

MINUTES OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
January 11, 2016
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, January 11, 2016, Mayor Shelley Welsch called the meeting to order at 6:31 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
Councilmember Terry Crow
Councilmember Michael Glickert
Councilmember Arthur Sharpe, Jr.

Also in attendance was City Manager, Lehman Walker.

C. APPROVAL OF AGENDA

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

D. PROCLAMATIONS

E. APPROVAL OF MINUTES

1. December 14, 2015 Regular Session minutes were moved by Councilmember Jennings, seconded by Councilmember Sharpe and the motion carried unanimously.

F. APPOINTMENTS

G. SWEARING IN

1. Sandy Jacobson was sworn in to the Historic Preservation Commission in the City Clerk's office.

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 discussion on an agenda item on which you would like to speak. The Council Reports & business section is for Council discussion. Those asking to speak on those issues may do so during the regular Citizen Comments sections of the agenda. Comments should be limited to five (5) minutes.

Decorum at Council meetings is required in order to make possible civil discourse among people who may have different views. With that in mind, personal attacks on City Council members, staff and anyone else will be ruled out of order. I reserve the right to disallow those engaging in personal attacks to speak at this or future Council meetings.

As I have said in the past, if someone chooses to continue speaking beyond the Council-accepted time limit on an individual citizen comment, after my advising of the deadline, I will not call them to the podium at future meetings. I will consider a request for additional time – but the speaker must make a request to go beyond the time limit and be given permission to do so.

Finally, I encourage members of this Council to remember that, per our Council rules, we follow Roberts Rules of Order. According to Robert's Rules, we should all desist in making personal attacks on our colleagues – limiting our comments to the merits of an issue, and not calling into question the motives of our colleagues.

A reminder to those in the audience - 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.

Again, personal attacks on City Council members, staff, and anyone else by members of the public or by members of this Council will be ruled out of order. I reserve the right not to call back to the podium at this or future meetings anyone who engages in personal attacks on anyone.

These meetings are held for this Council to do the business of the people. That is what we should all be focusing upon.

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

I. PUBLIC HEARINGS

J. CONSENT AGENDA

K. CITY MANAGER'S REPORT

1. Approval to authorize the City Manager to execute an agreement with CBB to provide traffic signal maintenance services.

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

2. Approval to award the bid to Energy Petroleum Company to supply gasoline, diesel and biodiesel fuel for use in City vehicles and equipment.

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

3. Approval to award the City's annual tree trimming contract to Clipper Tree Services in the amount of \$59,475.00

Councilmember Kraft moved to approve, was seconded by Councilmember Glickert.

Citizen Comments

Tim Gamma, 1564 North and South Road, University City, MO

Mr. Gamma, owner of Gamma Shield Shade Tree, questioned the City's loyalty to one of its own businesses. He stated that his bid for this contract was \$474 dollars higher than the lowest bid of an unknown company. He questioned whether electing to take the lowest bid from an unknown contractor, to maintain the City's growing asset of 915 street trees, is worth risking for \$474 dollars. Mr. Gamma stated that he appreciates the business this City has given to his company in the past.

Council Comments

Councilmember Crow asked Mr. Walker if he would walk Council through the bidding process. Mr. Walker asked Project Engineer Ms. Megan Fuller, the Project Manager, to go through the

bid process.

Ms. Fuller stated that the initial analysis is based on unit price, which deemed Clipper to be the lowest responsible, responsive bidder. Thereafter, staff conducted a review of the company's references/qualifications, and based on that information, rendered their recommendation.

Councilmember Crow asked how long Clipper had been in business and where their offices were located? Ms. Fuller stated that they have been located in St. Louis County for approximately one year.

Councilmember Crow recalled that when the lowest bidder was discussed with respect to an attorney for the city and prosecuting attorney, the conversation evolved around the need to retain the best rather than the lowest bid. This business has paid taxes in U City for twenty-two years should have weight on a \$474 dollars savings.

Andrea Riganti, Director of Community Development, stated that although this is something that can be amended by Council, the recommendation was made pursuant to an ordinance and not a policy.

Councilmember Crow questioned whether the selection of a tree service provider was being held to a different standard than the selection of a law firm? Mr. Walker stated that selecting a provider of professional services is completely different than selecting a commercial service because the ordinance directs staff to select the lowest responsible bidder. He stated that his advice to members of Council who inquired about this issue was that Council could change the policy with respect to bids, if they so desired.

Councilmember Crow stated that reflecting back on previous contracts he does not believe that the lowest bidder has always been selected. Councilmember Crow moved to postpone approval of this item and was seconded by Councilmember Glickert.

Councilmember Glickert stated that when he was concerned, even though staff did what they were mandated to do to select the lowest bidder. His belief is that there is some leeway contained in the bidding process for businesses located within the State of Missouri, and when bids are close; as in this case, the award goes to the company located within the state. Councilmember Glickert asked Mr. Walker if he would provide Council with timeframes associated with awarding the contract and amending the ordinance. Mr. Walker advised Council to conduct a study session prior to the next meeting, to discuss both issues and ensure that staff receives clear directions.

Councilmember Sharpe questioned whether there were any other means available to address Council's concerns? Mr. Walker stated that his belief is that in order for staff to be consistent in making recommendations they will need a clear policy and direction from Council.

Councilmember Carr stated that since she is an advocate of hiring and recruiting local businesses, she would have to agree with both of her colleagues that this award needs to be reexamined. And although she finds no fault with Ms. Fuller's actions, staff will need very clear directives in terms of how to evaluate projects going forward. Councilmember Carr asked Mr. Walker if he would provide Council with a copy of the pertinent ordinance, and whether there was a specific date that a decision was needed. Mr. Walker stated that his hope is that a decision would be made sooner, rather than later, which is why he would like to schedule a study session prior to the next meeting to resolve this matter.

Voice vote on Councilmember Crow's motion to postpone carried unanimously.

Point of Order: Councilmember Glickert questioned if the motion was to postpone until the next meeting or indefinitely?

Councilmember Carr suggested that the item be postponed until February, to allow staff time to make the necessary changes to the ordinance, should that be Council's desire. Councilmembers Crow and Glickert concurred with Councilmember Carr's suggestion.

Voice vote on Councilmember Crow's amended motion to postpone the item until February, carried unanimously.

4. Approval to award contract to Froesel Tire for heavy truck tire refurbishment and tire services.

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

5. Approval of Police Facility analysis public survey.

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

Councilmember Carr asked if the survey had been presented to the Historic Preservation Commission to review the historic elements and background statements. Mr. Walker stated that it had not been presented to the commission. Councilmember Carr made a motion to postpone this item until it has been reviewed by the Historic Preservation Commission and was seconded by Councilmember Crow.

Mayor Welsch stated that the language in the survey has been vetted by staff and since Council is under a time crunch with respect to making a decision on the police station and Historic Preservation will not meet until the end of the month, she did not support this motion.

Councilmember Carr stated that this is an expensive endeavor and asked the Mayor to explain what time crunch Council was facing. Mayor Welsch stated that her statement was based on Captain Jackson's constant reminder during public meetings about the City's need to meet the accreditation requirements under Missouri Senate Bill No. 5. Employees must be in the building for three years in order to get the appropriate accreditation, which means that the City must have renovated the current station or build new police station in place within two to two and a half years. She stated that should Council decide to move forward, residents will receive additional information on the historic qualities of the building, but if the police department is not accredited, it will be disbanded.

Councilmember Crow stated that while he appreciates Senate Bill No. 5, and thinks that it should be given serious consideration, in this situation Council will be asking taxpayers for 9 to 20 million dollars, so taking a month to ensure that it is done right, would not too much to ask.

Mayor Welsch noted for the record that Council has not discussed how the police station would be financed.

Councilmember Kraft stated that Council should receive input from the Historic Preservation Commission, which in actuality is sending it to the citizens whose taxes are going to pay for this structure.

Councilmember Sharpe asked Mr. Walker if there was a timeline with respect to when the survey needed to be approved. Mr. Walker stated that it would be helpful to proceed as

quickly as possible to ensure that it is distributed to all of the City's boards, commissions and residents, and they have ample opportunity to respond and provide input. He stated that the survey had been sent to Council some time ago, asking for comments, and to date, only one member of Council provided comments. So he sees no need to delay approval.

Councilmember Crow stated that this timeframe needs to be presented to Council so that they can get a better understanding of exactly what limitations they are working under.

Councilmember Carr stated that the reason she had made the motion is because of some misleading statements in the historic background; the analysis does not take into account any historic restoration, and the statement which implies that the City could renovate the annex apart from the building, at a cost of twelve million dollars, is somewhat suspect. She stated that what has been produced is not just an open-ended survey, but a document that basically leads you in a particular direction. She would like to make sure this survey goes out with bona fide facts that someone else has also signed off on it.

Mayor Welsch pointed out that the first two and a half pages of the analysis provided a breakdown of the price for the annex renovation, a new facility, and what it would cost if they did a white box renovation for future use.

Point of Information: Councilmember Kraft asked for a clarification on what Council was being asked to vote on? Mayor Welsch stated that the vote was for Councilmember Carr's motion to delay consideration of the study until it has been reviewed by the Historic Preservation Commission.

Ms. Riganti advised Council that the Historic Preservation Commission would not be meeting in January, so there would be a two month delay.

Councilmember Carr asked if the Commission could call a special meeting. Mr. Walker stated that he did not see the point of making such a request, and suggested that Councilmember Carr submit any questions regarding the survey to staff and they would review them. Councilmember Carr agreed to do so, if her motion was denied. She then requested that a roll call vote be taken.

Roll Call Vote on Councilmember Carr's motion was:

AYES: Councilmembers Carr and Crow.

NAYS: Councilmembers Glickert, Sharpe, Jennings, Kraft and Mayor Welsch.

Voice vote on Councilmember Glickert's motion to approve the survey carried by a majority with Nay votes from Councilmembers Carr and Crow.

L. UNFINISHED BUSINESS

BILLS

- 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 second and third time.

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

Councilmember Carr stated that at the last meeting she requested an explanation for why the members on this board were being increased, and she is still waiting for a response. She stated that although she is not necessarily opposed to this increase, it meant that the Mayor would be the one appointing two additional members, the School Board will get one, and the County will get one. She has been a little distressed over the fact that monies generated by

this fund have been used for non-bid projects involving personal friends to some of her colleagues on Council.

Councilmember Crow stated that while it is always nice to have more members, specifically if they share different opinions, under the current circumstances it would appear as though we are stacking the court by giving the Mayor the opportunity to make further appointments and would also like to hear about the benefits of this increase.

Councilmember Glickert stated that historically, mayors have had the luxury of making these appointments. However, in this situation, appointments will only be made with the consent of the Council.

Councilmember Kraft stated that his experience is that the individual appointed by the County does not show up a good percentage of the time, making a quorum difficult to achieve; enlarging the board would provide for wider representation. He believed it was a good idea.

Mayor Welsch stated that by Missouri State Statute, whoever is Mayor will appoint to this board. She stated that State Representative Rory Ellinger worked for two years to get this amendment. The challenge is the way the statute was written; cities with 300 people had the same number of citizen representatives, as a city of 35,000 as University City or 50,000 as the City of Florissant. Mayor Welsch said she felt that University City should have more citizens involved in this process. As Councilmember Glickert pointed out, whoever the Mayor recommends must come to the Council for approval and the commission only makes recommendations to this Council and staff. She thought any insinuations that somehow Mr. Kuhlman, Mr. Adegboye or Mr. Winer is somehow doing the bidding of the Mayor are wrong.

Roll Call Vote:

AYES: Councilmembers Glickert, Sharpe, Jennings, Kraft and Mayor Welsch.

NAYS: Councilmembers Carr and Crow.

- 2. BILL 9280** – An ordinance of the City of University City, Missouri; repealing Section 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 second and third time.

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

Roll Call Vote:

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

NAYS:

- 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 second and third time.

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

Roll Call Vote:

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

NAYS:

M. NEW BUSINESS

RESOLUTIONS

Introduced by Councilmember Sharpe

- 1. Resolution 2016 – 1** Fiscal Year 2016 – Budget Amendment #2. Seconded by Councilmember Jennings.

Councilmember Carr asked Mr. Walker if Loop Special Business District, LSBDD money had been spent to help some of the businesses? Mr. Walker stated that it had been. Councilmember Carr questioned whether this money had actually come from the LSBDD? Mr. Walker stated that it had.

Councilmember Carr stated that she had called the treasurer for the LSBDD and asked if they had paid the money for the loans and he said that he had been told by Ms. Riganti that the money had come from the Economic Development Retail Sales Tax, EDRST. Ms. Riganti stated that since the LSBDD is under the auspices of University City, rather than sending a check to LSBDD and having it come through them, oftentimes the City will pay Loop vendors directly. In this case, the check came directly from the City to the recipients of the funds. Councilmember Carr asked if the treasurer's signature would have been on the check since two signatures are needed. Ms. Riganti stated that although two signatures are needed, the current treasurer has not been officially voted in or approved by City Council. Therefore, the check would have been signed by the previous treasurer and one of the two designated signatories.

Councilmember Carr asked Mr. Walker if she could receive a copy of the cancelled check and any associated paperwork.

Councilmember Kraft made a motion to remove the \$50,000 budget amendment item for Miscellaneous Improvements; (*Forgivable Loan Program for Loop Businesses*), under the Economic Development Sales Tax heading and was seconded by Councilmember Jennings.

Councilmember Kraft stated that while he is sympathetic to businesses in the Loop who have been damaged by the trolley construction he thought that they deserve compensation but through a different source. With respect to liability, the original agreement was amended to ensure that University City would not be responsible for any financial damage caused as a result of the trolley. That is exactly what this is, a negative economic impact to Loop businesses that is a direct result of the trolley construction. As an elected official who is financially responsible for the welfare of this City, he did not believe that the City should be spending money on this issue. Councilmember Kraft stated that the trolley was sold to the City based on its ability to promote economic development, but instead, it has mired the City's development.

Councilmember Jennings stated that he would like to see the funds increased and the residency requirement reduced in order to provide assistance to some of the newer businesses that have also been impacted by this construction.

Councilmember Carr stated that the Mayor and Joe Edwards had to ask the County Executive for three million dollars in order to complete construction. So although she understands what Councilmember Kraft is saying, the trolley is broke. In some respects, the City is culpable since Council voted to approve this project. She stated that funds from EDRST are used for business retention and attraction. She noted the Loop contributes about 25% of the City's retail sales tax and would not benefit from empty storefronts. Councilmember Carr stated that if this resolution did not pass she would remind Council every time there is a new empty storefront.

Councilmember Kraft stated that the last time this resolution was brought up he had asked staff to go back and find some partners that would be willing to help the City by providing matching funds. Because the Economic Development and LSBDD funds come from the

taxpayers, and it's hard to imagine that out of 53 million dollars the trolley does not have \$50,000 to kick in. He stated that landlords are another group that could partner with the City by providing rent abatements to those businesses who are struggling.

Councilmember Crow stated that it's kind of a rhetorical question to say that the City should partner with the landlords, when no one on this dais has asked them if they were willing to become a partner. To a struggling business owner it might appear as though Council is trying to pass the buck to someone else. Councilmember Crow stated in perspective, a few lines down from the \$50,000 forgivable loan to help business owners is a line item for \$400,000 allocated to perform additional work on the Ruth Park Golf Course that benefits one family.

Councilmember Kraft advised Councilmember Crow that his next motion was to ask that the \$400,000 be removed.

Mayor Welsch stated that, to clarify, the \$400,000 is the result of a settlement agreement from a lawsuit filed against the City, by one of its residents.

Councilmember Carr stated that when the Special Business District was formed, they decided to increase taxes in the Loop so that they could have extra money to invest back into the district therefore the money is their tax dollars. She stated that the smart thing to do is to work on business retention and attraction, because that is what's going to keep this community healthy. She felt it was a wise investment since the loan includes a termination clause making owners responsible for repayment should they decide to leave.

Councilmember Sharpe concurred with the statements made by Councilmember Carr.

Voice vote on Councilmember Kraft's motion to remove the \$50,000, failed, with Ayes from Councilmember Kraft, Glickert and Jennings.

Councilmember Kraft made a motion to remove the \$725,000 line item for golf improvements. He noted it was premature since the Parks Commission has just begun to discuss this issue. He stated that a landscape architect is actually working on a design to fix some of the major problems with lights and the driving range, but the Commission has only heard a portion of the plan. Councilmember Kraft stated that in the last seven or eight years the City has already spent half a million dollars on the driving range, and when you think about the City's other pending needs, the value in spending this amount of money on a golf course, is simply not there. He asked that the Park Commission be allowed to complete their review and recommendation process and was seconded by Councilmember Jennings.

Councilmember Glickert stated that he was not in disagreement with Councilmember Kraft's comments because the driving range is hemorrhaging. However, since \$300,000 has already been appropriated for work that is going to start fairly soon, he would like to make sure that that portion remained. He stated that after talking with the City Manager about this issue, they both agreed that the best way to get a handle on this project would be to conduct a study session in concert with the Parks Commission.

Mayor Welsch stated that she had no problem with delaying the appropriation of these funds, but would like a clarification as to whether the \$300,000 represented the money that Rich Wilson had set aside for dealing with grading along the slope, and the installation of an irrigation system to help eliminate the drainage problem. She stated that it was also her understanding that \$400,000 of the funds was related to the settlement agreement. And if that is correct, then there is a need to move quickly, since the settlement asserts that work must finished by the end of March. Mayor Welsch concurred with Councilmember Glickert's suggestion to conduct a study session and asked Mr. Walker if he would make the necessary

arrangements.

Councilmember Sharpe stated that he was not in favor of the motion to eliminate the funds, but did believe a study session was in order to determine the next steps.

Councilmember Kraft stated that Interim Director of Public Works and Parks Sinan Alpaslan will be out of the country until later this week, so he was unable to get clarification on his questions. However, Mr. Wilson had made it quite clear that monies had already been set aside in the budget for the settlement, and that seemed to be the finance director's understanding as well. So if \$300,000 has already been set aside he certainly did not think they should add another \$725,000.

Voice vote on Councilmember Kraft's motion to remove the \$725,000, carried unanimously.

Councilmember Jennings moved to approve the resolution as amended; removing \$77250,000 for the golf course and retaining \$50,000 for the forgivable loans, was seconded by Councilmember Carr and the motion carried unanimously.

Introduced by Councilmember Jennings

- 2. Resolution 2016 – 2** City Council's censure of Councilmember Terry Crow. Requested by Councilmember Jennings and seconded by Councilmember Glickert. Seconded by Councilmember Glickert.

Councilmember Jennings stated that given that this resolution has been labeled as political retribution or an attempt to affect Councilmember Crow's reelection, he would like to table the Quo Warranto Petition.

Point of Order: Councilmember Kraft stated that in his opinion, a motion to table the Quo Warranto Petition would be out of order since it did not exist.

Councilmember Jennings concurred. He stated that he will not be distracted, and that he takes his oath very seriously. He stated that it is his belief that the information Councilmember Crow provided from the City Attorney to a party engaged in a lawsuit against the City was in violation of Councilmember Crow's oath, the City's Charter, its codes, and was not in the best interest of the City. He stated that he was shocked and disturbed specifically with respect to the statement in Councilmember Crow's email, "*Does this help?*"

Councilmember Kraft made a motion to remove this resolution from the agenda and was seconded by Councilmember Carr. Councilmember Kraft stated that in his opinion, Council has already discussed this issue and believed that they all have better things to discuss.

Roll Call Vote on Councilmember Kraft's Motion:

AYES: Councilmembers Carr, Kraft and Crow.

NAYS: Councilmembers Sharpe, Jennings, Glickert and Mayor Welsch.

Citizen Comments:

Gerald Greiman, 7042 Westmoreland, University City, MO

Mr. Greiman, stated that he is appearing as a lawyer representing Councilmember Crow. He stated that he had submitted four letters to Council and asked that they be made a part of the record of this meeting.

Mr. Greiman stated that when the Quo Warranto Petition was shown false, Mayor Welsch and her allies shifted their attack to a resolution to censure Councilmember Crow, on the premise that he had divulged a privileged and confidential attorney/client email which harmed the City's interest in a lawsuit then pending against the firefighters. Mr. Greiman noted the

email contained information that the City is required to make public; information about the status of the City's regulations concerning first responder's rights to engage in political activity. There was nothing confidential about the email or the information contained in it, and was irrelevant to the pending litigation. Mr. Greiman stated that the email in question was presented at a Civil Service Board meeting and the City Attorney had no objection to its admission. He noted that an audio recording of the hearing is available on the City's website.

Mr. Greiman stated that the resolution abandons any claim that the forwarded email was a confidential document. He stated Councilmember Crow's job is to use his discretion, as he thinks best, to act in furtherance of the City's interest. Mr. Greiman stated that constitutional due process requires that Councilmember Crow be afforded a hearing before any discipline can be imposed. That request has been made, and to date, they have not even received the courtesy of a response to that request.

Diane Davenport, 74 Yale Avenue, University City, MO

Ms. Davenport defined terms to describe her feelings about the resolution to censure Councilmember Crow. She asked that Council work to become a collegial leadership.

Suzanne Greenwald, 836 Barkley Square, University City, MO

Ms. Greenwald stated that Dr. Walter Erlich, her history teacher at University City High School, taught her that brave men fought and died so that we the people could elect officials who would be duty-bound to carry out our will. She stated that everyone knows that Councilmember Crow is an honorable man.

Leif Johnson, 836 Barkley Square, University City, MO

Mr. Johnson stated that many members of this audience have come to begin the process of taking this government back from the followers of Edmund Burke; to guarantee that Terry Crow remains in office, and to restore to U City a government that is of the people, by the people and for the people.

John Rava, 7129 Washington Avenue, University City, MO

Mr. Rava stated that after the last Council meeting Councilmember Glickert seemed to indicate that Council should not go forward with this proposed action, and that they had proceeded without giving the issue proper consideration because Mayor Welsch had insisted upon it. It was disappointing to see Councilmember Glickert co-sponsor of this new resolution.

Mr. Rava stated that University City has been justly vilified in the press for its pettiness and dysfunction, rather than taking its proper role as the leading community of inclusion and a progressive government. He urged Council to exercise good common sense, and withdraw this resolution.

Judith Conoyor, 6404 Cates Avenue, University City, MO

Ms. Conoyor stated that the City's Attorney, Katie Forster, said under oath, on May 29, 2014, that the email in question was a public document. This was the same document that the City Clerk released pursuant to a public records request; the City Manager forwarded to Council, and that the Mayor shared with the *Post Dispatch* Journalist, Tony Messenger. Therefore, she would request that the censure of Councilmember Crow cease, and that the City's important business be conducted in these chambers for the sake of this City and its residents.

Dennis Fuller, 7365 Colgate Avenue, University City, MO

Mr. Fuller encouraged Council to remove this resolution. He stated that if Council still feels the need to proceed, then they also have to justify why Councilmember Kraft was not disciplined or censured. Mr. Fuller was concerned about the lack of leadership and stated that he would assist Councilmember Crow in litigating this City into bankruptcy.

Andrew Roberts, 940 Alanson Drive, University City, MO

Mr. Roberts stated that elected representatives usually take one of two approaches to any decision they make. Sometimes they do what their constituents want, even if it is not what you want, and sometimes they do what they believe is right, even if it is not what their constituents want.

Mayor Welsch stated that personal attacks on City Council members, staff and anyone else, would be ruled out of order, and individuals engaging in those attacks will be disallowed from speaking at this or future Council meetings. If he was unable to focus on the issue at-hand; the resolution, she would ask that he please be seated.

Mr. Roberts stated that his belief is that this is a part of the issue and continued speaking. Mayor Welsch called him out of order. He was escorted from the room.

Steve McMahon, 8135 Stanford Avenue, University City, MO

Mr. McMahon stated that every member of the City Council and the City Manager take an oath of office promising to faithfully discharge their duties with impartiality and justice. Mr. McMahon recounted the following events:

- Mr. Walker provides the Mayor with access to special counsel, without the consent of Council
- The Mayor conceals the fact that no vote was taken on December 8, 2015
- Catherine Grantham sends a letter to Mr. Walker, November 13, 2015, confirming her engagement, her review of Councilmember Crow's actions, and preparation of a Quo Warranto Petition. *(Mr. McMahon asked that Ms. Grantham's letter be attached to this record)*
- Mr. Walker signs the agreement, December 2015.

Mr. McMahon stated that Section 115.200 of the Code states that *"Special counsel may be employed by the City Manager with the consent of Council, to perform any necessary legal services for the City, provided however, the City Manager, whenever he or she deems it necessary, or advisable, may employ special counsel to represent the City in matters in the city court or circuit court of the county on appeals from the City Court."* He asked if Ms. Grantham was hired before Council approved it. He asked if Ms. Grantham was hired before it was voted on.

Joan Bray, 7166 Pershing Avenue, University City, MO

Ms. Bray stated that the irony of all of this is that Mayor Welsch and the City Clerk have actually done the things they are accusing Councilmember Crow of, at least four times. However, the distinction the Mayor draws between herself and Terry Crow is that her actions were done unintentionally.

Ms. Bray stated that they have enacted their revenge by downgrading emergency medical services, endangering the vulnerable and the sick. U Citians want rational, diverse and ethical members on their Council.

Patricia McQueen, 1132 George Street, University City, MO

Ms. McQueen expressed concerns about the timing of this action, the personal disruption it caused, the use of disclaimers and the risks associated with emailed communications. She strongly encouraged Council to defeat this resolution and that Council move forward, concentrating their talents and resources on economic development of Olive Street Road, the 3rd Ward and vacant properties.

Linda Locke, 6925 Cornell, University City, MO

Ms. Locke stated that in a democracy the promise is that every citizen will have a voice, and that government listens to those voices. When people feel they are not being heard they become skeptical, then cynical, and ultimately lose faith and trust in their government.

Ms. Locke stated that she saw little transparency, or civility, or even engagement with Councilmember Crow. It appeared elected officials are attempting to silence dissent and deny

due process. If Council wanted to build trust with the community, it would have open dialogue. In a democracy you talk, you debate, you share information, and then you decide openly. Ms. Locke urged Council to vote against censuring Councilmember Crow and begin as a group considering how to rebuild trust and confidence that democracy is alive and well.

Bart Stewart, 714 Harvard Avenue, University City, MO

Mr. Stewart addressed the audience rather than the Council. He gave an update on his petition drives and warned other members of Council the same petitions to remove them could also take place.

Felix Simmons, 752 Radcliffe, University City, MO

Mr. Simmons stated that even though he understands that there are two sides to every story and that you cannot please everyone, residents should be able to understand what is going on in their city. He asked the people in the audience to get fired up about their rights as citizens, which the majority of this Council is trying to take away.

Mayor Welsch asked Mr. Simmons to confine his comments to the issue at hand.

Mr. Simmons stated that this was all related to the issue because Councilmember Crow is being unjustly railroaded by the people. He continued his attack on several on the dais and Mayor Welsch called him out of order.

Nancy Georgen, 7298 Greenway, University City, MO

Ms. Georgen thanked each member of Council, as well as the City Manager, for their efforts to continually approve solid and realistic budgets. She stated that while it is a matter of opinion as to whether Councilmember Crow is in violation, his email statement, "*Does this help,*" is a real concern. She thanked Councilmembers Glickert and Jennings for bringing this resolution, because she believed it was the right thing to do. Ms. Georgen stated she hoped that regardless of how this issue is resolved, Council will put this behind them and move forward, continuing to make this a diverse, dynamic and progressive community.

Council Comments

Councilmember Carr questioned why Mr. Roberts was escorted out of chambers. She stated it was only words and if Council's skin is not thick enough to handle that, they should not be up on this dais.

Councilmember Carr stated that the situation involving Councilmember Crow is a repeat of another incident that ripped the City apart, involving former Councilmember Byron Price. She stated that when Ellisville was in the newspaper, she received a phone call from Mayor Adam Paul referencing Mayor Welch's release of two confidential documents. He noted that both cities shared the same attorney and wondered why we were not impeaching our Mayor. She said that is not done in U City.

Councilmember Carr stated that this email was not confidential. With respect to his comment, "*Does this help,*" her belief is that this situation is similar to someone calling to ask her when their trash was going to be picked up and after providing the information she would ask if this helps. So these words, just like the Mayor's comment, "*The deed is done,*" when she hired the City Manager, are being taken out of context.

Councilmember Carr stated that she is also being sued in her capacity, along with the City, so she needs to be careful, when explaining this situation, not to make any statements that would put her or the City at risk. At the time, this litigation was two-fold; a sexual discrimination suit filed by an employee who was also a member of the Firemen Union and an alleged failure to negotiate in good faith. Based on her understanding, the City had prevailed. Twenty days later, the firefighters took their campaign pictures, but they were not released until the end of March. On the day of the election in April, the Mayor was passing out flyers which said that Mr. Walker was not going to fire the firefighters. The firemen were not fired but

rather suspended for 30 days. This is the issue that came before the Civil Service Board, in which they ruled that the firefighters should be taken off of suspension and given back wages. It is this issue that has been brought forward by one current employee and five former employees that is in federal court today. So she really does not know how anyone could have the crystal ball to know that answering the question about the City's compliance with the state law, could have been known in February, when the actions did not take place until the end of March, and the firefighters were not suspended until the end of April. Councilmember Carr noted her experience was that she knew nothing about the Quo Warranto until the tenth, which included her name. This was done just like the bond issue, EMS, the logo, and almost everything else, it was a midnight surprise.

Councilmember Carr stated that she asked this Council not to go down the path they went down with Mr. Price, because as it turns out, a few years later Council wanted to undo what they had done. So while Council may think that they are going to put a black mark on Councilmember Crow, she thinks they are going to make a martyr out of him.

Councilmember Jennings asked if he could call for the question.

Councilmember Crow noted that the Mayor indicated that this audience was not representative of the community. He stated that last month the Mayor distributed a Petition Quo Warranto to have him removed from office; one of the shoddiest documents he has ever seen. Councilmember Crow stated that while he could blame the attorney but she has clearly stated that she no longer represents anyone in this matter. He stated the Mayor has been the driver of this process and can only conclude that she provided the information. Councilmember Crow then asked Mayor Welsch if she and Mr. Walker had provided the factual basis for the petition. Mayor Welsch stated that although she would not be interrogated while sitting on the dais, she would say that she did provide the attorney with a document that was provided to her in a deposition by the firefighter's attorney. In response, Councilmember Crow stated that it was nice of the Mayor, after wanting to censure him and remove him from office, to not feel the need to stand up and answer any questions.

Councilmember Crow stated that the Mayor has gone out of her way, both in her newsletter and comments at the last Council meeting, to assure the public that, quote, "*My first job is to do proper research into something I see as criminal*". He then asked the Mayor what steps she had taken to research and verify the information included in the petition to remove him from office? He stated that the statement in the petition, and the Mayor's comments made at the last meeting, are that "*Councilmember Crow requested a legal opinion, and that the legal opinion was received by the City Manager*". However, he has never requested a legal opinion, nor did he ever receive a legal opinion. Tonight's resolution only references a confidential memo, clearly, his attorney and members of the public have done a far better job of researching the facts than the Mayor has.

Councilmember Crow stated that the original petition also falsely alleged that he may have received monetary contributions from the Union. He then asked the Mayor what basis she had for making that charge, and what research she had undertaken to determine any element of truth for the charge. The most basic research would show that he never received any support from the firefighters, and that the Mayor is the only person who has.

Councilmember Crow stated that the Mayor has made much to do about the fact that there is ongoing litigation between the firefighters and the City. Can anyone tell him what litigation was ongoing when he allegedly committed this violation of his oath of office? The only litigation he is aware of is what was mentioned by Councilmember Carr, a sexual discrimination case and a failure to negotiate in good faith. This resolution also states that he has harmed the interest of the City of U City. He said this is a very serious and ethical charge. One member of this Council needs to explain to him what harm he caused during the two month period between him sharing a memo and the City sharing the exact same memo. Since Ms. Forster and Ms. Ormsby have clearly indicated to Mr. Greiman that they are not involved, he would also like to ask who wrote the resolution.

Councilmember Crow stated that it also seems as though whoever wrote this resolution believed that they acted with impartiality. He said to a degree, impartiality implies to every member of this Council. One member of this body stated, *"We need to teach the Firefighters Union who runs this City,"* another member uses social media to discuss how the firefighters need to be cleaned up, investigated and taken to task. Since almost all of the firefighters that were in the photo are gone, EMS has been outsourced EMS, and Council has managed to bring the Union and its employees to their knees, is tonight's resolution the last nail in the coffin?

Councilmember Crow stated that Council conducted their last meeting on December the 14th, and within four days of that meeting the Mayor and Councilmember Jennings sent out a notice for a called special meeting of the Council, on December 21st, to discuss disciplinary action against him for sharing the legal opinion of City Attorney Forster, with a representative of the Firefighters Union 2665, thereby harming the interest of the City of U City. When she was confronted with the fact that he was out of town, instead of letting it drop, she blamed him for not providing her with his personal travel schedule during the Christmas holiday.

Councilmember Crow stated that the Mayor has sold this Council a bill of goods that has forced them to back pedal. So to Councilmembers Glickert and Sharpe, who he has sat next to for eight years, watching with humor, and sometimes with shock, how their colleagues sitting across the room have treated each other and shared meals together on multiple occasions, not one harsh word has ever been uttered amongst the three of us. He believed that they know that he would never do anything to harm the interest of U City.

Councilmember Crow stated that he is pleased to be joined tonight by his law partner and her son. He stated that they operate a two-person law firm, and that when you have a small firm the only thing you have to attract clients is your reputation. He stated that Mayor Welsch has gone above and beyond to defame and libel his reputation as an attorney and public official, by disseminating false and malicious claims to every media outlet in the St. Louis area, with no regard for the consequences.

In conclusion, Councilmember Crow stated that he would like to reference the resolution that will be voted on in just a few minutes, and that he is sure will be used against him in his reelection campaign. He stated that as pointed out by Mr. Greiman, *"There has to be something more than the boilerplate disclaimer automatically added by Counsel's computer system to virtually every email Counsel sends, to make it confidential"*. Based on that explanation, he would ask once again, what harm has he caused the City? Councilmember Crow advised Council that he intends to retain all of his rights and options to determine the appropriate response to this petty, vindictive action against him.

On a personal note, he stated that last Saturday, his daughter asked him why Council wanted to remove him from office. Councilmember Crow stated that he told her his side of the story, the facts as he knew them, and concluded by saying, that all she needed to keep in mind was that her father would never do anything to harm the City. He has not violated his oath of office; has not acted in violation of the Municipal Code, has not harmed the interest of this City, and no member of this Council has provided any evidence to the contrary.

Mayor Welsch urged members of the audience to be respectful and refrain from making verbal responses during Councilmember Kraft's comments.

Councilmember Kraft stated that the members on this Council are not professional politicians, they are a group of seven volunteers that should be able to come together and work for the good of their City. The City has some severely pressing issues, but instead Council has elected to continue a back and forth retaliation that has been a part of this body, and this City, for far too long. He stated that although it is his opinion that Councilmember Crow committed an act that he, himself, would not do, which is based on his view of how he believes an elected official should deal with an organization with which they are negotiating a contract. That does not mean however, that his actions should result in a censure, because a censure accomplishes absolutely nothing. Councilmember Kraft stated that his view is that this body

has to trust their fellow Councilmembers to safeguard confidential documents, and a censure does not restore that trust. Although he can certainly understand Council's inclination to retaliate in an ongoing atmosphere of nastiness and name calling, it's time to move on. Councilmember Kraft stated that the division in U City is not new, and every member of this Council has been the target of nasty and unfair accusations. So everyone can keep telling their favorite story, or they can move on. It was time to break the cycle and start working on finding real solutions, to real problems. He stated that even though his motion to remove this resolution failed, his hope is that the Mayor and Council will show real leadership and withdraw the resolution.

Mayor Welsch noted that aye meant support of the resolution and nay meant that you do not.

Roll Call Vote:

Ayes: Councilmembers Glickert, Sharpe, Jennings and Mayor Welsch.

Nays: Councilmembers Crow, Carr and Kraft.

BILLS

Introduced by Councilmember Sharpe

3. **BILL 9282** – An ordinance approving a final plat for a minor subdivision of a tract of land to be known as 6709-6711 Plymouth Avenue Condominium, a survey and condominium plat of Lots B, C and east five feet of Lot D in Block 9 of Bellemoor Park amended subdivision. Bill 9282 was read for the first time.

N. CITIZEN PARTICIPATION (continued if needed)

Gloria Nickerson, 7576 Blackberry, University City, MO

Ms. Nickerson invited staff and residents of this City to the School District's 30th Anniversary Celebration of Dr. Martin Luther King.

Ms. Nickerson said she is a business owner in U City but noted that Council's actions has discouraged other businesses from locating to U City. Ms. Nickerson stated that this is 2016, and no matter what the indifferences are, this City has got to start working together. So as Council continues to talk about businesses in the Loop that are hurting, please remember that there are other small businesses in this City that are hurting too.

O. COUNCIL REPORTS/BUSINESS

1. Boards and Commission appointments needed
Mayor Welsch read the appointments that were needed.
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions and Task Force minutes
4. Other Discussions/Business

P. COUNCIL COMMENTS

Councilmember Carr stated that once again, Council's actions, are typical, however, she would like to talk about the upcoming election, because in the last four years she has experienced a limiting of her role as Council liaison. She stated that initially she was appointed to three commissions, but friends of the Mayor who were on those commissions made sure to let her know that she would not be able to participate in any meaningful way.

Councilmember Carr stated in 2010, she made a request to speak at the Traffic Commission. First, she was not granted permission because members of that Commission did not understand that as their liaison she was a non-voting member. So she submitted a request to speak as a private citizen, wherein Ms. Wofsey recommended that she not be allowed to do so, based on the fact that she was a member of Council, the Council liaison, and should not be allowed to interfere in the work of the Commission. (Councilmember Carr played a portion of the audio tape depicting Ms. Wofsey's comments into the record.) Councilmember Carr stated that since no ruling was ever made on Ms. Wofsey's

recommendation, she was only granted permission to speak as the Council liaison. But somehow after that meeting a decision was made that she had overstepped the bounds of her responsibilities, and received a call from Ms. Pumm, requesting that she turnover her personal audio tape. Consultation with the City Attorney determined that the audio was akin to someone taking notes on a yellow pad; that it was not the City's business record, and therefore, she would not be required to turn it over.

Councilmember Carr stated that it has now come to her attention that Ms. Wofsey has accused her of screaming at her during the meeting. Councilmember Carr stated that she has decided to release the audio tape, and would provide a link for downloading it, upon request. She stated that her motivation is to make sure that anyone who hears this story has the ability to listen to the audio and know for a fact, that the manner in which she is being portrayed is absolutely false.

Mayor Welsch stated that she would like to recognize and give her condolence, to the family of Brian Fletcher, the former Mayor, and current member of City Council for Ferguson, Missouri. Mr. Fletcher was very active in the "*I Love Ferguson*" movement and did much to rebuild the City's pride.

- The Martin Luther King Celebration sponsored by the School District will be a three day event, beginning on January 15th. Details can be found on the District's website.

Q. ADJOURNMENT

Mayor Shelley Welsch adjourned the meeting at 9:36 p.m.

Respectfully submitted,

Joyce Pumm
City Clerk, MRCC/CMC

ROCKET FIZZ

6303 Delmar Blvd, University City MO 63130

Honorable Mayor Shelley Welsch and City Council Members:

7141 Delmar Blvd, University City Mo 63130

HONORABLE MAYOR AND COUNCIL OF UNIVERSITY CITY;

This evening you will be voting on a 50 thousand dollar addition to the budget for the small business retention loan program. I fully support this program as one of the many businesses in University City that have been impacted by the Loop Trolley construction. Twelve thousand dollars per business loan may not seem like much in comparison to losses in income of \$119,856.10 between May and November of this year, but it is enough with careful budgeting to carry the business thru until it picks up again in April and thru the summer and the opening of the new Trolley.

Our business opened in May of 2014 with an extremely successful first year and we were told at the time that in 3 to 5 years they would start building the Loop Trolley and as such it did not concern us as we felt we would have time to get fully established before this would impact our business. If we had known it would be so soon we would of reconsidered this placement.

However we are here and love the loop and its eclectic variety of shops and customers. We would prefer not to be anywhere else and therefore have applied for the Loop Small Business Loan. To date we have only received \$4000.00 because of the condition placed on the loan program that you must be a 3 year resident of the Loop. I urge you to remove this requirement so that even newer businesses such as Rocket Fizz can take full advantage of this program and remain vibrant members of the Loop Business Community for years to come.

SINCERELY

MARK D STRAHM

mdstrahm66@gmail.com

6303 Delmar Blvd, University City MO 63130

1/11/2016

Testimony of Leif Johnson, 836 Barkley Square, January 11, 2016

Mr. Gerald Greiman, attorney for Councilman Terry Crow, in a letter dated today, January 11, 2016, has demanded that Terry Crow be “afforded the full measure of procedural due process to which he is entitled under the United States and Missouri Constitutions.”

Mr. Greiman continues, “due process requires, in advance of any disciplinary action being imposed: written notice of the charges, provided reasonably in advance of the hearing; an explanation of the evidence supposedly supporting the charges, again, provided a reasonable time in advance of the hearing; and a hearing at which Mr. Crow is afforded the opportunity to be represented by counsel, confront the witnesses against him through cross-examination, testify on his own behalf, and call other witnesses to testify.”

It is proper to recall that tens of thousands of our citizens gave their lives to fight and win the American Revolution. That Revolution was fought against the King, Parliament and Edmund Burke, the British autocrat whom Shelley Welsch favorably quotes. That Revolution gave us those inalienable rights that we demand tonight for Terry Crow.

We come here tonight not merely to protest. We come here tonight to begin the process of taking this government back from the followers of Edmund Burke. We come here tonight not merely to show support for Terry Crow. We come here tonight to guarantee that Terry Crow remains in office.

We come here tonight to restore to University City, a government, “of the people, by the people and for the people.”

That is a large responsibility. The citizens must be educated and informed. Crucially, they must be willing to participate in the workings of government, whether it be determining a budget, parks and recreation policies, historic preservation, dealing with Washington University, keeping watch over expenditures, operations of the EMS, or other municipal services. We need now our Minutemen, our Wide Awakes, our citizen soldiers.

Can't work on the budget because you are not an accountant? Neither is the Mayor or the City Manager. The next budget meeting is at 6 p.m. this Wednesday, at the McNair Administration Building, 8136 Groby Road. (Ruth Park)

Haven't the time? Did our Minutemen have the time?

(I request that the City Clerk reproduce this statement as it is submitted in this written copy.)

Suzanne Greenwald,
836 Barkley Square, U City, MO 63130

Appeal to the City Council of University City, January 11, 2016

The esteemed Dr. Walter Erlich, my history teacher at U. City High School, taught me that brave men fought and died so that we the people could elect officials who would be duty bound to carry out our will, duty bound to represent our interests.

Apparently, Mr. Jennings and Mr. Glickert, you were absent the day that lesson was taught in your history class.

We in this room know without a doubt that Terry Crow is an honorable man and that you or someone else on this governing body had to dig long and hard, go back almost two years, to find this frivolous, trivial excuse for denouncing Terry Crow. You know, of course, that this charge would be ridiculed in a court of law. Yet, you expect us to believe that your purpose in submitting this resolution is to serve justice, to which I can only reply, "How dumb do you think we are?"

Mr. Jennings and Mr. Glickert, I am the people, and I accuse you of being derelict in your duty to me, your duty to carry out my will, your duty to represent my interests.

Mr. Jennings and Mr. Glickert, I am the people and we the people demand that you strike this disgraceful resolution from the agenda.

[Clerk: please include the entire text of this speech in the minutes. Thank you]

Statement of John A. Rava

7129 Washington Avenue,
University City, MO 63130
(a 70-year resident of University City)

This Statement is excerpted from an email I sent earlier today to Councilman Glickert:

January 11, 2016

Dear Mr. Glickert:

I was startled, surprised, and disappointed to see that the Council Agenda for tonight still contained a form of proposed action against Terry Crow.

Terry's counsel, Gerry Greiman, has forcefully detailed the legal objections to the proposed action.

I want to address the personal and community aspects of this ongoing vindictive action on the part of the Council majority.

On a personal level, after the Council meeting dealing with the absurd "Quo Warranto" charge, you and I chatted, and you seemed to indicate that the Council should not go forward on its proposed action. You also mentioned that the Council had just gone along with this matter that Mayor Welsch had insisted upon, without giving it proper consideration.

I was therefore very disappointed to see that you were a co-sponsor of the new Censure resolution. It is equally meritless as the Quo Warranto fiasco, even if cleansed of the bribery charges contained in the prior proposed action.

I urge you to exercise the good common sense reaction that you exhibited earlier, and to withdraw this Censure measure from tonight's agenda.

The Council, the City, and the Mayor need to move forward and not continue this vindictive action against a dissenting voice on the Council.

This continues to have Mayor Welsch's fingerprints all over it, even if it has been introduced in the names of two other members of her clique of 5. At the Council meeting which considered the Quo Warranto resolution, Mayor Welsch pronounced that she could not let stand an action which she deemed contrary to U. City law and regulations. Her continued determination to act without legal basis should be stopped by the Council.

University City has been justly vilified in the press and in the greater St. Louis community for its squabbles, pettiness, and dysfunction. Instead of taking our proper role as a leading community of inclusion, progressive good government, and reason, we have instead deteriorated into an unfortunate example of the failings of so many of the municipalities in St. Louis County.

I regret that the circumstances have required me to once again address this issue.

John Rava

johnrava@charter.net
tel: 314-863-1927
cell: 314-853-4817

As a Ward 2 constituent, I strongly urge the Mayor and both Mr. Jennings & Mr. Glickert, to remove the resolution to censor Mr. Crow from the City Council agenda for this evening.....The list of reasons could go on and on, but frankly there is no basis for this foolishness, as has been pointed out by a number of legal opinions. If you continue to believe that he still violated the city charter in light of these opinions.....then justify why you the Mayor and city council refused to discipline or at the least censor Mr. Kraft after his outrageous behavior and treatment of both councilpersons and citizens this past year. WHAT IS THE REAL ISSUE HERE????? This behavior is providing NO LEADERSHIP to the community and as we watch an obvious vendetta by either the Mayor or the City Manager get played out at the expense of the remainder of the council, the business of the community is not being addressed. Please listen to your constituents, we are tired of this.....and you have reduced the quality of life and safety of your citizens by not paying attention to our needs while you play these silly games..

Dennis Fuller
7365 Colgate

Transcript: from audio recording of Traffic Commission Meeting Oct. 10, 2012

Melcine Henderson: Does anyone else have a comment? I will be taking – Mrs. Carr has a comment on this presentation as well...

Carol Wofsey: Point of order, Madam Chairman: Ms. Carr acts as a liaison and as such she's not allowed to participate in our deliberations. Council Rules state that the liaison serves as a communicator between the council and the Board & Commission and cannot vote or participate in the work of the Board or Commission.

Paulette Carr: I'm... I'm standing as a pri – I'm standing as a private citizen and you probably received the email where I said I would step down as liaison for the period of speaking.


Carol Wofsey: um... this thing..

Melcine Henderson: I will turn mine off.

Carol Wofsey: OK... um – Madam Chairman, Ms. Carr is a Council member, she's a liaison – she's not a private citizen and she should not be interfering in the work of the commission.

Melcine Henderson: I will have to make a decision on this – so – um – Stephany...

(Note: Ms. Henderson never ruled on the point of order, nor did she call Ms. Carr to speak under that agenda item.)

From: Paulette Carr paulette_carr@sbcglobal.net 
Subject: Traffic Commission meeting and Complete/Livable Streets Draft Ordinance Presentation
Date: October 11, 2012 at 7:56 AM
To: Melcine Henderson mhender304@aol.com, Carol Wofsey wofseystl@gmail.com, Stefany Brot sbrotward1@gmail.com, Jackie Womack jackiewomack@sbcglobal.net, scienceisatrip@yahoo.com, mikegingrich@yahoo.com
Cc: Terry Crow terry@ctlaw.net, Stephen Kraft kraftstephene@gmail.com, Steve Glickert scglickert@sbcglobal.net, Byron Price creator.price@gmail.com, Arthur Sharpe qforlifeasj@att.net, Shelley Welsch shelleywelsch@ucitymo.com, Lehman Walker lwalker@ucitymo.org, Joyce Pumm jpumm@ucitymo.org, Caryn St. Clair stclairck@yahoo.com, Karen Dille ddille@yahoo.com, albertagarth@yahoo.com, Linda Peoples lpeoples@yahoo.com, Karen Palmer karen.a.palmer@sbcglobal.net, Ed Mass emass@masscom.com, William Field field832@hotmail.com, Benjamin Halpert bahalpert@yahoo.com, Ben Senturia bsenturia@gmail.com, Novaf314@aol.com Felton novaf314@aol.com, Deidre Lewis deidrelewis@att.net, Lisa Greening lisagreeing@yahoo.com, Cirri Moran cirri@swbell.net, Linda Locke llocke7550@gmail.com, Lois Sechrist lsechrist1@gmail.com, Jerry Breakstone jerrybreakstone@gmail.com, Neville rapp nsrapp@aol.com, Helen Fuller helen.fuller@hotmail.com, dianebenjamin@webtv.net, timm@energysolution_stl.com, jeffreymishkin@gmail.com, Nancy Solodar nancysolodar@yahoo.com, Jack Breier midvalegardener@aol.com, BAGLRJ@sbcglobal.net, linda fried linafriedster@gmail.com, artanu@sbcglobal.net, tslegesky@hotmail.com, eedean0003@sbcglobal.net
Bcc: paulettexcarr@gmail.com

Dear Traffic Commissioners:

Last evening I witnessed the most blatant attempt to limit the rights of a citizen I have ever seen, and it happened during your meeting. What Ms. Wofsey quoted from the Council Rules to justify her attempt to prevent me from addressing your Commission as a citizen was:
Rule 40. ...The liaison serves as a communicator between the Council and the Board/Commission, and does not vote or participate in the work on the Board or Commission as a deliberator."

I asked to speak as a citizen and you denied me the opportunity. I wrote you days ago expressing my intention and no one commented or objected. YOU cannot define the role I play as your liaison; only I define that role, so long as I am within the parameters described above: "does not vote or participate in the work... as a deliberator." I was neither seeking to participate in your work as a Commission nor make any deliberations. I was seeking to add information about what an ordinance is and what a resolution is. You could have still voted to endorse the draft ordinance after you heard me. I hope that you will never again refuse to hear the voice of a citizen, whether or not they are elected, in support of your ideas or opposed to them. You have done your Commission a very great disservice and your vote is tainted because you refused to acknowledge a request to speak. Your behavior has no place on any Commission. By refusing to allow any citizen – regardless of who that is - to address the Commission, you have seriously compromised your credibility.

Ask yourselves if you would have refused to hear Mayor Welsch, had she requested to speak. I sincerely believe that you would have extended her the courtesy to listen even if you were to discount what she had to say. Would you have refused to hear anyone who requested to address you? What would it have cost you to listen before you voted? What you did last night was not good governance.

It is most distressing that this would take place in a Commission meeting – especially since this commission is one that regularly holds public hearings to advise the Council on adopting code. If the presentation to the public and the Commissions by the Bike and Walkability Task Force will not allow for discussion, questions and rigorous debate, and the content presented to the public and Commissions must be controlled by bullying to suppress discussion, then these ideas are not worthy of adoption. It is most disappointing that Commissioner Wofsey, who successfully prevented this citizen (who also happens to be an elected Council member) from speaking, is a member of the Bike and Walkability Task Force and has a vested interest in seeing that the Draft Ordinance receive the approval of your commission. This could be a conflict of interest.

Because of your behavior to suppress the voice of a citizen, and because of your unprecedented rudeness to a Council member, I have little interest in continuing as your liaison. I have much other important work to do, so unless you decide you want me to continue - and that is expressed by a vote - I will not be returning. I will however, be bringing what happened last evening to the Council. This is not about "hurt feelings," but rather about making sure that you are doing what you should (including listening to all who request to speak to you for a set period of time, i.e. 5 min.) and getting the guidance and support you need to do so. Perhaps there is some other Council member with whom you can work and who is willing to work with you. If I stay, however, the relationship between us will be one of respect for each other, and toward the practice of open government. Regardless, it is my sincere hope that you will get the training in Robert's Rules, the Traffic Code and open government you need, so that you can be effective in advising the Council in the future.

Sincerely,
Paulette Carr

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

cc: Council, City Manager, City Clerk, Park Commissioners, Plan Commissioners, Green Practices Commissioners, Urban Forestry Commissioners

CATHERINE R. GRANTHAM

ATTORNEY AT LAW
225 SOUTH MERAMEC AVENUE
SUITE 512
ST. LOUIS, MO 63105

314-596-8371 (TELEPHONE)
314-725-1882 (FACSIMILE)

November 13, 2015

Lehman Walker
VIA EMAIL
lwalker@ucitymo.org

RE: Legal Representation

Dear Mr. Walker:

This letter will confirm the engagement of this firm to review the actions of University City councilmember Terry Crow and prepare an action in Quo Warranto to be submitted to the council to be voted on. I thank you for entrusting this representation to me, and I look forward to being of assistance to you. In accordance with Rule 1.5(d) of the Rules of Professional Responsibility, set forth below are the terms of our engagement.

I will bill for our services as follows:

1. I will bill you at the rate of \$200.00 per hour.
2. There may be charges billed to you for expenses and disbursements incurred on your behalf. These expenses and disbursements may include, but are not limited to, travel expenses, courier and delivery fees and any other expenses which I consider necessary for the proper handling of your matter. Before incurring significant expenses, I will consult with you. Additionally, I include in our monthly bill incidental charges incurred in connection with telephone, telecopy and photocopying expenses.
3. I will submit statements reflecting our services, expenses and disbursements on a monthly basis.
4. It is our policy to discuss and to attempt to resolve fairly any concerns its clients may have concerning the billing statements provided to them, or regarding any other aspect of the attorney-client relationship. However, if a dispute should develop which is not promptly resolved in a mutually satisfactory manner, any such dispute will be subject to arbitration in St. Louis, Missouri.

I appreciate the confidence you have shown me by asking me to represent you. I shall do our best to provide you with quality legal services. As you are aware, any communications between me and materials provided to this firm are protected by

Catherine R. Grantham
Attorney at Law
November 13, 2015

Page 2

attorney-client privilege and may not be revealed to any third party without your express written approval.

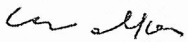
After you have reviewed the terms of this letter carefully, and if you agree with them, please execute a copy and return it to me.

If you have any questions, please feel free to contact me.

Respectfully Submitted,

Catherine R. Grantham, #57113
225 S. Meramec Avenue STE 512
St. Louis MO 63105
(314) 596-8371 - Cell
(314) 725-1882 - Fax
cgrantham84@hotmail.com

I acknowledge receipt of an original of the foregoing letter agreement dated November 13, 2015. I hereby retain Catherine Grantham as our attorney and agree to the terms and conditions of the foregoing letter.



Leham Walker

12/2/15
Date



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

SL 1741920.3



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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:



Ms. Catherine R. Grantham
December 14, 2015
Page 3

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.

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

Ms. Catherine R. Grantham
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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,

A handwritten signature in cursive script, appearing to read "Gerald P. Greiman".

Gerald P. Greiman

GPG:kmm



SpencerFane

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

December 21, 2015

VIA E-MAIL & HAND-DELIVERY

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

Re: Proposed Censure of Terry Crow

Dear Ms. Grantham:

I write on behalf of my client, University City Councilman Terry Crow, to address the latest unfortunate saga in Mayor Shelley Welsch's ongoing malicious campaign to defame Mr. Crow and harm his re-election campaign. This letter supplements my letter to you dated December 14, 2015.

Last Monday night, at the conclusion of two hours of Council discussion and public comment concerning Mayor Welsch's earlier efforts to sanction Mr. Crow, Councilman Stephen Kraft stated, the Council already has spent too much time on the matter and it is time to move on, the Council has other things to do. Councilman Kraft's statement seemed to reflect the sentiments of most of the Council and the hundreds of citizens who attended last week's meeting.

We therefore were surprised to receive a notice, issued Friday afternoon, December 18, 2015, scheduling a special meeting of the University City City Council for Monday evening, December 21, 2015, to continue the discussion about sanctioning Mr. Crow and vote on a new proposed resolution censuring him. Tellingly, the notice was issued while Mr. Crow was on a plane to Florida with his children for a five-day family trip; provided only one business day's notice of the special meeting and proposed censure resolution; and set the meeting for Christmas week, when many people have plans to be out of town.

Mr. Crow will not be returning from Florida until after December 21 and therefore cannot attend the meeting. If Mayor Welsch is intent on continuing her ill-advised campaign against Mr. Crow, we ask that the meeting set for December 21 be postponed to another date when Mr. Crow can be present to defend himself against the wholly unfounded allegations.

As addressed below, considerations of due process, as well as common decency, mandate a postponement. Further, Mayor Welsch and her allies would be best served by withdrawing the proposed censure resolution and dropping the entire matter, as the resolution is completely unfounded, filled with false and defamatory allegations, and will only serve to expose its proponents, and perhaps the City as well, to potential liability.

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DUE PROCESS CONSIDERATIONS

One of our most cherished constitutional rights under the United States and Missouri Constitutions is the right to due process. It is well settled that due process means a person may not be punished without being afforded reasonable advance notice of the charges against him, and a fair opportunity to appear, be heard and present a defense against the charges. Certainly, publishing a proposed censure resolution the Friday afternoon before Christmas week, and holding a special Council meeting one business day later – at a time when the target of the censure resolution is traveling and cannot attend the hastily called meeting – cannot be deemed to comport with due process.

I note that when public officials try to punish someone without affording him due process, not only does it invalidate the punishment efforts and call into question the motives of the proponents, it also serves to expose the proponents to liability for damages. A federal civil rights statute, 42 U.S.C. § 1983, creates a cause of action and remedies in favor of a person who is denied due process or other constitutional rights by persons acting under the color of official authority.

I note further that Mr. Crow's constitutional rights to reasonable advance notice of the charges, and a fair opportunity to appear and be heard in his defense, are clearly established as a matter of law. Accordingly, principles of official immunity will not serve to shield Mayor Welsch and her allies from being held personally liable for damages for depriving Mr. Crow of his rights to due process.

FALSE PREMISES OF PROPOSED CENSURE RESOLUTION

While, at a minimum, due process and common courtesy require that the meeting noticed for December 21 be postponed to another date, Mayor Welsch and her allies would be even better advised to withdraw the proposed censure resolution and cease their dogged efforts to malign Mr. Crow. Like the tactic that preceded the proposed censure resolution – the purported petition in quo warranto to remove Mr. Crow from office, which now apparently has been relegated to the trash can, where it belongs – the censure resolution rests entirely on false premises, is libelous, and represents nothing other than a thinly veiled effort to undermine Mr. Crow's re-election campaign.

There are three essential premises of the proposed censure resolution: (1) Katie Forster's February 20, 2014 e-mail purportedly was a confidential document that could not properly be publicly disclosed; (2) Mr. Crow purportedly knew that the e-mail was a confidential document that should not be disclosed; and (3) by disclosing the e-mail to a representative of Firefighters' Union Local 2665 (the "Firefighters"), Mr. Crow purportedly harmed the interests of University City in litigation between the City and the Firefighters. The indisputable facts and documents discussed below irrefutably demonstrate that every one of those premises underlying the censure resolution is an utter lie.

1. Background

Prior to 2013, many Missouri cities, including University City, prohibited first responders from engaging in political activity. However, in 2013, a Missouri statute was enacted providing that cities may not prohibit first responders from engaging in political activity, so long as they are off duty and not in uniform. Mo. Rev. Stat. § 67.145.

As of early 2014, with the April, 2014 municipal elections approaching, University City had not changed its regulations to bring them into compliance with § 67.145. Still part of the regulations were Items #6



and #7 of the Group IV Offenses of Administrative Regulation #4 ("AR-4"), pertaining to employee discipline, which prohibited City employees (including first responders) from engaging in political activity, even when off duty and not in uniform. This created uncertainty among first responders as to what they properly could do. City regulations, still on the books, said they could be disciplined for engaging in political activity, but state law – which trumps municipal regulations – entitled them to engage in political activity.

In order to eliminate this uncertainty and clarify the rights of first responders to engage in political activity, Kurt Becker, on behalf of the Firefighters, sent an e-mail and memorandum to Katie Forster, as City attorney, on February 10, 2014, pointing out the inconsistency between AR-4 and § 67.145, asserting that Items #6 and #7 of AR-4 no longer can be deemed operative, and requesting the City's position. (See e-mail and memorandum dated February 10, 2014, appended as Exhibit 1.)

On February 19, 2014, having received no response to his February 10 inquiry, Mr. Becker sent a further e-mail to Ms. Forster, copied to Mayor Welsch and all members of the City Council, again noting that the City's Administrative Regulations conflict with Mo. Rev. Stat. § 67.145, and asking about the City's intent to comply with the state statute. (See e-mail dated February 19, 2014, appended as Exhibit 2.) Again, no response was forthcoming.

On February 20, 2014, Mr. Crow sent an e-mail to City Manager Lehman Walker, stating:

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.

The same date, Mr. Walker forwarded Mr. Crow's e-mail to Ms. Forster, stating: "Please provide me with a brief response to this that I can forward to City Council." (See e-mails dated February 20, 2014, appended as Exhibit 3.)

On February 20, 2014, Ms. Forster sent an e-mail to Mr. Walker responding to his inquiry. The e-mail noted the enactment of § 67.145, quoted the statute, observed that it "permits first responders to engage in political activity while off duty and not in uniform," and stated:

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.

Mr. Walker forwarded Ms. Forster's e-mail to Mayor Welsch, all members of the Council, and the City Clerk. There was no heading on the e-mail, or notation in the subject line, designating it as confidential. A day later, Mr. Crow forwarded Mr. Walker's e-mail, containing Ms. Forster's response, to Kurt Becker. In his forwarding e-mail, Mr. Crow stated: "Does this help? This was not marked confidential." (See e-mails dated February 20-21, 2014, appended as Exhibit 4.)



2. The E-mail was not confidential.

Against this backdrop, it is clear, as a starting point, that there was nothing confidential about Ms. Forster's February 20 e-mail. It was a straightforward factual response to a factual inquiry concerning the status of the City's efforts to comply with the 2013 change in Missouri state law. It contains no sensitive attorney-client communications that might qualify for the attorney-client privilege. To the contrary, the City had a direct interest in *disclosing* the type of information contained in the e-mail. Before the City properly may enforce compliance with its work rules, due process requires that the City provide fair notice to its employees of what the rules are, so employees can understand what conduct is allowed and prohibited.

In the same vein, the e-mail does not reflect the kind of sensitive communication that might be exempt from disclosure under the Sunshine Law. Indeed, when the City received a Sunshine Law request encompassing Ms. Forster's e-mail a few months later, in May, 2014, the City – following consultations among the City Clerk, Mr. Walker, and perhaps Ms. Forster as well – knowingly and intentionally decided it was not exempt from disclosure, and released the e-mail.

As noted above, neither Mr. Walker's nor Ms. Forster's e-mail dated February 20, 2014 bore any heading, or designation in the subject line, that it was confidential – which, under the longstanding policies and practices of the University City City Council, is an essential prerequisite to an e-mail or document being treated as confidential. The sole basis for Mayor Welsch's contention that Ms. Forster's e-mail was designated confidential is that, at the end of the e-mail, below the signature block, there was a boilerplate confidentiality statement that Ms. Forster and many lawyers automatically append to every e-mail they send.

I have had occasion to communicate with Ms. Forster by e-mail in the past. I never have had an attorney-client or other confidential relationship with Ms. Forster, and many of her e-mails concerned routine administrative matters. Accordingly, her e-mails to me cannot be deemed confidential. *Yet, every single e-mail Ms. Forster ever has sent to me bears the same boilerplate confidentiality statement that was included in her February 20, 2014 e-mail.* (Examples of e-mails from Ms. Forster to me bearing the boilerplate confidentiality statement are appended as Exhibit 5.). It is ludicrous to contend that the kind of boilerplate statement Ms. Forster's computer system automatically appends to every e-mail she sends suffices to make her February 20, 2014 e-mail a confidential document and establish a proper foundation for censuring Mr. Crow or removing him from office.

3. Mr. Crow had no knowledge anyone considered the e-mail confidential.

The second false premise of the censure resolution is that Mr. Crow knew Ms. Forster's e-mail was a confidential document that should not be disclosed. The falsity of that premise is established by the matters discussed above. The e-mail was *not* confidential, or designated as such, so Mr. Crow hardly can be deemed to have known otherwise.

I note, again, Mr. Crow's e-mail to Mr. Becker expressly noted that the information being forwarded was not marked confidential. And, a few months later, when a Sunshine Law request encompassing Ms. Forster's e-mail was received, the City administration knowingly and deliberately decided it was not exempt from disclosure and produced it.



4. Forwarding the e-mail caused no harm to the City.

The third false premise of the proposed censure resolution is that Mr. Crow's forwarding the February, 2014 e-mail supposedly harmed the interests of University City in litigation between the City and the Firefighters. There were two lawsuits pending between the Firefighters and the City as of February, 2014: an action by the Firefighters alleging that the City failed to engage in good faith collective bargaining negotiations, and an action by an individual firefighter, Jennifer Stuhlman, alleging gender discrimination and sexual harassment. Ms. Forster's e-mail of February 20, 2014 is completely unrelated to the subject matter of those lawsuits, and its disclosure could not possibly have harmed the City's interests in those cases.

Several individual firefighters initiated another lawsuit against the City in July, 2014, challenging the City's suspension of their employment for having engaged in political activity, allegedly in uniform. (The firefighters deny that they were in uniform.) However, the firefighters' political activity, their suspensions and the filing of the lawsuit all occurred well after February, 2014. Moreover, the dispute in that case is over whether the firefighters were in uniform, and what "in uniform" means – not whether they engaged in political activity, or are permitted to do so. Further, the City itself released the February 20, 2014 e-mail pursuant to a Sunshine Law request in May, 2014. And, the e-mail was presented to the University City Civil Service Board at a public hearing held May 29, 2014, and the Board quoted most of the e-mail in a public document, Findings, Conclusions and Recommendation, issued June 16, 2014 in the *Appeals of Jen Stuhlman, et al.* Accordingly, Mr. Crow's forwarding the February 20, 2014 e-mail cannot possibly have harmed the City's interests in that case.

Finally, the Firefighters initiated a further lawsuit against the City in 2015, seeking to enforce certain staffing requirements prescribed in a collective bargaining agreement. This action, too, arose long after February 20, 2014, and is entirely unrelated to Ms. Forster's e-mail of that date. Accordingly, Mr. Crow's forwarding the February 20, 2014 e-mail cannot possibly have harmed the City's interests in that case.

Mayor Welsch attempts to read pernicious intent into Mr. Crow's statement, in his February 21 e-mail to Mr. Becker, "Does this help?" However, Mr. Crow's query was entirely benign. He obviously was asking, does this help answer the question – on which you previously sought clarification from the City, without success – of how the City views its Administrative Regulations, prohibiting first responders from engaging in certain political activity, in light of the superseding state statute barring cities from prohibiting such political activity?

In sum, the proposed censure resolution – like the unfounded quo warranto petition that preceded it – represents nothing other than a malicious campaign to defame Terry Crow and harm his reelection campaign. Its continued pursuit will do nothing other than to expose its proponents, and perhaps the City as well, to substantial potential liability for libeling and otherwise damaging Mr. Crow.

As with the violations of Mr. Crow's due process rights, as addressed above, principles of official immunity will not serve to shield your clients from being personally held answerable in damages for defaming Mr. Crow. The law is clearly established that municipal officials may not use their official positions to libel and slander another city official based on false allegations that are known to be false.

Ms. Catherine R. Grantham
December 21, 2015
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SpencerFane

CONCLUSION

The incessant persecution of Mr. Crow, without any factual or legal basis for it, is only serving to bring shame and disgrace upon Mayor Welsch and her allies, expose them to substantial potential liability, and further make the City of University City a laughingstock in the broader St. Louis community. The ruling majority on the University City Council should bring this ugly chapter in the annals of University City to an end.

If Mayor Welsch and her allies refuse to simply put an end to their persecution of Mr. Crow at this point, then please advise me in writing, as soon as possible, of whether Mayor Welsch and her allies intend to proceed with the special meeting and proposed censure resolution on December 21, so that I can arrange my schedule accordingly. Thank you.

Sincerely,



Gerald P. Greiman

GPG:kmm
Enclosures

Katie Forster

From: Kurt Becker <Kurt.Becker@iaff2665.org>
Sent: Monday, February 10, 2014 6:48 AM
To: Katie Forster
Cc: Rick Barry
Subject: Request for Removal of Items #6 and #7 of the Group IV offenses of AR-4
Attachments: Request to Update AR-4 - 02.10.14.pdf

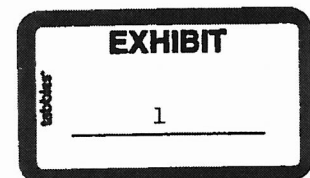
Ms. Forster -

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,

A handwritten signature in black ink that reads "KURT BECKER".

Kurt Becker
IAFF Local 2665

Katie Forster

From: Kurt Becker <Kurt.Becker@iaff2665.org>
Sent: Wednesday, February 19, 2014 7:37 AM
To: Katie Forster
Cc: Rick Barry; Shelley Welsch; Terry Crow; Paulette Carr; L. Michael Glickert - University City; Arthur Sharpe - University City; Byron Price - University City; kraftstephene@gmail.com
Subject: FW: Request for Removal of Items #6 and #7 of the Group IV offenses of AR-4
Attachments: Request to Update AR-4 - 02.10.14.pdf

Ms. Forster -

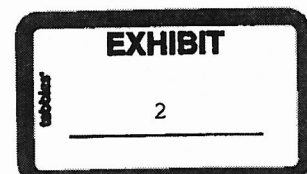
As a follow-up to the email I sent you last Monday, February 10th, to which you have not responded, I am writing again today to inquire as to the status of the request contained within the attached memo.

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



Katie Forster

From: Lehman Walker <lwalker@ucitymo.org>
Sent: Thursday, February 20, 2014 3:16 PM
To: Katie Forster
Subject: FW: New Missouri Law regarding Political Activity

Follow Up Flag: Follow up
Flag Status: Flagged

Please provide me with a brief response to this that I can forward to City Council.

Thank you.



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

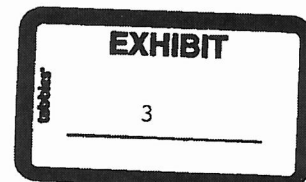
From: Terry Crow [<mailto:terry@cttlaw.net>]
Sent: Thursday, February 20, 2014 3:13 PM
To: Lehman Walker
Subject: New Missouri Law regarding Political Activity

Lehman,

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 in on the agenda for an upcoming council meeting.

Thanks,

Terry C.



Wednesday, April 30, 2014 7:31:56 AM Central Daylight Time

Subject: FW: Political Activity of First Responders
Date: Friday, February 21, 2014 8:34:32 AM Central Standard Time
From: Terry Crow
To: Kurt Becker

Does this help? This was not marked confidential. Terry

From: Lehman Walker [mailto:lwalker@ucitymo.org]
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: 314.505.8584 | 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,

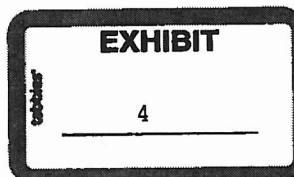
The Missouri Legislature enacted Section 67.145 of the Missouri Revised Statutes during its last session. Section 67.145 went into effect on August 28, 2013 and permits first responders to engage in political activity while off duty and not in uniform. The City was aware of this change and is taking 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

EX 11



PLF 220
Page 1 of 2

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
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314.754.0780 (direct)
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kforster@crotzerormsby.com

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Greiman, Gerry

From: Katie Forster <kforster@crotzerormsby.com>
Sent: Wednesday, October 02, 2013 4:46 PM
To: Greiman, Gerry
Cc: lwalker@ucitymo.org
Subject: RE: U City Civil Service Board
Attachments: Civil Service Appeal Request re Schroeder.pdf

Gerry,

I have attached all that has been received with regard to the appeal request. It is just a handwritten faxed request. I have also included Elaine's letter acknowledging the request and establishing the date and time of the Hearing. Elaine will also be posting the Agenda and Notice for the Hearing. I look forward to meeting you on Monday.

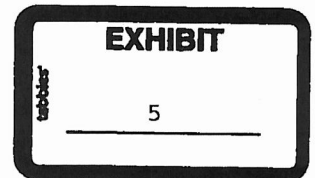
Thank you.

Katie

Kathryn B. Forster
Attorney at Law



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Greiman, Gerry

From: Katie Forster <kforster@crotzerormsby.com>
Sent: Thursday, October 03, 2013 11:36 AM
To: Greiman, Gerry
Subject: RE: U City Civil Service Board

Gerry,

Apparently it was Jan Adams who requested the information on Dan Schroeder. If you speak to her before Monday night, can you let her know that we have talked and agreed upon the procedure for receiving the information.

Thank you.

Katie Forster

Kathryn B. Forster
Attorney at Law



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Greiman, Gerry

From: Katie Forster <kforster@crotzerormsby.com>
Sent: Wednesday, October 16, 2013 9:53 AM
To: Greiman, Gerry; Elaine Williams; David Damick; janadams@sbcglobal.net; victorapichon@yahoo.com; Barbara Sydnor; des4104@sbcglobal.net
Subject: RE: University City Civil Service Board: Appeal of Daniel Schroeder

Thank you for your time and quick response.

Katie Forster

Kathryn B. Forster
Attorney at Law



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Greiman, Gerry

From: Katie Forster <kforster@crotzerormsby.com>
Sent: Monday, January 13, 2014 3:24 PM
To: janadams@sbcglobal.net
Cc: Greiman, Gerry; dnd@damicklaw.com; victorapichon@yahoo.com; b1807@sbcglobal.net
Subject: Exhibits submitted by the City
Attachments: City's Exhibits re Bremer.pdf

Jan,

Please find attached the Exhibits submitted by the City to the Civil Service Board on January 8, 2014 regarding the termination of Firefighter Bremer.

Thank you.

Katie Forster

Kathryn B. Forster
Attorney at Law



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Greiman, Gerry

From: Katie Forster <kforster@crotzerormsby.com>
Sent: Monday, January 13, 2014 4:26 PM
To: Greiman, Gerry; janadams@sbcglobal.net
Cc: dnd@damicklaw.com; victorapichon@yahoo.com; b1807@sbcglobal.net
Subject: RE: Exhibits submitted by the City

I am gathering those now and will have them to the Board tomorrow morning.

Thank you.

Katie

Kathryn B. Forster
Attorney at Law



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SpencerFane

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

January 6, 2016

VIA E-MAIL & U.S. MAIL

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

Re: Proposed Disciplinary Action Against Terry Crow

Dear Ms. Grantham:

I am writing to supplement my letters to you of December 14 and 21, 2015, concerning the unfounded attacks mounted against University City Councilman Terry Crow by Mayor Shelley Welsch and others acting in concert with her.

As a starting point, I want to bring to your attention additional factual information demonstrating the specious nature of the attacks against Mr. Crow. As you know, the attacks rest wholly on the premise that an e-mail from Katie Forster to Lehman Walker, dated February 20, 2014, supposedly was privileged and confidential. However, the following factual information – in addition to the information cited in my previous letters – irrefutably demonstrates the falsity of that premise.

Ms. Forster's e-mail of February 20, 2014 was offered into evidence as Appellants' Exhibit 5 at a public hearing held by the University City Civil Service Board on May 29, 2014. The City was represented at the hearing by one of its attorneys, Cindy Ormsby. While Ms. Ormsby asserted objections to various of the exhibits offered by Appellants, she asserted no objection to Exhibit 5. Moreover, the following interchange concerning Exhibit 5 occurred at the hearing between myself, as the then Chair of the Board ("Chair"), and Ms. Ormsby as City Attorney ("CA"):

Chair: Well Exhibit 5, back to my original question, Exhibit 5, so, it was disseminated to the Council, and was this treated as an attorney-client privileged memo, or was this made part of the City Council record, was this a public document?

CA: This was an e-mail I sent to Lehman Walker, that he chose to forward on to Council.

Chair: And by his forwarding on to Council based on, does that make it non-privileged?

CA: Correct.

Chair: Okay, so this is . . .

CA: And Mr. Barry, he did a Sunshine request where it was provided by the City.

SL 1758459.1

Chair: Okay, so there is nothing privileged about Exhibit 5.

CA: No.

(See audio recording of Civil Service Board hearing held May 29, 2014, available on the City of University City's official website, beginning at 1:30:51.)

Thus, the City Attorney expressly acknowledged that there was nothing privileged and confidential about the February 20, 2014 e-mail. In pursuing charges against Mr. Crow based on factual premises that are demonstrably false – as shown by the City's own public records as well as the actions of the City's own attorneys – your clients must be deemed to have knowledge of the falsity of their accusations and be acting in reckless disregard of the truth.

My second purpose in writing is to make formal demand upon your clients – if they, or any of them, are going to continue to pursue the proposed disciplinary action, or any variation thereof – that, prior to any vote on any proposed disciplinary action, Mr. Crow be afforded the full measure of procedural due process to which he is entitled under the United States and Missouri Constitutions.

Under the circumstances of this matter, due process requires, at a minimum, the following in advance of any disciplinary action being imposed against Mr. Crow:

- Written notice of the charges, provided to Mr. Crow reasonably in advance of the hearing;
- An explanation of the evidence supposedly supporting the charges, again, provided a reasonable time in advance of the hearing; and
- A hearing at which Mr. Crow is afforded the opportunity to be represented by counsel, confront the witnesses against him through cross-examination, testify in his own behalf, and call other witnesses to testify.

The City-affiliated witnesses whom Mr. Crow may wish to call to testify at any hearing in this matter include, but are not necessarily limited to: Shelley Welsch, Lehman Walker, Joyce Pumm, Cindy Ormsby and Katie Forster. Please arrange to have all of those persons present and available to testify at any hearing held in this matter.

As a final point, matters such as this are, of course, partly legal and partly political. In the legal context, we do not want to run afoul of the rules restricting a lawyer from engaging in direct communications with a person who is represented by counsel in the matter. On the other hand, we want to make sure that such rules are not unfairly invoked so as to restrict communications with persons who are not in fact represented by counsel, or restrict communications that are political in nature, not legal. To that end, would you please identify for us the clients you are representing in this matter? In particular, please advise us whether you represent, or claim to represent, each of the following persons in connection with disciplinary actions being pursued against Mr. Crow: Shelley Welsch, Stephen Kraft, Michael Glickert, Rod Jennings, Arthur Sharpe, Terry Crow, Paulette Carr, Joyce Pumm, Cindy Ormsby and Katie Forster.

Ms. Catherine R. Grantham
January 6, 2016
Page 3



SpencerFane

I would appreciate hearing from you as soon as possible as to the questions posed above, and concerning how your clients intend to proceed with respect to the matters addressed in this letter. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald P. Greiman".

Gerald P. Greiman

GPG:kmm



SpencerFane™

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

January 11, 2016

VIA E-MAIL

Mayor Shelley Welsch (mayor@ucitymo.org)
Councilman Stephen Kraft (kraftstephene@gmail.com)
Councilman Michael Glickert (imglickert@yahoo.com)
Councilman Arthur Sharpe, Jr. (qforlifeasj@att.net)
Councilman Rod Jennings (rjmiracle007@gmail.com)

Re: Proposed Disciplinary Action Against Terry Crow

Dear Mayor Welsch, Dr. Kraft, and Messrs. Glickert, Sharpe and Jennings:

As you know, I represent Councilman Terry Crow in connection with proposed disciplinary action against him.

I am writing to inquire whether you intend to afford Mr. Crow the procedural due process to which he is constitutionally entitled in advance of any proposed discipline – which was formally requested in my letter of January 6, 2016 to your former counsel, Catherine Grantham, and to which no response has been received.

Also, I am writing to put each of you on formal written notice of the personal liability for substantial damages you may face should the proposed censure resolution move forward.

PROCEDURAL DUE PROCESS

In my letter of January 6, 2016, I made a formal request – if you, or any of you, are going to continue to pursue disciplinary action against Mr. Crow – that, prior to a vote on any proposed disciplinary action, Mr. Crow be afforded the full measure of procedural due process to which he is entitled under the United States and Missouri Constitutions.

As addressed in my prior letter, under the circumstances of this matter, due process requires, in advance of any disciplinary action being imposed: written notice of the charges, provided reasonably in advance of the hearing; an explanation of the evidence supposedly supporting the charges, again, provided a reasonable time in advance of the hearing; and a hearing at which Mr. Crow is afforded the opportunity to be represented by counsel, confront the witnesses against him through cross-examination, testify in his own behalf, and call other witnesses to testify.



SpencerFane™

Mayor Shelley Welsch, et al.
January 11, 2016
Page 2

I have not received any response to my letter of January 6, despite the fact that you apparently plan to take action on a proposed censure resolution against Mr. Crow tonight. Please inform me immediately whether you are going to honor the request for a pre-discipline due process hearing.

A person's right, as a matter of due process, to a pre-discipline hearing when public officials propose to take action damaging his good name and thereby stigmatizing him, is clearly established as a matter of law. Should you proceed with the proposed censure without first affording Mr. Crow the hearing mandated by due process, you will be subjecting yourselves to potential personal liability for substantial monetary damages. You will not be entitled to any form of official immunity in light of the clearly established nature of the rights you have chosen to ignore.

SUBSTANTIVE DUE PROCESS

Due process, as embodied in the United States and Missouri Constitutions, carries a substantive component in addition to the procedural protections addressed above. Substantive due process prohibits public officials from damaging a person's good name and stigmatizing him without having any proper basis for doing so.

You originally sought to pursue a Petition in Quo Warranto against Mr. Crow, which was baseless and, indeed, filled with outright falsehoods. When the allegations of that Petition were shown to be false, you shifted to a proposed censure resolution. And, when the allegations of that censure resolution were shown to be false, you moved to a different form of censure resolution, which remains demonstrably false and now seeks to sanction Mr. Crow for forwarding an e-mail that is not even alleged to have been confidential.

What has been constant throughout is the determination, come hell or high water, to place a black mark against Mr. Crow's good name, irrespective of the facts or truth of the matter – apparently for the purpose of attempting to undermine his re-election campaign, or perhaps out of sheer spite and animosity towards Mr. Crow.

That such actions contravene substantive due process is clearly established as a matter of law. Accordingly, on that basis, too, should you proceed with the proposed censure, you will be subjecting yourselves to potential personal liability for substantial monetary damages. Again, you will not be entitled to any form of official immunity in light of the clearly established nature of the rights you have chosen to ignore.

LIBEL AND SLANDER

While a public official may need to meet a higher threshold than would a private citizen, the law is clearly established that a public official has legal remedies for libel and slander where defamatory statements are made with knowledge of their falsity, or in in reckless disregard of whether they are true.



SpencerFane™

Mayor Shelley Welsch, et al.
January 11, 2016
Page 3

My prior letters to your former counsel, dated December 14 and 21, 2015, and January 6, 2016, detail the irrefutable facts that make the accusations leveled at Mr. Crow entirely false and defamatory. Accordingly, for these reasons as well, should the proposed censure proceed, you will be subjecting yourselves to potential personal liability for substantial monetary damages, and no principles of official immunity will insulate you from such liability.

Please provide a prompt response to me today concerning whether you intend to honor Mr. Crow's rights to procedural due process, and otherwise informing me as to how you plan to proceed in this matter. Thank you.

Sincerely,

Gerald P. Greiman

GPG:kmm

cc: Councilwoman Paulette Carr (via e-mail)