



**CITY OF MOUNT DORA, FLORIDA City
Council Special Meeting Minutes
January 22, 2024, 6:30 p.m.
City Hall
510 N. Baker St., Mount Dora, FL 32757**

CALL TO ORDER

Having been duly advertised as required by law, at 6:30 p.m., Mayor Crissy Stile called to order the Special Meeting of the Mount Dora City Council in the City Hall Council Chambers.

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

A moment of silence and Pledge of Allegiance were led by Councilmember Walker.

ROLL CALL

Members Present

John Cataldo, District 1
Cal Rolfson, District 2
Dennis Dawson, District 3
Nate Walker, District 5
Doug Bryant, At-large
Marc Crail, Vice-mayor
Crissy Stile, Mayor

Also Present

Patrick C. Comiskey, City Manager
Patrick Brackins, City Attorney
Jeanann Hand, City Clerk

1. Consideration of the Report Resulting from the Investigation Conducted by DSK Law, Lindsay Greene

City Attorney Patrick Brackins delivered opening remarks as follows:

Good evening. For the Council's consideration at this special meeting is the Investigation Report prepared by Lindsay Greene of DSK Law. Pursuant to Section 8 of the City's Charter, "the business of any Special Meeting shall be restricted to the written purpose stated by the Mayor, the City Manager or the majority of the full City Council, as the case may be," for calling the Special Meeting. This Special Meeting was called by the Mayor's written request, and the only item before the Council is the consideration of the Investigation Report.

By way of background, on January 3, 2024, Ms. Greene submitted an initial report to my office, which was promptly provided to the Council, Mr. Comiskey, Ms. Lovern, and Ms. Helfant. Our office did not receive the record upon which the report is based for a few days, and, pursuant to Chapters 119 and 112, Florida Statutes, the report did not become a public record until such time as we also received the record. Following receipt of the record, our office engaged in a review of its contents for any confidential or exempt information and made only limited redactions to two exhibits. The record was promptly provided to the Council, Mr. Comiskey, Ms. Lovern, and Ms. Helfant.

On January 8, 2024, Ms. Greene submitted an amended report solely to correct a citation on page 28. On or about January 15, 2024, Ms. Greene submitted four additional transcripts which were not included in Exhibit A of the original record. On January 16, 2024, the Council directed me to request a second amended report from Ms. Greene, to include a summary of Councilman Dawson's testimony. On January 19, 2024, I received the second amended report, and on January 20, 2024, I provided it to the Council, Mr. Comiskey, Ms. Lovern, and Ms. Helfant.

At this time, the report and its record, including the audio and video recordings of the interviews conducted by Ms. Greene are public records and have been provided to all parties and may be obtained through the City Clerk.

The report contains 62 pages, and the record is approximately 1,800 pages. Ms. Greene's findings and recommendations may be found on pages 50-62 of the report. Not including Mr. Comiskey and Ms. Lovern, 20 current or former employees provided testimony to Ms. Greene under oath.

As a reminder, prior to being commissioned by the City to conduct this investigation, Ms. Greene had no prior relationship with any of the individuals whom she ultimately interviewed as part of her investigation. She is a well-respected labor and employment lawyer who is frequently commissioned by other municipalities, including Mount Dora, to conduct similar investigations which have been upheld by administrative hearing officers, city managers and human resources directors. Accordingly, while it is fair and appropriate to consider, identify and discuss any deficiencies, clear error or unsupported conclusions in her report and findings, wholly conclusory statements or derogatory comments about Ms. Greene without support in the record are unhelpful and make defending this City in any future legal proceedings more difficult. As I have said to you previously, her report and the record speak for themselves, and this Council is now charged with determining what to do with it.

In short, Ms. Greene's report finds that Mr. Comiskey's conduct did not violate Section 112.3187, Florida Statutes, known as the Florida Whistleblower Act, because the complainant's facilitating and overseeing of the internal survey of the City Manager did not constitute activities protected by the act. Similarly, Ms. Greene finds that Mr. Comiskey did not violate the federal or state civil rights acts because the complainant's role as facilitator of the survey, alone, did not constitute protected activity under those acts.

However, on pages 51-59, Ms. Greene finds that Mr. Comiskey's conduct violated multiple City policies contained in Section 15.2 Group III Offenses and recommends that he be terminated for cause under Section 13.D of the City Manager's contract.

Ms. Greene made further findings with respect to the City Manager's executive assistant and likewise recommends her termination.

This special meeting has been called for the Council to discuss the report and to take whatever action, if any, it deems appropriate. The Council's actions, of course, are governed by the Charter.

Pursuant to Section 21 of the Charter, the City Manager may not be terminated at this meeting. He may be suspended, but he may not be terminated under the Charter at this meeting. Prior to a vote to remove the city manager, the charter requires that the city manager be afforded the opportunity to demand a due process or name clearing hearing in writing and served on the mayor. Section 21 provides that if the city manager serves such a demand on the mayor, then the due process or name clearing hearing may not be held earlier than 15 days from the date of the demand and not more than 30 days from the date of the demand.

Therefore, while the purpose of this meeting is to discuss the report and what actions, if any, to take, terminating the city manager at this meeting is not appropriate because it would deny him

the opportunity to exercise his right under Section 21. Tonight, you may choose to take no action with respect to the report, you may choose to adopt the report, its findings, creditability determinations, conclusions and recommendations (or portions thereof), you may notify the city manager of your intent to remove him under Section 21 of the Charter and schedule a special meeting for a vote on whether to remove him, you may set a deadline for him to serve a demand on the mayor for a due process hearing, you may suspend him or not, and you may take any other action you see fit. You simply can't fire him tonight without providing him with a meaningful opportunity for a due process hearing.

Mr. Brackins paused his remarks to allow the adjustment of audio settings for Mr. Comiskey's counsel, who were participating through electronic communication technology.

Mr. Brackins continued:

With respect to Mr. Comiskey's Executive Assistant, the charter provides the council with the authority to hire and fire two people – the city manager and the city attorney. Thus, you cannot directly terminate this employee. If you find that Ms. Greene's report is well-supported, and adopt her findings, credibility determinations, conclusions and recommendations, then you may (1) do nothing; (2) direct the City Manager or the acting city manager to take the action recommended by Ms. Greene; or (3) direct the city manager or acting city manager to review the report and take any and all appropriate actions with respect to Mr. Comiskey's executive assistant.

In terms of procedure, Florida law requires that before you take any action with respect to this agenda item, you permit public comment.

You will then proceed to discuss the report and take whatever action you deem fit. I have provided you with a wide variety of potential motions, but what motion you may wish to make, if any, is entirely up to you.

Mr. Brackins made it clear that Mr. Comiskey is not being investigated for criminal activity. Mr. Brackins reviewed the process by which four additional interview transcripts were added to the amended investigation report and exhibits.

Mayor Stile opened public comment.

Charlie Sands, 180 Page Lane, spoke about the problems the City has had with City Managers. Ms. Sands spoke in support of Mr. Comiskey and expressed dissatisfaction with the investigation.

Adrian Coombes, 408 West Ninth Avenue, spoke in protest of the investigation process and its results. He expressed dissatisfaction with Council's actions up to this point. He urged Council to hire a Conflict Resolution Specialist to remedy the current issues and to return to City business.

Toni DeLand, a retired employee of the City, disagreed with statements that employees are disgruntled, and countered that employees are feeling unappreciated.

Rachel O 'Ryan, 341 Alexander Street, spoke to clarify inaccurate information in the report about the Mount Dora Area Chamber of Commerce.

Jay Smith, 1046 McDonald Street, expressed distrust in the investigation report, stating the report was biased.

Joe Lewis, 148 Charles Avenue, spoke about the Council-Manager form of government, asked for Mr. Comiskey's performance metrics, and commended Councilmember Cataldo.

Tara Holcomb, **address redacted**, spoke in concern for the state of the employees, listed the resignations that had taken place under Mr. Comiskey's management and spoke about the positions that remain unfilled.

Mayor Stile closed public comment.

MOTION BY COUNCILMEMBER CATALDO TO ADOPT THE FINDINGS AND CONCLUSIONS OF THE INVESTIGATIVE REPORT IN PART, TO ADOPT THOSE FINDINGS WITH RESPECT TO NO VIOLATION OF THE FLORIDA WHISTLEBLOWER ACT, NO VIOLATIONS OF TITLE VII, OR THE FLORIDA CIVIL RIGHTS ACT, AND TO REJECT THE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS OF THE BALANCE OF THE REPORT FOR A NUMBER OF REASONS: A. BECAUSE THE BALANCE OF THE REPORT WAS NOT AUTHORIZED, B. BECAUSE THE REPORT WAS BIASED, CONTAINING UNSUBSTANTIATED GRIEVANCES AND NOT SUPPORTED BY FACTS, C. BECAUSE COUNCILMAN DAWSON'S INTERVIEW WAS LEFT OUT OF THE ORIGINAL REPORT, D. BECAUSE EMPLOYEES WHO WERE FAVORABLE TO THE CITY MANAGER WERE NOT ABLE TO COMMENT OR BE INTERVIEWED BY MS. GREENE. E. BECAUSE COUNCILMEMBER CATALDO'S OWN PERSONAL INTERVIEWS WITH DIRECT REPORTS FOUND 50% IN FAVOR OF THE CITY MANAGER, F. BECAUSE OF THE FAULT FOUND IN WHAT WAS LABELED AS A 360 REPORT, WHICH WAS NOT ANONYMOUS BECAUSE THE SURVEY RESULTS WERE MADE TO MS. HELFANT AND HER ASSISTANT, G. BECAUSE A LABOR ATTORNEY DID NOT REVIEW THE ALLEGATIONS BEFORE AN INVESTIGATION BEGAN, AND H. BECAUSE IF COUNCIL WERE TO TAKE ACTION WITH RESPECT TO MS. LOVERN, IT MAY VIOLATE THE CITY CHARTER; COUNCILMEMBER DAWSON SECONDED THE MOTION.

Councilmember Bryant pointed out that May 16th was not the first time issues were brought up regarding the City Manager. He reminded those present that Council approached the circumstance cautiously, and he recounted the actions that had been taken by Council to address this matter. He referenced Mr. Comiskey's Communication Plan, which had not yet been implemented, and Councilmember Cataldo's attempts to facilitate improved communication between Mr. Comiskey and the former City Attorney. Councilmember Bryant expressed respect for Mr. Comiskey, but voiced doubt whether staff's diminished trust in Mr. Comiskey's leadership provides an environment that will foster effective City operations.

Councilmember Bryant spoke about the difficulty of making this decision, but for the reasons stated, he did not support Councilmember Cataldo's motion and instead supported terminating Mr. Comiskey's contract.

Councilmember Rolfson stated that he, too, opposed Councilmember Cataldo's motion. He spoke of deflection tactics frequently used in adversarial circumstances. He stated that Council must focus on conduct, and that the information in the report must be taken seriously. He spoke of Ms. Greene's authorization to conduct the investigation. He pointed out that each Councilmember's interview with Ms. Greene began with acknowledgment of the investigation's scope.

Mr. Brackins explained that consensus is a legitimate method by which Council may convey a common decision.

Councilmember Dawson apologized to the City's citizens for the manner in which this circumstance had been addressed. He pledged that Council would do better in the future. Mr. Dawson explained that he found the report unbalanced. He stated that dysfunction had been present at City Hall for years prior to Mr. Comiskey's management. He expressed dissatisfaction with the survey that had been conducted and disappointment that a conflict resolution process had not taken place. He requested that the Shepard firm work with Council in the future to better understand their role and the role of the City Manager. He supported Councilmember Cataldo's motion.

Vice-mayor Crail suggested that Council suspend the City Manager with pay and benefits and appoint an Acting City Manager to provide Mr. Comiskey the opportunity to mount his defense. He noted that the investigation report is a lengthy document, and that while each member may find flaws with aspects of its content, such flaws do not constitute grounds to reject the entirety of the document.

MOTION FAILED WITH A 2-5 ROLL CALL VOTE.

YES Cataldo
Dawson
NO Rolfson
Walker
Bryant
Crail
Stile

Councilmember Rolfson stated Councilmembers must act in the best interest of the City. He supported the finding that there is no whistleblower proof, pointing out Ms. Greene's finding in that regard is evidence of her objectivity. He voiced his support for the remaining findings. He reminded Council that they swore to protect the City of Mount Dora. He noted Mr. Comiskey's reluctance to consult the City's legal counsel or follow Council direction. Councilmember Rolfson spoke in favor of Mr. Comiskey's suspension.

Councilmember Walker recounted an early conversation with Mr. Comiskey during which Mr. Comiskey stated he did not object to staff speaking with Councilmembers. He likened Council to a thermostat, which must set the temperature for the City's environment. Councilmember Walker stated he would support Ms. Greene's findings, that a separation is necessary, and that the City must find a new "coach."

MOTION BY COUNCILMEMBER BRYANT, HAVING CONSIDERED THE 2ND AMENDED REPORT AND ITS RECORD, TO 1. FIND THE REPORT, INCLUDING ITS FINDINGS, CREDIBILITY DETERMINATIONS, CONCLUSIONS, AND RECOMMENDATIONS ARE WELL-SUPPORTED BY THE RECORD; AND 2. ADOPT THE REPORT'S FINDINGS, CREDIBILITY DETERMINATIONS, CONCLUSIONS, AND RECOMMENDATIONS; AND 3. NOTIFY THE CITY MANAGER ORALLY AND HAVE THE CITY ATTORNEY NOTIFY THE CITY MANAGER IN WRITING OF COUNCIL'S INTENT TO REMOVE THE CITY MANAGER UNDER SECTION 21 OF THE CHARTER, BASED ON THE REPORT'S FINDINGS, CREDIBILITY DETERMINATIONS, CONCLUSIONS AND RECOMMENDATIONS; AND 4. SCHEDULE A SPECIAL MEETING TO VOTE ON WHETHER TO REMOVE THE CITY MANAGER UNDER SECTION 21 OF CHARTER; AND 5. PROVIDE THE CITY MANAGER WITH A MEANINGFUL OPPORTUNITY TO REQUEST A DUE PROCESS/NAME CLEARING HEARING PRIOR TO HOLDING A SPECIAL MEETING TO VOTE ON WHETHER TO REMOVE THE CITY MANAGER, AS REQUIRED BY SECTION 21 OF THE CHARTER; AND 6. DIRECT THE CITY MANAGER TO PROMPTLY EXERCISE HIS RIGHT TO REQUEST A DUE PROCESS OR NAME CLEARING HEARING UNDER SECTION 21 OF THE CHARTER BY SERVING A WRITTEN DEMAND UPON THE MAYOR NO LATER THAN THE CLOSE OF BUSINESS, 5:00 P.M., ON THURSDAY, JANUARY 25TH; AND 7. THAT IF THE CITY MANAGER SERVES A WRITTEN DEMAND UPON THE MAYOR FOR A DUE PROCESS OR NAME CLEARING HEARING, THAT SAID HEARING BE NOTICED AS A PUBLIC SPECIAL MEETING TO OCCUR NO EARLIER THAN 15 DAYS AFTER THE WRITTEN DEMAND IS SERVED UPON THE MAYOR AND NO LATER THAN 30 DAYS AFTER SAID DEMAND IS SERVED ON THE MAYOR, AS REQUIRED BY SECTION 21 OF THE CHARTER; AND 8. IN THE EVENT THAT NO SUCH WRITTEN DEMAND IS TIMELY SERVED ON THE MAYOR, THAT THE VOTE ON WHETHER TO REMOVE THE CITY MANAGER BE SCHEDULED BY SPECIAL MEETING ON OR BEFORE FEBRUARY THE 5TH, 2024; AND 9. BASED ON THE FINDINGS, CREDIBILITY DETERMINATIONS, CONCLUSIONS AND RECOMMENDATIONS IN THE REPORT, FURTHER MOVE THAT THE CITY MANAGER BE SUSPENDED WITH FULL PAY AND BENEFITS, AS REQUIRED BY SECTION 21 OF THE CHARTER, EFFECTIVE IMMEDIATELY PENDING THE OUTCOME OF A FINAL VOTE ON WHETHER THE CITY MANAGER SHOULD BE REMOVED; AND 10. FURTHER MOVE TO DIRECT THE CITY MANAGER, SUSPENDED OR NOT, AND ANYONE ACTING ON THE CITY MANAGER'S BEHALF, NOT TO RETALIATE IN ANY MANNER AGAINST ANY EMPLOYEES WHO PARTICIPATED IN THE INVESTIGATION. NO RETALIATION OF ANY KIND WILL BE TOLERATED BY THE CITY OF MOUNT DORA. COUNCILMEMBER ROLFSON SECONDED THE MOTION. MOTION PASSED WITH A 5-2 ROLL CALL VOTE.

YES Bryant
Rolfson
Walker
Crail

Stile
NO Cataldo
Dawson

Mr. Comiskey distributed to each Councilmember a request for a due process hearing. February 12, 2024 at 6:30 p.m. was set as the date and time for Mr. Comiskey's public hearing.

MOTION BY COUNCILMEMBER ROLFSON, BASED ON THE CITY MANAGER'S RIGHT TO REQUEST A DUE PROCESS HEARING/NAME CLEARING HEARING, WHICH HE HAS DONE, TO APPOINT VINCE SANDERSFELD, UNDER SECTION 24 OF THE CHARTER, AS THE ACTING CITY MANAGER DURING MR. COMISKEY'S SUSPENSION AND PENDING THE OUTCOME OF THE VOTE ON WHETHER TO REMOVE THE CITY MANAGER, WITH ALL THE RIGHTS, DUTIES, AND PRIVILEGES PERTAINING TO THAT OFFICE OF CITY MANAGER, AND FURTHER MOVE TO APPOINT STEVE LANGLEY AS THE INTERIM ACTING ASSISTANT CITY MANAGER; VICE-MAYOR CRAIL SECONDED THE MOTION.

Council confirmed Mr. Sandersfeld and Mr. Langley were willing to serve in those positions.

MOTION PASSED WITH A 7-0 ROLL CALL VOTE.

YES Rolfson
Crail
Cataldo
Dawson
Walker
Bryant
Stile
NO None

MOTION BY COUNCILMEMBER BRYANT, PURSUANT TO SECTION 12.C. AND SECTION 13 OF THE CITY MANAGER'S CONTRACT, TO DIRECT THE CITY ATTORNEY TO PROMPTLY ATTEMPT TO ENGAGE THE CITY MANAGER IN A DISCUSSION REGARDING A RESOLUTION OF THIS MATTER AND THE CITY MANAGER'S CONTRACT WITH THE CITY OF MOUNT DORA; VICE-MAYOR CRAIL SECONDED THE MOTION. MOTION PASSED WITH A 7-0 ROLL CALL VOTE.

YES Bryant
Crail
Cataldo
Rolfson
Dawson
Walker
Stile
NO None

MOTION BY VICE-MAYOR CRAIL TO HAVE THE ACTING CITY MANAGER, MR. SANDERSFELD, TAKE WHATEVER ACTION HE THINKS BEST IN THE CASE OF THE ADMINISTRATIVE ASSISTANT; COUNCILMEMBER WALKER SECONDED THE MOTION. MOTION PASSED WITH A 7-0 ROLL CALL VOTE.

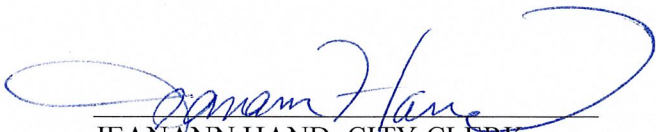
YES Crail
Walker
Cataldo
Rolfson
Dawson
Bryant
Stile
NO None

MOTION BY COUNCILMEMBER ROLFSON TO ADJOURN; COUNCILMEMBER WALKER SECONDED THE MOTION. MOTION PASSED WITH A UNANIMOUS VOICE VOTE; COUNCILMEMBER WALKER SECONDED THE MOTION. MOTION PASSED WITH UNANIMOUS VOICE VOTE.

There being no further business for discussion, the meeting adjourned at approximately 8:26 p.m.



CRISSY STILE, MAYOR
City of Mount Dora



JEANANN HAND, CITY CLERK
City of Mount Dora