MINUTES
TOWN OF QUARTZSITE
SPECIAL MEETING OF THE
AD HOC ETHICS COMMITTEE
Town Hall
TUESDAY, AUGUST 26, 2014, 5:00 PM

CALL TO ORDER: 5:00 p.m.

ROLL CALL:
Committee Member: Vice Mayor Mike Jewitt, present
Committee Member: Council Member Carol Kelley, present
Committee Member: Council Member Norma Crooks, present

STAFF PRESENT: Skylor Miller, Town Manager; Kelly Schwab, Town Attorney; Tina Abriani, Town Clerk

BUSINESS:

Committee Member Council Member Crooks moved to approve the agenda as presented and **Committee Member Council Member Kelley seconded** the motion.

1. **Consider approval of the minutes of the Special Meeting of August 12, 2014.**

Committee Member Council Member Kelley moved to approve the minutes of the last meeting and **Committee Member Council Member Crooks seconded** the motion. The vote was unanimous. **Motion Passed**.

2. **Executive Session – An executive session pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the Town Attorney regarding procedures to be followed related to the complaint filed against Mayor Foster and regarding legal issues related to the complaint, and pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of disciplining Mayor Ed Foster for violation of the Town's Ethics Code and Town Code.**

Committee Member Council Member Kelley moved to go into executive session pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the Town Attorney regarding procedures to be followed related to the complaint filed against Mayor Foster and regarding legal issues related to the complaint, and pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of disciplining Mayor Ed Foster for violation of the Town's Ethics Code and Town Code. **Committee Member Council Member Crooks seconded** the motion. The vote was unanimous. **Motion Passed**.

Mayor Ed Foster requested the discussion pursuant to A.R.S. § 38-431.03(A)(1) be held in a public meeting. Therefore no discussion pursuant to that statute was held in executive session.

ADJOURN TO EXECUTIVE SESSION: 5:02 p.m.

SPECIAL MEETING RECONVENED: 5:14 p.m.

Committee Member Vice Mayor Jewitt reconvened the Special Meeting of the Ad Hoc Ethics Committee.

ROLL CALL: Vice Mayor Jewitt, present; Council Member Kelley, present; Council Member Crooks, present.

3. **Discussion and possible action regarding discipline of Mayor Foster for violation of the Town's Ethics Code and Town Code.**

Committee Member Vice Mayor Jewitt advised that Item #3, an allegation, of the complaint would not be discussed. He requested that Town Attorney Goodwin explain the reason.

> *Alleged complaint #3, as listed in a letter sent to Vice Mayor Jewitt by Council Member Kelley is as follows: Violating Executive Meeting rules and admonishments. After the meeting discussing the Cadre Money settlement, Mayor Foster told Jeff Gilbert how the Town worked out the settlement and all details.*

Town Attorney Goodwin stated that the discussion regarding the investigation of the allegation, Item #3, of the complaint would not be discussed in open session because it involves a matter discussed in executive session.

Town Attorney Goodwin explained that because Mayor Foster requested this meeting be held in public session, it is not permissible for Former Chief Gilbert, an alleged party to the conversation with the Mayor, to repeat what the Mayor told him, as it is part of a confidential executive session.

Committee Member Vice Mayor Jewitt asked Jeff Gilbert if he understood the explanation given by Town Attorney Goodwin.

Jeff Gilbert stated his understanding.

Town Attorney Goodwin advised that the statute states that any discussion of what took place in executive session would be a violation; therefore, the repeating by Former Chief Gilbert of what was allegedly told to him that was discussed in executive session would be a violation. Town Attorney Goodwin stated she did confirm this with the Arizona Attorney General's Office.

Mr. Gilbert stated he had no idea if what the Mayor said to him was from an executive session or not.

Committee Member Council Member Crooks asked Town Attorney Goodwin to explain the procedure the Committee could follow regarding this allegation. Town Attorney Goodwin said that an executive session could be held under a different statute, but the executive session was not noticed for a discussion under that statute.

Town Manager Miller advised that Chief Drum and Deputy Irwin have declined to appear to be interviewed by the Ad Hoc Ethics Committee without a subpoena. He noted the Ad Hoc Ethics Committee does not have the authority to issue a subpoena.

Committee Member Vice Mayor Jewitt advised the Committee will review each of the remaining charges.

Committee Member Vice Mayor Jewitt read aloud Charge #1 from the letter: The repeated use of Town letterhead, after having been censured, in violation of Town Code Chapter 11, Offenses, Section 11-1-4, Unauthorized Use of Letterhead. This violation is listed as a Class One Misdemeanor in the Arizona Revised Statutes.

Committee Member Vice Mayor Jewitt advised that each Committee Member and many people in the Town have received letters from Mayor Foster, on Town letterhead, that were not authorized by the Town Council to be sent out.

Committee Member Council Member Kelley advised that she brought a letter received June 20, 2014. She stated there are several more; but, she brought the latest one. She noted the Mayor has been sanctioned a couple of times and is still doing it.

Committee Member Vice Mayor Jewitt advised that under Town Code, anything sent out by the Mayor, on Town letterhead, must be authorized by a majority of the Town Council, in a Town Council Meeting and has not been done.

Town Attorney Goodwin asked if there is more than one letter that will be made part of the proceedings. Committee Member Council Member Kelley replied yes.

Committee Member Vice Mayor Jewitt stated the Mayor has refused requests to turn over the letters from him, on Town letterhead, for the Town files, at least three times.

Town Attorney Goodwin advised, regarding Charge #1, the Ethics Code provides that the Committee needs to take action or give direction. She listed some options available to the Committee.

Committee Member Kelley moved to refer the letterhead complaint to the Council and **Committee Member Crooks seconded** the motion. The vote was unanimous. **Motion Passed**.

Committee Member Vice Mayor Jewitt read aloud Charge #2 from the letter: Mayor Foster continues to act in excess of his office and that is a civil violation. Mayor Foster

acts outside of the scope of his office using the term 'Mayor' when he should not. He has spoken at functions as if representing the Town.

Town Manager Miller stated that he requested interviews from two County officials and those requests were denied. He advised he reviewed approximately nine months of minutes from the La Paz County Board of Supervisors' Meetings and found no evidence that the Mayor spoke at those meetings.

Committee Member Council Member Kelley moved to remove Charge #2. **Committee Member Vice Mayor Jewitt seconded** the motion. The vote was unanimous. **Motion Passed**.

Committee Member Vice Mayor Jewitt read aloud Charge #4 from the letter: Violating Town Code Chapter 2, Mayor and Council, Section 2-2-6, Failure to Sign Documents. He has refused to sign minutes and other official documents within the five day timeframe. The Emergency Loan Documents of December 2013 were noted.

Committee Member Vice Mayor Jewitt recalled that the Mayor vetoed the original Council vote which was six to one.

Committee Member Vice Mayor Jewitt recommended all the charges go to the Council.

Committee Member Council Member Kelley moved to take number four to the Council for further action as determined by Council. **Committee Member Council Member Crooks seconded** the motion. The vote was unanimous. **Motion Passed**.

Town Attorney Goodwin asked if there is a finding that there was a violation of the ethics code or the Town's ordinances; or, if the Committee is just referring it to the Council to do its own investigation?

Committee Member Vice Mayor Jewitt stated his intention in referring the matter to the Council is not to do any further investigation, but, for the Council to determine how it should be handled.

Committee Member Council Member Crooks stated the Committee does find that this is a violation and **Committee Member Council Member Kelley added** 'of the Town Code Chapter 2.

Town Attorney Goodwin suggested the motion could be to find a violation of the Town Code for refusing to sign documents and to refer it to Council for action. Committee Member Council Member Crooks and Kelley agreed.

Committee Member Vice Mayor Jewitt called for a vote on the amended motion. The vote was unanimous. **Motion Passed**.

Committee Member Vice Mayor Jewitt read aloud Charge #5 from the letter: The Mayor's Message posted after the June 20, 2014 Council Meeting, attacks several

people in writing and was distributed to the public. This violates the Town Council's Procedure Policy Manual, Section IX, Legal and Ethical Standards of Conduct, Item #4, Conduct, A & H.

Committee Member Council Member Kelley advised the Committee has a copy of the letter, everyone received a copy and everyone saw it. She noted it was signed at the bottom, Mayor, and it attacks several people.

Committee Member Council Member Crooks moved that the Committee finds that the letter of June 20, 2014 is a violation of the Town Policy Procedures, ethics, Item #5, and Conflict of Interest, and refer this to the full body of the Council for the reprimand or censure, or whatever we end up doing. Committee Member Vice Mayor Jewitt added, recommend action. **Committee Member Council Member Kelley seconded** the motion. The vote was unanimous. **Motion Passed**.

Committee Member Vice Mayor Jewitt read aloud Charge #6 from the letter: The Mayor's Message posted after the June 20, 2014 Council Meeting attacks Council Members and the public using his title as Mayor in the signature. This violates the Town Council's Procedure Policy Manual, Section V, Legal and Ethical Standards of Conduct, Item #5, Conflict of Interest, H.

Committee Member Council Member Kelley stated this is the same letter as that from Charge #5.

Committee Member Council Member Crooks moved that the Mayor's message did in fact violate Town Council's Procedure Policy Manual, Section V, Legal and Ethical Standards of Conduct, Item #5, Conflict of Interest and that the Committee finds that he did violate those and refer it to the full Council for further reference. **Committee Member Council Member Kelley seconded** the motion. **Motion Passed**. The vote was unanimous. **Motion Passed**.

Committee Member Council Member Kelley asked the Town Attorney if the Committee takes this to the Council and put it on a regular agenda, or another executive meeting.

Town Attorney Goodwin advised that the Committee has taken action on five of the six allegations, to consider the Committee's recommendations. She stated that for Charge #3, the Town Attorneys are going to recommend some options for further action.

Committee Member Council Member Kelley moved to direct staff to put all of this on the next agenda. The vote was unanimous. **Motion Passed**.

Committee Member Vice Mayor Jewitt thanked the audience for its attendance.

Committee Member Council Member Crooks moved to adjourn and **Committee Member Council Member Kelley seconded** the motion. The vote was unanimous. **Motion Passed**.

ADJOURNMENT: 5:37 p.m.

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of August 26, 2014, of the Ad Hoc Ethics Committee of the Town of Quartzsite, Arizona, held on August 26, 2014.

I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 9 day of SEPTEMBER 2014.

Tina M. Abriani

Tina M. Abriani, Town Clerk

On behalf of the Ad Hoc Ethics Committee

Approved:

Committee Member Vice Mayor Mike Jewitt