

MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
December 14, 2015
6:30 p.m.

A. MEETING CALLED TO ORDER

At the Regular Session of the City Council of University City held on the fifth floor of City Hall, on Monday, December 14, 2015, Mayor Shelley Welsch called the meeting to order at 6:30 p.m.

B. ROLL CALL

In addition to the Mayor the following members of Council were present:

Councilmember Rod Jennings
Councilmember Paulette Carr
Councilmember Stephen Kraft (*Arrived at 6:35 p.m.*)
Councilmember Terry Crow
Councilmember Michael Glickert
Councilmember Arthur Sharpe, Jr.

Also in attendance was City Manager, Lehman Walker.

Mayor Welsch then provided the following reminder to those in the audience. If you would like to speak to the Council on agenda or non-agenda items, you should fill out a speaker request form that can be found to the left of the door into the Chamber. Please indicate on that sheet if you want to speak on an agenda or non-agenda item, and note the agenda item number on the form. Your completed form should be placed in the plastic trays in front of the City Clerk prior to the start of Council's discussion on an agenda item for which you would like to speak.

The Council Reports and Business section is for Council discussion. Citizens asking to speak on any of those issues may do so during the regular Citizen's Comment sections. Comments should be limited to five (5) minutes.

This Council cannot discuss personnel matters, legal or real estate issues in public sessions. Members of this Council and the City Manager will not immediately respond to questions raised at our meetings, however, responses will be provided by an appropriate person as quickly as possible.

If someone chooses to continue speaking beyond the Council-accepted time limit on an individual citizen comment, after being advised of their deadline, they will not be called to the podium at future meetings. Requests for additional time to speak will be considered, but the speaker must make a request to go beyond their limit and be given permission to do so. Residents are free to speak either on an agenda or non-agenda item.

It is Council's intent to conduct these meetings in a manner that is, at all times, respectful to members of City staff, the community, and fellow City Council members. Personal attacks on City Council members and staff will be ruled out of order.

Finally, Mayor Welsch encouraged members of Council to remember that, per Council Rules, Roberts Rules of Order will be followed. And according to Robert's Rules, each member should desist in making personal attacks on their colleagues, limit comments to the merits of an issue, and not call into question any of your colleagues' motives. Again,
January 11, 2016

personal attacks on City Council members and staff, by members of the public or by members of this Council, will be ruled out of order. These meetings are held for this Council to do the business of the people, and that is what every member should be focusing on.

C. APPROVAL OF AGENDA

Councilmember Glickert stated that he does not believe Council has explored all available options and therefore would request that the words "*and possible vote*" be removed from the discussion regarding breach of confidence under the Council Reports/Business section. The motion was seconded by Councilmember Kraft.

Councilmember Crow stated that any discussions regarding the breach of confidence should have occurred prior to it being placed on the agenda.

Councilmember Kraft requested that "*discussion and vote*" for the Parks' Policy either be called out of order or changed to discussion only, since there was nothing provided to Council to vote on.

Mr. Walker requested that Traffic Signal Maintenance, number 3, under the City Manager's Report be withdrawn.

Councilmember Carr stated that the reason she added "*vote*" to the Parks' Policy discussion was to determine whether the issue would be deferred until next year or whether she would be allowed to proceed by formally making a motion. She objected to removing the request to vote.

Voice vote on the request to remove "*and possible vote,*" from the discussion regarding breach of confidence carried by a majority with Nay votes from Councilmember Carr and Councilmember Crow.

Voice vote on the request to remove "*vote*" from the Parks' Policy failed with one yes vote from Councilmember Kraft.

Voice vote to approve the agenda as amended carried unanimously.

D. PROCLAMATIONS

E. APPROVAL OF MINUTES

1. November 23, 2015 Regular Session minutes were moved by Councilmember Jennings, seconded by Councilmember Sharpe and the motion carried unanimously.

F. APPOINTMENTS

1. Tom Sontag was nominated for reappointment to the Urban Forestry Commission by Councilmember Carr, seconded by Councilmember Glickert and the motion carried unanimously.

2. William Thomas and Mary Hart were nominated for reappointment to the Senior Commission by Councilmember Sharpe, seconded by Councilmember Carr and the motion carried unanimously.

3. Garrie Burr and Barbara Santoro were nominated for reappointment to the Arts & Letters Commission by Mayor Welsch, seconded by Councilmember Sharpe and the motion carried unanimously.

4. Sandy Jacobson was nominated for appointment to the Historic Preservation Commission by Councilmember Crow, replacing James Guest, seconded by Councilmember Carr and the motion carried unanimously.

G. SWEARING IN

1. Lucille Harris was sworn in to the Human Relations Commission in the City Clerk's office.

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

Jan Adams, 7150 Cambridge Avenue, University City, MO

Ms. Adams challenged the *St. Louis Post Dispatch's* analysis of the issues before this Council, wherein they conflated the Sunshine Law with the law pertaining to attorney/client privilege. She stated that based on the email at issue, Councilmember Crow usurped the power of this Council, abused his power as a Councilmember and arbitrarily forwarded the City Attorney's opinion to the adverse party in litigation. Ms. Adams stated that while she commends the members of Council who seek to hold Councilmember Crow accountable for his malfeasances, she does not believe that this offense rises to the level of a criminal act. Therefore she would urge Council to postpone any vote tonight and research other remedies that deter this kind of behavior in the future.

Mayor Welsch urged members of the audience to be respectful and refrain from making verbal responses during a speaker's oral presentation.

Gerald Greiman, 7042 Westmoreland, University City, MO

Mr. Greiman, stated that he was appearing tonight as the attorney for Councilmember Crow, and wished to address the petition to remove him from office. He stated that should Council decide to proceed with the filing of this petition it will subject the City to a liability for malicious prosecution and violation of Rule 55.03 of the Missouri Rules of Civil Procedure.

Mr. Greiman stated that he had delivered a letter to Council today, laying out the specific flaws in the petition, and would ask that it be made a part of the record.

He stated that even if one were to assume that there was some impropriety relating to the email, it still does not warrant the removal a duly elected public official from his office. Councilmember Crow has never received campaign finance contributions from the firefighters.

Brian Burkett, 7471 Kingsbury Blvd., University City, MO

Mr. Burkett stated that Terry Crow is one of the most ethical persons he has come to know but on the other hand, the Mayor refuses to address any dissenting opinions. Mr. Burkett then encouraged everyone to sign the petition for the Mayor's recall.

John Rava, 7129 Washington Avenue, University City, MO

Mr. Rava stated that the real issue is the need to protect the dignity and reputation of U City. The petition to remove Councilmember Crow from office is transparently a political vendetta that has been identified as such in the newspapers. He urged Council to try and establish some semblance of integrity by pulling this item from the agenda.

I. PUBLIC HEARINGS

J. CONSENT AGENDA

K. CITY MANAGER'S REPORT

1. Approval to award contract to Anova Furnishings for 45 public space-trash/recycling containers for the Loop area in the amount of \$36,900.

Councilmember Glickert moved to approve, was seconded by Councilmember Sharpe and the motion carried unanimously.

2. Approval to award contract to Missouri Machinery and Engineering Co. for pool pump replacement in the amount of \$73,719.

Councilmember Jennings moved to approve, was seconded by Councilmember Sharpe and the motion carried unanimously.

3. **(Removed)** Approval to authorize the City Manager to execute a one-year agreement with CBB for \$8,000, to provide traffic signal maintenance services.
4. Approval to award contract to Kelly Equipment for solid waste dumpsters in the amount of \$55,400.

Councilmember Glickert moved to approve, was seconded by Councilmember Jennings and the motion carried unanimously.

L. UNFINISHED BUSINESS

BILLS

1. **BILL 9277** - An ordinance amending Chapter 400 of the Municipal Code of the City of University City, relating to zoning, by amending Sections 400.030; 400.1190; 400.2020; and 400.2040; thereof, relating to landscaping and screening regulations; containing a savings clause and providing a penalty. Bill 9277 was read for the second and third time.

Councilmember Sharpe moved to approve and was seconded by Councilmember Glickert.

Roll Call Vote:

Ayes: Councilmembers Carr, Crow, Kraft, Jennings, Glickert, Sharpe and Mayor Welsch.

Nays:

2. **BILL 9278** – An ordinance fixing the compensation to be paid to City Officials and employees as enumerated herein from and after its passage, and repealing ordinance No. 6988. Bill 9278 was read for the second and third time.

Councilmember Sharpe moved to approve and was seconded by Councilmember Jennings.

Councilmember Carr thanked Mr. Walker for providing answers to the questions posed at the last meeting. She stated that she has some doubt about the City's ability to find part-time firefighters, but if there are some highly qualified applicants then she is not going to stand in the way of establishing this position.

Roll Call Vote:

Ayes: Councilmembers Carr, Crow, Kraft, Jennings, Glickert, Sharpe and Mayor Welsch.

Nays:

M. NEW BUSINESS

RESOLUTIONS

BILLS

Introduced by Councilmember Glickert

1. **BILL 9279** – An ordinance of the City of University City, Missouri; repealing Section 120.480 of Chapter 120 of the City of University City Municipal Code; and enacting in lieu thereof a new Section 120.480. Bill 9279 was read for the first time.

Introduced by Councilmember Sharpe

2. **BILL 9280** – An ordinance of the City of University City, Missouri; repealing Section 112.010 of Chapter 112 of the City of University City Municipal Code; and enacting in lieu thereof a new Section 112.010. Bill 9280 was read for the first time.

120.490 of Chapter 120 of the City of University City Municipal Code; and enacting in lieu thereof a new Section 120.490. Bill 9280 was read for the first time.

Councilmember Carr questioned why the number of members of the Economic Development Retail Sales Tax Board was being increased from five to nine? Mayor Welsch stated that she had worked with Rory Ellinger to change the Missouri Statute that was worded in such a way that the City could only appoint three citizen members to the commission. She believed it is beneficial for cities the size of University City, to be able to appoint more residents and she had argued that the number be increased. She stated that this bill also increases the number of representatives from the School Board and St. Louis County. Councilmember Carr requested that she be provided with additional background information.
Bill 9280 was read for the first time.

Introduced by Councilmembers Carr and Glickert

3. **BILL 9281** – An ordinance submitting to the qualified voters of the City of University City, Missouri, at an election to be held on April 5, 2016, a proposed amendment to Charter of the City of University City adding section 97 of Article XI of the Charter requiring the approval of a majority of the qualified voters prior to the sale, lease or disposition of University City Heritage Sites.
Bill 9281 was read for the first time.

N. CITIZEN PARTICIPATION (continued if needed)

Kathy Straatmann, 6855 Plymouth Avenue, University City, MO

Ms. Straatmann asked her 3rd Ward Councilmembers to listen to their constituents and perform due diligence on any proposed projects affecting the 3rd Ward. She thanked Councilmembers Crow and Carr for helping to minimize some of the damage being done to this City.

Berit Nelson, 7118 Waterman, University City, MO

Ms. Nelson stated she appreciates that every member of Council has a commitment to service, an interest in bettering this community, and that leadership presents many challenges. One of those challenges is that there will always be areas of disagreement, even among people aligned with common goals. Ms. Nelson then expressed her opinions on good/poor judgment and convenient thinking, as it relates to Mayor Welsch, members of Council and the City Manager. She asked that everyone end their focus on frivolous and mean-spirited actions, and work to solve the real problems that U City faces.

Bart Stewart, 714 Harvard Avenue, University City, MO

Mr. Stewart said he repeatedly asked in public forums, who would be footing the bill to pay for the attorney hired to draft and litigate this petition; he has received no response. He stated that this gives citizens another reason to work even harder to see that she and Councilmember Kraft no longer serve this community.

Anne Silverstein, 7963 Teasdale, University City, MO

Ms. Silverstein stated that she is a lawyer and although Mr. Greiman is a very distinguished member of the Bar, she does not think he distinguished himself tonight by issuing threats. She stated that she was really shocked by what Councilmember Crow did. Ms. Silverstein stated that the character of a communication from a lawyer is not determined by whether or not it is stamped confidential; which Councilmember Crow should know, since he is a lawyer. It appears as though he was assisting an employee who had an adversarial relationship with the City.

Steve McMahon, 8135 Stanford Avenue, University City, MO

Mr. McMahon stated that the Mayor is abusing her office and is using taxpayer dollars. He expressed concerns about the 2008 Mayoral Campaign, the Mayor's lack of transparency, lack of research, broken promises, leaking of documents and exposing the City to further lawsuits. He stated that if anyone who supported this act is unfit to hold office.

Chris Vahlkamp, 7200 Waterman, University City, MO

Mr. Vahlkamp stated that U City has become a symbol of what is wrong with local government; to those who are vilified for seeing things differently and to those who view social media as a threat because it amplifies the truth. He stated that Councilmembers Carr and Crow are the individuals he wants to represent the best interest of this community. He provided examples of the Mayor's poor leadership qualities, and noted that in order to save the integrity of this City it is time to remove Mayor Welsch, the City Attorney, City Manager, and Councilmembers Kraft and Glickert from office.

Leif Johnson, 936 Barkley Square, University City, MO

Mr. Johnson urged Council to eliminate the discriminatory Parks and Recreation Policy directed towards the poor, which implicates that if you can't pay, you don't play.

Mr. Johnson stated that he did not realize the cruelty, viciousness and desire to win at all costs, that has been displayed at tonight's meeting.

Pat Hanlon McHugh, 7008 Amherst, University City, MO

Ms. McHugh believed that Bill 9281 is a step that is needed to save the wonderful buildings in this City. She stated that The Historical Society of U City is in favor of this bill and she has obtained over three pages of signatures from residents who are also in support, so her hope is that it will be on the April ballot.

Don Fitz, 720 Harvard, University City, MO

Mr. Fitz commented on the Mayor's accusations regarding the Historic Sites Initiative:

- The amendment was included on the same sheet of paper with the petition, and everyone who executed the document had an opportunity to view the wording prior to signing
- Different forms would not be considered by the Board of Election Commissioners
- Delmar/Harvard property was never mentioned in the amendment
- This amendment was a team effort and a member of the team included the word "lease", which he later learned that its inclusion was necessary.
- There is no cost to citizens because this type of action goes on the general election ballot and does not require a special election.
- There were approximately 50 people who worked on various stages of this initiative.

He questioned if the Mayor violated the Sunshine Law by posting signatures on the petition.

Tom Jennings, 7055 Forsyth, University City, MO

Mr. Jennings expressed his dissatisfaction with the performance of Mayor Welsch and Councilmembers Kraft, Sharpe, Glickert and Jennings.

Jeff Hales, 7471 Kingsbury, University City, MO

Mr. Hales stated that he almost two years ago the City Clerk refused to certify his petition to run for office, and the Mayor, Administration and Council majority used every tactic they could to keep his name off the ballot. He stated we are again using taxpayer's dollars to serve the political interest of members on this Council. Mr. Hales referred to Mr. Messenger's article in the *Post* stating he had it right.

Beth Norton, 734 Trinity Avenue, University City, MO

Ms. Norton spoke on the myth of U City’s diversity and welcoming in openness; where blacks live on one side of town and whites on the other side. Council consists of two black members from one ward and none from the other two wards. She said truth does not need public approval where a crowd is solicited to affirm them. Ms. Norton noted that U City Voices uses deceptive videos which only show the image of a reaction but not the image of what caused the response. She noted that many things have been twisted and there is a myth perpetrated by certain members of the community.

Judith Gainer, 721 Harvard, University City, MO

Ms. Gainer stated that the Mayor never acknowledged that the buildings in Civic Plaza are a wonderful and special legacy that deserves this City's collective efforts to preserve them. She thanked the leadership of Don Fitz and Barb Chicherio to organize this petition. In addressing Councilmember Crow she said that we are profoundly in his debt and will do whatever it takes to keep him in that seat.

Byron Price, 1520 78th Street, University City, MO

Mr. Price stated that when he heard that his colleague, Terry Crow, was being disrespected, it caused him to reflect on the fact that in 2011, the same allegations had been made towards him. He stated that it is wrong for any elected official to arbitrarily try to oust another official, because they did not elect them, the residents of their ward did. While all of these actions are taking place, the big policy issues like the City's protection class rating, the youth job program, or streets and drive-by shootings, are not being addressed. He stated that he would love to see U City get back to the way it was when he was first elected to Council where they fussed but didn't try to destroy each other.

Patricia McQueen, 1132 George Street, University City, MO

Ms. McQueen stated that she would delay making a formal presentation until the next meeting, but would like to announce that CALOP's Request for Proposal has been reviewed by the City Attorney and can be found on the City's website. She asked that this RFP be placed in a more prominent place on the website for ease of finding.

Ms. McQueen stated that after conducting some research on her own, she came to the conclusion that Council should not move forward with the petition to remove Councilmember Crow.

Andrew Roberts, 940 Alanson Drive, University City, MO

Mr. Roberts expressed his opinion about the four allegations of malfeasance, violation of the public trust, breach of ethical responsibilities and interfering with the functioning of Council that are being brought against Councilmember Crow.

Mayor Welsch asked Mr. Roberts if he would cease from making personal attacks on members of Council. Mr. Roberts stated that nothing he has said is a personal attack, simply facts that have been observed by residents who attend these meetings.

Mr. Roberts stated that it is no coincidence that this petition is being brought up just before Councilmember Crow decides whether to run for reelection.

Beth Martin, 410 Melville, University City, MO

Ms. Martin stated that she fully supports the comments made by Ms. Beth Norton. She stated that each time she has come to speak, the business concerned issues created by Council, not important City business. She is also here to support her friend and Councilmember Terry Crow as he faces baseless and vindictive attacks that are being paid for, in part, by the taxpayers' dollars.

O. COUNCIL REPORTS/BUSINESS

1. Boards and Commission appointments needed

January 1, 2016

Mayor Welsch read the appointments that were needed.

At this point, a member of the audience informed Mayor Welsch that she had not been called on to speak during the Citizen's Participation segment. Mayor Welsch stated that she had reminded everyone that completed speaker forms should be placed in the plastic trays in front of the City Clerk prior to the start of Council's discussion on an agenda item for which they would like to speak. And since there are no more forms in the tray, she would like to move on.

2. Council liaison reports on Boards and Commissions

3. Boards, Commissions and Task Force minutes

Mayor Welsch noted that Council had received several minutes in their packet, and would encourage even more in the future.

4. Other Discussions/Business

- Discussion of options for dealing with breach of confidence on ongoing legal cases, by Councilmember Terry Crow, requested by Mayor Welsch and Councilmember Glickert.

Mayor Welsch stated that tonight, she is asking Council to begin discussions on if, and how, they should discipline Councilmember Terry Crow. The facts are as follows:

- Councilmember Terry Crow requested a legal opinion from the City Attorney related to the firefighters. At that time the Firefighter's Union was involved in litigation against the City. When the legal opinion was received the City Manager shared it with all members of Council via email. The City Attorney's confidentiality statement was clearly noted at the bottom of that email. When Councilmember Crow received the legal opinion he sent it to the Vice President of the Firefighter's Union Local 2665, with the question; "*Does this help?*" This person is not, and was not an employee of the City of U City.
- Per the City Charter of U City, the City Manager manages all staff. All communication between the City and the Union's representing staff members should be made through the City Manager.
- There appears to be no justification for Councilmember Crow to share any information with the Firefighter's Union, which was at that time, and is currently, suing the City.
- All members of Council take an oath to protect the interest of the City. This City Council must decide what, if any, actions to take against Councilmember Crow, who is now in violation of his sworn oath of office.

Mayor Welsch asked the City Clerk to pass out the packets provided to members of Council, which contained relevant pages referencing the facts listed below. She provided the following chronology of events which led to the drafting of this petition:

- Councilmember Crow released the email to the Firefighter's Union on February 21, 2014.
- In May of 2014, the Firefighter's Attorney, Rick Berry, brought the email Councilmember Crow provided to the Union to a Civil Service Board Hearing that was being held in reference to the firefighters who were suspended for unlawful activities during the 2014 election. This opinion was used as evidence in that hearing.
- Last Friday evening, Mayor Welsch stated that she was advised that the Firefighter's Union had referenced this confidential legal opinion in open court during the lawsuit filed in Federal Court, and that it could potentially cost the City hundreds of thousands of dollars.

Mayor Welsch stated that there are a number of options which Council can consider:

1. Do nothing. Mayor Welsch stated that she would not be willing to support this action.

2. File a formal complaint with the Office of Chief Disciplinary Counsel with the Supreme Court of Missouri. *(Any resident, who feels they have been harmed by Councilmember Crow's actions, also has the right to explore this option.)*
3. Censure Councilmember Crow immediately for violating Rule 37 of Council's Rules of Order and Procedure. Mayor Welsch stated that although she is in favor of this option, she is concerned that this alone, does not fully address the problems the City now faces. After having been confronted with the fact that Councilmember Crow is collaborating with the Firefighter's Union, this Council, as a group, cannot continue to work on any, and all, legal issues related to the firefighters, which includes the two ongoing lawsuits.
4. File a Quo Warranto Petition with the St. Louis County Prosecutor's Office asking Mr. McCullough to take the necessary steps to remove Councilmember Crow from office. Mayor Welsch stated that although she fully understands that the odds of being successfully are against the City, she strongly believes that by proceeding with this action Council will have clearly demonstrated that when this type of egregious behavior is exhibited by one of its members, they had the courage to make the difficult decision to protect the interest of this City.

Mayor Welsch stated that the situation everyone finds themselves in tonight, is not about the firefighters; not about the mistakes she, or the City Clerk have made in the past, and not about Councilmember Crow's reelection campaign. This is about Councilmember Crow's request for a very specific legal opinion related to the Firefighter's Union, that he then shared with the firefighters, who were actively involved in litigation against the City of U City. This is about Councilmember Crow's violation of Rule 37 of City Council's Rules of Order and Procedure, and his attempt to harm the interest of this City and its residents.

Mayor Welsch stated that she has taken an oath to follow the law and to serve the interests of this City therefore; she could not, and will not, standby and do nothing. She then asked that her full comments be made a part of the record.

Councilmember Carr stated that sometimes we tell the truth, but not the whole truth. So she would like to go back to February of 2014, and review two emails from Kurt Becker, the Vice President of IAFF-265, to Ms. Forester, which states "*Please see the attached memo submitted on behalf of the members*". The memo suggests that they wanted to know what they could do, and what the City had done to come into compliance. She did not know why Mr. Becker received no response, but she can say that she often gets the same results. So while she will not pretend to speak for Councilmember Crow, she could imagine that not getting an answer, they might start asking around for one.

Councilmember Carr stated that she fell out of sorts with the Mayor when she accepted the Union's endorsement during her 2010 campaign because the Charter states that no employee can be involved in a municipal election. The statute granting first responders the right to participate in municipal elections did not exist at that time. The firefighters did not sue the City for being suspended, and all of the lawsuits came after the election. One of them was filed because the City failed to provide them with clear guidelines about its uniform policy. The findings issued by the Civil Service Board indicated that there were several sections of the City's guidelines on this policy that were vague.

Councilmember Carr provided several examples of her own personal experiences related to the Mayor's comment regarding what this petition was not about. She stated that in 2013 the Mayor released two confidential legal opinions in her newsletter; one that dealt with the School District bond issue, and the other dealt with the Overlay District for Olivette and U City. What it said at the top of those opinions is that, "*It is the opinion of the author that this document constitutes a privileged communication between a governmental body and its attorney, and may be maintained as a closed*

record in accord with the provisions of Section 610.0211, RSMO 2010". So as the Mayor said, it goes to intentionality. The Mayor said she had mistakenly released the document, her bulletin board read, "A memo from City Attorney, Paul Martin, on the proposed Intergovernmental Agreement between Olivette and U City," and provided a link for where the opinion could be downloaded. Councilmember Carr stated that the Mayor's actions in large measure, is one of the reasons the City never went forward, because all of its weaknesses were out in the open to be examined, which weakened their bargaining position.

Councilmember Carr stated that the email that is a topic of tonight's discussion was never marked as confidential, it was simply descriptive. She stated that when the Firefighter's attorney submitted a Sunshine request to the City Clerk, Ms. Pumm responded on the fifth of May, "Mr. Berry, your Sunshine request; any and all emails sent by the City Manager, Lehman Walker, on February 20, 2014, to the City Council regarding political activity of the first responders, I have one email that fits the above description, but I'm waiting for legal opinion as to whether I can supply this since it contains legal advice with a confidentiality clause from the City Attorney. As soon as I hear a reply I will be in correspondence with you." A copy of her response was also provided to the City Attorney. The next day, Ms. Pumm writes: "Mr. Berry, please find the attached. The one email Mr. Walker sent to Council on February 20, 2014, as per your Sunshine request". This is probably, the email that was submitted to the Civil Service Board.

Councilmember Carr stated that when Mr. Price was wrongly censured, she asked Council to listen to the audio tape that she had retained before taking a vote, and challenged the Mayor to withdraw the Resolution of Reprimand. When she requested that Councilmember Kraft be reprimanded for directing an obscenity at a citizen, her request was removed from the agenda on several occasions. Thereafter, she was only allowed to bring an issue up for a vote, once a year. There were never any consequences for Councilmember Kraft, Mayor Welsch, or the City Manager, who had called her and Councilmember Crow liars.

This email was not a closed record, pursuant to Section 610.0211. She stated that she believed the problem was a difference in etiology; if elected, I represent you or once elected, I use my own judgment to decide for you. Councilmember Carr stated that if there was a problem, before obtaining outside counsel, the Mayor should have said, in an open meeting, I've noticed this and we need to address it. Councilmember Carr asked to have her named removed from the petition.

Councilmember Glickert stated that he was in agreement with some of the comments made by the Mayor. He does believe that the ordinance needs to be reviewed by the City Attorney prior to moving forward, he does not see where there has been any grave injustice by the actions that have taken place tonight.

He stated that when he found out about the email from Councilmember Crow, he was shocked, because he did not believe this was something within his purview. Nevertheless, that is what happened, and he has taken his position because he believes that this act was done willingly, deliberately, and has resulted in an injustice to the City. Councilmember Glickert stated that in his opinion, this situation is no different than Todd Gurly, the running back for the Rams, calling Jim Caldwell of the Detroit Lions and saying, here is the offensive game plan. So although the vote has been postponed, and it would be a lot easier to tell this audience differently, it's his job to do what has to be done in spite of the fact that he does not like what has happened here.

Councilmember Crow thanked everyone for coming out to tonight's meeting, because in spite of what has happened, this is about the residents, their government, how their money is spent and this community's reputation.

He stated he has not heard the phrase Quo Warranto since law school because it is a draconian tactic, used as a last resort. The Mayor has made some incredibly serious allegations about him, and has gone to extensive lengths to publicize this petition, yet he wonders how much time she, or staff, or even their retained attorney, actually spent investigating these allegations. At no point has the Mayor, Councilmember Glickert, Councilmember Sharpe, Councilmember Jennings or Councilmember Kraft, asked him one single question. So to say that he was blindsided by these actions last Thursday night, is an understatement.

The Mayor wrote in her newsletter, *"My first job is to do proper research into something I see as criminal. My job is then to proceed to bring about closure on the incident. My first job is not to speak to the person whose actions I believe to be criminal in intent, to hear justifications for corrupt actions"*. And the petition states, *"Respondent may have received campaign contributions and other remuneration in exchange for his complicity in disclosing confidential information which could be damaging to the City"*. Councilmember Crow stated that based on his understanding, he has been accused of pay for play, which is slanderous and maligns his character. So someone needs to produce evidence to back up this claim or be prepared to face the consequences.

He stated that on February the 20th, he asked the City Manager for an update on the City's efforts to comply with the new Missouri law regarding political activity. However, in the petition his request for an update was changed to, *"Direction to write a confidential opinion relating to the Union"*. In response, the City Attorney wrote a factual update, which included two paragraphs. One referenced Missouri law, and the other discussed what the City was doing to comply with the law. There were no conclusions and no opinions. The City Clerk, City Manager, and the City Attorney have all authorized and shared this email. The Mayor has shared this email with the community, as well as the *Post Dispatch*. They all had the right to do so, because this was a public document.

The Mayor has caused damage to his reputation in this community and he intends to retain all of his rights and options to determine the appropriate response to this petty, hateful, vindictive petition. He stated that everyone has been far too complacent and remiss in addressing the actions of this Council. Councilmember Crow stated though he has not been actively involved in the recall efforts for Shelley Welsch or Councilmember Kraft that time has now passed.

Councilmember Crow stated that the Mayor's actions over the past week have been nothing less than reprehensible, and have demonstrated a complete lack of character and integrity. Her continued presence in this Chamber brings shame and dishonor on this community, everyone that serves this community, and to those who have sat in her chair over the past 100 years.

Councilmember Kraft stated that a Quo Warranto Motion to remove a member of Council is extreme, and something he would not even vaguely support. He stated that while it may have been appropriate for an attorney to mention in a list of options, he thinks that it was too premature and inflammatory, to have actually been drafted and presented here this evening.

He believed that a discussion is warranted, as he is disturbed by the frequency in which confidential documents have been released by all of the parties involved. Councilmember Kraft stated that back in 2013; Mayor Welsch inadvertently released a document. During that discussion both City Attorney Mr. Martin and Councilmember Crow made a point of telling everyone what the rules were with respect to confidential information. So there is no doubt in his mind that Councilmember Crow clearly understood the implications of releasing such a document. The gesture that appears to have been made by Councilmember Crow was to help the Firefighter's Union in the defense of their case. So to quote Councilmember Carr, *"It's really about*

intentionality". He noted that all of these documents were marked confidential. He found it hard to believe that Councilmember Crow had an intention to harm the City, and thinks he deserves a chance to explain his actions.

Councilmember Kraft stated that he would like to be clear that he does not object to the Firefighter's Union supporting Councilmember Crow, or him supporting their Union. He disagreed with the Mayor's comments about who a member of Council can or cannot talk to. In spite of the fact, that his own personal policy is that once an individual has retained a lawyer in an attempt to sue the City, there should be no communication between the two sides until all of the legal issues have been resolved.

Looking at this from a broader perspective, in today's world of emails and inadvertent press, send or reply, there are very few options that would prevent any member of Council from breaching a confidentiality clause or attorney/client privilege. So in the end, you really have to rely on trust and the goodwill of your colleagues to do their best. No one can undo what has happened, and it would be best if it did not happen again, but in his opinion, a Quo Warranto Petition is extreme and unnecessary. In fact, if the goal is to prevent confidential documents from being released, then he is not even clear how any of the alternative options would make that happen. His belief is that Council has spent far too much time on this issue tonight and while future discussions about confidential documents and related problems is not necessarily a bad thing, it was time to move on.

- Parks' Policy requested by Councilmembers Carr and Crow.

Councilmember Carr stated that Council has heard Ms. Greenwald and Mr. Johnson express their concerns about the Parks' discriminatory policy on numerous occasions, and sometime in November, they sent an email to Council requesting that the fees and charging policy be amended by eliminating the highlighted section of the policy they attached to their email. She stated that her belief is that they have hit the heart of what she finds objectionable with the policy which was initiated in 2002 and last amended in 2008. This was just about the time when the recession hit, and at some point they decided that day camps should cover 100 percent of their indirect and overhead costs. The portion that she finds the most disturbing is the attempt to control behaviors by using fees.

Councilmember Carr believed that Council should send a message to the commission that discrimination will not be tolerated on any basis. She then made a motion that Council send a directive to the Parks Commission to review and reconsider these policies, specifically with respect to social implications, wherein Policy V(e) states, *"It may be desirable to use the fees and charges system to encourage particular behaviors which enhance the recreational experience for all users. For example, alter demand patterns, encourage reasonable uses of staff time, or alter behaviors which disturb other participants"*. Councilmember Kraft seconded the motion, and asked that approval be accomplished by consensus since there was no written motion previously supplied to Council. Councilmember Carr stated that she has objected to consensus and although there does not have to be a roll call vote, her preference would be to utilize a voice vote. Councilmember Kraft stated that this was more of a procedural request, since things have been called out of order when there is no written motion. Councilmember Carr stated that the rules would have to cut the same way for everybody or she was going to make some noise about it. Councilmember Kraft stated that since the motion is going to pass either way, it was not worth fighting about. He stated that as the liaison for the Parks Commission, he would make certain to relay the concerns of Council to the Commission.

Councilmember Jennings asked Councilmember Carr if she also wanted to address equity. Councilmember Carr stated that although equity is a good word, it is listed in the policy as social implications and she did not want to confuse anyone.

Mayor Welsch stated that she would vote with the majority, but was uncomfortable having someone else chose what Council is asking the commission to give special attention to. So although the policy may contain language that no longer sits well, her feeling is that the commission should be looking at the entire document and not just certain sections. Councilmember Carr stated that although a review of the entire document was acceptable, Policy V(e) smacks of discrimination, so her main goal was to ensure that this portion was reviewed.

Voice vote on Councilmember Carr's motion carried unanimously.

P. COUNCIL COMMENTS

Councilmember Carr stated that she will be filing for reelection tomorrow and was gratified by the number of residents that offered to sign. In fact, she received a gift from one of the City's native daughters, Laura Davenport, which states, "*And of particular need for this community is the final; between our lions, goodwill to all*". Councilmember Carr stated that her hope is that that is where this community will be moving.

Councilmember Kraft thanked Mr. Fitz for his clarification on the Historic Sites Initiative and stated that his guess is that the signatures are public. However, he suggested to call the County Election Commission's office to find out the correct answer.

Q. ADJOURNMENT

Mayor Shelley Welsch adjourned the meeting at 9:27 p.m.

Respectfully submitted,

Joyce Pumm
City Clerk, MRCC/CMC

12.14.2015 Comments at Council Meeting by Mayor Shelley Welsch:

Tonight I am asking this Council to begin discussions on if and how we should discipline Councilmember Terry Crow. The facts are as follows

- Councilmember Terry Crow requested a legal opinion from our City Attorney related to the firefighters;
- At that time, the Firefighters' Union was involved in litigation against the City of University City;
- When the legal opinion was received, the City Manager shared it with all members of Council, via e-mail. The City Attorney's confidentiality statement was clearly noted at the bottom of that email.
- When Councilmember Crow received the legal opinion, he sent it to the Vice President of the Firefighters' Union local, with the question "Does this help?" This person is not an employee of the City Of University City
- Per the City Charter of University City, the City Manager manages ALL staff. All communication between the City and the union representing staff members should be made through the City Manager.
- There appears to be no justification for Councilmember Crow to share any information with the firefighters' union which was at that time, and is currently suing the City.
- All members of Council take an oath to protect the interests of the City.
- This City Council must decide what if any actions to take against Councilmember Crow who is now in violation of his sworn oath of office.

I would now like to ask Ms. Pumm to pass out some information to members of Council.

Mr. Crow's actions have, undeniably, hurt the interests of the City of University City. The facts and timeline related to this incident are as follows:

- In May of 2014, the firefighters' attorney, Rick Barry, brought to a Civil Service Board hearing the document Mr. Crow provided to the union in February of that year. This hearing was being held in reference to the firefighters who were suspended for unlawful activities during the 2014 election. This opinion was used as evidence in that hearing.
- Late Friday evening I was advised that in a suit filed in federal court that day, the firefighters' union referenced the confidential legal opinion Mr. Crow gave to the union.

This deliberate action by Mr. Crow could potentially cost hundreds of thousands of dollars. I am providing Council with the relevant pages from that filing.

I believe there are a number of options we should consider:

- 1.) We can do nothing. I, however, cannot support that action.
- 2.) We can file a formal complaint with the Office of Chief Disciplinary Counsel with the Supreme Court of Missouri, as can any of our residents who feel they have been harmed by Mr. Crow's actions or, indeed, anyone.
- 3.) I believe we can and should censure Mr. Crow immediately for violating Rule 37 of our Rules of Order and Procedure. However, I am concerned that this option does not deal with the problem we now face. Knowing that Councilmember Crow is collaborating with the firefighters' union we cannot continue to work as a Council on any and all legal issues relating to the firefighters, including two on-going lawsuits.
- 4.) We can choose to file a Quo Warranto petition with the St. Louis County Prosecutor's office, asking Robert McCullough to take steps to remove Mr. Crow from office. The odds of this option being successful are, apparently, against us. However, by doing so we can make clear to our residents that when we discovered egregious behavior by one of our members, we had the courage to make the difficult decision to protect the interests of our City.

The situation we find ourselves in tonight is not about the firefighters.

It is not about mistakes I have made in the past, or that the City Clerk made in the past.

This is not about Mr. Crow's election campaign.

This is about Mr. Crow asking for a very specific legal opinion related to the firefighters' union and then sharing it with the firefighters, a group that was involved in litigation against the City of University City at that time. Mr. Crow shared this opinion in violation of Rule 37 of the City Council Rules of Order and Procedure, and in an attempt to harm the interests of the City of University City and the residents of this community. Period.

Mr. Crow gave information to a group suing the City and asked: Does this help?

I have taken an oath to follow the law and to serve the interests of the City of University City. I could not and cannot stand by and do nothing, which is why I have proceeded to this point tonight. This Council will decide how to move forward.

I ask the City Clerk to make my full comments part of the record.

COUNCIL COMMENTS
DECEMBER 14, 2015

First, I challenge St. Louis Post-Dispatch/Tony Messenger's analysis of the issues before this Council. In the article that was published today, he conflated the Sunshine law with the law governing attorney/client privilege. As a trial lawyer, I have spent many hours arguing both sides of this privilege, depending on whether I wanted the jury to see the document or not. So, I will match my expertise on this law against anyone in this room.

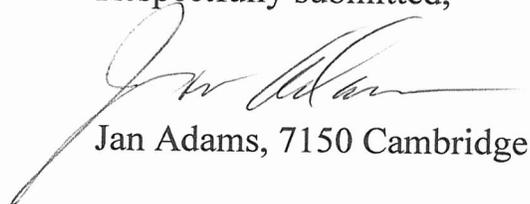
But, you don't have to rely on my legal opinion because Council member Crow offered his legal opinion on this issue at the February 11, 2013, ^{18th 6 + 7} council meeting and I agree with his analysis. When the Mayor published a legal opinion with her Newsletter, Mr. Crow was emphatic and unequivocal. NO attorney/client privileged document may be disclosed without a majority vote of Council. Based on the e-mails at issue, Mr. Crow usurped the power of the Council, abused his power as a Council Member and arbitrarily forwarded the City Attorney's opinion to the adverse party, the representative of the firefighters union.

Mr. Crow's second line of defense is that the document was not marked confidential, but that is wrong as the City Attorney included the standard attorney/client privilege statement in her e-mail. His third line of defense is that the document did not constitute a legal opinion. But he expressly asked the City Manager to ask the City Attorney whether the City was in compliance with a new law. That is asking for an attorney opinion. Therefore, any response to his request is her opinion.

This is a very serious offense. One that could cost Mr. Crow is license to practice law. I commend the Council Members who seek to hold Mr. Crow accountable for his malfeasance. However, I do not believe that his offense rises to the level of a criminal act. I believe that a Quo Warranto action is too harsh under the circumstances.

Therefore, I urge Council to postpone any vote tonight and take some time to research other remedies. That said, the remedy must be harsh enough to deter this behavior in the future by any member of Council.

Respectfully submitted,


Jan Adams, 7150 Cambridge



SpencerFane

GERALD P. GREIMAN
DIRECT DIAL: 314.333.3901
ggreiman@spencerfane.com

December 14, 2015

HAND DELIVERED

Ms. Catherine R. Grantham
225 S. Meramec Ave., Suite 512
St. Louis, MO 63105

Re: Petition in Quo Warranto Against Terry Crow

Dear Ms. Grantham:

Terry Crow has retained me to represent him in connection with unwarranted and malicious efforts to libel and slander him, and undermine his re-election campaign, on the part of your clients, University City Mayor Shelley Welsch and Council members Stephen Kraft, Michael Glickert, Arthur Sharpe, Jr. and Rod Jennings (collectively, the "Welsch Kraft Group"), by publishing and disseminating a purported "Petition in Quo Warranto," seeking to remove Mr. Crow from office as a University City Council member.

I am writing to put your clients on notice of the countless flaws in the Petition, as well as the many pitfalls and risks of liability inherent in the road they have started down, and demand that they immediately cease their malicious actions towards Mr. Crow.

OVERVIEW

For several years, members of the Welsch Kraft Group have been causing great harm to University City's reputation as a bastion of progressivism and civility by abusing their official authority, riding roughshod over the rights of those who disagree with them, and regularly thumbing their noses at large portions of the citizenry. While such conduct unfortunately has come to be the norm expected from Welsch Kraft Group members, they now have hit a new low in disgraceful and abhorrent tactics by publishing and disseminating the purported Petition in Quo Warranto.

The Petition is so riddled with flaws, both factually and legally, it is difficult to know where to begin in addressing them. Overall, the Petition is filled with false and defamatory allegations against Mr. Crow. It has no chance of succeeding in court, and never will be filed with any court since, to be filed, it would have to be approved and filed by St. Louis County Prosecuting Attorney Robert McCulloch, and we can conceive of no circumstances under which Mr. McCulloch would approve and file the Petition. Further, in light of the fact that Mr. Crow's current term of office will expire within the next several months, and the time it would take to adjudicate a case of this nature, the Petition – in the unlikely event it was filed in court – could not serve to bring about Mr. Crow's removal from office, even if there was any merit to it, which there is not.

It thus is clear that the Petition is nothing other than a thinly veiled attempt to dissuade Mr. Crow from running for re-election, and/or sabotage his re-election campaign. Your clients' actions in causing the Petition to be prepared, and publishing and disseminating it, thus constitute libel and slander as well as

January 11, 2016

SL 1414297



Ms. Catherine R. Grantham
December 14, 2015
Page 2

malicious abuse of process. Moreover, your clients' use of City funds to pay for preparation of the Petition and other pursuit of the matter constitutes a further outrageous abuse of their official positions and the public trust. And, should you proceed to file the Petition in court, your clients further will be exposed to liability for malicious prosecution, for filing claims without any probable cause to support them.

SPECIFIC FLAWS IN PETITION

With respect to the specifics of the Petition, its many factual and legal flaws include, but by no means are limited to, the following:

1. The overall Petition and its caption are false and defamatory in that they imply the Petition is in a form that can be filed in court, with the Welsch Kraft Group acting as Relators. As a matter of law, that is not the case. Only the St. Louis County Prosecuting Attorney has the authority to file a quo warranto action against Mr. Crow, and any such action must be filed in the Prosecuting Attorney's name.
2. The Petition further is false and defamatory in that it includes Paulette Carr's name as one of the Relators/Plaintiffs, and thus represents that Ms. Carr is one of the persons making the false and defamatory allegations contained in the Petition. Ms. Carr has never made any such allegations against Mr. Crow or authorized anyone to make such allegations in her name.
3. The Petition, at p. 2, states that members of the Welsch Kraft Group "have received [St. Louis County Prosecuting Attorney Robert McCulloch's] permission to file this suit." To our knowledge, that is blatantly false. It is highly defamatory of, and damaging to, Mr. Crow to publish and disseminate a statement that the Prosecuting Attorney has approved and adopted the scurrilous allegations in the Petition, when he has not.
4. In Count I, par. 1, the Petition alleges: "On or about February 20, 2014, Respondent, requested the City Manager to direct the City Attorney to prepare a confidential written opinion relating to the Union, (see **Exhibit 1**)." The falsity of that allegation is reflected in the very document the Petition cites as support for it, Exhibit 1, which is an e-mail dated February 20, 2014 from Mr. Crow to City Manager Lehman Walker. The entire body of that e-mail reads:

Could you provide me with an update on what actions the City is taking or has taken to comply with the new Missouri law regarding political activity? Are the City's regulations in compliance with the new Missouri law? I would like for you or Katie to update the council on this either by e-mail or we could put it on the agenda for an upcoming council meeting.

Clearly, what Mr. Crow requested was a factual update, not a confidential written opinion.

5. In Count I, par. 3, the Petition characterizes the response made to Mr. Crow's request as a confidential written opinion. In fact, it was neither confidential nor an opinion. Rather, it reflected the straightforward factual update Mr. Crow requested. The entirety of the e-mail in question, from Katie Forster to Lehman Walker dated February 20, 2014, which Mr. Walker then forwarded to Mr. Crow, Mayor Welsch, all other Council members and the City Clerk – without any designation of it as confidential – states:



The Missouri Legislature enacted Section 67.145 of the Missouri Revised Statutes during its last session. Section 67.145 went into effect on August 28, 2013 and permits first responders to engage in political activity while off duty and not in uniform. The City was aware of this change and is taking steps to update the City's Administrative Regulations. Pursuant to your direction, we have been working with Elaine Williams to review all of the City's Administrative Regulations to bring them up to date and ensure they are compliant with state and federal law. The City was aware of the change in the law when passed and has and will continue to follow it. The City's Work Rules and Offenses are being revised to reflect the new law.

Section 67.140 of the Missouri Revised Statutes specifically states:

First responders, political activity while off duty and not in uniform, political subdivisions not to prohibit.

67.145. No political subdivision of this state shall prohibit any first responder, as the term first responder is defined in section 192.800, from engaging in any political activity while off duty and not in uniform, being a candidate for elected or appointed public office, or holding such office unless such political activity or candidacy is otherwise prohibited by state or federal law.

If you have any questions please let me know.

We understand that as early as May 6, 2014, after receiving a Sunshine Law request encompassing Ms. Forster's e-mail, the City Clerk consulted with the City Manager and/or City Attorney concerning whether Ms. Forster's e-mail of February 20, 2014 was privileged and confidential and, on that basis, exempt from disclosure. We further understand that, as a result of that consultation, it was concluded Ms. Forster's e-mail was not confidential and exempt, and the City proceeded to publicly release the February 20, 2014 e-mail in response to the Sunshine Law request.¹

Additionally, the first paragraph of Ms. Forster's e-mail, *i.e.*, the entirety of the e-mail other than the verbatim quotation of a Missouri statute, was published in a public document titled Findings, Conclusions and Recommendation, issued by the University City Civil Service Board on June 16, 2014, in the *Appeals of Jen Stuhlman, et al.* ("CSB Findings"). Moreover, the CSB Findings state, at p. 5, "Mr. Walker forwarded the e-mail to members of the City Counsel [sic]. Upon his doing so, Ms. Forster's e-mail became a public record."

Based on any or all of the circumstances recounted above, Ms. Forster's e-mail is a public document and cannot properly be viewed as a confidential legal opinion, and the allegations in the Petition that Mr.

¹ The City's May, 2014 determination that Ms. Forster's February 20, 2014 e-mail was not privileged and confidential clearly was correct. The attorney-client privilege does not cover every communication between a lawyer and a client; rather it extends only to *confidential* communications, made for purposes of obtaining legal advice, and principally is intended to restrict disclosure of confidential communications *from a client to the attorney*. Moreover, in the context of an entity like University City, any privilege that might otherwise cover a communication is waived and lost if the communication is disclosed to one or more persons outside of those having an official need for the privileged information. See *generally, Diversified Indus. Inc. v. Meredith*, 572 F.2d 596 (8th Cir. 1978). Here, any even arguable measure of confidentiality concerning Ms. Forster's February 20, 2014 e-mail went by the wayside when Mr. Walker forwarded it to the City Clerk on February 20, 2014.



Ms. Catherine R. Grantham
December 14, 2015
Page 4

Crow improperly disclosed a confidential legal opinion, and such disclosure caused harm to the City, are ludicrous.²

We note, finally, that with respect to e-mails from the City Attorney, the City Council, under the present administration as well as previous ones, long has followed the policy and practice of treating as confidential only those e-mails that are expressly marked confidential. The e-mail in question here bore no such designation. (Something more is required than the boilerplate disclaimer automatically added by counsel's computer system to virtually every e-mail counsel sends.) To the extent anyone wishes to now argue that the e-mail should have been designated as confidential – despite the City administration concluding, in May, 2014, there was no need for confidentiality – any such argument might justify criticism of Mr. Walker or Ms. Forster, not Mr. Crow.³

6. A further false, defamatory and outrageous accusation embodied in the Petition appears in Count II, par. 9, which states: "Upon information and belief, Respondent may have received campaign contributions and other remuneration in exchange for his complicity in disclosing confidential information which could be damaging to the City." As discussed above, there has been no improper disclosure of confidential information, so the above-referenced allegations cannot possibly be true. Furthermore, the allegations cannot be true in that Mr. Crow has not received campaign contributions or other remuneration from the firefighters – a fact which you and your clients could have verified for yourselves had you bothered to check publicly available campaign finance disclosure reports.

Couching the paragraph 9 allegations under the guise of "information and belief," as the Petition does, will not serve to insulate your clients from liability for defamation, abuse of process and malicious prosecution. An allegation made on that basis connotes that the parties and lawyer making the allegation have supporting information, and their belief has been "formed after an inquiry reasonable under the circumstances." Mo. R. Civ. P. 55.03(c). In making the very serious accusation that a public official has engaged in nefarious conduct in return for campaign contributions, the accusers hardly can be deemed to be acting reasonably and in good faith when they have not even bothered to review publicly available campaign finance disclosure reports, to determine whether they reflect campaign contributions by the party supposedly benefiting from the alleged conduct.

Not only do your clients face tort liability for their actions to-date, and contemplated future actions, you and your clients both will be exposed to the risk of sanctions, under Mo. R. Civ. P. 55.03, should you proceed to sign and file the Petition. Rule 55.03 provides that by signing and filing a pleading with a court, a party and its attorney are certifying that there are proper factual and legal bases for the claims asserted. No such factual or legal basis exists for the claims alleged in Count II or, indeed, any of the other counts, of the Petition.

² For these and other reasons, the approach reflected in the Petition of including Ms. Forster's February 20, 2014 e-mail in Exhibit 2 to the Petition, but redacting the entire contents of that e-mail, is silly.

³ As discussed above, no factual or legal basis exists for concluding that Ms. Forster's February 20, 2014 e-mail was a confidential legal opinion not to be disclosed. However, even assuming *arguendo* that the disclosure of the e-mail implicated some kind of impropriety, such a minor transgression hardly can be deemed to warrant the draconian punishment of forfeiture of a duly elected public official's office.



7. The allegations in Count III of the Petition – that Mr. Crow committed breaches of his ethical responsibilities – similarly lack any factual or legal basis. And, Count III of the Petition further is fatally flawed in that the law is well settled that removal from office under quo warranto is not a proper remedy for an alleged transgression if the law provides other remedies. Here, if it ultimately were determined that Mr. Crow committed any ethical impropriety – which we vigorously dispute – the Missouri Rules of Professional Conduct provide ample means for addressing such matters. Quo warranto cannot properly be invoked to address ethics complaints.

8. The allegations in Count IV of the Petition – that Mr. Crow is improperly interfering with the functioning of the Council – similarly lack any factual or legal basis.

As a starting point, paragraph 20 references “Respondents’ actions as described herein” as the basis of the claims asserted in Count IV. Accordingly, we presume that Count IV is predicated on the claims that Mr. Crow improperly disclosed confidential information and engaged in nefarious conduct in return for campaign contributions. However, those allegations are debunked above, so cannot provide any proper basis for Count IV.

Beyond the already discredited claims, it is hard to even understand the nature of the allegations embodied within Count IV, as they are vague, conclusory and devoid of any specifics. Count IV essentially consists of bare allegations, unaccompanied by any facts or other specifics, that: “Upon information and belief Respondent has actively cooperated and participated with the Union in an attempt to cause harm to the City,” and “[s]uch collusion with the Union was designed to and does interfere with the lawful operation of the City.” (Petition, pars. 22-23). These, and other, aspects of the Petition read as if they were drafted by Joseph McCarthy – the dark stain on American history from the 1950s, who was a master at making accusations based on innuendo, with no facts existing to support them.

Count IV, like the rest of the Petition, is patently frivolous.

CONCLUSION

In sum, the Petition is riddled with flaws, both factually and legally. It is filled with false and defamatory allegations and, for the reasons addressed above, cannot properly be viewed as having been prepared, published and disseminated in connection with any proper and good faith quo warranto proceedings.

The Petition clearly is nothing other than a highly transparent effort to undermine Mr. Crow’s re-election efforts. Your clients’ actions to-date in causing the Petition to be prepared, published and disseminated constitute libel and slander, malicious abuse of process, and abuse by members of the Welsch Kraft Group of their official positions and the public trust. Moreover, should you proceed to file the Petition in court, your clients further will be exposing themselves to liability for malicious prosecution, and you and your clients will be subject to sanctions under Rule 55.03.

Should your clients decide to move forward with the Petition, prudence would dictate that the City, or more appropriately your clients, personally, should establish a reserve fund in the amount of at least \$5,000,000 to cover Mr. Crow’s potential recovery of compensatory and punitive damages, as well as his



SpencerFane

Ms. Catherine R. Grantham
December 14, 2015
Page 6

attorney's fees and expenses. I note that Missouri statutes expressly provide that if a respondent prevails in a quo warranto action against him, he is entitled to recover his defense costs from the relator(s) bringing the action. Mo. Rev. Stat. § 531.050.

Sincerely,



Gerald P. Greiman

GPG:kmm

January 11, 2016

SL 17419203
E-1-22

Paulette Carr  December 11, 2015 8:09 AM
<paulette_carr@sbcglobal.net>
To: Shelley Welsch <mayor@ucitymo.org>, Terry Crow <terry@cttla
Steve Kraft <kraftstephene@gmail.com>, Paulette Carr
<paulettexcarr@gmail.com>, Michael Glickert <imglickert@yahoo.com>,
Rod Jennings <rjmiracle007@gmail.com>, Arthur Sharpe
<qforlifeasj@att.net>, Lehman Walker <lwalker@ucitymo.org>, Catherine
Grantham <cgrantham84@hotmail.com>
Cc: "Kathryn B. Forster" <kforster@crotzerormsby.com>
Petition in Quo Warranto - REMOVE MY NAME FROM THE PETITION

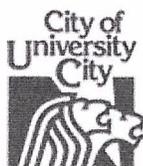
1 Attachment, 3 KB

Ms. Welsch, Councilmembers, Mr. Walker and Ms. Grantham (as Special Counsel):

I am absolutely disgusted, ashamed and embarrassed by the quo warranto proceeding you are putting forth to remove Councilmember Crow for something both Ms. Welsh and the City Clerk have done themselves without reprimand. I find this to be like the proceeding of censure you wrongfully passed against former Councilmember Price in February 2011. I note that you have included my name on the petition as a plaintiff. You have listed my name as a plaintiff without my permission. I respectfully request that my name be removed from this Petition in Quo Warranto against Councilmember Crow immediately.

Sincerely,
Paulette Carr

Please note: this is a public document.



Paulette Carr
Councilmember, Ward 2
City of University City

7901 Gannon Ave.
University City, MO 63130
PH.: (314) 727-0919
email: paulette_carr@sbcglobal.net

IT IS THE OPINION OF THE AUTHOR THAT THIS DOCUMENT CONSTITUTES A PRIVILEGED COMMUNICATION BETWEEN A GOVERNMENTAL BODY AND ITS ATTORNEY AND MAY BE MAINTAINED AS A CLOSED RECORD IN ACCORD WITH THE PROVISIONS OF SECTION 610.021(1) RSMo. 2010.

MEMORANDUM

TO: The Councils of Olivette and University City

FROM: Paul Martin

DATE: January 29, 2013

RE: Intergovernmental Cooperation Agreement Proposed Between Olivette and University City Regarding Redevelopment of the Olive Blvd. Corridor at I-170.

This memo summarizes and comments on the draft Intergovernmental Cooperation Agreement (the “Agreement”) proposed between Olivette and University City to facilitate joint redevelopment initiatives in the Olive Boulevard Corridor at its intersection with I-170 (the “Redevelopment Area”).

I. Overview.

The Agreement establishes a commitment by the cities of Olivette and University City to form and fund a Joint Development Commission (“JDC”), and through the JDC to participate in the coordinated planning and zoning of the Redevelopment Area and the subsequent land use approvals, redevelopment, and marketing of the area (the “Services”).

The Agreement also requires the cities’ cooperation in forming other statutory development entities to implement the Services within the Redevelopment Area. These entities include a redevelopment corporation under Chapter 353 of Revised Statutes of Missouri (“RSMo.”), a Transportation Development District (Sections 238.200 through 238.275 RSMo.), and possibly a Community Improvement District (Sections 67.1401 through 67.1571 RSMo.) or a Neighborhood Improvement District (Sections 67.453 through 67.475 RSMo.).

This memorandum addresses the Agreement’s major components, including the JDC’s operating structure, the Services, funding, termination of the Agreement, and legal considerations.

II. The JDC’s Operating Structure.

The Agreement creates a Joint Development Commission (the “JDC”) to oversee the noted functions and delineates the powers and authority of the JDC in the context of those functions. The JDC by is to be governed by a Board of Directors (the “Board”) consisting of ten voting members (residents, business owners, or property owners), five from each city, who cannot be

From: Joyce Pumm <jpumm@ucitymo.org>
Subject: FW: Sunshine request for emails/destroy
Date: June 22, 2012 10:58:04 AM CDT
To: "Paulette Carr (paulettexcarr@gmail.com)" <paulettexcarr@gmail.com>
Cc: Lehman Walker <lwalker@ucitymo.org>

FYI

From: Joyce Pumm
Sent: Friday, June 22, 2012 10:56 AM
To: 'Jan Adams'
Subject: RE: Sunshine request for emails/destroy

Ms. Adams

It has been brought to my attention that there was another email from Paulette Carr that had a legal opinion from Paul Martin included at the end of her email. The date on the email sent was 4/20/12 and subject line was Sign Removal on Election Day. Could you please do the same with this email as you did with the other and send me an email confirming it.

Thank you
Joyce Pumm

From: Jan Adams [<mailto:janadams@sbcglobal.net>]
Sent: Wednesday, June 20, 2012 11:26 AM
To: Joyce Pumm
Cc: Paul Martin (external)
Subject: Re: Sunshine request for emails/destroy

I am aware that a privileged document was inadvertently included in the response to my Sunshine request. As an officer of the court, I respect the attorney/client privilege and have not disseminated that document. I did not print the document and deleted the electronic version from my computer. If you need any further assurances, please let me know.

Sincerely, Jan Adams

--- On Wed, 6/20/12, Joyce Pumm <jpumm@ucitymo.org> wrote:

From: Joyce Pumm <jpumm@ucitymo.org>
Subject: Sunshine request for emails/destroy
To: "janadams@sbcglobal.net" <janadams@sbcglobal.net>
Date: Wednesday, June 20, 2012, 11:06 AM

Ms. Adams

Please note that I did not realize one email sent from Ms. Carr's emails per your Sunshine Request, included an opinion from Paul Martin's Law Firm. Any emails from Mr. Martin are to remain confidential and I ask that you destroy this document and not pass it on to anyone. The date on Ms. Carr's email was June 11, 2012 at 3:16 PM.

— On Sun, 2/10/13, Shelley Welsch <billandshelley@ucitymo.com> wrote:

From: Shelley Welsch <billandshelley@ucitymo.com>

Subject: 2.10.2013 University City Bulletin Board

Date: Sunday, February 10, 2013, 6:02 PM

University City Bulletin Board February 10, 2013 From the desk of Mayor Shelley Welsch

News from City Hall

From City Hall this week, please see the attached:

-Two weekly crime reports

-A memo from City Attorney Paul Martin on the proposed Intergovernmental Agreement between Olivette and University City

-The DRAFT agenda packet for tomorrow night's meeting, and an UPDATED agenda for that meeting, posted separately to this newsletter.

And a follow-up to our last Council meeting

At the last meeting of the City Council a majority of the Council voted to support a resolution in support of the School District Prop U ballot issue - asking for support for a no-tax-increase bond issue in April. I abstained from the vote, making the point that I was focusing my attention on the capital needs of the City of University City - a total of \$63 million over the next ten years. I said at the meeting that I felt it was best to leave it to the School Board to educate residents on the need for the bond issue, what it would be used for, and why it's a good idea to seek voter approval for the bond issue at this time. There was also some question in my mind about City Council involvement in this manner, since I did know the City is not allowed to expend any funds in support of our own ballot propositions.

The day after the meeting a U City property owner contacted City Hall and complained about the vote, saying it was illegal, and quoting a section of State law. According to a legal opinion written by City Attorney Paul Martin, he did not agree that the section noted by the complainant was applicable, but...

"Section 115.646, however, provides as follows:

"No contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office. This section shall not be construed to prohibit any public official of a political subdivision from making public appearances or from issuing press releases concerning any such ballot measure."

Preparing and submitting a resolution supporting a ballot proposition, even one germane to another jurisdiction, involves the use of public resources, and very likely constitutes an expenditure of public funds to advocate a ballot measure. The city's resolution probably violates this statute, but please note that the statute does not prohibit any public officials from personal advocacy. The prohibition only extends to the use of public funds to do so."

The City Attorney has further recommended that the Council refrain from future resolutions supporting ballot measures - our own or other jurisdictions'

Happenings on Olive Boulevard

A charette will be held on February 19th related to the City-owned property at the northeast corner of Olive and North and South. That charette is scheduled for 6:30 p.m. at the Heman Park Community Center, and anyone who is interested in sharing ideas on what the City might do on that property are invited to attend.

Coming up...

City Council meeting

Monday, February 11th

6:30 p.m.

Council chamber

DRAFT agenda packet is attached. Also attached is the UPDATED agenda for the Council meeting.

Other meetings

Wednesday, February 13th

Traffic Commission

6:30 p.m.

Heman Park Community Center

Arts & Letters Commission

7:00 p.m.

Centennial Commons

Library Board

5:15 p.m.

University City Public Library

Thursday, February 14th

Green Practices Commission

6:30 p.m.

Heman Park Community Center

Mini workshop on rain scaping program will be held.

Police Safety Seminar

February 12th

6:00 p.m.

Barbara Jordan Elementary School

HPES FREE health screening

shelleywelsch@ucitymo.com

Please feel free to share this Bulletin Board with your friends, neighbors or colleagues. If they would like to receive this e-mail directly, tell them to contact me.

Of course, if you have any questions, comments or concerns about this e-mail or anything happening in the City of University City, let me know at shelleywelsch@ucitymo.com.

Mayor Shelley Welsch

©2013 Shelley Welsch

Attachments:

- 📎 [February 11 2013 DRAFT Council packet.pdf \(1276K\)](#)
- § [Paul Martin Memo on Intergovernmental Agreement.pdf \(365K\)](#)
- 📎 [Autism Awareness & Understanding Event.pdf \(312K\)](#)
- § [Middle School Principal of the Year Dr. Jamie Jordan.pdf \(359K\)](#)
- 📎 [01-21 to 01-27 '13 Crime Report-\(1\)-.pdf \(201K\)](#)
- 📎 [01-28 to 02-03 '13 Crime Report.pdf \(57K\)](#)
- 📎 [February 11 2013 UPDATED Regular Meeting Agenda.pdf \(187K\)](#)
- § [MO Municipal League Legislative Update.pdf \(76K\)](#)
- 📎 [Photo with Returning Artist Saaba Buddenhagen Lutzeler.jpg \(5211K\)](#)
- 📎 [Prop U Fact Sheet.pdf \(134K\)](#)
- 📎 [RainScape Rebates Program description-\(1\)-.pdf \(406K\)](#)
- 📎 [RainScapePoster_lowres-\(1\)-.pdf \(435K\)](#)
- 📎 [Olive & North and South Intersection Design Charrette.pdf \(358K\)](#)

This email was sent by Shelley Welsch, 7141 Delmar Boulevard, Saint Louis, MO 63130-4304, using Express Email Marketing.

Express Email Marketing supports permission-based email marketing.
[Update preferences](#). [Unsubscribe](#). [Privacy policy](#)



From: Kurt Becker <Kurt.Becker@iaff2665.org>
Date: Monday, February 10, 2014 6:48 AM
To: Kathryn Forster <kforster@crotzerormsby.com>
Cc: Rick Barry <rickbarry@rickbarrypc.com>
Subject: Request for Removal of Items #6 and #7 of the Group IV offenses of AR-4

Ms. Forster -

Please see the attached memo submitted on behalf of our members of the University Fire Department Shop of IAFF Local 2665.

Thank you in advance for your consideration of and attention to this request. Very truly yours,

Kurt Becker IAFF Local 2665



Professional Fire Fighters of Eastern Missouri IAFF Local 2665

115 McMenemy · St. Peters, Missouri 63376 · Phone (636) 397-1572 · Fax (636) 397-3809
Dennis Murray · President Kurt Becker · 4th District Vice President



Memorandum

Date: February 10th, 2014

To: Ms. Kathryn Forster, City Attorney – University City, Missouri

Cc: Mr. Rick Barry

From: Kurt Becker, Vice President – IAFF Local 2665

Re: Request for Removal of Items #6 and #7 of the Group IV offenses of AR-4

This correspondence is written on behalf of the IAFF members of the University City Fire Department Shop of the Professional Fire Fighters of Eastern Missouri, Local 2665 ("Local") and for the purpose of requesting that the City remove Items #6 and #7 of the Group IV Offenses of Administrative Regulation #4 (AR-4) which pertains to Employee Discipline, so as to bring AR-4 into compliance with recently enacted state law regarding first responder political activity.

On June 28, 2013, Governor Nixon signed Senate Bill No 216, which provides for the enactment of RSMo 67.145. RSMo 67.145 reads as follows:

"No political subdivision of this state shall prohibit any first responder, as the term "first responder" is defined in section 192.800, from engaging in any political activity while off duty and not in uniform, being a candidate for elected or appointed public office, or holding such office unless such political activity or candidacy is otherwise prohibited by state or federal law."

Items #6 and #7 of the Group IV Offenses of Administrative Regulation #4 (AR-4) which pertains to Employee Discipline restricts the employees of the City from engaging in political activity of any kind, even if the employee is off duty and not in uniform. This restriction clearly conflicts with the language of the newly enacted statute.

The laws of the State of Missouri bind University City, and therefore the City has an obligation to remove Items #6 and #7 of the Group IV Offenses of Administrative Regulation #4 (AR-4) which pertains to Employee Discipline so as to be consistent with Missouri law.

Please provide the City's position on the Local's request in writing, to me, on or before February 14th, 2014.

Very truly yours,

Kurt Becker
IAFF Local 2665

From: Kurt Becker

Date: Wednesday, February 19, 2014 7:37:23 AM Central Standard Time

To: Kathryn Forster

CC: Rick Barry, Shelley Welsch, Terry Crow, Paulette Carr, L. Michael Glickert, Arthur Sharpe, Byron Price, Steve Kraft, Jen Stuhlman

Subject: FW: Request for Removal of Items #6 and #7 of the Group IV offenses of AR-4

Ms. Forster -

As a follow-up to the email I sent you last Monday, February 10th, to which you have not responded, I am writing again today to inquire as to the status of the request contained within the attached memo.

As you are aware, On June 28, 2013, Governor Nixon signed Senate Bill No 216, which provides for the enactment of RSMo 67.145. University City's Administrative Regulations do not comply with RSMo 67.145.

Please advise as to the City's intent to comply with this state statute.

Thank you.

Very truly yours,

Kurt Becker

IAFF Local 2665



Professional Fire Fighters of Eastern Missouri IAFF Local 2665

115 McMenamy · St. Peters, Missouri 63376 · Phone (636) 397-1572 · Fax (636) 397-3809

Dennis Murray · President

Kurt Becker · 4th District Vice President



Memorandum

Date: February 10th, 2014

To: Ms. Kathryn Forster, City Attorney – University City, Missouri

Cc: Mr. Rick Barry

From: Kurt Becker, Vice President – IAFF Local 2665

Re: Request for Removal of Items #6 and #7 of the Group IV offenses of AR-4

This correspondence is written on behalf of the IAFF members of the University City Fire Department Shop of the Professional Fire Fighters of Eastern Missouri, Local 2665 ("Local") and for the purpose of requesting that the City remove Items #6 and #7 of the Group IV Offenses of Administrative Regulation #4 (AR-4) which pertains to Employee Discipline, so as to bring AR-4 into compliance with recently enacted state law regarding first responder political activity.

On June 28, 2013, Governor Nixon signed Senate Bill No 216, which provides for the enactment of RSMo 67.145. RSMo 67.145 reads as follows:

"No political subdivision of this state shall prohibit any first responder, as the term "first responder" is defined in section 192.800, from engaging in any political activity while off duty and not in uniform, being a candidate for elected or appointed public office, or holding such office unless such political activity or candidacy is otherwise prohibited by state or federal law."

Items #6 and #7 of the Group IV Offenses of Administrative Regulation #4 (AR-4) which pertains to Employee Discipline restricts the employees of the City from engaging in political activity of any kind, even if the employee is off duty and not in uniform. This restriction clearly conflicts with the language of the newly enacted statute.

The laws of the State of Missouri bind University City, and therefore the City has an obligation to remove Items #6 and #7 of the Group IV Offenses of Administrative Regulation #4 (AR-4) which pertains to Employee Discipline so as to be consistent with Missouri law.

Please provide the City's position on the Local's request in writing, to me, on or before February 14th, 2014.

Very truly yours,

Kurt Becker
IAFF Local 2665

January 11, 2016

From: "Joyce Pumm" <jpumm@ucitymo.org>
To: "Rick Barry" <rickbarry@rickbarrypc.com>
Subject: Sunshine request for Mr. Walker's emails

Mr. Barry

Please find attached the one email Mr. Walker sent to Council on February 20, 2014, per your Sunshine request.

Joyce Pumm
City Clerk

From: Joyce Pumm
Sent: Monday, May 05, 2014 4:26 PM
To: 'rickbarry@rickbarrypc.com'
Cc: 'Katie Forster'
Subject: Sunshine request for Mr. Walker's emails

Mr. Barry

Your Sunshine request "Any and all e-mails sent by City Manager Lehman Walker on February 20, 2014 to the City Council regarding Political Activity of First Responders."

I have one email of Mr. Walker's that fits your above description but I am waiting for legal opinion as to whether I can supply this since it contains legal advice with a confidentiality clause from the City Attorney. As soon as hear a reply I will be in correspondence with you.

Joyce Pumm
City Clerk
University City

Joyce Pumm

From: Lehman Walker
Sent: Thursday, February 20, 2014 3:50 PM
To: Arthur Sharpe; Byron Price (creator.price@gmail.com); L. Michael Glickert; Mayor Shelley Welsch; Paulette Carr; Shelley Welsch; Stephen Kraft; Terry Crow
Cc: Joyce Pumm
Subject: FW: Political Activity of First Responders

Please see the information below.



Lehman Walker
City Manager

City of University City, 6801 Delmar Boulevard, University City, MO 63130
P: 314.505.8534 | F: 314.863.9146 | www.ucitymo.org

From: Katie Forster [<mailto:kforster@crotzerormsby.com>]
Sent: Thursday, February 20, 2014 3:45 PM
To: Lehman Walker
Subject: Political Activity of First Responders

Lehman,

The Missouri Legislature enacted Section 67.145 of the Missouri Revised Statutes during its last session. Section 67.145 went into effect on August 28, 2013 and permits first responders to engage in political activity while off duty and not in uniform. The City was aware of this change and is taking steps to update the City's Administrative Regulations. Pursuant to your direction, we have been working with Elaine Williams to review all of the City's Administrative Regulations to bring them up to date and ensure they are compliant with state and federal law. The City was aware of the change in the law when passed and has and will continue to follow it. The City's Work Rules and Offenses are being revised to reflect the new law.

Section 67.140 of the Missouri Revised Statutes specifically states:

First responders, political activity while off duty and not in uniform, political subdivisions not to prohibit.

67.145. No political subdivision of this state shall prohibit any first responder, as the term first responder is defined in section 192.800, from engaging in any political activity while off duty and not in uniform, being a candidate for elected or appointed public office, or holding such office unless such political activity or candidacy is otherwise prohibited by state or federal law.

If you have any other questions please let me know.

Thanks.

Katie

Kathryn B. Forster
Attorney at Law



Crotzer & Ormsby, LLC
130 S Bemiston Ave #602
Clayton, MO 63105
314.726.3040
314.754.0780 (direct)
314.726.5120 (fax)
kforster@crotzerormsby.com

CONFIDENTIALITY STATEMENT

This message from the law firm of Crotzer & Ormsby contains information which is privileged and confidential and is solely for the use of the intended recipient. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, or use of the contents of this message is strictly prohibited. If you have received this in error, please destroy it immediately and please notify us at 314.726.3040. The Missouri Bar Chief Disciplinary Counsel requires all Missouri lawyers to notify all recipients of email that (1) email communication is not a secure method of communication; (2) any email that is sent to you or by you may be copied and held by various computers it passes through as it goes from me to you or vice versa; and (3) persons not participating in our communication may intercept our communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the email passed through. I am communicating to you via email because you have consented to receive communications via this medium. If you change your mind and want future communications sent in a different fashion, please let me know at once.

UNIVERSITY CITY CIVIL SERVICE BOARD

Appeals of:)
JEN STUHLMAN,)
JEFF BARLAGE,)
NICK ROBBERN)
NICK WERNER, and)
LUCAS ANDERT)

FINDINGS. CONCLUSIONS AND RECOMMENDATION

Before the University City Civil Service Board are appeals filed by Jen Stuhlman, Jeff Barlage, Nick Robben, Nick Werner and Lucas Andert (collectively, "Appellants") on May 1, 2014, from actions taken by the City Manager, Lehman Walker, on April 24, 2014, suspending each of them from their position as a University City fire fighter, without pay, for 30 shift days, beginning April 24 and ending July 23, 2014.

Appellants appeal pursuant to Rule XIII, sec. 2, of the Civil Service Rules of the City of University City. Each of them seeks rescission of the suspension and reinstatement to his or her position, with full back pay and benefits of employment restored, and that any documentation in their personnel files regarding the suspension be removed. The Board consolidated the appeals, and a hearing was held May 29, 2014.

For reasons set forth below, the Board finds and concludes that it has jurisdiction over these appeals under Civil Service Rule XIII, sec. 2, and that the appeals should be sustained, and recommends that all of the relief sought by Appellants be granted.

However, the City maintained that fire fighters should have recognized that the rule now should be read as being modified by RSMo. § 67.145, and, viewed as such, continued to be a valid restriction on political activity by City employees.

Notably, on February 20, 2014, Katie Forster, a lawyer for the City, sent an e-mail to Mr.

Walker, stating:

The Missouri Legislature enacted Section 67.145 of the Missouri Revised Statutes during its last session. Section 67.145 went into effect on August 28, 2013 and permits first responders to engage in political activity while off duty and not in uniform. The City was aware of this change and is taking steps to update the City's Administrative Regulations to bring them up to date and ensure they are compliant with state and federal law. The City was aware of the change in the law when passed and has and will continue to follow it. The City's Work Rules and Offenses are being revised to reflect the new law.

Mr. Walker forwarded the e-mail to members of the City Council. Upon his doing so, Ms.

Forster's e-mail became a public record.

The City acknowledges that, as of the time of the conduct in question and, indeed, to-date, Rule 6 has not been revised to bring it into compliance with RSMo. § 67.145.

JURISDICTION

As a threshold matter, the City maintains that the Board lacks jurisdiction to consider these appeals under sec. 2 of Civil Service Rule XIII, asserting that sec. 2 confers jurisdiction on the Board only with respect to complaints relating to discharge or reduction in rank or compensation, and this is not such a matter. The City argues that, at most, the Board might have jurisdiction of these appeals pursuant to sec. 3 of Civil Service Rule XIII, which authorizes the Board to hear complaints and grievances other than those relating to discharge or reduction in rank or compensation. However, the City goes on to argue that these appeals would not presently be ripe for consideration under sec. 3 because that section provides for a dispute

Good evening, Madam Mayor and Council Members:

Those who know me – and know Councilmember Price, know that we do not share the same views on most issues discussed by Council, but there are indeed two issues that we do agree upon: The first is that an elected official has an obligation and responsibility to represent his or her constituency, where the majority rules and the minority is protected/considered... does not just substitute their judgment for the will of the people or make bargains with other politicians. Second, and even more fundamental, is the right of free speech a protected 1st amendment right. For both of these, I stand with everyone who embraces these rights and responsibilities. Tonight I stand with Councilmember Byron Price.

Unique to most of this audience, I have listened to the entire Valentine's Day Council Meeting in its entirety 4 separate times – once in person, and the recording 3 times – a total of 10 hours, 54 minutes and 40 seconds. It is a little like listening to the audiotape of the book, *Men are From Mars, Women are from Venus*. The first time I listened to the tape of the book, I said, "See there, it is my husband who is creating the problem!!! The second time I finished listening, I said, "Well maybe I did provoke the situation once – maybe twice, but he is still largely at fault and he needs to fix it." By the third time I finished listening, I said, "I can see where I am responsible for many of the disconnects, and I need to find a way to change that." So it is with this council.

I did not see in person nor hear in the audio recordings what the Mayor has alleged in her resolution. The mayor does NOT have to issue these reprimands. It only escalates the situation and it takes on the proportions of hyperbole and hysteria. Many of the charges and accusations that I hear repeated by council members and the community seem grossly out of proportion with what I saw and heard that night – and more importantly, what I heard when I listened, and re-listened, and re-listened to the audio.

I beg you, if you are intent upon taking this vote, please listen to the audio recording another couple of times before you do. The resolution of reprimand, and the march to remove Mr. Price, a duly elected representative, for something other than criminal behavior is so grievous that you will literally rip this city apart. You will not be remembered as the Mayor who brought good will and prosperity to this community. I challenge you to retreat from your autocratic approach to a more (small d) democratic approach... our charter reads that way – you are one of seven, but with real leadership – and in my opinion, not a lot of effort – you could find a way to bring ALL of the council to the table. You need help – I offer my time and effort to assist in any way I can. Many in this room offer the same. Madam Mayor, I challenge you to rise to real leadership and the occasion – withdraw this resolution of reprimand and embrace the real work of a democratic government.

Paulette Carr
7901 Gannon Ave.
February 28, 2011

Tom Sullivan <tsullivan@sullivanadv.net> December 14, 2015 12:53 PM
To: Catherine Grantham
<cgrantham84@hotmail.com>
Cc: Mayor Shelley Welsch <mayor@ucitymo.org>, Terry Crow
<crow@ctlaw.net>, "Steve E. Kraft" <kraftstephene@gmail.com>, Paulette
Carr <paulette_carr@sbcglobal.net>, Michael Glickert
<imglickert@yahoo.com>, Rod Jennings <rjmiracle007@gmail.com>,
"Arthur Sharpe Jr." <qforlifeasj@juno.com>
Reply-To: Tom Sullivan <tsullivan@sullivanadv.net>

12/14/15

**TO: Catherine Grantham, Attorney at Law, 225 So. Meramec,
Clayton, MO 63105**
**FR: Tom Sullivan, 751 Syracuse Avenue, University City, MO
63130, 314-732-9993**
**RE: Quo Warranto Proceeding/ University City Councilman
Terry Crow**

Not long ago, Post-Dispatch columnist Bill McClellan quoted what the late Judge William Hungate liked to say to lawyers making specious arguments: "If you had ham you could have ham and eggs, if you had eggs." After reading your draft of the "Petition In Quo Warranto" against University City Councilman Terry Crow, I would say the judge's remarks would apply. There is no substance to the petition. A lot of puff but no substance.

The petition is only part of the foolishness that has been taking place at City Hall in recent years due to Mayor Shelley Welsch. As I assume you know, there is a recall petition currently being conducted against her and her close ally, Councilman Steve Kraft. I'm sure this is a considerable part of the the mayor's motivation in regard to Councilman Crow. As Post-Dispatch columnist Tony Messenger writes in his column this morning, the action against Terry Crow takes on "the flavor of revenge." No doubt about that.

Mayor Welsch has the freedom to engage in foolishness but you are constrained by legal ethics and it seems you are violating them. The Rules of Professional Conduct for lawyers, Rule 4 of the Missouri Supreme Court Rules, states in the preamble:

"A lawyer's conduct should conform to the law, both in professional service to clients and personal affairs. A lawyer should use the law's procedures for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials."

It seems you are doing exactly what the Rules tell you not to do. You might notice the headline to the Messenger column: "Sloppy email use

trips up University City mayor's firefighter vendetta." It is unquestionably a vendetta and one a reputable lawyer should not be part of.

It is a very safe bet that St. Louis County Prosecuting Attorney Robert McCulloch would never proceed with such a flimsy petition. Removing a duly elected public official is a serious matter that has to do with considerable wrongdoing or misconduct. This is why it is a rare occurrence and why the Petition for Quo Warranto in regard to Terry Crow would be given short shrift.

In 1995, then-Attorney General Jay Nixon removed the sheriff of Case County through a *quo warranto* petition. In supporting the removal, the Missouri Supreme Court handed down a decision that gave new standards for defining key elements of a *quo warranto* action. You might want to take a look at it. The case is styled, *STATE ex inf. Fuchs v. Foote, 903 S.W. 2nd 535 (1995)*.

Also, the UCity United group came out with a letter on Saturday about the allegation that Councilman Crow released a confidential legal opinion. This is what it says in part:

"The alleged 'confidential legal opinion' is actually neither confidential, nor a legal opinion. On February 20, 2014, City Manager Lehman Walker forwarded this email from the City Attorney to the entire council. It was not marked as a 'closed record' pursuant to the state statute and you can see it is actually a status report on bringing city regulations into compliance with State law."

The letter goes on:

"This alleged 'confidential legal opinion' was also presented and made part of the record in an open University City Civil Service Board hearing on May 29th and was referenced on page 5 of their findings: 'Mr. Walker forwarded the email to the City Counsel (sic). Upon his doing so, Ms. Forster's e-mail became a public record.'" (Emphasis in letter.)

As was found out this morning from Tony Messenger's column, Mayor Welsch unintentionally sent the columnist a copy of the memo in question. As Messenger writes: "There is nothing confidential about the memo." This is the same thing that UCity United and Terry Crow have said. It would seem the Petition In Quo Warranto you drafted misrepresents the memo.

I would suggest you review the relevant documents in this matter and also do a little more research. You might also consider your responsibilities as a lawyer and your obligation to comply with the Rules of Professional Conduct.

Copy: Mayor Shelley Welsch & Members of the University City Council,
Interested Citizens

Statement to Council

Andrew Roberts

Monday, December 4, 2015

You've brought four charges against Mr. Crow, and while I'm sure he can defend himself, it would be wrong of me to not call you out on such wild hypocrisies.

First, malfeasance. When *you* violate the law, you can just apologize. When *Mr. Kraft* insults a citizen for no reason, that's fine. When *Mr. Walker* refuses to answer questions from the Council, that's fine. When *Ms. Pumm* refuses lawful requests from the Council, that's fine. When *Mr. Crow* attempts to discover whether the City is obeying the law, that's a crime. It's absolute nonsense. At the very worst, Mr. Crow is a whistleblower, and if you weren't in compliance with the law, the public has a right to know.

Second, the violation of the public trust. I cannot believe these words are coming from *you*. You have no ground to stand on here, and neither does the rest of the Council. Mr. Jennings negotiates in bad faith, then accuses his opponents of intransigence. Mr. Kraft shows outright contempt for the public, then pretends to be the arbiter of Fact. Mr. Glickert throws sexist, offensive comments at Ms. Carr with impunity. Mr. Sharpe is on the verge of sleep through important Council business. Mr. Walker mutters lies and dodges under his breath so we can't understand him. The idea that Mr. Crow, who has been reasonable and respectful, has violated the public trust is absolute nonsense.

Third, the breach of ethical responsibilities. Where are *your* ethical responsibilities? You refuse to listen to your constituents. You hired Mr. Walker after he was kicked out of *his* profession's ethical organization and then changed the rules so he could remain your personal agent. You award single-bid contracts to outside companies at inflated rates. You suspend firefighters - whom you once called heroes - out of vengeance and pettiness. You declare pressing concerns unfit for public discussion. You call your opponents liars, conspirators, extremists, and malcontents, belittling legitimate concerns and criticism until our only recourse is recall and outrage. And you have the gall to say Mr. Crow has breached *his* ethical responsibilities? It would be laughable if it weren't so disgusting.

Fourth, interfering with the functioning of the Council. What *functioning* is that, exactly? In what way could he possibly have interfered with it? Despite his objections, despite hours of

public support for his position, you were able to outsource our EMS without delay, contemplation, or public input. Any motion he brings is instantly voted down, five-to-two. No matter how many times he speaks, what he says, or how reasonable his arguments are, the business of council - the union-busting, the outsourcing, the ignorance, the lies - continues unimpeded. And with the way this Council has "functioned", I would welcome a little interference.

Your motivations are obvious. You've known about his actions for months, and you've been holding it close to your chest as your trump card. It's no coincidence that this Petition is brought up just before Mr. Crow decides whether to file to run for re-election. You're hoping he might just decide not to run, but I don't think you're counting it. What you're counting on is that it will cast enough of a shadow on his campaign that any challenger can rely on that alone to win. You're counting on it costing him money to retain a lawyer in the middle of an expensive campaign. You're giving his enemies fuel and his supporters doubt. You don't care that your case holds no water, or that Robert McCulloch (himself an unethical, illegitimate public official) will take up the case. All you need to do is keep this process going through April. If it succeeds after then, you get your wish; if it fails, it's no loss - you just spin it as impartial legal proceedings. That is *if* you're still in office come April.

The first time I spoke at a Council meeting, I spoke about the value of civility and compromise. I don't care about that any more; do what you're going to do. I'm not standing up here to speak politely, or argue, or ask for reasonable debate. I'm just up here to remind you what a contemptible job you do, because you need to be reminded of that as often as possible.

**City of University City
Commission for Access and Local Original Programming
6801 Delmar Blvd.
University City, MO 63130**



REQUEST FOR PROPOSAL:

The University City Media Collaborative (UCMC)

For

Commission for Access and Local Original Programming (CALOP)

PROPOSALS MUST BE SUBMITTED BY

5:00 P.M., JANUARY 8, 2016

RESPONSES RECEIVED AFTER THE DUE DATE

WILL NOT BE EVALUATED

NO FAX OR EMAIL REQUESTS ACCEPTED

Request for Proposal

The Commission for Access and Local Original Programming (CALOP) seeks applicants for a grant to create and operate a new Missouri non-profit 501(c) (3) corporation to be known as The University City Media Collaborative (UCMC). CALOP will provide start-up capital for this new venture and may, at its discretion, provide either a limited, restricted endowment or grants to assure continual operation.

The purpose of this document is to provide qualified individuals and existing Missouri non-profit corporations to enable them to prepare and submit a proposal for The University City Media Collaborative (UCMC).

Proposals may be mailed or delivered to the Finance Department:

City of University City
Commission for Access and Local Original Programming (CALOP)
Attn: Keith Cole
6801 Delmar Blvd.
University City, MO 63130

Proposals must be submitted by 5:00 p.m. on Friday, January 8, 2016. Proposals received after the specified date will not be evaluated.

CALOP reserves the right to reject any and all proposals. The contract is subject to approval by the CALOP Commission Members. Proposals are all inclusive and will **not** be partially awarded. All proposals shall be deemed final, and once opened, no proposal shall be subject to correction or amended for any errors. All proposals that are submitted will become the property of CALOP.

GENERAL CONDITIONS

1. Goals and Objectives

Our goal is to create a self-sustaining organization located in University City dedicated to training our young people for permanent employment and empowering them for creative expression and civic involvement, while simultaneously ensuring that every University City resident will have access to instruction and current technology as noted below regardless of age, race, or socio/economic status.

The objective is to create a University City Media Collaborative that will train University City residents of all ages how to use both new and older media forms to share ideas, organize community conversations, or simply stay in touch with family and friends. The training will be provided for a fee or on a reduced-cost basis.

The University City Media Collaborative (UCMC) would, at its core, be a community technology center. "A community technology center (CTC) is a facility that provides free or low-cost

computer access, and/or training, to people lacking the resources to have a computer and/or internet in their home. Such facilities are generally established through a collaborative effort on the part of government and non-profit organizations, as well as corporate and private citizens.”¹ Beyond providing access to computers, the UCMC would offer training in audio and video production and classes in various forms of creative production, such as art, writing, filmmaking, and radio story telling. With this added component, the UCMC would empower citizens to understand current technology and continue the tradition of creating educational and cultural programming—the original mission of CALOP—while moving into the future by enhancing digital literacy and bridging a growing digital divide.

The Collaborative could be one or more of the following:

1. Be a partnership of local institutions that want to encourage the spread of technology to a wider audience and/or want to provide support for artistic and educational outreach and expression. Potential partners may include, but not necessarily be limited to: University City Public Library, Loop Media Hub, KDHX Community Media, the Center of Creative Arts, the Regional Arts Commission, the School District of University City, the Higher Education Channel (HEC-TV), Cinema St. Louis, and Washington University.

On the consumer level, the UCMC could offer training on hardware and software that increasingly people need on a daily basis to remain fully functioning, engaged citizens capable of making valuable contributions to society.

The Collaborative could teach audio and video production in multiple formats for multiple distribution platforms, which would align with the original vision and mission of CALOP.

UCMC could guarantee access to high speed internet and the equipment and training necessary to be an internet citizen. Also, it could be an incubator for the next generation of entrepreneurs who, through the Collaborative, will have access to the tools and knowledge they need to create the next Twitter, Etsy, or Facebook.

2. Be a site for an Apple Authorized Training Center (AATC) (<http://training.apple.com/aatc>)

The UCMC could become an Apple Authorized Training Center for people of all ages throughout the St. Louis region. Once established, revenue streams may come from charging fees for services, such as school lab fees, or through grants from corporations who need a trained labor force.

¹ Margaret Rouse, Manager Tech Target’s IT encyclopedia and Learning Center. Cited as an authority in major publications such as the New York Times, Time Magazine, USA Today, The Washington Times, the Miami Herald, ZDNet, PC Magazine and Discovery Magazine. Before joining TechTarget in 2000, Margaret worked for New York State Model Schools, teaching computer science and technology integration

Upon successfully completing instruction at an AATC the students would be awarded a certificate of employability in Apple and Adobe products, which they could then present to prospective employers as evidence of their job qualifications. This is a crucial component in building the skilled labor force that corporations need to fill existing positions and create new jobs. The UCMC could be the leader in the field in the St. Louis region.

3. Be an AVID Learning Partner
(<https://www.avid.com/US/services/training/become-partner>)

The UCMC could also consider becoming an AVID Learning Partner to provide training to people from University City and throughout the region on film and video production. The link above is for the AVID website where it describes in detail what it takes to become an AVID Learning Partner. Ideally, the UCMC could find certified instructors needed to proceed and develop a fee-based system (and revenue stream) similar to what would be used at the AATC.

The new non-profit corporation will:

- Create a new board of directors of outstanding and respected citizens to govern the actions of the organization. Current CALOP board members may be willing to serve as an interim board of directors for a limited period of time.
- Locate the operations of the UCMC in a University City location easily accessible to all residents of the greater metropolitan area.
- Seek additional grants and donations from multiple sources to facilitate growth and continual operation.
- Build partnerships with organizations in University City and throughout the region to collaborate on the use, operation, and funding of the UCMC.

REQUIREMENTS

Each proposal must be submitted in a sealed envelope, which shall be endorsed on the outside thereof with the following information.

Proposal for:

1. The University City Media Collaborative (UCMC)
2. CALOP
3. Name and Address of Respondent

The proposal itself, should include:

- A broad project concept and detailed business plan, along with proof of expertise in the field and a demonstrated track record of success **(including examples of prior work and**

references). This concept and project business plan with components should be no longer than 10 pages with a maximum two-page summary of the project. This concept and business plan should include the following appendices which do not count toward the page limit:

(a) financial projections (for 3 or 5 years, or for two years past financial breakeven),
(b) an initial list of sources of grant, in-kind, and charitable funding, as well as any revenue-generating activities they can identify that might help fund the organization,
(c) resumes of key team members and job descriptions for future team members needed to meet the staffing requirements to make the initial organization capable of delivering on its goals.

- Interested persons or organizations should have experience in video/film production and business operation and management.
- The full proposal will be presented to the Commission to make a final selection.
- No current or former University City employees or CALOP commission members may apply.

The person(s) or group(s) selected will work closely with CALOP as well as other relevant community resources to insure compliance with the goals and guidelines of the UCMC initiative.

No proposal shall be modified, withdrawn, or cancelled without the consent of CALOP after the scheduled due date. All proposals submitted must be valid for a minimum period of sixty (60) days.

The individual / non-profit organization shall protect, indemnify and hold CALOP harmless against any liability, claims and costs of whatsoever kind and nature or performance of work in connection with the proposal.

Your signature acknowledges that he/she has read this solicitation, understands it, and agrees to be bound by its terms and conditions.

All proposals must be received by the date specified. Proposals received after the date prescribed shall not be considered for award and shall be returned to the respondent.

SELECTION

The Commission's goal is to make a final selection after the first submission and initiation of the business plan/concept, no later than March of 2016.

Kathy Straatmann -- 6855 Plymouth Avenue, Third Ward,
University City.

I am addressing my third ward Council members -- Arthur Sharpe Jr. and Rod Jennings. I am asking you to please, in the future, do due diligence and enough research for any projects affecting our third ward. And then, please listen to your constituents.

Further, I would like to, once again, thank Council Member Terry Crow and Council Member Paulette Carr for doing their due diligence and research – thereby trying to minimize some of the damage that is being done to our city.

Council Member Crow, Council Member Carr -- please stay with us and continue your efforts.

I know Madame Mayor you like to say there are just a few of their supporters in the audience -- making a lot of noise. Trust me -- our numbers are far greater than those who come and suffer through these meetings and listen to your spin on things.

During the past weeks, I have had many citizens of University City snatch my recall petitions out of my hand – BECAUSE THEY CAN'T SIGN THEM FAST ENOUGH.

Thank you and please make this a part of tonight's minutes.

My name is Leif Johnson. I live at 836 Barkley Square, 725-5429; suz836@hotmail.com

The discriminatory Parks and Recreation Policy against the poor must be eliminated. The policy is “If you can't pay, don't play”. It is a policy of ultra right-wing politicians who are followers of Edmund Burke, whose reactionary parliament in England we fought, and won, the American Revolution. I urge every Council member to eliminate that policy this evening.

On a personal note, I suppose that I did not realize the cruelty, viciousness, and desire to win at all costs, here tonight displayed by the followers of Edmund Burke. You in the audience will once again witness this. In my parent's generation this was called “Triumph of Will”. (Those younger should get the movie from Netflix.) Triumph of Will.

I am reminded of the immortal words of Abraham Lincoln, spoken in the Illinois legislature on the day after Christmas, 1839:

“Many free countries have lost their liberty; and *ours may* lose hers; but if she shall, be it my proudest plume, not that I was the *last* to desert, but that I *never* deserted her. I know that the great volcano at Washington, aroused and directed by the evil spirit that reigns there, is belching forth the lava of political corruption, in a current broad and deep, which is sweeping with frightful velocity over the whole length and breadth of the land, bidding fair to leave no green spot or living thing, while on its bosom are riding like demons on the waves of Hell, the imps of that evil spirit, and fiendishly taunting all those dare resist its destroying course, with the hopelessness of their efforts; and knowing this I cannot deny that all may be swept away. Broken by it, I, too, may be; bow to it I never will.”