



**CITY OF WALLED LAKE
SPECIAL COUNCIL MEETING
HEARING**

**TUESDAY, JANUARY 11, 2018
7:30 P.M.**

The Special Meeting was called to order at 7:30 p.m. by Mayor Ackley.

Pledge of Allegiance led by Mayor Ackley.

Invocation led by Mayor Pro Tem Owsinek.

ROLL CALL: Mayor Ackley, Mayor Pro Tem Owsinek, Council Member Costanzo, Council Member Helke, Council Member Loch, Council Member Lublin

There being a quorum present, the meeting was declared in session.

OTHERS PRESENT: City Manager Whitt, Assistant City Manager Pesta, City Attorney Vanerian, Police Chief Shakinias, Fire Chief Coomer, and City Clerk Stuart

CM 1-01-18 MOTION TO EXCUSE COUNCIL MEMBER AMBROSE FROM TONIGHT'S MEETING

Motion by Owsinek, seconded by Lublin, UNANIMOUSLY CARRIED: To excuse Council Member Ambrose from tonight's meeting.

AUDIENCE PARTICIPATION:

Rules read into record by Clerk Stuart.

Karen Kolke, 179 Spring Park – said she is not sure why this hearing is taking place. Ms. Kolke said Mrs. Helke was elected by the people of Walled Lake; how can the council oust Mrs. Helke without really good reason, removal from office should be done by the citizens of Walled Lake. Ms. Kolke said the citizens elected all the members of council.

Kenneth Kolke, 179 Spring Park – asked a direct question to the Mayor if she had received a packet highlighting rules and regulations, and the chain of command of council. Mr. Kolke said in Mrs. Helke's defense she was not provided a packet of information. Mr. Kolke said this meeting should not be taking place. Mr. Kolke opined this is a roast.

Mayor Ackley explained this is for audience participation not a question and answer period.

Tom Fox, 1345 Decker Road – said Mrs. Helke is a duly elected official by the residents of Walled Lake and the residents have a voice. Mr. Fox said the residents voted Mrs. Helke into this position, “not the voices of Jerry who owns a greenhouse”. Mr. Fox said the residents voice matters that is the most important. Mr. Fox opined this issue should have been resolved behind closed doors between Mrs. Helke and Ms. Gross. Mr. Fox said this incident should have never gotten to this point.

Debra Haas, 5530 Rivers Edge Drive – said she comes to Walled Lake all the time for campaigning. Ms. Haas said her understanding was that people are innocent until proven guilty. Supposedly Mrs. Helke committed three felonies, if Mrs. Helke has committed three felonies or broken three felony laws why has Mrs. Helke not been arrested for that. Ms. Haas said she believes like everyone else, Mrs. Helke was elected by her peers and it is obvious the council is very one sided. Ms. Haas said Mrs. Helke will not get a fair trial in this matter and Mrs. Helke is not getting a voice. Ms. Haas said she thinks this is really uncalled for and hoped people would be better people when they were elected into office.

Karl Barr, 105 Pearl Street – he said he is representing Mrs. Helke in this matter. Mr. Barr said he has corresponded with the Walled Lake city attorney for an adjournment. Mr. Barr asked the audience to respect Mayor Ackley’s request to keep the applause down. He said when there are contentious matters at city meetings, it does make the room much tenser and slows down proceedings.

Mary Sheridan, 7259 White Oak Drive – said she is a character witness for Mrs. Helke. Ms. Cheritan said she has worked with Mrs. Helke for over nine years and said she feels Mrs. Helke has been nothing but honorable beyond reproach on everything that she has worked with Mrs. Helke on. Ms. Cheritan said she does not know what is going on here but said she felt it was important to come and attest to what fine character Mrs. Helke is. Ms. Cheritan asked if this is the right way to handle this as Mrs. Helke was duly elected. Ms. Cheritan said Mrs. Helke was elected, the citizens should be the ones to make the decision for removal, not other people who were elected.

Kathleen Chesnut, 1385 Plover Drive – said what is important is integrity and a person’s character. Ms. Chestnut said there are proper procedures and protocols for addressing issues. Ms. Chesnut said there is a time and a place to resolve issues and certain things should be handled behind closed doors. Ms. Chesnut said today’s world is very litigious and people are very angry. Ms. Chesnut asked for council to resolve this matter in another format.

Dan Lauffer, 1488 Dover Hill North – said he has worked with city councils and city boards in many places where he has served as pastor. Mr. Lauffer said he has never seen anything like this in his life. Mr. Lauffer said this is disgraceful and is a black mark on this council and he hopes council lives to regret it.

Terry Poplawski, 3143 Country Ridge Circle – said she pays Walled Lake School taxes. Ms. Poplawski said she has known Mrs. Helke for five years. She said Mrs. Helke has always been honorable, helpful and has a wonderful personality. Ms. Poplawski said this is a kangaroo court and asked what exactly the federal charge is. Ms. Poplawski asked if this is a federal charge or

crime why is she not in jail. Ms. Poplawski said she can say something bad about each council member, should we take and hang you because someone said so. Ms. Poplawski said this is not hear say it is called proof and guilty.

Dennis Curron, Livonia resident – said he is a Republican precinct delegate organizer for this district. Mr. Kern said he just heard about this earlier today and he is not sure what is involved. Mr. Kern said if the majority on a government body can evict the minority just by voting them out, he is interested how the process works.

Bill Lethemon, 7334 Maceday Lake Road – said he has known Mrs. Helke for over 5 years and served on multiple committees together. Mr. Lethemon said he does not know all the circumstances of what happened here and is in the dark about what transpired and why he was here tonight. He said he supports Mrs. Helke and does not want to see any public official ousted at the whim at the majority.

Mary Carlton, 19201 Alexia Drive – said she has known Sue for several years and she knows Mrs. Helke's character. Ms. Carlton said Mrs. Helke is a fine upstanding person and totally honest from what she knows of Mrs. Helke. Ms. Carlton said she appreciates Mrs. Helke. Ms. Carlton said she votes and is a precinct delegate. Ms. Carlton said she hopes council makes the right decision tonight.

Kathy Kubik, Commerce Township resident – said she has attended Walled Lake DDA meetings and observed a few other meetings. Ms. Kubik said she has seen a bias from the Mayor on several occasions. Ms. Kubik said she does not know what Council is doing. Ms. Kubik said she knows Mrs. Helke and she feels she is a good person and the truth will come out and does not like what is happening. Ms. Kubik said she cannot believe this little town wants to do something like this and she hopes council is wise and does the right thing.

Bill Helke, 1361 Shaw – said he has the privilege to be married to Council woman Helke. Mr. Helke said he spent 25 years of his life as a police officer and over 12 years of this time he conducted investigations as a detective. Mr. Helke said he read the document produced. Mr. Helke said it took 14 months to produce the document and never once interviewed the person who was accused. Mr. Helke said as far as he can tell the Mayor did not interview anyone. Mr. Helke said the Mayor took statements from three people which appears to him was a group project. Mr. Helke said the report is alleging seven crimes, most of them are serious. Mr. Helke said there is not one bit of proof. Mr. Helke said nothing has been proven beyond a reasonable doubt and although the term of probable cause was stated, he said that is unfounded. Mr. Helke said if he produced a document like this he would be ashamed.

Karen Kolke - said Mrs. Helke is one of the council members to come around to the citizens and talk and is interested in the residents' concerns. Ms. Kolke said she sees others council members at election time. Ms. Kolke said she has come to several council meetings, there was an apology provided at a council meeting and she said she felt it was a heartfelt apology. Ms. Kolke asked council to give this serious thought.

MAYOR'S REPORT

1. Additional Charges of Misconduct

Mayor Ackley said Mrs. Helke has not been found guilty, the resolution is for her to show cause why she should not be removed from office. Mayor Ackley said there was a resolution produced to have Mrs. Helke to show cause why she should not be removed from office. Mayor Ackley said by the comments made tonight many have not even read what the charges are all about. Mayor Ackley said there was originally to be a hearing tonight, Mrs. Helke's attorney requested an adjournment. Mayor Ackley said nothing is going to be decided this evening. Mayor Ackley said there will not be a hearing tonight. Mayor Ackley said Mrs. Helke will be provided a hearing and a chance to answer each of the charges at a later date if that is agreeable to council and Mr. Barr.

Mayor Ackley said tonight's proposed resolution is for an additional charge made at the last council meeting. Mayor Ackley said this process is outlined per City Charter and council is acting according to Charter and State law. Mayor Ackley said her report outlines the violations of the Charter and it is up to the council to determine whether they agree or not.

Mayor Ackley provided copies to council and Mr. Barr. Time was provided to review the resolution.

2. Proposed Resolution

**CM 1-02-18 MOTION TO APPROVE RESOLUTION 2018-01 A RESOLUTION
CITING COUNCIL MEMBER SUSAN HELKE TO APPEAR AT A
SPECIAL MEETING OF CITY COUNCIL FOR A HEARING; TO
SHOW CAUSE WHY SHE SHOULD NOT BE REMOVED FROM
OFFICE ON CHARGES AND SPECIFICATION; SETTING A
SPECIAL MEETING DATE FOR HEARING; INSTRUCTING THE
CLERK TO GIVE NOTICE**

Motion by Loch, seconded by Lublin: MOTION CARRIED: To approve resolution 2018-01 a resolution citing Council Member Susan Helke to appear at a special meeting of City Council for a hearing; to show cause why she should not be removed from office on charges and specifications; setting a special meeting date for hearing; instructing the Clerk to give notice.

Discussion

Council Member Helke said she has a question for the city attorney, she said she would like to know based on the additional charges if it is advisable for her to vote on this. Council Member Helke said she would like the city attorney's opinion and if she may abstain. City Attorney Vanerian said she has legal representation present and he recommends Mrs. Helke consult with her own attorney.

Mayor Ackley offered opportunity for Mrs. Helke to converse with her attorney.

Attorney Barr said he anticipated this and instructed Council Member Helke to obtain the opinion of the legal counsel for the city as far as her participation of her vote. Mr. Barr said he is very new to this matter and have not had the opportunity to prepare. Mr. Barr said the city attorney has better knowledge of the Charter being discussed tonight and he is not ready to make this opinion. Mr. Barr said this is an appropriate question for the City attorney.

City Attorney Vanerian said his recommendation would be that Mrs. Helke should abstain from voting on any matter concerning her conduct.

Roll Call Vote

Yes (5)	Costanzo, Loch, Lublin, Owsinek, Ackley
No (0)	
Absent (1)	Ambrose
Abstain (1)	Helke

(5-0) MOTION CARRIED

HEARING ON: Resolution 2017-86

A Resolution Citing Council Member Susan Helke to Appear at a Special Meeting of City Council for a hearing; to Show Cause Why She Should Not Be Removed from Office on Charges and Specifications; Setting a Special Meeting Date for Hearing; Instructing the Clerk to give Notice

City Attorney Vanerian said it is important to acknowledge that Mrs. Helke is not charged with a crime and not being sued. Mr. Vanerian explained this is a power inherent in all legislative bodies to conduct a hearing into the conduct of elected officials. Mr. Vanerian said power to remove individuals is also inherent in all legislative type bodies and this is invested in the City Charter, which provides for an investigation of conduct of other elected officials. Mr. Vanerian said the City received the complaint and exercised the power granted to the council by City Charter to investigate the complaint. Mr. Vanerian said the next step is to hold a hearing for purposes of determining what the facts are, and the Council is performing a fact-finding function that is based upon all of the evidence, documentation, and testimony presented. Mr. Vanerian said council will listen to the testimony of the various witnesses with an open frame of mind. Mr. Vanerian said this is not a court room or court proceeding and rules of court do not apply here. He said Mrs. Helke has a right to be represented by an attorney and has exercised that right, her attorney will provide evidence and counsel. Mr. Vanerian explained procedurally this is a procedural process per the City Charter; determining what happened, what was said, was there official maleficence, were actions inappropriate for removal. He said council will review the evidence and testimony. Mr. Vanerian said per the City Charter the notice requires a ten-day notice period before the hearing is held. Mr. Vanerian said tonight's hearing was well over the 10-day notice closer to 20 days. Mr. Vanerian said Mrs. Helke's attorney requested an adjournment to give her and her attorney a reasonable opportunity to prepare. Mr. Vanerian suggested any evidence of a documentary nature intended to be utilized at the time of the hearing

be compiled and provided to Mrs. Helke's attorney. Mr. Vanerian said there is no discovery the City is not required to provide but in the fairness of this, he recommends this be provided as well. Mr. Vanerian said if Mrs. Helke's attorney requests a pre-hearing brief that addresses any type of statutes or laws he feels are relevant or important for the council to know about, Mrs. Helke should be given the opportunity to do that. Mr. Vanerian said he anticipates providing a pre-hearing brief to Mrs. Helke's attorney. Mr. Vanerian recommends approving Mrs. Helke's attorney's request for adjournment.

Mayor Ackley said with the additional charge per resolution 2018-01 voted on tonight, the 10-day notice begins tonight. Mayor Ackley asked Mrs. Helke's attorney, Mr. Barr if he wanted the full 10 days from tonight or would he be prepared sooner.

Mr. Barr said he really needs as much time as possible. Mr. Barr said he needs to become familiar with the City Charter. He said there are multiple laws cited in the charging document. Mr. Barr said he is trying to get a handle on the precise procedural expectations with exactly how witnesses will occur. Mr. Barr said the city attorney submitting a legal brief is a very excellent idea. He said it may change the number of things factually to be decided upon. Mr. Barr said he has a scheduling conflict with the evening of the 22nd and he asked for longer time than 10-days. Mr. Barr said he anticipates making some document request under the city. Mr. Barr agrees there is no discovery power outlined in the City Charter but FOIA continues to apply. Mr. Barr said to be properly prepared he needs to know as much as possible about anything this has been ongoing for 18 months now. Mr. Barr said factually he is getting up to speed as fast as he can but would appreciate the additional time.

Mayor Ackley asked Mr. Barr and Council for a preference for days of the week of January 22nd. Mr. Barr said the 24th or 25th. Council and Mr. Barr agreed on the 25th. Mayor Ackley said tonight's hearing was set up by resolution 2017-86 and she would entertain a motion at the request of Council member Helke's attorney that the hearing be adjourned to the 25th of January.

**CM 1-03-18 MOTION TO GRANT REQUEST OF COUNCIL MEMBERS
HELKE'S ATTORNEY TO RECESS HEARING TO
JANUARY 25, 2018**

Motion by Owsinek, seconded by Costanzo: MOTION CARRIED: To grant request of Council Members Helke's attorney to recess hearing to January 25, 2018.

Roll Call Vote

Yes (5)	Costanzo, Loch, Lublin, Owsinek, Ackley
No (0)	
Absent (1)	Ambrose
Abstain (1)	Helke

(5-0) MOTION CARRIED

Mayor Ackley asked the attorneys if they have anything else. Mr. Barr said regarding procedure does he discuss directly with attorney or does council prefer to discuss now. City Attorney

Vanerian said if Mr. Barr has specific procedural issues and he is prepared to present, now would be a good time to do that. Mr. Barr asked for procedures of ordering of witnesses, whose conducting, and burden of proof.

Mr. Vanerian said the investigative report includes the witness's affidavit which Mr. Barr already has which is part of the investigation and part of the charging document. Mr. Vanerian said anyone who has provided an affidavit that was presented to be used for purposes of the hearing, the person will be available at the time of the hearing for any questioning Mr. Barr may have. Mr. Vanerian said as far as burden of proof, this is not a criminal case, this is a lower burden of proof and he will include in his pre-hearing brief to Mr. Barr. Mr. Vanerian said the hearing is laid out for the benefit of Mrs. Helke to give her the opportunity to question witnesses or challenge any evidence or documents that the city brings in.

Mr. Barr said the city is not putting out evidence other than the documents. Mr. Vanerian said he is not ruling this out at this point. Mr. Vanerian said he will have documents and exhibits to present and they will be provided to Mr. Barr at least three days in advance of hearing date. Mr. Vanerian said the city will make decisions amongst themselves in terms of what actions for calling and presenting live testimony. He said any additional legal research that is conducted, he feels some element needs to be addressed that he will call witnesses for purposes of addressing that particular element. Mr. Vanerian said the city is going to present at the time of the hearing.

Mr. Barr said he has great concern, the timeline in the courts for knowing who the witnesses are and issues to be faced are provided months in advance of having a hearing. Mr. Vanerian said he understands this however, this is not in a court room, the court rules do not apply here. He said if Mr. Barr has any requests, submit them in writing to him now and he will respond to the best of his ability. Mr. Vanerian said he cannot commit tonight what witnesses will be called upon.

Mr. Barr said a legal opinion from the city attorney on whether the facts presented, if assumed to be true, met a legal burden which may narrow down issues substantially. He said he thinks this would be the first thing to really help everyone understand what it is we are dealing with the alleged items. Then upon this and council decides to follow your legal opinion, if there are issues going forward he would request the city provide notice of what they may be facing, then they will know how to proceed.

City Attorney Vanerian said this can be worked between now and hearing date. He said the investigative report and the detail of factual statements and support of the investigation are very detailed and comprehensive. He said Mr. Barr has been provided very detailed notice of what the case is about. He said this is a reason why he suggested preparing and exchanging prehearing briefs.

Mr. Barr requested to be able to respond to Mr. Vanerian's brief. He said his firm has been obtained as an outside council to be able to prepare similar opinions and investigations that are not mirrored in the history of everything that is going on, but he might request if Mr. Vanerian were to council, to retain an outside municipal attorney to review the document and make an opinion of the document. Mr. Barr said he did not think it would take a great deal of time if

assumed all the facts are true whether it meets the legal standards. Mr. Barr said this takes everyone's personal interests out of the mix and provides a very clear opinion.

Mr. Vanerian said this is up to council if they want this, it is not up to an outside independent attorney to decide. He said this is up to the city council to make that determination. He said he is more than capable of providing council the applicable laws that apply. He said it is up to council if they wish to have a third attorney's opinion.

Mayor Ackley said she is not going to make a decision on bringing in a third attorney, the City Charter is very clear that it is up to City Council to determine this. Mayor Ackley said there are two very qualified attorneys present to handle this. Mayor Ackley said if this will be discussed, it will be done so in a closed session with the city attorney. Mayor Ackley said the City has a very qualified city attorney that has served the city for many years.

Mr. Barr said his request, with regard to procedure of the hearing, is requesting council to consider setting a resolution to setting timelines with regards to providing and responding to attorney briefs. He requested the city make available any witnesses within the document and provide notice to him if any additional factual or legal witnesses the city intends to provide. He said his requests will provide how the hearing will occur.

City Attorney Vanerian said he has no issue with providing a pre-hearing brief four-days prior to the hearing and receiving Mr. Barr's brief two-days prior to the hearing.

CM 1-04-18 MOTION TO INSTRUCT CITY ATTORNEY TO PROVIDE PRE-HEARING BRIEF AND TIMELINE TO MRS. HELKE'S ATTORNEY MR. BARR

Motion by Costanzo, seconded by Loch: MOTION CARRIED: To instruct city attorney to provide timeline to Mrs. Helke's attorney, Mr. Barr.

Roll Call Vote

Yes (5)	Loch, Lublin, Owsinek, Costanzo, Ackley
No (0)	
Absent (1)	Ambrose
Abstain (1)	Helke

(5-0) MOTION CARRIED

Mayor Ackley asked Mr. Barr if he had anything else to address. Mr. Barr said they have accomplished what could be.

The January 11, 2018 Special Meeting was recessed at 8:45 p.m. to January 25, 2018 at 7:30 p.m.

Mayor Ackley reconvened the January 11, 2018 Special Meeting on January 25, 2018 at 7:30 p.m.

ROLL CALL: Mayor Ackley, Mayor Pro Tem Owsinek, Council Member Ambrose, Council Member Costanzo, Council Member Helke, Council Member Loch, Council Member Lublin

There being a quorum present, the meeting was declared in session.

OTHERS PRESENT: City Manager Whitt, Assistant City Manager Pesta, City Attorney Vanerian, Police Chief Shakinas, Fire Chief Coomer, and City Clerk Stuart

Mayor Ackley stated this meeting is a reconvening of the recessed January 11, 2018 Special Meeting. Council is here tonight to make a determination on the resolution to show cause why Council person Susana Helke should not be removed from Office on charges and specifications. Mayor Ackley said this started as a complaint concerning a gender and age-based harassment done by Council Member Helke in response to this complaint the City Council authorized an investigation into the facts, circumstances and matters concerning the complainant pursuant to the investigative powers conferred upon the City Council pursuant to the City Charter. She said subsequent to the authorization of the investigation on matters concerning the investigation and the complaint, there were periodic discussions that were conducted at various council meetings as reflected and or referenced in the city council meeting minutes. She said following the completion of the investigation and presentation of the Mayor's report on December 19, 2017, at the regular council meeting, City Council adopted resolution 2017-86 authorizing misconduct charges and scheduled a special meeting for January 11, 2018 for purposes of conducting a hearing on the charges. Mayor Ackley said Council Member Helke and her retained attorney of choice appeared at the January 11, 2018 special meeting and requested an adjournment of the hearing. She said at the time of the January 11, 2018 special meeting, city council authorized additional charges set forth in council resolution 2018-01 and pursuant to Helke's request for adjournment, council rescheduled the hearing by recess on the amended charges for January 25, 2018. She said at the time of the January 11, 2018 hearing, it was agreed the city attorney would submit a prehearing brief in advance of the hearing providing a summary of the applicable law and a supplement of the legal bases for the charges.

City Attorney said there were procedural issues to address. He said as agreed on January 11th, he prepared a prehearing brief to Mrs. Helke's attorney. He said they are not exhibits or evidence, they are briefs intended to state Mrs. Helke's position as outlined by her attorney and be made part of the record of this proceeding.

Discussion was had to recess meeting for a larger venue.

**CM 1-21-18 MOTION TO RECESS MEETING TO HOST AT A LARGER
VENUE, MEETING TO BE HELD AT THE FIRE HALL ON
FEBRUARY 1, 2018**

Motion by Ambrose, seconded by Costanzo: MOTION CARRIED: To recess meeting to host at a larger venue, meeting to be held at the Fire Hall on February 1, 2018.

Roll Call Vote

Yes (5)	Ambrose, Costanzo, Loch, Lublin, Ackley
No (1)	Owsinek
Absent (0)	
Abstain (1)	Helke

(5-1) MOTION CARRIED

**CM 1-22-18 MOTION TO RECESS MEETING TO FEBRUARY 1, 2018 AT
7:30 P.M.**

Motion by Owsinek, seconded by Costanzo: UNANIMOUSLY CARRIED: To recess meeting to February 1, 2018 at 7:30 p.m.

The recessed January 11, 2018 Special Meeting recessed to January 25, 2018 was recessed again at 8:04 p.m. to February 1, 2018 at 7:30 p.m.

Mayor Ackley reconvened the recessed January 11, 2018 Special Meeting that was recessed to January 25, 2018 and recessed again until February 1, 2018 at 7:30 p.m.

ROLL CALL: Mayor Ackley, Mayor Pro Tem Owsinek, Council Member Ambrose, Council Member Costanzo, Council Member Helke, Council Member Loch, Council Member Lublin

There being a quorum present, the meeting was declared in session.

OTHERS PRESENT: City Manager Whitt, Assistant City Manager Pesta, City Attorney Vanerian, Police Chief Shakinas, Fire Chief Coomer, and City Clerk Stuart

HEARING ON: Resolution 2017-86; Resolution 2018-01

Resolutions Citing Council Member Susan Helke to Appear at a Special Meeting of City Council for a hearing; to Show Cause Why She Should Not Be Removed from Office on Charges and Specifications; Setting a Special Meeting Date for Hearing; Instructing the Clerk to give Notice

Attorney Barr said this meeting is a violation of Open Meetings Act (OMA), the meeting was rescheduled over an 18-hour period and it is a violation not having a public comment session. He said not allowing public opinion jeopardizes Mrs. Helke's right for a fair trial.

City Attorney Vanerian said the January 11, 2018 meeting had people who spoke who on Mrs. Helke's behalf. He referred to Council. The February 1, 2018 meeting is a reconvening of the recessed January 11, 2018.

CM 2-01-18 MOTION TO HOLD A PUBLIC COMMENT SESSION

Motion by Costanzo, no support

Motion dies due to lack of support.

CM 2-02-18 MOTION TO MOVE TO DISMISS CASE

Motion by Costanzo, no support

Motion dies due to lack of support.

CM 2-03-18 MOTION TO DISMISS CHARGES BASED ON VIOLATIONS OF THE OPEN MEETINGS ACT (OMA)

Motion by Costanzo, seconded by Ambrose: MOTION FAILED: To dismiss charges based on violations of the Open Meeting Act (OMA).

Roll Call Vote

Yes (1) Costanzo
No (5) Ambrose, Loch, Lublin, Owsinek, Ackley
Absent (0)
Abstain (1) Helke

(5-1) MOTION FAILED

Attorney Barr reviewed his letter of initial objections dated February 1, 2018. He said even if the facts are true, they still fail as a matter of law, there is no misconduct. He said to dismiss the case on the fact it simply does not meet the legal burden to make it a violation, if Mrs. Helke's actions were a violation, there would be labor counsel present, the city's insurance company. He said this removal is being done for political purposes.

City Attorney Vanerian explained the charging document is just. He said the purpose is to provide Council Member Helke with notice. He said it is not intended to include every single fact of evidence; it is a notice to provide Council Member Helke of the notice of the alleged charges against her. He said he is not here as a prosecutor of this case; it is not his duty to argue but to simply provide legal advice to council in way of a prehearing brief. He said it is up to council to determine if there is sufficient evidence to render or not render findings of misconduct, misfeasance or malfeasance while Council Member Helke was in office.

**CM 2-04-18 MOTION TO APPROVE MRS. HELKE'S ATTORNEY'S
OBJECTION NUMBER THREE (3) AND DISMISS CASE BASED
ON POINTS PROVIDED BY MRS. HELKE'S ATTORNEY**

Motion by Costanzo, seconded by Ambrose: MOTION FAILED: To approve Mrs. Helke's attorney's objection number three (3) and dismiss case based on points provided by Mrs. Helke's attorney.

Discussion

Council Member Ambrose said the city attorney reviewed the charges and his opinion is they are valid.

Attorney Barr said due process is very important and taking action on these matters is premature before it goes to the court of law. He said the cart is before the horse there has not been a court hearing on this.

Council Member Costanzo said he read the Charter of the City of Walled Lake. He said this is not a court of law, council members swore an oath to abide by the Charter and this is not a court hearing. There is a difference.

Roll Call Vote

Yes (1) Costanzo
No (5) Loch, Lublin, Owsinek, Ambrose, Ackley
Absent (0)
Abstain (1) Helke

(5-1) MOTION FAILED

Attorney Barr requested a sequestering of witnesses.

CM 2-05-18 MOTION TO SEQUESTER CITY WITNESSES

Motion by Costanzo, seconded by Ambrose, MOTION FAILED: To sequester city witnesses.

Discussion

City Manager Whitt said he objects to the request to sequester. He said he has a duty under the Charter and City Code to attend meetings of the council. He said he will not leave based on what Mrs. Helke's attorney is trying to do which is prohibit his attendance.

Council Member Costanzo said his concern is there are multiple witnesses hearing each other's testimony. He said Mrs. Helke's attorney has a valid point, in the court of law witnesses would be sequestered.

Roll Call Vote

Yes (1) Costanzo
No (5) Loch, Lublin, Owsinek, Ambrose, Ackley
Absent (0)
Abstain (1) Helke

(5-1) MOTION FAILED

**CM 2-06-18 MOTION PROVIDING RECEIPT OF CHARGING DOCUMENTS
NUMBERED 1-30**

Motion by Owsinek, seconded by Lublin, MOTION CARRIED: Motion providing receipt of charging documents numbered 1-30.

Attorney Barr said he objects to exhibits 11-13, 17, 18-20, and 23 they are all outside Mrs. Helke's term of office and should be excluded on this basis alone. Attorney Barr said he does not object to the Charter or Code provisions.

City Attorney Vanerian asked if Mr. Barr was opposed to the resolutions.

Attorney Barr said the city seal is not adequate foundation, there is a need for a witness to authenticate any exhibits. He said does not stipulate to any resolutions.

City Attorney Vanerian said the resolutions and minutes have been certified and authenticated by the city clerk.

Attorney Barr said this is exactly why each of these documents should not be included, it needs to explain why they are relevant, and why they should be submitted into exhibits. He said he objects to a mass submittal of the charging documents.

City Attorney Vanerian said witnesses are here and they are available today. He sustained objection of Attorney Barr.

Attorney Barr said these documents are outside of the charging document. He said there is a packet of information, what in here is actually relevant, if it is relevant, and who is here to tell us why it is relevant. He said Best Evidence Rule, authentication of documents is not done until you have heard from someone that these documents are relevant to this hearing. He said not all exhibits should be entered into evidence now but at the time they may be appropriate.

City Attorney Vanerian said he sustains objection of affidavits they are testimony, testimony of the witness. He said the resolutions, Charter, Ordinances, Oaths of Office, meeting minutes the city clerk has certified all of them, there is no dispute to their genuineness.

Attorney Barr said he objects to the two Spinal column articles in the charging documents.

City Attorney Vanerian explained this is not a court of law, the rules of evidence do not apply. He sustained objection of Attorney Barr of the two articles items 21, 22 of the charging documents.

Mayor Ackley clarified the exhibits to be excluded from the charging documents are exhibits 21, 22, 27, 28, 29.

CM 2-07-18 AMENDED MOTION TO PROVIDE RECEIPT OF CHARGING DOCUMENTS 1-30 EXCLUDING EXHIBITS 21, 22, 27, 28, AND 29

Motion by Owsinek, seconded by Costanzo, MOTION CARRIED: To amend motion to provide receipt of charging documents 1-30 excluding exhibits 21,22, 27, 28, and 29.

Roll Call Vote

Yes (6) Lublin, Owsinek, Ambrose, Costanzo, Loch, Ackley
No (0)
Absent (0)
Abstain (1) Helke

(6-0) MOTION CARRIED

CM 2-08-18 MOTION TO CALL WITNESS CITY MANAGER L. DENNIS WHITT

Motion by Loch, seconded by Lublin, MOTION CARRIED: To call witness City Manager L. Dennis Whitt.

Roll Call Vote

Yes (6) Owsinek, Ambrose, Costanzo, Loch, Lublin, Ackley
No (0)
Absent (0)
Abstain (1) Helke

(6-0) MOTION CARRIED

CM 2-09-18 MOTION TO SUBMIT AFFIDAVIT OF L. DENNIS WHITT

Motion by Loch, seconded by Ambrose, MOTION CARRIED: To submit affidavit of L. Dennis Whitt.

Discussion

Mayor Ackley asked Mr. Whitt if he provided Mrs. Helke a copy of the Charter.

Mr. Whitt said he provided Mrs. Helke a copy of the Charter more than once and in the beginning, they had conversations often right up until the August 2016 time frame. He said they discussed sections of the Charter and City Code with Mrs. Helke because of her conduct.

Mr. Whitt said the Charter is on line, at the library and in the Clerk's Office.

Mayor Ackley asked if Mrs. Helke was provided a copy of the charging resolution.

Mr. Whitt said yes, she voted on the resolution.

Attorney Barr said Mayor Ackley's questions were leading in nature and he moved to strike all the former questions.

City Attorney Vanerian said the rules of evidence do not apply here.

Mayor Ackley said prior to the event was Mrs. Helke informed of the Section 2-45 of the City Code, non-interference with the City Manager.

Mr. Whitt said during instructions in July 2016 when removal of signs from property became an issue Mrs. Helke wanted to order the Code Enforcement staff to not remove the signs. Mrs. Helke said she wanted signs in the City's Right of Way. He said he explained section 2-45 and she could be sanctioned with these actions. He said Mrs. Helke's response was council did not have the backbone to act.

Mayor Ackley said an instance took place during a DDA meeting she asked for an explanation of that instance.

Mr. Whitt said Ms. Rodgers (now known as Mrs. Pesta) was the recording secretary for the DDA. He said Mrs. Helke reprimanded Mrs. Pesta during that meeting, called her idiot and stupid fucking twit.

Mayor Ackley asked about the verbal abuse during a court ordered mediation.

Mr. Whitt said this happened two times at a court ordered mediation. He said at a mediation hearing while the lawyers were moving between rooms, there was down time, he said Council Member Helke loudly accused Mrs. Pesta of stealing money. He said Council Member Lublin was taken aback and had to interrupt and told Mrs. Helke nobody is stealing money. He said Mrs. Helke also accused Mrs. Pesta of stealing money from the DDA. Mr. Whitt said this is a pattern of Mrs. Helke to attack young women. It was quite embarrassing.

Mayor Ackley asked if there has ever been any money stolen from the DDA.

Mr. Whitt said there are auditors who conduct reviews.

Mayor Ackley asked if Mr. Whitt was present at the trailway meeting noted in Ms. Gross' affidavit.

Mr. Whitt said several people were present. Council Member Helke was shouting why is she here. He said she addressed Ms. Gross asking what she was doing there, why she was there, demanding answers to her questions. He said she ordered Ms. Gross back to city hall.

Mayor Ackley asked if Ms. Gross said anything.

Mr. Whitt said Ms. Gross made the complaint, she heard the complaint. He said Council Member Helke came to his office to visit as she usually had done. Intern Gross started walking to the door and Council Member Helke said silly twit. He said Ms. Gross heard what Council Member Helke said.

Mr. Whitt said the same thing happened again at the trailway meeting just discussed.

Mayor Ackley asked regarding the Ordinance Officer for removing the signs out of the right-of-way, did Mrs. Helke refer to him as she had done so with Ms. Gross and Mrs. Pesta.

Council Member Costanzo said at first the City Manager declined to provide an affidavit, what events occurred to now provide affidavit.

Mr. Whitt said this is a council meeting, he is the chief officer. He said it is a matter of public record, Mrs. Helke lied to the citizens and he is the one who drafted the charges. He said she lied at a council meeting, to the public, and anyone else who was there.

City Attorney Vanerian said the December 19, 2017 council meeting, a resolution offered at that council meeting. He asked if Mr. Whitt recalled who voted on the resolution?

Mr. Whitt said yes, I think everybody.

Attorney Barr asked Mr. Whitt if he has personal animosity towards Mrs. Helke.

Mr. Whitt said that is not true, there was no personal animosity.

Meeting Recessed 10:15 p. m.

Meeting Reconvened 10:28 p.m.

Attorney Barr said Mr. Whitt never told Council Member Helke about the Charter Provision Section 6.7.

Mr. Whitt said they had discussions on the Charter several times.

Council Member Costanzo said he was confused by the note, exhibit 23, who can substantiate the note. Where did it come from?

Mr. Whitt said he already testified to this.

Attorney Barr said he objects to Mr. Whitt's affidavit. He said it would be best to have testimony. He said in court the testimony is the best evidence, it should not be submitted as evidence.

Discussion was held about the exhibits within Mr. Whitt's affidavit, specifically a hand-written note.

City Attorney Vanerian said the affidavit was submitted as evidence as exhibit 29. Request was referred over to Mayor and Council Members.

City Manager Whitt said he witnessed Mrs. Helke taking notes at the November organizational meeting in a 3x5 booklet, took considerable notes, then left the book of notes on a chair.

Attorney Barr lodged objection and said Mr. Whitt's testimony was of a time outside the term of office for Mrs. Helke. He said Exhibit 23, in interest of time, is a waste of time. He said the exhibit has zero value to whether Mrs. Helke wrote the note or not.

Mayor Ackley asked for ruling on objection.

City Attorney Vanerian said the note is noticed, it is up to council how much weight the note has. He said it is relevant for purposes of potential to gender-based actions, motivated by sex, age-based activity.

Mayor Ackley asked Mr. Whitt how he knew the left behind note was Mrs. Helke's note.

Mr. Whitt said Mrs. Helke wrote notes and they fell to the ground someone behind picked it up, reacted abruptly and put them down. Mrs. Helke never came back to get them.

Attorney Barr said he objects to the reference of the notes or additional notes he has not seen them. He said it's late in the evening let's get to what Council Member Helke is accused of.

Mayor Ackley asked what specific item was left within the note.

City Manager Whitt said the note said silly fucking twit. He said the then Deputy Finance Director, a 29-year-old, unmarried female, held a Master's degree, she has since moved on.

Mayor Ackley asked what were the Deputy Finance Directors qualifications?

City Manager Whitt said she was hired as Deputy Finance Director.

Mayor Ackley asked if Mrs. Helke submitted a FOIA request about the qualifications of the Deputy Finance Director.

City Manager Whitt said not to his knowledge.

Mayor Ackley asked if that note was attached to Mr. Whitt's affidavit.

City Manager Whitt produced the original note submitted as exhibit 23. City Attorney Vanerian said to admit the note into the chain of evidence.

Roll Call Vote

Yes (5) Ambrose, Loch, Lublin, Owsinek, Ackley
No (1) Costanzo
Absent (0)
Abstain (1) Helke

CM 2-10-18 MOTION TO SUBMIT ORIGINAL DOCUMENT OF EXHIBIT #23 INTO EVIDENCE

Motion by Lublin, seconded by Owsinek, MOTION CARRIED: To submit original document of exhibit #23 into evidence.

Discussion

Attorney Barr asked to read exhibit 23. He said there is no signature of the author.

Mr. Whitt said he saw Mrs. Helke's writing the note.

Attorney Barr said there is not a signature on this note. He said this is from a meeting in 2013.

Mr. Whitt said Mrs. Helke continues to say the very same thing about young females.

Attorney Barr said that is Mr. Whitt's opinion.

Mr. Whitt said it is a fact.

Mr. Barr asked if the note is an official city record.

Mr. Whitt said he has had the notes in his possession since 2013 because Mrs. Helke's continues to attack professional young females.

Attorney Barr said he objects to the document, it is not signed, and it is clear from its size, it is not an official city document.

City Attorney Vanerian said this concerns the weight of the evidence, not the signature of this document.

Roll Call Vote

Yes (5) Loch, Lublin, Owsinek, Ambrose, Ackley
No (1) Costanzo
Absent (0)
Abstain (1) Helke

(5-1) MOTION CARRIED

CM 2-11-18 MOTION TO CALL WITNESS CHELSEA PESTA

Motion by Loch, seconded by Owsinek; MOTION CARRIED: To call witness Chelsea Pesta.

Roll Call Vote

Yes (6) Loch, Lublin, Owsinek, Ambrose, Costanzo, Ackley
No (0)
Absent (0)
Abstain (1) Helke

(6-0) MOTION CARRIED

City Attorney Vanerian asked Mrs. Pesta her position with the City.

Mrs. Pesta said Assistant City Manager.

City Attorney Vanerian asked Mrs. Pesta who asked her to provide an affidavit of the situation. How was it prepared.

Mrs. Pesta said she and Ms. Gross worked together.

Attorney Barr objected.

Mayor Ackley asked about the verbal reprimand incident with Mrs. Helke.

Mrs. Pesta said it was at a court ordered mediation. Mrs. Helke accused me of stealing money, what I did for the DDA, where's the money you are stealing. She called me a silly stupid fucking twit.

Attorney Barr asked what Mrs. Pesta's education is.

Mrs. Pesta said a Bachelor's in Business Administration.

Attorney Barr asked Mrs. Pesta what a confidential assistant was.

Mrs. Pesta said assisted during closed session and union matters.

Attorney Barr asked Mrs. Pesta if she and Ms. Gross wrote their affidavits collectively.

Mrs. Pesta said no, my affidavit speaks for itself.

Attorney Barr said isn't it true Mrs. Pesta you were never at the trailway meeting.

Mrs. Pesta said no, she was not.

Attorney Barr asked Mrs. Pesta the definition of sexually charged innuendo.

Mrs. Pesta said Mrs. Helke had agent people that worked for her under the cloak of the Freedom of Information Act that came into city hall to intimidate such as Kenneth Kolke, Dennis Burks, and Gabriel Costanzo.

CM 2-12-18 MOTION TO SUBMIT EXHIBIT #28, AFFIDAVIT OF CHELSEA PESTA

Motion by Ambrose, seconded by Loch; MOTION CARRIED: To submit exhibit #28, affidavit of Chelsea Pesta.

Attorney Barr said he objects.

Roll Call Vote

Yes (5) Loch, Lublin, Owsinek, Ambrose, Ackley
No (1) Costanzo
Absent (0)
Abstain (1) Helke

(5-1) MOTION CARRIED

CM 2-13-18 MOTION TO CALL WITNESS MIRANDA GROSS

Motion by Lublin, seconded by Loch, MOTION CARRIED: To call witness Miranda Gross.

Roll Call Vote

Yes (6) Lublin, Owsinek, Ambrose, Costanzo, Loch, Ackley
No (0)
Absent (0)
Abstain (1) Helke

(6-0) MOTION CARRIED

City Attorney Vanerian asked Ms. Gross if this was her affidavit and if her signature was on the last page.

Ms. Gross said yes.

CM 2-14-18 MOTION TO SUBMIT EXHIBIT #27, AFFIDAVIT OF MIRANDA GROSS

Motion by Lublin, seconded by Owsinek; MOTION CARRIED: To submit exhibit #27 affidavit of Miranda Gross.

Attorney Barr made objection.

Roll Call Vote

Yes (5) Owsinek, Ambrose, Loch, Lublin, Ackley
No (1) Costanzo
Absent (0)
Abstain (1) Helke

(5-1) MOTION CARRIED

Attorney Barr asked if Ms. Gross prepared a shorter version initially of her complaint.

Ms. Gross said yes.

Attorney Barr said Mr. Gross' affidavit mentions a council meeting in 2013. He said Ms. Gross was not employed with the city at that time and Mrs. Helke was not a member of council.

Attorney Barr asked Ms. Gross if she ever heard Mrs. Helke say twit.

Ms. Gross said yes, herself.

Attorney Barr asked Ms. Gross if she witnessed council members meeting prior to council meetings in the city manager's office.

Ms. Gross said no.

Attorney Barr asked Ms. Gross if she discussed her affidavit with the city attorney.

Ms. Gross said no.

Attorney Barr asked Ms. Gross if she knew what Facebook was and did she post to it.

Ms. Gross said yes.

Attorney Barr produced a 2-page copy of Ms. Gross' Facebook account with article posted on her account from the Spinal Column.

Ms. Gross said yes, she posted a copy of a Spinal Column article.

Attorney Barr asked Ms. Gross if the alleged interaction in the city manager's office was in her affidavit.

Ms. Gross said she does not see it.

Attorney Barr asked about the closed session meeting and who requested it.

City Attorney Vanerian objected to the foundation of question. He said the OMA rules are presumed to be valid, council members cannot unilaterally discuss what was discussed in a closed session. He said until a closed session is determined improper by the courts, it does not give the right for council members to discuss items that were discussed in a closed session.

Attorney Barr asked Ms. Gross if she actually heard Mrs. Helke say twit.

Ms. Gross said yes.

Attorney Barr said Ms. Gross' affidavit states Mrs. Helke called her a twit 5 times.

Ms. Gross said yes.

Attorney Barr said Mrs. Helke provided an apology, but Ms. Gross called it a fake apology.

Ms. Gross said yes.

Mayor Ackley referred to paragraph 11 of the affidavit, the first day Ms. Gross met Council person Helke, she asked Ms. Gross if she heard Mrs. Helke call her a twit.

Ms. Gross said yes.

Mayor Ackley asked if the "F" word was preceding it.

Ms. Gross said yes, it was preceding the word twit.

Attorney Barr said that isn't it true that Ms. Gross did not mention that in the first complaint.

City Attorney Vanerian said this concludes the proofs.

Attorney Barr said based on evidence he made a request to dismiss charges as they do not meet the legal standard.

**CM 2-15-18 MOTION TO DISMISS CHARGES PERTAINING TO COUNCIL
MEMBER HELKE**

Motion by Costanzo, no second

Motion fails due to lack of support.

Attorney Barr said he would like to call Mrs. Helke to testify.

Mrs. Helke read her prepared statement into the record.

*Honorable Mayor Ackley and Council
City of Walled Lake*

Madam Mayor, members of the Walled Lake City Council, Mr. City Manager, friends, neighbors and residents of the City of Walled Lake.

When it was suggested by my attorney, Mr. Barr, that I should write a statement to present to you tonight, I spent a lot of time writing a very precise time line of what happened regarding the vents of August 2016, and what has happened since, to the best of my knowledge and recollection. I was determined that I was going to take this opportunity to describe the events as I had experienced them, in great detail. I ended up writing sixteen pages. I was relieved that I would finally be able to tell my side of the story.

I showed my statement to Mr. Barr. He said that it seemed to be very thorough and precise. But in addition to telling me that I needed to make it shorter, he said something that rang true to me. He told me to just speak from the heart. I had to think about this for a while. I am not a politician, and I am not very good at diplomacy. I tried to think about what I would say to each of you if I were able to sit across from you over a cup of coffee. So, here is what I think I would have said if I had been given the opportunity.

When I was appointed to the DDA in 2011, I volunteered because I thought it would be fun, and I thought that possibly I could help in contributing something favorable to Walled Lake. But then in 2012, the scope and the activities of the DDA were severely cut. This sparked a desire in me to find out what else was going on in my town. I began to attend City council meetings, not very often, but often. Contrary to the way most people feel about meetings, I found that I liked them. I enjoyed watching the process of how things get done.

Then came the Apartment issue, I became more deeply involved with the residents of Walled Lake, as we all expressed our opinions and worked through the pros and cons of that issue. That is when I decided to run for City Council.

I was elected in November of 2015. For the most part, I enjoy being a Council Member. I have felt that I was doing some good. Sometimes I argued a point, a lot of times I asked questions that people didn't want me to ask. Most of time, I voted with the rest of the Council. Sometimes, I was the only opposing vote. I was getting on-the-job training, learning as I went along.

In my original 16-page statement, when I wrote about the August 10, 2016 Bike Trail meeting, I went into a minute detail about who was sitting where who was present and who had left the room, and what was said. I can still speak to all of that if it becomes necessary, but here is what I would say to you over a cup of coffee. If I could go back to the August Bike Trail meeting and do it all over again, I would do things a bit differently. I was very upset over negative, derogatory and personal comments that were made at that meeting. If I need to testify as to what

was said, I can do that, and I believe that I can summon witnesses who can back me up if that should become necessary. But I let my emotions get the best of me, and that's not usually a good thing. I addressed a very minor issue first and never made it to the major issue, which was the aforementioned derogatory comments. When I found myself facing Ms Gross across a couple of tables, I asked her what seemed to me to be a simple question, but evidently to her seemed like an accusation. But a couple of questions and one answer are all that were exchanged between me and Ms. Gross at that meeting. I have since written a letter of apology. I was not apologizing for the questions I asked, but for the way I evidently appeared to Ms. Gross, which was accusatory. Ms. Gross rejected my apology twice. I was told by Ms. Gross, by way of the mayor, and by a couple of Council members, that I had been insincere in my apology. But not one told me to write the letter, and no one told me what to say. When the Mayor asked if I was willing to apologize to Ms. Gross, I already had the letter written, with copies for Council. In the letter, I wrote that "I did not intend to appear as though I believed that you had acted inappropriately regarding the events in question." I guess I should have said, "I didn't mean to make you feel like you did anything wrong. I know that would not have been there at the meeting without the consent of your employer. When I said, "This is nothing against you. "I meant it". In a more casual setting, that is exactly what I would have said, because this is what I meant.

Then in closed session of the September and October 2016 City Council meetings took place. Somewhere around this time, I started to come to the realization that no one was going to ask for my side of what happened. I had been sure that, as a part of an investigation of the incident, someone would ask me for an explanation of my actions, but no one ever did. Then I found out that as the "named person" in Ms. Gross' complaint, I had the right to have the complaint discussed in open session. I decided that exercising my right to have the complaint heard in open session was the only way that I was going to get to tell my side of the story. At the November 2016 meeting, I read aloud from the "Open Meetings Handbook" and the "Michigan Complied Laws," outlining my right to speak in open session about the complaint. Then I told, in very little detail, an extremely condensed version of my side of the story. After exercising my right to have the complaint discussed in open session, I was called a liar, on the record, by the City Manager. I have been lectured to by other Council members and told that "this is not the way a Council person acts." I have been threatened with a lawsuit. All of this without offering my chance to tell my side of what happened. When I realized that no one cared about my side of the incident, I stopped talking to my fellow Council members. I know that my lack of communication probably made things worse, but as I said, I am not a politician or diplomat.

Since the day I met Ms. Gross, over 1 ½ years ago, I have spoken to her twice. The first time was the day I met her, when as I recall, I said, "Nice to meet you." I did not call her "twit". I did not call her anything. I didn't know her. The second time was at the Bike Trail meeting, when I asked her why she was there. Since that time, I have not spoken to Ms. Gross. I have not communicated with her in any way. I have not encouraged anyone else to speak to her or communicate with her. Any accusations that say different are not true.

I have been accused of a long list of violations of laws and rules. I categorically deny almost all of the accusations. As I have already said, I never called Ms. Gross a twit. I have never harassed her. I have never enlisted or encouraged anyone else to harass her. I never discriminated against her based on her age or gender. I never asked the City Manager or

anyone else on authority over her to discipline her. I have never said anything that could have been interpreted as "sexually charged innuendo" based solely on Ms. Gross' gender, age, and/or appearance. I have not spoken to or communicated with Ms. Gross or caused anyone else to speak to or communicate with Ms. Gross since August 10, 2016.

Regarding the accusations contained in Ms. Pesta's affidavit, I never belittled her or became angry with her at a mediation meeting. On the contrary, one of the other attorney's present at that meeting had seemed to take responsibility for the mix-up in locations. I never became angry with Ms. Pesta. I never belittled her. I never "ranted" at her. I never attacked her at the second mediation meeting. I never accused her of misconduct or stealing money from the DDA.

And as for the remaining violations, which are procedural, I can argue my reasons for my actions, and I will if I have to. But I want to point out two things: first of all you should carefully examine your own actions over the last 1 ½ years since this investigation has been going on; you might be unpleasantly surprised at what you find. Second, in a courtroom, almost all of what has been written about my actions would be thrown out because it is based on opinion, hearsay, emotion and ancient history. I am hoping that tonight, with assistance of Mr. Barr, the facts will be brought to light.

So, those are things I would have said to you and Ms. Gross in a more casual setting. I have made mistakes, but they were just that; mistakes. I just wish all of this could have been said way back in 2016 before this issue took a life of its own.

In conclusion, I would like to remind everyone that I was duly elected by the people of Walled Lake to serve. I would like to continue to serve them and I do not believe my removal is warranted. I ask that council consider all the facts and arguments they will hear from my attorney and vote "no" on my removal.

Attorney Barr asked Mrs. Helke when she became aware of the charges.

Mayor Ackley asked and clarified if Mrs. Helke is a witness at this point.

Attorney Barr said he wanted to ask Mrs. Helke a few questions to further clarify some points.

Attorney Barr asked Mrs. Helke if she was aware of the provision of the City Charter that you are not to vote on matters concerning yourself.

Mrs. Helke said no.

Mayor Ackley asked Mrs. Helke if she received resolution 2016-31.

Mrs. Helke said yes.

Mayor Ackley asked that once Mrs. Helke read the resolution did she read the sections of the Charter that pertained to the resolution.

Mrs. Helke said no.

Mayor Ackley asked why not.

Mrs. Helke said she thought the resolution 2016-31 pertained the to the trailway meeting incident.

Mayor Ackley said if Mrs. Helke did not read the Charter on her own, why did Mrs. Helke feel it was up to city hall to review if for her.

Mayor Ackley asked Mrs. Helke if she heard tonight's discussion from the City Manager regarding meetings he said they had about the code enforcement officer and political campaign signs.

Mrs. Helke said no, she does not remember meeting and denied a meeting taking place.

Mayor Ackley asked if Mrs. Helke recalled Mr. Whitt's discussion tonight about the code enforcement officer and political campaign signs.

Mrs. Helke said she heard Mr. Whitt say who the signs were for.

Mayor Ackley asked Mrs. Helke if at any time had she ever referred to Mr. Rondeau in a derogatory manner.

Mrs. Helke said no.

Mayor Ackley asked Mrs. Helke if she was familiar with the affidavits of Chelsea Pesta and Miranda Gross.

Mrs. Helke said she read them.

Mayor Ackley asked Mrs. Helke if she recalled attending a city mediation and the interaction she had between her and Mrs. Pesta at the mediation.

Mrs. Helke said no.

Mayor Ackley asked is Mrs. Helke recalled accusing Mrs. Pesta of stealing money from the DDA while at the mediation location.

Mrs. Helke said no.

Mayor Ackley asked Mrs. Helke why she believes Mrs. Pesta is stealing money.

Mrs. Helke said she never has.

Mayor Ackley asked Mrs. Helke if the confrontation was to intimidate or embarrass Mrs. Pesta in front of numerous city officials.

Attorney Barr said his client answered this question two or three times that she did not do that. Mrs. Helke said she has never accused Mrs. Pesta of stealing and she did not say that to her.

Mayor Ackley asked Mrs. Helke if she referred to Mrs. Pesta as a twit, stupid, or idiot.

Mrs. Helke said no.

Mayor Ackley asked if Mrs. Helke had ever seen a copy of the note.

Mrs. Helke said yes.

Mayor Ackley asked if the writing on the note was Mrs. Helke's.

Mrs. Helke said yes.

Mayor Ackley said in the note there is reference to the Deputy Finance Director as a stupid f-ing twit.

Mrs. Helke said no, she referred to her as a silly f-ing twit.

Mayor Ackley asked if the handwriting was on the note was Mrs. Helke's.

Mrs. Helke said yes.

Mayor Ackley asked if Mrs. Helke wrote stupid f-ing twit.

Mrs. Helke said the note read silly f-ing twit.

Mayor Ackley asked why Mrs. Helke referred to the Deputy Finance Director as a silly f-ing twit.

Mrs. Helke asked if she could provide little background. She said she attends meetings all the time, takes a lot of notes, there are her personal notes. She said she writes things for association to spark her memory. She said that night she was taking notes the Deputy Finance Director stood up to be sworn in and she skipped up towards the city clerk to be sworn in, she wrote silly f-ing twit, so she would remember her. She said the note was personal and she said she has never called anyone a silly f-ing twit to their face, not even her sister.

Mayor Ackley asked Mrs. Helke if she would have known of the Deputy Finance Director's background that contained a Master's Degree would she still have referred to her in that manner.

Mrs. Helke said she wrote it.

Mayor Ackley asked Mrs. Helke if she was familiar with Ms. Gross' affidavit.

Mrs. Helke said she has seen it.

Mayor Ackley clarified with Mrs. Helke that she knew very little of Ms. Gross, her background, qualifications and her position at the city.

Mrs. Helke said yes.

Mayor Ackley asked Mrs. Helke if then she felt the affidavit made false statements.

Mrs. Helke asked if that was a question.

Mayor Ackley asked Mrs. Helke if she made attempts to embarrass, admonish, or intimidate Ms. Gross.

Mrs. Helke said no.

Mayor Ackley asked Mrs. Helke if she recalled attending the trailway meeting.

Mrs. Helke said yes.

Mayor Ackley asked Mrs. Helke if she repeatedly demanded to know why Ms. Gross was there.

Mrs. Helke said no.

Mayor Ackley asked Mrs. Helke if her intent was to intimidate, admonish, or embarrass Ms. Gross for not taking notes during the meeting.

Mrs. Helke said that was not her intention.

Mayor Ackley asked what her purpose was for confronting Ms. Gross about her presence at the meeting.

Mrs. Helke said she was very upset about prior derogatory statements made in the middle of an open meeting by the City Manager about a city employee. She said as she sat at the trailway meeting thinking about that and she looked over saw Ms. Gross sitting there not taking notes. She said after the meeting she asked the City Manager why Ms. Gross was there, it was an opening question and she was going to get to a larger issue for an explanation of the derogatory remarks made.

Mayor Ackley asked why Mrs. Helke just ask the City Manager instead of confronting Ms. Gross.

Mrs. Helke said she did ask the City Manager.

Mayor Ackley said isn't it true Mrs. Helke your interactions, statements and conduct are motivated by a gender bias towards Ms. Gross and Mrs. Pesta motivated by a general dislike of younger women who work at city hall and your desire to harass and make them feel unwelcome at the city.

Mrs. Helke said no.

Mayor Ackley asked if Mrs. Helke knew Dennis Burks.

Mrs. Helke said yes, she did know him.

Mayor Ackley asked Mrs. Helke is she knew Mr. Burks was a frequent speaker at the council meetings.

Mrs. Helke said yes.

Mayor Ackley asked Mrs. Helke about the frequent meetings she had with Mr. Burks after council meetings in the city hall parking lot.

Mrs. Helke said they were not meetings they just stood and talked.

Mayor Ackley asked Mrs. Helke if Mr. Burks politically supported her.

Mrs. Helke said yes.

Mayor Ackley asked Mrs. Helke what her relationship was with Mr. Burks.

Mrs. Helke said he was a political supporter.

Mayor Ackley asked Mrs. Helke if she was aware Mr. Burks frequently accused the city of wrong doing.

Mrs. Helke said yes.

Mayor Ackley asked Mrs. Helke if she was aware of Mr. Burks threatening, controversial, and intimidating manner during public comment at the meetings.\

Mrs. Helke said yes, at times.

Mayor Ackley asked if Mrs. Helke ever asked Mr. Burks to confront or harass city employees.

Mrs. Helke said no.

Mayor Ackley asked Mrs. Helke if she was aware Mr. Burks came to city hall to harass city employees while working.

Mrs. Helke said no.

Mayor Ackley said Mr. Burks referred to himself as “Susan’s war dog” and did she know why he would have done that.

Mrs. Helke said no.

Mayor Ackley asked Mrs. Helke if she was aware Mr. Burks had numerous police records.

Mrs. Helke said yes.

Mayor Ackley asked if there were anymore questions.

Attorney Barr said for clarification on the note was Mrs. Helke’s private record that was stolen, and Mrs. Helke was not on council at the time.

Mrs. Helke said yes.

Attorney Barr said he would like to call the Mayor as a witness for questioning. He asked if the Mayor was aware an outside investigator could have made an investigation.

Mayor Ackley said yes.

Attorney Barr said this investigation could have been taken by an attorney with a background in law.

Mayor Ackley said yes.

Attorney Barr asked Mayor Ackley if she was an attorney.

Mayor Ackley said no. She said she took the affidavits.

Attorney Barr said Mayor Ackley never requested anything in writing from Mrs. Helke.

Mayor Ackley said Mrs. Helke admitted to her wrong doing within her apology letter.

Attorney Barr said but nothing was ever requested in writing.

Mayor Ackley said Mrs. Helke’s apology letter stated it was true what she was charged with.

Attorney Barr said the complaints of August 16, September 20 and October had a purpose of filing complaints against Council Member Helke but there was never any complaint filed in Ms. Gross’ employment file. He said the night the meeting took place that resolution 2017-87 was handed out was there not a meeting in the City Manager’s office prior to the council meeting.

Mayor Ackley said no.

Attorney Barr asked the Mayor if she witnessed any discussions at the table before resolution 2017-86 was handed out.

Mayor Ackley said she did not recall.

Attorney Barr asked if Mayor Ackley was licensed to practice law.

Mayor Ackley said no.

Attorney Barr said but the Mayor is the presiding officer over the hearing.

Mayor Ackley said yes.

Attorney Barr said the Mayor is making legal decisions.

Mayor Ackley said she is following the Charter and she referred to Council.

Attorney Barr asked who typed the Mayor's report.

Mayor Ackley said it was typed at city hall.

Attorney Barr asked Mayor Ackley what the elements are to violate Act of 1965.

Mayor Ackley referred to Item A page 2 of 3 of her report.

Attorney Barr asked Mayor Ackley if she ever heard of any disciplinary reports against Ms. Gross.

Mayor Ackley said no.

Attorney Barr said the Charter allows to hire an independent attorney to conduct investigations,

Mayor Ackley said the Charter allows for the Mayor to investigate and councils motions direct council.

City Attorney Vanerian asked Mayor Ackley if she included the August 19, 2016 written account of Mr. Gross complaint in her report.

Mayor Ackley said yes.

Attorney Barr requested to keep a digital recording of the proceedings.

City Manager Whitt said the city will preserve the recordings and Attorney Barr may request a copy.

Meeting recessed 12:50 a.m.

Meeting Reconvened 1:09 a.m.

Attorney Barr said this is a very important decision and it should be taken seriously.

City Attorney Vanerian said he is not here to advocate for or against, the evidence phase is done, and council needs to deliberate.

Mayor Ackley asked for council comment.

Council Member Lublin said Mrs. Helke's action have been inappropriate and ugly and the violations are valid.

Council Member Costanzo said a removal without a court ruling is a violation, it oversteps bounds and will be a financial pitfall. He said if the employee wishes to go to court, have a court ruling, that's due process, if there is a court ruling of guilty the council will hold the council member accountable but to do this now is premature.

Council Member Ambrose said this has been dragging on way to long, should have been resolved a year ago with a sincere apology. He said unfortunately, it did not work out this way. He said when this first occurred, he himself met with Mrs. Helke about the city's form of government. He suggested as best Mrs. Helke could, to be sincere, not confrontational with apology. He said once a council member always a council member. He said it is unfortunate this came so far, action has to be taken or it will fall into a predicament as Michigan State is currently in, not doing anything becomes worse than the crime itself.

Council Member Costanzo said he did not agree with a removal of a council member for something that happened August of 2016. He said hearing the affidavits, removal from office seem extreme to him. He said council can vote for censure, condemning that actions that occurred back in August, let it go to the courts for a ruling if law were broken. He said the rule of law applies, if it was hostile, the council should have investigated it sooner. He said there were only three affidavits, and this could have been handled sooner. He said he votes for censure not removal.

Mayor Ackley said Council Member Costanzo seems to be referring to only one charge. She said the Charter outlines how to handle this situation. She said if an employee of the city feels they are being bullying it must be addressed, she had hoped the apology was sincere; it was very insincere, and the violations continued. She said the Charter gives council the authority to address this situation.

Council Member Costanzo said the voters had elected this official in. He said council is overstepping their bounds and action was taken sooner. He said condemning the actions, it has been established the negative behavior has stopped. He said a censure puts the council member on notice and lets the employee know this won't happen again.

Mayor Ackley said Charter gives council the authority to act and council owes it to themselves and the employees to act.

Mayor Pro Tem Owsinek said he has listened to everything with an open mind he made the following motion.

**CM 2-16-18 MOTION TO FIND COUNCIL MEMBER HELKE
COMMITTED ACTS OF MISCONDUCT IN OFFICE,
MISFEASANCE AND MALFEASANCE IN HER OFFICIAL
CAPACITY AS DEMONSTRATED BY SUFFICIENT EVIDENCE
PRESENT AT THE TIME OF THE FEBRUARY 1, 2018 HEARING
BY:**

- 1. COMMITTING MULTIPLE ACTS OF, AND OTHERWISE CAUSING,
UNLAWFUL GENDER AND AGED BASE HARASSMENT AND
DISCRIMINATION AGAINST YOUNGER FEMALE CITY STAFF MEMBERS
AND CREATING A GENDER AND AGED BIASED HOSTILE WORK
ENVIRONMENT**
- 2. UNLAWFULLY ASSERTING IMPROPER DIRECTION, CONTACT,
CONTROL, EVALUATION, OVERSIGHT, DISRUPTION, AND SUPERVISIONS
OF CITY EMPLOYEES CONTRARY TO CITY CODE**
- 3. IMPROPERLY HARASSING, RIDICULING, INTIMIDATING AND FALSELY
ACCUSING CITY EMPLOYEES IN WORKPLACE ENVIRONMENTS SO AS
TO BELITTLE, BERATE AND EMBARRASS CITY EMPLOYEES IN THE
PRESENCE OF THEIR PEERS, SUPERVISORS AND CO-WORKERS AND IN
FURTHER VIOLATION OF THE CITY CODE**
- 4. IMPROPERLY AND PUBLICLY DISCLOSING AND DISSEMINATING
CLOSED SESSION COUNCIL DISCUSSIONS**
- 5. IMPROPERLY VOTING ON MATTERS CONCERNING HER OWN CONDUCT
IN VIOLATION OF CITY CHARTER**
- 6. VIOLATING HER OATH OF OFFICE BY VIOLATING CITY CODES, CITY
CHARTER, STATE AND FEDERAL ANTIDISCRIMINATION LAWS AND
FAILING TO FAITHFULLY PERFORM THE DUTIES OF A COUNCIL
MEMBER**

Motion by Owsinek, seconded by Lublin; MOTION CARRIED: To find Council Member Helke committed acts of misconduct in office, misfeasance and malfeasance in her official capacity as demonstrated by sufficient evidence present at the time of the February 1, 2018 hearing.

Discussion

Attorney Barr requested findings of facts and conclusions on each charge.

Yes (5) Ambrose, Loch, Lublin, Owsinek, Ackley
No (1) Costanzo
Absent (0)
Abstain (1) Helke

(5-1) MOTION CARRIED

CM 2-17-18 MOTION TO DECLARE THE OFFICE OF A COUNCIL PERSON
SEAT VACANT

Motion by Loch, seconded by Lublin; MOTION CARRIED: To declare the Office of a Council Person seat vacant.

Discussion

Council Member Ambrose asked if declaring the office vacant, the proceedings are complete.

Council Member Costanzo said he strongly opposes the removal until a court ruling has been provided.

Roll Call Vote

Yes (5) Loch, Lublin, Owsinek, Ambrose, Ackley
No (1) Costanzo
Absent (0)
Abstain (1) Helke

(5-1) MOTION CARRIED

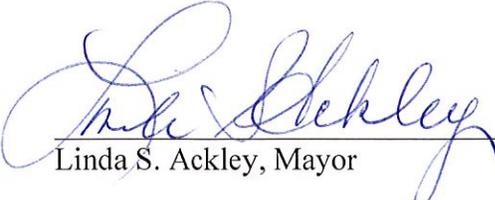
Motion to adjourn moved by Ambrose, seconded by Owsinek.

Meeting adjourned 2:00 a.m.



Jennifer A. Stuart, City Clerk

*approved
2/20/18*



Linda S. Ackley, Mayor