr. Johnson and Ms. Johnson and you told me no.

She said to check and make sure that is true. When it came out they were blood relation and nepotism she has to take exception to that because as the supervisor you have to make sure that doesn't occur. The other issue is the allowance of the timesheets that were turned in to you. All the department supervisors that report to you have a responsibility to do their job and there seems to be a lack of supervision in that regard.

Attorney Sikes added if the city is allowing him to resign and have his severance pay we don't have the hearing and we don't address those issues. We simply let him resign and go with grace and dignity. If the city isn't going to permit him to do that we have to set the hearing.

He is hearing the consensus that the commission will allow him to resign. If the commission doesn't permit him to resign under the conditions as offered then we need to set a special hearing.

He will bring it up under the regular meeting for the vote.

Mayor Chastain stated to answer your question I believe there are three commissioners up here that said they are willing to accept his resignation.

Attorney Sikes added the consensus is not a vote.

Commissioner Spooner referenced the 90 day severance pay. In other words we would continue to pay him for three months.

Attorney Sikes responded the agreement that Mr. Delegal addressed to him to bring to the board was Mr. Ernharth resigns effective December 2, 2016 and pursuant to the contract he is entitled to the 90 days severance pay and he has ask for that, which is the recommendation he is making to the board.

The alternate that is the cost of litigation; he is not saying the city would lose it is the cost of litigation. He needs to be careful of what he is saying due to this being an open session and not an executive session; he recommended simply there is an agreement that he will not return to the city and not ask to come back. It also gives him the financial means to move with grace.

Mayor Chastain ask if anyone from the floor would like to comment on this matter?

Mr. Brandon Demers, former Public Works Supervisor; addressing the commission stating Mr. Ernharth has been a great boss and feels he has been dealt a very bad hand. There are two sides to the story and there is a lot of other stuff that goes on in this City that is overlooked. There have been other persons that have done things wrong and it has been overlooked; Mr. Thompson had a check written to pay for Ms. Underhill's attorney.

He as well as other employees have been accused by yet another employee of stealing, which is false accusations.

The employees have been attacked around here and he isn't saying that Mr. Ernharth, Ms. Underhill or Ms. Johnson are wrong or right but the entire ordeal has been handled the wrong way.

He apologized for his emotions but wanted to thank Mr. Ernharth he has done a great job and has been dealt a bad hand.

Attorney Sikes added from the meeting that was held with the city employees on October 25<sup>th</sup> he will be addressing some of the concerns under his section of the meeting.

Lajuan Whittle, Code Enforcement Officer; she is ashamed of the commission. She did a public records request and got a copy of the investigation of Ms. Johnson for apparently theft. She isn't sure if you all have seen the interviews but Mr. Jerimiah Johnson has lied several times in his interview.

Regarding the nepotism Mr. Johnson came to Ms. Whittles office five or six months ago and for Ms. Johnson's sake he was asking Mr. Ernharth to sign off because he didn't want Mary into trouble. Ms. Whittle will take a lie detector test and recommend Mr. Johnson take one also.

Attorney Sikes added that there are no criminal charges against Mr. Ernharth.

Ms. Whittle understands there are no criminal charges against Mr. Ernharth; she wanted to tell the commission that they based their decision about Mr. Ernharth participation on someone that has lied. No one checked to see if he was lying.

Ms. Cassidy Mitchell, 382 Christian Street; she referenced Ms. Spooner talking about responsibility and the responsibility of the commissioners to do the right thing.

When the audit happened an Operations Manager was fired and when an investigation started we are losing a good City Manager. How many good city employees do we have to lose until those at fault actually accept responsibility? Since that doesn't seem it will happen she ask everyone here to remember the word responsibility during the next election and get out and do the responsible thing and

vote so the people who are performing these actions that you don't agree with are not re-elected.

Ms. Carrie Zubillaga, 613 W. Pratt Street; she ask if the commission was going to fire Mr. Ernharth? It is because of Mr. Ernharth that there are beeper lights, its because of Mr. Ernharth we have railing going down Orange Street.

Commissioner Woods told her that he City could not afford to purchase the railing after she and her husband had fallen into ditches and had to go to the ER the railing were put up.

Mayor Chastain responded the commission approved the purchase of the railings and beeper lights and worked through Mr. Ernharth to get that to happen.

Commissioners Woods responded that he has never told you that the City couldn't afford the railings. He had went to Clerk Thompson about putting the rails up and they are the ones that started it and we are the ones that got the rails put up from Florida Department of Transportation (FDOT). FDOT paid for the rails and put them up.

Mayor Chastain asked if there was any additional information that needed to come before the commission? Hearing none he closed the workshop.

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Tommy Chastain, Mayor  
Commissioner Daniel Nugent  
Commissioner Carolyn B. Spooner  
Commissioner Wilbur L. Waters  
Commissioner Travis V. Woods

Attest: \_\_\_\_\_  
Ricky Thompson, City Clerk